LEGISLATIVE, FINANCE, AND ADMINISTRATION COMMITTEE
A G E N D A

SEPTEMBER 10, 2012 - 5:30 P.M.

CITY HALL COUNCIL CHAMBERS
15 LOOCKERMAN PLAZA
DOVER, DELAWARE

Public comments are welcomed on any item and will be permitted at appropriate times. When possible, please notify the City Clerk (736-7008 or e-mail at CityClerk@dover.de.us) should you wish to be recognized.

AGENDA ADDITIONS/DELETIONS

1. Purchase of Police Department Parking Enforcement System *(Due to time constraints, this item has been placed on the Council agenda for the meeting being held later in the evening)*

2. Transfer of Street Light Accounting to Electric Fund

3. Reduced Rates for All-Electric Homes in December, January, and February *(City Council Referred to Staff for Cost Analysis and Review on July 9, 2012)*

4. Discussion - Renaming of Division Street as Martin Luther King Boulevard

5. Adjournment by 7:00 P.M.

/tm
S:\AGENDAS-MINUTES-PACKETS\Committee-Agendas\2012\09-10-2012 LF&A.wpd

THE AGENDA ITEMS AS LISTED MAY NOT BE CONSIDERED IN SEQUENCE. THIS AGENDA IS SUBJECT TO CHANGE TO INCLUDE THE ADDITION OR THE DELETION OF ITEMS, INCLUDING EXECUTIVE SESSIONS.

ACTION FORM

PROCEEDING: Legislative and Finance Committee	**AGENDA ITEM NO.:**
DEPARTMENT OF ORIGIN: Police	**DATE SUBMITTED:** 8/21/12
PREPARED BY: Captain Robert Scott / Administrative Division Commander	
SUBJECT: Purchase of Police Department Parking Enforcement System	
REFERENCE: Grant Funding	
RELATED PROJECT: N/A	
APPROVALS: City Manager, Controller/Treasurer	
EXHIBITS: None	
EXPENDITURE REQUIRED: $50,000.00	**PROJECT BUDGET:** $50,000.00
FUNDING SOURCE (Dept./Page in CIP & Budget): Justice Assistance Grant & SALLE Grant	
TIMETABLE: Upon receipt of council approval, the system hardware & software will be ordered.	
RECOMMENDED ACTION:	The Legislative and Finance Committee approve the purchase and recommend approval by the Council.

BACKGROUND

This Committee/Council action form is submitted to obtain approval for the sole vendor purchase of a new parking enforcement system for the Police Department from Cardinal Tracking, Inc.

The system currently in use is obsolete and cannot be updated to include the features needed to implement the recent changes incorporated by the city. Data cannot be queried to allow retrieval of necessary information to support scofflaw (repeat/habitual offenders) reporting which is vital to implementing the city's new Vehicle Immobilization law. The limitations of the old system do not permit the effective collection of unpaid debts. The new system allows for customized queries, enabling our agency to retrieve data in almost any form. The old system does not have this capability. The new parking enforcement system will also update both the hardware and software components and eliminate the need for employing an outside collections agency. The new handheld computer units feature integrated cameras, eliminating the need for enforcement personnel to carry digital cameras, and the images will automatically flow with the violation data. A point-of-sale component in the Records Unit will allow for the immediate posting of payments to accounts. The cost also includes the conversion of current data, as well as on-site system set-up, installation and training.

FUNDING

The purchase will be funded by the US Department of Justice, Office of Justice Programs, Justice Assistance Grant (JAG) Program ($47,125.00) and State Aid to Local Law Enforcement (SALLE) Grant funds ($2,875.00).

ACTION REQUESTED

The Legislative and Finance Committee approve the purchase and recommend approval by the Council.

Ballard Spahr
LLP

919 North Market Street, 11th Floor
Wilmington, DE 19801-3034
TEL 302.252.4465
FAX 302.252.4466
www.ballardspahr.com

Emilie R. Ninan
Direct: 302.252.4426
Fax: 302.300.4055
ninane@ballardspahr.com

August 24, 2012

Donna S. Mitchell
Controller/Treasurer
City of Dover
5 East Reed Street
Weyandt Hall, Suite 300
Dover, DE 19901

Re: **Street Lights and Electric Fund**

Dear Donna:

As requested, we have reviewed the electric bond resolution and the City of Dover Financial Policies to see how either the street lights can be made part of the electric system or how reserves in the Electric I&E fund can be released and used to pay for the street light cost in the general fund.

Moving Street Lights to the Electric System

The street lights are currently a general fund asset and expense of the City as opposed to part of the Electric System for which electric revenues can be used. This is consistent with the way street lights are paid for by other municipalities. Despite much internal research and discussion, we have not found an example of a municipal client who is currently paying for street lights out of its electric fund rather than its general fund.

Nevertheless, we spent time analyzing the provisions of the electric bond resolution in an effort to figure out a way to make the street lights a revenue generating asset that may be moved to the electric fund. Unfortunately that exercise left us with more questions than answers. For example, would a surcharge on the electric bill for street lights (on a pro rata basis rather than based on metered usage) be characterized as a tax rather than a fee? Do accounting rules permit the street lights to be taken out of the general fund? We need the City's accountants to weigh in on the proper accounting procedures in this matter.

Even if we were somehow able to transfer the asset and recharacterize the street lights as part of the Electric System, the City has to be careful not to violate the covenants set forth in Section 501 including "... (d) electric rates outside the corporate limits of the City will at all times be not less than the electric rates within such limits; (e) and that no free service will be rendered by the Electric

System, and that the City and all political subdivisions and public agencies (state or federal) shall pay for the service and facilities furnished by the Electric System at the established rates." We need more information about the way in which revenue will be generated before we can conclude whether or not these covenants have been met.

We note, however, that pursuant to Section 507A(e) transfers to the general fund can be made so long as the Rate Covenant in Section 502 is not violated. We understand the City has limited this amount to $8 million for other policy reasons but pursuant to the bond resolution, it can be a higher amount so long as the Rate Covenant is not violated.

I&E Fund

Section 510 of the bond resolution provides that "moneys held for the credit of the Improvement and Extension Fund shall be disbursed only for paying all or a part of (i) the cost of usual or extraordinary maintenance or repairs, renewals or replacements, (ii) the cost of acquiring, installing or replacing equipment, (iii) the cost of constructing extensions, additions or improvements to the Electric System or (iv) the cost of engineering expenses relating to the foregoing."

The street lights do not fall into any of the foregoing categories so funds in I&E Fund cannot be used for that purpose. Although the Depreciation Reserve and the Future Capacity Reserve were not created under the resolution, they were created as subaccounts under the I&E Fund pursuant to your financial policies. Since they are subaccounts, they are subject to the same limitation for disbursement.

However, the funding level requirements of the I&E Fund and its subaccounts may be able to be decreased in order to release funds back to the City to be used for general fund purposes. The subaccount levels were set in the financial policy and not in the bond resolution so the City can decrease those levels with a change in the financial policy. The overall I&E Fund requirement can be found in Section 507A(c). It is not stated as a specific dollar amount but rather the amount recommended by the Engineering Consultants (as provided in Section 504 – Duties of Engineering Consultants) in the then current fiscal year. Once we know the amounts required by the Engineering Consultants for each year, we can make a determination of how much overfunding, if any, there is in the I&E Fund.

In conclusion, our advice as bond counsel at this time is to use the provisions of 507A(e) of the resolution to transfer necessary funds to the general fund. Trying to get a general fund expense paid out of the electric fund in a different way runs the risk of bondholders claiming an event of default has occurred under the resolution and, ultimately, could result in acceleration of the bonds.

Very truly yours,

Emilie R. Ninan

Emilie R. Ninan

ERN:lhb

DMEAST #15491772 v1

SB & COMPANY, LLC
EXPERIENCE • QUALITY • CLIENT SERVICE

August 13, 2012

Donna S. Mitchell
Controller/Treasurer
City of Dover
5 East Reed Street
Weyandt Hall, Suite 300
Dover, Delaware 19901

Re: **Street Lights and Electric Fund**

Dear Donna,

I have read the letter from your bond counsel at Ballard Sphar dated August 8, 2012 and have no additional information that would contradict the assessment that putting the street lights in the Electric Revenue fund with them then being paid for from other funds would not be in compliance with the intent of the fund or bond agreement. However, you have the option to move the street lights into the fund under accounting principles generally accepted in the United States of America (GAAP) subject to certain provisions. Specifically, GAAP does not specify which fund operations must be reported in as long as the funding source for these operations complies with the intent of the fund. Thus, if the streetlights are put in the Electric Revenue fund for GAAP purposes, they would need to be funded with user fees.

Please let me know if you have any other questions. Thank you.

Sincerely,

SB & Company, LLC

Graylin E. Smith
Managing Member

ARTICLE I. - IN GENERAL

Sec. 98-1. - Street department created; purpose.
Sec. 98-2. - Authority to temporarily close streets and sidewalks.
Sec. 98-3. - Removing or damaging street boundary stakes.
Sec. 98-4. - Storage of building materials.
Sec. 98-5. - Duty of tenants or owners to maintain sidewalks and landscaped areas within the street right-of-way.
Sec. 98-6. - Duty of persons occupying commercial establishments and premises to keep sidewalks clear.
Sec. 98-7. - Placement of canopies and awnings within rights-of-way.
Sec. 98-8. - Obstruction of streetlights.
Sec. 98-9. - Use of Dover Green.
Sec. 98-10. - Speed reduction devices.
Secs. 98-11—98-40. - Reserved.

Sec. 98-1. - Street department created; purpose.

There is hereby created a street department under the general supervision and authority of the city manager, which shall superintend and have authority over the use, construction, condition and lighting of city streets, sidewalks, storm sewers and public places.

(Code 1968, §§ 2-80, 28-1; Code 1981, § 19-1; Ord. No. 2010-07, 3-22-2010)

Sec. 98-2. - Authority to temporarily close streets and sidewalks.

Both the city manager and chief of police shall have the authority to temporarily close streets, sidewalks or private entrances onto public streets to vehicular and pedestrian traffic when necessary for the public safety or convenience or to conduct work on streets or sidewalks.

(Code 1968, § 28-2; Code 1981, § 19-2)

Sec. 98-3. - Removing or damaging street boundary stakes.

It shall be unlawful for any person to drive down, pull up, remove or otherwise disturb or injure any stake which shall be planted or driven in the ground by city authority to fix and indicate the grade of curbline or boundaries of any city streets.

(Code 1968, § 28-4; Code 1981, § 19-3)

Sec. 98-4. - Storage of building materials.

(a) *Permit required.* It shall be unlawful to keep or store building materials in city streets or sidewalks, without a written permit from the city manager, describing the property fronting the street or sidewalk to be used. The permit shall only authorize the use of the roadbed in front of the property being built or repaired for a space of 12 feet from the gutterline, provided that the gutter remains unobstructed for the free passage of water and the sidewalk for a space of five feet from the building line.

(b) *Workbench, etc.* No workbench or mortarbed shall be erected or maintained in the streets or sidewalks, except for storage, unless otherwise specifically provided in the permit.

Pledge of Revenues of the Electric System

The principal amount of the Bonds and all interest payable thereon are secured by a pledge of and lien on the Revenues of the Electric System as provided in the Bond Resolution. Revenues are defined as all moneys received by the City for the use of, and for the services and facilities furnished by the Electric System. See "Flow of Funds" for the application of Revenues and Net Revenues. Net Revenues is the amount of the excess of the Revenues of the Electric System over the Current Expenses for a particular period. "Current Expenses" are the City's reasonable and necessary current expenses of maintenance, repair and operation of the Electric System, and shall include, without limiting the generality of the foregoing, all ordinary and usual expenses of maintenance, repair and operation which may include expenses not annually recurring, all administrative expenses, engineering expenses relating to maintenance, repair and operation, fees and expenses of the Trustee, charges to City Paying Agent, legal expenses, fees of consultants, and any other expenses required to be paid by the City under the provisions of the Bond Resolution or by law, but does not include any reserves, extraordinary maintenance or repair, or any allowance for depreciation, or any deposits or transfers to the credit of the Interest and Sinking Fund or the Improvement and Extension Fund or any payments with respect to Non-Parity Debt.

Parity Bonds

Additional Bonds may be issued on a parity basis with the Bonds under the Bond Resolution (the "Parity Bonds"). After the issuance of the Bonds, both the Bonds and portions of the Series 2004 Bonds will be outstanding under the Bond Resolution.

Reserve Fund Requirement

After the issuance of the Bonds, funds in the Reserve Account will be maintained in an amount equal to the Reserve Fund Requirement. In the event there are insufficient funds in the Bond Service Account to pay principal or interest on the Bonds, when due, the Trustee is authorized to draw such deficiency from the Reserve Account. The City is required to maintain an amount equal to the Reserve Fund Requirement in the Reserve Account.

Reserve Fund Requirement means the maximum amount of Principal and Interest Requirements for any fiscal year thereafter on account of all Parity Bonds issued under the Bond Resolution and then Outstanding; provided that with respect to any Series of Bonds which do not have Substantially Equal Debt Service, the Reserve Fund Requirement may not exceed the maximum Principal and Interest Requirements determined as of the date of initial issuance. Under the Bond Resolution the City may satisfy the Reserve Fund Requirement by depositing with the Trustee a Credit Facility which permits the Trustee to draw thereon the amount of the Reserve Fund Requirement. The City may not use such a Credit Facility to satisfy the Reserve Fund Requirement unless any Rating Agency then rating the Bonds confirms in writing that the use of such Credit Facility will not reduce the then applicable rating on the Bonds.

Rate Covenants

The City has agreed that it will have in effect a schedule of rates and charges for the Electric System so that the total amount of Revenues of the Electric System during each fiscal year (plus funds held by the City and budgeted to be used to pay current expenses) will be not less than the total of (1) the Current Expenses of the Electric System during the current fiscal year as shown by the Annual Budget for such fiscal year and (2) one hundred twenty-five per cent (125%) of the Principal and Interest Requirements for the current fiscal year on account of all Parity Bonds then Outstanding under the Bond Resolution.

The City has covenanted that if the Revenues of the Electric System in any fiscal year are less than the amounts required to meet the requirements set forth above that before the 15th day of the second month of the following year it will request the Engineering Consultants to make a recommendation as to the revision of the electric rates. The City has agreed to file copies of the request and the Engineering

Consultant's report with the Trustee. So long as the City complies with all of the recommendations of Engineering Consultants in respect of the electric rates, the City will not be in default of the rate covenant provisions set out above even if the Revenues are less than the amount required to meet such Rate Covenant.

The City further covenants that (a) the electric rates outside the corporate limits of the City shall at all times be not less than the electric rates within such limit; (b) no free service will be rendered by the Electric System and the City and political subdivisions and public agencies (state or federal) will pay for the service facilities furnished by the Electric System at the established rates; (c) that no discount will be allowed for prompt payment of bills, and if any bill is not paid before the 20th day after the date of mailing such bill, notice will be sent that service will be discontinued and the premises will be disconnected from the Electric System as permitted by law and in accordance with uniform policies of the City Council in effect from time to time; and (d) that all bills for the services and facilities furnished by the Electric System will be rendered on a monthly basis until such time as the City Council deems it advisable to change the period covered by such bills, and that it will establish and enforce reasonable rules and regulations in relation to the collection of such bills.

Flow of Funds

Revenue Fund. The City covenants that all Revenues of the Electric System will be collected by the City and deposited as received with a Depository to the credit of the Revenue Fund.

Current Expenses. Current Expenses of the Electric System are paid when due from the Revenue Fund provided that no such expense will be paid if it is more than the unencumbered balance of the appropriations in the Annual Budget for such expenses. The City covenants that no Current Expenses will be incurred in any year unless the same shall be reasonable and necessary.

Interest and Sinking Fund. The City Controller/Treasurer, on or before the 20th day of each month, will withdraw from the Revenue Fund an amount equal to the amount of all moneys held for the credit of the Revenue Fund on the last day of the preceding month less the amount (to be held as reserve for Current Expenses) not in excess of twenty per cent (20%) of the amount shown by the Annual Budget to be necessary for Current Expenses of the Electric System for the current fiscal year and will apply the sum so withdrawn in the following order of priority:

(a) deposit with the Trustee to the credit of the Bond Service Account, an amount equal to one-sixth (1/6) of the amount of interest payable on the Parity Bonds of each Series then Outstanding on the next succeeding Interest Payment Date, and commencing with the twelfth (12th) month preceding the first maturity of the Bonds of any Series and continuing until all of such Bonds have been paid or provision made for payment, an amount equal to one-twelfth of the principal payable on the next Principal Payment Date whether on account of maturity or Sinking Fund Installments; provided however, that if less than twelve (12) months intervene between the delivery of the Bonds of any Series and the first maturity of such Bonds, the amount deposited on account of such principal in each month until and including the month immediately preceding such maturity date will be that amount which when multiplied by the number of such deposits will be equal to the principal amount of such bonds maturing on such date; and provided, further, that there shall be credited against the amounts of the deposits otherwise required to be made pursuant to this clause (a) the money theretofore deposited in the Bond Service Account under the provisions of the Bond Resolution and available for the payment of such interest and principal;

(b) deposit with the Trustee to the credit of the Reserve Account, an amount, if any, which may be required to increase the amount therein to the Reserve Fund Requirement;

(c) deposit with a Depository to the credit of the Improvement and Extension Fund, to be held in trust by the City, such amount, if any, of any balance remaining after making the deposits under clauses (a) and (b) above (or the entire balance if less than the required amount) as may be required to make the amount deposited in the then current fiscal year to the credit of said Fund equal to the amount recommended by the Engineering Consultants, as provided in the Bond Resolution.

(d) pay current debt service on any Non-Parity Debt; and

(e) deposit with a Depository or Depositories to the credit of such funds of the City as the City Council may provide by resolution, such amount, if any, of the balance remaining after making the deposits and payments under clauses (a), (b), (c) and (d) above; provided that no amounts shall be transferred to the City's General Fund, or any other fund which is not held for the benefit of the Electric System, unless, if that transfer were taken into account as a Current Expense for the purposes of the Rate Covenant, such transfer would not cause the Rate Covenant to be violated.

Bond Service Account. The Trustee will, not more than 10 days immediately preceding each Interest Payment Date, withdraw from the Bond Service Account the amount required for paying interest upon such bonds on such Interest Payment Date and transmit it to the Paying Agent who will apply it to the payment of such interest when due. The Trustee will, not more than 10 days immediately preceding each Principal Payment Date withdraw from the Bond Service Account the amount required for paying all principal coming due on such Principal Payment Date, whether on account of maturity or Sinking Fund Installments, and transmit it to the Paying Agent who will apply it to the payment of such principal upon the presentation and surrender of Bonds on such Principal Payment Date. Notwithstanding the foregoing, the Trustee will, upon the direction of the City, withdraw sums from the Bond Service Account to be applied to purchase Bonds subject to redemption from Sinking Fund Installments on the next succeeding Principal Payment Date provided that the purchase price does not exceed the applicable redemption price at the next Principal Payment Date. Any Bonds so purchased will be presented to the Trustee for cancellation and the next succeeding Sinking Fund Installment will be reduced by the principal amount of the Bonds so canceled.

Reserve Account. Moneys held for the credit of the Reserve Account will be used for the purpose of paying interest on and principal of Parity Bonds whenever and to the extent that the moneys held for the credit of the Bond Service Account are insufficient for such purpose. So long as there is no event of default under the Bond Resolution, all investment earnings and gains on amounts in the Reserve Account will be transferred to the Bond Service Account or the Revenue Fund as the City may direct the Trustee in writing at least ten (10) days prior to each Interest Payment Date. If the Trustee receives no written direction said funds will be transferred to the Bond Service Account on the sixth (6^{th}) day prior to each Interest Payment Date.

Improvement and Extension Fund. Except in those situations provided for in the Bond Resolution, or except in case of an emergency caused by some extraordinary occurrence, so characterized in a certificate signed by the City Manager and filed with the City Controller/Treasurer, and an insufficiency of moneys to the credit of the Revenue Fund to meet such emergency, moneys held for the credit of the Improvement and Extension Fund may be disbursed only for paying all or a part of the cost of unusual or extraordinary maintenance or repairs, renewals or replacements, the cost of acquiring, installing or replacing equipment, the cost of constructing extensions, additions or improvements to the Electric System, or engineering expenses relating to the foregoing,

If at any time the moneys held for the credit of the Bond Service Account and the Reserve Account are insufficient for the purpose of paying the interest on and the principal of the Bonds as such interest and principal become due, then the City will withdraw from the Improvement and Extension Fund and deposit to the credit of the Bond Service Account an amount sufficient to make up any such deficiency. Any moneys so withdrawn from the Improvement and Extension Fund and deposited to the credit of the Bond Service Account must be restored from the first available moneys in the Revenue Fund, after making up such deficiency.

Redemption Account. Moneys deposited into the Redemption Account by the City will be applied by the Trustee at the written direction of the City, either for the optional redemption of Parity Bonds as provided in the Bond Resolution or to the purchase of Parity Bonds in the open market or otherwise, at a price not exceeding the redemption price then applicable thereunder.

Funds held in Trust. Subject to the terms and conditions set forth in the Bond Resolution, moneys to the credit of the Bond Service Account, the Reserve Account and the Redemption Account will be held in trust and disbursed by the Trustee for (a) the payment of interest upon the Bonds issued under the Bond Resolution as such interest becomes due or (b) the payment of the principal of such Bonds at their respective maturities or (c) the payment of the purchase price or redemption price of such Bonds before maturity.

All moneys which the Trustee withdraws from the Interest and Sinking Fund or receives from any other source and sets aside, or deposits with the Paying Agent, for the purpose of paying any of the Bonds secured, either at the maturity thereof or upon call for redemption, will be held in trust for the respective owners of such Bonds.

The moneys in the Bond Service Account, the Reserve Account and the Redemption Account under the Bond Resolution will be held in trust and applied as provided in the Bond Resolution and, pending such application, will be subject to a lien and charge in favor of the owners of Parity Bonds issued and Outstanding under the Bond Resolution and for the further security of such owners until paid out or transferred as provided in the Bond Resolution.

Additional Covenants

Engineering Consultants

The City covenants, that it will, for the purpose of performing and carrying out the duties imposed on the Engineering Consultants under the provisions of the Bond Resolution, employ an independent engineer or engineering firm or corporation having a nationwide and favorable reputation for skill and experience in such work.

The City further covenants that, except as otherwise permitted by provisions of the Bond Resolution, it will not sell, lease or otherwise dispose of the Electric System or any part thereof. The City may from time to time at its own cost and expense, without notice to, and without obtaining the approval of, the Trustee,

(i) remove and dispose of obsolete, worn out or unsuitable equipment of facilities;

(ii) sell, transfer or dispose of any property or equipment in the ordinary course of business;

(iii) demolish, remove or dispose of any facilities or equipment provided the aggregate book value thereof in any fiscal year, as estimated by the City, at the time of such demolition, removal or disposal does not exceed an amount equal to two percent (2%) of the Electric System's net property, plant and equipment as shown in the latest annual report of the City filed with the Trustee; and

(iv) transfer any property to any party if the Trustee receives a report of the Engineering Consultants stating that Net Revenues for the current fiscal year and in each of the two succeeding fiscal years is expected to be at least equal to one hundred and twenty-five percent (125%) of the maximum Principal and Interest Requirements with respect to all bonds outstanding under the Bond Resolution including any Non-Parity Debt.

Any such disposition permitted may only be made on terms as fair and reasonable to the City as would be obtained in any arms length transaction. The City will have the use of the proceeds from any such disposition for any lawful purpose.

Insurance

The City has covenanted that it will maintain a practical insurance program, reasonable terms, conditions, provisions and costs, which the City Manager determines, with the approval of the Engineering Consultants, will afford adequate protection against loss, including loss of Revenues, caused by damage to or destruction of the Electric System or part thereof and also such comprehensive public liability insurance on the Electric System for bodily injury and property damage in such amounts as may be recommended by the Engineering Consultants.

The City further has covenanted that all such insurance policies will be carried by a responsible insurance company or companies and authorized and qualified under the laws of the State of Delaware (the "State") to assume the risks thereof.

Also, the proceeds of all such insurance covering damage to or destruction of the Electric System will be deposited with a Depository and will be available for and shall, to the extent necessary, be applied to the repair, replacement or reconstruction of the damaged or destroyed property. If such proceeds are more than sufficient for such purpose, the balance remaining shall be deposited to the credit of the Improvement and Extension Fund. If such proceeds are insufficient for such purpose, the deficiency may be supplied out of any moneys in the Improvement and Extension Fund. The proceeds of all insurance covering loss of Revenues shall be deposited to the credit of the Revenue Fund.

The City has covenanted that copies of all recommendations and approvals made by the Engineering Consultants under the provisions of the Bond Resolution will be filed with the City and the Trustee and that within the first six (6) months of each fiscal year the City Manager shall file with the Trustee a complete report of the status of the insurance program, such report to be first approved by the Engineering Consultants. Any such recommendation, approval or report of the Engineering Consultants may be relied upon by the Trustee as conclusive.

Instead of maintaining policies of insurance, the City may establish, as part of its insurance program required by the Bond Resolution, one or more self insurance funds to cover one or more of the risks described therein. Any self insurance fund must be established pursuant to a written plan for funding and coverage adopted by the City. The plan must, among other things, require that: (a) all funds be deposited with a fiduciary in trust pursuant to a written agreement; (b) an actuary must prepare a written report recommending, among other things, the amounts to be deposited initially in the self insurance fund and the time by which such initial amounts shall be deposited; (c) a written report by an actuary, on at least a biennial basis, making recommendations of appropriate funding levels; and (d) the actuary hired by the City to make the foregoing reports must be qualified and experienced.

Annual Budgets

The City covenants that not less than forty-five (45) days before the end of each fiscal year the City Manager will prepare and file with the City Council a preliminary budget of Current Expenses of the Electric System for the ensuing fiscal year.

Not later than the 30th day of June in each fiscal year, the City Council will hold a public hearing on each such preliminary budget at which any bond owner and any citizen or taxpayer and any other

interested person may appear in person or by agent or attorney and present any objections he may have to the final adoption of such budget. At least ten (10) days before the hearing, notice of the time and place of such hearing will be published once in a daily newspaper of general circulation published in the City.

The City further covenants that promptly after each such public hearing and on or before the first day of the next ensuing fiscal year the City Council will finally adopt the Annual Budget of Current Expenses of the Electric System for such fiscal year (the "Annual Budget").

If for any reason the City Council does not adopt the Annual Budget of the Electric System before the first day of any fiscal year, the budget for the preceding fiscal year will, until the adoption of the Annual Budget, be deemed to be in force and shall be treated as the Annual Budget.

The City Council may, in its discretion, at any time adopt an amended or supplemental Annual Budget of the Electric System for the remainder of the then current fiscal year by complying with the City and State laws with respect thereto.

Accounting and Audits

The City covenants that it will keep the funds and accounts of the Electric System separate from all other funds and accounts of the City or of any of its departments, and that it will keep accurate records and accounts of all items of cost and of all expenditures relating to the Electric System and of the Revenues collected and the application of such Revenues. Such records and accounts will be open for the inspection of all interested persons.

The City further covenants that in the first month of each fiscal year it will cause an audit to be made of its books and accounts relating to the Electric System by an independent firm of certified public accountants of suitable experience and responsibility to be chosen by the City Council, and will cause an annual report of operations of the Electric System to be prepared, such annual report to cover the matters usually contained in annual reports for similar systems. Within a reasonable time thereafter reports of each such audit and copies of each annual report will be filed with the Trustee and copies of such reports will be mailed by the City Controller/Treasurer to the Engineering Consultants. Each such audit report shall set forth in respect of the preceding fiscal year all expenditures relating to the Electric System, the Revenues collected, the application of such Revenues, a balance sheet and the findings of such certified public accountants as to whether the moneys received by the City under the Bond Resolution have been applied in accordance with the provisions of the Bond Resolution, whether any obligations for Current Expenses were incurred in the preceding fiscal year in excess of the amount appropriated in the Annual Budget for Current Expenses for such fiscal year and whether the City is in default in the performance of any of the covenants pertaining to rates. Such audit reports shall be open to the inspection of all interested persons.

The City further covenants that it will cause any additional reports or audits relating to the Electric System to be made as required by law and that, as often as may be requested, it will furnish to the Trustee such other information concerning the Electric System or the operation thereof as it may reasonably request. The cost of such audits will be treated as a part of the cost of operation.

Security for Deposits

All moneys received by the City under the provisions of the Bond Resolution will be deposited as received with the Trustee or with one or more other Depositories, and will be trust funds under the terms of the Bond Resolution and will not be subject to lien or attachment by any creditor of the City. Such moneys will be held in trust and applied in accordance with the provisions of the Bond Resolution.

No money may be deposited with any Depository, other than the Trustee, in any amount exceeding fifty percent (50%) of the amount which an officer of such Depositary shall certify to the City as the combined capital and surplus of such Depository.

Investment of Funds

Moneys in any fund or account established under the Bond Resolution will be invested by the Trustee in Qualified Investments specified in a written direction of the City filed with the Trustee, or if no such written request is filed, in Qualified Investments selected by the Trustee. Such investments will be made so as to mature, or be redeemable at the option of the owner thereof, on or prior to the date or dates that moneys therefrom are estimated to be required. The Trustee, when authorized by the City may trade with itself in the purchase and sale of securities for such investments. Except as otherwise specifically provided in the Bond Resolution, all earnings and gains derived from the investment of funds and any losses therefrom will be credited to or charged against the Fund or Account in which the investment is made.

For purposes of determining the amount on deposit in any Fund or Account obligations in which money in such Fund or Account are invested will be valued at market value or Amortized Value, whichever is lower.

Whenever a payment or transfer of moneys between two or more of the Funds or Accounts established by the Bond Resolution is permitted or required, such payment or transfer may be made in whole or in part by transfer of one or more investments at a value determined in accordance with the Bond Resolution, provided that the investment transferred is one in which moneys of the receiving Fund or Account could be invested at the date of such transfer.

The Trustee will value the Qualified Investments in the Funds and Accounts established under the Bond Resolution on June 15 of each year or if such day is not a Business Day, on the next succeeding Business Day.

The Trustee will not be liable or responsible for any loss resulting from any investment authorized by the Bond Resolution.

Memorandum

Office of the City Manager
PO Box 475
Dover, DE 19903
Phone: (302) 736-7005
FAX: (302) 736-7002
E-mail: skoenig@dover.de.us

To: **Members of the Legislative, Finance & Administration Committee**

From: **Scott D. Koenig, P.E., City Manager**

Date: **September 4, 2012**

Subject: **Reduced Rates for All-Electric Homes in December, January and February**

I have considered the potential for reduced rates for all-electric homes in December, January and February as requested by the Legislative, Finance & Administration Committee in June 2012. This memorandum is a summary of the information and consideration I have applied to this issue. Currently, the City of Dover maintains more than 23,000 electric meters throughout our electric service territory. This includes area both inside of the city limits as well as outside of the city limits. Unlike the Water & Sewer Utility where the rates outside of the city are 50% higher than the rates inside of the city limits, electric customers pay the same rate both inside and outside of the city limits. In January 1994, electric customers were charged a summer rate as well as two (2) winter rates depending upon the amount of kilowatts used. In November of 2005, a net metering tariff was implemented for certain customers. In 2006, the City of Dover abandoned the summer/winter rate philosophy and implemented a uniform energy charge for all consumption on residential meters. This uniform energy charge for all consumption has remained the utility's philosophy.

At one point in time, the City of Dover offered a reduced rate for all-electric homes in December, January and February. Most likely this program was used to entice customers to convert to or construct all-electric homes. While this program may have been appropriate during its prior implementation, the current electric market does not warrant such an approach. If the City were to reinstate such a program, our other utility customers would be subsidizing the rate for this special class of customers. Our most recent rate study did not contemplate such a scenario; therefore, it is difficult for me to calculate the financial impact of creating this special class. I am also concerned about the City's ability to monitor such a program. Our staff is stretched thin at this time so taking on additional responsibilities to ensure that homes are all-electric would be an added burden on staff. Since we have customers outside of city limits, we would need to conduct a detailed survey of the home to determine whether or not a residence is all-electric or not.

While I understand the interest is such a program, I cannot support the request based on the current market conditions related to the City's Electric Utility. Our rate structure does not afford for this special classification of residential customers and the added staff burdens would not be beneficial to our remaining customers.

cc: City Clerk's Office