



AGENDA

REGULAR MEETING OF THE CITY COUNCIL

**City of Garland
Council Chambers, City Hall
200 North Fifth Street
Garland, Texas
January 21, 2014
7:00 p.m.**

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

The Garland City Hall and Council Chambers are wheelchair accessible. Special parking is available on the north side of City Hall and the building may be accessed by a sloped ramp from the parking area to the door facing Fifth Street. Persons with disabilities who plan to attend this meeting and who may need auxiliary aids or services must contact the City Secretary's Office at (972) 205-2404 at least two working days prior to the meeting so that appropriate arrangements can be made. **BRILLE IS NOT AVAILABLE.**

CITY COUNCIL GOALS 2020

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

MAYORAL PROCLAMATIONS, RECOGNITIONS AND ANNOUNCEMENTS

The Mayor may present proclamations and recognize attendees or award winners, and may make announcements regarding upcoming City events and matters of interest to citizens. There will be no Council deliberations or votes on these matters.

CONSENT AGENDA

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

1. Consider approval of the minutes of the January 7, 2013 City Council Regular Meeting.
2. Consider approval of the following bids:

a. Water System Improvements

Bid No. 4025-14

Tri-Con Services, Inc.

\$799,999.99

This request is to provide for water system improvements at Greencove Drive, Main Street and West Walnut Street. Construction includes approximately 4,144 linear feet of water line including all service connections and approximately 7,603 square yards of asphalt and street paving.

**b. Engineering and Design Services for
Olinger Substation Line**

Bid No. 4124-14

R-Delta Engineers	\$98,500.00
Optional Contingency	<u>9,900.00</u>
	<u>\$108,400.00</u>

This request is to provide professional engineering and design services associated with substation improvements including the addition of a new 138kV transmission line terminal and associated new equipment as well as substation modifications necessary for the proposed relocation of the Olinger-Ben Davis Circuit 1 Transmission line substation termination.

- 3. Consider approving by minute action an employment agreement with William E. Dollar to continue his employment in the position of City Manager.**

Council is requested to approve an employment agreement with William E. Dollar to continue his employment in the position of City Manager.

- 4. Consider approving by minute action an employment agreement with Brad Neighbor to continue his employment in the position of City Attorney.**

Council is requested to approve an employment agreement with Brad Neighbor to continue his employment in the position of City Attorney.

- 5. Consider approving by minute action an employment agreement with Jedson Johnson in the position of City Auditor.**

Council is requested to approve an employment agreement with Jedson Johnson in the position of City Auditor.

6. **Consider all matters incident and related to the issuance and sale of “City of Garland, Texas, General Obligation Refunding Bonds, Series 2014, including the adoption of an ordinance authorizing the issuance of “City of Garland, Texas General Obligation Refunding Bonds, Series 2014 specifying the terms and features of said bonds; levying a continuing direct annual ad valorem tax for the payment of said bonds; providing for the redemption of certain outstanding obligations of the City; and resolving other matters incident and related to issuance, sale, payment and delivery of said bonds, including the approval and execution of a Paying Agent/Registrar Agreement and the approval and distribution of a Preliminary Official Statement.**

At the November 4, 2013 Work Session, Council considered authorizing the refund of approximately \$14 million General Obligation Bonds and \$5.5 million Certificates of Obligation.

ITEMS FOR INDIVIDUAL CONSIDERATION

Speaker Regulations:

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

7. **Hold a public hearing on the following zoning case:**

Consider the application of Apartment Development Services, requesting approval of 1) a change in zoning from Agriculture (AG) District to Planned Development (PD) District for Multi-Family Uses, 2) a Concept Plan and 3) a variance to Section 34.19(D) of the IH 30 Development Standards regarding building placement. The property is located at the northwest intersection of Bobtown Road and Waterhouse Boulevard. (District 3) (File 13-35)

The applicant is requesting further postponement to the February 4, 2014 Council Meeting.

8. **Hold a public hearing to receive citizen input regarding the modifications to Chapter 32 and consider and ordinance amending Chapter 32, “Neighborhood Sanitation and Housing Services”, of the Code of Ordinances.**

This item was considered at the August 5, 2013 Work Session. The proposal adds minimum standards for lodging room furnishings, toiletries, linens, insect control and employee health. An annual \$200 licensing fee is also proposed to support the inspectional efforts.

9. **Hold a public hearing to receive citizen comments regarding the proposed 2014 Capital Improvement Program (CIP).**

The 2014 Proposed CIP has been available for public inspection in the City’s libraries, the City Secretary’s Office, and on the City’s website since January 9, 2014.

10. **Citizen comments.**

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

11. **Adjourn.**

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

The City Council of the City of Garland, Texas convened in regular session at 7:00 p.m. on Tuesday, January 7, 2014, in the Council Chambers at City Hall with the following members present:

Mayor	Douglas Athas
Mayor Pro Tem	Lori Barnett Dodson
Councilmember	Marvin 'Tim' Campbell
Councilmember	Anita Goebel
Councilmember	Stephen W. Stanley
Councilmember	B.J. Williams
Councilmember	John Willis
Councilmember	Scott LeMay
Councilmember	Jim Cahill

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

CALL TO ORDER: The meeting was called to order by Mayor Douglas Athas. District 3 Councilman Stephen Stanley led the Invocation and Pledge of Allegiance.

CEREMONIALS: Mayor Athas recognized Rene Dowl representing Garland Power & Light along with United Way Representative Erica Barajas. A check for a donation was presented to the United Way on behalf of City employees. Mayor Athas read a proclamation celebrating Linda Jaresh Day in the City of Garland.

ANNOUNCEMENTS: Mayor Athas commented on the following: 1) Environmental Waste Services continues to pick up large amounts of brush and debris following the ice storm that hit our area a little more than a week ago; 2) the Garland Health Department has a supply of low-cost flu shots available at the Public Health Clinic; 3) Review of the proposed 2014 Capital Improvement Project Budget is ongoing; 4) Candidate packets for the May 10, 2014 City Officer's Election are now available in the City Secretary's Office; and 5) Councilman Williams announced his upcoming Town Hall Meeting to be held January 29, 2014 from 6:30 to 7:30 p.m. at the South Garland Branch Library.

CONSENT AGENDA: Mayor Athas noted that Item 4 and Item 5 are removed from the Consent Agenda pending further information. All items marked with asterisks (**) on the Consent Agenda were voted on in a single motion at the beginning of the meeting. A motion was made by Councilman Stanley, seconded by Councilwoman

Goebel, to approve Items: 1; 2a; 2b; 3a; 3b; and 6. A vote was cast and the motion carried with 9 Ayes; 0 Nays.

1. APPROVED** City Council minutes of the December 17, 2013 Regular Meeting.
- 2a. APPROVED** Award of Bid No. 3877-14 in the amount of \$3,382,452 to Texas Electric Cooperative, Inc. to provide a 600 MVA auto transformer to be installed at the TMPA Gibbons Creek Substation.
- 2b. APPROVED** Award of Bid No. 3989-14 in the amount of \$175,000 to TruGreen, Landcare, Inc. to provide for nuisance abatements including mowing, cleaning and debris removal for residential and commercial properties.
- 3a. APPROVED** Ordinance No. 6667 amending the zoning laws of the City of Garland, by approving an amendment to Planned Development (PD) District 68-40 for General Business Uses, a Concept Plan and a Detail Plan for a Grocery Store on a 14.215-acre tract of land located at 1122 West Centerville Road, east of IH 635 and south of West Centerville Road. (Zoning File No. 13-40, Tony Callaway)
- 3b. APPROVED** Ordinance No. 6668 amending the zoning laws of the City of Garland by approving a Detail Plan and a Specific Use Permit for Retail Sales/Personal Service, on a 1.12-acre tract of land zoned Planned Development (PD) District for Limited Freeway Uses and in the IH 30 Overlay District located on the west side of Broadway Boulevard, approximately 385 linear feet south of the intersection of Broadway Boulevard and Guthrie Road. (Zoning File No. 13-44, Max Alley Investments)
4. PULLED Consider the sale of City property located at 541 Henderson Circle to Smith Davis Investment Properties, LLC.
5. PULLED Consider the sale of City Property located at 310 Parker Drive to Smith Davis Investment Properties.
6. APPROVED** Ordinance No. 6669 appointing Robert J. Beasley as Chief Judge and Sonja H. Galbraith as Judge of the Municipal Court.
7. APPROVED Managing Director of Planning and Development Services Neil Montgomery provided background information regarding the request of Sameeh Zalloum to waive the Roadway Impact Fee

for development of property located at 6520 President George Bush Turnpike.

Mayor Athas recognized the applicant Sameeh Zalloum who presented details of his request. Citizen Mike Rose also commented in favor of the request.

Council discussion ensued. Councilman Campbell, seconded by Councilman Willis, made a motion to reduce the impact fee from \$30,996 to \$5,000 payable February 1, 2015. Councilman Cahill, seconded by Councilman Stanley, made a motion to amend thereby reducing the impact fee from \$30,996 to \$15,000 payable over three years at the rate of \$5,000 per year. Council discussion continued. A vote was cast on the amended motion. The motion failed with 4 Ayes, 5 nays. A vote was cast on the main motion to reduce the impact fee to \$5,000 with payment due February 1, 2015. A vote was cast and the motion carried with 7 ayes, 2 nays (Goebel, Stanley).

8. PRESENTED

City Manager William E. Dollar presented the 2014 Proposed Capital Improvement Program and provided a schedule for adoption.

9. CITIZEN COMMENTS: No one spoke.

There being no further business to come before the City Council, Mayor Athas adjourned the meeting at 8:18 p.m.

CITY OF GARLAND

Signed:

Attest:



Purchasing Report

WATER SYSTEM IMPROVEMENTS OPEN MARKET

PURCHASE JUSTIFICATION:

The purpose of this contract is to provide for water system improvements at Greencove Drive, Main Street and West Walnut Street. Construction includes approximately 4,144 linear feet of water line including all service connections and approximately 7,603 square yards of asphalt and street paving. Funding for this project was approved in the 2013-2014 CIP.

AWARD RECOMMENDATION:

<u>Vendor</u>	<u>Item</u>	<u>Amount</u>
Tri-Con Services, Inc.	All	\$799,999.99

TOTAL: \$799,999.99

BASIS FOR AWARD:

Lowest Responsible Bid

Submitted by:

Reviewed by:

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

 Director of Purchasing

William E. Dollar

 City Manager

Date: 01/09/14

Date: 01/13/14

<u>FINANCIAL SUMMARY:</u>	
Total Project/Account: \$	4,649,060
Expended/Encumbered to Date:	3,690,934
Balance: \$	<u>958,126</u>
This Item:	<u>800,000</u>
Proposed Balance: \$	<u>158,126</u>
Matt Watson	1-10-14
Budget Analyst	Date
Ron Young	1-10-14
Budget Director	Date

Operating Budget: <input type="checkbox"/>	CIP: <input checked="" type="checkbox"/>	Year: <u>2013</u>
Document Location: <u>W01 & W08</u>		
Account #:	227-4049-30207-9129	\$303,435.74
	227-4049-30190-9213	\$496,564.25
Fund/Agency/Project – Description:		
Water CIP/Transmission Main (16 inch and Above)		
Water CIP/Upgrade Undersized Water Mains		
Comments:		



GARLAND

PURCHASING

Executive Summary **Bid 4025-14** **Water System Improvements**

Recommended Vendor:

Tri-Con Services, Inc.

Total Recommended Award:

\$799,999.99

Basis for Award:

Lowest Responsible Bid

Purpose:

The purpose of this contract is to provide for water system improvements at Greencove Drive, Main Street and West Walnut Street. Construction includes approximately 4,144 linear feet of water line including all service connections and approximately 7,603 square yards of asphalt and street paving.

Evaluation:

Requests for bids were issued in accordance with Purchasing Procedures. Five (5) bids were received and evaluated. Tri-Con Services, Inc. submitted the lowest overall bid for the projects.

Recommendation:

Staff recommends awarding the contract to Tri-Con Services, Inc.

Funding Information:

Section 1 - Greencove – 227-4049-30191-9214 / CW-191-RB-1-9214 - \$390,633.25

Section 2 - Main – 227-4049-30207-9129 / CW-207-RB-1-9129 – \$303,435.74

Section 3 - Walnut – 227-4049-30190-9213 / CW-190-RB-1-9213 - \$105,931.00

Department Director:

Michael C. Polocek, P.E., Director of Engineering, 972-205-2178



Purchasing Report

ENGINEERING AND DESIGN SERVICES FOR OLINGER SUSTATION LINE OPEN MARKET

PURCHASE JUSTIFICATION:

The purpose of this contract is to provide professional engineering and design services associated with substation improvements including the addition of a new 138kV transmission line terminal and associated new equipment as well as substation modifications necessary for the proposed relocation of the Olinger-Ben Davis Circuit 1 transmission line substation termination. This purchase is funded from an approved Capital Improvement Project. Expenditures will not exceed appropriated funds.

AWARD RECOMMENDATION:

<u>Vendor</u>	<u>Item</u>	<u>Amount</u>
R-Delta Engineers	1	\$98,500.00
Optional Contingency		\$9,900.00
	TOTAL:	\$108,400.00

BASIS FOR AWARD:

Most Qualified

Submitted by:

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

Reviewed by:

 William E. Dollar
 City Manager

Date: 01/10/14

Date: 01/13/14

<u>FINANCIAL SUMMARY:</u>	
Total Project/Account: \$ 157,000	Operating Budget: <input type="checkbox"/> CIP: <input checked="" type="checkbox"/> Year: 2013
Expended/Encumbered to Date: 1,560	Document Location: E11
Balance: \$ 155,400	Account #: 210-3799-3175201-7111
This Item: 108,400	Fund/Agency/Project – Description: Electric - Olinger Substation Modifications
Proposed Balance: \$ 47,040	Comments:
Budget Analyst Date	
Ron Young 1/10/2014	
Budget Director Date	



GARLAND

PURCHASING

Executive Summary **Bid 4124-14** **Engineering and Design Services for Olinger Substation Line**

Recommended Vendor:

R-Delta Engineers

Total Recommended Award:

\$108,400.00

Basis for Award:

Most Qualified

Purpose:

The purpose of this contract is to provide professional engineering and design services associated with substation improvements including the addition of a new 138kV transmission line terminal and associated new equipment as well as substation modifications necessary for the proposed relocation of the Olinger-Ben Davis Circuit 1 transmission line substation termination.

Evaluation:

R-Delta Engineers is one of the City's pre-qualified engineering firms selected from a Request for Qualifications. Based on the specific requirements of this project, R-Delta Engineers was selected as the most qualified firm.

Recommendation:

Staff recommends awarding a Professional Services Contract to R-Delta Engineers.

Funding Information:

CIP Project 210-3799-3175201-7111 Olinger Substation Modifications

Department Director:

Tommy Weathersbee, Interim Transmission & Distribution Director, 972-205-3532

City Council Item Summary Sheet



Work Session

Date: January 21, 2014

Agenda Item

City Manager Employment Agreement

Summary of Request/Problem

Council is requested to approve an employment agreement with William E. Dollar to continue his employment in the position of City Manager.

Recommendation/Action Requested and Justification

Consider approving by minute action employment agreements with William E Dollar to continue his employment as City Manager.

Submitted By:

Approved By:

William E. Dollar
City Manager

EMPLOYMENT AGREEMENT

This Employment Agreement (“Agreement”) is made and entered into as of the Effective Date (as defined below) by and between the City of Garland, Texas (the “City”) and William E. Dollar (“Employee”).

1. Duties and Scope of Employment.

(A) *Position and Duties.* For the term of his employment under this Agreement, the City agrees to employ the Employee as its City Manager reporting directly to the City Council. Employee shall have such duties, powers, authority, responsibilities, and obligations as provided by Article V of the Charter of the City of Garland, Texas. Employee shall diligently, to the best of his ability, and with the highest degree of good faith and loyalty to the City, perform all such duties incident to his position to promote the interests of the City. Employee shall not act or withhold any act (nor shall he be asked or expected to do so) contrary to his duty of loyalty to the City. Employee shall be given such assistants and staffing as the City Council may from time to time provide in the budget of the City from each of whom Employee shall expect a similar level of loyalty and fidelity.

(B) *Obligations to the City.* During his employment under this Agreement, the Employee shall devote his full time and energy to his service to the City and shall not be engaged in any competitive or conflicting activity without the express consent of the City Council, provided that Employee may engage in charitable, religious or community activities. Employee shall abide by the City Council’s policies and rules regarding his employment during the term of his employment.

2. Term of Employment; Review.

(A) Unless sooner terminated in accordance with the provisions of Section 4 of this Agreement, the City agrees to employ the Employee, and Employee agrees to continue in employment with the City, as its City Manager, beginning on the Effective Date and continuing through December 31, 2014.

(B) The City Council shall annually review and evaluate the performance of Employee on or about November 30 of each year in accordance with the performance goals established by the City Council. Employee shall provide the City Council with measurable performance goals and objectives on or around January 15 of each year which goals and objectives shall be used as criteria for measuring performance for the following year.

3. Compensation; Benefits; Expenses.

(A) *Compensation.* For the services rendered by Employee during the term of this Agreement, Employee shall be entitled to the following:

- (1) A salary, payable bi-weekly or in accordance with a schedule generally applicable to other City employees, at the annual rate of \$234,492 (plus a lump-sum allocation of 2% scheduled for April, 2014); and
- (2) Deferred compensation in the amount of \$7,000.00 annually payable to a "Section 457" or other deferred compensation plan offered through the City.

The sum of the amounts described in Section (3)(A)(1) and (3)(A)(2), along with the benefits that Employee may receive as pay under Section (3)(B) (such as stability pay), shall hereinafter be referred to as the "Base Salary".

(B) *Benefits.* Employee shall be allowed to participate in all City health, welfare, retirement, savings, and other employee benefit and fringe benefit plans on the same basis as that offered or provided to other non-civil service City employees (including such benefits as provided or offered to senior or executive City employees) subject to the terms and conditions generally applicable to other City employees who participate in such plans. To the extent that seniority affects any benefits (including, but not limited to, earned vacation leave, sick leave, and stability pay), such benefits shall be calculated and granted in accordance with generally applicable City policies using an equivalent date of hire of June 14, 1971.

(C) *Disability and Life Insurance; Physical.* City shall obtain, maintain, and pay the premiums for Employee (or his designated beneficiary) on an insurance plan providing coverage for non-occupational and occupational (to the extent not covered by worker's compensation) total and permanent disability income benefits with an expiration age of 65 at a minimum level of 100% of Employee's total pre-disability compensation or provide the same coverage on a self-insured basis. Employee's disability benefits under this subparagraph shall be offset by any disability income benefits received from worker's compensation, Social Security, or TMRS retirement. Employee shall be included in the executive or "key man" whole life insurance program currently provided to certain executive City employees, and Employee shall be covered by a whole life insurance policy in an amount equal to 2.5 times Employee's annual salary, with a beneficiary to be designated by Employee and the premiums to be paid by the City. Employee may submit once annually to a routine physical examination to be conducted by a qualified physician/medical doctor of Employee's choice, the cost of which shall be paid by the City.

(D) *Professional Development and Dues.* The City agrees to budget for and pay, on behalf of Employee, all professional fees, dues, and seminar/conference registrations costs together with the costs and expenses incurred (consistent with City travel and reimbursement policies) in participating in conferences, short courses, seminars, and institutes that are necessary or desirable for the professional development of Employee and in the best interests of the City.

(E) *Expenses.* City agrees to provide Employee with a domestic mid-size SUV (Ford Explorer, Chevrolet Tahoe or GMC Yukon), together with gas and maintenance, for his exclusive and unrestricted use. In lieu of providing an automobile, Employee may elect to receive the amount of \$800.00 per month as a car allowance. City agrees to provide, pay for, or reimburse Employee with or for a cellular telephone or communications PDA for the full (both business and personal), reasonable use of Employee. Employee shall be entitled to reimbursement for other incurred or out-of-pocket expenses in accordance with generally applicable City policies governing the reimbursement of employee expenses.

(F) *Vacation, Sick Leave, and Time Off.* Employee shall be entitled to such vacation and sick leave as generally applies under City policy to employees of similar seniority. The parties agree that, as of the Effective Date, Employee has accrued 745 hours of vacation leave. In calendar year 2014, Employee may exercise as a one-time option (the "Buy-Out Option") the right to receive payment for that 745 hours of accrued vacation at the hourly rate of \$111.62. If Employee exercises the Buy-Out option and receives payment for that 745 hours of accrued vacation, Employee agrees that for any year in which he is employed by the City after his exercise of the Buy-Out Option, he will accrue vacation in accordance with the vacation accrual schedule applicable to general (non-civil service) employees up to a maximum of 160 hours of vacation. Accrued but unused vacation may be carried over into another calendar in accordance with general City policy applicable to non-civil service employees, provided that Employee's maximum accrued vacation balance shall not exceed 160 hours total. Any unused annual vacation leave remaining at the time Employee's employment is terminated or discontinued shall be paid to Employee in full based on the annual salary set forth in Section 3(A)(1) of this Agreement. If Employee accrues vacation after the Buy-Out Option, Employee may elect to receive payment in lieu of vacation for an amount equal to not more than 80 hours of unused vacation leave per year. The City recognizes that Employee must devote a great deal of time outside normal office hours to the business of the City and, to that end, Employee shall be allowed to take discretionary time off (none of which shall be carried over into another calendar year) as he shall deem appropriate. The City and Employee agree that it is desirable for Employee to schedule two weeks of mandatory vacation each year.

(G) *Insurance; Indemnification.* Employee shall be entitled to all of those benefits and coverages that the City may provide to Employee as a City official under the provisions of Article XVII, Section 14 of the City Charter and Chapter 41, Article V of the Code of Ordinances.

4. Termination.

(A) The City may terminate Employee's employment either for Good Cause or at will and without Good Cause at any time. In the event the Employee is terminated or this Agreement is not renewed at the end of its term without Good Cause, the City agrees to pay Employee severance pay of one full year's salary in a sum equal to the "Base Salary" then in effect; payment for accrued but unused vacation leave (less any compensated "buy back" vacation pay under Section 3(F); and to continue during that period health and dental coverage at the applicable rates. For purposes of this Agreement, the City shall have "Good Cause" to terminate Employee's employment if:

- (1) The Employee wilfully fails to substantially and materially perform his duties hereunder and such failure is not cured or discontinued within a reasonable period of time, not to exceed 30 days, after the Employee receives written notice from the City specifying the grounds for such failure;
- (2) The Employee commits an act of dishonesty, disloyalty or other conflict of interest intended to result in personal enrichment at the expense of the City or the Employee is convicted of any felony;
- (3) The Employee is otherwise grossly negligent or engages in willful misconduct or act of violence in the performance of his duties resulting in a material adverse affect on the City.

(B) The severance pay provided in this Section is expressly conditioned on Employee's execution of an appropriate release of all claims, known or unknown, that Employee may then have or contemplate.

(C) If the City at any time reduces the salary, compensation, or other benefits of the Employee in a greater percentage than an applicable across-the-board reduction for all City employees, or if the City refuses, within thirty (30) days of written notice from Employee of the specifics of non-compliance, to comply with any other provision of this Agreement that benefits the Employee then the Employee may deem his employment terminated without Good Cause.

(D) Employee may resign or terminate this Agreement at will by providing not less than thirty (30) days written notice to the City. If the Employee voluntarily resigns his position during the term of this Agreement, Employee shall not be entitled to severance pay as provided by Section 4 (A), above.

5. Notices. Any notice required or desired to be given from one party to the other party to this Agreement shall be in writing and shall be given and shall be deemed to have been served and received (whether actually received or not) if (i) delivered in person; (ii) deposited in an official depository under the regular care and custody of the United States Postal Service located within the confines of the United States of America and sent by certified mail, return receipt requested, and addressed to such party at the address specified; or (iii) delivered to such party by courier receipted delivery. Either party may designate another address within the confines of the continental United States of America for notice, but until written notice of such change is actually received by the other party, the last address of such party designated for notice shall remain such party's address for notice.

6. Attorney's Fees. Should either party to this Agreement commence legal proceedings against the other to enforce the terms and provisions of this Agreement, the party losing in such legal proceedings shall pay the reasonable attorneys' fees and expenses (including, but not limited to expert witness fees and deposition expenses) of the party prevailing in such legal proceedings.

7. No Assignment. Neither party shall have the right to assign that party's interest in this Agreement without the prior written consent of the other party.

8. Severability. If any term or provision of this Agreement is held to be illegal, invalid or unenforceable, the legality, validity or enforceability of the remaining terms or provisions of this Agreement shall not be affected thereby, and in lieu of each such illegal, invalid or unenforceable term or provision, there shall be added automatically to this Agreement a legal, valid or enforceable term or provision as similar as possible to the term or provision declared illegal, invalid or unenforceable.

9. Waiver. Either City or Employee shall have the right to waive any requirement contained in this Agreement, which is intended for the waiving party's benefit, but, except as otherwise provided herein, such waiver shall be effective only if in writing executed by the party for whose benefit such requirement is intended. No waiver of any breach or violation of any term of this Agreement shall be deemed or construed to constitute a waiver of any other breach or violation, whether concurrent or subsequent, and whether of the same or of a different type of breach or violation.

10. Governing Law; Venue. This Agreement and all of the transactions contemplated herein shall be governed by and construed in accordance with the laws of the State of Texas. The provisions and obligations of this Agreement are performable in Dallas County, Texas such that exclusive venue for any action arising out of this Agreement shall be in Dallas County, Texas.

11. Paragraph Headings; Construction. The paragraph headings contained in this Agreement are for convenience only and shall in no way enlarge or limit the scope or meaning of the various and several paragraphs hereof. Both parties have participated in the negotiation and preparation of this Agreement and this Agreement shall not be construed either more or less strongly against or for either party.

12. Binding Effect. Except as limited herein, the terms and provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, devisees, personal and legal representatives, successors and assigns.

13. Gender. Within this Agreement, words of any gender shall be held and construed to include any other gender, and words in the singular number shall be held and construed to include the plural, unless the context otherwise requires.

14. Counterparts. This Agreement may be executed in multiple counterparts, each of which shall be deemed an original, and all of which shall constitute but one and the same instrument.

15. Computation of Deadlines. If any deadline contained herein ends on a Saturday, Sunday or a legal holiday recognized by the Texas Supreme Court, such deadline shall automatically be extended to the next day that is not a Saturday, Sunday or legal holiday.

16. Dispute Resolution; Enforcement of Contract. In accordance with the provisions of

Subchapter I, Chapter 271, TEX. LOCAL GOV'T CODE, the parties agree that, prior to instituting any lawsuit or other proceeding arising from a dispute under this Agreement, the parties will first attempt to resolve the dispute by taking the following steps: (1) A written notice substantially describing the nature of the dispute shall be delivered by the dissatisfied party to the other party, which notice shall request a written response to be delivered to the dissatisfied party not less than 5 days after receipt of the notice of dispute (2) If the response does not reasonably resolve the dispute, in the opinion of the dissatisfied party, the dissatisfied party shall give notice to that effect to the other party whereupon each party shall appoint a person having authority over the activities of the respective parties who shall promptly meet, in person, in an effort to resolve the dispute; (3) If those persons cannot or do not resolve the dispute, then the parties shall each appoint a person from the highest tier of managerial responsibility within each respective party, who shall then promptly meet, in person, in an effort to resolve the dispute.

EXECUTED on and effective as of the date indicated below (the "Effective Date").

CITY:

EMPLOYEE:

Douglas Athas
Mayor

William E. Dollar
City Manager

Date: _____

City Council Item Summary Sheet



Work Session

Agenda Item

Date: January 21, 2014

City Attorney Employment Agreement

Summary of Request/Problem

Council is requested to approve an employment agreement with Brad Neighbor to continue his employment in the position of City Attorney.

Recommendation/Action Requested and Justification

Consider approving by minute action employment agreements with Brad Neighbor to continue his employment as City Attorney.

Submitted By:

Approved By:

William E. Dollar
City Manager

EMPLOYMENT AGREEMENT

This Employment Agreement (“Agreement”) is made and entered into as of the Effective Date (as defined below) by and between the City of Garland, Texas (the “City”) and Brad Neighbor (“Employee”).

1. Duties and Scope of Employment.

(A) *Position and Duties.* For the term of his employment under this Agreement, the City agrees to employ the Employee as its City Attorney reporting directly to the City Council. Employee shall have such duties, powers, authority, responsibilities, and obligations as provided by Article VI of the Charter of the City of Garland, Texas. Employee shall diligently, to the best of his ability, and with the highest degree of good faith and loyalty to the City, perform all such duties incident to his position to promote the interests of the City. Employee shall not act or withhold any act (nor shall he be asked or expected to do so) contrary to his duty of loyalty to the City. Employee shall be given such assistants and staffing as the City Council may from time to time provide in the budget of the City or as otherwise assigned from each of whom Employee shall expect a similar level of loyalty and fidelity.

(B) *Obligations to the City.* During his employment under this Agreement, Employee shall devote his full time and energy to his service to the City and shall not be engaged in any competitive or conflicting activity without the express consent of the City Council, provided that Employee may engage in charitable, religious or community activities. Employee shall abide by the City Council’s policies and rules regarding his employment during the term of his employment.

2. Term of Employment; Review.

(A) Unless sooner terminated in accordance with the provisions of Section 4 of this Agreement, the City agrees to employ the Employee, and Employee agrees to continue in employment with the City, as its City Attorney, beginning on the Effective Date and continuing thereafter for a period of twelve months through December 31, 2014.

(B) The City Council shall annually review and evaluate the performance of Employee on or about November 30 of each year in accordance with the City Council’s policies on the review of its appointed employees.

3. Compensation; Benefits; Expenses.

(A) *Compensation.* For the services rendered by Employee during the term of this

Agreement, Employee shall be entitled to the following:

- (1) A salary, payable bi-weekly or in accordance with a schedule generally applicable to other City employees, at the annual rate of \$204,387.00 (plus a lump-sum allocation of 2% scheduled for April, 2014); and
- (2) Deferred compensation in the amount of \$3,000.00 annually payable to a "Section 457" or other deferred compensation plan offered through the City.

The sum of the amounts described in Section (3)(A)(1) and (3)(A)(2) shall hereinafter be referred to as the "Base Salary".

(B) *Benefits.* Employee shall be allowed to participate in all City health, welfare, retirement, savings, and other employee benefit and fringe benefit plans on the same basis as that offered or provided to other non-civil service City employees (including such benefits as provided or offered to senior or executive City employees) subject to the terms and conditions generally applicable to other City employees who participate in such plans. To the extent that seniority affects any benefits (including, but not limited to, earned vacation leave, sick leave, and stability pay), such benefits shall be calculated and granted in accordance with generally applicable City policies using an equivalent date of hire of May, 1985.

(C) *Disability and Life Insurance.* City shall obtain, maintain, and pay the premiums for Employee (or his designated beneficiary) on an insurance plan providing coverage for non-occupational and occupational (to the extent not covered by worker's compensation) total and permanent disability income benefits with an expiration age of 65 at a minimum level of 100% of Employee's total pre-disability compensation or provide the same coverage on a self-insured basis. Employee's disability benefits under this subparagraph shall be offset by any disability income benefits received from worker's compensation, Social Security, or TMRS retirement. Employee shall be included in the executive or "key man" whole life insurance program currently provided to certain executive City employees, and Employee shall be covered by a whole life insurance policy in an amount equal to 2.5 times Employee's annual salary, with a beneficiary to be designated by Employee and the premiums to be paid by the City.

(D) *Professional Licenses.* Employee is required by State law and the rules of the various courts in which he practices to obtain and maintain certain licenses and certifications and to attend continuing legal education seminars, conferences, and courses in order to hold those licenses and certifications. The City agrees to budget and pay, on behalf of Employee, all professional fees, dues, and taxes associated with the position of City Attorney including those required or necessary for such licenses, certifications, and specializations (for example, the Texas State Bar Association, the Texas Board of Legal Specialization, the College of the State Bar, the Texas City Attorneys Association, the International Municipal Lawyers Association, and affiliated organizations and memberships) as may be held by Employee, together with the costs and expenses incurred (consistent with City travel and reimbursement policies) in maintaining continuing legal education requirements as mandated by any of the foregoing organizations.

(E) *Expenses.* City agrees to pay Employee a car allowance in the amount of \$500.00 monthly, provided that Employee may additionally be reimbursed for mileage on his personal vehicle at the applicable standard rate for use of that vehicle on the business of the City if the Employee is required to travel more than 50 miles from City Hall and the use of Employee's personal vehicle will result in additional or commensurate savings to the City (for example, by eliminating the cost of rental vehicles and taxis). Employee shall obtain, at Employee's expense, a functioning cell phone through which Employee shall be available to the City Council at all reasonable hours. Employee shall be paid a monthly cell phone stipend and shall be entitled to reimbursement for other incurred or out-of-pocket expenses in accordance with generally applicable City policies governing the reimbursement of employee expenses.

(F) *Vacation, Sick Leave, and Time Off.* Employee shall be entitled to such vacation and sick leave as generally applies under City policy to employees of similar seniority and Employee may carry over accrued vacation time as provided under those policies (not to exceed 480 hours per year). Employee may elect to receive payment in lieu of vacation for an amount equal to not more than 80 hours of unused vacation leave per year. Any unused (and unpaid) vacation leave remaining at the time Employee's employment is terminated or discontinued shall be paid to Employee in full based on the annual salary set forth in Section 3(A)(1) of this Agreement. The City recognizes, however, that Employee must devote a great deal of time outside normal office hours to the business of the City and, to that end, Employee shall be allowed to take discretionary time off (none of which shall be carried over into another calendar year) as he shall deem appropriate.

4. Termination.

(A) The City may terminate Employee's employment either for Good Cause or at will and without Good Cause at any time. In the event the Employee is terminated or this Agreement is not renewed at the end of its term without Good Cause, the City agrees to pay Employee severance pay of one full year's salary in a sum equal to the "Base Salary" then in effect and to continue during that period health and dental coverage at the applicable rates. For purposes of this Agreement, the City shall have "Good Cause" to terminate Employee's employment if:

- (1) The Employee wilfully fails to substantially and materially perform his duties hereunder and such failure is not cured or discontinued within a reasonable period of time, not to exceed 30 days, after the Employee receives written notice from the City specifying the grounds for such failure;
- (2) The Employee commits an act of dishonesty, disloyalty or other conflict of interest intended to result in personal enrichment at the expense of the City or the Employee is convicted of any felony;
- (3) The Employee is otherwise grossly negligent or engages in willful misconduct or act of violence in the performance of his duties resulting in a material adverse affect on the City.

(B) The severance pay provided in this Section is expressly conditioned on Employee's execution of an appropriate release of all claims, known or unknown, that Employee may then have or contemplate.

(C) If the City at any time reduces the salary, compensation, or other benefits of the Employee in a greater percentage than an applicable across-the-board reduction for all City employees, or if the City refuses, within thirty (30) days of written notice from Employee of the specifics of non-compliance, to comply with any other provision of this Agreement that benefits the Employee then the Employee may deem his employment terminated without Good Cause.

(D) Employee may resign or terminate this Agreement at will by providing not less than thirty (30) days written notice to the City. If the Employee voluntarily resigns his position during the term of this Agreement, Employee shall not be entitled to severance pay as provided by Section 4 (A), above.

5. Notices. Any notice required or desired to be given from one party to the other party to this Agreement shall be in writing and shall be given and shall be deemed to have been served and received (whether actually received or not) if (i) delivered in person; (ii) deposited in an official depository under the regular care and custody of the United States Postal Service located within the confines of the United States of America and sent by certified mail, return receipt requested, and addressed to such party at the address specified; or (iii) delivered to such party by courier receipted delivery. Either party may designate another address within the confines of the continental United States of America for notice, but until written notice of such change is actually received by the other party, the last address of such party designated for notice shall remain such party's address for notice.

6. Attorney's Fees. Should either party to this Agreement commence legal proceedings against the other to enforce the terms and provisions of this Agreement, the party losing in such legal proceedings shall pay the reasonable attorneys' fees and expenses (including, but not limited to expert witness fees and deposition expenses) of the party prevailing in such legal proceedings.

7. No Assignment. Neither party shall have the right to assign that party's interest in this Agreement without the prior written consent of the other party.

8. Severability. If any term or provision of this Agreement is held to be illegal, invalid or unenforceable, the legality, validity or enforceability of the remaining terms or provisions of this Agreement shall not be affected thereby, and in lieu of each such illegal, invalid or unenforceable term or provision, there shall be added automatically to this Agreement a legal, valid or enforceable term or provision as similar as possible to the term or provision declared illegal, invalid or unenforceable.

9. Waiver. Either City or Employee shall have the right to waive any requirement contained in this Agreement, which is intended for the waiving party's benefit, but, except as otherwise provided herein, such waiver shall be effective only if in writing executed by the party for whose benefit such

requirement is intended. No waiver of any breach or violation of any term of this Agreement shall be deemed or construed to constitute a waiver of any other breach or violation, whether concurrent or subsequent, and whether of the same or of a different type of breach or violation.

10. Governing Law; Venue. This Agreement and all of the transactions contemplated herein shall be governed by and construed in accordance with the laws of the State of Texas. The provisions and obligations of this Agreement are performable in Dallas County, Texas such that exclusive venue for any action arising out of this Agreement shall be in Dallas County, Texas.

11. Paragraph Headings; Construction. The paragraph headings contained in this Agreement are for convenience only and shall in no way enlarge or limit the scope or meaning of the various and several paragraphs hereof. Both parties have participated in the negotiation and preparation of this Agreement and this Agreement shall not be construed either more or less strongly against or for either party.

12. Binding Effect. Except as limited herein, the terms and provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, devisees, personal and legal representatives, successors and assigns.

13. Gender. Within this Agreement, words of any gender shall be held and construed to include any other gender, and words in the singular number shall be held and construed to include the plural, unless the context otherwise requires.

14. Counterparts. This Agreement may be executed in multiple counterparts, each of which shall be deemed an original, and all of which shall constitute but one and the same instrument.

15. Computation of Deadlines. If any deadline contained herein ends on a Saturday, Sunday or a legal holiday recognized by the Texas Supreme Court, such deadline shall automatically be extended to the next day that is not a Saturday, Sunday or legal holiday.

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16. Dispute Resolution; Enforcement of Contract. In accordance with the provisions of Subchapter I, Chapter 271, TEX. LOCAL GOV'T CODE, the parties agree that, prior to instituting any lawsuit or other proceeding arising from a dispute under this Agreement, the parties will first attempt to resolve the dispute by taking the following steps: (1) A written notice substantially describing the nature of the dispute shall be delivered by the dissatisfied party to the other party, which notice shall request a written response to be delivered to the dissatisfied party not less than 5 days after receipt of the notice of dispute (2) If the response does not reasonably resolve the dispute, in the opinion of the dissatisfied party, the dissatisfied party shall give notice to that effect to the other party whereupon each party shall appoint a person having authority over the activities of the respective parties who shall promptly meet, in person, in an effort to resolve the dispute; (3) If those persons cannot or do not resolve the dispute, then the parties shall each appoint a person from the highest tier of managerial responsibility within each respective party, who shall then promptly meet, in person, in an effort to resolve the dispute.

EXECUTED on the dates indicated below but deemed to be effective as of the 1st day of January, 2014 (the "Effective Date").

CITY:

EMPLOYEE:

Douglas Athas
Mayor

Brad Neighbor
City Attorney

Date: _____

Date: _____

City Council Item Summary Sheet



Work Session

Date: January 21, 2014

Agenda Item

City Auditor Employment Agreement

Summary of Request/Problem

Council is requested to approve an employment agreement with Jedson Johnson in the position of City Auditor.

Recommendation/Action Requested and Justification

Consider approving by minute action employment agreements with William E Dollar, Brad Neighbor, and Jedson Johnson.

Submitted By:

Approved By:

William E. Dollar
City Manager

EMPLOYMENT AGREEMENT

This Employment Agreement (“Agreement”) is made and entered into as of the Effective Date (as defined below) by and between the City of Garland, Texas (the “City”) and Jedson Johnson (“Employee”).

1. Duties and Scope of Employment.

(A) *Position and Duties.* For the term of his employment under this Agreement, the City agrees to employ the Employee as its Internal Auditor reporting directly to the City Council. Employee shall have such duties, powers, authority, responsibilities, and obligations as provided by Article VII, Sections 4 and 5 of the Charter of the City of Garland, Texas. Employee shall diligently, to the best of his ability, and with the highest degree of good faith and loyalty to the City, perform all such duties incident to his position to promote the interests of the City. Employee shall not act or withhold any act (nor shall he be asked or expected to do so) contrary to his duty of loyalty to the City. Employee shall be given such assistants and staffing as the City Council may from time to time provide in the budget of the City from each of whom Employee shall expect a similar level of loyalty and fidelity.

(B) *Obligations to the City.* During his employment under this Agreement, the Employee shall devote his full time and energy to his service to the City and shall not be engaged in any competitive or conflicting activity without the express consent of the City Council, provided that Employee may engage in charitable, religious or community activities; and provided further that Employee may perform teaching, writing, speaking, consulting or other business involvement on Employee’s time off, even if outside compensation is provided for such services, so long as no activity is undertaken that would present a conflict of interest with the City, as determined by the City Council. Employee shall abide by the City Council’s policies and rules regarding his employment during the term of his employment.

2. Term of Employment; Review.

(A) Unless sooner terminated in accordance with the provisions of Section 4 of this Agreement, the City agrees to employ the Employee, and Employee agrees to continue in employment with the City, as its Internal Auditor, beginning on the Effective Date and continuing thereafter for a period of twelve months through December 31, 2014.

(B) The City Council shall annually review and evaluate the performance of Employee during the term of this Agreement in accordance with the City Council’s policies on the review of its appointed employees.

3. Compensation; Benefits; Expenses.

(A) *Compensation.* For the services rendered by Employee during the term of this Agreement, Employee shall be entitled to the following:

- (1) A salary, payable bi-weekly or in accordance with a schedule generally applicable to other City employees, at the annual rate of \$84,500.00 (plus a lump-sum allocation of 2% scheduled for April, 2014).
- (2) Deferred compensation in the amount of \$3,000.00 annually payable to a "Section 457" or other deferred compensation plan offered through the City.

The sum of the amounts described in Section (3)(A)(1) and (3)(A)(2) are referred to herein as the "Base Salary".

(B) *Benefits.* Employee shall be allowed to participate in all City health, welfare, retirement, savings, and other employee benefit and fringe benefit plans on the same basis as that offered or provided to other non-civil service City employees (including such benefits as provided or offered to senior or executive City employees) subject to the terms and conditions generally applicable to other City employees who participate in such plans.

(C) *Disability and Life Insurance.* City shall obtain, maintain, and pay the premiums for Employee (or his designated beneficiary) on an insurance plan providing coverage for non-occupational and occupational (to the extent not covered by worker's compensation) total and permanent disability income benefits with an expiration age of 65 at a minimum level of 100% of Employee's total pre-disability compensation or provide the same coverage on a self-insured basis. Employee's disability benefits under this subparagraph shall be offset by any disability income benefits received from worker's compensation, Social Security, or TMRS retirement. Employee shall be included in the executive or "key man" whole life insurance program currently provided to certain executive City employees, and Employee shall be covered by a whole life insurance policy in an amount equal to 2.5 times Employee's annual salary, with a beneficiary to be designated by Employee and the premiums to be paid by the City.

(D) *Professional Development and Dues.* The City agrees to budget for and pay, on behalf of Employee, all professional fees, dues, and seminar/conference registrations costs together with the costs and expenses incurred (consistent with City travel and reimbursement policies) in participating in conferences, short courses, seminars, and institutes that are necessary or desirable for the professional development of Employee and in the best interests of the City.

(E) *Expenses.* City agrees to pay Employee a car allowance in the amount of \$300.00 monthly, provided that Employee may additionally be reimbursed for mileage on his personal vehicle at the applicable standard rate for use of that vehicle on the business of the City if the Employee is required to travel more than 50 miles from City Hall and the use of Employee's

personal vehicle will result in additional or commensurate savings to the City (for example, by eliminating the cost of rental vehicles and taxis). Employee shall be paid a monthly cell phone stipend and shall be entitled to reimbursement for other incurred or out-of-pocket expenses in accordance with generally applicable City policies governing the reimbursement of employee expenses.

(F) *Vacation, Sick Leave, and Time Off.* Employee shall be entitled to such vacation and sick leave as generally applies under City policy to employees of similar seniority and Employee may carry over accrued vacation time (subject to generally applicable City policies) of not more than 480 hours per year. Any unused annual vacation leave (but not more than 480 hours) remaining at the time Employee's employment is terminated or discontinued shall be paid to Employee in full based on the annual salary set forth in Section 3(A)(1) of this Agreement.

4. Termination.

(A) The City may terminate Employee's employment either for Good Cause or at will and without Good Cause at any time. In the event the Employee is terminated or this Agreement is not renewed at the end of its term without Good Cause, the City agrees to pay Employee severance pay in a sum equal to six (6) months pay (one-half of the Base Salary) then in effect and to continue during that period health and dental coverage at the applicable rates. For purposes of this Agreement, the City shall have "Good Cause" to terminate Employee's employment if:

- (1) The Employee wilfully fails to substantially and materially perform his duties hereunder and such failure is not cured or discontinued within a reasonable period of time, not to exceed 30 days, after the Employee receives written notice from the City specifying the grounds for such failure;
- (2) The Employee commits an act of dishonesty, disloyalty or other conflict of interest intended to result in personal enrichment at the expense of the City or the Employee is convicted of any felony;
- (3) The Employee is otherwise grossly negligent or engages in willful misconduct or act of violence in the performance of his duties resulting in a material adverse affect on the City.

(B) The severance pay provided in this Section is expressly conditioned on Employee's execution of an appropriate release of all claims, known or unknown, that Employee may then have or contemplate.

(C) If the City at any time reduces the salary, compensation, or other benefits of the Employee in a greater percentage than an applicable across-the-board reduction for all City employees, or if the City refuses, within thirty (30) days of written notice from Employee of the specifics of non-compliance, to comply with any other provision of this Agreement that benefits the Employee, then the Employee may deem his employment terminated without Good Cause.

(D) If the Employee voluntarily resigns his position during the term of this Agreement, Employee shall not be entitled to severance pay as provided by Section 4 (A), above.

5. Notices. Any notice required or desired to be given from one party to the other party to this Agreement shall be in writing and shall be given and shall be deemed to have been served and received (whether actually received or not) if (i) delivered in person; (ii) deposited in an official depository under the regular care and custody of the United States Postal Service located within the confines of the United States of America and sent by certified mail, return receipt requested, and addressed to such party at the address specified; or (iii) delivered to such party by courier receipted delivery. Either party may designate another address within the confines of the continental United States of America for notice, but until written notice of such change is actually received by the other party, the last address of such party designated for notice shall remain such party's address for notice.

6. Attorney's Fees. Should either party to this Agreement commence legal proceedings against the other to enforce the terms and provisions of this Agreement, the party losing in such legal proceedings shall pay the reasonable attorneys' fees and expenses (including, but not limited to expert witness fees and deposition expenses) of the party prevailing in such legal proceedings.

7. No Assignment. Neither party shall have the right to assign that party's interest in this Agreement without the prior written consent of the other party.

8. Severability. If any term or provision of this Agreement is held to be illegal, invalid or unenforceable, the legality, validity or enforceability of the remaining terms or provisions of this Agreement shall not be affected thereby, and in lieu of each such illegal, invalid or unenforceable term or provision, there shall be added automatically to this Agreement a legal, valid or enforceable term or provision as similar as possible to the term or provision declared illegal, invalid or unenforceable.

9. Waiver. Either City or Employee shall have the right to waive any requirement contained in this Agreement, which is intended for the waiving party's benefit, but, except as otherwise provided herein, such waiver shall be effective only if in writing executed by the party for whose benefit such requirement is intended. No waiver of any breach or violation of any term of this Agreement shall be deemed or construed to constitute a waiver of any other breach or violation, whether concurrent or subsequent, and whether of the same or of a different type of breach or violation.

10. Governing Law; Venue. This Agreement and all of the transactions contemplated herein shall be governed by and construed in accordance with the laws of the State of Texas. The provisions and obligations of this Agreement are performable in Dallas County, Texas such that exclusive venue for any action arising out of this Agreement shall be in Dallas County, Texas.

11. Paragraph Headings; Construction. The paragraph headings contained in this Agreement are for convenience only and shall in no way enlarge or limit the scope or meaning of the various and

several paragraphs hereof. Both parties have participated in the negotiation and preparation of this Agreement and this Agreement shall not be construed either more or less strongly against or for either party.

12. Binding Effect. Except as limited herein, the terms and provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, devisees, personal and legal representatives, successors and assigns.

13. Gender. Within this Agreement, words of any gender shall be held and construed to include any other gender, and words in the singular number shall be held and construed to include the plural, unless the context otherwise requires.

14. Counterparts. This Agreement may be executed in multiple counterparts, each of which shall be deemed an original, and all of which shall constitute but one and the same instrument.

15. Computation of Deadlines. If any deadline contained herein ends on a Saturday, Sunday or a legal holiday recognized by the Texas Supreme Court, such deadline shall automatically be extended to the next day that is not a Saturday, Sunday or legal holiday.

16. Dispute Resolution; Enforcement of Contract. In accordance with the provisions of Subchapter I, Chapter 271, TEX. LOCAL GOV'T CODE, the parties agree that, prior to instituting any lawsuit or other proceeding arising from a dispute under this Agreement, the parties will first attempt to resolve the dispute by taking the following steps: (1) A written notice substantially describing the nature of the dispute shall be delivered by the dissatisfied party to the other party, which notice shall request a written response to be delivered to the dissatisfied party not less than 5 days after receipt of the notice of dispute (2) If the response does not reasonably resolve the dispute, in the opinion of the dissatisfied party, the dissatisfied party shall give notice to that effect to the other party whereupon each party shall appoint a person having authority over the activities of the respective parties who shall promptly meet, in person, in an effort to resolve the dispute; (3) If those persons cannot or do not resolve the dispute, then the parties shall each appoint a person from the highest tier of managerial responsibility within each respective party, who shall then promptly meet, in person, in an effort to resolve the dispute.

EXECUTED on the dates indicated below but deemed to be effective as of the 1st day of January, 2014 (the “Effective Date”).

CITY:

EMPLOYEE:

Douglas Athas
Mayor

Jedson Johnson
Internal Auditor

Date: _____

Date: _____



City Council Item Summary Sheet

Work Session

Date: January 21, 2014

Agenda Item

Bond Refunding

Summary of Request/Problem

At the November 4, 2013 Work Session, Council considered authorizing the refund of approximately \$14 million General Obligation Bonds and \$5.5 million Certificates of Obligation.

Recommendation/Action Requested and Justification

It is recommended that Council approve ordinances authorizing the issuance of CITY OF GARLAND, TEXAS, GENERAL OBLIGATION REFUNDING BONDS, SERIES 2014.

Submitted By:

**David Schuler
Managing Director for
Financial Services**

Approved By:

**William E. Dollar
City Manager**

ORDINANCE NO. _____

AN ORDINANCE authorizing the issuance of "CITY OF GARLAND, TEXAS, GENERAL OBLIGATION REFUNDING BONDS, SERIES 2014"; specifying the terms and features of said bonds; levying a continuing direct annual ad valorem tax for the payment of said bonds; providing for the redemption of certain outstanding obligations of the City; and resolving other matters incident and related to the issuance, sale, payment and delivery of said bonds, including the approval and execution of a Paying Agent/Registrar Agreement and the approval and distribution of a Preliminary Official Statement and an Official Statement; and providing an effective date.

WHEREAS, the City Council (the "Council") of the City of Garland, Texas (the "City") has heretofore issued, sold, and delivered, and there is currently outstanding obligations totaling in original principal amount \$19,470,000 of the following issues or series (hereinafter collectively referred to as the "Refunded Obligations"), to wit:

(1) City of Garland, Texas, Combination Tax and Revenue Certificates of Obligation, Series 2005, dated March 15, 2005, scheduled to mature on February 15 in each of the years 2015 through 2017, inclusive, and aggregating in the principal amount of \$2,825,000; and

(2) City of Garland, Texas, General Obligation Refunding Bonds, Series 2005B, dated March 15, 2005, scheduled to mature on February 15 in each of the years 2015 through 2022, inclusive, and aggregating in the principal amount of \$13,965,000; and

(3) City of Garland, Texas, Combination Tax and Revenue Certificates of Obligation, Series 2006, dated March 15, 2006, scheduled to mature on February 15 in each of the years 2015 through 2021, and in year 2024 and 2026, and aggregating in the principal amount of \$2,680,000.

WHEREAS, pursuant to the provisions of Texas Government Code, Chapter 1207, as amended, the Council is authorized to issue refunding bonds and deposit the proceeds of sale directly with the place of payment for the Refunded Obligations, or other authorized depository, and such deposit, when made in accordance with said statute, shall constitute the making of firm banking and financial arrangements for the discharge and final payment of the Refunded Obligations; and

WHEREAS, the Council hereby finds and determines that the Refunded Obligations should be refunded at this time, and such refunding will result in the City saving approximately \$_____ in debt service payments on such indebtedness and further provide a net present value savings of approximately \$_____; now, therefore,

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

SECTION 1: Authorization - Designation - Principal Amount - Purpose. General obligation bonds of the City shall be and are hereby authorized to be issued in the aggregate principal amount of \$_____ to be designated and bear the title "CITY OF GARLAND, TEXAS, GENERAL OBLIGATION REFUNDING BONDS, SERIES 2014" (hereinafter referred to as the "Bonds"), for the purpose of providing funds for the discharge and final payment of certain outstanding obligations of the City (identified in the preamble hereof and referred to as the "Refunded Obligations") and to pay costs of issuance, in accordance with the Constitution and laws of the State of Texas, including Texas Government Code, Chapter 1207, as amended.

SECTION 2: Fully Registered Obligations - Bond Date - Authorized Denominations- Stated Maturities - Interest Rates. The Bonds shall be issued as fully registered obligations only, shall be dated January 15, 2014 (the "Bond Date"), shall be in denominations of \$5,000 or any integral multiple (within a Stated Maturity) thereof, and shall become due and payable on February 15 in each of the years and in the principal amounts (the "Stated Maturities") and bear interest at the rate(s) per annum in accordance with the following schedule:

<u>Year of Stated Maturity</u>	<u>Principal Amount</u>	<u>Interest Rate(s)</u>
2015		
2016		
2017		
2018		
2019		
2020		
2021		
2022		

The Bonds shall bear interest on the unpaid principal amounts from the date of initial delivery of the Bonds at the rate(s) per annum shown above in this Section (calculated on the basis of a 360-day year of twelve 30-day months). Interest on the Bonds shall be payable on August 15 and February 15 in each year, commencing August 15, 2014, until maturity.

SECTION 3: Terms of Payment - Paying Agent/Registrar. The principal of, premium, if any, and the interest on the Bonds, due and payable by reason of maturity or otherwise, shall be payable only to the registered owners or holders of the Bonds (hereinafter called the "Holders") appearing on the registration and transfer books maintained by the Paying Agent/Registrar and the payment thereof shall be in any coin or currency of the United States of America which at the time of payment is legal tender for the payment of public and private debts, and shall be without exchange or collection charges to the Holders.

The selection and appointment of The Bank of New York Mellon Trust Company, N.A., Dallas, Texas to serve as Paying Agent/Registrar for the Bonds is hereby approved and confirmed. Books and records relating to the registration, payment, transfer and exchange of the Bonds (the "Security Register") shall at all times be kept and maintained on behalf of the City by the Paying Agent/Registrar, as provided herein and in accordance with the terms and provisions of a "Paying Agent/Registrar Agreement," substantially in the form attached hereto as **Exhibit A**, and such reasonable rules and regulations as the Paying Agent/Registrar and the City may prescribe. The Mayor or Mayor Pro Tem and City Secretary are authorized to execute and deliver such Paying Agent/Registrar Agreement in connection with the delivery of the Bonds. The City covenants to maintain and provide a Paying Agent/Registrar at all times until

the Bonds are paid and discharged, and any successor Paying Agent/Registrar shall be a commercial bank, trust company, financial institution or other entity qualified and authorized to serve in such capacity and perform the duties and services of Paying Agent/Registrar. Upon any change in the Paying Agent/Registrar for the Bonds, the City agrees to promptly cause a written notice thereof to be sent to each Holder by United States Mail, first class postage prepaid, which notice shall also give the address of the new Paying Agent/Registrar.

Principal of and premium, if any, on the Bonds, shall be payable at the Stated Maturities thereof only upon presentation and surrender of the Bonds to the Paying Agent/Registrar at its designated offices, initially in East Syracuse, New York, or, with respect to a successor Paying Agent/Registrar, at the designated offices of such successor (the "Designated Payment/Transfer Office"). Interest on the Bonds shall be paid to the Holders whose names appear in the Security Register at the close of business on the Record Date (the last business day of the month next preceding each interest payment date) and shall be paid by the Paying Agent/Registrar (i) by check sent United States Mail, first class postage prepaid, to the address of the Holder recorded in the Security Register or (ii) by such other method, acceptable to the Paying Agent/Registrar, requested by, and at the risk and expense of, the Holder. If the date for the payment of the principal of or interest on the Bonds shall be a Saturday, Sunday, a legal holiday, or a day when banking institutions in the city where the Designated Payment/Transfer Office of the Paying Agent/Registrar is located are authorized by law or executive order to close, then the date for such payment shall be the next succeeding day which is not such a Saturday, Sunday, legal holiday, or day when banking institutions are authorized to close; and payment on such date shall have the same force and effect as if made on the original date payment was due.

In the event of a nonpayment of interest on a scheduled payment date, and for thirty (30) days thereafter, a new record date for such interest payment (a "Special Record Date") will be established by the Paying Agent/Registrar, if and when funds for the payment of such interest have been received from the City. Notice of the Special Record Date and of the scheduled payment date of the past due interest (which shall be 15 days after the Special Record Date) shall be sent at least five (5) business days prior to the Special Record Date by United States Mail, first class postage prepaid, to the address of each Holder appearing on the Security Register at the close of business on the last business day next preceding the date of mailing of such notice.

SECTION 4: No Redemption. The Bonds are not subject to redemption prior to maturity.

SECTION 5: Registration - Transfer - Exchange of Bonds - Predecessor Bonds. A Security Register relating to the registration, payment, and transfer or exchange of the Bonds shall at all times be kept and maintained by the City at the Designated Payment/Transfer Office of the Paying Agent/Registrar, as provided herein and in accordance with the provisions of an agreement with the Paying Agent/Registrar and such rules and regulations as the Paying Agent/Registrar and the City may prescribe. The Paying Agent/Registrar shall obtain, record, and maintain in the Security Register the name and address of each Holder of the Bonds issued under and pursuant to the provisions of this Ordinance, or if appropriate, the nominee thereof. Any Bond may, in accordance with its terms and the terms hereof, be transferred or exchanged for Bonds of other authorized denominations upon the Security Register by the Holder, in person or by his duly authorized agent, upon surrender of such Bond to the Paying Agent/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 Paying Agent/Registrar.

Upon surrender of any Bond (other than the Initial Bond(s) referenced in Section 8 hereof) for transfer at the Designated Payment/Transfer Office of the Paying Agent/Registrar, the Paying Agent/Registrar shall register and deliver, in the name of the designated transferee or transferees, one or more new Bonds of authorized denominations and having the same Stated Maturity and of a like aggregate principal amount as the Bond or Bonds surrendered for transfer.

At the option of the Holder, Bonds (other than the Initial Bond(s) referenced in Section 8 hereof) may be exchanged for other Bonds of authorized denominations and having the same Stated Maturity, bearing the same rate of interest and of like aggregate principal amount as the Bonds surrendered for exchange, upon surrender of the Bonds to be exchanged at the Designated Payment/Transfer Office of the Paying Agent/Registrar. Whenever any Bonds are surrendered for exchange, the Paying Agent/Registrar shall register and deliver new Bonds to the Holder requesting the exchange.

All Bonds issued in any transfer or exchange of Bonds shall be delivered to the Holders at the Designated Payment/Transfer Office of the Paying Agent/Registrar or sent by United States Mail, first class, postage prepaid to the Holders, and, upon the registration and delivery thereof, the same shall be the valid obligations of the City, evidencing the same obligation to pay, and entitled to the same benefits under this Ordinance, as the Bonds surrendered in such transfer or exchange.

All transfers or exchanges of Bonds pursuant to this Section shall be made without expense or service charge to the Holder, except as otherwise herein provided, and except that the Paying Agent/Registrar shall require payment by the Holder requesting such transfer or exchange of any tax or other governmental charges required to be paid with respect to such transfer or exchange.

Bonds cancelled by reason of an exchange or transfer pursuant to the provisions hereof are hereby defined to be "Predecessor Bonds," evidencing all or a portion, as the case may be, of the same obligation to pay evidenced by the new Bond or Bonds registered and delivered in the exchange or transfer therefor. Additionally, the term "Predecessor Bonds" shall include any mutilated, lost, destroyed, or stolen Bond for which a replacement Bond has been issued, registered, and delivered in lieu thereof pursuant to the provisions of Section 11 hereof and such new replacement Bond shall be deemed to evidence the same obligation as the mutilated, lost, destroyed, or stolen Bond.

SECTION 6: Book-Entry-Only Transfers and Transactions. Notwithstanding the provisions contained in Sections 3, 4 and 5 hereof relating to the payment, and transfer/exchange of the Bonds, the City hereby approves and authorizes the use of "Book-Entry-Only" securities clearance, settlement and transfer system provided by The Depository Trust Company, a limited purpose trust company organized under the laws of the State of New York ("DTC"), in accordance with the operational arrangements referenced in the Blanket Issuer Letter of Representations, by and between the City and DTC (the "Depository Agreement").

Pursuant to the Depository Agreement and the rules of DTC, the Bonds shall be deposited with DTC who shall hold said Bonds for its participants (the "DTC Participants"). While the Bonds are held by DTC under the Depository Agreement, the Holder of the Bonds on the Security Register for all purposes, including payment and notices, shall be Cede & Co., as nominee of DTC, notwithstanding the ownership of each actual purchaser or owner of each Bond (the "Beneficial Owners") being recorded in the records of DTC and DTC Participants.

In the event DTC determines to discontinue serving as securities depository for the Bonds or otherwise ceases to provide book-entry clearance and settlement of securities transactions in general or the City determines that DTC is incapable of properly discharging its duties as securities depository for the Bonds, the City covenants and agrees with the Holders of the Bonds to cause Bonds to be printed in definitive form and provide for the Bond certificates to be issued and delivered to DTC Participants and Beneficial Owners, as the case may be. Thereafter, the Bonds in definitive form shall be assigned, transferred and exchanged on the Security Register maintained by the Paying Agent/Registrar and payment of such Bonds shall be made in accordance with the provisions of Sections 3, 4 and 5 hereof.

SECTION 7: Execution - Registration. The Bonds shall be executed on behalf of the City by the Mayor under its seal reproduced or impressed thereon and countersigned by the City Secretary. The signature of said officers on the Bonds may be manual or facsimile. Bonds bearing the manual or facsimile signatures of individuals who are or were the proper officers of the City on the Bond Date shall be deemed to be duly executed on behalf of the City, notwithstanding that one or more of the individuals shall cease to hold such offices at the time of delivery of the Bonds to the initial purchaser(s) and with respect to Bonds delivered in subsequent exchanges and transfers, all as authorized and provided in Texas Government Code, Chapter 1201, as amended.

No Bond shall be entitled to any right or benefit under this Ordinance, or be valid or obligatory for any purpose, unless there appears on such Bond either a certificate of registration substantially in the form provided in Section 9(c), manually executed by the Comptroller of Public Accounts of the State of Texas, or his duly authorized agent, or a certificate of registration substantially in the form provided in Section 9(d), manually executed by an authorized officer, employee or representative of the Paying Agent/Registrar, and either such certificate duly signed upon any Bond shall be conclusive evidence, and the only evidence, that such Bond has been duly certified, registered, and delivered.

SECTION 8: Initial Bond(s). The Bonds herein authorized shall be initially issued either (i) as a single fully registered bond in the aggregate principal amount stated in Section 1 hereof with principal installments to become due and payable as provided in Section 2 hereof and numbered T-1, or (ii) as multiple fully registered bonds, being one bond for each year of maturity in the applicable principal amount and denomination and to be numbered consecutively from T-1 and upward (hereinafter called the "Initial Bond(s)") and, in either case, the Initial Bond(s) shall be registered in the name of the initial purchaser(s) or the designee thereof. The Initial Bond(s) shall be the Bond(s) submitted to the Office of the Attorney General of the State of Texas for approval, certified and registered by the Office of the Comptroller of Public Accounts of the State of Texas and delivered to the initial purchaser(s). Any time after the delivery of the Initial Bond(s), the Paying Agent/Registrar, pursuant to written instructions from the initial purchaser(s), or the designee thereof, shall cancel the Initial Bond(s) delivered hereunder and exchange therefor definitive Bonds of authorized denominations, Stated Maturities, principal amounts and bearing applicable interest rates for transfer and delivery to the Holders named at the addresses identified therefor; all pursuant to and in accordance with such written instructions from the initial purchaser(s), or the designee thereof, and such other information and documentation as the Paying Agent/Registrar may reasonably require.

SECTION 9: Forms.

(a) Forms Generally. The Bonds, the Registration Certificate of the Comptroller of Public Accounts of the State of Texas, the Registration Certificate of Paying Agent/Registrar, and the form of Assignment to be printed on each of the Bonds, 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 (including insurance legends in the event the Bonds, or any maturities thereof, are purchased with insurance and any reproduction of an opinion of counsel) thereon as may, consistently herewith, be established by the City or determined by the officers executing such Bonds as evidenced by their execution. Any portion of the text of any Bonds may be set forth on the reverse thereof, with an appropriate reference thereto on the face of the Bond.

The definitive Bonds and the Initial Bond(s) shall be printed, lithographed, engraved, typewritten, photocopied or otherwise reproduced in any other similar manner, all as determined by the officers executing such Bonds as evidenced by their execution thereof.

(b) Form of Definitive Bond.

REGISTERED
NO. ____

REGISTERED
\$_____

UNITED STATES OF AMERICA
STATE OF TEXAS
CITY OF GARLAND, TEXAS
GENERAL OBLIGATION REFUNDING BOND
SERIES 2014

Bond Date: January 15, 2014 Interest Rate: _____% Stated Maturity: February 15, 20__ CUSIP No.: _____

Registered Owner:

Principal Amount:

The City of Garland (hereinafter referred to as the "City"), a body corporate and municipal corporation in the Counties of Dallas, Collin and Rockwall, State of Texas, for value received, acknowledges itself indebted to and hereby promises to pay to the registered owner named above, or the registered assigns thereof (the "Registered Owner"), on the Stated Maturity date specified above the Principal Amount hereinabove stated (without right of prior redemption) and to pay interest on the unpaid principal amount hereof from the interest payment date next preceding the "Registration Date" of this Bond appearing below (unless this Bond bears a "Registration Date" as of an interest payment date, in which case it shall bear interest from such date, or unless the "Registration Date" of this Bond is prior to the initial interest payment date in which case it shall bear interest from the date of initial delivery of the Bonds) at the per annum rate of interest specified above computed on the basis of a 360-day year of twelve 30-day months; such interest being payable on February 15 and August 15 in each year, commencing August 15, 2014, until maturity. Principal of this Bond shall be payable at its Stated Maturity to the Registered Owner hereof upon presentation and surrender at the designated offices of the Paying Agent/Registrar executing the registration certificate appearing hereon, or its successor. Interest is payable to the registered owner of this Bond (or one or more Predecessor Bonds, as defined in the Ordinance hereinafter referenced) whose name appears on the "Security Register" maintained by the Paying Agent/Registrar at the close of business on the "Record Date", which is the last business day of the month next preceding each

interest payment date, and interest shall be paid by the Paying Agent/Registrar by check sent United States Mail, first class postage prepaid, to the address of the registered owner recorded in the Security Register or by such other method, acceptable to the Paying Agent/Registrar, requested by, and at the risk and expense of, the registered owner. If the date for the payment of the principal of or interest on the Bonds shall be a Saturday, Sunday, a legal holiday, or a day when banking institutions in the city where the Designated Payment/Transfer Office of the Paying Agent/Registrar is located are authorized by law or executive order to close, then the date for such payment shall be the next succeeding day which is not such a Saturday, Sunday, legal holiday, or day when banking institutions are authorized to close; and payment on such date shall have the same force and effect as if made on the original date payment was due. All payments of principal of, premium, if any, and interest on this Bond shall be without exchange or collection charges to the owner hereof and in any coin or currency of the United States of America which at the time of payment is legal tender for the payment of public and private debts.

This Bond is one of the series specified in its title issued in the aggregate principal amount of \$_____ (herein referred to as the "Bonds") for the purpose of providing funds for the discharge and final payment of the Refunded Obligations (identified and defined in the Ordinance hereinafter referenced), and to pay costs of issuance, under and in strict conformity with the Constitution and laws of the State of Texas and pursuant to an Ordinance adopted by the City Council of the City (herein referred to as the "Ordinance").

The Bonds are payable from the proceeds of an ad valorem tax levied, within the limitations prescribed by law, upon all taxable property in the City. Reference is hereby made to the Ordinance, a copy of which is on file in the Designated Payment/Transfer Office of the Paying Agent/Registrar, and to all of the provisions of which the owner or holder of this Bond by the acceptance hereof hereby assents, for definitions of terms; the description of and the nature and extent of the tax levied for the payment of the Bonds; the terms and conditions relating to the transfer or exchange of this Bond; the conditions upon which the Ordinance may be amended or supplemented with or without the consent of the Holders; the rights, duties, and obligations of the City and the Paying Agent/Registrar; the terms and provisions upon which this Bond may be discharged at its maturity, and deemed to be no longer Outstanding thereunder; and for other terms and provisions contained therein. Capitalized terms used herein have the meanings assigned in the Ordinance.

This Bond, subject to certain limitations contained in the Ordinance, may be transferred on the Security Register only upon its presentation and surrender at the Designated Payment/Transfer Office of the Paying Agent/Registrar, with the Assignment hereon duly endorsed by, or accompanied by a written instrument of transfer in form satisfactory to the Paying Agent/Registrar duly executed by, the registered owner hereof, or his duly authorized agent. When a transfer on the Security Register occurs, one or more new fully registered Bonds of the same Stated Maturity, of authorized denominations, bearing the same rate of interest, and of the same aggregate principal amount will be issued by the Paying Agent/Registrar to the designated transferee or transferees.

The City and the Paying Agent/Registrar, and any agent of either, shall treat the registered owner whose name appears on the Security Register (i) on the Record Date as the owner entitled to payment of interest hereon, (ii) on the date of surrender of this Bond as the owner entitled to payment of principal hereof at its Stated Maturity, and (iii) on any other date as the owner for all other purposes, and neither the City nor the Paying Agent/Registrar, or any agent of either, shall be affected by notice to the contrary. In the event of nonpayment of interest on a scheduled payment date and for thirty (30) days thereafter, a new record date for such interest payment (a "Special Record Date") will be established by the Paying

Agent/Registrar, if and when funds for the payment of such interest have been received from the City. Notice of the Special Record Date and of the scheduled payment date of the past due interest (which shall be 15 days after the Special Record Date) shall be sent at least five (5) business days prior to the Special Record Date by United States Mail, first class postage prepaid, to the address of each Holder appearing on the Security Register at the close of business on the last business day next preceding the date of mailing of such notice.

It is hereby certified, recited, represented and declared that the City is a body corporate and political subdivision duly organized and legally existing under and by virtue of the Constitution and laws of the State of Texas; that the issuance of the Bonds is duly authorized by law; that all acts, conditions and things required to exist and be done precedent to and in the issuance of the Bonds to render the same lawful and valid obligations of the City have been properly done, have happened and have been performed in regular and due time, form and manner as required by the Constitution and laws of the State of Texas, and the Ordinance; that the Bonds do not exceed any Constitutional or statutory limitation; and that due provision has been made for the payment of the principal of and interest on the Bonds by the levy of a tax as aforesated. In case any provision in this Bond shall be invalid, illegal, or unenforceable, the validity, legality, and enforceability of the remaining provisions shall not in any way be affected or impaired thereby. The terms and provisions of this Bond and the Ordinance shall be construed in accordance with and shall be governed by the laws of the State of Texas.

IN WITNESS WHEREOF, the City Council of the City has caused this Bond to be duly executed under the official seal of the City as of the Bond Date.

CITY OF GARLAND, TEXAS

Mayor

COUNTERSIGNED:

City Secretary

(City Seal)

(c) Form of Registration Certificate of Comptroller of Public Accounts to appear on Initial Bond(s) only.

REGISTRATION CERTIFICATE OF
COMPTROLLER OF PUBLIC ACCOUNTS

OFFICE OF THE COMPTROLLER)
OF PUBLIC ACCOUNTS) REGISTER NO. _____
THE STATE OF TEXAS)

I HEREBY CERTIFY that this Bond has been examined, certified as to validity and approved by the Attorney General of the State of Texas, and duly registered by the Comptroller of Public Accounts of the State of Texas.

WITNESS my signature and seal of office this _____.

Comptroller of Public Accounts
of the State of Texas

(SEAL)

(d) Form of Certificate of Paying Agent/Registrar to appear on Definitive Bonds only.

REGISTRATION CERTIFICATE OF PAYING AGENT/REGISTRAR

This Bond has been duly issued and registered under the provisions of the within-mentioned Ordinance; the bond or bonds of the above entitled and designated series originally delivered having been approved by the Attorney General of the State of Texas and registered by the Comptroller of Public Accounts, as shown by the records of the Paying Agent/Registrar.

The designated offices of the Paying Agent/Registrar in East Syracuse, New York is the "Designated Payment/Transfer Office" for this Bond.

THE BANK OF NEW YORK MELLON TRUST
COMPANY, N.A., Dallas, Texas, as Paying
Agent/Registrar

Registration date:

By: _____
Authorized Signature

(e) Form of Assignment.

ASSIGNMENT

FOR VALUE RECEIVED the undersigned hereby sells, assigns, and transfers unto (Print or typewrite name, address, and zip code of transferee): _____

(Social Security or other identifying number _____) the within Bond and all rights thereunder, and hereby irrevocably constitutes and appoints

attorney to transfer the within Bond on the books kept for registration thereof, with full power of substitution in the premises.

DATED:

Signature guaranteed:

NOTICE: The signature on this assignment must correspond with the name of the registered owner as it appears on the face of the within Bond in every particular.

(f) The Initial Bond(s) shall be in the form set forth in paragraph (b) of this Section, except that the form of the single fully registered Initial Bond shall be modified as follows:

Heading and first paragraph shall read as follows:

REGISTERED
NO. T-1

REGISTERED
\$ _____

UNITED STATES OF AMERICA
STATE OF TEXAS
CITY OF GARLAND, TEXAS
GENERAL OBLIGATION REFUNDING BOND
SERIES 2014

Bond Date: January 15, 2014

Registered Owner:

Principal Amount:

The City of Garland (hereinafter referred to as the "City"), a body corporate and municipal corporation in the Counties of Dallas, Collin and Rockwall, State of Texas, for value received, acknowledges itself indebted to and hereby promises to pay to the registered owner named above, or the registered assigns thereof (the "Registered Owner"), the Principal Amount hereinabove stated on February 15 in each of the years and in the principal installments in accordance with the following schedule:

<u>STATED</u> <u>MATURITY</u>	<u>PRINCIPAL</u> <u>INSTALLMENTS</u>	<u>INTEREST</u> <u>RATES</u>
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(Information to be inserted from schedule in Section 2 hereof)

(without right of prior redemption) and to pay interest on the unpaid Principal Amount hereof from the date of initial delivery of the Bonds at the per annum rates of interest specified above computed on the basis of a 360-day year of twelve 30-day months; such interest being payable on February 15 and August 15 in each year, commencing August 15, 2014, until maturity. Principal installments of this Bond are payable on the Stated Maturity dates to the registered owner hereof by The Bank of New York Mellon Trust Company, N.A., Dallas, Texas (the "Paying Agent/Registrar"), upon its presentation and surrender at its designated offices, initially in East Syracuse, New York, or, with respect to a successor paying agent/registrar, at the designated office of such successor (the "Designated Payment/Transfer Office"). Interest is payable to the registered owner of this Bond whose name appears on the "Security Register" maintained by the Paying Agent/Registrar at the close of business on the "Record Date," which is the last business day of the month next preceding each interest payment date, and interest shall be paid by the Paying Agent/Registrar by check sent United States Mail, first class postage prepaid, to the address of the registered owner recorded in the Security Register or by such other method, acceptable to the Paying Agent/Registrar, requested by, and at the risk and expense of, the registered owner. If the date for the payment of the principal of or interest on the Bonds shall be a Saturday, Sunday, a legal holiday, or a day when banking institutions in the city where the Designated Payment/Transfer Office of the Paying Agent/Registrar is located are authorized by law or executive order to close, then the date for such payment shall be the next succeeding day which is not such a Saturday, Sunday, legal holiday, or day when banking institutions are authorized to close; and payment on such date shall have the same force and effect as if made on the original date payment was due. All payments of principal of, premium, if any, and interest on this Bond shall be without exchange or collection charges to the owner

hereof and in any coin or currency of the United States of America which at the time of payment is legal tender for the payment of public and private debts.

SECTION 10: Levy of Taxes. To provide for the payment of the “Debt Service Requirements” of the Bonds, being (i) the interest on the Bonds and (ii) a sinking fund for their payment at maturity or redemption or a sinking fund of 2% (whichever amount is the greater), there is hereby levied, and there shall be annually assessed and collected in due time, form, and manner, a tax on all taxable property in the City, within the limitations prescribed by law, and such tax hereby levied on each one hundred dollars’ valuation of taxable property in the City for the Debt Service Requirements of the Bonds shall be at a rate from year to year as will be ample and sufficient to provide funds each year to pay the principal of and interest on said Bonds while Outstanding; full allowance being made for delinquencies and costs of collection; separate books and records relating to the receipt and disbursement of taxes levied, assessed and collected for and on account of the Bonds shall be kept and maintained by the City at all times while the Bonds are Outstanding, and the taxes collected for the payment of the Debt Service Requirements on the Bonds shall be deposited to the credit of a “Special 2014 Bond Account” (the “Interest and Sinking Fund”) maintained on the records of the City and deposited in a special fund maintained at an official depository of the City’s funds; and such tax hereby levied, and to be assessed and collected annually, is hereby pledged to the payment of the Bonds.

The Mayor, Mayor Pro Tem, City Manager, City Secretary and Director of Financial Services of the City, individually or jointly, are hereby authorized and directed to cause to be transferred to the Paying Agent/Registrar for the Bonds, from funds on deposit in the Interest and Sinking Fund, amounts sufficient to fully pay and discharge promptly each installment of interest and principal of the Bonds as the same accrues or matures; such transfers of funds to be made in such manner as will cause collected funds to be deposited with the Paying Agent/Registrar on or before each principal and interest payment date for the Bonds.

SECTION 11: Mutilated - Destroyed - Lost and Stolen Bonds. In case any Bond shall be mutilated, or destroyed, lost or stolen, the Paying Agent/Registrar may execute and deliver a replacement Bond of like form and tenor, and in the same denomination and bearing a number not contemporaneously outstanding, in exchange and substitution for such mutilated Bond, or in lieu of and in substitution for such destroyed, lost or stolen Bond, only upon the approval of the City and after (i) the filing by the Holder thereof with the Paying Agent/Registrar of evidence satisfactory to the Paying Agent/Registrar of the destruction, loss or theft of such Bond, and of the authenticity of the ownership thereof and (ii) the furnishing to the Paying Agent/Registrar of indemnification in an amount satisfactory to hold the City and the Paying Agent/Registrar harmless. All expenses and charges associated with such indemnity and with the preparation, execution and delivery of a replacement Bond shall be borne by the Holder of the Bond mutilated, or destroyed, lost or stolen.

Every replacement Bond issued pursuant to this Section shall be a valid and binding obligation, and shall be entitled to all the benefits of this Ordinance equally and ratably with all other Outstanding Bonds; notwithstanding the enforceability of payment by anyone of the destroyed, lost, or stolen Bonds.

The provisions of this Section are exclusive and shall preclude (to the extent lawful) all other rights and remedies with respect to the replacement and payment of mutilated, destroyed, lost or stolen Bonds.

SECTION 12: Satisfaction of Obligation of City. If the City shall pay or cause to be paid, or there shall otherwise be paid to the Holders, the principal of, premium, if any, and interest on the Bonds, at the times and in the manner stipulated in this Ordinance, then the pledge of taxes levied under this Ordinance and all covenants, agreements, and other obligations of the City to the Holders shall thereupon cease, terminate, and be discharged and satisfied.

Bonds or any principal amount(s) thereof shall be deemed to have been paid within the meaning and with the effect expressed above in this Section when (i) money sufficient to pay in full such Bonds or the principal amount(s) thereof at maturity, together with all interest due thereon, shall have been irrevocably deposited with and held in trust by the Paying Agent/Registrar, or an authorized escrow agent, or (ii) Government Securities shall have been irrevocably deposited in trust with the Paying Agent/Registrar, or an authorized escrow agent, which Government Securities have been certified by an independent accounting firm to mature as to principal and interest in such amounts and at such times as will insure the availability, without reinvestment, of sufficient money, together with any moneys deposited therewith, if any, to pay when due the principal of and interest on such Bonds. The City covenants that no deposit of moneys or Government Securities will be made under this Section and no use made of any such deposit which would cause the Bonds to be treated as "arbitrage bonds" within the meaning of Section 148 of the Internal Revenue Code of 1986, as amended, or regulations adopted pursuant thereto.

Any moneys so deposited with the Paying Agent/Registrar, or an authorized escrow agent, and all income from Government Securities held in trust by the Paying Agent/Registrar, or an authorized escrow agent, pursuant to this Section which is not required for the payment of the Bonds, or any principal amount(s) thereof, or interest thereon with respect to which such moneys have been so deposited shall be remitted to the City or deposited as directed by the City. Furthermore, any money held by the Paying Agent/Registrar for the payment of the principal of and interest on the Bonds and remaining unclaimed for a period of three (3) years after the Stated Maturity shall upon the request of the City be remitted to the City against a written receipt therefor. Notwithstanding the above and foregoing, any remittance of funds from the Paying Agent/Registrar to the City shall be subject to any applicable unclaimed property laws of the State of Texas.

The term "Government Securities", as used herein, shall mean (i) direct noncallable 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, (ii) noncallable obligations of an agency or instrumentality of the United States, including obligations unconditionally guaranteed or insured by the agency or instrumentality and, on the date of their acquisition or purchase by the City, are rated as to investment quality by a nationally recognized investment rating firm not less than AAA or its equivalent, (iii) noncallable obligations of a state or an agency or a county, municipality, or other political subdivision of a state that have been refunded and that, on the date of their acquisition or purchase by the City, are rated as to investment quality by a nationally recognized investment rating firm not less than AAA or its equivalent and (iv) any other then authorized securities or obligations that may be used to defease obligations such as the Bonds under the then applicable laws of the State of Texas.

SECTION 13: Ordinance a Contract - Amendments - Outstanding Bonds. This Ordinance shall constitute a contract with the Holders from time to time, be binding on the City, and shall not be amended or repealed by the City so long as any Bond remains Outstanding except as permitted in this Section and in Section 28 hereof. The City may, without the consent of or notice to any Holders, from time to time and at any time, amend this Ordinance in any manner not detrimental to the interests of the Holders, including the curing of any ambiguity,

inconsistency, or formal defect or omission herein. In addition, the City may, with the consent of Holders holding a majority in aggregate principal amount of the Bonds then Outstanding, amend, add to, or rescind any of the provisions of this Ordinance; provided that, without the consent of all Holders of Outstanding Bonds, no such amendment, addition, or rescission shall (1) extend the time or times of payment of the principal of, premium, if any, and interest on the Bonds, reduce the principal amount thereof, or the rate of interest thereon, or in any other way modify the terms of payment of the principal of, premium, if any, or interest on the Bonds, (2) give any preference to any Bond over any other Bond, or (3) reduce the aggregate principal amount of Bonds required to be held by Holders for consent to any such amendment, addition, or rescission.

The term "Outstanding" when used in this Ordinance with respect to Bonds means, as of the date of determination, all Bonds theretofore issued and delivered under this Ordinance, except:

(1) those Bonds cancelled by the Paying Agent/Registrar or delivered to the Paying Agent/Registrar for cancellation;

(2) those Bonds deemed to be duly paid by the City in accordance with the provisions of Section 12 hereof; and

(3) those mutilated, destroyed, lost, or stolen Bonds which have been replaced with Bonds registered and delivered in lieu thereof as provided in Section 11 hereof.

SECTION 14: Covenants to Maintain Tax-Exempt Status.

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

"*Closing Date*" means the date on which the Bonds 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 Bonds.

"*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 Bonds are invested and which is not acquired to carry out the governmental purposes of the Bonds.

"*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 Bonds. 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 Bonds 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 Bond 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 Bond, 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 Bonds:

(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 Bonds (including property financed with Gross Proceeds of the Refunded Obligations), 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 Bonds or any property the acquisition, construction or improvement of which is to be financed or refinanced directly or indirectly with such Gross Proceeds (including property financed with Gross Proceeds of the Refunded Obligations), 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 Bonds 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 Bonds 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 Bonds.

(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 Bonds 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 years after the day on which the last outstanding Bond is discharged. However, to the extent permitted by law, the City may commingle Gross Proceeds of the Bonds 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 Bonds until six years after the final Computation Date.

(3) As additional consideration for the purchase of the Bonds by the Purchasers and the loan of the money represented thereby and in order to induce such purchase by measures designed to insure the excludability of the interest thereon from the gross income of the owners thereof for federal income tax purposes, the City shall pay to the United States out of its general fund, other appropriate fund, or, if permitted by applicable Texas statute, regulation or opinion of the Attorney General of the State of Texas, the Interest and Sinking Fund, the amount that when added to the future value of previous rebate payments made for the Bonds 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) Not to Divert Arbitrage Profits. 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 earlier of the Stated Maturity or final payment of the Bonds, enter into any transaction that reduces the amount required to be paid to the United States pursuant to Subsection (h) of this Section because such transaction results in a smaller profit or a larger loss than would have resulted if the transaction had been at arm's length and had the Yield of the Bonds not been relevant to either party.

(j) Elections. The City hereby directs and authorizes the Mayor, Mayor Pro Tem, City Manager and Director of Financial Services, 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 Bonds, in the Certificate as to Tax Exemption or similar or other appropriate certificate, form or document.

(k) Bonds Not Hedge Bonds. (1) At the time the original obligations being refunded by the Bonds were issued, the City reasonably expected to spend at least 85% of the spendable proceeds of such obligations within three years after such obligations were issued and (2) not more than 50% of the proceeds of the original obligations being refunded by the Bonds were invested in Nonpurpose Investments having a substantially guaranteed Yield for a period of 4 years or more.

(l) Current Refunding of the Refunded Obligations. The Bonds are a current refunding of the Refunded Obligations in that the Refunded Obligations are to be paid and redeemed in full within 90 days of the delivery date of the Bonds.

SECTION 15: Sale of Bonds - Official Statement Approval. Pursuant to a public sale for the Bonds, the bid submitted by _____. (herein referred to as the "Purchasers") is declared to be the best bid received producing the lowest true interest cost rate to the City. Such bid is hereby accepted and incorporated herein by reference as a part of this Ordinance for all purposes and the sale of the Bonds to the Purchasers at the price of par plus a premium of \$_____, is hereby approved, confirmed and determined to be in the best interest of the City. Delivery of the Bonds to the Purchasers shall occur as soon as possible upon payment being made therefor in accordance with the terms of sale, which terms of sale are declared to be in the best interests of the City.

Furthermore, the use of the Preliminary Official Statement by the Purchasers in connection with the public offering and sale of the Bonds is hereby ratified, confirmed and

approved in all respects. The final Official Statement, which reflects the terms of sale (together with such changes approved by the Mayor, Mayor Pro Tem, City Manager, Director of Financial Services or City Secretary, any one or more of said officials), shall be and is hereby in all respects approved and the Purchasers are hereby authorized to use and distribute said final Official Statement, dated January 21, 2014, in the reoffering, sale and delivery of the Bonds to the public. The Mayor or Mayor Pro Tem and City Secretary are further authorized and directed to cause to be delivered for and on behalf of the City copies of said Official Statement in final form as may be required by the Purchasers, and such final Official Statement shall be deemed to be approved by the Council and constitute the Official Statement authorized for distribution and use by the Purchasers.

SECTION 16: Control and Custody of Bonds. The Mayor of the City shall be and is hereby authorized to take and have charge of all necessary orders and records pending investigation by the Attorney General of the State of Texas, including the printing and supply of definitive Bonds, and shall take and have charge and control of the Initial Bond(s) pending the approval thereof by the Attorney General, the registration thereof by the Comptroller of Public Accounts and the delivery thereof to the Purchasers.

SECTION 17: Proceeds of Sale. Immediately following the delivery of the Bonds, proceeds of sale in the sum of \$_____ shall be deposited with the paying agent for the Refunded Obligations. The balance of the proceeds of sale of the Bonds shall be expended to pay costs of issuance and any excess amount budgeted for such purpose shall be deposited to the credit of the Interest and Sinking Fund.

Additionally, on or immediately prior to the date of the delivery of the Bonds, the Director of Financial Services or other appropriate City official shall cause to be transferred in immediately available funds to the paying agent for the Refunded Obligations from moneys on deposit in the interest and sinking fund maintained for the payment of the Refunded Obligations the sum of \$_____ to accomplish the refunding.

SECTION 18: Redemption of Refunded Obligations. The Refunded Obligations shall be redeemed and the same are hereby called for redemption on February 24, 2014, at the price of par and accrued interest to the date of redemption. The City Secretary is hereby authorized and directed to file a copy of this Ordinance, together with a suggested form of notice of redemption to be sent to bondholders, with The Bank of New York Mellon Trust Company, N.A., Dallas, Texas (successor paying agent/registrar to JP Morgan Chase Bank, N.A.), in accordance with the redemption provisions applicable to such bonds; such suggested form of notice of redemption being attached hereto as **Exhibit B** and incorporated herein by reference as a part of this Ordinance for all purposes.

The redemption of the Refunded Obligations described above being associated with the refunding of such Refunded Obligations, the approval, authorization and arrangements herein given and provided for the redemption of such Refunded Obligations on the redemption date designated therefor and in the manner provided shall be irrevocable upon the issuance and delivery of the Bonds; and the City Secretary is hereby authorized and directed to make all arrangements necessary to notify the holders of such Refunded Obligations of the City's decision to redeem such Refunded Obligations on the date and in the manner herein provided and in accordance with the ordinance authorizing the issuance of such Refunded Obligations and this Ordinance.

SECTION 19: Notices to Holders - Waiver. Wherever this Ordinance provides for notice to Holders of any event, such notice shall be sufficiently given (unless otherwise herein

expressly provided) if in writing and sent by United States Mail, first class postage prepaid, to the address of each Holder appearing in the Security Register at the close of business on the business day next preceding the mailing of such notice.

In any case where notice to Holders is given by mail, neither the failure to mail such notice to any particular Holders, nor any defect in any notice so mailed, shall affect the sufficiency of such notice with respect to all other Bonds. Where this Ordinance provides for notice in any manner, such notice may be waived in writing by the Holder entitled to receive such notice, either before or after the event with respect to which such notice is given, and such waiver shall be the equivalent of such notice. Waivers of notice by Holders shall be filed with the Paying Agent/Registrar, but such filing shall not be a condition precedent to the validity of any action taken in reliance upon such waiver.

SECTION 20: Cancellation. All Bonds surrendered for payment, transfer, exchange, or replacement, if surrendered to the Paying Agent/Registrar, shall be promptly cancelled by it and, if surrendered to the City, shall be delivered to the Paying Agent/Registrar and, if not already cancelled, shall be promptly cancelled by the Paying Agent/Registrar. The City may at any time deliver to the Paying Agent/Registrar for cancellation any Bonds previously certified or registered and delivered which the City may have acquired in any manner whatsoever, and all Bonds so delivered shall be promptly cancelled by the Paying Agent/Registrar. All cancelled Bonds held by the Paying Agent/Registrar shall be returned to the City.

SECTION 21: Legal Opinion. The obligation of the Purchasers to accept delivery of the Bonds is subject to being furnished a final legal opinion of Fulbright & Jaworski LLP approving such Bonds as to their validity, said opinion to be dated and delivered as of the date of delivery and payment for such Bonds. A true and correct reproduction of said opinion is hereby authorized to be printed on the definitive Bonds or an executed counterpart thereof shall accompany the global Bonds deposited with DTC.

SECTION 22: CUSIP Numbers. CUSIP numbers may be printed or typed on the definitive Bonds. It is expressly provided, however, that the presence or absence of CUSIP numbers on the definitive Bonds shall be of no significance or effect as regards the legality thereof and neither the City nor attorneys approving the Bonds as to legality are to be held responsible for CUSIP numbers incorrectly printed or typed on the definitive Bonds.

SECTION 23: Benefits of Ordinance. Nothing in this Ordinance, expressed or implied, is intended or shall be construed to confer upon any person other than the City, the Paying Agent/Registrar and the Holders, any right, remedy, or claim, legal or equitable, under or by reason of this Ordinance or any provision hereof, this Ordinance and all its provisions being intended to be and being for the sole and exclusive benefit of the City, the Paying Agent/Registrar and the Holders.

SECTION 24: Inconsistent Provisions. All ordinances, orders or resolutions, or parts thereof, which are in conflict or inconsistent with any provision of this Ordinance are hereby repealed to the extent of such conflict, and the provisions of this Ordinance shall be and remain controlling as to the matters contained herein.

SECTION 25: Governing Law. This Ordinance shall be construed and enforced in accordance with the laws of the State of Texas and the United States of America.

SECTION 26: Effect of Headings. The Section headings herein are for convenience of reference only and shall not affect the construction hereof.

SECTION 27: Construction of Terms. 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.

SECTION 28: Continuing Disclosure Undertaking.

(a) Definitions. As used in this Section, the following terms have the meanings ascribed to such terms below:

“*MSRB*” means the Municipal Securities Rulemaking Board.

“*Rule*” means SEC Rule 15c2-12, as amended from time to time.

“*SEC*” means the United States Securities and Exchange Commission.

(b) Annual Reports. The City shall provide annually to the MSRB (1) within six months after the end of each fiscal year, beginning in or after 2013, financial information and operating data with respect to the City of the general type included in the Official Statement and described in **Exhibit C** hereto, and (2) if not provided as part of such financial information and operating data, audited financial statements of the City, when and if available. Any financial statements so provided shall be prepared in accordance with the accounting principles described in **Exhibit C** hereto, or such other accounting principles as the City may be required to employ from time to time pursuant to state law or regulation, and audited, if the City commissions an audit of such statements and the audit is completed within the period during which they must be provided.

If the City changes its fiscal year, it will notify the MSRB of the change (and of the date of the new fiscal year end) prior to the next date by which the City otherwise would be required to provide financial information and operating data pursuant to this Section.

The financial information and operating data to be provided pursuant to this Section may be set forth in full in one or more documents or may be included by specific reference to any document available to the public on the MSRB’s Internet Web site or filed with the SEC.

(c) Notice of Certain Events. The City shall provide notice of any of the following events with respect to the Bonds to the MSRB in a timely manner and not more than 10 business days after occurrence of the event:

1. Principal and interest payment delinquencies;
2. Non-payment related defaults, if material;
3. Unscheduled draws on debt service reserves reflecting financial difficulties;
4. Unscheduled draws on credit enhancements reflecting financial difficulties;
5. Substitution of credit or liquidity providers, or their failure to perform;
6. Adverse tax opinions, the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701-TEB), or other material notices or determinations with respect to the tax status of the Bonds, or other material events affecting the tax status of the Bonds;
7. Modifications to rights of holders of the Bonds, if material;
8. Bond calls, if material, and tender offers;
9. Defeasances;

10. Release, substitution, or sale of property securing repayment of the Bonds, if material;
11. Rating changes;
12. Bankruptcy, insolvency, receivership, or similar event of the City, which shall occur as described below;
13. The consummation of a merger, consolidation, or acquisition involving the City or the sale of all or substantially all of its assets, other than in the ordinary course of business, the entry into of a definitive agreement to undertake such an action or the termination of a definitive agreement relating to any such actions, other than pursuant to its terms, if material; and
14. Appointment of a successor or additional trustee or the change of name of a trustee, if material.

For these purposes, any event described in the immediately preceding subsection (c)12 is considered to occur when any of the following occur: the appointment of a receiver, fiscal agent, or similar officer for the City in a proceeding under the United States Bankruptcy Code or in any other proceeding under state or federal law in which a court or governmental authority has assumed jurisdiction over substantially all of the assets or business of the City, or if such jurisdiction has been assumed by leaving the existing governing body and officials or officers in possession but subject to the supervision and orders of a court or governmental authority, or the entry of an order confirming a plan of reorganization, arrangement, or liquidation by a court or governmental authority having supervision or jurisdiction over substantially all of the assets or business of the City.

The City shall notify the MSRB, in a timely manner, of any failure by the City to provide financial information or operating data in accordance with subsection (b) of this Section by the time required by such Section.

(d) Filings with the MSRB. All financial information, operating data, financial statements, notices and other documents provided to the MSRB in accordance with this Section shall be provided in an electronic format prescribed by the MSRB and shall be accompanied by identifying information as prescribed by the MSRB.

(e) Limitations, Disclaimers, and Amendments. The City shall be obligated to observe and perform the covenants specified in this Section while, but only while, the City remains an “obligated person” with respect to the Bonds within the meaning of the Rule, except that the City in any event will give the notice required by subsection (c) hereof of any Bond calls and defeasance that cause the City to be no longer such an “obligated person.”

The provisions of this Section are for the sole benefit of the Holders and beneficial owners of the Bonds, and nothing in this Section, express or implied, shall give any benefit or any legal or equitable right, remedy, or claim hereunder to any other person. The City undertakes to provide only the financial information, operating data, financial statements, and notices which it has expressly agreed to provide pursuant to this Section and does not hereby undertake to provide any other information that may be relevant or material to a complete presentation of the City's financial results, condition, or prospects or hereby undertake to update any information provided in accordance with this Section or otherwise, except as expressly provided herein. The City does not make any representation or warranty concerning such information or its usefulness to a decision to invest in or sell Bonds at any future date.

UNDER NO CIRCUMSTANCES SHALL THE CITY BE LIABLE TO THE HOLDER OR BENEFICIAL OWNER OF ANY BOND OR ANY OTHER PERSON, IN CONTRACT OR TORT,

FOR DAMAGES RESULTING IN WHOLE OR IN PART FROM ANY BREACH BY THE CITY, WHETHER NEGLIGENT OR WITHOUT FAULT ON ITS PART, OF ANY COVENANT SPECIFIED IN THIS SECTION, BUT EVERY RIGHT AND REMEDY OF ANY SUCH PERSON, IN CONTRACT OR TORT, FOR OR ON ACCOUNT OF ANY SUCH BREACH SHALL BE LIMITED TO AN ACTION FOR MANDAMUS OR SPECIFIC PERFORMANCE.

No default by the City in observing or performing its obligations under this Section shall constitute a breach of or default under this Ordinance for purposes of any other provision of this Ordinance.

Nothing in this Section is intended or shall act to disclaim, waive, or otherwise limit the duties of the City under federal and state securities laws.

Notwithstanding anything to the contrary in this Ordinance, the provisions of this Section may be amended by the City from time to time to adapt to changed circumstances resulting from a change in legal requirements, a change in law, or a change in the identity, nature, status, or type of operations of the City, but only if (1) the provisions of this Section, as so amended, would have permitted an underwriter to purchase or sell Bonds in the primary offering of the Bonds in compliance with the Rule, taking into account any amendments or interpretations of the Rule to the date of such amendment, as well as such changed circumstances, and (2) either (a) the Holders of a majority in aggregate principal amount (or any greater amount required by any other provision of this Ordinance that authorizes such an amendment) of the Outstanding Bonds consent to such amendment or (b) a person that is unaffiliated with the City (such as nationally recognized bond counsel) determines that such amendment will not materially impair the interests of the Holders and beneficial owners of the Bonds. The provisions of this Section may also be amended from time to time or repealed by the City if the SEC amends or repeals the applicable provisions of the Rule or a court of final jurisdiction determines that such provisions are invalid, but only if and to the extent that reservation of the City's right to do so would not prevent an underwriter of the initial public offering of the Bonds from lawfully purchasing or selling Bonds in such offering. If the City so amends the provisions of this Section, it shall include with any amended financial information or operating data next provided pursuant to subsection (b) of this Section an explanation, in narrative form, of the reasons for the amendment and of the impact of any change in the type of financial information or operating data so provided.

SECTION 29: 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 Council hereby declares that this Ordinance would have been enacted without such invalid provision.

SECTION 30: Further Procedures. Any one or more of the Mayor, Mayor Pro Tem, City Manager, Director of Financial Services and City Secretary are hereby expressly authorized, empowered and directed from time to time and at any time to do and perform all such acts and things and to execute, acknowledge and deliver in the name and on behalf of the City all agreements, instruments, certificates or other documents, whether mentioned herein or not, as may be necessary or desirable in order to carry out the terms and provisions of this Ordinance and the issuance, sale and delivery of the Bonds. In addition, prior to the delivery of the Bonds, the Mayor, Mayor Pro Tem, City Manager, Director of Financial Services or Bond Counsel to the City are each hereby authorized and directed to approve any changes or corrections to this Ordinance or to any of the documents authorized and approved by this Ordinance: (i) in order to cure any ambiguity, formal defect, or omission in this Ordinance or such other document, or (ii) as requested by the Attorney General of the State of Texas or his representative to obtain

the approval of the Bonds by the Attorney General. In the event that any officer of the City whose signature shall appear on any document shall cease to be such officer before the delivery of such document, such signature nevertheless shall be valid and sufficient for all purposes the same as if such officer had remained in office until such delivery.

SECTION 31: Incorporation of Findings and Determinations. The findings and determinations of this Council contained in the preamble hereof are hereby incorporated by reference and made a part of this Ordinance for all purposes as if the same were restated in full in this Section.

SECTION 32: 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 Texas Government Code, Chapter 551, as amended.

SECTION 33: Effective Date. In accordance with the provisions of Texas Government Code, Section 1201.028, as amended, this Ordinance shall be in 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, January 21, 2014.

CITY OF GARLAND, TEXAS

Mayor

ATTEST:

City Secretary

(City Seal)

EXHIBIT A

PAYING AGENT/REGISTRAR AGREEMENT

EXHIBIT B-1

**NOTICE OF REDEMPTION
CITY OF GARLAND, TEXAS
GENERAL OBLIGATION REFUNDING BONDS
SERIES 2005B
DATED MARCH 15, 2005**

NOTICE IS HEREBY GIVEN that the bonds of the above series maturing on and after February 15, 2015, and aggregating in the principal amount of \$13,965,000, have been called for redemption on February 24, 2014 at the redemption price of par and accrued interest to the date of redemption, such bonds being identified as follows:

<u>Year of Maturity</u>	<u>Principal Amount</u>	<u>CUSIP Number</u>
2015	\$1,440,000	
2016	1,520,000	
2017	1,600,000	
2018	1,690,000	
2019	1,780,000	
2020	1,875,000	
2021	1,975,000	
2022	2,085,000	

ALL SUCH BONDS shall become due and payable on February 24, 2014, and interest thereon shall cease to accrue from and after said redemption date and payment of the redemption price of said bonds shall be paid to the registered owners of the bonds only upon presentation and surrender thereof to The Bank of New York Mellon Trust Company, N.A. (successor paying agent/registrars to The Bank of New York Trust Company, N.A.) at its designated offices at the following addresses:

<u>First Class/Registered/Certified</u>	<u>Express Delivery/Courier</u>	<u>By Hand Only</u>
The Bank of New York Mellon Trust Company, N.A. Global Corporate Trust P.O. Box 396 East Syracuse, NY 13057	The Bank of New York Mellon Trust Company, N.A. Global Corporate Trust 111 Sanders Creek Pkwy. East Syracuse, NY 13057	The Bank of New York Mellon Trust Company, N.A. Global Corporate Trust Corporate Trust Window 101 Barclay Street, 1st Floor East New York, NY 10286

THIS NOTICE is issued and given pursuant to the terms and conditions prescribed for the redemption of said bonds and pursuant to an ordinance by the City Council of the City of Garland, Texas.

THE BANK OF NEW YORK MELLON TRUST
COMPANY, N.A.
2001 Bryan Street, 9th Floor
Dallas, Texas 75201

EXHIBIT B-2

**NOTICE OF REDEMPTION
CITY OF GARLAND, TEXAS
COMBINATION TAX AND REVENUE CERTIFICATES OF OBLIGATION
SERIES 2005
DATED MARCH 15, 2005**

NOTICE IS HEREBY GIVEN that the bonds of the above series maturing on and after February 15, 2015, and aggregating in the principal amount of \$2,825,000, have been called for redemption on February 24, 2014 at the redemption price of par and accrued interest to the date of redemption, such bonds being identified as follows:

<u>Year of Maturity</u>	<u>Principal Amount</u>	<u>CUSIP Number</u>
2015	\$1,190,000	
2016	795,000	
2017	840,000	

ALL SUCH BONDS shall become due and payable on February 24, 2014, and interest thereon shall cease to accrue from and after said redemption date and payment of the redemption price of said bonds shall be paid to the registered owners of the bonds only upon presentation and surrender thereof to The Bank of New York Mellon Trust Company, N.A. (successor paying agent/registrars to The Bank of New York Trust Company, N.A.) at its designated offices at the following addresses:

<u>First Class/Registered/Certified</u>	<u>Express Delivery/Courier</u>	<u>By Hand Only</u>
The Bank of New York Mellon Trust Company, N.A. Global Corporate Trust P.O. Box 396 East Syracuse, NY 13057	The Bank of New York Mellon Trust Company, N.A. Global Corporate Trust 111 Sanders Creek Pkwy. East Syracuse, NY 13057	The Bank of New York Mellon Trust Company, N.A. Global Corporate Trust Corporate Trust Window 101 Barclay Street, 1st Floor East New York, NY 10286

THIS NOTICE is issued and given pursuant to the terms and conditions prescribed for the redemption of said bonds and pursuant to an ordinance by the City Council of the City of Garland, Texas.

THE BANK OF NEW YORK MELLON TRUST
COMPANY, N.A.
2001 Bryan Street, 9th Floor
Dallas, Texas 75201

EXHIBIT B-3

**NOTICE OF REDEMPTION
CITY OF GARLAND, TEXAS
COMBINATION TAX AND REVENUE CERTIFICATES OF OBLIGATION
SERIES 2006
DATED MARCH 15, 2006**

NOTICE IS HEREBY GIVEN that the bonds of the above series maturing on and after February 15, 2015, and aggregating in the principal amount of \$2,680,000, have been called for redemption on February 24, 2014 at the redemption price of par and accrued interest to the date of redemption, such bonds being identified as follows:

<u>Year of Maturity</u>	<u>Principal Amount</u>	<u>CUSIP Number</u>
2015	\$535,000	
2016	555,000	
2017	220,000	
2018	235,000	
2019	240,000	
2020	255,000	
2021	260,000	
2024	215,000	
2026	165,000	

ALL SUCH BONDS shall become due and payable on February 24, 2014, and interest thereon shall cease to accrue from and after said redemption date and payment of the redemption price of said bonds shall be paid to the registered owners of the bonds only upon presentation and surrender thereof to The Bank of New York Mellon Trust Company, N.A. (successor paying agent/registrars to The Bank of New York Trust Company, N.A.) at its designated offices at the following addresses:

<u>First Class/Registered/Certified</u>	<u>Express Delivery/Courier</u>	<u>By Hand Only</u>
The Bank of New York Mellon Trust Company, N.A. Global Corporate Trust P.O. Box 396 East Syracuse, NY 13057	The Bank of New York Mellon Trust Company, N.A. Global Corporate Trust 111 Sanders Creek Pkwy. East Syracuse, NY 13057	The Bank of New York Mellon Trust Company, N.A. Global Corporate Trust Corporate Trust Window 101 Barclay Street, 1st Floor East New York, NY 10286

THIS NOTICE is issued and given pursuant to the terms and conditions prescribed for the redemption of said bonds and pursuant to an ordinance by the City Council of the City of Garland, Texas.

THE BANK OF NEW YORK MELLON TRUST
COMPANY, N.A.
2001 Bryan Street, 9th Floor
Dallas, Texas 75201

EXHIBIT C

DESCRIPTION OF ANNUAL FINANCIAL INFORMATION

The following information is referred to in Section 28 of this Ordinance.

Annual Financial Information and Operating Data

The financial information and operating data with respect to the City to be provided annually in accordance with such Section are as specified below:

1. Financial information of the general type included in the Official Statement as Appendix B for the most recently concluded fiscal year.
2. The information contained in Tables 1 through 5 and 7 through 14 in the Official Statement.

Accounting Principles

The accounting principles referred to in such Section are generally those described in Appendix B to the Official Statement, as such principles may be changed from time to time to comply with state law or regulation.



File No. 13-35/District 3

Agenda Item:

Meeting: City Council

Date: January 21, 2014

Planning Report

Apartment Development Services

Northwest intersection of Bobtown Road and Waterhouse Boulevard

REQUEST

Approval of 1) a change in zoning from Agriculture (AG) District to a Planned Development (PD) District for Multi-Family Uses, 2) a Concept Plan and 3) a variance to Section 34.19(D) of the IH 30 Development Standards regarding building placement.

A public hearing was held regarding this request at the December 17, 2013 City Council meeting. Council postponed the request to the January 21, 2014 meeting to enable the applicant to meet again with nearby property owners. The applicant is requesting further postponement to the February 4, 2014 Council meeting. .



City Council Item Summary Sheet

Work Session

Date: January 21, 2014

Agenda Item

Proposed Changes to Chapter 32 (Lodging Ordinance)

Summary of Request/Problem

There are 1,372 lodging rooms within the twenty (20) hotels and motels in Garland. Currently, there is no local statutory minimum standard for sanitation that must be met by the operators of these establishments. There are also no routine sanitation inspections conducted by the Health or Code Compliance Departments. Staff proposes amending the multi-family standards in Chapter 32 of the Code of Ordinances to include lodging establishments.

The proposal adds minimum standards for lodging room furnishings, toiletries, linens, insect control, and employee health. An annual \$200 licensing fee is also proposed to support the inspectional efforts.

No new staffing is anticipated with the inspections being absorbed by the current multi-family inspector work load.

The proposed draft ordinance was reviewed by the Marketing/Events Committee on July 25, 2013 and at City Council Work Session on August 5, 2013.

Recommendation/Action Requested and Justification

Hold a Public Hearing to receive citizen input regarding the modifications to Chapter 32 and consider an ordinance adopting the proposed lodging regulations.

Submitted By:

Richard T. Briley
Managing Director of Health &
Code Compliance

Approved By:

William E. Dollar
City Manager

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ORDINANCE NO.

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

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

Section 1

That Sec. 32.01 of Chapter 32, "Neighborhood Sanitation and Housing Services" of the Code of Ordinances of the City of Garland, Texas is hereby amended by adding the following definitions and by appropriately renumbering the other definitions of Sec. 32.01:

" () *Clean* means free from dirt, impurities or multiple stains; hygienic conditions and practices that serve to promote or preserve health.

() *Communicable disease* means an illness that occurs through the transmission of an infectious agent or its toxic products from a reservoir to a susceptible host, either directly, as from an infected person or animal, or indirectly through an intermediate plant or animal host, a vector, or the inanimate environment.

() *Easily cleanable* means surfaces that are readily accessible, and made of such materials and finishes and so fabricated that residue may be effectively removed by normal cleaning methods.

() *Equipment* means any items used in connection with the operation of a lodging establishment including but not limited to any washer, dryer, ice machine, fans, air conditioning units, heaters, refrigerators, or cooking units.

() *Excessive* means more than a usual, multiple or an unreasonable number.

() *Extended stay* means guests that stay for a week or longer in length.

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() *Fixtures* means any sinks, bathtubs, showers, toilet fixtures, or any other such items used in connection with the operation of a lodging establishment.

() *Furnishings* means any bedding, furniture, lamps, carpeting, floor coverings, wall coverings, ceiling tiles, or similar items furnished or used in connection with the operation of a lodging establishment.

() *Guest* means any person who occupies a guest room in a lodging establishment.

() *Linens* means the sheets, top sheets, and pillow covers for a bed, excluding coverlets and comforters.

() *Lodging establishment* means any building, group of buildings, structure, facility, place, or places of business where guest rooms are provided, kept, used, maintained, advertised or held out to the public for hire. The term is inclusive of a hotel, motel, motor hotel, apartment hotel, tourist court, resort, cabins, tourist home, bunkhouse, bed and breakfast, or other similar place by whatever name called. The term does not include multifamily dwellings, medical treatment facilities such as hospitals, nursing homes/convalescent centers or similar uses, nor does it include jails or detention centers.

() *Lodging room* means any room where sleeping accommodations are regularly offered to the public.

() *Single service articles or utensils* means cups, containers, ice bucket liners, stirrers, paddles, straws, napkins, doilies, wrapping materials and similar articles intended to be used one time and then discarded."

Section 2

That Sec. 32.03(3) of Chapter 32, "Neighborhood Sanitation and Housing Services" of the Code of Ordinances of the City of Garland, Texas is hereby amended by adding a subsection (c) to read as follows:

"(c) A lodging establishment shall be equipped with smoke detectors as required by Chapter 792, TEX. HEALTH & SAFETY CODE."

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Section 3

That Sec. 32.04(D)(5)(a) 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:

"(a) Refrigerated air equipment shall be provided in ~~multifamily or single-family structures~~ any dwelling unit or lodging room that is occupied by, rented or leased to a party other than the owner and shall be maintained in operable condition and must be capable of maintaining the inside of the dwelling unit or lodging room at a comfortable temperature zone, not to exceed a maximum temperature of 81 degrees Fahrenheit from May 1 through October 1."

Section 4

That Sec. 32.04(D)(6) 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:

"(6) Each owner of a multifamily dwelling or lodging establishment which utilizes a cooling tower as a functional portion of an HVAC system shall, at the owner's expense, perform annual testing of the cooling tower for the presence of Legionella pneumophila. The testing shall be performed by a third-party entity using analytical and collection procedures approved by the City. In the event that the property owner cannot provide a proper sampling technique, the property owner, on a form provided for such use by the City, may request that the sample be obtained and tested by the City Health Department and reimburse same for incurred expenses. The owner shall provide the laboratory test report to the City within 10 days of receipt for negative results and within 48 hours of receipt for positive test results."

Section 5

That Sec. 32.04 of Chapter 32, "Neighborhood Sanitation and Housing Services" of the Code of Ordinances of the City of Garland, Texas is hereby amended by adding subsection 32.04(F) to read as follows:

" (F) Lodging establishments. All of the provisions of this Sec. 32.04 apply to lodging establishments with the exception of Sec. 32.04(A)(2); Sec. 32.04(A)(4); Sec. 32.04(B)(1); Sec. 32.04(B)(2);

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and Sec. 32.04(C)(2). The following additional standards shall apply to lodging establishments but do not apply to single-family or multi-family dwellings unless required by another provision of this Code:

(1) Furnishings shall be maintained in good condition and clean. Furnishings with excessive wear, tears, or stains shall be replaced.

(2) After each occupancy, the guest room shall be vacuumed, the linens in the guest room shall be replaced with clean linens, smooth surfaces on all fixtures shall be cleaned and sanitized, and trash shall be removed from the room. Glasses, pitchers, ice buckets, coffee pots, and eating and cooking utensils (other than disposable, single-use utensils) shall be cleaned and sanitized.

(3) All rooms, furnishings, and bedding shall be free from an accumulation or infestation of insects or ectoparasites. If a lodging room becomes infested with insects of any type, the room shall not be occupied until the infestation is controlled.

(4) Soap shall be provided in every lodging room by means of dispensed liquid or with new, individually wrapped bar soap. Used bar soap shall be removed from the lodging room when the guest ends the occupancy. Other toiletries provided by the lodging establishment which have been opened by the guest shall be removed when the guest ends the occupancy. Used soap and toiletries shall be discarded and shall not be used for any other purpose. A dispensed liquid soap shall be provided in all common and public bathrooms and toilets.

(5) Single service utensils and single service articles shall be replaced after each occupancy when visibly damaged or evidence of tampering or contamination exists.

(6) Ice provided to guests in any manner shall be produced only from potable water. Ice machines shall be free from visible trash and sediment. Ice shall not be made or stored in an owner's or manager's private refrigerator or private living areas. Ice that is not produced at the lodging establishment shall be obtained from an approved source and

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shall be properly labeled and protected from contamination during transportation and storage. Ice machines shall be of sanitary, durable, corrosion-resistant, and easily cleanable construction. Ice machines shall be kept sanitized and in good repair. Ice storage bins shall be drained into an approved sewage system and must have a physical air gap. When replacement of a self-service ice machine becomes necessary or additional machines are added, an automatic self-serve ice dispensing machine shall be installed instead. Ice machines shall be located in a place that provides protection from the elements and possible sources of contamination. Exterior ice machine locations shall have, at a minimum, overhead protection. The area shall be kept clean and shall be free of accumulation of excessive moisture, drippage, or trash. An ice machine with a storage bin for ice shall be equipped with an ice scoop that is attached to the ice bin with a tether of easily cleanable material. The tether shall be of such a length to prevent the scoop from touching the ground and shall be maintained in a clean and sanitary condition.

(7) Lodging rooms shall be provided with clean linens for every bed in the room and enough towels for at least two occupants. All linens, towels, and laundry provided to a guest shall be provided in a clean, sanitary condition without excessive stains or damage. During laundering, clean linens, towels, and laundry shall be kept in separate carts and stored away from soiled linens, towels, and laundry. Clean linens, towels, and laundry shall be protected from dust, dirt, vermin, or other contamination.

(8) Lodging establishments with non-guest laundry facilities shall use the laundry only for the washing and drying of linens, towels, uniforms, and aprons necessary to the operation of the lodging establishment; other uses of the laundry are prohibited. Laundry equipment such as washers and dryers shall be of commercial-grade and shall be installed and used according to manufacturer's instructions and specifications. Laundry facilities shall be separated from any other permanent living quarters by complete partitioning and solid self-closing doors. Traffic through or use by guests of a non-guest laundry facility is prohibited. Laundry facilities for the use of guests, if provided, shall be located separate from non-guest laundry facilities. Guest

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laundry facilities shall be clean and maintained in good repair.

(9) Lodging establishments shall in general be kept in a clean and sanitary condition and in good repair. Kitchen amenities in guestrooms with kitchens or kitchenettes shall be properly maintained and in good working order.

(10) The lodging establishment shall keep, for a period of no less than ninety days, records of the cleaning frequency of rooms that are used for extended guests stays. The records shall include information regarding the last cleaning performed and any room damage or repairs.

(11) No employee of a lodging establishment who is a carrier of or infected with a communicable disease (as specified by the Health Authority), or who is affected with a boil, an infected wound or an acute respiratory infection, shall work in a lodging establishment in any capacity in which there is a likelihood that the employee may transmit the disease to other persons. Employees who work with or handle single service items, such as clean laundry, ice or beverages or who perform tasks that would contaminate their hands shall thoroughly wash their hands and exposed areas of their arms before starting work, after smoking, eating or using the toilet. Employees shall keep their fingernails trimmed evenly and clean. Employees involved in guest services and housekeeping functions shall wear clean clothing, in good repair. When performing cleaning functions that could bring the employee into contact with human waste or bodily fluids, the employee shall be provided protective gloves for optional use.

(12) The sleeping accommodations of a lodging establishment shall be let only for the use of transient occupants and shall not be occupied under any permanent basis. No guest shall be deemed to be a resident of the lodging establishment. It shall be unlawful for a lodging establishment to let or otherwise provide any room therein to any person for more than 365 days. Extended-stay units or rooms, once so designated, must remain as such, and records verifying rooms rented or available as extended-stay (including but not limited to required register records) must be made available to

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inspection staff upon request. Extended stay guests must be moved to another lodging room at least every thirty days to allow for cleaning of the previously occupied lodging room. It shall be unlawful to allow registration of a guest under a different name in order to avoid the continuous and cumulative occupancy provisions of this subsection.

(13) Not more than ten percent of the lodging rooms in lodging establishment may be used for storage purposes. At least ninety percent of the lodging rooms in a lodging establishment shall be available for occupancy or occupied by a guest.

(14) A lodging room may not be occupied by more persons than allowed by Sec. 21.01 (Fire Code) or Sec. 30.01 (Building Code) which shall be calculated by taking into account the space taken up by luggage and other personal belongings of an occupant that are not stored in a closet, dresser or other building feature or furniture provided by the operator of the lodging establishment."

Section 6

That Sec. 32.07 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. 32.07 Multifamily/~~lodging~~ license

(A) License required.

(1) A person who rents or leases to another person three or more residential dwelling units that are part of a multifamily dwelling or who operates a lodging establishment must obtain and maintain a current and valid multifamily/~~lodging~~ license issued in accordance with the provisions of this section. Notwithstanding anything contained in this section, the provisions of section 32.09 relating to single-family dwelling units shall apply to any person who rents a residential dwelling unit in a multifamily dwelling to another person in a number, at different locations, or under circumstances that make the provisions of this section inapplicable. A person commits an offense if the person operates or causes to be operated a multifamily dwelling or a lodging establishment

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without a valid multifamily/~~lodging~~ license issued by the City under the provisions of this section.

(2) As used in this section:

- (a) "Representative sample" means any number of dwelling units at the multifamily dwelling ~~or lodging establishment~~ as determined by the Director of Code Compliance based upon criteria such as, but not limited to, the age of the ~~multifamily~~ dwelling units, buildings, and structures, past inspection performance, and complaint history.
- (b) "Comprehensive inspection" means an interior and exterior inspection of all of the dwelling units and non-dwelling buildings and structures comprising a multifamily dwelling ~~or lodging establishment~~, including without limitation common areas, offices, storage rooms, mail rooms, laundry facilities, and parking lots.
- (c) "Licensee" includes, unless the context clearly requires the restrictive meaning, an applicant for a multifamily/~~lodging~~ license as well as the holder of a license.

(B) Application for license; required information and certifications. An applicant for a license shall file with the City a written application, on the form provided for that purpose, signed by the owner or an authorized agent of the owner.

(1) Applications for a license, whether an original or a renewal, must be made to the Director of Code Compliance by the intended operator of the multifamily dwelling ~~or lodging establishment~~. A signed, completed copy may be initially filed (including filing by fax or electronic mail), but the applicant shall thereafter submit the original of the signed, completed application form to the Director of Code Compliance. An unsigned or incomplete application will not be processed. The application shall require, and the applicant shall provide, the following information:

- (a) The full name of the owner (whether or not the owner

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intends to directly operate the multifamily dwelling ~~or lodging establishment~~) and the full name of the property manager or other intended operator (if the multifamily dwelling ~~or lodging establishment~~ will be operated by a third-party);

(b) The owner's and the property manager's or operator's (if any) street address, mailing address (if different), and telephone number.

(c) The name under which the multifamily dwelling or ~~lodging establishment~~ is or will be operated and the name of the multifamily dwelling ~~or lodging establishment~~, if different from the name of the operator.

(d) The address of the tract of land on which the multifamily dwelling ~~or lodging establishment~~ is or will be located.

(e) The name, mailing address, and telephone number of a person who will act as the applicant's agent and liaison with the Director of Code Compliance for purposes of the license inspection(s) required under this section. Such person must be authorized to act for the applicant in matters relating to inspections of the premises as required by this section. In addition, the applicant shall designate a natural person who shall be the agent for purposes of notice and other communications provided in this article and shall provide a telephone number at which a representative of the owner may be contacted at any time in emergencies.

(f) For multifamily dwellings that contain individually-owned condominium units that are managed by a homeowners association or third-party property management company, the name, address, and telephone number of the homeowners association or third party management company.

(2) The original application shall be accompanied by the following:

(a) Payment in full, by certified check, cashier's check

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or money order, of the required multifamily/~~lodging~~ license fee;

(b) A certified copy of the assumed name certificate filed in compliance with the Assumed Business or Professional Name Act (Texas Business and Commerce Code, chapter 36) if the multifamily dwelling ~~or lodging establishment~~ is to be operated under an assumed name;

(c) If the multifamily dwelling ~~or lodging establishment~~ is owned by a Texas corporation, a certified copy of the articles of incorporation, current as of the date of application;

(d) If the multifamily dwelling ~~or lodging establishment~~ is owned by a foreign corporation, a certified copy of the certificate of authority to transact business in this state, current as of the date of application;

(e) If the multifamily dwelling ~~or lodging establishment~~ is owned by a limited partnership formed under the laws of Texas, a certified copy of the certificate of limited partnership, together with all amendments thereto, filed in the office of the secretary of state under the Texas Business Organizations Code;

(f) If the multifamily dwelling ~~or lodging establishment~~ is owned by a foreign limited partnership, a certified copy of the certificate of limited partnership and the qualification documents, together with all amendments thereto, filed in the office of the secretary of state under the Texas Business Organizations Code;

(g) Proof of the current fee ownership of the tract of land on which the multifamily dwelling ~~or lodging establishment~~ is or will be located in the form of a copy of the recorded vesting deed;

(h) The zoning category or categories of the land on which the multifamily dwelling ~~or lodging establishment~~ is or will be located; and

(i) The number of dwelling units to be licensed under

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the multifamily/~~dwelling~~ **lodging** license, specifying for a multifamily premises, the number of efficiencies, one bedroom, two bedroom, three bedroom, and four bedroom dwelling units; the floor area of habitable space in each unit; and the floor area habitable space in each bedroom (**for a lodging establishment premises, only the total number of rooms available for let is necessary**).

(3) The applicant shall submit evidence with the application that the multifamily dwelling **or lodging establishment** has been treated for insects, rodents, and vermin within the preceding six (6) months by a person licensed under the Texas Structural Pest Control Act.

(4) The applicant shall acknowledge that, as a condition of obtaining and maintaining a valid multifamily/**lodging** license, an owner must comply with all applicable sections of article III (relating to nuisance abatement), article V (relating to noise control), and article VI (relating to public and semipublic swimming pools) of chapter 22 of this Code and that the provisions of chapter 22 and this chapter that are applicable to dwelling units of a multifamily dwelling **or lodging establishment** apply equally to related non-dwelling structures of a premises, including but not limited to offices, storage rooms, laundry facilities, club houses, and swimming pool-related buildings.

(5) The applicant shall certify that each multifamily **or lodging** dwelling unit for which the application is submitted is equipped, in accordance with the provisions of section 32.03(3), with properly working smoke alarms; and

(6) The applicant shall certify that no multifamily dwelling unit will violate the occupancy limits established by section 32.04.

(C) Application deadline; term.

(1) Applications for a multifamily/**lodging** license are due by January 1 of each calendar year.

(2) A multifamily/**lodging** license is valid from the effective date stated on the issued license until December 31, unless

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sooner revoked or issued as a provisional license to a new owner under the provisions of subsection (G)(4)(c).

(D) Posting required; non-transferable.

(1) A license issued pursuant to this section shall be posted and displayed in the multifamily dwelling ~~office~~ **or lodging establishment** office or a conspicuous place to which occupants have access. A replacement license may be issued for one lost, destroyed, or mutilated upon application on the form provided by the City. A replacement license shall have the word "replacement" stamped across the face and shall bear the same number as the one it replaces.

(2) A multifamily dwelling **or lodging establishment** license is not assignable or transferrable.

(E) License fees.

(1) The annual permit fee for a multifamily license is \$13.00 per dwelling unit, with a minimum fee of \$50.00. The fee for a new license shall be prorated based on the date the application is submitted in relation to the number of calendar months remaining in the calendar year of application. A late fee of 1/12th of the annual license fee is due for each month the payment of the annual fee is delinquent. A fee of \$10.00 shall be paid for the issuance of a replacement license.

(2) **The annual permit fee for a lodging establishment is \$200.00.**

(3) Upon a change in ownership of the multifamily dwelling or lodging establishment, a new license shall be obtained within thirty days (30) days of the change with the fee charged on a prorated basis.

(F) Inspections.

(1) Application for the issuance of a multifamily/~~dwelling~~ **lodging** license constitutes consent to inspection by the City of the multifamily dwelling **or lodging establishment** and, subject to the rights of the occupants of a dwelling **or lodging** room, the dwelling units **and lodging rooms** that

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comprise a multifamily dwelling **or lodging establishment**, in order to determine compliance with this Code. A licensee shall make all exteriors, all interior and exterior public areas, and all vacant multifamily dwelling units **or lodging rooms** available to City representatives at all reasonable times for the purpose of making inspections to determine compliance with this Code.

(2) For purposes of inspecting an occupied multifamily dwelling unit **or lodging room** and unless otherwise authorized by consent, the Director and the Director's representatives are hereby designated and authorized to obtain a search warrant or other order of a court.

(3) No less than annually, the City shall inspect the multifamily dwelling **or lodging establishment**, including a representative sample of individual dwelling units **or lodging rooms** comprising a multifamily dwelling **or lodging establishment**. If an inspection reveals a violation, the City shall provide the licensee with notice of each violation and a demand for full compliance.

(4) The City will thereafter conduct subsequent follow-up inspections to determine compliance. In the event that two or more re-inspections are required for a noted violation before the violation is corrected, the property owner shall be charged a one-hundred dollar (\$100.00) reinspection fee for the third and each subsequent reinspection for each dwelling unit in which a previously noted but uncorrected violation exists.

(G) Unsatisfactory performance on annual inspection.

(1) If the annual inspection of a representative sample of individual dwelling units **or lodging rooms** reveals life safety or critical violations totaling in number a sum that is greater than the number of dwelling units **or lodging rooms** inspected, the licensee shall pay a surcharge of half the amount of its standard annual fee for a multifamily **/lodging** license in addition to the annual license fee at the time of the next license renewal.

(2) Upon making a determination that a licensee is subject to

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a surcharge, the Director of Code Compliance shall provide notice of the increased renewal fee by certified mail, personal service, or courier-receipted commercial delivery sent to the address noted on the licensee's application. The licensee may appeal an assessed surcharge to the City Manager or a designated representative of the City Manager by filing a written notice of appeal with the Director of Code Compliance. The City Manager or a representative designated by the City Manager shall render a decision on the appeal within five days of the date of the hearing, which decision shall be final.

(3) A multifamily dwelling **or lodging establishment** operated by a licensee that is required to pay a surcharge under subsection (G)(1) is subject to a comprehensive inspection. Upon the completion of a comprehensive inspection, the City shall provide the property owner with notice of each violation and a demand for full compliance. Non-critical violations shall be corrected within sixty days of the date of the notice of violation. Life-safety and critical violations shall be corrected within the time specified in the notice of violation. If a follow-up inspection reveals the continuance of any violation after the applicable period for compliance has passed, the City may order the licensee to post a bond, letter of credit, or escrow deposit in the amount of twenty percent the multifamily dwelling's **or lodging establishment's** appraised value as appraised by the Dallas Central Appraisal District. The licensee shall post the bond or other security within thirty days after receipt of notice from the Director of Code Compliance. Any funds obtained by the City under a bond, letter of credit, or escrow account posted under this section shall be used only for the purpose of reimbursing the City the costs associated with correcting uncorrected violations at the multifamily dwelling **or lodging establishment** or for demolishing buildings or structures that pose an imminent threat to the life, safety or welfare of the occupants or the public. The amount of any funds deposited shall not be part of the general fund.

(4) The bond or other posted security shall be maintained in the full amount originally posted for not less than one year from the date of posting. The City shall return or cancel the bond or other posted security (or such portions as may remain

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at the time):

(a) When the multifamily dwelling ~~or lodging establishment~~ becomes fully compliant prior to the City's intervention through usage of the proceeds of the bond or other posted security;

(b) If the property has not been cited with a life safety or critical violation within eight months following the posting of the bond or other security; or

(c) When the property is sold to a new owner that is unaffiliated with the current licensee; provided that:

(i) A license issued to a new owner for a property that is subject to the bond requirements of this subsection may be issued as a provisional license only and shall be valid for a period not to exceed 120 days; and

(ii) The bond shall remain in full force and effect until an annual, non-provisional license is issued for the property.

(H) Revocation of license. A multifamily/~~lodging~~ license may be revoked:

(1) If the licensee has repeatedly failed to comply with the requirements of this chapter;

(2) If one or more dwelling units ~~or lodging rooms of a multifamily dwelling~~ covered under the license have been substandard for more than sixty days following the delivery of notice of violation; or

(3) If the multifamily dwelling ~~or lodging establishment~~ covered under the license represents an imminent threat to the life, health or safety of any person;

(4) If the licensee has failed to post or maintain the bond or other security as may be required by subsection (G)(3); or

(5) The licensee has failed to pay, after notice, a

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reinspection fee imposed under subsection (F)(4).

The Director of Code Compliance shall provide notice of revocation by certified mail, personal service, or courier-receipted commercial delivery sent to the address provided on the licensee's application. The licensee may appeal the revocation to the City Manager by filing a written notice of appeal with the Director of Code Compliance within ten days of delivery of the notice of revocation. The City Manager or a designated representative of the City Manager shall provide an opportunity for a hearing on the appeal, and shall render a decision on the appeal within ten days of the date of the hearing. The decision of the City Manager or the designated representative shall be final."

Section 7

That Sec. 32.57(B)(2) of Chapter 32, "Neighborhood Sanitation and Housing Services" of the Code of Ordinances of the City of Garland, Texas is hereby amended by adding subsection 32.57(B)(2)(e) to read as follows:

"(e) On the premises of a lodging establishment while the operator of the oversized vehicle is a registered guest of the lodging establishment and is occupying a lodging room at the lodging establishment."

Section 8

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 9

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 10

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

DRAFT
- For Discussion Purposes Only -
Additions are indicated by **red lining**
Deletions are indicated as ~~strike-throughs~~

Garland, Texas.

Section 11

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

PASSED AND APPROVED this the ____ day of _____, 2013.

CITY OF GARLAND, TEXAS

Mayor

ATTEST:

City Secretary



City Council Item Summary Sheet

Work Session

Date: 1/21/14

Agenda Item

2014 Proposed CIP Public Hearing

Summary of Request/Problem

A Public Hearing will be held on the 2014 Proposed Capital Improvement Program (CIP). At the Public Hearing, all interested persons will be given the opportunity to be heard for or against the Proposed program. The 2014 Proposed CIP has been available for public inspection in the City's libraries, the City Secretary's Office, and on the City's website since January 9th, 2014.

Recommendation/Action Requested and Justification

Receive public comment.

Submitted By:

Ron Young
Director Budget & Research

Approved By:

William E. Dollar
City Manager