

ARTICLE 8.1000 - CODE OF CONDUCT

PART A: DECLARATION OF POLICY

§ 8.1001 - Statement of Purpose.

It is essential in a democratic system that the public have confidence in the integrity, independence, and impartiality of those who act on their behalf in government. The Melissa City Council adopts this Code of Conduct in order to promote confidence in the government of the City of Melissa, and thereby enhance the City's ability to function effectively. The Code of Conduct establishes standards of conduct, disclosure requirements, and enforcement mechanisms relating to City Officials. Conduct not regulated herein is not subject to this Code of Conduct. This Article shall constitute the "Code of Ethics" required by Section 3.18 of the City Charter.

§ 8.1002 - Definitions

As used in this Code of Conduct, the following words and phrases have the meaning ascribed to them in this Section, unless the context requires otherwise or more specific definitions set forth in this Code of Conduct apply:

Affiliated or Affiliates. Business entities are "Affiliated" or are "Affiliates" if one is the parent or subsidiary of the other or if they are subsidiaries of the same parent Business Entity.

Affinity. Relationship by "Affinity" is defined in Sections 573.024 and 573.025 of the Texas Government Code.

Before the City. Representation or appearance "Before the City" means before the City Council or a Board, commission, or other City entity.

Board. A Board, commission, or committee:

- (1) Which is established by City Ordinance, City Charter, inter-local contract between the City and another party, or state law; or
- (2) Any part of whose membership is appointed by the Mayor and/or City Council, but does not include a Board, commission, or committee that is the governing body of a separate political subdivision of the state.
- (3) The Melissa Industrial and Economic Development Corporation and the Melissa Community Development Corporation are considered a Board for the purpose of this Code of Conduct.

Board Member. "Board Member" is a member of a Board, as defined herein.

Business Entity. "Business Entity" means a sole proprietorship, partnership, firm, corporation, limited liability company, holding company, joint stock company, receivership, trust, unincorporated association, or any other business entity recognized by law.

Code of Conduct. "Code of Conduct," "Conduct Code," or "this Code" means Parts A through H of this Ordinance. Only a City Official may be held responsible for violations of the Code of Conduct.

Confidential Government Information. "Confidential Government Information" is any information held by the City for which an exception to public disclosure may exist under the Texas Public Information Act, Chapter 552, Texas Government Code ("Public Information Act"), any information, whether conveyed verbally or in writing, from a meeting closed to the public pursuant to the Texas Open Meetings Act, Chapter 551, Texas Government Code ("Open Meetings Act"), regardless of whether disclosure violates the Public Information Act and/or the Open Meetings Act, and any other information that is deemed confidential and/or privileged under any federal, state, local law or Council rule.

City. "City" means the City of Melissa, Texas.

Consanguinity. Relationship by "Consanguinity" is defined in Sections 573.022 and 573.023 of the Texas Government Code.

Discretionary Contract. "Discretionary Contract" means any contract other than those which by law must be awarded on a qualified bid basis.

Economic Interest. "Economic Interest" is legal or equitable interests in real property having a fair market value of two thousand five hundred dollars (\$2,500.00) or more, or in a business entity, chattels, intangibles, or contractual rights having a value of fifteen thousand dollars (\$15,000.00) or more. Service by a City Official as an Officer, director, advisor, or otherwise active participant in an educational, religious, charitable, fraternal, or civic organization does not create for that City Official an Economic Interest in the property of the organization. "Economic Interest" does not include the contract and/or business relationship that the City Manager, City Secretary, and/or the Municipal Court Judges and Magistrates and/or their respective law firms have with the City.

Ownership of an interest in a mutual or common investment fund that holds securities or other assets is not an Economic Interest in such securities or other assets unless the person in question participates in the management of the fund.

Gift. A voluntary transfer of property (including the payment of money) or the conferral of a benefit having monetary value (such as the rendition of services or the forbearance of collection on a debt), unless consideration of equal or greater value is received by the donor as quid pro quo, or as otherwise defined by law.

Indirect Ownership. A person "indirectly owns" an equity interest in a Business Entity where the interest is held through a series of business entities, some of which own interests in others.

Matter. Matter is defined as the events or circumstances of a particular situation.

Official. The term "Official" or "City Official" is defined as the following persons:

- (1) The Mayor;
- (2) Members of the City Council;
- (3) Municipal Court Judges and Magistrates;
- (4) The City Manager;
- (5) The Assistant City Manager or equivalent position;
- (6) The City Secretary;
- (7) The City Attorney; and
- (8) Members of temporary or standing Boards, Commissions, Governing Bodies, and Boards of Directors when those Boards, Commissions, Governing Bodies, and Boards of Directors are appointed in their entirety or partially by the Mayor and/or City Council.

Official Action. "Official Action" is defined as:

- (1) Any affirmative act (including the making of a recommendation) within the scope of, or in violation of, a City Official's duties; and
- (2) Any failure to act, if the City Official is under a duty to act and knows that inaction is likely to affect substantially an Economic Interest of the City Official or any person related to the City Official in the first degree by consanguinity or affinity.

Partner. "Partner" is defined as partners in general partnerships, limited partnerships, limited liability partnerships, joint ventures, and any other partnership allowed by law.

Personally and Substantially Participated. The requirement of having "personally and substantially participated" in a Matter is met only if the individual in fact exercised discretion relating to the Matter, The fact that the person had responsibility for a Matter does not by itself establish that the person "personally and substantially participated" in the Matter.

Recuse or Recusal. "Recuse" or "Recusal" is defined as the removal of oneself in a particular matter for, among other legal reasons, a conflict of interest. Recusal shall mean the individual removes himself from the conversation, physically leaves the room and/or Council Chambers, and is not in view of the remainder of the governing body.

Representation. "Representation" is defined as all forms of communication and personal appearances in which a person, not acting in the performance of official duties, formally or informally, serves as an advocate for private interests, regardless of whether the Representation is compensated. Lobbying, even on an informal basis, is a form of Representation. Representation does not include an appearance as a fact witness in litigation or other official proceedings.

Solicitation. "Solicitation" of subsequent employment or business opportunities is defined as all forms of proposals and negotiations relating thereto.

§ 8.1003 - Wording Interpretation

The gender of the wording throughout this Ordinance shall always be interpreted to mean either sex. All singular words shall include the plural, and all plural words shall include the singular. All references to the laws and codes of the State of Texas, the City Charter, Ordinances, or Resolutions of the City shall mean "as presently enacted, hereafter amended or in the future created."

PART B: PRESENT CITY OFFICIALS

§ 8.1004 - Improper Economic Benefit

- (a) *General Rule.* City Officials shall comply with Chapter 171 of the Texas Local Government Code regarding conflicts of interest.
- (b) *Affidavit and Abstention from Voting Required.* City Officials shall comply with Chapter 171 of the Texas Local Government Code regarding Affidavits and Abstention from Voting.

§ 8.1005 - Unfair Advancement of Private Interests

- (a) *General Rule.* A City Official may not use his Official position to grant or secure, or attempt to grant or secure, for any person (including himself) any form of special consideration, treatment, exemption, or advantage beyond that which is lawfully available to other persons. This rule does not apply to actions taken by a City Official in the legislative process.
- (b) *Special Rules.* The following special rules apply in addition to the general rule:
 - (1) *Reciprocal Favors.* A City Official may not enter into an agreement or understanding with any other person that Official Action by the Official will be rewarded or reciprocated by the other person, directly or indirectly.
 - (2) *Hiring of Relatives/Anti-Nepotism.* A City Official shall not violate Chapter 573 of the Texas Government Code regarding the hiring of certain close relatives.
 - (3) *No City Council member who is on the Board of a nonprofit organization may vote on any funding request by that nonprofit organization and must recuse himself from the discussion, unless the nonprofit organization has a Board of directors or trustees appointed in whole or in part by the City Council.*
- (c) *Recusal and Disclosure.* A City Official whose conduct would otherwise violate Part B, Section 8.1005(b)(2) (Hiring of Relatives/Anti-Nepotism) shall openly declare that he/she must be recused and such City Official shall not be counted as present for the agenda item for purposes of the tally or determining the total votes required.

§ 8.1006 - Gifts

A City Official shall comply with applicable state laws regarding the acceptance, agreement to accept, or solicitation of gifts and other benefits and the disclosure thereof.

§ 8.1007 - Confidential Information

- (a) It is a violation of this Code for a City Official to violate Section 39.06 of the Texas Penal Code (Misuse of Official Information).
- (b) A City Official shall not disclose to the public any Confidential Government Information, unless the disclosure is authorized or required by law.

§ 8.1008 - Representation of Private Interests

- (a) *Representation Before the City Council, City Board or Other City Commission.* A City Official shall not represent any person, group, or entity, other than himself, or his spouse or minor children, before the City. This Section does not prohibit a City Official from presenting information regarding community organizations, non-profit organizations or community events so long as the presentment of such information does not involve any type of request for financial assistance from the City.
- (b) *Representation in Litigation Adverse to the City.* A City Official shall not represent any person, group, or entity, other than himself, or his spouse or minor children, in any litigation to which the City is a party, if the interests of that person, group, or entity are adverse to the interests of the City and the Matter is substantially related to the Official's duties to the City.

§ 8.1009 - Public Property and Resources

A City Official shall not use, request, or permit the use of City facilities, personnel, equipment, or supplies for private purposes, except:

- (a) Pursuant to duly adopted City policies; or
- (b) To the extent and according to the terms that those resources are lawfully available to the public.

§ 8.1010 - Political Activity

It is a violation of this Code for City Officials to fail to comply with requirements and restrictions on political activities imposed by state law, the City Charter and City personnel rules. In addition, the following restrictions apply:

- (a) *Influencing Subordinates.* A City Official shall not, directly or indirectly, induce or attempt to induce any City employee:

- (1) To participate in an election campaign, contribute to a candidate or political committee, or engage in any other political activity relating to a particular party, candidate, or issue, except as allowed by law; or
- (2) To refrain from engaging in any lawful political activity, except activities prohibited by the City Charter.
- (b) *Official Vehicles.* A City Official shall not display or fail to remove campaign materials on any City vehicle under his control.
- (c) *Reserved.*
- (d) *Acceptance of Donation to City.* At no time is any individual City Council member authorized to accept any donation, including but not limited to, property and/or financial donations, on behalf of the City without prior approval by the affirmative vote of a majority of the City Council at a duly called meeting.

Limitations on the use of public property and resources for political purposes are imposed by Part B, Section 8.1009. A City Official may not spend or authorize the spending of public funds or use or authorize the use of public property for "political advertising", as that term is defined in the Texas Election Code, as it exists or may be amended.

A general statement merely encouraging another person to vote does not violate this rule.

§ 8.1011 - Actions of Others

- (a) *Violations by Other City Officials.* A City Official shall not knowingly assist or induce, or attempt to assist or induce, another City Official to violate any provision in this Code of Conduct.
- (b) *Using Others to Engage in Forbidden Conduct.* A City Official shall not violate the provisions of this Code of Conduct through the acts of another.

§ 8.1012 - Interaction with City Staff

- (a) City Council members' and Board Members' interaction with the City Manager or staff must recognize the lack of authority in any individual City Council member, Board Member or group of City Council members or Board Members, except when explicitly authorized by the City Council or Board.
- (b) City Council members and Board Members will not make public individual judgments of the performance of the City Manager, his staff, the City Secretary, or the Municipal Judge except as authorized by ordinance or the City Charter.
- (c) City Council members and Board Members may not attempt to coerce or intimidate City Employees, interfere with City Employees' duties, or otherwise circumvent the authority of the City Manager. Communications that are not in violation of this Section are permitted.

§ 8.1013 - City Council and Board Interaction with General Public

City Council members' and Board Members' interaction with public, press or other entities must recognize the same limitation as expressed in Part B, Section 8.1012 and the inability of any City Council member or Board Member or group of City Council members or Board Members to speak for the City Council or Board except when explicitly authorized by the City Council, that Board, or the City Charter.

PART C: FORMER CITY OFFICIALS

§ 8.1015 - Continuing Confidentiality

A former City Official shall not use or disclose Confidential Government Information acquired during service as a City Official. This rule does not prohibit:

- (a) Any disclosure or use that is authorized or required by law; or
- (b) The confidential reporting of illegal or unethical conduct to authorities designated by law.

§ 8.1016 - Subsequent Representation

- (a) *Representation in Litigation Adverse to the City.* A former City Official shall not, absent consent from the City, represent any person, group, or entity, other than himself, or his spouse or minor children, in any litigation to which the City is a party, if the interests of that person, group, or entity are adverse to the interests of the City and the Matter is one in which the former City Official Personally and Substantially Participated prior to termination of his Official duties.

§ 8.1017 - Discretionary Contracts

- (a) *Impermissible Interest in Discretionary Contract or Sale.* This Subsection applies only to contracts or sales made on a discretionary basis, and not to contracts or sales made on a competitive bid basis. Within six (6) months of the termination of Official duties, a former City Council member shall not have a financial interest, direct or indirect, in any contract with the City, and shall not be financially interested, directly or indirectly, in the sale to the City of any land, materials, supplies, or service. Any violation of this Section, with the knowledge, expressed or implied, of the individual or Business Entity contracting with the City Council shall render the contract involved voidable by the City Manager or the City Council. A former City Council member has a prohibited "financial interest" in a contract with the City, or in the sale to the City of land, materials, supplies, or service, if any of the following individuals or entities is a party to the contract or sale:
 - (1) The former City Council member;
 - (2) His/her parent, child, stepchild, or spouse;

- (3) A Business Entity in which the former City Council member directly or indirectly owns:
 - (A) Ten percent (10%) or more of the voting stock or shares of the Business Entity;
or
 - (B) Ten percent (10%) or more of the fair market value of the Business Entity; or
- (4) A Business Entity of which any individual or entity listed in Part C, Section 8.1017(a)(1) or 8.1017(a)(3) is:
 - (A) A subcontractor on a City contract; or
 - (B) An Affiliated business or Partner.
- (b) *Prior Participation in Negotiation or Awarding.* A former City Council member may not, within one (1) year of the termination of official duties, perform work on a compensated basis relating to a Discretionary Contract, if he Personally and Substantially Participated in the negotiation or awarding of the contract while on the City Council.
- (c) *Definitions.* For purposes of Part C, Section 8.1017(a) of this rule:
 - (1) A "former City Council member" is any person who, immediately prior to termination of official duties, was the Mayor or a member of the City Council.
 - (2) The term "contract" means any contract other than a contract for the personal services of the former City Council member.
 - (3) The term "service" means any services other than the personal services of the former City Council member.

PART D: PERSONS DOING BUSINESS WITH THE CITY

§ 8.1018 - Persons Seeking Contracts

- (a) *Disclosure of Parties, Owners, and Closely Related Persons.* An individual or Business Entity seeking a contract from the City is required to complete the Conflict of Interest Questionnaire required by Chapter 176 of the Texas Local Government Code.
- (b) *Political Contributions.* Any individual or Business Entity seeking a Discretionary Contract from the City must disclose, on a form provided by the City, all political contributions totaling two hundred fifty dollars (\$250.00) or more within the past twenty-four (24) months made directly or indirectly to any member of City Council, or to any political action committee that contributes to City Council elections, by any individual or Business Entity whose identity must be disclosed under Part D, Section 8.1018(a). Indirect contributions by an entity include, but are not limited to, contributions made through the officers or owners of the Business Entity.

- (c) *Briefing Papers and Open Records.* Briefing papers prepared for the City concerning any proposed Discretionary Contract shall reveal the information disclosed in compliance with Part D, Sections 8.1018(a) and 8.1018(b), and that information shall constitute an open record available to the public.

PART E: MEMBERS OF THE PUBLIC AND OTHERS

Part E applies to current and former City Officials, persons doing business with the City, and lobbyists, as well as to members of the public and any other person (including Business Entities and nonprofit entities).

§ 8.1019 - Forms of Responsibility

No person subject to this Code shall induce, attempt to induce, conspire with, aid or assist, or attempt to aid or assist another person to engage in conduct in violation of the obligations imposed by this Code of Conduct.

PART F: CONDUCT REVIEW PROCESS

§ 8.1021 - Definitions; Participation

The City Council shall review Complaints regarding alleged violations of the Code ("Complaints"), review applicable waivers regarding the alleged violations and determine if a Complaint should be dismissed under the criteria outlined herein.

A City Council member may not participate in the Complaint review process and/or hearing if the member is the subject of the Complaint, or the individual filing the Complaint ("Complainant") or the individual who is the subject of the Complaint ("Respondent") or the Complainant is related to the City Council member within a prohibited level of affinity or consanguinity.

§ 8.10215 - City Attorney

The City Attorney is authorized to issue to any City Official, upon reasonable request, formal written opinions regarding the applicability of the provisions of this Code of Conduct and/or other laws to an action the City Official is considering taking in the future. The City Council may consult with the City Attorney or a designee of the City Attorney regarding legal issues that may arise in connection with this section and may also consult with the City Attorney or a designee of the City Attorney to request assistance from the City Attorney in conducting hearings during any stage of the process. The City Attorney serves as legal counsel for the City Council and not any individual City Council member.

§ 8.1022 - Complaints

- (a) *Filing.* Any person who believes a City Official violated this Code of Conduct may file a Complaint, which shall be in the form of a notarized affidavit with the City Secretary. The "Affidavit" shall:

- (1) Identify the person or persons who allegedly committed the violation;

- (2) Provide a statement of the facts on which the complaint is based;
- (3) To the extent possible, identify the section or sections of the Code allegedly violated; and
- (4) Be sworn to in the form of an affidavit and be based on personal knowledge of the affiant and be subject to the laws of perjury.

The Complainant may also recommend other sources of evidence that the Investigator (as defined below) should consider and may request a hearing.

- (b) *Scope of Complaint Review.* Alleged violations of a law, provision of the City Charter, ordinance, rule, policy, or other regulation not contained within this Code of Conduct shall not be subject to the Complaint review process.
- (c) *Notification.* A copy of a complete Complaint meeting the requirements of Part F, Section 8.1022(a) shall be promptly forwarded by the City Secretary to the City Attorney and to the person charged in the Complaint. The person charged in the Complaint shall also be provided with a copy of the conduct rules and shall be informed:
 - (1) That, within fourteen (14) days of receipt of the Complaint, he may file a sworn response with the City Secretary;
 - (2) That failure to file a response does not preclude the City Attorney from selecting an Investigator to process the Complaint;
 - (3) That a copy of any response filed by the person charged in the Complaint will be provided by the City Secretary to the complainant, who may, within seven (7) days, respond by a sworn written affidavit filed with the City Secretary, a copy of which shall be provided by the City Secretary to the person charged in the Complaint;
 - (4) That the person charged in the Complaint may request a hearing; and
 - (5) That City Officials have a duty to cooperate with the City Attorney, pursuant to Part F, Section 8.1023 of this Code of Conduct.
- (d) *Assistance; Completeness Review.* The City Secretary shall provide information to persons who inquire about the process for filing a Complaint. Incomplete Complaints, including those that fail to contain all of the information required by Part F, Section 8.1022(a), shall not trigger the complaint review process described in this Part F, and may be summarily dismissed by the City Secretary with notice to the Complainant.
- (e) *Limitations.* A Complaint must be filed with the City Secretary within six (6) months of the date the Complainant knew, or with reasonable diligence should have known, of the events or series of events giving rise to the Complaint. The City Secretary shall not accept or process any Complaint that is filed more than six (6) months after the date of the violation alleged in the Complaint. Complaints not filed within this timeframe are barred and will be dismissed as untimely.

§ 8.1023 - Procedure for Complaints Against City Officials

Within five (5) business days after receipt by the City Attorney, it shall be the duty of the City Attorney to select a third-party attorney who does not perform legal work for the City to conduct the investigation ("Investigator") on behalf of the City and notify the City Council, City Manager and the person charged in the Complaint of the Investigator selected. The City Council shall approve or reject an Investigator selected by the City Attorney at its next meeting for which there is time to post the item on the agenda as required by law. If the City Council rejects an Investigator, the City Attorney shall select another one in accordance with this Section. Within seven (7) business days after being approved as the Investigator by the City Council, the Investigator shall make the initial determination/evaluation of the Complaint as to whether or not the facts alleged, if true, would at face value constitute a violation of this Code of Conduct. If it is determined by the Investigator that the facts as alleged would not constitute a violation, then at a meeting posted in accordance with the notice requirements of the Open Meetings Act, the Investigator shall present in open session a written report describing in detail the nature of the Complaint and the findings of the Investigator to the City Council at its next regularly scheduled meeting. Those City Council members not implicated by the allegation(s) may, by majority vote, take the following action:

- (a) Dismiss the Complaint based on any of the following grounds:
 - (1) The Complaint does not allege facts sufficient to constitute a violation of this Code of Conduct;
 - (2) The failure of the Complainant to cooperate in the review and consideration of the Complaint;
 - (3) The Complaint does not comply with the requirements of filing a Complaint; or
 - (4) The conduct of the City Official referred to in the Complaint was made in good faith reliance on a written opinion by the City Attorney that concluded the conduct was not a violation of this Code; or
 - (5) The Complaint on its face does not state a violation of this Code of Conduct.
- (b) Determine the Complaint alleges facts that, if true, are sufficient to constitute a violation of this Code of Conduct and refer it for investigation as described below.

Any vote regarding the Complaint shall be in a public hearing called for that purpose.

If it is determined by the City Council that the facts as alleged are sufficient to constitute a violation of this Code of Conduct, then the Investigator shall have all of the powers of investigation as are given to the City Council under Article III, Section 3.16 of the City Charter. The Investigator shall report back to the City Council, in writing, as soon as possible, but in no event more than fifteen (15) business days from the day of the Initial Report or twenty-one (21) days from the day the appointment of the Investigator was approved by the City Council, whichever is later. Said report shall be comprehensive in support of the Investigator's opinion as to whether or not a violation of this Code of Conduct occurred.

The City Council shall consider the findings of said report at the meeting at which it is presented, at which time the person(s) accused shall have the right to a full and complete hearing with the opportunity to call witnesses and present evidence on his behalf. No final action, decision, or vote with regard to any matter shall be made except in a meeting which is open to the public. At the conclusion of such hearing, the City Council shall take action as appropriate, including dismissal of the Complaint or imposition of a legally available remedy as described in Part G.

Any City Council Member under investigation pursuant to this Section shall not be permitted to participate in any vote regarding violations of conduct laws or rules.

§ 8.1023 - Frivolous Complaints

- (a) For purposes of this section, a “frivolous complaint” is a sworn Complaint that is groundless and brought in bad faith or groundless and brought for the purpose of harassment.
- (b) By a vote of at least two-thirds of those present, the City Council may order a Complainant to show cause why the Complaint filed by the Complainant is not frivolous.
- (c) In deciding if a Complaint is frivolous, the City Council will be guided by Rule 13 of the Texas Rules Civil Procedure, and may also consider:
 - (1) The timing of the sworn Complaint with respect to when the facts supporting the alleged violation became known or should have become known to the Complainant, and with respect to the date of any pending election in which the Respondent is a candidate or is involved with a candidacy, if any;
 - (2) The nature and type of any publicity surrounding the filing of the sworn Complaint, and the degree of participation by the Complainant in publicizing the fact that a sworn Complaint was filed;
 - (3) The existence and nature of any relationship between the Respondent and the Complainant before the Complaint was filed;
 - (4) If Respondent is a candidate for election to office, the existence and nature of any relationship between the Complainant and any candidate or group opposing the Respondent;
 - (5) Any evidence that the Complainant knew or reasonably should have known that the allegations in the Complaint were groundless; and
 - (6) Any evidence of the Complainant's motives in filing the Complaint.
- (d) Notice of an order to show cause shall be given to the Complainant, with a copy to the Respondent, and shall include:
 - (1) An explanation of why the Complaint against a Respondent appears to be frivolous; and

- (2) The date, time, and place of the hearing to be held under this section.
- (e) Before making a determination that a sworn Complaint against a Respondent is frivolous, the City Council shall hold a hearing at which the Complainant may be heard and accompanied by his or her representative.
- (f) By a record vote of at least a simple majority of those present after the hearing under this section, the City Council may determine that a Complainant filed a frivolous Complaint and may impose sanctions against that Complainant.
- (g) Before imposing a sanction for filing a frivolous Complaint, the City Council shall consider the following factors:
 - (1) The seriousness of the violation, including the nature, circumstances, consequences, extent, and gravity of the violation;
 - (2) The sanction necessary to deter future violations; and
 - (3) Any other matters that justice may require.
- (h) The City Council may impose the following sanctions:
 - (1) A civil penalty of not more than \$500;
 - (2) Imposition of attorneys' fees incurred by Respondent;
 - (3) Any other sanction permitted by law; and/or
- (4) The City Council may notify the appropriate regulatory or supervisory agency for their appropriate action. This may include a referral for criminal prosecution if the circumstances so warrant.

PART G: ENFORCEMENT MECHANISMS

In addition to other remedies provided by law, any one (1) or more of the following remedies may be imposed upon a City Official with respect to violations of this Code of Conduct. If it has been determined that a City Council member has violated a provision of this Code of Conduct, the City Council member who is in violation shall not participate in decisions regarding any penalty(ies) to be imposed under this Part G, and said Council Member shall be disqualified from voting in the matter for purposes of the tally or determining the total votes required.

§ 8.1024 - Disciplinary Action

- (a) City Officials who engage in conduct that violates this Code of Conduct may be notified, warned, reprimanded or suspended. Disciplinary action under Part G may be imposed in addition to any other penalty or remedy contained in this Code of Conduct or other law.
- (b) City Officials deemed to be in violation of the Code are subject to the following consequences:

- (1) Censure – If the violation did not involve a matter of public concern and the City Council finds that a violation of this Code occurred; the City Council may issue a censure of the City Official, to the extent permitted by law.
- (2) Letter of Notification – The City Council may issue a letter of notification if the City Council finds that a violation of this Code was unintentional. A letter of notification must advise the City Official of any steps to be taken to avoid future violations.
- (3) Letter of Admonition – The City Council may issue a letter of admonition if the City Council finds that a violation of this Code was minor, but where the circumstances call for a more substantial response than a letter of notification.
- (4) Reprimand – To the extent permitted by law, City Council may issue a reprimand if the City Council finds that a violation of this Code was not minor and was committed intentionally or through reckless disregard.
- (5) Removal from Leadership Position – In addition to, or in place of, the consequences outlined above, the City Council may remove a City Official from any leadership position held by that City Official as a member of the body in which the City Official serves.
- (6) Removal from Administrative Boards and Advisory Boards – In addition to, or in place of, the consequences outlined above, the City Council may remove an appointed City Official from Administrative Boards and Advisory Boards.

§ 8.1025 - Civil Fine

Any person, whether or not a City Official, who violates any provision of this Code of Conduct is subject to a fine not exceeding five hundred dollars (\$500.00).

§ 8.1026 - Prosecution for Perjury

Any person who files a false sworn Complaint under Part F of this Code of Conduct is subject to criminal prosecution for perjury under the laws of the State of Texas in addition to the other remedies provided for in this Code of Conduct.

§ 8.1027 - Voiding or Ratification of Contract

If a conduct review finds that there has been a violation of any provision of this Code of Conduct that is related to the awarding of a contract, the City Council must vote on whether to ratify or void the contract. Such action shall not affect the imposition of any penalty or remedy contained in this Code of Conduct or any other law.

§ 8.1028 - Disqualification from Contracting

- (a) Any person (including business entities and non-profit entities) who intentionally or knowingly violates any provision of Part D (Persons Doing Business with the City) may be

prohibited by the City Council from entering into any contract with the City for a period not to exceed three (3) years.

(b) It is a violation of this Code of Conduct:

- (1) For a person prohibited from entering into a contract with the City to enter, or attempt to enter, into a contract with the City during the period of disqualification from contracting; or
 - (2) For a City Official to knowingly assist a violation of Part G, Section 8.1028.
- (c) Nothing in this Section shall be construed to prohibit any person from receiving a service or benefit, or from using a facility, which is generally available to the public, according to the same terms.
- (d) A Business Entity or nonprofit entity may be disqualified from contracting based on the conduct of an employee or agent, if the conduct occurred within the scope of the employment or agency.

PART H: ADMINISTRATIVE PROVISIONS

§ 8.1029 - Other Obligations

This Code of Conduct is cumulative of and supplemental to applicable state and federal laws and regulations. Compliance with the provisions of this Code of Conduct shall not excuse or relieve a City Official from any obligation imposed by state or federal law and/or City policy regarding ethics, financial reporting, lobbying activities, or any other issue addressed herein.

§ 8.1030 - Effective Date

This Code of Conduct shall take effect after its passage and publication as required by the City Charter and by law. Individuals seated as City Officials on the effective date of this Ordinance shall be bound by it and shall sign a written acknowledgement of receipt and understanding of this Code of Conduct within thirty (30) days of the effective date. All City Officials elected, appointed or retained following the effective date of this Code of Conduct shall sign a written acknowledgement of receipt and understanding of this Code of Conduct before performing any of the duties or functions of the City Official's position.

§ 8.1031 - Distribution and Training

- (a) At the time of application for a position of City Official, every applicant shall be furnished with a copy of this Code of Conduct. No application shall be considered complete without a signed acknowledgement of receipt and understanding of this Code of Conduct by the applicant.

- (b) The City Attorney or City Manager as designated by the City Council shall develop educational materials and conduct educational programs for the City Officials on the provisions of this Code of Conduct, Article XIV of the City Charter, and Chapters 171 and 176 of the Texas Local Government Code. Such materials and programs shall be designed to maximize understanding of the obligations imposed by this Code of Conduct.

§ 8.1032 - Severability

If any provision of this Code of Conduct is found by a court of competent jurisdiction to be invalid or unconstitutional, or if the application of this Code of Conduct to any person or circumstances is found to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the other provisions or applications of this Code of Conduct which can be given effect without the invalid or unconstitutional provision or application.

Exhibit A

Reserved