

**MEETING
Town of Little Elm
100 W Eldorado Parkway
Little Elm, Texas 75068-5060**

**214-975-0404
<http://www.littleelmtx.us>**

WORKSHOP AND REGULAR TOWN COUNCIL

**Tuesday, April 3, 2012 - 6:00 PM
Town Council Chambers
100 West Eldorado Parkway
Little Elm, TX 75068**

1. Call to Order Council Work Shop at 6:00 p.m.
 - A. Items to be withdrawn from Consent Agenda.
 - B. Emergency Items if posted.
 - C. Request by the Town Council for items to be placed on the next regular council agenda for discussion, and recognition of excused absences.
 - D. Update and review on Town's external collection agency regarding collection methods and warrant collection data. (Finance Director/Captain Harrison) 4
 - E. Discuss and provide Town Staff direction regarding CIP recognition plaque(s). (Interim Town Manager)
 - F. Presentation of monthly updates from department heads concerning law enforcement activities, municipal court, customer service, emergency medical services, fire department response, fire prevention activities, emergency management, ongoing economic development projects, building permits, code enforcement activities, library activities, human resources updates, information technology report, revenue and expenditure report, street construction status, sanitation services, highway construction status, utility operations, parks and recreation activities, as well as facility and fleet updates.
 - G. Council to highlight items on the agenda needing further discussion or comments prior to the regular session.
2. Presentations and Announcements: Susan Hauser to speak on behalf of the Children's Advocacy Center for Denton County. 13

3. Roll Call/Call to Order Regular Town Council Immediately Following Council Workshop.
4. Opening Prayer: Pastor Hugene Purdy- Trinity Resources Coaching Ministry.
5. Pledge to the Flags:
 - A. United States Flag
 - B. Texas Flag:

Honor the Texas Flag I pledge allegiance to thee Texas,
one state under God, one and indivisible.
6. Public Comments: Persons may address the Town Council on any issue. This is the appropriate time for citizens to address the Council on any concern whether on this agenda or not. Please observe the time limit of three (3) minutes. In accordance with the State of Texas Open Meeting Act, the council may not comment or deliberate such statements during this period, except as authorized by Section 551.072, Texas Government Code.
7. Consent Agenda: All matters listed under the Consent Agenda are considered to be routine by the Town Council and require little or no deliberation. There will not be a separate discussion of these items and the agenda will be enacted by one vote. If the Council expresses a desire to discuss a matter listed, that item will be removed from the consent agenda and considered separately:
 - A. Minutes of the March 20, 2012 Workshop and Regular Meeting. (Town Secretary) 14
 - B. Authorize Town Manager to execute Inmate Telecommunications Vending Service Agreement with JCW Electronics I Ltd., L.L.P. (Police Chief) 18
 - C. Approve Financial Policy revisions. (Finance Director) 20
8. Reports and requests for Town Council consideration and appropriate action:
 - A. Discussion and Action to adopt Ordinance No. 1099 an Ordinance of the Town of Little Elm Texas, Prescribing Rules, Regulations and Fees for the Senior Center and Community Recreation Center, providing for a severability clause; providing a penalty for violations; repealing previous ordinances in conflict; providing publication of the caption hereof. (Park Director) 64
 - B. Discussion and Action to approve letter amendment to the Development and Escrow Agreement between developer, 423 East, Ltd, and the Town of Little Elm and authorize the Town Manager to execute for the same. (Director Development Services) 78
 - C. Discussion and Action to adopt Ordinance No. 1097 an Ordinance of the Town of Little Elm, Texas, amending the Code of Ordinances of the Town, 97

by amending Chapter 26 (Businesses and Business Regulations), by amending Article VI (Vendors, Peddlers, and Solicitors) to clarify existing policy; providing a savings clause; providing a penalty; providing a severability clause; providing a repealer clause; and providing an effective date. (Planning Manager)

- D. Discussion and Action to approve request by the Town Auditors, Rylander, Clay and Optiz, LLP for an amendment to the FY 2010-2011 Audit Engagement for additional funding not to exceed \$16,380 (Finance Director) 101
- 9. FYI: (All matters are provided to the Town Council for informational purposes only)
 - A. Letter of Commendation-Officer Michael Jamison. 103
 - B. Update on Castleridge Connector Meeting with Robinson Ridge and Castleridge residents. 104
- 10. Adjourn Work Shop and Regular Meeting.

Pursuant to the Texas Open Meeting Act, (Chapter 551, Texas Government Code), one or more of the above items will be taken or conducted in open session following the conclusion of the executive closed session.

Persons with disabilities who plan to attend this meeting and who may need auxiliary aide of service such as interpreters for the hearing impaired, reader or large print are requested to contact the secretary at 214-975-0404 two days prior to the meeting so appropriate arrangements can be made. **BRAILLE IS NOT PROVIDED.**

Respectfully,

Town Secretary

This is to certify that the above notice was posted on the bulletin board at the Town Hall Center this 29th day of March 2012.



**TOWN OF LITTLE ELM
AGENDA INFORMATION SHEET
WORK SHOP SESSION**

**COUNCIL
SESSION:**

April 03, 2011

ITEM:

Update and review on Town's external collection agency regarding collection methods and warrant collection data.

BACKGROUND:

The Town contracted with McCreary, Veselka, Bragg & Allen P.C., Attorneys at Law in June 2010 to perform accounts receivable collections. They are currently collecting for ambulance, court and utility billing. The primary focus of this briefing is for an overview of the collections methodology utilized by the Town's collection agency; and, present collection statistical data primarily for warrants and outstanding court fines. The following is a brief summary of collection history performed by McCreary:

Municipal Court: Contract to date collections

# Of Citations that have been taken in for collection:	5,597
# Of Citations that have been collected on (partial or 100%):	1,091
\$ Amount that has been collected:	\$210,777.49
# Of citations in warrant status that have been collected:	315

Additional information will be presented in work shop session.

FISCAL IMPACT:

N/A

**RECOMMENDED
ACTION:**

No action required.

ATTACHMENTS:

Receivable Manual collection methodology.

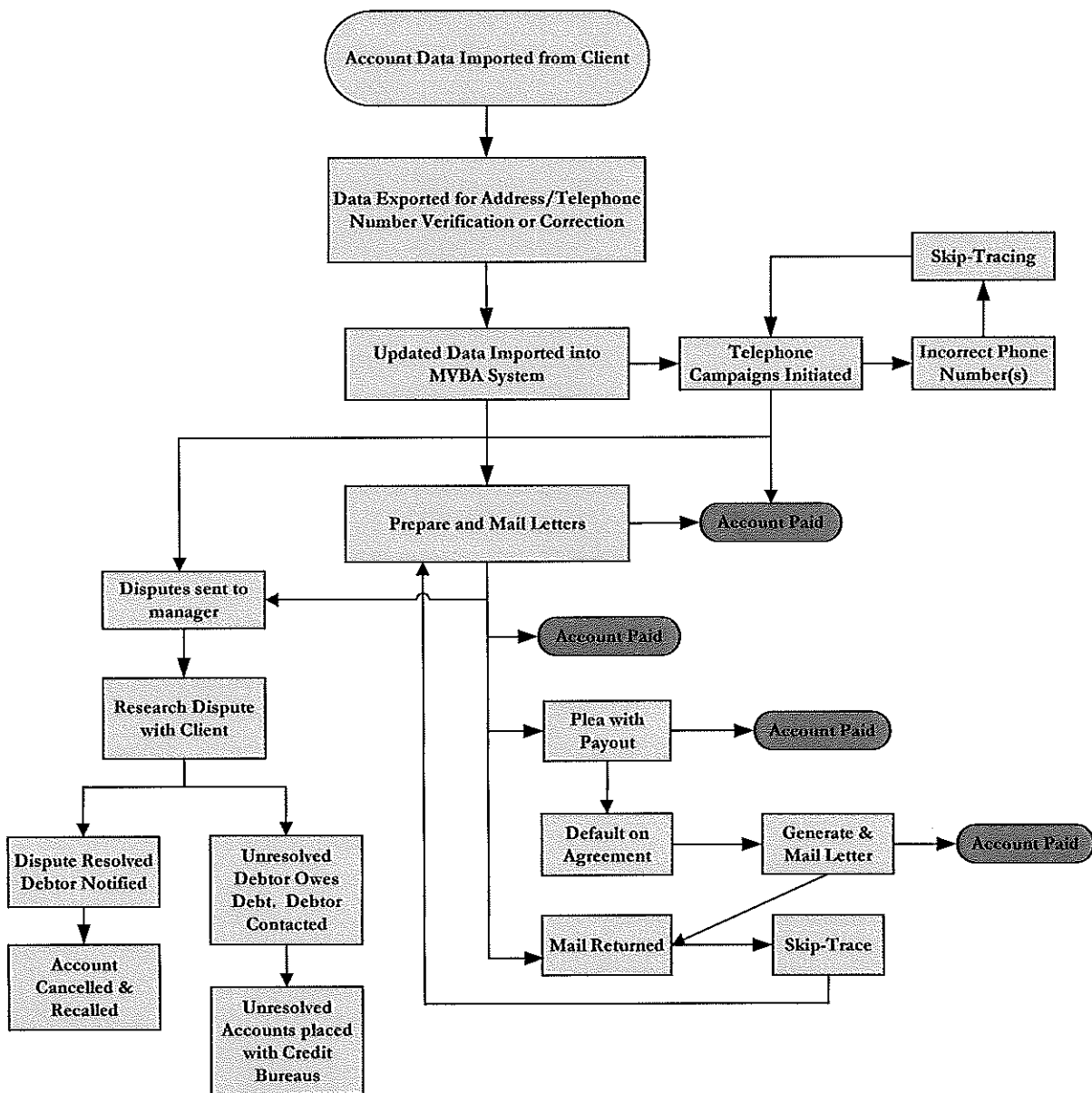
TOWN CONTACT:

Alan Dickerson, Finance Director - 214.975.0415
adickerson@littleelm.org

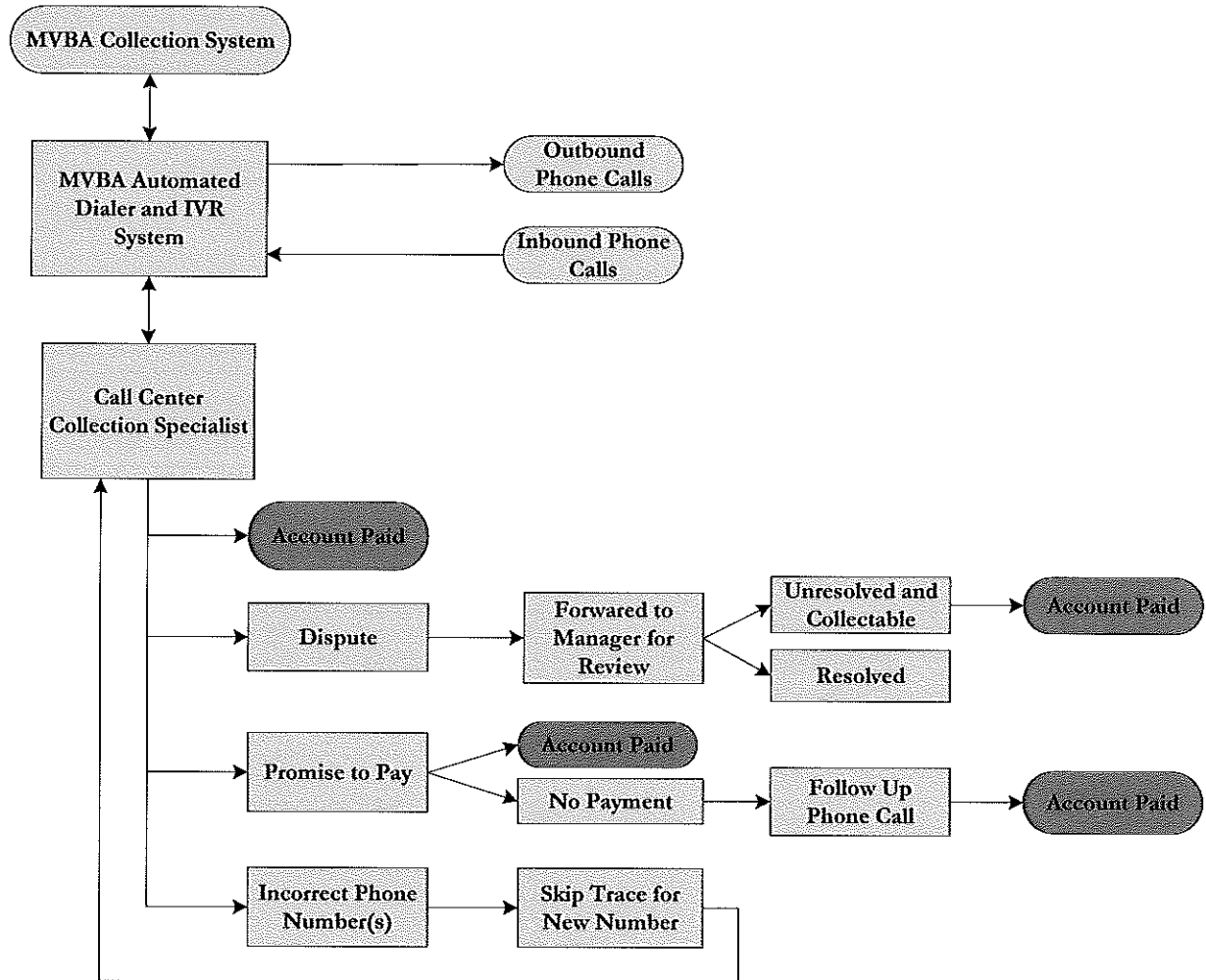
C - COLLECTION METHODOLOGY

The following information provides the collection methodology of McCreary, Veselka, Bragg & Allen, P. C. for past due and delinquent municipal collections.

COLLECTION PROGRAM FLOW CHART



CALL CENTER FLOW CHART



COLLECTION PROCESS AND PROCEDURES

As soon as you transfer your delinquent records to MVBA, your collection process begins. Always geared to your needs, MVBA processes have been proven to lead to speedy and accurate recovery. The steps of the detailed process are:

COMPREHENSIVE CASE/ACCOUNT ANALYSIS

Once the Town of Little Elm cases/accounts are loaded onto the MVBA computer system, our staff reviews them critically. We identify defendants/debtors that require immediate attention and devise strategies for initiating appropriate collection procedures. We determine the distribution of dollars by year and the status of each case/account. In turn, you receive an inventory report which ensures the accuracy of the information loaded into our system. Based on this determination, we formulate a collection program that meets your needs.

ELECTRONIC ADDRESS/PHONE NUMBER UPDATING

To ensure that MVBA has the latest address and phone number information for Town of Little Elm defendants/debtors, we process your names, addresses and phone numbers through various electronic research programs. The electronic data research programs used include Experian, Insight Collect, LexisNexis (Accurant), Choice Point, NCOA, Accumail, and Acolloid. All new information is electronically updated to our computer system and made ready for the collection process.

SCHEDULED WRITTEN NOTIFICATION

MVBA mails notices within 24 hours of receiving your defendants/debtors information. Subsequent mailings follow a work calendar that we develop with you. Our notices have been proven to increase the number of cases/accounts you resolve and your revenues. All of MVBA's letters are in both English and Spanish, and comply with federal and state collection laws.

Letters are tailored to the case/account status of each defendant or debtor. They state the description, location and date of the event, the amount due, telephone contact number and online payment

information. A tear-off portion and envelope for return payment is also included.

EFFECTIVE MAILING SERVICE

Timely mail notification is important for the Town to receive the best results. Utilizing the services of Business Ink Company, a Certified Texas Historically Underutilized Business "HUB", our expert team delivers your notices promptly and correctly. The company uses the latest in mail equipment technology, which can produce more than 1 million notices per month.

These facilities are certified by Underwriters Laboratories as compliant with ISO 9001:2000. You can rest assured that our services are backed by a comprehensive quality management system.

AUTOMATED TELEPHONE NOTIFICATION

Beyond letters, MVBA's automated call system uses several technologies that integrate with our collection software to provide exceptional quality service to defendants/debtors and increase your revenues. Defendants/debtors are given a toll-free telephone number, connecting them with trained collection specialists. Collection specialists, 80% bi-lingual, also initiate telephone contact with defendants/debtors (only between 8 am and 8 pm, Monday through Friday). Whether answering or initiating calls, MVBA specialists provide the personal contact needed to reinforce the importance of immediate payment.

If telephone numbers are missing or found to be incorrect, they are flagged and transferred to our skip tracing department.

INTERACTIVE VOICE RESPONSE (IVR) AND DIGITAL PREDICTIVE DIALER

Our IVR and Digital Predictive Dialer directs the caller to the collections specialist or lets a caller leave a message. The dialer technology provides maximum voice clarity, maximizing our ability to handle accounts by 400%. It manages incoming phone calls to ensure the caller receives prompt attention from a collection specialist. It automates outbound phone calls, notifying defendants/debtors of delinquency.

REPORTS

The automated call system reports on the number of calls placed and connected. It totals how many calls were considered wrong or busy numbers, how many calls are in queue, and other information.

Our call center floor supervisor monitors this data. If it deviates from predetermined benchmarks, the supervisor adjusts the volume of calls. Information gained from these reports ensures that you and your debtors receive high quality, efficient service.

EXPERT, PRODUCTIVE STAFF

When your defendants/debtors contact MVBA by telephone or by written correspondence, they are answered by our knowledgeable bilingual staff. If a question is beyond the level of our regular staff, attorneys are available to speak with defendants/debtors.

Internal review and productivity goals are part of our ongoing expectations for staff. MVBA's floor supervisor routinely audits all collection specialists to ensure compliance with MVBA's collection approach. Coaching or retraining may be undertaken when necessary.

In addition, specialists have collection goals. This allows MVBA to evaluate the collection results and the effectiveness of each specialist.

ADDRESS CORRECTION FOR RETURNED MAIL

If mail is undeliverable or returned because an individual has moved, the United States Postal Service electronically transfers information about these events into MVBA's computer system. If the post office provides a new forwarding address, the case/account is automatically updated and flagged for re-mailing. If not, the case/account is flagged as having received returned mail and is forwarded to our skip tracing department for more research.

INTERACTIVE SKIP TRACING

Once electronic solutions are no longer effective, Town of Little Elm cases/ accounts are moved to MVBA's Skip Tracing Department. Personal intervention is sometimes vital to successfully locating and resolving bad addresses or unavailable phone numbers. Our staff uses several licensed regional and national databases to manually skip trace your cases/accounts.

CASE/ACCOUNT RECALLING ON DEMAND

Town of Little Elm may recall cases/accounts for any reason.

DEFENDANT/DEBTOR PAYMENT OPTIONS

MVBA notifies defendants/debtors by letter and phone call to pay the amount due directly to the Court/Department by cashier's check, money order and credit card or electronic check if the Town can accept that method of payment. MVBA forwards the next business day all checks made payable to the Court/Department or MVBA but mailed to our office.

DEFENDANT/DEBTOR ONLINE INQUIRY

Your defendants/debtors are able to review their case/account information and payment history. Empowering them with information is a proven method to successful collections. Part of the information they receive from MVBA is a unique reference number, giving them convenient and safe online access.

CLIENT VIEW

With Client View, you can see exactly what has been accomplished in Town of Little Elm cases/accounts---at your convenience. Security is guaranteed with your secure login. Online, you can review collection activity reports, view call center activity, access individual defendant/debtor information, and much more.

RATE OF RECOVERY

MVBA believes that the collections that have been achieved for our clients speak for themselves. Our percentages are often times well above industry standards and always exceed the national averages. MVBA has significant results with our collection program implemented for the Town of Little Elm. The level of success depends on several factors; age of cases/accounts when turned over for collection, quality of data, type of software, and Town policies, procedures and cooperation with and participation in the collection program.

Through MVBA's in-depth skip-tracing, mailing of multiple letters and the numerous phone calls used in the collection process, the work plan described in this proposal details the collection efforts that are utilized in the collection of the delinquencies. This performance can be

supported by our current debt collection clients and the statistical reporting utilized by MVBA.

COMPLAINT/DISPUTE RESOLUTION

Your defendants/debtors receive the same exceptional service, professionalism and ethical treatment that you do. Our goal is to have no complaints/disputes about our collection activity. If a complaint should arise, MVBA strives to resolve it promptly, to the satisfaction of all parties.

Upon oral or written notification of a complaint/dispute, we immediately suspend all collection activity pending case/account review. We enter the information into our Professional Practice Management Tracking System, which automatically emails our management team for prompt review. All notes and collection phone calls are reviewed to determine the validity of the complaint/dispute. In addition all phone calls are recorded and upon request, MVBA can transmit a recording of a conversation via a .wav file or other medium.

The tracking system monitors and sends automatic reminders to ensure the matter is resolved within a prescribed timeframe. If it is not resolved within that time, the system automatically escalates the matter to executive management. This means the Town of Little Elm can be confident that matters are resolved timely.

REFUNDS FOR OVERPAYMENT

Occasionally, a defendant/debtor overpays. When this happens, MVBA's accounting department compares the amount overpaid to the balance owed. Once validated, the overpayment amount is promptly refunded to the defendant/debtor.

WARRANT ROUND-UP AND/OR AMNESTY PROGRAMS

MVBA assists our clients in warrant round-up programs. We mail special letters and conducted telephone campaigns specifically designed for these programs. Client Amnesty and/or Warrant Round-Up Programs are developed specifically as to the client's ability to provide case data for MVBA to send letters and conducted telephone campaigns at the volume that the court can accommodate.

ACCURATE DATA TRANSFER

MVBA uses secure file transfer protocol (SFTP) to efficiently and securely transfer your data to us.

Each account is given a unique identifying number for report creation and for tracking through the system.

MVBA tests the data received to ensure accuracy of account information. Once your program is set up, you receive an inventory report which ensures the accuracy of the information loaded into our system.

ONLINE CLIENT SERVICE

Many of the problems our clients face can be easily remedied using the phone and the computer. Special software allows us to log on to your computer. We can walk you through your problem, so you don't have to wait for an office visit.

INNOVATIVE COLLECTION SOFTWARE

MVBA's programming team has taken traditional collection software and enhanced it to meet your changing needs. Our award-winning collection software is built on the latest Microsoft.Net® development and SQL Database technologies.

MVBA software interfaces with all major software vendors in the country. It automates and supports all aspects of our collection program. This includes skip tracing, the call center, payment processing, reporting, accounting, invoicing, and data file transfers.

ADVANCED SYSTEM DESIGN

MVBA's system brings you the latest in efficient hardware and infrastructure design. Over the years, we have spent millions to maintain our leadership in the collections industry.

- Cisco ASA Firewall — 128 Bit Encryption
- Dell Servers
- EMC/VMWARE — Virtual Infrastructure
- Disaster Recovery Location, Equipment, plus Replication
- Fiber Channel Storage Area Network (SAN)
- Digital Predictive Dialer
- SQL Servers

Kathy Phillips

From: Susan Hauser
Sent: Friday, March 23, 2012 10:31 AM
To: Kathy Phillips
Subject: speaking at city council April 3

I would like to speak at the April 3 City Council meeting on behalf of the Children's Advocacy Center for Denton County. I understand I am to be at 100 W. Eldorado Parkway by 6:15. If this is incorrect, please let me know. Thanks!

Susan Hauser

MINUTES
Town of Little Elm
214-975-0404
<http://www.littleelm.org>

WORKSHOP AND REGULAR TOWN COUNCIL MEETING

Tuesday March 20, 2012

Present: Charles Platt Mayor, Curtis Cornelious Mayor Pro-tem, Council members Richard Stevens, Brandon Gerard, and Bill Roebken. **Absent:** Council member Stephanie Shoemaker. **Staff:** Robert Brown, Doug Peach, Kathy Phillips, Alan Dickerson, Dianne Lawson, Robin Bromiley, Jason Laumer, Dusty McAfee, Dee Dee Hale, Kevin Mattingly, Lynn Tompkins, and Joe Florentino.

1. Called to Order Council Work Shop at 6:00 p.m.

- a. Items to be withdrawn from Consent Agenda. **NONE**
- b. Emergency Items if posted. **NONE**
- c. Request by the Town Council for items to be placed on the next regular council agenda for discussion, and recognition of excused absences. Upon motion by Council member Roebken and second by Council member Cornelious the members **voted 4-1** (opposed Council member Stevens) to approve the absence of Council member Stephanie Shoemaker from the March 20th meeting.
- d. Receive the Town's Auditors Report and Opinion from Rylander, Clay & Optiz, LLP on the audited financial statements of the Town at fiscal year-end September 30, 2011: **Finance Director Alan Dickerson** informed council that representatives were present to give the report and respond to questions. The audited financial statements (Comprehensive Annual Financial Report) has been provided in electronic format and a hard copy of the report is available. In compliance with Texas Local Government Code, Chapter 103-Financial Audis whereby financial statements are audited within 120 days of the close of the fiscal year and filed with the Town Secretary and available for public inspection.
- e. Receive 2011 Planning and Zoning Annual Report: **Planning Manager Dusty McAfee**-each year in March a written progress report is given to the Town Council summarizing the Planning and Zoning Commission activities, major accomplishments for the past year, and proposed work program for the coming year. The report contains the attendance records of members and the identity of the Commissions Officers. (Little Elm Code of Ordinances-106-23(A)(15). Inside the report you will find; the Town's Mission and Vision Statement, Executive Summary, Awards/Honors, Commission Roster, Attendance Record, Case Summary, Case History, and Behind the Scenes: Development Services Department.
- f. Presentation of monthly updates from department heads: **Public Works Director Kevin Mattingly** informed the Council that the Town would be hosting a "Water is Life Expo" on April 7th at Town Hall from 9:30 a.m. to 12:00 noon. This seminar is to teach how to implement water saving

techniques, demos for changing your existing spray irrigation heads to more efficient drip irrigation, and vendors with supplies you would need will be in attendance. Seminars are: Irrigation for Conservation at 9:30 by Dotty Woodson Ed. D; Texas Tough Plant at 10:15 by Janet Laminack CEA-Horticulture; and Rainwater Harvesting at 11:00 by Dotty Woodson Ed D. Our quest speaker Dotty Woodson, a Program Specialist for the Texas AgriLife Research & Extension Center at Dallas, appears weekly on NBC Channel 5 Sunday Morning News and writes a weekly column for the Fort Worth Star Telegram. She has also won two national awards for water programs in Tarrant County. On Saturday March 24th Keep Little Elm Beautiful will be conducting a clean-up along the trails of Shell Beach from 9 am to 1 pm. This project is in conjunction with Keep America Beautiful Great American Clean-Up this is the nation's largest annual community improvement program, brings the power of 3.8 million volunteers and participates to create local change. Volunteers donated more than 5.2 million hours in 2011 to clean, beautify, and improve more than 16,500 communities during more than 30,600 events in all 50 states and beyond. Activities included beautifying parks and recreation areas, cleaning seashores and waterways, handling recycling collections, picking up litter, planting trees and flowers, and conducting educational programs and litter-free events. Volunteers from Little Elm and Lewisville will be participating in the event. Geocaching is being done during this event. A marker is placed at a specific location and then is search for by geocachers. **Interim Town Manager Doug Peach** asked Council to table item 8-B regarding Solicitors/Vendors Ordinance in order to complete further work on verbiage. Also that Staff will present Warrant/Collections report at the April 3rd meeting and Municipal Development District/EDC report at the April 17th meeting as requested by Council member Stevens. He also reported that the Town Manager Profile was received and staff was ready to move forward. The Grand Opening of the Public Safety Building would be held within the next 30-40 days.

- g. Council to highlight items on the agenda needing further discussion or comments prior to the regular session. **NONE**

2. Presentations and Announcements: **NONE**

3. **Roll Call/Call to Order Regular Town Council Immediately Following Council Workshop.**

4. **Opening Prayer:** Richard Stevens Living Word Baptist Church.

5. **Pledge to the Flags:**

- a. United States Flag
- b. Texas Flag

6. Public Comments: **NONE**

7. Upon motion by Council member Roebken and second by Council member Cornelious the members **voted 5-0** to approve the Consent Agenda as presented:

- a. **Minutes** of the March 6, 2012 Workshop and Regular Meeting.
- b. **Authorize** final payment of \$62,853.70 to Quality Excavation, Ltd. of Aubrey, Texas for close out the Town's Lewisville Lake-Water and Sewer Bore Construction Contract, and authorize the Town Manager to execute the same.
- c. **Authorize** final payment of \$44,943.75 to Quality Excavation, Ltd. of Aubrey, Texas for close out the Town's Witt-Woodlake Construction Contract, and authorize the Town Manager to execute the same.
- d. **Authorize** partial retainage release payment of \$144,567.71 to Quality Excavation, Ltd. of Aubrey, Texas for the Town's Lobo Lane Construction Contract, and authorize the Town Manager to execute the same. Development
- e. **Approve** Final Plat Paloma Creek South, Phase 7A from Petitt Barraza, LLC generally located along the eastern portion of Villa Paloma Boulevard in Paloma Creek South.
- f. **Receive** and Accept the CAFR and the Town Auditors Report for fiscal year ended 09-30-11.
- g. **Approve** Resolution No. 03201201 authorizing the publication of Notice of Intent to issue certificates of obligation in a principal amount not to exceed \$6,000,000 for the purpose of paying contractual obligations and other costs to be incurred for the construction of improvements and extensions to the Town's Waterworks and Sewer System.

8. **Reports and requests for Town Council consideration and appropriate action:**

- a. Upon motion by Council member Stevens and second by Council member Roebken the members **voted 5-0** to adopt Ordinance No. 1096 an Ordinance authorizing the issuance of Town of Little Elm, Texas, General Obligation Refunding Bonds, Series 2012; levying a continuing direct annual ad valorem tax for payment of said Bonds; and resolving other matters incident and related to the issuance, sale, payment, and delivery of said Bonds; establishing procedures for the sale and delivery of said Bonds; and delegating matters relating to the sale and issuance of the Bonds to an authorized Town official(s).
- b. Upon motion by Council member Gerard and second by Council member Cornelious the members **voted 5-0** to **TABLE** Ordinance No. 1097 an Ordinance of the Town of Little Elm, Texas, amending the Code of Ordinances of the Town, by amending Chapter 26 (Businesses and Business Regulations), by amending Article VI (Vendors, Peddlers, and Solicitors) to clarify existing policy; providing a savings clause; providing a penalty; providing a severability clause; providing a repealer clause; and providing an effective date.

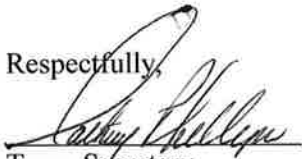
- c. Upon motion by Council member Roebken and second by Council member Gerard the members **voted 5-0** to approve Revised Frisco Hills, Frisco Ranch, and The Preserve Development Agreement, Interlocal Agreement, and Compromise and Settlement Agreement between the Town of Little Elm and Frisco Hills, L.P. and authorize the Town Manager to execute amendment for same.
- d. Upon motion by Council member Cornelious and second by Council member Roebken the members **voted 5-0** to approve the Exchange Agreement between the Town and Elmwood Estates, Ltd. and authorize the Town Manager to execute the same.
- e. Upon motion by Council member Cornelious and second by Council member Roebken the members **voted 5-0** to approve the selection of Starling Richardson for Construction Manager at Risk on the Animal Shelter, Water Utility Billing and Town Hall Reconfiguration, Library Expansion, and Various Remodel Projects.
- f. Upon motion by Council member Roebken and second by Council member Gerard the members **voted 5-0** to approve the Construction Project Change Order #4 in the amount of \$182,772.00 for the Town's Lobo Lane Improvement Project to Quality Excavation, Ltd. of Aubrey, Texas and authorize the Town Manager to execute the same.

9. **FYI:** (All matters are provided to the Town Council for informational purposes only)

- a. Town Secretary Monthly Report for February 2012.
- b. Development Services Monthly Report for February 2012.

10. Adjourned Work Shop and Regular Meeting **at 6:49 p.m.**

Respectfully,



Town Secretary

PASSED AND APPROVED this _____ day of _____ 2012.

TOWN OF LITTLE ELM

AGENDA INFORMATION SHEET

COUNCIL MEETING

DATE: April 3, 2012

PROJECT: Inmate pay phones

DESCRIPTION: As a part of the jail operations installing inmate payphones will benefit both the inmate and the Little Elm Police Department. Inmates will have a means of contacting someone on the outside to assist with making arrangements for his/her release from jail. These are "Collect Only," payphones.

There is no upfront or ongoing cost to the Town to install these phones. The agreement is based commissions from phone usage. The commission payment shall be **thirty-five (35%)** of the monthly billable gross received revenue will go to JCW Inmate Payphone Systems and **sixty-five (65%)** commissions to the Police Department.

This agreement shall automatically renew for successive two (2) year terms unless 90 days prior to the expiration period of any term hereof CUSTOMER gives written notice to JCW of intent to terminate this agreement.

COST: None

FUNDING SOURCE: N/A

(Note: If funding is not included in the current budget, a Fiscal Note signed by the Finance Director will be attached)

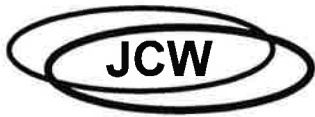
SCHEDULE: Upon approval by Town Council

RECOMMENDED

ACTION: Town Council to authorize the Interim Town Manager to sign the contract agreement.

TOWN CONTACT: Waylan Rhodes, Chief of Police 214-975-0465

ATTACHMENTS: Copy of terms and agreement with Inmate Telecommunications Vending Services Agreement



JCW Electronics I Ltd., L.L.P.

d.b.a. JCW Inmate Payphone Systems

Inmate Telecommunications Vending Services Agreement

This location agreement made this 3rd day of **April 2012**, by and between **LITTLE ELM POLICE DEPARTMENT**, hereinafter referred to as **CUSTOMER** and **JCW ELECTRONICS I Ltd., L.L.P.**, hereinafter referred to as **JCW**, with respect to the premises (facility) noted below for the purpose of establishing a vending arrangement on the following terms and conditions:

1. CUSTOMER, for and in consideration of the commission hereinafter set out and service provided by JCW does hereby grant JCW an exclusive right and license to install and rate pay telephone services for inmate use at the facility, and hereby leases its facility for that purpose at the location upon and within the property known as **Little Elm, Police Department**, located in the City of Little Elm, County of Denton, State of **Texas**, for the term of sixty (60) months for the purpose of installing and operating 'Collect Only', or other operator service provider equipment. The term of this agreement shall commence upon the date of installation of JCW's equipment. This agreement shall automatically renew for successive two (2) year terms unless 90 days prior to the expiration period of any term hereof CUSTOMER gives written notice to JCW of intent to terminate this agreement.
2. The commission payment shall be **thirty-five (35%)** of the monthly billable gross received revenue without the inclusion of the property-imposed fee. Said commission payments are to be paid monthly to CUSTOMER upon collection of the monthly billable revenue from the local exchange carrier and clearinghouses less costs of monthly line charges and repair costs.
3. CUSTOMER and JCW hereby agree that:
 - a) During the term of this agreement or any renewal of the same CUSTOMER shall not grant operator service rights to any other company, including the local telephone company.
 - b) CUSTOMER shall notify JCW of any malfunction of telephone service and shall allow JCW access to CUSTOMER'S facility during normal business hours for system repair and maintenance.
 - c) CUSTOMER and the undersigned has the authority to enter into this agreement and, in the event of the relocation of the inmate jail facility or a sale of the location or assignment, sublease or other transfer of the lease covering the location, same shall be made subject to this agreement.
 - d) All phones, wiring and equipment, if any, shall be installed by JCW at its expense and CUSTOMER hereby authorizes JCW to contact the local telephone company to arrange for the installation of additional phone lines to the facility to be used exclusively for the inmate payphone system and will not interfere with any existing telephone service.
 - e) JCW may, at its option, remove all telephone equipment and all other property belonging to JCW from the facility and terminate this agreement at any time and is hereby expressly granted the right to assign this agreement.
 - f) JCW shall be in default under this agreement, following the commencement of installation if:
JCW fails to pay customer any commission(s) due customer within the time frame set under this agreement, and if there lack of service and repair of equipment installed in the facility. Such notification of lack of service shall be in writing via US Certified Mail.
 - g) CUSTOMER may terminate this agreement if: JCW is in default under this agreement as defined in paragraph (f) and if such default is not corrected within thirty (30) days of written notice to JCW, or to correct such a default within a reasonable time period after such notice.
 - h) CUSTOMER acknowledges that JCW will make a substantial investment in phone equipment and make other financial commitments on the basis of this agreement. A breach of this agreement by CUSTOMER (such as cancellation without just cause) will result in financial injury to JCW. Upon breach by CUSTOMER, JCW will be entitled to pursue its legal remedies, as appropriate.
4. This is the sole agreement between the parties hereto superseding all previous agreements and shall bind the parties, and their successors. Each acknowledges the receipt and retention of a fully executed copy hereof. This agreement is not binding unless and until it is reviewed and executed by a duly authorized officer of JCW. JCW may correct any patent errors or omissions, or complete any inadequate location description.

Amendments _____

EXECUTED this 3rd day of April 2012, by the undersigned parties.

Signature

Date

Signature

Date

Name/Title

Name/Title



TOWN OF LITTLE ELM AGENDA INFORMATION SHEET CONSENT AGENDA

**COUNCIL
SESSION:**

April 03, 2012

ITEM:

Approve by consent Financial Policy revisions.

BACKGROUND:

This item was discussed in Work Shop Session on March 06, 2012. There was a request during the session to amend the proposed “purchase card” policies to a “strike two” policy for purposes of revoking a cardholder’s privileges.

The more significant changes are highlighted below:

- Budget Administration – restricting the reallocation of salary and benefit appropriations for operational appropriations (i.e. small tools and supplies).
- Asset Management and Procurement – designating the Town’s Fleet Manager as the person to manage transfers of equipment and the Town’s auctions.
- Debt Management – setting a debt to operations limit of 35%.
- Fund Balances – setting aside and establishing an Capital and Equipment Reserve Fund (Committed)
- Purchasing - changes Council Approval threshold from \$25,000 to \$50,000 (Chapter 252 of Local Gov’t Code).
- P-Card Policies – revocation and termination of card privileges upon two (2) occurrences of misuse instead of three (3) occurrences.

All of the policies and procedures as written and attached are in practice currently; the significant and major change is in regard to Purchasing and procurement which changes the Town Council Approval threshold from \$25,000 to \$50,000 which is in accordance with Texas Local Government Code.

FISCAL IMPACT:

N/A

**RECOMMENDED
ACTION:**

Consent action to approve policies as presented with an immediate effective date.

ATTACHMENTS:

Proposed Policies and Procedures

TOWN CONTACT:

Alan Dickerson, Finance Director; adickerson@littleelm.org

EXHIBIT

FISCAL POLICIES



TOWN OF LITTLE ELM FISCAL POLICIES

Introduction

The Town of Little Elm, Texas financial policies set forth the basic framework for the fiscal management of the Town. These policies were developed within the parameters established by applicable provisions of the Texas Local Government Code and the Town of Little Elm Town Charter. The policies are to be reviewed on an annual basis and modified to accommodate changing circumstances or conditions.

I. Annual Budget

1. The fiscal year of the Town shall begin on the first day of October each year and shall end on the thirtieth day of September of each year.
2. On or before the fifteenth day of August of each year, the Town Manager shall submit to the Town Council a balanced budget of the revenues of the Town and the expense of conducting the affairs thereof for the ensuing fiscal year. The Town is committed to a balanced operating budget under normal circumstances. Any deviations from a balanced budget are to be presented with full disclosure and justification. Fund Balance (reserves) can be used to balance the budget (see section on Fund Balance). The Budget as submitted by the Town Manager shall be legally adopted for all governmental fund types of the Town by Ordinance.
3. The Town Manager leads the Budget Process with the Mayor and Town Council, Finance Director, Town Departments, and the public participating during various stages of the budget process. Throughout the process, the Town Manager provides the Town's Department Heads with policy direction in formulating the budget and discusses areas of concern with Town Council.
4. Role of Department Heads and Directors. Each Department Head and Director is responsible for the effective, efficient, and economical use of all resources made available to his or her department or division. After direction from the Town Manager, all department and division managers are given formal budget packets to complete electronically. Once packets and budgets are submitted electronically to the Finance Department, the Finance Director and Town Manager reviews the Department baseline requests and will determine whether changes are required based on funds availability and priorities. Interviews with Department Heads and Directors are conducted with the Town Manager and Finance to review budget requests and justifications for new programs or expansion of programs. Department Heads and Directors must present with their budget submissions base budget justifications along with supplemental request explanations for operational expenses as well as requests for additional personnel. These requests are weighed against financial constraints.
5. Town Manager's Proposed Budget. Once the budget reviews are completed and revisions are made to the requested budget, the result becomes the Town Manager's proposed budget of programs and services. The Town Manager's proposed budget is filed with the Town Secretary and distributed to Town Council to set in motion work sessions, public hearings and ultimate approval.

The Town Manager's proposed budget must be an itemized estimate (by line-item) of the expense of conducting each department, division, office and/or fund. The Town Manager's proposed budget must be submitted to Town Council with a concise summary of the budget summarizing major changes in priorities or service levels from current years and the factors leading to those changes. Additionally, the Proposed Budget must include:

- a. Priorities and key issues for the new budget period
- b. Major financial factors and trends affecting the budget
- c. Significant changes in revenue functions including property taxes
- d. Current and future debt obligations

- e. Rate changes for Utilities as well as other fees and charges summarized
- f. Significant use of or increase in unreserved fund balances.
- g. Provide for financial summary at the Fund level that reflects at least a three-year period, including prior year actual, current year budget and/or estimated current year actual, and proposed budget.

6. Final Budget. The budget for all funds shall be balanced in that the appropriations from each fund shall not exceed the resources available for the fiscal year. These resources include estimated revenues and the unreserved balance in the fund at the beginning of the year. There shall be a least one public hearing on the operating budget prior to adoption of the budget by ordinance. The Town Council can amend the Town Manager's proposed budget prior to adoption by ordinance. The Budget shall be approved by ordinance prior to the last day of the fiscal year with or without amendment.

7. Tax Levy. The proposed budget shall contain a suggested tax rate to be levied to support the operational plan of expenditures and debt requirements for the ensuing fiscal year. All applicable laws pertaining to the adoption of the tax rate must be complied with including the adherence to the Truth-in-Taxation time table and events as outlined by the State Comptroller in the Truth-in-Taxation Handbook.

- a. The applied property tax rate will not exceed the effective tax rate by more than 8% or more commonly referred to as the "roll-back" tax rate unless public hearings and notices are done in compliance with Property Tax Codes.
- b. The Town will strive to maintain the percentage of the tax rate allocated to the general fund at a minimum of 65%. Conversely, the allocation of the tax rate for debt purposes will be no more than 35%.

II. Budget Administration

1. All expenses of the Town shall be made in accordance with the adopted annual budget or as legally amended.
2. The legal level of budgetary control is at the fund level. The Town Manager is authorized to transfer budgeted amounts between departments within any fund. Any revision(s) that increases the total expenditures of any fund greater than the original budget must be approved by ordinance of Town Council.
3. Transfers between expenditure accounts (line-items) in one department or division may occur with the approval of the Finance Director. Transfers between operating departments may occur with the approval of the Town Manager and Finance Director provided that a department's total budget is not changed. Transfers between funds must be accomplished by budget amendment approved by ordinance of the Town Council. However, budgeted operating transfers are authorized within the authority given in the annual budget ordinance.
4. Budget Delivery and Execution. After the budget and tax levy are adopted by Town Council by ordinances, the Finance Department distributes the adopted budget, capital outlay schedules and personnel schedules denoting the expenditure and staffing authority that each department has in order to carry out its mission and provide services to the Town. The Finance Department monitors revenues and expenditures through the fiscal year for reportable conditions of major fluctuations in revenues and/or expenditures.

No money shall be drawn from the Town Depository, nor shall any obligation for the expenditure of money be incurred, except in pursuance of appropriations made by the Town Council. At the close of each fiscal year, the unencumbered balance of each appropriation shall revert to the fund from which it was appropriated and shall be subject to future appropriations.

5. Budget Reports. The Finance Department will generate reports to the Town Manager and Departments on a routine basis or upon request. The Finance Department will prepare quarterly budget reports to Town Council identifying and highlighting sources and uses of funds in a summary format with narrative explanations of significant changes and fluctuations.

III. Other Budget Initiatives:

1. The Town shall establish and maintain a Capital Reserve Fund to be used to renovate, repair and replace fixed assets of the Town, including public buildings, streets, storm sewers, park facilities and water and wastewater improvements. The Town shall establish and maintain an Equipment Replacement and Reserve Fund to be used to replace movable fixed assets of the Town, including vehicles, off road equipment, and other equipment with an average life of more than three years and valued over \$5,000. There shall be established and maintained, within the Capital Reserve Fund and Equipment Replacement and Reserve Fund such accounts as shall be deemed appropriate by the Town Manager as evidenced in the Town's annual budget. The Capital Reserve Fund and Equipment Replacement and Reserve Fund shall be funded with contributions made from nonrecurring revenues as available and other revenues detailed in the budget submitted to the Town Council by the Town Manager.

2. The Capital Budget or Capital Improvement Plan (CIP) is a separate and distinct process of planning and budgeting but connects to the operating budget for future potential of adding operational expenditures (see section below on Capital Project Expenditures). The annual budget will be developed to fund services of benefit for just one or two years and expenditures with long-term benefits will be put into a Capital Budget which takes a multiyear perspective. The Town Manager will submit as an appendix to the Town's operational budget a Capital Budget outlining capital improvement projects. The Town's Capital Improvement Plan is developed as a five-year plan for both Utility and General Governmental purposes.

IV. Basis of Accounting and Budgeting

1. The Town's finances shall be accounted for in accordance with generally accepted accounting principles as established by the Governmental Accounting Standards Board.

(a) The accounts of the Town are organized and operated on the basis of funds and account groups. Fund accounting segregates funds according to their intended purpose and is used to aid management in demonstrating compliance with finance-related legal and contractual provisions. The minimum number of funds is maintained consistent with legal and managerial requirements. Account groups are a reporting device to account for certain assets and liabilities of the governmental funds not recorded directly in those funds. Governmental funds are used to account for the government's general government activities and include the General, Special Revenue, Debt Service and Capital Project funds.

(b) Governmental Fund types use the flow of current financial resources measurement focus and the modified accrual basis of accounting. Under the modified accrual basis of accounting, revenues are recognized when susceptible to accrual (i.e., when they are "measurable and available"). "Measurable" means the amount of the transaction can be determined and "available" means collectible within the current period or soon enough thereafter to pay liabilities of the current period. Substantially all revenues are considered to be susceptible to accrual. Ad valorem, sales, franchise and tax revenues recorded in the General Fund, ad valorem tax revenues recorded in the Debt Service Fund are recognized under the susceptible to accrual concept. Licenses and permits, charges for services, fines and forfeitures, and miscellaneous revenues (except earnings on investments) are recorded as revenues when received in cash because they are generally not measurable until actually received. Investment earnings are recorded as earned since they are measurable and available. Expenditures are recognized when the related fund liability is incurred, if measurable, except for principal and interest on general long-term debt, which are recorded when due, and compensated absences, which are recorded when payable from currently available financial resources.

(c) The Town's Proprietary Fund types are accounted for on a flow of economic resources measurement focus and use the accrual basis of accounting. Under this method, revenues are recorded when earned, expenses are recorded when earned, and expenses are recorded at the time liabilities are incurred.

2. The Town's annual budgets shall be prepared and adopted on a basis consistent with generally accepted accounting principles for all governmental and proprietary funds except the capital projects funds, which adopt project-length budgets. Depreciation expense is not budgeted. All annual appropriations lapse at fiscal year end.

V. Financial Reporting

1. Following the conclusion of the fiscal year, the Finance Director shall cause to be prepared a Comprehensive Annual Financial Report (CAFR) in accordance with generally accepted accounting and financial reporting principles established by the Governmental Accounting Standards Board. The document shall also satisfy all criteria of the Government Finance Officers Association's Certificate of Achievement for Excellence in Financial Reporting Program.

2. The CAFR shall show the status of the Town's finances on the basis of generally accepted accounting principles (GAAP). The CAFR shall show fund revenues and expenditures on both a GAAP basis and budget basis for comparison purposes.

3. Included as part of the CAFR shall be the results of the annual audit prepared by independent certified public accountants designated by the Town Council.

4. The Finance Director shall submit to the Council a quarterly statement of all receipts and disbursements in sufficient detail to show the exact financial condition of the Town.

5. Actual expenditures and revenues will be compared to the budget periodically to demonstrate operating/capital expenditure accountability.

VI. Revenues

1. The Town will strive to obtain franchise agreements that incorporate a franchise or rental fee with all public utilities (including municipally owned utilities). The fee structure will be similar to other cities in the area and allowed by the Public Utility Commission. In addition the Town will seek the "most favored nations' clause" in its franchise agreements with public utilities operating within the Town.

2. The Town will strive to maintain revenue diversification in order to improve the ability to handle fluctuations in individual sources such as property taxes, sales and other taxes. Fees and Charges for services will be reviewed annually to the extent to which they cover the cost of the service being provided.

3. The Town will pursue an aggressive policy of collecting all moneys due to the Town.

4. The Town will continue an aggressive program to reduce the level of delinquent taxes. The minimum collection rate objective is 98%.

5. The Town will strive to maintain total delinquent taxes outstanding at an aggregate level not to exceed 10% of the current tax levy.

6. Tax exemptions presently allowed by the Town will be monitored to include the Senior Tax Ceiling and the 65 year old and disabled person's homestead exemption. Additional residential or non-profit property exemptions must be approved by the Town Council.

VII. Fund Transfers

1. General and administrative charge backs to the Water and Wastewater Fund are calculated annually to cover costs in the General Fund for services provided to the Utility. The costs are calculated on a budget basis for the current year. The Town has defined this charge back as a "payment-in-lieu-of-taxes (PILOT)". The Finance Department will prepare an annual calculation with review by the Town Manager and Public Works Director.
2. Fund transfers are approved in the annual budget by Town Council and will be paid quarterly unless frequency is specified otherwise.

VIII. Debt and Amortized Bond Payments

1. The Town will manage the length of maturity of its long-term debt in order to lower net interest cost and to maintain future flexibility by paying off debt earlier. The target amortization shall be 15 years but not more than 25 years depending on the life of the asset.
2. The Town will issue debt only to fund capital projects, which cannot be supported by current annual revenues or reserves of any operational or capital fund.
3. The Town will strive to maintain and demonstrate the strongest creditworthiness relative to other U.S. municipal or tax-exempt issuers or issues. The Town shall continue to seek to enhance its credit quality by frequent contact and visits with the rating agencies and monitoring the current trends and guidance from the agencies.

IX. Fund Balances

1. Fund balances are intended to serve as a measure of the financial resources available in a governmental fund. The Town will make distinguishing documentation of its reserved and unreserved fund balances as defined by the Government Accounting Standards Board (GASB) Statement No. 54. Only unassigned fund balances are available for spending first followed by other spendable fund balance reserves (Assigned and Committed). The Town will set aside resources or adequate levels of fund balance to mitigate current and future risks (e.g., revenue shortfalls and unanticipated expenditures) and to ensure stable tax rates. The Town recognizes that healthy fund balances are crucial to the Town's long-term planning and a separate policy consistent with the requirements of GASB 54 is made a part of these policies as an Exhibit A as adopted by Ordinance No. 1070.
2. Fund balance reserves will only be used for one-time expenses. The Town Manager may use fund balance reserves to balance the operating budget. However, the Town Manager must designate one-time expenditures to offset the use of fund balance as a balancing mechanism.
3. The Town will maintain a committed fund balance in its general-purpose fund (General Fund) an amount equal to three months or 25% of the regular general fund operating expenditures.
4. The Town will maintain a reserve of near cash and investments in the Water and Wastewater Fund ("the Utility") equal to two months (60 days) of the total operating revenue. The reserve will be calculated based on total operating revenues from the last audited financial statements of the Water and Wastewater Fund.
5. The Town will maintain all required reserves to meet specific bond covenants in its proprietary funds (Water and Wastewater) as may be required.

X. Capital Project Expenditures

1. The Town of Little Elm will develop a multi-year plan for capital projects which identifies all projects likely to be constructed within a five-year horizon. The multi-year plan will reflect for each project the likely source of funding and attempt to quantify the project's impact to future operating expenditures.

2. Capital Projects will be constructed to:
 - a. Protect or improve quality of life
 - b. Protect or enhance economic vitality
 - c. Support new development
 - d. Provide significant rehabilitation of Town infrastructure for sustained service.
3. Capital project expenditures will not be authorized by the Town Council without identification and commitment of revenue sources sufficient to fund the improvement.
4. The Town will fund the entire cost of proposed projects in debt proposals, without relying on matching funds from other agencies or entities unless said matching funds are designated and available for use at the time of the issuance of the debt
5. In order to minimize the issuance of debt, the Town of Little Elm will attempt to support capital projects with appropriations from operating revenues or excess fund balances or grant funds. The finance department will coordinate with grant administrators the accounting for grants.

XI. Cash Management and Internal Controls

1. Written guidelines on cash handling, accounting, segregation of duties, and other financial matters shall be maintained for internal controls and review by the Town's external auditors in an annual Risk Assessment.
2. Each department director shall ensure that departmental procedures are adequate to safeguard Town Funds.
3. Staffing and training shall be reviewed periodically to ensure adequacy of controls.
4. Daily Deposits of cash receipts shall be made daily.
5. Interest earnings shall be maximized through a managed approach to cash flows.
6. The Town's investment portfolio shall be managed in accordance with the Public Funds Investment Act and the Town's Investment Policy.
7. The Finance Department shall quarterly present to the Town Council its Investment Report consistent with the Public Funds Investment Act (PFIA).
8. The Finance Department shall conduct a review of its Investment Policies annually in October and shall be presented to Town Council for approval with any revisions. The Town's Investment Policies are attached as an exhibit to these policies and procedures.

XII. Escheatment / Unclaimed Property

1. The Finance Department will review its outstanding check registers at least annually and reissue checks upon request or when vendors are located.
2. An unclaimed property listing will be posted on the Town's Web Page with instructions on claims.
3. The Town will maintain an internal unclaimed property listing for a period of 12 months and will escheat property to the State Comptroller in accordance with State Escheatment statutes as needed and in accordance with State Statutes.

XIII. Fixed Assets and Inventory Controls and Maintenance

1. The Town of Little Elm shall maintain a Fixed Asset and Inventory system whereby assets are tracked and recorded for safeguarding purposes as well as managing depreciation. The threshold for capitalization of assets shall be set at \$5,000. The Finance Department shall track fixed assets as purchased and record the same in the Town's financial system. All electronic purchases including desktop workstations and lap-tops will be tracked for inventory purposes but not capitalized for depreciation purposes.
2. The Town will use a tag and label system for asset and inventory control.
3. Infrastructure and facilities are capitalized and recorded at total acquisition cost at final walk through and acceptance by the Town.
4. For further protection of Town assets, the Town shall insure all properties for loss protection.
5. The Town's Risk Manager will maintain a schedule of assets based on the Town's insurer (Texas Municipal League Intergovernmental Risk Pool).

XIV. Surplus Town Property

1. Surplus Town property is defined as any Town-owned property, other than real estate and buildings, that has become outdated or no longer needed for current operations yet still has a potential resale value. Surplus goods include, but are not limited to, equipment, tools, vehicles, computers, software, supplies, paper stock, books and furniture.
2. The responsible Department Head and Finance Director shall jointly determine when Town-owned property has no resale value. Resale value shall take into consideration the cost of preparing the item for sale. Items without potential resale value may be disposed of in any manner approved by the responsible Department Head and Finance Director and shall be fully documented.
3. Department Heads will submit in writing, lists of property that they recommend to be designated as surplus. Only the Town Manager or Finance Director has the authority to declare Town-owned goods as surplus. A staff member of the Finance Department will review all surplus property lists for items that may be on asset rosters and update such rosters accordingly.
4. Surplus goods will be disposed of in a manner that will yield the greatest possible benefit to the Town. Whenever possible, items will be batched together and sold at public auction. Individual items that are not easily stored for future auction may be disposed individually by making a good faith attempt to obtain the highest price for the item(s). Proceeds from such sales will be accounted for in accordance with Generally Accepted Accounting Principles such as they are applied to government.
5. In order to maintain the highest appearance of ethical propriety at all times, surplus goods may not be given or sold directly or indirectly to Town employees or Town officials except under exceptional circumstances. Exceptional circumstances for surplus property may be approved with a written recommendation from the employee's Department Head and subsequent approval of the Finance Director and the Town Manager. An example of such an item would be a ballistic vest tailored to a specific officer or a work attire item such as a fire helmet used by a retiring firefighter.
6. Town employees are not permitted to participate in public auctions for the purchase of surplus Town goods.

XV. Vehicle Related Purchasing and Disposal Issues

1. The Town's Fleet Manager under the direction of the Public Works Director shall maintain a vehicle and equipment replacement schedule for administrative and budgetary utilization. The schedule will be prepared on a five year basis with input and in coordination with each department and division of the Town.
2. The term "Vehicle" will encompass all rolling stock acquired by the Town. This will include all on and off-road equipment such as passenger vehicles, motorcycles, truck stock, road construction equipment of all sorts, forklifts, tractors, trailers, riding mowers, etc.
3. Specifications for the purchase of new vehicles shall be developed with the combined input of the requisitioning Department and the Fleet Manager.
4. Acceptance and delivery of new vehicles will take place under the direction of the Fleet Services Manager. The Fleet Services Manager will have sole responsibility to ensure the vehicles are properly prepared both mechanically and with proper documentation and licensing. Vehicles will be placed into service only with the approval of the Fleet Manager, except under emergency circumstances. Emergency service use must receive the approval of the Town Manager within two working days after the service began.
5. Vehicles submitted by a requesting department as being replaced by a new acquisition will be disposed of in the same manner as other assets, as described elsewhere in this policy. Such vehicles slated for replacement will not be retained as part of the fleet without the written approval of the Finance Director or the Town Manager.

XVI. Purchasing Policies and Procedures

Purchasing is the procurement of materials, supplies, equipment and services at the lowest cost and best quality to assist in the effective operation of the Town of Little Elm.

1. The Town of Little Elm shall establish and maintain a written "Purchasing Policy and Procedure Manual" which is an exhibit to this policy statement.
2. The goal of the Town of Little Elm's Purchasing Policy is to ensure that all Town Departments and functions receive maximum benefit from the expenditure of Town funds and that vendors will make a reasonable profit in providing goods and services to the Town. Success in this effort will be best achieved with the mutual cooperation of each Town department, the Purchasing Agent, and vendors.
3. The Purchasing Manual is a compilation of Town Charter provisions, applicable state laws, administrative regulations, and good business practices for the purchasing process. Adherence to these rules and regulations is necessary to comply with Texas State laws and meet the goals of our Purchasing Policy.

XVII. Credit Card Policy

The Town shall establish a "Purchase Card" written policy and procedure manual (P-CARD Policy). The policy is attached as an exhibit to this document.

1. Town credit cards are issued to Town employees to purchase low-cost supplies or services for official Town usage only. No personal items or services are to be purchased with the Town credit card under any circumstances, nor shall the card be used to circumvent the Purchasing Policy bidding requirements as per the Local Government Code (§252.062). The Town credit card is not to be used for obtaining cash nor is the employee to accept cash in lieu of a credit to their account. Any violation of this policy may result in the employee's loss of credit card privileges, and or other disciplinary action.
2. The Town of Little Elm is tax-exempt. Whenever possible, the employee should make their credit card purchases with a vendor whom the Town has an account to avoid having sales tax charged. If the Town does not have an account with the vendor, the employee should provide the vendor with a completed tax-exemption form obtainable from the Finance Department prior to the purchase.
3. Use of the Town credit card for travel must be made in accordance with the Town's Travel Policy (refer to the Personnel Handbook).

EXHIBIT

PURCHASING POLICES



POLICY AND PROCEDURES FOR PURCHASING GOODS AND SERVICES ON BEHALF OF THE DEPARTMENT/DIVISION

I. Purpose

The purpose of the purchasing procedures is to provide the Town staff with a written policy for the procurement of material, services and equipment. The Town of Little Elm is committed to insuring that all purchases are in compliance with State and local laws and policies when procuring the highest quality material and services at the best value for the citizens of Little Elm. Any Town department conducting a formal bid, RFP, or RFQ shall notify the Finance Director to insure compliance with State law (e.g. newspaper advertisements, written specifications).

II. Bidding and Purchasing Procedures

A. Purchases less than \$1000 – no documented quotes are required; however, competitive pricing through “Purchasing Cooperatives” or other discount retailers or distributors must be checked first and documented before purchasing outside of purchasing cooperatives.

B. Purchases greater that \$1000 but less than \$10,000

1. Not less than two (2) written quotes must be received if the materials, services or equipment cannot be purchased through a purchasing cooperative. Pricing and contact information must be noted on, or attached to, the purchase order.
2. Historically Underutilized Businesses (HUB) located in Denton County is required by State law to be contacted for quotes if the purchase for goods or services will exceed \$3,000.
3. HUB vendors can be found on the State Comptroller’s Web Page at <http://window.state.ts.us/procurement/prog/hub>.

C. Purchases greater than \$10,000 but less than \$50,000 - not less than three (3) written quotes must be received and must be attached to the purchase order when submitted to finance; and, the written quotes must be signed by the vendor’s representative; and, as applicable, the quote should state an expiration date.

1. Historically Underutilized Businesses (HUB) located in Denton County is required by State law to be contacted for quotes if the purchase for goods or services will exceed \$3,000.
2. The following information will be required when using a “No Response” as one of the three bids: Company name, contact person and telephone number.
3. Documentation must be provided if product or vendor is a sole source.

D. Purchases of \$50,000 and greater

1. Purchases must be accomplished through the formal request for bid or the request for proposal process with detailed written specifications. The development of the written specifications will be required and may require expert assistance. Purchasing cooperatives or interlocal agreements may be utilized to satisfy the competitive bid process. The individual departments are ultimately responsible for written specifications and to make sure that all advertisements for bids be copied to the Town Secretary for publication in accordance with State law or noted if other procedures apply. Specific requirements for purchases greater than \$50,000 can be found in Chapter 252 of the Texas Local Government Code, Subchapter B.
2. All purchases of \$50,000 or greater must be submitted to Town Council for approval. This includes any purchases exempt from the bidding procedure. The requesting Department will make a Town Council award recommendation and will be responsible for all disclosure and briefing information to the Town Manager and Town Council. It is the responsibility of the requesting Department to present the request to Council after the approval of supporting documentation by the Town Manager and Finance Director.
3. No purchase orders will be issued prior to Council approval. Council approval date must be noted on purchase order. If applicable, a copy of the resolution of Council must be attached to the purchase order.
4. All professional service contracts shall be attached to the original purchase order and in bid packet.

E. Formal Bid Procedure for Town Departments – In order to assist Town departments in complying with all purchasing laws and these policies and procedures, it is requested that each department soliciting formal bids abide by the following procedures:

1. The department will provide the bid name, opening date and time and the location of the bid opening. For RFQ's and RFP's, the bid name, due date and time will be required. This enables the receiving department to easily identify each bid and also provides the information to advertise the bid on the Town's website. It is highly suggested that each department utilize the Town Secretary to receive and time stamp sealed bids and proposals.
2. Vendor lists registering all vendors requesting to receive bids from the Town of Little Elm are maintained at the Department level. However, the Finance Department is available to assist with your vendor options.
3. A Finance representative will attend all bid openings for consideration of invoicing and payment terms. This is to protect the using departments against any claims of impropriety and is a good internal control procedure.

4. If only one bid is received, the Finance Director may call all other vendors receiving a bid. This is to protect the Town and its departments from accusations of favoritism or soliciting bids that are proprietary. The Finance Department is available to assist with soliciting bids. It is the intent of the Finance Department to support and provide guidance to the all departments regarding purchasing.

F. Sole Source Purchases – Competitive bids cannot be obtained on items that are only available from one source.

1. The following are available from only one source and are exempt from bidding:
 - a. Items that are available from a single source because of patents, copyrights, secret processes or natural monopolies;
 - b. Films, manuscripts, or books;
 - c. Electricity, gas, water or other utility services;
 - d. Captive replacement parts or components for equipment;
 - e. Books, papers and other library materials for a public library that are available only from the person holding exclusive distribution rights to the material
2. Any items not listed above that are considered sole source will need to be supported by the following:
 - a. Statement on how the determination was made that the item(s) requested is/are only available from one source.
 - b. Statement on company letterhead from vendor attesting to the fact that the item(s) being requested is/are only available from that vendor.
 - c. Information concerning previous attempts to obtain competitive bids on the item(s) requested.
 - d. Names of those contacted in an effort to find other sources.
3. Sole source determination will need to be approved by the Finance Department before purchase is made.

G. Emergency Purchases – These purchases are exempt from competitive bidding.

1. Items purchased in case of public calamity to relieve the needs of the citizens or to preserve Town/County property.
2. Items to preserve or protect the public health or safety of the residents of the Town/County.

3. Items necessary because of unforeseen damage to public property.

H. Other Exemptions from Competitive Bidding - These items are exempt from competitive bidding. However, any use of Town funds over \$50,000 must be approved by Town Council.

1. Personal or professional services
2. Work paid for on a daily basis (day labor)
3. Land or right of way
4. State of Texas Catalog Purchases
5. Interlocal Cooperative Purchasing Contracts (e.g., DIR Direct, HGAC, TASB/Buyboard, Tarrant County)

I. Competitive Bidding and Proposals – Invitations for Bid, Request for Proposals (RFP) and Request for Qualifications (RFQ) are means for notifying the vendors that the government has specific requirements for goods/service and that they are being offered an opportunity to fulfill those requirements. Specific competitive bidding requirements on public works contracts can be found in Chapter 271 of the Texas Local Government Code, Subchapter B.

1. Competitive bidding provides a means for the available vendors to compete with each other to provide goods and/or services.
 - a. The purpose of the competitive bidding is to ensure that public monies are spent properly, legally and that the best possible value is received for the money. It is also to give qualified and responsible vendors a fair and equitable opportunity to do business with the City.
 - b. When purchasing through the State of Texas (Comptroller) it is still recommended that competitor's pricing be obtained to show that prices are in line.
 - c. Formal sealed bids are used for those bids exceeding \$50,000. They are required to be advertised in a local newspaper and publicly opened at a set date and time that shall be at least fourteen (14) days after the first of two advertisements.
2. Competitive proposals are similar to competitive bids, but are limited by Texas statutes. They can only be used for procurements of high-technology products or services and in some cases for procuring insurance. Although there is no legal requirement to do so, proposals are often used to procure professional and personal services. The Professional Services Procurement Act prohibits using competitive bids to procure those
 - a. Specifications are written using performance standards rather than the description of the good or service.

- b. Vendors submit proposals of their own design for a system to satisfy the requirement set forth in the proposal. Proposals may incorporate entirely different hardware or services to accomplish the same performance.
- c. After proposals are received, the Town may enter into negotiations with as many vendors as have submitted feasible proposals in order to arrive at the best possible proposal for each vendor.

J. Cooperative Purchasing – Cooperative purchasing is one of the ways that local governments can save time and money in their purchasing programs. It occurs when two or more entities (state, federal or local governments) coordinate some or all of their purchasing needs so that they can join in purchases to the mutual benefit of all the entities concerned (e.g. fuel, radio equipment, vehicles). A local government cooperative purchasing agreement must be developed and approved by the Town Council. The Town currently has interlocal agreements with Tarrant and Collin Counties.

- 1. The benefits are:
 - a. Lower costs through increased volume.
 - b. Lower (shared) administrative costs.
 - c. Improved response from vendors.
 - d. Shared experience leading to better product specifications.
 - e. Better compliance with state statutes on purchasing.
- 2. There are several ways cooperative purchasing can be done.
 - a. Entering into a cooperative agreement with another government entity for a bid.
 - b. Two or more governments may join to purchase one or more goods/services jointly.
 - c. Buying from state contracts.
 - d. Purchasing through a third party (e.g. Houston-Galveston Administrative Council).
- 3. Legal Constraints – There are different statutes for different types of government. When purchasing cooperatively, the strictest statute should apply.

K. Signature Authority

Each Department Director delegates signature authority for their division. Authorized personnel are then allowed to sign for requisitions and/or receiving reports to the specified amount.

- Typically, those with signature authority are department heads/ supervisors (anyone in charge of a budget) and Administrative Assistants.
- Department Directors are required to approve all purchases exceeding \$500. Expenditures of \$500 or less can be delegated for signature authority at the discretion of the Department Director
- Any purchases over \$50,000 require advanced Town Council approval.
- A letter or memorandum must be on file with Finance if signatory authority is delegated to anyone other than a Department Director or Department Head. This communication must be directed to the Director of Finance or Assistant Finance Director.
- If you have questions about signature authority, call Finance for more details.

EXHIBIT
FUND BALANCE POLICY
GASB 54

ORDINANCE NO. 1070

AN ORDINANCE ADOPTING A POLICY FOR REPORTING FUND BALANCES AS REQUIRED BY THE GOVERNMENTAL ACCOUNTING STANDARDS BOARD ("GASB") STATEMENT 54 EFFECTIVE FOR THE FISCAL YEAR ENDING SEPTEMBER 30, 2011.

WHEREAS, the Governmental Accounting Standards Board ("GASB") released Statement 54-"Fund Balance Reporting and Governmental Fund Type Definitions" to become effective for the fiscal year ending September 30, 2011; and

WHEREAS, GASB Statement 54 requires adoption of a policy for reporting fund balances in governmental funds excluding enterprise and internal service funds by the highest level of legal authority (Town Council); and

WHEREAS, the Town of Little Elm (the "Town"), as required by the state and federal governments to ensure fiscal and operational accountability of local governments, maintains authoritative accounting and financial reporting standards in accordance with Generally Accepted Accounting Principles ("GAAP") as established by GASB; and

WHEREAS, it is the intention of the Town to adopt a Policy for Reporting Fund Balances in Governmental Funds to ensure compliance with GASB 54 as set forth in Exhibit "A" attached to this Ordinance; and

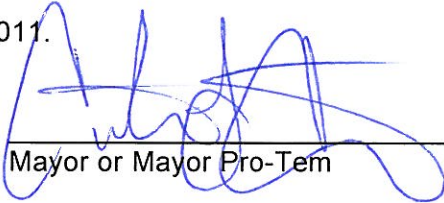
NOW, THEREFORE, BE IT ORDAINED by the Town Council of Little Elm, Texas, as follows:

1. Currently, fund balance is classified for reporting purposes as "reserved" or "unreserved". Unreserved fund balance may be further allocated into "designated" or "undesignated". GASB 54 establishes the hierarchy of five classifications of fund balance reporting for governmental funds as described below:
 - a. *Non-Spendable Fund Balance* consists of funds that cannot be spent due to their form or funds that legally or contractually must be maintained intact.
 - b. *Restricted Fund Balance* consists of funds that are mandated for a specific purpose by external parties, constitutional provisions or enabling legislation.
 - c. *Committed Fund Balance* consists of funds that are set aside for a specific purpose by the highest level of decision making authority (Town Council). Formal action must be taken prior to end of the fiscal year. The same formal action must be taken to remove or change the limitations placed on the funds.
 - d. *Assigned Fund Balance* consists of funds that are set aside with the intent to be used for a specific purpose(s) and the intent does not have to be determined by the highest level of decision making authority (Town Council). Assigned funds may be constrained but Town Council delegates authority to the Town Manager or their designee to assign amounts. Assigned funds cannot cause a deficit in unassigned fund balance.
 - e. *Unassigned Fund Balance* consists of excess funds that have not been classified in the previous four categories and have not been restricted,

committed or assigned and are available for any purpose. This category also provides the resources necessary to meet unexpected expenditures and revenue shortfalls.

2. Establish a spending prioritization policy in which the order of use of unrestricted resources when any of these amounts are available for expenditure as committed amounts that should be reduced first, followed by the assigned amounts, and then the unassigned amounts, if applicable.
3. A minimal percentage of unassigned fund balance in the general fund may be budgeted to balance the operating budget in any given year. A budgeted use of unassigned fund balance that results in a weakened cash position for the Town should be avoided.
4. All assignments of fund balance at the fund level require action of Town Council. When it is appropriate for fund balance to be assigned, the Town Council shall delegate authority to the Town Manager or their designee.
5. Beginning General Governmental fund balances in the year of implementation are classified as shown below:
 - a. General Fund- Unassigned Fund Balance
 - b. General Fund- Unreserved, designated Fund Balance as Assigned Fund Balance
 - c. All Other Special Revenues, Capital Project, Debt Service Funds and Non-Major Funds as Assigned Capital Projects; Unassigned Debt Service and Special Revenue Fund Balances.
6. That the provisions of the Ordinance take effect immediately.

Adopted this the 20th Day of September, 2011.



Mayor or Mayor Pro-Tem

ATTEST:



Kathy Phillips, Town Secretary

TOWN OF LITTLE ELM

FUND BALANCE POLICY

Purpose and Overview

The purpose of this policy is to establish guidelines for fund balance levels within each of Town of Little Elm's funds. It is essential that the Town maintain adequate levels of fund balance to mitigate financial risk that can occur from unforeseen revenue fluctuations, unanticipated expenditures, or adverse circumstances. The fund balance level is also designed to provide an appropriate amount of working capital for the Town's general operations. In general, the Town of Little Elm should strive to avoid appropriating fund balance for recurring expenses. However, in the event that fund balance is used to support recurring expenses, the budget should clearly identify the uses of fund balance and provide an explanation of the circumstances requiring the use of fund balance. In addition, the budget should also address the future potential uses of fund balance for operating expenditures.

Definitions and Categories

Fund Balance – Defined as the difference between a fund's assets and liabilities. According to the Governmental Accounting Standards Board (GASB) statement number 54, fund balance must be allocated into one the following five categories:

1. *Non-spendable Fund Balance* – includes amounts that are not in a spendable form or are legally or contractually required to be maintained intact. Examples include inventory or endowments.
2. *Restricted Fund Balance* – includes amounts that can be spent only for the specific purposes stipulated by external resource providers either constitutionally or through enabling legislation. Examples include grants and hotel occupancy taxes.
3. *Committed Fund Balance* – includes amounts that can be used only for the specific purposes determined by a formal action of the government's highest level of decision-making authority. Commitments may be changed or lifted only by the government taking the same formal action that imposed the constraint originally.
4. *Assigned Fund Balance* – comprises amounts intended to be used by the government for specific purposes. Intent can be expressed by the governing body or by an official or body to which the governing body delegates the authority. In governmental funds other than the general fund, assigned fund balance represents the amount that is not restricted or committed. This indicates that resources in other governmental funds are, at a minimum, intended to be used for the purpose of that fund.
5. *Unassigned Fund Balance* – is the residual classification of the general fund and includes all amounts not contained in the other classifications. Unassigned amounts are technically available for any purpose.

Note: The above fund balance categories only apply to governmental funds.

Fund Balance Policy

Committed Fund Balance

The Town Council is the Town's highest level of decision-making authority and the formal action that is required to be taken to establish, modify, or rescind a fund balance commitment is an ordinance adopted by the Town Council. The ordinance must either adopt or rescind the commitment, as applicable, prior to

FUND BALANCE POLICY (Continued)

the last day of the fiscal year for which the commitment is made. The amount subject to the constraint may be determined in the subsequent period.

Assigned Fund Balance

The Town Council authorizes the Town Manager or his/her designee as the official authorized person to assign fund balance to a specific purpose approved by this fund balance policy.

Order of Expenditure of Fund Balance

When multiple categories of fund balance are available for expenditure (for example, a construction project is being funded partly by a grant, funds set aside by the Town Council, and unassigned fund balance), the Town will start with the most restricted category and spend those funds first before moving down to the next category with available funds. Normally this would result in the use of restricted, then committed, then assigned, and lastly, unassigned fund balance.

Minimum Unassigned Fund Balance

It is the goal of the Town to achieve and maintain an unassigned fund balance in the general fund equal to 25% of budgeted expenditures for unanticipated expenditures, unforeseen revenue fluctuations, or other adverse circumstances. The fund balance level, however, may be reduced to the equivalent of 15% of budgeted expenditures in unusual financial circumstances. However, if such a situation occurs, the Town will implement necessary corrective action within a three-year plan to restore the unassigned fund balance to the equivalent of twenty percent (25%) of budgeted expenditures.

Non-governmental fund balances

The fund balance categories discussed above do not apply to proprietary funds according to GASB 54. While not required by the GASB, the Town recognizes the need to apply a minimum balance policy to the proprietary funds maintained by the Town. Therefore, the Town shall maintain a minimum ending working capital balance (current assets minus current liabilities) of at least eight percent (25%) of budgeted expenditures for each of the proprietary funds. If the working capital level should fall below the desired minimum, the Town will implement necessary corrective action within a two-year plan to restore the working capital balance to 25% of budgeted expenditures.

“EXHIBIT”

**PURCHASE CARD POLICIES AND
PROCEDURES**



PURCHASING CARD POLICIES AND PROCEDURES

A. Purpose

The purpose of the Purchasing Card Program is to provide the Town with an efficient and controllable method of making small dollar commodity, service, and travel purchases. The Town will issue cards via JP Morgan Chase. The card will be primarily used in place of petty cash, small regular purchase orders, blanket purchase orders (where sales are made over-the-counter), emergency purchase orders, and other credit card use. This card policy is not intended to replace, but rather supplement existing purchasing policies and procedures.

B. Advantages to the Town

- Better control of cash.
- Improved timeliness of paying vendors and recording expenditures.
- More frequent point of sale matching of expenditure and goods/services received.
- More internal control for purchases.
- Reduced paper work.
- Cards can be programmed for a particular use, such as travel, to help stream line the process.

C. Usage

A. The card can be used for the following:

1. Any transaction that doesn't exceed the Cardholder's transaction limit.
2. Over-the-counter type retail purchases.
3. Purchases made by telephone or online.
4. Travel (including meals and lodging), conference fees, and training.
5. Any other business related purchase as long as goods/services purchased are **not** covered under a Town supply contract such as for fuel, utilities, cell phones, and computer equipment or software.

B. Purchases made on the card will be for Town business only. The card is not a personal line of credit. When in doubt as to whether a purchase is allowable under Town policy, the Cardholder should contact their Department Director before making the purchase.

C. Employee Expense Reports with Credit Card Transactions: Credit card purchases that are reported on travel expense reports will be itemized and copies of credit card receipts should be submitted as supporting documentation. The original receipts would accompany the card holder's monthly reconciliation.

IV. Duties and Responsibilities

A. CARDHOLDER

1. The Cardholder (employee issued a card) will on a monthly basis receive a statement of activity from JP Morgan Chase to reconcile his/her purchases by ensuring each charge on the statement is proper, sales tax was not applied, hard copy receipt is present, and each charge is updated with a proper description and cost center. The Cardholder will sign the monthly statement report, attach the reconciled cycle statement, the related receipts, and promptly submit to the Department Director for approval. After approving the hard copy cycle statement/receipts, the Department Director will forward them to the Program Administrator for review, general ledger updating and filing for audit purposes. The Cardholder will be required to complete the JPMorgan Chase "Cardholder Account Application Form and Instructions" (Appendix A).
2. Each Cardholder is responsible for all charges to his/her assigned card and a card is **not** to be loaned or made available to another employee or family member to purchase items for the Town.
3. Cardholder is responsible to maintain the card in a safe and secure manner that prevents unauthorized or improper use.
4. Each Cardholder shall use the card only for authorized purchases which are consumables goods and services used solely for Town business and are in compliance with the Town's Purchasing Policies. Cards should NOT be used to replace good planning of required items.

A hardcopy receipt listing each individual item purchased **must** be obtained from the vendor each time the card is used. A receipt from a restaurant must include the card swipe receipt with the tip amount and the original detail receipt itemizing the food/beverage order – this is generally the first cash ticket before card or cash presentment. Online and telephone charges must also be documented by a receipt, which may require the Cardholder to request the vendor to email, fax or mail the Cardholder a receipt.

5. **A Cardholder is responsible for immediately notifying JP Morgan Chase, his/her supervisor, and the Program Administrator if the card is lost or stolen. The contact number at JP Morgan Chase is 800-316-6056. The Cardholder shall then complete the Lost Card form and submit it to the Program Administrator promptly.**
6. Each Cardholder must acknowledge receipt of the purchase card, understand the rules of usage, and sign the "Employee Agreement Form" (Appendix B). Failure to abide by this Purchasing Card policy will result in revocation of card and disciplinary action up to termination of employment. The Cardholder will be required to reimburse any unauthorized transactions, with the Town reserving the right to withhold final paychecks until final reconciliation of purchases are resolved.
7. After the Cardholder makes a card purchase, the transaction will appear on the Cardholder's current statement under the cycle-to-date transactions. The transaction usually takes two to three days to appear online.

B. DEPARTMENT DIRECTOR (APPROVER)

1. The Department Director is responsible for providing guidance to the Program Administrator in designating Cardholders and what transaction and merchant limits shall apply to each card's use. The Director ensures that purchases are proper and within Town policies by approving each statement submitted by a Cardholder(s). Department Directors may implement more stringent internal authorization procedures that Cardholders must follow in order to make purchases with the card. In addition, activity reports are available for additional review by the Department Director if so requested.

The "approver" is the Department Director or supervisory level employee who is responsible for approving the Cardholder's use of the purchasing card. The Cardholder will be provided with a hard copy of the cycle statement monthly. It is the Cardholders responsibility to attach detailed receipts and submit the reconciled report in a timely manner to the Department Director who is responsible for signing off on the hard copy of the report prior to submission to Finance. After approval, the statement will be updated to the general ledger. It is imperative that all Cardholder's monthly report be into the Finance Department no later than the 20th day of each month.

2. Upon resignation, transfer, or termination of a Cardholder, the supervising Department Director shall notify the Program Administrator immediately and the card shall be turned in to the Program Administrator. In the event of unauthorized or inappropriate purchases, the Town reserves the right to withhold final paychecks until this is resolved.
3. In the event a Cardholder has used the card fraudulently, the Department Director shall immediately retrieve the card and report the misuse to the Program Administrator. **Fraudulent activity of any kind is cause for immediate suspension or termination which is handled through the Town's Human Resources Department.**

C. PROGRAM ADMINISTRATOR

1. The "Program Administrator" manages the purchasing card program and is the Town's point of contact for the card program. In the absence of the Program Administrator, the co-administrator is the point of contact. The administrator trains and sets up users, maintains card limits and documentation, and monitors the usage of the cards online, as well as the online and hard copy reconciliation and approval of the cycle statements. The administrator has no approval power over card transactions, but verifies all information about the transaction prior to downloading to the General Ledger. The administrator and backup are knowledgeable of all the procedures in the purchasing card policy. The administrator may not modify or revise the purchasing card policy, but rather is charged with implementing the policy and advising the Director of Finance of problems that may prompt a need to revise the policy.
2. Program Administrator is responsible for downloading the purchase card transactions into the general ledger after they have been reconciled by the Cardholder and approved by the Department Director. It is imperative that each Cardholder and approver routinely and promptly reconcile and approve the transactions and forward the hard copy approved cycle reports with attached receipts to the Program Administrator to afford timely recording of expenditures. A failure to process these steps in a prompt manner will subject the Cardholder to revocation of card privileges.

3. The Program Administrator will also report to the responsible Department Director and Director of Finance any Cardholder infractions or potential infractions. The Director of Finance in concert with all key stakeholders retains the sole right of determining if the cardholder remains active in the purchase card procurement program. Misuse and/or abuse of card privileges will be dealt with as follows:

1st Occurrence: The Program Administrator and Director of Finance in conjunction with the Department Director will determine if the individual Cardholder will continue in the card program; the Department Head will confer with Human Resources on disciplinary action as necessary and if the cardholder should be individually responsible for an inappropriate charge.

2nd Occurrence: The Program Administrator and Director of Finance will terminate the cardholder's privileges with deferral to the Human Resources Department for disciplinary action.

3. Completion of the Cardholder Affidavit Form and/or the Affidavit of Lost/ Destroyed Receipt Form will constitute a "strike" against the Cardholder.
4. Periodically the Program Administrator may review Cardholders activity, daily spending limits, monthly credit limits and restricted vendors with the assigned Department Head/Director to ensure safeguarding the integrity of the Purchase Card Program.

V. JP MORGAN

- A. Payment will be made to JP Morgan 30 days after the date of invoice, which includes charges during the past 30 day period. Payment will be processed regardless of whether the transactions have been approved by the Cardholder or approver.

VI. CARD LIMITS & SALES TAX

- A. Each individual purchasing card has individual transaction and/or monthly spending limits as well as restrictive merchant codes (MCC). The card may be restricted as to the number of swipes that may be made for a given period of time and vendors the Cardholder may purchase from. Card may also be restricted as to the daily, monthly, or transaction amount(s) of card purchases. A card transaction will be denied when swiped if the transaction exceeds any of the limits. These limits and restrictions can be adjusted on-line by the Program Administrator and will take effect immediately.
- B. As a tax-exempt government agency, the Town of Little Elm does not pay sales tax. The Card will display the Town's tax exempt number and each Cardholder will be provided with a tax exempt card indicating the Town's tax exemption status. Cardholders are responsible for insuring that the merchant does not include sales tax in the transaction. If tax is included, the Cardholder is responsible for reversal of the sales tax charge or reimbursing the Town for taxes paid.

VII. RESTRICTIONS AND EXEMPTIONS

- A. Employees may **not** use the card for the following:
 1. Any purchase of items for personal use.
 2. Cash refunds or advances.

3. Any purchase of goods/services or, at a merchant type not considered prudent or of good judgment.
 4. Any transaction amount greater than the Cardholder's transaction limit.
 5. Items under contract, unless an emergency exception is granted by the Director of Finance.
 6. Alcohol or liquor of any kind. Patronization of bars, drinking places and package liquor stores should not be paid for with the purchasing card.
 7. Separate, sequential, and component purchases or any transaction made with intent to circumvent the Town's purchasing policy or state law.
 8. Any other purchase specifically excluded in the Town purchasing policy.
 9. Fuel purchases in lieu of a fuel card.
 10. Computer hardware, software and services (except as approved by the Director of Finance or within the recommendations of the Town's IT Staff).
 11. Communications hardware, software and services (except as approved by the Director of Finance or the Town's IT Staff).
 12. Services - such as contracts and agreements.
 13. Entertainment - theater and movies, shows etc.
- B. Documentation: Supporting documentation, which lists each item purchased, must accompany each transaction.
- C. Personal Use Restrictions: The card may **not** be used to pay spouse/family expenses incurred while traveling. Only Town business expenses are allowable and the Cardholder will pay personal expenses separately.

VIII. Obtaining A Purchasing Card

- A. Steps:
1. Department Director requests a procurement card and meets with Program Administrator to determine appropriate transaction limits.
 2. Employee submits a completed signed application form and employee agreement form to the Program Administrator.
 3. The Program Administrator will request issuance of purchasing card from JP Morgan Chase.
 4. Upon receipt of the card, the Program Administrator will schedule employee's training. Upon completion of training, the Cardholder signs the Cardholder agreement in the presence of the Program Administrator, and the Program Administrator issues the card to the new Cardholder.

IX. Revocation of the Purchasing Card

- A. The purchasing card is subject to revocation at any time at the discretion of the Department Director. The Program Administrator will recommend to the Director of Finance and Department Director that the card be revoked upon indication of any violation of the Purchasing Card policy and procedures. When a card is revoked, changes are made on-line and take effect immediately. The Program Administrator is further authorized to temporarily suspend use of the card via electronic methods if unauthorized use is discovered and such use poses a threat to internal financial controls.

X. Purchasing Card Activation

The cardholder must call JP Morgan Chase in order to activate the Purchasing Card before using the card. Upon receipt of the card, the cardholder must sign the back of the Purchasing Card and always keep the card in a secure place.

XI. Cardholder Guidelines

The Town of Little Elm's purchasing policy supersedes and guides the usage of the Purchasing Card program. Violations of the purchasing policy will constitute abuse and be subject to the policy guidelines for infractions (Strike 1-2-3).

- A. All Cardholders should follow these guidelines below when using the Purchase Card

1. Determine if the transaction is an acceptable use of the card, and within the cardholder's spending limit as well as within purchasing policy guidelines.
All purchases are subject to available budget appropriations and compliance with the Town's Purchasing Policy.

Spending limits per Purchasing Policy:

- | | |
|-------------------------|--------------------------------|
| a. \$0 - \$500 | Department Employee/Designee |
| b. \$0 - \$4,999.99 | Department Head/Director |
| c. \$5,000 - \$9,999.99 | Department Head & Town Manager |
2. Identify the supplier, call, fax or visit the supplier to place orders.
 3. If the order is by mail, specify cardholders name, The Town of Little Elm, Department and shipping instructions. Also specify the Purchasing Card number, expiration date and name as it appears on the card.
 4. Inform the vendor that the Town is tax-exempt. Forward or supply a copy of the tax-exempt form to the vendor if necessary.
 5. Confirm pricing and freight costs, making sure the total does not exceed the single transaction dollar limit that has been assigned to you.
 6. Request a hard copy of the pricing and freight costs to be faxed to the cardholder and/or included in the shipment. Inform the vendor that an invoice or statement should **NOT** be sent to Accounts Payable; otherwise a duplicate payment would be processed to the vendor.

7. Ask the supplier if a purchase order number is required. If a vendor/supplier requests a purchase order number, use your employee number.
8. Request that the vendor/supplier indicate your name and the words "P-Card" appear on all packing lists and box labels. This will enable the department to facilitate delivery of your order/purchase. Shipments without this information may be refused by the Town and returned to the vendor/supplier.

B. Receiving Supplies and Services

1. A copy of the charge slip, sales receipt or any other information related to the purchase must be kept and attached to the monthly card statement reconciliation report by the Cardholder.
2. The Cardholder should instruct the vendor on each purchase:
 - a. **DO NOT** send an invoice to Accounts Payable. This will prevent duplicate payments to the vendor. The sales receipt received by the Cardholder at the point of sale will be used to reconcile the monthly card statement.
 - b. The Town is **TAX-EXEMPT**. A tax-exempt form should be provided to the vendor upon request.

C. Returns, Credits and Disputed Charges

Should a problem arise with a purchased item, services or charge, every attempt should be made to first resolve the issue directly with the vendor/supplier. Review of future statements is vital to ensure the account is properly credited for returns, credits and disputed charges. The returned, credited or disputed item **MUST BE NOTED ON THE MONTHLY CARD STATEMENT RECONCILIATION REPORT.**

1. Returns: If a cardholder needs to return an item, contact the vendor/supplier and obtain instructions for return. Note that some vendor/suppliers may charge a restocking and/or handling fee for returns. Cash refunds are not allowed. **All returns should be indicated on the Monthly Card Statement Reconciliation Report.**
2. Credits: If the vendor/supplier accepts an item as a return, a credit for this item should appear on the following month's statement. **All credits should be indicated on the Monthly Card Statement Reconciliation Report.**
3. Disputed Items: If a Cardholder finds a discrepancy on a monthly statement, the Cardholder should contact the vendor/supplier and attempt to resolve the problem directly. **All disputed items should be indicated on the Monthly Card Reconciliation Report.** If a Cardholder cannot resolve a disputed item directly with a vendor, the cardholder should complete a Fraud and Lost Card Affidavit form (included with your packet) to the Finance Department.

XII. Summary

As a public entity, the Town is expected to be able to demonstrate to the public that it has spent their tax dollars wisely. All participants in the purchasing card program are responsible for insuring purchases made with the card are in accordance with the terms and conditions of this and all other policies of the Town of Little Elm. Therefore, the Cardholder must make sure he/she

has adequate documentation, including a clear explanation of exactly what the purchase is for.

Participating in the purchasing card program will be the option of the employee as recognized by signing the User Agreement.

XIII. Supplementary Forms (attached)

1. Purchasing Card Employee Agreement
2. Fraud and Lost Card Affidavit Form
3. Affidavit of Lost or Destroyed Receipt

EXHIBIT

INVESTMENT POLICIES

INVESTMENT POLICY
OF
TOWN OF LITTLE ELM, TEXAS
LITTLE ELM ECONOMIC DEVELOPMENT CORPORATION
LITTLE ELM COMMUNITY DEVELOPMENT CORPORATION
LITTLE ELM REDEVELOPMENT AUTHORITY
LITTLE ELM TAX INCREMENT REINVESTMENT ZONE #1
LITTLE ELM TAX INCREMENT REINVESTMENT ZONE #2

PREFACE

It is the policy of the Town of Little Elm that all available funds within its control shall be invested in conformance with these legal and administrative guidelines.

Effective cash management is recognized as essential to good fiscal management. A comprehensive and effective cash management system will be pursued to optimize investment interest as viable and material revenue to all operating and capital funds. The Town's portfolio shall be designed and managed in a manner responsive to the public trust and consistent with local, state and federal law.

Earnings from investments will be used in a manner that will best serve the interests of the Town.

Section 1. Scope.

The Public Funds Investment Act ("PFIA"), Chapter 2256, Texas Government Code, prescribes that each local government is to adopt rules governing its investment practices and to define the authority of the investment officer. This Investment Policy addresses the methods, procedures, and practices which must be exercised to ensure effective and judicious fiscal management of funds of the Town of Little Elm, Texas, the Little Elm Economic Development Corporation, the Little Elm Community Development Corporation, the Little Elm Redevelopment Authority, the Little Elm Tax Increment Reinvestment Zone #1, and the Little Elm Tax Increment Reinvestment Zone #2 (sometimes collectively referred to as the "Entities" or separately as an "Entity").

This Policy shall apply to the investment and management of all funds of the Entities under their respective control, other than those expressly excluded herein or by applicable law or valid agreement. This Policy shall not supersede the restrictions on investment and use applicable to any specific fund and, in the event of any conflict between this Policy and the requirements of any fund subject hereto, the specific requirement applicable to such fund shall be followed as well as all other provisions of this Policy other than those in conflict.

In order to make effective use of the resources of the Entities, the respective monies of each Entity may be pooled for investment purposes as long as detailed accounting records reflect each Entity's stake, except for those monies required to be accounted for separately as stipulated by applicable laws, bond covenants or contracts. The income derived from this pooled investment shall be distributed in accordance with generally acceptable accounting procedures.

Section 2. Objectives.

The Entities' principal investment objectives in order of priority are:

1. Preservation of capital and the protection of investment principal.
2. Maintenance of sufficient liquidity to meet anticipated disbursement and cash flows.
3. Conformance with all Federal regulations, State of Texas statutes and other legal requirements, including the Town Charter, Town Ordinances, Articles of Incorporation, and this Policy.

4. Diversification to avoid incurring unreasonable risks regarding investments owned.
5. Attainment of a market rate of return equal to or higher than the performance measure established from time to time by the Finance Director of the Town which is commensurate with the acceptable risk and liquidity objectives of this Policy. "Weighted average yield to maturity" shall be the portfolio performance measurement standard.

Section 3. Delegation of Authority.

The Town Council and Boards of Directors of the Corporations appoint the Town's Finance Director, Assistant Finance Director, and the Senior Accountant as the "Investment Officers" of the Entities. Direct management responsibility for the investment program of each Entity is delegated by the Town Council and Boards of Directors to the Investment Officers. The Investment Officers' authority will at all times be limited by all applicable laws and regulations in effect from time to time, and this Policy

The Finance Director shall develop and maintain written administrative procedures for the operation of the investment program consistent with this Policy. The controls shall be designed to prevent, identify and control losses of public funds arising from deviation from this Policy, fraud, employee error, misrepresentation by third parties, or imprudent actions by employees and officers of the Town and the Corporations. In these procedures, the Finance Director may delegate specific portions of the investment management program. Such delegation shall state specifically the functions such person is authorized to perform.

The Finance Director shall obtain and maintain, at the expense of the respective Entity, fidelity bonds for the Investment Officers. No person may engage in an investment transaction except as provided under the terms of this Policy and the internal procedures established by the Investment Officer. A current list of persons authorized to transact investment business and wire funds on behalf of the Entities shall be maintained by the Finance Director.

In the discretion of the respective Entity, and in any event upon the termination or reassignment of any Investment Officer authorized to conduct transactions for the Entities pursuant to this Policy, the authority of such person shall be revoked and such revocation of authority shall be immediately communicated orally and in writing to each and every depository, broker/dealer, investment pool, investment advisor, custodian, and other agency or entity with whom the respective Entity has any existing or continuing relationship in the management of its investments.

In order to ensure qualified and capable investment management, the Investment Officers shall, within 12 months after taking office or assuming duties, attend at least one training session from an independent source approved in this Policy that addresses investment controls, security risks, strategy risks, market risks, diversification of investment portfolio, and compliance with the PFIA and contains at least 10 hours of instruction. Additionally, the Investment Officer shall complete not less than ten (10) hours of training every two years addressing the aforementioned topics not less than once in a two-year period that begins on the first day of the City's fiscal year and consists of the two consecutive fiscal years after that date. The Government Finance Officers' Association of Texas (GFOAT), Government Treasurers' Organization of Texas (GTOT), Texas Municipal League (TML), University of North Texas

(UNT), North Central Texas Council of Governments (NCTCOG), American Institute of Certified Public Accountants (AICPA), and the Government Finance Officers Association (GFOA) are approved independent training sources.

Section 4. Investment Advisors.

The Town may, at the recommendation of the Finance Director, select one or more Investment Advisor(s) to assist the Investment Officers in the management of the Entities' funds. The Investment Advisor must be registered with the Securities and Exchange Commission under the Investment Advisors Act of 1940 and also be registered with the Texas State Securities Board as an Investment Advisor. To be eligible for consideration, an Investment Advisor shall demonstrate knowledge of and experience in the management of public funds. A selected Investment Advisor shall act solely in an advisor and administrative capacity, within the guidelines of this Investment Policy and without any discretionary authority to transact business on behalf of the Entities. The terms and conditions of any Investment Advisor contract shall comply with the PFIA. A contract with an Investment Adviser may not be for a term longer than two years and any contract, renewal, or extension must be approved by the Town Council.

Section 5. Standard of Care.

The standard of care for the Town's and Corporations' respective investments shall be that such investments shall be made with judgment and care, under prevailing circumstances, that a person of prudence, discretion and intelligence would exercise in the management of the person's own affairs, not for speculation, but for investment, considering the probable safety of capital and the probable income to be derived.

The overall investment program shall be designed and managed with a degree of professionalism that is worthy of the public trust. The Investment Officers and any others involved in the investment process shall recognize that the investment activities of the Entities are a matter of public record.

An Investment Officer, acting in accordance with written procedures and exercising due diligence and the proper standard of care, shall be relieved of personal responsibility for an individual investment's credit risk or market price changes, provided that this Policy and the Investment Officer's procedures were followed. In determining whether the Investment Officer exercised a proper standard of care, all investments over which the Officer had responsibility will be considered rather than a single investment, and whether the investment decision was consistent with this Policy, as applicable.

Section 6. Authorized Investments.

Subject to any limitations otherwise imposed by applicable law, regulations, bond indentures, or other agreements, (including but not limited to the PFIA), the following are the only permitted investments for the Entities' funds:

- A. Direct obligations of the United States government including, but not limited to, U. S. Treasury Bills, U. S. Treasury Notes, U. S. Treasury Bonds, and U. S. Treasury STRIPS.
- B. Debentures or discount notes, guaranteed by, or for which the credit of any Federal Agency and Instrumentality is pledged for payment including, but not limited to, Federal National Mortgage Association (FNMA), Federal Home Loan Bank (FHLB), Federal

Farm Credit Bank (FFCB), Federal Agricultural Mortgage Corporation (FRMAC), Federal Deposit Insurance Corporation (FDIC), and Federal Home Loan Mortgage Corporation (FHLMC). Principal-only and interest-only mortgage backed securities are expressly prohibited.

- C. Bonds or other interest bearing obligations of which the principal and interest are guaranteed by the full faith and credit of the United States government. Principal-only and interest-only mortgage backed securities are expressly prohibited.
- D. Certificates of deposit and other evidences of deposit at a financial institution that has its main office or a branch office in Texas and a) is guaranteed or insured by the Federal Deposit Insurance Corporation (FDIC) or other federally sponsored deposit insurance corporation, or its successor, b) is secured by obligations in a manner and amount provided by law for deposits of the Entities, or c) is placed through a broker or depository institution that has its main office or a branch office in Texas that meets the requirements of the PFIA.
- E. Repurchase agreements structured in compliance with the PFIA, collateralized at a minimum market value of one hundred two (102) percent of the dollar value of the transaction plus accrued interest. A flexible repurchase agreement that allows for withdrawals as needed to fund project expenditures may be utilized for capital improvement projects funded by bond proceeds.

The Town will not enter into repurchase agreements that would result in a reverse repurchase position for the Town.

- F. Money Market Mutual Funds meeting each of the following criteria:
 - (1) Regulated by the Securities and Exchange Commission;
 - (2) No commission fee shall be charged on purchases or sales of shares (i.e. “no-load” fund);
 - (3) Have an objective of maintaining a constant daily net asset value of \$1.00 per share;
 - (4) Limit assets of the fund to those described as “government” securities; and
 - (5) Maintain a rating of AAAm or the equivalent by a nationally recognized rating agency.
- G. State and local government investment pools organized under and meet the requirements of the PFIA, have been specifically approved by the Finance Director, and authorized by the Town Council and Boards of Directors, as the case may be.
- H. Direct obligations of the State of Texas or its agencies.
- I. Other obligations, the principal of and interest on which are unconditionally guaranteed or insured by the State of Texas.

Section 7. Other Investment Guidelines.

The Entities seek active management of their respective portfolio assets. In the effort of meeting the objectives of this Policy, the Entities, as applicable, may from time to time sell investments that they own in order to better position its portfolio assets. Sales of investments prior to maturity shall be documented and approved by the Finance Director before such a transaction is consummated. Sales of investments yielding net proceeds less than ninety-eight (98) percent of the book value of the investments must be approved in advance and in writing by the Town Manager.

Each security investment transaction must be based upon competitive quotations received from broker/dealers who have been approved by the Town.

The purchase and sale of all securities shall be on a delivery versus payment or payment versus delivery basis. In this manner, the Entities will always have possession of either its securities or its monies.

The Entities are not required to liquidate investments that were authorized at the time of purchase. However, an investment that requires a minimum credit rating does not qualify as an Authorized Investment during the period the investment does not have the minimum credit rating. The Investment Officers shall monitor the rating of each issuer, as applicable, at least quarterly, and take all prudent measures that are consistent with this Policy to liquidate an investment that does not have the required minimum rating.

Section 8. Portfolio Maturities.

Maturities shall be selected which provide for both stability of income and reasonable liquidity. The maximum stated maturity of any non-bond proceed investment is two (2) years. An investment's "average life" does not constitute a stated maturity. The weighted average life of all non-bond proceed investments shall not exceed nine (9) months.

In the case of callable securities, the Investment Officer shall additionally calculate a weighted average call date. However, at all times the stated final maturity shall be used in portfolio average life calculations and reported as outlined in this Policy.

Investment of bond proceeds shall be limited to the shorter of the anticipated draw schedule or "temporary period" as defined by the Internal Revenue Service. Additionally, bond proceeds may be invested in a singular repurchase agreement, if reductions are allowed from the agreement without penalty for legitimate bond proceeds expenditures and the final maturity is within the "temporary period" (this arrangement is commonly referred to as a "flexible repurchase agreement").

Section 9. Investment Allocation Limits.

It is the Policy of the Entities to avoid concentration of assets in a specific maturity, a specific issue, or a specific class of investments. The asset allocation in the portfolio should, however, be flexible depending upon the outlook for the economy and the investment market.

The Investment Officers shall evaluate how each investment purchased fits into the Entities' overall investment strategies (see Section 15 - Investment Strategy Statement).

Section 10. Broker/Dealers and Other Providers.

The Town shall maintain a list of broker/dealers which have been approved by the Town Council. Securities may only be purchased for the Entities from those authorized broker/dealers.

The Investment Officers shall review each broker/dealer approved under this Section and at least annually the Town Council shall re-approve the applicable list.

Broker/dealers, investment pools, and other financial institutions will be selected by the Investment Officers on the basis of their financial stability, expertise in cash management and their ability to service the Town's and Corporations' account. Each broker/dealer, investment pool, or financial institution, shall be required to submit to the Town or Corporations (as applicable) information as requested by the Investment Officers. The Investment Officers shall maintain a file which includes the most recent information submitted by each firm.

All business organizations eligible to transact investment business with the Entities shall be presented a written copy of this Policy. The qualified representative of the business organization seeking to transact investment business with the Entities shall execute a written instrument substantially to the effect that it has:

- 1) received and thoroughly reviewed this Policy, and
- 2) acknowledged that the business organization has implemented reasonable procedures and controls in an effort to preclude investment transactions conducted between the Entities and the organization that are not authorized by this Policy, except to the extent that this authorization is dependent on an analysis of the makeup of the Entities' entire portfolio or requires an interpretation of subjective investment standards.

The Entities shall not enter into an investment transaction with a business organization prior to receiving the written instrument described above.

Section 11. Selection of Depositories.

To be eligible for receipt of Entity deposits, financial institutions must be a member of the FDIC, or other federally sponsored deposit insurance corporations, and meet the minimum standards established by the Investment Officers. Financial institutions failing to meet the minimum criteria or, in the judgment of the Investment Officers, no longer offering adequate safety for the Entities will be removed from the list.

Consistent with the requirements of State law, the Entities require all financial institution deposits to be federally insured or collateralized with marketable securities, irrevocable letters of credit, or in any other manner allowed by State law, if the amount of deposit exceeds federal insurance levels. Financial institutions serving as depositories will be required to sign a Depository Agreement with the Entities. The custodial portion of the Depository Agreement shall define the Entities' rights to the collateral in case of default, bankruptcy, or closing and shall establish a perfected security interest in compliance with Federal and State regulations; including:

- A. the Agreement must be in writing;

- B. the Agreement has to be executed by the Depository and the Entities contemporaneously with the acquisition of the asset;
- C. the Agreement must be approved by the board of directors or the designated committee of the Depository and a copy of the meeting minutes must be delivered to the Investment Officers;
- D. the Agreement must be continuously, from the time of execution, an official record of the Depository.

Eligible collateral for financial institution deposits shall include all items allowable with the PFIA, Public Funds Collateral Act, and Chapter 105 of the Local Government Code, subject to prior approval and at the sole discretion of the Investment Officers.

Section 12. Safekeeping and Custody.

Investment securities purchased for the Entities shall be held in third-party safekeeping, and all pledged collateral shall be delivered to an independent third-party custodian prior to deposit. Each of the Entities may designate safekeeping or custodian bank(s). With the exception of federally insured deposits, in no event will the Entities' custodial or safekeeping institution also be counterparty (broker/dealer) to the purchase or sale of those securities, or pledging of that collateral. The Entities, shall execute a written agreement with each bank prior to utilizing the custodian or safekeeping services. The agreement must provide that the safekeeping or custodian bank will immediately record the receipt of purchased or pledged securities in its books and promptly issue and deliver a signed safekeeping receipt to the Entities showing the receipt and the identification of the security, as well as the Entities' perfected interest. The original safekeeping receipt for each transaction including purchased securities under a repurchase agreement and collateral securing deposits will be delivered to the Investment Officers.

Only institutions eligible under the Public Funds Collateral Act may be utilized as a custodian of securities pledged to secure financial institution deposits.

An Investment Officer must approve release of securities held as collateral, in writing, prior to their removal from the custodial account. A facsimile or email of a written authorization shall be sufficient if the custodian orally confirms receipt of the transmission, and an exact copy of the document is retained in the Entities' files.

Section 13. Recordkeeping and Reporting.

A record shall be maintained of all bids and offerings for investment transactions in order to ensure that the Entities receive competitive pricing. All transactions shall be documented by the person authorizing the transaction in a form that shows that person's name, the counterparty to the transaction, the date, a description of the transaction, and a brief statement of the reason(s) for the transaction.

Each depository institution of the Entities' funds shall maintain separate, accurate, and complete records relating to all deposits, the securities pledged to secure such deposits, and all transactions relating to the pledged securities. Each approved custodian shall maintain separate, accurate and complete records relating to all securities received on behalf of the Entities, whether pledged, purchased or subject to

repurchase agreement, as well as all transactions related to such securities. In addition, each depository shall file all reports required by the Texas State Depository Board. Each depository and custodian shall agree to make all the records described in this paragraph available to the Entities and their auditors at any reasonable time.

At least once each quarter, the Investment Officers shall verify that all securities owned by or pledged to the Entities are held in safekeeping in the safekeeping or custodial bank(s) with proper documentation. In conjunction with the annual audit, the Entities' respective investment program, including the records of safekeeping, custodian, and depository banks, shall be audited by independent certified public accountants. This annual audit shall include a compliance audit of the management and internal controls on investments and adherence to this Policy.

An investment report shall be prepared in compliance with the PFIA at least quarterly by the Investment Officers that:

- a) describes in detail the investment position of the Entities,
- b) states the reporting period beginning book and market values, and ending book and market values for the period of each pooled fund group,
- c) states the reporting period ending book and market value for each investment security by asset type and fund type,
- d) states the maturity date of each investment security,
- e) states the fund for which each investment security was purchased,
- f) states the compliance of the investment portfolio with this Policy and the PFIA,
- g) summarizes quarterly transactions, including a detailed list of the gains and losses recognized, and
- h) explains the investment return during the previous quarter and compares the portfolio's performance to other benchmarks of performance.

This report will be prepared and signed by all of the Entities Investment Officers and provided to the Town Council and Boards of Directors. In conjunction with the annual audit, these reports shall be annually reviewed by the independent auditor, and the result of that review shall be presented to the Town Council and Boards of Directors by that auditor, as the case may be.

The Investment Officers shall determine market value of securities owned or pledged as collateral based on sources independent from the transaction.

All contracted Investment Advisors shall prepare reports as requested by the Investment Officers.

Section 14. Ethics and Conflicts of Interest.

Investment Officers and employees of the Entities involved in the investment process shall refrain from personal business activity that involves any of the Entities' approved custodians, depositories, broker/dealers, or investment advisors, and shall refrain from investing in any security issue held by the Entities. Investment Officers and employees of the Entities involved in the investment process shall not utilize investment advice concerning specific securities or classes of securities obtained in the transaction of the Entities' business for personal investment decisions, shall in all respects subordinate their personal investment transactions to those of the Entities, particularly with regard to the timing of purchases and sales, and shall keep confidential all investment advice obtained on behalf of the Entities and all transactions contemplated and completed by the Entities, except when disclosure is required by law.

All Investment Officers shall file with the Texas Ethics Commission, the Town Council, and the Boards of Directors a statement disclosing any personal business relationship with any business organization seeking to sell investments to the Entities or any relationship within the second degree by affinity or consanguinity to an individual seeking to sell investments to the Entities.

Section 15. Investment Strategy Statement.

In order to minimize risk of loss due to interest rate fluctuations, investment maturities will not exceed the anticipated cash flow requirements of the funds. Investment guidelines by fund-type are as follows:

a. Operating Funds

Suitability - Any investment eligible in this Policy is suitable for the Operating Funds.

Safety of Principal - All investments shall be of high quality with no perceived default risk. Market price fluctuations will however occur. By managing the weighted average days to maturity for the Operating Fund portfolio to less than nine (9) months and restricting the maximum allowable maturity to two years, the price volatility of the overall portfolio will be minimized.

Marketability - Investments with active and efficient secondary markets are necessary in the event of an unanticipated cash requirement.

Liquidity - The Operating Fund requires the greatest short-term liquidity of any of the fund types. Short-term financial institution deposits, investment pools, and money market mutual funds provide daily liquidity and may be utilized as a competitive yield alternative to fixed maturity investments.

Diversification - Investment maturities shall be staggered throughout the budget and cash flow cycle to provide cash flow based on the anticipated operating needs of the Entities. Market cycle risk may be reduced by diversifying the appropriate maturity structure out through two years.

Yield - Attaining a competitive market yield for comparable investment-types and portfolio restrictions is the desired objective. The yield of an equally weighted, rolling six-month Treasury Bill portfolio shall be the minimum yield objective.

b. Capital Improvement Funds

Suitability - Any investment eligible in this Policy is suitable for Capital Improvement Funds.

Safety of Principal - All investments shall be of high quality with no perceived default risk. Market price fluctuations will however occur. By managing Capital Improvement Fund's portfolio to exceed the anticipated expenditure schedule and restricting the maximum allowable maturity to the I.R.S. "temporary period", the market risk of the overall portfolio will be minimized.

Marketability - Investments with active and efficient secondary markets are necessary in the event of an unanticipated cash requirement.

Liquidity - The funds used for capital improvement programs have reasonably predictable draw down schedules, therefore investment maturities shall generally follow the anticipated cash flow requirements. Short-term financial institution deposits, investment pools, and money market mutual funds provide readily available funds generally equal to one month's anticipated cash flow needs, or a competitive yield alternative for short term fixed maturity investments. A singular repurchase agreement may be utilized if disbursements are: allowed in the amount necessary to satisfy any expenditure request; this investment structure is commonly referred to as a flexible repurchase agreement.

Diversification - Market conditions and the arbitrage regulations influence the attractiveness of staggering the maturity of fixed rate investments for bond proceeds and other construction and capital improvement funds. With bond proceeds, if investment rates exceed the applicable arbitrage yield, the Entities are best served by locking in most investments. If the arbitrage yield cannot be exceeded, then concurrent market conditions will determine the attractiveness of diversifying maturities or investing in shorter and larger lumps. At no time shall the anticipated expenditure schedule be exceeded in an attempt to bolster yield with any Entities funds.

Yield - Achieving a positive spread to the applicable arbitrage yield is the desired objective for bond proceeds. Non-bond proceeds construction and capital project funds will target a rolling portfolio yield of six month Treasury Bills.

c. Fiduciary Funds

Suitability - Any investment eligible in this Policy is suitable for the Fiduciary Funds.

Safety of Principal - All investments shall be of high quality with no perceived default risk. Market price fluctuations will however occur. By managing the weighted average days to maturity for the Fiduciary Fund portfolio to less than nine (9) months and restricting the maximum allowable maturity to two years, the price volatility of the overall portfolio will be minimized.

Marketability - Investments with active and efficient secondary markets are necessary in the event of an unanticipated cash requirement.

Liquidity - The Fiduciary Fund requires short-term liquidity. Short-term financial institution deposits, investment pools, and money market mutual funds provide daily liquidity and may be utilized as a competitive yield alternative to fixed maturity investments.

Diversification - Investment maturities shall be staggered throughout the budget and cash flow cycle to provide cash flow based on the anticipated operating needs of the Entities. Market cycle risk may be reduced by diversifying the appropriate maturity structure out through two years.

Yield - Attaining a competitive market yield for comparable investment-types and portfolio restrictions is the desired objective. The yield of an equally weighted, rolling six-month Treasury Bill portfolio shall be the minimum yield objective.

Section 16. Policy Revisions.

This Policy will be reviewed at least annually by the Investment Officers, the Town Council, and Boards of Directors and may be amended as conditions warrant by the Town Council and Boards of Directors.

Section 17. Effective Date.

This Policy shall become effective from and after its date of passage as provided by law.

TOWN OF LITTLE ELM

AGENDA INFORMATION SHEET:

COUNCIL MEETING

DATE: April 3, 2012

PROJECT: Senior Center and Community/Recreation Center Policies, Procedures and Fee Schedules

DESCRIPTION: With the upcoming opening of the new Senior Center and Community/Recreation Center staff is preparing updated guidelines for the use of the facilities. Included are fee schedules for the use of Community/Recreation Center with membership fees and rental rates. Staff does not recommend the Senior Center meeting room space be open for public reservation. Guideline usages for the facilities specify acceptable activities for patrons along with membership fees. Membership fees are proposed at a resident non-resident rate. The proposed rates are set as a competitive rate for the surrounding community taking in to consideration the size of our facility and activities offered. Included in the fees staff is allowing for student rates that other communities do not offer.

COST: The proposed fees are a cost to the user not a cost to the Town. The proposed membership fees and program fees are proposed to recover approximately 80% operational costs with full capacity.

FUNDING SOURCE: *(Note: If funding is not included in the current budget; a Fiscal Note signed by the Finance Director will be attached)*

Acct. Name & No	Original Budget
N/A	N/A

SCHEDULE: Upon opening of the Senior Center and Community/Recreation Center staff is requesting the fees policies and procedures be approve by Town Council.

**RECOMMENDED
ACTION:**

Staff is requesting Town Council approve Ordinance 1099 establishing the fees, policies and procedures for the Senior Center and Community/Recreation Center.

TOWN CONTACT:

**Tony Chrisman
Parks & Recreation/Library Director**

ATTACHMENTS:

Ordinance 1099 establishing fees, policies and procedures for the Senior Center and Community/Recreation Center

TOWN OF LITTLE ELM, TEXAS

Ordinance No. 1099

AN ORDINANCE OF THE TOWN OF LITTLE ELM, TEXAS, PRESCRIBING RULES, REGULATIONS AND FEES FOR THE SENIOR CENTER AND COMMUNITY RECREATION CENTER; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A PENALTY FOR VIOLATIONS; REPEALING PREVIOUS ORDINANCES IN CONFLICT; PROVIDING PUBLICATION OF THE CAPTION HEREOF.

WHEREAS, the Town Council has determined that it is appropriate to provide a Senior Center and Community Recreation Center for the use and enjoyment of the residents of Little Elm and the surrounding area; and

WHEREAS, the Town Council has determined that it is in the best interests of the Town to establish rules, regulations and fees for the Senior Center and Community Recreation Center, which rules, regulations and fees are set forth in this Ordinance.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF LITTLE ELM, TEXAS:

Section 1. Findings.

That the facts and recitations contained in the preamble of this Ordinance are hereby found and declared to be true and correct legislative findings and are adopted as part of this Ordinance for all purposes.

Section 2. Creation of Article IV, "Senior Center & Community Recreation Center," to the Town's Code of Ordinances.

The Town's Code of Ordinances, Chapter 74, is hereby amended by adding the following Article IV, Senior Center & Community Recreation Center, to said Chapter:

"ARTICLE IV. SENIOR CENTER & COMMUNITY RECREATION CENTER

Sec. 74-61. Purpose.

This article is hereby adopted to serve as a guide for the comprehensive and effective usage of the Senior Center and Community Recreation Center.

Sec. 74-62. Senior Center Rules & Regulations.

(a) Programs and Activities

- (1) Senior Programs, provided through the Parks and Recreation Department (“PARD”), are designed to encourage: socialization, continued personal growth and development, cultural opportunities, cognitive stimulation and physical fitness.
 - a. Ongoing programs and activities such as Bridge, Wii Bowling, Fitness Classes, Crochet & Knitting, Movie Day, Game Day, Craft Day, Ice Cream Socials, and Luncheons are provided on a specific day or days each week and are coordinated through the Senior Center Department. Special programs and activities are also coordinated through the Senior Center Department.
 1. Senior Center staff sets up for various programs and activities as well as coordinates any additional space or rooms for special activities or events with other PARD staff members.
 2. Volunteers facilitate many of these activities. If space will not be available on the day of the scheduled activity, Senior Center staff will notify the volunteer or instructor so the activity can be cancelled or rescheduled.
 - b. Group Trips: Senior Center staff facilitates group trips. Transportation is provided by “Buses By Bill” or an equivalent rental facility. Charges for residents and non-residents may apply. Cancellations must be made a week in advance. No refunds will be made without a week’s notice and the tender of the original transaction receipt.
 1. Bus trips are generally limited to short day trips to museums, theaters, special events or presentations throughout the DFW area.
 - a. Space on the bus is limited to 27 passengers. Early sign up is encouraged. When a group is full, others will be placed on a waiting list. At times, we will upgrade to a larger bus, depending on the number of attendees and after consideration of the justification of a price increase.

(b) The Center Provides, Among Other Things, The Following:

- (1) Wellness Programs
- (2) Classes, Activities, Presentations
- (3) Special Events

- (4) Trips
- (5) Volunteer Activities
- (6) Information and Referrals

(c) *The Center Does Not Provide The Following:*

- (1) Medical Care for Senior Adults
- (2) Medication Distribution
- (3) Daycare of any sort for Senior Adults
- (4) Personal Care or Bathroom Assistance for Senior Adults
- (5) Staff to attend or be responsible for patrons on trips

(d) *Operations Guidelines:* In order for the Town of Little Elm's Brenda Button-Mills Senior Center to provide a safe, comfortable, and pleasant environment for all participants, the following guidelines are hereby established:

- (1) Participants must be 50 years old or older and must be able to be responsible for providing for their own personal care and needs unless accompanied by a caretaker who will attend to the participant's personal needs for the duration of their stay.
- (2) Emergency contacts must be listed on the participant's waiver. Next of kin will be contacted in case of an emergency.
- (3) A caretaker must accompany participants that are not able to attend to their personal needs for the duration of their stay.
- (4) Caretakers that are ineligible as a participant are at the senior center to assist and care for their client. They are not to be considered as participants or senior center staff.
- (5) The Senior Center staff may make a determination about whether a client is participation appropriate for the program. Referral to adult day care may be suggested.
- (6) Programs and activities are offered to senior adults with the understanding that they do not need help to accomplish the particular projects or tasks. The program leader will demonstrate projects with completion being in the hands of the participant.
- (7) All participants will conduct themselves in such a manner that they are not injurious to themselves, others or cause damage or destruction of property.

- (8) All participants must conduct themselves in such a manner that they do not disrupt the program or have a negative impact on other participants' enjoyment of activities and facilities.
- (9) Use of tobacco, drugs and alcohol is prohibited inside the senior center.
- (10) Weapons are strictly prohibited anywhere on the senior center grounds.
- (11) Soliciting is prohibited at all times.
- (12) Offensive language is prohibited at all times.
- (13) Observance of good manners is required at all times.
- (14) Good personal hygiene and proper attire are requested at all times.
- (15) Respect for others is requested at all times.
- (16) Any operational questions and concerns should be discussed with a Senior Center Staff.

(e) *Senior Center Trips*

- (1) Van/bus seating is on a first come, first serve, basis for qualified seniors (50+ adults).
- (2) A care provider may accompany a participant requiring assistance if an extra seat is available on the van/bus. The Senior Center Supervisor may require a note from the participant's doctor stating that the client can make the trip if accompanied by a caregiver.
- (3) Qualified seniors take priority for seat availability on trips. If a client requiring assistance cannot be accompanied due to seat availability, the client must make other travel arrangements.
- (4) Care providers will pay the same trip costs as any other travelers.
- (5) Care providers who are also senior adults (50+) have the same privileges as any other qualifying participants.
- (6) Senior members must attend three (3) events/activities per month to qualify for payment of the trip (bus and event ticket). Those members who do not attend three (3) events/activities per month will be required to pay a fee. The fee will be based on the trip cost and will differ each trip.

(7) The decision as to whether a participant requires supervised assistance or is suitable for a trip is at the discretion of the Senior Center Supervisor.

(8) Participants will be responsible for all of their own personal expenses incurred while on the trip.

(9) Senior Center staff will not be allowed to handle any participant's personal funds, outside the stated prepaid trip fees and expenses, at any time during the trip.

All clients will be given a copy of the senior center guidelines at the time of registration.

Sec. 74-63. Community Recreation Fees, Rules and Regulations.

(a) Hours of Operation

Monday – Thursday	6:00 am – 10:00 pm
Friday	6:00 am – 9:00 pm
Saturday	9:00 am – 6:00 pm
Sunday	Noon – 6:00 pm

(b) Memberships

- (1) Residency for membership at the Little Elm Recreation Center is determined by Little Elm city limits. Those individuals living outside Little Elm city limits, but whose children attend Little Elm schools, are considered non-residents.

Proof of residency for all members must be shown at the time of registration and before receiving a photo ID. A current driver's license, utility bill or an insurance card may all be used to show proof of residency.

(2) Membership Types

Youth – A youth is defined as an individual 2 – 17 years of age. A child under the age of 2 does not require a membership or usage fee.

Adult – An adult is defined as an individual 18 years or age and older.

Senior – A Senior Adult is defined as 50 years of age or older.

Family - A family is considered all those members living at the same address. Individuals must be able to show proof of permanent residency at that address.

Daily/Guest - A Daily Pass gives an individual access to all self-directed aspects of the facility and all Group Exercise classes for the day available within their age limits.

Student Membership - This Pass is for college students to attend the recreation center during the summer months. A valid college ID is required to purchase this pass. This pass is valid May 15 - August 15 ONLY. This pass is non-transferable to other pass types or people.

(c) *Membership Rates*

(1) <u>Resident:</u>	<u>Monthly Pass</u>	<u>4-Month Pass</u>	<u>Annual Pass</u>
Youth	\$15	\$55	\$135
Senior	\$15	\$55	\$135
Adult	\$15	\$70	\$170
Family	\$45	\$170	\$420
(2) <u>Non-Resident:</u>	<u>Monthly Pass</u>	<u>4-Month Pass</u>	<u>Annual Pass</u>
Youth	\$25	\$95	\$230
Senior	\$25	\$95	\$230
Adult	\$30	\$115	\$255
Family	\$70	\$270	\$650
(3) <u>Daily/Guest:</u>	<u>Resident</u>	<u>Non-Resident</u>	
Youth	\$3	\$5	
Senior	\$3	\$5	
Adult	\$5	\$7	
(4) <u>Student Membership:</u>	<u>Ages</u>	<u>Resident</u>	<u>Valid</u>
Student	18 & Up	\$45	\$230

(d) *Age Policy.*

- (1) Youth 11 and younger must have adult supervision at all times.
- (2) Youth 12 and older may be dropped off to use the facility as long as they are a member of the Recreation Center.
- (3) Youth 12 and younger may not be in the Fitness Area.
- (4) Youth 12 – 15 years of age may use the basketball court without adult supervision.
- (5) Youth 13 – 15 years of age may use the Fitness Area with active adult participation.
- (6) Youth 16 – 17 years of age can use the facility without adult supervision.

(e) *Locker Room Policy*

- (1) Children of the opposite gender older than the age of 2 are not permitted in the Men's and Women's Locker Rooms. Please use the Family Changing Suites.
- (2) Patrons must provide their own locks.
- (3) Lockers are intended for daily use only.
- (4) Storing individual items in lockers overnight is prohibited.
- (5) Management is not responsible for lost or stolen items left in lockers or locker rooms.
- (6) Cell phone use is not permitted in locker room.
- (7) No food or drinks are permitted in the locker rooms with the exception of water bottles.

(f) *Gymnasium Rules*

- (1) Members and guests younger than the age of 12 must have adult supervision at all times.
- (2) Proper attire, including shirts, shorts and non-marking gym shoes must be worn at all times. No bare feet, flip-flops, sandals, dress shoes, etc.
- (3) Dunking and hanging on the rims, nets and backboards is prohibited.
- (4) No kicking or throwing balls against the walls, doors or windows.
- (5) No food is allowed in the gym. Drinks are allowed in plastic containers only
- (6) Profanity or vulgar language is not allowed.
- (7) The Recreation Center is not responsible for lost or stolen items. Please store all belongings in a locker.
- (8) No organized instruction, coaching or training is allowed in this facility except by authorized personnel.

(g) *Fitness Area Rules*

- (1) Children under 13 years of age are not allowed in the Fitness Room.
- (2) Children between 13 – 15 years of age must be accompanied by an actively participating adult.
- (3) Towels are mandatory; wipe down equipment after each use.

- (4) Collars are mandatory for all barbell lifts.
- (5) Spotters are required for all heavy lifts in the Free Weight area.
- (6) Equipment may not be rearranged or removed.
- (7) Do not bang the weights together or drop on the floor.
- (8) Weights must be returned to appropriate racks after each use.
- (9) Do not lean weights against equipment, walls or columns.
- (10) No food, cups, glass, gum allowed. Drinks must be in a spill-proof container.
- (11) Proper attire must be worn at all times. Belts, jeans, clothing with rivets, wallet chains, sandals and open toed shoes are prohibited.
- (12) Only authorized personnel are allowed to conduct personal training in this facility.
- (13) Limit cardio equipment use to 30 minutes during peak times.
- (14) Report equipment irregularities or malfunctions to a fitness attendant immediately.
- (15) Safe and proper use of equipment is required at all times.
- (16) Management reserves the right to enforce other rules as necessary to ensure the safety of our guests.

(h) *Facility and Community Room Reservation Rates*

(1) Community Center, Amphitheater, Pavilion.

<u>Facility:</u>	<u>Deposit:</u>	<u>Resident/Non-Resident Fee:</u>	<u>Key Required?</u>
Community Center picked up and returned)	\$100	\$25/\$50 per hour	(Y) _____ (to be
Amphitheater	\$200	\$50/\$75 per hour	(N)
Pavilion	\$100	\$45/\$75 per event	(N)

(2) Little Elm Recreation Center.

<u>Area:</u>	<u>Deposit:</u>	<u>Resident/Non-Resident Fee:</u>
Classroom	\$50	\$20/\$40 per hour
Craft Room	\$50	\$20/\$40 per hour
Multi-Purpose Room (includes kitchen)	\$100	40/\$60 per hour
Gymnasium Half Court	\$100	\$50/\$62.50 per hour
Gymnasium Full Court	\$100	\$100/\$125 per hour

(i) *Facility Reservation Polic.*

- (1) Basic Rental Information - Designated city facilities are available for social, civic, business, cultural, recreational, or charitable purposes. Reservations will be accepted from adults 21 years or older. A rental application form must be completed. Reservations can be scheduled up to three months (90 days) in advance. Town programs and events hold priority over rentals in facility scheduling. Reservations will be made only after the renter has read, agreed to abide by, and signed this policy, and paid the security deposit and rental fees. Rental meetings must be open to the public without regard to race, age, sex, religion, national origin, political affiliation, or disabilities. Attendance is limited by the capacity of the rooms as established by the Building Code and the Fire Marshall. Reservations are taken on a first-come basis. Town staff is permitted the authority to determine unacceptable behavior of individuals while on the premises, with the right to cancel reservations or request an offender to leave. Future use shall be denied those violating Town Ordinance and Policies.
- (2) Deposit - Cash, credit card, check or money order for deposit is required. The security deposit is a separate fee and is deposited. If paid by check, the deposit is refundable 30 days after the date of purchase when all conditions of the reservation are met. Checks will not be accepted within 30 days of rental date. Other forms of payment will be processed for refund within two (2) weeks after the event. Reserved area must be left in a clean condition and without any damage by renter. If these conditions are not met the renter forfeits their deposit. If damages occur beyond the deposit, renter will be held responsible for the difference.
- (3) Charging Fees/Sales - Use of a facility for financial gain is prohibited. No admittance fee or any other charge for attendance may be attached to any function. No part of the city premises may be used for money raising activities unless the renter has pledged the proceeds to a charitable or public service program. The Town has the authority to audit the renter's financial books or to require a financial statement. It is unlawful to sell or offer for sale any food, drinks, confections, merchandise, or services, unless such person has a written agreement or a permit issued by the Parks and Recreation Department.
- (4) Damages - The individual for whom the reservation is made shall be responsible for any loss or damage to the property during the tenure of their reservation and shall reimburse the Town for replacement cost of the property. A company or organization must designate a responsible individual for the rental. Applicant agrees to abide by all City, State and Federal laws. The Town will not be liable for damage, injury or loss to person or property that may occur during the occupancy of the facility. The renter will agree to

hold the Town of Little Elm and its employees fully harmless for any actions that may arise out of the use of the facility.

- (5) Publicity - In the event publicity concerning the meeting is circulated which lists the facility as the location, this disclaimer must be included: "This event is not sponsored by the Town of Little Elm." Neither the name nor address of the facility may be used as the official address or headquarters of an organization.
- (6) Rental Completion - At the end of the rental period the renter shall return the room to its original arrangement remove food and personal items and clean the area before leaving. Renter must clean floors, place all trash in plastic bags and take trash to dumpster. For outdoor facilities the renter must provide any needed cleaning supplies and must remove all equipment and supplies at the end of the rental. The Town will not store nor be held responsible for any property left on the premises. The renter and department staff will complete a facility checklist before, during and at the conclusion of the rental.
- (7) Chaperones - Renter agrees to provide a minimum of three (3) adult chaperones, parents or adults 21 years of age or over for the first fifty (50) youth (under 18 years of age) and one additional chaperone for each twenty (20) additional guests. Chaperones must be present at all times.
- (8) Set Up/Clean Up - Set-up and clean-up time must fall within the rental time. Renters are responsible for setup and take down of all rental equipment. Department staff will not be available to assist. A limited number of tables and chairs are available for use. Check with staff prior to the rental about inventory available at the site. The center does not furnish eating utensils, plates, cups, serving dishes, serving utensils, tablecloths, decorating supplies, microphones, podiums, extension cords, or other equipment. An extra charge will be assessed and deducted from the deposit if the rental exceeds the contracted time and/or expected attendance. Rentals may be extended after posted closing time for cleanup only by special arrangement. Refunds will not be issued for rentals ending earlier than stated on the reservation agreement.
- (9) After Hours - After-hours rentals will be assessed staff fees at the rate of \$25 per hour per staff with a minimum of two staff present. In addition to facility rental fees, all indoor facilities are subject to after hour staffing fees of \$50/hour for 1-299 people and \$75/hour for 300 plus people. Some rentals, at supervisory staff discretion, may require an off-duty police officer to be present as the second staff at the rate of \$50 per hour.
- (10) General Regulations:
 - The use of controlled substances or alcohol is prohibited on the premises.

- No smoking inside facility or near the exit doors.
- Gambling is not permitted on the premises.
- Decorations must be authorized by department staff. Nails, thumbtacks, etc. must not be used to attach decorations to the structure or to the furnishings. Decorations must meet all fire codes (no open flames, votives, sternos, etc.)
- Birdseed may be thrown outside only (no rice or confetti).
- The city is not responsible for weather and recommends renters have a backup plan for outdoor functions.
- Food purchased or catered for rental events must be from a Little Elm establishment.
- Permits are required for special events. Please contact Building Inspections at 214-975-0472.

(10) Cancellations/Refunds – Renter agrees to read and abide by Little Elm PARD refund policy. See PARD Refund Policy for details.”

Section 3. Severability Clause.

If any word, section, article, phrase, paragraph, sentence, clause, or portion of this Ordinance or application thereto to any person or circumstance is held to be invalid or unconstitutional by a court of competent jurisdiction, such holding shall not affect the validity of the remaining portion of this Ordinance; and the Town Council hereby declares it would have passed such remaining portions of this Ordinance despite such invalidity which remaining portions shall remain in full force and effect.

Section 4. Providing for Publication.

Providing for the publication of this caption of this Ordinance and effective date hereof. The newspaper having general circulation in the Town shall be effective immediately upon its passage and publication.

Section 6. Penalty.

Any person or group violating any provision of this Ordinance shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished as provided in section 1-10 of the Town’s Code of Ordinances.

Section 7. Effective Date.

This Ordinance shall take effect immediately upon its adoption in accordance with and as provided by law and the Town Charter.

PASSED AND APPROVED by the Town Council of the Town of Little Elm, Texas this the 3rd day of April, 2012.

Charles Platt, Mayor

ATTEST:

Kathy Phillips, Town Secretary

APPROVED AS TO FORM:

Robert F. Brown, Town Attorney

TOWN OF LITTLE ELM

AGENDA INFORMATION SHEET:

COUNCIL MEETING

DATE: April 3, 2012

PROJECT:

Amendment to Development and Escrow Agreement for the design and construction of a Public Road Connector on F.M. 423 at Smothermon Road between the Town of Little Elm and the developer, 423 East, Ltd.

DESCRIPTION:

Council approved a development agreement on November 1, 2011 between the Town and 423 East, Ltd. Town Staff had been working with the owner of the three tracts of land rezoned for development under the conditions of Ordinance 1039 along F.M. 423 centered at the intersection of F.M. 423 and Smothermon Road for several months. The tract east of F.M. 423 has been split into two tracts. The Frisco Independent School District (FISD) bought approximately half of the tract (14 acres). As a condition of that sale the school district was required to escrow certain funds with an independent escrow agent. Both the school district and the developer were in agreement for the Town to act as the agent to design and install the agreed upon public improvements.

The existing agreement between the developer and the Town allowed the Town to be reimbursed for design and construction costs on a public road connector past the school district property back to F.M. 423 and a right turn lane on F.M. 423. The developer of the apartments, Western Rim, is moving forward with site work and is willing to contract directly with Quality Excavation, Ltd, the firm that constructed Smothermon Road for the Town, to finish the connector streets McCord Way and Martin Way from Smothermon Road over to FM 423. The attached amendment letter agreement will allow developer to build the public improvements and received the escrow funds for that construction.

COST:

N/A

FUNDING: N/A

SCHEDULE: Developer to move forward with the improvements.

RECOMMENDED ACTION: **Staff recommends Town Council approve letter amendment to the Development and Escrow Agreement between developer, 423 East, Ltd, and the Town of Little Elm and authorize Town Manager to execute for the same.**

TOWN CONTACT: Jason W. Laumer, P.E.
Director of Development Services
JLaumer@littleelm.org
(214) 975-0473

ATTACHMENTS:

1. Exhibit
2. Letter Amendment
3. Executed Development and Escrow Agreement

STATE OF TEXAS §
 §
COUNTY OF DENTON §

KNOW ALL BY THESE PRESENTS:

WESTERN RIM INVESTORS 2011-6, L.P.

2505 N Hwy 360, Suite 800
Grand Prairie, TX 75050

March ____, 2012

423 East, Ltd.
1660 South Stemmons Freeway, Suite 400
Lewisville, Texas 75067
Attention: Mr. William A. Martin
Telephone No.: (214) 683-7664
Facsimile No.: (972) 436-4276
E-mail Address:wamracing@yahoo.com

Frisco ISD
5515 Ohio Drive
Frisco, Texas 75035
Attention: Mr. Richard Wilkinson
Telephone No.: (469) 633-6030
Facsimile No.: (469) 633-6050
E-mail Address: WilkinsR@friscoisd.org

American Escrow Company.
2626 Howell Street, 10th Floor
Dallas, Texas 75204-4064
Attention: C. Richard White
Telephone No.: (214) 855-8868
Facsimile No.: (214) 855-8848
E-mail Address:RWhite@republictitle.com

Town of Little Elm
100 W. Eldorado
Little Elm, TX 75068
Attention: Jason Laumer
Telephone No.: (214) 975-0405
Facsimile No.: (972) 377-5540
E-mail Address: jlaumer@littleelm.org

Re: Development and Escrow Agreement dated October 25, 2011 (the "**Escrow Agreement**")
 among 423 East, Ltd., Frisco ISD and American Escrow Company ("**Escrow Agent**")

Agreement Regarding Development Work (Smotherman Road, New Public Road and Trail)
dated October 25, 2011 ("**Smotherman Development Agreement**")

Agreement Regarding Development Work (New Public Road Extension and Decel Lane)
dated October 25, 2011 ("**New Public Road Development Agreement**")

Agreement Regarding Development Work (Traffic Light) dated October 25, 2011 ("**Traffic
Light Development Agreement**")

Dear Interested Parties:

By its acquisition from 423 East, Ltd., Western Rim Investors 2011-6, L.P. ("**Western Rim**") is the owner and developer of that certain approximately 19.183 acre tract of real property (the "**WR Property**") located in the Town of Little Elm (the "**Town**"), Denton County, Texas. 423 East, Ltd. and Frisco ISD ("**FISD**") own other tracts of land within the vicinity of the WR Property. All of the above-mentioned tracts will derive access, utilities and other benefits by virtue of the roadway and utility improvements contemplated under the above-referenced Smotherman Road Development Agreement, New Public Road Development Agreement and the Traffic Light Development Agreement (collectively referred to as the "**Development Agreements**" and the work thereunder the "**Development Work**"). Pursuant to the Escrow Agreement, funds have been deposited with American Escrow Company for use by the Town to complete the Development Work. In connection with its sale of the WR Property to Western Rim, 423 East, Ltd. nonexclusively assigned rights under the Development Agreements and Escrow Agreement to Western Rim as provided in that certain Assignment and Assumption of Agreements dated December 15, 2011 ("**Western Rim Assignment**").

Although the Town has completed the Development Work for the Smotherman Extension (as defined in the Escrow Agreement) as contemplated under the Smotherman Development Agreement, the remaining Development Work under the Development Agreements has not been completed, and although the Town was to complete the remaining Development Work under the Development Agreements, the parties believe it is in the best interest of all parties for Western Rim to complete the remaining Development Work in place of the Town. Accordingly, the parties agree that (i) Western Rim will complete the remaining Development Work under the Development Agreements in the same manner as Town would have completed the Development Work (and in accordance with all other requirements set forth in the Development Agreements that are applicable to the Town, except as otherwise set forth herein), with Western Rim entering into approved Construction Contracts (as defined in the Development Agreements) and (ii) Western Rim shall receive disbursements of funds from the escrowed funds under the Escrow Agreement to pay for amounts due under approved Construction Contracts entered into by Western Rim, but in lieu of the manner in which disbursements of funds from the Escrow Agreement would have been made to the Town if the Town were completing the Development Work, disbursements of the escrowed funds to Western Rim shall be made in accordance with the disbursement procedures set forth on **Exhibit "A"** hereto ("**Disbursement Procedures**").

The parties agree that the Standard Form of Agreement Between Owner and Contractor with Quality Excavation, Ltd. for the Smotherman Road Connection (Martin Way and McCord Way) attached hereto, with associated specifications contained in the specification book referenced therein entitled Smotherman Connector, Martin Way & McCord Way, SRC# 870-87-65 dated February 2012 (collectively, the "**Approved Connector Contract**"), is approved by all parties. The Approved Connector Contract shall be an approved Construction Contract and Western Rim is authorized to execute said Approved Connector Contract promptly after the full execution hereof. With respect to all other Development Work not already completed or included in the Approved Connector Contract, Western Rim shall execute approved Construction Contracts for such Development Work as soon as reasonably possible, but if Western Rim does not enter into an approved Construction Contract for such other Development Work within 30 days after notice from either FISD or 423 East, Ltd. (which notice shall not be given before Final

Plans (as defined in the Development Agreements) are approved as provided herein), then, without limitation of any other available remedies, 423 East, Ltd. and/or FISD may, with further notice to all parties hereunder, take over the authority to and enter into one or more approved Construction Contracts for such other Development Work not then completed or subject to an existing approved Construction Contract, using a qualified contractor of its/their selection that meets the Town's requirements, and complete such Development Work thereunder (referred to as a "**Construction Contract Takeover**" and the party so taking over being referred to as a "**Takeover Party**"), and in such event, all applicable escrowed funds under the Escrow Agreement shall be disbursed to 423 East, Ltd. and/or FISD, as the case may be, in the same manner as Western Rim would have received such disbursements hereunder if Western Rim had entered into the approved Construction Contracts for such Development Work.

In the event that the Development Work under any approved Construction Contract is not timely completed in accordance with the terms thereof through no fault of Western Rim (or through no fault of the Takeover Party, in the case of Construction Contracts entered by a Takeover Party after a Construction Contract Takeover), or if the contractor under an approved Construction Contract is otherwise in default thereunder, then whichever party hereto is the contracting party thereunder shall give written notice to the other parties hereunder of such default or failure and all parties hereunder shall fully cooperate together and act reasonably and in good faith to determine how to deal with the situation presented and how to effectively exercise available remedies under the approved Construction Contract against the defaulting contractor.

The forgoing is subject to the following: (i) the procedure for developing and approving the Final Plans (as defined in the Development Agreements) shall remain the same, with the Town obtaining and submitting Submitted Plans (as defined in the Development Agreements), as contemplated under paragraph 2 of the Development Agreements, except the parties acknowledge that Western Rim, along with 423 East, Ltd., shall jointly hold the approval rights in favor of 423 East, Ltd. as set forth in the Development Agreements, provided that Western Rim shall exercise its approval rights in good faith (and nothing herein is meant to negate or otherwise limit FISD's approval rights as set forth in the Development Agreements); and (ii) no bond shall be required with respect to an approved Construction Contract for any remaining Development Work unless the Town or FISD so requires; and (iii) notwithstanding anything to the contrary in the Development Agreements, all funds remaining in escrow under the Escrow Agreement shall remain in escrow and disbursed to Western Rim (or the applicable Takeover Party in the event of a Construction Contract Takeover) in accordance with the Disbursement Procedures contained herein.

If there are any excess escrowed funds remaining after all Development Work has been completed, then such excess escrowed funds shall be distributed to the applicable parties pursuant to the Escrow Agreement, and as between Western Rim and 423 East, Ltd., as set forth in the Western Rim Assignment, and if such funds are not sufficient to cover the cost of all remaining Development Work, then any excess costs shall be funded prorata among the applicable parties in proportion to the amount each party would be responsible for with respect to funding additional required amounts as set forth in the Escrow Agreement (and, as between Western Rim and 423 East, Ltd., as set forth in the Western Rim Assignment). All parties agree that, with respect to the allocation of construction costs among various components of the

Development Work, Dan Grant of Kimley-Horn and Associates shall make final determination thereof unless such allocation is otherwise mutually agreed by all of the parties.

Texas law shall govern this Agreement, and venue for any disputes arising hereunder shall be in Denton County, Texas. Notwithstanding anything to the contrary, by signing this letter agreement nothing herein is intended to waive or limit the governmental immunity provided under law to Frisco Independent School District.

Except as expressly provided herein, the terms and provisions of the Escrow Agreement, the Development Agreements and the Western Rim Assignment remain unmodified and in full force and effect. This letter may be executed in one or more counterparts.

Very truly yours,

WESTERN RIM INVESTORS 2011-6, L.P.,
a Texas limited partnership

By: Western Rim GenPar 11-6, L.P.,
a Texas limited partnership,
its sole general partner

By: Western Rim Investment Advisors
11-6, LLC,
a Texas limited liability company,
its sole general partner

By: _____
Marcus D. Hiles,
Chief Executive Officer

ACCEPTED AND AGREED TO BY:

423 EAST, LTD.,
a Texas limited partnership

By: WAM 423 East GP, LLC,
a Texas limited liability company,
its General Partner

By: _____
Name: William A. Martin
Title: Manager

FRISCO INDEPENDENT SCHOOL DISTRICT

By: _____
Name: Richard Wilkinson
Title: Deputy Superintendent for Business and
Operations

TOWN OF LITTLE ELM, a Texas municipality

By: _____
Name:
Title:

**AMERICAN ESCROW COMPANY, a Texas
corporation**

By: _____
Name: C. Richard White
Title: Senior Vice-President

EXHIBIT "A"

ESCROW DISBURSEMENT PROCEDURES

In order to request a disbursement from the escrow under the Escrow Agreement, Western Rim (or the applicable Takeover Party in the case of Construction Contracts entered by a Takeover Party) shall deliver to the Escrow Agent and the other parties hereto written disbursement requests (each a "**Disbursement Request**") from time to time setting forth the amount requested based upon reasonable draw requests by the underlying contractor under the approved Construction Contract on AIA forms or which otherwise comply with the applicable approved Construction Contract to cover costs for the completion of Development Work performed.

All parties agree to approve (or deny with specific reasons) any such Disbursement Request within five (5) business days of receipt of such Disbursement Request and shall send notice of such approval or denial to all other parties, including the Escrow Agent. If any party fails to respond within such five (5) business day period, such party shall be deemed to have approved such Disbursement Request.

If all parties approve or are deemed to have approved a Disbursement Request pursuant to the above, then without further instructions the Escrow Agent shall fund the amounts requested under the Disbursement Request to the requesting party. However, if any party has timely sent notice of its disapproval of any Disbursement Request to the other parties, then the disputed amount shall be retained by Escrow Agent until all parties hereunder with authority to approve have provided joint written direction to Escrow Agent, and in such event all of the parties hereto shall work together reasonably and in good faith to resolve the dispute, and if the dispute remains unresolved for fifteen (15) days after the Disbursement Request giving rise to the dispute was delivered, then the parties agree to proceed to resolve the matter by mediation in Denton County, Texas, with a Denton County based mediator, with each party paying its own cost for same.

AGREEMENT REGARDING DEVELOPMENT WORK
(New Public Road Extension and Decel Lane)

THIS AGREEMENT REGARDING DEVELOPMENT WORK (NEW PUBLIC ROAD EXTENSION AND DECEL LANE) (this "**Agreement**") is entered into as of the 25 day of October, 2011, by and between 423 EAST, LTD., a Texas limited partnership ("**423 East**"), and the TOWN OF LITTLE ELM, TEXAS ("**Town**").

RECITALS

A. Pursuant to that certain Contract of Sale ("**Contract**") dated effective September 27, 2011, by and between 423 East and Frisco Independent School District ("**FISD**"), 423 East has conveyed to FISD concurrently herewith that certain approximately 14.00 acre tract of real property ("**Property**") located in the Town of Little Elm, Denton County, Texas, which is more particularly described on **Exhibit A** attached hereto and incorporated herein by reference.

B. 423 East and the Town (sometimes referred to separately as a "**Party**" and together as the "**Parties**") desire to provide for the construction of the Development Work (as hereinafter defined) by the Town and are entering into this Agreement to set forth their respective obligations. By separate agreement dated as of even date herewith, 423 East, FISD and American Escrow Company ("**Escrow Agent**") have executed a certain Development and Escrow Agreement ("**Escrow Agreement**"), which provides for (i) the escrow of certain funds by 423 East to cover the agreed-upon costs of the Development Work and (ii) a process by which Escrow Agent is authorized to disburse such escrowed funds to the Town for the design and construction of the Development Work.

AGREEMENT

In consideration of the promises and of the mutual covenants and undertakings hereinafter made, and the benefits to accrue to the parties, the parties hereto agree as follows:

1. "**Development Work**" as used in this Agreement shall mean all of the following:

(a) the design and construction of an extension of (i) a new public road and (ii) a sanitary sewer main, a storm water main and a water main thereunder, along a portion of the western boundary of Tract 4 (as depicted on the Site Plan) from the southwest corner of the Property to the northeast corner of Tract E (as such tract is depicted on the Site Plan and labeled as the "**North/South Extension**") and from such northeast corner of Tract E over to FM 423 (the "**East/West Connector**") (the "**North/South Extension**" and the "**East/West Connector**" shall collectively be referred to as the "**New Public Road Extension**"), pursuant to and in accordance with plans therefor to be finalized by the Town Engineer (hereinafter defined) and to be agreed to by 423 East, and which shall be in the location as generally depicted on the site plan attached hereto as **Exhibit B** and incorporated herein by reference (the "**Site Plan**"); and

(b) the design and construction of a deceleration lane at the intersection of the East/West Connector and FM 423 ("**Decel Lane**"), pursuant to and in accordance with plans

therefor to be finalized by the Town and to be agreed to by 423 East, and which shall be in the location as generally depicted on the Site Plan.

2. The plans for the construction of the New Public Road Extension and the Decel Lane have not yet been finalized or agreed to by the Parties as of the date hereof; however, schematic drawings for the New Public Road Extension and the Decel Lane (the "**New Public Road Schematics**") have been prepared as of the date hereof and the New Public Road Schematics are more particularly described in **Exhibit C** attached hereto and incorporated herein by reference. As soon as practical hereafter, the Town shall cause the Town's selected engineer, which is TRC Engineers, Inc. (the "**Town Engineer**"), to submit the plans for the New Public Road Extension and the Decel Lane (which shall conform to the New Public Road Schematics) to 423 East for review and approval (the "**Submitted Plans**"). 423 East shall act reasonably and without undue delay and shall not withhold its consent to the Submitted Plans if such plans are consistent with the New Public Road Schematics and with the provisions of Section 1 above. In the event that 423 East has any objections or requested changes to the Submitted Plans, 423 East shall notify the Town in writing of the same within seven (7) days after receipt of the Submitted Plans. The Town and 423 East will thereafter endeavor in good faith and at all times acting reasonably to reconcile any issues with respect to the Submitted Plans that have been objected to and agree to changes thereto so that the Submitted Plans are mutually acceptable to the Town and 423 East (and the Town will cause the Town Engineer to modify the Submitted Plans as necessary to reflect agreed changes). If 423 East does not disapprove of the initial submission of the Submitted Plans within the seven (7) day period referenced above, then 423 East shall be deemed to have approved such initial submission of the Submitted Plans. The approved (or deemed approved) Submitted Plans are herein referred to as the "**Final Plans**".

3. Once the Submitted Plans have been approved (or deemed approved), the Town shall obtain (i) a fixed bid from a qualified contractor meeting the Town's requirements and (ii) a construction contract for the construction of the Development Work or portion thereof in accordance with the Final Plans and the requirements hereof (the fixed bid and construction contract shall be collectively referred to as the "**Construction Contract**"). The Construction Contract shall be subject to the review and approval of 423 East (which approval shall not be unreasonably withheld), and the Town agrees to consider in good faith any comments or objections made by 423 East. It is understood that all improvements constructed under the Construction Contract shall be on publicly owned land, unless otherwise expressly authorized by FISD or 423 East, as applicable. If 423 East does not object to the initial submission of the Construction Contract within seven (7) days after receipt of a copy thereof from the Town, then 423 East shall be deemed to have approved such initial submission of the Construction Contract. Upon approval (or deemed approval) of the Construction Contract, the Town and the selected contractor shall execute the Construction Contract, and the Town shall deliver a fully-executed copy of the Construction Contract to 423 East. Thereafter, 423 East shall, pursuant to the Escrow Agreement, authorize the Escrow Agent to disburse to the Town, from 423 East's escrowed funds under the Escrow Agreement, an amount equal to 100% of the amount of the fixed bid price for the Development Work or applicable portion thereof, for the Town to administer the Construction Contract and to cause the Development Work to be constructed and completed in accordance therewith. It is agreed that the fixed bid may include up to a 5% contingency as directed by the Town. After the Development Work has been completed, if there

are any excess funds that were previously disbursed by the Escrow Agent to the Town pursuant to this paragraph, such excess funds shall be promptly returned by the Town to the Escrow Agent.

4. The Parties acknowledge that from time to time during the construction of the Development Work, changes to the Final Plans may be required due to currently unknown circumstances or conditions. Changes to the Final Plans ("**Change Orders**") shall be proposed by the Town or the Town Engineer, if the Town or the Town Engineer reasonably believes in good faith that such a Change Order is necessary to complete the Development Work. Any Change Order shall be subject to the review and approval of 423 East (which approval shall not be unreasonably withheld), and the Town agrees to consider (or cause the Town Engineer to consider) in good faith any comments or objections made by 423 East; provided however, if the Change Order (i) results in a cost increase of less than 5% of the original cost for such item of Development Work and (ii) is not a material change or deviation from design for such item of Development Work as set forth in the Final Plans, then the Town may proceed with such Change Order upon written notice thereof to 423 East but without needing 423 East's approval. If 423 East does not object to the Change Order within seven (7) days after receipt of a copy thereof from the Town or the Town Engineer, then 423 East shall be deemed to have approved such Change Order. If any approved (or deemed approved) Change Order results in an increase in the cost of construction, 423 East shall either (i) authorize the Escrow Agent to disburse the necessary amount of funds from 423 East's escrowed funds under the Escrow Agreement to cover such cost increase, or (ii) pay such amount directly to the Town. Notwithstanding anything to the contrary herein, it is not the intent of the Parties for any Change Order to change the scope of the New Public Road Schematics or to otherwise change the basic parameters, character and/or specifications of the New Public Road Extension and/or the Decel Lane, and it is acknowledged and agreed that any such Change Orders can only be issued due to a clerical omission, a physical condition or other similar unforeseen circumstance that prohibits construction in accordance with the New Public Road Schematics and/or the Final Plans therefor.

5. The Town agrees to cause the Town Engineer to provide 423 East with (i) updates from time to time as to the status of the design and construction of the Development Work, (ii) any other reasonable information regarding the progress of the design and construction of the Development Work or any other matters related to the Development Work as 423 East may request from time to time and (iii) a copy of the Final Plans and "as built" plans.

6. The Town agrees to add (and to cause its contractor(s) to add) 423 East and FISD as additional insureds to any and all liability insurance policies in connection with the performance of the Development Work. The Town agrees that all the Development Work shall be bonded and that if a contractor shall default under any Construction Contract and not cure same in a reasonable time, that the Town will cause the bond to be funded and the Development Work to be completed pursuant to the Final Plans, as soon as reasonably possible after such default.

7. Any notices required or permitted to be given under this Agreement shall be in writing and shall be deemed to be delivered upon actual receipt when delivered by one of the following methods: (a) when sent by e-mail to the applicable email address below provided that

a copy of the e-mail and the read receipt shall be maintained by the sender , or (b) when sent by facsimile transmission to the applicable facsimile number below provided that a copy of the facsimile receipt shall be maintained by the sender, or (c) when sent by a nationally recognized overnight courier, addressed to the party in question at the address indicated below, or (d) when sent by certified mail, postage prepaid, return receipt requested, to the address of the addressee as specified below.

If to 423 East:

423 East, Ltd.
1660 South Stemmons Freeway, Suite 400
Lewisville, Texas 75067
Attention: Mr. William A. Martin
Telephone No.: (214) 683-7664
Facsimile No.: (972) 436-4276
E-mail Address: wamracing@yahoo.com

With a copy to:

Koons Real Estate Law
3400 Carlisle Street, Suite 400
Dallas, Texas 75204
Attention: Kathryn L. Koons
Telephone No.: (214) 954-0067
Facsimile No.: (214) 954-0108
E-mail Address: kkoons@koonsrealestatelaw.com

If to the Town:

Town of Little Elm
100 W. Eldorado
Little Elm, TX 75068
Attention: Ivan Langford
Telephone No.: (214) 975-0405
Facsimile No.: (972) 377-5540
E-mail Address: ilangford@littleelm.org

With copy to:

Town of Little Elm
100 W. Eldorado
Little Elm, TX 75068
Attention: Jason Laumer
Telephone No.: (214) 975-0473
Facsimile No.: (972) 377-5542
E-mail Address: jlaumer@littleelm.org

Each of the above-listed addressees may change its address, e-mail address and/or facsimile number for notice purposes under this section by delivering to the other addressees a written notice of change of address, e-mail address and number, in a manner specified in this section.

However, no such change of address, e-mail address or facsimile number shall be effective against another addressee until written notice of such change is actually received by such addressee.

8. This Agreement contains the entire agreement of the parties hereto with respect to the subject matter hereof, and this Agreement can be amended only by written agreement signed by all of the Parties hereto.

9. This Agreement, and the terms, covenants and conditions herein contained shall inure to the benefit of and be binding upon the successors and assigns of each of the parties hereto, and shall run with the Property. Notwithstanding anything to the contrary herein, 423 East may, at its sole election and from time to time, without the prior consent of any other Party, assign from time to time in whole or in part 423 East's rights, powers, interests and obligations under this Agreement to any purchaser(s) of the fee simple interest of Tract 4 and/or Tracts A, B, C, D, E and/or F (as such tracts are generally depicted on the Site Plan), and in such event, such assignee(s) shall accept and assume 423 East's assigned rights, powers, interests and obligations hereunder in accordance with the terms of such assignment instrument. Upon any such assignment, 423 East or its assignee shall deliver an executed copy of such assignment instrument to the Town. Upon any assignment permitted by this Section 9, the assignor shall be released from any and all liability hereunder that accrues after the date of assignment and that is expressly assumed by such assignee.

10. Time is of the essence in all things pertaining to the performance of this Agreement.

11. The construction and validity of this Agreement shall be governed by the laws of the State of Texas. Venue for any cause of action arising out of or in conjunction with this Agreement shall be exclusively in a court of competent jurisdiction, state or federal, in Denton County, Texas.

12. This Agreement may be executed in multiple counterparts, each of which shall be deemed an original, and all of which together shall be construed as one and the same instrument.

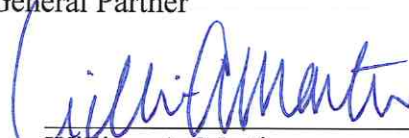
13. In the event that any of the parties breaches any of the terms of this Agreement, and the parties become involved in litigation with regard to the breach thereof or resolve the matter without litigation, the non-defaulting party shall be entitled to recover reasonable attorney's fees from the defaulting party.

EXECUTED as of the date first written above.

423 EAST:

423 EAST, LTD.,
a Texas limited partnership

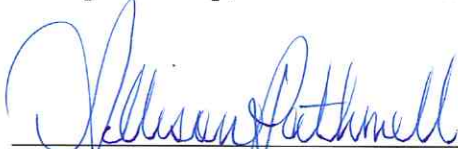
By: WAM 423 East GP, LLC,
a Texas limited liability company,
its General Partner

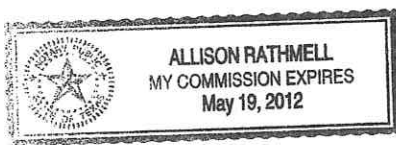
By: 
Name: William A. Martin
Title: Manager

STATE OF TEXAS §
 §
COUNTY OF Dallas §

This instrument was acknowledged before me the 25 day of October, 2011,
by William A. Martin, Manager of WAM 423 East GP, LLC, a Texas limited liability company,
the general partner of 423 East, Ltd., a Texas limited partnership, on behalf of said limited
liability company and limited partnership.

[NOTARY STAMP]


Notary Public, State of Texas



TOWN:

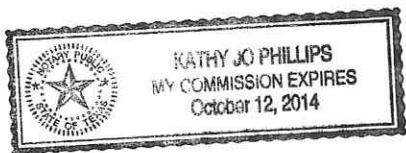
TOWN OF LITTLE ELM, TEXAS,
a Texas municipality

By: [Signature]
Name: Ivan Langford
Title: Town Manager

STATE OF TEXAS §
 §
COUNTY OF Denton §

This instrument was acknowledged before me the 7th day of November, 2011, by
Ivan Langford, Town Manager of the Town of Little
Elm, Texas, a Texas municipality, on behalf of said municipality.

[NOTARY STAMP]



[Signature]
Notary Public, State of Texas

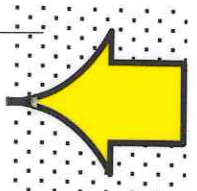


EXHIBIT A

PROPERTY

BEING a tract of land situated in the Christian Bohrman Survey, Abstract No. 86, Town of Little Elm, Denton County, Texas, and being part of a 45.5506 acre tract as conveyed to 423 EAST, LTD. as recorded in County Clerks Number 2010-116972 of the Deed Records of Denton County, Texas, and being more particularly described by metes and bounds as follows:

BEGINNING at a capped 1/2" iron rod set for corner at the southeast corner of a ROW dedication as recorded in County Clerks No. 2011-65643, Denton County, Texas, said iron rod being in the south Right Of Way line of Smotherman Road, said iron rod also being in the east line of said 45.5506 acre tract;

THENCE S 00 degrees 07 minutes 14 seconds E following the east line of said 45.5506 acre tract a distance of 668.88' to a capped 1/2" iron rod set for corner;

THENCE S 89 degrees 52 minutes 46 seconds W a distance of 924.86' to a capped 1/2" iron rod set for corner;

THENCE N 00 degrees 07 minutes 14 seconds W a distance of 650.61' to a capped 1/2" iron rod set for corner in the south Right Of Way line of Smotherman Road;

THENCE N 86 degrees 03 minutes 35 seconds E following the south ROW line of Smotherman Road a distance of 38.41' to a capped 1/2" iron rod set for corner;

THENCE N 89 degrees 04 minutes 48 seconds E following the south ROW line of Smotherman Road a distance of 699.06' to a capped 1/2" iron rod set for corner;

THENCE N 88 degrees 03 minutes 34 seconds E following the south ROW line of Smotherman Road a distance of 187.64' to the POINT OF BEGINNING and containing 609,839 square feet or 14.000 acres of land.

EXHIBIT B

SITE PLAN

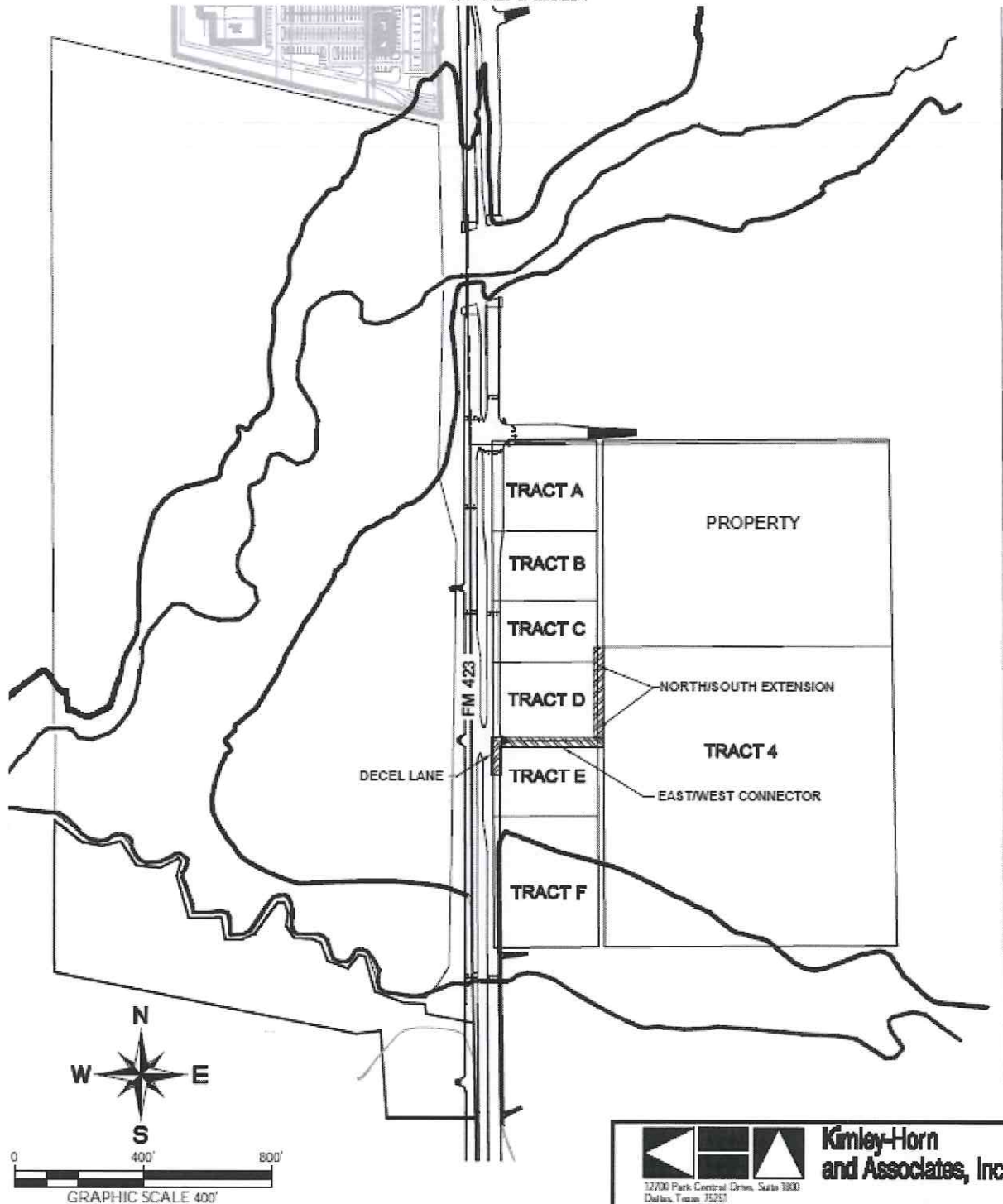


EXHIBIT C

DESCRIPTION OF THE NEW PUBLIC ROAD SCHEMATICS

The "**New Public Road Schematics**" shall mean schematic drawings that are consistent with and reflect the following:

Construction of a 37-foot typical section (back of curb-to-back of curb) concrete collector roadway per Town of Little Elm Thoroughfare and Construction Standards from the southerly property line of the FISD Property south within a 60-foot wide ROW dedicated by 423 East on or around even date herewith on Tract 4 to the East/West Connector and then westerly to FM 423, together with a sidewalk meeting Town Standards as may be required by the Town, and utilities as may be required by the Town to serve the adjacent parcels. Town standard appurtenances associated with thoroughfare construction will be included in this project. Landscaping will be required within the ROW to the extent required by Town Standards.

TOWN OF LITTLE ELM

Town Council

STAFF REPORT



PROJECT: Vendor/Solicitor Ordinance Revisions

HEARING DATES: Town Council: Work Session: 03/06/12
Tabled: 03/20/12
Regular Meeting: 04/03/12

REQUEST: Adopt Ordinance 1097.

PLANNING ANALYSIS: The proposed revision corrects an error in the ordinance that in the past has been circumvented by internal policy and interpretation. Per Council direction, Staff is taking this opportunity to make the revision so that the ordinance reads properly and better serves prospective vendors.

RECOMMENDED ACTION: Staff recommends approval of Ordinance #1097.

TOWN CONTACT: Dusty McAfee, AICP – Planning Manager

ATTACHMENTS: Ordinance #1097

TOWN OF LITTLE ELM

ORDINANCE NO. 1097

AN ORDINANCE OF THE TOWN OF LITTLE ELM, TEXAS, AMENDING THE CODE OF ORDINANCES OF THE TOWN, BY AMENDING CHAPTER 26 (BUSINESSES AND BUSINESS REGULATIONS), BY AMENDING ARTICLE VI (VENDORS, PEDDLERS, AND SOLICITORS) TO CLARIFY EXISTING POLICY; PROVIDING A SAVINGS CLAUSE; PROVIDING A PENALTY; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A REPEALER CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Town of Little Elm ("Town") is a home rule municipal corporation organized and existing by virtue of the Constitution and laws of the State of Texas and by its Charter adopted on May 1, 2001; and

WHEREAS, the Town Council directed Staff to clarify internal policy regarding prohibited activities specifically dealing with ice cream trucks within the vendor regulations; and

WHEREAS, after due deliberations and consideration of any other information and materials received at the open meeting, the Town Council has determined that the amendments set forth herein should be adopted, and that such amendments are in the best interest of the public health, safety, and welfare of the citizens of the Town.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF LITTLE ELM, TEXAS:

SECTION 1. INCORPORATION OF PREMISES. The above and foregoing premises are true and correct and are incorporated herein and made a part hereof for all purposes.

SECTION 2. AMENDMENT AND ADOPTION. That Chapter 26 (Businesses and Business Regulations) of the Town of Little Elm Code of Ordinances, is hereby amended, in part, by amending Article VI (Vendors, Peddlers, and Solicitors), in part, as follows:

1. That Section 26-280(A) is revised to read as follows:

It shall be unlawful for any person to peddle, solicit, hawk, sell or take orders for or offer to take orders for any item or service in the following places in the Town, **unless in possession of a valid Town-issued permit:**

2. That Section 26-280(D) is revised to read as follows:

No solicitor, or person working on his or her behalf, shall shout, make an outcry, blow a horn or whistle, or use any sound device, including any sound amplifying system, upon any of the streets, avenues, alleys, parks or other public places of the Town, or otherwise be in violation of the Town's noise ordinance. **Ice Cream trucks playing traditional melodies in compliance with a Town-issued permit are exempt from this regulation.**

SECTION 3. SAVINGS. This Ordinance shall be cumulative of all other ordinances of the Town, and shall not repeal any of the provisions of those ordinances except in those instances where the provisions of those ordinances are in direct conflict with the provisions of this Ordinance; provided, however, that any complaint, notice, action, cause of action, or claim which prior to the effective date of this Ordinance has been initiated or has arisen under or pursuant to such other ordinance(s) shall continue to be governed by the provisions of that ordinance or those ordinances, and for that purpose that ordinance or those ordinances shall be deemed to remain and shall continue in full force and effect.

SECTION 4. PENALTY. Any person, firm, or corporation violating any of the provision of this ordinance shall be punished by a penalty of a fine not to exceed the sum of Two Thousand Dollars (\$2,000) for each offense and each and every day such offense shall continue shall be deemed to constitute a separate offense.

SECTION 5. SEVERABILITY. The sections, paragraphs, sentences, phrases, and words of this Ordinance are severable, and if any section or provision of this ordinance or the application of that section or provision to any person, firm, corporation, situation or circumstance is for any reason judged invalid or unconstitutional, the adjudication shall not affect any other section or provision of this ordinance or the application of any other section or provision to any person, firm, corporation, situation or circumstance, nor shall adjudication affect any other section or provision of the Comprehensive Zoning Ordinance of the Town of Little Elm, Texas, and the Town Council hereby declares that it would have adopted the valid portions and applications of the ordinance without the valid parts and to this end the provisions of this ordinance shall remain in full force and effect.

SECTION 6. REPEALER. That all ordinances of the Town of Little Elm in conflict with the provisions of this ordinance be and the same are hereby repealed to the extent of that conflict.

SECTION 7. EFFECTIVE DATE. That this Ordinance shall take effect immediately upon its adoption and publication in accordance with and as provided by law and the Town Charter.

PASSED AND APPROVED this the _____ day of _____, 2012.

The Town of Little Elm, Texas

Charles Platt, Mayor

ATTEST:

Kathy Phillips, Town Secretary



**TOWN OF LITTLE ELM
AGENDA INFORMATION SHEET
REGULAR SESSION**

**COUNCIL
SESSION:**

April 03, 2011

ITEM:

Discussion and action: To approve request by the Town Auditors, Rylander, Clay and Optiz, LLP, for an amendment to the FY 2010-2011 Audit Engagement for additional funding not to exceed \$16,380.

BACKGROUND:

The FY 2010-2011 Annual Financial Statement Audit has been completed with the annual financial report published. In addition to the Town's financial statement audit, the auditors also completed a "Single Audit" under federal guidelines as a result of the Town expending in excess of \$300,000 in federal grant funds.

As per the engagement terms, the auditors have the right to request additional funds if they timely address with the Finance Director auditing issues that require more time and difficulty in field testing and examination. They did inform the Director of additional time requirements on various tasks that presented a greater degree of difficulty in their audit routine.

They have requested \$16,380 representing their estimated budget overruns for time allotted for various auditing tasks. The Finance Director's recommendation if the Council desires to honor the additional pay request would be to pay 50% or \$8,190.

FISCAL IMPACT:

General Fund-\$8,190

**RECOMMENDED
ACTION:**

Approve amendment to "Engagement Letter" for external audit services as presented by Rylander, Clay & Optiz, LLP for amount of \$8,190.

ATTACHMENTS:

Statement from auditors

TOWN CONTACT:

Alan Dickerson, Finance Director - 214.975.0415
adickerson@littleelm.org

	Rylander's (RCO) Rate Postion				Town's Rate Position		
	2011		2010		2011		2010
Total Hours Incurred	710		648	Total Hours Incurred	710		648
Blended Billing Rate	148		130	Blended Billing Rate	130		130
Total \$\$ Incurred	105,085		84,179	Total \$\$ Incurred	92,300		84,179
Engagement Fee	70,000		60,000	Engagement Fee	70,000		60,000
Total Billings	70,000		61,000	Total Billings	70,000		61,000
Difference	(35,085)		(23,179)	Difference	(22,300)		(23,179)
Realization	67%		72%		76%		72%

Town believes that the blended rate for last year is more reasonable. RCO was understaffed for the engagement. The past few years we have had a senior associate and 2 associates with a manager reviewing work. This year we had 2 associates and the manager doing the work of the senior associate and also the work of the manager. Manager rates are higher than senior rates and if the engagement was properly staffed the blended bill rate would have been the same as last year. With changing the blended rate to \$130 instead of the \$140 this brings RCO realization rate to 76% with a difference of \$22,300 in billing vs. cost. This is better than PYs.

RCO is asking for \$16,380 in additional fees. The Finance department believes that a fair amount is 50% or \$ 8,190 of that total. This percentage was calculated by looking at the amount of hours spent last year vs. this year. Last year, RCO spent 648 hours to complete the audit. It is reasonable to assume that this year would have taken at least that amount and probably more with the addition of a Single audit for the grant money received and the implementation of GASB 54 (Fund Balance classifications).

PY hours needed	648
CY hours needed	710
Difference	62
Blended Rate	130
Total Additional \$\$	8,060

If the Town pays 50% (\$8,190) of the \$16,380, Rylander's breakdown would be as follows:

	Rylander's Rate Postion				Town's Rate Position		
	2011		2010		2011		2010
Total Hours Incurred	710		648	Total Hours Incurred	710		648
Blended Billing Rate	148		130	Blended Billing Rate	130		130
Total \$\$ Incurred	105,085		84,179	Total \$\$ Incurred	92,300		84,179
Engagement Fee	70,000		60,000	Engagement Fee	70,000		60,000
Additional Fee	8,190		-	Additional Fee	8,190		-
Total Billings	78,190		61,000	Total Billings	78,190		61,000
Difference	(26,895)		(23,179)	Difference	(14,110)		(23,179)
Realization	74%		72%	Realization	85%		72%

March 20, 2012

Doug Peach, City Manager

Little Elm, Texas 75068

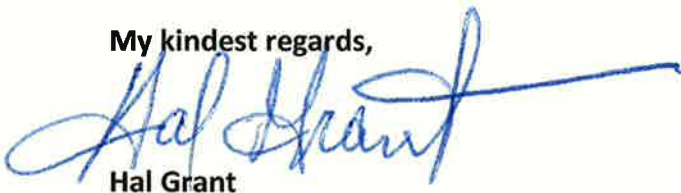
RE: Little Elm Police Officer Michael Jamison; Letter of Commendation

Dear Doug:

On behalf of the Eldorado Estates HOA, and the neighborhood of Foxwood Lane, I wish to commend Officer Michael Jamison for his "Excellence in Service" and his professional demeanor, and attitude. On Tuesday, March 20, 2012 at 1825 hours, the neighborhood experienced two males that were soliciting door to door selling magazines and were being a nuisance about it. After several neighbors began complaining to me about it, I called the Police Department to handle.

After checking the neighborhood, Officer Jamison contacted me at my residence, which I appreciated, and so did my neighbors. I was impressed with Officer Jamison. He did a good job checking the area. He also not only displayed an attitude of concern, but a true sense of "Community Policing". We thank him and the department for their immediate service.

My kindest regards,



Hal Grant

President, Eldorado Estates III HOA

cc: **Town Council**

Chief of Police

Officer M. Jamison

Kathy Phillips

From: Douglas Peach
Sent: Thursday, March 29, 2012 8:03 AM
To: Kathy Phillips
Cc: Jason Laumer
Subject: FW: Update on Castleridge Connector Meeting with Robinson Ridge and Castleridge residents

Kathy,

Please place a copy of this email in the Council packet with the FYI and Thank you section.

From: Jason Laumer
Sent: Thursday, March 29, 2012 7:54 AM
To: Douglas Peach
Subject: FW: Update on Castleridge Connector Meeting with Robinson Ridge and Castleridge residents

FYI

Jason W. Laumer, P.E.
Director of Development Services | Town Engineer
[Town of Little Elm](#) | 100 W. Eldorado | Little Elm, TX 75068
T 214-975-0473 | JLaumer@littleelm.org



LITTLE ELM

From: Jenn Cowley [mailto:;]
Sent: Thursday, March 29, 2012 7:53 AM
To: Jason Laumer
Cc: Alan Anderson; Dusty McAfee
Subject: Re: Update on Castleridge Connector Meeting with Robinson Ridge and Castleridge residents

Mr. Laumer,

Thank you so much for the update. I am very appreciative that you have decided to put the project on hold until some of our concerns are addressed, and that plans are already in place to help improve on those concerns. I feel this has set a great example to our community that if we work together that we will be listened to, our concerns are cared about, and that something will be done if we take the time to give input, both positive or negative if needed.

Thanks again for all that you and the rest of the staff working on this have done,

Jennifer Cowley

--- On Thu, 3/29/12, Jason Laumer <jlaumer@littleelm.org> wrote:

From: Jason Laumer <jlaumer@littleelm.org>

Subject: Update on Castleridge Connector Meeting with Robinson Ridge and Castleridge residents

To: "Jason Laumer" <jlaumer@littleelm.org>

Cc: "Alan Anderson" <aanderson@littleelm.org>, "Dusty McAfee" <dmcafee@littleelm.org>

Date: Thursday, March 29, 2012, 7:22 AM

Dear Residents,

Thank you for those that submitted email comments and were able to attend the meeting last Thursday, March 22nd on the potential Castleridge Connector. I can't say enough how much Town staff appreciates the thoughtful comments and concerns about the neighborhoods. The Town wants to make this meeting and comment period as a model for future neighborhood meetings with residents in other areas of the Town. At the meeting I told you I would let you know what staff was going to recommend to Council. **At this time Staff is going to recommend to Council that the Castleridge Connector not be constructed.** I want a chance to first help both neighborhoods with issues they raised. Those concerns included:

Castleridge Subdivision

1. Sidewalks - In the Castleridge neighborhood we are going to talk to the developer and require any new construction to include sidewalks and work with them to put in the sidewalks on the lots they have already built duplexes on. The more sidewalks the developer puts in on their lots the easier the Town could eventually connect those together for a complete pedestrian access way.
2. Lighting – The Town is going to prepare a map of existing lights, survey the light output, determine where lights should be added and work with the developer to get some added as part of the duplex construction.
3. Fencing/Access - The Town is going to work with the two property owners to fence off the area that kids hang out between the two neighborhoods.

Robinson Ridge Subdivision

4. School Zones – Staff has communicated with Public Works, they have already recommended a study of the school zones by a traffic engineer. A study is necessary to change the ordinance detailing the placement of the school zone signs on Flagstone Drive and Fieldstone Drive. While the study has to be performed to verify, it is very likely the school zones will be moved further down each street to the east. Due to the time a study will take along with the ordinance approval this will take affect over the summer for the next school year.
5. School Access – There were many concerns about school traffic. Since the meeting staff has come up with some alternatives for access and drop off that may be able to take the traffic off Flagstone Drive and Fieldstone Drive. The Town will prepare some exhibits and meet with the Little Elm school district in the next 30 days to get their input. If a solution can be agreed upon the Town will move forward with the corrections by next school year.

If the Town can address these issues we would like to have another meeting with citizens to get input on the items above after their completed and revisit the Castleridge Connector to get additional input from residents. As always please email myself at JLaumer@littleelm.org or Mr. Alan Anderson at AAnderson@littleelm.org for any questions you have. 105

Thank you,

Jason W. Laumer, P.E.

Director of Development Services| Town Engineer

Town of Little Elm | 100 W. Eldorado | Little Elm, TX 75068

T 214-975-0473 | JLaumer@littleelm.org



LITTLE ELM

Town of Little Elm

Town of Little Elm

Town of Little Elm