



**NOTICE OF WORK SESSION AND REGULAR MEETING
AGENDA
LANCASTER CITY COUNCIL
MUNICIPAL CENTER CITY COUNCIL CHAMBERS
211 N. HENRY STREET, LANCASTER, TEXAS**

Monday, March 24, 2014 - 7:00 PM

6:30 p.m. WORK SESSION:

1. Receive a presentation from the City Attorney Robert Hager to consider Amending the Code of Ordinances by Amending Chapter 8, Article 8.08 “Peddlers, Solicitors, Itinerant Vendors and Handbill Distributors”, Section 8.08.042 “Depositing Or Distributing in Public Place” to Provide for the Distribution of Handbills for Religious or Political Purposes on Public Property at Times and in Areas Which Have Been Designated by the City as Reasonable and Appropriate for Such Action; and by Amending Section 8.08.046, “Permit Required; Duration; Hours of Operation” By Adding Subsection (d) to Provide an Exception to the Permit Requirement for Those Individuals Distributing Handbills or Other Written Material with a Political or Religious Purpose; Providing a Penalty of Fine Not to Exceed Five Hundred Dollars (\$500.00).
2. Receive a presentation regarding a license and use agreement by and between the City of Lancaster and the Lancaster Chamber of Commerce for the 2nd Saturday on The Square event.

Adjourn Work Session

7:00 p.m. REGULAR MEETING:

CALL TO ORDER

INVOCATION: Ministerial Alliance

PLEDGE OF ALLEGIANCE: Councilmember Carol Strain-Burk

CITIZENS’ COMMENTS:

At this time citizens who have pre-registered before the call to order will be allowed to speak on any matter other than personnel matters or matters under litigation, for a length of time not to exceed three minutes. No Council action or discussion may take place on a matter until such matter has been placed on an agenda and posted in accordance with law.

CONSENT AGENDA:

Items listed under the consent agenda are considered routine and are generally enacted in one motion. The exception to this rule is that a Council Member may request one or more items to be removed from the consent agenda for separate discussion and action.

- C1. Consider approval of minutes from the City Council Regular Meeting held March 10, 2014.
- C2. Consider a resolution approving the terms and conditions of the City owned T-Hangar non-commercial leases from buildings 690 & 700 at the Lancaster Regional Airport.
- C3. Consider a resolution authorizing the purchase of motor fuel (unleaded and diesel) from Martin Eagle Oil Company as the Primary, TAC Energy as the Secondary, and Douglass Distributing as the Alternate through an Interlocal Agreement with Tarrant County at the unit prices stated.
- C4. Consider an ordinance amending the code of ordinance by amending chapter 14, article 14.10 "Abandoned or Junked vehicles," division 1, "Generally", section 14.10.001, "Definitions", providing for a new definition for inoperable motor vehicle; Amending division 2, "Abandoned Vehicles", section 14.10.031, "Authority to take into custody."

ACTION:

- 5. Discuss a resolution to accept the terms and conditions of a grant with the United States Department of Homeland Security, Federal Emergency Management Agency, Staffing for Adequate Fire and Emergency Response (SAFER) grant in the amount of \$740,640.00.
- 6. Consider an ordinance amending the Code of Ordinances by amending Chapter 8, Article 8.08 "Peddlers, Solicitors, Itinerant Vendors and Handbill Distributors", Section 8.08.042 "Depositing or Distributing in public place" to provide for the distribution of handbills for religious or political purposes on public property at times and in areas which have been designated by the city as reasonable and appropriate for such action; and by amending Section 8.08.046, "Permit Required; duration; hours of operation" by adding Subsection (d) to provide an exception to the permit requirement for those individuals distributing handbills or other written material with a political or religious purpose; amending providing a penalty of fine not to exceed five hundred dollars (\$500.00).
- 7. Consider a resolution approving the terms and conditions of a License and Use agreement by and between the City of Lancaster and the Lancaster Chamber of Commerce, Inc. for the use of public rights of way..
- 8. Discuss and Consider a Resolution amending the Wholesale Treated Water Contract by and between the City of Lancaster and the City of Wilmer for the sale of wholesale treated water.

9. Consider a resolution approving a contract with Dallas County Tax Assessor Collector providing for the assessment and collection of ad valorem property taxes for all properties subject to the City of Lancaster's taxing jurisdiction; pursuant to Section 6.24 of the Texas Property Tax Code and Section 791.011 of the Texas Government Code.
10. Consider a resolution authorizing the City Manager to execute a Memorandum of Understanding by and between the City of Lancaster and Con-Way Truckload, Inc.

EXECUTIVE SESSION:

11. The City Council shall convene into closed executive session pursuant to Section § 551.074 (a)(1) of the TEXAS GOVERNMENT CODE to deliberate:
 - (a) The appointment, employment, evaluation duties or dismissal of a public officer, to wit: Municipal Court Judge; and,
 - (b) The duties of a public officer; to wit: City Attorney.
12. Reconvene into open session. Consider and take appropriate action(s), if any, on closed/executive session matters.

ADJOURNMENT

EXECUTIVE SESSION: The Council reserves the right to convene into executive session on any posted agenda item pursuant to Section 551.071(2) of the TEXAS GOVERNMENT CODE to seek legal advice concerning such subject.

ACCESSIBILITY STATEMENT: The Municipal Center is wheelchair-accessible. For sign interpretive services, call the City Secretary's office, 972-218-1311, or TDD 1-800-735-2989, at least 72 hours prior to the meeting. Reasonable accommodation will be made to assist your needs.

Certificate

I hereby certify the above Notice of Meeting was posted at the Lancaster City Hall on March 21, 2014 @ 4:25 p.m. and copies thereof were provided to the Mayor, Mayor Pro-Tempore, Deputy Mayor Pro-Tempore and Council members.



Sorangel O. Arenas
City Secretary

LANCASTER CITY COUNCIL

Work Session Agenda Communication

March 24, 2014

Item 1

Receive a presentation from City Attorney Hager to consider an Ordinance Amending the Code of Ordinances by Amending Chapter 8, Article 8.08 “Peddlers, Solicitors, Itinerant Vendors and Handbill Distributors”, Section 8.08.042 “Depositing Or Distributing in Public Place” to Provide for the Distribution of Handbills for Religious or Political Purposes on Public Property at Times and in Areas Which Have Been Designated by the City as Reasonable and Appropriate for Such Action; and by Amending Section 8.08.046, “Permit Required; Duration; Hours of Operation” By Adding Subsection (d) to Provide an Exception to the Permit Requirement for Those Individuals Distributing Handbills or Other Written Material with a Political or Religious Purpose; Providing a Penalty of Fine Not to Exceed Five Hundred Dollars (\$500.00).

This request supports the City Council 2013-2014 Policy Agenda.

Goal: Healthy, Safe and Vibrant Neighborhoods

Background

A concern was raised regarding enforcement of the Code of Ordinance; Chapter 8, Article 8.08 “Peddlers, Solicitors, Itinerant Vendors and Handbill Distributors”, Section 8.08.042 “Depositing Or Distributing in Public Place” to Provide for the Distribution of Handbills for Religious or Political Purposes on Public Property at Times and in Areas Which Have Been Designated by the City as Reasonable and Appropriate for Such Action; and by Amending Section 8.08.046, “Permit Required; Duration; Hours of Operation” By Adding Subsection (d) to Provide an Exception to the Permit Requirement for Those Individuals Distributing Handbills or Other Written Material with a Political or Religious Purpose. The City Attorney reviewed the current ordinance and determined that additional language was necessary to address political and religious handbill distribution.

At the February 24, 2014 regular meeting of the City Council, this item was presented for consideration. Council requested the City Attorney provide a briefing regarding handbill distribution, peddlers, solicitors, itinerant vendors and handbill distributors.

Considerations

- **Operational** – In compliance with the requirements of Chapter 8, the Lancaster Police Department (PD) has an application that solicitors complete prior to soliciting within the community. This registration process allows for greater awareness when individuals, peddlers, solicitors and itinerant vendors are within the community. There are state exemptions available to religious and political organizations and the ordinance was silent in this regard. This amendment will specifically provide an exception for those individuals distributing handbills or other written material with a political or religious purpose.
- **Financial** – There are no financial implications related to the amendment of this ordinance.
- **Legal** – The City Attorney prepared the ordinance and has approved it as to form.
- **Public Information** – This item was considered at the February 24, 2014 regular meeting of the City Council and this work session has been noticed in accordance with the Texas Open Meetings Act.

Options/Alternatives

Council will receive a presentation from the City Attorney and provide direction.

Attachments

- Ordinance
-

Submitted by:

Opal Mauldin Robertson, City Manager
Rona Stringfellow, Assistant City Manager
Cheryl Wilson, Police Chief

AN ORDINANCE OF THE CITY OF LANCASTER, TEXAS

ORDINANCE NO.

AN ORDINANCE OF THE CITY OF LANCASTER, TEXAS, AMENDING THE CODE OF ORDINANCES BY AMENDING CHAPTER 8, ARTICLE 8.08 “PEDDLERS, SOLICITORS, ITINERANT VENDORS AND HANDBILL DISTRIBUTORS”, SECTION 8.08.042 “DEPOSITING OR DISTRIBUTING IN PUBLIC PLACE” TO PROVIDE FOR THE DISTRIBUTION OF HANDBILLS FOR RELIGIOUS OR POLITICAL PURPOSES ON PUBLIC PROPERTY AT TIMES AND IN AREAS WHICH HAVE BEEN DESIGNATED BY THE CITY AS REASONABLE AND APPROPRIATE FOR SUCH ACTION; AND BY AMENDING SECTION 8.08.046, “PERMIT REQUIRED; DURATION; HOURS OF OPERATION” BY ADDING SUBSECTION (d) TO PROVIDE AN EXCEPTION TO THE PERMIT REQUIREMENT FOR THOSE INDIVIDUALS DISTRIBUTING HANDBILLS OR OTHER WRITTEN MATERIAL WITH A POLITICAL OR RELIGIOUS PURPOSE; AMENDING PROVIDING A PENALTY OF FINE NOT TO EXCEED FIVE HUNDRED DOLLARS (\$500.00); PROVIDING FOR SEVERABILITY; PROVIDING A SAVINGS CLAUSE; PROVIDING A REPEALING CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Article 8.08 of the Lancaster Code of Ordinances provides regulations for the distribution of handbills within the City; and

WHEREAS, City staff desires to amend Article 8.08 to provide for distribution of handbills for religious or political purposes on public property at a time and place which is reasonable and shall not interfere with the reasonable and customary use of the property by other members of the general public; and

WHEREAS, City staff desires to exclude those individuals distributing handbills for religious purposes or nonprofit purposes from having to obtain a permit from the City; and

WHEREAS, the City Council has determined it is in the best interest of the citizens of the City of Lancaster, Texas to amend Article 8.08 of the Code of Ordinances.

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

SECTION 1. That Chapter 8 of the Lancaster Code of Ordinances be, and the same is, hereby amended by amending Article 8.08, “Peddlers, Solicitors, Itinerant Vendors and Handbill Distributors”, Section 8.08.042, “Depositing or Distributing in Public Place” to read as follows:

“Sec. 8.08.042 Depositing or distributing in public place

- (a) Generally. It shall be unlawful for any person to deposit, place, throw, scatter or cast any handbill in or upon any public place within this city; provided, however, that it shall not be unlawful for any person to hand out or distribute, without charge to the receiver thereof, any handbill in any public place to any person willing to accept such handbill.
- (b) Distribution of Handbills for Political Purpose or Religious Purpose. The distribution of handbills for political purposes or religious purposes shall be allowed on city-owned public property at such time and in such specific areas designated by the City Manager or his designee. Such designation shall not unreasonably limit the ability of the handbill distributor to distribute the political or religious handbills, but shall be designed to prevent the unreasonable interference with the ordinary and customary use of the property.”

SECTION 2. That Chapter 8 of the Lancaster Code of Ordinances be, and the same is, hereby amended by amending Article 8.08, “Peddlers, Solicitors, Itinerant Vendors and Handbill Distributors”, Section 8.08.046, “Permit required; duration; hours of operation” to read as follows:

“Sec. 8.08.046 Permit required; duration; hours of operation

.....

- (c) Hours of operation. It shall be unlawful for any person issued a permit under a provision of this division or for any other person to distribute, deposit or place any handbill at any time other than between the hours of 9:00 a.m. and 6:00 p.m., Monday through Saturday.
- (d) Exception for Political or Religious Purpose. A permit is not required for the distribution of handbills for religious purposes or political purposes.”

SECTION 3. Any person, firm or corporation violating any of the provisions of this ordinance or the provisions of the Code of Ordinances of the City of Lancaster, Texas, as amended hereby, shall be deemed guilty of a misdemeanor and, upon conviction in the municipal court of the City of Lancaster, Texas, shall be subject to a fine not to exceed the sum of Five Hundred (\$500.00) dollars for each offense, and each and every day such offense shall continue shall be deemed to constitute a separate offense.

SECTION 4. That all provisions of the Ordinances of the City of Lancaster, Texas, in conflict with the provisions of this ordinance be, and the same are hereby, repealed, and all other provisions of the Ordinances of the City not in conflict with the provisions of this ordinance shall remain in full force and effect.

SECTION 5. That should any word, sentence, paragraph, subdivision, clause, phrase or section of this ordinance, or of the Code of Ordinances, as amended hereby, be adjudged or held to be void or unconstitutional, the same shall not affect the validity of the remaining portions of said ordinance or the Code of Ordinances, as amended hereby, which shall remain in full force and effect.

SECTION 6. That this ordinance shall take effect immediately from and after its passage as the law and charter in such cases provide.

DULY PASSED by the City Council of the City of Lancaster, Texas, this the 24th day of March, 2014.

APPROVED:

MARCUS E. KNIGHT, MAYOR

ATTEST:

SORANGEL O. ARENAS, CITY SECRETARY

APPROVED AS TO FORM:

ROBERT E. HAGER, CITY ATTORNEY
(REH.aga)

LANCASTER CITY COUNCIL

Work Session Agenda Communication

March 17, 2014

Item 2

Receive a presentation regarding a license and use agreement by and between the City of Lancaster and the Lancaster Chamber of Commerce for the 2nd Saturday on The Square event.

This request supports the City Council 2013-2014 Policy Agenda.

Goal: Healthy, Safe & Vibrant Neighborhoods

Background

The 2nd Saturday on the Square event has been a tradition in the Lancaster community for many years. The Lancaster Chamber of Commerce, a non-profit organization with its mission to actively support, promote and attract business to better serve the greater Lancaster area, currently sponsors the event. The event is free and open to the public, and has traditionally offered various monthly themed programs within the historic downtown Town Square. The event attracts visitors and residents downtown in addition to creating opportunities for local businesses and vendors to showcase their goods and services available. There is typically entertainment available for enjoyment as well.

Many of the 2nd Saturday on The Square events utilize the City's public rights-of-way for vendors and businesses to showcase and offer their goods and services for purchase by the public. In order to allow the organizers to reserve the public rights-of-way an agreement is required.

City Council will receive a presentation regarding consideration of a license and use agreement.

Submitted by:

Sean Johnson, Managing Director
Quality of Life and Cultural Services

LANCASTER CITY COUNCIL

Agenda Communication

March 24, 2014

Item 1

Consider approval of minutes from the City Council Regular Meeting held March 10, 2014.

Background

Attached for your review and consideration are minutes from the:

- City Council Regular Meeting held March 10, 2014

Submitted by:
Sorangel O. Arenas, City Secretary

MINUTES

LANCASTER CITY COUNCIL MEETING OF March 10, 2014

The City Council of the City of Lancaster, Texas, met in Regular session in the Council Chambers of City Hall on March 10, 2014 at 7:00 p.m. with a quorum present to-wit:

Councilmembers Present:

Mayor Marcus E. Knight
Carol Strain-Burk
Stanley Jaglowski
Marco Mejia
Mayor Pro Tem James Daniels
LaShonjia Harris
Deputy Mayor Pro Tem Nina Morris

City Staff Present:

Opal Mauldin Robertson, City Manager
Thomas Griffith, Fire Chief
Rona Stringfellow, Managing Director Public Works / Development Services
Ed Brady, Economic Development Director
Cynthia Pearson, Finance Director
Baron Sauls, Assistant Finance Director
Mark Divita, Airport Manager
Angie Arenas, City Secretary

Call to Order:

Mayor Knight called the meeting to order at 7:00 p.m. on March 10, 2014.

Invocation:

Pastor John Richardson with Zion Chapel gave the invocation.

Pledge of Allegiance:

Deputy Mayor Pro Tem Nina Morris led the pledge of allegiance.

Citizens Comments:

Evelyne DuBois, 1937 Cross Oaks, shared her concerns about her safety as a result of an incident that happened in her neighborhood. She also shared concerns about the property value of her home due to increased rental properties in her neighborhood.

Cynthia Adams, 632 Mission Lane, shared her concerns about the property value of her home due to the recent addition of rental properties in her neighborhood. Ms. Adams asked if any laws were in place that would protect homes that were already established before rental properties entered a neighborhood.

Consent Agenda:

City Secretary Arenas read the consent agenda.

- C1. Consider approval of minutes from the City Council Regular Meeting held February 24, 2014.**

- C2. Consider a resolution ordering declaring the unopposed candidates in District 4 and District 6 in the May 10, 2014 general municipal election elected to office; cancelling the election in single member District 4 and District 6; providing for all other provisions of Resolution No. 2013-02-2014, as amended, ordering the election to remain in full force and effect.**
- C3. Consider a resolution approving the amendment to the Professional Services Agreement with Linebarger Goggan Blair & Sampson, LLP to perform Professional Services associated with Fines and Fees Collection Services and Legal Enforcement Actions.**
- C4. Consider a resolution authorizing Dallas County to resell 3123 Sherwood Avenue, a tax foreclosed property, by public or private sale, to the highest qualified purchaser, as provided by Section 34.05 of the Texas Property Tax Code.**
- C5. Discuss and consider a resolution confirming the selection of the Airport Advisory Board Architectural Committee for the design of the new terminal building at the Lancaster Regional Airport.**

MOTION: Councilmember Strain-Burk made a motion, seconded by Councilmember Jaglowski, to approve consent items as presented. The vote was cast 7 for, 0 against.

MOTION: Mayor Pro Tem Daniels made a motion, seconded by Councilmember Jaglowski, to adjourn. The vote was cast 7 for, 0 against.

The meeting was adjourned at 7:11 p.m.

ATTEST:

APPROVED:

Sorangel O. Arenas, City Secretary

Marcus E. Knight, Mayor

LANCASTER CITY COUNCIL

Agenda Communication

March 24, 2014

Item 2

Consider a resolution approving the terms and conditions of the City owned T-Hangar non-commercial leases from buildings 690 & 700 at the Lancaster Regional Airport.

This request supports the City Council 2013-2014 Policy Agenda.

Goal: Sound Infrastructure

Background

The City owns and leases five rows of T-hangars (buildings 660-700) of three different sizes based off aircraft wingspan. There are 92 units that the City rents for aircraft storage with end cap commercial spaces on the east end of each hangar row. The City T-hangars are near full occupancy most of the time. This agenda item brings forward two non-commercial lease agreements for T-hangars 690-115 & 700-120 (956 sqft each) for a tenant, Mr. Peter Pitzer.

Considerations

- **Operational** – The City T-hangar non-commercial lease is used for private aircraft owners.
- **Legal** – The lease agreements were reviewed and approved by the City Attorney.
- **Financial** – Lease rates vary based on size of the hangar. All rates were approved in the City's Master Fee Schedule. The monthly rate for these small size T-hangars is \$180.00 per month per T-Hangar.
- **Public Information** – This item is being considered at a regular meeting of the City Council posted in accordance with the Texas Open Meetings Act.

Options/Alternatives

1. Council may approve the resolution as presented.
2. Council may reject the resolution.

Recommendation

Staff recommends approval of the resolution.

Attachments

- Resolution
 - Exhibit "A" Lease Agreement for 690-115
 - Exhibit "B" Lease Agreement for 700-120
-

Submitted by:

Mark Divita, Airport Manager

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LANCASTER, TEXAS, APPROVING THE TERMS AND CONDITIONS OF THE CITY OWNED T-HANGAR NON-COMMERCIAL LEASES FROM BUILDINGS 690 AND 700 AT LANCASTER REGIONAL AIRPORT; AUTHORIZING THE CITY MANAGER TO EXECUTE SAID LEASE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Lancaster Regional Airport has aircraft T-hangers available for monthly rental for revenue gain; and

WHEREAS, the City Council of Lancaster, Texas, desires to authorize the hangar lease pursuant to the lease listed in Exhibit "A"; and

WHEREAS, the City Council of Lancaster, Texas, desires to authorize the hangar lease pursuant to the lease listed in Exhibit "B";

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF LANCASTER, TEXAS:

SECTION 1. That the City T-hangar lease agreement attached hereto and incorporated herein by reference as Exhibit "A" and "B" having been reviewed by the City Council of the City of Lancaster, Texas and found to be acceptable and in the best interest of the City and its citizens, be, and the same is hereby, in all things approved.

SECTION 2. That the City Manager is hereby authorized to execute said lease agreements.

SECTION 3. This Resolution shall become effective immediately from and after its passage, as the law and charter in such cases provide.

DULY PASSED and approved by the City Council of the City of Lancaster, Texas, on this the 24th day of March 2014.

ATTEST:

APPROVED:

Sorangel O. Arenas, City Secretary

Marcus E. Knight, Mayor

APPROVED AS TO FORM:

Robert E. Hager, City Attorney



Lancaster Regional Airport

Agreement for Lease of T-Hangar for Storage of Aircraft

Non-Commercial Tenants

This CONTRACT and AGREEMENT OF LEASE, made this **24th** day of **March**, 2014, between the City of Lancaster, Texas, a municipal corporation, ("LESSOR") and **Peter Pitzer**, (LESSEE"), evidences the following:

I.

LESSOR leases to LESSEE, and LESSEE takes from LESSOR, the following described premises located at the Lancaster Regional Airport ("Airport"), in the City of Lancaster, Dallas County, Texas, for and in consideration of the uses and for the terms and the rental hereinafter set forth, and subject and in accordance with the standard terms and provisions below.

1. **Premises:** Hangar Row and Suite **690-115**, located at the Airport, and consisting of approximately **956** square feet ("Leased Premises").

2. **Uses:** The leased premises shall be used and occupied only for the storing of aircraft owned, leased, and/or legally operated by LESSEE and related equipment. The leased premises shall be used and occupied only for the personal, business, and/or private use of the LESSEE. LESSEE shall provide LESSOR with a copy of the FAA Certificate of Aircraft Registration for the aircraft to be stored under this agreement. If the registration is not in the name of LESSEE, a copy of a valid lease or other documentation showing a possessory interest in the aircraft shall be provided. LESSEE shall not store non-aviation items such as household goods in leased premises. LESSEE shall not use the leased premises for any on going business or commercial operations warehousing goods or services for sale to third parties.

3. **Term:** The term of this lease will be from month to month, beginning the **24th** day of **March** 2014. Either party may cancel and terminate this agreement by serving thirty (30) days written notice of its election to do so.

4. **Rent:** LESSEE shall pay LESSOR as rent **\$180.00** per month, due and payable in advance on the first day of each month.

a. All rental payments shall be delivered to LESSOR at the following address:

City of Lancaster
Finance Department
P.O. Box 940
211 N. Henry Street
Lancaster, TX 75146

b. All payments not received by the 10th of each month shall constitute a default and breach of this Lease Agreement as set forth in paragraph 10 herein. All payments not received by the 10th of each month shall be considered "past due" for purposes of incurring late charges as calculated in subsection (c) herein, and additional late charges will begin to accrue on the 11th day of each month.

c. In the event the payment is received after the 10th day of the month, there shall be added a late charge of ten percent (10%) of the amount due.

d. LESSEE'S agreement to make rental payments shall be a covenant independent of all other covenants herein.

e. LESSOR retains the right to review the monthly rental rates and to make adjustments to said rental rates to reflect the then current market rental rates charged for similar facilities.

5. **Utilities:** Utilities are included in LESSEE's rental payment.

II.

STANDARD TERMS AND PROVISIONS

1. **Prohibited Uses:** LESSEE shall not use or permit the use of the premises or any part thereof for any purpose or purposes other than those set forth herein. LESSEE shall not commit or cause to be committed any waste in or upon the premises or maintain any public or private nuisance or any other action which may interfere with or disturb the quiet enjoyment of any other tenant of the building or buildings, or permit the use of the premises for any improper or unlawful purposes. Hazardous activities such as, but not limited to: smoking, painting, doping or the other application of hazardous substances are expressly prohibited. Nothing contained in this Section 1 shall, however, prohibit or limit LESSEE's right to use any apparatus, machinery, equipment or devices necessary or useful to LESSEE in the conduct of its activities on or about the premises.

2. **Disabled Aircraft:** LESSEE shall store only the following aircraft on the lease premises under any of the following conditions:

- a. Aircraft in a current airworthy condition according to Federal Aviation Regulations with a current FAA airworthiness certificate and U.S. or foreign registration,
- b. Aircraft with a current FAA airworthiness certificate and registration in a continuing process of overhaul and/or repair showing monthly progress,
- c. Final assembly of amateur built aircraft in preparation to obtain airworthiness certification.

Restoration or construction of an aircraft shall be completed (and an airworthiness certificate issued for amateur built aircraft) within 5 yrs from the beginning of this lease.

Monthly progress is defined as a major component, subcomponent, major system or subsystem is completed or installed on the aircraft every 30 days with appropriate log entries

made.

Upon request from the Airport Manager, LESSEE shall provide monthly evidence of progress. Evidence includes but is not limited to: visual inspection of aircraft, photographs and log entries.

Should LESSEE sell the aircraft, LESSEE shall have ninety (90) days to acquire an aircraft to house upon the leased premises or LESSEE shall relinquish said premises to LESSOR.

Any exception to forgoing requirements must be approved by LESSOR'S Airport Manager.

3. **Compliance with Applicable Laws:** LESSEE shall comply with all applicable laws, ordinances, rules, regulations, and orders of any Federal, State, and City law governing the conduct of LESSEE'S activities on or about the premises.

4. **Alterations.** LESSEE shall make no structural or electrical changes or alterations, or construct any permanent additions or improvements, or do any work in connection therewith, on or about the premises without the prior written consent of the LESSOR'S Airport Manager, whose decision shall be final, and which consent shall not be unreasonably withheld. Any permanent improvements or additions to the leased premises shall be deemed to be fixtures and title to said improvements or additions shall vest in the LESSOR immediately upon completion of construction or attachment.

5. **Entry and Inspection:** LESSOR shall have the right to enter upon and inspect the premises from time to time during the term hereof, to make any repairs deemed necessary by the LESSOR for the safety, improvement, or preservation of the leased premises, without abatement of rent; provided however, that LESSOR shall not, during the course of any such inspection or repairs, unreasonably interfere with the LESSEE'S use and enjoyment of the premises. In lieu of an airport lock/key, LESSEE shall provide a copy of a key or lock combination to airport office.

6. **Services Furnished by LESSOR:** LESSOR shall furnish adequate utility power service for night time lighting. LESSOR assumes no liability to LESSEE for failures or interruptions of any and all services or utilities furnished to LESSEE when due to causes beyond the control of LESSOR, including but not limited to floods, fire, and power failures.

7. **Care of Premises by LESSEE:** LESSEE shall keep the leased premises in a safe, neat, clean, and presentable condition at all times and shall promptly repair any damage caused by LESSEE, its officers, agents, employees, or invitees.

8. **Indemnity and Hold Harmless:** LESSEE agrees to indemnify, defend, and hold LESSOR, its officers, agents, employees, or invitees harmless from and against all claims, demands, causes of actions, suits or judgments (including costs and expenses incurred in connection therewith) for injuries to persons or for loss or damage to property arising out of or in connection with the negligent or intentional

act or omission of LESSEE, its officers, agents, employees, or invitees related to or association with the use and occupancy of the Leased Premises and airport facilities including, but not limited to, claims or damage related to or associated with the storage or maintenance of LESSEE's aircraft upon Airport, or from injury or damage caused to any person's property by reason of the operations of said aircraft. LESSEE further covenants and agrees that LESSEE shall not hold LESSOR or any of its officers, agents, or employees responsible for any loss to LESSEE'S aircraft, automobile, personal property, parts, or supplies that may be located or stored in, on, or about the Leased Premises, where such loss is caused by Natural Disaster fire, rain, windstorm, hail.

9. **Disclaimer:** LESSEE agrees to accept all facilities and the leased premises in the condition in which they are found. LESSOR disclaims and LESSEE accepts LESSOR'S disclaimer of any warranty, express or implied, of the conditions or fitness for the use of the leased premises.

10. **Default:** The following events shall be deemed to be events of default by LESSEE under this Lease Agreement:

a. LESSEE shall fail to pay any installment of rent, and such failure shall continue for a period of ten (10) days following the due date of said installment.

b. LESSEE shall fail to comply with any term, provision or covenant of this Lease Agreement, other than the payment of rent, and shall not cure such failure within twenty (20) days after written notice thereof to LESSEE.

c. LESSEE shall fail to provide lock combination or key to lock on assigned hangar to airport administration.

d. LESSEE shall fail to provide accurate and correct contact information as set forth in paragraph 18 – "Notices".

Upon the occurrence of any event of default specified above, LESSOR shall have the option to pursue any one or more of the following remedies without any notice or demand whatsoever:

e. Terminate this Lease Agreement in which event LESSEE shall immediately surrender the premises to LESSOR; and if LESSEE fails to do so, LESSOR may, without prejudice to any other remedy which it may have for possession or arrearages in rent, enter upon and take possession and expel or remove LESSEE, any other person who may be occupying said premises or any part thereof, and contents therein, including LESSEE'S aircraft, by force if necessary, without being liable for prosecution or any claim of damages therefor; and LESSEE agrees to pay to LESSOR on demand the amount of all loss and damage which LESSOR may suffer by reason of such termination, whether through inability to re-let the premises on satisfactory terms or otherwise.

f. Enter upon and take possession of the premises and expel or remove LESSEE and any other person who may be occupying the premises or any part thereof, by force if necessary, without being liable for prosecution or any claim of damages therefor; and if LESSOR so elects, re-let the premises on such terms as LESSOR shall deem advisable and receive the rent thereof; and LESSEE agrees to pay to LESSOR on demand

any deficiency that may arise by reason of such re-letting.

g. Enter upon the premises, by force if necessary, without being liable for prosecution or any claim of damages therefor and do whatever LESSEE is obligated to do under the terms of this Lease Agreement; and LESSEE agrees to reimburse LESSOR on demand for any expenses which LESSOR may incur in thus effecting compliance with LESSEE's obligations under this Lease Agreement; and LESSEE further agrees that LESSOR shall not be liable for any damages resulting to LESSEE from such action.

No reentry or taking possession of the premises by LESSOR shall be construed as an election on its part to terminate this Lease Agreement, unless a written notice of such intention be given to LESSEE. Notwithstanding any such re-letting or reentry or taking possession, LESSOR may at any time thereafter elect to terminate this Lease Agreement for a previous default. Pursuit of any of the foregoing remedies shall not preclude pursuit of any of the other remedies herein provided or any other remedies provided by law, nor shall the pursuit of any remedy herein provided constitute a forfeiture or waiver of any rent due to LESSOR hereunder or of any damages accruing to LESSOR by reason of the violation of any of the terms, provisions and covenants herein contained. LESSOR's acceptance of rent following an event of default hereunder shall not be construed as LESSOR's waiver of such event of default. No waiver by LESSOR of any violation or breach of any of the terms, provisions and covenants herein contained shall be deemed or constitute a waiver of any other violation or breach of any of the terms, provisions and covenants herein contained. Forbearance by LESSOR to enforce one or more of the remedies herein provided upon an event of default shall not be deemed or construed to constitute a waiver of such default. The loss or damage that LESSOR may suffer by reason of termination of this Lease Agreement or the deficiency from any re-letting as provided for above shall include the expense of repossession and any repairs or remodeling undertaken following possession. Should LESSOR at any time terminate this Lease Agreement for any default, in addition to any other remedy LESSOR may have, LESSOR may recover from LESSEE all damages LESSOR may incur by reason of such default, including cost of recovering the premises and reasonable attorney's fees expended by reason of default.

11. **Assignment, Encumbrances, and Subletting:** LESSEE shall not assign, pledge, or otherwise encumber this lease or the premises covered thereby. LESSEE shall not sublet the premises or any part thereof, or furnish to any other person any ground space, office space, aircraft storage space, or other right or privilege in or on any Airport property without the prior written consent of the LESSOR's Airport Manager. Said consent shall not be unreasonably withheld. The rental rate paid by the SUBLESSEE shall not be greater than that paid by LESSEE to LESSOR.

It is understood that consent of the LESSOR to any subletting in one instance shall not constitute consent of the LESSOR to any other subletting. Any assignment, sublease, or other such agreements consented to shall be in writing and shall be approved as to form by LESSOR'S City Attorney.

12. **Surrender of Premises:** Upon termination of this lease by either party, or by reason of default or otherwise, LESSEE shall remove itself, aircraft, and all other personal property, debris and equipment stored by LESSEE in and upon the premises. LESSEE shall, at its own expense, repair any damage cause by LESSEE'S use. LESSEE shall, upon termination of this lease, surrender the premises to LESSOR in the same condition as received, ordinary

wear and tear excepted. LESSOR will charge a reasonable fee for cleaning and/or disposal of any items left behind upon the premises.

13. **Rules and Regulations:** LESSEE shall faithfully observe and comply with all rules and regulations of LESSOR, including any rules and regulations promulgated by LESSOR'S Airport Manager, not inconsistent with the provisions of this lease. Such rules and regulations shall be communicated by LESSOR'S Airport Manager, in writing, to LESSEE and necessary for the reputation, safety, care, or appearance of the building, or preservation of good order, the operation or maintenance of equipment, or the comfort or safety of other Airport tenants.

14. **Successors and Assigns:** The terms, covenants, agreements, and conditions contained herein shall be binding upon LESSEE'S heirs, successors, executors, administrators, and assignees. This provision shall not in any way affect the requirements set forth in section II, paragraph 9.

15. **Signs:** LESSEE shall not erect, install, or place any signs on or about the leased premises without the prior written consent and approval of the LESSOR'S Airport Manager.

16. **Ingress and Egress:** LESSEE, its invitees, visitors, and suppliers of materials and services shall have full and free rights of ingress and egress to and from the premises and to and from other Airport buildings subject to rules and regulations of LESSOR and LESSOR'S Airport Manager.

17. **Chemicals and other Toxic Substances:** No chemicals or other toxic substances shall be stored unless in compliance with adopted Lancaster Regional Airport rules and regulations, as amended, which are incorporated herein as is set forth in full and on file with the City Manager or his/her designee.

18. **Notices:** All legal notices given or required in connection with this lease shall be in writing and shall be sent via Mail or E-Mail to the following persons(s):

LESSOR: City of Lancaster
Lancaster Regional Airport
P.O. Box 940
211 N. Henry Street
Lancaster, TX 75146

LESSEE: Peter Pitzer

120E. FM 544 Ste 72-362

Murphy, TX 75094

817-832-8513

j2ydriver@yahoo.com

19. **Insurance:** LESSEE shall, at its own option, carry its own insurance on its aircraft and other equipment which LESSEE stores in or on the leased premises.

20. **Waiver of Attorney Fees:** LESSOR and LESSEE covenant and agree that in the event of any litigation arising between the parties to this lease, LESSEE shall be solely responsible for payment of its attorney's fees. In no event shall LESSOR be responsible for LESSEE'S attorney's fees regardless of the outcome of the litigation.

21. **Entire Agreement:** This agreement constitutes the entire understanding between the parties, and, as of its effective date, supersedes all prior or independent agreements covering the LESSEE'S occupation of the leased premises. Any change or modification hereof shall be in writing, signed by both parties. The parties to this agreement hereby agree and acknowledge that they are the principals to the agreement and have the power, right, and authority to enter into this agreement and are not acting on behalf, or as an agent, of any third party.

22. **Severability:** If any provision of this agreement shall be finally declared void or illegal by a court having competent jurisdiction, the entire agreement shall not be void, but the remaining provisions shall continue in effect as nearly as possible in accordance with the original intent of the parties. Venue governed by Texas law except where exempted by Federal law and Rules and Regulations.

23. **Governing Law; Venue:** This Agreement shall be governed by and construed in accordance with the laws of the State of Texas. Venue for any disputes arising from or related to the performance of this Agreement shall be in a state district court in Dallas County, Texas.

24. **Captions:** The Captions to the various clauses of this agreement are for informational purposes only and in no way alter the substance of the terms and conditions of this agreement.

25. **Landlord's Lien:** Pursuant to Section 54.021 of the Texas Property Code, LESSOR has a preference lien on the property of the LESSEE or any SUBLESSEE in the building for rent that is due and for rent that is to become due during the current 12 month period succeeding the date of the beginning of the rental agreement or an anniversary of that date.

IN WITNESS HEREOF, the parties executed this lease as of the day and year first above written.

CITY OF LANCASTER, LESSOR

LESSEE:

By: _____
Opal Mauldin Robertson,
City Manager

ATTEST:

Sorangel O. Arenas, City Secretary



Lancaster Regional Airport

Agreement for Lease of T-Hangar for Storage of Aircraft

Non-Commercial Tenants

This CONTRACT and AGREEMENT OF LEASE, made this **24th** day of **March**, 2014, between the City of Lancaster, Texas, a municipal corporation, ("LESSOR") and **Peter Pitzer**, (LESSEE"), evidences the following:

I.

LESSOR leases to LESSEE, and LESSEE takes from LESSOR, the following described premises located at the Lancaster Regional Airport ("Airport"), in the City of Lancaster, Dallas County, Texas, for and in consideration of the uses and for the terms and the rental hereinafter set forth, and subject and in accordance with the standard terms and provisions below.

1. **Premises:** Hangar Row and Suite **700-120**, located at the Airport, and consisting of approximately **956** square feet ("Leased Premises").
2. **Uses:** The leased premises shall be used and occupied only for the storing of aircraft owned, leased, and/or legally operated by LESSEE and related equipment. The leased premises shall be used and occupied only for the personal, business, and/or private use of the LESSEE. LESSEE shall provide LESSOR with a copy of the FAA Certificate of Aircraft Registration for the aircraft to be stored under this agreement. If the registration is not in the name of LESSEE, a copy of a valid lease or other documentation showing a possessory interest in the aircraft shall be provided. LESSEE shall not store non-aviation items such as house hold goods in leased premises. LESSEE shall not use the leased premises for any on going business or commercial operations warehousing goods or services for sale to third parties.
3. **Term:** The term of this lease will be from month to month, beginning the **24th** day of **March** 2014. Either party may cancel and terminate this agreement by serving thirty (30) days written notice of its election to do so.
4. **Rent:** LESSEE shall pay LESSOR as rent **\$180.00** per month, due and payable in advance on the first day of each month.

- a. All rental payments shall be delivered to LESSOR at the following address:

City of Lancaster
Finance Department
P.O. Box 940
211 N. Henry Street
Lancaster, TX 75146

b. All payments not received by the 10th of each month shall constitute a default and breach of this Lease Agreement as set forth in paragraph 10 herein. All payments not received by the 10th of each month shall be considered "past due" for purposes of incurring late charges as calculated in subsection (c) herein, and additional late charges will begin to accrue on the 11th day of each month.

c. In the event the payment is received after the 10th day of the month, there shall be added a late charge of ten percent (10%) of the amount due.

d. LESSEE'S agreement to make rental payments shall be a covenant independent of all other covenants herein.

e. LESSOR retains the right to review the monthly rental rates and to make adjustments to said rental rates to reflect the then current market rental rates charged for similar facilities.

5. **Utilities:** Utilities are included in LESSEE's rental payment.

II.

STANDARD TERMS AND PROVISIONS

1. **Prohibited Uses:** LESSEE shall not use or permit the use of the premises or any part thereof for any purpose or purposes other than those set forth herein. LESSEE shall not commit or cause to be committed any waste in or upon the premises or maintain any public or private nuisance or any other action which may interfere with or disturb the quiet enjoyment of any other tenant of the building or buildings, or permit the use of the premises for any improper or unlawful purposes. Hazardous activities such as, but not limited to: smoking, painting, doping or the other application of hazardous substances are expressly prohibited. Nothing contained in this Section 1 shall, however, prohibit or limit LESSEE's right to use any apparatus, machinery, equipment or devices necessary or useful to LESSEE in the conduct of its activities on or about the premises.

2. **Disabled Aircraft:** LESSEE shall store only the following aircraft on the lease premises under any of the following conditions:

- a. Aircraft in a current airworthy condition according to Federal Aviation Regulations with a current FAA airworthiness certificate and U.S. or foreign registration,
- b. Aircraft with a current FAA airworthiness certificate and registration in a continuing process of overhaul and/or repair showing monthly progress,
- c. Final assembly of amateur built aircraft in preparation to obtain airworthiness certification.

Restoration or construction of an aircraft shall be completed (and an airworthiness certificate issued for amateur built aircraft) within 5 yrs from the beginning of this lease.

Monthly progress is defined as a major component, subcomponent, major system or subsystem is completed or installed on the aircraft every 30 days with appropriate log entries

made.

Upon request from the Airport Manager, LESSEE shall provide monthly evidence of progress. Evidence includes but is not limited to: visual inspection of aircraft, photographs and log entries.

Should LESSEE sell the aircraft, LESSEE shall have ninety (90) days to acquire an aircraft to house upon the leased premises or LESSEE shall relinquish said premises to LESSOR.

Any exception to forgoing requirements must be approved by LESSOR'S Airport Manager.

3. **Compliance with Applicable Laws:** LESSEE shall comply with all applicable laws, ordinances, rules, regulations, and orders of any Federal, State, and City law governing the conduct of LESSEE'S activities on or about the premises.

4. **Alterations.** LESSEE shall make no structural or electrical changes or alterations, or construct any permanent additions or improvements, or do any work in connection therewith, on or about the premises without the prior written consent of the LESSOR'S Airport Manager, whose decision shall be final, and which consent shall not be unreasonably withheld. Any permanent improvements or additions to the leased premises shall be deemed to be fixtures and title to said improvements or additions shall vest in the LESSOR immediately upon completion of construction or attachment.

5. **Entry and Inspection:** LESSOR shall have the right to enter upon and inspect the premises from time to time during the term hereof, to make any repairs deemed necessary by the LESSOR for the safety, improvement, or preservation of the leased premises, without abatement of rent; provided however, that LESSOR shall not, during the course of any such inspection or repairs, unreasonably interfere with the LESSEE'S use and enjoyment of the premises. In lieu of an airport lock/key, LESSEE shall provide a copy of a key or lock combination to airport office.

6. **Services Furnished by LESSOR:** LESSOR shall furnish adequate utility power service for night time lighting. LESSOR assumes no liability to LESSEE for failures or interruptions of any and all services or utilities furnished to LESSEE when due to causes beyond the control of LESSOR, including but not limited to floods, fire, and power failures.

7. **Care of Premises by LESSEE:** LESSEE shall keep the leased premises in a safe, neat, clean, and presentable condition at all times and shall promptly repair any damage caused by LESSEE, its officers, agents, employees, or invitees.

8. **Indemnity and Hold Harmless:** LESSEE agrees to indemnify, defend, and hold LESSOR, its officers, agents, employees, or invitees harmless from and against all claims, demands, causes of actions, suits or judgments (including costs and expenses incurred in connection therewith) for injuries to persons or for loss or damage to property arising out of or in connection with the negligent or intentional

act or omission of LESSEE, its officers, agents, employees, or invitees related to or association with the use and occupancy of the Leased Premises and airport facilities including, but not limited to, claims or damage related to or associated with the storage or maintenance of LESSEE's aircraft upon Airport, or from injury or damage caused to any person's property by reason of the operations of said aircraft. LESSEE further covenants and agrees that LESSEE shall not hold LESSOR or any of its officers, agents, or employees responsible for any loss to LESSEE'S aircraft, automobile, personal property, parts, or supplies that may be located or stored in, on, or about the Leased Premises, where such loss is caused by Natural Disaster fire, rain, windstorm, hail.

9. **Disclaimer:** LESSEE agrees to accept all facilities and the leased premises in the condition in which they are found. LESSOR disclaims and LESSEE accepts LESSOR'S disclaimer of any warranty, express or implied, of the conditions or fitness for the use of the leased premises.

10. **Default:** The following events shall be deemed to be events of default by LESSEE under this Lease Agreement:

a. LESSEE shall fail to pay any installment of rent, and such failure shall continue for a period of ten (10) days following the due date of said installment.

b. LESSEE shall fail to comply with any term, provision or covenant of this Lease Agreement, other than the payment of rent, and shall not cure such failure within twenty (20) days after written notice thereof to LESSEE.

c. LESSEE shall fail to provide lock combination or key to lock on assigned hangar to airport administration.

d. LESSEE shall fail to provide accurate and correct contact information as set forth in paragraph 18 – "Notices".

Upon the occurrence of any event of default specified above, LESSOR shall have the option to pursue any one or more of the following remedies without any notice or demand whatsoever:

e. Terminate this Lease Agreement in which event LESSEE shall immediately surrender the premises to LESSOR; and if LESSEE fails to do so, LESSOR may, without prejudice to any other remedy which it may have for possession or arrearages in rent, enter upon and take possession and expel or remove LESSEE, any other person who may be occupying said premises or any part thereof, and contents therein, including LESSEE'S aircraft, by force if necessary, without being liable for prosecution or any claim of damages therefor; and LESSEE agrees to pay to LESSOR on demand the amount of all loss and damage which LESSOR may suffer by reason of such termination, whether through inability to re-let the premises on satisfactory terms or otherwise.

f. Enter upon and take possession of the premises and expel or remove LESSEE and any other person who may be occupying the premises or any part thereof, by force if necessary, without being liable for prosecution or any claim of damages therefor; and if LESSOR so elects, re-let the premises on such terms as LESSOR shall deem advisable and receive the rent thereof; and LESSEE agrees to pay to LESSOR on demand

any deficiency that may arise by reason of such re-letting.

g. Enter upon the premises, by force if necessary, without being liable for prosecution or any claim of damages therefor and do whatever LESSEE is obligated to do under the terms of this Lease Agreement; and LESSEE agrees to reimburse LESSOR on demand for any expenses which LESSOR may incur in thus effecting compliance with LESSEE's obligations under this Lease Agreement; and LESSEE further agrees that LESSOR shall not be liable for any damages resulting to LESSEE from such action.

No reentry or taking possession of the premises by LESSOR shall be construed as an election on its part to terminate this Lease Agreement, unless a written notice of such intention be given to LESSEE. Notwithstanding any such re-letting or reentry or taking possession, LESSOR may at any time thereafter elect to terminate this Lease Agreement for a previous default. Pursuit of any of the foregoing remedies shall not preclude pursuit of any of the other remedies herein provided or any other remedies provided by law, nor shall the pursuit of any remedy herein provided constitute a forfeiture or waiver of any rent due to LESSOR hereunder or of any damages accruing to LESSOR by reason of the violation of any of the terms, provisions and covenants herein contained. LESSOR's acceptance of rent following an event of default hereunder shall not be construed as LESSOR's waiver of such event of default. No waiver by LESSOR of any violation or breach of any of the terms, provisions and covenants herein contained shall be deemed or constitute a waiver of any other violation or breach of any of the terms, provisions and covenants herein contained. Forbearance by LESSOR to enforce one or more of the remedies herein provided upon an event of default shall not be deemed or construed to constitute a waiver of such default. The loss or damage that LESSOR may suffer by reason of termination of this Lease Agreement or the deficiency from any re-letting as provided for above shall include the expense of repossession and any repairs or remodeling undertaken following possession. Should LESSOR at any time terminate this Lease Agreement for any default, in addition to any other remedy LESSOR may have, LESSOR may recover from LESSEE all damages LESSOR may incur by reason of such default, including cost of recovering the premises and reasonable attorney's fees expended by reason of default.

11. **Assignment, Encumbrances, and Subletting:** LESSEE shall not assign, pledge, or otherwise encumber this lease or the premises covered thereby. LESSEE shall not sublet the premises or any part thereof, or furnish to any other person any ground space, office space, aircraft storage space, or other right or privilege in or on any Airport property without the prior written consent of the LESSOR's Airport Manager. Said consent shall not be unreasonably withheld. The rental rate paid by the SUBLESSEE shall not be greater than that paid by LESSEE to LESSOR.

It is understood that consent of the LESSOR to any subletting in one instance shall not constitute consent of the LESSOR to any other subletting. Any assignment, sublease, or other such agreements consented to shall be in writing and shall be approved as to form by LESSOR'S City Attorney.

12. **Surrender of Premises:** Upon termination of this lease by either party, or by reason of default or otherwise, LESSEE shall remove itself, aircraft, and all other personal property, debris and equipment stored by LESSEE in and upon the premises. LESSEE shall, at its own expense, repair any damage cause by LESSEE'S use. LESSEE shall, upon termination of this lease, surrender the premises to LESSOR in the same condition as received, ordinary

wear and tear excepted. LESSOR will charge a reasonable fee for cleaning and/or disposal of any items left behind upon the premises.

13. **Rules and Regulations:** LESSEE shall faithfully observe and comply with all rules and regulations of LESSOR, including any rules and regulations promulgated by LESSOR'S Airport Manager, not inconsistent with the provisions of this lease. Such rules and regulations shall be communicated by LESSOR'S Airport Manager, in writing, to LESSEE and necessary for the reputation, safety, care, or appearance of the building, or preservation of good order, the operation or maintenance of equipment, or the comfort or safety of other Airport tenants.

14. **Successors and Assigns:** The terms, covenants, agreements, and conditions contained herein shall be binding upon LESSEE'S heirs, successors, executors, administrators, and assignees. This provision shall not in any way affect the requirements set forth in section II, paragraph 9.

15. **Signs:** LESSEE shall not erect, install, or place any signs on or about the leased premises without the prior written consent and approval of the LESSOR'S Airport Manager.

16. **Ingress and Egress:** LESSEE, its invitees, visitors, and suppliers of materials and services shall have full and free rights of ingress and egress to and from the premises and to and from other Airport buildings subject to rules and regulations of LESSOR and LESSOR'S Airport Manager.

17. **Chemicals and other Toxic Substances:** No chemicals or other toxic substances shall be stored unless in compliance with adopted Lancaster Regional Airport rules and regulations, as amended, which are incorporated herein as is set forth in full and on file with the City Manager or his/her designee.

18. **Notices:** All legal notices given or required in connection with this lease shall be in writing and shall be sent via Mail or E-Mail to the following persons(s):

LESSOR: City of Lancaster
Lancaster Regional Airport
P.O. Box 940
211 N. Henry Street
Lancaster, TX 75146

LESSEE: Peter Pitzer

120E. FM 544 Ste 72-362

Murphy, TX 75094

817-832-8513

j2ydriver@yahoo.com

19. **Insurance:** LESSEE shall, at its own option, carry its own insurance on its aircraft and other equipment which LESSEE stores in or on the leased premises.

20. **Waiver of Attorney Fees:** LESSOR and LESSEE covenant and agree that in the event of any litigation arising between the parties to this lease, LESSEE shall be solely responsible for payment of its attorney's fees. In no event shall LESSOR be responsible for LESSEE'S attorney's fees regardless of the outcome of the litigation.

21. **Entire Agreement:** This agreement constitutes the entire understanding between the parties, and, as of its effective date, supersedes all prior or independent agreements covering the LESSEE'S occupation of the leased premises. Any change or modification hereof shall be in writing, signed by both parties. The parties to this agreement hereby agree and acknowledge that they are the principals to the agreement and have the power, right, and authority to enter into this agreement and are not acting on behalf, or as an agent, of any third party.

22. **Severability:** If any provision of this agreement shall be finally declared void or illegal by a court having competent jurisdiction, the entire agreement shall not be void, but the remaining provisions shall continue in effect as nearly as possible in accordance with the original intent of the parties. Venue governed by Texas law except where exempted by Federal law and Rules and Regulations.

23. **Governing Law; Venue:** This Agreement shall be governed by and construed in accordance with the laws of the State of Texas. Venue for any disputes arising from or related to the performance of this Agreement shall be in a state district court in Dallas County, Texas.

24. **Captions:** The Captions to the various clauses of this agreement are for informational purposes only and in no way alter the substance of the terms and conditions of this agreement.

25. **Landlord's Lien:** Pursuant to Section 54.021 of the Texas Property Code, LESSOR has a preference lien on the property of the LESSEE or any SUBLESSEE in the building for rent that is due and for rent that is to become due during the current 12 month period succeeding the date of the beginning of the rental agreement or an anniversary of that date.

IN WITNESS HEREOF, the parties executed this lease as of the day and year first above written.

CITY OF LANCASTER, LESSOR

LESSEE:

By: _____
Opal Mauldin Robertson,
City Manager

ATTEST:

Sorangel O. Arenas, City Secretary

LANCASTER CITY COUNCIL

Agenda Communication

March 24, 2014

Item 3

Consider a resolution authorizing the purchase of motor fuel (unleaded and diesel) from Martin Eagle Oil Company as the Primary, TAC Energy as the Secondary, and Douglass Distributing as the Alternate through an Interlocal Agreement with Tarrant County at the unit prices stated.

This request supports the City Council 2013-2014 Policy Agenda.

Financially Sound City Government

Background

The fuel (unleaded and diesel) to be purchased from this contract will be used to supply all City vehicles, equipment, and Lancaster ISD vehicles and equipment. The fuel cost to the school district is based on the current fee plus five (5) percent.

The bid (2014-063) was led by Tarrant County as a cooperative bid. Estimated usage for all fuel types by all twenty-four entities was 9,027,606 while City usage is estimated at 126,000 for unleaded and 57,750 for diesel. Pricing is based on the OPUS daily rate plus or minus the unit price listed.

Pricing is firm for the period of April 7, 2014 through April 6, 2015 and includes three one-year renewal options.

Considerations

- **Operational** – The bid will allow staff to order from the awarded vendors without obtaining quotes for each purchase.
- **Legal** – The bid was processed in accordance with all local and state purchasing statutes by Tarrant County. The City maintains an executed Interlocal Agreement with Tarrant County. Texas law authorizes cooperative agreements to help save time in developing specifications and duplication during the bid process.
- **Financial** – Funding has been approved in this year's budget. Expenditures will not exceed funds appropriated. Funds will be committed at the issuance of the purchase order.
- **Public Information** – This item is being considered at a regular meeting of the City Council posted in accordance with the Texas Open Meetings Act.

Options/Alternatives

1. Council may authorize the purchase as presented.
2. Council may reject the purchase and direct staff.

Recommendation

Staff recommends authorizing the purchase of fuel as listed through the Tarrant County Cooperative bid.

Attachments

- Resolution
 - Exhibit A: Tarrant County Commissioners Court Communication and Tab Sheet
-

Submitted by:

Dawn Berry, Purchasing Agent

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LANCASTER, TEXAS AUTHORIZING THE PURCHASE OF MOTOR FUEL (UNLEADED AND DIESEL) FROM MARTIN EAGLE OIL COMPANY AS THE PRIMARY, TAC ENERGY AS THE SECONDARY, AND DOUGLASS DISTRIBUTING AS THE ALTERNATE THROUGH AN INTERLOCAL AGREEMENT WITH TARRANT COUNTY AT THE UNIT PRICES STATED; REPEALING ALL RESOLUTION IN CONFLICT; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, The City of Lancaster desires to obtain motor fuels (unleaded and diesel);

WHEREAS, The City Council of the City of Lancaster finds that it is in the best interest of the City to contract for this service;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF LANCASTER, TEXAS, THAT:

Section 1. The City Council hereby authorizes the purchase of motor fuel from Martin Eagle Oil Company as the primary, TAC Energy as the Secondary, and Douglass Distributing as the Alternate through an Interlocal Agreement with Tarrant County at the unit prices stated pursuant to the Tarrant County Commissioners Court Communication and Tab Sheet which is attached incorporated by reference as Exhibit "A".

Section 2. Any prior Resolution of the City Council in conflict with the provisions of this Resolution are hereby repealed and revoked.

Section 3. Should any part of this Resolution be held to be invalid for any reason, the remainder shall not be affected thereby, and such remaining portions are hereby declared to be severable.

Section 4. This Resolution shall take effect immediately from and after its passage, and it is duly resolved.

DULY PASSED AND APPROVED by the City Council of the City of Lancaster, Texas on this the 24th day of March 2014.

ATTEST:

APPROVED:

Sorangel O. Arenas, City Secretary

Marcus E. Knight, Mayor

APPROVED AS TO FORM:

Robert E. Hager, City Attorney



COMMISSIONERS COURT
COMMUNICATION

REFERENCE NUMBER

PAGE 1 OF

12

DATE: 3/18/2014

SUBJECT: **BID NO. 2014-063 - ANNUAL CONTRACT FOR FUEL - COUNTYWIDE - VARIOUS VENDORS - PER UNIT PRICE**

COMMISSIONERS COURT ACTION REQUESTED:

It is requested that the Commissioners Court award Bid No. 2014-063, Annual Contract for Fuel, Countywide, to the following vendors at the per unit price:

Section 1:	Gasoline and Diesel Fuels
	Primary Martin Eagle Oil Company
	Secondary TAC Energy
	Alternate Douglass Distributing

Section 2:	Biodiesel
	Primary Douglass Distributing
	Secondary Martin Eagle Oil Company
	Alternate TAC Energy

BACKGROUND:

Notice of the County's intent to bid was advertised in local newspapers, as required by State statute, and posted on the Internet, the American Indian Chamber of Commerce, the Fort Worth Hispanic Chamber of Commerce, the Fort Worth Metropolitan Black Chamber of Commerce, and the Tarrant County Asian American Chamber of Commerce. Eighty-eight (88) vendors were contacted and requested to participate in this bid process. All documents pertaining to this bid were posted on the Tarrant County website and were downloaded by interested bidders. A pre-bid conference held on February 12, 2014 was attended by one (1) vendor as well as representatives from Transportation Services, Precinct 1 Maintenance, and Purchasing. Five (5) bids were received.

Bids were evaluated by Transportation Services, the four Maintenance Precincts and Purchasing representatives. Award recommendations are to the low bids, per section, meeting specifications.

The term of the contract is twelve (12) months, effective April 7, 2014, with three (3) options for renewal periods of twelve (12) months each.

SUBMITTED BY:	Purchasing	PREPARED BY:	Tim Jones <i>TJJ</i>
		APPROVED BY:	<i>DL</i>



COMMISSIONERS COURT COMMUNICATION

REFERENCE NUMBER: _____ DATE: 3/18/2014 PAGE 2 OF 12

Therefore, it is the joint recommendation of Transportation Services, the four Maintenance Precincts, and Purchasing that Bid No. 2014-063, Annual Contract for Fuel, be awarded to the above listed vendors at the per unit price.

FISCAL IMPACT:

Expenses for last year were approximately \$1,883,106.00. Orders are on an as needed-basis. Twenty-three (23) entities will utilize this bid. Entity listing with fuel usage is attached.

**Attachment A
Entity Participation**

Entity	Unleaded Regular Gasoline	Unleaded Mid-Grade Gasoline	Unleaded Plus Gasoline	E-85	No. 2 ULSD TxLED Diesel	Red Dyed Diesel	B10 Biodiesel	B20 Biodiesel
Town of Addison		80,000			20,000			
City of Allen	180,000				65,000			
City of Carrollton	264,353				102,640	3,350		
City of Coppell	90,000							
City of Denton	300,000			50,000	300,000			45,000
Denton County	202,000				162,000			725,000
City of Desoto	128,000				39,000			
City of Duncanville	70,000				43,000			
City of Euless	115,000					30,000	15,000	
City of Farmers Branch	116,800				59,800			
Town of Flower Mound	125,000			26,000	64,000			
City of Frisco	300,000				110,000			
City of Garland	650,000				630,000	130,000		
City of Grand Prairie	444,788				193,825	111,310		
City of Grapevine	80,000			100,000	120,000			
HEB ISD	42,700				126,800			
City of Lancaster	126,000				57,750			
City of Lewisville	227,290				84,298			
City of Mesquite	4,000	438,536			167,602			
Northwest ISD	25,000				325,000			
City of Plano	3,000					80,000		
City of Richardson	239,296				200,253			37,265
City of The Colony					13,000	10,000		
TOTALS:	3,733,227	518,536	0	176,000	2,883,968	364,660	15,000	807,265
Tarrant County	290,090				238,860			
TOTALS:	4,023,317	518,536	0	176,000	3,122,828	364,660	15,000	807,265
Grand Total Gallons:	9,027,606							

BID NO. 2010-063, ANNUAL CONTRACT FOR FUEL

SECTION ONE: GASOLINE AND DIESEL FUEL

Bid Award Recommendation

ITEM	DESCRIPTION	EST. USAGE	Alternate			PRIMARY			Secondary			
			Douglass Distributing Sherman, TX HUB - No	Lykins Energy Solutions Milford, PA HUB - No	Martin Eagle Oil Company Denton, TX HUB - No	RKA Petroleum Corporation Romulus, MI HUB - Yes	TAC Energy Dallas, TX HUB - No	Plus / Minus Diff.	Total Bid Amount	Plus / Minus Diff.	Total Bid Amount	Plus / Minus Diff.
1	Reformulated Unleaded Regular Gasoline, Transport Load (7,500 gallons or more)	1,675,973	Even .0000	Minus .0320	Plus .0087	0.00	(53,631.14)	14,580.97	Plus .0623	104,413.12	Plus .0029	4,860.32
2	Reformulated Unleaded Regular Gasoline, Short Load (4,000 gallons to 7,499 gallons)	1,347,255	Plus .0600	Minus .0115	Plus .0187	80,835.30	(15,493.43)	25,193.67	Plus .0808	108,858.20	Plus .0212	28,561.81
3	Reformulated Unleaded Regular Gasoline, Tank Wagon Load (3,999 gallons or less)	1,000,189	Plus .0800	Plus .1850	Plus .0387	80,015.12	185,034.97	38,707.31	Plus .1743	174,332.94	Plus .0875	87,516.54

BID NO. 2010-063, ANNUAL CONTRACT FOR FUEL

SECTION ONE: GASOLINE AND DIESEL FUEL

Bid Award Recommendation

ITEM	DESCRIPTION	EST. USAGE	Alternate				PRIMARY				Secondary	
			Douglass Distributing Sherman, TX HUB - No		Lykins Energy Solutions Milford, PA HUB - No		Martin Eagle Oil Company Denton, TX HUB - No		RKA Petroleum Corporation Romulus, MI HUB - Yes		TAC Energy Dallas, TX HUB - No	
			Plus / Minus Diff.	Total Bid Amount	Plus / Minus Diff.	Total Bid Amount	Plus / Minus Diff.	Total Bid Amount	Plus / Minus Diff.	Total Bid Amount	Plus / Minus Diff.	Total Bid Amount
4	Reformulated Unleaded Mid-Grade Gasoline, Transport Load (7,500 gallons or more)	80,000	Even .0000	0.00	Minus .0320	(2,560.00)	Plus .0087	696.00	Plus .0623	4,984.00	Plus .0056	448.00
5	Reformulated Unleaded Mid-Grade Gasoline, Short Load (4,000 gallons to 7,499 gallons)	438,536	Plus .0600	26,312.16	Minus .0115	(5,043.16)	Plus .0187	8,200.62	Plus .0808	35,433.71	Plus .0329	14,427.83
6	Reformulated Unleaded Mid-Grade Gasoline, Tank Wagon Load (3,999 gallons or less)	1	Plus .0800	0.08	Plus .1850	0.19	Plus .0387	0.04	Plus .1743	0.17	Plus .0902	0.09

BID NO. 2010-063, ANNUAL CONTRACT FOR FUEL

SECTION ONE: GASOLINE AND DIESEL FUEL

Bid Award Recommendation

ITEM	DESCRIPTION	EST. USAGE	Alternate			PRIMARY			Secondary		
			Douglass Distributing Sherman, TX HUB - No	Lykins Energy Solutions Milford, PA HUB - No	Martin Eagle Oil Company Denton, TX HUB - No	RKA Petroleum Corporation Romulus, MI HUB - Yes	TAC Energy Dallas, TX HUB - No				
			Plus / Minus Diff.	Total Bid Amount	Plus / Minus Diff.	Total Bid Amount	Plus / Minus Diff.	Total Bid Amount	Plus / Minus Diff.	Total Bid Amount	
7	Reformulated Unleaded Plus Gasoline, Transport Load (7,500 gallons or more)	1	Even .0000	0.00	Plus .0087	0.01	Plus .0623	0.06	Minus .0441	(0.04)	
8	Reformulated Unleaded Plus Gasoline, Short Load (4,000 gallons to 7,499 gallons)	1	Plus .0600	0.06	Plus .0187	0.02	Plus .0808	0.08	Minus .0258	(0.03)	
9	Reformulated Unleaded Plus Gasoline, Tank Wagon Load (3,999 gallons or less)	1	Plus .0800	0.08	Plus .0387	0.04	Plus .1743	0.17	Plus .0405	0.04	
10	E-85 Gasoline, Transport Load (7,500 gallons or more)	50,000	Even .0000	0.00	Plus .0315	1,575.00	Plus .0701	3,505.00	Plus .0192	960.00	

BID NO. 2010-063, ANNUAL CONTRACT FOR FUEL

SECTION ONE: GASOLINE AND DIESEL FUEL

Bid Award Recommendation

ITEM	DESCRIPTION	EST. USAGE	Alternate				PRIMARY				Secondary	
			Douglass Distributing Sherman, TX HUB - No		Lykins Energy Solutions Milford, PA HUB - No		Martin Eagle Oil Company Denton, TX HUB - No		RKA Petroleum Corporation Romulus, MI HUB - Yes		TAC Energy Dallas, TX HUB - No	
			Plus / Minus Diff.	Total Bid Amount	Plus / Minus Diff.	Total Bid Amount	Plus / Minus Diff.	Total Bid Amount	Plus / Minus Diff.	Total Bid Amount	Plus / Minus Diff.	Total Bid Amount
11	E-85 Gasoline, Short Transport Load (4,000 gallons to 7,499)	100,000	Plus .0600	6,000.00	Plus .0300	3,000.00	Plus .0415	4,150.00	Plus .0913	9,130.00	Plus .0375	3,750.00
12	E-85 Ethanol, Tank Wagon Load (3,999 gallons or less)	26,000	Plus .0800	2,080.00	Plus .3500	9,100.00	Plus .0615	1,599.00	Plus .1743	4,531.80	Plus .1038	2,698.80
13	No. 2 ULSD TxLED Diesel, Transport Load (7,500 gallons or more)	1,016,300	Even .0000	0.00	Plus .006	6,097.80	Minus .0037	(3,760.31)	Plus .0576	58,538.88	Plus .0098	9,959.74
14	No. 2 ULSD TxLED Diesel, Short Transport Load (4,000 gallons to 7,499 gallons)	1,083,169	Plus .0600	64,990.14	Plus .0125	13,539.61	Plus .0063	6,823.96	Plus .0808	87,520.06	Plus .0291	31,520.22

BID NO. 2010-063, ANNUAL CONTRACT FOR FUEL

SECTION ONE: GASOLINE AND DIESEL FUEL

Bid Award Recommendation

ITEM	DESCRIPTION	EST. USAGE	Alternate			PRIMARY			Secondary					
			Douglass Distributing Sherman, TX HUB - No	Lykins Energy Solutions Milford, PA HUB - No	Martin Eagle Oil Company Denton, TX HUB - No	RKA Petroleum Corporation Romulus, MI HUB - Yes	TAC Energy Dallas, TX HUB - No	Plus / Minus Diff.	Total Bid Amount	Plus / Minus Diff.	Total Bid Amount	Plus / Minus Diff.	Total Bid Amount	
15	No. 2 ULSD TxLED Diesel, Tank Wagon Load (3,999 gallons or less)	1,023,359	Plus .0800	Plus .1950	Plus .0263	Plus .1743	199,555.01	26,914.34	178,371.47	Plus .0904	92,511.65			
16	Red Dyed Diesel, Transport Load (7,500 gallons or more)	1	Even .0000	Plus .0075	Plus .0063	0.01	0.01	0.01	0.06	Plus .0036	0.01			
17	Red-Dyed Diesel, Short Transport Load (4,000 gallons to 7,499 gallons)	1	Plus .0600	Plus .0125	Plus .0163	0.01	0.02	0.08	0.08	Plus .0179	0.02			
18	Red-Dyed Diesel, Tank Wagon Load (3,999 gallons or less)	364,660	Plus .0800	Plus .1950	Plus .0263	Plus .1773	71,108.70	9,590.56	64,654.22	Plus .0842	30,704.37			
TOTAL AMOUNT OF BID FOR SECTION ONE:			371,274.52			412,083.74			834,274.02			307,919.37		
						134,271.26								

BID NO. 2010-063, ANNUAL CONTRACT FOR FUEL

SECTION ONE: GASOLINE AND DIESEL FUEL

Bid Award Recommendation

ITEM	DESCRIPTION	EST. USAGE	Alternate			PRIMARY			Secondary			
			Douglass Distributing Sherman, TX HUB - No	Lykins Energy Solutions Milford, PA HUB - No	Martin Eagle Oil Company Denton, TX HUB - No	RKA Petroleum Corporation Romulus, MI HUB - Yes	TAC Energy Dallas, TX HUB - No	Plus / Minus Diff.	Total Bid Amount	Plus / Minus Diff.	Total Bid Amount	Plus / Minus Diff.
	Normal Delivery Days After Receipt of Order (ARO)		1 Day	1 Day	1 Day	1 Day	1 Day	1 Day	1 Day	1 Day	1 Day	1 Day
	Provides Tank Monitoring Service?		Yes	No	Yes	No	No	Yes	No	No	Yes	Yes

BID NO. 2010-063, ANNUAL CONTRACT FOR FUEL

SECTION TWO: BIODIESEL

Bid Award Recommendation

ITEM	DESCRIPTION	EST. USAGE	PRIMARY			Secondary			Alternate		
			Douglass Distributing Sherman, TX HUB - No	Lykins Energy Solutions Milford, PA HUB - No	Martin Eagle Oil Company Denton, TX HUB - No	RKA Petroleum Corporation Romulus, MI HUB - Yes	TAC Energy Dallas, TX HUB - No				
			Plus / Minus Diff.	Total Bid Amount	Plus / Minus Diff.	Total Bid Amount	Plus / Minus Diff.	Total Bid Amount	Plus / Minus Diff.	Total Bid Amount	
1	Bio Diesel, B-10, Soy Based per ASTM D 6751. Transport Load (7,500 gallons or more)	1	Even .0000	0.00	Plus .0050	0.01	Plus .0079	0.01	Plus .0232	0.02	
2	Bio Diesel, B-10 Soy Based per ASTM D 6751. Short Transport Load (4,000 gallons to 7,499 gallons)	1	Plus .0600	0.06	Plus .0150	0.02	Plus .0179	0.02	Plus .0375	0.04	
3	Bio Diesel, B-10 Soy Based per ASTM D 6751. Tank Wagon Load, 3,999 gallons or less	15,000	Plus .0800	1,200.00	Plus .3550	5,325.00	Plus .0379	568.50	Plus .1038	1,557.00	

BID NO. 2010-063, ANNUAL CONTRACT FOR FUEL

SECTION TWO: BIODIESEL

Bid Award Recommendation

ITEM	DESCRIPTION	EST. USAGE	PRIMARY			Secondary			Alternate			
			Douglass Distributing Sherman, TX HUB - No	Lykins Energy Solutions Millford, PA HUB - No	Martin Eagle Oil Company Denton, TX HUB - No	RKA Petroleum Corporation Romulus, MI HUB - Yes	TAC Energy Dallas, TX HUB - No	Plus / Minus Diff.	Total Bid Amount	Plus / Minus Diff.	Total Bid Amount	
4	Bio Diesel, B-20, Soy Based per ASTM D 6751. Transport Load (7,500 gallons or more)	762,265	Even .0000	Plus .0050	Plus .0079	Plus .0232	0.00	3,811.33	6,021.89	NO BID	Plus .0232	17,684.55
5	Bio Diesel, B-20 Soy Based per ASTM D 6751. Short Transport Load (4,000 gallons to 7,499 gallons)	1	Plus .0600	Plus .0150	Plus .0179	Plus .0375	0.06	0.02	0.02	NO BID	Plus .0375	0.04
6	Bio Diesel, B-20 Soy Based per ASTM D 6751. Tank Wagon Load, 3,999 gallons or less	45,000	Plus .0800	Plus .3550	Plus .0379	Plus .1038	3,600.00	15,975.00	1,705.50	NO BID	Plus .1038	4,671.00
TOTAL AMOUNT OF BID FOR SECTION TWO:							4,800.12	25,111.38	8,295.94	NO BID		23,912.65

BID NO. 2010-063, ANNUAL CONTRACT FOR FUEL

SECTION TWO: BIODIESEL

Bid Award Recommendation

ITEM	DESCRIPTION	EST. USAGE	PRIMARY			Secondary			Alternate			
			Douglass Distributing Sherman, TX HUB - No	Lykins Energy Solutions Milford, PA HUB - No	Martin Eagle Oil Company Denton, TX HUB - No	RKA Petroleum Corporation Romulus, MI HUB - Yes	TAC Energy Dallas, TX HUB - No	Plus / Minus Diff.	Total Bid Amount	Plus / Minus Diff.	Total Bid Amount	Plus / Minus Diff.
	Normal Delivery Days After Receipt of Order (ARO)		1 Day	1 Day	1 Day							1 Day
	Provides Tank Monitoring Service?		Yes	No	Yes			NO BID			NO BID	Yes



TAKINGS IMPACT ASSESSMENT CHECKLIST

Complete this form for any County action that involves the adoption of a regulation, policy, guideline, court resolution or order.

Project/Regulation Name: BID No. 2014-063 – ANNUAL CONTRACT FOR FUEL

County Department: PURCHASING

Contact Person: JACK BEACHAM, C.P.M., A.P.P.

Phone Number for Contact Person: (817) 884-1133

Type of TIA Performed: SHORT TIA or FULL TIA. Circle one after answering the questions in Sections II and III below.

I. Stated Purpose

Attach to this checklist an explanation of the purpose of the regulation, policy, guideline, court resolution or order.

Note: The remainder of this Takings Impact Assessment Checklist should be completed in consultation with the Criminal District Attorney's Office.

II. Potential Effect on Private Real Property

1. Does the County action require a physical invasion, occupation or dedication of real property?

Yes _____ No ✓

2. Does the County action limit or restrict a real property right, even partially or temporarily?

Yes _____ No ✓

If you answered yes to either question, go to Section III. If you answered no to both, STOP HERE and circle SHORT TIA at the top of the form.

LANCASTER CITY COUNCIL

Agenda Communication

March 24, 2014

Item 4

Consider an ordinance amending The Code of Ordinances by amending Chapter 14, Article 14.10 “Abandoned or Junked Vehicles,” Division 1, “Generally”, Section 14.10.001, “Definitions”, providing for a new definition for inoperable motor vehicle; Amending Division 2, “Abandoned Vehicles”, Section 14.10.031, “Authority to take into custody.”

This request supports the City Council 2013-2014 Policy Agenda.

Goal: Healthy, Safe & Vibrant Neighborhoods

Background

The Code Compliance Division and Police Department routinely receive complaints of inoperable and/or junked vehicles. This item provides for a definition of inoperable vehicles within the Code of Ordinances. The Texas Transportation Code, as amended defines an inoperable motor vehicle as a vehicle in a state of disrepair and cannot be operated or otherwise moved and/or driven without the aid of another vehicle. The addition of this definition provides the City the authority to abate a nuisance following the requisite property owner notifications.

Considerations

- **Operational** – The Code Compliance division and the Police Department routinely receives complaints regarding an inoperable vehicle. Staff will provide property owner notification; and re-inspect within 10 days. If the nuisance remains, the Police Department will have the authority to have the vehicle removed from the public rights-of-way.
- **Legal** - The ordinance has been prepared by the City Attorney.
- **Financial** – There are no financial requirements.
- **Public Information** – This item is being considered at a Regular Meeting of the Lancaster City Council posted in accordance with the Texas Open Meetings Act.

Options/Alternatives

1. Approve the ordinance as presented.
2. Deny the ordinance and direct staff.

Recommendation

Staff recommends approval of the ordinance as presented.

Attachments

- Ordinance
-

Submitted by:

Samuel Urbanski, Assistant Chief of Police

ORDINANCE NO.

AN ORDINANCE OF THE CITY OF LANCASTER, TEXAS, AMENDING THE CODE OF ORDINANCES BY AMENDING CHAPTER 14, ARTICLE 14.10 “ABANDONED OR JUNKED VEHICLES,” DIVISION 1, “GENERALLY”, SECTION 14.10.001, “DEFINITIONS”, PROVIDING FOR A NEW DEFINITION FOR AN INOPERABLE MOTOR VEHICLE; AMENDING DIVISION 2, “ABANDONED VEHICLES”, SECTION 14.10.031, “AUTHORITY TO TAKE INTO CUSTODY”; PROVIDING A PENALTY OF FINE NOT TO EXCEED FIVE HUNDRED DOLLARS (\$500.00); PROVIDING FOR SEVERABILITY; PROVIDING A SAVINGS CLAUSE; PROVIDING A REPEALING CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Article 14.10 of the Lancaster Code of Ordinances provides definitions of abandoned and junked vehicles and provides for removal of such vehicles from the City; and

WHEREAS, City staff desires to amend Article 14.10 to amend the definition of abandoned vehicle; and

WHEREAS, the City Council has determined it is in the best interest of the citizens of the City of Lancaster, Texas to amend Article 14.10 of the Code of Ordinances to ensure that vehicles left unattended on public property or roadways for twenty-four (24) hours or more can be removed.

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

SECTION 1. That Chapter 14 of the Lancaster Code of Ordinances be, and the same is, hereby amended by amending Article 14.10, Abandoned or Junked Vehicles, Division 1, Generally, Section 14.10.001, Definitions to read as follows:

**“ARTICLE 14.10 ABANDONED OR JUNKED VEHICLES
Division 1. Generally**

.....

Garagekeeper.....

Inoperable Motor Vehicle. A motor vehicle, as defined by the Texas Transportation Code, as amended, and is in a state of disrepair and cannot be operated or otherwise moved and/or driven without the aid of another vehicle”

SECTION 2. That Chapter 14 of the Lancaster Code of Ordinances be, and the same is, hereby amended by amending Article 14.10, Abandoned or Junked Vehicles, Division 2, Abandoned Vehicles, Section 14.10.031, Authority to take into custody, to read as follows:

“ARTICLE 14.10 ABANDONED OR JUNKED VEHICLES

Division 2. Abandoned Vehicles

Sec. 14.10.031 Authority to take into custody

The police department may take into custody an abandoned motor vehicle found on public or private property, or an unattended and inoperable motor vehicle left on a public right of way for more than forty eight (48) hours.”

SECTION 3. Any person, firm or corporation violating any of the provisions of this ordinance or the provisions of the Code of Ordinances of the City of Lancaster, Texas, as amended hereby, shall be deemed guilty of a misdemeanor and, upon conviction in the municipal court of the City of Lancaster, Texas, shall be subject to a fine not to exceed the sum of Five Hundred (\$500.00) dollars for each offense, and each and every day such offense shall continue shall be deemed to constitute a separate offense.

SECTION 4. That all provisions of the Ordinances of the City of Lancaster, Texas, in conflict with the provisions of this ordinance be, and the same are hereby, repealed, and all other provisions of the Ordinances of the City not in conflict with the provisions of this ordinance shall remain in full force and effect.

SECTION 5. That should any word, sentence, paragraph, subdivision, clause, phrase or section of this ordinance, or of the Code of Ordinances, as amended hereby, be adjudged or held to be void or unconstitutional, the same shall not affect the validity of the remaining portions of said ordinance or the Code of Ordinances, as amended hereby, which shall remain in full force and effect.

SECTION 6. That this ordinance shall take effect immediately from and after its passage as the law and charter in such cases provide.

DULY PASSED by the City Council of the City of Lancaster, Texas, this the 24th day of March, 2014.

APPROVED:

MARCUS E. KNIGHT, MAYOR

ATTEST:

SORANGEL O. ARENAS, CITY SECRETARY

APPROVED AS TO FORM:

ROBERT E. HAGER, CITY ATTORNEY
(REH.aga)

LANCASTER CITY COUNCIL

Agenda Communication

March 24, 2014

Item 5

Discuss a resolution to accept the terms and conditions of a grant with the United States Department of Homeland Security, Federal Emergency Management Agency, Staffing for Adequate Fire and Emergency Response (SAFER) grant in the amount of \$740,640.00.

This request supports the City Council 2013-2014 Policy Agenda.

Goal: Healthy, Safe & Vibrant Neighborhoods

Background

The Staffing for Adequate Fire and Emergency Response (SAFER) Grant is to assist communities by providing funding directly to cities to increase the number of firefighters. The National Fire Protection Association (NFPA) is a non-profit organization established to create standards of operation for fire departments. The NFPA standards are not laws but rather guidelines that are established for standards of quality. NFPA 1710 guidelines say a first arriving fire company should consist of 4 fire fighters arriving on the scene of a fire within 4 minutes of the initial 911 call. With our minimum staffing at 4 fire fighters per station, we rely upon mutual aid from our neighboring communities due to the increase of EMS call volume.

This SAFER grant will provide \$740,640.00 directly to the City of Lancaster for the salaries and benefits for 6 additional firefighters. The city has no matching fund requirements for salaries or benefits for the two year time frame of the grant and is not financially obligated to retain the firefighters after the grant period. Currently there are only five other departments in Texas that have received this grant.

Considerations

- **Operational** – This grant would allow for increased staffing to decrease our utilization of mutual aid, which has increased over the last 5 years as a result of increased EMS calls for service.
- **Legal** – The grant requires that the City maintain its current authorized staff and the additional six fire fighters for the two year duration of the grant. Prior to execution of any agreements they will be reviewed by the City Attorney.
- **Financial** – The grant is for \$740,640.00 for salary and benefits for the two year duration of the grant.

- **Public Information** – This item is being considered at a regular meeting of the City Council noticed in accordance with the Texas Open Meetings Act.

Options/Alternatives

1. Council may approve the resolution
2. Council may reject the resolution

Recommendation

Staff recommends approval of the resolution as presented.

Attachments

- Resolution
 - Award Status
-

Submitted by:

Thomas Griffith, Fire Chief

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LANCASTER, TEXAS, AUTHORIZING AN AGREEMENT TO ACCEPT THE TERMS AND CONDITIONS OF A GRANT WITH THE UNITED STATES DEPARTMENT OF HOMELAND SECURITY, FEDERAL EMERGENCY MANAGEMENT AGENCY, STAFFING FOR ADEQUATE FIRE AND EMERGENCY RESPONSE (SAFER) GRANT IN THE AMOUNT OF \$740,640.00; AUTHORIZING THE CITY MANAGER TO ACT ON BEHALF OF THE CITY OF LANCASTER IN ALL MATTERS RELATED THERETO; AND AGREEING THE CITY OF LANCASTER WILL COMPLY WITH THE GRANT REQUIREMENTS OF THE UNITED STATES DEPARTMENT OF HOMELAND SECURITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the United States Department of Homeland Security, Federal Emergency Management Agency administers the Staffing for Adequate Fire and Emergency Response (SAFER) grant program to assist cities to maintain adequate numbers of fire and emergency responders; and

WHEREAS, the City of Lancaster in the State of Texas has received award notification for such assistance;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF LANCASTER, TEXAS:

SECTION 1. That the City Manager, on behalf of the City Council, is hereby authorized to execute the SAFER grant with the United States Department of Homeland Security, FEMA, and enter into an agreement to accept the terms and conditions of such grant.

SECTION 2. That the grant funds will be used only for the purposes for which they are intended under the grant.

SECTION 3. That should any part of this Resolution be held to be invalid for any reason, the remainder shall not be affected thereby, and such remaining portions are hereby declared to be severable.

SECTION 4. This Resolution shall become effective immediately from and after its passage, as the law and charter in such cases provide.

DULY PASSED and approved by the City Council of the City of Lancaster, Texas, on this the 24th day of March 2014.

ATTEST:

Sorangel O. Arenas, City Secretary

APPROVED:

Marcus E. Knight, Mayor

APPROVED AS TO FORM:

Robert E. Hager, City Attorney

Award Status

Congratulations! Your grant application has been selected for an award.

Please review the award package by clicking the link below. Once you have reviewed the award package and are ready to accept the award, the Primary Contact must enter the password at the bottom of the screen and select the Accept button.

Awards made under the **Hiring of Firefighters Category** require the support of your governing body **prior to acceptance** of the award. Therefore, by accepting this award you are confirming that you have discussed this application with your local officials and that there is a clear understanding of the long-term obligations of a SAFER grant and that both the department and governing body are committed to fulfilling the requirements of this grant immediately upon acceptance.

If you wish to decline this award, the **Primary Contact** must enter details on the reason for the declination then enter the password at the bottom of the screen and select the Decline button. Please be advised that by declining the award you waive all future rights to this award.

Please note that you will have thirty (30) days from the date of notification of award to either accept or reject the award. If no action is taken within thirty (30) days the system will retract this notification; if you need additional time please contact the AFG Help Desk at 1-866-274-0960 for instructions.

If you have any additional questions, please contact the AFG Help Desk at 1-866-274-0960.

[View Award Package](#) [Print Award Package](#)

Award Number: EMW-2013-FH-00214

Award Amount: \$740,640

Award Notification Date: 2014-03-07

* Indicate your acceptance or rejection:

Accept Award Reject Award

Comments: (* Required if rejected)

2000 characters left

* Password:

* I, Jared Karr, am hereby providing my signature for this award as of 12-Mar-2014.

Accept/Reject Award

U.S. Department of Homeland Security
Washington, D.C. 20472



FEMA

Mr. Jared Karr
Lancaster Fire Department
1650 N Dallas
Lancaster, Texas 75134-3243

Re: Grant No.EMW-2013-FH-00214

Dear Mr. Karr:

On behalf of the Federal Emergency Management Agency (FEMA) and the Department of Homeland Security (DHS), I am pleased to inform you that your grant application submitted under the FY 2013 Staffing for Adequate Fire and Emergency Response (SAFER) grants has been approved. FEMA's Grant Programs Directorate (GPD), in consultation with the U.S. Fire Administration (USFA), carries out the Federal responsibilities of administering your grant. The approved project costs total to \$740,640.00. The Federal share is \$740,640.00 of the approved amount and your share of the costs is \$0.00.

Before you request and receive any of the Federal Grant funds awarded to you, you must establish acceptance of the Grant and Grant Agreement Articles through the Assistance to Firefighters Grant Programs' (AFG) e-grant system. Please make sure you read and understand the articles as they outline the terms and conditions of your grant award. By accepting the grant, you agree not to deviate from the approved scope of work without prior written approval, via amendment request, from FEMA. Maintain a copy of these documents for your official file.

If your SF 1199A has been reviewed and approved, you will be able to request payments online. Remember, you should request funds when you have an immediate cash need.

If you have any questions or concerns regarding the process to request your grant funds, please call 1-866-274-0960.

Sincerely,

A handwritten signature in black ink, appearing to read "B. E. Kamoie".

Brian E. Kamoie
Assistant Administrator
Grant Programs Directorate

Summary Award Memo

**SUMMARY OF ASSISTANCE ACTION
STAFFING FOR ADEQUATE FIRE AND EMERGENCY RESPONSE GRANTS
Application**

INSTRUMENT: GRANT
AGREEMENT NUMBER: EMW-2013-FH-00214
GRANTEE: Lancaster Fire Department
AMOUNT: \$740,640.00, Hiring

Project Description

The purpose of the Staffing for Adequate Fire and Emergency Response program is to provide funding directly to fire departments and volunteer firefighter interest organizations in order to help them increase or maintain the number of trained, "front line" firefighters available in their communities.

After careful consideration, FEMA has determined that the recipient's project submitted as part of the recipient's application, and detailed in the project narrative as well as the request details section of the application - including budget information - was consistent with the Staffing for Adequate Fire and Emergency Response Grants program's purpose and worthy of award. The recipient shall perform the work described in the approved grant application as itemized in the request details section of the application and further described in the grant application narrative. These sections of the application are made a part of these grant agreement articles by reference. The recipient may not change or make any material deviations from the approved scope of work outlined in the above referenced sections of the application without prior written approval, via amendment request, from FEMA.

Grantee Concurrence

By providing the Primary Contact's electronic signature and indicating acceptance of the award, the recipient accepts and agrees to abide by the terms and conditions of the grant as set forth in this document. Recipients agree that they will use the funds provided through the Fiscal Year 2013 Staffing for Adequate Fire and Emergency Response grant in accordance with these Articles of Agreement and the program guidelines provided in the Fiscal Year 2013 Staffing for Adequate Fire and Emergency Response program guidance. All documents submitted as part of the original grant application are made a part of this agreement by reference.

Period of Performance

27-MAY-14 to 26-MAY-16

Amount Awarded

The amount of the award is detailed in the attached Obligating Document for Award. The following are the budgeted estimates for object classes for this grant (including Federal share plus recipient match):

Personnel:	\$529,032.00
Fringe Benefits	\$211,608.00
Travel	\$0.00
Equipment	\$0.00
Supplies	\$0.00
Contractual	\$0.00
Other	\$0.00
Indirect Charges	\$0.00
Total	\$740,640.00

NEGOTIATION COMMENTS IF APPLICABLE (max 4000 characters)

4000 characters left

System for Award Management (SAM)

Prior to requesting federal funds, all recipients are required to register their entity information in the System for Award Management (SAM.gov). As the recipient, you must register and maintain current information in SAM.gov until you submit the final financial report required under this award or receive the final payment, whichever is later. This requires that the recipient review and update the information at least annually after the initial registration, and more frequently for changes in your information. There is no charge to register in SAM.gov. Your registration must be completed on-line at <https://www.sam.gov/portal/public/SAM/>. It is your entity's responsibility to have a valid DUNS number at the time of registration.

FEMA Officials

Program Officer: The Program Specialist is responsible for the technical monitoring of the stages of work and technical performance of the activities described in the approved grant application. If you have any programmatic questions regarding your grant, please call the AFG Help Desk at 866-274-0960 to be directed to a program specialist.

Grants Assistance Officer: The Assistance Officer is the Federal official responsible for negotiating, administering, and executing all grant business matters. The Officer conducts the final business review of all grant awards and permits the obligation of federal funds. If you have any questions regarding your grant please call ASK-GMD at 866-927-5646 to be directed to a Grants Management Specialist.

Grants Operations POC: The Grants Management Specialist shall be contacted to address all financial and administrative grant business matters for this grant award. If you have any questions regarding your grant please call ASK-GMD at 866-927-5646 to be directed to a specialist.

ADDITIONAL REQUIREMENTS (IF APPLICABLE) (max 4000 characters)

1. PO comments: Fund as requested.
2. No cost share or match required.
3. At the time of the approval of this award, the Lancaster Fire Department has an ACTIVE SAM registration that expires on 08/07/2014.
4. If you have any questions about your award package, please contact your GPD Grants Management Specialist: Francisco Bernal at Francisco.Bernal@fema.dhs.gov.

3626 characters left

Agreement Articles



FEMA

U.S. Department of Homeland Security
Washington, D.C. 20472

AGREEMENT ARTICLES

STAFFING FOR ADEQUATE FIRE AND EMERGENCY RESPONSE

GRANTEE: Lancaster Fire Department

PROGRAM: Staffing for Adequate Fire and Emergency Response (SAFER) - Hiring

AGREEMENT NUMBER: EMW-2013-FH-00214

AMENDMENT NUMBER:

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Article I - Administrative Requirements

The administrative requirements that apply to most DHS award recipients through a grant or cooperative agreement arise from two sources: - Office of Management and Budget (OMB) Circular A-102, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments (also known as the "A-102 Common Rule"), found under FEMA regulations at Title 44, Code of Federal Regulations (CFR) Part 13, "Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments." - OMB Circular A-110, Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations, relocated to 2 CFR Part 215. The requirements for allowable costs/cost principles are contained in the A-102 Common Rule, OMB Circular A-110 (2 CFR § 215.27), DHS program legislation, Federal awarding agency regulations, and the terms and conditions of the award. The four costs principles circulars are as follows: - OMB Circular A-21, Co

Principles for Educational Institutions, relocated to 2 CFR Part 220. - OMB Circular A-87, Cost Principles for State, Local, and Indian Tribal Governments, relocated to 2 CFR Part 225. - OMB Circular A-122, Cost Principles for Non-Profit Organizations, relocated to 2 CFR Part 230. - OMB Circular A-133, Audits of States, Local Governments and Non-Profit Organizations.

Article II - Lobbying Prohibitions

None of the funds provided under an award may be expended by the recipient to pay any person to influence, or attempt to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any Federal action concerning the award or renewal of any Federal contract, rant, loan, cooperative agreement. These lobbying prohibitions can be found at 31 U.S.C. § 1352.

Article III - Financial Reporting

Recipients will be required to submit a semi-annual Federal Financial Report (FFR), Standard Form (SF-425) through the AFG online e-grant system. The FFR is intended to provide Federal agencies and grant recipients with a standard format and consistent reporting requirements throughout the government. The FFR is due semi-annually based on the calendar year beginning with the period after the award is made. Recipients are required to submit an FFR throughout the entire period of performance of the grant. The reporting periods for the FFR are January 1 through June 30 (report due by July 31), and July 1 through December 31 (report due by January 31). At the end of the grant's period of performance, all recipients are required to produce a final report on how the grant funding was used and the benefits realized from the award. Recipients must submit a final financial report and a final performance report within 90 days after the end of the period of performance.

Article IV - GPD - Trafficking Victims Protection Act of 2000

All recipients of financial assistance will comply with the requirements of the government-wide award term which implements Section 106 (g) of the Trafficking Victims Protection Act (TVPA) of 2000, as amended (22 U.S.C. § 7104), located at 2 CFR Part 175. This is implemented in accordance with OMB Interim Final Guidance, Federal Register, Volume 72, No. 218, November 13, 2007. In accordance with the statutory requirement, in each agency award under which funding is provided to a private entity, Section 106(g) of the TVPA, as amended, requires the agency to include a condition that authorizes the agency to terminate the award, without penalty, if the recipient or a subrecipient - (a) Engages in severe forms of trafficking in persons during the period of time that the award is in effect; (b) Procures a commercial sex act during the period of time that the award is in effect; or (c) Uses forced labor in the performance of the award or subawards under the award. Full text of the award term is provided at 2 CFR § 175.15.

Article V - GPD - Drug-Free Workplace Regulations

All recipients of financial assistance will comply with the requirements of the Drug-Free Workplace Act of 1988 (41 U.S.C. §701 et seq.), which requires that all organizations receiving grants from any Federal agency agree to maintain a drug-free workplace. The recipient must notify the awarding office if an employee of the recipient is convicted of violating a criminal drug statute. Failure to comply with these requirements may be cause for debarment. These regulations are codified at 2 CFR3001.

Article VI - Fly America Act of 1974

All recipients of financial assistance will comply with the requirements of the Preference for U.S. Flag Air Carriers: Travel supported by U.S. Government funds requirement, which states preference for the use of U.S. flag air carriers (air carriers holding certificates under 49 U.S.C. § 41102) for international air transportation of people and property to the extent that such service is available, in accordance with the International Air Transportation Fair Competitive Practices Act of 1974 (49 U.S.C. - 4 - § 40118) and the interpretative guidelines issued by the Comptroller General of the United States in the March 31, 1981, amendment to Comptroller General Decision B138942.

Article VII - Activities Conducted Abroad

All recipients of financial assistance will comply with the requirements that project activities carried on outside the United States are coordinated as necessary with appropriate government authorities and that appropriate licenses, permits, or approvals are obtained.

Article VIII - Acknowledgement of Federal Funding from DHS

All recipients of financial assistance will comply with requirements to acknowledge Federal funding when issuing statements, press releases, requests for proposals, bid invitations, and other documents describing projects or programs funded in whole or in part with Federal funds.

Article IX - Copyright

All recipients of financial assistance will comply with requirements that publications or other exercise of copyright for any work first produced under Federal financial assistance awards hereto related unless the work includes any information that is otherwise controlled by the Government (e.g., classified information or other information subject to national security or export control laws or regulations). For any scientific, technical, or other copyright work based on or containing data first produced under this award, including those works published in academic, technical or professional journals, symposia proceedings, or similar works, the recipient grants the Government a royalty-free, nonexclusive and irrevocable license to reproduce, display, distribute copies, perform, disseminate, or prepare derivative works, and to authorize others to do so, for Government purposes in all such copyrighted works. The recipient shall affix the applicable copyright notices of 17 U.S.C. § 401 or 402 and an acknowledgement of Government sponsorship (including award number) to any work first produced under an award.

Article X - Use of DHS Seal, Logo and Flags

All recipients of financial assistance must obtain DHS's approval prior to using the DHS seal(s), logos, crests or reproductions of flags or likenesses of DHS agency officials, including use of the United States Coast Guard seal, logo, crests or reproductions of flags or likenesses of Coast Guard officials.

Article XI - DHS Specific Acknowledgements and Assurances

All recipients of financial assistance must acknowledge and agree-and require any subrecipients, contractors, successors, transferees, and assignees acknowledge and agree-to comply with applicable provisions governing DHS access to records, accounts, documents, information, facilities, and staff. 1. Recipients must cooperate with any compliance review or complaint investigation conducted by DHS. 2. Recipients must give DHS access to and the right to examine and copy records, accounts, and other documents and sources of information related to the grant and permit access to facilities, personnel, and other individuals and information as may be necessary, as required by DHS regulations and other applicable laws or program guidance. 3. Recipients must submit timely, complete, and accurate reports to the appropriate DHS officials and maintain appropriate backup documentation to support the reports. 4. Recipients must comply with all other special reporting, data collection, and evaluation requirements, as prescribed by law or detailed in program guidance. 5. If, during the past three years, the recipient has been accused of discrimination on the grounds of race, color, national origin (including limited English proficiency), sex, age, disability, religion, or familial status, the recipient must provide a list of all such proceedings, pending or completed, including outcome and copies of settlement agreements to the DHS awarding office and the DHS Office of Civil Rights and Civil Liberties. 6. In the event any court or administrative agency makes a finding of discrimination on grounds of race, color, national origin (including limited English proficiency), sex, age, disability, religion, or familial status against the recipient, or the recipient settles a case or matter alleging such discrimination, recipients must forward a copy of the complaint and findings to the DHS Component and/or awarding office. The United States has the right to seek judicial enforcement of these obligations.

Article XII - Civil Rights Act of 1964

Recipients of financial assistance will comply with the requirements of Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq.), which provides that no person in the United States will, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

Article XIII - Civil Right Act of 1968

All recipients of financial assistance will comply with Title VIII of the Civil Rights Act of 1968, which prohibits recipients from discriminating in the sale, rental, financing, and advertising of dwellings, or in the provision of services in connection therewith, on the basis of race, color, national origin, religion, disability, familial status, and sex (42 U.S.C. § 3601 et seq.), as implemented by the Department of Housing and Urban Development at 24 CFR Part 100. The prohibition on disability discrimination includes the requirement that new multifamily housing with four or more dwelling units-i.e., the public and common use areas and individual apartment units (all units in buildings with elevators and ground-floor units in buildings without elevators)-be designed and constructed with certain accessible features (see 24 CFR § 100.201).

Article XIV - Americans with Disabilities Act of 1990

All recipients of financial assistance will comply with the requirements of Titles I, II, and III of the Americans with Disabilities Act, which prohibits recipients from discriminating on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12101-12213).

Article XV - Age Discrimination Act of 1975

All recipients of financial assistance will comply with the requirements of the Age Discrimination Act of 1975 (42 U.S.C. § 6101 et seq.), which prohibits discrimination on the basis of age in any program or activity receiving Federal financial assistance.

Article XVI - Title IX of the Education Amendments of 1972

All recipients of financial assistance will comply with the requirements of Title IX of the Education Amendments of 1972 (20 U.S.C. § 1681 et seq.), which provides that no person in the United States will, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any educational program or activity receiving Federal financial assistance. These regulations are codified at 44 CFR Part 19.

Article XVII - Rehabilitation Act of 1973

All recipients of financial assistance will comply with the requirements of Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794, as amended, which provides that no otherwise qualified handicapped individual in the United States will, solely by reason of the handicap, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance. These requirements pertain to the provision of benefits or services as well as to employment.

Article XVIII - Limited English Proficiency

All recipients of financial assistance will comply with the requirements of Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin and resulting agency guidance, national origin discrimination includes discrimination on the basis of limited English proficiency (LEP). To ensure compliance with Title VI, recipients must

take reasonable steps to ensure that LEP persons have meaningful access to your programs. Meaningful access may entail providing language assistance services, including oral and written translation, where necessary. Recipients are encouraged to consider the need for language services for LEP persons served or encountered both in developing budgets and in conducting programs and activities. For assistance and information regarding LEP obligations, go to <http://www.lep.gov>.

Article XIX - Animal Welfare Act of 1966

All recipients of financial assistance will comply with the requirements of the Animal Welfare Act, as amended (7 U.S.C. §2131 et seq.), which requires that minimum standards of care and treatment be provided for vertebrate animals bred for commercial sale, used in research, transported commercially, or exhibited to the public. Recipients must establish appropriate policies and procedures for the humane care and use of animals based on the Guide for the Care and Use of Laboratory Animals and comply with the Public Health Service Policy and Government Principles Regarding the Care and Use of Animals.

Article XX - Clean Air Act of 1970 and Clean Water Act of 1977

All recipients of financial assistance will comply with the requirements of 42 U.S.C. § 7401 et seq. and Executive Order 11738, which provides for the protection and enhancement of the quality of the nation's air resources to promote public health and welfare and for restoring and maintaining the chemical, physical, and biological integrity of the nation's waters is considered research for other purposes.

Article XXI - Protection of Human Subjects

All recipients of financial assistance will comply with the requirements of the Federal regulations at 45 CFR Part 46, which requires that recipients comply with applicable provisions/law for the protection of human subjects for purposes of research. Recipients must also comply with the requirements in DHS Management Directive 026-04, Protection of Human Subjects, prior to implementing any work with human subjects. For purposes of 45 CFR Part 46, research means a systematic investigation, including research, development, testing, and evaluation, designed to develop or contribute to general knowledge. Activities that meet this definition constitute research for purposes of this policy, whether or not they are conducted or supported under a program that is considered research for other purposes. The regulations specify additional protections for research involving human fetuses, pregnant women, and neonates (Subpart B); prisoners (Subpart C); and children (Subpart D). The use of autopsy materials is governed by applicable State and local law and is not directly regulated by 45 CFR Part 46.

Article XXII - National Environmental Policy Act (NEPA) of 1969

All recipients of financial assistance will comply with the requirements of the National Environmental Policy Act (NEPA), as amended, 42 U.S.C. § 4331 et seq., which establishes national policy goals and procedures to protect and enhance the environment, including protection against natural disasters. To comply with NEPA for its grant-supported activities, DHS requires the environmental aspects of construction grants (and certain non-construction projects as specified by the Component and awarding office) to be reviewed and evaluated before final action on the application.

Article XXIII - National Flood Insurance Act of 1968

All recipients of financial assistance will comply with the requirements of Section 1306(c) of the National Flood Insurance Act, as amended, which provides for benefit payments under the Standard Flood Insurance Policy for demolition or relocation of a structure insured under the Act that is located along the shore of a lake or other body of water and that is certified by an appropriate State or local land use authority to be subject to imminent collapse or subsidence as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels. These regulations are codified at 44CFR Part 63.

Article XXIV - Flood Disaster Protection Act of 1973

All recipients of financial assistance will comply with the requirements of the Flood Disaster Protection Act of 1973, as amended (42 U.S.C. § 4001 et seq.), which provides that no Federal financial assistance to acquire, modernize, or construct property may be provided in identified flood-prone communities in the United States, unless the community participates in the National Flood Insurance Program and flood insurance is purchased within one year of the identification. The flood insurance purchase requirement applies to both public and private applicants for DHS support. Lists of flood prone areas that are eligible for flood insurance are published in the Federal Register by FEMA.

Article XXV - Coastal Wetlands Planning, Protection, and Restoration Act of 1990

All recipients of financial assistance will comply with the requirements of Executive Order 11990, which provides that federally funded construction and improvements minimize the destruction, loss, or degradation of wetlands. The Executive Order provides that, in furtherance of Section 101(b)(3) of NEPA (42 U.S.C. § 4331(b)(3)), Federal agencies, to the extent permitted by law, must avoid undertaking or assisting with new construction located in wetlands unless the head of the agency finds that there is no practicable alternative to such construction, and that the proposed action includes all practicable measures to minimize harm to wetlands that may result from such use. In making this finding, the head of the agency may take into account economic, environmental, and other pertinent factors. The public disclosure requirement described above also pertains to early public review of any plans or proposals for new construction in wetlands. This is codified at 44 CFR Part 9.

Article XXVI - USA Patriot Act of 2001

All recipients of financial assistance will comply with the requirements of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act (USA PATRIOT Act), which amends 18 U.S.C. §§ 175-175c. Among other things, it

prescribes criminal penalties for possession of any biological agent, toxin, or delivery system of a type or in a quantity that is not reasonably justified by a prophylactic, protective, bona fide research, or other peaceful purpose. The act also establishes restrictions on access to specified materials. "Restricted persons," as defined by the act, may not possess, ship, transport, or receive any biological agent or toxin that is listed as a select agent.

FEDERAL EMERGENCY MANAGEMENT AGENCY OBLIGATING DOCUMENT FOR AWARD/AMENDMENT						
1. AGREEMENT NO. EMW-2013-FH-00214	2. AMENDMENT NO. 0	3. RECIPIENT NO. 75-6000580		4. TYPE OF ACTION AWARD	5. CONTROL NO. W497249N	
6. RECIPIENT NAME AND ADDRESS Lancaster Fire Department 1650 N Dallas Lancaster Texas, 75134-3243	7. ISSUING OFFICE AND ADDRESS Grant Programs Directorate 500 C Street, S.W. Washington DC, 20472 POC: Nikole Johnson			8. PAYMENT OFFICE AND ADDRESS FEMA, Financial Services Branch 500 C Street, S.W., Room 723 Washington DC, 20472		
9. NAME OF RECIPIENT PROJECT OFFICER Jared Karr	PHONE NO. 9722182600	10. NAME OF PROJECT COORDINATOR Catherine Patterson			PHONE NO. 1-866-274-0960	
11. EFFECTIVE DATE OF THIS ACTION 27-MAY-14	12. METHOD OF PAYMENT SF-270	13. ASSISTANCE ARRANGEMENT Cost Sharing		14. PERFORMANCE PERIOD From:27-MAY-14 To:26-MAY-16 Budget Period From:21-OCT-13 To:30-SEP-14		
15. DESCRIPTION OF ACTION a. (Indicate funding data for awards or financial changes)						
PROGRAM NAME ACRONYM	CFDA NO.	ACCOUNTING DATA (ACCS CODE) XXXX-XXX-XXXXX-XXXX-XXXX-X	PRIOR TOTAL AWARD	AMOUNT AWARDED THIS ACTION + OR (-)	CURRENT TOTAL AWARD	CUMMULATIVE NON-FEDERAL COMMITMENT
SAFER	97.083	2014-M3-C211-P4310000-4101-D	\$0.00	\$740,640.00	\$740,640.00	\$0.00
TOTALS			\$0.00	\$740,640.00	\$740,640.00	\$0.00
b. To describe changes other than funding data or financial changes, attach schedule and check here. N/A						
16a. FOR NON-DISASTER PROGRAMS: RECIPIENT IS REQUIRED TO SIGN AND RETURN THREE (3) COPIES OF THIS DOCUMENT TO FEMA (See Block 7 for address) SAFER recipients are not required to sign and return copies of this document. However, recipients should print and keep a copy of this document for their records.						
16b. FOR DISASTER PROGRAMS: RECIPIENT IS NOT REQUIRED TO SIGN This assistance is subject to terms and conditions attached to this award notice or by incorporated reference in program legislation cited above.						
17. RECIPIENT SIGNATORY OFFICIAL (Name and Title) N/A					DATE N/A	
18. FEMA SIGNATORY OFFICIAL (Name and Title) Rosalie Vega					DATE 24-FEB-14	

LANCASTER CITY COUNCIL

Agenda Communication

March 24, 2014

Item 6

Consider an ordinance amending the Code of Ordinances by amending Chapter 8, Article 8.08 “Peddlers, Solicitors, Itinerant Vendors and Handbill Distributors”, Section 8.08.042 “Depositing or Distributing in public place” to provide for the distribution of handbills for religious or political purposes on public property at times and in areas which have been designated by the city as reasonable and appropriate for such action; and by amending Section 8.08.046, “Permit Required; duration; hours of operation” by adding Subsection (d) to provide an exception to the permit requirement for those individuals distributing handbills or other written material with a political or religious purpose; amending providing a penalty of fine not to exceed five hundred dollars (\$500.00).

This request supports the City Council 2013-2014 Policy Agenda.

Goal: Healthy, Safe and Vibrant Neighborhoods

Background

A concern was raised regarding enforcement of the Code of Ordinance; Chapter 8, Article 8.08 “Peddlers, Solicitors, Itinerant Vendors and Handbill Distributors”, Section 8.08.042 “Depositing Or Distributing in Public Place” to Provide for the Distribution of Handbills for Religious or Political Purposes on Public Property at Times and in Areas Which Have Been Designated by the City as Reasonable and Appropriate for Such Action; and by Amending Section 8.08.046, “Permit Required; Duration; Hours of Operation” By Adding Subsection (d) to Provide an Exception to the Permit Requirement for Those Individuals Distributing Handbills or Other Written Material with a Political or Religious Purpose. The City Attorney reviewed the current ordinance and determined that additional language was necessary to address political and religious handbill distribution.

At the February 24, 2014 regular meeting of the City Council, this item was presented for consideration. At the March 24, 2014 work session, the City Attorney provided a briefing regarding handbill distribution, peddlers, solicitors, itinerant vendors and handbill distributors.

Considerations

- **Operational** – In compliance with the requirements of Chapter 8, the Lancaster Police Department (PD) has an application that solicitors complete prior to soliciting within the

community. This registration process allows for greater awareness when individuals, peddlers, solicitors and itinerant vendors are within the community. There are state exemptions available to religious and political organizations and the ordinance was silent in this regard. This amendment will specifically provide an exception for those individuals distributing handbills or other written material with a political or religious purpose.

- **Financial** – There are no financial implications related to the amendment of this ordinance.
- **Legal** – The City Attorney prepared the ordinance and has approved it as to form.
- **Public Information** – This item is being considered at a regular meeting of the City Council posted in accordance with the Texas Open Meetings Act.

Options/Alternatives

1. Council may approve the ordinance as presented.
2. Council may approve the ordinance with stipulated modifications
3. Council may reject the ordinance

Attachments

- Ordinance
-

Submitted by:

Opal Mauldin Robertson, City Manager
Rona Stringfellow, Assistant City Manager
Cheryl Wilson, Police Chief

AN ORDINANCE OF THE CITY OF LANCASTER, TEXAS

ORDINANCE NO.

AN ORDINANCE OF THE CITY OF LANCASTER, TEXAS, AMENDING THE CODE OF ORDINANCES BY AMENDING CHAPTER 8, ARTICLE 8.08 “PEDDLERS, SOLICITORS, ITINERANT VENDORS AND HANDBILL DISTRIBUTORS”, SECTION 8.08.042 “DEPOSITING OR DISTRIBUTING IN PUBLIC PLACE” TO PROVIDE FOR THE DISTRIBUTION OF HANDBILLS FOR RELIGIOUS OR POLITICAL PURPOSES ON PUBLIC PROPERTY AT TIMES AND IN AREAS WHICH HAVE BEEN DESIGNATED BY THE CITY AS REASONABLE AND APPROPRIATE FOR SUCH ACTION; AND BY AMENDING SECTION 8.08.046, “PERMIT REQUIRED; DURATION; HOURS OF OPERATION” BY ADDING SUBSECTION (d) TO PROVIDE AN EXCEPTION TO THE PERMIT REQUIREMENT FOR THOSE INDIVIDUALS DISTRIBUTING HANDBILLS OR OTHER WRITTEN MATERIAL WITH A POLITICAL OR RELIGIOUS PURPOSE; AMENDING PROVIDING A PENALTY OF FINE NOT TO EXCEED FIVE HUNDRED DOLLARS (\$500.00); PROVIDING FOR SEVERABILITY; PROVIDING A SAVINGS CLAUSE; PROVIDING A REPEALING CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Article 8.08 of the Lancaster Code of Ordinances provides regulations for the distribution of handbills within the City; and

WHEREAS, City staff desires to amend Article 8.08 to provide for distribution of handbills for religious or political purposes on public property at a time and place which is reasonable and shall not interfere with the reasonable and customary use of the property by other members of the general public; and

WHEREAS, City staff desires to exclude those individuals distributing handbills for religious purposes or nonprofit purposes from having to obtain a permit from the City; and

WHEREAS, the City Council has determined it is in the best interest of the citizens of the City of Lancaster, Texas to amend Article 8.08 of the Code of Ordinances.

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

SECTION 1. That Chapter 8 of the Lancaster Code of Ordinances be, and the same is, hereby amended by amending Article 8.08, “Peddlers, Solicitors, Itinerant Vendors and Handbill Distributors”, Section 8.08.042, “Depositing or Distributing in Public Place” to read as follows:

“Sec. 8.08.042 Depositing or distributing in public place

- (a) Generally. It shall be unlawful for any person to deposit, place, throw, scatter or cast any handbill in or upon any public place within this city; provided, however, that it shall not be unlawful for any person to hand out or distribute, without charge to the receiver thereof, any handbill in any public place to any person willing to accept such handbill.
- (b) Distribution of Handbills for Political Purpose or Religious Purpose. The distribution of handbills for political purposes or religious purposes shall be allowed on city-owned public property at such time and in such specific areas designated by the City Manager or his designee. Such designation shall not unreasonably limit the ability of the handbill distributor to distribute the political or religious handbills, but shall be designed to prevent the unreasonable interference with the ordinary and customary use of the property.”

SECTION 2. That Chapter 8 of the Lancaster Code of Ordinances be, and the same is, hereby amended by amending Article 8.08, “Peddlers, Solicitors, Itinerant Vendors and Handbill Distributors”, Section 8.08.046, “Permit required; duration; hours of operation” to read as follows:

“Sec. 8.08.046 Permit required; duration; hours of operation

.....

- (c) Hours of operation. It shall be unlawful for any person issued a permit under a provision of this division or for any other person to distribute, deposit or place any handbill at any time other than between the hours of 9:00 a.m. and 6:00 p.m., Monday through Saturday.
- (d) Exception for Political or Religious Purpose. A permit is not required for the distribution of handbills for religious purposes or political purposes.”

SECTION 3. Any person, firm or corporation violating any of the provisions of this ordinance or the provisions of the Code of Ordinances of the City of Lancaster, Texas, as amended hereby, shall be deemed guilty of a misdemeanor and, upon conviction in the municipal court of the City of Lancaster, Texas, shall be subject to a fine not to exceed the sum of Five Hundred (\$500.00) dollars for each offense, and each and every day such offense shall continue shall be deemed to constitute a separate offense.

SECTION 4. That all provisions of the Ordinances of the City of Lancaster, Texas, in conflict with the provisions of this ordinance be, and the same are hereby, repealed, and all other provisions of the Ordinances of the City not in conflict with the provisions of this ordinance shall remain in full force and effect.

SECTION 5. That should any word, sentence, paragraph, subdivision, clause, phrase or section of this ordinance, or of the Code of Ordinances, as amended hereby, be adjudged or held to be void or unconstitutional, the same shall not affect the validity of the remaining portions of said ordinance or the Code of Ordinances, as amended hereby, which shall remain in full force and effect.

SECTION 6. That this ordinance shall take effect immediately from and after its passage as the law and charter in such cases provide.

DULY PASSED by the City Council of the City of Lancaster, Texas, this the _____ day of _____, 2014.

APPROVED:

MARCUS E. KNIGHT, MAYOR

ATTEST:

SORANGEL O. ARENAS, CITY SECRETARY

APPROVED AS TO FORM:

ROBERT E. HAGER, CITY ATTORNEY
(REH.aga)

LANCASTER CITY COUNCIL

Agenda Communication

March 24, 2014

Item 7

Consider a resolution approving the terms and conditions of a License and Use agreement by and between the City of Lancaster and the Lancaster Chamber of Commerce, Inc. for the use of public rights of way.

This request supports the City Council 2013-2014 Policy Agenda.

Goal: Healthy, Safe & Vibrant Neighborhoods

Background

The 2nd Saturday on the Square event has been a tradition in the Lancaster community for many years. The Lancaster Chamber of Commerce, a non-profit organization with its mission to actively support, promote and attract business to better serve the greater Lancaster area, currently sponsors the event. The event is free and open to the public, and has traditionally offered various monthly themed programs within the historic downtown Town Square. The event attracts visitors and residents downtown in addition to creating opportunities for local businesses and vendors to showcase their goods and services available. There is typically entertainment available for enjoyment as well.

Many of the 2nd Saturday on The Square events utilize the City's public rights-of-way for vendors and businesses to showcase and offer their goods and services for purchase by the public. In order to allow the organizers to reserve the public rights-of-way an agreement is required.

City Council received a presentation regarding consideration of this license and use agreement during a work session on March 24, 2014.

Considerations

- **Operational** – The proposed agreement will allow the Lancaster Chamber of Commerce to conduct the 2nd Saturday on The Square event.
- **Legal** - City Attorney has reviewed the resolution as to form.
- **Financial** – The city shall receive ten dollars (\$10.00) and other good and valuable consideration.
- **Public Information** – This item is being considered at a regular meeting of the City Council posted in accordance with the Texas Open Meetings Act.

Options/Alternatives

1. Council may approve the resolution as presented.
2. Council may reject the resolution and direct staff

Recommendation

Staff recommends City Council approve contract as to form.

Attachments

- Resolution
 - License and Use Agreement
 - Town Square Map
-

Submitted by:

Sean Johnson, Managing Director
Quality of Life and Cultural Services

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LANCASTER, TEXAS, APPROVING THE TERMS AND CONDITIONS OF A LICENSE AND USE AGREEMENT BY AND BETWEEN THE CITY OF LANCASTER AND LANCASTER CHAMBER OF COMMERCE, INC. FOR THE USE OF PUBLIC RIGHTS OF WAY; AUTHORIZING THE CITY MANAGER TO EXECUTE SAID AGREEMENT; REPEALING ALL RESOLUTIONS IN CONFLICT; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, “CITY” owns and maintains public rights-of-ways; and

WHEREAS, “CHAMBER” desires to have access to and use the Property for the Licensed Purpose, as defined below, subject to the terms and conditions set forth in this Agreement; and

WHEREAS, “CITY” is willing, as an accommodation to “CHAMBER”, to permit “CHAMBER” the right to use the public rights-of-way for the Licensed Purpose, subject to the terms and conditions of this Agreement.

WHEREAS, “CHAMBER” and “CITY” agree that “CHAMBER’s” use of the property and facilities identified in Exhibit “A” shall comply with the terms and conditions of this Agreement;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF LANCASTER, TEXAS:

SECTION 1. That the Lancaster Chamber of Commerce attached hereto and incorporated herein by reference as Exhibit “A”, having been reviewed by the City Council of the City of Lancaster, Texas, and found to be acceptable and in the best interest of the City and its citizens is hereby in all things approved.

SECTION 2. That the City Manager of the City of Lancaster, Texas, is hereby authorized to execute said agreement.

SECTION 3. That any prior resolution of the City Council in conflict with the provisions contained in this Resolution are hereby repealed and revoked.

SECTION 4. That should any part of this resolution be held to be invalid for any reason, the remainder shall not be affected thereby, and such remaining portions are hereby declared to be severable.

SECTION 5. This resolution shall become effective immediately from and after its passage, as the law and charter in such cases provide.

DULY PASSED and approved by the City Council of the City of Lancaster, Texas, on this the 24th day of March 2014.

ATTEST:

APPROVED:

Sorangel O. Arenas, City Secretary

Marcus E. Knight, Mayor

APPROVED AS TO FORM:

Robert E. Hager, City Attorney

STATE OF TEXAS § LICENSE AND USE AGREEMENT BY AND BETWEEN
 § LANCASTER CHAMBER OF COMMERCE AND
COUNTY OF DALLAS § THE CITY OF LANCASTER, TEXAS

This License and Use Agreement (“Agreement”) is made and entered into on this the _____ day of March, 2014, by and between Lancaster CHAMBER of Commerce (“CHAMBER”) and the CITY of Lancaster, Texas (“CITY”).

RECITALS:

WHEREAS, “CITY” owns and maintains public rights-of-ways; and

WHEREAS, “CHAMBER” desires to have access to and use the Property for the Licensed Purpose, as defined below, subject to the terms and conditions set forth in this Agreement; and

WHEREAS, “CITY” is willing, as an accommodation to “CHAMBER”, to permit “CHAMBER” the right to use the public rights-of-way for the Licensed Purpose, subject to the terms and conditions of this Agreement.

WHEREAS, “CHAMBER” and “CITY” agree that “CHAMBER’s” use of the property and facilities identified in Exhibit “A” shall comply with the terms and conditions of this Agreement;

WHEREAS, receipt is hereby accepted for ten dollars (\$10.00) and other good and valuable consideration;

NOW THEREFORE, for and in consideration of the mutual promises and obligations in this Agreement, “CHAMBER” and the “CITY” hereby agree as follows:

**I.
LICENSE GRANTED**

1.01 CITY hereby grants CHAMBER a license, pursuant to the terms of this Agreement, for the purpose of utilizing CITY public rights-of-ways located within the Historic Town Square identified in Exhibit “A” for the operation of the 2nd Saturday on the Square between the hours of 6:00 am to 9:00 pm on the dates and times as provided in Section _____.

**II.
TERM**

2.01 The term of this Agreement shall be for a period of three (3) years commencing on the date first written above, and shall thereafter be automatically renewed from year to year unless terminated sooner by either party in accordance with the terms herein.

III.

CONDITIONS OF USE

3.01 CHAMBER agrees, and accepts the Licensed Premises as suitable for its purposes hereunder. CHAMBER ACKNOWLEDGES THAT CITY HAS NOT MADE ANY REPRESENTATION OR WARRANTY, EXPRESS, IMPLIED OR AT COMMON LAW, BY STATUTE, OR OTHERWISE RELATING TO THE LICENSED PREMISES INCLUDING, WITHOUT LIMITATION, THE CONDITION OF THE LICENSED PREMISES (INCLUDING, WITHOUT LIMITATION, ANY IMPLIED OR EXPRESSED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, CONFORMITY TO MODELS OR SAMPLES OF MATERIALS OR ENVIRONMENTAL CONDITION). IN FURTHERANCE OF THE FOREGOING, CITY EXPRESSLY DISCLAIMS AND NEGATES, AND LICENSEE HEREBY WAIVES (I) ANY IMPLIED OR EXPRESSED WARRANTY OF MERCHANTABILITY, (II) ANY IMPLIED OR EXPRESSED WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE, (III) ANY IMPLIED OR EXPRESSED WARRANTY OF CONFORMITY TO MODELS OR SAMPLES OF MATERIALS, (IV) ANY CLAIM FOR DAMAGES BECAUSE OF ANY LATENT OR PATENT DEFECTS OR OTHER DEFECTS, WHETHER KNOWN OR UNKNOWN AND (V) ANY AND ALL IMPLIED WARRANTIES EXISTING UNDER APPLICABLE LAW. IT IS THE EXPRESS INTENTION OF THE PARTIES HERETO THAT THE LICENSED PREMISES BE LICENSED ON AN AS IS, WHERE IS BASIS. THE PARTIES HERETO AGREE THAT, TO THE EXTENT REQUIRED BY APPLICABLE LAW TO BE EFFECTIVE, THE DISCLAIMERS OF CERTAIN WARRANTIES CONTAINED IN THIS SECTION ARE CONSPICUOUS DISCLAIMERS.

3.02 The usage of public rights-of-way on six (6) Saturdays, depicted in Exhibit "A", shall be limited to for which the City Manager or designee has received notice and approved as provided in this Agreement.

3.03 CHAMBER further agrees to use such facilities in accordance with the following established conditions in accordance with Lancaster Development Code, pg 14-34, under (3)(A, B, C, E, F)::

A. Outdoor sales and displays, excluding vehicles and vehicular machinery, for which the sale of these items are the primary business, shall meet the following standards:

1. Outdoor sales and displays are permitted only in areas designated on the Site Plan filed with the CITY.
2. Outdoor Sales and display may not exceed 5% of the adjacent building floor area. (Building area is defined as the entirely enclosed portion of the primary building.)
3. Outdoor sales and displays may occupy up to 30% of a covered sidewalk that is located within 20 feet of the building. Such display shall not impede pedestrian use of the sidewalk and at least a 5' passable distance shall be maintained.

4. Keep an open fire lane as determined and approved by Lancaster Fire Department.
5. Any outside sales and display not located on a covered sidewalk must be located immediately adjacent to or connected to the primary structure.
5. No outdoor sales and display may be located on any portion of a parking lot

3.04 CHAMBER further agrees to obtain all necessary food permits for the 2nd Saturday on the Square Event, utilizing Dallas County (or) Independent Sanitarian at the CHAMBERS sole expense

3.05 CHAMBER further agrees to remove all litter and debris from the Licensed Premises on or before 11:59 p.m. on the Event Date and will return the Licensed Premises to its original condition no later than 11:59 p.m. on that same date

3.06 Upon reasonable notice to CHAMBER, the CITY reserves the right to close public rights-of-ways in the event to ensure public safety.

IV. MAINTENANCE

4.01 The CITY shall be responsible for all routine maintenance of public rights-of-ways facilities identified in Exhibit "A" used by CHAMBER excluding 2nd Saturday on the Square events under the terms of this Agreement.

4.02 The CITY, as the owner, shall be permitted and has the right to make, at its own expense, any alterations or additions to any of the premises listed in Exhibit "A," notwithstanding any provision of this Agreement.

V. CITY CONTACT INFORMATION

5.01 CITY of Lancaster Contact Information:

1. All unsafe conditions on CITY property will be reported to the CITY within three (3) hours and shall be delivered by hand delivery, mail, or e-mail to the Managing Director of Quality of Life and Cultural Services at the Lancaster Recreation Center located at 1700 Veterans Memorial Parkway, Lancaster, Texas, 75134.

VI. GENERAL REQUIREMENTS APPLICABLE TO PTA

USE OF CITY PROPERTY

6.01 IMMUNITY: Nothing in this Agreement, or in any exhibit or attachment hereto, shall be construed to affect, alter, or modify the immunity of the CITY under the Texas Civil Practice and Remedies Code §§101.001 et seq or otherwise provided by state law. It is expressly understood and agreed that in the execution of this Agreement, neither CITY nor CHAMBER waives, nor shall be deemed to waive, any immunity or defense that would otherwise be available to each against claims arising in the exercise of governmental powers and functions.

6.02 INSURANCE:

Licensee shall obtain and maintain, at its sole cost, throughout the Term, Commercial General Liability with limits of \$2,000,000.00 aggregate coverage and \$1,000,000.00 per occurrence. Such insurance shall contain endorsements waiving the insurer's right of subrogation against CITY. Licensee shall name CITY as an additional insured. Licensee waives any rights of recovery against CITY for personal injury, death, or property damage or loss due to hazards covered by its insurance and Licensee shall require such insurance policies to contain a waiver of recovery against CITY, its parent, affiliates and its and their directors, officers, and employees. All insurance policies carried by Licensee shall be with companies that have a general policy holder's rating of not less than "A" and a financial rating of not less than Class "X" in the most current edition of Best's Insurance Reports. Licensee shall furnish CITY upon execution of this Agreement (and within ten (10) days after any written request for same by CITY) written evidence of insurance as required above to CITY's satisfaction, including a statement providing for written notification to CITY by the insurer not less than thirty (30) days prior to cancellation, non-renewal or reduction of any required coverage.

6.03 THIRD PARTIES: This Agreement does not create any third-party beneficiaries. Nothing in this Agreement or in any exhibit or attachment hereto, shall be construed to create, expand or form a basis for liability to any third party under any theory of law against either the CITY or CHAMBER unless such a basis exists independent of this Agreement under State or federal law.

6.04 NOTICE: Each notice or other communication which may be or is required to be given under this Agreement shall be in writing and shall be deemed to have been properly given when delivered by e-mail or personally during the normal business hours of the party to whom such communication is directed, or upon receipt when sent by United States registered or certified mail, return receipt requested, postage prepaid, to the appropriate one of the following addresses as may be designated by the appropriate party; however, each party has a right to designate a different address by giving the other party fifteen (15) days prior written notice of such designation:

If to CHAMBER:

, President
Lancaster CHAMBER of Commerce

If to CITY:

Sean D. Johnson, Managing Director
Quality of Life & Cultural Services
CITY of Lancaster
1700 Veterans Memorial Parkway
Lancaster, Texas 75134

With a copy to:

Opal Mauldin-Robertson, CITY Manager
CITY of Lancaster
211 N. Henry
Lancaster, Texas 75146

And

Robert E. Hager, CITY Attorney
Nichols, Jackson, Dillard,
Hager & Smith, L.L.P.
500 N. Akard, Suite 1800
Dallas, Texas 75201

6.05 CLAIMS AGAINST PARTIES: Each party shall be responsible for defending and/or disposing of all causes arising against the respective party as a result of its use or occupation of the subject facilities and property. It is expressly understood and agreed that in the execution of this contract, neither CITY nor CHAMBER waives, nor shall be deemed to waive, any immunity or defense that would otherwise be available to each against claims arising in the exercise of governmental powers and functions.

6.06 ENTIRE AGREEMENT: This Agreement contains the entire agreement of the parties hereto, and no other oral or written commitments shall have any force or effect if not contained herein.

6.07 SEVERABILITY: In case any of the provisions contained herein shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision thereof, and this Agreement shall be construed as if such invalidity, illegality or unenforceable provision had never been contained herein.

6.08 AUTHORITY: The undersigned officers and/or agents are authorized to execute this contract on behalf of the parties hereto, and each party hereto certifies to the other that any necessary resolutions extending such authority have been duly passed and are now in full force and effect.

6.09 CHAMBER shall promptly report to CITY any defects or dangerous conditions it discovers on or concerning CITY property, and shall cease any such use of same until such defect or condition is repaired or cured by the CITY in accordance with Article VI.

**VII.
TERMINATION**

7.01 Either party may terminate this Agreement with or without cause, by giving thirty (30) days prior written notice of the date of termination to the other party. Upon termination, all permanent improvements shall remain the property of the CITY, and all personal property shall remain the property of the party paying for the same. Removal of personal property shall be subject to the terms contained herein; however, all personal property remaining on the subject real property ninety (90) days after the date of termination shall become the personal property of the CITY.

**VIII.
REMEDIES**

8.01 No right or remedy granted or reserved to the parties is exclusive of any other right or remedy herein by law or equity provided or permitted; but each shall be cumulative of every other right or remedy given hereunder. No covenant or condition of this Agreement may be waived without written consent of the parties. Forbearance or indulgence by either party shall not constitute a waiver of any covenant or condition to be performed pursuant to this Agreement.

**IX.
APPLICABLE LAW**

9.01 This Agreement is governed by the laws of the State of Texas; any venue for any action shall be in State District Court of Dallas County.

**X.
SUCCESSORS AND ASSIGNS**

10.01 This Agreement is binding on and inures to the benefit of the successors, executors, administrators and assigns of the parties to this Agreement and affects the use of land and shall run with the land. CHAMBER will not assign, sublet, subcontract or transfer the provisions of this agreement. This Agreement cannot be assigned without the expressed written authorization and approval of the CITY as required by law.

**XI.
RECITALS AND ATTACHMENTS**

11.01 The recitals and attachments to this Agreement are incorporated herein for all purposes as if set out herein verbatim.

**XII.
EXECUTION**

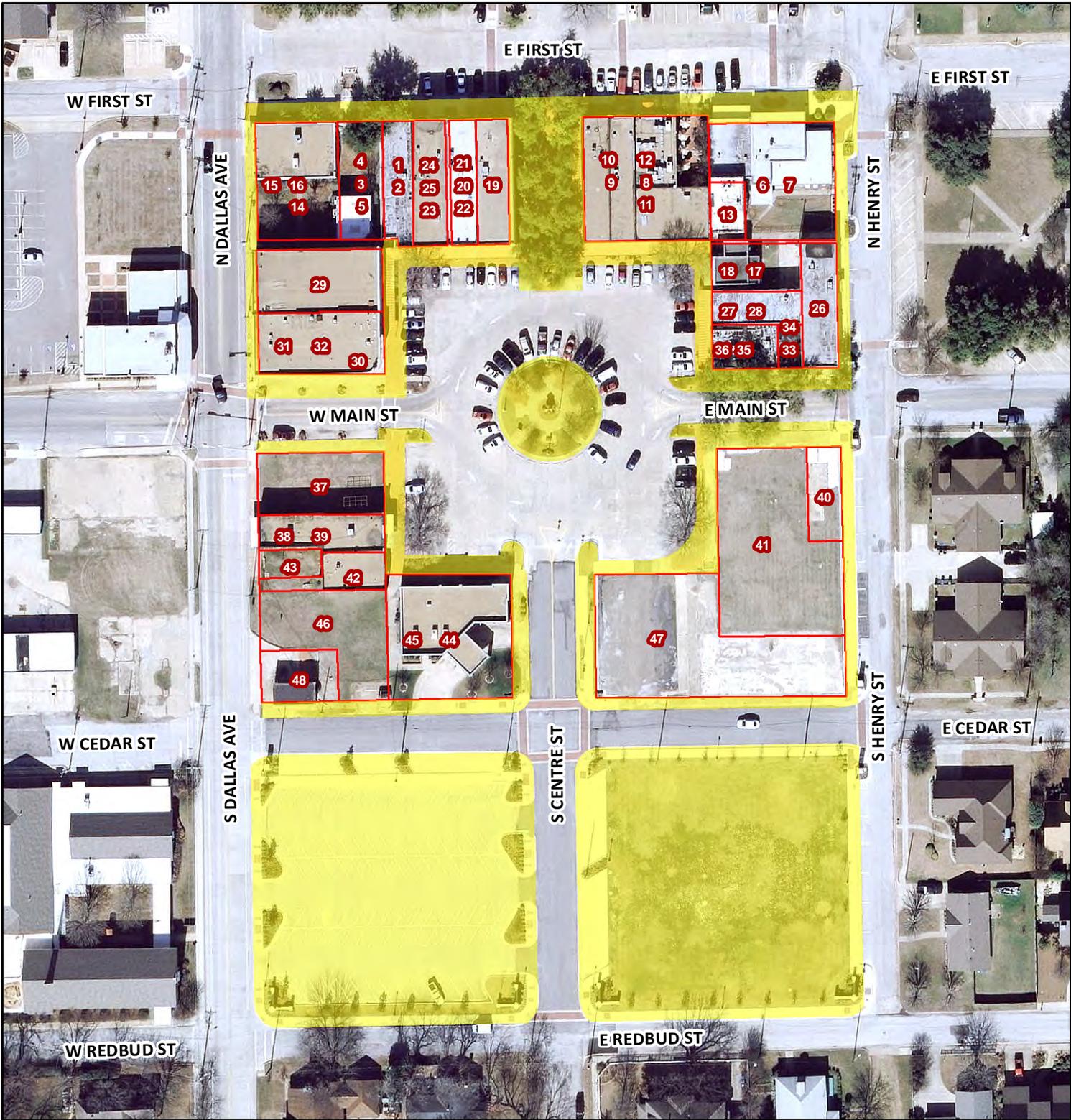
12.01 This Agreement may be executed in any number of counterparts, each of which shall be deemed an original and constitute one and the same instrument.

(Intentionally left blank signature page to follow)

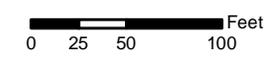
City of Lancaster Historic Town Square Property Owners



- City Property
- Town Square Parcels



ID	Owner	Site Address
1	SUSAN R FILGO	125 HISTORIC TOWN SQ
2	SUSAN R FILGO	125 HISTORIC TOWN SQ
3	WALTER T JR CLARK	121 HISTORIC TOWN SQ
4	WALTER T JR CLARK	121 HISTORIC TOWN SQ
5	WALTER T JR CLARK	121 HISTORIC TOWN SQ
6	MARGIE WALDROP	133 N HENRY ST
7	MARGIE WALDROP	133 N HENRY ST
8	WALTER & SUSAN R WEAVER	153 HISTORIC TOWN SQ
9	WALTER & SUSAN R WEAVER	153 HISTORIC TOWN SQ
10	WALTER & SUSAN R WEAVER	153 HISTORIC TOWN SQ
11	WALTER & SUSAN R WEAVER	153 HISTORIC TOWN SQ
12	WALTER & SUSAN R WEAVER	153 HISTORIC TOWN SQ
13	CARLOS & DELINDA RUFFINO	171 HISTORIC TOWN SQ
14	ELLEN CLARK	108 N DALLAS AVE
15	ELLEN CLARK	108 N DALLAS AVE
16	ELLEN CLARK	108 N DALLAS AVE
17	MARGIE WALDROP	181 HISTORIC TOWN SQ
18	MARGIE WALDROP	181 HISTORIC TOWN SQ
19	LANCASTER I O O F LODGE	142 HISTORIC TOWN SQ
20	WALTER & SUSAN R WEAVER	133 HISTORIC TOWN SQ
21	WALTER & SUSAN R WEAVER	133 HISTORIC TOWN SQ
22	WALTER & SUSAN R WEAVER	133 HISTORIC TOWN SQ
23	SUSAN WEAVER	129 HISTORIC TOWN SQ
24	SUSAN WEAVER	129 HISTORIC TOWN SQ
25	SUSAN WEAVER	129 HISTORIC TOWN SQ
26	ROXIE F HENRY	197 HISTORIC TOWN SQ
27	ROXIE F HENRY	183 HISTORIC TOWN SQ
28	ROXIE F HENRY	183 HISTORIC TOWN SQ
29	CHRIS A PEIRSON	113 HISTORIC TOWN SQ
30	WALTER T JR CLARK	103 HISTORIC TOWN SQ
31	WALTER T JR CLARK	103 HISTORIC TOWN SQ
32	WALTER T JR CLARK	103 HISTORIC TOWN SQ
33	EARLE N & ARISA M WILLIAMS	195 HISTORIC TOWN SQ
34	EARLE N & ARISA M WILLIAMS	195 HISTORIC TOWN SQ
35	WADE ROSE	189 HISTORIC TOWN SQ
36	WADE ROSE	189 HISTORIC TOWN SQ
37	ELLEN CLARK	106 HISTORIC TOWN SQ
38	WALTER T JR CLARK	116 HISTORIC TOWN SQ
39	WALTER T JR CLARK	116 HISTORIC TOWN SQ
40	REX B HEAD	198 HISTORIC TOWN SQ
41	REX B HEAD	180 HISTORIC TOWN SQ
42	RICK EILERS	124 HISTORIC TOWN SQ
43	RICK EILERS	106 S DALLAS AVE
44	FFE COMMUNITY CREDIT UNION	130 HISTORIC TOWN SQ
45	FFE COMMUNITY CREDIT UNION	130 HISTORIC TOWN SQ
46	LANCASTER EDC	130 HISTORIC TOWN SQ
47	PATRICIA M ROYDER	150 HISTORIC TOWN SQ
48	JOHN F HANAN	112 S DALLAS AVE



LANCASTER CITY COUNCIL

Agenda Communication

March 24, 2014

Item 8

Discuss and consider a resolution approving an amendment to the Wholesale Treated Water Contract with the City of Wilmer for the Sale of Wholesale Treated Water and authorizing the City Manager to Execute said Agreement.

This request supports the City Council 2013-2014 Policy Agenda.

**Goal: Financially Sound City Government
Sound Infrastructure**

Background

At the October 21, 2013 City Council work session, staff presented an overview of a proposal to provide water to the City of Wilmer. At the December 9, 2013 City Council work session, staff presented an overview of the wholesale cost of service study with a recommendation for a rate to charge the City of Wilmer to provide water. At the January 13, 2014 City Council work session, staff presented an overview of the deal points and Council directed the City Attorney to draft a contract based upon the terms discussed. At the February 10, 2014 regular meeting of the City Council considered a resolution authorizing the City Manager to enter into an agreement by and between the City of Lancaster and the City of Wilmer for the sale of wholesale treated water.

At the March 17, 2014 regular work session, Council received a presentation on the proposed funding agreement for infrastructure related to the construction of a water transmission line as well as a proposal to create a Tax Increment Financing District.

As a result of this discussion, the City of Wilmer is requesting a revised rate agreement for consideration by their City Council. The contract only addressed the terms and conditions for the sale of wholesale treated water to the City of Wilmer with the understanding that the City of Wilmer would be responsible for construction of the line. Wilmer is requesting Section 2.3 and 4.1 be amended to stipulate a separate funding agreement will be executed to address design, contracting, construction, acquisition of rights-of-way and/or finance of facilities.

Considerations

- **Operational** – The contract amendment details the terms and conditions for the sale of wholesale treated water to the City of Wilmer. Staff has provided revisions based upon Council discussion at the March 17, 2014 work session.

- **Financial** – The contract is independent of any future negotiations for the construction of any infrastructure from the City of Lancaster’s take point to the City of Wilmer’s delivery point. This contract identifies the terms, conditions, rate and rate methodology at which Lancaster would provide wholesale treated water to the City of Wilmer.
- **Legal** – The City Attorney prepared the contract based upon “deal points” discussed at the January 13, 2014 work session, the March 17, 2014 work session and the wholesale rate study prepared for the City of Lancaster.
- **Public Information** – This item is being considered at a regular meeting of the City Council noticed in accordance with the Texas Open Meetings Act.

Alternatives/Options

1. Council may authorize staff to present the contract terms and conditions to the City of Wilmer for consideration
2. Council may propose changes to the terms and conditions of the contract and authorize staff to present to the City of Wilmer for consideration
3. Council may reject the contract and direct staff

Recommendation

Should Council desire to sell wholesale treated water to the City of Wilmer, the attached amendment is presented for consideration which provides for terms, conditions, rate and rate methodology.

Attachments

- Resolution
 - Contract
-

Submitted by:

Rona Stringfellow, Assistant City Manager

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LANCASTER, TEXAS APPROVING AN AMENDMENT TO THE WHOLESALE TREATED WATER CONTRACT WITH THE CITY OF WILMER FOR THE SALE OF WHOLESALE TREATED WATER AND AUTHORIZING THE CITY MANAGER TO EXECUTE SAID AGREEMENT; PROVIDING A REPEALING CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, in accordance with the provisions of the Texas Local Government Code, Chapter 791, the Interlocal Cooperation Act, the City of Lancaster desires to enter into an agreement with the City of Wilmer, Texas for the sale of wholesale treated water; and

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF LANCASTER, TEXAS;

Section 1. That the City Council hereby approves the contract for the sale of wholesale treated water with the City of Wilmer, Texas attached hereto and incorporated herein as "Exhibit A" and authorizes the City Manager to execute the Agreement.

Section 2. That any prior Resolution of the City Council in conflict with the provisions contained in this Resolution are hereby repealed and revoked.

Section 3. That should any part of this Resolution be held to be invalid for any reason, the remainder shall not be affected thereby, and such remaining portions are hereby declared to be severable.

Section 4. This Resolution shall become effective immediately from and after its passage, as the law and charter in such cases provide.

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF LANCASTER, TEXAS, this 24th day of March, 2014.

ATTEST:

APPROVED:

SORANGEL O. ARENAS, CITY SECRETARY

MARCUS E. KNIGHT, MAYOR

APPROVED AS TO FORM:

ROBERT E. HAGER, CITY ATTORNEY
(REH/aga)

THE STATE OF TEXAS §
§ WHOLESALE TREATED WATER CONTRACT
CITY OF LANCASTER §

This contract (“Contract”) is made by and between the City of Lancaster (“Lancaster”) and the City of Wilmer (“Customer”) acting by and through their authorized representatives.

WHEREAS, Lancaster and Customer are authorized to enter into this Contract pursuant to Texas Government Code, Chapter 791, the Interlocal Cooperation Act, and other applicable laws; and,

WHEREAS, Lancaster owns, operates, and maintains a potable water system within its corporate limits; and,

WHEREAS, Lancaster purchases potable water on a wholesale basis from the City of Dallas; and,

WHEREAS, Customer desires to purchase potable water from Lancaster on a wholesale basis; and,

WHEREAS, the City of Dallas has agreed that Lancaster may transmit the water purchased on a wholesale basis through its water transmission facilities to in turn sell water to Customer on a wholesale basis; and,

WHEREAS, Lancaster is willing to transmit the potable water to the Customer, and Lancaster desires to make provisions for the delivery and sale of water to Customer as set forth herein under the Terms and Conditions stated;

NOW THEREFORE, in exchange for the mutual covenants set forth herein and other valuable consideration, the sufficiency and receipt of which are hereby acknowledged, the parties agree as follows:

Article I
Term

The term of this Contract shall remain in full force and effect for a term of twenty (20) years, beginning on the first day of the month that Customer begins receiving water from Lancaster (the “Effective Date”). Lancaster and Customer may, upon mutual consent, extend this Contract for one additional five (5) year term upon the written request of Customer presented not later than sixty (60) days prior to the expiration of the Contract.

Article II Scope of Services

2.1 Lancaster agrees to sell and deliver to Customer potable water in accordance with the specifications and restrictions as set forth herein. Lancaster agrees to provide potable water at the Customer's Delivery Point to meet volume and demand requirements of Customer as set forth herein. Customer agrees to take at its Delivery Point(s) all water required for use by Customer during the term of this Contract.

2.2 Delivery of potable water to meet the requirements of Customer is subject to and limited by available system supply and system deliverability, as determined by the City Manager of Lancaster. Such delivery shall not be unreasonably withheld.

2.3 This agreement is for the delivery of water only. A separate funding agreement will address design, contracting, construction and/or finance of facilities and/or the acquisition of any right of way for the delivery of water from the Lancaster system to the customer.

Article III Demand; Changes in Demand

3.1 Customer shall give reasonable notice to Lancaster of anticipated changes in demand requirements. Such notice shall be given at least 6 months in advance. The City Manager may waive the 6 month notice requirement for good cause shown.

3.2 Customer agrees that Lancaster's capability to provide increases in demand or volume is subject to available supply and deliverability, as determined by the City Manager.

Article IV Delivery Point, Access, Etc.

4.1 Lancaster agrees to deliver water contracted by Customer at Delivery Point(s) as delineated in Exhibit A attached hereto and at such additional points as may be mutually agreed upon by both parties. The cost of all delivery facilities, whether delineated in Exhibit A hereof or mutually agreed upon at a later date, shall be borne solely by Customer. A separate funding agreement will address the design, contracting, construction and financing of facilities and acquisition of any right-of-way for delivery of the water from the Lancaster system to the delivery point(s).

4.2 Customer agrees to provide ingress and egress for Lancaster' employees and agents to all its premises inside Customer's boundaries to install, operate, inspect, test, and maintain facilities owned or maintained by Lancaster within city limits of Customer.

4.3 Lancaster agrees to provide ingress and egress for Customer's employees and agents to all premises inside Lancaster' boundaries to install, operate, inspect, test, and maintain facilities, and read meters owned or maintained by Customer within Lancaster.

4.4 It shall be the duty of either party to this Contract to notify the other party in the event that the meter(s) is registering inaccurately or malfunctioning so that the meter(s) can be promptly repaired. Each meter will be operated and maintained so as to record with commercial accuracy. Lancaster will notify Customer prior to any meter tests. Either party has the right to request a meter be tested with the other party having the right to witness such test. If Customer requires an independent testing service be used, a mutually agreed upon tester shall be used. Customer shall pay the cost of said testing service if the meter(s) is found to be accurate. If meter(s) is found inaccurate, Lancaster shall pay the costs of said testing service.

Article V Additional Surface Water Supplies

If within the term of this Contract Customer ceases to take water from Lancaster because such other surface water supplies have been developed or acquired, Customer shall for two years or the balance of this Contract, whichever is less, remain liable for demand charges at the billing level in effect at such cessation. This obligation, once established, shall serve as liquidated damages and it is agreed by the parties that such liquidated damages are a reasonable substitute for compensatory damages which are difficult or impossible to calculate herein. This obligation is intended by the parties not to be a penalty, but instead, a reasonable measure of damages.

Article VI Resale

Customer agrees not to sell water purchased from Lancaster to any person or entity outside Customer's corporate boundaries or service area designated by the Texas Commission on Environmental Quality (TCEQ) (as may be adjusted from time to time) unless Customer has received prior written approval from Lancaster.

Article VII Usage; Rates; and Payments

7.1 There will be a two part wholesale treated water rate, one part based on demand and one part based on volume. The demand rate, explained more fully in section 7.2 below, shall be calculated based on one million gallons per day (MGD) or portion thereof. The volumetric rather, explained more fully in section 7.3 below, shall be calculated based on one thousand (1,000) gallons basis.

7.2 Purchase Price based on Demand. Customer's initial demand rate shall be at the rate established by Lancaster's Wholesale Water Cost of Service Study, prepared by J. Stowe and Company, dated March 20, 2013 and amended November 22, 2013, which is adjusted in accordance with the City of Dallas Ordinance number 29150, effective October 1, 2013. Customer's maximum demand is agreed to be 0.80 MGD. The initial demand rate shall be \$208,941.00 per MGD as established by Dallas Ordinance 29150. Customer's demand charge shall be \$167,152.80.

7.3 Purchase Price based on Volume. Customer's initial volume rate shall be at the rate established by Lancaster's Wholesale Water Cost of Service Study prepared by J. Stowe and Company dated March 20, 2013 and amended November 22, 2013. Customer's initial volume charge for transportation of treated water, which includes a demand (excess capacity) component, shall be \$1.3479 per thousand (1,000) gallons of water, plus a volume rate of \$0.3673 per one thousand (1,000) gallons of treated water (the volume rate established by the City of Dallas Ordinance 29150 and effective October 1, 2013). Customer's total initial volume charge shall be \$1.7152 per thousand (1,000) gallons, which is a total volumetric charge of \$253,242.

7.4 Customer understands that Lancaster City Council has the right to revise both the volume rate and the demand rate charged by Lancaster to the Customer in light of any change in the rates charged by the City of Dallas to the City of Lancaster. Lancaster may also adjust, on an annual basis, the volume rate based on any changes or amendments to Lancaster's Wholesale Water Cost of Service Study. Lancaster shall provide the Customer a minimum of sixty (60) days written notice to the Customer of any changes in the rates.

7.5 In the event that Customer shall fail to make any such monthly payment or annual payment within the time herein in this section specified, interest on such amount shall accrue at the rate of ten percent (10%) per annum from the date such payment becomes due until paid in full with the interest as herein specified. In the event such payment is not made within thirty (30) days from the date such payment becomes due, Lancaster may at its option discontinue delivery of water to Customer until the amount due Lancaster is paid in full with interest as herein specified.

7.6 Customer agrees to provide adequate security to ensure performance under this Contract in a form mutually agreed to by the parties.

7.7 If Customer imposes mandatory conservation measures pursuant to Customer's Drought Contingency Plan for the purpose of preserving and conserving water resources, Customer shall pay to Lancaster in the amount equal to the actual volume sold to Customer during the time that such conservation measures are imposed on Customer.

Article VIII Curtailement

8.1 Customer agrees that if water supplies or services are curtailed within Lancaster, Lancaster may impose a like curtailment on deliveries to Customer. Customer will cooperate by imposing conservation measures upon its sales.

8.2 Customer agrees to adopt by ordinance a Drought Contingency Plan which contains the same conservation measures as the Lancaster Drought Contingency Plan. Upon request, Customer will furnish a copy of its conservation plan to Lancaster.

Article IX Standards

9.1 Customer shall protect Customer's storage and distribution system from cross connections under the specifications required by health standards of the State of Texas.

9.2 Customer agrees to provide air gaps for any ground storage and backflow preventers for any elevated storage.

9.3 Customer agrees to take reasonable efforts to ensure that Customer's water wells will be operational in the event an emergency or increased demand interferes with Lancaster's ability to supply water to the Customer.

Article X Force Majeure, etc.

10.1 If, for any reason, not reasonably within the control of the party so claiming, either party hereto shall be rendered in whole or in part unable to carry out its obligations under this Contract, then that party's obligation shall be suspended during the continuance of the inability then claimed, but for no longer period. Such party shall endeavor to remove or overcome such inability with all reasonable dispatch.

10.2 Lancaster shall be not liable for damage to Customer's water mains or water system resulting from the rate of flow or quantity of water delivered.

10.3 Customer hereby agrees to hold Lancaster whole and harmless from any claims or damages arising as a result of the chemical or bacteriological content of water provided to the Customer, unless damages resulting from the chemical or bacteriological content of the water are caused by the gross negligence of Lancaster.

10.4 To the extent permitted by law, Customer agrees to defend, indemnify and hold Lancaster, its officers, agents and employees, harmless from any liability in claims, administrative proceedings and lawsuits for judgments, penalties, costs, expenses and attorney's fees for personal injury (including death), property damage, other harm for which recovery of damages is sought, or violations of state or federal laws or regulations that may arise out of or be occasioned by: (a) a breach of this Contract by Customer; (b) the negligent act or omission of Customer in the performance of this Contract or in Customer's day-to-day water or wastewater utility operations; or (c) the conduct of Customer that constitutes a violation of state or federal law or regulations. The indemnity stated above applies regardless of whether the personal injury, death, property damage, other harm or violations are contributed to by the negligence or fault of Lancaster, its officers, agents and employees; provided, however, that the indemnity stated above shall not apply to any liability resulting from Lancaster's sole violation of a state or federal law or regulation or from the sole negligence of Lancaster, its officers, agents, employees or separate contractors, and in the event of the joint or concurring responsibility of Customer and Lancaster, responsibility if any, shall be apportioned comparatively in accordance with the law of the State of Texas, without waiving governmental immunity or any other defenses of the parties under applicable Texas law. The provisions of this paragraph are solely for the benefit of the parties to

this Contract and are not intended to create or grant any rights, contractually or otherwise, to any other person or entity.

Article XI Miscellaneous

11.1 Entire Contract. This Contract constitutes the sole and only Contract between the parties and supersedes any prior understandings written or oral Contracts between the parties with respect to this subject matter. There is no other collateral oral or written agreement between the parties that in any manner relates to the subject matter of this Contract.

11.2 Assignment. The Customer may not assign this Contract in whole or in part without the prior written consent of Lancaster. In the event of an assignment by Customer to which Lancaster has consented, the assignee shall agree in writing with Lancaster to personally assume, perform, and be bound by all the covenants, and obligations contained in this Contract.

11.3 Successors and Assigns. Subject to the provisions regarding assignment, this Contract shall be binding on and inure to the benefit of the parties to it and their respective heirs, executors, administrators, legal representatives, successors and assigns.

11.4 Governing Law. The laws of the State of Texas shall govern this Contract; and venue for any action concerning this Contract shall be in the State District Court of Dallas County, Texas. The parties agree to submit to the personal and subject matter jurisdiction of said court.

11.5 Amendments. This Contract may be amended by the mutual written agreement of the parties to it in writing and attached to and incorporated in this Contract.

11.6 Severability. In the event any one or more of the provisions contained in this Contract shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality or unenforceability shall not effect any other provisions, and the Contract shall be construed as if such invalid, illegal, or unenforceable provision had never been contained in it.

11.7 Independent Contractor. It is understood and agreed by and between the parties that the Customer in satisfying the conditions of this Contract is acting independently, and that Lancaster assumes no responsibility or liabilities to any third party in connection with these actions. All services to be performed by Customer pursuant to this Contract shall be in the capacity of an independent contractor, and not as an agent or employee of Lancaster. Customer shall supervise the performance of its services and shall be entitled to control the manner and means by which its services are to be performed, subject to the terms of this Contract.

11.8 Notice. Any notice required or permitted to be delivered hereunder may be sent by first class mail, overnight courier or by confirmed telefax or facsimile to the address specified below, or to such other party or address as either party may designate in writing, and shall be deemed received three (3) days after delivery set forth herein:

If intended for Lancaster:
City Manager
City Of Lancaster
211 N. Henry Street
Lancaster, Texas 75146

With copy to:
Director of Public Works
City of Lancaster
P.O. Box 940
Lancaster, Texas 75146

If intended for Customer:

_____, Mayor
City of Wilmer, Texas
128 N. Dallas Ave.
Wilmer, Texas 75172

With copy to:
City Administrator
City of Wilmer
128 N. Dallas Ave.
Wilmer, Texas 75172

11.9 Counterparts. This Contract may be executed by the parties hereto in separate counterparts, each of which when so executed and delivered shall be an original, but all such counterparts shall together constitute one and the same instrument. Each counterpart may consist of any number of copies hereof each signed by less than all, but together signed by all of the parties hereto.

11.10 Exhibits. The Exhibits attached hereto are incorporated herein and made a part hereof for all purposes.

11.11 INDEMNIFICATION. CUSTOMER SHALL RELEASE, DEFEND, INDEMNIFY AND HOLD HARMLESS LANCASTER AND ITS OFFICERS, AGENTS AND EMPLOYEES FROM AND AGAINST ALL DAMAGES, INJURIES (INCLUDING DEATH), CLAIMS, PROPERTY DAMAGES (INCLUDING LOSS OF USE), LOSSES, DEMANDS, SUITS, JUDGMENTS AND COSTS, INCLUDING REASONABLE ATTORNEY’S FEES AND EXPENSES, IN ANY WAY ARISING OUT OF, RELATED TO, OR RESULTING FROM THE SERVICES PROVIDED BY CUSTOMER TO THE EXTENT CAUSED BY THE NEGLIGENT ACT OR OMISSION OR INTENTIONAL WRONGFUL ACT OR OMISSION OF CUSTOMER, ITS OFFICERS, AGENTS, EMPLOYEES, SUBCONTRACTORS, LICENSEES, INVITEES OR ANY OTHER THIRD PARTIES FOR WHOM CUSTOMER IS LEGALLY RESPONSIBLE (HEREINAFTER “CLAIMS”). CUSTOMER IS EXPRESSLY REQUIRED TO DEFEND LANCASTER AGAINST ALL SUCH CLAIMS.

11.12 Audits and Records. The Customer agrees that during the term hereof the Lancaster and its representatives may, during normal business hours and as often as deemed necessary, inspect, audit, examine and reproduce any and all of the Customer’s records relating to the services provided pursuant to this Contract for a period of one year following the date of completion of services as determined by Lancaster or date of termination if sooner.

11.13 Recitals. The recitals to this Contract are incorporated herein.

EXECUTED on this _____ day of _____ 2014.

CITY OF LANCASTER, TEXAS

By: _____
Opal MauldinRobertson, City Manager

ATTEST:

By: _____
Sorangel O. Arenas, City Secretary

APPROVED AS TO FORM:

By: _____
Robert Hager, City Attorney
(REH/mpm/60477)

EXECUTED on this _____ day of _____ 2014.

CITY OF WILMER, TEXAS

By: _____
Name: A. Hector Casarez
Title: Mayor

ATTEST:

By: _____
_____, City Secretary

EXHIBIT A
Route and Delivery Points

EXHIBIT A
Route and Delivery Points



Route #2 – Pleasant Run Road (5350 LF)

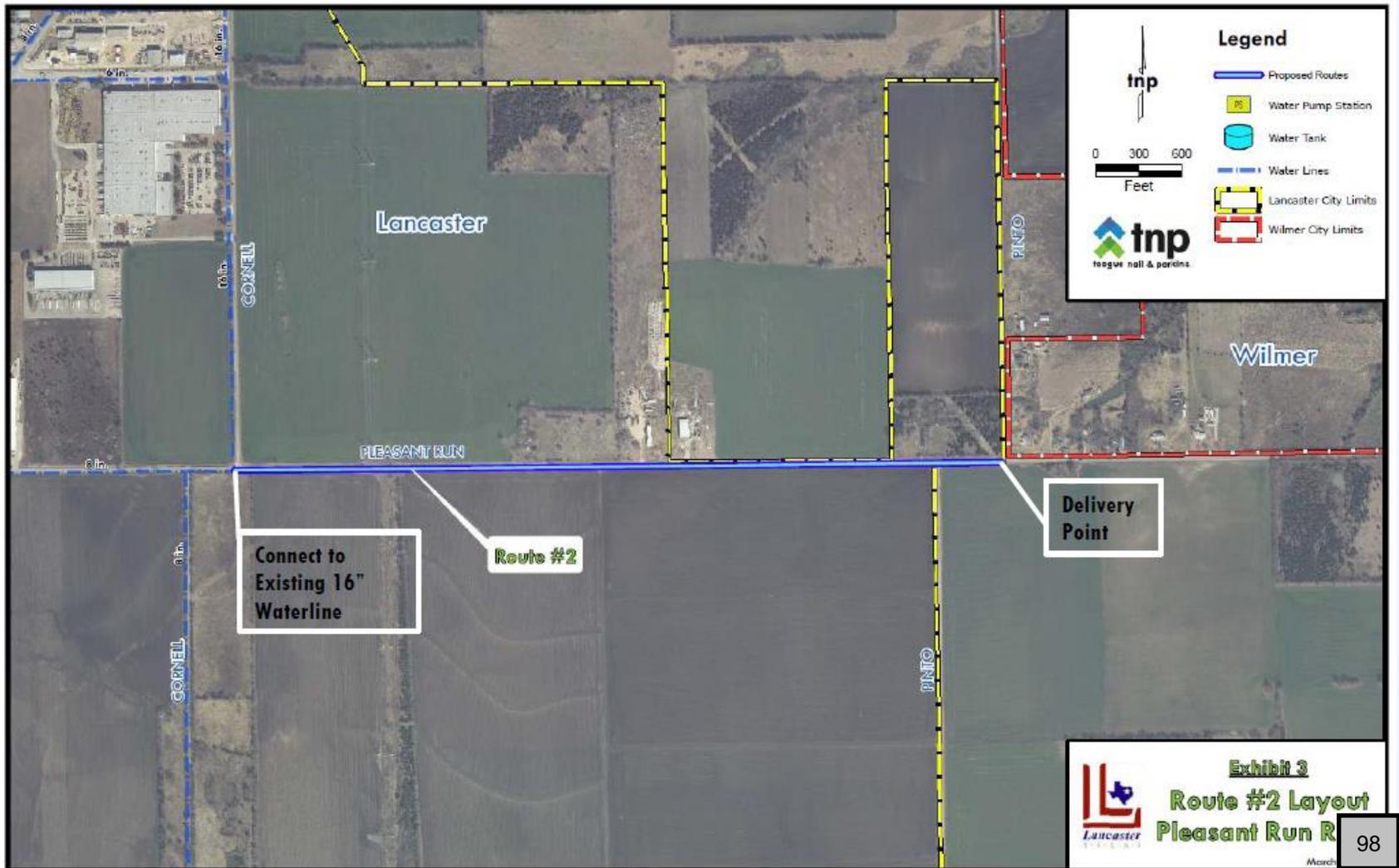


Exhibit 3
Route #2 Layout
Pleasant Run R

March

LANCASTER CITY COUNCIL

Agenda Communication

March 24, 2014

Item 9

Consider a resolution approving a contract with Dallas County Tax Assessor Collector providing for the assessment and collection of ad valorem property taxes for all properties subject to the City of Lancaster's taxing jurisdiction; pursuant to Section 6.24 of the Texas Property Tax Code and Section 791.011 of the Texas Government Code.

This request supports the City Council 2013-2014 Policy Agenda.

Goal: Financially Sound City Government

Background

Dallas County Tax Assessor Collector assesses and collects taxes on behalf of its member jurisdictions. In an effort to bring all of the entities contracts into sync with each other, they have requested each entity to execute a new agreement.

Considerations

- **Operational** – Administration and monitoring of the agreement are within the capabilities of staff.
- **Financial** – The collection amount remains the same and no additional financial impact on the City.
- **Legal** – The contract has been reviewed and approved as to form by the City Attorney.
- **Public Information** – This item is being considered at a regular meeting of the City Council posted in accordance with the Texas Open Meetings Act.

Options/Alternatives

1. The City Council may approve the resolution authorizing the contract.
2. The City Council may deny the resolution.

Recommendation

Staff recommends approval of the item as presented.

Attachments

- Resolution
 - Contract
-

Submitted by:

Cynthia Pearson, Finance Director

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LANCASTER, TEXAS, APPROVING THE TERMS AND CONDITIONS OF A CONTRACT ATTACHED HERETO AND INCORPORATED HEREIN BY REFERENCE AS EXHIBIT "A" WITH DALLAS COUNTY TAX ASSESSOR COLLECTOR PROVIDING FOR THE ASSESSMENT AND COLLECTION OF AD VALOREM PROPERTY TAXES FOR ALL PROPERTIES SUBJECT TO THE CITY OF LANCASTER'S TAXING JURISDICTION; PURSUANT TO SECTION 6.24 OF THE TEXAS PROPERTY TAX CODE AND SECTION 791.011 OF THE TEXAS GOVERNMENT CODE; AUTHORIZING THE CITY MANAGER TO EXECUTE SAID CONTRACT; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Lancaster ("City") has approved a Tax Assessment and Collection Contract with Dallas County Tax Assessor Collector in connection with the assessment and collection of ad valorem property taxes; and

WHEREAS, execution of said contract requires the approval of the Lancaster City Council;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF LANCASTER, TEXAS:

SECTION 1. That the City Council of the City of Lancaster, Texas hereby consents to the Tax Assessment and Collection Contract under the terms and conditions set for in the Contract, which is attached hereto and incorporated herein as Exhibit "A".

SECTION 2. That the City Council hereby authorizes the City Manager to execute said Contract.

SECTION 3. This resolution shall take effect immediately from and after its passage and the publication of the caption as the law and charter in such cases provide.

DULY PASSED and approved by the City Council of the City of Lancaster, Texas, on this 24th day of March 2014.

ATTEST:

APPROVED:

Sorangel O. Arenas, City Secretary

Marcus E. Knight, Mayor

APPROVED AS TO FORM:

Robert E. Hager, City Attorney



CONTRACT FOR ASSESSMENT AND COLLECTION BETWEEN DALLAS COUNTY, TEXAS AND THE CITY OF LANCASTER

PURPOSE:

This contract is between the Dallas County, Texas, through its County Tax Assessor-Collector, and the City of Lancaster ("Taxing Unit") and is entered into pursuant to Section 6.24 of the Texas Property Tax Code and Sec. 791.011 of the Texas Government Code.

I. SCOPE OF SERVICES

1. SERVICES TO BE RENDERED BY TAX ASSESSOR/COLLECTOR

Dallas County, through its County Tax Assessor-Collector, (collectively referred to as "TAC"), shall assess and collect ad valorem property taxes upon all properties subject to the Taxing Unit's taxing jurisdiction, and shall perform said services in the same manner and fashion as TAC collects taxes due and owing County on its own taxable properties. The services rendered hereunder shall conform with all applicable and controlling laws, rules, orders, mandates, and regulations, and shall include the following: (1) receiving the Certified Appraisal Roll from the appropriate Appraisal District(s) and monthly changes thereto, (2) providing mortgage companies, property owners and/or tax representatives tax roll and payment data, (3) providing all necessary assessments of taxes as required, (4) the transmittal of tax statements via appropriate medium (5) processing property tax payments, and (6) calculations of the effective tax rates, roll back tax rates and Truth in Taxation notices for publication unless instructed otherwise.

Additionally, on Taxing Unit's behalf, TAC shall (1) approve and refund erroneous or overpayments, if provided sufficient historical information by Taxing Unit, (2) approve or reject requests for waiver of penalties and interest for delinquent taxes owed, (3) prepare and issue tax certificates, and (4) prepare and/or provide information and reports to state agencies, auditors and other interested parties regarding assessments, collections and disbursements of ad valorem taxes.

2. ADDITIONAL SERVICES AVAILABLE TO TAXING UNIT

TAC might further perform or render additional related services when requested by Taxing Unit, which additional services might result in additional costs and fees to be paid by Taxing Unit. Before any such additional services are commenced by the TAC, said services and attendant costs and fees shall be confirmed by separate written agreement.

3. EXCLUSIONS

The scope of services contemplated hereunder does not include the administration of a rollback election. In the event of a rollback election, regardless of the outcome, all costs incurred by the TAC on behalf of the Taxing Unit shall be in addition to the collection fees set out in the

attached Notice of Annual Per Parcel Cost and shall be confirmed by separate written agreement. Should the Taxing Unit adopt a rate that will trigger a rollback election, they may obtain an estimate of the costs that would be incurred, regardless of the outcome of the election.

In the event of a rollback election by the Taxing Unit, the TAC shall assume no duty or responsibility hereunder regarding (1) any matter relating to a financial or legal obligation said Taxing Unit may owe to any applicable Appraisal District; (2) the adoption of Taxing Unit's corrected/modified/amended tax rates, and related publications or notices pertaining thereto, or (3) any other obligation imposed by law or other controlling authority upon Taxing Unit not specifically stated in this Agreement.

II. COMPENSATION

In consideration of the services provided by the TAC, Taxing Unit shall pay TAC for the services provided herein, the amounts reflected in the attached Notice of Annual Per Parcel Cost. The Notice of Annual Per Parcel Cost attached hereto is incorporated herein for all purposes and constitutes a part of this contractual agreement.

It is expressly understood and agreed that the Notice of Annual Per Parcel Cost might be amended over time. If the Notice of Annual Per Parcel Cost is amended in the future, the remainder of this Agreement shall remain in full force and effect unless specifically changed by supplemental, amended or a replacement Agreement. Before any such amendment may take effect, timely notice must be provided. To be considered timely, said notice shall be provided on or before the 1st day of March of each year, with an effective date of October 1st of the new tax year.

The TAC's compensation for performing the primary services contemplated herein shall be deducted from current collections by January 31st annually, and shall include, but not be limited to all accounts added through supplements to the tax collection system from the certified Tax Roll received from the applicable appraisal district(s) since certification.

III. COOPERATION

The Taxing Unit shall provide to the TAC, without charge, copies of all records necessary to perform the duties and responsibilities contemplated under this Agreement in the format and/or medium in which they currently exist.

The Taxing Unit shall provide to the TAC all accounts involved in the establishment of a new Public Improvement District ("PID") or any additions or deletions of an existing PID. PID rates must be adopted per \$100 of valuation as determined and certified by the applicable Appraisal District(s).

Consistent with mandates of applicable law, the parties hereto shall assist each other in promptly complying with Public Information Requests pertaining to any aspects of this Agreement.

IV. NOTICE OF APPLICABLE TAX RATES

Taxing Unit shall provide the TAC with timely notice regarding the adoption all applicable tax rates and exemptions, as well as related directives, orders, decisions or other matters which impact the assessment and collection of ad valorem property taxes. As used herein, the phrase "timely" shall mean adopting the applicable tax rate for the Taxing Unit and providing notice to the TAC of same no later than the 3rd Wednesday of September for each year that this Contract remains in effect.

In the event that the Taxing Unit does not timely adopt its tax rate on or before the 3rd Wednesday of September and notify TAC of same, the Taxing Unit agrees that it will bear all reasonable and additional costs incurred by TAC as a direct or indirect result of Taxing Unit's failure to timely adopt its tax rate. All such costs are in addition to the collection fees set out in the attached Notice of Annual Per Parcel Cost.

V. DEPOSIT OF FUNDS

All funds collected by the TAC on Taxing Unit's behalf shall be promptly transferred and deposited by automated clearing house (ACH) protocol into an account designated by Taxing Unit at its depository bank. If any daily collection total is less than Twenty-five Dollars (\$25.00), the distribution will be withheld until the cumulative total of taxes collected on the Taxing Unit's behalf equals at least Twenty-five Dollars (\$25.00).

After initiation of the aforementioned ACH transfers from the Dallas County Tax Office's Depository Account to the Taxing Unit's designated Depository Account, the TAC retains no responsibility, and shall have no liability, for the further management and processing of said funds.

VI. REFUNDS

Refunds will be made by the TAC on Taxing Unit's behalf only as set forth herein. The TAC will not make refunds on prior year paid accounts unless the prior year paid accounts for the past five (5) years are provided and made available to the TAC.

The TAC agrees to issue refund checks on behalf of the Taxing Unit based on value changes as provided by the Appraisal Districts; should a Taxing Unit have insufficient collections to repay the Tax Office within 15 days then the outstanding sum must be paid in full upon notification by the Tax Office.

In the event that the Taxing Unit is a party in any lawsuit regarding the collection of taxes provided for herein, which matter is resolved by settlement or final judgment requiring the Taxing Unit to refund tax payment proceeds to a taxpayer, the TAC shall be permitted to make such refund on the Taxing Unit's behalf, and to debit such amount from tax payment proceeds currently held by the TAC on behalf of the Taxing Unit.

VII. AUDIT CONTROLS

The TAC shall employ and utilize appropriate internal and external audit controls to insure the accuracy and integrity of their tax collection efforts on Taxing Unit's behalf. The Taxing Unit reserves the right to employ its own independent audit mechanisms and controls. When requested, the TAC shall cooperate with the Taxing Unit's independent auditors by providing necessary explanations of all reports as well as providing access to relevant databases maintained by the Dallas County Tax Office.

VIII. DELINQUENT TAX COLLECTION

In addition to the services provided herein, the TAC shall, to the fullest extent permitted by law, make all reasonable efforts to pursue the collection of delinquent ad valorem property taxes owed to the Taxing Unit. All such efforts shall include contracting with any competent attorney to represent the TAC in enforcing the collection of delinquent taxes. To avoid duplication of efforts and unnecessary costs to the taxpayer, the TAC recommends employing the same counsel for both the TAC and the Taxing Unit. Any attorney retained for such representation shall be paid in the manner permitted by law and consistent with the contract between the TAC and the attorney.

In the event the Taxing Unit utilizes different legal counsel than the one employed by the TAC, the Taxing Unit agrees to pay the additional cost, if any, that are incurred in utilizing different legal counsel. All such costs are in addition to the collection fees set out in the attached Notice of Annual Per Parcel Cost.

IX. NOTICES

Notices required to be given to either party to this agreement shall be deemed delivered when either personally delivered, faxed with receipt confirmed, or when mailed via United States Mail, certified or registered, postage prepaid, and confirmed received by intended recipient.

X. SUPPLEMENTAL SURETY BOND RECOMMENDED

The TAC recommends that the Taxing Unit obtain additional and adequate surety bond for the TAC specifically related to all anticipated services to be performed and rendered hereunder, with all associated premiums for such bond to be paid by the Taxing Unit.

XI. TERM AND DURATION OF AGREEMENT

The term of this Agreement shall begin on the date of last execution by any party hereto, and continue in full force and effect, from year to year, until such time as either party, by written notice to the other, terminate the same. Notice of termination given hereunder on or before the 1st day of April of the tax year in which the party intends termination, shall be effective immediately following the 30th day of September following such notice.

XII. SOVEREIGN IMMUNITY

This Contract for Assessment and Collection is expressly made subject to each party's sovereign immunities, Title 5 of the Texas Civil Remedies Code and all applicable state and federal law. The parties expressly agree that no provision of this Agreement is intended to in any way constitute a waiver of any immunities from suit or from liability that the parties have by operation of law.

XIII. MISCELLANEOUS PROVISIONS

This Contract for Assessment and Collection contains the entire agreement between the parties relating to the rights and obligations delegated, assumed and owed by and between the TAC and the Taxing Unit. This contract supersedes any prior understandings and agreements between the parties, written or oral, pertaining to the same subject matters.

This contract shall be construed under and in accordance with the laws of the State of Texas, and all obligations herein shall be performed in Dallas County, Texas.

This contract is not intended to benefit any third-party beneficiaries.

This contract shall be binding upon and inure to the benefit of the parties hereto, and to their respective successors and assigns.

Should one or more provisions contained herein be declared invalid, illegal, or otherwise unenforceable, such declaration shall not invalidate or adversely impact other valid, legal and enforceable provisions, and the remainder of this Agreement shall remain in full effect.

AGREED AS TO FORM AND CONTENT:

Opal Mauldin-Robertson
City Manager
City of Lancaster

Date

Clay Lewis Jenkins
Dallas County Judge

Date

ACKNOWLEDGMENT:

John R. Ames, CTA
Dallas County Tax Assessor-Collector

Date

APPROVED AS TO FORM:
Craig Watkins, District Attorney

Teresa Guerra Snelson
Chief, Civil Division

By: Paul E. Hamilton
Assistant District Attorney

*By law, the District Attorney’s Office may only advise or approve contracts or legal documents on behalf of its clients. It may not advise or approve a contract or legal document on behalf of other parties. Our review of this document was conducted solely from the legal perspective of our client. Our approval of this document was offered solely for the benefit of our client. Other parties should not rely on this approval, and should seek review and approval by their own respective attorney(s).



**DALLAS COUNTY TAX OFFICE
JOHN R. AMES, CTA
TAX ASSESSOR/COLLECTOR**

Annual Notice of Per Parcel Cost for Ad Valorem Tax Collections

August 2013

Please accept this as the annual notice of the per parcel cost of collections for your Ad Valorem taxes per the agreed upon in the contract for assessment and collection with your governmental entity and the Dallas County Tax Assessor/Collector's Office.

These per parcel costs will be effective with the July 2014 certified roll and will be billed and collected by January 31, 2015.

	2013 Tax Year	2014 Tax Year
Parcels within Dallas County (Certified by the Dallas Central Appraisal District)	\$1.30	\$1.30
Parcels outside of Dallas County (Certified by any other CAD besides Dallas CAD)	\$2.95	\$2.95
Public Improvement Districts (PIDs) (As approved by the appropriate municipality)	\$2.75	\$2.75

Please attach this notice to your original Assessment and Collection Contract as the official costs determined and agreed upon by the Dallas County Auditor's Office, Tax Assessor's Office and the Commissioners Court.

John R. Ames, CTA
Tax Assessor/Collector

LANCASTER CITY COUNCIL

Agenda Communication

March 24, 2014

Item 10

Discuss and Consider a Resolution Authorizing the City Manager to execute a Memorandum of Understanding by and between the City of Lancaster and Con-way Truckload, Inc.

This request supports the City Council 2013-2014 Policy Agenda.

Goal: Quality Development

Background

At the February 11, 2013 regular meeting, City Council convened into closed executive session to consult with the City Attorney concerning Cause No. DC11-10174 Con-Way Truckload, Inc. v. The City of Lancaster.

Con-Way Truckload owns approximately 58.206 acres of land and has operated approximately 16 acres of land since 1989 as a truck terminal. Con-Way has represented to the City its intent to sell the property; however, they intend to remain on the property subsequent to the date of sale for a period of 13 months from the closing date of the sale.

Considerations

- **Operational** – The Memorandum of Understanding provides that Con-Way remain on the property up to 13 months from closing date of the sale with their existing non-conforming use.
- **Financial** – There are no financial commitments associated with execution of the Memorandum of Understanding.
- **Legal** – The City Attorney prepared, reviewed and approved as to form the Memorandum of Understanding and the Resolution authorizing its execution.
- **Public Information** – This item is being considered at a regular meeting of the City Council noticed in accordance with the Texas Open Meetings Act.

Alternatives/Options

1. Council may approve the resolution.
2. Council may reject the resolution.

Recommendation

The item is recommended for approval as presented.

Attachments

- Resolution
 - Memorandum of Understanding
-

Submitted by:

Opal Mauldin Robertson, City Manager

RESOLUTION NO.

A RESOLUTION OF THE CITY OF LANCASTER, TEXAS, APPROVING A MEMORANDUM OF UNDERSTANDING BY AND BETWEEN CONWAY TRUCKLOAD, INC AND THE CITY OF LANCASTER; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Lancaster and Conway Truckload, Inc. are involved in litigation concerning land use rights in Cause No. 11-10174 filed in the 193rd Judicial District Court of Dallas County, Texas; and

WHEREAS, Conway Truckload, Inc. has dismissed said cause of action; and

WHEREAS, Conway Truckload, Inc. continued to operate a truck terminal on said property and will continue to operate such use for thirteen (13) months at time of closing; and

WHEREAS, the City of Lancaster acknowledges Conway Truckloads, Inc nonconforming rights in accordance with the Lancaster Code of Ordinances; and

WHEREAS, the City Council finds that it is in the best interest of the City of Lancaster to adopt this Resolution approving the Memorandum of Understanding, which is attached hereto and incorporated herein by reference; and

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF LANCASTER, TEXAS, THAT:

SECTION 1. That a Memorandum of Understanding by and between the City of Lancaster, Texas and Conway Truckload, Inc., is hereby approved as set forth in Exhibit A, which is attached hereto and incorporated herein by reference; and, that the Mayor is authorized to execute and approve this Resolution; and, the City Manager is authorized to execute the Memorandum of Understanding.

SECTION 2. This Resolution shall become effective immediately from and after its passage.

DULY RESOLVED AND ADOPTED by the City Council of the City of Lancaster, Texas, on this the 24th day of March, 2014.

ATTEST:

Sorangel O. Arenas, City Secretary

APPROVED:

Marcus E. Knight, Mayor

APPROVED AS TO FORM:

Robert E. Hager, City Attorney

MEMORANDUM OF UNDERSTANDING

This agreement is intended to memorialize and acknowledge the land use rights of Con-way Truckload, Inc. ("Con-way") with regard to a certain piece of property currently owned by Con-way located within the city limits of the City of Lancaster, Texas ("City"). That property ("Property") is specifically described as follows:

DESCRIPTION, of a 58.206 acre tract of land situated in the S. B. Runyon Survey, Abstract No. 1199, Dallas County, Texas; said tract being all of Lot 1 and Lot 2, Block A, Contract Freighters, Inc. Addition, an addition to the City of Lancaster, according to the Amended Plat recorded in Volume 99155, Page 60 of the Deed Records of Dallas County, Texas; said Lot 1 and Lot 2, Block A, being part of those tracts of land described in Warranty Deeds to Con-Way Truckload, Inc., recorded in Instrument Number 200900241247 and Instrument Number 200900241246 of said Official Public Records of Dallas County, Texas; said 58.206 acre tract being more particularly described as follows:

BEGINNING, at a point for corner in the north line of Danieldale Road (a variable width right-of-way), at the southwest corner of said Lot 1, Block A and in the east line of a tract of land described as Tract II in Warranty Deed With Vendor's Lien to Hugo F. Duran and Maria S. Duran, recorded in Instrument Number 201000111603 of said Official Public Records; from which a 1/2-inch iron rod found bears South 00 degrees, 32 minutes East, a distance of 3.4 feet;

THENCE, North 00 degrees, 57 minutes, 58 seconds West, departing said north line of Danieldale Road, along the east line of said Lot 1, Block A, a distance of 1,566.01 feet to 1/2-inch iron rod found for corner; said point being the northwest corner of said Lot 1, Block A and the most southerly southwest corner of a tract of land described as Tract 2C in Warranty Deed to Highland Park Land Company, recorded in Instrument Number 201100269768 of said Official Public Records;

THENCE, North 88 degrees, 54 minutes, 53 seconds East, along the north line of said Lot 1, Block A and the south line of said Highland Park Land Company tract, at a distance of 548.49 feet pass the northeast corner of said Lot 1, Block A and the northwest corner of said Lot 2, Block A, in all a total distance of 729.17 feet to a 5/8-inch iron rod found for corner; said point being at an angle point in the north line of said Lot 2, Block A, the most southerly southeast corner of said Highland Park Land Company tract, and a reentrant corner of a tract of land described in Executor's Deed to Randy Justiss and Virginia A. Justiss, recorded in Instrument Number 200900077417 of said Official Public Records;

THENCE, North 88 degrees, 56 minutes, 45 seconds East, along said north line of Lot 2, Block A and the most northerly south line of said Justiss tract, a distance of 995.49 feet to a point for corner; said point being the northeast corner of said Lot 2, Block A and a reentrant corner for said Justiss tract;

THENCE, South 06 degrees, 31 minutes, 41 seconds West, along the east line of said Lot 2, Block A and the west line of said Justiss tract, at a distance of 722.02 feet passing a 1/2-inch iron rod found for witness, in all a total distance of 781.67 feet to a point for corner; said point being in the center of a creek;

THENCE, along the east line of said Lot 2, Block A and the west line of said Justiss tract; along the approximate centerline of said creek the following twelve (12) courses and distances:

South 36 degrees, 13 minutes, 47 seconds West, a distance of 19.88 feet to a point for corner;

South 06 degrees, 23 minutes, 04 seconds West, a distance of 273.29 feet to a point for corner;

South 04 degrees, 21 minutes, 20 seconds West, a distance of 69.21 feet to a point for corner;

South 19 degrees, 17 minutes, 57 seconds West, a distance of 27.39 feet to a point for corner;

South 15 degrees, 41 minutes, 01 seconds East, a distance of 18.91 feet to a point for corner;

South 07 degrees, 41 minutes, 55 seconds West, a distance of 28.86 feet to a point for corner;

South 30 degrees, 27 minutes, 23 seconds West, a distance of 17.85 feet to a point for corner;

South 02 degrees, 28 minutes, 23 seconds East, a distance of 50.66 feet to a point for corner;

South 09 degrees, 15 minutes, 32 seconds West, a distance of 194.49 feet to a point for corner;

South 03 degrees, 41 minutes, 33 seconds West, a distance of 80.60 feet to a point for corner;

South 26 degrees, 42 minutes, 47 seconds East, a distance of 22.70 feet to a point for corner;

South 26 degrees, 33 minutes, 32 seconds West, a distance of 10.48 feet to a point for corner in said north line of Danieldale Road; said point being the southeast corner of said Lot 2, Block A;

THENCE, South 89 degrees, 05 minutes, 41 seconds West, departing the west line of said Justiss tract, along said north line of Danieldale Road and the south line of said Lot 2, Block A, at a distance of 506.45 feet passing the southwest corner of said Lot 2, Block A and the southeast corner of said Lot 1, Block A, from which a 1/2-inch iron rod found bears South 01 degrees, 05 minutes East a distance of 0.7 feet, at a distance of 538.78 feet passing a 1/2-inch iron rod found, in all a total distance of 1,516.24 feet to the POINT OF BEGINNING;

CONTAINING: 2,535,466 square feet or 58.206 acres of land, more or less.

Con-way has owned and operated the developed portion of the Property which consists of approximately sixteen (16) acres more or less as a truck terminal since 1989. Portions of the Property owned by Con-way are currently undeveloped. Con-way developed portions of the Property as a truck terminal and began operating a truck terminal on the Property. The construction and use of the Property as a truck terminal was a lawful use of the Property at the commencement of its use as a truck terminal and in conformity with all then-applicable zoning regulations.

Subsequent to the commencement of operations of the truck terminal by Con-way, Con-way has continuously used the developed portions of the Property as a truck terminal with no cessation of such use at any time.

Subsequent to the commencement of truck terminal operations by Con-way, the City and/or its Planning & Zoning Commission adopted new zoning regulations for the Property which rezoned the property and established its current use as set forth herein as a lawful non-conforming use. Con-way is permitted to continue its operation as a truck terminal pursuant to Section 14.408 of the Lancaster Development Code (Ordinance No. 2006-04-13). That section provides, in pertinent part, that:

“uses of land which were lawful before the effective date of this Ordinance, or amendment thereto, and which would be prohibited, regulated or restricted under this Ordinance . . .” may “continue until they are removed or abandoned . . .”

Additionally, pursuant to Section 14.408(c)(1)(A) “. . . any use, building or structure lawfully existing at the time of the enactment of this Ordinance or the time of the annexation of this City may be continued, even though the use, building or structure may not conform with the provisions of this Ordinance for the district in which it is located.”

Con-way has represented to the City that Con-way intends to sell the Property, both developed and undeveloped tracts, to a bona-fide purchaser. It is Con-way's understanding, though Con-way does not warrant or guarantee such understanding, that the bona-fide purchaser intends to discontinue the use of the Property as a truck terminal and will use and develop the Property in accordance with now-existing zoning regulations.

Con-way has advised the purchaser and the City that Con-way intends to remain on the Property subsequent to the date of sale for a period of thirteen (13) months from the closing date of the sale. Con-way intends to continue its operation in a manner which is as a lawful non-conforming use and is substantially unchanged from that now existing until the earlier of the completion of Con-way's new terminal or thirteen (13) months from the date of the closing.

It is understood and agreed by all parties that Con-way's continued use of the Property as a truck terminal subsequent to the sale of the Property shall and does constitute a lawful non-conforming use governed by Section 14.408 of the Lancaster Development Code as long as Con-way's continued operation is in substantial conformity with the manner in which the Property has been used by Con-way in the past.

It is agreed and acknowledged by all parties that the City of Lancaster and its Planning & Zoning Commission and any other parties acting by or on behalf of the City or the Commission recognize and affirm the right of Con-way to continue its use of the Property as a truck terminal for a period of time not to exceed thirteen (13) months from the date of closing of the sale of the Property or the time Con-way is able to move its operation to its new facility, whichever may be the earlier date. The City and its Planning & Zoning Commission recognize that this representation and acknowledgment is a material consideration to Con-way upon which Con-way relies in entering into the sale of its Property. The City also acknowledges that Con-way is permitted to use the Property as currently occupied as long as its operation is in conformity with the above quoted ordinance and other applicable general ordinances of the City of Lancaster, Texas, and laws of the State of Texas.

The parties hereto understand that by acknowledging and executing this Memorandum of Understanding the City does not waive any governmental immunities or defenses which may be available to it under law. The parties

further agree that the provisions of this Memorandum of Understanding are solely for the benefit of the parties hereto and are not intended to create or grant any rights to any other person or entity, and this Memorandum of Understanding is not assignable or subject to transfer to any other person or entity without the prior express written consent of the City.

By: _____
Duly Authorized Representative
On behalf of Con-way Truckload, Inc.

By: _____
Opal Mauldin- Robertson, City Manager
Duly Authorized Representative of the City of Lancaster, Texas

4812-4706-7929, v. 1

LANCASTER CITY COUNCIL

Agenda Communication

March 24, 2014

Item 11

The City Council shall convene into closed executive session pursuant to Section § 551.074 (a)(1) of the TEXAS GOVERNMENT CODE to deliberate:

- (a) The appointment, employment, evaluation duties or dismissal of a public officer, to wit: Municipal Court Judge; and,**
- (b) The duties of a public officer; to wit: City Attorney.**

This request supports the City Council 2013-2014 Policy Agenda.

Goal: Professional and Committed City Workforce

Executive Session matters.

Submitted by:
Sorangel O. Arenas, City Secretary

LANCASTER CITY COUNCIL

Agenda Communication

March 24, 2014

Item 12

Reconvene into open session. Consider and take appropriate action(s), if any, on closed/executive session matters.

This request supports the City Council 2013-2014 Policy Agenda.

Goal: Professional and Committed City Workforce

This agenda item allows City Council to take action necessary, if any, on item(s) discussed in Executive Session.

Submitted by:

Sorangel O. Arenas, City Secretary