

Work Session Room at City Hall  
Monday, January 22, 2024  
6 p.m.



William E. Dollar Municipal Building  
200 N. Fifth St.  
Garland, Texas

# GARLAND

## CITY OF GARLAND WORK SESSION OF THE CITY COUNCIL

The Garland City Council extends to all visitors a sincere welcome. We value your interest in our community and your participation in the meetings of this governing body. Visit [GarlandTX.gov/Council](http://GarlandTX.gov/Council) for a full list of meeting dates.

The Work Session Room at Garland City Hall is wheelchair accessible, and ADA parking is available on the street as well as in the public parking garage. Persons with disabilities 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. Braille is not available.

**NOTICE:** Pursuant to Section 551.127 of the Texas Government Code, one or more members of the City Council may attend this meeting by internet/video remote means. A quorum of the City Council, as well as the presiding officer, will be physically present at the above identified location. Members of the public that desire to make a public comment must attend the meeting in person.

### PUBLIC COMMENTS ON WORK SESSION ITEMS

Members of the audience may address the City Council on any Work Session item at the beginning of the meeting. Speakers are allowed three minutes each, grouped by agenda item and called in the order of the agenda. Anyone wishing to speak must fill out a speaker card (located at the entrance to the Council Chambers and on the visitor's side of the Work Session Room) and give it to the City Secretary before the Mayor calls the meeting to order. Speakers are limited to addressing items on the Work Session agenda only. Items on a Regular Meeting agenda should be addressed at the respective Regular Meeting. Items not currently on an agenda may be addressed during the citizen comments portion of any Regular Meeting.

### CONSIDER THE CONSENT AGENDA

Council may ask for discussion or further information on any item posted in the consent agenda of the next Regular Meeting. Council may also ask that an item on the consent agenda be pulled and considered for a vote separate from the consent agenda at the next Regular Meeting. All discussions or deliberations are limited to posted agenda items and may not include new or unposted subject matter.

### WRITTEN BRIEFINGS

Council may ask for discussion, further information, or give direction to staff on an item posted as a written briefing.

#### 1. Federal Grants Calendar Fiscal Year 2024-2025

*Development staff is providing the Council with the Federal Grants Calendar for the 2024-2025 fiscal year for the Council's review.*

#### 2. Advance Funding Agreement with TxDOT for Shiloh Road from Miller to Forest Lane

*Approve a Resolution authorizing the City Manager to execute an Advanced Funding Agreement with TxDOT for the design and construction to widen Shiloh Road from Miller Road to Forest Lane.*

3. **Development Agreement -- 215 Southwood**

*Council is asked to consider a 380 Agreement with Rebuilding the Fort, CDC, for the redevelopment of a city-owned residential property located at 215 Southwood. Upon completion, this property will be sold as affordable housing to an eligible family.*

**VERBAL BRIEFINGS**

Council may ask for discussion, further information, or give direction to staff on an item posted as a verbal briefing.

4. **Discussion of 2024 Council Policies and Procedures**

*The City Attorney will moderate a discussion with City Council regarding possible changes to Council Policies and Procedures.*

5. **Audit Committee Meeting Report**

*Council Member Ed Moore, Chair of the Audit Committee, with the assistance of staff, will present Council with a verbal report regarding recent audits.*

6. **Discussion of the 2024 Proposed Capital Improvement Program**

*City Council will continue the discussion of the 2024 Proposed Capital Improvement Program (CIP).*

7. **Charter Review Council Discussion**

*City Staff will assist Council with a discussion on the charter review committee's recommendations and see input on next steps.*

**CONSIDER APPOINTMENTS TO BOARDS AND COMMISSIONS**

Terms are usually staggered whereby at least half of the membership has previous experience. Members are appointed based on qualifications.

8. **Mayor Scott LeMay**

- Charles Leonard - Community Multicultural Commission

9. **Council Member Chris Ott**

- Richard Valle - Parks and Recreation Board

**ANNOUNCE FUTURE AGENDA ITEMS**

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

**ADJOURN**

All Work Sessions of the Garland City Council are broadcast live on CGTV, Time Warner Cable Channel 16 and Frontier FIOS TV 44. Meetings are rebroadcast at 9 a.m. and 7 p.m. Tuesdays - Sundays. Live streaming and on-demand videos of the meetings are also available online at GarlandTX.tv. Copies of the meetings can be purchased through the City Secretary's Office (audio CDs are \$1 each and DVDs are \$3 each).

**NOTICE:** *The City Council may recess from the open session and convene in a closed executive session if the*

discussion of any of the listed agenda items concerns one or more of the following matters:

1. Pending/contemplated litigation, settlement offer(s), and matters concerning privileged and unprivileged client information deemed confidential by Rule 1.05 of the Texas Disciplinary Rules of Professional Conduct. Sec. 551.071, Tex. Gov't Code.
2. The purchase, exchange, lease or value of real property, if the deliberation in an open meeting would have a detrimental effect on the position of the City in negotiations with a third person. Sec. 551.072, Tex. Gov't Code.
3. A contract for a prospective gift or donation to the City, if the deliberation in an open meeting would have a detrimental effect on the position of the City in negotiations with a third person. Sec. 551.073, Tex. Gov't Code.
4. Personnel matters involving the appointment, employment, evaluation, reassignment, duties, discipline or dismissal of a public officer or employee or to hear a complaint against an officer or employee. Sec. 551.074, Tex. Gov't Code.
5. The deployment, or specific occasions for implementation of security personnel or devices. Sec. 551.076, Tex. Gov't Code.
6. Discussions or deliberations regarding commercial or financial information that the City has received from a business prospect that the City seeks to have to locate, stay, or expand in or near the territory of the City and with which the City is conducting economic development negotiations; or to deliberate the offer of a financial or other incentive to a business prospect of the sort described in this provision. Sec. 551.087, Tex. Gov't Code.
7. Discussions, deliberations, votes, or other final action on matters related to the City's competitive activity, including information that would, if disclosed, give advantage to competitors or prospective competitors and is reasonably related to one or more of the following categories of information:
  - generation unit specific and portfolio fixed and variable costs, including forecasts of those costs, capital improvement plans for generation units, and generation unit operating characteristics and outage scheduling;
  - bidding and pricing information for purchased power, generation, and fuel, and Electric Reliability Council of Texas bids, prices, offers, and related services and strategies;
  - effective fuel and purchased power agreements and fuel transportation arrangements and contracts;
  - risk management information, contracts, and strategies, including fuel hedging and storage;
  - plans, studies, proposals, and analyses for system improvements, additions, or sales, other than transmission and distribution system improvements inside the service area for which the public power utility is the sole certificated retail provider; and
  - customer billing, contract, and usage information, electric power pricing information, system load characteristics, and electric power marketing analyses and strategies. Sec. 551.086; Tex. Gov't Code; Sec. 552.133, Tex. Gov't Code]



Each year, the City Council reviews and updates its goals for the Garland community and City operations. City management uses these goals to guide operational priorities, decision-making and resource allocation.



**GARLAND**  
**CITY COUNCIL STAFF REPORT**

**City Council Work Session**

**1.**

**Meeting Date:** 01/22/2024

Federal Grants Calendar Fiscal Year 2024-2025

**Submitted By:** Mona Woodard, Neighborhood Services Administrator

**Strategic Focus Area:** Vibrant Neighborhoods and  
Commercial Centers

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**Issue/Summary**

The proposed Fiscal Year 2024/2025 HUD Federal Grants Calendar, which delineates the allocation process for CDBG, HOME, and ESG grant funds, is presented to Council for review.

**Background**

Each year, the City of Garland receives funding from the Department of Housing and Urban Development through the Community Development Block Grant (CDBG), the HOME Infill Partnership Grant (HOME), and the Emergency Solutions Grant (ESG) programs. This calendar has been issued to delineate the allocation process for the upcoming grant cycle.

**Consideration / Recommendation**

Staff recommends approval of the 2024-2025 Federal Grants Calendar

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**Attachments**

Federal Grants Calendar FY 24-25

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# 2024-2025 Federal Grants Calendar

2024/25 Application Process Calendar	Jan 2024	Feb 2024	Mar 2024	April 2024	May 2024	June 2024
Council Work Session – 23/24 Grant Calendar Provided	1-22-24					
Public Notice – Notification of the 2023/24 Application Process for 24/25 Entitlement Grants		2-1-24				
Grants Citizen Input Meeting – 800 Main Street (5:30 pm)			3-4-24			
Program Grant Applications Available			3-15-24			
Technical Assistance Meeting for Grant Applicants – Virtual 1:30			3-14-24			
Technical Assistance Meeting for Grant Applicants – Virtual 1:30			3-15-24			
Grant Applications due back to Community Development by 4:00 pm – 800 Main Street				4-1-24		
Council Work Session – Grant Allocation Workbooks Provided					5-6-24	
Council Regular Session – Public Hearing for CDBG, HOME and ESG Grant Programs					5-7-24	
Council Work Session – Discussion – Allocation of Grant Funding					5-20-24	
Council Work Session – Discussion – Allocation of Grant Funding						6-17-24

2024/25 Application Process Calendar (Continued)	July 2024	Aug 2024	Sept 2024	Oct 2024
Council Work Session – Discussion – Allocation of Grant Funding	7-1-24			
Council Regular Session – Final Approval of 2024/25 Grant Allocations and Plan of Action	7-2-24			
Public Notice Issued – 2024-2025 Grant Plan of Action	7-12-24			
2024-2025 Plan of Action Submission – Department of Housing and Urban Development – Mandatory Date		8-13-24		
Public Notice Issued – 2024-2025 Environmental Review for all Approved Grant Projects			9-6-24	
New Grantee Technical Assistance Training			9-25-24	
2024-2025 Environmental Review Submission – Department of Housing and Urban Development – Mandatory Date				10-1-24
New Fiscal Grant Year Begins				10-1-24



**GARLAND**  
**CITY COUNCIL STAFF REPORT**

**City Council Work Session**

2.

**Meeting Date:** 01/22/2024

**Advance Funding Agreement with TxDOT for Shiloh Road from Miller to Forest Lane**

**Submitted By:** Michael Polocek, Engineering Director

**Strategic Focus Area:** Well-Maintained City Infrastructure  
Customer-Focused City Services  
Sound Governance and Finances

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**Issue/Summary**

Consideration of a Resolution authorizing the City Manager to enter into and execute an Advance Funding Agreement (AFA) with Texas Department of Transportation (TXDOT) for the design and construction to widen Shiloh Road from Miller Road to Forest Lane in Garland, Texas.

**Background**

1. As a result of a Surface Transportation Block Grant (STBG) program project utilizing Transportation Development Credits (TDC), the City of Garland desires to enter an agreement with the Texas Department of Transportation ("TXDOT") for the design and construction to widen Shiloh Road from 4-lanes to 6-lanes, including sidewalks, from Miller Road to Forest Lane in the City of Garland.
2. The Federal funding for design and construction of the project is Eighteen Million Nine Hundred Fifty-Five Thousand Dollars and no cents (\$18,955,000) in addition to an amount of One Million Eight Hundred Seventy-Five Thousand Dollars and no cents (\$1,875,000), which will be credited as Transportation Development Credits (TDC) in lieu of the Local Government participation. The following is a table of the estimated funds for the project by each Agency:

Description	Fiscal Year	Total Estimate Cost	Federal	State	Local Government Contribution
TXDOT Direct Costs Engineering/ Environmental)	2024	\$6,500,000	\$6,500,000	\$0	\$0
TXDOT Direct Costs (Construction)	2027	\$94,775	\$94,775	\$0	\$0
Construction	2027	\$14,755,225	\$12,360,225	\$0	\$2,395,000
Utilities	2026	\$1,650,000	\$0	\$0	\$1,650,000
TXDOT Indirect Cost	2027	\$973,380	\$0	\$973,380	\$0
<b>TOTAL</b>		<b>\$23,973,380</b>	<b>\$18,955,000</b>	<b>\$973,380</b>	<b>\$1,650,000 + \$2,395,000 (\$1,875,000 TDC)</b>

3. Local Government (City of Garland) shall be responsible for 100% of engineering design and construction remaining costs and costs overruns.

**Consideration / Recommendation**

Staff recommends the City Council adopt a resolution authorizing the City Manager to execute the AFA with TXDOT. Unless otherwise directed by Council, this item will be scheduled for formal consideration at the February 06, 2024, Regular Meeting.

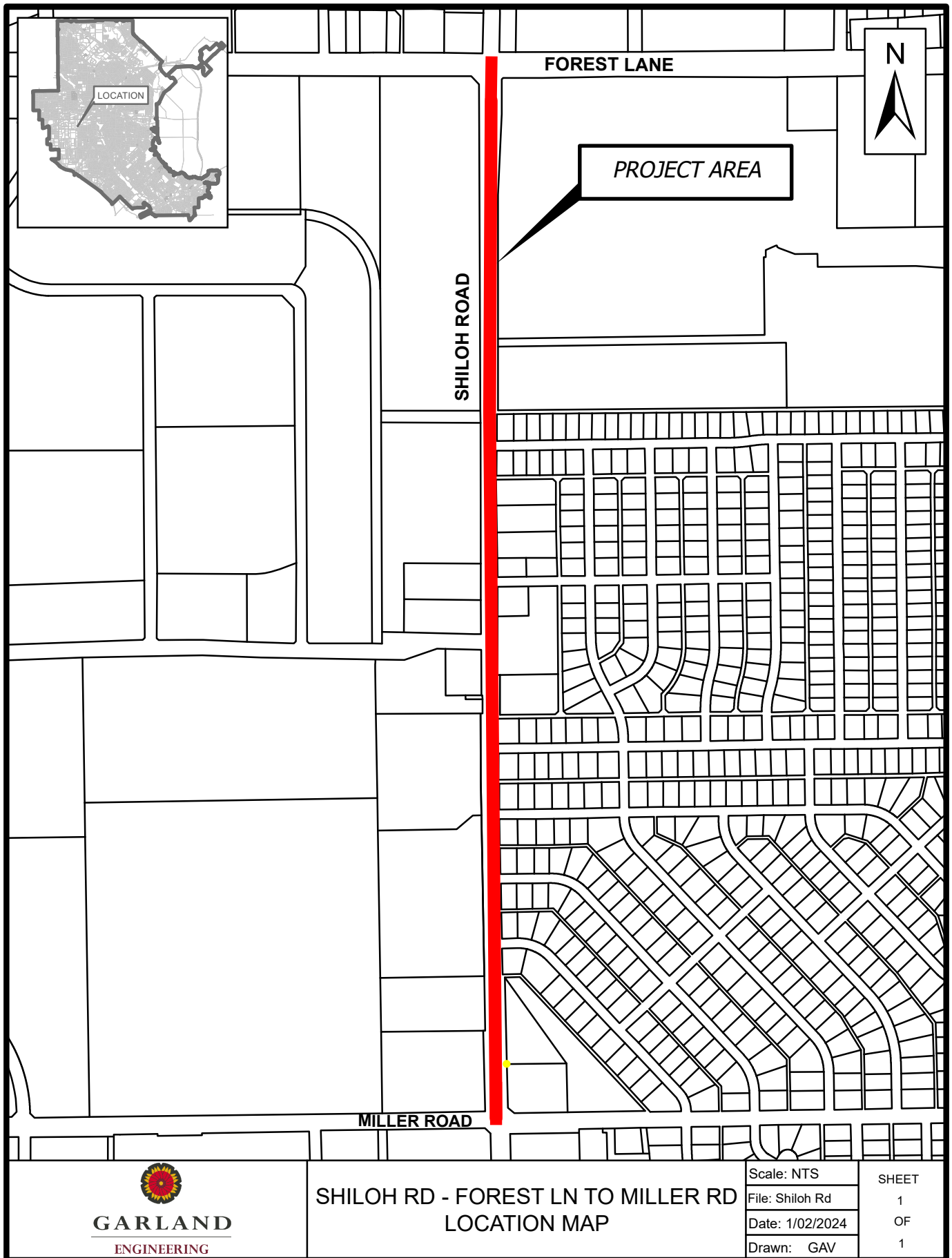
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**Attachments**

Location Map

Proposed Advance Funding Agreement

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TxDOT:				Federal Highway Administration:	
CCSJ #	0918-47-396	AFA ID	Z00008801	CFDA No.	20.205
AFA CSJs	0918-47-396, 0918-47-397			CFDA Title	Highway Planning and Construction
District #	18	Code Chart 64#	15800		
Project Name	Shiloh Rd/Miller Rd/Forest Ln			AFA Not Used For Research & Development	

STATE OF TEXAS       §

COUNTY OF TRAVIS   §

**ADVANCE FUNDING AGREEMENT**  
**For**  
**Surface Transportation Block Grant (STBG) Program Project**  
**Utilizing Transportation Development Credits (TDC)**  
**Off-System**

**THIS AGREEMENT** (Agreement) is made by and between the State of Texas, acting by and through the **Texas Department of Transportation** called the “State”, and the **City of Garland**, acting by and through its duly authorized officials, called the “Local Government”. The State and Local Government shall be collectively referred to as “the parties” hereinafter.

**WITNESSETH**

**WHEREAS**, federal law establishes federally funded programs for transportation improvements to implement its public purposes, and

**WHEREAS**, the Texas Transportation Code, Section 201.103 establishes that the State shall design, construct and operate a system of highways in cooperation with local governments, and Section 222.052 authorizes the Texas Transportation Commission to accept contributions from political subdivisions for development and construction of public roads and the state highway system within the political subdivision, and

**WHEREAS**, federal and state laws require local governments to meet certain contract standards relating to the management and administration of State and federal funds, and

**WHEREAS**, the Texas Transportation Commission has codified 43 TAC, Rules 15.50-15.56 that describe federal, state, and local responsibilities for cost participation in highway improvement and other transportation projects, and

**WHEREAS**, the Texas Transportation Commission passed Minute Order Number **116522** authorizing the State to undertake and complete a highway improvement or other transportation project generally described as **reconstruct existing roadway**. The portion of the project work covered by this Agreement is identified in the Agreement, Article 3, Scope of Work (Project), and

**WHEREAS**, the Governing Body of the Local Government has approved entering into this Agreement by resolution, ordinance, or commissioners court order dated **{Enter Date of Resolution}**, which is attached to and made a part of this Agreement as Attachment C, Resolution, Ordinance, or Commissioners Court Order (Attachment C). A map showing the Project location appears in Attachment A, Location Map Showing Project (Attachment A), which is attached to and made a part of this Agreement.

<b>TxDOT:</b>				<b>Federal Highway Administration:</b>	
<b>CCSJ #</b>	<b>0918-47-396</b>	<b>AFA ID</b>	<b>Z00008801</b>	<b>CFDA No.</b>	<b>20.205</b>
<b>AFA CSJs</b>	<b>0918-47-396, 0918-47-397</b>			<b>CFDA Title</b>	<b>Highway Planning and Construction</b>
<b>District #</b>	<b>18</b>	<b>Code Chart 64#</b>	<b>15800</b>		
<b>Project Name</b>	<b>Shiloh Rd/Miller Rd/Forest Ln</b>			<b>AFA Not Used For Research &amp; Development</b>	

**NOW, THEREFORE**, in consideration of the premises and of the mutual covenants and agreements of the parties, to be by them respectively kept and performed as set forth in this Agreement, it is agreed as follows:

## AGREEMENT

### 1. Responsible Parties:

For the Project covered by this Agreement, the parties shall be responsible for the following work as stated in the article of the Agreement referenced in the table below:

1.	<b>N/A</b>	Utilities	Article 8
2.	<b>Local Government</b>	Environmental Assessment and Mitigation	Article 9
3.	<b>Local Government</b>	Architectural and Engineering Services	Article 11
4.	<b>Local Government</b>	Construction Responsibilities	Article 12
5.	<b>Local Government</b>	Right of Way and Real Property	Article 14

### 2. Period of the Agreement

This Agreement becomes effective when signed by the last party whose signing makes the Agreement fully executed. This Agreement shall remain in effect until the Project is completed or unless terminated as provided below.

### 3. Scope of Work

The scope of work for the Project consists of preliminary engineering, environmental, right-of-way, and plans, specifications, and estimates (PS&E), and the reconstruction and widening of a 4-lanes roadway to a 6-lanes roadway with sidewalks on Shiloh Road from Miller Road to Forest Lane in the City of Garland as shown on Attachment A.

### 4. Project Sources and Uses of Funds

The total estimated cost of the Project is shown in Attachment B, Project Budget (Attachment B) which is attached to and made a part of this Agreement.

- A. If the Local Government will perform any work under this Agreement for which reimbursement will be provided by or through the State, the Local Government must complete training. If federal funds are being used, the training must be completed before federal spending authority is obligated. Training is complete when at least one individual who is working actively and directly on the Project successfully completes and receives a certificate for the course entitled "Local Government Project Procedures and Qualification for the Texas Department of Transportation" and retains qualification in accordance with applicable TxDOT procedures. Upon request, the Local Government shall provide the certificate of qualification to the State. The individual who receives the training certificate may be an employee of the Local Government or an employee of a firm that has been contracted by the Local Government to perform oversight of the Project. The State in its discretion may deny reimbursement if the Local Government has not

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- continuously designated in writing a qualified individual to work actively on or to directly oversee the Project.
- B. The expected cash contributions from the federal government, the State, the Local Government, or other parties are shown in Attachment B. The State will pay for only those Project costs that have been approved by the Texas Transportation Commission. For projects with federal funds, the State and the federal government will not reimburse the Local Government for any work performed before the federal spending authority is formally obligated to the Project by the Federal Highway Administration (FHWA). After federal funds have been obligated, the State will send to the Local Government a copy of the formal documentation showing the obligation of funds including federal award information. The Local Government is responsible for 100% of the cost of any work performed under its direction or control before the federal spending authority is formally obligated.
- C. Attachment B shows, by major cost categories, the cost estimates and the party responsible for performing the work for each category. These categories may include but are not limited to: (1) costs of real property; (2) costs of utility work; (3) costs of environmental assessment and remediation; (4) cost of preliminary engineering and design; (5) cost of construction and construction management; and (6) any other local project costs.
- D. The State will be responsible for securing the federal and State share of the funding required for the development and construction of the local Project. If the Local Government is due funds for expenses incurred, these funds will be reimbursed to the Local Government on a cost basis.
- E. The Local Government will be responsible for all non-federal or non-State participation costs associated with the Project, unless otherwise provided for in this Agreement or approved otherwise in an amendment to this Agreement. For items of work subject to specified percentage funding, the Local Government shall only in those instances be responsible for all Project costs that are greater than the maximum State and federal participation specified in Attachment B and for overruns in excess of the amount specified in Attachment B to be paid by the Local Government.
- F. The budget in Attachment B will clearly state all items subject to fixed price funding, specified percentage funding, and the periodic payment schedule, when periodic payments have been approved by the State.
- G. When the Local Government bears the responsibility for paying cost overruns, the Local Government shall make payment to the State within thirty (30) days from the receipt of the State's written notification of additional funds being due.
- H. When fixed price funding is used, the Local Government is responsible for the fixed price amount specified in Attachment B. Fixed prices are not subject to adjustment unless (1) differing site conditions are encountered; (2) further definition of the Local Government's requested scope of work identifies greatly differing costs from those estimated; (3) work requested by the Local Government is determined to be ineligible for federal participation; or (4) the adjustment is mutually agreed to by the State and the Local Government.
- I. Prior to the performance of any engineering review work by the State, the Local Government will pay to the State the amount specified in Attachment B. At a



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- minimum, this amount shall equal the Local Government's funding share for the estimated cost of preliminary engineering performed or reviewed by the State for the Project. At least sixty (60) days prior to the date set for receipt of the construction bids, the Local Government shall remit its remaining financial share for the State's estimated construction oversight and construction cost.
- J. The State will not execute the contract for the construction of the Project until the required funding has been made available by the Local Government in accordance with this Agreement.
  - K. Whenever funds are paid by the Local Government to the State under this Agreement, the Local Government shall remit a check or warrant made payable to the "Texas Department of Transportation" or may use the State's Automated Clearing House (ACH) system for electronic transfer of funds in accordance with instructions provided by TxDOT's Finance Division. The funds shall be deposited and managed by the State and may only be applied by the State to the Project.
  - L. The State will not pay interest on any funds provided by the Local Government.
  - M. If a waiver for the collection of indirect costs for a service project has been granted under 43 TAC §15.56, the State will not charge the Local Government for the indirect costs the State incurs on the Project, unless this Agreement is terminated at the request of the Local Government prior to completion of the Project.
  - N. If the Local Government is an Economically Disadvantaged County (EDC) and if the State has approved adjustments to the standard financing arrangement, this Agreement reflects those adjustments.
  - O. Where the Local Government is authorized to perform services under this Agreement and be reimbursed by the State, the Local Government is authorized to submit requests for reimbursement by submitting the original of an itemized invoice, in a form and containing all items required by the State, no more frequently than monthly and no later than ninety (90) days after costs are incurred. If the Local Government submits invoices more than ninety (90) days after the costs are incurred and if federal funding is reduced as a result, the State shall have no responsibility to reimburse the Local Government for those costs.
  - P. Upon completion of the Project, the State will perform a final accounting of the Project costs for all items of work with specified percentage funding. Any funds due by the Local Government, the State, or the federal government for these work items will be promptly paid by the owing party.
  - Q. The state auditor may conduct an audit or investigation of any entity receiving funds from the State directly under this Agreement or indirectly through a subcontract under this Agreement. Acceptance of funds directly under this Agreement or indirectly through a subcontract under this Agreement acts as acceptance of the authority of the state auditor, under the direction of the legislative audit committee, to conduct an audit or investigation in connection with those funds. An entity that is the subject of an audit or investigation must provide the state auditor with access to any information the state auditor considers relevant to the investigation or audit.
  - R. Payment under this Agreement beyond the end of the current fiscal biennium is subject to availability of appropriated funds. If funds are not appropriated, this Agreement shall be terminated immediately with no liability to either party.

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## 5. Termination of This Agreement

This Agreement shall remain in effect until the Project is completed and accepted by all parties, unless:

- A. The Agreement is terminated in writing with the mutual consent of the parties;
- B. The Agreement is terminated by one party because of a breach, in which case any costs incurred because of the breach shall be paid by the breaching party;
- C. The Local Government elects not to provide funding after the completion of preliminary engineering, specifications, and estimates (PS&E) and the Project does not proceed because of insufficient funds, in which case the Local Government agrees to reimburse the State for its reasonable actual costs incurred during the Project; or
- D. The Agreement is terminated by the State because the parties are not able to execute a mutually agreeable amendment when the costs for Local Government requested items increase significantly due to differing site conditions, determination that Local government requested work is ineligible for federal or state cost participation, or a more thorough definition of the Local Government's proposed work scope identifies greatly differing costs from those estimated. The State will reimburse Local Government remaining funds to the Local Government within ninety (90) days of termination; or
- E. The Project is inactive for thirty-six (36) consecutive months or longer and no expenditures have been charged against federal funds, in which case the State may in its discretion terminate this Agreement.

## 6. Amendments

Amendments to this Agreement due to changes in the character of the work, terms of the Agreement, or responsibilities of the parties relating to the Project may be enacted through a mutually agreed upon, written amendment.

## 7. Remedies

This Agreement shall not be considered as specifying the exclusive remedy for any agreement default, but all remedies existing at law and in equity may be availed of by either party to this Agreement and shall be cumulative.

## 8. Utilities

The party named in Article 1, Responsible Parties, under AGREEMENT shall be responsible for the adjustment, removal, or relocation of utility facilities in accordance with applicable state laws, regulations, rules, policies, and procedures, including any cost to the State of a delay resulting from the Local Government's failure to ensure that utility facilities are adjusted, removed, or relocated before the scheduled beginning of construction. The Local Government will not be reimbursed with federal or State funds for the cost of required utility work. The Local Government must obtain advance approval for any variance from established procedures. Before a construction contract is let, the Local Government shall provide, at the State's request, a certification stating that the Local Government has completed the adjustment of all utilities that must be adjusted before construction is commenced.

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## 9. Environmental Assessment and Mitigation

Development of a transportation project must comply with the National Environmental Policy Act and the National Historic Preservation Act of 1966, which require environmental clearance of federal-aid projects. The party named in Article 1, Responsible Parties, under AGREEMENT is responsible for the following:

- A. The identification and assessment of any environmental problems associated with the development of a local project governed by this Agreement.
- B. The cost of any environmental problem's mitigation and remediation.
- C. Providing any public meetings or public hearings required for the environmental assessment process. Public hearings will not be held prior to the approval of the Project schematic.
- D. The preparation of the NEPA documents required for the environmental clearance of this Project.

If the Local Government is responsible for the environmental assessment and mitigation, before the advertisement for bids, the Local Government shall provide to the State written documentation from the appropriate regulatory agency or agencies that all environmental clearances have been obtained.

## 10. Compliance with Accessibility Standards

All parties to this Agreement shall ensure that the plans for and the construction of all projects subject to this Agreement are in compliance with standards issued or approved by the Texas Department of Licensing and Regulation (TDLR) as meeting or consistent with minimum accessibility requirements of the Americans with Disabilities Act (P.L. 101-336) (ADA).

## 11. Architectural and Engineering Services

The party named in Article 1, Responsible Parties, under AGREEMENT has responsibility for the performance of architectural and engineering services. The engineering plans shall be developed in accordance with the applicable State's *Standard Specifications for Construction and Maintenance of Highways, Streets and Bridges* and the special specifications and special provisions related to it. For projects on the State highway system, the design shall, at a minimum conform to applicable State manuals. For projects not on the State highway system, the design shall, at a minimum, conform to applicable American Association of State Highway and Transportation Officials (AASHTO) design standards.

In procuring professional services, the parties to this Agreement must comply with federal requirements cited in 23 CFR Part 172 if the Project is federally funded and with Texas Government Code 2254, Subchapter A, in all cases. Professional contracts for federally funded projects must conform to federal requirements, specifically including the provision for participation by Disadvantaged Business Enterprises (DBEs), ADA, and environmental matters. If the Local Government is the responsible party, the Local Government shall submit its procurement selection process for prior approval by the State. All professional services contracts must be reviewed and approved by the State prior to execution by the Local Government.

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## 12. Construction Responsibilities

The party named in Article 1, Responsible Parties, under AGREEMENT is responsible for the following:

- A. Advertise for construction bids, issue bid proposals, receive and tabulate the bids, and award and administer the contract for construction of the Project. Administration of the contract includes the responsibility for construction engineering and for issuance of any change orders, supplemental agreements, amendments, or additional work orders that may become necessary subsequent to the award of the construction contract. In order to ensure federal funding eligibility, projects must be authorized by the State prior to advertising for construction.
- B. If the State is the responsible party, the State will use its approved contract letting and award procedures to let and award the construction contract.
- C. If the Local Government is the responsible party, the Local Government shall submit its contract letting and award procedures to the State for review and approval prior to letting.
- D. If the Local Government is the responsible party, the State must concur with the low bidder selection before the Local Government can enter into a contract with the vendor.
- E. If the Local Government is the responsible party, the State must review and approve change orders.
- F. Upon completion of the Project, the party responsible for constructing the Project will issue and sign a "Notification of Completion" acknowledging the Project's construction completion and submit certification(s) sealed by a professional engineer(s) licensed in the State of Texas.
- G. For federally funded contracts, the parties to this Agreement will comply with federal construction requirements cited in 23 CFR Part 635 and with requirements cited in 23 CFR Part 633, and shall include the latest version of Form "FHWA-1273" in the contract bidding documents. If force account work will be performed, a finding of cost effectiveness shall be made in compliance with 23 CFR 635, Subpart B.

## 13. Project Maintenance

The Local Government shall be responsible for maintenance of locally owned roads and locally owned facilities after completion of the work. The State shall be responsible for maintenance of the State highway system after completion of the work if the work was on the State highway system, unless otherwise provided for in existing maintenance agreements with the Local Government.

## 14. Right of Way and Real Property

The party named in Article 1, Responsible Parties, under AGREEMENT is responsible for the provision and acquisition of any needed right of way or real property.

The Local Government shall be responsible for the following:

- A. Right of way and real property acquisition shall be the responsibility of the Local Government. Title to right of way and other related real property must be

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- acceptable to the State before funds may be expended for the improvement of the right of way or real property.
- B. If the Local Government is the owner of any part of the Project site under this Agreement, the Local Government shall permit the State or its authorized representative access to occupy the site to perform all activities required to execute the work.
- C. All parties to this Agreement will comply with and assume the costs for compliance with all the requirements of Title II and Title III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, Title 42 U.S.C.A. Section 4601 et seq., including those provisions relating to incidental expenses incurred by the property owners in conveying the real property to the Local Government and benefits applicable to the relocation of any displaced person as defined in 49 CFR Section 24.2(g). Documentation to support such compliance must be maintained and made available to the State and its representatives for review and inspection.
- D. The Local Government shall assume all costs and perform necessary requirements to provide any necessary evidence of title or right of use in the name of the Local Government to the real property required for development of the Project. The evidence of title or rights shall be acceptable to the State, and be free and clear of all encroachments. The Local Government shall secure and provide easements and any needed rights of entry over any other land needed to develop the Project according to the approved Project plans. The Local Government shall be responsible for securing any additional real property required for completion of the Project.
- E. In the event real property is donated to the Local Government after the date of the State's authorization, the Local Government will provide all documentation to the State regarding fair market value of the acquired property. The State will review the Local Government's appraisal, determine the fair market value and credit that amount towards the Local Government's financial share. If donated property is to be used as a funding match, it may not be provided by the Local Government. The State will not reimburse the Local Government for any real property acquired before execution of this Agreement and the obligation of federal spending authority.
- F. The Local Government shall prepare real property maps, property descriptions, and other data as needed to properly describe the real property and submit them to the State for approval prior to the Local Government acquiring the real property. Tracings of the maps shall be retained by the Local Government for a permanent record.
- G. The Local Government agrees to make a determination of property values for each real property parcel by methods acceptable to the State and to submit to the State a tabulation of the values so determined, signed by the appropriate Local Government representative. The tabulations shall list the parcel numbers, ownership, acreage and recommended compensation. Compensation shall be shown in the component parts of land acquired, itemization of improvements acquired, damages (if any) and the amounts by which the total compensation will be reduced if the owner retains improvements. This tabulation shall be accompanied by an explanation to support the determined values, together with



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a copy of information or reports used in calculating all determined values. Expenses incurred by the Local Government in performing this work may be eligible for reimbursement after the Local Government has received written authorization by the State to proceed with determination of real property values. The State will review the data submitted and may base its reimbursement for parcel acquisitions on these values.

- H. Reimbursement for real property costs will be made to the Local Government for real property purchased in an amount not to exceed eighty percent (80%) of the cost of the real property purchased in accordance with the terms and provisions of this Agreement. Reimbursement will be in an amount not to exceed eighty percent (80%) of the State's predetermined value of each parcel, or the net cost of the parcel, whichever is less. In addition, reimbursement will be made to the Local Government for necessary payments to appraisers, expenses incurred in order to assure good title, and costs associated with the relocation of displaced persons and personal property as well as incidental expenses.
- I. If the Project requires the use of real property to which the Local Government will not hold title, a separate agreement between the owners of the real property and the Local Government must be executed prior to execution of this Agreement. The separate agreement must establish that the Project will be dedicated for public use for a period of not less than 10 (ten) years after completion. The separate agreement must define the responsibilities of the parties as to the use of the real property and operation and maintenance of the Project after completion. The separate agreement must be approved by the State prior to its execution. A copy of the executed agreement shall be provided to the State.

## 15. Insurance

If this Agreement authorizes the Local Government or its contractor to perform any work on State right of way, before beginning work, the entity performing the work shall provide the State with a fully executed copy of the State's Form 1560 Certificate of Insurance verifying the existence of coverage in the amounts and types specified on the Certificate of Insurance for all persons and entities working on State right of way. This coverage shall be maintained until all work on the State right of way is complete. If coverage is not maintained, all work on State right of way shall cease immediately, and the State may recover damages and all costs of completing the work.

## 16. Notices

All notices to either party shall be delivered personally or sent by certified or U.S. mail, postage prepaid, addressed to that party at the following address:

<b>Local Government:</b>	<b>State:</b>
City of Garland ATTN: City Manager 200 N. Fifth Street Garland, Texas 75040	Texas Department of Transportation ATTN: Director of Contract Services 125 E. 11 <sup>th</sup> Street Austin, TX 78701

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All notices shall be deemed given on the date delivered in person or deposited in the mail, unless otherwise provided by this Agreement. Either party may change the above address by sending written notice of the change to the other party. Either party may request in writing that notices shall be delivered personally or by certified U.S. mail, and that request shall be carried out by the other party.

**17. Legal Construction**

If one or more of the provisions contained in this Agreement shall for any reason be held invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provisions and this Agreement shall be construed as if it did not contain the invalid, illegal, or unenforceable provision.

**18. Responsibilities of the Parties**

The State and the Local Government agree that neither party is an agent, servant, or employee of the other party, and each party agrees it is responsible for its individual acts and deeds as well as the acts and deeds of its contractors, employees, representatives, and agents.

**19. Ownership of Documents**

Upon completion or termination of this Agreement, all documents prepared by the State shall remain the property of the State. All data and information prepared under this Agreement shall be made available to the State without restriction or limitation on their further use. All documents produced or approved or otherwise created by the Local Government shall be transmitted to the State, in the format directed by the State, on a monthly basis or as required by the State. The originals shall remain the property of the Local Government.

**20. Compliance with Laws**

The parties to this Agreement shall comply with all federal, state, and local laws, statutes, ordinances, rules and regulations, and the orders and decrees of any courts or administrative bodies or tribunals in any manner affecting the performance of this Agreement. When required, the Local Government shall furnish the State with satisfactory proof of this compliance.

**21. Sole Agreement**

This Agreement constitutes the sole and only agreement between the parties and supersedes any prior understandings or written or oral agreements respecting the Agreement's subject matter.

**22. Cost Principles**

In order to be reimbursed with federal funds, the parties shall comply with the cost principles established in 2 CFR 200 that specify that all reimbursed costs are allowable, reasonable, and allocable to the Project.

**23. Procurement and Property Management Standards**

The parties to this Agreement shall adhere to the procurement and property management standards established in 2 CFR 200, Uniform Administrative



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Requirements, Cost Principles, and Audit Requirements for Federal Awards, and to the Texas Uniform Grant Management Standards. The State must pre-approve the Local Government's procurement procedures for purchases to be eligible for state or federal funds.

#### 24. Inspection of Books and Records

The parties to this Agreement shall maintain all books, documents, papers, accounting records, and other documentation relating to costs incurred under this Agreement and shall make such materials available to the State, the Local Government, and, if federally funded, the FHWA and the U.S. Office of the Inspector General or their duly authorized representatives for review and inspection at its office during the Agreement period and for seven (7) years from the date of final reimbursement by FHWA under this Agreement or until any impending litigation or claims are resolved. Additionally, the State, the Local Government, and the FHWA and their duly authorized representatives shall have access to all the governmental records that are directly applicable to this Agreement for the purpose of making audits, examinations, excerpts, and transcriptions.

#### 25. Civil Rights Compliance

The parties to this Agreement are responsible for the following:

- A. Compliance with Regulations: Both parties will comply with the Acts and the Regulations relative to Nondiscrimination in Federally-assisted programs of the U.S. Department of Transportation (USDOT), the Federal Highway Administration (FHWA), as they may be amended from time to time, which are herein incorporated by reference and made part of this Agreement.
- B. Nondiscrimination: The Local Government, with regard to the work performed by it during the Agreement, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurement of materials and leases of equipment. The Local Government will not participate directly or indirectly in the discrimination prohibited by the Acts and the Regulations, including employment practices when the Agreement covers any activity, project, or program set forth in Appendix B of 49 CFR Part 21.
- C. Solicitations for Subcontracts, Including Procurement of Materials and Equipment: In all solicitations either by competitive bidding or negotiation made by the Local Government for work to be performed under a subcontract, including procurement of materials or leases of equipment, each potential subcontractor or supplier will be notified by the Local Government of the Local Government's obligations under this Agreement and the Acts and Regulations relative to Nondiscrimination on the grounds of race, color, or national origin.
- D. Information and Reports: The Local Government will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto, and will permit access to its books, records, accounts, other sources of information, and facilities as may be determined by the State or the FHWA to be pertinent to ascertain compliance with such Acts, Regulations or directives. Where any information required of the Local Government is in the exclusive possession of another who fails or refuses to furnish this information, the Local

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Government will so certify to the State or the FHWA, as appropriate, and will set forth what efforts it has made to obtain the information.

- E. Sanctions for Noncompliance: In the event of the Local Government's noncompliance with the Nondiscrimination provisions of this Agreement, the State will impose such contract sanctions as it or the FHWA may determine to be appropriate, including, but not limited to:
  - 1. withholding of payments to the Local Government under the Agreement until the Local Government complies and/or
  - 2. cancelling, terminating, or suspending of the Agreement, in whole or in part.
- F. Incorporation of Provisions: The Local Government will include the provisions of paragraphs (A) through (F) in every subcontract, including procurement of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. The Local Government will take such action with respect to any subcontract or procurement as the State or the FHWA may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the Local Government becomes involved in, or is threatened with, litigation with a subcontractor or supplier because of such direction, the Local Government may request the State to enter into such litigation to protect the interests of the State. In addition, the Local Government may request the United States to enter into such litigation to protect the interests of the United States.

## 26. Pertinent Non-Discrimination Authorities

During the performance of this Agreement, each party, for itself, its assignees, and successors in interest agree to comply with the following nondiscrimination statutes and authorities; including but not limited to:

- A. Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin); and 49 CFR Part 21.
- B. The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of federal or federal-aid programs and projects).
- C. Federal-Aid Highway Act of 1973, (23 U.S.C. § 324 et seq.), as amended, (prohibits discrimination on the basis of sex).
- D. Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 et seq.) as amended, (prohibits discrimination on the basis of disability); and 49 CFR Part 27.
- E. The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 et seq.), (prohibits discrimination on the basis of age).
- F. Airport and Airway Improvement Act of 1982, (49 U.S.C. Chapter 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex).
- G. The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the

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- programs or activities of the federal-aid recipients, subrecipients and contractors, whether such programs or activities are federally funded or not).
- H. Titles II and III of the Americans with Disabilities Act, which prohibits discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131-12189) as implemented by Department of Transportation regulations at 49 C.F.R. parts 37 and 38.
  - I. The Federal Aviation Administration's Nondiscrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex).
  - J. Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures nondiscrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations.
  - K. Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, the parties must take reasonable steps to ensure that LEP persons have meaningful access to the programs (70 Fed. Reg. at 74087 to 74100).
  - L. Title IX of the Education Amendments of 1972, as amended, which prohibits the parties from discriminating because of sex in education programs or activities (20 U.S.C. 1681 et seq.).

## **27. Disadvantaged Business Enterprise (DBE) Program Requirements**

If federal funds are used:

- A. The parties shall comply with the Disadvantaged Business Enterprise Program requirements established in 49 CFR Part 26.
- B. The Local Government shall adopt, in its totality, the State's federally approved DBE program.
- C. The Local Government shall incorporate into its contracts with subproviders an appropriate DBE goal consistent with the State's DBE guidelines and in consideration of the local market, project size, and nature of the goods or services to be acquired. The Local Government shall submit its proposed scope of services and quantity estimates to the State to allow the State to establish a DBE goal for each Local Government contract with a subprovider. The Local Government shall be responsible for documenting its actions.
- D. The Local Government shall follow all other parts of the State's DBE program referenced in TxDOT Form 2395, Memorandum of Understanding Regarding the Adoption of the Texas Department of Transportation's Federally-Approved Disadvantaged Business Enterprise by Entity, and attachments found at web address [http://ftp.dot.state.tx.us/pub/txdot-info/bop/dbe/mou/mou\\_attachments.pdf](http://ftp.dot.state.tx.us/pub/txdot-info/bop/dbe/mou/mou_attachments.pdf).
- E. The Local Government shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any U.S. Department of Transportation (DOT)-assisted contract or in the administration of its DBE

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program or the requirements of 49 CFR Part 26. The Local Government shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure non-discrimination in award and administration of DOT-assisted contracts. The State's DBE program, as required by 49 CFR Part 26 and as approved by DOT, is incorporated by reference in this Agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this Agreement. Upon notification to the Local Government of its failure to carry out its approved program, the State may impose sanctions as provided for under 49 CFR Part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801 et seq.).

- F. Each contract the Local Government signs with a contractor (and each subcontract the prime contractor signs with a sub-contractor) must include the following assurance: *The contractor, sub-recipient, or sub-contractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this Agreement, which may result in the termination of this Agreement or such other remedy as the recipient deems appropriate.*

## 28. Debarment Certifications

If federal funds are used, the parties are prohibited from making any award at any tier to any party that is debarred or suspended or otherwise excluded from or ineligible for participation in Federal Assistance Programs under Executive Order 12549, "Debarment and Suspension." By executing this Agreement, the Local Government certifies that it and its principals are not currently debarred, suspended, or otherwise excluded from or ineligible for participation in Federal Assistance Programs under Executive Order 12549 and further certifies that it will not do business with any party, to include principals, that is currently debarred, suspended, or otherwise excluded from or ineligible for participation in Federal Assistance Programs under Executive Order 12549. The parties to this Agreement shall require any party to a subcontract or purchase order awarded under this Agreement to certify its eligibility to receive federal funds and, when requested by the State, to furnish a copy of the certification.

If state funds are used, the parties are prohibited from making any award to any party that is debarred under the Texas Administrative Code, Title 34, Part 1, Chapter 20, Subchapter G, Rule §20.585 and the Texas Administrative Code, Title 43, Part 1, Chapter 9, Subchapter G.

## 29. Lobbying Certification

If federal funds are used, in executing this Agreement, each signatory certifies to the best of that signatory's knowledge and belief, that:

- A. No federal appropriated funds have been paid or will be paid by or on behalf of the parties to any person for influencing or attempting to influence an officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the

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awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.

- B. If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with federal contracts, grants, loans, or cooperative agreements, the signatory for the Local Government shall complete and submit the Federal Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- C. The parties shall require that the language of this certification shall be included in the award documents for all sub-awards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and all sub-recipients shall certify and disclose accordingly. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Title 31 U.S.C. §1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

### 30. Federal Funding Accountability and Transparency Act Requirements

If federal funds are used, the following requirements apply:

- A. Any recipient of funds under this Agreement agrees to comply with the Federal Funding Accountability and Transparency Act (FFATA) and implementing regulations at 2 CFR Part 170, including Appendix A. This Agreement is subject to the following award terms: <http://www.gpo.gov/fdsys/pkg/FR-2010-09-14/pdf/2010-22705.pdf> and <http://www.gpo.gov/fdsys/pkg/FR-2010-09-14/pdf/2010-22706.pdf>.
- B. The Local Government agrees that it shall:
  - 1. Obtain and provide to the State a System for Award Management (SAM) number (Federal Acquisition Regulation, Part 4, Sub-part 4.11) if this award provides more than \$25,000 in federal funding. The SAM number may be obtained by visiting the SAM website whose address is: <https://www.sam.gov/portal/public/SAM/>
  - 2. Obtain and provide to the State a Data Universal Numbering System (DUNS) number, a unique nine-character number that allows federal government to track the distribution of federal money. The DUNS may be requested free of charge for all businesses and entities required to do so by visiting the Dun & Bradstreet (D&B) on-line registration website <http://fedgov.dnb.com/webform;> and
  - 3. Report the total compensation and names of its top five executives to the State if:
    - i. More than 80% of annual gross revenues are from the federal government, and those revenues are greater than \$25,000,000; and
    - ii. The compensation information is not already available through reporting to the U.S. Securities and Exchange Commission.



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### 31. Single Audit Report

If federal funds are used:

- A. The parties shall comply with the single audit report requirements stipulated in 2 CFR 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.
- B. If threshold expenditures of \$750,000 or more are met during the fiscal year, the Local Government must submit a Single Audit Report and Management Letter (if applicable) to TxDOT's Compliance Division, 125 East 11th Street, Austin, TX 78701 or contact TxDOT's Compliance Division by email at [singleaudits@txdot.gov](mailto:singleaudits@txdot.gov).
- C. If expenditures are less than the threshold during the Local Government's fiscal year, the Local Government must submit a statement to TxDOT's Compliance Division as follows: "We did not meet the \$ \_\_\_\_\_ expenditure threshold and therefore, are not required to have a single audit performed for FY \_\_\_\_\_."
- D. For each year the Project remains open for federal funding expenditures, the Local Government will be responsible for filing a report or statement as described above. The required annual filing shall extend throughout the life of the Agreement, unless otherwise amended or the Project has been formally closed out and no charges have been incurred within the current fiscal year.

<b>TxDOT:</b>				<b>Federal Highway Administration:</b>	
<b>CCSJ #</b>	<b>0918-47-396</b>	<b>AFA ID</b>	<b>Z00008801</b>	<b>CFDA No.</b>	<b>20.205</b>
<b>AFA CSJs</b>	<b>0918-47-396, 0918-47-397</b>			<b>CFDA Title</b>	<b>Highway Planning and Construction</b>
<b>District #</b>	<b>18</b>	<b>Code Chart 64#</b>	<b>15800</b>		
<b>Project Name</b>	<b>Shiloh Rd/Miller Rd/Forest Ln</b>			<b><i>AFA Not Used For Research &amp; Development</i></b>	

### 32. Signatory Warranty

Each signatory warrants that the signatory has necessary authority to execute this Agreement on behalf of the entity represented.

Each party is signing this Agreement on the date stated under that party's signature.

#### THE STATE OF TEXAS

#### THE LOCAL GOVERNMENT

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Kenneth Stewart  
Typed or Printed Name

\_\_\_\_\_  
Director of Contract Services  
Typed or Printed Title

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Judson Rex  
Typed or Printed Name

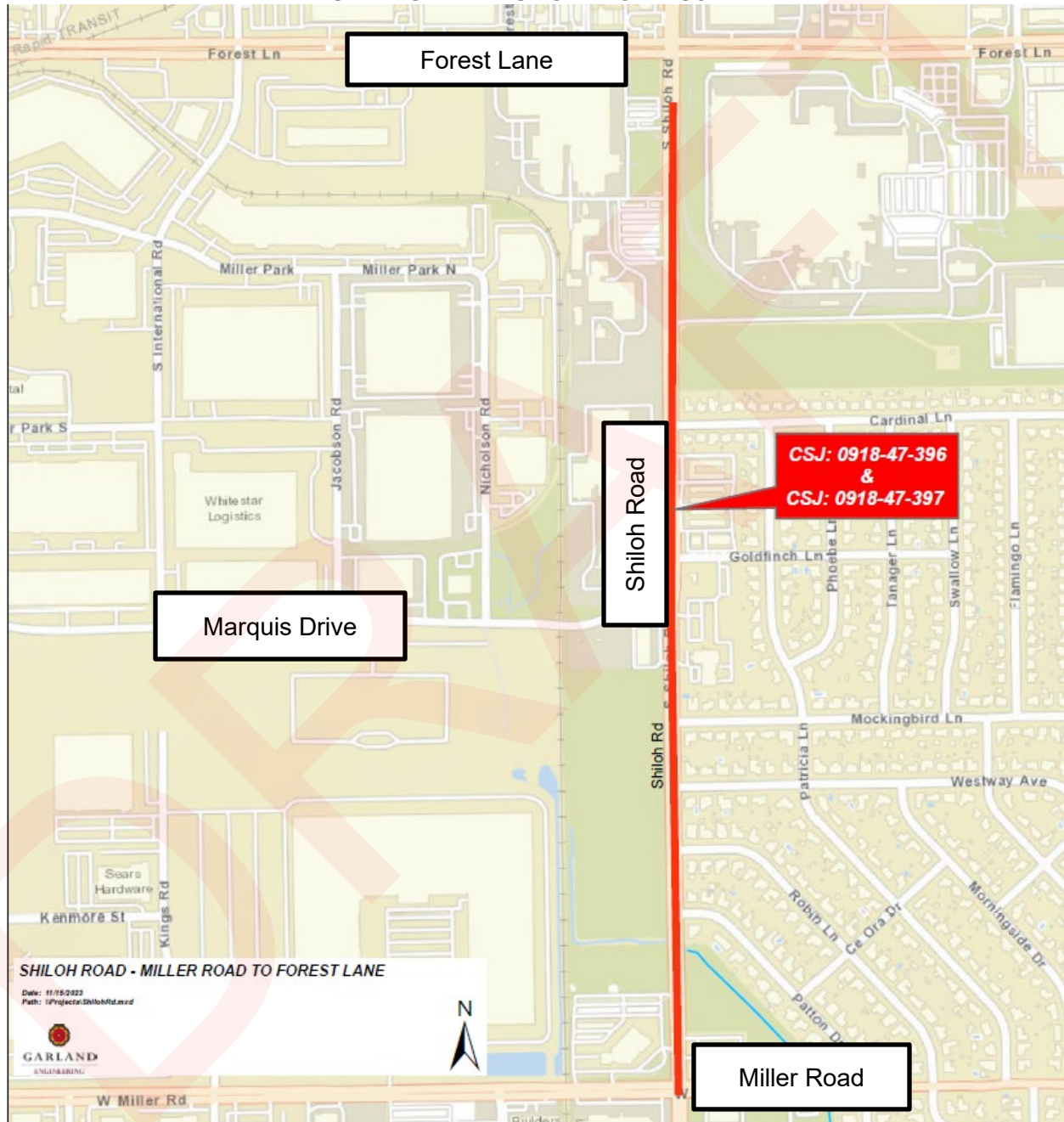
\_\_\_\_\_  
City Manager  
Typed or Printed Title

\_\_\_\_\_  
Date



TxDOT:				Federal Highway Administration:	
CCSJ #	0918-47-396	AFA ID	Z00008801	CFDA No.	20.205
AFA CSJs	0918-47-396, 0918-47-397			CFDA Title	Highway Planning and Construction
District #	18	Code Chart 64#	15800		
Project Name	Shiloh Rd/Miller Rd/Forest Ln			AFA Not Used For Research & Development	

## ATTACHMENT A LOCATION MAP SHOWING PROJECT



<b>TxDOT:</b>				<b>Federal Highway Administration:</b>	
<b>CCSJ #</b>	<b>0918-47-396</b>	<b>AFA ID</b>	<b>Z00008801</b>	<b>CFDA No.</b>	<b>20.205</b>
<b>AFA CSJs</b>	<b>0918-47-396, 0918-47-397</b>			<b>CFDA Title</b>	<b>Highway Planning and Construction</b>
<b>District #</b>	<b>18</b>	<b>Code Chart 64#</b>	<b>15800</b>		
<b>Project Name</b>	<b>Shiloh Rd/Miller Rd/Forest Ln</b>			<b>AFA Not Used For Research &amp; Development</b>	

## ATTACHMENT B PROJECT BUDGET

0918-47-396 Costs will be based on 100% Federal funding and 0% Local Government funding, 0918-47-397 Cost will be based on 80% Federal funding and 20% Local funding until Federal funding reaches the maximum obligated amount. The Local Government will then be responsible for 100% of the project and cost overruns.

Description	Total Estimated Cost	Federal Participation		State Participation		Local Participation	
		%	Cost	%	Cost	%	Cost
Environmental Cat 7-TDC (by Local) 0918-47-396	\$676,306	100%	\$676,306	0%	\$0	0%	134,663
Engineering Cat 7-TDC (by Local) 0918-47-396	\$2,752,613	100%	\$2,752,613	0%	\$0	0%	549,324
Right of Way Cat 7-TDC (by Local) 0918-47-396	\$2,976,306	100%	\$2,976,306	0%	\$0	0%	594,663
Construction Cat 7-TDC (by Local) 0918-47-396	\$2,780,225	100%	\$2,780,225	0%	\$0	0%	553,650
Construction Cat 7 (by Local) 0918-47-397	\$11,975,000	80%	\$9,580,000	0%	\$0	20%	\$2,395,000
Subtotal	\$21,160,450		\$18,765,450		\$0		\$2,395,000 (1,832,300 TDC)
Environmental Direct State Costs	\$23,694	100%	\$23,694	0%	\$0	0%	5,337
Right of Way Direct State Costs	\$23,694	100%	\$23,694	0%	\$0	0%	5,337
Engineering Direct State Costs	\$23,694	100%	\$23,694	0%	\$0	0%	5,338
Utility Direct State Costs	\$23,693	100%	\$23,693	0%	\$0	0%	5,338
Construction Direct State Costs	\$94,775	100%	\$94,775	0%	\$0	0%	21,350
Subtotal	\$189,550		\$189,550		\$0		42,700
Indirect State Costs - 4.60%	\$973,380	0%	\$0	100%	\$973,380	0%	\$0
<b>TOTAL</b>	<b>\$22,323,380</b>		<b>\$18,955,000</b>		<b>\$973,380</b>		<b>\$2,395,000 (1,875,000 TDC)</b>

Transportation Development Credits (TDC), in the amount of 1,875,000 will be used in lieu of the Local Government participation.

TxDOT:				Federal Highway Administration:	
CCSJ #	0918-47-396	AFA ID	Z00008801	CFDA No.	20.205
AFA CSJs	0918-47-396, 0918-47-397			CFDA Title	Highway Planning and Construction
District #	18	Code Chart 64#	15800		
Project Name	Shiloh Rd/Miller Rd/Forest Ln			<i>AFA Not Used For Research &amp; Development</i>	

Total Reimbursable Costs = \$18,955,000

Total Reimbursable Costs to the Local Government = \$18,765,450

Local Government Participation = \$0.00

This is an estimate. The final amount of Local Government participation will be based on actual costs.

<b>TxDOT:</b>				<b>Federal Highway Administration:</b>	
<b>CCSJ #</b>	<b>0918-47-396</b>	<b>AFA ID</b>	<b>Z00008801</b>	<b>CFDA No.</b>	<b>20.205</b>
<b>AFA CSJs</b>	<b>0918-47-396, 0918-47-397</b>			<b>CFDA Title</b>	<b>Highway Planning and Construction</b>
<b>District #</b>	<b>18</b>	<b>Code Chart 64#</b>	<b>15800</b>		
<b>Project Name</b>	<b>Shiloh Rd/Miller Rd/Forest Ln</b>			<i><b>AFA Not Used For Research &amp; Development</b></i>	

**ATTACHMENT C**  
**RESOLUTION, ORDINANCE, OR COMMISSIONERS COURT ORDER**



**GARLAND**  
**CITY COUNCIL STAFF REPORT**

**City Council Work Session**

**3.**

**Meeting Date:** 01/22/2024

**Development Agreement --** 215 Southwood

**Submitted By:** Mona Woodard, Neighborhood Services Administrator

**Strategic Focus Area:** Vibrant Neighborhoods and  
Commercial Centers

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**Issue/Summary**

The Community Development Department requests Council approval to engage in a 380 agreement with Rebuilding the Fort, a Community Development Corporation. The purpose is to partner in the redevelopment of a community meeting space at 215 Southwood into housing while piloting a workforce training program for Garland Veterans. Upon its completion, the renovated property will be made available for sale as affordable housing to an income-eligible family.

**Background**

The property located at 215 Southwood, formerly known as the Harmony House, is owned by the City and previously served as a community meeting space for neighborhood residents. On April 18, 2022, the Council approved the return of the property to residential use. The Community Development Department has identified Rebuilding The Fort, a Community Development Corporation (CDC), as a development partner in completing the construction work necessary to convert the property to residential use. As part of the agreement, Rebuilding The Fort, CDC, will use the project as a workforce training program for Garland Veterans desiring to learn construction and real estate skills. CDBG GREAT Homes Program funding will be provided to finance the renovation. Upon completion, the renovated property will be made available for sale as affordable housing to an income-eligible family.

Rebuilding the Fort, CDC, working as Rehab Warriors Development, serves as a residential construction contractor and career school with a dedicated focus on providing comprehensive training to veterans in residential construction. Recognized for its commitment, the school has been honored with one of the Department of Veterans Affairs Apprenticeship Program grants, furthering its mission to empower veterans. The institution's offerings include the Residential Developer Program, a tailored initiative for veterans. The program is intricately designed to equip both current and former military personnel with the essential skills, knowledge, and practical experience necessary for success in the residential building industry. Going beyond the impartation of technical expertise in construction techniques, project management, and sustainable building practices, the program fosters a strong sense of community and camaraderie among veterans. Its overarching goal is to create a supportive environment, facilitating a smooth transition into fulfilling careers as residential builders and developers.

The City of Garland GREAT Homes Program is set to offer in-house financing specifically designed for eligible families. This financial approach empowers the City to provide funding for crucial repairs and upgrades to the residence, complemented by a mortgage financing framework that improves affordability for families seeking homeownership. This initiative aligns with the National Objective outlined by the Housing and Urban Development Department of the Federal Government.

**Consideration / Recommendation**

Staff recommends approval to proceed with the transfer of the property located at 215 Southwood to Rebuilding the Fort, CDC and authorization for the execution of a 380 Development Agreement with Rebuilding the Fort, CDC. Unless otherwise directed by Council, this item will be scheduled for formal consideration at the February 6, 2024, Regular Session.

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**Attachments**

CONSTRUCTION AGREEMENT -Clean Draft (Harmony House Project)

Economic Development Agreement - Rebuilding the Fort (Harmony House Project) - Clean Draft

PARTICIPATION AGREEMENT - Clean Draft

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# **DEVELOPMENT AGREEMENT**

**CITY OF GARLAND**  
Community Development Department (“CDD”)  
**HOME PROGRAM**

**WITH**

**REBUILDING THE FORT, CDC**

**FOR CONSTRUCTION OF PROPERTY  
LOCATED AT**

215 Southwood, Garland TX 75040  
(the “Property”)





The parties to this Construction Agreement ("Contract") are the **City of Garland, Texas**, a Texas home-rule city organized under the laws of the State of Texas ("City"), and **REBUILDING THE FORT, CDC**, ☒ non-profit ☐ for profit corporation ("Contractor").

## **Article I: PREAMBLE**

**WHEREAS**, the City, acting pursuant to an ordinance of its governing body, has entered into a Development Agreement with the United States of America, acting by and through its Department of Housing and Urban Development ("HUD"), for federal funding of the Community Development Block Grant under the 24 CFR part 570

**WHEREAS**, the City desires to assist Contractor and qualified prospective homebuyers by providing certain subsidies, as provided for in the Contract toward the Borrowers' home purchase.

**WHEREAS**, the Contractor has executed a Contract with the City for the rehabilitation and sale of homes with CDBG Funds.

**NOW, THEREFORE**, in consideration of the foregoing recitals and the mutual undertakings set forth below, the parties agree as follows:

## **ARTICLE II: General Terms of Program**

Contractor agrees that it is responsible for the construction, including pre- and post- construction, of the Project in accordance with the CDBG program rules, regulations and guidelines (the "Work"). In exchange, CDD will provide subsidy no-interest financing for Contractor to acquire the property and perform the Work. The CDD Department may assist the qualified buyer(s), which may include access to 30-year fixed mortgage financing.

### **Contractor Responsibility**

During the Work, Contractor shall be responsible for:

1. Maintaining good corporate standing;
2. Performing the Work such that the completed Project complies with applicable zoning and platting requirements;
3. Notifying CDD promptly of any changes to the scope of work, including but not limited to changes to the time for completion, budget, materials, or necessary labor;
4. Performing the Work in accordance with the construction proposal;
5. Complying with applicable City codes, including, but not limited to, cleaning up trash and construction debris;
6. Obtaining all permits and supplying CDD with a copy of waived fees;
7. Obtaining all inspections from the Building Inspection Department;
8. Notifying CDD promptly of any issues or problems that arise during the project;
9. Notifying CDD for dumpsters as well as emptying and reset service; and
10. This Project is funded, in whole or in part, by federal grant monies. The Contractor must comply with all federal wage and employment requirements. This includes providing weekly certified payroll reports to CDD, and executing the attached federal labor standards addendum with all sub-contractors and obtain weekly certified payroll reports from each subcontractor as a condition precedent to releasing payment to the given subcontractor.

## **Community Development Department Responsibility**

During the Work, CDD shall be responsible for:

1. Ensuring Contractor is an approved builder and has executed the Participation Agreement attached hereto as Exhibit \_\_\_;
2. Reviewing and approving the scope of work, including but not limited to completion of a site-specific environmental review;
3. Confirming the Contractor's debarment status;
4. Providing acquisition financing for Contractor to acquire the Property;
5. Providing interim construction funding on a reimbursement basis;
6. Acting as the Contracting Officer for all projects involving Davis-Bacon and related acts, including review of weekly certified payroll reports and compliance monitoring;
7. Listing and sale of the project property to a CDD approved buyer with no proceeds of sale to the Contractor;
8. Reviewing and approving the homebuyer;
9. Providing homebuyer assistance as necessary to the qualified buyer;
10. Preparing legal documents and providing them for closing;
11. Completing a final Project review and close-out; and
12. Providing oversight of the Project through completion.

## **ARTICLE III: Financial Assistance**

This Project is performed as part of an affordable housing project through the Community Development Block Grant Program. Pursuant to the City of Garland, Texas' rules, regulations, ordinances, and programs relating to the CDBG Program, CDD may provide initial acquisition financing and interim construction financing to the Contractor. The loan is not intended as permanent financing for the home. Funds will be released to the Contractor via approved construction draws. The Contractor shall not receive any proceeds from the sale of the improved Property. The construction loan shall be secured by a Promissory Note (the "Note") and Deed of Trust from the Contractor, as maker, to the order of the City of Garland, as payee, and shall be payable in the place designated therein.

The term of the acquisition and construction financing shall be for **1 year** from the date of the **execution of the Construction and Participation Agreement** issued by CDD or sale to a qualified buyer whichever comes first. The term of the financing may be extended upon written approval by the CDD Department.

The Contractor must complete the single-family unit within **365 days from the date of the Notice to Proceed** (the "Completion Deadline"). The parties agree that delays in completion will damage the City; however, ascertaining the exact amount of damages caused by such delays is impossible. The parties further agree that the amount of \$100.00 per day roughly approximates the City's damages for delay; therefore, if the improvements are not completed within 365 days, then, absent reasonable cause approved, in writing, by CDD, the Contractor shall pay liquidated damages of \$100 per day for each day after the Completion Deadline. The Parties agree that precise calculation of damages in the event of delay would be difficult, if not impossible, and further agree that this amount, \$100 per day, represents a reasonable approximation of said damages for delay. If interim construction financing is provided to the project, the Contractor shall further lose the reduced interest rate on the funds. The interest rate shall then be at an annual rate of ten

percent (10%) and shall be calculated on the full amount of financing from the date of the Notice to Proceed until the final building inspection, or green tag, has been issued. The liquidated damages and accrued, recalculated interest shall be paid upon closing in addition to any other funds being repaid.

### **Acquisition**

CDD agrees to provide acquisition financing in the amount of \$27,739.00 to **REBUILDING THE FORT, CDC** under the conditions outlined below:

The Contractor agrees to purchase and renovate a specifically identified single-family residential dwelling unit in accordance with the City's CDBG Program standards and requirements. Upon completion, the Contractor shall sell the Property to a "Qualified Buyer", as that term is described or defined below. The Contractor will not be responsible for any remaining balance in the event proceeds from sale do not cover acquisition and construction costs. Liens will be satisfied upon successful sale to a qualified buyer.

### **Interim Construction**

CDD agrees to provide Interim Construction financing in an amount not to exceed **\$250,000.00** under the conditions outlined below.

If the improvements are not completed within the 365-day time period, then the Contractor shall pay liquidated damages as described above.

CDD agrees to pay Contractor for work satisfactorily completed according to the line item draw. Payments will be made for materials and labor upon completion. Payment will not be made for delivery of materials on site but not installed. Contractor overhead and profit draws may be made upon successful completion of corresponding budget line items, 10% total budget retainage will be held until a successful final inspection is conducted by the CDD inspection services. Contractor is responsible for submitting a draw request, including necessary backup for each payment. Payment will be made to the Contractor who will be responsible for paying, and obtaining lien releases from, all suppliers and subcontractors.

Contractor agrees to renovate a single-family residential dwelling, using labor, building construction material, and supplies primarily purchased in Garland. The unit shall be in compliance with the scope of work standards and requirements upon the Property.

### **Draw Requests**

Upon execution of this Agreement, CDD shall set aside, through HUD's IDIS (financial system), the combined amount of the acquisition and interim construction financing. Contractor may draw down the interim construction funds under the following conditions, using the procedures outlined below:

A line-item budget must be submitted and approved by CDD. CDD will provide the Contractor with a Notice to Proceed upon approval of the Application. A draw schedule is permitted. The Contractor is responsible for submitting an invoice for payment of work. All invoices submitted for

payment must meet the requirements outlined below. Incomplete or incorrect invoice will be returned without payment.

Each invoice must meet the following criteria:

1. Invoices for payment must be submitted to CDD. Payment request and/or invoices may be made for completed work only. Payment will not be made for material on site but not installed;
2. Invoices or payment requests must be made for complete line items. This is based on the budget submitted when the project is approved;
3. Invoice amounts must match the budget. If the budget needs to be adjusted, a change order must be approved by CDD before invoices with the new amounts will be paid. A review will be done to ensure that the new budget will still allow the full repayment of the interim financing upon sale before it is approved; and
4. Each invoice must contain the following information
  - Project address,
  - Contractor name,
  - Contact phone number,
  - Each line item for which payment is being requested
  - The amount of the payment request by line item and draw total, and

Inspections of the work will be completed by CDD staff. Payment will be made for completed work only. If the inspector is unable to verify the completion of the work, payment will not be made.

*Inspections conducted by CDD staff are for completeness of work only. This inspection does not take the place of an inspection by Building Inspection. Also, if an item for which payment is requested has been red-tagged (not approved) by Building Inspection payment will not be made.*

Each invoice is reviewed against the project budget. If approved, a payment will be remitted. If the invoice is not approved, for any reason, it will be returned to the Contractor for correction before payment is made.

### **Sales Restrictions**

By accepting the City's assistance with waived and reduced fees for permitting, sanitation, or impact fees and accessing special financing for the acquisition of the Property and interim construction financing of the house, the Contractor agrees to sell the improved property only to a person or persons approved by the CDD and meeting the qualifications of a "Qualified Buyer."

### **Homebuyer Subsidy**

#### **Qualified Buyer**

1. 51% - 80% of Area Median Income,
2. Mortgage qualified,
3. Pay no more than 33% of gross income for P.I.T.I.
4. Complete six (6) hours of homebuyer education and training, and
5. Approved by CDD for program participation

**Subsidy**

1. Provide first mortgage financing for a 30-year term at a 5% fixed interest rate. The total principal balance will be split into 2 15-year mortgage loans with the second loan having a deferred commence/repayment schedule.

**Reservation of Funding**

The City shall, within ten (10) City working days of the effective date of each Construction Agreement set aside for Contractor a sum sufficient for implementation of the Participation Agreement and this Construction Agreement, subject to the provisions of Articles X and XI of the Participation Agreement.

**Article IV: Contractor Profit**

The Contractor shall have the right to keep a reasonable profit generated by the renovation of the single-family home and will include overhead and profit within the scope of work budget.

**Article V: Term of Contract**

This Contract shall be for a period commencing on \_\_\_\_\_ and continuing thereafter through the completion of the Project unless sooner terminated as provided for in the Participation Agreement or in the event that the Project Construction Request is not approved. Each home in the Contractor's Participation Agreement must be constructed and sold during the term of this Construction Agreement. Contractor acknowledges and agrees that any services it provides to the City after the termination date of this Contract, unless an extension of time has been granted or unless the Contract has been renewed as set out below, will be deemed to be gratuitously provided, and the City shall have no obligation to pay for such services unless the City Council approves an agreement to do so in its sole discretion.

During the term of this Agreement, the Contractor agrees to abide by all of the stipulations, requirements, and guidelines in the Participation Agreement. If there is a conflict between the Contractor's Construction Agreement and the Participation Agreement, this Contract shall supersede the Participation Contract.

I/WE UNDERSTAND THAT THIS CONTRACT IS AN ADDENDUM TO THE CDBG PROGRAM PARTICIPATION AGREEMENT INTENDED TO INITIATE THE RENOVATION OF A HOME AT 215 Southwood, Garland TX 75040

I/WE AGREE TO ABIDE BY ALL REQUIREMENTS OF THE PARTICIPATION AGREEMENT AND TO PROVIDE ALL REQUIRED DOCUMENTATION IN A TIMELY MANNER. I/WE FURTHER UNDERSTAND THAT FAILURE TO SUPPLY REQUESTED DOCUMENTATION MAY RESULT IN A DELAY OR NON-FUNDING SUBSIDY OF REQUESTED SUBSIDY.

**REBUILDING THE FORT, CDC**

**CITY OF GARLAND, TEXAS**

\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Community Development Department

\_\_\_\_\_  
Contractor Representative

\_\_\_\_\_  
Administrator

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

**ECONOMIC DEVELOPMENT INCENTIVE AGREEMENT**  
**BETWEEN THE CITY OF GARLAND AND REBUILDING THE FORT, CDC**

This **ECONOMIC DEVELOPMENT INCENTIVE AGREEMENT** (“Agreement”) is made by and between the **City of Garland**, a Texas home-rule municipality (“City”), and **Rebuilding the Fort, CDC**, a Texas nonprofit corporation (“Developer”), acting by and through their respective authorized officers.

**RECITALS:**

Developer and the City each acknowledge and agree that the following recitals are true and correct and that the same is a material part of this Agreement:

**WHEREAS**, the City desires to further the public interest and welfare, to induce the investment of private resources in productive business enterprises located within the City that will increase tax revenue and promote or develop new business enterprises, to develop and diversity the economy, and eliminate unemployment and underemployment through Economic Development Agreements as authorized by Chapter 380 of the Texas Local Government Code;

**WHEREAS**, the Developer is a Texas nonprofit corporation, organized under Section 501(c)(3) of the Internal Revenue Code;

**WHEREAS**, Developer and City agree that the Developer shall acquire title to, redevelop, and renovate the property located at 215 Southwood Drive, Garland, Dallas County, Texas to transform the property into an affordable single-family residence of approximately 1,082 square feet (the “Development”);

**WHEREAS**, the Developer agrees to make a Capital investment of approximately \$250,000.00 into the Development through the City’s Community Development Block Grant (“CDBG”) Fund as well as hire veterans in the City of Garland to vocationally train them in construction and project management through the Department of Veteran Affairs’ Residential Builder Developer Apprenticeship Program;

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

**WHEREAS**, the Developer has advised the City that a contributing factor of inducing the Developer to further improve the land is an agreement by the City to provide an Economic Development grant to the Developer as set forth herein;

**WHEREAS**, the City is authorized by Article III, Section 52-a of the Texas Constitution and Chapter 380 of the Texas Local Government Code to provide an economic development program, which may include certain grants of public funds, to stimulate business and commercial activity within the City;

**WHEREAS**, City hereby finds that this Agreement promotes economic development in the City and, as such, meets the requisites under Article III, Section 52-a of the Texas Constitution



and Chapter 380 of the Texas Local Government Code and qualifies for an Economic Development Program, and further, is in the best interests of the City;

**WHEREAS**, the City wishes to provide an Economic Development grant to the Developer to assist in the economic development of the City by contributing certain real property and providing CDBG Funds through its standard Development and Participation Agreements for the Development; and

**WHEREAS**, the City has determined, based on information presented to it by the Developer, that making an Economic Development grant to the Developer as set forth in this Agreement is matching the City's Economic Development goals and will: (i) help accomplish the objectives of the City; (ii) benefit the City and the City's inhabitants; and (iii) promote local economic development and stimulate business and commercial activity in the City;

**NOW, THEREFORE**, the Developer and the City make and enter into this Agreement in consideration of the mutual covenants and agreements contained in this Agreement, and other good and valuable considerations, the receipt and sufficiency of which are hereby acknowledged by both the Developer and the City, and agree as follows:

#### **Section 1. Definitions:**

“Building” means the 1,082-square-foot structure currently located on the Property.

“Letter of Completion” means a letter issued by the City to the Developer upon the determination made by the City Building Official that the core and shell of real property improvements on the Property have been completed in compliance with applicable local, state, and federal law and regulations, including, but not limited to plumbing, electrical, mechanical, energy-related components, sidewalks, landscaping, parking lots, drainage, water, sewer, screening walls, fire hydrants, and lanes, and approved by applicable City officials.

“DCAD” means the Dallas Central Appraisal District or its successor.

“Development” has meaning described within the Recitals of this Agreement.

“Incentive” means the City's contribution of certain real property and providing CDBG Funds through its standard Development and Participation Agreements for the Development, which are attached to this Agreement.

“Party” means either the City or the Developer, and “Parties” means, collectively, the City and the Developer.

“Program” means the Economic Development Program for this Development as established by the City according to Texas Local Government Code Chapter 380 and this Agreement to promote local economic development and stimulate business and commercial activity within the City.

“Property” means 7,784 square foot lot located at 215 Southwood Drive, Garland, Dallas County, Texas 75040, more specifically described as Block 5, Lot 21 of the Glenfield Addition of the City

of Garland, Dallas County, Texas, including the building thereon.

“Term” has the meaning given such term in Section 2 of this Agreement.

**Section 2. Term.** This Agreement shall unless extended or terminated in writing by a mutual agreement executed by both parties or as otherwise provided in this Agreement of the Parties, terminate either upon the complete performance by the Parties of all obligations and conditions within this Agreement or on the date eighteen (18) months from the Effective Date, subject to Section 3(A).

This Agreement shall be effective (“Effective Date”) as of the date of the last Party to execute this Agreement.

### **Section 3. Developer’s Obligations.**

(A) Developer shall execute the Construction Agreement with the City of Garland, Housing and Community Services Department, Home Program (“Construction Agreement”), attached hereto as Exhibit A, and abide by all responsibilities and obligations therein.

(B) Developer shall further execute the CDBG Program Participation Agreement with the City of Garland (“Participation Agreement”), attached hereto as Exhibit B, and abide by all responsibilities and obligations therein.

(C) Developer shall construct the Development on the Property pursuant to the terms of the Construction Agreement and Participation Agreement.

(D) Developer shall renovate the Building on the Property and have received a Certificate of Occupancy for it on or before **eighteen (18) months from the Effective Date of this Agreement, or else this Agreement automatically terminates.**

(E) Reimbursement for the renovation costs shall be pursuant to the Construction Agreement.

(F) The Developer acknowledges the purchase price of the Property from the City shall be Twenty-Seven Thousand Seven Hundred Thirty-Nine Dollars and Zero Cents (\$27,739.00). However, payment of said purchase price to the City shall not be due until January 1, 2026. Developer shall be eligible for a forgiveness of the full amount of the purchase price of the Property if all necessary building permits are received for the Building on the Development are obtained by eighteen (18) months from the Effective Date of this Agreement.

If permitting if the Building is not complete by eighteen (18) months from the Effective Date of this Agreement, the full purchase price of \$27,739.00 shall be due and owing to the City from Developer on January 1, 2026.

#### **Section 4. City's Obligations.**

(A) Within thirty (30) days of the Effective Date of this Agreement, the City shall convey fee simple title to the Property. The purchase price for the conveyance of the Property shall be Twenty-Seven Thousand Seven Hundred Thirty-Nine Dollars and Zero Cents (\$27,739.00) due and payable to the City on January 1, 2026, and subject to the forgiveness provisions of Section 3(F) above.

(B) As specified in Section 3 above, Developer shall construct the Development on the Property pursuant to the terms of the Development Agreement and Participation Agreement

**Section 5. Source of Funds.** The monetary portion of the Incentive shall be paid only from the CDBG Funds. Notwithstanding any other provision contained herein to the contrary, the City shall not owe Developer any amount or other thing of value in excess of the amounts of CDBG Funds described in the Development Agreement and Participation Agreement. No other source of funds shall be provided for the payment of the Incentive.

**Section 6. Valuation Assessment.** Developer agrees that by submitting to the City a request for the payment of any of the Incentives under this Agreement, the Developer has (i) fully and finally agreed to the DCAD assessed tax values and the City's tax rate and procedures on which the assessed value of the Development is or will be based without protest or challenge; (ii) will not make any claim for a refund, repayment, or reduction of those taxes from any source, including the City; and (iii) will not claim or accept any exemption from ad valorem taxes, prior to the date of termination of this Agreement.

**Section 7. Rules of Construction.** The capitalized terms listed in this Agreement shall have the meanings set forth herein whenever the terms appear in this Agreement, whether in the singular or the plural or in the present or past tense. Other terms used in this Agreement shall have meanings as commonly used in the English language. Words not otherwise defined herein that have well-known and generally accepted technical or trade meanings are used herein per such recognized meanings. In addition, the following rules of interpretation shall apply:

(A) References to "Articles," "Sections," or "Exhibits" shall be to articles, sections, or exhibits of this Agreement.

(B) The Exhibits attached hereto are incorporated in and are intended to be part of this Agreement; provided that in the event of a conflict between the terms of any Exhibit and the terms of this Agreement, the terms of this Agreement shall take precedence.

(C) This Agreement was negotiated and prepared by both Parties with the advice and participation of counsel. The Parties have agreed to the wording of this Agreement and none of the provisions hereof shall be construed against one Party on the ground that such Party is the author of this Agreement or any part hereof.

(D) Unless expressly provided otherwise in this Agreement, (a) where the Agreement requires the consent, approval, or similar action by a Party, such consent or approval shall not be

unreasonably withheld, conditioned, or delayed, and (b) wherever the Agreement gives a Party a right to determine, require, specify, or take similar action concerning a matter, such determination, requirement, specification, or similar action shall be reasonable.

(F) Use of the words “include” or “including” or similar words shall be interpreted as “including but not limited to” or “including, without limitation.”

(G) The recitals to this Agreement are incorporated herein.

**Section 8. Dispute Resolution and Step Negotiations.** The Parties shall attempt in good faith to resolve all disputes arising out of or relating to this Agreement or any of the transactions contemplated hereby promptly by negotiation, as follows:

(A) Either Party may give the other Party written notice of any such dispute not resolved in the normal course of business. Representatives of each of the Parties shall meet at a mutually acceptable time and place within ten days after delivery of such notice, and thereafter as often as they reasonably deem necessary, to exchange relevant information and to attempt to resolve the dispute. If the matter has not been resolved within thirty days from the referral of the dispute to such representatives, or if no meeting of such representatives has taken place within fifteen days after such referral, either Party may initiate mediation as provided hereinafter. If a Party intends to be accompanied at a meeting by an attorney, the other Party shall be given at least three business days’ notice of such intention and may also be accompanied by an attorney. All negotiations according to this clause are confidential and shall be treated as compromise and settlement negotiations for purposes of the Federal Rules of Evidence and State Rules of Evidence. Each Party will bear its own costs for this dispute-resolution phase.

(B) If any dispute arising out of or relating to this Agreement or any of the transactions contemplated hereby is not resolved by the procedures set forth in Section 8 (A), such dispute shall be submitted to non-binding mediation to a person mutually agreed by the Parties. The mediation may take place at a mutually agreed upon location. If the mediation process has not resolved the dispute within thirty days of the submission of the matter to mediation or within such a longer period as the Parties may agree to, either Party may exercise all remedies available at law or in equity under this Agreement, including the initiation of court proceedings. Each Party will bear its own costs, and share equally in the costs of mediators, for this dispute resolution phase.

(C) Nothing in this Section shall preclude, or be construed to preclude, the resort by either Party to a court of competent jurisdiction solely to secure a temporary or preliminary injunction or other relief to preserve the status quo or avoid irreparable harm.

**Section 9. Jurisdiction and 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 brought in state court and arising out of this Agreement shall be in Dallas County, Texas; if brought in federal court, venue shall be in the United States District Court for the Northern District of Texas, Dallas Division.

**Section 10. Accommodation of Financing Parties.** To facilitate the Developer's obtaining of financing to construct the Development, City shall make governmentally reasonable efforts to provide such consents to assignments, certifications, representations, information, estoppels, or other documents as may be reasonably requested by the Developer or the Developer's financing parties in connection with the financing of the Development; provided that in responding to any such request, the City shall have no obligation to provide any consent, certification, representation, information, estoppel, or other documents, or enter into any agreement, that materially adversely affects, or could reasonably be expected to have or result in a material adverse effect on, any of City's rights, benefits, risks, or obligations under this Agreement. Developer shall reimburse, or shall cause the financing parties to reimburse, the City for the incremental, direct, and documented out-of-pocket third-party expenses (including, without limitation, the reasonable fees and expenses of outside counsel) incurred by the City in the preparation, negotiation, execution, or delivery of any documents requested by Developer or the financing parties.

**Section 11. Entire Agreement.** This Agreement and its Exhibits constitute the entire understanding and agreement of the parties as to the matters set forth in this Agreement. No alteration of or amendment to this Agreement shall be effective unless given in writing and signed by the Party or Parties sought to be charged or bound by the alteration or amendment.

**Section 12. Binding Effect; Successors and Assigns.** The terms and conditions of this Agreement are binding upon the successors and assigns of the parties hereto. This Agreement, or the right to receive payments pursuant to this Agreement, may not be assigned, in whole or in part, without the express written consent of the City.

**Section 13. Amendments.** No modifications or amendments to this Agreement shall be valid unless in writing and signed by a duly authorized signatory of each Party.

**Section 14. Survival.** Developer's obligations in Section 3 of this Agreement shall specifically survive the consummation of the real estate transaction conveying the Property to Developer.

**Section 15. Severability.** In the event any provision of this Agreement shall be determined by any court of competent jurisdiction to be invalid or unenforceable, the Agreement shall, to the extent reasonably possible, remain in force as to the balance of its provisions as if such invalid provision were not a part hereof.

**Section 16. Notices.** All notices required to be given under this Agreement shall be in writing and shall be given by either Party or its counsel in person, via express mail service, courier, or receipted facsimile transmission (but only if duplicate notice is also given via express mail service, courier or certified mail) or certified mail, return receipt requested, to the respective parties at the below addresses (or at such other address as a party may hereafter designate for itself by notice to the other party as required hereby). All notices given according to this paragraph shall be deemed effective, as applicable, on the date such notice may be given in person or next business day following the date on which such communication is transferred via facsimile transmission, or as applicable, when deposited with the express mail service, courier, or in the United States mails. Any party may change its address for notices under this Agreement by giving formal written notice to the other parties, specifying that the purpose of the notice is to change the party's address.

If to City:

City of Garland  
200 N. Fifth Street  
P.O. Box 469002  
Garland, Texas 75046-9002  
Attn: City Manager  
Phone: (972) 205-2000  
Fax: (972) 205-2504

If to Developer:

Rebuilding the Fort, CDC  
5900 Balcones Drive  
Suite 100  
Austin, Texas 78731  
Attn: Andy Williams  
Phone: (214) 890-6164

With a required copies to:

City Attorney  
200 N. Fifth Street  
P.O. Box 469002  
Garland, Texas 75046-9002  
Phone: (972) 205-2380  
Fax: (972) 205-2389

Mona Woodard  
Community Development Administrator  
800 Main Street  
Garland, Texas 75040  
Phone: (972) 205-2141

**Section 17. Employment of Undocumented Workers.** During the Term of this Agreement, the Developer agrees not to knowingly employ any undocumented workers and if convicted of a violation under 8 U.S.C. Section 1324a (f), the Developer shall repay the amount of the Incentive paid to and received by Developer from and by the City as of the date of such violation within 120 business days after the date the Developer is notified by the City of such violation, plus interest at the rate of 6% compounded annually from the date of violation until paid. The Developer is not liable for a violation of this Section concerning any workers employed by a subsidiary, affiliate, or franchisee of the Developer or by a person with whom the Developer contracts.

**Section 18. Non-Collusion.** Developer represents and warrants that neither Developer nor any representative of Developer has given, made, promised, or paid, nor offered to give, make, promise, or pay any gift, bonus, commission, money, or other consideration to any employee, agent, representative, or official of the City as an inducement to or to obtain the benefits to be provided by the City under this Agreement.

**Section 19. Time of the Essence.** Time is of the essence in the performance of this Agreement. If any deadline contained herein ends on a Saturday, Sunday, or a legal holiday generally recognized by banks in the State of Texas, such deadline shall automatically be extended to the next day that is not a Saturday, Sunday, or legal holiday.

**Section 20. Multiple Counterparts.** This Agreement may be executed in multiple counterparts, each of which shall have the force and effect of any original, as of the Effective Date.

**Section 21. No Recording.** The Parties agree that neither this Agreement nor any memorandum of this Agreement will be recorded in the real property records of Dallas County, Texas, though any deeds contemplated herein shall be.

**Section 22. Verification Developer Does Not Boycott Israel.** Pursuant to Section 2271.002, Texas Government Code, to the extent this Agreement is a contract for goods or services, if Developer has ten or more full-time employees and this Agreement is for goods and services valued at or above \$100,000 and is to be paid wholly or partially by public funds, then Developer hereby represents that it does not boycott Israel and will not boycott Israel during the term of this Agreement.

**Section 23. Verification Developer Does Not Discriminate Against Firearm and Ammunition Industries.** Pursuant to Section 2274.002, Texas Government Code, if Developer has ten or more full-time employees and this Agreement is for goods and services valued at or above \$100,000 and is to be paid wholly or partially by public funds, then Developer hereby represents that it does not boycott firearm entities or firearm trade associations and will not boycott said firearm entities and trade associations during the term of this Agreement.

**Section 24. Verification Developer Does Not Boycott Certain Energy Companies.** Pursuant to Section 2276.002, Texas Government Code, if Developer has ten or more full-time employees and this Agreement is for goods and services valued at or above \$100,000 and is to be paid wholly or partially by public funds, then Developer hereby represents that it does not boycott those energy companies identified in Section 809.001 of the Texas Government Code and will not boycott said energy companies during the term of this Agreement

**EXECUTED and EFFECTIVE** as of the \_\_\_\_ day of \_\_\_\_\_, 2024.

**DEVELOPER**

**Rebuilding the Fort, CDC,  
a Texas nonprofit corporation**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date Executed: \_\_\_\_\_



**CITY**

**City of Garland, a Texas home-rule municipality**

By: \_\_\_\_\_

Judson Rex

City Manager

Date Executed: \_\_\_\_\_

**EXHIBIT "A"**  
**Development Agreement**

**EXHIBIT "B"**  
**Participation Agreement**



**GARLAND**

**CDBG PROGRAM**

**PARTICIPATION AGREEMENT**

**BETWEEN  
CITY OF GARLAND,  
COMMUNITY DEVELOPMENT DEPARTMENT**

**AND**

**REBUILDING THE FORT, CDC**



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## **PARTICIPATION AGREEMENT**

The parties to this Participation Agreement ("Agreement") are the **City of Garland**, a home-rule city organized under the laws of the State of Texas, acting through its **Community Development Department**, and **REBUILDING THE FORT, CDC** ("Contractor").

### **PREAMBLE**

**WHEREAS**, the City, acting pursuant to an ordinance of its governing body, has entered into a CDBG Investment Partnership Agreement (hereinafter the "CDBG Agreement") with the United States of America, acting by and through its Department of Housing and Urban Development ("HUD"), for federal funding of the CDBG Investment Partnership Program under the 24 CFR Part 570, as amended (the "CDBG Program"); and

**WHEREAS**, the City desires to promote neighborhood revitalization by encouraging CDBG ownership and the development of affordable housing within the City; and

**WHEREAS**, providing funds to qualified prospective CDBG buyers to assist with principal reduction and the payment of down payment, closing, or prepaid costs is an eligible use of CDBG funds ("CDBG Funds") pursuant to 24 CFR § 570, and the City has allocated funds to assist buyers to acquire residential properties under the City's Home buyers assistance Program, established under the CDBG Program; and

**WHEREAS**, the Developer has been approved by the City and desires to sponsor and develop single-family housing within the City of Garland's targeted infill development area; and

**WHEREAS**, the City desires to assist Developer and qualified prospective home buyers by providing certain subsidies, as provided for in this Agreement, toward the Borrowers' (as hereafter defined) home purchase.

**NOW, THEREFORE**, in consideration of the foregoing recitals and the mutual undertakings set forth below, the parties agree as follows:

### **Article I. Definitions**

#### **1.1 Affordable Housing means:**

- (i) Housing that is the principal residence of an owner whose family qualifies as a low-income family at the time of purchase; and whose total housing cost burden (PITI) does not exceed thirty-three percent (33%) of gross income unless approved by the Community Development Department Director.

#### **1.2 Applicable Laws means all federal, state, county, and local laws, statutes, regulations, codes, ordinances, and rules which are applicable to the Developer, its business, and/or the Development Project (defined below).**

#### **1.3 Approved Builder means a builder selected in conformance with Section 2.5 of the general program terms and certified by the Developer; also see**





## GARLAND

Project Builder.

- 1.4 **Borrower** means a person: (1) who has applied through the Developer to purchase a CDBG in the Development Project; (2) whose household is a Very-Low or Low-Income Family, as defined below; and (3) who is a CDBG buyer, as defined below.
- 1.5 **CFR** means the Code of Federal Regulations.
- 1.6 **Community Housing Development Organization or "CHDO"** means a non-profit organization, as defined in 24 CFR § 92.2.
- 1.7 **City Attorney** means the City Attorney of the City of Garland and his or her designee or successor.
- 1.8 **City Controller** means the Managing Director of Financial Services for the City of Garland and his or her designee or successor.
- 1.9 **City Council** means the City Council of the City of Garland.
- 1.10 **City Manager** means the City Manager of the City of Garland and his or her designee or successor.
- 1.11 **Construction Costs** means all direct and indirect construction expenses (except Finished Lot Costs) incurred by or on behalf of the Developer in connection with the construction of a home in the Development Project, including municipal fees and permit costs, structure costs, indirect costs (port-a-can, site security, supervision, temporary utilities, repairs, lawn care, field office expenses, field equipment, warranty expenses, and insurance), and all fees and profits paid to the Project Builder.
- 1.12 **Development Contract** means the project-specific agreement between the City of Garland and the Developer that describes the activity and funding to be used by the Developer. The Construction Agreement supersedes this Participation Agreement in any areas of conflict between the two documents.
- 1.13 **Development Project** means the Developer's proposed activity as sponsor/developer of affordable housing in Garland, and the home, or homes, described in the completed **EXHIBIT 1**, Project Summary.
- 1.14 **Director** means the Director of the Community Development Department of the City of Garland ("CDD"), or representative or successor who is chosen to perform the Community Development duties assigned to the Director under this Agreement or the Operating Policies and Procedures of the Community Development Department.
- 1.15 **Effective Date** means the commencement date of this Agreement.
- 1.16 **First Lien Loan Documents** means, collectively, the instruments and documents that evidence, secure, or otherwise relate to a first lien purchase money loan to finance a Borrower's purchase of a home including but not limited to a promissory note and deed of trust.
- 1.17 **Finished Lot Cost** means all costs incurred by or on behalf of the Developer to acquire and prepare a site for development as part of the Development Project.
- 1.18 **Home buyer** means any income-eligible homebuyer.
- 1.19 **HUD** means the United States Department of Housing and Urban Development.
- 1.20 **Infrastructure Improvements** mean all improvements necessary to fully



prepare a lot for the construction of a new CDBG. Infrastructure Improvements shall include, but not be limited to, streets (including construction, repairs, widening, overlays, or other improvements), sidewalks, street lighting, storm damage, utility installation enhancements, and/or hook-ups (to the lot line).

- 1.21 **Low-Income Families** means families whose annual incomes do not exceed eighty (80%) percent of the median income for the area, as determined by HUD with adjustments for smaller and larger families, amended from time to time, except that HUD may establish income ceilings higher or lower than eighty (80%) percent of the median for the area on the basis of HUD findings that such variations are necessary because of prevailing levels of construction costs or fair market rents, or unusually high or low family incomes.
- 1.22 **Participant / Developer** means the organization that has made a long-term commitment to revitalize a defined geographical area and is a party named in the opening paragraph of this Agreement.
- 1.23 **Program** means the CDBG Buyers Assistance Program.
- 1.24 **Project Builder** means a either Developer or an Approved Builder who has entered into a contract with the Developer to construct or renovate homes pursuant to this Agreement.
- 1.25 **Project Manager** means a qualified, experienced professional who will oversee the design and planning stages of the Development Project. The Project Manager will also be responsible for overseeing construction, observing the work of the Project Builder, and conducting on-site inspections appropriate to the stage of construction to become generally familiar with the progress, and quality of the work, and to determine in general if the Development Project is proceeding in accordance with the terms of this Agreement and any applicable construction contracts.
- 1.26 **Related Documents** means all closing documents pertaining to the sale of a home in the Development Project. Documents may vary from sale to sale but generally include the deed, loan note, deed of trust, a HUD 1 Settlement Statement, title insurance policy, survey, and appraisal. However, where applicable, may also include hazard insurance, flood certification/flood insurance, termite/soil treatment certification, mortgage insurance, and any other documents required for the conveyance and financing of residential real estate in Dallas County, Texas.
- 1.27 **Sales Price** means the total price paid by the Borrower for a home.. The Sales Price for each home shall (1) not exceed ninety-five (95%) percent of the median purchase price for that type of single-family housing, as determined by HUD pursuant to 24 CFR ~ 95.254, and have an estimated appraised value at completion of construction that does not exceed this limitation, and (2) be consistent with the figures set out in Developer's proposal submitted to DHNS prior to the funding of this Development Project which proposal is incorporated herein by reference.
- 1.28 **Loan** means a first or second loan, provided in the name of the City of Garland to a Borrower to provide Financing (defined below) for the CDBG buyer's purchase of a home, issued in any amount permitted by the terms of



## GARLAND

Section 3.2 herein. The Loan will be evidenced by a promissory note and secured by a deed of trust.

- 1.29 **Subsidy Financing** means all financial assistance, including but not limited to down payment assistance, closing costs, prepaid costs, and principal reduction, allocated by or through the City under the Program for the benefit of Borrowers. The amount of Subsidy Financing available for each home is set forth in Section 3.2 of this Agreement.
- 1.30 **Very Low Income Families** means low-income families whose annual incomes do not exceed fifty (50%) percent of the median family income for the area, as determined by HUD with adjustments for smaller and larger families, amended from time to time, except that HUD may establish income ceilings higher or lower than fifty (50%) percent of the median for the area on the basis of HUD findings that such variations are necessary because of prevailing levels of construction costs, fair market rents, or unusually high or low family incomes.

## Article II. General Terms of Program

### Section 2.01 Availability of Funds for CDBG Project Development.

CDD agrees to make CDBG Program Funds available to Developer for the development of and implementation of approved project(s) and activities. In exchange for the consideration herein expressed, Developer agrees to pursue and perform all projects according to the CDBG Program rules and regulations and further agrees to all requirements outlined below.

### Section 2.02 Limit of CDD's Obligation.

The sole source of funds for any approved project or activity is grant funds from the CDBG Program and this Agreement shall not obligate any other funds of the CDD. Awards shall be made on a case-by-case basis until all funds are expended. Each proposed activity will be evaluated on its compliance with CDBG Program requirements and its ability to further the goals of the CDBG Program. CDD reserves the right not to fund any proposed project or activity of the Developer. In the event of such non-funding, CDD shall notify the Developer in writing.

### Section 2.03 Term of Agreement.

The Term of this Agreement shall be one year. This Agreement may be suspended or terminated if the Developer materially fails to comply with any term of this Agreement or violates any of the CDBG Program rules.

### Section 2.04 CDBG Program Goals and Objectives

The goal of the CDBG Program is to promote the revitalization of Garland communities through the development of new affordable housing for low and moderate-income families. Each project or activity undertaken with the CDBG funds must further this goal and meet the objectives below.



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- (a) **Objective 1:** Increase the supply of affordable housing in Garland.
- (b) **Objective 2:** Provide opportunities for families from 51% to 80% of the Area Median Income (AMI) to buy a home.
- (c) **Objective 3:** Encourage the revitalization of Garland's communities and neighborhoods through new home construction.
- (d) **Objective 4:** Provide opportunities for contractors to build capacity for increased affordable housing development and self-sufficiency.

### Section 2.05 Use of Funds

CDBG funds are available for the following uses;

(a) **Acquisition:**

The Developer may request funding for the subsidized purchase of property on which to develop a CDBG project. CDD will determine the amount of acquisition financing on a case-by-case basis. The maximum amount of financing for acquisition will be the fair market value as determined by the Dallas County Appraisal District's appraisal. A separate funding agreement will be executed for each property.

(b) **Interim Construction:**

The Developer may request funding for the construction of the project. An approved developer may receive Interim Construction Funding from the City of Garland for the construction of the CDBG. A maximum of 100% of the cost of construction may be provided to the Developer for the construction of an eligible, affordable CDBG. The Interim Construction funds will be provided to the Developer at below-market interest as long as the home is constructed and sold in accordance with the City's CDBG Program guidelines.

(c) **Homebuyer Assistance:**

Qualified buyers of the property (s) may receive homebuyer assistance in the form of first mortgage permanent financing and a deferred, forgivable loan for down payment, closing costs, and need-based buy down.

Loan Recapture. In the event and to the extent that Financing is provided the Loan will, subject to the terms and conditions of this Agreement and the Loan Documents, be deemed forgiven upon maturity of the mortgage loans. If the original Borrower ceases to own and occupy the home as his or her principal place of residence during the mortgage term, the entire outstanding principal balance of all Loans, with accrued interest (if any) thereon, shall immediately become due and payable; provided, however, that if at the time of resale the net proceeds are not sufficient to recapture



## **GARLAND**

the remaining CDBG investment plus enable the Borrower to recover the amount of the Borrowers down payment, principal payments, and any capital improvement investment, the City may allow the CDBG investment amount that must be recaptured to be further reduced; except that the City will not allow the Borrower to recover more than the amount of Borrower's down payment, principal payments, and any capital improvement investment. For purposes of calculating the amount to be recaptured under this section, the outstanding principal balance, plus accrued interest thereon, shall be deemed paid upon the end of the mortgage term.

### **Section 2.06 Enforcement.**

The City Attorney, or his or her designee, shall have the right to enforce all legal rights and obligations under this Agreement without further authorization. Developer covenants to provide to the City Attorney all documents and records that the City Attorney deems necessary to assist in determining Developer's compliance with this Agreement, with the exception of those documents made confidential by federal or State law or regulation. The city shall give a minimum of twenty-four (24) hours' notice to provide documentation.

### **Section 2.07 Approvals.**

The City and the Developer will respond to all requests for approval of any schedules, exhibits, documents, third-party agreements, or other matters for which the City's approval is required under this Agreement within ten (10) City business days of receipt, and approval shall not be unreasonably withheld. If approval is withheld for any reason, the City shall provide written notice to the Developer, detailing the reason for withholding approval and the action Developer needs to take to obtain approval.

## **Article III. Program Requirements**

### **Section 3.01 Programmatic Requirements:**

#### **(a) Lobbying Certification**

By executing this Agreement, Developer certifies that they have not received or expended Federal appropriated funds for the purpose of influencing an officer or employee of any agency, a Member of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.

#### **(b) Equal Opportunity Certification**

Developer agrees to not discriminate against any worker, employee, or applicant for employment on the basis of race, color, creed, religion, age,



sex, national origin, handicap status, nor otherwise commit an unfair employment practice. Developer agrees to take affirmative action to ensure that all applicants are employed and that employees are treated during employment, without regard to race, color, creed, religion, age, sex, national origin, or handicap status. Developer agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the services provided under this Agreement shall be available to all otherwise eligible applicants without regard to race, color, creed, religion, age, sex, national origin, or handicap status. This clause will be incorporated into all contracts entered into with suppliers, of materials or services, contractors, subcontractors, and all labor organizations furnishing skilled, unskilled, and craft union skilled labor who may perform any such labor or services in connection with this Agreement.

**(c) Use of Debarred, Suspended, or Ineligible Contractors**

Developer agrees and binds itself that it has not and will not directly or indirectly employ, award contracts to, or otherwise engage the services of any contractor during any period of that contractor's debarment, suspension, or placement of ineligibility status.

**(d) Minority and Women Business Enterprise**

It is the policy of the City of Garland to stimulate the growth of Minority and Women Business Enterprises (M/WBE's) by encouraging the full participation of Minority and Women Business Enterprises in all phases of its procurement activities and by affording them a full and fair opportunity to compete for all City subcontractors. The purpose and objectives of the City of Garland for subcontracting with Minority and Women Business Enterprises are the following:

- To increase the capacity of local MBE's and WBE's to provide goods and services;
- To provide opportunities for local MBE's and WBE's to broaden and enhance their range of capacities; and
- To increase opportunities for local MBE's and WBE's to serve as subcontractors for the supply of goods and services to the City, in addition to acting as subcontractors to others.

Developer agrees to use best efforts to carry out this policy through award of subcontracts and purchase orders to M/WBE's to the fullest extent consistent with the efficient performance of this Contract and to replace any M/WBE, when replacement is necessary, with another M/WBE.

Without limiting the generality of the foregoing, Developer agrees that it will make good faith efforts to award subcontracts or purchase orders of the cost of subcontracts for goods, services, and renovation funded under this contract to women-owned and minority-owned business enterprises(M/WBE). While it is not a requirement of this subcontract that Developer in fact meet or exceed a M/WBE goal, it is a requirement that





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Developer objectively demonstrate that it has exerted good faith efforts. Developer is required to make good-faith efforts to subcontract for M/WBE participation.

In the event the Developer needs the City to verify its M/WBE participation with another Agency, and to ensure that the M/WBE program benefits only those firms owned and controlled by a minority person or persons, woman or women, the Purchasing Department will certify M/WBE's.

The Directory published and maintained by the Purchasing Department is the City of Garland's Official Directory of Certified M/WBE's ("the Directory").

**NOTE: ALL M/WBE FIRMS, MUST BE CERTIFIED TO BE COUNTED TOWARD AN M/WBE GOAL. THE CITY'S PURCHASING DEPARTMENT IS NOT RESPONSIBLE FOR VERIFICATION OF ANY M/WBE STATUS.**

### (e) Conflict of Interest

No persons who exercise or have exercised any functions or responsibilities with respect to activities assisted with CDBG funds or who are in a position to participate in a decision-making process or benefit from inside information with regard to these activities, may obtain a financial interest or benefit from a CDBG assisted activity, or have an interest in any contract, subcontract, or agreement with respect thereto, or the proceeds there under, either for themselves or those with whom they have family or business ties, during their tenure or for one year thereafter as required in 24 CFR 92.356.

No person, who is a director, staff member, or employee of the Developer, or the immediate family member of such person, will be eligible for CDBG Program CDBG buyer Subsidy Assistance. No individual who is an elected or appointed official of the City, a paid staff person to such an official, or an immediate family member of any such person will be eligible to participate or benefit financially from the Developer's Development Project. In the event that any of the above-referenced persons will participate or benefit financially from the Developer's Development Project, the Department may approve such participation or benefit, provided the Developer discloses the conflict, that such person abstains from all decisions regarding the Development Project, and that such participation is not otherwise illegal.

### (f) Financial Management

The Developer agrees to comply with 24 CFR Part 84 and revised OMB Circular A-110 and agrees to adhere to dealing with cash depositories, bonding, and insurance, records, standards for financial management systems, monitoring and reporting program performance, property management standards, and procurement standards.





## **(g) Monitoring**

The City reserves the right to monitor the Development Project to ensure compliance with the provisions of this Agreement. However, the City shall conduct all monitoring upon reasonable prior notice to Developer in a manner so as not to interfere unreasonably with the progress of any construction work or the operation of the Developer's business. The City will monitor the development of projects as necessity dictates.

## **Section 3.02 Developer**

### **(a) Experience**

In order to be eligible to participate in the CDBG Program, Developer must show a minimum of one (1) year experience in CDBG residential renovation or construction. In the event that the Developer does not have a year of experience in CDBG residential renovation or construction, Developer will be required to enter into an agreement with another party with the required experience.

### **(b) Debarment**

Developer certifies that it has not been debarred by any Participating Jurisdiction or the Department of Housing and Urban Development (HUD) and will not knowingly directly or indirectly employ, award contracts to, or otherwise engage the services of any person or entity during any period of that contractor's debarment, suspension, or placement of ineligibility status under the provisions of 24 CFR Part 24.

### **(c) Project Proposal**

Funding is available on a continuing basis for approved Developers to request assistance for the renovation of an existing affordable home as defined by the CDBG Program. When the Developer identifies a project, the following must be completed and submitted to CDD for review and approval. The project must be approved by the CDD before any funds will be available for the Developer. Development projects may include single and multi-unit developments. Development assistance is available in the form of acquisition and interim construction financing. A project submission includes the following information:

#### **(i) Project Summary**

The project summary is a scope of work that defines who is responsible for the project, where the project is, and how much the project is expected to cost.

#### **(ii) Cost Breakdown**

In order to ensure that the project is cost reasonable and to allow for the review and budgeting, Developer must provide a line item cost breakdown for each portion of the proposed project. Plans



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The City's CDD Department has final approval over all CDBG repair plans. Blueprints are not required; however, sufficient information must be provided to demonstrate that the unit will meet all of the CDBG Program's requirements for a standard House.

### **Section 3.03 Project**

Each project proposed by a Developer must meet the minimum qualifications defined below. CDD reserves the right to make exceptions to the standard house requirements to ensure that a particular project will meet either planned development standards or the general standards of a neighborhood.

#### **(a) Cost Reasonableness Determination**

To protect the integrity of the City and assure its citizens of proper financial management, the Developer must provide line-item cost estimates of all work performed under this Agreement.

#### **(b) Standard House Specifications**

Developer agrees to include the following specifications in the project

■

The following minimum property standards must be complied with in each project.

Local code requirements:

1. 2015 International Building Code (Effective September 19, 2016)
2. 2015 International Residential Code (Effective September 19, 2016)
3. 2015 International Fire Code (Effective September 19, 2016)
4. 2015 International Energy Conservation Code (Effective September 19, 2016)
5. 2015 International Plumbing Code (Effective September 19, 2016)
6. 2015 International Mechanical Code (Effective September 19, 2016)
7. 2015 International Fuel Gas Code (Effective September 19, 2016)
8. 2015 International Property Maintenance Code (Effective September 19, 2016)
9. 2014 National Electrical Code (Effective September 19, 2016)
10. City of Garland Amendments
11. Minimum Property Standards at 24 CFR 200.925 or 200.926 (FHA);
12. Handicapped accessibility requirements, where applicable;
13. Site and Neighborhood standards at 24 CFR 893.6(b) and
14. Garland Development Code as in effect at the time of the project.



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CDD is committed to encouraging the building of energy-efficient single-family homes. To assist in the energy efficiency of the homes, the following specifications are furnished for consideration and may be incorporated into the scope of work as approved by the CDD:

- **Exterior Walls** - R-16 MINIMUM RATING;
- **Roof/Ceiling** - R-38 Roof insulation MINIMUM RATING;
- **Exterior Doors** – (Metal insulated);
- **Windows** – Vinyl Single hung windows U-Factor of .30 or better, and solar heat gain coefficient of .30 or better. Window area minimum of 8% of floor area;
- **Infiltration Rate** -0.5 ACH (air changes per hour) or air volume turnover every 2 hours. Requires caulking and sealing of the framed structure;
- **HVAC Equipment** – MINIMUM 15 SEER Air Heat Pump or 15 SEER AC/80AFUE Gas furnace. Insulate ductwork with R-8 insulation when outside the thermal envelope; and
- **Vents** - Kitchen vent, laundry dryer, and bathroom exhausts vented outside the HVAC envelope.

### (c) Environmental Review

The City shall complete an environmental assessment, publish the findings, and submit a certification to HUD, prior to the approval of a request for release of funds, all in accordance with 24 CFR § 58. As each individual project is identified, CDD will complete, a site-specific checklist. The Developer will request such assessment and complete an abatement plan in a timely manner so as not to delay construction, closing, or other steps in the development process

### (d) Notice to Proceed

The City will issue a Notice to Proceed for each project. Any construction performed prior to the Notice to Proceed is not eligible for reimbursement of subsidized financing by the CDBG Program.

### (e) Request for Funds

It is the Developer's responsibility to notify the City when funding is needed, either for the purchase of a property or for interim construction. The City will process all requests as soon as possible, however, the Developer should expect a minimum of thirty (30) working days between funding request or invoice and payment.

### (f) Required Project Documentation

The Developer will complete and maintain proper documentation for each project under development to the CDD Department representative. The documentation should provide a statement of exceptions and corrective actions with the stated time frame for correction. In connection with such



documentation:

- The Developer shall provide all backup or supporting documents or papers upon the Community Development Department representative's written request.
- Failure to comply with the requirements of this Section shall be a material breach of the Agreement and grounds for contract termination.
- The Developer agrees to attend meetings as may be scheduled by the Director on at least one (1) day prior notice to the Developer during the term of this Agreement in order to discuss any required documentation or the Developer's general progress in performing its obligations under this Agreement.
- The Developer agrees to allow the City access to and the right to examine, copy, or reproduce, at the City's expense, all records, books, papers, and documentation of any nature regarding the program which is the subject of this Agreement.
- The Developer shall promptly report to the Director any conditions, transactions, situations, or circumstances, encountered by the Developer which would seem to warrant a special report in more detail than that which is necessary to perform the work specified in this Agreement, including but not limited to notices from HUD or other cognizant federal agencies, grievances, and lawsuits, real or threatened.

**(g) Infrastructure Improvements.**

All infrastructure improvements necessary to prepare the Development Project for development must be completed and must conform to standards outlined in the City of Garland Code of Ordinances and any State or federal law bearing thereon.

**(h) Completion Date.**

The Developer agrees to abide by the Completion Date and any liquidated Damages Provisions relating thereto in the Construction Agreement.

**(i) One-Year Material and Workmanship Warranty.**

The Developer shall provide a one-year material and workmanship warranty to the homebuyer. The Warranty shall be effective upon the sale of the home to the buyer and shall cover, with the exception of normal wear and tear, negligence, or damages caused by the homebuyer, the repair or replacement of any and all items in the house. **The warranty shall be made in writing to the buyer with a copy provided to the City.**

**Section 3.04 Homebuyer:**

Each unit developed must be sold to an eligible CDBG buyer. In order to be considered an eligible buyer for the City of Garland's CDBG Program, each applicant must meet the criteria listed below. Developer agrees not to sell any project prior to CDD's completion of a review of the applicant and final approval



of eligibility.

**(a) Income**

Homebuyer's income may not exceed 80% of the Area Median Income (AMI) as defined by HUD. The City will use the Section 8 definition of both household and income to determine eligibility.

**(b) Mortgage**

Each Homebuyer must qualify for a mortgage. It is the buyer's responsibility to work with a mortgage company, bank, or other lending institution to obtain a loan for the purchase of a home. If an otherwise eligible buyer is not able to obtain a mortgage sufficient to purchase the house, with the CDBG assistance, he or she may be considered ineligible. The City of Garland exclusively reserves the right to offer in-house financing for a qualified buyer.

**(c) Maximum House Payment**

No buyer may pay more than 33% of their gross income for their house payment unless otherwise approved by the Director of the CDD. The house payment includes principal, interest, taxes, and insurance (P.I.T.I.).

## Article IV. Covenants

Throughout the term of this Agreement, the Developer will comply with the following:

**Section 4.01      *Indemnification Agreement.***

**DEVELOPER COVENANTS AND WARRANTS THAT IT WILL PROTECT, DEFEND, AND HOLD HARMLESS THE CITY, ITS EMPLOYEES, OFFICERS, AND LEGAL REPRESENTATIVES (COLLECTIVELY, THE "CITY") FROM ANY AND ALL THIRD PARTY CLAIMS, ALLEGATIONS, FINES, DEMANDS, AND DAMAGES (INCLUDING COSTS OF COURT AND REASONABLE ATTORNEY'S FEES) (COLLECTIVELY, "CLAIMS"), RELATING IN ANY WAY TO OR ARISING IN CONNECTION WITH DEVELOPER'S ACTUAL OR ALLEGED NEGLIGENCE OR OTHER ACTIONABLE PERFORMANCE OR OMISSION IN CONNECTION WITH OR DURING THE PERFORMANCE OF THE DUTIES UNDER THIS AGREEMENT.**

**THIS INDEMNITY PROVISION SHALL REMAIN IN EFFECT WITH RESPECT TO CLAIMS MADE WITHIN FIVE YEARS OF THE DATE OF THIS AGREEMENT. NOTWITHSTANDING ANYTHING HEREIN TO THE CONTRARY, THE LIABILITY OF THE DEVELOPER UNDER THIS INDEMNITY PROVISION SHALL NOT EXCEED \$1,000,000 PER OCCURRENCE.**



**Section 4.02                      *Miscellaneous Covenants.***

Developer also covenants that during the Term of the Agreement, it shall:

- (i) Maintain its corporate existence and standing;
- (ii) Promptly pay and discharge all taxes, assessments, rentals, and governmental charges on any income and properties prior to the date on which penalties attach thereto, except to the extent such taxes shall be contested in good faith and by appropriate proceedings and as to which adequate reserves shall have been provided;
- (iii) Promptly after the commencement thereof, notify the City of any material action, suit, or proceeding brought before any court or governmental department, commission, board, bureau, agency, or instrumentality, domestic or foreign, which seeks recovery from Developer or which would affect the interest of Developer in the Project, or which would impair or affect the ability of Developer to perform under this Agreement or any ancillary agreement;
- (iii) Promptly notify the City of any material adverse change in the condition, financial or otherwise, of the Developer or the Development Project from the date of the most recent financial statements delivered to the Director or from the date of the occurrence of any default;
- (iv) Not assign any rights or delegate the performance of any duties or obligations contained in this Agreement, except as expressly permitted in this Agreement;
- (v) Except as may be provided for in this Agreement, not create, incur, assume, or suffer to exist any mortgage, pledge, lien, charge, or other encumbrance on a home constructed pursuant to this Agreement without the prior written consent of the City Attorney;
- (vi) Retain or otherwise engage the services of all personnel necessary to perform the services assigned to the Developer under this Agreement. Such personnel shall not, by employment, contract, or other means, have a relationship that represents a conflict of interest with the Developer or the City.
- (vii) Perform or directly supervise all of the services designated as the responsibility of the Developer pursuant to this Agreement, and all personnel engaged in performing said services shall be fully qualified and shall have any licenses or permits required under law to perform such services; and
- (viii) Maintain a complete file on this Project for five (5) years after the



termination of this Agreement.

## **Article V. Regulatory Covenants**

Throughout the term of this Agreement, the Developer shall also comply with the following regulatory covenants:

### **Section 5.01      *Applicable Laws.***

Developer agrees to carry out the activities contemplated by this Agreement in compliance with all applicable state, local, and federal laws and regulations, including the federal requirements described at Subpart H of 24 CFR Part 92.

### **Section 5.02      *Equal Credit.***

The Developer shall adhere to the requirements of the Equal Credit Opportunity Act, 15 U.S.C. §1691, et seq.

## **Article VI. Representations**

The Developer makes the following representations effective as of the date of this Agreement and as of the date of any closing:

### **Section 6.01      *Organization Existence and Authority.***

The Developer is a validly existing company or corporation duly organized and in good standing under the laws of the State of Texas. The Developer is approved by the Housing and Community Services Department as a CDBG Program participant. The Developer has the power and authority to carry on its business as presently conducted and to execute, deliver, and perform its obligations under this Agreement. The Developer is duly authorized to execute and deliver this Agreement to perform all of its obligations required, and to take all actions contemplated, under this Agreement.

### **Section 6.02 *No Violations.***

The Developer's execution, delivery, and performance of its obligations under this Agreement will not violate any applicable laws, the Developer's Articles of Incorporation or by-laws, or any other instrument or agreement binding upon the Developer.

### **Section 6.03 *Religious Influences.***

The Developer is not a pervasively sectarian organization and it will carry out eligible activities in a manner free from religious influences.





## **Article VII. Default and Remedies**

### **Section 7.01      *Default by Developer.***

The following circumstances constitute individual occurrences of default and, subject to Subsections 9.2 and 9.3 below, the Director may declare default upon the occurrence of any one or more of them:

- (i) If Developer fails, refuses, or neglects to perform fully and timely any of the obligations or to comply with any terms, conditions, or covenants under this Agreement;
- (ii) If, without reasonable cause, Developer fails to make progress according to the predetermined schedule of development and fails to notify CDD of the schedule change and the cause for the change;
- (iii) If any representation or warranty made by Developer in this Agreement, or in any report or statement required under this Agreement, is false or misleading in any material respect or is not forwarded to the Director within the specified time period;
- (iv) If Developer voluntarily adjudicates a bankruptcy, seeks, consents to, or does not contest the appointment of a receiver or trustee for itself or for all or part of its property, makes a general assignment for the benefit of creditors, does not pay its debts as they become due, or files a petition seeking relief under the United States Bankruptcy Code;
- (v) If a petition is filed against Developer under the United States Bankruptcy Code or if a court of competent jurisdiction enters an order appointing a receiver or trustee for all or any part of the property of Developer and the order is not discharged or stayed within a period of 90 days after its entry;
- (vi) If the holder of any other lien or security interest in the Development Project institutes foreclosure or other proceedings for the enforcement of its remedies or if a default occurs under any agreement that is secured by all or a portion of the Development Project; or
- (vii) If HUD issues adverse findings or declares an audit exception on the Development Project as a result of any act or omission of Developer.

### **Section 7.02      *Notice and Cure of Developer Default.***

The Director shall provide the Developer with a written notice of an occurrence of default under Subsection 9.1. The Developer shall have ten (10) days from the date of receipt of the notice of default to cure the default; provided however, that if such default cannot reasonably be cured within ten (10) days and if Developer begins its efforts to cure promptly upon receipt of such notice and continues diligently to cure such default within a reasonable period of time, the Director has the sole discretion to extend the ten (10) day cure period. Notwithstanding anything contained herein to the contrary, if state law requires a longer or shorter time, the period to cure shall





automatically conform to State law. If the Developer fails to remedy the default within the requisite cure period, and the City owns or has funded, in full or in part, the purchase of the property on which the Development Project is being constructed, the City shall have the right but not the obligation, to institute interim management and operational measures, including the use of other approved developers to complete construction, to ensure that the Developer's obligations under this Agreement are met and/or to avail itself of the remedies listed on Section 9.3 below. If the Developer fails to remedy the default within the requisite cure period and the Developer wholly owns the property on which the Development Project is being constructed, the City's remedies shall be limited to those listed in Section 9.3 below.

### **Section 7.03      *City Remedies.***

At any time after the notice of default and expiration of the period to cure, if any, the City shall have the right to exercise any one or more of the following remedies:

- (i) To enforce or avail itself of any and all rights, powers, and remedies provided in this Agreement;
- (i) To enforce any other equitable and legal rights, remedies, and powers available under statutory common law;
- (ii) To require the immediate and full repayment of an amount, equal to but not exceeding, the total CDBG funds invested in the property;
- (iii) To terminate this Agreement; and/or
- (iv) To withhold all or any part of any Subsidy Financing or other sums which may be otherwise due to the Developer under this Agreement either until the time the default is cured or if the default cannot be cured, forever.

### **Section 7.04      *Termination.***

Notwithstanding anything contained herein to the contrary, the City may terminate this Agreement at any time in accordance with 24 CFR § 85.43 - § 85.44.

### **Section 7.05      *Conclusion of Services.***

Upon receipt or delivery of a notice to terminate, Developer shall cease all services under the Agreement. In the event of a notice of termination, this paragraph shall be considered a contract for sale of any and all property currently owned by the Developer and subsidized by CDBG funds to the City or its designee. The sale price shall be the verified and documented amount of out-of-pocket, or unreimbursed, hard costs expended by the Developer. The City shall have complete discretion over the use of any of its funds in the possession of or under the control of Developer after the termination.



**Section 7.06                      *Default by City: Developer's Request to Terminate.***

Default by the City shall occur if the City fails to perform any of its obligations under this Agreement. In such case, Developer may terminate this Agreement upon ten (10) days written notice to the Director, describing the default and stating Developer's intent to terminate the Agreement, provided that:

- (i)            the termination shall be ineffective if within ten (10) days period from the date of the notice the City cures the described default and pays any and all costs incurred by the Developer as a result of the City's default; or
  
- (ii)           at the sole option of Developer, the termination may be stayed pending cure of the default.

**Section 7.07                      *Rights Cumulative.***

The parties' rights under this Agreement are cumulative and not exclusive of any other available power, right, or remedy. At the sole discretion of each of them, each party may pursue its rights separately, successively, or concurrently, and as often as may be required, against any parties obligated under this Agreement or any ancillary agreement. A party's exercise or failure to exercise any of its rights shall not be construed as a waiver or release of any right, remedy, or recourse.

**Section 7.08                      *Major Forces Preventing Compliance.***

Neither the Developer nor the City shall be deemed in violation of this Agreement if either is prevented from completing or initiating construction, if applicable, in accordance with the construction schedule by reason of strikes, boycotts, labor disputes, embargoes, shortage of materials, acts of God, acts of public enemy, acts of superior government authority, weather conditions, floods, riots, rebellion, sabotage, or any other circumstances for which it is not responsible. Under such circumstances, the term of this Agreement shall be automatically extended for a period of time as determined by the Director.

**Article VIII.                      *Deobligation of Funds***

**Section 8.01                      *Reduction of Obligated Funds.***

The City will review of Developer's performance. If the Developer fails to meet a minimum of eighty (80%) percent of planned performance at the end of the month, a corrective action plan must be submitted to the Director stating actions to be taken to improve performance and to meet future goals. If the Director deems such plans inadequate, the City reserves the right to deobligate the funds to be provided for project development subsidies and buyer assistance without granting additional time for a cure period.



## **Section 8.02 Notification.**

The Developer will be notified in writing by the Director at least fifteen (15) days prior to any deobligation of funds. Such deobligation shall be effective regardless of whether the Developer signs such an amendment.

## **Section 8.03      *Reallocation.***

Funds that have been deobligated for non-performance by Developer may be reallocated by the City to other eligible activities.

## **Article IX. Allocation of Funds**

### **Section 9.01      *Obligation of City.***

The City's obligation, if any, to pay any sums under this Agreement is limited to federal funds actually received by the City pursuant to the Housing and Community Development Act of 1974, as amended, and the National Affordable Housing Act of 1990, as amended, appropriated for this purpose; unless and until adequate funds have been received by the City under terms of its agreements with HUD, the City shall have no obligation to the Developer.

### **Section 9.02      *Exculpation.***

The City shall not be liable to the Developer or responsible in any manner to any Borrower, Project Builder, or other third party in connection with any actions of the Developer in administering this Agreement.

### **Section 9.03      *Reimbursement to City.***

The Developer agrees that it will reimburse the City in a sum equivalent to the amount of disallowed expenditures, not to exceed the total amount of CDBG funds invested in the project, in the event that HUD or other cognizant federal agency rules, through audit exception or other action, that the Developer's expenditure of funds awarded under this Agreement was not made by Developer in compliance with its obligations under this Agreement, applicable law, or regulations. The Developer shall not, however, be responsible for activities approved by CDD by written agreement and later determined to be ineligible. In such cases, CDD shall be solely responsible for any required repayment, as long as Developer has complied with all written requirements pertaining to the activity.

### **Section 9.04      *Liability of Trustees and Officers.***

Notwithstanding any provision herein contained to the contrary, neither the directors, the trustees, the officers, nor the employees of the Developer shall have any individual liability for the obligations of the Developer hereunder or in any instrument executed in connection with this Agreement, except that any one or more director, trustee, officer, or employee may be held individually liable for acts of fraud or malfeasance and provided further, that said limitation on liability shall in no manner inhibit, restrict, or limit, in



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any way, the City's rights under this Agreement against Developer or its ability to enforce or exercise any if its rights or remedies against Developer contained in this Agreement.

### Article X. Notices

#### **Section 10.01      *Address and Notices.***

All notices must be in writing and shall be delivered or mailed, postage paid and registered or certified, return receipt requested, as follows:

To the City:

If mailed:

Director  
Community Development Department  
City of Garland  
800 Main Street 1<sup>st</sup> Floor  
Garland TX 75040

If delivered:

Director  
Community Development Department  
City of Garland  
800 Main Street 1<sup>st</sup> Floor  
Garland, Texas 75040

To the Developer:

If mailed:

If delivered:

**REBUILDING THE FORT, CDC**  
5900 Balcones Dr Suite 100  
Austin, TX 78731

If mailed, notice shall be conclusively deemed effective on the third day after it is deposited in the United States mail, otherwise, notice shall be effective on the date received. Each party shall have the right to change its respective address of addressee provided that at least ten (10) days written notice is given of such new address to the other party.

### Article XI. Miscellaneous Provisions

#### **Section 11.01      *Funding Agency.***

The relationship of the City to each Developer shall be that of a funding agency.



## **Section 11.02      *Parties in Interest.***

This Agreement shall not bestow any rights upon any third party, but rather, shall bind and benefit the City and the Developer only. Neither the U.S. Government nor HUD nor any Buyer/Borrower is a party to this Agreement.

## **Section 11.03      *Non-waiver.***

Failure of either party hereto to insist on the strict performance of any obligation under this Agreement or to excise any rights or remedies accruing upon default shall not be considered a waiver of the right to insist on and to enforce, by any appropriate remedy, strict compliance with any other obligation or to exercise any right or remedy occurring as a result of any future default or failure of performance.

## **Section 11.04      *Applicable Laws/Choice of Law.***

This Agreement is subject to all laws of the State of Texas, the City and Ordinances of the City of Garland, the laws of the United States of America, and all rules and regulations of any regulatory body or officer having jurisdiction over the subject matter of this Agreement, and without limitation, the federal regulations codified at 24 CFR Part 92. This Agreement shall be performable and enforced in Dallas County, Texas, and shall be construed in accordance with the laws of the State of Texas. Venue shall be appropriate in Dallas County, Texas.

## **Section 11.05      *Use of Work Products.***

The City and the Developer stipulate and agree that all financial statements and other financial materials obtained from any Borrower are confidential information and are not subject to disclosure under this Agreement, save and except to the extent that disclosure may be required under the Open Records Act, Freedom of Information Act, or other applicable state or federal laws. Except for Home Designs or neighborhood revitalization plans prepared by the Developer at its sole expense, Developer specifically authorizes the City to use all reports, tabulations, exhibits, photographs, notes, and other work products prepared by Developer pursuant to this Agreement. Such use may include, but is not limited to, publication, and reproduction of work products, in whole or in part, in reports, applications, and statements prepared by the City or participated in by the City, including the City Controller's annual financial report and various documents relating to the sale of bonds, notes, warrants, etc.

## **Section 11.06      *Modification.***

This Agreement may be amended by a Letter Agreement executed by the parties to this Agreement unless otherwise stated herein.

## **Section 11.07      *Severability.***

In the event that any covenant, condition, or provision of this Agreement is held to be invalid by a court of competent jurisdiction, the invalidity of the



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invalid covenant, condition, or provision shall in no way affect any other covenant, condition, or provision, provided that the respective rights and obligations of the parties contained in the valid covenants, conditions, and provisions of this Agreement are not materially prejudiced.

### **Section 11.08      *Term and Survival of Obligations.***

Notwithstanding the expiration or other termination of this Agreement in accordance with its terms, the obligations created by this Agreement under Sections 6.1 and 6.4 shall continue in full force and effect beyond its expiration or termination date to the extent that this Agreement expressly requires a longer term of the obligation.

### **Section 11.09      *Paragraph Headings.***

Headings to paragraphs are for reference only and shall not be considered in construing the meaning of the terms of this Agreement.

### **Section 11.10      *Execution.***

The effective date of this Agreement is \_\_\_\_\_, 2024

### **Section 11.11      *Assignability.***

This Agreement shall not be assignable by either party hereto without the prior written consent of the other party.

## **Article XII.    Prior Contract**

Developer acknowledges that no prior contract has been entered into by and between City and Developer pursuant to this Agreement. Developer acknowledges that the City has no obligations to Developer of any nature whatsoever arising under any prior contract or agreement.

IN WITNESSES HEREOF, the City and the Developer have executed this Agreement in multiple originals, each of equal force, as of the, \_\_\_\_\_ day of \_\_\_\_\_, 2024.

## **Article XIII.      City of Garland Participation**

By signing this contract Rebuilding the Fort, CDC agrees to participate in the CDBG Infill Program. Rebuilding the Fort, CDC agrees to effectively deliver services and develop and/or participate in partnerships and groups organized by the City to further affordable housing in Garland.

**As a duly recognized CDBG Developer by the City of Garland Community Development Department, we certify that have received approval from our Board of Directors, corporate officers, or owners to enter into this Agreement prior to**



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signing and will demonstrate proof of such approval to the Community Development Department. Also, by signing this agreement we will abide by all herewith-contained regulations.

**City of Garland Developer**

**CITY OF GARLAND, TEXAS**

\_\_\_\_\_  
Rebuilding the Fort, CDC

**Mona L. Woodard**  
Manager

\_\_\_\_\_  
Representative's Signature

\_\_\_\_\_  
Director's Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date



**GARLAND**  
**CITY COUNCIL STAFF REPORT**

**City Council Work Session**

**4.**

**Meeting Date:** 01/22/2024

Discussion of 2024 Council Policies and Procedures

**Submitted By:** Brian England, City Attorney

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**Issue/Summary**

Council will discuss and by consensus make changes, if any, to its policies and procedures for the 2024 calendar year.

**Background**

Article III, Section 9 of the City Charter provides that the City Council shall determine its own rules of order of business and procedures for meetings. The Council policies and procedures remain in effect upon adoption by the City Council and from year to year until such time as amended, suspended or new rules are adopted.

**Consideration / Recommendation**

Discuss and make changes, if any, to Council Policies and Procedures for the 2024 calendar year.

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**Attachments**

Council Policies and Procedures

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**2022**  
**CITY COUNCIL**  
**of the**  
**CITY OF GARLAND, TEXAS**

**RULES OF ORDER AND  
PROCEDURE  
AND  
CITY COUNCIL POLICIES**

**ARTICLE I**

**CITY COUNCIL RULES OF ORDER AND PROCEDURE**

**Section 1     Authority under the City Charter**

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

**Section 2     General rules for conducting Council meetings**

**(A)     Regular meetings**

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

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

(2) *Location during a local emergency.* If by reason of fire, flood or other emergency, it is unsafe to meet in the City Council chamber, the meetings may be held for the duration of the emergency at such other place as may be designated by the Mayor or, in the Mayor's absence by the Mayor Pro Tem (or, in the absence of the Mayor Pro Tem, the Deputy Mayor Pro Tem, if one has been appointed) or the City Manager.

(B) Pre-council meeting work session

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

(C) Special meetings and emergency meetings

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

(D) Adjourned meetings

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

(E) Executive sessions

The City Council may meet in executive session during any regular or special meeting, or anytime otherwise authorized by State law, to consider, hear or decide any matter which is authorized by State law to be heard or considered in executive session. The City Council may exclude from any such executive session any person or persons which it is authorized by State law to exclude from such sessions. The general subject matter for consideration shall be expressed in an open meeting before such session is held. Councilmembers are prohibited from disclosing the nature of discussion from a closed session unless required by law.

(F) Notice of meetings

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

(G) Quorum

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

(H) Chair

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

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

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

(I) Attendance by the public

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

(J) Minutes

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

(1) *City Council approval of minutes.* Minutes of meetings are generally submitted to the City Council within two weeks for approval.

(2) *Recording of meetings.* Audio and/or visual recordings of proceedings, other than executive session proceedings and meetings of the Civil Service Commission, are maintained by the City Secretary as required by law. Audio recordings of executive session proceedings and the Civil Service Commission shall be maintained by the City Attorney.

### **Section 3 Order of business at meetings of the City Council**

(A) General order of proceedings

City Council meetings will be generally conducted in the following order, unless otherwise specified, or determined by the Chair or the City Council. An executive session may be held at any time during a meeting pursuant to applicable State law.

#### ***WORK SESSION AGENDA***

- ☐ Executive session (if any)
- ☐ Written briefings
- ☐ Verbal briefings
- ☐ Questions regarding regular agenda items
- ☐ Discuss committee reports/assignments
- ☐ Discuss consent agenda
- ☐ Identify future agenda items
- ☐ Adjourn

#### ***REGULAR MEETING AGENDA***

- ☐ [Pledge of allegiance/invocation]\*
- ☐ [Mayoral proclamations, recognitions, and announcements]\*
- ☐ Consent agenda/approval of minutes
- ☐ Regular agenda
- ☐ Consider appointments to boards and committees
- ☐ Citizen comments (“open mike”)
- ☐ Executive session (as needed)
- ☐ Adjournment

\* These items may be taken up by the City Council prior to the commencement of official business

(B) Numbering and indexing of agenda items

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

(C) Consent agenda

The consent agenda shall contain routine, non-controversial items that require City Council action but typically require little or no City Council deliberation. Any item on the consent agenda may be removed from the consent agenda and thereby be made subject to discussion and deliberation by any member of the City Council, staff or a person in attendance at the meeting. Agenda item(s) removed from the consent agenda by the request of a Councilmember, citizen or staff will be considered after approval of the remaining consent agenda, or may be postponed to a future meeting in the event the Chair, with the concurrence of the City Council, determines that the item requires extensive deliberation.

#### **Section 4 Rules of procedure for conducting Council business**

(A) General procedure

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

(B) Authority of the chair

The Chair shall make decisions on questions of procedure subject to review by the City Council as a whole. The Chair, with the consent of the City Council, may appoint a parliamentarian from outside the City Council to assist the Chair in interpreting the rules of procedure governing City Council meetings, and shall offer advice to the Chair as requested by the Chair or any member of the City Council. The Chair, shall, upon request of a member of the City Council, inform the City Council as to the advice given by the parliamentarian. Following a decision of the Chair on a question of procedure, any two members of the City Council shall be entitled to appeal the decision of the Chair by the making, and seconding of, an appeal. See RONR.

(C) Council deliberation and order of speakers

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

(D) Limit deliberations to item at hand

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

(E) Obtaining the floor

Except as provided in RONR, any member of the City Council wishing to speak shall obtain the floor by being recognized by the presiding officer. The Chair shall recognize any Councilmember who seeks the floor when appropriately entitled to do so and may decide to allow verbal or electronic recognition of Councilmembers.

(F) Motions

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

(G) Procedures for motions

The following is the general procedure for making motions:

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

one which includes a public hearing. A Councilmember wishing to continue the public hearing shall move to continue the public hearing, and if seconded shall be voted upon before the main motion. No discussion shall be permitted on a motion to continue the public hearing.

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

(H) Motions to amend a motion

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

(I) Abstention or recusal

(1) If a Councilmember abstains because of a legal conflict that Councilmember is not counted as present for quorum purposes and is not deemed to be “voting” for purposes of determining whether there has been a “majority vote of those voting and present,” unless otherwise required by law.

(2) When a Councilmember has a legal conflict and is required to abstain or be recused from a portion of a City Council meeting, the Councilmember shall complete the necessary affidavit regarding the conflict.

(3) Pursuant to Article III, Section 6 of the Charter, a Councilmember who is present and not required by law to abstain from voting shall vote on every measure for which a vote is called; a refusal to vote constitutes a vote of “no” on the measure.

(J) Special Charter or statutorily-mandated voting requirements

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

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

(2) *Changing paving assessment plan - Two-thirds vote:* Changes in plans for paving assessments require a two-thirds vote of the full City Council. (Texas

Transportation Code, Section 313.053).

(3) *Protested changes in zoning ordinance - Three-fourths vote:* If a proposed change to a zoning regulation or boundary is protested by owners of twenty percent or more of the area of the lots or land included in such proposed change, or of the area of the lots or land immediately adjoining the area covered by the proposed change and extending 200 feet therefrom, the affirmative vote of at least three-fourths of the full City Council is required for the proposed change to take effect. (Texas Local Government Code, Sec. 211.006(d); Garland Development Code; Council Policy, Article II, below.)

## **Section 5     Public hearings**

(A) The City Council procedure for the conduct of public hearings is generally, but not required to be, as follows:

- (1) Staff presents its report.
- (2) Councilmembers may ask questions of staff.
- (3) The Chair opens the public hearing.
- (4) The applicant or appellant then has the opportunity to present comments, testimony, oral arguments. In the case of an appeal when the appellant is different from the applicant, the appellant shall be called upon first to provide comments or testimony. The applicant or appellant may have a total of fifteen minutes for a presentation when recognized by the Chair. The initial comments or presentation shall be limited to ten minutes and the rebuttal or concluding comments shall be limited to five minutes.
- (5) Councilmembers may ask questions of the applicant/appellant.
- (6) Members of the public are provided with the opportunity for comments and testimony in accordance with these Rules, including without limitation Sections 7 and 8, below.
- (7) The appellant or the applicant is given the opportunity for closing comments.
- (8) The City Council deliberates on the issue.
- (9) If the City Council raises new issues through deliberation and a majority of the City Council seeks additional public testimony, additional public comment and testimony is permitted in accordance with these Rules.
- (10) The City Council deliberates and takes action.
- (11) The Chair announces the final decision of the City Council.



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

(C) Remote attendance

Unless otherwise necessitated by a public emergency, the following shall apply to Councilmembers attending public meetings remotely:

(1) a Councilmember may only remotely attend Council meetings held in the Council Chambers. Each Councilmember may only remotely attend one public meeting per calendar year; however, the Mayor may allow a Councilmember to remotely attend additional meetings for good cause;

(2) the Mayor, or the Councilmember acting as the presiding officer, must attend the meeting in person; and

(3) members of boards, commissions, and committees may not remotely attend meetings.

## **Section 6     Public testimony at meetings**

(A) Determining whether speakers are present

When a matter comes before the City Council, the Chair will open the public hearing. Upon opening the public hearing, and before any motion is adopted related to the merits of the issue to be heard, the Chair shall determine if speaker's cards have been submitted by persons who intend to speak or register a position or the Mayor may inquire if there is anyone present who desires to speak on the matter which is to be heard or to present evidence regarding the matter.

(B) Public member request to speak

Any person wishing to address the City Council regarding a matter on the agenda shall complete and present a speaker's card to the City Secretary before or as soon as reasonably possible after the close of the vote on the matter. Prior to speaking, the speaker shall complete the speaker's card and sign the card under penalty of perjury, or shall, if so allowed by the Chair, be sworn by the City Attorney or other person authorized to administer oaths. Upon being recognized by the Chair, the person may speak or present testimony relevant to the matter being heard. No person may speak without first being recognized by the Chair. Each person wishing to speak on the matter shall be limited to three minutes. Speakers are advised to obtain all information necessary for their presentations prior to the meeting: The opportunity to speak is given to provide testimony

rather than to question the City Council or staff. The Chair may call a speaker out of order if the speaker presents questions or requests for information that will unduly delay the transaction of business at the meeting.

(C) Identification of speaker

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

(D) Time limits

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

(E) Designation of spokesperson

To expedite matters and to avoid repetitious presentations, the designation of a spokesperson is encouraged. Whenever any group of individuals wishes to address the City Council on the same subject matter, those individuals are encouraged to designate a spokesperson. Any person present at the meeting may, in lieu of speaking, designate a spokesperson by indicating the designation on his or her speaker's card. With the consent of the City Council, the Chair may extend the time allocation for a designated spokesperson. In this regard, three or more speakers may yield their time to a single speaker and such speaker shall be given two minutes per speaker up to a maximum of ten minutes provided that each of the persons who have agreed to yield their time to the designated spokesperson have completed a speaker's card and have indicated thereon the person's consent to the designation. The designating person's position on the matter shall be read into the record.

(F) Comments addressed to City Council

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

(G) Questions of speakers

Members of the City Council who wish to ask questions of a speaker or each other during the public hearing portion may do so, but only after first being recognized by the Chair.

Interaction with the speaker shall be limited to a question or questions, rather than an ongoing dialogue.

(H) Motion to extend a speaker's time to speak

In fairness to all speakers, a question may not be presented solely for the purpose of providing the speaker with more than the allotted time for the speaker unless a motion is made and approved extending the time for the speaker.

(I) Materials for public record

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

(J) Germane comments

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

## **Section 7 Staff presentations**

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

## **Section 8 Appointments to boards and commissions**

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

(B) In the event a Councilmember appoints an individual who resides in a District that is not the district represented by the Councilmember, the appointing Councilmember shall make a reasonable effort to discuss the appointment with the Councilmember of the district in which the proposed appointee resides prior to offering the position to the appointee.

## **Section 9 Citizens' comments – "Open Microphone"**

(A) A portion of the regular City Council meeting is set aside for members of the public to address the City Council on any item of City business that is not formally scheduled on the agenda. Members of the public who desire to speak shall electronically register at a

kiosk or complete a speaker card prior to the close of the citizens' comment period and present it to the City Secretary.

(B) A portion of City Council work session meetings and committee meetings shall be set aside for members of the public to address the City Council, or committee as the case may be, on any item that is formally scheduled on the agenda. Members of the public who desire to speak shall complete a speaker card prior to the opening of the meeting and present it to the City Secretary or the staff liaison of the committee.

(C) Citizens' comments related to items not on the agenda are generally permitted at the end of the regular City Council meeting, as specified on the agenda. A speaker's comments shall be limited to three minutes and the citizens' comment period shall not exceed thirty minutes. Speakers shall be allowed to speak on a first-come, first-to-speak basis as determined by the order in which the City Secretary receives the speaker's card provided that residents of Garland shall be given priority in the order of speakers if it appears to the chairperson that not all speakers will be able to speak within the allotted time. If at the end of the citizens' comment period all speakers who are still present and willing to speak are not offered an opportunity to speak at the meeting, those who have been allowed to speak at that meeting may not speak during the citizens' comment period at the next following meeting at which a citizens' comment period is offered until all other speakers have been allowed to speak. A speaker who was present and willing to speak at a meeting, but who was unable to speak because time ran out will be given priority in the order of speakers at the following citizens' comment opportunity regardless of the order in which the City Secretary receives the speaker's card, again provided that residents of Garland will be given first priority in the order of speakers regardless whether such citizens were present at the previous meeting. In such event, at the subsequent meeting the chair shall provide additional time, not to exceed 30 minutes, to accommodate all of the speakers then present. It is not the intent of the City Council to limit or control the content of any speaker's message, but to hear first from residents of Garland.

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

## **Section 10 Rules of decorum**

(A) Speakers shall not present the same or substantially the same items or arguments to the City Council repeatedly or be repetitious in presenting their oral comments. A speaker shall not present argument on a matter previously considered by the City Council at the same session.

(B) Persons attending City Council meetings should observe the same rules of propriety, decorum and good conduct as they would show in a courtroom, a place of worship, or at any other serious or solemn occasion during which matters of importance are being

considered. Visitors will refrain from engaging in chatter, private conversations, and from making other distracting noises while the City Council is in session. Phones and other electronic devices should be set to off or silent mode. Visitors should not applaud, boo, clap, or otherwise audibly express approval or disapproval of the speech of another person in a loud and raucous manner calculated to disturb the meeting.

(C) Visitors attending City Council meetings may not bring food or drink other than water into the City Council chamber.

(D) No person shall display or cause to be displayed any sign, placard, poster or banner within the City Council chamber in such a manner as to impede the use of the aisles or exits, interfere with the use of the seating area, obstruct the view of another or in any other manner disturb or interfere with the orderly conduct of the meeting. A sign, placard, poster or banner may not exceed more than six square feet in surface area and may not be attached to any stick, pole or other appurtenance that could be used as a club or deadly weapon.

(E) Only one person at a time may stand at the speaker's podium, unless the speaker is a child or requires an interpreter or other special assistance or unless the person is appearing as a group receiving a recognition or award presented by the Mayor or City Council.

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

## **Section 11 Waiver of rules**

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

## **Section 12 Non-exclusive rules**

The rules set forth are not exclusive and do not limit the inherent power and general legal

authority of the City Council, or of its presiding officer, to govern the conduct of City Council meetings as may be considered appropriate from time to time, or in particular circumstances, for purposes of orderly and effective conduct of the affairs of the City.

### **Section 13    Non-observance of rules**

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

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## **ARTICLE II**

### **CITY COUNCIL POLICIES AND COUNCIL DIRECTIVES**

#### **Division 1 COUNCIL OPERATING PROCEDURES**

##### **Section 1 Placing items on an agenda**

(A) Other than matters nominated for discussion during the “Future Agenda Items” segment of the regular agenda (as provided below), the Mayor, individually, or any two or more members of the City Council may request in writing (which includes email) that an item be placed on an agenda for consideration by the City Council as a whole. The request shall be made to the City Manager. If the request is made by a Councilmember, the member shall provide the City Manager the name or names of the member(s) who seconds the request. Unless otherwise specified by the requestor, the City Manager shall cause the item to be placed on the next available agenda of the type designated by the requestor (that is, a work session or regular agenda). The requestor must provide adequate detail of the request to the City Manager to allow proper posting of the matter under the Open Meetings Act and to provide other members of the City Council with sufficient information about the request to prepare to discuss the matter. Unless the matter is of such urgency as to constitute an emergency within the meaning provided by the Texas Open Meetings Act, or if the item requires the calling of a special meeting, the matter must be submitted not later than the close of business one week before the next meeting of the City Council.

(B) Each work session agenda prepared by the City Manager shall include a segment entitled “Future Agenda Items”. During the future agenda items segment, a member of the City Council may offer a matter for future consideration by the City Council. The suggested topic must obtain a second from one or more members of the City Council in order to be placed on a future agenda. If a second is obtained, the Mayor will direct the City Manager to place the matter on a subsequent agenda or, with the concurrence of the City Council, refer the matter to a committee.

(C) Other than routine matters placed on an agenda by staff (such as bid approvals, zoning requests, and the like) and emergency items, no matter that requires official action by the City Council will be considered without first having been discussed at a work session.

##### **Section 2 Political and other endorsements by members of the City Council**

A member of the City Council may endorse a candidate or a cause by using the Councilmember’s name and position, such as the term “Mayor, Garland, Texas”, “Councilmember, District \_\_, Garland, Texas” or similar phrasing. A member of the City Council may not, in an endorsement, imply that the City of Garland - as an entity - has endorsed any such candidate or cause unless the City Council has formally voted as a body to provide that endorsement. In that regard, the City Council is generally constrained by

law from endorsing a candidate or cause in an election. A member of the City Council may not use a City or departmental logo or trademark in providing an endorsement of a candidate or cause in an election, nor may the member use City personnel or supplies to do so. A member of the City Council may use a City or departmental logo or trademark in the conduct of City business unrelated to an election.

### **Section 3 Council committees and outside boards**

#### **(A) Purpose**

Due to the complexity and diversity of City government issues, City Council may elect to send some issues to a Council committee for a closer review.

The City Council may appoint from among its members, representatives to outside boards, councils and groups ("outside boards"), such as the Dallas Regional Mobility Council and the North Central Texas Council of Governments (and its sub-councils, such as the Regional Transportation Council). In order to provide a mechanism for continuous evaluation and discussion of these various issues beyond the limited time available at regularly scheduled work sessions and to properly manage its representation on outside boards, the City Council adopts this policy regarding the set up and use of Council committees and for appointments to outside boards.

#### **(B) Assignment to committees**

Agenda items may be assigned to a committee by the Mayor, with the consent of the City Council, or by the City Council.

#### **(C) Standing committees**

The City Council shall have the following standing committees, aligned with the management responsibilities assigned to City staff by the City Manager:

- ☐ Administrative Services Committee
- ☐ Audit Committee
- ☐ Community Services Committee
- ☐ Development Services Committee
- ☐ Public Safety Committee
- ☐ Transportation, Infrastructure, and Mobility Committee
- ☐ Intergovernmental Affairs Committee

Each committee, after receiving an assignment from the Council, will consider policy decisions and actions; study issues; evaluate options; and develop recommendations. The committees shall serve in an advisory capacity only, and no committee shall have any authority to make final decisions regarding the merits or resolution of any matter assigned



to or considered by it.

(D) Standing committee responsibilities

The standing committees identified below shall have the following general responsibilities:

**Administrative Services Committee**

Items that may typically be directed to the Administrative Services Committee include, but are not limited to:

- ☐ Additions/revisions to Council policies.
- ☐ Updates on internal procedural modifications.
- ☐ Specific budget items.

**Audit Committee**

The Audit Committee shall assist the City Council in fulfilling the Council's oversight responsibilities for the Internal Audit Department, reporting practices, internal control, and compliance with laws, regulations and ethics within the limits described in the City Charter. The Internal Audit Department shall have access to all information necessary to perform its functions under the City Charter (to the extent permitted by law) and shall operate independently of management and free of organizational impairments.

The Audit Committee will consist of seven members, three of whom shall be members of the City Council appointed by the Mayor, and three of whom shall be appointed by the City Manager. The Internal Auditor shall serve as a member and provide staff support to the committee. Only Councilmembers may vote.

The Audit Committee shall meet at least quarterly, or more frequently as needed, and shall:

- ☐ Review and approve the Internal Audit Charter
- ☐ Approve the Internal Audit Department Annual Plan
- ☐ Receive and consider special written requests for audits from Councilmembers and the City Manager
- ☐ Adjust the Annual Audit Plan as necessary to accommodate changes in the operating environment.
- ☐ Review the results and performance of the Internal Audit Department on a quarterly and annual basis
- ☐ Review proposed Internal Audit budget considering available resources
- ☐ Review summary of findings and recommendations of audit reports
- ☐ Review the annual external audit results and findings

**Community Services Committee**

Items that may typically be directed to the Community Services Committee include, but are not limited to:

- ☐ Creating new or modifying existing codes and ordinances related to parks and recreation, public health and code compliance
- ☐ Reviewing grant program applications
- ☐ Considering incentive programs for neighborhood revitalization

### **Development Services Committee**

Items that may typically be directed to the Development Services Committee include, but are not limited to:

- ☐ Creation of new, or modification to existing codes and ordinances related to zoning, platting and building, engineering and transportation standards and requirements

### **Public Safety Committee**

Items that may typically be directed to the Public Safety Committee include, but are not limited to:

- ☐ Additions and revisions to Council policies as they relate to public safety
- ☐ Review of local, county, state and national legislative changes as they relate to or may affect public safety
- ☐ Updates on policy modifications relating to public safety

### **Transportation/Infrastructure/Mobility Committee**

Items that may typically be directed to the Transportation [Infrastructure/Mobility] Committee include, but are not limited to:

- ☐ Reviewing regular reports and updates regarding current street, mobility, or other transportation projects and future areas of focus
- ☐ Reviewing current policies and programs regarding infrastructure construction, replacement or rehabilitation means, methods, funding, or cost-sharing.
- ☐ Discussing research and policy considerations concerning transportation mobility
- ☐ Working with staff to explore new ideas to improve infrastructure and mobility initiatives

### **Intergovernmental Affairs Committee**

Items that may typically be directed to the Intergovernmental Affairs Committee include, but are not limited to:

- ☐ Review Council policies as they relate to building and maintaining relationships with other governmental entities such as School Board
- ☐ Review of local, county, state and national legislative changes
- ☐ Recommending legislative agenda items to the full Council

#### (E) Ad hoc committees

Ad hoc committees may be created by the Mayor, with the consent of the City Council, or by the City Council, and its members appointed by the Mayor for a specific purpose, project or issue. The committee shall continue until the project is completed, at which time it will be dissolved, unless earlier dissolved by the Mayor, with the consent of the City Council. To the extent not inconsistent with the nature of ad hoc committees, ad hoc committees shall comply with the rules applicable to standing committees.

#### (F) Committee recommendation and Council consideration

Each committee shall prepare reports and make recommendations to the City Council at a work session regarding every matter assigned to or considered by the committee.

#### (G) Composition of committees

Each committee shall be composed of three members of the City Council. The Mayor shall serve as an ex officio member on each committee with the right to discuss any matter that is under consideration, but the Mayor shall have no vote nor serve as chair at the committee level. Any member of the City Council may attend any committee meeting, but only appointed members may participate in deliberations and voting. Testimony from someone not on the committee is permitted at the pleasure of the Chair.

#### (H) Appointments and vacancies

Within ten business days after the swearing-in of all Councilmembers after a City Council election, a Council Committee Interest Form (see sample attached) shall be completed by each member of the City Council and returned to the Mayor. Within ten business days following the submission of the Council Committee Interest Form, the Mayor shall make his or her nominations to the Council's committees and outside boards and deliver those nominations to the City Manager for distribution to the City Council, which shall be done by posting them as an agenda item in advance of the meeting at which the City Council will vote upon such nominations thereby providing the City Council at least 72 hours advance notice of the Mayor's proposed committee assignments. The City Council may accept or disapprove the Mayor's nominations. The Mayor will make nominations and make new nominations as needed to fill vacancies, in a manner that will assure continuity on the Council's committees and outside boards.

(I) Term of office

The term of office of any member of a standing committee or outside board begins upon confirmation by the City Council. The term continues until the member has resigned from the committee or outside board and a replacement is confirmed, the City Council has voted to remove the member from the committee or outside board, or until the committee member no longer holds a position on the City Council.

(J) Chair

The Chair of each committee shall be selected by the Mayor.

(K) Convening meetings

The committee Chair shall have the responsibility for convening the committee as necessary.

(L) Minutes of meetings

Committees shall keep minutes of their meetings. The minutes shall provide a summary of all business discussed or considered, action taken, the outcome of any votes, and those persons present at committee meetings. When completed, the minutes shall be signed by the Chair and filed with the City Secretary and promptly posted on the City's website.

(M) Agenda postings

Notice of all committee meetings shall be posted in accordance with the Texas Open Meetings Act. Such notices shall be posted in a manner that contemplates the attendance of a quorum of the City Council.

A "notice of potential quorum" or other appropriate posting that complies with the requirements of the Texas Open Meetings Act shall, at the request of any councilmember, be posted for meetings and events sponsored by entities other than the City in a manner that allows for the lawful attendance and participation of a quorum of the City Council.

(N) Recommendation regarding the continuation of committees

The Mayor shall annually review the activity of existing committees to identify inactive committees and provide a report to the Council recommending which committees should be established, continued, or dissolved.

**Section 4     Appointments by the City Council to outside organizations of which the City is a member**

(A) Under State law or by reason of contract or other arrangement, the City is

represented in the affairs of certain organizations that exist independently of the City. The City appoints, or approves the appointment of, representatives to those organizations who serve as voting members of the governing bodies of those organizations. Those persons are charged with representing the interests of the City. Currently, those organizations consist of the (1) Texas Municipal Power Agency; (2) North Texas Municipal Water District; (3) Dallas Area Rapid Transit Authority; (4) Garland Housing Finance Corporation; (5) Garland Economic Development Authority; (6) Garland Health Facilities Development Corporation; (7) Civil Service Commission; and (8) Dallas Central Appraisal District. If an organization is created subsequent to the adoption of this policy to which the City is entitled to appoint a representative to the governing body of the organization, this policy shall apply until specifically amended to apply to the organization.

(B) It is the intent of the City Council that the term of service is “at will” such that the representative may be removed without cause. If, by law, an appointment is for a definite period and an appointed representative may not be removed at will, controlling law shall prevail.

(C) In order to provide for timely appointments to the organizations, the City Council shall be advised at least sixty days in advance of the expiration of a representative’s term of office. At the time of such advice to the City Council, the City Manager shall cause a notice to be placed on the City’s website, in the Garland City Press and through other available community-related electronic communication tools such as Neighborhood Chatter and Nextdoor for a minimum of twenty-one days in order to provide citizens the opportunity to apply for the position. Such notice shall include information for the public that explains the purpose and function of the organization and the role of the appointee. At the close of the 21-day period, applications for the position, or recommended appointees to be approved by the City Council, will be presented to the City Council to allow the City Council to interview candidates for the position. At the close of the interview process, if one is held, the City Council shall make its appointment, or approval, by minute action or resolution, as prescribed by law.

(D) Persons appointed by the City Council shall provide periodic, but not less than annual, updates to the City Council regarding the activities of the organization to which they have been appointed.

## **Section 5 State and Federal legislation and rule-making proceedings**

(A) The City Attorney, with the assistance of the City Manager, shall apprise the Intragovernmental Affairs Committee of pending matters of legislation or rule-making that may affect the interests of the City. The Mayor, Intragovernmental Affairs Committee, or any two members of the City Council may request that a legislative or rule-making initiative be presented to the City Council for a formal determination by the City Council of endorsement or opposition. The City Attorney may, in the exercise of his or her professional discretion, determine to take action on or intervene in support of or opposition to a legislative or rule-making matter subject always, however, to the prerogatives of the

City Council as the policy-making body of the City.

(B) This policy is not intended to prohibit or restrict a member of the City Council acting as a private citizen, and not on behalf of the City, from participating in legislative or rule-making matters provided the Councilmember does not in any way imply that the position of the Councilmember is the official position of the City unless the City Council has so decided. A member of the City Council may accurately represent himself or herself as an elected official and as a member of the City Council, but may not use City resources, staff, letterhead, official email, or any City-approved logo in doing so.

## **Section 6 Council budget for travel, business expenses, and equipment**

(A) In the budget presented to the City Council for its consideration each year, the City Manager shall suggest an amount to be budgeted for the anticipated expenses of the City Council consistent with the provisions of this policy. The City Council shall consider the suggested funding and approve the amount, decrease the amount, or increase the amount as it considers necessary and proper. The funding should be sufficient to provide for City Council travel and other business expenses and City-provided equipment consistent with this policy and Article III, Section 3 of the City Charter, which provides for the reimbursement of necessary expenses incurred in the performance of a councilmember's official duties when approved by the City Council.

(B) The City Council shall provide adequate funds for travel and related expenses so that the Mayor and each member of the City Council has the opportunity to attend meetings, conferences, or events of organizations in which the City is a member if such expenses are approved by the City Council in accordance with subsection (D).

(C) The City Council shall provide adequate funds for travel and related expenses to enable the Mayor or other members of the City Council to attend meetings, events, and conferences relating to and advancing the City's interests in addition to those described in subsection (B) if such expenses are approved by the City Council in accordance with subsection (D).

(D) The expenses budgeted and authorized under subsections (B) and (C) must be approved by the City Council in advance unless the attendance of the Mayor or another member of the City Council is of such an urgent, unforeseen, and important nature that advance approval of expenses by the City Council cannot reasonably be obtained in a timely manner. Examples of urgent and unforeseen circumstances include attendance at legislative proceedings (federal/state/local), expenses made necessary by natural disasters, appearances at official business as compelled by law, and the like. Such unforeseen expenses may be approved by the Mayor (or by the Mayor Pro Tem in the event the Mayor will incur or has incurred such expenses). The City Council retains the authority to approve any travel that has been disapproved by the Mayor (or Mayor Pro Tem, as the case may be).

(E) A Councilmember shall provide a report on any meeting attended at the expense of the City at the next regular meeting of the Council. If multiple Councilmembers attended the same event, a joint report may be made. The City Manager will provide the City Council with an annual written briefing on Council travel and related expenses.

(F) The following general rules apply to travel (in town and out-of-town) and other City-related expenses incurred by the Mayor and the City Council:

- *Registration and necessary membership fees for the organizations described in subsection (B).* Membership and registration should be completed through the office of the City Manager in advance, when possible.
- *Transportation for City-related business.* Councilmembers may select the appropriate mode of transportation. Payment or reimbursement of transportation expenses, however, will be based upon the most economical mode of transportation that is reasonable under the circumstances.
  - If a Councilmember drives a personal vehicle on City business, reimbursement will be made at the lower of either the current mileage reimbursement rate published by the United States Internal Revenue Service or the most economical airline rate to and from the destination. A mileage accounting shall be filed using the City's standard personal mileage trip sheet form and shall have attached thereto a calculation of mileage as determined by an on-line trip mileage calculator.
  - Airline reservations should be made well in advance of the trip in order to take advantage of any discounted fares.
  - Rental vehicles are authorized for out-of-town trips where the Councilmember does not have use of a personal vehicle, but only when the amount of travel while at the destination will make a rental vehicle more economical than a shared ride, complimentary shuttle or taxi service. If a rental vehicle is used, all supplemental car rental insurance and damage waivers should be declined. Car rental reservations must be made through the office of the City Manager.
- *Meals for City-related travel.* The City will pay a per diem for meals based on the current published U.S. General Services Administration (GSA) allowance. GSA allowance rates are available on-line at [www.gsa.gov](http://www.gsa.gov) and will be based on the location at which the meal purchase is made. If the location is not listed in the GSA tables, the standard rate will be used. For less than complete days spent on authorized travel, the GSA allowance will be prorated as follows: Breakfast - 20% of GSA allowance; Lunch - 30% of GSA allowance; Dinner - 50% of GSA

allowance. The GSA allowance will also be reduced pro-rata for any meal for which the City will otherwise pay or the expense for which is otherwise avoided. Examples include, without limitation, a luncheon provided to attendees at a conference, a dinner provided as part of a social event related to the City business, or breakfast provided as part of the airfare to or from an event.

- ☐ *Out-of-town lodging accommodations.* The City will pay for lodging accommodations through the duration of the meeting, seminar or City-related business travel event. If accompanied by a family member or others, the Councilmember will pay any difference between the single and double- or multiple-occupancy rates, if any, for the accommodation.
- ☐ *Miscellaneous travel-related expenses allowed.* Reasonable baggage handling, parking (including valet parking fees if reasonable and necessary) tolls, service and similar gratuities and expenses are allowed while on authorized travel. Receipts are not required but the amount must be reflected on the expense report.
- ☐ *City-related equipment, office products, and supplies.* The City will provide each member of the City Council with:
  - A laptop computer or tablet with Wi-Fi or other remote access capabilities;
  - Business cards
  - A cell phone or a cell phone stipend, payable monthly
  - Official City-branded shirts and nametags

Ordering and delivery of equipment, especially computer or City-network connected equipment, must be coordinated with the Office of the City Manager in order to insure consistency of equipment capabilities and cost control. Equipment problems shall be referred to the Office of the City Manager. Each member of the City Council is responsible for promptly returning all City-provided equipment, access/ID cards, and keys (if any) to City facilities upon completion of the member's term of office. A Councilmember may, on completion of the member's term of office, purchase the laptop computer or tablet provided to that member for not less than fair market value if the device is considered obsolete and will be replaced by an upgraded device. Fair market value for the device will be determined by the City's IT department.

(G) The following expenses are categorically disallowed and will not be paid or reimbursed by the City and may not be charged to City-issued credit or debit cards or otherwise:

- ☐ Trip or travel insurance
- ☐ The personal portion of any trip, including without limitation the expenses



- attributable to family or companions
- ☐ Premium or first-class lodging, transportation or meals
- ☐ Alcoholic beverages
- ☐ In-room movies, games or other entertainment
- ☐ In-room meal service fees (the meal is reimbursable if otherwise allowed under this policy)
- ☐ Valet service (with the exception of required valet parking)
- ☐ Laundry service or garment rental (with the exception of laundry service for out-of-town stays of more than seven days)
- ☐ Gratuities in excess of 20%
- ☐ Entertainment costs, including theater, movie, or sporting event tickets, recreational expenses (such as greens or cart rental fees for golf) or the like
- ☐ Political contributions or attendance at political or charitable events
- ☐ Non-mileage personal driving expenses such as repairs, traffic citations, and insurance
- ☐ Personal losses incurred while on City-related business
- ☐ Cash advances on a City-issued "P-Card"

(H) While the City Charter provides that the Mayor and the members of the City Council are entitled to be reimbursed for certain expenses, it is the policy of the City that neither the Mayor nor any Councilmember will be issued or may hold a City P-Card or other means of unilaterally charging expenses to the City. If the Mayor or a member of the City Council is owed more than \$100.00 in reimbursement, the office of the City Manager shall process an accounts payable request through the City's accounts payable system. If less than \$100.00 is owed, reimbursement may be made from an appropriate petty cash fund. If the Councilmember owes the City money, the Councilmember must reimburse the City within twenty business days after completing travel or incurring the expense. A check payable to the City shall be attached to the original, signed expense report. The City Council is responsible for enforcing this policy.

(I) The Mayor and members of the City Council may be asked, or may desire, to join outside organizations to promote the interests of the City or to sponsor such events or organizations. In such cases, unless membership in the organization has already been approved by policy (see, for example, section relating to membership in the Texas Municipal League and its affiliates), the City Council shall be provided with a brief description of the organization, what it does, what benefits to the City the sponsorship or membership in the organization will promote, frequency of meetings, and an estimate of annual costs of membership (including dues, conference fees, and travel costs). The City Council may approve a sponsorship or a membership in the organization by consensus and, if so approved, shall budget funds for associated costs. The City Council shall annually review sponsorships or City Council memberships in outside organizations during the operating budget approval process. Some organizations may not reflect the values or ideals of the City Council as a whole. Thus, the Mayor or a member of the City Council may not commit to sponsorship, membership or participation in, or attendance at, meetings of

organizations not listed in this section without the approval of the City Council except in the Councilmember's individual capacity and at the Councilmember's sole expense.

(J) The City Manager is authorized to provide a cash allocation to senior-level employees who have been assigned to accompany members of the City Council on authorized out-of-town trips to off-set incidental, out-of-pocket expenses incurred in support of official City Council functions. Any unused portion of the cash allocation shall be promptly returned to the City upon completion of the function.

## **Section 7 Council requests for information or services**

(A) By Charter, the people of Garland have chosen a council-manager form of government. In keeping with that form of government, the City Charter specifically provides:

Neither the City Council nor any of its members shall direct or request the appointment of any person to or his removal from office by the City Manager or by any of his subordinates. However, the Council may consult and advise with the City Manager, make inquiry regarding the appointments or removals, and may express their opinion in regard thereto. In regard to administrative and executive duties under the City Manager, the Council and its members shall deal solely through the City Manager and neither the Council nor any member thereof shall give orders to any subordinates of the City Manager, either publicly or privately. Willful violation of the foregoing provisions of this Charter by any member of the Council shall constitute official misconduct and shall authorize the Council, by a vote of a majority of its membership, to expel such offending member from the Council, if found guilty after public hearing, and thereby create a vacancy in the place held by such member.

(B) The City receives many service requests, information requests, and complaints each month. Some of those requests and complaints are received through members of the City Council and some may be initiated by a member of the City Council. For requests and complaints received or initiated by a member of the City Council, this policy is intended to provide for an expeditious and thorough means of resolving such requests and complaints by providing access to the appropriate level of City management without violating the prohibition on interference contained in the City Charter.

(C) Requests and complaints received through or initiated by members of the City Council generally fall into three categories. Requests and complaints may be made either verbally or in writing, including email. The following guidelines will apply when processing requests or complaints:

<b>SERVICE REQUESTS</b>	
<b>TYPE:</b>	<b>REFER TO:</b>
First time request for routine service when a response to the Councilmember is not desired. A department representative will contact the requestor if necessary.	Department service line Responsible department head or managing director Assistant City Manager or Deputy City Manager City Manager
Second or third time for routine service request when a response to the Councilmember is not desired. The department head or a representative will contact the requestor.	Responsible department head or managing director Assistant City Manager or Deputy City Manager City Manager
Routine service request involving more than one department when a response to the Councilmember is not desired.	Responsible department heads or managing directors Assistant City Manager or Deputy City Manager City Manager
Routine service request when the Councilmember desires a response.	Responsible managing director Assistant City Manager or Deputy City Manager City Manager
Service request that is not routine or that involves a major resource allocation. A response shall be provided to the Councilmember.	Assistant City Manager or Deputy City Manager City Manager

<b>INFORMATION REQUESTS</b>	
Information that is readily available (on file or that can be provided verbally).	Responsible department head Assistant City Manager or Deputy City Manager City Manager
Information that is available but that requires compilation or interpretation.	Assistant City Manager or Deputy City Manager City Manager
Information that involves more than one department and that requires compilation or interpretation.	Assistant City Manager or Deputy City Manager City Manager

<b>COMPLAINTS</b>	
Routine service complaints regarding quality or quantity of service when no response to the Councilmember is desired.	Responsible department head or managing director Assistant City Manager or Deputy City Manager City Manager
Service complaints regarding quality or quantity of service when a response to the Councilmember is requested.	Assistant City Manager or Deputy City Manager City Manager
Complaints regarding the conduct or performance of a City employee.	City Manager
Complaints involving a City policy, procedure, or ordinance.	Assistant City Manager or Deputy City Manager City Manager City Council

(D) Information regarding the submission or resolution of a service request, information request or complaint is generally public and may be shared with other members of the City Council. A member of the City Council has no expectation of secrecy regarding the submission or resolution of a service request, information request or complaint. Information received from or given to a member of the City Council is information that may be given to all members of the City Council.

## **Section 8 Who shall act as Mayor**

The City Charter provides, “In case of the absence or disability of both the Mayor and the Mayor Pro Tempore, the remaining members of the Council shall elect one of the members to act as Mayor.” Because there may not be time to assemble a quorum to elect a person as mayor under such circumstances, and in order to increase the efficiency of government, the City Council may choose to elect a deputy mayor pro tempore to act as mayor when the Mayor and the Mayor Pro Tem are absent or disabled. If the City Council chooses to have a deputy mayor pro tempore, the election for the position shall be held at the first regular meeting of the City Council that follows the. The City Manager shall place an item on an agenda for consideration by the City Council each year.

## **Section 9 Communications on behalf of the City by members of boards and commissions**

(A) Boards and commissions, whether established by reason of State law, the Charter, by ordinance or on an ad hoc basis, are an integral part of the municipal government process. The citizens who serve on City boards and commissions provide an important service to the citizens of Garland. Boards and commissions, and the members of those boards and commissions, do not, however, speak for the City on larger issues of City governance. The City Council is responsible for all aspects of the City’s governance and it is the legislative and policy-making body for the City.

(B) If a board or commission desires to communicate to others a position on any matter of public concern, the board or commission shall first seek approval from the City Council before engaging in such communication. The City Council will speak for the City. The City Council will determine whether and what will be the official position of the City on the issue presented by the board or commission.

## **Section 10 Meals for boards and commissions**

The City Council shall budget for, and the City Manager shall cause to be provided, suitable meals for all meetings of the City’s boards and commissions.

## **Section 11 Appointments to boards and commissions; minimum meeting schedules; terms of appointment; annual election of officers; sub-committees; agendas; public comment**

(A) Generally, appointments to boards and commissions shall be made by the City Council annually during the month of August. The general term of office for a council appointee begins on September 1 and expires on August 31 in the year in which the term of office of the member of the City Council who made the appointment expires. If a vacancy occurs before a term is completed, the Councilmember representing the district in which the vacancy occurs shall be responsible for nominating a replacement. *See also, Section 2 of Division 4 of this Article for the procedure regarding the recruitment and appointment of members of boards and commissions.*

(B) Unless otherwise provided by the ordinance that creates the board or commission or by controlling State law, all boards and commissions shall meet at least twice per calendar year, with a quorum of members present.

(C) Notwithstanding subsection (A) and unless otherwise provided by the ordinance that creates the board or commission or by controlling State law, the term of office of a member of a board or commission ends upon the resignation, disqualification, recall or other removal of the appointing Councilmember. A person appointed to fill a vacancy in such circumstances shall be appointed only for the unexpired term of office of the vacancy created. Provided, however, that a member of a board or commission whose term of appointment has ended may, if otherwise eligible to hold the position and subject to the provisions of Sec. 10.28 of the Code of Ordinances (providing for the automatic termination of appointment when a member files for elective office) holdover in the position until a successor is appointed by the City Council. A term of appointment ends immediately if the member of the board or commission is removed or replaced by the City Council which, as provided by Article IV, Sec. 2 of the City Charter, may be done without cause or notice.

(D) All boards and commissions, the members of which are solely appointed by the City Council, shall elect officers at the first meeting held by the board or commission on or after October 1 in each calendar year.

(E) A board or commission may, subject to the approval of the chair, create subcommittees that may include members of the public provided the subcommittee is chaired by an appointed member of the parent board. Members of such subcommittees who are not also members of the parent board shall serve *ex officio*, may not participate in official voting, and are not counted towards a quorum. To the extent practicable, subcommittees shall endeavor to abide by the policies applicable to the parent board, including the location of the meeting, the recording of proceedings, the keeping of minutes, and the like.

(F) With the exception of any board or commission that serves in a quasi-judicial capacity or other than purely as an advisory body, an item may be placed on the agenda of a board or commission by: (1) City staff; (2) the Mayor or any two or more members of the City Council; and (3) any two or more members of the board or commission. No item may be considered by the board or commission that is not directly germane to its expressed functions and duties as provided by law. An agenda will provide a section for pending

matters and a section for future agenda items to be announced, without debate, for consideration by the board or commission. Pending items will be posted to each agenda of the board or commission until action is taken on the item or the item is withdrawn by the submitter. The person designated by the City Manager as the staff liaison to the board or commission will assemble the agenda with input from staff, the members of the board or commission, and the chair, and is responsible for timely posting agendas in accordance with the Texas Open Meetings Act.

(G) With the exception of any board or commission that serves in a quasi-judicial capacity or other than purely as an advisory body, every board and commission shall allow members of the public at least three minutes to speak on matters relating to the functions and duties of the board or commission or matters on a posted agenda. The board or commission shall, to the extent practicable, abide by the provisions of these policies and the practices of the City Council with respect to public speakers.

## **Section 12    Boards and commissions to meet at City Hall**

All regularly scheduled meetings of boards and commissions and of Council committees shall be held at City Hall except (1) when City Hall is unavailable for reasons such as multiple meetings and scheduling conflicts between meetings, inadequate space, construction and repair activities or similar circumstances which make the use of City Hall impracticable (in which event a suitable location as near as practicable to City Hall shall be used instead, and the meeting facility should be a municipal building); (2) for meetings of groups comprised primarily of minors; or (3) for non-traditional meetings such as retreats, tours, and social gatherings. Generally, all such meetings except for meetings of groups comprised primarily of minors should be held in the Work Session Room of City Hall and shall be recorded at least by audio means. The chair of the board, commission, or committee shall coordinate with the staff liaison for that board, commission or committee and with the City Secretary for the scheduling of rooms and the availability of recording equipment. The City Secretary shall publish the audio recordings of the meetings of boards, commissions (except for the Civil Service Commission and Youth Council), and Council committees on the City website.

## **Section 13    Annual performance and compensation review of council appointees**

(A) The City Council appoints the City Manager, the City Attorney, , the Internal Auditor, and the judges of the Municipal Court. Except for the chief presiding judge and the associate judge of the Municipal Court (whose terms of office are prescribed by State law) and the City Secretary, council appointees are employed under contract, the term of which shall not exceed one year. The performance of and compensation afforded to council appointees other than the City Secretary shall be reviewed and evaluated by the City Council annually. Notwithstanding any other reference to “appointee” in this section, the determination of the performance, evaluation, compensation, and other terms of employment for the City Secretary have been assigned by the City Council to the City Manager and are not covered by this section.

(B) The City Manager shall cause the Managing Director of Human Resources to provide the City Council with:

(1) The current compensation paid and salary ranges applicable to officials with similar duties and comparable responsibilities employed by comparable municipalities in Texas; and

(2) Information regarding applicable municipal populations, departmental or functional staff support personnel, years of experience of each official in that official's present position, and benefits or perquisites provided.

(C) A copy of the information gathered by the Managing Director of Human Resources shall be forwarded to the respective appointee. The appointee may submit to the City Council comments regarding the information considered relevant for review.

(D) The City Council shall, in executive session:

(1) Meet to review the applicable performance-related goals and objectives, if any, established for each individual appointee for the preceding review period and define those goals and objectives to be considered for the next review period;

(2) Meet with each appointee individually to discuss the appointee's performance and achievements;

(3) Discuss and evaluate the appointee's performance during the preceding review period and, if applicable, the goals and objectives to be established for the next review period; and

(4) Determine the compensation, benefits, and perquisites to be afforded to the appointee.

(E) The Mayor shall notify each appointee of the compensation and benefits determinations made by the City Council and discuss with the appointee any additional comments or suggestions made by the City Council regarding such appointee. Follow-up sessions to clarify the evaluation or review progress with the City Council may be scheduled if necessary. The City Attorney shall be directed to prepare an appropriate employment agreement for each appointee who is employed under contract and that is reflective of the directions given by the City Council for that appointee. The employment agreements shall be placed on an agenda for formal approval by the City Council. Municipal judges are appointed for two-year terms, but compensation may be adjusted annually by the City Council. Note: Part-time associate judges are hired under informal contract by the presiding chief judge of the Municipal Court and are compensated in accordance with funds allocated for such purposes in the annual budget as approved by the City Council.



(F) After final approval by the City Council, the City Manager shall inform the Managing Director of Human Resources of the compensation adjustments that need to be implemented, as applicable, and shall cause the Managing Director of Human Resources to promptly prepare and process all the documentation necessary to implement the compensation determinations of the City Council as directed.

#### **Sec. 14 Duty to maintain the integrity of sensitive or confidential information**

The members of the City Council are entitled to be appropriately and timely informed of matters that may affect their ability to duly represent the interests of their constituents. However, while emergencies, police and fire activities, and similar events (“Emergency Events”) may generate significant public interest, they may not be appropriate for communications by individual members of the City Council or they may be of such a nature that City personnel cannot be expected to divert attention to providing information to members of the City Council in particular, as opposed to providing general public information. When information is provided by City personnel to the City Council in such circumstances, the information may be particularly sensitive or even confidential and its release to the public could compromise public safety, result in the release of information eventually determined to be inaccurate or may constitute confidential information that may not be released in any event due.

It is the policy of the City Council that a member of the City Council is limited to disseminating only such information regarding Emergency Events as has been officially cleared for public dissemination. No member of the City Council may insist upon a particularized briefing of developing or on-going Emergency Events to the extent that any City personnel may be distracted from fully attending to the Emergency Event. Until information has been officially released to the public, the members of the City Council shall maintain the confidentiality of all information obtained through City sources.

### **Division 2 MISCELLANEOUS DEVELOPMENT PROCEDURES**

#### **Section 1 Citizen-initiated street name changes**

(A) Street name changes may be initiated either by the City or by citizen request. A street name change request initiated by citizen request will be considered only if 80% or more of the owners of property that will be directly affected by the street name change favor the request. A street name change request may be approved if the City Council determines that the change is in the public interest and that the name will not cause confusion, continuity or way-finding problems or otherwise adversely affect the public interest.

(B) A request to change a street name must be in writing. The application for a street name change must indicate the proposed name change, the limits (by block number) of the

name change, and the reasons for the change in name. A fee of \$500 shall be submitted with the written application for change in name to cover the cost of reviewing the proposal. If an initial determination is made that the change in name will cause confusion, continuity or way-finding problems or otherwise adversely affects the public interest, the applicant(s) shall be notified by the City and the initial application fee shall be refunded. If the proposed name is not acceptable, the applicant(s) shall be given an opportunity to propose another name before the application is disapproved. If the proposed name change is recommended for consideration to the City Council, the applicant(s) shall pay an additional fee based upon the actual costs of research of and notification to addresses that will be directly affected by the proposed name change. If the proposed name change is recommended for consideration to the City Council, the applicant(s) must obtain the written approval (an adequately descriptive petition is acceptable) of at least 80% of the affected property owners.

(C) Upon confirming that written approval has been obtained from the requisite number of affected property owners and payment of estimated sign replacement costs by the applicant(s), a public hearing shall be held by the City Council to consider the proposed name change. A name change may be made only by ordinance. If the name change is disapproved, the estimated sign replacement costs shall be refunded to the applicant(s).

## **Section 2 Private streets**

(A) Private streets are an allowed option under the Garland Development Code. The private street option may be chosen in order to provide a means of limiting access into a development (for example, in private, gated communities), in order to maximize the amount of non-public area within a development, or for other development reasons. The City has no responsibility for any expenses related to the construction, maintenance or repair of a private street.

(B) In recognition of the possibility that a street constructed as a private street may eventually be, and occasionally are, after a period of time, turned over for public use as a public street and to ensure that private streets are built to the same standards and quality of public streets, the following standards apply:

(1) A private street is not allowed within a development without the prior approval of the City Council either through zoning approval or by separate development agreement.

(2) A private street must be designed, constructed, and maintained in accordance with the standards for public streets of the type and capacity most like the proposed private street, including width, turning radii, pedestrian ways and sidewalks, street lighting, and utility facilities.

(3) Private streets are allowed only in residential developments. Streets within a commercial or industrial development must be public. If, however, access to the

proposed street will be restricted (such as by gates or security personnel) the streets must be private. Limited access public streets are not allowed.

(4) The City is not responsible for the construction or maintenance of any aspect of a private street, including repairs or other maintenance. Accordingly, some perpetual funding source (such as an assessment-levying capable homeowners' association) for repairs must be provided for all maintenance of a private street.

(5) Only the City Council has authority to accept the public dedication of a street formerly constructed or used as a private street, and the City Council will only do so under the following conditions:

(a) The street meets all City requirements as to design and construction standards - upgrades to meet current City standards must be completed prior to the acceptance of the dedication;

(b) The area to be dedicated as a public street includes adequate room for sidewalks, street lighting, and utilities;

(c) The street provides adequate accessibility for emergency vehicles; and

(d) All gates and other limits to accessibility have been or will be removed without cost to the City prior to the acceptance of the dedication.

(C) Design plans for all proposed private streets shall be submitted for approval to the Department of Engineering in the same manner that plans for public streets are submitted. Approval or disapproval by the Department of Engineering will be determined in reference to this policy. A request for a variance from the requirements of this policy must be submitted to the City Council for approval or disapproval.

### **Section 3 Additional public notification of City activities**

(A) In order to encourage public awareness of and participation in City matters, timely prior notification to the public must be given in addition to that contemplated by the Texas Open Meetings Act or other laws relating to specific notifications such as zoning changes, tax rates, and budget approval. This policy is intended to supplement the notifications required by law, including those contained in the Charter, the Code of Ordinances, and the Garland Development Code.

(B) The City shall endeavor to provide notice of the following matters at the earliest practical opportunity but, of course, no later than otherwise required by law:

- ☐ Adoption or amendment of the City's comprehensive plan
- ☐ Changes to the thoroughfare plan

- ☐ Changes to the City's municipal boundaries (whether by annexation or dis-annexation or by boundary adjustment agreement with another municipality)
- ☐ Changes to the City's territorial jurisdiction
- ☐ Amendments to the Garland Development Code
- ☐ Adoption or amendment of the annual City budget
- ☐ Adoption or amendment of the capital improvements budget
- ☐ Revisions to flood insurance rate maps and flood boundary-floodway maps affecting the City
- ☐ Special paving or drainage assessment projects

(C) In addition to posting, publication, and delivery of notice as required by law, the City shall endeavor to provide notice by mail, by email, or by other electronic delivery means to homeowners' associations and civic groups that have previously registered with the City Secretary for such purposes. An association or group must register in writing on a form or in a format provided by the City Secretary and shall provide at minimum a mailing address, an email address, and the phone number for the person designated to be the point of contact for the association or group.

### **Division 3 FINANCIAL AND FISCAL INTEGRITY PROCEDURES**

#### **Section 1      Rotation of outside auditing firms for annual audits**

The City is required by Charter and State law to have performed annually an independent audit of accounts and other financial transactions of the City by an outside auditor. The integrity and quality of the audit is of paramount concern to the City, to its citizens, and to those considering investments in or transactions with the City. The Audit Committee and staff shall review the outside audit each year to determine whether the City Council should consider a change in the firm conducting the outside audit or a change in the senior auditor in keeping with the goals stated in this policy.

#### **Section 2      Financial policy; statement of investment strategy; statement of investment policy**

(A) The City Council shall annually adopt, by resolution or minute action, a financial policy, a statement of investment strategy, and a statement of investment policy as required by and in conformance with State law. The following constitute the City's financial policies and statements of investments strategy and investment policy:

##### **(B) *Statement of financial policy***

##### **General Principles:**

- ☐ The City shall maintain an operating position in all governmental funds such that annual expenditures shall not exceed annual resources, including fund balance.

- ☐ The City shall maintain an operating position in all proprietary funds such that annual expenses shall not exceed annual resources, including retained earnings.
- ☐ The City shall protect the physical assets of the City to ensure the value, integrity, and utility of these major investments of the City's resources.
- ☐ This policy shall be reviewed and updated periodically and will be presented to the City Council for approval of any significant changes.

#### Operating Condition:

- ☐ A multi-year financial forecast shall be prepared annually projecting revenues and expenditures for all operating funds. This forecast shall be used as a planning tool in developing the following year's operating budget.
- ☐ Rates, fees, and charges for service shall be reviewed annually and adjusted as necessary to respond to cost increases or other changing circumstances.
- ☐ Activities within enterprise funds shall be budgeted so that revenues support costs of service, satisfy all revenue bond covenants, and provide adequate cash flows.
- ☐ Insurance coverage shall be examined annually to ensure that policy limits are adequate and in compliance with revenue bond covenants.
- ☐ Estimated costs and funding sources shall be identified prior to any project being submitted for approval by the City Council.

#### Debt Management:

- ☐ Debt shall not be used for funding current expenses.
- ☐ Bonds shall be sold only to finance long-term capital projects.
- ☐ A project shall not be financed over a period longer than the estimated life of that project.
- ☐ On all capital projects considered by Council, a disclosure statement shall be included, where appropriate, to identify annual operating costs of each project.
- ☐ The City shall prepare a multi-year Capital Improvement Program (CIP), updated annually, which will meet the anticipated growth requirements of the City. The CIP shall be adopted by the City Council as a guide for staff in planning the subsequent year's capital and financing needs.

- ☐ Total tax-supported debt shall be maintained so as not to exceed five percent (5%) of the total assessed valuation of taxable property.

#### Financial Condition:

- ☐ The City shall budget available resources to maintain an ending “fund balance” requirement in each fund according to the following definitions and guidelines:
  - General Fund - 30 days of budget-based operating expenditures less debt service. “Fund balance” is defined as the unreserved, undesignated portion of total assets minus total liabilities.
  - Enterprise Funds - 45 days of budget-based operating expenditures including debt service. “Fund balance” is defined as current assets minus current liabilities, excluding non-budgetary adjustments. The Water Fund shall also have a fund balance goal of 60 days of budget-based operating expenditures including debt service to supplement the 45 day requirement and mitigate against unexpected declines in revenue due to weather volatility.
- ☐ Before the City budgets any resources from a “fund balance”, as defined above, for the respective fund types, the “working cash” (cash and investment balances) of each fund shall be analyzed to ensure that adequate liquidity is projected to be available for cash flow purposes.
- ☐ All Internal Service Funds shall be fully self-supporting to the extent that any retained earnings deficit shall be fully recovered in the subsequent fiscal year through increased charges to benefiting departments. Self-insurance reserves shall be actuarially determined and periodically reviewed to evaluate experience and degree of risk assumptions. The City Council may opt, on an annual basis, to adjust fund balance targets in specific funds to meet short-term economic or other circumstances.

#### Asset Maintenance:

- ☐ In addition to anticipated growth requirements of the City, the Multi-year CIP will identify major infrastructure repair and rehabilitation needs.
- ☐ The City will prepare and maintain a facilities master plan. This document will serve as a management tool to project space needs including construction or modification of facilities.
- ☐ Repair, renovation, and maintenance shall be regularly performed to protect the life of the assets and to ensure their safety and utility. A systematic program of

routine and preventive maintenance shall be developed based on need identification and prioritization.

- ☐ The Annual Operating Budget will provide sufficient funding levels for ongoing maintenance of the infrastructure.

#### Accounting, Auditing, and Financial Reporting:

- ☐ Accounting systems shall produce information that is consistent with generally accepted accounting principles for governmental entities.
- ☐ An annual comprehensive audit shall be conducted of all funds by an independent public accounting firm in accordance with these financial policies. A policy of full disclosure on every financial report and official statement shall be followed.
- ☐ Year-end net revenues of the electric system and the combined water and sewer system shall be maintained at a level sufficient to cover average annual revenue debt service requirements and current year revenue debt service requirements by at least 1.25 times.
- ☐ A condensed year-end Electric Utility financial report shall be prepared and given widespread circulation to the ratepayers and taxpayers of the City.

#### Responsibility and Authority:

- ☐ The City Manager shall have accountability to the City Council concerning the financial strategies outlined in this policy. However, the City Council shall not be involved in the day-to-day implementation of the financial strategies outlined in this policy and no Councilmember – including the Mayor - shall unilaterally direct the City Manager or his staff to take or refrain from any action related to this policy or the authorizations contained herein.
- ☐ The City Manager is authorized to approve and execute by and on behalf of the City purchases or other contracts requiring expenditures up to and including the amount of \$250,000.00. The Purchasing Director, as directed by the City Manager, shall have the authority to purchase or contract for all goods and services needed by any department of the City or by any agency that derives its support wholly or in part from the City.
- ☐ The City Manager or his designee has the authority to authorize, approve, and execute by and on behalf of the City internal directives, procedures, and protocols meeting the minimum requirements of the State of Texas for home-rule municipalities; determine the method of procurement, in accordance with state law, that provides the best value for the City; approve, in accordance with the

requirements of law, change orders in the event it becomes necessary to make changes after the purchase or performance of a contract has commenced.

- The City Manager has authority for delegating financial transaction responsibilities to appropriate organizational levels for the efficient operation of the City.

**(C) *Statement of investment strategy***

Chapter 2256 of the Texas Government Code requires the City to adopt a separate written investment strategy for each of the funds or group of funds under its control. Effective investment strategy development coordinates the objectives of the City's investment policy and cash management procedures to reduce investment risk and enhance interest income. The following investment strategy describes the investment objectives for each fund or group of funds using the following priorities in order of importance:

- (1) Suitability
- (2) Safety of principal
- (3) Liquidity
- (4) Marketability of the investment before maturity
- (5) Diversification
- (6) Yield

This investment strategy applies to the investment and management of all funds under direct authority of the City of Garland. Each of the City's funds or group of funds has varying cash flow requirements and liquidity needs. Specific strategies shall be implemented considering that fund or group of funds' unique requirements. The City's funds are invested according to the following fund types:

Operating Funds:

Investments for operating funds shall be scheduled to meet the daily cash flow demand of the City with their stated final maturities and have a stated final maturity of three years or less from the date of purchase. Operating fund portfolios include the treasury portfolio.

*Suitability* - All investments authorized in the Statement of Investment Policy are suitable for Operating Funds.

*Safety of Principal* - All investments shall be high quality securities with no perceived default risk.



*Marketability* - Securities with active and efficient secondary markets will be purchased in the event of an unanticipated cash requirement.

*Liquidity* - Operating Funds have as their primary objective to assure that anticipated cash flows are matched with adequate investment liquidity. Constant \$1 NAV investment pools and money market mutual funds shall be an integral component in maintaining daily liquidity. A dollar weighted average maturity of 365 days or less will be calculated using the stated final maturity date for each security. Purchased securities will have a stated final maturity of three years or less from the date of purchase.

*Diversification* - Maturities shall be staggered throughout the budget cycle to provide cash flows based on anticipated needs. Investment risks will be reduced through diversification among authorized investments.

*Yield* - The City's objective is to attain a competitive market yield for comparable securities and portfolio constraints. The benchmark for Operating Funds shall be the trailing average of the constant maturity treasury ("CMT") (as published by the Federal Reserve) that most closely matches the weighted average maturity of the portfolio. For Operating Funds, it is expected this will be the six month trailing average of the six-month CMT.

#### Debt Service Funds:

Investments for debt service funds shall mature on or before the next debt service date. Purchased securities will be highly liquid with very short term maturities because of the near term cash flow requirements. Debt service funds include the general obligation debt service fund and the revenue bond debt service fund.

*Suitability* - All short term, high quality securities that are authorized in the Statement of Investment Policy and are in compliance with applicable bond ordinances are suitable for debt service funds.

*Safety of Principal* - All investments shall be high quality securities with no perceived default risk. Purchased securities shall have a stated final maturity date on or before the next debt service date.

*Marketability* - Securities with active and efficient secondary markets will be purchased although unanticipated cash requirements are not probable.

*Liquidity* - Debt service funds have predictable cash requirements. Investment maturities shall not exceed the anticipated cash flow requirements.

*Diversification* - Market conditions will greatly influence the selection of maturities and security types. At no time shall maturities go beyond debt service payment

dates.

*Yield* - The City's objective is to attain a competitive market yield for comparable securities and portfolio constraints. The benchmark for debt service funds shall be the trailing average of the CMT that most closely matches the weighted average maturity of the portfolio. For Debt Service Funds, it is expected this will be the three month trailing average of the three-month CMT.

#### Reserve Funds:

Investments for reserve funds have as their primary objective the ability to generate a dependable revenue stream with a low degree of volatility. Purchased securities will be of high quality with short to intermediate term maturities. Reserve fund portfolios include the revenue bond reserve fund and the rate mitigation fund.

*Suitability* - All securities that are authorized in the Statement of Investment Policy except as may be restricted by bond ordinance are suitable for reserve funds.

*Safety of Principal* - All investments shall be short to intermediate term, high quality securities, with no perceived default risk.

*Marketability* - Securities with active and efficient secondary markets will be purchased in the event of an unanticipated cash requirement.

*Liquidity* - Unless there are anticipated cash flow requirements, reserve funds generally do not require a high degree of daily liquidity. Purchased securities shall have a stated final maturity date of five years or less from the date of purchase.

*Diversification* - Market conditions will greatly influence the selection of maturities and security types. Securities shall be of high quality, with short to intermediate term maturities. A dollar weighted average maturity of 3 years or less will be calculated using the stated final maturity date for each security.

*Yield* - The City's objective is to attain a competitive market yield for comparable securities and portfolio constraints. The benchmark for reserve funds shall be the trailing average of the CMT that most closely matches the weighted average maturity of the portfolio. For Reserve Funds, it is expected this will be the one year trailing average of the one-year CMT.

#### **(D) *Statement of investment policy***

Chapter 2256 of the Texas Government Code requires the City to annually adopt rules governing its investment practices and to define the authority of its investment officers. This investment policy applies to the investment and management of all funds under direct authority of the City. These funds include all governmental, proprietary, and trust and

agency funds which are accounted for in the City's Comprehensive Annual Financial Report. The Employees Deferred Compensation Agency Fund and the Other Post Employment Benefit Trust Fund are excluded from coverage under this Policy.

(1) Investment of funds will be governed by the following investment objectives, in order of priority:

*Preservation and safety of principal* - Preservation of capital is the foremost objective of the City. Each investment transaction shall seek first to ensure that capital losses are avoided, whether the loss occurs from the default of a security or from erosion of market value.

*Liquidity* - The City's investment portfolio will remain sufficiently liquid to enable the City to meet all operating requirements which can be reasonably anticipated. Liquidity will be achieved by matching investment maturities with forecasted cash flow requirements and by investing in securities with active secondary markets.

*Yield* - The investment portfolio of the City shall be designed to attain a market-average rate of return throughout budgetary and economic cycles, taking into account the City's investment risk constraints and the cash flow characteristics of the portfolio. The Director of Financial Services will from time to time establish performance measures and goals for the portfolio rates of return. Efforts to seek returns higher than the established goals must be consistent with risk limitations identified in this policy and prudent investment principles.

(2) Responsibility for the management of the investment program is assigned to the Director of Financial Services. Other individuals authorized as investment officials by the City Council are the Cash and Debt Manager and the Controller. Investment authority of all investment officers shall conform to all applicable Federal and Texas laws, the City Charter, the ordinances of the City, the Statement of Investment Strategy, and this Statement of Investment Policy. The Director shall establish written procedures for the operation of the investment program, consistent with this Statement of Investment Policy. No person may engage in an investment transaction or the management of City funds except as provided under the terms of this Statement of Investment Policy, the Statement of Investment Strategy, and the procedures established by the Director of Financial Services.

(3) An Investment Committee comprised of the City Manager, the Director of Financial Services, the Cash and Debt Manager, the Controller, and the City's investment advisor, if the City has contracted with an advisor, will meet on a quarterly basis. The investment advisor is a non-voting member of the Investment Committee.

The primary objective of the Committee will be to review general strategies and policies, monitor investment program results, select independent training sources, and authorize securities dealers.

(4) Each investment officer shall attend not less than ten hours of instruction relating to investment responsibilities during the first year of employment and not less than 8 hours of instruction relating to investment responsibilities every two years thereafter. Training must be provided by an independent source approved by the Investment Committee.

(5) The City may contract with an investment advisor, who shall adhere to the spirit, philosophy and specific term of this Statement of Investment Policy. The investment advisor shall invest on behalf of the City using the standard of care described in Sec. 2256.006 of the Texas Government Code and in this Statement of Investment Policy. The investment advisor must be registered with the Securities and Exchange Commission (SEC) under the Investment Advisors Act of 1940 as well as with the Texas State Securities Board. Investment advisors may assist the City with the management of the City's funds and similar responsibilities including, but not limited to, the review of investment policy, development of appropriate investment strategies, security analysis, trade execution, security clearance, broker-dealer compliance, investment reporting and security documentation.

(6) The Director of Financial Services shall establish a system of internal controls which shall be documented in writing. The controls shall be designed to prevent losses of public funds arising from fraud, employee error, misrepresentation by third parties, unanticipated changes in financial markets, or imprudent actions by investment officials. Controls deemed most important include: control of collusion, separation of duties, separating transaction authority from accounting and recordkeeping, custodial safekeeping, avoidance of bearer-form securities, clear delegation of authority, specific limitations regarding securities losses and remedial action, written confirmation of telephone transactions, minimizing the number of authorized investment officials, and documentation of and rationale for transactions.

(7) In conjunction with the annual independent audit required by law and the City Charter, the City's independent auditor shall review the investment records for the end of each quarter. The independent auditor shall report the results of the review directly to the City Council.

(8) The City's investment officers shall be governed by the standard of care applicable to a prudent investor as described in Sec. 2256.006 of the Texas Government Code and in this Statement of Investment Policy. Investments shall be made with the exercise of that degree of judgment and care, under circumstances then prevailing, which persons of prudence, discretion and intelligence exercise in the management of their own affairs, not for speculation but for investment, considering the probable safety of their capital as well as the probable income to be derived.

(9) In applying the "prudent person" rule, the investment officer shall exercise prudence with respect to the management and investment of all funds over which the officer has responsibility and control. The investment officer must determine whether investment

decisions are consistent with this Statement of Investment Policy.

(10) All participants in the investment program shall act responsibly as custodians of the public trust. Investment officials will avoid any transaction that might impair public confidence in the City's ability to govern effectively. Investment officers shall recognize that the investment portfolio is subject to public review and evaluation. The overall program shall be designed and managed with a degree of professionalism which is worthy of the public trust. Nevertheless, the City Council recognizes that in a diversified portfolio, occasional measured losses are inevitable and must be considered within the context of the overall portfolio's investment return, provided that adequate diversification has been implemented.

(11) Investment officers, acting in accordance with written procedures and exercising due diligence, shall not be held personally responsible for market price changes, provided that these changes are reported immediately and that appropriate action is taken to control adverse developments.

(12) The investment instruments authorized for purchase by the City are limited to:

- ☐ Direct obligations of the United States government with a stated final maturity of five years or less from the date of purchase.
- ☐ Debentures or discount notes with a stated final maturity of five years or less from the date of purchase issued by, guaranteed by, or for which the credit of any of the following Federal agencies and instrumentalities is pledged for payment: Federal National Mortgage Association (FNMA or Fannie Mae), Federal Home Loan Bank (FHLB), Federal Farm Credit Bank (FFCB), Federal Home Loan Mortgage Corporation (FHLMC or Freddie Mac), Federal Agricultural Mortgage Corporation (FarmerMAC), Export-Import Bank of the United States (EXIM Bank), and the Private Export Funding Corporation (PEFCO).
- ☐ Bonds or other interest bearing obligations having a stated final maturity of five years or less from the date of purchase of which the principal and interest are guaranteed by the full faith and credit of the United States government.
- ☐ Repurchase agreements collateralized with U.S. Treasury securities at a minimum market value of 102 percent of the dollar value of the transaction, with any accrued interest accumulated on the collateral included in the calculation. Eligible collateral will have a maximum maturity of ten years. Repurchase agreements may be entered into only with primary government securities dealers who have executed a City approved Master Repurchase Agreement. Collateral shall be delivered to and held by the City's third party safekeeping agent. As used herein, the term "repurchase agreement" includes direct security repurchase agreements and reverse security repurchase agreements. A written master repurchase agreement shall be established

between the City and the seller prior to purchase. The maximum term for direct security repurchase agreements and reverse security repurchase agreements will be 90 days or less. Funds received under the terms of a reverse security repurchase agreement may not be used to purchase any investment whose final maturity date exceeds the expiration of the reverse.

- ☐ Certificates of deposit issued by a depository institution that has its main office or branch office in Texas if:
  - Such certificates of deposit are: (i) guaranteed or insured by the Federal Deposit Insurance Corporation or the National Credit Union Share Insurance Fund or their successors; or (ii) secured by obligations described in subsection (1) or (2) above, and the collateral will be held by the City's third party custodian; or
  - Such depository institution contractually agrees to place the funds in federally insured depository institutions in accordance with the conditions prescribed in Section 2256.010(b) of the Texas Government Code; or
  - Such certificates of deposit are brokered by an authorized broker/dealer that has its main office or a branch office in Texas who or which contractually agrees to place the funds in federally insured depository institutions in accordance with the conditions prescribed in Section 2256.010(b) of the Texas Government Code.
- ☐ SEC registered no-load money market mutual funds with a dollar-weighted average portfolio maturity of 60 days or less. Assets will consist exclusively of those securities listed above. The investment objective of the fund is to maintain a stable \$1 net asset value. The maximum stated maturity of the fund will be 13 months.
- ☐ State or local investment pools organized under the Interlocal Cooperation Act. The investment pool must be rated no lower than investment grade by at least one nationally recognized rating agency and have a dollar-weighted average portfolio maturity of 60 days or less. Assets will consist exclusively of those securities listed above. The investment objective of the pool is to maintain a stable \$1 net asset value. All securities owned in the pool will have a stated remaining maturity of thirteen (13) months.
- ☐ Commercial paper rated not less than A1 or P1 or an equivalent rating by at least two nationally recognized credit rating agencies or one nationally recognized credit rating agency and that is fully secured by an irrevocable letter of credit issued by a bank organized and existing under the laws of the United States or any state. The securities must have a stated maturity of 270 days or less from the date of purchase. No more than 5% of any one issuer may be held and no more than 25% of any fund or group of funds will be invested in commercial paper. Physical delivery securities

are ineligible.

- Obligations of states, agencies, cities, and other political subdivisions of any state rated not less than A or an equivalent rating by at least two nationally recognized credit rating agencies.

(13) The credit rating of investment instruments will be continuously monitored through daily market participation and through the monthly mark-to-market pricing of securities. The liquidation of an investment instrument will be considered if its credit rating falls below minimums stated in this statement of investment policy.

(14) The City is expressly prohibited from entering into options trading or futures contracts, hedging or purchasing any security which is not authorized by Texas state law.

(15) As an integral part of this statement of investment policy, the City shall adopt a separate written statement of investment strategy for each fund or group of funds. Each investment strategy shall describe the investment objectives of each fund or group of funds according to the following order of importance:

- (a) Suitability
- (b) Preservation and safety of principal
- (c) Liquidity
- (d) Marketability of the investment before maturity
- (e) Diversification
- (f) Yield

(16) Securities purchased for the City's portfolios will be delivered by book entry and will be held in third party safekeeping by a Federal Reserve member financial institution designated as the City's custody and safekeeping agent.

(17) The City will execute safekeeping agreements prior to utilizing the custodian's safekeeping services. The safekeeping agreement must provide that the safekeeping agent will immediately record and promptly issue and deliver a safekeeping receipt showing the receipt and the identification of the security, as well as the City's interest. All securities owned by the City will be held in a customer account naming the City as the customer.

(18) All security transactions will be on a delivery versus payment basis to the City's third party custody and safekeeping agent through the Federal Reserve Bank wire system. In this manner, the City will always have possession of either the securities or moneys.

- (19) Custody and safekeeping procedures will be reviewed annually by the independent auditor.
- (20) The City seeks active portfolio management to enhance total returns within the guidelines of this policy. Investment decisions should not incur unreasonable investment risk in order to obtain investment income. The City will not make investments for the purpose of trading or speculation.
- (21) Each investment transaction must be based on competitive quotations from at least three securities dealers authorized to engage investment transactions with the City.
- (22) Authorized investment officers shall access real-time electronic financial information to monitor the market price of acquired investments. The pricing information will be used to verify the accuracy of quoted prices for a potential purchase or sale to ensure that a fair market price is attained.
- (23) If the City has contracted with an investment advisor it shall be the responsibility of the investment advisor to solicit competitive quotations from at least three securities dealers, to document and disclose those offers to the City, and to ensure a fair market price is obtained.
- (24) In managing its investment portfolio, the City will avoid any purchase of investments, or any investment practice or procedure which is not specifically authorized under this policy.
- (25) It is the policy of the City to avoid concentration of assets in a specific maturity, a specific issuer or a specific class of securities. The allocation of assets in the portfolios should be flexible depending upon the outlook for the economy and the securities markets. In establishing specific diversification strategies, the following general policies and constraints shall apply.
- (a) Portfolio maturities shall be staggered in a way that avoids undue concentration of assets in a specific maturity sector. Maturities shall be selected which provide for stability of income and reasonable liquidity.
  - (b) To attain sufficient liquidity, the City shall schedule the maturity of its investments to coincide with known disbursements.
  - (c) Risks of market price volatility shall be controlled through maturity diversification.
  - (d) The placement of investment transactions and the gathering of market information shall be diversified among all authorized brokers.
- (26) A qualified financial institution shall be selected to serve as the City's primary



depository through a bank services procurement process, which shall include a formal request for application issued at least every five years. In selecting a depository, the City shall consider various criteria as specified prior to the issuance of the request for application. Financial institutions located outside of the city boundaries may be considered to participate in the request for application process provided the City has adopted a policy permitting it.

(27) Upon selection, the financial institution shall comply with the requirements and agreements identified in the request for application. The financial institution is required to comply with the Public Funds Collateral Act, Chapter 2257 of the Texas Government Code.

(28) Consistent with the requirements of State law, the City requires all bank and savings bank deposits to be federally insured, fully secured through an FHLB standby letter of credit or collateralized with eligible securities in accordance with the Public Funds Collateral Act, Chapter 2257 of the Texas Government Code. Eligible securities as defined in Chapter 2257 shall be deposited with a third party custodian prior to the deposit of City funds. The City reserves the right to accept or reject any form of collateral, at its discretion. The pledged collateral must be maintained at all times during the term of the depository contract at required levels. In order to perfect the City's security interest in the pledged collateral under the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA), it is required that a collateral agreement between the City and the depository be signed by both parties prior to the deposit of City funds. The collateral agreement must be approved by the depository's board of directors or its loan committee, which approval shall be reflected in the minutes of the board or committee. The signed collateral agreement, board resolution, and minutes certifying the approval of the collateral agreement must be presented to the City prior to the deposit of City funds.

(29) Government security broker/dealers authorized to engage in investment transactions with the City will be selected on the basis of their financial stability, expertise in cash management for local government and their ability to service the City's account. The qualifications of prospective broker/dealers will be determined from a completed broker/dealer questionnaire, personal interview and reference checks.

(30) Before engaging in investment transactions with the City, a prospective securities broker/dealer must provide a written instrument certifying that the securities broker/dealer has received and has thoroughly reviewed the City's Statement of Investment Policy A prospective securities broker/dealer must provide evidence of registration with FINRA and the State of Texas Securities Commission. Qualified broker/dealers authorized to engage in investment transactions with the City are required to regularly submit their most recent audited financial statements to the City.

(31) If the City has retained a registered investment advisor for the management of its funds, the advisor shall be responsible for performing due diligence on and maintain a list

of broker/dealers with which it shall transact business on behalf of the City. The advisor shall annually present a list of its authorized broker/dealers to the City for review. The advisor shall confirm in writing that the advisor has reviewed the City's investment policies and has implemented reasonable procedures and controls in an effort to preclude imprudent investment activities on behalf of the City. The advisor shall obtain and document competitive bids and offers on all transactions and present those to the City as part of its standard trade documentation.

(32) The Investment Committee will adopt and annually review the list of dealers authorized to engage in investment transactions with the City.

(33) The investment officer shall prepare and submit to the City Council and management on a quarterly basis an investment report for each fund and fund group which describes in detail the current investment position, states the beginning market value, the additions and changes to market value, and ending market value for each pooled fund, states the book value and market value of each separately invested asset at the beginning and end of the reporting period, states the maturity date of each separately invested asset, states the fund for which each individual investment was acquired and states compliance of each fund group with this Statement of Investment Strategy, the Public Funds Investment Act, and with generally accepted accounting principles. The report shall also summarize and present, on a combined portfolio basis, total market valuation, total realized gains and losses, total unrealized gains and losses, distribution by maturity sector, and distribution by security type. The report will also indicate, by portfolio, total investments held and total interest income earned on a full accrual basis. The report may comment on current investment approaches and other items significant to the investment program. The report shall be signed by the Director of Financial Services and the investment officer. The investment report presented at the end of the fiscal year may also include a review of the investment activities and earnings for the entire fiscal year for each fund or fund group, discuss investment techniques, and suggest improvements which will enhance the investment program and present an investment plan for the ensuing fiscal year. The report may discuss other significant issues related to the investment program.

(34) Investment officers of the City shall refrain from personal and business activities involving any of the City's custodians, depositories, broker/dealers or investment advisors which may influence the officers' ability to conduct the officer's duties in an unbiased manner. Investment officers will not utilize investment advice concerning specific securities or classes of securities obtained in the transaction of the City's business for personal investment decisions, will in all respects subordinate their personal investment transactions to those of the City (particularly with regard to the timing of purchase and sales), and will keep all investment advice obtained on behalf of the City and all transactions contemplated and completed by the City confidential, except when disclosure is required by law.

(35) This statement of investment policy and the statement of investment strategy will be reviewed annually by the City Council. Upon completion of the review, the City Council

will acknowledge by resolution or minute action that it has reviewed the investment policy and investment strategy. Periodic revisions to the investment policy, the statement of investment policy, and the statement of investment strategy may be approved by the City Council.

### **Section 3     Detecting, investigating, and preventing fraud, waste, and abuse**

(A)    For purposes of this section:

“Fraud” includes, without limitation:

- ☐ Forgery, alteration, or unauthorized negotiation or presentment of a check, warrant, bank draft, or any other financial document of the City or its affiliates including electronic transfer of funds
- ☐ Theft of City property, including money or other thing of value
- ☐ Misappropriation of City funds, securities, supplies, or other assets
- ☐ Impropriety in the handling or reporting of money or financial transaction
- ☐ Profiteering as a result of insider knowledge of City operations
- ☐ Disclosing to another for improper gain and without authorization any confidential or proprietary information of the City
- ☐ The receipt of kick-backs, bribes or improper gifts
- ☐ Sabotage or other acts of intentional damage to City resources, including improper access or damage to a City database

“Waste” means the loss or misuse of City resources that result from deficient practices, system controls or decisions. A non-exclusive example of waste includes a violation of the City’s non-idle policy, that is, waste of fuel by needlessly allowing a vehicle to idle.

“Abuse” means the intentional, wrongful or improper use of resources or misuse of rank, position or authority that causes the loss or misuse of City property or resources such as tools, vehicles, computers, fuel, or employee time. Non-exclusive examples of abuse include using City equipment or supplies to conduct personal business and using non-confidential information to get new customers for an employee’s outside business.

(B)    The City Manager shall be primarily responsible for preventing and detecting fraud, waste, and abuse involving City employees. The City Manager shall require his managerial employees to be responsible for initiating preventive measures where appropriate, to be familiar with the types of improprieties that might occur within the managerial employee’s area of responsibility, and to be alert for any indication of fraud, waste or abuse. The City Manager shall establish by directive rules for City employees regarding fraud, waste, and abuse consistent with the provisions of this policy. The directives shall apply to all employees of the City Manager and without regard to a suspected employee’s length of service or position. The directives shall require that any employee who detects or suspects an incident of fraud, waste or abuse shall immediately report the same to the next higher

level of supervision in the employee's chain of command. If the person in the next higher level of supervision is also suspected of fraud, waste or abuse, the employee shall report the fraud, waste or abuse to the Managing Director responsible for the department to which the employee is assigned. The directives shall allow an employee to by-pass the chain of command by reporting suspected fraud, waste or abuse to the hotline described below.

(C) The provisions of this policy apply to persons doing business with the City.

(D) The Internal Auditor shall establish and operate, with the cooperation of the City Manager, a "hotline" phone number or on-line intake system to which a person may anonymously report fraud, waste or abuse. A fraud, waste, and abuse hotline poster shall be developed by the City Manager and the Internal Auditor and shall be displayed at prominent locations throughout City buildings. The poster shall include information as to how an allegation may be reported through the hotline system.

(E) As a general rule, the Internal Auditor has primary responsibility to investigate allegations of fraud and the City Manager has primary responsibility to investigate allegations of waste and abuse. No definitive rule is established by this policy, however, due to the unique circumstances of any given case. Some allegations of fraud - the theft of minor office supplies, for example - while serious, are matters to be addressed through the City Manager for appropriate action. An allegation of abuse or waste, on the other hand, may involve a criminal offense or have such substantial consequences to the interests of the City that the Internal Auditor should have the primary responsibility for investigation. An allegation that relates to an employment dispute (disagreement with management decisions or style, workers compensation issues, claims of discrimination or workplace grievances and such) shall be referred to the Managing Director of Human Resources to be handled in accordance with controlling law and City policies. The City Manager, the Internal Auditor, and the City Attorney are directed to cooperate in determining the best means of protecting the City's interests.

(F) When the Internal Auditor receives an allegation of fraud, waste or abuse, the Internal Auditor shall:

(1) Determine whether the Internal Auditor or the City Manager has primary responsibility over the allegation as provided in this policy and proceed accordingly;

(2) If the Internal Auditor has primary responsibility, perform an initial investigation to determine whether the complaint alleges reasonable cause to continue with an investigation; and

(3) If the complaint alleges a serious instance of fraud, waste or abuse under this policy, refer the complaint to the Fraud, Waste, and Abuse Committee (as described below) for further discussion and direction.

(G) The Fraud, Waste, and Abuse Committee consists of the Chair of the Audit

Committee, the Internal Auditor, the City Manager, the City Attorney, and the Managing Director of Human Resources. The Chief of Police may be made a member of the committee if an allegation includes conduct that may constitute a crime or the standing committee may refer a matter to the Chief of Police for criminal investigation.

(H) The Internal Auditor, in coordination with the Fraud, Waste, and Abuse Committee, shall report serious incidents to the City Council either directly or through a report to the Audit Committee, which shall then report the matter to the City Council. The report generally should not include the names of persons involved in the incident. Minor or non-serious incidents are generally internal management issues and reports of such to the City Council are not appropriate. The director of the department in which the incident arose shall, however, provide a written report to the City Manager regarding what actions were taken in response and what corrective actions will be taken to prevent recurrences.

#### **Section 4      Qualifications for doing business with the City**

(A) For purposes of this policy, “person” includes: (1) an individual; (2) a majority owner or principal of a corporation, partnership, association, or limited liability company; (3) shareholders in a business entity with five or fewer shareholders; and (4) majority owned affiliates of the foregoing.

(B) It is the policy of the City Council that the City not engage in business with a person who has been convicted of any state or federal felony offense. The City shall not, except as provided in this policy, enter into or renew a contract to purchase, sell, or lease goods or services to or from any person who has been: (1) convicted of a state or federal felony; or (2) convicted or fined in excess of \$50,000 on certain state or federal discrimination offenses. A conviction includes a probated sentence, a deferred adjudication, or similar disposition. Discrimination charges include only those brought for discrimination based on race, gender or religion.

(C) This policy does not apply when:

(1) At least three years have elapsed between the conviction and the approval of the contract;

(2) The contract does not require City Council approval;

(3) Anything of value is paid or given to a person as an informant or participant in a crime stopper program; or

(4) The City Council determines that application of this policy to a proposed contract would cause financial hardship to the City by its application (in which event the City Council may waive the application of this policy by the affirmative vote of not less than six members of the City Council).

(D) For bid applications that may result in a contract award by the City Council, the bidder shall include a certification in the offer that the bidder is not disqualified by the application of this policy.

## **Division 4    STANDARD OPERATING PROCEDURES AND HOUSEKEEPING RULES**

### **Section 1    National Night Out**

National Night Out is an event recognized throughout the United States and Canada and held annually on the first Tuesday in August (October in Texas). It is designed to heighten crime and drug prevention awareness, generate support for and participation in local anti-crime programs, strengthen neighborhood spirit and police-community partnerships, and send a message to criminals letting them know that neighborhoods are organized and fighting back. Because the scheduled National Night Out often conflicts with the regularly scheduled first regular council meeting in October, a rescheduling of that meeting is necessary. Therefore, the first regular meeting of each October, normally held on the first Tuesday of the month, shall be rescheduled either to the first Monday of the month or to the second Tuesday of the month, when there are five Tuesdays in the month. The City Manager shall advise the City Council of scheduling options in order that the City Council may take action to reschedule the meeting not later than the second regular meeting in September.

### **Section 2    Board and commission appointments**

(A) In May and June of every year, the City will, through the Garland City Press or similar distributions, including the city website, Garland City Press Briefs, Neighborhood Chatter, Nextdoor and other available community-related electronic communication tools, include information for the public that explains the purpose and function of every board and commission appointed by the City Council, except the Garland Youth Council. The information will solicit applications from interested Garland residents. Applications for appointment must be delivered to the City Secretary and shall be submitted on a form provided by the City Secretary for that purpose. Upon receipt of an application, the City Secretary shall check the applicant's qualifications against the requirements for appointment to the office for which appointment is sought. The deadline for submitting an application is July 1. Following the filing deadline, the City Secretary shall forward applications, including those submitted by incumbents who wish to be reappointed to a position, to the City Council for consideration. The City Council shall also be provided with an attendance report detailing the number of absences of each current board member for the preceding reporting period and a report on current vacancies.

(B) In regards to the Garland Youth Council (GYC), in March and April of every year, the City will, through the Garland City Press or similar distributions, including the city website, Garland City Press Briefs, Neighborhood Chatter, Nextdoor and other available community-related electronic communications tools include information for the public that

explains the purpose and function of the GYC. The information will solicit applications from interested Garland residents who are students enrolled in grades 9 through 12. Applications for appointment must be delivered to the GYC Staff Liaison and shall be submitted on a form provided by the GYC Staff Liaison for that purpose. Upon receipt of an application, the GYC Staff Liaison shall check the applicant's qualifications against the requirements for appointment. The deadline for submitting an application is May 1. Following the filing deadline, the GYC Staff Liaison shall forward applications, including those submitted by qualified incumbents who wish to be reappointed to a position, to the City Council for consideration. The City Council shall also be provided with an attendance report detailing the number of absences of each current appointment for the preceding reporting period.

(C) Councilmembers should review applications submitted for the position to be filled and select for nomination the person determined by the Councilmember to be most qualified for the position. Appointments for the Garland Youth Council will be made on nomination at the first regular meeting of the City Council in July. Appointments for all other boards and commissions will be made on nomination at the second regular meeting of the City Council in August.

### **Section 3     Assistance to non-profit organizations for special events**

(A) A non-profit organization that intends to sponsor a special event within the City may request in-kind (non-monetary) assistance from the City by submitting a written request to the City Manager. A request for assistance must be made for each event - standing or continuing requests are not allowed. A request for assistance must specify what benefits will accrue to the City as a result of the event and must specify with reasonable particularity what City services are being requested. A request for assistance must include a completed Special Events Assistance Program Application (see attached form). The request and application must be filed not less than 45 days prior to the date of the event. A request for assistance does not constitute an application for a special events permit under Chapter 30 of the Code of Ordinances unless so determined by the Building Official.

(B) In order to be approved, a request for assistance must meet the following criteria:

(1) The sponsoring organization must provide evidence that the organization is an established civic, cultural, educational, religious or service group that is nationally- or state- chartered and that its membership is open to all citizens of Garland;

(2) The organization must provide proof of non-profit status under Section 501(c) of the Internal Revenue Code;

(3) The event must be of economic benefit to the community or contribute to the quality of life in Garland;

(4) An expense and revenue report for any previous year's event(s) must be

included with the application;

(5) If the applicant has not previously obtained City assistance for the event, a projected expense and revenue report must be included with the application; and

(6) The event must be open for participation by the public.

(C) The City Manager may approve a request that meets the criteria established in this policy up to a maximum of \$5000.00 per event, within available budgeted funds. Requests shall generally be considered on a first-come, first approved basis.

(D) The amount, if any, to be made available for assistance under this policy will be determined by the City Council on an annual basis as part of the annual operating budget.

(E) The City Manager shall timely notify the City Council of any upcoming special events for which assistance under this policy has been approved.

#### **Section 4 Use of certain City-owned equipment for special events**

(A) Under this policy, certain equipment owned by the City and under the control of the Parks, Recreation and Cultural Arts Department may be made available without remuneration to an organization that meets the requirements established in this policy. A request for equipment usage under this policy is secondary to and subject in all respects to the priority given to City-wide events, events sponsored by a City department, or an event co-sponsored by the City.

(B) A requesting party must make a formal written request to the City by submitting a Special Event Assistance Program Application. An application may be submitted to the Parks and Recreation Administrative Offices, 634 Apollo Rd, Garland, TX 75044 (or MET@garlandtx.gov). Approval of a request is entirely dependent on the availability of equipment. A request must be submitted at least 45 days prior to the event. A person appointed for that purpose by the City Manager is authorized to consider and approve requests that meet the requirements of this policy. Only the City Council, however, may approve a request that does not fully meet the requirements of this policy.

(C) A request for use of public equipment may not be approved except as follows:

(1) The event must be held within the Garland city limits;

(2) A requesting party may submit no more than two requests per calendar year;

(3) Unless the requestor represents a neighborhood association registered as such with the Office of Neighborhood Vitality, the requesting party must meet the eligibility requirements of the City's Special Event Assistance Program as provided in Article II, Division 4, Section 3 of these policies;



(4) Except for a neighborhood association registered as such with the Office of Neighborhood Vitality, the event must be open to the public for participation;

(5) If applicable to the event for which the equipment is requested, the requesting party must submit with its request a copy of the temporary activity permit issued by the Building Official under Section 30.210, *et seq.* of the Code of Ordinances; and

(6) The requestor must complete, sign, and submit with its application a waiver of liability and indemnification agreement pertaining to the equipment and its use in a form approved by the City Attorney.

(D) The method of transporting the equipment and, if the equipment is to be kept overnight by the requestor, the proposed method of storing and securing the equipment, must be approved in advance by the City. Failure on the part of the requestor to properly transport, store, secure or care for the equipment will disqualify any future requests by that requestor.

(E) Equipment must be returned in good condition within three days of receiving the equipment. The person signing the application form on behalf of the requestor shall be responsible for reimbursing the City for lost, damaged or delayed equipment.

## **Section 5     Periodic Charter review**

The City Attorney shall periodically advise the City Council whether, due to changes in the law, a necessity exists for a change in the Charter. If the City Council determines that a change in the Charter should be considered, it shall timely appoint a Charter Review Committee in accordance with the Charter.

## **Section 6      Election day sign moratorium at polling places**

(A) Under the City's general sign regulations, the placement of signs on City property and streets is prohibited. No sign may be placed so as to encroach upon or obstruct any street, driveway, parking space, fire lane, sidewalk or pathway. This policy is intended to provide for a one-day moratorium on the placement of signs at a polling place, except as otherwise stated herein, on the official date of an election or date on which early voting is occurring.

(B) The City Manager is directed to hold in abeyance the enforcement of any sign provisions of the Garland Development Code for the premises of a polling place and the immediately adjoining, contiguous public street front of the polling place for a period commencing at 7:00 p.m. the day before an early voting date or an official election date and ending at 7:00 a.m., the day following the early voting date or an official election date.

(C) No member of the City Council shall demand that a sign be removed or that any provision of the City's sign regulations otherwise be enforced with respect to any political sign covered by this policy.

## **Division 5 CEREMONIAL AND HONORARY PROCEDURES**

### **Section 1 Facility naming and dedication plaques**

(A) This policy applies to all public buildings, spaces, objects, property, organizational units, and grounds (collectively, “facilities”) owned or controlled by the City. The naming of a city facility vests in the sole discretion of the City Council.

(B) Unless otherwise contractually or legally obligated, the following criteria shall apply:

(1) Generally, for a person (or persons) to be considered eligible for the privilege of having a facility named after him or her, they must have made a significant contribution to the City, the field of government, or human betterment.

(2) To preserve the integrity and reputation of the City, no facility may bear the name of an individual convicted of a felony, impeached, removed from office, or dismissed from city service.

(3) Generally, facilities shall not be named for current City employees or those who currently hold public office.

(4) Special consideration shall be given to:

- a. The historical significance of the contribution of the person(s) to the facility, program, or City;
- b. The association of the person(s) with the facility to be named;
- c. Any financial contribution of the person(s) to the facility to be named; and
- d. Regional, state, national, or international recognition of the person(s)’ contributions and achievements.

(5) Naming rights shall be in effect for the duration of the effective and typical useful life of the facility, and not in perpetuity. It is expected and appropriate to rename or rededicate a facility upon completion of a significant renovation.

(6) The Council reserves the right to remove a name associated with any facility at any time in the event the naming gift pledge is unfulfilled, it is in the best interest of the City or donor, as determined by Council in its sole discretion, or to protect the reputation of the City or the donor.

(C) In the event the City Council determines it is appropriate to name a facility after a

qualified person(s), the Mayor shall request that the City Manager assemble a list of candidate names for the facility, and provide recommendation(s). The City Manager shall consider the opinions and nominations of relevant stakeholders, including members of City Council, in compiling the list of candidates. The list shall be presented to the Council for public discussion and debate. A candidate shall be approved upon a simple majority affirmative vote of Council.

(D) The City may erect a dedication plaque or comparable marking upon naming approval. In addition to the facility name, the dedication plaque shall identify the general contractor, architect, mayor, city manager, and members of the city council at the date of ground-breaking. Additionally, the plaque should contain a section available for the names of those who significantly contributed to the success of the project. This may include, but is not limited to: members of the community, former council members, current and former staff, donors, and members of boards and commissions relevant to the project.

## **Section 2     Outgoing appreciation commemoratives**

(A) The City shall recognize the service of outgoing members of the City Council by presenting the member with a City flag and a commemorative memento that displays the City of Garland seal and the name and years of service of the Councilmember. The design and form of the memento shall be coordinated through the Office of the City Manager in order to provide consistency and cost control. The City Council shall budget funds necessary and appropriate for such purposes.

(B) In recognition of the services provided by the citizens who serve as appointees to boards and commissions, the City Council shall budget for an annual appreciation function to be held in the fall for all members of boards and commissions who have served during the preceding year. At that time, members who are retiring will be presented with a commemorative recognition of appreciation for service to the City in a form provided by the City Manager.

## **Section 3     Ceremonial documents**

Certain ceremonial documents may be issued by the Mayor including proclamations, special recognitions, resolutions of honor, honorary citizenships, and official greetings. A member of the City Council may request the preparation of certificates of appreciation for presentation to citizens who the Councilmember wishes to recognize for outstanding service to Garland. All requests for ceremonial documents shall be made in writing to the Office of the Mayor. The request shall describe the occasion or person to be commemorated, the value of that person or occasion to Garland, and how the proposed commemoration relates to the citizens of Garland. The Mayor shall determine whether to approve the request and, if approved, what form of commemoration will be given and whether the commemoration will be presented at a meeting of the City Council.

## **Section 4     Meritorious service awards**

On occasion, a citizen or employee of the City may perform an act of heroism or provide service to the citizens of Garland beyond the call of duty. The City Council may recognize such acts and service by issuing a City Council “Medal of Honor” to deserving recipients. A nomination for the award of a meritorious service award may be submitted to the City Council by any member or, if the nomination is made by a citizen, by forwarding the nomination to the Mayor.

## **Division 6     COUNCIL DIRECTIVES TO MANAGEMENT**

### **Section 1     Public use of City Hall**

The City Manager shall develop a program to allow for the use of the Council Chambers and the 1st Floor meeting rooms in City Hall by non-profit groups. The program shall be consistent with current security protocols and shall recognize the public use of City Hall for public business as paramount.

### **Section 2     Compensation of City employees**

It is the policy of the City Council that, within the City’s financial and budgetary limits, all City employees will be compensated at a level that is competitive with the compensation paid to employees within the City’s employment market area. The City Manager is directed to have annual compensation surveys conducted within the City’s employment market area to determine whether employment compensation for City employees is competitive for such purposes, and to perform occasional job evaluations to determine what compensation adjustments should be made for persons already employed by the City.

### **Section 3     Homeowner’s association by-law review**

Some homeowners’ associations within the City must submit the by-laws (or amendments to the bylaws) of the association to the City for review and approval. The City Manager may designate a department for such purposes and may cause the review to be limited to a determination whether the proposed bylaws, including any proposed amendment, adequately provides a source of funds and a means of obtaining those funds (such as through mandatory homeowners’ association assessments) to pay for the upkeep, repair, and maintenance of any improvements owned by the association including public improvements such as screening walls, subdivision entry features, and the like.

### **Section 4     Right of way acquisition and waiver of special assessments**

The City Manager is hereby authorized to offer, in exchange for a dedication of right of way necessary for the completion of a street improvement project, the waiver of special assessments that will or may be assessed against the owners of real property that abuts the project.

## **Section 5     Restrictions on the representation of third-parties by former City employees (“revolving door policy”)**

A former employee of the City who was employed as a departmental director, managing director, senior managing director, or as the City Manager may not make any communication to or appearance before the City Council before the second anniversary of the date the former employee ceased to be employed by the City if the communication or appearance is made: (1) with the intent to influence the City Council; (2) is made or done on behalf of any person other than the former employee in an individual capacity, and; (3) is made or done in connection with any matter on which the former employee seeks official action.

## **Section 6     “Over-hiring” of civil-service positions for police and fire**

The City Council recognizes that, when a vacancy occurs in an entry-level civil service position, the process of recruiting and training a replacement may take more than a year. Due to the time lag, the rigors of training, and other factors beyond the City’s control, a class of potential recruits may decrease in size by half or more during the recruitment and training process. The City Council also recognizes that the expected vacancy rate for the Police and Fire departments can be reasonably calculated. It is the desire of the City Council that staffing of civil service positions remain as close as possible to 100% of authorized strength. Accordingly, the City Manager is authorized to estimate the potential vacancies within the Police and Fire departments that are reasonably likely to occur within the future and, based on that estimate, hire a sufficient number of recruits for those positions so that, accounting for anticipated and historical attrition rates, the staffing level of civil service positions will likely be as close as possible to 100% of authorized strength.

## **Section 7     Doing business with delinquent account holders**

It is the policy of the City Council that the City does not do business with a person (including a business entity of any sort) who is delinquent on an account to the City. Examples of delinquent accounts include taxes, impact fees, special assessments, utility bills, and EMS fees. The City Manager shall cause the affected departments within the City (including Purchasing, Engineering, Planning, and GP&L) to be provided with sufficient information to enforce the provisions of this policy.

## **Section 8     Payroll deductions under Sec. 141.008, TEX. LOCAL GOV’T CODE**

Membership dues payable to a bona fide employee’s association named by a requesting employee may be deducted from the requesting employee’s salary or wages provided that: (1) the requesting employee is an active, full-time employee; (2) participation by the requesting employee in the payroll deduction program is voluntary; (3) the requesting employee submits to the City a written request stating the amount to be deducted each month from the employee’s salary or wages; and (4) the written request specifies the employees’ association to which the deducted funds will be transferred. The City is under

no obligation to incur any expense in the administration of an employee payroll deduction program.

## **Section 9 Reporting of certain offers of donations to the City**

The City Manager shall endeavor to obtain from the City Council approval of any offer of a donation to the City or a department or agency of the City that, in the professional judgment of the City Manager may, because of the type, value or conditions of acceptance, create an issue of concern to the City Council or call into question the independence and reputation of the City.

## **Section 10 Prohibiting City assistance to businesses that engage in the creation of economic brownfields**

It is the practice of some businesses to thwart competition by imposing deed restrictions on property owned by the business that prohibit future owners of the property from engaging in any business the initial owner determines to potentially compete with the current or future business interests of the initial owner – a practice known as the creation of “economic brownfields”. The City and its citizens are harmed by such practices because later businesses are unable to use the property for economically viable purposes long after the initial owner has left the area. City assistance, such as by way of economic development agreements, tax abatements, sales and property tax rebates, and similar assistance, should not be used to assist businesses that engage in such practices. The City Manager is directed to refuse any such assistance to any business that is unable or unwilling to certify that it does not impose, and will not enforce, any deed restriction or similar land use restriction that has the effect of creating an economic brownfield as that term is used in this section.

## **ATTACHMENTS:**

Council Committee Interest Form

Special Events Assistance Program Application

Dignitary Recognition Protocol

City Facilities Usage Guidelines – Non-Profits and Sports Fields

## **PROTOCOL FOR RECOGNITION OF ELECTED OFFICIALS, DIGNITARIES, AND OTHER PERSONS OF IMPORTANCE AT CITY-SPONSORED EVENTS**

### **Protocol for Non-City Elected Officials and Other Persons of Importance (“Dignitaries”) at City-Sponsored Events**

- 1) Dignitaries may be recognized during their attendance at City-sponsored meetings and functions in the traditional manner. Dignitaries should not be given any expectation of inclusion or recognition unless an event is specifically designed to include them in the agenda for the event or to recognize them or to promote a non-profit activity that compliments the City’s non-profit use policy.
- 2) For municipal events and celebrations such as, but not limited to: the Summer Concert Services, Star-Spangled Fourth, Oktoberfest, Dia de los Muertos, and Christmas on the Square, elected representatives that represent any part of the physical or political borders of the City of Garland or its utilities should be given an invitation to attend.
- 3) If a municipal event or celebration sets aside time for dignitaries to speak, all dignitaries personally in attendance will be given an amount of time to speak that is appropriate to the event, and speech topics will be limited to introductions and the purpose of the event. Persons, such as staff members, who are attending an event on behalf of a dignitary may be recognized but will not be invited to speak unless they are delivering a public service announcement of a type approved in advance. Speeches that directly promote candidacy for office are prohibited.
- 4) The City Council must approve the budget for events that are hosted on behalf of dignitaries or outside political or policy-making entities.





**GARLAND**  
**CITY COUNCIL STAFF REPORT**

**City Council Work Session**

5.

**Meeting Date:** 01/22/2024

Audit Committee Meeting Report

**Submitted By:** Jed Johnson, City Auditor

**Strategic Focus Area:** Customer-Focused City Services  
Sound Governance and Finances

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**Issue/Summary**

Council Member Ed Moore, Chair of the Internal Audit Committee, and Jed Johnson, City Auditor, will provide a committee report on the following items:

- Weaver Presentation - Audit Process
- Atrium Facility Rental Program Audit
- Bond Program Audit

**Background**

This briefing will provide the City Council with updates on the Internal Audit Department's recently completed audits.

**Consideration / Recommendation**

Council Discussion.

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**GARLAND**  
**CITY COUNCIL STAFF REPORT**

**City Council Work Session**

**6.**

**Meeting Date:** 01/22/2024

Discussion of 2024 Proposed Capital Improvement Program

**Submitted By:** Allyson Bell Steadman, Budget Director

**Strategic Focus Area:** Sound Governance and Finances

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**Issue/Summary**

City Council will continue the discussion of the 2024 Proposed Capital Improvement Program (CIP).

**Background**

The following is the schedule for the City Council to review, discuss, and approve the 2024 Proposed CIP:

Jan. 23 Tues. Regular Council Meeting - Public Hearing on 2024 Proposed CIP - 7:00 PM

Jan. 30 Tues. Special Work Session of 2024 Proposed CIP (IF REQUESTED) - 6:00 PM

Feb. 5 Mon. Council Work Session - Council Deliberations on 2024 Proposed CIP - 6:00 PM

Feb. 6 Tues. Regular Council Meeting - Public Hearing and Adoption of 2024 CIP - 7:00 PM

**Consideration / Recommendation**

Information only. An additional Special Budget Work Session for review of the proposed capital plan will take place, if requested by the City Council, on Tuesday, January 30, 2024, at 6:00 P.M. Review of the proposed capital plan will continue at the City Council Work Session on Monday, February 5, 2024. Public Hearings on the CIP will be held on Tuesday, January 23, 2024, at 7:00 P.M. and Tuesday, February 6, 2024, at 7:00 P.M., with the adoption of the 2024 CIP scheduled to take place on February 6, 2024.

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**GARLAND**  
**CITY COUNCIL STAFF REPORT**

**City Council Work Session**

7.

**Meeting Date:** 01/22/2024

Charter Review Council Discussion

**Submitted By:** Phillip Urrutia, Assistant City Manager

**Strategic Focus Area:** Future-Focused City Organization

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**Issue/Summary**

The City Council's appointed Charter Review Committee thoroughly examined and deliberated on the items designated for review by the Council. Additionally, the committee introduced other topics for the Council's consideration. Over the course of seven meetings held since September, the Charter Review Committee dedicated considerable effort to formulate and present its recommendations to the Council.

**Background**

On September 19th, 2023, the City Council officially appointed a Charter Review Committee. This committee, established by the Council through the City Charter, thoroughly examined the Council's Committee Charge and internally put forth additional items for consideration. The City Council reviewed recommendations for the Charter Review Committee at the 1/8/024 Work session meeting.

**Consideration / Recommendation**

City staff is seeking potential courses of action, including the possibility of a citizen ballot election.

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**Attachments**

Charter Amendment Proposals Presentation

CRC Recommendation Summary in Charge Order w Alt Proposal for Art III Sec 1D

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# City Charter Amendment Proposals

City Council Work Session

January 22, 2024



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# Background

- ▶ Council appointed the Charter Review Committee (“CRC”) on September 19, 2023 and charged it with 15 specific items to consider.
- ▶ The CRC met for a total of seven meetings between September and December 2023.
- ▶ The CRC considered the items charged by council as well as multiple topics raised by committee members.
- ▶ CRC recommendations were presented to the Council on January 8<sup>th</sup>.



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## Process

This presentation is for further council discussion regarding the proposed Charter amendments and for Council to give staff direction.

If desired by Council, it will need to call an election on proposed charter changes in February (for the May election).



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# Committee Recommendations in Charge Order

# Charge Item 1

Article III, Section 1(A)

*Councilmember Term Lengths and Limits*

Consider amending Charter to lengthen the current term from 2 years to 3 years and reduce the term limits of 3 to 2.

Recommendation: No change.



# Charge Item 1 - Continued

## Article III, Section 1(A)

### *Councilmember Term Lengths and Limits*

#### Original Language:

The Council shall consist of nine (9) members consisting of a Mayor and eight (8) Councilmembers. The Mayor and the eight Councilmembers shall be elected for terms of two (2) years each. The term lengths provided by this paragraph shall become effective upon and after May 15, 2004.



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## Charge Item 2

Article III, Section 1(D)

*Eligibility Wait Time for alternative Council positions*

Consider amending Charter to revise the amount of time a person must wait between service in one elected role and running for another elected City position.

Recommendation: No Change.

Side note: A change to this section regarding “term” computation is recommended pursuant to Charge Item 15 and will be discussed below.

# Charge Item 2 - Continued

## Article III, Section 1(D)

### *Eligibility Wait Time for alternative Council positions*

#### Original Language:

A person may serve as a member of the Council other than Mayor for three (3) consecutive terms but thereafter shall not again be eligible to serve in any district on the Council except Mayor until at least one complete term has elapsed. A person may serve three (3) consecutive terms as Mayor but thereafter shall not again be eligible to serve as Mayor until at least one complete term has elapsed. A person who has served as Mayor may not serve as a member of the City Council until at least one year has elapsed from the end of the term for which that person was elected. A “term” as used in this paragraph, shall include any period of service during a term of office when that period is in excess of one (1) year, and a period of service shall be considered “consecutive” so long as the person affected has served any amount of time within the preceding term.

# Charge Item 3

## Article III, Section 1(D)

### *Eligibility Wait Time for any City Board, Committee, or Commission Position*

Consider amending Charter to add an amount of time a person must wait between service in an elected role and appointment to a City Board, Committee, or Commission.

Recommendation: No Change.

Side note: A change to this section regarding “term” computation is recommended pursuant to Charge Item 15 and will be discussed below.



# Charge Item 3 - Continued

## Article III, Section 1(D)

### *Eligibility Wait Time for any City Board, Committee, or Commission Position*

#### Original Language:

A person may serve as a member of the Council other than Mayor for three (3) consecutive terms but thereafter shall not again be eligible to serve in any district on the Council except Mayor until at least one complete term has elapsed. A person may serve three (3) consecutive terms as Mayor but thereafter shall not again be eligible to serve as Mayor until at least one complete term has elapsed. A person who has served as Mayor may not serve as a member of the City Council until at least one year has elapsed from the end of the term for which that person was elected. A “term” as used in this paragraph, shall include any period of service during a term of office when that period is in excess of one (1) year, and a period of service shall be considered “consecutive” so long as the person affected has served any amount of time within the preceding term.



# Charge Item 4

## Article III, Section 3

### *Mayor and Councilmember Compensation*

Consider amending Charter to increase the amount of compensation paid to the Mayor and Councilmembers.

#### Recommendation:

From and after October 1, 2018~~24~~, the Mayor shall receive compensation in the base amount of ~~five~~**six** hundred ~~and~~~~—~~seventy-five dollars (\$~~56~~**75**.00) per month, ~~and~~ each Councilmember shall receive compensation in the base amount of ~~two~~**three** hundred ~~and eighty-eight~~**forty** dollars (\$~~288~~**340**.00) per month.~~—and~~ **In addition**, all members of the Council shall receive compensation in the ~~base~~ amount of ~~seventy-two~~**eighty-five** dollars (\$~~72~~**85**.00) for each **Council** work session attended by the member preceding a regular Council meeting, ~~and~~ for each regular **Council** meeting ~~of the Council~~ attended, ~~by the member~~ and for up to four (4) special called meetings or workshops of the Council attended. Compensation shall be limited to a maximum of fifty-two (52) meetings during any calendar year. Each Councilmember shall be entitled to reimbursement of reasonable expenses incurred in the performance of their official duties when approved by the Council.

# Charge Item 5

## Article III, Section 4

### *Deputy Mayor Pro-Tem Identification*

Consider amending Charter to specifically reference the Deputy Mayor Pro-Tem position.

#### Recommendation:

The Mayor shall preside at meetings of the Council and shall be recognized as the head of the City government for all ceremonial purposes but shall have no regular administrative duties. He **or she** shall sign all municipal bonds, deeds of conveyances, vouchers, checks and orders as herein prescribed, and all instruments where the executive head of the City shall be required to act and shall perform all other duties as may be imposed on him **or her** by law and the ordinances of the City.

The Council shall elect from its members a Mayor Pro Tempore who shall perform the duties of Mayor in case of the absence or disability of the Mayor. **The Council shall also elect from its members a Deputy Mayor Pro Tempore who shall perform the duties of the Mayor in case of the absence or disability of both the Mayor and the Mayor Pro Tempore.; In the event of the absence of the Mayor, Mayor Pro Tempore, and Deputy Mayor Pro Tempore,** the remaining members of the Council shall elect one of the members to act as Mayor.





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## Charge Item 6

Article III, Section 5

*Eligibility Wait Time for Interim Mayor or Councilmember*

Consider amending Charter to reduce the candidacy waiting period for appointed Interim Mayor or Councilmembers.

Recommendation: No Change.



# Charge Item 6 - Continued

## Article III, Section 5

### *Eligibility Wait Time for Interim Mayor or Councilmember*

#### Original Language:

(A) In the event a vacancy in the office of Mayor or City Council occurs, the City Council shall call a special election in accordance with state law and the Texas Constitution. However, where (i) the member vacating his or her office is unable or unwilling to hold-over until such time as the vacancy may be filled pursuant to a lawful election, (ii) the Governor of the State of Texas does not call an election to fill the vacancy after being petitioned by the City, and (iii) a special election cannot be called within 120 days, then the remaining members of the Council may by a three-fourths super majority vote appoint a qualified person to fill the vacancy.

(B) In the event the City Council elects to appoint a qualified person to fill a vacant seat, upon expiration of the partial term for which he or she was appointed, that person shall not again be eligible to serve in the same capacity on Council until one complete subsequent term of office has elapsed. An appointment by Council shall be for an interim term until such time as a special election may be called in accordance with state law and the Texas Constitution or until the current term expires. The Mayor or Councilmember vacating an office shall remain in office, if still qualified, until such time as a successor is sworn into the vacated office.



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## Charge Item 7

Article III, Section 11

*Restriction on Resignation for Candidacy*

Consider amending Charter to restrict the resignation for candidacy provision to solely elected positions within the City of Garland.

Recommendation: No Change.

# Charge Item 7 - Continued

## Article III, Section 11

### *Restriction on Resignation for Candidacy*

#### Original Language:

If, at any time, any member of the Council, or any officer, boardmember, or commissioner appointed by the Council, files to become a candidate (as defined by State law) in any general, special, or primary election for any office of profit or trust under the laws of this State or the United States other than the office then held, such candidacy shall constitute a resignation of the office then held, and the vacancy thereby created shall be filled pursuant to this Charter in the same manner as other vacancies for such office are filled. The Mayor or other member of the City Council vacating their respective office shall remain in office until such time as a successor is sworn into the vacated office.

Consider amending Charter to clarify the Powers of Council as related to the alignment of streets, thoroughfares, and alleys.

Recommendation: No Change.

# Charge Item 8 - Continued

## Article IV, Section 1(J)

### *Establishment of Roads*

#### Original Language:

All powers of the City and the determination of all matters of policy shall be vested in the Council. Without limitation of the special and general powers granted or delegated to the City by the Constitution, statutes or this Charter, the Council shall have power to: ...

(J) Open, widen, extend or straighten public streets, thoroughfares and alleys;

# Charge Item 9

## Article IV, Section 2

### *Removal of Officials*

Consider amending Charter to clarify that Councilmembers may remove their own appointees at any time.

#### Recommendation:

Except as otherwise provided by law, the Council may, upon the affirmative vote of five (5) members **at a posted, public meeting**, remove ~~its~~**any non-contracted** appointed ~~officers~~**member of any internal or external board, commission, committee, or other body** without cause or notice.

# Charge Item 10

## Article IV, Section 3

### *Councilmember Interaction with Appointments*

Consider amending Charter to clarify which councilmember communications or interactions with City staff appointees made by the City Manager are not impermissible “interference” under this section.

#### Recommendation:

Neither the City Council nor any of its members shall direct or request the hiring or removal of any person from an office directed by the City Manager, the City Attorney, the City Auditor, or a Municipal Judge, or by any subordinate of one of the aforementioned Council appointees. However, the Council may consult and advise with a Council appointee, make inquiry regarding the appointments or removals, and may express their opinion in regard thereto. In regard to administrative and executive duties under a Council appointee, the Council and its members shall deal solely through the Council appointee and neither the Council nor any member thereof shall give orders to any subordinates of a Council appointee, either publicly or privately. Willful violation of the foregoing provisions of this Charter by any member of the Council shall constitute **a violation of the City's codified Code of Ethics, Article V of the Code of Ordinances, as may be amended, with enforcement provisions detailed therein**~~official misconduct and shall authorize the Council, by a vote of a majority of its membership, to sanction such offending member by ordering a forfeiture of pay for a period of not to exceed six months if found responsible after a public hearing.~~

# Charge Item 11

## Article V, Section 2

### *City Manager Contract Length*

Consider amending Charter to revise the length limitations of the City Manager's contract.

#### Recommendation:

The Council shall appoint a City Manager who shall be the chief administrative officer of the City. The Council may appoint the City Manager for day-to-day without a definite fixed term or may enter into an employment agreement with the City Manager for a term not to exceed ~~of three~~five (35) years. In any event, the Council may remove the City Manager at its will and pleasure by a vote of five (5) members of the Council. The action of the Council in removing the City Manager shall be final, it being the intention of this Charter to vest all authority and fix all responsibility for such removal in the Council. Nothing in the employment agreement entered into with the City Manager shall conflict with or supercede this Charter and, in the event of a conflict, the provisions of the Charter shall control.





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## Charge Item 12

Article XI, Section 1(B)

*Eligibility of Members who Previously Served on Council*

Consider amending Charter to add a waiting period for persons who were serving as Mayor or Councilmember before he or she may serve on the Plan Commission.

Recommendation: No Change.



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# Charge Item 12 - Continued

Article XI, Section 1(B)

*Eligibility of Members who Previously Served on Council*

Original Language:

(B) None of such commissioners shall hold any other public office or position in the City while serving on the Plan Commission.



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## Charge Item 13

Article XI, Section 3

***Increase Vote to Override Plan Commission Recommendation***

Consider amending Charter to increase the vote necessary for City Council to override a Plan Commission recommendation.

Recommendation: No Change.



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# Charge Item 13 - Continued

## Article XI, Section 3

### ***Increase Vote to Override Plan Commission Recommendation***

#### Original Language:

Except to the extent it is precluded by statutes of the State of Texas from doing so, the Council may thereafter adopt any plans, projects or methods recommended by the City Plan Commission or any other plans, projects or methods the Council may deem most advisable; provided, however, that any public improvement undertaken hereunder,, or otherwise, by the Council shall not be deemed invalid because the City Plan Commission has not been consulted or has not furnished any advice thereon, or because the Council has failed to submit its plans thereon for consideration by said City Plan Commission.

# Charge Item 14

## Article XI, Section 4

### *Council Planning and Zoning Powers*

Consider amending Charter to revise the powers granted to Council related to planning and zoning matters.

#### Recommendation:

~~For the purpose of promoting health, safety, morals or the general welfare of the community, the Council is hereby empowered to regulate and restrict the height, number of stories and size of buildings and other structures, the percentage of lot that may be occupied, the size of yards, courts and other open spaces, the density of population, and the location and use of buildings, structures and land for trade, industry, residence or other purposes.~~

~~—Such regulations shall be made in accordance with the Comprehensive Plan and be designed to lessen congestion in the streets; to secure safety from fire, panic and other dangers; to promote health or the general welfare.~~

The City shall have all authority and power in matters of zoning the City of Garland and to pass any necessary ordinance, rule, or regulation to enforce those powers, including which are all matters conferred by the statutes of the State of Texas and various legislative acts supplementary to or amendatory thereof. Any regulations of the City passed under this authority, including but not limited to the Garland Development Code, as amended, shall be made in accordance with the authority and powers referenced herein.

# Charge Item 15(A)

## Article III, Section 1(D)

### *Staff/Legal Recommendations*

Consider amending Charter to revise the definition of “term.”

CRC Recommendation:

(D) A person may serve as a member of the Council other than Mayor for three (3) consecutive terms but thereafter shall not again be eligible to serve in any district on the Council except Mayor until at least one complete term has elapsed. A person may serve three (3) consecutive terms as Mayor but thereafter shall not again be eligible to serve as Mayor until at least one complete term has elapsed. A person who has served as Mayor may not serve as a member of the City Council until at least one year has elapsed from the end of the term for which that person was elected. A “term” as used in this paragraph, shall include any period of service during a term of office when that period is in excess of ~~one (1) year~~ *the time between the annual statutory uniform election dates in May*, and a period of service shall be considered “consecutive” so long as the person affected has served any amount of time within the preceding term.



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# Charge Item 15(A) - Continued

## Article III, Section 1(D)

### *Staff/Legal Recommendations*

Alternative staff proposal 1:

(D) A person may serve as a member of the Council other than Mayor for three (3) consecutive terms but thereafter shall not again be eligible to serve in any district on the Council except Mayor until at least one complete term has elapsed. A person may serve three (3) consecutive terms as Mayor but thereafter shall not again be eligible to serve as Mayor until at least one complete term has elapsed. A person who has served as Mayor may not serve as a member of the City Council until at least one year has elapsed from the end of the term for which that person was elected. A “term” as used in this paragraph, shall include any period of service during a term of office when that period is in excess of ~~one (1) year~~ **thirteen (13) months**, and a period of service shall be considered “consecutive” so long as the person affected has served any amount of time within the preceding term.



# Charge Item 15(A) - Continued

## Article III, Section 1(D)

### *Staff/Legal Recommendations*

#### Alternative staff proposal 2:

(D) A person may serve as a member of the Council other than Mayor for three (3) consecutive terms but thereafter shall not again be eligible to serve in any district on the Council except Mayor until at least one complete term has elapsed. A person may serve three (3) consecutive terms as Mayor but thereafter shall not again be eligible to serve as Mayor until at least one complete term has elapsed. A person who has served as Mayor may not serve as a member of the City Council until at least one year has elapsed from the end of the term for which that person was elected. A “term” as used in this paragraph, shall include any period of service during a term of office when that period is in excess of ~~one (1) year~~ **the time between the annual statutory uniform election dates as set by the State of Texas of the same calendar month in the applicable consecutive years**, and a period of service shall be considered “consecutive” so long as the person affected has served any amount of time within the preceding term.



# Charge Item 15(B)

## Article XI, Section 7

### *Staff/Legal Recommendations*

Consider amending Charter regarding the delegation of certain plat approvals to be consistent with new state law.

#### Recommendation:

The City Plan Commission shall have control of the platting or subdivision of land within the City and in relation thereto shall have all of the power and authority conferred by the Acts of 1927, 40th Legislature, Chapter 231, as amended by the Acts of 1949, 51st Legislature, Chapter 154 and Article 6626 Revised Statutes of Texas 1925, as amended. *The City Council may delegate approval of certain plats to the Planning Director, as allowed within Chapter 212 of the Texas Local Government Code. Any plat conditionally approved or disapproved by the Planning Director would be appealable to the Plan Commission for reconsideration.*



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# Charge Item 15(C)

Article XII, Section 1

*Staff/Legal Recommendations*

Consider amending Charter election date to provide for flexibility.

Recommendation:

Except as otherwise provided by law, there shall be a regular City election each year on ~~the first Saturday in~~ **Maya state declared uniform election day** to elect candidates for expired terms of office or to fill vacancies due to resignations or removal from office, as needed, provided that the Council shall, if authorized by State law, declare unopposed candidates elected.



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# Committee Recommendations on Other Topics

# Committee Item 1

## Article III, Section 1(F)

### *Redistricting and Gerrymandering*

## Recommendation:

(F) Within one year after a decennial federal census as mandated by Article I § 2 of the United States Constitution has been performed and finalized, ~~and each five years thereafter~~, prior to the calling of the regular City election, the Council shall redivide and readjust by ordinance the boundaries of the eight Council districts of the City for the purpose of keeping such districts as nearly equal in population as is practical. **Any redivision or readjustment to the district boundaries performed under this section must be in conformance with the following requirements:**

- i. Equal Population:** All districts shall be reasonably equal in population, allowing for minor deviations as needed to achieve other redistricting goals outlined in this Article.
- ii. Contiguity:** Each district shall be contiguous, meaning all parts of a district are connected to each other without jumping over another district.
- iii. Compactness:** Districts shall be drawn to encourage compactness. To the extent practicable, districts shall not have irregularly shaped boundaries or elongated configurations which are indicative of gerrymandering.
- iv. Respect for Political Subdivisions and Communities:** Redistricting shall, to the extent possible, preserve existing neighborhoods, and communities of interest.
- v. Non-partisanship:** District boundaries shall not be drawn to favor or discriminate against an incumbent, candidate, or political party.

## Committee Item 2

### Article III, Section 2

### *Qualifications to Run for Council*

#### Recommendation:

Each member of the Council shall, in addition to the other qualifications prescribed by law, be, at the date of his or her election, a qualified voter of the City and shall not ~~have been previously convicted of a felony or Class A misdemeanor~~~~be in arrears in the payment of municipal taxes, municipal utility charges, or any other lawful monetary obligation to the City.~~ A member of the Council ceasing to reside in the City or if convicted of a felony or Class A misdemeanor shall immediately forfeit his or her office.

# Committee Item 3

## Article IV, Section 8(A)

### *Length of City Auditor Contract*

#### Recommendation:

##### (A) Qualifications and Term.

The City Auditor shall be a person knowledgeable in generally accepted government auditing standards, principles of municipal accounting, and local government policies, operations, and processes.

The City Council may enter into an employment agreement with the City Auditor for a definite term ~~not to exceed five~~ **(25)** years. The City Council may terminate the employment agreement at its will and pleasure by a vote of not less than five (5) members of the City Council. The action of the City Council in removing the City Auditor shall be final, it being the intention of this Charter to vest all authority and fix all responsibility for such removal in the City Council.

## Committee Item 4

### Article VI, Section 1

#### *Length of City Attorney Contract*

## Recommendation:

The City Attorney shall be chosen by the City Council on the basis of his or her qualifications as a competent practicing attorney of recognized ability. The City Council may enter into an employment agreement with the City Attorney for a term not to exceed ~~of three~~five (35) years. The Council may terminate the employment agreement at its will by a vote of five (5) members of the Council. The action of the City Council in removing the City Attorney shall be final, it being the intention of this Charter to vest all authority and fix all responsibility for such removal in the Council.

## Committee Item 5

Article XI, Section 1(E)

*Clarity of Appointments to Fill Vacancies*

### Recommendation:

(E) If a vacancy occurs upon the Plan Commission, the Councilmember from the affected district, or the Mayor, ~~as in~~ the case ~~of the at-large member~~ ~~may be~~, shall nominate a commissioner, subject to confirmation by a majority vote of the Council, to fill the unexpired term.





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**Thank you.**

## CRC Summary in Charge Order

### Council Item 1: Councilmember Term Length – No change.

#### Article III, Section 1(A)

##### **§ 1 Number, terms, Council districts, etc.**

(A) The Council shall consist of nine (9) members consisting of a Mayor and eight (8) Councilmembers. The Mayor and the eight Councilmembers shall be elected for terms of two (2) years each. The term lengths provided by this paragraph shall become effective upon and after May 15, 2004.

(B) The Mayor shall be nominated and elected by the qualified voters of the entire City and may reside anywhere within the City. The eight Councilmembers shall be elected from eight (8) districts established by ordinance and shall be nominated and elected by the qualified voters of the respective Council district of such member.

(C) One (1) Councilmember shall be elected from each of the eight districts established by ordinance. The districts shall be designated as District 1, 2, 3, 4, 5, 6, 7 and 8. A candidate for Councilmember must at the time of his or her election or appointment have resided continuously within the Council district for which the candidate is running for office, or within the City if he or she is a candidate for Mayor, for a minimum of one (1) year. Failure to continuously reside within the district from which a Councilmember is elected or appointed, other than due to a change resulting from realignment of Council district boundaries, shall constitute immediate termination of office. A person who, by reason of the application of the term limitations provided in subsection (D), below, would not be able to serve a full term of office, is disqualified to be a candidate for or to serve in that office. The provisions of this subsection shall be and become effective on and after May 15, 2018.

(D) A person may serve as a member of the Council other than Mayor for three (3) consecutive terms but thereafter shall not again be eligible to serve in any district on the Council except Mayor until at least one complete term has elapsed. A person may serve three (3) consecutive terms as Mayor but thereafter shall not again be eligible to serve as Mayor until at least one complete term has elapsed. A person who has served as Mayor may not serve as a member of the City Council until at least one year has elapsed from the end of the term for which that person was elected. A “term” as used in this paragraph, shall include any period of service during a term of office when that period is in excess of one (1) year, and a period of service shall be considered “consecutive” so long as the person affected has served any amount of time within the preceding term.

(E) In the event the Mayor or a Councilmember vacates his or her office prior to the end of the scheduled term, the Mayor or Councilmember vacating his or her respective office shall not again be eligible to serve on the Council in the same capacity until one complete term subsequent to the term for which he or she was elected or appointed has elapsed.

(F) Within one year after a decennial federal census as mandated by Article I § 2 of the United States Constitution has been performed and finalized, and each five years thereafter, prior to the calling of the regular City election, the Council shall redivide and readjust by ordinance the boundaries of the eight Council districts of the City for the purpose of keeping such districts as nearly equal in population as is practical.

Council Item 2: Wait time between service in one elected role and running for another office – No change (though other change made to section)

Article III, Section 1(D):

**§ 1 Number, terms, Council districts, etc.**

(D) A person may serve as a member of the Council other than Mayor for three (3) consecutive terms but thereafter shall not again be eligible to serve in any district on the Council except Mayor until at least one complete term has elapsed. A person may serve three (3) consecutive terms as Mayor but thereafter shall not again be eligible to serve as Mayor until at least one complete term has elapsed. A person who has served as Mayor may not serve as a member of the City Council until at least one year has elapsed from the end of the term for which that person was elected. A “term” as used in this paragraph, shall include any period of service during a term of office when that period is in excess of the time between the annual statutory uniform election dates in May, and a period of service shall be considered “consecutive” so long as the person affected has served any amount of time within the preceding term.

Council Item 3: Wait time between service in an elected role and appointment – No change (though other change made to section)

Article III, Section 1(D):

**§ 1 Number, terms, Council districts, etc.**

(D) A person may serve as a member of the Council other than Mayor for three (3) consecutive terms but thereafter shall not again be eligible to serve in any district on the Council except Mayor until at least one complete term has elapsed. A person may serve three (3) consecutive terms as Mayor but thereafter shall not again be eligible to serve as Mayor until at least one complete term has elapsed. A person who has served as Mayor may not serve as a member of the City Council until at least one year has elapsed from the end of the term for which that person was elected. A “term” as used in this paragraph, shall include any period of service during a term of office when that period is in excess of the time between the annual statutory uniform election dates in May, and a period of service shall be considered “consecutive” so long as the person affected has served any amount of time within the preceding term.

## Council Item 4: Compensation to Mayor and Councilmembers – Changes Recommended

### Article III, Section 3:

#### **§ 3 Compensation.**

From and after October 1, 2024, the Mayor shall receive compensation in the base amount of six hundred seventy-five dollars (\$675.00) per month, and each Councilmember shall receive compensation in the base amount of three hundred forty dollars (\$340.00) per month. In addition, all members of the Council shall receive compensation in the amount of eighty-five dollars (\$85.00) for each Council work session attended by the member preceding a regular Council meeting, for each regular Council meeting attended, and for up to four (4) special called meetings or workshops of the Council attended. Compensation shall be limited to a maximum of fifty-two (52) meetings during any calendar year. Each Councilmember shall be entitled to reimbursement of reasonable expenses incurred in the performance of their official duties when approved by the Council.

## Council Item 5: Reference to Deputy Mayor Pro-Tem Position – Changes Recommended

### Article III, Section 4:

#### **§ 4 Mayor and Mayor Pro Tempore.**

The Mayor shall preside at meetings of the Council and shall be recognized as the head of the City government for all ceremonial purposes but shall have no regular administrative duties. He or she shall sign all municipal bonds, deeds of conveyances, vouchers, checks and orders as herein prescribed, and all instruments where the executive head of the City shall be required to act and shall perform all other duties as may be imposed on him or her by law and the ordinances of the City.

The Council shall elect from its members a Mayor Pro Tempore who shall perform the duties of Mayor in case of the absence or disability of the Mayor. The Council shall also elect from its members a Deputy Mayor Pro Tempore who shall perform the duties of the Mayor in case of the absence or disability of both the Mayor and the Mayor Pro Tempore. In the event of the absence of the Mayor, Mayor Pro Tempore, and Deputy Mayor Pro Tempore, the remaining members of the Council shall elect one of the members to act as Mayor.

## Council Item 6: Waiting Period for Appointed Interim Councilmember – No Change.

### Article III, Section 5:

#### **§ 5 Vacancies.**

(A) In the event a vacancy in the office of Mayor or City Council occurs, the City Council shall call a special election in accordance with state law and the Texas Constitution. However, where (i) the member vacating his or her office is unable or unwilling to hold-over until such time as the vacancy may be filled pursuant to a lawful election, (ii) the Governor of the State of Texas does not call an election to fill the vacancy after being petitioned by the City, and (iii) a special election cannot be called within 120 days, then the remaining members of the Council may by a three-fourths super-majority vote appoint a qualified person to fill the vacancy.

(B) In the event the City Council elects to appoint a qualified person to fill a vacant seat, upon expiration of the partial term for which he or she was appointed, that person shall not again be eligible to serve in the same capacity on Council until one complete subsequent term of office has elapsed. An appointment by Council shall be for an interim term until such time as a special election may be called in accordance with state law and the Texas Constitution or until the current term expires. The Mayor or Councilmember vacating an office shall remain in office, if still qualified, until such time as a successor is sworn into the vacated office.

## Council Item 7: Resignation to Run Requirement – No change.

### Article III, Section 11:

#### **§ 11 Resign for candidacy.**

If, at any time, any member of the Council, or any officer, boardmember or commissioner appointed by the Council, files to become a candidate (as defined by State law) in any general, special, or primary election for any office of profit or trust under the laws of this State or the United States other than the office then held, such candidacy shall constitute a resignation of the office then held, and the vacancy thereby created shall be filled pursuant to this Charter in the same manner as other vacancies for such office are filled. The Mayor or other member of the City Council vacating their respective office shall remain in office until such time as a successor is sworn into the vacated office.

## Council Item 8: Alignment of Streets, Thoroughfares, and Alleys – No change.

Article IV, Section 1(J):

### **§ 1 Powers of the Council.**

All powers of the City and the determination of all matters of policy shall be vested in the Council. Without limitation of the special and general powers granted or delegated to the City by the Constitution, statutes or this Charter, the Council shall have power to:

(J) Open, widen, extend or straighten public streets, thoroughfares and alleys;

## Council Item 9: Council removal of appointed officials – Changes Recommended.

Article IV, Section 2:

### **§ 2 Removal of appointive officials.**

Except as otherwise provided by law, the Council may, upon the affirmative vote of five (5) members at a posted, public meeting, remove any non-contracted appointed member of any internal or external board, commission, committee, or other body without cause or notice.

## Council Item 10: Councilmember Communications with Staff – Changes Recommended.

Article IV, Section 3:

### **§ 3 Council not to interfere with appointments.**

Neither the City Council nor any of its members shall direct or request the hiring or removal of any person from an office directed by the City Manager, the City Attorney, the City Auditor, or a Municipal Judge, or by any subordinate of one of the aforementioned Council appointees. However, the Council may consult and advise with a Council appointee, make inquiry regarding the appointments or removals, and may express their opinion in regard thereto. In regard to administrative and executive duties under a Council appointee, the Council and its members shall deal solely through the Council appointee and neither the Council nor any member thereof shall give orders to any subordinates of a Council appointee, either publicly or privately. Willful violation of the foregoing provisions of this Charter by any member of the Council shall constitute a violation of the City's codified Code of Ethics, Article V of the Code of Ordinances, as may be amended, with enforcement provisions detailed therein.

## Council Item 11: Length of allowed contract for City Manager – Changes Recommended.

Article V, Section 2:

### **§ 2 Term and salary.**

The Council shall appoint a City Manager who shall be the chief administrative officer of the City. The Council may appoint the City Manager for day-to-day without a definite fixed term or may enter into an employment agreement with the City Manager for a term not to exceed five (5) years. In any event, the Council may remove the City Manager at its will and pleasure by a vote of five (5) members of the Council. The action of the Council in removing the City Manager shall be final, it being the intention of this Charter to vest all authority and fix all responsibility for such removal in the Council. Nothing in the employment agreement entered into with the City Manager shall conflict with or supercede this Charter and, in the event of a conflict, the provisions of the Charter shall control.

## Council Item 12: Adding a wait time between service in an elected role and service on the Plan Commission – No change.

Article XI, Section 1(B):

### **§ 1 Plan Commission.**

(B) None of such commissioners shall hold any other public office or position in the City while serving on the Plan Commission.

## Council Item 13: Vote necessary to override Plan Commission Recommendation – No change.

Article XI, Section 3:

### **§ 3 Recommendations of Plan Commission.**

Except to the extent it is precluded by statutes of the State of Texas from doing so, the Council may thereafter adopt any plans, projects or methods recommended by the City Plan Commission or any other plans, projects or methods the Council may deem most advisable; provided, however, that any public improvement undertaken hereunder, or otherwise, by the Council shall not be deemed invalid because the City Plan Commission has not been consulted or has not furnished any advice thereon, or because the Council has failed to submit its plans thereon for consideration by said City Plan Commission.

## Council Item 14: Powers Granted to Council regarding Planning and Zoning – Changes recommended.

Article XI, Section 4

**§ 4 Zoning.**

The City shall have all authority and power in matters of zoning the City of Garland and to pass any necessary ordinance, rule, or regulation to enforce those powers, including all matters conferred by the statutes of the State of Texas and various legislative acts supplementary to or amendatory thereof. Any regulations of the City passed under this authority, including but not limited to the Garland Development Code, as amended, shall be made in accordance with the authority and powers referenced herein.



## Council Item 15: Staff Recommended Changes.

### Article III, Section 1(D):

#### **§ 1 Number, terms, Council districts, etc.**

(D) A person may serve as a member of the Council other than Mayor for three (3) consecutive terms but thereafter shall not again be eligible to serve in any district on the Council except Mayor until at least one complete term has elapsed. A person may serve three (3) consecutive terms as Mayor but thereafter shall not again be eligible to serve as Mayor until at least one complete term has elapsed. A person who has served as Mayor may not serve as a member of the City Council until at least one year has elapsed from the end of the term for which that person was elected. A “term” as used in this paragraph, shall include any period of service during a term of office when that period is in excess of the time between the annual statutory uniform election dates in May, and a period of service shall be considered “consecutive” so long as the person affected has served any amount of time within the preceding term.

### Alternative Staff Proposals:

#### **§ 1 Number, terms, Council districts, etc.**

(D) A person may serve as a member of the Council other than Mayor for three (3) consecutive terms but thereafter shall not again be eligible to serve in any district on the Council except Mayor until at least one complete term has elapsed. A person may serve three (3) consecutive terms as Mayor but thereafter shall not again be eligible to serve as Mayor until at least one complete term has elapsed. A person who has served as Mayor may not serve as a member of the City Council until at least one year has elapsed from the end of the term for which that person was elected. A “term” as used in this paragraph, shall include any period of service during a term of office when that period is in excess of the time between the annual statutory uniform election dates as set by the State of Texas of the same calendar month in the applicable consecutive years , and a period of service shall be considered “consecutive” so long as the person affected has served any amount of time within the preceding term.

#### **§ 1 Number, terms, Council districts, etc.**

(D) A person may serve as a member of the Council other than Mayor for three (3) consecutive terms but thereafter shall not again be eligible to serve in any district on the Council except Mayor until at least one complete term has elapsed. A person may serve three (3) consecutive terms as Mayor but thereafter shall not again be eligible to serve as Mayor until at least one complete term has elapsed. A person who has served as Mayor may not serve as a member of the City Council until at least one year has elapsed from the end of the term for which that person was elected. A “term” as used in this paragraph, shall include any period of service during a term of office when that period is in excess of thirteen (13) months, and a period of service shall be considered “consecutive” so long as the person affected has served any amount of time within the preceding term.

Article XI, Section 7:

**§ 7 Platting or subdivision control.**

The City Plan Commission shall have control of the platting or subdivision of land within the City and in relation thereto shall have all of the power and authority conferred by the Acts of 1927, 40th Legislature, Chapter 231, as amended by the Acts of 1949, 51st Legislature, Chapter 154 and Article 6626 Revised Statutes of Texas 1925, as amended. The City Council may delegate approval of certain plats to the Planning Director, as allowed within Chapter 212 of the Texas Local Government Code. Any plat conditionally approved or disapproved by the Planning Director would be appealable to the Plan Commission for reconsideration.

Article XII, Section 1:

**§ 1 City election.**

Except as otherwise provided by law, there shall be a regular City election each year on a state declared uniform election day to elect candidates for expired terms of office or to fill vacancies due to resignations or removal from office, as needed, provided that the Council shall, if authorized by State law, declare unopposed candidates elected.

## Committee Initiated Change Recommendations:

### Article III, Section 1(F)

#### [Redistricting and Gerrymandering]:

##### **§ 1 Number, terms, Council districts, etc.**

(F) Within one year after a decennial federal census as mandated by Article I § 2 of the United States Constitution has been performed and finalized, prior to the calling of the regular City election, the Council shall redivide and readjust by ordinance the boundaries of the eight Council districts of the City for the purpose of keeping such districts as nearly equal in population as is practical. Any redivision or readjustment to the district boundaries performed under this section must be in conformance with the following requirements:

- i. **Equal Population:** All districts shall be reasonably equal in population, allowing for minor deviations as needed to achieve other redistricting goals outlined in this Article.
- ii. **Contiguity:** Each district shall be contiguous, meaning all parts of a district are connected to each other without jumping over another district.
- iii. **Compactness:** Districts shall be drawn to encourage compactness. To the extent practicable, districts shall not have irregularly shaped boundaries or elongated configurations which are indicative of gerrymandering.
- iv. **Respect for Political Subdivisions and Communities:** Redistricting shall, to the extent possible, preserve existing neighborhoods, and communities of interest.
- v. **Non-partisanship:** District boundaries shall not be drawn to favor or discriminate against an incumbent, candidate, or political party.

### Article III, Section 2

#### [Add felony prohibition to run for council]:

##### **§ 2 Qualifications.**

Each member of the Council shall, in addition to the other qualifications prescribed by law, be, at the date of his or her election, a qualified voter of the City and shall not have been previously convicted of a felony or Class A misdemeanor. A member of the Council ceasing to reside in the City or if convicted of a felony or Class A misdemeanor shall immediately forfeit his or her office.

## Article IV, Section 8(A)

### [Related to Council Item 11: Length of allowed contract]:

#### **§ 8 Selection of City Auditor.**

The City Auditor shall be chosen by Council.

#### **(A) Qualifications and Term.**

The City Auditor shall be a person knowledgeable in generally accepted government auditing standards, principles of municipal accounting, and local government policies, operations, and processes.

The City Council may enter into an employment agreement with the City Auditor for a definite term not to exceed five (5) years. The City Council may terminate the employment agreement at its will and pleasure by a vote of not less than five (5) members of the City Council. The action of the City Council in removing the City Auditor shall be final, it being the intention of this Charter to vest all authority and fix all responsibility for such removal in the City Council.

## Article VI, Section 1

### [Related to Council Item 11: Length of allowed contract]:

#### **§ 1 Qualification.**

The City Attorney shall be chosen by the City Council on the basis of his or her qualifications as a competent practicing attorney of recognized ability. The City Council may enter into an employment agreement with the City Attorney for a term not to exceed five (5) years. The Council may terminate the employment agreement at its will by a vote of five (5) members of the Council. The action of the City Council in removing the City Attorney shall be final, it being the intention of this Charter to vest all authority and fix all responsibility for such removal in the Council.

## Article XI, Section 1(E)

### [Change Recommended for clarity of appointment to fill vacancies; Committee Initiated Change discussion: adding alternate members to Plan Commission - No change recommended]:

#### **§ 1 Plan Commission.**

(E) If a vacancy occurs upon the Plan Commission, the Councilmember from the affected district, or the Mayor in the case of the at-large member, shall nominate a commissioner, subject to confirmation by a majority vote of the Council, to fill the unexpired term.



**GARLAND**  
**CITY COUNCIL STAFF REPORT**

**City Council Work Session**

**8.**

**Meeting Date:** 01/22/2024

**Boards and Commission Appointment**

**Submitted By:** Courtney Vanover, Department Coordinator II

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**Issue/Summary**

**Mayor Scott LeMay**

- Charles Leonard - Community Multicultural Commission

**Background**

**Consideration / Recommendation**

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**Attachments**

Charles Leonard - CMC

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# GARLAND

TEXAS MADE HERE



## Application for City of Garland Boards/Commissions/Committees/Charter Review Board/Bond Committee

Return completed application to City Secretary's Office, 200 N. Fifth St., Garland, Texas 75040 | Email: [RDow@a.GarlandTX.gov](mailto:RDow@a.GarlandTX.gov)

**Please Type or Print Clearly:**

Date: 29 Dec 2023

Name: Charles V. Leonard Phone: \_\_\_\_\_ (Home)

Address: 2213 Shady Oaks Ct. Phone: 

City, State, Zip: 75044 GARLAND Email: \_\_\_\_\_

Resident of Garland for 39 years Resident of Texas for 45 years

✓ Dallas County Voter Registration Number  Garland City Council District Number 7

Have you ever been convicted of a felony? ☐ Yes ☒ No

Have you ever been convicted of a Class A misdemeanor? ☐ Yes ☒ No

Please list any experience that qualifies you to serve in the areas you have indicated.

—

If you have previously served on a City Board or Commission, please specify and list dates of service.

—

List civic or community endeavors with which you have been involved.

GARLAND SYMPHONY Board 2023 - present

What is your educational background?

BA, Millikin U, Decatur IL 1967

MA, Wichita State U, Wichita KS 1972

What is your occupational experience?

SCHULZ ORGAN CO 1978 - 1989

RLS IDE ORGAN CO 1989 - 2020

I hereby affirm that all statements herein are true and correct. Charles V Leonard

Board or Commission of first, second and third choice:

\_\_\_ Board of Adjustment

\_\_\_ Citizens Environmental and Neighborhood Advisory Committee

\_\_\_ Civil Service Commission

1 Community Multicultural Commission

\_\_\_ Charter Review Board

3 Garland Cultural Arts Commission

\_\_\_ Garland Youth Council \*\*

\_\_\_ Library Board

\_\_\_ Property Standards Board

\_\_\_ Bond Committee

\_\_\_ Parks and Recreation Board

\_\_\_ Plan Commission \*

2 Senior Citizens Advisory Committee

\_\_\_ Unified Building Standards Commission

\*\* Garland Youth Council has a separate application

### FOR OFFICE USE ONLY

Ad Valorem Tax Status

Utility Account Status

CSO Suit/Claim Filed

Clerk Signature & Date

Current

Current

Yes

No

Past Due

Past Due

Date Appointed

Appointed By

Date Notified

Disclosure Form Filed

Courtney Vanover  
1.3.24

Revised 08/2023



**GARLAND**  
**CITY COUNCIL STAFF REPORT**

**City Council Work Session**

**9.**

**Meeting Date:** 01/22/2024

**Boards and Commission Appointment**

**Submitted By:** Courtney Vanover, Department Coordinator II

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**Issue/Summary**

**Council Member Chris Ott**

- Richard Valle - Parks and Recreation Board

**Background**

**Consideration / Recommendation**

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**Attachments**

Richard Valle

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# GARLAND

TEXAS MADE HERE



## Application for City of Garland Boards/Commissions/Committees/Charter Review Board/Bond Committee

Return completed application to City Secretary's Office, 200 N. Fifth St., Garland, Texas 75040 | Email: [RDowl@GarlandTX.gov](mailto:RDowl@GarlandTX.gov)

**Please Type or Print Clearly:**

Date: 01-04-2024

Name: Richard Valle

Phone:

Address: 521 Pebblecreek Dr

Phone:

City, State, Zip: Garland, TX 75040

Email:

Resident of Garland for 50 years Resident of Texas for 58 years

Dallas County Voter Registration Number [REDACTED] Garland City Council District Number 8

Have you ever been convicted of a felony? ☐ Yes ☒ No

Have you ever been convicted of a Class A misdemeanor? ☐ Yes ☒ No

Please list any experience that qualifies you to serve in the areas you have indicated.

I as a licensed Texas Realtor. Also, experience with PTA in the GISD - board member with Beaver & Jackson schools have 27

If you have previously served on a City Board or Commission, please specify and list dates of service.  
na

List civic or community endeavors with which you have been involved.

I as a licensed Texas Realtor. Also, experience with PTA in the GISD - board member with Beaver & Jackson schools have 27

What is your educational background?

graduate of Garland HS - 2 year associates degree with Eastfield Community College in Dallas

What is your occupational experience?

currently licensed real estate agent with eXp Realty, LLC - and past Advertising Marketing executive with The Dallas Morning

I hereby affirm that all statements herein are true and correct.

Signed by: Richard Valle City of Applicant

Board or Commission of first, second and third choice:

- ☐ Board of Adjustment
- ☐ Bond Committee
- ☐ Charter Review Board
- ☐ Citizens Environmental and Neighborhood Advisory Committee
- ☐ Civil Service Commission
- ☐ Community Multicultural Commission
- ☐ Garland Cultural Arts Commission
- ☐ Garland Youth Council\*\*
- ☐ Library Board

- ☐ Property Standards Board
- ☒ Parks and Recreation Board
- ☐ Plan Commission
- ☐ Senior Citizens Advisory Committee
- ☐ Unified Building Standards Commission
- ☐ Tax Increment Finance #1 Downtown Board
- ☐ Tax Increment Finance #2 South Board
- ☐ Tax Increment #3 Board

\*\* Garland Youth Council has a separate application

### FOR OFFICE USE ONLY

Ad Valorem Tax Status

Current ☒

Past Due ☐

Date Appointed

Utility Account Status

Current ☒

Past Due ☐

Appointed By

CSO Suit/Claim Filed

Yes ☒ No ☒

Date Notified

Clerk Signature & Date

Courtney Vanover  
1.5.24

Disclosure Form Filed

Revised 08/2023