

AGENDA

REGULAR MEETING OF THE CITY COUNCIL

City of Garland

Council Chambers, City Hall

200 North Fifth Street, Garland, Texas

December 4, 2012

7:00 p.m.

The City Council extends to each visitor a sincere welcome. We value your interest in your community and your participation in the meetings of this governing body. Regular meetings of the City Council are held the 1st and 3rd Tuesdays of each month, beginning at 7:00 p.m.; the City Council meets regularly in work sessions at 6:00 p.m. the Monday preceding each regular meeting.

The Garland City Hall and Council Chambers are wheelchair accessible. Special parking is available on the north side of City Hall and the building may be accessed by a sloped ramp from the parking area to the door facing Fifth Street. Persons with disabilities who plan to attend this meeting and who may need auxiliary aids or services must contact the City Secretary's Office at (972) 205-2403 at least two working days prior to the meeting so that appropriate arrangements can be made. **BRILLE IS NOT AVAILABLE.**

CITY COUNCIL GOALS 2020

(Adopted by Resolution No. 9402 on December 20, 2005)

- **Sustainable quality development and redevelopment**
- **Financially stable government with tax base that supports community needs**
- **Defends rightful powers of municipalities**
- **Fully informed and engaged citizenry**
- **Consistent delivery of reliable City services**
- **Safe, family-friendly neighborhoods**
- **Embrace diversity**

CONSENT AGENDA

All items under this section are recommended for approval by a single motion of Council, without discussion. Council has been briefed on these items at a previous work session and approval of the consent agenda authorizes the City Manager to implement each item. The Mayor will announce the agenda and provide an opportunity for members of the audience and the City Council to request that an item be removed and considered separately.

1. Consider approval of the minutes of the November 20, 2012 Regular Meeting.

2. Consider approval of the following bids:

a. Concrete Construction Materials **Bid No. 3202-12**

Barnsco, Inc. **\$112,266.71**

This request is for the purchase of steel reinforcement bar and other miscellaneous supplies to support the Street Department's concrete paving program. Due to volatilities in the metals market, this is a six-month term contract with one renewal option.

b. Water and Wastewater Improvements **Bid No. 3144-12**

Barson Utilities, Inc. **\$1,391,988.40**

This request is for the construction of approximately 5,137 linear feet of 6" water line, 1,991 linear feet of 8" water line, and 3,876 linear feet of 6" sanitary sewer line, including all service connections, concrete and asphalt paving, manholes, and other incidentals.

c. Architectural Service for New Fire Station No. 5 Bid No. 2889-12

Wiginton Hooker Jeffry Architects P.C. \$293,525.00

This request is to provide architectural professional services for the new Fire Station No. 5 located at 5626 Lyons Road.

3. Public hearings were previously conducted for the following zoning cases. Council approved the requests and instructed staff to bring forth the following ordinances for consideration.

a. Zoning File No. 12-41, Garland Partners

Consider an ordinance amending the zoning laws of the City of Garland by approving a change in zoning from Planned Development (PD) Districts 00-63 and 87-28 for Freeway Uses and Agriculture (AG) District to Planned Development (PD) District for Mixed-Uses with Conditions and a Concept Plan on a 89.27-acre tract of land located southwest of President George Bush Turnpike, northwest of Holford Road, north of the Spring Creek Greenbelt and east of Naaman Forest Boulevard.

b. Zoning File No. 12-43, Dowdey, Anderson and Associates, Inc.

Consider an ordinance amending the zoning laws of the City of Garland by approving a change of zoning from Planned Development (PD) District 09-07 for Single Family, Attached Uses (Townhouses) to a Planned Development (PD) District for Single Family, Detached Uses (Patio Homes), and a Detail Plan for 130 Single Family residences on a 42.549-acre tract of land located west of Castle Drive and south of Firewheel Parkway.

4. Consider by minute action authorizing the City Manager to execute an agreement to bind coverage with Sun Life effective January 1, 2013.

The City of Garland sought proposals for stop loss coverage for the Group Health Insurance Plan through RFP #3157-12 and received two quotes, including one from Sun Life, which will provide the same contract parameters as the current Humana stop loss coverage with no increase in City

contributions for calendar year 2013. This item was scheduled for Council consideration at the December 4, 2012 Work Session.

- 5. Consider by minute action authorizing the installation of appropriate signs in school zones prohibiting the use of cell phones.**

At the November 20, 2012 Work Session, the Public Safety Committee recommended that Council consider authorizing the enforcement of the state law regarding the use of cell phones in school zones. The Committee also recommended the installation of appropriate signs in school zones prohibiting the use of cell phones.

- 6. Consider an ordinance amending Chapter 32, "Neighborhood Sanitation and Housing Services", of the Code of Ordinances of the City of Garland; providing a penalty under the provisions of Sec. 10.05 of the Code of Ordinances of the City of Garland.**

On October 1, 2012, the Community Services Committee recommended that Council consider modifications to Section 32.56 that regulates residential parking surfaces. The issue arose from the monetary hardships brought about by Code Compliance enforcement activities on noncompliant gravel driveways and the owner having no appeal process because of a poor reference in the current ordinance. At the November 20, 2012 Work Session, Council discussed proposed modifications to Section 32.56 that would correct the improper reference and designate the resident appeal be heard before the Housing Standards Board.

- 7. Consider an ordinance amending and restating Ordinance 6572 relating to the issuance of Commercial Paper Notes, in an aggregate principal amount at any one time outstanding not to exceed \$135,000,000 to provide interim financing to pay project costs for eligible projects and to refund obligations issued in connection with an eligible project; authorizing such short term obligations to be issued, sold and delivered in various forms, including Commercial Paper Notes and Bank Notes, and prescribing the terms, features and characteristics of such instruments; approving and authorizing certain authorized officers and employees of the City to act on behalf of the City in the selling and delivery of such short term obligations, within the limitations and procedures specified herein; making certain covenants and agreements in connection therewith; providing for the payment of the Commercial**

Paper Notes and Bank Notes; resolving other matters incident and related to the issuance, sale, security and delivery of Commercial Paper Notes, including the approval of an amended and restated issuing and paying agent agreement, reimbursement agreements and an amended and restated dealer agreement; approving the use of an offering memorandum in connection with the sale from time to time of such short term obligations.

On September 18, 2012, Council adopted Ordinance No. 6572 authorizing a three-year Electric Utility System Commercial Paper program. At the November 20, 2012 Work Session, Council considered authorizing amendments to the agreements supporting the program in order to meet rating agency requirements.

8. Consider a resolution authorizing the City Manager to execute an Economic Development Agreement with The Stainback Organization.

The Stainback Organization has requested that the City enter into an Economic Development Agreement for the purpose of developing two Wal-Mart Neighborhood Grocery stores to be located at (1) the northwest quadrant of S. Garland Ave. and Miller Rd. and (2) the northwest quadrant of N. First Street and W. Buckingham Rd. The economic development agreement is contingent upon the development of both sites. The grocery stores will contain a minimum of 35,000 sq. ft. of floor area. It is anticipated that the new economic development agreement will create additional jobs, sales tax, and ad valorem tax to the City.

ITEMS FOR INDIVIDUAL CONSIDERATION

Speaker Regulations:

Anyone wishing to speak for, against, or on agenda items must fill out a speaker card and give it to the City Secretary before speaking (cards located at the entrance to the Council Chambers). The Mayor will recognize speakers; he may impose a time limit and may provide for rebuttal. All comments and testimony are to be presented from the podium.

9. Citizen comments.

Persons wishing to address issues not on the agenda may have three minutes to address Council at this time. Council is prohibited from discussing any item not posted according to the Texas Open Meetings Act.

10. Adjourn.

All Regular Council meetings are broadcast live on CGTV, Time Warner Cable Channel 16, and Verizon FIOS TV 44. Meetings are rebroadcast at 9:00 a.m. and 7:00 p.m. on Wednesday-Sunday and at 7:30 p.m. on Thursday. Live streaming and on-demand videos of the meetings are also available online at www.garlandtx.gov. Copies of the meetings can be purchased through the City Secretary's Office – audio CD's are \$1 each and DVD's are \$3 each.

The City Council of the City of Garland, Texas convened in regular session at 7:00 PM on Tuesday, November 20, 2012, in the Council Chambers at City Hall with the following members present:

| | |
|----------------------|-----------------------|
| Mayor Pro Tem | John Willis |
| Deputy Mayor Pro Tem | Preston Edwards |
| Councilmember | Marvin 'Tim' Campbell |
| Councilmember | Anita Goebel |
| Councilmember | Rick Williams |
| Councilmember | Jim Cahill |

ABSENT MEMBERS: Mayor Ronald Jones

STAFF PRESENT: City Manager William E. Dollar
City Attorney Brad Neighbor
City Secretary Lisa Palomba

CALL TO ORDER: The meeting was called to order by Mayor Pro Tem John Willis. Councilwoman Anita Goebel led the Invocation and the Pledge of Allegiance.

CEREMONIALS: Mayor Pro Tem Willis presented a proclamation to Annalisa Castillo recognizing November as Pulmonary Hypertension Awareness Month in the City of Garland.

Mayor Pro Tem Wills presented a Special Recognition to Kendal Staton representing the Garland Emergency Corps for assisting to save a child's life.

CONSENT AGENDA: Items 2a and 4 were pulled from the Consent Agenda for separate consideration.

All items marked with asterisks (**) on the Consent Agenda were voted on at the beginning of the meeting. A motion was made by Councilwoman Anita Goebel, seconded by Councilwoman Lori Dodson, to approve Items: 1; 2b; 2c; 3; and 5; as presented. A vote was cast. The motion carried unanimously with 8 Ayes; 0 Nays; (Mayor Jones, absent).

1. Approved** City Council Meeting minutes of the November 6, 2012 Regular Meeting.

2.b. Approved** Award Bid No. 3132 to TAS Environmental in the amount of \$77,500.00 and to Protect Environmental Services, Inc. in the amount of \$77,500.00 for a total bid amount of \$155,000.00 to provide emergency hazardous material clean up on an as needed basis.

- 2c. Approved** Award Bid No. 3237-13 to Frazier Ltd. in the amount of \$130,075.00 to provide all labor and equipment necessary to refurbish and remount three ambulances to new chassis for the Fire Department.
3. Approved** Consider Ordinance No. 6576 amending the zoning laws of the City of Garland by approving a Specific Use Permit for Medical Office/Clinic on a 1.83-acre tract of land located at 3630 North Shiloh Road, Suite 209B. Zoning File No. 12-48, General Improvement Co.
5. Approved** Consider by minute action authorizing the City Manager to execute a contract between the City of Garland and the Texas Railroad Commission.

ITEMS FOR INDIVIDUAL CONSIDERATION:

- 2a. Approved Joe Cherri from Garland Power and Light addressed this item. Councilman Campbell made a motion, seconded by Councilmember Cahill, to approve award of Bid No. 3118-12 Olinger to Greenville Transmission Construction in the amount of \$5,669,743.00 to provide labor required to rebuild the Olinger to Greenville 138kV transmission line. This is part of the ERCOT transmission planning requirement for system reliability and security.
4. Approved Consider by minute action approving the Council Rules of Order and Procedure.
- The following person registered a position against the item:
Jamie Brittain.
- Councilman R. Williams made a motion, seconded by Councilman Campbell, to approve the City Council Rules of Procedure as presented with the exception of Item G1, Page 10, "Timing", which shall be restored to the complete/original (not redacted) version.
- Councilman Cahill made a motion to amend the previous motion to remove the 30 minute limit for public comment as presented. The motion to amend died on the floor due to lack of a second.
- Councilman Cahill made a motion, seconded by Councilwoman Dodson, to change the 30 minute time limit for

public comment to 60 minutes. A vote was cast and the motion to amend failed with 4 ayes, 4 nays (Campbell, Goebel, Edwards, R. Williams) (Jones, absent)

A vote was cast on the main motion to adopt the City Council Rules and Procedure as provided except that G1, Page 10, "Timing" is restored to the original version. The motion carried with 7 ayes, and 1 nay (Dodson) (Jones, absent)

6. Consider the following (6a; 6b; and 6c) regarding Shape Corporation. Paul Mayer, CEO of Garland Economic Development Partnership, addressed this item. Items 6a; 6b; and 6c; were voted upon in a single motion. Councilwoman Dodson made a motion, seconded by Councilwoman Anita Goebel, to approve items 6a; 6b; and 6c as presented. A vote was cast and the motion carried with 8 ayes, 0 nays (Mayor Jones, absent).

The following person registered a position against item 6: Jamie Britain.

- 6a. Approved Consider Ordinance No. 6577 of the City Council of the City of Garland ordaining the City's participation in the Texas Enterprise Zone Program pursuant to the Texas Enterprise Zone Act, Chapter 2303, Texas Government Code (The "Act"), providing tax incentives, designating a liaison for communication with interested parties, nominating Shape Corp. to the Office of the Governor, Economic Development and Tourism ("EDT") through the Economic Development Bank (The "Bank") as an Enterprise Project.

- 6b. Approved Consider Ordinance No. 6578 designating an area as a Reinvestment Zone for Commercial/Industrial Tax Abatement; making certain findings thereon; authorizing the City Manager to execute an agreement with the applicant regarding the Reinvestment Zone.

- 6c. Approved Consider Resolution 10081 authorizing the City Manager to execute a Tax Abatement Agreement.

7. Consider the following (7a; 7b; and 7c) regarding Van-Rob Corporation. Paul Mayer, CEO of Garland Economic Development Partnership, addressed this item. Items 7a; 7b; and 7c were voted upon in a single motion. Councilwoman Dodson made a motion, seconded by Councilwoman Goebel, to approve Items 7a; 7b, and 7c as presented. A vote was cast

and the motion carried with 8 ayes, 0 nays (Mayor Jones, absent).

The following person registered a position against Item 7: Jamie Britain.

7a. Approved

Consider Ordinance No. 6579 of the City Council of the City of Garland ordaining the City's participation in the Texas Enterprise Zone Program pursuant to the Texas Enterprise Zone Act, Chapter 2303, Texas Government Code (The "Act"), providing Tax Incentives, designating a liaison for communication with interested parties, nominating VR Dallas, Inc. to the Office of the Governor, Economic Development and Tourism ("EDT") through the Economic Development Bank (The "Bank") as an Enterprise Project.

7b. Approved

Ordinance No. 6580 designating an area as a Reinvestment Zone for Commercial/Industrial Tax Abatement; making certain findings thereon; authorizing the City Manager to execute an agreement with the applicant regarding the Reinvestment Zone.

7c. Approved

Resolution No. 10082 authorizing the City Manager to execute a Tax Abatement Agreement.

8.

Consider the following (8a; and 8b) regarding Academy Sports and Outdoors: Paul Mayer, CEO of Garland Economic Development Partnership, addressed this item.

The following person registered a position against Item 8: Jamie Brittain.

Items 8a; and 8b were voted upon in a single motion. Councilman Campbell made a motion, seconded by Deputy Mayor Pro Tem Edwards to approve items 8a; and 8b as presented. A vote was cast and the motion carried with 8 ayes, 0 nays (Mayor Jones, absent).

8a. Approved

Consider Resolution 10083 authorizing the City Manager to execute an Economic Development Agreement with Academy, Ltd.

8b. Approved

Consider Resolution 10084 authorizing the City Manager to execute an Economic Development Agreement with Gulf Coast Commercial Group, Inc.

9a. Held & Approved

Consider the application of Garland Partners, requesting approval of 1) a change of zoning from Planned Development (PD) Districts 00-63 and 87-28 for Freeway Uses and Agriculture (AG) District to a Planned Development (PD) District for Mixed-Use with Conditions and Concept Plan in the SH 190 Overlay District, and 2) variances to the Comprehensive Zoning Ordinance regarding Parking (Sec. 10-200), Lot and Density Requirements, Setbacks, Lot Coverage and Height in the Multi-Family (MF), Office 2 (O-2), Neighborhood Service (NS) and Shopping Center (SC) Districts (Sec. 19-300 and 400; 21-400; 23-400, 500 and 600; 24-400, 500 and 600). (File 12-41)

Mayor Pro Tem Willis opened the public hearing.

The following persons registered a position against the item during the public hearing: Jamie Brittain. The following persons provided oral testimony: Barbara Baynam, spoke regarding concern for the preserve; and Karen Wilson, representing Oaks at Stony Creek HOA, spoke regarding concern for the preserve.

Senior Managing Director of Development Services Neil Montgomery, provided background information regarding the proposal. Applicant Paris Rutherford provided additional information related to the project and answered questions.

Councilman R. Williams made a motion, seconded by Councilwoman Goebel to close the public hearing and approve the application of Garland Partners, requesting approval of 1) a change of zoning from Planned Development (PD) Districts 00-63 and 87-28 for Freeway Uses and Agriculture (AG) District to a Planned Development (PD) District for Mixed-Use with Conditions and Concept Plan in the SH 190 Overlay District, and 2) variances to the Comprehensive Zoning Ordinance regarding Parking (Sec. 10-200), Lot and Density Requirements, Setbacks, Lot Coverage and Height in the Multi-Family (MF), Office 2 (O-2), Neighborhood Service (NS) and Shopping Center (SC) Districts (Sec. 19-300 and 400; 21-400; 23-400, 500 and 600; 24-400, 500 and 600). (File 12-41). A vote was cast and the motion carried with 7 ayes, 0 nays, (Dodson, recused; and Mayor Jones, absent).

9b. Held & Approved

Consider the application of Dowdey, Anderson and Assoc., requesting approval of 1) a change of zoning from Planned Development (PD) District 09-07 for Single Family, Attached

Houses (Townhomes) to a Planned Development (PD) District for Single Family, Detached Houses (Patio Homes) with conditions, 2) a Detail Plan for 130 single family residences, and 3) a waiver to Section 31.27 of the Code of Ordinances regarding alleys. (File 12-43)

Mayor Pro Tem Willis opened the public hearing. Senior Managing Director of Development Services Neil Montgomery presenting background information about the project.

Councilman Campbell made a motion, seconded by Councilwoman Goebel, to approve the application of Dowdey, Anderson and Assoc., requesting approval of 1) a change of zoning from Planned Development (PD) District 09-07 for Single Family, Attached Houses (Townhomes) to a Planned Development (PD) District for Single Family, Detached Houses (Patio Homes) with conditions, 2) a Detail Plan for 130 single family residences, and 3) a waiver to Section 31.27 of the Code of Ordinances regarding alleys. (File 12-43) A vote was cast and the motion carried with 8 ayes, 0 nays (Mayor Jones, absent).

CITIZEN COMMENTS: No citizens spoke.

There being no further business to come before the City Council, Mayor Pro Tem Willis adjourned the meeting at 8:22 p.m.

CITY OF GARLAND

Signed:

Mayor Pro Tem Willis

Attest:

Lisa Palomba, City Secretary



Purchasing Report

TERM CONTRACT FOR CONCRETE CONSTRUCTION MATERIALS TERM CONTRACT

PURCHASE JUSTIFICATION:

This purpose of this contract is to facilitate the purchase of steel reinforcement bar and other miscellaneous supplies to support the Street Department's concrete paving program. Due to volatilities in the metals market, this is a six month term contract with one renewal option.

AWARD RECOMMENDATION:

| <u>Vendor</u> | <u>Item</u> | <u>Amount</u> |
|---------------|-------------|---------------------|
| Barnsco, Inc. | ALL | \$112,266.71 |
| TOTAL: | | <u>\$112,266.71</u> |

BASIS FOR AWARD:

STRIGHT LOW BID

Submitted by:

 Gary L. Holcomb, CPPO, C.P.M.

 Director of Purchasing

Reviewed by:

 William E. Dollar

 City Manager

Date: 11/26/12

Date: 11/26/12

| <u>FINANCIAL SUMMARY:</u> | |
|---|--|
| Total Project/Account: \$ <u>N/A</u> | Operating Budget: <input type="checkbox"/> CIP: <input type="checkbox"/> Year: _____ |
| Expended/Encumbered to Date: <u>N/A</u> | Document Location: _____ |
| Balance: \$ <u>N/A</u> | Account #: 451-6999 |
| This Item: _____ | Fund/Agency/Project – Description: Term Contract – |
| Proposed Balance: \$ <u>N/A</u> | Comments: Term Contract sets price but does not commit funds. Expenses will be charged to accounts as incurred. |
| Budget Analyst _____ Date _____ | |
| Budget Director _____ Date _____ | |



GARLAND

PURCHASING

Executive Summary **Bid 3202-12** **Term Contract for Concrete Construction Materials**

Recommended Vendor:

Barnsco, Inc.

Total Recommended Award:

\$112,266.71

Basis for Award:

Straight Low Bid

Purpose:

This purpose of this contract is to facilitate the purchase of steel reinforcement bar and other miscellaneous supplies to support the Street Department's concrete paving program. Due to volatilities in the metals market, this is a six month term contract with one renewal option.

Evaluation:

Request for bids were issued per Purchasing procedure. Four-hundred fifteen (415) vendors were contacted; however Barnsco, Inc. submitted the only bid.

Barnsco, Inc. is the incumbent supplier, and they are fully capable of providing the materials required under this contract. Their unit bid prices are comparable to the most recent contract, and their bid is within budget.

Recommendation:

Staff recommends awarding this contract to Barnsco, Inc.

Funding Information:

Blanket Account 451-6999

Department Director:

Steven L. Oliver, P.E., 972-205-3558



Purchasing Report

WATER AND WASTEWATER IMPROVEMENTS OPEN MARKET

PURCHASE JUSTIFICATION:

The purpose of this contract is to provide for the construction of approximately 5,137 linear feet of 6" water line, 1,991 linear feet of 8" water line, and 3,876 linear feet of 6" sanitary sewer line, including all service connections, concrete and asphalt paving, manholes and other incidentals. Funding for this project was approved in the 2012 Capital Improvement Program.

AWARD RECOMMENDATION:

| <u>Vendor</u> | <u>Item</u> | <u>Amount</u> |
|------------------------|-------------|-----------------------|
| Barson Utilities, Inc. | All | \$1,391,988.40 |
| TOTAL: | | \$1,391,988.40 |

BASIS FOR AWARD:

Straight Low Bidder

Submitted by:

 Gary L. Holcomb, CPPO, C.P.M.
 Director of Purchasing

Reviewed by:

 William E. Dollar
 City Manager

Date: 11/26/12

Date: 11/27/12

| <u>FINANCIAL SUMMARY:</u> | |
|----------------------------------|------------|
| Total Project/Account: \$ | 13,746,936 |
| Expended/Encumbered to Date: | 11,523,645 |
| Balance: \$ | 2,223,291 |
| This Item: | 1,391,988 |
| Proposed Balance: \$ | 831,303 |
| Matt Watson | 11/26/12 |
| Budget Analyst | Date |
| Ron Young | 11/26/12 |
| Budget Director | Date |

Operating Budget: CIP: Year: 2012

Document Location: Pages W02, W03, and WW08

Account #: 227-4049-3019100-9214
 227-4049-3019200-9214
 237-4149-3215700-9305

Fund/Agency/Project – Description:
 Water and Wastewater CIP / Relocation of Mains Prior to Paving and Distribution Lines (Up to 14-Inch)

Comments:

| | | | | | | | |
|--|--|--|------------------|----------------------|--------------------------|--------------------------|--|
| CITY OF GARLAND - BID RECAP SHEET OPENED: 11/01/12 REQ. NO. PR 30640 BID NO. 3144-12 PAGE: 2 of 2 BUYER: T. Smith | | | Tri-Con Services | DCI Contracting Inc. | SYB Construction Company | ARK Contracting Services | |
|--|--|--|------------------|----------------------|--------------------------|--------------------------|--|

| ITEM | QTY | UNIT | DESCRIPTION | UNIT PRICE | TOTAL | UNIT PRICE | TOTAL | UNIT PRICE | TOTAL | UNIT PRICE | TOTAL | UNIT PRICE | TOTAL |
|-------------------|-----|------|----------------------------|----------------|----------------|----------------|----------------|----------------|----------------|------------------|------------------|------------|-------|
| | | | Water and Wastewater | | | | | | | | | | |
| | | | Improvements: Colgate Lane | | | | | | | | | | |
| 1 | 1 | Lt. | | \$1,895,587.40 | \$1,895,587.40 | \$1,922,279.50 | \$1,922,279.50 | \$2,034,045.80 | \$2,034,045.80 | \$1,672,341.00 | \$1,627,341.00 | | |
| | | | | | | | | | | (Incomplete Bid) | (Incomplete Bid) | | |
| TOTAL GROSS PRICE | | | | \$1,895,587.40 | | \$1,922,279.50 | | \$2,034,045.80 | | \$1,627,341.00 | | | |
| CASH DISCOUNT | | | | | | | | | | | | | |
| TOTAL NET PRICE | | | | \$1,895,587.40 | | \$1,922,279.50 | | \$2,034,045.80 | | \$1,627,341.00 | | | |
| F.O.B. | | | | DELIVERED | | DELIVERED | | DELIVERED | | DELIVERED | | DELIVERED | |
| DELIVERY | | | | | | | | | | | | | |

| | | | |
|------------------|-----------------------|------------------------------|--|
| NEXT LOW: | \$1,491,853.20 | 2757 # BidSync Notifications | All bids submitted for the designated project are reflected on this bid tab sheet. However, the listing of a bid on this sheet should not be construed as a comment on the responsiveness of such bid or as any indication that the city accepts such bid as responsive. The City will notify the successful bidder upon award of the contract and, according to the law, all bids received will be available for inspection at that time. |
| LOW: | \$1,391,988.40 | 58 # BidSync HUBS | |
| SAVINGS: | \$99,864.80 | 159 # Direct Contact HUBS | |
| | | 0 # HUBS Responded | |



GARLAND

PURCHASING

Executive Summary **Bid 3144-12** **Water and Wastewater Improvements**

Recommended Vendor:

Barson Utilities, Inc.

Total Recommended Award:

\$1,391,988.40

Basis for Award:

Straight Low Bidder

Purpose:

The purpose of this contract is to provide for the construction of approximately 5,137 linear feet of 6" water line, 1,991 linear feet of 8" water line, and 3,876 linear feet of 6" sanitary sewer line including all service connections, concrete and asphalt paving, manholes and other incidentals.

Evaluation:

Requests for bids were issued per Purchasing procedures.

Nine (9) bids were received and evaluated with Barson Utilities, Inc. submitting the lowest bid.

Recommendation:

Staff recommends awarding the contract to Barson Utilities, Inc.

Funding Information:

\$498,676.00 – 227-4049-3019100-9214 / CW191-RB-1-9214 (Water)

\$401,913.80 – 227-4049-3019200-9214 / CW192-RB-1-9214 (Water)

\$491,398.60 – 237-4149-3215700-9305 / CS2157-RB-1-9305 (Wastewater)

Department Director:

Michael C. Polocek, P.E., Director of Engineering, 972-205-2179



Purchasing Report

ARCHITECTURAL SERVICE FOR NEW FIRE STATION NO. 5 OPEN MARKET

PURCHASE JUSTIFICATION:

The purpose of this contract is to provide architectural professional services for the new Fire Station No. 5 located at 5626 Lyons Road. The new fire station will replace the existing fire station. This is an approved Capital Improvement project. Sufficient funds for the contract were appropriated within the CIP; this is not a request for additional funds.

AWARD RECOMMENDATION:

| <u>Vendor</u> | <u>Item</u> | <u>Amount</u> |
|--|-------------|---------------|
| Wiginton Hooker Jeffry Architects P.C. | All | \$293,525.00 |
| TOTAL: | | \$293,525.00 |

BASIS FOR AWARD:

MOST QUALIFIED

Submitted by:

Reviewed by:

Gary L. Holcomb, CPPO, C.P.M.
 Director of Purchasing

William E. Dollar
 City Manager

Date: 11/26/12

Date: 11/27/12

| <u>FINANCIAL SUMMARY:</u> | |
|----------------------------------|----------|
| Total Project/Account: \$ | 707,321 |
| Expended/Encumbered to Date: | 150,445 |
| Balance: \$ | 556,876 |
| This Item: | 293,525 |
| Proposed Balance: \$ | 263,351 |
| Matt Watson | 11/26/12 |
| Budget Analyst | Date |
| Ron Young | 11/26/12 |
| Budget Director | Date |

| | | |
|--|--|------------|
| Operating Budget: <input type="checkbox"/> | CIP: <input checked="" type="checkbox"/> | Year: 2012 |
| Document Location: | Page PS02 | |
| Account #: | 633-1399-1203200-7101 (50.8%) 642-1399-1203204-7101 (49.2%) | |
| Fund/Agency/Project – Description: | Public Safety CO and GO CIP / Relocate Fire Station No. 5 | |
| Comments: | | |

| | | | | | | | |
|--|--|--|-----|-----|-------|-----------|----------|
| CITY OF GARLAND - BID RECAP SHEET OPENED: 05/24/2012 REQ. NO. BID NO. 2889-12 PAGE: 1 of 1 BUYER: RBerger | | | WHJ | BRW | MAYSE | RON HOBBS | McCARTHY |
|--|--|--|-----|-----|-------|-----------|----------|

| ITEM | QTY | UNIT | DESCRIPTION | UNIT PRICE | TOTAL |
|-------------------|-----|------|---|------------|-----------|------------|-----------|------------|-----------|------------|-----------|------------|-----------|
| | | | Selection Criteria | | | | | | | | | | |
| | | | Overall qualifications & experience 0-40 | | 38.4 | | 36.8 | | 30.4 | | 29.4 | | 23 |
| | | | Experience of assigned personell 0-30 | | 25.2 | | 25 | | 20.8 | | 21 | | 17.2 |
| | | | Satisfactory client references 0-15 | | 12.1 | | 12.8 | | 10.7 | | 9.1 | | 9.2 |
| | | | Overall completeness of response 0-15 | | 13.4 | | 12.8 | | 11 | | 11.3 | | 9.5 |
| TOTAL GROSS PRICE | | | | | 89.1 | | 87.4 | | 72.9 | | 70.8 | | 58.9 |
| CASH DISCOUNT | | | | | | | | | | | | | |
| TOTAL NET PRICE | | | | | 89.1 | | 87.4 | | 72.9 | | 70.8 | | 58.9 |
| F.O.B. | | | | | DELIVERED |
| DELIVERY | | | | | | | | | | | | | |

NEXT LOW:
 LOW: \$293,525.00
 SAVINGS: \$0.00

1019 # BidSync Notifications
 18 # BidSync HUBS
 15 # Direct Contact HUBS
 0 # HUBS Responded

All bids submitted for the designated project are reflected on this bid tab sheet. However, the listing of a bid on this sheet should not be construed as a comment on the responsiveness of such bid or as any indication that the city accepts such bid as responsive. The City will notify the successful bidder upon award of the contract and, according to the law, all bids received will be available for inspection at that time.



GARLAND

PURCHASING

Executive Summary **Bid 2889-12** **Architectural Service for New Fire Station #5**

Recommended Vendor:

Wiginton Hooker Jeffry Architects P.C.

Total Recommended Award:

\$293,525.00

Basis for Award:

Most Qualified

Purpose:

Award a contract to Wiginton Hooker Jeffry Architects P.C. for architectural professional services for the New Fire Station #5 located at 5626 Lyons Road, Garland, Texas. The new fire station will replace the existing fire station.

Evaluation:

Request for Qualifications 2889-12 was issued in accordance with Purchasing procedure. A list of six (6) architectural firms was selected based on evaluation and ranking of qualifications.

Wiginton Hooker Jeffry Architects P.C. was selected as most qualified for this project based on their exhibited extensive experience with architectural design of fire stations.

Recommendation:

Staff recommends award of contract for architectural professional services to Wiginton Hooker Jeffry Architects P.C. in the amount of \$293,525.00.

Funding Information:

CIP Accounts 633-1399-12032-00-7101 and 642-1399-12032-04-7101

Department Director:

Ginny Holliday, Director of Facilities Management, 972-205-3225



City Council Item Summary Sheet

Work Session

Agenda Item

Date: December 4, 2012

Zoning Ordinance

Summary of Request/Problem

Zoning Ordinance 12-41 – Garland Partners

Recommendation/Action Requested and Justification

Consider adoption of the attached ordinance.

Submitted By:

Neil Montgomery
Senior Managing Director of Development
Services

Approved By:

William E. Dollar
City Manager

ORDINANCE NO.

AN ORDINANCE AMENDING THE ZONING LAWS OF THE CITY OF GARLAND, TEXAS, BY APPROVING A CHANGE IN ZONING FROM PLANNED DEVELOPMENT (PD) DISTRICTS 00-63 AND 87-28 FOR FREEWAY USES AND AGRICULTURE (AG) DISTRICT TO PLANNED DEVELOPMENT (PD) DISTRICT FOR MIXED-USES WITH CONDITIONS AND A CONCEPT PLAN ON AN 89.27-ACRE TRACT OF LAND LOCATED SOUTHWEST OF PRESIDENT GEORGE BUSH TURNPIKE, NORTHWEST OF HOLFORD ROAD, NORTH OF THE SPRING CREEK GREENBELT AND EAST OF NAAMAN FOREST BOULEVARD; PROVIDING FOR CONDITIONS, RESTRICTIONS, AND REGULATIONS; AND PROVIDING FOR A PENALTY AND AN EFFECTIVE DATE.

WHEREAS, at its regular meeting held on the 22nd day of October, 2012, the City Plan Commission did consider and make recommendations on a certain request for zoning change made by **Garland Partners, Ltd.**; and

WHEREAS, The City Council, after determining all legal requirements of notice and hearing have been met, has further determined the following amendment to the zoning laws would provide for and would be in the best interest of the health, safety, morals, and general welfare:

Now, therefore, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GARLAND, TEXAS, that:

Section 1.

Ordinance No. 4647 is hereby amended by approving a change in zoning from Planned Development (PD) Districts 00-63 and 87-28 for Freeway Uses and Agriculture (AG) District to a Planned Development (PD) District for Mixed-Uses with Conditions and a Concept Plan on an 89.27-acre tract of land located southwest of President George Bush Turnpike, northwest of Holford Road, north of the Spring Creek Greenbelt and east of Naaman Forest Boulevard, and being more particularly described in Exhibit A, attached hereto and made a part hereof.

Section 2.

Development shall be in conformance with the conditions, restrictions, and regulations set forth in Exhibit B, attached hereto and made a part hereof.

Section 3.

Ordinance No. 4647, as amended, shall remain in full force and effect, save and except as amended by this Ordinance.

FILE NO. 12-41

Section 4.

Violation of this Ordinance shall be a misdemeanor punishable in accordance with Section 10.05 of the Code of Ordinances, City of Garland, Texas.

Section 5.

This Ordinance shall become and be effective on and after its adoption and publication as required by law.

PASSED AND APPROVED this _____ day of _____, 2012.

THE CITY OF GARLAND, TEXAS

By:

Mayor

ATTEST:

City Secretary

Published:

EXHIBIT A

LEGAL DESCRIPTION

Zoning File 12-41

BEING a parcel of land located in the City of Garland, Dallas County, Texas, a part of the P. H. Rice Survey, Abstract Number 1241, and being a part of a called 38.5229 acre tract of land described in a correction special warranty deed from Huel H. Weaver Jr. to Weaver Development Company, a partnership composed of Weaver Construction Company and Huel H. Weaver, Jr. as recorded in Volume 88116, Page 836, Dallas County Deed Records, and being further described as follows:

BEGINNING at a Texas Highway Department concrete monument found for corner at the intersection of the south right-of-way line of Campbell Road (a variable width right-of-way) with the southwest right-of-way line of State Highway 190 (a variable width right-of-way);

THENCE South 56 degrees 20 minutes 17 seconds East, 499.81 feet along the southwest right-of-way line of State Highway 190 to a Texas Highway Department concrete monument found for corner in the east line of said 38.5229 acre tract of land, said point being the northwest corner of a called 52.418 acre tract of land described in a warranty deed from Rosewood Property Company to Garland Partners, Ltd. as recorded in Document Number 201200079372, Dallas County Deed Records;

THENCE along the east line of said 38.5229 acre tract of land and along the west line of said 52.418 acre tract of land as follows:

South 00 degrees 22 minutes 23 seconds West, 553.98 feet to a one-half inch iron rod found for corner;

South 00 degrees 46 minutes 00 seconds East, 535.27 feet to a one-half inch iron rod found for corner;

South 00 degrees 53 minutes 23 seconds West, 178.45 feet to a one-half inch iron rod found for corner;

South 00 degrees 45 minutes 24 seconds East, at 1077.78 feet passing a one-half inch iron rod found at the southwest corner of said 52.418 acre tract of land, in all a total distance of 1087.07 feet to a one-half inch iron rod set at the southeast corner of said 38.5229 acre tract of land;

THENCE South 88 degrees 49 minutes 28 seconds West, 140.64 feet along the south line of said 38.5229 acre tract of land to the southeast corner of a called 1.4809 acre tract of land described in a warranty deed from Weaver Development Company to the County of Dallas as recorded in Volume 90183, Page 2827, Dallas County Deed Records;

THENCE along the east and north lines of said 1.4809 acre tract of land as follows:

North 41 degrees 11 minutes 18 seconds West, 149.92 feet to a point for corner;

North 75 degrees 19 minutes 15 seconds West, 213.32 feet to a point for corner;

South 71 degrees 23 minutes 31 seconds West, 200.77 feet to a point for corner;

North 45 degrees 55 minutes 45 seconds West, 23.01 feet to the northwest corner of said 1.4809 acre tract of land, said point being in the west line of said 38.5229 acre tract of land, said point

EXHIBIT A

being the southeast corner of Lot 53, Block 8, Shoal Creek, an addition to the City of Garland as recorded in Document Number 200600361138, Dallas County Deed Records;

THENCE North 00 degrees 41 minutes 19 seconds West, 2513.87 feet along the west line of said 38.5229 acre tract of land to a one-half inch iron rod found for corner in the south right-of-way line of Campbell Road;

THENCE North 89 degrees 32 minutes 25 seconds East, 251.58 feet along the south right-of-way line of Campbell Road to the POINT OF BEGINNING and containing 1,605,263 square feet or 36.852 acres of land; AND

BEING a parcel of land located in the City of Garland, Dallas County, Texas, a part of the P. H. Rice Survey, Abstract Number 1241, and being all of a called 52.418 acre tract of land described in a warranty deed from Rosewood Property Company to Garland Partners, Ltd. as recorded in Document Number 201200079372, Dallas County Deed Records, and being further described as follows:

COMMENCING at a Texas Highway Department concrete monument found for corner at the intersection of the south right-of-way line of Campbell Road (a variable width right-of-way) with the southwest right-of-way line of State Highway 190 (a variable width right-of-way);

THENCE South 56 degrees 20 minutes 17 seconds East, 499.81 along the southwest right-of-way line of State Highway 190 to a Texas Highway Department concrete monument found for corner at the POINT OF BEGINNING of this parcel of land said point being the northwest corner of said 52.418 acre tract of land, said point being in the east line of a called 38.523 acre tract of land conveyed to Weaver Development Company as recorded in Volume 88116, Page 836, Dallas County Deed Records;

THENCE along the southwest right-of-way line of State Highway No. 190 as follows:
South 56 degrees 28 minutes 32 seconds East, 413.48 feet to a Texas Highway Department concrete monument found for corner;
South 58 degrees 03 minutes 15 seconds East, 700.83 feet to a Texas Highway Department concrete monument found for corner;
South 53 degrees 22 minutes 00 seconds East, 162.04 feet to a "X" found in concrete at the northeast corner of said 52.418 acre tract of land, said point being in the west line of a called 2.93 acre tract of land conveyed to Anbar, Inc. as recorded in Volume 2004193, Page 6358, Dallas County Deed Records;

THENCE along the east line of said 52.418 acre tract of land as follows:
South 07 degrees 44 minutes 54 seconds East, 618.48 feet to a one-half inch iron rod found for corner;
South 83 degrees 25 minutes 59 seconds East, 170.13 feet to a one-half inch iron rod found at the northeast corner of said 8.237 acre tract of land;
South 13 degrees 52 minutes 45 seconds West, 35.82 feet to a one-half inch iron rod found for corner;
South 07 degrees 36 minutes 01 seconds West, 592.55 feet to a one-half inch iron rod found for corner;
South 40 degrees 05 minutes 29 seconds West, 495.76 feet to a one-half inch iron rod found for corner;
North 20 degrees 31 minutes 21 seconds West, 133.24 feet to a one-half inch iron rod found for corner;

EXHIBIT A

South 54 degrees 39 minutes 06 seconds West, 84.33 feet to a one-half inch iron rod found for corner;

South 04 degrees 21 minutes 54 seconds West, 110.83 feet to a one-half inch iron rod found at the southeast corner of said 52.418 acre tract of land;

THENCE North 88 degrees 37 minutes 00 seconds West, 776.85 feet to a one-half inch iron rod found at the southwest corner of said 52.418 acre tract of land, said point being the southeast corner of said 38.523 acre tract of land;

THENCE along the west line of said 52.418 acre tract of land and along the east line of said 38.523 acre tract of land as follows:

North 00 degrees 45 minutes 24 seconds West, 1077.78 feet to a one-half inch iron rod found for corner;

North 00 degrees 53 minutes 23 seconds East, 178.45 feet to a one-half inch iron rod found for corner;

North 00 degrees 46 minutes 00 seconds West, 535.27 feet to a one-half inch iron rod found for corner;

North 00 degrees 22 minutes 23 seconds East, 553.98 feet to the POINT OF BEGINNING and containing 2,283,332 square feet or 52.418 acres of land.

PLANNED DEVELOPMENT CONDITIONS

ZONING FILE 12-41

Southwest of PGBT/SH 190, northwest of Holford Road, north of the Spring Creek Greenbelt and east of Naaman Forest Boulevard

- I. **Statement of Purpose:** The purpose of this Planned Development District is to allow for a mix of uses subject to conditions.
- II. **Statement of Effect:** This Planned Development District shall not affect any regulation found in the Comprehensive Zoning Ordinance, Ordinance No. 4647, as amended prior to adoption of this ordinance, except as specifically provided herein.
- III. **General Regulations:** All regulations in Ordinance 4647 Comprehensive Zoning Ordinance, Ordinance 5228 SH 190 Overlay and Ordinance 5565 SH 190 Development Standards are included by reference and shall apply, except as otherwise specified by this ordinance.
- IV. **Development Plans:**
 - A. Concept Plan: Development shall be in general conformance with the Concept Plan and conditions as identified in Exhibit C.
 - B. Detail Plan: Approval of a Detail Plan is required for all development, prior to issuance of a permit for construction.
- V. **Specific Regulations:**
 - A. Regulating Plan: All conditions and standards shall be as provided within Exhibit C.
 - B. Number of Dwelling Units: All dwelling units are limited by number per each block as outlined in Exhibit C and are not to be transferable among blocks.

Spring Creek Reserve

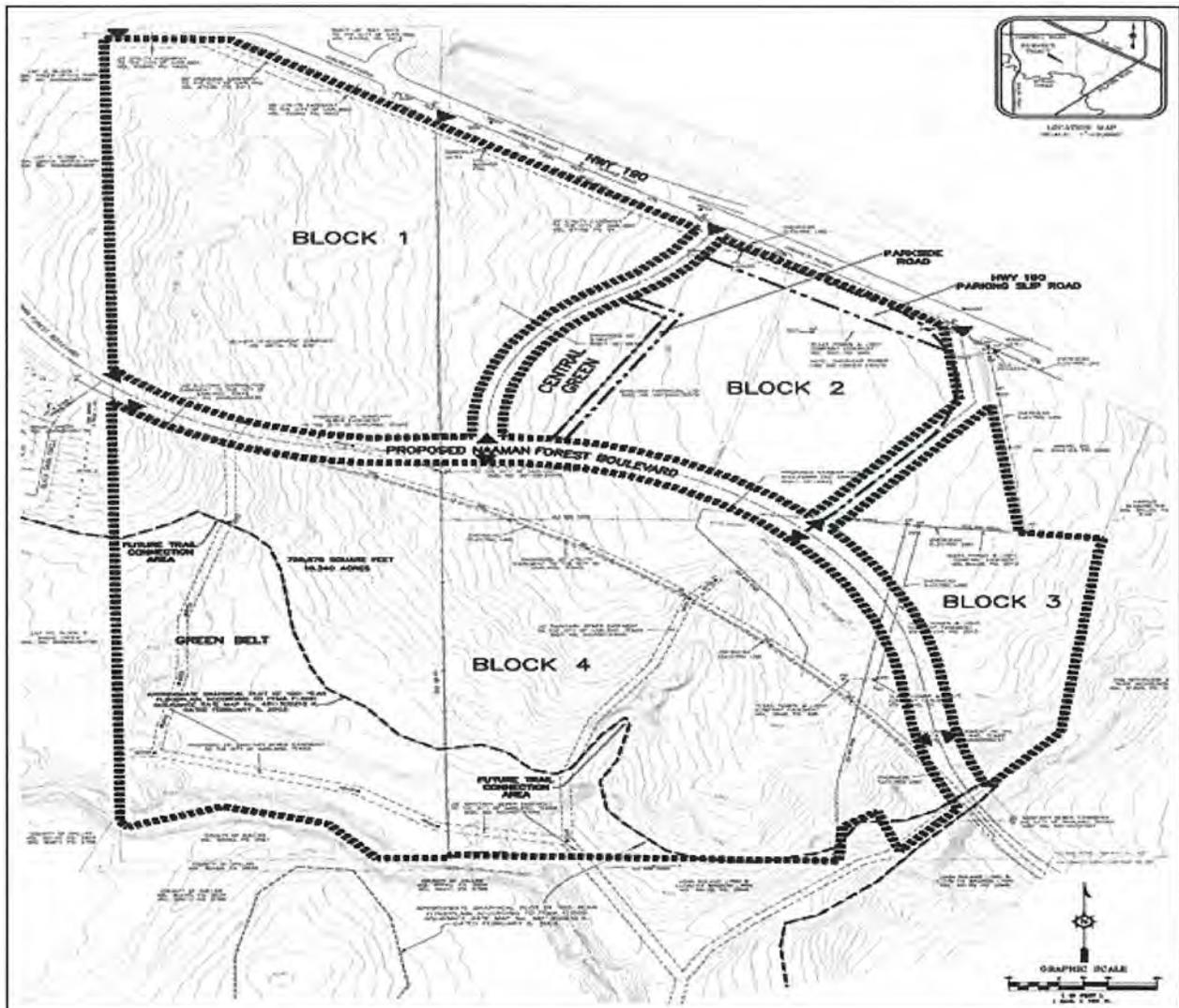
Proposed Planned Development District Conditions

I. Purpose of District:

This District, to be known as the Spring Creek Reserve, is a mixed-use planned development district defined by grid of public and private streets, pedestrian-oriented streetscape amenities, a diverse open space system, and a range of building types and uses that all combine to promote activity from the daytime through the evening. This development vision is intended to serve the larger Highway 190 office corridor by providing a center of activity, service, community and recreation.

II. Conceptual Regulating Plan:

A conceptual regulating plan has been determined for the property to define distinct blocks, open space location, key access points, and general street and open space locations. Development areas of the Property will generally comply with the conceptual regulating plan as shown here. Base land use, density, building massing, and material standards are defined in this document. Detailed sitework geometries, grading, landscape, utility and drainage designs will be determined as part of detailed development plan submission, so long as they generally conform to the conceptual regulating plan.



III. Policy Precedence

The base zoning for this property is being changed to a Planned Development District with unique Conditions as defined in this document. However, the property is within the control of Ordinance No. 5565 (SH 190 corridor overlay standards) and this Planned Development District allows uses currently controlled through the Ordinances No. 5410 (Senior Living), No. 5129 (Multifamily), and No. 5213 (Hotel Motel), as well as landscape management through Ordinance No. 5731 (Tree Mitigation). As the Conditions contained within this document are unique to this property, there are certain areas that will vary from the standards defined in the Ordinances listed above. As such, where any conflict exists between the aforementioned Ordinances and the Planned Development District Conditions listed below, the Conditions described herein shall supersede. Where these Conditions are silent to an issue contained within the aforementioned Ordinances, such regulation will control.

IV. Development Conditions

1. Definitions:

In addition to those defined below, all definitions that are contained in Ordinance 5565 shall apply.

- (a) A-FRAME SIGN means a portable detached premise sign that is hinged at the top and is made primarily of durable, rigid materials such as wood, plastic, or metal.
- (b) ARCADE SIGN means any sign that is mounted under a canopy or awning and is perpendicular to the building to which the canopy or awning is attached. This sign is intended to be read from the pedestrian walkway that the canopy or awning covers.
- (c) ATTACHED SIGN means any sign attached to, applied on, or supported by, any part of a building (such as a wall, parapet, roof, window, canopy, awning, arcade, or marquee) that encloses or covers usable space, and any sign attached to, applied on, or supported by, mounted antennas, water reservoirs on buildings, chimneys, and visual screens that surround roof-mounted equipment. The term attached sign also means any sign attached to, applied on, or supported by the exterior structural framing of a building or architectural elements of a building, whether or not the exterior structural framing or architectural elements enclose or cover usable space.
- (d) ATTACHED SINGLE-FAMILY means attached for-sale residences with a minimum density of 12 dwelling units per acre and minimum height of two stories.
- (e) AWNING means a fabric or vinyl surface supported by a metal structure, which is applied to the face of a building.
- (f) AWNING SIGN means a sign attached to, painted on, or otherwise applied to an awning.
- (g) BANNER means a sign applied on a strip of cloth, vinyl, or similar material and attached to a street light pole that is proportionate to the pole it is attached upon and no more than 30 inches wide. Awning signs, canopy signs, and flags are not banners.
- (h) BLADE SIGN means a sign projecting from a main building façade, is visible from both sides, and is made of rigid materials and/or soft fabric materials.

- (i) CANOPY means a permanent, non-fabric architectural element projecting from the face of a building.
- (j) CANOPY SIGN means a sign attached to, applied on, or supported by a canopy.
- (k) CURB LINE means the location of curbs within public streets and internal drives.
- (l) DENSITY means total dwelling units divided by net developable site acreage.
- (m) DISTRICT IDENTIFICATION SIGN means a sign that is a marker for the district.
- (n) HEALTH CARE means inpatient and outpatient medical facilities and clinics, and congregate care facilities.
- (o) HOME OFFICE or LIVE/WORK means a residential unit that is less than 3500 sf which may include areas used for office and retail services within the unit. These units must be at ground level facing sidewalk and have at least one exterior entrance facing the sidewalk.
- (p) INTERNAL DRIVE means a public or private street in this district, excluding Naaman Forest Drive or Highway 190 Service Road.
- (q) KIOSK SIGN means multi-sided structure for the display of premise signs. Kiosks may include changeable message signs.
- (r) LANDSCAPE AREA means publicly or privately-owned accessible plaza or outdoor area. Landscape area includes areas between buildings which include pedestrian amenities. Landscape area may contain kiosks, temporary retail and outside sales.
- (s) LANDSCAPE SIGN means a sign that is integrated into a landscape feature, such as a planting bed or fountain that acts as a base for the sign. Landscape signs must reference tenants and/or services located on the premises.
- (t) MIXED-USE means a development that combines residential uses with retail, hospitality and/or office uses into one project by layering such uses vertically and/or positioning them to be adjacent to one another horizontally.
- (u) MULTIFAMILY means attached rental residential buildings with a minimum density of 22 dwelling units per net acre in block 4, and 27 dwelling units per net acre in blocks 1-3, and minimum height of three stories for primary buildings.
- (v) NET DEVELOPABLE SITE ACREAGE means the specific property proposed for vertical development excluding any and all public or private streets, open spaces, flood plain, easements, and setbacks from SH 190.
- (w) PRIMARY BUILDING means buildings housing the primary use and excludes accessory buildings leasing/management/club buildings, and commercial pad site buildings containing a structure of 5,500 sf or less.
- (x) PROPERTY means Block 1, Block 2, Block 3 and Block 4 collectively.

(y) SERVICE DRIVE means a drive and area used for deliveries, service, and access and/or building operations.

(z) SITE means total property owned by the applicant

(aa) TENANT means any owner, part owner, joint owner, tenant in common, tenant in partnership, joint tenant, tenant by the entirety, or lessee. Tenant may also include an event which occurs on the property.

2. Blocks and Allowable Uses:

The street grid and open space system divides the development district into four blocks as shown on the conceptual regulating plan. These blocks are each intended to have a different character and use profiles to promote a range of experiences and visual identity as described below.

2.1: Block 1 -- At the intersection of Campbell Road and Highway 190 Service Road, Block 1 has primary opportunities for more active retail and mixed-use development. As such, allowable uses in Block 1 will include those defined in Ordinance No. 5228 SH 190 Overlay District, Shopping Center (SC) District, as well as Senior Living, Multifamily, Hotel and Health Care uses. In addition, allowable uses will include multifamily so long as it is part of a mixed-use development in which 3 or more uses are present within Block 1 (multifamily combined with commercial, health care, hotel, and/or retail uses) and all uses follow the Conditions described elsewhere in this document. Multifamily (including senior living) is limited to 225 units at a minimum density of 27 du/net ac.

2.2: Block 2 -- Adjacent to Block 1 and in a mid-block condition along the Highway 190 service road, Block 2 has primary opportunities for office, neighborhood service and mixed-use development. Allowable uses on Block 2 will include those defined in Ordinance No. 5228 SH 190 Overlay District, Neighborhood Service (NS) District and Office-2 (O-2) District, as well as Health Care, Hotel, Multifamily and Senior Living uses so long as Multifamily is part of a mixed-use development in which 2 or more uses are present within Block 2 (multifamily combined with commercial, health care, hotel, and/or retail uses) and all uses follow the Conditions described elsewhere in this document. Within Blocks 2 and 3 combined, multifamily (including senior living) is limited to 375 units at a minimum density of 27 du/net ac.

2.3: Block 3 -- In a mid-block condition along the Highway 190 Service Road with lessened visibility than Block 2, Block 3 has primary opportunities for office, neighborhood service and housing. Allowable uses on Block 3 will include those defined in Ordinance No. 5228 SH 190 Overlay District, Multi-Family District. Multifamily use and Senior Living use. Again, within Blocks 2 and 3 combined, multifamily (including senior living) is limited to 375 units at a minimum density of 27 du/net ac.

2.4: Block 4 -- South of Naaman Forest Boulevard and having development area adjacent to the Spring Creek green belt, Block 4 has primary opportunities to create a residential community. As such, allowable uses in Block 4 will include those defined in Ordinance No. 5228 SH 190 Overlay District, Senior Living and Health Care uses. Multifamily (including senior living) is limited to 600 units at a minimum density of 22 du/net ac. and shall be integrated with open space and connections to the Spring Creek green belt.

2.5: Additional Criteria --

- (a) All blocks may be considered one lot, but may also be subdivided into smaller lots if necessary. Blocks 2 and 3 may be combined into one Block, with those standards defined for Block 2 above prevailing.
- (b) Each structure on a lot must comply with the yard, lot, and space regulations of the block where that structure is located.
- (c) All buildings that face SH190 Slip Road, Campbell Road, SH 190 service road, and central green shall be constructed to allow for non-residential uses to occur at grade. This includes providing minimum 10 foot ceilings, larger windows, and direct entrances from exterior to each individual tenant space. In mixed-use buildings, such ground level space may include live/work units built to these standards to accommodate a change in use over time.

3. Building Setbacks:

Developments in Blocks 2, and 3 are intended to create a strong "street wall" in which the urban form of buildings along the street is the definitive characteristic of the streetscape environment. As such, consistency of building massing must be maintained along this edge and around its corners. The following establishes minimum and maximum setbacks to create this effect, while allowing flexibility for design variety.

- 3.1 Building Setbacks – All buildings within Blocks 2 and 3 will abide by setback standards by location below. In cases where other setback conditions are present, the setback provisions in SH 190 Development Standards (Ordinance No. 5565) shall apply. Buildings on other Blocks shall abide by the setback conditions described in Ordinance No. 5565.

| | |
|-------------------------------|--|
| Naaman Forest (Public)-- | 22 feet (min.) to 30 feet (max.) from back of curb. Utility easement may require a larger maximum setback, which is allowable. |
| Primary Street (Public)-- | 17 feet (min.) to 25 feet (max.) from back of curb |
| Hwy 190 Slip Road (Private)-- | 14 feet (min.) to 22 feet (max.) from back of curb to achieve a smaller, more urban setback condition than the setbacks defined in SH 190 Development Standards (Ordinance No. 5565) |
| Parkside Road (Private) -- | 14 feet (min.) to 22 feet (max.) from back of curb |

- 3.2 Mixed-Use Street Frontage -- A minimum of 80% of each mixed-use development's total building street frontage shall meet the setback criteria stated above (Section 3.1).
- 3.3 Setback Encroachment (all buildings) -- Any building feature, defined as architectural attachments to the primary building facade, may encroach up to 4' from the building face into the setback area. These features may include, (but are not limited to):

| | |
|----------|----------------|
| Stoops | Planters |
| Chimneys | Bay windows |
| Awnings | Mounted Signs |
| Porches | Balconies |
| Canopies | Pilasters |
| Eaves | Tower elements |

4. Building Design:

Restrictions on minimum building height are intended to assure a minimum level of visual building massing within the Spring Creek Reserve development district. Buildings that do not meet these criteria would dilute the neighborhood form by eroding the massing of the street. As such, the following restrictions apply.

- 4.1 Minimum Building Height – Minimum height for non-residential uses shall be 20 feet to top of structure for all primary buildings. Minimum building height for attached single-family uses and seniors/assisted living uses shall be 24 feet to top of structure for all primary buildings. Minimum for multifamily and vertically mixed-use buildings shall be 36’ to top of structure or parapet above finished sidewalk for all primary buildings.
- 4.2 Building Corner Treatments -- Buildings shall reinforce a strong corner condition at street intersections. Such treatments include towers, stacked bay windows, projecting volumes, special signage, and other architectural features. Corner clips are not allowable at these intersections, but may occur up to twice within the block (between street intersections). Buildings shall be designed to accommodate City of Garland required visibility triangles without compromising the corner design.
- 4.3 Special Architectural Features – Where a building visually defines the endpoint/ terminus of a street (public or private circulation way), such buildings shall reinforce a strong end-vista through the use of special architectural features centered on these views/ Such features include towers, bay window stack and other special architectural design features.
- 4.4 Maximum Building Length -- Buildings shall not be longer than three hundred feet (300’) without an unconnected physical separation of at least 20 feet in width and 15 feet in depth between another building.
- 4.5 Exterior Walls -- Building facades shall have massing changes and architectural articulation to provide visual interest and texture along the street corridor. This articulation should not apply evenly across the building facade, but should be gathered for hierarchal design impact rather than block-long repetition. Building articulation shall follow those standards defined in SH 190 Development Standards (Ordinance No. 5565).
- 4.6 Retail Condition – Retail buildings within Block 1 should have heights that vary and are not lower than 20 feet, in order to provide an effective sense of variety and non-repetition. The scale of the building widths and the roof forms of the buildings should create variety of massing. The front elevation of these buildings should be set back a minimum of 14’ from the curb of a private drive or parking aisle in front of such building to create pedestrian-oriented streetscape with benches, bike racks, street trees, planters shading devices and other pedestrian

features. The buildings that line this pedestrian zone should promote an intimate pedestrian scale using signs, entrances, awnings, and storefront windows. Surfaces that are perpendicular to the building facades are quite visible, so that design elements such as blade signs, façade relief, shadow lines, and surface textures should also be employed. In no case should an unarticulated wall of a primary building be more than 30 feet, and storefront glazing at the ground level should add up to at least 30% of the total façades facing SH 190 and Campbell.

- 4.7 Climate Protection – In retail and mixed-use buildings, the design of the ground level is encouraged to use shaded walkways, awnings, canopies, loggias, colonnades and other similar devices. These elements should be designed as an integral part of the building façade and should be integrated into the aesthetics of the architecture.

5. Ground Floor Building Level:

The following building programming requirements have been designed to create pedestrian-oriented streetscape environments, take advantage of mixed-use opportunities, and ensure the visibility of retail and privacy of residential areas.

- 5.1 Ground Floor Level (Residential Use) -- For residential uses at the ground floor which face the Naaman Forest, Hwy 190 Slip Road, Primary Road or Parkway Road, the finished floor elevation is encouraged to average thirty inches (30") above the finished sidewalk grade where possible. Elsewhere, the finished floor elevation for ground level residential uses shall not be lower than the finished sidewalk grade.
- 5.2 Ground Floor Level (Non-Residential Uses) -- For non-residential uses at the ground floor, other than basement mechanical storage and parking levels, the finished floor elevation may not be lower than the finished sidewalk grade.
- 5.3 Ground Floor Level (Live/Work and Flex Space) -- For ground floor live/work or flex space, the finished floor elevation may not be lower than the finished sidewalk grade.
- 5.4 There should be no ground level wall facing any street that is not activated with visual building programming, entrances, special design features, etc more than 50 feet in length.
- 5.5 Sidewalk Entries -- Sidewalk entries to all residential buildings along all street categories shall occur at a maximum of every 3 units or seventy five feet (75'). Entries to individual ground level live/work units or retail/office storefront meets this requirement.
- 5.6 Sidewalk Entry Hierarchy -- Entrances into residential buildings are encouraged to follow a hierarchy of sizes and functions:

Carriage way -- A 12' wide entrance at sidewalk level centrally located within the building elevation for visual and direct access to a private courtyard beyond.

Secondary entry -- A 6' wide entrance with ornamental entrance gate and defined by stoop with low cheek walls and planters at the sidewalk. Bike racks, and trash receptacles should be grouped around these secondary entries.

- 5.7 Entrances and Fenestrations – Each door leaf shall be a minimum of 7 feet high and 3 feet wide, and doors in retail storefronts should be as transparent as possible.
- 5.8 Non-Residential Program Elements -- All community-serving uses within residential projects shall be oriented to the street and/or amenity areas. These may include the fitness center, leasing and management, community halls, service retail, etc.
- 5.9 Home office / live work units facing a street (public or private circulation way) may have a 3' ornamental fence with gate in front of each unit to define a landscaped front patio for these units.

6. Material and Color Requirements:

The material and color requirements described herein are intended to provide a uniform character and complimentary material relationship between buildings, promote the perception of strength and permanence of each building, while maintaining appropriate variety for design flexibility. Primary cladding is defined as the principal base material on the exterior building facade. Secondary cladding materials are defined as those which face architectural accent features such as window sills, lintels, rustication, pilasters, eaves, etc.

- 6.1 Primary Cladding on Exterior Walls -- Primary cladding material on building elevations that face a public or private street shall be composed of a minimum 75% masonry material. Masonry is defined as being naturally-based stone-based materials including brick, finished concrete masonry units, and stone. Concrete masonry unit products are allowable within the first two floors only, and shall have an architectural finish such as split-faced, rusticated, etc.
- 6.2 Primary Cladding Material Combination -- No more than two (2) primary cladding materials (excluding glass windows) may be used as primary cladding, with one material being dominant. A third material is allowable if used on a special architectural feature such as a tower, corner element, primary entrance articulation, etc., and is limited to one application per building facade.
- 6.3 Allowable Primary Cladding Material -- The following materials are allowable as exterior cladding:
 - Integral brick (non-veneer)
 - Stone
 - Cast stone
 - Concrete masonry unit products (split faced and rusticated finish only)
- 6.4 Secondary Cladding on Exterior Walls – Secondary cladding material shall include Primary Cladding materials and stucco (non-EFS). Secondary cladding may occur on building elevations that do not face public and private streets.
- 6.5 Accent Materials on Exterior Walls – Accent materials shall not be more than 10% of a building façade and includes EIFS and architectural foam detailing, cementitious wood plank/siding, and architecturally finished metal siding.

- 6.6 Windows and Glass – Excluding civic, cultural or/public buildings, glass may not represent more than 50% of a building façade without approval of Planning Director. Reflective, mirrored, and spandrel glass are not allowable in any case.
- 6.7 Total Allowable Exterior Material Combination -- No more than five (5) exterior building materials (excluding roof material, but including primary and secondary cladding, and glass) may be used on any building.
- 6.8 Material Transition around Corners -- The dominant primary cladding material shall transition a minimum of fifteen feet (15') around all building corners.
- 6.9 Accent Features -- The following accent features add detail; with minimum of 6 elements required on each building façade facing a public or private street and minimum of 3 elements required on each building façade not facing a public or private street.

- Display windows
- Divided light windows
- Transoms
- Shutters
- Alcoves/Porticos
- Recessed entries
- Ornamental windows headers/lintels
- Quoins
- Planters or fountains
- Dormers
- Varied roof heights
- Overhang eaves
- Pilasters
- Cornices
- String courses
- Window sills
- Lintels
- Rustication

- 6.10 Attachments -- Railing and walls attached to buildings must complement building design and materials.
- 6.11 Allowable Color Palette on Primary Cladding – For primary cladding, colors that occur naturally in masonry materials must be in neutral or earth tones. Any paint used on primary cladding shall follow this palette.
- 6.12 Prohibited Building Colors -- Garish, fluorescent, and stark white colors shall not be used. Black shall not be used as primary building color, but may be used as accent color.
- 6.13 Accent Colors -- Accent colors shall be selected to complement the dominant building color, and may be applied to window mullions, cornices, and other architectural elements.

7. Exterior Illumination:

Exterior illumination discourages “dead spaces” within an urban environment. Because the Spring Creek Reserve community shall be pedestrian-oriented, illumination of buildings is required to promote the safety of all pedestrians while providing a unique architectural opportunity to highlight buildings in key areas.

- 7.1 Illumination location -- Illumination will be required on all exterior building walls which face any street or amenity area. Special care should be taken to highlight architectural features on the building elevation such as display and entry, with a hierarchal design to highlight those facades facing the Primary Street, 190 Slip Road, and Naaman Forest. In addition to those identified below, lighting requirements not identified below that exist in Ordinance 5565 and Ordinance 4647 shall apply.

8. Parking Areas:

The purpose of parking area requirements is to ensure that the parking areas that occur in Blocks 2, 3 and 4 are not the dominant feature. These requirements prohibit exposed garages or surface parking areas for residential uses, and encourage physical consistency throughout the community. In addition to those identified below, regulations related to parking areas not identified below that exist in Ordinance 5565 and Ordinance 4647 shall apply.

- 8.1 Allowable Parking -- All residential parking areas, other than that occurring on a street or private drive, shall be limited to structure, below grade and surface parking courts primarily shielded from street view by building facades. Non-residential uses are excluded from this provision. Any on-street parking is allowable on all streets except Naaman Forest, Campbell, and SH 190 service road, and may count towards parking requirements on a 1:1 basis.
- 8.2 Parking Supply -- Parking areas shall be sufficient to all parking needs for employees, company vehicles, customers and visitors and shall abide by the following parking requirements.

Residential Uses: 1 space per bedroom

Retail Uses: 1 space per 250 sf

Restaurant Uses: 1 space per 75 sf

Office Uses: 1 space per 300 sf

Civic/Public Uses: 1 space per 350 sf

- 8.3 Openings -- Street-fronting openings exposing any parking structure or parking lot shall not exceed 25% of the total block-face length.

9. Driveways and Building Services

Like parking garages, driveways are not intended to dominate the streetscape of the Spring Creek Reserve area. These requirements are intended to promote pedestrian oriented design that does not compromise itself to the automobile. In addition to those identified below, regulations related to driveways and service areas not identified below that exist in Ordinance 5565 shall apply.

- 9.1 Curb Cuts -- Driveways shall be limited to three (3) curb cuts per flock within Block 1, two (2) curb cuts per block faces within Blocks 2 and 3, four (4) curb cuts within block faces within

Block 4, and , defined as property being between two public or private streets.

10. Signs:

In order to maintain aesthetic uniformity throughout the Spring Creek Reserve area, requirements for signage are necessary. Signs must be qualitative in design and appearance and must not detract from their environment. Representative signs include blade signs, mural signs, canopy and awning signs, storefront signage, and temporary sandwich board signage, etc. In addition to those identified below, signage regulations not identified below that exist in Ordinance 5565 shall apply.

- 10.1 Allowable Signs -- Permitted signs include those that identify the name and business of the occupant, give directions, offer the premises for sale or for lease, are not of an unusual size or shape when compared to the building(s) on the premises, preserve and enhance the quality and atmosphere of the area, and are a minimum of eight feet (8') above finished sidewalk (unless designed flush and integral to the storefront, are monument signs, landscape signs, or other allowable ground-mounted signs).
- 10.2 Non-Permitted Signs -- Generally, signs that flash, move or are inappropriately colored and do not conform to the overall development concept are not permitted. This includes:
 - Animated components, flashing lights, rotating of flashing signs, except for text and graphics on the field of a reader board sign
 - Formed plastic
 - Surface mounted, box-cabinet signage
 - Freestanding signs and portable signs such as signs designed to be moved from place to place (except A-frame signs)
 - Balloon or inflatable signs
 - Signs which emit sound or odor or visible matter
 - Signs with exposed raceways, conduit, junction boxes, transformers
 - Fluorescent or reflective sign or color
 - Simulated materials, i.e. wood grained, plastic laminate, wall coverings, paper, card board or Styrofoam
 - Plexi-face channel letters
- 10.3 Encouraged Approach -- Individual tenants are encouraged to use a mixture of urban signage techniques. This includes attached and unattached signage including those on storefront awnings, signage of the glass of storefronts and entrances, dimensional blade signs, A-frame signs, arcade signs, blade signs, parapet signs, building signs, monument signs, etc.
- 10.4 Sign Band – The tenant name above retail entries will be in a sign band as individual letters with no exposed neon and no internal illuminated box designs. Illumination will be from external decorative light sources.
- 10.5 Dimensional Signage – Dimensional signage will be encouraged to create a unique variety along the streetscape. A variety of blade sign designs will be allowed as well to create an eclectic mix, rather than a consistent theme to the blade signs which would detract from the desired urban variety.

11. Fencing:

To keep consistent with the street-oriented, pedestrian-friendly atmosphere of the Spring Creek Reserve area, fencing shall be limited to areas in which it is necessary to block public access, define accentuate non-residential ground level uses, define private space for live/work units, screen portions of parking courts that may be visible from streets, and maintain an overall aesthetic appearance. In addition to those identified below, fencing regulations not identified below that exist in Ordinance 5565 and other applicable ordinances, shall apply.

- 11.1 Fencing Length -- No fencing shall run around an entire development. The maximum total length for a small fence shall be fifty feet (50') without break in massing or providing opening and gate.
- 11.2 Fencing Material -- All fencing must be wrought iron if not used to screen loading areas, parking courts or trash storage areas (per below).
- 11.3 Fencing Height -- No fencing shall be above three feet (3'), unless used to screen loading areas, or block public access. In cases where it is used to block public access, it should only run between buildings and is limited to eight feet (8') in height.

12. Screening:

The purpose for screening is to control the visual access into areas which exist entirely for functional means, not intended to be used or seen by the public. Standards are required to maintain uniformity throughout the Spring Creek Reserve area so that these areas are not unsightly from where they are viewed. In addition to those identified below, screening regulations not identified below that exist in Ordinance 5565 shall apply.

- 12.1 The following must be screened:
 - Off-street loading spaces
 - Service areas
 - Trash storage areas
 - Roof mechanical elements (from the public right of way and neighboring properties)
- 12.2 Trash storage areas must be screened by
 - Masonry wall at least 8' high that uses architecturally compatible materials and colors to the adjacent building.
- 12.3 Other loading and service areas may be screened by:
 - Masonry walls at least 8' in height (with architecturally compatible materials and colors to the adjacent building):
 - Dense evergreen plant materials with 6 ft height at time of planting
 - Planted berms that obscure the view of such areas up to 6' in height
- 12.4 All screening shall utilize a design that is complementary to the adjacent building and landscape area.

13. Site Landscaping:

The primary landscape experience within the project shall be that of an urban streetscape. Therefore, plantings of canopy trees, ornamental trees, shrubs, evergreen groundcovers, vines, and seasonal color set in paved and tree-lawn surfaces are appropriate. Plantings shall promote entrance demarcation and pedestrian interest. Street furniture and sidewalk design shall be based upon creating safe and inviting walking environments through an interconnected network of streets with sidewalks, its street furniture, and amenities. Any of the features listed below that are to be located within a public right of way or public access easement must be approved by the City through license agreement and owner shall have responsibility to maintain such features as agreed upon by City in maintenance agreement.

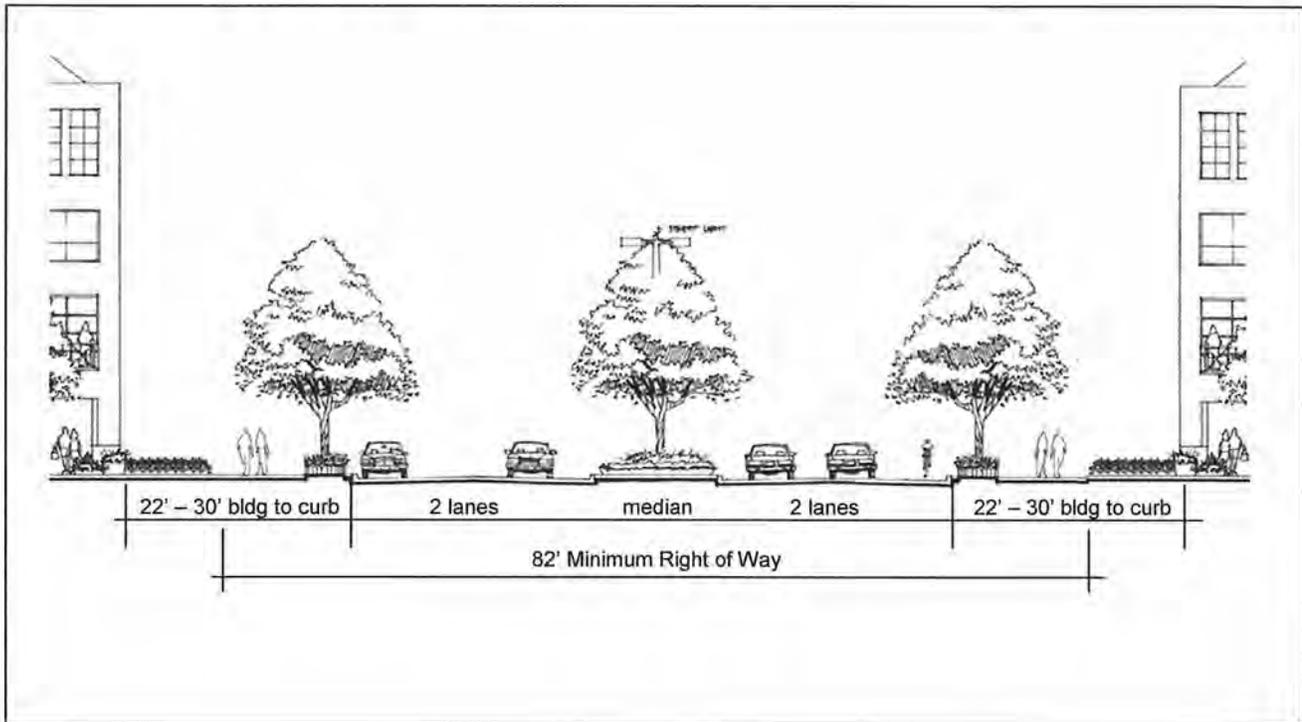
- 13.1 Owners must provide landscaping, including hard and softscape within the sidewalk and front yard areas.
- 13.2 Front Yards – Front yard plantings between the sidewalk edge and building face shall provide an inviting walking experience through a tiered design combining perennial and annual plantings for maximum visual interest throughout the year. In general, it is not intended that any plantings within the front yard be allowed to be above six feet (6') in height.
- 13.3 Street Trees – Street trees shall be planted at an average of thirty-to-thirty-five (30-35') feet on-center (max) along Naaman Forest, twenty-five-to-thirty (25-30') feet on-center along the Primary Street, and every three-to-four (3-4) parking spaces on both parking aisles of the 190 Slip Road and Parkway Road street sections. On Naaman Forest and the Primary Street, these trees shall occur three and one-half (3 ½) feet from the back of curb in parallel parking conditions, or within tree planters between no more than 4 head-in parking spaces. These trees shall have a minimum caliper of five (5) inches at installation where allowable, and shall not be closer than ten (10) feet from a street lamppost. Street tree material shall follow the recommendation of the City arborist, and shall generally follow the type of canopy line created by red oak, live oak, etc. Street trees shall use a consistent species along both sides of each block.
- 13.4 Tree Planters – Street trees shall generally be centered within minimum five (5) foot by ten (10) foot planters as leave-outs within the sidewalk and screened with either a twelve (12) inch high ornamental steel fence or brick turn-up edge. These planters shall also consist of evergreen ground cover and perennial plantings for aesthetic interest. In a sidewalk adjacent to parallel parking, the street-facing leading edge of all planters shall be placed one foot, six inches (1.5 feet) from the face of the curb to allow clearance for passenger car doors to open.
- 13.5 Tree lawns -- As an alternative to 13.4, street trees may be placed in 5' wide tree lawns with a maximum length of 50' without a 6' paved pedestrian opening. These lawns should be planted with ground cover and designed for a more formal streetscape experience.
- 13.6 Street Benches-- Street benches should be provided at one hundred and fifty (150) foot intervals along all block faces. Street benches shall be placed facing the sidewalk and curb, parallel to the buildings and within the front yard zone. If necessary, these benches may be placed within a public access easement to ensure ongoing public access.

- 13.7 Street Lights – Street lights shall be located four (4) feet from face of curb on average intervals of seventy-five (75) feet along all block faces. The light fixtures shall be mounted ten (10) to twelve (12) feet from the finished grade of the sidewalk and shall be of metal halide type.
- 13.8 Bicycle Racks –Bicycle racks should be provided on 150 foot intervals of all block faces, clustering at street lamp or building entry locations.
- 13.9 Litter Containers and Benches – Litter containers and benches should be provided on 150 foot intervals along all block faces and clustered at street lamp or building entry locations.
- 13.10 Operational Issues -- Landscaping must be completed with completion of other site improvements, no later than 180 days after first occupancy of buildings. Automatic underground sprinkling system shall be provided as required. Reasonable access to public and private utility lines and easements for installation and repair shall be permitted.
- 13.11 Drought Tolerance – Drought tolerant material should be used.

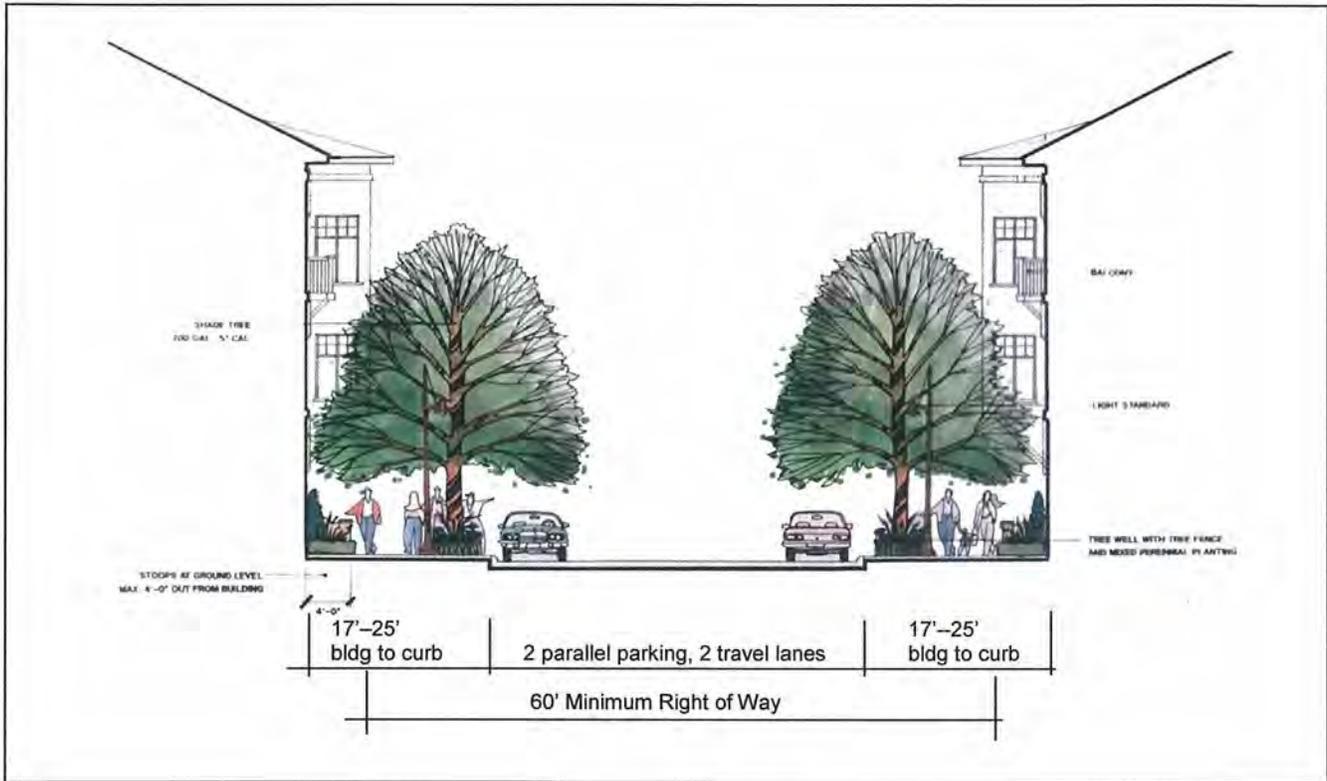
14. Street Sections

- 14.1 NAAMAN FOREST BOULEVARD -- Design features shown in section below. In addition, streetscape elements include 5" caliper street trees at installation 30'-35' o.c. avg with 5'x8' min. irrigated planter, decorative pedestrian street lights on 150' o.c. average intervals, vehicular street lights on intervals satisfactory to the City of Garland, benches and bike racks on 150' o.c. average, and a 6' clear sidewalk dimension minimum occurring between street trees and building (typical). Street light poles may allow for attached banners, and district identification signs are allowed within the right of way. Utility pole location will be determined in detailed site plan stage.

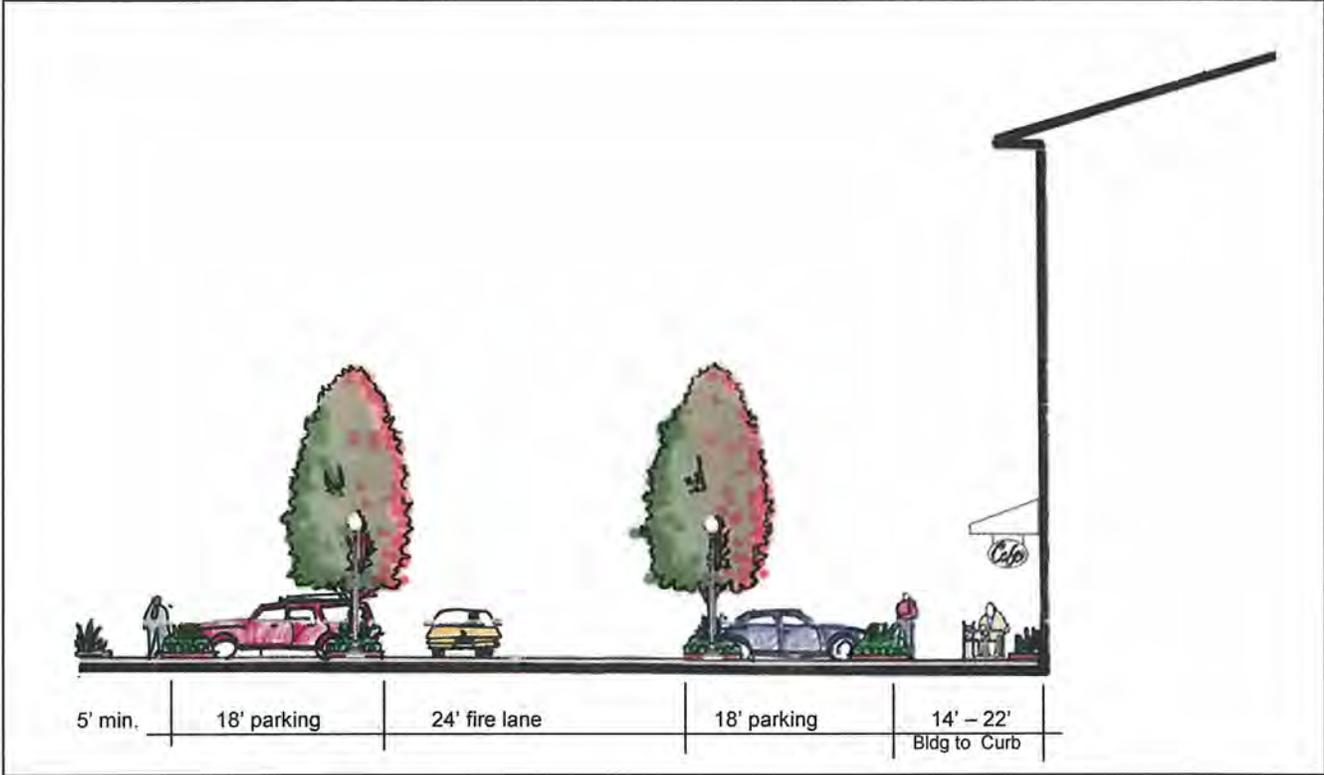
Naaman Forest Boulevard Street Section



14.2 PRIMARY STREET – Design features shown in section below. In addition, streetscape elements include 5” caliper street trees at installation 25-30’ o.c. avg with 5’x10’ min. irrigated planter, decorative pedestrian street lights on 150’ o.c. average intervals, benches and bike racks on 150’ o.c. average, 6’ clear sidewalk minimum. Street light poles may allow for attached banners, and district identification signs are allowed within the street section area.



14.3 HWY 190 SLIP ROAD AND PARKSIDE ROAD -- Design features shown in section below. In addition, streetscape elements include 5" caliper street trees at installation in 5' minimum width irrigated ornamental planters located between every 3 to 4 pkg spaces, street lights on 150' o.c. avg intervals, benches and bike racks on 150' o.c. avg, and 6' clear sidewalk minimum. Banners are allowable on each street light pole, and district identification signs area allowable within the street section area. Kiosk signs area allowable within the landscape area.





City Council Item Summary Sheet

Work Session

Agenda Item

Date: December 4, 2012

Zoning Ordinance

Summary of Request/Problem

Zoning Ordinance 12-43 – Dowdey, Anderson and Associates, Inc.

Recommendation/Action Requested and Justification

Consider adoption of the attached ordinance.

Submitted By:

Neil Montgomery
Senior Managing Director of Development
Services

Approved By:

William E. Dollar
City Manager

ORDINANCE NO.

AN ORDINANCE AMENDING THE ZONING LAWS OF THE CITY OF GARLAND, TEXAS, BY APPROVING A CHANGE OF ZONING FROM PLANNED DEVELOPMENT (PD) DISTRICT 09-07 FOR SINGLE FAMILY, ATTACHED USES (TOWNHOUSES) TO A PLANNED DEVELOPMENT (PD) DISTRICT FOR SINGLE FAMILY, DETACHED USES (PATIO HOMES), AND A DETAIL PLAN FOR 130 SINGLE FAMILY RESIDENCES ON A 42.549-ACRE TRACT OF LAND LOCATED WEST OF CASTLE DRIVE AND SOUTH OF FIREWHEEL PARKWAY; PROVIDING FOR CONDITIONS, RESTRICTIONS, AND REGULATIONS; AND PROVIDING FOR A PENALTY AND AN EFFECTIVE DATE.

WHEREAS, at its regular meeting held on the 22nd day of October, 2012, the City Plan Commission did consider and make recommendations on a certain request for zoning change made by **Dowdey, Anderson & Associates, Inc.** and

WHEREAS, The City Council, after determining all legal requirements of notice and hearing have been met, has further determined the following amendment to the zoning laws would provide for and would be in the best interest of the health, safety, morals, and general welfare:

Now, therefore, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GARLAND, TEXAS, that:

Section 1.

Ordinance No. 4647 is hereby amended by approving a change of zoning from Planned Development (PD) District 09-07 for Single Family, Attached Uses (Townhouses) to a Planned Development (PD) District for Single Family, Detached Uses and a Detail Plan for 130 single family residences on a 42.549-acre tract of land located west of Castle Drive and south of Firewheel Parkway, and being more particularly described in Exhibit A, attached hereto and made a part hereof.

Section 2.

Development shall be in conformance with the conditions, restrictions, and regulations set forth in Exhibit B, attached hereto and made a part hereof.

Section 3.

Ordinance No. 4647, as amended, shall remain in full force and effect, save and except as amended by this Ordinance.

FILE NO. 12-43

Section 4.

Violation of this Ordinance shall be a misdemeanor punishable in accordance with Section 10.05 of the Code of Ordinances, City of Garland, Texas.

Section 5.

This Ordinance shall become and be effective on and after its adoption and publication as required by law.

PASSED AND APPROVED this _____ day of _____, 2012.

THE CITY OF GARLAND, TEXAS

By:

Mayor

ATTEST:

City Secretary

Published:

EXHIBIT A

LEGAL DESCRIPTION

Zoning File 12-43

BEING a tract of land located in the REASON CRIST SURVEY, ABSTRACT NO. 225, Garland, Dallas County, Texas and being all of those tracts of land described as Tract I and Tract II in Deed to Bush Gardens of Springfield, LLP, as recorded in Document No. 20070035864, Deed Records, Dallas County, Texas and being more particularly described as follows:

BEGINNING at a 1/2 inch iron rod with a yellow plastic cap stamped "DAA" set in the southwest line of Northeast Parkway, a 120 foot wide right-of-way, at the most northerly corner of said Tract II;

THENCE South 45 degrees 05 minutes 52 seconds East, with said southwest line, a distance of 200.00 feet to a 1/2 inch iron rod with a yellow plastic cap stamped "DAA" set for a northeast corner of said Tract II;

THENCE Southerly, with the east line of said Tract II, the following three (3) courses and distances:

South 89 degrees 55 minutes 04 seconds West, leaving said southwest line, a distance of 35.36 feet to a 1/2 inch iron rod with a yellow plastic cap stamped "DAA" set for corner;

South 44 degrees 55 minutes 04 seconds West, a distance of 227.18 feet to a 1/2 inch iron rod with a yellow plastic cap stamped "DAA" set for corner;

South 45 degrees 04 minutes 56 seconds East, a distance of 733.07 feet to a 1/2 inch iron rod with a yellow plastic cap stamped "DAA" set for corner in the northwest line of Castle Drive, a variable width right-of-way;

THENCE Southerly, with said northwest line, the following four (4) courses and distances:

South 25 degrees 55 minutes 45 seconds West, a distance of 312.05 feet to a 1/2 inch iron rod with a yellow plastic cap stamped "DAA" set for corner;

North 64 degrees 04 minutes 16 seconds West, a distance of 10.00 feet to a 1/2 inch iron rod with a yellow plastic cap stamped "DAA" set for corner;

EXHIBIT A

South 25 degrees 55 minutes 45 seconds West, a distance of 1,126.92 feet to a 1/2 inch iron rod with a yellow plastic cap stamped "DAA" set for corner;

South 25 degrees 49 minutes 17 seconds West, a distance of 1,124.80 feet to a 1/2 inch iron rod with a yellow plastic cap stamped "DAA" set for the south corner of the above mentioned Tract I;

THENCE Northerly, with the west line of said Tract I, the following seven (7) courses and distances:

North 09 degrees 56 minutes 03 seconds West, leaving said northwest line, a distance of 184.64 feet to a 1/2 inch iron rod with a yellow plastic cap stamped "DAA" set for corner;

North 03 degrees 09 minutes 50 seconds West, a distance of 500.90 feet to a point for corner from which point a 1/2 inch iron rod found bears South 42 degrees 15 minutes 49 seconds East, 0.19 feet;

North 03 degrees 44 minutes 04 seconds West, a distance of 501.22 feet to a 1/2 inch iron rod with a yellow plastic cap stamped "DAA" set for corner;

North 02 degrees 37 minutes 15 seconds East, a distance of 394.45 feet to a point for corner from which point a 1/2 inch iron rod found bears North 85 degrees 42 minutes 27 seconds East, 0.61 feet;

North 01 degrees 47 minutes 59 seconds East, a distance of 252.29 feet to a point for corner from which point a 1/2 inch iron rod found bears North 82 degrees 03 minutes 14 seconds East, 0.43 feet;

North 01 degrees 33 minutes 34 seconds East, a distance of 353.80 feet to a point for corner from which point a 1/2 inch iron rod found bears South 35 degrees 03 minutes 10 seconds West, 0.28 feet;

North 01 degrees 59 minutes 54 seconds West, a distance of 155.40 feet to a point for the northwest corner of said Tract I, from which point a 5/8 inch iron rod with a yellow plastic cap stamped "YANDELL" found bears South 49 degrees 28 minutes 40 seconds West, 0.51 feet;

THENCE South 70 degrees 00 minutes 11 seconds East, with the north line of said Tract I, a distance of 167.26 feet to the a 1/2 inch iron rod with a yellow plastic cap stamped "DAA" set for the southwest corner of the above mentioned Tract II;

THENCE North 03 degrees 07 minutes 46 seconds East, leaving said north line and with the west line of said Tract II, a distance of 288.48 feet to a 1/2 inch iron rod with a yellow plastic cap stamped "DAA" set for corner;

EXHIBIT A

THENCE North 44 degrees 55 minutes 04 seconds East, continuing with said west line, a distance of 782.01 feet to the POINT OF BEGINNING and containing 42.549 acres of land, more or less. The property is located west of Castle Drive and south of Firewheel Parkway, in Garland, TX.

EXHIBIT A

PLANNED DEVELOPMENT CONDITIONS

ZONING FILE: 12-43

West of Castle Drive and south of Firewheel Parkway

- I. **Statement of Purpose:** The purpose of this Planned Development District is to permit the development of a single-family subdivision subject to conditions.
- II. **Statement of Effect:** This Planned Development District shall not affect any regulation found in the Comprehensive Zoning Ordinance, Ordinance No. 4647, as amended prior to adoption of this ordinance, except as specifically provided herein.
- III. **General Regulations:** All regulations of the Single Family Dwelling (SF/7/D/3) District set forth in Sections 15, 18, 18-300, 32, 46 of the Comprehensive Zoning Ordinance and the SH 190 Development Standards are included by reference and shall apply, except as otherwise specified in this ordinance.
- IV. **Development Plans:**
 - A. Detail Plan: Development shall be in general conformance with the Detail Plan set forth in Exhibit C.
- V. **Specific Regulations:**
 - A. Permitted Uses: Only Single Family shall be permitted. One hundred and thirty units are proposed on 30 developable acres.
 - B. Minimum Lot Size: The minimum lot size shall be 5,500 square feet.
 - C. Minimum Lot Width: The minimum lot width shall be 50 feet.
 - D. Minimum Lot Width: (Cul-de-sac or elbow): The minimum lot width shall be 45 feet.
 - E. Minimum Lot Depth: The minimum lot depth shall be 100 feet.
 - F. Dwelling Unit Sizes: Single family dwellings shall be developed as follows:
 - At least 25% at no less than 1,800 square feet in floor area
 - At least 25% at no less than 2,000 square feet in floor area
 - At least 25% at no less than 2,200 square feet in floor area
 - At least 25% at no less than 2,400 square feet in floor area
 - G. Setbacks: Setbacks shall be set forth as follows:

| | |
|-------------|---|
| Front Yard: | 20 feet |
| Front Yard: | 28 feet (Lot 33 of block A) |
| Side Yard: | 5 feet (To inside property line) |
| Side Yard: | 15 feet (To property line adjacent to street) |

Side Yard: 20 feet (Key Lots 10 & 18 of Block C, adjacent to street)
Rear Yard: 15 feet

Note: The side yard fence of any key lot shall be 15' minimum from outside the R.O.W.; please see the key lot side yard fencing & landscape detail in Exhibit D.

H. Building Materials: The overall building materials shall be a minimum 75% brick or stone. Single story homes shall be 100% brick or stone on the front elevation. Two (2) story homes shall be 100% brick or stone on the first floor front elevation. Building material percentages for the exterior walls and any chimney elevations exclude doors, windows and gables.

I. Lot Coverage: Building coverage shall not exceed 60% of each platted lot.

J. Building Height: Shall not exceed 35 feet in height.

K. Minimum Roof Pitch: The minimum roof pitch of all side to side rooflines facing the street shall be 8:12.

L. Garage Elevations Requirements: A minimum 2 car garage is required for all homes. Additionally, each home shall incorporate at least four of the following architectural elements: decorative overhangs above garage doors, columns flanking garage doors, decorative banding or moldings, detailed garage door designs with decorative brackets, windows/openings on garage doors, garage arches, eyebrow soldier course over garage doors, decorative vent covers on gable above garage, sconce lighting, wood trim or veneer, carriage garage door appearance, and two car garage with split single doors.

M. Homeowners Association: A Homeowners Association shall be incorporated and each lot/homeowner shall be a mandatory member. The bylaws of this association shall establish a system of payment of dues; a system of enforcement of its rules and regulations; shall establish a clear and distinct definition of the responsibility of each member; and other provisions as deemed appropriate to secure a sound and stable association. The bylaws for this association shall be submitted to the Director of Planning for review and approval prior to commencement of construction of any infrastructure improvements within the subdivision.

N. Maintenance of Open/Common Space, Landscaped Areas, Entry Features, Access Easements and Other Amenities: Maintenance of all open space, common areas, landscaped areas, entry features including any allowed within the street medians, irrigation, perimeter fencing, access easements and other amenities shall be the responsibility of the Homeowner's Association.

O. Landscaping Requirements: The proposed landscape and screening provided with the landscape buffer and other developed common spaces shall meet or exceed the minimum standards set forth in the City's

development standards. All common landscape areas shall be equipped with a fully automatic irrigation system.

Eastern Red Cedar Trees shall be planted along the 6-foot board-on-board fence from Lot 34 to 47 of Block A only. The planting of trees along the 6-foot board-on-board fence from Lot 48 to 55 of block A shall be prohibited to avoid encroaching into the 20-foot waterline easement (Exhibit E).

Per section 34.20 (B)(3)(b)(i) of the SH 190 Development Standards each lots shall have minimum of two (2) shade trees planted with in the front yard of all single family lots.

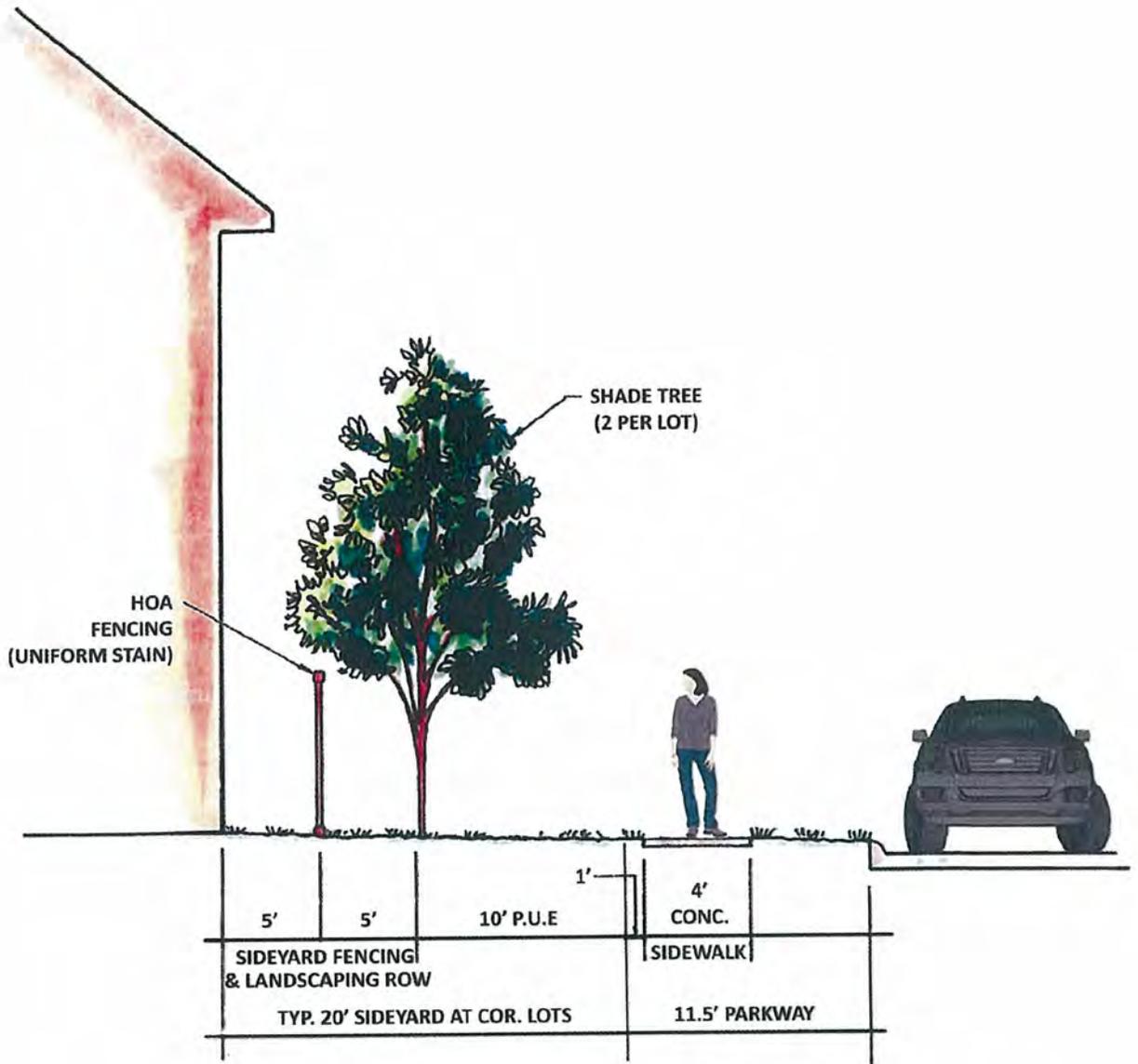
P. Fencing Requirements:

Along Castle Drive: An HOA maintained 6-foot board-on-board fence made of cedar with a uniform stain selected by the HOA shall be constructed along the rear yards of Lot 34-55 of Block A (Exhibit E).

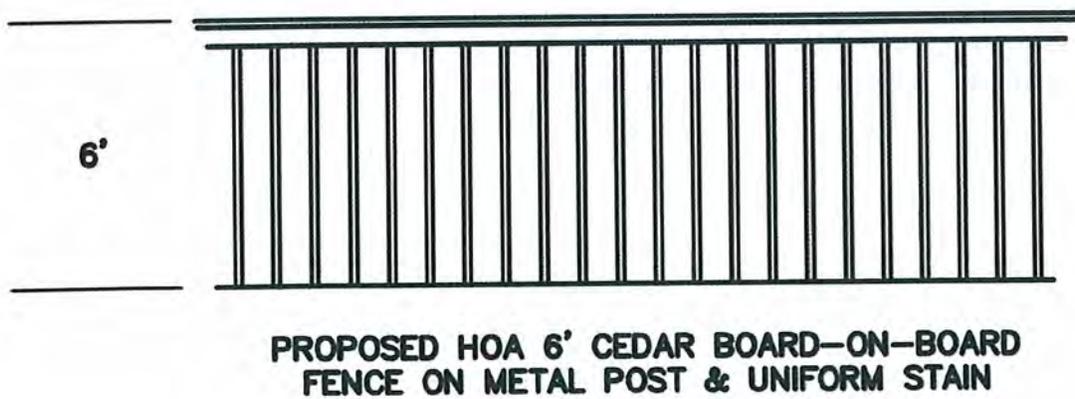
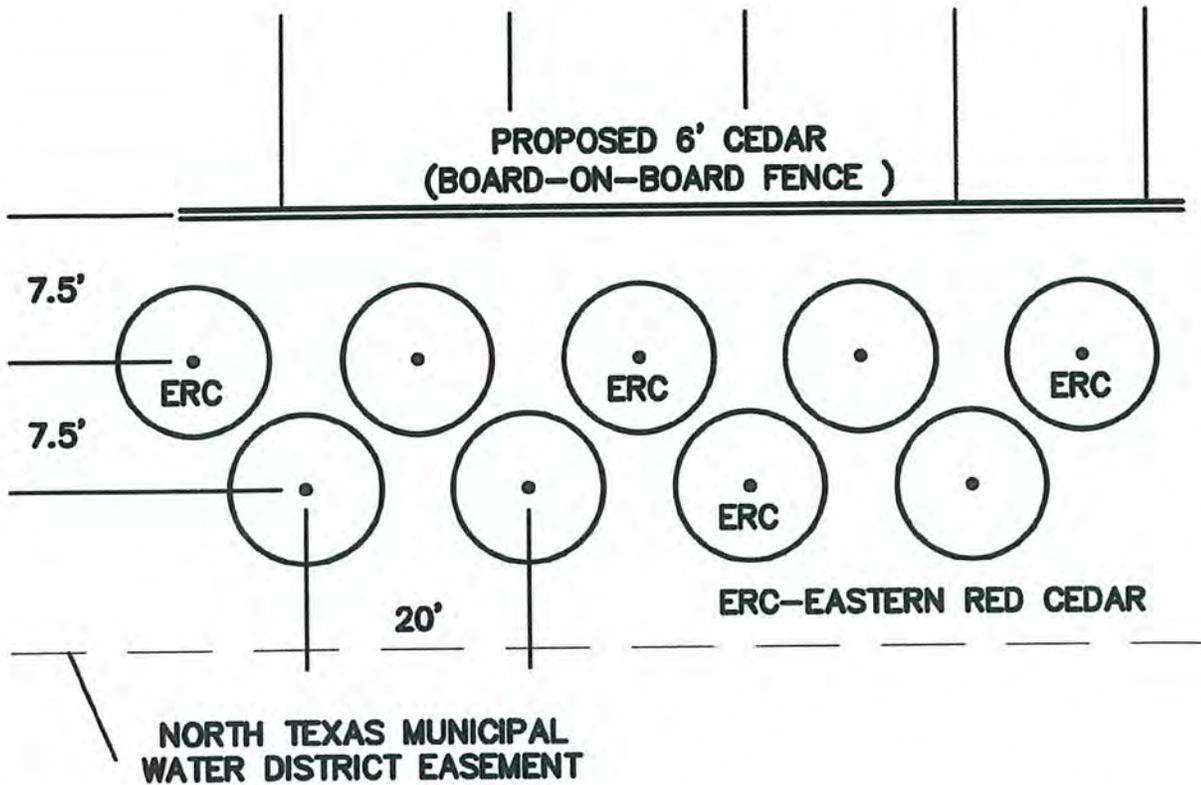
Along Open Space: A 4-foot ornamental metal fence shall be constructed across the rear lot line for lots whose rear line is contiguous to open space or floodplain.

Key Lots: The side yard fence adjacent to the street shall be constructed 15-feet outside of the right-of-way in accordance with the Key Lot Side Yard Fencing and Landscape detail. Furthermore, the fence shall have a uniform stain selected and maintained by the HOA; please see Exhibit D.

Q. Alleys: Alleys are not required.



**KEY LOT
SIDEYARD FENCING & LANDSCAPING DETAIL**



**SCREENING FENCE & LANDSCAPE DETAIL
ALONG CASTLE DRIVE
(LANDSCAPE LOTS 34 TO 47 BLOCK A)**



City Council Item Summary Sheet

Work Session

Date: December 4, 2012

Agenda Item

Stop Loss Renewal for Group Health Insurance

Summary of Request/Problem

The City of Garland sought proposals for stop loss coverage for the Group Health Insurance Plan through RFP #3157-12 and received two quotes, including one from Sun Life, which will provide the same contract parameters as the current Humana stop loss coverage with no increase in City contributions for calendar year 2013.

This item was scheduled for Council consideration at the December 4, 2012 Work Session.

Recommendation/Action Requested and Justification

Approve by minute action authorizing the City Manager to execute an agreement to bind coverage with Sun Life effective January 1, 2013.

Submitted By:

**Priscilla S. Wilson
Senior Managing Director**

Approved By:

**William E. Dollar
City Manager**



City Council Item Summary Sheet

Work Session

Date: December 4, 2012

Agenda Item

Signs in School Zones Prohibiting Use of Cell Phones

Summary of Request/Problem

At the November 20, 2012 Work Session, the Public Safety Committee recommended that Council consider authorizing the enforcement of the state law regarding the use of cell phones in school zones. The Committee also recommended the installation of appropriate signs in school zones prohibiting the use of cell phones.

Recommendation/Action Requested and Justification

Approve by minute action the installation of appropriate signs in school zones prohibiting the use of cell phones.

Submitted By:

Approved By:

William E. Dollar
City Manager



City Council Item Summary Sheet

Work Session

Date: December 4, 2012

Agenda Item

Proposed Changes to Section 32.56 – Parking on Unimproved Surface (Gravel Driveways)

Summary of Request/Problem

On October 1, 2012, the Community Services Committee recommended Council consider modifications to Section 32.56 that regulates residential parking surfaces.

The issue arose from the monetary hardships brought about by Code Compliance enforcement activities on non-compliant gravel drive ways and the owner having no appeal process because of a poor reference in the current ordinance. The Committee recommended that the City Attorney draft a revised Section 32.56 that would correct the improper reference and designate the resident appeal be heard before the Housing Standards Board.

At the November 20, 2012 Work Session, Council discussed the proposed modifications to Section 32.56 that regulates residential parking surfaces.

Recommendation/Action Requested and Justification

Approval of changes to Chapter 32.56.

Submitted By:

Richard Briley
Managing Director of Health & Code
Compliance

Approved By:

William E. Dollar
City Manager

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ORDINANCE NO.

AN ORDINANCE AMENDING CHAPTER 32, "NEIGHBORHOOD SANITATION AND HOUSING SERVICES", OF THE CODE OF ORDINANCES OF THE CITY OF GARLAND, TEXAS; PROVIDING A PENALTY UNDER THE PROVISIONS OF SEC. 10.05 OF THE CODE OF ORDINANCES OF THE CITY OF GARLAND, TEXAS; PROVIDING A SAVINGS CLAUSE AND A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GARLAND, TEXAS:

Section 1

That Sec. 32.56 of Chapter 32, "Neighborhood Sanitation and Housing Services", of the Code of Ordinances of the City of Garland, Texas, is hereby amended to read as follows:

"Sec. 32.56 Parking on unimproved surfaces and excessive driveways

(A) Definitions. As used in this section:

(1) Approved connection means the driving surface located between a street or alley and an improved or limited parking surface. A connection is approved for purposes of this section if the connection is designed, constructed, and maintained in accordance with the traffic management and technical standards applicable to such connections including width, location, turning radii, and construction methods and materials.

(2) Concrete pavers means interlocking concrete paving stones at least two inches (2") thick on a base consisting of a layer of bedding sand over a minimum of four inches (4") of compacted crushed stone, cement treated base, or soil cement base.

(3) Improved parking surface means:

(a) Reinforced concrete having a minimum depth of five inches (5"); or

(b) Concrete pavers.

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(4) Limited parking surface means a parking surface located in a rear yard consisting of:

(a) Asphalt having a minimum depth of four inches (4") over a four inch (4") stabilized base consisting of compacted crushed stone, cement treated base, or soil cement base;

(b) Compacted gravel or crushed rock contained within a distinct border and having a minimum depth of six inches (6");

(c) Reinforced concrete having a minimum depth of five inches (5"); or

(d) Concrete pavers.

(5) Runners means a parking surface constructed from concrete, asphalt, macadam or concrete pavers that provides a coverage only for the wheels of a vehicle separated by an unimproved area under the body of the vehicle. "Runners" composed of any other materials or of earth only are not a legal parking surface under any circumstances under this section except as allowed by Sec. 32.56(B)(2).

(6) Driveway means an improved parking surface (allowed in any yard, subject to Sec. 32.56(C)) or a limited parking surface (allowed only in a rear yard and subject to Sec. 32.56(C)) that provides egress and ingress from and to an adjacent street or alley by means of an approved connection.

(7) Front yard means that portion of a residential lot between the street and the building face of a single-family, duplex, triplex, or quadraplex structure.

(B) Parking on unimproved surfaces prohibited.

(1) A person commits an offense if, within a residential zoning district or upon property which constitutes a residential use the person causes, suffers, permits, or allows the parking of any motor vehicle or trailer on runners or on any surface other than a driveway.

(2) It is an affirmative defense to prosecution under this

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subsection if:

(a) The property is used for agricultural purposes or is zoned agricultural; or

(b) (i) If the property is within a residential zoning district or constitutes a residential use, the property is occupied by a residential dwelling and the dwelling was built on or before January 1, 1980;

(ii) The surface parked upon was part of the original driveway when the residential dwelling was built;

(iii) The surface parked upon consists of runners or is a limited parking surface originally composed of gravel, asphalt or macadam when the residential dwelling was built; and

(iv) The surface parked upon has been properly maintained to serve as a parking surface as intended when originally constructed.

(C) Excessive driveway prohibited.

(1) A person commits an offense if, within a residential zoning district or upon property which constitutes a residential use the person causes, suffers, permits or allows a driveway to cover more than fifty percent (50%) of a front or rear yard. A limited or improved surface constitutes a driveway for purposes of determining the coverage under this section unless the surface is physically detached from any point of egress or ingress to an adjacent street or alley (whether or not by means of an approved connection) and is permanently incapable of providing a parking space for a vehicle.

(2) It is an affirmative defense to prosecution under this subsection that:

(a) A driveway is a circular drive connecting to a street or alley by at least two (2) approved connections and covers no more than sixty-five percent (65%) of the

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yard; or

(b) A driveway is within a residential front yard and parking is prohibited or restricted by ordinance on that portion of the street abutting the yard, and the driveway covers no more than sixty-five percent (65%) of the yard.

(D) Abatement and appeal.

(1) If it is determined that a motor vehicle or trailer is parked on any surface in violation of the provisions of this section, the owner, occupant, or person in charge of the property shall correct the violation within twenty-four hours of receipt of notice. The Director of Code Compliance may for good cause allow additional time for compliance.

(2) Notice of a violation of this section shall be given in writing by:

(a) delivering the notice in person to an owner, occupant, or person in charge of the property;

(b) affixing the notice to the front door of the property; or

(c) by depositing the notice by U.S. mail addressed to the owner, occupant, or person in charge of the property, with proper postage affixed.

(3) The owner of the property upon which a violation of Sec. 32.56(B) is alleged to exist may appeal such determination to the Housing Standards Board by filing a request in writing for a hearing with the Director of Code Compliance on a form to be provided by the Director for such purposes within thirty (30) days after the City has given notice of the violation as provided in this subsection. The appeal shall be accompanied by the payment of a filing fee of \$100. An appeal does not stay enforcement of the provisions of this section pending a determination of the Board. The Housing Standards Board may uphold the determination that a violation exists, in which event the Board shall set a date by which the property on which the violation exists shall be brought into compliance with this section; approve alternative paving materials where such materials are demonstrated to meet or exceed the requirements of this section; or grant a variance to a

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requirement under this section if the Board determines, based upon the credible evidence presented to it, that literal enforcement of this section would result in an unnecessary hardship, taking into consideration peculiarities of the property such as size, shape, slope or other restrictions on the effective area available for parking on the property. If the Board approves the proposed alternative paving materials or grants a variance, the Director shall cause the filing fee to be promptly refunded to the applicant.

(E) Permit required. A permit shall be required to construct any parking surface improvement. Application for a permit to improve a parking surface shall be made to the Building Inspection Department."

Section 2

That Sec. 32.26 of Chapter 32, "Neighborhood Sanitation and Housing Services", of the Code of Ordinances of the City of Garland, Texas, is hereby amended to read as follows:

"Sec. 32.26 Jurisdiction of the board

The board shall have jurisdiction to:

(A) Hear and determine cases concerning alleged violations of ordinances:

(1) For the preservation of public safety, relating to the materials or methods used to construct a building or improvement, including the foundation, structural elements, electrical wiring or apparatus, plumbing and fixtures, entrances, or exits;

(2) Relating to the fire safety of a building or improvement; including provisions relating to materials, types of construction or design, warning devices, sprinklers or other fire suppression devices, availability of water supply for extinguishing fires, or location, design, or width of entrances or exits;

(3) Relating to dangerously damaged or deteriorated buildings or improvements; or

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(4) Relating to conditions caused by accumulations of refuse, vegetation, or other matter that creates breeding and living places for insects and rodents.

(B) Require the vacation, relocation of occupants, securing, repair, removal or demolition of a building that is dilapidated, substandard, or unfit for human habitation and which is a hazard to the public health, safety and welfare;

(C) Grant or deny relief under Sec. 32.56 of this Code; and

(D) Exercise such other powers and authority conferred upon the board by law or ordinance."

Section 3

That a violation of any provision of this Ordinance shall be a misdemeanor punishable in accordance with Sec. 10.05 of the Code of Ordinances of the City of Garland, Texas.

Section 4

That Chapter 32, "Neighborhood Sanitation and Housing Services", of the Code of Ordinances of the City of Garland, Texas, as amended, shall be and remain in full force and effect save and except as amended by this Ordinance.

Section 5

That the terms and provisions of this Ordinance are severable and are governed by Sec. 10.06 of the Code of Ordinances of the City of Garland, Texas.

Section 6

That this Ordinance shall be and become effective immediately upon and after its passage and approval.

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

CITY OF GARLAND, TEXAS

Mayor

ATTEST:

City Secretary



City Council Item Summary Sheet

Work Session

Date: December 4, 2012

Agenda Item

Electric Utility System Commercial Paper Program

Summary of Request/Problem

On September 18, 2012, Council adopted Ordinance No. 6572 authorizing a three-year Electric Utility System Commercial Paper program. At the November 20, 2012 Work Session, Council considered authorizing amendments to the agreements supporting the program in order to meet rating agency requirements.

Recommendation/Action Requested and Justification

Approve an Ordinance amending and restating Ordinance 6572 and supporting documents.

Submitted By:

David Schuler
Managing Director for Financial Services

Approved By:

William E. Dollar
City Manager

ORDINANCE _____

AN ORDINANCE OF THE CITY OF GARLAND, TEXAS, AMENDING AND RESTATING ORDINANCE 6572 RELATING TO THE ISSUANCE OF COMMERCIAL PAPER NOTES, IN AN AGGREGATE PRINCIPAL AMOUNT AT ANY ONE TIME OUTSTANDING NOT TO EXCEED \$135,000,000 TO PROVIDE INTERIM FINANCING TO PAY PROJECT COSTS FOR ELIGIBLE PROJECTS AND TO REFUND OBLIGATIONS ISSUED IN CONNECTION WITH AN ELIGIBLE PROJECT; AUTHORIZING SUCH SHORT TERM OBLIGATIONS TO BE ISSUED, SOLD AND DELIVERED IN VARIOUS FORMS, INCLUDING COMMERCIAL PAPER NOTES AND BANK NOTES, AND PRESCRIBING THE TERMS, FEATURES AND CHARACTERISTICS OF SUCH INSTRUMENTS; APPROVING AND AUTHORIZING CERTAIN AUTHORIZED OFFICERS AND EMPLOYEES OF THE CITY TO ACT ON BEHALF OF THE CITY IN THE SELLING AND DELIVERY OF SUCH SHORT TERM OBLIGATIONS, WITHIN THE LIMITATIONS AND PROCEDURES SPECIFIED HEREIN; MAKING CERTAIN COVENANTS AND AGREEMENTS IN CONNECTION THEREWITH; PROVIDING FOR THE PAYMENT OF THE COMMERCIAL PAPER NOTES AND BANK NOTES; RESOLVING OTHER MATTERS INCIDENT AND RELATED TO THE ISSUANCE, SALE, SECURITY AND DELIVERY OF COMMERCIAL PAPER NOTES, INCLUDING THE APPROVAL OF AN AMENDED AND RESTATED ISSUING AND PAYING AGENT AGREEMENT, REIMBURSEMENT AGREEMENTS AND AN AMENDED AND RESTATED DEALER AGREEMENT; APPROVING THE USE OF AN OFFERING MEMORANDUM IN CONNECTION WITH THE SALE FROM TIME TO TIME OF SUCH SHORT TERM OBLIGATIONS; AND PROVIDING AN EFFECTIVE DATE.

APPROVAL DATE: _____, 2012

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ORDINANCE ____

AN ORDINANCE of the City of Garland, Texas, Amending and Restating Ordinance 6572 Relating to the issuance of commercial paper notes in an aggregate principal amount at any one time outstanding not to exceed \$135,000,000 to provide interim financing to pay Project Costs for Eligible Projects and to refund obligations issued in connection with an Eligible Project; authorizing such short term obligations to be issued, sold and delivered in various forms, including commercial paper notes and bank notes, and prescribing the terms, features and characteristics of such instruments; approving and authorizing certain authorized officers and employees of the City to act on behalf of the City in the selling and delivery of such short term obligations, within the limitations and procedures specified herein; making certain covenants and agreements in connection therewith; providing for the payment of the commercial paper notes and bank notes; resolving other matters incident and related to the issuance, sale, security and delivery of commercial paper notes, including the approval of an Amended and Restated Issuing and Paying Agent Agreement, Reimbursement Agreements and an Amended and Restated Dealer Agreement; approving the use of an Offering Memorandum in connection with the sale from time to time of such short term obligations; and providing an effective date.

WHEREAS, the City Council (the “City Council”) of the City of Garland, Texas (the “City”) adopted Ordinance 6572 on September 18, 2012;

WHEREAS, following the adoption of Ordinance 6572, the City issued its “City of Garland, Texas, Electric Utility System Commercial Paper Notes, Series 2012A” and its “City of Garland, Texas, Electric Utility System Commercial Paper Notes, Series 2012B” (collectively, the “Commercial Paper Notes”) in the aggregate principal amount of not to exceed \$135,000,000;

WHEREAS, the Commercial Paper Notes were rated A-1⁺ by Standard & Poor’s Ratings Services, a Standard & Poor’s Financial Services LLC business;

WHEREAS, the City desires to obtain an additional rating from Fitch Ratings and to secure a rating from Fitch Ratings certain changes to various documents associated with the issuance of the Commercial Paper Notes need to be made;

WHEREAS, the City hereby finds and determines that it is appropriate to amend certain provisions of Ordinance 6572;

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

Section 1: That Ordinance 6572 shall be and is hereby amended and restated in its entirety to read as follows:

WHEREAS, the City of Garland, Texas (the “City” or the “Issuer”) is a “home-rule municipality”, acting as such under the Constitution and laws of the State of Texas, that adopted its charter under Section 5, Article XI of the Texas Constitution, that has a population in excess of 50,000, and that has outstanding long-term indebtedness that is rated by a nationally recognized rating agency for municipal securities in one of the four highest rating categories for a long-term obligation; and

WHEREAS, the City Council of the City hereby determines to issue its short term obligations pursuant to the provisions of V.T.C.A., Government Code, Chapter 1371, as amended (the “Act”), to provide interim financing for additions, improvements and extensions to the City’s Electric Utility System (the “System”) and to refund obligations issued in connection with such projects; and

WHEREAS, such short term obligations proposed to be issued pursuant to this Ordinance constitute obligations which the City intends to fund or refund through the issuance of obligations of the City payable from net revenues of the System, as permitted by V.T.C.A., Government Code, Chapter 1502, as amended, including refunding bonds issued pursuant to and in accordance with the provisions of V.T.C.A., Government Code, Chapter 1207, as amended; and

WHEREAS, arrangements relating to such interim financing have been settled and the City Council hereby finds and determines that the issuance of short term obligations, including commercial paper notes and a bank note, subject to the terms, conditions and limitations hereinafter prescribed, should be approved and authorized at this time; and

WHEREAS, it is hereby officially found and determined that the meeting at which this ordinance was passed was open to the public, and public notice of the time, place and purpose of said meeting was given, all as required by V.T.C.A., Government Code, Chapter 551, as amended; now, therefore,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GARLAND:

ARTICLE 1

DEFINITIONS

Section 1.01. Definitions. Unless otherwise defined in this Ordinance and unless the context shall indicate a contrary meaning or intent, the terms below defined, for all purposes of this ordinance or any ordinance amendatory or supplemental hereto, shall be construed, are used and are intended to have the following meanings, to-wit:

“Advance” shall mean an Unreimbursed Amount as described in and subject to the conditions set forth in the Reimbursement Agreement.

“Authorized but Unissued Amount of Commercial Paper Notes” shall mean \$135,000,000 of Commercial Paper Notes; provided, that such amount shall be reduced by the principal amount of any outstanding Bank Note.

“Authorized Representative” shall mean one or more of the following officers or employees of the City, acting in concert or individually, to-wit: the Mayor, the City Manager, any Assistant City Manager, the Director of Financial Services, or such other officer or employee of the City designated in writing by the City Manager, as approved by the City Council, to act as an Authorized Representative.

“Bank” or “Banks” shall mean initially Wells Fargo Bank, National Association and Sumitomo Mitsui Banking Corporation, acting through its New York Branch, as applicable, or any subsequent or succeeding or replacement entity specified in the Reimbursement Agreement.

“Bank Loan” shall have the meaning set forth in the Reimbursement Agreement.

“Bank Note” shall mean the Sumitomo Bank Note and the Wells Bank Note issued and delivered pursuant to the provisions of this Ordinance and the Sumitomo Reimbursement Agreement and the Wells Reimbursement Agreement, respectively, in evidence of Sumitomo Advances and the Wells Advances, respectively, made by the Bank under the Reimbursement Agreement, having the terms and characteristics contained therein and issued in accordance with the terms thereof.

“Bond Counsel” shall mean Fulbright & Jaworski L.L.P. or such other an attorney or firm of attorneys which are nationally recognized as having expertise in the practice of tax-exempt municipal finance law, as approved by the City.

“Bonds” shall mean a series or issue of bonds, notes or similar obligations (other than the Notes or the Reimbursement Agreement (including the Bank Note)) issued by the City subsequent to the date of passage of this Ordinance, which bonds, notes or similar obligations are payable from revenues of the System; and which may be refunding bonds issued pursuant to and in accordance with the provisions of V.T.C.A., Government Code, Chapter 1207, as amended.

“Business Day” means any day of the year on which banks in New York, New York or the presentation office of the Bank at which Drawings are presented are not required or authorized to remain closed and on which the Issuing and Paying Agent and the New York Stock Exchange, Inc. and the Federal Reserve Bank are open; *provided* that when used with respect to LIBOR, “Business Day” means any such day on which dealings in Dollar deposits are also carried on in the London interbank market; *provided further* that when used with respect to the SIFMA Rate, “Business Day” means any day except Saturday, Sunday or a day on which the Securities Industry and Financial Markets Association recommends that the fixed income departments of its members for the entire day be closed for purposes of trading in U.S. government securities.

“Calculation Date” shall mean (i) each date on which principal of and interest on the Notes is due and payable under this Ordinance, (ii) each date on which any other amounts are due and payable to the Banks under the Reimbursement Agreements, and (iii) the date of delivery of any Bonds issued for the purpose of refunding outstanding Commercial Paper Notes.

“City” or “Issuer” shall mean the City of Garland, Texas.

“City Council” shall mean the governing body of the City.

“Code” shall mean the Internal Revenue Code of 1986, as amended.

“Commercial Paper Note” shall mean a note or notes issued pursuant to the provisions of this Ordinance, having the terms and characteristics specified in **Section 2.03** hereof and in the form described in **Section 2.05** hereof.

“Dealer” shall mean the entity or entities so designated in a Dealer Agreement, or any successor to such Dealer.

“Dealer Agreement” shall mean the Dealer Agreement approved and authorized to be entered into by **Section 3.04** hereof, as from time to time amended or supplemented, or any subsequent Dealer Agreement approved by the City Council.

“Designated Office” shall mean the designated office of the Issuing and Paying Agent where Commercial Paper Notes must be presented and delivered for receipt of payment of the principal amount thereof.

“Drawing” shall mean a drawing under the Letter of Credit in accordance with its terms to pay the principal of and interest on the Commercial Paper Notes.

“DTC” shall mean The Depository Trust Company or any substitute securities depository appointed pursuant to this Ordinance, or any nominee thereof.

“DTC Participant” shall mean a member of, or participant in, DTC that will act on behalf of a Holder.

“Eligible Investments” shall mean any or all of the authorized investments described in the Public Funds Investment Act, V.T.C.A., Government Code, Chapter 2256, as amended, in which the City may purchase, sell and invest its funds and funds under its control; and provided further that Eligible Investments shall specifically include, with respect to the investment of proceeds of any Commercial Paper Notes, guaranteed investment contracts fully collateralized by direct obligations of the United States of America, including obligations the principal of and interest on which are unconditionally guaranteed by the United States of America.

“Eligible Project” shall mean the acquisition or construction of improvements, additions or extensions to the System, including capital assets and facilities incident and related to the operation, maintenance and administration thereof, all as provided in the Act.

“Fiscal Year” shall mean any consecutive twelve-month period declared by the City as its fiscal year, which currently runs from October 1 through September 30.

“Holder” or “Noteholder” shall mean any person, firm, association or corporation who is in possession of any Note drawn, issued or endorsed to such person, firm, association or corporation or to the order of such person, firm, association or corporation or to bearer or in blank.

“Issuing and Paying Agent”, “Paying Agent/Registrar” or “Registrar” shall mean the agent appointed pursuant to **Section 2.02** hereof, or any successor to such agent.

“Issuing and Paying Agent Agreement” shall mean the agreement approved and authorized to be entered into by **Section 3.03** hereof, as from time to time amended or supplemented, and any subsequent Issuing and Paying Agent Agreement approved by the City Council.

“Letter of Credit” shall mean one or more irrevocable, direct-pay, transferable letters of credit, initially consisting of a letter of credit issued by Sumitomo substantially in the form of Exhibit A attached to the Sumitomo Reimbursement Agreement, and a letter of credit issued by Wells substantially in the form of Exhibit A attached to the Wells Reimbursement Agreement as the same may be amended, supplemented or extended pursuant to the terms of such Reimbursement Agreement.

“LIBOR” shall have the meaning set forth in the Reimbursement Agreement.

“Maintenance and Operating Expenses” shall mean, with respect to the System, all current expenses of operating and maintaining the System, including all salaries, labor, materials, repairs and extensions necessary to render efficient service; provided, however, that only such repairs and extensions, as in the judgment of the City Council, reasonably and fairly exercised, are necessary to maintain the operations and render adequate service to the City and the inhabitants thereof, or such as might be necessary to meet some physical accident or condition which would otherwise impair the Prior Lien Bonds or the Parity Lien Bonds shall be deducted in determining “Net Revenues”. Depreciation shall never be considered as an expense of Maintenance and Operation. Maintenance and Operating Expenses shall include payments under contracts for the purchase of power and energy or other materials, goods or services for the System to the extent authorized by law and the provisions of such contract.

“Master Note” shall mean the Master Note as defined in **Section 2.02** hereof.

“Maximum Interest Payable” shall mean, as of any Calculation Date, the amount of interest to be payable in the Fiscal Year in which the Calculation Date occurs, calculated at the Maximum Interest Rate, on the principal amount of Commercial Paper Notes outstanding as of the Calculation Date. In making this calculation, the principal amount of Commercial Paper Notes outstanding as of the Calculation Date shall be presumed to remain outstanding throughout the Fiscal Year.

“Maximum Interest Rate” shall mean the maximum interest rate allowed by V.T.C.A., Government Code, Chapter 1204, as amended, but in no event shall exceed 15%.

“Maximum Maturity Date” shall mean February 15, 2033.

“Net Revenues” shall mean the gross revenues of the System, including money transferred from the City’s electric rate mitigation fund, less the Maintenance and Operating Expenses, including all salaries, labor, materials, repairs and extensions necessary to render efficient service, provided, however, that only such repairs and extensions as in the judgment of the City Council, reasonably and fairly exercised are necessary to keep the System in operation and render adequate service to the City and the inhabitants thereof, or such as might be necessary to meet some physical accident or condition which would otherwise impair the security of any obligations payable from and secured by a lien on the net revenues of the System shall be

deducted in determining “Net Revenues.” Depreciation shall not be considered an operation or maintenance expense of the System.

“Note” or “Notes” shall mean the evidences of indebtedness authorized to be issued and at any time outstanding pursuant to this Ordinance and shall include Commercial Paper Notes (including the Master Note), notes in such form or forms as shall be approved by the City Council in an ordinance amending this Ordinance, or the Bank Note, as appropriate.

“Note Clearance Account” shall mean the account so designated in **Section 2.09** hereof

“Note Construction Account” shall mean the account so designated in **Section 2.12** hereof.

“Note Payment Fund” shall mean the fund so designated in **Section 2.10** hereof.

“Offering Memorandum” shall mean the Offering Memorandum relating to the Notes.

“Parity Obligations” shall mean the Notes and any bonds, notes or other obligations of the City which may be outstanding or hereafter issued secured by a lien on and pledge of the Net Revenues on a parity with the Notes.

“Prior Lien Bonds” shall mean the outstanding revenue bonds of those issues or series identified as follows: (i) \$18,935,000 original principal amount of “City of Garland, Texas, Electric Utility System Revenue Bonds, Series 2005,” dated March 15, 2005, (ii) \$25,045,000 original principal amount of “City of Garland, Texas, Electric Utility System Revenue Bonds, Series 2006,” dated March 15, 2006, (iii) \$21,050,000 original principal amount of “City of Garland, Texas, Electric Utility System Revenue Bonds, Series 2007,” dated March 15, 2007, (iv) \$10,115,000 original principal amount of “City of Garland, Texas, Electric Utility System Revenue Bonds, Series 2008,” dated June 15, 2008, (v) \$11,760,000 original principal amount of “City of Garland, Texas, Electric Utility System Revenue Bonds, Series 2009,” dated May 15, 2009, (vi) \$7,185,000 original principal amount of “City of Garland, Texas, Electric Utility System Revenue Bonds, Series 2011,” dated June 15, 2011, and (vii) \$20,830,000 original principal amount of “City of Garland, Texas Electric Utility System Revenue Refunding Bonds, Series 2011A,” dated November 1, 2011.

“Project Costs” shall mean all costs and expenses incurred in relation to Eligible Projects, including without limitation design, planning, engineering and legal costs, acquisition costs of land, interests in land, rights-of-way and easements, construction costs, costs of machinery, equipment, and other capital assets incident and related to the operation, maintenance, and administration of an Eligible Project, financing costs (including interest on obligations during the constitutionally permitted time period, and payments on credit agreements during and after construction, underwriter’s discount and/or fees for legal, financial, and other professional services). A Project Cost incurred before the issuance of Commercial Paper Notes issued to finance the related Eligible Project may be reimbursed from proceeds from the sale of Commercial Paper Notes, and such reimbursement shall be a “Project Cost.”

“Reimbursement Agreement” shall mean the Sumitomo Reimbursement Agreement and the Wells Reimbursement Agreement approved and authorized to be entered into by Section 2.15

hereof, as from time to time amended or supplemented, or other credit facility or liquidity facility (whether one or more) provided in lieu thereof in accordance with the provisions of Section 4.03 hereof.

“SIFMA Rate” shall have the meaning set forth in the Reimbursement Agreement.

“Sumitomo” shall mean Sumitomo Mitsui Banking Corporation, acting through its New York Branch, and its successors and assigns.

“Sumitomo Advance” shall mean an Advance under and subject to the conditions set forth in the Sumitomo Reimbursement Agreement.

“Sumitomo Bank Note” shall mean the promissory note issued and delivered pursuant to the provisions of this Ordinance and the Sumitomo Reimbursement Agreement in evidence of the Sumitomo Advances made by Sumitomo under the Sumitomo Reimbursement Agreement, having the terms and characteristics contained therein and issued in accordance with the terms thereof.

“Sumitomo Reimbursement Agreement” shall mean the Reimbursement Agreement approved and authorized to be entered into with Sumitomo by Section 2.15 hereof, as from time to time amended or supplemented, or other credit facility or liquidity facility provided in lieu thereof in accordance with the provisions of Section 4.03 hereof.

“Unreimbursed Amount” means, with respect to either Reimbursement Agreement, the amount of a Drawing for which the Bank has not been reimbursed by or on behalf of the City, including without limitation, the outstanding balance of all Bank Loans owing to the Bank.

“Wells” shall mean Wells Fargo Bank, National Association and its successors and assigns.

“Wells Advance” shall mean an Advance under and subject to the terms and conditions set forth in the Wells Reimbursement Agreement.

“Wells Bank Note” shall mean the promissory note issued and delivered pursuant to the provisions of this Ordinance and the Wells Reimbursement Agreement in evidence of the Wells Advances made by Wells under the Wells Reimbursement Agreement, having the terms and characteristics contained therein and issued in accordance with the terms thereof.

“Wells Reimbursement Agreement” shall mean the Reimbursement Agreement approved and authorized to be entered into with Wells by Section 2.15 hereof, as from time to time amended or supplemented, or other credit facility or liquidity facility provided in lieu thereof in accordance with the provisions of Section 4.03 hereof.

Section 1.02. Construction of Terms Utilized in This Ordinance. If appropriate in the context of this Ordinance, words of the singular number shall be considered to include the plural, words of the plural number shall be considered to include the singular, and words of the masculine, feminine or neuter gender shall be considered to include the other genders. Certain

terms not defined herein shall have the meaning given said terms in the Reimbursement Agreement.

ARTICLE 2

AUTHORIZATION OF NOTES

Section 2.01. General Authorization. Pursuant to authority conferred by and in accordance with the provisions of the Constitution and laws of the State of Texas, particularly the Act, Commercial Paper Notes shall be and are hereby authorized to be issued in an aggregate principal amount not to exceed ***ONE HUNDRED THIRTY-FIVE MILLION DOLLARS (\$135,000,000)*** at any one time outstanding for the purpose of financing Project Costs of Eligible Projects and to refinance, renew or refund Notes, including interest thereon, consisting initially of \$67,500,000 principal amount of Commercial Paper Notes related to the Sumitomo Bank Note and the Sumitomo Reimbursement Agreement and \$67,500,000 principal amount of Commercial Paper Notes related to the Wells Bank Note and the Wells Reimbursement Agreement and all in accordance with and subject to the terms, conditions, and limitations contained herein; and a Bank Note shall be and is hereby authorized to be issued in the initial aggregate principal amount of ***ONE HUNDRED FORTY-NINE MILLION NINE HUNDRED SEVENTY-NINE THOUSAND FOUR HUNDRED FIFTY-FOUR DOLLARS (\$149,979,454.00)*** at any one time outstanding consisting of \$74,989,727 related to the Sumitomo Bank Note and the Sumitomo Reimbursement Agreement and \$74,989,727 related to the Wells Bank Note and the Wells Reimbursement Agreement, for the purpose of evidencing Advances to retire Commercial Paper Notes; all in accordance with and subject to the terms, conditions and limitations contained herein and, with respect to the Sumitomo Bank Note and the Wells Bank Note, the Sumitomo Reimbursement Agreement and the Wells Reimbursement Agreement. For purposes of this **Section 2.01**, any portion of outstanding Notes to be paid from money on deposit in the Note Payment Fund and from the available proceeds of Notes or Bonds on the day of calculation shall not be considered outstanding. The authority to issue Commercial Paper Notes from time to time under the provisions of this Ordinance shall exist until the Maximum Maturity Date, regardless of whether prior to the Maximum Maturity Date there are at any time no Commercial Paper Notes outstanding.

Anything in this Ordinance to the contrary notwithstanding, in connection with the refinancing or refunding of Notes, such Notes shall qualify as “obligations”, as such term is defined in the Act at the time any such refinancing or refunding occurs. Further, any such refunding or refinancing, other than a simultaneous refunding, of Notes, to the extent then required by applicable law, shall be by means of a gross defeasance established at the time of the issuance of the refunding Commercial Paper Notes or refunding Bonds, as the case may be, and the Notes to be so refunded or refinanced shall be selected by the City Council. If a Bank Note has been issued to evidence the repayment of an Unreimbursed Amount, the obligation evidenced by the Bank Note shall be refinanced or refunded, on a pro rata basis, prior to the refinancing or refunding of Commercial Paper Notes or Bonds.

Section 2.02. Terms Applicable to Notes - General. Subject to the limitations contained herein, Commercial Paper Notes herein authorized shall be dated as of their date of issuance or prior thereto, but within 30 days of the date of issuance (the “Note Date”), as

determined by an Authorized Representative; shall bear interest at such fixed rate or rates per annum computed on the basis of actual days elapsed and on a 365- or 366-day year, as applicable (but in no event in any case to exceed the Maximum Interest Rate), as may be determined by an Authorized Representative, and all Commercial Paper Notes authorized herein shall mature on or prior to the Maximum Maturity Date.

Subject to applicable terms, limitations and procedures contained herein, Commercial Paper Notes may be sold in such manner at public or private sale and at par or at such discount (within the interest rate and yield restrictions provided herein) as an Authorized Representative shall approve at the time of the sale thereof.

The Commercial Paper Notes shall be issued in registered form, without coupons, provided, however, Commercial Paper Notes may be registered to bearer. The principal of and interest on the Commercial Paper Notes shall be payable in lawful money of the United States of America, without exchange or collection charges to the Holder of the Commercial Paper Note; the principal thereof to be payable upon presentation and surrender of the Commercial Paper Note at the Designated Office of the Issuing and Paying Agent and interest thereon to be payable to the registered owner thereof (when registered other than to bearer) either (i) by check sent by United States Mail, first class postage prepaid, to the address of the registered owner appearing on the Registration Books of the City maintained by the Registrar or (ii) by such other method, acceptable to the Issuing and Paying Agent, requested by the Holder, but interest on a Commercial Paper Note registered to bearer shall be payable only upon presentation of the Commercial Paper Note at the Designated Office of the Issuing and Paying Agent.

The selection and appointment of Deutsche Bank National Trust Company to serve as Issuing and Paying Agent, Paying Agent/Registrar and Registrar for the Commercial Paper Notes is hereby confirmed, and the City covenants and agrees to keep and maintain with the Registrar at its Designated Office and at a place within the State of Texas books and records (the "Registration Books") for the registration, payment, transfer and exchange of the Commercial Paper Notes, all as provided herein and such reasonable rules and regulations as the Registrar may prescribe. The City covenants to maintain and provide a Registrar at all times while the Commercial Paper Notes are outstanding, which shall be a national or state banking association or corporation or trust company organized and doing business under the laws of the United States of America or of any state and authorized under such laws to exercise trust powers. Should a change in the Paying Agent/Registrar for the Commercial Paper Notes occur, the City agrees to promptly cause a written notice thereof to be sent to each registered owner of the Commercial Paper Notes then outstanding by United States Mail, first class postage prepaid. Such notice shall give the address of the successor Paying Agent/Registrar. A successor Paying Agent/Registrar may be appointed by the City without the consent of the Holders. Prior to the successor Paying Agent/Registrar assuming its duties hereunder, (i) the City shall cause all moneys held by the then Paying Agent/Registrar to be transferred to the successor thereto and (ii) the successor Paying Agent/Registrar shall deliver to the City an instrument accepting the duties and responsibilities as Paying Agent/Registrar.

A copy of the Registration Books and any change thereto shall be provided to the City by the Paying Agent/Registrar, by means of telecommunications equipment or such other means as

may be mutually agreeable thereto, within two Business Days of the opening of such Registration Books or any change therein, as the case may be.

The City and the Paying Agent/Registrar may treat the bearer (in the case of Commercial Paper Notes so registered) or the registered payee thereof as the absolute owner of any Commercial Paper Note for the purpose of receiving payment thereof and for all purposes, and the City and the Paying Agent/Registrar shall not be affected by any notice or knowledge to the contrary.

If an Authorized Representative determines that it is possible and desirable to provide for a book-entry-only system of Commercial Paper Note registration with DTC, such Authorized Representative, acting for and on behalf of the City, is hereby authorized to approve, execute, and deliver a Letter of Representations to DTC and to enter into such other agreements and execute such instruments as are necessary to implement such book-entry-only system, such approval to be conclusively evidenced by the execution thereof by said Authorized Representative. Under the initial book-entry-only system with DTC, (i) no physical Commercial Paper Note certificates will be delivered to DTC and (ii) the City will execute and deliver to the Issuing and Paying Agent, as custodian for DTC, a master note relating to the Commercial Paper Notes (the "Master Note") in substantially the form set forth in **Exhibit A**. Except as provided herein, the ownership of the Commercial Paper Notes shall be registered in the name of Cede & Co., as nominee of DTC, which will serve as the initial securities depository for the Commercial Paper Notes. Ownership of beneficial interests in the Commercial Paper Notes shall be shown by book-entry on the system maintained and operated by DTC and DTC Participants, and transfers of ownership of beneficial interests shall be made only by DTC and the DTC Participants by book-entry, and the City and the Issuing and Paying Agent shall have no responsibility therefor. DTC will be required to maintain records of the positions of the DTC participants in the Commercial Paper Notes, and the DTC Participants and persons acting through the DTC participants will be required to maintain records of the purchasers of beneficial interests in the Commercial Paper Notes. During any period when a book-entry-only system is in effect, except as provided above in this paragraph, the Commercial Paper Notes shall not be transferable or exchangeable, except for transfer to another securities depository or to another nominee of a securities depository.

With respect to Commercial Paper Notes registered in the name of DTC or its nominee, neither the City nor the Issuing and Paying Agent shall have any responsibility or obligation to any DTC Participant or to any person on whose behalf a DTC Participant holds an interest in the Commercial Paper Notes. Without limiting the immediately preceding sentence, neither the City nor the Issuing and Paying Agent shall have any responsibility or obligation with respect to (i) the accuracy of the records of DTC or any DTC Participant with respect to any ownership interest in the Commercial Paper Notes, (ii) the delivery to any DTC Participant or any other person, other than a registered owner of the Commercial Paper Notes, as shown on the Registration Books, of any notice with respect to the Commercial Paper Notes, including any notice of redemption, and (iii) the payment to any DTC Participant or any other person, other than a registered owner of the Commercial Paper Notes, as shown in the Registration Books, of any amount with respect to principal of and interest on the Commercial Paper Notes.

Whenever, during the term of the Commercial Paper Notes, the beneficial ownership thereof is determined by a book entry at DTC, the requirements in this Ordinance of holding, registering, delivering, exchanging, or transferring the Commercial Paper Notes shall be deemed modified to require the appropriate person or entity to meet the requirements of DTC as to holding, registering, delivering, exchanging, or transferring the book-entry to produce the same effect.

Either the City or DTC may determine to discontinue the book-entry-only system and in such case, unless a new book-entry-only system is put in place, physical certificates in the form set forth in **Section 2.05** shall be provided to the beneficial owners thereof.

If at any time, DTC ceases to hold the Commercial Paper Notes, all references herein to DTC shall be of no further force or effect.

Whenever the beneficial ownership of the Commercial Paper Notes is determined by a book-entry at DTC, delivery of Commercial Paper Notes for payment at maturity shall be made pursuant to DTC's payment procedures as are in effect from time to time and the DTC Participants shall transmit payment to those beneficial owners whose Commercial Paper Notes have matured. The City and each Issuing and Paying Agent, the Bank, and the Dealer are not responsible for the transfer of payment to the DTC Participants or beneficial owners.

Section 2.03. Commercial Paper Notes. Under and pursuant to the authority granted hereby and subject to the limitations contained herein, Commercial Paper Notes to be designated "City of Garland, Texas, Electric Utility System Commercial Paper Notes, Series 2012A," related to the Sumitomo Bank Note and the Sumitomo Reimbursement Agreement and the "City of Garland, Texas Electric Utility System Commercial Paper Notes, Series 2012B," related to the Wells Bank Note and the Wells Reimbursement Agreement are hereby authorized to be issued and sold and delivered from time to time in such principal amounts as determined by an Authorized Representative in denominations of \$100,000 or in integral multiples of \$1,000 in excess thereof, numbered in ascending consecutive numerical order in the order of their issuance and to mature and become due and payable on such dates as an Authorized Representative shall determine at the time of sale; provided, however, that no Commercial Paper Note shall (i) mature after the Maximum Maturity Date or (ii) have a term in excess of two hundred seventy (270) calendar days. Interest, if any, on Commercial Paper Notes shall be payable at maturity with principal.

Section 2.04. Bank Note. Under and pursuant to authority granted hereby and subject to the limitations contained herein and in the applicable Reimbursement Agreement, a promissory note to be designated as the "Bank Note" is hereby authorized and approved in accordance with the terms of this Ordinance, the Reimbursement Agreement and the form thereof set forth in the applicable Reimbursement Agreement.

Section 2.05. Form of Commercial Paper Notes. The Commercial Paper Notes and the Certificate of Authentication to appear on each of the Commercial Paper Notes shall be substantially in the forms set forth in this section with such appropriate insertions, omissions, substitutions and other variations as are permitted or required by this Ordinance and may have such letters, numbers or other marks of identification (including identifying numbers and letters

of the Committee on Uniform Securities Identification Procedures of the American Bankers Association) and such legends and endorsements thereon as may, consistently herewith, be approved by an Authorized Representative. Any portion of the text of any Commercial Paper Notes may be set forth on the reverse thereof, with an appropriate reference thereto on the face of the Commercial Paper Notes.

The Commercial Paper Notes shall be printed, lithographed, engraved or produced in any other similar manner, or typewritten, all as determined and approved by an Authorized Representative.

Form of Commercial Paper Note:

UNITED STATES OF AMERICA
STATE OF TEXAS
CITY OF GARLAND, TEXAS
ELECTRIC UTILITY SYSTEM COMMERCIAL PAPER NOTE
SERIES 2012[A][B]

| | | | |
|-----------------------|-------|--------------------|-------|
| No.: | _____ | Note Date: | _____ |
| Principal Amount: | _____ | Maturity Date: | _____ |
| Interest to Maturity: | _____ | Number of Days: | _____ |
| Due at Maturity: | _____ | Interest Rate (%): | _____ |
| Owner: | _____ | | |

The CITY OF GARLAND (the “City”), in the Counties of Dallas, Collin and Rockwall, State of Texas, FOR VALUE RECEIVED, hereby promises to pay to the order of the owner specified above on the maturity date specified above, the principal sum specified above and to pay interest, if any, on said principal amount at said maturity date, from the above specified note date to said maturity date at the per annum interest rate shown above (computed on the basis of actual days elapsed and a 365- or 366-day year, as applicable); both principal of and interest on this Note being payable in lawful money of the United States of America at the designated office of the Issuing and Paying Agent executing the “Certificate of Authentication” endorsed hereon and appearing below, or its successor. No interest will accrue on the principal amount hereof after said maturity date.

This Commercial Paper Note is one of an issue of commercial paper notes (the “Commercial Paper Notes”) which, together with other forms of short term obligations, including the below referenced Bank Note, has been duly authorized and issued in accordance with the provisions of an ordinance passed by the City Council of the City, as such ordinance may be amended from time to time as set forth therein (the “Ordinance”), for the purpose of financing Project Costs of Eligible Projects and to refinance, renew or refund Commercial Paper Notes, including interest thereon, in accordance with the provisions of the Ordinance; all in

accordance and in strict conformity with the provisions of V.T.C.A., Government Code, Chapter 1371, as amended (the “Act”).

This Commercial Paper Note, together with other Commercial Paper Notes, is payable from and equally secured by a lien on and pledge of (i) the proceeds from (a) the sale of other Commercial Paper Notes issued for such purpose and (b) the sale of a series or issue of Bonds to be issued by the City for such purpose, (ii) Drawings under and pursuant to the Letter of Credit pursuant to which the Bank has agreed to provide credit to the City under the terms and conditions set forth therein (iii) amounts in certain funds established pursuant to the Ordinance and (iv) the Net Revenues of the System, such lien and pledge of the Net Revenues, however, being subordinate to the lien and pledge of the Net Revenues securing the payment of the outstanding Prior Lien Bonds.

This Commercial Paper Note is payable solely from the sources hereinabove identified securing the payment thereof and the Commercial Paper Notes do not constitute a legal or equitable pledge, charge, lien or encumbrance upon any other property of the City or the System. The holder hereof shall never have the right to demand payment of the obligation from any sources or properties of the City except as identified above.

The holder of this obligation shall never have the right to demand payment hereof from any funds raised or to be raised from taxation.

It is hereby certified and recited that all acts, conditions and things required by law and the Ordinance to exist, to have happened and to have been performed precedent to and in the issuance of this Commercial Paper Note, do exist, have happened and have been performed in regular and in due time, form and manner as required by law and that the issuance of this Commercial Paper Note, together with all other Commercial Paper Notes, is not in excess of the principal amount of Commercial Paper Notes permitted to be issued under the Ordinance.

This Commercial Paper Note has all the qualities and incidents of a negotiable instrument under the laws of the State of Texas.

This Commercial Paper Note shall not be entitled to any benefit under the Ordinance or be valid or become obligatory for any purpose until this Commercial Paper Note shall have been authenticated by the execution by the Issuing and Paying Agent of the Certificate of Authentication hereon. Capitalized terms used herein and not otherwise defined shall have the meanings assigned to such terms in the Ordinance.

IN TESTIMONY WHEREOF, the City Council has caused this Commercial Paper Note to be signed with the imprinted facsimile signature of the Mayor, attested by the facsimile signature of the City Secretary.

CITY SECRETARY,
CITY OF GARLAND

MAYOR,
CITY OF GARLAND

**ISSUING AND PAYING AGENT'S
CERTIFICATE OF AUTHENTICATION**

This Commercial Paper Note is one of the Commercial Paper Notes delivered pursuant to the within-mentioned Ordinance.

DEUTSCHE BANK NATIONAL TRUST COMPANY,
as Issuing and Paying Agent

By: _____
Authorized Signatory

If Commercial Paper Notes are issued in book-entry-only form pursuant to **Section 2.02**, they shall be issued in the form of a Master Note in substantially the form attached hereto as **Exhibit A**, to which there shall be attached the form of Commercial Paper Note as prescribed above, and it is hereby declared that the provisions of the Commercial Paper Note as prescribed above are incorporated into and shall be a part of the Master Note. It is further provided that this Ordinance and the form of Commercial Paper Note prescribed above shall constitute the "underlying records" referred to in the Master Note. Notwithstanding the provisions of **Section 2.06**, the Master Note shall be executed on behalf of the City by the manual signature of the Mayor or the Mayor Pro-Tem.

Section 2.06. Execution - Authentication. The Commercial Paper Notes (other than the Master Note) shall be executed on behalf of the City by the Mayor and attested by the City Secretary, as provided in **Section 2.05** hereof. The signature of said officers on the Commercial Paper Notes may be manual or facsimile. Commercial Paper Notes bearing the manual or facsimile signatures of individuals who are or were the proper officers of the City on the date of passage of this Ordinance shall be deemed to be duly executed on behalf of the City, notwithstanding that such individuals or either of them shall cease to hold such offices at the time of the initial sale and delivery of Commercial Paper Notes authorized to be issued hereunder and with respect to Commercial Paper Notes delivered in subsequent sales, exchanges and transfers, all as authorized and provided in the Public Security Procedures Act (V.T.C.A., Government Code, Chapter 1201, as amended).

No Commercial Paper Note shall be entitled to any right or benefit under this Ordinance, or be valid or obligatory for any purpose, unless there appears on such Commercial Paper Note a certificate of authentication executed by the Paying Agent/Registrar in the customary manner then prevailing for short term obligations such as the Commercial Paper Notes, or, in the case of the Master Note, the Paying Agent/Registrar has executed the Master Note, and the execution of any Commercial Paper Note (including the Master Note) by the Paying Agent/Registrar shall be conclusive evidence, and the only evidence, that such Commercial Paper Note has been duly certified or registered and delivered.

Section 2.07. Notes Mutilated, Lost, Destroyed or Stolen. If any Note shall become mutilated, the City, at the expense of the Holder of said Note, shall execute and deliver a new Note of like tenor and number in exchange and substitution for the Note so mutilated, but only upon surrender to the City of the Note so mutilated. If any Note shall be lost, destroyed or stolen, evidence of such loss, destruction or theft may be submitted to the City and, if such evidence be satisfactory to it and indemnity satisfactory to it shall be given, the City, at the expense of the owner, shall execute and deliver a new Note of like tenor in lieu of and in substitution for the Note so lost, destroyed or stolen. Neither the City nor the Paying Agent/Registrar shall be required to treat both the original Note and any duplicate Note as being outstanding for the purpose of determining the principal amount of Notes which may be issued hereunder, but both the original and the duplicate Note shall be treated as one and the same.

Section 2.08. Negotiability, Registration and Exchangeability. The obligations issued hereunder shall be, and shall have all of the qualities and incidents of, a negotiable instrument under the laws of the State of Texas, and each successive holder, in accepting any of the obligations, shall be conclusively deemed to have agreed that such obligations shall be and have all of the qualities and incidents of a negotiable instrument under the laws of the State of Texas.

The Registration Books relating to the registration, payment and transfer or exchange of the Commercial Paper Notes shall at all times be kept and maintained by the City at the Designated Office of the Registrar, and the Registrar shall obtain, record and maintain in the Registration Books the name and address of each registered owner of the Commercial Paper Notes, except for Commercial Paper Notes registered to bearer, issued under and pursuant to the provisions of this Ordinance, and the Registrar further shall provide such information to the City as described in **Section 2.02** hereof. Any Commercial Paper Note may, in accordance with its terms and the terms hereof, be transferred or exchanged for Commercial Paper Notes of like tenor and character and of other authorized denominations upon the Registration Books by the Holder in person or by his duly authorized agent, upon surrender of such Commercial Paper Note to the Registrar for cancellation, accompanied by a written instrument of transfer or request for exchange duly executed by the Holder or by his duly authorized agent, in form satisfactory to the Registrar.

Upon surrender for transfer of any Commercial Paper Note at the Designated Office of the Registrar, the Registrar shall register and deliver, in the name of the designated transferee or transferees (or to bearer, as appropriate), one or more new Commercial Paper Notes executed on behalf of, and furnished by, the City of like tenor and character and of authorized denominations and having the same maturity, bearing interest at the same rate and being of a like aggregate principal amount as the Commercial Paper Note or Commercial Paper Notes surrendered for transfer.

Furthermore, Commercial Paper Notes may be exchanged for other Commercial Paper Notes of like tenor and character and of authorized denominations and having the same maturity, bearing the same rate of interest and of like aggregate principal amount as the Commercial Paper Notes surrendered for exchange, upon surrender of the Commercial Paper Notes to be exchanged at the Designated Office of the Registrar. Whenever any Commercial Paper Notes are so surrendered for exchange, the Registrar shall register and deliver new Commercial Paper Notes

of like tenor and character as the Commercial Paper Notes exchanged, executed on behalf of, and furnished by, the City to the Holder requesting the exchange.

The City and the Registrar may charge the Noteholder a sum sufficient to reimburse them for any expenses incurred in making any exchange or transfer after the first such exchange or transfer. The Registrar or the City may also require payment from the Holder of a sum sufficient to cover any tax, fee or other governmental charge that may be imposed in relation thereto. Such charges and expenses shall be paid before any such new Commercial Paper Note shall be delivered.

New Commercial Paper Notes delivered upon any transfer or exchange shall be valid obligations of the City, evidencing the same debt as the Commercial Paper Notes surrendered, shall be secured by this Ordinance and shall be entitled to all of the security and benefits hereof to the same extent as the Commercial Paper Notes surrendered.

The City reserves the right to change the above registration and transferability provisions of the Commercial Paper Notes at any time on or prior to the delivery thereof in order to comply with applicable laws and regulations of the United States in effect at the time of issuance thereof.

Section 2.09. Note Clearance Account. There is hereby created and established on the books of the City a separate account hereby designated as the “City of Garland, Texas Electric Utility Note Clearance Account” (the “Note Clearance Account”). By 2:00 p.m. (New York City time) on each Calculation Date, the City shall cause to be credited to the Note Clearance Account from proceeds received from the sale of Commercial Paper Notes or Bonds and, to the extent needed, Net Revenues an amount necessary to (i) first, reimburse the Banks for Drawings under the Letter of Credit to pay the principal of and interest on the Commercial Paper Notes on such date, (ii) second, pay the principal of and interest on any Commercial Paper Notes due on such date to the extent such payments have not been made from the proceeds received from the sale of Commercial Paper Notes or Bonds or from a Drawing on the Letter of Credit, (iii) third, repay any Sumitomo Advances and any Wells Advances, and (iv) fourth, pay any other amounts due the Banks.

Section 2.10. Note Payment Fund. There is hereby created and established with the Issuing and Paying Agent a separate and special fund to be designated as the “City of Garland, Texas Electric Utility Note Payment Interest and Sinking Fund” (the “Note Payment Fund”). Moneys in the Note Payment Fund, shall be used to pay principal of and interest on Commercial Paper Notes at the respective interest payment, maturity or redemption dates (if any) of each issue thereof as provided herein. All proceeds of Drawings shall be deposited into the Note Payment Fund and shall be used to pay the principal of and interest on the Commercial Paper Notes then due and payable. Pending the expenditure of moneys in the Note Payment Fund for authorized purposes, such moneys shall be held uninvested, and any moneys deposited in the Note Payment Fund and not used for such purposes shall be returned to the Bank upon which such moneys were drawn in accordance with the Reimbursement Agreement.

Section 2.11. Pledge; Payments. The Notes are obligations of the City payable from and secured solely by the funds pledged therefor pursuant to this Ordinance. The City agrees to make payments into the Note Payment Fund at such times and in such amounts as are necessary to provide for the full payment of the principal of and the interest on the Notes when due.

To provide security for the payment of the principal of and interest on the Notes and any other amounts due under the Reimbursement Agreement as the same become due and payable, there is hereby granted a lien on and pledge of, subject only to the provisions of this Ordinance permitting the application thereof for purposes and on the terms and conditions set forth herein, (i) the proceeds from (a) the sale of Bonds issued for such purpose and (b) the sale of other Notes issued pursuant to this Ordinance for such purpose, (ii) Advances under and pursuant to the Reimbursement Agreement between the City and the Bank pursuant to which the Bank has agreed to provide credit to the City under the terms and conditions set forth therein, which Advances shall be evidenced by a Bank Note, (iii) the amounts held in the Note Payment Fund and the Note Clearance Account until the amounts deposited therein are used for authorized purposes, and the amounts remaining on deposit in the Note Construction Account after the payment of all Project Costs, provided, however, amounts in the Note Payment Fund shall be used only to pay the principal of and interest then due on any Commercial Paper Notes, and amounts in the Note Clearance Account shall be used only to pay first any amounts due to reimburse the Bank for a Drawing, second the principal of and interest then due on any Commercial Paper Notes, if any, not paid with the proceeds of a Drawing, third any amounts due on any Bank Note that has been issued to evidence the repayment of an Unreimbursed Amount, and fourth any other amounts due the Banks, such payments to be on a pro rata basis between the Banks to which the reimbursements or the Bank Notes or other amounts are due and (iv) the Net Revenues of the System, such lien and pledge of the Net Revenues, however, being subordinate to the lien and pledge of the Net Revenues securing the payment of the outstanding Prior Lien Bonds and it is hereby resolved and declared that the principal of and interest on the Notes and any other amounts due under the Reimbursement Agreement shall be and are hereby equally and ratably secured by and payable from a lien on and pledge of the sources hereinabove identified in clauses (i), (ii), (iii) and (iv) subject and subordinate only to the exceptions noted therein.

Additionally, to provide security for the payment of the principal of and interest on Advances and other amounts due under the Reimbursement Agreement as the same shall become due and payable, there is hereby granted a lien on and pledge of, subject only to the provisions of this Ordinance permitting the application thereof for purposes and on the terms and conditions set forth herein, the Net Revenues; such lien on and pledge of the Net Revenues to the payment of Advances and other amounts due under the Reimbursement Agreement, however, being subordinate only to the lien and pledge securing the payment of Prior Lien Bonds. Unless Advances are paid from the proceeds of Commercial Paper Notes or Bonds issued for such purposes, or amounts available in the Note Payment Fund or the Note Construction Account, all as described above, such payments are to be made from Net Revenues on deposit in the "Bank Note Account" noted in Section 4.02 hereof.

During each Fiscal Year while any of the Commercial Paper Notes are outstanding and unpaid, the City shall timely transfer from the Note Clearance Account such amounts as shall be necessary to pay or reimburse the Bank for all amounts described in Section 2.09 when due. The City does hereby levy and shall assess and collect Electric Utility System revenues in each Fiscal Year at a rate sufficient to generate an amount which, together with the Net Revenues available during such Fiscal Year and the amount then on deposit in the Note Clearance Account, shall be necessary to pay the Maximum Interest Payable on the Commercial Paper Notes projected to come due in that Fiscal Year. Electric Utility System revenues so assessed and collected shall be deposited to the credit of the Note Clearance Account.

Unless the Bank Note is paid from the proceeds of Commercial Paper Notes or Bonds issued for such purposes, or amounts available in the Note Payment Fund or the Note Clearance Account, all as described above, such payments are to be made from Net Revenues of the System deposited to the “Bank Note Account” in accordance with **Section 4.02** hereof.

Section 2.12. Note Construction Account. There is hereby created and established on the books of the City a separate account hereby designated as the “City of Garland, Texas Electric Utility System Commercial Paper Notes, Series 2012, Note Construction Account” (the “Note Construction Account”). Moneys deposited in the Note Construction Account shall remain therein until from time to time expended to pay for Project Costs, and shall not be used for any other purposes whatsoever, except as otherwise provided below, and pending such expenditure, moneys in the Note Construction Account may be invested at the direction of the Director of Financial Services or the designee thereof in Eligible Investments.

Any amounts remaining in the Note Construction Account after the payment of all Project Costs shall be paid into the Note Clearance Account and used first for the payment of any amounts due on any Bank Note that has been issued to evidence the repayment of an Unreimbursed Amount, such payment to be on a pro rata basis between the Banks to which the Bank Notes are due and second to the payment of such maturities of the Commercial Paper Notes coming due at such times as may be selected by an Authorized Representative. In the event no Commercial Paper Notes are outstanding and there are no outstanding Advances or other amounts owed the Bank under the Reimbursement Agreement, any amounts in the Note Construction Account not anticipated to be needed to pay Project Costs shall be transferred to the general fund of the City and may be used for any lawful purpose.

Section 2.13. Cancellation. All Commercial Paper Notes which at maturity are surrendered to the Paying Agent/Registrar for the collection of the principal of and interest thereon or are surrendered for transfer or exchange pursuant to the provisions hereof shall, upon payment or issuance of new Commercial Paper Notes, be canceled by the Paying Agent/Registrar, and the Paying Agent/Registrar forthwith shall transmit to the City a certificate identifying such Commercial Paper Notes and certifying that such Commercial Paper Notes have been duly canceled and destroyed.

Section 2.14. Fiscal and Other Agents. In furtherance of the purposes of this Ordinance, the Director of Financial Services of the City is hereby authorized from time to time to appoint and provide for the payment of such additional fiscal, paying or other agents or trustees as it may deem necessary or appropriate in connection with the Notes.

Section 2.15. Reimbursement Agreement. The Sumitomo Reimbursement Agreement, substantially in the form attached hereto as **Exhibit B-1** and the Wells Reimbursement Agreement, substantially in the form attached hereto as **Exhibit B-2**, are hereby approved, and shall be entered into with the Bank. The form of the Bank Note substantially in the form contained in the Reimbursement Agreement is approved with the interest rate payable thereon to be determined as set forth therein. Any Authorized Representative is hereby authorized to approve all final changes and execute and deliver the Reimbursement Agreement. In addition, the Fee Agreement (as defined in the Reimbursement Agreement) between the City and Sumitomo, substantially in the form attached hereto as **Exhibit C-1** and the Fee Agreement

between the City and Wells, substantially in the form attached hereto as **Exhibit C-2**, are hereby approved, and shall be entered into with the Bank. Any Authorized Representative is hereby authorized to approve all final changes and execute and deliver the Fee Agreement.

Section 2.16. Funds Secured. Moneys in all Funds created under this Ordinance, to the extent not invested as permitted hereunder, shall be secured in the manner prescribed by law for securing funds of the City.

ARTICLE 3

ISSUE AND SALE OF NOTES

Section 3.01. Issuance and Sale of Commercial Paper Notes.

(a) The Commercial Paper Notes shall be completed and delivered by the Issuing and Paying Agent in accordance with telephonic, computer or written instructions of an Authorized Representative and in the manner specified below and in the Issuing and Paying Agent Agreement. To the extent such instructions are not written, they shall be confirmed in writing by an Authorized Representative within 24 hours. Said instructions shall specify such principal amounts, dates of issue, maturities, rates of discount or interest, or the formula or method of calculating interest and the basis upon which it is to be computed, and other terms and conditions which are hereby authorized and permitted to be fixed by an Authorized Representative at the time of sale of the Commercial Paper Notes. Such instructions shall include the purchase price of the Commercial Paper Notes, and a request that the Issuing and Paying Agent authenticate such Commercial Paper Notes by countersignature of its authorized officer or employee and deliver them to the named purchaser or purchasers thereof upon receipt of payment in accordance with the custom then prevailing in the New York financial market in regard to such Commercial Paper Notes. The rules of the New York Clearinghouse shall apply thereto. Such instructions shall also contain provisions representing that all action on the part of the City necessary for the valid issuance of the Commercial Paper Notes then to be issued has been taken, that all provisions of Texas and federal law necessary for the valid issuance of such Commercial Paper Notes with provision for interest exemption from federal income taxation have been complied with, if applicable, and that such Commercial Paper Notes in the hands of the Holders thereof will be valid and enforceable obligations of the City according to their terms, subject to the exercise of judicial discretion in accordance with general principles of equity and bankruptcy, insolvency, reorganization, moratorium and other similar laws affecting creditors' rights heretofore or hereafter enacted to the extent constitutionally applicable and that, if applicable, based upon the advice of Bond Counsel, the stated interest on the Commercial Paper Notes is exempt from federal income taxation. Such instructions shall also certify that:

(i) no Event of Default under **Section 5.01** hereof or Event of Default under Article VII of the Reimbursement Agreement has occurred and is continuing as of the date of such Commercial Paper Note and that the Issuing and Paying Agent has not received a Notice of No Issuance or a Final Drawing Notice (as such terms are defined in the Reimbursement Agreement);

(ii) each project to be financed with the proceeds of the Commercial Paper Notes will constitute an Eligible Project;

(iii) the City is in compliance with the covenants set forth in **Article IV** hereof as of the date of such instructions;

(iv) the City has been advised by Bond Counsel that the proposed expenditure of the proceeds of such Commercial Paper Notes for such projects and refunding, as described by the City, will not cause the City to be in violation of its covenants set forth in **Section 4.06** hereof; and

(v) the sum of the interest payable on such Commercial Paper Note will not exceed a yield (calculated on the principal amount of the Commercial Paper Note on the basis of a 365- or 366-day year, as applicable, and actual number of days elapsed) to the maturity date of such Commercial Paper Note in excess of the Maximum Interest Rate.

(b) The Bank Note shall be or has been delivered to the Bank and indebtedness may be incurred thereunder in accordance with the terms of the Reimbursement Agreement.

Section 3.02. Proceeds of Sale of Commercial Paper Notes. The proceeds of the sale of any Commercial Paper Notes (net of all expenses and costs of sale and issuance) shall be applied for any or all of the following purposes as directed by an Authorized Representative:

(i) Proceeds to be used for the payment of outstanding Commercial Paper Notes at maturity and for the repayment of any Drawing or Advance (evidenced by the Bank Note) or other amounts due under the Reimbursement Agreement; and

(ii) Proceeds not used as provided in **subparagraph (i)** above shall be transferred and deposited to the Note Construction Account and used and applied in accordance with the provisions of **Section 2.12** hereof.

Section 3.03. Issuing and Paying Agent Agreement. The Issuing and Paying Agent Agreements by and between the City and the Issuing and Paying Agent relating to each respective series of the Commercial Paper Notes, each in substantially the form attached to this Ordinance as **Exhibit D** and designated an Amended and Restated Issuing and Paying Agent Agreement, is hereby approved, and any Authorized Representative is hereby authorized and directed to approve all final changes and execute the same for and on behalf of the City and the City Secretary is authorized to attest such signature. Any Authorized Representative is hereby authorized to enter into any supplemental agreements with the Issuing and Paying Agent or with any successor Issuing and Paying Agent in order to implement the functions of the Issuing and Paying Agent or Registrar with respect to the Commercial Paper Notes.

Section 3.04. Dealer Agreement. The Dealer Agreements to be entered into with the Dealer pertaining to the sale, from time to time, of each respective series of Commercial Paper Notes or the purchase of Commercial Paper Notes from the City, all for a fee to be set forth in the Dealer Agreement, each in substantially the form attached to this Ordinance as **Exhibit E** and designated an Amended and Restated Dealer Agreement, is hereby approved, and any

Authorized Representative is hereby authorized and directed to approve all final changes and execute the same for and on behalf of the City.

ARTICLE 4

COVENANTS OF THE CITY

Section 4.01. Limitation on Issuance. Unless this Ordinance is amended and modified by the City Council in accordance with the provisions of **Section 6.01** hereof, the City covenants that there will not be issued and outstanding at any time under this Ordinance more than \$135,000,000 in principal amount of Commercial Paper Notes, initially consisting of \$67,500,000 in principal amount related to the Sumitomo Bank Note and the Sumitomo Reimbursement Agreement and \$67,500,000 in principal amount related to the Wells Bank Note and the Wells Reimbursement Agreement. For purposes of this **Section 4.01**, any portion of outstanding Commercial Paper Notes to be paid on a particular day from moneys on deposit in the Note Payment Fund and available proceeds of Notes or Bonds shall not be considered outstanding on such day. In addition to the foregoing, (i) no Commercial Paper Notes shall be issued for any project other than an Eligible Project and (ii) no Commercial Paper Notes shall be issued if the Commercial Paper Notes then outstanding after such issuance would exceed the Authorized but Unissued Amount of Commercial Paper Notes.

Additionally, the City covenants and agrees that the total principal amount of all Commercial Paper Notes and Advances outstanding at any one time (after taking into account any Commercial Paper Notes to be paid on such proposed issuance date) and the total amount of interest accrued or to accrue thereon shall not exceed the Initial Stated Amount (as defined in the Reimbursement Agreement).

Furthermore, the City covenants and agrees that with regard to interest due on any Notes, it shall only make a borrowing under the Reimbursement Agreement to pay interest due on Commercial Paper Notes (and not interest due on any obligation evidenced by the Bank Note). Any borrowing made pursuant to the Reimbursement Agreement to pay the interest due on Commercial Paper Notes shall be repaid to the Bank on the same business day from revenues received from the sale of Commercial Paper Notes, Net Revenues or other available funds of the City sufficient to make such payment.

Section 4.02. Bank Note Account. There is hereby created and there shall be established and maintained a separate account to be known as the “Bank Note Account” for the sole benefit of the Bank Note within the Note Payment Fund established by this Ordinance. There shall be deposited by the City to the Bank Note Account the amounts required by **Section 2.11** hereof for the payment of the Bank Note.

Section 4.03. Maintenance of Available Credit Facilities Requirement. The City agrees and covenants that at all times up to and including the Maximum Maturity Date, unless the Commercial Paper Notes are no longer outstanding, it will maintain credit or liquidity facilities with banks in amounts such that, assuming that all then outstanding Commercial Paper Notes were to become due and payable immediately, the amount available for borrowing under such facilities would be sufficient at that time to pay principal of and interest on all Commercial Paper Notes. No Commercial Paper Note shall be issued if, after giving effect to the issuance thereof and, if after the immediate application of the proceeds thereof to retire other Commercial Paper Notes supported by the credit or liquidity facility, the aggregate principal amount of all

Commercial Paper Notes secured by or payable from the credit or liquidity facility would exceed the amount of the commitment thereunder. The availability for borrowing of such amounts under such facilities may be subject to reasonable conditions precedent, including but not limited to, bankruptcy of the City. In furtherance of the foregoing covenant, the City agrees that it will not issue any Commercial Paper Notes or make any borrowing which will result in a violation of such covenant, will not amend the Reimbursement Agreement in a manner which will cause a violation of such covenant and, if and to the extent necessary to maintain compliance with such covenant, will arrange for new credit or liquidity facilities prior to, or contemporaneously with, the expiration of the Reimbursement Agreement. The City shall provide written notice to the Dealer, the Issuing and Paying Agent and DTC (if the Commercial Paper Notes are then outstanding in book-entry-only form) at least ten (10) Business Days prior to any change in the bank providing a credit facility or a liquidity facility in respect to the Commercial Paper Notes. Prior to the effective date of the new credit or liquidity facility, all Commercial Paper Notes issued that are supported by the then existing Reimbursement Agreement shall have matured or appropriate provisions have been made for their payment at maturity. A substitution of the credit facility or the liquidity facility will not be effective until the City obtains a confirmation of no rating change from the rating agencies then providing a rating on the Commercial Paper Notes.

Section 4.04. Bonds. The City hereby acknowledges that the Commercial Paper Notes are being issued as bond anticipation notes, and therefore the City in good faith shall endeavor to sell a sufficient principal amount of the Bonds in order to have funds available, together with other moneys available therefor, to pay the Notes and the interest thereon, or any renewals thereof, or any obligations created under the Reimbursement Agreement, as the same shall become due, and such Bonds may be issued as refunding bonds issued pursuant to and in accordance with the provisions of V.T.C.A., Government Code, Chapter 1207, as amended.

Section 4.05. Punctual Payment. The City will punctually pay or cause to be paid the principal of and interest, if any, on the Notes (but only from the sources pledged herein), in conformity with the Notes, this Ordinance and the Reimbursement Agreement.

Section 4.06. Covenants to Maintain Tax-Exempt Status.

(a) **Definitions.** When used in this Section, the following terms shall have the following meanings:

“*Closing Date*” means the date on which the Commercial Paper Notes are first authenticated and delivered to the initial purchasers against payment therefor.

“*Code*” means the Internal Revenue Code of 1986, as amended by all legislation, if any, effective on or before the Closing Date.

“*Computation Date*” has the meaning set forth in Section 1.148-1(b) of the Regulations.

“*Gross Proceeds*” means any proceeds as defined in Section 1.148-1(b) of the Regulations, and any replacement proceeds as defined in Section 1.148-1(c) of the Regulations, of the Commercial Paper Notes.

“*Investment*” has the meaning set forth in Section 1.148-1(b) of the Regulations.

“*Nonpurpose Investment*” means any investment property, as defined in Section 148(b) of the Code, in which Gross Proceeds of the Commercial Paper Notes are invested and which is not acquired to carry out the governmental purposes of the Commercial Paper Notes.

“*Rebate Amount*” has the meaning set forth in Section 1.148-1(b) of the Regulations.

“*Regulations*” means any proposed, temporary, or final Income Tax Regulations issued pursuant to Sections 103 and 141 through 150 of the Code, and 103 of the Internal Revenue Code of 1954, which are applicable to the Commercial Paper Notes. Any reference to any specific Regulation shall also mean, as appropriate, any proposed, temporary or final Income Tax Regulation designed to supplement, amend or replace the specific Regulation referenced.

“*Yield*” of

(1) any Investment has the meaning set forth in Section 1.148-5 of the Regulations; and

(2) the Commercial Paper Notes has the meaning set forth in Section 1.148-4 of the Regulations.

(b) Not to Cause Interest to Become Taxable. The City shall not use, permit the use of, or omit to use Gross Proceeds or any other amounts (or any property the acquisition, construction or improvement of which is to be financed directly or indirectly with Gross Proceeds) in a manner which if made or omitted, respectively, would cause the interest on any Commercial Paper Note to become includable in the gross income, as defined in Section 61 of the Code, of the owner thereof for federal income tax purposes. Without limiting the generality of the foregoing, unless and until the City receives a written opinion of counsel nationally recognized in the field of municipal bond law to the effect that failure to comply with such covenant will not adversely affect the exemption from federal income tax of the interest on any Commercial Paper Note, the City shall comply with each of the specific covenants in this Section.

(c) No Private Use or Private Payments. Except as permitted by Section 141 of the Code and the Regulations and rulings thereunder, the City shall at all times prior to the last Stated Maturity of Commercial Paper Notes:

(1) exclusively own, operate and possess all property the acquisition, construction or improvement of which is to be financed or refinanced directly or indirectly with Gross Proceeds of the Commercial Paper Notes and not use or permit the use of such Gross Proceeds (including all contractual arrangements with terms different than those applicable to the general public) or any property acquired, constructed or improved with such Gross Proceeds in any activity carried on by any person or entity (including the United States or any agency, department and instrumentality thereof) other

than a state or local government, unless such use is solely as a member of the general public; and

(2) not directly or indirectly impose or accept any charge or other payment by any person or entity who is treated as using Gross Proceeds of the Commercial Paper Notes or any property the acquisition, construction or improvement of which is to be financed or refinanced directly or indirectly with such Gross Proceeds other than taxes of general application within the City or interest earned on investments acquired with such Gross Proceeds pending application for their intended purposes.

(d) No Private Loan. Except to the extent permitted by Section 141 of the Code and the Regulations and rulings thereunder, the City shall not use Gross Proceeds of the Commercial Paper Notes to make or finance loans to any person or entity other than a state or local government. For purposes of the foregoing covenant, such Gross Proceeds are considered to be “loaned” to a person or entity if: (1) property acquired, constructed or improved with such Gross Proceeds is sold or leased to such person or entity in a transaction which creates a debt for federal income tax purposes; (2) capacity in or service from such property is committed to such person or entity under a take-or-pay, output or similar contract or arrangement; or (3) indirect benefits, or burdens and benefits of ownership, of such Gross Proceeds or any property acquired, constructed or improved with such Gross Proceeds are otherwise transferred in a transaction which is the economic equivalent of a loan.

(e) Not to Invest at Higher Yield. Except to the extent permitted by Section 148 of the Code and the Regulations and rulings thereunder, the City shall not at any time prior to the final Stated Maturity of the Commercial Paper Notes directly or indirectly invest Gross Proceeds in any Investment (or use Gross Proceeds to replace money so invested), if as a result of such investment the Yield from the Closing Date of all Investments acquired with Gross Proceeds (or with money replaced thereby), whether then held or previously disposed of, exceeds the Yield of the Commercial Paper Notes.

(f) Not Federally Guaranteed. Except to the extent permitted by Section 149(b) of the Code and the Regulations and rulings thereunder, the City shall not take or omit to take any action which would cause the Commercial Paper Notes to be federally guaranteed within the meaning of Section 149(b) of the Code and the Regulations and rulings thereunder.

(g) Information Report. The City shall timely file the information required by Section 149(e) of the Code with the Secretary of the Treasury on Form 8038-G or such other form and in such place as the Secretary may prescribe.

(h) Rebate of Arbitrage Profits. Except to the extent otherwise provided in Section 148(f) of the Code and the Regulations and rulings thereunder:

(1) The City shall account for all Gross Proceeds (including all receipts, expenditures and investments thereof) on its books of account separately and apart from all other funds (and receipts, expenditures and investments thereof) and shall retain all records of accounting for at least six (6) years after the day on which the last outstanding Commercial Paper Note is discharged. However, to the extent permitted by law, the City

may commingle Gross Proceeds of the Commercial Paper Notes with other money of the City, provided that the City separately accounts for each receipt and expenditure of Gross Proceeds and the obligations acquired therewith.

(2) Not less frequently than each Computation Date, the City shall calculate the Rebate Amount in accordance with rules set forth in Section 148(f) of the Code and the Regulations and rulings thereunder. The City shall maintain such calculations with its official transcript of proceedings relating to the issuance of the Commercial Paper Notes until six (6) years after the final Computation Date.

(3) The City shall pay to the United States out of the Note Payment Fund or its general fund, as permitted by applicable Texas statute, regulation or opinion of the Attorney General of the State of Texas, the amount that when added to the future value of previous rebate payments made for the Commercial Paper Notes equals (i) in the case of a Final Computation Date as defined in Section 1.148-3(e)(2) of the Regulations, one hundred percent (100%) of the Rebate Amount on such date; and (ii) in the case of any other Computation Date, ninety percent (90%) of the Rebate Amount on such date. In all cases, the rebate payments shall be made at the times, in the installments, to the place and in the manner as is or may be required by Section 148(f) of the Code and the Regulations and rulings thereunder, and shall be accompanied by Form 8038-T or such other forms and information as is or may be required by Section 148(f) of the Code and the Regulations and rulings thereunder.

(4) The City shall exercise reasonable diligence to assure that no errors are made in the calculations and payments required by paragraphs (2) and (3), and if an error is made, to discover and promptly correct such error within a reasonable amount of time thereafter (and in all events within one hundred eighty (180) days after discovery of the error), including payment to the United States of any additional Rebate Amount owed to it, interest thereon, and any penalty imposed under Section 1.148-3(h) of the Regulations.

(i) Elections. The City hereby directs and authorizes the City Manager, Director of Financial Services, and Mayor, either or any combination of them, to make elections permitted or required pursuant to the provisions of the Code or the Regulations, as they deem necessary or appropriate in connection with the Commercial Paper Notes, in the Certificate as to Tax Exemption or similar or other appropriate certificate, form or document.

Section 4.07. Allocation of, and Limitation on, Expenditures for Eligible Projects. The City covenants to account for on its books and records the expenditure of proceeds from the sale of the Commercial Paper Notes and any investment earnings thereon to be used for Eligible Projects by allocating proceeds to expenditures within 18 months of the later of the date that (a) the expenditure on a Eligible Project is made or (b) each Eligible Project is completed. The foregoing notwithstanding, the City shall not expend such proceeds or investment earnings more than sixty (60) days after the later of (a) the fifth anniversary of the date of delivery of the Commercial Paper Notes or (b) the date the Commercial Paper Notes are retired, unless the City obtains an opinion of Bond Counsel substantially to the effect that such expenditure will not adversely affect the tax-exempt status of the Commercial Paper Notes. For purposes of this Section, the City shall not be obligated to comply with this covenant if it obtains an opinion of

Bond Counsel to the effect that such failure to comply will not adversely affect the excludability of the interest on the Commercial Paper Notes from gross income for federal income tax purposes.

Section 4.08. Disposition of Eligible Projects. The City covenants that the property constituting an Eligible Project will not be sold or otherwise disposed in a transaction resulting in the receipt by the City of cash or other compensation, unless the City obtains an opinion of Bond Counsel substantially to the effect that such sale or other disposition will not adversely affect the tax-exempt status of the Commercial Paper Notes. For purposes of this Section, the portion of the property comprising personal property and disposed of in the ordinary course of business shall not be treated as a transaction resulting in the receipt of cash or other compensation. For purposes of this Section, the City shall not be obligated to comply with this covenant if it obtains an opinion of Bond Counsel to the effect that such failure to comply will not adversely affect the excludability of the interest from gross income for federal income tax purposes.

Section 4.09. Taxable Obligations. The provisions of **Section 4.06** of this Ordinance notwithstanding, the City reserves the ability to issue other commercial paper notes (but not the Commercial Paper Notes authorized under this Ordinance) in a manner such that such obligations are not obligations described in Section 103(a) of the Code or are obligations which constitute “private activity bonds” within the meaning of Section 141(b) of the Code. If such other commercial paper notes are so issued, an Authorized Representative is authorized to designate such other commercial paper notes in such a manner as to distinguish such other commercial paper notes from those Commercial Paper Notes that are issued as obligations described in Section 103(a) of the Code.

Section 4.10. Supplemental Ordinances. The City will not adopt any supplemental ordinances to this Ordinance without the written consent of the Bank.

Section 4.11. Opinion of Bond Counsel. The City shall cause the legal opinion of Bond Counsel as to the validity of the Notes and as to the exemption of interest on the Commercial Paper Notes from federal income taxation to be furnished to any Noteholder without cost. In addition, a copy of said opinion may be printed on or attached to each of the Commercial Paper Notes.

Section 4.12. Ongoing Continuing Disclosure Covenant. To the extent required by the provisions of Rule 15c2-12, promulgated by the U.S. Securities and Exchange Commission, the City agrees to enter into an agreement to file financial information and operating data with respect to the Commercial Paper Notes with such entities as are designated pursuant to the terms of said Rule 15c2-12. Under the provisions of said Rule 15c2-12, as they exist on the date this Ordinance is adopted, the City is exempted from complying with the undertaking described in the first sentence of this **Section 4.12**, as the Notes are to be issued in the form of Commercial Paper Notes.

Section 4.13. Rates and Charges. For such time as the Commercial Paper Notes are outstanding and for the benefit of the original purchasers as well as the ultimate owners of the Commercial Paper Notes and the Parity Obligations and in addition to all provisions and covenants in the law of the State of Texas and in this Ordinance, it is expressly stipulated that the

City shall, at all times while any of the Commercial Paper Notes are outstanding and unpaid, maintain rates and collect charges for the facilities and services afforded by the System, as required by V.T.C.A., Government Code, Chapter 1502, as amended, which will provide gross revenues of the System sufficient at all times to:

- (a) pay for all maintenance, operation, debt service, depreciation, replacement and betterment charges of the System;
- (b) produce Net Revenues each Fiscal Year in an amount reasonably estimated to be not less than 1.25 times the annual principal and interest requirements of the Outstanding Prior Lien Bonds, the Outstanding Commercial Paper Notes and the Outstanding Parity Obligations (for purposes of this Section 4.13(b) the City may use a 25 year level debt service amortization based on The Bond Buyer Revenue Bond Index for such term in effect on the first day of the Fiscal Year for calculating the annual principal and interest requirements on Outstanding Commercial Paper Notes.).

Section 4.14. No Additional Obligations to be Issued on a Parity with the Prior Lien Bonds - Obligations of Inferior Lien and Pledge. While any Commercial Paper Notes are outstanding, the City will not issue any additional obligations on a parity with the Prior Lien Bonds or create or issue evidences of indebtedness for any purpose with a lien on the Net Revenues of the System superior to the lien granted to the Parity Obligations. The City, however, retains the right to create and issue evidences of indebtedness whose lien on the Net Revenues of the System is on a parity with the lien granted to the Commercial Paper Notes, upon satisfaction of the condition specified in Section 4.15 hereof as well as to create and issue evidences of indebtedness whose lien on the Net Revenues shall be subordinate to that possessed by the Parity Obligations.

Section 4.15. Issuance of Additional Bonds. For as long as the Commercial Paper Notes are Outstanding and in addition to the right to issue obligations of inferior lien as authorized by the laws of the State of Texas, the City hereby reserves the right to issue additional parity obligations (“Additional Bonds”). The Additional Bonds, when issued, shall be payable from and secured by a lien on and pledge of the Net Revenues of the System in the same manner and to the same extent as the Outstanding Commercial Paper Notes, and the Outstanding Commercial Paper Notes and any Additional Bonds shall in all respects be of equal dignity. The Additional Bonds may be issued in one or more installments, provided, however, that none shall be issued unless and until the following conditions have been met:

(a) A certificate is executed by the Director of Financial Services (or other officer of the City having primary responsibility for the financial affairs of the City) to the effect that no default exists in connection with any of the covenants or requirements of the ordinances authorizing the issuance of all then Outstanding Parity Obligations;

(b) A certificate is executed by a certified public accountant to the effect that, in his or her opinion, the Net Revenues of the System either for the last complete Fiscal Year of the City, or for any 12 consecutive calendar month period ending not more than 90 days prior to the passage of the ordinance authorizing the issuance of such Additional Bonds were at least 1.25

times the annual principal and interest requirements (calculated on a Fiscal Year basis) for all then Outstanding Parity Obligations and for the installment or series of Additional Bonds then proposed to be issued (for purposes of this Section 4.15(b) the certificate of the certified public accountant may use a 25 year level debt service amortization based on The Bond Buyer Revenue Bond Index in effect on the date of calculation for calculating the annual principal and interest requirements associated with any Outstanding Parity Obligation Commercial Paper Notes.).

ARTICLE 5

EVENTS OF DEFAULT AND REMEDIES OF NOTEHOLDERS

Section 5.01. Events of Default. If one or more of the following events shall occur:

(a) if default shall be made in the due and punctual payment of any installment of principal of any Commercial Paper Note or any Prior Lien Bonds when and as the same shall become due and payable, whether at maturity as therein expressed, by declaration or otherwise;

(b) if the City shall fail to make due and punctual payment of any installment of interest on any Commercial Paper Note or any Prior Lien Bonds when and as such interest installment shall become due and payable and such failure shall continue for five (5) Business Days;

(c) if the principal of the Bank Note (and interest accrued thereon) shall become due and payable prior to the maturity thereof under the Bank Note and the Reimbursement Agreement;

(d) if default shall be made by the City in the performance or observance of any other of the covenants, agreements or conditions on its part contained in this Ordinance (other than a failure to comply with the provisions of Section 4.14 hereof for which no cure period shall exist) or in the Commercial Paper Notes, and such default shall continue for a period of sixty (60) days after written notice thereof; provided, however, that if such default cannot be cured within the sixty (60) day period but corrective action to cure such default is commenced and diligently pursued until the default is corrected, no such Event of Default shall be deemed to have occurred; or

(e) if there shall occur the dissolution (without a successor being named to assume the rights and obligations) or liquidation of the City or the filing by the City of a voluntary petition in bankruptcy, or adjudication of the City as a bankrupt, or assignment by the City for the benefit of its creditors, or the entry by the City into an agreement of composition with its creditors, or the approval by a court of competent jurisdiction with its creditors, or the approval by a court of competent jurisdiction of a petition applicable to the City in any proceeding for its reorganization instituted under the provisions of the Bankruptcy Code, as amended, or under any similar act in any jurisdiction which may now be in effect or hereafter enacted; then such-event as described above shall constitute an “Event of Default” under this Ordinance.

Section 5.02. Suits at Law or in Equity and Mandamus. In case one or more Events of Default shall occur, then and in every such case the Holder of any Note at the time outstanding shall be entitled to proceed to protect and enforce such Holder's rights by such appropriate judicial proceeding as such Holder shall deem most effectual to protect and enforce any such right, either by suit in equity or by action at law, whether for the specific performance of any covenant or agreement contained in this Ordinance, or in aid of the exercise of any power granted in this Ordinance, or to enforce any other legal or equitable right vested in the Holders of Notes by this Ordinance or the Notes or by law. The provisions of this Ordinance shall be a contract with each and every Holder of Notes and the duties of the City shall be enforceable by any Noteholder by mandamus or other appropriate suit, action or proceeding in any court of competent jurisdiction.

Section 5.03. Remedies Not Exclusive. No remedy herein conferred upon or reserved to the Holders of Notes is intended to be exclusive of any other remedy, and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing, at law or in equity or by statute or otherwise, and may be exercised at any time or from time to time, and as often as may be necessary, by the Holder of any one or more of the Notes.

ARTICLE 6

MISCELLANEOUS

Section 6.01. Amendments or Modifications Without Consent of Holders of Notes. This Ordinance and the rights and obligations of the City and of the Holders of Notes may be modified or amended at any time by a supplemental ordinance, without notice to or the consent of any Noteholders, but only to the extent permitted by law, and, subject to the rights of the Holders of the Notes, only for any one or more of the following purposes:

(a) to add to the covenants and agreements of the City contained in this Ordinance, other covenants and agreements thereafter to be observed, or to surrender any right or power herein reserved to or conferred upon the City;

(b) to cure any ambiguity or inconsistency, or to cure or correct any defective provision contained in this Ordinance, upon receipt by the City of an approving opinion of Bond Counsel selected by the City, that the same is needed for such purpose, and will more clearly express the intent of this Ordinance; or

(c) to supplement the security for the Notes, replace or provide additional credit facilities, make such changes, modifications or amendments as may be necessary or desirable in order to obtain the approval of this Ordinance by the Attorney General of Texas, or to obtain or maintain the granting of a rating on the Notes by a nationally recognized municipal bond rating agency, or change the form of the Notes, or make such other changes in the provisions hereof as the City may deem necessary or desirable and which shall not materially adversely affect the interests of the Holders of the Notes;

provided further, however, that nothing contained herein shall permit or be construed to permit the amendment of the terms and conditions of this Ordinance or of the Commercial Paper Notes so as to:

- (i) make any change in the maturity of any of the outstanding Commercial Paper Notes;
- (ii) reduce the rate of interest borne by any of the outstanding Commercial Paper Notes;
- (iii) reduce the amount of the principal payable on any of the outstanding Commercial Paper Notes;
- (iv) modify the terms of payment of principal of or interest on the outstanding Commercial Paper Notes, or impose any conditions with respect to such payment;
- (v) affect the rights of the Holders of less than all of the outstanding Commercial Paper Notes; or
- (vi) reduce or restrict the pledge made pursuant to **Section 2.11** hereof for payment of the Commercial Paper Notes;

and provided further that no such change, modification or amendment shall be made in this Ordinance or become valid and effective without the written consent of the Bank.

Section 6.02. Additional Actions. Any Authorized Representative, the City Secretary, and the other officers of the City, each are hereby authorized and directed, jointly and severally, to do any and all things and to execute and deliver any and all documents which they may deem necessary or advisable in order to consummate the issuance, sale and delivery of the Notes and otherwise to effectuate the purposes of this Ordinance, the Reimbursement Agreement, the Dealer Agreement, the Offering Memorandum and the Issuing and Paying Agent Agreement. Specifically, by the adoption of this Ordinance, the City Council hereby authorizes the payment of the fees and expenses incurred and to be paid by the City in connection with the issuance, sale and delivery of the Notes and the execution and delivery of the Reimbursement Agreement, the Dealer Agreement and the Issuing and Paying Agent Agreement. In addition, the Mayor, City Secretary, City Manager, and Director of Financial Services, any one or more of said persons, are hereby authorized and directed to approve any technical changes or corrections to this Ordinance or to any of the instruments authorized and approved by this Ordinance necessary in order to (i) correct any ambiguity or mistake or properly or more completely document the transactions contemplated and approved by this Ordinance and as described in the Offering Memorandum, (ii) obtain a rating from any of the national bond rating agencies, or (iii) obtain the approval of the Reimbursement Agreement and this Ordinance by the Attorney General's office.

Section 6.03. Ordinance to Constitute a Contract; Equal Security. In consideration of the acceptance of the Notes, the issuance of which is authorized hereunder, by those who shall hold the same from time to time, this Ordinance shall be deemed to be and shall constitute a contract between the City and the Holders from time to time of the Notes and the pledge made in

this Ordinance by the City, and the covenants and agreements set forth in this Ordinance to be performed by the City shall be for the equal and proportionate benefit, security and protection of all Holders of the Notes, without preference, priority or distinction as to security or otherwise of any of the Notes authorized hereunder over any of the others by reason of time of issuance, sale or maturity thereof or otherwise for any cause whatsoever, except as expressly provided in or permitted by this Ordinance or, with respect to the Bank Note, the Reimbursement Agreement.

Section 6.04. Severability of Invalid Provisions. If any one or more of the covenants, agreements or provisions herein contained shall be held contrary to any express provisions of law or contrary to the policy of express law, though not expressly prohibited, or against public policy, or shall for any reason whatsoever be held invalid, then such covenants, agreements or provisions shall be null and void and shall be deemed separable from the remaining covenants, agreements or provisions and shall in no way affect the validity of any of the other provisions hereof or of the Notes issued hereunder.

Section 6.05. Payment and Performance on Business Days. Whenever under the terms of this Ordinance or the Commercial Paper Notes, the performance date of any provision hereof or thereof, including the payment of principal of or interest on the Commercial Paper Notes, shall occur on a day other than a Business Day, then the performance thereof, including the payment of principal of and interest on the Commercial Paper Notes, need not be made on such day but may be performed or paid, as the case may be, on the next succeeding Business Day with the same force and effect as if made on the date of performance or payment.

Section 6.06. Defeasance. If, when all or any portion of the Commercial Paper Notes shall have become due and payable in accordance with their terms or otherwise as provided in this Ordinance, the entire principal and interest so due and payable upon said Commercial Paper Notes shall be paid, or if at or prior to the date said Commercial Paper Notes have become due and payable, (i) sufficient moneys, or (ii) direct obligations of, or obligations guaranteed by, the United States of America, the principal of and interest on which will provide sufficient moneys for such payment, or (iii) noncallable and non-prepayable obligations of an agency or instrumentality of the United States of America, including obligations that are unconditionally guaranteed or insured by the agency or instrumentality and are rated as to investment quality by a nationally recognized investment rating firm not less than AAA or its equivalent, the principal of and interest on which will provide sufficient moneys for such payment, or (iv) noncallable and non-prepayable obligations of a state or an agency or a county, municipality, or other political subdivision of a state that have been refunded and that are rated as to investment quality by a nationally recognized investment rating firm not less than AAA or its equivalent, the principal of and interest on which will provide sufficient moneys for such payment, shall be held in trust by the Issuing and Paying Agent, and provision shall also be made for paying all other sums payable hereunder by the City with respect to said Commercial Paper Notes and all other amounts payable under the Reimbursement Agreement, the pledge herein created with respect to said Commercial Paper Notes and the amounts payable under the Reimbursement Agreement shall thereupon cease, terminate and become discharged, and said Commercial Paper Notes shall no longer be deemed outstanding for purposes of this Ordinance, and all the provisions of this Ordinance relating to the Commercial Paper Notes, including all covenants, agreements, liens and pledges made herein for the benefit thereof, shall be deemed duly discharged, satisfied and released.

Section 6.07. Limitation of Benefits with Respect to the Ordinance. With the exception of the rights or benefits herein expressly conferred, nothing expressed or contained herein or implied from the provisions of this Ordinance or the Notes is intended or should be construed to confer upon or give to any person other than the City, the Holders of the Notes, the Issuing and Paying Agent and the parties to the Dealer Agreement and the Reimbursement Agreement, any legal or equitable right, remedy or claim under or by reason of or in respect to this Ordinance or any covenant, condition, stipulation, promise, agreement or provision herein contained. This Ordinance and all of the covenants, conditions, stipulations, promises, agreements and provisions hereof are intended to be and shall be for and inure to the sole and exclusive benefit of the City, the Holders of the Notes, the Issuing and Paying Agent and the parties to the Dealer Agreement and the Reimbursement Agreement as herein and therein provided.

Section 6.08. Use of Offering Memorandum. The use by the Dealer of the Offering Memorandum, prepared by the Dealer in connection with the sale of Commercial Paper Notes, and the distribution of the Offering Memorandum by the Dealer, is approved, subject to the approval thereof by an Authorized Representative. The Offering Memorandum shall be updated (i) annually on any date which is not more than six (6) months after the end of the City's Fiscal Year and (ii) as often as necessary to reflect information regarding the City and its finances which, in the reasonable judgment of the Dealer, may be material to investors in the Notes. Any Authorized Representative is hereby authorized to provide to the Dealer such information as may be reasonably requested by the Dealer.

Section 6.09. Approval of Attorney General. No Notes herein authorized to be issued shall be sold or delivered by an Authorized Representative until the Attorney General of the State of Texas shall have approved this Ordinance, the Reimbursement Agreement, and other agreements and proceedings as may be required in connection therewith, all as is required by the Act.

Section 6.10. Incorporation of Recitals. The Issuer hereby finds that the statements set forth in the recitals of this Ordinance are true and correct, and the Issuer hereby incorporates such recitals as a part of this Ordinance.

Section 6.11. Severability. If any provision of this Ordinance or the application thereof to any circumstance shall be held to be invalid, the remainder of this Ordinance and the application thereof to other circumstances shall nevertheless be valid, and this governing body hereby declares that this Ordinance would have been enacted without such invalid provision.

Section 6.12. Public Meeting. It is officially found, determined, and declared that the meeting at which this Ordinance is adopted was open to the public, and public notice of the time, place, and subject matter of the public business to be considered at such meeting, including this Ordinance, was given, all as required by V.T.C.A., Government Code, Chapter 551, as amended.

Section 6.13. Effective Date. This Ordinance shall be in full force and effect from and after its passage on the date shown below and it is so ordained.

[Remainder of page left blank intentionally]

PASSED AND ADOPTED, this ____ day of _____, 2012.

CITY OF GARLAND, TEXAS

Mayor

ATTEST:

City Secretary

(City Seal)

Exhibit A
MASTER NOTE

Exhibit B

REIMBURSEMENT AGREEMENT

Exhibit C
FEE AGREEMENT

Exhibit D

ISSUING AND PAYING AGENT AGREEMENT

Exhibit E
DEALER AGREEMENT

Section 2: Except as hereby amended and modified, all of the provisions of Ordinance 6572 are hereby ratified and confirmed as of September 18, 2012, the date of the adoption of Ordinance 6572.

Section 3: It is officially found, determined, and declared that the meeting at which this Ordinance is adopted was open to the public and public notice of the time, place, and subject matter of the public business to be considered at such meeting, including this Ordinance, was given, all as required by V.T.C.A., Government Code, Chapter 551, as amended.

Section 4: This Ordinance shall take effect and be in full force from and after its adoption on the date shown below in accordance with V.T.C.A., Government Code, Section 1201.028, as amended.

PASSED AND ADOPTED, this ____ day of _____, 2012.

CITY OF GARLAND, TEXAS

Mayor

ATTEST:

City Secretary

(City Seal)

AMENDED AND RESTATED ISSUING AND PAYING AGENT AGREEMENT

This Amended and Restated Issuing and Paying Agent Agreement, dated as of November 1, 2012 (the "Agreement"), is by and between the City of Garland, Texas, a municipal corporation duly organized and existing under the laws of the State of Texas (the "City") and Deutsche Bank National Trust Company, a banking corporation with trust powers duly organized and existing under the laws of the United States of America and authorized to do business in the State of Texas (the "Bank") amends and restates in its entirety the Issuing and Paying Agent Agreement, dated as of September 1, 2012 by and between the parties hereto.

RECITALS

WHEREAS, the City has duly authorized and provided for the issuance of "City of Garland, Texas, Electric Utility System Commercial Paper Notes, Series 2012A" in an aggregate principal amount not to exceed \$67,500,000 (the "Commercial Paper Notes") pursuant to an ordinance adopted by the City on September 18, 2012, as amended from time to time (the "Ordinance"), and, in conjunction with the issuance and sale of such securities for and on behalf of the City, the Bank has agreed to act (i) as depository for the safekeeping of such Commercial Paper Notes, (ii) as issuing agent on behalf of the City in connection with the issuance of such Commercial Paper Notes, (iii) as paying agent to undertake certain obligations to make payments in respect of the Commercial Paper Notes, and (iv) as a registrar in relation to the registration, payment, transfer, and exchange of the Commercial Paper Notes; now, therefore, the City and the Bank hereby mutually agree as follows:

Section 1. Appointment of Agent. The City hereby appoints the Bank and the Bank hereby agrees to act, on the terms and conditions specified herein and in the Ordinance, as custodian and issuing and paying agent for the Commercial Paper Notes. Additionally, the selection and appointment of the Bank to serve as Paying Agent/Registrar for the Commercial Paper Notes is hereby confirmed, and the City covenants and agrees to keep and maintain at the office of the Bank set forth in Section 12(b) hereof so long as the Bank serves such function of Paying Agent/Registrar appropriate books and records (the "Registration Books") relating to the registration, payment, transfer and exchange of the Commercial Paper Notes, all as provided herein and in accordance with such reasonable rules and regulations as the Bank as Paying Agent/Registrar may prescribe. For purposes of satisfying the requirements of Vernon's Texas Codes Annotated ("V.T.C.A."), Government Code, Section 1203.021(b)(2), as amended, the City designates itself as a "registrar" and shall maintain a copy of the Registration Books within the State of Texas.

The Commercial Paper Notes will initially be issued in book-entry form ("Book-Entry Notes") with the aggregate of all such obligations evidenced by Master Notes ("Master Notes") in substantially the form set forth in the Ordinance. Pursuant to the Ordinance, the City may elect to terminate issuing the Commercial Paper Notes in book-entry form in which case they shall be issued in certificated form evidenced by individual certificates ("Certificated Notes"). The Commercial Paper Notes will be sold through such commercial paper dealer or dealers as the City shall have selected and identified to the Bank in writing from time to time (the "Dealer"). The Dealer currently is Barclays Capital Inc.

To provide liquidity support for the payment of principal of and interest due on Commercial Paper Notes, the City has entered that certain Reimbursement Agreement by and between the City and Sumitomo Mitsui Banking Corporation (the "Liquidity Provider"), dated as of September 1, 2012 (the "Reimbursement Agreement") pursuant to which the Liquidity Provider has issued its irrevocable direct pay letter of credit (the "Letter of Credit"). In the Ordinance, the City has reserved the right to change the bank providing a credit facility or a liquidity facility with respect to the Commercial Paper Notes, which change is subject to the notice provisions set forth in the Ordinance and herein. Prior to the effective date of the new credit or liquidity facility, all Commercial Paper Notes issued that are secured by the then-existing Letter of Credit shall have matured or appropriate provisions shall have been made for their payment at maturity. As covenanted in the Ordinance, while any Commercial Paper Notes are outstanding, the City will maintain credit or liquidity facilities with banks in amounts such that, assuming that all then outstanding Commercial Paper Notes were to become due and payable immediately, the amount available for borrowing under such facilities would be sufficient at that time to pay principal of and interest on all Commercial Paper Notes.

Section 2. Book-Entry-Only System. Pursuant to Section 2.02 of the Ordinance, the City has determined initially to issue the Commercial Paper Notes in book-entry-only form through The Depository Trust Company ("DTC") for delivery and settlement of the Commercial Paper Notes. The City shall provide the Bank and DTC an executed Book-Entry-Only Municipal Tax-Exempt Commercial Paper (TECP) (Master Note) Letter of Representations (the "Letter of Representations") and the Bank shall provide to DTC an executed Exhibit A to the existing Deutsche Bank National Trust Company Money Market Instrument Certificate Agreement (the "Certificate Agreement"), and either or both the City and the Bank shall provide such other appropriate agreements, that establish or will establish, among other things, the procedures to be followed by the Bank in connection with the issuance and custody of the Commercial Paper Notes in book-entry form. The Bank and the City agree to comply with the relevant portions of DTC's Commercial Paper Issuing and Paying Agent Manual and the DTC Same Day Settlement System Rules (collectively, the "DTC Rules"). The City's obligations under the Commercial Paper Notes issued in book-entry form shall be evidenced by Master Notes substantially in the form attached to the Letter of Representations or other such agreement with DTC.

Section 3. Supply of Commercial Paper Notes. The City will from time to time, and prior to the date that Commercial Paper Notes are first issued, furnish the Bank with an adequate supply of Commercial Paper Notes, which shall be Master Notes and/or Certificated Notes, as the City in its sole and absolute discretion considers appropriate. Book-Entry Notes shall be represented by one or more Master Notes, which shall be executed by manual or facsimile signature by an Authorized Representative (as hereafter defined) in accordance with the Letter of Representations. Certificated Notes shall be serially numbered and shall have been executed by manual or facsimile signature of an Authorized Representative, with the principal amount, payee, date of issue, maturity date, amount of interest (if an interest-bearing Commercial Paper Note), and maturity value left blank. Pending receipt of instructions pursuant to this Agreement, the Bank will hold the Commercial Paper Notes in safekeeping for the account of DTC in accordance with the requirements of the Certificate Agreement or other such agreement prescribed by DTC and, in the event Certificated Notes are used, for the account of the City in

accordance with its customary practice. The Certificated Notes shall be printed on a manifold that will produce one original and three non-negotiable copies.

Section 4. Authorized Representatives. From time to time, the City will furnish the Bank with a certificate or certificates, substantially in the form attached hereto as **Exhibit A**, certifying the incumbency and specimen signatures of officers or agents of the City authorized to execute Commercial Paper Notes on behalf of the City by manual or facsimile signature and/or to take other action hereunder on behalf of the City (each an “Authorized Representative”). Until the Bank receives a subsequent incumbency certificate of the City, it shall be entitled to conclusively rely upon the last such certificate delivered to the Bank for purposes of determining the Authorized Representatives. The Bank shall not have any responsibility to the City to determine by whom or by what means a facsimile signature may have been affixed on the Commercial Paper Notes, or to determine whether any facsimile or manual signature resembles the specimen signature(s) filed with the Bank by a duly authorized officer of the City. Any Commercial Paper Notes bearing the manual or facsimile signature of a person who is an Authorized Representative on the date such signature is affixed shall be binding on the City after the authentication thereof by the Bank notwithstanding that such person shall have died or shall have otherwise ceased to hold his office on the date such Commercial Paper Note is countersigned or delivered to the Bank.

Section 5. Completion, Authentication, and Delivery of Commercial Paper Notes.
(a) Instructions for the issuance of Commercial Paper Notes (the “Instructions”) will be given via the dbNoteline issuance system (“dbNoteline” or the “System”), as such System is substantially described herein in Section 6, if available, or in writing (which may be by facsimile or electronic message) either by an Authorized Representative, or by any officer or employee of a Dealer who has been designated by an Authorized Representative in writing to the Bank as a person authorized to give such Instructions hereunder (each an “Authorized Dealer Representative”), provided that Instructions may be given in writing if the System is unavailable or is inoperative, and provided further that the Bank will not issue Commercial Paper Notes in an amount that would cause the total amount of the Commercial Paper Notes previously issued and currently outstanding (after taking into account the Commercial Paper Notes paid or to be paid on such proposed issuance date) plus interest to accrue thereon plus the amount of any unpaid Drawing (as defined in the Reimbursement Agreement) made pursuant to the Letter of Credit to exceed the Initial Stated Amount (as defined in the Reimbursement Agreement) and that would mature less than three (3) Business Days (as defined in the Ordinance) prior to the expiration of the Letter of Credit. Provided, that should there be any extension of the Letter of Credit, the Bank shall be given written notice of such extension within ten (10) Business Days of the agreement upon such extension. Upon receipt of Instructions as described in this Section, the Bank will withdraw the necessary Commercial Paper Note(s) from safekeeping and, in accordance with such Instructions, shall, (i) in the case of Book-Entry Notes, cause the issuance of such Book-Entry Notes in the manner set forth in, and take such other actions as are required by, the Letter of Representations and the Certificate Agreement, or other such agreement, or, (ii) in the case of Certificated Notes:

- (1) complete each Certificated Note as to principal amount (which shall not be less than \$100,000 and integral multiples of \$1,000 in excess of such amount or which, collectively with the outstanding Commercial Paper Notes (in

any form) will not exceed \$67,500,000 in principal), payee, date of issue, maturity date (which shall not be more than 270 days from the date of issue), amount of interest (calculated at a rate of interest that shall never exceed the maximum interest rate allowed by V.T.C.A., Government Code, Chapter 1204, as amended, and which statutory maximum interest rate is, as of the date of this Agreement, a net effective interest rate of fifteen percent (15.00%) per annum), and maturity value; and

(2) manually countersign each Certificated Note by any one of the Bank's officers or employees who are duly authorized and designated for such purpose; and

(3) deliver the Certificated Note(s) to the appropriate Dealer or its agent within the Borough of Manhattan and the State of New York, which delivery shall be against receipt for payment as herein provided or as otherwise provided in such Instructions. (If such instructions do not provide for such receipt, such Dealer shall nevertheless pay the purchase price for the Certificated Note(s) (in accordance with Section 7 hereof.)) Of the three (3) non-negotiable copies of each Commercial Paper Note, two shall be retained by the Bank and one shall be sent promptly to the City.

(b) Instructions given via the System must be entered by 11:00 A.M., New York time, for physical issuance and 11:30 A.M., New York time, for book-entry issuance, and Instructions delivered in writing (which may be by facsimile or electronic message) must be received by the Bank by 11:30 A.M., New York time, if the Commercial Paper Note(s) are to be delivered the same day. The City understands and agrees that the Bank shall have no obligation to act on Instructions, deliver Commercial Paper Notes, or take any other action on any day that the Bank is not open for business.

(c) The City understands that although the Bank has been instructed to deliver Commercial Paper Notes against payment, delivery of Certificated Notes will, in accordance with the custom prevailing in the commercial paper market, be made before receipt of payment in immediately available funds. Therefore, once the Bank has delivered a Certificated Note to a Dealer or its agent as provided in Section 5(a)(3) hereof, the City shall bear the risk that a Dealer or its agent fails to remit payment for the Certificated Note to the Bank. It is understood that each delivery of Commercial Paper Notes hereunder shall be subject to the payment, clearance, and settlement rules of the New York Clearing House Association L.L.C. in effect at the time of such delivery.

(d) If the Bank, at its option, acts upon Instructions transmitted after the times specified in Section 5(b) hereof on the day on which the Instructions are to be operative, the City understands and agrees that (i) such Instructions shall be acted upon, on a best efforts basis, by the Bank pursuant to the custom and practice of the commercial paper market, and (ii) the Bank makes no representations or warranties that the issuance and delivery of any Commercial Paper Note(s) pursuant to Section 5 hereof shall be completed prior to the close of business on the issue date specified in the Instructions.

Section 6. The dbNoteline System of Instruction Transmittal. The City is granted a personal, non-transferable and non-exclusive right to use the instruction and reporting communication service dbNoteline to transmit through the dbNoteline System Instructions made pursuant to Section 5 hereof. The City may, by separate agreement between the City and one or more of its agents, authorize the agent (in each case other than the Bank) to directly access dbNoteline for the purposes of transmitting Instructions to the Bank or obtaining reports with respect to the Commercial Paper Notes.

The City acknowledges that (a) some or all of the services utilized in connection with dbNoteline are furnished by SS&C (“SS&C”), (b) dbNoteline is provided to the City “AS IS” without warranties or representations of any kind whatsoever by SS&C or the Bank, and (c) dbNoteline is proprietary and confidential property disclosed to the City in confidence and only on the terms and conditions and for purposes set forth in this Agreement.

By this Agreement, the City acquires no title, ownership or sublicensing rights whatsoever in dbNoteline or in any trade secret, trademark, copyright or patent of the Bank or SS&C now or to become applicable to dbNoteline. The City may not transfer, sublicense, assign, rent, lease, convey, modify, translate, convert to a programming language, decompile, disassemble, recirculate, republish, or redistribute dbNoteline for any purpose without the prior written consent of the Bank and, when necessary, SS&C.

In the event (a) any action is taken or threatened that may result in a disclosure or transfer of dbNoteline or any part thereof, other than as authorized by this Agreement, or (b) the use of any trademark, trade name, service mark, service name, copyright or patent of the Bank or SS&C by the City amounts to unfair competition, or otherwise constitutes a possible violation of any kind, then the Bank and/or SS&C shall have the right to take any and all action deemed necessary to protect their rights in dbNoteline, and to avoid the substantial and irreparable damage which would result from such disclosure, transfer or use, including the immediate termination of the City’s right to use dbNoteline.

To permit the use of dbNoteline to issue Instructions and/or obtain reports with respect to the Commercial Paper Notes, the Bank will supply the City with an identification number and initial passwords. From time to time thereafter, the City may change its passwords directly through dbNoteline. The City will keep all information relating to its identification number and passwords strictly confidential and will be responsible for the maintenance of adequate security over its customer identification number and passwords. For security purposes, the City should change its passwords frequently (at least once a year).

Instructions transmitted over dbNoteline and received by the Bank pursuant to Section 5 hereof accompanied by the City’s identification number and the passwords, shall be deemed conclusive evidence that such Instructions are correct and complete and that the issuance or redemption of the Commercial Paper Note(s) directed thereby has been duly authorized by the City.

Section 7. Accounts and Funds; Proceeds of Sale of the Commercial Paper Notes. Contemporaneously with the execution and delivery of this Agreement, and for the purposes of this Agreement, the City will establish pursuant to Section 2.09 of the Ordinance a clearing

account designated as the “City of Garland, Texas Electric Utility Note Clearance Account” (the “Note Clearance Account”). As set forth in the Ordinance, at the close of business on each Calculation Date (as defined in the Ordinance), the City shall cause to be credited to the Note Clearance Account from proceeds received from the sale of the Commercial Paper Notes or Net Revenues (as defined in the Ordinance) in the amount required pursuant to Section 2.09 of the Ordinance. The Bank agrees to establish and maintain at the Bank for the benefit of the City, the Liquidity Provider, and the holder of any Commercial Paper Note, a “City of Garland, Texas Electric Utility Note Payment Interest and Sinking Fund” (the “Note Payment Fund”).

In accordance with the Dealer Agreement (currently between the Dealer and the City and dated as of September 1, 2012, but meaning any Dealer Agreement as may be entered into from time to time by the City and a Dealer and with respect to the Commercial Paper Notes), by 11:00 A.M., New York time, on the date that Commercial Paper Notes are maturing and new Commercial Paper Notes are to be issued to pay the principal of and interest on the maturing Commercial Paper Notes (if such date is a Business Day and if not then on the next corresponding Business Day), the Dealer or its agent shall either (i) confirm in writing to the Bank and the City the sale of Commercial Paper Notes (to an investor other than the Dealer or to the Dealer) and or (ii) provide written notice to the Bank and the City of the Dealer’s inability to sell any or all of the Commercial Paper Notes intended to be issued, sold and delivered that day.

The Bank shall, in response to the confirmation and/or notice in (i) and (ii) in the preceding paragraph of this Section 7 and the Instructions, issue Commercial Paper Notes as set forth in Section 5 hereof (or pursuant to any succeeding procedures which may be developed and agreed to by the parties).

On each day on which a Dealer or its agent receives Commercial Paper Notes (whether through the facilities of DTC in the manner set forth in the Letter of Representations, or other agreement relating to the book-entry-only system, or by delivery in accordance with Section 5(a)(3) hereof), the Bank, upon receipt of funds from the Dealer, shall deposit the proceeds of sale of the Commercial Paper Notes (“Proceeds”) in immediately available funds to the credit of the Note Clearance Account. As set forth in the Ordinance, Proceeds (net of all expenses and costs of sale and issuance) and other amounts credited to the Note Clearance Account pursuant to the Ordinance shall be applied by the Bank for any or all of the following purposes, in the following order (such application to be made on the date the applicable amount is due) : (i) first, for the reimbursement to the Liquidity Provider of any Drawing under the Letter of Credit, (ii) second, for the payment of the principal of and interest on Commercial Paper Notes, if any, due on such date to the extent such payment is not made from the Proceeds of the sale of Commercial Paper Notes or a Drawing under the Letter of Credit, (iii) third, to the payment to the Liquidity Provider of any outstanding Advance (as defined in the Ordinance), and (iv) for the payment of any other amount due the Liquidity Provider under the Reimbursement Agreement. Proceeds not withdrawn from the Note Clearance Account and expended as provided in (i) and (ii) above minus any moneys remaining in the Note Clearance Account as a result of an owner’s failure to present a Commercial Paper Note for payment at maturity shall, on the next Business Day following the Payment Date (as defined herein), be transferred and deposited to the “City of Garland, Texas Electric Utility System Commercial Paper Notes, Series 2012, Note Construction Account” (the “Note Construction Account”) (created and established pursuant to the Ordinance) and used and applied by the City in accordance with the provisions of

the Ordinance. Provided, that the foregoing sequence shall not apply to the City's initial issuance of Commercial Paper Notes ("Initial Draw"); such Proceeds of such Initial Draw (net of all expenses and costs of sale and issuance) shall be immediately transferred and deposited to the City's Note Construction Account. Proceeds deposited to the Note Clearance Account and allocated to the repayment of Drawings made under the Letter of Credit shall be separately accounted for in a subaccount within the Note Clearance Account hereby created and to be known as the "Credit Account" and shall be held therein uninvested until such amounts are disbursed for the repayment of any Drawing.

Section 8. Payment of Matured Commercial Paper Notes. (a) Pursuant to a timely transmitted demand for payment (as described in the Letter of Credit and in Section 8(b) hereof), and by 1:30 P.M., New York time, on the date that any Commercial Paper Notes are scheduled to mature, the Liquidity Provider shall have transferred to the Bank for deposit in the Note Payment Fund in immediately available funds an amount at least equal to the principal amount of and accrued interest on the Commercial Paper Notes maturing on such date. When any matured Commercial Paper Note is presented to the Bank for payment by a nominee of DTC pursuant to the Certificate Agreement, the payment of the principal thereof and interest thereon shall be made from and charged to the Note Payment Fund to the extent funds sufficient to effect such payment are available in said account.

(b) While the Commercial Paper Notes are secured by the Reimbursement Agreement, the Bank shall make timely payments of the principal of and interest due on the Commercial Paper Notes from funds available in the Note Payment Fund received from Drawings made under the Reimbursement Agreement for the purpose of paying principal of and interest on maturing Commercial Paper Notes. In connection with the timely payment of the principal of and interest on the maturing Commercial Paper Notes, the Bank acting as the agent of the City, shall make demands for payment under the Letter of Credit, which payments by the Liquidity Provider are referred to therein and herein as "Drawings," in strict conformity with the Letter of Credit, on or before each date any Commercial Paper Notes are to mature (the "Payment Date"), to enable the Liquidity Provider under the Letter of Credit to receive such demands for payment before 10:30 a.m., New York time on or before such Payment Date in accordance with the Letter of Credit. All Drawings received under the Letter of Credit pursuant to any demand for payment thereunder shall be deposited into the Note Payment Fund and applied solely to the payment of the principal amount of and interest accrued on the maturing Commercial Paper Notes. Funds representing any Drawing made under the Letter of Credit and deposited to the Note Payment Fund shall be maintained in the Credit Account. After receipt of a Notice of No Issuance (as such term is defined in the Letter of Credit and attached in the form of Annex F of the Letter of Credit) the Bank will not complete, authenticate and deliver any Commercial Paper Notes pursuant to Section 5 hereof unless and until the Bank receives a notice rescinding such Notice of No Issuance. Furthermore, upon receipt of a Final Drawing Notice (as such term is defined in the Letter of Credit and attached as Annex H of the Letter of Credit), the Bank shall immediately make a demand for payment under the Letter of Credit for the purpose of paying principal of and interest on the outstanding Commercial Paper Notes and will not complete, authenticate or deliver any Commercial Paper Notes after the receipt of the Final Drawing Notice.

(c) If for any reason such funds in the Note Payment Fund (other than funds in the Credit Account) are not disbursed on a scheduled Payment Date and are not to be transferred for deposit into the Note Construction Account then such moneys in said Note Payment Fund retained therein shall be invested only in direct obligations of the United States of America. Proceeds of investment shall be deposited to the Note Payment Fund for payment of the interest on and principal of matured Commercial Paper Notes.

(d) The Bank shall have no obligation to pay, at maturity, the amount referred to in this Section 8 unless sufficient funds have been received by the Bank in collected funds. If the Bank, at its sole option, makes any such payment that results in an overdraft in any account of the City, the amount of such overdraft shall be considered a loan to the City (a "Sufficiency Advance"). The City agrees to pay the Bank on demand interest on any Sufficiency Advance made at the rate charged by the Liquidity Provider for Drawings made by the Liquidity Provider under the Letter of Credit until the City (or the Bank acting as the City's agent) can secure a Drawing under the Letter of Credit or the City otherwise makes arrangements to repay the Sufficiency Advance.

Section 9. Reliance on Instructions. Except as otherwise set forth herein, the Bank shall incur no liability in acting hereunder upon written, facsimile, or electronic message Instructions contemplated hereby, including but not limited to Instructions received in connection with the issuance of Commercial Paper Notes, which the recipient thereof reasonably believed in good faith to have been given by an Authorized Representative or an Authorized Dealer Representative, as the case may be. In addition, in the event that the City currently or in the future utilizes a trading system that produces issuance instructions that do not include signatures or initials, the Bank may conclusively rely upon such instructions absent such signatures or initials.

Section 10. Cancellation of Commercial Paper Notes. After payment of any matured Book-Entry Note, the Bank shall annotate its records to reflect the face amount of Book-Entry Notes outstanding in accordance with the Letter of Representations. In the event Certificated Notes are issued, the Bank will in due course cancel and destroy Certificated Note(s) presented for payment and furnish the City with an affidavit of cancellation and destruction. Promptly upon the written request of the City, the Bank agrees to cancel and return to the City all unissued Commercial Paper Notes in its possession at the time of such request.

Section 11. Substitution of Letter of Credit. The City hereby agrees to provide written notice to the Bank of the proposed substitution of the Letter of Credit not less than 45 days in advance of such proposed substitution. The Bank hereby agrees to send written notice of such proposed substitution of the Letter of Credit and the effective date of such substitution by first class mail to all owners of any outstanding Notes to be secured by such substitute Letter of Credit, DTC, and the Dealer within 30 days of the receipt of such notice from the City. A substitution of the Letter of Credit will not be effective until the City obtains a confirmation of no rating change from the rating agencies then providing a rating on the Commercial Paper Notes.

Section 12. Notices; Addresses. (a) All communications by or on behalf of the City or a Dealer, relating to the completion, delivery, or payment of the Commercial Paper Note(s)

are to be directed to the Bank's Commercial Paper Issuance Unit of the Corporate Trust Division (or such other department or division which the Bank shall specify in writing to the City and the Dealer), which address information and telephone/facsimile numbers are provided in Section 12(b), below. The City will send all Commercial Paper Notes to be completed and delivered by the Bank to its Commercial Paper Issuance Unit of the Corporate Trust Division (or such other department or divisions the Bank shall specify in writing to the City), which address information and telephone/facsimile numbers are provided in Section 12(b), below. The Bank will advise the City and the Dealer from time to time in writing of the individuals generally responsible for the administration of this Agreement and will from time to time certify incumbency and specimen signatures of officers or employees authorized to countersign Commercial Paper Notes.

(b) Notices and other communications hereunder, including issuance Instructions, shall (except to the extent otherwise expressly provided) be in writing (which may be by facsimile) and shall be addressed as follows, or to such other address as the party receiving such notice shall have previously specified to the party sending such notice:

if to the City, at:

concerning daily issuance of Commercial Paper Notes:

City of Garland, Texas
200 North Fifth
Garland, Texas 75040
Attention: David Schuler, Director of Financial Services
Telephone Number: (972) 205-2355
Facsimile Transmission Number: (972) 205-2810

if to the Bank, at:

concerning daily issuance of Commercial Paper Notes and all other matters:

Deutsche Bank National Trust Company
Global Transaction Banking
100 Plaza One, 6th Floor
MS: JCY03-0699
Jersey City, New Jersey 07311
Attention: Debra A. Schwalb
Telephone Number: (201) 593-2511
Facsimile Transmission Number: (201) 860-4520

(c) Reasonable notice shall be given by the City to each and every rating agency then rating the Commercial Paper Notes of: the issuance of Commercial Paper Notes; the adoption or execution of any amendment to the Ordinance, the Reimbursement Agreement, or this Agreement; any change in any party to the Reimbursement Agreement, the Dealer Agreement or this Agreement or the addition of any Dealer; any termination or extension of the Reimbursement Agreement or the substitution of the Reimbursement Agreement with another credit facility or facilities; and any full or partial defeasance of Commercial Paper Notes made in accordance with the Ordinance. As of the date of this Agreement, the rating agencies rating or expected to be rating the Commercial Paper Notes are as follows:

Fitch, Inc.
One State Street Plaza
New York, New York 10004
Attention: Municipal Structured Finance
Telephone Number: 212/908-0689
Facsimile Transmission Number: 212/480-4421

Standard & Poor's Ratings Services, a Standard &
Poor's Financial Services LLC business
500 N. Akard, Suite 3200
Dallas, Texas 75201
Telephone Number: 214/871-1401
Facsimile Transmission Number: 214/871-1409

Notices shall be deemed delivered when received at the address(es) specified above. For purposes of this paragraph, "when received" shall mean actual receipt (i) of an electronic communication by a telex machine, telecopier or issuance system specified in or pursuant to this Agreement; or (ii) of a written communication sent via facsimile or hand-delivered at the office specified in or pursuant to this Agreement.

Section 13. Additional Information. Upon the request of the City given at any time and from time to time, the Bank shall promptly provide the City with information with respect to the Commercial Paper Note(s) issued and paid hereunder. Such request shall be in written form and, to the extent known by the City, shall include the serial number, principal amount, date of issue, maturity date and amount of interest, if any, of each Commercial Paper Note which has been issued or paid by the Bank and for which the request is being made.

Section 14. Liability. Neither the Bank nor any of the Bank's officers, employees, or agents shall be liable for any losses, damages, liabilities, or costs suffered or incurred by the City as a result of (a) the Bank's having executed Instructions, (b) the Bank's improperly executing or failing to execute any Instructions because of unclear Instructions, failure of communications media, or any other circumstances beyond the Bank's control, (c) the actions or inaction of DTC, any agent or any broker, dealer, cosignee, or agent not selected by the Bank, or (d) any other acts or omissions of the Bank (or any of its agents or correspondents) relating to this Agreement or the transactions or activities contemplated hereby, except in the case of negligence or willful misconduct as determined by the final judgment of a court of competent jurisdiction within the State of Texas, no longer subject to appeal or review. The Bank's duties and obligations and those of its officers and employees shall be determined by the express provisions of this Agreement, the Letter of Representations, and the Certificate Agreement (or other agreement executed in connection with the book-entry only system, including the documents referred to in such agreements), and they shall not be liable except for the performance of such duties and obligations as are specifically set forth herein and therein, and no implied covenants or obligations shall be read into any such document against them. Neither the Bank nor any of its officers or employees shall be required to ascertain whether any issuance or sale of Commercial Paper Note(s) (or any amendment or termination of this Agreement) has been duly authorized or is in compliance with any other agreement to which the City is a party (whether or not the Bank is a party to such other agreement).

Section 15. **INDEMNIFICATION.** TO THE EXTENT PERMITTED BY LAW, THE CITY AGREES TO INDEMNIFY AND DEFEND AND HOLD THE BANK AND ITS OFFICERS, DIRECTORS, EMPLOYEES, AND AGENTS HARMLESS FROM AND AGAINST ALL LIABILITIES, CLAIMS AND SUITS (REGARDLESS OF THEIR MERIT), DAMAGES, LOSSES, PENALTIES, STAMP AND OTHER SIMILAR TAXES, JUDGMENTS, COSTS, AND EXPENSES (INCLUDING REASONABLE LEGAL FEES AND EXPENSES) DIRECTLY OR INDIRECTLY RELATING TO OR ARISING OUT OF THEIR ACTIONS OR INACTION IN CONNECTION WITH THIS AGREEMENT, EXCEPT TO THE EXTENT THEY ARE CAUSED BY THE BANK OR ITS OFFICERS, AGENTS, OR EMPLOYEES, OR THEIR NEGLIGENCE OR WILLFUL MISCONDUCT. THIS INDEMNITY SHALL SURVIVE TERMINATION OF THIS AGREEMENT.

Section 16. **Benefit of Agreement.** This Agreement is solely for the benefit of the parties hereto and the Liquidity Provider, and no other person shall acquire or have any right under or by virtue hereof.

Section 17. **Termination.** This Agreement may be terminated at any time by either the Bank or the City by fifteen (15) days prior written notice to the other. If no successor issuing and paying agent shall have been selected by the City and accepted its appointment within fifteen (15) days after the giving of such notice of termination, the Bank may petition any court of competent jurisdiction for the appointment of a successor. Unless and until a successor issuing and paying agent is appointed, the Bank shall continue to perform all of its duties and functions under this Agreement. All rights, duties, and obligations of the Bank under the Ordinance, the Reimbursement Agreement, and this Agreement will be assigned to the successor. Such termination shall not affect the respective liabilities of the parties hereunder arising prior to such termination. Upon an early termination of this Agreement, the Bank agrees to promptly transfer and deliver the Reimbursement Agreement, together with the other pertinent, documents, books and records relating to the Commercial Paper Notes, to the successor issuing and paying agent designated and appointed by the City.

Section 18. **Governing Law.** This Agreement is to be delivered and performed in, and shall be construed and enforced in accordance with, and the rights of the parties shall be governed by, the laws of the State of Texas; provided, however, that the Bank's obligations, rights, protections, immunities, and indemnities hereunder shall be governed by and construed in accordance with the internal laws of the State of New York, and as applicable, both the Bank and the City shall fully comply with the operating circulars of the Federal Reserve Bank, federal laws and regulations as amended, New York Clearing House Rules, the DTC Rules, and general commercial bank practices applicable to commercial paper issuance and payment, funds transfer, and related activities.

Section 19. **Fees and Expenses.** The Bank shall receive fees from the City for acting as Issuing and Paying Agent and as Registrar hereunder in such amounts as the Bank and the City shall agree to from time to time in writing. The City will pay or reimburse the Bank upon receipt of the Bank's invoice for all reasonable expenses, disbursements, and advances incurred or made by the Bank in good faith and in accordance with any of the provisions hereof or any other documents executed in connection herewith (including the reasonable expenses and

disbursements of its counsel and of all persons not regularly in its employ). The City's obligations under this Section 19 to compensate the Bank and to pay or reimburse the Bank for reasonable expenses, disbursements and advances made in good faith shall survive the termination of this Agreement.

Section 20. Legal Counsel. The Bank may consult with legal counsel and the written advice or any opinion of legal counsel shall be full and complete authorization and protection with respect to any action taken, suffered or omitted by the Bank hereunder in good faith and in reliance thereon.

Section 21. Representations and Warranties of the City. The City represents and warrants as follows:

(a) The Ordinance is in full force and effect, and, accordingly, the City has taken all necessary action and has full power to enter into this Agreement and to issue and deliver the Commercial Paper Notes;

(b) This Agreement when executed and the Commercial Paper Notes when issued in accordance with the Instructions or otherwise pursuant to the terms of this Agreement will be legal, valid, and binding obligations of the City, enforceable against the City in accordance with their terms, subject to bankruptcy, insolvency, fraudulent transfer, reorganization, moratorium, other laws of general applicability relating to or affecting creditors' rights and to general equity principals, and any other laws including judge-made law generally or specifically applicable to the City which may limit the obligations of the City under the Ordinance, the Reimbursement Agreement, or this Agreement;

(c) This Agreement and the consummation of the transactions herein contemplated will not result in a breach or violation of, conflict with or constitute a default under any law, regulation, order, judgment, agreement or instrument to which the City is a party or by which the City or any of its property is bound;

(d) There are no consents, authorizations, or approvals of, or filings with, any Federal or State government authority (other than the City) required in connection with the issuance or sale by the City of the Commercial Paper Notes or the performance of its obligations thereunder except as may be required under state securities laws and those which have already been obtained or made or will be obtained or made prior to the initial delivery of the Commercial Paper Notes;

(e) There is no action, suit, proceeding, inquiry or investigation at law or in equity or before or by any court, public board or body pending or, to the best knowledge of the City, threatened against or affecting the City wherein an unfavorable decision, ruling or finding would adversely affect the validity of the Commercial Paper Notes and this Agreement, or any other agreement or instrument to which the City is a party and which has been executed in connection with the issuance of the Commercial Paper Notes;

(f) Each Commercial Paper Note or other obligation issued under this Agreement will be exempt from registration under the Securities Act of 1933, as amended; and

(g) Each Instruction by the City to issue Commercial Paper Notes under this Agreement shall be deemed a representation and warranty by the City as of the date thereof that the representations and warranties herein are true and correct as if made on and as of such date.

Section 22. Rights of the Bank.

(a) In the absence of bad faith on the part of the Bank, the Bank may conclusively rely, as to the truth of the statements and the correctness of the opinions expressed therein, upon any certificates or opinions furnished to the Bank which conform to the requirements of this Agreement.

(b) The Bank shall not be liable for any error of judgment made in good faith by an officer or officers of the Bank, unless it shall be conclusively determined by a court of competent jurisdiction located within the State of Texas that the Bank was negligent in ascertaining the pertinent facts.

(c) None of the provisions of this Agreement shall require the Bank to expend or risk its own funds or otherwise to incur any liability, financial or otherwise, in the performance of any of its duties hereunder, or in the exercise of any of its rights or powers if it shall have reasonable grounds for believing that repayment of such funds or indemnity satisfactory to it against such risk or liability is not assured to it. Notwithstanding the foregoing, nothing (other than the limitation of the Initial Stated Amount) shall prevent the Bank from making a demand for payment pursuant to Section 8(b) hereof to the extent necessary to have sufficient moneys on deposit in the Note Payment Fund to pay when due interest on or principal of maturing Commercial Paper Notes (it being understood that the Bank shall have no liability in connection with its timely delivery of such demand for payment).

(d) The Bank may conclusively rely and shall be fully protected in acting upon any resolution, certificate, statement, instrument, opinion, report, notice, request, consent, order, approval, paper, or other document believed by it to be genuine and to have been signed or presented by the proper party or parties.

(e) Whenever in the administration of the provisions of this Agreement the Bank shall deem it necessary or desirable that a matter be proved or established prior to taking or suffering any action to be taken hereunder, such matter (unless other evidence in respect thereof be herein specifically prescribed) may, in the absence of negligence or bad faith on the part of the Bank, be deemed to be conclusively proved and established by a certificate signed by an Authorized Representative or Authorized Dealer Representative, as the case may be, and delivered to the Bank, and such certificate, in the absence of any negligence or bad faith on the part of the Bank, shall be full warrant to the Bank for any action taken, suffered, or omitted by it under the provisions of this Agreement upon the faith thereof.

(f) The Bank shall not be bound to make any investigation into the facts or matters stated in any resolution, certificate, statement, instrument, opinion, report, notice, request, consent, order, approval, or other paper or document.

(g) Except as set forth in Section 8(c) hereof, the Bank shall have no obligation to invest and reinvest any cash held by it. It is agreed and understood that the Bank may earn fees

associated with the investments referenced in Section 8(c) hereof, which overnight repurchase agreements secured solely by direct obligations of the United States of America the Bank may select at its discretion. In no event shall the Bank be deemed an investment manager or advisor in respect of any selection of investments hereunder. In no event shall the Bank be liable for the selection of investments or for investment losses incurred thereon. The Bank shall have no liability in respect of losses incurred as a result of the liquidation of any investment prior to its stated maturity.

(h) The Bank may execute any of the trusts or powers hereunder or perform any duties hereunder either directly or, by or through agents, custodians or nominees appointed with due care. Provided, however, if the City shall have given its prior approval of the agent, custodian or nominee selected by the Bank, such approval not unreasonably withheld or delayed, the Bank shall not be responsible for any willful misconduct or negligence on the part of any agent, custodian or nominee so appointed. Provided further, that if the City shall not have given its prior approval of the agent, custodian or nominee selected by the Bank, the Bank shall not be responsible for any willful misconduct or gross negligence on the part of any agent, custodian or nominee so appointed.

(i) Any corporation into which the Bank may be merged or converted or with which it may be consolidated, or any corporation resulting from any merger, conversion or consolidation to which the Bank shall be a party, or any corporation succeeding to the business of the Bank shall be the successor of the Bank hereunder without the execution or filing of any paper with any party hereto or any further act on the part of the parties hereto except when an instrument of transfer or assignment is required by law to effect such succession. Further provided that in any case in which any of the herein described events of succession would foreseeably result in any cessation, temporary or permanent, of the Bank's (or any successor entity's) ability to perform any of the trusts or powers or duties of the Bank (or of any successor entity) under this Agreement, then in such case written notice shall be transmitted to the City prior to any such reasonably foreseeable cessation of ability as herein described as would give the City fair opportunity to terminate this Agreement pursuant to Section 17 hereof.

(j) The City (for itself and any person or entity claiming through it) hereby releases, waives, discharges, exculpates and covenants not to sue the Bank for any action taken or omitted under this Agreement except to the extent caused by the Bank's negligence or willful misconduct.

(k) In no event shall the Bank be liable for any failure or delay in the performance of its obligations hereunder because circumstances beyond the Bank's control, including but not limited to, acts of God, flood, war (whether declared or undeclared), terrorism, fire, riot, embargo, government action, including any laws, ordinances, regulations or the like which would restrict or prohibit the provision of the services contemplated by this Agreement.

(l) Anything in this Agreement to the contrary notwithstanding, in no event shall the Bank be liable for special, indirect or consequential loss or damage of any kind whatsoever (including but not limited to lost profits), even if the Bank has been advised of the likelihood of such loss or damage and regardless of the form of action.

(m) The Bank shall be entitled to conclusively assume, without any independent inquiry or investigation on its part, that the maximum rate of interest allowed by V.T.C.A., Government Code, Chapter 1204, as amended, and which statutory maximum interest rate is, as of the date of this Agreement, a net effective interest rate of fifteen percent (15.00%) per annum is unchanged unless the City shall notify the Bank in writing pursuant to Section 12 herein that such statutory maximum rate has been changed or modified under applicable law.

Section 23. Miscellaneous.

(a) The City agrees that the Commercial Paper Notes issued or presented hereunder shall be denominated in United States dollars. The City further agrees that payment of any and all amounts due pursuant to the provisions of this Agreement shall be made solely in United States dollars.

(b) Under no circumstances shall funds representing Drawings made under the Reimbursement Agreement be used for any other purpose or retained by the Bank for any reason, such funds to be used only for the purpose of paying principal and interest due on Commercial Paper Notes.

(c) This Agreement may not be assigned by the City and may not be modified or amended or supplemented except by a writing or writings duly executed by the duly authorized representatives of the City and the Bank.

(d) This Agreement, the Ordinance, and the Reimbursement Agreement contain the entire understanding and agreement among the parties with respect to the subject matter hereof. All prior agreements, understandings, representations, statements, promises, inducements, negotiations, and undertakings and all existing contracts previously executed among said parties with respect to said subject matter are superseded hereby. The City agrees to deliver to the Bank, prior to or concurrently with the first issuance of any amount of Commercial Paper Notes, an executed copy of each of the Ordinance and the Reimbursement Agreement.

(e) With respect to all references herein to nouns, insofar as the context requires, the singular form shall be deemed to include the plural, and the plural form shall be deemed to include the singular.

[The remainder of this page is intentionally left blank]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

DEUTSCHE BANK NATIONAL TRUST
COMPANY, as Issuing and Paying Agent and
Registrar

By: _____

Title: _____

By: _____

Title: _____

CITY OF GARLAND, TEXAS

By: _____

Mayor

Attest:

Interim City Secretary

EXHIBIT A

CERTIFICATE OF AUTHORIZED REPRESENTATIVE

| | |
|--|---|
| THE STATE OF TEXAS | § |
| | § |
| COUNTIES OF DALLAS, COLLIN AND ROCKWALL | § |
| | § |
| CITY OF GARLAND | § |

I certify that the persons listed below have been designated pursuant to the ordinance (the "Ordinance") authorizing the issuance of \$67,500,000 City of Garland, Texas, Electric Utility System Commercial Paper Notes, Series 2012A (the "Notes"), to act as Authorized Representative in connection with the issuance, sale and delivery of any Notes pursuant to the Ordinance and the carrying out of any matters relating to the Notes and any and all of the Reimbursement Agreement, the Issuing and Paying Agent Agreement and the Dealer Agreement (all as defined in the Ordinance).

Authorized Representative

Name: Ronald E. Jones
Title: Mayor

Signature: _____

Designees of Authorized Representative

| <u>Name</u> | <u>Specimen Signature</u> |
|---|---------------------------|
| Bill Dollar City Manager | _____ |
| Martin Glenn Deputy City Manager | _____ |
| David Schuler Director of Financial Services | _____ |
| Steve Anderson Cash and Debt Manager | _____ |

Ronald E. Jones
Mayor, City of Garland, Texas

Dated: _____

\$67,500,000
CITY OF GARLAND, TEXAS
ELECTRIC UTILITY SYSTEM COMMERCIAL PAPER NOTES, SERIES 2012A
AMENDED AND RESTATED COMMERCIAL PAPER DEALER AGREEMENT

September 28, 2012

City of Garland, Texas
200 North Fifth
Garland, Texas 75040

Dear Ladies & Gentlemen:

This Amended and Restated Commercial Paper Dealer Agreement (the “Agreement”) confirms the agreement among the undersigned, (“Barclays Capital” or the “Dealer”) and the City of Garland, Texas (the “Issuer”) for the Dealer to act as exclusive dealer in connection with the execution and delivery of the Issuer’s \$67,500,000 Electric Utility System Commercial Paper Notes, Series 2012A (the “Notes”). The Notes are to be executed and delivered under and pursuant to an ordinance adopted by the Issuer on September 18, 2012, as amended (the “Ordinance”) and will be authenticated by Deutsche Bank Trust Company Americas (the “Paying Agent”), pursuant to an Amended and Restated Issuing and Paying Agent Agreement (the “Issuing and Paying Agent Agreement”) by and between the Issuer and the Paying Agent. All terms used herein and not defined herein shall have the meanings specified in the Ordinance.

The Notes are to be executed and delivered for the purposes described in the Ordinance. The aggregate principal amount of the Notes that may be outstanding at any one time and the aggregate amount of interest to maturity with respect to such Notes are limited as provided in the Ordinance. The holders from time to time of the Notes will be entitled to the benefits of a letter of credit issued by Sumitomo Mitsui Banking Corporation (the “Bank”) under and pursuant to a Reimbursement Agreement, dated as of September 1, 2012 (the “Reimbursement Agreement”), by and between the Issuer and the Bank. This Agreement, the Ordinance, the Issuing and Paying Agent Agreement and the Reimbursement Agreement are hereinafter referred to as the “Issuer Documents”.

The Issuer will, to the extent required by Rule 15c2-12 referenced in the Ordinance, undertake to provide annual reports and notices of certain events pursuant to the requirements of said Rule 15c2-12.

1. Appointment of Dealer; Basic Responsibilities of Dealer. (a) Subject to the terms and conditions herein contained, the Issuer hereby appoints the Dealer, and the

Dealer hereby accepts such appointment, as exclusive dealer for the Issuer in connection with the offering, issuance and sale of the Notes.

(b) In its capacity as dealer, the Dealer shall exercise its best efforts to solicit purchases of the Notes, on such terms and conditions, including maturity dates and interest rates, as may prevail from time to time in the tax-exempt commercial paper market. At or before 11:00 A.M., New York City time, on each day on which Notes, the purchase of which has been solicited by the Dealer, are to be executed and delivered, the Dealer will confirm in writing or by electronic means to the Bank, the Issuer, and the Paying Agent the amounts equal to the proceeds of sale or notice of the Dealer's inability to sell any or all of the Notes intended to be sold and delivered that day.

(c) It is understood and agreed that the Dealer's responsibilities hereunder will include (i) the soliciting of purchases of Notes from investors that customarily purchase commercial paper or tax-exempt securities in large denominations, (ii) effecting and processing such purchases, (iii) causing the furnishing, by mail or otherwise (at the Issuer's expense), of such materials as are described in Section 3 hereof, (iv) billing and receiving payment for Notes purchases, and (v) performing such other related functions as may be requested by the Issuer and agreed to by the Dealer.

(d) The Dealer agrees that it will stop soliciting purchases of Notes upon receipt of a notice from the Issuing and Paying Agent that it has received a notice of No Issuance from the Bank pursuant to Section 7.2 of the Reimbursement Agreement.

2. The Notes. As more fully described in the Ordinance, the Notes will be issuable in minimum denominations of \$100,000 and integral multiples of \$1,000 in excess of such amount and will have maturities of not more than 270 days from their respective dates of execution and delivery. The Notes may be executed and delivered in registered form, without coupons. The Notes will be issued as interest-bearing obligations, maturing at such times as an Authorized Representative (as defined in the Ordinance) may designate upon authorizing the issuance thereof. Principal of and interest with respect to the Notes will be payable at maturity in immediately available funds at the offices of the Issuing and Paying Agent in The City of New York, New York.

3. Financial Statements. (a) As long as the Notes are outstanding and Barclays Capital Inc. is the Dealer, the Issuer shall deliver to the Dealer within 180 days after the end of each of its fiscal years, the audited financial statements of the Issuer.

(b) Simultaneously with the furnishing thereof to the Bank, the Issuer shall furnish to the Dealer all financial statements, reports and information required to be furnished to the Bank pursuant to Section 5.2 of the Reimbursement Agreement.

4. Representations and Warranties of the Issuer.

The Issuer hereby represents and warrants to the Dealer that:

- (a) it is a home rule city of the State of Texas, duly organized and validly existing under the applicable laws of such jurisdiction, and has full power and authority to execute and deliver the Issuer Documents;
- (b) it is empowered to issue the Notes and to perform its obligations under the Issuer Documents;
- (c) the making and performance by the Issuer of the Issuer Documents and the Notes have been duly authorized by all necessary action of the Issuer and the Issuer Documents constitute, and the Notes when duly issued, authenticated and delivered as provided in the Issuing and Paying Agent Agreement will constitute, legal, valid and binding obligations of the Issuer enforceable against the Issuer in accordance with their respective terms, except as enforceability may be limited by general principles of equity (regardless of whether enforcement is sought in a proceeding in equity or at law) or by applicable bankruptcy, insolvency, reorganization, moratorium or similar laws affecting the enforcement of creditors' rights generally;
- (d) no approval, permit, consent, authorization or order of any court or any governmental or public agency, authority or person not already obtained (other than any approvals that may be required under the "blue sky" laws of any jurisdiction) is required with respect to the Issuer in connection with the issuance and sale of the Notes or the execution and delivery by the Issuer of, or in the performance by the Issuer of its obligations under, the Issuer Documents or the Notes and the consummation of the transactions contemplated by the Issuer Documents;
- (e) the Issuer is not now and has not ever been in breach of or in default under any applicable law or administrative regulation of the State of Texas or the United States, or any applicable judgment or decree or any trust agreement, loan agreement, bond, note, resolution, ordinance, agreement or other instrument to which the Issuer is a party or is otherwise subject, the consequence of which or the correction of any of which materially and adversely affects the operations of the Issuer as of September 28, 2012;
- (f) the adoption by the Issuer of the Ordinance and the making and performance by the Issuer of the other Issuer Documents and the Notes do not and will not conflict with or result in a breach or violation of any of the terms or provisions of, or constitute a default under, any resolution, indenture, deed of

trust, mortgage commitment, agreement or other instrument to which the Issuer is a party or by which the Issuer is bound, or any constitutional provision, existing law, administrative regulation, court order or consent decree to which the Issuer or its property is subject;

- (g) except as otherwise described in the Offering Memorandum (as defined in the Ordinance), there is no action, suit, proceeding, inquiry or investigation at law or in equity, before or by any court, governmental agency, public board or body, pending or, to the best of the knowledge of the undersigned, threatened against or affecting the Issuer and, to the best of the knowledge of the undersigned, there is no basis therefor, (i) which in any way questions the powers of the Issuer or the validity of the Issuer Documents or the Notes, or (ii) wherein an unfavorable decision, ruling or finding would materially and adversely affect the transactions contemplated by the Issuer Documents or the Notes, or would in any way affect adversely the validity or enforceability of the Issuer Documents or the Notes;
- (h) any information relating to the Issuer and the Notes furnished by the Issuer pursuant to this Agreement, including but not limited to the Offering Memorandum, does not and will not include any untrue statement of a material fact or omit to state any material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading;
- (i) the Issuer has not failed during the previous five years to comply with any previous undertakings in a written continuing disclosure contract or agreement under Rule 15c2-12; and
- (j) the Issuer will cooperate with the Dealer in arranging for the qualification of the Notes for sale and the determination of their eligibility for investment under the laws of such jurisdictions as the Dealer may designate and will use its best efforts to continue such qualifications in effect so long as the Notes are being offered by the Dealer; provided, however, that the Issuer will not be required to execute a special or general consent to service of process or qualify to do business in connection with action taken under this subsection.

Each delivery of a Note to the Dealer or to a person whose purchase of such Note was arranged by the Dealer shall constitute a representation and warranty by the Issuer, as of the date thereof, that (i) the representations and warranties of the Issuer in this Section 4 are true and correct on and as of such date with the same effect as if made on and as of such date, (ii) the Notes issued on such date have been duly and validly issued and delivered in accordance with the Issuing and Paying Agent Agreement and (iii) the Issuer has complied or will comply, as the case may be, with

all covenants contained in this Agreement. The Issuer shall not cause to be issued any Note unless such representations and warranties are true and correct.

5. Conditions To Dealer's Obligations. The obligations of the Dealer under this Agreement have been undertaken in reliance on, and shall be subject to, the due performance by the Issuer of its obligations and agreements to be performed hereunder and to the accuracy of and compliance with the respective representations, warranties, covenants and agreements of the Issuer contained herein, in each case on and as of the date of delivery of this Agreement and on and as of each date on which Notes are to be issued. The obligations of the Dealer hereunder with respect to each date on which Notes are to be issued are also subject, in the discretion of the Dealer, to the following further conditions precedent:

(a) The Issuer Documents shall be in full force and effect and the Notes to be issued on such date shall have the full benefits of all of the foregoing, and there shall be in full force and effect such additional resolutions, agreements, instruments and certificates (including such certificates as may be required by Fulbright & Jaworski L.L.P., Bond Counsel, regarding the exclusion from gross income of interest on the Notes from federal income tax) and such opinions of counsel, which resolutions, agreements, certificates and opinions of counsel shall be satisfactory in form and substance to Fulbright & Jaworski L.L.P., Bond Counsel, and there shall have been taken in connection therewith and in connection with the issuance of the Notes all such action as shall, in the opinion of the aforesaid Bond Counsel, be necessary in connection with the transactions contemplated hereby.

(b) There shall have been no material adverse change in the properties, business, condition (financial or other) or results of operations of the Issuer or the Bank since the date of the Offering Memorandum; and no Event of Default (as such term is defined in the Ordinance or the Reimbursement Agreement) shall have occurred and be continuing and no event shall have occurred and be continuing which with the passage of time or giving of notice or both, would constitute such an Event of Default.

(c) On or prior to the first date on which Notes are to be sold pursuant to the terms of the Ordinance and this Agreement, the Dealer shall have received:

(i) executed copies of the Reimbursement Agreement and the Issuing and Paying Agent Agreement; a transcript of all proceedings relating to the authorization of the Notes will be provided for federal income tax purposes following the issuance of the Notes;

(ii) opinions dated such date of (a) Fulbright & Jaworski L.L.P., Bond Counsel, (b) Ashurst L.L.P., counsel to the Bank, and (c) foreign counsel

to the Bank (each such opinion to be in form and substance as previously agreed to by each such counsel and the Dealer);

(iii) a certificate of the Issuer, executed by any duly authorized official of the Issuer, dated such date, as to the accuracy of and compliance with the representations, warranties, covenants and agreements of the Issuer contained in the Ordinance on and as of such date, which certificate may state that the certifications therein set forth are to the best knowledge and belief of such official;

(iv) a certificate of the Issuer, executed by any duly authorized official of the Issuer, dated such date, as to the accuracy of and compliance with the representations, warranties, covenants and agreements of the Issuer contained in the Reimbursement Agreement on and as of such date, which certificate may state that the certifications therein set forth are to the best knowledge and belief of such official;

(v) a certificate of the Bank, executed by a duly authorized representative of the Bank, dated such date, as to the correctness of information concerning the Bank which is contained in the Offering Memorandum;

(vi) a certificate of the Issuer executed by any duly authorized official of the Issuer, dated on or prior to such date, as to the correctness of information concerning the Issuer which is contained in the Offering Memorandum;

(vii) copies of all documents required by, and delivered pursuant to, Section 3.1 of the Reimbursement Agreement; and

(viii) copies of such other documents, certificates and opinions as the Dealer shall have reasonably requested.

6. Term and Termination of this Agreement. (a) This Agreement shall become effective upon execution by the Dealer and the Issuer and may be canceled by the Dealer or the Issuer (with notification to the Bank) at any time on written notice. To be effective, such written notice must be given no less than 30 days prior to such cancellation date with a copy to the Paying Agent and the Bank; provided, however, that upon the mutual agreement of the Dealer, the Bank, and the Issuer, such written notice may be given fewer than 30 days prior to such cancellation date. The Issuer will use its best efforts to notify Standard & Poor's Ratings Services, a Standard & Poor's Financial Services LLC business,

and Fitch, Inc., (in the manner prescribed by Section 10(e) hereof) of the termination of this Agreement and any change in the dealer for the Notes.

(b) In addition, Barclays Capital may terminate its obligations under this Agreement or, at its option, may temporarily suspend its obligations hereunder at any time by notifying the Issuer and the Bank in writing or by telegram, telex or other electronic communication of its election to do so if:

(i) Legislation shall be favorably reported by a committee of the House of Representatives or the Senate of the United States or be introduced by committee by amendment or otherwise in, or be enacted by, the House of Representatives or the Senate or be recommended by the President of the United States to the Congress of the United States for passage by the Congress of the United States, or a decision by a court established under Article III of the Constitution of the United States, or the Tax Court of the United States, shall be rendered, or a ruling, regulation or order of the Treasury Department of the United States or the Internal Revenue Service or any other governmental entity having jurisdiction over the subject matter shall be made or proposed, having the purpose or effect of imposing federal income taxation, or any other event shall have occurred which results in the imposition of federal income taxation, upon interest received on the Notes;

(ii) Legislation shall be favorably reported by a committee of the House of Representatives or the Senate of the United States, or shall be introduced by committee by amendment or otherwise, or be introduced by the House of Representatives or the Senate or shall be recommended by the President of the United States to the Congress of the United States for passage by the Congress of the United States, or a decision by a court of the United States shall be rendered, or a stop order, ruling, regulation or official statement by, or on behalf of, the United States Securities and Exchange Commission or other governmental agency having jurisdiction of the subject matter should be made or proposed, to the effect that the offering or sale of obligations of the character of the Notes, as contemplated hereby, is or would be in violation of any provision of the Securities Act of 1933, as amended and as then in effect (the "Securities Act"), or the Securities Act of 1934 as amended and as then in effect, or that the Ordinance shall be required to be qualified under the Trust Indenture Act of 1939, as amended and as then in effect, or with the purpose or effect of otherwise prohibiting the offering for sale of obligations of the character of the Notes, or the Notes as contemplated hereby, without registration under the Securities Act or qualification of the Ordinance under the Trust Indenture Act of 1939, as amended;

(iii) Any information shall have become known which, in the Dealer's reasonable opinion, makes untrue any statement of a material fact contained in the Offering Memorandum or causes the Offering Memorandum, as supplemented or amended, to contain any untrue statement of a material fact or to omit to state a material fact necessary to make

the statements made therein, in the light of the circumstance under which they were made, not misleading;

(iv) Except as provided in paragraphs (a) and (b) of this section, any legislation, resolution, ordinance, rule or regulation shall be introduced in, or be enacted by, any governmental body, department or agency of the United States or of the State of Texas, or a decision by any court of competent jurisdiction within the United States or the State of Texas shall be rendered, which, in the Dealer's reasonable opinion, materially adversely affects the marketability of the Notes;

(v) Additional material restrictions not in force as of the date hereof shall have been imposed upon trading in securities similar to the Notes by any governmental authority or by any national securities exchange which, in the Dealer's reasonable opinion, materially adversely affect the marketability of the Notes;

(vi) Any governmental authority shall impose, as to the Notes, or obligations of the character of the Notes, any material restrictions not now in force, or increase materially those now in force which, in the Dealer's reasonable opinion, materially adversely affect the marketability of the Notes;

(vii) A banking moratorium shall have been established by United States federal, or New York State authorities;

(viii) The rating of the Notes shall have been downgraded to a rating below investment grade by Standard & Poor's Rating Services, a Standard & Poor's Financial Services LLC business, or Fitch, Inc., or any such rating agency shall withdraw any ratings it may have in effect with respect to the Notes;

(ix) A war involving the United States shall have been declared, or any existing conflict involving the armed forces of the United States shall have escalated, or any other national emergency relating to the effective operation of government of the financial community shall have occurred, which, in the Dealer's reasonable opinion, materially adversely affects the marketability of the Notes;

(x) Any event, including, without limitation, the bankruptcy or default of any issuer of, or obligor on tax-exempt securities, shall have occurred which, in the Dealer's reasonable opinion, makes the marketing of the securities of the character of the Notes impossible over an extended period of time;

(xi) The Ordinance, the Issuing and Paying Agent Agreement or the Reimbursement Agreement shall cease to be in full force and effect;

(xii) An Event of Default under the Ordinance, the Issuing and Paying Agent Agreement or the Reimbursement Agreement shall have occurred and be continuing;

(xiii) A notice of No Issuance shall have been given and remain in effect under the Reimbursement Agreement;

(xiv) A general suspension of trading in securities on the New York Stock Exchange or any other national securities exchange or the establishment of minimum or maximum prices on any such national securities exchange shall have occurred; or

(xv) A material disruption in securities settlement, payment or clearance services applicable to the Notes shall have occurred which, in the Dealer's reasonable opinion, materially adversely affects the ability to effect the settlement, payment or clearance of the Notes.

7. Payment of Fees and Expenses. (a) In consideration of the services to be performed by the Dealer under this Agreement, the Issuer agrees to pay to the Dealer a fee in the amount of the product of (i) 0.04% divided by 365 or 366, as appropriate, and (ii) the sum of the principal amounts of the Notes outstanding on each day during the billing period (to which reference is made in the next succeeding sentence). It is understood and agreed that (i) payment of such fee shall be made by the Issuer quarterly upon receipt of an invoice therefor from the Dealer, and (ii) the obligation of the Issuer to pay such fee shall survive the termination or cancellation of this Agreement to the extent that such obligation related to Notes outstanding prior to such termination or cancellation.

(b) All reasonable expenses and costs of the Dealer in effecting the authorization, preparation, issuance, offering, delivery and sale of the Notes (including, without limitation, the expenses and costs of the preparation, printing, photocopying, execution and delivery of the Notes, the Offering Memorandum, the Reimbursement Agreement, the Issuing and Paying Agent Agreement, this Agreement and all other agreements and documents contemplated hereby and thereby, including amendments, modifications and supplements to any such agreements and documents at any time during the term of this Agreement) shall be paid or reimbursed by the Issuer, unless and to the extent that such expenses and costs are paid out of or reimbursed from the proceeds of the Notes.

8. Indemnity. To the extent permitted by law, the Issuer shall indemnify and hold harmless the Dealer and each director, trustee, partner, member, officer, official or employee thereof and each person, if any, who controls the Dealer (each herein called a "**Controlling Person**") within the meaning of Section 15 of the Securities Act (any such

person being herein sometimes called an “**Indemnified Party**”), against any and all losses, claims, damages or liabilities, joint or several, (i) to which any such Indemnified Party may become subject, under statute or regulation, at law or in equity or otherwise, insofar as such losses, claims, damages or liabilities (or actions in respect thereof) arise out of or are based upon any untrue statement or alleged untrue statement of a material fact set forth in the Offering Memorandum or any amendment or supplement thereto or arise out of or are based upon the omission or alleged omission to state therein a material fact required to be stated therein or which is necessary to make the statements made therein not misleading in any material respect, in light of the circumstances under which they were made and considering (1) the purpose for which such information was supplied in the offering of the Notes to qualifying investors pursuant to the disclosure documents (which includes the Offering Memorandum and any amendments and supplements thereto and replacements thereof), and (2) the presence of the Reimbursement Agreement, but the Issuer will not be liable in any such case to the extent that any such loss, claim, damage or liability (including legal counsel fees and expenses) arises out of or is based upon any such untrue statement or alleged untrue statement or omission or alleged omission made or incorporated in the disclosure documents (x) in reliance upon and in conformity with written information furnished to the Issuer by the Dealer specifically for use in the disclosure documents or (y) any information contained in the disclosure documents relating to the Bank or the Reimbursement Agreement, and (ii) to the extent of the aggregate amount paid in any settlement of any litigation commenced or threatened arising from a claim based upon any such untrue statement or alleged untrue statement or omission or alleged omission if such settlement is effected with the written consent of the Issuer (which consent shall not be unreasonably withheld). The Issuer will not be liable to the Dealer in any case to the extent that any loss, claim, damage or liability (including legal counsel fees and expenses) arises out of or is based upon any untrue statement or alleged untrue statement or omission or alleged omission which is made to investors by the Dealer but is not contained, made or incorporated in the disclosure documents.

An Indemnified Party shall, promptly after the receipt of notice of a written threat of the commencement of any action against such Indemnified Party in respect of which indemnification may be sought against the Issuer, notify the Issuer in writing of the commencement thereof. Failure of the Indemnified Party to give such notice shall reduce the liability of the Issuer by the amount of damages attributable to the failure of the Indemnified Party to give such notice to the Issuer, but the omission to notify the Issuer of any such action shall not relieve the Issuer from any liability that it may have to such Indemnified Party otherwise than under this Section. In case any such action shall be brought against an Indemnified Party and such Indemnified Party shall notify the Issuer of the commencement thereof, the Issuer may, or if so requested by such Indemnified Party shall, participate therein or assume the defense thereof, with counsel reasonably satisfactory to such Indemnified Party and the Issuer (it being understood that, except as hereinafter provided, the Issuer shall not be liable for the expenses of more than one counsel representing the Indemnified Parties

in such action), and after notice from the Issuer to such Indemnified Party of an election so as to assume the defense thereof, the Issuer shall not be liable to such Indemnified Party under this Section for any legal or other expenses subsequently incurred by such Indemnified Party in connection with the defense thereof other than reasonable costs of investigation; provided, however, that unless and until the Issuer assumes the defense of any such action at the request of such Indemnified Party, the Indemnified Party shall have the right to participate at its own expense in the defense of any such action. If the Issuer shall not have employed counsel to have charge of the defense of any such action or if an Indemnified Party shall have reasonably concluded that there may be defenses available to it and/or other Indemnified Parties that are different from or additional to those available to the Issuer (in which case the Issuer shall not have the right to direct the defense of such action on behalf of such Indemnified Party) or to other Indemnified Parties, legal and other expenses, including the expense of separate counsel, incurred by such Indemnified Party shall be borne by the Issuer.

9. G-23 Disclosure. The Issuer and the Dealer acknowledge and agree that: (i) the transactions contemplated by this Agreement are arm's length, commercial transactions between the Issuer and the Dealer in which the Dealer is acting solely as a principal or agent, as applicable and is not acting as a municipal advisor, financial advisor or fiduciary to Issuer; (ii) the Dealer has not assumed any advisory or fiduciary responsibility to the Issuer with respect to the transactions contemplated hereby and the discussions, undertakings and procedures leading thereto (irrespective of whether the Dealer or its affiliates have provided other services or is currently providing other services to the Issuer on other matters) or other contractual, advisory or fiduciary obligation to the Issuer related to this Agreement except the contractual obligations expressly are set forth in this Agreement; and (iii) the Issuer has consulted its own legal, accounting, tax, financial and other advisors, as applicable, to the extent it has deemed appropriate.

10. Miscellaneous. (a) All notices, demands and formal actions under this Agreement shall be in writing and mailed, telecopied or delivered to:

The Dealer:

Barclays Capital Inc.
745 Seventh Avenue, 2nd Floor
New York, New York 10019
Attention: Short-Term Municipal Products-Manager
Telephone: (212) 528-1011
Facsimile Transmission Number: (646) 758-1870

With a copy to:

Barclays Capital Inc.
745 Seventh Avenue, 19th Floor
New York, New York 10019
Attention: Public Finance – Short Term Products
Telephone: (212) 526-2093
Facsimile Transmission Number: (646) 758-1905

The Issuer:

City of Garland
200 North Fifth
Garland, Texas 75040
Attention: Director of Financial Services
Telephone: (972) 205-2355
Facsimile Transmission Number: (972) 205-2810

The Bank:

Sumitomo Mitsui Banking Corporation, New York Branch
277 Park Avenue
New York, New York 10172
Attention: Public and Infrastructure Finance Dept.
Telephone: (212) 224-4000
Facsimile Transmission Number: (212) 224-5227

With a copy to:

Sumitomo Mitsui Banking Corporation, New York Branch
277 Park Avenue
New York, New York 10172
Attention: Trade Services Credit Dept.
Telephone: (212) 224-4000
Facsimile Transmission Number: (212) 224-4566

provided, however, that all notices pursuant to, or contemplated by, the provisions of Section 1 of this Agreement shall be given by telephonic communication between or among authorized representatives of the parties to this Agreement and shall be confirmed in writing and mailed, telecopied or delivered to such parties on the later of the Business Day following the settlement, if any, of the respective transactions to which such notices relate or the

Business Day following the telephonic communication. The Dealer and the Issuer may, by notice given under this Agreement, designate other addresses to which subsequent notices, requests, reports or other communications shall be directed;

(b) Any certificate authorized by the Issuer, signed by any authorized official or officials of the Issuer and delivered to the Dealer, shall be deemed a representation by the Issuer to the Dealer as to the statements made therein;

(c) This Agreement will inure to the benefit of and be binding upon the Issuer and the Dealer and their respective successors and assigns, and will not confer any rights upon any other person, partnership, association or corporation other than the Indemnified Parties and the Bank. The term “successors” and “assigns” shall not include any purchaser of any of the Notes merely because of such purchase;

(d) All of the representations, warranties and covenants of the Issuer and the Dealer in this Agreement shall remain operative and in full force and effect, regardless of (i) any investigation made by or on behalf of the Dealer or (ii) delivery of any payment for any Notes hereunder;

(e) The Dealer shall use its best efforts to notify Standard & Poor’s Rating Services, a Standard & Poor’s Financial Services LLC business, and Fitch, Inc., of any modification of or amendment to this Agreement. Notice shall be sent by first class mail, postage prepaid;

(f) Section headings have been inserted in this Agreement as a matter of convenience of reference only, and it is agreed that such section headings are not a part of this Agreement and will not be used in the interpretation of any provisions of this Agreement;

(g) If any provision of this Agreement shall be held or deemed to be or shall, in fact, be invalid, inoperative or unenforceable as applied in any particular case in any jurisdiction or jurisdictions, or in all jurisdictions, because it conflicts with any provisions of any constitution, statute, or rule of public policy, or for any other reason, such circumstances shall not have the effect of rendering the provision in question invalid, inoperative or unenforceable in any other case or circumstance, or of rendering any other provision or provisions of this Agreement invalid, inoperative or unenforceable to any extent whatever;

(h) This Agreement may be executed in several counterparts, each of which shall be regarded as an original and all of which constitute one and the same document. This Agreement may be delivered by the exchange of signed signature pages by facsimile transmission or by e-mail with a pdf copy attached, and any printed or copied version of any

DRAFT 11.14.2012

signature page so delivered shall have the same force and effect as an originally signed version of such signature page;

(i) This Agreement shall be governed by and construed in accordance with the law of the State of Texas.

Execution Page

BARCLAYS CAPITAL INC.

By: _____

CITY OF GARLAND, TEXAS

By: _____
Mayor

By: _____
City Secretary

DRAFT 11.14.2012

\$67,500,000
CITY OF GARLAND, TEXAS
ELECTRIC UTILITY SYSTEM COMMERCIAL PAPER NOTES, SERIES 2012B
AMENDED AND RESTATED COMMERCIAL PAPER DEALER AGREEMENT

September 28, 2012

City of Garland, Texas
200 North Fifth
Garland, Texas 75040

Dear Ladies & Gentlemen:

This Amended and Restated Commercial Paper Dealer Agreement (the "Agreement") confirms the agreement among the undersigned, ("Barclays Capital" or the "Dealer") and the City of Garland, Texas (the "Issuer") for the Dealer to act as exclusive dealer in connection with the execution and delivery of the Issuer's \$67,500,000 Electric Utility System Commercial Paper Notes, Series 2012B (the "Notes"). The Notes are to be executed and delivered under and pursuant to an ordinance adopted by the Issuer on September 18, 2012, as amended (the "Ordinance") and will be authenticated by Deutsche Bank Trust Company Americas (the "Paying Agent"), pursuant to an Amended and Restated Issuing and Paying Agent Agreement (the "Issuing and Paying Agent Agreement") by and between the Issuer and the Paying Agent. All terms used herein and not defined herein shall have the meanings specified in the Ordinance.

The Notes are to be executed and delivered for the purposes described in the Ordinance. The aggregate principal amount of the Notes that may be outstanding at any one time and the aggregate amount of interest to maturity with respect to such Notes are limited as provided in the Ordinance. The holders from time to time of the Notes will be entitled to the benefits of a letter of credit issued by Wells Fargo Bank, National Association (the "Bank") under and pursuant to a Reimbursement Agreement, dated as of September 1, 2012, (the "Reimbursement Agreement"), by and between the Issuer and the Bank. This Agreement, the Ordinance, the Issuing and Paying Agent Agreement and the Reimbursement Agreement are hereinafter referred to as the "Issuer Documents".

The Issuer will, to the extent required by Rule 15c2-12 referenced in the Ordinance, undertake to provide annual reports and notices of certain events pursuant to the requirements of said Rule 15c2-12.

1. Appointment of Dealer; Basic Responsibilities of Dealer. (a) Subject to the terms and conditions herein contained, the Issuer hereby appoints the Dealer, and the

Dealer hereby accepts such appointment, as exclusive dealer for the Issuer in connection with the offering, issuance and sale of the Notes.

(b) In its capacity as dealer, the Dealer shall exercise its best efforts to solicit purchases of the Notes, on such terms and conditions, including maturity dates and interest rates, as may prevail from time to time in the tax-exempt commercial paper market. At or before 11:00 A.M., New York City time, on each day on which Notes, the purchase of which has been solicited by the Dealer, are to be executed and delivered, the Dealer will confirm in writing or by electronic means to the Bank, the Issuer, and the Paying Agent the amounts equal to the proceeds of sale or notice of the Dealer's inability to sell any or all of the Notes intended to be sold and delivered that day.

(c) It is understood and agreed that the Dealer's responsibilities hereunder will include (i) the soliciting of purchases of Notes from investors that customarily purchase commercial paper or tax-exempt securities in large denominations, (ii) effecting and processing such purchases, (iii) causing the furnishing, by mail or otherwise (at the Issuer's expense), of such materials as are described in Section 3 hereof, (iv) billing and receiving payment for Notes purchases, and (v) performing such other related functions as may be requested by the Issuer and agreed to by the Dealer.

(d) The Dealer agrees that it will stop soliciting purchases of Notes upon receipt of a notice from the Issuing and Paying Agent that it has received a notice of No Issuance from the Bank pursuant to Section 7.2 of the Reimbursement Agreement.

2. The Notes. As more fully described in the Ordinance, the Notes will be issuable in minimum denominations of \$100,000 and integral multiples of \$1,000 in excess of such amount and will have maturities of not more than 270 days from their respective dates of execution and delivery. The Notes may be executed and delivered in registered form, without coupons. The Notes will be issued as interest-bearing obligations, maturing at such times as an Authorized Representative (as defined in the Ordinance) may designate upon authorizing the issuance thereof. Principal of and interest with respect to the Notes will be payable at maturity in immediately available funds at the offices of the Issuing and Paying Agent in The City of New York, New York.

3. Financial Statements. (a) As long as the Notes are outstanding and Barclays Capital Inc. is the Dealer, the Issuer shall deliver to the Dealer within 180 days after the end of each of its fiscal years, the audited financial statements of the Issuer.

(b) Simultaneously with the furnishing thereof to the Bank, the Issuer shall furnish to the Dealer all financial statements, reports and information required to be furnished to the Bank pursuant to Section 5.2 of the Reimbursement Agreement.

4. Representations and Warranties of the Issuer.

The Issuer hereby represents and warrants to the Dealer that:

- (a) it is a home rule city of the State of Texas, duly organized and validly existing under the applicable laws of such jurisdiction, and has full power and authority to execute and deliver the Issuer Documents;
- (b) it is empowered to issue the Notes and to perform its obligations under the Issuer Documents;
- (c) the making and performance by the Issuer of the Issuer Documents and the Notes have been duly authorized by all necessary action of the Issuer and the Issuer Documents constitute, and the Notes when duly issued, authenticated and delivered as provided in the Issuing and Paying Agent Agreement will constitute, legal, valid and binding obligations of the Issuer enforceable against the Issuer in accordance with their respective terms, except as enforceability may be limited by general principles of equity (regardless of whether enforcement is sought in a proceeding in equity or at law) or by applicable bankruptcy, insolvency, reorganization, moratorium or similar laws affecting the enforcement of creditors' rights generally;
- (d) no approval, permit, consent, authorization or order of any court or any governmental or public agency, authority or person not already obtained (other than any approvals that may be required under the "blue sky" laws of any jurisdiction) is required with respect to the Issuer in connection with the issuance and sale of the Notes or the execution and delivery by the Issuer of, or in the performance by the Issuer of its obligations under, the Issuer Documents or the Notes and the consummation of the transactions contemplated by the Issuer Documents;
- (e) the Issuer is not now and has not ever been in breach of or in default under any applicable law or administrative regulation of the State of Texas or the United States, or any applicable judgment or decree or any trust agreement, loan agreement, bond, note, resolution, ordinance, agreement or other instrument to which the Issuer is a party or is otherwise subject, the consequence of which or the correction of any of which materially and adversely affects the operations of the Issuer as of September 28, 2012;
- (f) the adoption by the Issuer of the Ordinance and the making and performance by the Issuer of the other Issuer Documents and the Notes do not and will not conflict with or result in a breach or violation of any of the terms or provisions of, or constitute a default under, any resolution, indenture, deed of

trust, mortgage commitment, agreement or other instrument to which the Issuer is a party or by which the Issuer is bound, or any constitutional provision, existing law, administrative regulation, court order or consent decree to which the Issuer or its property is subject;

- (g) except as otherwise described in the Offering Memorandum (as defined in the Ordinance), there is no action, suit, proceeding, inquiry or investigation at law or in equity, before or by any court, governmental agency, public board or body, pending or, to the best of the knowledge of the undersigned, threatened against or affecting the Issuer and, to the best of the knowledge of the undersigned, there is no basis therefor, (i) which in any way questions the powers of the Issuer or the validity of the Issuer Documents or the Notes, or (ii) wherein an unfavorable decision, ruling or finding would materially and adversely affect the transactions contemplated by the Issuer Documents or the Notes, or would in any way affect adversely the validity or enforceability of the Issuer Documents or the Notes;
- (h) any information relating to the Issuer and the Notes furnished by the Issuer pursuant to this Agreement, including but not limited to the Offering Memorandum, does not and will not include any untrue statement of a material fact or omit to state any material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading;
- (i) the Issuer has not failed during the previous five years to comply with any previous undertakings in a written continuing disclosure contract or agreement under Rule 15c2-12; and
- (j) the Issuer will cooperate with the Dealer in arranging for the qualification of the Notes for sale and the determination of their eligibility for investment under the laws of such jurisdictions as the Dealer may designate and will use its best efforts to continue such qualifications in effect so long as the Notes are being offered by the Dealer; provided, however, that the Issuer will not be required to execute a special or general consent to service of process or qualify to do business in connection with action taken under this subsection.

Each delivery of a Note to the Dealer or to a person whose purchase of such Note was arranged by the Dealer shall constitute a representation and warranty by the Issuer, as of the date thereof, that (i) the representations and warranties of the Issuer in this Section 4 are true and correct on and as of such date with the same effect as if made on and as of such date, (ii) the Notes issued on such date have been duly and validly issued and delivered in accordance with the Issuing and Paying Agent Agreement and (iii) the Issuer has complied or will comply, as the case may be, with

all covenants contained in this Agreement. The Issuer shall not cause to be issued any Note unless such representations and warranties are true and correct.

5. Conditions To Dealer's Obligations. The obligations of the Dealer under this Agreement have been undertaken in reliance on, and shall be subject to, the due performance by the Issuer of its obligations and agreements to be performed hereunder and to the accuracy of and compliance with the respective representations, warranties, covenants and agreements of the Issuer contained herein, in each case on and as of the date of delivery of this Agreement and on and as of each date on which Notes are to be issued. The obligations of the Dealer hereunder with respect to each date on which Notes are to be issued are also subject, in the discretion of the Dealer, to the following further conditions precedent:

(a) The Issuer Documents shall be in full force and effect and the Notes to be issued on such date shall have the full benefits of all of the foregoing, and there shall be in full force and effect such additional resolutions, agreements, instruments and certificates (including such certificates as may be required by Fulbright & Jaworski L.L.P., Bond Counsel, regarding the exclusion from gross income of interest on the Notes from federal income tax) and such opinions of counsel, which resolutions, agreements, certificates and opinions of counsel shall be satisfactory in form and substance to Fulbright & Jaworski L.L.P., Bond Counsel, and there shall have been taken in connection therewith and in connection with the issuance of the Notes all such action as shall, in the opinion of the aforesaid Bond Counsel, be necessary in connection with the transactions contemplated hereby.

(b) There shall have been no material adverse change in the properties, business, condition (financial or other) or results of operations of the Issuer or the Bank since the date of the Offering Memorandum; and no Event of Default (as such term is defined in the Ordinance or the Reimbursement Agreement) shall have occurred and be continuing and no event shall have occurred and be continuing which with the passage of time or giving of notice or both, would constitute such an Event of Default.

(c) On or prior to the first date on which Notes are to be sold pursuant to the terms of the Ordinance and this Agreement, the Dealer shall have received:

(i) executed copies of the Reimbursement Agreement and the Issuing and Paying Agent Agreement; a transcript of all proceedings relating to the authorization of the Notes will be provided for federal income tax purposes following the issuance of the Notes;

(ii) opinions dated such date of (a) Fulbright & Jaworski L.L.P., Bond Counsel, (b) Ashurst L.L.P., counsel to the Bank, and (c) foreign counsel to the Bank (each such opinion to be in form and substance as previously agreed to by each such counsel and the Dealer);

(iii) a certificate of the Issuer, executed by any duly authorized official of the Issuer, dated such date, as to the accuracy of and compliance with the representations, warranties, covenants and agreements of the Issuer contained in the Ordinance on and as of such date, which certificate may state that the certifications therein set forth are to the best knowledge and belief of such official;

(iv) a certificate of the Issuer, executed by any duly authorized official of the Issuer, dated such date, as to the accuracy of and compliance with the representations, warranties, covenants and agreements of the Issuer contained in the Reimbursement Agreement on and as of such date, which certificate may state that the certifications therein set forth are to the best knowledge and belief of such official;

(v) a certificate of the Bank, executed by a duly authorized representative of the Bank, dated such date, as to the correctness of information concerning the Bank which is contained in the Offering Memorandum;

(vi) a certificate of the Issuer executed by any duly authorized official of the Issuer, dated on or prior to such date, as to the correctness of information concerning the Issuer which is contained in the Offering Memorandum;

(vii) copies of all documents required by, and delivered pursuant to, Section 3.1 of the Reimbursement Agreement; and

(viii) copies of such other documents, certificates and opinions as the Dealer shall have reasonably requested.

6. Term and Termination of this Agreement. (a) This Agreement shall become effective upon execution by the Dealer and the Issuer and may be canceled by the Dealer or the Issuer (with notification to the Bank) at any time on written notice. To be effective, such written notice must be given no less than 30 days prior to such cancellation date with a copy to the Paying Agent and the Bank; provided, however, that upon the mutual agreement of the Dealer, the Bank, and the Issuer, such written notice may be given fewer

than 30 days prior to such cancellation date. The Issuer will use its best efforts to notify Standard & Poor's Ratings Services, a Standard & Poor's Financial Services LLC business, and Fitch, Inc., (in the manner prescribed by Section 10(e) hereof) of the termination of this Agreement and any change in the dealer for the Notes.

(b) In addition, Barclays Capital may terminate its obligations under this Agreement or, at its option, may temporarily suspend its obligations hereunder at any time by notifying the Issuer and the Bank in writing or by telegram, telex or other electronic communication of its election to do so if:

(i) Legislation shall be favorably reported by a committee of the House of Representatives or the Senate of the United States or be introduced by committee by amendment or otherwise in, or be enacted by, the House of Representatives or the Senate or be recommended by the President of the United States to the Congress of the United States for passage by the Congress of the United States, or a decision by a court established under Article III of the Constitution of the United States, or the Tax Court of the United States, shall be rendered, or a ruling, regulation or order of the Treasury Department of the United States or the Internal Revenue Service or any other governmental entity having jurisdiction over the subject matter shall be made or proposed, having the purpose or effect of imposing federal income taxation, or any other event shall have occurred which results in the imposition of federal income taxation, upon interest received on the Notes;

(ii) Legislation shall be favorably reported by a committee of the House of Representatives or the Senate of the United States, or shall be introduced by committee by amendment or otherwise, or be introduced by the House of Representatives or the Senate or shall be recommended by the President of the United States to the Congress of the United States for passage by the Congress of the United States, or a decision by a court of the United States shall be rendered, or a stop order, ruling, regulation or official statement by, or on behalf of, the United States Securities and Exchange Commission or other governmental agency having jurisdiction of the subject matter should be made or proposed, to the effect that the offering or sale of obligations of the character of the Notes, as contemplated hereby, is or would be in violation of any provision of the Securities Act of 1933, as amended and as then in effect (the "Securities Act"), or the Securities Act of 1934 as amended and as then in effect, or that the Ordinance shall be required to be qualified under the Trust Indenture Act of 1939, as amended and as then in effect, or with the purpose or effect of otherwise prohibiting the offering for sale of obligations of the character of the Notes, or the Notes as contemplated hereby, without registration under the Securities Act or qualification of the Ordinance under the Trust Indenture Act of 1939, as amended;

(iii) Any information shall have become known which, in the Dealer's reasonable opinion, makes untrue any statement of a material fact contained in the Offering Memorandum or causes the Offering Memorandum, as supplemented or amended, to contain

any untrue statement of a material fact or to omit to state a material fact necessary to make the statements made therein, in the light of the circumstance under which they were made, not misleading;

(iv) Except as provided in paragraphs (a) and (b) of this section, any legislation, resolution, ordinance, rule or regulation shall be introduced in, or be enacted by, any governmental body, department or agency of the United States or of the State of Texas, or a decision by any court of competent jurisdiction within the United States or the State of Texas shall be rendered, which, in the Dealer's reasonable opinion, materially adversely affects the marketability of the Notes;

(v) Additional material restrictions not in force as of the date hereof shall have been imposed upon trading in securities similar to the Notes by any governmental authority or by any national securities exchange which, in the Dealer's reasonable opinion, materially adversely affect the marketability of the Notes;

(vi) Any governmental authority shall impose, as to the Notes, or obligations of the character of the Notes, any material restrictions not now in force, or increase materially those now in force which, in the Dealer's reasonable opinion, materially adversely affect the marketability of the Notes;

(vii) A banking moratorium shall have been established by United States federal, or New York State authorities;

(viii) The rating of the Notes shall have been downgraded to a rating below investment grade by Standard & Poor's Rating Services, a Standard & Poor's Financial Services LLC business, or Fitch, Inc., or any such rating agency shall withdraw any ratings it may have in effect with respect to the Notes;

(ix) A war involving the United States shall have been declared, or any existing conflict involving the armed forces of the United States shall have escalated, or any other national emergency relating to the effective operation of government of the financial community shall have occurred, which, in the Dealer's reasonable opinion, materially adversely affects the marketability of the Notes;

(x) Any event, including, without limitation, the bankruptcy or default of any issuer of, or obligor on tax-exempt securities, shall have occurred which, in the Dealer's reasonable opinion, makes the marketing of the securities of the character of the Notes impossible over an extended period of time;

(xi) The Ordinance, the Issuing and Paying Agent Agreement or the Reimbursement Agreement shall cease to be in full force and effect;

(xii) An Event of Default under the Ordinance, the Issuing and Paying Agent Agreement or the Reimbursement Agreement shall have occurred and be continuing;

(xiii) A notice of No Issuance shall have been given and remain in effect under the Reimbursement Agreement;

(xiv) A general suspension of trading in securities on the New York Stock Exchange or any other national securities exchange or the establishment of minimum or maximum prices on any such national securities exchange shall have occurred; or

(xv) A material disruption in securities settlement, payment or clearance services applicable to the Notes shall have occurred which, in the Dealer's reasonable opinion, materially adversely affects the ability to effect the settlement, payment or clearance of the Notes.

7. Payment of Fees and Expenses. (a) In consideration of the services to be performed by the Dealer under this Agreement, the Issuer agrees to pay to the Dealer a fee in the amount of the product of (i) 0.04% divided by 365 or 366, as appropriate, and (ii) the sum of the principal amounts of the Notes outstanding on each day during the billing period (to which reference is made in the next succeeding sentence). It is understood and agreed that (i) payment of such fee shall be made by the Issuer quarterly upon receipt of an invoice therefor from the Dealer, and (ii) the obligation of the Issuer to pay such fee shall survive the termination or cancellation of this Agreement to the extent that such obligation related to Notes outstanding prior to such termination or cancellation.

(b) All reasonable expenses and costs of the Dealer in effecting the authorization, preparation, issuance, offering, delivery and sale of the Notes (including, without limitation, the expenses and costs of the preparation, printing, photocopying, execution and delivery of the Notes, the Offering Memorandum, the Reimbursement Agreement, the Issuing and Paying Agent Agreement, this Agreement and all other agreements and documents contemplated hereby and thereby, including amendments, modifications and supplements to any such agreements and documents at any time during the term of this Agreement) shall be paid or reimbursed by the Issuer, unless and to the extent that such expenses and costs are paid out of or reimbursed from the proceeds of the Notes.

8. Indemnity. To the extent permitted by law, the Issuer shall indemnify and hold harmless the Dealer and each director, trustee, partner, member, officer, official or employee thereof and each person, if any, who controls the Dealer (each herein called a "**Controlling Person**") within the meaning of Section 15 of the Securities Act (any such

person being herein sometimes called an “**Indemnified Party**”), against any and all losses, claims, damages or liabilities, joint or several, (i) to which any such Indemnified Party may become subject, under statute or regulation, at law or in equity or otherwise, insofar as such losses, claims, damages or liabilities (or actions in respect thereof) arise out of or are based upon any untrue statement or alleged untrue statement of a material fact set forth in the Offering Memorandum or any amendment or supplement thereto or arise out of or are based upon the omission or alleged omission to state therein a material fact required to be stated therein or which is necessary to make the statements made therein not misleading in any material respect, in light of the circumstances under which they were made and considering (1) the purpose for which such information was supplied in the offering of the Notes to qualifying investors pursuant to the disclosure documents (which includes the Offering Memorandum and any amendments and supplements thereto and replacements thereof), and (2) the presence of the Reimbursement Agreement, but the Issuer will not be liable in any such case to the extent that any such loss, claim, damage or liability (including legal counsel fees and expenses) arises out of or is based upon any such untrue statement or alleged untrue statement or omission or alleged omission made or incorporated in the disclosure documents (x) in reliance upon and in conformity with written information furnished to the Issuer by the Dealer specifically for use in the disclosure documents or (y) any information contained in the disclosure documents relating to the Bank or the Reimbursement Agreement, and (ii) to the extent of the aggregate amount paid in any settlement of any litigation commenced or threatened arising from a claim based upon any such untrue statement or alleged untrue statement or omission or alleged omission if such settlement is effected with the written consent of the Issuer (which consent shall not be unreasonably withheld). The Issuer will not be liable to the Dealer in any case to the extent that any loss, claim, damage or liability (including legal counsel fees and expenses) arises out of or is based upon any untrue statement or alleged untrue statement or omission or alleged omission which is made to investors by the Dealer but is not contained, made or incorporated in the disclosure documents.

An Indemnified Party shall, promptly after the receipt of notice of a written threat of the commencement of any action against such Indemnified Party in respect of which indemnification may be sought against the Issuer, notify the Issuer in writing of the commencement thereof. Failure of the Indemnified Party to give such notice shall reduce the liability of the Issuer by the amount of damages attributable to the failure of the Indemnified Party to give such notice to the Issuer, but the omission to notify the Issuer of any such action shall not relieve the Issuer from any liability that it may have to such Indemnified Party otherwise than under this Section. In case any such action shall be brought against an Indemnified Party and such Indemnified Party shall notify the Issuer of the commencement thereof, the Issuer may, or if so requested by such Indemnified Party shall, participate therein or assume the defense thereof, with counsel reasonably satisfactory to such Indemnified Party and the Issuer (it being understood that, except as hereinafter provided, the Issuer shall not be liable for the expenses of more than one counsel representing the Indemnified Parties

in such action), and after notice from the Issuer to such Indemnified Party of an election so as to assume the defense thereof, the Issuer shall not be liable to such Indemnified Party under this Section for any legal or other expenses subsequently incurred by such Indemnified Party in connection with the defense thereof other than reasonable costs of investigation; provided, however, that unless and until the Issuer assumes the defense of any such action at the request of such Indemnified Party, the Indemnified Party shall have the right to participate at its own expense in the defense of any such action. If the Issuer shall not have employed counsel to have charge of the defense of any such action or if an Indemnified Party shall have reasonably concluded that there may be defenses available to it and/or other Indemnified Parties that are different from or additional to those available to the Issuer (in which case the Issuer shall not have the right to direct the defense of such action on behalf of such Indemnified Party) or to other Indemnified Parties, legal and other expenses, including the expense of separate counsel, incurred by such Indemnified Party shall be borne by the Issuer.

9. G-23 Disclosure. The Issuer and the Dealer acknowledge and agree that: (i) the transactions contemplated by this Agreement are arm's length, commercial transactions between the Issuer and the Dealer in which the Dealer is acting solely as a principal or agent, as applicable and is not acting as a municipal advisor, financial advisor or fiduciary to Issuer; (ii) the Dealer has not assumed any advisory or fiduciary responsibility to the Issuer with respect to the transactions contemplated hereby and the discussions, undertakings and procedures leading thereto (irrespective of whether the Dealer or its affiliates have provided other services or is currently providing other services to the Issuer on other matters) or other contractual, advisory or fiduciary obligation to the Issuer related to this Agreement except the contractual obligations expressly are set forth in this Agreement; and (iii) the Issuer has consulted its own legal, accounting, tax, financial and other advisors, as applicable, to the extent it has deemed appropriate.

10. Miscellaneous. (a) All notices, demands and formal actions under this Agreement shall be in writing and mailed, telecopied or delivered to:

The Dealer:

Barclays Capital Inc.
745 Seventh Avenue, 2nd Floor
New York, New York 10019
Attention: Short-Term Municipal Products-Manager
Telephone: (212) 528-1011
Facsimile Transmission Number: (646) 758-1870

With a copy to:

Barclays Capital Inc.
745 Seventh Avenue, 19th Floor
New York, New York 10019
Attention: Public Finance – Short Term Products
Telephone: (212) 526-2093
Facsimile Transmission Number: (646) 758-1905

The Issuer:

City of Garland
200 North Fifth
Garland, Texas 75040
Attention: Director of Financial Services
Telephone: (972) 205-2355
Facsimile Transmission Number: (972) 205-2810

The Bank:

Wells Fargo Bank, National Association
Government and Institutional Banking
360 Interstate North Parkway, 5th Floor
Atlanta, Georgia 30339
MAC G0147-054
Attention: Patrick Hennessey, Senior Vice President
Telephone: (678) 589-4341
Facsimile Transmission Number: (678) 589-4315

provided, however, that all notices pursuant to, or contemplated by, the provisions of Section 1 of this Agreement shall be given by telephonic communication between or among authorized representatives of the parties to this Agreement and shall be confirmed in writing and mailed, telecopied or delivered to such parties on the later of the Business Day following the settlement, if any, of the respective transactions to which such notices relate or the Business Day following the telephonic communication. The Dealer and the Issuer may, by notice given under this Agreement, designate other addresses to which subsequent notices, requests, reports or other communications shall be directed;

(b) Any certificate authorized by the Issuer, signed by any authorized official or officials of the Issuer and delivered to the Dealer, shall be deemed a representation by the Issuer to the Dealer as to the statements made therein;

(c) This Agreement will inure to the benefit of and be binding upon the Issuer and the Dealer and their respective successors and assigns, and will not confer any rights upon any other person, partnership, association or corporation other than the Indemnified Parties and the Bank. The term “successors” and “assigns” shall not include any purchaser of any of the Notes merely because of such purchase;

(d) All of the representations, warranties and covenants of the Issuer and the Dealer in this Agreement shall remain operative and in full force and effect, regardless of (i) any investigation made by or on behalf of the Dealer or (ii) delivery of any payment for any Notes hereunder;

(e) The Dealer shall use its best efforts to notify Standard & Poor’s Rating Services, a Standard & Poor’s Financial Services LLC business, and Fitch, Inc., of any modification of or amendment to this Agreement. Notice shall be sent by first class mail, postage prepaid;

(f) Section headings have been inserted in this Agreement as a matter of convenience of reference only, and it is agreed that such section headings are not a part of this Agreement and will not be used in the interpretation of any provisions of this Agreement;

(g) If any provision of this Agreement shall be held or deemed to be or shall, in fact, be invalid, inoperative or unenforceable as applied in any particular case in any jurisdiction or jurisdictions, or in all jurisdictions, because it conflicts with any provisions of any constitution, statute, or rule of public policy, or for any other reason, such circumstances shall not have the effect of rendering the provision in question invalid, inoperative or unenforceable in any other case or circumstance, or of rendering any other provision or provisions of this Agreement invalid, inoperative or unenforceable to any extent whatever;

(h) This Agreement may be executed in several counterparts, each of which shall be regarded as an original and all of which constitute one and the same document. This Agreement may be delivered by the exchange of signed signature pages by facsimile transmission or by e-mail with a pdf copy attached, and any printed or copied version of any signature page so delivered shall have the same force and effect as an originally signed version of such signature page;

(i) This Agreement shall be governed by and construed in accordance with the law of the State of Texas.

Execution Page

BARCLAYS CAPITAL INC.

By: _____

CITY OF GARLAND, TEXAS

By: _____
Mayor

By: _____
City Secretary



City Council Item Summary Sheet

Work Session

Date: December 4, 2012

Agenda Item

Economic Development Agreement – The Stainback Organization

Summary of Request/Problem

The Stainback Organization has requested that the City enter into an Economic Development Agreement for the purpose of developing two Wal-Mart Neighborhood Grocery stores to be located at (1) the northwest quadrant of S. Garland Ave. and Miller Rd. and (2) the northwest quadrant of N. First Street and W. Buckingham Rd. The economic development agreement is contingent upon the development of both sites. The grocery stores will contain a minimum of 35,000 sq. ft. of floor area. It is anticipated that the new economic agreement will create additional jobs, sales tax, and ad valorem tax to the City.

Recommendation/Action Requested and Justification

Approve a resolution authorizing the City Manager to execute an Economic Development Agreement with The Stainback Organization.

Submitted By:

Martin E. Glenn
Deputy City Manager

Approved By:

William E. Dollar
City Manager

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE AN ECONOMIC DEVELOPMENT AGREEMENT WITH THE STAINBACK ORGANIZATION, A TEXAS CORPORATION, AND PROVIDING AN EFFECTIVE DATE.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF GARLAND, TEXAS:

Section 1

That the City Manager is hereby authorized to execute an Economic Development Agreement with The Stainback Organization, a Texas Corporation, in substantially the form and substance of that attached.

Section 2

That this Resolution shall be and become effective immediately upon and after its adoption and approval.

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

CITY OF GARLAND, TEXAS

Mayor

ATTEST:

City Secretary

STATE OF TEXAS §
§ **ECONOMIC DEVELOPMENT AGREEMENT**
COUNTY OF DALLAS §

This Economic Development Agreement (“Agreement”) is made by and between the City of Garland, Texas (“City”) and The Stainback Organization, a Texas corporation, (“Developer”), acting by and through their respective authorized officers.

WHEREAS, Developer proposes to purchase, or facilitate the purchase by Wal-Mart Real Estate Business Trust or other Wal-Mart entity (“Wal-Mart”) of an approximate 9.3 acre tract of land which is located at the northwest corner of Garland Avenue and Miller Road in the City and which is more fully described in Exhibit “A” which is attached hereto for all purposes (the “Miller Road Site”); and

WHEREAS, Developer proposes to subdivide and construct, or cause to be subdivided and constructed, on the Miller Road Site a retail development consisting of a Wal-Mart grocery store on one lot and nonresidential uses on three additional lots (the “Miller Road Development”); and

WHEREAS, Developer also proposes to purchase, or facilitate the purchase by Wal-Mart Real Estate Business Trust or other Wal-Mart entity of an approximate 5.3 acre tract of land which is located at the northwest corner of West Buckingham Road and North First Street and which is more fully described in Exhibit “B” which is attached hereto for all purposes (the “North First Street Site”); and

WHEREAS, Developer proposes to construct, or cause to be constructed, on the North First Street Site a Wal-Mart grocery store (the “North First Street Development”); and

WHEREAS, the Miller Road Site and North First Street Site are collectively referred to herein as the “Properties,” the Miller Road Development and North First Street Development are collectively referred to herein as the “Developments”, and the Wal-Mart grocery store to be constructed on the Miller Road Site and the Wal-Mart grocery store on the North First Street Site are referred to herein as the “Grocery Store” individually and “Grocery Stores” collectively; and,

WHEREAS, the Developments will result in new economic development in the City, including increases in the number of new jobs, sales and use tax revenue, and ad valorem tax values within the City; and

WHEREAS, the Project will have a direct and positive economic benefit to City; and

WHEREAS, the Developer has advised the City that a contributing factor that would induce the Developer to develop the Properties would be an agreement by the City to provide an economic development grant to the Developer as set forth herein; and

WHEREAS, the City is authorized by Article 52-a of the Texas Constitution and Chapter 380.001 of the Texas Local Government Code to provide a program for economic development grants to promote local economic development and to stimulate business and commercial activity in the City; and

WHEREAS, City wishes to provide incentives to Developer to assist in the economic development of the City; and

WHEREAS, the City has determined, based on information presented to it by the Developer, that making an economic development grant to the Developer in accordance with this Agreement is in accordance with the City's economic development goals and will: (i) further the objectives of the City; (2) benefit the City and the City's inhabitants; and (iii) promote local economic development and stimulate business and commercial activity in the City; and

WHEREAS, City hereby finds that this Agreement embodies an eligible "program" and clearly promotes economic development in the City and, as such, meets the requisites under Chapter 380 of the Texas Local Government Code and further, is in the best interests of the City.

NOW, THEREFORE, for and in consideration of TEN DOLLARS AND NO/100 (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, City and Developer agree as follows:

1. Developer's Obligations:

- a. In consideration of the City's Obligations set forth below, the Developer shall commence construction of both the Miller Road Development and the North First Street Development no later than June 1, 2016.
- b. Developer shall construct or cause to be constructed, subject to subdivision approval by the City, an sidewalk having a minimum width of 6 feet and a right turn lane along South Garland Avenue adjacent to the lot created for the grocery store to be constructed at the Miller Road Development, along with such other public infrastructure improvements as may be indicated as part of the subdivision approvals for the Developments.
- c. Developer shall retain, refurbish, and maintain the existing shopping center sign located at the Miller Road Development site (the "Garland Shopping Center Sign"). Any additional sign erected adjacent to the Garland Shopping Center Sign within the same driveway median as the Garland Shopping Center Sign shall not obstruct or otherwise interfere with the Garland Shopping Center Sign and must be approved by the City.

2. City's Obligations:

- a. Grant. In consideration of the Developer's Obligations set forth above,

the City shall provide to Developer an economic development grant (the “Grant”) as follows:

- i. **Maximum Grant Amount:** The maximum amount of the Grant in the aggregate shall be one million (\$1,000,000.00) dollars (the “Maximum Grant Amount”).
 - ii. **Annual Installments:** In each year of the Grant Term (defined below), the City shall pay the Grant in annual installments to the Developer in amounts equal to one hundred (100%) percent of the municipal sales and use tax generated by the Developments in the immediate preceding year (the “Annual Installments”). The Annual Installments shall be paid beginning no later than April 1 of the year of the Grant Commencement Date, as defined herein, and then no later than April 1 of each successive year after the Grant Commencement Date.
 - iii. The Annual Installments shall be made from sales tax revenues that occur at the Developments remitted to the City by the State of Texas.
 - iv. **Term:** the term for the Grant Annual Installments (the “Grant Term”) shall commence on January 1 of the year following the year in which the second of the Grocery Stores opens for business (the “Grant Commencement Date”) and end either (a) the year in which the Maximum Grant Amount is paid in full, or (b) the fifteenth anniversary of the Grant Commencement Date. Notwithstanding the foregoing, in the event the total Grant Annual Installments paid up to and including the fourteenth anniversary of the Grant Commencement Date is at least eighty-five (85%) percent of the Maximum Grant Amount, the Grant Term shall be extended to the earlier to occur of (i) the year in which the Maximum Grant Amount is paid in full, or (ii) an additional two years.
- b. **Expedited Review:** The City shall expedite all applications, reviews, and approvals needed for the construction of the Developments.
3. **Sales Tax Reports.** The City and Developer designate this Agreement as a revenue sharing agreement, thereby entitling City to request annual sales and use tax information from the Comptroller of the State of Texas (the “Comptroller”), pursuant to section 321.3022 of the Texas Tax Code (“Section 321.3022”), as amended. The City shall request in writing that the Comptroller issue annual sales tax reports pursuant to Section 321.3022 for total taxable sales consummated at the Developments and the payment of sales tax (the “Sales Tax Reports”) for each year of the Grant Term, copies of which shall be available to Developer if permitted by law. To the extent that the release of any such reports shall require the consent of Developer, Developer shall provide to City such consent. Developer acknowledges that if there are not more than three persons doing business who remit sales taxes at the Developments, the Comptroller may require the

permission from each of the persons allowing the Comptroller to provide the information to the City as requested. Developer shall obligate its tenants or purchasers of Property within the Developments to provide to City, at the City's request, their sales tax ID numbers solely used for their location at the Developments so that payments can be verified by the City. The City agrees to request ID numbers only if the City fails to get Sales Tax Reports that isolate the sales tax generated from the Developments.

4. Condition to Developer's Receipt of the Grant: The Developer's right to receive the Grant is subject to the following:
 - a. Developer or Wal-Mart purchasing the Properties. In the event the Developer or Wal-Mart does not purchase the Properties on or before June 1, 2016, then this Agreement shall be null and void.
 - b. The Grocery Stores shall contain at least 35,000 square feet of floor area.
 - c. The Grocery Stores shall employ at least 25 employees at the opening of business for each Grocery Store.
 - d. The location of the Grocery Stores within each Development shall generally conform to the locations shown on the site plans attached hereto as Exhibit "C" or other site plan(s) approved by the City Manager or his designee.
 - e. The south and east facades of the Grocery Store constructed on the Miller Road Site shall be constructed of similar materials and color. Likewise, the south and east facades of the Grocery Store constructed on the North First Street Site shall be constructed of similar materials and color.
 - f. Wal-Mart agrees that it will not file a deed restriction that would prevent the Grocery Store buildings from being used for future grocery stores in the event Wal-Mart vacates the Properties.

5. Force Majeure. All obligations of Developer and City shall be subject to events of "force majeure" which shall mean any contingency or cause beyond the reasonable control of a party, as applicable, including, without limitations, acts of God or the public enemy, war, riot, civil commotion, insurrection, adverse weather, government or de facto governmental action or inaction (unless caused by negligence or omissions of such party), fires, explosions, floods, strikes, slowdowns or work stoppages, shortage of materials and labor.

6. Term. The term of this Agreement shall commence on the last date of its execution and shall terminate upon payment of the Maximum Grant Amount. Notwithstanding the foregoing this Agreement may be terminated earlier upon any one of the following:
 - (a) by written agreement of the parties;
 - (b) by notice from either party in the event the other party breaches any of the terms or conditions of this Agreement and such breach is not cured within ninety (90) days after written notice thereof;

7. Remedies. In the event of any event of default by Developer, the City, as its sole remedy, may terminate all commitments of City under this Agreement after providing the

Developer written notice of such default and 90 days to cure such default. If any event of default by the City exists, Developer shall provide written notice of such default to the City; then, the City shall have 90 days to cure such default. In the event the City is not able to cure such default, Developer may pursue such remedies available to it by law or equity, including, specific performance. The City and Developer hereby agree that Section 271.152 of the Texas Local Government Code, relating to Waiver of Immunity to Suit for Certain Claims, applies to this Agreement.

8. Release and Indemnification.

THE CITY SHALL NOT BE LIABLE FOR ANY LOSS, DAMAGE, OR INJURY OF ANY KIND OR CHARACTER TO ANY PERSON OR PROPERTY ARISING FROM THE ACTS OR OMISSIONS OF THE DEVELOPER PURSUANT TO THIS AGREEMENT. THE DEVELOPER HEREBY WAIVES ALL CLAIMS AGAINST CITY, ITS OFFICERS, AGENTS AND EMPLOYEES (COLLECTIVELY REFERRED TO IN THIS SECTION AS "CITY") FOR DAMAGE TO ANY PROPERTY OR INJURY TO, OR DEATH OF, ANY PERSON ARISING AT ANY TIME AND FROM ANY CAUSE OTHER THAN THE SOLE NEGLIGENCE, GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF CITY. THE DEVELOPER DOES HEREBY INDEMNIFY AND SAVE HARMLESS THE CITY FROM AND AGAINST ANY AND ALL LIABILITIES, DAMAGES, CLAIMS, SUITS, COSTS (INCLUDING COURT COSTS, ATTORNEYS' FEES AND COSTS OF INVESTIGATION) AND ACTIONS OF ANY KIND BY REASON OF INJURY TO OR DEATH OF ANY PERSON OR DAMAGE TO OR LOSS OF PROPERTY ARISING FROM THE DEVELOPER'S BREACH OF ANY OF THE TERMS AND CONDITIONS OF THIS AGREEMENT, OR BY REASON OF ANY ACT OR OMISSION ON THE PART OF THE DEVELOPER, ITS OFFICERS, DIRECTORS, SERVANTS, AGENTS, EMPLOYEES, REPRESENTATIVES, SUBCONTRACTORS, LICENSEES, SUCCESSORS OR PERMITTED ASSIGNS IN THE PERFORMANCE OF THIS AGREEMENT (EXCEPT WHEN SUCH LIABILITY, CLAIMS, SUITS, COSTS, INJURIES, DEATHS OR DAMAGES ARISE FROM OR ARE ATTRIBUTED TO THE SOLE NEGLIGENCE OF THE CITY). IN THE EVENT OF JOINT OR CONCURRENT NEGLIGENCE OF BOTH THE CITY AND DEVELOPER, THE RESPONSIBILITY, IF ANY, SHALL BE APPORTIONED COMPARATIVELY IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS, WITHOUT, HOWEVER, WAIVING ANY GOVERNMENTAL IMMUNITY AVAILABLE TO THE CITY AND WITHOUT WAIVING ANY DEFENSES OF THE PARTIES UNDER TEXAS LAW. IF ANY ACTION OR PROCEEDING SHALL BE BROUGHT BY OR AGAINST CITY IN CONNECTION WITH ANY SUCH LIABILITY OR CLAIM, THE DEVELOPER SHALL BE REQUIRED, ON NOTICE FROM CITY, TO DEFEND SUCH ACTION OR PROCEEDINGS AT THE DEVELOPER'S EXPENSE, BY OR THROUGH ATTORNEYS REASONABLY SATISFACTORY TO THE CITY. THE PROVISIONS OF THIS SECTION ARE SOLELY FOR THE BENEFIT OF THE PARTIES HERETO AND NOT INTENDED TO CREATE OR GRANT ANY RIGHTS, CONTRACTUAL OR OTHERWISE, TO ANY OTHER PERSON OR ENTITY.

9. Miscellaneous. The following miscellaneous provisions are a part of this Agreement:

- a. Entire Agreement. This Agreement constitutes the entire understanding and agreement of the parties as to the matters set forth in this Agreement. No alteration of or amendment to this Agreement shall be effective unless given in writing and signed by the party or parties sought to be charged or bound by the alteration or amendment.
- b. Binding Effect, Successors and Assigns. The terms and conditions of this Agreement are binding upon the successors and assigns of the parties hereto. This Agreement, or the right to receive grant payments, pursuant to this Agreement, may not be assigned, in whole or in part, without the express written consent of the City Council or the City Manager. For purposes of this Agreement, performance by a successor or an affiliate of Developer, or performance by a party with whom Developer or its affiliates contract shall be deemed to be performance by Developer.
- c. Amendments. No modifications or amendments to this Agreement shall be valid unless in writing and signed by the signatories hereto or their heirs, successors and assigns.
- d. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Texas, and all obligations of the parties created hereunder are performable in Dallas County, Texas. Venue for any action arising under this Agreement shall lie in Dallas County, Texas.
- e. Authority to Sign. This Agreement shall become a binding obligation on the signatories upon execution by all signatories hereto. City warrants and represents that the individual executing this Agreement on behalf of City has full authority to execute this Agreement and bind City to the same. Developer warrants and represents that the individual executing this Agreement on its behalf has full authority to execute this Agreement and bind Developer to the same.
- f. Council Resolution. City Council has authorized the City Manager to execute this Agreement on behalf of City by City Council Resolution Number _____ approved on _____, 200_.
- g. Severability. In the event any provision of this Agreement shall be determined by any court of competent jurisdiction to be invalid or unenforceable, the Agreement shall, to the extent reasonably possible, remain in force as to the balance of its provisions as if such invalid provision were not a part hereof.
- h. Recitals. The recitals to this Agreement are incorporated herein.
- i. Estoppel. At any time, and from time-to-time, within thirty (30) days after notice or request by a party to this Agreement (the "requesting party"), at no cost to the requesting party, the other party to this Agreement (the "responding party") shall,

at no cost to the requesting party, execute and deliver to the requesting party and to any proposed purchaser, mortgagee, ground lessee or other transferee, a statement certifying that this Agreement is unmodified and is in full force and effect, or if there have been modifications, that this Agreement is in full force and effect as modified in the manner specified in the statement, and that, among other things reasonably requested, to the knowledge of such party, there exists no default under this Agreement, or any event that with notice or lapse of time or both would constitute an event of default to this Agreement, other than specified therein. The responding party shall not have any obligation to make any statements or covenants that modify the rights and obligations of either party as set forth in this Agreement.

- j. Notice. All notices required to be given under this Agreement shall be in writing and shall be given by either party or its counsel in person, via an express mail service or via courier or via receipted facsimile transmission (but only if duplicate notice is also given via express mail service or via courier or via certified mail) or certified mail, return receipt requested, to the respective parties at the below addresses (or at such other address as a party may hereafter designate for itself by notice to the other party as required hereby). All notices given pursuant to this paragraph shall be deemed effective, as applicable, on the date such notice may be given in person, next business day following the date on which such communication is transferred via facsimile transmission, or as applicable, deposited with the express mail service, courier, or in the United States mails. Any party may change its address for notices under this Agreement by giving formal written notice to the other parties, specifying that the purpose of the notice is to change the party's address.

If to City: City of Garland
200 North Fifth
Garland TX 75040
Attn: City Manager
Phone: (972) 205-2000
Fax: (972) 205-2504

With a copy to:

Mr. Brad Neighbor
City Attorney
200 N. Fifth Street
Fourth Floor
Garland TX 75046
Phone: (972) 205-2380
Fax: (972) 205-2389
bneighbo@ci.garland.tx.us

If to Developer: Mr. Kent M. Stainback
The Stainback Organization
5622 Dyer Street, Suite 200
Dallas Texas 75206
Phone: (214) 363-3900
Fax: (214) 691-2626
kent@stainback.com

With required copies to:

Mr. William S. Dahlstrom
Jackson Walker, LLP
901 Main Street
Suite 6000
Dallas, Texas
Phone: (214) 953-5932
Fax: (214) 661-6616
wdahlstrom@jw.com

- k. Employment of Undocumented Workers. During the term of this Agreement the Developer agrees not to knowingly employ any undocumented workers and if convicted of a violation under 8 U.S.C. Section 1324a (f), the Developer shall repay the amount of the Annual Grants and any other funds received by the Developer from the City as of the date of such violation within 120 business days after the date the Developer is notified by the City of such violation, plus interest at the rate of 6% compounded annually from the date of violation until paid. The Developer is not liable for a violation of this section in relation to any workers employed by a

subsidiary, affiliate, or franchisee of the Developer or by a person with whom the Developer contracts.

1. **Time of the Essence.** Time is of the essence in the performance of this Agreement.

Executed and effective as of the ____ day of December, 2012.

DEVELOPER
The Stainback Organization
 a Texas corporation

By: _____
 Name: Kent M. Stainback
 Title: Chief Executive Officer

Date Executed: _____

STATE OF TEXAS

COUNTY OF _____

This instrument was acknowledged before me on the ____ day of December, 2012, by Kent M. Stainback, Chief Executive Officer of The Stainback Organization, a Texas corporation, on behalf of said corporation.

 Notary Public, State of Texas

CITY OF GARLAND, TEXAS

By: _____

Ronald Jones

Its: Mayor

Date Executed: _____

ATTEST:

City Secretary

APPROVED AS TO FORM:

City Attorney

STATE OF TEXAS

COUNTY OF _____

This instrument was acknowledged before me on the _____ day of December, 2012, by Ronald Jones, Mayor of the City of Garland, Texas, a Texas municipal corporation, on behalf of said corporation.

Notary Public, State of Texas

EXHIBIT A
MILLER ROAD PROPERTY

[Metes and bounds description]

EXHIBIT "B"
NORTH FIRST STREET PROPERTY