



AGENDA

**CITY COUNCIL WORK SESSION
City of Garland
Work Session Room, City Hall
200 North Fifth Street
Garland, Texas
December 16, 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]

(6:00) 1. Written Briefings:

a. Sale of City Property – 310 Parker Drive

Council is requested to consider authorizing the sale of a residential property at 310 Parker Drive to Smith Davis Investment Properties, LLC for \$15,000. On July 3, 2012, the property was struck off to the City of Garland pursuant to a delinquent tax suit. If Council concurs, this item will be scheduled for formal consideration at the January 7, 2014 Regular Meeting.

b. Sale of City Property – 541 Henderson Circle

Council is requested to consider authorizing the sale of a residential property at 541 Henderson Circle to Smith David Investment Properties, LLC for \$17,379. On June 5, 2012, the property was struck off to the City of Garland pursuant to a delinquent tax suit. If Council concurs, this item will be scheduled for formal consideration at the January 7, 2014 Regular Meeting.

c. Assistance Request for Nonprofit Special Event – 25th Annual Martin Luther King, Jr. Day Events

The Garland NAACP has requested that Council consider the waiver of expenditures for City services required for their parade and events celebrating Martin Luther King, Jr. Day on Saturday, January 18, and Sunday, January 19, 2014. City Council Policy OPNS-29 – Special Event Policies and Guidelines states that requests from nonprofit organizations for donated services in excess of \$5,000 be brought to Council for consideration. If Council concurs, staff will proceed with the NAACP's request.

d. School-Related Traffic Control

The Transportation Department periodically reviews school-related traffic controls. A recent review reveals that changes are needed on Firewheel Parkway for Harmony Science Academy. This item is scheduled for formal consideration at the December 17, 2014 Regular Meeting.

e. Wood Drive Parking Restriction

Tractor trailers parking on the south side of Wood Drive both east and west of Industrial Lane are obstructing the view of vehicles exiting from Industrial Lane onto Wood Drive. Council is requested to consider authorizing the restriction of parking on the south side of Wood Drive, 300 feet both east and west of Industrial Lane. This item is scheduled for formal consideration at the December 17, 2013 Regular Meeting.

f. Texas Department of Transportation (TxDOT) Selective Traffic Enforcement Program (STEP) Impaired Driving Mobilization (IDM) Grant

Council is requested to consider authorizing accepting the TxDOT – STEP – Impaired Driving Mobilization Grant for increased holiday DWI enforcement for FY 2013-2014. This item is scheduled for formal consideration at the December 17, 2014 Regular Meeting.

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

2. Regular Items:

a. Payday Loan Establishments

Neighbor

Council is requested to consider a proposed ordinance regulating payday loan establishments (credit access businesses). This item was discussed by the Community Services Committee at their September 17 and November 19, 2013 meetings.

3. Consider the Consent Agenda

Council

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

4. Announce Future Agenda Items

Council

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

5. Council will move into Executive Session

Council

**EXECUTIVE SESSION
AGENDA**

- 1. 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.**
 - a. Annual review of Municipal Judges.**
 - b. Annual review of City Attorney.**
 - c. Consider the appointment of an Internal Auditor.**
- 2. Discussions, deliberations, voting on, and taking final action with regard to any competitive matter, that being a utility-related matter that is related to the City's competitive activity, including commercial information, and would, if disclosed, give advantage to competitors or prospective competitors including any matter that is reasonably related to the following categories of information:**
 - (A) 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;**
 - (B) bidding and pricing information for purchased power, generation and fuel, and Electric Reliability Council of Texas bids, prices, offers, and related services and strategies;**
 - (C) effective fuel and purchased power agreements and fuel transportation arrangements and contracts;**

- (D) risk management information, contracts, and strategies, including fuel hedging and storage;
- (E) 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
- (F) customer billing, contract, and usage information, electric power pricing information, system load characteristics, and electric power marketing analyses and strategies;

Sec. 551.806; Sec. 552.133, Tex. Gov't Code.

- a. Consider the approval of a renewable energy power purchase agreement.

6. Adjourn

Council



Meeting: Work Session

Date: December 16, 2013

Policy Report

SALE OF CITY PROPERTY - 310 PARKER DRIVE TO SMITH DAVIS INVESTMENT PROPERTIES, LLC.

ISSUE

Consider the sale of a residential property at 310 Parker Drive, in the City of Garland to Smith Davis Investment Properties, LLC for \$15,000.

OPTIONS

1. Approve the sale.
2. Do not approve sale.

RECOMMENDATION

Sell the subject property to Smith Davis Investment Properties. If Council concurs with this recommendation, staff will prepare a resolution for consideration at the January 7, 2014 Regular Meeting.

COUNCIL GOAL

Sustainable Quality Development and Redevelopment
Financially Stable Government with Tax Base that Supports Community Needs
Safe, Family-Friendly Neighborhoods

BACKGROUND

On July 3, 2012, the property located at 310 Parker Drive, was struck off to the City of Garland pursuant to delinquent tax suit No. TX10-40107, City of Garland and Garland ISD vs. Heirs and Unknown Heirs of Della Mae Washington, et al. The property was struck for a total Judgment of \$31,589.73. The most recent appraisal district market value is \$45,190. Smith Davis Investment Properties, LLC has offered to purchase this property for \$15,000.

CONSIDERATION

Since the purchase offer is less than the lesser of the judgment amount and the appraisal district value, all taxing jurisdictions must consent to the sale. Dallas County and GISD have consented by Court Order and Resolution respectively. Net court costs and costs of sale amount to \$5,572.95. In addition, the City is entitled to reimbursement for its costs in the amount of \$1,500.00, leaving \$7,927.05 to be distributed to the City of Garland, Garland ISD, and Dallas County based on the pro rata percentages of the total judgment for taxes. Garland will receive \$2,013.56, with \$5,326.80 distributed to GISD and \$586.70 distributed to Dallas County.

Total Distribution:

Court Costs	\$ 5,572.95
City of Garland	\$ 3,513.56
GISD	\$ 5,326.80
<u>Dallas County</u>	<u>\$ 586.70</u>
	\$15,000.00

The home requires substantial repairs and selling the home for the lesser amount will allow the buyer to invest more into the repair and improvement of the home creating a positive impact on the neighborhood. In addition, the City will no longer incur expenses associate with maintenance of the property.

The City Attorney's Office has reviewed this information.

ATTACHMENT(S)

1. Letter offering to purchase the property.
2. Court Order from Dallas County.
3. Resolution from GISD.
4. Sheriff's Deed

Submitted By:

Approved By:

Michael C. Polocek, P.E.
Director of Engineering

William E. Dollar
City Manager

Date:

Date:

LAW OFFICES
GAY, MCCALL, ISAACKS, GORDON & ROBERTS, P.C.

A PROFESSIONAL CORPORATION
ATTORNEYS AND COUNSELORS

JOHN E. GAY
DAVID MCCALL +
LEWIS L. ISAACKS ♦+
SYDNA H. GORDON
WILLIAM J. ROBERTS +
JENNIFER T. PETTIT
J. DOUGLAS BURNSIDE
ROBERT T. DRY, III
BARBARA R. HUNT+
JENNIFER EDMONDSON
ERIN MINETT
M. SHANNON KACKLEY

SUITE 310, LB 40
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GARLAND, TEXAS 75042
(972) 278-8282 • Fax (972) 278-8222

♦ BOARD CERTIFIED -- CIVIL TRIAL LAW
TEXAS BOARD OF LEGAL SPECIALIZATION

+ATTORNEY - MEDIATOR

August 1, 2013

Ms. Carol Clark
Tax Assessor/Collector
City of Garland
217 N. 5th Street
Garland, Texas 75040

Via electronic-mail

Re: Offer by Smith Davis Investment Properties, LLC to purchase 310 Parker Dr., Garland, Texas

Dear Ms. Clark:

The above referenced property was struck off to the City of Garland on July 3, 2012 at a Sheriff's Sale pursuant to delinquent tax suit No. TX10-40107, City of Garland and Garland ISD vs. Heirs and Unknown Heirs of Della Mae Washington, et al. The property was struck off for the total amount of the Judgment, \$31,589.73. Smith Davis Investment Properties, LLC has offered to purchase this property for \$15,000.00. The property is currently assessed by the Dallas Central Appraisal District at \$45,190.

The costs and distribution of net proceeds are:

Court Costs		\$2,817.36
Sheriff's Costs of Sale		\$2,411.84
Publication Fees		\$343.75
Net Court Costs and Costs of Sale		<u>\$5,572.95</u>
Personnel and Overhead		<u>\$1,500.00</u>
Total City Reimbursement		<u>\$1,500.00</u>
City of Garland	25.4%	\$2,013.56
Garland ISD	67.2%	\$5,326.80
Dallas County	7.4%	\$586.70
Total Tax Distribution		<u>\$7,927.05</u>
Net Court Costs and Costs of Sale		\$5,572.95
Total City Reimbursement		\$1,500.00
Total Tax Distribution		<u>\$7,927.05</u>
Total Sale Price		<u>\$15,000.00</u>

C. Clark
August 1, 2013
Page Two

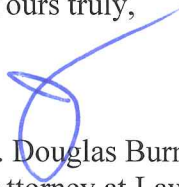
Please note that as a part of this transaction, all post-judgment taxes for the years 2011-2012 will be paid at closing exclusive of the above amounts. The total amount of post-judgment taxes will be approximately \$2,600 of which the City of Garland will receive approximately \$725.00.

Because the purchase price is less than either the Judgment amount of taxes and court costs, \$31,589.73, or the market value as stated in the judgment, \$45,190, all jurisdictions included in the judgment must consent to the sale. Our office will obtain the necessary consent for the sale to proceed.

If the City Council approves this transaction, please forward to me the executed Deed. I will contact Smith Davis Investment Properties, LLC to complete the transaction.

If you have any questions or need additional information, please contact me.

Yours truly,



J. Douglas Burnside
Attorney at Law

Re-sale Disbursement Worksheet
City of Garland

CAD Acct #:	26465500040270000
Property address:	310 Parker Drive Drive
Prior Owner:	Della Mae Washington
Cause No.:	TX10-40107
Judgment Date:	August 3, 2011
Sheriff's Sale Date:	July 3, 2012
Judgment amount:	GISD \$13,799.27
	City \$5,216.20
	County \$1,519.86
	City of Garland Liens: \$4,265.43
Court costs:	\$2,817.36
Sheriff's fees for sale:	\$2,411.84
Publication fees for sheriff's sale, paid by Gay & McCall:	\$343.75

Checks to be disbursed as follows:

1.	Dallas County District Clerk	\$2,817.36
2.	Dallas County Sheriff	\$2,411.84
3.	Gay, McCall, Isaacks, Gordon & Roberts	\$343.75
4.	City of Garland (administrative fee)	\$1,500.00
5.	City of Garland (taxes)	\$2,013.56
6.	Garland ISD (taxes)	\$5,326.80
7.	John Ames, Dallas County Tax Assessor	\$586.70
	TOTAL	\$15,000.00

The cause number and Dallas Central Appraisal District tax account number should be on all checks.

**COURT ORDER
2013-1907**



Consent to City of Garland's Resale of Tax Foreclosed Property at
310 Parker Drive, Garland, Texas

On a motion made by Commissioner Mike Cantrell, District 2, and seconded by Commissioner Dr. Theresa M. Daniel, District 1, the following order was passed and adopted by the Commissioners Court of Dallas County, State of Texas:

BRIEFING DATE: 11/12/2013

FUNDING SOURCE: N/A

Be it resolved and ordered that the Dallas County Commissioners Court does hereby consent to the offer of \$15,000 received by the City of Garland from Smith Davis Investment Properties, LLC on the property located at 310 Parker Drive, Garland, Texas, even if the offer tendered is less than the market value of the land specified in the judgment of foreclosure or the total amount of the judgment against the property, and authorize the City of Garland to act and sign on behalf of Dallas County, the Dallas County Community College District, the Parkland Hospital District and the Dallas County School Equalization Fund in the sale, use, and disposition of the property listed herein, acquired by tax foreclosure, which has been jointly vested in the name of the City of Garland, Garland I.S.D. and Dallas County.

Done in open court November 19, 2013, by the following vote:

IN FAVOR:	Honorable Clay Lewis Jenkins, County Judge Commissioner Dr. Theresa M. Daniel, District 1 Commissioner Mike Cantrell, District 2 Commissioner John Wiley Price, District 3
OPPOSED:	None
ABSTAINED:	None
ABSENT:	Commissioner Dr. Elba Garcia, District 4

Recommended by: John Mears
Originating Department: Public Works

EXHIBIT "A"

Re-sale Disbursement Worksheet
City of Garland

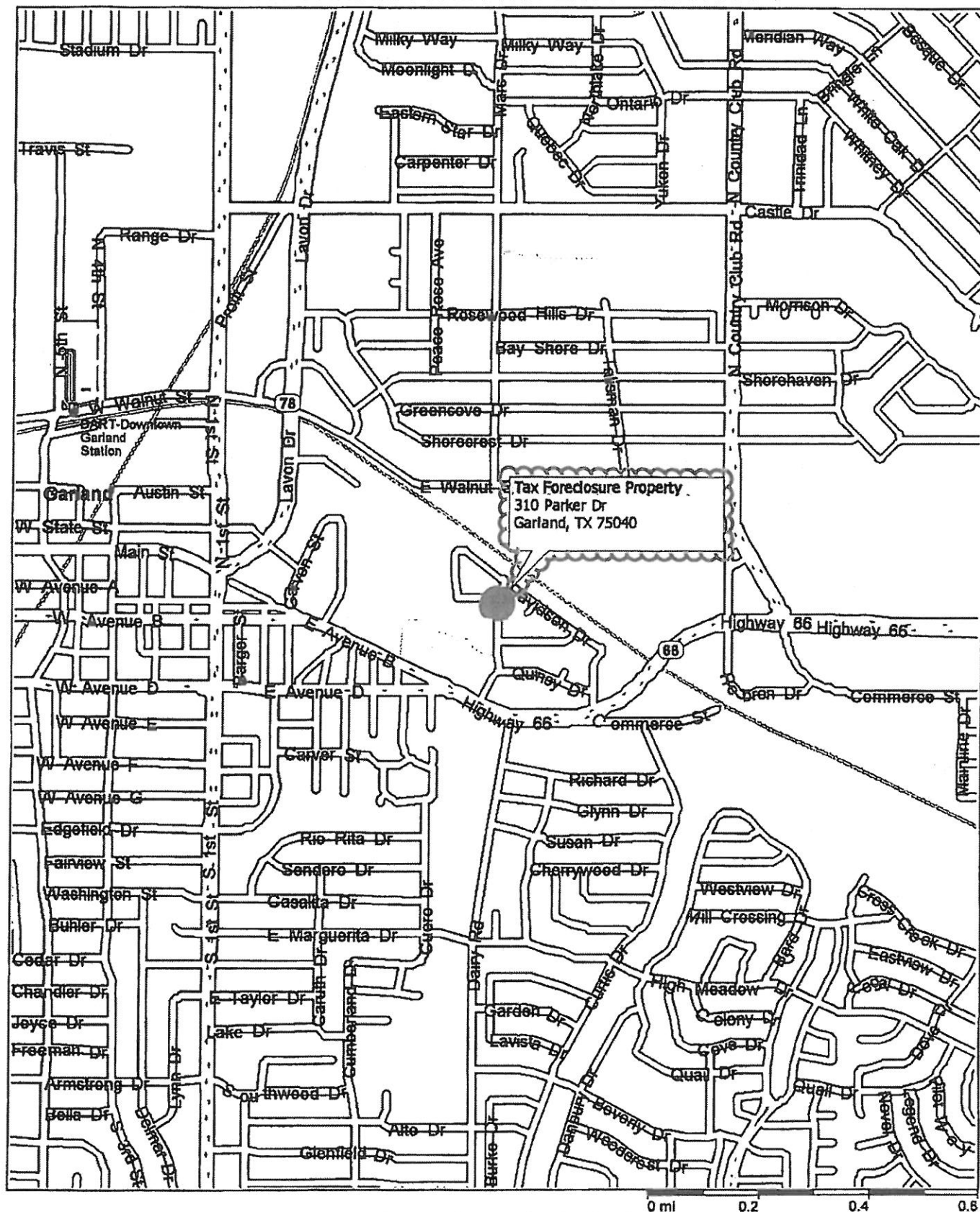
CAD Acct #:	26465500040270000
Property address:	310 Parker Drive Drive
Prior Owner:	Della Mae Washington
Cause No.:	TX10-40107
Judgment Date:	August 3, 2011
Sheriff's Sale Date:	July 3, 2012
Judgment amount:	GISD \$13,799.27
Original Tax Amount:	City \$5,216.20
\$20,535.33	County \$1,519.86
	City of Garland Liens: \$4,265.43
Court costs:	\$2,817.36
Sheriff's fees for sale:	\$2,411.84
Publication fees for sheriff's sale, paid by Gay & McCall:	\$343.75

Checks to be disbursed as follows:

1.	Dallas County District Clerk	\$2,817.36	
2.	Dallas County Sheriff	\$2,411.84	
3.	Gay, McCall, Isaacks, Gordon & Roberts	\$343.75	
4.	City of Garland (administrative fee)	\$1,500.00	\$7,072.95
5.	City of Garland (taxes)	\$2,013.56	
6.	Garland ISD (taxes)	\$5,326.80	
7.	John Ames, Dallas County Tax Assessor	\$586.70	\$7,927.05
	TOTAL	\$15,000.00	

The cause number and Dallas Central Appraisal District tax account number should be on all checks.

TAX FORECLOSURE PROPERTY - DISTRICT 1



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COMMISSIONERS COURT BRIEFING



DATE: 11/12/2013

SUBMITTING DEPARTMENT: Public Works

THROUGH:

SUBJECT: Consent to City of Garland's Resale of Tax Foreclosed Property at 310 Parker Drive, Garland, Texas

BACKGROUND:

The improved property at 310 Parker Drive, Garland, Texas, was offered for sale by the Sheriff of Dallas County at public auction and was struck off to the City of Garland on July 3, 2012 at Sheriff's Sale pursuant to a delinquent tax suit No. TX-10-40107, City of Garland and Garland I.S.D. vs. Heirs and Unknown Heirs of Della Mae B. Washington. The Sheriff's Deed to the Property is recorded in Instrument No. 201200227231, Official Public Records, and Dallas County, Texas. The City of Garland holds the Property in trust for each taxing jurisdiction party to the judgment, e.g., City of Garland, Garland I.S.D., and Dallas County pursuant to Section 34.01(k) Property Tax Code.

The law firm of Gay, McCall, Isaacks, Gordon & Roberts, P.C. on behalf of the City of Garland, is submitting an offer received from Smith Davis Investment Properties, LLC to purchase the property for \$15,000. Acceptance of the offer will discharge and extinguish only the ad valorem property tax liens for the tax years included in the tax judgment. The purchaser will be responsible and liable for the payment of two years of post-judgment, pre-sale tax liens for the years 2011-2012. All delinquent taxes must be cleared upon the resale in order for the purchaser to take the property free and clear of all tax liens. The property is currently assessed by the Dallas Central Appraisal District at \$45,190.

Since the offer amount is less than either the aggregate amount of the judgments against the property or the market value of the property as stated in the judgment, all taxing jurisdictions included in the judgment must consent to the sale.

OPERATIONAL IMPACT:

No impact.

FINANCIAL IMPACT:

As shown in the attached Resale Worksheet prepared by the law offices of Gay, McCall, Isaacks, Gordon & Roberts, P.C., after payment of the eligible expenses totaling \$7,072.95, recoverable first from the Purchase Price of \$15,000, \$7,927.05 will be available for distribution to the taxing entities. This amount will be distributed based on the pro rata percentages of the total judgment for taxes, as follows:

RECOMMENDED BY:	Public Works	PREPARED BY:	Debra Campagna
		APPROVED BY DEPT HEAD:	Alberta Blair

Dallas County (2005, 2007-2010)	7.4012%	\$ 586.70
City of Garland (1999-2010)	25.4011%	\$2,013.56
Garland ISD (2000-2010)	67.1977%	\$5,326.79

As part of this transaction, all post-judgment taxes for the years 2011-2012, totaling \$2,650 will be paid at closing in addition to the above amounts. Taking into account the post judgment taxes, the purchaser will be paying approximately \$17,650 for the Property or 39% of DCAD value of \$45,190. Additionally the Property will be back in private ownership after having taxes delinquent for 13 years.

LEGAL IMPACT:

The sale complies with the Texas Property Tax Code, Section 34.05, Resale by Taxing Units, and the Dallas County Tax Foreclosure Resale Policy.

PROJECT SCHEDULE:

N/A

M/WBE PARTICIPATION:

N/A

STRATEGIC PLAN COMPLIANCE:

The subject request is consistent with Vision 5 (Dallas County is the destination of choice for residents and businesses) of the County's Strategic Plan in partnering with the City of Garland in selling tax foreclosure properties to interested purchasers thereby returning the property to the tax rolls increasing tax revenue for the taxing units.

RECOMMENDATION:

Consent to the offer of \$15,000 received by the City of Garland from Smith Davis Investment Properties, LLC on the property located at 310 Parker Drive, Garland, even if the offer tendered is less than the market value of the land specified in the judgment of foreclosure or the total amount of the judgment against the property, and authorize the City of Garland to act and sign on behalf of Dallas County, the Dallas County Community College District, the Parkland Hospital District and the Dallas County School Equalization Fund in the sale, use, and disposition of the property listed herein, acquired by tax foreclosure, which has been jointly vested in the name of the City of Garland, Garland I.S.D. and Dallas County.

RESOLUTION

A RESOLUTION AUTHORIZING THE CITY OF GARLAND TO RE-SELL TAX FORECLOSED PROPERTY LOCATED AT 310 PARKER DRIVE, GARLAND, TEXAS, BY PUBLIC OR PRIVATE SALE, AS PROVIDED BY SECTION 34.05 OF THE TEXAS PROPERTY TAX CODE

WHEREAS, pursuant to a delinquent tax collection lawsuit and tax foreclosure sale, the property located at 310 Parker Drive, Garland, Texas, ("The Property") was struck off to the City of Garland on its own behalf and as Trustee for the Garland Independent School District and Dallas County, pursuant to Section 34.01(j) of the Property Tax Code, and

WHEREAS, Garland Independent School District desires to resell The Property pursuant to Section 34.05 of the Property Tax Code for an amount not less than \$15,000.00, and

WHEREAS, Garland Independent School District desires to authorize the City of Garland to act as Trustee to offer The Property for sale pursuant to Section 34.05 of the Texas Property Tax Code,

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF TRUSTEES OF THE GARLAND INDEPENDENT SCHOOL DISTRICT, GARLAND, TEXAS THAT:

Section 1. The Garland Independent School District does hereby provide specific authorization to the City of Garland to act as Trustee to offer for sale by public or private sale 310 Parker Drive, Garland, Texas, more fully described in Exhibit "A," attached hereto and made a part hereof, and the Board of Trustees for Garland Independent School District does hereby consent to the sale of 310 Parker Drive, Garland, Texas for an amount not less than \$15,000.00 in compliance with Section 34.05 of the Texas Property Tax Code, and each taxing unit entitled to receive proceeds of the sale consents to the sale for that amount.

Section 2. This Resolution shall take effect immediately from and after its passage in accordance with the provisions of the law.


PASSED AND APPROVED this 12th day of November, 2013, by the
Board of Trustees for the Garland Independent School District.

GARLAND INDEPENDENT SCHOOL DISTRICT

By: 

Larry Glick
President, Board of Trustees

ATTEST:


Rick Lambert
Secretary, Board of Trustees
Garland Independent School District

Sheriff's Deed

070312-54

**The State of Texas, }
County of Dallas.**

KNOW ALL MEN BY THESE PRESENTS:



201200227231

SHERIFF DEED 1/2

NOTICE OF CONFIDENTIALITY RIGHTS: "IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OF THE FOLLOWING INFORMATION FROM THIS INSTRUMENT BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER."

THAT, WHEREAS, By virtue of a certain Order of Sale, issued out of the Honorable 160th Judicial District Court, Dallas County, State of Texas, on 6th day of March, A. D. 2012 in and for Dallas County, Styled CITY OF GARLAND AND GARLAND ISD, Plaintiff, -versus-HEIRS AND UNKNOWN HEIRS OF DELLA MAE B. WASHINGTON, Case #TX-10-40107. On a certain judgment and Decree of Foreclosure rendered on the 31st day of August, A.D. 2011, by said Court and directed and delivered to me as Sheriff of Dallas County, Texas, commanding me to seize and sell the real property described in said Order of Sale, I, Lupe Valdez, Sheriff, aforesaid, did upon the 24th day of April, A.D., 2012, execute said property described in said Order of Sale, by having notice of the time and place of such sale published in the English language, once a week for three consecutive weeks, preceding such sale, in the DAILY COMMERCIAL RECORD a newspaper published in said County, the first of said publications appearing not less than twenty days immediately preceding the day of said sale, and by MAILING a written notice of such sale to Heirs and Unk Heirs of Della Mae B. Washington, Pat S. Montes, Palisades Collection, LLC, Defendant(s) and on the 1st Tuesday in July, A.D. 2012 it being the 3rd day of the month, within the hours prescribed by law, (10:00 A.M.) sold said real property at public auction in the County of Dallas at the Courthouse door thereof, at which sale the real property herein after described was struck off to City of Garland on it's behalf and Trustee for Garland ISD, Dallas County, for the sum of \$31,589.73 Dollars as there were no bids taken on that property therefore.

NOW, THEREFORE, in consideration of the premises aforesaid and of the payment to me of the said sum of \$31,589.73 Dollars, the receipt of which is hereby acknowledged, I, Lupe Valdez, Sheriff as aforesaid, have SOLD and CONVEYED, and by these presents do SELL and CONVEY unto the said City of Garland on it's behalf and Trustee for Garland ISD, Dallas County, all of the estate, right, title and interest which the said Defendant had on the 31st day of August, A.D. 2011 or at any time afterwards, in and to the following described real property, same being also described in the said Order of Sale, all that certain lot, tract or parcel of land, lying in being situated in Dallas County, TX and being more particularly described as follows:

PROPERTY ADDRESS: 310 PARKER DR., CITY OF GARLAND, DALLAS COUNTY, TEXAS. BEING LOT 27, BLOCK 4, RAINBOW ESTATES 2 ADDITION, AKA 310 PARKER DR., CITY OF GARLAND, DALLAS COUNTY, TEXAS, AS RECORDED AT 200600277533 OF THE DALLAS COUNTY DEED RECORDS.

TO HAVE AND TO HOLD The above described premises, together with all and singular, the rights and Appurtenances thereto in anywise belonging, unto the said City of Garland heirs and assigns, forever as fully and as absolutely as I, a Sheriff aforesaid, can convey by virtue of said Order of Sale.

IN TESTIMONY WHEREOF, I have hereunto set my hand, this 16th day of July, A.D. 2012.

LUPE VALDEZ, SHERIFF,
DALLAS, COUNTY, TEXAS

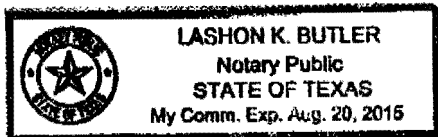
by T. Davis #276

Deputy Tim Davis #276, Deputy J.T. Wilson #329

The State of Texas}
County of Dallas

BEFORE ME, Lashon K. Butler, A Notary Public on this day personally appeared Deputy Tim Davis, #276, Deputy J.T. Wilson #329 Deputy Sheriff of Dallas County, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledge to me that he executed the same for the purpose and consideration therein expressed, and in his capacity as Deputy Sheriff therein set forth.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, This 16th day of July, A.D. 2012.



Notary

Public,

State

of

Texas

Commission Expires 08-20-2015

The State of Texas, }
County of Dallas

I _____ County Clerk of said County, do hereby certify that the above instrument of writing, together with its Certificate of Authentication was filed for record in my office on the _____ day of _____ A.D. 2012, at _____ o'clock _____ M, and duly recorded the _____ day of _____ A.D., 2012, in Volume _____, Page _____ of the Records of Deeds, etc., of said County.

WITNESS MY HAND AND OFFICIAL SEAL This _____ of _____ A.D.2012.

Filed and Recorded
Official Public Records
John F. Warren, County Clerk
Dallas County, TEXAS
08/02/2012 02:15:27 PM
\$20.00

County Clerk Dallas County, Texas.



J.F. Warren

y _____

Deputy

201200227231

Send This Deed To: City of Garland; Attn: Sydna H. Gordon, Gay McCall Isaacks
Gordon May & Roberts, PC. 1919 S. Shiloh RD., Ste 310, LB 40,
Garland, Tx. 75042



Meeting: Work Session

Date: December 16, 2013

Policy Report

SALE OF CITY PROPERTY – 541 HENDERSON CIRCLE TO SMITH DAVIS INVESTMENT PROPERTIES, LLC.

ISSUE

Consider the sale of a residential property at 541 Henderson Circle, in the City of Garland to Smith Davis Investment Properties, LLC for \$17,379.00.

OPTIONS

1. Approve the sale.
2. Do not approve sale.

RECOMMENDATION

Sell the subject property to Smith Davis Investment Properties. If Council concurs with this recommendation, staff will prepare a resolution for consideration at the January 7, 2014 Regular Meeting.

COUNCIL GOAL

Sustainable Quality Development and Redevelopment
Financially Stable Government with Tax Base that Supports Community Needs
Safe, Family-Friendly Neighborhoods

BACKGROUND

On June 5, 2012, the property located at 541 Henderson Circle, was struck off to the City of Garland pursuant to delinquent tax suit No. TX09-40221, City of Garland, et al. vs. Noah Jones, et al. The property was struck for a total Judgment of \$16,915.66. The most recent appraisal district market value is \$47,030. Smith Davis Investment Properties, LLC has offered to purchase this property for \$17,379.

CONSIDERATION

Since the purchase offer is more than total amount due under the Judgment amount, this sale does not require the consent of the other taxing units. Net court costs and costs of sale amount to \$6,429.65. In addition, the City is entitled to reimbursement for its costs in the amount of \$1,500.00, leaving \$9,449.35 that will be distributed to the City of Garland, Garland ISD, and Dallas County based on the pro rata percentages of the total judgment for taxes. Garland will receive \$3,008.92, with \$1,900.65 distributed to GISD and \$4,539.78 distributed to Dallas County.

Total Distribution:

Court Costs	\$ 6,429.65
City of Garland	\$ 4,508.92
GISD	\$ 1,900.65
<u>Dallas County</u>	<u>\$ 4,539.78</u>
	\$17,379.00

The City Attorney's Office has reviewed this information.

ATTACHMENT(S)

1. Letter offering to purchase the property.
2. Sheriff's Deed

Submitted By:

Approved By:

Michael C. Polocek, P.E.
Director of Engineering

William E. Dollar
City Manager

Date: December 5, 2013

Date: December 5, 2013

LAW OFFICES
GAY, MCCALL, ISAACKS, GORDON & ROBERTS, P.C.

A PROFESSIONAL CORPORATION
ATTORNEYS AND COUNSELORS

JOHN E. GAY
DAVID MCCALL +
LEWIS L. ISAACKS ♦+
SYDNA H. GORDON
WILLIAM J. ROBERTS +
JENNIFER T. PETTIT
J. DOUGLAS BURNSIDE
ROBERT T. DRY, III
JENNIFER EDMONDSON
ERIN MINETT
DUSTIN L. BANKS
M. SHANNON KACKLEY

SUITE 310, LB 40
1919 S. SHILOH ROAD
GARLAND, TEXAS 75042
(972) 278-8282 • Fax (972) 278-8222

♦ BOARD CERTIFIED -- CIVIL TRIAL LAW
TEXAS BOARD OF LEGAL SPECIALIZATION

+ATTORNEY - MEDIATOR

April 22, 2013

Ms. Carol Clark
Tax Assessor/Collector
City of Garland
217 N. 5th Street
Garland, Texas 75040

Via electronic-mail

Re: Offer by Smith Davis Investment Properties, LLC to purchase 541 Henderson Cir., Garland, Texas

Dear Ms. Clark:

The above referenced property was struck off to the City of Garland on June 5, 2012 at a Sheriff's Sale pursuant to delinquent tax suit No. TX09-40221, City of Garland, et al. vs. Noah Jones, et al. The property was struck off for the total amount of the judgment, \$16,915.66. Smith Davis Investment Properties, LLC has offered to purchase this property for \$17,379.00.

The costs and distribution of net proceeds are:

Court Costs		\$4,907.91
Sheriff's Costs of Sale		\$1,226.11
Publication Fees		\$295.63
Net Court Costs and Costs of Sale		<u>\$6,429.65</u>
Personnel and Overhead		<u>\$1,500.00</u>
Total City Reimbursement		<u>\$1,500.00</u>
City of Garland	32%	\$3,008.92
Garland ISD	20%	\$1,900.65
Dallas County	48%	\$4,539.78
Total Tax Distribution		<u>\$9,449.35</u>
Net Court Costs and Costs of Sale		\$6,429.65
Total City Reimbursement		\$1,500.00
Total Tax Distribution		<u>\$9,449.35</u>
Total Sale Price		<u>\$17,379.00</u>

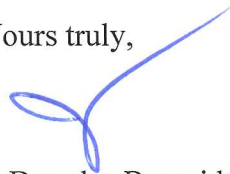
C. Clark
April 22, 2013
Page Two

Because the sale price is greater than the total amount due under the Judgment, this sale meets the criteria of §34.05(h) and does not require the consent of the other taxing units in the Judgment.

If the City Council approves this transaction, please forward to me the executed Deed. I will contact Smith Davis Investment Properties, LLC to complete the transaction.

If you have any questions or need additional information, please contact me.

Yours truly,

A handwritten signature in blue ink, consisting of a stylized 'J' followed by a loop and a long, sweeping horizontal stroke extending to the right.

J. Douglas Burnside
Attorney at Law

Re-sale Disbursement Worksheet
City of Garland

CAD Acct #:	26034500020030000
Property address:	541 Henderson Circle
Prior Owner:	Noah Jones, et al.
Cause No.:	TX09-40221
Judgment Date:	September 15, 2010
Sheriff's Sale Date:	June 5, 2012
Judgment amount:	GISD \$1,935.17
	City \$3,063.57
	County \$4,622.23
Total Judgment for Taxes:	\$9,620.97
Court costs:	\$4,907.91
Constable's fees for sale:	\$1,226.11
Publication fees for sheriff's sale, paid by Gay & McCall:	\$295.63

Checks to be disbursed as follows:

1.	Dallas County District Clerk	\$4,907.91
2.	Dallas County Sheriff	\$1,226.11
3.	Gay, McCall, Isaacks, Gordon & Roberts	\$295.63
4.	City of Garland (administrative fee)	\$1,500.00
5.	City of Garland (taxes)	\$3,008.92
6.	Garland ISD (taxes)	\$1,900.65
7.	John Ames, Dallas County Tax Assessor	\$4,539.78
	TOTAL	\$17,379.00

The cause number and Dallas Central Appraisal District tax account number should be on all checks.

DEED WITHOUT WARRANTY

THE STATE OF TEXAS

§

§

COUNTY OF DALLAS

§

KNOW ALL MEN BY THESE PRESENTS:

That the **City of Garland**, a Texas home-rule municipality ("Grantor"), for and in consideration of Ten and No/100 Dollars (\$10.00) and other good and valuable consideration to Grantor, the receipt and sufficiency of which is hereby acknowledged, paid in hand by **Smith Davis Investment Properties, LLC**, 2302 Windsor Dr., Richardson, Texas 75082 ("Grantee"), has GRANTED, SOLD and CONVEYED, and by these presents does GRANT, SELL and CONVEY unto Grantee that certain lot, tract, or parcel of land, commonly known as **541 Henderson Circle**, situated in the City of Garland, County of Dallas, State of Texas, to wit:

**BEING LOT 3, BLOCK B, BELLAIRE HEIGHTS ADDITION,
AN ADDITION TO THE CITY OF GARLAND, DALLAS
COUNTY, TEXAS ACCORDING TO THE DEED THEREOF
RECORDED IN VOLUME 949, PAGE 1222 OF THE DEED
RECORDS OF DALLAS COUNTY, TEXAS, AKA 541
HENDERSON CIRCLE (the "Property").**

This Deed Without Warranty is subject to:

- (i) any and all visible and apparent easements and encroachments, whether of record or not;
- (ii) any and all covenants, conditions, reservations, restrictions, exceptions, easements, rights-of-way, mineral interests, mineral leases, or other instruments of record applicable to the land or any part thereof;
- (iii) rights of the public to any portion of the above described property lying within the boundaries of dedicated or existing roadways or which may be used for road or street purposes;
- (iv) rights of parties in possession; and
- (v) any right of redemption as specified in Chapter 34, Subchapter B, Texas Property Tax Code.

It is understood and agreed that Grantor is not making any warranties or representations of any kind or character, express, implied or statutory, with respect to the Property, its physical condition or any other matter or thing relating to or affecting the Property and that the Property is being conveyed and transferred to Grantee "AS IS, WHERE IS, AND WITH ALL FAULTS." Grantor does not warrant or make any representations, express or implied, as to fitness for a particular purpose, merchantability, design, quantity, physical condition, operation compliance with specifications, absence of latent defects or compliance with laws and regulations (including,

without limitation, those relating to zoning, health, safety and the environment) or any other matter affecting the Property.

THIS DEED IS MADE WITHOUT WARRANTY, EXPRESS OR IMPLIED, AND GRANTOR EXPRESSLY DISCLAIMS, EXCEPTS AND EXCLUDES ANY AND ALL WARRANTIES OF TITLE OR OTHERWISE FROM THIS CONVEYANCE, INCLUDING, WITHOUT LIMITATION, ANY WARRANTIES ARISING UNDER COMMON LAW OR STATUTE.

The intent of this Deed Without Warranty is to transfer the Property foreclosed on by the Grantor taxing jurisdictions in Cause TX09-40221 in the 191ST Judicial District Court, Dallas County, Texas, and no more.

When the context requires, singular nouns and pronouns include the plural.

TO HAVE AND TO HOLD the Property, together with all and singular the rights and appurtenances thereto and in anywise belonging unto Grantee, his heirs, successors and assigns forever; **WITHOUT WARRANTY AND SUBJECT IN ALL RESPECTS TO THE DISCLAIMERS SET FORTH ABOVE.**

EXECUTED on the dates set forth in the acknowledgements below, to be EFFECTIVE on the _____ day of _____ 2013.

GRANTOR:

CITY OF GARLAND, a Texas home-rule municipality

By: _____

Title: _____

THE STATE OF TEXAS §

§

COUNTY OF DALLAS §

§

The foregoing instrument was acknowledged before me on the _____ day of _____, 2013, by _____, in his capacity as Mayor of the City of Garland.

NOTARY PUBLIC, STATE OF TEXAS

PRINTED NAME OF NOTARY

MY COMMISSION EXPIRES:

Sheriff's Deed

060512-69

The State of Texas, }
County of Dallas.

KNOW ALL MEN BY THESE PRESENTS:



201200198299

SHERIFF DEED 1/2

NOTICE OF CONFIDENTIALITY RIGHTS: "IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OF THE FOLLOWING INFORMATION FROM THIS INSTRUMENT BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER."

THAT, WHEREAS, By virtue of a certain Order of Sale, issued out of the Honorable 191st Judicial District Court, Dallas County, State of Texas, on 8th day of February, A. D. 2012 in and for Dallas County, Styled CITY OF GARLAND, Plaintiff, -versus-NOAH JONES, ET AL, Case #TX-09-40221. On a certain judgment and Decree of Foreclosure rendered on the 15th day of September, A.D. 2010, by said Court and directed and delivered to me as Sheriff of Dallas County, Texas, commanding me to seize and sell the real property described in said Order of Sale, I, Lupe Valdez, Sheriff, aforesaid, did upon the 16th day of April, A.D., 2012, execute said property described in said Order of Sale, by having notice of the time and place of such sale published in the English language, once a week for three consecutive weeks, preceding such sale, in the **DAILY COMMERCIAL RECORD** a newspaper published in said County, the first of said publications appearing not less than twenty days immediately preceding the day of said sale, and by **MAILING** a written notice of such sale to NOAH JONES, Defendant(s) and on the 1st Tuesday in June, A.D. 2012 it being the 5th day of the month, within the hours prescribed by law, (10:00 A.M.) sold said real property at public auction in the County of Dallas at the Courthouse door thereof, at which sale the real property herein after described was struck off to City of Garland on it's behalf and Trustee for Garland ISD, Dallas County, for the sum of \$18,070.18 Dollars as there were no bids taken on that property therefore.

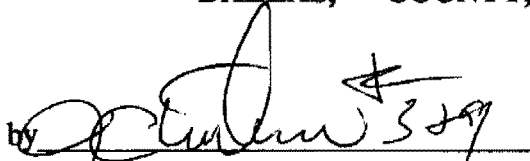
NOW, THEREFORE, in consideration of the premises aforesaid and of the payment to me of the said sum of \$18,070.18 Dollars, the receipt of which is hereby acknowledged, I, Lupe Valdez, Sheriff as aforesaid, have SOLD and CONVEYED, and by these presents do SELL and CONVEY unto the said City of Garland on it's behalf and Trustee for Garland ISD, Dallas County, all of the estate, right, title and interest which the said Defendant had on the 15th day of September, A.D. 2010 or at any time afterwards, in and to the following described real property, same being also described in the said Order of Sale, all that certain lot, tract or parcel of land, lying in being situated in Dallas County, TX and being more particularly described as follows:

PROPERTY ADDRESS: 541 HENDERSON CIR., CITY OF GARLAND, DALLAS COUNTY, TEXAS. BEING LOT 3, BLOCK B, BELLAIRE HEIGHTS ADDITION, AKA 541 HENDERSON CIR., CITY OF GARLAND, DALLAS COUNTY, TEXAS.

TO HAVE AND TO HOLD The above described premises, together with all and singular, the rights and Appurtenances thereto in anywise belonging, unto the said City of Garland heirs and assigns, forever as fully and as absolutely as I, a Sheriff aforesaid, can convey by virtue of said Order of Sale.

IN TESTIMONY WHEREOF, I have hereunto set my hand, this 25th day of June, A.D. 2012.

LUPE VALDEZ, SHERIFF,
DALLAS, COUNTY, TEXAS

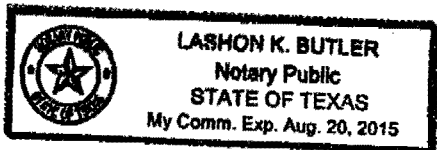
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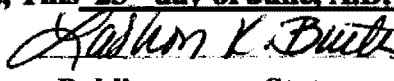
Deputy Tim Davis #276, Deputy J.T. Wilson #329

The State of Texas}
County of Dallas

BEFORE ME, Lashon K. Butler, A Notary Public on this day personally appeared Deputy Tim Davis, #276, Deputy J.T. Wilson #329 Deputy Sheriff of Dallas County, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledge to me that he executed the same for the purpose and consideration therein expressed, and in his capacity as Deputy Sheriff therein set forth.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, This 25th day of June, A.D. 2012.




Notary Public, State of Texas
Commission Expires 08-20-2015

The State of Texas, }
County of Dallas

I _____ County Clerk of said County, do hereby certify that the above instrument of writing, together with its Certificate of Authentication was filed for record in my office on the _____ day of _____ A.D. 2012, at _____ o'clock _____ M, and duly recorded the _____ day of _____ A.D., 2012, in Volume _____, Page _____ of the Records of Deeds, etc., of said County.

WITNESS MY HAND AND OFFICIAL SEAL This _____ of _____ A.D.2012.

Filed and Recorded
Official Public Records
John F. Warren, County Clerk
Dallas County, TEXAS
07/10/2012 02:02:17 PM
\$20.00





County Clerk Dallas County, Texas.

y _____
Deputy

201200198299

Send This Deed To: City of Garland, Attn: J. Douglas Burnside, Gay McCall Isaacks
Gordon May & Roberts, P.C. 1919 S. Shiloh rd. Ste 310, LB 40 Garland, Tx 75042



Policy Report

CONSIDER ASSISTANCE REQUEST FOR NONPROFIT SPECIAL EVENT - 25TH ANNUAL MARTIN LUTHER KING JR DAY EVENTS

ISSUE

The Garland NAACP has requested the City Council consider waiving expenditures for City services required for their parade and events celebrating Martin Luther King Jr. Day on Saturday, January 18 and Sunday, January 19, 2014. The City Council Policy on Special Event Policies and Guidelines (OPNS-29) states that requests from nonprofit organizations for donated services in excess of \$5,000 be brought to the City Council for consideration.

OPTIONS

The City Council may: 1) approve the proposed recommendation for special events assistance, 2) deny or revise proposed funding levels, or 3) return the item to staff for further review.

RECOMMENDATION

Staff recommends the City Council approve assistance by waiving fees and charges for City services in the amount of \$7,900 for the Annual Martin Luther King, Jr. Parade & March and the MLK Youth Extravaganza. If Council concurs, staff will proceed.

City departmental fees to be waived include:

Police:	\$ 6400	(traffic control & security)
Transportation:	\$ 450	(installation and removal of barricades)
Environmental Waste:	\$ 350	(installation and removal of waste containers)
Cultural Arts Facilities:	\$ 700	(Brownlee Auditorium rental fee)

COUNCIL GOALS

- Fully Informed and Engaged Citizenry
- Safe, Family-Friendly Neighborhoods
- Embrace Diversity

CONSIDER ASSISTANCE REQUEST FOR NONPROFIT SPECIAL EVENT

Page 2

BACKGROUND

This annual MLK Day parade event spotlights the unity among Garland's diverse communities. The parade will begin at 10 a.m. on Saturday, January 18 at the intersection of Dairy Road and Garden Drive. It will travel north on Dairy Road to Highway 66, then along First Street, Avenue B, Fifth Street, and Austin Street, ending at the Granville Arts Center for a commemorative program that is free and open to the public.

The MLK Youth Extravaganza (showcasing dance, step routines and military style drills) takes place at the Granville Arts Center the following Sunday afternoon and is also free and open to the public.

By assisting various nonprofit organizations through the donation of City services for the nonprofits' special events, the City promotes and celebrates the diversity and vitality of the community. From parades and festivals to various multicultural events, the City of Garland is showcased through the efforts of these nonprofit organizations

CONSIDERATION

The 2013-14 annual operating budget has \$30,500 budgeted in the General Fund (non-departmental) to provide assistance in covering fees and charges for City services for special events held by nonprofit organizations. The proposed assistance is within the budgeted amount.

Submitted By:

Jim Stone, Managing Director
Parks, Recreation & Cultural Services

Date: December 6, 2013

Approved By:

William E. Dollar
City Manager

Date: December 9, 2013



Meeting: Work Session

Date: December 16, 2013

Policy Report

SCHOOL RELATED TRAFFIC CONTROL

ISSUE

The Transportation Department periodically reviews school-related traffic control. A recent review reveals that changes are needed on Firewheel Parkway for Harmony Science Academy.

OPTIONS

- A. Establish a crosswalk on Firewheel Parkway at Dalewood.
- B. Install a school zone on Firewheel Parkway 300 feet east of Dalewood to 300 feet west of Dalewood. (Attachment A).
- C. Adopt some of the proposed changes.
- D. Take no action.

RECOMMENDATION

Staff recommends Option A and B. Ordinance is scheduled for consideration at the December 17, 2013 Council Meeting.

COUNCIL GOAL

Safe, Family-Friendly Neighborhoods

BACKGROUND

The Transportation Department has conducted studies at Harmony Science Academy and found pedestrians crossing on Firewheel Parkway during school commute times.

CONSIDERATION

Safety

Adopting the proposed school traffic control changes will enhance the safety of School children, parents, and motorists in the vicinity of Harmony Science Academy.

ATTACHMENT

Attachment A

Submitted By:

Paul Luedtke
Director of Transportation

Date: December 9, 2013

Approved By:

William E. Dollar
City Manager

Date: December 9, 2013

Attachment A Proposed School Zone



Legend

- ~ Streets
- Parcels (no shading)
- ! 2007 Historical Aerial Photography

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Scale: 1:3,133



This map is a user generated static output from an Internet mapping site and is for general reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable. THIS MAP IS NOT TO BE USED FOR NAVIGATION.

Notes: Harmony Science Academy



Meeting: Work Session

Date: December 16, 2013

Policy Report

WOOD DRIVE PARKING RESTRICTION

ISSUE

Tractor-trailers parking on the south side of Wood Drive both east and west of Industrial Lane are obstructing the view of vehicles exiting from Industrial Lane onto Wood Drive.

OPTIONS

- A. Restrict parking on the south side of Wood Drive 300 feet both east and west of Industrial Lane.
- B. Take no action.

RECOMMENDATION

Staff recommends Option A. This item is scheduled for formal consideration at the December 17, 2013 Regular Meeting.

COUNCIL GOAL

Safe, Family-Friendly Neighborhoods

BACKGROUND

A request to restrict parking was received from a citizen who works in this area. Staff confirmed tractor trailers parked causing visibility issue for vehicles exiting Industrial lane onto Wood Drive.

CONSIDERATION

This area is zoned industrial and several tractor trailers were observed parked on Wood drive.

ATTACHMENT

Exhibit A

Submitted By:

Paul Luedtke
Director of Transportation

Dated: December 9, 2013

Approved By:

William E. Dollar
City Manager

Date: December 9, 2013

Wood Drive Proposed Parking Restriction



Legend

- Streets
- Parcels (no shading)
- n_12d
- n_12c
- n_12b
- n_12a
- m_12b
- n_11d
- n_11b
- n_10d
- n_10b
- o_09c
- n_09d
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Meeting: Work Session

Date: December 16, 2013

Policy Report

TEXAS DEPARTMENT OF TRANSPORTATION (TXDOT) SELECTIVE TRAFFIC ENFORCEMENT PROGRAM (STEP) IMPAIRED DRIVING MOBILIZATION (IDM) GRANT

ISSUE:

Council is requested to consider accepting a Texas Department of Transportation (TxDOT) – Selective Traffic Enforcement Program (STEP) – Impaired Driving Mobilization (IDM) Grant

OPTIONS:

1. Accept TxDOT STEP Grant Funding. If the City Council concurs, the City Manager will execute the contracts.
2. Do Not Accept TxDOT STEP Grant Funding.

RECOMMENDATION:

Staff recommends Option 1 - Accept TxDOT grant funding for the Selective Traffic Enforcement Program (STEP) - Impaired Driving Mobilization (IDM) Grant for increased holiday DWI enforcement for FY 2013 – 2014. This item is scheduled for formal consideration at the December 17, 2013 Regular Meeting.

COUNCIL GOAL

Safe, Family-Friendly Neighborhoods – By accepting the STEP grant, the City Council will augment the ability of the Garland Police Department to provide an even greater level of traffic safety for the citizenry of the City of Garland by potentially changing the driving habits of those who violate the laws related to the Driving While Intoxicated (DWI) and Driving Under the Influence by a Minor (DUI).

BACKGROUND:

The Garland Police Department has partnered with The Texas Department of Transportation (TxDOT) for many years by participating in STEP enforcement grants. The purpose of this grant is to save lives and reduce motor vehicle accidents and

**TEXAS DEPARTMENT OF TRANSPORTATION SELECTIVE TRAFFIC
ENFORCEMENT COMPREHENSIVE GRANT**

Page 2

related injuries by aggressively enforcing the laws of the State of Texas associated with Driving While Intoxicated (DWI) and Driving Under the Influence by Minor (DUI). Enforcement efforts will be focused throughout the City of Garland.

The enforcement activities will also be supplemented by additional public information and education campaigns conducted during the enforcement periods.

CONSIDERATION:

The grant for the FY 2013-2014 is in the amount of \$37,998.11. If accepted, TxDOT will reimburse the City of Garland \$29,419.03. The grant requires the City to provide \$8,579.08 in matching funds. This will be accomplished in part through fringe benefits expenditures, indirect costs, and administrative time spent on grant related paperwork. Consequently, the City can satisfy the contractual match requirements without expending any additional funds.

ATTACHMENT:

None

Submitted By:

Mitchel L. Bates
Chief of Police

Date: December 6, 2013

Approved By:

William E. Dollar
City Manager

Date: December 6, 2013



Policy Report

PAYDAY LOAN ESTABLISHMENTS

ISSUE

Council is requested to consider a proposed ordinance regulating payday loan establishments (credit access businesses). This item was discussed by the Community Services Committee at their September 17 and November 19, 2013 meetings.

RECOMMENDATION

Council discussion and direction.

BACKGROUND

“Payday loan” establishments have been proliferating throughout the state due, in large part, to the virtual absence of regulation on the state level. Garland has thus far addressed such businesses only as a land use issue via a provision in the City’s zoning ordinance. Aside from land use issues, payday loan businesses create predatory lending problems that may mire an unsuspecting borrower into a circle of debt from which the borrower may never truly recover. The Texas Municipal League has put together an excellent and succinct synopsis of the problem. A portion of that synopsis is reprinted below. The full synopsis is available on the TML website at www.tml.org/payday-updates.

Several Texas cities have directly addressed the unregulated aspects of the payday loan industry. The City of Dallas was the first of those cities to enact an ordinance to that effect. Other cities have followed the Dallas model, and TML has promulgated a model payday loan ordinance (a version of which is attached). Virtually all of the cities that have adopted a payday loan ordinance have been challenged in court. To date, there has been no definitive ruling from any court.

FROM THE TML WEBSITE:

“While many other states have enacted laws to restrict predatory lending practices, meaningful reforms have failed to pass the Texas Legislature in the last three sessions. Free of any statewide cap on lending fees, limits on loan rollovers, and other restrictions, the number of payday and auto title loan stores in Texas has exploded with over 2,000 new storefronts opening in the last six years. In the absence of state action,

Texas cities are stepping up to adopt ordinances to protect their citizens from some of the worst predatory practices of this industry.

Background

Payday lending is a practice where a person can walk into a store, typically located in a strip mall, and take a cash advance on his or her next paycheck. Most such businesses offer a similar cash advance with a car's title as collateral. The interest rates on the loans are very high. In fact, legal loopholes used by the lenders exempt them from the state's usury laws.

Interest rates, when fees are included, often exceed 500 percent APR. Fifteen states limit the APR to 36 percent. The products are marketed as two-week or one-month loans, but the vast majority of borrowers refinance, often six to ten times. In addition to the traditional short-term payday loan, companies have started to offer expensive longer term installment loans. One company offers a five-month installment loan for \$1500. Customers must pay back over \$3,862, an APR of 612 percent.

Borrowers who fall behind on payments can refinance multiple times; meanwhile, the interest and other fees keep piling up. It's not uncommon on the auto title lending side for people to lose their car altogether after multiple refinancings.

In Texas and across the country, the payday and auto title lender industry (also known as the "credit access business") has grown dramatically. The Texas Office of Consumer Credit Commissioner (OCCC) reports that there are an estimated 3,000 credit access business locations in Texas alone. With the proliferation of the credit access business industry comes increased concerns about the harmful effects of Texas citizens entering a cycle of debt and dependency. Some cities are also concerned about public safety and the effect the businesses may have on property values. As a result, both the state legislature and a handful of Texas cities have taken steps to regulate this industry.

In 2011, the legislature addressed some of these concerns by passing legislation that both requires credit access businesses to provide consumer disclosures regarding their loan products, fees, interest charges, and percentage rates, as well as requires them to obtain a license with the OCCC (operating under the oversight of the Finance Commission of Texas), which in turn has some ability to examine these businesses. Some Texas cities viewed the 2011 legislation as insufficient to address the growth in the credit access business industry in their communities, and have since adopted ordinances that place additional restrictions on these businesses. The ordinances that have been adopted include zoning restrictions, substantive business regulations such as a limitation on the total amount of the loan, or both.

Several bills were filed during the 2013 legislative session that would have increased regulation of the credit access business industry. Other bills were filed at the behest of the credit access business lobby that would have preempted all city ordinances

regulating the industry, including (in some cases) generally-applicable zoning and other health and safety ordinances. In the end, no legislation dealing with payday and auto title lenders passed in 2013. Consequently, under current law cities are not expressly prohibited from adopting ordinances regulating the credit access business industry in any way, including ordinances restricting business practices.

City Ordinances

In response to the state legislature's failure to adopt any substantive statewide regulation of credit access businesses, a handful of cities have adopted ordinances aimed at ending the cycle of debt and helping borrowers to be successful in paying back their loans. As of the spring of 2013, the cities that adopted ordinances were Austin, Balcones Heights, Dallas, Denton, El Paso, and San Antonio. There are likely to be more at the time of this publication. All of these cities – except for Balcones Heights – have been sued by the credit access business industry, with the industry claiming that the cities are preempted from regulating credit access businesses since the legislature gave the OCCC some authority to regulate in 2011. (Balcones Heights has suspended enforcement of its ordinance pending the outcome of the San Antonio lawsuit.)

When payday and auto title lenders argued before the legislature for preemption of all city ordinances regulating credit access businesses, chief among their policy arguments was the notion that it would be too administratively difficult to keep track of the different “patchwork of regulation” that exists from city to city. This argument falls flat in two ways. First, only six out of roughly 1,200 Texas cities have adopted ordinances. Second, the ordinances adopted by these six cities are all but identical in how they regulate the lending practices of credit access businesses. Key features of all six ordinances include the following provisions:

- A credit access business must apply for and receive a certificate of registration from the city.
- A credit access business must maintain complete records of all loans made by the business for at least three years and make the records available to the city for inspection upon request.
- The amount of a payday loan may not exceed 20 percent of the consumer's gross monthly income.
- The amount of an auto title loan may not exceed the lesser of three percent of the consumer's gross annual income or 70 percent of the retail value of the motor vehicle.
- Any loan from a credit access business that provides for repayment in installments may not be payable in more than four installments, and the proceeds from each installment must be used to repay at least 25 percent of the principal amount of the loan. No renewals or refinancing of installment-payment loans are permitted.
- Any loan from a credit access business that provides for a single lump sum repayment may not be refinanced or renewed more than three times, and the

proceeds from each refinancing or renewal must be used to repay at least 25 percent of the principal amount of the loan.

- Any loan made to a consumer within seven days of a previous loan has been paid by the consumer constitutes a refinancing or renewal.
- Cities contemplating the adoption of an ordinance regulating the lending practices of credit access businesses should consider adopting substantially similar regulations to those adopted by the six cities mentioned above. If Texas cities that wish to regulate in this area continue to adopt essentially uniform ordinances, credit access businesses will not be able to use the argument that city ordinances vary from city-to-city if they seek preemption legislation in 2015.

City officials should be aware that adoption of any ordinance regulating credit access businesses will likely cause stakeholders representing the payday and auto title lending industry to file a lawsuit. To assist cities that may be facing such a lawsuit, TML has created this “payday lending clearinghouse” webpage. This page includes the pleadings in each lawsuit that has been filed. In addition, it includes an example ordinance that consolidates the features of the similar city ordinances, as well as additional information.”

ATTACHMENT

Proposed Draft Ordinance

Submitted By:

Brad Neighbor
City Attorney

Date: December 10, 2013

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[The following is the TML model payday loan ordinance]

ORDINANCE NO.

AN ORDINANCE AMENDING CHAPTER __, "_____", OF THE CODE OF ORDINANCES OF THE CITY OF GARLAND, TEXAS RELATING TO THE REGULATION OF CERTAIN CREDIT ACCESS AND "PAYDAY LOAN" BUSINESSES; PROVIDING A PENALTY UNDER THE PROVISIONS OF SEC. 10.05 OF THE CODE OF ORDINANCES OF THE CITY OF GARLAND, TEXAS; PROVIDING A SAVINGS CLAUSE AND A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

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

WHEREAS, certain credit access businesses engage in abusive and predatory lending practices, offering easy money to those members of our community who are in a tight spot with onerous terms and fees; and

WHEREAS, the practices of certain access businesses cause members of our community to become trapped in a cycle of short term, high interest loans resulting in large debt and huge payments; and

WHEREAS, the Pew Charitable Trusts, in their publication entitled Payday Lending in America: Who Borrows, Where they Borrow, and Why, (July 2012), wrote that "payday loans are sold as two-week credit products that provide fast cash, but borrowers are actually indebted for an average of five months per year." The report further noted that "on average, a borrower takes out eight loans of \$375 each per year and spends \$520 on interest;" and

WHEREAS, the Pew Charitable Trusts, in their publication entitled Payday Lending in America: Who Borrows, Where they Borrow, and Why, (July 2012), also noted: "How much borrowers spend on loans depends heavily on the fees permitted by their state. The same \$500 storefront loan would generally cost about \$55 in Florida, \$75 in Nebraska, \$87.50 in Alabama, and \$100 in Texas, even if it were provided by the same national company in all those states. Previous research has found that lenders tend to charge the maximum permitted in a state;" and

WHEREAS, the Pew Charitable Trusts, in their publication entitled Payday Lending in America: Who Borrows, Where they Borrow, and Why, (July 2012), also stated that "the vast majority of borrowers use the loans on a long-term basis, not temporary one. Thus it seems that the payday loan industry is selling a product few people use

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as designed and that imposes debt that is consistently more costly and longer lasting than advertised;" and

WHEREAS, the Community Financial Services Association of America (CFSA), the national trade association for companies that offer small dollar, short-term loans or payday advances includes the following in the "Member Best Practices" as listed on its internet site (<http://cfsaa.com/cfsa-member-best-practices.aspx>): "Members shall not allow customers to rollover a payday advance (the extension of an outstanding advance by payment of only a fee) unless expressly authorized by state law, but in such cases where authorized will limit rollovers to four or the state limit, whichever is less." The need for consumer understanding was also outlined on this website: "A contract between a member and the customer must fully outline the terms of the payday advance transaction. Members agree to disclose the cost of the service fee both as a dollar amount and as an annual percentage rate ("APR");" and

WHEREAS, the Center for Responsible Lending, a non-profit, non-partisan organization, states on its internet site (<http://www.responsiblelending.org/other-consumer-loans/tools-resources/fast-facts.html>) that: "car title loans are based on the value of a borrower's car - the ability to repay the loans is not factor in the lending decision..."; "loan rates for a car title are typically 20-30 times that of rates charged by credit card issuers..."; "the average car title customer renews their loan 8 times..."; and, "on a \$500 title loan, this average customer will pay back \$650 in interest over eight months; the principal borrowed will be in addition;" and

WHEREAS, lenders hold onto the motor vehicle title and when borrowers cannot continue to pay the fees, they can lose their vehicles, which can drastically affect the borrower's means of transportation for work and other essential household functions.

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

Section 1

That Chapter __, "_____", of the Code of Ordinances of the City of Garland, Texas, is hereby amended by adding a new article, Article __, to read as follows:

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"ARTICLE __ CREDIT ACCESS BUSINESSES

Sec. __. Purpose

(A) This article may be known and cited as "Credit Access Businesses Regulation."

(B) The purpose of this article is to protect the welfare of the citizens of the City of _____ by monitoring credit access businesses in an effort to reduce abusive and predatory lending practices. To this end, this article establishes a registration program for credit access businesses, imposes restrictions on extensions of consumer credit made by credit access businesses, and imposes recordkeeping requirements on credit access businesses.

Sec. __. Definitions

As used in this chapter:

(1) CERTIFICATE OF REGISTRATION means a certificate of registration issued by the director under this article to the owner or operator of a credit access business.

(2) CONSUMER means an individual who is solicited to purchase or who purchases the services of a credit access business.

(3) CONSUMER'S LANGUAGE OF PREFERENCE is the language the consumer understands best.

(4) CREDIT ACCESS BUSINESS has the meaning given that term in Section 393.601 of the Texas Finance Code.

(5) DEFERRED PRESENTMENT TRANSACTION has the meaning given that term in Section 393.601 of the Texas Finance Code.

(6) DIRECTOR means the director of the department designated by the City Council, City Manager, or City Councilor City Manager's Designee, to enforce and administer this chapter.

(7) EXTENSION OF CONSUMER CREDIT has the meaning given that term in Section 393.001 of the Texas Finance Code.

(8) MOTOR VEHICLE TITLE LOAN has the meaning given that term in Section 393.601 of the Texas Finance Code.

(9) PERSON means any individual, corporation, organization,

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partnership, association, financial institution, or any other legal entity.

(10) REGISTRANT means a person issued a certificate of registration for a credit access business under this chapter and includes all owners and operators of the credit access business identified in the registration application filed under this chapter.

(11) STATE LICENSE means a license to operate a credit access business issued by the Texas Consumer Credit Commissioner under Chapter 393, Subchapter G of the Texas Finance Code.

Sec. __. Violations; Penalty

(A) A person who violates a provision of this chapter, or who fails to perform an act required of the person by this chapter, commits an offense. A person commits a separate offense for each and every violation relating to an extension of consumer credit, and for each day during which a violation is committed, permitted, or continued.

(B) An offense under this chapter is punishable by a fine of not more than \$500.

(C) A culpable mental state is not required for the commission of an offense under this article and need not be proved.

(D) The penalties provided for in Subsection (b) are in addition to any other remedies that the city may have under city ordinances and state law.

Sec. __. Defenses

It is a defense to prosecution under this article that at the time of the alleged offense the person was not required to be licensed by the state as a credit access business under Chapter 393, Subchapter G, of the Texas Finance Code.

Sec. __. Registration Required

A person commits an offense if the person acts, operates, or conducts businesses as a credit access business without a valid certificate of registration. A certificate of registration is required for each physically separate credit access business.

Sec. __. Registration Application

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(A) To obtain a certificate of registration for a credit access business, a person must submit an application on a form provided for that purpose to the director. The application must contain the following:

(1) The name, street address, mailing address, facsimile number, and telephone number of the applicant.

(2) The business or trade name, street address, mailing address, facsimile number, and telephone number of the credit access business.

(3) The names, street addresses, mailing addresses, and telephone numbers of all owners of the credit access business, and the nature and extent of each person's interest in the credit access business.

(4) A copy of a current, valid state license held by the credit access business pursuant to Chapter 393, Subchapter G of the Texas Finance Code.

(5) A copy of a current, valid certificate of occupancy showing that the credit access business is in compliance with the City of _____ Code.

(6) A non-refundable application fee for the amount established.

(B) An applicant or registrant shall notify the director within 45 days after any material change in the information contained in the application for a certificate of registration, including, but not limited to, any change of address and any change in the status of the state license held by the applicant or registrant.

Sec. __. Issuance and Display of Certificate of Registration; Presentment upon Request.

(A) The director shall issue to the applicant a certificate of registration upon receiving a completed application under Section __.

(B) A certificate of registration issued under this section must be conspicuously displayed to the public in the credit access business. The certificate of registration must be presented upon request to the director or any peace officer for examination.

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Sec. __. Expiration and Renewal of Certificate of Registration

(A) A certificate of registration expires on the earliest of:

- (1) One year after the date of issuance; or
- (2) The date of revocation, suspension, surrender, expiration without renewal, or other termination of the registrant's state license.

(B) A certificate of registration may be renewed by making application in accordance with Section 5.17.040. A registrant shall apply for renewal at least 30 days before the expiration of the registration.

Sec. __. Non-transferability

A certificate of registration for a credit access business is not transferable.

Sec. __. Maintenance of Records

(A) A credit access business shall maintain a complete set of records of all extensions of consumer credit arranged or obtained by the credit access business, which must include the following information:

- (1) The name and address of the consumer.
- (2) The principal amount of cash actually advanced.
- (3) The length of the extension of consumer credit, including the number of installments and renewals.
- (4) The fees charged by the credit access business to arrange or obtain an extension of consumer credit; and
- (5) The documentation used to establish a consumer's income under Section _____.110 of this ordinance.

(B) A credit access business shall maintain a copy of each written agreement between the credit access business and a consumer evidencing an extension of a consumer credit (including, but not limited to, any refinancing or renewal granted to the consumer).

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(C) A credit access business shall maintain copies of all quarterly reports filed with the Texas Consumer Credit Commissioner under Section 393.627 of the Texas Finance Code.

(D) The records required to be maintained by a credit access business under this section must be retained for at least three years and made available for inspection by the city upon request during the usual and customary business hours of the credit access business.

Sec. ____. **Restriction on Extension of Consumer Credit**

(A) The cash advanced under an extension of consumer credit that a credit access business obtains for a consumer or assists a consumer in obtaining in the form of a deferred presentment transaction may not exceed 20 percent of the consumer's gross monthly income.

(B) The cash advanced under an extension of consumer credit that a credit access business obtains for a consumer or assists a consumer in obtaining in the form of a motor vehicle title loan may not exceed the lesser of:

- (1) Three percent of the consumer's gross annual income; or
- (2) 70 percent of the retail value of the motor vehicle.

(C) A credit access business shall use a paycheck or other documentation establishing income to determine a consumer's income.

(D) An extension of consumer credit that a credit access business obtains for a consumer or assists a consumer in obtaining and that provides for repayment in installments may not be payable in more than four installments. Proceeds from each installment must be used to repay at least 25 percent of the principal amount of the extension of consumer credit. An extension of consumer credit that provides for repayment in installments may not be refinanced or renewed.

(E) An extension of consumer credit that a credit access business obtains for a consumer or assists a consumer in obtaining and that provides for a single lump sum repayment may not be refinanced or renewed more than three times. Proceeds from each refinancing or renewal must be used to repay at least 25 percent of the principal amount of the original extension of consumer credit.

(F) For purposes of this section, an extension of consumer credit

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that is made to a consumer within seven days after a previous extension of consumer credit has been paid by the consumer will constitute a refinancing or renewal.

Sec. __. Requirement of Consumer Understanding of Agreement

(A) Every agreement between the credit access business and a consumer evidencing an extension of consumer credit (including, but not limited to, any refinancing or renewal granted to the consumer), must be written in the consumer's language of preference. Every credit access business location must maintain on its premises, to be available for use by consumers, agreements in the English and Spanish languages.

(B) For every consumer who cannot read, every agreement between the credit access business and a consumer evidencing an extension of consumer credit (including, but not limited to, any refinancing or renewal granted to the consumer) must be read to the consumer in its entirety in the consumer's language of preference, prior to the consumer's signature.

(C) For every consumer who cannot read, every disclosure and notice required by law must be read to the consumers in its entirety in the consumer's language of preference, prior to the consumer's signature.

Sec. __. Referral to Consumer Credit Counseling

A credit access business shall provide a form, to be prescribed by the Director, to each consumer seeking assistance in obtaining an extension of consumer credit which references non-profit agencies that provide financial education and training programs and agencies with cash assistance programs. The form will also contain information regarding extensions of consumer credit, and must include the information required by Sec. __ (a)(1)-(5) of this ordinance specific to the loan agreement with the consumer. If the Director has prescribed a form in the consumer's language of preference, the form must be provided in the consumer's language of preference."

Section 2

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

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Section 3

That Chapter __, "_____", of the Code of Ordinances of the City of Garland, Texas, as amended, shall be and remain in full force and effect save and except as amended by this Ordinance.

Section 4

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

Section 5

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

PASSED AND APPROVED this the ____ day of _____, 2014.

CITY OF GARLAND, TEXAS

Mayor

ATTEST:

City Secretary