ORDINANCE NO. 3785

AN ORDINANCE OF THE CITY OF RICHARDSON, TEXAS, AMENDING THE CODE OF ORDINANCES OF THE CITY OF RICHARDSON, BY AMENDING CHAPTER 2, ADMINISTRATION, BY AMENDING ARTICLE I TO ADD A CODE OF ETHICS FOR CITY OFFICIALS; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A REPEALING CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Richardson, Texas desires to establish guidelines for the conduct of City officials; and

WHEREAS, the Mayor, City Council and members of the boards and commissions of the City should be independent and impartial and responsible to the citizens of Richardson;

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

SECTION 1. That the Code of Ordinances of the City of Richardson, Texas is hereby amended by amending Chapter 2, Administration, by amending Article I. in part by adding the Code of Ethics to read as follows

"ARTICLE I. CODE OF ETHICS

Sec. 2-1. Purpose.

It is hereby declared to be the policy of the City that the proper operation of democratic government requires that public officials be independent, impartial and responsible only to the people of the City; that no officer shall permit any interest, financial or otherwise, direct or indirect, or engagement in any business, transaction or professional activity to conflict with the proper discharge of such person's duties in the public interest; that public office not be used for personal gain; and that the City Council at all times shall be maintained as a nonpartisan body. To implement such a policy, the City Council deems it advisable to enact a Code of Ethics for officials, as defined in this article, whether elected or appointed, paid or unpaid, to serve not only as a guide for official conduct of the City's public servants, but also as a basis for discipline for those who refuse to abide by its terms, the overriding interest being that such officers of the City shall at all times strive to avoid even the appearance of impropriety.

Sec. 2-2. Title; application.

(a) This section shall be known as the Code of Ethics;

(b) This Code of Ethics shall apply to all officials as defined in this article.

(c) This Code of Ethics does not apply to employees, including those individuals employed on a full-time, part-time or internship basis (including those who may serve on a City board, committee or commission) nor to independent contractors of the City. The standards of conduct for employees are governed by the City of Richardson Personnel Policies and the City Charter.

(d) This Code of Ethics applies to members of all City boards, committees or commissions as defined in this article.

(e) This Code of Ethics applies to the conduct or actions of public officers, as defined in this article which occurs in whole or in part after the date of adoption of this article.

(f) This Code of Ethics applies to officers only while such persons hold such position or office.

Sec. 2-3. Definitions.

The following words, terms, and phrases, when used in this Section, shall have the meanings ascribed to them in this Section, except where the context clearly indicates a different meaning.

Benefit means anything reasonably regarded as pecuniary or economic gain or pecuniary or economic advantage, including benefit to any other person in whose welfare the beneficiary has a direct and substantial interest.

Business entity means any person, entity, corporation (whether for-profit or nonprofit), general or limited partnership, sole proprietorship, joint venture, unincorporated association or firm, institution, trust, foundation, holding company, joint-stock company, receivership, or other entity recognized by law, whether or not organized for profit, which has an economic interest, or seeking such, in conducting business with the City. Business entity also includes any business entity that represents a party conducting or seeking to conduct business with the City.

City means the City of Richardson, Texas.

City Council means the governing body of the City.

Confidential information means any information to which an official has access in such person's official capacity which may not be disclosed to the public except pursuant to state and/or federal law and which is not otherwise a matter of public record or public knowledge. Confidential information includes the following information, however transmitted: (i) any information from a meeting closed to the public pursuant to the Texas Open Meetings Act or other law regardless of whether disclosure violates the Texas Open Meetings Act or Texas Public Information Act; (ii) any information protected by attorney

client, attorney work product, or other applicable legal privilege; and (iii) any information deemed confidential by law.

Contract means any lease, claim, account or demand against or agreement with any entity or person, whether express or implied, executed or executory, oral or written.

Corporation means any corporation that has a board of directors appointed in whole or in part by the City Council that is operating under the direct authority of or subject to the direct control of the City Council.

Employee means any person employed by the City, including those individuals on a part-time or internship basis, but does not include independent contractors.

Gift means anything of value, regardless of form, offered or given in the absence of adequate and lawful consideration. It does not include the receipt or acceptance of campaign contributions which are regulated by federal, state, and/or local laws or ordinances.

Knowingly means a person acts knowingly, or with knowledge, with respect to the nature of the person's conduct or to circumstances surrounding the conduct when the person is aware of the nature of the conduct or that the circumstances exist. A person acts knowingly, or with knowledge, with respect to a result of the person's conduct whether the person is aware that the conduct is reasonably certain to cause the result.

Officer or *official* means any member of the City Council and any appointed member of a City board, commission or committee established by ordinance, Charter, state law or otherwise, on a temporary or permanent basis, operating either under the direct or indirect authority or subject to either the direct or indirect control of the City Council. Such term includes but is not limited to the members of the City Plan Commission, the Board of Adjustment, the Building and Standards Commission, the Tax Increment Reinvestment Financing Zone Boards of Directors, the Civil Service Board and Appeals Board, the Library Board, the Parks and Recreation Board, the Arts Commission, Animal Shelter Advisory Board, the Environmental Advisory Commission. Such term also includes the members of the boards of directors of Corporations, such as the Richardson Improvement Corporation.

Relative means any person related to an officer within the second degree by consanguinity or affinity. This relationship includes the spouse, parents, children, stepchildren, father and mother-in-law, or son and daughter-in-law, grandparents, grandchildren, sisters and brothers of the officer.

Special privileges means a right, advantage or favor of or for a particular person, occasion or purpose not otherwise available to others.

Substantial interest means (i) the ownership of ten (10) percent or more of the voting stock or shares of a business entity; (ii) the ownership of ten (10) percent or more, or fifteen thousand dollars ($15,000.00) or more of the fair market value of a business entity; or (iii) funds received from the business entity exceed ten (10) percent of the person's gross income for the previous year, and action on the matter involving the business entity will have a special economic effect on the business entity that is distinguishable from the effect on the public. It is expressly provided herein that an investment or ownership in a publicly held company, in an amount less than fifteen thousand dollars ($15,000.00) does not constitute a substantial interest. Substantial interest in real property means the person has an interest in the real property that is equitable or legal ownership with a fair market value of two thousand five hundred dollars ($2,500.00) or more; and it is reasonably foreseeable that an action on a matter involving the real property will have a special economic effect on the value of the real property distinguishable from its effect on the public. (Ownership includes any partnership, joint or corporate ownership or any equitable or beneficial interest as a beneficiary of a trust.) An officer is considered to have a substantial interest under this Code of Ethics if a person related to the officer in the second degree of consanguinity or affinity has a substantial interest under this Code of Ethics.

Sec. 2-4. Standards of conduct.

No officer of the City or a relative thereof shall:

(a) Have a financial interest, direct or indirect, in any contract with the City nor shall such person be financially interested, directly or indirectly, in the sale to the City of any land, or rights or interest in any land, materials, supplies or service. The "financial interest" contemplated under this section and under the City Charter Section 21.01 requires that such person receive an actual financial benefit from the transaction with the City. An actual financial benefit from the transaction shall include:

(1) An ownership in the entity transacting business with the City where the ownership interest is more than ten (10) percent.

(2) Compensation as an employee, officer or director of the entity transacting business with the City where such compensation is affected by the entity's transaction with the City.

(b) Participate in a vote or decision on any matter in which the officer has a substantial interest.

(c) Represent or appear in behalf of private interests of others before the City Council, or any agency, board, commission, corporation, or committee of the City, nor shall represent any private interests of others in any action or proceeding involving the City, nor voluntarily participate on behalf of others in any litigation to which the City is, or might be, an adverse party. The restrictions of this section 2-4 (c) do not prohibit an

officer, or relative of an officer, who is the president, vice president or officer of a home owners association from appearing before the City Council, or any agency, board, commission, or committee of the City to represent such homeowners association, except that no such officer or relative of such officer shall appear before the agency, board, commission or committee of the City of which such officer is a member.

(d) Accept any gift from any person that might reasonably tend to influence such officer in the discharge of such person's official duties. The prohibition against gifts shall not apply to:

(1) A lawful campaign contribution;

(2) An honorarium in consideration for services unless the officer would not have been asked to provide the services but for the officer's position;

(3) Meals, lodging, transportation in connection with services rendered by the officer at a conference, seminar or similar event that is more than merely perfunctory;

(4) Complimentary copies of trade publications and other related materials;

(5) Attendance at hospitality functions at local, regional, state or national association meetings and/or conferences;

(6) Any gift which would have been offered or given to the person if such person was not an officer or employee of the City;

(7) An occasional item with a value less than fifty dollars ($50.00);

(8) Tee shirts, caps and other similar promotional material;

(9) Meals, transportation and lodging in connection with a seminar or conference at which the officer is providing services;

(10) Gifts on account of kinship or a personal, or professional, or business relationship independent of the officer's status;

(11) Complimentary attendance at political or charitable fund raising events; and

(12) Meals, lodging, transportation, or entertainment furnished in connection with public events, appearances or ceremonies related to official City business, if furnished by the sponsor of such public events.

(e) Use such person's official position to secure special privileges or benefits for such person or others.

(f) Grant any special consideration, treatment or advantage to any citizen, individual, business organization or group beyond that which is normally available to every other citizen, individual, business organization or group.

(g) Disclose confidential information.

(h) Engage in any outside activities which will conflict with or will be incompatible with such person's official position or duties as an officer of the City.

(i) Use City supplies, personnel, property, equipment or facilities (whether tangible or intangible) for any purpose other than the conduct of official City business, unless otherwise provided for by law, ordinance or City policy.

(j) Act as a surety on any official bond required for any officer or employee of the City, or for a business that has a contract, work or business with the City.

Sec. 2-5. Additional standards.

(a) No member of the City Council who is on the board of a nonprofit organization may vote on any funding request by that nonprofit organization, unless the nonprofit organization has a board of directors or trustees appointed in whole or in part by the City Council.

(b) With the exception of those proceedings allowed under this article, no member of the City Council shall personally appear in such person's own behalf before the City Council, or any City board, commission, corporation or committee but may designate and be represented by a person of such person's choice in any such personal matter.

(c) No member of the City Council, the City Plan Commission, or Board of Adjustment shall participate in, or vote on, any land use matter in which such officer has a substantial interest in any real property within two hundred (200) feet of the real property, the subject of the land use matter. For purposes of this section 2-5 (c) "land use matter" shall mean zoning, plat approval, site plan or other development approvals or permits, variances or exceptions. The term "land use matter" does not include studies or similar matters that are for the benefit of the city and which are not unique to real property within two hundred (200) feet of the real property, the subject of the land use matter, in which the officer has a substantial interest.

Sec. 2-6. Disclosure of substantial interest.

Any officer, who has a substantial interest in any matter pending before the body, board, commission, corporation or committee of which the officer is a member, before a vote or decision on such matter, shall file an affidavit stating the nature and extent of the substantial interest, and shall abstain from further participation in such matter. The

affidavit shall be on a form provided by the City and must be filed with record keeper for such body, board, commission, corporation or committee.

Sec. 2-7. Complaints against officers.

(a) All complaints or allegations of a violation of this Code of Ethics against an officer 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. Such complaint shall describe in detail the act or acts complained of and the specific section(s) of this Code of Ethics alleged to have been violated. A general complaint lacking in detail shall not be sufficient to invoke the investigation procedures contained herein; and anonymous complaints shall not be considered. The City Secretary shall provide a copy of the complaint to the affected officer and the City Council, and immediately refer the complaint to the City Attorney, who shall initially review the complaint to determine if the complaint contains sufficient detail and alleges a violation of the Code of Ethics. The affected officer may file a written response to the complaint within seven (7) business days after the complaint is filed with the City Secretary, who shall forward the response, if any, to the City Attorney.

(b) The City Attorney shall submit a written report to the City Council as soon as possible but not later than fifteen (15) business days after the receipt of the complaint, unless an extension is granted by a majority of the non-implicated City Council members. The City Attorney may contact the complainant, interview witnesses and examine any documents necessary for the report. Such report shall be comprehensive and explain in detail all facts, findings, and conclusions in support of the City Attorney's opinion as to whether or not a violation of this Code of Ethics occurred. When the City Attorney receives a vague complaint or one lacking in detail, the City Attorney shall contact the complainant to request a written clarification. If the complainant fails to provide the City Attorney with written clarification, or if after written clarification is provided, it is the opinion of the City Attorney that the complaint is insufficient in detail and/or fails to allege a prima facie violation of the Code of Ethics, a written report to that effect shall be submitted to the City Council. If the City Attorney determines that a criminal violation may exist, the City Attorney shall refer the matter to the appropriate law enforcement agency.

(c) If it is determined by the City Attorney that the facts as alleged could constitute a violation of this Code of Ethics, then the City Attorney shall, within fifteen (15) business days after receipt of the complaint, notify the Mayor and City Council members of the existence and nature of the complaint. The City Council shall cause a meeting to convene, whether regular or special, within fifteen (15) business days after being so notified by the City Attorney to further consider said complaint in executive session with Mayor or any three (3) members of the City Council (excluding the Mayor) causing such a meeting to be convened. In any event, the City Attorney shall immediately proceed to fully investigate the alleged improprieties. For purposes of this investigation, the City Attorney shall have all of the powers of investigation as are given to the City

Council by reason of the City Charter and shall report back to the City Council as soon as possible but in no event more than fifteen (15) business days from the date of notification of the City Council unless an extension is granted by the City Council. Said report shall be comprehensive and explain in detail all facts, findings and conclusions in support of the City Attorney's opinion as to whether a violation of this Code of Ethics occurred.

(d) The City Council shall consider the complaint and the City Attorney's report at an executive session of the City Council. The affected officer may request that the complaint be considered in a public meeting. At such meeting, the City Attorney shall present a written report to the City Council describing in detail the nature of the complaint and the City Attorney's findings and conclusions as to a possible violation of this Code of Ethics. The affected officer shall have the right to a full and complete hearing before the City Council with the opportunity to call and cross-examine witnesses and present evidence in such person's behalf. The non-implicated City Council members in attendance shall conduct a hearing and review the complaint. The City Council may reject the complaint or take action authorized under Section 2-8, Violations.

(e) No action or decision with regard to the complaint shall be made except in a meeting which is open to the public.

(f) The City Council may appoint outside legal counsel, or may direct the City Attorney to appoint outside legal counsel, or the City Attorney in the City Attorney's discretion, may appoint outside legal counsel, to perform the duties and responsibilities of the City Attorney under subsection (b), (c) and (d) of this Section.

(g) A complaint or allegation of a violation of this article may only be made against an officer while such person holds such position or office. A complaint made against an officer pursuant to this Section shall be processed and resolved even if such person resigns from, or ceases to hold such position or office, prior to resolution of the complaint.

Sec. 2-8. Violations.

The City Council may take any one (1) or more of the following actions in an open meeting concerning a complaint:

(1) Issue a statement finding the complaint is totally without merit, brought for the purpose of harassment, or brought in bad faith.

(2) Issue a letter of notification when the violation is unintentional. A letter of notification shall advise the officer of any steps to be taken to avoid future violations.

(3) Issue a letter of admonition when the violation is minor or may have been unintentional, but calls for a more substantial response than a letter of notification.

(4) Issue a reprimand when a violation has been committed knowingly or intentionally.

(5) Remove from office an officer, other than a City Council member, for a serious or repeated violation of this Code of Ethics. Removal shall be, to the extent by and allowed, in compliance with the Charter and state law.

(6) Pass a resolution of censure or a recommendation of recall when the City Council finds that a serious or repeated violation of this Code of Ethics has been committed intentionally by a member of the City Council.

Sec. 2-9. Interpretation of content.

Any officer may request and the City Attorney shall issue, a verbal or written opinion (as deemed appropriate) concerning the meaning or effect of any section, word, or requirement of this Code of Ethics as it affects such person.

Sec. 2-10. Review.

The City Council shall review this article once every two years following its adoption on September 27, 2010.

Sec. 2-11 -- 2-25. Reserved."

SECTION 2. That should any sentence, paragraph, subdivision, clause, phrase or section of this ordinance be adjudged or held to be unconstitutional, illegal or invalid, the same shall not affect the validity of this ordinance as a whole, or any part or provision thereof other than the part so decided to be invalid, illegal or unconstitutional, and shall not affect the validity of the Code of Ordinances as a whole.

SECTION 3. That all provisions of the ordinances of the City of Richardson, Texas, in conflict with the provisions of this ordinance be, and the same are hereby, repealed, and all other provisions of the ordinances of the City of Richardson, Texas, not in conflict with the provisions of this ordinance shall remain in full force and effect.

SECTION 4. That this Ordinance shall take effect immediately from and after its passage, as the law and Charter in such case provide.

DULY PASSED by the City Council of the City of Richardson, Texas, on the 27th day of September 2010.

APPROVED:

MAYOR

CORRECTLY ENROLLED:

Pamela Schmidt

CITY SECRETARY

APPROVED AS TO FORM:

Peter G Smith

CITY ATTORNEY
(PGS:09-27-10:44891)