



Kimberly McGehee Aldrich, Mayor

Sylvia Apodaca
Christopher Garza
Janeshia Grider

Mike Martin
Susan Street
Debbie Walczyk

**CITY COUNCIL AGENDA
REGULAR MEETING
THURSDAY, MARCH 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: March 9, 2023(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 – February 23, 2023
- b. Regular Minutes – February 23, 2023

7. Discussion And Possible Action

- a. Discussion And Possible Action On Revision To Extension Agreement With Republic Services For Solid Waste Services
- b. Presentation, Discussion And Possible Action On Municipal Solid Waste Services Proposals
- c. Presentation, Discussion And Possible Action On Municipal Swimming Pool Management Services
- d. Update, Discussion And Possible Action On Kirby Senior Center ADA Compliance
- e. Discussion And Possible Action On Citizen Usage Of City Facilities For Events
- f. Discussion And Direction On Ordinance Number 242 An Ordinance Making It Unlawful For Any Person To Possess, Possess For Sale, Sell Or Offer For Sale At Retail Or Otherwise, To Use, Shoot, Discharge, Explode, Ignite Or Display Any Fireworks Within The City, Providing For Permits To Be Issued For Public Firework Displays By The City Council And Issued For Public Firework Displays By The City Council And Providing For A Penalty Not To Exceed \$200.00 For Each Offense.
- g. Discussion And Possible Action On City Council Conduct And Decorum
- h. Discussion And Possible Action On Professional Services Proposal From Givler Engineering For The Relining On Well #2
- i. Discussion And Possible Action On Installation Of A Meter to Monitor Friendship Park Ballfield Lights
- j. Discussion And Direction On Ordinance No. 2022-915 An Ordinance To Set Out Provisions As To Animals, Including An Animal Shelter, Animal Control Officers,

Microchipping, Animal Bites And Animal Care, Spaying And Neutering, Rabies Control, Adoption Of Animals, Fees, Enforcement, And Related Matters, And Setting A Fine Not To Exceed The Amounts Set Out In Section 10.99 Of The Code Of Ordinances For Each Violation

- k. Discussion And Possible Action On Establishing An Open Records Request Policy
- l. Discussion And Possible Action On Zoom For All Council Meetings
- m. Discussion And Possible Action To Appoint Member(s) To The Economic Development Committee
- n. Discussion And Possible Action Regarding The Interim City Manager and Contract Changes
- o. Discussion And Possible Action For Compensation Acting City Manager Roxanne Cardona

8. 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

9. Adjournment

Interim 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: March 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: MARCH 9, 2023

AGENDA ITEM: 6. a.

6. Consideration Of And Action On Minutes

Special Minutes – February 23, 2023
Regular Minutes – February 23, 2023

The minutes are attached for your review. If you have any changes, please send me an email no later than 2:00 P.M. on March 5, 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
THURSDAY, FEBRUARY 23, 2023 – 5:30 P.M.
CITY HALL COUNCIL CHAMBER
112 BAUMAN, KIRBY, TX 78219**

1. Call Meeting to Order

Mayor Aldrich called the meeting to order at 5:30 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

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

ABSENT

Council Member Garza

5. Citizen Participation

There were not any citizens to speak.

6. Executive Session

The City Council Will Meet In Closed Session Pursuant To Texas Government Code Section 551.074 To Interview Applicants For The Position Of Interim City Manager And The Draft Contract For Interim City Manager

Mayor Aldrich closed the regular session and convened into closed session at 5:40 P.M.

- a. Deliberation And Possible Action To Interview Applicants For The Position Of Interim City Manager
- b. Deliberation And Possible Action Regarding Contract Negotiations With Interim City Manager

7. Reconvene To Open Session

Following Discussion And Deliberation In Closed Session, The City Council Will Convene In Open Session For Any Discussion And Action On The Matters Discussed In Closed Session, If Necessary.

Mayor Aldrich reconvened open session at 7:21 P.M. and said there was no action taken in closed session.

- a. Discussion And Possible Action To Interview Applicants For The Position Of Interim City Manager

There was no action was taken on this item.

- b. Discussion And Possible Action On Contract Negotiations With Interim City Manager

Council Member Walczyk moved that Mr. William Linn be sent a contract with negotiations that was discussed as our interim city manager; seconded by Council Member Street. The motion carried with a 4-2 vote.

AYES: 4

NAYES: 2 (Mayor Pro-Tem Grider and Mayor Aldrich)

8. Adjournment

Meeting adjourned at 7:25 P.M.

Kimberly Aldrich, Mayor

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, FEBRUARY 23, 2023
THE MEETING WILL BEGIN AT 7:00 P.M. OR FOLLOWING THE SPECIAL MEETING
CITY HALL COUNCIL CHAMBER
112 BAUMAN, KIRBY, TX 78219**

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1. Call Meeting to Order

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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. William Hilburn – He said he will speak on item 7.b.
2. Jackie Jackson – She spoke about the 34 years she lived in Kirby and offered her support for Ms. Monique Vernon and wished her well.
3. Jack Miller – He stated he is glad Council is going with William Linn because he is a straight shooter. He has the courage to make decisions and so did Monique. He said he did not agree with not renewing her contract. He thought she was a great city manager. He said he spoke with people who worked with Mr. Linn and he is not about that life. He does not care whose feelings he hurts; he operates within the laws and the rules. He spoke about Chief Arredondo from Uvalde School District. He said Code Enforcement is sending out notices to residents and encouraged residents to speak with Chief Cardona and Council about your concerns.
4. Laura Stanford – She announced that she is running for Place 6, Judson ISD School Board.
5. Pat Hollins – Mr. Miller informed Mayor Aldrich she left.
6. Kathy Gomez – She thanked City Manager Vernon, Mayor Pro-Tem Grider and Council Member Street for their immediate responses to concerns. She thanked Council for coming together to fix the problem. This is a testament that our local officials care and can work together to try and resolve matters. A resident informed her she is pleased to see street construction taking place. She addressed Ms. Vernon and said it's obvious by the large crowd you are well respected, cherished and loved. She has observed her during meetings and she is always poised, eloquent and well versed in all matters involving the City. She is sad to see Ms. Vernon move on. She takes comfort and hopefully others will as well that Ms. Vernon will be moving on to greater things and she hoped she will choose another small city to share her knowledge and drive them forward. She extended an invitation to all candidates that they can place their campaign signs in her yard. She wished all the candidate's good luck.
7. Lisa Pierce - She spoke to Monique. She thanked her for her service to the City of Kirby. She brought professionalism and skill sets our City greatly benefited from during her

tenure. It was not always recognized by everybody, but for those of us who knew what you did day in and day out and how far we came it's very much appreciated. She also appreciated the working relationship they previously had and grateful that although they did not agree on everything that they were able to share ideas and differences of opinions. She learned a tremendous amount from her and thankful that she didn't always go along with everything she said, but provided critical feedback on why something may have not been the best for the City. It was comforting to hear Mr. Miller mention that the person that may be here is not a yes person because it would be very critical and something really bad for the City if your city manager just says yes to everything. Thank you for providing feedback. Always having a decision that even though they were passionate about each of their sides that it was something that they could walk out of the room and maintain that professionalism that she always had. I am blessed to know you. I am blessed to know you know my family. I'm blessed to know your family and I treasure the friendship we have and really sorry to see you go. But as other people mentioned I know that wherever you land that you were going to do great things and I wish you and your family nothing but the best. Thank you.

8. Anna Hollins – She was not present to speak.

9. Bonnie Olvera – She was not present to speak.

10. Tim Wilson – He will speak on Item. 7 b.

11. Cory Mobley – He said TrueVision Church opened their doors in 2014 and were greeted by City Manager Monique Vernon and Mayor Timothy Wilson. The City embraced us partly because of Ms. Vernon and Mayor Wilson. We thank you all for allowing us to be here. We are glad that you see us more than just a church, but as a resource for this City. A lot of governments don't welcome churches. We own a lot of land and don't have to pay taxes, so you don't make any money off of us. Thank God. But for the other I'm just seeing us as more than a church, but as a resource for the City. We appreciate that. I think that's really because of you Monique. You're down to earth and willingness to think outside the box was a unique flavor. We have many campuses in this area. This City in Bexar County has a uniqueness and a flavor that we appreciated which is why we call Kirby home. The book of Ecclesiastes Chapter 3 verse 1 talks about 'there's a season for everything.' I'm glad that you used your dash in your date from starting here and your date to ending here to do so much for so many people. You are going to be missed and greatly appreciated. You know we are probably going to follow you and put a campus behind you wherever you go.

12. Maria Lozano – She said she signed up to speak because of the decision that was made regarding the Interim City Manager Mr. William Linn. When she learned the name of the candidates she searched this individual and there was an article that came out regarding his past work history at another city. She read the article posted on the City of Kenedy's Facebook page Friday March 11, 2022. She said she hoped that he is not bringing the same level of professionalism or lack of professionalism here. She asked if it is possible for Council to redact

the offer. She asked Council to listen or do more due diligence. She hoped Council can reconsider and continue looking.

6. Consideration Of And Action On Minutes

a. Special Minutes – February 2, 2023

Council Member Apodaca moved to approve the minutes of February 2, 2023; seconded by Council Member Garza. The motion carried with a 6-0-1 vote.

AYES: 6 NAYES: 0 ABSTAIN: 1 (Council Member Walczyk)

b. Regular Minutes – February 9, 2023

Council Member Apodaca moved to approve the minutes of February 9, 2023; seconded by Council Member Walczyk. The motion carried with a 4-3 vote.

AYES: 6 NAYES: 1 (Mayor Pro-Tem Grider)

7. Presentations

a. Yard Of The Quarter – Beautification & Recycle Committee

Maria Lozano, Beautification & Recycle Committee, Chairperson, announced Yard of the Quarter recipients Nancy and James Ortiz. There were not able to attend and Mrs. Lozano expressed their appreciation for the award.

b. Recognition Of Outgoing City Manager Monique Vernon

Chief Cardona spoke and said she came to Kirby Police Department in 2019. She said she was interviewed by three people which included our City Manager Monique Vernon. She researched because she was coming for an interview that she felt was important to making a difference in the community. She didn't come to Kirby for the pay so she researched the City Manager. She prepared for the interview and ultimately got the job as Lieutenant in 2019. The most amazing part of the journey and the information that you won't find online is that leaders like her existed. Monique has patience, understanding and unlimited guidance to provide you a shoulder. Monique provided an ear and a solution to any and all problems and definitely gave a woman like me inspiration and hope in places where it was darkened by others. Thank you for giving me your time, we pray that you continue to be successful in your future endeavors and that you continue your life with purpose in which from the outside looking in is creating a work environment that keeps employees motivated, care for and respected so thank you.

Chief Hilburn spoke to Monique and said you have been a part of the Kirby family for eight years. In those eight years not only have you held yourself up to a certain code of ethics, but you held your department heads and their staff to the same standards that you set for yourself. The City has been better for that. I say the Kirby family as you never treated an employee or a citizen of Kirby as they were just a number. You tried to get to know each employee that worked for the City of Kirby which makes it a family. As employees it is not always about the pay it is how one is treated that makes us want to keep coming to work and you came in the door treating people the same regardless of which department they worked in. Your leadership allowed each department to move forward and bring the City of Kirby closer to the 21st century. As you know you came into a chaotic City and you're leaving it better than you found it. Don't get me wrong, there are still issues and we all know it takes time and money to fix. Nevertheless, better than you arrived in just a short eight years ago. People know what you have accomplished here and some will give you credit while others will not. It does not matter who has the credit in the end. You know what you did and how far the City has come. You will be missed and as I and all the staff would like to thank you for your professional guidance time and energy that you provided us. Good luck.

Staff presented Ms. Monique Vernon with an award.

Tim Wilson, former mayor, mentioned a specific event in 2016 Monique attended. He said you might not remember and your family might not remember it, so we brought the video for you. He showed the video. I know how bad everything was like a million emails a day. I don't know how many people know, she actually won the contest. I think you couldn't hear some of the video. One of the things that she said shows actually when we first met. She was saying just show me and that was her attitude. That she came here and I think it pinpointed what she expected from each of her departments. You can talk but that talk didn't do anything if you couldn't show it. Monique would never expect something out of her employees that she wouldn't do. No matter what we would come up with Monique was always on board no matter how crazy it may have seemed. She always helped make it happen. We worked on the boundary adjustment with the City of San Antonio, we were able to bring an HEB into the empty warehouse. Those two things alone had tons of hours. The countless hours of unproductive Council meetings to attending all the City events and functions even made me so proud to see you grow in a very successful City Manager. She not only cared about improving Kirby, but also staff under her leadership. You have mentioned each one of them and helped them in every possible way. I know these last few years haven't been easy for you and your family. One of the things I admired most is it never changed you. You always keep your smile, your dignity and you always show up to work. Kept doing your job for the Council for a City and not knowing which day was going to be your last. You did this for the citizens of Kirby. You did this because that was what you do. Just know the very last thing in the video, she talked like she was giving herself a pep talk right before going out to dance or whenever they filmed the video. She said, "I might not be the best dancer, but I'll give you the best show." I think the City of Kirby was just your

warm-up dance and how the other city should be getting ready for the show. Kelly and I wish you the best in your next chapter.

Mayor Aldrich said to Monique you have been my friend and my mentor, you taught me how to be a Council person, and be the best that I can be. I value your friendship and your knowledge. I wish you the best. Mayor Pro-Tem Grider presented Monique with a card and said you are a professional and have always handled yourself very well, you are respected all over. Council Member Apodaca said Monique you are an exceptional person. I have never met anyone with such professionalism. You have kept your cool and never faltered. You taught me how to be a better business woman and Council woman. We are going to miss you.

- c. Presentation And Discussion On Municipal Auditing – Debbie Fraser, Armstrong, Vaughan & Associates

Debbie Fraser, Armstrong, Vaughan & Associates presented the history of the company, Armstrong, Vaughan & Associates and the history of conducting audits for the City of Kirby. She answered questions from City Council.

8. Discussion And Possible Action

- a. Discussion And Possible Action On Quarterly Financial Report Period Ending December 31, 2022

Council Member Apodaca moved to accept the Quarterly Financial Report period ending December 31, 2022; seconded by Mayor Pro-Tem Grider. The motion carried with a 5-2 vote.

AYES: 5

NAYES: 2 (Council Members Garza and Street)

- b. Discussion And Possible Action On Quarterly Investment Report Period Ending December 31, 2022

Council Member Walczyk moved to accept the Quarterly Investment Report period ending December 31, 2022; seconded by Council Member Apodaca. The motion carried with a 5-2 vote.

AYES: 5

NAYES: 2 (Council Members Garza and Street)

- c. Discussion And Possible Action To Accept The Resignation of Alice Moczygemba From Beautification And Recycle Committee

Council Member Apodaca moved to accept the resignation of Alice Moczygemba from Beautification and Recycle Committee; seconded Council Member Walczyk. The motion carried with a 7-0 vote.

AYES: 7

NAYES: 0

- d. Update, Discussion And Possible Action On American Rescue Plan Act (ARPA) Budget

Council Member Garza said just received this today at 10:00 A.M. He did not enough time to make a good decision.

Mayor Aldrich said Council has been looking at these numbers for a while.

City Manager Vernon said she was asked to bring this item back with more detail. She provided historic information.

Council Member Walczyk thanked Monique for the information and said this is what she was looking for.

- e. Discussion And Possible Action On Resolution No. R-2023-751 Authorizing The City Of Kirby To Apply for Bullet Resistant Shield Project

Council Member Garza thanked Lt. Alonzo for obtaining this grant.

Lt. Alonzo explained that the officer of the Office of the Governor awarded a grant and roughly \$22 million dollars to the State of Texas for law enforcement agencies to apply. With the assistance of the City Manager, he was able to get the grant submitted at the deadline and we were awarded \$22,500 for the purchase of ballistic shields.

Council Member Walczyk thanked Lt. Alonzo for his due diligence.

Council Member Garza moved to accept Resolution No. R-2023-751 authorizing the City of Kirby to apply for bullet resistant shield project; seconded by Council Member Street. The motion carried with a 7-0 vote.

AYES: 7

NAYES: 0

- f. Update And Discussion On City Of Kirby Grant Funding

City Manager Vernon provided an update from AACOG and informed Council the information is also in their packet.

Council Member Walczyk said thank you, I asked for this. Appreciate this.

g. Discussion And Possible Action On Retention Of A Municipal Court Prosecutor For The City Of Kirby

Council discussed the retention of a municipal court prosecutor for municipal court. The budget is \$500 per month.

Dan Santee, City Attorney, said their firm can step in while the City decided. He was not able to give feedback until after a member of the firm participates in a court session. He said their lowest rate is \$175 per hour. He said their firm will provide prosecution services for \$175 per hour until the City hired a prosecutor.

Mayor Aldrich recognized Jack Miller.

Mr. Miller said criminal activity is a serious matter. We must have court. Council needs to focus on retaining the prosecutor.

Council Member Walczyk moved to use our existing attorneys for our municipal court until we find a permanent replacement; seconded by Council Member Street. The motion carried with 6-1 vote.

AYES: 6

NAYES: 1 (Mayor Aldrich)

9. 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 wished Monique well and thanked her for her service to the City and said she is loved and good luck.

Council Member Garza thanked everyone for attending. He wished Monique the best. He heard good positive feedback on the zipper. He thanked Public Works. He requested items for the agenda. He will provide the items in writing to City Secretary due to his voice being garbled on ZOOM.

Mayor Pro-Tem Grider said February is Black History Month. Marion Croak spent her life inventing. She's the owner of over 200 patents. One of her inventions is the text to donate function. She led a team that created this after Hurricane Katrina. From there Mayor Pro-Tem Grider thought about being selfless and community service. She recognized two groups created by black women. Black Girls Do Bike founded by Monica Garrison and Friendship is a New Pretty Too founded by Lori Julian. Black Girls Do Bike is having an event on March 5th at 9:00 A.M. at

Friedrich Wilderness Park. Friendship is A New Pretty will be donating pillows to the Second Annual Non-Profit Community Health Expos, 1:30 P.M. – 5:30 P.M. Mayor Pro-Tem Grider recognized her grandmother whom we lost who dedicated her life to selfless service, Emma Sue Grider. She passed away February 28th at the age of 85 years old. She sent a basket of goodies to the Kirby Senior Center in her memory. She was in the United States Army and was a nurse. She was a part of the Women's Army Corps. It was not easy being in the military, but she served her country. She was a part of the Coffee Club, Cupidettes Club, American Legion and Elks Lodge and all organizations advocating for education through scholarships and community service projects. She ended with a quote from Thurgood Marshall "in recognizing the humanity of our fellow beings we pay ourselves the highest tribute."

Council Member Apodaca thanked everyone for attending the meeting. She thanked Monique's family for their sacrifice these past eight years. She thanked employees and asked everyone to secure their gates to prevent pets from getting out of their yard.

Council Member Walczyk asked to place fireworks on the March 9 agenda. Mayor Pro-Tem Grider your grandmother was a stunning looking woman. She said the City is in the process of moving cates. She will be speaking at Kirby Baptist Church about the Senior Painting Program. She sends out a special thanks to Police Department and Fire Department. She spoke to Monique and said you are getting job offers, you are not going to have a problem. Happy sailing.

Council Member Martin thanked everyone for attending. He thanked employees and wished Monique the best.

Mayor Aldrich said February is Suicide Awareness Month. If you need to talk to someone reach out. She said her phone number is available. There will be Household Hazardous Waste drop off on March 11 at Friendship Park. She said Monique you will be missed. No words express our gratitude.

Mayor Aldrich recognized City Manager Monique Vernon.

City Manager Vernon spoke about her journey as City Manager. Her first day on the job was September 19, 2014, Friday. She has been employed by the City of Kirby for eight years and five months. She stated that her record in Kirby speaks for itself. She served the community with professionalism, integrity, honesty, and a great deal of care for everyone in this community. She said please know that slander of my name, defamation of my character whether it is collectively or individually will not go without consequences. She thanked the former mayors, Mayor Wilson, Mayor Faulkner, Mayor Pierce, and Mayor Aldrich She thanked former and current City Council members and all residents of Kirby, volunteers on boards, commissions and committees and everyone who came out to help us do things like stuff Easter eggs, sell drinks at the Fourth of July Festival and all of our business owners who opened their doors to us for our quarterly business mixers and everyone who supported the City. She expressed her appreciation and thanked everyone who came out to bid her farewell.

10. Adjournment

The meeting adjourned at 9:18 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
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: MARCH 9, 2023

AGENDA ITEM: 7. a.

Discussion And Possible Action

Discussion And Possible Action On Revision To Extension Agreement With
Republic Services For Solid Waste Services

Monique Vernon

From: Armstrong, Tom <TArmstrong@republicservices.com>
Sent: Tuesday, February 21, 2023 9:43 AM
To: Monique Vernon
Subject: Extension Contract
Attachments: ULx_C_CS_Amendment_City of Kirby_230123.docx

Monique,

There was an error in the amendment we presented. We left off the fact that the annual price increase would be effective on 3/1/2023. I've added it to the attached. Copy of the price increase is in the mail to you.

Can you please have Mayor Aldrich resign the attached?

Tom Armstrong

Manager Municipal Services

4542 SE Loop 410

San Antonio, TX 78222

e tarmstrong@republicservices.com

o (210) 304-2732

c (210) 825-5853

w RepublicServices.com



[Total Control Panel](#)

[Login](#)

To: mvernon@cityofkirby.org [Remove](#) this sender from my allow list

From: tarmstrong@republicservices.com

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

AMENDMENT # 2 TO MUNICIPAL SOLID WASTE COLLECTION & DISPOSAL CONTRACT
CITY OF KIRBY, BEXAR COUNTY, TEXAS AND BFI WASTE SERVICES OF TEXAS, L.P. DBA
REPUBLIC SERVICES OF SAN ANTONIO

This Amendment (the "Amendment") to the Contract for is entered into as of the 1st day of March 2023 (the "**Effective Date**"), by and between **BFI Waste Services of Texas, LP dba Republic Services of San Antonio** ("**Contractor**"), and **City of Kirby** ("**City**") (collectively referred to herein as the "Parties" and individually as a "Party").

WHEREAS the Parties entered into the Municipal Solid Waste Collection & Disposal Contract for collection and disposal of residential garbage and recyclables, services dated March 1st, 2016 which was amendment via Amendment #1 dated June 22nd, 2017 (collectively "Contract").

AND WHEREAS, the Parties desire to amend certain terms of the Contract which shall take effect from March 1st, 2023.

NOW, THEREFORE, in consideration of the above premises and of the mutual covenants herein contained and other consideration, the receipt and sufficiency of which are hereby acknowledged, the undersigned Parties agree as follows:

1. Except as specifically provided in this Amendment, each and every provision of the Contract and previously executed amendments, if any, between the Parties remain, and is, in all respects, in full force and effect.
2. **Term:** The term of the Contract is hereby extended for an additional period of ninety (90) days effective from March 1st, 2023 till May 31, 2023 ("Renewal Period"). Thereafter, the Contract may be further renewed upon mutual consent of both the Parties.
3. **Annual Price Increase:** 2023 Annual Price Increase will be enacted for the period of this extension.

IN WITNESS WHEREOF, the Parties hereto have signed these presents for the purposes herein contained the day and year stated above:

Contractor:

**BFI Waste Services of Texas, LP dba Republic
Services of San Anton**

By: _____

Name: _____

Title: _____

City:

City of Kirby

By: _____

Name: _____

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: MARCH 9, 2023

AGENDA ITEM: 7. b.

Discussion And Possible Action

Presentation, Discussion And Possible Action On Municipal Solid Waste Services
Proposals

<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
AGENDA ITEM SUMMARY**

DATE: MARCH 9, 2023

AGENDA ITEM: 7.c.

Discussion And Possible Action

Presentation, Discussion And Possible Action On Municipal Swimming Pool
Management Services

SWIMMING POOL MANAGEMENT AGREEMENT

This Agreement, between **San Antonio Pool Management** (the “Company”) and **City of Kirby** (the “Customer”), is to provide for the staffing, water chemistry maintenance and cleaning by the Company at the Customer’s pool located at San Antonio, Texas in accordance with the specifications, conditions, and terms set forth herein. Company has no duties with regard to pool or facilities other than those explicitly stated herein.

1. **EFFECTIVE DATE.** This Agreement, when executed by both parties hereto, shall become effective on December 1, 2022 for the 2023 and 2024-year period extending from December 1, 2022 through November 30, 2024.

About Us

We’re a local company that is part of The Pool Management Group family of companies. From advanced lifeguard training and testing, to our national back up team for key personnel, to industry thought leadership, our customers receive the rewards of a large national company combined with our local expertise.

As a result, we are able to provide high levels of quality, safety and risk reduction.

2. **PERSONNEL.** Company will provide pool staff, including lifeguards, for operation of Customer’s pool. The Company will provide training and testing of the lifeguards working at Customer’s facility that significantly exceed the industry norm.

**Please see Section 5 for more details on personnel.*

3. **INSURANCE/LIABILITY.** The company will maintain a comprehensive insurance package including General Liability, Professional Liability & Punitive coverage with \$20 million dollar limits. While this is a significant limit, Company asserts it is a requirement and not an extravagance, as pool accident judgments have been awarded for multi-millions.

The company agrees to maintain, at a minimum, \$20 million liability insurance coverage for the length of this Agreement.

**Please see section 6 for more information on liability insurance*

4. **VALUE ADDED SERVICES.** Service components well beyond the standard pool management services are provided as part of this Agreement.

Value Added Services	Description
Advanced Lifeguard Training	Proprietary training is given to our lifeguards and goes beyond the standard lifeguard training. Training focuses on critical risks and dangers that many pool operators are not even aware of. Topics include advanced scanning techniques, lifeguard distractions, bodies disappearing underwater and more.
On-line Lifeguard Training	Through The Pool Management Group, our advanced training is administered on-line with custom video and audio learning. This proprietary on-line system has testing throughout to ensure lifeguards view and are tested on all material.
Summer Safety Campaign	Posters are placed at facilities (and information posted on-line) as part of our annual pool safety campaign aimed at pool patrons. The safety campaign is designed to increase awareness of pool hazards and prevent drowning.
Body on the Bottom Testing	Proprietary testing is completed at pools throughout the season to enhance lifeguards' ability to identify and save bodies underwater.
National Safety Advisors	Collectively, with The Pool Management Group family of companies, we contract with prominent safety advisors to ensure our water safety standards remain at high levels.
National Back Up Team	In the event of a need, we will utilize back up personnel available through The Pool Management Group. From President to pool technician positions, our team is backed up in the event of injury or other emergency.
National Parts Sourcing	When local parts distributors do not carry a part needed to keep your pool up and running, we will utilize the support team at The Pool Management Group for a nationwide search to find the right part and order it promptly.
Up to Date Information	Through The Pool Management Group, important governmental decisions and water safety developments are monitored so we can provide accurate timely information.
Risk Reduction	Our safety and training standards increase safety and reduce risk at your pool. However, even at the safest pools, accidents can happen, so we carry Professional Liability Insurance with \$20 million of coverage.

5. PERSONNEL.

- (a) All Company personnel who will work at the Customer's pool in fulfilling the terms of this Agreement, including all lifeguards, shall be employed solely by the Company and be employees of the Company. No lifeguard shall be engaged by the Company as an "Independent Contractor" to fulfill the terms of this Agreement.
- (b) All lifeguards employed by the Company shall have the minimum standard American Red Cross Basic Lifeguarding Certificates or Lifeguard Training Certificates, or the equivalent, as well as Professional Rescuer CPR, and then shall go through Company's proprietary lifeguard training and testing which provides knowledge and awareness well beyond the industry standard.
- (c) Company is solely responsible for selecting competent and qualified lifeguards for the safe operation of the Customer's swimming pool.
- (d) Personnel will be trained by the Company. Personnel not performing up to the standards of the Customer will be replaced by the Company within 12 hours.
- (e) Company is responsible for exercising control over the activities performed by the lifeguards. Lifeguards will be supervised by Company management personnel.
- (f) The Company agrees to pay the following for Company's employees, including all lifeguards:
 - Wages
 - Income tax withholdings
 - Social Security withholdings
 - State unemployment insurance
 - Federal unemployment insurance
 - Workmen's Compensation insurance
- (g) Lifeguards shall have the authority to discipline swimmers and any and all other persons within the pool facility within their best judgment and sole discretion consistent with the published and posted rules of the Customer and minimum safety standards as established herein. Customer agrees to support Company's lifeguards in enforcing the rules with Customer's patrons.
- (h) Whereas, Company has responsibility for providing lifeguards, water chemistry maintenance and cleaning of Customer's swimming pool, various Company personnel will be responsible for the following duties:
 - 1) Lifeguarding main pool.
 - 2) Checking water chemistry and recording readings every two (2) hours.
 - 3) Maintaining chemical balance of pool water.
 - 4) Vacuuming pool frequently enough that the pool is always clean

- 5) Cleaning tiles around pool edge.
- 6) Backwashing filter system.
- 7) Checking and recording filter pressure gauge readings and flow meter
- 8) Cleaning bathhouse throughout the day
- 9) Cleaning swimming pool area.
- 10) Emptying trash.
- 11) Straightening deck furniture.
- 12) Replenishing janitorial supplies in bathhouse.
- 13) Enforcing rules of the Customer for safety and convenience of Customer's members.
- 14) Assisting Customer in collecting guest fees and monitoring membership, as long as the task does not interfere with lifeguarding.

Whereas, Company will invest substantial resources to train and convey information concerning operational techniques and management procedures to its employees at Customer's facility and Customer acknowledges that such information and investment is a valuable asset of Company's business, Customer agrees not to hire or consult (without the prior written consent of Company) any employee or former employee of the Company for a period of one year from the date of expiration or cancellation of this agreement.

6. **INSURANCE/LIABILITY**. The Company shall maintain and keep in full force the following coverage:

- (a) **Professional Liability Insurance and General Liability Insurance** in the amount of \$20,000,000.
- (b) **Worker's Compensation insurance** covering all persons engaged on behalf of the Company in the performance of the terms of this Agreement.

Company agrees to indemnify and hold Customer, its officers, committees, and agents harmless from and against any claims caused by or arising out of the acts, omissions and/or negligence of the Company or its employees. This indemnity does not require Company to indemnify Customer for Customer's own negligence.

Company agrees to supply copies of the certificates of insurance to the Customer verifying the above-mentioned insurance coverage. It is the responsibility of the Customer to provide all other insurance coverage.

Except due to acts of omission or negligence on the part of the Company or its employees, Company assumes no liability for damage or injury to persons or property arising from or caused by Acts of God. Except as to the employees of Company, Company assumes no liability for damage or injury to persons or property arising from or caused by physical or mental incapacity, physical or mental diminution, or intoxication from alcoholic or other substances, whether legal or illegal.

Company shall not be held liable for any damages resulting from faulty equipment, mechanical failure, weather, flooding, or defective workmanship or design by others. Company accepts no

responsibility for hydrostatic lifting. Any risks associated with draining the pool shall be solely the Customer's.

The Company shall not be liable or responsible for any injuries or damages that arise at any time that is not within the hours of operation as stated in this Agreement, except for additional hours for which Company is contracted according to the terms of this Agreement.

The Company shall not be held liable for any personal effects of any person or persons utilizing the pool facilities.

The Customer shall maintain and keep in full force and effect the following coverage:

- (a) **Premises Liability Insurance.**
- (b) **Comprehensive General Liability Insurance** in the amount of \$1,000,000.00 each accident and \$1,000,000.00 each person.

7. **OPENING.** Company agrees to make pool "ready to swim" by completing the following services, where applicable:

- (a) Order, store, and inject all necessary chemicals to establish proper levels for:
 - free chlorine
 - total alkalinity
 - pH
 - calcium hardness
 - cyanuric acid
- (b) Vacuum pool.
- (c) Clean pool enclosure area.
- (d) Inspect chemical feeders.
- (e) Inspect all filtration equipment.
- (f) Inspect flow meters, pressure gauges, and valves.
- (g) Mount diving boards, guard chairs, and ladders.
- (h) Remove pool furniture from storage, clean, set out around pool area.
- (i) Thoroughly clean bathhouse.
- (j) Inspect and re-supply water testing supplies.
- (k) Inspect underwater lights.
- (l) Perform requisite repair work as needed and authorized by Customer (see "Repair Work").

PRE-SEASON STAFF MEETING WITH STAFF. Company's designated Pool Manager shall request a meeting with Customer's representative prior to opening day. The Pool Manager and all lifeguards, as feasible, will meet with Customer's representative.

PRE-SEASON SWIMMING POOL REVIEW MEETING. At the Customer's request, Company will walk-through with a representative of the Customer prior to opening to develop a list of items needed for operation of the pool and to review items identified by the Health Department as deficient from the previous year. Company shall stand ready, at the Customer's request, to perform repairs needed for compliance with Health Department regulations. The cost for any such repairs shall be additional to the price of this Agreement.

INITIAL TAKEOVER OF POOL BY COMPANY. Customer agrees pool will be clean and free of algae on the date of signing. If pool is not clean and free of algae, Customer agrees to pay reasonable additional charges for cleanup and chemical treatment of pool.

PERMIT. The Company will assist the Customer in obtaining Customer's Swimming Pool Operation Permit from the local Health Department.

The Company shall:

- (a) Clean and chemically balance pool to health department standards.
- (b) For the convenience of Customer, complete the Operating Permit Application and return it to the Health Department with the Permit Fee.
- (c) Schedule pre-season health department inspection and meet the health department inspector at Customer's pool to walk through the inspection with the health department inspector.

The Customer shall be responsible for:

- (a) Reimbursing Company for the actual Permit Fee required by the health department.
- (b) Complying with all health department regulations.

MINIMUM FACILITY STANDARDS. Customer agrees and acknowledges that it is the Customer's responsibility to maintain Customer's pool, equipment and associated facilities within established minimum standards. The rules and codes of the local health department having jurisdiction over Customer's pool, the National Electrical Code, and the Virginia Graeme Baker Pool and Spa Safety Act shall be included as minimum standards.

PRE-SEASON SWIM TEAM PRACTICE. At Customer's request, Company shall ready the pool for swim team practice earlier than the normal opening date. Customer shall give Company at least two (2) weeks prior notice. Company shall maintain the pool three (3) times per week during pre-season swim team practice at no additional fee to Customer. Any additional maintenance visits required by the swim team will be contracted with Company separately from this Agreement.

8. **POOL OPERATION**. Company agrees to furnish certified lifeguards and other personnel as contracted herein to operate the pool on the following schedule:

DATES OF OPERATION:

2023

The pool will be open on the following days:

May 27 through September 4

Lifeguard will be provided on the following days:

HOURS OF OPERATION: School Session

May 27-28. August 26-27. September 2-4. (School Session)

The pool to be open during the following hours:

Saturday	12:00 p.m. to 6:00 p.m.
Sunday	12:00 p.m. to 6:00 p.m.
Monday	Closed
Tuesday	Closed
Wednesday	Closed
Thursday	Closed
Friday	Closed
Holidays	12:00 p.m. to 6:00 p.m.

HOURS OF OPERATION: Summer Season

May 30 through August 20.

Saturday	12:00 p.m. to 6:00 p.m.
Sunday	12:00 p.m. to 6:00 p.m.
Monday	Closed
Tuesday	Closed
Wednesday	12:00 p.m. to 6:00 p.m.
Thursday	12:00 p.m. to 6:00 p.m.
Friday	12:00 p.m. to 6:00 p.m.

School Days Operation:

No lifeguard will be provided on school days.

DATES OF OPERATION:

2024

The pool will be open on the following days:

May 25 through September 2

Lifeguard will be provided on the following days:

HOURS OF OPERATION: School Session

May 25-27. August 24-25. August 31- September 2. (School Session)

Saturday	12:00 p.m. to 6:00 p.m.
Sunday	12:00 p.m. to 6:00 p.m.
Monday	Closed
Tuesday	Closed
Wednesday	Closed
Thursday	Closed
Friday	Closed
Holidays	12:00 p.m. to 6:00 p.m.

HOURS OF OPERATION: Summer Season

May 28 through August 18.

Saturday	12:00 p.m. to 6:00 p.m.
Sunday	12:00 p.m. to 6:00 p.m.
Monday	Closed
Tuesday	Closed
Wednesday	12:00 p.m. to 6:00 p.m.
Thursday	12:00 p.m. to 6:00 p.m.
Friday	12:00 p.m. to 6:00 p.m.

School Days Operation:

No lifeguard will be provided on school days.

STAFFING:

- Three (3) Lifeguards will be provided from 12:00 p.m. until 6:00 p.m. daily

Customer agrees to indemnify and hold Company harmless for any claims arising from the use of the pool(s) other than during those times specified above, except when such claims are the result of acts of omission or negligence of the Company.

On days when attendance at the pool is very low, Company may reduce the number of lifeguards on duty to as few as two.

Company shall be excused from providing staff on the schedule above upon the occurrence of any circumstance beyond its control to the extent that such circumstance makes it impossible to provide swimming pool staffing at the level detailed above, and in such circumstance Company and Customer shall work together to establish a new staffing schedule based on available staff. In such circumstance Company shall reimburse Customer for staffing hours that are not provided.

SAFETY BREAK. Once every hour the pool will be completely cleared for a period of ten minutes. During this break, lifeguards will not be on duty, the pool will be closed, no one may use the pool and the lifeguards shall not be responsible for supervising the pool.

VANDALISM. Additional reasonable charges for cleanup required as the result of vandalism, and approved by the Customer, shall be paid by the Customer to the Company. Any vandalism shall be reported to the Customer's designated representative immediately upon discovery.

SUPERVISION. Company management personnel will inspect the pool at least two times each week during the full-time operation of the pool. Additional inspections and/or visits to the pool will be made by Company's management personnel as needed in order to assure Customer's satisfaction.

UNSUITABLE WEATHER. On rainy days, if the weather is still unsuitable for swimming at 6:00 p.m., the pool will be closed for the day. Additionally, if the weather is unsuitable for swimming before 6:00 p.m., the pool will be closed, with no refund due to the Customer. Weather unsuitable for swimming includes:

- (a) air temperature at or below 68 degrees Fahrenheit
- (b) heavy rain
- (c) severe weather

Company will work with Customer to reopen pool if weather becomes suitable for swimming early enough in the day.

AFTER-HOURS EVENTS. The Company will provide lifeguards for after-hours events subject to the following:

Lifeguard hours provided by the Company, other than those specified in this contract, shall be billed to the Customer at the prevailing rate.

Company shall provide no lifeguard beyond the hour of 11:00 PM.

For after-hours events, the Customer is not required to use Company lifeguards; however, Customer assumes full responsibility and liability for the pool in the event any individuals are within the pool area when the Company lifeguards are not scheduled to work. Customer agrees to indemnify and hold Company harmless for any and all claims for damages or injuries, or both arising from the use of the pool during hours other than those specified in

this contract unless Company's lifeguards have been scheduled according to the policies set forth herein.

For after-hours events, for which the Company is to provide lifeguards, the Customer is responsible for giving the Company seven (7) days' prior written notice as to:

- (a) The time and date of the event.
- (b) The number of people who are scheduled to attend.
- (c) The general age group of the people scheduled to attend.
- (d) Whether alcoholic beverages will be permitted at the event.
- (e) Any special admission instructions.

The following scale shall be used to determine the number of lifeguards required at an after-hours event:

Number of People Expected

At Pool

Number of Lifeguards Required

1 to 50

2

51 to 75

3

76 to 100

4

101 or more

5, plus one (1) more for each additional 25 people or portion thereof. Example: 153 attendees would require 7 lifeguards.

One additional lifeguard shall be required for any teenage event, college age event, or for any event involving alcoholic beverages. Customer agrees to provide one adult chaperone for each ten (10) people at a teenage or college age event. The Company will not schedule lifeguards for any fraternity parties.

Billing shall include any time spent cleaning up after use by any special group or party. The Customer shall make payment of fees to the Company within ten (10) days after billing by Company.

9. **WADING POOL.** Company has no duties with regard to the wading pool or spa other than cleaning, maintaining water chemistry and backwashing filter.

10. **CLOSING.** The pool will be considered closed to swimmers at end of the day on the last day of operation as specified in Section 8 and Company will close the pool as soon after that date as Company deems possible. The Company will complete the following services, where applicable:

- (a) Remove and store all movable ladders, lifeguard chairs, and diving boards when required for closing pool.
- (b) Store pool furniture at Customer's pool.

11. **WATER QUALITY**. Company will be responsible for maintaining the following chemical levels of the swimming pool water within the tolerances of the local health department while pool is open to swimmers:

Free Chlorine	1.0 to 3.0 PPM
pH	7.2 to 7.8
Total Alkalinity	80 to 120 PPM
Calcium Hardness	200 to 300 PPM
Chlorine Stabilizer	less than 100 PPM

At no time will the water chemistry cause a failure of permission to operate the pool granted by the local health department. In the event the local health department revokes permission to operate the pool due to improper water chemistry, Customer shall be entitled to a partial refund of the contract price set forth herein computed by the following formula:

Number of days closed times the average daily portion of the contract price (total price divided by number of days pool is to be in operation as determined by this Agreement).

All of the foregoing notwithstanding however, the Company shall be excused from maintaining water quality as established herein and the Customer shall be entitled to no refund in the event of any Act of God, repairs, interference by Customer, together with any and all other reasons beyond the control of Company.

Any work performed by Company shall be subject to the conditions in the "Repair Work" provision of this Agreement.

12. **REPAIR WORK**. During the term of this Agreement, the Company recommends compliance with the Virginia Graeme Baker Pool and Spa Safety Act. The Company also recommends that Customer have its pool inspected annually by a licensed electrician and have all recommended electrical repairs completed by the inspecting electrician. During the term of this Agreement, the Company stands ready to perform any other installations or repairs needed to preserve Customer's pool aesthetics and/or to comply with State, Federal or local regulations, but Customer shall have the option of using its chosen contractor to perform any recommended repairs. The Customer agrees to indemnify, defend, and hold the Company harmless from all claims, injuries, damages, attorney's fees, and defense costs arising out of 1) repairs or renovations performed by any entity other than the Company, or 2) the failure of Customer to complete a) repair(s) or installations needed to comply with State, Federal or local regulations, or b) the above-described annual electrical inspection and recommended repair(s).

Work will be billed as follows:

- (a) Any repairs required as the result of error or negligence by Company shall be paid for by Company with no cost to Customer. Additionally, Company shall reimburse Customer for volume of water lost as a result of error or negligence.

- (b) Company will perform minor repairs to the pool and recirculation system, as part of the service provided; however, the Customer shall pay for parts and/or materials.
- (c) For repair work or necessary equipment wherein the cost does not exceed \$175.00, the Company shall bill Customer.
- (d) Any work or equipment in excess of \$175.00 to be provided by the Company or Company's subcontractors will be provided and billed to Customer. Such work or equipment shall be provided only upon the authorization of the designated representative of Customer, or in the event the Customer elects not to have such work performed or equipment provided, Company may cancel this Agreement if said election interferes with the Company's ability to carry out its responsibilities under this Agreement.

13. **CHEMICALS AND SUPPLIES.**

Company agrees to supply, at its expense:

- (a) Chlorine and pH control chemicals throughout the period of this agreement.
- (b) The following pool and janitorial supplies:
 - Soap
 - Disinfectant
 - Paper towels
 - Deodorizer
 - Toilet tissue
 - Correct size trash can liners for the pool area and bathrooms
 - Glass cleaner

Customer shall be responsible for providing, at no cost to Company, other equipment such as:

- | | |
|-------------------|--------------------|
| Water hoses | Life hooks |
| Pool vacuum heads | Trash receptacles |
| Pool poles | Water test kit |
| Pool vacuum hoses | Test kit reagents |
| Leaf eater | First Aid Kit |
| Rescue tubes | First Aid supplies |
| Ring buoys | Pool rules signs |

For Customer's convenience and for the efficient operation of the pool, Company will provide and invoice Customer for any of the items listed above that are not at the pool. Customer agrees to pay invoices for said supplies within thirty (30) days after invoicing.

- (c) Additional chemicals or labor. If additional chemicals or labor are required to maintain or correct pool water chemistry due to a failure or breakdown of Customer's equipment, or loss of water due (leak) to a defect in Customer's pool or recirculation system, Company shall notify Customer of such breakdown or defect, and if Customer elects not to remedy problem within seven (7) days of notice, Customer shall pay as an additional charge the reasonable expense of all said additional chemicals and/or labor. Amount owed for chemicals and/or labor shall be paid by Customer within ten (10) days after invoicing by Company.

14. **OFF-SEASON SERVICE.** The Company shall perform the following services at the Customer's pool during the off-season:

Uncovered Off-Season Service with Filter System Running – 2 visits per week in March, April and October. 1 visit per week November through February

- (a) Check chemicals and adjust as needed.
- (b) Vacuum as needed.
- (c) Clean skimmer baskets as needed.
- (d) Blow decks as needed.
- (e) Backwash filters & cleans strainer pots as needed.
- (f) Report any off-season vandalism to Customer.
- (g) Pool will be kept reasonably clean, but not up to Summer Season standards.

15. **INSTRUCTIONS.** Swimming instruction may be provided by Company for Customer's members only. Instruction shall be given by a qualified individual, while not on duty as a lifeguard. Company shall have rights to swimming lessons at Customer's pool during the term of this Agreement. Outside agencies approved by the Owner shall also have the right to teach swimming lessons. All Company insurance as described in Section 6 shall apply to Company's swimming instructors.

Arrangements for any instruction shall be made between individual requesting instruction and the Company. Only a member of the Customer's club or homeowner's association in good standing is eligible to receive instruction from Company on Customer's premises. Any resulting agreement shall be considered a contract between that individual and the Company; and Customer shall not be held liable for its enforcement nor for the collection of any fees due Company under the terms of that contract. Company shall be entitled to all fees paid for instruction provided by Company's employee(s).

16. **COMPANY'S INDEPENDENT CONTRACTOR STATUS.** Company is, and at all times shall be deemed to be, an independent contractor in the performance of services under this agreement. Company and its representatives are not, and shall not be considered or permitted to be, employees, agents, servants, joint venturers or partners of Customer.

17. **ACCESS AND UTILITIES.** The Customer will permit and maintain free access to the pool site and, upon signing Agreement, Customer will provide six (6) sets of keys to Company to open any and all locks required to operate the pool. Company shall keep and safeguard keys and release keys only to authorized personnel. Keys shall be returned to Customer in the event of termination of this Agreement.

Customer further agrees to furnish without cost to Company:

- (a) Water.
- (b) Electricity.
- (c) 110 volt electrical outlet in pump room.
- (d) Garbage pick-up service.
- (e) Lifeguard stand(s) and umbrella(s) for lifeguard stand(s).
- (f) Telephone.
- (g) A secure and cooperative working environment at Customer's pool.

18. **TELEPHONE.** Customer shall be responsible for providing an operational telephone (not a pay phone) accessible to Company's lifeguards at pool site. Consistent with health department regulations and for the safety of pool patrons the pool will only be open when the pool telephone is operational.

19. **EMERGENCY CLOSING OF POOL.** The Customer and/or Company may close the pool in an emergency situation, whether the emergency be caused by breakdown of equipment, or by other causes outside of the Company's control; this shall not require any change or adjustment in any of the provisions of this Agreement. Should a time lapse of more than five (5) days be necessary to perform repairs and/or restore pool to normal operations, the Company shall refund fifty percent (50%) of the daily operating cost from the fifth day on a pro-rated basis. For purposes of this section, the daily operating cost is to be computed at one percent (1%) of the total contract cost until such time as the pool is reopened for normal operation. If the pool is not reopened for normal operation within thirty (30) days, Customer may cancel this Agreement by written notice to Company.

20. **CANCELLATION.** The Customer shall have the right to cancel this Agreement based on Company's non-performance of duties and responsibilities as follows:

- (a) Customer shall notify Company by certified mail of any problem regarding performance as detailed in this Agreement. Company shall have 48 hours following notification to remedy stated violation of contract.
- (b) If Company fails to remedy violation and continues to not perform as detailed in this Agreement; Customer may terminate Agreement by providing five (5) days' written notice to Company by certified mail.
- (c) In the event that Customer terminates contract by procedure stated above, the Customer shall either be entitled to a refund for money paid in advance or

shall be responsible for a balance owed to the Company. Refund to be computed as follows:

A daily portion of the contract price shall be computed by dividing the total contract price by the number of days pool was to be open to members as determined by this Agreement. This daily price shall be multiplied by the number of days pool was operated under this Agreement. That amount shall be subtracted from the total amount of contract price paid to Company by Customer as of termination date. The resulting figures shall either be the refund to which the Customer is entitled or remaining balance owed to Company.

- (d) Refund or balance owed shall be paid within five (5) business days after termination.

21. MISCELLANEOUS.

- (a) The Company may display a sign on the pool premises designating the responsibility to the Company for the quality of the pool and the performance of the pool staff.

22. PROPOSAL EXPIRATION OPTION. This contract is voidable at the Company's option if not executed by the Customer and returned to the Company by December 31, 2022.

23. PAYMENTS. The Company hereby proposes to perform the work and services set forth above for the price of **\$50,433.00** for Year One, **\$55,195.00** for Year Two, upon the specifications, conditions and terms as set forth herein. Payments by Customer to Company in Year One shall be made in accordance with the following schedule:

2023

<u>Month</u>	<u>Attendant Payments</u>	<u>Off-Season Service Payments</u>	<u>Total Payments Due</u>
(a) One (1%) percent upon signing of Agreement	\$459.00		\$459.00
(b) Off-season Maintenance on or before January 1 of each year		\$500.00	\$500.00
(c) Nine (9%) percent plus off-season maintenance on or before February 1 of each year.	\$4,129.00	\$500.00	\$5,876.10

(d) Off-season Maintenance on or before March 1 of each year		\$850.00	\$850.00
(e) Off-season Maintenance on or before April 1 of each year		\$850.00	\$850.00
(f) Fifteen (15%) percent plus off-season maintenance on or before May 1 of each year	\$6,882.00		\$6,882.00
(g) Twenty-four (24%) percent on or before June 1 of each year	\$11,012.00		\$11,012.00
(h) Twenty-six (26%) percent on or before July 1 of each year	\$11,930.00		\$11,930.00
(i) Twenty (20%) percent on or before August 1 of each year	\$9,177.00		\$9,177.00
(j) Five (5%) percent plus off-season maintenance on or before September 1 of each year	\$2,294.00		\$2,294.00
(k) Off-season Maintenance on or before October 1 of each year		\$850.00	\$850.00
(l) Off-season Maintenance on or before November 1 of each year		\$500.00	\$500.00
(m) Off-season Maintenance on or before December 1 of each year		\$500.00	\$500.00
TOTAL	\$45,883.00	\$4,550.00	\$50,433.00

2024

<u>Month</u>	<u>Attendant Payments</u>	<u>Off-Season Service Payments</u>	<u>Total Payments Due</u>
(a) One (1%) percent upon signing of Agreement	\$506.00		\$506.00
(b) Off-season Maintenance on or before January 1 of each year		\$500.00	\$500.00

(c) Nine (9%) percent plus off-season maintenance on or before February 1 of each year.	\$4,558.00	\$500.00	\$5,058.00
(d) Off-season Maintenance on or before March 1 of each year		\$850.00	\$850.00
(e) Off-season Maintenance on or before April 1 of each year		\$850.00	\$850.00
(f) Fifteen (15%) percent plus off-season maintenance on or before May 1 of each year	\$7,597.00		\$7,597.00
(g) Twenty-four (24%) percent on or before June 1 of each year	\$12,155.00		\$12,155.00
(h) Twenty-six (26%) percent on or before July 1 of each year	\$13,168.00		\$13,168.00
(i) Twenty (20%) percent on or before August 1 of each year	\$10,129.00		\$10,129.00
(j) Five (5%) percent plus off-season maintenance on or before September 1 of each year	\$2,532.00		\$2,532.00
(k) Off-season Maintenance on or before October 1 of each year		\$850.00	\$850.00
(l) Off-season Maintenance on or before November 1 of each year		\$500.00	\$500.00
(m) Off-season Maintenance on or before December 1 of each year		\$500.00	\$500.00
TOTAL	\$50,645.00	\$4,550.00	\$55,195.00

Payments are due as indicated above. All payments as specified above, not made on or before ten (10) days after the due date shall be subject to delinquent payment fees of 1% per month, or any part of a month, of the amount due or any portion thereof. Payments for repairs, equipment or labor, not made on or before thirty (30) days after the due date shall be subject to delinquent payment fees of 1% per month, or any part of a month, of the amount due or any portion thereof. In the event payments are not received within ten (10) days from the due date for contract payments, and thirty (30) days from the due date for other payments, the Company shall have the right, at its option, and within its sole discretion to suspend, until all

overdue payments are received, or terminate its services under this Agreement and in either case to withdraw and remove all personnel from Customer's pool facilities without any further or additional notice to Customer. During a period of suspension or after termination, control of the pool and premises will be surrendered to the Customer and, if operated, it is at the Customer's sole risk and liability. Customer agrees to indemnify and hold Company harmless for any claims arising from the use of the pool(s) during a period of suspension or after termination due to payment(s) not being received on time. Any such suspension or termination notwithstanding, Customer shall be fully responsible for all payments provided herein.

In the event that Company elects to pursue collection of any amounts due under this Agreement, Customer shall pay all said amounts, together with interest at the rate of 12% per annum from the date the same became due, together with any and all cost of collection, including and together with any and all reasonable litigation expenses, including reasonable attorneys fees.

24. CUSTOMER CONTACTS:

PRIMARY CONTACT:

Name _____

Title or Position: _____

Street _____

City _____ State _____ Zip _____

Telephone () _____

Email: _____

PRESIDENT:

Name _____

Street _____

City _____ State _____ Zip _____

Telephone () _____

Email: _____

TREASURER:

Name _____

Street _____

City _____ State _____ Zip _____

Telephone () _____

Email: _____

BILLING ADDRESS:

Name _____

Street _____

City _____ State _____ Zip _____

FACILITY INFORMATION:

Name _____

Street _____

City _____ State _____ Zip _____

Telephone () _____

25. **EXTENSION OF CONTRACT.** This Agreement shall automatically renew on the same terms and conditions herein at the contract amount in effect for the immediate preceding year, plus an amount not to exceed 5% thereof, at the sole option of Company. In the event that Customer desires not to renew and extend this Agreement as provided herein, Customer shall provide Company with written notice thereof on or before November 1 of the current year.

26. **GOVERNING LAW.** This Agreement shall be governed by the laws of the State of Texas.

27. **STRICT COMPLIANCE.** No failure of Company to exercise any power or right granted hereunder or to insist upon strict compliance by Customer with its obligations and duty hereunder shall constitute a waiver of Company's right to demand strict compliance with the provisions hereof at any time.

28. **TIME OF ESSENCE.** Time is of the essence of this Agreement.

29. **ENTIRE AGREEMENT. MODIFICATION. BINDING EFFECT.** This Agreement constitutes the entire agreement of the parties and supersedes any prior agreements, understandings or negotiations, written or oral. This Agreement may not be modified or amended except in writing, signed by both parties hereto. This Agreement shall be binding upon and enure to the benefit of the Customer and Company and to their respective heirs, successors and assigns.

30. **RIGHTS CUMULATIVE.** All rights and powers under this Agreement shall be cumulative and, except as otherwise provided herein, shall be in addition to any and all other provided at law or in equity.

31. **EXTENSIONS.** Unless other agreed to by Customer and Company in writing, the terms of this Agreement shall apply to all extensions and renewals hereof.

32. **SEVERABILITY.** If any term or provision of this Agreement or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Agreement, or the application of such term or provision to persons or circumstances other than those to which it is held invalid or unenforceable, shall not be affected thereby and each term and provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

33. **ATTORNEYS FEES.** In the event of any legal proceeding or arbitration between the parties, each party shall be responsible for paying its own attorney's fees.

34. **COMPANY'S OPTION IN THE EVENT OF INCREASE IN COSTS.** The parties agree that, should any cost factor of the Company for providing services or products under this Agreement increase more than twenty percent (20%) in any contract year, Company may present a new Agreement to Customer on or before January 1 of the current contract year. Customer shall have 30 days from the date of receipt of the new Agreement in which to accept or reject the new Agreement. If Customer accepts the new Agreement then the new Agreement shall supersede and replace this Agreement. In the event the Customer elects not to accept the new Agreement, this Agreement may be terminated at the sole option of the Company.

35. **COMPANY'S OPTION IN THE EVENT OF INCREASE IN COSTS.** If there is an increase of fifteen percent (15%) or more in any cost aspect (including necessary increases in wages paid to pool staff) relating to this Agreement, Company may present to Customer a reasonable increase in the price of this Agreement based solely on Company's additional cost of providing the services provided for herein. Customer may, at its sole option, choose to refuse to pay an increase in price. In the event the Customer elects not to pay the increase, this contract may be terminated with 10 days written notice to Customer at the sole option of the company.

36. **COMPANY'S OPTION IN THE EVENT OF CHANGE IN LAWS.** If there is a change in local, state, or federal law which affects the cost of providing services under this Agreement, the Company may present a new Agreement to Customer, which new Contract shall supersede and replace this Agreement. Customer shall have 30 days from the date of receipt of the new contract in which to accept or reject the new contract. In the event the Customer elects not to accept the new Agreement, this Agreement may be terminated at the sole option of the Company.

37. **COMPANY'S OPTION IN THE EVENT OF CHANGE OF SCHOOL SCHEDULE.** The parties agree, should there be any change in the school schedule which affects the cost of providing services under this Agreement, Company may present a new Agreement to Customer, which new Agreement shall supersede and replace this Agreement. Customer shall have 30 days from the date of receipt of the new Agreement in which to accept or reject the new Agreement. In the event the Customer elects not to accept the new Agreement, this Agreement may be terminated at the sole option of the Company.

38. **ACCEPTANCE.** Acceptance of this Agreement by Customer and Company through signatures below will constitute a contract entered into in accordance with the specifications, terms and conditions and addenda attached hereto.

San Antonio Pool Management

By: _____

Officer

City of Kirby

By: _____

Title of Officer: _____

Attest: _____

Title of Officer: _____

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

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: MARCH 9, 2023

AGENDA ITEM: 7. d.

Discussion And Possible Action

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

J & T Home Solutions LLC

3402 Buzz Aldrin
San Antonio, TX 78219 US
+1 2107764360
jthomesolutionsllc@yahoo.com

Estimate

ADDRESS
3211 Alan Sheppard Dr.
Kirby, TX 78219

ESTIMATE 1075
DATE 02/16/2023

DATE	ACTIVITY	DESCRIPTION	QTY	RATE	AMOUNT
	Drinking Fountain	Removal of existing standard drinking fountain. Replace w/ Model #: EKAY EZSTIBLE Labor: \$1,800.00 Material: \$1,587.00 *Existing layout will be prepared and roughed in, to provide installation.	1	3,387.00	3,387.00
SUBTOTAL					3,387.00
TAX					0.00
TOTAL					\$3,387.00

Accepted By

Accepted Date

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

TEXAS ACCESSIBILITY STANDARDS
Kirby Senior Center, 3211 Alan Shepard Dr, Kirby, Tx 78219
ACCESSIBILITY SURVEY LETTER

TX-00000000

Mr. Elizabeth S. Longhini
Accessibility Specialist
Public Services Unit
3211 Alan Shepard Drive
San Antonio, TX 78219

Kirby Senior Center Accessibility Survey

Applicable Accessibility Regulations: Federal (2010 Standard), and State 2012
Texas Accessibility Standards (TAS)

Dear Elizabeth,

Enclosed are the results of my Accessibility Assessment for the referenced facility. Identified in the report are areas of nonconformance with accessibility standards adopted by the Texas Department of Licensing & Regulation (TDLR) for purposes of ensuring compliance with the Texas Architectural Barriers Act, Article 9102, Texas Civil Statutes.

This report addresses related parking lot, main building access, and Sr Activity Center. See attached photos for reference.

Accessible Parking and accessible route into the main building

The parking appears to be original to the property.

- The associated parking lot is showing signs of deterioration. I recommend re-evaluating its surface condition, each year, as you consider facility maintenance in your Capitol Improvement Budget. You should especially watch for pavement fissures and fractures resulting in elevation changes greater than 1/4", and loose asphalt material which become pedestrian obstacles. Maintain uniformly flat, stable surface, and parking stripes at accessible parking and access aisles. See photos, p1.
- Accessible route corrections-
 - Option 1- Recommended. Best option for pedestrian safety. Remove existing sidewalk along accessible route, which have cross slopes >2%, and 24" of abutting asphalt along the sidewalk edge. See p1.
 - Option 2- Remove 24" of asphalt along concrete concourse. Restore asphalt, flush, to eliminate the level change >1/4".
- The main building entry, accessible route is impeded by a level change, greater than 1/4" maximum allowed, at the transition from asphalt to concrete. Localized concrete surface restoration is needed, especially on the east side of the entry support column. The level change was probably caused by subsurface movement. The concrete concourse has numerous settlement cracks. See photos, p2.

TOM ELLIS, RAS



TEXAS ACCESSIBILITY STANDARDS
Randolph Area Service Program, 205 Donalan Dr, Converse, Tx 78109
ACCESSIBILITY SURVEY LETTER

Senior Center Interior Elements

The architectural amenities serving the Senior Center have a few conditions to correct. See my photos and notes.

Toilet Rooms

- Men and Women accessible water closets have obstructions caused by oversized toilet paper dispensers. Replace with flush, or nearly flush toilet paper dispensers. See photos p3.
- The lavatory in each toilet room is served with paper towel dispensers which create a protruding object. Relocate to a space over the lavatory counter.
- The undercounter pipes and surfaces are exposed and must be wrapped to protect wheelchair users who have reduce neuro sensitivity in their limbs.
- The Men's toilet room water closet was located too far from the sidewall, at 18 ½". 18" is the maximum distance wall to centerline of water closet, allowed. See photos, p3.

Men's Urinal

- The space vacated by the urinal(see photos, p3) appears to comply with the standards. It should be replaced according to municipale Plumbing Code requirements.

Drinking Fountain(no photo)

- The existing drinking fountain is a single wheelchair accessible unit. It should be a combo, high/low unit, which is intended to serve wheelchairs users and persons standing with difficulty bending. The current unit should be replaced with a high low drinking fountain complying with 2012 TAS 602. The standards require the bottom of the unit be no lower than 27" for a visually impaired cane detection. The new units need to match this requirement to prevent it from becoming a protruding object.

Door Finish Hardware

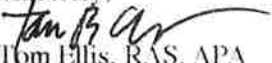
- The existing office door knob is not accessible. Replace with lever hardware, matching other similar accessible doors in the facility. See photos, p3

Summary Comment

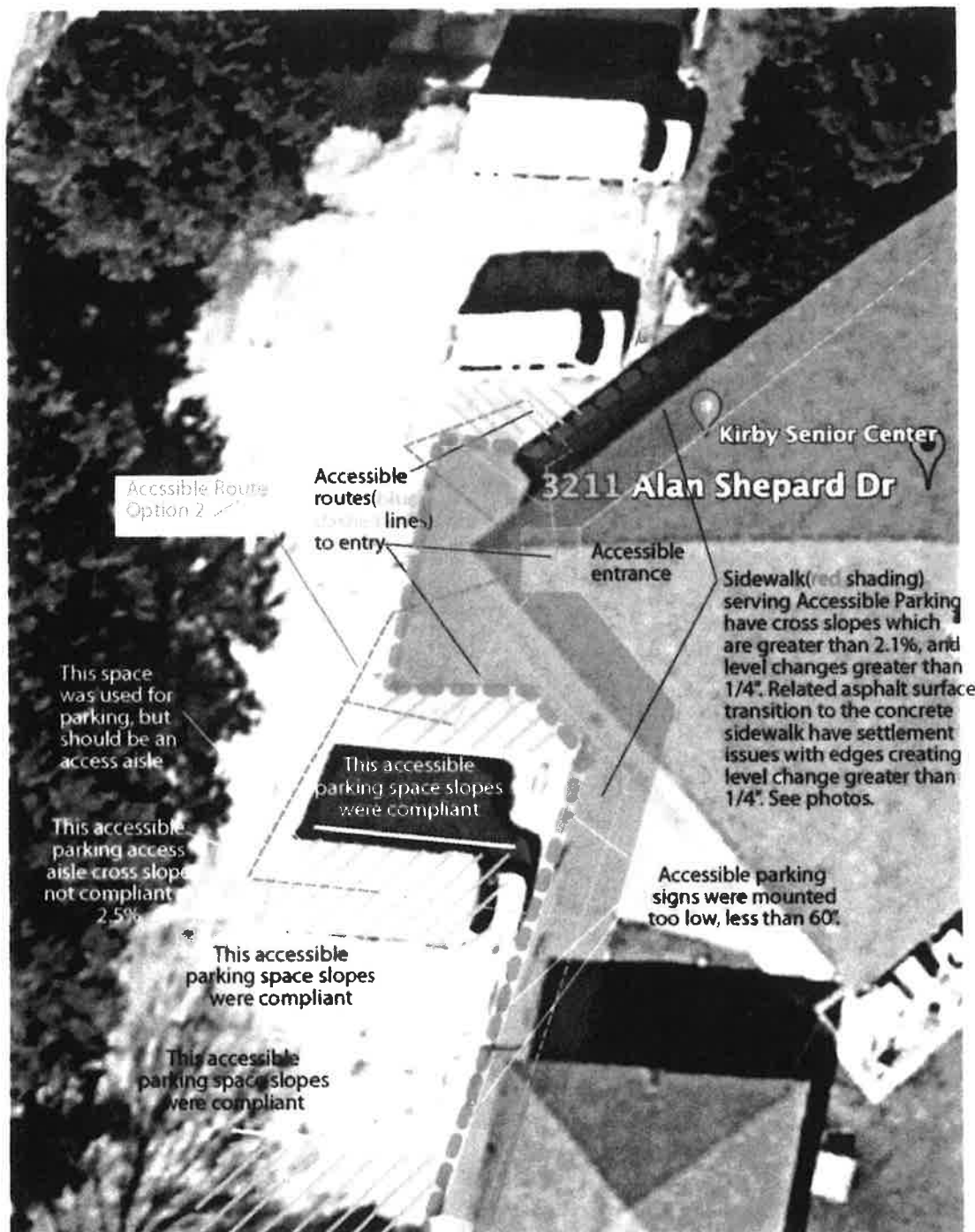
You may need to engage a general contractor to obtain a cost estimate for these corrections. For Options 1 or 2, a civil engineer may need to be retained for the level change remediation at asphalt, or concrete sidewalk cross slope corrections. The civil engineer will want to verify rainwater drainage flows away from your facility at 1-2%.

Thank you for allowing me to assist you on this very important project.

Sincerely,

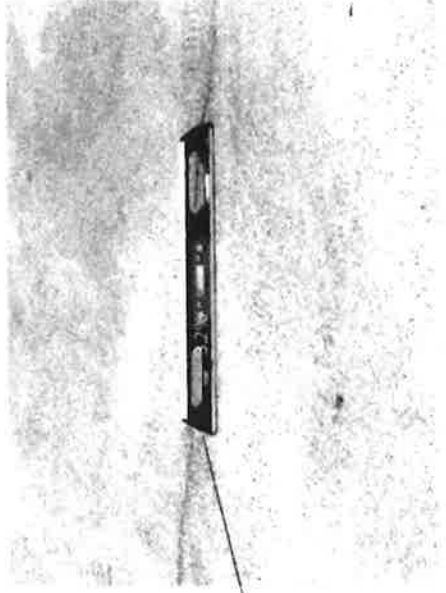
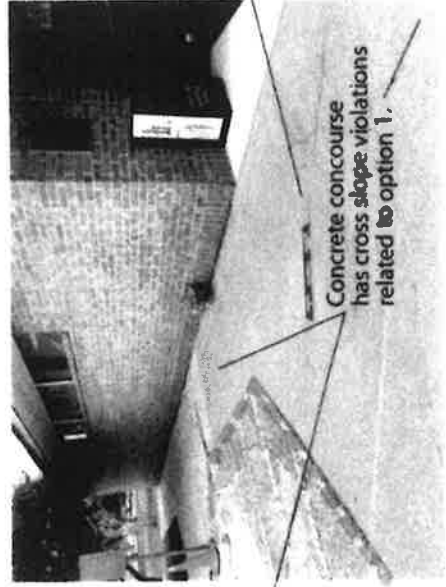
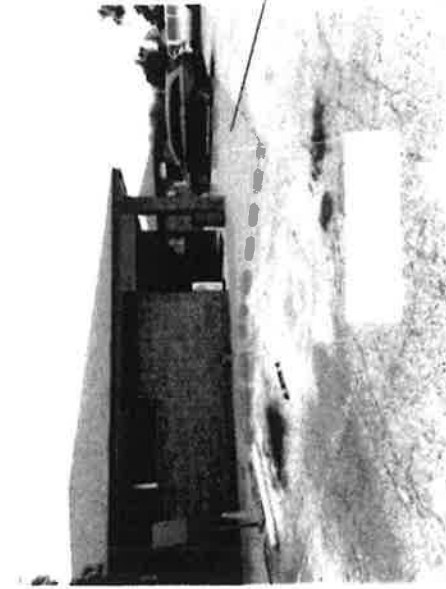


Tom Ellis, R.A.S., APA
13803 Chittim Woods
San Antonio, Tx 78232
tomellis1@me.com

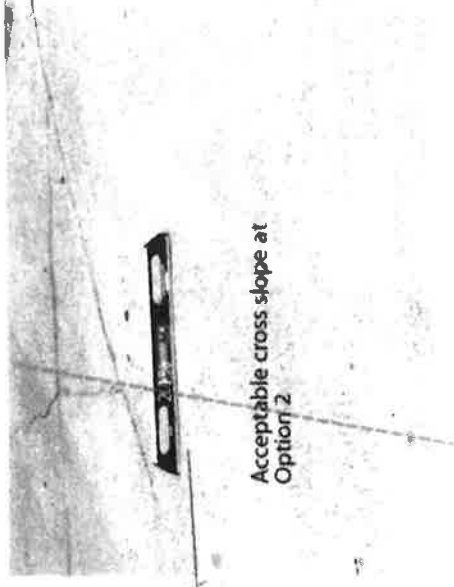


KIRBY SENIOR CENTER ACCESSIBILITY ASSESSMENT
 3211 ALAN SHEPARD DRIVE, KIRBY TX 78219
 12-29-2021, p1

Accessible Route
 Option 2: Remove 24" of asphalt along concrete concourse = = =. Restore asphalt to eliminate level changes > 1/4"



Level change at transition from concrete concourse to entry concrete landing is greater than 1/4", especially on the east opening. Restore concourse to level out transition surface. Feather concrete to smooth, even finish.



Avoid parking Center vehicles in accessible parking spaces, except during use for passenger delivery, or pickup. 2012 TAS 208.2.

Accessible parking signs are mounted too low, at less than 60". Identify Van accessible space, also. 2012 TAS 502.6.

Concrete concourse & sidewalk transition at entrance landing has settled, creating a level change. 2012 TAS 303.2

Sidewalk accessible route is not compliant due to settlement, cross slopes greater than 2%. 2012 TAS 403.3

Paving lot surface appears to need patching or repair, due to weathering, and settlement, which is affecting accessible routes. See notes on p1



Toilet paper dispenser (TPD) is an "obstruction" per 2012 TAS, TM 2013-17



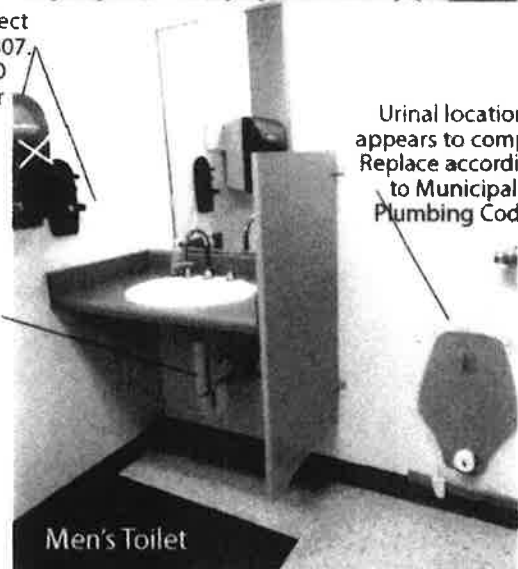
Protruding object

2012 TAS 204/307
Relocate PTD over counter



Protruding object
2012 TAS 204/307
Relocate PTD over counter

Wrap exposed pipes & Surfaces.
2012 TAS 606.5



Urinal location appears to comply. Replace according to Municipal Plumbing Code

Toilet paper dispenser (TPD) is an "obstruction" per 2012 TAS, TM 2013-17



Replace door knob with lever handle.
2012 TAS 309



<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: MARCH 9, 2023

AGENDA ITEM: 7. e.

Discussion And Possible Action

Discussion And Possible Action On Citizen Usage Of City Facilities For Events

This item was requested by Council Member Garza.

<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: MARCH 9, 2023

AGENDA ITEM: 7. f.

Discussion And Possible Action

Discussion And Direction On Ordinance Number 242 An Ordinance Making It Unlawful For Any Person To Possess, Possess For Sale, Sell Or Offer For Sale At Retail Or Otherwise, To Use, Shoot, Discharge, Explode, Ignite Or Display Any Fireworks Within The City, Providing For Permits To Be Issued For Public Firework Displays By The City Council And Issued For Public Firework Displays By The City Council And Providing For A Penalty Not To Exceed \$200.00 For Each Offense

This item was requested by Council Member Walczyk.

STATE OF TEXAS §
CITY OF KIRBY §

ORDINANCE NO. 842

AN ORDINANCE MAKING IT UNLAWFUL FOR ANY PERSON TO POSSESS, POSSESS FOR SALE, SELL OR OFFER FOR SALE AT RETAIL OR OTHERWISE, TO USE, SHOOT, DISCHARGE, EXPLODE, IGNITE OR DISPLAY ANY FIREWORKS WITHIN THE CITY, PROVIDING FOR PERMITS TO BE ISSUED FOR PUBLIC FIREWORK DISPLAYS BY THE CITY COUNCIL AND PROVIDING FOR A PENALTY NOT TO EXCEED \$200.00 FOR EACH OFFENSE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF KIRBY:

Section 1. It shall be unlawful for any person, in any manner, to possess, possess for sale, sell or offer for sale at retail or otherwise, to use, shoot, discharge, explode, ignite, or display any fireworks, of any kind, within the City, except as provided for in Section 2 of this Ordinance.

Section 2. Any adult person, firm, co-partnership, corporation or association may give a public fireworks display, provided that such adult person, firm, co-partnership, corporation or association shall first secure a permit from the City Council and shall meet the following requirements:

A. Said adult person, firm, co-partnership, corporation or association shall file an application with the City Secretary addressed to the City Council which shall contain the full name and resident address of the applicant, the time and the place of the proposed exhibition, a full description of the kind, character and quantity of the fireworks intended to be displayed, the specific reason for the firework display, and proof that the requirements for surety bond, insurance and other requirements of Section 10, Article 9205, Texas Revised Civil Statutes as amended, will be met.

B. The application shall be accompanied by a Cashier's or Certified Check payable to the City of Kirby for the sum of \$25.00.

Section 3. The City Council shall pass upon such application and may grant or reject the same within its descretion. In the event the application is denied by the City Council, the check for \$25.00 shall be returned to the applicant. If the application is granted, such check shall be retained as a fee for said permit and said funds

shall be deposited in the general funds of the City. A certified copy of the Council's Resolution of approval shall constitute the applicant's permit to display the fireworks. Such resolution shall not be issued until such applicant shall show proof to the City Secretary that the surety bond, insurance and other requirements of Section 10, Article 9205, Texas Revised Civil Statutes, as amended, have been complied with.

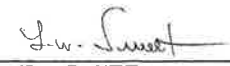
Section 4. If any portion of this Ordinance shall be held in conflict with Article 9205, Texas Revised Civil Statutes, as amended, such holding shall not invalidate the remainder thereof.

Section 5. Any person violating any of the provisions of this Ordinance shall be guilty of a misdemeanor and upon a conviction of such violation shall be punished by a fine not to exceed \$200.00 for each offense. Each day's violation shall constitute a separate offense. This Ordinance shall take effect immediately upon passage hereof.

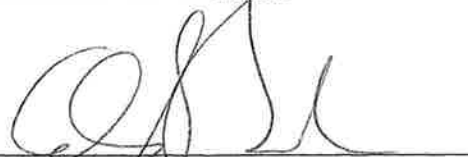
PASSED AND APPROVED this 2nd day of December, 1976.


MILTON J. HOENEKE, MAYOR

ATTEST:


L. W. SWEET
City Secretary

APPROVED AS TO FORM:


CARL D. BESCH
City Attorney

<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: MARCH 9, 2023

AGENDA ITEM: 7. g.

Discussion And Possible Action

Discussion And Possible Action On City Council Conduct And Decorum

This item was requested by Council Member Garza.

<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: MARCH 9, 2023

AGENDA ITEM: 7. h.

Discussion And Possible Action

Discussion And Possible Action On Professional Services Proposal From Givler
Engineering For The Relining On Well #2

This item was requested by Frank Salazar, Public Works Director.



515 Busby Drive, San Antonio, Texas 78209
TBPE No. F-2573

February 7, 2023

Mr. Frank Salazar, Public Works Director

Ms. Monique Vernon, City Manager

The City of Kirby

112 Bauman

Kirby, Texas 78219

Re: **Professional Services Agreement and Proposal for
Engineering Services to Repair the Lining at Well #2**
Project No. KIRBY-004C

Dear Mr. Salazar and Ms. Vernon:

Givler Engineering Inc. is pleased to offer this proposal for providing engineering services to repair the lining and pump at Well #2 located on Peppermint Lane. The proposed work will comply with the Texas Commission on Environmental Quality (TCEQ) requirements. Well #2 was drilled in 1960 to a depth of 725 feet below land surface. The well is an important part of a system that currently serves 2,740 connections and a population of approximately 9,669. The well is located within the Edwards Aquifer Authority's jurisdiction.

The well was recently inspected by a well contractor and found to need repair. Making changes to the water system or supply, such as installing new well components and performing well modifications, fall under 30 TAC Section 290.39(j) and require written notification and sealed plans to the TCEQ. The City wishes to obtain engineering plans and calculations that will facilitate the needed repairs and comply with TCEQ requirements.

Scope of Work

GEI proposes to perform the following tasks:

Site Visit and Research

1. Visit the site with City personnel and well contractor,
2. Observe conditions and take photos,
3. Measure structures,
4. Confirm scope of work, and
5. Obtain documents and well information from TCEQ.

Phone: (210) 342-3991

www.givlerengineering.com

Site Plan

The site plan will provide the following information:

1. Site location map,
2. Site and system layout,
3. Disinfection injection point,
4. Sanitary control easement, and
5. Proposed pump location.

Well Profile Plan

The well profile plan will provide the following information:

1. A diagram of the well viewed from the side,
2. Proposed limits of new casing,
3. Locations of casing deteriorations,
4. Surface seal,
5. Packers,
6. Bottom of casing,
7. Casing size, length, and material, and
8. Total well depth.

Submittal

1. GEI will complete TCEQ applications,
2. GEI will submit the plans, report, and completed applications to TCEQ for review and approval, and
3. GEI will also respond to TCEQ comments.

Construction Observation

1. GEI will visit the site during construction to observe conditions and to check for general compliance with contract documents and TCEQ requirements,
2. Observe and obtain cementing certificate from the well contractor, and
3. Coordinate a final review to evaluate completeness and compliance of construction work.

The scope of work does not include bidding the work or developing a contractor agreement. It also does not include obtaining samples for chemical testing. The scope of work also does not include bringing the well and water system into compliance for reasons other than what is specified.

Basis of Compensation

The fee for performing the tasks listed in the Scope of Work will be performed for the following fixed fee amounts:

Site Visit and Research	\$10,000
Site Plan	\$5,000



Well Profile Plan	\$6,000
Submittal	\$6,000
Construction Observation and Testing	<u>\$5,000</u>

Total Engineering Fee \$32,000

Additional services may be authorized by the City at the following rates:

Principal Engineer	\$200
Sr. Civil Engineer	\$200
Project Manager	\$170
Sr. Engineer in Training	\$150
Engineer in Training	\$135
Researcher	\$100
Assistant	\$ 75
Expenses (courier, reproduction, etc.)	x 1.15
Mileage	IRS Business Rate x 1.15

Invoices will be issued at approximately 1-month intervals. You agree to pay invoices within 30 days of issuance. Any unpaid balance is subject to a 1.5% per month service charge, which is an annual percentage rate of 18%.

No additional tasks will be performed unless first authorized by the City. Invoices will be issued at approximately 1-month intervals. The City agrees to pay invoices within 30 days of issuance.

Certification

Givler Engineering, Inc. will not be required to execute any document that would result in its certifying, guaranteeing, or warranting the existence of conditions whose existence Givler Engineering, Inc. cannot ascertain.

Engineer's Standard of Care

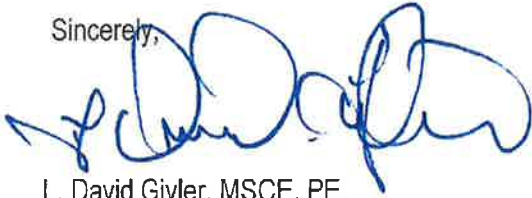
Engineer shall provide its services under this Agreement with the same degree of care, skill and diligence as is ordinarily provided by a professional engineer under similar circumstances for a similar project. Engineer represents that it has the capability, experience, available personnel, and means required to perform the services contemplated by this Contract. Services will be performed using personnel and equipment qualified and/or suitable to perform the work requested by the City. City retains the right to report to Engineer any unsatisfactory performance of Engineer personnel for appropriate corrective action. Engineer shall comply with applicable federal, state, and local laws in connection with any work performed hereunder.



Authorization

Thank you for the opportunity to submit this proposal. The offer in this proposal is valid until August 31, 2021. In order to approve this contract and to indicate your acceptance, please send a signed copy back to our office. Please do not hesitate to contact me if you have questions or if you need to discuss any of the terms of this Agreement.

Sincerely,



L. David Givler, MSCE, PE
President, Givler Engineering, Inc.

Acceptance and Approval

Name: _____

Signature: _____

Title: _____

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: MARCH 9, 2023

AGENDA ITEM: 7. i.

Discussion And Possible Action

Discussion And Possible Action On Installation Of A Meter to Monitor Friendship
Park Ballfield Lights

This item was requested by Frank Salazar, Public Works Director.



New Construction • Maintenance • Voice & Data

December 29, 2022

City of Kirby Public Works
112 Bauman Street
Kirby, TX. 78219

Reference: Ballfield Lights Meter

Attn: Frank;

Gerard Electric would like to thank you for allowing us the opportunity to submit this proposal. We propose to furnish all materials and labor required to install one meter at each ballfield lighting control box and a new switch to control the metering of the field lights when the tenant is using them. The existing switch shall be used when the city or others are using the lights and will not be metered. Please note these meters are up to 36 weeks out ordered from the factory. All work is to be performed during normal working hours.

- Two meters and controls installed @ \$3780.00 per installation.

TOTAL \$7,560.00

Exclusions:

- Sales Tax
- After Hours Labor

If you have any questions regarding this Scope of Work or need additional information, please give me a call.

Sincerely,

Ken Glueck
Service Manager

14275 IH 10 East, Schertz, TX 78154 * Voice (210)661-8241 * Fax (210) 661-8202 TECL #17367

*Regulated by The Texas Department of Licensing and Regulation, P.O. Box 12157, Austin, Texas 78711.
1-800-803-9202, 512-463-6599; website: www.license.state.tx.us/complaints.*

<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: MARCH 9, 2023

AGENDA ITEM: 7. j.

Discussion And Possible Action

Discussion And Direction On Ordinance No. 2022-915 An Ordinance To Set Out Provisions As To Animals, Including An Animal Shelter, Animal Control Officers, Microchipping, Animal Bites And Animal Care, Spaying And Neutering, Rabies Control, Adoption Of Animals, Fees, Enforcement, And Related Matters, And Setting A Fine Not To Exceed The Amounts Set Out In Section 10.99 Of The Code Of Ordinances For Each Violation

This item was requested by Roxanne Cardona, Police Chief.

ORDINANCE NO. O-2022-915

AN ORDINANCE OF THE CITY OF KIRBY, TEXAS REPEALING EXISTING CHAPTER 91 OF THE CODE OF ORDINANCES AND ADOPTING A NEW CHAPTER 91 ENTITLED "ANIMALS" TO SET OUT PROVISIONS AS TO ANIMALS, INCLUDING AN ANIMAL SHELTER, ANIMAL CONTROL OFFICERS, MICROCHIPPING, ANIMAL BITES AND ANIMAL CARE, SPAYING AND NEUTERING, RABIES CONTROL, ADOPTION OF ANIMALS, FEES, ENFORCEMENT, AND RELATED MATTERS, AND SETTING A FINE NOT TO EXCEED THE AMOUNTS SET OUT IN SECTION 10.99 OF THE CODE OF ORDINANCES FOR EACH VIOLATION

WHEREAS, the City Council of the City of Kirby, Texas, previously adopted an ordinance or ordinances regulating animals within the City, said ordinance or ordinances being codified as Chapter 91 of the Code of Ordinances of the City; and

WHEREAS, the City Council of the City of Kirby, Texas believes that Chapter 91 of the Code of Ordinances should be repealed and replaced by a new Chapter 91 of the Code of Ordinances to provide rules and regulations regarding animals.

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

Section 1. Chapter 91 of the Code of Ordinances is hereby repealed.

Section 2. A new Chapter 91 of the Code of Ordinances is hereby adopted to read as follows:

ARTICLE I

Section 91.1 Definitions

The following definitions shall apply in the interpretation and enforcement of this Chapter

Abandoned Animal: An animal that has been abandoned while in a person's custody without making reasonable arrangements for assumption of custody by another person. This definition shall include all animals abandoned on city property (whether owned or stray) or at the shelter when shelter staff is not present to assume custody of the animal and to animals who are not reclaimed by their owner within five (5) days of being notified of the animal's impoundment.

Animal: Any mammal, reptile or bird, domestic or wild.

Animal Control Officer: Person designated and duly sworn by the City as an enforcement officer who is qualified to perform such duties under the laws of the City and of the State and who holds a Basic Animal Control Officer Certification.

Animal Services Manager: The City Manager or designee will be the supervisor of all animal services activities.

Animal Shelter: Any facility operated by the City or its authorized agents for the purpose of impounding, quarantining or caring for animals held under the authority of this Chapter.

At Large: Any dog not under restraint of a person by a leash who is capable of control of the animal on or off the premises of the owner.

Auctions: Place or facility where animals are regularly bought, sold, or traded except for those facilities otherwise deemed in this Code. This term does not apply to individual sales of animals by private owners.

Bite: Puncturing or tearing of the skin by an animal's teeth that could result in the exchange of blood and saliva.

Cat: Any *Felis Catus*

Cat Colony: A colony of free-roaming (homeless, stray, wild or untamed) cats that has been registered with the department and is maintained by a colony caretaker (who provides food, water and shelter).

Circus: Commercial variety show featuring animal acts for public entertainment.

City: The City of Kirby

City Veterinarian: Person or persons contracted by the City of Kirby and who are licensed to practice veterinary medicine in the State of Texas.

Commercial Animal Establishment: Pet shop, grooming shop, guard dog, or obedience training center, animal auction, riding school or stable, zoological park, circus, performing animal exhibition, or boarding or breeding kennel.

Commercial Property: A tract of land and or building zoned for or utilized for commercial or business uses in the City limits including temporary commercial sites.

Confined: A situation by which an animal is effectively prevented from being free to roam or run at large.

Custodian: A person or agency that feeds, shelters, harbors or has possession or control or responsibility to control an animal.

Dangerous Animal: Any animal that attacks, bites or injures human beings or domesticated animals without provocation or which because of temperament, conditioning or training has a known propensity to attack, bite, or injure human beings or domesticated animals or an individual animal which the local health authority or municipal court judge has reason to believe has a dangerous disposition likely to be harmful to humans or other animals.

Dog: Any *Canis Familiaris*, including hybrids.

Domestic Animal: Any animal normally adapted to live in intimate association with humans or for the advantage of humans, and commonly kept as pets, including but not limited to, domestic cats and dogs, domestic ferrets, rabbits, and domestic fowl and small animals.

Domesticated Cat: A cat that is socialized to humans and is appropriate as a companion to humans.

Domestic Fowl: Birds of a breed developed or kept for the purpose of meat production, egg laying, or purely for ornament or show, including but not limited to ducks, geese, chickens, turkeys, partridges, parakeets and pigeons.

Ear Tipping: A straight line cut of the tip of the left ear of a cat while the cat is anesthetized to identify the cat as altered.

Euthanasia: The act of inducing the painless death of an animal for reasons assumed to be merciful. An easy or painless death.

Exotic Animals: Animals that are not livestock or typical domestic animals including but not limited to the following; pythons, boa constrictor, non-poisonous spiders, scorpions, or lizards.

Exotic Bird: Any member of the Class Aves, such as parrots, that are not indigenous to the 50 States or the District of Columbia, including any egg or offspring thereof, but does not include domestic poultry,

Feral: Any domestic animal that has escaped domestication and reverted back to a wild state.

Feral Cat: A cat that exists in a wild or untamed state, either due to birth or reversion to a wild state from domestication. The usually and consistent temperament of a feral cat is extreme fear and resistance to contact with humans. Feral cats are completely or substantially unsocialized to humans.

Feral Cat Caregiver: A volunteer, uncompensated person who agrees to facilitate the trap, neuter and return program in accordance with this chapter and any rules and regulations established by the Animal Services Department.

Feral Cat Colony: A group of cats that congregates, more or less, together as a unit. Although not every cat in a colony may be feral, any non-feral cats that congregate with a colony shall be deemed a part of it.

Fowl: A bird of any kind, domestic or wild, cock or hen, *Gallus Gallus*.

Foster: To provide care or nurture animals until a suitable home can be found in accordance with guidelines set by the Animal Services Department.

Grooming Shop: Commercial establishment where animals are bathed, clipped, plucked or otherwise groomed.

Guard Dog: Any professionally trained dog that will detect and warn its handler that an intruder is present in or near an area that is being secured. Any dog that is utilized to protect commercial property.

Guard Dog Permits: Issued for each commercial establishment where guard dogs are to be used or where guard dogs are kept or boarded.

Guard Dog Training Center: Commercial property where guard dogs are to be used or where guard dogs are to be kept, boarded, bred, sold, let to hire or trained for a fee for guard dog purposes.

Handler: Any person who is responsible for and capable of controlling the actions of a guard dog or training or transporting a guard dog.

High Risk Animal: Animals which have a high probability of transmitting rabies, including skunks, bats, raccoons, coyotes, and species of foxes indigenous to North America.

Housing Facility: Any room, building, or area used to contain a primary enclosure or enclosures.

Humanely Killed: To cause the death of an animal by a method which rapidly produces unconsciousness and death without visible evidence of pain or distress or utilizes anesthesia produced by an agent which causes painless loss of consciousness and death following such loss of consciousness.

Hybrid: Any offspring of two animals of different species.

Kennel or Cattery: Any premises wherein any person engages in the business of boarding, breeding, buying, letting for hire, training for a fee or selling dogs and cats and or a facility for keeping more than three (3) animals of the same species.

Impoundment: The collecting or confining of an animal due to City Ordinance Violation.

Isolation: The separation of animals exposed or potentially exposed to rabies or other diseases.

Licensed Veterinarian: A veterinarian licensed to practice veterinary medicine by the State Board of Veterinary Medical Examiners.

Livestock: Shall mean any equine, hog, sheep, goat, llama, or any bovine species.

Local Health Authority: The officer designated by the City Council under Texas Health and Safety Code Chapter 826 as amended from time to time.

LRCA: Local Rabies Control Authority

Nondomestic Animal: Includes all animal other than domestic cats and dogs, domestic ferrets, livestock, rabbits and domestic fowl.

Owner: Person who feeds harbors an animal(s) for more than seventy-two (72) hours without the presence of that animal being recorded in the records of the Shelter as a stray animal. Persons caring for an animal at the request of an owner are not included in the definition of owner, but are required to keep the animal in compliance with this Code. An owner does not include a feral cat caregiver participating in an authorized trap, neuter and return program.

Performing Animal Exhibitions: Spectacle, display, act, or event other than circuses and rodeos in which animals are used and shall include animal amusement vendors such as, but not limited to, pony rides, petting zoos, commercial horseback pictures, etc.

Pet or Companion Animal: A domestic or tamed animal kept for pleasure rather than utility.

Pet Shop: Business establishment, sole proprietor, partnership or corporation, whether licensed or not by the City, where two (2) or more species of animals, including dogs, cats, fish, birds, reptiles, or rodents are kept for sale or commercial barter.

Positive Control: Confined to a quarantine facility where the animal cannot make physical contact with other animals or humans other than a licensed veterinarian, Animal Control Officer, or other facility operator.

Possible Exposure to Rabies: A bite received from any warm-blooded animal, animal to human or animal to animal, is reason to suspect exposure to rabies.

Poultry: Any species of domesticated birds commonly kept for eggs and or meat.

Prohibited animals shall mean:

- (1) Any ape or other non-human primate;
- (2) Any member of the genus *Canis* including wolf, hybrid wolf, coyote, jackal or fox, and similar species except *Canis Familiaris*;
- (3) Any member of the genus *Felis* including leopard, lion, panther, tiger, lynx, bobcat, cheetah, ocelot, margay, jaguarundi, and any similar species except *Felis domesticus*;
- (4) Mustelids; other than the domestic ferret (*Mustela putorius furo*);
- (5) Skunk;
- (6) Crocodile, alligator, caiman or related species;
- (7) Swine;
- (8) Ostrich or any other Ratites;
- (9) Bear; and
- (10) All other mammals that live in a natural state of undomesticated freedom including the opossum, raccoon, armadillo and squirrel.

Provocation: Any purposeful act that causes an animal to bite scratch or attack in protection of itself or its owner or its owner's premises. Entrance in any manner into an area where an animal is properly under restraint in compliance with City ordinances would be considered provocation irrespective of the reason for such entrance.

Public Nuisance: Any animal, livestock or wildlife that unreasonably annoy humans, endangers the life or health of other animals or persons, or substantially interferes with the

rights of citizens other than their owners to enjoyment of life or property. The term Public Nuisance Animal shall mean and include, but is not limited to any animal that:

- a) is repeatedly at large or stray;
- b) damages the property or anyone other than its owner's;
- c) molests or intimidates pedestrians or passersby;
- d) trespasses on school grounds;
- e) chases vehicles;
- f) excessively makes disturbing noises including but not limited to continued repeated howling, barking, whining or other utterances causing unreasonable annoyance disturbance or discomfort to neighbors or others in close proximity to the premises where the animal is kept or harbored;
- g) causes fouling of the air by odor and thereby creates unreasonable annoyance or discomfort to neighbors or others in close proximity to the premises where the animal is kept or harbored;
- h) causes unsanitary conditions in enclosures or surroundings where the animal is kept or harbored;
- i) is offensive or dangerous to the public health safety or welfare by virtue of the number and or type of animals maintained; or
- j) attacks other domestic animals or humans.

Quarantine: Strict confinement for the purpose of preventing the spread of disease under restraint by closed cage or padlock or in any other manner approved by the local health authority on the private premises of the animal s owner or at a facility approved by the Texas Department of Health.

Quarantine Period: That portion of the observation period during which an animal is physically confined for observation as provided for under the quarantine method and testing section of this Chapter.

Rabies: An acute viral disease of man and animal affecting the central nervous system and usually transmitted by an animal bite.

Rabies Vaccination: A protective inoculation given under the direction of a licensed veterinarian with a rabies vaccine recognized and approved by the U.S. Department of Agriculture Bureau of Animal Industry given in an amount sufficient to provide immunity and satisfies the requirement of State law.

Registered Microchip: An identification chip implanted under the skin of an animal for the purpose of identifying its owner or keeper which has been registered with a microchip

registration company with current ownership information to include the current owner's or keeper's name, address, and telephone number (if available), and the description of the animal.

Responsible Person: A person to who commands an animal in question is obedient, and who is capable of controlling the animal if the animal should fail to obey such commands.

Restraint: A chain, rope, tether, leash, cable or other device that attaches an animal to a stationary object or trolley system or a substantial fence or pen.

Riding School or Stable: A place that has available for hire, boarding and/or riding instruction any horse, pony, donkey, mule, or burro or any place that regularly buys, sells or trains the above animals, including a racetrack, trotting track, or rodeo.

Roosts: Bars where domestic fowl perch at night inside a coop and run.

Rooster: The male of any type of domestic fowl.

Run at Large: A dog found to be free of restraint, meaning off a leash while outside the boundaries of the real property of the owner.

Scratch: A scrape left by the claws or nails of an animal that is of sufficient severity to break the skin and draw blood.

Service Animal: An animal having special training to assist or aid a person with disabilities. Emotional support animals are not classified as a service animal. All service animals must have a valid certificate to be considered a service animal. The only animal classified as a service animal is a canine. The only animals allowed to be classified as emotional support animals are canine, feline, and miniature horse.

Severe Injury: Any physical injury that results in death, broken bones or disfiguring lacerations requiring multiple sutures or cosmetic surgery.

Shelter: Clean and sturdy structure with a roof and three (3) sides and a fourth side allowing access that is protected from the elements and a floor that is elevated enough to keep the shelter dry. A shelter shall provide protection from rain, hail, sleet, snow, and subfreezing temperatures and must be large enough to allow the dog or animal to stand erect, sit, turn around and lie down in a normal manner.

Sick Animal: Any animal that appears to be suffering from an infectious, contagious or communicable disease or that is showing evidence of a physical disorder or traumatic injury or that has an elevated temperature.

Small Animal: Rabbits, guinea pigs, domestic mice, rats, hamsters, hedgehogs, gerbils, etc.

State: The State of Texas

Stray Animal: Any domestic animal running free or at large with no physical restraint.

Sterilization: The neutering (surgical removal) or chemical zeutering of the reproductive organs of an animal to render the animal unable to reproduce.

Trap, Neuter and Return Program: A nonlethal, humane alternative to deal with the stray cats which are captured, altered and returned back to their location in order to encourage the stabilization of the free-roaming cat population in the City.

Trapped Animal: Any animal caught or taken in, as if in a trap or snare, by skill, craft, or trickery.

Un-owned Animal: Animal for which an owner has not been identified.

Unprovoked Animal Attack: An offensive attack by an animal that excludes circumstances in which immediately prior to the attack, and while properly confined and restrained:

- (a) The animal was taunted, teased, or abused or otherwise assaulted by a person(s) or another animal- this includes being hit, kicked or struck, pulled, pinched, stepped on, squeezed, or bit by a person or other animal with any object or body part.

- (b) While properly restrained, the animal was defending or protecting a person(s) or property from a person(s) or another animal trespassing or committing a crime on the premises or property occupied by the owner.

- I The animal was protecting itself or its offspring.

Unrestrained: A situation where an animal is found to be without physical restraint provided in the form of a barrier such as a fence, tether or leash providing positive control of the animal and inhibiting the animal from getting off the occupant's property or away from physical control by the owner/keeper.

Utility: Kept for the production of a useful product or for its skill rather than for show or as a pet.

Vaccination Certificate: A document showing on its face that the animal described thereon has received a current inoculation in an amount sufficient to produce an immunity that satisfies the requirement of State law. It must show the date of the inoculation, duration of immunity approved for that vaccine, the name and address of the animal's owner, all other information required by State law and signed by a licensed veterinarian.

Veterinarian: Person licensed to practice veterinary medicine in the State.

Veterinary Hospital: Establishment maintained and operated by a licensed veterinarian(s) for surgery, diagnosis and treatment of diseases and injuries of animals.

Wild Animals: Any non-domestic, tamed animal, including, but not limited to, wolves, coyotes, panthers, lions, bobcats, cougars, black footed ferrets, skunks, armadillos, poisonous reptiles, raccoons, monkeys, non-human primates, and any other animal typically found in a zoo except the for the following:

- a) domestic dogs
- b) domestic cats
- c) livestock
- d) poultry

Wildlife: Any animal that typically occurs naturally in the wild state.

Wild State: Living in its original natural condition, not domesticated, regardless of state or duration of captivity.

Zoo or Zoological Park: Facility other than pet shops or kennels displaying or exhibiting one or more species of non-domesticated animals.

ARTICLE II ANIMAL SHELTER/ANIMAL CONTROL OFFICER

Section 91.2 Animal Shelter

There shall be erected and maintained under the supervision of the City Manager or designee a suitable building and kennels to be known as the animal shelter for the confinement of all animals seized impounded or surrendered pursuant to the provisions of this Chapter. The animal facility shall be kept in a sanitary condition and all animals taken up and impounded therein shall be properly fed and provided water. All animals shall be treated in a humane manner while under the custody of the Shelter Facility. The Animal Services Department is hereby designated as the Health Authority for the purpose of this Chapter. General Shelter procedures are as follows;

- a) Impounded animals with visible identification or a microchip or that have a collar shall be held no less than 120 hours. Any animal not reclaimed by its owner within 120 hours shall become the property of the City and shall become available for adoption in a suitable home or humanely euthanized.
- b) Impounded animals without visible identification or a microchip or that do not have a collar shall be held no less than 72 hours. Any animal not reclaimed by its owner within 72 hours shall become the property of the City and shall become available for adoption in a suitable home or humanely euthanized.
- c) Wild or feral cats or dogs may be held for 0 to 72 hours at the discretion of the Animal Services Department. Wild or feral cats will be entered into the trap, neuter and return program at the end of the impoundment period or upon arrival at the facility at the designation of the Animal Services Department.
- d) Sick or injured animals wearing no apparent identification through which ownership can be determined may be kept 0 to 72 hours at the discretion of the Animal Services Department.
- e) If by a license tag or other means the owner of an impounded animal can be identified, the Facility shall immediately upon impoundment notify the owner by direct contact, telephone, mail or other reasonable means.

- f) An owner reclaiming an impounded animal shall pay all impoundment fees, boarding fees and microchipping fees according to the fee schedule. An owner will also be responsible for reimbursing the City for any veterinary costs incurred by reason of their animal's impoundment (i.e., vaccines given, exam fees, diagnostic tests performed, etc.) If no proof of a current rabies vaccination can be produced, the Animal Control Officer may issue a citation for violation of this law. Impoundment fees will increase with each impoundment occurring within a twelve (12) month period.

Section 91.3 Animal Control Officer

a) The office of Animal Control Officer is hereby created to capture unrestrained dogs and nuisance animals and confine them in a humane manner at the Facility.

b) The Animal Control Officer is hereby empowered during the performance of his or her duties to capture, impound and quarantine any livestock, fowl, dogs or other domestic and non-domestic animals found running at large or stray or creating a public nuisance within the City limits and to enforce all provisions of this Chapter. Cats that are sexually intact (not spayed or neutered) shall not be permitted to roam unsupervised. (See OWNER – if feed 72 hours you are responsible.)

c) Animals that pose a threat to public health and safety, any wild animal kept illegally or animals that have been cruelly treated or abused shall be impounded by the Animal Control Officer.

d) The Animal Control Officer may issue a citation to the known owner of an animal found to be at large. A person who is convicted of owning an animal at large shall pay a fine as established by the City Municipal Court. Subsequent convictions of this subsection within a twelve (12) month period shall increase from the minimum applicable fine.

e) For purposes of discharging the duties imposed by the provisions of this Chapter or other applicable laws and to enforce the same duly authorized representatives or employees of the City may enter upon private property to the full extent permitted by law, which shall include but not limited to; entry upon private unfenced property when in pursuit of any animal which he she has reason to believe is subject to impoundment pursuant to the provisions of this Chapter or other applicable laws.

ARTICLE III MICROCHIPPING/PERMITS

Section 91.4 Dog and Cat Microchip Required

a) The known owner of any dog or cat must apply for and pay a Microchip fee required by the City for each dog or cat before the animal attains four (4) months of age. The microchip may be purchased at the Kirby Animal Services located at 5503 Duffek Drive. The application shall include the name and address of the applicant, description of the animal and have attached thereto a copy of the proof of rabies current vaccination certificate.

b) The Animal Control Authority shall maintain a record of the identifying numbers of all dog or cat microchips issued.

c) Microchip fees shall not be redeemed for seeing-eye dogs, service dogs or governmental police dogs, however, other requirements of other subparagraphs under this article shall remain in force.

Section 91.5 Maintaining Current Microchip Registration

a) The owner or keeper of a dog, cat or equine shall maintain current registration with a microchip registration company.

b) If there is a change in contact information of an owner or keeper of a registered microchipped equine, dog or cat, the owner or keeper shall update contact information, including new address or telephone number, with the microchip registration company within thirty (30) days of the date of the change in contact information.

c) If there is a change in ownership of a registered equine, dog or cat, the initial owner or keeper shall be responsible for ensuring that the microchip is no longer registered in the initial owner's or keeper's name within thirty (30) days of the date of change in ownership. The new owner or keeper shall be responsible for re-registering the microchip to include any new address and telephone number and have the registration information transferred to the new owner's or keeper's name within thirty (30) days after the change in ownership.

Section 91.6 Limiting the Number of Domestic Animals

a) It shall be a violation of this Chapter for any person to possess, own or otherwise keep within the City more than four (4) animals of the same species, (to exclude chickens), in any developed, residentially zoned section or to keep more than six (6) animals of the same species, excluding livestock, in an area zoned agricultural-residential which exceeds one (1) acre except in cases of newly born or hatched litters or clutches under the age of three (3) months old.

b) Exception shall be made for fostering of animals by a Humane Society or Animal Facility meeting the following criteria:

1. letter from sponsoring agency;
2. total of six (6) animals of any species including personal pets;
3. must have proof of rabies vaccination for each fostered animal over four (4) months of age; and
4. fostered animals allowed on premises no longer than twelve (12) months

c) This section shall not apply to commercial kennels, veterinary establishments or animal hospitals operated by a licensed veterinarian or pet shops and grooming shops located on property zoned for such purposes. Such establishments must meet sanitation requirements and keep animals securely caged or penned.

d) This section shall not apply to any Feral Cat Caregiver managing a registered Feral Cat Colony as part of an authorized trap, neuter, and return program.

e) This section shall not apply to any municipally owned or operated facility, establishment or property.

Section 91.7 Permits

a) No person shall operate a commercial animal establishment, kennel, stable, or cattery unless the establishment is located in a properly zoned area and unless a permit has first been obtained in compliance with this section.

b) The City shall promulgate regulations for the issuance of permits and shall include requirements for humane care of all animals and for compliance with the provisions of this ordinance and other applicable laws. The City may amend such regulations from time to time as deemed desirable for public health and welfare and for the protections of animals.

c) When a permit applicant has shown that he or she is willing and able to comply with the regulations promulgated by the City a permit shall be issued upon payment of the applicable fees.

d) The permit period shall begin with the date the permit is issued and shall be effective for a period of one (1) year. Renewal applications for permits must be made thirty (30) days prior to and are due at the date the original permit expires.

e) If there is a change in ownership of a commercial animal establishment or kennel, the new owner must apply for a new permit. Permits are not transferable.

f) Annual permits shall be issued upon payment of the applicable fee as listed in Exhibit A, Fee Schedule.

g) Every facility regulated by this Chapter shall be considered a separate enterprise requiring an individual permit.

h) No fee under this Chapter may be required of any veterinary hospital, animal shelter, government operated zoological park, school district, civic, or charitable organization but all other applicable regulations shall apply.

i) Failure to obtain a permit before opening any facility covered in this section shall result in a fine.

j) Any person who has a change in the category under which a permit was issued shall be subject to reclassification of the permit fee.

k) No animal shall be sold, bartered, traded or given away on any roadside or public right of way.

l) Temporary Permits shall consist of the following: Temporary Permit is valid for 30 days with a fee of \$15 per 30 days

1. vendor's name;

2. address, including city;
3. telephone number;
4. type and number of animals to be sold or given away;
5. location of business where animals are being sold; and
6. rabies and age-appropriate vaccination information (health certificate) for each animal signed by a licensed veterinarian.
7. All animal(s) must be sterilized before sold or given away.
8. If a person fails to obtain a permit after 48 hours' notice, then an Animal Control Officer shall be authorized to impound then animal(s).

Section 91.8 Temporary Permit Issuance and Revocation

a) The city may revoke any permit if the person holding the permit or refuses or fails to comply with this Chapter or any law governing the protection and keeping of animals.

b) Any person whose permit is revoked shall within ten (10) days thereafter humanely dispose of all animals owned kept or harbored by such person and no part of the permit fee shall be refunded.

c) It shall be a condition of the issuance of any permit or license that the City shall be permitted to inspect all animals and the premises where animals are kept any reasonable time of the day and, shall if permission for such inspection is refused, revoke the permit of the refusing owner named on the permit.

d) If the applicant has withheld or falsified any information on the application, the City shall refuse to issue or may revoke a permit.

e) No person who has been convicted of cruelty to animals shall be issued a permit:

1. as a guard dog company;
2. for registration as a dog trainer;
3. to operate a commercial animal establishment; and
4. to sell animals

Section 91.9 Guard or sentry dog permits

a) Guard dog permit applications shall include the following information:

1. the business name, address and telephone number of the commercial property where the guard dogs are to be used;

2. the name, address and telephone number of the dog's handlers who can be reached at any time during the day or night;

3. the number of dogs to be used and a general description of their use;

4. description of the dogs' proof of their current vaccination and City license;

5. the location of where the dogs are to be housed;

6. any other information that the LRCA deems necessary by rules and regulations; and
 7. permit holders shall notify the LRCA if any information recorded as part of the permit application is changed during the course of the period for which the permit is issued.
- b) An Animal Control Officer, shall inspect the facilities where the guard dog is to be used and housed when the guard dog permit is applied for and when it is renewed.
 - c) If the inspection reveals that the requirements of this section are met, a permit fee for each commercial property shall be paid to the City. The permit shall be displayed at the approved commercial property and a rabies vaccination and the City license tag shall be affixed to the collar of each dog used. Nothing in this section shall exempt guard dogs from any of the other provisions of this Chapter.
 - d) Each permit shall be valid for the period of one (1) year and must be renewed annually prior to the expiration date.
 - e) Each permit must be obtained prior to housing or utilizing guard dogs at the commercial properties where guard dogs are in use.

ARTICLE IV RESTRAINTS, BITES, AND ANIMAL CARE

Section 91.10 Restraints

- a) All dogs and other domestic animals shall be kept under restraint and shall not be allowed to run at large.
- b) The owner of a sexually intact (not spayed or neutered) domesticated cat shall not permit the domesticated cat to roam. All free-roaming domesticated / owned cats must be spayed or neutered.
- c) No owner shall fail to exercise proper care and control of his or her animal(s) to prevent it from becoming a public nuisance. Free-roaming cats that are found to be a public nuisance shall be impounded and the owner (if known) shall be contacted.
- d) Every female dog or cat in heat shall be confined in a building or secure enclosure in such a manner that such female dog or cat cannot come into contact with another animal except for planned breeding purposes.
- e) An owner may not leave a dog outside and unattended by use of a restraint that unreasonably limits the dog's movement:
 1. between the hours of 10:00 pm and 6:00 am;
 2. within 500 feet of the premises of a school;

f) All animals must have shelter (a structure that is at least three walls and a roof, tall enough for the animal to stand up in without touching their head to the roof and wide enough for the animal to turn around with ease and lay down but still be in the shelter).

g) All animals must be provided with fresh water at all times while tethered outside:

1. excess of three (3) hours, or
2. in the case of extreme weather conditions, such as;
 - a) outdoor temperature below 32 degrees Fahrenheit;
 - b) heat advisory issued by local State jurisdiction; or
 - c) storm warnings issued by National Weather Service.

h) In this section. A restraint unreasonably limits a dog's movement if the restraint:

1. is a collar that is pinch type, prong type or choke type or that is not properly fitted to the dog;
2. is not at least ten (10) feet long;
3. is in an unsafe condition; or
4. will cause injury to the dog

i) This provision does not prohibit a person from walking a dog with a hand-held leash.

Section 91.11 Trap, Neuter and Return Program (to the extent that funding is available)

In order to effectively and humanely control the feral cat populations within its jurisdictional boundaries, the City shall sponsor and support a trap, neuter, and return program in an effort to reduce the feral and free-roaming cat population over time without necessity of wholesale capture and euthanasia. The City may establish a fund or provide services to offset the costs of trapping, neutering, and vaccinating captured free-roaming cats that can be returned to an appropriate, controlled, protected, and authorized colony site. Registered Feral Cat Caregivers for feral cat colonies, whether of one (1) or several free-roaming cats, may be aided by the City in providing traps and transportation to a spay/neuter facility and off-setting costs, to the extent that funding is available. Left ear tipping shall be used on these cats in order to be identified as spayed or neutered and a vaccinated member of a managed colony. A photographic record adequate to identify the cat shall be obtained for all cats. This is part of the City Trap, Neuter and Return Program and maintained by the Registered Feral Cat Caregiver.

Section 91.12 Registered Feral Cat Caregivers

Registered Feral Cat Caregivers shall attend one of the San Antonio Feral Cat Coalition workshops and shall provide information about the colony to the Animal Services Department. Registered Feral Cat Caregivers of a free-roaming cat or free-roaming cat colony shall be exempt under the provisions of License Requirements and Animal Identification requirements by furnishing the Animal Services Department with a statement agreeing to the following conditions:

1. Regularly feed the free-roaming cat(s) colony including weekend and holidays, ensuring sanitary conditions at all times. Colonies shall be fed using bowls, plates, pans or similar utensils to contain the food; food shall not be poured on the ground for the purpose of providing food. Food shall not be left out during hours of darkness to avoid attracting wildlife or vermin.
2. Regularly and frequently trap the colony cats over the age of twelve (12) weeks for purposes of sterilization.
3. Identify all colony cats by having their left ear tipped when under anesthesia for sterilization.
4. All colony cats must be vaccinated for rabies, preferably with a three (3) year vaccine.
5. All colony cats with illness and/or injury that cannot be provided with treatment shall be humanely euthanized by a veterinarian or animal facility to prevent pain and suffering.
6. Feral Cat Caregivers are not permitted to release sterilized, free-roaming cats on private or public property without the permission of the property owner.
7. Any Feral Cat Caregiver determined to be in violation of this Section shall be issued a written warning and be permitted up to and including thirty (30) days to achieve compliance. Failure to comply may result in the issuance of a citation.
8. Make every attempt to remove kittens from the colony before eight (8) weeks of age for domestication and placement.

Section 91.13 Animal Control Officer/Trap, Neuter and Return

The Animal Control Officer shall maintain all records relating to authorized colony management in the trap, neuter and return program. Other duties shall include:

1. Monitor the managed cat colonies in the trap, neuter and return program, maintaining records of Registered Feral Cat Caregivers and determining the need of additional Feral Cat Caregivers;
2. Help to resolve complaints over the conduct of a colony;
3. Maintain records and prepare quarterly reports on the following:

- a. Number and location of managed colonies;
- b. Total number of cats in colonies;
- c. Number of cats and kittens spayed and neutered pursuant to the trap, neuter and return program, and
- d. Number of cats and kittens placed in permanent homes.

After receiving the permission of the Registered Feral Cat Caregiver or a resident, the Animal Control Officer may set traps in the Feral Cat Caregiver's/resident's yard to assist in trapping.

Section 91.14 Enforcement/Trap, Neuter and Return

The City shall retain the following rights:

- 1. The right to seize or remove cats from a colony that have not been vaccinated against rabies and / or which are demonstrating signs of the disease.
- 2. The right to seize or remove a cat or cats from a colony that are creating a public nuisance after the Feral Cat Caregiver has been afforded thirty (30) days to remove and relocate the cat(s) and has failed to do so.
- 3. The right to seize and remove a colony of cats when a Feral Cat Caregiver or the Animal Control Officer is unable to provide care and management of the colony and has not been able to obtain a replacement or substitute Feral Cat Caregiver.
- 4. The right to seize or remove cat(s) from a colony if medical care necessary to prevent pain and suffering has not or cannot be provided by a Feral Cat Caregiver or if the Animal Control Officer has reason to believe that a cat in the colony has been cruelly treated.
- 5. The right to seize or remove cats from a colony suspected to have bitten a human being for the purposes of rabies quarantine and / or testing.

When the number of cats trapped and sterilized by the City or Registered Feral Cat Caregivers exceeds 400 in a calendar year, the City will reevaluate this program.

Section 91.15 Bites and Dangerous Animals

a) Any animal within the City that bites or otherwise attacks a person who is not at the time trespassing upon the property of the owner or person having control of such animal or who is not provoking or teasing such animal shall be deemed dangerous. The City may order following the procedures listed below that such animal be kept muzzled, kept within a sufficient enclosure or that such animal be permanently removed from the corporate limits of the City or that such animal be delivered to an Animal Control Officer or the City Animal Facility to be humanely euthanized. The following information shall be gathered:

1. name, address and telephone number of complainant and any other witnesses to the incident;

2. date, time and location of the incident;

3. description of the animal;

4. name, address and telephone number of the owner;

5. a statement that the animal attacked, bit and or killed a person or another animal;

6. a statement that the animal has exhibited vicious propensities in past conduct, if known, and

7. other facts or circumstances of the incident

b) After a sworn complaint is filed with the local health authority it shall be investigated and if there is sufficient evidence there will be a request to the Municipal Judge to set a time and place for a hearing. Notice shall be given of the hearing to the animal's owner by personal service or certified mail, return receipt requested at least ten (10) days prior to the hearing date.

c) The Municipal Judge shall hold such hearing and shall determine at the hearing if the animal specified in the complaint should be ordered to be kept muzzled, kept within a sufficient enclosure, removed from the City limits or destroyed for the protection of the public health, safety and welfare of the community. The Municipal Judge shall receive testimony at the hearing concerning the incident under investigation. To order the removal or destruction of the animal or the muzzling or keeping of an animal in a sufficient enclosure for the public health safety and welfare the Municipal Judge may find:

1. the animal attacked or bit a human being or attacked or killed another animal;

2. the animal is the same animal that committed the acts in part 1 of this subsection;

3. destruction or removal of the animal is necessary to preserve the public health, safety, and welfare of the community;

4. the animal attacked or bit a human being or another animal or the animal has a known propensity to attack bite or injure human beings or domesticated animals because of temperament conditioning or training or it is demonstrated by the local health authority that the animal has a dangerous disposition likely to be harmful to humans or other animals

5. the animal is the same animal that committed the act in part 4 of this subsection; and

6. muzzling or keeping of the animal in a sufficient enclosure or removal or destruction of the animal is necessary to preserve the public health, safety, and welfare of the community.

d) If the Municipal Judge orders muzzling, keeping within a sufficient enclosure, destruction, or removal of the animal and the owner is not present at the hearing he or she

shall notify the owner of the decision by personal service or certified mail return receipt requested. If the Judge does not order destruction of or removal of the animal, the Animal Facility Supervisor or designee shall, if the animal was impounded and, if any required rabies observation quarantine period has been completed, return the animal to the owner upon payment of any fees due with the understanding that any muzzling or keeping within a sufficient enclosure order must be followed as long as the animal remains within the City.

e) The owner of an animal may appeal a destruction or removal order to a court of competent jurisdiction within five (5) days of the decision of the Municipal Court. If the Municipal Judge receives written notice of the intent to appeal within five (5) days of the decision he or she shall suspend the destruction or removal order pending final determination of the court. If the filing of a petition in a court of competent jurisdiction within five (5) days of the order of destruction or removal perfects appeal, he or she shall suspend the destruction or removal pending the outcome of the appeal. In that event the owner will have forty-eight (48) hours' notice to pick up the animal if it was impounded and if any required rabies observation quarantine period has been completed and hold the animal pending the appeal. All fees due must be paid before the animal is released to the owner and the animal must be kept muzzled or within a sufficient enclosure if so ordered. Failure to claim the animal within forty-eight (48) hours will result in the execution of the removal or destruction order.

f) In the event that any animal is discovered in violation of any removal or destruction order described in D above, the animal shall be immediately seized and humanely euthanized. If any animal is discovered in violation of any muzzling or keeping within a sufficient enclosure, the animal shall be seized and the person controlling such animal shall be prosecuted under the provisions of G below.

g) It shall be unlawful for any person to harbor or keep on his or her premises or in or about premises under his or her control any vicious animal except as directed by this Chapter. Conviction of harboring a vicious animal in violation of this Chapter shall result in a fine.

h) No part of this Chapter shall preclude at any time the filing of complaint in the court of competent jurisdiction under the provisions of the State of Texas Dangerous Dog Act, Texas Health and Safety Code Chapter 822 as amended from time to time.

Section 91.16 Care of and Cruelty to Animals

a) Animal cruelty is a State law violation punishable by fine and or jail time in accordance with the Texas Penal Code. Animal Care Officials shall utilize the authority granted by Section 821.022 of the Texas Health and Safety Code as amended from time to time to seize and impound any animal that has been or is being cruelly treated. If the investigating Animal Care Officer has reason to believe that an animal has been or is being cruelly treated pending a hearing before any court on the issues of cruelty and disposition of the animal, the seizure of the subject animal prior to receiving a warrant is hereby authorized if such a delay endangers the life of the animal or if it would unreasonably prolong the suffering of the animal needing immediate attention.

b) It shall be unlawful for an owner of an animal to neglect an animal and fail to provide that animal with humane care and treatment, including, but not limited to, access to an

adequate supply of fresh air, species-specific food, fresh water, exercise, adequate facility, and with appropriate veterinary care when needed to prevent suffering.

c) It shall be the duty of the owner or keeper of each and every dog or cat kept in the City to have such dog or cat vaccinated against rabies by a licensed veterinarian by the time the animal is four (4) months of age and then according to the label recommendations of the approved rabies vaccine. It shall further be the duty of each owner or keeper to obtain a certificate from such veterinarian certifying that such animal has been vaccinated and produce that document for inspection by the Animal Control Officer when requested. If the vaccination document cannot or will not be produced by the owner or keeper of such animal the Animal Control Officer shall issue a citation for failure to comply with this section of this Chapter.

d) No person shall beat, cruelly treat, torment, overload, overwork, or otherwise abuse an animal, whether owned or un-owned, or cause, instigate, or permit any dog fight, cock fight, bull fight, or other combat between animals or between animals and humans.

e) No owner of an animal shall abandon such animal or, in case of impoundment by the Animal Control Officer, allow the animal to remain in the Animal Facility beyond a five (5) day maximum after notification of impoundment of such animal

f) It shall be unlawful for the owner of an animal or a person charged with custody or care of an animal to surgically alter an animal, including, but not limited to, ear cropping, ear tipping, tail docking, and dewclaw removal except when done by a licensed veterinarian.

g) Any person who as the operator of a motor vehicle strikes a domestic animal shall stop at once and render such assistance as may be possible and shall immediately report such injury or death to the appropriate law enforcement agency. Failure to do so shall be a violation of this Chapter.

h) No person shall expose any known poisonous substance whether mixed with food or not so that the same shall be liable to be eaten by any animal.

i) No person shall transport or carry on any public roadway any animal in a motor vehicle unless the animal is safely enclosed within the vehicle and, if traveling in an unenclosed vehicle, including, but not limited to, convertibles, pickup trucks, jeeps, and flatbed trucks, the animal shall be confined by a vented container or cage or by chain, rope, or other device cross tied to prevent the animal from falling or jumping from the motor vehicle or from strangling on a single leash.

j) No person shall leave any animal in any standing or parked vehicle in such a way as to endanger the animal's health or safety. Any Animal Care Officer or Police Officer is authorized to use reasonable force, including the breaking of a side window, to remove an animal from a vehicle whenever it appears the animal's health or safety is endangered, and said neglected or endangered animal shall be impounded.

k) No person shall place or set out steel jaw traps, spring traps with teeth, neck traps, or any type of trap with a holding mechanism designed to cut, slice, tear, or traumatize the

entrapped prey unless the use of such traps is specifically deemed necessary by the Texas Parks and Wildlife Department or Director of Health for control of communicable Disease.

l) All animals shall be kept in a sanitary manner. Animal owners shall collect and dispose of animal waste deposited by his or her animals. No owner shall allow the accumulation of animal waste on any premises in a quantity sufficient to create an odor offensive to a person of normal sensibilities standing on adjacent property not owned by the subject animal's owner or which creates a condition conducive to the breeding of flies or other pests.

m) An animal owner or keeper shall not walk an animal without a leash or restraint or without otherwise having such animal under control and shall not guide or take animals onto the yards or driveways of property not owned, leased, or occupied by the animal owner for the purpose of allowing the animal to defecate but shall keep the animal in the public right-of-way and shall carry a container with implement for the sanitary removal of the animal's fecal matter from the public sidewalk and public right-of-way adjacent to any property with a structure or other improvements thereon.

n) All persons residing in the City who own dogs or cats must keep such dog or cat at the registered residential premises permanently occupied and inhabited by said animal's owner or a licensed kennel. It shall be unlawful for said owner to keep their animal at any other location within the City.

ARTICLE V SPAY OR NEUTER AND MICROCHIPPING

Section 91.17 Mandatory spay and neuter and microchipping of unrestrained dogs and cats

a) The owner of a dog or cat which has been impounded for being at large or creating a public nuisance shall have the animal spayed or neutered and microchipped within thirty (30) days following the animal's release from impoundment.

1) The owner of a dog or cat required by subsection (a) to be spayed or neutered and microchipped shall submit to the Animal Services Department certification that the procedure was performed and the certification shall be made on a form provided by the Animal Services Department and signed by the veterinarian with license number who performed the procedure. The owner shall deliver the certification to the Animal Services Department no later than the 40th day following the animal's release from impoundment. If failure to do so the Animal Control Officer shall issue a citation to the known owner of the released animal for failure to have the animal sterilized and microchipped. The owner shall then contact the Municipal Court to arrange a court date, at which time proof of the sterilization and microchipping is to be submitted by the owner. If the court finds that the owner has complied with the sterilization and microchipping, the citation shall be dismissed and the owner shall pay any court or administrative fees to the Municipal Court Clerk.

b) The Animal Control Authority is authorized to exempt an animal's owner from the requirements of subsection A if the owner proves to the satisfaction of the Animal Control Authority that the animal meets or met one (1) of the conditions specified in subsection E below.

c) The owner of a dog or cat required by subsection A to be spayed or neutered and microchipped shall submit to the Municipal Court certification that the procedure was performed, and the certification shall be signed by the veterinarian who performed the procedure.

d) Offenses

1. A person commits an offense if the person is the owner of the dog or cat required by subsection A to be spayed or neutered and microchipped and the person fails to have the animal spayed or neutered as required; and

2. A person commits an offense if the person is the owner of the dog or cat required by subsection A to be spayed or neutered and microchipped and the person fails to provide certification of the spay neuter procedure as required by subsection C;

e) In a prosecution for a violation of subsection D, it is an affirmative defense that:

1. At the time of the animal's impoundment:

a) the animal was registered with a national registry, sporting dog, livestock dog or working dog registry and the animal had not previously been impounded for being at large; or

b) the person was a member of a national breed club, local breed club, local all-breed club, or sporting or hunting club and the animal had not previously been impounded for being at large.

2. The animal was at large at the time of its impoundment due to fire or due to the criminal or negligent acts of a third party who was not residing at the animal owner's residence. At trial, evidence of a fire or the criminal or negligent acts of a third party may be presented in one (1) or more of the following manners:

a) a certified copy of a City police or fire report verifying the incident;

b) the affidavit of City police or fire personnel with direct knowledge of the incident, or

c) the testimony of City police or fire personnel with direct knowledge of the incident.

f) Nothing in this section shall be construed as permitting spayed/neutered dogs to run at large.

Section 91.18 Authority to slay animals running at large

If any animal found running at large in violation of this Chapter cannot be safely taken up and impounded and / or causes threat to human life or other domestic animals, such animal may, if deemed necessary, be slain by any authorized Police Officer or Animal Control Officer.

ARTICLE VI RABIES CONTROL AND QUARANTINE

Section 91.19 Enforcement

The civil and criminal provisions of this Chapter shall be enforced by the person or agencies designated by the City. It shall be a violation of this Chapter to interfere with an Animal Control Officer or an Animal Facility employee in the performance of his or her duties.

Section 91.20 Reports of exposure to rabies

a) Persons having knowledge of an animal bite or other attack on an individual that the person could reasonably foresee as capable of transmitting rabies or of an animal that the person suspects is rabid shall report the incident or animal to the City Police Department and/or the Animal Control Officer. This report shall include the name and address of any victim and of the owner of the animal, if known.

b) The owner of an animal that is reported to have bitten or to have attacked an individual or that the owner knows or suspects to have bitten or to have attacked an individual shall submit the animal for quarantine to the Animal Control Officer.

c) If a quarantined animal is found to be rabid, the Animal Control Authority will cause to have the animal humanely euthanized. If an animal dies or is euthanized while in quarantine, the Animal Control Authority will cause to have the head or brain of the animal removed and submit it to the nearest Texas Department of Health Laboratory for testing.

d) If a quarantined animal is found to be free from rabies, the Animal Control Authority shall release it to the owner following the quarantine period and the payment of all required fees and costs.

e) The owner of an animal that is quarantined under this Chapter shall pay the City the cost of the quarantine and any other fees associated with the animal's care. The Animal Control Authority may sell and retain the proceeds, keep, or euthanize an animal that the owner or custodian does not take possession of on or before the seventh (7th) working day following the end of the quarantine period.

f) Immediately after acquiring knowledge that his or her animal has been bitten by a rabid animal, it shall be the duty of the owner or keeper to cause such animal to be given anti-rabies treatment and to impound such animal for a period of six (6) months in a place approved by the LRCA or to have the said animal humanely euthanized.

Section 91.21 Rabies vaccination

a) It shall be unlawful for any person to own, keep, harbor, or have custody or control of a dog, cat, or domestic ferret that is four (4) months of age or older within the City unless such dog or cat is currently vaccinated against rabies by the injection of an approved USDA anti-rabies vaccine by the direct supervision of a licensed veterinarian.

b) Every owner of a dog or cat immunized against rabies as required herein shall procure a rabies vaccination certificate from the veterinarian administering the vaccine. Such certificate shall contain the following information:

1. owner's name, address and telephone number;
2. the species, sex, age, weight, predominant breed, and color of the vaccinated animal;
3. the vaccine type, producer, expiration date, and serial number;
4. the date the animal was vaccinated;
5. rabies tag number; and
6. veterinarian's signature and license number.

c) A veterinarian or person under the direct supervision of a veterinarian who vaccinates a dog, cat, or domestic ferret as required herein shall furnish the owner thereof with a metal tag bearing a number corresponding to the number placed on the certificate and with lettering showing immunization and the year thereof. This tag shall be attached to the properly fitted collar of the dog or cat for which it is issued and shall be worn at all times on the collar.

Section 91.22 Quarantine method and testing

a) Animals involved in a biting or scratching incident for which an owner cannot be readily identified and or contacted expeditiously will be impounded. The animal shall be confined under positive control for ten (10) consecutive days (240 hours) after the time of the bite. The animal will be isolated from other animals or possible victims.

b) Every animal that has rabies or symptoms thereof or every animal that a person could reasonably suspect as having rabies or that bites any person within the City shall be impounded at once and held for observation and quarantined at an approved quarantine facility. The facilities must meet the minimum State Quarantine Facility Standards and will be subject to inspection by the Texas Department of Health.

c) The owner of any dog or cat that is reported to have rabies or symptoms thereof or to have been exposed to rabies or to have bitten any person within the City or that the owner knows or suspects to be rabid or to have attacked an individual shall submit such animal to the Animal Control Officer or the Animal Facility for a quarantine period often 10 consecutive days (240 hours) at the owner's expense. The ten-day observation period shall begin on the day of the bite incident. Any such animal must be immediately surrendered to the Animal Control Officer or Animal Facility. The owner may choose to have the animal quarantined for the ten (10) day period at any approved quarantine facility.

d) In the event the owner of such animal described in A or B refuses to surrender such animal on demand, such action shall constitute a misdemeanor and, upon conviction, be punishable by a fine. The Animal Control Officer may appeal to a Magistrate for a seizure warrant to seize the suspect animal to place it into quarantine.

e) The owner of an animal quarantined under this section shall pay the quarantine facility the reasonable cost of the quarantine and any other fees associated with the animal's care, including the charges for preparation and shipment of the animal head or brain if required to the nearest Texas Department of Health certified laboratory for rabies testing. If the owner chooses not to pay for quarantine, the animal shall be humanely euthanized and the brain submitted to the Texas Department of Health certified laboratory for rabies diagnosis at the owner's expense. All quarantine-related payment arrangements shall be at the discretion of the individual quarantine facility and the facility shall be responsible for the collection of money owed.

f) The following quarantine procedures shall be observed:

1. Biting animals and animals suspected of rabies that are placed in confinement for observation must be separated from all other animals in such a manner that there is no possibility of physical contact between animals.

2. A responsible person will observe the quarantined animal twice a day and will notify the LRCA if clinical signs of rabies appear.

3. At the discretion of the LRCA or his or her designee the un-owned animal may be humanely euthanized for rabies diagnosis prior to the end of the quarantine period.

4. The Animal Control Authority or his or her designee may require a written agreement by the owner or the custodian at the time of quarantine and the animal may be disposed of according to terms of such agreement.

5. If the biting animal cannot be maintained in secure quarantine or if the owner chooses not to pay for quarantine, the animal shall be humanely euthanized and the brain submitted to a Texas Department of Health certified laboratory for rabies diagnosis at the owner's expense.

g) Any animal quarantined at a certified quarantine facility shall be observed by a licensed veterinarian or Animal Control Officer or LRCA at least on the first and last days of the quarantine period. If it is determined that the animal has clinical signs of the disease of rabies the animal shall be humanely euthanized and the head or brain submitted for testing. If the Animal Control Officer, veterinarian, or LRCA determines that the animal does not exhibit the clinical signs of the disease of rabies, then the LRCA shall provide a form to the veterinarian for his or her signature certifying that the animal has been found to be free of the clinical signs of rabies at the end of the quarantine period. This form shall be returned to the LRCA at the end of the quarantine period.

h) The owner of the animal may request permission from the Animal Control Officer or LRCA for home quarantine if the following criteria can be met:

1. Secure facilities must be available at the home of the animal's owner and must be approved by the Animal Control Officer or the LRCA.

2. The animal is currently vaccinated against rabies and possesses a current City license tag.

3. The animal was not in violation of any laws or ordinance at the time of the incident.

4. The bite incident was a provoked attack.

5. A licensed veterinarian Animal Control Officer or the LRCA must observe the animal at least on the first and last days of the quarantine period. If the animal becomes ill during the home quarantine period, the person having possession of the animal must notify the City veterinarian, Animal Control Officer, and LRCA. At the end of the quarantine period, the owner shall transport the animal by direct route to the veterinarian for final observation. Both observations by the veterinarian, Animal Control Officer. Or the LRCA may be made at the location of the home quarantine if requested by the owner or required by the Animal Control Officer or the LRCA. The release from quarantine must be accomplished in writing.

6. It shall be unlawful to violate the provisions and conditions of the home quarantine as required by the Animal Control Officer. If the owner of the animal fails to abide by all provisions and conditions required by the Animal Control Officer when the quarantine was granted and the animal is found in violation of these conditions, the animal shall be immediately impounded and quarantined for the remainder of the observation period at an approved quarantine facility at the owner's expense.

a) No dog or cat shall be released from quarantine unless:

1. the owner has an unexpired rabies vaccination certificate and license for the animal;
or

2. the animal has been vaccinated against rabies by a licensed veterinarian and a license is obtained at owner's expense.

j) No wild animal will be placed in quarantine. All wild animals involved in biting incidents will be humanely euthanized in such a manner that the brain is not mutilated. The brain shall be submitted to a Texas Department of Health certified laboratory for rabies diagnosis.

Section 91.23 Disposition of domestic animals exposed to rabies

a) Animals that have not been vaccinated and which have been bitten or directly exposed by physical contact with a rabid animal or its fresh tissues shall be humanely euthanized or, if sufficient justification for preserving the animal exists, the exposed animal shall be immediately vaccinated against rabies, placed in strict isolation for ninety (90) days, and be given a booster vaccination during the third and eighth week of isolation. If the animal is under three (3) months of age at the time of the second vaccination, an additional booster should be given when the animal reaches three (3) months of age.

b) Currently vaccinated animals that have been bitten or otherwise significantly exposed to a rabid animal should be humanely euthanized or, if sufficient justification for preserving the animal exists, the exposed vaccinated animal should be given a booster rabies vaccination immediately and placed in strict isolation for forty-five (45) days. These provisions apply only to domestic animals for which an approved rabies vaccination is available.

ARTICLE VII FOWL AND OTHER SMALL ANIMALS

Section 91.24 Domestic fowl animal limit and requirements.

- a) A maximum number of six (6) chickens are allowed at a residence.
- b) The owner must have adequate facilities to house the domestic fowls and ensure adequate sanitation. Domestic fowls must be kept in a coop and run that is at least twenty-four (24) square feet in size, or has at least (6) square feet of space per fowl, whichever is larger.
- c) The domestic fowls must be kept housed or confined in a manner that does not allow them to create a nuisance.
- d) Sanitation must be addressed in a manner that prevents the attraction of pests.
- e) The domestic fowls must be kept in a coop and run not less than fifty (50) feet from any business or dwelling occupied by any person other than the owner. The facilities shall be subject to inspection by the department.
- f) Roosters are prohibited.

Section 91.25 Stray

It shall be unlawful for any person keeping chickens, turkeys, geese, guineas, ducks, pigeons, or other fowl to permit or allow the same to run at large within the City. It shall be the duty of every person raising or keeping chickens, turkeys, ducks, geese, guineas, pigeons, or other fowl to keep them in pens, coops, or enclosures which shall be a distance of at least fifty (50) feet from every building structure other than the owner of such fowl used for sleeping, dining, or living, and shall be kept in a sanitary condition and shall also be kept in such a manner as will be reasonably calculated not to become offensive to neighbors or to the public.

Section 91.26 Keeping of roosters prohibited

It shall be unlawful for any person to keep roosters within the corporate City limits.

Section 91.27 Keeping rabbits, guinea pigs, rats, etc.

It shall be the duty of every person raising or keeping rabbits, guinea pigs, rats, mice, hamsters, and other small animals to keep such animals in pens, coops, or enclosures and such pens, coops, or enclosures a distance of at least twenty-five (25) feet from every building structure other than the owner of such small animals used for sleeping, dining or living and shall be kept in a sanitary condition and shall be kept in such a manner as will be reasonably calculated not to become offensive to neighbors or to the public.

Section 91.28 Keeping of venomous reptiles

- 1) Permit Required: The owner of any venomous reptile must have the proper permit through Texas Parks and Wildlife. The owner must provide documentation to Animal

Control Authority, who will verify the permit. The owner of any venomous reptile(s) must contact The City of Kirby Animal Services any time they receive a new venomous reptile or at the moment they become residents. This is for the health and safety of Kirby employees such as firefighters and EMS as well as their own safety.

2) Criminal Penalty: A person commits an offense if the person intentionally fails or refuses to produce a permit required under the subchapter. An offense under this section is a misdemeanor punishable by a fine of not more than \$500.

Section 91.29 Not applicable to authorized veterinary hospitals

This article shall not apply to authorized veterinary hospitals for the treatment of fowl and other small animals

ARTICLE VIII LIVESTOCK

Section 91.30 Estray

It shall be unlawful for the owner-keeper or person in charge of any livestock to allow said animal to be unrestrained or to allow or permit the same to run at large within the City. Horses, ponies, mules, donkeys and cattle shall be kept in a stable, shed, pen, or other enclosure, wherever located within the City, which shall be a distance of at least two hundred (200) feet and all other livestock shall be a minimum distance of one thousand (1,000) feet from every building structure other than the owner of such livestock used for sleeping, dining, and living and shall be kept in such a manner as will be reasonably calculated not to be offensive to neighbors or to the public.

Section 92.31 Impounding

The Animal Control Officer shall take up or cause to be taken up any such animal found to be at large or stray within the City and shall impound any such animal in a suitable place provided for that purpose. Procedures for the Texas Agriculture Code Estray Act as amended from time to time shall be followed. A copy of this Act and procedures can be obtained at the Animal Facility.

Section 92.32 Care of livestock animals

a) It shall be unlawful for any person to abandon or torture a livestock animal, to seriously overwork an animal, or to transport or confine a livestock animal in a cruel manner.

b) Persons owning or caring for livestock must provide necessary food, water, care, and for a livestock animal.

b) It shall be unlawful for any person to stake any livestock for the purpose of grazing upon or within the reach of any public street, alley, sidewalk, or park within the limits of the City of Kirby.

ARTICLE IX WILD ANIMALS AND PERFORMING ANIMAL EXHIBITIONS

Section 91.33 Keeping of wild non domesticated animals

No person shall keep or permit to be kept on his or her premises any wild or vicious animal as a pet, for display or exhibition purposes whether gratuitously or for a fee. This section shall not apply to zoological parks, performing animal exhibitions, circuses and veterinary hospitals.

- a) No person shall keep or permit to be kept any wild animal
- b) Only the Texas Parks and Wildlife Department Office may give written permission for the keeping, care and protection of an infant animal native to this area that has been deemed to be orphaned.
- c) The Texas Parks and Wildlife Department Office shall have the power to release or order the release of any infant wild animal kept which is deemed capable of survival.

Section 91.34 Performing animal exhibitions

No performing animal exhibition or circus shall be permitted in which animals are induced or encouraged to perform through use of chemical, mechanical, electrical or manual devices in a manner which will cause or is likely to cause physical injury or suffering.

ARTICLE X SPECIAL PROVISIONS

Section 91.35 Enforcement

The civil and criminal provisions of this Chapter shall be enforced by those persons or agencies designated by municipal authority. It shall be a violation of this Chapter to interfere with an Animal Control Officer or an Animal Facility employee in the performance of his or her duties.

Section 91.36 Penalty

- a) Any person who shall violate any of the provisions of this Chapter shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined an amount in accordance with Section 10.99 of the Code of Ordinances of the City. Each and every day of such violation shall be deemed a separate offense.
- b) A judge who has jurisdiction of the offense at his or her discretion may dismiss a rabies vaccination violation or a registration license violation if the defendant remedies the charge defect within ten (10) working days of the date of citation upon the assessment by the judge and payment by the defendant of an administrative fee for dismissal of the violation.

Section 91.37 Advisory Committee duties

a) The Kirby Animal Advisory Committee shall consist of four (4) members appointed by the City Council. The members of this Committee shall include a licensed veterinarian, a municipal official, a shelter employee and one member of an animal welfare organization.

b) The Advisory Committee shall meet at least three (3) times a year and shall assist in complying with the requirements of State and local laws.

c) The Advisory Committee shall visit the Animal Shelter at times selected by the Committee and make recommendations to the City Manager concerning animal services and facility operating procedures.

Section 91.38 City Veterinarian duties

It shall be the responsibility of the City's contracted Veterinarian to inspect the Animal Facility at least once a year. The Veterinarian will file a written report to the City Manager and the Texas Department of Health. The report must include all conditions of the Facility, care of animals, structure and contents and inspection of records as required by the Texas Health and Safety Code as amended from time to time.

ARTICLE XI ANIMAL FACILITY OPERATIONS

Section 91.39 Monthly reports of animal facility

It shall be the duty of the Animal Services Department to report in writing monthly the total number of animals impounded and or quarantined, the total number of animals redeemed or sold to private parties and the total number of animals humanely disposed of under the provisions of this Chapter.

Section 91.40 Fee deposits

It shall be the duty of the Animal Services Department to pay or cause to be paid all money collected by him or her under the terms of this Chapter to the City.

Section 91.41 Reclaiming before adoption

The owner of any impounded animal under this Article may reclaim the same from the Animal Facility at any time before adoption by paying all fees, fines and expenses of taking up and keeping such animal.

Section 91.42 Records

The Animal Services Department shall keep a computer record in which he or she shall record a description of all animals impounded under this Article which shall include the date of impoundment, the date and the amount realized from the adoption, the fees and expenses due for impounding and keeping same, the name of the owner if known and the name of the adopter.

ARTICLE XII ADOPTION

Section 91.43 Inoculation and sterilization of adopted animals

All dogs and cats adopted from the Animal Facility shall be inoculated according to age and sterilized before adoption. The following shall be included in each adoption:

a) Dogs shall receive at least one dose as recommended by Veterinarian, to include distemper, hepatitis, adenovirus, parainfluenza, parvovirus, bordatella, and rabies according to age requirements.

b) Cats shall receive at least one dose as recommended by a veterinarian, to include rhinotracheitis, calicivirus, panleukopenia, chlamydia psittacine, and rabies according to age requirements.

No unclaimed dog or cat shall be released for adoption from the Animal Facility without being sterilized or without written agreement from an adopter guaranteeing that such animal will be sterilized within thirty (30) days for adult animals and by the date an adopted infant female or infant male becomes six months old.

Section 91.44 Examination by veterinarian and diagnostic testing

A veterinarian shall examine all animals adopted from the Animal Facility for health conditions prior to adoption. Dogs older than six (6) months shall be tested for heartworms and, if positive, treated prior to adoption. All cats shall be tested for Feline AIDS and Leukemia. Any known health conditions shall be disclosed to the adopter. Animals other than dogs and cats shall receive inoculations or other medical treatment as recommended by a veterinarian prior to adoption.

Section 91.45 Medical treatment by veterinarian

All animals adopted shall be treated for any known medical conditions prior to being adopted. Any impounded animal with a known medical condition shall be treated as recommended by a veterinarian to prevent suffering.

Section 91.46 Fees passed on

All costs, debts, and/or fees created by this Article shall be passed on to the adopter and must be paid prior to receiving custody of the animal.

Section 91.47 Adoptions

Should the adoption not work out due to behavioral or other problems the adopted animal can be returned to the Animal Shelter but no money shall be refunded unless a written statement from a veterinarian is provided by the adopter showing cause that the adopted animal is unhealthy within fourteen (14) days of the adoption.

91.48 Return of captured animal to owner.

In addition to issuance of a citation, the animal care officer may return an animal found at large to the known owner.

The owner may redeem an impounded animal during normal business hours by paying the impoundment fee, boarding fees, sterilization fees if any, and vaccination fees. If required by law for the subject species, proof of valid current rabies vaccination will be required upon release. If an owner fails to provide proof of valid current rabies vaccination prior to release, the owner shall provide proof of rabies vaccination within (3) business days upon the release of the animal.

Section 91.49 Sterilization agreement

The City shall not release an adopted animal from its custody without the animal first being sterilized, except in cases of medical necessity or when age restrictions prohibit sterilization of the animal prior to being released from the shelter. In these cases, the City shall require the adopter to sign a Sterilization Agreement to have the animal altered within thirty (30) days of adoption or by the time the animal reaches six (6) months of age, or within the appropriate time-frame created by the City Veterinarian or the Animal Services Department. This does not apply to 501(c) 3 Rescue Organizations.

a) The sterilization agreement will contain the following:

1. date of the agreement;
2. name and address of releasing agency;
3. name, address, date of birth, and driver's license/ID number of the adopter;
4. a description of the animal to be adopted;
5. the sterilization due date, and
6. a statement printed in conspicuous bold print that sterilization of the animal is required under Texas Health and Safety Code Chapter 828 as amended from time to time and that a violation of the agreement is a criminal offense punishable as a Class C misdemeanor.

b) The completion date in the sterilization agreement must be:

1. the thirtieth (30th) day after the date of adoption in the case of an adult animal, or
2. by the date an adopted infant male or female becomes six (6) months old; or
3. within the appropriate time frame recommended by treating veterinarian.

Section 91.50 Sterilization required

a) Except as provided for by this section, a new owner who signs an agreement under Section 91.47 shall have the adopted animal sterilized on or before the sterilization completion date stated in the agreement.

b) If the sterilization completion date falls on a Saturday, Sunday or legal holiday the deadline is extended to the next day thereafter that is not a Saturday, Sunday or legal holiday.

c) A releasing agency may extend the deadline for (30) thirty days on presentation of a written report from a licensed veterinarian stating that the life or health of the adopted animal may be jeopardized by surgery. There is no limit on the number of extensions that may be granted under this subsection.

Section 91.51 Confirmation of sterilization

a) Each new owner who signs a sterilization agreement under Section 91.47 shall deliver to the agency from which the animal was adopted a letter signed by the veterinarian who performed the surgery.

b) The letter must be delivered in person or by mail not later than the seventh (7th) day after the date on which the animal was sterilized.

c) The letter must state that the animal has been sterilized, briefly describe the animal, and provide the date of sterilization.

Section 91.52 Letter concerning animal's death

a) If an adopted animal dies on or before the sterilization completion date agreed to under Section 91.47, the new owner shall deliver to the releasing agency a signed letter stating that the animal is dead.

b) The letter must be delivered not later than the seventh (7th) day after the date of the animal's death and must describe the cause of death, if known, and provide the date of death.

c) Falsifying a letter concerning an animal's death will be considered a violation of this section and the owner will be fined for failure to have their animal sterilized.

Section 91.53 Letter concerning lost or stolen animal

a) If an adopted animal is lost or stolen before the sterilization completion date agreed to under Section 91.47, the new owner shall deliver to the releasing agency a signed letter stating that the animal is lost or stolen.

b) The letter must be delivered not later than the seventh (7th) day after the date of the animal's disappearance and must describe the circumstances surrounding the disappearance and provide the approximate date of the disappearance.

c) Falsifying a letter concerning an animal's death will be considered a violation of this section and the owner will be fined for failure to have their animal sterilized.

Section 91.54 Notice of failure to receive letter

a) A releasing agency that does not receive a letter under Section 91.49, 91.50, or 19.51 before the expiration of the seventh (7th) day after the sterilization completion date agreed to under Section 91.47 shall cause a complaint to be filed against the new owner. It is a presumption under this law that the failure of the new owner to deliver to the releasing agency a signed letter required under Section 91.49, 91.50, or 19.51 is the result of the new owner's refusal to have the adopted animal sterilized. The new owner may rebut this presumption at the time of the hearing with the proof required under the above-mentioned sections.

b) A releasing agency that does not receive a letter under Section 91.49, 91.50, or 19.51 after the expiration of the seventh (7th) day after the sterilization completion date agreed to under Section 91.47 may promptly reclaim the animal from the new owner.

c) A person may not prevent, obstruct, or interfere with the right to reclaim an animal under this section.

d) In the event of such reclamation, the City shall have no obligation to repay fees previously paid pursuant to this Chapter.

ARTICLE XIII FEE SCHEDULE

Section 91.55 Schedule of fees (See Exhibit A)

PASSED AND APPROVED on first reading on the 25th day of August, 2022.

PASSED, APPROVED, AND ADOPTED on second reading on the 8th day of September, 2022.

CITY OF KIRBY

Kimberly Aldrich, Mayor

ATTEST:

Patty Cox, City Secretary

**EXHIBIT A
FEE SCHEDULE**

ANIMAL AND FOWL

1) Microchip \$ 10.00

2) Permits. A permit shall be issued after payment of the applicable fee:

a) Kennel authorized to house 10 or less dogs or cats	\$ 25.00
b) Kennel authorized to house more than 10 but less than 50	\$ 75.00
c) Kennel authorized to house 50 or more dogs or cats	\$150.00
d) Pet Shop or Riding Stable	\$100.00
e) Grooming Shop	\$ 30.00
f) Auction	\$100.00
g) Animal exhibition/circus	\$100.00
h) Zoological Park	\$200.00
i) Guard Dog Training Center	\$200.00
j) Obedience Training Center	\$ 50.00
k) Commercial Establishment using a Guard Dog	\$ 30.00
l) Temporary Permit (not to exceed 3 days)	\$ 15.00
m) Dangerous Dog Permit (deemed by the Judge)	\$200.00

3) Impoundment Fee. An impoundment fee must be paid for each captured animal:

Dog or cat (1 st offense)	\$ 45.00
Dog or cat (2 nd offense during 12 month period)	\$ 55.00
Dog or cat (3 rd offense in a 12 month period)	\$ 65.00
Dog or cat (4 th offense and each subsequent)	\$ 85.00
Fowl or other small animal	\$ 15.00
Livestock	\$ 75.00
Zoological/Circus animal	\$200.00

4) Boarding Fee. In addition to the impoundment fee a boarding fee must be paid for each animal:

Dog or cat (per day)	\$ 10.00
Fowl or other small animal (per day)	\$ 5.00
Livestock (per day)	\$ 25.00
Zoological/Circus animal (per day)	\$100.00

5) Charge for vaccines given / diagnostic tests performed:

DAPPV	\$ 10.00
Bordatella	\$ 10.00
FVRCP	\$ 10.00
Rabies	\$ 20.00
Heartworm Test	\$ 25.00
FIV/FelV Test	\$ 25.00

The owner shall reimburse the City for all additional veterinary expenses incurred as a result of their animal's impoundment.

6) Surrender Fee. (per animal):

Dog or cat	\$ 125.00
Litter** (3 or more dogs or cats under 3 months of age)	\$ 125.00
Small animal, bird, reptile	\$ 10.00
Livestock	\$ 75.00
Circus/Zoological	\$ 200.00

**Any litters of dogs or cats over 3 months of age shall be charged \$35.00 per animal as these animals will require additional vaccinations that the litter fee will not cover.

7) Rabies Quarantine impoundment fee \$50.00 per animal plus \$13.00 per day for boarding. If a rabies vaccine is required for the animal, then \$20.00 for the rabies vaccination and the appropriate charge for the City license will be added to the final cost. Owners of quarantined animals may opt to have their animal quarantined at any DSHS-approved quarantine facility, but must provide proof of the quarantine the outcome to the City.

Head Removal/Submission (if an owner chooses not to quarantine)	\$125.00
Lab submission fees	\$40.00
Head removal fees	\$50.00
Euthanasia fees	\$15.00
Body disposal fees	\$20.00

8) Adoption Fee. (per animal):

Dog	\$ 125.00
Cat	\$ 80.00
Fowl or small animal	\$ Free
Swine	\$ Free

<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: MARCH 9, 2023

AGENDA ITEM: 7. k.

Discussion And Possible Action

Discussion And Possible Action On Establishing An Open Records Request Policy

This item was requested by Council Member Garza.

<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: MARCH 9, 2023

AGENDA ITEM: 7. I.

Discussion And Possible Action

Discussion And Possible Action On Zoom For All Council Meetings

This item was requested by Council Member Garza.

<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: MARCH 9, 2023

AGENDA ITEM: 7. m.

Discussion And Possible Action

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

Mr. Juan B. Cantu submitted an application to join the Economic Development Committee. His application has been placed in your office box.

<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: MARCH 9, 2023

AGENDA ITEM: 7. n.

Discussion And Possible Action

Discussion and Possible Action Regarding The Interim City Manager and Contract Changes

<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: MARCH 9, 2023

AGENDA ITEM: 7. o.

Discussion And Possible Action

Discussion And Possible Action For Compensation Acting City Manager Roxanne Cardona