



**NOTICE OF REGULAR MEETING AGENDA**  
**LANCASTER CITY COUNCIL**  
**MUNICIPAL CENTER CITY COUNCIL CHAMBERS**



**211 N. HENRY STREET, LANCASTER, TEXAS**

**Monday, June 13, 2011 – 7:00 P.M.**

**CALL TO ORDER**

**INVOCATION: MINISTERIAL ALLIANCE**

**PLEDGE OF ALLEGIANCE: COUNCILMEMBER WALTER WEAVER**

**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.)

- 1C. Consider approval of minutes from the City Council Regular Meeting held May 23, 2011.
- 2C. Consider Resolution 2011-06-47 of the City Council of the City of Lancaster, Texas, approving the terms and conditions of an amendment to the Agricultural License Agreement at the Lancaster Regional Airport with Jim Tom Roddy; authorizing the City Manager to execute said amendment; providing a repealing clause; providing a severability clause; and providing an effective date.
- 3C. Consider Resolution 2011-06-48 of the City Council of the City of Lancaster, Texas, ratifying the actions of the Board of Directors of the Lancaster Economic Development Corporation, approving a six month extension for an incentive grant for the installation of a self service aviation fuel pump to the City of Lancaster acting on behalf of the Lancaster Regional Airport; authorizing the Lancaster Economic Development Corporation to enter into a formal extension agreement; authorizing the City Manager to execute said agreement; providing a repealing clause; providing a severability clause; and providing an effective date.

**PUBLIC HEARING**

4. Conduct a public hearing and consider an ordinance of the City of Lancaster, Texas, amending the Comprehensive Zoning Ordinance and map of the City of Lancaster, Texas, as heretofore amended, by granting a change in zoning from Retail-Historic District (R-HD) to Retail-Historic District-Specific Use Permit (R-HD-SUP) to allow a Specific Use Permit for Single-Family Residential use on property located at 147 Historic Town Square/238 East First Street; providing for special conditions; providing a savings clause; providing a severability clause; providing a penalty of fine not to exceed the sum of two thousand dollars (\$2,000) for each offense; and providing an effective date.

5. Conduct a public hearing and consider an ordinance of the City of Lancaster, Texas, amending the Comprehensive Zoning Ordinance and map of the City of Lancaster, Texas, as heretofore amended, by granting a change in zoning from Single Family-Historic District (SF6-HD) to Single Family-Historic District-Specific Use Permit (SF6-HD-SUP) to allow a Specific Use Permit for a Charter School use on property generally located on the northeast corner of East Fourth Street and North State Street, and more commonly known as 305 East Third Street, Lancaster, Texas; providing for special conditions; providing a savings clause; providing a severability clause; providing a penalty of fine not to exceed the sum of two thousand dollars (\$2,000) for each offense; and providing an effective date.

**ACTION:**

6. Discuss and consider an ordinance of the City of Lancaster, Texas, approving a negotiated resolution between the Steering Committee of Cities served by Oncor ("Steering Committee") and Oncor Electric Delivery Company LLC ("Oncor" or "Company") regarding the Company's application to increase electric rates in all cities exercising original jurisdiction; declaring existing rates to be unreasonable; requiring the Company to reimburse cities' reasonable ratemaking expenses; adopting tariffs that reflect rate adjustments consistent with the negotiated settlement and finding the rates to be set by the attached tariffs to be just and reasonable; approving Oncor's proof of revenues; adopting a savings clause; determining that this ordinance was passed in accordance with the requirements of the Texas Open Meetings Act; declaring an effective date; and requiring delivery of the ordinance to the Company and the Steering Committee's legal counsel.
7. Discuss and consider designation of the City's voting representative to the North Central Texas Council of Governments (NCTCOG).

**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 June 9, 2011 @ 5:00pm and copies thereof were hand delivered to the Mayor, Mayor Pro-Tempore, Deputy Mayor Pro-Tempore and Council members.



Dolle K. Downe, TRMC  
City Secretary

**LANCASTER CITY COUNCIL**  
Agenda Communication for  
June 13, 2011

**1**

AG11-001

**Consider approval of minutes from the City Council Regular Meeting held May 23, 2011.**

**Background**

Attached for your review and consideration are minutes from the:

- City Council Regular Meeting held May 23, 2011

**Prepared and submitted by:**

Dolle K. Downe, City Secretary  
June 2, 2011

## MINUTES

### LANCASTER CITY COUNCIL MEETING OF MAY 23, 2011

The City Council of the City of Lancaster, Texas, met in Regular session in the Council Chambers of City Hall on May 23, 2011 at 7:00 p.m. with a quorum present to-wit:

**Councilmembers Present:**

Mayor Marcus E. Knight  
Walter Weaver  
Marco Mejia  
Mayor Pro Tem James Daniels  
Clyde Hairston  
Deputy Mayor Pro Tem Nina Morris  
*Council District 2 vacant*

**City Staff Present:**

Opal Mauldin Robertson, City Manager  
Alicia Oyedele, Assistant to the City Manager  
Sean Johnson, Director Parks and Recreation  
Larry Flatt, Assistant Police Chief  
Robert E. Hager, City Attorney  
Dolle Downe, City Secretary

**Call to Order:**

Mayor Knight called the meeting to order at 7:00 p.m. on May 23, 2011.

**Invocation:**

Pastor Urban Brown with Life in Christ Family Church gave the invocation.

**Pledge of Allegiance:**

Deputy Mayor Pro Tem Nina Morris led the Pledge of Allegiance.

**Proclamation:**

Mayor Knight welcomed school superintendent Dr. Michael McFarland and School Board Trustees Irene Mejia and Ellen Clark. Mayor Knight read a proclamation congratulating the Lancaster High School Boys Track Team for winning the Class 4A State Track and Field Championship and the Lancaster Lady Tigers for placing third at the State Track Meet.

**Citizens Comments:**

Richard Griesman, 128 Pecan Grove, commented that the ordinance on littering is very comprehensive, with fines up to \$2,000; expressed concerns about police enforcement and the public's lack of authority; stated that the ordinance had earmarks of intimidation of the public by City employees; urged Council to deny the ordinance.

Frank Mejia, 501 Colgate Drive, stated that he owns various properties throughout the City and people frequently dump trash and debris on those properties; commented that he has called the police in the past regarding illegal dumping; stated that property owners should not be held responsible for dumping on their property.

Doris Allen, 1003 Randlett, stated that the residents next to her home have barking dogs and try to intimidate her while she is in her own yard; said the neighbor had walked repeatedly across her yard; commented they have called the Police; stated they no longer enjoy their home and asked for help with the threats.

Mayor Knight requested Ms. Allen visit with the Assistant Police Chief present at the meeting.

Darrin Widemon, P.O. Box 457, Lancaster, stated that the Lancaster North Panthers Athletic Association is a 501(c)3 corporation for youth football; commented that they have been given the run around about practicing on Lancaster fields and asked that the Panthers program be re-instated in Lancaster.

Ocie Chisom, 1508 Dewberry, wants her grandson to be able to come back and play football in Lancaster; commented she needs help with all the kids hanging out in the apartment complex.

Jordan Walker, 1827 Kings Cross Drive, wants the football team to be able to practice in Lancaster; asked Council to look into the situation.

LaKiesha Obera, 1743 Reynolds Street, commented they have a wonderful relationship with the Little Panthers organization and that there are no try-outs or cuts, all youth participate; commented that they think it is unfair for the Recreation Center to collect the fees and the policy is different for basketball; stated she wants the football back in Lancaster.

Mayor Knight commented that the Parks and Recreation Director is working with the association on this matter.

1. **Consider Resolution 2011-05-41 of the City Council of the City of Lancaster, Texas, canvassing the returns and declaring the results of the General Election for City Officers held on May 14, 2011.**

***2011-05-41 Resolucion del municipio de la ciudad de Lancaster, Texas, escrutinio de los resultados y declarar los resultados de las elecciones generales para la oficina de Distrito del consejo 2, y concejal del Distrito 4 celebrada el 14 de mayo 2011.***

City Secretary Downe read Resolution 2011-05-41 canvassing the returns and declaring the results of the General Election for City Officers held on May 14, 2011 as follows:

**RESOLUTION NO. 2011-05-41**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LANCASTER, TEXAS, CANVASSING THE RETURNS AND DECLARING THE RESULTS OF THE GENERAL ELECTION FOR THE OFFICE OF COUNCILMEMBER DISTRICT 2 AND COUNCILMEMBER DISTRICT 4 HELD ON MAY 14, 2011.**

**GENERAL ELECTION  
Lancaster, Texas**

**May 14, 2011**

**CANVASS OF RETURNS AND DECLARATION OF  
RESULTS OF ELECTION**

**BE IT REMEMBERED THAT** on this the 23<sup>rd</sup> day of May 2011, at a meeting of the City Council of the City of Lancaster, Texas, a quorum being present, the meeting was called to order and the following business was transacted.

Upon motion it was unanimously ordered that the City Council consider the official returns of a General Election held in the City on May 14, 2011, for the election of Councilmembers for District 2 and District 4 for a three-year term.

**WHEREUPON** said official returns were opened, examined, canvassed and the results declared as follows:

**CANVASS OF RETURNS AND DECLARATION OF RESULTS**

**WHEREAS**, heretofore, the City Council of the City of Lancaster, Texas, called a General Election to be held in the City on May 14, 2011, to elect Councilmembers for District 2 and District 4 for a three-year term; and

**WHEREAS**, immediately after said election the Presiding Judge and other officials holding said election made their returns of the results thereof to the City Council as follows, and said returns being made according to law, and duly authenticated, and it being shown that written notice of said election was posted for the time and in the manner provided by law, and all other proceedings pertaining to said election having been shown to have been done and performed at and within the manner provided by law, and all papers pertaining thereto having been returned and filed with the City Council and no protest or objection being made to or regarding any matter pertaining to said election.

**WHEREAS**, on March 21, 2011, City Council approved Resolution No. 2011-03-22 which declared the unopposed candidate in District 6 (Nina Morris) to be elected to said office.

**NOW, THEREFORE**, be it resolved by the City Council of the City of Lancaster, Texas, after examining said returns and opening and canvassing the votes of said election, that the results of said election are as follows:

That the following number of votes were cast for the following named candidates for the office of Councilmember, District 2, to-wit:

	<b>EARLY VOTING</b>	<b>ELECTION DAY</b>	<b>BY MAIL</b>	<b>PROVISIONAL VOTING</b>	<b>TOTAL VOTES</b>	<b>%</b>
<b>Stanley Jaglowski</b>	<b>55</b>	<b>27</b>	<b>0</b>	<b>0</b>	<b>82</b>	<b>43.16%</b>
<b>Marian Elkins</b>	<b>21</b>	<b>32</b>	<b>0</b>	<b>0</b>	<b>53</b>	<b>27.89%</b>
<b>Gary Citizen</b>	<b>19</b>	<b>36</b>	<b>0</b>	<b>0</b>	<b>55</b>	<b>28.95%</b>

It appearing that there was not a majority of all votes cast for the office of Councilmember District 2, a run-off election for District 2 shall be ordered in accordance with the Lancaster Home Rule Charter and state law.

That the following number of votes was cast for the following named candidates for the office of Councilmember, District 4, to-wit:

	<u>EARLY VOTING</u>	<u>ELECTION DAY</u>	<u>BY MAIL</u>	<u>PROVISIONAL VOTING</u>	<u>TOTAL VOTES</u>	<u>%</u>
<b>Tim Speaks</b>	<b>64</b>	<b>63</b>	<b>7</b>	<b>0</b>	<b>134</b>	<b>42.41%</b>
<b>James Daniels</b>	<b>109</b>	<b>73</b>	<b>0</b>	<b>0</b>	<b>182</b>	<b>57.59%</b>

It appearing that James Daniels received a majority of all votes cast for the office of Councilmember, District 4, James Daniels is hereby declared to be elected to the office of Councilmember, District 4, to serve a three-year term after qualifying.

**IT IS FURTHER ORDERED** that this canvass and declaration of results of said election be entered in the Minutes of the City Council.

This Resolution, declaring the results of the general election, shall become effective immediately after its passage.

**DULY PASSED** by the City Council of the City of Lancaster, Texas, on this the 23<sup>rd</sup> day of May 2011.

**MOTION:** Councilmember Hairston made a motion, seconded by Councilmember Weaver, to approve Resolution 2011-05-41 canvassing the returns and declaring the results of the General Election as read by the City Secretary. The vote was cast 6 for, 0 against.

**2. Administer Oaths of Office; present Certificates of Election; seat newly elected councilmembers.**

Judge Thomas Jones administered the Oath of Office for James Daniels. Mayor Knight presented the Certification of Election.

Mayor Pro Tem Daniels thanked the voters of District 4, his wife and called on everyone to work together for the future of Lancaster.

Ms. Carolyn Morris administered the Oath of Office for Nina Morris, commenting that it was a great pleasure to give the oath to her daughter. Mayor Knight presented the Certification of Election.

Deputy Mayor Pro Tem Morris expressed her appreciation to the voters in District 6, commenting that being unopposed indicates success in her first term.

**Consent Agenda:**

City Secretary Downe read the consent agenda.

- 3C. Consider Resolution 2011-05-42 of the City Council of the City of Lancaster, Texas, ordering a run-off municipal election to be held on Saturday, June 18, 2011, for the election of one councilmember for District 2; providing for publication and posting of notice; providing for early voting dates, times and locations; and providing an effective date.**

*2011-05-42 Resolucion del municipio de la ciudad de Lancaster, Texas, ordena una vuelta de las elecciones que se celebrara en sabado 18 de junio 2011, para la eleccion de un miembro del consejo de Distrito 2; que dispone la publicación y desplazamiento de aviso; provision para fechas de votación anticipada, horarios y ubicaciones, y proporcionando una fecha de vigencia.*

- 4C. Consider approval of minutes from the City Council Regular Meeting held April 25, 2011 and Special Meeting held May 16, 2011.**
- 5C. Consider Resolution 2011-05-43 of the City Council of the City of Lancaster, Texas, authorizing the purchase of one ambulance and equipment from Professional Ambulance through a cooperative purchasing agreement with BuyBoard for a total amount not to exceed \$181,031; authorizing the Purchasing Agent to issue a purchase order pursuant to approval; providing a repealing clause; providing a severability clause; and providing an effective date.**
- 6C. Consider an ordinance of the City of Lancaster, Texas, amending the Code of Ordinances by amending Chapter 8, Offenses and Nuisances, by adding Article 8.1400, Littering, to prohibit littering within the City; providing definitions; providing for unlawful littering; providing a duty to keep property free of litter; providing for container closure and maintenance; providing for pedestrian litter container use restrictions; providing a severability clause; providing that this ordinance shall be cumulative of all ordinances; providing for a penalty for violations hereof; providing a savings clause; and providing an effective date.**
- 7C. Consider Resolution 2011-05-44 of the City Council of the City of Lancaster, Texas, approving the terms and conditions of a Facilities Joint Use Interlocal Agreement by and between the City of Lancaster and the Lancaster Independent School District; authorizing the City Manager to execute said interlocal agreement; providing a repealing clause; providing a severability clause; and providing an effective date.**
- 8C. Consider an ordinance of the City of Lancaster, Texas, amending the Lancaster Code of Ordinances by amending Chapter 9, Article 9.1800 "Youth Advisory Committee" by repealing Section 9.1802, "Composition; Appointment; Terms" in its entirety and replacing with a new Section 9.1802, "Composition; Appointment; Terms" to provide for changes in the appointment of youth members and adult sponsor; providing a repealing clause; providing a severability clause; and providing an effective date.**

**9C. Consider Resolution 2011-05-45 of the City Council of the City of Lancaster, Texas, authorizing an agreement with Civic Plus for website design and hosting services through a cooperative purchasing agreement with the Department of Information Resources (DIR) for a total amount not to exceed \$20,399 annually; authorizing the Purchasing Agent to issue a purchase order pursuant to approval; providing a repealing clause; providing a severability clause; and providing an effective date.**

Councilmember Mejia requested that items 5C, 6C and 9C be pulled from the consent agenda.

**MOTION:** Deputy Mayor Pro Tem Morris made a motion, seconded by Councilmember Hairston, to approve consent items 3C, 4C, 7C and 8C. The vote was cast 6 for, 0 against.

Councilmember Mejia stated that the purchase of an ambulance [item 5C] using capital money is a very difficult decision because the asset may last 10-15 years, but the City will make payments on the bond money for 30 years. He said that the community clearly needs the ambulance, but the City must become more financially responsible in planning for such capital purchases.

**MOTION:** Councilmember Hairston made a motion, seconded by Deputy Mayor Pro Tem Morris, to approve Resolution 2011-05-43 authorizing the purchase of one ambulance and equipment from Professional Ambulance through a cooperative purchasing agreement with BuyBoard for a total amount not to exceed \$181,031. The vote was cast 6 for, 0 against.

Councilmember Mejia expressed concerns regarding the proposed litter ordinance [item 6C] indicating that further study is necessary to address concerns expressed by citizens.

**MOTION:** Councilmember Mejia made a motion, seconded by Councilmember Weaver, to table item 6C for further discussion at the June 20 work session. The vote was cast 5 for, 1 against [Daniels].

City Manager Mauldin Robertson asked for direction regarding the proposed litter ordinance. Councilmember Mejia indicated there needs to be additional discussion and clarification regarding easements, ditches and drainage areas.

Councilmember Mejia asked if there had been competitive bids for the website design and hosting agreement [item 9C]. City Manager Mauldin Robertson stated that the City had reviewed three proposals and the agreement with Civic Plus provided improved services and a cost savings to the City of about \$5,000 annually.

**MOTION:** Councilmember Hairston made a motion, seconded by Councilmember Mejia, to approve Resolution 2011-05-45 authorizing an agreement with Civic Plus for website design and hosting services through a cooperative purchasing agreement with the Department of Information Resources (DIR) for a total amount not to exceed \$20,399 annually. The vote was cast 6 for, 0 against.

10. **Conduct a public hearing and consider Resolution 2011-05-46 of the City Council of the City of Lancaster, Texas, approving the 2011-2012 Standards of Care for Youth Programs operated by the Lancaster Parks and Recreation Department; providing a repealing clause; providing a severability clause; and providing an effective date.**

City Manager Mauldin Robertson stated that annual review and consideration of the Standards of Care is required for the City to operate youth programs.

Mayor Knight opened the public hearing.

There were no speakers regarding the proposed Standards of Care.

**MOTION:** Mayor Pro Tem Daniels made a motion, seconded by Deputy Mayor Pro Tem Morris, to close the public hearing. The vote was cast 6 for, 0 against.

**MOTION:** Deputy Mayor Pro Tem Morris made a motion, seconded by Mayor Pro Tem Daniels, to approve Resolution 2011-05-46 approving the 2011-2012 Standards of Care for Youth Programs operated by the Lancaster Parks and Recreation Department. The vote was cast 6 for, 0 against.

11. **Conduct a public hearing and consider an ordinance of the City of Lancaster, Texas, adopting, ratifying, republishing and extending Ordinance No. 2007-02-06, codified as Chapter 8 of the Code of Ordinances, Article 8.800, Curfew Hours for Minors, for a period of three (3)years; providing a repealing clause; providing a severability clause; and providing an effective date.**

City Manager Mauldin Robertson stated that the City is required every three years to review and readopt the curfew ordinance for minors.

Mayor Knight opened the public hearing.

Speaking in favor of ratifying the ordinance providing for minor curfew hours were:

Robert E. Hager, City Attorney, urged approval of the ordinance, commenting that it gives the Police Department an opportunity to have contact with the youth, and that it has been used as an effective tool, and not abused, to keep youth safe in the community.

Mayor Pro Tem Daniels asked how effective the ordinance had been. Assistant Police Chief Flatt commented that in fiscal year October 2009-2010, fifty-one citations had been issued and thirty-three have been issued this period. Assistant Chief Flatt commented that the youth are aware of the curfew, and it has been very effective in the community.

Nolan Jones, 481 Spring Tree, commented that he was unaware of the curfew ordinance for minors and has young children; asked about the hours and age of minors.

City Manager Mauldin Robertson read the hours: 11 p.m. on any Sunday, Monday, Tuesday, Wednesday, or Thursday until 6 a.m. of the following day; 12:01 a.m. until 6 a.m. on any Saturday or Sunday; and 9 a.m. to 2:30 p.m. any Monday, Tuesday, Wednesday, Thursday or Friday for minors subject to compulsory school attendance. The age for minors is defined as any person ten years of age to sixteen years of age.

There were no other speakers.

**MOTION:** Councilmember Hairston made a motion, seconded by Councilmember Mejia, to close the public hearing. The vote was cast 6 for, 0 against.

**MOTION:** Councilmember Hairston made a motion, seconded by Deputy Mayor Pro Tem Morris, to approve an ordinance adopting, ratifying, republishing and extending Ordinance No. 2007-02-06, codified as Chapter 8 of the Code of Ordinances, Article 8.800, Curfew Hours for Minors, for a period of three (3)years. The vote was cast 6 for, 0 against.

**MOTION:** Councilmember Weaver made a motion, seconded by Councilmember Hairston, to adjourn. The vote was cast 6 for, 0 against.

The meeting was adjourned at 8:02 p.m.

**ATTEST:**

**APPROVED:**

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Dolle K. Downe, City Secretary

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Marcus E. Knight, Mayor

**LANCASTER CITY COUNCIL**  
Agenda Communication for  
June 13, 2011

**2**

AG11-002

**Consider a resolution of the City Council of the City of Lancaster, Texas, approving the terms and conditions of an amendment to the agricultural license agreement at the Lancaster Regional Airport with Jim Tom Roddy; authorizing the City Manager to execute said license providing a repealing clause; providing a severability clause; and providing an effective date.**

**This request supports the City Council 2010-2011 Policy Agenda.**

**Goal 5: Sound Infrastructure**

**Background**

On April 26, 2010 the City of Lancaster and Jim Tom Roddy (a farmer) entered into an agricultural lease that expires on July 1, 2011. The leased land is the old Smokler property that the Airport purchased for a runway protection zone (RPZ) in 2010. The airport desires to continue leasing the land to Mr. Roddy.

**Considerations**

- **Operational** – Continuing this lease makes good use of the land in and around the RPZ. Furthermore, it generates revenue for the airport that otherwise would not be a source of revenue.
- **Legal** – The lease agreement form was prepared by the City Attorney.
- **Financial** – The annual lease fee is \$890.00, based on a fee of \$10.00 per acre for the 89 acres on the site suitable for the cultivation of crops and grasses and grazing of livestock. The City reserves the right to maintain or raise the lease fee with a ninety day notice prior to each annual lease renewal. The lease fee is due to the City no later than ten (10) days after July 1st of each year.
- **Public Information** - There are no public information requirements.

**Options/Alternatives**

1. Council may approve the resolution as presented.
2. Council may reject the resolution. This will leave the 89 acres vacant and generate no revenue.

**Recommendation**

Staff strongly recommends adoption of the resolution. This will generate revenue for the airport.

**Attachments**

- Resolution
- 1<sup>st</sup> Amendment to Lease
- Agricultural Lease

**Prepared and submitted by:**  
Mark Divita, Airport Manager

**Date:** June 13, 2011

**RESOLUTION NO. 2011-06-47**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LANCASTER, TEXAS, APPROVING THE TERMS AND CONDITIONS OF AN AMENDMENT TO THE AGRICULTURAL LICENSE AGREEMENT AT THE LANCASTER REGIONAL AIRPORT WITH JIM TOM RODDY; AUTHORIZING CITY MANAGER TO EXECUTE SAID LICENSE; PROVIDING A REPEALING CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, Lancaster Regional Airport has an existing agricultural lease with Jim Tom Roddy set to expire July 1, 2011; and

**WHEREAS**, Jim Tom Roddy desires to continue the agricultural lease on the property being purchased; and

**WHEREAS**, the City Council of Lancaster, Texas desires to continue the license annually; and

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

**SECTION 1.** That the Amendment to the Jim Tom Roddy License Agreement 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, be, and the same is hereby, in all things approved.

**SECTION 2.** That the City Manager is hereby authorized to execute said amendment to the license.

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

**SECTION 4.** Should any part of this resolution be held invalid for any reason, the remainder shall not be affected thereby, and such remaining portions are hereby declared 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 13<sup>th</sup> day of June 2011.

**ATTEST:**

**APPROVED:**

\_\_\_\_\_  
Dolle K. Downe, City Secretary

\_\_\_\_\_  
Marcus E. Knight, Mayor

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Robert E. Hager, City Attorney

**FIRST AMENDMENT TO AGRICULTURAL USE LICENSE AGREEMENT**

THIS First Amendment to Agricultural Use License Agreement ("First Amendment") is entered into by and between Jim Tom Roddy ("Licensee"), and City of Lancaster, Texas, a municipal corporation ("Licensor"), acting by and through their authorized representatives.

WHEREAS, the parties previously entered into that certain Agricultural Use License Agreement (the "License Agreement"), attached hereto and incorporated herein as Exhibit "A"; and

WHEREAS, the parties desire to amend the License Agreement as set forth herein;

NOW, THEREFORE, in consideration of the foregoing premises and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

Section 1. That Section 2.1 of the License Agreement is hereby amended to read as follows:

"2.1 The initial term of this Agreement commences on the date the City closes on the purchase of the Site, and expires on July 1, 2011 ("the Initial Term"). Thereafter, this Agreement shall automatically renew for additional one-year terms, unless otherwise terminated as provided herein."

Section 2. That Section 3.1 of the License Agreement is hereby amended to read as follows:

"3.1 For and in consideration of the use of the Site for the Initial Term, Licensee shall pay the City a license fee in the amount of EIGHT HUNDRED NINETY AND 00/100 DOLLARS (\$890.00) ("the License Fee"), based on a fee of \$10.00 per acre for the 89 acres on the Site suitable for the cultivation of crops and grasses and grazing of livestock. The City reserves the right to maintain or raise the License Fee with a ninety day notice prior to each annual lease renewal. The Licensee shall pay the full amount of the License Fee to the City no later than ten (10) days after July 1st of each year."

Section 3. Except as hereby amended, all other provisions of the License Agreement shall remain in full force and effect as originally written and the License Agreement is hereby confirmed as to all provisions contained therein. In the event of any conflict between the terms of this First Amendment and the terms of the License Agreement, the First Amendment shall control.

Section 4. Counterparts. This First Amendment 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.

Section 5. This First Amendment shall become effective on the last date of execution hereof.

**SIGNED AND AGREED** this \_\_\_\_\_ day of \_\_\_\_\_, 2011.

**LICENSOR:**

**THE CITY OF LANCASTER, TEXAS**

**ATTEST:**

By: \_\_\_\_\_

Opal Mauldin Robertson,  
City Manager

\_\_\_\_\_  
Dolle K. Downe, City Secretary

**SIGNED AND AGREED** this \_\_\_\_\_ day of \_\_\_\_\_, 2011.

**Licensee:**

By: \_\_\_\_\_

Jim Tom Roddy

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## AGRICULTURAL USE LICENSE AGREEMENT

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THIS LICENSE AGREEMENT ("Agreement") is made as of the 26<sup>th</sup> day of April, 2010, by and between the City of Lancaster, Texas, hereinafter referred to as "City", whose offices are located at 211 North Henry Street, Lancaster, Texas, and Jim Tom Roddy, hereinafter referred to as "Licensee," whose address is 218 CREEKWOOD DR.  
LANCASTER, TX 75146

### RECITALS:

**WHEREAS**, Licensee is an individual engaged in the business of farming; and

**WHEREAS**, City has contracted to purchase on or before April 30, 2010, the real property particularly described in Exhibit "A" (the "Site"), for the ultimate use and benefit of the Lancaster Airport ("the Airport");

**WHEREAS**, the Site is not under construction or in the immediate path of construction, and appears suitable for grazing of livestock and the production of crops and grasses ("Agricultural Purposes"); and

**WHEREAS**, Licensee desires to use the Site for Agricultural Purposes, and City agrees to grant a license to Licensee for such purposes;

**NOW, THEREFORE**, for and in consideration of the terms below, City and Licensee agree as follows:

### I.

#### License for Use of Property

City hereby grants Licensee a non-exclusive license to use the Site solely for Agricultural Purposes. Licensee may not use the Site for any other purpose without the prior written consent of City.

### II.

#### Term and Termination of License

2.1 The initial term of this Agreement commences on the date the City closes on the purchase of the Site, and expires on July 1, 2011 ("the Initial Term"). Thereafter, the parties may renew this Agreement for additional one-year terms by mutual written agreement.

2.2 If during the Initial Term or any renewal period of this Agreement Licensee's use of the Site will in City's sole determination interfere with expansion, operations, or other appurtenant uses of the Airport, City may terminate this Agreement by providing Licensee with written notice of termination not later than 90 days prior to the date of termination. Upon termination of the Agreement, Licensee shall have thirty (30) days to remove, at Licensee's sole expense, all equipment, fences, and other improvements acquired or constructed by Licensee.

Title to any improvements remaining on the Site after said thirty (30) day period shall convey to City.

**III.**  
**License Fee**

3.1 For and in consideration of the use of the Site for the Initial Term, Licensee shall pay the City a license fee in the amount of EIGHT HUNDRED NINETY AND 00/100 DOLLARS (\$890.00) ("the License Fee"), based on a fee of \$10.00 per acre for the 89 acres on the Site suitable for the cultivation of crops and grasses. The Licensee shall pay the full amount of the License Fee to the City not later than ten (10) days after notice that the City has closed on the purchase of the Site.

**IV.**  
**Conditions**

4.1 Licensee agrees not to remove or destroy any trees located on the Site.

4.2 Licensee agrees to leave a reasonable amount of land uncultivated as hedgerow around the edges of tracts of land contiguous to other property owners for the benefit of wildlife living on the Site.

4.3 Licensee agrees not to use chemicals or pesticides on the Site which might be dangerous to fish or wildlife, unless such use is specifically authorized by City in writing.

4.4 Licensee agrees not to interfere with the right to quiet enjoyment of others having residences or other business on the Site.

**V.**  
**Licensee's Rights and Responsibilities**

5.1 Licensee, at Licensee's sole cost, shall have the right to construct fencing, watering facilities and any other improvements ordinarily incurred in the business of farming and grazing livestock with the approval of the City and at Licensee's risk for damages.

5.2 Licensee agrees to maintain the Site in a clean and orderly condition, and to keep in good repair all City-owned fences and other improvements on the Site. Licensee further agrees to obey all federal, state, and local laws and rules applicable to the Site.

5.3 Licensee may post signs notifying the general public of the Agricultural Uses on the Site, provided the City reviews and provides written approval of the sign.

5.4 Licensee shall take all reasonable measures to ensure that livestock located on the Site remain within fenced areas of the Site, and shall promptly inspect and repair all gates, fences, cattle guards, and other improvements necessary to keep livestock within the Site. Licensee shall be solely responsible for, and agrees to indemnify, defend, and hold City, its

officers, employees, and agents harmless from any damages to property or personal injuries or deaths, and all costs, including attorneys fees, arising from any claims resulting from or relating to livestock located on the Site subsequently leaving the Site, whether or not such damages, injury, or death are the result of the intentional or negligent acts or omissions of Licensee, its officers, employees, agents, or contractors.

**VI.**  
**Release**

Licensee understands and agrees that City, its contractors, agents and employees shall have the full right of ingress and egress throughout the Site, and AGREES TO RELEASE AND HOLD HARMLESS THE CITY, ITS CONTRACTORS, AGENTS AND EMPLOYEES FROM AND AGAINST ANY DAMAGE CAUSED TO CROPS OR LICENSEE'S IMPROVEMENTS ON THE SITE. Licensee specifically understands and acknowledges that the City is engaged in the ongoing expansion of the Airport, and commensurate with this expansion, personnel and equipment engaged in construction on or in proximity to the Site may cause damage to crops or Licensee's improvements on the Site, and that Licensee shall have no cause of action against the City for such damages; nevertheless, the City agrees to use its best efforts, commensurate with its responsibility for construction at the Airport, to avoid damage to Licensee's crops and improvements.

**VII.**  
**Indemnity**

7.1 LICENSEE SHALL DEFEND, INDEMNIFY AND HOLD HARMLESS THE CITY, ITS OFFICERS, EMPLOYEES, AND AGENTS FROM AND AGAINST ANY CLAIMS, DEMANDS, DAMAGES, LIABILITY, EXPENSES (INCLUDING ATTORNEY'S FEES), FINES, PENALTIES, SUITS, PROCEEDINGS, ACTIONS, AND CAUSES OF ACTION OF ANY AND EVERY KIND AND NATURE ARISING FROM, RELATED TO, OR IN ANY WAY CONNECTED WITH THE USE BY THE LICENSEE (OR LICENSEE'S OFFICERS, EMPLOYEES, PARTICIPANTS, AGENTS, INVITEES, OR GUESTS) OF THE SUBJECT PROPERTY, REGARDLESS OF THE JOINT OR CONCURRENT NEGLIGENCE OF THE CITY ACTING THROUGH ITS OFFICERS, EMPLOYEES, OR AGENTS. THE CITY DOES NOT WAIVE ITS SOVEREIGN IMMUNITY WITH RESPECT TO ANY CLAIM. THIS AGREEMENT SHALL NOT INURE TO THE BENEFIT OF ANY THIRD PARTY.

7.2 No officer or employee of the City shall be personally charged or held contractually liable for breach of any term, provision, or amendment of this Agreement.

**VIII.**  
**No Assignment**

Licensee understands and agrees that this Agreement is non-assignable, and that Licensee may not assign any interest in this Agreement nor obligation to perform under this Agreement to

a third party. Licensee shall provide the City with the names of any employees hired by Licensee.

**IX.**  
**Payments and Notices**

Licensee shall make payments and provide any notice required under this agreement to the Director of Finance, City of Lancaster, 211 North Henry Street, Lancaster, Texas, 75146, unless otherwise provided by the City in writing. The City shall send any notices under this Agreement to Licensee at the following address:

Jim Tom Roddy  
218 CREEKWOOD DR.  
LANCASTER, TX 75146

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**X.**  
**No Property Interest**

This Agreement does not convey or provide to Licensee any ownership interest or other right to the Property, including any right to the gas, oil and mineral rights in and under the soil.

**XI.**  
**Governing Law**

This Agreement is governed by the laws of the State of Texas, and venue for any action shall be in Dallas County, Texas.

**XII.**  
**Binding Effect**

This Agreement shall be binding upon and inure to the benefit of the executing parties and their respective heirs, personal representatives, successors and assigns.

**XIII.**  
**Entire Agreement**

This Agreement embodies the entire agreement between the parties and supersedes all prior agreements, licenses, understandings, if any, relating to the Site and the matters addressed herein, and may be amended or supplemented only by written instrument executed by the party against whom enforcement is sought.

**SIGNED AND AGREED** this 26<sup>th</sup> day of April, 2010.

**The City of Lancaster, Texas**

ATTEST:

*Dolle K. Downe*  
Dolle K. Downe, City Secretary

By: *Opal Maudie Roberts* *for*  
Rickey Childers

Title: *Asst* City Manager

**SIGNED AND AGREED** this 10<sup>th</sup> day of MAY, 2010.

**Licensee**

By: *Jim Tom Roddy*  
Jim Todd Roddy  
*Tom*



**LANCASTER CITY COUNCIL**  
Agenda Communication for  
June 13, 2011

**3**

AG11-003

**Consider a resolution of the City Council of the City of Lancaster, Texas, ratifying the actions of the Board of Directors of the Lancaster Economic Development Corporation, approving a six month extension for an incentive grant for the installation of a self service aviation fuel pump to the City of Lancaster acting on behalf of the Lancaster Regional Airport; authorizing the Lancaster Economic Development Corporation to enter into a formal extension agreement; authorizing the City Manager to execute said agreement; providing a repealing clause; providing a severability clause; and providing for an effective date.**

**This request supports the City Council 2010-2011 Policy Agenda.**

**Goal 2: Quality Development**

**Background**

On January 21, 2010, the Lancaster Economic Development Corporation (LEDC) approved an incentive agreement with the City of Lancaster acting on behalf of the Lancaster Regional Airport to provide a \$75,000 cash grant for the installation of a 24 hour self service aviation fuel pump. City Council ratified the incentive agreement on March 22, 2010. The agreement required that installation of the fuel pump must commence by March, 2011. The commencement deadline was missed, and the Lancaster Regional Airport requested a six month extension to the incentive agreement. At their May 11, 2011 board meeting, the LEDC Board approved the six month extension.

**Considerations**

- **Operational** – The administrative elements of exercising the extension are within the scope of staff's activities.
- **Legal** – The City Attorney has reviewed and approved the extension agreement confirming that it meets the legal requirements associated with 4A cash grants.
- **Financial** – The grant amount is within the capacity of the LEDC incentive fund balance.

- **Public Information** – There are no public information requirements associated with this item.

**Options/Alternatives**

1. City Council may approve the resolution ratifying the actions of the LEDC authorizing the agreement extension as presented.
2. City Council may approve the resolution ratifying the actions of the LEDC authorizing the contract extension with changes.
3. City Council may deny the resolution.

**Recommendation**

Staff recommends that Council ratify the actions of the LEDC Board granting the contract extension to the Lancaster Regional Airport.

**Attachments**

- Resolution
- Amendment to Incentive Agreement
- Incentive Agreement, as adopted

**Prepared and submitted by:**  
Ed Brady, Director of Economic Development

**Date:** June 13, 2011

**RESOLUTION NO. 2011-06-48**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LANCASTER, TEXAS, RATIFYING THE ACTIONS OF THE BOARD OF DIRECTORS OF THE LANCASTER ECONOMIC DEVELOPMENT CORPORATION, APPROVING A SIX MONTH EXTENSION FOR AN INCENTIVE GRANT FOR THE INSTALLATION OF A SELF SERVICE AVIATION FUEL PUMP TO THE CITY OF LANCASTER ACTING ON BEHALF OF THE LANCASTER REGIONAL AIRPORT; AUTHORIZING THE LANCASTER ECONOMIC DEVELOPMENT CORPORATION TO ENTER INTO A FORMAL EXTENSION AGREEMENT; AUTHORIZING THE CITY MANAGER TO EXECUTE SAID AGREEMENT; PROVIDING A REPEALING CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, pursuant to LEDC Resolution 2010-01 which was passed and approved on January 21, 2010 by the Board of Directors of the Lancaster Economic Development Corporation, offering an incentive grant in the amount of \$75,000 to the City of Lancaster acting on behalf of the Lancaster Regional Airport; and

**WHEREAS**, the Lancaster Regional Airport wishes to install a twenty-four hour self-service aviation fuel pump station at the airport to provide fuel services to those desiring to self fuel their aircraft and to provide fuel sales after normal airport hours of operation; and

**WHEREAS**, the City of Lancaster and LEDC recognize the importance of their continued role in economic development in the community of Lancaster and how the Lancaster Regional Airport continues to be a valuable economic development asset; and

**WHEREAS**, the City may provide incentives promoting economic development pursuant to Chapter 380 of the Texas Local Government Code, which authorizes loans and grants of a city's general funds pursuant to a "program" to stimulate business and commercial activity in the municipality; and

**WHEREAS**, pursuant to Texas Local Government Code, Chapter 501, et seq, as amended, LEDC, as a non-profit corporation, in accordance with the Act, shall promote development and redevelopment within the municipality and its vicinity and create new manufacturing and industrial facilities, distribution centers, warehouse facilities and related facilities, through the use of a sales tax, which development and redevelopment would not otherwise occur solely through private investment in the reasonably foreseeable future; and

**WHEREAS**, pursuant to the City's Charter, the Act and applicable state law, the City has the authority to enter into agreements as the City considers necessary or convenient to implement economic development in Lancaster, Texas; and

**WHEREAS**, pursuant to the Act and the bylaws of the Lancaster Economic Development Corporation, LEDC has authority to enter into agreements as LEDC considers necessary or convenient to implement economic development in Lancaster, Texas; and

**WHEREAS**, the City of Lancaster acting on behalf of the Lancaster Regional Airport wishes to extend the incentive agreement with the Lancaster Economic Development Corporation for a period of (6) six months.

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

**SECTION 1.** The City Council ratifies the May 11, 2011 actions of the Board of Directors of the LEDC approving a (6) six month extension for an incentive agreement to the City of Lancaster, acting on behalf of the Lancaster Regional Airport.

**SECTION 2.** The City Council authorizes the Lancaster Economic Development Corporation to enter into a (6) six month contract extension (Exhibit A) with the City of Lancaster acting on behalf of the Lancaster Regional Airport.

**SECTION 3.** The City Manager is hereby authorized to execute said amendment to the incentive agreement.

**SECTION 4.** Any prior resolution of the City Council in conflict with the provisions contained in this Resolution are hereby repealed and revoked.

**SECTION 5.** Should any part of this resolution be held invalid for any reason, the remainder shall not be affected thereby, and such remaining portions are hereby declared severable.

**SECTION 6.** That this resolution shall take effect immediately from and after its passage and it is so duly resolved.

**DULY PASSED** and approved by the City Council of the City of Lancaster, Texas, on this the 13<sup>th</sup> day of June 2011.

**APPROVED:**

\_\_\_\_\_  
Marcus E. Knight, Mayor

**ATTEST:**

\_\_\_\_\_  
Dolle K. Downe, City Secretary

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Robert E. Hager, City Attorney

**STATE OF TEXAS           §**  
**§**  
**COUNTY OF DALLAS       §           FIRST AMENDED INCENTIVE AGREEMENT**

**THIS AGREEMENT AMENDMENT** is made by and between the Lancaster Economic Development Corporation ("LEDC") and the City of Lancaster, acting on behalf of the Lancaster Regional Airport acting by and through their authorized representative.

**WHEREAS**, the parties previously entered into that certain Agreement for an Economic Development Incentive dated January 21, 2010 (the "Agreement") and, due to unforeseen conditions determined to delay its business plans upon which grants were numbered; and

**WHEREAS**, the Lancaster Regional Airport has requested an extension of (6) six months to continue with the Project under the terms and conditions specified in the original Agreement; and

**WHEREAS**, the LEDC desires to grant a six (6) month only extension; and

**WHEREAS**, the parties desire to amend said Agreement as heretofore stated;

**NOW THEREFORE** in consideration of the terms, conditions and covenants herein set forth and other valuable consideration, adequacy and sufficiently of which are hereby acknowledged, the parties agree as follows:

**SECTION 1..** That Section III of the Agreement, dated January 21, 2010, referred to herein is amended to read as follows:

**"III.**  
**PROVISIONS RELATING TO INCENTIVE AGREEMENT**

**Airport Obligations**

....

- C. Commencement of PROJECT shall begin on or before November 30, 2011 and public sales of fuel from the twenty-four hour self-service aviation fuel pump will commence on or before January 1, 2012."

**SECTION 2.** That said Agreement as amended herein, is hereby reconfirmed, recommended to and republished as if set forth in full herein, and such Agreement, as amended, shall continue in full force and effect.

**SIGNED** this 11<sup>th</sup> day of May, 2011.

**LANCASTER ECONOMIC DEVELOPMENT  
CORPORATION**

By:   
SUSAN ANDERSON, SECRETARY - TREASURER

**SIGNED** this 11<sup>th</sup> day of May, 2011.

**LANCASTER REGIONAL AIRPORT**

By: \_\_\_\_\_  
Opal Mauldin Robertson, City Manager

**INCENTIVE AGREEMENT**

This Incentive Agreement (the "Agreement") is entered into by and between the Lancaster Economic Development Corporation, a non-profit corporation chartered by the State of Texas, acting by and through its Board of Directors (hereinafter referred to as the "LEDC") and the City of Lancaster acting on behalf of the Lancaster Municipal Airport, acting by and through its authorized officer, Arb Rylant (hereinafter referred to as "AIRPORT").

**W I T N E S S E T H :**

**WHEREAS**, the LEDC was established to promote enhanced business opportunities and overall economic development within the corporate limits of the City of Lancaster, Texas; and

**WHEREAS**, the Lancaster Municipal Airport represents a valuable economic development asset to the community; and

**WHEREAS**, the Lancaster Municipal Airport wishes to expand its operations as a viable economic project within the City thereby creating the potential for aviation related new business investment and new jobs in the City; and

**WHEREAS**, in order to maintain and enhance the economic development and employment base within the City of Lancaster, it is in the best interests of the LEDC to enter into this Agreement in accordance with the terms provided herein; and

**WHEREAS**, the Board of Directors of LEDC finds that the intended scope of the Project, hereinafter defined, is to install a twenty-four hour self-service aviation fuel station on airport property.

**NOW THEREFORE**, in consideration of the mutual benefits and promises contained herein and for other good and valuable consideration, the adequacy and receipt of which is hereby acknowledged, the parties agree as follows:

**I.  
EFFECTIVE DATE; TERM OF AGREEMENT**

This Agreement shall become effective upon the City Council of the City of Lancaster authorizing the LEDC to enter into an agreement with Lancaster Municipal Airport, and on the last date of execution of this Agreement by the LEDC and Airport.

## **II. DEFINITIONS**

Whenever used in this Agreement, the following term shall have the meaning ascribed to it:

**“Project”** shall mean the installation of a twenty-four (24) hour self service aviation fuel station system at the Lancaster Municipal Airport and within the Lanport district.

**“Airport”** shall mean the City of Lancaster acting on the behalf of the Lancaster Municipal Airport.

## **III. PROVISIONS RELATING TO INCENTIVE AGREEMENT**

### **Airport Obligations**

- A. Airport will pursue in a diligent manner the installation of the twenty-four hour self-service aviation fuel station at the Lancaster Municipal Airport.
- B. Airport will rebate to LEDC an annual amount calculated at the rate equal to five cents (\$0.05) per gallon of aviation fuel sold from the twenty-four hour self-service aviation fuel pump beginning upon commencement of public sales from said pump. Annual payments to LEDC will continue until the total amount of the fuel rebate equal the \$75,000 economic development grant, without interest.
- C. Commencement of PROJECT will occur within twelve months of execution of agreement and public sales of fuel from the twenty-four hour self-service aviation fuel pump will commence on or before fifteen months from the execution of agreement.

### **LEDC's Obligations**

- A. LEDC agrees to pay a grant to the City of Lancaster in the amount of \$75,000, to be utilized for the installation of a twenty-four hour self-service aviation fuel station system at the airport.
- B. LEDC agrees to pay the grant within ten days of submittal of documents execution of an agreement to purchase and to prepare the site and install the said system.

#### IV.

#### **DEFAULT; RECAPTURE OF GRANT FUNDS**

- A. In the event the Lancaster Municipal Airport (i) fails to commence PROJECT within twelve months of execution of this agreement (ii) fails to complete the Project in accordance with this Agreement; or (iii) breaches any of the terms or conditions of this Agreement, then CITY, after the expiration of the notice and cure periods described in Paragraph IV (B) below, shall be in default of this Agreement. As liquidated damages in the event of such non-cured default, CITY, shall refund to LEDC all grants previously paid by LEDC. The parties acknowledge that actual damages in the event of default termination would be speculative and difficult to determine. The parties further agree that the recapture of grant funds due LEDC as a result of CITY, default under this Agreement, shall be recoverable against CITY, its successors and assigns.
- B. Upon breach by CITY, of any obligations under this Agreement, the LEDC shall notify CITY, in writing. CITY shall have ninety (90) days from receipt of the notice in which to cure any such default.
- C. If CITY fails to cure the default within the time provided as specified in Paragraph IV (B) above, or, as such time period may be extended by written agreement of the parties, then the LEDC at its sole option shall have the right to demand repayment of the incentives it has made hereunder in accordance with this section IV.
- D. Upon the LEDC's election under the preceding paragraph, all incentives shall be repaid as set forth in paragraph IV (A), and shall become due and payable ninety (90) days after notice to CITY of a non-cured default. The LEDC shall have all remedies provided by law for the collection of the grant funds. The LEDC at its sole discretion has the option to provide a repayment schedule. The obligation of CITY, to repay the grant funds to LEDC in the event of default shall survive the termination of this Agreement.

#### V.

#### **SUCCESSORS AND ASSIGNS**

This Agreement 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. This Agreement may be assigned only with the consent of the LEDC.

#### VI.

#### **NOTICES**

All notices required by this Agreement shall be addressed to the following, or other such other party or address as either party designates in writing, by certified mail, postage prepaid or by hand delivery:

CITY to:

Rickey Childers, City Manager  
City of Lancaster  
P.O. Box 940  
Lancaster, Texas 75146:

LEDC to:

Ed Brady  
Lancaster Economic Development Corporation  
P. O. Box 940  
Lancaster, Texas 75146

**VII.  
LEDC AUTHORIZATION**

This Agreement was authorized by resolution of the LEDC, approved by its Board of Directors, authorizing its officer to execute this Agreement on behalf of the LEDC.

**VIII.  
SEVERABILITY**

In the event any section, subsection, paragraph, sentence, phrase or word herein is held invalid, illegal or unconstitutional, the balance of this Agreement shall be enforceable and shall be enforced as if the parties intended at all times to delete said invalid section, subsection, paragraph, sentence, phrase or word.

**IX.  
APPLICABLE LAW**

THIS AGREEMENT SHALL BE CONSTRUED UNDER THE LAWS OF THE STATE OF TEXAS. Venue for any action under this Agreement shall be the State District Court of Dallas County, Texas. This Agreement is performable in Dallas County, Texas.

**X.  
COUNTERPARTS**

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.

**XI.  
ENTIRE AGREEMENT**

This Agreement embodies the complete agreement between the parties and relating

to the matters in this Agreement, and except as otherwise provided herein cannot be modified without written agreement of the parties to be attached to and made a part of this Agreement. The provisions of this Agreement are hereby declared covenants running with the Premises and are fully binding on all successors, heirs, and assigns of AIRPORT, who acquire any right, title, or interest in or to the Premises, or any part hereof, thereby agrees and covenants to abide by and fully perform the provisions of this Agreement. While there is no obligation for the LEDC to fund future expansion, nothing herein precludes AIRPORT, from requesting further assistance on future projects.

**XII.  
RECORDATION OF AGREEMENT**

A certified copy of this Agreement may be recorded in the Deed Records of Dallas County, Texas.

**XIII.  
INCORPORATION OF RECITALS**

The determinations recited and declared in the preambles to this Agreement are hereby incorporated herein a part of this Agreement.

**XIV.  
EXHIBITS**

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

EXECUTED in duplicate originals this the 30<sup>th</sup> day of March, 2010.

LANCASTER ECONOMIC  
DEVELOPMENT CORPORATION

By: Todd Love  
Todd Love, President

CITY OF LANCASTER, TEXAS

By: Rickey Childers  
Rickey Childers, City Manager



STATE OF TEXAS           §  
  §  
COUNTY OF DALLAS       §

BEFORE ME, the undersigned authority, a Notary Public in and for the State of Texas, on this day personally appeared Rickey Childers, City Manager of the City of Lancaster, a Texas home rule municipality, known to me to be the person and officer whose name is subscribed to the foregoing instrument and acknowledged to me that the same was the act of the said corporation, and that he executed the same as the act of said corporation for the purpose and consideration therein expressed and in the capacity therein stated.

GIVEN UNDER MY HAND SEAL OF OFFICE this the 30<sup>th</sup> day of March, 2010.



Dolle K. Shane  
Notary Public, State of Texas

My Commission Expires:  
9-13-2010

**LANCASTER CITY COUNCIL**  
Agenda Communication for  
June 13, 2011

**4**

AG11-005

**Conduct a public hearing and consider an ordinance of the City of Lancaster, Texas, amending the Comprehensive Zoning Ordinance and map of the City of Lancaster, Texas, as heretofore amended, by granting a change in zoning from Retail-Historic District (R-HD) to Retail-Historic District-Specific Use Permit (R-HD-SUP) to allow a Specific Use Permit for Single-Family Residential use on property located at 147 Historic Town Square/238 East First Street; providing for special conditions; providing a savings clause; providing a severability clause; providing a penalty of fine not to exceed the sum of two thousand (\$2,000) dollars for each offense; and providing an effective date.**

**This request supports the City Council 2010-2011 Policy Agenda.**

**Goal 2: Quality Development**

**Background**

This is a request for a Specific Use Permit (SUP) to add the land use of Residential to units already zoned for Office/Retail use. The applicant is seeking to expand the mixed-use allowance of the units. The subject properties are located on the backside of the Town Square buildings. The additional use will provide increased marketability for the subject properties while not detracting from the retail character of the shops and businesses in the main area of the square. Residential use is allowed on the second floor of these Town Square buildings by right, but require an SUP to be located on the ground floor. The building the subject property is located in has only a single story. The request is to add residential as a use on the ground floor.

1. **Location and Size:** The property is generally located in the Historic Town Square at 147 Historic Town Square/238 First Street. The property under consideration is less than one acre of land.
2. **Current Zoning:** The subject property is currently zoned R-HD – Retail-Historic District.

**3. Adjacent Properties:**

North: R-HD, Retail-Historic District  
South: R-HD, Retail-Historic District  
East: R-HD, Retail-Historic District  
West: R-HD, Retail-Historic District

**4. Comprehensive Plan Compatibility:** The Comprehensive Plan identifies this site as suitable for mixed uses in the Historic Town Square. This proposal is compatible with the Comprehensive Plan.

**5. Public Notification:** The Public Hearing notice appeared in the Focus Daily Newspaper and property owner notifications were mailed out. Zoning signs were placed on the subject property on May 13, 2011, satisfying the noticing requirement in accordance with the Lancaster Development Code. One property owner notification was returned opposed to the proposal for the SUP request.

**6. Case/Site History:**

<b>Date</b>	<b>Body</b>	<b>Action</b>
5/17/11	P&Z	Z11-03 SUP for Residential Unit in the Historic Town Square receive a vote of 4-0 for approval

**Considerations**

- **Operational** - The purpose of the SUP process is to authorize and regulate certain uses allowed in a particular zoning designation, yet ensure that such uses are not detrimental to surrounding property, and are consistent with the stated purpose of the zoning district. An SUP can address issues regarding conditions of operation, location, sign display, timeframe, etc.

The applicant is requesting this SUP to be allowed to have residential uses on the ground floor in the Historic Town Square. Typically, the ground floor is reserved for retail and office space with residential units allowed on the second floor. This mixed-use type of environment allows for specific areas to maintain activity continuously in the area. Many municipalities utilize mixed-use developments to promote vitality for their city.

When evaluating this request, staff looked at the potential for the area. Being that the request is for units on the back side of the roundabout, the primary focus for businesses on the square, it was determined that the concept for the Historic Town Square would remain intact. Adding residents to the area would bring more people and visitors to the downtown area. Allowing residential units in the rear of, as well as above, the businesses in the main area of the Square increases the potential for continuous activity and takes incremental steps to creating the downtown area as a destination point in the city.

Given its compatibility with existing uses and its mixed-use nature, staff has concluded that the proposed use should be granted an SUP.

- **Legal** - The City Attorney has prepared an ordinance for the proposed development.
- **Financial** - There are no financial considerations for this case.

### **Options/Alternatives**

1. Approve the SUP request, in accordance with staff and/or P&Z recommendations.
2. Approve the SUP request with modifications and state those modifications.
3. Approve the SUP request, as proposed.
4. Postpone consideration of this item.
5. Deny the SUP request.

### **Recommendation**

#### **P&Z**

At the May 17, 2011 meeting, the Planning and Zoning Commission made a recommendation to approve the SUP request for the addition of Residential use to the allowed use of Office/Retail.

#### **STAFF**

Staff recommends approval of the item (Option 1).

### **Attachments**

- Ordinance
- Property Owner letter in opposition to SUP request
- Planning and Zoning Commission Agenda Communication/with attachments (May 17, 2011)
- Unapproved Planning and Zoning Commission Meeting Minutes Excerpt (May 17, 2011)

**Prepared and submitted by:**  
Nathaniel Barnett, Senior Planner

**Date:** June 1, 2011

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE OF THE CITY OF LANCASTER, TEXAS, AMENDING THE COMPREHENSIVE ZONING ORDINANCE AND MAP OF THE CITY OF LANCASTER, TEXAS, AS HERETOFORE AMENDED, BY GRANTING A CHANGE IN ZONING FROM RETAIL-HISTORIC DISTRICT (R-HD) TO RETAIL- HISTORIC DISTRICT-SPECIFIC USE PERMIT (R-HD-SUP) TO ALLOW A SPECIFIC USE PERMIT FOR SINGLE-FAMILY RESIDENTIAL USE ON PROPERTY LOCATED AT 147 HISTORIC TOWN SQUARE/238 EAST FIRST STREET; PROVIDING FOR SPECIAL CONDITIONS; PROVIDING A SAVINGS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A PENALTY OF FINE NOT TO EXCEED THE SUM OF TWO THOUSAND (\$2,000) DOLLARS FOR EACH OFFENSE; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the Planning and Zoning Commission and the City Council of the City of Lancaster, in compliance with the laws of the State of Texas with references to the granting of zoning classification changes, have given the requisite notices by publication and otherwise, and have held due hearings and afforded a full and fair hearing to all property owners generally and to all persons interested and situated in the affected area and in the vicinity thereof; the said governing body is of the opinion that the request made in Zoning Case No. Z11-03 should be approved, and in the exercise of legislative discretion have concluded that the Lancaster Development Code and Official Zoning Map should be amended.

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

**SECTION 1.** That the Comprehensive Zoning Ordinance and Map of the City of Lancaster, Texas, duly passed by the governing body of the City of Lancaster, Texas, as heretofore amended, be and the same is hereby amended to grant a change in zoning from Retail-Historic District (R-HD) to Retail-Historic District-Specific Use Permit (R-HD-SUP) to grant and allow a Specific Use Permit to allow for single-family residential use on property located at 147 Historic Town Square/238 East First Street, Lancaster, Texas 75146 (the "Property").

**SECTION 2.** That a Specific Use Permit is hereby granted to allow for single-family residential use on the subject property subject to the following special conditions:

- A. The SUP is limited to the use and operation of the site as currently configured.  
Expansion of the existing building or substantial alteration that would change the

building occupancy or intensity of use shall require reconsideration and approval of this SUP.

- B. Square Footage for the Property is permitted to be less than the required 1,000 square feet for the permitted single family residential use.

**SECTION 3.** That the above Property shall be used only in the manner and for the purposes provided by the Development Code of the City of Lancaster, as heretofore amended and as amended herein.

**SECTION 4.** That all provisions of the ordinances of the City of Lancaster 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 of Lancaster not in conflict with the provisions of this ordinance shall remain in full force and effect.

**SECTION 5.** If any article, paragraph, subdivision, clause or provision of this ordinance or the Lancaster Development Code, as hereby amended, be adjudged invalid or held unconstitutional for any reason, such judgment or holding shall not affect the validity of this ordinance as a whole or any part or provision thereof, or of the Lancaster Development Code, as amended hereby, other than the part so declared to be invalid or unconstitutional.

**SECTION 6.** Any person, firm or corporation violating any of the provisions of this ordinance or the Lancaster Development Code 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 Two Thousand (\$2,000.00) dollars for each offense, and each and every day such offense shall continue shall be deemed to constitute a separate offense.

**SECTION 7.** This ordinance 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 APPROVED AND PASSED** by the City Council of the City of Lancaster, Dallas County, Texas on the 13<sup>th</sup> day of June 2011.

**APPROVED:**

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MARCUS E. KNIGHT, MAYOR

**ATTEST:**

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DOLLE K. DOWNE, CITY SECRETARY

**APPROVED AS TO FORM:**

---

ROBERT E. HAGER, CITY ATTORNEY



# Town Square Realty

108 N. Dallas Ave. • Lancaster, Texas 75146 • (972) 227-7010

May 16, 2011

**Re: Zoning Changes on the Square:**

**I am against any residential use on the ground floor of any building on the square.**

**The proposed change is on the backside on First Street. Spaces on the back are currently rented for 2 offices and two restaurants that reportedly are being opened soon. I consider residential spot zoning. Once this change has taken place it will not be reversed. It will continue to expand to other buildings until retail will never come here. Currently we have 8 living units on 2<sup>nd</sup> floors.**

**I have two vacate spaces on the backside of the White Bank Building and once will shortly be opened for a Beauty Shop.**

**Please do not change the zoning. As the square returns with the economy this will be as fatal mistake for the future.**

Ellen Clark

Service Since 1979

email: [townsq1@airmail.net](mailto:townsq1@airmail.net) • website: [www.townsqrealty.com](http://www.townsqrealty.com)

**PLANNING & ZONING COMMISSION**  
Agenda Communication for  
May 17, 2011

**#2**

**Z11-03 Conduct a Public Hearing and Consider a Request for a Specific Use Permit for a Residential use for Property in the Historic Town Square Generally Located at 147 Historic Town Square/238 First Street.**

**Background**

1. **Location and Size:** The property is generally located in the Historic Town Square at 147 Historic Town Square/238 First Street. The property under consideration is less than 1 acre of land.
2. **Current Zoning:** The subject property is currently zoned R-HD – Retail-Historic District.
3. **Adjacent Properties:**  
North: R-HD, Retail-Historic District  
South: R-HD, Retail-Historic District  
East: R-HD, Retail-Historic District  
West: R-HD, Retail-Historic District
4. **Comprehensive Plan Compatibility:** The Comprehensive Plan identifies this site as suitable for Mixed uses in the Historic Town Square. This proposal is compatible with the Comprehensive Plan.
5. **Public Notification:** The Public Hearing notice appeared in the Focus Daily Newspaper and property owner notifications were mailed out. Zoning signs were placed on the subject property on May 13, 2011, satisfying the noticing requirement for this request
6. **Case/Site History:** N/A

**Considerations**

The applicant is requesting a Specific Use Permit (SUP) for property located in a retail zoning district in the Historic Town Square. The proposed use is for residential/office uses. Office uses on the ground floor are permitted in the Historic Town Square. Residential uses are permitted in the Historic Town Square by right above the ground floor and on the ground floor subject to approval of a Specific Use Permit.

The purpose of the SUP process is to authorize and regulate certain uses allowed in a particular zoning designation, yet ensure that such uses are not detrimental to surrounding property, and are consistent with the stated purpose of the zoning district. An SUP can address issues regarding conditions of operation, location, sign display, timeframe, etc.

The applicant is requesting this SUP to be allowed to have residential uses on the ground floor in the Historic Town Square. Typically, the ground floor is reserved for retail and office space with residential units allowed on the second floor. This mixed-use type of environment allows for specific areas to maintain activity continuously in the area. Many municipalities utilize mixed-use developments to promote vitality for their city.

When evaluating this request, Staff looked at the potential for the area. Being that the request is for units on the back side of the round about, the primary focus for businesses on the square, it was determined that the concept for the Historic Town Square would remain intact. Adding residents to the area would bring more people and visitors to the downtown area. Allowing residential units in the rear of, as well as above, the businesses in the main area of the Square increases the potential for continuous activity and takes incremental steps to creating the downtown area as a destination point in the city.

Given its compatibility with existing uses and its mixed-use nature, Staff has concluded that the proposed use should be granted an SUP.

### **Options/Alternatives**

- 1) Recommend approval in accordance with modifications and said modifications shall be stipulations of approval.
- 2) Recommend approval, as requested.
- 3) Postpone consideration.
- 4) Recommend denial of the request.

### **Recommendation**

Staff recommends **approval** of the item (Option 1).

### **Approval Process**

Upon recommendation by the Planning and Zoning Commission, the City Council will conduct a public hearing and render a final decision for this item at their June 13, 2011, regular meeting.

### **Attachments**

Aerial photo  
Property Owner Notification map  
Property Owner Notification listing

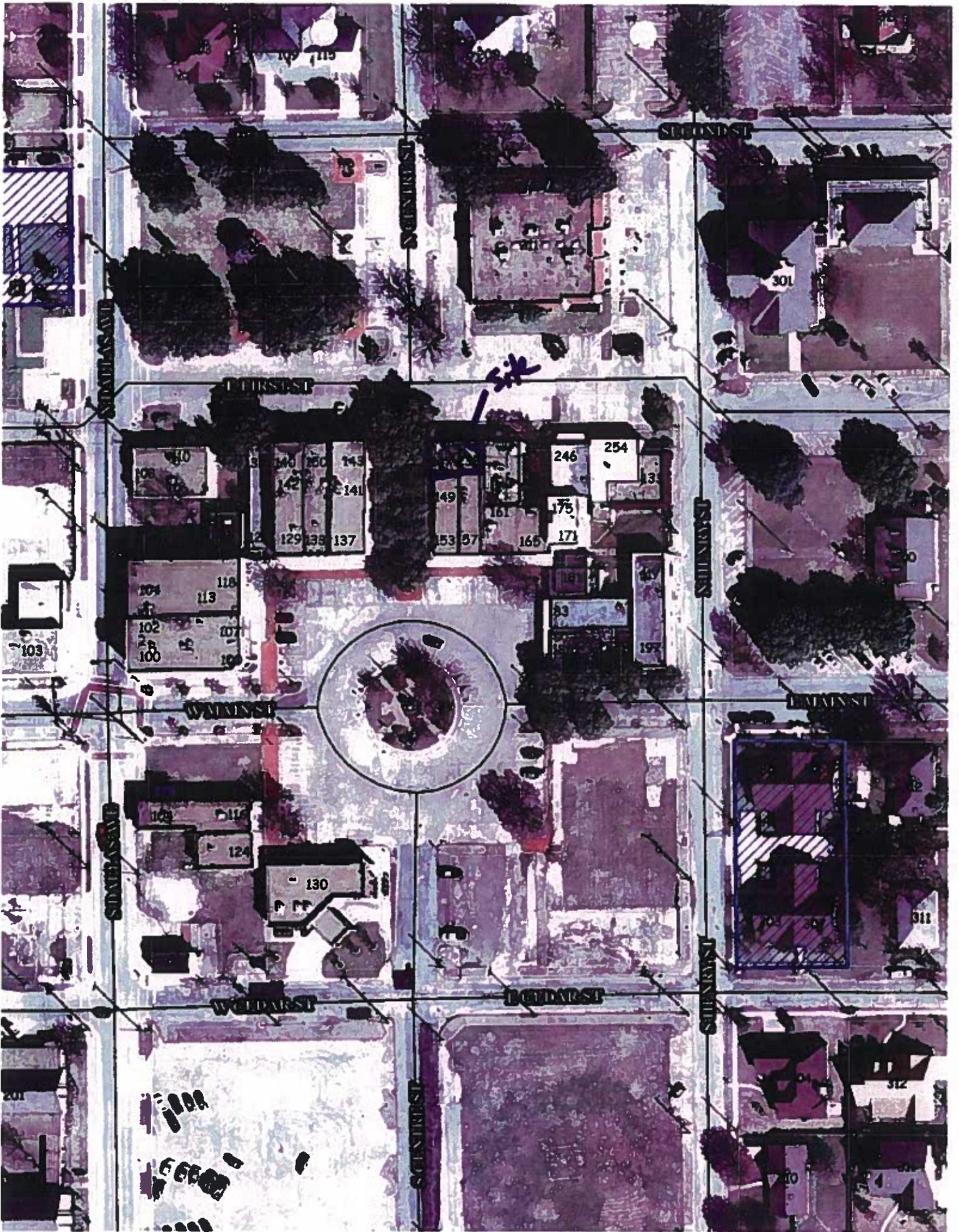
Planning and Zoning Commission  
Agenda Communication  
May 17, 2011  
Page 3

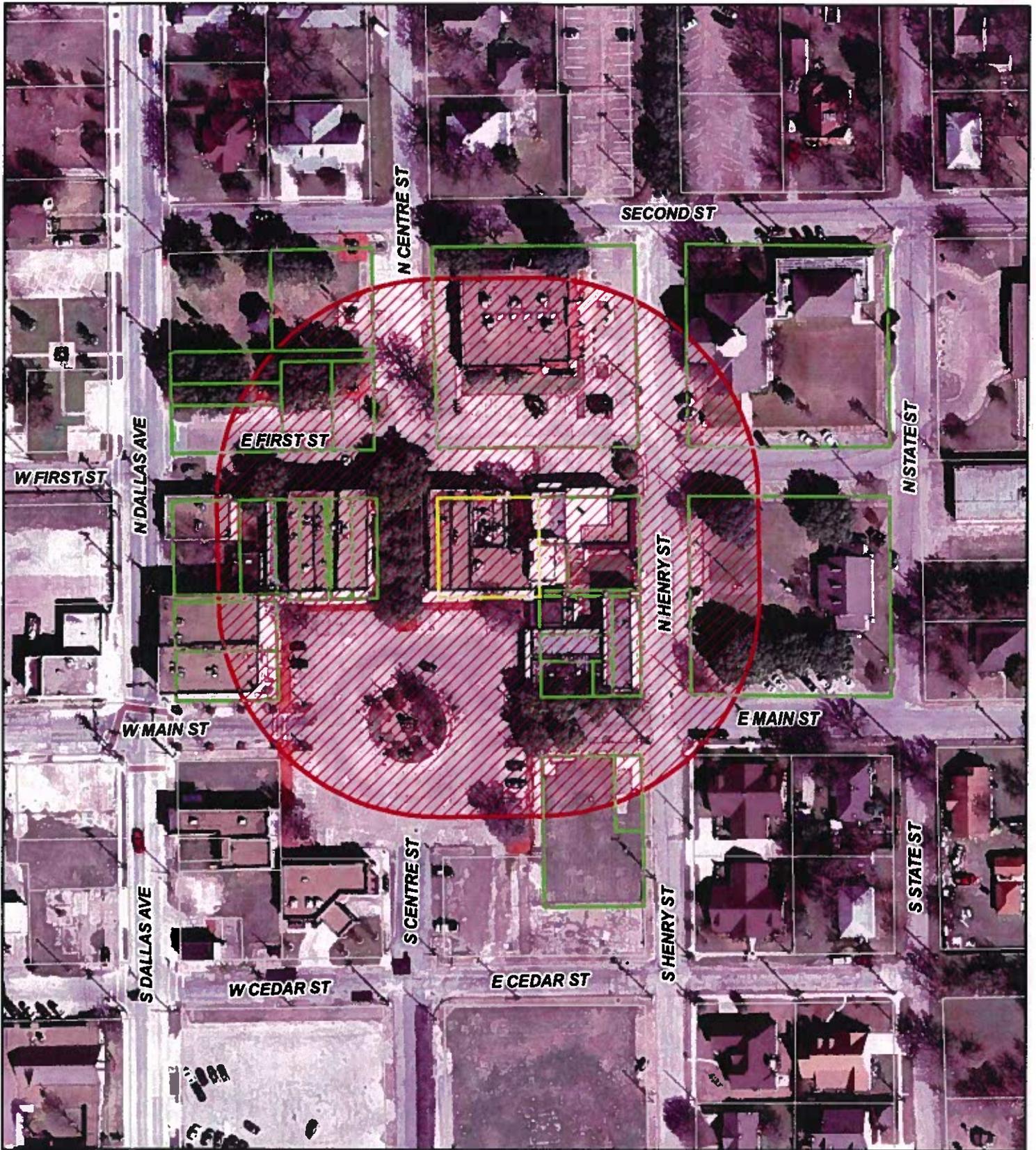
**Prepared By and Submitted By:**

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Nathaniel Barnett  
Senior Planner, Planning Department

**Date:** May 13, 2011





- Parcels
- Subject Parcel
- Notification Parcels
- 200' Notification Area



**City of Lancaster**  
**238 E First St**  
**200' Notification Area**

Owner Name	Owner Address	City	State	Zip
CLARK ELLEN BAIN	108 N DALLAS AVE	LANCASTER	TEXAS	75146
WALDROP MARGIE	110 E 1ST ST	LANCASTER	TEXAS	75146
ROSE WADE LTD PS	12147 LUEDERS LN	DALLAS	TEXAS	75230
FILGO SUSAN R	125 HISTORIC TOWN SQ	LANCASTER	TEXAS	75146
LANCASTER I O O F LODGE	143 HISTORIC TOWN SQ	LANCASTER	TEXAS	75146
HENRY ROXIE F	1611 PARK AVE	BALTIMORE	MARYLAND	21217
HAYES CEMETRIA	175 HISTORIC TOWN SQ	LANCASTER	TEXAS	75146
PRESBYTERIAN CHURCH	301 E 1ST ST	LANCASTER	TEXAS	75146
WEAVER WALTER & SUSAN R	411 S CENTRE AVE	LANCASTER	TEXAS	75146
HEAD REX B & MARGARET SUZANNE BATE	653 FERRIS RD	LANCASTER	TEXAS	75146
CLARK WALTER T	954 NOKOMIS RD	LANCASTER	TEXAS	75146
RAWLINS ERLE JR	PO BOX 114	LANCASTER	TEXAS	75146
LANCASTER URBAN RENEWAL	PO BOX 147	LANCASTER	TEXAS	75146
CHAMBERS EARL JR	PO BOX 87	LANCASTER	TEXAS	75146
CITY OF LANCASTER	PO BOX 940	LANCASTER	TEXAS	75146

## **Unapproved Minutes from the Planning and Zoning Meeting, May 17, 2011**

### **PUBLIC HEARING**

1. **Z11-03** Conduct a Public Hearing and Consider a Request for a Specific Use Permit for a Residential use for Property in the Historic Town Square Generally Located at 147 Historic Town Square/238 First Street.

Senior Planner Barnett gave a presentation regarding the applicants request to add a residential use to units zoned for office/retail use in the Historic Town Square. Senior Planner Barnett displayed the existing conditions of the Square and how it is used today. He pointed out that there is a mix of uses allowed on the Square including residential, retail and office. The residential uses are primarily on the second floor and the request is to allow residential uses on the ground floor. Senior Planner Barnett pointed out that on the Square there are buildings that are two-story and one-story. Since the building the applicant is requesting to add a residential component is only one-story, the residential use would have to be on the ground floor. He pointed out that these units are on the back side of the Square and would not impede the primary area of the Square from retail and office uses. Staff recommends approval.

Chair Colton asked about the unit sharing a wall with a restaurant. Senior Planner Barnett stated that whoever occupied the unit in any capacity would be aware of what is next door. Commissioner Perkins asked about the square footage of the units. Senior Planner Barnett responded that they are under 500 square feet. Commissioner Wright asked about the guidelines being established for the units and whether or not children would be living there. Senior Planner Barnett stated that the size of the units would probably preclude anyone other than single people from living in the unit.

The applicant, Susie Weaver, 411 S. Center, spoke of having a business on the square and mentioned how many businesses have been lost off of the Square since the tornado. She described what the units would be like. She spoke of a need for more retail on the front of the square but that during this tough time it's necessary to make the units as marketable as possible.

Chair Colton then opened the public hearing.

#### **Favor:**

None

#### **Opposed:**

Nancy Moffett, 2105 N. Houston School Road, spoke of the need to attract more retail to the Square. She spoke of the residential units in the old bank building and that they had worked out well. She spoke of owning land near the Square

and asked if she could turn her properties into residential units or the Post Office possibly being changed to residential if they ever moved out. She spoke of a study that stated we needed more retail in the Square. She is aware that the applicant is aware of the plans for the area and just wants to make sure that everyone will be treated equally and that we continue to uphold the vision of the Square.

Chair Colton entertained a motion to close the public hearing.

**A MOTION WAS MADE BY COMMISSIONER BUCHANON AND SECONDED BY COMMISSIONER PERKINS TO CLOSE THE PUBLIC HEARING.**

**AYES: BUCHANON, COLTON, PERKINS, WRIGHT**

**NAYES:**

**THE MOTION CARRIED 4-0.**

Discussion:

Commissioner Buchanon stated he was aware of the concerns of the lack of retail on the Square but that we need to be creative and come up with ways to make the Square viable. He stated that adding components to the units could make the Square more appealing.

Commissioner Perkins asked how many residents were there now and if adding the residential use would increase traffic. Senior Planner Barnett stated that he could not compare the increase in traffic due to there always having been residents on the Square. The Commissioners discussed the current activity on the Square and how the residential use would or would not increase foot traffic in the area and the ability for the applicant to make her units more marketable.

**A MOTION WAS MADE BY COMMISSIONER BUCHANON AND SECONDED BY COMMISSIONER PERKINS TO APPROVE THE REQUEST FOR RESIDENTIAL UNITS TO BE ALLOWED.**

**AYES: BUCHANON, COLTON, PERKINS, WRIGHT**

**NAYES:**

**THE MOTION CARRIED 4-0.**

**LANCASTER CITY COUNCIL**  
Agenda Communication for  
June 13, 2011

**5**

AG11-005

**Conduct a public hearing and consider an Ordinance of the City of Lancaster, Texas, amending the Comprehensive Zoning Ordinance and map of the City of Lancaster, Texas, as heretofore amended, by granting a change in zoning from Single Family-Historic District (SF-6-HD) to Single Family-Historic District-Specific Use Permit (SF-6-HD-SUP) to allow a Specific Use Permit for a Charter School use on property generally located on the northeast corner of East Fourth Street and North State Street, and more commonly known as 305 East Third Street, Lancaster, Texas; providing for special conditions; providing a savings clause; providing a severability clause; providing a penalty of fine not to exceed the sum of two thousand (\$2,000) dollars for each offense; and providing an effective date.**

**This request supports the City Council 2010-2011 Policy Agenda.**

**Goal 2: Quality Development**

**Background**

This is a request for a Specific Use Permit (SUP) to allow a Charter School at the First Baptist Church in the Historic District of the City of Lancaster. The applicant is seeking to utilize their existing Educational building to host the students. The subject property has ample parking, a playground, and a dining hall available to be used as well. The structure is presently being used only on Sunday and Wednesday nights. The addition of the charter school would utilize the church more fully while bringing more people into the Historic Downtown area.

The applicant is requesting this SUP to be allowed to have a charter school on their church campus. They plan to convert their Educational Building into a school. They plan to enroll up to 100 children initially with the potential to grow over time. By utilizing their existing structure for a dual purpose, the church will be able to maximize the usage of their facilities. Another aspect of this proposal is its potential to bring more people to the downtown Historic District, thus incrementally making the downtown area a destination point in the City.

1. **Location and Size:** The property is generally located at the northeast corner of the intersection of East Fourth Street and North State Street and addressed as 305 East Third Street. The property under consideration is less than 1 acre of land.
2. **Current Zoning:** The subject property is currently zoned SF-6-HD – Single Family-Historic District.
3. **Adjacent Properties:**  
North: SF-6-HD, Single Family-Historic District  
South: R-HD, Retail-Historic District  
East: LI-HD, Light Industrial-Historic District  
West: MF-16-HD, Multi-Family-Historic District
4. **Comprehensive Plan Compatibility:** The Comprehensive Plan identifies this site as suitable for mixed uses in the Historic District. This proposal is compatible with the Comprehensive Plan.
5. **Public Notification:** The Public Hearing notice appeared in the Focus Daily Newspaper and property owner notifications were mailed out. Zoning signs were placed on the subject property on May 13, 2011, satisfying the noticing requirement for this request. The public hearing notice, legal notice, property owner notification and on-site zoning sign requirements were fulfilled, in accordance with the Lancaster Development Code. One property owner notification was returned in favor of the proposal for the SUP request.
6. **Case/Site History:**

Date	Body	Action
5/17/11	P&Z	Z11-04 SUP for a Charter School received a vote of 4-0 for approval

**Considerations**

- **Operational** - The purpose of the SUP process is to authorize and regulate certain uses allowed in a particular zoning designation, yet ensure that such uses are not detrimental to surrounding property, and are consistent with the stated purpose of the zoning district. An SUP can address issues regarding conditions of operation, location, sign display, timeframe, etc.

Staff has reviewed the potential impacts of a charter school at this location. The church has in place sufficient parking, amenities to host students for education and dining purposes, and open space for exercise. Given its compatibility with existing uses, Staff has concluded that the proposed use should be granted an SUP.

- **Legal** - The City Attorney has prepared an ordinance for the proposed development.
- **Financial** - There are no financial considerations for this case.

**Options/Alternatives**

1. Approve the SUP request, in accordance with staff and/or P&Z recommendations.
2. Approve the SUP request with modifications and state those modifications.
3. Approve the SUP request, as proposed.
4. Postpone consideration of this item.
5. Deny the SUP request.

**Recommendation**

**P&Z**

At the May 17, 2011 meeting, the Planning and Zoning Commission made a recommendation to approve the SUP request for a Charter School at the First Baptist Church.

**STAFF**

Staff recommends approval of the item (Option 1).

**Attachments**

- Ordinance
- Property Owner Notification in favor of SUP request
- Planning and Zoning Commission Agenda Communication/with attachments (May 17, 2011)
- Unapproved Planning and Zoning Commission Meeting Minutes Excerpt (May 17, 2011)

**Prepared and submitted by:**  
Nathaniel Barnett, Senior Planner

**Date:** June 1, 2011

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE OF THE CITY OF LANCASTER, TEXAS, AMENDING THE COMPREHENSIVE ZONING ORDINANCE AND MAP OF THE CITY OF LANCASTER, TEXAS, AS HERETOFORE AMENDED, BY GRANTING A CHANGE IN ZONING FROM SINGLE FAMILY-HISTORIC DISTRICT (SF-6-HD) TO SINGLE FAMILY-HISTORIC DISTRICT-SPECIFIC USE PERMIT (SF-6-HD-SUP) TO ALLOW A SPECIFIC USE PERMIT FOR A CHARTER SCHOOL USE ON PROPERTY GENERALLY LOCATED ON THE NORTHEAST CORNER OF EAST FOURTH STREET AND NORTH STATE STREET, AND MORE COMMONLY KNOWN AS 305 EAST THIRD STREET, LANCASTER, TEXAS 75146; PROVIDING FOR SPECIAL CONDITIONS; PROVIDING A SAVINGS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A PENALTY OF FINE NOT TO EXCEED THE SUM OF TWO THOUSAND (\$2,000) DOLLARS FOR EACH OFFENSE; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the Planning and Zoning Commission and the City Council of the City of Lancaster, in compliance with the laws of the State of Texas with references to the granting of zoning classification changes, have given the requisite notices by publication and otherwise, and have held due hearings and afforded a full and fair hearing to all property owners generally and to all persons interested and situated in the affected area and in the vicinity thereof; the said governing body is of the opinion that the request made in Zoning Case No. Z11-04 should be approved, and in the exercise of legislative discretion have concluded that the Lancaster Development Code and Official Zoning Map should be amended.

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

**SECTION 1.** That the Comprehensive Zoning Ordinance and Map of the City of Lancaster, Texas, duly passed by the governing body of the City of Lancaster, Texas, as heretofore amended, be and the same is hereby amended to grant a change in zoning from Single Family-Historic District (SF-6-HD) to Single Family-Historic District-Specific Use Permit (SF-6-HD-SUP) to grant and allow a Specific Use Permit to allow for a charter school use on property generally located on the northeast corner of East Fourth Street and North State Street and more commonly known as 305 East Third Street, Lancaster, Texas 75146 (the "Property").

**SECTION 2.** That a Specific Use Permit is hereby granted for the operation of a charter school on the subject Property subject to the following special conditions:

- A. The SUP is limited to the use and operation of the site as currently configured. Expansion of the existing building or substantial alteration that would change the building occupancy or intensity of use shall require reconsideration and approval of this SUP.

**SECTION 3.** That the above Property shall be used only in the manner and for the purposes provided by the Development Code of the City of Lancaster, as heretofore amended and as amended herein.

**SECTION 4.** That all provisions of the ordinances of the City of Lancaster 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 of Lancaster not in conflict with the provisions of this ordinance shall remain in full force and effect.

**SECTION 5.** If any article, paragraph, subdivision, clause or provision of this ordinance or the Lancaster Development Code, as hereby amended, be adjudged invalid or held unconstitutional for any reason, such judgment or holding shall not affect the validity of this ordinance as a whole or any part or provision thereof, or of the Lancaster Development Code, as amended hereby, other than the part so declared to be invalid or unconstitutional.

**SECTION 6.** Any person, firm or corporation violating any of the provisions of this ordinance or the Lancaster Development Code 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 Two Thousand (\$2,000.00) dollars for each offense, and each and every day such offense shall continue shall be deemed to constitute a separate offense.

**SECTION 7.** This ordinance 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 APPROVED AND PASSED** by the City Council of the City of Lancaster, Dallas County, Texas on the 13<sup>th</sup> day of June 2011.

**APPROVED:**

---

MARCUS E. KNIGHT, MAYOR

**ATTEST:**

---

DOLLE K. DOWNE, CITY SECRETARY

**APPROVED AS TO FORM:**

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ROBERT E. HAGER, CITY ATTORNEY



# City of Lancaster Planning Department



## NOTICE OF PUBLIC HEARING

**TO:** Property Owner

**RE:** Application to request a Specific Use Permit for a Charter School

**LOCATION:** 305 E Third Street; A location map depicting the property and the 200-ft notification area is attached for reference. This notice and the notification area are required under Chapter 211.007 of the Texas-Local Government Code.

**EXPLANATION OF REQUEST:** The Applicant requests to allow a charter school to be located in the Educational Building of the First Baptist Church.

- I AM IN FAVOR OF THE REQUEST FOR THE FOLLOWING REASONS:
- I AM OPPOSED TO THE REQUEST FOR THE FOLLOWING REASONS:

**COMMENTS:**

**SIGNATURE:**

**ADDRESS:**

428 NO. DALLAS AVE  
LANCASTER, TX 75147

Your written comments are being solicited in the above case. Additional information is available in the Planning Division, 1425 N. Dallas Avenue, Suite 101, Lancaster, Texas 75134. The Planning and Zoning Commission will hold a public hearing and take action on the above case at their meeting on Tuesday, May 17, 2011 at 7:00 pm. The City Council will hold a public hearing and take action on the above case at their meeting on Monday, June 13, 2011 at 7:00 pm. Meetings are typically held in the City Council Chambers, City of Lancaster Municipal Center, 211 N. Henry Street, Lancaster, Texas.

Please legibly respond in ink. If the signature and/or address is missing, your comments will not be recorded. Your response must be received in the Planning Division by 5 p.m. on Monday, May 16, 2011 for your comments to be reviewed by the Planning and Zoning Commission. Responses received after that time will be forwarded to the P&Z Commission and/or City Council at the public hearing.

If you have any questions concerning this request, please contact the Planning Division  
 Phone 972-218-1723  
 FAX 972-275-1823

**RETURN BY FAX OR MAIL**  
 City of Lancaster, Planning Division  
 1425 N. Dallas Avenue, Suite 101  
 Lancaster, TX 75134

**PLANNING & ZONING COMMISSION**  
Agenda Communication for  
May 17, 2011

**#3**

**Z11-04 Conduct a Public Hearing and Consider a Request for a Specific Use Permit for a Charter School use for Property Generally Located at the northeast corner of the intersection of East Fourth Street and North State Street and addressed as 305 East Third Street.**

**Background**

1. **Location and Size:** The property is generally located at the northeast corner of the intersection of East Fourth Street and North State Street and addressed as 305 East Third Street. The property under consideration is less than 1 acre of land.
2. **Current Zoning:** The subject property is currently zoned SF-6-HD – Single Family-Historic District.
3. **Adjacent Properties:**  
North: SF-6-HD, Single Family-Historic District  
South: R-HD, Retail-Historic District  
East: LI-HD, Light Industrial-Historic District  
West: MF-16-HD, Multi-Family-Historic District
4. **Comprehensive Plan Compatibility:** The Comprehensive Plan identifies this site as suitable for Mixed uses in the Historic District. This proposal is compatible with the Comprehensive Plan.
5. **Public Notification:** The Public Hearing notice appeared in the Focus Daily Newspaper and property owner notifications were mailed out. Zoning signs were placed on the subject property on May 13, 2011, satisfying the noticing requirement for this request
6. **Case/Site History:** N/A

**Considerations**

The applicant is requesting a Specific Use Permit (SUP) for property located in a single family zoning district in the Historic District. The proposed use is for a charter school. All schools are required to obtain a SUP in a residential area throughout the City.

The purpose of the SUP process is to authorize and regulate certain uses allowed in a particular zoning designation, yet ensure that such uses are not detrimental to surrounding property, and are consistent with the stated purpose of the zoning district. An SUP can address issues regarding conditions of operation, location, sign display, timeframe, etc.

The applicant is requesting this SUP to be allowed to have a charter school on their church campus. They plan to convert their Educational Building into a school. They plan to enroll up to 100 children initially with the potential to grow over time. By utilizing their existing structure for a dual purpose, the church will be able to maximize the usage of their facilities. Another aspect of this proposal is its potential to bring more people to the downtown Historic District, thus incrementally making the downtown area a destination point in the City.

Staff has reviewed the potential impacts of a charter school at this location. The church has in place sufficient parking, amenities to host students for education and dining purposes, and open space for exercise. Given its compatibility with existing uses, Staff has concluded that the proposed use should be granted an SUP.

### **Options/Alternatives**

- 1) Recommend approval in accordance with modifications and said modifications shall be stipulations of approval.
- 2) Recommend approval, as requested.
- 3) Postpone consideration.
- 4) Recommend denial of the request.

### **Recommendation**

Staff recommends **approval** of the item (Option 1).

### **Approval Process**

Upon recommendation by the Planning and Zoning Commission, the City Council will conduct a public hearing and render a final decision for this item at their June 13, 2011, regular meeting.

### **Attachments**

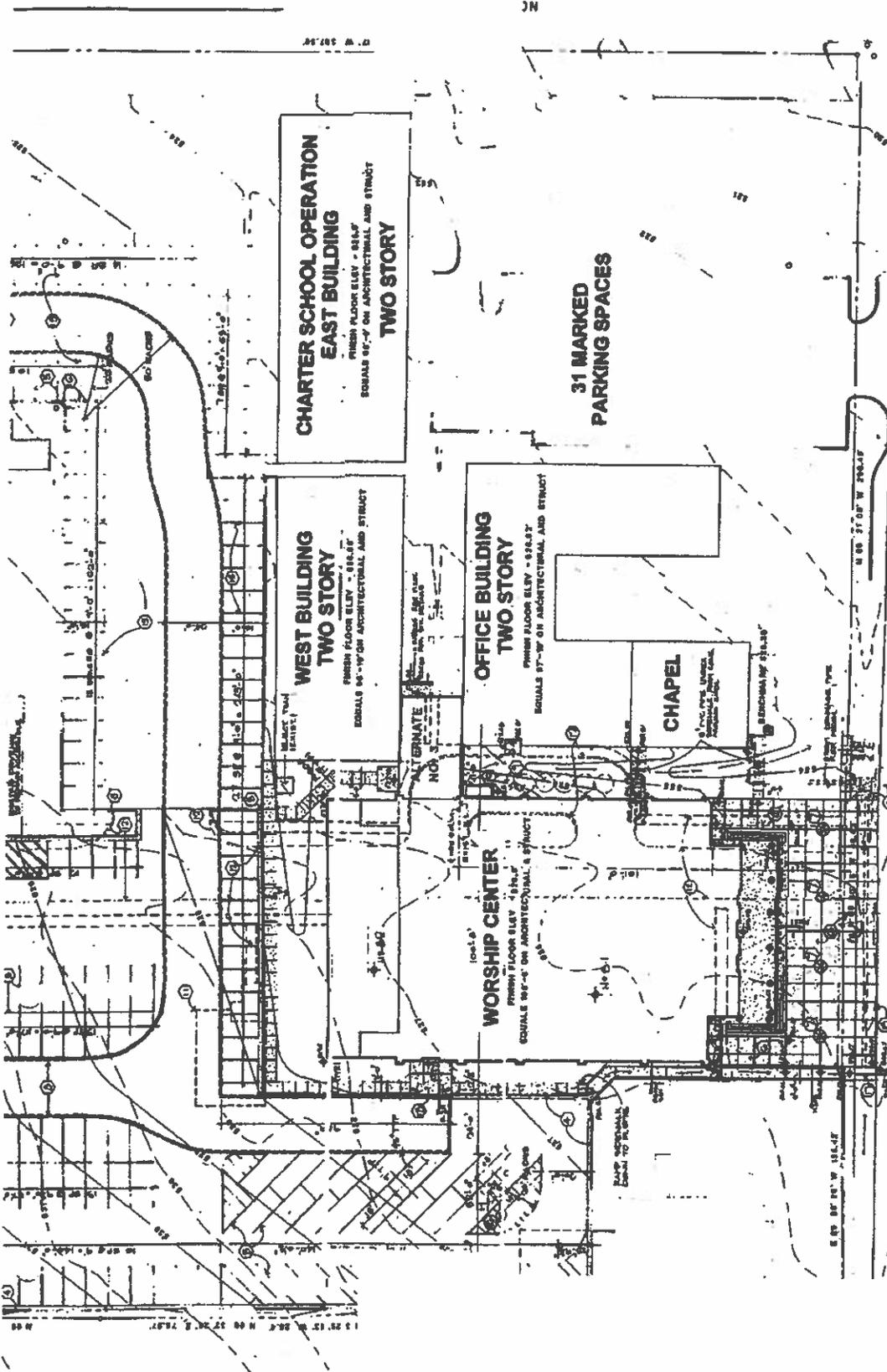
Site Plan  
Property Owner Notification map  
Property Owner Notification listing

### **Prepared By and Submitted By:**

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Nathaniel Barnett  
Senior Planner, Planning Department

**Date:** May 13, 2011



Planning & Zoning Department  
 APR 04 2011  
 Received  
 Accepted  
 NB

**PLOT PLAN**  
 SCALE: 1" = 40' - 0"

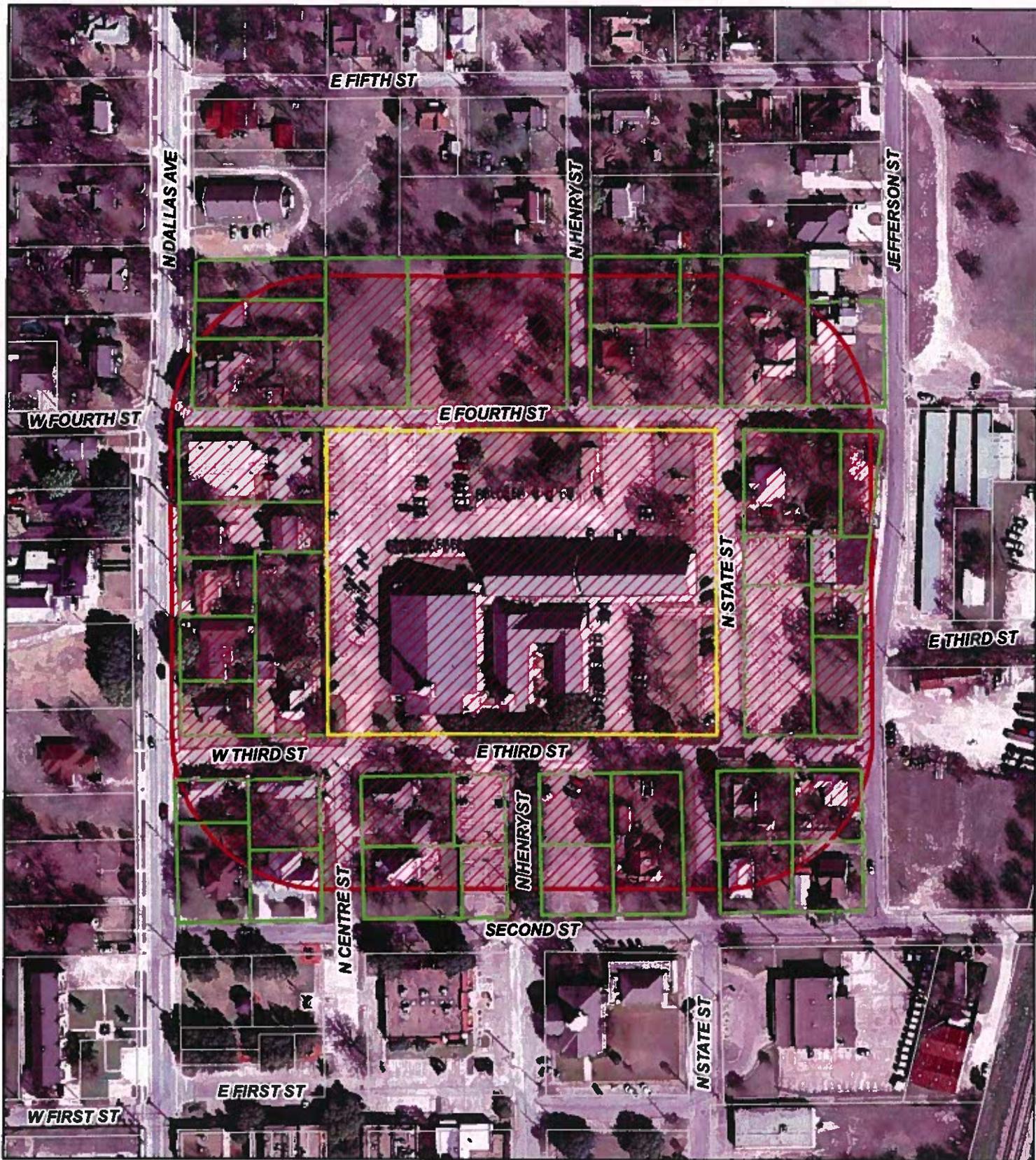
**ALL BUILDINGS ARE EXISTING**

THIRD STREET

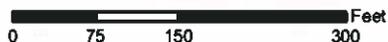
**PARKING TABULATION**

SPACES PROVIDED @ 1/2 SEAS.	400
ON-SITE (MINIMUM TAB)	344
OFF-SITE (EXISTING)	167
<b>TOTAL SPACES PROVIDED</b>	<b>911</b>

**first baptist**  
 Lancaster  
 loving life together



-  Parcels
-  Subject Parcel
-  Notification Parcels
-  200' Notification Area



**City of Lancaster**  
**305 E Third St**  
**200' Notification Area**

Owner Name	Owner Address	City	State	Zip
MIGNONE ANTHONY F	103 E 2ND ST	LANCASTER	TEXAS	75146
DELAY DEE JOHN ETAL	108 EASTSHORE DR	GUN BARREL CITY	TEXAS	75156
BULLOCK CHARLA P & DONNIE R	111 E 3RD ST	LANCASTER	TEXAS	75146
FUTCH HAROLD	205 E 4TH ST	LANCASTER	TEXAS	75146
FUTCH MARIE	2306 MEADOW LAKE DR	GRAND PRAIRIE	TEXAS	75050
SVRCEK RAYMOND K	279 BECKY LN	WAXAHACHIE	TEXAS	75165
FIRST BAPTIST CHURCH OF LANCASTER	305 E 3RD ST	LANCASTER	TEXAS	75146
WILLISON HOWARD A & MARGUERIETTE	311 E 2ND ST	LANCASTER	TEXAS	75146
PRITCHETT CAROLYN K	312 N CENTRE AVE	LANCASTER	TEXAS	75146
MARKGRAF BRENDA L	312 N DALLAS AVE	LANCASTER	TEXAS	75146
HALL WAYNE H & IVA M	408 N DALLAS AVE	LANCASTER	TEXAS	75146
CHESIER JIMMY & MARGARET	411 E 2ND ST	LANCASTER	TEXAS	75146
COLE HATTIE ELIZABETH	412 E 3RD ST	LANCASTER	TEXAS	75146
GREEN ALICE	414 N DALLAS AVE	LANCASTER	TEXAS	75146
SANCHEZ ALBERT P	428 N STATE ST	LANCASTER	TEXAS	75146
ANDERSON JAMES R	429 N JEFFERSON ST	LANCASTER	TEXAS	75146
SWEET GARY C & VALERIE A DOUGLAS	502 N DALLAS AVE	LANCASTER	TEXAS	75146
WEAVER BOBBY JACK	505 N JEFFERSON ST	LANCASTER	TEXAS	75146
GRACE CATHEDRAL CHURCH	520 N DALLAS AVE	LANCASTER	TEXAS	75146
MAZUCH MARY L & DONALD E	603 S DALLAS AVE	LANCASTER	TEXAS	75146
CROSSLAND ROSS R JR	607 KATHERINE CT	DUNCANVILLE	TEXAS	75137
BAIN ELLEN S & BRUCE HARRIS	954 NOKOMIS RD	LANCASTER	TEXAS	75146
RICH CHARLES R & INELL M	9810 COLDWATER CIR	DALLAS	TEXAS	75228
THOMAS MARTHA B	PO BOX 1085	LANCASTER	TEXAS	75146
JACKSON ANNETTE	PO BOX 274	LANCASTER	TEXAS	75146
STEPHANI LISA	PO BOX 596	LANCASTER	TEXAS	75146
ELLARD ALBERT W ET AL	PO BOX 83	LANCASTER	TEXAS	75146

## **Unapproved Minutes from the Planning and Zoning Meeting, May 17, 2011**

### **PUBLIC HEARING**

1. **Z11-04** Conduct a Public Hearing and Consider a Request for a Specific Use Permit for a Charter School use for Property Generally Located at the northeast corner of the intersection of East Fourth Street and North State Street and addressed as 305 East Third Street.

Senior Planner Barnett gave a presentation that the First Baptist Church wishes to use their Educational Building as a Charter School. He spoke of the use bringing more people to the downtown area and the church being fully utilized.

The applicant, Charles Dixon, 609 Clinton Street, Ovilla, Tx, is the Senior Pastor of First Baptist Church. He stated that the church would not be operating the school but the school is Vista Academy that is presently on Wintergreen Road and introduced the campus director to speak about the school. The superintendent of the school was also present, Scott Davis, who gave more information about the size of the school, the programs that would be offered, and what services they would provide. The applicant spoke of the under utilization of the church and how they have been looking for more ways to increase its use and bring more people to the area. He complimented City Staff and how well they have worked with him and answered all of his questions during this entire process.

Commissioner Perkins asked how many classrooms there were in the facility. The applicant brought the superintendent, Scott Davis, to inform the commission of the facility. Mr. Davis explained how the space is used now there could be up to 10 classrooms along with labs and offices. Chair Colton asked if there were enough rooms on the ground floor for kindergarten classes. Mr. Davis stated that there were. Commissioner Buchanon asked about the mission statement of the school and if they tracked the progress of their students. Mr. Davis stated that they did monitor their students to a certain point but didn't track them all the way through high school. Commissioner Wright asked how many students were from Lancaster. Mr. Davis stated that the vast majority of the students would be from Lancaster and that they work with the local school district to provide an alternative for the non-traditional students.

Chair Colton then opened the public hearing.

#### **Favor:**

None

#### **Opposed:**

None

Chair Colton entertained a motion to close the public hearing.

**A MOTION WAS MADE BY COMMISSIONER PERKINS AND SECONDED BY COMMISSIONER BUCHANON TO CLOSE THE PUBLIC HEARING.**

**AYES: BUCHANON, COLTON, PERKINS, WRIGHT  
NAYES:**

**THE MOTION CARRIED 4-0.**

Discussion:  
None

**A MOTION WAS MADE BY COMMISSIONER BUCHANON AND SECONDED BY COMMISSIONER WRIGHT TO APPROVE THE REQUEST FOR A CHARTER SCHOOL.**

**AYES: BUCHANON, COLTON, PERKINS, WRIGHT  
NAYES:**

**THE MOTION CARRIED 4-0.**

**LANCASTER CITY COUNCIL**  
Agenda Communication for  
June 13, 2011

**6**

AG11-006

**Discuss and consider an ordinance of the City of Lancaster, Texas (“City”) approving a negotiated resolution between the Steering Committee of Cities served by Oncor (“Steering Committee”) and Oncor Electric Delivery Company (“Oncor” or “Company”) regarding the Company’s application to increase electric rates in all cities exercising original jurisdiction; declaring existing rates to be unreasonable; requiring the Company to reimburse cities’ reasonable ratemaking expenses; adopting tariffs that reflect rate adjustments consistent with the negotiated settlement and finding the rates to be set by the attached tariffs to be just and reasonable; approving Oncor’s proof of revenues; adopting a savings clause; determining that this ordinance was passed in accordance with the requirements of the Texas Open Meetings Act; declaring an effective date; and requiring delivery of the ordinance to the Company and the Steering Committee’s legal counsel.**

**This request supports the City Council 2010-2011 Policy Agenda.**

**Goal 1: Financially Sound City Government**

**Background**

The City, along with approximately 160 other cities served by Oncor Electric Delivery Company LLC (“Oncor” or “Company”), is a member of the Steering Committee of Cities Served by Oncor (“Steering Committee”). On or about January 7, 2011, Oncor filed with the City an application to increase electric rates.

The Oncor filing sought a \$353 million rate increase. The City worked with the Steering Committee to analyze the schedules and evidence offered by Oncor to support its request to increase rates. The Ordinance, rate and tariffs are the result of negotiations between the Steering Committee and the Company. The Ordinance authorizes an increase of \$136.7 million, instead of the original request of \$353 million. The monthly bill impact for the average residential customer will be a \$2.35 increase (as opposed to the \$5.00 per bill increase proposed in the Company’s original filing).

### **Considerations**

- **Operational** - Upon the adoption of this ordinance, it is the responsibility of Staff to forward all executed documents to the designated Oncor representative and Steering Committee legal counsel by June 17, 2011.
- **Legal** - The ordinance was prepared and approved as to form by legal counsel for the Steering Committee (Lloyd, Gosselink, Rochelle, & Townsend).
- **Financial** - The negotiation of this rate increase and the approval of this ordinance reduced the monthly bill impact on City of Lancaster residential customers from \$5.00 to \$2.35 per monthly bill.
- **Public Information** - Consideration of this item must be conducted during a meeting of the City Council in accordance with the Texas Open Meetings Act. This meeting was properly noticed and is being held 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 the adoption of the ordinance approving the rate change as presented.

### **Attachments**

- Ordinance

Attachments A, B and C referenced in the ordinance are voluminous. A copy is available in the City Secretary's office for review.

**Prepared and submitted by:**  
Opal Mauldin Robertson, City Manager

**Date:** June 13, 2011

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LANCASTER, TEXAS, (“CITY”) APPROVING A NEGOTIATED RESOLUTION BETWEEN THE STEERING COMMITTEE OF CITIES SERVED BY ONCOR (“STEERING COMMITTEE”) AND ONCOR ELECTRIC DELIVERY COMPANY LLC (“ONCOR” OR “COMPANY”) REGARDING THE COMPANY’S APPLICATION TO INCREASE ELECTRIC RATES IN ALL CITIES EXERCISING ORIGINAL JURISDICTION; DECLARING EXISTING RATES TO BE UNREASONABLE; REQUIRING THE COMPANY TO REIMBURSE CITIES’ REASONABLE RATEMAKING EXPENSES; ADOPTING TARIFFS THAT REFLECT RATE ADJUSTMENTS CONSISTENT WITH THE NEGOTIATED SETTLEMENT AND FINDING THE RATES TO BE SET BY THE ATTACHED TARIFFS TO BE JUST AND REASONABLE; APPROVING ONCOR’S PROOF OF REVENUES; ADOPTING A SAVINGS CLAUSE; DETERMINING THAT THIS ORDINANCE WAS PASSED IN ACCORDANCE WITH THE REQUIREMENTS OF THE TEXAS OPEN MEETINGS ACT; DECLARING AN EFFECTIVE DATE; AND REQUIRING DELIVERY OF THIS ORDINANCE TO THE COMPANY AND THE STEERING COMMITTEE’S LEGAL COUNSEL.**

**WHEREAS**, the City of Lancaster, Texas (“City”) is an electric utility customer of Oncor Electric Delivery Company LLC (“Oncor” or “ Company”), and a regulatory authority with an interest in the rates and charges of Oncor; and

**WHEREAS**, the City is a member of the Steering Committee of Cities Served by Oncor (“Steering Committee”), a coalition of approximately 160 similarly situated cities served by Oncor that have joined together to facilitate the review of and response to electric issues affecting rates charged in the Oncor service area; and

**WHEREAS**, on or about January 7, 2011, Oncor filed with the City its application to increase electric base rates by approximately \$353 million, such increase to be effective in every municipality within Oncor’s service territory; and

**WHEREAS**, the Steering Committee coordinated their review of Oncor’s filing by designating an Executive Committee made up of Steering Committee representatives, assisted by

Steering Committee attorneys and consultants, to resolve issues identified by the Steering Committee in the Company's filing; and

**WHEREAS**, the Company has filed evidence that existing rates are unreasonable and should be changed; and

**WHEREAS**, independent analysis by the Steering Committee's rate experts concluded that Oncor is able to justify an increase over current rates of \$136.7 million; and

**WHEREAS**, the Steering Committee has entered a Settlement Agreement ("Attachment C") with Oncor to increase base rate revenues by \$136.7 million; and

**WHEREAS**, the Executive Committee of the Steering Committee, and the Steering Committee's lawyers and consultants recommend that Steering Committee members approve the attached rate tariffs ("Attachment A" and "Attachment B" to this Ordinance), which will increase the Company's revenue requirement by \$136.7 million; and

**WHEREAS**, the attached tariffs implementing new rates are consistent with the negotiated resolution reached by the Steering Committee and are just, reasonable, and in the public interest; and

**WHEREAS**, it is the intention of the parties that if the City determines any rates, revenues, terms and conditions, or benefits resulting from a Final Order or subsequent negotiated settlement approved in any proceeding addressing the issues raised in the Company's filing would be more beneficial to the City than the terms of the attached tariff, then the more favorable rates, revenues, terms and conditions, or benefits shall additionally accrue to the City; and

**WHEREAS**, the negotiated resolution of the Company's filing and the resulting rates are, as a whole, in the public interest.

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

**SECTION 1.** That the findings set forth in this Ordinance are hereby in all things approved.

**SECTION 2.** That the City Council finds the existing rates for electric service provided by Oncor are unreasonable and new tariffs, which are attached hereto and incorporated herein as Attachments A and B, are just and reasonable and are hereby adopted.

**SECTION 3.** That Oncor shall reimburse the reasonable ratemaking expenses of the Steering Committee in processing the Company's rate application.

**SECTION 4.** That to the extent any resolution or ordinance previously adopted by the Council is inconsistent with this Ordinance, it is hereby repealed.

**SECTION 5.** That the meeting at which this Ordinance was approved was in all things conducted in strict compliance with the Texas Open Meetings Act, Texas Government Code, Chapter 551.

**SECTION 6.** That if any one or more sections or clauses of this Ordinance is adjudged to be unconstitutional or invalid, such judgment shall not affect, impair or invalidate the remaining provisions of this Ordinance and the remaining provisions of the Ordinance shall be interpreted as if the offending section or clause never existed.

**SECTION 7.** That if the City determines any rates, revenues, terms and conditions, or benefits resulting from a Final Order or subsequent negotiated settlement approved in any proceeding addressing the issues raised in the Company's filing would be more beneficial to the City than the terms of the attached tariffs, then the more favorable rates, revenues, terms and conditions, or benefits shall additionally accrue to the City.

**SECTION 8.** That this Ordinance and Settlement Agreement (“Attachment C”) shall become effective from and after its passage with rates authorized by attached Tariffs to be effective in two phases. Phase one tariffs (attached to this Ordinance as “Attachment A”), increasing Oncor’s revenues by \$93.7 million, are effective for bills rendered on or after July 1, 2011. Phase two tariffs (attached to this Ordinance as “Attachment B”), increasing Oncor’s revenues by \$43 million, are effective for bills rendered on or after January 1, 2012.

**SECTION 9.** That a copy of this Ordinance shall be sent to Oncor, care of Autry Warren, Oncor Electric Delivery Company, LLC, 1601 Bryan St., 23<sup>rd</sup> Floor, Dallas, Texas 75201 and to Thomas Brocato, at Lloyd Gosselink Rochelle & Townsend, P.C., P.O. Box 1725, Austin, Texas 78767-1725.

**DULY APPROVED AND PASSED** by the City Council of the City of Lancaster, Dallas County, Texas on the 13<sup>th</sup> day of June 2011.

**APPROVED:**

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MARCUS E. KNIGHT, MAYOR

**ATTEST:**

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DOLLE K. DOWNE, CITY SECRETARY

**APPROVED AS TO FORM:**

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ROBERT E. HAGER, CITY ATTORNEY

**LANCASTER CITY COUNCIL**  
Agenda Communication for  
June 13, 2011

**7**

AG11-007

**Discuss and consider designation of the City's voting representative to the North Central Texas Council of Governments.**

**This request supports the City Council 2010-2011 Policy Agenda.**

**Goal 6: Civic Engagement**

**Background**

The City of Lancaster is a member of the North Central Texas Council of Governments (NCTCOG). Annually, NCTCOG requests the City designate an elected official to serve as the voting representative. The voting representative must be an elected official from the governing body. This voting representative serves as a liaison between the City and NCTCOG, receives publications and announcements from NCTCOG, and is eligible to vote on proposed Bylaws amendments and for candidates to serve on the NCTCOG's Executive Board.

**Considerations**

- **Operational** - The voting representative serves for one year. Last year Todd Love was designated as the City's voting representative. NCTCOG has requested the voting representative's name be submitted to their office by June 16. The annual General Assembly Meeting is June 17 this year.
- **Legal** - NCTCOG does not require a resolution to designate the voting representative; however, completion of the attached form is required.
- **Financial** - There is no financial impact with the selection of a voting representative.
- **Public Information** - There are no public information requirements.

**Options/Alternatives**

1. Council may designate a voting representative by majority vote.
2. Council may take no action. If no action is taken, the City would not have an official representative to NCTCOG's General Assembly.

**Recommendation**

Council selects the councilmember of their choice.

**Attachments**

- North Central Texas Council of Government form for designation of voting representative

**Prepared and submitted by:**  
Dolle K. Downe, City Secretary

**Date:** June 1, 2011



North Central Texas Council Of Governments

**NORTH CENTRAL TEXAS COUNCIL OF GOVERNMENTS**  
**Designation of Voting Representative**

*As a member of the North Central Texas Council of Governments,*

City of Lancaster

*hereby designates the following elected*

(name of county, city, school district, or special district)

*official to serve as its voting representative to NCTCOG's General Assembly.*

Name: \_\_\_\_\_ Title: \_\_\_\_\_

Email: \_\_\_\_\_

Mailing Address: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Telephone: \_\_\_\_\_

Signed: \_\_\_\_\_ Title: \_\_\_\_\_

**FOR YOUR INFORMATION**

Under the Bylaws of the North Central Texas Council of Governments, each member government is entitled to one voting representative on the General Assembly. The **voting representative must be an elected official from the governing body of the member government.** This voting representative serves as a liaison between the local government and NCTCOG; receives publications and announcements from NCTCOG; and is eligible to vote on proposed Bylaws amendments and for candidates to serve on NCTCOG's Executive Board. A city or county official must be a designated voting representative in order to be considered for service on the Executive Board.

Some voting representatives may have retired from office or some member governments may wish to select a different representative from the one currently serving. Therefore, NCTCOG annually requests recertification of voting representatives – usually after the municipal/school board elections. Use this form to designate your official voting representative to NCTCOG. If you wish, you have the option to list your **existing voting representative, without formal reappointment**, unless that person is no longer in office.

Please return form by Thursday, June 16, 2011 to: NCTCOG, Attn. Alice Webster  
P. O. Box 5888, Arlington, TX 76005-5888  
FAX: 817-704-2542