

**CITY OF WILLOW PARK, TEXAS
RESOLUTION NO. 2023-05**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
WILLOW PARK, TEXAS ESTABLISHING THE CITY OF
WILLOW PARK, TEXAS INSURANCE TRUST FUND,
AUTHORIZING THE TRUST AGREEMENT AND APPOINTING
TRUSTEES FOR THE CITY OF WILLOW PARK, TEXAS**

WHEREAS, the goal of the City of Willow Park, Texas is to provide policies and benefits that are competitive; and

WHEREAS, the City of Willow Park, Texas realizes the importance of containing costs where possible; and

WHEREAS, the City of Willow Park, Texas desires exempt status from imbedded insurance premium taxes on applicable group insurance plans; and

WHEREAS, the Texas Insurance Code § 222.002 allows cities to pay insurance premiums through a single non-profit trust to achieve exemption from embedded insurance premium taxes.

NOW THEREFORE BE IT RESOLVED, by the City Council of the City of Willow Park, Texas:

SECTION 1: The City of Willow Park, Texas City Council does hereby approve the establishment of the City of Willow Park, Texas Insurance Trust Fund.

SECTION 2: The City of Willow Park, Texas City Council does hereby authorize the Trust Agreement, as attached hereto as Exhibit “A”, and appoints the City Manager and Chief Financial Officer as Trustee(s) for the City of Willow Park, Texas Insurance Trust Fund.

SECTION 3: This Resolution shall become effective upon the date of its passage.

PASSED AND APPROVED ON THIS THE 27th Day of June, 2023.

Doyle Moss, Mayor

ATTEST:

Crystal R. Dozier, City Secretary

TRUST AGREEMENT

THIS TRUST AGREEMENT (the "Agreement") is made and entered into as of June 27, 2023 by and between the City of Willow Park, Texas (the "City") and Trustees Name and/or Title (the "Trustee").

PREMISES

WHEREAS, the City has heretofore adopted one or more insured employee welfare benefit plans which are set forth in Exhibit A attached hereto (the "Plan") the sole purpose of which is to provide health, medical and /or life benefits solely for the employees of the City and their eligible dependents covered by the Plan;

WHEREAS, the City is the Plan Administrator appointed to administer the Plan and the claims thereunder;

WHEREAS, the insurance policy or policies described on Exhibit A attached hereto and made a part hereof for all purposes (individually and collectively, the "Policy"), as and when issued in the name of the Trustee, will continue a trust fund (the "Trust Fund") to be held for the benefit of the employees and their eligible dependents under and in accordance with the Plan;

WHEREAS, the City desires the Trustee to hold and administer the Trust Fund under the trust created by this Agreement (the "Trust"), and the Trustee is willing to hold and administer such Trust Fund, pursuant to the terms of this Agreement; and

NOW THEREFORE, in consideration of the premises and of the mutual covenants contained herein, the City and the Trustee agree as follows:

ARTICLE I -- CONTRIBUTIONS

1.1 Receipt of Contributions. The Trustee shall receive any contributions paid to it in cash or in the form of such property as it may from time to time deem acceptable and which shall have been delivered to it. All contributions so received, together with the income therefrom and any other increment thereon shall be held, invested, reinvested and administered by the Trustee pursuant to the terms of this Agreement without distinction between principal and income. The Trustee shall not be responsible for the calculation or collection of any contribution under the Plan, but shall be responsible only for property received by it pursuant to this Agreement.

1.2 Premiums. Premiums to keep the Policy in force shall be paid by the City or by its employees or by a combination thereof.

ARTICLE II -- PAYMENTS FROM TRUST FUND

2.1 Payments Directed by Plan Administrator. The Trustee shall from time to time at the Plan Administrator's direction make payments out of the Trust Fund to the persons or entities to whom such monies are to be paid in such amounts and for such purposes as may be specified in the Plan Administrator's directions. To the extent permitted by law, the Trustee shall be under no liability for any payment made pursuant to the direction of the Plan Administrator. Any direction of the Plan Administrator shall constitute a certification that the distribution or payment so directed is one which the Plan Administrator is authorized to direct.

2.2 Payment of Funds. Payments from the trust will be limited to those which pay the group accident, health and life premiums of employees or dependents of the City who are insured under the insurance policies held by the trust or the City and those expenses reasonable and necessary for a trustee to conduct the business of the trust as limited by the nature of the trust described by section 222.02 of the Texas Insurance Code.

2.3 Impossibility of Diversion. It shall be impossible at any time for any part of the Trust Fund to be used for, or diverted to, purposes other than to provide the benefits contemplated under the Plan for the exclusive benefit of covered employees and their dependents, except that any taxes and administration expenses for which the Trust is liable may be made from the Trust Fund as provided for herein.

ARTICLE III -- INVESTMENTS

3.1 Powers. The Trustee is a nondiscretionary Trustee who does not have discretion or authority with respect to the investment or administration of the Trust Fund. The Trustee will act solely as a directed trustee of the Policy and any other funds contributed to the Trust Fund; provided, however, that the contributions of any other such funds shall be consistent with the purpose of the Trust as described above in the PREMISES section of the Agreement. The Plan Administrator shall have the sole authority to direct the Trustee with respect to the exercise of its powers under this Agreement. Subject to the foregoing provisions of this section, the Trustee, in addition to all powers and authorities under common law, statutory authority, and other provisions of this Agreement, shall have the following powers and authorities:

(a) To Purchase, or subscribe for, any securities or other property and to retain the same trust; provided however, that the Trustee is prohibited from selling or purchasing stock options;

(b) To sell, exchange, convey, transfer, grant options to purchase, or otherwise dispose of any securities or other property held by the Trustee, by private contract or at public auction, and any sale may be made for cash or upon credit, or partly for cash and partly for credit. No person dealing with the Trustee shall be bound to see to the application of the purchase money or to inquire into the validity, expediency or propriety of any such sale or other disposition;

(c) To vote upon any stocks, bonds, or other securities; to give general or special proxies or powers of attorney with or without power of substitution; to exercise any conversion privileges, subscription rights, or other similar rights, and to make any payments incidental thereto; to oppose, or consent to, or otherwise participate in, corporate reorganizations or other changes affecting corporate securities, and to delegate discretionary powers, and to pay assessments or charges in connection therewith; and generally to exercise any powers of an owner with respect to stock, bonds, securities or other property held as part of the Trust Fund;

(d) To cause any securities or other property held as part of the Trust Fund to be registered in the Trustee's own name or in the name of one or more of the Trustee's nominees, and to hold any investments in bearer form, but the books and records of the Trustee shall at all times show that all such investments are part of the Trust Fund;

(e) To borrow or raise money for the purpose of the Trust in such amount, and upon such terms and conditions, as the Trustee shall deem advisable; and for any sum so borrowed, to issue a promissory note as Trustee, and to secure the repayment thereof by pledging all, or any part, of the Trust Fund; and no person lending money to the Trustee shall be bound to see the application of the money lent or inquire into the validity, expediency, or propriety of any borrowing;

(f) To keep such portion of the Trust Fund in cash or balances as may be in the best interests of the trust created hereby, without liability for interest thereon;

(g) To accept and retain for such time as it may deem advisable any securities or other property received or acquired by it as Trustee hereunder, whether or not such securities or other property would normally be purchased as investments hereunder;

(h) To make, execute, acknowledge, and deliver any and all documents of transfer and conveyance and any and all other instruments that may be necessary or appropriate to carry out the powers herein granted;

(i) To settle, compromise, or submit to arbitration any claims, debt, or damages to or owing to or from the Trust Fund, to commence or defend suits or legal or administrative proceedings, and to represent the Trust Fund in all suits and legal administrative proceedings;

(j) To employ suitable agents and counsel and to pay their expenses and compensation, such agents or counsel may or may not be agents or counsel for the City;

(k) To acquire real estate by purchase, exchange, or as a result of any foreclosure, liquidation, or other salvage as the result of any foreclosure, liquidation, or other salvage of any investment previously made hereunder; to hold such real estate in such manner and upon such terms as the Trustee may deem advisable; and to manage, operate, repair, develop, improve, partition, mortgage, or lease for any term or terms of years any such real estate or any other real estate constituting a part of the Trust Funds, upon such terms and conditions as the Trustee deems proper, using other trust assets for any of such purposes if deemed advisable;

(l) To invest funds or the Trust Fund in night deposits or savings accounts bearing a reasonable rate of interest in a Trustee's bank;

(m) To invest in Treasury Bills and other forms of United States government obligations;

(n) To deposit monies in federally insured savings accounts or certificates of deposit in banks or savings and loan associations; and;

(o) To do all such acts, take all such proceedings, and exercise all such rights and privileges, although not specifically mentioned herein, as the Trustee may deem necessary to administer the Trust Fund, and to carry out the purpose of this Trust.

3.2 More Than One Trustee. If there shall be more than one trustee under this Agreement, they shall act by a majority of their number, but may authorize any one or more of them to sign papers and instruments on their behalf.

3.3 Fees and Expenses. The Trustee may be paid such reasonable compensation as shall from time to time be agreed upon in writing by the City and the Trustee. An individual serving as Trustee who already receives compensation as an employee from the City shall not receive compensation from the Trust except for reimbursement of expenses, including reasonable counsel and accounting fees, incurred by the Trustee in the administration of the Trust Fund. Such compensation and expenses shall be paid from the Trust Fund.

ARTICLE IV -- TRUSTEE'S DUTIES

4.1 General. The Trustee shall discharge its duties under this Agreement solely in the interest of the employees covered under the Plan and their dependents and for the exclusive purpose of providing benefits to such persons and defraying reasonable expenses of administering the Trust, with the care, skill, prudence and diligence under prevailing circumstances that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims, and by diversifying the investments of the Trust so as to minimize the risk of large losses, unless under the circumstances it is clearly prudent not to do so, all in accordance with the provisions of this Agreement insofar as they are consistent with the provisions of applicable law, as this Agreement and such law may be from time to time amended; but the duties and obligations of the Trustee as such shall be limited to those expressly imposed upon it by this Agreement notwithstanding any reference herein to the Plan, or the provisions thereof, it being hereby expressly agreed that the Trustee is not a party to the Plan.

4.2 Indemnification. The City agrees, to the extent permitted by law, to indemnify and hold the Trustee harmless from and against any liability that the Trustee may incur in the administration of the Trust Funds, unless arising from the Trustee's own willful breach of the provisions of this Agreement. The Trustee shall not be required to give any bond or any other security for the faithful performance of its duties under this Agreement, except such as may be required by a law which prohibits the waiver thereof.

4.3 Accounts and Records. The Trustee shall keep accurate and detailed accounts of all investments, receipts, disbursements, and other transactions hereunder, and all such accounts and other records relating thereto shall be open to inspection and audit at all reasonable times by any person designated by the Plan Administrator.

4.4 Limitation on Trustee's Liability. The Plan Administrator shall administer the Plan as provided therein, and the Trustee shall not be responsible in any aspect for administering the Plan nor shall the Trustee be responsible for the adequacy of contributions to the Trust Fund to meet or discharge any payments or liabilities under the Plan. The trustee shall be entitled conclusively to rely upon notice, instruction, direction or other communication of the Plan Administrator.

ARTICLE V -- RESIGNATION, REMOVAL AND SUCCESSION OF TRUSTEE

5.1 Resignation. The Trustee may resign at any time by giving 30 days' notice in writing to the City.

5.2 Removal. The City may remove the Trustee at any time upon 30 days' notice in writing to the Trustee.

5.3 Successor Trustee. Upon resignation or removal of the Trustee, the City shall appoint a successor trustee who shall have the same powers and duties as those conferred upon the Trustee hereunder. Upon acceptance of such appointment by the successor trustee, the Trustee assign, transfer, and pay over to such successor trustee the funds and properties then constituting the Trust Fund. The Trustee is authorized, however, to reserve such reasonable sum or money, as it may deem advisable for payment of its fees and expenses in connection with the settlement of its account or otherwise, and any balance of such reserve remaining after the payment of such fees and expenses shall be paid over to the successor trustee.

5.4 Waiver of Notice. In the event of any resignation or removal of the Trustee, the Trustee and the City may in writing waive any notice of resignation or removal as may otherwise be provided hereunder.

ARTICLE VI -- AMENDMENT AND TERMINATION OF AGREEMENT

6.1 Amendment. Any or all of the provisions of this Agreement may be amended at any time and from time to time, in whole or in part, by an instrument in writing. No such amendment shall authorize or permit any part of the Trust Fund (other than such part as is required to pay taxes and administrative expenses) to be used for or diverted to purposes other than for the exclusive benefit of the employees and their dependents; no such amendment shall cause or permit any portion of the Trust Fund to revert to or become the property of the City; and no such amendment which affects the rights or duties of the Trustee may be made without the Trustee's written consent.

6.2 Termination. This Agreement may be terminated at any time by the City, and upon such termination, the Trust Fund shall be paid out and/or transferred by the Trustee as and when directed by the Plan Administrator or the City, in accordance with the provisions of Article II hereof and the terms of the Plan.

ARTICLE VII -- GENERAL

7.1 Limited Effect of Plan and Trust. Neither the establishment of the Plan nor the Trust nor any modification thereof, nor creation of any fund or account, nor the payment of any welfare benefits, shall be construed as giving to any person covered under the Plan or other person any legal or equitable right against the Trustee, the City, or any officer or employee thereof, except as may otherwise be provided in the Plan or in the Trust. Under no circumstances shall the term of employment of any employee be modified or in any way affected by the Plan or this Trust.

7.2 Protective Clause. Neither the City nor the Trustee shall be responsible for the validity of any contract of insurance issued in connection with the Plan or Trust or for the failure on the part of the insurer to make payments provided by such contract, or for the action of any person which may delay payment or render a contract null and void or unenforceable in whole or in part.

7.3 Construction of Trust. This Trust shall be construed and enforced according to the laws of the State of Texas. If any provision of this Trust shall be held illegal or invalid for any reason, such determination shall not affect the remaining provisions of the Trust.

7.4 Gender and Number. Wherever any words are used herein in the masculine, feminine or neuter, they shall be construed as though they were also used in another gender in all cases where they would so apply, and wherever any words are used herein in the singular or plural form, they shall be construed as though they were also used in the other form in all cases where they would so apply.

7.5 Headings. The headings and sub-headings of this Trust have been inserted for convenience of reference and are to be ignored in any construction of the provisions hereof.

IN WITNESS WHEREOF, this Agreement has been executed the day and year first above written.

City of Willow Park, Texas
120 El Chico Trl, Ste A
Willow Park, Texas 76087

By:

Doyle Moss, Mayor

ATTEST:

Crystal R. Dozier, City Secretary