

**TRUST AGREEMENT  
FOR  
THE FORT WORTH PERMANENT FUND**

This Trust Agreement (the “*Agreement*”) is entered into by and between the **City of Fort Worth**, a home rule municipal corporation of the State of Texas located within Tarrant, Denton, Parker and Wise Counties, Texas, as Grantor (the “*City*”), and **Wells Fargo Bank, N.A.**, as the Trustee.

**ARTICLE I  
CREATION OF THE TRUST; PURPOSE AND INTENT**

A. Creation of the Trust. In connection with the execution of this Agreement, the City assigns certain property to Wells Fargo Bank, N.A., as Trustee. Trustee agrees to receive and hold such assigned property and all other property which may hereafter be assigned to it as Trustee of this trust (the “*Trust*”), and any income earned from the investment of such property, pursuant to the provisions of this Agreement, provided, however, that the Trustee shall have the right to refuse to accept property (other than United States currency) that the Trustee deems to be unacceptable in the reasonable exercise of Trustee’s discretion. This Trust will be known as “**The Fort Worth Permanent Fund.**” It shall be sufficient that it be referred to as such in any other instrument.

B. Purpose and Intent. This Trust is to be administered solely for the benefit of the City, subject to the additional restrictions and limitations set forth in this Agreement. The purpose of this Trust is to enable prudent financial management of gas well revenues derived from bonuses and royalties received from city-owned lands and other funds representative of mineral revenues (the “*Property*”) to ensure the long-term preservation and growth of the Trust estate to provide a long-term source of revenue for the benefit of both present and future citizens of the City. The City intends that this Trust be treated as a wholly owned grantor trust as contemplated under subchapter J of subtitle A of the Internal Revenue Code of 1986, as amended (the “*Code*”), and that the City be the deemed owner of the income, gains, deductions, losses and credits of the Trust for federal income tax purposes. All provisions of this Agreement shall be construed consistent with this intent.

C. Trust a Separate Entity from the City. The Trust shall be a separate legal entity from the City and the Trustee, and the Trustee shall have sole responsibility and authority for the Trustee’s procedures, personnel, and books and the Trust’s accounts. Absent a written agreement to the contrary, (i) neither the City nor its elected officials, employees, or agents shall be liable for the obligations, liabilities, acts or omissions of the Trust and the Trustee, and (ii) neither the Trust nor the Trustee shall be liable for the obligations, liabilities, acts or omissions of the City. Neither the corpus of the Trust nor any income, revenue, return or gain thereon shall be used to pay or provide for or secure the payment of any bonds, notes, certificates or other obligations of the City or its instrumentalities, the interest on which for federal income tax purposes is excludable from gross income, as defined in section 61 of the Internal Revenue Code of 1986, as amended, of the owners thereof pursuant to section 103 of the Code.

**ARTICLE II**  
**ADDITIONS TO TRUST**

Subsequent to the Effective Date (as hereinafter defined), the Trust may receive and accept Property from the City to be held, managed and distributed in accordance with, and pursuant to, the provisions of this Agreement, provided, however, that the Trustee shall have the right to refuse to accept property (other than cash transfers from a United States bank) that the Trustee deems to be unacceptable in the reasonable exercise of Trustee's discretion. When assigning Property to the Trust, the City shall notify the Trustee of the source of the amounts contributed to the Trust and shall name the particular fund or sub-account of the Trust (as described in Article III of this Agreement) to which the Property shall be allocated. The Trust is prohibited from receiving and accepting any property from the City without the notification and account designation described above. In addition, the Trust is prohibited from receiving and accepting any property directly from any other party, provided however, that this prohibition shall not preclude the receipt or acceptance of income produced by Trust assets or of proceeds derived from the sale or transfer of Trust assets in accordance with the terms of this Agreement.

**ARTICLE III**  
**SEPARATE FUNDS OF THE TRUST**

A. Funds. After the Effective Date, the Trustee is to establish a consolidated trust account (i.e. the Fort Worth Permanent Fund) with the Property of the Trust divided into five (5) separate funds or sub accounts (collectively the "Funds") as follows:

(1) The Aviation Endowment Gas Lease Fund. Amounts contributed to the Trust that represent Property attributable to airports owned by the City shall be allocated to the Aviation Endowment Gas Lease Fund.

(2) The Nature Center Endowment Gas Lease Fund. Amounts contributed to the Trust that represent Property attributable to the Fort Worth Nature Center and Refuge shall be allocated to the Nature Center Endowment Gas Lease Fund.

(3) The Park System Endowment Gas Lease Fund. Amounts contributed to the Trust that represent Property attributable to public parks owned by the City shall be allocated to the Park System Endowment Gas Lease Fund. Trustee shall divide and account for the Park System Endowment Gas Lease Fund between the "Restricted Park Endowment Gas Lease Fund" and the "Unrestricted Park Endowment Gas Lease Fund" in accordance with written direction provided by the City at the time assets are transferred.

(4) The Water and Sewer Endowment Gas Lease Fund. Amounts contributed to the Trust that represent Property attributable to the water and sewer systems of the City shall be allocated to the Water and Sewer Endowment Gas Lease Fund.

(5) The General Endowment Gas Lease Fund. Any other amounts contributed to the Trust that represent Property not generated from a specific source identified above shall be allocated to the General Endowment Gas Lease Fund.

In determining the source to which the Property is attributable for purposes of fund allocation, the Trustee shall be entitled to rely exclusively upon the City's written direction. The Trustee shall, upon the direction of the City, from time to time create additional separate funds at the time the City assigns additional Property to the Trust. Likewise, the Trustee shall, upon the direction of the City, from time to time create any other sub-accounts under the various funds of the Trust at the time the City assigns additional Property to the Trust.

B. Distributions. The goals of the Trust are to produce income from investments and provide a long-term source of revenue for the designated purposes of the different Funds of the Trust for the benefit of not only the present citizens of the City but for future generations as well. Each year the Trustee, in close cooperation with the Chief Financial Officer of the City ("Chief Financial Officer"), will make distributions of income (and not principal) from the different Funds of the Trust consistent with the goal to preserve, as well as increase, the corpus of the Trust and the goal to provide cash flow for the purposes of the various Funds. The amount of income available to be distributed to the City each year from a particular Fund of the Trust shall be determined by the Trustee in consultation with the Chief Financial Officer and reported to the City by July 1st of each year. In determining the amount of income to be distributed to the City each year from a particular Fund of the Trust, the Trustee shall follow the written direction of the Chief Financial Officer unless the Trustee determines that following such written direction would result in a breach of the Trustee's fiduciary duty or would violate the terms of the Agreement, and Trustee shall not be held liable for following directions of the Chief Financial Officer that Trustee determines, in the exercise of its reasonable discretion, does not constitute a breach of the Trustee's fiduciary duty or would violate the terms of the Agreement. The total amount of income to be distributed from each of the Funds in a particular year shall be disbursed by the Trustee to the City on or before October 1st of the applicable year. The Trustee shall identify the Fund from which each disbursement is made. The amounts distributed may be expended as determined in the sole discretion of the Fort Worth City Council, and the Trustee shall have no obligation to monitor the uses and purposes of such expenditures, nor shall Trustee be liable for the manner in which such amounts are expended by the City following disbursement.

#### **ARTICLE IV** **TRUSTEE PROVISIONS**

A. Trustee.

1. Qualifications for Trustee. A corporate investment firm or bank, appointed by the City Council, shall serve as the sole Trustee of the Trust; individuals are prohibited from serving as Trustee of the Trust.

2. Initial Trustee. Wells Fargo, N.A. is hereby appointed as the initial Trustee of the Trust.

3. Term. Each Trustee is to serve for a term of five (5) years and until its successor is appointed unless its service concludes earlier due to its resignation or removal. The Trustee may continue to serve for additional periods by mutual written agreement of the Parties.

4. Vacancies. The City Council shall have the power to appoint successor Trustees of the Trust in accordance with the City's Charter and Ordinances and State law. The City Council is not prohibited from re-selecting the then-serving, and thus outgoing, Trustee to serve as Trustee for additional terms.

5. Resignation. Any Trustee may resign at any time by giving sixty (60) days written notice to the City. Upon the expiration of sixty (60) days from the date of receipt of such notice, such Trustee's resignation shall be effective, provided a successor Trustee has been appointed by the City Council to succeed to the resigning Trustee's office, if necessary, and provided the Trustee, after receipt of transfer instructions, has completely delivered all Trust assets then in its possession and provided a current statement of account including a current list of Trust assets reflecting information as of the final date of service provided by the Trustee to its successor Trustee or to the City if no successor Trustee is appointed. Upon such resignation, following delivery of the Trust assets and of a final statement of account, including a current list of Trust assets reflecting information as of the final date of service provided by the Trustee, the resigning Trustee shall be relieved of any further duties and responsibilities and shall not be liable or responsible for the acts of any successor Trustee or of the City if no successor Trustee is appointed. Trustee shall be entitled to Compensation (as described below) for services rendered through the effective date of transfer of assets to the successor Trustee or to the City if no successor Trustee is appointed.

6. Removal. A Trustee may be removed with or without cause by the City Council. The City Council shall execute and deliver to the Trustee a written instrument declaring such Trustee removed from office, specifying the effective time and date of removal, and identifying the successor Trustee, if necessary. This instrument shall be accompanied by transfer instructions for all Trust assets then in Trustee's possession. Upon such removal, following delivery of the Trust assets and of a final statement of account, including a current list of Trust assets reflecting information as of the final date of service provided by the Trustee, the removed Trustee shall be relieved of any further duties and responsibilities and shall not be liable or responsible for the acts of any successor Trustee or of the City if no successor Trustee is appointed. Trustee shall be entitled to Compensation (as described below) for services rendered through the effective date of transfer of assets to the successor Trustee or to the City if no successor Trustee is appointed.

7. Written Instruments. Any appointment described in this Paragraph A must be made by a written instrument, signed and acknowledged, and shall be maintained by the Trustee in the Trust's permanent records. After approval by the City Council, the City Manager, or his designee, shall have the authority to sign on behalf of the City. The Trustee shall receive a copy of the City Council instrument approving the appointment of the Trustee.

8. Reliance. Any successor Trustee may act without examination or review, without liability for failing to make or having made such examination or review, and without the necessity for any conveyance or transfer of prior Trustee's books and records. Any purchaser from, or other person dealing with, the Trustee shall be protected in all such transactions regardless of the extent to which the Trustee acting on behalf of the Trust is a successor Trustee.

9. Reorganization of Corporate Trustee. If the corporate Trustee then serving as Trustee hereunder should change its name, be reorganized, merged or consolidated with another corporation, or assign its trust functions to another corporation, the resulting corporation which succeeds to its fiduciary business shall become the Trustee under this Agreement, or be eligible for appointment as Trustee, as the case may be.

B. Written Instrument Required. A Trustee shall signify its acceptance of appointment under this Trust by a written instrument, signed and acknowledged and maintained in the Trust's permanent records, with a copy to be provided to the City. For purposes of the initial Trustee, execution of this Agreement shall signify acceptance of appointment. Any successor Trustee shall have the same powers, rights and duties as its predecessor Trustee, as if originally appointed, and shall have the same title to the Trust estate as its predecessor.

C. Powers of Trustee. The Trustee shall have all powers granted to trustees by the common law or any statute, including every power granted to trustees by the "Texas Trust Code," or any future amendment thereof which serves to increase the extent of powers granted to trustees. The Trustee shall also have the following additional powers:

1. Investment of Trust Property. To invest and reinvest the Trust estate from time to time, in accordance with the then-current Investment Policy and Strategy adopted by the City Council, in any property, real, personal, or mixed, including without limitation securities of every kind and nature, bonds, debentures, preferred stocks, common stocks, mutual funds, proprietary mutual funds, mortgages, mortgage participations, and interests in common trust funds, all with discretion to convert realty into personalty or personalty into realty or otherwise change the character of the Trust estate;

2. Nominees. To hold any securities or other property of the Trust estate for any length of time in the name of a nominee or nominees without mention of any trust or fiduciary capacity in any instrument of ownership;

3. Employment of Agents. After advance written notice to the City, to employ such banks, professional investment advisers (whether corporate or individual), attorneys, and other agents or servants, and to delegate to them such duties, rights, and powers of the Trustee for such period as the Trustee may deem appropriate; to pay such persons reasonable compensation out of the Trust estate; all regardless of whether any person is (or is a partner or employee of, or is owned by) the Trustee;

4. Employment of Custodians and Brokers. To employ such custodians and brokers and to delegate to them such duties, rights, and powers as the Trustee may deem appropriate to pay such persons reasonable compensation out of the Trust estate; all regardless of whether any person is (or is a partner or employee of, or is owned by) the Trustee. The Trustee will perform due diligence and maintain information on each custodian or broker, including a process to ensure best execution. The Trustee shall review the performance, financial condition and registration of all qualified counterparties on an ongoing basis;

5. Banking Authority. To open bank accounts with any banks or trust companies as the Trustee may from time to time select and to retain any bank or trust company, including itself, that the Trustee may select to account for the Trust estate and provide investment advice and services (The banks or trust companies that the Trustee may select are authorized, empowered and directed to act or refrain from acting, from time to time, and in all matters pertaining to this Trust, in conformity with the instructions of the Trustee, evidenced by a resolution agreed to by the Trustee and certified to by the Trustee, and any banks or trust companies selected by the Trustee shall be fully protected in so acting or refraining from acting) and the City waives any conflict of interest the Trustee may have if it chooses itself or an affiliate; and

6. Powers Under Changed Conditions. To exercise such other powers as may be necessary or desirable in the management and control of the Trust estate (whether or not similar to those here enumerated) to enable the Trustee to act under changed conditions, the exact nature of which cannot be foreseen.

Notwithstanding the powers given above to the Trustee, it is expressly provided that the grant of rights, powers, privileges, and authority to the Trustee in connection with the imposition of duties upon the Trustee by any provision of this Trust or by any statute relating thereto will not be effective if and to the extent that the same, if effective, would jeopardize the status of this Trust as a wholly owned grantor trust as contemplated under Subchapter J of subtitle A of the Code or would cause the Trust to violate the provisions of the Public Funds Investment Act presently codified at Section 2256 of the Texas Government Code, or any other state or federal statute applicable to the Trust. It is expressly provided that the Trustee may not in the exercise of its discretion make any determination inconsistent with the foregoing. The Trustee's powers are exercisable solely in a fiduciary capacity consistent with and in furtherance of the purposes of this Trust as specified in Article I of this Agreement and not otherwise.

D. Bond. The Trustee shall not be required to furnish any bond or other security in any jurisdiction, or if a bond be required, the Trustee may not be required to furnish any sureties thereon.

E. Compensation. A Trustee shall receive compensation as mutually agreed to in writing by the Trustee and the City, provided that in the event a bank is serving as Trustee, such compensation shall be based on the bank's Fee Schedule as required by applicable law. A Trustee shall be reimbursed for reasonable out-of-pocket expenses incurred in carrying out the duties of the Trustee.

F. Records and Reports. The Trustee shall keep accurate and complete records of Trust transactions. The Trustee shall issue quarterly reports to the City Council and the Chief Financial Officer.

G. Persons Dealing with Trustee. No purchaser from or other person dealing with the Trustee will be responsible for the application of any purchase money or other thing of value paid or delivered to the Trustee, but the receipt of the Trustee will be a full discharge. No purchaser from or other person dealing with the Trustee and no issuer, transfer agent, or other agent or any issuer of any securities to which any transaction with the Trustee may relate, will be under any obligation to ascertain or inquire into the power of the Trustee to transfer, pledge, or otherwise in any manner dispose of or deal with any securities or other property comprising part of the Trust estate.

H. Liability of Trustee. The Trustee shall not be responsible or liable for any loss which may occur by reason of depreciation in value of the properties at any time belonging to the Trust estate, nor for any other loss which may occur, so long as the Trustee acted in good faith and in accordance with the terms of this Agreement. The Trustee will not be liable or responsible for the acts, omissions, or defaults of any agent or other person to whom duties may be properly delegated hereunder if such agent or person was appointed with due care.

I. Limitation of Individual Liability of Trustee. The Trustee may not incur any individual liability to any person or corporation dealing with the Trustee in the administration of the Trust estate; and the Trustee may receive reimbursement from the Trust estate for any liability, whether in contract or in tort, incurred in the administration of the Trust estate in accordance with the provisions hereof, and the Trustee may contract in such form that such Trustee will be exempt from such individual liability and that such liability will be limited to the Trust estate. Any Trustee who is made a party or is threatened to be made a party to any action, suit or proceeding, whether civil, criminal, administrative or investigative (hereinafter a "*proceeding*"), because it was a Trustee, shall be indemnified and held harmless from the Trust estate to the fullest extent authorized by Texas law, as it exists or may hereafter be amended, against all expense, liability and loss (including attorneys' fees, judgments, fines, penalties and amounts paid or to be paid in settlement) reasonably incurred or suffered by such Trustee in connection with any proceeding, and such indemnification shall continue as to a Trustee who has ceased to be a Trustee. The foregoing indemnity shall likewise extend to employees or agents acting on behalf of the Trustee.

## ARTICLE V

### **AMENDMENT AND TERMINATION**

A. Amendment. The reporting date identified at Section B of Article III of this Agreement may be amended at any time or times upon the affirmative vote of the majority of all the members of the City Council so long as such amendment does not cause the Trust to fail to qualify as a wholly owned grantor trust as contemplated under subchapter J of subtitle A of the Code. **Except as otherwise provided below, any other provision of this Agreement ("Provision") may be amended at any time or times upon the resolution of the City Council** so long as such amendment does not cause the Trust to fail to qualify as a wholly owned grantor trust as contemplated under subchapter J of subtitle A of the Code **provided, however, before the City**

Council may vote upon any amendment of a Provision, the City Council must adhere to the following process:

1. Notify the Trustee and the Chief Financial Officer in writing of the proposed amendment.
2. Hold a meeting with the Trustee and the Chief Financial Officer no earlier than thirty (30) days following the Trustee's and the Chief Financial Officer's receipt of written notice of the proposed amendment.
3. Wait at least fifteen (15) days from the date of the meeting with the Trustee and the Chief Financial Officer to afford the Trustee and Chief Financial Officer an opportunity to provide written feedback.
4. Hold no fewer than three (3) public hearings explaining the reasons for the proposed amendment and obtaining public input concerning such proposed amendment. Notice of the date, time, location and purpose of said public hearings must be published in the local section of a newspaper of general circulation in the City once a week for three consecutive weeks. The last day of publication must not be less than one week nor more than two weeks before the date of the first public hearing.
5. Hold a subsequent meeting with the Trustee and the Chief Financial Officer within thirty (30) days following the third public hearing.
6. Hold a City Council meeting to vote upon the proposed amendment. The meeting may be scheduled no sooner than six (6) months but no later than nine (9) months after the notice described in Item 1 of this Paragraph A was issued to the Trustee and the Chief Financial Officer.

After following the above-described process, a Provision may be amended upon the affirmative vote of three-fourths of all of the members of the City Council, provided, however, that the responsibilities and liabilities of the Trustee may not change without the Trustee's approval. All instruments amending this Agreement shall be noted upon or kept attached to the executed original of this Agreement held by the Trustee. Notwithstanding anything to the contrary herein, the provisions of Article I.C. may not be amended or revised to permit the use of the corpus of the Trust nor any income, revenue, return or gain thereon to pay or provide for or secure the payment of any bonds, notes, certificates or other obligations of the City or its instrumentalities, the interest on which for federal income tax purposes is excludable from gross income, as defined in section 61 of the Internal Revenue Code of 1986, as amended, of the owners thereof pursuant to section 103 of the Code.

B. Termination. This Agreement may be terminated at any time for any purpose upon the resolution of three-fourths of all members of the City Council; provided, however, before the City Council may vote upon a termination of this Agreement, the City Council must adhere to the following process:

1. Notify the Trustee and the Chief Financial Officer in writing of the proposed termination.
2. Hold a meeting with the Trustee and the Chief Financial Officer no earlier than thirty (30) days following the Trustee's and the Chief Financial Officer's receipt of written notice of the proposed termination.



3. Hold no fewer than three (3) public hearings explaining the reasons for the proposed termination and obtaining public input concerning such proposed termination. Notice of the date, time, location and purpose of said public hearings must be published in the local section of a newspaper of general circulation in the City once a week for three consecutive weeks. The last day of publication must not be less than one week nor more than two weeks before the date of the first public hearing.
4. Hold a subsequent meeting with the Trustee and the Chief Financial Officer within thirty (30) days following the third public hearing.
5. Hold a City Council meeting to vote upon the proposed termination. The meeting may be scheduled no sooner than six (6) months but no later than nine (9) months after the notice described in Item 1 of this Paragraph C was issued to the Trustee and the Chief Financial Officer.

After following the above-described process, the Agreement may be terminated if three-fourths of all members of the City Council vote in favor of such termination. Upon termination of the Trust, all assets of the Trust shall be distributed to the City and the Trustee shall not be liable for the use or allocation of such assets upon receipt by the City.

## **ARTICLE VI**

### **DEFINITIONS**

A. Trust Estate. In this Agreement and in any amendments to it, references to “*Trust estate*” shall mean the cash, assets, or securities contributed to the Trust by the City and the income earned from investing those contributions.

B. Trustee. In this Agreement and in any amendments to it, references to “*Trustee*” shall mean the Trustee then serving in office, whether an original or successor Trustee, unless the context clearly provides otherwise.

## **ARTICLE VII**

### **MISCELLANEOUS PROVISIONS**

A. Trust Situs. This Agreement is accepted by the Trustee under the laws of the State of Texas, and all questions concerning its validity, construction, and administration are to be determined in accordance with the laws of the State of Texas.

B. Effect of Divisions and Captions. The division of this Agreement into articles, paragraphs, sections and subsections and the use of captions are solely for convenience and shall have no legal effect in construing the provisions of this Agreement.

C. Gender and Number Agreement. Whenever the masculine, feminine or neuter gender is used inappropriately in this Agreement, this Agreement shall be read as if the appropriate gender was used, and, unless the context otherwise requires, the singular shall include the plural, and vice versa.

D. Invalidity. If any provision of this Agreement should be held invalid or illegal for any reason, that provision shall not affect the entirety of this Agreement, but the balance of the provisions of this Agreement shall remain operative so that this Agreement shall be construed as if that invalid or illegal provision never existed.

E. Fiscal Year. The fiscal year of the Trust shall conclude on September 30<sup>th</sup> of each year.

The parties hereto have executed this Agreement effective as of the 10<sup>th</sup> day of June, 2013 (the "Effective Date").

**GRANTOR:**

**City of Fort Worth**

By: *Susan Alanis*  
Name: Susan Alanis  
Title: Assistant City Manager

**TRUSTEE:**

**Wells Fargo Bank, N.A.**

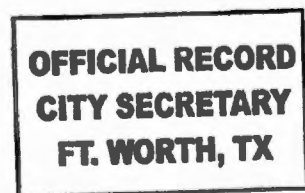
By: *Heidi Coombs*  
Name: Heidi Coombs  
Title: Vice President

**Approved as to Form and Legality:**

By: *Denis C. McElroy*  
Name: Denis C. McElroy  
Title: Assistant City Attorney

**Attest:**

*Mary Kayser*  
Mary Kayser, City Secretary



**ACKNOWLEDGEMENT**

**THE STATE OF TEXAS** §  
§  
**COUNTY OF TARRANT** §

This instrument was acknowledged before me on this 7<sup>th</sup> day of June, 2013, by Susan Alanis, Assistant City Manager of the City of Fort Worth, Texas, a Texas municipal corporation, on behalf of the City of Fort Worth, Texas.



Linda M Hirrlinger  
Notary Public, State of Texas

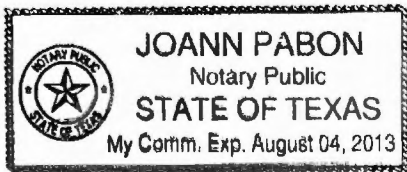
My commission expires: 2/2/14

My commission number: 12414474-8

**ACKNOWLEDGMENT**

**THE STATE OF TEXAS** §  
§  
**COUNTY OF TARRANT** §

This instrument was acknowledged before me on this 10<sup>th</sup> day of June, 2013, by Heidi Coombs, Vice President for Wells Fargo Bank, N.A., a national bank association, on behalf of Wells Fargo Bank, N.A.



Joann Pabon  
Notary Public, State of Texas

My commission expires: 8/4/2013

My commission number: \_\_\_\_\_