

AGENDA

**CITY COUNCIL WORK SESSION
City of Garland
Work Session Room, City Hall
200 North Fifth Street, Garland, Texas
March 18, 2013
6:00 p.m.**

DEFINITIONS:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Item	Key Person
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(6:00) 1. Verbal Briefings:

a. APEX Tool Group – Tax Abatement **Schuster/Mayer**

The APEX Tool Group is planning to invest \$8 million in its existing facility. This project is estimated to add \$5 million to the business personal property value and \$3 million for property improvement. As part of the Garland Economic Development Partnership (GEDP) retention and expansion program of encouraging quality development in the City of Garland, the GEDP Steering Committee recommends that Council provide: 1) general support for the project and 2) support of a 100% City tax abatement on business personal property value on this new investment for 10 years totaling \$352,300.

b. Mosquito-Borne Disease Surveillance and Control for 2013 **Briley**

At the request of Council Member B. J. Williams and Mayor Ronald Jones, Health Department staff will update Council on mosquito-borne disease surveillance and control for 2013.

c. Administrative Services Committee Report **Cahill**

Council Member Jim Cahill, Chair of the Administrative Services Committee, will provide a committee report regarding modifications to the City's Smoking Ordinance No. 5969.

d. Council Committee Assignments **Jones**

Mayor Ronald Jones will brief Council on appointment reassignments of Mayor Pro Tem John Willis to the Regional Transportation Council and Council Member Tim Campbell to the Dallas Regional Mobility Coalition.

(7:00) 2. Regular Items:

a. 2011 National Electric Code Adoption Montgomery

Building Inspection is currently utilizing the 2005 version of the National Electrical Code (NEC). In order to maintain current code technology and consistency with state legislation and local jurisdictions, Council is requested to consider the adoption of the 2011 Edition of the NEC in conjunction with the North Central Texas Council of Government amendments as recommended by Building Inspection and the Electrical Board. If Council concurs, this item will be scheduled for formal consideration at the April 2, 2013 Regular Meeting.

b. Transmission Operator, Maintenance, and Construction Services Agreement with Texas Municipal Power Agency

Council is requested to consider authorizing the execution of the Transmission Operator, Maintenance, and Construction Services Agreement with the Texas Municipal Power Agency (TMPA). This agreement will replace the existing Transmission Operator Service Agreement, entered into in May 2008, with a new agreement that expands the functions to be performed by Garland Power & Light to include, among other functions, maintenance and construction management in relation to the TMPA transmission system. This item is scheduled for formal consideration at the March 19, 2013 Regular Meeting.

c. 2012-13 Budget Amendment No. 2

Council is requested to consider amending the 2012-13 Adopted Budget in order to appropriate available funds for salaries, operations, maintenance, and expenses associated with the commencement of Garland Power & Light operating and maintaining the Texas Municipal Power Agency Transmission System. This item is scheduled for formal consideration at the March 19, 2013 Regular Meeting.

3. Discuss Appointments to Boards and Commissions Council

Chester Johnson – Plan Commission (Goebel)

4. Consider the Consent Agenda

Council

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

5. Announce Future Agenda Items

Council

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

(8:00) 6. Adjourn

Council

(Estimated time to consider)



City Council Item Summary Sheet

Work Session

Date: March 18, 2013

Agenda Item

APEX Tool Group Tax Abatement

Summary of Request/Problem

The APEX Tool Group is planning to invest \$8 million in its existing facility. This project is estimated to add \$5 million to the business personal property value and \$3 million for property improvement.

As part of the Garland Economic Development Partnership (GEDP) retention and expansion program of encouraging quality development in the City of Garland, the GEDP Steering Committee recommends that Council provide: 1) general support for the project and 2) support of a 100% City tax abatement on business personal property value on this new investment for 10 years totaling \$352,300.

Recommendation/Action Requested and Justification

Council discussion.

Submitted By:

Martin E. Glenn
Deputy City Manager

Approved By:

William E. Dollar
City Manager



CITY OF GARLAND • GARLAND CHAMBER OF COMMERCE • G.I.S.D.

GARLAND ECONOMIC DEVELOPMENT STEERING COMMITTEE

Project Recommendation to the Garland City Council

January 31, 2013

APEX Tool Group Expansion

The APEX Tool Group, headquartered in Maryland was formed in July 2010 as a joint venture combining two premier tool manufacturers: Danaher Tool Group and Cooper Tools. Together, the two businesses will offer industrial, commercial, and do-it-yourself customers an unparalleled selection of over 30 leading brands; including Crescent, GearWrench, Armstrong, and Weller.

The APEX Tool Group plant in Garland has a long history, starting in 1992 as Kingsley Tools and becoming Danaher Tools in 1997. The APEX Tool Group is planning to invest \$8 million in its existing facility. This project is estimated to add \$5 million to the business personal property value and \$3 million for property improvement. We believe this project will bring more great opportunities to Garland plant.

As part of GEDP's retention and expansion program of encouraging quality development in the City of Garland, the GEDP's EDSC recommends to the Garland City Council the following supports:

- General support for the project
- Support of a 100% City Tax Abatement on Business Personal Property Value on this new investment for 10 years - total of \$352,300.

Committee Member Attendees: Mayor Ronald Jones, City Council Tim Campbell, City Council BJ Williams, City Manager Bill Dollar, GISD President Linda Griffin, GISD Assistant Secretary Rick Lambert, Chamber Chair Elect Phil Elmore, Chamber Board Chad Brumit, Chamber CEO Paul Mayer

*** Approved unanimously**

ECONOMIC IMPACT ANALYSIS

APEX Tool Group current								Points
ECONOMIC IMPACTS:	Full-time jobs	Annual Payroll	RE Value	BPP Value	Sales Tax	GP&L (KWH/yr)		
3000 Kingsley Rd.	500	\$ 20,000,000	\$ 6,100,000	\$ 18,335,921	\$0	21,600,000		
Total Points:	50	200	51	173	0	432	906	
City Property Tax Revenue								
Property Tax Revenue	\$	42,981						
BPP Tax Revenue	\$	129,195						
City Sales Tax	\$	-						
Total City Tax Revenues	\$	172,175						

ECONOMIC IMPACT ANALYSIS

APEX Tool Group new							
							Points
ECONOMIC IMPACTS:	Full-time jobs	Annual Payroll	RE Value	BPP Value	Sales Tax	GP&L (KWH/yr)	
Phase I	0	\$ -	\$ 3,000,000	\$ 2,000,000	\$ -	4,320,000	
Phase II				\$ 3,000,000		2,160,000	
TOTAL	0	0	\$ 3,000,000	\$ 5,000,000	\$ -	6,480,000	
Total Points:	0	0	20	40	0	130	190
City Property Tax Revenue							
Property Tax Revenue	\$	21,138					
BPP Tax Revenue	\$	35,230					
City Sales Tax	\$	-					
Total City Tax Revenues	\$	56,368					

*Minimum of 100 points generally required for tax abatement consideration

Staff Recommendation:		
BPP Tax Value	100% Abatement	10 Years
\$ 5,000,000	\$ 35,230	\$ 352,300



City Council Item Summary Sheet

Work Session

Date: March 18, 2013

Agenda Item

Mosquito-Borne Disease Surveillance and Control for 2013

Summary of Request/Problem

At the request of Councilman B. J. Williams and Mayor Ronald Jones, Health Department staff will update Council on mosquito-borne disease surveillance and control for 2013.

Recommendation/Action Requested and Justification

Council discussion.

Submitted By:

Richard Briley
Managing Director of Health &
Code Compliance

Approved By:

William E. Dollar
City Manager



City Council Item Summary Sheet

Work Session

Date: March 18, 2013

Agenda Item

Administrative Services Committee Report

Summary of Request/Problem

Council Member Jim Cahill, Chair of the Administrative Services Committee, will provide a committee report regarding modifications to the City's Smoking Ordinance No. 5969.

Recommendation/Action Requested and Justification

Council discussions.

Submitted By:

Approved By:

William E. Dollar
City Manager



City Council Item Summary Sheet

Work Session

Date: March 18, 2013

Agenda Item

Council Committee Assignments

Summary of Request/Problem

Mayor Ronald Jones will brief Council on appointment reassignments of Mayor Pro Tem John Willis to the Regional Transportation Council and Council Member Tim Campbell to the Dallas Regional Mobility Coalition.

Recommendation/Action Requested and Justification

Submitted By:

Approved By:

William E. Dollar
City Manager



Policy Report

2011 NATIONAL ELECTRIC CODE ADOPTION

ISSUE

Consider adoption of the 2011 Edition of the National Electrical Code (NEC)

OPTIONS

1. Adopt the 2011 NEC
2. Do not adopt the 2011 Edition and continue using the 2005 NEC

RECOMMENDATION

Staff and the Electrical Board recommend the adoption of the 2011 Code; if Council concurs, an item will be placed on the April 2nd agenda for formal adoption.

COUNCIL GOAL

Sustainable Quality Development and Redevelopment
Safe, Family-Friendly Neighborhoods

BACKGROUND

Currently, Building Inspection is utilizing the 2005 version of the NEC. In order to maintain current code technology and consistency with state legislation and local jurisdictions, Building Inspection is proposing adoption of the 2011 National Electrical Code in conjunction with the North Central Texas Council of Government amendments. The Building Inspection Department has concluded an examination of this code and made presentations of the 2011 edition to the Electrical Board. The Board is unanimously recommending the adoption of the 2011 NEC.

The 2011 NEC is the latest version of electrical codes published at this time.

CONSIDERATIONS

1. One of the significant items in this code adoption centers around the problems associated with an arc-fault. An arc-fault occurs when loose or corroded connections in electrical wires make intermittent contact and causes sparking or arcing between the connections. This translates into heat, which will break down the insulation of the wire and can be the trigger for an electrical fire. Arc fault protection will now be required for future projects in the entire house whereas under the 2005 code it was required only in bedrooms.
2. Another significant safety feature in the proposed code adoption is child safety outlets (also known as Tamper-Resistant receptacles) They have been required in all new home construction in states that have adopted the 2008 *National Electrical Code*® (NEC®). Since Garland is proposing the 2011 NEC, this is a standard practice of installation. These child safety outlets should also be used when submitting a renovation project or replacing an existing outlet.
3. Dallas, Plano, Mesquite, Euless, Hurst and other cities in the metropolitan area have adopted the 2011 Code. Richardson, Irving and Rowlett plan to adopt it in 2013.

ATTACHMENT

Letter from Electrical Board

Submitted By:

Michael C. Gaiter
Building Official

Date: 3/8/2013

Approved By:

William E. Dollar
City Manager

Date: 3/8/2013



GARLAND

BUILDING INSPECTION

Memorandum

To: Mayor Ron Jones, City Manager William Dollar and City Council

From: National Electrical Code Board

Date: January 31, 2013

Subject: 2011 National Electrical Code Recommendation

The Electrical Code Board has recently completed a study on proposals of the 2011 National Electrical Code for adoption.

In order to remain compatible with other cities in North Texas, keep current with modern construction technologies and be consistent with Texas Department of Licensing and Regulations (TDLR), we unanimously recommend that the 2011 editions of the National Electrical Code as amended be adopted.

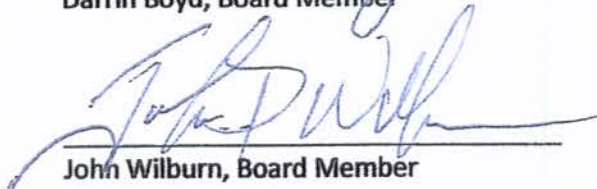
We believe that these performance codes will continue to promote a safe environment in the State and Nation as well as growth in Garland.


Linard Puckett, Chairman


Bob Barnett, Vice Chairman


Darrin Boyd, Board Member


Thomas Wilcoxon, Board Member


John Wilburn, Board Member



Meeting: Work Session

Date: March 18, 2013

Policy Report

TRANSMISSION OPERATOR, MAINTENANCE, AND CONSTRUCTION SERVICES AGREEMENT WITH TEXAS MUNICIPAL POWER AGENCY

ISSUE

Council is requested to consider authorizing the execution of the Transmission Operator, Maintenance, and Construction Services Agreement with the Texas Municipal Power Agency (TMPA). Garland Power & Light and TMPA desire to replace the existing Transmission Operator Service Agreement, entered into May 2008, with a new agreement that expands the functions to be performed by Garland Power & Light to include, among other functions, maintenance and construction management in relation to the TMPA transmission system.

OPTIONS

- (1) Authorize the City Manager, or his representative to execute the Transmission Operator, Maintenance, and Construction Services Agreement. If Council concurs, this item will be scheduled for formal consideration at the March 19, 2013 Regular Session.
- (2) Do not authorize.

RECOMMENDATION

Staff recommends that Council consider approval of option number one with authorization for the City Manager, or his representative to execute the Transmission Operator, Maintenance, and Construction Services Agreement. This item is scheduled for formal approval at the March 19, 2013 Regular Meeting.

COUNCIL GOAL

Consistent Delivery of Reliable City Services

BACKGROUND

As 2018 approaches and the Power Sales Contract with TMPA concludes, Garland Power & Light and TMPA recognize the need to maintain constancy with transmission service provided to the Member Cities through TMPA. Essential to this is maintaining

and attracting qualified and skilled personnel. This Agreement provides an opportunity of greater permanence for current TMPA transmission employees who will become employees of the City of Garland and the attraction of new, highly-skilled employees who might otherwise not consider employment with TMPA because of the uncertain level continuance of TMPA operation after 2018. In addition, this Agreement provides the opportunity for synergies through leveraging Garland Power & Light's transmission resources with TMPA's needed transmission capital investments, as well as transmission maintenance and compliance requirements, in order to maintain concurrence with TMPA's regulatory commitments. These synergies of Garland Power & Light's resources with the needs of TMPA's transmission system will ultimately benefit, from both a service and fiscal standpoint, the ratepayers of the Member Cities, including the City of Garland, which maintains a 47% position in TMPA.

CONSIDERATION

Approval of the Transmission Operator, Maintenance, and Construction Services Agreement will position the Member Cities, including the City of Garland, to continue the receipt of reliable and fiscally beneficially transmission service from TMPA's transmission system.

Submitted By:

Jeff Janke,
GP&L Managing Director

Date: March 12, 2013

Approved By:

William E. Dollar
City Manager

Date: March 12, 2013

**TRANSMISSION OPERATOR, MAINTENANCE, AND CONSTRUCTION
SERVICES AGREEMENT**

This Transmission Operator, Maintenance, and Construction Services Agreement (the "Agreement") is entered into on the _____ day of _____, 2013 (the "Effective Date") between Texas Municipal Power Agency ("TMPA") and the City of Garland, Texas (the "City" or "Garland").

Recitals

TMPA is the owner of an electric transmission system, more fully described in Exhibit "A", that has been constructed, operated, and maintained for the purpose of delivering power to the cities of Bryan, Denton, Garland, and Greenville (the "Member Cities") and providing transmission service to wholesale transmission customers in ERCOT including any additions or modifications thereto (the "TMPA Transmission System"). This Agreement amends, restates, and supersedes the Transmission Operator Agreement, dated _____ between the City and TMPA.

Definitions

Wherever used in this Agreement, the following terms shall have the meanings specified or referred to in this section.

Agreement means this TRANSMISSION OPERATOR, MAINTENANCE, AND CONSTRUCTION SERVICES AGREEMENT between Garland and TMPA, including all attachments hereto, as the same may be amended, supplemented, or modified in accordance with its terms.

Annual System Budget shall mean the fiscal year budget approved by the TMPA Board of Directors for the planned operation and maintenance of the TMPA Transmission System. The Annual System Budget will not be funded from bonds or other debt.

Annual Capital Budget shall mean the fiscal year budget comprised of the transmission capital projects approved by the TMPA Board of Directors.

ERCOT shall mean the Electric Reliability Council of Texas or its successor.

FERC shall mean the Federal Energy Regulatory Commission or its successor federal agency.

Field Operations refers to the operation of the TMPA Transmission System and shall mean either the manual or automatic process of switching, operating, clearing, and tagging TMPA Transmission System equipment for the purposes of maintaining, testing, servicing, removing, or installing equipment from transmission lines or stations.

Good Utility Practice shall mean any of the practices, methods, and acts engaged in or approved by a significant portion of the electric utility industry during the relevant time period, or any of the practices, methods, and acts that, in the exercise of reasonable judgment in light of the facts known at the time the decision was made, could have been expected to accomplish the desired result at a reasonable cost consistent with good business practices, reliability, safety, and expedition. Good Utility Practice is not intended to be limited to the optimum practice, method, or act to the exclusion of all others, but rather includes all acceptable practices, methods, or acts generally accepted in the region.

NERC shall mean the North American Electric Reliability Corporation or its successor.

Operating Costs shall mean the total actual costs (without mark-up) properly and reasonably incurred by Garland on behalf of TMPA in the ordinary course of business solely for the administration, operation, and maintenance of the TMPA Transmission System, including without duplication: (i) wages and overhead costs for employees of Garland, including overtime, retirement plans, medical and life insurance, disability and occupational hazard insurance, employee benefits, employee savings plan, and employee taxes; (ii) employee recruitment and relocation costs; (iii) employee training, including tuition, travel, meals, and lodging; (iv) maintenance costs and expenses, including scheduled, routine, preventative, and unscheduled maintenance; (v) the cost of consumables, new and replacement spare parts, unloading, handling, and taking inventory of same; (vi) office expenses; (vii) capital expenditures or replacement of equipment approved in writing in advance by TMPA; (viii) care and handling of any hazardous waste; (ix) rolling stock expenses; (x) cost of compliance with permits; (xi) payments for leases of real or personal property or easements needed or used by or in connection with the TMPA Transmission System; (xii) payments due and payable to suppliers under subcontracts entered into by Garland in accordance with the terms of this Agreement, (xiii) reasonable and customary employee transition expenses payable upon termination of the Term, and (xiv) costs of insurance. "Operating Costs" does not include the costs of improvements, expansions, and extensions of the TMPA Transmission System; such costs shall be for transmission capital projects and included in the Annual Capital Budget.

Party shall mean either Garland or TMPA, and "Parties" shall mean Garland and TMPA, collectively.

Protective Relay shall mean a device that detects abnormal power system conditions and, in response, initiates automatic control action.

Protective Relay System shall mean a group of protective relays and associated sensing devices and communications equipment that detects system abnormalities and performs automatic control action to mitigate or reduce adverse effects of such abnormalities.

PUCT shall mean the Public Utility Commission of Texas or its successor.

Qualified Personnel shall mean individuals trained for their positions in accordance with Good Utility Practice.

Rolling Stock shall mean any motorized vehicle (personnel truck, crane, bucket truck, all-terrain vehicle, etc.) or any non-motorized trailers used for transporting equipment or supplies.

Services shall mean all work, services, and other functions to be provided and performed by Garland for the operation, maintenance, and construction of the TMPA Transmission System as set forth in this Agreement.

Supervisory Control and Data Acquisition (SCADA) shall mean a system that provides data acquisition, supervisory control and alarm display and control from remote field locations to control centers.

Transmission Operator shall mean the entity registered with NERC as the transmission operator for the TMPA Transmission System.

TRE shall mean the Texas Reliability Entity, Inc. or its successor.

Agreement

In consideration of the mutual obligations of the Parties as set forth herein, TMPA and Garland agree as follows:

Section 1.0 Transmission Operator, Maintenance, and Construction Services Functions

- 1.1 Garland, as Transmission Operator, shall perform the Transmission Operator, Maintenance, Construction Services, and other functions associated with the TMPA Transmission System that are described in this Agreement (the "Transmission Functions"). The transmission assets that are subject to this Agreement are described in Exhibit "A".
- 1.2 In performing the Transmission Functions, Garland shall discharge the duties relevant to those functions under applicable Federal and State laws and regulations, including applicable rules and regulations of FERC, the PUCT, NERC, and ERCOT, including those enforced by the TRE. TMPA shall provide to Garland any and all information, documents, and access to facilities in its possession or control that are necessary to enable Garland to discharge its duties under this

Agreement, including access to TMPA information systems, substations, and other property reasonably necessary to enable Garland to discharge its duties under this Agreement. For the TMPA Transmission System, TMPA and Garland will each make commercially reasonable efforts to utilize information and work management systems that are compatible with those of the other Party while ensuring such systems are on par with industry standards. TMPA shall cooperate with Garland's efforts to perform the Transmission Functions in accordance with any applicable NERC Standards and ERCOT Operating Guides and Protocols. Garland shall be responsible for creating and maintaining all necessary policies and procedures required for Garland to perform the Transmission Functions.

- 1.3 In performing its duties under this Agreement, Garland shall act in the capacity of an independent contractor to TMPA, and not as an agent except in those cases in which this Agreement expressly describes Garland's role as that of an agent.

Section 2.0 Transmission Functions

2.1 System Operation and Maintenance (O&M)

In relation to the operation and maintenance of TMPA Transmission System assets, Garland shall discharge the duties imposed on transmission owners in ERCOT by applicable Federal and State laws and regulations, including applicable rules and regulations of FERC, PUCT, NERC, and ERCOT. All operation and maintenance activities for the TMPA Transmission System will be the responsibility of Garland. Garland shall control and direct maintenance activities in accordance with Good Utility Practice to maintain the service life of equipment and ensure systems remain in good working order during the term of this Agreement for all TMPA assets listed in Exhibit "A", as well as additional TMPA Transmission System assets placed in-service during the term of this Agreement. Furthermore, Garland shall also test, calibrate, set, and maintain all TMPA-owned Protective Relay and SCADA Equipment in accordance with Good Utility Practice. The inventory of TMPA-owned Protective Relay and SCADA Equipment shall be defined by Facility Schedules for each station listed in Exhibit "A".

Garland shall be responsible for producing and maintaining all required documentation associated with the testing, commissioning, maintenance, and repair of TMPA transmission assets. Ownership of such documentation shall be maintained within TMPA.

2.2 Capital Construction

In relation to the construction of TMPA Transmission System assets, Garland shall discharge the duties imposed on transmission owners in ERCOT by applicable Federal and State laws and regulations, including applicable rules and regulations of FERC, the PUCT, NERC, and ERCOT. All capital construction activities approved by the TMPA Board of Directors will be performed by Garland according to the terms of this Agreement. A status report for active TMPA Transmission System projects will be submitted by Garland to the TMPA Board of Directors on a quarterly basis or within 30 days of a request.

2.3 Metering

Garland shall be responsible for maintaining, testing, calibrating, repairing, replacing, and certifying ERCOT settlement meters for TMPA. Garland will also maintain the communication paths and equipment necessary for ERCOT and other approved entities to poll the meters as required per ERCOT protocols or any other preexisting arrangements with TMPA.

Metering data required for generation settlements and Annual Load Data Reporting (ALDR) shall be collected and processed by Garland on behalf of TMPA.

2.4 Security

Garland shall be responsible for maintaining, monitoring, repairing, and installing when necessary, any security equipment used in TMPA stations listed in Exhibit "A". Where remote surveillance capabilities exist, Garland shall manage video surveillance services and store information as required by any applicable regulatory requirements. Garland shall also provide user-level access control management for any critical TMPA stations where such equipment is installed and those services are required.

2.5 Environmental Documentation

Garland shall maintain, update, and develop, when necessary, environmental compliance documentation for TMPA including Storm Water Pollution Prevention Plans (SWPPP) for stations listed in Exhibit "A". If regulatory reporting is required as the result of regulation or an incident, Garland will complete the reporting on behalf of TMPA.

2.6 Right-of-Way Maintenance

Garland shall maintain all existing and any new TMPA transmission right-of-way or transmission related real property owned by TMPA in accordance with Good

Utility Practice. Garland shall maintain vegetation in accordance with the applicable TMPA procedure contained in Exhibit "C".

2.7 Rate Filings

Garland shall be responsible for making recommendations to TMPA concerning any PUC rate filings that Garland may consider to be necessary or desirable during the term of this Agreement. Garland will update the TMPA transmission investment plan and present the plan and justification for a rate filing to the TMPA Board of Directors for approval prior to TMPA initiating either an interim or full rate case filing. Employment of attorneys and consultants for rate cases shall be subject to Subsection 4.4. Garland agrees to provide assistance to such attorneys and consultants as needed for any interim or full rate case filing.

2.8 Regulatory Compliance

Garland shall be responsible for all regulatory compliance on behalf of TMPA for the transmission function. This obligation includes any standards, requirements, or protocols that may now or at any time during the term of this Agreement be imposed on TMPA through Federal and State laws and regulations, or applicable rules or regulations by FERC, NERC, ERCOT, TRE, or PUCT. Garland shall administer regulatory compliance for TMPA according to TMPA procedures contained in Exhibit "C" and/or any Garland procedure as deemed necessary by Garland through the performance of this service.

Garland shall be responsible for maintaining, updating, and creating, if necessary, all regulatory procedures on behalf of TMPA. All TMPA regulatory audits, data submittals, or reports that are either scheduled or yet to be scheduled during the term of this Agreement shall be the responsibility of Garland.

2.9 Planning

Garland shall perform the transmission planning function for the TMPA Transmission System according to Good Utility Practice. Garland shall comply with any and all ERCOT protocols pertaining to transmission planning on behalf of TMPA. Routine planning studies, data submittals, and reports will all be the responsibility of Garland during the term of this Agreement. Garland shall also represent the planning interests of TMPA through participation in ERCOT technical working groups when required or as deemed prudent through the provision of these services.

2.10 Work Scheduling and Outage Planning

Garland shall perform work scheduling and outage planning for the TMPA Transmission System according to Good Utility Practice. Garland shall comply with any and all ERCOT protocols pertaining to work scheduling and outage planning on behalf of TMPA.

2.11 Communications

Garland shall be responsible for maintaining voice, data, and relay communications systems for the TMPA Transmission System. This includes all phone lines, fiber, microwave, leased lines, power line carrier, and public network interfaces.

2.12 Fleet Maintenance

Garland shall operate, maintain, and repair any rolling stock owned or leased by TMPA and used by Garland for the performance of Transmission Functions. TMPA rolling stock assets that, as determined by Garland, have become obsolete, surplus property, or otherwise require replacement may be conveyed or disposed of by Garland with the consent of TMPA. The manner of such conveyance or disposal shall be as mutually agreed between Garland and TMPA.

2.13 Inventory Control and Purchasing

Garland shall manage the TMPA Transmission System inventory and purchasing functions according to Good Utility Practice

2.14 Contract Services

Contract services for the TMPA transmission function shall be administered per Subsection 4.3 of this Agreement.

2.15 Legal Services (to the extent authorized in Subsection 4.4)

Legal services for the TMPA transmission function shall be administered per Subsection 4.4 of this Agreement.

2.16 Field Operations

Garland shall perform Field Operations for the TMPA Transmission System using qualified personnel according to Good Utility Practice. Garland shall comply with any and all ERCOT protocols and National Electric Safety Code (NESC) requirements pertaining to Field Operation activities on behalf of TMPA.

2.17 Budgeting

Budgeting for the TMPA transmission business function shall be administered per Section 3.0 of this Agreement.

2.18 Insurance

During the term of this Agreement, TMPA shall maintain insurance of the kind and in the amounts indicated in Section 11.0 of the Agreement.

2.19 TMPA's Responsibilities:

- a. Financing (O&M and Capital – see Section 3.0)
- b. Administration of Funds

TMPA shall discharge its payment obligations under this Agreement in accordance with Section 3.0.

- c. Auditing (see Section 7.0 Audits)

Section 3.0 Cost Reimbursement and Budgeting

3.1 Annual System Budget and Annual Capital Budget

Costs shall be incurred in accordance with an annual system budget and a separate annual capital budget prepared by Garland and submitted to TMPA's Board of Directors for approval. Such budgets shall be prepared and submitted to TMPA by June 1 of each year. The TMPA Board of Directors will, with such changes as it considers advisable, approve annual system and capital budgets prior to October 1 of each fiscal year, to be effective on October 1. If for any reason a budget is not approved by October 1, the previous year's budget will be followed until the new budget is adopted.

3.2 Annual System Budget

A status report on the Annual System Budget will be provided by Garland on a quarterly basis and when requested by TMPA. Amounts in budget line items may be transferred by Garland to other line items without amending the Annual System Budget but the total amount budgeted in the Annual System Budget may not be exceeded without a budget amendment being adopted by the TMPA Board of Directors. On an annual basis, Garland shall perform an overhead cost allocation study relating to its overhead costs in the Annual System Budget and shall provide to TMPA the results of the study to ensure that Garland's overhead costs are determined in an appropriate manner.

3.3 Annual Capital Budget

Garland shall be responsible for identifying system needs through sound planning practices. The TMPA capitalization policy will be used to determine if a system need warrants the consideration of a capital project. Garland shall

submit capital project proposals (i.e. annual capital budget amendments) to the TMPA Board of Directors on an as-needed basis or as requested.

A status report on the Annual Capital Budget will be provided by Garland on a quarterly basis and when requested by TMPA. Cost variances will be tracked by project and individual projects will be allowed to exceed the project budget by up to ten percent as long as the variance or sum of project cost variances do not exceed the approved Annual Capital Budget amount. When Garland determines that an individual project will exceed a ten percent variance, or that the total approved Annual Capital Budget amount will be exceeded, Garland shall submit an annual capital budget amendment to the TMPA Board of Directors for consideration. On an annual basis, Garland shall perform an overhead cost allocation study relating to its overhead costs in the Annual Capital Budget and shall provide to TMPA the results of the study to ensure that Garland's overhead costs are determined in an appropriate manner.

3.4 Reports Given at Regular Bi-Monthly TMPA Board Meetings

At the regular bi-monthly board meetings of the TMPA Board of Directors, Garland shall present to the Board a report of the type customarily provided to the Board by TMPA's manager of transmission.

3.5 Total Transmission Costs

TMPA shall pay Garland all of the costs incurred by Garland in performing Garland's obligations under this Agreement based on actual cost of service, including all operation, maintenance, and capital expenses plus benefit and overhead costs (the "Total Transmission Costs").

To the extent the Total Transmission Costs can be forecasted, they shall be included in the annual system and capital budgets proposed by Garland. If at any time Garland determines that the then effective Annual System Budget or Annual Capital Budget will be exceeded, Garland shall submit to the TMPA Board of Directors for approval a budget amendment. Approval of any such amendment shall not be unreasonably withheld.

3.6 Operating Costs

Garland shall invoice TMPA monthly for Operating Costs.

Costs for metering support functions will be invoiced separately from other Operating Costs and billed on a monthly basis when support is required.

Billings and payments for contracted services that are not included in the monthly invoices shall be advance funded or reimbursed to Garland as mutually agreed.

3.7 Capital Expenditures

Billings and reimbursements for capital project expenditures will be made in accordance with mutually agreed procedures, which may differ from project to project.

3.8 Payments

TMPA shall make payments to Garland within twenty (20) days of receipt of invoice. If TMPA is late in the payment of any charge or reimbursement under this Agreement, late payments shall bear per annual interest at a rate equal to the lesser of two percentage points (2%) above the Prime Interest Rate as published in the Wall Street Journal on the day said statement becomes delinquent, or the maximum allowed by law to be charged TMPA. If any charge or reimbursement remains unpaid at the expiration of thirty (30) days after the receipt of the statement, TMPA shall be in default under this Agreement, and Garland may invoke the remedies specified in this Agreement or otherwise available by law.

3.9 Budgeted Funds as a Condition to Obligation to Perform Transmission Functions

Garland shall have no obligation under this Agreement to perform any Transmission Function for which funds have not been included in either the Annual System Budget or the Annual Capital Budget; provided, however, in the event performance of a Transmission Function is necessary in order to respond to or prevent an emergency situation, involving persons or equipment, Garland shall proceed to perform same and TMPA shall amend the Annual System Budget, or Annual Capital Budget, as the case may be, to ensure that Garland is reimbursed for the costs incurred.

Section 4.0 Equipment, Property, and Contracts

4.1 All SCADA and communications equipment acquired by Garland or TMPA to perform the Transmission Functions shall be compatible with the Garland EMS/SCADA Systems.

4.2 Ownership of equipment and property acquired by Garland to perform the Transmission Functions after the date of this Agreement shall be determined as follows:

a. Each Party shall own equipment and property that it pays for.

- b. If the same equipment and property are paid for by both Parties, each Party will own an undivided interest in proportion to the percentage of the total costs paid by such Party for such equipment or property.
- c. To the extent TMPA owns property or equipment installed or incorporated into real property owned by Garland, Garland waives the law of fixtures so that TMPA's title to such property or equipment shall be preserved.
- d. The assignment of cost for additional property and/or equipment needed for Garland to perform the Transmission Functions after the date of this Agreement shall be determined through discussions and by mutual agreement between TMPA and Garland.

4.3 In performing the Transmission Functions, it may be necessary for Garland to contract for goods, services, or other matters with suppliers, contractors, and other third parties. Garland shall determine if a contract should be in the name of TMPA or in the name of Garland on a case-by-case basis. Contracts in the name of Garland will require no approval from TMPA but, to the extent practicable, should be assignable to TMPA. On termination of this Agreement, and to the extent such contracts are assignable, Garland shall assign such contracts to TMPA to the extent necessary to complete performance of such contracts with respect to the TMPA Transmission System and to enforce warranties.

For a contract to be in the name of TMPA, TMPA's written consent shall be required. TMPA Board of Directors action will not be required to give such written consent if TMPA has a General Manager or other person functioning as a chief administrative officer who can provide the consent. In such written consent, TMPA may consent to Garland executing the contract as agent for TMPA, in which case Garland may sign the contract, if it so desires. The award of contracts in the name of TMPA must comply with the laws governing the award of such contracts.

4.4 Contracts with attorneys, including consultants working with such attorneys, who provide legal services to TMPA in relation to the TMPA Transmission System, shall be awarded only by TMPA. TMPA shall direct such attorneys to work with Garland on legal matters involving the TMPA Transmission System to the extent such attorneys may do so consistent with their professional obligations to TMPA. The defense of any litigation against TMPA or the prosecution of any litigation by TMPA must be authorized by TMPA.

Section 5.0 Indemnification

- 5.1 TMPA agrees to indemnify and hold Garland and all of Garland's present, future, and former agents, employees, officials, and representatives (each in their official, individual, and representative capacities) harmless from any and all claims, demands, causes of action, judgments, liens, expenses (including attorney's fees), costs, penalties, and damages (whether common law or statutory; whether characterized as actual, punitive, consequential, incidental; and whether based on strict liability or liability assessed without fault) of any conceivable character, created by, arising from, or in any manner relating to the performance of Garland's obligations under this Agreement. The obligations of TMPA pursuant to this section shall survive any termination of this Agreement.
- 5.2 TMPA acknowledges that, in performing transmission operator duties on behalf of TMPA, Garland is exposed to significant regulatory liabilities far in excess of the consideration being received by Garland under this Agreement. TMPA further acknowledges that the consideration to be received by Garland under this Agreement does not reflect that regulatory exposure and thus does not adequately compensate Garland for the risks involved. As an integral and inseparable part of the consideration being given to Garland for undertaking the obligations of this Agreement, TMPA agrees to assume all responsibility for the payment of any monetary fine, administrative penalty, or civil penalty assessed by a regulatory authority (including NERC, ERCOT, PUCT or TRE or any successor agency or entity) against Garland arising from Garland's performance as the transmission operator for TMPA **REGARDLESS WHETHER THE FINE OR PENALTY IS INCURRED AS A RESULT OF GARLAND'S NEGLIGENCE**. To the extent allowed by law, each Party agrees to promptly notify the other Party in the event it receives notice of any investigation or proceeding, pending or proposed, that may result in the assessment of a fine or penalty against Garland, and each Party agrees to fully cooperate in the defense of any proceedings taken to assess or contest the fine or penalty.
- 5.3 The Parties agree that the rule requiring that an indemnity agreement be strictly construed in favor of the indemnifying Party shall not apply to this agreement.

Section 6.0 Term

- 6.1 This Agreement shall have a term commencing on the Effective Date and ending on September 1, 2018 (the "Initial Term"). For the first ninety (90) days of the Initial Term, Garland will not charge TMPA under this Agreement except for labor and associated costs of TMPA Transmission System employees transitioned

to Garland or employees hired by Garland during such period to carry out functions under this Agreement.

6.2 This Agreement may be terminated as follows:

- a. In the event a Party (the "Defaulting Party") is in breach of a material provision of this Agreement, the Party not in default (the "Non-Defaulting Party") may provide to the Defaulting Party notice of the default and a reasonable opportunity, not less than sixty (60) days, to cure the breach. If the Defaulting Party fails to cure the breach within the time specified, or (in the event the breach cannot be cured within such time) the Defaulting Party has failed to commence efforts necessary to cure the breach within such time, the Non-Defaulting Party may, by sending notice, terminate the Agreement.
- b. This Agreement may be terminated for convenience by the TMPA Board of Directors or by Garland by providing to the other Party, notice of termination at least eighteen (18) months in advance of the termination date stated in the notice.

6.3 Facility Condition at the End of Term. Upon expiration of the Term or termination of this Agreement, Garland shall remove its personnel and property from TMPA facilities consistent with the takeover of the facilities by TMPA's personnel. Garland shall leave TMPA facilities in substantially as good a condition as at the Effective Date, normal wear and tear excepted. All special tools, improvements, inventory of supplies, spare parts, safety equipment, O&M Manuals, and drawings (in each case as provided to or obtained by or provided by Garland during the term of this Agreement) and any other items furnished as Operating Costs (excluding such items purchased as replacement of Garland property) under this Agreement will be left at the Facility and will become or remain the property of TMPA subject to Subsection 4.2. If Garland has entered into any subcontracts for performance of any portion of the Services in its own name and not as agent for TMPA, then TMPA shall have the right, in its sole discretion, to directly assume and become liable for any such subcontracts, and Garland shall execute all documents and take all other reasonable steps requested by TMPA that may be required to assign to and vest in TMPA all rights, benefits, interests, and title in connection with such subcontracts; provided, however, that TMPA shall indemnify and hold harmless Garland for all liabilities arising out of events and obligations thereunder arising after the date of any such assumption. If requested by TMPA, Garland will cooperate with TMPA's

efforts to re-employ employees who have been reassigned to Garland in conjunction with the execution of this Agreement.

Section 7.0 Audits

- 7.1 TPA may conduct operating and financial audits relating to the Transmission Functions performed under this Agreement. Garland will provide operating reports addressing transmission issues as needed or requested to the TPA Board of Directors.
- 7.2 Garland shall keep records, desk logs, operating financial data, and supporting data in conformity with generally accepted utility principles and practices. These books, records, and supporting data shall be kept for at least three (3) years or in accordance with regulatory requirements, whichever is longer.
- 7.3 Following any audit of Garland under this Agreement, Garland may provide to the TPA Board of Directors any comments regarding the audit results and audit recommendations as it desires.
- 7.4 Garland will provide to the TPA Planning and Operating Committee reports as requested.

Section 8.0 No Debt Created

- 8.1 To the extent, if any, that this Agreement imposes an obligation on either Party to make a payment or make an expenditure, such payment or expenditure shall be payable solely from current revenues that may be available for such purpose, and no debt is created under this Agreement within the meaning of Article XI, sections 5 or 7, Texas Constitution.
- 8.2 Without limiting Subsection 8.1, no obligation of Garland to make payment or expenditure under the Agreement shall be payable through funds raised by taxation.

Section 9.0 Delegation of Authority to Amend Exhibits

- 9.1 Because of continuing changes in the design and configuration of the TPA Transmission System as described in Exhibit "A", because of the potential for changes to the contact information in Exhibit "B", and because modifications to regulatory transmission procedures are frequently required Exhibit "C" will need to be revised, the Parties may, by mutual agreement through their staffs, without obtaining governing board approval from either Party, revise the Exhibits "A", "B", and "C" from time to time as circumstances may warrant.

Section 10.0 Governing Law

- 10.1 This Agreement shall be governed by the laws of the State of Texas. The provisions and obligations of this Agreement are performable in Dallas County, Texas such that exclusive venue for any action arising out of this Agreement shall be in Dallas County, Texas.

Section 11.0 Limitation of Liability; Covenant not to Sue; and Insurance

- 11.1 (a) Except as provided in paragraph (b) of this Subsection, TMPA covenants and agrees not to sue Garland, its directors, officers, employees, attorneys, servants, or agents, for money damages relating to any act or omission of Garland under this Agreement. Specifically, TMPA waives its right to bring any claims or causes of action against Garland, its directors, officers, employees, attorneys, servants, or agents, in contract or in tort or otherwise, including their negligence, in any way related to damages, costs or expenses incurred by TMPA due to any act or omission of Garland under this Agreement. TMPA acknowledges that there is no disparity of bargaining power between Garland and TMPA and that TMPA is under no compulsion to agree to this covenant not to sue as set out above. This covenant shall survive termination of this Agreement for any reason.
- (b) In the event, because of Garland's negligence or failure to perform the Transmission Functions in accordance with Good Utility Practice, injury to or destruction of TMPA property occurs, including to the TMPA Transmission System, TMPA may sue Garland for property damages. Garland's liability for damages shall be limited to the amount, per occurrence, that would be available to a Party seeking recovery or property damages from Garland under the Texas Tort Claims Act, as such Act may be amended from time to time in the future.
- 11.2 **THE PARTIES AGREES THAT NEITHER PARTY SHALL BE LIABLE TO THE OTHER FOR ANY SPECIAL, INCIDENTAL, INDIRECT, OR CONSEQUENTIAL DAMAGES OR FOR THE LOSS OF PROFIT OR REVENUE ARISING FROM THE PROVISION OF GOODS OR SERVICES UNDER THIS AGREEMENT EVEN IF ADVISED OF SUCH POSSIBILITY.**
- 11.3 For the purposes of protecting Garland from and against liability that may arise under this Agreement, TMPA agrees to maintain the following types and amounts of insurance during the term of the Agreement.

- a. Commercial excess liability coverage to include but not limited to coverage for products and completed operations, failure to supply, pollution liability, and wildfire liability coverage. Insurance shall contain minimum limits of \$35 million per occurrence and \$70 million aggregate with underlying limit or self-insured retention not to exceed \$1 million per occurrence. Commercial excess insurance shall include Garland as an additional insured.
- b. Property insurance to include business interruption coverage with minimum limits of \$50 million. Insurance shall include Garland as loss payee as their interest may appear.
- c. Commercial auto liability insurance or self-insurance to include but not limited to coverage for owned, non-owned, leased, and rented autos with minimum limits of \$1 million per occurrence.

Section 12.0 Notices

- 12.1 A notice under this Agreement shall be deemed sufficient if it is in writing and delivered personally or by nationally recognized courier service, or if sent by first class, certified, or registered US mail. Written notice shall also be deemed sufficient if sent electronically or by facsimile, confirmed by notice delivered or sent by one of the methods stated in the preceding sentence. Written notice shall be deemed given on the date when first received by one of the methods in this Subsection. Written notice shall be delivered or sent to the addresses designated in Exhibit "B" for the receipt of written notices.

Section 13.0 Force Majeure

- 13.1 Other than the obligation to pay money when due, the obligations of each Party shall be subject to force majeure, including severe weather, floods, earthquakes and other natural disasters, strikes, work stoppages and slowdowns, riots and other civil disturbances, shortages, rationing or unavailability of supplies and raw materials, terrorism, and other unforeseeable matters outside the control of the Party claiming such intervention. The Party suffering from such force majeure shall notify the other Party within thirty (30) days of the onset of the force majeure event. Upon any claim of force majeure, the time for performance of the obligation interfered with shall be extended without additional charges and the Parties will cooperate to mitigate the effect of the force majeure event.

Section 14.0 Disclaimer of Warranties

- 14.1 Garland agrees that it shall pursue all of its obligations under this Agreement using Good Utility Practice, and using the same diligence and care with which it would undertake such matters regarding its own transmission system. **GARLAND EXPRESSLY DISCLAIMS ANY OTHER REPRESENTATIONS OR WARRANTIES OF ANY KIND OR NATURE, EXPRESS OR IMPLIED, AS TO THE SERVICES TO BE PERFORMED OR ANY GOODS TO BE PROVIDED UNDER THIS AGREEMENT. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, GARLAND EXPRESSLY DISCLAIMS ALL REPRESENTATIONS AND WARRANTIES REGARDING MERCHANTABILITY, USAGE, SUITABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE WITH RESPECT TO THOSE SERVICES OR THOSE GOODS, OR ANY PART THEREOF. THE LIMITED WARRANTIES CONTAINED IN THIS AGREEMENT ARE IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING ANY WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. EXCEPT AS PROVIDED IN THE FIRST SENTENCE OF THIS SECTION, THE GOODS AND SERVICES BEING PROVIDED UNDER THIS AGREEMENT ARE BEING OFFERED AND SOLD "AS IS", "WHERE-IS".**

Section 15.0 Assignment

- 15.1 Neither Party shall have the right to assign that Party's interest in this Agreement without the prior written consent of the other Party.

Section 16.0 Severability

- 16.1 If any term or provision of this Agreement is held to be illegal, invalid, or unenforceable, the legality, validity, or enforceability of the remaining terms or provisions of this Agreement shall not be affected thereby, and in lieu of each such illegal, invalid, or unenforceable term or provision, there shall be added automatically to this Agreement a legal, valid, or enforceable term or provision as similar as possible to the term or provision declared illegal, invalid, or unenforceable. Provided, however, that if the illegality, invalidity, or unenforceability of any term or terms renders the basic purposes of this Agreement illegal, invalid, or unenforceable or otherwise materially and adversely affects the utility or financial parameters of this Agreement, then either Garland or TMPA may, upon written notice to the other, terminate this Agreement and the Parties agree to enter into good faith negotiations to replace this Agreement with a contract as similar to the terms and conditions of this Agreement as legally permissible.

Section 17.0 Waiver

17.1 Either Garland or TMPA shall have the right to waive any requirement contained in this Agreement, which is intended for the waiving Party's benefit, but, except as otherwise provided herein, such waiver shall be effective only if in writing executed by the Party for whose benefit such requirement is intended. No waiver of any breach or violation of any term of this Agreement shall be deemed or construed to constitute a waiver of any other breach or violation, whether concurrent or subsequent, and whether of the same or of a different type of breach or violation. Any waiver may only be authorized at the direction or with the consent of the governing body of the waiving Party.

Section 18.0 Paragraph Headings; Mutual Authorship

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

Section 19.0 Binding Effect

19.1 Except as limited herein, the terms and provisions of this Agreement shall be binding upon and inure to the benefit of the Parties hereto and their respective successors and assigns.

Section 20.0 Gender, Plurals, and Other Construction of Terms.

20.1 Within this Agreement, words of any gender shall be held and construed to include any other gender, and words in the singular number shall be held and construed to include the plural, unless the context otherwise requires. The terms "include" or "including" shall be construed to be descriptive rather than limiting or restrictive, meaning the same as "including, without limitation . . ." and "including, but not limited to . . ."

Section 21.0 Counterparts

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

Section 22.0 Exhibits

22.1 All exhibits to this Agreement are incorporated herein by reference for all purposes wherever reference is made to the same.

Section 23.0 Computation of Deadlines

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

Section 24.0 Entire Agreement

- 24.1 It is understood and agreed that this Agreement contains the entire agreement between the Parties and supersedes any and all prior agreements, arrangements, or understandings between the Parties relating to the subject matter. No oral understandings, statements, promises, or inducements contrary to the terms of this Agreement exist. This Agreement cannot be changed or terminated orally and no written modification of this Agreement shall be effective unless executed by both Parties. Nothing in this Agreement amends the Power Sales Contract between TMPA and Garland, dated September 1, 1976, as amended, including Garland's obligation to pay its percentage of Annual System Costs (as defined in said Contract) in Section 3 of said Contract.

Section 25.0 Relationship of Parties; No Third-Party Beneficiaries

- 25.1 Nothing contained in this Agreement shall be deemed or construed by the Parties hereto or by any third party to create the relationship of principal and agent or of partnership, joint venture, or employment; it being expressly understood and agreed that no provision contained in this Agreement nor any act or acts of the Parties hereto shall be deemed to create any relationship between the Parties other than the relationship of independent parties contracting with each other solely for the purpose of effecting the provisions of this Agreement. Neither Party has the authority to enter into contracts or to assume any obligation for the other, nor to make warranties or representations on behalf of the other except in accordance with the express terms of this Agreement or as otherwise authorized in writing by the other. Except for the provisions of this Agreement relating to the indemnification of employees, agents, and representatives of Garland, there are no third-party beneficiaries to this Agreement and no third-party beneficiaries are intended by implication or otherwise.

Section 26.0 No Waiver of Immunity or Defense

- 26.1 No Party, by execution of this Agreement, waives nor shall be deemed to have waived any immunity or defense that would otherwise be available to it including immunity from liability or suit for damages to one another or to any

third party except as expressly provided in this Agreement or as otherwise provided by law.

IN WITNESS WHEREOF, the Parties have signed this Agreement as of the Effective Date.

CITY OF GARLAND, TEXAS

BY: _____

NAME: _____

TITLE: _____

TEXAS MUNICIPAL POWER AGENCY

BY: _____

NAME: _____

TITLE: _____

ENCLOSURES

- EXHIBIT "A" DESCRIPTION OF TMPA TRANSMISSION SYSTEM
- EXHIBIT "B" NOTICE AND CONTACT INFORMATION
- EXHIBIT "C" TMPA TRANSMISSION OWNER PROCEDURES



Meeting: Work Session

Date: March 18, 2013

Policy Report

2012-13 BUDGET AMENDMENT NO. 2

ISSUE

Amend the 2012-13 Adopted Budget in order to appropriate available funds for salaries, operations, maintenance, and expenses associated with the commencement of Garland Power & Light operating and maintaining the Texas Municipal Power Agency (TMPA) Transmission System.

OPTIONS

- (A) Approve Budget Amendment No. 2 as proposed.
- (B) Do not approve.

RECOMMENDATION

Option (A) – Approve Budget Amendment No. 2 as proposed to allow Garland Power & Light to operate and maintain the TMPA Transmission System. An ordinance amending the 2012-13 Adopted Budget has been placed on the March 19 Regular Council Meeting Agenda for consideration and passage.

COUNCIL GOAL

Financially Stable Government with Tax Base that Supports Community Needs

Budget amendments allow the City to respond to changing situations and needs in a manner that permits flexibility while ensuring financial integrity and controls.

BACKGROUND

Garland Power & Light is proposing to enter into a contract to take over operations and maintenance of the Texas Municipal Power Agency (TMPA) Transmission System. If approved, GP&L, as Transmission Operator, will perform the Operations, Maintenance, and Construction Services for TMPA Transmission. In return, TMPA will pay Garland the applicable costs associated with the implementation of the contract based on the actual cost of service for all operations and maintenance expenses at 100% plus benefit and overhead costs.

2012-13 BUDGET AMENDMENT NO. 2

Page 2

This Budget Amendment proposes to increase FY 2012-13 operating appropriations by the following:

Personnel Expenses for TMPA Transmission	\$ 794,231
Operating Expenditures for TMPA Transmission	<u>669,877</u>
Total Amount	\$1,464,108

CONSIDERATION

Approval of the proposed Budget Amendment will position the TMPA Member Cities, including the City of Garland, to continue the receipt of reliable and fiscally beneficial transmission service from TMPA's transmission system.

Submitted By:

Ron Young
Director
Budget & Research

Date: March 18, 2013

Approved By:

William E. Dollar
City Manager

Date: March 18, 2013