Kimberly McGehee Aldrich, Mayor

Sylvia Apodaca
Christopher Garza
Janeshia Grider

Mike Martin
Susan Street
Debbie Walczyk

CITY COUNCIL AGENDA
REGULAR MEETING
THURSDAY, JANUARY 12, 2023 – 7:00 P.M.
CITY HALL COUNCIL CHAMBER
112 BAUMAN, KIRBY, TX 78219

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

Topic: Regular City Council Meeting
Date and Time: January 12, 2023, At 7:00 P.M. (Central Time)
Join Zoom Meeting:

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

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1. **Call Meeting to Order**

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

3. **Mission Statement**

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

4. **Roll Call**

5. **Citizen Participation**

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

6. Consideration Of And Action On Minutes

a. Regular Minutes – December 15, 2022

7. Presentations

a. Introduction Of New City Employees
b. Fire Department Employees Oath Of Office
c. Recognize 2022 Blue Santa Program Contributors

8. Discussion And Possible Action

a. Discussion And Possible Action On A Request To Allow The Property Located At CB 5903, LOT 9, Otherwise Known As 3814 Ackerman Road, Kirby, TX 78219, Which Is Zoned Single Family Dwelling District (R-1) To Be Rezoned As Multiple Family Dwelling District (R-2) Property.

b. Discussion And Possible Action On Ordinance No. O-2022-920 Of The City Council Of The City Of Kirby Texas Amending Chapter 150, Building Regulations, Article II Building Construction Code, Section 15.016 Local Amendments Of The Code Of Ordinances, By Adopting Amendments To The Minimum Square Footage That Requires A Sprinkler System For Certain Occupancies Repealing All Prior Ordinances In Conflict Herewith; Providing For Severability; And Providing For An Effective Date. This Is The Second Reading.

c. Discussion And Possible Action On A Request From The Beautification And Recycle Committee To Beautify Friendship Park Entrance Sign

d. Discussion And Possible Action On Amendments To The Kirby Senior Center Articles Of Incorporation

e. Discussion And Possible Action To Schedule A Joint Workshop With City Council And The Planning And Zoning Commission

f. Discussion And Direction On Additional Funding For Street Repairs And Maintenance

g. Discussion And Possible Action On Purchasing Holiday Décor For City Parks

h. Discussion And Possible Action To Appoint Member(s) To The Economic Development Committee

i. Discussion And Possible Action To Appoint Member(s) To The Beautification And Recycle Committee

j. Discussion And Possible Action To Appoint Member(s) To The Planning And Zoning Commission

k. Discussion And Possible Action To Appoint Member(s) To The Festival Planning Committee

l. Discussion And Possible Action To Appoint Member(s) To The Ordinance Review Committee

m. Update, Discussion And Possible Action On City Cell Phones For Council Members

n. Discussion And Possible Action On Resolution No. R-2023-748 Adopting The City Of Kirby Investment Policy And Strategy

o. Update, Discussion And Possible Action On Request For Proposals For Municipal Solid Waste Services

p. Update, Discussion And Possible Action On Request For Proposals For Swimming Pool Management Services

q. Discussion And Possible Action On A Proposal From Bain Medina Bain For Foxcross Drive Reconstruction And Sanitary Sewer Replacement

r. Discussion And Possible Action On A Proposal From Bain Medina Bain For Vinecrest Drive Sewer Replacement

s. Discussion And Possible Action On The Viability Of Placing The Crime Control And Prevention District On The Ballot.

t. Discussion And Possible Action On Naming The Kirby Senior Center Building In Honor Of Jerry Lehman

9. **Executive Session**

The City Council Will Convene In Closed Session Pursuant To Government Code Section 551.074 Personnel Matters On The Following Matter:

a. Review Of And Deliberation On City Manager's Contract

10. Reconvene To Open Session

Following Deliberation In Closed Session The City Council Will Reconvene In Open Session To Take Any Final Action Required On The Matter Discussed In Closed Session.

11. Request And Announcements

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

12. Adjournment

Monique L. Vernon
City Manager

Patty Cox, TRMC
City Secretary

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

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

DATE OF POSTING: January 9, 2023
TIME OF POSTING: 6:45 P.M.
DATE REMOVED

____	DISCUSSION AND POSSIBLE ACTION ITEMS
____	SPECIAL CONSIDERATION
_X_	CONSIDERATION OF MINUTES
____	PUBLIC HEARING
___	PRESENTATION
____	WORKSHOP

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

DATE: JANUARY 12, 2023

AGENDA ITEM: 6. a.

6. Consideration Of And Action On Minutes

Regular Minutes – December 15, 2022

The minutes are attached for your review. If you have any changes, please send me an email no later than 5:00 P.M. on January 10, 2023, and updates will be prepared for Council consideration.

Kimberly McGehee Aldrich, Mayor

Sylvia Apodaca
Christopher Garza
Janeshia Grider

Mike Martin
Susan Street
Debbie Walczyk

CITY COUNCIL MINUTES
REGULAR MEETING
THURSDAY, DECEMBER 15, 2022 – 7:00 P.M.
CITY HALL COUNCIL CHAMBER
112 BAUMAN, KIRBY, TX 78219

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

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1. Call Meeting to Order

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

2. Invocation and Pledge of Allegiance to the Flag

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

3. Mission Statement

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

4. Roll Call

PRESENT	ABSENT
Mayor Aldrich	
Council Member Apodaca	
Council Member Garza (ZOOM)	

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

5. Citizen Participation

1. Roger Romens – He said he will speak on item 9. c.

2. Jack Miller – He explained why he did not stand during the pledge to the flag. He meant no disrespect to our current veterans or our United States or Texas Flag. He said at the last Council meeting Council Member Garza brought up that the Mayor I think made a complaint against him to Child Protective Services maybe or something like that and the Mayor said she's not ever done that. He provided a detailed synopsis of occurrences about his interview with Child Protective Services. He said Mayor Aldrich is listed as a witness. He asked Mayor Aldrich to recant the statement and make an accurate statement that you are listed on there as a witness.

6. Consideration Of And Action On Minutes

a. Regular Minutes – December 1, 2022

Council Member Walczyk moved to accept the minutes with changes that were made; seconded by Council Member Street. The motion carried with a 4-2-1 vote.

AYES: 4 NAYES: 2 (Council Members Garza and Martin) ABSTAIN: 1 (Council Member Apodaca)

7. Presentations

a. Annual Holiday Decorating Contest Winners – Beautification & Recycle Committee

Mayor Pro-Tem Grider presented the winners of the Annual Holiday Decorating Contest.

Best Indoor – Schertz Bank and Trust
Honorable Mention – Ms. Teresa Vogel
Best Recycle Materials – Terry, Cindy & Cody Ueckert
Third Place – Terry, Cindy & Cody Ueckert
Second Place – Mr. Benjamin Mendoza
First Place – Mr. and Mrs. Jose Garcia

b. City of Kirby Blue Santa Program

Code Compliance Officer Wallace provided information for 2022 Blue Santa Program.

c. Cookies With Santa

Code Compliance Officer Wallace provided information for Crime Control and Prevention District Cookies with Santa planned for December 18th from 2:00 P.M. – 4:00 P.M. at the John Sterling building.

d. Annual Santa Parade

Chief Hilburn provided information on the 2022 Annual Santa Parade and the history of the Parade. He answered Council questions and invited members to participate.

Mayor Aldrich recognized Mr. Jack Miller. Mr. Miller voiced his concerns with the decibels of the sirens and possible hearing loss. He advised that Santa not go down his street.

8. Public Hearting

a. Public Hearing On A Variance To The Building Code, Section 150.16 To Waive The Requirement Of The Installation Of An Automatic Sprinkler System In A 3,056 Square Foot Suite In A Commercial Building; Located At NCB 10596 BLK 1 LOT E 292.67 FT OF 5; Otherwise Known As 4758 Seguin Road City Of Kirby, Bexar County, Texas, 78219.

Mayor Aldrich opened the public hearing at 7:27 P.M.

1. Roger Romens – He asked that Council consider this favorable. He provided brief history on the International Building Code. He said he hoped Council would consider the variance for the property.

2. Patricia Mann – She asked Council, why consider this? She said Chief Hilburn spoke at the last meeting about the Fire Code. She said move forward and keep the regulations in place.

3. Nick Babic – He said he and his wife have owned the business for over ten years and never had a fire. The City said they are not able to reduce the size of the suite. He said they generate $5,000 per month beverage tax.

4. Jack Miller – He said he has owned numerous houses and never had a fire until he did.

b. Public Hearing On A Request To Allow The Property Located At CB 5903, LOT 9, Otherwise Known As 3814 Ackerman Road, Kirby, TX 78219, Which Is Zoned Single

Family Dwelling District (R-1) To Be Rezoned As Multiple Family Dwelling District (R-2) Property.

1. Patricia Mann – She did not support the request to rezone the property. She did not want multi-family behind her home.

2. Roger Romens – He said he is not against the zoning. His concern is the former attorney addressed spot zoning. Mr. Romens said he supports the request. It would be great, but his concern was if there are objections in the long term it may actually have validity.

Mayor Aldrich closed the public hearing at 7:36 P.M.

9. Discussion And Possible Action

a. Discussion And Possible Action On A Variance To The Building Code, Section 150.16 To Waive The Requirement Of The Installation Of An Automatic Sprinkler System In A 3,056 Square Foot Suite In A Commercial Building; Located At NCB 10596 BLK 1 LOT E 292.67 FT OF 5; Otherwise Known As 4758 Seguin Road City Of Kirby, Bexar County, Texas, 78219.

Council Member Street moved to discuss item 9.f. before item 9.a.; seconded by Mayor Pro-Tem Grider. The motion carried with a 7-0 vote.

AYES: 7 NAYES: 0

b. Discussion And Possible Action On A Request To Allow The Property Located At CB 5903, LOT 9, Otherwise Known As 3814 Ackerman Road, Kirby, TX 78219, Which Is Zoned Single Family Dwelling District (R-1) To Be Rezoned As Multiple Family Dwelling District (R-2) Property.

Mayor Aldrich said due to unforeseen circumstances the applicant is not able to attend the meeting. This item will be discussed at the January 12, 2023 meeting

Council Member Walczyk moved to postpone the request to allow the property located at CB 5903, LOT 9, otherwise known as 3814 Ackerman Road, Kirby, TX 78219, which is zoned Single Family Dwelling District (R-1) to be rezoned as Multiple Family Dwelling District (R-2) property until January 12, 2023; seconded by Council Member Apodaca. The applicant was not able to attend due to unforeseen circumstances. The motion carried with a 7-0 vote.

AYES: 7 NAYES: 0

c. Discussion And Possible Action On Entering Into An Agreement With Greater Northeast Little League For The Use Of Land Owned By The City Of Kirby For Little League Baseball Athletic Functions

City Council discussed the License Agreement with Greater Northeast Little League President Doug Wolfe. The results of the discussion was offer a one year license agreement to determine the usage for water and electricity to consider for the renewal rate. Currently estimating $100 fee use electricity monthly with five month season.

Council Member Martin moved to enter into Into An Agreement With Greater Northeast Little League For The Use Of Land Owned By The City Of Kirby For Little League Baseball Athletic Functions with a one year contract for $750 per year plus $500 for electricity with a total due $1,250 and include concession building; seconded by Council Member Street. The motion carried with a 5-2 vote.

AYES: 5 NAYES: 2 (Council Members Garza and Walczyk)

d. Update, Discussion And Possible Action On Alan Shepard Sewer Replacement And Road Reconstruction Project

Mr. Carl Bain was present to answer questions.

Council Members asked Mr. Bain questions about the proposed fee.

Mr. Bain stated that this proposed fee is for testing and inspection services on Alan Shepard. This is for geotechnical services. Burge Engineering will provide testing and inspection services for street reconstruction of Alan Shepard.

Council Member Street moved to accept the proposal for testing and inspection services in the amount of $9,500 on the Alan Shepard Sewer Replacement and Road Reconstruction Project; seconded by Council Member Martin. The motion carried with a 6-1 vote.

AYES: 6 NAYES: 1 (Council Member Walczyk)

e. Presentation, Discussion And Possible Action On City Of Kirby Code Compliance

Chief Cardona presented the goals and protocols for Code Compliance. Chief Cardona and Officer Wallace were available to answer questions.

Council Member Street moved to have a ten-minute recess; seconded by Council Member Walczyk. The motion carried with a 6-1 vote.

AYES: 6 NAYES: 1 (Mayor Aldrich)

Mayor Aldrich called for a ten-minute recess at 9:35 P.M.

Mayor Aldrich reconvened the meeting at 9:47 P.M. At this time Council discussed item g.

f. Discussion And Possible Action On Ordinance No. O-2022-920 Of The City Council Of The City Of Kirby Texas Amending Chapter 150, Building Regulations, Article II Building Construction Code, Section 15.016 Local Amendments Of The Code Of Ordinances, By Adopting Amendments To The Minimum Square Footage That Requires A Sprinkler System For Certain Occupancies Repealing All Prior Ordinances In Conflict Herewith; Providing For Severability; And Providing For An Effective Date. This Is The First Reading.

Council Member Walczyk moved to accept Ordinance No. O-2022-920 of the City Council of the City of Kirby Texas amending Chapter 150, Building Regulations, Article II Building Construction Code, Section 15.016 Local Amendments of the Code of Ordinances, by adopting amendments to the minimum square footage that requires a sprinkler system for certain occupancies repealing all prior ordinances in conflict herewith; providing for severability; and providing for an effective date.

Council Member Street said a page was missing from the Ordinance.

Council Member Walczyk withdrew her motion to allow time to print the missing page.

Council Member Walczyk moved to postpone this item until the information is provided by City Manager Vernon; seconded by Council Member Street. The motion carried with a 7-0 vote.

AYES: 7 NAYES: 0

City Council returned to this item after the page was distributed.

Council Member Street moved to accept Ordinance No. O-2022-920 of the City Council of the City of Kirby Texas amending Chapter 150, Building Regulations, Article II Building Construction Code, Section 15.016 Local Amendments of the Code of Ordinances, by adopting amendments to the minimum square footage that requires a sprinkler system for certain occupancies repealing all prior ordinances in conflict herewith; providing for severability; and providing for an effective date; seconded by Council Member Walczyk. The motion carried with a 6-1 vote.

AYES: 6 NAYES: 1 (Mayor Aldrich)

g. Discussion And Possible Action To Schedule A City Council Retreat

Council discussed whether or not to have a retreat.

Mayor Aldrich recognized Mr. Jack Miller.

Mr. Miller said a retreat is team building, an opportunity to entertain ideas. Professionals that might help you have a better relationship with one another. More positive relationship with each other and positive for the community.

h. Discussion And Possible Action To Appoint Member(s) To The Economic Development Committee

There were not any applications.

i. Discussion And Possible Action To Appoint Member(s) To The Beautification And Recycle Committee

There were not any applications.

j. Discussion And Possible Action To Appoint Member(s) To The Planning And Zoning Commission

There were not any applications.

k. Discussion And Possible Action To Appoint Member(s) To The Festival Planning Committee

There were not any applications.

l. Discussion And Possible Action To Appoint Member(s) To The Ordinance Review Committee

There were not any applications.

m. Update, Discussion And Possible Action On City Cell Phones For Council Members

Council discussed the fees and models of cell phones for Council members.

The consensus was to move forward with cell phones.

n. Reports By Council Liaisons

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

1. Animal Advisory Committee – Council Member Walczyk

   Council Member Walczyk provided an update.

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

   Mayor Pro-Tem Grider provided an update.

3. Building And Standards Commission – Council Member Martin

   Council Member Martin provided an update.

4. Crime Control And Prevention District – Council Member Garza

   Council Member Garza was not able to attend the meeting.

5. Economic Development Committee Council Member Apodaca

   Council Member Apodaca no update.

6. Planning And Zoning Commission – Mayor Aldrich

   Mayor Aldrich provided an update.

7. Senior Center Corporation Board – Council Member Street

   Council Member Street provided an update.

10. Executive Session

The City Council Will Convene In Closed Session Pursuant To Government Code Section 551.071 To Seek The Advice Of Legal Counsel On The Following Matters:

a. Legal Criteria And Protocol For City Council Member Requests For Information

b. Legal Criteria And Protocol For City Council Member Requests For Legal Assistance From The City Attorney

Mayor Aldrich convened into executive session at 10:11 P.M.

11. Reconvene To Open Session

Mayor Aldrich reconvened into open session at 10:51 P.M.

Following Deliberation In Closed Session And Consultation With Legal Counsel The City Council Will Reconvene In Open Session To Take Any Final Action Required On The Matters Discussed In Closed Session.

Mayor Aldrich said there was no action taken.

12. City Manager Announcements

a. Announcements On City Events And Items Of Community Interest

City Manager Vernon announced the Animal Services Calendars are in and the cost is $20 each. The proceeds will go back to the Animal Shelter. On December 21 there will be a low-cost adoption event at the Animal Shelter for $25. City Hall will be closed on December 23 and 26. Cookies with Santa on December 18 at John Sterling and immediately following, the Santa Parade begins at 5:00 P.M. on December 18.

13. Request And Announcements

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

Council Member Street offered her condolences to the families of John Pierce and Thomas Hernandez. She had the opportunity to observe Public Works staff training with the Zipper staff. She thanked Barry and Brad for their time training our staff on use of the Zipper. There will be a public meeting on December 20 at 5:30 P.M. the Ackerman Road project. She asked for a joint workshop meeting with Planning and Zoning Commission to discuss drainage. She inquired about installing a left turn light on FM 78 and Gibbs Sprawl. Cold temperatures are here so check on your neighbors. Have a safe and Merry Christmas.

Council Member Garza offered his condolences to the passing Councilmembers. He asked that the $251,000 be moved back to roads for the Zipper machine. He thanked everyone for attending the meeting and watching. He wished everyone a Merry Christmas, enjoy the upcoming festivities.

Mayor Pro-Tem Grider offered her condolences to the Pierce and Hernandez families. Kirby Fitness December 22, January 5 6:30 P.M. – 7:30 P.M. at the Fire Station free Zumba. She congratulated the Beautification and Recycle Committee for the Holiday decorating contest. There are big plans in the works and they are working hard. She thanked HEB, Yvonne Rodriguez for their donations. For a future agenda lighting up John Sterling for the holidays. Planning for tree decorating. She said Sylvias Restaurant is open.

Council Member Walczyk requested Chief Hilburn provide an end of year audit for Council. She invited everyone to the Animal Shelter tour. She inquired about job announcements. City Manager Vernon said vacancies are posted. She said she is saddened Lisa Pierce loss of John, and the loss of Tom Hernandez. Crime Control changed their meeting and heard they are changing their by-laws. City Manager Vernon said they already approved their revised by-laws. She inquired about the Request For Proposal for garbage service. City Manager Vernon said the Request For Proposal will be published in the San Antonio Express News. She requested an executive session on the next agenda to review city manager's contract. This is in compliance with the current contract for the 90 days before renewal.

Council Member Apodaca said she has seen a lot of stray animals. Be sure you lock your gates and maintain your fences. Kirby Cleaners is having a coat/blanket drive. Merry Christmas and be safe.

Council Member Martin said Crime Control changed the date of their meeting. He asked that they stay on their regular days. The Planning And Zoning Commission met a voted 2-1 vote. The item failed. He thanked, Police Department, Fire Department. Merry Christmas.

Mayor Aldrich offered her condolences to the Pierce family. Requested an agenda item is the create an ordinance naming the Kirby Senior Center "Jerry Lehman Kirby Senior Center." It's cold, check on neighbors and kids. Be nice and kind to one another. Merry Christmas and Happy New Year.

14. Adjournment

The meeting adjourned at 11:10 P.M.

_____
Kimberly Aldrich, Mayor

ATTEST

_____
Patty Cox, City Secretary, TRMC

____	DISCUSSION AND POSSIBLE ACTION ITEMS
____	SPECIAL CONSIDERATION
____	CONSENT AGENDA
____	PUBLIC HEARING
_X_	PRESENTATION
____	WORKSHOP

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

DATE: JANUARY 12, 2023

AGENDA ITEM: 7 a.

7. <u>Presentation</u>

Introduction Of New City Employees

____	DISCUSSION AND POSSIBLE ACTION ITEMS
____	SPECIAL CONSIDERATION
____	CONSENT AGENDA
____	PUBLIC HEARING
__X__	PRESENTATION
____	WORKSHOP

CITY OF KIRBY
CITY COUNCIL MEETING
AGENDA ITEM SUMMARY

DATE: JANUARY 12, 2023

AGENDA ITEM: 7. b.

7. Presentation

Fire Department Employees Oath Of Office

____	DISCUSSION AND POSSIBLE ACTION ITEMS
____	SPECIAL CONSIDERATION
____	CONSENT AGENDA
____	PUBLIC HEARING
__X__	PRESENTATION
____	WORKSHOP

CITY OF KIRBY
CITY COUNCIL MEETING
AGENDA ITEM SUMMARY

DATE: JANUARY 12, 2023

AGENDA ITEM: 7. c.

7. Presentation

Recognize 2022 Blue Santa Program Contributors

__X__	DISCUSSION AND POSSIBLE ACTION ITEMS
_____	SPECIAL CONSIDERATION
_____	CONSENT AGENDA
_____	PUBLIC HEARING
_____	PRESENTATION
_____	WORKSHOP

C I T Y O F K I R B Y

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

DATE: JANUARY 12, 2023

AGENDA ITEM: 8. a.

8. Discussion And Possible Action

Discussion And Possible Action On A Request To Allow The Property Located At CB 5903, LOT 9, Otherwise Known As 3814 Ackerman Road, Kirby, TX 78219, Which Is Zoned Single Family Dwelling District (R-1) To Be Rezoned As Multiple Family Dwelling District (R-2) Property.

Richard Bundick, applicant/owner, is asking if he can build two duplexes on his lot. The lot is 100 feet wide and 436 feet deep. Included in your packet is a copy of the R-2 Multi Family Dwelling District requirements. The minimum lot area is 10,000 square feet for the first three dwellings. His lot size is 43,600 square feet. He will provide adequate ingress/egress for emergency vehicles.

In 2021, Mr. Bundick received approval from the Planning and Zoning Commission and City Council to rezone another property located at 3902 Ackerman as Multiple Family Dwelling District (R-2).

Mr. Bundick will be present to answer questions.

CITY OF KIRBY, TEXAS

FORMAL APPLICATION FOR ZONING REQUEST

Date of Application 9/27/2022 Case Number: _____

Name of Applicant Richard Bundick

Address 3902 Ackerman Rd, San Antonio TX 78219

Home/Cell Phone 210-279-3085 Business Telephone _____

Is applicant the owner, lessee, or other of the property proposed for the ZONING Application owner

Current Zoning: Single family R-1 Proposed Zoning: Multiple family R-2

Location of property where change is requested, described according to subdivision plat filed at the County Court House or City Tax rolls:

Lot(s) 9 Block _____ NCB 5903

Address of subject property 3814 Ackerman rd, San Antonio TX 78219

Property is situated along West (N.S.E.W.) side of Ackerman (Street)

Approximately 2000 feet North (N.S.E.W.) of the intersection of

Ackerman (Street) with Binz-Engleman rd. (Street)

What deed restrictions, if any, concerning the type of improvements permitted are in place on the subject property? If there is an expiration date for the deed restrictions, what is the expiration date? You may attach a copy of the original printed deed restrictions in answer to this questions, after underlining the specific text which addresses the uses or improvements restricted thereby.

None

Detailed reasons for requesting change of Zoning (Please list **all** proposed activities), or attach your reasons for rezoning request:

To build rental structure on Property behind current house.

I, the undersigned owner, lessee, or _____ hereby request a ZONING from the City of Kirby, Texas, as follows. In addition, I hereby consent to the posting of hearing notices on or adjacent to said property understanding that no undue damage will be incurred.

Attached are the following (Check List):

1. A dimensioned map at a scale of 100 or 200 feet to the inch showing the property referred to in this application and all streets, lots, easements, zoning of abutting properties, and parcels of land within 200 feet of said property.

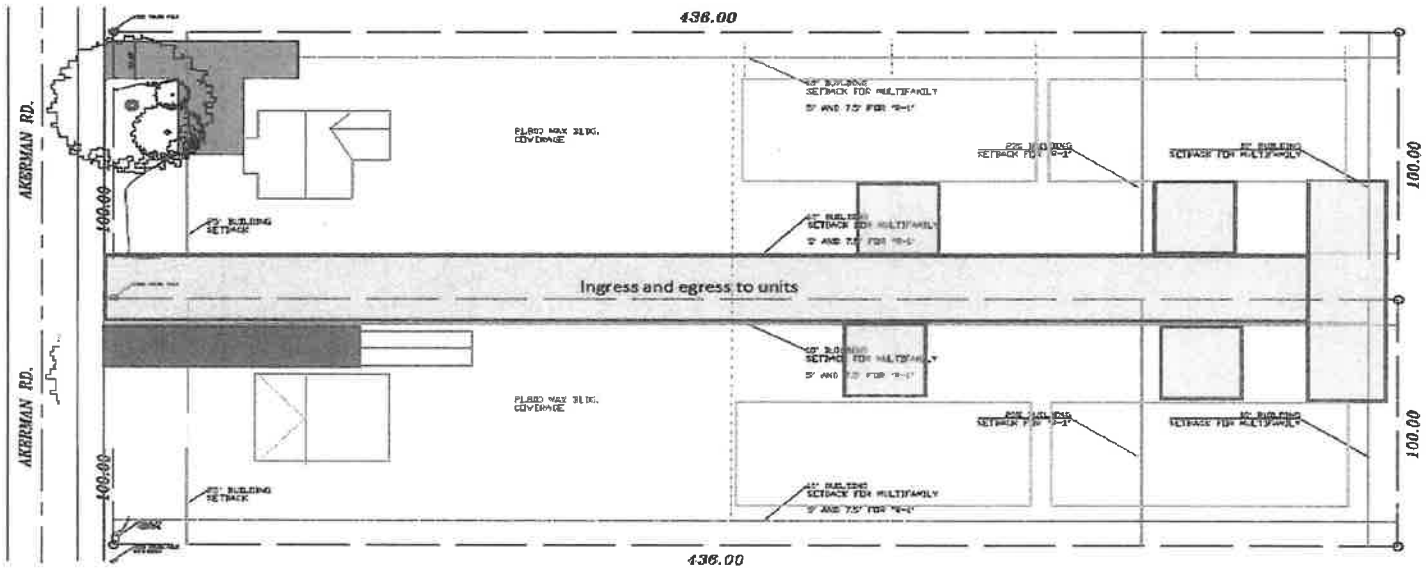
2. A typed list of the property owners and addresses of all property within 200 feet of said property and description of owner's property.

3. A plan site, indicating location, dimensions and uses of existing and proposed structures, easements, water sources, fences, curb cuts, street and alley right-of-way lines on and within one foot of the property proposed for rezoning (on map required by item 1 above, or another map at greater scale).

4. Check for amount required by the City of Kirby, payable to the City of Kirby as fee for the purpose of defraying expenses of mailing notices and hearing before the Zoning Commission.

9/27/2022

Signature & Date of Applicant



SCALE 1" = 20'

1 EXISTING SITE PLAN
SCALE: 1"=20'

§ 153.017 - "R-2" MULTI FAMILY DWELLING DISTRICT.

(A) *Use*. Property in an "R-2" Multi-Family Dwelling District shall be used only for structures incorporating multiple dwelling units and incidental accessory uses.

(B) *Area requirements.*

(1) Minimum lot area:
- (a) The minimum lot area shall be 10,000 square feet for the first 3 dwellings units and each additional dwelling unit shall be a minimum of 3,630 square feet.
- (b) No MF-2 Development shall exceed a density of more than 12 dwelling units per gross acre.

(2) Minimum lot frontage on a public street:
- (a) Internal: 100 feet.
- (b) Corner: 100 feet.

(3) Minimum lot depth: 100 feet.

(4) Minimum depth of front setback: 25 feet.

(5) Minimum depth of rear setback shall be 10 feet. There shall be no encroachment or overhangs into this required rear yard.

(6) Minimum width of side setback:
- (a) Internal lot: 10 feet.
- (b) Corner lot: 15 feet.

(7) Maximum building coverage as a percentage of lot area: 50%.

(8) Maximum accessory building coverage as a percentage of rear yard: 30%.

(9) Maximum height of structures: 45 feet or 3 stories, whichever is less.

(10) See §§ 153.050 through 153.060 for further clarification and exceptions and modifications.

§ 153.016 - "R-1" SINGLE FAMILY DWELLING DISTRICT

(A) *Use*. Property in an "R-1" Single Family Dwelling District shall be used only for 1 single family detached dwelling unit per lot. The use may include accessory structure incidental to a single family residence. No more than 3 individuals who are unrelated by blood, legal adoption or marriage may occupy a singly family dwelling unless otherwise required by law

(B) *Area requirements.*

(1) Minimum lot area:
- (a) Internal: 5,000 sq.ft.
- (b) Corner: 6,000 sq.ft.

(2) Minimum lot frontage on a public street:
- (a) Internal: 50 feet.
- (b) Corner: 60 feet.

(3) Minimum lot depth: 100 feet.

(4) Minimum depth of front setback: 25 feet.

(5) Minimum depth of rear setback: 20% of lot depth

(6) Minimum width of side setback:
- (a) Internal lot: 5 feet (or developed existing lot or 7.5' feet for undeveloped lot.
- (b) Corner lot: 15 feet.

(7) Maximum building coverage as a percentage of lot area: 50%.

(8) Maximum accessory building coverage as a percentage of rear yard: 30%.

(9) Maximum height of structures: 30 feet or 2 1/2 stories, whichever is less

(10) See §§ 153.050 through 153.060 for further clarification and exceptions and modifications.

BLC CONSTRUCTION LLC
P.O. Box 691571
San Antonio, TX 78269
Phone: (210) 695-3676
Email: lacamp@sbcglobal.net

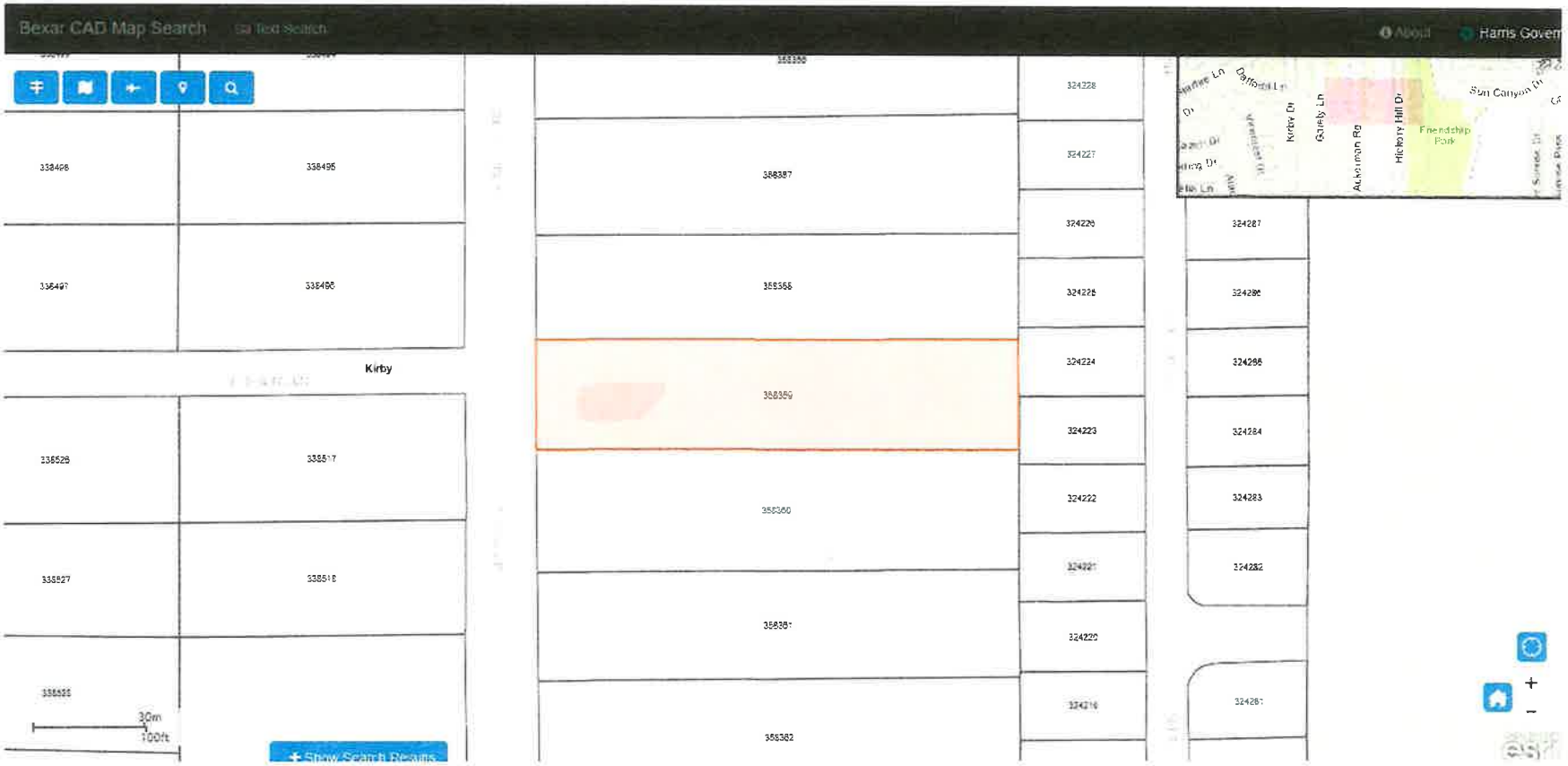
REVISIONS	DATE

RICKY BUNDICK RESIDENCE
3902 Ackerman Rd.
Kirby, Tx. 78219

Drawing Description
EXISTING SITE PLAN

Project No. Drawing No.
AS-1.0

Map of adjacent property owners within 200 feet of zoning application property.



§ 153.017 "R-2" MULTI FAMILY DWELLING DISTRICT.

(A) *Use*. Property in an "R-2" Multi-Family Dwelling District shall be used only for structures incorporating multiple dwelling units and incidental accessory uses.

(B) *Area requirements.*

(1) Minimum lot area:

(a) The minimum lot area shall be 10,000 square feet for the first 3 dwellings units and each additional dwelling unit shall be a minimum of 3,630 square feet.

(b) No MF-2 Development shall exceed a density of more than 12 dwelling units per gross acre.

(2) Minimum lot frontage on a public street:

(a) Internal: 100 feet.

(b) Corner: 100 feet.

(3) Minimum lot depth: 100 feet.

(4) Minimum depth of front setback: 25 feet.

(5) Minimum depth of rear setback shall be 10 feet. There shall be no encroachment or overhangs into this required rear yard.

(6) Minimum width of side setback:

(a) Internal lot: 10 feet.

(b) Corner lot: 15 feet.

(7) Maximum building coverage as a percentage of lot area: 50%.

(8) Maximum accessory building coverage as a percentage of rear yard: 30%.

(9) Maximum height of structures: 45 feet or 3 stories, whichever is less.

(10) See §§ 153.050 through 153.060 for further clarification and exceptions and modifications.

(Ord. 2001-581, passed 8-16-01)

__x__	DISCUSSION AND POSSIBLE ACTION ITEMS
_____	SPECIAL CONSIDERATION
_____	CONSENT AGENDA
_____	PUBLIC HEARING
_____	PRESENTATION
_____	WORKSHOP

C I T Y O F K I R B Y

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

DATE: JANUARY 12, 2023

AGENDA ITEM: 8. b.

8. <u>Discussion And Possible Action</u>

Discussion And Possible Action On Ordinance No. O-2022-920 Of The City Council Of The City Of Kirby Texas Amending Chapter 150, Building Regulations, Article II Building Construction Code, Section 15.016 Local Amendments Of The Code Of Ordinances, By Adopting Amendments To The Minimum Square Footage That Requires A Sprinkler System For Certain Occupancies Repealing All Prior Ordinances In Conflict Herewith; Providing For Severability; And Providing For An Effective Date. This Is The Second Reading.

The first reading was approved on December 15, 2022.

ORDINANCE NO. O-2022-920

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF KIRBY TEXAS AMENDING CHAPTER 150, BUILDING REGULATIONS, ARTICLE II BUILDING CONSTRUCTION CODE, SECTION 15.016 LOCAL AMENDMENTS OF THE CODE OF ORDINANCES, BY ADOPTING AMENDMENTS TO THE MINIMUM SQUARE FOOTAGE THAT REQUIRES A SPRINKLER SYSTEM FOR CERTAIN OCCUPANCIES REPEALING ALL PRIOR ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Texas Local Governmental Code empowers the cities to enact codes and regulations and provide for their administration, enforcement, and amendment for the various elements of construction and development with the city; and

WHEREAS, the regulation of construction and development through the adoption of standardized codes with local amendments by the City of Kirby (the "City") is necessary to protect the public health, safety and welfare; and

WHEREAS, the City Council of the City desires to protect the safety and welfare of the citizens of the City through regulation of construction activities and safety compliance in the City; and

WHEREAS, the City has previously adopted multiple international codes; and

WHEREAS, the City Council has undertaken a review of the newly adopted international codes and local amendments as compared to the City's existing occupancy types and building uses; and

WHEREAS, City Council desires to adopt additional amendments to the local amendments to the international codes provided for herein as they pertain to regulations and requirements for automated sprinkler systems; and

WHEREAS, the City Council has determined that the regulation of construction activities in the City, as set forth herein, is in the best interests of the City.

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

Section 1. Chapter 150 of the City Code of the City of Kirby, Texas is hereby amended as set forth in the attached Exhibit A, incorporated herein.

Section 2. Any person, firm, corporation or agent who shall violate a provision of the amended Chapter shall be guilty of a misdemeanor, and such persons shall be considered guilty of a separate offense for each and every day or portion thereof during which any violation of any of the provisions of this chapter is committed or continued, and upon

conviction of any such violation such person shall be punished by a fine of not more than $2,000.00 for each offense, in accordance with Section 10.99 of the City of Kirby Code of Ordinances.

Section 3. The recitals contained in the preamble hereof are hereby found to be true, and such recitals are hereby made a part of this Ordinance for all purposes and are adopted as a part of the judgment and findings of the Council.

Section 4. All ordinances and codes, or parts thereof, which are in conflict or inconsistent with any provision of this Ordinance are hereby repealed to the extent of such conflict, and the provisions of this Ordinance shall be and remain controlling as to the matters resolved herein.

Section 5. That all rights and privileges of the City are expressly saved as to any and all violations of the provision of any ordinances repealed by this ordinance which have accrued at the time of the effective date of this Ordinances; and, as to such accrued violation and all pending litigation, both civil and criminal, whether pending in court or not, under such Ordinances, same shall not be affected by this Ordinance but may be prosecuted until final disposition by the courts.

Section 6. If any provision of this Ordinance or the application thereof to any person or circumstance shall be held to be invalid, the remainder of this Ordinance and the application of such provision to other persons and circumstances shall nevertheless be valid, and the City hereby declares that this Ordinance would have been enacted without such invalid provision.

Section 7. It is officially found, determined, and declared that the meeting at which this Ordinance is adopted was open to the public and public notice of the time, place, and subject matter of the public business to be considered at such meeting, including this Ordinance, was given, all as required by Chapter 551, as amended, Texas Government Code.

Section 8. This Ordinance shall be effective upon the date of final adoption hereof and any publication required by law.

PASSED AND APRROVED on first reading on the 15 day of December, 2022.

CITY OF KIRBY

_____

KIMBERLY ALDRICH, Mayor

ATTEST:

_____

Patty Cox, TRMC, City Secretary

PASSED AND APPROVED on second reading on the12 day of January, 2023.

CITY OF KIRBY

_____

KIMBERLY ALDRICH, Mayor

ATTEST:

_____

Patty Cox, TRMC, City Secretary

EXHIBIT A

CHAPTER 150: BUILDING REGULATIONS; ARTICLE II. BUILDING CONSTRUCTION CODE; SECTION 150.16-LOCAL AMENDMENTS, IS HEREBY AMENDED AS FOLLOWS:

[Deletions are shown as strikethrough and additions are shown as underscore. No other amendments have been made, the remainder is shown for context.]

§ 150.16 LOCAL AMENDMENTS TO BUILDING CODE.

Certain provisions and portions of the International Building Code, 2018 Edition, are hereby amended as they apply to activities within the City. The amendments to the International Building Code, 2018 Edition, are as follows:

(A) Sections 103.1 and 103.2 are amended to read as follows:

Section 103.1 Deleted.

Section 103.2 Building official.

The building official shall be appointed by the City Manager.

(B) Section 114.4 is amended to read as follows:

114.4. Violations; penalty.

Any person who shall violate a provision of the code adopted by this article, or fail to comply therewith, or with any of the requirements thereof, or who shall erect, construct, alter, demolish or move any structure, or has erected, constructed, altered, repaired, moved, or demolished a building or structure in violation of a detailed statement or drawing submitted and approved thereunder shall be guilty of a misdemeanor and, upon conviction of any such violation, such person shall be punished by a fine not to be *less than $500 and not more than $2,000.* The owner or owners of any building or premises or part thereof, where anything in violation of this article shall be placed or shall exist, and any architect, builder, contractor, agent, person or corporation employed in connection therewith and who may have assisted in the commission of any such violation shall be guilty of a separate offense and upon conviction shall be fined as herein provided. Each day a violation occurs shall be a separate offense.

(C) Delete Section 903, replace with the following:

(1) Henceforth automatic sprinkler systems must be installed throughout all levels of all new Group A, B, E, F, H, I, M, R-1, R-2, R-4 and S occupancies as defined in the International Building Code (IBC) of more than ~~2,500~~ 12,000 square feet and throughout all R-3 occupancies as defined in said International Building Code of more than ~~5,000~~ 12,000 square feet. The calculated area shall include all habitable space as well as the area of attached garages or storage facilities. Such systems shall be in accordance with Section 903 of the International Building Code as well as National Fire Protection Association Standards 13D and 13R, 2002 edition, for single-family dwellings.

(2) The following exceptions are hereby established:

(a) Detached gazebos and armadas for residential and public use. Independent buildings such as restrooms or snack shops 400 square feet or less without cooking or heating appliances that are associated with golf courses, parks and similar uses.

(b) Detached noncombustible carports or shade canopies.

(c) Guardhouses that are less than 300 square feet in size and used to control access to or within residential and/or commercial developments.

(d) Detached equipment or storage buildings for commercial use not exceeding 250 square feet.

(e) Detached residential storage buildings or garages that are no inhabitable and not exceeding 1,000 square feet.

(f) Barns and agricultural buildings for private, residential, noncommercial use, and not exceeding 3,000 square feet.

(g) Detached noncombustible canopies used exclusively for automotive, motor-fuel dispensing stations for private passenger vehicles and not exceeding 5,000 square feet.

(h) Manufactured (mobile) homes built in a permanent chassis designed and built as a dwelling unit and recreational vehicles that were not site-built and are portable in nature.

(i) The following Group A-2 occupancies shall require an automatic sprinkler system if they exceed 5,000 sq. ft.

i. banquet halls

ii. casinos (gaming areas)

iii. nighclubs

iv. restaurants, cafeterias and similar dining facilities

v. taverns and bars

(j) The following Group A-3 occupancies shall require an automatic sprinkler system if they exceed 5,000 sq. ft.

i. amusement arcades

ii. art galleries

iii. bowling alleys

iv. churches, places of religious worship and their ancillary buildings

v. community halls

vi. courtrooms

vii. dance halls (not including food or drink consumption)

viii. exhibition halls

ix. funeral parlors

x. greenhouses that provide public access

xi. gymnasiums (without spectator seating)

xii. indoor swimming pools (without spectator seating)

xiii. indoor tennis courts (without spectator seating)

xiv. lecture halls

xv. libraries

xvi. museums

xvii. pool and billiard halls

xviii. waiting areas in transportation terminals

(3) Retrofit.

(a) Building additions that equal 50 percent or more of the existing building floor area, or building additions that exceed 10,000 square feet regardless of percentage increase.

(b) Two or more building permits, related to area increase, are issued over any 3 consecutive years.

(c) One or more additions are made to an R-3 occupancy and the new total area of the building exceeds 5,000 square feet.

(d) Building remodels that require structural changes affecting the primary structural system of the existing building.

('90 Code, § 4-27) (Ord. 2005-611, passed 3-17-05; Am. Ord. 2012-719, passed 2-9-12; Am. Ord. 2015-762, passed 2-26-15; Ord. No. O-2019-866, § 2, 2-13-2020)

__X__	DISCUSSION AND POSSIBLE ACTION ITEMS
_____	SPECIAL CONSIDERATION
_____	CONSENT AGENDA
_____	PUBLIC HEARING
_____	PRESENTATION
_____	WORKSHOP

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

DATE: JANUARY 12, 2023

AGENDA ITEM: 8.c.

8. <u>Discussion And Possible Action</u>

Discussion And Possible Action On A Request From The Beautification And Recycle Committee To Beautify Friendship Park Entrance Sign

A representative from the Committee will be present to make this request.

__X__	DISCUSSION AND POSSIBLE ACTION ITEMS
_____	SPECIAL CONSIDERATION
_____	CONSENT AGENDA
_____	PUBLIC HEARING
_____	PRESENTATION
_____	WORKSHOP

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

DATE: JANUARY 12, 2023

AGENDA ITEM: 8. d.

8. Discussion And Possible Action

Discussion And Possible Action On Revisions To The Kirby Senior Center Articles Of Incorporation

The Kirby Senior Center Corporation was incorporated under Local Government Code 394. That Code is included along with their current and proposed changes to the Articles of Incorporation.

LOCAL GOVERNMENT CODE

TITLE 12. PLANNING AND DEVELOPMENT

SUBTITLE C. PLANNING AND DEVELOPMENT PROVISIONS APPLYING TO MORE THAN ONE TYPE OF LOCAL GOVERNMENT

CHAPTER 394. HOUSING FINANCE CORPORATIONS IN MUNICIPALITIES AND COUNTIES

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 394.001. SHORT TITLE. This chapter may be cited as the Texas Housing Finance Corporations Act.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 394.002. PURPOSE; LEGISLATIVE FINDINGS. (a) The purpose of this chapter is to provide a means to finance the cost of residential ownership and development that will provide decent, safe, and sanitary housing at affordable prices for residents of local governments.

(b) The legislature finds that residential ownership and development:

(1) promotes the public health, safety, morals, and welfare;

(2) relieves conditions of unemployment and encourages the increase of industry, commercial activity, and other economic development to reduce the adverse effects of unemployment;

(3) provides for efficient and well-planned urban growth and development, including the elimination and prevention of potential urban blight and the proper coordination of industrial facilities with public services, mass transportation, and residential development;

(4) assists persons of low and moderate income to acquire and own decent, safe, sanitary, and affordable housing; and

(5) preserves and increases the ad valorem tax bases of local governments.

(c) The legislature finds that the accomplishment of the results described by Subsection (b) is a public purpose and function and lessens the burdens of government. The legislature further finds that:

(1) the creation of a housing finance corporation is for the benefit of the people of the state, improves the public health and welfare, and promotes the economy;

(2) those purposes are public purposes; and

(3) the corporation, as a public instrumentality and nonprofit corporation, performs an essential governmental function on behalf of and for the benefit of the general public, the local government, and this state.

(d) It is the intent of the legislature to authorize local governments to create and use public nonprofit corporations to issue obligations to accomplish the results described by Subsection (b).

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 394.003. DEFINITIONS. In this chapter:

(1) "Bond" means a revenue bond authorized under this chapter and includes a note and any other limited obligation payable as provided by this chapter.

(2) "Development cost" means the sum total of reasonable or necessary costs incidental to the provision, acquisition, construction, reconstruction, rehabilitation, repair, alteration, improvement, and extension of a residential development. The term includes:

(A) the cost of studies, surveys, plans, and specifications;

(B) underwriting fees;

(C) the cost of architectural, engineering, financial advisory, mortgage banking, and administrative services;

(D) the cost of legal, accounting, marketing, and other special services that relate to residential development or are incurred in connection with the issuance and sale of bonds;

(E) necessary application fees and other fees paid to federal, state, and local government agencies for approvals required for construction, for assisted financing, or for other purposes;

(F) financing, acquisition, demolition, construction, equipment, and site development costs for new and rehabilitated buildings;

(G) relocation costs for utilities, public ways, and parks;

(H) construction costs for recreational, cultural, and commercial facilities;

(I) rehabilitation, reconstruction, repair, or remodeling costs for existing buildings and all other necessary and incidental expenses, including trustee and rating agency fees and an initial bond and interest reserve together with interest on bonds issued to finance a residential development to a date 12 months after the estimated date of completion;

(J) premiums for mortgage insurance or other insurance with respect to bonds; and

(K) other expenses considered appropriate by a housing finance corporation to carry out the purposes of this chapter.

(3) "Economically depressed or blighted area" means:

(A) an area determined by the issuer to be a qualified census tract or an area of chronic economic distress under Section 143, Internal Revenue Code of 1986 (26 U.S.C.A. Section 143);

(B) an area established within a municipality that has a substantial number of substandard, slum, deteriorated, or deteriorating structures, that suffers from a high relative rate of unemployment; or

(C) an area designed and included in a tax increment district created under Chapter 695, Acts of the 66th Legislature, Regular Session, 1979 (Article 1066d, Vernon's Texas Civil Statutes).

(4) "Elderly person" means a person who is 60 years of age or older.

(5) "Federally assisted new community" means an area:

(A) that receives federal assistance in the form of loan guarantees under Title X of the National Housing Act (12 U.S.C.A. Section 1749aa et seq.); and

(B) a part of which has received grants under Section 107(a)(1), Housing and Community Development Act of 1974 (42 U.S.C.A. Section 5307(a)(1)).

(6) "Home" means real property and improvements on that property consisting of not more than four connected dwelling units, which may include condominium units, located within a local government and owned by one mortgagor who occupies or intends to occupy one of the units.

(7) "Home mortgage" means an interest-bearing loan to a mortgagor, or a participation in such a loan, that is:

(A) made to purchase, improve, or construct a home;

(B) evidenced by a promissory note;

(C) secured by a mortgage, mortgage deed, deed of trust, or other instrument that constitutes a lien on the home; and

(D) except as provided by Section 394.906, guaranteed or insured by the United States, an instrumentality of the United States, or a private mortgage insurance or surety company to the extent the loan amount exceeds 80 percent of the lesser of the appraised value of the home at the time the loan is made or the sale price of the home.

(8) "Housing finance corporation" means a public, nonprofit corporation organized under this chapter.

(9) "Lending institution" means a bank, trust company, savings bank, national banking association, savings and loan association, mortgage banker, mortgage company, credit union, life insurance company, or other financial institution or government agency that customarily provides services or assistance in mortgage financing on single family residential housing or multifamily residential housing located in the local government. The term includes a holding company for such an institution.

(10) "Local government" means any municipality or county.

(11) "Mortgagor" means a person of low or moderate income whose adjusted gross aggregate income, together with the adjusted gross aggregate income of all persons who intend to reside with that person in one dwelling unit, did not, for the preceding tax year, exceed the maximum amount established as constituting moderate income by the housing finance corporation's rules, resolutions relating to the issuance of bonds, or financing documents relating to the issuance of bonds. In an economically depressed or blighted area or in a federally assisted new community located within a home-rule municipality, the term includes:

(A) a person whose adjusted gross aggregate income exceeds the amount constituting moderate income if at least 90 percent of the total mortgage amount available under a home mortgage revenue bond issue is designated for persons of low or moderate income; or

(B) a person permitted to be a mortgagor under Section 143, Internal Revenue Code of 1986 (26 U.S.C.A. Section 143), as it applies to that area or community.

(12) "Person" means, if used in reference to a mortgagor or owner of a home, a natural person or a trust for the benefit of a natural person.

(13) "Residential development" means the acquisition, construction, reconstruction, rehabilitation, repair, alteration, improvement, or extension of any of the following items or any combination of the following items for the purpose of providing decent, safe, and sanitary housing and nonhousing facilities that are an integral part of or are functionally related to any affordable housing project, whether in one or multiple locations, including any facilities used for the purpose of delivering tenant services, as defined by Section 2306.254, Government Code:

(A) land, an interest in land, a building or other structure, facility, system, fixture, improvement, addition, appurtenance, or machinery or other equipment;

(B) real or personal property considered necessary in connection with an item described by Paragraph (A); or

(C) real or personal property or improvements functionally related and subordinate to an item described by Paragraph (A).

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1999, 76th Leg., ch. 1250, Sec. 1, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 113, Sec. 1, eff. May 11, 2001.

Sec. 394.004. APPLICATION OF CHAPTER TO CERTAIN RESIDENTIAL DEVELOPMENTS. This chapter applies only to a residential development at least 90 percent of which is for use by or is intended to be occupied by persons of low and moderate income whose adjusted gross income, together with the adjusted gross income of all persons who intend to reside with those persons in one dwelling unit, did not for the preceding tax year exceed the maximum amount constituting moderate income under the housing finance corporation's rules, resolutions relating to the issuance of bonds, or financing documents relating to the issuance of bonds.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 394.005. APPLICATION OF CHAPTER TO PROPERTY IN CERTAIN MUNICIPALITIES. This chapter does not apply to property located within a municipality with more than 20,000 inhabitants as determined by the housing finance corporation's rules, resolutions relating to the issuance of bonds, or financing documents relating to the issuance of bonds, unless the governing body of the municipality approves the application of the chapter to that property.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

SUBCHAPTER B. INCORPORATION OF HOUSING FINANCE CORPORATIONS

Sec. 394.011. APPLICATION FOR INCORPORATION. (a) The governing body of a local government shall consider a written application for the incorporation of a housing finance corporation filed with the governing body by at least three residents of the local government who are citizens of this state and at least 18 years of age.

(b) If the governing body by resolution determines that the formation of the housing finance corporation is wise, expedient, necessary, or advisable and approves the form of the proposed articles of incorporation of the corporation, the articles may be filed as provided by this chapter.

A corporation may not be formed unless the application is filed with the governing body and the governing body adopts the resolution.

(c) The approval of the articles of incorporation of one housing finance corporation does not preclude the approval by the governing body of the articles of incorporation of additional corporations that have names or designations sufficient to distinguish them from previously created corporations. The governing body may not permit the incorporation on its behalf of more than one corporation that has the power to make or acquire home mortgages, or to make loans to lending institutions, the proceeds of which are to be used to make home mortgages or to make loans on residential developments.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 394.012. APPLICATION FOR INCORPORATION OF, AND OTHER SPECIAL PROVISIONS FOR, JOINT CORPORATION. (a) The governing bodies of more than one local government may consider a written application for the incorporation of a joint housing finance corporation to act on behalf of the local governments filed by at least three residents of each sponsoring local government who are citizens of this state and at least 18 years of age.

(b) If each governing body by resolution determines that the formation of the joint housing finance corporation is wise, expedient, necessary, or advisable and approves the form of the proposed articles of incorporation of the joint corporation, the articles may be filed as provided by this chapter. The joint corporation may not be formed unless the application is filed with the governing body of each sponsoring local government and each governing body adopts the resolution.

(c) The approval of the articles of incorporation of the joint housing finance corporation does not preclude the approval by the governing body of the articles of incorporation of additional corporations that have names or designations sufficient to distinguish them from previously created corporations. A governing body that creates the joint corporation may not later create a corporation that has the power to make home mortgages or to make loans to lending institutions, the proceeds of which are to be used to make home mortgages or to make loans on residential developments.

(d) Each incorporator or director of the joint housing finance corporation must reside in a sponsoring local government. The initial directors of the joint corporation shall be appointed by all the sponsoring

local governments. Succeeding directors shall be appointed by one or more of the sponsoring local governments as provided in the articles of incorporation or the bylaws of the joint corporation.

(e) The sponsoring local governments of the joint housing finance corporation are considered to be one local government for the purposes of this chapter. If the action of the governing body of a local government is required, this chapter requires the action to be taken by the governing body of each sponsoring local government of the joint corporation.

(f) The joint housing finance corporation has all the powers granted to a housing finance corporation under this chapter. The joint corporation acts on behalf of each of the sponsoring local governments as provided by the articles of incorporation.

(g) The net earnings of the joint housing finance corporation and funds and properties of the joint housing finance corporation on dissolution shall be disbursed to the sponsoring local governments as provided by the articles of incorporation.

(h) For the purposes of determining the applicable population for Section 1372.026, Government Code, the joint housing finance corporation may only consider areas in its own state planning region.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1997, 75th Leg., ch. 1420, Sec. 10, eff. June 20, 1997; Acts 2001, 77th Leg., ch. 1420, Sec. 8.344, eff. Sept. 1, 2001.

Sec. 394.013. INCORPORATORS. Three or more residents of the local government who are at least 18 years of age may act as incorporators of the housing finance corporation by signing, verifying, and delivering in duplicate to the secretary of state the articles of incorporation for the corporation. An incorporator may be a member of the governing body, an officer, or an employee of the local government.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 394.014. ARTICLES OF INCORPORATION. (a) The articles of incorporation of the housing finance corporation must contain:

(1) the name of the corporation;

(2) a statement that the corporation is a public, nonprofit corporation;

(3) the period of duration, which may be perpetual;

(4) a statement that the corporation is organized solely to carry out the purposes of this chapter;

(5) a statement that the corporation is to have no members;

(6) any provision not inconsistent with law, including any provision required or permitted under this chapter to be included in the bylaws, for the regulation of the internal affairs of the corporation;

(7) the street address of the corporation's initial registered office, which must be located in the local government, and the name of its initial registered agent at that address;

(8) the number of directors constituting the initial board of directors and the names and addresses of those directors, with a statement that each of them resides in the local government;

(9) the name and street address of each incorporator with a statement that each of them resides in the local government; and

(10) a statement that a resolution approving the form of the articles of incorporation has been adopted by the governing body of the local government and the date of the adoption of the resolution.

(b) A housing finance corporation may exercise any power prescribed by this chapter regardless of whether the power is stated in its articles of incorporation. The articles may prohibit the exercise of any power prescribed by this chapter.

(c) Unless the articles of incorporation provide that a change in the number of directors may be made only by amendment to the articles, a change in the number of directors may be made by an amendment to the bylaws. In all other cases if a provision of the articles is inconsistent with the bylaws, the articles provision controls.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 394.015. FILING OF ARTICLES OF INCORPORATION; ISSUANCE OF CERTIFICATE OF INCORPORATION. (a) Duplicate originals of the articles of incorporation must be delivered to the secretary of state. If the secretary of state finds that the articles of incorporation conform to this chapter, the secretary shall, when a $25 fee is paid:

(1) endorse on each duplicate original the word "Filed" and the date of the filing;

(2) file one of the duplicate originals in the office of the secretary of state; and

(3) issue a certificate of incorporation, to which the secretary shall affix the other duplicate original.

(b) The secretary of state shall deliver the certificate of incorporation, with the affixed duplicate original, to the incorporators or

their representatives.

(c) On the issuance of the certificate of incorporation, corporate existence begins. The certificate of incorporation is conclusive evidence that all conditions precedent required to be performed by the local government and the incorporators have been met and that the housing finance corporation is properly incorporated under this chapter.

(d) The housing finance corporation constitutes a public instrumentality and a nonprofit corporation under the name stated in the articles of incorporation. The corporation does not constitute a municipality, county, or other political corporation or subdivision of this state. The corporation may issue bonds and carry out the public purposes for which it is incorporated on behalf of and for the benefit of the general public, the local government, and this state.

(e) A copy of the articles of incorporation shall be delivered to the Texas Department on Aging.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 394.016. AMENDMENT OF ARTICLES OF INCORPORATION. (a) The articles of incorporation may be amended at any time in the manner provided by this section.

(b) The board of directors of the housing finance corporation may file a written application with the governing body of the local government requesting permission to amend the articles and specifying the proposed amendment. The governing body shall consider the application. If the governing body by resolution determines that the making of an amendment is wise, expedient, necessary, or advisable, authorizes the amendment, and approves the form of the amendment the board of directors may amend the articles by adopting the amendment at a meeting and delivering articles of amendment to the secretary of state.

(c) At a meeting, the governing body in its sole discretion may amend the articles of incorporation to change the structure, organization, programs, or activities of the housing finance corporation, including the power to terminate the corporation, subject to any limitation on the impairment of contracts. The governing body shall deliver the articles of amendment to the secretary of state.

(d) The articles of amendment must be executed in duplicate. The president or vice-president of the housing finance corporation and the secretary or assistant secretary of the corporation must execute articles of amendment adopted by the board of directors. The presiding officer of

the governing body of the local government and the local government's secretary or clerk must execute articles of amendment adopted by the governing body. The articles of amendment must be verified by one of the officers signing the articles. The articles of amendment must contain:

(1) the name of the corporation;

(2) if the amendment alters an original or amended provision of the articles of incorporation, an identification by reference to or description of the altered provision and a statement of the text as amended;

(3) if the amendment is an addition to the original or amended articles of incorporation, a statement of that fact and the full text of the added provision; and

(4) the date of the meeting of the board of directors or the governing body at which the amendment was adopted and a statement that the amendment received a majority vote of the corporation's directors or the governing body's members in office.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 394.017. FILING OF ARTICLES OF AMENDMENT; ISSUANCE OF CERTIFICATE OF AMENDMENT. (a) Duplicate originals of the articles of amendment must be delivered to the secretary of state. If the secretary of state finds that the articles of amendment conform to law, the secretary shall, when a $25 fee is paid:

(1) endorse on each duplicate original the word "Filed" and the date of the filing;

(2) file one of the duplicate originals in the office of the secretary of state; and

(3) issue a certificate of amendment, to which the secretary shall affix the other duplicate original.

(b) The secretary of state shall deliver the certificate of amendment, with the affixed duplicate original, to the housing finance corporation or its representative.

(c) On the issuance of the certificate of amendment, the amendment takes effect and the articles of incorporation are amended accordingly.

(d) An amendment does not affect an existing cause of action or any pending action to which the housing finance corporation is a party, or the existing rights of persons other than members. If the amendment changes the housing finance corporation's name, the change does not abate a suit brought by or against the corporation under its former name.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

SUBCHAPTER C. CORPORATE ADMINISTRATION AND OPERATION

Sec. 394.021. BOARD OF DIRECTORS. (a) A housing finance corporation must have a board of directors in which all the powers of the corporation are vested. The board may consist of any number of directors, all of whom must be residents of the local government. A director may be a member of the governing body, an officer, or an employee of the local government.

(b) Members of the initial board of directors hold office for the period specified in the articles of incorporation. After the initial directors, the governing body of the local government shall appoint directors in the manner and for the terms provided by the articles of incorporation or the bylaws. Directors may be divided into classes, and the terms of office of the various classes may differ.

(c) Each director shall hold office for the term for which the director is elected or appointed and until the director's successor is elected or appointed and has qualified. A director may be removed from office under any removal procedure provided by the articles of incorporation or the bylaws. The governing body shall fill any vacancy in the board of directors by appointment in the manner provided by the articles of incorporation or the bylaws.

(d) A majority of the directors constitutes a quorum. The directors may take action by a majority vote when a quorum is present. Board meetings may be held inside or outside this state. A regular meeting may be held with or without notice as provided by the bylaws. A special meeting may be held on notice as provided by the bylaws.

(e) The officers of a housing finance corporation consist of a president, one or more vice-presidents, a secretary, a treasurer, and other officers and assistant officers as considered necessary. Each officer shall be elected or appointed in the manner and for the term provided by the articles of incorporation or the bylaws.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 394.022. ORGANIZATIONAL MEETING. (a) After the issuance of the certificate of incorporation, the board of directors named in the articles of incorporation, at the call of a majority of the incorporators, shall hold an organizational meeting to adopt bylaws, elect officers, and consider other issues that come before the meeting. The meeting may be held inside or outside this state.

(b) The incorporators who call the meeting must give at least three days' notice of the meeting to each director by mailing to the director a notice that states the time and place of the meeting.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 394.023. DISPOSITION OF CORPORATE EARNINGS. (a) The housing finance corporation may not pay dividends. The net earnings of the corporation may not be distributed to or benefit the directors or officers of the corporation or any person except as reasonable compensation for services rendered to the corporation.

(b) If the board of directors determines that sufficient provision has been made for full payment of the expenses, bonds, and other obligations of the corporation, any net corporate earnings accruing after the determination shall be paid to the local government. The local government shall use amounts received under this subsection only to provide for the housing needs of individuals and families of low and moderate incomes, including single-family units and mixed income multifamily projects found by the local government to serve the interests of low and moderate income individuals and families if the single-family and multifamily projects have as a major purpose the provision of safe, sanitary, and decent housing for individuals and families of low income.

(c) This section does not prohibit the board of directors from transferring corporate property as provided by a contract made by the corporation.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1995, 74th Leg., ch. 951, Sec. 7, eff. June 16, 1995.

Sec. 394.024. REGISTERED OFFICE AND AGENT. The housing finance corporation shall maintain a registered office and a registered agent as provided by Article 2.05, Texas Non-Profit Corporation Act (Article 1396-2.05, Vernon's Texas Civil Statutes). The corporation may change its registered office or agent as provided by Article 2.06 of that Act. Process may be served on the corporation as provided by Article 2.07 of that Act.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 394.025. CORPORATE BOOKS AND RECORDS. A housing finance corporation shall keep complete books and records of account and shall keep

minutes of the proceedings of its board of directors.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 394.026. DISSOLUTION OF CORPORATION. (a) If the board of directors determines by resolution that the purposes for which the housing finance corporation was formed have been substantially met and that all bonds issued by and all obligations incurred by the corporation have been fully paid, the directors shall execute a certificate of dissolution stating those facts and declaring that the corporation is dissolved. The directors shall file the certificate for recording in the office of the secretary of state. The directors shall execute the certificate under the corporation's seal.

(b) On the filing of the certificate of dissolution, the corporation is dissolved. The title to all funds and property owned by the corporation at the time of dissolution vests in the local government to be used exclusively by the local government to provide for the housing needs of individuals and families of low and moderate incomes, including single-family units and mixed income multifamily projects found by the local government to serve the interests of low and moderate income individuals and families if the single-family and multifamily projects have as a major purpose the provision of safe, sanitary, and decent housing for individuals and families of low income. The funds and property shall be promptly delivered to the local government.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1995, 74th Leg., ch. 951, Sec. 8, eff. June 16, 1995.

Sec. 394.027. ANNUAL REPORT. (a) Before August 31 of each year, a housing finance corporation shall file with the Texas Department of Housing and Community Affairs a report in accordance with this section. The department by rule shall prescribe the form of the report.

(b) The report must include for each single-family home mortgage loan made by the housing finance corporation during the preceding 12 months ending June 30 of the year the report is filed, the data reported by originating lenders under the Federal Home Mortgage Disclosure Act.

(c) The report must include for persons residing in multifamily housing units financed by the housing finance corporation information similar to the geographic and demographic information contained in the Texas Department of Housing and Community Affairs compliance monitoring

form and tenant income certification, including household size, total household income, and project location.

Added by Acts 1995, 74th Leg., ch. 951, Sec. 9, eff. June 16, 1995.

SUBCHAPTER D. CORPORATE POWERS

Sec. 394.031. EXERCISE OF POWERS. (a) A housing finance corporation may exercise any powers incidental to or necessary for the performance of the powers prescribed by this subchapter and may exercise other powers necessary or appropriate to carry out the purposes for which the corporation is organized.

(b) A housing finance corporation may exercise powers under this chapter by resolution of the board of directors. The resolution takes effect immediately on adoption.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 394.032. GENERAL POWERS. (a) A housing finance corporation may:

(1) make contracts and other instruments as necessary or convenient to the exercise of powers under this chapter;

(2) incur liabilities;

(3) borrow money at rates determined by the corporation;

(4) issue notes, bonds, and other obligations; and

(5) secure any of its obligations by the mortgage or pledge of all or part of the corporation's property, franchises, and income.

(b) A housing finance corporation may plan, research, study, develop, and promote the establishment of residential development.

(c) A housing finance corporation may make donations for the public welfare or for charitable, scientific, or educational purposes.

(d) A housing finance corporation may enter into contracts to perform services for any other housing finance corporation or any individual or entity acting on behalf of any other housing finance corporation or, with respect to residential development, any housing authority, nonprofit enterprise, or similar entity.

(e) A housing finance corporation may delegate to the Texas Department of Housing and Community Affairs the authority to act on its behalf in the financing, refinancing, acquisition, leasing, ownership, improvement, and disposal of home mortgages or residential developments,

within and outside the jurisdiction of the housing finance corporation, including its authority to issue bonds for those purposes.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 258, Sec. 1, eff. Aug. 28, 1989; Acts 1997, 75th Leg., ch. 1420, Sec. 11, eff. June 20, 1997.

Sec. 394.033. CORPORATE NAME; DURATION; SEAL. (a) A housing finance corporation may have perpetual succession under its corporate name, unless a limited period of duration is stated in the articles of incorporation, and may sue and be sued, and complain and defend, under its corporate name.

(b) A housing finance corporation may have a corporate seal, which may be altered at will, and may use the seal by causing it, or a facsimile of it, to be impressed on, affixed to, or otherwise reproduced on any instrument required to be executed by the corporation's officers.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 394.034. OFFICERS; AGENTS. A housing finance corporation may elect or appoint corporate officers or agents for a period determined by the corporation, define their duties, and may set their compensation.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 394.035. BYLAWS. A housing finance corporation may make, amend, and repeal bylaws, not inconsistent with the articles of incorporation or this chapter, for the administration and regulation of the corporation's affairs.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 394.036. ACCEPTANCE OF FINANCIAL ASSISTANCE. (a) A housing finance corporation may apply for and accept, on its own behalf or on behalf of another person, advances, loans, grants, contributions, guarantees, rent supplements, mortgage assistance, and other forms of financial assistance from the federal government, the state, a county, a municipality, or any other public or quasi-public body, corporation, or foundation, or from any other public or private source, for any of the purposes of this chapter.

(b) The corporation may include reasonable and appropriate terms, not inconsistent with the purposes of this chapter, in any contract for financial assistance obtained under this section.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 394.037. BONDS. (a) A housing finance corporation may issue bonds to defray, in whole or in part:

(1) the development costs of a residential development;

(2) the costs of purchasing or funding the making of home mortgages, either on a first-come, first-served basis or by selling lender commitments, including the costs of studies and surveys, insurance premiums, financial advisory services, mortgage banking services, administrative services, underwriting fees, legal services, accounting services, and marketing services incurred in connection with the issuance and sale of the bonds, including bond and interest reserve accounts, capitalized interest accounts, and trustee, custodian, and rating agency fees; or

(3) any other costs associated with the provision of decent, safe, and sanitary housing and nonhousing facilities that are an integral part of or are functionally related to an affordable housing project.

(b) The corporation may pledge all or a part of the revenues, receipts, or resources of the corporation, including any revenues or receipts received from residential development or home mortgages, to the prompt payment of bonds authorized under this chapter and to the interest and any redemption premiums on those bonds. It may issue bonds to refund in whole or in part at any time any bonds previously issued under this chapter by the corporation.

(c) The corporation may designate appropriate names for bonds issued under this chapter.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1997, 75th Leg., ch. 1420, Sec. 12, eff. June 20, 1997; Acts 2001, 77th Leg., ch. 113, Sec. 2, eff. May 11, 2001.

Sec. 394.038. ACQUISITION OF SHARES OR OBLIGATIONS. A housing finance corporation may purchase, receive, subscribe for, or otherwise acquire, own, hold, vote, use, employ, mortgage, lend, pledge, sell, or otherwise dispose of, and otherwise use and deal in and with:

(1) shares and other interests in or obligations of other domestic or foreign corporations, whether profit or nonprofit,

associations, partnerships, or individuals; or

(2) direct or indirect obligations of the United States or of any other government, state, political subdivision of a state, territory, government district, or any instrumentality of such a governmental entity.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 394.039. SPECIFIC POWERS RELATING TO FINANCIAL AND PROPERTY TRANSACTIONS. A housing finance corporation may:

(1) lend money for its corporate purposes, invest and reinvest its funds, and take and hold real or personal property as security for the payment of the loaned or invested funds;

(2) mortgage, pledge, or grant security interests in any residential development, home mortgage, note, or other property in favor of the holders of bonds issued for those items;

(3) purchase, receive, lease, or otherwise acquire, own, hold, improve, use, or deal in and with real or personal property or interests in that property, wherever the property is located, as required by the purposes of the corporation or as donated to the corporation; and

(4) sell, convey, mortgage, pledge, lease, exchange, transfer, and otherwise dispose of all or part of its property and assets.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 394.040. TRANSACTIONS WITH LENDING INSTITUTIONS. (a) A housing finance corporation may make, contract to make, but is not required to make, and enter into advance commitments to make home mortgages originated, administered, and serviced by lending institutions. It may pay the reasonable value of services rendered under those contracts. It may acquire, contract to acquire, and enter into advance commitments to acquire, by assignment or other means, home mortgages owned by lending institutions at purchase prices and on other terms determined by the corporation or its agent.

(b) The corporation may require each lending institution from which home mortgages are proposed to be purchased or to which loans are made to submit evidence satisfactory to the corporation of the ability and intention of the lending institution to make home mortgages, and require the submission, within the time specified by the corporation for making disbursements for home mortgages, of evidence satisfactory to the corporation of the making of home mortgages and of the compliance with the

standards and requirements established by the corporation under Section 394.041.

(c) The corporation may make loans to lending institutions under terms that, in addition to other provisions determined by the corporation, require:

(1) the institutions to use substantially all of the net proceeds of the loans, directly or indirectly, to make home mortgages in an aggregate principal amount substantially equal to the amount of the net proceeds; and

(2) the loans to be fully secured, to the extent not secured by home mortgages, in the same manner as deposits of public funds of the local government.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1997, 75th Leg., ch. 1420, Sec. 13, eff. June 20, 1997.

Sec. 394.041. STANDARDS FOR MORTGAGES OR LOANS. A housing finance corporation may establish by rule, in resolutions or financing documents relating to the issuance of bonds, standards and requirements applicable to making or purchasing home mortgages or making loans to lending institutions as considered necessary or desirable by the corporation, including standards and requirements related to:

(1) the time within which lending institutions must make commitments and disbursements for home mortgages;

(2) the location and other characteristics of homes financed by home mortgages;

(3) the terms of home mortgages made or acquired;

(4) the amounts and types of insurance coverage required on homes, home mortgages, and bonds;

(5) the representations and warranties of lending institutions confirming compliance with the standards and requirements;

(6) restrictions as to interest rates and other terms of home mortgages or as to the return realized on those mortgages by lending institutions;

(7) the type and amount of collateral security required on a loan from the corporation and to assure repayment of bonds; and

(8) other matters regarding the making or purchasing of home mortgages or the making of loans to lending institutions as the corporation considers relevant.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 394.042. DISPOSAL OF RESIDENTIAL DEVELOPMENTS OR HOME MORTGAGES. (a) A housing finance corporation may sell and convey any residential development or home mortgage, including a sale and conveyance subject to a mortgage, pledge, or security interest, as provided in the resolution relating to the issuance of bonds and for the prices and at the times determined by the board of directors.

(b) The corporation may rent, lease, sell, or otherwise dispose of any residential development or home mortgages in whole or in part, or lend sufficient funds to any person to defray in whole or in part the development costs of any residential development or the costs of purchasing home mortgages, so that the rent or other revenue derived from the residential development or home mortgages, combined with any insurance proceeds, reserve accounts, and earnings on those accounts, is designed to produce revenues and receipts at least sufficient to provide for the prompt payment on maturity of principal, interest, and any redemption premiums on bonds issued to finance those costs.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

SUBCHAPTER E. HOUSING FINANCE CORPORATION BONDS

Sec. 394.051. BONDS; INVESTMENT. (a) A housing finance corporation may issue its bonds by resolution of the board of directors for the purposes prescribed by this chapter. The resolution takes effect immediately on adoption. The bonds bear interest at a rate authorized by Chapter 1204, Government Code, and are subject to the following terms provided by the resolution:

(1) the time at which the bonds are payable;
(2) the number of series in which the bonds are issued;
(3) the dates that the bonds bear;
(4) the time of maturity of the bonds;
(5) the medium of payment and the place of payment of the bonds;
(6) any registration privileges;
(7) terms of redemption at certain premiums;
(8) manner of execution of the bonds;
(9) covenants and other terms of the bonds; and
(10) the form of the bonds, either coupon or registered.

(b) The bonds may be sold at public or private sale in the manner and on the terms provided by the resolution. Pending the preparation of definitive bonds, any interim receipts or certificates in the form and with

the provisions provided by the resolution may be issued to the purchasers of bonds sold under this chapter.

(c) The aggregate principal amount of bonds that a housing finance corporation may issue in a calendar year to defray costs described by Section 394.037(a)(2) may not exceed the total of:

(1) the cost of issuance of the bonds, any reserves or capitalized interest required by the resolutions authorizing the bonds, plus any bond discounts; and

(2) the largest of:

(A) $20 million;

(B) the product of $150 and the population of the local government as determined by the corporation's rules, resolutions relating to the issuance of bonds, or financing documents relating to the issuance of the bonds; or

(C) an amount equal to 25 percent of the total dollar amount of the market demand for home mortgages during that calendar year as determined by the corporation's rules, resolutions relating to the issuance of bonds, or financing documents relating to the issuance of the bonds.

(d) A determination made under Subsection (c)(2)(B) or (c)(2)(C) is conclusive.

(e) The housing finance corporation shall notify the Texas Department on Aging of each bond issuance and shall deliver to the department a copy of each certificate of resolution authorizing the issuance and any other information required by the department.

(f) The housing finance corporation, or any trustee or custodian on behalf of the corporation, may invest any funds held by it as provided by the resolution authorizing the issuance of the bonds.

(g) The housing finance corporation is not required to acquire or hold title to a residential development, a home mortgage, or any interest in the development or mortgage.

(h) The housing finance corporation is not required to sell commitments to lenders to originate home mortgages. A housing financing corporation may establish a program so that lenders will utilize the proceeds of the bonds to originate home mortgages on a first-come, first-served basis.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1997, 75th Leg., ch. 1420, Sec. 14, eff. June 20, 1997; Acts 2001, 77th Leg., ch. 1420, Sec. 8.345, eff. Sept. 1, 2001.

Sec. 394.052. BOND COVENANTS. (a) A resolution authorizing the issuance of bonds under this chapter may contain covenants relating to:

(1) the use and disposition of the bond proceeds and of the revenue and receipts from any residential development or home mortgages for which the bonds are issued, including the creation and maintenance of reserves;

(2) the issuance of other or additional bonds relating to any residential development or to any rehabilitation, improvement, renovation, or enlargement of, or addition to, a residential development;

(3) the maintenance and repair of a residential development or any homes;

(4) the insurance carried on any residential development, home, home mortgage, or bonds, and the use and disposition of insurance money;

(5) the appointment of one or more banks or trust companies located inside or outside this state that have the necessary trust powers as trustee or custodian for the benefit of the bondholders, paying agent, or bond registrar, and the investment of any funds held by the trustee or custodian;

(6) the appointment of one or more mortgage bankers to provide necessary administrative and mortgage servicing functions to assure the proper administration of the corporation's portfolio of home mortgage loans for the benefit of the bondholders;

(7) the maximum interest rate payable on any home mortgage; and

(8) the terms on which the bondholders or the trustees for the bonds are entitled to the appointment of a receiver by a court of competent jurisdiction.

(b) The terms established under Subsection (a)(8) relating to the appointment of a receiver may provide that the receiver may:

(1) enter and take possession of all or part of the residential development or home mortgage;

(2) maintain, lease, sell, or otherwise dispose of the development or mortgage;

(3) prescribe rentals or other payments; and

(4) collect, receive, and apply all income and other revenues that arise from the development or mortgage after the receiver takes possession.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 394.053. VALIDITY OF BONDS; SIGNATURES. (a) Bonds issued under this chapter must bear the actual or facsimile signature of the housing finance corporation's officers designated in the resolution authorizing the bonds. The validity of a signature of an officer of the corporation is not affected by the fact that before the delivery of the bond or its payment, a person whose signature appears on the bond ceases to be an officer.

(b) The validity of the bonds is not dependent on or affected by the validity or regularity of any proceedings relating to the residential development or home mortgages for which the bonds are issued.

(c) The resolution authorizing the bonds may require that the bonds contain a statement that they are issued under this chapter. The statement is conclusive evidence of the validity of the bonds and the regularity of their issuance.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 394.054. SECURITY FOR BONDS. (a) A resolution authorizing the issuance of bonds under this chapter may require that the principal of and interest on the bonds be secured by a mortgage, pledge, security interest, insurance agreement, or indenture of trust that covers the residential development or home mortgages for which the bonds are issued and may include any improvements or extensions made after the bonds are issued. A security instrument may contain covenants and agreements to properly safeguard the bonds as provided by the resolution authorizing the bonds and shall be executed in the manner provided by the resolution.

(b) This chapter, the resolution, and the mortgage, pledge, security interest, or indenture of trust constitute a contract with the bondholders that continues in effect until the principal of and interest on the bonds and any redemption premiums have been fully paid or provision for payment has been made.

(c) The resolution, the mortgage, pledge, security interest, or indenture of trust, and the duties under this chapter of the housing finance corporation and its officers and other authorities are enforceable as provided by the resolution, the instrument, or this chapter by any bondholder by mandamus, by foreclosure of the mortgage, pledge, security interest, or indenture of trust, or by any other appropriate action in a court of competent jurisdiction. The resolution or the mortgage, pledge, security interest, or indenture of trust may provide that the remedies and rights to enforcement may be vested in a trustee, with full power of

appointment, for the benefit of all the bondholders. The trustee is subject to the control of a number of bondholders or bond owners as provided in the resolution or instrument.

(d) Bonds issued under this chapter may be secured by a pledge of or a lien on all or part of the revenues, receipts, or other resources of the housing finance corporation, including the revenues and receipts derived from the residential development or home mortgages or from any notes or other obligations of lending institutions with respect to which the bonds have been issued. The board of directors may provide in the resolution authorizing the bonds for the issuance of additional bonds equally and ratably secured by a lien on the revenues and receipts or may provide that the lien on the revenues and receipts is subordinate. Subordinate lien bonds may also be issued unless prohibited by a bond resolution.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 394.055. LIABILITY FOR BONDS AND CONTRACTS; DEBT NOT CREATED. (a) Bonds issued under this chapter are limited obligations of the housing finance corporation and are payable solely from the revenue, receipts, and other resources pledged to their payment. A bondholder may not compel the local government to pay the bond, the interest, or any redemption premium.

(b) The local government and this state are not liable in any way regarding bonds issued by the housing finance corporation. An agreement or obligation of the corporation does not constitute, within the meaning of a statutory or constitutional provision, an agreement, obligation, or debt of the state or the local government.

(c) The bonds do not constitute, within the meaning of a statutory or constitutional provision, an indebtedness, an obligation, or a loan of credit of the state, the local government, or any other municipality, county, or other municipal or political corporation or subdivision of the state. The bonds do not create a moral obligation on the part of any of those governmental entities with respect to the payment of the bonds. Those governmental entities may not make payments with respect to the bonds.

(d) The face of each bond must plainly state that it has been issued under this chapter and that it does not constitute, within the meaning of any statutory or constitutional provision, an indebtedness, an obligation, or a loan of credit of the state, the local government, or any other municipality, county, or other municipal or political corporation or subdivision of the state.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 394.056. BOND AS SECURITY. (a) A bond issued under this chapter or a coupon representing interest on the bond is, when delivered, a security as that term is defined under Chapter 8 of the Uniform Commercial Code (Chapter 8, Title 1, Business & Commerce Code) and is an exempt security under The Securities Act (Title 12, Government Code).

(b) A contract made under this chapter is not a security under The Securities Act.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 2.36, eff. January 1, 2022.

Sec. 394.057. BOND AS AUTHORIZED INVESTMENT OR AS SECURITY FOR DEPOSIT. (a) Bonds issued under this chapter are legal and authorized investments for any bank, savings bank, trust company, savings and loan association, insurance company, fiduciary, trustee, guardian, or sinking fund of a municipality, county, school district, or other political corporation or subdivision of the state.

(b) The bonds are eligible to secure the deposit of any public funds of this state or of a municipality, county, school district, or other political corporation or subdivision of the state, and are lawful and sufficient securities for the deposits at face value if accompanied by all unmatured coupons, if any, appurtenant to the bonds.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

SUBCHAPTER Z. MISCELLANEOUS PROVISIONS

Sec. 394.901. DESIGNATION OF AREA AS ECONOMICALLY DEPRESSED OR BLIGHTED; NOTICE. (a) To designate an area as economically depressed or blighted under the meaning provided by Section 394.003(3)(B) or (C), the governing body of the affected municipality must hold a public hearing and must find that the area substantially impairs or arrests the sound growth of the municipality or that it constitutes an economic or social liability and is, in its current condition and use, a menace to the public health, safety, morals, or welfare.

(b) The governing body shall give notice of the hearing as provided by Chapter 551, Government Code, except that the notice must be published

at least 10 days before the date of the hearing.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.95(78), eff. Sept. 1, 1995.

Sec. 394.902. HOUSING FOR ELDERLY. (a) The housing finance corporation shall require that at least five percent of the units in a multifamily residential development be built or renovated and be reserved for the lifetime of the development for occupancy by elderly persons of low income or by families of low or moderate income in which an elderly person is the head of a household if the development:

(1) contains at least 20 units; and

(2) is financed by bonds issued under this chapter as a result of an official decision to issue bonds that occurs on or after January 1, 1986.

(b) Instead of requiring a reservation of units as required under Subsection (a), the housing finance corporation may collect a fee equal to one-tenth percent of the total principal amount of the loan made for the multifamily residential development. The corporation shall collect the fee from the person who receives the loan at the time the loan is delivered. Immediately after the receipt of the fee, the corporation shall remit the fee to the Texas Department on Aging. The department shall deposit all funds received under this subsection to the credit of a special account in the general revenue fund. Funds in the special account may be used only to assist in obtaining housing for elderly persons or families in which an elderly person is the head of a household.

(c) If the housing finance corporation requires a reservation under Subsection (a), the design engineer for the development must certify to the corporation that the reserved units in the development meet standards set by the Texas Department on Aging for elderly persons.

(d) The governing body of the local government that authorizes, sponsors, or otherwise participates in the creation of the housing finance corporation shall cooperate with the Texas Department on Aging to implement this section and shall submit to the department an annual report relating to the number of developments financed under this chapter, the number of units reserved for the elderly persons or for families in which an elderly person is the head of the household, the amount of fees collected, and other information required by the department.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 394.9025. MULTIFAMILY RESIDENTIAL DEVELOPMENT. (a) Following a public hearing, a housing finance corporation may issue bonds to finance a multifamily residential development to be owned by the housing finance corporation if at least 50 percent of the units in the multifamily residential development are reserved for occupancy by individuals and families earning less than 80 percent of the area median family income.

(b) Following a public hearing by the governing body of the local government, a housing finance corporation may issue bonds to finance a multifamily residential development to be owned by the housing finance corporation in accordance with Section 394.004 if the housing finance corporation receives approval of the governing body of the local government.

Added by Acts 2001, 77th Leg., ch. 1493, Sec. 3, eff. Aug. 31, 2002.

Sec. 394.903. LOCATION OF RESIDENTIAL DEVELOPMENT; RESIDENTIAL DEVELOPMENT SITES. (a) A residential development covered by this chapter must be located within the local government.

(b) The local government may transfer any residential development site to a housing finance corporation by sale or lease. The governing body of the local government may authorize the transfer by resolution without submitting the issue to the voters and without regard to the requirements, restrictions, limitations, or other provisions contained in any other general, special, or local law. The site may be located wholly or partly inside or outside the local government.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 394.904. EXEMPTION FROM REQUIREMENTS AND RESTRICTIONS APPLYING TO PUBLIC PROPERTY. (a) The acquisition, construction, or rehabilitation of a private residential development or a home is not subject to requirements relating to public buildings, structures, grounds, works, or improvements imposed by the laws of this state, or to any other similar requirements.

(b) Any competitive bidding requirement or restriction imposed on the procedure regarding the award of contracts for that acquisition, construction, or rehabilitation or regarding the lease, sale, or other disposition of property of the local government is not applicable to any action taken under this chapter.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 394.905. EXEMPTION FROM TAXATION. The housing finance corporation, all property owned by it, the income from the property, all bonds issued by it, the income from the bonds, and the transfer of the bonds are exempt, as public property used for public purposes, from license fees, recording fees, and all other taxes imposed by this state or any political subdivision of this state. The corporation is exempt from the franchise tax imposed by Chapter 171, Tax Code, only if the corporation is exempted by that chapter.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 394.906. CONDITIONS UNDER WHICH FEDERAL GUARANTEE OR HOME MORTGAGE INSURANCE NOT REQUIRED. A home mortgage does not require a federal guarantee or home mortgage insurance if the principal of and interest on the housing finance corporation's bonds issued to make or purchase the home mortgage or to make loans to lending institutions are guaranteed or insured by an agency, department, or instrumentality of the United States or by an insurance or surety company authorized to issue municipal bond insurance.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 394.907. CORPORATION POWERS NOT RESTRICTED; POLICE POWERS NOT AFFECTED. (a) This chapter does not restrict or otherwise limit any powers that the housing finance corporation may otherwise exercise under the laws of this state.

(b) Except as provided by this chapter, no proceeding, notice, or approval is required for the organization of the housing finance corporation, the issuance of bonds, or the issuance of any instrument as security for the bonds.

(c) This chapter does not deprive this state or a governmental subdivision of this state of their respective police powers over property of the housing finance corporation and does not impair any power over the property that is otherwise provided by law to any official or agency of the state or its governmental subdivisions.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

CURRENT

Exhibit B

BY-LAWS OF

KIRBY SENIOR CENTER CORPORATION

ARTICLE I

Powers and Purposes

Section 1.01: Purposes. The Kirby Senior Center Corporation (the "Corporation") is duly incorporated under and pursuant to Texas Revised Civil Statutes Annotated Article 1528(1) ("Article 1528(1)") and Local Government Code Chapter 394 for the purpose of benefiting and accomplishing public purposes of, and on behalf of, the City of Kirby, Texas (the "City") as follows,

1. to aid, assist and act on behalf of the City in accomplishing a governmental purpose of the City by establishing a senior citizen center for educational, recreational, health, and nourishment programs to benefit senior citizens;

2. to receive, hold, administer, and disburse any money, securities, or other property which may be transferred to the Corporation by gift, devise, bequest, or otherwise, for any of the uses or purposes set forth above, and to invest, lend, conserve, use, and disburse such money, securities, or other property, and the income derived therefrom, for the uses and purposes herein specified, in accordance with the judgment and discretion of the board of directors;

3. to purchase, exchange, contract for, lease, rent, and in any and all other ways acquire, take, own, improve, and hold, and to sell, convey, mortgage, lease, rent to others, or otherwise dispose of real estate, improvements in real estate, interests in real estate, and personal property of every kind, character, and description;

4. to borrow money or raise money and to issue notes, bills, bonds, and other obligations and to mortgage, pledge, hypothecate, or otherwise encumber any and all of the assets of the Corporation as security therefor for the purpose of carrying out the goals of the Corporation; and

5. to do any and things necessary or convenient to the accomplishment of any of the purposes or for the exercise of any of the powers herein set forth, whether herein specified or not, either alone or in connection with other firms, individuals, or corporations, whether in the State or throughout the United States, and elsewhere, if not inconsistent with the laws under which this

Corporation is organized.

The Corporation is organized solely to carry out the purposes of Article 1528(1) as set forth in its Articles of Incorporation.

Section 1.02: Powers. The Corporation shall have all such powers as are conferred by the Articles of Incorporation and Article 1528(1).

Section 1.03: Exercise of Powers and Authorization of Bonds. The exercise of any or all powers granted by Article 1528(1) may be authorized, and bonds may be authorized to be issued under Article 1528(1) for the purposes set forth in Article 1528(1) and the Articles of Incorporation, which shall take effect immediately upon adoption.

Section 1.04: Books and Records. The Corporation shall keep correct and complete books and records of account and shall keep minutes of the proceedings of its Board of Directors.

ARTICLE II

Board of Directors

Section 2.01: Powers, Number and Term of Office. The property and affairs of the Corporation shall be managed and controlled by the Board of Directors, and, subject to the restrictions imposed by law, the Articles of Incorporation and these By-laws, the Board shall exercise and be vested with all the powers of the Corporation. The Board of Directors shall consist of nine (9) directors, all of whom shall be residents of the City, and all of whom shall be appointed by the City Council of the City The initial Board of Directors shall hold office for such period as is specified in the Articles of Incorporation. Subsequent directors may be appointed by the City Council of the City for a term not in excess of three (3) years and are removable by the City Council of the City for cause or at will. Any vacancy occurring on the Board of Directors through death, resignation, or otherwise shall be filled by appointment by the City Council of the City for cause or at will. Any vacancy occurring on the Board of Directors through death, resignation, or otherwise shall be filled by appointment by the City Council of the City, the appointed member to hold office until the expiration of the term for which the vacating director had been appointed.

Section 2.02: Meetings of Directors. The directors shall hold their meetings in the City at such location as the Board of Directors may from time to time determine; provided, however, in the absence of any such determination by the Board of Directors, the meetings shall be held at the registered office of the Corporation in the State of Texas. All meetings of the Board of

Directors shall be called and conducted in accordance with the Open Meetings Act, Texas Revised Civil Statutes Annotated Article 6252-17 (the "Open Meetings Act").

Section 2.03: Regular Meetings. Regular Meetings of the Board of Directors shall be held at such times and places as shall be designated from time to time by resolution of the Board of Directors.

Section 2.04: Special Meeting. Special Meetings shall be held whenever called by the president, by the secretary, by a majority of the directors for the time being in office, or upon advice of or request by the City Council of the City. In addition to notices required by the Open Meetings Act, the Secretary shall give notice to each director of each Special Meeting in person, or by mail, telephone, or telegraph, at least two (2) hours before the meeting. Whenever any notice is required to be given to any director hereunder, a waiver thereof in writing signed by the person or persons entitled to such notice, whether before or after the time stated therein, shall be equivalent to the giving of such notice.

Section 2.05: Quorum. A majority of the Directors shall constitute a quorum, and when a quorum is present, action may be taken by a majority vote of the directors present.

Section 2.06: Conduct of Business. At the meetings of the Board of Directors, matters pertaining to the purposes of the Corporation shall be considered in such order as from time to time the Board of Directors may determine.

At all meetings of the Board of Directors, the president shall preside, and in the absence of the president, the vice president shall exercise the powers of the president.

The secretary of the Corporation shall act as secretary of all meetings of the Board of Directors, but in the absence of the secretary, the assistant secretary shall act as secretary of the meeting.

Section 2.07: Compensation of Directors. Directors as such shall not receive any salary or compensation for their services, except that they shall be reimbursed for their actual expenses incurred in the performance of their duties hereunder.

ARTICLE III

Officers

Section 3.01: Titles and Terms of Office. The officers of the Corporation shall be a president, a vice president, a secretary, an assistant secretary, and a treasurer, and such other offices as the Board of Directors may from time to time elect or appoint. One person may hold more than one office, except that the president shall not hold the office of secretary. Terms of office shall not exceed three years. The president and vice president shall be chosen from the members of the Board of Directors. The treasurer, secretary, and/or assistant secretary may or may not be members of the Board.

All officers shall be subject to removal from office, with or without cause, at any time by a vote of a majority of the entire Board of Directors.

A vacancy in the office of any officer shall be filled by a vote of a majority of the directors.

Section 3.02: Powers and Duties of the President. The president shall be the chief executive officer of the Corporation and, subject to the Board of Directors, shall be in general charge of the properties and affairs of the Corporation; the president shall preside at all meetings of the Board of Directors; in furtherance of the purposes of this Corporation and as approved by the Board of Directors, the president may sign and execute all contracts, conveyances, franchises, bonds, deeds, assignments, mortgages, notes, and other instruments in the name of the Corporation.

Section 3.03: Vice-President. The vice president shall have such powers and duties as may be assigned to the vice president by the Board of Directors and shall exercise the powers of the president during that officer's absence or inability to act. Any action taken by the vice president in the performance of the duties of the president shall be conclusive evidence of the absence or inability to act of the president at the time such action was taken.

Section 3.04: Treasurer. The treasurer shall have custody of all the funds and securities of the Corporation which come into the treasurer's hands. When necessary or proper, the treasurer may endorse for collection, on behalf of the Corporation, checks, notes, and other obligations and shall deposit the same to the credit of the Corporation in such bank or banks or depositories as shall be designated in the manner prescribed by the Board of Directors; the treasurer may sign all receipts and vouchers for payment made to the Corporation, either alone or jointly with such

other officer as may be designated by the Board of Directors; whenever required by the Board of Directors; the treasurer shall render a statement of the Corporation's cash account; the treasurer shall enter or cause to be entered regularly in the books of the Corporation to be kept by the treasurer for that purpose full and accurate accounts of all money received and paid out on account of the Corporation; the treasurer shall perform all acts incident to the position of the treasurer subject to the control of the Board of Directors; the treasurer shall, if required by the Board of Directors, give such bond for the faithful discharge of the treasurer's duties in such form as the Board of Directors may require.

Section 3.05: Secretary. The secretary shall keep the minutes of all meetings of the Board of Directors in books provided for that purpose; the secretary shall attend to the giving and serving of all notices; in furtherance of the purposes of the Corporation, the secretary may sign with the president in the name of the Corporation, and/or attest the signature thereto, all contracts, conveyances, franchises, bonds, deeds, assignments, mortgages, notes, and other instruments of the Corporation; the secretary shall have charge of the corporate books, records, documents, and instruments, except the books of account and financial records and securities of which the treasurer shall have custody and charge, and such other books and papers as the Board of Directors may direct, all of which shall at all reasonable times be open to inspection upon application at the office of the Corporation during business hours, and the secretary shall in general perform all duties incident to the office of secretary subject to the control of the Board of Directors.

Section 3.06: Assistant Secretary. The assistant secretary shall have such powers and duties as may be assigned to the assistant secretary by the Board of Directors and shall exercise the powers of the secretary during that officer's absence or inability to act. Any action taken by the assistant secretary in the performance of the duties of the secretary shall be conclusive evidence of the absence or inability to act of the secretary at the time such action was taken.

ARTICLE IV

Provisions Regarding Articles of Incorporation and By-Laws

Section 4.01: Effective Date. These By-laws shall become effective upon adoption by the Board of Directors.

Section 4.02: Amendments to Articles of Incorporation and Bylaws. The Articles of Incorporation may at any time and from time to time be amended, provided that the Board of Directors files with the City Council of the City a written application requesting

that the City Council approve such amendment to the Articles of Incorporation, specifying in such application the amendment or amendments proposed to be made. If the City Council by appropriate resolution finds and determines that it is wise, expedient, necessary, or advisable that the proposed amendment be made, authorizes the same to be made, and approves the form of the proposed amendment, the Board of Directors may proceed to amend the Articles of Incorporation as provided in Article 1528(1).

The Articles of Incorporation may also be amended at any time by the City Council of the City at its sole discretion by adopting an amendment to the Articles of Incorporation of the Corporation by resolution of the City Council and delivering the Articles of Amendment to the Secretary of State as provided in Article 1528(1).

These By-laws may be amended by majority vote of the Board of Directors upon notice to and written consent by the City Council of the City.

ARTICLE V

Fiscal Provisions

Section 5.01: Non-profit Corporation - Disposition of Earnings. The Corporation is a public non-profit corporation. No dividends shall be distributed to, or inure to the benefit of, its directors, officers, or other private persons, association, or corporation, except in reasonable amounts for services rendered, and except that in the event the Board of Directors of the Corporation shall determine that sufficient provision has been made for the full payment of the expenses, bonds, and other obligations of the Corporation, then any net earnings of the Corporation thereafter accruing shall be paid to the City; provided, however, that nothing herein contained shall prevent the Board of Directors from transferring all or any part of its properties in accordance with the terms of any contract or agreement entered into by the Corporation.

Section 5.02: Fiscal Year. The fiscal year of the Corporation shall be as determined by the Board of Directors.

Section 5.03: Checks, Demands for Money. All checks or demands for money and notes of the Corporation shall be signed by such officer or officers or such other person or persons as the Board of Directors may from time to time designate provided that in no event shall a check be negotiated until it is signed by at least one officer.

Section 5.04: Dissolution of Corporation - Distribution of Funds and Properties. Upon dissolution of the Corporation, title to all funds and properties or interest in any real or personal

property owned by the Corporation at the time of such dissolution shall vest in the City, and possession of such funds and properties or interest in properties shall forthwith be delivered to the City.

ARTICLE VI

General Provisions

Section 6.01: Principal Office. The principal office of the Corporation shall be within the City.

The Corporation shall have and continuously maintain in the State of Texas a registered office (which may be, but need not be, the same as the principal office) and registered agent in accordance with the provisions of Article 2.05, Texas Non-Profit Corporation Act. The Corporation may change its registered agent in accordance with the provisions of Article 2.06, Texas Non-Profit Corporation Act. Process may be served on the Corporation in accordance with the provisions of Article 2.07, Texas Non-Profit Corporation Act.

Section 6.02: Seal. The seal of the Corporation shall be as determined by the Board of Directors.

Section 6.03: Resignations. Any director or officer may resign at any time. Such resignation shall be made in writing and shall take effect at the time specified therein, or, if no time be specified, at the time of its receipts by the president or secretary. The acceptance of a resignation shall not be necessary to make it effective, unless expressly so provided in the resignation.

ARTICLE VII

Indemnification

Section 7.01: Persons Indemnified. The Corporation shall, subject to the limitations provided in this Article, indemnify any person who is or was a director, officer, employee, or agent of the Corporation who, because such person is or was serving in such capacity, was, is, or is threatened to be made a named defendant or respondent in (i) any threatened, pending or completed action, suit, or proceeding, whether civil, criminal, administrative, arbitrative, or investigative, (ii) any appeal in such an action, suit, or proceeding, and (iii) any inquiry or investigation that could lead to such an action, suit, or proceeding, against judgments, penalties (including excise and similar taxes), fines, settlements, and reasonable expenses (including court costs and attorneys' fees) actually incurred by such person in connection with any such action, suit, proceeding, appeal, inquiry, or investigation, but, if such action, suit, proceeding, appeal,

inquiry, or investigation was brought by or on behalf of the Corporation, such indemnification shall be limited to reasonable expenses actually incurred by such person in connection with such action, suit, proceeding, appeal, inquiry, or investigation.

Section 7.02: Indemnification Allowed. A person shall be indemnified by the Corporation under this Article only if he has been wholly successful, on the merits or otherwise, in the defense of the action, suit, proceeding, appeal, inquiry, or investigation described in Section 7.01 or if it is determined in accordance with Section 7.05 that such person (i) conducted himself in good faith, (ii) reasonably believed, in the case of conduct in his official capacity, that his conduct was in the best interest of the Corporation and, in all other cases, that his conduct was at least not opposed to the best interests of the Corporation, and (iii) in the case of any criminal proceeding, had no reasonable cause to believe his conduct was unlawful.

Section 7.03: No Indemnification. A person shall not be indemnified by the Corporation under this Article for obligations resulting from any action, suit, proceeding, appeal, inquiry, or investigation in which such person is found liable (i) on the basis that personal benefit was improperly received by him, whether or not the benefit resulted from an action taken in such person's official capacity, or (ii) to the Corporation.

Section 7.04: Advancements. The Corporation may pay or reimburse reasonable expenses (including court costs and attorneys' fees) in advance of the final disposition of an action, suit, proceeding appeal, inquiry, or investigation described in Section 7.01, but only after (i) the Corporation receives a written affirmation from the person receiving the payment or reimbursement of his good faith belief that he has met the standard of conduct necessary for indemnification under this Article and a written undertaking by or on behalf of such person, consisting of an unlimited general obligation, secured or unsecured, of such person, to repay the amount paid or reimbursed if it is ultimately determined that he has met those requirements, which undertaking shall be accepted without reference to financial ability to make repayment, and (ii) a determination is made in accordance with Section 7.05 that the facts then known to hose making the determination would not preclude indemnification under this Article.

Section 7.05: Standard for Indemnification. Any determination of indemnity under Sections 7.01 through 7.03, any determinations as to reasonableness of expenses, and any determination or authorization of payment under Section 7.904 must be made (i) by a majority vote of a quorum consisting of directors who at the time of the vote are not named defendants or respondents in the action, suit, proceeding, appeal, inquiry, or investigation described in

Section 7.01. (ii) if such a quorum cannot be obtained, by a majority vote of a committee of the board of directors, designated to act in the matter by a majority vote of all directors, consisting solely of two or more directors who at the time of the vote are not named defendants or respondents in such action, suit, proceeding, appeal, inquiry, or investigation, (iii) by special legal counsel selected by the board of directors or a committee of the board of directors by vote as set forth in (i) or (ii) above, or, if such quorum cannot be obtained and such a committee cannot be established, by a majority vote of all directors; provided, however, that if a determination that indemnification is permissible is made by special legal counsel, authorization of indemnification and determination as to reasonableness of expenses must be made in the manner specified in (iii) above for the selection of special legal counsel.

Section 7.06: Insurance. The Corporation may purchase and maintain insurance on behalf of any person described in Section 7.01 against any liability asserted against him and incurred by him or her in a capacity described in Section 7.01 or arising out of his or her status as such a person, whether or not the Corporation would have the power to indemnify him or her against that liability under this Article.

Effective Date: December 3rd, 1992

c:\wp51\psk\kirby\bylaws

Kirby Senior Center Corporation

located at:
3211 Allen Sheppard • Kirby, Texas 78219

(210) 666-5124

mailing address:
P.O. Box 190044 • San Antonio, Texas 78280

MEMORANDUM

TO: Cindy Fox
City Manager

FROM: Robert Smith
Board President, KSC

SUBJECT: KSC By-Laws Changes

DATE: December 12, 1997

Attached is a copy of the By-Laws changes the KSC Board approved on December 8, 1997 pending Kirby City Council approval.

Please place the By-Laws changes on the agenda for City Council consideration and approval.

This is for your information, if there are any questions, please contact Robert Smith, KSC Board President.

msa

KSC BY-LAWS
PROPOSED CHANGES

ARTICLE VI EXISTING

ALL POWERS OF THE CORPORATION SHALL BE VESTED IN A BOARD OF DIRECTORS CONSISTING OF NINE (9) PERSONS. EACH OF WHOM SHALL BE APPOINTED BY RESOLUTION OF THE CITY COUNCIL OF KIRBY.

ARTICLE VI PROPOSED CHANGE

ALL POWERS OF THE CORPORATION SHALL BE VESTED IN A BOARD OF DIRECTORS CONSISTING OF FIVE (5) THRU NINE (9) PERSONS. EACH OF WHOM SHALL BE APPOINTED BY RESOLUTION OF THE CITY COUNCIL OF KIRBY.

ARTICLE VIII EXISTING

TO BE QUALIFIED TO SERVE AS A DIRECTOR, A PERSON MUST BE A RESIDENT OF THE CITY AND AT LEAST EIGHTEEN (18) YEARS OLD.

ARTICLE VIII PROPOSED CHANGE

TO BE QUALIFIED TO SERVE AS A DIRECTOR, A PERSON MUST MEET ONE OF THE FOLLOWING CRITERIA: A MEMBER OF THE KIRBY SENIOR CENTER, RESIDENT, AND/OR OF THE AREA.

PROPOSED BY BOARD

ARTICLE IV

The purposes for which the Corporation is organized are as follows:

Said corporation is organized exclusively for the charitable, religious, educational, and scientific purposes, including, for such purposes, the making of distributions to organizations that qualify as exempt organizations under Section 501© (3) of the Internal Revenue Code of 1954 (or the corresponding provision of any United States Internal Revenue Law).

The Corporation is formed pursuant to the provisions of Article 1528(1) and Chapter 394, which authorizes the Corporation to engage in activities in the furtherance of the purpose for its creation.

The Corporation shall have and exercise all the rights, powers, privileges, authority, and functions given by the general laws of the State to non-profit corporations incorporated under Article 1528(1) the Act including, without limitation, those permitted under Texas Revised Civil Statutes Annotated Article 1396-1.01, et seq., as amended.

The Corporation shall have all other power of a like or different nature not prohibited by law which are available to non-profit corporations in the State and which are necessary or useful to enable the Corporation to perform the purposes for which it is created.

ARTICLE VI

All powers of the Corporation shall be vested in the Board of Directors (the "Board") consisting of not less than five (5) persons nor more than nine (9) persons, each of whom shall be appointed by a majority of the Board. Directors of the Corporation (individually, a "Director" or collectively, the "Directors") shall be appointed by position to the Board. Each initial Director named in Article VIII of the Articles of Incorporation shall serve for the term expiring on the date set forth in Article VIII of the Articles of Incorporation. Each subsequent Director shall serve for a term of three (3) years or until his or her successor is appointed by the Board; provided, however, that any Director may be removed from office at any time, with cause, by a majority of the Board. The number of Directors may only be increased or decreased by an amendment to these Articles of Incorporation.

To be qualified to serve as a Director, a person must be a member of the Kirby Senior Center or a resident of the City or of the area served by the Kirby Senior Center and be at least eighteen (18) years of age.

Not less than sixty (60) days prior to the expiration date of the term of office of a Director, or as soon after a vacancy occurs on the Board, because of death, resignation, or removal for other cause, the Board shall accept applications of a qualified person or persons to be appointed for a new term, or to fill

the vacancy on the Board for the remaining term. The Board will appoint a person or persons to serve the new term or to complete any term.

All other matters pertaining to the internal affairs of the Corporation shall be governed by the By-Laws of the Corporation, so long as such By-Laws are not inconsistent with these Articles of Incorporation or the laws of the State of Texas.

ARTICLE XI

The City of Kirby shall have no right to receive any income earned by the Corporation. No part of the Corporation's income shall inure to the benefit of any private interests. In the event of dissolution or liquidation of the Corporation, all assets shall be distributed only for tax-exempt purposes to one or more organizations that are exempt under Section 501(c)(3), Internal Revenue Code.

If the corporation determines or is required to wind up, the winding up of the corporation's affairs shall be managed by the Board of Directors.

ARTICLE XIII

These Articles of Incorporation may be amended at any time and from time to time by the Board of Directors.

X	DISCUSSION AND POSSIBLE ACTION ITEMS
____	SPECIAL CONSIDERATION
____	CONSENT AGENDA
____	PUBLIC HEARING
____	PRESENTATION
____	WORKSHOP

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

DATE: JANUARY 12, 2023

AGENDA ITEM: 8. e.

8. <u>Discussion And Possible Action</u>

Discussion And Possible Action To Schedule A Workshop With The Planning And Zoning Commission

Council Member Street requested this item. February 14th is the Planning and Zoning Commission's next regular meeting date.

X	DISCUSSION AND POSSIBLE ACTION ITEMS
____	SPECIAL CONSIDERATION
____	CONSENT AGENDA
____	PUBLIC HEARING
____	PRESENTATION
____	WORKSHOP

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

DATE: JANUARY 12, 2023

AGENDA ITEM: 8. f.

8. <u>Discussion And Possible Action</u>

Discussion And Direction On Additional Funding For Street Repairs And Maintenance

Council Member Garza requested this item.

X	DISCUSSION AND POSSIBLE ACTION ITEMS
____	SPECIAL CONSIDERATION
____	CONSENT AGENDA
____	PUBLIC HEARING
____	PRESENTATION
____	WORKSHOP

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

DATE: JANUARY 12, 2023

AGENDA ITEM: 8. g.

8. <u>Discussion And Possible Action</u>

Discussion And Possible Action On Purchasing Holiday Décor For City Parks

Mayor Pro-Tem Grider requested this item.

X	DISCUSSION AND POSSIBLE ACTION ITEMS
____	SPECIAL CONSIDERATION
____	CONSENT AGENDA
____	PUBLIC HEARING
____	PRESENTATION
____	WORKSHOP

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

DATE: JANUARY 12, 2023

AGENDA ITEM: 8. h.

8. <u>Discussion And Possible Action</u>

Discussion And Possible Action To Appoint Member(s) To The Economic Development Committee

There are currently two vacancies. A current roster is included.

ECONOMIC DEVELOPMENT COMMITTEE
2022

MEMBER	TERM
CORY A. MOBLEY	DECEMBER 31, 2023
VACANT	DECEMBER 31, 2023
MICHAEL LAWRENCE-WEDEN	DECEMBER 31, 2024
VACANT	DECEMBER 31, 2024
JODY FLYNN	DECEMBER 31, 2023

(COUNCIL LIAISON: Sylvia Leos-Apodaca)

(November 2022)

X	DISCUSSION AND POSSIBLE ACTION ITEMS
____	SPECIAL CONSIDERATION
____	CONSENT AGENDA
____	PUBLIC HEARING
____	PRESENTATION
____	WORKSHOP

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

DATE: JANUARY 12, 2023

AGENDA ITEM: 8. i.

8. <u>Discussion And Possible Action</u>

Discussion And Possible Action To Appoint Member(s) To The Beautification And Recycle Committee

There are currently two vacancies.

A current roster is included.

BEAUTIFICATION AND RECYCLE COMMITTEE

KATHERINE E. McGARITY	TERM: OCTOBER 1, 2024
BARBARA HERB	TERM: OCTOBER 1, 2023
GLENDA EHLERS-CURTIS	TERM: OCTOBER 1, 2023
MARIA LOZANO	TERM: OCTOBER 1, 2024
VACANT	TERM: OCTOBER 1, 2024
ALICE MOCZYGEMBA	TERM: OCTOBER 1, 2023
VACANT	TERM: OCTOBER 1, 2024

(Council Liaison – Mayor Pro-Tem Janeshia Grider)

(NOVEMBER 2022)

X	DISCUSSION AND POSSIBLE ACTION ITEMS
____	SPECIAL CONSIDERATION
____	CONSENT AGENDA
____	PUBLIC HEARING
____	PRESENTATION
____	WORKSHOP

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

DATE: JANUARY 12, 2023

AGENDA ITEM: 8. j.

8. <u>Discussion And Possible Action</u>

Discussion And Possible Action To Appoint Member(s) To The Planning And Zoning Commission

There are currently two vacancies.

A current roster is included.

PLANNING & ZONING COMMISSION
Terms of Office

Clay McBee	TERM Expires August 2023
VACANT	TERM Expires August 2024
Julie Hinojosa	TERM Expires August 2023
Alexandra D. Ebert	TERM Expires August 2024
VACANT	TERM Expires August 2024

Council Liaison:

(Council Liaison Mayor Kim Aldrich)

(DECEMBER 2022)

X	DISCUSSION AND POSSIBLE ACTION ITEMS
____	SPECIAL CONSIDERATION
____	CONSENT AGENDA
____	PUBLIC HEARING
____	PRESENTATION
____	WORKSHOP

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

DATE: JANUARY 12, 2023

AGENDA ITEM: 8. k.

8. <u>Discussion And Possible Action</u>

Discussion And Possible Action To Appoint Member(s) To The Festival Planning Committee

Council agreed to establish a City Festival Planning Committee of ten members.

Current members are Juan Cantu, Shawntina Harris, Council Member Christopher Garza and Council Member Debbie Walczyk.

X	DISCUSSION AND POSSIBLE ACTION ITEMS
_____	SPECIAL CONSIDERATION
_____	CONSENT AGENDA
_____	PUBLIC HEARING
_____	PRESENTATION
_____	WORKSHOP

C I T Y O F K I R B Y

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

DATE: JANUARY 12, 2023

AGENDA ITEM: 8. l.

8. <u>Discussion And Possible Action</u>

Discussion And Possible Action To Appoint Member(s) To The Ordinance Review Committee

Council voted to establish an Ordinance Review Committee made up of five members. Members must be Kirby residents and one appointee should be a resident with code compliance experience.

We currently have one member – Lindsey McCoy appointed on October 13, 2022.

X	DISCUSSION AND POSSIBLE ACTION ITEMS
____	SPECIAL CONSIDERATION
____	CONSENT AGENDA
____	PUBLIC HEARING
____	PRESENTATION
____	WORKSHOP

C I T Y O F K I R B Y

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

DATE: JANUARY 12, 2023

AGENDA ITEM: 8. m.

8. <u>Discussion And Possible Action</u>

Discussion And Possible Action On City Cell Phones For Council Members

A new account for Council Member phones was set up with T-Mobile. Galaxy A13 phones have been provided.

X	DISCUSSION AND POSSIBLE ACTION ITEMS
____	SPECIAL CONSIDERATION
____	CONSENT AGENDA
____	PUBLIC HEARING
____	PRESENTATION
____	WORKSHOP

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

DATE: JANUARY 12, 2023

AGENDA ITEM: 8. n.

8. Discussion And Possible Action

Discussion And Possible Action On Resolution No. R-2023-748 Adopting The City Of Kirby Investment Policy And Strategy

The City of Kirby Investment Policy and Strategy must be reviewed and approved by Council annually in January.

RESOLUTION NO. R-2023-748

A RESOLUTION ADOPTING THE CITY OF KIRBY INVESTMENT POLICY AND STRATEGY

WHEREAS, Chapter 2256 of the Texas Government Code, the Public Funds Investment Act, requires the City of Kirby City Council to review and to adopt a written Investment Policy by rule order ordinance or resolution at least annually; and

WHEREAS, the City Council of the City of Kirby has reviewed the City of Kirby Investment Policy attached as Exhibit A to this resolution and adopted the following changes to the Policy:

- The Strategy has been incorporated into the Policy for continuity. The Strategy was previously adopted separately.
- The stated objectives of safety, liquidity and yield have been expanded.
- A fourth objective of diversification has been added to direct the spreading of risk,
- A Scope section has been added.
- The authorized investments have been more fully defined.
- Safekeeping now requires a written agreement and confirmations from the safekeeping agent.
- A collateral policy has been added (in accordance with Texas Government Code 2257, the Public Funds Collateral Act).
- Training for investment officers has been reduced per the Act to eight hours in successive years.
- A section on the counterparties, depository and broker/dealers, has been added.
- A section on Prudence and Controls has been added.
- The adoption of the policy now requires that the adopting resolution list changes made (in accordance with the Act).

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

1. The City of Kirby Investment Policy attached as Exhibit A to this resolution is hereby adopted with the changes made.
2. The City of Kirby Investment Policy will be reviewed at least annually by the City Council in accordance with the provisions of Chapter 2256 of the Texas Government Code.

ADOPTED AND APPROVED this the ___ day of January, 2023.

_____

Kimberly Aldrich, Mayor

Attest:

_____

Patty Cox, City Secretary

CITY OF KIRBY INVESTMENT POLICY AND STRATEGY

January 12, 2023

OBJECTIVES:

It is the policy of the City of Kirby, Texas, that all available funds shall be invested in securities that provide for the protection of the principal, provide liquidity as needed and provide reasonable yield to the City. It is the policy of the City that all funds shall be managed and invested with four primary objectives, listed in order of their priority: safety, liquidity, diversification, and yield. Investments are to be chosen in a manner which promotes diversity. To match anticipated cash flow requirements the maximum weighted average maturity (WAM) of the overall portfolio may not exceed six months.

Safety

The primary objective of the investment activity is the preservation of capital. Each investment transaction shall be conducted in a manner to avoid capital losses, whether from security defaults, safekeeping, or erosion of market value. Investments in high credit quality securities and decisions based on anticipated cash needs are primary factors in providing safety.

Liquidity

The investment portfolio shall be structured to meet all expected obligations in a timely manner. This shall be achieved by matching investment maturities with forecasted cash flow liabilities and maintaining additional liquidity for unexpected liabilities.

Diversification

The portfolio shall be diversified by institution, market sector and maturity as much as possible.

Yield

The investment program shall seek to augment returns consistent with the risk limitations identified and the City's prudent investment strategy.

Cash management is the process of managing funds in order to insure maximum cash availability and reasonable yield on short-term investments. The City shall strive for a cash management program which includes timely collection of accounts receivable, vendor payments in accordance with invoice terms, and prudent investment of assets.

SCOPE

This investment policy applies to all financial assets of the City and any new funds created unless specifically exempted by the City Council and this Policy.

AUTHORIZED INVESTMENTS:

The investment officers are authorized to invest city funds in only the following securities and investments in accordance with the Public Fund Investment Act (the "Act", Texas Gov't Code 2256).

- Obligations of the US Treasury, its agencies and instrumentalities with a maximum stated maturity of two (2) years.
- Fully insured or collateralized depository certificates of deposit from banks doing business in Texas and collateralized in accordance with this policy. Maximum maturity two years.
- Texas local government investment pools which strive to maintain a $1 NAV.
- Fully insured share certificates of credit unions doing business in Texas with a maximum maturity of two years.
- Fully insured or collateralized interest-bearing accounts in any bank in Texas, collateralized in accordance with this policy.
- AAA-rated, SEC registered money market funds which strive to maintain a $1 NAV.

SAFEKEEPING

To protect against potential fraud and embezzlement, the cash and investments of the City of Kirby shall be secured through third-party custody and safekeeping procedures as required by State law and designated by the City of Kirby. Investment Officers shall be bonded.

All securities shall be settled delivery versus payment into the City's approved safekeeping account. All safekeeping arrangements shall be approved by the Investment Officer and an agreement of the terms executed in writing. All safekeeping arrangements shall be approved by the Investment Officer and an agreement of the terms executed in writing. The independent third-party safekeeping agent shall be required to issue safekeeping receipts to the City listing each specific security, rate, description, maturity, cusip number, and other pertinent information.

COLLATERAL

All credit union time deposits shall be fully insured by the National Credit Union Share Insurance Fund.

All bank time and demand deposits shall be collateralized above the FDIC coverage by pledged collateral. In order to anticipate market changes and provide a level of security for all funds, collateral will be maintained and monitored by the pledging depository at a market value of 102% of the deposited principal and accrued interest on the deposits. The bank shall monitor and maintain the margins on a daily basis.

Collateral pledged to secure deposits shall be held by an independent financial institution outside the holding company of the depository. If required, the collateral agreement with the

depository shall be approved by resolution of the Bank Board or Bank Loan Committee. The Custodian or bank shall provide a monthly report of collateral directly to the City.

Authorized Collateral

Only the following securities are authorized as collateral for time and demand deposits or repurchase agreements:

A. FDIC insurance coverage.
B. Obligations of the United States, its agencies or instrumentalities, or evidence of indebtedness of the United States guaranteed as to principal and interest including MBS and CMO which pass the bank test.
C. Obligations of any US state or of a county, City or other political subdivision of any state having been rated as investment grade no less than "A" or its equivalent) by two nationally recognized rating agencies.
D. Letter of Credit from the FHLB.

Preference will be given to pledged collateral securities.

SAFETY AND INVESTMENT MANAGEMENT:

All investments will be in compliance with applicable State and Federal law. Investment funds in excess of Federal Deposit Insurance Corporation coverage and/or invested in other than Certificates of Indebtedness of the federal government will be protected by bonding and/or pledged securities in accordance with applicable State statutes.

The designated Investment Officers are responsible for the investment of City funds and are authorized to give written, oral and electronic instructions to the depository bank and to place orders for the purchase of securities.

LIQUIDITY AND DIVERSIFICATION:

The Investment strategy for City funds is to invest in a manner, which will emphasize preservation of principal, generation of income and assure that anticipated cash flows are matched with investment maturities and liquidity. Investments will have a maturity not to exceed two years.

INVESTMENT STRATEGY:

The City maintains one commingled portfolio for investment purposes which incorporates the specific uses and the unique characteristics of the funds in the portfolio. The City shall pursue a conservative portfolio management strategy which may include creating a laddered portfolio maturity structure with some extension for yield enhancement and to match cash flow needs. The use of the high-credit quality authorized investments will assure liquidity, marketability and suitability for City investments.

The commingled portfolio incorporates the specific uses and the unique characteristics of the funds in the portfolio. The investment strategy has as its primary objective assurance that anticipated liabilities are matched and adequate investment liquidity provided. The City shall

pursue a conservative portfolio management strategy based on a buy-and-hold philosophy. The maximum maturity of any security will be two years and a portfolio maximum dollar weighted average maturity of six months or less will be calculated using the stated final maturity date of each security.

The investment strategy for debt service funds shall have as its primary objective the timely payment of debt service obligations. Successive debt service dates will be fully funded before any investment extensions are made.

DELEGATION OF RESPONSIBILITY:

No unauthorized person may engage in an investment transaction and all transactions shall be executed as provided under the terms of this Policy and its supporting procedures.

Investment Officers

The City Manager and Finance Director will be designated by City Council resolution as Investment Officers, to be responsible for investment decisions and activities. The Investment Officers are responsible for creating and maintaining the portfolio in accordance with this Policy, providing timely quarterly reporting to the City Council, and establishing supporting procedures.

All Investment Officers shall attend at least ten hours of training approved by the City Council within the 12 months of designation as investment officer and shall attend eight hours of training every two successive fiscal years.

An investment that requires a minimum rating under Chapter 2253 of the Texas Government Code does not qualify as an authorized investment during any period when the investment does not have the minimum rating required. One or both of the Investment Officers shall monitor rating changes for any investments by the City for which a minimum rating is required by checking the rating of such investment at least monthly. The Investment Officers shall take all prudent measures consistent with this Investment Policy to liquidate an investment that does not have the minimum rating required.

One or both of the Investment Officers shall monitor the market price of investments acquired with public funds at least monthly by reviewing statements issued by the entity holding such investment or by any other method reasonably deemed reliable by the Investment Officers.

Investment Officers shall refrain from personal and business activity that could conflict with proper execution of the investment program or which could impair their ability to make impartial investment decisions. An Investment Officer who has a personal business relationship within two levels of blood or marriage with an organization seeking to sell an investment to the City shall file a statement disclosing that relationship to the City Council and the Texas Ethics Commission.

City Council

The City Council holds ultimate fiduciary responsibility for the portfolio. It will designate investment officers, receive and review quarterly reporting, approve and provide for investment

officer training, approve broker/dealers, and review and adopt the Investment Policy and Strategy at least annually.

REPORTING:

Quarterly Reporting

The Investment Officers shall submit a signed quarterly investment report to the governing body in accordance with the Act giving detail information on each portfolio and bank position and summary information to permit an informed outside reader to evaluate the performance of the investment program. The report will include the following at a minimum:

- A full description of each individual security or bank/pool position held at the end of the reporting period including the amortized book and market value at the beginning and end of the period,
- Unrealized gains or losses (book value minus market value),
- Overall change in market value during the period as a measure of volatility,
- Weighted average yield of the portfolio and its applicable benchmarks,
- Earnings for the period,
- Allocation analysis of the total portfolio by market sector and maturity, and
- Statement of compliance of the investment portfolio with the Act and the Investment Policy signed by the Investment Officers.

Market prices for the calculation of market value will be obtained from the independent sources.

Portfolio Reports

A report of all City investments will be included in the annual financial report/audit prepared by the auditor as of September 30 of each year.

FINANCIAL COUNTER-PARTIES

Depository

At least every five years, a banking services depository shall be selected through a competitive request for proposal [application] or bid process in accordance with the Texas Government Code 105. In selecting a depository, the services, cost of services, credit worthiness, earnings potential, and collateralization by the institutions shall be considered. If securities require safekeeping, the RFP/bid will request information on safekeeping services. The depository contract will provide for collateral if balances exceed the FDIC insurance balance per tax identification number.

All time and demand deposits in any depository of the City shall be insured or collateralized at all times in accordance with this Policy.

Other banking institutions, from which the City may purchase certificates of deposit or place interest bearing accounts, will also be designated as a depository for depository/collateral purposes. All depositories will execute a depository agreement and have the Bank's Board or Bank Loan Committee pass a resolution approving the agreement if collateral is required.

Security Broker/Dealers

All broker/dealers who desire to transact business with the City must supply the following documents to the Investments Officer(s).

- Financial Industry Regulatory Authority (FINRA) certification and CRD #
- proof of Texas State Securities registration

Each broker/dealer will be sent a copy of the City's investment policy. If material changes are made to the policy, the new policy will be sent to the broker/dealer.

Each local government pool must be provided a copy of the City's current Investment Policy and certify to a review of the Policy stating that the pool has controls in place to assure only Policy approved investments will be sold to the City.

Security Broker/Dealers

All broker/dealers who desire to transact business with the City must supply the following documents to the Investments Officer(s).

* Financial Industry Regulatory Authority (FINRA) certification and CRD #
* proof of Texas State Securities registration

Each broker/dealer will be sent a copy of the City's investment policy. If material changes are made to the policy, the new policy will be sent to the broker/dealer.

A list of qualified broker/dealers will be reviewed and approved at least annually by the City Council.

PRUDENCE AND CONTROLS

The standard of prudence to be applied to all City investments shall be the "prudent person" rule, which states:

> "Investments shall be made with judgment and care, under circumstances then prevailing, which persons of prudence, discretion and intelligence exercise in the management of their own affairs, not for speculation, but for investment, considering the probable safety of their capital as well as the probable income to be derived."

Internal Controls

The Investment Officer is responsible for establishing and maintaining internal controls to reasonably assure that assets are protected from loss, theft, or misuse. The concept of reasonable assurance recognizes that the cost of a control should not exceed the benefits likely to be derived, and, the valuation of costs and benefits requires ongoing estimates and judgments by management.

The internal controls shall address the following points at a minimum: Control of collusion,

- Separation of transaction authority from accounting and record keeping,

- Safekeeping of owned and pledged securities,
- Clear delegation of authority,
- Competitive bidding on all transactions,
- Written confirmation for all transactions, and
- Review, maintenance and monitoring of security procedures both manual and automated.

Annually the Investment Officer shall perform an internal compliance audit to assure compliance with requirements of this Policy and the Act. Annually, the City's external auditor shall review the quarterly reports.

Monitoring Credit Ratings

The Act requires that securities requiring a specific credit rating must be liquidated if the rating falls below the minimum rating. The Investment Officer shall monitor, on no less than a monthly basis, the credit rating on all authorized investments in the portfolio for which the policy requires a credit rating. The rating should be based upon independent information from a nationally recognized rating agency. If any security falls below the minimum rating required by Policy, the Investment Officer shall notify the City Manager of the loss of rating, and liquidation options within two days with a plan to sell the security on a timely basis.

INVESTMENT POLICY ADOPTION AND REVIEW:

The City Investment Policy shall be adopted by the City Council by resolution. The City Investment Policy shall be reviewed by the City Council no less than annually and may be amended or replaced by resolution of the City Council at any properly noticed and conducted meeting of the City Council. The adopting resolution will note any changes made to the Policy.

X	DISCUSSION AND POSSIBLE ACTION ITEMS
____	SPECIAL CONSIDERATION
____	CONSENT AGENDA
____	PUBLIC HEARING
____	PRESENTATION
____	WORKSHOP

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

DATE: JANUARY 12, 2023

AGENDA ITEM: 8. o.

8. <u>Discussion And Possible Action</u>

Update, Discussion And Possible Action On Request For Proposals For Municipal Solid Waste Services

The City advertised a request for proposals for municipal solid waste services on December 21, 2022. The deadline to submit proposals has been extended to January 18, 2023.

Our current agreement with Republic Services expires on February 28th. They have offered a short-term contract extension if needed.

X	DISCUSSION AND POSSIBLE ACTION ITEMS
____	SPECIAL CONSIDERATION
____	CONSENT AGENDA
____	PUBLIC HEARING
____	PRESENTATION
____	WORKSHOP

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

DATE: JANUARY 12, 2023

AGENDA ITEM: 8. p.

8. <u>Discussion And Possible Action</u>

Update, Discussion And Possible Action On Request For Proposals For Swimming Pool Management Services

The City advertised a request for proposals for swimming pool management services on December 21, 2022. The deadline to submit proposals was January 6, 2023. No proposals were received.

X	DISCUSSION AND POSSIBLE ACTION ITEMS
____	SPECIAL CONSIDERATION
___	CONSENT AGENDA
____	PUBLIC HEARING
____	PRESENTATION
____	WORKSHOP

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

DATE: JANUARY 12, 2023

AGENDA ITEM: 8. q.

8. <u>Discussion And Possible Action</u>

Discussion And Possible Action On A Proposal From Bain Medina Bain For Foxcross Drive Reconstruction And Sanitary Sewer Replacement

A proposal is included.

BAIN MEDINA BAIN
ENGINEERS / SURVEYORS

December 30, 2022

Monique L. Vernon
City Manager
City of Kirby
112 Bauman
Kirby, TX 78219

Re: Proposal for City of Kirby Civil Engineering Services
Task Order #5 – Foxcross Dr. Street Reconstruction and Sanitary Sewer Replacement (Threadway Dr. to Shamrock St.)
BMB Project No. P-3897.08

Dear Ms. Vernon:

Bain Medina Bain, Inc. (BMBI) is pleased to submit this fee proposal to provide engineering and surveying services for the reconstruction of Foxcross Drive and Sanitary Sewer Replacement from Threadway Dr. to Shamrock St.

SCOPE OF SERVICES

The proposed Scope of Work is outlined in the attached Scope of Work Narrative.

COMPENSATION

BMB's proposed fee for the scope of services described is based on a lump sum fee. The following is a breakdown of the total fee:

70%	$ 38,600
100%	$ 16,200
BIDDING	$ 5,800
CA	$ 14,400
PROJECT CLOSEOUT	$ 2,800
TESTING	$ 10,700
TOTAL FEE=	$ 88,500

Attached is a breakdown by task, man hours, and dollars for each task.

SCHEDULE

BMB anticipates the following project schedule can begin immediately after receiving the Notice to Proceed and each successive phase beginning after receiving acceptance to the previous phase. Below is the Total design estimate with one week of review from the City of Kirby between 70% and 100% design phases. Attached is a breakdown of the timeline per phase.

BAINMEDINABAIN

Foxcross Dr.	299 days
Survey & Geotech	30 days
70% Design Phase	30 days
City of Kirby Review	7 days
100% Design Phase	30 days
City of Kirby Review	7 days
Bidding Assistance	45 days
Construction Administration	120 days
Project Closeout	30 days

Please call if you have any questions or comments.

Sincerely,

Carl Bain, P.E. | Executive Vice-President
Bain Medina Bain, Inc.
Engineers & Surveyors
HUB, SBE, MBE, DBE, HABE TxDOT Pre-Certified Firm
TBPE Registered Firm Engineering Number F-1712
TBPLS Firm Surveying Number 10020900
www bmbi.com

Attachments: Scope of Work Narrative
BMB Project Work Plan and Fee Proposal Breakdown
Burge Martinez Geotechnical Proposal

BURGE ENGINEERING & ASSOCIATES
Geotechnical Engineering • Environmental • Testing

December 19, 2022

Ms. Lorena Carter, P.E.
Bain Medina Bain, Inc.
7073 San Pedro Avenue
San Antonio, Texas 78216

RE: Proposal for Pavement Design Study
Foxcross Drive Rehabilitation -
Threadway Drive to Shamrock Drive
Kirby, Texas
BEA Proposal No. P12-22-323

Dear Ms. Carter:

Burge Engineering & Associates (BEA) is pleased to submit proposal for providing the Pavement Design for the rehabilitation of Foxcross Drive extending from Threadway Drive to Shamrock Drive in Kirby, Texas.

It is our understanding that BEA has been awarded this project based on our qualifications; therefore, by submitting this cost proposal for a publicly funded project, we are not violating the Texas Professional Services Procurement Act.

PROJECT DESCRIPTION

Based on our review of the available information, this project includes the complete reconstruction of Foxcross Drive given the extensive pavement failures throughout. The total length of the roadway is approximately 1,300 lineal feet and extends from Threadway Drive to Shamrock Drive. Given the existing roadway is asphalt paved, we will patch the bore holes with asphalt cold-patch upon completion. The actual type of vehicles and traffic count/loading has not been provided to date.

SCOPE OF WORK

We propose to perform a Pavement Design Study for the proposed reconstruction of the roadway via assessing the existing pavement thicknesses and the soil and groundwater conditions at the site. Our proposed scope of work is as follows:

1.) Field Investigation

The objective of the field exploration program is to determine the existing pavement section thicknesses and the subsurface soil conditions within the existing pavement areas. This will include information pertaining to on-site conditions, subsurface conditions, groundwater, and other pertinent items.

Prior to mobilizing on site, DigTESS will be contacted in order to locate any public underground utilities on this site. Private underground utilities are not identified by this locating system; therefore, we are not responsible for any private underground utilities encountered that are not provided to BEA personnel or identified on site in advance. If desired, a private utility line locator can be provided at an additional cost.

The boring locations will be established in the field with relation to the existing roadway alignment. The soils will be sampled using split-spoon samplers in accordance with ASTM D-1586. Soil samples will be extruded in the field, with selected sample portions sealed in plastic containers to retard moisture loss during transport to the laboratory. Field logs will be prepared by an engineering technician or our drilling crew in the field and will include pavement section thicknesses, soil descriptions, stratum depths, blow counts, groundwater elevations, and other applicable items. The borings will be extended to the full plan depth utilizing standard drilling techniques.

The following table indicates the proposed amount of drilling:

Proposed Improvement	**Proposed Drilling Program**
Foxcross Drive Rehabilitation	Four (4) 6-ft borings

Upon completion of drilling operations, the boreholes will be backfilled with soil cuttings and capped with asphalt cold patch. **Any excess spoils will be removed from the property.** No further restoration is included as part of our scope of work, unless otherwise requested.

2.) Laboratory Testing

Upon completion of the field investigation, laboratory tests including Atterberg Limits, moisture contents, and sieve analyses will be performed on selected soil samples, as necessary, to determine the significant characteristics and parameters of the subsurface soils. In addition, each sample will be visually reviewed and classified in accordance with the Unified Soil Classification System (ASTM D 2487) by a geotechnical engineer and the field boring logs will be edited accordingly.

In addition to the above laboratory tests, BEA will conduct a California Bearing Ratio (CBR) test, lime-series analysis and soluble sulfate testing for the predominant subgrade soil type observed for use during the pavement design. In addition, a composite bulk sample of the existing asphalt and crushed limestone base material will be collected so that a soil-cement series analysis may be completed.

3.) Report

Upon completion of the field exploration and laboratory testing, a licensed professional engineer will prepare a geotechnical engineering study. We will maintain close liaison with the project design team throughout the course of the work and will keep you apprised of our progress and findings. The following is an outline of the items that will be addressed in our report.

- A boring location map.
- Surface and subsurface conditions existing at the project site during the field exploration.
- The classification, thickness, location, and limits of each stratum encountered. The data will be presented on summary boring logs.
- A determination of the groundwater conditions encountered in the exploration borings within the depths explored.
- A description of the laboratory testing procedures.
- Evaluation of the physical and engineering characteristics of the subsurface materials encountered.
- Recommendations for design and construction of suitable asphalt pavement sections to meet the project requirements.
- Effect of groundwater upon the proposed construction.
- Discussions of other potential design and/or construction problems as indicated by this investigation, including drainage requirements, undocumented fill material (if any), and recommendations for field inspection.

PROPOSED SCHEDULE AND COST

We propose to perform the above scope of work for a **Lump Sum Fee of $4,500.00.** We should complete the study within about four (4) weeks following formal authorization, weather conditions permitting. Preliminary field and design information can be provided to the design team upon request.

We appreciate this opportunity to propose these conditions and look forward to working with you on this project. If you should have any questions regarding this proposal, or if we could be of any additional assistance, please feel free to contact us at (210) 646-8566.

Respectfully submitted,
BURGE ENGINEERING & ASSOCIATES
Texas Registered Engineering Firm F-7740
Geotechnical Engineering Services

Robert W. Burge, Jr., P.E.
Principal

Attachments: Proposal Acceptance Form
General Terms and Conditions

PROPOSAL ACCEPTANCE

BURGE ENGINEERING & ASSOCIATES

BEA Proposal No.:	P12-22-323
Scope of Work:	Pavement Design Study
Project:	Foxcross Drive Rehabilitation – Threadway Drive to Shamrock Drive Kirby, Texas

Client Signature: _____ Date: _____

Please complete and return this page to BEA to indicate acceptance of this proposal and the attached General Terms and Conditions, and to authorize us to commence work on this project.

We request that the client also initial the enclosed copy of BEA's General Terms and Conditions for purpose of identifying it with this Proposal/Agreement. However, failure to initial or return a copy will not negate or otherwise affect the client's acceptance of the terms of this Proposal/Agreement.

BILLING INFORMATION

(Please Print or Type)

Name of Client: _____

Name of Contact Person: _____

Telephone No. of Contact Person: _____

Email of Contact Person: _____

Company Name: _____

Person/Title _____

Billing Address: _____

_____

_____

Telephone Number: _____

Fax Number: _____

Special Conditions for Invoice _____

_____

GENERAL TERMS AND CONDITIONS

The Agreement with Burge Engineering & Associates (BEA) and Client shall include and be subject to BEA's Proposal and these General Terms and Conditions. BEA's commencement of work shall constitute Client's acceptance of these General Terms and Conditions.

1.0 SERVICES

1.1 BEA agrees to render such services requested by Client that are stated in the Scope of Services for the estimated fees and costs set forth in the Agreement. Unless specifically and expressly stated in the Scope of Services or written change order, no work or service shall be performed. No work or service shall be imputed or implied.

1.2 The services rendered by BEA are for the benefit of Client alone and relate only to conditions observed at specified locations at the time BEA's work is performed. There are no intended third-party beneficiaries to this Agreement, and nothing herein shall create a contractual relationship with or claim or cause of action in favor of a third party against BEA.

1.3 The presence of BEA's field technicians or representatives, if called for in the Agreement, is for the provision of services hereunder, and does not include supervision or direction of the work of Client or its subcontractors. Neither the presence of, nor any observation or testing by BEA personnel shall excuse Client or its subcontractors of any deficiencies in their work. Observation and testing means and implies only that BEA will observe work within BEA's Scope of Services and perform tests for Client's use.

1.4 Job-site safety shall be the sole responsibility of Client unless contracted to others.

1.5 When performing its work, BEA will take reasonable precautions to avoid damage or injury to subterranean structures or utilities. To the extent allowed by law, Client shall indemnify, defend, and hold BEA harmless from and against any damages to such structures and utilities that are not called to BEA's attention and correctly shown on any plans furnished to BEA. It is Client's obligation to contact appropriate utility companies and/or private utility locators, unless otherwise agreed to by BEA, for information regarding buried utilities, mark such utilities, and take other precautions to prevent damage or injury.

1.6 Client agrees that if client commences litigation, mediation, arbitration, or any such proceeding against BEA, BEA shall have the right to withdraw and terminate ongoing work and services conducted anywhere for Client, in which event Client shall pay BEA for work and services performed up to the time of termination.

2. 0 PAYMENT

2.1 BEA will invoice Client monthly for services performed. Client shall pay such invoices upon receipt without deduction for retention or offset. Failure to pay within 60 days of invoice shall operate to release BEA from any and all claims that Client may have; Client further shall have no right to use or rely on any report prepared by BEA, and shall return all such reporting to BEA. Furthermore, BEA shall have the right to immediately terminate and cease performance of all services being performed for Client anywhere until all amounts owed are received by BEA. Interest shall accrue on the unpaid balance of any invoice not paid in full within 30 days at the rate if 1.5% per month. To the extent that the interest provided herein exceeds that permitted by applicable law, then said interest shall be limited to the maximum allowed by applicable law.

2.2 BEA may subsequently be subpoenaed or otherwise compelled or called upon to provide testimony, documents, information, or other materials. Client agrees that the compensation paid to BEA under this Agreement or any Work Order does not include compensation for providing such testimony or other involvement in litigation or regulatory proceedings; such matters shall be invoiced additionally and separately.

3. 0 STANDARD OF CARE

3.1 The services referred to herein will be performed in accordance with the general Standard of Care practiced locally by providers of such services, and place stated only to the conditions observed or samples tested at the time and place stated herein. BEA makes and intends no other warranty or representation, express or implied. BEA is not responsible for any duty, responsibility, or obligation which by custom, law, or contract is vested in persons or parties not under the control of BEA, nor is BEA responsible for their acts or omissions or for any damages, claims or liability resulting therefrom. BEA shall not be responsible for any consequences due to changed conditions or for the failure of any person or entity to perform or install work in accordance with the plans and specifications.

3.2 BEA's recommendations, opinions, and interpretation of data, if any, are based solely on obtained data. Soil, subsurface, and groundwater conditions can vary between and among sampling points and with time. Unless otherwise expressly stated in BEA's final reporting, BEA makes no representation that the points selected for sampling are in any way representative of the entire site or project. Client acknowledges and agrees that it is possible that exploration may not reveal the presence of conditions or contaminants, even where conditions or contaminants are assumed or expected to exist at any site. Unless circumstances have changed justifying an earlier expiration of validity, geotechnical and earthwork reports are valid for a period of one year from the date of issuance; and environmental reports, including Phase 1 reports, are valid for a period of 180 days from the date of issuance.

3.3 Where BEA's services involve geotechnical evaluations or field observation of earthwork, grading, filling, or compaction, Client agrees:

3.3.1 BEA is not responsible for the manner in which any such work is performed by Client or Client's subcontractors;

3.3.2 For on-call and periodic observations, Client agrees that BEA is not responsible for any work performed at any time when BEA was not physically present at the site and performing its observation services;

3.3.3 BEA provides no opinion or conclusion concerning the performance of any third party, except only: (a) as otherwise expressly stated in BEA's final reporting; and/or (b) that the work within BEA's scope of services was in fact observed and tested by BEA; and

3.3.4 For continuous observations, Client shall not allow grading, filling, or compaction to be performed at any time that BEA is not physically present at the site, and shall restrict the amount and extent of such grading, filling and compaction to that which can be observed by BEA at the site.

3.3.5 BEA has no right, duty, or obligation to stop Client's or any of Client's subcontractor's work.

4.0 INDEMNITY

To the extent allowed by law, Client agrees to indemnify, defend, and hold BEA harmless against, from, and regarding all liabilities, damages, injuries (to any person or property, including air or ground pollution or environmental impairment arising out of or in any way connected with or related to BEA's services), losses, fees (including experts' fees and attorneys' fees in defending such matters and in enforcing the terms of this paragraph), costs, and expenses, including but not limited to delay of the project, reduction of property value, fear of or actual exposure to or release of toxic or hazardous substances, and any consequential damages of any kind, arising out of, occasioned by, or in any way connected with the acts, inaction, conduct, fault, negligence, and/or ownership of Client or any other person or entity hired by Client. NOTWITHSTANDING ANY OTHER PROVISION IN THE AGREEMENT BEA PROVIDES THE SAME INDEMNITY TO CLIENT.

5.0 LIMITATIONS OF LIABILITY

5.1 NOTWITHSTANDING ANY OTHER PROVISION OF THIS AGREEMENT, BEA'S TOTAL AGGREGATE LIABILITY TO ANY PERSON OR ENTITY, INCLUDING CLIENT, ARISING OUT OF THE WORK DONE BY BEA UNDER THIS AGREEMENT SHALL BE STRICTLY LIMITED TO THE GREATER OF $25,000 OR THE FEE CHARGED FOR BEA'S SERVICES HEREUNDER.

5.2 BEA shall not be liable for loss of profit, delay, or for any special, incidental, indirect, or consequential damages of any kind, nature or description, from any cause whatsoever.

5.3 No action or claim of any kind whatsoever, whether in law or equity, may be brought against BEA regarding any work performed by BEA, more than four years after the cessation of BEA's work.

6.0 HAZARDOUS MATERIALS AND OTHER SITE CONDITIONS

6.1 Prior to the start of BEA's work, or at the earliest time such information is learned, it shall be the duty of Client or other involved persons to advise BEA of any known or suspected undocumented fills, hazardous materials, by-products, or constituents, and any known or suspected environmental, geologic, and geotechnical conditions, which exist on or near any place at which work is to be performed by BEA, or which in any way may be pertinent to BEA's proposed service.

6.2 BEA does not create, generate, arrange for or transport, dispose, own or store hazardous materials or operate any such facility in the performance of its work. Client shall maintain possession of and be responsible for the removal and disposal of all hazardous materials including, but not limited to samples, drilling mud, fluids and cuttings, decontamination and well development fluids, and used protective gear and equipment. Client assumes full responsibility for compliance with the provisions of RCRA and any other federal or state statute of regulation governing the handling, treatment, or storage and disposal of hazardous wastes and pollutants.

6.3 Client shall be solely responsible for notifying all appropriate agencies and prospective buyers of the existence of any hazardous or dangerous materials located on or in the project site, or discovered during the performance of the Agreement, as may be required or advised by such agencies and buyers.

7.0 PROPERTY

7.1 All work papers (including reports, field notes, laboratory notes, laboratory test data, calculations and other documents prepared by BEA), copies of Client documents, electronic data files and other work product generated by or for BEA in connection with the Scope of Work are the property of BEA. Samples obtained shall remain the property of Client per the terms of the proposal.

7.2 Client has the right to use the reports, recommendations, design criteria and similar information provided to it by BEA, provided that Client pays BEA's invoices, and provided that such information shall not be used or relied on by any person or entity other than Client, except as shall be required by the licensing requirement of the project and particular site for which the information is provided, and except as subsequently agreed to in writing signed by BEA and Client. Client expressly agrees that no information produced or provided by BEA shall be used for or at any location or for any project or project extension that is not expressly provided for in this Agreement without BEA's prior written permission.

7.3 Because data stored on electronic media can deteriorate or be modified without BEA's knowledge or control, Client assumes all responsibility for the completeness, correctness, and/or readability of electronic data upon receipt from BEA. To the extent allowed by law, Client will indemnify, defend, and hold BEA harmless of and from the use of and any reliance upon any part of said electronic data and/or anything generated from them. Notwithstanding the foregoing, the controlling document regarding any document prepared by BEA shall remain and always be the signed hard-copy paper document and not any electronic form or format of such document.

8.0 TERMINATION

In addition to termination otherwise authorized by law and equity, this Agreement may be terminated by either party upon five days prior written notice.

9.0 PROVISIONS ADDITIONALLY APPLICABLE TO RESIDENTIAL PROJECTS

9.1 Client acknowledges that a certain percentage of houses and building structures in residential developments will experience some kind of distress due to the myriad of factors involved in homebuilding and the construction process. Such limited incidence of distress is considered normal and expected, does not call into question the quality of design and construction, and is to be remedied by the builder in the ordinary course of builders honoring its warranty and related obligations.

9.2 If Client or any person in any way claiming by or through Client undertakes to make a claim against BEA for negligence, indemnity, breach of warranty, breach of contract, or for contribution, no such claim shall be made until after such person provides to BEA a certification of claim prepared and signed by an independent consultant currently practicing the same discipline as BEA and licensed in the state where BEA's services were provided hereunder. Said certificate shall be presented to and received by BEA no later than 90 days before the institution of any mediation or litigation proceeding against BEA.

10.0 BEA NOT BOUND

BEA shall not be bound by: any provision incorporating by reference any contract or term of any contract unless the matter incorporated by reference is specifically furnished to BEA and is expressly agreed to in a writing signed by BEA; any provision or agreement providing for or imposing liquidated damages however described or denominated; any provision or agreement requiring or providing for arbitration of disputes or controversies arising out of any matter concerning this Agreement: any provision waiving any right to a mechanic's lien; any provision conditioning BEA's payment for its services upon payment to Client by any third party; or any provision permitting Client to take possession of any property of BEA.

11.0 MISCELLANEOUS

This Agreement may only be amended, altered, or modified in a writing signed by all parties. The terms of this Agreement shall prevail over any different or additional terms contained in any document to which these General Terms and Conditions relate. Waiver of any term herein shall not operate as a waiver of anything else, and shall not operate as a waiver of such term with respect to future performance. The Agreement shall be governed by the law of the state in which the work is performed.

X	DISCUSSION AND POSSIBLE ACTION ITEMS
____	SPECIAL CONSIDERATION
___	CONSENT AGENDA
____	PUBLIC HEARING
____	PRESENTATION
____	WORKSHOP

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

DATE: JANUARY 12, 2023

AGENDA ITEM: 8. r.

8. <u>Discussion And Possible Action</u>

Discussion And Possible Action On A Proposal From Bain Medina Bain For Vinecrest Drive Sewer Replacement

A proposal is included.

BAIN MEDINA BAIN
ENGINEERS & SURVEYORS

December 30, 2022

Monique L. Vernon
City Manager
City of Kirby
112 Bauman
Kirby, TX 78219

Re: Proposal for City of Kirby for Civil Engineering Services
Task Order #6 – Vinecrest Drive Sewer Replacement
BMB Project No. P-3897.10

Dear Ms. Vernon:

Bain Medina Bain, Inc. (BMBI) is pleased to submit this fee proposal to provide engineering and surveying services for Sanitary Sewer Replacement for sanitary sewer main behind Vinecrest Drive.

SCOPE OF SERVICES

The proposed Scope of Work is outlined in the attached Scope of Work Narrative.

COMPENSATION

BMB's proposed fee for the scope of services described is based on a lump sum fee. The following is a breakdown of the total fee:

70%	$12,100
100%	$7,500
Bidding	$2,900
Construction Administration	$4,600
Closeout	$1,400
TOTAL FEE=	$28,500

Attached is a breakdown by task, man hours, and dollars for each task.

SCHEDULE

BMB anticipates the following project schedule can begin immediately after receiving the Notice to Proceed and each successive phase beginning after receiving acceptance to the previous phase. Below is the Total design estimate with one week of review from the City of Kirby between 70% and 100% design phases. Attached is a breakdown of the timeline per phase.

Vinecrest Dr.	177 days
Survey	30 days
70% Design Phase	14 days
City of Kirby Review	7 days
100% Design Phase	14 days
City of Kirby Review	7 days
Bidding Assistance	45 days
Construction Administration	30 days
Project Closeout	30 days

BAINMEDINABAIN
ENGINEERS & SURVEYORS

Please call if you have any questions or comments.

Sincerely,

Carl Bain, P.E. | Executive Vice-President
Bain Medina Bain, Inc.
Engineers & Surveyors
HUB, SBE, MBE, DBE, HABE TxDOT Pre-Certified Firm
TBPE Registered Firm Engineering Number: F-1712
TBPLS Firm Surveying Number: 10020900
www.bmbi.com

Attachments: Scope of Work Narrative
BMB Project Work Plan and Fee Proposal Breakdown

CITY OF KIRBY

VINECREST DR. SANITARY SEWER REPLACEMENT

SCOPE OF WORK NARRATIVE- Task Order

BACKGROUND

Bain Medina Bain, Inc. (BMB) was awarded the work order to provide professional engineering and surveying services under the City of Kirby Civil Engineering Services.

PROJECT SCOPE

BMB has been asked to survey, design, and prepare plans for the sewer replacement of an existing 8" sanitary sewer line behind properties off of Vinecrest Dr.

- Vinecrest Dr.- approximately 400 ft 8" sanitary sewer.

It is understood that the existing sanitary sewer main will be replaced in place with new laterals to each lot. A site visit with Public Works PM will aid in identifying any issues.

BMB will place a series of temporary benchmarks (TBM's) and temporary control points along the project route to facilitate data acquisition.

BMB will coordinate with Texas 811 and other utility purveyors to mark on the ground the locations of their respective utilities to a Level C accuracy.

Submittals of plans will be 70% and 100%. Specification package will only be a list of standard specifications (COSA, SAWS or TXDOT). Special specifications are not anticipated to be used on this project.

The following are the tasks included in this Task Order for Foxcross Dr.:

70% Design Phase

1. **Project Management and General Items**
   - **1.1. Site Visit**
   - **1.2. Coordination meetings**
   - **1.3. General Sheets- Title sheets, Index of Sheets, General Notes, and Quantities**
   - **1.4. List of Governing Specs**
   - **1.5. 70% Submittal**
2. **Topographic, Tree & Utility Survey (Approx. 400 L.F.)**
   - **2.1. Preliminary Planning – Deed, Plat & Utility Research, and Contact Texas 811 for Utility Locates**
   - **2.2. Field – Set Horizontal and Vertical Control Points**
   - **2.3. Field – Locate Topographic Features, Improvements, Trees, Visible Surface Utilities and Utility Markings**
   - **2.4. Post Processing**

2.5. Topographic, Tree, and Utility Survey Drawing

3. Sewer Design
   3.1. Overall Sewer Plan
   3.2. Develop Sewer Plan and Profile
   3.3. Develop Sewer Detail Sheet
4. Cost Estimating
   4.1. 70% Engineer's opinion of probable construction cost

100% Design Phase

1. Project Management and General Items
   1.1. Coordination meetings
   1.2. Final General Sheets- Title sheets, Index of Sheets, General Notes and Quantities
   1.3. Final List of Governing Specs
   1.4. Project Manual
   1.5. Final Submittal
2. Sewer Design
   2.1. Final Overall Sewer Plan
   2.2. Final Sewer Plan and Profile
   2.3. Final Sewer Detail Sheet
3. Cost Estimating
   3.1. 100% Engineer's opinion of probable construction cost
4. TCEQ Permitting

Bidding Assistance

1. Bidding Assistance
   1.1. Attend 100% Review Meeting
   1.2. Assist the City in Preparing Advertising Documents
   1.3. Distribute Plans, Specifications, and Project Manual
   1.4. Respond to Contractor Questions
   1.5. Prepare and Distribute Necessary Addenda
   1.6. Prepare Bid Tabulation and Letter of Recommendation

Construction Phase

1. Construction Administration
   1.1. Review Contractor Pay Estimates
   1.2. Review/ Negotiate Change Orders
   1.3. Review Submittals
   1.4. Respond to RFIs
   1.5. Project Site Visits and Reports (Minimum Two Per Month)
   1.6. Participate in Construction Progress Meetings and Prepare Meeting Minutes
   1.7. Final Walkthrough and Punchlist Review

Project Closeout

1. Project Closeout
   1.1. Prepare Record Drawings
   1.2. Final Warranty Inspection

City of Kirby
Fee/Price Proposal Breakdown for Professional Services
Civil Engineering Services for the City of Kirby

Project Name:	WA 6- Vinecrest Sewer
Name of Firm/Prime	Bain Medina Bain Inc.
Date Proposal Submitted:	12/30/2022
Senior Project Manager	Carl Bain, P.E.
Senior Project Engineer	Lorena Carter, P.E.

Position/Personnel Title	Senior Project Manager	Senior Project Engineer	EIT II	CADD III	Admin Assistant	RPLS	Survey Tech IV	CADD Technician II	3 person Crew	
Fully-Loaded Hourly Wage Rates (as defined below)	$200.00	$180.00	$120.00	$120.00	$85.00	$150.00	$115.00	$105.00	$215.00	
Task to be performed/Phase Description (including Sub-consultant work)	Hours	Hours	Hours	Hours	Hours	Hours	Hours	Hours	Hours	Total Hours
Vinecrest Sewer										
70% Design Phase										
01. Project Management and General Items										0
01.01. Site Visit	2	2								4
01.02. Coordination Meetings	1	1			1					3
01.03. General Sheets - Title sht, Index, Notes & Quantities		1		2						3
01.04. List of Governing Specs		1	1		1					3
01.05. 70% Submittal		1	2	2	1					6
01.06. 70% Design Review Meeting	2	2			1					5
02. Topographic, Tree & Utility Survey (Approx. 400 L.F.)										0
02.01. Preliminary Planning - Deed, Plat & Utility Research, and Contact Texas 811 for Utility Locates						1	1			2
02.02. Field - Set Horizontal and Vertical Control Points						1	1		2	4
02.03. Field - Locate Topographic Features, Improvements, Trees, Visible Surface Utilites, Manhole inverts, Top of Valves and Utility Markings						1	1		6	8
02.04. Post Processing						1	2	1		4
02.05. Prepare Topographic, Tree, and Utility Survey Drawing							1	8		9
03. Sewer Design										0
03.01. Overall Sewer Plan		1	2	4						
03.02. Develop Sewer Plan and Profile	1	2	4	8						15
03.03. Develop Sewer Detail Sheet		1	1	1						3
04. Cost Estimating										0
04.01. Prepare 70% Engineers Opinion of Probable Construction Cost	1	2	4		1					8
Phase Total Hours:	7	14	14	17	5	4	6	9	8	84
Phase Total Fee Proposal	$1,400.00	$2,520.00	$1,680.00	$2,040.00	$425.00	$600.00	$690.00	$945.00	$1,720.00	$12,020.00
Printing & Miscellaneous										$80.00
Total 70% Design Phase:										$12,100.00
100% Design Phase										
01. Project Management and General Items										0
01.01. Coordination Meetings	2	2			1					5
01.02. Final General Sheets - Title sht, Index, Notes and quantities		1	1	1						3
01.03. List of Governing Specs		1			1					2
01.04. Project Manual	1	2	2		4					9
01.05. Final submittal		1	1	2	1					5
02. Sewer Design										0
02.01. Final Overall Sewer Plan	1	2	2	2						7
02.02. Final Sewer Plan and Profile	1	2	2	4						9
02.03. Final Sewer Detail Sheet		1	1	1						3
03. Cost Estimating										0
03.01. Prepare 100% Cost Estimate		2	2		1					5
04. TCEQ Permitting										0
04.01. Submit plans to TCEQ to obtain a permit.		2	2		1					
Phase Total Hours:	5	16	13	10	9	0	0	0	0	53
Phase Total Fee Proposal:	$1,000.00	$2,880.00	$1,560.00	$1,200.00	$765.00	$0.00	$0.00	$0.00	$0.00	$7,405.00

	Printing & Miscellaneous:											$95.00
	Total 100% Design Phase:											$7,500.00
Bidding Assistance												
01.	Bidding Assistance											0
01.01.	Attend 100% Review Meeting	2	2									4
01.02.	Assist the City in Preparing Advertising Documents		1			1						2
01.03.	Distribute Plans, Specifications, and Project Manual to Contractors		1	1		1						3
01.04.	Respond to Contractor Questions		1	1								2
01.05.	Prepare and Distribute Necessary Addenda		1	1		1						3
01.06.	Prepared Bid Tabulation and Letter of Recommendation	1	1	2		1						5
	Phase Total Hours:	3	7	5	0	4	0	0	0	0		19
	Phase Total Fee Proposal:	$600.00	$1,260.00	$600.00	$0.00	$340.00	$0.00	$0.00	$0.00	$0.00		$2,800.00
	Printing & Miscellaneous:											$100.00
	Total Bidding Phase:											$2,900.00
Construction Phase												
01.	Construction Administration											0
01.01.	Review Contractor Pay Estimates		1	2		1						4
01.02.	Review/ Negotiate Change Orders		1	1		1						3
01.03.	Review Submittals		1	2		1						4
01.04.	Respond to RFIs		1	1		1						3
01.05.	Project Site Visits and Reports (Minimum Two Per Month)		4	4		1						9
01.06.	Participate in Construction Progress Meetings and Prepare Meeting Minutes		2	2		2						6
01.07.	Final Walkthrough and Punchlist Review		2	2		1						5
	Phase Total Hours:	0	12	14	0	8	0	0	0	0		34
	Phase Total Fee Proposal:	$0.00	$2,160.00	$1,680.00	$0.00	$680.00	$0.00	$0.00	$0.00	$0.00		$4,520.00
	Printing & Miscellaneous:											$80.00
	Total Construction Phase:											$4,600.00
Project Closeout												
01.	Project Closeout											0
01.01.	Prepare Record Drawings		1	1	4	1						7
01.02.	Final Warranty Inspection		2									2
	Phase Total Hours:	0	3	1	4	1	0	0	0	0		9
	Phase Total Fee Proposal	$0.00	$540.00	$120.00	$480.00	$85.00	$0.00	$0.00	$0.00	$0.00		$1,225.00
	Printing & Miscellaneous:											$175.00
	Total Project Closeout											$1,400.00
	Total Hours:	15	52	47	31	27	4	6	9	8		199
	Total Fee Proposal:	$3,000.00	$9,360.00	$5,640.00	$3,720.00	$2,295.00	$600.00	$690.00	$945.00	$1,720.00		$28,500.00

CITY OF KIRBY, TEXAS
VINECREST DR. SEWER
(BMB PROJECT NO. P-3897.10)
PRELIMINARY TABULATION OF EXPECTED CONSTRUCTION COSTS

SEWER (OPEN CUT)

DECEMBER 30, 2022

ITEM	DESCRIPTION	UNIT	QTY	UNIT PRICE	EXTENSION
100.1	MOBILIZATION	LS	1	$ 11%	$ 9,064.00
100.2	INSURANCE AND BOND	LS	1	$ 4%	$ 3,296.00
101.1	PREPARING RIGHT-OF-WAY	LS	1	$ 3%	$ 2,472.00
540.1	SW3P	LS	1	$ 1%	$ 824.00
550.1	TRENCH EXCAVATION SAFETY PROTECTION	LF	400	$ 1.00	$ 400.00
848.0	8" PVC GRAVITY SANITARY SEWER PIPE (0'-10')	LF	400	$ 100.00	$ 40,000.00
852.1	SANITARY SEWER MANHOLES (0'-6')	EA	2	$ 10,000.00	$ 20,000.00
854.0	SANITARY SEWER LATERALS	LF	120	$ 75.00	$ 9,000.00
854.1	TWO-WAY SANITARY SEWER CLEANOUTS	EA	6	$ 800.00	$ 4,800.00
864.0	BYPASS PUMPING (ALL SIZES, UP TO 1500 LF OF BYPASS PUMPING)	LS	1	$ 5,000.00	$ 5,000.00
864.0	POST SEWER MAIN TELEVISION INSPECTION (8"-15")	LS	400	$ 8.00	$ 3,200.00
				$	
SUBTOTAL					$ **98,056.00**
20% CONTINGENCY					$ 19,611.20
SEWER TOTAL					$ **$117,667.20**

Bain Medina Bain Inc
7373 San Pedro
San Antonio Texas 78216
Tel 210-494-1223
Fax 210-490-5120

Vinecrest Dr
Vinecrest Dr
Vinecrest Dr
Vinecrest Dr
Autumn Ln
Autumn Ln
Coral Mist St
Cinderella St
Cinderella St
Redding Dr
Redding Dr

ATTACHMENT A

WORK AUTHORIZATION NO. 6

To Master Agreement between the City of Kirby (CITY) and Bain Medina Bain, Inc. (ENGINEER)

This Work Authorization describes and authorizes work to be performed by the ENGINEER in accordance with the Master Agreement between CITY and ENGINEER, which is incorporated herein by reference.

Identification of Project Assigned: Replace Vinecrest Drive Sewer Main in channel behind Vinecrest Drive. (400 LF)

General Category of Services: Civil Engineering and Survey Services.

Specific Scope of Basic Services (identify deletions or additions to the Master Agreement by Paragraph Number and Use additional pages, as required):

1. BMB will provide topographic, tree & utility survey
2. BMB will provide construction documents (70% and 100% submittals) for sewer replacement design.
3. BMB will provide a construction cost estimate for each submittal.
4. BMB will provide assistance in bidding.
5. BMB will provide construction administration services.
6. BMB will provide close-out services.

Identify Schedule, if applicable (See Paragraph 6.2 of the master Agreement):
See attached letter proposal with schedule.

Additional Deliverables Not Identified in the Master Agreement: 70% Plans; 100% Plans & Project manual; Bidding Assistance; Construction Administration Services; and Close-out Services

Work Authorization Total Amount: $28,500

IN WITNESS WHEREOF, the parties have executed this Agreement effective as of the_____ day of _____, 2023___.

For CITY OF KIRBY:

MONIQUE L. VERNON
City Manager

FOR BAIN MEDINA BAIN, INC.

CARL BAIN, P.E.
Executive Vice-President

____	DISCUSSION AND POSSIBLE ACTION ITEMS
____	SPECIAL CONSIDERATION
___	CONSENT AGENDA
_____	PUBLIC HEARING
____	PRESENTATION
____	WORKSHOP

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

DATE: JANUARY 12, 2023

AGENDA ITEM: 8. s.

8. <u>Discussion And Possible Action</u>

Discussion And Possible Action On The Viability Of Placing The Crime Control And Prevention District On The Ballot.

Council Member Garza requested this item.

X	DISCUSSION AND POSSIBLE ACTION ITEMS
____	SPECIAL CONSIDERATION
___	CONSENT AGENDA
____	PUBLIC HEARING
____	PRESENTATION
____	WORKSHOP

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

DATE: JANUARY 12, 2023

AGENDA ITEM: 8. t.

8. <u>Discussion And Possible Action</u>

Discussion And Possible Action On Naming The Kirby Senior Center Building In Honor Of Jerry Lehman

Mayor Aldrich requested this item.

____	DISCUSSION AND POSSIBLE ACTION ITEMS
____	SPECIAL CONSIDERATION
___	CONSENT AGENDA
_____	PUBLIC HEARING
____	PRESENTATION
____	WORKSHOP

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

DATE: JANUARY 12, 2023

AGENDA ITEM: 9. and 10.

9. Executive Session

The City Council Will Convene In Closed Session Pursuant To Government Code Section 551.074 Personnel Matters On The Following Matter:

a. Review Of And Deliberation On City Manager's Contract

Council Members Walczyk and Street requested this item.

10. Reconvene To Open Session

Following Deliberation In Closed Session The City Council Will Reconvene In Open Session To Take Any Final Action Required On The Matter Discussed In Closed Session.