

AGENDA

**CITY COUNCIL WORK SESSION
City of Garland
Work Session Room, City Hall
200 North Fifth Street, Garland, Texas
November 20, 2012**

5:00 p.m.

DEFINITIONS:

Written Briefing: Items that generally do not require a presentation or discussion by the staff or Council. On these items the staff is seeking direction from the Council or providing information in a written format.

Verbal Briefing: These items do not require written background information or are an update on items previously discussed by the Council.

Regular Item: These items generally require discussion between the Council and staff, boards, commissions, or consultants. These items are often accompanied by a formal presentation followed by discussion.

**[Public comment will not be accepted during Work Session
unless Council determines otherwise.]**

NOTICE: The City Council may recess from the open session and convene in a closed executive session if the discussion of any of the listed agenda items concerns one or more of the following matters:

(1) Pending/contemplated litigation, settlement offer(s), and matters concerning privileged and unprivileged client information deemed confidential by Rule 1.05 of the Texas Disciplinary Rules of Professional Conduct. Sec. 551.071, TEX. GOV'T CODE.

(2) The purchase, exchange, lease or value of real property, if the deliberation in an open meeting would have a detrimental effect on the position of the City in negotiations with a third person. Sec. 551.072, TEX. GOV'T CODE.

(3) A contract for a prospective gift or donation to the City, if the deliberation in an open meeting would have a detrimental effect on the position of the City in negotiations with a third person. Sec. 551.073, TEX. GOV'T CODE.

(4) Personnel matters involving the appointment, employment, evaluation, reassignment, duties, discipline or dismissal of a public officer or employee or to hear a complaint against an officer or employee. Sec. 551.074, TEX. GOV'T CODE.

(5) The deployment, or specific occasions for implementation of security personnel or devices. Sec. 551.076, TEX. GOV'T CODE.

(6) Discussions or deliberations regarding commercial or financial information that the City has received from a business prospect that the City seeks to have locate, stay, or expand in or near the territory of the City and with which the City is conducting economic development negotiations; or

to deliberate the offer of a financial or other incentive to a business prospect of the sort described in this provision. Sec. 551.087, TEX. GOV'T CODE.

(7) Discussions, deliberations, votes, or other final action on matters related to the City's competitive activity, including information that would, if disclosed, give advantage to competitors or prospective competitors and is reasonably related to one or more of the following categories of information:

- generation unit specific and portfolio fixed and variable costs, including forecasts of those costs, capital improvement plans for generation units, and generation unit operating characteristics and outage scheduling;
- bidding and pricing information for purchased power, generation and fuel, and Electric Reliability Council of Texas bids, prices, offers, and related services and strategies;
- effective fuel and purchased power agreements and fuel transportation arrangements and contracts;
- risk management information, contracts, and strategies, including fuel hedging and storage;
- plans, studies, proposals, and analyses for system improvements, additions, or sales, other than transmission and distribution system improvements inside the service area for which the public power utility is the sole certificated retail provider; and
- customer billing, contract, and usage information, electric power pricing information, system load characteristics, and electric power marketing analyses and strategies. Sec. 551.086; TEX. GOV'T CODE; Sec. 552.133, TEX. GOV'T CODE]

(5:00) 1. Written Briefings:

a. Garland Residential Idea Book

Housing appearance and investment is a key theme found in the Envision Garland Comprehensive Plan, as well as the City's work in neighborhood planning and vitality activities. To help address this issue, the concept of a residential "Idea Book" was included in the Envision Garland implementation plan. The Planning Department has completed the Garland Residential Idea Book and is presenting the book to Council.

b. Amendments to Electric Utility System Commercial Paper Program

On September 18, 2012, Council adopted Ordinance No. 6572 authorizing a three-year Electric Utility System Commercial Paper program. Council is requested to authorize amendments to the agreements supporting the program in order to meet rating agency requirements. If Council concurs, this item will be scheduled for formal consideration at the December 4, 2012 Regular Meeting.

Item	Key Person
------	------------

(5:15) 2. Verbal Briefings:

a. DART Paratransit Program **Willis/B. Williams**

At the request of Mayor Pro Tem John Willis and Council Member B. J. Williams, Dallas Area Rapid Transit (DART) staff will brief Council on DART's Paratransit Program.

b. Proposed Changes to Chapter 32, Section 32.56 - Parking on Unimproved Surface (Gravel Driveways) **Briley**

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. The Committee recommended that the City Attorney draft a revised Section 32.56 that would correct the improper reference and designate that the resident appeal be heard before the Housing Standards Board.

c. Civil Service Supplemental Retirement Benefits **Cahill**

The Administrative Services Committee will brief Council regarding its analysis on providing retirement benefits, in addition to the Texas Municipal Retirement System, for public safety employees through City contributions to a 401k/457 plan. The issue was referred to the Committee during Council's discussion of the 2012-13 Budget.

d. Council Rules of Order and Procedure **Neighbor**

In accordance with the City Charter, Council is required to annually adopt its own rules of order and procedure for meetings. Council is requested to discuss proposed revisions. This item is scheduled for formal consideration at the November 20, 2012 Regular Meeting.

e. Public Safety Committee Report **Edwards**

Deputy Mayor Pro Tem Preston Edwards, chair of the Public Safety Committee, will provide a report on the following item that was previously considered by the Committee:

- *Enforcement of the state law regarding the use of handheld communication devices.*

3. Consider the Consent Agenda **Council**

A member of the City Council may ask that an item on the consent agenda for the next regular meeting be pulled from the consent agenda and considered separate from the other consent agenda items. No substantive discussion of that item will take place at this time.

4. Announce Future Agenda Items

Council

A member of the City Council, with a second by another member, or the Mayor alone, may ask that an item be placed on a future agenda of the City Council or a committee of the City Council. No substantive discussion of that item will take place at this time.

(6:45) 5. Adjourn

Council

(Estimated time to consider)



Meeting: Work Session

Date: November 20, 2012

Policy Report

GARLAND RESIDENTIAL IDEA BOOK

ISSUE

The Planning Department has completed the Garland Residential Idea Book and is presenting the book to City Council.

OPTIONS AND RECOMMENDATION

This is informational only; no action by Council is needed.

COUNCIL GOAL

Healthy, Stable Neighborhoods

BACKGROUND

Housing appearance and investment is a key theme found in the Envision Garland Comprehensive Plan, as well as the City's work in neighborhood planning and vitality activities. To help address this community issue, the concept of a residential "Idea Book" was included in the Envision Garland implementation plan. The goal of the book is to create a tool to inspire and guide investment in existing homes in established Garland neighborhoods. In 2011, the Planning Department began implementation of the Idea Book. The City issued a Request for Qualifications and selected Quimby McCoy, an architecture firm, to assist staff with the development of the book.

CONSIDERATIONS

1. The purpose of the book is to have a positive influence on the design and appearance of Garland homes as homeowners improve their home. It is also intended to inspire people to improve their home as they see the possibilities described in the book. The Idea Book addresses several topics such as expansion, curb appeal, and small improvements to homes found in the City's older neighborhoods.
2. The ideas found within the Idea Book are only suggestions and provided for consideration as a homeowner sees fit. The book is not intended to be a regulatory document nor is it an instruction book on building codes. All building codes, permit requirements, and other City codes apply. The book directs the reader to contact the Building Inspection Department for requirements and assistance.

3. The book contains four chapters: Style Guide, Home Improvements, Top Ten Ideas, and Steps to Take. The Idea Book describes four housing styles common to Garland's older neighborhoods, typically those built between 1945 and 1979. The book relies on photographs, floor plans, and modified photographs to demonstrate concepts being presented.
4. The book will be promoted at neighborhood meetings, Garland Neighborhood Management Academy classes, neighborhood planning meetings and other community events. Marketing material will be available for city departments to promote the book to the public. The goal is to build awareness of the book within the community to reach people before they plan projects.
5. The book will be made available on the web site, on compact disc, and in printed format.

ATTACHMENT(S)

1. Garland Residential Idea Book (To be distributed at the meeting)

Submitted By:

Neil Montgomery
Senior Managing Director

Date: November 20, 2012

Approved By:

William E. Dollar
City Manager

Date: November 20, 2012



Policy Report

AMENDMENTS TO ELECTRIC UTILITY SYSTEM COMMERCIAL PAPER PROGRAM

ISSUE

Council authorized a three year Electric Utility System Commercial Paper program by adopting Ordinance No. 6572 on September 18, 2012. Agreements supporting the program need to be amended to meet rating agency requirements.

OPTIONS

1. Approve Ordinance to amend supporting documents.
2. Do not approve amendments.

RECOMMENDATION

It is recommended that Council direct staff to amend Electric Utility System Commercial Paper program documents. If so directed, staff will present the Ordinance for Council's consideration at the December 4, 2012 Regular Meeting.

BACKGROUND

Commercial paper (CP) is a variable rate, short-term debt instrument. Like all other debt instruments of the City, credit ratings are required when debt is sold. To satisfy the rating requirements for the Electric Utility System commercial paper, the City requested ratings from Standard & Poor's and from Fitch Ratings. Standard & Poor's performed their analysis and provided their rating prior to the September 28th commercial paper closing date. However, Fitch Ratings was unable to perform their rating by September 28th due to the analysts' heavy workload. The City, along with the commercial paper liquidity facility providers and the commercial paper dealer, agreed to extend the time for Fitch to provide their credit rating.

Fitch Ratings began their rating analysis in early October. Upon their initial review, the Fitch analyst requested that certain technical changes to documents between the City and the commercial paper Paying Agent and the commercial paper Dealer. The City consulted with First Southwest and Fulbright & Jaworski to determine a course of action. Barclays, the commercial paper dealer, and the liquidity facility providers, Wells

COMMERCIAL PAPER PROGRAM

Page 2

Fargo and Sumitomo Mitsui, were brought into the discussion. Because the Fitch rating is required, the City instructed Fulbright & Jaworski to work with Fitch to recommend amendments to the commercial paper Dealer Agreements and the commercial paper Issuing and Paying Agent Agreement.

Fulbright & Jaworski, in conjunction with Fitch, has presented amended documents to the City. City staff agrees with the amendments. The amendments which Fitch requested are very technical in nature. The changes being made are to clarify the sale of commercial paper as a direct pay letter of credit transaction for the payment of **both** principal and interest. Fitch had contested that sufficient clarity and distinction were not included in the documents for the transaction to be considered a direct pay letter of credit. In addition, language will be amended to clarify the timing deadlines each of the parties must abide by during the execution of a transaction. Specifically, the commercial paper dealer will have to confirm to the paying agent the amount of commercial paper sold by **11:00** a.m. instead of 10:30 a.m. The amendments to Ordinance No. 6572, the commercial paper Dealer Agreements and the commercial paper Issuing and Paying Agent Agreement require Council's authorization.

CONSIDERATION

The benefits of the Electric Utility System commercial paper program are unchanged. The commercial paper program will fund the construction of electric system improvements at very low interest rates during the full construction period. A credit rating from Fitch Ratings is required to continue using the Electric Utility System commercial paper program.

ATTACHMENTS

- Amended Ordinance No. 6572 draft
- Amended Dealer Agreement, Series 2012A draft
- Amended Dealer Agreement Series 2012B draft
- Amended Issuing and Paying Agent Agreement draft

Submitted By:

David Schuler
Managing Director for Financial Services

Date: November 12, 2012

Approved By:

William E. Dollar
City Manager

Date: November 12, 2012

ORDINANCE ~~6572~~ _____

AN ORDINANCE OF THE CITY OF GARLAND, TEXAS, ~~APPROVING AND AUTHORIZING~~ 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 ~~AAN~~ 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: ~~SEPTEMBER 18,~~ _____, 2012

TABLE OF CONTENTS

	Page
ARTICLE 1 DEFINITIONS	2
Section 1.01. Definitions.....	2
Section 1.02. Construction of Terms Utilized in This Ordinance.....	6
ARTICLE 2 AUTHORIZATION OF NOTES	6
Section 2.01. General Authorization.....	6
Section 2.02. Terms Applicable to Notes - General.....	7
Section 2.03. Commercial Paper Notes.....	9
Section 2.04. Bank Note.....	9
Section 2.05. Form of Commercial Paper Notes.....	9
Section 2.06. Execution - Authentication.....	12
Section 2.07. Notes Mutilated, Lost, Destroyed or Stolen.....	13
Section 2.08. Negotiability, Registration and Exchangeability.....	13
Section 2.09. Note Clearance Account.....	14
Section 2.10. Note Payment Fund.....	14
Section 2.11. Pledge; Payments.....	15
Section 2.12. Note Construction Account.....	16
Section 2.13. Cancellation.....	16
Section 2.14. Fiscal and Other Agents.....	16
Section 2.15. Reimbursement Agreement.....	16
Section 2.16. Funds Secured.....	17
ARTICLE 3 ISSUE AND SALE OF NOTES	17
Section 3.01. Issuance and Sale of Commercial Paper Notes.....	17
Section 3.02. Proceeds of Sale of Commercial Paper Notes.....	18
Section 3.03. Issuing and Paying Agent Agreement.....	18
Section 3.04. Dealer Agreement.....	18
ARTICLE 4 COVENANTS OF THE CITY	19
Section 4.01. Limitation on Issuance.....	19
Section 4.02. Bank Note Account.....	19
Section 4.03. Maintenance of Available Credit Facilities Requirement.....	19
Section 4.04. Bonds.....	20
Section 4.05. Punctual Payment.....	20
Section 4.06. Covenants to Maintain Tax-Exempt Status.....	20
Section 4.07. Allocation of, and Limitation on, Expenditures for Eligible Projects.....	23
Section 4.08. Disposition of Eligible Projects.....	24
Section 4.09. Taxable Obligations.....	24
Section 4.10. Supplemental Ordinances.....	24
Section 4.11. Opinion of Bond Counsel.....	24
Section 4.12. Ongoing Continuing Disclosure Covenant.....	24
Section 4.13. Rates and Charges.....	24

	<u>Page</u>
Section 4.14. No Additional Obligations to be Issued on a Parity with the Prior Lien Bonds - Obligations of Inferior Lien and Pledge	25
Section 4.15. Issuance of Additional Bonds	25
ARTICLE 5 EVENTS OF DEFAULT AND REMEDIES OF NOTEHOLDERS	26
Section 5.01. Events of Default	26
Section 5.02. Suits at Law or in Equity and Mandamus	26
Section 5.03. Remedies Not Exclusive	27
ARTICLE 6 MISCELLANEOUS	27
Section 6.01. Amendments or Modifications Without Consent of Holders of Notes	27
Section 6.02. Additional Actions	28
Section 6.03. Ordinance to Constitute a Contract; Equal Security	28
Section 6.04. Severability of Invalid Provisions	28
Section 6.05. Payment and Performance on Business Days	29
Section 6.06. Defeasance	29
Section 6.07. Limitation of Benefits with Respect to the Ordinance	29
Section 6.08. Use of Offering Memorandum	30
Section 6.09. Approval of Attorney General	30
Section 6.10. Incorporation of Recitals	30
Section 6.11. Severability	30
Section 6.12. Public Meeting	30
Section 6.13. Effective Date	30

Signature Page

Exhibit A	MASTER NOTE
Exhibit B	REIMBURSEMENT AGREEMENT
Exhibit C	FEE AGREEMENT
Exhibit D	ISSUING AND PAYING AGENT AGREEMENT
Exhibit E	DEALER AGREEMENT

ORDINANCE ~~6572~~_____

AN ORDINANCE of the City of Garland, Texas, ~~approving—and-authorizing~~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 ~~a loan made under~~ 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 ~~on which DTC is scheduled to be open for money market instrument settlement services and is other than a Saturday, Sunday or other day on which~~ 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 is closed or a day on which banks in New York, New York or in the City are authorized by law or executive order to be closed, 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) ~~the date of issuance of Commercial Paper~~ each date on which principal of and interest on the Notes is due and payable under this Ordinance, (ii) ~~October~~

~~1 of each year until the Maximum Maturity Date~~ 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 ~~a loan made~~ 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, ~~any~~ the amount due to the Bank thereunder in respect of a drawing on the related letter of credit 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 ~~a loan made~~ 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) ~~Advances~~ Drawings under and pursuant to the ~~Reimbursement Agreement between the City and the Bank~~ Letter of Credit pursuant to which the Bank has agreed to provide credit to the City under the terms and conditions set forth therein, ~~which Advances are to be evidenced by a Bank Note~~, (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”). ~~At the close of business~~ 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 ~~cause the balance in the Note Clearance Account to equal the Maximum Interest Payable. The Net Revenues so credited to the Note Clearance Account shall be transferred to the Note Payment Fund and used to pay, when due, interest on the maturing Commercial Paper Notes, as provided in Section 2.10 hereof. Pending transfer to the Note Payment Fund for authorized purposes, Net Revenues so credited to the Note Clearance Account may be invested at the direction of the Director of Financial Services or the designee thereof in Eligible Investments~~ (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 ~~transferred into~~ the Note Payment Fund, ~~including transfers from the Note Clearance Account (which shall be used only to pay interest coming due on maturing Commercial Paper Notes)~~, 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 ~~and the repayment of any Sumitomo Advances and any Wells Advances (as defined in the Sumitomo Reimbursement Agreement or the Wells Reimbursement Agreement, as applicable) made pursuant to the Sumitomo Reimbursement Agreement and the Wells Reimbursement Agreement, as applicable (evidenced by any applicable Bank Note).~~ 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.

~~Additionally, all proceeds of Advances shall be deposited into the Note Payment Fund and used to pay the principal of and interest on the Commercial Paper Notes. Pending the expenditure of moneys in the Note Payment Fund for authorized purposes, moneys deposited in the Note Payment Fund may be invested at the direction of the Director of Financial Services or the designee thereof in Eligible Investments; provided, however, that moneys in the Note Payment Fund to pay interest that has come due or principal that has matured shall be invested only in overnight repurchase agreements secured solely by direct obligations of the United States.~~

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, first 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, ~~such payment~~ 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 second to the payment of the principal of and interest on the Commercial Paper Notes in full~~ 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 ~~and being on a parity and of equal dignity with the lien and pledge securing the payment of the Notes~~. 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, ~~to pay the interest coming due on the Commercial Paper Notes in such Fiscal Year~~, the City shall ~~from time to time~~ timely transfer from the Note Clearance Account ~~to the credit of the Note Payment Fund~~ such amounts as shall be necessary to pay ~~the interest on the Commercial Paper Notes~~ 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 ~~Construction~~ Clearance Account, all as described above, such payments are to be made from Net Revenues of the System ~~on deposit in~~ 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 ~~Payment Fund~~[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 for~~ 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 ~~and redemption~~ of outstanding Commercial Paper Notes at ~~or before~~ maturity and for the repayment of any ~~borrowing~~ Drawing or Advance (evidenced by the Bank Note) or other amounts due under the Reimbursement Agreement ~~shall be retained in the Note Payment Fund, and expended therefor~~; and

(ii) Proceeds not ~~retained in the Note Payment Fund~~ 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 18th day of September, 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)

Document comparison by Workshare Compare on Monday, November 12, 2012
12:33:33 PM

Input:	
Document 1 ID	interwovenSite://US_DMS/US2012/52230400/6
Description	#52230400v6<US2012> - GARLAND ELECTRIC REV COMMERCIAL PAPER 2012 - Ordinance
Document 2 ID	interwovenSite://US_DMS/US2012/52230400/11
Description	#52230400v11<US2012> - GARLAND ELECTRIC REV COMMERCIAL PAPER 2012 - Ordinance
Rendering set	Standard

Legend:	
<u>Insertion</u>	
Deletion	
Moved from	
<u>Moved to</u>	
Style change	
Format change	
Moved deletion	
Inserted cell	
Deleted cell	
Moved cell	
Split/Merged cell	
Padding cell	

Statistics:	
	Count
Insertions	90
Deletions	71
Moved from	5
Moved to	5
Style change	0
Format changed	0
Total changes	171

DRAFT 11.14.2012

**\$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 Credit 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.

Formatted: Indent: First line: 0", Don't adjust space between Latin and Asian text, Don't adjust space between Asian text and numbers, Tab stops: Not at 0.45" + 0.91" + 1.36" + 1.82" + 2.27"

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 12:00 A.P.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 Bank of an Immediate Termination Event pursuant to Section 7.203 of the Credit-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.

DRAFT 11.14.2012

(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 5.297 of the ~~Credit~~-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

DRAFT 11.14.2012

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:

Formatted: Space After: 0 pt, Don't add space between paragraphs of the same style

(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 ~~Credit 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 ~~Credit Reimbursement~~ Agreement and the Issuing and Paying Agent Agreement; a transcript of all proceedings relating

DRAFT 11.14.2012

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 ~~Credit~~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 ~~34.01~~ of the ~~Credit~~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

DRAFT 11.14.2012

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 109(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;

DRAFT 11.14.2012

(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 ~~prepared as provided in Section 3 hereof,~~ or causes the Offering Memorandum, ~~prepared as provided in Section 3 hereof,~~ 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

DRAFT 11.14.2012

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 ~~Credit~~ 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 ~~Credit~~ Reimbursement Agreement shall have occurred and be continuing;

(xiii) A ~~notice of No Non~~ notice of No Non ~~Issuance-Instruction~~ shall have been given and remain in effect under the ~~Credit~~ 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, ~~any Supplement thereto~~, the ~~Credit~~ 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.

Formatted: Body Text, Left, Indent: First line: 0", Tab stops: Not at 0.45" + 0.91" + 1.36" + 1.82" + 2.27"

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, ~~(which term is defined in the Offering Memorandum)~~ 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 ~~Credit~~ **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 **Credit 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

DRAFT 11.14.2012

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 ~~Commercial Paper Dealer~~ 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 ~~Commercial Paper Dealer~~ Agreement except the contractual obligations expressly are set forth in this ~~Commercial Paper Dealer~~ 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.

DRAFT 11.14.2012

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:

DRAFT 11.14.2012

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;

DRAFT 11.14.2012

(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.

DRAFT 11.14.2012

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 Credit 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 12:00 P.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 of an Immediate Termination Event pursuant to Section 7.203 of the Credit 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 5.207 of the Credit 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 Credit 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 Credit 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 Credit 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 3.14.01 of the Credit 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 109(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 ~~prepared as provided in Section 3 hereof~~, or causes the Offering

Memorandum ~~prepared as provided in Section 3 hereof~~, 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 Credit 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 Credit Reimbursement Agreement shall have occurred and be continuing;

(xiii) A notice of No Issuance~~Non-Issuance Instruction~~ shall have been given and remain in effect under the Credit 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, ~~any Supplement thereto~~, the Credit 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 (~~which term is defined in the Offering Memorandum~~) 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 **Credit 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 Credit~~ **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 ~~Commercial Paper Dealer~~ 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 ~~Commercial Paper Dealer~~ Agreement except the contractual obligations expressly are set forth in this ~~Commercial Paper Dealer~~ 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.

DRAFT 11.14.2012

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;

| **DRAFT 11.14.2012**

(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

AMENDED AND RESTATED ISSUING AND PAYING AGENT AGREEMENT

This Amended and Restated Issuing and Paying Agent Agreement, dated as of ~~September~~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 ~~Letter of Credit and~~ 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 ~~Reimbursement Agreement~~ 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~~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 ~~Reimbursement Agreement~~the Letter of Credit to exceed the Initial Stated Amount (as defined in the Reimbursement Agreement) ~~under the Reimbursement Agreement~~ and that would mature less than three (3) Business Days (as defined in the Ordinance) prior to the expiration of the ~~Reimbursement Agreement~~Letter of Credit. Provided, that should there be any extension of the ~~Reimbursement Agreement~~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) ~~an amount necessary to cause the balance in the Note Clearance Account to equal the Maximum Interest Payable (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”). ~~No later than 10:00 A.M., New York time, on the date that any Commercial Paper Notes shall mature and become payable (or the corresponding next Business Day if the date of maturity is not a Business Day), the City shall cause Net Revenues on deposit in the Note Clearance Account to be transferred to the Note Payment Fund, which moneys shall be used to pay, when due, interest on and, to the extent necessary, principal of the maturing Commercial Paper Notes.~~

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 ~~10~~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, ~~to the extent necessary,~~ 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 ~~shall cause the Bank’s account with DTC (or the Bank’s agent’s account, if the Bank does not have or ceases to have an account with DTC) to be credited in an amount equal to the proceeds of the sale of the Commercial Paper Notes,~~ 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) ~~or shall, under the circumstances described in (ii) in the preceding paragraph of this Section 7, above, submit a demand for payment to the Liquidity Provider as set forth in the Reimbursement Agreement and in Section 8(b) hereof.~~

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 ~~Payment Fund~~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: ~~(i) first, for the payment and redemption of outstanding Commercial Paper Notes at or before maturity and (ii) second, for the repayment of any~~

~~borrowing (evidenced by the Bank Note,~~ (such application to be made on the applicable amount 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) ~~or,~~ and (iv) for the payment of any other ~~amounts~~ amount due the Liquidity Provider under the Reimbursement Agreement. Proceeds not withdrawn from the Note ~~Payment Fund~~ Clearance Account and expended as provided in (i) and (ii) above minus any moneys remaining in the Note ~~Payment Fund~~ 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 ~~Payment Fund~~ Clearance Account and allocated ~~for to~~ the repayment of Drawings made under the ~~Reimbursement Agreement and any funds received by the Bank pursuant to a demand for payment made pursuant to the Reimbursement Agreement~~ Letter of Credit shall be separately accounted for in a subaccount within the Note ~~Payment Fund~~ 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 ~~payment of the Commercial Paper Notes or, as applicable, for the~~ repayment of any Drawing.

Section 8. Payment of Matured Commercial Paper Notes. (a) ~~By 10:00 A.M., New York time, on the date that any Commercial Paper Notes are scheduled to mature (or the corresponding next Business Day if the date of maturity is not a Business Day), the City shall have transferred to the Bank for deposit in the Note Payment Fund in immediately available funds an amount at least equal to the amount of accrued interest due on the Commercial Paper Notes maturing on such date and any amount of City funds that the City directs the Bank in writing to apply to the payment of principal of Commercial Paper Notes maturing on such date. By 10:00 A.M., New York time, on the date that any Commercial Paper Notes are scheduled to mature (or the corresponding next Business Day if the date of maturity is not a Business Day), the Dealer shall have confirmed in writing to the Bank and the City the amount of Proceeds that shall be credited to the account of Bank, on behalf of the City, on the books of DTC (or to the account of the Bank's agent, if the Bank does not have or ceases to have an account on the books of DTC), which Proceeds shall be used to pay, to the extent necessary, principal of and interest on, the Commercial Paper Notes maturing on such date as provided in the preceding paragraph. Pursuant to a timely transmitted demand for payment (as described in the ~~Reimbursement Agreement~~ Letter of Credit and in Section 8(b) hereof), ~~to the extent necessary,~~ 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 ~~together with the amount of funds received from the City as set forth above, if any, and the anticipated Proceeds from the sale of Commercial Paper Notes on such date as set forth above, if any,~~ 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, ~~which balance on deposit therein shall consist of (i) transfers from the Note Clearance Account, such monies in such Note Clearance Account being Net Revenues of the City's Electric Utility System deposited therein for the purpose of paying interest accrued and due on and, to the extent the City has directed the Bank in writing, principal of Commercial Paper Notes; (ii) deposits representing Proceeds from the sale of Commercial Paper Notes issued pursuant to the Ordinance for the purpose of making payment of the principal of and, to the extent necessary, interest on maturing Commercial Paper Notes; (iii) deposits representing proceeds from the sale of Bonds (defined in the Ordinance) issued for the purpose of making payment of the principal due on Commercial Paper Notes; (iv) if at any time necessary, received from~~ Drawings made under the Reimbursement Agreement for the purpose of paying principal of and interest on maturing Commercial Paper Notes; ~~and (v) transfers of funds that had remained on deposit in the Note Construction Account after payment of all Project Costs (as defined in the Ordinance).~~ 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 ~~Reimbursement Agreement~~ Letter of Credit, which payments by the Liquidity Provider are referred to therein and herein as "Drawings," in strict conformity with the ~~Reimbursement Agreement~~ Letter of Credit, on or before each date any Commercial Paper Notes are to mature (the "Payment Date"), ~~if and only if funds are not available in the Note Payment Fund from any of the sources (i), (ii), (iii), or (v) identified and described above,~~ to enable the Liquidity Provider under the ~~Reimbursement Agreement~~ 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 ~~Reimbursement Agreement~~ Letter of Credit. All Drawings received under the ~~Reimbursement Agreement~~ 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, ~~to the extent necessary and only to the extent necessary,~~ interest accrued on the maturing Commercial Paper Notes. Funds representing any Drawing made under the ~~Reimbursement Agreement~~ 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 ~~or Final Drawing Notice~~ (as such ~~terms are~~ term is defined in the ~~Reimbursement Agreement~~ Letter of Credit and attached in the ~~forms as Annexes A-F and A-H, respectively, of Exhibit A to the Reimbursement Agreement~~ 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 ~~or Final Drawing Notice~~. Furthermore, upon receipt of a ~~Notice of No Issuance~~ 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 ~~Reimbursement Agreement~~ Letter of Credit for the purpose of paying principal of and interest on ~~maturing~~ the outstanding Commercial Paper Notes.

(c) If for any reason such funds in the Note Payment Fund (or 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 (~~e.g., if moneys are remaining in the Note Payment Fund as a result of an owner's failure to present a Commercial Paper Note for payment at maturity~~), then such moneys in said Note Payment Fund retained therein shall be invested only in ~~overnight repurchase agreements secured solely by~~ 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. ~~Amounts maintained in the Credit Account will be held uninvested until such amounts are disbursed for the payment of the maturing Commercial Paper Notes or the repayment of any Drawing made under the Reimbursement Agreement.~~

(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 ~~Reimbursement Agreement~~ Letter of Credit until the City (or the Bank acting as the City's agent) can secure a Drawing under the ~~Reimbursement Agreement~~ 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 ~~Reimbursement Agreement~~ Letter of Credit. The City hereby agrees to provide written notice to the Bank of the proposed substitution of the ~~Reimbursement Agreement to the Bank~~ 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 ~~Reimbursement Agreement~~ Letter of Credit and ~~its~~ the effective date of such substitution by first class mail to all owners of any outstanding Notes to be secured by such substitute ~~Reimbursement Agreement~~ Letter of Credit, DTC, and the Dealer within 30 days of the

receipt of such notice from the City. A substitution of the ~~Liquidity Provider~~ [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: _____

Document comparison by Workshare Compare on Monday, November 12, 2012
12:34:39 PM

Input:	
Document 1 ID	interwovenSite://US_DMS/US2012/52244562/3
Description	#52244562v3<US2012> - GARLAND ELECTRIC REV COMMERCIAL PAPER 2012A--IPA AGREEMENT (DEUTSCHE)
Document 2 ID	interwovenSite://US_DMS/US2012/52244562/6
Description	#52244562v6<US2012> - GARLAND ELECTRIC REV COMMERCIAL PAPER 2012A--IPA AGREEMENT (DEUTSCHE)
Rendering set	Standard

Legend:	
Insertion	
Deletion	
Moved from	
Moved to	
Style change	
Format change	
Moved deletion	
Inserted cell	
Deleted cell	
Moved cell	
Split/Merged cell	
Padding cell	

Statistics:	
	Count
Insertions	57
Deletions	63
Moved from	0
Moved to	0
Style change	0
Format changed	0
Total changes	120



City Council Item Summary Sheet

Work Session

Agenda Item

Date: November 20, 2012

DART Paratransit Program

Summary of Request/Problem

At the request of Mayor Pro Tem John Willis and Council Member B. J. Williams, Dallas Area Rapid Transit (DART) staff will brief Council on DART's Paratransit Program.

Recommendation/Action Requested and Justification

Council discussion.

Submitted By:

Approved By:

William E. Dollar
City Manager



City Council Item Summary Sheet

Work Session

Date: November 20, 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 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 non-compliant gravel driveways 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.

Recommendation/Action Requested and Justification

Council discussion.

Submitted By:

Richard Briley
Managing Director of Health & Code
Compliance

Approved By:

William E. Dollar
City Manager

- DRAFT-

Unapproved and for discussion purposes only

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 and is approved provided 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.

- DRAFT-

Unapproved and for discussion purposes only

(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

- DRAFT -

Unapproved and for discussion purposes only

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

- DRAFT-

Unapproved and for discussion purposes only

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

- DRAFT-

Unapproved and for discussion purposes only

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

- DRAFT-

Unapproved and for discussion purposes only

(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.

- DRAFT -

Unapproved and for discussion purposes only

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

CITY OF GARLAND, TEXAS

Mayor

ATTEST:

City Secretary



City Council Item Summary Sheet

Work Session

Date: 11/20/12

Agenda Item

Civil Service Supplemental Retirement Benefits

Summary of Request/Problem

The Administrative Services Committee (ASC) will brief the full Council regarding its analysis on providing retirement benefits, in addition to the Texas Municipal Retirement System, for public safety employees through City contributions to a 401k/457 plan. The issue was referred to the ASC during City Council's discussion of the 2012-13 Budget.

Recommendation/Action Requested and Justification

For informational purposes only.

Submitted By:

**Bryan L. Bradford
Assistant City Manager**

Approved By:

**William E. Dollar
City Manager**

**CITY OF GARLAND
ADMINISTRATIVE SERVICES COMMITTEE
Analysis Related to Supplemental Retirement Benefits
For Civil Service Employees**

SUMMARY FOR CITY COUNCIL

History of Social Security Benefits

(1) Non-Civil Service Employees

In 1959, City employees, with the exception of Police and Fire personnel, became eligible for social security coverage. Under the Social Security Act, Police and Fire were excluded if they were already covered by a retirement system. In 1981, the City began the process of withdrawing non-civil service employees from social security with the intent of being out of the system in 1984. In 1983, however, the Social Security Administration discontinued allowing employees to exit the system. As a result, non-civil service employees remained in Social Security.

(2) Civil Service Employees

Police and Fire personnel became eligible for social security coverage under the Social Security Act of 1964. That same year, the City Council approved referendums allowing Police and Fire to vote on whether or not they wished to be covered. Both referendums failed, resulting in no extension of coverage. Under current law, Police and Fire may conduct an election among its members at any time to opt into Social Security, if approved by the City Council.

Comparison with Other Cities

(3) Compensation Comparison with Other Metroplex Cities:

Garland's Civil Service pay structure targets the average Metroplex top-out pay in each rank and, therefore, is comparable with other Metroplex cities. However, due to budget constraints, Garland is below market with the largest gaps being in the upper ranks.

(4) Analysis of Retirement Benefits Offered by Other Metroplex Cities:

With the exception of Irving, metroplex suburbs offer similar TMRS retirement benefits. All the TMRS cities provide for a 2:1 match with the City contributing 14% and the employee 7%. Garland and Irving, however, do not currently provide a COLA option. It should be noted that the lack of COLA in Garland is considered "temporary" based on the previous direction from Council, which was to restore COLA when funding and affordable options become available. New COLA options will not be available to the City until 2015, and funding will depend on the recovery of the tax base.

(5) Analysis of Supplemental Retirement Benefits (401K/457 Plan) in Cities that do not have Social Security Coverage:

Of the nine suburban cities, five do not fund Social Security Benefits for at least one class of employees. Of these five that do not provide Social Security benefits:

- (a) Garland does not contribute to a supplemental retirement plan.
- (b) Irving does not provide supplemental retirement for Fire employees but does contribute 1.42% to a 457 for Police and General Schedule employees.
- (c) Plano, Carrollton and Arlington provide maximum contributions to supplemental retirement accounts ranging from 2.35% to 3.23%.

Comparison with the Private Sector

(6) Analysis of Retirement Benefits Offered by the Private Sector:

While the City of Garland's retirement benefits are conservative compared to most Metroplex suburban cities, they are considerably more generous than the typical private sector retirement plan. Based on the Bureau of Labor Statistics' 2010 National Compensation Survey, 61% employers offer a 401K plan for employees but only 49% of those employers provide a matching contribution. The match in the private sector typically ranges from 50% to 100% of the employees contribution. The median employer match contribution is 3%.

Comparison between Civil Service and General Schedule Employees (Internal Comparison)

(7) Analysis of Pay Components Offered to General Schedule and Civil Service Employees:

This analysis attempts to compare compensation between very dissimilar jobs. To do so, it expresses Additional Pay components (such as overtime, education pay, certification pay) as a percentage of base pay. In performing the analysis, appropriate adjustments were made to base pay to compensate for Fire's unique shift schedule.

The analysis indicates that the average General Schedule employee receives 7.56% of his base salary in Additional Pays, Fire Fighters receive 7.96%, and Police Officers receive 12.32%. If the base pay was \$60,000 for each of the employee classifications and Additional Pays are added based on the above percentages, a General Schedule employee would make \$64,536 annually, a Fire Fighter \$64,776, and a Police Officer would make \$67,392. Based on the Analysis of Additional Pays – when base pay is equalized, the compensation for a Fire Fighter exceeds that of a General Employee by 0.37% and a Police Officer exceeds the General Employee by 4.43 %.

(8) Analysis of 401K/457 v Social Security Benefits:

This analysis prepared by Gabriel Roeder Smith (GRS) actuaries compares Social Security retirement benefits to what could be provided if a Civil Service employee contributed 6.2% (the amount not withheld for Social Security) to a 401K/457 plan. GRS' analysis indicates that with 35 years of service and waiting until 67 to draw full Social Security benefits, the annual retirement benefit from an annuitized 401K/457 plan would be as follows:

Social Security	\$37,299
401K/457	<u>25,432</u>
Difference	<u>\$11,867</u> (32%)

Represented in 2012 dollars. Important details and assumptions are included in the attached letter from GRS.

History of Social Security Coverage

**CITY OF GARLAND
HISTORY OF SOCIAL SECURITY COVERAGE**

	Civil Service Employees	Non-Civil Service Employees
1935 Social Sec Enacted	<i>Local government excluded over constitutional issues - ability to tax tax-exempts.</i>	<i>Local government excluded over constitutional issues - ability to tax tax-exempts.</i>
1950 SSA Amended	<i>Police and Fire excluded by Act - if already covered by a retirement system.</i>	<i>Local government allowed to opt into Social Security.</i>
1951		<i>Texas allows Social Security for non-civil service employees.</i>
March 1, 1952	TMRS Coverage Begins	TMRS Coverage Begins
June 16, 1959		Council approves employee referendum to opt into Social Security. Res 459 and Social Security extended to non-civil service.
SSA of 1964 (July 2)	<i>Authorizes Social Security coverage for Police and Fire personnel.</i>	
August 18, 1964	Council approves Police referendum to opt into Social Security. Res 862 Council approves Fire referendum to opt into Social Security. Res 863	
No Record	No record of results.	
March 24, 1981		Res 4082 - states Garland's intention to opt out of Social Security in two years.
April 20, 1983		Social Security closes option for employers to opt out. Non-civil service employees remain in Social Security.
Current	Police and Fire may have an election among its members to opt into Social Security - if approved by the Council.	No option exists to exit Social Security coverage.

Police and Fire - Social Security Participation

When the Social Security Act was passed in 1935, state and local governmental employees were excluded from participation out of concern that it might not be constitutional to tax state and local governments for the employer's share of Social Security taxes.

In 1950, Congress amended the Social Security Act and section 218, authorizing states to enter into voluntary agreements ("Section 218 agreements") with the Social Security Administration to provide Social Security insurance benefits to state and local government employees; provided, however, that firefighters and police officers of a political subdivision that had a retirement system were excluded by law from participation.

Texas entered into its Section 218 Agreement with the Social Security Administration in 1951. In order for a political subdivision to obtain benefits under the state's 218 agreement, it had to enter into an agreement with the state under which the political subdivision designated which employees were to be covered by social security and which were to be excluded from coverage for its eligible employees. Political subdivisions enter into a voluntary agreement with the State of Texas by entering an agreement with the Employees Retirement System of Texas, as provided in Tex. Gov't Code, Sec. 606.022.

June 16, 1959 - Council passed Resolution 459 requesting Texas State Department of Public Safety (predecessor to the Employees Retirement System of Texas) to hold a referendum of members of the retirement system to determine whether or not to participate in the Social Security program. Minutes show that motion made excluded firefighters and police officers (as they were excluded by law from coverage).

In 1959, the City of Garland entered into a 218 Agreement obtaining coverage for all City employees, except those excluded by law (police and fire) and elected positions, emergency positions, and fee-based positions.

July 2, 1964 - Law changed allowing Texas police officers and firefighters that were covered by a pension system to participate in Social Security program, including coverage for Medicare, but only through the applicable referendum procedures.

August 18, 1964 - City Council passed Resolutions 862 (police) and 863 (fire) requesting Texas State Department of Public Safety to hold a referendum of policemen and firemen who were members of the retirement system to determine whether or not to participate in the Social Security program. (No record of the outcome of the referendum can be located).

March 24, 1981 - City Council passed resolution 4082 authorizing the City Manager to notify the Employees Retirement System of Texas of Garland's intent to opt out of the Social Security Program at the end of two years from the date of the resolution. The City was unable to opt out due to an amendment of the Social Security Act that became effective April 20, 1983 that prohibited a municipality from opting out, without regard to whether a notice of termination was in effect.

Comparison with Other Metroplex Cities

Metroplex Cities - POLICE Pay Schedule Comparisons FY 2012-13

Police Officers	COG Salary Schedule	Step	COG Current Salary	% Difference	Average	Arlington 3% inc	Carrollton 2% inc	Dallas	Fort Worth* no change	Grand Prairie 2.5% inc	Irving* no change	McKinney	Mesquite *no change	Plano	Richardson	Differ Between Current and Market
	at Start	1	48,586	-3.3%	50,167	48,568	51,828	41,690	52,187	51,353	50,892	49,186	53,648	54,593	47,724	
at 5 Yr	2	51,015	0.2%	50,927	50,989	54,469	41,690	52,187	51,353	53,436	49,186	53,648	54,593	47,724		
at 1 Yr	3	53,566	0.3%	53,387	53,547	57,182	43,754	54,787	51,353	56,112	51,775	56,328	58,918	50,112		
at 2 Yrs	4	56,245	0.2%	56,108	56,214	60,030	45,936	57,533	53,920	58,920	53,855	59,144	62,912	52,620		
at 3 Yrs	5	59,057	0.1%	58,972	59,033	62,422	48,252	60,403	56,614	61,860	55,935	62,106	67,852	55,248		
at 4 Yrs	6	62,010	0.4%	61,786	61,988	62,422	50,657	63,419	59,449	64,956	58,015	65,202	73,731	58,020		
at 5 Yrs	7	65,110	1.4%	64,191	65,066	64,303	53,184	63,419	62,428	68,208	60,095	68,471	75,812	60,924		
at 10 Yrs	8	67,063	-1.9%	68,332	65,066	68,225	67,884	68,286	70,546	68,208	66,335	68,471	76,332	63,972		
12 yrs or Max	9	69,075	-2.6%	70,879	68,363	71,679	67,884	77,293	70,546	68,208	68,415	68,471	77,373	70,560		

-2.61%

Police Supervisor position represent 25% Sergeant and 75% Lieutenant

Police Supervisors	COG Salary Schedule	Step	COG Current Salary	% Difference	Average	Arlington	Carrollton	Dallas	Fort Worth	Grand Prairie	Irving	McKinney	Mesquite	Plano	Richardson
	at Start	1	86,511	1.3%	85,423	81,652	87,024	83,643	88,468	84,509	80,892	83,351	91,258	91,003	82,428
at 1 Yr or Top Out	2	90,836	-1.7%	92,377	86,665	93,629	87,825	101,239	93,171	90,153	90,060	91,258	96,008	93,759	

-1.70%

Police Sargent	COG Salary Schedule	Step	COG Current Salary	% Difference	Average	Arlington	Carrollton	Dallas	Fort Worth	Grand Prairie	Irving	McKinney	Mesquite	Plano	Richardson
	at Start	1	See Supv	N/A	76,193	70,922	74,350	78,063	79,123	75,496	70,596	74,342	83,061	83,698	72,276
at 1 Yr or Top Out	2	above	N/A	83,833	78,191	84,100	81,966	94,016	83,231	81,720	81,365	83,061	86,916	83,760	

NA

Police Lieutenant	COG Salary Schedule	Step	COG Current Salary	% Difference	Average	Arlington	Carrollton	Dallas	Fort Worth	Grand Prairie	Irving	McKinney	Mesquite	Plano	Richardson
	at Start	1	See Supv	N/A	88,499	85,228	91,248	85,503	91,582	87,513	84,324	86,354	93,991	93,438	85,812
at 1 Yr or Top Out	2	above	N/A	95,225	89,489	96,805	89,778	103,646	96,484	92,964	92,958	93,991	99,038	97,092	

NA

Police Captain (Major-Dallas only)	COG Salary Schedule	Step	COG Current Salary	% Difference	Average	Arlington	Carrollton	Dallas	Fort Worth	Grand Prairie	Irving	McKinney	Mesquite	Plano	Richardson
	at Start	1	100,236	-1.0%	101,220	Doesn't have	Doesn't have	93,834	103,542	Doesn't have	95,256	Doesn't have	108,752	106,468	99,468
at 1 Yr or Top Out	2	105,248	-2.8%	108,197	Doesn't have	Doesn't have	98,526	114,254	Doesn't have	105,024	Doesn't have	108,752	112,849	109,776	

-2.80%

Assistant Police Chief	COG Salary Schedule	Step	COG Current Salary	% Difference	Average	Arlington	Carrollton	Dallas	Fort Worth	Grand Prairie	Irving	McKinney	Mesquite	Plano	Richardson
	at Start	1	117,410	3.0%	113,848	96,932	111,462	122,664	104,021	111,710	109,380	101,077	126,549	121,308	133,380
at 1 Yr or Top Out	2	123,283	-6.3%	131,037	145,392	118,259	128,797	171,621	123,160	126,636	107,335	126,549	129,243	133,380	

-6.29%

Garland Goal is to be at the metroplex average for the top step in each rank - currently under that target due to budget constraints

Arlington 3% increase across the board

Carrollton 2% increase across the board

Dallas 1.59% restoration; Capt. name was transferred to Major stayed at same range as a Capt.; Majors to be appointed no tested; Merit avg 1.5%

Grand Prairie 2.5% step effective 11-3-2012

Irving Potential changes to be taken to council as a budget amendment

McKinney Has Corporal Level, lower than Sargent in range

Plano Steps may be increased by 2%

Richardson 3% inc to top out. Those topped out will receive 3% merit

All Ranks - Top Step

-3.35%

All Ranks Top Step -

Excluding AC

-2.37%

All Step/Ranks

-0.84%

Metroplex Cities - FIRE Pay Schedule Comparisons FY 2012-13

Firefighter	COG Salary Schedule	Step	% Difference	Average	Arlington 3% inc	Carrollton 2% inc	Dallas	Fort Worth* no change	Grand Prairie 2.5% inc	Irving* no change	McKinney	Mesquite* no change	Plano	Richardson	Differ Between Current and Market
	at Start	1	-4.6%	48,503	46,116	51,989	41,690	49,691	49,114	46,044	48,197	53,648	53,084	45,456	
at .5 Yr	2	-0.6%	48,963	48,415	51,989	41,690	49,691	49,114	48,348	48,197	53,648	53,084	45,456		
at 1 Yr	3	0.3%	51,444	50,837	54,588	43,754	52,166	49,114	50,760	50,734	56,328	58,426	47,736		
at 2 Yrs	4	1.2%	54,063	53,383	57,316	45,936	54,766	51,569	53,304	52,543	59,144	62,548	50,124		
at 3 Yrs	5	1.7%	57,011	56,053	60,183	48,252	57,512	54,149	55,968	54,352	62,106	68,903	52,632		
at 5 Yrs	6	0.8%	60,954	61,820	62,589	53,184	60,382	59,706	61,704	57,970	65,202	68,903	58,080		
at 7 Yrs	7	-0.1%	64,006	61,820	62,589	58,637	63,398	65,833	64,788	61,588	68,471	68,903	64,032		
8.5 yrs or Top-out	8	-0.4%	66,093	64,944	62,589	67,884	63,398	67,479	64,788	65,206	68,471	68,903	67,272		

-0.40%

Fire Driver	COG Salary Schedule	Step	% Difference	Average	Arlington	Carrollton	Dallas	Fort Worth	Grand Prairie	Irving	McKinney	Mesquite	Plano	Richardson
	Salary at Start	1	-2.7%	69,939	66,147	66,756	71,280	66,082	73,356	67,608	68,500	73,244	77,496	68,916
1 yr or Top-out	2	-1.8%	72,802	69,454	73,288	74,844	69,389	73,356	70,992	71,750	73,244	77,496	74,208	

-1.79%

Fire Lieutenant	COG Salary Schedule	Step	% Difference	Average	Arlington	Carrollton	Dallas	Fort Worth	Grand Prairie	Irving	McKinney	Mesquite	Plano	Richardson
	Salary at Start	1	-1.5%	77,408	74,317	Doesn't have	78,062	72,530	77,783	71,940	Doesn't have	81,678	86,919	76,032
1 yr or Top-out	2	-1.1%	80,951	78,032	Doesn't have	81,965	76,149	81,672	79,320	Doesn't have	81,678	86,919	81,876	

-1.07%

Fire Captain	COG Salary Schedule	Step	% Difference	Average	Arlington	Carrollton	Dallas	Fort Worth	Grand Prairie	Irving	McKinney	Mesquite	Plano	Richardson
	Salary at Start	1	-1.1%	85,625	85,055	82,848	85,503	80,870	86,731	79,692	83,646	91,323	96,665	83,916
1 yr or Top-out	2	-1.3%	90,059	89,307	90,529	89,778	84,906	91,068	87,864	88,792	91,323	96,665	90,360	

-1.31%

Fire Battalion Chief	COG Salary Schedule	Step	% Difference	Average	Arlington	Carrollton	Dallas	Fort Worth	Grand Prairie	Irving	McKinney	Mesquite	Plano	Richardson
	Salary at Start	1	-0.3%	97,362	97,345	93,112	93,834	92,394	99,144	90,120	96,068	104,934	106,585	100,080
1 yr or Top-out	2	-1.7%	103,649	102,212	101,746	98,526	97,011	104,100	99,348	102,518	104,934	115,631	110,460	

-1.67%

Assistant Fire Chief	COG Salary Schedule	Step	% Difference	Average	Arlington	Carrollton	Dallas	Fort Worth	Grand Prairie	Irving	McKinney	Mesquite	Plano	Richardson
	at Start	1	2.9%	113,855	82,753	110,652	116,823	111,051	117,295	102,120	Doesn't have	125,399	129,542	129,060
1 yr or Top-out	2	-3.3%	127,103	124,129	120,912	128,797	132,151	123,160	124,140	Doesn't have	125,399	129,542	135,696	

-3.28%

Garland	Goal is to be at the metroplex average for the top of each step - currently under due to budget constraints	
Arlington	3% increase across the board	
Carrollton	2% increase across the board	All Ranks - Top Step
Dallas	1.59% restoration; Merit inc 1.65% average	
Fort Worth	.5% for Firefighter, Lt and Capt. 1% for Fire Engineer, 0% Battalion Chief. Longevity increase 5yr=3%, 10yrs=6%, 15yrs=9% of base pay	All Ranks Top Step - Except AC
Irving	Potential changes to be taken to council as a budget amendment	
Plano	Steps may be increased by 2%.	
Richardson	3% inc to topout. Those topped out will receive 3% merit	All Ranks / All Steps

-1.59%

-1.25%

-0.76%

TMRS Rate Comparison of Metroplex Cities – 9/2012

RATE	Garland	Arlington	Carrollton	Grand Prairie	Irving*	McKinney	Mesquite	Plano	Richardson
Benefit Rate	14.0%	14.0%	14.0%	14.0%	14.0%	14.0%	14.0%	14.0%	14.0%
Contribution Rate	11.70	16.47	13.66	17.97	10.61	15.40	10.63	18.75	14.61
Social Sec General	Y	N	N	Y	N	Y	Y	Y – Prior to 1983 N – After 1983	Y
Social Sec Civil Svs	N	N	N	Y	N	Y	Y	Y – Prior to 1983 N – After 1983	Y
Supp Death	Y	Y	N	Y	Y	Y	N	N	N
COLA	0%	50% R	50% R	70% R	0%	70% R	50% A	70% R	50% R
Updated Svs Credit	100% R/T	100% R/T	75% R	100% R/T	100% R/T	100% R/T	100% A/T	100% R/T	50% R
Funding Method 2012	Full Rate	Full Rate	Full Rate	Full Rate	Full Rate	Phase-In 13.97%	Full Rate	Phase-In 17.67%	Full Rate
Changes 2013	N	N	N	N	N	N	COLA Reduced from 70% A	N	N

All cities are 7% TMRS; 2:1 Match; 20-Yr Retirement for all cities except GP and Richardson who are 25 Years. *Irving Firefighters are not part of TMRS (Irving Fire belongs to Firefighter Assoc. Pension). A = Annual Non-Repeating, R=Repeating, T=Accepts Transfer for USC

**City of Garland
Supplemental Retirement Plans Survey**

City	Pay FICA SS	401K/457 match	Employee Contribution	401K/457 match rate	401K/457 match maximum	Other Notes
Garland	No	No	Up to \$17,000	0%	0%	
Plano	No	Yes - Note (1)	0%	NA	3.23%	
Carrollton	No	Yes - 457	4.65%	Note (2)	2.35%	
Arlington	No	Yes - 401K	Optional	50%	3.00%	
Irving Police and General Only	No	Yes - 457			1.42%	
Fire	No	No - Note (3)			0%	Not in TMRS

Notes:

- (1) Retirement Security Plan is a Defined Benefit trust. The plan was initiated in 1983 to replace Social Security. Employees do not contribute. Current contribution rate is 3.23%. Contribution rate is actuarially determined bi-annually.
- (2) Employee minimum is 4.65%, The city will then contribute 2.35% maximum
- (3) General employees and police participate in TMRS - Fire does not. General and police also participate in a supplemental savings plan with a city contribution currently set at 1.42%. Fire has a separate pension plan. The city contributes 12%. The combination of TMRS and supplemental for general and police is kept in parity with the fire pension plan. By ordinance, total city retirement contributions cannot exceed 16%.

	General & Police	Fire
TMRS contribution	10.60%	0.00%
Supplemental savings plan	1.42%	0.00%
Fire pension plan	0.00%	12.00%
Total city contribution	12.02%	12.00%

- (4) Richardson, McKinney, Mesquite, and Grand Prairie provide Social Security coverage for civil service employees.

**Retirement Benefits
Comparison with Private Sector**

**SURVEY OF PRIVATE SECTOR RETIREMENT PLANS AND GISD
SUMMARY OF CONTRIBUTION RATES
OCTOBER, 2012**

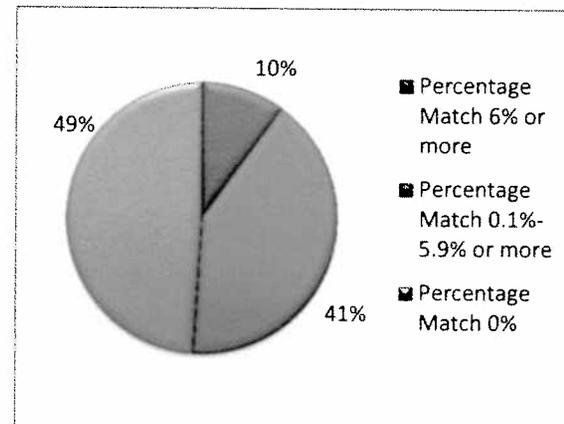
(A)	<u>Entity</u>	<u>Number of Employees</u>	<u>(Max Match) Employee Contribution</u>	<u>(Max) Employer Contribution</u>	<u>Contribution Ratio</u>
	City of Garland		7.00%	14.00%	2:1
	GISD	7,300	6.00%	6.40%	1.1:1
<u>Private Sector:</u>					
	Raytheon	2,200	4.00%	4.00%	1:1
	Walmart	1,200	6.00%	6.00%	1:1 Also have ESOP
	Baylor Hospital	1,185	5.00%	5.00%	1:1
	Atlas Comp Co	727	3.00%	3.00%	1:1 Also have ESOP
	Garland Avg - Excluding COG			4.88%	1:1
	Garland Avg - Excluding COG and GISD			4.50%	1:1

Notes:

See attached detail explanations for Kraft's pension plan benefits.

**(B) Bureau of Labor Statistics
2010 National Compensation Survey**

* Employers Offering a 401K	61.00%
* Median Match	3.00%
Of Those That Offer a 401k:	
Percentage Match 6% or more	10.00%
Percentage Match 0.1%-5.9% or more	41.00%
Percentage Match 0%	49.00%
	<u>100.00%</u>



**Comparison Between Civil Service and General Schedule
Employees (Internal Comparison)**

TOTAL ANNUAL PAY COMPARISON - CIVIL SERVICE AND GENERAL EMPLOYEES
(As Percent of Base Pay)

	Average Yrs Service	Base Pay	Additional Pays	Overtime Pay	Allowance Pay	Longevity/ Stability Pay	Total Pay
Police Officer							
Total Pay		\$16,438,280	\$304,291	\$1,520,038	\$28,077	\$173,646	\$18,464,331
Average / Employee	15.83	\$64,718	\$1,198	\$5,984	\$111	\$684	\$72,694
Percent of Base Pay		100.00%	1.85%	9.25%	0.17%	1.06%	112.32%

Fire Fighter							
Total Pay		\$6,614,370	\$983,627	\$162,938	\$2,487	\$57,801	\$7,821,223
Average / Employee	11.62	\$57,020	\$8,480	\$1,405	\$21	\$498	\$67,424
Percent of Base Pay		100.00%	14.87%	2.46%	0.04%	0.87%	118.25%

General Non-Exempt							
Total Pay		\$38,518,413	\$104,486	\$3,659,353	\$68,607	\$657,375	\$43,008,234
Average / Employee	10.65	\$41,687	\$113	\$3,960	\$74	\$711	\$46,546
Percent of Base Pay		100.00%	0.27%	9.50%	0.18%	1.71%	111.66%

Notes:

1. Data includes 26 pay periods ending 9/15/12
2. Data includes only those employed during entire 26 pay periods
3. "Police Officer" includes only Police Officer rank
4. "Fire Fighter" includes only Fire Fighter rank and includes scheduled overtime (FSA) in base pay
5. "General Non-Exempt" includes only regular full-time non-exempt employees
6. "Base Pay" includes all pay components within annual work schedule (2,912 hrs Fire shift, 2,080 hrs all others)
(example - regular, training, sick, vacation, holiday, funeral, etc.)
7. "Additional Pay" includes certification pay, education pay, assignment pay, etc.
8. "Allowances" include cell phone stipend, tool allowance, etc.

**TOTAL ANNUAL PAY COMPARISON - CIVIL SERVICE AND GENERAL EMPLOYEES
ASSUMING SAME BASE PAY FOR CIVIL SERVICE AND GENERAL SCHEDULE**

	General Schedule	Fire Civil Service	Police Civil Service	
Hypothetical Base Pay	60,000	60,000	60,000	
Additional Pay Percentage	7.56%	7.96%	12.32%	(from page (1))
Additional Pay in Dollars	4,536	4,776	7,392	
Total Compensation	<u>64,536</u>	<u>64,776</u>	<u>67,392</u>	
Difference From General Schedule		240	2,856	
Percentage Difference		0.37%	4.43%	

BENEFIT COMPARISON - CIVIL SERVICE & GENERAL EMPLOYEES

	Police	Fire	General
PAY STRUCTURES			
Pay Adjustments			
Structure adjustment	All pay adjusted with schedule	All pay adjusted with schedule	Affects employees below new min
Market adjustment	Not eligible by statute	Not eligible by statute	Based on market
Merit	Not eligible by statute	Not eligible by statute	Varies at City discretion (historically 0 - 3%)
Step	Based on yrs of service <u>Officer</u> 6 mo - 5%, yrs 1 to 5 - 5% / yr, yr 10 - 3%, yr 12 - 3% <u>Supv / Capt / Asst Chief</u> yr 2 - 5%	Based on yrs of service <u>Firefighter</u> 6 mo - 5%, yrs 1,2,3,5 - 6%, yr 7 - 4%, yr 8.5 - 3% <u>Driver / Lieut / Capt / BC / Asst. Chief</u> yr 2 - 5%	Not available (except 2 depts with skills test)
Select adjustment	Not available by statute	Not available by statute	Based on retention / equity
Lump sum	Varies at City discretion (historically 0 - 3%)	Varies at City discretion (historically 0 - 3%)	Varies at City discretion (historically 0 - 3%)
ADDITIONAL PAY			
Certification Pay			
Intermediate	n/a	\$25 / mo	0
Advanced	\$75 / mo	\$50 / mo	0
Master	\$95 / mo	\$100 / mo	0
Paramedic	n/a	\$100 / mo	0
Fire Inspector Class A	n/a	\$100 / mo	0
Fire/Arson Investigator	n/a	\$100 / mo	0
Education Pay			
90 hrs college credit		\$150 / mo (Battalion Chief only)	0
Bachelor degree	\$125 / mo	\$200 / mo (Battalion and Asst. Chief only)	0
Masters degree	\$150 / mo	n/a	0
Bilingual Pay			
Verbal skills	\$100 / mo	\$100 / mo	0
Verbal & written skills	\$150 / mo	\$150 / mo	0
Assignment Pay			
Field Training Officer	\$100 / mo.	n/a	0
Intermediate Instructor	n/a	\$25 / mo	0
Advanced Instructor	n/a	\$100 / mo	0
Ambulance	n/a	\$30 / shift	0
Out-of-capacity	Paid for shift work at next higher rank	Paid for shift work at next higher rank	Temporary increase for extended higher level assignment

BENEFIT COMPARISON - CIVIL SERVICE & GENERAL EMPLOYEES

	Police	Fire	General
LEAVE BENEFITS			
Sick Leave (SL)			
Annual number	120 hrs per yr	Shift - 180 hrs per yr Non-shift - 120 hrs per yr	80 hrs after 1 yr up to 160 hrs after 15 yrs
Basis	Unlimited accrual	Unlimited accrual	Limited annual allotment
Carryover	Unlimited	Unlimited	None
Payable at termination	Up to 720 hrs	Shift - up to 1080 hrs Non-shift - up to 771 hrs	None
Avg payout 2011	\$31,447	\$37,403	0
Vacation Leave (VL)			
Eligibility	After 1 yr	After 1 yr	After 6 mo.
Annual accrual	120 to 160	120 to 160	80 hrs to 160
Injury Leave (IL)			
Pay	100% by statute	100% by statute	100% by city directive
Maximum time	1 yr May be extended additional year	1 yr May be extended additional year	6 months (combined injury and limited duty)
Short Term Disability (STD)			
Eligibility	Not eligible (unlimited sick leave accrual in lieu of STD)	Not eligible (unlimited sick leave accrual in lieu of STD)	After 1 yr
Benefit amount	Sick Leave paid at 100% pay	Sick Leave paid at 100% pay	After 1 yr - 60% After 6 yrs - 70% After 10 yrs - 75%
Elimination period	n/a	n/a	40 hrs
Leave coordination	n/a	n/a	Must exhaust sick & vacation leave
Max hours	n/a	n/a	After 1 yr - 960 hrs After 15 yrs - 880 hrs
Long Term Disability (LTD)			
Plan Participation	Elected by emp w/emp contribution	Elected by emp w/emp contribution	Elected by emp w/emp contribution
Elimination period	180 days	180 days	180 days
Benefit amount	60%	60%	60%
Leave Donation			
Military leave	May donate sick, vacation, holiday, or compensatory leave	May donate sick, vacation, holiday, or compensatory leave	None
Catostrophic illness	May donate vacation leave	May donate vacation leave	May donate vacation leave

BENEFIT COMPARISON - CIVIL SERVICE & GENERAL EMPLOYEES

	Police	Fire	General
Overtime			
Eligibility	Officer through Asst. Chief	Firefighter through Batt. Chief	All non-exempt emp
Basis	Over 40 hrs worked / wk	Shift - built into schedule plus, all hrs over 168 worked / 3 wks Non-shift - over 40 hrs worked / wk	Over 40 hrs worked / wk
Longevity/Stability			
Eligibility	After 1 yr	After 1 yr	After 3 yrs
Amount	\$4 / mo for each yr of service	\$4 / mo for each yr of service	\$375 increasing \$75 / yr of service
Payment basis	Emp option - monthly or annual	Emp option - monthly or annual	Annual
Payment for partial year	Yes	Yes	No
Maximum	\$1,200	\$1,200	\$1,275
RETIREMENT			
TMRS			
Employee contribution	7%	7%	7%
City match	2 to 1	2 to 1	2 to 1
Pre-tax health premiums	Health premiums deducted from annuity pre-tax	Health premiums deducted from annuity pre-tax	Not eligible
Social Security			
Employee contribution	0	0	6.2% up to max. \$4,624
City match	0	0	6.2% up to max. \$4,624
Medicare			
Employee contribution	Hired after Apr 1986 - 1.45%	Hired after Apr 1986 - 1.45%	1.45%
City match	Hired after Apr 1986 - 1.45%	Hired after Apr 1986 - 1.45%	1.45%
Deferred Compensation			
Employee contribution	Emp option up to max. \$17,000 / yr	Emp option up to max. \$17,000 / yr	Emp option up to max. \$17,000 / yr
City match	0	0	0

401k/457 v Social Security Retirement Benefits



October 19, 2012

Mr. David Schuler
Finance Director
City of Garland
200 N. Fifth Street
Garland, TX 75040

Dear Mr. Schuler:

Subject: Benefit Comparison Study for Public Safety Employees

Gabriel, Roeder, Smith & Company ("GRS") appreciates the opportunity to provide actuarial and retirement consulting services to the City of Garland ("the City"). As requested, we have prepared the following comparison of projected benefits provided by different retirement programs.

Background

The City currently provides retirement benefits to general employees, police officers and fire fighters through the Texas Municipal Retirement System ("TMRS"). In addition, the general employees of the City participate in Social Security but the police officers and fire fighters are not currently covered by Social Security.

Plans Considered

The general employees of the City are currently covered by Social Security. This analysis shows the results of contributions equal to 6.2% of compensation from both the City and the employee to a private savings plan. Additionally, the analysis shows the results of contributions equal to 6.2% of compensation from only the employee to a private savings plan. All projected benefits from the private savings plan include the payment of unused sick time at retirement.

Benefit Comparisons

Based on the census data of the City provided to TMRS, the average police officer and fire fighter at the City are hired at age 27. We have compared the projected retirement benefits for this average member based on retirement with each of 25 years of service, 30 years of service, and 35 years of service.

In order to draw appropriate conclusions from the comparison to Social Security, the benefit provided by the private savings plan is based on the following key procedures:

- 1.) Social Security is provided as an annual annuity. As a result, the annual annuities provided by the private savings plan will be based on annuitization of the account balance with an insurance company.
- 2.) The earliest age that an employee can commence their Social Security benefit is age 62. However, two of the hypothetical retirement dates involve retirement before age 62. For

comparison purposes, we have projected the annual annuity provided by the private savings plan assuming that the employee leaves their contributions in the plan until age 62 and age 67 and then purchases an annual annuity. Additionally, we have projected the annual annuity assuming the employee purchases an annual annuity immediately at retirement. The immediate benefit at retirement does not provide an appropriate comparison to Social Security, but it does illustrate the level of benefit provided by the plan design.

- 3.) Benefits provided by Social Security increase based on actual inflation. The annual annuity purchased from an insurance company at retirement is assumed to also include increases consistent with the assumed increases in the Social Security benefit.

For a hypothetical police officer or fire fighter hired at age 27 at the City, the following table shows the projected retirement benefits separately provided by Social Security or a private savings plan.

		<i>Immediate Commencement</i>		
Years of Service at Retirement	Age at Retirement	Annual Social Security Benefit	Annual Annuity from Private Savings Plan (6.2%)	Annual Annuity from Private Savings Plan (12.4%)
25	52	N/A	\$5,957	\$11,151
30	57	N/A	9,864	18,863
35	62	\$26,261	16,477	31,946

		<i>Age 62 Commencement</i>		
Years of Service at Retirement	Age at Retirement	Annual Social Security Benefit	Annual Annuity from Private Savings Plan (6.2%)	Annual Annuity from Private Savings Plan (12.4%)
25	52	\$20,192	\$13,176	\$24,665
30	57	23,231	14,845	28,387
35	62	26,261	16,477	31,946

		<i>Age 67 Commencement</i>		
Years of Service at Retirement	Age at Retirement	Annual Social Security Benefit	Annual Annuity from Private Savings Plan (6.2%)	Annual Annuity from Private Savings Plan (12.4%)
25	52	\$28,676	\$20,388	\$38,072
30	57	32,995	22,914	43,816
35	62	37,299	25,432	49,311

Due to the progressive nature of the Social Security Benefit, the annual annuity provided by the private savings account is projected to provide a superior benefit based on the stated assumptions and methods. Note that the life expectancy for a retiree at age 62 is approximately 21 years.

Comments on Social Security

The Social Security estimates, provided above, assume that the employees only participated in Social Security while working as a police officer or fire fighter with the City. In general, Social Security benefits are progressive in that each additional dollar of compensation provides the employee with a decreasing return in their benefit. As a result, if the employees also contribute to Social Security based on earnings from another source (e.g., private security, second job, etc.) the employee will receive less of a benefit, than indicated above, from their participation in Social Security through the City.

Alternatives

If the City decides to allocate additional funds to the retirement benefits of their police officers and fire fighters, the City will want to ensure that the additional funds will provide the most appropriate benefit. In this context, the most appropriate benefit will depend on factors such as the level of benefit that the City wants to provide, the City's desired level of risk sharing with the employees, and plan administration issues.

The private savings plan in this analysis is a traditional defined contribution plan design where the employee selects the investments from a list of options provided by the plan. Additionally, the employee assumes virtually all of the investment and longevity risk.

Alternatively, Social Security provides a benefit similar to a traditional defined benefit pension plan where a lifetime annuity income is guaranteed. This design may provide an administratively easy plan to administer, but there are a number of inefficiencies including the progressive nature of the benefit and the lack of control over the investment of the contributions.

In between these two traditional plan designs, there are many other plans designs that can meet the employer's goal of providing the most appropriate benefit to its employees. Examples of these plan designs include:

Cash Balance Plan

A Cash Balance Plan provides members with pay and interest credits in a “virtual account” but the contributions are centrally invested through a trust fund. The interest credits can be handled in various ways. Examples include a set rate of interest credit, such as 5%; an interest credit tied to a yield index at a specific point in time (treasury yields, corporate bonds, etc); and a credit based on the actual performance of the trust fund. Minimums and maximums can be applied along with applying a factor to the credit. For example, the credit could be 2% plus 50% of the actual return of the fund. How the interest credit is formulated dictates how much risk is shared between the member and the City.

A notable plan design is the “100% pass through cash balance plan” where the member’s virtual account is credited with the actual investment return on the underlying asset, determined by a five-year smoothed basis. Therefore, the member holds the majority of investment risk during active employment.

Pooled Defined Contribution

Similar to a traditional self-directed defined contribution plan, the contributions from the member and City are set and the member is responsible for managing the assets after retirement. However, the assets are professionally invested and managed in a trust fund during the member’s active employment.

If the City would like to explore the merits of plan designs beyond Social Security and the private savings plan, GRS would be happy to provide the City details about the spectrum of additional plan designs and their risk sharing characteristics.

Assumptions and Methods

The following assumptions and methods were utilized to provide the analysis included above. These assumptions and methods are based on analysis GRS has provided for other similar public employers in the State of Texas.

- Compensation for the first 10 years of service is based on the City’s 2012/2013 Salary Schedule for firefighters. After 10 years of service, compensation is assumed to grow over the plan participant’s career at a rate consistent with the assumptions used for the most recent actuarial valuation of TMRS.
- At retirement, police officers and fire fighters receive a gross payment of unused sick leave of \$21,414, on average. The gross payment of unused sick leave is reduced by an assumed 15% effective tax rate and a 7% contribution to TMRS.
- The mortality (i.e., life expectancy) assumption is consistent with the assumption used for the most recent actuarial valuation of TMRS. Additionally, the mortality assumption was blended based with 90% male and 10% female mortality.

Mr. David Schuler
October 19, 2012
Page 5

- The contribution balance in the participant-directed private savings plan was assumed to accumulate with a 5.3% annual investment return, net of expenses. This return assumption is based on a recent study completed by the Teacher's Retirement System of Texas regarding actual investment returns realized in self-directed retirement programs.
- Annual annuities provided by the private savings plan will be based on annuitization of the account balance with a private insurance company, which entails a 5% discount rate, and a 10% load on mortality for margin, administration, commission, and profit.
- Annual annuities paid by Social Security were assumed to increase at 3% per year.
- The projected retirement benefits have been inflation-adjusted and are stated in terms of 2012 dollars.

If you have any questions about our analysis, please do not hesitate to call or write.

Sincerely,
Gabriel, Roeder, Smith & Company



Joseph P. Newton, FSA, MAAA, EA
Senior Consultant



R. Ryan Falls, FSA, MAAA, EA
Senior Consultant

J:\3052\2012\citywork\Garland\Benefit Projections.doc



City Council Item Summary Sheet

Work Session

Agenda Item

Date: November 20, 2012

Council Rules of Order and Procedure

Summary of Request/Problem

In accordance with the City Charter, Council is required to annually adopt its own rules of order and procedure for meetings. Council is requested to discuss proposed revisions.

This item was considered by Council at the October 1, 2012 Work Session.

Recommendation/Action Requested and Justification

Council discussion.

Submitted By:

Brad Neighbor
City Attorney

Approved By:

William E. Dollar
City Manager

**CITY COUNCIL
of the
CITY OF GARLAND, TEXAS**

RULES OF ORDER AND PROCEDURE

October 2012

A. AUTHORITY - CHARTER

Article III, Section 9 of the City Charter provides that the City Council shall determine its own rules of order of business and procedures for meetings. These rules shall be in effect upon adoption by the City Council and until such time as amended, suspended or new rules are adopted in the manner provided.

B. COUNCIL MEETINGS

1. REGULAR MEETINGS

Article III, Section 8 of the City Charter provides that regular meetings of the City Council shall be held at least twice each month. Section 10.14 of the Code of Ordinances establishes the first and third Tuesdays of each month as the time for those regular meetings. The City Council may otherwise prescribe the date for such meetings by ordinance or resolution. The meetings are held in the City Council chamber.

a. Other Locations

The City Council may, occasionally, elect to meet at other locations and, upon such election, shall give public notice of the change of location in accordance with provisions of State law and the City Charter.

b. Location During Local Emergency

If by reason of fire, flood or other emergency, it is unsafe to meet in the City Council chamber, the meetings may be held for the duration of the emergency at such other place as may be designated by the Mayor or, in the Mayor's absence by the Mayor Pro Tem or the City Manager.

2. PRE-COUNCIL MEETING WORK SESSION

Prior to each regular City Council meeting, the City Council may conduct a Work Session in order to allow the City Council to informally review items of interest that may be scheduled for formal presentation at future City Council meetings, or that are strictly informational in nature. The City Council may not take formal action on items presented at the Work Session unless specified in the posted agenda.

3. SPECIAL MEETINGS AND EMERGENCY MEETINGS

Pursuant to Article III, Section 7 of the City Charter special meetings may be called at any time by the Mayor or by two or more members of the City Council. The City Secretary shall post notice thereof as provided by State law. Special meetings may be held at any location as long as such meetings are conducted in accordance with State law and the City Charter. In case of emergency or urgent public necessity which shall be expressed in the notice of the meeting, an emergency meeting may be called by the Mayor or by two members of the City Council, and it shall be sufficient if the notice is posted two hours before the meeting is convened. Diligent effort to notify all Councilmembers shall be made prior to the emergency meeting. (Texas Government Code, Sec. 551.045)

4. ADJOURNED MEETINGS

The City Council may adjourn any regular, adjourned regular, special or adjourned special meeting to a time and place specified in the order of adjournment pursuant to the provisions of the Texas Open Meetings Act. (Texas Government Code, Section 551)

5. EXECUTIVE SESSIONS

The City Council may meet in Executive Session during any regular or special meeting, or anytime otherwise authorized by State law, to consider, hear or decide any matter which is authorized by State law to be heard or considered in Executive Session. The City Council may exclude from any such Executive Session any person or persons which it is authorized by State law to exclude from such sessions. The general subject matter for consideration shall be expressed in an open meeting before such session is held. Councilmembers may not reveal the nature of discussion from a closed session unless required by law.

6. NOTICE OF MEETINGS

Notice of meetings and the agenda for all City Council meetings shall be posted by the City Secretary on the City's Website and official bulletin board pursuant to the requirements of the Texas Open Meetings Act. (Texas Government Code, Section 551)

7. QUORUM

Article III, Section 6 of the City Charter provides that five (5) members of the nine member City Council shall constitute a quorum to do business and the affirmative vote of five (5) of those present shall be necessary to adopt any ordinance or resolution, except as required by City Charter or State law.

8. CHAIR

Article III, Section 4 of the City Charter provides that the Mayor shall preside at all meetings of the City Council. The Mayor may participate in the discussion of all matters coming before the City Council. The Mayor shall be required to vote as a member on legislative and other matters. The Mayor shall have the authority to preserve order at all City Council meetings, to enforce the rules of the City Council and to determine the order of business under the rules of the City Council. The Mayor shall also have the power to administer oaths.

a. Absence of Mayor

Article III, Section 4 of the City Charter provides that the City Council shall elect from among the Councilmembers a Mayor Pro Tem who shall act as Mayor during the absence or disability of the Mayor. The City Council may elect from among the Councilmembers a Deputy Mayor Pro Tem who shall act as Mayor during the absence or disability of the Mayor and Mayor Pro Tem.

b. Absence of Mayor and Mayor Pro Tem

When the Mayor and Mayor Pro Tem are absent from any meeting of the City Council, the Deputy Mayor Pro Tem, if one has been elected, shall act as Mayor Pro Tem. If all three are absent, the members present shall choose another member to act as Mayor Pro Tem and that person shall, for the duration of the meeting, have the powers of the Chair.

9. ATTENDANCE BY THE PUBLIC

Article III, Section 10 of the City Charter requires that all meetings of the City Council shall be open and public in accordance with the terms of provisions of the Texas Open Meetings Act except the Executive Session or closed meetings allowed by State law. Citizens and other visitors attending City Council meetings shall observe the same rules of propriety, decorum and good conduct applicable to members of the City Council.

10. MINUTES

In accordance with the provisions of Article III, Section 9, and Article IV, Section 5 of the City Charter, minutes of City Council meetings will be kept. Minutes will include final motions with votes. The minutes will also reflect the names of public speakers.

a. City Council Approval of Minutes

Minutes of meetings are generally submitted to the City Council within two weeks for approval.

b. Recording of Meetings

Tape recordings of proceedings, other than executive session proceedings, are maintained by the City Secretary as required by law. Tape recordings of executive session proceedings shall be maintained by the City Attorney.

C. ORDER OF BUSINESS

1. GENERAL ORDER

City Council meetings will be generally conducted in the following order, unless otherwise specified. An Executive Session may be held at any time during a meeting pursuant to applicable State law.

WORK SESSION AGENDA

EXECUTIVE SESSION (IF ANY)
WRITTEN BRIEFINGS
VERBAL BRIEFINGS
QUESTIONS REGARDING REGULAR AGENDA ITEMS
DISCUSS COMMITTEE REPORTS/ASSIGNMENTS
DISCUSS CONSENT AGENDA
IDENTIFY FUTURE AGENDA ITEMS
ADJOURN

REGULAR MEETING AGENDA

EXECUTIVE SESSION (*AS NEEDED*)
PLEDGE OF ALLEGIANCE/INVOCATION
CONSENT AGENDA/APPROVAL OF MINUTES
REGULAR AGENDA
CONSIDER APPOINTMENTS TO BOARDS AND COMMITTEES
CITIZEN COMMENTS (“OPEN MIKE”)
ADJOURNMENT

2. NUMBERING AND INDEXING OF AGENDA ITEMS

All items of any nature shall be numbered consecutively for purposes of consideration on the agenda. Upon passage, the City Secretary shall separately index all ordinances and resolutions.

3. CONSENT AGENDA

The Consent Agenda shall contain routine, noncontroversial items that require City Council action but need little or no City Council deliberation. Agenda item(s) removed from the Consent Agenda by the request of a Councilmember, citizen or staff will be considered after approval of the remaining Consent Agenda.

D. RULES OF CONDUCT

1. GENERAL PROCEDURE

These rules, consistent with the City Charter and any applicable City ordinance, statute or other legal requirement, shall govern the proceedings of the City Council. To the extent not inconsistent with these rules, the City Council proceedings shall follow the rules of procedure set out in Roberts Rules of Order, Newly Revised, published by Persus Publishin, (hereinafter “RONR”) a copy of which shall be retained by the City Secretary and made available for inspection by the public during normal business hours.

2. AUTHORITY OF THE CHAIR

The Chair shall make decisions on questions of procedure subject to review by the City Council as a whole. The Chair, with the consent of the City Council, may appoint a Parliamentarian from outside the City Council to assist the Chair in interpreting the rules of procedure governing City Council Meetings and shall offer advice to the Chair as requested by the Chair or any member of the City Council. The Chair, shall, upon request of a member of the City Council, inform the City

Council as to the advice given by the Parliamentarian. Following a decision of the Chair on a question of procedure, any two members of the City Council shall be entitled to appeal the decision of the Chair by the making, and seconding of, an appeal. See RONR.

3. COUNCIL DELIBERATION AND ORDER OF SPEAKERS

The Chair has been delegated the responsibility to control the debate and the order of speakers. Speakers will generally be called upon in the order of the request to speak. With the concurrence of the Chair, a Councilmember holding the floor may address a question to another Councilmember and that Councilmember may respond while the floor is still held by the Councilmember asking the question. A Councilmember may opt not to answer a question while another Councilmember has the floor.

4. LIMIT DELIBERATIONS TO ITEM AT HAND

After an agenda is announced by the Chair, the City Council may discuss the item without the need for a motion on the item. Councilmembers will limit their comments to the subject matter or motion being currently considered by the City Council. All discussions shall be germane to a posted agenda item.

5. OBTAINING THE FLOOR

Except as provided in RONR, any member of the City Council wishing to speak shall first obtain the floor by registering in the cue electronically and thereafter being recognized by the Chair. If the electronic cue is inoperative, members of the City Council shall obtain the floor by making a verbal request for the floor to the Chair. The Chair shall recognize any Councilmember who seeks the floor when appropriately entitled to do so.

6. MOTIONS

Motions may be made by any member of the City Council other than the Chair. Any member of the City Council, other than the Chair and the person offering the motion, may second a motion.

7. PROCEDURES FOR MOTIONS

The following is the general procedure for making motions:

- a.** Before a motion can be considered or debated it shall be seconded.
- b.** A Councilmember who wishes to make a motion, except as provided in RONR, shall first obtain the floor.
- c.** A Councilmember who wishes to second a motion shall do so through a verbal request to the Chair.
- d.** Unless otherwise required or provided by law, a motion (other than a procedural motion) made and seconded, unless stated otherwise, shall include, without necessity of reference, a motion to close the public hearing on the matter if the matter is one which includes a public hearing. A Councilmember wishing to

continue the public hearing shall move to continue the public hearing and if seconded shall be voted upon before the main motion. No discussion shall be permitted on a motion to continue the public hearing.

- e. Once the motion has been properly made and seconded, the Chair shall open the matter for discussion offering the first opportunity to the moving party and, thereafter, to any Councilmember properly recognized by the Chair.

8. MOTION AMENDMENTS

When a motion is on the floor and an amendment is offered, the amendment shall be acted upon prior to acting on the main motion. No motion of a subject different from that under consideration shall be admitted as an amendment. A motion to amend an amendment shall be in order, but one to amend an amendment to an amendment shall not be in order. Action shall be taken on the amended amendment prior to any other action to further amend the original motion.

9. VOTING

a. Abstention

- (i) If a Councilmember abstains because of a legal conflict, that Councilmember is not counted as present for quorum purposes and is not deemed to be “voting” for purposes of determining whether there has been a “majority vote of those voting and present.”
- (ii) When a Councilmember has a legal conflict and is required to abstain or excuse himself/herself from a portion of a City Council meeting, the Councilmember shall complete the necessary affidavit regarding the conflict.
- (iii) Pursuant to Article III, Section 6 of the Charter, a Councilmember who is present and not required by law to abstain from voting shall vote on every measure for which a vote is called; a refusal to vote constitutes a vote of “no” on the measure.

b. Charter or Statute Voting Requirements

Some actions taken by the City Council require more than a simple majority vote for approval as required by either the Charter or State law, including:

- (i) *Charter Amendment — Two-thirds Vote*

An ordinance submitting a proposed Charter amendment must be adopted by at least a two-thirds vote of the full City Council. (Texas Local Government Code, Section 9.002(a), Article XI, Section 5, Texas Constitution)

- (ii) *Changing Paving Assessment Plan — Two-thirds Vote*

Changes in plans for paving assessments require a two-thirds vote of the full City

Council. (Texas Transportation Code, Section 313.053)

(iii) *Protested Changes in Zoning Ordinance — Three-fourths Vote*

If a proposed change to a zoning regulation or boundary is protested by owners of twenty percent or more of the area of the lots or land included in such proposed change, or of the area of the lots or land immediately adjoining the area covered by the proposed change and extending 200 feet therefrom, the affirmative vote of at least three-fourths of the full City Council is required for the proposed change to take effect. (Texas Local Government Code, Sec. 211.006(d); Garland Comprehensive Zoning Ordinance)

E. PUBLIC HEARINGS

1. GENERAL PROCEDURE

The City Council procedure for the conduct of public hearings is generally as follows:

- a. Staff presents its report.
- b. Councilmembers may ask questions of staff.
- c. The Chair opens the public hearing.
- d. The applicant or appellant then has the opportunity to present comments, testimony, oral arguments. In the case of an appeal when the appellant is different from the applicant, the appellant shall be called upon first to provide comments or testimony. The applicant or appellant may have a total of 15 minutes for a presentation when recognized by the Chair. The initial comments or presentation shall be limited to ten minutes and the rebuttal or concluding comments shall be limited to five minutes.
- e. Councilmembers may ask questions of the applicant/appellant.
- f. Members of the public are provided with the opportunity for comments and testimony in accordance with City Council Rule E (3).
- g. The appellant or the applicant is given the opportunity for closing comments.
- h. The City Council deliberates on the issue.
- i. If the City Council raises new issues through deliberation and a majority of the City Council seeks additional public testimony, additional public comment and testimony is permitted in accordance with City Council Rule E (3).
- j. The City Council deliberates and takes action.
- k. The Chair announces the final decision of the City Council.

2. CONTINUANCE OF HEARINGS

Any public hearing being held, noticed or ordered to be held by the City Council may, by order, notice or motion, be continued to any subsequent meeting subject to the provisions of the Texas Open Meetings Act.

3. PUBLIC TESTIMONY AT MEETINGS

When a matter comes before the City Council, the Chair will open the public hearing. Upon opening the public hearing, and before any motion is adopted related to the merits of the issue to be heard, the Chair shall inquire if there is anyone present who desires to speak on the matter which is to be heard or to present evidence regarding the matter.

a. Public Member Request to Speak

Any person wishing to address the City Council regarding a matter on the agenda shall complete and present a speaker card to the City Secretary before the close of the vote on the matter. Prior to speaking, the speaker shall either complete the speaker's card and sign the card under penalty of perjury, or shall, if so allowed by the Chair, be sworn by the City Attorney or other person authorized to administer oaths. Upon being recognized by the Chair, the person may speak or present testimony relevant to the matter being heard. No person may speak without first being recognized by the Chair. Each person wishing to speak on the matter shall be limited to three minutes. Speakers are advised to obtain all information necessary for their presentations prior to the meeting: The opportunity to speak is given to provide testimony rather than to question the City Council or staff. The Chair may call a speaker out of order if the speaker presents questions or requests for information that will unduly delay the transaction of business at the meeting.

b. Identification of Speaker

When called upon, the person to speak shall come to the podium and state his or her name and address. If speaking for an organization or other group, the speaker shall identify the group represented. A person who does not wish to testify may nonetheless register a position on an agenda item by completing a speaker's card. The person's position on the matter shall be read into the record but the person is not required to address the City Council.

c. Time Limits

The Chair, with the concurrence of the City Council, may alter any of the enumerated time allocations based on the complexity of the item and the number of persons wishing to speak on the item.

d. Designation of Spokesperson.

To expedite matters and to avoid repetitious presentations, the designation of a spokesperson is encouraged. Whenever any group of individuals wishes to address the City Council on the same subject matter, those individuals are encouraged to designate a spokesperson. Any person present at the meeting may, in lieu of speaking, designate a spokesperson by indicating the designation on his or her speaker card. With the consent of the City Council,

the Chair may extend the time allocation for a designated spokesperson. In this regard, three or more speakers may yield their time to a single speaker and such speaker shall be given 2 minutes per speaker up to a maximum of 10 minutes provided that each of the persons who have agreed to yield their time to the designated spokesperson have completed a speaker's card and have indicated thereon the person's consent to the designation. The designor's position on the matter shall be read into the record in accordance with Rule E(3)(b).

e. Comments Addressed to City Council

All remarks shall be addressed to the City Council as a whole and not to individual members or other speakers. Questions, if any, shall be directed to the Chair who will determine whether, or in what manner, an answer will be provided. Questions shall not be address to individual members or to other speakers.

f. Questions of Speakers

Members of the City Council who wish to ask questions of the speakers or each other during the public hearing portion may do so, but only after first being recognized by the Chair. Interaction with the speaker shall be limited to a question or questions, rather than an ongoing dialogue. In fairness to all speakers, a question may not be presented solely for the purpose of providing the speaker with more than the allotted time for the speaker unless a motion is made and approved extending the time for the speaker.

g. Materials for Public Record

All persons interested in the matter being heard by the City Council shall be entitled to submit written evidence or remarks. All such evidence presented will be retained by the City Secretary as part of the record of the hearing, in accordance with the requirements of State law.

h. Germane Comments

During the public hearing, no person will be permitted to speak about matters or present evidence which is not germane to the matter being considered. A determination of relevance shall be made by the Chair, but may be appealed to the full City Council.

4. STAFF PRESENTATIONS

Staff presentations will be concise and will provide factual background information on the item as well as a recommendation for the City Council. Written presentations shall, to the extent possible, be provided to the City Council before the meeting.

F. APPOINTMENTS TO BOARDS AND COMMISSIONS

Appointments to boards and commissions shall, unless otherwise required by law, be made by minute action reflecting the unanimous consent of the City Council unless a Councilmember requests that the appointment be deliberated by the City Council.

G. CITIZENS' COMMENTS – "OPEN MICROPHONE"

This portion of the regular City Council meeting is set aside for members of the public to address the City Council on any item of City business that is not formally scheduled on the agenda. Members of the public shall complete a speaker card prior to the close of the citizens' comment period and present it to the City Secretary.

1. Timing

Citizens' comments are generally permitted at the end of the regular City Council meeting, as specified on the agenda. A speaker's comments shall be limited to three minutes ~~and the citizens' comment period shall not exceed thirty minutes.~~ Speakers shall be allowed to speak on a first-come, first-to-speak basis as determined by the order in which the City Secretary receives the speaker's card. ~~If at the end of the citizens' comment period all speakers who are still present and willing to speak are not offered an opportunity to speak at the meeting, those who have been allowed to speak at that meeting may not speak during the citizens' comment period at the next following meeting at which a citizens' comment period is offered until all other speakers have been allowed to speak. A speaker who was present and willing to speak at a meeting but who was unable to speak because time ran out will be given priority in the order of speakers at the following citizens' comment opportunity regardless of the order in which the City Secretary receives the speaker's card.~~

2. No Council Deliberations

In compliance with the Texas Open Meetings Act, the City Council may not question, deliberate or vote on any matter raised in citizens' comments. The City Manager may request staff to provide information requested by a speaker or investigate a matter raised by the speaker.

H. RULES OF DECORUM

1. Speakers shall not present the same or substantially the same items or arguments to the City Council repeatedly or be repetitious in presenting their oral comments. A speaker shall not present argument on a matter previously considered by the City Council at the same session.
2. Persons attending City Council meetings should observe the same rules of propriety, decorum and good conduct as they would show in a courtroom, a place of worship, or at any other serious or solemn occasion during which matters of importance are being considered. Visitors will refrain from engaging in chatter, private conversations, and from making other distracting noises while the City Council is in session. Phones and other electronic devices should be set to off or silent mode. Visitors should not applaud, boo, clap, or otherwise audibly express approval or disapproval of the speech of another person in a loud and raucous manner calculated to disturb the meeting.
3. Visitors attending City Council meetings may not bring food or drink into the City Council chamber.
4. No person shall display or cause to be displayed any sign, placard, poster or banner within the City Council chamber in such a manner as to impede the use of the aisles or exits, interfere with the use of the seating area, obstruct the view of another or in any other manner disturb or interfere with the orderly conduct of the meeting. A sign, placard, poster or banner may not exceed more than six square feet in surface area and may not be attached to any stick, pole or other appurtenance that could be used as a club or deadly weapon.

5. Only one person at a time may stand at the speaker's podium unless the speaker is a child or requires an interpreter or other special assistance or unless the person is appearing as a group receiving a recognition or award presented by the Mayor or City Council.
6. No person may approach nearer the City Council than the front of the speaker's podium without leave of the Chair. A speaker may not bring to the podium any bag or other container. Recording equipment (including cameras, microphones, tripods and supporting equipment) may not be used within any seating area or aisle in such a manner as to impede the use of the aisles or exits, interfere with the use of the seating area or obstruct the view of another, but may be set up behind the public seating area or at the sides of the City Council chamber to the front of the public seating area, no nearer to the podium than the edge of the raised portion of the City Council seating area. For safety purposes, standing or sitting in any aisle used for ingress or egress into the City Council chamber is not allowed. The maximum occupancy limitation for the City Council chamber will be enforced by the Chair. Overflow crowds may stand in the public area outside the City Council chamber provided that hallways, exits, and elevator areas must remain unobstructed.

I. WAIVER OF RULES

As referenced in RONR, certain procedural rules contained in federal law, state law or the City Charter cannot be suspended. As referenced in RONR, certain rules of order can only be suspended by 2/3 vote. Other rules may be waived or suspended by a majority vote of the Councilmembers present (but not less than five votes) when it is deemed that there is good cause to do so, based upon the particular facts and circumstances involved.

J. NON-EXCLUSIVE RULES

The rules set forth are not exclusive and do not limit the inherent power and general legal authority of the City Council, or of its presiding officer, to govern the conduct of City Council meetings as may be considered appropriate from time to time, or in particular circumstances, for purposes of orderly and effective conduct of the affairs of the City.

K. NON-OBSERVANCE OF RULES

Rules adopted by the City Council are solely to expedite and facilitate the transaction of the business of the City Council in an orderly fashion shall be deemed to be procedural only, and the failure to strictly observe any such rules shall not affect the jurisdiction of, or invalidate any action taken by, the City Council.



City Council Item Summary Sheet

Work Session

Agenda Item

Date: November 20, 2012

Public Safety Committee Report

Summary of Request/Problem

Deputy Mayor Pro Tem Preston Edwards, chair of the Public Safety Committee, will provide a report on the following item that was previously considered by the Committee:

- Enforcement of the state law regarding the use of handheld communication devices

Recommendation/Action Requested and Justification

Council discussion.

Submitted By:

Approved By:

William E. Dollar
City Manager