



Janeshia A. Grider, Mayor

Sylvia Apodaca  
Christopher Garza  
Joe Molina

Mike Martin  
Sally Hitt  
Maria Lozano

---

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

---

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

Topic: Regular City Council Meeting

Date and Time: October 12, 2023 at 7:00 P.M. (Central Time)

Join Zoom Meeting:

**Video Participation:** Join Zoom Meeting

<https://zoom.us>

Meeting ID: 956 855 1663 and Passcode: 1955

---

**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 Ensure That The Public Is Always Given Notice Of The Items That Will Be Discussed By The Council. Should A Member Of The Public Bring An Item To The Council For Which The Subject Was Not Posted On The Agenda For The Meeting, The Council May Receive The Information, But Cannot Discuss Or Act Upon It At The Meeting

**6. Consideration Of And Action On Minutes**

- a. Regular Minutes – September 7, 2023
- b. Regular Minutes – September 14, 2023
- c. Regular Minutes – September 23, 2023
- d. Regular Minutes – September 27, 2023
- e. Public Hearing Minutes – September 14, 2023
- f. Public Hearing Minutes – September 27, 2023

**7. Executive Session**

- a. The City Council will meet in Closed Session pursuant to Texas Government Code Section 551.074, Personnel, and 551.071 Consultation with Attorney to receive advice, discuss and address the findings of the investigation on City Managers Suspension.

**8. Reconvene to Open Session**

- a. Following deliberation in Closed Session, the City Council will reconvene in Open Session to take any final action required on the matters discussed in Closed Session.

**9. Staff/Contractor Reports**

- a. Discussion and Update on construction materials left on Gaiety Lane.
- b. Discussion and Update on placing restrooms at Hugo Lentz Park.
- c. Discussion and Update on purchase of Water Cooler for Public Works Department.
- d. Discussion and Update on Ackerman Road Project.
- e. Discussion and Update on law firm cost.
- f. Discussion and Update on creating budget timeline.
- g. Discussion and Update from RRGP on Computer issues.

**10. Discussion And Possible Action**

- a. Discussion and Possible Action Appointing Crime Control Board Members.
- b. Discussion and Possible Action on appointing secondary Acting City Manager in case of Chief Hilburn's absence.
- c. Discussion and Possible Action on Ackerman Road change order 3 and 4.
- d. Discussion and Possible Action on permitting process and requirements for home owners and contractors.
- e. Discussion and Possible Action on 4907 Borchers liens.
- f. Discussion and Possible Action on extending iWork for Code enforcement purposes.
- g. Discussion and Possible Action on Chris Garza's resignation from Senior Center Board.
- h. Discussion and Possible Action on Resolution on Cafeteria Plan.
- i. Discussion and Possible Action on Resolution on Mission Square- ICMA Retirement Plan.
- j. Discussion and Possible Action on Resolution on appointment of a City Prosecutor.

**11. City Manager Announcements**

- a. Announcements On City Events And Items Of Community Interest

**12. Request And Announcements**

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

**13. Adjournment**

---

Katelyn Ueckert  
Interim 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: October 6, 2023  
TIME OF POSTING: 6:45 P.M.



*Janeshia A. Grider, Mayor*

Sylvia Apodaca  
Christopher Garza  
Joe Molina

Mike Martin  
Sally Hitt  
Maria Lozano

---

**CITY COUNCIL AGENDA  
BUDGET WORKSHOP  
THURSDAY, SEPTEMBER 7, 2023 - 6:00 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: Fiscal Budget 2023-2024

Date and Time: September 7, 2023 at 6:00 P.M.-7:00 P.M. (Central Time)  
Join Zoom Meeting:

**Video Participation:** Join Zoom Meeting

<https://zoom.us>

Meeting ID: 956 855 1663 and Passcode: 1955

---

**1. Call Meeting to Order**

Mayor Grider called meeting to order at 6:04 P.M.

**2. Mission Statement**

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

**3. Roll Call**

**PRESENT**

**ABSENT:**

Mayor Pro-Tem Apodaca  
Council Member Garza  
Council Member Hitt  
Council Member Lozano  
Council Member Martin  
Council Member Molina  
Mayor Grider

**4. Citizen Participation**

Lisa Pierce- Discussed Acting City Managers Expectation and Advised to use innovated career solution group  
Voigt- Discussed brush and bulk pickup

**6. Executive Session**

**The City Council Will Convene In Closed Session Pursuant To Texas Government Code Section 551.074, Personnel, To Deliberate Matters Associated The Acting City Manager Clarify Scope And Duties And Employee Compensation**

- a. Discussion and possible action to clarify scope and duties with acting city manager and communication.
- b. Discussion and possible action on employee compensation

Regular meeting closes at 6:09 P.M. for executive session

Regular meeting opens back at 6:39 P.M.

Motion made by Mayor Pro-Tem Apodaca seconded by Council Member Martin to temporarily increase the pay for Chief Hilburn as acting city manager to 2000 a month retroactive to the date he first performed those duties

**Aye:**

**Nay:**

Mayor Pro-Tem Apodaca  
Council Member Garza  
Council Member Hitt  
Council Member Lozano  
Council Member Martin  
Council Member Molina  
Mayor Grider

Motion passes with a 7-0 vote

7. Discussion And Possible Action

- a. Discussion and possible action on Marsh McLennan Agency's proposal regarding city employee benefits.

Motion made by Council Member Martin seconded by Council Member Hitt to resend City Council prior approval from Marsh McClennan Agency's curative

**Aye:** **Nay:**

Mayor Pro-Tem Apodaca  
Council Member Garza  
Council Member Hitt  
Council Member Lozano  
Council Member Martin  
Council Member Molina  
Mayor Grider

Motion passes with a 7-0 Vote

Motion Made by Council Member Garza seconded by Mayor Pro-Tem Apodaca to accept Blue Cross Blue Shield at 7%

**Aye:** **Nay:**

Mayor Pro-Tem Apodaca  
Council Member Garza  
Council Member Hitt  
Council Member Lozano  
Council Member Martin  
Council Member Molina  
Mayor Grider

Motion passes with a 7-0 Vote

5. Topic Of Workshop Discussion

- a. Fiscal Budget 2023-2024

Council Discussed Agenda Item A

6. Adjournment

Meeting Adjourns at 10:55 P.M.

\_\_\_\_\_  
Janeshia Grider, Mayor

\_\_\_\_\_  
Katelyn Ueckert  
Interim City Secretary

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: September 1, 2023  
TIME OF POSTING: 6:45 P.M.



*Janeshia A. Grider, Mayor*

Sylvia Apodaca  
Christopher Garza  
Joe Molina

Mike Martin  
Sally Hitt  
Maria Lozano

---

**PUBLIC HEARING TAX RATE AND BUDGET  
PUBLIC HEARING MEETING  
THURSDAY, SEPTEMBER 14, 2023 - 6:00-7:00 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: Public Hearing

Date and Time: September 14, 2023 at 6:00 P.M. (Central Time)

Join Zoom Meeting:

**Video Participation:** Join Zoom Meeting

<https://zoom.us>

Meeting ID: 956 855 1663 and Passcode: 1955

---

**1. Call Meeting to Order**

Public hearing for tax rate and budget called to order at 6:05 P.M.

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

Invocation and pledge lead by Keith Sanford

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 Pro-Tem Apodaca  
Council Member Garza  
Council Member Hitt  
Council Member Martin  
Council Member Molina  
Mayor Grider

**ABSENT:**

Council Member Lozano

5. **Public Hearing on the Proposed Budget for Fiscal Year 2023-2024**

“This budget will raise more total property taxes than last year’s budget by \$100,085 or 3.16%, and of that amount \$17,333 is tax revenue to be raised from new property added to the tax roll this year.”

Opened Public Hearing on Budget at 6:11 P.M.

Jeff Eckland- discussed Crime Controls Budget

Closed Public Hearing on Budget at 6:13 P.M.

6. **Public Hearing on the Proposed Tax Rate for Fiscal Year 2023-2024**

The city is proposing at tax rate of \$0.591244 per \$100 valuation.

Opened Public Hearing for Proposed Tax Rate at 6:14 P.M.

Closed Hearing For Proposed tax Rate at 6:15 P.M.

6. **Adjournment**

Meeting Adjourns at 6:15 P.M.

\_\_\_\_\_  
Janeshia Grider, Mayor

**Katelyn Ueckert**  
**Interim 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: September 11, 2023  
TIME OF POSTING: 6:45 P.M.



*Janeshia A. Grider, Mayor*

Sylvia Apodaca  
Christopher Garza  
Joe Molina

Mike Martin  
Sally Hitt  
Maria Lozano

---

**PUBLIC HEARING TAX RATE AND BUDGET  
PUBLIC HEARING MEETING  
WEDNESDAY, SEPTEMBER 27, 2023 - 6:00-7:00 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: Public Hearing

Date and Time: September 27, 2023 at 6:00 P.M. (Central Time)

Join Zoom Meeting:

**Video Participation:** Join Zoom Meeting

<https://zoom.us>

Meeting ID: 956 855 1663 and Passcode: 1955

---

**1. Call Meeting to Order**

Meeting called to order at 6:00 P.M.

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

Mayor Grider led the invocation and Pledge of the Allegiance

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 Pro-Tem Apodaca  
Council Member Garza  
Council Member Hitt  
Council Member Martin  
Council Member Molina  
Mayor Grider

**ABSENT:**

Council Member Lozano

5. Public Hearing on the Proposed Budget for Fiscal Year 2023-2024

“This budget will raise more total property taxes than last year’s budget by \$100,085 or 3.16%, and of that amount \$17,333 is tax revenue to be raised from new property added to the tax roll this year.”

Public hearing for budget opens at 6:02 P.M.  
Lisa Pierce discussed overtime, breakdown of budget and employee pay  
Roger Romans discussed eluded process of budget and budget adoption deadline  
Public hearing for budget closed at 6:14 P.M.

6. Public Hearing on the Proposed Tax Rate for Fiscal Year 2023-2024

The city is proposing at tax rate of \$0.591244 per \$100 valuation.

Public hearing for Tax Rate opens at 6:17 P.M.

6. Adjournment

Meeting adjourns at 6:18 P.M.

\_\_\_\_\_  
Janeshia Grider, Mayor

\_\_\_\_\_  
Katelyn Ueckert  
Interim 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: September 22, 2023

TIME OF POSTING: 6:00 P.M.



*Janeshia A. Grider, Mayor*

Sylvia Apodaca  
Christopher Garza  
Joe Molina

Mike Martin  
Sally Hitt  
Maria Lozano

---

**CITY COUNCIL AGENDA  
REGULAR MEETING  
THURSDAY, SEPTEMBER 14, 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: September 14, 2023 at 7:00 P.M. (Central Time)

Join Zoom Meeting:

**Video Participation:** Join Zoom Meeting

<https://zoom.us>

Meeting ID: 956 855 1663 and Passcode: 1955

---

**1. Call Meeting to Order**

Meeting called to order at 7:05 P.M.

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

Mayor Grider led in invocation and pledge

**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 Pro-Tem Apodaca  
Council Member Garza  
Council Member Hitt  
Council Member Martin  
Council Member Molina  
Mayor Grider

**ABSENT:**

Council Member Lozano

5. Citizen Participation

Susan Street- Discussed Zipper Machine  
Jack Miller- Discussed Podium Mic, discussed 5020 Seguin Rd property and land lord  
Patric White- Discussed opportunity for council to make changes and listen to citizens

6. Consideration Of And Action On Minutes

a. Regular Minutes – August 10, 2023

Request by Council Member Garza to add speech under item E

b. Regular Minutes – August 24, 2023

Motion made to by Mayor Pro-Tem Apodaca seconded by Council Member Hitt to accept the August 24 minutes

Motion passes with a 7-0 vote

c. Retreat minutes – August 4

Move Minutes to next meeting

d. Retreat minutes – August 5

Move Minutes to next meeting

7. CPS Presentation

Nacy Devarez- Thanked council for opportunity to present  
Willie Davis- Presented call before you dig communication tool kit

**8. Discussion And Possible Action**

**a. Discussion and Possible Action on moving September 28<sup>th</sup> meeting to the September 27<sup>th</sup>**

Council Member Garza discussed giving enough notice

Motion made by Mayor Pro-Tem Apodaca seconded by Council Member Hitt to move the September 28<sup>th</sup> meeting to the September 27<sup>th</sup>

**Aye:**

**Nay:**

Mayor Pro-Tem Apodaca  
Council Member Garza  
Council Member Hitt  
Council Member Martin  
Council Member Molina  
Mayor Grider

Motion passes with a 6-0 vote

**b. Discussion and Possible Action on Alan Shepard Road Reconstruction and Sewer Replacement Change Order Number 3 and 4.**

Carl Bane Discussed Alen Shepard project and clearing up paperwork

Motion made by Mayor Pro-Tem Apodaca seconded by Council Member Hitt to approve Alan Shepard Road Reconstruction and Sewer Replacement Change Order Number 3 and 4

**Aye:**

**Nay:**

Mayor Pro-Tem Apodaca  
Council Member Garza  
Council Member Hitt  
Council Member Martin  
Council Member Molina  
Mayor Grider

Motion passes with a 6-0 vote

**c. Discussion and Possible Action on Ackerman Road Reconstruction Project Change Order Number 1 and update on Ackerman Road project.**

Austin Bridge and roads discussed update on Ackerman rd. and Gibbs sprawl discussed being compensated for the officers hired to regulate traffic

Motion made by Council Member Martin seconded by Council Member Garza to accept Ackerman Road Reconstruction Project Change Order Number 1

**Aye:** **Nay:**

Mayor Pro-Tem Apodaca  
Council Member Garza  
Council Member Hitt  
Council Member Martin  
Council Member Molina  
Mayor Grider

Motion passes with a 6-0 vote

Meeting released for a ten-minute break  
Meeting opened back at 8:21 P.M.

d. Discussion and review of Amendments to Proposed Budget for Fiscal Year 2023/2024.

Council discussed agenda item D  
Patric White discussed Senior Center and Public Works  
Jack Miller discussed budget  
Council discussed budget by department

e. Discussion and Possible Action To Have Community Garage Sale In November

Motion made by Council Member Garza seconded by Mayor Pro-Tem Apodaca to Have Community Garage Sale November 17th-19th

**Aye:** **Nay:**

Mayor Pro-Tem Apodaca  
Council Member Garza  
Council Member Hitt  
Council Member Martin  
Council Member Molina  
Mayor Grider

Motion passes with a 6-0 vote

f. Discussion on the Zipper contract for review of leasing options.

Council asks chief to check with lean holder on zipper equipment

g. Discussion and Possible Action on Emergency Interconnect Agreement with SAWS.

Armondo Discussed why the SAWS connection is necessary explained well 2 needs maintenance

Motion made by Council Member Garza seconded by Council Member Martin to approve Emergency Interconnect Agreement with SAWS

**Aye:**

**Nay:**

Mayor Pro-Tem Apodaca  
Council Member Garza  
Council Member Hitt  
Council Member Martin  
Council Member Molina  
Mayor Grider

Motion passes with a 6-0 vote

h. Discussion and possible action regarding Nepotism as applied to the Code of Conduct for boards and commissions.

Valerie Discussed updating conflict of interest policies

Council Discussed Agenda Item H

Motion made by council member Garza seconded by Council Member Hitt to have the attorney look into the ordinances for boards commissions and committees

**Aye:**

**Nay:**

Mayor Pro-Tem Apodaca  
Council Member Garza  
Council Member Hitt  
Council Member Martin  
Council Member Molina  
Mayor Grider

Motion passes with a 6-0 vote

i. Discussion and possible action on approving the 2024 City of Kirby Holiday Schedule

Motion made by council member Garza seconded by Council Member Molina to approve the 2024 City of Kirby Holiday Schedule

**Aye:**

**Nay:**

Mayor Pro-Tem Apodaca  
Council Member Garza

Council Member Hitt  
Council Member Martin  
Council Member Molina  
Mayor Grider

Motion passes with a 6-0 vote

- j. Discussion on council meeting procedures pursuant to Kirby Municipal Code Sections 30.01 through 30.10.

Council Discussed Agenda Item J

- k. Discussion and Possible Action regarding Kirby Police Department Procedures on wearing body cameras.

Council Discussed Agenda Item J

- l. Discussion and Action on Kirby Youth Program Kids Fall Craft Party.

Mayor Grider discussed weather and if event will be inside or outside to be determined

- m. Discussion and Possible Action on City of Kirby hosting Hispanic Heritage Month Event.

Consensus council agreed to hosting Hispanic Heritage Month Event

Regular meeting closes at 1:06 A.M.

**9. Executive Session**

- a. The City Council Will Convene in Closed Session Pursuant to Texas Government Code Section 551.074, Personnel and 551.071 Consultation with Attorney to receive advice and discuss the employment, evaluation, reassignment, duties, and discipline of the City Manager.
- b. The City Council Will Convene in Closed Session Pursuant to Texas Government Code Section 551.071 Consultation with Attorney to receive advice related to the legality of current Employee Policies and Policy Manual.

Regular meeting reopens at 2:14 A.M.

**10. City Manager Announcements**

Acting City Manager William Hilburn announces National night out October 3 at 8:00 P.M.- 9:00 P.M.

**11. Request And Announcements**

Council Member Garza requested an update on Mainstreet Properties and Mics  
Council Member Molina thanked everyone who came out  
Mayor Grider thanked LT Alonza and Lackey

**12. Adjournment**

Meeting Adjourned at 2:18 A.M.

---

Janeshia Grider, Mayor

---

Katelyn Ueckert  
Interim 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: August 11, 2023

TIME OF POSTING: 6:45 P.M.



*Janeshia A. Grider, Mayor*

Sylvia Apodaca  
Christopher Garza  
Joe Molina

Mike Martin  
Sally Hitt  
Maria Lozano

---

**CITY COUNCIL AGENDA  
BUDGET WORKSHOP  
SATURDAY, SEPTEMBER 23, 2023 - 9:00 A.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: Fiscal Budget 2023-2024

Date and Time: September 23, 2023 at 9:00 A.M. (Central Time)  
Join Zoom Meeting:

**Video Participation:** Join Zoom Meeting

<https://zoom.us>

Meeting ID: 956 855 1663 and Passcode: 1955

---

**1. Call Meeting to Order**

Mayor Grider called the meeting called to order at 9:02 A.M.

**2. Mission Statement**

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

**3. Roll Call**

**PRESENT**

Mayor Pro-Tem Apodaca  
Council Member Hitt  
Council Member Martin  
Council Member Molina  
Mayor Grider

**ABSENT:**

Council Member Garza  
Council Member Lozano

4. Citizen Participation

5. Topic Of Workshop Discussion

- a. Discussion and Update Fiscal Budget 2023-2024

Council Discussed Agenda Item A

6. Adjournment

Meeting Adjourned at 9:30 A.M.

\_\_\_\_\_  
Janeshia Grider, Mayor

\_\_\_\_\_  
Katelyn Ueckert  
Interim City Secretary

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: September 20, 2023  
TIME OF POSTING: 9:00 A.M.



Janeshia A. Grider, Mayor

Sylvia Apodaca  
Christopher Garza  
Joe Molina

Mike Martin  
Sally Hitt  
Maria Lozano

---

**CITY COUNCIL MINUTES  
REGULAR MEETING  
WEDNESDAY, SEPTEMBER 27, 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: August 27, 2023 at 7:00 P.M. (Central Time)

Join Zoom Meeting:

**Video Participation:** Join Zoom Meeting

<https://zoom.us>

Meeting ID: 956 855 1663 and Passcode: 1955

---

**1. Call Meeting to Order**

Meeting called to order at 7:04 P.M

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

Mayor Grider led with the invocation and pledge

**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 Pro-Tem Apodaca  
Council Member Garza  
Council Member Hitt  
Council Member Lozano  
Council Member Martin  
Council Member Molina  
Mayor Grider

**ABSENT:**

**5. Citizen Participation**

Roger Romans waited for agenda item H and I to speak  
Jeff Eckland discussed Crime Control Prevention Members

**6. Consideration Of And Action On Minutes**

**a. Regular Minutes – August 10, 2023**

Motion made by Council Member Martin seconded by Council Member Hitt to  
approve Regular Minutes August 10, 2023  
Motion Passed with a 7-0 Vote

**b. Regular Minutes – August 24, 2023**

Motion made by Mayor Pro-Tem Apodaca seconded by Council Member Molina  
to approve Regular Minutes August 24, 2023  
Motion Passed with a 7-0 Vote

**c. Budget Workshop Minutes – August 24, 2023**

Motion made by Mayor Pro-Tem Apodaca seconded by Council Member Garza to  
approve Budget Workshop Minutes August 24, 2023  
Motion Passed with a 7-0 Vote

**d. Special Meeting Minutes – August 31, 2023**

Motion made by Council Member Martin seconded by Mayor Pro-Tem Apodaca to  
approve Special Meeting Minutes August 31, 2023  
Motion Passed with a 7-0 Vote

e. Retreat Minutes – August 4, 2023

Motion made by Council Member Garza seconded by Mayor Pro-Tem Apodaca to approve Retreat Minutes August 4, 2023  
Motion Passed with a 7-0 Vote

f. Retreat Minutes – August 5, 2023

Motion made by Council Member Garza seconded by Mayor Pro-Tem Apodaca to approve Retreat Minutes August 5, 2023  
Motion Passed with a 7-0 Vote

7. Presentation

a. Presentation on fire prevention week proclamation.

Chief Hilburn Presented the Fire Prevention week proclamation

8. Executive Session

a. The City Council will meet in Closed Session pursuant to Texas Government Code Section 551.074, Personnel, to deliberate matters associated with hiring a municipal prosecutor.

Regular meeting closed at 7:19 P.M.

9. Reconvene to Open Session

a. Following deliberation in Closed Session, the City Council will reconvene in Open Session to take any final action required on the matters discussed in Closed Session.

Regular meeting opens back at 7:37 P.M.

Motion made by Council Member Garza seconded by Council Member Hitt to approve Anthony Arriaga to be the prosecutor for City of Kirby

**Aye:**

**Nay:**

Mayor Pro-Tem Apodaca  
Council Member Garza  
Council Member Hitt  
Council Member Lozano  
Council Member Martin  
Council Member Molina

Mayor Grider

Motion passed with a 7-0 vote

**10. Discussion And Possible Action**

- a. Discussion and Possible Action on Ackerman Road change orders 2 and 3 and update on Ackerman road project.

Acting City Manager William Hilburn discussed the Updates on Ackerman Road

Motion made by Council Member Garza seconded by Mayor Pro-Tem Apodaca to approve Change order 2

**Aye:**

**Nay:**

Mayor Pro-Tem Apodaca  
Council Member Garza  
Council Member Hitt  
Council Member Lozano  
Council Member Martin  
Council Member Molina  
Mayor Grider

Motion passed with a 7-0 vote

Change Order 3 moved until paperwork is submitted by Bain Madina Bain and Austin Bridge and Road

- b. Discussion and Possible Action regarding Ordinance O-2023-926 adopting the Annual Budget of the City of Kirby for Fiscal Year 2023-24 (first reading).

Council Discussed agenda item B

Motion made by Mayor Pro-Tem Apodaca seconded by Council Member Hitt to approve Ordinance O-2023-926 adopting the Annual Budget of the City of Kirby for Fiscal Year 2023-24 (first reading)

**Aye:**

**Nay:**

Mayor Pro-Tem Apodaca  
Council Member Garza  
Council Member Hitt  
Council Member Lozano

Council Member Martin  
Council Member Molina  
Mayor Grider

**Motion passed with a 7-0 vote**

- c. Discussion and Possible Action on waiving the second reading of Ordinance O-2023-926 pursuant to the City of Kirby Charter Section 2.13 by affirmative vote of all Council members present.

**Council Discussed agenda item C**

**Motion made by Council Member Martin seconded by Council Member Hitt to approve waiving the second reading of Ordinance O-2023-926 pursuant to the City of Kirby Charter Section 2.13 by affirmative vote of all Council members present.**

**Aye:** \_\_\_\_\_ **Nay:** \_\_\_\_\_

Mayor Pro-Tem Apodaca  
Council Member Garza  
Council Member Hitt  
Council Member Lozano  
Council Member Martin  
Council Member Molina  
Mayor Grider

**Motion passed with a 7-0 vote**

- d. Discussion and Possible Action regarding Ordinance O-2023-927 adopting a maximum Fiscal Year 2023-24 ad valorem tax rate (first reading).

**Council Discussed agenda item D**

Motion made by Council Member Garza seconded by Council Member Hitt to approve Ordinance O-2023-927 adopting a maximum Fiscal Year 2023-24 ad valorem tax rate voter approval tax rate 0.591244 (first reading).

**Aye:** \_\_\_\_\_ **Nay:** \_\_\_\_\_

Mayor Pro-Tem Apodaca  
Council Member Garza  
Council Member Hitt  
Council Member Lozano

Council Member Martin  
Council Member Molina  
Mayor Grider

Motion passed with a 7-0 vote

- e. Discussion and Possible Action on waiving the second reading of Ordinance O-2023-927 pursuant to the City of Kirby Charter Section 2.13 by affirmative vote of all Council members present.

Council Discussed agenda item E

Motion made by Council Member Garza seconded by Council Member Hitt to approve waiving the second reading of Ordinance O-2023-927 pursuant to the City of Kirby Charter Section 2.13 by affirmative vote of all Council members present.

<b>Aye:</b>	<b>Nay:</b>
Mayor Pro-Tem Apodaca	
Council Member Garza	
Council Member Hitt	
Council Member Lozano	
Council Member Martin	
Council Member Molina	
Mayor Grider	

Motion passed with a 7-0 vote

- f. Discussion and Possible Action to authorize the Acting City Manager to sign RRGP services agreement.

Council Discussed agenda item F

Acting City Manager William Hilburn discussed changes to RRGP service agreement

Motion made by Council Member Garza seconded by Council Member Hitt to authorize the Acting City Manager to sign RRGP services agreement.

<b>Aye:</b>	<b>Nay:</b>
Mayor Pro-Tem Apodaca	
Council Member Garza	

Council Member Hitt  
Council Member Lozano  
Council Member Martin  
Council Member Molina  
Mayor Grider

**Motion passed with a 7-0 vote**

g. Discussion and Possible Action on approval of 2022 Audit.

**Motion made by Council Member Garza seconded by Mayor Pro-Tem Apodaca to accept 2022 Audit report**

**Aye:** \_\_\_\_\_ **Nay:** \_\_\_\_\_

Mayor Pro-Tem Apodaca  
Council Member Lozano  
Council Member Hitt  
Council Member Garza  
Council Member Martin  
Council Member Molina  
Mayor Grider

**Motion passed with a 7-0 vote**

h. Discussion and Possible Action on Ordinance O-2023-928 amendment for City of Kirby Fiscal Year 2022-2023 budget by increasing/decreasing certain expenditures and increasing/decreasing certain revenues to the individual budget accounts in all funds set forth in the attached Exhibit A (first reading).

Council discussed Agenda item H

Motion made by Council Member Martin seconded by Council Member Hitt to approve Ordinance O-2023-928 amendment for City of Kirby Fiscal Year 2022-2023 budget by increasing/decreasing certain expenditures and increasing/decreasing certain revenues to the individual budget accounts in all funds set forth in the attached Exhibit A (first reading).

**Aye:** \_\_\_\_\_ **Nay:** \_\_\_\_\_

Mayor Pro-Tem Apodaca	Council Member Lozano
Council Member Hitt	Council Member Garza
Council Member Martin	

**Council Member Molina**  
**Mayor Grider**

**Motion passed with a 5-2 vote**

- i. Discussion and Possible Action on waiving the second reading of Ordinance O-2023-928 pursuant to the City of Kirby Charter Section 2.13 by affirmative vote of all Council members present.

**Motion made by Council Member Martin seconded by Council Member Hitt to waive the second reading of Ordinance O-2023-928 pursuant to the City of Kirby Charter Section 2.13 by affirmative vote of all Council members present.**

**Aye:**

**Nay:**

Mayor Pro-Tem Apodaca  
Council Member Lozano  
Council Member Hitt  
Council Member Garza  
Council Member Martin  
Council Member Molina  
Mayor Grider

**Motion passed with a 7-0 vote**

- j. Discussion and Possible Action on the Community Development Block Grant Program Intergovernmental Cooperative Agreement for Foxcross Drive.

**Council and Acting City Manager William Hilburn discussed Agenda item J**

**Motion made by Council Member Garza seconded by Mayor Pro-Tem Apodaca to sign the Community Development Block Grant Program Intergovernmental Cooperative Agreement for Foxcross Drive by Acting City Manager William Hilburn**

**Aye:**

**Nay:**

Mayor Pro-Tem Apodaca  
Council Member Garza  
Council Member Hitt  
Council Member Lozano  
Council Member Martin

Council Member Molina  
Mayor Grider

Motion passed with a 7-0 vote

**11. City Manager Announcements**

- a. Announced National night out, and to help prevent fires

**12. Request And Announcements**

Council Member Lozano thanked City of Kirby residents and employees, requested on next agenda to add Crime Control Members and other applicants for approval, discussed adding an update on Gaiety to the next agenda, discussed awareness for suicide awareness month

Council Member Garza discussed adding a timeline for next budget, requested adding board members and update on gaiety also requested update on school lights, discussed cutting cost and lawyer cost

Council Member Molina thanked city workers, discussed update on portable restrooms at Hugo Lense Park, and Ackerman Road updates

Mayor Pro-Tem Apodaca announced St Joan Of Ark ladies Tea this Sunday

Council Member Hitt discussed Beautification and Recycle yard of the quarter nomination forms

Council Member Martin requested an update on cooling trailer, discussed uses for cooling trailer  
Mayor Grider discussed Hugo Lense restroom and cooling trailer as well as gaiety requested an update, announced car theft in the area and advised to lock up cars and take out valuables, thanked Care Program for diaper drive announced Oct 11 and Oct 25 for next Diaper drive dates

**13. Adjournment**

Meeting Adjourned at 8:53 P.M.

---

Janeshia Grider, Mayor

---

Katelyn Ueckert  
Interim 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: September 22, 2023  
TIME OF POSTING: 6:00 P.M.

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

CITY OF KIRBY  
CITY COUNCIL MEETING  
AGENDA ITEM SUMMARY

DATE: October 12, 2023

AGENDA ITEM: 10 a.

Discussion and Possible Action Appointing Crime Control Board Members.

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

CITY OF KIRBY  
CITY COUNCIL MEETING  
AGENDA ITEM SUMMARY

DATE: October 12, 2023

AGENDA ITEM: 10 b.

Discussion and Possible Action on appointing secondary Acting City Manager in case of Chief Hilburn’s absence.



# CITY OF KIRBY

112 BAUMAN STREET

KIRBY, TEXAS 78219-1098

AREA CODE 210  
661-4671 & 661-3198  
FAX 661-4525

4 October 2023

City of Kirby Mayor and Council

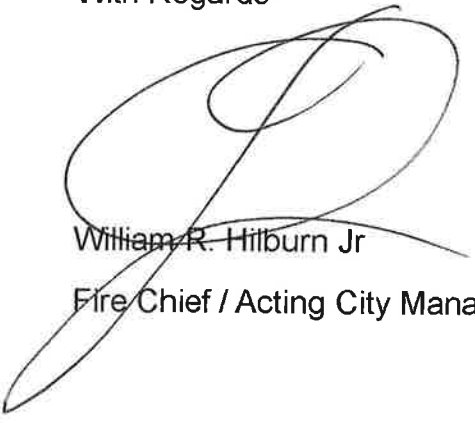
112 Bauman St

Kirby, Tx 78219

Mayor and Council Members,

As Acting City Manager, in the event of my absence from work, for illness, injury, or vacation, I William R. Hilburn Jr, hereby name Armando Marquez as my replacement for the time that I am out. Mr. Marquez will handle the day-to-day activities, until my return.

With Regards



William R. Hilburn Jr

Fire Chief / Acting City Manager

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

CITY OF KIRBY  
CITY COUNCIL MEETING  
AGENDA ITEM SUMMARY

DATE: October 12, 2023

AGENDA ITEM: 10 c.

Discussion and Possible Action on Ackerman Road change order 3 and 4.

Change Order No. 3

Date of Issuance: \_\_\_\_\_  
 Owner: City of Kirby  
 Contractor: Austin Bridge and Road  
 Engineer: Bain Medina Bain, Inc.  
 Project: 2018 Street Bond Projects -- Phase II

Effective Date: April 3, 2023  
 Contractor's Project No.: 522012  
 Engineer's Project No.: C-1594.03

The Contract is modified as follows upon execution of this Change Order:

Description: Contractor is seeking financial compensation to account for additional expenses incurred for the presence of off duty police offers to control traffic in and around detours.

Attachments: ABR Change Order #3 Letter and Off Duty Police Invoice

CHANGE IN CONTRACT PRICE	CHANGE IN CONTRACT TIMES [note changes in Milestones if applicable]
Original Contract Price: \$ 10,066,581.70	Original Contract Times: Substantial Completion: February 3, 2025 Ready for Final Payment: April 3, 2025 days or dates
[Increase] [Decrease] from previously approved Change Orders No. 1 to No. 2: \$ 203,371.36	[Increase] [Decrease] from previously approved Change Orders No. 1 to No. 2: Substantial Completion: February 19, 2025 Ready for Final Payment: April 19, 2025 Increase of 16 days
Contract Price prior to this Change Order: \$ 9,863,210.34	Contract Times prior to this Change Order: Substantial Completion: February 19, 2025 Ready for Final Payment: April 19, 2025 Increase of 16 days
[Increase] [Decrease] of this Change Order: \$ 36,154.98	[Increase] [Decrease] of this Change Order: Substantial Completion: February 19, 2025 Ready for Final Payment: April 19, 2025 No increase of days
Contract Price incorporating this Change Order: \$ 9,899,365.32	Contract Times with all approved Change Orders: Substantial Completion: February 19, 2025 Ready for Final Payment: April 19, 2025 Increase of 16 days

RECOMMENDED:	ACCEPTED:	ACCEPTED:
By: <u>[Signature]</u> Engineer	By: _____ City of Kirby	By: <u>Humberto Zambrano</u> Austin Bridge and Road
Title: Executive Vice President	Title: City Manager	Title: Project Manager
Date: September 25, 2023	Date: _____	Date: 9/26/2023



## Austin Bridge & Road

An Austin Industries Company

8122 Whisper Oak  
San Antonio, TX 78266

10/04/2023

Bain Medina Bain, Inc  
Attn: Lorena Carter, P. E  
7073 San Pedro  
San Antonio, Texas 78216

Re: 2018 Street Bond Projects Phase II

Dear Lorena Carter,

Enclosed is a formal request for Change Order No. 04 for the above-referenced project.

Austin Bridge & Road (ABR) is seeking financial compensation for the removal, transport, and disposal of the existing AC Pipe.

ABR Subcontractor (RAM2) for the installation of the storm Drainage, found while potholing for the existing Utilities, an existing AC line that is not depicted in any of the contract drawings, the AC Line is located directly in conflict of the installation of the Storm Drainage Junction Boxes and Pipe in the Project.

So far RAM2 confirmed the AC line to be present very close to the footprint of Junction Box A-16, C/L Ackerman Station 34+25.32, where the 18" RCP lateral pipe to the slot drain is in direct conflict. ABR estimates that every 18" lateral line (16) out of the junction boxes to the East side of Ackerman Road slot drains requires removal of two joints of AC pipe at each crossing.

The total amount requested in this change order is \$ 22,929.92 and 10 days be added to the contract.

Item	Qty	Unit	Subunit Price \$	Subtotal	Bond & Ins (1%)	Contractor Fee (5%)	Total
removal, transport, and disposal of AC Pipe 16 ea. (2) 13'	416	LF	\$ 52.00	\$ 21,632.00	\$ 216.32	\$ 1,081.60	\$ 22,929.92
					TOTAL C.O. #04		\$ 22,929.92

Your attention to this matter is greatly appreciated. Please contact me if you have any questions or need further information.

Sincerely,

Humberto Zambrano

Humberto Zambrano  
Project Manager  
(210)-931-7392

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

CITY OF KIRBY  
CITY COUNCIL MEETING  
AGENDA ITEM SUMMARY

DATE: October 12, 2023

AGENDA ITEM: 10 d.

Discussion and Possible Action on permitting process and requirements for home owners and contractors.

§ 150.31 - RESIDENTIAL CODE.

(A) *Adoption.* A certain document, which is on file in the office of the City Secretary of Kirby, being marked and designated as the International Residential Code, 2015 Edition, as published by the International Code Council, shall be and is hereby adopted as the Residential Code of the City of Kirby for regulating and governing the construction, alteration, movement, enlargement, replacement, repair, equipment, location, removal, and demolition of 1 and 2 family dwellings and multiple single family dwellings (such as townhouses) not more than 3 stories in height with separate means of ingress and egress, as therein provided, and providing for the issuance of permits and collection of fees therefor; and each and all of the regulations, provisions, conditions, and terms of such International Residential Code, 2015 Edition, published by the International Code Council, and on file in the office of the City Secretary, are hereby referred to, adopted, and made a part hereof as if fully set out in this section.

(B) *Amendments.* The following sections of the International Residential Code, 2015 Edition, are hereby revised to read:

- (1) Section 101.1. This code shall be known as the Residential Code of the City of Kirby, Texas, and will be cited as such and will be referred to herein as "this code."
- (2) Table R503.2.1.1 (1). Under Minimum Nominal Panel Thickness change 3/8 to 7/16 on 16/0, 20/0, and 24/0.
- (3) Sections 5-212 and 213 are hereby renumbered as 5-213 and 5-214, respectively, and a new *Section 5-212* is added to read as follows:  
  
Sec. 5-212. Amendments.
- (4) Add Section R311.2.1. Type of lock or latch.  
  
Add: In addition to being equipped with a dead latch with a half-inch minimum throw, each exterior single swing door shall be secured by a deadlock with one-inch (1") minimum throw having hardened steel inserts; alternately, the deadlock will be of a design which otherwise prevents a spreading threat. Any alternate locking devices shall be approved by the Building Official prior to being installed.  
  
Section R311.2. Egress Doors. Add at end of paragraph R311.2.1:  
  
Door Viewers shall be installed on all solid front entrance doors and shall cover 180 degrees of viewing. Such viewer is to be installed with the securing portion on the inside and nonremovable from the outside.
- (5) Add: Section 803.1.1. All residential minimum roof sheathing requirements shall be 7/16."
- (6) Section 905. Requirements for roof coverings.  
  
Add new sentence to para, R905.2.1: 3/8" sheathing is not considered to be solid decking.

Delete Section R905.7 thru 905.8.

Section 905.7 should read as follows: Wooden Roofs Prohibited. Regardless of any provisions of the applicable Standard Building Code or of any other provisions of this Code, all wooden roofs whatever (to include wooden shingle or wooden shake roofs) are henceforth absolutely prohibited. All roofing materials shall be certified noncombustible in accordance with the highest prevailing current standard in the building materials markets.

"No existing wooden or wooden shingle or shake roof can hereafter be replaced but all such roofs, when reroofed, shall be reroofed in strict accord with the provisions hereof. Only minor repairs to existing wood roofs can be made with wooden shingles or shakes. If more than 50 percent of the roofs surface needs to be replaced with new materials, it shall be completed reroofed with approved incombustible materials."

(7) Section E3803. At the end of paragraph E3803.3 add:

The street address of each single-family structure shall be illuminated by a light bulb of at least sixty (60) watts, and shall be easily visible from the street. The bulb(s) shall be protected by a weather-and-vandalism-resistant globe or cover.

Lighting facilities used on private properties for security or decorative reasons or to illuminate outdoor recreational areas such as, but not limited to, tennis courts and swimming pools shall be shielded so as to prevent beams or rays of light from being directed at any adjoining property.

(Ord. 2005-610, passed 3-3-05; Am. Ord. 2012-719, passed 2-9-12; Am. Ord. 2015-762, passed 2-26-15)

§ 153.036 - APPLICATION, FILING PROCEDURES AND FEES.

- (A) Where a permit is required, the property owner shall make application on a form prescribed by the city.
- (B) For a permit application where there is new construction on the subject property, the application shall include a site plan drawn to scale to indicate the following:
  - (1) Location of all structures on the subject property and on adjoining properties;
  - (2) Landscaping and fencing;
  - (3) Setback areas and proposed changes;
  - (4) Design of ingress and egress;
  - (5) Off-street parking and loading facilities;
  - (6) Height of all structures;
  - (7) Proposed uses; and
  - (8) Location and types of all signs and lighting, including heights and degree of illumination.
- (C) For a permit application where there is no new construction, the application shall include a photograph of the subject property or a site plan drawn to scale to indicate the following:
  - (1) Location of all structures on the subject property and on adjoining properties;
  - (2) Landscaping and fencing;
  - (3) Setback areas and proposed changes;
  - (4) Design of ingress and egress;
  - (5) Off-street parking and loading facilities;
  - (6) Height of all structures;
  - (7) Proposed uses; and
  - (8) Location and types of all signs and lighting, including heights and degree of illumination.
- (D) The fee for a permit application shall be established by the City Council and is non-refundable.

(Ord. 2001-581, passed 8-16-01; Am. Ord. 2010-686, passed 5-6-10)

ARTICLE II. - BUILDING CONSTRUCTION CODE

§ 150.15 - BUILDING CODE.

*Adoption.* A certain document is on file in the office of the City Secretary of Kirby, being marked and designated as the International Building Code, 2018 Edition, as published by the International Code Council, shall be and is hereby adopted as the Building Code of the City of Kirby for regulating municipal commercial building construction in the City of Kirby and providing for the issuance of permits and collection of fees therefor; and each and all of the regulations, provisions, conditions, and terms of such International Building Code, 2018 Edition, published by the International Code Council, and on file in the office of the City Secretary, are hereby referred to, adopted, and made a part hereof as if fully set out in this chapter.

('90 Code, § 4-26) (Ord. 2005-611, passed 3-17-05; Am. Ord. 2012-719, passed 2-9-12; Am. Ord. 2015-762, passed 2-26-15; Ord. No. O-2019-866, § 1, 2-13-2020)

§ 150.16 - LOCAL AMENDMENTS TO BUILDING CODE.

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

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

Section 103.1 Deleted.

Section 103.2 Building official.

The building official shall be appointed by the City Manager.

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

2.4.4. Violations; penalty.

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

in the commission of any such violation shall be guilty of a separate offense and upon conviction shall be fined as herein provided. Each day a violation occurs shall be a separate offense.

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

- (1) Henceforth automatic sprinkler systems must be installed throughout all levels of all new Group A, B, E, F, H, I, M, R-1, R-2, R-4 and S occupancies as defined in the International Building Code (IBC) of more than 12,000 square feet and throughout all R-3 occupancies as defined in said International Building Code of more than 12,000 square feet. The calculated area shall include all habitable space as well as the area of attached garages or storage facilities. Such systems shall be in accordance with Section 903 of the International Building Code as well as National Fire Protection Association Standards 13D and 13R, 2002 edition, for single-family dwellings.
- (2) The following exceptions are hereby established:
  - (a) Detached gazebos and armadas for residential and public use. Independent buildings such as restrooms or snack shops 400 square feet or less without cooking or heating appliances that are associated with golf courses, parks and similar uses.
  - (b) Detached noncombustible carports or shade canopies.
  - (c) Guardhouses that are less than 300 square feet in size and used to control access to or within residential and/or commercial developments.
  - (d) Detached equipment or storage buildings for commercial use not exceeding 250 square feet.
  - (e) Detached residential storage buildings or garages that are no inhabitable and not exceeding 1,000 square feet.
  - (f) Barns and agricultural buildings for private, residential, noncommercial use, and not exceeding 3,000 square feet.
  - (g) Detached noncombustible canopies used exclusively for automotive, motor fuel dispensing stations for private passenger vehicles and not exceeding 5,000 square feet.
  - (h) Manufactured (mobile) homes built in a permanent chassis designed and built as a dwelling unit and recreational vehicles that were not site-built and are portable in nature.
  - (i) The following Group A-2 occupancies shall require an automatic sprinkler system if they exceed 5,000 square feet.
    - i. Banquet halls.
    - ii. Casinos (gaming areas).

- iii. Nightclubs.
- iv. Restaurants, cafeterias and similar dining facilities.
- v. Taverns and bars.

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

- i. Amusement arcades.
- ii. Art galleries.
- iii. Bowling alleys.
- iv. Churches, places of religious worship and their ancillary buildings.
- v. Community halls.
- vi. Courtrooms.
- vii. Dance halls (not including food or drink consumption).
- viii. Exhibition halls.
- ix. Funeral parlors.
- x. Greenhouses that provide public access.
- xi. Gymnasiums (without spectator seating).
- xii. Indoor swimming pools (without spectator seating).
- xiii. Indoor tennis courts (without spectator seating).
- xiv. Lecture halls.
- xv. Libraries.
- xvi. Museums.
- xvii. Pool and billiard halls.
- xviii. Waiting areas in transportation terminals.

(3) Retrofit.

- (a) Building additions that equal 50 percent or more of the existing building floor area, or building additions that exceed 10,000 square feet regardless of percentage increase.
- (b) Two or more building permits, related to area increase, are issued over any 3 consecutive years.
- (c) One or more additions are made to an R-3 occupancy and the new total area of the building exceeds 5,000 square feet.
- (d) Building remodels that require structural changes affecting the primary structural system of the existing building.

('90 Code, § 4-27) (Ord. 2005-611, passed 3-17-05; Am. Ord. 2012-719, passed 2-9-12; Am. Ord. 2015-762, passed 2-26-15; Ord. No. O-2019-866, § 2, 2-13-2020; Ord. No. O-2022-920, § 1(Exh. A), 1-12-2023)

§ 150.26 - ELECTRICAL CODE.

A certain document is on file in the office of the City Secretary of Kirby, being marked and designated as the National Electric Code, 2014 Edition, as published by the National Fire Protection Association, shall be and is hereby adopted as the Electrical Code of the City of Kirby for regulating and governing the design, construction, quality of materials, installation, alteration, repair, location, replacement, addition to, use, or maintenance of electrical conductors, equipment, and raceways; signaling and communications conductors, equipment, and raceways; and providing protection against thermal effects, overcurrents, fault currents, and overvoltage; and providing for the issuance of permits and collection of fees therefor; and each and all of the regulations, provisions, conditions, and terms of such National Electric Code, 2014 edition, published by the International Code Council, and on file in the office of the City Secretary, are hereby referred to, adopted, and made a part hereof as if fully set out in this section.

('90 Code, § 4-71) (Ord. 2005-611, passed 3-17-05; Am. Ord. 2015-762, passed 2-26-15)

§ 150.27 - MECHANICAL CODE.

(A) *Adoption.* A certain document, which is on file in the office of the City Secretary of Kirby, being marked and designated as the International Mechanical Code, 2018 Edition, as published by the International Code Council, shall be and is hereby adopted as the Mechanical Code of the City of Kirby for regulating and governing the design, construction, quality of materials, erection, installation, alteration, repair, location, relocation, replacement, addition to, and use or maintenance of mechanical systems as therein provided and providing for the issuance of permits and collection of fees therefor; and each and all of the regulations, provisions, conditions, and terms of such International Mechanical Code, 2018 Edition, published by the International Code Council, and on file in the office of the City Secretary, are hereby referred to, adopted, and made a part hereof as if fully set out in this chapter.

(B) *Amendment.* The following sections of the International Mechanical Code, 2018 Edition, are hereby revised to read:

(1) Section 101.1 This code shall be known as the Mechanical Code of the City of Kirby, Texas, and will be cited as such and will be referred to herein as "this code."

('90 Code, § 4-86) (Am. Ord. 2002-595, passed 11-21-02; Am. Ord. 2005-611, passed 3-17-05; Am. Ord. 2007-638, passed 9-20-07; Am. Ord. 2012-719, passed 2-9-12; Am. Ord. 2015-762, passed 2-26-15; Ord. No. O-2019-866, § 3, 2-13-2020)

**Cross reference—** Penalty, see § 150.99.

## § 150.28 - PLUMBING CODE.

(A) *Adoption.* A certain document which is on file in the office of the City Secretary of Kirby, being marked and designated as the 2018 International Plumbing Code, 2018 Edition, as published by the International Code Council, shall be and are hereby adopted as the Plumbing Code of the City of Kirby for regulating and governing the design, construction, quality of materials, erection, installation, alteration, repair, location, relocation, replacement, addition to and use of maintenance of plumbing systems as therein provided; and providing for the issuance of permits and collection of fees therefor; and each and all of the regulations, provisions, conditions, and terms of such International Plumbing Code, 2018 Edition, published by the International Code Council, and on file in the office of the City Secretary, are hereby referred to, adopted, and made a part hereof as if fully set out in this chapter.

(B) *Amendments.* The following sections of the International Plumbing Code, 2018 Edition, are hereby revised to read:

(1) Section 101.1 This code shall be known as the Plumbing Code of the City of Kirby, Texas, and will be cited as such and will be referred to herein as "this code."

('90 Code, § 4-111) (Ord. 436, passed 3-17-88; Am. Ord. 2005-611, passed 3-17-05; Am. Ord. 2007-637, passed 9-20-07; Am. Ord. 2012-719, passed 2-9-12; Am. Ord. 2015-762, passed 2-26-15; Ord. No. O-2019-866, § 4, 2-13-2020 )

**Cross reference—** Penalty, see § 150.99.

## § 150.31 - RESIDENTIAL CODE.

(A) *Adoption.* A certain document, which is on file in the office of the City Secretary of Kirby, being marked and designated as the International Residential Code, 2015 Edition, as published by the International Code Council, shall be and is hereby adopted as the Residential Code of the City of Kirby for regulating and governing the construction, alteration, movement, enlargement, replacement, repair, equipment, location, removal, and demolition of 1 and 2 family dwellings and multiple single family dwellings (such as townhouses) not more than 3 stories in height with separate means of ingress and egress, as therein provided, and providing for the issuance of permits and collection of fees therefor; and each and all of the regulations, provisions, conditions, and terms of such International Residential Code, 2015 Edition, published by the International Code Council, and on file in the office of the City Secretary, are hereby referred to, adopted, and made a part hereof as if fully set out in this section.

(B) *Amendments.* The following sections of the International Residential Code, 2015 Edition, are hereby revised to read:

(1)

Section 101.1. This code shall be known as the Residential Code of the City of Kirby, Texas, and will be cited as such and will be referred to herein as "this code."

(2) Table R503.2.1.1 (1). Under Minimum Nominal Panel Thickness change 3/8 to 7/16 on 16/0, 20/0, and 24/0.

(3) Sections 5-212 and 213 are hereby renumbered as 5-213 and 5-214, respectively, and a new *Section 5-212* is added to read as follows:

Sec. 5-212. Amendments.

(4) Add Section R311.2.1. Type of lock or latch.

Add: In addition to being equipped with a dead latch with a half-inch minimum throw, each exterior single swing door shall be secured by a deadlock with one-inch (1") minimum throw having hardened steel inserts; alternately, the deadlock will be of a design which otherwise prevents a spreading threat. Any alternate locking devices shall be approved by the Building Official prior to being installed.

Section R311.2. Egress Doors. Add at end of paragraph R311.2.1:

Door Viewers shall be installed on all solid front entrance doors and shall cover 180 degrees of viewing. Such viewer is to be installed with the securing portion on the inside and nonremovable from the outside.

(5) Add: Section 803.1.1. All residential minimum roof sheathing requirements shall be 7/16."

(6) Section 905. Requirements for roof coverings.

Add new sentence to para, R905.2.1: 3/8" sheathing is not considered to be solid decking.

Delete Section R905.7 thru 905.8.

Section 905.7 should read as follows: Wooden Roofs Prohibited. Regardless of any provisions of the applicable Standard Building Code or of any other provisions of this Code, all wooden roofs whatever (to include wooden shingle or wooden shake roofs) are henceforth absolutely prohibited. All roofing materials shall be certified noncombustible in accordance with the highest prevailing current standard in the building materials markets.

"No existing wooden or wooden shingle or shake roof can hereafter be replaced but all such roofs, when reroofed, shall be reroofed in strict accord with the provisions hereof. Only minor repairs to existing wood roofs can be made with wooden shingles or shakes. If more than 50 percent of the roofs surface needs to be replaced with new materials, it shall be completed reroofed with approved incombustible materials."

(7) Section E3803. At the end of paragraph E3803.3 add:

The street address of each single-family structure shall be illuminated by a light bulb of at least sixty (60) watts, and shall be easily visible from the street. The bulb(s) shall be protected by a weather-and-vandalism-resistant globe or cover.

Lighting facilities used on private properties for security or decorative reasons or to illuminate outdoor recreational areas such as, but not limited to, tennis courts and swimming pools shall be shielded so as to prevent beams or rays of light from being directed at any adjoining property.

(Ord. 2005-610, passed 3-3-05; Am. Ord. 2012-719, passed 2-9-12; Am. Ord. 2015-762, passed 2-26-15)

#### § 150.32 - EXISTING BUILDING CODE.

(A) *Adoption.* A certain document which is on file in the office of the City Secretary of Kirby, being marked and designated as the International Existing Building Code, 2018 Edition, as published by the International Code Council, shall be and are hereby adopted as the Existing Building Code of the City of Kirby for regulating and governing the repair, alteration, change of occupancy, addition, and relocation of existing buildings, including historic buildings, as therein provided; and providing for the issuance of permits and collection of fees therefor; and each and all of the regulations, provisions, conditions, and terms of such International Existing Building Code, 2018 Edition, published by the International Code Council, and on file in the office of the City Secretary, are hereby referred to, adopted, and made a part hereof as if fully set out in this chapter.

(B) *Amendment.* The following section is hereby revised to read:

Section 101.1 This code shall be known as the Existing Building Code of the City of Kirby, Texas, and will be cited as such and will be referred to herein as "this code."

(Ord. 2015-762, passed 2-26-15; Ord. No. O-2019-866, § 5, 2-13-2020.)

#### § 150.36 - INTERNATIONAL PROPERTY MAINTENANCE CODE.

(A) The International Property Maintenance Code, 2018 Edition, is hereby adopted as the property maintenance code of the city, subject to and including by reference such revisions, corrections, additions, and deletions as shall appear in Subpart (E) hereof. In interpretation and application, the provisions of this section shall be held to be minimal requirements adopted for the promotion of public health, safety, and general welfare. A copy of the International Property Maintenance Code, 2018 Edition, will be on file in the office of the City Secretary.

(B) Any person aggrieved, officer, department, or board of the city affected by any decision of the city code compliance officer in relation to the International Property Maintenance Code shall have the right to request and have a hearing before the City Council in accordance with applicable provisions of the International Property Maintenance Code.

- (C) In the event there is a conflict between the International Property Maintenance Code as adopted and any city, state, or federal law, the more restrictive requirements shall govern unless the less restrictive requirements are preemptive under state or federal law.
- (D) The code compliance officer shall interpret any part of the International Property Maintenance Code for the health, safety, and welfare of the public.
- (E) The following local amendments to the International Property Maintenance Code, 2018 edition, are hereby adopted:

Section 103.1 is amended to read as follows:

[A] 103.1 General. The code compliance officer of the City shall be the code official for the City.

Section 1.302 is deleted.

Section 104.3 is amended by the addition of "including, without limitation, obtaining an administrative search warrant from the city Municipal Judge."

Section 111.1 is amended to provide that all appeals shall be made to, heard by, and decided by the City Council and all references to a "board of appeals" is changed to the City Buildings and Standards Commission.

Section 111.2 is amended to delete the first sentence and the last sentence.

Section 111.2.1 is deleted.

Section 111.2.2 is amended to state that the Chair of the City Buildings and Standards Commission will be the presiding officer.

Section 111.2.4 is amended to state that the City Secretary is designated as Secretary of proceedings.

Section 111.2.5 is deleted.

Section 111.4.1 is amended to state that procedure for the conduct of hearings may be adopted.

Section 111.5 is deleted.

Section 202 is amended to include the following definition of UNSAFE BUILDING:

UNSAFE BUILDING. Any building or structure that has any of the following conditions, such that the life, health, property or safety of its occupants or the general public is endangered.

- 1) Any means of egress or portion thereof is not of adequate size or is not arranged to provide a safe path of travel in case of fire or panic.
- 2) Any means of egress or portion thereof, such as but not limited to fire doors, closing devices and fire resistive ratings, is in disrepair or in a dilapidated or nonworking condition such that the means of egress could be rendered unsafe in cases of fire or panic.

- 3) The stress in any material, member or portion thereof, due to all imposed loads including dead load exceeds the stresses allowed in the International Building Code.
- 4) The building, structure or portion thereof has been damaged by fire, flood, earthquake, wind or other cause to the extent that the structural integrity of the building or structure is less than it was prior to the damage and is less than the minimum requirement established by this Code and International Building Code.
- 5) Any exterior appendage or portion of the building or structure is not securely fastened, attached or anchored such that it is capable of resisting wind, seismic or similar loads as required by this Code.
- 6) If for any reason the building, structure or portion thereof is manifestly unsafe or unsanitary for the purpose for which it is being used.
- 7) The building, structure or portion thereof as a result of decay, deterioration or dilapidation is likely to fully or partially collapse.
- 8) Any building, structure or portion thereof that is in such a condition as to constitute a public nuisance.
- 9) Any building, structure or portion thereof that is unsafe, unsanitary or not provided with adequate egress, or which constitutes a fire hazard, or is otherwise dangerous to human life, or, which in relation to existing use constitutes a hazard to safety or health by reason of inadequate maintenance, dilapidation, obsolescence or abandonment.

( Ord. No. O-2019-857, § 1, 6-13-2019 )

§ 150.38 - SWIMMING POOL AND SPA CODE.

- (A) *Adoption.* A certain document, which is on file in the office of the City Secretary of Kirby, being marked and designated as the International Swimming Pool and Spa Code, 2018 Edition, as published by the International Code Council, shall be and is hereby adopted as the Swimming Pool and Spa Code of the City of Kirby for regulating and governing swimming pool and spa safety and related matters as therein provided; and providing for the issuance of permits and collection of fees therefor; and each and all of the regulations, provisions, conditions, and terms of such International Swimming Pool and Spa Code, 2018 Edition, published by the International Code Council, and on file in the office of the City Secretary, are hereby referred to, adopted, and made a part hereof as if fully set out in this chapter.
- (B) *Amendment.* The following sections of the Swimming Pool and Spa Code are hereby revised as follows:
- (1) Section 101.1 This code shall be known as the Swimming Pool and Spa Code of the City of Kirby, Texas, and will be cited as such and will be referred to herein as "this code."

( Ord. No. O-2019-866, § 9, 2-13-2020 )

ARTICLE V. - SWIMMING POOLS

§ 150.75 - SWIMMING POOL DEFINED.

For the purposes of this subchapter, the term SWIMMING POOL shall mean and include any natural pool, pond, or lake having a depth at its point of greatest depth of more than 18 inches and having a width of 6 feet or more at its widest point, or any manmade or artificial pool, pond or lake of like depth and dimensions.

('90 Code, § 4-161) (Ord. 347, passed 4-21-83)

§ 150.76 - ENCLOSURE REQUIRED; MATERIALS.

- (A) It shall be unlawful for any person to construct, use or maintain upon his premises, or under his control, any swimming pool unless the swimming pool or the lot upon which such pool is situated shall be enclosed with a fence with gates at all entrances to be locked or self-latched at all times other than when actually being used for the purpose of ingress or egress as follows:
  - (1) On all residential lots, commercial property or other property containing a swimming pool where no charge is required for the use of the pool, there shall be constructed a fence of a minimum of 4 feet in height.
  - (2) On all other lots or commercial property containing a public swimming pool where an admission fee is charged for the use of the pool there shall be constructed a fence of a minimum of 6 feet in height.

('90 Code, § 4-162)

- (B) All fences used for swimming pools, whether at the minimum height of 4 feet or 6 feet, shall be constructed out of chain link, wood, or other material so as to effectively prevent trespassing into the swimming pool area by a child or ordinary physical capacity who is less than 6 years of age.

('90 Code, § 4-163)

(Ord. 347, passed 4-21-83)

**Cross reference—** Penalty, see § 150.99.

§ 150.77 - PRESUMPTION UPON TRESPASS BY CHILD.

The physical presence by trespass of any child below the age of 6 years in any swimming pool shall be prima facie evidence that the swimming pool at the time of such trespass was not enclosed within a child-proof fence or that the gates or other entrances to the enclosure were not securely locked or latched as herein required at the time the child entered the swimming pool.

('90 Code, § 4-164) (Ord. 347, passed 4-21-83)

§ 150.78 - REQUEST FOR VARIANCE.

Any person who may have a more secure method of keeping the gates closed in lieu of the requirements in this subchapter has the right to request the City Council to consider a variance.

('90 Code, § 4-165) (Ord. 347, passed 4-21-83)



# CITY OF KIRBY

## BUILDING PERMIT INFORMATION

### PUBLIC WORKS 210-661-2100 Fax 210-661-4525



All persons requesting a building, electrical, plumbing, mechanical, digging, or mobile connect permits, must furnish the city with the following information prior to the issuance of the permit:

1. Contractors in the home improvement business must present a Home Improvement Contractor's license (we will accept licenses issued from any surrounding communities; Converse, San Antonio, Etc..) along with name, address, office telephone. For concrete, sidewalks, curbs we will accept a sidewalk & curb license.
2. Home Improvement contractors must present to the City Official, a validated surety bond in the amount of \$5,000.00 for Home Improvement made out to the City of Kirby. Period of coverage for surety bonds is for 1 year from effective date and renewable for a 1 year period thereafter. A/C & Heating, Plumbing and Electrical Contractors must present a Certificate of Liability Insurance in a minimum of \$300,000.00, showing City of Kirby as a certificate holder. Plumbers may present the Texas State Board of Plumbing Examiners Certificate of Insurance form. HVAC contractors, Electricians & Plumbers require a copy of their current state license.
3. A Letter of Authorization: person(s) who are allowed to sign for permits under the contractor's license.
4. Plans (to scale) of work to be done; include plot plan indicating the position of construction on lot. Foundation repair requires a stamped engineer's drawing at time of application. Irrigation requires a stamped irrigator's drawing at time of application.
5. Legal description (lot & block) of property where construction is to take place.
6. Copy of contract.
7. Description of work to be performed.
8. Name, address and telephone number of property owner.
9. Dollar valuation of work to be done for building permit.

**\*\*NO PERMITS WILL BE ISSUED WITHOUT ALL OF THE ABOVE INFORMATION.\*\***

***Permits will be issued in a timely fashion after receipt of the above information.***

#### INSPECTION REQUIREMENTS:

1. Foundation/plumbing—before concrete is poured.
2. Framing/Electrical/Plumbing—before sheetrock, paneling, etc. is installed.
3. Final when job is finished. Please call 210-661-2100, Monday thru Friday, 8:00am to 4:00pm.

If construction is not commenced within 180 days or if work is suspended for 180 days, the permit will become null and void. An extension of time may be requested in writing showing circumstances beyond your control.

**PERMIT MUST BE POSTED AT JOB SITE BEFORE WORK IS STARTED!!!!**

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

CITY OF KIRBY  
CITY COUNCIL MEETING  
AGENDA ITEM SUMMARY

DATE: October 12, 2023

AGENDA ITEM: 10 e.

Discussion and Possible Action on 4907 Borchers liens.

**Brian Rowland**

**From:** William Hilburn  
**Sent:** Tuesday, September 26, 2023 12:26 PM  
**To:** City Manager  
**Subject:** FW: Regarding Liens on 4907 BORCHERS DR KIRBY, TX 78219  
**Attachments:** 4907 Borchers Sheriff's Tax Deed 2023.06.28.pdf; 4907 Borchers Release of Order 2020.12.09 Doc 20200301614.pdf; 4907 Borchers Lien 2019.05.10.pdf

Pride comes from your own actions and is a very contagious thing, take pride in yourself and it will show through everthing you do.

One Kirby

*William R. Hilburn Jr*  
*Fire Chief*



**Kirby Fire Department**  
**5560 Duffek Drive**  
**Kirby, Texas 78219**  
**Station: (210) 661-2612 Fax: (210) 661-8074**

**CONFIDENTIALITY NOTICE:** *This communication is intended only for the use of the individual or enity to which it is addressed and may contain information that is privileged, confidential, and exempt from disclosure under applicable law. If you are not the intended recipient, you are notified, that nay use, dissemination, forwarding, distribution, or copying of this communication is strickly prohibited. Please notify the sender immediately by e-mail if you have received this by mistake and delte this e-mail from your system.*

**From:** Dalia Alvarez [REDACTED]  
**Sent:** Friday, September 22, 2023 13:26  
**To:** William Hilburn <WHilburn@cityofkirby.org>  
**Subject:** Regarding Liens on 4907 BORCHERS DR KIRBY, TX 78219

Caution! This message was sent from outside your organization. [Allow sender](#) | [Block sender](#)

Good Afternoon Mr. Hilburn,

Thank you for taking my call on Wednesday, 9/20/2023, regarding 4907 Borchers. I apologize for the delay in sending you this email. It took me longer than expected to obtain copies of the attached documents.

As I explained on the call, I purchased the property on 5/2/2023 at the Bexar County Sheriff's Tax Foreclosure Auction and was given the deed on 6/28/2022. The property does not have a dwelling and is only land.

I am inquiring if the City of Kirby would be able to forgive said debt and do a Release of Liens on the property that were previously filed under the previous owners; or transfer that debt to the owners; or reduce the debt.

I've attached the Liens and Deed for documentation in 2 seperate emails due to file size, as requested.

Please let me know if you have any questions and kindly reply to this email acknowledging it's receipt.

Thank you,

Basidalia Alvarez

[REDACTED]

Brian Rowland

**From:** William Hilburn  
**Sent:** Tuesday, September 26, 2023 12:27 PM  
**To:** City Manager  
**Subject:** FW: Part 2- Regarding Liens on 4907 BORCHERS DR KIRBY, TX 78219  
**Attachments:** 4907 Borchers Lien 2020.04.17.pdf; 4907 Borchers Lien 2021.08.24.pdf; 4907 Borchers Lien 2022.05.25.pdf; 4907 Borchers Lien 2022.10.31.pdf

Pride comes from your own actions and is a very contagious thing, take pride in yourself and it will show through everthing you do.

One Kirby

*William R. Hilburn Jr*  
*Fire Chief*



Kirby Fire Department  
5560 Duffek Drive  
Kirby, Texas 78219  
Station: (210) 661-2612 Fax: (210) 661-8074

**CONFIDENTIALITY NOTICE:** *This communication is intended only for the use of the individual or entity to which it is addressed and may contain information that is privileged, confidential, and exempt from disclosure under applicable law. If you are not the intended recipient, you are notified, that nay use, dissemination, forwarding, distribution, or copying of this communication is strickly prohibited. Please notify the sender immediately by e-mail if you have received this by mistake and delte this e-mail from your system.*

**From:** Dalia Alvarez [REDACTED]  
**Sent:** Friday, September 22, 2023 13:29  
**To:** William Hilburn <WHilburn@cityofkirby.org>  
**Subject:** Part 2- Regarding Liens on 4907 BORCHERS DR KIRBY, TX 78219

Caution! This message was sent from outside your organization. [Allow sender](#) | [Block sender](#)

Good Afternoon Mr. Hilburn,

Here is part 2 of email for attached documents. Please see previous email.

Please let me know if you have any questions and kindly reply to this email acknowledging it's receipt.

Thank you,

Basidalia Alvarez  
[REDACTED]



City of Kirby

112 Bauman Street, Kirby, TX 78219 Phone: (210) 661-2100 | Fax: (210) 661-4525 | www.kirbytx.org

LIEN AFFIDAVIT

STATE OF TEXAS §  
COUNTY OF BEXAR §

The undersigned City of Kirby, Texas (the "Claimant") acting by and through its duly authorized City Manager, claims a lien against the hereinafter described property for labor performed and materials used in connection with the said property from such property city clean up overgrown weeds, brush, and grass pursuant to authority granted in Chapter 94 of the Code of Ordinances and Ordinance # 811 of the City of Kirby, Texas.

1. The Claimant is a municipal corporation located in Bexar County, Texas, whose mailing address is 112 Bauman Street, Kirby, Texas 78219-1098.
2. The owner of the property, to the best knowledge of the Claimant, is **Salinas Gonzalo & Dominga, PO BOX 65278. San Antonio, Tx 78265-5278**
3. The property on which the labor was performed, the materials were used, and upon which the lien is levied, is as follows: **4907 Borchers Kirby, TX 78219, CB5094A, Blk 10, Lot 32** located within the City of Kirby, Bexar County, Texas (the "Property") being covered by Bexar Appraisal District Property ID **327373**.
4. The work performed by the Claimant on said Property. Such action was taken by the Claimant pursuant to its police power as a municipal corporation in order to eliminate an immediate and continuing danger to the public and the public property.
5. The cost of the work and the amount claimed is **\$ 240.00**.
6. The amount as indicated in paragraph 5 above shall bear interest at a rate of 10 percent (10%) per annum.

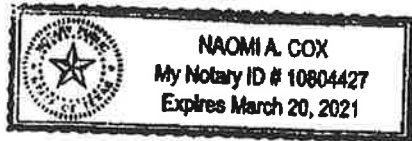
Signed this 24th day of April, 2019.

CITY OF KIRBY, TEXAS  
  
Monique Vernon, City Manager

STATE OF TEXAS §  
COUNTY OF BEXAR §

Before me, the undersigned, a Notary Public in and for the State of Texas and the County of Bexar, on this day personally appeared Monique Vernon, known to me to be the person and officer whose name is subscribed to the foregoing document and on her oath stated that the above and foregoing statement and every part thereof are true and correct and that she personally knows that they are true and correct.

Given under my hand and seal of office this 24 day of April, 2019.



Notary Public, State of Texas



\*VG-66-2019-20190086364\*

**File Information**

**FILED IN THE OFFICIAL PUBLIC RECORDS OF BEXAR COUNTY  
LUCY ADAME-CLARK, BEXAR COUNTY CLERK**

**Document Number:** 20190086364  
**Recorded Date:** May 10, 2019  
**Recorded Time:** 10:02 AM  
**Total Pages:** 2  
**Total Fees:** \$26.00

**\*\* THIS PAGE IS PART OF THE DOCUMENT \*\***

**\*\* Do Not Remove \*\***

Any provision herein which restricts the sale or use of the described real property because of race is invalid and unenforceable under Federal law

STATE OF TEXAS, COUNTY OF BEXAR

I hereby Certify that this instrument was FILED in File Number Sequence on this date and at the time stamped hereon by me and was duly RECORDED in the Official Public Record of Bexar County, Texas on:  
5/10/2019 10:02 AM



*Lucy Adame-Clark*  
Lucy Adame-Clark  
Bexar County Clerk



City of Kirby

SCANNED

112 Bauman Street, Kirby, TX 78219 Phone: (210) 661-2100 | Fax: (210) 661-4525 | www.kirbytx.org

LIEN AFFIDAVIT

STATE OF TEXAS §  
COUNTY OF BEXAR §

The undersigned City of Kirby, Texas (the "Claimant") acting by and through its duly authorized City Manager, claims a lien against the hereinafter described property for labor performed and materials used in connection with the said property from such property city clean up overgrown weeds, brush, and grass pursuant to authority granted in Chapter 94 of the Code of Ordinances and Ordinance # 706 of the City of Kirby, Texas.

- 1. The Claimant is a municipal corporation located in Bexar County, Texas, whose mailing address is 112 Bauman Street, Kirby, Texas 78219-1098.
- 2. The owner of the property, to the best knowledge of the Claimant, is **Salinas Gonzalo & Dominga, PO Box 65278, San Antonio Texas 78265**
- 3. The property on which the labor was performed, the materials were used, and upon which the lien is levied, is as follows: **4907 Borchers Dr., Kirby, TX 78219, CB 5094A, Blk 10, Lot 32** located within the City of Kirby, Bexar County, Texas (the "Property") being covered by Bexar Appraisal District Property ID 327373.
- 4. The work performed by the Claimant on said Property. Such action was taken by the Claimant pursuant to its police power as a municipal corporation in order to eliminate an immediate and continuing danger to the public and the public property.
- 5. The cost of the work and the amount claimed is **\$10,430**.
- 6. The amount as indicated in paragraph 5 above shall bear interest at a rate of 10 percent (10%) per annum.

Signed this 14th day of April, 2020

CITY OF KIRBY, TEXAS

*Monique Vernon*

Monique Vernon, City Manager

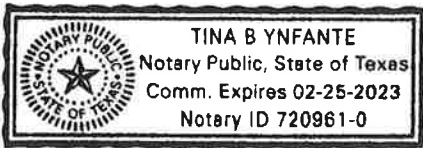
STATE OF TEXAS §  
COUNTY OF BEXAR §

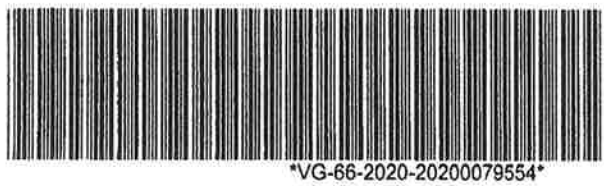
Before me, the undersigned, a Notary Public in and for the State of Texas and the County of Bexar, on this day personally appeared Monique Vernon, known to me to be the person and officer whose name is subscribed to the foregoing document and on her oath stated that the above and foregoing statement and every part thereof are true and correct and that she personally knows that they are true and correct.

Given under my hand and seal of office this 16 day of April, 2020

*Tina B. Ynfante*

Notary Public, State of Texas





File Information

FILED IN THE OFFICIAL PUBLIC RECORDS OF BEXAR COUNTY  
LUCY ADAME-CLARK, BEXAR COUNTY CLERK

Document Number: 20200079554  
Recorded Date: April 17, 2020  
Recorded Time: 8:04 AM  
Total Pages: 2  
Total Fees: \$26.00

**\*\* THIS PAGE IS PART OF THE DOCUMENT \*\***

**\*\* Do Not Remove \*\***

Any provision herein which restricts the sale or use of the described real property because of race is invalid and unenforceable under Federal law

STATE OF TEXAS, COUNTY OF BEXAR

I hereby Certify that this instrument was FILED in File Number Sequence on this date and at the time stamped hereon by me and was duly RECORDED in the Official Public Record of Bexar County, Texas on:  
4/17/2020 8:04 AM



*Lucy Adame-Clark*  
Lucy Adame-Clark  
Bexar County Clerk



City of Kirby

SCANNED

112 Bauman Street, Kirby, TX 78219 Phone: (210) 661-2100 | Fax: (210) 661-4525 | [www.kirbytx.org](http://www.kirbytx.org)

RELEASE OF ORDER

THE STATE OF TEXAS

KNOW ALL MEN BY THESE PRESENTS:

COUNTY OF BEXAR

The CITY OF KIRBY, TEXAS, the holder of that certain dangerous structures board of appeals order requiring abatement of public nuisances and establishing schedule for compliance, more fully described in a statement filed by the City of Kirby, Texas, duly recorded on document number 20190199766, Deed Records of BEXAR County, Texas against the property located in BEXAR County, Texas, known as 4907 Borchers, Kirby, TX 78219, CB 5094A BLK 10 Lot 32 owned by Salinas Gonzalo & Dominga.

FOR AND IN CONSIDERATION of a good and valuable consideration paid to the undersigned the receipt and sufficiency of which is hereby acknowledged, hereby RELEASES AND DISCHARGES the above described property from said orders.

EXECUTED this 9th day of December, 2020

CITY OF KIRBY, TEXAS

By

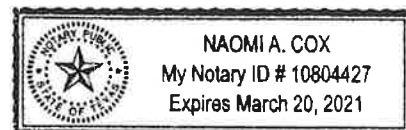
Monique Vernon, City Manager

THE STATE OF TEXAS

COUNTY OF BEXAR

Now, on this 9th day of December, 2020, the City Manager of the CITY OF KIRBY, TEXAS, a municipal corporation, personally appeared and upon oath stated that the statements contained in the above and foregoing RELEASE OF ORDER are true and correct, all to his / her best knowledge and belief.

NOTARY PUBLIC in and for  
THE STATE OF TEXAS





\*VG-103-2020-20200301614\*

File Information

FILED IN THE OFFICIAL PUBLIC RECORDS OF BEXAR COUNTY  
LUCY ADAME-CLARK, BEXAR COUNTY CLERK

Document Number: 20200301614  
Recorded Date: December 09, 2020  
Recorded Time: 2:58 PM  
Total Pages: 2  
Total Fees: \$26.00

**\*\* THIS PAGE IS PART OF THE DOCUMENT \*\***

**\*\* Do Not Remove \*\***

Any provision herein which restricts the sale or use of the described real property because of race is invalid and unenforceable under Federal law

STATE OF TEXAS, COUNTY OF BEXAR

I hereby Certify that this instrument was FILED in File Number Sequence on this date and at the time stamped hereon by me and was duly RECORDED in the Official Public Record of Bexar County, Texas on:  
12/9/2020 2:58 PM



*Lucy Adame-Clark*  
Lucy Adame-Clark  
Bexar County Clerk



City of Kirby

112 Bauman Street, Kirby, TX 78219 Phone: (210) 661-2100 | Fax: (210) 661-4525 | www.kirbytx.org

LIEN AFFIDAVIT

STATE OF TEXAS §  
COUNTY OF BEXAR §

The undersigned City of Kirby, Texas (the "Claimant") acting by and through its duly authorized City Manager, claims a lien against the hereinafter described property for labor performed and materials used in connection with the said property from such property city clean up overgrown weeds, brush, and grass pursuant to authority granted in Chapter 94 of the Code of Ordinances and Ordinance # 811 of the City of Kirby, Texas.

1. The Claimant is a municipal corporation located in Bexar County, Texas, whose mailing address is 112 Bauman Street, Kirby, Texas 78219-1098.
2. The owner of the property, to the best knowledge of the Claimant, is **Salinas Gonzalo & Dominga, PO BOX 65278. San Antonio, Tx 78265-5278**
3. The property on which the labor was performed, the materials were used, and upon which the lien is levied, is as follows: **4907 Borchers Kirby, TX 78219, CB5094A, Blk 10, Lot 32** located within the City of Kirby, Bexar County, Texas (the "Property") being covered by Bexar Appraisal District Property ID **327373**.
4. The work performed by the Claimant on said Property. Such action was taken by the Claimant pursuant to its police power as a municipal corporation in order to eliminate an immediate and continuing danger to the public and the public property.
5. The cost of the work and the amount claimed is **\$ 440.00**.
6. The amount as indicated in paragraph 5 above shall bear interest at a rate of 10 percent (10%) per annum.

Signed this 17th day of August, 2021

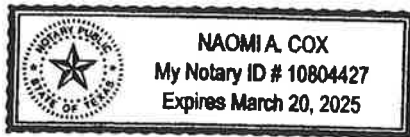
CITY OF KIRBY, TEXAS

Monique Vernon  
Monique Vernon, City Manager

STATE OF TEXAS §  
COUNTY OF BEXAR §

Before me, the undersigned, a Notary Public in and for the State of Texas and the County of Bexar, on this day personally appeared Monique Vernon, known to me to be the person and officer whose name is subscribed to the foregoing document and on her oath stated that the above and foregoing statement and every part thereof are true and correct and that she personally knows that they are true and correct.

Given under my hand and seal of office this 17 day of August, 2021



Naomi A. Cox  
Notary Public, State of Texas



\*VG-66-2021-20210233528\*

**File Information**

**FILED IN THE OFFICIAL PUBLIC RECORDS OF BEXAR COUNTY  
LUCY ADAME-CLARK, BEXAR COUNTY CLERK**

**Document Number:** 20210233528  
**Recorded Date:** August 24, 2021  
**Recorded Time:** 9:49 AM  
**Total Pages:** 2  
**Total Fees:** \$26.00

**\*\* THIS PAGE IS PART OF THE DOCUMENT \*\***

**\*\* Do Not Remove \*\***

Any provision herein which restricts the sale or use of the described real property because of race is invalid and unenforceable under Federal law

STATE OF TEXAS, COUNTY OF BEXAR

I hereby Certify that this instrument was FILED in File Number Sequence on this date and at the time stamped hereon by me and was duly RECORDED in the Official Public Record of Bexar County, Texas on:  
8/24/2021 9:49 AM



*Lucy Adame-Clark*  
Lucy Adame-Clark  
Bexar County Clerk



City of Kirby

SCANNED

112 Bauman Street, Kirby, TX 78219 Phone: (210) 661-2100 | Fax: (210) 661-4525 | www.kirbytx.org

LIEN AFFIDAVIT

STATE OF TEXAS §  
COUNTY OF BEXAR §

The undersigned City of Kirby, Texas (the "Claimant") acting by and through its duly authorized City Manager, claims a lien against the hereinafter described property for labor performed and materials used in connection with the said property from such property city clean up overgrown weeds, brush, and grass pursuant to authority granted in Chapter 94 of the Code of Ordinances and Ordinance # 811 of the City of Kirby, Texas.

- 1. The Claimant is a municipal corporation located in Bexar County, Texas, whose mailing address is 112 Bauman Street, Kirby, Texas 78219-1098.
- 2. The owner of the property, to the best knowledge of the Claimant, is **Salinas Gonzalo & Dominga, PO Box 65278, San Antonio Texas 78265**
- 3. The property on which the labor was performed, the materials were used, and upon which the lien is levied, is as follows: **4907 Borchers Dr., Kirby, TX 78219, CB 5094A, Blk 10, Lot 32** located within the City of Kirby, Bexar County, Texas (the "Property") being covered by Bexar Appraisal District Property ID **327373**.
- 4. The work performed by the Claimant on said Property. Such action was taken by the Claimant pursuant to its police power as a municipal corporation in order to eliminate an immediate and continuing danger to the public and the public property.
- 5. The cost of the work and the amount claimed is **\$300**.
- 6. The amount as indicated in paragraph 5 above shall bear interest at a rate of 10 percent (10%) per annum.

Signed this 23<sup>rd</sup> day of May, 2022

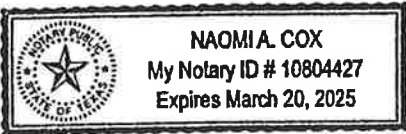
CITY OF KIRBY, TEXAS  
*[Signature]*  
Monique Vernon, City Manager

STATE OF TEXAS §  
COUNTY OF BEXAR §

Before me, the undersigned, a Notary Public in and for the State of Texas and the County of Bexar, on this day personally appeared Monique Vernon, known to me to be the person and officer whose name is subscribed to the foregoing document and on her oath stated that the above and foregoing statement and every part thereof are true and correct and that she personally knows that they are true and correct.

Given under my hand and seal of office this 23<sup>rd</sup> day of May, 2022.

*[Signature]*  
Notary Public, State of Texas





\*VG-66-2022-20220131100\*

**File Information**

**FILED IN THE OFFICIAL PUBLIC RECORDS OF BEXAR COUNTY  
LUCY ADAME-CLARK, BEXAR COUNTY CLERK**

**Document Number:** 20220131100  
**Recorded Date:** May 25, 2022  
**Recorded Time:** 9:00 AM  
**Total Pages:** 2  
**Total Fees:** \$26.00

**\*\* THIS PAGE IS PART OF THE DOCUMENT \*\***

**\*\* Do Not Remove \*\***

Any provision herein which restricts the sale or use of the described real property because of race is invalid and unenforceable under Federal law

STATE OF TEXAS, COUNTY OF BEXAR

I hereby Certify that this instrument was FILED in File Number Sequence on this date and at the time stamped hereon by me and was duly RECORDED in the Official Public Record of Bexar County, Texas on:  
5/25/2022 9:00 AM



*Lucy Adame-Clark*  
Lucy Adame-Clark  
Bexar County Clerk



City of Kirby

SCANNED

112 Bauman Street, Kirby, TX 78219 Phone: (210) 661-2100 | Fax: (210) 661-4525 | www.kirbytx.org

LIEN AFFIDAVIT

STATE OF TEXAS §  
COUNTY OF BEXAR §

The undersigned City of Kirby, Texas (the "Claimant") acting by and through its duly authorized City Manager, claims a lien against the hereinafter described property for labor performed and materials used in connection with the said property from such property city clean up overgrown weeds, brush, and grass pursuant to authority granted in Chapter 94 of the Code of Ordinances and Ordinance # 864 of the City of Kirby, Texas.

- 1. The Claimant is a municipal corporation located in Bexar County, Texas, whose mailing address is 112 Bauman Street, Kirby, Texas 78219-1098.
- 2. The owner of the property, to the best knowledge of the Claimant, is **Salinas Gonzalo & Dominga, PO BOX 65278. San Antonio, Tx 78265-5278**
- 3. The property on which the labor was performed, the materials were used, and upon which the lien is levied, is as follows: **4907 Borchers Kirby, TX 78219, CB5094A, Blk 10, Lot 32** located within the City of Kirby, Bexar County, Texas (the "Property") being covered by Bexar Appraisal District Property ID **327373**.
- 4. The work performed by the Claimant on said Property. Such action was taken by the Claimant pursuant to its police power as a municipal corporation in order to eliminate an immediate and continuing danger to the public and the public property.
- 5. The cost of the work and the amount claimed is **\$ 325.00**.
- 6. The amount as indicated in paragraph 5 above shall bear interest at a rate of 10 percent (10%) per annum.

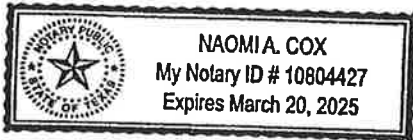
Signed this 28th day of October, 2022

CITY OF KIRBY, TEXAS  
*Monique Vernon*  
Monique Vernon, City Manager

STATE OF TEXAS §  
COUNTY OF BEXAR §

Before me, the undersigned, a Notary Public in and for the State of Texas and the County of Bexar, on this day personally appeared Monique Vernon, known to me to be the person and officer whose name is subscribed to the foregoing document and on her oath stated that the above and foregoing statement and every part thereof are true and correct and that she personally knows that they are true and correct.

Given under my hand and seal of office this 28 day of October, 2022.



*Naomia A. Cox*  
Notary Public, State of Texas



\*VG-66-2022-20220257725\*

**File Information**

**FILED IN THE OFFICIAL PUBLIC RECORDS OF BEXAR COUNTY  
LUCY ADAME-CLARK, BEXAR COUNTY CLERK**

**Document Number:** 20220257725  
**Recorded Date:** October 31, 2022  
**Recorded Time:** 10:43 AM  
**Total Pages:** 2  
**Total Fees:** \$26.00

**\*\* THIS PAGE IS PART OF THE DOCUMENT \*\***

**\*\* Do Not Remove \*\***

Any provision herein which restricts the sale or use of the described real property because of race is invalid and unenforceable under Federal law

STATE OF TEXAS, COUNTY OF BEXAR

I hereby Certify that this instrument was FILED in File Number Sequence on this date and at the time stamped hereon by me and was duly RECORDED in the Official Public Record of Bexar County, Texas on:  
10/31/2022 10:43 AM



*Lucy Adame-Clark*  
Lucy Adame-Clark  
Bexar County Clerk

Notice of confidentiality rights: If you are a natural person, you may remove or strike any or all of the following information from any instrument that transfers an interest in real property before it is filed for record in the public records: your social security number or your driver's license number.

SHERIFF'S TAX DEED

SCANNED

STATE OF TEXAS

X

X

KNOW ALL MEN BY THESE PRESENTS

COUNTY OF BEXAR

X

That, whereas, by virtue of an Order of Sale issued by the Clerk of the District Court in and for Bexar County, dated on a certain judgment rendered in said Court on the 20th day of July, 2022, in a certain **Suit No. 2014TA100443, Bexar County, Et Al vs. Gonzalo Salinas, Et Al**, I, Sheriff Javier Salazar, of said County, did upon April 3, 2023, levy upon and advertise the said premises as described in said Order of Sale, by giving public notice of the time and place of said sale by an advertisement in the English language, published once a week for three (3) consecutive weeks preceding such sale, the first publication appearing not less than twenty (20) days immediately preceding the day of sale, beginning on April 7, 2023, in the SAN ANTONIO EXPRESS - NEWS, a newspaper published in the County of Bexar, stating in said advertisement the authority by virtue of which such sale was to be made, the time of levy, the time and place of sale, a brief description of the property to be sold, the number of acres, the original survey, its locality in the County, and the name by which the land is generally known, and by delivering a similar notice to each of the named Defendants, and on the first Tuesday, on the 2nd day of May, 2023 beginning at 10:00 AM sold said hereinafter described land or lots at public venue, at the area located outside on the west side of the Bexar County Courthouse which is near the intersection of East Nueva Steet and the closed portion of South Main Avenue, San Antonio of the Courthouse of said County, at which sale the premises hereinafter described were sold to

Basidalia Alvarez  
1959 Edenvdale  
San Antonio, TX 78224

for the sum of \$31,820.00, said being for an equal or greater sum than the lesser of the adjudged fair value of such property, or the taxes, interest, penalty and costs due upon such property, Basidalia Alvarez being the highest bidder(s), and that being the highest bid for the same, NOW, THEREFORE, in consideration of the premises aforesaid, and of the payment of the aforesaid sum, the receipt of which is hereby acknowledged, I as Sheriff aforesaid, have Granted, Sold, and Conveyed, and by these presents do Grant, Sell, and Convey unto the said grantee(s) all of the estate, right, title, and interest which the Defendants in such suit had on the date said judgment was rendered or at any time afterwards, in and to the following described land and premises, as described in the Order of Sale, viz:

PROPERTY DESCRIPTION

ACCOUNT NO. 050940200320, COUNTY BLOCK 5094A BLOCK 10 LOT 32 KIRBY TERRACE UNIT 5 PHASE 2 IN THE CITY OF KIRBY, BEXAR COUNTY, TEXAS, AS SHOWN IN VOLUME 06600, PAGE 0191 OF THE DEED AND PLAT RECORDS OF BEXAR COUNTY, TEXAS

TO HAVE AND TO HOLD the above described premises unto the said grantee(s), heirs and assigns forever, as fully and absolute as I, as Sheriff aforesaid, can convey by virtue of said Order of Sale;

Subject, however to the owner's right to redeem the same in the manner and within the time prescribed by Section 34.21 of the Property Tax Code of the State of Texas.

This conveyance is made expressly subject to recorded restrictive covenants running with the land, and valid easements of record as of the date of this sale, if such covenants or easements were recorded prior to January 1 of the year the tax lien(s) arose.

As required by Section 34.015, Texas Tax Code, the **Grantee(s)** exhibited to me an unexpired written statement issued to the **Grantee(s)** showing that the Tax Assessor-Collector for the county in which this sale was made determined that: (1) there are no delinquent ad valorem taxes owed by the **Grantee(s)** to said county, and (2) for each school district or municipality having territory in said county, there are no known or reported delinquent ad valorem taxes owed by the **Grantee(s)** to that school district or municipality.

IN TESTIMONY WHEREOF, I have hereunto set my hand this the 15 day of June, 2023.

Sheriff Javier Salazar  
Bexar County, Texas

By: Sergeant Thomas Dorsa

STATE OF TEXAS

**x**

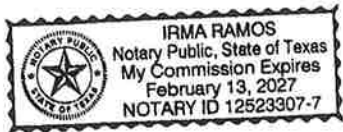
**BEXAR COUNTY**

# X

# X

Before me, the undersigned authority, on this day personally appeared Sergeant Thomas Dorsa of Bexar County, Texas, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes, consideration, and in the capacity therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE THIS THE 1 DAY OF June, 2023.



Irma Ramos

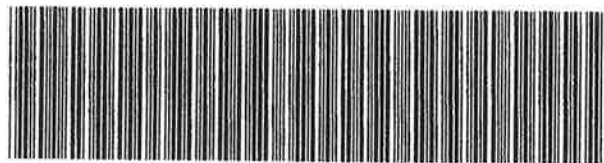
Printed Name: \_\_\_\_\_

Huma Ramo

Notary Public, State of Texas,

My Commission Expires: 2-13-27

After recording return to:  
Basidalia Alvarez  
1959 Edenvdale  
San Antonio, TX 78224



\*VG-42-2023-20230116474\*

File Information

FILED IN THE OFFICIAL PUBLIC RECORDS OF BEXAR COUNTY  
LUCY ADAME-CLARK, BEXAR COUNTY CLERK

Document Number: 20230116474  
Recorded Date: June 28, 2023  
Recorded Time: 10:38 AM  
Total Pages: 3  
Total Fees: \$0.00

**\*\* THIS PAGE IS PART OF THE DOCUMENT \*\***

**\*\* Do Not Remove \*\***

Any provision herein which restricts the sale or use of the described real property because of race is invalid and unenforceable under Federal law

STATE OF TEXAS, COUNTY OF BEXAR

I hereby Certify that this instrument was FILED in File Number Sequence on this date and at the time stamped hereon by me and was duly RECORDED in the Official Public Record of Bexar County, Texas on:  
6/28/2023 10:38 AM



*Lucy Adame-Clark*  
Lucy Adame-Clark  
Bexar County Clerk

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

CITY OF KIRBY  
CITY COUNCIL MEETING  
AGENDA ITEM SUMMARY

DATE: October 12, 2023

AGENDA ITEM: 10 f.

Discussion and Possible Action on extending iWork for Code enforcement purposes.

## IWORQ SERVICE AGREEMENT

### For iWorQ applications and services

Kirby here after known as ("Customer"), enters into THIS SERVICE AGREEMENT ("Agreement") with iWorQ Systems Inc. ("iWorQ") with its principal place of business 1125 West 400 North, Suite 102, Logan, Utah 84321.

#### 1. SOFTWARE AS A SERVICE (SaaS) TERMS OF ACCESS:

iWorQ grants Customer a non-exclusive, non-transferable limited access to use iWorQ service(s), application(s) on iWorQ's authorized website for the fee(s) and terms listed in Appendix A. This agreement will govern all application(s) and service(s) listed in the Appendix A.

#### 2. CUSTOMER RESPONSIBILITY:

Customer acknowledges that they are receiving only a limited subscription to use the application(s), service(s), and related documentation, if any, and shall obtain no titles, ownership nor any rights in or to the application(s), service(s), and related documentation, all of which title and rights shall remain with iWorQ. Customer shall not permit any user to reproduce, copy, or reverse engineer any of the application(s), service(s) and related documentation.

iWorQ is not responsible for the content entered into iWorQ's database or uploaded as a document or image. Access to iWorQ cannot be used to record personal or confidential information such as driver license numbers, social security numbers, financial data, credit card information or upload any images or documents considered personal or confidential.

#### 3. TRAINING AND IMPLEMENTATION:

Customer agrees to provide the time, resources, and personnel to implement iWorQ's service(s) and application(s). iWorQ will assign a senior account manager and an account management team to implement service(s) and application(s). Typical implementation will take less than 60 days. iWorQ account managers will call twice per week, provide remote training once per week, and send weekly summary emails to the customer implementation team. iWorQ can provide project management and implementation documents upon request. iWorQ will do ONE import of the Customer's data. This import consists of importing data, sent by the Customer, in an electronic relational database format. Customer must have clear ownership of all forms, letters, inspections, checklists, and data sent to iWorQ.

Data upload and storage is provided to every Customer. This includes uploading files up to 3MB and 10 GB of managed data storage on AWS GovCloud. Additional upload file sizes and managed data storage sizes can be provided based on the application(s) and service(s) listed in Appendix A.

#### 4. CUSTOMER DATA:

Customer data will be stored on AWS GovCloud. iWorQ will use commercially reasonable efforts to backup, store and manage Customer data. iWorQ does backups twice per week and offsite backups twice per week. The subscription will renew each year on the anniversary date of this Agreement unless terminated (see 7. TERMINATION).

Customer can run reports and export data from iWorQ application(s) at any time.

Customer can pay iWorQ for additional data management service(s), onsite backups, application(s) and other service(s).

Data upload and storage is provided to every Customer. This includes uploading files up to 3MB and 10 GB of managed data storage on AWS GovCloud. Additional upload file sizes and managed data storage sizes can be provided based on the application(s) and service(s) listed in Appendix A.

#### 5. CUSTOMER SUPPORT:

Customer support and training are FREE and available Monday-Friday, from 6:00 A.M. to 5:00 P.M. MST, for any authorized user with a login. iWorQ provides unlimited remote Customer training (through webinars), phone support, help files, and documentation. Basic support request is typically handled the same day. iWorQ provides "Service NOT Software".

#### 6. BILLING:

iWorQ will invoice Customer on an annual basis. iWorQ will send invoice by mail and by email to the address(s) listed in Appendix A. Terms of the invoice are net 30 days. Any billing changes will require that a new Service(s) Agreement be signed by Customer.

Any additional costs imposed by the Customer including business licenses, fees, or taxes will be added to the Customer's invoice yearly. Support and services fees may increase in subsequent years, but will increase no more than 5% per year.

#### 7. TERMINATION:

Either party may terminate this agreement, after the initial 3-YEAR TERM, without cause if the terminating party gives the other party sixty (60) days written notice. Should Customer terminate any application(s) and or service(s) the remaining balance will immediately



become due. Should Customer terminate any part of the application(s) and or service(s) a new Service(s) Agreement will need to be signed.

Upon termination (7. TERMINATION), iWorQ will discontinue all application(s) and or service(s) under this Agreement; iWorQ will provide customer with an electronic copy of all of Customer's data, if requested by the Customer (within 3-5 business days).

During the term of the Agreement, the Customer may request a copy of all of Customer's data for a cost of no more than \$2,500; and all provisions of this Agreement will continue.

8. ACCEPTABLE USE:

Customer represents and warrants that the application(s) and service(s) will only be used for lawful purposes, in a manner allowed by law, and in accordance with reasonable operating rules, and policies, terms and procedures. iWorQ may restrict access to users upon misuse of application(s) and service(s).

9. MISCELLANEOUS PROVISIONS:

This Agreement will be governed by and construed in accordance with the laws of the State of Utah.

10. CUSTOMER IMPLEMENTATION INFORMATION:

Primary Implementation Contact \_\_\_\_\_ Title \_\_\_\_\_

Office Phone \_\_\_\_\_ Cell (required) \_\_\_\_\_

Email \_\_\_\_\_

Secondary Implementation Contact \_\_\_\_\_ Title \_\_\_\_\_

Office Phone \_\_\_\_\_ Cell (required) \_\_\_\_\_

Email \_\_\_\_\_

Portal Setup Contact (if applicable) \_\_\_\_\_ Title \_\_\_\_\_

Office Phone \_\_\_\_\_ Cell \_\_\_\_\_

Email \_\_\_\_\_ Signature \_\_\_\_\_

(This person is responsible for placing the iWorQ Portal Link being placed on the agency's website within 90 days of the agreement signature. The iWorQ Portal Link will remain on agencies website for the entire Term of the agreement. If the iWorQ Portal Link is not placed on the city website within 90 days, the Agency agrees to pay an additional \$1,000 dollars towards setup costs (this is to cover iWorQ's time).



11. CUSTOMER BILLING INFORMATION:

Billing Contact \_\_\_\_\_ Title \_\_\_\_\_

Billing Address: \_\_\_\_\_

Office Phone \_\_\_\_\_ Cell \_\_\_\_\_

Email \_\_\_\_\_

PO# \_\_\_\_\_ (if required) Tax Exempt ID # \_\_\_\_\_

12. ACCEPTANCE:

The effective date of this Agreement is listed below. Authorized representative of Customer and iWorQ have read the Agreement and agree and accept all the terms.

Signature \_\_\_\_\_

Effective Date: \_\_\_\_\_

Printed Name \_\_\_\_\_

Title \_\_\_\_\_

Office Number \_\_\_\_\_

Cell Number \_\_\_\_\_

iWorQ Service(s) Agreement

APPENDIX A



iWorQ Price Proposal

Kirby	Population- 8,087
112 Bauman St, Kirby, TX 78219, USA	Prepared by: Jon Goble

Annual Subscription Fees

Application(s) and Service(s)	Package Price	Billing
<p>Community Development (Enterprise Package)</p> <p>*Permit Management</p> <p>*Code Enforcement</p> <p>*Portal Home</p> <p>*Online credit/debit card processing integrated with iWorQ. (Through PayRoc)</p> <p>-Configurable portal for ease of applying for permits, tracking current permits, and paying fees online</p> <p>-Allows for submitting code enforcement issues online and viewing code cases</p> <p>-Messaging feature for easy interaction with citizens</p> <p>-Built-in automatic workflow capabilities</p> <p>-iWorQ Notifications included</p> <p>-Inspection and plan review tracking</p> <p>-Track permits and cases with customizable reporting</p> <p>-Includes Premium Data (25MB Uploads, 100GB Total Storage)</p> <p>-3 Scheduled Reports</p> <p>-3 Custom Web Forms for Portal Home</p> <p>-Free forms, letters, and/or permits utilizing iWorQ' template library and up to 3 custom letters</p> <p>-OpenStreetMap tracking abilities with quarterly updates</p> <p>GIS REST Services - iWorQ will publish your agency's WMS layers in iWorQ Community Development applications. iWorQ will update parcel information monthly from the published service.</p> <p>Note: If GIS configurations change (FTP location, name format, field changes, etc.) iWorQ will charge a minimum \$500 fee to accommodate new configuration adjustments (subject to additional hourly charges)</p>	<p><del>\$8,000</del></p> <p>\$7,000</p>	Annual
Subscription Fee Total (This amount will be invoiced each year)	<p><del>\$8,000</del></p> <p>\$7,000</p>	Annual





One-Time Setup, GIS integration, and Data Conversion Fees

Service(s)	Full Price Cost	Package Price	Billing
Implementation and Setup cost year 1	<del>\$5,000</del> \$3,000	<del>\$5,000</del> \$3,000	Year One
Up to 5 hours of GIS integration and data conversion	<del>\$1,000</del>	Included	Year One
Data Conversion	<del>\$4,900</del>	Included	Year One
One-Time Setup Total (This amount will be added year 1)	<del>\$10,900</del>	<del>\$5,000</del> \$3,000	Year One
Grand Total Due Year 1	<del>\$18,900</del>	<del>\$13,000</del> \$10,000	Year One Total

NOTES AND SERVICE DESCRIPTION

- I. Invoice for the (Annual Subscription Fee Total + One-Time Total) will be sent out 2 weeks after signature and Effective Date.
- II. This subscription Fee and Agreement have been provided at the Customer's request and is valid through October 20<sup>th</sup>, 2023.
- III. This cost proposal cannot be disclosed or used to compete with other companies.



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

CITY OF KIRBY  
CITY COUNCIL MEETING  
AGENDA ITEM SUMMARY

DATE: October 12, 2023

AGENDA ITEM: 10 g.

Discussion and Possible Action on Chris Garza’s resignation from senior center board.

**Katelyn Ueckert**

---

**From:** Chris Garza  
**Sent:** Wednesday, September 20, 2023 9:14 AM  
**To:** Janeshia Grider; Kathy Gomez (Executive Director); Katelyn Ueckert  
**Subject:** Resigning from the Senior Center Board

(Katelyn please forward this to all Council members so that they are aware of my position and my resignation from the Senior Center Board)

I can't in good conscience vote for a budget that includes giving the senior center any type of funding from the City as I sit on their board regardless if I have not attended the meetings that it was discussed to vote on doing so and asking the City for it. I truly believe it is a conflict of interest no matter what the lawyer says and If I am to vote on the budget then I can no longer sit on the senior center board. After speaking with a TML attorney some clarity was given to the idea that I was indeed voted to be a councilman and that I should invest my energy accordingly. Also after reviewing the lawyer billing I have seen that this takeover was already in progress long before any council made any decisions to allow the senior center utilize our city resources. All of this in my research is questionable and I encourage everyone to start asking proper questions to the attorneys and get 2nd opinions. I want to ensure that it is well known that I did not ask to be on the senior center board nor did I ever have any intentions of fulfilling any duties as a board member. I knew just from council that my time was limited and that there was no way I could juggle both positions but since there was no avenue to recruit other board members I begrudgingly stayed on in the hope I might be able to help somehow. I have come to the conclusion that sitting on the board I am possibly putting myself in harms way by creating quorums on both ends as City business and Contracts are discussed and voted on by both entities to include this year's budgetary items. I will no longer put myself in that liability. Let this letter be my notice that I am resigning from the senior center board.

Thank You

Christopher Garza

P.S. Please do not respond as this may create a Walking Quorum



Ofc: (210) 661-3198, Ext.333  
Cell: (210) 557-9257  
Fax: (210) 661-4525  
cgarza@cityofkirby.org  
www.kirbytx.org

**CHRISTOPHER GARZA**  
*City Council Member*

**CITY OF KIRBY**  
112 Bauman Street • Kirby, Texas 78219-1098

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

CITY OF KIRBY  
CITY COUNCIL MEETING  
AGENDA ITEM SUMMARY

DATE: October 12, 2023

AGENDA ITEM: 10 h.

Discussion and Possible Action on Resolution on Cafeteria Plan.

**Resolution No. R-2023-764**

**RESOLUTION OF THE CITY OF KIRBY CITY COUNCIL FOR THE  
ADOPTION OF THE CITY OF KIRBY CAFETERIA PLAN PURSUANT TO  
SECTION 125 OF THE INTERNAL REVENUE CODE AND CREATING AN  
EFFECTIVE DATE.**

**WHEREAS**, it is determined to be in the best interest of the City of Kirby to participate in a Section 125 plan authorized under the Internal Revenue Code, or “Cafeteria Plan” to provide eligible employees with a program that allows for employees to choose among taxable and nontaxable qualified benefits; and

**WHEREAS**, the City has a written plan describing all benefits which establishes the rules for eligibility and elections for its employees as required under Section 125.

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

**Section 1.** The City Council hereby finds that all of the recitals above are true and correct and are incorporated herein as restated in full.

**Section 2.** On this date, the CITY OF KIRBY City Council did meet to discuss the implementation of CITY OF KIRBY Flexible Benefits Plan to be effective, October 1, 2023. Let it be known that the following resolutions were duly adopted by the CITY OF KIRBY City Council and that such resolutions have not been modified or rescinded as of the date hereof.

**Section 3.** That the form of Cafeteria Plan, as authorized under Section 125 of the Internal Revenue Code of 1986, presented at this meeting is hereby adopted and approved and that the proper officers of the Employer are hereby authorized and directed to execute and deliver to the Plan Administrator one or more copies of the Plan.

**Section 4.** That the Plan Year shall be for a period beginning on October 1, 2023 and ending September 30, 2024.

**Section 5.** That the Employer shall contribute to the Plan amounts sufficient to meet its obligation under the Cafeteria Plan, in accordance with the terms of the Plan Document and shall notify the Plan Administrator to which periods said contributions shall be applied.

**Section 6.** That the proper officers of the Employer shall act as soon as possible to notify employees of the adoption of the Cafeteria Plan by delivering to each Employee a copy of the Summary Plan Description presented to this meeting, which form is hereby approved.

**Section 7.** That adoption of the Cafeteria Plan shall be effective as of October 1, 2023.

**Section 8.** The undersigned certifies that attached hereto as Exhibits A and B respectively are true copies of the Plan Document, and Summary Plan Description for CITY OF KIRBY’s Flexible Benefits Plan approved and adopted in the foregoing resolutions.

**Section 9.** The undersigned further certifies and attests that the above resolutions were made with the consent of the City Council members of whom were in attendance on this date.

**Section 10.** If any provision of this Resolution or the application thereof to any person or circumstance shall be held to be invalid, the remainder of this Resolution and the application of such provision to other persons and circumstances shall nevertheless be valid, and the City Council hereby declares that this Resolution would have been enacted without such invalid provision.

**Section 11.** It is officially found, determined, and declared that the meeting at which this Resolution is adopted was open to the public and public notice of the time, place, and subject matter of the public business to be considered at such meeting, including this Resolution, was given, all as required by Chapter 551, Texas Government Code, as amended.

PASSED AND APPROVED this the 12th day of October 2023.

---

Grider, Janeshia  
Mayor

---

Ueckert, Katelyn  
Interim City Secretary

# **THE CITY OF KIRBY CAFETERIA PLAN**

## **ARTICLE I. Introductory Provisions**

CITY OF KIRBY ("the Employer") hereby establishes the CITY OF KIRBY Cafeteria Plan ("the Plan") effective 10/1/2023 ("the Effective Date"). Capitalized terms used in this Plan that are not otherwise defined shall have the meanings set forth in Article II.

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

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

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

## **ARTICLE II. Definitions**

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

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

**"Benefits"** means the Premium Payment Benefits.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**"Plan Year"** means the 12-month period commencing 10/1/2023 and ending on 9/30/2024, except in the case of a short plan year representing the initial Plan Year or where the Plan Year is being changed, in which case the Plan Year shall be the entire short plan year.

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

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

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

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

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

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

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

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

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

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

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

### **ARTICLE III. Eligibility and Participation**

#### **3.1 Eligibility to Participate**

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

#### **3.2 Termination of Participation**

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

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

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

#### **3.3 Participation Following Termination of Employment or Loss of Eligibility**

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

#### **3.4 FMLA Leaves of Absence**

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

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

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

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

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

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

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

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

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

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

**4.1 Elections When First Eligible**

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

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

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

**4.2 Elections During Open Enrollment Period**

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

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

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

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

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

**4.4 Irrevocability of Elections**

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

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

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

**4.5 Procedure for Making New Election If Exception to Irrevocability Applies**

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

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

**4.6 Change in Status Defined**

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

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

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

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

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

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

**4.7 Events Permitting Exception to Irrevocability Rule**

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

Component of this Plan:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- a substantial decrease in the medical care providers available under the Benefit Package Option (such as a major hospital ceasing to be a member of a preferred provider network or a substantial decrease in the number of physicians participating in the PPO for the Medical Insurance Plan or in an HMO);

- a reduction in benefits for a specific type of medical condition or treatment with respect to which the Participant or his or her Spouse or Dependent is currently in a course of treatment; or

- any other similar fundamental loss of coverage.

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

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

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

*(j) Revocation Due to Reduction in Hours*

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

*(k) Exchange Enrollment*

A Participant who is eligible to enroll for coverage in a government-sponsored Exchange (Marketplace) during an Exchange special or annual open enrollment period may prospectively revoke his or her election for Medical Insurance Plan coverage, provided that the Participant certifies that he or she and any related individuals whose coverage is being revoked have enrolled or intend to enroll in new Exchange coverage that is effective no later than the day immediately following the last day of the Medical Insurance Plan coverage. If one or more of a Participant's related individuals are eligible to enroll for coverage in a government-sponsored Exchange (Marketplace) during an Exchange special or annual open enrollment period, the Participant may prospectively revoke an election for Medical Insurance Plan coverage for the individual or individuals (and switch to self-only coverage or family coverage including one or more other related individuals), provided that the Participant certifies that the individuals whose coverage is being revoked have enrolled or intend to enroll in new Exchange coverage that is effective no later than the day immediately following the last day of their Medical Insurance Plan coverage.

*(l) CHIP Special Enrollment Rights*

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

4.8 \*\*\*Reserved\*\*\*

4.9 Election Modifications Required by Plan Administrator

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

ARTICLE V. Benefits Offered and Method of Funding

5.1 Benefits Offered

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

5.2 Employer and Participant Contributions

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

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

5.3 Using Salary Reductions to Make Contributions

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

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

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

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

5.4 Funding This Plan

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

ARTICLE VI. Premium Payment Component

6.1 Benefits

The only Insurance Benefits that are offered under the Premium Payment Component are benefits under the Medical, Dental, Vision, Accident, Accidental Death & Dismemberment, Bridge, Disability, Group Term Life, Hospital Indemnity, Specific Disease or Condition Insurance Plan(s). Notwithstanding any other provision in these Plan(s), these benefits are subject to the terms and conditions of the Insurance Plan(s), and no changes can be made with respect to such Insurance Benefits under this Plan (such as mid-year changes in election) if such changes are not permitted under the applicable Insurance Plan. An Eligible Employee can (a) elect benefits under the Premium Payment Component by electing to pay for his or her share of the Contributions for Medical Insurance Benefits on a pretax Salary Reduction basis (Premium Payment Benefits); or (b) elect no benefits under the Premium Payment Component and to pay for his or her share of the Contributions, if any, for Medical Insurance Benefits with after-tax deductions outside of this Plan. Unless an exception applies (as described in Article IV), such election is irrevocable for the duration of the Period of Coverage to which it relates.

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

**6.2 Contributions for Cost of Coverage**

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

**6.3 Insurance Benefits Provided Under Insurance Plans**

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

**6.4 Health Insurance Benefits; COBRA**

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

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

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

**ARTICLE XIII. Appeals Procedure**

**13.1 Procedure If Benefits Are Denied Under This Plan**

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

**13.2 Claims Procedures for Insurance Benefits**

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

**ARTICLE XIV. Recordkeeping and Administration**

**14.1 Plan Administrator**

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

**14.2 Powers of the Plan Administrator**

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

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

**14.3 Reliance on Participant, Tables, etc.**

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

**14.4 \*\*\*Reserved\*\*\***

**14.5 Fiduciary Liability**

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

**14.6 Compensation of Plan Administrator**

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

**14.7 Bonding**

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

**14.8 Insurance Contracts**

The Employer shall have the right (a) to enter into a contract with one or more insurance companies for the purposes of

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

**14.9 Inability to Locate Payee**

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

**14.10 Effect of Mistake**

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

**ARTICLE XV. General Provisions**

**15.1 \*\*\*Reserved\*\*\***

**15.2 No Contract of Employment**

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

**15.3 Amendment and Termination**

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

**15.4 Governing Law**

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

**15.5 Code and ERISA Compliance**

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

**15.6 No Guarantee of Tax Consequences**

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

**15.7 Indemnification of Employer**

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

**15.8 Non-Assignability of Rights**

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

15.9 Headings

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

15.10 Plan Provisions Controlling

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

15.11 Severability

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

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

CITY OF KIRBY

By: \_\_\_\_\_  
Its: \_\_\_\_\_

# **THE CITY OF KIRBY CAFETERIA PLAN**

## **SUMMARY PLAN DESCRIPTION**

## Introduction

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

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

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

## Cafeteria Plan

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

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

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

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

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

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

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

The Cafeteria Plan includes the following benefit plans:

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

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

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

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

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

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

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

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

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

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

(c) \*\*\*RESERVED\*\*\*;

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

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

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

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

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

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

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

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

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

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

The Plan Year for the CITY OF KIRBY Cafeteria Plan is the period beginning on 10/1/2023 and ending on 9/30/2024.

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

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

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

Here are the exceptions to the irrevocability rule:

##### **1. Leaves of Absence**

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

**2. Change in Status.**

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

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

**3. Change in Status - Other Requirements.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**9. Exchange Enrollment**

If you are eligible to enroll for coverage in a government-sponsored Exchange (Marketplace) during a special or annual open enrollment period, you may prospectively revoke your election for Medical Insurance Plan coverage, provided that you certify that you and any related individuals whose coverage is being revoked have enrolled or intend to enroll for new Exchange coverage that is effective beginning no later than the day immediately following the last day of the Medical Insurance Plan coverage. If one or more of your related individuals are eligible to enroll for coverage in a government-sponsored Exchange (Marketplace) during a special or annual open enrollment period, you may prospectively revoke an election for Medical Insurance Plan coverage for the individual or individuals (and switch to self-only coverage or family coverage including one or more other related individuals), provided that you certify that the individuals whose coverage is being revoked have enrolled or intend to enroll for new Exchange coverage that is effective beginning no later than the day immediately following the last day of the Medical Insurance Plan coverage.

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

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

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

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

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

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

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

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

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

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

*Insurance Benefits*

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

*Appeals.*

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

*Decision on Review.*

Your appeal will be reviewed and decided by the Committee or other entity designated in the Plan in a reasonable time not

later than 60 days after the Committee receives your request for review. The Committee may, in its discretion, hold a hearing on the denied claim. Any medical expert consulted in connection with your appeal will be different from and not subordinate to any expert consulted in connection with the initial claim denial. The identity of a medical expert consulted in connection with your appeal will be provided. If the decision on review affirms the initial denial of your claim, you will be furnished with a notice of adverse benefit determination on review setting forth:

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

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

##### *COBRA*

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

##### *USERRA*

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

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

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

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

##### *FMLA Leaves of Absence.*

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

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

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

If your Health Insurance coverage ceases while you are on FMLA leave (e.g., for non-payment of required contributions), you

will be permitted to re-enter such Benefits, as applicable, upon return from such leave on the same basis as when you were participating in the Plan before the leave or as otherwise required by the FMLA. You may be required to have coverage for such Benefits reinstated so long as coverage for Employees on non-FMLA leave is required to be reinstated upon return from leave.

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

*Non-FMLA Leaves of Absence.*

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

**Premium Payment Benefits**

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

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

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

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

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

**Miscellaneous**

**MISC Q-1**

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

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

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

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

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

**Plan Information**

Official Name of the Plan: CITY OF KIRBY Cafeteria Plan

Plan Number: 501

Effective Date: 10/1/2023.

Plan Year: 10/1/2023 to 9/30/2024. Your Plan's records are maintained on this period of time

Type of Plan: Welfare plan providing various insurance benefits

**Employer/Plan Sponsor Information**

Name and Address:

CITY OF KIRBY

112 BAUMAN ST  
KIRBY, TX 78219

Federal employee tax identification number (EIN): 741499194

**Plan Administrator Information**

Name, Address, and business telephone number:

CITY OF KIRBY

112 BAUMAN ST  
KIRBY, TX 78219  
Attention: Human Resources Manager  
Telephone: 2106613198

**Agent for Service of Legal Process**

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

CITY OF KIRBY

112 BAUMAN ST  
KIRBY, TX 78219  
Attention: Benefits Committee

**Qualified Medical Child Support Order**

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

**Newborns' and Mothers' Health Protection Act of 1996**

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

Appendix A

\*\*\*Affiliated Employers\*\*\*

## Appendix B

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

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

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

#### **What Is COBRA Coverage?**

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

*COBRA coverage may become available to "qualified beneficiaries"*

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

#### **Who Is Entitled to Elect COBRA?**

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

##### *Qualifying events for the covered employee*

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

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

##### *Qualifying events for the covered spouse*

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

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

##### *Qualifying events for dependent children*

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

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

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

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

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

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

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

#### **When Is COBRA Coverage Available?**

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

#### **Caution:**

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

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

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

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

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

#### *How to elect COBRA*

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

#### *Deadline for COBRA election*

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

#### *Independent election rights*

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

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

#### **Special Considerations in Deciding Whether to Elect COBRA**

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

## Length of COBRA Coverage

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

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

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

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

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

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

*Termination of employment or reduction of hours*

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

## Extension of Maximum Coverage Period

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

*Disability extension of COBRA coverage*

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

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

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

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

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

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

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

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

#### *Second qualifying event extension of COBRA coverage*

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

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

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

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

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

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

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

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

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

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

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

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

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

#### **Cost of COBRA Coverage**

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

premium changes.

### **Payment for COBRA Coverage**

#### *How premium payments must be made*

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

#### *When premium payments are considered to be made*

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

#### *First payment for COBRA coverage*

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

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

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

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

#### *Monthly payments for COBRA coverage*

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

#### *Grace periods for monthly COBRA premium payments*

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

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

### **More Information About Individuals Who May Be Qualified Beneficiaries**

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

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

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

#### *Alternate recipients under QMCSOs*

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

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

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

#### **Notices Must Be Written and Submitted on Plan Forms**

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

#### **How, When, and Where to Send Notices**

You must mail or hand-deliver your notice to:

Human Resources Manager

CITY OF KIRBY  
112 BAUMAN ST  
KIRBY TX 78219

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

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

#### **Information Required for All Notices**

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

#### **Additional Information Required for Notice of Qualifying Event**

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

#### **Additional Information Required for Notice of Disability**

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

#### **Additional Information Required for Notice of Second Qualifying Event**

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

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

**Who May Provide Notices**

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

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

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

CITY OF KIRBY  
CITY COUNCIL MEETING  
AGENDA ITEM SUMMARY

DATE: October 12, 2023

AGENDA ITEM: 10 i.

Discussion and Possible Action on Resolution on mission square- ICMA retirement plan

**Resolution No. R-2023-765**

**A RESOLUTION APPOINTING ACTING CITY MANAGER, WILLIAM RAY HILBURN JR, AS THE MISSION SQUARE RETIREMENT PLAN ADMINISTRATOR ON THE BEHALF OF THE CITY OF KIRBY, AND CREATING AN EFFECTIVE DATE.**

**WHEREAS**, the City of Kirby offers an optional retirement system to allow for City Employees to put funds in, with no match from the City of Kirby, and

**WHEREAS**, to effectively and efficiently implement the optional retirement system, the City needs to appoint an administrator; and

**WHEREAS**, the city Council of the City of Kirby finds it in the best interest of the City of Kirby, its citizens, and employees to appoint Acting City Manager William Ray Hilburn Jr. as the Plan Administrator of the City of Kirby Mission Square Retirement Plan.

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

**Section 1.** The City Council hereby finds that all of the recitals above are true and correct and are incorporated herein as restated in full.

**Section 2.** William Ray Hilburn Jr is appointed as the Plan Administrator for the City of Kirby Mission Square Retirement Plan.

**Section 3.** This appointment may be terminated upon the request of City Council, of the City of Kirby.

**Section 4.** If any provision of this Resolution or the application thereof to any person or circumstance shall be held to be invalid, the remainder of this Resolution and the application of such provision to other persons and circumstances shall nevertheless be valid, and the City Council hereby declares that this Resolution would have been enacted without such invalid provision.

**Section 5.** It is officially found, determined, and declared that the meeting at which this Resolution is adopted was open to the public and public notice of the time, place, and subject matter of the public business to be considered at such meeting, including this Resolution, was given, all as required by Chapter 551, Texas Government Code, as amended.

**Section 6.** This Resolution is effective immediately upon passage and approval.

**PASSED AND APPROVED** this the 12<sup>th</sup> day of October, 2023.

---

Grider, Janeshia  
Mayor

---

Ueckert, Katelyn  
Interim City Secretary

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

CITY OF KIRBY  
CITY COUNCIL MEETING  
AGENDA ITEM SUMMARY

DATE: October 12, 2023

AGENDA ITEM: 10 j.

Discussion and Possible Action on Resolution on hiring City Prosecutor.

**Resolution No. R-2023-763**

**A RESOLUTION APPOINTING RAFAEL ANTONIO ARRIAGA AS A DEPUTY CITY ATTORNEY TO SERVE AS THE CITY PROSECUTOR FOR THE CITY OF KIRBY MUNICIPAL COURT; SETTING A COMPENSATION RATE; AND CREATING AN EFFECTIVE DATE**

**WHEREAS**, the Charter of the City Kirby Section 3.03 created a Municipal Court of Record and Section 36.05 of the Code of Ordinances outlines the processes and procedures for the Municipal Court of Record; and

**WHEREAS**, the Texas Government Code Sec. 30.00011 and Texas Code of Criminal Procedure states that a municipal attorney shall conduct each prosecution in a municipal court; and

**WHEREAS**, the City Council of the City of Kirby, Texas believes it is in the best interest of the City to appoint Rafael Antonio Arriaga as a Deputy City Attorney to serve as the Municipal Court Prosecutor.

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

**SECTION 1:** Rafael Antonio Arriaga is appointed as a Deputy City Attorney to serve as the prosecutor for the City of Kirby Municipal Court.

**SECTION 2:** Compensation for the Prosecutor shall be five hundred (\$500.00) dollars per month.

**SECTION 3:** This appointment may be terminated upon a thirty (30) day written notice by either the City of Kirby, or Rafael Antonio Arriaga, to the other party.

**SECTION 4:** All resolutions, or parts thereof, which are in conflict or inconsistent with any provision of this Resolution are hereby repealed to the extent of such conflict, and the provisions of this Resolution shall be and remain controlling as to the matters resolved herein.

**SECTION 5:** This Resolution shall be construed and enforced in accordance with the laws of the State of Texas and the United States of America.

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

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

**SECTION 8:** This Resolution shall be in force and effect as of October 10, 2023, and it is so resolved.

**PASSED AND APPROVED** this the 12<sup>th</sup> day of October, 2023.

---

Grider, Janeshia  
Mayor

---

Ueckert, Katelyn  
Interim City Secretary