FARMERS BRANCH

RESOLUTION NO. 2015-120

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FARMERS BRANCH, TEXAS, APPROVING AND AUTHORIZING PUBLICATION OF A NEW ETHICS HANDBOOK FOR CITY COUNCIL AND CITY BOARDS AND COMMISSIONS; AND PROVIDING AN EFFECTIVE

WHEREAS, the City Council has adopted revisions to the City Code of Ethics applicable to the conduct of all members of the City Council and the appointed members of the City's boards and commissions; and

WHEREAS, there have been several recent changes in state law relating to the ethical conduct of local public officials, in conducting official business; and

WHEREAS, in light of the above changes in ordinances and laws affecting the conduct of City officials and the somewhat technical manner in which such regulations are stated, the City Council of the City of Farmers Branch, Texas, finds it to be in the public interest to authorize the publication and distribution of a new ethics handbook for use in reference to the City Code of Ethics and applicable state laws governing the ethical conduct of elected officials;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF FARMERS BRANCH, TEXAS THAT:

SECTION 1. The City Manager is hereby authorized to publish and distribute to all current and future members of the City Council and appointed members of the various City boards, commissions, and committees, the *City of Farmers Branch, Texas Ethics Handbook for Elected Officials and Advisory Board Members* ("Handbook") substantially in the form attached hereto as Exhibit A.

SECTION 2. This resolution shall become effective immediately upon its approval.

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF FARMERS BRANCH, TEXAS, THIS 17th DAY OF NOVEMBER, 2015.

ATTEST:

Amy Piukana, City Secretary

APPROVED:

Bob Phelps, Mayor

APPROVED AS TO FORM:

Peter G. Smith, City Attorney
(kbl:11/6/15:74128)

Exhibit "A"

City of Farmers Branch, Texas

Ethics Handbook for Elected Officials and Advisory Board Members

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I. City of Farmers Branch Ethics Policy

IT IS THE POLICY of the City of Farmers Branch to uphold, promote and demand the highest standards of ethics from all of its officials, whether elected to City Council or appointed to advisory boards. Accordingly, all members of City boards, commissions, committees, and the City Council ("elected officials and advisory board members") shall maintain the utmost standards of personal integrity, truthfulness, honesty, and fairness in carrying out their public duties, avoid any improprieties in their roles as public servants, comply with all applicable laws, and never use their City position or powers improperly or for personal gain. One of the City's guiding principles is "doing the right things for the right reasons delivers appropriate results." The pursuit of transparency and accountability wherever possible helps achieve this principle and illustrates the City's commitment to good government and high ethical standards.

The City of Farmers Branch and its elected officials and advisory board members all share a commitment to ethical conduct in service to their community. This handbook has been created to ensure that all elected and appointed officials and advisory board members have clear guidance for carrying out their responsibilities. [1]

1 Note: Examples are used in certain portions of this Code and Handbook to illustrate the meaning of the text. Examples are intended to describe some situations of ethical or unethical conduct under this Code. The examples are not intended to be, and shall not be interpreted to be, the sole situation to which the text applies.

II. Applicable Laws and Policies

A. General Character

Elected officials and advisory board members are often called upon to make decisions that affect various groups and individuals adversely. Balancing diverse constituent interests is a difficult task. While someone will always be disappointed in decisions, officials shall adhere to ethical standards that eliminate disappointment borne of dishonesty, conflicts of interest, unfairness or illegality. Preservation of public trust is critical for the preservation of democracy.

A certain amount of detail is required in any code of ethics so that it serves as a clear guide. However, at the core of ethical behavior are some basic standards that officials shall use to reach a level of conduct that strives to be beyond reproach. Treating others as you would have them treat you is always a good ethical test. Another standard is to reflect on how your actions or decisions might be viewed by persons you or the public holds in high regard because of their ethical integrity.

1. **Honesty and Integrity.**

   Honesty and integrity shall be the primary values in all issues. The public trust in the City Council and citizen boards can be a reality only when public officials are truthful.

2. **Fairness and Respect.**

   All issues and citizens shall be handled with fairness, impartiality and respect. Elected officials and advisory board members have an obligation to treat all citizens fairly, such as by dividing time reasonably among potential speakers on an issue at a public hearing or meeting. In reviewing, discussing and deciding issues, City Councilmembers and citizen advisory board members have an obligation to be accessible, open and direct, not only with the other members of the City Council or board, but also to the citizens and business representatives who appear before them. The public is entitled to communicate with their public servants and understand the position of the City Council and boards on public issues.

3. **Effort.**

   Elected officials and advisory board members have an obligation to attend meetings and to be prepared. It is expected that these officials will review the materials, participate in discussions and make an informed decision on the merits of the issue.

B. Conflict of Interest

Elected officials and advisory board members must be constantly on guard against conflicts of interest. In short, elected officials and advisory board members shall not be involved in any activity which conflicts with their responsibilities to the City and its residents. Citizens of Farmers Branch have a right to expect independence and fairness toward all groups without favoring individuals or personal interests.

1. **Self-Dealing and Financial Disclosure.**

   Texas conflict-of-interest laws apply to all elected officials and advisory board members who must be consistently aware of any potential issues which may appear to be self-dealing. Officials must not be involved in discussing or deciding any issue over which they have jurisdiction as a City Council or board member which may impact the member, or the member's family, financially.

   It should also be noted that Councilmembers must file, as required, a conflict-of-interest statement as outlined in Chapter 176 of the Texas Local Government Code. This statement must be filed with the City Secretary and posted on the City's website.

2. **Disclosure of and Policy on Acceptance of Gifts and Favors.**

   Texas law requires disclosure by elected officials and advisory board members when receiving items of value or any compensation other than their normal salary for any service rendered in connection with that person's duties with the City. (Chapter 176 of the Texas Local Government Code)

   A conflict-of-interest statement as outlined in Chapter 176 of the Texas Local Government Code must be filed if the aggregate value of all gifts from the same entity exceeds $100 in the preceding twelve months. This statement (Form CIS) must be filed with the City Secretary and posted on

the City's website. Vendors of the City have a similar disclosure requirement (Form CIQ) if they have a business affiliation or relationship with a local government official. Political contributions are exempt from these requirements and are addressed in Title 15 of the Texas Election Code.

Under no circumstances shall a City Council or board member accept a gift or favor that is a bribe, or reflects, to a reasonable person, an effort to improperly influence the member contrary to that member's responsibility to the public to act impartially and on the merits of a matter. City Council and board members are expressly prohibited from participating in vendor reward programs that provide cash or gifts to the member based on City purchases provided, however, that the City Council or board member may accept frequent flyer miles, car rental or lodging reward points accumulated by the City Council or board member for City sponsored or reimbursed travel expenses for official City business. Additionally, the Farmers Branch City Charter (Section 9.01) specifically prohibits the acceptance of any gift, favor, privilege, or employment from any franchised public utility of the City. The prohibition against gifts shall not apply to items of de minimis value as detailed in Section 2.4(d) of the City Code of Ethics ordinance.

When in doubt about these requirements, elected officials and advisory board members shall disclose the gift, benefit or favor.

All disclosures will be kept for public record in the City Secretary's Office.

Gifts having a value greater than $50 that are donated to the City or a bona fide charity also do not need to be reported.

This section does not apply to gifts exceeding $50 in value and intended for the City rather than as a personal gift to a Councilmember or board member. These items are City of Farmers Branch property. Elected officials and advisory board members who receive a gift on behalf of the City exceeding $50 in value shall promptly turn the gift over to the City Manager for public display or other appropriate handling.

3. **Loyalty.**

Elected officials and advisory board members have an obligation to put the interests of the City of Farmers Branch over all personal considerations. Their goal should be "what is in the best interest for the broadest public

good of the City of Farmers Branch, consistent with constitutional and other legal protections for property and other interests."

4. **Nepotism.**

As provided in the City Charter and Personnel Rules, no relative of a sitting Councilmember may be hired by the City, and no relative of a sitting advisory board member may be hired in the City department for which that advisory board member provides guidance.

5. **Purchase of City Property.**

No Councilmember or advisory board member shall purchase any personal property or real estate from the City regardless of the method of purchase excluding electronic computer tablet devices which had been issued to Councilmembers or advisory board members to be used as a resource during public meetings and for public email communications. These devices may be purchased by the user for fair market price at the end of a Councilmember or advisory board members term of office.

6. **Subsequent Appointments and Contracts.**

No Councilmember shall be appointed as an advisory board member within six months after their term of office has ceased. No Councilmember or advisory board member or business entity (in which the Councilmember or advisory board member has a substantial interest) shall be approved by City Council to enter into a contractual purchase agreement with the City for a period of six months after their term of office has ceased.

C. Legal Compliance

1. **Meetings.**

Public Access: Open Meetings and Public Records

Discussion of issues which may appear before the City Council or citizen board shall be prohibited when a situation arises where a quorum of the City Council or board exists. Numerous Texas and City laws require that meetings of public bodies be open to the public and that public records be available for inspection. Texas Open Meeting Laws are found in the Texas Government Code, Chapter 551. Texas Public Information Laws are found

in the Texas Government Code, Chapter 552.

2. **Attendance.**

Attendance is outlined by the City Charter and is enumerated below:

a. Mayor and City Council

The City Charter provides that four (4) councilmembers may discipline another councilmember if he or she misses three (3) regular (or 25% of the regular meetings in any six month period) duly noticed meetings of the City Council without good cause. Duly noticed meetings of the City Council include regular council meetings, special council meetings, study sessions, policy sessions, executive sessions, budget review meetings, and council committee meetings to which a councilmember is assigned.

The City Council generally finds that personal illness, family emergencies, military absences, family weddings, family graduation exercises, and bona fide business and vacation trips constitute good cause for nonattendance at council meetings. Whether good cause exists for any other absence shall be determined by vote of the entire City Council at the next regular meeting following the absence. The vote shall be taken after sufficient information is received explaining the reason for the councilmember's absence.

b. Boards, Commissions and Committees

The City's attendance policy for members of boards, commissions and committees provides that, if a member fails to attend three (3) consecutive and duly noticed meetings of such groups without being excused for good cause, the City Council may declare the seat vacant and appoint a replacement.

Members of City boards, commissions and committees are expected to attend all regularly scheduled meetings and should make every effort to do so. The City Council appoints members for their experience, background and perspective in a particular policy area, and desires the benefit of knowledgeable consideration and judgment. Moreover, boards, commissions and committees cannot conduct any business unless a quorum is present. Members should notify the chairperson of

the board or the staff liaison regarding any meeting missed or to be missed.

The advisory board, commission or committee shall decide by vote of the entire body at the next regular meeting following the absence, whether the absence was for good cause or not. Advisory boards, commissions and committees shall use the same standard for good cause as set forth above for councilmembers.

3. **Disclosure of Confidential Information.**

Texas law provides that, during a person's service with the City, no member of a City board, commission, committee or the City Council may disclose or use confidential information without appropriate authorization. The information is outlined in the Texas Open Meetings Act (Texas Government Code Chapter 551). For example, confidential information includes discussions during executive sessions and certain economic development information such as prospect leads. Unauthorized disclosure of confidential information to the public is a Class B misdemeanor.

4. **Discrimination and Harassment.**

Public decision-making must be fair and impartial and shall not be discriminatory on the basis of those protected classes, such as racial and religious groups, outlined in federal, state, and city laws and ordinances.

It is the policy of the City of Farmers Branch that its elected officials and advisory board members conduct business and operate in a manner that is free from illegal discrimination on the basis of age, sex, color, race, disability, national origin, or religious persuasion, both internally and in the relationships of the elected officials and advisory board members with their constituencies.

In addition, it is the policy of the City of Farmers Branch that the elected officials and advisory board members strive to create an operating environment internally and in the relationships of the elected officials and advisory board members with their constituencies, that is productive and free from intimidation, hostility or other adversity. Harassment of any sort – verbal, physical, visual – including intentional and unwarranted actions that would constitute sexual harassment were they to occur in an employment relationship, by any elected official or advisory board member, is prohibited

and is considered a violation of the Code of Ethics.

D. Political Activities

Elected officials and advisory board members shall not use their political or appointed office to advance private interests. City Charter, Section 2.02, prohibits the Mayor, Councilmembers, and board members from holding other public offices.

Elected officials, advisory board members and candidates shall not engage in political campaigning at City meetings or within City buildings. They shall also not use public resources for political campaigning. For example, candidates or supporters of candidates shall refrain from circulating petitions during a City meeting and refrain from soliciting City employees to support their specific cause. City Council and board members are free to express their opinions about the public issues on the agenda before them, but they must not make campaign speeches at council or board meetings touting their, or another's, candidacy nor may they urge residents to vote for them or another, through words, signs, buttons or other means, during duly noticed meetings of the City Council or its citizen advisory boards.

City Councilmembers shall not solicit, request or encourage employees while on duty to engage in political activities.

E. Facilities, Resources and Expenses

1. Expense Reports and Travel.

When traveling on City business, elected officials shall conduct themselves professionally as representatives of the City of Farmers Branch. Officials are entitled to be reimbursed for actual and necessary expenses during travel. Expenses must be documented completely and accurately and approved by a committee of Councilmembers designated for that purpose. Officials are asked to contact the appropriate City staff for assistance in travel plans and expense reports.

2. Use of Equipment and Facilities.

Elected officials and advisory board members shall not use City equipment or City facilities for private purposes, except to the extent that they are

available to the public.

a. Software Management.

Elected officials and advisory board members shall not make, use, accept or install illegal copies of computer software, documentation or templates. The City conducts periodic audits to ensure compliance with City policies on software installed on City-owned computers.

The legality of software is ideally established by possession or accountability of the following five items: the original software diskettes, the license, the original manuals, documented evidence of purchase, or copy of the completed product registration.

b. Electronic Mail.

City-assigned electronic mail accounts shall be used only for City business or for minor personal use such as setting up medical appointments or communicating occasionally with one's family in a way that does not interfere with City business. City-assigned electronic mail accounts may not be used for personal business or for any campaign purpose.

All City-assigned electronic mail is considered official City business and must be retained in accordance with the City's records management program. In general, electronic mail communications are public records and subject to disclosure under the public records laws. Texas Public Information Laws are found in the Texas Government Code, Chapter 552.

3. Use of Staff.

Under the council-manager form of government, the City Council appoints a City Manager, who directs the day-to-day operations of all employees. Councilmembers need to be sensitive to the role of the City Manager and City staff. In regard to administrative and executive duties under the City Manager, the City Council shall deal solely through the City Manager. City Charter Section 2.10.

Councilmembers may ask other staff members about the status of a matter and may ask for information, but Councilmembers shall not expressly or implicitly give orders or direction to staff, except through their participation on the City Council. They shall not try privately to influence the decisions or recommendations of staff members, but they may share information with staff. City Council and board members shall not intervene directly with staff on behalf of a particular constituent or organization on a pending matter, but shall participate with City Council or board colleagues in discussing and deciding policy matters for staff to carry out.

Appointed board members shall work through the staff liaisons of their board.

III. Procedures

A. Where to Seek Advice

Questions about this handbook, the City's Code of Ethics, a conflict-of-interest, or other ethical problems should be presented to the City Attorney's Office. If time permits, requests should be in writing to the City Attorney directly.

B. What to Do if You Are Uncertain

The existence of an ethical issue often does not arise until a meeting is underway. Rather than risk an inadvertent violation of law, the safest course of action is simply to declare that a conflict may exists that prevents an elected official or advisory board member from participating. Indeed, if there is a consistent theme to this handbook, it would be: "If in doubt, don't."

C. How to Declare a Possible Conflict

If an official believes that a conflict-of-interest (or even a possible conflict) exists, then he or she should disclose the fact as soon as possible. For example, as soon as an elected official or advisory board member realizes that a conflict exists on a given matter, they must disclose the conflicting interest on the record for the minutes. From that point on, the official shall not participate in any manner (by discussing, questioning or voting) in that matter.

Declaring a conflict and not participating should be recognized as a necessary part of preserving public trust and should not be avoided simply because of delays or inconvenience. Indeed, officials should declare possible conflicts to avoid any appearance of impropriety.

D. Where to Report Improper Behavior

Elected officials and advisory board members have a duty to create the image and reality of a responsive, accessible and fair city government. Accordingly, City Council and advisory board members have a duty to report if another elected official or advisory board member is violating laws or ethics relating to city government, as set forth in the Code of Ethics and this handbook. Moreover, officials shall never attempt to use their authority or influence for the purpose of intimidating, threatening, coercing, commanding or influencing any person with the intent of interfering with that person's duty to disclose such improper activity.

All complaints or allegations of a violation of the City's Code of Ethics against an elected official or advisory board member shall be made in writing on a form provided by the City, sworn to before a notary public, and filed of record with the City Secretary. A general complaint lacking in detail shall not be sufficient to merit investigation procedures outlined in the City's Code of Ethics Ordinance.

E. Annual Certification

Elected officials and advisory board members shall provide a confirmation upon taking office, and thereafter annually, as to compliance with the City's Code of Ethics and this handbook.

IV. Penalties and Sanctions

It is the intent of the City Council to educate, and where necessary, discipline board or councilmembers who violate the City's Code of Ethics. Discipline shall be progressive, from the least punitive to the most punitive measures, unless the City Council believes progressive discipline does not provide the appropriate sanction because of the gravity of the offense, or because the City Council does not believe the sanction would deter future misconduct. In all instances, the totality of the circumstances shall be taken into consideration in resolving a

matter, including the intent of the one accused of wrongdoing. This Code does not prevent informal resolution of minor infractions, such as by immediate corrective action of the possible misconduct.

V. Adoption and Amendment

Adoption of and amendments to the City's Code of Ethics shall require the affirmative vote of a majority of the City Council. Adoption and amendment shall occur through passage of an ordinance by the City Council pursuant to City Charter Section 2.02(b).

Adopted November 2015

FARMERS BRANCH

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