



Kimberly McGehee Aldrich, Mayor

Sylvia Apodaca
Christopher Garza
Janeshia Grider

Mike Martin
Susan Street
Debbie Walczyk

**CITY COUNCIL AGENDA
REGULAR MEETING
THURSDAY, FEBRUARY 9, 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: February 9, 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

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. Special Minutes – January 20, 2023
- b. Regular Minutes – January 26, 2023

7. Discussion And Possible Action

- a. Discussion And Possible Action On Ordinance No. O-2023 - 921 An Ordinance Of The City Of Kirby, Texas Amending The Official Zoning Map By Zoning Approximately 1.0009 Acres Of Land Situated At CB 5903, BLK LOT 8, Otherwise Known As 3902 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. This Is The Second Reading.
- b. Discussion And Possible Action On Ordinance No. O-2023 - 922 An Ordinance Of the City Of Kirby, Texas Amending The Official Zoning Map By Zoning Approximately 1.0009 Acres Of Land Situated At CB 5903, Blk 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. This Is The Second Reading.
- c. Discussion And Possible Action On Ordinance No. O-2023-923 An Ordinance Of The City Of Kirby, Texas Ordering A Special Election On The Reauthorization Of The Local Sales And Use Tax In The City Of Kirby, Texas At The Rate Of One-Fourth Of One Percent To Continue To Provide Revenue For Maintenance And Repair Of Municipal Streets; Making Provision For The Conduct Of The Election, Including City Intention To Enter Into A Joint Election Agreement And/Or Contract For Election Services With The Bexar County Elections Administrator; Resolving Other Matters Incident And Related To Such Election; And Providing An Effective Date. This Is The Second Reading.

Discusión y Acción Posible Sobre la Ordenanza No. O–2023-923 Una Ordenanza de la Ciudad de Kirby, Texas Ordenando Una Elección Especial Sobre la Reautorización de La Tarifa de Ventas y Usos Locales en la Ciudad de Kirby, Texas a la Tasa de Un Cuarto de Un Por Ciento Para Continuar a Proveer Ingresos Para el Mantenimiento y Reparación de las Calles Municipales; Haciendo Provisiones para la Conducta de la Elección, Incluyendo la Intención de la Ciudad de Entrar a una

Acuerdo de Elección Unida y/o Un Contrato con el Administrador de Elecciones de el Condado Bexar; Resolviendo Otros Temas y Incidentes Relacionados con tal Elección; Y Proveyendo un Dia Efectivo. Esta es la Primera Lectura. (esconde)

- d. Discussion And Possible Action To Authorize The City To Enter Into A Joint Election Agreement With Bexar County Elections Department For Services During Early Voting And Election Day And Authorizing The City Manager To Sign The Memorandum Of Understanding And Joint Election Agreement. May 6, 2023

Discusión y posible acción para autorizar a la ciudad a entrar en un acuerdo electoral conjunto con el Departamento de Elecciones del Condado de Bexar para los servicios durante la votación anticipada y el día de las elecciones y autorizar al Gerente de la Ciudad a firmar el Memorando de Entendimiento y el Acuerdo Electoral Conjunto. May 6, 2023

- e. Update And Discussion On City Of Kirby Finances and Investments
- f. Discussion And Possible Action On Resolution No. R-2023-750 Of The City Of Kirby City Council For The Adoption Of The City Of Kirby Cafeteria Plan
- g. Discussion And Possible Action Regarding City Council Member Participation During the Citizen Participation Portion of City Council Meetings, and Appropriate City Council Decorum and Debate.
- h. Update, Discussion and Possible Action On Kirby Senior Center ADA Compliance
- i. Discussion And Possible Action On Use Of City Owned Property For Kirby Senior Center Anniversary Celebration
- j. Discussion And Possible Action On Events Hosted By City Council Members

8. Executive Session

The City Council will convene in closed session pursuant to Texas Government Code Section 551.074 to deliberate the appointment, employment and duties of a public officer or employee; to wit:

- 1. Deliberation and discussion regarding the retention of a placement firm and/or appointment of an Interim City Manager
- 2. Deliberation and discussion regarding transitioning process from the current City Manager to an Interim City Manager

9. 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 Matters Discussed In Closed Session.

1. Discussion and possible action regarding the retention of a placement firm and appointment of an Interim City Manager
2. Discussion and possible action regarding transitioning process from the current City Manager to an Interim City Manager

10. 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

11. 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: February 6, 2023

TIME OF POSTING: 6:45 P.M.

DATE REMOVED

<input type="checkbox"/>	DISCUSSION AND POSSIBLE ACTION ITEMS
<input type="checkbox"/>	SPECIAL CONSIDERATION
<input checked="" type="checkbox"/>	CONSIDERATION OF MINUTES
<input type="checkbox"/>	PUBLIC HEARING
<input type="checkbox"/>	PRESENTATION
<input type="checkbox"/>	WORKSHOP

**C I T Y O F K I R B Y
C I T Y C O U N C I L M E E T I N G
A G E N D A I T E M S U M M A R Y**

DATE: FEBRUARY 9, 2023

AGENDA ITEM: 6. a.

6. Consideration Of And Action On Minutes

Special Minutes – January 20, 2023

Regular Minutes – January 26, 2023

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 February 8, 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
SPECIAL MEETING
FRIDAY, JANUARY 20, 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:

1. Call Meeting to Order

Council Member Walczyk called the meeting to order at 7:00 P.M.

2. Invocation and Pledge of Allegiance to the Flag

Council Member Walczyk

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

Council Member Garza
Council Member Martin

ABSENT

Mayor Aldrich
Council Member Apodaca

Council Member Street
Council Member Walczyk

Mayor Pro-Tem Grider

5. Citizen Participation

1. Pat Mann – She said she is saddened by City Manager Vernon’s contract not being renewed. She said City Manager Vernon is dedicated and a replacement will not going to be found. There are some things more important than the money spent. Council Member Street you coveted her car and salary. She said she will miss City Manager Vernon.

2. Stephanie Faulkner – She said she was not going to tell City Council how awful they are, You Tube has done that. She stated all of City Manager Vernon’s achievements.

3. Maria Lozano – She shared her disappointment with City Council for not renewing City Manager Vernon’s contract. In 2014 Ms. Vernon had a vision and hope for our City. Ms. Vernon is evaluated annually and received a performance raise May 2022. Four months later City Council called to discuss her. Three months later Council chose not renew with 4 votes. You set back our City eight years. Now we have to look for a new city manager. Now I am happy she will find a new city. A new city will be happy.

4. Joe Molina – He said he is saddened by the news, and Council also got rid of our former finance director. Monique Vernon has experience and would also do finance work. We are taking a top executive out of the City. She has experience with projects. She has answered your questions. It will be hard on the City to start over. Thank you, Monique Vernon, for your service. You did great job. It’s a loss for us.

5. Lois Robert Smith - I am still stunned that the council decided not to renew Ms. Vernon’s contract. Sad day for Kirby. I have lived in Kirby for over 50 years and I have never seen such childish people we have representing us. I can only imagine what other cities think of us. Most all of you on the council are the most unprofessional people I have ever seen. I admire Ms. Apodaca and Ms. Greider for their professional manner when they are there and following protocol. If only the others council people would do the same. Let’s get real and grow up and work for everyone in Kirby, not for just a few and yourself. People voted you in and we can vote you out! Ms. Monique I thank you for all that you have done for Kirby. I wish you the best. You were always there to answer my questions. Whoever takes your place will have some mighty big shoes to fill.

6. Reverend Michael Lawrence-Weden - Dear Members of City Council: I am extremely disappointed that after meeting the many challenges of the past two years in an exemplary and professional way that the city council has chosen to end their employment of our city manager, Monique Vernon, by not renewing her contract and thus terminating her employment with the city of Kirby. This action reflects very poorly on the leadership of the city

council as our city faces the challenges of the future. Ms. Vernon has served our city faithfully and with integrity. The city council needs to disclose to the citizens of Kirby why Ms. Vernon was terminated.

The actions of this city council have shown that we do not deserve the services of someone as qualified as Ms. Vernon. I doubt that the city will be able to find anyone of her experience and quality of service. This does not bode well for the future of the city of Kirby.

7. Alison Gragg - Dear Mayor and City Council I ask you to reverse your decision to not renew the City Managers contract. I also ask that her resignation be recanted.

Monique Vernon has been an outstanding employee of the city since 2014. She effectively guides the City Council on policy. This should be considered a great asset to members of the Council who have never held a position in city government before. Instead some are offended and spiteful when processes must be followed, which is shameful behavior.

If you had to look at resumes for this position you most definitely would jump at the opportunity to hire her. Put aside your pettiness, put aside your loyalty to always vote with other members and look what is best for the city and citizens of Kirby. This is your opportunity to prove who you serve.

8. Patricia Baber - I will not be attending the Special Council meeting this evening. Please read this for us. We live on Autumn Lane in Kirby. Monique is not only a very professional person, she is also amazing, kind and caring. Hard working and honest. It would be great for City of Kirby if she retains her position. It will be a great loss if she does not. However she will continue doing great things wherever she goes. She is a beautiful person. Her parents raised a fine woman.

9. Lily Martinez - After witnessing the results of the last meeting I am ashamed to tell people I live in Kirby. How can a sex offender determine the fate of the Kirby City Manager? Who is next in his vendetta against the city? Monique was the best person for the job and for one council member to say he voted against her was because he knew she was unhappy in her job is a crock of spit. Hopefully things will be set straight in May if not dark times are ahead for my city.

10. Kim Aldrich - To the Citizens of Kirby, I apologize that that I am not able to be present for this special meeting. The four council members present forced and chose to have a special meeting when they knew I was not available. Which I have mentioned is several meeting that I am not able on Friday evening an weekends. They choose to force their power of control because they control the majority of the council, therefor they have the power to RUIN OUT CITY. I don't know what they are wanting to do at this meet because I do not associate with any of them outside of council. My guess is they are wanting to use our new law firm to assist us with getting an interim City Manager. I am not OK with this. I am not impressed at all with our new lawfirm. (that is an other issue for another meeting). The 4 council members that voted not to

renew the city managers contract did this from pure emotion and a vendetta to rid of the city manager and all that have wrong Councilmen Garza. Council member Garza has run off our last police chief. They have let our last law firm go. Councilmember Street has run off the Finance Director - due to the continuous harassment during council meets. They previously attempted to fire our city manager in July when she tried to take vacation. Council member Garza tried to have our City Secretary fired. THAT FAILED. Council member Garza tried to have myself removed from my seat as mayor with a complaint made against me with the Ethics commission. THAT FAILED. I hope and pray that all of the citizens of Kirby are paying attention. Garza, Street, Walzack and Martin have set our city back many many year by termination the city managers contract. Election is the first weekend in May. Get out vote and save our city.

11. Janeshia Grider - Good Evening, Unfortunately I am not able to attend the meeting and I would like to start this message on that subject. I do not understand why members of the council who are there right now would have a special meeting on a Friday evening. I will repeat again a meeting on a Friday evening they called a special meeting. Nothing is going to happen after tonight's meeting. Nothing will be done on Saturday or Sunday business opens back up officially everywhere on Monday. I personally would have been available on Monday and possibly available on Saturday but I was not given a chance to attend. That is my first question to the council tonight. Explain why the meeting had to be Friday night when whatever action would have been decided tonight would not have made any official movement until Monday! It doesn't make sense. And please don't say we had to get this going now. Give me a break you should have thought of that last Council meeting when you acted to not renew City Managers contract but you didn't think three steps ahead. Just as the last meeting the four council Walyzeck, Street, Garza, and Martin voted not to renew. Out of nowhere made a crucial decision without really thinking how their actions would effect not one person but the entire 8,000 plus people you are suppose to serve. I have been monitoring social media and saw one council member state our city manager asked him to let her go but then deleted the message. I asked the city manager and she did not say that. I repeat she never said please release me of my position. After this council member told me she asked him to release her from her position he then walks away and says , I quote "She works for the old council and not for the new anyway". That made me go hmmm and think this was possibly pre-planned. I find it interesting that this council member said she was doing an excellent job non stop for the past 2 and half years. Even voted to give her a raise. He calls her and comes to see her to get answers on a regular. But as of last week he wants to get rid of her all.the sudden. Again not making any sense. Also before I go on. I noticed council members are hiding behind executive session. Every time a citizen asks why they decided not to renew City Manager Contract this council states. I can't talk about it because of executive session. That is not true the executive session was about City Manager contract. In the executive session I do not recall one single word spoken about why. I was there and I don't even know why. Again to the public I was there and I don't know why. So stop trying to hide behind executive session and answer the question. Also City attorney stated tonight meeting doesn't have to be executive session and last meeting didn't have to be executive session. So no need to hide behind executive session meetings moving forward including tonight. To all the council with

unpredictable up and down emotions. To the council that has repeatedly stated baseless, foul and disgusting things about our city manager to the public. And excuse me for this but Calling her out her name a BITCH. Shame on you! You owe her apology and not your fake tears that happens seemingly after every meeting. A real apology our city manager has spent her own money on events and I don't even know the amount over her time with Kirby. I imagine probably thousands of dollars over the years. She stays almost every night until 11pm or later working. She even works most weekends. She answers your questions you look to her for guidance every council meeting but all the sudden she needs to be removed with a snap of a finger because some of your irractic up and down emotions. Because you can't control your emotions. You make a drastic decision about someone's livelihood and the position that holds together over 8,000 people because you were angry in the moment. I am telling everyone now the irractic behavior is a pattern and I hope everyone is looking very very closely. Nobody should ever make long-lasting crucial decisions on temporary emotions. This is not a position where it's just a three man team and we have an assistant manager to take over. We don't even have an assistant manager because nobody wants to work here and the residents wonder why? It is because of all this constant foolishness. To the one council member that always states that certain council members get special treatment over him. About two or three months ago I was asked to provide all messages between the city manager and myself from May 2022 forward. I provided those messages and if anybody in the public would like to see them you are more than welcome so you can see exactly what our correspondence is. I can't help that I ask questions tactfully and respectfully. I can't help that I end every message with thank you in advance or I appreciate your help. Even if I don't receive answer right away I still say thank you. I don't ask why why why you haven't done this I need it now like I am some tyrant and need control. I don't know if it's because the way I was raised or I've been in leadership positions before I'm not sure but that's not my style and that's never gonna be my style to be rude and disrespectful. If anyone wants to look at the messages you are more than welcome. Most for example say hey good morning or good evening. Then I follow with a message I type up something let's say for instance Zumba can you please post this about Zumba and I'll provide the flyer that I made or the photo of the ladies who attended the last class. Simple stuff I think most of the messages that I had on the text messages were photos of events of Kirby events. I ask questions about certain serious situations and request follow up also. I give dates for kids events so nothing conflicts with any other events. There is no special treatment going on. Nothing secretive or sneaky. I don't have time for that foolishness. Maybe if certain council members put some effort into positive change and not the negative constantly. Stop with these ridiculous baseless conspiracy theories and attacking and harassing our city staff. Just maybe they can make some positive change. It is sad that some of you on council could possibly sit up there probably for 50 years and probably would still say "conspiracy conspiracy". Give me a break yall sound ridiculous and making Kirby look bad. It is like we take one step forward and 50 back. This has to stop. I could go on and on but I will close in saying. For those few comments I read that state out with the old and in with the new. I truly believe you don't know city manager job duties. This is not a two person company this is the City of Kirby over 8,000 people. By making a decision to let her go with no backup is irresponsible. By making a decision to let her go because of emotions is disturbing. This is not a joke this is people's lives, your life and my life included. Any action that effects our city should

always be thought out thoroughly. Monique Vernon does her job like she is supposed to. If 4 or more vote to yes on a agenda she acts on it. She has always did her job well and performed to the best of her ability. She is calm, has morals, and integrity. I truly hate to see her wealth of knowledge leave us but unfortunately the 4 council members voted for her to go. You will be truly missed. Last night I got home at 10pm and her car was still at city hall. Even after all this foolishness she is dedicated to our city. To the residents damage has been done I won't sugar coat it our city manager and her outside resources are going. We will get through it eventually. I'm not going anywhere either. I know several has reached out and don't worry I am in the trenches with you till the end. To the those council who voted get your act together we are supposed to help not pull the plug. Jeez. To the City employees I am truly sorry that you have to deal with the constant bashing and I know you some feel your in a hostile unpredictable environment. Please please hang in there. I sincerely appreciate each and every single one of you. I hope you know that. Again Monique thank you for everything you are a true professional. Thank you Monique for everything truly. I applaud you ma'am.

6. Executive Session

The City Council will convene in closed session pursuant to Texas Government Code Section 551.074, Personnel, to deliberate matters associated with the impending vacancy of the city manager position and with filling said vacancy

Council Member Walczyk closed the regular session and convened into- 7:37 P.M.

7. 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 Matters Discussed In Closed Session.

Council Member Walczyk reconvened in open session to take final action required on the matters discussed in closed session at 8:41 P.M.

Council Member Garza move to ask proposals from personnel placement firms for an interim City Manager and a search for a City Manager; seconded by Council Member Street.

AYES: 4

NAYES: 0

Council Member Street moved to form an employment committee made up of two department heads, three Council Members specifically Council Member Walczyk, Council Member Street, Council Member Apodaca and three residents. Each Council Member may choose one resident to vet RFP's from employment firms for City Manager position and work with the Committee and Council Member Walczyk is the Chair; seconded by Council Member Garza. The motion carried with a 4-0 vote.

AYES: 4

NAYES: 0

8. Discussion And Possible Action

Discussion and Possible Action regarding the acceptance of city manager's resignation and all actions required due to her resignation.

Council Member Martin moved to accept the City Manager Monique Vernon's resignation and all action required due to her resignation effective February 28, 2023; seconded by Council Member Garza. The motion carried with a 4-0 vote.

AYES: 4

NAYES: 0

9. Adjournment

The meeting adjourned at 11:10 P.M.

ATTEST

Patty Cox, City Secretary, TRMC



Kimberly McGehee Aldrich, Mayor

Sylvia Apodaca
Christopher Garza
Janeshia Grider

Mike Martin
Susan Street
Debbie Walczyk

**CITY COUNCIL MINUTES
REGULAR MEETING
THURSDAY, JANUARY 26, 2023 – 7:00 P.M.
CITY HALL COUNCIL CHAMBER
112 BAUMAN, KIRBY, TX 78219**

This meeting was 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.

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

5. Citizen Participation

1. Pat Baber – She inquired about item 9.n. and wanted to know what it means? Also, there have been comments on Facebook about defunding the Police Department. She asked if there is there any truth to this? She identified situations around her home.

2. Maria Lozano – She spoke in regards to item 9.n. She asked why Council Members would require unrestricted access to city hall. She cited Article 1 Section 101; Article 2 Section 208 and Section 216 of the City's Charter. She said this is an overreach and abuse of power and suggested Council reconsider their request to access unrestricted areas in City offices.

3. Jack Miller – He requested eight minutes time to speak.

Mayor Aldrich ask for a motion to allow Mr. Miller extra time to speak. Council Member Walczyk moved to allow Mr. Miller eight minutes to speak; seconded by Council Member Street. The motion carried with a 6-1 vote. (Mayor Aldrich – no vote)

Jack Miller – He said he agreed we do not want any Council Members up here nosing around. There's a lot of things here that we need to keep secret and under wraps and if you guys think you can just walk into City Hall as Council people and hang around and listen you got another thing coming. I say you all just be barred from City Hall and we don't want you learning anything, we do not want you knowing and certainly we cannot have citizens or Council people walking into the Police Department and placing our officers' lives at risk. He said just coming and going as you please. Nobody is defunding the police in this City. I came up here for those of you that do not know and preached and begged for the police to get a raise on their off-duty rates. I would be the first person to slam you in the legal way if you tried to defund the police. The way I understand it is there was a comment made by Council to disband Crime Control Committee. There were not any comments made by any Council person here to defund the police. I think Crime Control probably could be handled a little differently. Maybe funds reappropriated for certain things, but nevertheless there is no defunding of the police in this City. My colleagues met with Fort Worth City Council to push for the City to approve a spot in the City for Perineum Sunning. Mr. Miller continued and explained Perineum Sunning. He mentioned this in case his colleagues come to Kirby with the same request.

4. Lily Martinez – She said last Friday she watched the KKKirby City Council Branch meeting. Kirby citizens stood up for and emailed their support for Monique and the fine job she

has done for the City of Kirby. Not one citizen stood up or emailed support for the KKKirby City Council Branch not renewing Monique's contract. The KKKirby City Council Branch then retreated behind closed doors and then came back and reconfirmed their canceling Monique's contract. The KKKirby City Council Branch does not care about Kirby and they sure don't care about how the citizens of Kirby feel they just care about their agenda. Good thing is elections are in May. Bad thing is the KKKirby City Council Branch has four months left to further destroy the City of Kirby. This is a sad time for Kirby and it's citizen's.

5. Roger Romens - He said he is inquiring as to why there is an immediate need to upgrade the current server. Is the equipment currently being used, faulty? Is this an upgrade or a total replacement of the equipment that is on hand now? What would happen to the current data drives the city is now using? The city's mission statement is "Dedicated to delivering excellent municipal services to our community in a fiscally responsible manner." Should the discussion on tonight's agenda, item 9A, on the potential expenditure of almost 135K of taxpayer's money, be considered a Capital Outlay for a future budget discussion for the next Fiscal Year? There is also only one vendor providing a presentation and presenting a potential bid for Council's consideration. Shouldn't additional vendors be contacted with multiple bids presented to Council for consideration. As a taxpayer and shareholder of "The City of Kirby", I would expect nothing less if Council is sincere in said mission statement. Other questions for consideration. What is the return on investment to the residents of the community? How will services be improved to the residents? And as has been stated multiple times, at previous meetings, "Where is the money coming from?"

6. Consideration Of And Action On Minutes

a. Regular Minutes – January 12, 2023

Council Member Martin moved to accept the January 12, 2023 minutes; seconded by Council Member Apodaca. The motion carried with a 7-0 vote.

7. Presentations

a. Police Department Badge Pinning Ceremony

Chief Cardona recognized Officers Eric Vazquez and Julie Lee.

b. Recognize 2022 Blue Santa Program Contributor

Chief Cardona thanked everyone who helped with the 2022 Blue Santa Program. This event made it possible for children to have a Christmas. Popup Social Right in San Antonio - Moses and Rachel were recognized for their donations.

Mayor Pro-Tem Grider thanked them for helping Kirby without any hesitation.

c. 2022 Annual Racial Profiling Report – Police Chief Roxanne Cardona

Chief Cardona provided the 2022 Annual Racial Profiling report.

8. Public Hearing

- a. On A Request For A Specific Use Permit For The Property Located At CB 4018G (SPRINGFIELD INDUSTRIAL PARK), Lot 4, Otherwise Known As 1440 Springfield Road, Kirby, TX 78219, Which Is Zoned Light Industrial (LI) To Be Used For The Following Purpose: Installing A Portable Office And Storage Of Equipment (Bobcats, Excavators, Trailers And Dumpsters For Lease And Personal Use).

Mayor Aldrich opened the public hearing at 7:33 P.M.

There was no one to speak, Mayor Aldrich closed the public hearing at 7:35 P.M.

9. Discussion And Possible Action

- a. Presentation, Discussion And Possible Action On City of Kirby Server And Security Upgrades, RRG

Mr. Paul Mann, RRG, explained that over the last several months he has been doing the annual evaluations of the current infrastructure and server environment for the City of Kirby and wanted to first give Council an idea of what their process was and what usually justifies migration upgrades of this nature. There are one of two things that are important pieces and that's age of equipment, where is it at in its life span and then the other is what is the client's use. Are there situations within the environment that is mandating an upgrade of some type. Both of these apply in this situation. These servers that we're going to be talking about are all coming to end of life in October of 2023 they are no longer supported by Dell under warranties and Microsoft software will no longer be supporting these operating systems come October 10th of 2023. These are the main reasons that we looked at this. This is the time to do an infrastructure upgrade on the server level. Over the last several years we worked closely with City Manager Vernon on getting the desktops to where they needed to be. We have been replacing desktops annually and we are in a very good place there where it's very controllable when it comes to the annual expenditures for upgrading desktops. Now it is time for the server and infrastructure.

Mr. Mann answered questions from City Council.

Mayor Aldrich recognized Mr. Miller.

Mr. Miller addressed Mayor Aldrich and said it seems like you did a lot of research on this so kudos to you for that great job and whoever else was involved with that great job. Tons of questions that need to be asked and answered. I was hoping that would happen and I'm glad to see this happening and everybody else asking questions is great. I don't know the first thing about this stuff, but I noticed the equipment is expensive. Most importantly though I'd like more information about the WAP.

Mayor Aldrich explained the function of the WAP. Mayor Aldrich thanked Mr. Miller and said just so everybody knows I do work for an IT company and that's why I know all of this stuff.

Mayor Aldrich asked the City to go out for RFP and Council will write it.

b. Discussion And Possible Action On Board, Commission and Committee Meeting Dates

Council Member Martin said he requested this item. He said all boards commissions and committees have their set meeting date and when they are not able to meet that date they moved the meeting to the following month. They're not trying to finagle dates here and there to reschedule their meeting. He asked for discussion about all meetings and their dates.

Council Member Martin said he was approached by some members voicing their concern when meeting dates were changed preventing them from being able to attend due to another commitment. If they don't have a quorum, the meeting should be postponed to the next month.

Council discussed the meeting dates and updating the website calendar whenever a meeting is cancelled or not scheduled.

Mayor Aldrich recognized Mr. Miller.

Mr. Miller said if he showed up and offered \$500 to every person who is on Crime Control to show up on any given day everybody would be there. Everybody would change their schedule, it's human nature. If somebody doesn't want to change their schedule to show up to the Crime Control meeting and they are on Crime Control then get off Crime Control. If you're going to be on committees like this these committees are extremely important to the community. Your attendance is extremely important to the community. I also have shown up to a Crime Control meeting when there was no meeting to be held and it's cool. As a citizen I want the members of Crime Control to be present. I want the citizens to know when these meetings are going to happen without question and it should be the same day every month and if that is conflicting with somebody's schedule then perhaps they should relinquish that position to somebody that can show up.

Council Member Martin moved to allow Maria Lozano to speak; seconded by Council Member Apodaca. The motion carried with a 7-0 vote.

Mrs. Lozano provided an example of the Beautification and Recycle Committee when the Committee voted to change their meeting dates while she was committed to another obligation. The meeting date was changed for four months and then they resumed their regular meeting date. Also, if there is not a quorum for the meeting, a new meeting is scheduled in order to conduct business for upcoming events that require action. She agrees with set dates and time.

Council Member Walczyk moved that all commissions, committees, and boards meet on to their days that were assigned to them and if there is going to be change to ask council prior to them changing it.

Council Member Walczyk withdrew her motion.

Council Member Martin moved that all boards, commissions and committees meet on their original date and if it's not possible for them to meet at the scheduled date then postpone the meeting to the next month, seconded by Council Member Walczyk. The motion carried with a 4-3 vote.

AYES: 4

NAYES: 3 (Council Member Apodaca, Mayor Pro-Tem Grider and Mayor Aldrich)

- c. Discussion And Possible Action On Ordinance No. O-2023 - 921 An Ordinance Of The City Of Kirby, Texas Amending The Official Zoning Map By Zoning Approximately 1.0009 Acres Of Land Situated At CB 5903, BLK LOT 8, Otherwise Known As 3902 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. This Is The First Reading.

Council Member Street moved to accept Ordinance No. O-2023 - 921 An Ordinance Of The City Of Kirby, Texas Amending The Official Zoning Map By Zoning Approximately 1.0009 Acres Of Land Situated At CB 5903, BLK LOT 8, Otherwise Known As 3902 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; seconded by Council Member Garza.

Council Member Garza asked Mr. Santee if this is spot zoning. Mr. Santee said this would not be considered spot zoning because it is still residential zone.

The motion carried with a 5-2 vote.

AYES: 5

NAYES: (Council Member Walczyk and Mayor Aldrich)

- d. Discussion And Possible Action On Ordinance No. O-2023 - 922 An Ordinance Of the City Of Kirby, Texas Amending The Official Zoning Map By Zoning Approximately 1.0009 Acres Of Land Situated At Cb 5903, Blk 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. This Is The First Reading.

Council Member Street moved to accept Ordinance No. O-2023 - 922 An Ordinance Of the City Of Kirby, Texas Amending The Official Zoning Map By Zoning Approximately 1.0009 Acres Of Land Situated At Cb 5903, Blk 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. / seconded by Mayor Pro-Tem Grider. The motion carried with a 5-2 vote.

AYES: 5

NAYES: 2 (Council Member Walczyk and Mayor Aldrich)

Council Member Street requested at ten minute break; seconded by Council Member Martin. The motion carried with a 6-1 vote.

AYES: 6

NAYES: 1 (Mayor Aldrich)

Mayor Aldrich recessed at 8:48 P.M.

Mayor Aldrich reconvened at 8:58 P.M.

- e. Discussion And Possible Action On An Extension Of The Agreement With Republic Services For Solid Waste Management Services

Tom Armstrong, Republic Services was present to answer questions.

The cost of the contract would not change, still have household hazardous waste drop off.

After Council discussed the terms of the extension Council Member Walczyk moved to extend; seconded by Council Member Street. The motion carried with 7-0 vote.

AYES: 7

NAYES: 0

- f. Discussion and Possible Action On Kirby Senior Center ADA Compliance

Mr. Barboza Senior Center Board President, provided history on the ADA Compliance concerns.

The discussion included discrepancies that have been identified by AACOG.

After discussing the discrepancies and who has the responsibility to take care of them it was decided that an updated quote from the contractor was needed. This item will be placed on an agenda after receiving a new quote.

g. Discussion And Possible Action On The American Rescue Plan Act (ARPA) Budget

City Manager Vernon informed Council that the budget was updated based on two items that were approved at the last Council meeting. The engineering cost for Vinecrest sewer and Foxcross sewer. As mentioned before we have received all of the funds that the City is entitled to and if you look at the second to last section where it shows you the budgeted amounts for this fiscal year or the proposed budgeted amounts and then on the last section it shows you what we've actually spent so far. We wanted to see if there was going to be a decision on you know where those additional funds would be allocated and we'll have to look at the construction costs for those two projects that were approved last meeting.

City Manager Vernon answered questions regarding the funds available.

Council Member Street moved to approve the current proposed budget for ARPA 2023 Budget; seconded by Mayor Pro-Tem Grider. The motion carried with a 7-0 vote.

AYES: 7

NAYES: 0

h. Discussion And Possible Action On Adding An Additional Code Compliance Officer

The discussion was about the fact one Code Compliance Officer was not enough.

Chief Cardona explained the quadrant plan that has been used to organize property inspections.

Mayor Aldrich recognized Maria Lozano.

Mrs. Lozano read information from a study from in Illinois Code Enforcement. Studies have shown that communities that have areas of blight and deteriorated properties may eventually see an increase in the amount of crime and a significant decrease in property values. Code Enforcement Officers provide the first line of action in making sure that these issues are managed in a responsible and effective way. Safety is another one of the primary ways that Code Enforcement Officers really impact communities. They take into consideration the safety and well-being of the public such as fire codes building codes and general property standards. She asked Council to seriously consider hiring another Code Compliance Officer.

Council Member Martin asked Chief Cardona if there was an option through BRAVO in Crime Control and Prevention that can pay this officer for the first year, and we can get it back in the budget and get it approved.

Chief Cardona said the BRAVO program that's currently going through which is the Code Enforcement Program or also known as Dart it is going through Crime Prevention and based on the law it is an administrative position that would work and could be part of the program.

Mayor Aldrich recognized Jack Miller.

Mr. Miller said Mrs. Lozano did a great job. She took all the words out of his mouth. We need another Code Compliance Officer. We want to make this City better, we want to make it better looking, we don't want it to deteriorate and also with an additional Code Compliance Officer somebody can finally get over and get rid or do something about the five goats at Stephanie Faulkner's house .

i. Discussion And Possible Action On Crime Control And Prevention District Fiscal Year 2022-2023 Budget Amendment

Council considered including the cost for another code compliance officer to this budget amendment and placing this item on the next agenda.

City Manager Vernon explained there is an outstanding invoice that requires immediate attention. The invoice is for internet service for the symphony consoles in the Dispatch Center. At this point it's two months of bills. The reason this is on their Budget Amendment Crime Control voted to approve this and add it to their budget back in June 2022, but we failed to get it on the spreadsheet when it came to Council for approval. We're waiting to pay that bill at this point unless you want us to wait again.

Council Member Walczyk moved accept the Crime Control and Prevention District Fiscal Year 2022-2023 Budget Amendment; seconded by Council Member Martin. The motion carried with a 5-2 vote.

AYES: 5

NAYES: 2 (Council Members Garza and Street)

j. Discussion And Possible Action To Accept The Resignation of Cory Mobley From Economic Development Committee

Council Member Garza moved to accept the resignation of Cory Mobley from the Economic Development Committee; seconded by Council Member Street. The motion carried with a 6-1 vote.

AYES: 6

NAYES: 1 (Mayor Aldrich)

- k. Discussion And Possible Action To Accept The Resignation of Jody Flynn From Economic Development Committee

Council Member Martin moved to accept the resignation of Jody Flynn from Economic Development Committee; seconded by Council Member Garza. The motion carried with a 7-0 vote.

AYES: 7

NAYES: 0

- l. Discussion And Possible Action On Ordinance No. O-2023-923 An Ordinance Of The City Of Kirby, Texas Ordering A Special Election On The Reauthorization Of The Local Sales And Use Tax In The City Of Kirby, Texas At The Rate Of One-Fourth Of One Percent To Continue To Provide Revenue For Maintenance And Repair Of Municipal Streets; Making Provision For The Conduct Of The Election, Including City Intention To Enter Into A Joint Election Agreement And/Or Contract For Election Services With The Bexar County Elections Administrator; Resolving Other Matters Incident And Related To Such Election; And Providing An Effective Date. This Is The First Reading.

Discusión y Acción Posible Sobre la Ordenanza No. O-2023-923 Una Ordenanza de la Ciudad de Kirby, Texas Ordenando Una Elección Especial Sobre la Reautorización de La Tarifa de Ventas y Usos Locales en la Ciudad de Kirby, Texas a la Tasa de Un Cuarto de Un Por Ciento Para Continuar a Proveer Ingresos Para el Mantenimiento y Reparación de las Calles Municipales; Haciendo Provisiones para la Conducta de la Elección, Incluyendo la Intención de la Ciudad de Entrar a una Acuerdo de Elección Unida y/o Un Contrato con el Administrador de Elecciones de el Condado Bexar; Resolviendo Otros Temas y Incidentes Relacionados con tal Elección; Y Proveyendo un Dia Efectivo. Esta es la Primera Lectura

Council Member Street moved to approve Ordinance No. O-2023-923 An Ordinance Of The City Of Kirby, Texas Ordering A Special Election On The Reauthorization Of The Local Sales And Use Tax In The City Of Kirby, Texas At The Rate Of One-Fourth Of One Percent To Continue To Provide Revenue For Maintenance And Repair Of Municipal Streets; Making Provision For The Conduct Of The Election, Including City Intention To Enter Into A Joint Election Agreement And/Or Contract For Election Services With The Bexar County Elections Administrator; Resolving Other Matters Incident And Related To Such Election; And Providing An Effective Date; seconded by Council Member Garza. The motion carried with a 6-1 vote.

AYES: 6

NAYES: 1 (Council Member Apodaca)

- m. Discussion An Possible Action Resolution No. R-2023-749 A Resolution Of The City Of Kirby, Texas, Calling A General Election On May 6, 2023; For The Purpose Of Electing A Mayor And Three Council Members For Two Year Terms; Designating

The Polling Places And Directing The Giving Of Notice Of Such Election; And Providing Details Relating To The Holding Of Such Election, In The City Of Kirby.

Discusión y Acción Posible Sobre la Resolución No. R-2023-749 Una Resolución de la Ciudad De Kirby, Texas, Llamando una Elección General en 6 de Mayo 2023; Para el Propósito de Elegir a un Alcalde y tres Miembros de el Consulado de la Ciudad Para Términos de Dos Años; Asignando los Centros Electorales y Dirigiendo la Distribución de Noticias de Tal Elección; Y Provenido Detalles Relacionados con la Realización de tal Elección, en La Ciudad de Kirby.

Council Member Street moved to accept Resolution No. R-2023-749 A Resolution Of The City Of Kirby, Texas, Calling A General Election On May 6, 2023; For The Purpose Of Electing A Mayor And Three Council Members For Two Year Terms; Designating The Polling Places And Directing The Giving Of Notice Of Such Election; And Providing Details Relating To The Holding Of Such Election, In The City Of Kirby ; seconded by Mayor Pro-Tem Grider. The motion carried with a 7-0 vote.

AYES: 7

NAYES: 0

n. Discussion And Possible Action Regarding Unrestricted Access To City Hall By City Council Members

Council Members expressed their views regarding unrestricted access to City Hall. They would have access to office equipment, mailbox, if they have any questions they will have access to someone to answer the questions. There is a need to define guidelines when access is allowed, employees still have their work to do. Council Members will not sit in staff offices, Council Members will have to have a federal background check before access is allowed.

Currently city staff opens the door if the council member wants access to meet with the City Manager. If they want their mail or packet, city staff will provide it.

Council Member Walczyk moved for council to have access when necessary, federal background check and determine guidelines; seconded by Mayor Pro-Tem Grider.

The motion carried with a 4-3 vote.

AYES: 4

NAYES: 3 (Council Members Apodaca and Garza and Mayor Aldrich).

This item will be placed on the next agenda.

o. Presentation, Discussion And Possible Action On The City Of Kirby Water System Repairs And Future Needs

Frank Salazar, Public Works Director, provided information on the water system repairs and future needs. Tonight he was asking for approval of \$19,103.75 to order the parts that are needed to be replaced and then put it on-line for now until we come up with a plan to get realigned.

Council Member Martin moved to approve the funds in the amount of \$19,103.00 needed to bring Well #2 back on line; seconded by Mayor Pro-Tem Grider.

The motion carried with a 7-0 vote.

AYES: 7

NAYES: 0

p. 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 didn't have anything to report.

4. Crime Control And Prevention District – Council Member Garza

Council Member Garza provided an update.

5. Economic Development Committee Council Member Apodaca

Council Member Apodaca provided an update.

6. Planning And Zoning Commission – Mayor Aldrich

Mayor Aldrich was not able to attend the meeting.

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 Texas Government Code Section 551.074, Personnel, To Deliberate Matters Associated With The Impending Vacancy Of The City Manager Position And With Filling Said Vacancy

Mayor Aldrich closed the open meeting and convened into Executive Session at 10:45 P.M.

11. 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 Matters Discussed In Closed Session.

Mayor Aldrich reconvened in open session at 11:28 P.M.

There was no action taken during the executive session.

Council Member Martin moved to appoint Roxanne Cardona as acting city manager; seconded by Council Member Martin. The motion carried with a 4-3 vote.

AYES: 4

NAYES: 3 (Council Member Apodaca, Mayor Pro-Tem
Grider and Mayor Aldrich)

12. 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 asked to add the Senior Center to the next agenda to add a board member and thank you everybody for being a resident of Kirby.

Mayor Pro-Tim Grider said first she would like to address that on Friday the 20th she was at work from 9:45 A.M and clocked out at 8:16 P.M. When she arrived people were leaving the City Hall parking lot because the meeting had ended. She has her time card in case anybody wants to see it since people are stalking her house which is very strange to her. On a positive note our Kirby Youth Program is on January 28, 12 to 2:00 P.M. for arts and crafts to create vision boards and it's free activities for ages 5-17. There was a resident that asked could they bring their three year old and I said of course you can so all youth and everybody is welcome the come out. Even if they're that young of age you still can talk to them about positive mindsets and all that good stuff. On February 11th we'll have arts and crafts and a Valentine's Day Party, on March 11th there will be a St. Patrick's Day party. I really don't even know what to say, this is ridiculous, and I can't believe this is happening. I'm sorry residents of Kirby.

Council Member Walczyk said she would like to readdress the situation that we have and place it on an agenda. She was under the understanding that whenever a Council Member uses a facility that they pay something and I believe there were funds budgeted for that. I'm sorry about a lot of stuff too especially the way people yell at one another. It's hurtful, it's mean, it's disrespectful, it's unprofessional, and I apologize to the citizens that have to listen to it on a regular basis. She thanked Frank Salazar for doing a good job tonight.

Council Member Garza said an item for the agenda to discuss the security for Council Members having access to city buildings for free. He said I think we discussed the functions and it seems that when there was a letter written that stated that there's no special access or no anything like that but we literally went up to Council and decided how we can run these things and we even put money in a budget so we could do these types of things and then what ended up happening was we had a Council Member who just decided that she was going to do a whole bunch of stuff on her own.

Mayor Pro-Tem Grider announced all the kids' events will be canceled.

Council Member Garza said he would like to delve into City finances and just make sure that we have everything settled the way we need to have it.

Councilmember Martin requested an agenda item to address the situation that happened in the special meeting about Council Members speaking at the citizens participation. That needs to be addressed. There will be no defunding of the police. We were elected to protect and serve and defend this City. You can't wear your feelings on your sleeve and you have to do what's right for this city no matter how bad it hurts. No matter what you took an oath to do that and I expect you to do it because that's what I'm doing. He thanked everybody, and thanked Frank for doing a good job with the roads and for bringing the water issue forward.

13. Adjournment

The meeting adjourned at 11:41 P.M.

Kimberly Aldrich, Mayor

ATTEST

Patty Cox, City Secretary, TRMC

<input checked="" type="checkbox"/>	DISCUSSION AND POSSIBLE ACTION ITEMS
<input type="checkbox"/>	SPECIAL CONSIDERATION
<input type="checkbox"/>	CONSENT AGENDA
<input type="checkbox"/>	PUBLIC HEARING
<input type="checkbox"/>	PRESENTATION
<input type="checkbox"/>	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: FEBRUARY 9, 2023

AGENDA ITEM: 7. a.

Discussion And Possible Action

Discussion And Possible Action On Ordinance No. O-2023 - 921 An Ordinance Of The City Of Kirby, Texas Amending The Official Zoning Map By Zoning Approximately 1.0009 Acres Of Land Situated At CB 5903, BLK LOT 8, Otherwise Known As 3902 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. This Is The Second Reading.

The first reading was approved on January 26, 2023.

ORDINANCE NO. O-2023-921

**AN ORDINANCE OF THE CITY OF KIRBY, TEXAS
AMENDING THE OFFICIAL ZONING MAP BY ZONING
APPROXIMATELY 1.0009 ACRES OF LAND SITUATED
AT CB 5903, BLK LOT 8, OTHERWISE KNOWN AS 3902
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**

WHEREAS, the City of Kirby (“City”) is a Texas Home Rule Municipality operating under the laws of the State of Texas and its adopted City Charter; and

WHEREAS, the City is empowered by Chapter 211 of the Texas Local Government Code to establish a zoning ordinance establishing zoning districts and permissible land uses within the incorporated limits of the City; and

WHEREAS, the City Council has previously adopted zoning regulations establishing districts and the allowable uses therein; and

WHEREAS, the City Council may from time to time choose to amend, supplement, change or modify the City’s zoning regulations, boundaries, or classifications; and

WHEREAS, an application has been filed with the City to zone approximately 1.0009 acres of land located At CB 5903, BLK LOT 8, otherwise known As 3902 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; and

WHEREAS, on October 6, 2021 notice of a public hearing was published in the San Antonio Express News newspaper; and

WHEREAS, the City Council has duly held public hearings and given proper notice, as necessary, pertaining to changing zoning classifications; and

WHEREAS, on October 28, 2021 the City Council conducted a public hearing and after consideration determined that the requested zoning be approved as provided herein.

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

Section 1. The Property as shown and more particularly described in the attached Exhibit “A”, is hereby zoned Multiple Family Dwelling District (R-2) District.

Section 2. The Official Zoning Map of the City of Kirby, shall be revised to reflect the above amendment.

Section 3. The foregoing recitals are found to be true and correct and are hereby adopted by the City Council and made a part hereof for all purposes and findings of fact.

Section 4. If any provision of this Ordinance is illegal, invalid, or unenforceable under present or future laws, the remainder of this Ordinance will not be affected and, in lieu of each illegal, invalid, or unenforceable provision, a provision as similar in terms to the illegal, invalid, or unenforceable provision as is possible and is legal, valid, and enforceable will be added to this Ordinance.

Section 5. This Ordinance shall be cumulative of all provisions of ordinances of the City except where the provisions of the Ordinance are in direct conflict with the provisions of such ordinances, in which event the conflicting provisions of such ordinances are hereby repealed.

Section 6. This Ordinance shall be construed and enforced in accordance with the laws of the state of Texas and the United States of America.

Section 7. It is officially found, determined, and declared that the meeting at which this Ordinance is adopted was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Texas Open Meetings Act, Chapter 551, Texas Government Code, as amended.

Section 8. This Ordinance will take effect upon its adoption by the City Council.

PASSED AND APPROVED on first reading on 26th day of January, 2023 and on second reading on the 9th day of February 2023.

CITY OF KIRBY, TEXAS

By: _____
Kimberly McGehee Aldrich, Mayor

ATTEST:

Patty Cox, City Secretary

Exhibit A
(Attach metes and bounds legal description)

CB 5903, BLK LOT 8, Otherwise Known As 3902 Ackerman Road, Kirby, TX 78219, being a 1.0009 acre tract and legally described as CB 5903 BLK LOT 8; PROPERTY ID 358358

<input checked="" type="checkbox"/>	DISCUSSION AND POSSIBLE ACTION ITEMS
<input type="checkbox"/>	SPECIAL CONSIDERATION
<input type="checkbox"/>	CONSENT AGENDA
<input type="checkbox"/>	PUBLIC HEARING
<input type="checkbox"/>	PRESENTATION
<input type="checkbox"/>	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: FEBRUARY 9, 2023

AGENDA ITEM: 7. b.

Discussion And Possible Action

Discussion And Possible Action On Ordinance No. O-2023 - 922 An Ordinance Of the City Of Kirby, Texas Amending The Official Zoning Map By Zoning Approximately 1.0009 Acres Of Land Situated At CB 5903, Blk 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. This Is The Second Reading.

The first reading was approved on January 26, 2023.

ORDINANCE NO. O-2023-922

**AN ORDINANCE OF THE CITY OF KIRBY, TEXAS
AMENDING THE OFFICIAL ZONING MAP BY ZONING
APPROXIMATELY 1.0009 ACRES OF LAND SITUATED
AT CB 5903, BLK 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**

WHEREAS, the City of Kirby (“City”) is a Texas Home Rule Municipality operating under the laws of the State of Texas and its adopted City Charter; and

WHEREAS, the City is empowered by Chapter 211 of the Texas Local Government Code to establish a zoning ordinance establishing zoning districts and permissible land uses within the incorporated limits of the City; and

WHEREAS, the City Council has previously adopted zoning regulations establishing districts and the allowable uses therein; and

WHEREAS, the City Council may from time to time choose to amend, supplement, change or modify the City’s zoning regulations, boundaries, or classifications; and

WHEREAS, an application has been filed with the City to zone approximately ___ acres of land located At CB 5903, BLK 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; and

WHEREAS, on November 23, 2022 notice of a public hearing was published in the San Antonio Express News newspaper; and

WHEREAS, the City Council has duly held public hearings and given proper notice, as necessary, pertaining to changing zoning classifications; and

WHEREAS, on December 15, 2022 the City Council conducted a public hearing and after consideration determined that the requested zoning be approved as provided herein.

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

Section 1. The Property as shown and more particularly described in the attached Exhibit “A”, is hereby zoned Multiple Family Dwelling District (R-2) District.

Section 2. The Official Zoning Map of the City of Kirby, shall be revised to reflect the above amendment.

Section 3. The foregoing recitals are found to be true and correct and are hereby adopted by the City Council and made a part hereof for all purposes and findings of fact.

Section 4. If any provision of this Ordinance is illegal, invalid, or unenforceable under present or future laws, the remainder of this Ordinance will not be affected and, in lieu of each illegal, invalid, or unenforceable provision, a provision as similar in terms to the illegal, invalid, or unenforceable provision as is possible and is legal, valid, and enforceable will be added to this Ordinance.

Section 5. This Ordinance shall be cumulative of all provisions of ordinances of the City except where the provisions of the Ordinance are in direct conflict with the provisions of such ordinances, in which event the conflicting provisions of such ordinances are hereby repealed.

Section 6. This Ordinance shall be construed and enforced in accordance with the laws of the state of Texas and the United States of America.

Section 7. It is officially found, determined, and declared that the meeting at which this Ordinance is adopted was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Texas Open Meetings Act, Chapter 551, Texas Government Code, as amended.

Section 8. This Ordinance will take effect upon its adoption by the City Council.

PASSED AND APPROVED on first reading on 26th day of January, 2023 and on second reading on the 9th day of February 2023.

CITY OF KIRBY, TEXAS

By: _____
Kimberly McGehee Aldrich, Mayor

ATTEST:

Patty Cox, City Secretary

Exhibit A
(Attach metes and bounds legal description)

CB 5903, BLK LOT 9, Otherwise Known As 3814 Ackerman Road, Kirby, TX 78219, being a 1.0009 acre tract and legally described as

<input checked="" type="checkbox"/>	DISCUSSION AND POSSIBLE ACTION ITEMS
<input type="checkbox"/>	SPECIAL CONSIDERATION
<input type="checkbox"/>	CONSENT AGENDA
<input type="checkbox"/>	PUBLIC HEARING
<input type="checkbox"/>	PRESENTATION
<input type="checkbox"/>	WORKSHOP

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

DATE: FEBRUARY 9, 2023

AGENDA ITEM: 7.c.

Discussion And Possible Action

Discussion And Possible Action On Ordinance No. O-2023-923 An Ordinance Of The City Of Kirby, Texas Ordering A Special Election On The Reauthorization Of The Local Sales And Use Tax In The City Of Kirby, Texas At The Rate Of One-Fourth Of One Percent To Continue To Provide Revenue For Maintenance And Repair Of Municipal Streets; Making Provision For The Conduct Of The Election, Including City Intention To Enter Into A Joint Election Agreement And/Or Contract For Election Services With The Bexar County Elections Administrator; Resolving Other Matters Incident And Related To Such Election; And Providing An Effective Date. This Is The Second Reading.

The first reading was approved on January 26, 2023.

ORDINANCE NO. O-2023-923

AN ORDINANCE OF THE CITY OF KIRBY, TEXAS ORDERING A SPECIAL ELECTION ON THE REAUTHORIZATION OF THE LOCAL SALES AND USE TAX IN THE CITY OF KIRBY, TEXAS AT THE RATE OF ONE-FOURTH OF ONE PERCENT TO CONTINUE TO PROVIDE REVENUE FOR MAINTENANCE AND REPAIR OF MUNICIPAL STREETS; MAKING PROVISION FOR THE CONDUCT OF THE ELECTION, INCLUDING CITY INTENTION TO ENTER INTO A JOINT ELECTION AGREEMENT AND/OR CONTRACT FOR ELECTION SERVICES WITH THE BEXAR COUNTY ELECTIONS ADMINISTRATOR; RESOLVING OTHER MATTERS INCIDENT AND RELATED TO SUCH ELECTION; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Kirby, Texas (the “City”) hereby finds and determines that a special election should be held to determine whether it shall be reauthorized to continue imposing a local sales and use tax at the rate of one-fourth of one percent to provide revenue for maintenance and repair of municipal streets; and

WHEREAS, the Texas Tax Code Chapter 327.007 authorizes cities to hold a reauthorization election in the same manner as an election to adopt the tax under Chapter 327.006.

WHEREAS, the City Council finds that Special Election provided for herein should be ordered to be held on May 6, 2023; and

WHEREAS, the City Council finds that the City’s Special Election should be conducted jointly with other political subdivisions in the area pursuant to the authority of Texas Election Code, Chapter 271; and

WHEREAS, the City Council finds that entering into a contract with the Bexar County Election Administrator to conduct the City’s Special Election pursuant to Chapter 31, of the Texas Election Code is in the best interests of the City.

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

Section 1. A Special Election is hereby called and ordered to be held on Saturday, May 6, 2023 for the purpose of reauthorizing the adoption of a local sales and use tax in the City of Kirby at the rate of one-fourth of one percent to continue to provide revenue for maintenance and repair of municipal streets.

Section 2. All precincts in the entire City shall constitute the precincts for holding the special election.

Section 3. Pursuant to Tax Code section 327.007, the ballot proposition shall be prepared to permit voting for or against the proposition and the ballot language shall be in a form substantially similar to the language provided below:

“The reauthorization of the local sales and use tax in the City of Kirby, Texas at the rate of one-fourth of one percent to continue providing revenue for maintenance and repair of municipal streets. The tax expires on the fourth anniversary of the date of this election unless the imposition of the tax is reauthorized.”

Section 4. Joint Election and Election Services Agreement. The City of Kirby has entered or intends to enter into agreements involving the Bexar County Elections Administrator for a joint election and/or for election services in regard to the May 6, 2023, Special Election. The Mayor is authorized to execute a joint election and election services agreement with Bexar County.

Section 5. Early Voting Clerk. Pursuant to agreement(s) with the Bexar County Elections Administrator in regard to a joint election and/or election services, the Bexar County Election Administrator will serve as the City’ early voting clerk.

Bexar County Elections Administrator
1103 S. Frio St., Suite 200
San Antonio, TX 78207-6328
Phone: 210-335-VOTE (8683)
Fax: 210-335-0371 (Elections)
Email: BexarCountyElections@bexar.org
Website: <https://www.bexar.org/1568/Elections-Department>

Section 6. Election Day Voting and Registration. The following polling places for all qualified voters of the City of Kirby, the voter registration deadline is April 6, 2023; and which polling places and the Presiding Judge for said election shall be as follows, to-wit:

VOTING CENTER Kirby City Hall, 112 Bauman, Kirby, TX, 78219

And any other polling locations designated by the Bexar County Elections Administrator on Election Day.

Section 7. Election Day Hours. On Election Day, the polls shall be open from 7:00 A.M. to 7:00 P.M.

Section 8. Early Voting Dates, Hours and Location. Early voting will take place at locations determined by the Bexar County Elections Administrator and the locations provided for herein are subject to change. The dates and hours of early voting will be:

THE HOURS OF EARLY VOTING WILL BE: (LAS HORAS Y FECHAS DE VOTACION ADELANTADA SERAN:)

Early Voting will be conducted April 24, 2023 through May 2, 2023. The hours will be designated by Bexar County Election Department.

Subject to change.

All as provided by applicable provisions of the Texas Election Code.

April 24, 2023 – May 2, 2023

Main Early Voting Location: (Localidad Principal de Votacion Adelantada:)

BEXAR COUNTY ELECTION DEPARTMENT.....1103 S. Frio

DEAFLINK available

KIRBY CITY HALL..... 112 Bauman St

ADDITIONAL SITES WILL BE DESIGNATED BY BEXAR COUNTY ELECTIONS.

SUBJECT TO CHANGE

Section 9. Ballots by Mail. Applications for ballot by mail shall be mailed to Jacquelyn Callanen, Bexar County Elections Administrator, 1103 S. Frio, Ste. 100, San Antonio, TX 78207, Attention: Jacquelyn Callanen, Bexar County Elections Administrator and that applications for ballots by mail must be received no later than the close of business on April 25, 2023.

Section 10. Notice. Notice of said General Election to be held on May 6, 2023 is hereby ordered to be given: (a) by publication one time in a newspaper of general circulation in the City of Kirby, not less than ten (10) nor more than thirty (30) days prior to the date set herein for such election; and (b) by posting such notice at City Hall and in each election voting center of the City not less than twenty one (21) days prior to the date set herein for such election. All notices will be published in accordance with state law and as set forth in the Election Services Agreement.

Section 11. Recitals. 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 part of the judgment and finding of the City Council.

Section 12. Severability. 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 Council hereby declares that this Ordinance would have been enacted without such invalid provision.

Section 13. Open Meeting. 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, Texas Government Code, as amended.

Section 14: Effective Date. This Ordinance is effective immediately upon its passage and approval.

PASSED AND ADOPTED on first reading on the 26th day of January 2023, and on second reading on the 9th day of February 2023.

Kimberly Aldrich, Mayor

ATTEST:

Patty Cox, TRMC, City Secretary

ORDENANZA NO. O-2023-923

UNA ORDENANZA DE LA CIUDAD DE KIRBY, TEXAS, ORDENANDO UNA ELECCIÓN ESPECIAL SOBRE LA REAUTORIZACIÓN DEL IMPUESTO LOCAL SOBRE LAS VENTAS Y EL USO EN LA CIUDAD DE KIRBY, TEXAS, A UNA TASA DE UN CUARTO DEL UNO POR CIENTO PARA CONTINUAR PROPORCIONANDO INGRESOS PARA EL MANTENIMIENTO Y REPARACIÓN DE CALLES MUNICIPALES; TOMAR DISPOSICIONES PARA LA REALIZACIÓN DE LA ELECCIÓN, INCLUIDA LA INTENCIÓN DE LA CIUDAD DE REALIZAR UN ACUERDO ELECTORAL CONJUNTO Y / O CONTRATAR SERVICIOS ELECTORALES CON EL ADMINISTRADOR DE ELECCIONES DEL CONDADO DE BEXAR; RESOLVER OTROS ASUNTOS INCIDENTES Y RELACIONADOS CON DICHA ELECCIÓN; Y PROPORCIONAR UNA FECHA DE VIGENCIA.

CONSIDERANDO QUE, el Consulado de la Cuidad de Kirby, Texas (la "Ciudad") por la presente encuentra y determina que se debe realizar una elección especial para determinar si se reautorizará la continuidad imponiendo un impuesto local sobre las ventas y el uso a una tasa de un cuarto del uno por ciento para proporcionar ingresos para el mantenimiento y reparación de las calles municipales; y

CONSIDERANDO QUE, el Capítulo 327.007 del Código Tributario de Texas autoriza a las ciudades realizar una elección de reautorización de la misma manera que una elección para adoptar el impuesto bajo el Capítulo 327.006.

CONSIDERANDO QUE, el Consulado de la Cuidad considera que la Elección Especial prevista en este documento debe ordenarse que se realice el 6 de mayo de 2023; y

CONSIDERANDO QUE, el Consulado de la Cuidad considera que la Elección Especial de la Ciudad debe llevarse a cabo conjuntamente con otras subdivisiones políticas en el área de conformidad con la autoridad del Código Electoral de Texas, Capítulo 271; y

CONSIDERANDO QUE, el Consulado de la Cuidad considera que realizar un contrato con el Administrador Electoral del Condado de Bexar para llevar a cabo la Elección Especial de la Ciudad de conformidad con el Capítulo 31 del Código Electoral de Texas es lo mejor para la Ciudad.

AHORA, POR LO TANTO, SEA ORDENADO POR EL CONCEJO MUNICIPAL DE LA CIUDAD DE KIRBY, TEXAS, QUE:

Sección 1. Por la presente se convoca y ordena que se realice una Elección especial el sábado 6 de mayo de 2023 con el fin de reautorizar la adopción de un impuesto local sobre las ventas y el uso en la ciudad de Kirby a una tasa de un cuarto del uno por ciento para continuar proporcionando ingresos para el mantenimiento y reparación de las calles municipales.

Sección 2. Todos los precintos en toda la Ciudad constituirán los precintos para realizar la elección especial.

Sección 3. De conformidad con la sección 327.007 del Código Tributario, la propuesta de votación se preparará para permitir votar a favor o en contra de la propuesta y el lenguaje de la boleta deberá estar en una forma sustancialmente similar al lenguaje que se proporciona a continuación:

"La reautorización del impuesto local sobre las ventas y el uso en la ciudad de Kirby, Texas, a una tasa de un cuarto del uno por ciento para continuar proporcionando ingresos para el mantenimiento y reparación de las calles municipales. El impuesto expira en el cuarto aniversario de la fecha de esta elección, a menos que se vuelva a autorizar la imposición del impuesto".

Sección 4. Acuerdo Conjunto de Elecciones y Servicios Electorales. La Ciudad de Kirby ha realizado o tiene la intención de realizar acuerdos que involucren al Administrador de Elecciones del Condado de Bexar para una elección conjunta y / o para servicios electorales con respecto a la Elección Especial del 6 de mayo de 2023. La alcaldesa está autorizada a ejecutar un acuerdo conjunto de servicios electorales y electorales con el condado de Bexar.

Sección 5. Secretario de Votación Anticipada. De conformidad con los acuerdos con el Administrador de Elecciones del Condado de Bexar con respecto a una elección conjunta y / o servicios electorales, el Administrador de Elecciones del Condado de Bexar servirá como secretario de votación anticipada de la Ciudad.

Administrador de Elecciones del Condado de Bexar
1103 S. Frio St., Suite 200
San Antonio, TX 78207-6328
Teléfono: 210-335-VOTE (8683)
Fax: 210-335-0371 (Elecciones)
Correo electrónico: BexarCountyElections@bexar.org
Sitio web: <https://www.bexar.org/1568/Elections-Department>

Sección 6. Votación y registro el día de las elecciones. Los siguientes lugares de votación para todos los votantes calificados de la Ciudad de Kirby, la fecha límite de registro de votantes es el 6 de abril de 2023; y qué lugares de votación y el Juez presidente para dicha elección serán los siguientes, a saber:

CENTRO DE VOTACIÓN Ayuntamiento de Kirby, 112 Bauman, Kirby, TX, 78219

Y cualquier otro lugar de votación designado por el Administrador de Elecciones del Condado de Bexar el día de las elecciones.

Sección 7. Horario del día de las elecciones. El día de las elecciones, las urnas estarán abiertas de 7:00 a.m. a 7:00 p.m.

Sección 8. Fechas, horarios y lugar de votación anticipada. La votación anticipada se llevará a cabo en lugares determinados por el Administrador de Elecciones del Condado de Bexar y los

lugares previstos en este documento están sujetos a cambios. Las fechas y horas de votación anticipada serán: (las horas y fechas de votación adelantada serán:)

EL HORARIO DE VOTACIÓN ANTICIPADA SERÁ: (LAS HORAS Y FECHAS DE VOTACION ADELANTADA SERAN:)

La votación anticipada se llevará a cabo del 24 de abril de 2023 al 2 de mayo de 2023. Las horas serán designadas por el Departamento de Elecciones del Condado de Bexar.

Al según lo dispuesto por las disposiciones aplicables del Código Electoral de Texas.
SUJETO A CAMBIOS/SUJETO A CAMBIO

24 de abril de 2023 – 2 de mayo de 2023

Lugar principal de votación anticipada: (Localidad Principal de Votación Adelantada:)

DEPARTAMENTO ELECTORAL DEL CONDADO DE BEXAR.....1103 S. Frio

DEAFLINK disponible

AYUNTAMIENTO DE KIRBY..... Calle Bauman, 112

Sitios Adicionales serán designados por los Elecciones del Condado Bexar

SUJETO A CAMBIOS/SUJETO A CAMBIO

Sección 9. Boletas por correo. Las solicitudes de boleta por correo se enviarán por correo a Jacquelyn Callanen, Administradora de Elecciones del Condado de Bexar, 1103 S. Frio, Ste. 100, San Antonio, TX 78207, Atención: Jacquelyn Callanen, Administradora de Elecciones del Condado de Bexar y que las solicitudes de boletas por correo deben recibirse a más tardar al cierre de operaciones el 25 de abril de 2023.

Sección 10. Notar. Por la presente se ordena que se notifique dicha elección general que se realizará el 6 de mayo de 2023: (a) mediante publicación una vez en un periódico de circulación general en la Ciudad de Kirby, no menos de diez (10) ni más de treinta (30) días antes de la fecha establecida en este documento para dicha elección; y (b) publicando dicho aviso en el Ayuntamiento y en cada centro de votación electoral de la Ciudad no menos de veintiún (21) días antes de la fecha aquí establecida para dicha elección. Todos los avisos se publicarán de acuerdo con la ley estatal y según lo establecido en el Acuerdo de Servicios Electorales.

Sección 11. Recitales. Los considerandos contenidos en el preámbulo del presente documento se consideran ciertos, y dichos considerandos forman parte de esta Ordenanza a todos los efectos y se adoptan como parte del juicio y la conclusión del Concejo Municipal.

Sección 12. Divisibilidad. Si alguna disposición de esta Ordenanza o la aplicación de la misma

a cualquier persona o circunstancia se considera inválida, el resto de esta Ordenanza y la aplicación de dicha disposición a otras personas y circunstancias serán válidas, y el Concejo Municipal declara que esta Ordenanza se habría promulgado sin dicha disposición inválida.

Sección 13. Reunión abierta. Se encuentra, determina y declara oficialmente que la reunión en la que se adopta esta Ordenanza estaba abierta al público y se dio aviso público del momento, lugar y tema de los asuntos públicos que se considerarían en dicha reunión, incluida esta Ordenanza, todo según lo requerido por el Capítulo 551, Código de Gobierno de Texas, según enmendado.

Sección 14: Fecha de entrada en vigor. Esta Ordenanza entra en vigor inmediatamente después de su aprobación y aprobación.

APROBADO Y APROBADO en primera lectura el día 26 de enero de 2023, y en segunda lectura el 9 de febrero de 2023.

Kimberly Aldrich, Alcaldesa

ATESTIGUAR:

Patty Cox, TRMC, Secretaria de la Ciudad

<input checked="" type="checkbox"/>	DISCUSSION AND POSSIBLE ACTION ITEMS
<input type="checkbox"/>	SPECIAL CONSIDERATION
<input type="checkbox"/>	CONSENT AGENDA
<input type="checkbox"/>	PUBLIC HEARING
<input type="checkbox"/>	PRESENTATION
<input type="checkbox"/>	WORKSHOP

**C I T Y O F K I R B Y
C I T Y C O U N C I L M E E T I N G
A G E N D A I T E M S U M M A R Y**

DATE: FEBRUARY 9, 2023

AGENDA ITEM: 7. d.

Discussion And Possible Action

Discussion And Possible Action To Authorize The City To Enter Into A Joint Election Agreement With Bexar County Elections Department For Services During Early Voting And Election Day And Authorizing The City Manager To Sign The Memorandum Of Understanding And Joint Election Agreement. May 6, 2023

The agreement is included.

JOINT ELECTION AGREEMENT

This Agreement is entered into by and between Bexar County Elections Administrator (“ADMINISTRATOR”), acting on behalf of Bexar County; with City of San Antonio (“COSA”); Alamo Heights Independent School District (“AHISD”); Judson Independent School District (“JISD”); San Antonio Independent School District (“SAISD”); Harlandale Independent School District (“HISD”); Northside Independent School District (“NISD”); Southside Independent School District (“SSISD”); the City of Alamo Heights (“COAH”); the City of Balcones Heights (“COBH”); the City of Castle Hills (“COCH”); the City of Elmendorf (“COE”); the City of Fair Oaks Ranch (“FOR”); the City of Helotes (“COH”); the City of Kirby (“COK”); the City of Leon Valley (“COLV”); the City of Live Oak (“COLO”); the City of Olmos Park (“COOP”); the City of Shavano Park (“COSP”); the City of Somerset (“COS”); the City of Universal City (“COUC”); the City of Von Ormy (“COVO”); and the Town of Hollywood Park (“TOHP”) and they may also be referred to, individually, as an “Entity” or, collectively, as the “Entities,” acting by and through their duly appointed and qualified representatives, pursuant to Texas Election Code Section 271.002(a), for the May 6, 2023 election.

WHEREAS, COSA will conduct a general election on Saturday, May 6, 2023; and

WHEREAS, AHISD will conduct a general election on Saturday, May 6, 2023; and

WHEREAS, HISD will conduct a general election on Saturday, May 6, 2023; and

WHEREAS, JISD will conduct a general election on Saturday, May 6, 2023; and

WHEREAS, NISD will conduct a general election on Saturday, May 6, 2023; and

WHEREAS, SAISD will conduct a general election on Saturday, May 6, 2023; and

WHEREAS, SSISD will conduct a general election on Saturday, May 6, 2023; and

WHEREAS, COAH will conduct a general election on Saturday, May 6, 2023; and

WHEREAS, COBH will conduct a general election on Saturday, May 6, 2023; and

WHEREAS, COCH will conduct a general election on Saturday, May 6, 2023; and

WHEREAS, COE will conduct a general election on Saturday, May 6, 2023; and

WHEREAS, COFOR will conduct a general election on Saturday, May 6, 2023; and

WHEREAS, COH will conduct a general election on Saturday, May 6, 2023; and

WHEREAS, COK will conduct a general election on Saturday, May 6, 2023; and

WHEREAS, COLV will conduct a general election on Saturday, May 6, 2023; and

WHEREAS, COLO will conduct a general election on Saturday, May 6, 2023; and

WHEREAS, COOP will conduct a general election on Saturday, May 6, 2023; and

WHEREAS, COSP will conduct a general election on Saturday, May 6, 2023; and

WHEREAS, COS will conduct a general election on Saturday, May 6, 2023; and

WHEREAS, COUC will conduct a general election on Saturday, May 6, 2023; and

WHEREAS, COVO will conduct a general election on Saturday, May 6, 2023; and

WHEREAS, TOHP will conduct a general election on Saturday, May 6, 2023; and

WHEREAS, Section 271.002(a) of the Texas Election Code authorizes two or more political subdivisions to enter into an agreement to hold elections jointly in the election precincts that can be served by common polling places; and

WHEREAS, the Entities desire that a joint election be held in order to provide a convenient, simple, and cost-saving election to the voters in their respective jurisdictions; and

WHEREAS, the Entities desire to enter into an agreement setting out their respective duties and responsibilities for the May 6, 2023 election;

NOW THEREFORE, it is agreed that the Entities will hold a joint election on Saturday, May 6, 2023 (the "Joint Election") under the following terms and conditions:

I.

The Entities are each required to enter into their own separate contract with ADMINISTRATOR for election services and will hold elections jointly with other Entities in the election precincts that can be served by common polling places, using joint election officer and clerks as ADMINISTRATOR determines is necessary and appropriate.

II.

The Entities agree to conduct early voting jointly. ADMINISTRATOR will arrange for and handle early voting in person and by mail for the Joint Election in accordance with her contracts with those Entities.

III.

The Entities agree that a single ballot, containing all the measures and offices to be voted on at a particular polling place, shall be used in this Joint Election.

IV.

Each Entity is responsible for its own posting of public notices in connection with the Joint Election. ADMINISTRATOR shall be responsible for publishing a Notice of Election in a newspaper of general circulation in the territory as required of all the Entities under Section 4.003 of the Election Code, and each Entity shall pay ADMINISTRATOR its proportionate share of the publishing cost.

V.

Each Entity is responsible for paying ADMINISTRATOR for any and all other election costs, as applicable to the specific Entity and agreed upon by separate contract for election services between each Entity and ADMINISTRATOR.

VI.

ADMINISTRATOR will tabulate the ballots and provide a set of copies of the affidavit page of each return along with the returns of the election, as agreed upon by separate contract between each Entity and ADMINISTRATOR.

VII.

Each Entity will be responsible for canvassing its respective precinct returns for the Joint Election.

VIII.

The Entities agree to comply with any and all applicable state and federal record retention statutes. Each Entity shall be the custodian of its respective election records.

IX.

If an Entity determines not to participate in the Joint Election to be held on Saturday, May 6, 2023, because it has no contested positions, the nonparticipating Entity shall promptly notify ADMINISTRATOR and the other Entities, and this Agreement shall be automatically amended to delete the nonparticipating Entity as a party to the Agreement.

X.

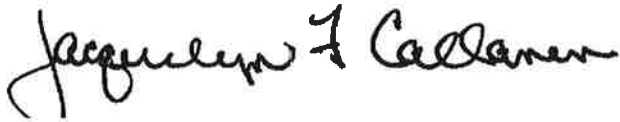
The undersigned persons are the duly authorized signatories of their Entities, and their signatures represent acceptance of the terms and conditions of this Agreement, as passed and approved by their respective governing bodies.

XI.

This Agreement may be executed in two or more counterparts. Together the counterparts shall be deemed an executed original instrument. The Entities may execute this Agreement and exchange counterparts of the signature pages by means of facsimile transmission, and the receipt of executed counterparts by facsimile transmission shall be binding on the Entities. Following a facsimile exchange, the Entities shall promptly exchange original signature pages.

SIGNED and AGREED this _____ day of _____, 2023.

BEXAR COUNTY ELECTIONS ADMINISTRATOR



Jacquelyn F. Callanen

ENTITY: _____

BY: _____

TITLE: _____

ENTITY: _____

BY: _____

TITLE: _____

ENTITY: _____

BY: _____

TITLE: _____

<input checked="" type="checkbox"/>	DISCUSSION AND POSSIBLE ACTION ITEMS
<input type="checkbox"/>	SPECIAL CONSIDERATION
<input type="checkbox"/>	CONSENT AGENDA
<input type="checkbox"/>	PUBLIC HEARING
<input type="checkbox"/>	PRESENTATION
<input type="checkbox"/>	WORKSHOP

**C I T Y O F K I R B Y
C I T Y C O U N C I L M E E T I N G
A G E N D A I T E M S U M M A R Y**

DATE: FEBRUARY 9, 2023

AGENDA ITEM: 7. e.

Discussion And Possible Action

Update And Discussion On City Of Kirby Finances and Investments

Staff will provide an overview of all City finances and investments.

Council Member Garza requested this item.

<input checked="" type="checkbox"/>	DISCUSSION AND POSSIBLE ACTION ITEMS
<input type="checkbox"/>	SPECIAL CONSIDERATION
<input type="checkbox"/>	CONSENT AGENDA
<input type="checkbox"/>	PUBLIC HEARING
<input type="checkbox"/>	PRESENTATION
<input type="checkbox"/>	WORKSHOP

**C I T Y O F K I R B Y
C I T Y C O U N C I L M E E T I N G
A G E N D A I T E M S U M M A R Y**

DATE: FEBRUARY 9, 2023

AGENDA ITEM: 7. f.

Discussion And Possible Action

Discussion And Possible Action On Resolution No. R-2023-750 Of The City Of Kirby
City Council For The Adoption Of The City Of Kirby Cafeteria Plan

This is adopted annually for the City of Kirby's employee supplemental insurances.

**RESOLUTION OF THE CITY OF KIRBY CITY COUNCIL
FOR THE ADOPTION OF THE CITY OF KIRBY
CAFETERIA PLAN**

On this date, the CITY OF KIRBY City Council did meet to discuss the implementation of CITY OF KIRBY Flexible Benefits Plan to be effective, October 1, 2022. Let it be known that the following resolutions were duly adopted by the CITY OF KIRBY City Council and that such resolutions have not been modified or rescinded as of the date hereof;

RESOLVED, that the form of Cafeteria Plan, as authorized under Section 125 of the Internal Revenue Code of 1986, presented at this meeting is hereby adopted and approved and that the proper officers of the Employer are hereby authorized and directed to execute and deliver to the Plan Administrator one or more copies of the Plan.

RESOLVED, that the Plan Year shall be for a period beginning on October 1, 2022 and ending September 30, 2023.

RESOLVED, that the Employer shall contribute to the Plan amounts sufficient to meet its obligation under the Cafeteria Plan, in accordance with the terms of the Plan Document and shall notify the Plan Administrator to which periods said contributions shall be applied.

RESOLVED, that the proper officers of the Employer shall act as soon as possible to notify employees of the adoption of the Cafeteria Plan by delivering to each Employee a copy of the Summary Plan Description presented to this meeting, which form is hereby approved.

The undersigned certifies that attached hereto as Exhibits A and B respectively are true copies of the Plan Document, and Summary Plan Description for CITY OF KIRBY's Flexible Benefits Plan approved and adopted in the foregoing resolutions.

The undersigned further certifies and attests that the above resolutions were made with the consent of the City Council members of whom were in attendance on this date:

PASSED AND APPROVED this the 9th day of February 2023.

Kimberly Aldrich, Mayor

ATTEST:

Patty Cox, TRMC
City Secretary

THE CITY OF KIRBY CAFETERIA PLAN

ARTICLE I. Introductory Provisions

CITY OF KIRBY ("the Employer") hereby establishes the CITY OF KIRBY Cafeteria Plan ("the Plan") effective 10/1/2022 ("the Effective Date"). Capitalized terms used in this Plan that are not otherwise defined shall have the meanings set forth in Article II.

This Plan is designed to allow an Eligible Employee to pay for his or her share of Contributions under one or more Insurance Plans on a pre-tax Salary Reduction basis.

This Plan is intended to qualify as a "cafeteria plan" under Code § 125 and the regulations issued thereunder. The terms of this document shall be interpreted to accomplish that objective.

Although reprinted within this document, the different components of this Plan shall be deemed separate plans for purposes of administration and all reporting and nondiscrimination requirements imposed on such components by the Code.

ARTICLE II. Definitions

"Accident Insurance Benefits (Also includes Accidental Death & Dismemberment (AD&D))" means the Employee's Accident/Accidental Death & Dismemberment Insurance Plan coverage for purposes of this Plan.

"Accident Plan(s) (Also includes Accidental Death & Dismemberment (AD&D)Plans)" means the plan(s) that the Employer maintains for its Employees providing benefits through a group insurance policy or policies in the event of injury or accidental death and/or dismemberment. The Employer may substitute, add, subtract, or revise at any time the menu of such plans and/or the benefits, terms, and conditions of any such plans. Any such substitution, addition, subtraction, or revision will be communicated to Participants and will automatically be incorporated by reference under this Plan.

"Benefits" means the Premium Payment Benefits.

"Benefit Package Option" means a qualified benefit under Code § 125(f) that is offered under a cafeteria plan, or an option for coverage under an underlying accident or health plan (such as an indemnity option, an HMO option, or a PPO option under an accident or health plan).

"Change in Status" has the meaning described in Section 4.6.

"COBRA" means the Consolidated Omnibus Budget Reconciliation Act of 1985, as amended.

"Code" means the Internal Revenue Code of 1986, as amended.

"Contributions" means the amount contributed to pay for the cost of Benefits (including self-funded Benefits as well as those that are insured), as calculated under Section 6.2 for Premium Payment Benefits.

"Committee" means the Benefits Committee (or the equivalent thereof) of CITY OF KIRBY

"Compensation" means the wages or salary paid to an Employee by the Employer, determined prior to (a) any Salary Reduction election under this Plan; (b) any salary reduction election under any other cafeteria plan; and (c) any compensation reduction under any Code § 132(f)(4) plan; but determined after (d) any salary deferral elections under any Code § 401(k), 403(b), 408(k), or 457(b) plan or arrangement. Thus, "Compensation" generally means wages or salary paid to an Employee by the Employer, as reported in Box 1 of Form W-2, but adding back any wages or salary forgone by virtue of any election described in (a), (b), or (c) of the preceding sentence.

"Dental Insurance Benefits" means the Employee's Dental Insurance Plan coverage for purposes of this Plan.

"Dental Insurance Plan(s)" means the plan(s) that the Employer maintains for its Employees (and for their Spouses and Dependents that may be eligible under the terms of such plan(s)) providing dental benefits through a group insurance policy or policies. The Employer may substitute, add, subtract, or revise at any time the menu of such plans and/or the benefits, terms, and conditions of any such plans. Any such substitution, addition, subtraction, or revision will be communicated to Participants and will automatically be incorporated by reference under this Plan.

"Dependent" means any individual who is a tax dependent of the Participant as defined in Code § 152, with the following exceptions: (a) for purposes of accident or health coverage (to the extent funded under the Premium Payment Component, and for purposes of the Health FSA Component), (1) a dependent is defined as in Code § 152, determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B) thereof; and (2) any child to whom IRS Rev. Proc. 2008-48 applies. Furthermore, notwithstanding anything in the foregoing that may be to the contrary, a "Dependent" shall also include for purposes of any accident or health coverage provided under this plan a child of a Participant who has not attained age 27 by the end of any given taxable year.

"Disability Insurance Benefits" means the Employee's Disability Insurance Plan coverage for purposes of this Plan.

"Disability Insurance Plan(s)" means the plan(s) that the Employer maintains for its Employees providing benefits through either or both a short-term or long-term disability insurance policy or policies in the event the disability of a covered Participant. The Employer may substitute, add, subtract, or revise at any time the menu of such plans and/or the benefits, terms, and conditions of any such plans. Any such substitution, addition, subtraction, or revision will be communicated to Participants and will automatically be incorporated by reference under this Plan.

"Earned Income" means all income derived from wages, salaries, tips, self-employment, and other Compensation (such as disability or wage continuation benefits), but only if such amounts are includible in gross income for the taxable year. Earned income does not include any other amounts excluded from earned income under Code § 32(c)(2), such as amounts received under a pension or annuity or pursuant to workers' compensation.

"Effective Date" of this Plan has the meaning described in Article 1.

"Election Form/Salary Reduction Agreement" means the form provided by the Administrator for the purpose of allowing an Eligible Employee to participate in this Plan by electing Salary Reductions to pay for Premium Payment Benefits. This form may be in either paper or electronic form at the Employer's discretion in accordance with the procedures detailed in Article IV.

"Eligible Employee" means an Employee eligible to participate in this Plan, as provided in Section 3.1.

"Employee" means an individual that the Employer classifies as a common-law employee and who is on the Employer's W-2 payroll, but does not include the following: (a) any leased employee (including but not limited to those individuals defined as leased employees in Code § 414(n)) or an individual classified by the Employer as a contract worker, independent contractor, temporary employee, or casual employee for the period during which such individual is so classified, whether or not any such individual is on the Employer's W-2 payroll or is determined by the IRS or others to be a common-law employee of the Employer; (b) any individual who performs services for the Employer but who is paid by a temporary or other employment or staffing agency for the period during which such individual is paid by such agency, whether or not such individual is determined by the IRS or others to be a common-law employee of the Employer; (c) any employee covered under a collective bargaining agreement; (d) any self-employed individual; (e) any partner in a partnership; (f) any more-than-2% shareholder in a Subchapter S corporation. The term "Employee" does include "former Employees" for the limited purpose of allowing continued eligibility for benefits under the Plan for the remainder of the Plan Year in which an Employee ceases to be employed by the Employer, but only to the extent specifically provided elsewhere under this Plan.

"Employer" means CITY OF KIRBY, and any Related Employer that adopts this Plan with the approval of CITY OF KIRBY. Related Employers that have adopted this Plan, if any, are listed in Appendix A of this Plan. However, for purposes of Articles XI and XIV and Section 15.3, "Employer" means only CITY OF KIRBY.

"Employment Commencement Date" means the first regularly scheduled working day on which the Employee first performs an hour of service for the Employer for Compensation.

"ERISA" means the Employee Retirement Income Security Act of 1974, as amended. CITY OF KIRBY is not subject to ERISA nor does CITY OF KIRBY adopt ERISA. Any references to ERISA herein are for reference purposes only

"FMLA" means the Family and Medical Leave Act of 1993, as amended.

"Health Insurance Benefits" means any insurance benefits providing medical or other health insurance coverage through a group insurance policy or policies.

"HIPAA" means the Health Insurance Portability and Accountability Act of 1996, as amended.

"HMO" means the health maintenance organization Benefit Package Option under the Medical Insurance Plan.

"Hospital Indemnity Benefits" means the Employee's Hospital Indemnity Plan coverage for purposes of this Plan.

"Hospital Indemnity Plan(s)" means the plan(s) that the Employer maintains for its Employees (and for their Spouses and Dependents that may be eligible under the terms of such plan(s)) providing certain indemnity benefits in the event of hospitalization or other similar medical event through a group insurance policy or policies. The Employer may substitute, add, subtract, or revise at any time the menu of such plans and/or the benefits, terms, and conditions of any such plans. Any such substitution, addition, subtraction, or revision will be communicated to Participants and will automatically be incorporated by reference under this Plan.

"HRA" means a health reimbursement arrangement as defined in IRS Notice 2002-45.

"Insurance Benefits" means benefits offered through the Insurance Plans.

"Insurance Plan(s)" means a plan or plans offering benefits through a group insurance policy or policies.

"Life Insurance Benefits" means the Employee's Life Insurance Plan coverage for purposes of this Plan.

"Life Insurance Plan(s)" means the plan(s) that the Employer maintains for its Employees providing benefits through a group term life insurance policy or policies in the event of the death of a covered Participant. The Employer may substitute, add, subtract, or revise at any time the menu of such plans and/or the benefits, terms, and conditions of any such plans. Any such substitution, addition, subtraction, or revision will be communicated to Participants and will automatically be incorporated by reference under this Plan.

"Medical Insurance Benefits" means the Employee's Medical Insurance Plan coverage for purposes of this Plan.

"Medical Insurance Plan(s)" means the plan(s) that the Employer maintains for its Employees (and for their Spouses and Dependents that may be eligible under the terms of such plan), providing major medical type benefits through a group insurance policy or policies (with HMO and PPO options). The Employer may substitute, add, subtract, or revise at any time the menu of such plans and/or the benefits, terms, and conditions of any such plans. Any such substitution, addition, subtraction, or revision will be communicated to Participants and will automatically be incorporated by reference under this Plan.

"Open Enrollment Period" with respect to a Plan Year means any period before the beginning of the Plan Year that may be prescribed by the Administrator as the period of time in which Employees who will be Eligible Employees at the beginning of the Plan Year may elect benefits.

"Participant" means a person who is an Eligible Employee and who is participating in this Plan in accordance with the provisions of Article III. Participants include (a) those who elect one or more of the Medical Insurance Benefits and (b) those who elect instead to receive their full salary in cash and to pay for their share of their Contributions under the Medical Insurance Plan.

"Period of Coverage" means the Plan Year, with the following exceptions: (a) for Employees who first become eligible to participate, it shall mean the portion of the Plan Year following the date on which participation commences, as described in Section 3.1; and (b) for Employees who terminate participation, it shall mean the portion of the Plan Year prior to the date on which participation terminates, as described in Section 3.2.

"Plan" means the CITY OF KIRBY Cafeteria Plan as set forth herein and as amended from time to time.

"Plan Administrator" means the CITY OF KIRBY Human Resources Manager or the equivalent thereof for CITY OF KIRBY, who has the full authority to act on behalf of the Plan Administrator, except with respect to appeals, for which the Committee has the full authority to act on behalf of the Plan Administrator, as described in Section 13.1.

"Plan Year" means the 12-month period commencing 10/1/2022 and ending on 9/30/2023, except in the case of a short plan year representing the initial Plan Year or where the Plan Year is being changed, in which case the Plan Year shall be the entire short plan year.

"PPO" means the preferred provider organization Benefit Package Option under the Medical Insurance Plan.

"Premium Payment Benefits" means the Premium Payment Benefits that are paid for on a pre-tax Salary Reduction basis as described in Section 6.1.

"Premium Payment Component" means the Component of this Plan described in Article VI.

"QMCSO" means a qualified medical child support order, as defined in ERISA § 609(a).

"Related Employer" means any employer affiliated with CITY OF KIRBY that, under Code § 414(b), § 414(c), or § 414(m), is treated as a single employer with CITY OF KIRBY for purposes of Code § 125(g)(4).

"Salary Reduction" means the amount by which the Participant's Compensation is reduced and applied by the Employer under this Plan to pay for one or more of the Benefits, as permitted for the applicable Component, before any applicable state and/or federal taxes have been deducted from the Participant's Compensation (i.e., on a pre-tax basis).

"Specified Disease or Illness Insurance Benefits" means the Employee's Specified Disease or Illness Insurance Plan coverage for purposes of this Plan.

"Specified Disease or Illness Insurance Plan(s)" means the plan(s) that the Employer maintains for its Employees (and for their Spouses and Dependents that may be eligible under the terms of such plan(s)) providing certain benefits with regard to a particular critical illness or illnesses (e.g., a "cancer policy" or the like) through a group insurance policy or policies. The Employer may substitute, add, subtract, or revise at any time the menu of such plans and/or the benefits, terms, and conditions of any such plans. Any such substitution, addition, subtraction, or revision will be communicated to Participants and will automatically be incorporated by reference under this Plan.

"Spouse" means an individual who is legally married to a Participant as determined under applicable state law (and who is treated as a spouse under the Code).

"Vision Insurance Benefits" means the Employee's Vision Insurance Plan coverage for purposes of this Plan.

"Vision Insurance Plan(s)" means the plan(s) that the Employer maintains for its Employees (and for their Spouses and Dependents that may be eligible under the terms of such plan(s)) providing vision benefits through a group insurance policy or policies. The Employer may substitute, add, subtract, or revise at any time the menu of such plans and/or the benefits, terms, and conditions of any such plans. Any such substitution, addition, subtraction, or revision will be communicated to Participants and will automatically be incorporated by reference under this Plan.

ARTICLE III. Eligibility and Participation

3.1 Eligibility to Participate

An individual is eligible to participate in this Plan if the individual: (a) is an Employee; (b) is working 30 hours or more per week; and (c) has been employed by the Employer for a consecutive period of 60 days, counting his or her Employment Commencement Date as the first such day. Eligibility for Premium Payment Benefits may also be subject to the additional requirements, if any, specified in the Medical Insurance Plan. Once an Employee has met the Plan's eligibility requirements, the Employee may elect coverage effective the first day of the next calendar month, in accordance with the procedures described in Article IV.

3.2 Termination of Participation

A Participant will cease to be a Participant in this Plan upon the earlier of:

- the termination of this Plan; or
- the date on which the Employee ceases (because of retirement, termination of employment, layoff, reduction of hours, or any other reason) to be an Eligible Employee. Notwithstanding the foregoing, for purposes of pre-taxing COBRA coverage certain Employees may continue eligibility for certain periods on the terms and subject to the restrictions described in Section 6.4 for Insurance Benefits.

Termination of participation in this Plan will automatically revoke the Participant's elections. The Medical Insurance Benefits will terminate as of the date specified in the Medical Insurance Plan.

3.3 Participation Following Termination of Employment or Loss of Eligibility

If a Participant terminates his or her employment for any reason, including (but not limited to) disability, retirement, layoff, or voluntary resignation, and then is rehired within 30 days or less after the date of a termination of employment, then the Employee will be reinstated with the same elections that such individual had before termination. If a former Participant is rehired more than 30 days following termination of employment and is otherwise eligible to participate in the Plan, then the individual may make new elections as a new hire as described in Section 3.1. Notwithstanding the above, an election to participate in the Premium Payment Component will be reinstated only to the extent that coverage under the Medical Insurance Plan (here, major medical insurance) is reinstated. If an Employee (whether or not a Participant) ceases to be an Eligible Employee for any reason (other than for termination of employment), including (but not limited to) a reduction of hours, and then becomes an Eligible Employee again, the Employee must complete the waiting period described in Section 3.1 before again becoming eligible to participate in the Plan.

3.4 FMLA Leaves of Absence

(a) Health Benefits. Notwithstanding any provision to the contrary in this Plan, if a Participant goes on a qualifying leave under the FMLA, then to the extent required by the FMLA, the Employer will continue to maintain the Participant's Health Insurance Benefits on the same terms and conditions as if the Participant were still an active Employee. That is, if the Participant elects to continue his or her coverage while on leave, the Employer will continue to pay its share of the Contributions.

An Employer may require participants to continue all Health Insurance Benefits coverage for Participants while they are on paid leave (provided that Participants on non-FMLA paid leave are required to continue coverage). If so, the Participant's share of the Contributions shall be paid by the method normally used during any paid leave (for instance, on a pre-tax Salary Reduction basis).

In the event of unpaid FMLA leave (or paid FMLA leave where coverage is not required to be continued), a Participant may elect to continue his or her Health Insurance Benefits during the leave. If the Participant elects to continue coverage while on FMLA leave, then the Participant may pay his or her share of the Contributions in one of the following ways:

- with after-tax dollars, by sending monthly payments to the Employer by the due date established by the Employer;
- with pre-tax dollars, by having such amounts withheld from the Participant's ongoing Compensation (if any), including unused sick days and vacation days, or pre-paying all or a portion of the Contributions for the expected duration of the leave on a pre-tax Salary Reduction basis out of pre-leave Compensation. To pre-pay the Contributions, the Participant must make a special election to that effect prior to the date that such Compensation would normally be made available (pre-tax dollars may not be used to fund coverage during the next Plan Year); or
- under another arrangement agreed upon between the Participant and the Plan Administrator (e.g., the Plan Administrator

may fund coverage during the leave and withhold "catch-up" amounts from the Participant's Compensation on a pre-tax or after-tax basis) upon the Participant's return.

If the Employer requires all Participants to continue Health Insurance Benefits during an unpaid FMLA leave, then the Participant may elect to discontinue payment of the Participant's required Contributions until the Participant returns from leave. Upon returning from leave, the Participant will be required to repay the Contributions not paid by the Participant during the leave. Payment shall be withheld from the Participant's Compensation either on a pre-tax or after-tax basis, as agreed to by the Plan Administrator and the Participant.

If a Participant's Health Insurance Benefits coverage ceases while on FMLA leave (e.g., for non-payment of required contributions), then the Participant is permitted to re-enter the Medical Insurance Benefits upon return from such leave on the same basis as when the Participant was participating in the Plan prior to the leave, or as otherwise required by the FMLA. In addition, the Plan may require Participants whose Health Insurance Benefits coverage terminated during the leave to be reinstated in such coverage upon return from a period of unpaid leave, provided that Participants who return from a period of unpaid, non-FMLA leave are required to be reinstated in such coverage.

(b) Non-Health Benefits. If a Participant goes on a qualifying leave under the FMLA, then entitlement to non-health benefits is to be determined by the Employer's policy for providing such Benefits when the Participant is on non-FMLA leave, as described in Section 3.5. If such policy permits a Participant to discontinue contributions while on leave, then the Participant will, upon returning from leave, be required to repay the Contributions not paid by the Participant during the leave. Payment shall be withheld from the Participant's Compensation either on a pre-tax or after-tax basis, as may be agreed upon by the Plan Administrator and the Participant or as the Plan Administrator otherwise deems appropriate.

3.5 Non-FMLA Leaves of Absence If a Participant goes on an unpaid leave of absence that does not affect eligibility, then the Participant will continue to participate and the Contributions due for the Participant will be paid by pre-payment before going on leave, by after-tax contributions while on leave, or with catch-up contributions after the leave ends, as may be determined by the Plan Administrator. If a Participant goes on an unpaid leave that affects eligibility, then the election change rules detailed in Article IV will apply.

ARTICLE IV. Method and Timing of Elections; Irrevocability of Elections

4.1 Elections When First Eligible

An Employee who first becomes eligible to participate in the Plan mid-year may elect to commence participation in one or more Benefits on the first day of the month after the eligibility requirements have been satisfied, provided that an Election Form/Salary Reduction Agreement is submitted to the Plan Administrator before the first day of the month in which participation will commence. An Employee who does not elect benefits when first eligible may not enroll until the next Open Enrollment Period, unless an event occurs that would justify a mid-year election change, as described in Article IV.

The Employer reserves the right, within its discretion, to allow or require any or all of the election procedures detailed in this Article 4.1 to be performed electronically.

Benefits shall be subject to the additional requirements, if any, specified in the Medical Insurance Plan. The provisions of this Plan are not intended to override any exclusions, eligibility requirements, or waiting periods specified in any Insurance Plans.

4.2 Elections During Open Enrollment Period

During each Open Enrollment Period with respect to a Plan Year, the Plan Administrator shall provide an Election Form/Salary Reduction Agreement to each Employee who is eligible to participate in this Plan. The Election Form/Salary Reduction Agreement shall enable the Employee to elect to participate in the various Components of this Plan for the next Plan Year and to authorize the necessary Salary Reductions to pay for the Benefits elected. The Election Form/Salary Reduction Agreement must be returned to the Plan Administrator on or before the last day of the Open Enrollment Period, and it shall become effective on the first day of the next Plan Year. If an Eligible Employee fails to return the Election Form/Salary Reduction Agreement during the Open Enrollment Period, then the Employee may not elect any Benefits under this Plan until the next Open Enrollment Period, unless an event occurs that would justify a mid-year election change, as described in Article IV.

The Employer reserves the right, within its discretion, to allow or require any or all of the election procedures detailed in this Article 4.2 to be performed electronically.

4.3 Failure of Eligible Employee to File an Election Form/Salary Reduction Agreement

If an Eligible Employee fails to file an Election Form/Salary Reduction Agreement within the time period described in Sections 4.1 and 4.2, then the Employee may not elect any Benefits under the Plan (a) until the next Open Enrollment Period; or (b) until an event occurs that would justify a mid-year election change, as described in Article IV. If an Employee who fails to file an Election Form/Salary Reduction Agreement is eligible for Medical Insurance Benefits and has made an effective election for such Benefits, then the Employee's share of the Contributions for such Benefits will be paid with after-tax dollars outside of this Plan until such time as the Employee files, during a subsequent Open Enrollment Period (or after an event occurs that

would justify a mid-year election change as described in Article IV), a timely Election Form/Salary Reduction Agreement to elect Premium Payment Benefits. Until the Employee files such an election, the Employer's portion of the Contribution will also be paid outside of this Plan.

4.4 Irrevocability of Elections

Unless an exception applies (as described in this Article IV), a Participant's election under the Plan is irrevocable for the duration of the Period of Coverage to which it relates.

Unless otherwise noted in this section, a Participant's election under the Plan is irrevocable for the duration of the Period of Coverage to which it relates. In other words, unless an exception applies, the Participant may not change any elections for the duration of the Period of Coverage regarding:

- Participation in this Plan;
- Salary Reduction amounts; or
- election of particular Benefit Package Options.

4.5 Procedure for Making New Election If Exception to Irrevocability Applies

(a) Timeframe for Making New Election. A Participant (or an Eligible Employee who, when first eligible under Section 3.1 or during the Open Enrollment Period, declined to be a Participant) may make a new election within 30 days of the occurrence of an event described in Section 4.6 or 4.7, as applicable, but only if the election under the new Election Form/Salary Reduction Agreement is made on account of and is consistent with the event and if the election is made within any specified time period (e.g., for Sections 4.7(d) through 4.7(j), within 30 days after the events described in such Sections unless otherwise required by law). Notwithstanding the foregoing, a Change in Status (e.g., a divorce or a dependent's losing dependent status) that results in a beneficiary becoming ineligible for coverage under the Medical Insurance Plan shall automatically result in a corresponding election change, whether or not requested by the Participant within the normal 30-day period.

(b) Effective Date of New Election. Elections made pursuant to this Section 4.5 shall be effective for the balance of the Period of Coverage following the change of election unless a subsequent event allows for a further election change. Except as provided in Section 4.7(e) for HIPAA special enrollment rights in the event of birth, adoption, or placement for adoption, all election changes shall be effective on a prospective basis only (i.e., election changes will become effective no earlier than the first day of the next calendar month following the date that the election change was filed, but, as determined by the Plan Administrator, election changes may become effective later to the extent that the coverage in the applicable Benefit Package Option commences later).

4.6 Change in Status Defined

Participant may make a new election upon the occurrence of certain events as described in Section 4.7, including a Change in Status, for the applicable Component. "Change in Status" means any of the events described below, as well as any other events included under subsequent changes to Code § 125 or regulations issued thereunder, which the Plan Administrator, in its sole discretion and on a uniform and consistent basis, determines are permitted under IRS regulations and under this Plan:

(a) Legal Marital Status. A change in a Participant's legal marital status, including marriage, death of a Spouse, divorce, legal separation, or annulment;

(b) Number of Dependents. Events that change a Participant's number of Dependents, including birth, death, adoption, and placement for adoption;

(c) Employment Status. Any of the following events that change the employment status of the Participant or his or her Spouse or Dependents: (1) a termination or commencement of employment; (2) a strike or lockout; (3) a commencement of or return from an unpaid leave of absence; (4) a change in worksite; and (5) if the eligibility conditions of this Plan or other employee benefits plan of the Participant or his or her Spouse or Dependents depend on the employment status of that individual and there is a change in that individual's status with the consequence that the individual becomes (or ceases to be) eligible under this Plan or other employee benefits plan, such as if a plan only applies to salaried employees and an employee switches from salaried to hourly-paid, union to non-union, or full-time to part-time (or vice versa), with the consequence that the employee ceases to be eligible for the Plan;

(d) Dependent Eligibility Requirements. An event that causes a Dependent to satisfy or cease to satisfy the Dependent eligibility requirements for a particular benefit, such as attaining a specified age, or any similar circumstance; and

(e) Change in Residence. A change in the place of residence of the Participant or his or her Spouse or Dependents.

4.7 Events Permitting Exception to Irrevocability Rule

A Participant may change an election as described below upon the occurrence of the stated events for the applicable

Component of this Plan:

(a) *Open Enrollment Period.* A Participant may change an election during the Open Enrollment Period.

(b) *Termination of Employment.* A Participant's election will terminate under the Plan upon termination of employment in accordance with Sections 3.2 and 3.3, as applicable.

(c) *Leaves of Absence.* A Participant may change an election under the Plan upon FMLA leave in accordance with Section 3.4 and upon non-FMLA leave in accordance with Section 3.5.

(d) *Change in Status.* A Participant may change his or her actual or deemed election under the Plan upon the occurrence of a Change in Status (as defined in Section 4.6), but only if such election change is made on account of and corresponds with a Change in Status that affects eligibility for coverage under a plan of the Employer or a plan of the Spouse's or Dependent's employer (referred to as the general consistency requirement). A Change in Status that affects eligibility for coverage under a plan of the Employer or a plan of the Spouse's or Dependent's employer includes a Change in Status that results in an increase or decrease in the number of an Employee's family members (i.e., a Spouse and/or Dependents) who may benefit from the coverage.

(1) *Loss of Spouse or Dependent Eligibility; Special COBRA Rules.* For a Change in Status involving a Participant's divorce, annulment or legal separation from a Spouse, the death of a Spouse or a Dependent, or a Dependent's ceasing to satisfy the eligibility requirements for coverage, a Participant may only elect to cancel accident or health insurance coverage for (a) the Spouse involved in the divorce, annulment, or legal separation; (b) the deceased Spouse or Dependent; or (c) the Dependent that ceased to satisfy the eligibility requirements. Canceling coverage for any other individual under these circumstances would fail to correspond with that Change in Status. Notwithstanding the foregoing, if the Participant or his or her Spouse or Dependent becomes eligible for COBRA (or similar health plan continuation coverage under state law) under the Employer's plan (and the Participant remains a Participant under this Plan in accordance with Section 3.2), then the Participant may increase his or her election to pay for such coverage (this rule does not apply to a Participant's Spouse who becomes eligible for COBRA or similar coverage as a result of divorce, annulment, or legal separation).

(2) *Gain of Coverage Eligibility Under Another Employer's Plan.* For a Change in Status in which a Participant or his or her Spouse or Dependent gains eligibility for coverage under a cafeteria plan or qualified benefit plan of the employer of the Participant's Spouse or Dependent as a result of a change in marital status or a change in employment status, a Participant may elect to cease or decrease coverage for that individual only if coverage for that individual becomes effective or is increased under the Spouse's or Dependent's employer's plan. The Plan Administrator may rely on a Participant's certification that the Participant has obtained or will obtain coverage under the Spouse's or Dependent's employer's plan, unless the Plan Administrator has reason to believe that the Participant's certification is incorrect.

(e) *HIPAA Special Enrollment Rights.* If a Participant or his or her Spouse or Dependent is entitled to special enrollment rights under a group health plan (other than an excepted benefit), as required by HIPAA under Code § 9801(f), then a Participant may revoke a prior election for group health plan coverage and make a new election (including, when required by HIPAA, an election to enroll in another benefit package under a group health plan), provided that the election change corresponds with such HIPAA special enrollment right. As required by HIPAA, a special enrollment right will arise in the following circumstances:

- a Participant or his or her Spouse or Dependent declined to enroll in group health plan coverage because he or she had coverage, and eligibility for such coverage is subsequently lost because: (1) the coverage was provided under COBRA and the COBRA coverage was exhausted; or (2) the coverage was non-COBRA coverage and the coverage terminated due to loss of eligibility for coverage or the employer contributions for the coverage were terminated; or

- a new Dependent is acquired as a result of marriage, birth, adoption, or placement for adoption.

An election to add previously eligible Dependents as a result of the acquisition of a new Spouse or Dependent child shall be considered to be consistent with the special enrollment right. An election change on account of a HIPAA special enrollment attributable to the birth, adoption, or placement for adoption of a new Dependent child may, subject to the provisions of the underlying group health plan, be effective retroactively (up to 30 days).

For purposes of this Section 4.7(e), the term "loss of eligibility" includes (but is not limited to) loss of eligibility due to legal separation, divorce, cessation of dependent status, death of an employee, termination of employment, reduction of hours, or any loss of eligibility for coverage that is measured with reference to any of the foregoing; loss of coverage offered through an HMO that does not provide benefits to individuals who do not reside, live, or work in the service area because an individual no longer resides, lives, or works in the service area (whether or not within the choice of the individual), and in the case of HMO coverage in the group market, no other benefit package is available to the individual; a situation in which an individual incurs a claim that would meet or exceed a lifetime limit on all benefits; and a situation in which a plan no longer offers any benefits to the class of similarly situated individuals that includes the individual.

(f) *Certain Judgments, Decrees and Orders.* If a judgment, decree, or order (collectively, an "Order") resulting from a divorce, legal separation, annulment, or change in legal custody (including a QMCSO) requires accident or health coverage (including an election for Health FSA Benefits) for a Participant's child (including a foster child who is a Dependent of the Participant),

then a Participant may (1) change his or her election to provide coverage for the child (provided that the Order requires the Participant to provide coverage); or (2) change his or her election to revoke coverage for the child if the Order requires that another individual (including the Participant's Spouse or former Spouse) provide coverage under that individual's plan and such coverage is actually provided.

(g) Medicare and Medicaid. If a Participant or his or her Spouse or Dependent who is enrolled in a health or accident plan under this Plan becomes entitled to (i.e., becomes enrolled in) Medicare or Medicaid (other than coverage consisting solely of benefits under Section 1928 of the Social Security Act providing for pediatric vaccines), then the Participant may prospectively reduce or cancel the health or accident coverage of the person becoming entitled to Medicare or Medicaid. Furthermore, if a Participant or his or her Spouse or Dependent who has been entitled to Medicare or Medicaid loses eligibility for such coverage, then the Participant may prospectively elect to commence or increase the accident or health coverage of the individual who loses Medicare or Medicaid eligibility.

(h) Change in Cost. For purposes of this Section 4.7(h), "similar coverage" means coverage for the same category of benefits for the same individuals (e.g., family to family or single to single). For example, two plans that provide major medical coverage are considered to be similar coverage.

(1) Increase or Decrease for Insignificant Cost Changes. Participants are required to increase their elective contributions (by increasing Salary Reductions) to reflect insignificant increases in their required contribution for their Benefit Package Option(s), and to decrease their elective contributions to reflect insignificant decreases in their required contribution. The Plan Administrator, in its sole discretion and on a uniform and consistent basis, will determine whether an increase or decrease is insignificant based upon all the surrounding facts and circumstances, including but not limited to the dollar amount or percentage of the cost change. The Plan Administrator, on a reasonable and consistent basis, will automatically effectuate this increase or decrease in affected employees' elective contributions on a prospective basis.

(2) Significant Cost Increases. If the Plan Administrator determines that the cost charged to an Employee of a Participant's Benefit Package Option(s) significantly increases during a Period of Coverage, then the Participant may (a) make a corresponding prospective increase in his or her elective contributions (by increasing Salary Reductions); (b) revoke his or her election for that coverage, and in lieu thereof, receive on a prospective basis coverage under another Benefit Package Option that provides similar coverage; or (c) drop coverage prospectively if there is no other Benefit Package Option available that provides similar coverage. The Plan Administrator, in its sole discretion and on a uniform and consistent basis, will decide whether a cost increase is significant in accordance with prevailing IRS guidance.

(3) Significant Cost Decreases. If the Plan Administrator determines that the cost of any Benefit Package Option significantly decreases during a Period of Coverage, then the Plan Administrator may permit the following election changes: (a) Participants enrolled in that Benefit Package Option may make a corresponding prospective decrease in their elective contributions (by decreasing Salary Reductions); (b) Participants who are enrolled in another Benefit Package Option may change their election on a prospective basis to elect the Benefit Package Option that has decreased in cost Medical Insurance Plan); or (c) Employees who are otherwise eligible under Section 3.1 may elect the Benefit Package Option that has decreased in cost on a prospective basis, subject to the terms and limitations of the Benefit Package Option. The Plan Administrator, in its sole discretion and on a uniform and consistent basis, will decide whether a cost decrease is significant in accordance with prevailing IRS guidance.

(i) Change in Coverage. The definition of "similar coverage" under Section 12.4(h) applies also to this Section 12.4(i).

(1) Significant Curtailment. If coverage is "significantly curtailed" (as defined below), Participants may elect coverage under another Benefit Package Option that provides similar coverage. In addition, as set forth below, if the coverage curtailment results in a "Loss of Coverage" (as defined below), then Participants may drop coverage if no similar coverage is offered by the Employer. The Plan Administrator in its sole discretion, on a uniform and consistent basis, will decide, in accordance with prevailing IRS guidance, whether a curtailment is "significant," and whether a Loss of Coverage has occurred.

(a) Significant Curtailment Without Loss of Coverage. If the Plan Administrator determines that a Participant's coverage under a Benefit Package Option under this Plan (or the Participant's Spouse's or Dependent's coverage under his or her employer's plan) is significantly curtailed without a Loss of Coverage (for example, when there is a significant increase in the deductible, the co-pay, or the out-of-pocket cost-sharing limit under an accident or health plan during a Period of Coverage, the Participant may revoke his or her election for the affected coverage, and in lieu thereof, prospectively elect coverage under another Benefit Package Option that provides similar coverage. Coverage under a plan is deemed to be "significantly curtailed" only if there is an overall reduction in coverage provided under the plan so as to constitute reduced coverage generally.

(b) Significant Curtailment With a Loss of Coverage. If the Plan Administrator determines that a Participant's Benefit Package Option coverage under this Plan (or the Participant's Spouse's or Dependent's coverage under his or her employer's plan) is significantly curtailed, and if such curtailment results in a Loss of Coverage during a Period of Coverage, then the Participant may revoke his or her election for the affected coverage and may either prospectively elect coverage under another Benefit Package Option that provides similar coverage or drop coverage if no other Benefit Package Option providing similar coverage is offered by the Employer.

(c) Definition of Loss of Coverage. For purposes of this Section 4.7(i)(1), a "Loss of Coverage" means a complete loss of

coverage (including the elimination of a Benefit Package Option, an HMO ceasing to be available where the Participant or his or her Spouse or Dependent resides, or a Participant or his or her Spouse or Dependent losing all coverage under the Benefit Package Option by reason of an overall lifetime or annual limitation). In addition, the Plan Administrator, in its sole discretion, on a uniform and consistent basis, may treat the following as a Loss of Coverage:

- a substantial decrease in the medical care providers available under the Benefit Package Option (such as a major hospital ceasing to be a member of a preferred provider network or a substantial decrease in the number of physicians participating in the PPO for the Medical Insurance Plan or in an HMO);
- a reduction in benefits for a specific type of medical condition or treatment with respect to which the Participant or his or her Spouse or Dependent is currently in a course of treatment; or
- any other similar fundamental loss of coverage.

(2) Addition or Significant Improvement of a Benefit Package Option. If during a Period of Coverage the Plan adds a new Benefit Package Option or significantly improves an existing Benefit Package Option, the Plan Administrator may permit the following election changes: (a) Participants who are enrolled in a Benefit Package Option other than the newly added or significantly improved Benefit Package Option may change their elections on a prospective basis to elect the newly added or significantly improved Benefit Package Option; and (b) Employees who are otherwise eligible under Section 3.1 may elect the newly added or significantly improved Benefit Package Option on a prospective basis, subject to the terms and limitations of the Benefit Package Option. The Plan Administrator, in its sole discretion and on a uniform and consistent basis, will decide whether there has been an addition of, or a significant improvement in, a Benefit Package Option in accordance with prevailing IRS guidance.

(3) Loss of Coverage Under Other Group Health Coverage. A Participant may prospectively change his or her election to add group health coverage for the Participant or his or her Spouse or Dependent, if such individual(s) loses coverage under any group health coverage sponsored by a governmental or educational institution, including (but not limited to) the following: a state children's health insurance program (SCHIP) under Title XXI of the Social Security Act; a medical care program of an Indian Tribal government (as defined in Code § 7701(a)(40)), the Indian Health Service, or a tribal organization; a state health benefits risk pool; or a foreign government group health plan, subject to the terms and limitations of the applicable Benefit Package Option(s).

(4) Change in Coverage Under Another Employer Plan. A Participant may make a prospective election change that is on account of and corresponds with a change made under an employer plan (including a plan of the Employer or a plan of the Spouse's or Dependent's employer), so long as (a) the other cafeteria plan or qualified benefits plan permits its participants to make an election change that would be permitted under applicable IRS regulations; or (b) the Plan permits Participants to make an election for a Period of Coverage that is different from the plan year under the other cafeteria plan or qualified benefits plan. For example, if an election is made by the Participant's Spouse during his or her employer's open enrollment to drop coverage, the Participant may add coverage to replace the dropped coverage. The Plan Administrator, in its sole discretion and on a uniform and consistent basis, will decide whether a requested change is on account of and corresponds with a change made under the other employer plan, in accordance with prevailing IRS guidance. A Participant entitled to change an election as described in this Section 4.7 must do so in accordance with the procedures described in Section 4.5.

(j) Revocation Due to Reduction in Hours

A Participant may revoke his or her Major Medical coverage, along with that of any related individuals, if the Participant experiences a reduction of hours such that he or she will be reasonably expected to work fewer than 30 hours a week on a regular basis and the Participant intends to enroll, along with any such related individuals, in another plan no later than the first day of the second full month following the revocation.

(k) Revocation of Coverage for Purposes of Enrolling in Marketplace Coverage

A Participant may revoke his or her Major Medical coverage if he or she is seeking to enroll, along with any related individuals who cease coverage due to such revocation, in Marketplace coverage (either during the Marketplace's annual open enrollment period or during a special enrollment period) immediately after the revoked coverage ends.

(l) CHIP Special Enrollment Rights

Notwithstanding anything else in this document to the contrary, special enrollment rights shall be made available as a result of a loss of eligibility for Medicaid or for coverage under a state children's health insurance program (SCHIP) or as a result of eligibility for a state premium assistance subsidy under the plan from Medicaid or SCHIP.

4.8 *Reserved*****

4.9 Election Modifications Required by Plan Administrator

The Plan Administrator may, at any time, require any Participant or class of Participants to amend the amount of their Salary Reductions for a Period of Coverage if the Plan Administrator determines that such action is necessary or advisable in order

to (a) satisfy any of the Code's nondiscrimination requirements applicable to this Plan or other cafeteria plan; (b) prevent any Employee or class of Employees from having to recognize more income for federal income tax purposes from the receipt of benefits hereunder than would otherwise be recognized; (c) maintain the qualified status of benefits received under this Plan; or (d) satisfy Code nondiscrimination requirements or other limitations applicable to the Employer's qualified plans. In the event that contributions need to be reduced for a class of Participants, the Plan Administrator will reduce the Salary Reduction amounts for each affected Participant, beginning with the Participant in the class who had elected the highest Salary Reduction amount and continuing with the Participant in the class who had elected the next-highest Salary Reduction amount, and so forth, until the defect is corrected.

ARTICLE V. Benefits Offered and Method of Funding

5.1 Benefits Offered

When first eligible or during the Open Enrollment Period as described under Article IV, Participants will be given the opportunity to elect Premium Payment Benefits, as described in Article VI.

5.2 Employer and Participant Contributions

(a) Employer Contributions. For Participants who elect Insurance Benefits described in Article VI, the Employer may contribute a portion of the Contributions as provided in the open enrollment materials furnished to Employees and/or on the Election Form/Salary Reduction Agreement.

(b) Participant Contributions. Participants who elect any of the Medical Insurance Benefits described in Article VI may pay for the cost of that coverage on a pre-tax Salary Reduction basis, or with after-tax deductions, by completing an Election Form/Salary Reduction Agreement.

5.3 Using Salary Reductions to Make Contributions

(a) Salary Reductions per Pay Period. The Salary Reduction for a pay period for a Participant is, for the Benefits elected, (1) an amount equal to the annual Contributions for such Benefits (as described in Section 6.2 for Premium Payment Benefits; (2) an amount otherwise agreed upon between the Employer and the Participant; or (3) an amount deemed appropriate by the Plan Administrator (i.e., in the event of shortage in reducible Compensation, amounts withheld and the Benefits to which Salary Reductions are applied may fluctuate).

(b) Considered Employer Contributions for Certain Purposes. Salary Reductions are applied by the Employer to pay for the Participant's share of the Contributions for the Premium Payment Benefits are considered to be Employer contributions.

(c) Salary Reduction Balance Upon Termination of Coverage. If, as of the date that any elected coverage under this Plan terminates, a Participant's year-to-date Salary Reductions exceed or are less than the Participant's required Contributions for the coverage, then the Employer will, as applicable, either return the excess to the Participant as additional taxable wages or recoup the due Salary Reduction amounts from any remaining Compensation.

(d) After-Tax Contributions for Premium Payment Benefits. For those Participants who elect to pay their share of the Contributions for any of the Medical Insurance Benefits with after-tax deductions, both the Employee and Employer portions of such Contributions will be paid outside of this Plan.

5.4 Funding This Plan

All of the amounts payable under this Plan shall be paid from the general assets of the Employer, but Premium Payment Benefits are paid as provided in the applicable insurance policy. Nothing herein will be construed to require the Employer or the Plan Administrator to maintain any fund or to segregate any amount for the benefit of any Participant, and no Participant or other person shall have any claim against, right to, or security or other interest in any fund, account, or asset of the Employer from which any payment under this Plan may be made. There is no trust or other fund from which Benefits are paid. While the Employer has complete responsibility for the payment of Benefits out of its general assets (except for Premium Payment Benefits paid as provided in the applicable insurance policy), it may hire an unrelated third-party paying agent to make Benefit payments on its behalf. The maximum contribution that may be made under this Plan for a Participant is the total of the maximums that may be elected as Employer and Participant Contributions for Premium Payment Benefits, as described in Section 6.2.

ARTICLE VI. Premium Payment Component

6.1 Benefits

The only Insurance Benefits that are offered under the Premium Payment Component are benefits under the Medical, Dental, Vision, Accident, Accidental Death & Dismemberment, Bridge, Disability, Group Term Life, Hospital Indemnity, Specific Disease or Condition Insurance Plan(s). Notwithstanding any other provision in these Plan(s), these benefits are subject to the terms and conditions of the Insurance Plan(s), and no changes can be made with respect to such Insurance Benefits under this Plan (such as mid-year changes in election) if such changes are not permitted under the applicable Insurance

Plan. An Eligible Employee can (a) elect benefits under the Premium Payment Component by electing to pay for his or her share of the Contributions for Medical Insurance Benefits on a pretax Salary Reduction basis (Premium Payment Benefits); or (b) elect no benefits under the Premium Payment Component and to pay for his or her share of the Contributions, if any, for Medical Insurance Benefits with after-tax deductions outside of this Plan. Unless an exception applies (as described in Article IV), such election is irrevocable for the duration of the Period of Coverage to which it relates.

The Employer may at its discretion offer cash in lieu of benefits for Participants who do not choose Insurance Benefits.

6.2 Contributions for Cost of Coverage

The annual Contribution for a Participant's Premium Payment Benefits is equal to the amount as set by the Employer, which may or may not be the same amount charged by the insurance carrier.

6.3 Insurance Benefits Provided Under Insurance Plans

Insurance Benefits will be provided by the Insurance Plans, not this Plan. The types and amounts of Insurance Benefits, the requirements for participating in the Insurance Plans, and the other terms and conditions of coverage and benefits of the Insurance Plans are set forth in the Insurance Plans. All claims to receive benefits under the Insurance Plans shall be subject to and governed by the terms and conditions of the Insurance Plans and the rules, regulations, policies, and procedures adopted in accordance therewith, as may be amended from time to time.

6.4 Health Insurance Benefits; COBRA

Notwithstanding any provision to the contrary in this Plan, to the extent required by COBRA, a Participant and his or her Spouse and Dependents, as applicable, whose coverage terminates under the Health Insurance Benefits because of a COBRA qualifying event (and who is a qualified beneficiary as defined under COBRA), shall be given the opportunity to continue on a self-pay basis the same coverage that he or she had under the Health Insurance Plan(s) the day before the qualifying event for the periods prescribed by COBRA.

Such continuation coverage shall be subject to all conditions and limitations under COBRA. Contributions for COBRA coverage for Health Insurance Benefits may be paid on a pre-tax basis for current Employees receiving taxable compensation (as may be permitted by the Plan Administrator on a uniform and consistent basis, but may not be prepaid from contributions in one Plan Year to provide coverage that extends into a subsequent Plan Year) where COBRA coverage arises either (a) because the Employee ceases to be eligible because of a reduction in hours; or (b) because the Employee's Dependent ceases to satisfy the eligibility requirements for coverage. For all other individuals (e.g., Employees who cease to be eligible because of retirement, termination of employment, or layoff), Contributions for COBRA coverage for Health Insurance Benefits shall be paid on an after-tax basis (unless may be otherwise permitted by the Plan Administrator on a uniform and consistent basis, but may not be prepaid from contributions in one Plan Year to provide coverage that extends into a subsequent Plan Year).

ARTICLES VII. - XII. *RESERVED*****

ARTICLE XIII. Appeals Procedure

13.1 Procedure If Benefits Are Denied Under This Plan

If a claim for reimbursement under this Plan is wholly or partially denied, then claims shall be administered in accordance with the claims procedure set forth in the summary plan description for this Plan. The Committee acts on behalf of the Plan Administrator with respect to appeals.

13.2 Claims Procedures for Insurance Benefits

Claims and reimbursement for Insurance Benefits shall be administered in accordance with the claims procedures for the Insurance Benefits, as set forth in the plan documents and/or summary plan description(s) for the Insurance Plan(s).

ARTICLE XIV. Recordkeeping and Administration

14.1 Plan Administrator

The administration of this Plan shall be under the supervision of the Plan Administrator. It is the principal duty of the Plan Administrator to see that this Plan is carried out, in accordance with its terms, for the exclusive benefit of persons entitled to participate in this Plan without discrimination among them.

14.2 Powers of the Plan Administrator

The Plan Administrator shall have such duties and powers as it considers necessary or appropriate to discharge its duties. It shall have the exclusive right to interpret the Plan and to decide all matters thereunder, and all determinations of the Plan Administrator with respect to any matter hereunder shall be conclusive and binding on all persons. Without limiting the

generality of the foregoing, the Plan Administrator shall have the following discretionary authority:

- (a) to construe and interpret this Plan, including all possible ambiguities, inconsistencies, and omissions in the Plan and related documents, and to decide all questions of fact, questions relating to eligibility and participation, and questions of benefits under this Plan (provided that, notwithstanding the first paragraph in this Section 14.2, the Committee shall exercise such exclusive power with respect to an appeal of a claim under Section 13.1);
- (b) to prescribe procedures to be followed and the forms to be used by Employees and Participants to make elections pursuant to this Plan;
- (c) to prepare and distribute information explaining this Plan and the benefits under this Plan in such manner as the Plan Administrator determines to be appropriate;
- (d) to request and receive from all Employees and Participants such information as the Plan Administrator shall from time to time determine to be necessary for the proper administration of this Plan;
- (e) to furnish each Employee and Participant with such reports with respect to the administration of this Plan as the Plan Administrator determines to be reasonable and appropriate, including appropriate statements setting forth the amounts by which a Participant's Compensation has been reduced in order to provide benefits under this Plan;
- (f) to receive, review, and keep on file such reports and information regarding the benefits covered by this Plan as the Plan Administrator determines from time to time to be necessary and proper;
- (g) to appoint and employ such individuals or entities to assist in the administration of this Plan as it determines to be necessary or advisable, including legal counsel and benefit consultants;
- (h) to sign documents for the purposes of administering this Plan, or to designate an individual or individuals to sign documents for the purposes of administering this Plan;
- (i) to secure independent medical or other advice and require such evidence as it deems necessary to decide any claim or appeal; and
- (j) to maintain the books of accounts, records, and other data in the manner necessary for proper administration of this Plan and to meet any applicable disclosure and reporting requirements.

14.3 Reliance on Participant, Tables, etc.

The Plan Administrator may rely upon the direction, information, or election of a Participant as being proper under the Plan and shall not be responsible for any act or failure to act because of a direction or lack of direction by a Participant. The Plan Administrator will also be entitled, to the extent permitted by law, to rely conclusively on all tables, valuations, certificates, opinions, and reports that are furnished by accountants, attorneys, or other experts employed or engaged by the Plan Administrator.

14.4 *Reserved*****

14.5 Fiduciary Liability

To the extent permitted by law, the Plan Administrator shall not incur any liability for any acts or for failure to act except for their own willful misconduct or willful breach of this Plan.

14.6 Compensation of Plan Administrator

Unless otherwise determined by the Employer and permitted by law, any Plan Administrator that is also an Employee of the Employer shall serve without compensation for services rendered in such capacity, but all reasonable expenses incurred in the performance of their duties shall be paid by the Employer.

14.7 Bonding

The Plan Administrator shall be bonded to the extent required by ERISA.

14.8 Insurance Contracts

The Employer shall have the right (a) to enter into a contract with one or more insurance companies for the purposes of providing any benefits under the Plan; and (b) to replace any of such insurance companies or contracts at its discretion. Any dividends, retroactive rate adjustments, or other refunds of any type that may become payable under any such insurance contract shall not be assets of the Plan but shall be the property of and be retained by the Employer, to the extent that such amounts are less than aggregate Employer contributions toward such insurance.

14.9 Inability to Locate Payee

If the Plan Administrator is unable to make payment to any Participant or other person to whom a payment is due under the Plan because it cannot ascertain the identity or whereabouts of such Participant or other person after reasonable efforts have been made to identify or locate such person, then such payment and all subsequent payments otherwise due to such Participant or other person shall be forfeited following a reasonable time after the date any such payment first became due.

14.10 Effect of Mistake

In the event of a mistake as to the eligibility or participation of an Employee, the allocations made to the account of any Participant, or the amount of benefits paid or to be paid to a Participant or other person, the Plan Administrator shall, to the extent that it deems administratively possible and otherwise permissible under Code § 125 or the regulations issued thereunder, cause to be allocated or cause to be withheld or accelerated, or otherwise make adjustment of, such amounts as it will in its judgment accord to such Participant or other person the credits to the account or distributions to which he or she is properly entitled under the Plan. Such action by the Plan Administrator may include withholding of any amounts due to the Plan or the Employer from Compensation paid by the Employer.

ARTICLE XV. General Provisions

15.1 *Reserved*****

15.2 No Contract of Employment

Nothing herein contained is intended to be or shall be construed as constituting a contract or other arrangement between any Employee and the Employer to the effect that such Employee will be employed for any specific period of time. All Employees are considered to be employed at the will of the Employer.

15.3 Amendment and Termination

This Plan has been established with the intent of being maintained for an indefinite period of time. Nonetheless, the Employer may amend or terminate all or any part of this Plan at any time for any reason and any such amendment or termination will automatically apply to the Related Employers that are participating in this Plan.

15.4 Governing Law

This Plan shall be construed, administered, and enforced according to the laws of TX, to the extent not superseded by the Code, ERISA, or any other federal law.

15.5 Code and ERISA Compliance

It is intended that this Plan meet all applicable requirements of the Code, ERISA (if ERISA is applicable) and of all regulations issued thereunder. This Plan shall be construed, operated, and administered accordingly, and in the event of any conflict between any part, clause, or provision of this Plan and the Code and/or ERISA (if ERISA is applicable), the provisions of the Code and ERISA (if ERISA is applicable) shall be deemed controlling, and any conflicting part, clause, or provision of this Plan shall be deemed superseded to the extent of the conflict.

15.6 No Guarantee of Tax Consequences

Neither the Plan Administrator nor the Employer makes any commitment or guarantee that any amounts paid to or for the benefit of a Participant under this Plan will be excludable from the Participant's gross income for federal, state, or local income tax purposes. It shall be the obligation of each Participant to determine whether each payment under this Plan is excludable from the Participant's gross income for federal, state, and local income tax purposes and to notify the Plan Administrator if the Participant has any reason to believe that such payment is not so excludable.

15.7 Indemnification of Employer

If any Participant receives one or more payments or reimbursements under this Plan on a tax-free basis and if such payments do not qualify for such treatment under the Code, then such Participant shall indemnify and reimburse the Employer for any liability that it may incur for failure to withhold federal income taxes, Social Security taxes, or other taxes from such payments or reimbursements.

15.8 Non-Assignability of Rights

The right of any Participant to receive any reimbursement under this Plan shall not be alienable by the Participant by assignment or any other method and shall not be subject to claims by the Participant's creditors by any process whatsoever. Any attempt to cause such right to be so subjected will not be recognized, except to the extent required by law.

15.9 Headings

The headings of the various Articles and Sections are inserted for convenience of reference and are not to be regarded as part of this Plan or as indicating or controlling the meaning or construction of any provision.

15.10 Plan Provisions Controlling

In the event that the terms or provisions of any summary or description of this Plan are in any construction interpreted as being in conflict with the provisions of this Plan as set forth in this document, the provisions of this Plan shall be controlling.

15.11 Severability

Should any part of this Plan subsequently be invalidated by a court of competent jurisdiction, the remainder of the Plan shall be given effect to the maximum extent possible.

IN WITNESS WHEREOF, and as conclusive evidence of the adoption of the foregoing instrument comprising the CITY OF KIRBY Salary Reduction Plan, CITY OF KIRBY has caused this Plan to be executed in its name and on its behalf, on this ____ day of _____, 20____.

CITY OF KIRBY

By: _____
Its: _____

THE CITY OF KIRBY CAFETERIA PLAN

SUMMARY PLAN DESCRIPTION

Introduction

CITY OF KIRBY sponsors the CITY OF KIRBY Cafeteria Plan (the "Cafeteria Plan") that allows eligible Employees to choose from a menu of different benefits paid for with pre-tax dollars. (Such plans are also commonly known as "salary reduction plans" or "Section 125 plans").

This Summary Plan Description ("SPD") describes the basic features of the Cafeteria Plan, how it generally operates and how Employees can gain the maximum advantage from it.

PLEASE NOTE: This SPD is for general informational purposes only. It does not describe every detail of the Cafeteria Plan. If there is a conflict between the Cafeteria Plan documents and this SPD, then the Cafeteria Plan documents will control.

Cafeteria Plan

CAF Q-1. How do I pay for CITY OF KIRBY benefits on a pre-tax basis?

You may elect to pay for benefits on a pre-tax basis by entering an election with the Employer. At the Employer's option, this may be done with a traditional "paper" salary reduction agreement or it may be done in electronic form. Whatever medium is used, it shall be referred to as a Salary Reduction Agreement for purposes of this SPD.

If you elect to pay for benefits on a pre-tax basis, you agree to a salary reduction to pay for your share of the cost of coverage with pretax funds instead of receiving a corresponding amount of your regular pay that would otherwise be subject to taxes.

Example CAF Q-1(a): Sally is paid an annual salary of \$30,000. Sally elects to pay for \$2,000 worth of benefits for the Plan Year on a pre-tax basis. By doing so, she is electing to reduce her salary, and therefore also her taxable income, by \$2,000 for the year to \$28,000.

From then on, you must pay contributions for such coverage by having that portion deducted from each paycheck on a pre-tax basis (generally an equal portion from each paycheck, or an amount otherwise agreed to or as deemed appropriate by the Plan Administrator).

Example CAF Q-1(b): Using the same facts from Example Q-1(a), suppose Sally is paid 26 times a year (bi-weekly). Because she has elected \$2,000 in benefits, she will have \$76.92 deducted from each paycheck for the year (\$2,000 divided by 26 paychecks equals \$76.92).

CAF Q-2. What benefits may be elected under the Cafeteria Plan?

The Cafeteria Plan includes the following benefit plans:

The Premium Payment Component permits an Employee to pay for his or her share of contributions for insurance plans with pretax dollars. Under the CITY OF KIRBY Cafeteria Plan, these benefits may include:

- * Accident
- * Accidental Death & Dismemberment
- * Bridge
- * Dental
- * Disability
- * Group Term Life
- * Hospital Indemnity
- * Specific Disease or Condition
- * Medical
- * Vision

If you select any or all of these benefits, you will likely pay all or some of the contributions; the Employer may contribute some or no portion of them. The applicable amounts will be described in documents furnished separately to you as necessary from time to time.

The Employer may at its own discretion offer cash in lieu of benefits for participants who do not choose benefits. If the Employer does choose this option, participants will be informed through other communications.

CAF Q-3. Who can participate in the Cafeteria Plan?

Employees who are working 30 hours per week or more are eligible to participate in the Cafeteria Plan following 60 days of employment with the Employer, provided that the election procedures in CAF Q-5 are followed.

An "Employee" is any individual who the Employer classifies as a common-law employee and who is on the Employer's W-2 payroll.

Please note: "Employee" does not include the following:

(a) any leased employee (including but not limited to those individuals defined as leased employees in Code § 414(n)) or an individual classified by the Employer as a contract worker, independent contractor, temporary employee, or casual employee for the period during which such individual is so classified, whether or not any such individual is on the Employer's W-2 payroll or is determined by the IRS or others to be a common-law employee of the Employer;

(b) any individual who performs services for the Employer but who is paid by a temporary or other employment or staffing agency for the period during which such individual is paid by such agency, whether or not such individual is determined by the IRS or others to be a common-law employee of the Employer;

(c) ***RESERVED***;

(d) any individual considered "self-employed" by the IRS because of an ownership interest in CITY OF KIRBY;

CAF Q-4. What tax savings are possible under the Cafeteria Plan?

You may save both federal income tax and FICA (Social Security/Medicare) taxes by participating in the CITY OF KIRBY Cafeteria Plan.

Example CAF Q4(a): Suppose Sally pays 15% in federal income taxes for the year. With an annual salary of \$30,000, that could mean as much as \$4,500 in federal income taxes, plus \$2,295 in FICA taxes (calculated at 7.65% of income). But by electing \$2,000 of cafeteria plan benefits for the year, Sally lowers her income by \$2,000, meaning she is only taxed on \$28,000. This comes out to \$4,200 in income tax plus \$2,142 in FICA tax. That's a \$453 tax savings for the year.

(Caution: This example is intended to illustrate the general effect of "pre-taxing" benefits through a cafeteria plan. It does not take into account the effects of filing status, tax exemptions, tax deductions and other factors affecting tax liability. Furthermore, the amount of the contributions used in this example is not meant to reflect your actual contributions. It is also not intended to reflect specifically upon your particular tax situation. You are encouraged to consult with your accountant or other professional tax advisor with regard to your particular tax situation, especially with regard to state and local taxes.)

CAF Q-5. When does participation begin and end in the Cafeteria Plan?

After you satisfy the eligibility requirements, you can become a Participant on the first day of the next calendar month by electing benefits in a manner such as described in CAF Q-1. An eligible Employee who does not elect benefits will not be able to elect any benefits under the Cafeteria Plan until the next Open Enrollment Period (unless a "Change in Election Event" occurs, as explained in CAF Q-7).

An Employee continues to participate in the Cafeteria Plan until (a) termination of the Cafeteria Plan; or (b) the date on which the Participant ceases to be an eligible Employee (because of retirement, termination of employment, layoff, reduction of hours, or any other reason). However, for purposes of pre-taxing COBRA coverage for Health Insurance Benefits, certain Employees may be able to continue eligibility in the Cafeteria Plan for certain periods. See CAF Q-8 and CAF Q-12 for more information about this as information about how termination of participation affects your Benefits.

CAF Q-6. What is meant by "Open Enrollment Period" and "Plan Year"?

The "Open Enrollment Period" is the period during which you have an opportunity to participate under the Cafeteria Plan by electing to do so. (See Q-5.) You will be notified of the timing and duration of the Open Enrollment Period, which for any new Plan Year generally will occur during the quarter preceding the new Plan Year.

The Plan Year for the CITY OF KIRBY Cafeteria Plan is the period beginning on 10/1/2022 and ending on 9/30/2023.

CAF Q-7. Can I change my elections under the Cafeteria Plan during the Plan Year?

Except in the case of HSA elections, you generally cannot change your election to participate in the Cafeteria Plan or vary the salary reduction amounts that you have selected during the Plan Year (this is known as the "irrevocability rule"). Of course, you can change your elections for benefits and salary reductions during the Open Enrollment Period, but those election changes will apply only for the following Plan Year.

However, there are several important exceptions to the irrevocability rule, many of which have to do with events in your personal or professional life that may occur during the Plan Year.

Here are the exceptions to the irrevocability rule:

1. Leaves of Absence

You may change an election under the Cafeteria Plan upon FMLA and non-FMLA leave only as described in CAF Q-14.

2. Change in Status.

If one or more of the following Changes in Status occur, you may revoke your old election and make a new election, provided that both the revocation and new election are on account of and correspond with the Change in Status (as described in item 3 below). Those occurrences that qualify as a Change in Status include the events described below, as well as any other events that the Plan Administrator, in its sole discretion and on a uniform and consistent basis, determines are permitted under IRS regulations:

- a change in your legal marital status (such as marriage, death of a Spouse, divorce, legal separation, or annulment);
- a change in the number of your Dependents (such as the birth of a child, adoption or placement for adoption of a Dependent, or death of a Dependent);
- any of the following events that change the employment status of you, your Spouse, or your Dependent and that affect benefits eligibility under a cafeteria plan (including this Cafeteria Plan) or other employee benefit plan of you, your Spouse, or your Dependents. Such events include any of the following changes in employment status: termination or commencement of employment; a strike or lockout; a commencement of or return from an unpaid leave of absence; a change in worksite; switching from salaried to hourly-paid, union to non-union, or full-time to part-time (or vice versa); incurring a reduction or increase in hours of employment; or any other similar change that makes the individual become (or cease to be) eligible for a particular employee benefit;
- an event that causes your Dependent to satisfy or cease to satisfy an eligibility requirement for a particular benefit (such as an employee's child covered as a dependent by an accident or health plan who turns 27 during the taxable year); or
- a change in your, your Spouse's, or your Dependent's place of residence.

3. Change in Status - Other Requirements.

If you wish to change your election based on a Change in Status, you must establish that the revocation is on account of and corresponds with the Change in Status. The Plan Administrator, in its sole discretion and on a uniform and consistent basis, shall determine whether a requested change is on account of and corresponds with a Change in Status. As a general rule, a desired election change will be found to be consistent with a Change in Status event if the event affects coverage eligibility.

In addition, you must satisfy the following specific requirements in order to alter your election based on that Change in Status:

- *Loss of Spouse or Dependent Eligibility; Special COBRA Rules.* For Health Insurance Benefits, a special rule governs which type of election changes are consistent with the Change in Status. For a Change in Status involving your divorce, annulment, or legal separation from your Spouse, the death of your Spouse or your Dependent, or your Dependent's ceasing to satisfy the eligibility requirements for coverage, you may elect only to cancel the accident or health benefits for the affected Spouse or Dependent. A change in election for any individual other than your Spouse involved in the divorce, annulment, or legal separation, your deceased Spouse or Dependent, or your Dependent that ceased to satisfy the eligibility requirements would fail to correspond with that Change in Status.

However, if you, your Spouse, or your Dependent elects COBRA continuation coverage under the Employer's plan because you ceased to be eligible because of a reduction of hours or because your Dependent ceases to satisfy eligibility requirements for coverage, and if you remain a Participant under the terms of this Cafeteria Plan, then you may in certain circumstances be able to increase your contributions to pay for such coverage. See CAF Q-12.

- *Gain of Coverage Eligibility Under Another Employer's Plan.* For a Change in Status in which you, your Spouse, or your Dependent gains eligibility for coverage under another Employer's cafeteria plan (or qualified benefit plan) as a result of a change in your marital status or a change in your, your Spouse's, or your Dependent's employment status, your election to cease or decrease coverage for that individual under the Cafeteria Plan would correspond with that Change in Status only if coverage for that individual becomes effective or is increased under the other Employer's plan.

4. Special Enrollment Rights. In certain circumstances, enrollment for Health Insurance Benefits may occur outside the Open Enrollment Period, as explained in materials provided to you separately describing the Health Insurance Benefits. When a special enrollment right explained in those separate documents applies to your Medical Insurance Benefits, you may change your election under the Cafeteria Plan to correspond with the special enrollment right. Special enrollments may also be available as a result of a loss of eligibility for Medicaid or for coverage under a state children's health insurance program

(SCHIP) or as a result of eligibility for a state premium assistance subsidy under the plan from Medicaid or SCHIP.

5. Certain Judgments, Decrees, and Orders. If a judgment, decree, or order from a divorce, separation, annulment, or custody change requires your child (including a foster child who is your Dependent) to be covered under the Health Insurance Benefits, you may change your election to provide coverage for the child. If the order requires that another individual (such as your former Spouse) cover the child, then you may change your election to revoke coverage for the child, provided that such coverage is, in fact, provided for the child.

6. Medicare or Medicaid. If you, your Spouse, or your Dependent becomes entitled to (i.e., becomes enrolled in) Medicare or Medicaid, then you may reduce or cancel that person's accident or health coverage under the Medical Insurance Plan. Similarly, if you, your Spouse, or your Dependent who has been entitled to Medicare or Medicaid loses eligibility for such coverage, then you may elect to commence or increase that person's accident or health coverage.

7. Change in Cost. If the cost charged to you for your Health Insurance Benefits significantly increases during the Plan Year, then you may choose to do any of the following: (a) make a corresponding increase in your contributions; (b) revoke your election and receive coverage under another benefit package option (if any) that provides similar coverage, or elect similar coverage under the plan of your Spouse's employer; or (c) drop your coverage, but only if no other benefit package option provides similar coverage. Coverage under another employer plan, such as the plan of a Spouse's or Dependent's employer, may be treated as similar coverage if it otherwise meets the requirements of similar coverage.) If the cost of Health Insurance significantly decreases during the Plan Year, then the Plan Administrator may permit the following election changes: (a) if you are enrolled in the benefit package option that has decreased in cost, you may make a corresponding decrease in your contributions; (b) if you are enrolled in another benefit package option (such as the HMO option under the Medical Insurance Plan), you may change your election on a prospective basis to elect the benefit package option that has decreased in cost (such as the PPO option under the Medical Insurance Plan); or (c) if you are otherwise eligible, you may elect the benefit package option that has decreased in cost on a prospective basis, subject to the terms and limitations of the benefit package option.

For insignificant increases or decreases in the cost of benefits, however, the Plan Administrator will automatically adjust your election contributions to reflect the minor change in cost.

The Plan Administrator generally will notify you of increases or decreases in the cost of Health Insurance benefits.

8. Change in Coverage. You may also change your election if one of the following events occurs:

- **Significant Curtailment of Coverage.** If your Health Insurance Benefits coverage is significantly curtailed without a loss of coverage (for example, when there is an increase in the deductible under the Medical Insurance Benefits), then you may revoke your election for that coverage and elect coverage under another benefit package option that provides similar coverage. (Coverage under a plan is significantly curtailed only if there is an overall reduction of coverage under the plan generally loss of one particular physician in a network does not constitute significant curtailment.) If your Health Insurance Benefits coverage is significantly curtailed with a loss of coverage (for example, if you lose all coverage under the option by reason of an overall lifetime or annual limitation), then you may either revoke your election and elect coverage under another benefit package option that provides similar coverage, elect similar coverage under the plan of your Spouse's employer, or drop coverage, but only if there is no option available under the plan that provides similar coverage. (The Plan Administrator generally will notify you of significant curtailments in Medical Insurance Benefits coverage.)
- **Addition or Significant Improvement of Cafeteria Plan Option.** If the Cafeteria Plan adds a new option or significantly improves an existing option, then the Plan Administrator may permit Participants who are enrolled in an option other than the new or improved option to elect the new or improved option. Also, the Plan Administrator may permit eligible Employees to elect the new or improved option on a prospective basis, subject to limitations imposed by the applicable option.
- **Loss of Other Group Health Coverage.** You may change your election to add group health coverage for you, your Spouse, or your Dependent, if any of you loses coverage under any group health coverage sponsored by a governmental or educational institution (for example, a state children's health insurance program or certain Indian tribal programs).
- **Change in Election Under Another Employer Plan.** You may make an election change that is on account of and corresponds with a change made under another employer plan (including a plan of the Employer or a plan of your Spouse's or Dependent's employer), so long as (a) the other cafeteria plan or qualified benefits plan permits its participants to make an election change permitted under the IRS regulations; or (b) the Cafeteria Plan permits you to make an election for a period of coverage (for example, the Plan Year) that is different from the period of coverage

under the other cafeteria plan or qualified benefits plan, which it does.

For example, if an election to drop coverage is made by your Spouse during his or her Employer's open enrollment, you may add coverage under the Cafeteria Plan to replace the dropped coverage.

9. Intention or Need to Obtain Coverage through a Marketplace Established under the Affordable Care Act.

You may revoke your Health Insurance Benefits coverage mid-Plan Year if either one of the following applies:

- You are seeking to enroll yourself and any other related individuals in coverage to be obtained through a Marketplace.
- You have experienced a reduction of hours and reasonably expect to be working less than 30 hours for the foreseeable future and will seek coverage to be obtained through a Marketplace.

CAF Q-8. What happens if my employment ends during the Plan Year or I lose eligibility for other reasons?

If your employment with the Employer is terminated during the Plan Year, then your active participation in the Cafeteria Plan will cease and you will not be able to make any more contributions to the Cafeteria Plan for Insurance Benefits.

See CAF Q-12 for information on your right to continued or converted group health coverage after termination of your employment.

For purposes of pre-taxing COBRA coverage for Health Insurance Benefits, certain Employees may be able to continue eligibility in the Cafeteria Plan for certain periods. See CAF Q-12.

If you are rehired within the same Plan Year and are eligible for the Cafeteria Plan, then you may make new elections, provided that you are rehired more than 30 days after you terminated employment. If you are rehired within 30 days or less during the same Plan Year, then your prior elections will be reinstated.

If you cease to be an eligible Employee for reasons other than termination of employment, such as a reduction of hours, then you must complete the waiting period described in CAF Q-3 before again becoming eligible to participate in the Plan.

CAF Q-9. *RESERVED*****

CAF Q-10. How long will the Cafeteria Plan remain in effect?

Although the Employer expects to maintain the Cafeteria Plan indefinitely, it has the right to amend or terminate all or any part of the Cafeteria Plan at any time for any reason. It is also possible that future changes in state or federal tax laws may require that the Cafeteria Plan be amended accordingly.

CAF Q-11. What happens if my claim for benefits is denied?

Insurance Benefits

The applicable insurance company will decide your claim in accordance with its claims procedures. If your claim is denied, you may appeal to the insurance company for a review of the denied claim. If you don't appeal on time, you will lose your right to file suit in a state or federal court, as you will not have exhausted your internal administrative appeal rights (which generally is a prerequisite to bringing a suit in state or federal court). For more information about how to file a claim and for details regarding the medical insurance company's claims procedures, consult the claims procedure applicable under that plan or policy, as described in the plan document or summary plan description for the Insurance Plan.

Appeals.

If your claim is denied in whole or part, then you (or your authorized representative) may request review upon written application to the "Committee" (the Benefits Committee that acts on behalf of the Plan Administrator with respect to appeals). Your appeal must be made in writing within 180 days after your receipt of the notice that the claim was denied. If you do not appeal on time, you will lose the right to appeal the denial and the right to file suit in court. Your written appeal should state the reasons that you feel your claim should not have been denied. It should include any additional facts and/or documents that you feel support your claim. You will have the opportunity to ask additional questions and make written comments, and you may review (upon request and at no charge) documents and other information relevant to your appeal.

Decision on Review.

Your appeal will be reviewed and decided by the Committee or other entity designated in the Plan in a reasonable time not later than 60 days after the Committee receives your request for review. The Committee may, in its discretion, hold a hearing on the denied claim. Any medical expert consulted in connection with your appeal will be different from and not subordinate to any expert consulted in connection with the initial claim denial. The identity of a medical expert consulted in connection with

your appeal will be provided. If the decision on review affirms the initial denial of your claim, you will be furnished with a notice of adverse benefit determination on review setting forth:

- the specific reason(s) for the decision on review;
- the specific Plan provision(s) on which the decision is based;
- a statement of your right to review (upon request and at no charge) relevant documents and other information;
- if an internal rule, guideline, protocol, or other similar criterion is relied on in making the decision on review, then a description of the specific rule, guideline, protocol, or other similar criterion or a statement that such a rule, guideline, protocol, or other similar criterion was relied on and that a copy of such rule, guideline, protocol, or other criterion will be provided free of charge to you upon request; and
- a statement of your right to bring suit under ERISA § 502(a) (where applicable).

CAF Q-12. What is "Continuation Coverage" and how does it work?

COBRA

If you have elected Health Insurance Benefits under this Plan, you may have certain rights to the continuation of such benefits after a "Qualifying Event" (e.g., a termination of employment). See Appendix B of this SPD for a detailed description of your rights to "continuation coverage" under COBRA.

USERRA

Continuation and reinstatement rights may also be available if you are absent from employment due to service in the uniformed services pursuant to the Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA). More information about coverage under USERRA is available from the Plan Administrator.

CAF Q-13. How will participating in the Cafeteria Plan affect my Social Security and other benefits?

Participating in the Cafeteria Plan will reduce the amount of your taxable income, which may result in a decrease in your Social Security benefits and/or other benefits which are based on taxable income. However, the tax savings that you realize through Cafeteria Plan participation will often more than offset any reduction in other benefits. If you are still unsure, you are encouraged to consult with your accountant or other tax advisor.

CAF Q-14. How do leaves of absence (such as under FMLA) affect my benefits?

FMLA Leaves of Absence.

If the Employer is subject to the federal Family and Medical Leave Act of 1993 and you go on a qualifying leave under the FMLA, then to the extent required by the FMLA your Employer will continue to maintain your Health Insurance Benefits on the same terms and conditions as if you were still active (that is, your Employer will continue to pay its share of the contributions to the extent that you opt to continue coverage). Your Employer may require you to continue all Medical Insurance Benefits coverage while you are on paid leave (so long as Participants on non-FMLA paid leave are required to continue coverage). If so, you will pay your share of the contributions by the method normally used during any paid leave (for example, on a pre-tax salary-reduction basis).

If you are going on unpaid FMLA leave (or paid FMLA leave where coverage is not required to be continued) and you opt to continue your Insurance Benefits, then you may pay your share of the contributions in one of three ways: (a) with after-tax dollars while on leave; (b) with pretax dollars to the extent that you receive compensation during the leave, or by pre-paying all or a portion of your share of the contributions for the expected duration of the leave on a pre-tax salary reduction basis out of your pre-leave compensation, including unused sick days and vacation days (to pre-pay in advance, you must make a special election before such compensation normally would be available to you (but note that prepayments with pre-tax dollars may not be used to pay for coverage during the next Plan Year); or (c) by other arrangements agreed upon by you and the Plan Administrator (for example, the Plan Administrator may pay for coverage during the leave and withhold amounts from your compensation upon your return from leave).

If your Employer requires all Participants to continue Insurance Benefits during the unpaid FMLA leave, then you may discontinue paying your share of the required contributions until you return from leave. Upon returning from leave, you must pay your share of any required contributions that you did not pay during the leave. Payment for your share will be withheld from your compensation either on a pre-tax or after-tax basis, depending on what you and the Plan Administrator agree to.

If your Health Insurance coverage ceases while you are on FMLA leave (e.g., for non-payment of required contributions), you will be permitted to re-enter such Benefits, as applicable, upon return from such leave on the same basis as when you were participating in the Plan before the leave or as otherwise required by the FMLA. You may be required to have coverage for such Benefits reinstated so long as coverage for Employees on non-FMLA leave is required to be reinstated upon return from

leave.

If you are commencing or returning from FMLA leave, then your election for non-health benefits provided under this Plan, if any, will be treated in the same way as under your Employer's policy for providing such Benefits for Participants on a non-FMLA leave (see below). If that policy permits you to discontinue contributions while on leave, then upon returning from leave you will be required to repay the contributions not paid by you during leave. Payment will be withheld from your compensation either on a pre-tax or after-tax basis, as agreed to by the Plan Administrator and you or as the Plan Administrator otherwise deems appropriate.

Non-FMLA Leaves of Absence.

If you go on an unpaid leave of absence that does not affect eligibility, then you will continue to participate and the contribution due from you (if not otherwise paid by your regular salary reductions) will be paid by pre-payment before going on leave, with after-tax contributions while on leave, or with catch-up contributions after the leave ends, as determined by the Plan Administrator. If you go on an unpaid leave that does affect eligibility, then the Change in Status rules will apply.

Premium Payment Benefits

PREM Q-1. What are "Premium Payment Benefits"?

As described in CAF Q-1, if you elect Premium Payment Benefits you will be able to pay for your share of contributions for Insurance Benefits with pre-tax dollars by electing to do so. Because the share of the contributions that you pay will be with pre-tax funds, you may save both federal income taxes and FICA (Social Security) taxes. See Q-4.

PREM Q-2. How are my Premium Payment Benefits paid?

As described in CAF Q-1 and in PREM Q-1, if you select an Insurance Plan described in CAF Q-2, then you may be required to pay a portion of the contributions. When you complete the Election Form/Salary Reduction Agreement, if you elect to pay for benefits on a pre-tax basis you agree to a salary reduction to pay for your share of the cost of coverage (also known as contributions) with pre-tax funds instead of receiving a corresponding amount of your regular pay that would otherwise be subject to taxes. From then on, you must pay a contribution for such coverage by having that portion deducted from each paycheck on a pre-tax basis (generally an equal portion from each paycheck, or an amount otherwise agreed to or as deemed appropriate by the Plan Administrator).

The Employer may contribute all, some, or no portion of the Premium Payment Benefits that you have selected, as described in documents furnished separately to you from time to time.

Miscellaneous

MISC Q-1

COBRA and HIPAA Rights. You have a right to continue your Health Insurance Plan coverage for yourself if there is a loss of coverage under the plan as a result of a qualifying event. You or your dependents may have to pay for such coverage. Review this SPD and the documents governing the plan on the rules governing your COBRA continuation coverage rights.

HIPAA Privacy Rights. Under another provision of HIPAA, group health plans are required to take steps to ensure that certain "protected health information" (PHI) is kept confidential. You may receive a separate notice from the Employer (or medical insurers) that outlines its health privacy policies.

Right to Review. If your claim for a benefit is denied or ignored in whole or in part, you have a right to know why this was done, to obtain copies of documents relating to the decision without charge, and to appeal any denial, all within certain time schedules.

MISC Q-2. What other general information should I know?

This MISC Q-2 contains certain general information that you may need to know about the Plan.

Plan Information

Official Name of the Plan: CITY OF KIRBY Cafeteria Plan

Plan Number: 501

Effective Date: 10/1/2022.

Plan Year: 10/1/2022 to 9/30/2023. Your Plan's records are maintained on this period of time

Type of Plan: Welfare plan providing various insurance benefits

Employer/Plan Sponsor Information

Name and Address:

CITY OF KIRBY

112 BAUMAN ST
KIRBY, TX 78219

Federal employee tax identification number (EIN): 741499194

Plan Administrator Information

Name, Address, and business telephone number:

CITY OF KIRBY

112 BAUMAN ST
KIRBY, TX 78219

Attention: Human Resources Manager

Telephone: 2106613198

Agent for Service of Legal Process

The name and address of the Plan's agent for service of legal process is:

CITY OF KIRBY

112 BAUMAN ST
KIRBY, TX 78219

Attention: Benefits Committee

Qualified Medical Child Support Order

The Health Insurance Plans will provide benefits as required by any qualified medical child support order (QMCSO), as defined in ERISA § 609(a). The Plan has detailed procedures for determining whether an order qualifies as a QMCSO. Participants and beneficiaries can obtain, without charge, a copy of such procedures from the Plan Administrator.

Newborns' and Mothers' Health Protection Act of 1996

Group health plans and health insurance issuers generally may not, under federal law, restrict benefits for any hospital length of stay in connection with childbirth for the mother or newborn child to less than 48 hours following a vaginal delivery or to less than 96 hours following a cesarean section. However, federal law generally does not prohibit the mother's or newborn's attending provider, after consulting with the mother, from discharging the mother or her newborn earlier than 48 hours (or 96 hours, as applicable). In any case, plans and issuers may not, under federal law, require that a provider obtain authorization from the plan or the issuer for prescribing a length of stay not in excess of 48 hours (or 96 hours).

Appendix A

*****Affiliated Employers*****

Appendix B

COBRA CONTINUATION COVERAGE RIGHTS under the CITY OF KIRBY Cafeteria Plan (the "Plan")

The following paragraphs generally explain COBRA coverage, when it may become available to you and your family, and what you need to do to protect the right to receive it. PLEASE READ THE FOLLOWING CAREFULLY.

The CITY OF KIRBY Cafeteria Plan has group health insurance components and you may be enrolled in one or more of these components. COBRA (and the description of COBRA coverage contained in this SPD) applies only to the group health plan benefits offered under the Plan and not to any other benefits offered under the Plan or by CITY OF KIRBY. The Plan provides no greater COBRA rights than what COBRA requires - nothing in this SPD is intended to expand your rights beyond COBRA's requirements.

What Is COBRA Coverage?

COBRA coverage is a continuation of Plan coverage when coverage would otherwise end because of a life event known as a "qualifying event." Specific qualifying events are listed below in the section entitled "Who Is Entitled to Elect COBRA?"

COBRA coverage may become available to "qualified beneficiaries"

After a qualifying event occurs and any required notice of that event is properly provided to CITY OF KIRBY, COBRA coverage must be offered to each person losing Plan coverage who is a "qualified beneficiary." You, your spouse, and your dependent children could become qualified beneficiaries and would be entitled to elect COBRA if coverage under the Plan is lost because of the qualifying event. (Certain newborns, newly adopted children, and alternate recipients under QMCSOs may also be qualified beneficiaries. This is discussed in more detail in separate paragraphs below.)

Who Is Entitled to Elect COBRA?

We use the pronoun "you" in the following paragraphs regarding COBRA to refer to each person covered under the Plan who is or may become a qualified beneficiary.

Qualifying events for the covered employee

If you are an employee, you will be entitled to elect COBRA if you lose your group health coverage under the Plan because either one of the following qualifying events happens:

- your hours of employment are reduced; or
- your employment ends for any reason other than your gross misconduct.

Qualifying events for the covered spouse

If you are the spouse of an employee, you will be entitled to elect COBRA if you lose your group health coverage under the Plan because any of the following qualifying events happens:

- your spouse dies;
- your spouse's hours of employment are reduced;
- your spouse's employment ends for any reason other than his or her gross misconduct;
- you become divorced or legally separated from your spouse. Also, if your spouse (the employee) reduces or eliminates your group health coverage in anticipation of a divorce or legal separation, and a divorce or legal separation later occurs, then the divorce or legal separation may be considered a qualifying event for you even though your coverage was reduced or eliminated before the divorce or separation.

Qualifying events for dependent children

If you are the dependent child of an employee, you will be entitled to elect COBRA if you lose your group health coverage under the Plan because any of the following qualifying events happens:

- your parent-employee dies;
- your parent-employee's hours of employment are reduced;
- your parent-employee's employment ends for any reason other than his or her gross misconduct;

- you stop being eligible for coverage under the Plan as a "dependent child."

Electing COBRA after leave under the Family and Medical Leave Act (FMLA)

Under special rules that apply if an employee does not return to work at the end of an FMLA leave, some individuals may be entitled to elect COBRA even if they were not covered under the Plan during the leave. Contact CITY OF KIRBY for more information about these special rules.

Special second election period for certain eligible employees who did not elect COBRA

Certain employees and former employees who are eligible for federal trade adjustment assistance (TAA) or alternative trade adjustment assistance (ATAA) are entitled to a second opportunity to elect COBRA for themselves and certain family members (if they did not already elect COBRA) during a special second election period of 60 days or less (but only if the election is made within six months after Plan coverage is lost).

When Is COBRA Coverage Available?

When the qualifying event is the end of employment, reduction of hours of employment, or death of the employee, the Plan will offer COBRA coverage to qualified beneficiaries. You need not notify CITY OF KIRBY of any of these qualifying events.

Caution:

You stop being eligible for coverage as dependent child whenever you fail to satisfy any part of the plan's definition of dependent child.

You must notify the plan administrator of certain qualifying events by this deadline

For the other qualifying events (divorce or legal separation of the employee and spouse or a dependent child's losing eligibility for coverage as a dependent child), a COBRA election will be available to you only if you notify CITY OF KIRBY in writing within 60 days after the later of (1) the date of the qualifying event; or (2) the date on which the qualified beneficiary loses (or would lose) coverage under the terms of the Plan as a result of the qualifying event.

No COBRA election will be available unless you follow the Plan's notice procedures and meet the notice deadline

In providing this notice, you must use the Plan's form entitled "Notice of Qualifying Event Form" and you must follow the notice procedures specified in the section below entitled "Notice Procedures." If these procedures are not followed or if the notice is not provided to CITY OF KIRBY during the 60-day notice period, YOU WILL LOSE YOUR RIGHT TO ELECT COBRA.

How to elect COBRA

To elect COBRA, you must complete the Election Form that is part of the Plan's COBRA election notice and mail or hand-deliver it to CITY OF KIRBY. An election notice will be provided to qualified beneficiaries at the time of a qualifying event. You may also obtain a copy of the Election Form from CITY OF KIRBY.

Deadline for COBRA election

If mailed, your election must be postmarked (or if hand-delivered, your election must be received by the individual at the address specified on the Election Form) no later than 60 days after the date of the COBRA election notice provided to you at the time of your qualifying event (or, if later, 60 days after the date that Plan coverage is lost). IF YOU DO NOT SUBMIT A COMPLETED ELECTION FORM BY THIS DUE DATE, YOU WILL LOSE YOUR RIGHT TO ELECT COBRA.

Independent election rights

Each qualified beneficiary will have an independent right to elect COBRA.

Any qualified beneficiary for whom COBRA is not elected within the 60-day election period specified in the Plan's COBRA election notice WILL LOSE HIS OR HER RIGHT TO ELECT COBRA COVERAGE.

Special Considerations in Deciding Whether to Elect COBRA

In considering whether to elect COBRA, you should take into account that a failure to elect COBRA will affect your future rights under federal law. You have the right to request special enrollment in another group health plan for which you are otherwise eligible (such as a plan sponsored by your spouse's employer) within 30 days after your group health coverage under the Plan ends because of one of the qualifying events listed above. You will also have the same special enrollment right at the end of COBRA coverage if you get COBRA coverage for the maximum time available to you.

Length of COBRA Coverage

COBRA coverage is a temporary continuation of coverage. The COBRA coverage periods described below are maximum coverage periods.

COBRA coverage can end before the end of the maximum coverage period for several reasons, which are described in the section below entitled "Termination of COBRA Coverage Before the End of the Maximum Coverage Period."

Death, divorce, legal separation, or child's loss of dependent status

When Plan coverage is lost due to the death of the employee, the covered employee's divorce or legal separation, or a dependent child's losing eligibility as a dependent child, COBRA coverage under the Plan's Medical and Dental components can last for up to a total of 36 months.

If the covered employee becomes entitled to Medicare within 18 months before his or her termination of employment or reduction of hours.

When Plan coverage is lost due to the end of employment or reduction of the employee's hours of employment, and the employee became entitled to Medicare benefits less than 18 months before the qualifying event, COBRA coverage under the Plan's Medical and Dental components for qualified beneficiaries (other than the employee) who lose coverage as a result of the qualifying event can last until up to 36 months after the date of Medicare entitlement. For example, if a covered employee becomes entitled to Medicare eight months before the date on which his employment terminates, COBRA coverage for his spouse and children who lost coverage as a result of his termination can last up to 36 months after the date of Medicare entitlement, which is equal to 28 months after the date of the qualifying event (36 months minus eight months). This COBRA coverage period is available only if the covered employee becomes entitled to Medicare within 18 months BEFORE the termination or reduction of hours.

Termination of employment or reduction of hours

Otherwise, when Plan coverage is lost due to the end of employment or reduction of the employee's hours of employment, COBRA coverage under the Plan's Medical and Dental components generally can last for only up to a total of 18 months.

Extension of Maximum Coverage Period

If the qualifying event that resulted in your COBRA election was the covered employee's termination of employment or reduction of hours, an extension of the maximum period of coverage may be available if a qualified beneficiary is disabled or a second qualifying event occurs. You must notify CITY OF KIRBY of a disability or a second qualifying event in order to extend the period of COBRA coverage. Failure to provide notice of a disability or second qualifying event will eliminate the right to extend the period of COBRA coverage.

Disability extension of COBRA coverage

If a qualified beneficiary is determined by the Social Security Administration to be disabled and you notify CITY OF KIRBY in a timely fashion, all of the qualified beneficiaries in your family may be entitled to receive up to an additional 11 months of COBRA coverage, for a total maximum of 29 months. This extension is available only for qualified beneficiaries who are receiving COBRA coverage because of a qualifying event that was the covered employee's termination of employment or reduction of hours. The disability must have started at some time before the 61st day after the covered employee's termination of employment or reduction of hours and must last at least until the end of the period of COBRA coverage that would be available without the disability extension (generally 18 months, as described above). Each qualified beneficiary will be entitled to the disability extension if one of them qualifies.

You must notify CITY OF KIRBY of a qualified beneficiary's disability by this deadline

The disability extension is available only if you notify CITY OF KIRBY in writing of the Social Security Administration's determination of disability within 60 days after the latest of:

- the date of the Social Security Administration's disability determination;
- the date of the covered employee's termination of employment or reduction of hours; and
- the date on which the qualified beneficiary loses (or would lose) coverage under the terms of the Plan as a result of the covered employee's termination of employment or reduction of hours.

You must also provide this notice within 18 months after the covered employee's termination of employment or reduction of hours in order to be entitled to a disability extension.

No disability extension will be available unless you follow the Plan's notice procedures and meet the notice deadline

In providing this notice, you must use the Plan's form entitled "Notice of Disability Form" and you must follow the notice procedures specified in the section below entitled "Notice Procedures."

If these procedures are not followed or if the notice is not provided to CITY OF KIRBY during the 60-day notice period and within 18 months after the covered employee's termination of employment or reduction of hours, then there will be no disability extension of COBRA coverage.

Second qualifying event extension of COBRA coverage

An extension of coverage will be available to spouses and dependent children who are receiving COBRA coverage if a second qualifying event occurs during the 18 months (or, in the case of a disability extension, the 29 months) following the covered employee's termination of employment or reduction of hours. The maximum amount of COBRA coverage available when a second qualifying event occurs is 36 months. Such second qualifying events may include the death of a covered employee, divorce or legal separation from the covered employee, or a dependent child's ceasing to be eligible for coverage as a dependent under the Plan. These events can be a second qualifying event only if they would have caused the qualified beneficiary to lose coverage under the Plan if the first qualifying event had not occurred. (This extension is not available under the Plan when a covered employee becomes entitled to Medicare after his or her termination of employment or reduction of hours.)

You must notify CITY OF KIRBY of a second qualifying event by this deadline

This extension due to a second qualifying event is available only if you notify CITY OF KIRBY in writing of the second qualifying event within 60 days after the date of the second qualifying event.

No extension will be available unless you follow the Plan's notice procedures and meet the notice deadline

In providing this notice, you must use the Plan's form entitled "Notice of Second Qualifying Event Form" (you may obtain a copy of this form from CITY OF KIRBY at no charge), and you must follow the notice procedures specified in the section below entitled "Notice Procedures." If these procedures are not followed or if the notice is not provided to CITY OF KIRBY during the 60-day notice period, then there will be no extension of COBRA coverage due to a second qualifying event.

Termination of COBRA Coverage Before the End of the Maximum Coverage Period

COBRA coverage will automatically terminate before the end of the maximum period if:

- any required premium is not paid in full on time;
- a qualified beneficiary becomes entitled to Medicare benefits (under Part A, Part B, or both) after electing COBRA;
- the employer ceases to provide any group health plan for its employees; or
- during a disability extension period, the disabled qualified beneficiary is determined by the Social Security Administration to be no longer disabled (COBRA coverage for all qualified beneficiaries, not just the disabled qualified beneficiary, will terminate).

COBRA coverage may also be terminated for any reason the Plan would terminate coverage of a participant or beneficiary not receiving COBRA coverage (such as fraud).

You must notify CITY OF KIRBY if a qualified beneficiary becomes entitled to Medicare or obtains other group health plan coverage

You must notify CITY OF KIRBY in writing within 30 days if, after electing COBRA, a qualified beneficiary becomes entitled to Medicare (Part A, Part B, or both) or becomes covered under other group health plan coverage. In addition, if you were already entitled to Medicare before electing COBRA, notify Employer of the date of your Medicare entitlement at the address shown in the section below entitled "Notice Procedures."

You must notify CITY OF KIRBY if a qualified beneficiary ceases to be disabled

If a disabled qualified beneficiary is determined by the Social Security Administration to no longer be disabled, you must notify CITY OF KIRBY of that fact within 30 days after the Social Security Administration's determination.

Cost of COBRA Coverage

Each qualified beneficiary is required to pay the entire cost of COBRA coverage. The amount a qualified beneficiary may be required to pay may not exceed 102% (or, in the case of an extension of COBRA coverage due to a disability, 150%) of the cost to the group health plan (including both employer and employee contributions) for coverage of a similarly situated plan participant or beneficiary who is not receiving COBRA coverage. The amount of your COBRA premiums may change from time to time during your period of COBRA coverage and will most likely increase over time. You will be notified of COBRA

premium changes.

Payment for COBRA Coverage

How premium payments must be made

All COBRA premiums must be paid by check. Your first payment and all monthly payments for COBRA coverage must be mailed or hand-delivered to the individual at the payment address specified in the election notice provided to you at the time of your qualifying event. However, if the Plan notifies you of a new address for payment, you must mail or hand-deliver all payments for COBRA coverage to the individual at the address specified in that notice of a new address.

When premium payments are considered to be made

If mailed, your payment is considered to have been made on the date that it is postmarked. If hand-delivered, your payment is considered to have been made when it is received by the individual at the address specified above. You will not be considered to have made any payment by mailing or hand-delivering a check if your check is returned due to insufficient funds or otherwise.

First payment for COBRA coverage

If you elect COBRA, you do not have to send any payment with the Election Form. However, you must make your first payment for COBRA coverage not later than 45 days after the date of your election. (This is the date your Election Form is postmarked, if mailed, or the date your Election Form is received by the individual at the address specified for delivery of the Election Form, if hand-delivered.) See the section above entitled "Electing COBRA Coverage."

Your first payment must cover the cost of COBRA coverage from the time your coverage under the Plan would have otherwise terminated up through the end of the month before the month in which you make your first payment. (For example, Sue's employment terminates on September 30, and she loses coverage on September 30. Sue elects COBRA on November 15. Her initial premium payment equals the premiums for October and November and is due on or before December 30, the 45th day after the date of her COBRA election.)

You are responsible for making sure that the amount of your first payment is correct. You may contact CITY OF KIRBY using the contact information provided below to confirm the correct amount of your first payment. Claims for reimbursement will not be processed and paid until you have elected COBRA and made the first payment for it.

If you do not make your first payment for COBRA coverage in full within 45 days after the date of your election, you will lose all COBRA rights under the Plan.

Monthly payments for COBRA coverage

After you make your first payment for COBRA coverage, you will be required to make monthly payments for each subsequent month of COBRA coverage. The amount due for each month for each qualified beneficiary will be disclosed in the election notice provided to you at the time of your qualifying event. Under the Plan, each of these monthly payments for COBRA coverage is due on the first day of the month for that month's COBRA coverage. If you make a monthly payment on or before the first day of the month to which it applies, your COBRA coverage under the Plan will continue for that month without any break. CITY OF KIRBY will not send periodic notices of payments due for these coverage periods (that is, we will not send a bill to you for your COBRA coverage - it is your responsibility to pay your COBRA premiums on time).

Grace periods for monthly COBRA premium payments

Although monthly payments are due on the first day of each month of COBRA coverage, you will be given a grace period of 30 days after the first day of the month to make each monthly payment. Your COBRA coverage will be provided for each month as long as payment for that month is made before the end of the grace period for that payment. However, if you pay a monthly payment later than the first day of the month to which it applies, but before the end of the grace period for the month, your coverage under the Plan will be suspended as of the first day of the month and then retroactively reinstated (going back to the first day of the month) when the monthly payment is received. This means that any claim you submit for benefits while your coverage is suspended may be denied and may have to be resubmitted once your coverage is reinstated.

If you fail to make a monthly payment before the end of the grace period for that month, you will lose all rights to COBRA coverage under the Plan.

More Information About Individuals Who May Be Qualified Beneficiaries

Children born to or placed for adoption with the covered employee during a period of COBRA coverage

A child born to, adopted by, or placed for adoption with a covered employee during a period of COBRA coverage is considered to be a qualified beneficiary provided that, if the covered employee is a qualified beneficiary, the covered employee has elected COBRA coverage for himself or herself. The child's COBRA coverage begins when the child is

enrolled in the Plan, whether through special enrollment or open enrollment, and it lasts for as long as COBRA coverage lasts for other family members of the employee. To be enrolled in the Plan, the child must satisfy the otherwise applicable Plan eligibility requirements (for example, regarding age).

Alternate recipients under QMCSOs

A child of the covered employee who is receiving benefits under the Plan pursuant to a qualified medical child support order (QMCSO) received by CITY OF KIRBY during the covered employee's period of employment with CITY OF KIRBY is entitled to the same rights to elect COBRA as an eligible dependent child of the covered employee.

NOTICE PROCEDURES CITY OF KIRBY Welfare Benefits Plan (the Plan)

WARNING: If your notice is late or if you do not follow these notice procedures, you and all related qualified beneficiaries will lose the right to elect COBRA (or will lose the right to an extension of COBRA coverage, as applicable).

Notices Must Be Written and Submitted on Plan Forms

Any notice that you provide must be in writing and must be submitted on the Plan's required form (the Plan's required forms are described above in this SPD, and you may obtain copies from CITY OF KIRBY without charge). Oral notice, including notice by telephone, is not acceptable. Electronic (including e-mailed or faxed) notices are not acceptable.

How, When, and Where to Send Notices

You must mail or hand-deliver your notice to:

Human Resources Manager

CITY OF KIRBY
112 BAUMAN ST
KIRBY TX 78219

However, if a different address for notices to the Plan appears in the Plan's most recent summary plan description, you must mail or hand-deliver your notice to that address (if you do not have a copy of the Plan's most recent summary plan description, you may request one from CITY OF KIRBY).

If mailed, your notice must be postmarked no later than the last day of the applicable notice period. If hand-delivered, your notice must be received by the individual at the address specified above no later than the last day of the applicable notice period. (The applicable notice periods are described in the paragraphs above entitled "You must notify the plan administrator of certain qualifying events by this deadline," "You must notify CITY OF KIRBY of a qualified beneficiary's disability by this deadline", and "You must notify CITY OF KIRBY of a second qualifying event by this deadline.")

Information Required for All Notices

Any notice you provide must include (1) the name of the Plan (CITY OF KIRBY Welfare Benefits Plan); (2) the name and address of the employee who is (or was) covered under the Plan; (3) the name(s) and address(es) of all qualified beneficiary(ies) who lost coverage as a result of the qualifying event; (4) the qualifying event and the date it happened; and (5) the certification, signature, name, address, and telephone number of the person providing the notice.

Additional Information Required for Notice of Qualifying Event

If the qualifying event is a divorce or legal separation, your notice must include a copy of the decree of divorce or legal separation. If your coverage is reduced or eliminated and later a divorce or legal separation occurs, and if you are notifying CITY OF KIRBY that your Plan coverage was reduced or eliminated in anticipation of the divorce or legal separation, your notice must include evidence satisfactory to CITY OF KIRBY that your coverage was reduced or eliminated in anticipation of the divorce or legal separation.

Additional Information Required for Notice of Disability

Any notice of disability that you provide must include (1) the name and address of the disabled qualified beneficiary; (2) the date that the qualified beneficiary became disabled; (3) the names and addresses of all qualified beneficiaries who are still receiving COBRA coverage; (4) the date that the Social Security Administration made its determination; (5) a copy of the Social Security Administration's determination; and (6) a statement whether the Social Security Administration has subsequently determined that the disabled qualified beneficiary is no longer disabled.

Additional Information Required for Notice of Second Qualifying Event

Any notice of a second qualifying event that you provide must include (1) the names and addresses of all qualified beneficiaries who are still receiving COBRA coverage; (2) the second qualifying event and the date that it happened; and (3)

if the second qualifying event is a divorce or legal separation, a copy of the decree of divorce or legal separation.

Who May Provide Notices

The covered employee, a qualified beneficiary who lost coverage due to the qualifying event described in the notice, or a representative acting on behalf of either may provide notices. A notice provided by any of these individuals will satisfy any responsibility to provide notice on behalf of all qualified beneficiaries who lost coverage due to the qualifying event described in the notice.

THIS CONCLUDES THE SUMMARY OF YOUR CONTINUATION COVERAGE RIGHTS UNDER COBRA. PLEASE CONTACT THE HUMAN RESOURCES OFFICE (OR THE EQUIVALENT THEREOF) OF CITY OF KIRBY IF YOU HAVE ANY QUESTIONS OR NEED MORE INFORMATION.

<input checked="" type="checkbox"/>	DISCUSSION AND POSSIBLE ACTION ITEMS
<input type="checkbox"/>	SPECIAL CONSIDERATION
<input type="checkbox"/>	CONSENT AGENDA
<input type="checkbox"/>	PUBLIC HEARING
<input type="checkbox"/>	PRESENTATION
<input type="checkbox"/>	WORKSHOP

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

DATE: FEBRUARY 9, 2023

AGENDA ITEM: 7. g.

Discussion And Possible Action

Discussion And Possible Action Regarding City Council Member Participation During the Citizen Participation Portion of City Council Meetings, and Appropriate City Council Decorum and Debate.

Council Member Martin requested this item.

Monique Vernon

From: Mike Martin
Sent: Friday, February 3, 2023 5:53 PM
To: Monique Vernon
Subject: Item I ask to be put on the agenda for feb.9th to be reworded

Discussion and possible action regarding city Council member .participation during the citizens participation portion of the city Council meeting and appropriate city Council decorum and debate. Thank you very much have a nice evening and great weekend

Sent from my iPad

<input checked="" type="checkbox"/>	DISCUSSION AND POSSIBLE ACTION ITEMS
<input type="checkbox"/>	SPECIAL CONSIDERATION
<input type="checkbox"/>	CONSENT AGENDA
<input type="checkbox"/>	PUBLIC HEARING
<input type="checkbox"/>	PRESENTATION
<input type="checkbox"/>	WORKSHOP

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

DATE: FEBRUARY 9, 2023

AGENDA ITEM: 7. h.

Discussion And Possible Action

Update, Discussion and Possible Action On Kirby Senior Center ADA Compliance

An updated quote is included.

J & T Home Solutions LLC

3402 Buzz Aldrin

San Antonio, TX 78219 US

+1 2107764360

jthomesolutionsllc@yahoo.com

Estimate

ADDRESS

3211 Alan Shepard Dr, San Antonio, TX 78219

Phone: (210) 666-5124

ESTIMATE

1073

DATE

02/02/2023

DATE	ACTIVITY	DESCRIPTION	QTY	RATE	AMOUNT
	Services	Urinal tank and flush valve installation. Labor: \$800.00 Material: \$560.00			1,360.00
	Services	Toilet shift 1/2" to the right, as per code requirement (minor chipping). Labor: \$650.00 Material: \$330.00			980.00
	Services	Lav guard installation. Labor & Material: \$240.00			240.00
	Services	Dispenser relocations for toilet paper and paper towel (4 @ \$25.00 each)			100.00
SUBTOTAL					2,680.00
TAX					0.00
TOTAL					\$2,680.00

Accepted By

Accepted Date

<input checked="" type="checkbox"/>	DISCUSSION AND POSSIBLE ACTION ITEMS
<input type="checkbox"/>	SPECIAL CONSIDERATION
<input type="checkbox"/>	CONSENT AGENDA
<input type="checkbox"/>	PUBLIC HEARING
<input type="checkbox"/>	PRESENTATION
<input type="checkbox"/>	WORKSHOP

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

DATE: FEBRUARY 9, 2023

AGENDA ITEM: 7. i.

Discussion And Possible Action

Discussion And Possible Action On Use Of City Owned Property For Kirby Senior
Center Anniversary Celebration

Information for this request is included.

Monique Vernon

From: RaeAnna Zambrano <rzambrano@kirbyseniorcenter.onmicrosoft.com>
Sent: Tuesday, January 24, 2023 11:29 AM
To: Monique Vernon
Cc: Renae Burks
Subject: KSC 30th Anniversary Invitation and Request
Attachments: Aerial View of KSC and surrounding areas.docx

Good Morning Monique,

We are happy to announce the Kirby Senior Center will be holding it's 30th Anniversary Celebration on Saturday, April 22, 2023, from 10:00 AM-4:00 PM at the Kirby Senior Center. We would like to request permission to use the areas marked in red on the attached image.

Kirby Senior Center would like to invite ALL City Staff and City Council to participate in celebrating our 30th Anniversary. We hope that you come join us for good food (Local Food Trucks will provide), Music, Bouncy House, Raffles, Fun and Games and MUCH MORE! We hope to see you all there so we can make some memories and get to know one another better!

Thank you for your time and consideration. Please let me know if there is anything else I can do to assist.

Respectfully,

RaeAnna Zambrano
Kirby Senior Center
Administrator

Total Control Panel

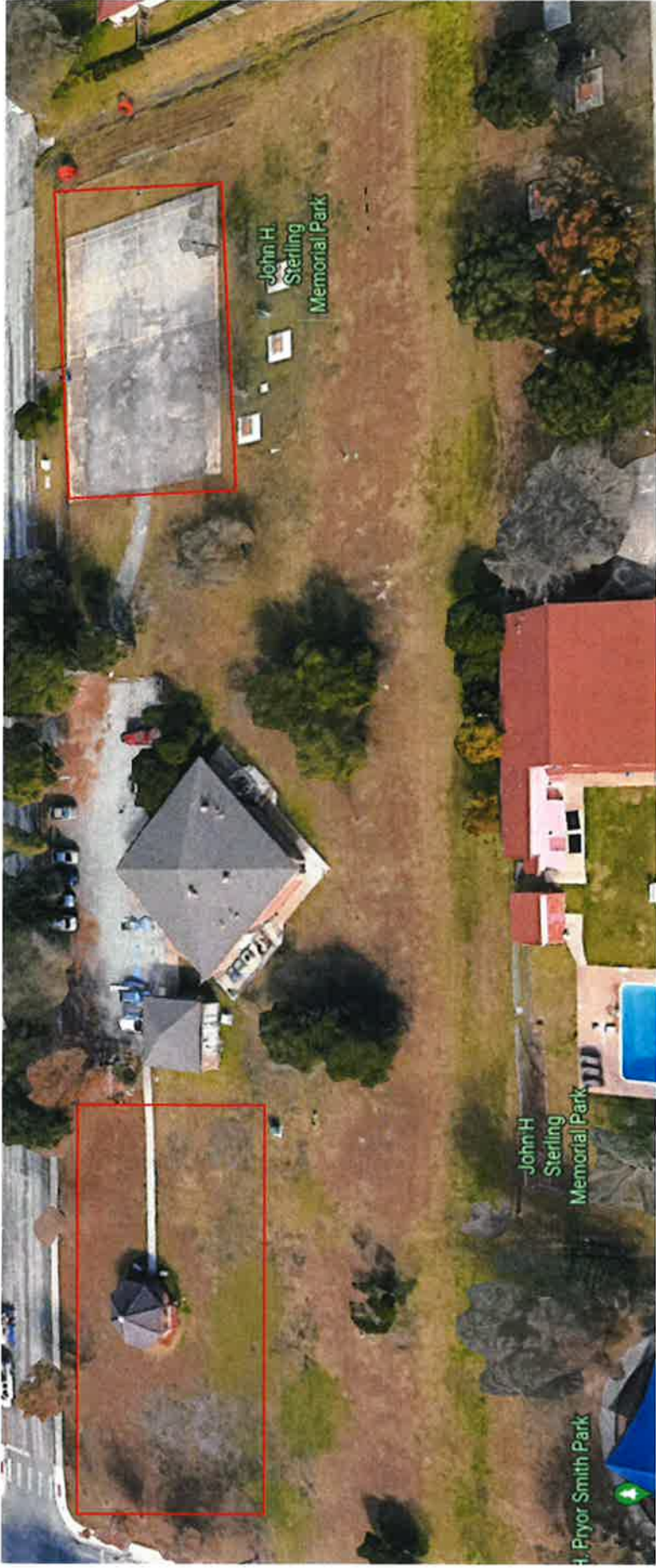
[Login](#)

To: mvernon@cityofkirby.org

[Remove](#) this sender from my allow list

From:
rzambrano@kirbyseniorcenter.onmicrosoft.com

You received this message because the sender is on your allow list.



<input checked="" type="checkbox"/>	DISCUSSION AND POSSIBLE ACTION ITEMS
<input type="checkbox"/>	SPECIAL CONSIDERATION
<input type="checkbox"/>	CONSENT AGENDA
<input type="checkbox"/>	PUBLIC HEARING
<input type="checkbox"/>	PRESENTATION
<input type="checkbox"/>	WORKSHOP

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

DATE: FEBRUARY 9, 2023

AGENDA ITEM: 7. j.

Discussion And Possible Action

Discussion And Possible Action On Events Hosted By City Council Members

Council Member Garza requested this item.

Monique Vernon

From: Janeshia Grider
Sent: Thursday, February 2, 2023 9:11 PM
To: Monique Vernon
Cc: Patty Cox
Subject: Attachment for Feb 9th Council Meeting

Good Evening,

Please attach to council agenda for Feb 9th meeting. The below is reference to \$300 reimbursement line item.

I went back and found past agenda discussing \$300 reimbursement line reimbursement.

1st Discussion June 9th
TIME 1:24:40 - 1:36:20
(Councilwoman Street even used example of Water and cookies)

<https://youtu.be/J9eExPqv27I>

2nd Discussion July 28th
TIME 37:09- 49:48

(Listen specifically from TIME 49:19 - 49:41
I asked for clarification that this \$300 was not for City property use)

<https://youtu.be/sOpv9OzToEE>

3rd Discussion Aug 25th
TIME 1:41:50 to 1:49:59

<https://youtu.be/2X6V6uuXJ7c>

Thank you in advance.

v/r
Janeshia Grider

Total Control Panel

[Login](#)

To: jgrider@cityofkirby.org [Remove](#) this sender from my allow list
From: janeshiaagrider@gmail.com

You received this message because the sender is on your allow list.

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

**C I T Y O F K I R B Y
C I T Y C O U N C I L M E E T I N G
A G E N D A I T E M S U M M A R Y**

DATE: FEBRUARY 9, 2023

AGENDA ITEM: 8. and 9.

8. Executive Session

The City Council will convene in closed session pursuant to Texas Government Code Section 551.074 to deliberate the appointment, employment and duties of a public officer or employee; to wit:

1. Deliberation and discussion regarding the retention of a placement firm and/or appointment of an Interim City Manager
2. Deliberation and discussion regarding transitioning process from the current City Manager to an Interim City Manager

9. 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 Matters Discussed In Closed Session.

1. Discussion and possible action regarding the retention of a placement firm and appointment of an Interim City Manager
2. Discussion and possible action regarding transitioning process from the current City Manager to an Interim City Manager

INTERIM CITY MANAGER

JOB SUMMARY:

The Interim City Manager shall be the Chief Administrative Officer of the City and shall be responsible to the Council for the proper administration of all affairs of the City and the following:

- Carries out the policies and programs determined by the elected City Council.
- Ensures development and execution of the municipality's strategic plan and annual budget.
- Ensures City government operations and functions; effectively serves the needs of Kirby residents and other stakeholders, while complying with applicable laws and regulations.
- Plans, organizes, controls, integrates and evaluates the work of all City departments to ensure that operations and services comply with the policies and direction set by the City Council and with all applicable laws and regulations.
- With the City's management team, develops and recommends adoption of the annual budget and other business, infrastructure and resource plans; directs the development of the capital improvement plan budget for approval by the Council; monitors the implementation of adopted budgets.
- Establishes performance requirements and personal development targets.
- Regularly monitors performance and provides coaching for performance improvement and development.
- Provides leadership and works with the management team to develop and retain highly competent, public-service oriented staff through selection, compensation, training and day-to-day management practices that support the City's mission, operating plans and objectives.
- Assesses community and citizen needs and ensures objectives and priorities are focused on meeting those needs effectively, efficiently, and with high-quality municipal services.
- Works closely with the City Council, a variety of public, private and community organizations and citizens groups in developing and implementing programs to achieve City priorities and solve community problems.
- Directs and coordinates preparation of analyses and recommendations on public policy issues and on long-range plans for City services.
- Represents the City and works closely with appointed boards, commissions, committees, and public and private officials to achieve planned action and results.
- Develops Council meeting agenda with Mayor and City Secretary.

- Attends and participates in all City Council meetings.
- Interprets City Council instructions and requests.
- Makes interpretations of City ordinances, codes and applicable laws and regulations to ensure compliance.
- Oversees the preparation of press releases and materials for dissemination to the media and the public; maintains effective relationships with the media.
- Directs and oversees the creation and maintenance of comprehensive, effective human resource management programs, policies and systems consistent with the City Council's guidance.
- Participates in regional, state and national meetings and conferences to stay abreast of trends and technology related to municipal programs and operations.
- The duties listed above are intended only as illustrations of the various types of work that may be performed. The omission of specific statements of duties does not exclude them from the position if the work is similar, related or a logical assignment to this position.
- Performs related duties and fulfills responsibilities as required by the City Council.

QUALIFICATIONS:

- Bachelor's degree in government, political science, public or business administration required. Master's degree preferred.
- Minimum of at least five years of progressively responsible management experience in municipal administration.
- Comprehensive knowledge of the principals and practices of municipal government management.
- Prior experience in a growth community with a diverse population and with proven economic development success.
- Grant writing experience required.
- Certified Public Manager (CPM) preferred. CPM required to be completed within two years of employment.
- Successfully complete background and credit check. Ability to be bonded.
- Have and maintain an acceptable driving record and Texas Class C Operator's License.
- Need not be a resident but would consider moving into the City of Kirby.