



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



211 N. HENRY STREET, LANCASTER, TEXAS
Monday, February 27, 2012 – 7:00 P.M.

CALL TO ORDER

INVOCATION: MINISTERIAL ALLIANCE

PLEDGE OF ALLEGIANCE: COUNCILMEMBER MARCO MEJIA

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 February 13, 2012 and Special Meeting held February 20, 2012.
- 2C. Consider Resolution 2012-02-16 accepting the 2011 Racial Profiling Analysis Annual Report for the Lancaster Police Department.
- 3C. Consider Resolution 2012-02-17 amending the Master Fee Schedule, Article 16.000 Airport Fees, to provide a rate for a community hangar rental.
- 4C. Consider Resolution 2012-02-18 approving the terms and conditions of the Lot 9 Ground Lease at the Lancaster Regional Airport.
- 5C. Consider Resolution 2012-02-19 approving the terms and conditions of the City owned T-hangar non-commercial lease from building 670 at the Lancaster Regional Airport.
- 6C. Consider Resolution 2012-02-20 authorizing the City Manager to extend Stage 2 activation of the City of Lancaster Water Conservation and Drought Contingency and Water Emergency Response Plan by 120 days through June 8, 2012 as required by the Wholesale Treated Water contract between the City of Dallas and the City of Lancaster.

- 7C. Consider Resolution 2012-02-21 ordering a General Election for the election of a mayor at-large and a Special Election for the election of one councilmember for District 5 to fill an unexpired term ending May 2013 to be held on Saturday, May 12, 2012; providing for the publication and posting of notice; and providing for early voting dates, times and locations.

Considere Resolución 2012-02-21 ordenando una elección general para la elección de un alcalde en general y una elección especial para la elección de un miembro del concejo para llenar un término vigente que finaliza en mayo de 2013 para distrito 5 que se celebrará el 12 de mayo de 2012; que contempla la publicación y publicación de la notificación; proveyendo fechas de votación temprana, tiempos y lugares.

- 8C. Consider Resolution 2012-02-22 approving the terms and conditions of a Joint Election Contract and Election Services Agreement with Dallas County Elections to conduct a municipal General Election for the election of a mayor at-large and a Special Election for the election of one councilmember for District 5 to fill an unexpired term to be held on Saturday, May 12, 2012.

Considera Resolución 2012-02-22 aprobando los términos y condiciones de un contrato elección conjunta y contrato elecciones de servicios con el condado de Dallas elección para llevar a cabo una elección general municipal para la elección de un alcalde en general y elección especiales para la elección de un concejal de distrito 5 para llenar un término vigente que se celebrará el sábado, 12 de mayo 2012.

- 9C. Consider Resolution 2012-02-23 approving the terms and conditions of an Interlocal Agreement by and between the City of Lancaster and the County of Dallas to resell tax foreclosed properties struck off to the City of Lancaster as trustee.
- 10C. Consider Resolution 2012-02-24 approving the resale, by the County of Dallas, of five (5) residential tax foreclosed properties struck off to the City of Lancaster.

ACTION:

11. Discuss and consider Resolution 2012-02-25 suspending the March 6, 2012 effective date of Atmos Energy Corp., Mid-Tex Division, requested rate change to permit the City time to study the request and to establish reasonable rates; approving cooperation with Atmos Cities Steering Committee and other cities in the Atmos Mid-Tex service area to hire legal and consulting service and to negotiate with the company and direct any necessary litigation and appeals; and requiring reimbursement of cities' rate case expenses.
12. Discuss and consider an ordinance amending the Rolling Meadows Public Improvement District Five Year Service Plan, as adopted by Ordinance No. 2011-08-20, as hereby amended by increasing the Rolling Meadows Public Improvement District Five Year Service Plan for fiscal year 2011/2012 by a total of \$2,988.

13. Discuss and consider Resolution 2012-02-26 approving the terms and conditions of an Interlocal Agreement by and between the City of Lancaster and North Central Texas Council of Governments and a certain marketing services agreement with Utility Service Partners Private Label, Inc. doing business as Service Line Warranties of America to license the use of the City of Lancaster trademark in conjunction with advertisement to the City's residents of warranty plans for repair of water and sewer lines on residential property.
14. Consider election of a Mayor Pro Tempore.

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 February 23, 2012 @ 5:00 p.m. 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
February 27, 2012

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AG12-001

Consider approval of minutes from the City Council Regular Meeting held February 13, 2012 and Special Meeting held February 20, 2012.

Background

Attached for your review and consideration are minutes from the:

- City Council Regular Meeting held February 13, 2012
- City Council Special Meeting held February 20, 2012 (special meeting)

Prepared and submitted by:

Dolle K. Downe, City Secretary
February 21, 2012

MINUTES

LANCASTER CITY COUNCIL MEETING OF FEBRUARY 13, 2012

The City Council of the City of Lancaster, Texas, met in Regular session in the Council Chambers of City Hall on February 13, 2012 at 7:00 p.m. with a quorum present to-wit:

Councilmembers Present:

Mayor Marcus E. Knight
Walter Weaver
Stanley Jaglowski
Marco Mejia
Mayor Pro Tem Clyde Hairston
Deputy Mayor Pro Tem Nina Morris

Councilmembers Absent:

James Daniels

City Staff Present:

Opal Mauldin Robertson, City Manager
Alicia Oyedele, Assistant to the City Manager
Sean Johnson, Parks and Recreation Director
Mark Divita, Airport Manager
Dolle Downe, City Secretary

Call to Order:

Mayor Knight called the meeting to order at 7:00 p.m. on February 13, 2012.

Invocation:

Pastor John Richardson with Zion Chapel gave the invocation.

Pledge of Allegiance:

Councilmember Jaglowski led the Pledge of Allegiance.

Citizens Comments:

James Lewis, 818 Katy Street, commented that the City has lost several lawsuits which is costly for the City; expressed concerns about people parking on Jefferson Street when attending the 9-man football games, saying it puts people in danger; stated that someone could be killed crossing the street and that would be a multimillion dollar lawsuit; commented that no one had contacted him or seemed to care about the problem, and he considers that negligence on the part of the City.

Becky Armstrong, 642 E. Reindeer Road, stated she is in the newly annexed area and does not want the trash service; stated that under municipal annexation law, the City cannot force them to use the trash service for two years; stated that she has not completed an application for service and has sent the Council and staff a letter indicating she does not want the trash service, but has been ignored; commented that the carts are still where they were delivered; stated that she does not want the trash service for two reasons; first, it is a reduction in service from two times a week to one and is more costly; and second, the Council should be following the entire annexation law not just the parts they want to enforce; stated that she deserves an answer and respect; asked if this is the kind of service they can expect as citizens.

Consent Agenda:

City Secretary Downe read the consent agenda.

- 1C. Consider approval of minutes from the City Council Regular Meeting held January 23, 2012.**
- 2C. Consider Resolution 2012-02-12 approving the terms and conditions of the City owned T-hangar non-commercial lease from Building 670 at the Lancaster Regional Airport.**
- 3C. Consider Resolution 2012-02-13 dedicating land along Wintergreen Road from Dallas Avenue to Jefferson Street as public right-of-way (Parcel 4), and parcels 4PE-1, 4PE-2, and 4DE as permanent and drainage easements for construction, future maintenance and utility corridor; and authorizing the Mayor to execute the resolution.**

MOTION: Mayor Pro Tem Hairston made a motion, seconded by Councilmember Weaver, to approve consent items 1C - 3C. The vote was cast 6 for, 0 against [Daniels absent].

- 4. Discuss and consider Resolution 2012-02-14 approving a change in name of the Cedardale Softball Complex to "Cedardale Park".**

MOTION: Councilmember Mejia made a motion, seconded by Deputy Mayor Pro Tem Morris, to approve a resolution changing the name of Cedardale Softball Complex to "Cedardale Park". The vote was cast 6 for, 0 against [Daniels absent].

Councilmember Mejia commented that he used his personal iPad for the Council meeting and it works great, plus it reduces copying costs and increases productivity. Councilmember Mejia stated that he has made it a point to reduce costs by eliminating his cell phone, travel/training budget and now production cost for an agenda packet. He thanked staff for their efforts to improve efficiency and reduce cost.

MOTION: Mayor Pro Tem Hairston made a motion, seconded by Deputy Mayor Pro Tem Morris, to adjourn. The vote was cast 6 for, 0 against [Daniels absent].

The meeting was adjourned at 7:14 p.m.

ATTEST:

APPROVED:

Dolle K. Downe, City Secretary

Marcus E. Knight, Mayor

MINUTES

LANCASTER CITY COUNCIL MEETING OF FEBRUAR 20, 2012

At 6:45 p.m. the City Council of the City of Lancaster, Texas, met in a Special Meeting at the James R. Williams Pump Station at 1999 Jefferson on February 20, 2012 with a quorum present to-wit:

Councilmembers:

Mayor Marcus E. Knight
Walter Weaver
Marco Mejia
James Daniels
Deputy Mayor Pro Tem Nina Morris
Council District 5 Vacant

City Staff Present:

Opal Mauldin Robertson, City Manager
Alicia Oyedele, Assistant to the City Manager
Dolle Downe, City Secretary

Call to Order

Mayor Knight called the special meeting to order at 6:45 p.m. on February 20, 2012.

- A. Discuss and consider a resolution accepting the resignation of councilmember District 5 and declaring a vacancy in Lancaster City Council District 5.**

MOTION: Councilmember Daniels made a motion, seconded by Councilmember Mejia, to approve Resolution 2012-02-15 accepting the resignation of councilmember District 5 and declaring a vacancy in Lancaster City Council District 5. The vote was cast 6 for, 0 against.

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

The meeting was adjourned at 6:46 p.m.

ATTEST:

APPROVED:

Dolle K. Downe, City Secretary

Marcus E. Knight, Mayor

LANCASTER CITY COUNCIL
Agenda Communication for
February 27, 2012

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AG12-002

Consider a resolution to accept the 2011 Racial Profiling Analysis Annual Report for the Lancaster Police Department.

This request supports the City Council 2011-2012 Policy Agenda.

Goal: Professional and Committed Workforce

Background

At the work session on February 20, 2012, City Council reviewed the 2011 Racial Profiling Analysis Annual Report.

Effective September 1, 2001, the Texas Legislature enacted the Texas Racial Profiling Law (S.B. No. 1074). The Texas Code of Criminal Procedure requires that law enforcement agencies collect information relating to traffic stops in which a citation is issued and to arrests resulting from those traffic stops. The Texas Code of Criminal Procedure further requires that law enforcement agencies compile and analyze this information and submit a report containing the information compiled during the previous calendar year to the governing body of each county or municipality served by the agency.

Attached is the 2011 Lancaster Police Department Racial Profiling Analysis as prepared by representative experts from the University of North Texas. The Police Department had no sustained racial profiling complaints in 2011.

In January 2011, the Texas Commission on Law Enforcement Standards and Education (TCLEOSE) started posting a copy of each police department's racial profiling report on its website.

Considerations

- **Operational** - The Lancaster Police Department has adopted a detailed, written policy on racial profiling and currently collects the required information on racial profiling as required by State law. The Lancaster Police Department contracted with the University of North Texas for the examination of contact data.
- **Legal** - The Texas Code of Criminal Procedure requires that the Lancaster Police Department 2011 Racial Profiling Analysis Report be submitted to the City of Lancaster governing body. The City Attorney has approved the resolution as to form.

- **Financial** – There is no financial impact in accepting this report.
- **Public Information** – There are no public information requirements.

Options/Alternatives

1. Council may approve this resolution.
2. Council may deny this resolution.

Recommendation

Staff recommends approval of the resolution accepting the 2011 Racial Profiling Analysis Annual Report that conforms to the requirements of the Racial Profiling Law (S.B. 1074) in presenting the report to the governing body.

Attachments

- Resolution
- Lancaster Police Department 2011 Racial Profiling Analysis Report

Prepared and submitted by:
Larry W. Flatt, Chief of Police

Date: February 21, 2012

RESOLUTION NO. 2012-02-16

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LANCASTER, TEXAS, TO ACCEPT THE 2011 RACIAL PROFILING ANALYSIS ANNUAL REPORT, WHICH IS ATTACHED HERETO AND INCORPORATED HEREIN BY REFERENCE AS EXHIBIT "A"; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, in accordance with the Racial Profiling Law adopted September 1, 2001, the Lancaster Police Department contracted with the University of North Texas to prepare racial profiling data for the City Council; and

WHEREAS, the City Council has received said report; and

WHEREAS, the City Council desires to accept the 2011 Lancaster Police Department Racial Profiling Analysis Report;

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

SECTION 1. That the 2011 Lancaster Police Department Racial Profiling Analysis Annual Report, which is attached hereto and incorporated herein by reference as Exhibit "A", is hereby, in all things accepted by the City Council of the City of Lancaster, Texas.

SECTION 2. This resolution shall take effect immediately from and after its passage as the law in such cases provides, and it is accordingly so resolved.

DULY PASSED and approved by the City Council of the City of Lancaster, Texas, on this the 27th day of February 2012.

ATTEST:

APPROVED:

Dolle K. Downe, City Secretary

Marcus E. Knight, Mayor

APPROVED AS TO FORM:

Robert E. Hager, City Attorney

LANCASTER POLICE DEPARTMENT

2011

RACIAL PROFILING ANALYSIS



PREPARED BY:

Eric J. Fritsch, Ph.D.
Chad R. Trulson, Ph.D.



University of North Texas

Executive Summary

Article 2.132 (7) of the Texas Code of Criminal Procedure requires the annual reporting to the local governing body of data collected on the race or ethnicity of individuals stopped and issued citations or arrested for traffic violations and whether or not those individuals were searched. Since the law provides no clear instruction to a governing body on how to review such data, the Lancaster Police Department requested this analysis and review to assist the City Council in reviewing the data.

The analysis of material and data from the Lancaster Police Department revealed the following:

- **A COMPREHENSIVE REVIEW OF THE LANCASTER POLICE DEPARTMENT'S RACIAL PROFILING POLICY SHOWS THAT THE LANCASTER POLICE DEPARTMENT IS FULLY IN COMPLIANCE WITH ARTICLE 2.132 OF THE TEXAS CODE OF CRIMINAL PROCEDURE.**
- **A REVIEW OF THE INFORMATION PRESENTED AND SUPPORTING DOCUMENTATION REVEALS THAT THE LANCASTER POLICE DEPARTMENT IS FULLY IN COMPLIANCE WITH TEXAS LAW ON TRAINING AND EDUCATION REGARDING RACIAL PROFILING.**
- **A REVIEW OF THE DOCUMENTATION PRODUCED BY THE DEPARTMENT REVEALS THAT THE DEPARTMENT IS FULLY IN COMPLIANCE WITH APPLICABLE TEXAS LAW ON THE RACIAL PROFILING COMPLAINT PROCESS.**
- **ANALYSIS OF THE DATA REVEALS THAT THE DEPARTMENT IS FULLY IN COMPLIANCE WITH APPLICABLE TEXAS LAW ON THE COLLECTION OF RACIAL PROFILING DATA.**
- **THE ANALYSIS OF STATISTICAL INFORMATION FROM LANCASTER POLICE DEPARTMENT REVEALS THAT THERE ARE NO METHODOLOGICALLY CONCLUSIVE INDICATIONS OF SYSTEMIC RACIAL PROFILING BY THE DEPARTMENT.**
- **THE LANCASTER POLICE DEPARTMENT IS FULLY IN COMPLIANCE WITH APPLICABLE TEXAS LAW CONCERNING THE PROHIBITION OF RACIAL PROFILING.**
- **THE LANCASTER POLICE DEPARTMENT IS FULLY IN COMPLIANCE WITH APPLICABLE TEXAS LAW CONCERNING THE REPORTING OF INFORMATION TO TCLEOSE.**

Introduction

This report details an analysis of the Lancaster Police Department's policies, training, and statistical information on racial profiling for the year 2011. This report has been prepared to specifically comply with Article 2.132 of the Texas Code of Criminal Procedure (CCP) regarding the compilation and analysis of racial profiling data. Specifically, the analysis will address Articles 2.131 – 2.135 of the CCP and make a determination of the level of compliance with those articles by the Lancaster Police Department in 2011. The full copies of the applicable laws and regulations pertaining to this report are contained in Appendix A.

This report is divided into six analytical sections: Lancaster Police Department's policy on racial profiling; Lancaster Police Department's training and education on racial profiling; Lancaster Police Department's complaint process and public education on racial profiling; analysis of statistical data on racial profiling; an analysis of Lancaster Police Department's compliance with applicable laws on racial profiling; and a final section which includes new data reporting requirements to TCLEOSE as required beginning in 2011.

For the purposes of this report and analysis, the following definition of racial profiling is used: racial profiling means a law enforcement-initiated action based on an individual's race, ethnicity, or national origin rather than on the individual's behavior or on information identifying the individual as having engaged in criminal activity (Texas CCP Article 3.05).

Lancaster Police Department Policy on Racial Profiling

A review of Lancaster Police Department's "Racial Profiling Policy" contained in the Operations Directive 2002-2005 revealed that the department has adopted policies in compliance with Article 2.132 of the Texas CCP. There are seven specific requirements mandated by Article 2.132 that a law enforcement agency must address. All seven are clearly covered in Lancaster's racial profiling policy. Lancaster Police Department policies provide clear direction that any form of racial profiling is prohibited and that officers found engaging in inappropriate profiling may be disciplined up to and including termination. The policies also provide a very clear statement of the agency's philosophy regarding equal treatment of all persons regardless of race, ethnicity, or national origin. Appendix B lists the applicable statute and corresponding Lancaster Police Department regulation.

A COMPREHENSIVE REVIEW OF LANCASTER POLICE DEPARTMENT'S RACIAL PROFILING POLICY SHOWS THAT THE LANCASTER POLICE DEPARTMENT IS FULLY IN COMPLIANCE WITH ARTICLE 2.132 OF THE TEXAS CODE OF CRIMINAL PROCEDURE.

Lancaster Police Department Training and Education on Racial Profiling

Texas Occupation Code § 1701.253 and § 1701.402 require that curriculum be established and training certificates issued on racial profiling for all Texas peace officers. Documentation provided by Lancaster Police Department reveals that racial profiling training and certification is current for all officers in 2011. Racial profiling training is specifically covered in Lancaster's Racial Profiling Policy Part IV.

A REVIEW OF THE INFORMATION PRESENTED AND SUPPORTING DOCUMENTATION REVEALS THAT THE LANCASTER POLICE DEPARTMENT IS FULLY IN COMPLIANCE WITH TEXAS LAW ON TRAINING AND EDUCATION REGARDING RACIAL PROFILING.

Lancaster Police Department Complaint Process and Public Education on Racial Profiling

Article 2.132 §(b)3-4 of the Texas Code of Criminal Procedure requires that law enforcement agencies implement a complaint process on racial profiling and that the agency provide public education on the complaint process. Lancaster Police Department's Racial Profiling Policy Part V and VI cover this requirement.

A REVIEW OF THE DOCUMENTATION PRODUCED BY THE DEPARTMENT REVEALS THAT THE DEPARTMENT IS FULLY IN COMPLIANCE WITH APPLICABLE TEXAS LAW ON THE RACIAL PROFILING COMPLAINT PROCESS.

Lancaster Police Department Statistical Data on Racial Profiling

Article 2.132(b) 6 requires that law enforcement agencies collect statistical information on traffic citations and detentions with specific information on the race of the person cited. In addition, information concerning searches of persons and whether or not the search was based on consent is also to be collected. Lancaster Police Department submitted statistical information on all citations in 2011 and accompanying information on the race of the person cited. Accompanying this data was the relevant information on searches.

ANALYSIS OF THE DATA REVEALS THAT THE DEPARTMENT IS FULLY IN COMPLIANCE WITH APPLICABLE TEXAS LAW ON THE COLLECTION OF RACIAL PROFILING DATA.

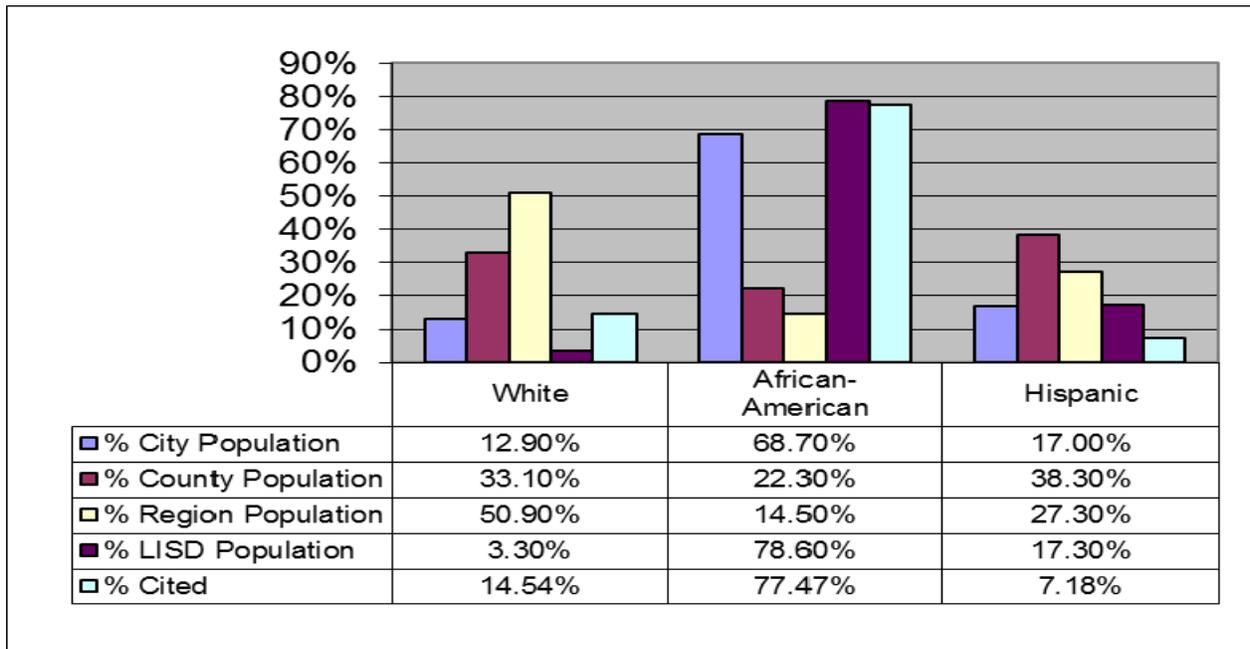
Analysis of the Data

The first chart depicts the percentages of people cited by race including Whites, African-Americans, and Hispanics. White drivers constituted 14.54 percent of all drivers cited, whereas Whites constituted 12.90 percent of the city population, 33.10 percent of the county population, and 50.90 percent of the region population.¹ The chart shows that White drivers are cited at a rate that is higher than the percentage of Whites in the city, but lower than the county and regional population. White drivers were cited at a significantly higher rate than the percentage of White students in the Lancaster Independent School District (3.30%).² African-American drivers constituted 77.47 percent of all drivers cited, whereas African-Americans constituted 68.70 percent of the city population, 22.30 percent of the county population, and 14.50 percent of the region population. African-American drivers were cited at a rate that is higher than the percentage of African-Americans found in the city population. African-American citation rates

¹City, County, and Regional population figures are derived from the 2010 Census of the U.S. Census Bureau. "Regional" population figures are defined as the 16 county North Central Texas Council of Governments Region and is comprised of the following counties: Collin, Dallas, Denton, Ellis, Erath, Hood, Hunt, Johnson, Kaufman, Navarro, Palo Pinto, Parker, Rockwall, Somervell, Tarrant, and Wise.

² Data on the racial make-up of LISD were obtained from Texas Education Association for the 2009-2011 school year and provided by LPD.

were also higher than the percentage of African-Americans in both the county and regional populations. However, African-Americans were cited at a rate that is slightly lower than the percentage of African-American students in the LISD population (78.60%). Hispanic drivers constituted 7.18 percent of all drivers cited whereas Hispanics constituted 17 percent of the city population, 38.30 percent of the county population, and 27.30 percent of the regional population. Hispanic drivers were cited at a rate that is lower than the percentage of Hispanics in the city, county, regional, and LISD population.



As the chart shows, easy determinations regarding whether or not Lancaster police officers have “racially profiled” a given motorist are impossible given the nature of the data that has been collected and presented for this report. The law dictates that police agencies compile aggregate-level data regarding the *rates* at which agencies *collectively* stop motorists in terms of their race/ethnicity. These aggregated data are to be subsequently analyzed in order to determine whether or not *individual* officers are “racially profiling” motorists.

This methodological error, commonly referred to as the “ecological fallacy,” defines the dangers involved in making assertions about individual officer decisions based on the examination of aggregate incident level data. In short, one cannot “prove” that an *individual* officer has “racially profiled” any *individual* motorist based on the rate at which a department stops any given *group* of motorists.

Additional interpretation problems remain in regards to the specific measurement of “racial profiling” as defined by Texas state code. For example, officers are currently forced to make subjective determinations regarding an individual’s race based on his or her personal observations because the Texas Department of Public Safety does not provide an objectively-based determination of an individual’s race/ethnicity on the Texas driver’s license. The absence of any verifiable race/ethnicity data on the driver’s license is especially troubling given the racial diversity within the city of Lancaster and the North Texas region as a whole, and the large numbers of citizens who are of Hispanic and/or mixed racial descent. The validity of any

racial/ethnic disparities discovered in the aggregate level data becomes threatened in direct proportion to the number of subjective "guesses" officers are forced to make when trying to determine an individual's racial/ethnic background.

In addition, the data collected for the current report does not allow for an analysis that separates (or disaggregates) the discretionary decisions of officers to stop a motorist from those that are largely non-discretionary. For example, non-discretionary stops of motorists based on the discovery of outstanding warrants should not be analyzed in terms of whether or not "profiling" has occurred simply because the officer who has stopped a motorist as a result of the discovery of an outstanding warrant does not *independently* make the decision to stop, but rather, is required to stop that individual regardless of any determination of race. An officer cannot be determined to be "racially profiling" when organizational rules and state codes compel them to stop regardless of an individual's race/ethnicity. Straightforward aggregate comparisons of stop rates ignore these realities, and fail to distinguish between discretionary and non-discretionary law enforcement actions. In the future, this validity issue could be lessened by the collection of data indicating the initial reason for the traffic stop, whether it be an observed traffic violation, other criminal activity, the existence of an outstanding warrant, or some other reason.

Finally, there has been considerable debate as to what the most appropriate population "base-rate" is in determining whether or not racial/ethnic disparities exist. As the current analysis shows in regards to the use of city, county, and regional population base-rates, the outcome of analyses designed to determine whether or not disparities exist is obviously dependent on which base-rate is used. In addition, population growth and the changing demographic character of the North Texas region and particularly the city of Lancaster has exacerbated problems associated with determining appropriate base-rates because measures derived exclusively from the U.S. Census can become quickly outdated since they are compiled only once per decade. For example, Lancaster has experienced a rate of growth of more than 40 percent since the 2000 Census. In years following the 2000 Census, it was unclear as to how this growth impacted the overall demographic character of the city. However, the 2010 Census has revealed that Lancaster has not only experienced large-scale growth over the course of the last several years, but has also become much more diverse as indicated by the demographic statistics presented in this report. Related, the determination of valid stop base-rates becomes multiplied if analyses fail to distinguish between residents and non-residents who are stopped, because the existence of significant proportions of non-resident stops will lead to invalid conclusions if racial/ethnic comparisons are made exclusively to resident population figures.

In short, the methodological problems outlined above point to the limited utility of using aggregate level comparisons of the rates at which different racial/ethnic groups are cited in order to determine whether or not racial profiling exists within a given jurisdiction.

The table below reports the summaries for the total number of persons cited and searched subsequent to being stopped by the Lancaster Police Department for traffic offenses (5,434). In addition, the table shows the number of stopped individuals who granted consent to search and those stopped drivers who were arrested at the conclusion of the stop. The chart shows that roughly 11 percent of all drivers searched were White (85/783 total searches), roughly 9 percent (67) were Hispanic, and 80 percent (624) were African-American. It is clear that the vast majority of the total number of drivers cited (including White, African-American, and Hispanic

groups) were not searched, as roughly 85 percent of all drivers who were cited were not searched (783/5,434).

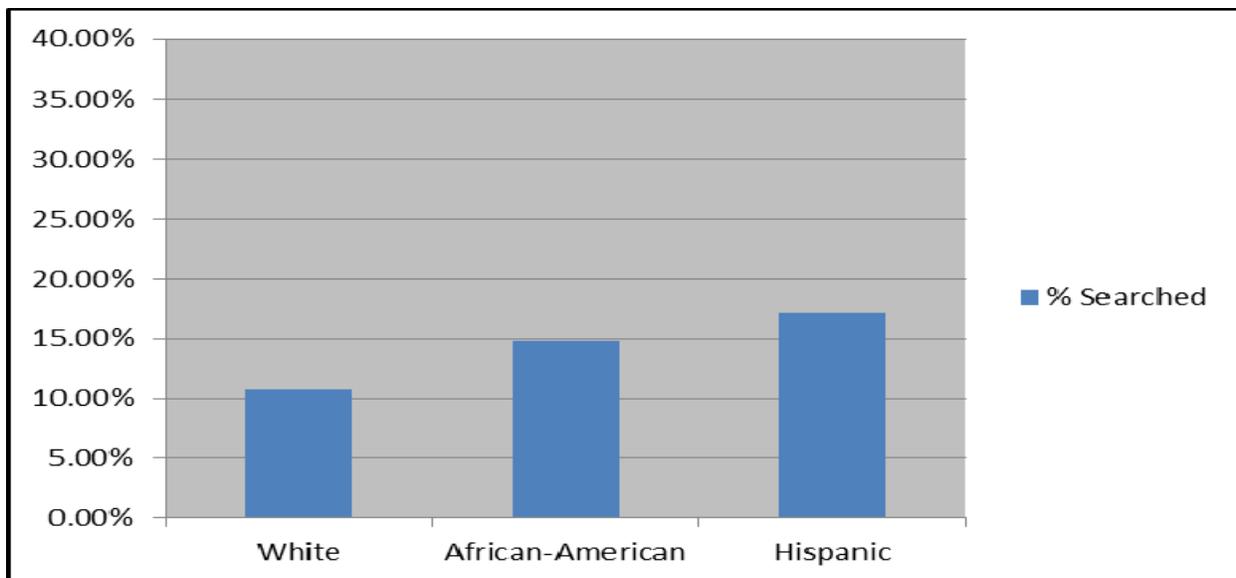
Action	White	Asian	Hispanic	African-American	Other	Total
Stops	790	21	390	4,210	23	5,434
Searches	85	0	67	624	7	783
Consent Searches	6	0	3	35	0	44
Arrests	40	0	18	230	2	290

Note: "Searches" include vehicle and driver searches only

It should be noted that aggregate level comparisons regarding the rates at which drivers are searched by police are subject to some of the same methodological issues as those outlined above regarding analyses of aggregate level stop rates. Of particular concern is the absence of any analyses that separates discretionary searches from non-discretionary searches. For example, searches that are conducted incident to an arrest or as part of a vehicle tow inventory should not be included in analyses designed to examine whether or not racial profiling has occurred because these types of searches are non-discretionary in that the officer is compelled by law or departmental guidelines to conduct the search irrespective of the race of the stopped driver.

Less than 1 percent of the total number of citations resulted in a consensual search (44/5,434). So too, only 5 percent of drivers cited were subject to an arrest. Of those arrested, roughly 14 percent (40/290 total arrests) were White, roughly 79 percent (230) were African-American, and roughly 6 percent (18) were Hispanic. Additional data regarding the reason for the arrest are necessary in order to further examine whether or not these data reflect individual officer decisions to arrest or non-discretionary actions based primarily on legal and/or organizational requirements (e.g., the existence of outstanding arrest warrants or on view criminal activity).

The bar chart below presents the percentage of drivers that were searched within each racial category. The chart indicates that drivers who were cited were rarely searched across the racial categories. For example, roughly 11 percent of all White drivers who were cited were also searched, roughly 15 percent of all African-American drivers who were cited were searched, and approximately 17 percent of all Hispanic drivers who were cited were also searched.



Analysis of Racial Profiling Compliance by Lancaster Police Department

The foregoing analysis shows that the Lancaster Police Department is fully in compliance with all relevant Texas laws concerning racial profiling, including the existence of a formal policy prohibiting racial profiling by its officers, officer training and educational programs, a formalized complaint process, and the collection of data in compliance with the law. Finally, internal records indicate that the department had no complaints in reference to racial profiling for the year 2011.

In addition to providing summary reports and analysis of the data collected by the Lancaster Police Department in 2011, this report also included an extensive presentation of some of the limitations involved in the level of data collection currently required by law and the methodological problems associated with analyzing such data for the Lancaster Police Department as well as police agencies across Texas. The Lancaster Police Department should continue its educational and training efforts within the department on racial profiling. Finally, the department should conduct periodic evaluations to assess patterns of officer decision-making on traffic stops. The final section of this report includes newly required TCLEOSE reporting information by Texas law enforcement organizations.

LPD TCLEOSE Reporting Forms



Partial Exemption Racial Profiling Reporting
(Tier 1)

Department Name LANCASTER TX POLICE DEPT
Agency Number TX0571700
Chief Administrator Name LARRY W FLATT
Reporting Name LARRY W FLATT
Contact Number 972-218-2708
E-mail Address LFLATT@LANCASTER-TX.COM

Certification to Report 2.132 (Tier 1) – Partial Exemption

Policy Requirements (2.132(b) CCP):

Each law enforcement agency in this state shall adopt a detailed written policy on racial profiling. The policy must:

- (1) clearly define acts constituting racial profiling;
- (2) strictly prohibit peace officers employed by the agency from engaging in racial profiling;
- (3) implement a process by which an individual may file a complaint with the agency if the individual believes that a peace officer employed by the agency has engaged in racial profiling with respect to the individual;
- (4) provide public education relating to the agency's complaint process;
- (5) require appropriate corrective action to be taken against a peace officer employed by the agency who, after an investigation, is shown to have engaged in racial profiling in violation of the agency's policy adopted under this article;
- (6) require collection of information relating to motor vehicle stops in which a citation is issued and to arrests made as a result of those stops, including information relating to:
 - (A) the race or ethnicity of the individual detained;
 - (B) whether a search was conducted and, if so, whether the individual detained consented to the search; and
 - (C) whether the peace officer knew the race or ethnicity of the individual detained before detaining that individual; and
- (7) require the chief administrator of the agency, regardless of whether the administrator is elected, employed, or appointed, to submit an annual report of the information collected under Subdivision (6) to:
 - (A) the Commission on Law Enforcement Officer Standards and Education; and
 - (B) the governing body of each county or municipality served by the agency, if the agency is an agency of a county, municipality, or other political subdivision of the state.

These policies are in effect

[Signature] 1-6-12
Chief Administrator Date



**Partial Exemption Racial Profiling Reporting
(Tier 1)**

Video and Audio Equipment Exemption

Partial Exemption Claimed by (2.135(a) CCP):



all cars regularly used for motor vehicle stops are equipped with video camera and transmitter-activated equipment and each motor stop is recorded and the recording of the stop is retained for at least 90 days after the stop.

OR



In accordance with 2.135(a)(2) the agency has requested and not received funds to install the recording equipment

I claim this exemption

Chief Administrator

1-6-12

Date

PARTIAL EXEMPTION RACIAL PROFILING REPORTING (TIER 1)

INSTRUCTIONS: Please fill out all boxes. If zero, use 0.

1. Total on lines 4, 11, 14, and 17 must be equal
2. Total on line 20 must equal line 15

AGENCY NAME:

Number of motor vehicle stops (mark only 1 category per vehicle stop):

1. 5144__ Citation only
2. 290__ Arrest only
3. 0____ Both

4. 5434____ (Total of 1-3)

Race or Ethnicity (mark only 1 category per vehicle stop):

5. 4210__ African
6. 21__ Asian
7. 790__ Caucasian
8. 390__ Hispanic
9. 5____ Middle Eastern
10. 0____ Native American (18 "Other")

11. 5434____ (Total of 5-10, must be the same as #4)

Race or Ethnicity known prior to stop?

12. 428__ Yes
13. 5006__ No

14. 5434____ (Total of 12-13, must be the same as #4 and #11)

Search conducted?

15. 783__ Yes
16. 4651__ No

17. 5434____ (Total of 15-16, must be the same as #4, #11, and #14 above)

Was search consented?

18. 44____ Yes
19. 739__ No

20. 783____ (Total, must equal #15)



**Partial Exemption Racial Profiling Reporting
(Tier 1)**

Option to submit required data by utilizing agency report

You must submit your report in PDF format

Electronic Submission of data required by 2.132(b)(6) CCP

(6) require collection of information relating to motor vehicle stops in which a citation is issued and to arrests made as a result of those stops, including information relating to:

- (A) the race or ethnicity of the individual detained;
- (B) whether a search was conducted and, if so, whether the individual detained consented to the search; and
- (C) whether the peace officer knew the race or ethnicity of the individual detained before detaining that individual; and

This report meets the above requirements



Chief Administrator

1-6-12

Date

Send entire documents electronically to this website

www.tcleose.state.tx.us

Appendix A

Racial Profiling Statutes and Laws

Art. 3.05. RACIAL PROFILING.

In this code, "racial profiling" means a law enforcement-initiated action based on an individual's race, ethnicity, or national origin rather than on the individual's behavior or on information identifying the individual as having engaged in criminal activity.

Added by Acts 2001, 77th Leg., ch. 947, Sec. 2, eff. Sept. 1, 2001.

Art. 2.131. RACIAL PROFILING PROHIBITED.

A peace officer may not engage in racial profiling.

Added by Acts 2001, 77th Leg., ch. 947, Sec. 1, eff. Sept. 1, 2001.

Art. 2.132. LAW ENFORCEMENT POLICY ON RACIAL PROFILING.

(a) In this article:

(1) "Law enforcement agency" means an agency of the state, or of a county, municipality, or other political subdivision of the state, that employs peace officers who make motor vehicle stops in the routine performance of the officers' official duties.

(2) "Motor vehicle stop" means an occasion in which a peace officer stops a motor vehicle for an alleged violation of a law or ordinance.

(3) "Race or ethnicity" means of a particular descent, including Caucasian, African, Hispanic, Asian, Native American, or Middle Eastern descent.

(b) Each law enforcement agency in this state shall adopt a detailed written policy on racial profiling. The policy must:

- (1) clearly define acts constituting racial profiling;
 - (2) strictly prohibit peace officers employed by the agency from engaging in racial profiling;
 - (3) implement a process by which an individual may file a complaint with the agency if the individual believes that a peace officer employed by the agency has engaged in racial profiling with respect to the individual;
 - (4) provide public education relating to the agency's complaint process;
 - (5) require appropriate corrective action to be taken against a peace officer employed by the agency who, after an investigation, is shown to have engaged in racial profiling in violation of the agency's policy adopted under this article;
 - (6) require collection of information relating to motor vehicle stops in which a citation is issued and to arrests made as a result of those stops, including information relating to:
 - (A) the race or ethnicity of the individual detained;
 - (B) whether a search was conducted and, if so, whether the individual detained consented to the search; and
 - (C) whether the peace officer knew the race or ethnicity of the individual detained before detaining that individual; and
 - (7) require the chief administrator of the agency, regardless of whether the administrator is elected, employed, or appointed, to submit an annual report of the information collected under Subdivision (6) to:
 - (A) the Commission on Law Enforcement Officer Standards and Education; and
 - (B) the governing body of each county or municipality served by the agency, if the agency is an agency of a county, municipality, or other political subdivision of the state.
- (c) The data collected as a result of the reporting requirements of this article shall not constitute prima facie evidence of racial profiling.
- (d) On adoption of a policy under Subsection (b), a law enforcement agency shall examine the feasibility of installing video camera and transmitter-activated equipment in each agency law enforcement motor vehicle regularly used to make motor vehicle stops and transmitter-activated equipment in each agency law enforcement motorcycle regularly used to make motor vehicle

stops. If a law enforcement agency installs video or audio equipment as provided by this subsection, the policy adopted by the agency under Subsection (b) must include standards for reviewing video and audio documentation.

(e) A report required under Subsection (b)(7) may not include identifying information about a peace officer who makes a motor vehicle stop or about an individual who is stopped or arrested by a peace officer. This subsection does not affect the collection of information as required by a policy under Subsection (b)(6).

(f) On the commencement of an investigation by a law enforcement agency of a complaint described by Subsection (b)(3) in which a video or audio recording of the occurrence on which the complaint is based was made, the agency shall promptly provide a copy of the recording to the peace officer who is the subject of the complaint on written request by the officer.

(g) On a finding by the Commission on Law Enforcement Officer Standards and Education that the chief administrator of a law enforcement agency intentionally failed to submit a report required under Subsection (b)(7), the commission shall begin disciplinary procedures against the chief administrator.

Added by Acts 2001, 77th Leg., ch. 947, Sec. 1, eff. Sept. 1, 2001.

Amended by: Acts 2011, 81st Leg., R.S., Ch. 1172, Sec. 25, eff. September 1, 2011.

Art. 2.133. REPORTS REQUIRED FOR MOTOR VEHICLE STOPS.

(a) In this article, "race or ethnicity" has the meaning assigned by Article 2.132(a).

(b) A peace officer who stops a motor vehicle for an alleged violation of a law or ordinance shall report to the law enforcement agency that employs the officer information relating to the stop, including:

(1) a physical description of any person operating the motor vehicle who is detained as a result of the stop, including:

(A) the person's gender; and

(B) the person's race or ethnicity, as stated by the person or, if the person does not state the person's race or ethnicity, as determined by the officer to the best of the officer's ability;

- (2) the initial reason for the stop;
- (3) whether the officer conducted a search as a result of the stop and, if so, whether the person detained consented to the search;
- (4) whether any contraband or other evidence was discovered in the course of the search and a description of the contraband or evidence;
- (5) the reason for the search, including whether:
 - (A) any contraband or other evidence was in plain view;
 - (B) any probable cause or reasonable suspicion existed to perform the search; or
 - (C) the search was performed as a result of the towing of the motor vehicle or the arrest of any person in the motor vehicle;
- (6) whether the officer made an arrest as a result of the stop or the search, including a statement of whether the arrest was based on a violation of the Penal Code, a violation of a traffic law or ordinance, or an outstanding warrant and a statement of the offense charged;
- (7) the street address or approximate location of the stop; and
- (8) whether the officer issued a written warning or a citation as a result of the stop.

Added by Acts 2001, 77th Leg., ch. 947, Sec. 1, eff. Sept. 1, 2001.

Amended by: Acts 2011, 81st Leg., R.S., Ch. 1172, Sec. 26, eff. September 1, 2011.

Art. 2.134. COMPILATION AND ANALYSIS OF INFORMATION COLLECTED.

(a) In this article:

- (1) "Motor vehicle stop" has the meaning assigned by Article 2.132(a).
- (2) "Race or ethnicity" has the meaning assigned by Article 2.132(a).

(b) A law enforcement agency shall compile and analyze the information contained in each report received by the agency under Article 2.133. Not later than March 1 of each year, each law enforcement agency shall submit a report containing the incident-based data compiled during the

previous calendar year to the Commission on Law Enforcement Officer Standards and Education and, if the law enforcement agency is a local law enforcement agency, to the governing body of each county or municipality served by the agency.

(c) A report required under Subsection (b) must be submitted by the chief administrator of the law enforcement agency, regardless of whether the administrator is elected, employed, or appointed, and must include:

(1) a comparative analysis of the information compiled under Article 2.133 to:

(A) evaluate and compare the number of motor vehicle stops, within the applicable jurisdiction, of persons who are recognized as racial or ethnic minorities and persons who are not recognized as racial or ethnic minorities; and

(B) examine the disposition of motor vehicle stops made by officers employed by the agency, categorized according to the race or ethnicity of the affected persons, as appropriate, including any searches resulting from stops within the applicable jurisdiction; and

(2) information relating to each complaint filed with the agency alleging that a peace officer employed by the agency has engaged in racial profiling.

(d) A report required under Subsection (b) may not include identifying information about a peace officer who makes a motor vehicle stop or about an individual who is stopped or arrested by a peace officer. This subsection does not affect the reporting of information required under Article 2.133(b)(1).

(e) The Commission on Law Enforcement Officer Standards and Education, in accordance with Section 1701.162, Occupations Code, shall develop guidelines for compiling and reporting information as required by this article.

(f) The data collected as a result of the reporting requirements of this article shall not constitute prima facie evidence of racial profiling.

(g) On a finding by the Commission on Law Enforcement Officer Standards and Education that the chief administrator of a law enforcement agency intentionally failed to submit a report required under Subsection (b), the commission shall begin disciplinary procedures against the chief administrator.

Added by Acts 2001, 77th Leg., ch. 947, Sec. 1, eff. Sept. 1, 2001.

Amended by: Acts 2011, 81st Leg., R.S., Ch. [1172](#), Sec. 27, eff. September 1, 2011.

Art. 2.135. PARTIAL EXEMPTION FOR AGENCIES USING VIDEO AND AUDIO EQUIPMENT.

(a) A peace officer is exempt from the reporting requirement under Article 2.133 and the chief administrator of a law enforcement agency, regardless of whether the administrator is elected, employed, or appointed, is exempt from the compilation, analysis, and reporting requirements under Article 2.134 if:

(1) during the calendar year preceding the date that a report under Article 2.134 is required to be submitted:

(A) each law enforcement motor vehicle regularly used by an officer employed by the agency to make motor vehicle stops is equipped with video camera and transmitter-activated equipment and each law enforcement motorcycle regularly used to make motor vehicle stops is equipped with transmitter-activated equipment; and

(B) each motor vehicle stop made by an officer employed by the agency that is capable of being recorded by video and audio or audio equipment, as appropriate, is recorded by using the equipment; or

(2) the governing body of the county or municipality served by the law enforcement agency, in conjunction with the law enforcement agency, certifies to the Department of Public Safety, not later than the date specified by rule by the department, that the law enforcement agency needs funds or video and audio equipment for the purpose of installing video and audio equipment as described by Subsection (a)(1)(A) and the agency does not receive from the state funds or video and audio equipment sufficient, as determined by the department, for the agency to accomplish that purpose.

(b) Except as otherwise provided by this subsection, a law enforcement agency that is exempt from the requirements under Article 2.134 shall retain the video and audio or audio documentation of each motor vehicle stop for at least 90 days after the date of the stop. If a complaint is filed with the law enforcement agency alleging that a peace officer employed by the agency has engaged in racial profiling with respect to a motor vehicle stop, the agency shall retain the video and audio or audio record of the stop until final disposition of the complaint.

(c) This article does not affect the collection or reporting requirements under Article 2.132.

(d) In this article, "motor vehicle stop" has the meaning assigned by Article 2.132(a).

Added by Acts 2001, 77th Leg., ch. 947, Sec. 1, eff. Sept. 1, 2001.

Amended by: Acts 2011, 81st Leg., R.S., Ch. 1172, Sec. 28, eff. September 1, 2011.

Art. 2.136. LIABILITY.

A peace officer is not liable for damages arising from an act relating to the collection or reporting of information as required by Article 2.133 or under a policy adopted under Article 2.132.

Added by Acts 2001, 77th Leg., ch. 947, Sec. 1, eff. Sept. 1, 2001.

Art. 2.137. PROVISION OF FUNDING OR EQUIPMENT.

(a) The Department of Public Safety shall adopt rules for providing funds or video and audio equipment to law enforcement agencies for the purpose of installing video and audio equipment as described by Article 2.135(a)(1)(A), including specifying criteria to prioritize funding or equipment provided to law enforcement agencies. The criteria may include consideration of tax effort, financial hardship, available revenue, and budget surpluses. The criteria must give priority to:

(1) law enforcement agencies that employ peace officers whose primary duty is traffic enforcement;

(2) smaller jurisdictions; and

(3) municipal and county law enforcement agencies.

(b) The Department of Public Safety shall collaborate with an institution of higher education to identify law enforcement agencies that need funds or video and audio equipment for the purpose of installing video and audio equipment as described by Article 2.135(a)(1)(A). The collaboration may include the use of a survey to assist in developing criteria to prioritize funding or equipment provided to law enforcement agencies.

(c) To receive funds or video and audio equipment from the state for the purpose of installing video and audio equipment as described by Article 2.135(a)(1)(A), the governing body of a county or municipality, in conjunction with the law enforcement agency serving the county or municipality, shall certify to the Department of Public Safety that the law enforcement agency needs funds or video and audio equipment for that purpose.

(d) On receipt of funds or video and audio equipment from the state for the purpose of installing video and audio equipment as described by Article 2.135(a)(1)(A), the governing body of a county or municipality, in conjunction with the law enforcement agency serving the county or municipality, shall certify to the Department of Public Safety that the law enforcement agency has installed video and audio equipment as described by Article 2.135(a)(1)(A) and is using the equipment as required by Article 2.135(a)(1).

Added by Acts 2001, 77th Leg., ch. 947, Sec. 1, eff. Sept. 1, 2001.

Art. 2.138. RULES.

The Department of Public Safety may adopt rules to implement Articles 2.131-2.137.

Added by Acts 2001, 77th Leg., ch. 947, Sec. 1, eff. Sept. 1, 2001.

Art. 2.1385. CIVIL PENALTY.

(a) If the chief administrator of a local law enforcement agency intentionally fails to submit the incident-based data as required by Article 2.134, the agency is liable to the state for a civil penalty in the amount of \$1,000 for each violation. The attorney general may sue to collect a civil penalty under this subsection.

(b) From money appropriated to the agency for the administration of the agency, the executive director of a state law enforcement agency that intentionally fails to submit the incident-based data as required by Article 2.134 shall remit to the comptroller the amount of \$1,000 for each violation.

(c) Money collected under this article shall be deposited in the state treasury to the credit of the general revenue fund.

Added by Acts 2011, 81st Leg., R.S., Ch. 1172, Sec. 29, eff. September 1, 2011.

Appendix B

Racial Profiling Laws and Corresponding Department Policies

Texas CCP Article	LANCASTER POLICE DEPARTMENT Racial Profiling Policy
2.132(b)1	Part III
2.132(b)2	Part I & III
2.132(b)3	Part IV
2.132(b)4	Part IV
2.132(b)5	Part V
2.132(b)6	Part VII
2.132(b)7	Part VII

Appendix C

Lancaster Police Department Racial Profiling Policy

Operations Directive 2002-005

Effective Date: September 23, 2002; Replaces 2001-006
Affects: All Personnel

I. PURPOSE

The purpose of this policy is to reaffirm the Lancaster Police Department's commitment to unbiased policing in all its encounters between officer(s) and any person(s); to reinforce procedures that serve to ensure public confidence and mutual trust through the provision of services in a fair and equitable fashion; and to protect our officers from unwarranted accusations of misconduct when they act within the dictates of departmental policy and the law.

II. POLICY

It is the policy of this department to police in a proactive manner and, to aggressively investigate suspected violations of law. Officers shall actively enforce state and federal laws in a responsible and professional manner, without regard to race, ethnicity or national origin. Officers are strictly prohibited from engaging in racial profiling as defined in this policy. This policy shall be applicable to all persons, whether drivers, passengers or pedestrians.

Officers shall conduct themselves in a dignified and respectful manner at all times when dealing with the public. Two of the fundamental rights guaranteed by both the United States and Texas constitutions are equal protection under the law and freedom from unreasonable searches and seizures by government agents. The right of all persons to be treated equally and to be free from unreasonable searches and seizures must be respected. Racial profiling is an unacceptable patrol tactic and will not be condoned.

This policy shall not preclude officers from offering assistance, such as upon observing a substance leaking from a vehicle, a flat tire, or someone who appears to be ill, lost or confused. Nor does this policy prohibit stopping someone suspected of a crime based upon observed actions and/or information received about the person.

III. DEFINITIONS

Racial Profiling – A law enforcement-initiated action based on an individual’s race, ethnicity, or national origin rather than on the individual’s behavior or on information identifying the individual as having engaged in criminal activity.

Racial profiling pertains to persons who are viewed as suspects or potential suspects of criminal behavior. The term is not relevant as it pertains to witnesses, complainants or other citizen contacts.

The prohibition against racial profiling does not preclude the use of race, ethnicity or national origin as factors in a detention decision. Race, ethnicity or national origin may be legitimate factors in a detention decision when used as part of an actual description of a specific suspect for whom an officer is searching. Detaining an individual and conducting an inquiry into that person’s activities simply because of that individual’s race, ethnicity or national origin is racial profiling. Examples of racial profiling include but are not limited to the following:

1. Citing a driver who is speeding in a stream of traffic where most other drivers are speeding because of the cited driver’s race, ethnicity or national origin.
2. Detaining the driver of a vehicle based on the determination that a person of that race, ethnicity or national origin is unlikely to own or possess that specific make or model of vehicle.
3. Detaining an individual based upon the determination that a person of that race, ethnicity or national origin does not belong in a specific part of town or a specific place.

A law enforcement agency can derive two principles from the adoption of this definition of racial profiling:

1. Police may not use racial or ethnic stereotypes as factors in selecting whom to stop and search, while police may use race in conjunction with other known factors of the suspect.
2. Law enforcement officers may not use racial or ethnic stereotypes as factors in selecting whom to stop and search. Racial profiling is not relevant as it pertains to witnesses, etc.

Race or Ethnicity – Of a particular decent, including Caucasian, African, Hispanic, Asian, or Native American.

Pedestrian Stop – An interaction between a peace officer and an individual who is being detained for the purpose of a criminal investigation in which the individual is not under arrest.

Traffic Stop – A peace officer who stops a motor vehicle for an alleged violation of a law or ordinance regulating traffic.

IV. TRAINING

Officers are responsible to adhere to all Texas Commission on Law Enforcement Officer Standards and Education (TCLEOSE) training and the Law Enforcement Management Institute of Texas (LEMIT) requirements as mandated by law.

All officers shall complete a TCLEOSE training and education program on racial profiling not later than the second anniversary of the date the officer is licensed under Chapter 1701 of the Texas Occupations Code or the date the officer applies for an intermediate proficiency certificate, whichever date is earlier. A person who on September 1, 2001, held a TCLEOSE intermediate proficiency certificate, or who had held a peace officer license issued by TCLEOSE for at least two years, shall complete a TCLEOSE training and education program on racial profiling not later than September 1, 2003.

The chief of police, as part of the initial training and continued education for such appointment, will be required to attend the LEMIT program on racial profiling.

An individual appointed or elected as a police chief before the effective date of this Act shall complete the program on racial profiling established under Subsection (j), Section 96.641, Education Code, as added by this Act, not later than September 1, 2003.

V. COMPLAINT INVESTIGATION

1. The department shall accept complaints from any person who believes he or she has been stopped or searched based on racial, ethnic or national origin profiling. No person shall be discouraged, intimidated or coerced from filing a complaint, nor discriminated against because he or she filed such a complaint.
2. Any employee who receives an allegation of racial profiling, including the officer who initiated the stop, shall record the person's name, address and telephone number, and forward the complaint through the appropriate channel or direct the individual(s). Any employee contacted shall provide to that person a copy of a complaint form or the department process for filing a complaint. All employees will report any allegation of racial profiling to their superior before the end of their shift.
3. Investigation of a complaint shall be conducted in a thorough and timely manner. All complaints will be acknowledged in writing to the initiator who will receive disposition regarding said complaint within a reasonable period of time. The investigation shall be

reduced to writing and any reviewer's comments or conclusions shall be filed with the chief. When applicable, findings and/or suggestions for disciplinary action, retraining, or changes in policy shall be filed with the chief.

4. If a racial profiling complaint is sustained against an officer, it will result in appropriate corrective and/or disciplinary action, up to and including termination.
5. If there is a departmental video or audio recording of the events upon which a complaint of racial profiling is based, upon commencement of an investigation by this department into the complaint and written request of the officer made the subject of the complaint, this department shall promptly provide a copy of the recording to that officer.

VI. PUBLIC EDUCATION

This department will inform the public of its policy against racial profiling and the complaint process. Methods that may be utilized to inform the public are the news media, radio, service or civic presentations, the Internet, as well as governing board meetings. Additionally, information will be made available as appropriate in languages other than English. A copy of the most current departmental racial profiling policy will be included in the City website.

VII. COLLECTION & REPORTING OF INFORMATION

For each traffic stop, pedestrian stop and for each arrest resulting from such traffic and pedestrian stops, the officer who makes the stop is required to record the following data in the Stop Tracker software program:

1. the violator's race or ethnicity;
2. the violator's gender;
3. location of the stop;
4. name, address and identifying information of the violator;
5. violation suspected;
6. whether a search was conducted;
7. was the search consensual;
8. arrest for this cited violation or any other violation;
9. vehicle information such as license plate etc.

By March of each year, the department shall submit a report to their governing board that includes the information gathered by the citations. The report will include:

1. a breakdown of citations by race or ethnicity;
2. number of citations that resulted in a search;
3. number of searches that were consensual; and
4. number of citations that resulted in custodial arrest for this cited violation or any other violation.

Not later than March 1st of each year, this department shall submit a report to our governing body containing this information from the preceding calendar year.

VIII. USE OF VIDEO AND AUDIO EQUIPMENT

Each motor vehicle regularly used by this department to make traffic and pedestrian stops is equipped with a video camera and transmitter-activated equipment, and each motorcycle regularly used by this department to make traffic and pedestrian stops is equipped with transmitter-activated equipment; and

Each traffic and pedestrian stop made by an officer of this department that is capable of being recorded by video and audio, or audio, as appropriate, is recorded.

This department shall retain the video and audiotapes, or the audiotape of each traffic and pedestrian stop for at least ninety (90) days after the date of the stop. If a complaint is filed with this department alleging that one of our officers has engaged in racial profiling with respect to a traffic or pedestrian stop, this department shall retain the video and audiotapes, or the audiotape of the stop until final disposition of the complaint.

Supervisors will ensure officers of this department are recording their traffic and pedestrian stops. A recording of each officer will be reviewed at least once every ninety (90) days.

IX. RESPONSIBILITY

Division Commanders as well as supervisory personnel are responsible for overall compliance with the content and intent of this directive. All members of the Department shall know and comply with all aspects of this directive.

Larry Flatt
Chief of Police

MINUTES

LANCASTER CITY COUNCIL MEETING OF FEBRUAR 20, 2012

At 6:45 p.m. the City Council of the City of Lancaster, Texas, met in a Special Meeting at the James R. Williams Pump Station at 1999 Jefferson on February 20, 2012 with a quorum present to-wit:

Councilmembers:

Mayor Marcus E. Knight
Walter Weaver
Marco Mejia
James Daniels
Deputy Mayor Pro Tem Nina Morris
Council District 5 Vacant

City Staff Present:

Opal Mauldin Robertson, City Manager
Alicia Oyedele, Assistant to the City Manager
Dolle Downe, City Secretary

Call to Order

Mayor Knight called the special meeting to order at 6:45 p.m. on February 20, 2012.

- A. Discuss and consider a resolution accepting the resignation of councilmember District 5 and declaring a vacancy in Lancaster City Council District 5.**

MOTION: Councilmember made a motion, seconded by Councilmember , to approve Resolution 2012-02-16 accepting the resignation of councilmember District 5 and declaring a vacancy in Lancaster City Council District 5. The vote was cast 6 for, 0 against.

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

The meeting was adjourned at 6:47 p.m.

ATTEST:

APPROVED:

Dolle K. Downe, City Secretary

Marcus E. Knight, Mayor

LANCASTER CITY COUNCIL
Agenda Communication for
February 27, 2012

3

AG12-003

Consider a resolution amending the master fee schedule, Article 16.000 Airport Fees, to provide a rate for a community hangar rental.

This request supports the City Council 2011-2012 Policy Agenda.

Goal: Sound Infrastructure

Background

The City owns and leases five rows of T-hangars (building 660-700) of three different sizes based off aircraft wingspan. There are 92 units that the City rents for aircraft storage with end cap commercial spaces on the east end of each hangar row. The City T-hangars are near full occupancy most of the time. Four adjacent T-hangar spaces in the medium category do not have interior walls. Previously these four adjacent spaces were leased all by one entity. That entity has recently moved out leaving the four spaces available for lease. These "open walled" hangars are now considered community hangar space since at least one wall is open to another renter's space thus degrading privacy and security. It is industry norm to lease community hangar space such as this at a reduced rate due to the degraded amenities (i.e. the lack of walls). This agenda item brings forward an amendment to the Airport's fee schedule to lease community hangar spaces at a 50% discount of the normal rate.

Erecting replacement walls on these four hangar spaces and changing the electrical as required was estimated to cost the City \$24,000. This avenue was not pursued because it is not cost effective.

Considerations

- **Operational** – No changes in staffing is required by adding a community T-Hanger fee in the master fee schedule.
- **Legal** - The City Attorney has approved the resolution amending the Master Fee Schedule to include the community hangar fee.
- **Financial** – This amendment makes the Airport's lease rates fair based on size of the hangar and amenities.

- **Public Information** – There are no public information requirements.

Options/Alternatives

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

Recommendation

Staff recommends approval of the resolution.

Attachments

- Resolution
- Exhibit "A" Amendment to Master Fee Schedule

Prepared and submitted by:
Mark Divita, Airport Manager

Date: February 23, 2012

RESOLUTION NO. 2012-02-17

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LANCASTER, TEXAS, AMENDING THE MASTER FEE SCHEDULE, ARTICLE 16.000 AIRPORT FEES, TO PROVIDE A RATE FOR A COMMUNITY HANGAR RENTAL; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, after consideration and review, the City Council finds that an amendment adding a community hangar fee rate to the airport master fee schedule should be charged; and

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

SECTION 1. That the amendment to the Master Fee Schedule, as provided in Exhibit "A", attached hereto and incorporated herein by reference, be and the same is, hereby adopted to add a rental rate for community hangars.

SECTION 2. 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 27th day of February 2012.

ATTEST:

APPROVED:

Dolle K. Downe, City Secretary

Marcus E. Knight, Mayor

APPROVED AS TO FORM:

Robert E. Hager, City Attorney

RESOLUTION NO. 2012-02-17 EXHIBIT "A"
CITY OF LANCASTER, TEXAS
MASTER FEE SCHEDULE

ARTICLE 16.000 AIRPORT FEES

(a) Hangar Rental

....

(4) Community Hangar Fee

956 sq. ft. (small T-hangar)	\$85.00
1,018.25 sq. ft. (medium T-hangar)	\$96.00
1,624.33 sq. ft. (large T-hangar)	\$140.00

....

LANCASTER CITY COUNCIL

Agenda Communication for

February 27, 2012

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AG12-004

Consider a resolution approving the terms and conditions of the Lot 9 ground lease at Lancaster Regional Airport.

This request supports the City Council 2011-2012 Policy Agenda.

Goal: Sound Infrastructure

Background

The City owns lots on the airport for ground leases for development of infrastructure. Currently the airport only has one remaining lot for ground lease to a tenant. Lot 9 is proposed to be a ground lease for Mr. Jason Newburg for 30 years, plus two 5-year options. He proposes to build a 70 x 80 foot hangar with office spaces. The building will be used for Mr. Newburg's aerobatic flight school to house airplanes and provide classroom space to aerobatic flight school students. Mr. Newburg is a professional aerobatic air show performer known around all of North America. Mr. Newburg has been based at Lancaster Regional Airport in a privately rented hangar since 2009.

Considerations

- **Operational** – This ground lease will allow an aviation business to operate on the airfield thus bringing in more business and fuel sales.
- **Legal** – The lease agreement template was reviewed and approved by the City Attorney.
- **Financial** – The ground lease rate is based on the square footage on the ground to be leased and the airport's fee schedule. All rates were approved in the City's Master Fee Schedule. The monthly rate per Article 5 of the lease is \$840.00 per month for 5,600 square feet.
- **Public Information** – There are no public information requirements.

Options/Alternatives

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

Recommendation

Staff recommends approval of the resolution.

Attachments

- Resolution
- Exhibit "A" Lease Agreement

Prepared and submitted by:
Mark Divita, Airport Manager

Date: February 15, 2012

RESOLUTION NO. 2012-02-18

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LANCASTER, TEXAS, APPROVING THE TERMS AND CONDITIONS OF THE LOT 9 GROUND LEASE AT LANCASTER REGIONAL AIRPORT; AUTHORIZING THE CITY MANAGER TO EXECUTE SAID LEASES; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Lancaster Regional Airport has Lots available for ground lease for revenue gain; and

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

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

SECTION 1. That the Lot 9 ground lease 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 ground lease agreement.

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

DULY PASSED and approved by the City Council of the City of Lancaster, Texas, on this the 27th day of February 2012.

ATTEST:

APPROVED:

Dolle K. Downe, City Secretary

Marcus E. Knight, Mayor

APPROVED AS TO FORM:

Robert E. Hager, City Attorney

LEASE AND OPERATING AGREEMENT

THIS LEASE AND OPERATING AGREEMENT (hereafter "Lease" or "Agreement"), made and entered into this 1st day of March, 2012, by and between the **CITY OF LANCASTER**, a Texas Home-rule Municipal Corporation ("City" or "Lessor"), and **JASON NEWBURG** ("Lessee").

RECITALS

WHEREAS, City is the owner and operator of the Lancaster Regional Airport ("Airport") which is located in the City of Lancaster, Dallas County, State of Texas; and

WHEREAS, Lessee desires to lease, develop, and use the real property more particularly described in Exhibit "A", which is attached hereto and incorporated herein by reference (the "Premises"), for the Permitted Uses, as defined herein; and

WHEREAS, in accordance with the provisions contained within this Agreement, City desires to allow Lessee to use the Premises for the Permitted Uses;

NOW, THEREFORE, for and in consideration of the rental payments, covenants, promises, and agreements contained herein, and for other good and valuable consideration, City and Lessee agree as follows:

ARTICLE 1 DEFINITIONS

As used in this Agreement, the following words and phrases shall have the following meanings unless the context clearly indicates otherwise:

Airport means the Lancaster Regional Airport, located at 730 Ferris Road, Suite 102, Lancaster, Texas 75146.

Airport ALP means the Lancaster Regional Airport's Airport Layout Plan.

Commencement of Construction means (i) the plans have been prepared and all approvals thereof required by applicable governmental authorities have been obtained for construction of the Improvements, (ii) all necessary permits for the construction of the Improvements have been issued by the applicable governmental authorities and (iii) grading of the Premises or construction of the elements of the building elements of the Improvements (whether located above or below ground) has commenced.

Completion of Construction means (i) substantial completion of the Improvements on the Premises has occurred, and (ii) a certificate of occupancy has been issued by City for occupancy of the Improvements for the Permitted Use by Lessee.

Fixed Base Operator has the same meaning as set forth in Airport Minimum Standards, as amended from time to time.

Hazardous Materials is defined herein as that term is so defined by EPA, TCEQ, NFPA and City ordinances, inclusive.

Improvements means approximately one (1) aircraft hangar with associated offices, meetings rooms, storage space, utilities, and any related alterations to same located, or to be located, on the Premises.

Premises means an approximately 5,600 square foot tract of real property located on Airport property and more particularly described in Exhibit A, which is owned by the City and leased to Lessee.

Public Facilities means the landing areas, any extensions and additions to the landing areas, roadways, aprons, and any air navigation facilities or other conveniences for the flying, landing and taking-off of aircraft.

Sponsor means the City of Lancaster, Texas.

ARTICLE 2 PREMISES

2.1 Lease Created: City hereby leases to Lessee, and Lessee hereby leases the Premises from City, in accordance with the terms and conditions of this Agreement.

2.2 Acceptance of Premises Conditions: Lessee warrants and represents that:

A. Lessee has carefully and completely examined and inspected the entire Premises and is fully informed of the condition of the Premises; and

B. is completely satisfied as to the suitability of the Premises for all of the activities contemplated by this Agreement.

Lessee accepts possession of the Premises as is, and subject to all limitations imposed upon the use thereof by the rules and regulations of the Federal Aviation Administration and by the ordinances of the City of Lancaster.

ARTICLE 3 USE OF PREMISES

3.1 Permitted Uses: Lessee is granted the right to use and occupy the Premises for construction and occupancy as a private aircraft hangar, which may be used for aircraft storage, aircraft maintenance, aircraft rental and sales, and an aerobatic flight training school ("the Permitted Use"), which uses shall at all times conform to the *Minimum Standards for Commercial and Noncommercial Operators at Lancaster Airport, October 2011* attached hereto as Exhibit "B" ("Airport Minimum Standards") as amended from time to time. The Permitted Use shall include the construction, operation, and maintenance of associated offices, classrooms,

meeting rooms, storage areas for aircraft, equipment, and/or supplies and aircraft maintenance areas related thereto in accordance with the Airport Minimum Standards. Lessee agrees not to engage in any other activity on the Premises other than the Permitted Use and agrees not to use, develop, or occupy the Premises in any manner contrary to the Airport ALP or Airport Minimum Standards other than those specified in this Agreement, without the prior express written consent of City, such consent not to be unreasonably withheld or delayed.

3.2 Prohibited Products, Services, and/or Uses: The following conduct is expressly prohibited on the Premises:

- A. Operation as a Fixed Base Operator;
- B. Possession or use of any products, performance of any services, and any other uses prohibited by law;
- C. Use of hangar or office space for any activity unrelated to aviation, other than as an incidental or temporary uses as shall be reasonably approved by the Airport Manager; or
- D. Construction or operation of any above-ground or below-ground fueling facilities.

In accordance with the Sponsor Grant Assurances made by the City to the Federal and/or State government as a condition to receiving Federal and/or State funds, the granting of rights and/or privileges to engage in the Permitted Use shall not be construed in any manner as affording Lessee any exclusive right, other than the exclusive use of the Premises and any land and/or improvements that may be leased to Lessee and then only to the extent provided in this Agreement. Accordingly, City reserves the right to grant to others the privilege to engage in or conduct a similar activity on other areas of the Airport property not encompassed by the Premises.

3.3 Use of Airport: Lessee may use, in common with others, the existing and future aeronautical and Public Facilities at the Airport, subject to and in full compliances with all applicable law, codes and ordinances and the Rules and Regulations attached hereto as Exhibit "C" (the "Rules and Regulations"), as amended by City from time to time. Lessee shall be solely liable for and shall reimburse City for all costs incurred by City for the repair of any damage caused by Lessee to the Public Facilities, excluding ordinary wear and tear.

3.4 Ingress and Egress: Lessee, its employees, guests, patrons, suppliers, vendors, sublessees, purchasers of leasehold interests, and invitees shall have the right of ingress and egress to and from the Premises. If the rights granted by this provision adversely affect Airport operations, City shall have the right, upon prior notice to Lessee, to restrict and/or limit hours in which such rights may be exercised, provided such restrictions do not unreasonably affect Lessee's ability to access and use the Premises.

3.5 Quiet Enjoyment: Upon payment of rents and fees and the performance of the covenants, agreements, and conditions to be observed and performed by Lessee, Lessee shall peacefully and quietly have, hold, and enjoy the Premises and privileges granted for the term of this Agreement free from hindrance or interruption by City. Lessee agrees that temporary inconveniences such as noise, disturbances, traffic detours and the like, caused by or associated with the construction of Airport improvements or Airport events, shall not constitute a breach of quiet enjoyment of the Premises, provided same do not materially adversely affect Lessee's ability to access and use the Premises.

ARTICLE 4 TERM

4.1 Initial Term: The initial term of this Lease shall be thirty (30) years commencing on March 1, 2012, and ending on February 28, 2042 (as extended, the "Term"), unless sooner terminated in accordance with the provisions hereof. This Lease shall become effective on March 1, 2012.

4.2 Optional Extension of Term: City hereby grants Lessee, its successors, and assigns, two consecutive options to extend the Term of this Agreement as follows:

A. The *First Option* shall be for a period of five (5) years, beginning at the expiration date of the Initial Term.

B. The *Second Option* shall be for a period of five (5) years, beginning at the expiration date of the First Option.

4.3 Procedure to Exercise Option: In order to exercise the First Option and the Second Option, Lessee must deliver to City written notice of Lessee's affirmative decision to exercise the option, which notice must be delivered to the City not earlier than one (1) year nor later than six (6) months prior to the expiration of the Term of the Agreement then in effect.

4.4 Lease Terms Remain Except Rent: All provisions of this Agreement shall remain in force during any extension of Term pursuant to exercise of the First Option and/or Second Option; provided, however, the amount of Rent to be paid shall be renegotiated by the parties in advance of any extension, using as a basis thereof the standard Airport rental rates for similar premises then prevailing at Lancaster Regional Airport. During the First Option or the Second Option, Lessee shall pay rent for any leasehold improvements added or constructed by Lessee, or any sublessee or successor during the initial Term of the Lease or, in the case of the Second Option, any such improvements constructed during the First Option, based on standard airport rental rates for similar premises then prevailing at Lancaster Regional Airport.

4.5 No Option if in Default: Lessee may not exercise the First Option or the Second Option if at the time of exercise Lessee is in default of any provision of this Agreement beyond applicable notice and cure periods.

4.6. Option Terminates with Lease: The right to exercise the First Option and/or the Second Option shall terminate upon the termination of this Agreement for any reason.

4.7. Right of First Refusal: At the end of forty (40) years (being the end of the initial Term, the First Option, and the Second Option combined), Lessee, its successors, and assigns shall be given the right of first refusal to negotiate a new lease on the Premises at the fair market rental value of the Premises on the date beginning after the end of said 40-year period. The term of such lease and rent shall be mutually agreed upon, and negotiated directly with the City.

4.8 Ownership of Improvements on Termination: Title to the Improvements shall convey to City at no cost to City upon expiration of the Term. However, at the end of the Term of this Agreement, City shall retain the right to require that Lessee demolish and/or remove any non-structural alterations to the Improvements, the construction of which had not been previously approved by City, or any Improvements (or portions thereof) which shall be the subject of a continuing maintenance default, noticed by City to Lessee, existing at the end of the Term. Prior to surrendering possession of the Premises at the expiration or earlier termination of this Agreement, upon the City's request, Lessee shall restore the Improvements as nearly as possible to their original condition and character as of the date of the issuance of any certificate of occupancy, ordinary wear and tear excluded. Lessee may transfer the use and enjoyment of the Improvements upon receipt from City of appropriate consents as described hereinafter. **Lessee's right to transfer the use and enjoyment of the Improvements shall be expressly conditioned upon Lessee's and any transferee's obtaining appropriate consent to such transferee's use and enjoyment of the Premises through an approved sublease or assignment of this Lease pursuant to Articles 21 and 22.**

ARTICLE 5 RENT

5.1 Amount of Rent: For the use and occupancy of the Premises, Lessee agrees to pay annual "Rent" to the City as follows:

A. For each year during the period of March 1, 2012, until February 28, 2017, Lessee will pay the City Annual Rent in the amount of EIGHT HUNDRED FORTY/100 DOLLARS (\$840). [NOTE: Current lease rate is \$0.15/sq. ft. for ground lease].

B. For the periods beginning on March 1st in the years 2017, 2022, 2027, 2032, 2037 and 2042, the amount of Annual Rent to be paid per year shall be adjusted upwards in an amount of ten percent (10%) based off the previous period's rent. The Annual Rent payment schedule is as follows:

March 2012 - February 2017:	\$840.00
March 2017 – February 2022:	\$942.00
March 2022 – February 2027:	\$1016.00
March 2027 – February 2032:	\$1118.00
March 2032 – February 2037:	\$1230.00
March 2037 – February 2042:	\$1353.00

5.2 When Due: Annual Rent shall be payable in twelve (12) equal monthly installments due on the first (1st) day of each calendar month during the Term of this Agreement, with the first installment payment being due on March 1, 2012, and a payment due on the first (1st) day of each subsequent month thereafter. Payment of Rent shall be absolutely net to City and shall be made without any abatement, deductions, reductions, set offs, or counterclaims of any kind.

5.3 Late Charges: A late charge of Ten Percent (10%) per month shall be automatically added to any installment of Rent not received by City by the close of business of the 10th day of the month in which it is due. The late charge shall become part of the Annual Rent due and owing to City.

5.4 Payment Location: All payments of Rent or other amounts due under this Agreement, if any, shall be made to City of Lancaster and sent to the attention of the Finance Department at P.O. Box 940, Lancaster, Texas 75146 or to such other place as City may in writing direct Lessee from time to time. The failure to make any payment of any amount due under this Agreement when due may result in a termination of the Agreement as provided in Article 11.

ARTICLE 6.

FEES

Lessee will pay, and will provide in its written lease agreement with any authorized Sublessee, that Sublessee shall pay all applicable fees as established by City relating to use of the Airport.

ARTICLE 7.

RIGHTS AND PRIVILEGES OF LESSEE

7.1 Installation of Fixtures, Equipment, etc: Lessee and/or its sublessees may install in or upon the Premises all such fixtures, machines, tools, equipment, or other items of personal property as it deems necessary in connection with the Permitted Uses. Any personal property belonging to Lessee and/or any of its sublessees located on the Premises and/or in the Improvements located thereon shall be there at the sole risk of Lessee and/or its sublessees. City shall have no liability or responsibility for any theft, misappropriation or damage to any personal property belonging to Lessee, any sublessee, or any customer of Lessee unless due to the willful misconduct to City.

7.2 Removal of Personal Property; Restoration of Premises and Improvement: Lessee shall be entitled (but at its own risk of default of any other agreement whose terms may prohibit such removal) during the Term of this Agreement to remove from the Premises, or any part thereof, all aircraft, tools, machinery, equipment, trade fixtures and non-structural improvements located thereon; provided, however, that the Premises and any building from which any property is so removed shall be restored by Lessee in such manner that the building is not materially

damaged (i.e., restored to same condition that existed before installation or placement of the property) and that those items removed are not required by Airport Minimum Standards in order to engage in the Permitted Use.

7.3 Removal on Termination of Lease: Lessee shall remove all equipment, fixtures, and systems as specified in this Agreement not later than five (5) days of termination or expiration of this Agreement. Subject to the rights of any party holding a superior security interest in the equipment, fixtures, and systems, if Lessee fails to remove such property from the Premises within five (5) days of termination or expiration of this Agreement, then City retains the right to remove or have removed at the expense of Lessee all equipment, fixtures, and systems and Lessee agrees to pay City for such expense within fifteen (15) days after receipt of an invoice from City.

7.4 Construction of Improvements: Construction of the Improvements shall be in accordance with the Airport Minimum Standards. Lessee shall not construct any improvements on the Premises prior to Lessee submitting all plans and specifications related to construction of such improvements to the Director of Airports for review and approval, which approval shall not be unreasonably withheld or delayed. Lessee understands and acknowledges that approval of any plans and specifications by the Director of Airports does not constitute approval for construction required by City's building codes or federal or state regulations, which Lessee must still obtain in accordance with applicable law or regulation prior to commencing construction on any improvements on the Premises.

ARTICLE 8. RIGHTS AND PRIVILEGES OF CITY

8.1 City Authority: While the Airport Manager has the authority to manage the Airport (including the authority to interpret, administer, and enforce agreements and policies and the authority to permit temporary, short-term occupancy/use of Airport land and/or improvements), Lessee understands and acknowledges that the ultimate authority to grant the occupancy/use of Airport land and/or improvements and/or the right to engage in an aeronautical activity at the Airport, and to approve, adopt, amend, or supplement any agreement, policy, or practice relating thereto is expressly reserved to City through the City Council.

8.2 Airport Development: City reserves the right, but shall not be obligated to Lessee, to develop and/or improve the landing areas and/or other portions of the Airport as City determines in its sole discretion. City reserves the right to close any portion of the Airport and/or any of the facilities located thereon when it deems that such action is reasonably necessary to maintain, repair, or develop the Airport and/or facilities located thereon and/or for the safety of the general public; provided, however, that except in times of temporary emergency, adverse weather conditions, or public calamity, City shall use its best efforts at all times to keep the Airport open with sufficient access to, and use of, the Public Facilities by Lessee, and its sublessees and assigns, to enable the Permitted Uses of Premises. City shall provide advance notice of any closures to the extent possible.

8.3 Aerial Approaches: City reserves the right to take any action it considers necessary to protect the aerial approaches and/or transition surfaces of the Airport against obstruction, together with the right to prevent Lessee or any sublessee from erecting or permitting to be erected any building or other structure on the Airport which would limit the usefulness of the Airport and/or constitute a hazard to aircraft.

8.4 War, National Emergency, Riot, or Natural Disaster: During time of war, national emergency, riot or natural disaster, City shall have the right to lease the Airport or any part thereof to the United States or the State of Texas for government or military use. In this case, any provisions of this Agreement which are inconsistent with the provisions of any lease with a government entity shall be suspended for the term of the lease with the government entity.

8.5 Access to the Premises: City and/or its representatives shall have the right to enter the Premises including all buildings, structures and Improvements, at all times and for any purpose necessary, incidental to, or connected with the performance of Lessee and/or City's obligations under this Agreement. City shall provide three (3) hours advance written notice (which shall include email transmission) prior to entering any non-public area except when City determines that emergency circumstances due to safety concerns require immediate entry without prior notice.

8.6 Performance of Acts: All acts performable under this Agreement by City or City Council may, at the option of City and without right of objection by Lessee, be performed by representative or delegate of City.

8.7 Exercising Rights: No exercise of any rights reserved by City herein shall be deemed or construed as an eviction of Lessee or its sublessee nor shall such exercise by grounds for any abatement of rents, fees or charges nor serve as the basis for any claim or demand for damages of any nature whatsoever, unless such exercise materially interferes with the rights granted Lessee in this Agreement.

8.8 Rights in Addition to Others: The rights and reservations set forth Sections 8.1 through 8.7, inclusive, are in addition to all other rights and privileges reserved by City including those outlined under Federal and/or State Sponsor Assurances.

ARTICLE 9. OBLIGATIONS OF LESSEE

9.1 Conduct: Lessee shall take all reasonable measures to control the conduct, demeanor and appearance of its employees, invitees, suppliers, vendors and customers. Upon receipt of a valid complaint, Lessee shall take all reasonable steps necessary to resolve or remove the cause of the complaint in a timely manner.

9.2 Disturbance: Lessee shall conduct the Permitted Use and related operations in an orderly and proper manner so as to not unreasonably disturb or interfere with others conducting business or other operations at the Airport including, but not limited to, the following:

A. Lessee shall not intentionally interfere with the landing and taking off of aircraft at the Airport or otherwise cause a hazard, including, but not limited to, such items as electrical or electronic equipment, creation of smoke or dust or glaring or misleading lights.

B. Lessee shall not intentionally or knowingly disturb City or any tenant of the Airport by knowingly creating or permitting any disturbance or any unusual or excessive noise, vibration, electromagnetic emission or other undesirable condition on or about the Airport.

C. Lessee shall not cause or permit to be caused by any act or practice, by negligence, omission or otherwise do anything or permit anything to be done that would violate any federal, state, or local regulations.

D. Lessee shall utilize commercially reasonable efforts to minimize the escape of fumes, odors, smoke, gas or other substances from the Premises and shall neither use, allow the use of, nor occupy Premises for any improper, immoral or unlawful purpose.

9.3 Hazardous Materials: All Hazardous Materials shall be placed, stored, generated, used, released or disposed of in accordance with all applicable EPA, TCEQ and local regulations. Lessee shall not cause or suffer any Hazardous Material to be placed, stored, generated, used, released or disposed of, in, on, under, about, or transported from the Premises unless Lessee has complied with the following:

A. Lessee must obtain City's prior express written consent. City may impose, as a condition of such consent, reasonable requirements, such as limits of the manner, time and contractors associated with such.

B. Lessee shall comply with prudent business practices and also with all applicable federal, state and local laws, ordinances, regulations, guidelines and order relating to health, safety and protection of persons, the public, and/or the environment.

C. Lessee shall limit the presence of such Hazardous Material to the least amount reasonably necessary for Lessee's use of the Premises as authorized by this Agreement.

D. Intentionally Omitted.

E. If at any time a release or danger of a release of Hazardous Materials is discovered on, at, or in the Premises, the Airport, City's sewage or storm drainage system, soil, air, groundwater or any improvements, which was caused or permitted by Lessee or Lessee's officers, agents, employees, contractors, permittees, invitees, Lessees or sublessees or there is the imminent danger of such release of Hazardous Materials, Lessee, at its sole cost and expense, shall ensure removal of such Hazardous Materials from the Premises, the Airport, the underlying groundwater, City's soil, air, storm

drainage and the sewage system, in accordance with requirements of all appropriate governmental authorities.

F. In addition to notification of proper governmental authorities, Lessee shall immediately notify the Airport Manager of any release of Hazardous Materials that exceeds the minimum amount that must be reported to a public agency.

G. Upon discovery of any Hazardous Materials that are a direct result of Lessee's activities on, in, under or emanating from the Premises, any release or threat of release of a Hazardous Materials, and/or any illness caused by exposure thereto, Lessee shall immediately, and at its sole cost and expense, take all actions necessary to remediate, abate, and/or rectify any such conditions at or upon the Premises; provided, however, Lessee shall have no liability for pre-existing or subsequently discovered Hazardous Materials. For purposes of this paragraph, anything that is considered to be "pre-existing" means anything that existed on the Premise prior to Lessee coming into possession of the Premise pursuant to this Agreement and any prior lease agreement for the Premises.

H. In addition to all other rights and remedies of City, if the removal of such Hazardous Materials from the Premises, the Airport, City's sewage or storm drainage system, soil, air, groundwater, or any improvements is not commenced by Lessee within thirty (30) days after written notice from City of the discovery of such Hazardous Materials and continuously pursued using commercially accepted methods and in accordance with standards promulgated by the State of Texas or the United States Environmental Protection Agency ("EPA"), City, in its discretion, may pay to have same removed and Lessee shall reimburse City within thirty (30) days of City's demand for payment. If City is required to remediate and/or abate any such conditions caused by Lessee on or upon the Premises and/or the Airport, Lessee shall reimburse City for all costs and expenses incurred in so doing. In its sole discretion, City may, but shall not be required to, grant Lessee more than fifteen (15) days after written notice to remove Hazardous Materials, all at Lessee's expense.

I. Immediately upon receipt thereof, Lessee shall provide City with copies of any notices, claims, complaints, demands, lawsuits, hearing, investigations, or governmental requests for information relating to the environmental condition on or of the Premises and/or Hazardous Materials on, in, under or emanating from the Premises during Lessee's occupancy thereof.

9.4 Storage, Handling, and Dispensing of Fuels, Gasolines and Lubricants: Fueling requirements are governed by the Lancaster Code of Ordinances. Lessee and Sublessee must abide by all applicable federal, state and local regulations pertaining to the storage, handling, and dispensing of aviation fuels, gasolines and lubricants.

9.5 Utilities: Lessee is responsible for all utilities and utility services including electricity, sewer, water, natural gas and telephone charges relating to the Premises during the Term of this Agreement.

9.6 Taxes, Assessments, and Fees: Lessee shall pay and discharge all taxes, assessments or other fees whether general or special, ordinary or extraordinary, charged by any government or quasi-governmental entity relating directly to the Premises, the Improvements located thereon and/or the Permitted Use conducted at the Airport including leasehold (or possessory interest tax), personal property, income, excise, or any other business tax, assessment, or fee, as applicable. The foregoing notwithstanding, Lessee shall have the right, before delinquency occurs, of protesting, contesting, objecting to or opposing the legality or amount of any such tax, assessment or fee which Lessee deems, in good faith, are illegal or excessive; and in the event of such contest, Lessee may, to the extent provided by law, defer the payment of any such tax, assessment or fee.

9.7 Costs, Expenses, and Other Charges: Other than Rent, Lessee shall pay all required costs, expenses and other charges or obligations of every kind or nature whatsoever relating to the Premises, the Improvements and/or the Permitted Use which may arise or become due during the Term.

9.8 Maintenance: Lessee agrees during the Term of this Agreement to assume the entire responsibility, cost and expense for repair and maintenance on the Premises and all improvements, including any hangar buildings and slabs, and to maintain the Premises and improvements in a good condition, subject to the following:

A. Lessee shall keep the interior and exterior (including all structural and non-structural) portions of the Premises including, but not limited to, plumbing, heating, lighting, air conditioning and any other systems in connection therewith and all other parts of the Premises in good order and condition and will make all necessary repairs to the Premises both ordinary and extraordinary, foreseen and unforeseen and will make all necessary replacements of like quality when beyond repair;

B. Lessee shall not cause or allow any outdoor storage of materials, goods supplies, or equipment;

C. Lessee shall be responsible for all cleaning, custodial, janitorial and landscaping services.

D. Lessee shall keep the Premises in neat, safe, sanitary, orderly and sightly condition and in good working order at all times, and shall remove snow and ice as required for Lessee to conduct Lessee's operations during hours that the Airport is open.

E. Lessee agrees to provide and maintain all obstruction lights and similar devices or safety equipment; and

F. Lessee shall submit to City for its written approval the plans and specifications for any major repairs, construction, alteration, modification, addition or replacement to the improvements on the premises undertaken by Lessee, which approval shall not be unreasonably withheld.

In the event Lessee fails to comply with this Section 9.8, City may notify Lessee in writing that such maintenance, repair or cleaning shall be performed and in the event that Lessee fails to correct the condition within thirty (30) days of City's written notice, or in the event such repair or replacement cannot be done within such time, Lessee fails to commence such repair or replacement within thirty (30) days and continuously pursue it to completion using commercially reasonable methods, City or its authorized designee may enter the Premises and provide the necessary maintenance or repair services and Lessee agrees to pay City such expenses within thirty (30) days upon receipt of an invoice. This shall not be construed as a duty or obligation of City to make any repair or perform any work or cleaning which Lessee is required to make or perform.

9.9 Activities Limited to Building Interior: All maintenance, repair or restoration activities on aircraft or otherwise shall be performed inside building located on the Premises and fully screened from public view. Lessee further shall store all of its fixtures, equipment, and personal property within a building located on the Premises.

9.10 Refuse Disposal: Lessee shall immediately clean up all refuse, rubbish, scrap material and debris caused or generated by its use of the Premises, so that the Premises shall at all times present a clean, neat, sanitary and orderly appearance. Lessee shall provide and use covered receptacles of all garbage, trash and other refuse at the Premises. Lessee shall not allow boxes, cartons, barrels, or other items to accumulate in or upon the Premises in an unsightly manner or in a manner that may pose a safety hazard of any kind. In the event City discontinues providing garbage removal services as it is currently providing, Lessee shall ensure the proper storage and removal from the Airport of all garbage, debris and other waste materials, whether solid or liquid, generated by or arising out of the operations and activities occurring on the Premises, whether by Lessee or a third party occupying the Premises.

9.11 Non-Discrimination: Lessee, in the conduct of its authorized use of the Premises and/or on the Airport, shall furnish service on a fair, equal and just basis to all users thereof and shall charge fair and reasonable prices for each unit of sale or service; provided, however, that Lessee shall be allowed to make reasonable and non-discriminatory discounts, rebates, or other similar types of price reductions to volume purchases, or classes of purchasers. Lessee further agrees as follows:

A. Lessee, as a part of the consideration hereof, does hereby covenant and agree as a covenant running with the land that:

(1) no person on the grounds of race, color, gender or national origin shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities;

(2) in the construction of any improvements on, over, or under such land and the furnishing of services thereon, no person on the grounds of race, color or national origin shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination; and

(3) Lessee shall use the Premises in compliance with all other requirements imposed by or pursuant to 49 CFR Part 21, Nondiscrimination in Federally Assisted Programs of the Department of Transportation and as said regulations may be amended. In the event of breach of any of the preceding nondiscrimination covenants, Lessee agrees that City has the right to take such action against Lessee as the Federal government may direct to enforce this covenant, including termination of this Agreement.

B. In accordance with these requirements, Lessee shall not discriminate in any manner against any employee or applicant for employment because of political or religious opinion or affiliation, sex, race, creed, color or national origin and further, Lessee shall include a similar clause in all subcontracts, except subcontracts for standard commercial supplies or raw materials.

9.12 Based Aircraft Report: To the extent applicable, Lessee shall maintain and furnish by the 1st day of August each year and at any time upon request for the Airport Manager, a report identifying all aircraft based at or on the Premises. The report shall identify the owner, the owner's billing address, the year of manufacture, make and model of the aircraft, the Gross Takeoff Operating Weight and aircraft registration number.

9.13 Signage: Lessee shall not erect, paint upon, attach, exhibit or display in, on, or about said Premises any sign other than as shown on the Site Plan without the prior express written consent of the Airport Manager, such consent not to be unreasonably withheld.

9.14 Special Events: Lessee shall not conduct or hold air shows or any other special event, including any non-aeronautical event, at the Airport without the prior express written consent of the Airport Manager, such consent not to be unreasonably withheld or delayed.

ARTICLE 10. OBLIGATIONS OF CITY

Subject to the provisions of this Agreement to the contrary, City covenants and agrees that all times it will maintain and operate the Airport as a public Airport consistent with and pursuant to the Sponsor's Assurances given by City to the United States Government and/or the State of Texas under the Federal Airport Act.

ARTICLE 11. DEFAULTS AND REMEDIES

11.1 Lessee Default: The occurrence of any one or more of the following events shall constitute a material default and breach of this Agreement by Lessee.

A. The filing by Lessee of a voluntary petition in bankruptcy;

B. The assignment of all or substantially all of Lessee's assets for the benefit of Lessee's creditors;

C. A court making or entering any decree or order:

(1) adjudging Lessee to be bankrupt or insolvent;

(2) approving as properly filed a petition seeking reorganization of Lessee or an arrangement under the bankruptcy laws or any other applicable debtor's relief law or statute of the United States or any state thereof;

(3) appointing a receiver, trustee or assignee of Lessee in bankruptcy or insolvency or for its property; and

(4) directing the winding up or liquidation of Lessee and such decree or order shall continue for a period of (60) days.

D. The filing of any non-consensual lien against the Premises resulting from any act or omission of Lessee which is not discharged or contested in good faith as determined by City by proper legal proceedings within sixty (60) days of receipt of actual notice by Lessee, unless Lessee posts a bond within this time period equal to the amount of the lien;

E. The voluntary abandonment by Lessee of the Premises for a period of thirty (30) consecutive days or more, coupled with the failure to pay rent as provided in Article 5;

F. The transfer of Lessee's interest in a manner not authorized herein or by other operation of law;

G. Lessee becomes in arrears in the payment of the whole or any part of the amount(s) agreed upon herein for a period of thirty (30) days after that the date such payments are due;

H. Intentional falsification by Lessee of any record which results in the deprivation of any rent, fee or other charge from the City granted under this Agreement;

I. The failure by Lessee to perform any of the covenants, conditions or obligations imposed on it by this Agreement or any other Agreement with City where the failure continues for a period of thirty (30) days after written notice from City; and

J. The transfer or assignment or attempted transfer or assignment of this Agreement by Lessee, without securing prior written approval of City. It shall be understood for the purpose of this provision that negotiations by Lessee for the assignment or transfer of this Agreement shall not be construed as "attempted transfer."

K. Subject to Force Majeure, Commencement of Construction fails to occur on or before 180 days after the Effective Date of this Agreement; and

L. Completion of Construction fails to occur on or before 180 days after Commencement of Construction.

11.2 Failure to Cure Default: In the event of any default by Lessee that is not cured within thirty (30) days of receiving notice from City, City may, in addition to any other remedies available to City, terminate this Agreement. If the default concerns a failure to make payments to City; however, no written or other notice of default shall be required. If this Agreement is terminated, any payments made to City shall be forfeited to City and Lessee shall have no rights to recover the payments. This forfeiture shall not diminish nor limit City's right to recover such damages as may result from the default by Lessee. Notwithstanding anything herein to the contrary, this Agreement shall terminate upon delivery of the notice of default if the default is pursuant to Section 11.1.K, above, and Commencement of Construction has not occurred prior to the date the notice of default was delivered.

11.3 Force Majeure: Notwithstanding the foregoing, no failure of either party to perform or delay in performance which is caused by any war, civil disorder or other national emergency or which is due to an intervening act of God shall be deemed an event of default.

11.4 Additional Remedies: In addition to the termination and forfeiture rights described in the preceding paragraphs, City shall have the following rights and remedies upon default by Lessee:

A. The recovery of any unpaid Rent, fees, and other payments due and owing at the time of termination, plus any unpaid Rent, fees and other payments that would have been earned and other payments that would have been made in the Agreement had not been breached by Lessee.

B. The recovery of any damages, costs, fees and expenses incurred by City as a result of the breach of the Agreement by Lessee, including reasonable attorneys' fees and expenses.

C. The removal of all persons from the Premises and the removal and storage at Lessee's expense of all property on the Premises, in accordance with the law.

D. Any other right or remedy, legal or equitable, including specific performance, that City is entitled to under applicable law, whether stated in this Agreement or not.

11.5 Lessee Continuing Obligations: No termination shall relieve Lessee of the obligation to deliver and perform on all outstanding obligations and requirements prior to the effective date of the termination.

11.6 Re-entry on Termination: In the event of any such termination as above enumerated, City shall have the right at once and without further notice to Lessee to enter and take full possession of the Premises occupied by Lessee under this Agreement in accordance with the law. Upon the termination of this Agreement for any reason, Lessee shall yield up the Premises and Improvements to City in the same condition as when received, reasonable and ordinary wear and tear excepted.

11.7 Cost of Re-Entry: Upon termination of this Agreement, Lessee covenants and agrees to pay and discharge all reasonable costs, attorney's fees and expenses that may be incurred by City in enforcing the covenants, conditions and agreements of this Agreement, re-entering and/or repossessing the Premises, restoring the Premises and Improvements to the condition by this Agreement, and protecting the Premises.

ARTICLE 12. TERMINATION BY LESSEE

12.1 Events Allowing Termination: Lessee, if not in default of any provision of this Agreement, may terminate this Agreement after the occurrence of one or more of the following events:

- A. Permanent closure of the Airport.
- B. Curtailment of Airport operations, including the tower, instrument landing systems and U.S. Customs service for a period in excess of sixty (60) days, save and except curtailment which occurs as the result of Force Majeure, necessary construction and repair under rights granted herein, or during any period of involuntary suspension or termination of such Airport operations by any regulatory authority and during which period the City contests such suspension or termination until a final decision is rendered, however not during any appeals therefrom.
- C. The lawful assumption by the United States Government, or any authorized agency thereof of the operation, control or use of the Airport and/or facilities, or any substantial part of parts thereof, in such manner as to substantially restrict Lessee from engaging in the Permitted Use and/or operations at the Airport for a period of at least ninety (90) days.
- D. The default by City in the performance of any covenant or agreement herein required to be performed by City and the failure to City to remedy such default within ninety (90) days after receipt from Lessee of written notice to remedy same, or if such default is incapable of being remedied within such ninety (90) day period, City shall not commence such performance within the ninety (90) day period and diligently pursue the same to completion.
- E. Final decision by a Court of competent jurisdiction adjudicating a violation of a federal, state or local law, rule, regulation or order which suspends or

terminate operations at the Airport and which suspension or termination materially affects the operations of rights of Lessee hereunder.

12.2 Lessee Notice of Termination: Lessee shall exercise such right of termination by written notice to City at any time after the occurrence of any such events and the Agreement shall terminate as of the date notice is received by City.

12.3 Injunctive Relief: As an alternative to the right of termination, Lessee shall be entitled to seek injunctive relief against the City relating to an event of default under Section 12.1.E., above, together with costs and attorneys' fees by Lessee in such action if Lessee judicially obtains the relief sought; however, in no event shall Rent abate during the pendency of any proceeding.

ARTICLE 13. REMEDIES CUMULATIVE

All of the rights and remedies given to a party in this Agreement are cumulative and no one is exclusive of any other. Each party shall have the right to pursue any or all remedies provided by any applicable Regulatory Measures, whether legal or equitable in nature, whether stated in this Agreement or not; however, Lessee's sole remedies upon City's default are contained in Article 12.

ARTICLE 14. NO WAIVER

No failure on the part of either party to enforce any of the terms and/or conditions set forth in this Agreement shall be construed as or deemed to be a waiver of the right to enforce such terms and/or conditions. The acceptance by City of any rent, fee or other payment shall not be construed as or deemed to be a waiver by City of any breach by Lessee of any covenant, condition or obligation.

ARTICLE 15. COMPLIANCE WITH LAWS

At its own expense, Lessee shall comply with all federal, state and local regulations, including, without limitation, the regulations of the United States Department of Transportation, FAA and City, including all applicable local ordinances, and all rules and regulations of any law enforcement, fire department or other municipal agency; all as may be promulgated and in effect from time to time. Any penalties, fine or costs levied as a result of Lessee's failure to comply with any of the above shall be borne by Lessee.

ARTICLE 16. COMPLIANCE WITH AIRPORT MINIMUM STANDARDS

16.1 Default for Non-Compliance: Lessee shall comply with the Airport Minimum Standards. Any violation of this paragraph after thirty (30) days written notice and opportunity

to cure (unless a shorter period of notice is set forth in the Airport Minimum Standards) shall be construed as a material breach of this Agreement authorizing the termination thereof in accordance with Article 11.

16.2 Resolution of Conflicting Standards: In the event of a conflict between the Airport Minimum Standards and this Agreement, the strictest standard, obligation, and/or requirement shall control.

ARTICLE 17. LICENSES, CERTIFICATES, AND PERMITS

At its own expense, Lessee shall obtain any and all licenses, certificates and permits that may be necessary to construct Improvements on the Premises or to engage in any activity at the Airport. Lessee shall not do or allow to be done anything at the Airport or on the Premises which is in violation of or prohibited by any law, ordinance, rule, requirement, license, certificate or permit. If the attention of Lessee is called to any such violation, Lessee shall immediately cease and desist from such violation or cause it to be corrected. In addition, Lessee shall pay all fines associated with any such violation.

ARTICLE 18. INSURANCE

18.1 Minimum Coverage: Not later than the Effective Date of this Agreement, if conducting any commercial operation on the Premises, Lessee shall procure and maintain throughout the Term of this Agreement insurance as provided by the Airport Minimum Standards, including attaining a commercial general liability policy for premises and operations liability that names the City of Lancaster, Texas, its City Council (individually and collectively), and its representatives, officials, officers, employees, and agents as additional insureds. The insurance company underwriting the required policy(s) shall be licensed or admitted to write such insurance in the State of Texas or otherwise be approved in writing by City. Any insurance policy procured to comply with this provision shall be endorsed to state that coverage shall not be suspended, voided, cancelled, non-renewed, or reduced in coverage except after ten (10) days prior written notice by certified mail, return receipt requested, to the City of Lancaster. All liability policies shall contain or be endorsed to contain the following provisions:

A. "City of Lancaster and its City Council (individually and collectively), representatives, officers, officials, employees, agents and volunteers are to be covered as additional insured with respect to: liability arising out of activities performed by or on behalf of Lessee; products and services of Lessee; Premises and Improvements owned, leased, occupied or used by Lessee; or vehicles owned, leased, hired or borrowed by Lessee. Any insurance or self-insurance maintained by City of Lancaster or its City Council (individually and collectively), representatives, officers, officials, employees, agents or volunteers shall be in excess of Lessee's and shall not contribute with it."

B. "Any failure to comply with reporting or other provisions of the policies, including breached of warranties, shall not affect coverage provided to City of Lancaster

or its City Council (individually and collectively), representatives, officers, officials, employees, agents or volunteers. Lessee's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the aggregate limits of the insurer's liability."

18.2 Notice of Changes in Coverage: Lessee shall give written notice of any material changes affecting the coverage or policy of insurance on the Premises and Improvements and shall supply City with new certificates of insurance within thirty (30) days of any change.

18.3 Review of Coverage Amount: Insurance coverage and policy limits are subject to periodic review and modification at the discretion of City.

ARTICLE 19. DAMAGE TO PREMISES AND PROPERTY

19.1 Damages to Premises. If any part of the Premises and any related property is damaged resulting from any cause whatsoever (including, but not limited to, fire, earthquake, tornado, windstorm, other casualty or by any act or omission of Lessee, its agents, officers, employees, patrons, guests, contractors, sublessees and subcontractors), Lessee, at its own cost and expense, shall promptly commence and complete restoration as nearly as possible to the value and substantially to the condition and character of the Premises immediately prior to damage (the "Restoration"), subject to the following:

A. If at any time during the Term of this Agreement, any part of the Premises is damaged or destroyed, City shall be under no obligation to rebuild or repair the damaged or destroyed portion of the Premises. City shall have no obligation to rebuild or repair the damaged or destroyed portion of the Premises. City shall have no obligation to Lessee or any sub-Lessee or subcontractor for any damage or destruction to their property caused by fire, earthquake, tornado, windstorm or other casualty or natural disaster.

B. If Lessee fails to restore the Improvement on the Premises, Lessee shall pay to City, upon demand, the amount that City reasonably determines is necessary to restore the Premises. Upon said payment, City will restore the Premises.

19.2 Use of Insurance Proceeds for Rebuilding: If, by reason of any damage or destruction mentioned in Article 19.1, any sums are paid under any insurance policy mentioned in Article 18, such sums will be paid to any Leasehold Mortgagee, if one exists, or to the City if no Leasehold Mortgagee exists, (such entity holding the insurance proceeds hereinafter referred to as "Depository") and will be used to defray the cost of repairing, restoring, or reconstructing the Improvements as required in Article 19.1, above. If there is no Leasehold Mortgagee at the time of such damage or destruction, as such sums shall be paid to City to be held and applied as set forth below. Upon receipt by the Depository of:

A. A certificate of Lessee dated not more than thirty (30) days prior to the date of such receipt (1) requesting the payment of a specified amount of such monies; (2) describing in reasonable detail the work and materials applied to the Restoration since the

date of the last certificate of Lessee; (3) stating that such specified amount does not exceed the sum of ninety percent (90%) of the cost of such work and one hundred percent (100%) of the cost of such materials; and (4) stating that such work and materials have not previously been made the basis of any request for or any withdrawal of money;

B. A certificate of an independent engineer or any independent architect designated by Lessee and approved by City (which approval will not be unreasonably withheld) and by the Leasehold Mortgagee, if any, stating (1) that the work and materials described in the accompanying certificate of Lessee were satisfactorily performed and furnished and were necessary, appropriate and desirable to the Restoration in accordance with the plans and specifications therefore and in accordance with all laws, ordinances, rules, regulations, specifications and standards of all Governmental Authorities; (2) that the amount specified in such certificate of Lessee is not in excess of the sum of ninety percent (90%) of the cost of such work and one hundred percent (100%) of the cost of such materials; and (3) the additional amount, if any, required to complete the Restoration;

C. Evidence reasonably satisfactory to the Leasehold Mortgagee and City that the cost of such work and materials has been paid in full or will be paid in full out of such advance;

D. Either (1) a written opinion of Lessee's counsel, or (2) the certification of title company licensed to do business in the State of Texas, in either case that as of date not more than twenty (20) days prior to the date of payment described below there exists no filed or recorded lien, encumbrance or, charge prior to or on a parity with the estate, rights and interest of City, and that neither the Premises nor the Improvements are subject to any filed or recorded mechanic's, laborer's, materialman's or other similar lien, encumbrance or charge for which Lessee has not provided to City adequate security for the payment thereof and, in addition to the foregoing, a certificate from the Secretary of State of Texas and the County Clerk of Dallas County, Texas, evidencing that any fixtures in the Premises are not subject to any chattel mortgage, conditional bill of sale or other title retention or security agreement except for those permitted herein and except for any chattel mortgage or security agreement delivered to City; and

E. Evidence satisfactory to the Leasehold Mortgagee, that, prior to commencing the Restoration, Lessee, at Lessee's expense, has furnished to City performance and payment bonds issued by each of the original contractors retained by Lessee for the Restoration under construction contracts having a contract price in excess of Two Hundred Fifty Thousand and No/100 Dollars (\$250,000.00) and by a corporate surety reasonably satisfactory to City, with each such bond naming City and Leasehold Mortgagee as a dual obligee and otherwise being in form and content reasonably satisfactory to City, and evidence satisfactory to the Leasehold Mortgagee and City that such bonds remain in full force and effect;

the Depository will pay to Lessee the amount of such insurance monies specified in such certificate of Lessee, provided that the balance will be sufficient for the completion of the Restoration.

19.3 Final Payment of Proceeds: The Depository will pay to Lessee the ten percent (10%) retainage reserved during the Restoration, upon the completion of Restoration as evidenced by a certificate of such independent engineer or independent architect, and upon the receipt by the Depository of:

A. A certificate of Lessee (a) requesting the payment of the ten percent (10%) retainage reserved by the Depository during the Restoration; (b) stating that the Restoration was completed at least thirty (30) days prior to the date of the certificate and was finally completed in accordance with the plans and specifications therefore and in accordance with all laws, ordinances, rules, regulations, specifications and standards of all Governmental Authorities; and (c) stating that the cost of all work and materials incorporated into the Restoration has been paid in full or will be paid in full out of such advance;

B. A certification of an independent engineer or an independent architect designated by Lessee and approved by City and by the Leasehold Mortgagee(s), if any, stating that the Restoration has been finally completed in accordance with the plans and specifications therefore and in accordance with all laws, ordinances, rules regulations, specifications and standards of all Governmental Authorities;

C. Evidence reasonably satisfactory to the Leasehold Mortgagee and City that the cost of all work and materials incorporated into the Restoration has been paid in full or will be paid in full out of such advance (which evidence may include fully executed and acknowledged waives or releases of mechanic's liens, in form reasonably satisfactory to the party requesting the same, executed by all contractors, sub-contractors and materialmen which engage in the Restoration);

D. The certification of a title company licensed to do business in the State of Texas, in either case that, as of date not more than five (5) days prior to the date of payment described below, there exists no filed or recorded lien, encumbrance or charge prior to or on a parity with the estate, rights and interest of City (except for a fee mortgage, if any), and that neither the Premises nor the Improvements are subject to any filed or recorded mechanic's, laborer's, materialmen's or other similar lien, encumbrance or charge for which Lessee has not provided to City adequate security for the payment thereof and, in addition to the foregoing, certificates from the Secretary of State of Texas and the County Clerk of Dallas County, Texas, evidencing that fixtures in the Premises are not subject to any chattel mortgage, conditional bill of sale or other title retention or security agreement except for those permitted therein and except for any chattel mortgage or security agreement delivered to City.

19.4 Application of Surplus Proceeds: Any balance of insurance proceeds after the completion of Restoration, as evidenced by a certificate of such independent engineer or

independent architect, will be paid to Lessee or to Leasehold Mortgagee(s), if required under the terms of the Leasehold Mortgage then in effect. Depository shall notify City and Leasehold Mortgagee of each amount paid to Lessee and the date of each such payment.

19.5. Payment of Unused Proceeds at Lease Termination: Upon the expiration or sooner termination of this Lease, any insurance proceeds not theretofore applied to the cost of Restoration or not theretofore paid to Lessee or a Leasehold Mortgagee will be paid to City.

**ARTICLE 20.
INDEMNIFICATION**

20.1 INDEMNIFICATION: LESSEE SHALL INDEMNIFY, PROTECT, DEFEND, SAVE AND COMPLETELY HOLD HARMLESS CITY AND ITS CITY COUNCIL (INDIVIDUALLY AND COLLECTIVELY), REPRESENTATIVES, OFFICERS, OFFICIALS, EMPLOYEES, AGENTS AND VOLUNTEERS (HEREINAFTER REFERRED TO COLLECTIVELY IN THIS ARTICLE AS "CITY") FROM ANY AND ALL LIENS, CLAIMS, CHARGES, ENCUMBRANCES, DEMANDS, DAMAGES, FINES, OBLIGATIONS, SUITS, JUDGMENTS, PENALTIES, CAUSES OF ACTION, LOSSES, LIABILITIES, ADMINISTRATIVE PROCEEDINGS, ARBITRATION, OR COSTS OF ANY NATURE WHATSOEVER INCLUDING REASONABLE ATTORNEY'S FEES, AT ANY TIME RECEIVED, INCURRED, OR ACCRUED BY CITY RELATING TO THIS AGREEMENT OR ARISING FROM DAMAGE OR INJURY OF ANY NATURE WHATSOEVER WHICH MAY RESULT FROM LESSEE'S POSSESSION, USE, OCCUPANCY, MANAGEMENT, MAINTENANCE, OR CONTROL OF THE PREMISES AND/OR AIRPORT LAND AND/OR IMPROVEMENTS AND/OR THE CONDUCT OF LESSEE'S ACTIVITIES AT THE AIRPORT OR ARISING OUT OF LESSEE'S INTENTIONAL OR NEGLIGENT ACTIONS OR INACTIONS, REGARDLESS OF ANY SOLE OR CONCURRENT NEGLIGENCE OF THE CITY; PROVIDED, HOWEVER, THIS SECTION 20.1 SHALL NOT BE CONSTRUED AS REQUIRING LESSEE TO INDEMNIFY CITY WITH RESPECT TO DAMAGES OR INJURIES TO THE EXTENT THEY RESULT FROM THE NEGLIGENT ACTS OR OMISSION OF CITY, OR CITY'S OFFICERS, EMPLOYEES, OR AGENTS.

20.2 Notice of Claims: The parties shall give prompt notice of any demand, claim, lawsuit or proceeding that relates to this Agreement. If such demand, claim, lawsuit or proceeding is brought, the indemnified party shall have the right, but not the duty, to: (1) investigate and settle the demand, claim, lawsuit or proceeding and (2) participate in the defense of the demand, claim, lawsuit or proceeding.

20.3 Airport Included: In this Article, "City" also includes the Lancaster Regional Airport, Airport Board and all of its members. The indemnification provisions of this Agreement shall survive its expiration of termination.

**ARTICLE 21.
SUBLEASE AND SUBCONTRACTS**

21.1 Consent Required: Lessee shall not sublease the Premises (or any part of the Premises) or subcontract any operation or service it performs or is permitted to perform, without the prior express written consent of the City, which consent shall not be unreasonably withheld, conditioned or delayed. A lease or sublease made contrary to the requirements of this section shall be null and void. Unless otherwise stated in a written consent, a sublease is subject to all of the terms and conditions of the lease governing the land and/or improvements being sublet. In addition, the Lessee shall at all times assume total responsibility for the acts and omissions of a sublessee and/or subcontractor.

21.2 No Sublease Beyond Lease Term: Lessee shall not enter into any sublease unless the term of such sublease, including any renewal or option provisions, expires and terminates on or before the expiration date of this Agreement.

21.3 Recognition of Subleases. In the event of termination of this Lease because of any breach or default by Lessee, City shall recognize any existing subleases.

ARTICLE 22. ASSIGNMENT

No portion of this Agreement may be assigned without the prior express written consent of City, such consent not to be unreasonably withheld, conditioned or delayed. In the event this Agreement is assigned, Lessee shall remain liable to City for the remainder of the term of the Agreement to pay to City any portion of rents, fees, and/or other charges not paid by the assignee when due. The assignee shall not assign the Agreement without the prior express written consent of City and any assignment by Lessee shall contain a provision to this effect. Further, any assignee of Lessee shall be bound by the terms and conditions of this Agreement. Any assignment without City's prior express written consent shall be null and void and, at City's election, shall constitute a default.

ARTICLE 23. ENCUMBRANCES

Lessee shall have no authority, express or implied, to create any lien, charge or encumbrance upon the Premises, and Lessee shall not suffer the real property described in Exhibit A, or any improvements thereon, to be or become subject to any non-consensual lien (including mechanic's liens), charge or encumbrance whatsoever. The limitation on encumbrances provided herein shall not prevent Lessee or any sublessee from encumbering their leasehold interest in the Premises. Lessee acknowledges and understands that the Premises are owned by City, a Texas governmental entity, and as such, as a matter of law, no lien may attach to the Premises and is void.

ARTICLE 24. MORTGAGE

Lessee shall not further mortgage, pledge, assign as collateral or encumber, voluntarily or otherwise, its interest in this Agreement or the Premises without the prior express written consent of City, which consent shall not be unreasonably withheld, conditioned or delayed.

**ARTICLE 25.
HOLDOVER POSSESSION**

In the event that Lessee should hold over and remain in possession of the Premises after the expiration of the term of this Agreement or termination for any other cause, such holding over shall be deemed not to operate as a renewal or extension of this Agreement and shall create a tenancy-at-will which may be terminated at an time by the Airport Manager or Lessee by providing written notice. The rents, fees, and/or other charges paid during the holding over period shall be equal to 150% of the monthly rents, fees, and/or other charges that were being charged by City at the time the Agreement expired.

**ARTICLE 26.
INDEPENDENT ENTITIES**

Nothing in this Agreement is intended to nor shall be construed as in any way creating or establishing the relationship of partners between City and Lessee or as constituting either party as the agent or representative or employee of the other party for any purpose or in any manner whatsoever.

**ARTICLE 27.
BINDING EFFECT**

This Agreement shall be binding on and shall inure to the benefit of the heirs, legal representatives, successors and assigns of the parties hereto.

**ARTICLE 28.
SUBORDINATION**

This Agreement is subject and subordinate to the provisions of any existing or future agreements between the City and the United States or the State of Texas pertaining to the operation, management, maintenance, planning, and/or development of the Airport the terms and execution of which have been (or may be) required as a condition precedent to receiving federal and/or state funds for the development of the Airport and Lessee further agrees to conduct its operations under this Agreement in accordance with and be subject to all obligations (including grant assurances), existing and future, of City to any regulatory authority. Should this Agreement contain provisions in conflict therewith, the latter shall control, and the terms of this Agreement shall be modified accordingly.

**ARTICLE 29.
GOVERNING LAW**

This Agreement shall be deemed to have been made and shall be construed in accordance with the laws of the State of Texas. Venue shall be in Dallas County, Texas.

**ARTICLE 30.
PARAGRAPH HEADINGS**

All section, paragraph, and subparagraph headings contained in this Agreement are for the convenience in reference only, and are not intended to define or limit the scope of this Agreement or any provision therein.

**ARTICLE 31.
SEVERABILITY**

In the event that any provision in this Agreement is held to be invalid by any court of competent jurisdiction, the invalidity of any such provision shall in no way affect any other provision in this Agreement, provided that the invalidity of any such provision does not materially prejudice either City or Lessee in their respective rights and obligations contained in the valid provisions of this Agreement.

**ARTICLE 32.
COUNTERPARTS**

This Agreement has been executed in several counterparts, each of which shall be deemed an original.

**ARTICLE 33.
MODIFICATION**

Any modification, alteration, or amendment to the Agreement shall be made in writing, agreed to, and approved by both parties.

**ARTICLE 34.
ENTIRE AGREEMENT**

This Agreement contains and embodies the entire Agreement between the parties and supersedes and replaces any and all prior agreements, understandings and promises on the same subject, whether written or oral.

**ARTICLE 35.
NOTICES**

Whenever any notices required by this Agreement are to be made, given or transmitted to the parties, such notice shall be hand delivered or sent by certified mail, postage prepaid, and addressed to:

If to City:

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

If to Lessee:

Jason Newburg
886-3 Ferris Rd
Lancaster, TX 75146

With Copy to:

Robert E. Hager
Nichols, Jackson, Dillard, Hager & Smith, LLP
500 N Akard, Suite 1800
Dallas, Texas 75201

The parties may, from time to time, designate to each other in writing a different address or different entity or entities to which all such notices, communications, or payments shall be given or made.

(Signatures on Following Page)

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their proper officers, this _____ day of _____, 2012.

CITY OF LANCASTER, TEXAS

LESSEE:

By: _____
Opal Mauldin Roberston, City Manager

By: 

JASON NEWBURG.
INDIVIDUAL.

ATTEST:

Dolle K. Downe, City Secretary

EXHIBIT "A"

LEGAL DESCRIPTION OF PREMISES

[See attached]

**BUILDING 735, LOT 9
LANCASTER AIRPORT
DALLAS COUNTY, TEXAS**

BEING a 5,600 square foot (0.129 Acre) tract of land situated in the Jones Green Survey, Abstract No. 504, City of Lancaster, Dallas County, Texas, and being situated in Lot 1, Block A, Lancaster Airport Addition, an Addition to the City of Lancaster, Dallas County, Texas, according to the Map thereof recorded in Volume 97173, Page 5853, Deed Records, Dallas County, Texas, and being more particular described as follows:

COMMENCING at a 1/2 inch iron rod found at the intersection of the easterly line of Lancaster Ferris Road (60 foot wide Volume 2198, Page 518, Deed Records, Dallas County, Texas) with the south cut-back corner of the southerly line of Belt Line Road (Volume 3679, Page 514, Deed Records, Dallas County, Texas), same being the most westerly northwest corner of said Lot 1, thence South 10 degrees 57 minutes 20 seconds East along the easterly line of Lancaster Ferris Road, a distance of 1317.41 feet to a 1/2 inch iron rod found for corner, thence South 10 degrees 49 minutes 02 seconds East continuing along the easterly line of Lancaster Ferris Road, a distance of 866.19 feet for corner, thence North 79 degrees 10 minutes 58 seconds East, leaving said easterly line and passing through Lot 1, a distance of 40.15 feet for the **PLACE OF BEGINNING**;

THENCE passing through Lot 1 the following;

North 76 degrees 43 minutes 23 seconds East, a distance of 70.00 feet for corner;

South 13 degrees 16 minutes 37 seconds East, a distance of 80.00 feet for corner;

South 76 degrees 43 minutes 23 seconds West, a distance of 70.00 feet for corner;

North 13 degrees 16 minutes 37 seconds West, a distance of 80.00 feet for the **PLACE OF BEGINNING** and containing 5,600 square feet or 0.129 acre of land, more or less.

BASIS OF BEARINGS: Plat of Lancaster Airport Addition
recorded in Vol. 97173, Pg. 5853, DRDCT.

REFERENCE BEARING USED: S 10°49'02" E along an East line of Lancaster Ferris Road.


W.R. Lee

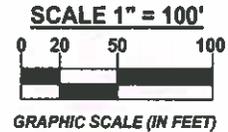
Registered Professional Land Surveyor No. 2038



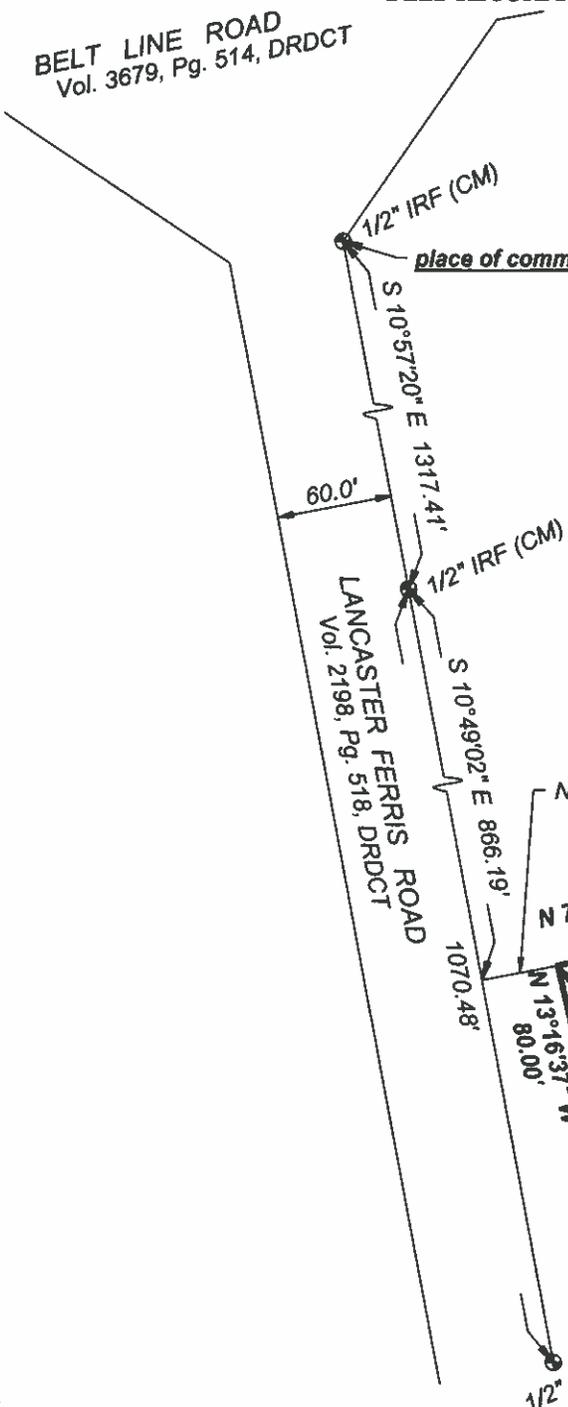
Sheet 1 of 2

**BUILDING 735, LOT 9
LANCASTER AIRPORT
DALLAS COUNTY, TEXAS**

SURVEY OF 5,600 SQUARE FEET (0.129 ACRE) TRACT OF LAND
SITUATED IN THE JONES GREEN SURVEY, ABSTRACT NO. 504
CITY OF LANCASTER, DALLAS COUNTY, TEXAS, AND BEING
SITUATED IN LOT 1, BLOCK A, LANCASTER AIRPORT ADDITION
RECORDED IN VOLUME 97173, PAGE 5853
DEED RECORDS, DALLAS COUNTY, TEXAS

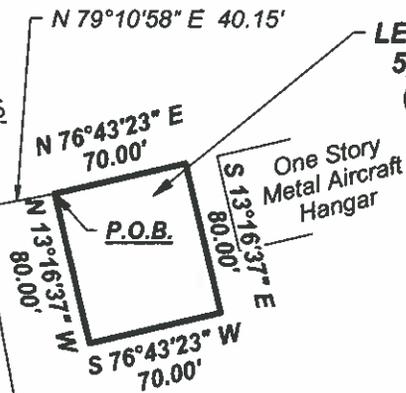


BELT LINE ROAD
Vol. 3679, Pg. 514, DRDCT



LOT 1, BLOCK A
LANCASTER AIRPORT ADDITION
VOL. 97173, PG. 5853, DRDCT

LEASE SPACE
5,600 SQ FT
(0.129 AC)



BUILDING 735, LOT 9
LANCASTER AIRPORT
DALLAS COUNTY, TEXAS

LEGEND:

- ⊙ = survey monument
- (CM) = controlling monument
- MRDCT = Map Records Dallas County Texas
- DRDCT = Deed Records Dallas County Texas

BASIS OF BEARINGS: Plat of Lancaster Airport Addition
recorded in Vol. 97173, Pg. 5853, DRDCT.
REFERENCE BEARING USED: S 10°49'02" E along an
East line of Lancaster Ferris Road.

W.R. Lee

W.R. Lee
Registered Professional Land Surveyor



Shields and Lee Surveyors

1421 Ferndale Avenue
Dallas, Texas 75224
Phone (214) 942-8496



Job No. X25833
October 19, 2011

Sheet 2 of 2

EXHIBIT "B"

**MINIMUM STANDARDS FOR COMMERCIAL AND NONCOMMERCIAL
OPERATORS AT LANCASTER REGIONAL AIRPORT**

[See attached]



MINIMUM STANDARDS

FOR

COMMERCIAL AND NONCOMMERCIAL OPERATORS

AT

LANCASTER REGIONAL AIRPORT
LANCASTER, TEXAS

OCTOBER 2011

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Section 7 – Fuel, Delivery, Storage, Sales

Section 8 – Doing Business with the Airport

Section 9 – Leasing

Appendix A – Definitions

SECTION 1
GENERAL STANDARDS

Section 1 – General Standards

- GS-1. **Authorization of Implementation of Minimum Standards**
- GS-2. **Definitions:** Appendix A to these Minimum Standards contains definitions of terms commonly used in Rules and Regulations and in the Minimum Standards for Lancaster Municipal Airport. These definitions are subject to review, and possible modifications from time to time. The City reserves the option of adding to, deleting or changing the definitions if deemed necessary or prudent.
- GS-3. **Airport Open on Nondiscriminatory Basis:** Subject only to the provisions hereof, facilities on the airport shall be open to all classes of users on fair and not unjustly discriminatory bases. What constitutes discrimination shall, in the final analysis, be determined by the FAA, the determination of which shall be final.
- GS-4. **Compliance with Ordinances, Laws, Rules and Regulations:** All persons operating on the airport shall comply with applicable state and federal laws, rules and regulations and local ordinances.
- GS-5. **Hangar Space:** Except as otherwise provided in this section, no person may offer for hire on the airport any hangar or shelter for aircraft, related service equipment, or surface vehicle unless he has leased premises from the City as a GFBO or SFBO.
- GS-6. **Compliance with Health, Fire, Construction, and Zoning Codes:** All persons utilizing the airport shall comply with the requirements of all City health, fire, construction, and zoning codes applicable to the airport and its operation.
- GS-7. **Inspections:** To the extent necessary to protect the rights and interests of the Owner or to assure compliance with these minimum standards or a lease, the Airport Manager, City Manager or Designee, or any representative of the FAA or state agency having jurisdiction over the Airport shall have the right to enter and inspect, during reasonable hours, structures, premises, facilities, and improvements on the airport to determine compliance with all requirements of these standards and any applicable lease provisions.
- GS-8. **Surface Vehicles, Limits on Weight:** No vehicle with dual-wheeled axle loadings of more than 25,000 pounds is allowed on any paved or treated aircraft movement or parking areas.
- GS-9. **Civil Rights:** Persons using this airport shall comply with all provisions of the Civil Rights Act of 1964 and implementing Part 21 of the Regulations of the U.S. Department of Transportation, and are hereby specifically prohibited from discrimination against any group or individual on the basis of race, creed, color, national origin, or sex.
- GS-10. **Surface Vehicles on Airport:** Except to the extent needed to service or load aircraft, no private or commercial vehicle shall be driven or parked on any other than designated roads or auto parking areas.
- GS-11. **Complaints:** Complaints against any operator or his employee for violations of these standards shall be in writing alleging the infraction, date, persons, and any witnesses thereto and signed by the complainant and filed with the Airport Manager, City Manager, or Designee.

SECTION 2
COMMERCIAL OPERATIONS

Section 2 – Commercial Operations

- CO-1. **Commercial Operations:** No person may conduct any commercial activity or offer or provide any goods or services for compensation to the public at the airport unless that person is a General Fixed-Base Operator (GFBO) or a Specialty Fixed-Base Operator (SFBO) at the airport.
- CO-2. **General:** No person may conduct or provide for compensation to the public any goods, services, or equipment on the airport unless qualified as a GFBO or SFBO. Nothing contained herein or anywhere else in these standards will prohibit partners, co-owners, or members of legitimate nonprofit clubs (as limited elsewhere in these standards) from providing, servicing, or using their own flight equipment.
- CO-3. **General Fixed-Base Operator (GFBO):** As used herein, "GFBO" or General Fixed-Base Operator shall mean a primary commercial operator authorized to do business or to provide goods or services to the public for compensation on the airport and who meets at least the minimum requirements set out hereinafter.

Any person desiring to become a GFBO shall be required to lease either the (but never more than one) GFBO areas, which may be vacant at the time, or an equivalent acreage of land located elsewhere on the airport. If another GFBO area is to be developed for the first time, the person obtaining the lease/operating rights shall, in addition to other requirements herein, at his own expense construct at a location shown/to be shown on the ALP a paved aircraft parking apron of at least 30,000 square feet with at least a 10-year design life and have a 30,000 pound single wheel configuration aircraft load rating.

No person may operate as a GFBO unless that person has received and holds a currently valid GFBO Contract and a Certificate of Occupancy from the City.

A. Requirements

1. GFBO will lease at a rate stipulated by City Council at a compatible GFBO area on the airport of the same acreage. GFBO's shall be required to lease a minimum of one acre of GFBO areas as are designated.
2. GFBO, within one (1) year of lease agreement date, plus any extensions the City may grant, will commence construction of and within two (2) years of lease agreement date, plus any extension the City may grant, completes a fully equipped and operational facility required by these standards. If any GFBO fails to do so, Owner may on his motion, or on receiving from an otherwise qualified person a bona fide firm offer to lease and operate a GFBO on the tract shall, unilaterally cancel the GFBO lease and offer the tract for lease to others under the procedures set out hereinafter.
3. GFBO will provide prompt line service with at least one person on duty at all times from 7:00 am to 7:00 pm, 7 days a week and safely and courteously supply fuel, starting aid, and related light maintenance to aircraft and/or service vehicles on the airport.
4. GFBO will provide, at all times, at least two fully equipped positions on the paved parking apron for itinerant aircraft usage.
5. GFBO will provide (inside the pilot lounge) a pay or free telephone for use of the pilots during posted hours of operation.

6. GFBO will provide, for sale, current aircraft navigation maps or charts (Sectionals or WAC's, and Low-Altitude En Route) for Texas and any other States GFBO determines necessary.
7. GFBO will provide, at all times, a food vending and soft drink machine accessible to airport users.
8. GFBO will provide (at prominent and highly visible locations on or in front of the hangar/pilot lounge) a fire extinguisher of minimum capacity required under local fire codes for fighting fuel fires in/on/around aircraft normally using airport.
9. GFBO will possess and maintain public liability and premises operators' insurance coverage protecting both GFBO and City against as prescribed in Section 5 here to.
10. GFBO will lease space for and provide properly equipped tie-down locations for all GFBO owned/operated aircraft, all aircraft being serviced at GFBO, and at least four itinerant aircraft.

CO-4. Specialty Fixed-Based Operator (SFBO): A Specialty Fixed Based Operator (SFBO) is a person other than a GFBO who offers and/or provides for compensation to the public goods, services, or facilities on or for delivery on or in the vicinity of the Airport, including one or more of the following activities:

- A. Freight service;
- B. Aircraft engine/air frame/accessory modifications;
- C. Aircraft avionics installation/ modification/repair;
- D. Major and/or minor aircraft power plant/accessory repair;
- E. Major and/or minor aircraft air frame/accessory repair;
- F. Ground schools for pilots or mechanics;
- G. Flight schools providing for at least single-engine, private pilot (VFR) ratings within a reasonable length of time, and own or possess under exclusive lease at least one aircraft, IFR-certified, which must be based at the Airport and kept properly certified, and in top mechanical and physical condition;
- H. Helicopter pilot training;
- I. Other special flight instructions;
- J. Aerial photography;
- K. Air ambulance;
- L. Covered and uncovered aircraft parking;
- M. Other specialty activities not identified;
- N. Contract fuel sales;
- O. Sales of aircraft.

If an SFBO offers or provides contract fuel sales, one or more other activities must also be provided.

No person may operate as an SFBO unless that person has received and holds a currently valid Certificate of Occupancy from the City.

Conditions which must be met for the City to issue a written authorization to function as a SFBO are as follows:

- A. The person must have:

1. A lease with sufficient and appropriate space, including parking space, to conduct the functions of the SFBO as it has represented it will perform for a period of a minimum of twelve (12) months for either unimproved airport property or improved airport property with City-owned facilities on it, said lease having been recommended by the Airport Advisory Board and approved by the City Council (aircraft storage hangars and tie-down spaces shall not be used for a SFBO operation); or
2. A sublease from a GFBO or another SFBO with sufficient and appropriate space to conduct those functions as an SFBO which the Airport Advisory Board and City Council have approved and shall set out in the written authorization.
3. The person must make a request to the Airport Advisory Board and City Council, in writing, setting the specific functions that they will perform as an SFBO (the City shall limit the written authorization issued to those functions set out in the request).

CO-5. Aircraft Sales:

- A. **New Aircraft Sales:** A new aircraft sales SFBO engages in the sale of new aircraft (either on a retail or wholesale basis) of an aircraft manufacturer or used aircraft; and will provide such repair, services, and parts as necessary to meet any guarantee or warranty on aircraft sold.
- B. **Used Aircraft Sales:** A used aircraft sales SFBO engages in the purchasing and selling of used aircraft. These SFBOs may provide such repair, services, and parts as necessary to support the operation of aircraft sold. Some of the requirements for the sale of new aircraft may not be appropriate to the sale of used aircraft because of each aircraft's unique operational purpose.
- C. The aircraft sales SFBO shall provide necessary and satisfactory arrangements for repair and servicing of aircraft, but only for the duration of any sales guarantee or warranty period. The SFBO who is engaged in the business of selling new aircraft shall have available a representative example of the product(s), as required by the manufacturer.
- D. The SFBO shall have in his employ, and on duty during the appropriate business hours trained personnel in such numbers as are required. The SFBO shall also maintain, during all business hours, a responsible person in charge to supervise the operations in the leased area with the authorization to represent and act for and on behalf of the SFBO, and to provide appropriately rated pilots for aircraft demonstrations and make and model training in aircraft sold.
- E. At least one aircraft storage space (tie-down or hangar) shall be leased for each aircraft in inventory.

CO-6 Airframe, Engine and Accessory Maintenance and Repair:

- A. An aircraft airframe, engine, and accessory maintenance and repair SFBO provides one or a combination of airframe, engine and accessory overhauls and repair services on aircraft up to and may include business jet aircraft and helicopters. This category shall also include the sale of aircraft parts and accessories.
- B. The SFBO shall provide sufficient equipment, supplies, manuals and availability of parts equivalent as required for certification by the FAA.

- C. The SFBO shall have in his employ, and on duty during the appropriate business hours, trained personnel in such numbers as are required to meet the Minimum Standards set forth in this category of services in an efficient manner, but never less than one person currently certificated by the FAA with ratings appropriate to the work being performed and who holds an airframe, power plant or an aircraft inspector rating.
- D. At least two aircraft storage spaces (tie-downs or hangars) shall be leased for such SFBOs operations.

CO-8. Aircraft Lease or Rentals:

- A. An aircraft lease or rental SFBO engages in the rental or lease of aircraft to the public.
- B. The SFBO shall have available for rental, either owned or under written lease to SFBO, a certified and currently airworthy aircraft.
- C. The SFBO shall make available during business hours an appropriately rated and current FAA certified flight instructor for aircraft check flights as required.
- D. At least one tie-down or adequate hangar space shall be leased for each owned or leased aircraft.

CO-9. Flight Training:

- A. A flight training SFBO engages in instructing pilots in fixed and/or rotary wing aircraft, and provides dual flight instruction and related ground school instruction as necessary preparatory to taking written examinations and flight tests appropriate to the pilot certificates and ratings sought by the applicant.
- B. The SFBO shall have available for use in flight training, either owned or under written lease to SFBO, a certified and currently airworthy aircraft, which must be at least a two-place aircraft suitable for private pilot training.
- C. The SFBO shall employ at least one FAA certified flight instructor to provide the type of training offered.
- D. At least one tie-down or adequate hangar space shall be leased for each owned or leased aircraft.

CO-10. Aircraft Fuel and Oil Service:

- A. An aircraft fuel and oil service SFBO provides aviation fuels, lubricants and other services supporting itinerant aircraft operations and operations of aircraft based on the airport.
- B. Except as otherwise provided in any agreement between the SFBO and the City, an SFBO conducting aviation fuel and oil sales or service to the public on the Airport shall be required to provide the following services and equipment:
 - 1. Appropriate grades of aviation fuel.
 - a. 100 LL
 - b. Jet A
 - 2. An adequate inventory of generally accepted grades of aviation engine oil and lubricants.
 - 3. Fuel dispensing equipment, meeting all applicable Federal, State, and City Authority requirements for each type of fuel dispensed.

4. Proper equipment for aircraft towing, inflating aircraft tires, washing aircraft windscreens, and recharging aircraft batteries.
5. The safe storage and handling of fuel in conformance with all Federal, State, County and City requirements and fire codes pertaining to safe storage and handling of fuel.
6. The lawful and sanitary handling and timely disposal, away from the Airport, of all solid waste, regulated waste, and other materials including, but not limited to, used oil, solvents, and other regulated waste. The piling and storage of crates, boxes, barrels, and other containers will not be permitted within the leased premises.
7. Adequate grounding wires will be installed, continuously inspected and maintained on all fueling equipment, to reduce the hazards of static electricity.
8. An adequate supply of properly located fire extinguishers and other precautions and/or equipment required by applicable fire codes.
9. Unless provided by the City, the SFBO shall have a fixed fuel storage system that shall contain safety fixtures and filtration systems to ensure airline-type quality. The system shall be required to have at least 3000 gallons of storage for each type of fuel the SFBO is required to provide. The storage system must include adequate fuel spill prevention features and containment capabilities, together with an approved fuel Spill Prevention Countermeasures and Control Plan (SPCC), as applicable.
10. The prospective SFBO shall have his premises open and services available at least 8 hours per day, 7 days a week, and shall make provision for an office attendant to be on duty at all times during the required operating hours, unless otherwise negotiated with the City.
11. A designated parking space for each fueling vehicle shall be leased.
12. SFBO will be required to comply with paragraph CO-4.

CO-11. Avionics, Instruments or Propeller Repair Stations:

- A. An avionics, instrument, or propeller repair station SFBO engages in the business of and provides a shop for the repair of aircraft avionics, propellers, instruments, and accessories for general aviation aircraft. This category may include the sale of new or used aircraft avionics, propellers, instruments, and accessories. The SFBO shall hold the appropriate repair station certificates issued by FAA for the types of equipment he plans to service and/or install.
- B. The SFBO shall have in his employ and on duty during the appropriate business hours, trained personnel in such numbers as are required to meet the Minimum Standards set forth in this category in an efficient manner but never less than one person who is an FAA rated radio, instrument or propeller repairman.
- C. At least one aircraft storage space (tie-down or hangar) shall be leased.

CO-12. Aircraft Charter and Air Taxi:

- A. An air charter or air taxi SFBO engages in the business of providing air transportation (persons or property) to the general public for hire, on an unscheduled or scheduled basis under Code of Federal Regulations CFR 14 Part 135 of the Federal Aviation Regulations.

- B. The SFBO shall provide, either owned or under written lease, type, class, size and number of aircraft intended to be used by the SFBO, not less than one single-engine four-place aircraft which must meet the requirements of the commercial air taxi certificate held by the SFBO.
- C. The SFBO shall have in his employ and on duty during the appropriate business hours trained personnel in such numbers as are required to meet the Minimum Standards in an efficient manner but never less than one person who is an FAA certified commercial pilot and otherwise appropriately rated to permit the flight activity offered by SFBO.
- D. At least one tie-down or adequate hangar space shall be leased for each owned or leased aircraft.

CO-13. Aircraft Storage:

- A. Aircraft storage SFBO engages in the rental of conventional hangars or multiple T-hangars.
- B. The conventional hangar SFBO shall have his facilities available for the tenant's aircraft removal and storage on a continuous basis.
- C. The SFBO shall demonstrate that it can provide sufficient personnel trained to meet all requirements for the storage of aircraft with appropriate equipment.

CO-14. Specialized Commercial Flying Services:

- A. Specialized commercial flying services SFBO engages in air transportation for hire for the purpose of providing the use of aircraft for the following activities:
 1. Non-stop sightseeing flights that begin and end at the same airport.
 2. Aerial advertising.
 3. Aerial photography or survey.
 4. Power line or pipeline patrol.
 5. Fire fighting.
 6. Any other operations not specifically excluded from Part 135 of the Federal Aviation Administration Regulations.
- B. All SFBO's shall demonstrate that they have the availability of aircraft suitably equipped for the particular type of operation they intend to perform.
- C. The SFBO shall have in his employ, and on duty during appropriate business hours, trained personnel in such numbers as may be required to meet the Minimum Standards herein set forth in an efficient manner.

CO-15. Multiple Services:

- A. A multiple services SFBO engages in any two or more of the aeronautical services for which Minimum Standards have been herein provided.
- B. The SFBO shall comply with the aircraft requirements, including the equipment thereon for each aeronautical service to be performed except that multiple uses can be made of all aircraft owned or under lease by SFBO.
- C. The SFBO shall have in his employ, and on duty during the appropriate business hours, trained personnel in such numbers as are required to meet the Minimum Standards for each aeronautical service the SFBO is performing as herein provided. Multiple responsibilities may be assigned to meet the personnel requirements for each aeronautical service being performed by the SFBO.
- D. The SFBO providing three (3) or more services shall lease a sufficient number of aircraft tie-down spaces or hangar space to meet the combined needs of the operations proposed.

CO-16. Flying Clubs: See requirements for Flying Clubs in Airport Rules and Regulations, and in Minimum Standards Section NC-1.

CO-17. SFBO Subleasing from another SFBO: Prior to finalizing an agreement, the lessee and sub-lessee shall obtain the written approval of the Airport Advisory Board and City Council for the business proposed. Said sublease shall define the type of business and service to be offered by the sub-lessee SFBO.

The sub-lessee SFBO shall meet all of the Minimum Standards established by the City for the categories of services to be furnished by the SFBO. The Minimum Standards may be met in combination between lessee and sub-lessee. The sublease agreement shall specifically define those services to be provided by the lessee to the sub-lessee that shall be used to meet the standards.

CO-18. Environmental Issues: Any SFBO, person, party, firm or corporation operating on this airport must comply with all federal, state and local environmental laws, rules, and regulations.

CO-19. Aerial Applicators:

- A. No person may use the airport for loading, unloading, air frame/hopper/tank wash down, other than engine repair of any aircraft used to apply any insecticide, fungicide, rodenticide, or herbicide unless he first gets written permission from the City. The City shall not grant such a permit unless the applicant follows procedures for and obtains an SFBO permit and, in addition, agrees to and (if not provided by a GFBO-lesser) actually does provide at his own expense a paved work area with adequate provisions to collect all debris, liquids, and other materials from such aircraft and deposit same in a container and dispose of same in a manner approved by the Federal Environmental Protection Agency, Texas Department of Health, Texas Department of Water Resources, Texas Department of Agriculture, and code of ordinances and regulations of City of Lancaster and Dallas County.
- B. The aerial applicator shall bear full financial and legal responsibility for remediation and clean up of spills or other environmental contamination resulting from its operation.

SECTION 3
NON-COMMERCIAL OPERATIONS

Section 3 – Non-Commercial Operations

NCO-1. Flying Clubs/Cooperative and/or Partnership Ownership of Aircraft: Flying clubs, cooperative or partnership ownership operation of aircraft based on the airport are specifically authorized, provided:

- A. The flying club, association, partnership, or corporation is composed only of natural persons and is organized on a not-for-profit or solely cost-sharing basis.
- B. The flying club, association, partnership or corporation will provide and maintain public liability insurance as prescribed in Section 5.
- C. The flying club, association, partnership, or corporation leases, rents, or otherwise provides on the airport hangar space or tie-down space for each aircraft operated from the airport.
- D. Training, if provided at all, is provided only to its members.
- E. The flying club, association, partnership, or corporation registers with the Airport Manager, City Manager or Designee on the first business day of each year and provides the required copy of public liability insurance policy, a listing (with "n" numbers) of aircraft based and used at the airport, and a list of all members authorized to operate such aircraft.
- F. The flying club, association, partnership, or corporation and all members thereof otherwise operate in accordance with applicable federal and state law/regulations and these standards, and have written authorization from the Airport Manager, City Manager, or Designee to operate from the airport.

SECTION 4
LICENSES, CERTIFICATES, AUTHORIZATION

Section 4 – Licenses, Certificates, Authorizations

LCA-1. Licenses, Certifications, and Authorizations: No person shall operate on or from the airport (whether for compensation or not) unless he possesses or can confirm all licenses, certificates, and authorizations required by these standards and the various governmental authorities for such operations.

SECTION 5
INSURANCE

Section 5 – Insurance

- I-1. **Insurance:** Any public liability insurance policy required under these standards shall be carried with a Texas-licensed company. Also, a certificate showing that said insurance is in force, with the City as a co-insured and providing for a 30-day notice of cancellation, shall be furnished to the Airport Manager, City Manager or Designee.
- I-2. **Insurance on all Structures:** At all times during the term of the lease of land on the airport, the lessee, at his own expense, shall maintain with a Texas-licensed casualty company insurance on all structures on the leased property at the airport protecting the lessee and the Owner, as their interests may appear, against loss of damage by fire, accident, wind storm, hail, explosion, or smoke. Should loss occur and lessee for any reason abandon the lease, all proceeds shall (except to the extent otherwise claimable by the structure's mortgagee) become the property of the City.
- I-3. **Schedule of Minimum Insurance Requirements:**
- A. GFBO or SFBO**
- | | |
|--|----------------------------|
| 1. Commercial general aviation liability policy with coverage for premises. | \$500,000 CSL ¹ |
| 2. Hangar Keeper's Liability – Value of Aircraft in care, custody and control. | \$500,000 CSL |
- B. AIRFRAME AND POWERPLANT REPAIR, AVIONICS, INSTRUMENTS, OR PROPELLER REPAIR**
- | | |
|--|---------------|
| 1. Commercial general aviation liability policy with coverage for premises. | \$500,000 CSL |
| 2. Hangar Keeper's Liability – Value of Aircraft in care, custody and control. | \$500,000 CSL |
- C. AIR TAXI AND/OR AIRCRAFT CHARTER**
- | | |
|--|-----------------|
| 1. Commercial general aviation liability policy with coverage for premises and operations. | \$1,000,000 CSL |
| 2. Aircraft liability with coverage for bodily injury and property damage, including passengers. | \$1,000,000 CSL |
- D. AIRCRAFT RENTAL, FLIGHT TRAINING, COMMERCIAL FLYING CLUB**
- | | |
|--|-----------------|
| 1. Commercial general aviation liability policy with coverage for premises and operations. | \$1,000,000 CSL |
| 2. Aircraft liability with coverage for bodily injury and property damage, including passengers. | \$1,000,000 CSL |
- E. SPECIALIZED COMMERCIAL AERONAUTICAL ACTIVITIES, AIRCRAFT SALES**

¹ CSL = Combined Single Limit.

1. Commercial general aviation liability policy with coverage for premises and operations. \$1,000,000 CSL

2. Aircraft liability, with coverage for bodily injury and property damage, including passengers. \$1,000,000 CSL

F. NON-COMMERCIAL FLYING CLUBS

1. Commercial general aviation liability policy with coverage for premises and operations. \$1,000,000 CSL

2. Aircraft liability, with coverage for bodily injury and property damage, including passengers.

G. AREIAL APPLICATORS

1. Commercial general aviation liability policy with coverage for premises and operations. \$1,000,000 CSL

H. AIRCRAFT HANGAR OPERATOR

1. General Liability Policy \$1,000,000 CSL

2. Hangar Keeper's Liability – Value of Aircraft in care, custody and control

I-4 SPECIAL CONDITIONS

A. Any operator fueling aircraft shall have a minimum \$1,000,000 CSL general liability policy with the coverage specified in the Lancaster Municipal Airport Rules and Regulations.

B. Any Operator using service vehicles on the Airport premises in support of its operations shall maintain additional coverage of Motor Vehicle Liability in the amount of \$500,000 CSL.

SECTION 6
BUILDING/IMPROVEMENT STANDARDS

Section 6 – Building/Improvement Standards

BIS-1. Buildings and Structures: All buildings and structures owned or used by operators on the airport are considered as “public buildings” and shall comply with Federal, State and local laws, codes and regulations.

BIS-1a. Maintenance of the Airport: Each lessee of land or facilities on the airport shall keep his leased area/facilities neat (freshly painted where appropriate), trimmed, clean, free from any type of hazard of life, limb, or property, free from junk and debris, and in an aesthetically pleasing condition. Maintenance of areas not leased shall be the responsibility of the City. No aircraft or other vehicle may be parked or kept at the airport unless it is kept operable and in sound structural and mechanical condition. Aircraft not meeting this test; i.e., those undergoing repair or appearing to be “junk”, unusable, or unsightly, shall promptly be repaired or removed from the airport within 10 days written notice from Owner. Failure to do so after notice shall be considered a breach of these standards.

BIS-2. Buildings and Structures Standard: No person may construct, suffer, or maintain any structure or shelter, either permanent or temporary, unless specifically authorized by the City. Except as noted hereinafter, in no event shall the City authorize construction, erection, or continued presence of a structure unless it is of permanent metal and/or masonry construction, paved floors, aesthetically pleasing, and at a minimum, meet building, fire, and other codes or standards applicable in the City and/or at the airport, provided, however, that the City may on a case by case basis make exception to this policy insofar as applicable to GFBO's during the first six months the GFBO is open if first determined that such action is necessary to provide a minimal level of service to airport users.



SECTION 7
FUEL DELIVERY, STORAGE, SALES



Section 7 – Fuel Delivery, Storage, Sales

FDSS-1. Fire Regulations:

- A. Every person going upon or using the airport or its facilities in any manner shall abide by the International Fire Code 2006 (Ordinance 2010-12-40 adopted 12/13/10) and shall exercise the greatest care and caution to avoid and prevent fire.
- B. Aircraft shall not be fueled while the engine is running or while in a hangar or other enclosed place.
- C. Smoking or open flames within fifty (50) feet of any aircraft or fuel truck are prohibited.
- D. No one shall smoke, ignite a match or lighter in any building, except in offices, waiting rooms or buildings where specially permitted by the City Manager, Airport Manager, City Manager or Designee.
- E. Hangar entrances shall be kept clear at all times. No vehicles, parts, boxes, crates, cans, bottles, paper or other litter shall be permitted to accumulate in or about a hangar.
- F. The floors in all buildings shall be kept clean and free from oil, and no volatile, flammable substance shall be used for cleaning the floors.
- G. In all matters relating to aircraft fueling safety the provisions of NFPA Manual 407 "Aircraft Fuel Servicing, 2001", published and available from the National Fire Protection Association, Inc., 407 Atlantic Avenue, Boston, Massachusetts, 02210, shall prevail.

FDSS-2. Fueling of Aircraft – Safety Regulations:

- A. All aircraft shall be fueled in accordance with current airport Rules and Regulations.
- B. All aircraft will be properly grounded when being serviced with fuel.

FDSS-3. Fueling of Aircraft – Fuel Flowage Fees:

- A. The fuel flowage fees to be paid by lessees to the City on fuel delivered to lessees at Lancaster Regional Airport shall be as designated by the City Council.

SECTION 8
DOING BUSINESS WITH THE AIRPORT

Section 8 – Doing Business with the Airport

DB-1. Selection of Commercial/Operators: Where the City has more than one fully qualified applicant interested in commercial operations on a particular tract or facility on the airport, the City shall select the applicant in a fair and nondiscriminatory manner. Procedures for application/selection are given hereinafter.

DB-2. Selection of GFBO's/SFBO's:

- A. Following sufficient notice that applications for GFBO/SFBO lease/rights are to be accepted, on the designated day, (not less than 15 days following publication) Owner will review all applications to identify those applicants who meet the minimum requirements set out herein for GFBO/SFBO's. Application should address each of the relevant requirements and such other matters as may be pertinent to each proposal (application).
- B. The City, acting through the Airport Advisory Board, shall evaluate each application (proposal) on each of the following criteria:
 - 1. Financial integrity and stability – sufficient fiscal and credit to fulfill all requirements and obligations.
 - 2. Ownership experience – The aviation related experience of the principal(s) submitting an application.
 - 3. Management experience – Relevant managerial competence of the manager named in the application.
 - 4. Diversity and breadth of services proposed.
 - 5. Track record of the applicant in similar business endeavors.
 - 6. Quality of other enterprises operated by the applicant (either currently or in the past).
 - 7. Comprehensiveness and quality of applicants to become GFBO/SFBO.
 - 8. Miscellaneous attributes or intangibles – (must be specifically enumerated with support justifications).
- C. A recommendation by the Airport Advisory Board will be presented to the City Council for award (by resolution) of a GFBO/SFBO(s).
- D. All applicants will be advised in writing by the City Secretary of the Council of Award. The person(s) selected must, within five (5) days of the notice of award, confirm in writing his willingness to accept such award and to be bound by all Rules & Regulations, Minimum Standards and applicable FAA regulations. Should any person awarded GFBO/SFBO status decline to accept, the next person(s) will then be offered said GFBO/SFBO status until all vacant GFBO/SFBO positions are filled or until the list is depleted of acceptable applicants.

SECTION 9 LEASING

Section 9 – Leasing

- L-1. **Conflicts in Lease:** Should any portion of these Standards conflict with the conditions of any lease agreement executed by the City, the conditions in the executed lease agreement will take precedent over these Standards for the remainder of the lease term or renewal thereof.
- L-1a. **Leases/Operating Rights Nontransferable:** Except to the extent needed for a mortgagee to protect its legitimate interest in a leasehold and improvement thereon, land areas and/or facilities used or needed shall be held pursuant to lease only and shall not be transferable unless authorized in writing by the City.
- L-2. **Exclusive Rights:** No person may be granted in fact or by written instrument any exclusive right prohibited by Section 308 (a) of the Federal Aviation Act of 1958. Determination of the existence of a prohibited exclusive right shall in the final analysis be made by the FAA, and such determination shall be final. If FAA determines any provision of a written instrument or a practice in fact constitutes a grant of a prohibitive exclusive right, such provision or grant shall be deemed null and void for all purposes.
- L-3. **Use of Land within the Airport:** Property within the airport may be used only for aeronautical purposes, provided, however, that nothing herein shall prohibit a secondary non-aeronautical use of such land if 1) the primary aeronautical need is not interfered with; 2) it is not in violation of FAA regulations; 3) it is specifically authorized by the City and; 4) if such secondary use will benefit the airport or improve its maintenance or development is compatible with aeronautical purposes.
- L-4 **Ground Lease Procedures:** All Ground Lease Proposals shall use the following procedures and timing.

A request shall be made to the Airport Manager, City Manager or Designee, who will provide the applicant with instructions on the information that is needed to proceed with the request.

The following shall be required for all applications to lease:

1. Concept plan including preliminary sketches of construction and infrastructure build out.
2. Timeline to complete the project.
3. Intended aeronautical use of project, and a preliminary analysis of the project's impact on airport traffic and/or noise.

The Airport Manager, City Manager, or Designee will review the request for compliance with ALP, AMP, Airport Rules & Regulations, and Minimum Standards. The Airport Manager, City Manager, or Designee may at this time request changes to the proposed lease if above listed compliance factors are not met.

The Airport Manager, City Manager, or Designee and potential lessee will present the lease proposal at a regularly scheduled Airport Advisory Board meeting. The Airport Advisory Board may defer the proposed lease to the next scheduled Airport Advisory Board meeting if additional information or changes to the proposal are required.

All lease proposals will be forwarded to the City Council with a recommendation from the Airport Advisory Board for the next available meeting.

Applicant may appeal any Airport Advisory Board decision directly to the City Council. However, applicant may not use a direct appeal to City Council to bypass the Airport Advisory Board process.

- L-5. **Fees Due from Operators at/on Airport:** The following shall be due and payable to the City on

the last day of each calendar month for charges incurred during the calendar month next proceeding, as follows

- A. Sums due under any leases of land or land and improvements.
- B. Sums due under any agreement granting operating rights at or from the airport.

L-5a. Terminal Apron Leasing: No related persons/entities (legally, by third degree of consanguinity or affinity, or otherwise) may be granted GFBO rights on the entire terminal apron or on all or substantially all the land contiguous thereto.

L-6. Lease Cancellation/Reduction in Scope: Land leased on the airport must be promptly, effectively, and reasonably fully utilized. Any person leasing vacant land on the airport must commence construction of minimum facilities, as described in his lease with the City, no later than six (6) months from the date of the lease agreement, provided however, that the City may grant such extensions as the City may deem necessary. The facilities shall be completed not later than one (1) year after construction commences.

Total Cancellation: If any lessee fails to promptly and effectively utilize any of the leased premises, Owner may lease the tract to another qualified person in accordance with procedures set out elsewhere herein.

Partial Cancellation: If a lessee after such two (2) year period (and any extension that may be granted by the City) is using only part of the area leased to him, the City may, or on receiving from an otherwise qualified person a bona fide firm offer to lease the unused portion, unilaterally reduce the lease to the area being actually used, provided, however, that in no event (except where lease is totally cancelled) will a GFBO's or a SFBO's lease be reduced below the minimum required acreage for such operators.

L-6a. Revocation of Leases/Grants: The City, in its discretion, shall have the right to terminate any lease, license, or agreement authorizing any person to conduct any service or activity and/or to revoke any lease on any land or facility on the airport for any cause or reason provided by these standards or by law and, in addition, upon happening of one or more of the following:

- A. Filing of a petition of voluntary or involuntary bankruptcy by operator.
- B. The making by the person of any general assignment for the benefit of creditors.
- C. The abandonment or discontinuance of any permitted operation at the airport by any person or failure to conduct any service, operation, or activity which the lessee or person has agreed to provide under the terms of his contract.
- D. The failure of a person to promptly pay the City, when due, all rents, charges, fees, or other payments which are payable to the City in accordance with applicable leases or otherwise due hereunder.
- E. The failure of the person to remedy any default or breach or violation of these minimum standards by him or his employees within 30 days after notice from the Airport Manager, City Manager or Designee.
- F. Violation of the Minimum Standards or Rules and Regulation of the Airport, or failure to maintain current FAA licenses required for his operation.
- G. Intentionally or knowingly supplies the Owner with false or misleading information or misrepresents any material fact on his application or documents or in statements made to or before representatives of City.

- H. Operates or allowing any employee to operate an aircraft or any other equipment in a dangerous or hazardous manner which could endanger the general public or any member thereof in any manner.

L-7 Lease Extension or Renewal:

- A. The City may grant a lease extension renewal to any existing lease providing that the lessee meets the following conditions:
 - 1. Prior leasing history has been satisfactory in all respects and no outstanding obligations or debt to the City exists.
 - 2. The City staff, Airport Advisory Board and City Council approved of the extension or renewal terms
 - 3. The lessee must apply for the extension or renewal following the same procedure as for a new lease at least 90 days prior to the effective date requested for extension as renewal.
 - 4. The terms and conditions for the extension or renewal must be agreed upon by the City and the lessee prior to City approval of the request.

- L-8. **Rates and Charges:** All rates and charges imposed by the City upon any operator or user or by any commercial operator or user or other operators on the airport shall be uniformly applicable to all other such operators/users which make the same or similar use of the airport facility, provided, however, that nothing herein shall prevent granting of quantity discounts if such discounts are granted on a nondiscriminatory basis.

- L-9. **Lease Charges/Escalation Clauses/Terms:** All unimproved airport property shall be leased at an amount per square foot, per year as set by the City. The term of each lease for use of unimproved airport property shall be set by Owner, not to exceed thirty (30) years with up to two five (5) year options. Every lease of airport property shall be deemed to contain an automatic escalation clause requiring adjustment of lease charges at the end of each five (5) year period by the cumulative increase (since last adjusted) in the latest Consumer Price Index as published by the Bureau of Labor Statistics prior to lease anniversary and each five (5) years thereafter.

- L-10 **Late Charges:** The City may impose late charges as penalty for failure of tenants or lessees to make payments owed to the City in a timely manner. The amount of the penalty will be determined by the City.

APPENDIX A DEFINITIONS

Access taxiway: A taxiway that provides access to a particular location or area.

Active based aircraft: Aircraft that have a current Airworthiness Certificate and are based at an airport.

Actual runway length: The length of full-width usable runway from end to end of full strength pavement where those runways are paved, and which meet FAA criteria.

Advisory Circular (AC): FAA publications consisting of all non-regulatory material of a policy, guidance, and technical nature. Used as basic source for most airport design criteria.

Aircraft: A device that is used or intended to be used for flight in the air. (FAR Part 1)

Aircraft mix: The range of categories of aircraft which are to be accommodated at the airport. Mix is usually defined in percentages of categories such as multi engine, jet, turbo-prop, etc.

Aircraft movement areas: Areas on an airport suitable for aircraft operations and which meet FAA criteria.

Aircraft operations: A take-off or landing by an aircraft. There are two types of operations - local and itinerant.

- (1) Local operations are performed by aircraft which:
 - (a) Operate in the local traffic pattern of within sight of the airport.
 - (b) Are known to be departing for, or arriving from, flight in local practice areas within a 20-mile radius of the airport.
 - (c) Execute simulated instrument approaches or low passes at the airport.
- (2) Itinerant operations are all aircraft operations other than local operations.

Aircraft parking on terminal apron: The paved or surface-treated terminal aircraft parking apron shall be reserved for itinerant aircraft or for other aircraft while being fueled or while loading or unloading passengers, except that portion of the parking apron reserved for aircraft owners leasing space from the City for month to month parking.

Aircraft parking/tie-down: A specialized location on the airport that has at least 3-point tie-downs with ropes or chains adequate to hold aircraft immobile in gale-force winds.

Aircraft tie down: Positions on the ground surface that are available for securing aircraft.

Airport capacity: The rate of aircraft movements on the runway/taxiway system which results in a given level of delay, usually four minutes to departing aircraft.

Air navigation facility (NAVAID): Any facility used as, available for use as, or designed for use as an aid to air navigation, including lights, radio or other electronic communication, and any other device for guiding and controlling flight in the air or the landing or takeoff of aircraft.

Airport: The airport identified on the title plate hereof.

Airport Advisory Board (AAB): A seven member body of appointed citizens that study and make recommendations to the City Council regarding operations and facility improvements of the municipal airport.

Airport beacon: A visual navigation aid displaying alternating white and green flashes to indicate a lighted land based airport.

Airport elevation: The highest point of an airport's usable runways measured in feet from mean sea level.

Airport Identifier - LNC: A coded identity assigned to the Lancaster, Texas airport by the Federal Aviation Administration.

Airport imaginary surfaces: Imaginary surfaces established at an airport for obstruction determination purposes and consisting of primary, approach-departure, horizontal, vertical, conical, and transitional surfaces. Building restriction lines are based upon these surfaces.

Airport Layout Plan (ALP): An FAA/TxDOT approved set of drawings showing airport boundaries, physical features and proposed additions to all areas owned or controlled by the sponsor for airport purposes, the location and nature of existing and proposed airport facilities and structures, and the location on the airport of the existing and proposed non-aviation areas and improvements thereon. The drawings also show local airspace, approach areas and obstructions in the approach areas.

Airport Manager: Person duly authorized by the City of Lancaster to perform duties required to manage the airport. To act on behalf of the City to the extent required for safe and efficient airport operations.

Airport Master Plan: An official document that presents the City concepts for the ultimate development of an airport. It presents the research and logic from which the plan was evolved and displays the plan in a graphic and written form.

Airport Reference Code (ARC): The Federal Aviation Administration classifies airports by use of the AIRPORT REFERENCE CODE (ARC), which is a coding system used to relate airport design criteria to the operational and physical characteristics of the airplanes intended to operate at the airport. This code is divided into two components. The first is depicted by a letter the airport approach category (operational characteristic) and relates to aircraft approach speed. The second component depicted by a roman numeral is the airplane design group and related to airplane wingspan (physical characteristic).

Airport sponsor: The City of Lancaster is the airport sponsor and is authorized to own and operate the airport, to obtain property interests, to obtain funds, and to be legally, financially, and otherwise able to meet all applicable requirements of current laws and regulations.

Airspace: Space in the air above the surface of the Earth or a particular portion of such space, usually defined by the boundaries of an area on the surface projected upward.

Airside facilities: The airfield on which aircraft operations are carried out, including runways and taxiways.

Altitude Above Ground Level (AGL): The height of an aircraft about the earth's surface.

Approach path: A specific flight course laid out in the vicinity of an airport and designed to bring aircraft in to safe landings; usually delineated by suitable navigational aids.

Approach surface: An imaginary surface longitudinally centered on the extended centerline of the runway, beginning at the end of the primary surface and rising outward and upward to a specified height above the established airport elevation.

Apron: A defined pavement area, intended to accommodate aircraft for purposes of loading or unloading passengers or cargo, refueling, parking, or maintenance.

Avigation easement: A grant of a property interest inland over which a right of unobstructed flight in the airspace is established, or used for related purposes such as noise mitigation.

Base leg: A segment of the airport traffic pattern that connects the downward leg and the final approach leg.

Based aircraft: The total number of active general aviation aircraft which use or may be expected to use an airport as a "home base".

Building area: An area on an airport to be used, considered, or intended to be used, for airport buildings or other airport facilities or rights-of-way, together with all airport buildings and facilities located thereon.

Building Restriction Line (BRL): A line shown on the airport layout plan beyond which airport buildings must not be positioned in order to limit their proximity to aircraft movement areas.

Common Traffic Advisory Frequency (CTAF): Is used by all aircraft to facilitate cooperation in their use of the airport. These conversations are generally related to the actual takeoff and/or landing of aircraft, but special activities close to the airport will often be accompanied by announcements on this frequency. See also UNICOM

City: The City of Lancaster, Texas.

Commercial operator: A person who provides for compensation, goods or services to the public on or from the airport, such as car rental agency, restaurant, etc.

Displaced threshold: A threshold that is located at a point on the runway other than the beginning.

Downwind leg: A flight path in the traffic pattern parallel to the landing runway in the direction opposite to landing. It extends to the intersection of the base leg. (See traffic pattern)

Effective runway length: (a) Effective runway length for takeoff means the distance from the end of the runway at which the takeoff is started to the point at which the obstruction clearance plane associated with the other end of the runway intersects the runway center-line. (FAR Part 121.171b) (b) Effective runway length for landing means the distance from the point at which the obstruction clearance plane associated with the approach end of the runway intersects the centerline of the runway to the far end thereof. (FAR Part 121-171.b)

Entrance taxiway: A taxiway that provides entrance for aircraft to the takeoff end of the runway.

Exit taxiway: A taxiway used as an exit from a runway to another runway, apron or other aircraft operating area.

FAR Part 77: Defines obstructions to air navigation and requires notice to FAA of certain types of construction on and near airports.

FAR Part 150, Airport Noise and Land Use Compatibility Planning: Designed to assist airport operators in determining the extent and nature of the noise problem at a given airport.

Federal Aviation Administration (FAA): Created by the act that established the Department of Transportation. Responsible for all civil aviation administration and regulation in the United States.

Federal Aviation Regulations (FAR): As codified in Title 14, Code of Federal Regulations.

Final approach area(s): Areas of defined dimensions protected for aircraft executing instrument approaches.

Final Approach (IFR): The flight path of an aircraft which is inbound to the airport on an approved final instrument approach course, beginning at the final approach fix or point and extending to the airport or the point where circling for landing or missed approach is executed.

Final Approach (VFR): A flight path, in the traffic pattern, of a landing aircraft in the direction of landing along the extended runway centerline from the base leg to the runway. (See traffic pattern).

Fixed Base Operator (FBO): A business enterprise located on the airport that provides goods and services to airport users, such as, fuel, lubricants, maintenance, or other accommodations to the general public.

Fuel flowage fees: Fees levied by the airport operator per gallon of aviation gasoline and jet fuel sold at the airport.

General aviation: That portion of civil aviation which encompasses all facets of aviation except air carriers holding a certificate of convenience and necessity from the Civil Aeronautics Board, and large aircraft commercial operators.

General aviation airports: Those airports with fewer than 2,500 annual enplaned passengers and those used exclusively by private and business aircraft not providing air-carrier passenger service.

General aviation itinerant operations: Takeoffs and landings of civil aircraft (exclusive of air carrier) operating on other than local flights.

General Fixed-Base Operator (GFBO): A person authorized under these standards to operate on the airport as a general fixed base operator (GFBO). See Section G on Commercial Operators/Rights.

Ground Lease: The right to use and occupy an area of the airport described in a ground lease agreement between the City of Lancaster and the lease holder.

Hangar Operator: The owner of a building or hangar space for lease or sale for the purpose of any general aviation related activity.

Heliport: An area of land, water, or structure used or intended to be used for the landing and takeoff of helicopters. (FAR Part 1)

Holding areas: Run-up areas located at or very near the ends of runways for pilots to make final checks and await final clearance for takeoff.

Horizontal surface: A specified portion of a horizontal plane located 150 feet above the established airport elevation which establishes the height above which an object is determined to be an obstruction to air navigation.

IFR airport: An airport with an authorized instrument approach procedure.

IFR conditions: Weather conditions below the minimum for flight under visual flight rules.

Instrument approach: An approach to an airport, with intent to land, by an aircraft flying in accordance with an IFR flight plan, when the visibility is less than 3 miles and/or when the ceiling is at or below the minimum initial altitude.

Instrument approach runway: A runway served by an electronic aid providing at least directional guidance adequate for a straight-in approach.

Instrument Flight Rules (IFR): FAR rules that govern the procedures for conducting instrument flight. (FAR Part 91)

Instrument Landing System (ILS): A system which provides in the aircraft, the horizontal and vertical guidance necessary for a landing.

Instrument Meteorological Conditions (IMC): Meteorological conditions expressed in terms of visibility, distance from cloud, and ceiling less than the minima specified for visual meteorological conditions.

Instrument runway: A runway equipped with electronic and visual navigation aids and for which a straight-in (precision or non-precision) approach procedure has been approved or is planned.

Itinerant operations: All aircraft arrivals and departures other than local operations.

Landing area: Any locality, either on land or water, including airports, heliports and STOL ports, which is used or intended to be used for the landing and takeoff or surface maneuvering of aircraft, whether or not facilities are provided for the shelter, servicing, or repair of aircraft, or for receiving or discharging of passengers or cargo.

Landing roll: The distance from the point of touchdown to the point where the aircraft can be brought to a stop, or exit the runway.

Landside operations: Those parts of the airport designed to serve passengers including the terminal buildings, vehicular circular drive, and parking facilities.

Land use plan: Shows on-airport land uses as developed by the airport sponsor under the master plan effort and off-airport land uses as developed by surrounding communities.

Large aircraft: Aircraft of more than 12,500 pounds maximum certificated takeoff weight. (FAR Part 1)

Lighted airport: An airport where runway and associated obstruction lighting is available from sunset to sunrise or during periods of reduced visibility or on request of the pilot.

Line service: The dispensing of aviation fuel, checking aircraft engine oil, adding aircraft engine oil, windshield cleaning, etc.

Local operations: As pertaining to air traffic operations, aircraft operating in the local traffic pattern or within sight of the tower; aircraft known to be departing for, or arriving from, flight in local practice areas located within a 20-mile radius of the control tower; aircraft executing simulated instrument approaches or low passes at the airport.

Local traffic: Aircraft operating in the local traffic pattern or within sight of the tower, or aircraft known to be departing for or arriving from flight in local practice areas, or aircraft executing simulated instrument approaches at the airport.

Marking: On airports, a pattern of contrasting colors placed on the pavement, turf, or other usable surface by paint or other means to provide specific information to aircraft pilots and sometimes to operators of ground vehicles, on the movement areas.

National Plan of Integrated Airport Systems (NPIAS): The Airport and Airway Improvement Act of 1982. The legislation called for identification of national airport system needs including development costs in the short and long run.

Night: The time between the end of evening civil twilight and the beginning of morning civil twilight, as published in the American Air Almanac, converted to local time.

Noncommercial operators: A person who does not offer or provide goods or services to the public for compensation. See Section H herein on noncommercial operators.

Nonprecision instrument Runway: A runway having an existing instrument approach procedure utilizing air navigation facilities with only horizontal guidance for which a straight-in or circling nonprecision instrument approach procedure has been approved.

Obstruction light: A light, or group of lights, usually red, mounted on a surface structure or natural terrain to warn pilots of the presence of a flight hazard; either an incandescent lamp with a red globe or a strobe light.

Obstruction marking/lighting: Distinctive marking and lighting to provide a uniform means for indicating the presence of obstructions.

Owner: The owner identified on the title page of these standards.

Parking apron: An apron intended to accommodate parked aircraft.

Person: Unless context clearly indicates otherwise, the "person" as used herein shall mean any natural person, estate, club, organization, firm, association (whether incorporated or not), partnership, corporation, or legal entity of any kind.

Precision Approach Path Indicator (PAPI): A visual approach aid for pilots on final approach to a runway. The PAPI allows the pilot to determine if the aircraft above, below or on the glide slope. A combination of red and white lights are used. There are also other visual approach aids such as VASI (Visual Approach Slope Indicator) that provided similar information.

Public airport: An airport for public use, publicly owned and under control of a public agency.

Public-use airport: An airport, public or private, open to the public without prior permission and without restrictions within the physical capacities of available facilities.

Reliever airports: A class of general aviation airports which have the function of relieving congestion at primary commercial airports and providing more access for general aviation to the overall community.

Relocated threshold: An area preceding the runway unusable for takeoff or landing.

Restricted area: Airport property designated for the safe operation of aircraft or other uses requiring limited public access.

Runway: A defined rectangular area on a land airport prepared for the landing and takeoff run of aircraft along its length.

Runway bearing: The magnetic or true bearing of the runway centerline as measured from magnetic or true North.

Runway capacity: The number of aircraft operations which can be accommodated by a runway without undue delay to aircraft. Undue delays occur when delays to departures average four minutes during the peak two-hour period of the day.

Runway direction number: A whole number to the nearest one tenth of the magnetic bearing of the runway and measured in degrees clockwise from magnetic north.

Runway End Identification Lights (REIL): An airport lighting facility in the terminal area navigation system consisting of one flashing white high intensity light installed at each approach end corner of a runway and directed toward the approach zone, which enables the pilot to identify the threshold of a usable runway.

Runway length-landing: The measured length from the threshold to the end of the runway. Cannot include Runway Safety Area length.

Runway length-takeoff: The measured length from where the takeoff is designated to begin to the end of the runway.

Runway lights: Lights having a prescribed angle of emission used to define the lateral limits of a runway. Runway light intensity may be controllable or preset, and are uniformly spaced at intervals of approximately 200 feet.

Runway markings: (1) Basic marking-markings on runways used for operations under visual flight rules, consisting of centerline marking and runway direction numbers, and if required, letters. (2) Instrument marking-markings on runways served by non-visual navigation aids and intended for landings under instrument weather conditions, consisting of basic marking plus threshold marking. (3) All-weather marking-markings on runways served by non-visual precision approach aids and on runways having special operational requirements, consisting of instrument markings plus landing zone marking and side strips.

Runway orientation: The magnetic bearing of the centerline of the runway.

Runway protection zone: An area at ground level whose perimeter conforms to the runway's innermost approach surface projected vertically. It begins at the end of the primary surface and it terminates directly below the point or points where the approach surface reaches a height of 50 feet above the elevation of the runway end.

Runway safety area: Cleared, drained, graded, and usually turfed areas abutting the edges of the usable runway and symmetrically located about the runway. It extends 1000'x500' beyond each runway end for Runway 18-36, and 300'x150' beyond the ends of Runway 11-29. The width varies according to the type of runway.

Runway strength: The structural capability of a runway to support aircraft of a designated gross weight for each of single-wheel, dual-wheel, and dual-tandem-wheel landing gear types.

Runway threshold marking: Markings so placed as to indicate the longitudinal limits of that portion of the runway usable for landing.

Scheduled service: Airport transport service operated over routes based on published flight schedules, including extra sections and related non-revenue flights.

Secondary runway: A runway which provides additional wind coverage or capacity to expedite traffic handling.

Segmented circle: A basic marking device used to aid pilots in locating airports, and which provides a central location for such indicators and signal devices as may be required.

Shoulder: As pertaining to airports, an area adjacent to the edge of a paved surface so prepared to provide a transition between the pavement and the adjacent surface for aircraft running off the pavement, for drainage and sometimes for blast protection.

Single runway: An airport having one runway.

Small aircraft: Aircraft of 12,500 pounds or less maximum certificated takeoff weight. (FAR Part 1)

Specialty Fixed-Base Operator (SFBO): A person authorized to operate on the airport as a Specialty Fixed-Base Operator. See Section G on Commercial Operators/Rights.

Straight-in approach – IFR: An instrument approach wherein final approach is begun without first having executed a procedure turn, not necessarily completed with a straight-in landing or made to straight-in landing minimums.

Straight-in approach – VFR: Entry into the traffic pattern by interception of the extended runway centerline (final approach course) without executing any other portion of the traffic pattern. (See Traffic Pattern).

Taxi lane: A defined path in the aircraft parking area intended to provide taxiing aircraft access between the taxiways and the aircraft parking positions.

Taxiway: A defined path, usually paved, over which aircraft can taxi from one part of an airport to another.

Taxiway safety area: A cleared, drained, and graded area, symmetrically located about the extended taxiway centerline and adjacent to the end of the taxiway safety area.

Texas Council on Environmental Quality (TCEQ): The Texas state agency responsible for implementation and enforcement of state and federal environmental rules and regulations.

Terminal apron: An area provided for parking and positioning of aircraft in the vicinity of the terminal building for loading and unloading.

Terminal area: The area used or intended to be used for such facilities as terminal, hangars, shops, and other service buildings; automobile parking, fixed base operations, and garages and vehicle service facilities used in connection with the airport; and entrance and service roads used by the public within the boundaries of the airport.

Texas Department of Transportation (TxDOT): Acts as an agent of the state and of each political subdivision of Texas for the purposes of applying for, receiving, and disbursing federal funds. TxDOT administers The Aviation Facilities Development and Financial Assistance Program through its Aviation Division.

Terminal building: A building or buildings designed to accommodate the enplaning and deplaning activities of flight crews and passengers.

T-hangar: An aircraft hangar in which aircraft are parked alternately tail to tail, each in the T-shaped space left by the other row of aircraft or aircraft compartments.

Threshold: The designated beginning of the runway that is available and suitable for the landing of airplanes.

Total operations: All arrivals and departures performed by military, general aviation, and air carrier aircraft.

Traffic pattern: The traffic flow that is prescribed for aircraft landing at, taxiing on, or taking off from an airport. The components of a typical traffic pattern are upwind leg, crosswind leg, downwind leg, base leg, and final approach.

- a) Upwind Leg – A flight path parallel to the landing runway in the direction of landing.
- b) Crosswind Leg – A flight path at right angles to the landing runway off its upwind end.
- c) Downwind Leg – A flight path parallel to the landing runway in the direction opposite to landing. The downwind leg normally extends between the crosswind leg and the base leg.
- d) Base Leg – A flight path at right angles to the landing runway off its approach end. The base leg normally extends from the downwind leg to the intersection of the extended runway centerline.
- e) Final Approach – A flight path in the direction of landing along the extended runway centerline. The final approach normally extends from the base leg to the runway. An aircraft making a straight-in approach VFR is also considered to be on final approach.

Transitional surface: A surface which extends outward and upward from the sides of the primary and approach surfaces normal to the runway centerline which identifies the height limitations on an object before it becomes an obstruction to air navigation.

UNICOM: Frequencies authorized for aeronautical advisory services to private aircraft. Only one such station is authorized at any landing area. Services available are advisory in nature, primarily concerning the airport services and airport utilization.

VFR airport: An airport without an authorized or planned instrument approach procedure; also, a former airport design category indicating an airport serving small aircraft only and not designed to satisfy the requirements of instrument landing operations.

Visual approach: An approach wherein an aircraft on an IFR flight plan, operating in VFR conditions under the control of a radar facility and having an air traffic control authorization, may deviate from the prescribed instrument approach procedure and proceed to the airport of destination, served by an operational control tower, by visual reference to the surface.

Visual Approach Slope Indicator (VASI): An airport lighting facility in the terminal area navigation system used primarily under VFR conditions. It provides vertical visual guidance to aircraft during approach and landing by radiating a directional pattern of high intensity red and white focused light beams which indicate to the pilot that he is "on path" if he sees red/white, "above path" if white/white, and "below path" if red/red.

Visual Flight Rules (VFR): Rules that govern the procedures for conducting flight under visual conditions. (FAR Part 91)

Visual runway: A runway intended solely for the operation of aircraft using visual approach procedures, with no straight-in instrument approach procedure and no instrument designation indicated on an FAA-approved airport layout plan, a military service approved military airport layout plan, or by a planning document submitted to the FAA by competent authority. (FAR Part 77)

Wake vortex: A phenomenon resulting from the passage of an aircraft through the atmosphere. It is an aerodynamic disturbance that originates at the wingtips and trails in corkscrew fashion behind the aircraft. When used by ATC it includes vortices, thrust stream turbulence, jet wash, propeller wash, and rotor wash.

Wind cone: A free-rotating fabric truncated cone which when subjected to air movement indicates wind direction and wind force.

Wind rose: A diagram for a given location showing relative frequency and velocity of wind from all compass directions.

EXHIBIT "C"
RULES AND REGULATIONS

[See attached]



LANCASTER REGIONAL AIRPORT

RULES AND REGULATIONS

LANCASTER, TEXAS

DECEMBER 2010

Rules and Regulations

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SECTION 1
GENERAL CONDITIONS

Rules and Regulations

The following rules and regulations shall be observed during the use, operation, and conduct of the Lancaster Regional Airport:

Section 1 - General Conditions

- GC-1 **Use of Airport Restricted:** No person, firm, association, corporation or entity, incorporated or otherwise, shall use the Lancaster Regional Airport for any commercial activity, unless approved by a written permit from the city council or its duly authorized agent (1994 Code of Ordinances, Chapter 1, Article 1.1200, Section 1.1201).
- GC-2. **Article to Contain Rules and Regulations for Airport:** The rules and regulations contained in this article shall be observed in the use, operation, and conduct of the Lancaster Regional Airport.
- GC-3. **Definitions:** Appendix A to these Rules and Regulations contains definitions of terms commonly used in Rules and Regulations and in the Minimum Standards for Lancaster Regional Airport. These definitions are subject to review, and possible modifications from time to time. The City of Lancaster reserves the right to delete or change the definitions when deemed necessary or prudent.
- GC-4. **Authority:** These Rules and Regulations are promulgated and implemented by the City of Lancaster for the use, operation, and conduct of the Lancaster Regional Airport under the authority of Resolution Number _____.
- GC-5. **Applicability:** These Rules and Regulations apply to all users of the Lancaster Regional Airport.
- GC-6. **Knowledge of Rules Implied; Copies of Rules & Regulations Available:** By publication of these rules and regulations, as required by law, all users of the Lancaster Regional Airport will be deemed to have knowledge of its contents. Copies of these Rules and Regulations will be available at all times in the Airport Manager, City Manager or Designee's office.
- GC-7. **Maintenance, Update, and Distribution of Rules and Regulations Document:**
- A. Maintenance and Update – The Airport Manager, City Manager or Designee will ensure that the Rules and Regulations document is kept current and will submit proposed revisions to the Airport Advisory Board and City Council from time to time, dependent upon the urgency of the subject matter to be revised.
 - B. Each time a revision is made to the Rules and Regulations, the date of the adoption of the revision will be reflected on a master copy of the document to be kept in the office of the Airport Manager, City Manager or Designee.
 - C. Distribution - A copy of the most current publication of the Rules and Regulations will be provided to each new tenant upon the signing of a lease. Tenants renewing leases will also be provided with a copy of the most current publication. A copy will also be prominently displayed in the airport terminal building. Copies will be made available upon request from the City Secretary's Office at the City's rate for reproduction of printed material.
 - D. The following parties will be provided with a copy of the revised document after adoption and issuance of it.

Distribution list:

Airport Manager
City Manager or Authorized Designee
Assistant City Manager
Manager of each general fixed-base operator (GFBO)
Manager of each specialty fixed-base operator (SFBO)
City Secretary, City of Lancaster
Members of the Airport Advisory Board
All Airport Leaseholders, and Airport Tenants.

GC-8. **Conflict of Rules:** When there is conflict between these and the Federal Aviation Administration traffic rules, the Federal Aviation Administration rules prevail.

GC-9. **Security:** All users of the Lancaster Regional Airport shall be aware of general airport security and safety measures and take proper precautions at all times. The Lancaster Regional Airport is a member of the Aircraft Owners and Pilots Association (AOPA) Airport Watch Program. More information on these security measures is available at www.aopa.org.

GC-10. **Fire Regulations:**

- A. Every person going upon or using the airport or its facilities in any manner shall abide by the City of Lancaster's adopted Fire Code and shall exercise the greatest care and caution to avoid and prevent fire.
- B. Smoking or any open flame is prohibited within 50 feet of any aircraft, fuel truck, fuel storage tank or building.
- C. Compressed or inflammable gas, NOT ordinarily used for aviation purposes, shall not be kept or stored upon the Airport, except in places designated by the Airport Manager, City Manager or Designee.
- D. No flammable substances shall be used inside a hangar or other building without ample ventilation.
- E. No person shall smoke, or otherwise ignite a match or lighter for the purpose of smoking in any building, except in designated smoking areas.
- F. Hangar entrances shall be kept clear at all times.
- G. The floors in all buildings shall be kept clean and free from oil. Volatile, flammable substances shall NOT be used for cleaning floors.
- H. Where aircraft fueling is performed by a fuel truck, adequate bonding connections shall be provided.
- I. At least one 20-pound portable fire extinguishers shall be accessible within 50 feet of the fuel pumps where open hose discharge is not more than two hundred gallons per minute at that pump.
- J. All aviation fuel nozzles will have "dead man" controls that will shut off the fuel flow when the nozzle hand control is released. Automatic fuel cut-off nozzles MAY NOT be substituted for "dead man" controls for fueling.

- K. At least one 10-pound fire extinguisher with a Class 2A, 10BC rating shall be installed by owner or tenant in each individual hangar or office. Extinguishers shall be mounted not less than five inches from the floor of the hangar, and not more than five feet from the hangar floor. It shall be the tenant's responsibility to supply and maintain said fire extinguisher. Fire extinguishers shall be inspected and tagged by an authorized agency yearly. Businesses on the airport should follow guidelines in the certificate of occupancy as determined by the National Fire Protection Association Codes.
- L. The City has the right to inspect all facilities to ensure safety.
- GC-11. **Penalty for Violation:** Any person determined to be in violation of these Rules and Regulations and for refusing to comply therewith, may be ejected from the airport, or may for any period of time not exceeding 30 days be denied access to City owned airport property, including leaseholds thereon, by the City Manager or Authorized Designee. Upon hearing by the Council, such person may be deprived of the further use of the airport and its facilities for such period of time as may appear necessary for the protection of life and property.
- GC-12. **Nonliability of City:** Obedience of Rules Required: All persons entering the Lancaster Regional Airport, or using the Lancaster Regional Airport for any purpose, shall do so at their own risk, and shall hold the City of Lancaster harmless for and on account of any injury or damage to person or property suffered thereby. Such persons shall be bound by and obey all the rules and regulations concerning and pertaining to said airport.
- GC-13. **Safeguard of Persons and Property:** The Airport Manager, City Manager or Designee shall at all times have authority to take such action as may be required to safeguard any person, aircraft, equipment or property at the airport.
- GC-14. **Surreptitious Activities:** All suspicious and unauthorized activities shall be reported immediately to the Airport Manager, City Manager or Designee, Police, or the Department of Public Safety (DPS).
- GC-15. **Vehicular Traffic:** All vehicular traffic shall be confined to the roads, streets, avenues and alleys provided on the grounds for that purpose, and shall not be operated at a speed in excess of ten (10) miles per hour, except as otherwise posted on the main entrance road.
- GC-16. **Restricted Area:**
- A. The City of Lancaster may designate certain areas on the airport as restricted; such restricted areas must have City Council approval, and will be identified by signs or other means to clearly delineate the areas.
- B. **Persons Who May Enter Restricted Area.** No person shall go into the designated restricted area unless they have written permission of the Airport Manager, City Manager or Designee, hold a current license or lease with the City of Lancaster for a facility or is an invited visitor of such a person. Employees or invited visitors are the responsibility of their sponsor for compliance with all airport rules and regulations.
- GC-17. **Unauthorized Signs and Structures:** No signs, equipment, buildings, portable buildings, trailers, house trailers, poles, or towers of any kind may be erected, installed or relocated on the airport property without specific authorization of the Airport Manager, City Manager or Designee. All signs and structures must comply with all federal, state, and City ordinances and regulations. The proposed owner of a sign or structure must have appropriate approval of other City departments or Boards and Commissions where required.

- GC-18. **Registration of Persons and Aircraft:** Identification numbers on all aircraft based at the Lancaster Regional Airport shall be registered by the owner(s) of the aircraft at the office of the Airport Manager, City Manager or Designee with either a properly executed lease agreement with the City for a hangar space or a tie down space, or a properly executed airport tenant agreement if the aircraft occupies space sub-leased or provided, with or without a fee or charge, by a primary airport ground or facilities lessee. It shall be the responsibility of the primary lessee to provide the necessary information for the proper execution of the airport tenant agreement.
- GC-19. **Liability for Damage to Airport:** Any person, corporate or individual, and the owner of any aircraft causing damage of any kind to the airport, whether through violation of any of these rules or through any act of negligence, shall be liable for the total cost of the damage and any related expense.
- GC-20. **Reporting Damage to Airport Equipment and or Facilities:** Any person damaging any airport equipment and or facilities shall immediately report such damage to the Airport Manager, City Manager or Designee.
- GC-21. **Use of Another's Property:** Unless authorized by the owner, the use of any aircraft, parts, equipment, accessories or tools of another, situated on the airport, is forbidden, and no person shall touch any aircraft not owned by that person unless permission has been granted by the owner.
- GC-22. **Control of Debris, Foreign Objects, Glass:**
- A. No glass bottles may be used on or in proximity of an aircraft operations area, except within private hangars or other leased premises.
 - B. All users of Lancaster Regional Airport shall endeavor to keep all aircraft operations areas clear of glass, debris and foreign objects so as to avoid or reduce possible damage to aircraft. Users are encouraged to pick up loose property, and dispose of such material, or report the presence of such material to the Airport Manager's, City Manager's or Designee's office.
- GC-23. **Authority of Airport Manager, City Manager or Designee to Suspend or Restrict Operations:** The Airport Manager, City Manager or Designee may suspend or restrict any or all operations whenever such action is deemed necessary in the interest of safety and will provide notice of such action as is reasonable and necessary.
- GC-24. **Aircraft Washing:** Aircraft washing shall be accomplished only in areas and with guidance of the Airport Manager. Restrictions include: (1) Only airport tenants may wash their own aircraft on the airport (2) This privilege does not extend to vehicles or other forms of transportation (3) User shall clean up area of debris or cleaning equipment immediately following aircraft wash (4) User shall check in with airport FBO prior to use of designated area to preclude conflict (5) User shall provide own hose with a nozzle adapter to restrict free flow of water (6) User shall only use non-toxic forms of detergent (7) Airport reserves the right to cease any aircraft washing privileges at any time.
- GC-25. **Vehicles operation on Runway and Taxiways:** Only vehicles authorized by the Airport Manager, City Manager or Designee may operate on the runway, taxiways, runway safety area, or taxiway safety area. All vehicles operating on the runway, taxiways, runway safety area, or taxiway safety area shall be equipped with a vehicle borne or mobile VHF radio and must monitor the appropriate radio frequency for aircraft operations.
- GC-26. **Lien for Charges:**

- A. To enforce the payment of any charge made for repairs, improvements, storage or care of any personal property, made or furnished by the City of Lancaster or its agents, in connection with the operation of Lancaster Regional Airport, the City of Lancaster shall have a lien upon such personal property, which shall be enforceable as provided by law.
- B. To enforce the payment of such charge, the Airport Manager, City Manager or Designee may retain possession of such personal property until all reasonable, customary and usual compensation have been paid in full.

SECTION 2
GROUND OPERATIONS

Section 2 – Ground Operations

- GO-1. Ground Traffic:** All vehicular traffic shall be confined to avenues of passage designated and provided for that purpose by the Airport Manager, City Manager or Designee and shall not be operated at a speed in excess of 10 miles per hour. Private vehicles shall not operate on the runway(s) or taxiway(s) unless specifically authorized by the Airport Manager, City Manager or Designee. Furthermore, private vehicles should make use of the service roads on the east side of the hangar buildings when proceeding to individual hangars or business locations on the Airport. The ramp area is restricted to aircraft, fuel trucks, and Airport maintenance vehicles only, except for tenants proceeding to assigned tie-downs occupied by their owned aircraft. Tenants and visitors conducting business with one of the established commercial operators of the Airport shall make use of parking lot areas that have been provided for this purpose.
- GO-2. Fueling of Aircraft.** The following shall apply to all fueling activity on the Airport property:
- A. Aircraft shall not be fueled when an engine is running or while in a hangar or other enclosed place, except that emergency services helicopters requiring a quick-turn-around may be fueled with the aircraft engine idling, at the discretion of the Fixed Base Operator and the pilot. No passengers are to be inside the helicopter during "hot" refueling.
 - B. All aircraft shall be properly bonded/grounded during fueling. Aircraft fueled from a fuel truck shall be bonded to the fuel truck.
 - C. To comply with local and state fire laws, aircraft must be completely outside and clear of hangars or other enclosed spaces during refueling.
 - D. Aircraft fuel trucks shall be equipped, operated, and maintained in accordance with National Fire Protection Association, Inc., NFPA Manual 407, "Aircraft Fuel Servicing".
 - E. Persons and or aviation businesses wishing to supply and dispense aviation fuel for their own private use must first obtain authorization from the Airport Manager, City Manager or Designee.
 - F. Fueling of aircraft or fuel trucks is prohibited during thunderstorm activity.
 - G. Fuel trucks are to remain off the grassy areas on the Airport when at all possible.
 - H. Public sale of automobile gasoline for use in aircraft shall not be permitted on the Airport without approval by the Airport Manager, City Manager or Designee. Aircraft authorized by the FAA to use auto gas may be privately fueled by their owner only after compliance with established Federal, State and local regulations.
 - I. Aviation or automobile fuels shall not be stored within any hangar, except that which is contained in aircraft fuel tanks or approved safety containers.
 - J. Fuel flow fee reports will be submitted by each fuel vendor on the first day of each month. Each report will be accompanied by a copy of an invoice from the vendor.
 - K. Branded aviation fuel distributors or other persons authorized to sell aviation fuel on the Lancaster Regional Airport will pay fuel flow fees as the fuel is delivered into storage on the airport. A report shall be submitted to the City stating the date, time, type of fuel, and a total of gallons received into storage by the supplier of fuel to the Fixed Base Operator. Signed invoices showing receipt of the fuel by the FBO shall be supplied to the City. The supplier of aviation fuel shall pay the fuel fees to the City at the time of delivery.

- L. The rate of the fuel flow fee will be determined by the City Council from time to time.
- M. Mobile fuel storage facilities that are not regulated by Texas Commission on Environmental Quality (TCEQ) are prohibited on the Lancaster Regional Airport.

GO-3. Ground Safety:

- A. All fire lanes are to be kept clear.
- B. All taxiways and taxi lanes are to be kept clear.
- C. The use of bicycles, motor scooters, and motorcycles on the ramp is restricted to licensed drivers only.
- D. Playing on ramp, taxiways, or runway is prohibited.
- E. Double parking at hangars is prohibited.
- F. All vehicles are to park only in designated areas.
- G. All pets or animals must be caged, leashed or held by owner while on airport property.
- H. Operating any type of remote controlled aircraft or vehicle within the airport perimeter fence is prohibited unless authorized by the airport manager.

GO-4. Starting Aircraft Engines:

- A. If not equipped with adequate brakes, the engine shall not be started in an aircraft until and unless the wheels have been set with blocks attached to ropes or other suitable means for removing them.
- B. No engine shall be started or run unless a competent operator is at the controls of the aircraft; and no engine shall be started or run inside any building.
- C. No engine shall be started, run or warmed up until and unless the aircraft is in such position that the propeller/jet/rotor blast will clear all buildings and groups of people in the observation areas and path of the aircraft.
- D. No engine shall be started unless and until the operator shouts an audible "CLEAR" before beginning engine start.
- E. During starting procedures that require an external power source, the aircraft operator must comply with the aircraft's Airplane Flight Manual for external power source starts and the airport operations agent manning the external power source.

GO-5. Restrictions While Running Aircraft Engines:

- A. No airplane will be propped or left running without qualified personnel at the controls

GO-6. Taxiing Aircraft:

- A. No aircraft equipped with an anti-collision beacon shall begin to safely taxi before the beacon has been activated.

- B. Aircraft will be taxied at a safe and prudent speed. No faster than a jogging pace and in such manner as to be under the control of the pilot at all times.
- C. Aircraft not equipped with adequate brakes will not be taxied near buildings or parked aircraft unless an attendant is at a wing of the aircraft assisting the pilot.
- D. Aircraft shall not taxi onto the runway from the ramp or taxiway area whenever there is another aircraft approaching to land, or whenever another aircraft is on the ground in take-off position.
- E. Taxiing of aircraft by engine power into or out of hangars is prohibited.
- F. **Helicopter Taxiing**
 - a. Hover taxiing of light skid type helicopters that do not exceed 3,500 pounds max gross weight is permitted between hangars only when safety of aircraft, aircrews, personnel on the ground, and structures is not compromised. Helicopter pilots must give consideration to the effect of downwash and noise when operating between hangars.
 - b. Wheeled taxiing of light wheeled helicopters that do not exceed 3,500 pounds max gross weight is permitted between hangars only when safety of aircraft, aircrews, personnel on the ground, and structures is not compromised. Helicopter pilots must give consideration to the effect of downwash and noise when operating between hangars.

GO-7. Parking Aircraft:

- A. Aircraft shall not be parked on or within four hundred feet of any part of the landing or take-off area of the airport;
- B. All unhangared aircraft shall be parked in the areas designated by the Airport Manager, City Manager or Designee for that purpose.
- C. Aircraft will not be parked in such a manner as to hinder the normal movement of other traffic unless specifically authorized by the Airport Manager, City Manager or Designee as an emergency measure.
- D. It is the responsibility of the pilot when leaving a parked aircraft unattended to ensure that the brakes are set or that the aircraft is properly chocked and/or tied down.

GO-8 Tie-Down of Aircraft:

- A. All unhangared aircraft shall be tied down, and secured at night and during inclement weather.
- B. The aircraft owner or his/her agent is responsible for the secure tie-down and security of his/her aircraft at all times, and particularly during inclement weather.

GO-10. Repairs to Aircraft: No aircraft shall be repaired on any part of the landing or take-off area, and all repairs shall be made at the places designated by the Airport Manager, City Manager or Designee for such purpose.

SECTION 3
FLIGHT OPERATIONS

Section 3 – Flight Operations

- FO-1. **Pilot and Aircraft to be Licensed:** Only aircraft and airmen licensed by the Federal Aviation Administration shall operate on Lancaster Regional Airport; provided that this limitation shall not apply to students in training under supervision of licensed instructors nor to public aircraft of the federal government or of a state, territory or political subdivision thereof or to aircraft licensed by a foreign government with which the United States has a reciprocal agreement covering the operation of such licensed aircraft.
- FO-2. **Special Traffic Procedures:** The Airport Manager, City Manager or Designee may, in the interest of safety, designate special traffic procedures of certain operations, such as air shows, agricultural operations, flying club operations, etc.
- FO-3. **Agricultural Operations:** Agricultural spraying operations, if authorized, will be conducted in accordance with procedures approved by the Airport Manager, City Manager or Designee and only from the areas designed on the airport. Reckless flying, careless handling of chemicals and indifference toward policing the area or intimidation of other aircraft users will not be tolerated.
- FO-4. **Disabled Aircraft:** Every aircraft owner, his pilot and/or agent, under the direction of the Airport Manager, City Manager or Designee or other government authority (NTSB or FAA), shall be responsible for the timely removal of damaged or disabled aircraft from the flight operations area.
- FO-5. **Take-off, Landing, Flying Rules and Procedures:**
- A. Reporting of Traffic Intentions. All pilots are encouraged to use the CTAF to determine the runway favored by the wind and to announce their position and intentions for take-off and landing. Wind and runway information given by Lancaster Unicom is of an advisory nature only and the final decision as to which runway to use or whether or not to take-off or land is at the sole discretion of the pilot in command. Any deviation from the runway in use should be announced on the CTAF.
- Pilots should utilize the automatic weather observation system (AWOS) to determine wind and weather information.
- B. Take-offs, Landing Over Certain Objects Prohibited or Restricted. No aircraft shall land or take off in such a manner as to clear any public street or highway at an altitude of less than one hundred (100) feet. No aircraft shall take off between or over hangars or other structures, or over automobile parking areas or groups of spectators.
- C. Take-offs, Landings with Calm Winds. If the winds are calm, or at 90 degrees to the runway, all take-offs and landings will be conducted on Runway 13.
- D. Take-Offs, Landings On Apron, Parking Ramp, Grass Areas Prohibited, Exception. No take-offs or landings shall be made by fixed wing aircraft on the apron, parking ramp, or grass areas except by special permission of the Airport Manager, City Manager or Designee.
- E. Touch-and-Go Landings. Touch-and-go landings may be made at the discretion of the pilot.
- F. Stop and Go Landings and Take-Offs. Stop and go operations are permitted as long as they do not present an excessive delay to other aircraft operating in the traffic pattern and the person making such landings advises his intentions over the Unicom frequency to

allow the other aircraft to space themselves accordingly. Not more than five stop and go operations will be conducted in succession.

G. Traffic Pattern Elevation. Traffic pattern altitude is one thousand (1,000) feet above ground level (AGL).

J. Traffic Flow.

(1) Runway 13. Any aircraft within three (3) nautical miles of the airport at an altitude of less than one thousand five hundred (1,500) feet above the ground should conform to the counter-clockwise (left hand) flow of traffic for Runway 13. All aircraft should establish their traffic pattern altitude before entering the traffic pattern and should not deviate from this altitude (except in an emergency) until descent for landing has begun.

(2) Runway 31. Any aircraft within three (3) nautical miles of the airport at an altitude of less than one thousand five hundred (1,500) feet above the ground should conform to the clockwise (right hand) flow of traffic for Runway 31. All aircraft should establish their traffic pattern altitude before entering the traffic pattern and should not deviate from this altitude (except in an emergency) until descent for landing has begun.

(3) Traffic pattern entry to Runway 13 shall be made an angle of forty-five (45) degrees to the active runway with the runway to the pilot's left. Entry shall be made at the midpoint of the downwind leg. The pattern shall be flown in such a manner that in the event of engine failure a safe landing can be made on airport property.

(4) Traffic pattern entry to Runway 31 shall be made an angle of forty-five (45) degrees to the active runway with the runway to the pilot's right. Entry shall be made at the midpoint of the downwind leg. The pattern shall be flown in such a manner that in the event of engine failure a safe landing can be made on airport property.

(5) Aircraft entering the traffic pattern shall exercise caution so as not to cause aircraft established in the pattern to deviate from their course.

(6) Aircraft (either fixed wing or helicopter) conducting actual Life Flight or other life threatening operations may deviate from these Traffic Flow regulations as they deem necessary provided they are maintaining the CTAF for the airport and broadcast their intentions.

K. Straight-In Approaches. Straight-in approaches shall not be used unless radio contact on the CTAF has been established from at least five (5) nautical miles from the airport. Aircraft that are unable to conform to the standard pattern due to their high speed or other special characteristics may fly a circular pattern at an altitude of 1,500 AGL.

L. The Overhead Approach Maneuver is authorized for pilots experienced in the execution of this type of landing pattern. A 1-3 nautical mile initial is recommended for either runway. Report all intentions on CTAF including but not limited to: Initial, in the break/entering downwind, abeam the numbers, and turning final.

FO-6. **Student Training and Familiarization:**

A. Flight Instructors shall keep themselves informed of all Rules and Regulations in effect at the airport, and shall be sure their students are equally informed.

- B. The Airport Manager, City Manager or Designee may designate limited areas near the airport as practice areas for the training of students. These areas will be posted on the bulletin board and in flight school offices.
- C. Aircraft shall not be permitted to remain stationary on the runway for the purpose of instructing students. Such instruction will be given off of the active runway, and in a location where the aircraft does not present an obstruction to other aircraft operations.

FO-7. Helicopter Operations:

- A. Helicopters operating in the Lancaster area and upon the airport shall comply with applicable federal aviation regulations and with all communications procedures established herein.
- B. Helicopters shall at all times maintain clear separation from other traffic and operations. All flight and air taxi operations shall be conducted with vigilance and shall be conducted at a safe distance from all structures, obstructions, and persons, specifically taking into consideration the effect of downwash and noise.
- C. All take-offs and landings shall be made from that location designated by the Airport Manager. Air taxi or flight operations of any kind is strictly prohibited between hangars. Rotary wing aircraft using vertical flight or helicopters shall be ground towed or hover taxi into place for any self-serve aviation fuel station use.
- D. Helicopters will not operate below a safe auto-rotation speed or altitude when over populated areas or buildings and will maintain a minimum altitude, whenever possible, of at least 500' AGL. Flight over residential areas should be at fixed-wing aircraft altitudes. Departures and arrivals should take into consideration the effects of any noise being created and shall be made to/from the northeast and southeast of the airport whenever possible.
- E. Takeoff maneuvers will be made parallel to the active runway. Traffic patterns shall be conducted close to the active runway at 500' AGL utilizing the same direction of traffic as fixed-wing aircraft. If the traffic pattern becomes congested with fixed wing aircraft, rotary wing aircraft may use the parallel taxiway for approaches and a pattern to the west of the runway. Radio position reports should be announced over the CTAF.

FO-8. Glider Operations:

- A. All aircraft conducting glider operations must use the paved runway for take-offs and landings.
- B. All vehicular traffic on the taxiways is prohibited except when towing assembled gliders to the take-off area or as provided in subsection (d) of this section.
- C. Gliders will space their take-offs with the powered aircraft, using the favored runway, in such a way as to safely and efficiently prevent unnecessary delays to the normal traffic flow.
- D. Vehicles used for the transportation of disassembled gliders (i.e. vehicles with glider trailers) will have an amber flashing light on the top of the vehicle or an approved orange and white-checked flag attached to the vehicle and contain a mobile or portable radio transceiver tuned to the CTAF. These vehicles will drive to the assembly area and return after glider operations cease only at the beginning and end of the glider operations, and will follow the routes and park only in the areas designated by the Airport Manager, City

Manager or Designee. Transportation of persons during the hours of glider operations will be conducted by only one designated vehicle, properly equipped, following designated routes. All other vehicles will be parked in designated public parking areas.

- F. In the interest of safety, all gliders are requested to contain a mobile or portable radio transceiver tuned to the published, local CTAF, and for the tow pilot to announce over the CTAF prior to each launch that a glider aero towing is in progress from the favored runway.

FO-9. Flying Clubs: Flying clubs desiring to base their aircraft and operate on the airport must comply with the applicable provisions of the Minimum Standards and these rules and regulations, and must have written authorization from the City to operate from the airport. They shall be exempt from the regular Fixed Base Operator and/or Commercial Operator requirements upon satisfactory fulfillment of the conditions contained herein.

- A. The club shall be a nonprofit entity (corporation, association or partnership) organized for the express purpose of providing its members with aircraft for their personal use. The ownership of the aircraft must be vested in the name of the flying club (or owned proportionately by all of its members).
- B. Flying clubs may not offer or conduct charter, air taxi, or rentals of aircraft operations. They may not conduct aircraft flight instruction except for regular members, and only members of the flying club may act as pilot in command of the aircraft except when receiving dual instruction
- C. All flying clubs and their members are prohibited from leasing or selling any goods or services whatsoever to any person or firm other than a member of such club at the airport without express written permission from the City of Lancaster except that said flying club may sell or exchange its capital equipment.
- D. A flying club shall abide by and comply with all Federal, State and local laws, ordinances, regulations, and Rules and Regulations of the airport.
- E. Flying clubs shall furnish the Airport Manager, City Manager or Designee with:
 - (1) A copy of its charter and by-laws, articles of association, partnership agreement and other documentation supporting its existence;
 - (2) A roster, or list of members, including names of officers and directors, and investment share held by each member to be revised on a semi-annual basis;
 - (3) Evidence of insurance in the form of a Certificate of Insurance as set out in the Minimum Standards under Exempt Flying Clubs;
 - (4) Number and type of aircraft; including registration numbers of each;
 - (5) Evidence that ownership is vested in the club;
 - (6) Operating rules of the club.
- F. The club's books shall be subject to audit by the City of Lancaster and/or its auditors to ensure of the non-profitability of the club and to determine its compliance with other provisions of these Rules and Regulations.
- H. **Commercial Flying Clubs:** Commercial flying clubs are described as those entities engaged in the ownership or lease of aircraft and providing flying services for its members and others but which do not meet the rigid requirements established for not-for-profit clubs. Commercial flying clubs shall have at least one tie-down or adequate hangar space leased from the airport owner or FBO for each owned or leased aircraft.

FO-10. Parachute Operations: All parachute operations are prohibited on the property of Lancaster Regional Airport, unless authorized by the Airport Manager as a part of a Special Event, such as an air show or other special aerial display.

FO-11. Special Events: The City reserves the right to temporarily suspend or modify these Rules & Regulations in order to facilitate use of the airport for special events such as air shows, aerial displays, fly-ins or similar activities. All special events held at the Airport must acquire a Special Events Permit from the City.

SECTION 4
LEASING

Section 4 – Leasing

- L1. **Lease Provision and Restrictions:** The following provision/restrictions shall apply to all leased Airport property.
- A. City may allow the lease of Airport property for a period not to exceed thirty (30) years in any one lease contract.
 - B. Leases may be extended upon written agreement between the City and Lessee.
 - C. The City may allow for the long-term lease of property on the Airport with the provision that at the end of the lease period, title to all structures, buildings, or hangars erected on the leased property shall revert to the City.
 - D. Any private structure or hangar not in use for aviation purposes for a period in excess of three (3) months, or not available for rent or sublease for aviation purposes, unless so authorized by the City, must be removed after due notice is given in writing. If not removed, the City will consider such structures or hangars abandoned and possession and control will pass to the City.
 - E. Leased land from which any building, hangar, or structure is removed after due notice will be cleaned and returned to good condition by the owner of said building, hangar, or structure. Portable and temporary building will not be allowed on airport grounds, unless they are necessary for construction projects.
 - F. Leased property on the Airport may be subleased by the lessee, only with approval by the Airport Manager, City Manager or Designee, or the City Council if appropriate.
 - G. No structures may be erected beyond the building restriction line (BRL) or in conflict with the approved Airport Master Plan/Airport Layout Plan.
 - H. All construction must be authorized by the City Council and must be capable of withstanding winds of 80 mph, with doors open or closed.
 - I. All structures must comply with all City of Lancaster adopted building codes and Airport zoning and land-use ordinances.
 - J. All leased property and all buildings or structures erected on the leased property shall be utilized for aviation related activity only, unless otherwise specifically approved by the City.
 - K. Storage of non-aviation vehicles, equipment or other non-aviation items in a City owned or private hangar, or conducting non-aviation business in any structure is prohibited unless approved by the City. Under no circumstances, whether approved or not, will the City be liable for damage or destruction of any vehicles, equipment or other items.
 - L. All leaseholders must comply with applicable requirements of the Airports Minimum Standards.
- L2. **City Owned Hangars:**
- A. T-Hangars. T-hangars currently constructed and owned by the City may be rented to private individuals, companies or corporations on a monthly basis for the storage of aircraft and required aircraft support items. All tenants must sign a lease agreement and

provide proof of general liability insurance and/or sign a hold harmless agreement before occupying the hangar. T-Hangars will be rented at rates approved by the City Council as a part of the budget process, dependent upon age and location of the structure. Hangar rent will be paid by the first day of the month, the first month's rent paid in advance. Hangars will not be modified from their original state unless authorized by the City. Late fees may be charged.

- B. Commercial Hangars - Commercial hangars currently constructed and owned by the city may be rented or leased to companies or corporations for the purpose of conducting commercial aviation activities. Commercial hangars will be rented at the greater of rates approved by the City Council or the rental rate proposed by interested parties submitting proposals to lease the hangar.

Rentals will be paid by the first day of the month, the first month's rent paid in advance. Late fees may be charged. Hangars will not be modified from their original state unless authorized by the City.

- C. Any hangar housing derelict, non-airworthy, or no aircraft will be subject to loss of hangar lease if the problem is not corrected within 1 year. Project aircraft that show signs of substantial improvement on a consistent basis are an exception.
- L3. **Lease of Unimproved Airport Property:** The City may lease property within the building area or other portions of the airport for the private construction of improvements in conformance with the approved Airport Master Plan/Airport Layout Plan.
- L4. **Airport Layout Plan (ALP)** – Airport Manager, City Manager or Designee and the FAA have on file a copy of the most recent FAA-approved ALP for the airport. It provides for orderly development and maximization of return from the airport. All development and activities on and proposed leases of portion of the airport must be in conformity with that document.
- L5. **Construction, Signs, Equipment, Buildings, House Trailers:**
- A. All construction must be authorized by the City Council and comply with City building and construction codes and standards, and airport minimum standards.
 - B. No structures may be erected beyond the BRL (building reference line) or in conflict with the approved Airport Layout Plan.
 - C. No signs, equipment, buildings, portable buildings, trailers or house trailers may be erected, moved in or installed except as may be specifically authorized by the City Council.
- L6. **Commercial Leases** – All commercial operations or activities of any kind that are conducted on Lancaster Regional Airport are required to comply with the approved Minimum Standards for Commercial and Noncommercial Operators.
- L7. **Non-Commercial Leases** – Non-commercial leases are prohibited from being used to engage in commercial activity on Lancaster Regional Airport.

APPENDIX A DEFINITIONS

APPENDIX A – DEFINITIONS

Access taxiway: A taxiway that provides access to a particular location or area.

Active based aircraft: Aircraft that have a current Airworthiness Certificate and are based at an airport.

Actual runway length: The length of full-width usable runway from end to end of full strength pavement where those runways are paved, and which meet FAA criteria.

Advisory Circular (AC): FAA publications consisting of all non-regulatory material of a policy, guidance, and technical nature and used as basic source for most airport design criteria.

Air Taxi: A helicopter movement conducted above the surface but normally not above 100ft AGL. The aircraft may proceed either via hover taxi or flight at speeds more than 20 KIAS.

Aircraft: A device that is used or intended to be used for flight in the air. (FAR Part 1)

Aircraft mix: The range of categories of aircraft which are to be accommodated at the airport. Mix is usually defined in percentages of categories such as multi engine, jet, turbo-prop, etc.

Aircraft movement areas: Areas on an airport suitable for aircraft operations and which meet FAA criteria.

Aircraft operations: A take-off or landing by an aircraft. There are two types of operations - local and itinerant.

(1) Local operations are performed by aircraft which:

- (a) Operate in the local traffic pattern or within sight of the airport.
- (b) Are known to be departing for, or arriving from, flight in local practice areas within a 20-mile radius of the airport.
- (c) Execute simulated instrument approaches or low passes at the airport.

(2) Itinerant operations are all aircraft operations other than local operations.

Aircraft parking on terminal apron: The paved or surface-treated terminal aircraft parking apron shall be reserved for itinerant aircraft or for other aircraft while being fueled or while loading or unloading passengers, except that portion of the parking apron reserved for aircraft owners leasing space from the City for month to month parking.

Aircraft parking/tie-down: A specialized location on the airport that has at least 3-point tie-downs with ropes or chains adequate to hold aircraft immobile in gale-force winds.

Aircraft tie down: Positions on the ground surface that are available for securing aircraft.

Airport capacity: The rate of aircraft movements on the runway/taxiway system which results in a given level of delay, usually four minutes to departing aircraft.

Air navigation facility (NAVAID): Any facility used as, available for use as, or designed for use as an aid to air navigation, including lights, radio or other electronic communication, and any other device for guiding and controlling flight in the air or the landing or takeoff of aircraft.

Airport: The airport identified on the title plate hereof.

Airport Advisory Board (AAB): A seven member body of appointed citizens that study and make recommendations to the City Council regarding operations and facility improvements of the Regional airport.

Airport beacon: A visual navigation aid displaying alternating white and green flashes to indicate a lighted land based airport.

Airport elevation: The highest point of an airport's usable runways measured in feet from mean sea level.

Airport Identifier - LNC: A coded identity assigned to the Lancaster, Texas airport by the Federal Aviation Administration.

Airport imaginary surfaces: Imaginary surfaces established at an airport for obstruction determination purposes and consisting of primary, approach-departure, horizontal, vertical, conical, and transitional surfaces. Building restriction lines are based upon these surfaces.

Airport Layout Plan (ALP): An FAA/TxDOT approved set of drawings showing airport boundaries, physical features and proposed additions to all areas owned or controlled by the sponsor for airport purposes, the location and nature of existing and proposed airport facilities and structures, and the location on the airport of the existing and proposed non-aviation areas and improvements thereon. The drawings also show local airspace, approach areas and obstructions in the approach areas.

Airport Manager, City Manager or Designee: Person duly authorized by the City of Lancaster to perform duties required to manage the airport. To act on behalf of the City to the extent required for safe and efficient airport operations.

Airport Master Plan: An official document that presents the City concepts for the ultimate development of an airport. It presents the research and logic from which the plan was evolved and displays the plan in a graphic and written form.

Airport Reference Code (ARC): The Federal Aviation Administration classifies airports by use of the AIRPORT REFERENCE CODE (ARC), which is a coding system used to relate airport design criteria to the operational and physical characteristics of the airplanes intended to operate at the airport. This code is divided into two components. The first is depicted by a letter the airport approach category (operational characteristic) and relates to aircraft approach speed. The second component depicted by a roman numeral is the airplane design group and related to airplane wingspan (physical characteristic).

Airport sponsor: The City of Lancaster is the airport sponsor and is authorized to own and operate the airport, to obtain property interests, to obtain funds, and to be legally, financially, and otherwise able to meet all applicable requirements of current laws and regulations.

Airspace: Space in the air above the surface of the Earth or a particular portion of such space, usually defined by the boundaries of an area on the surface projected upward.

Airside facilities: The airfield on which aircraft operations are carried out, including runways and taxiways.

Altitude Above Ground Level (AGL): the height of an aircraft about the earth's surface.

Approach path: A specific flight course laid out in the vicinity of an airport and designed to bring aircraft in to safe landings; usually delineated by suitable navigational aids.

Approach surface: An imaginary surface longitudinally centered on the extended centerline of the runway, beginning at the end of the primary surface and rising outward and upward to a specified height above the established airport elevation.

Apron: A defined pavement area, intended to accommodate aircraft for purposes of loading or unloading passengers or cargo, refueling, parking, or maintenance.

Avigation easement: A grant of a property interest inland over which a right of unobstructed flight in the airspace is established, or used for related purposes such as noise mitigation.

Base leg: A segment of the airport traffic pattern that connects the downward leg and the final approach leg.

Based aircraft: The total number of active general aviation aircraft which use or may be expected to use an airport as a "home base".

Building area: An area on an airport to be used, considered, or intended to be used, for airport buildings or other airport facilities or rights-of-way, together with all airport buildings and facilities located thereon.

Building Restriction Line (BRL): A line shown on the airport layout plan beyond which airport buildings must not be positioned in order to limit their proximity to aircraft movement areas.

Common Traffic Advisory Frequency (CTAF): Is used by all aircraft to facilitate cooperation in their use of the airport. These conversations are generally related to the actual takeoff and/or landing of aircraft, but special activities close to the airport will often be accompanied by announcements on this frequency. See also UNICOM.

City: The City of Lancaster, Texas.

Commercial operator: A person who provides for compensation, goods or services to the public on or from the airport, such as car rental agency, restaurant, etc.

Displaced threshold: A threshold that is located at a point on the runway other than the beginning.

Downwind leg: A flight path in the traffic pattern parallel to the landing runway in the direction opposite to landing. It extends to the intersection of the base leg. (See traffic pattern)

Effective runway length: (a) Effective runway length for takeoff means the distance from the end of the runway at which the takeoff is started to the point at which the obstruction clearance plane associated with the other end of the runway intersects the runway center-line. (FAR Part 121.171b) (b) Effective runway length for landing means the distance from the point at which the obstruction clearance plane associated with the approach end of the runway intersects the centerline of the runway to the far end thereof. (FAR Part 121-171.b)

Entrance taxiway: A taxiway that provides entrance for aircraft to the takeoff end of the runway.

Exit taxiway: A taxiway used as an exit from a runway to another runway, apron or other aircraft operating area.

FAR Part 77: Defines obstructions to air navigation and requires notice to FAA of certain types of

construction on and near airports.

FAR Part 150, Airport Noise and Land Use Compatibility Planning: Designed to assist airport operators in determining the extent and nature of the noise problem at a given airport.

Federal Aviation Administration (FAA): Created by the act that established the Department of Transportation. Responsible for all civil aviation administration and regulation in the United States.

Federal Aviation Regulations (FAR): As codified in Title 14, Code of Federal Regulations.

Final approach area(s): Areas of defined dimensions protected for aircraft executing instrument approaches.

Final Approach (IFR): The flight path of an aircraft which is inbound to the airport on an approved final instrument approach course, beginning at the final approach fix or point and extending to the airport or the point where circling for landing or missed approach is executed.

Final Approach (VFR): A flight path, in the traffic pattern, of a landing aircraft in the direction of landing along the extended runway centerline from the base leg to the runway. (See traffic pattern).

Fixed Base Operator (FBO): A business enterprise located on the airport that provides goods and services to airport users, such as, fuel, lubricants, maintenance, or other accommodations to the general public.

Fuel flowage fees: Fees levied by the airport operator per gallon of aviation gasoline and jet fuel sold at the airport.

General aviation: That portion of civil aviation which encompasses all facets of aviation except air carriers holding a certificate of convenience and necessity from the Civil Aeronautics Board, and large aircraft commercial operators.

General aviation airports: Those airports with fewer than 2,500 annual enplaned passengers and those used exclusively by private and business aircraft not providing air-carrier passenger service.

General aviation itinerant operations: Takeoffs and landings of civil aircraft (exclusive of air carrier) operating on other than local flights.

General Fixed-Base Operator (GFBO): A person authorized under these standards to operate on the airport as a general fixed base operator (GFBO). See Section G on Commercial Operators/Rights.

Ground Lease: The right to use and occupy an area of the airport described in a ground lease agreement between the City of Lancaster and the lease holder.

Hangar Operator: The owner of a building or hangar space for lease or sale for the purpose of any general aviation related activity.

Heliport: An area of land, water, or structure used or intended to be used for the landing and takeoff of helicopters. (FAR Part 1)

Holding areas: Run-up areas located at or very near the ends of runways for pilots to make final checks and await final clearance for takeoff.

Horizontal surface: A specified portion of a horizontal plane located 150 feet above the established

airport elevation which establishes the height above which an object is determined to be an obstruction to air navigation.

Hover Taxi: A helicopter movement conducted above the surface and in ground effect at airspeeds less than 20 KIAS. The actual height may vary, and some helicopters may require hover taxi above 25ft AGL to reduce ground effect turbulence.

IFR airport: An airport with an authorized instrument approach procedure.

IFR conditions: Weather conditions below the minimum for flight under visual flight rules.

Instrument approach: An approach to an airport, with intent to land, by an aircraft flying in accordance with an IFR flight plan, when the visibility is less than 3 miles and/or when the ceiling is at or below the minimum initial altitude.

Instrument approach runway: A runway served by an electronic aid providing at least directional guidance adequate for a straight-in approach.

Instrument Flight Rules (IFR): FAR rules that govern the procedures for conducting instrument flight. (FAR Part 91)

Instrument Landing System (ILS): A system which provides in the aircraft, the horizontal and vertical guidance necessary for a landing.

Instrument Meteorological Conditions (IMC): Meteorological conditions expressed in terms of visibility, distance from cloud, and ceiling less than the minima specified for visual meteorological conditions.

Instrument runway: A runway equipped with electronic and visual navigation aids and for which a straight-in (precision or non-precision) approach procedure has been approved or is planned.

Itinerant operations: All aircraft arrivals and departures other than local operations.

Landing area: Any locality, either on land or water, including airports, heliports and STOL ports, which is used or intended to be used for the landing and takeoff or surface maneuvering of aircraft, whether or not facilities are provided for the shelter, servicing, or repair of aircraft, or for receiving or discharging of passengers or cargo.

Landing roll: The distance from the point of touchdown to the point where the aircraft can be brought to a stop, or exit the runway.

Landside operations: Those parts of the airport designed to serve passengers including the terminal buildings, vehicular circular drive, and parking facilities.

Land use plan: Shows on-airport land uses as developed by the airport sponsor under the master plan effort and off-airport land uses as developed by surrounding communities.

Large aircraft: Aircraft of more than 12,500 pounds maximum certificated takeoff weight. (FAR Part 1)

Lighted airport: An airport where runway and associated obstruction lighting is available from sunset to sunrise or during periods of reduced visibility or on request of the pilot.

Line service: The dispensing of aviation fuel, checking aircraft engine oil, adding aircraft engine oil, windshield cleaning, etc.

Local operations: As pertaining to air traffic operations, aircraft operating in the local traffic pattern or within sight of the tower; aircraft known to be departing for, or arriving from, flight in local practice areas located within a 20-mile radius of the control tower; aircraft executing simulated instrument approaches or low passes at the airport.

Local traffic: Aircraft operating in the local traffic pattern or within sight of the tower, or aircraft known to be departing for or arriving from flight in local practice areas, or aircraft executing simulated instrument approaches at the airport.

Marking: On airports, a pattern of contrasting colors placed on the pavement, turf, or other usable surface by paint or other means to provide specific information to aircraft pilots and sometimes to operators of ground vehicles, on the movement areas.

National Plan of Integrated Airport Systems (NPIAS): The Airport and Airway Improvement Act of 1982. The legislation called for identification of national airport system needs including development costs in the short and long run.

Night: The time between the end of evening civil twilight and the beginning of morning civil twilight, as published in the American Air Almanac, converted to local time.

Noncommercial operators: A person who does not offer or provide goods or services to the public for compensation. See Section H herein on noncommercial operators.

Nonprecision Instrument Runway: A runway having an existing instrument approach procedure utilizing air navigation facilities with only horizontal guidance for which a straight-in or circling nonprecision instrument approach procedure has been approved.

Obstruction light: A light, or group of lights, usually red, mounted on a surface structure or natural terrain to warn pilots of the presence of a flight hazard; either an incandescent lamp with a red globe or a strobe light.

Obstruction marking/lighting: Distinctive marking and lighting to provide a uniform means for indicating the presence of obstructions.

Overhead Approach Maneuver: This maneuver utilizes a race track style landing pattern where the aircraft approaches the airport on the upwind at pattern altitude, performs a break turn to enter the downwind and executes a 180 degree descending turn to final from abeam the touch down point. See AIM "5-4-26. Overhead Approach Maneuver" for more information.

Owner: The owner identified on the title page of these standards.

Parking apron: An apron intended to accommodate parked aircraft.

Person: Unless context clearly indicates otherwise, the "person" as used herein shall mean any natural person, estate, club, organization, firm, association (whether incorporated or not), partnership, corporation, or legal entity of any kind.

Precision Approach Path Indicator (PAPI): A visual approach aid, using a combination of red and white lights, for pilots on final approach to a runway. The PAPI allows the pilot to determine if the aircraft above, below or on the glide slope. There are also other visual approach aids such as VASI (Visual Approach Slope Indicator) that provided similar information.

Public airport: An airport for public use, publicly owned and under control of a public agency.

Public-use airport: Airports, public or private, open to the public without prior permission and without restrictions within the physical capacities of available facilities.

Reliever airports: A class of general aviation airports which have the function of relieving congestion at primary commercial airports and providing more access for general aviation to the overall community.

Relocated threshold: An area preceding the runway arrows unusable for takeoff or landing.

Restricted area: Airport property designated for the safe operation of aircraft or other uses requiring limited public access.

Runway: A defined rectangular area on a land airport prepared for the landing and takeoff run of aircraft along its length.

Runway bearing: The magnetic or true bearing of the runway centerline as measured from magnetic or true North.

Runway capacity: The number of aircraft operations which can be accommodated by a runway without undue delay to aircraft. Undue delays occur when delays to departures average four minutes during the peak two-hour period of the day.

Runway direction number: A whole number to the nearest one tenth of the magnetic bearing of the runway and measured in degrees clockwise from magnetic north.

Runway End Identification Lights (REIL): An airport lighting facility in the terminal area navigation system consisting of one flashing white high intensity light installed at each approach end corner of a runway and directed toward the approach zone, which enables the pilot to identify the threshold of a usable runway.

Runway length-landing: The measured length from the threshold to the end of the runway, not including the runway safety area length.

Runway length-takeoff: The measured length from where the takeoff is designated to begin to the end of the runway.

Runway lights: Lights having a prescribed angle of emission used to define the lateral limits of a runway. Runway light intensity may be controllable or preset, and are uniformly spaced at intervals of approximately 200 feet.

Runway markings: (1) Basic marking-markings on runways used for operations under visual flight rules, consisting of centerline marking and runway direction numbers, and if required, letters. (2) Instrument marking-markings on runways served by non-visual navigation aids and intended for landings under instrument weather conditions, consisting of basic marking plus threshold marking. (3) All-weather marking-markings on runways served by non-visual precision approach aids and on runways having special operational requirements, consisting of instrument markings plus landing zone marking and side strips.

Runway orientation: The magnetic bearing of the centerline of the runway.

Runway protection zone: An area at ground level whose perimeter conforms to the runway's innermost approach surface projected vertically. It begins at the end of the primary surface and it terminates directly below the point or points where the approach surface reaches a height of 50 feet above the elevation of

the runway end.

Runway safety area: Cleared, drained, graded, and usually turfed areas abutting the edges of the usable runway and symmetrically located about the runway. It extends 1000'x500' beyond each runway end for Runway 18-36, and 300'x150' beyond the ends of Runway 11-29. The width varies according to the type of runway.

Runway strength: The structural capability of a runway to support aircraft of a designated gross weight for each of single-wheel, dual-wheel, and dual-tandem-wheel landing gear types.

Runway threshold marking: Markings so placed as to indicate the longitudinal limits of that portion of the runway usable for landing.

Scheduled service: Airport transport service operated over routes based on published flight schedules, including extra sections and related non-revenue flights.

Secondary runway: A runway which provides additional wind coverage or capacity to expedite traffic handling.

Segmented circle: A basic marking device used to aid pilots in locating airports, and which provides a central location for such indicators and signal devices as may be required.

Shoulder: As pertaining to airports, an area adjacent to the edge of a paved surface so prepared to provide a transition between the pavement and the adjacent surface for aircraft running off the pavement, for drainage and sometimes for blast protection.

Single runway: An airport having one runway.

Small aircraft: Aircraft of 12,500 pounds or less maximum certificated takeoff weight. (FAR Part 1)

Specialty Fixed-Base Operator (SFBO): A person authorized to operate on the airport as a Specialty Fixed-Base Operator. See Section G on Commercial Operators/Rights.

Straight-in approach – IFR: An instrument approach wherein final approach is begun without first having executed a procedure turn, not necessarily completed with a straight-in landing or made to straight-in landing minimums.

Straight-in approach – VFR: Entry into the traffic pattern by interception of the extended runway centerline (final approach course) without executing any other portion of the traffic pattern. (See Traffic Pattern).

Taxi lane: A defined path in the aircraft parking area intended to provide taxiing aircraft access between the taxiways and the aircraft parking positions.

Taxiway: A defined path, usually paved, over which aircraft can taxi from one part of an airport to another.

Taxiway safety area: A cleared, drained, and graded area, symmetrically located about the extended taxiway centerline and adjacent to the end of the taxiway safety area.

Texas Council on Environmental Quality (TCEQ): The Texas state agency responsible for implementation and enforcement of state and federal environmental rules and regulations.

Terminal apron: An area provided for parking and positioning of aircraft in the vicinity of the terminal building for loading and unloading.

Terminal area: The area used or intended to be used for such facilities as terminal, hangars, shops, and other service buildings; automobile parking, fixed base operations, and garages and vehicle service facilities used in connection with the airport; and entrance and service roads used by the public within the boundaries of the airport.

Texas Department of Transportation (TxDOT): Acts as an agent of the state and of each political subdivision of Texas for the purposes of applying for, receiving, and disbursing federal funds. TxDOT administers The Aviation Facilities Development and Financial Assistance Program through its Aviation Division.

Terminal building: A building or buildings designed to accommodate the enplaning and deplaning activities of flight crews and passengers.

T-hangar: An aircraft hangar in which aircraft are parked alternately tail to tail, each in the T-shaped space left by the other row of aircraft or aircraft compartments.

Threshold: The designated beginning of the runway that is available and suitable for the landing of airplanes.

Total operations: All arrivals and departures performed by military, general aviation, and air carrier aircraft.

Traffic pattern: The traffic flow that is prescribed for aircraft landing at, taxiing on, or taking off from an airport. The components of a typical traffic pattern are upwind leg, crosswind leg, downwind leg, base leg, and final approach.

- a) Upwind Leg – A flight path parallel to the landing runway in the direction of landing.
- b) Crosswind Leg – A flight path at right angles to the landing runway off its upwind end.
- c) Downwind Leg – A flight path parallel to the landing runway in the direction opposite to landing. The downwind leg normally extends between the crosswind leg and the base leg.
- d) Base Leg – A flight path at right angles to the landing runway off its approach end. The base leg normally extends from the downwind leg to the intersection of the extended runway centerline.
- e) Final Approach – A flight path in the direction of landing along the extended runway centerline. The final approach normally extends from the base leg to the runway. An aircraft making a straight-in approach VFR is also considered to be on final approach.

Transitional surface: A surface which extends outward and upward from the sides of the primary and approach surfaces normal to the runway centerline which identifies the height limitations on an object before it becomes an obstruction to air navigation.

UNICOM: Frequencies authorized for aeronautical advisory services to private aircraft. Only one such station is authorized at any landing area. Services available are advisory in nature, primarily concerning the airport services and airport utilization.

VFR airport: An airport without an authorized or planned instrument approach procedure; also, a former airport design category indicating an airport serving small aircraft only and not designed to satisfy the

requirements of instrument landing operations.

Visual approach: An approach wherein an aircraft on an IFR flight plan, operating in VFR conditions under the control of a radar facility and having an air traffic control authorization, may deviate from the prescribed instrument approach procedure and proceed to the airport of destination, served by an operational control tower, by visual reference to the surface.

Visual Approach Slope Indicator (VASI): An airport lighting facility in the terminal area navigation system used primarily under VFR conditions. It provides vertical visual guidance to aircraft during approach and landing by radiating a directional pattern of high intensity red and white focused light beams which indicate to the pilot that he is "on path" if he sees red/white, "above path" if white/white, and "below path" if red/red.

Visual Flight Rules (VFR): Rules that govern the procedures for conducting flight under visual conditions. (FAR Part 91)

Visual runway: A runway intended solely for the operation of aircraft using visual approach procedures, with no straight-in instrument approach procedure and no instrument designation indicated on an FAA-approved airport layout plan, a military service approved military airport layout plan, or by a planning document submitted to the FAA by competent authority. (FAR Part 77)

Wake vortex: A phenomenon resulting from the passage of an aircraft through the atmosphere. It is an aerodynamic disturbance that originates at the wingtips and trails in corkscrew fashion behind the aircraft. When used by ATC it includes vortices, thrust stream turbulence, jet wash, propeller wash, and rotor wash.

Wheeled Taxi: A wheeled helicopter ground taxiing via it's landing gear.

Wind cone: A free-rotating fabric truncated cone which when subjected to air movement indicates wind direction and wind force.

Wind rose: A diagram for a given location showing relative frequency and velocity of wind from all compass directions.

LANCASTER CITY COUNCIL

Agenda Communication for

February 27, 2012

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AG12-005

Consider a resolution approving the terms and conditions of the City owned T-Hangar non-commercial lease from building 670 at the Lancaster Regional Airport.

This request supports the City Council 2011-2012 Policy Agenda.

Goal: Sound Infrastructure

Background

The City owns and leases five rows of T-hangars (building 660-700) of three different sizes based off aircraft wingspan. There are 92 units that the City rents for aircraft storage with end cap commercial spaces on the east end of each hangar row. The City T-hangars are near full occupancy most of the time. This agenda item brings forward a non-commercial lease agreement for T-hanger 670-101 (1,018 square feet) for a new tenant, Mr. Jerry Lunsford.

Considerations

- **Operational** - The City T-hangar non-commercial lease is used for private aircraft owners.
- **Legal** - The lease agreement was reviewed and approved by the City Attorney.
- **Financial** - Lease rates vary based on size of the hangar. All rates were approved in the City's Master Fee Schedule. The monthly rate for this medium size T-hangar is \$96.00 per month. This is a reduced rate because the interior of the T-hangar has three walls removed; and is therefore, a community style hangar and not as private.
- **Public Information** – There are no public information requirements.

Options/Alternatives

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

Recommendation

Staff recommends approval of the resolution.

Attachments

- Resolution
- Exhibit "A" Lease Agreement

Prepared and submitted by:
Mark Divita, Airport Manager

Date: February 15, 2012

RESOLUTION NO. 2012-02-19

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LANCASTER, TEXAS, APPROVING THE TERMS AND CONDITIONS OF THE CITY OWNED T-HANGAR NON-COMMERCIAL LEASE FROM BUILDING 670 AT LANCASTER REGIONAL AIRPORT; AUTHORIZING THE CITY MANAGER TO EXECUTE SAID LEASES; AND PROVIDING AN EFFECTIVE DATE.

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

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

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

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

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

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

DULY PASSED and approved by the City Council of the City of Lancaster, Texas, on this the 27th day of February 2012.

ATTEST:

APPROVED:

Dolle K. Downe, City Secretary

Marcus E. Knight, Mayor

APPROVED AS TO FORM:

Robert E. Hager, City Attorney



LANCASTER REGIONAL AIRPORT

Agreement for Lease of T-Hangar for Storage of Aircraft

Non-Commercial Tenants

This CONTRACT and AGREEMENT OF LEASE, made this _____ day of _____, 2012, between the City of Lancaster, Texas, a municipal corporation, ("LESSOR") and Jerry Lunsford, (LESSEE"), evidences the following:

I.

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

1. **Premises:** Hangar Row and Suite 670-101 located at the Airport, and consisting of approximately 1,018 square feet ("Leased Premises").
2. **Uses:** The leased premises shall be used and occupied only for the storing of aircraft owned, leased, and/or legally operated by LESSEE and related equipment. The leased premises shall be used and occupied only for the personal, business, and/or private use of the LESSEE. LESSEE shall provide LESSOR with a copy of the FAA Certificate of Aircraft Registration for the aircraft to be stored under this agreement. If the registration is not in the name of LESSEE, a copy of a valid lease or other documentation showing a possessory interest in the aircraft shall be provided. LESSEE shall not store non-aviation items such as house hold goods in leased premises. LESSEE shall not use the leased premises for any on going business or commercial operations warehousing goods or services for sale to third parties.
3. **Term:** The term of this lease will be from month to month, beginning the _____ day of _____, 2012. Either party may cancel and terminate this agreement by serving thirty (30) days written notice of its election to do so.
4. **Rent:** LESSEE shall pay LESSOR as rent \$96.00 per month, due and payable in advance on the first day of each month.

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

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

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

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

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

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

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

II.

STANDARD TERMS AND PROVISIONS

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

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

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

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

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

made.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

LESSEE: Jerry Lunsford

3805 Fox Hollow

Bedford, TX 76021

817-480-8866

jerryl@planetexans.com

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

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

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

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

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

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

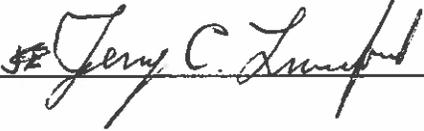
25. **Landlord's Lien:** Pursuant to Section 54.021 of the Texas Property Code, LESSOR has a preference lien on the property of the LESSEE or any SUBLESSEE in the building for rent that is due and for rent that is to become due during the current 12 month period succeeding the date of the beginning of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

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

CITY OF LANCASTER, LESSOR

LESSEE:

By: _____
Opal Mauldin Robertson,
City Manager

 _____

ATTEST:

Dolle K. Downe, City Secretary

LANCASTER CITY COUNCIL
Agenda Communication for
February 27, 2012

6

AG12-006

Consider a resolution authorizing the City Manager to extend Stage 2 activation of the City of Lancaster Water Conservation and Drought Contingency and Water Emergency Response Plan through June 8, 2012 as required by the Wholesale Treated Water Contract between the City of Dallas and the City of Lancaster.

This request supports the City Council 2011-2012 Policy Agenda.

Goal: Healthy, Safe & Vibrant Neighborhoods

Background

On December 12, 2011, Council approved a resolution initiating Stage 2 of the City of Lancaster's Water Conservation and Drought Contingency and Emergency Response Plan in response to formal notification and contract requirements by the City's water supplier the City of Dallas. Dallas' goal for initiating the Drought Contingency Plan was a five percent (5%) reduction in water usage, which is to be achieved primarily through the limiting of outside watering to a maximum frequency of twice per week. The goal of a five percent (5%) reduction in water consumption is Stage 1 for the City of Dallas and Stage 2 for the City of Lancaster. This initial activation was to have been for 60 days.

On February 8, 2012, the City of Dallas City Council authorized a resolution extending Stage 1 of their Drought Contingency Plan for 120 days through June 8, 2012. The Plan states that a particular stage of the plan can be extended by the City Council for a period of 120 days. Dallas cites that although winter rains have increased lake levels, our region is still suffering the effects of the drought and climatologists expect the drought to continue through the summer of 2012. Dallas further cites that the extension will allow them to continue to preserve water resources through the spring and better determine whether drought conditions are likely to persist. They further state that the extension will also allow better evaluation of their water demands resulting from any emergency water sales and from the temporarily reduced capacity at their Eastside water treatment plant.

Just as we were required by contract to initiate a like drought stage of our Drought Contingency Plan when the City of Dallas initiated their drought stage of their Drought Contingency Plan in December 2011, the City of Lancaster is required to again follow Dallas and extend Stage 2 of our Drought Contingency Plan by 120 days through June 8, 2012.

Considerations

- **Operational** - through June 8, 2012:
 - Continue public education campaign and encourage reduced water use practices.
 - Continue intensified normal leak detection and repair activities on water pipes and mains.
 - Continue encouraging reduction of water use in city-owned ornamental fountains.
 - Continue encouraging reductions in landscape used for parks and city owned golf courses.
 - Continue identifying and encouraging voluntary reduction measures by high-volume water users.
 - Continue encouraging implementation of like procedures by wholesale customers.
- **Legal** – The attached resolution was been reviewed by the City Attorney and approved as to form.
- **Financial** - Further reductions in water sales may be experienced due to the extension of the Stage 2 restriction for an additional 120 days.
- **Public Information** - The City will notify the local media of the extension of the drought response Stage 2 through June 8, 2012. Notice of the extension will also be publicized on the city web site and included in the quarterly newsletter sent to customers. The Lancaster Municipal Utility District will be notified via certified mail.

Options/Alternatives

The water purchase contract between the City of Dallas and the City of Lancaster requires us to comply with initiation and extension of the Drought or Water Emergency Response Stages during times of drought.

Recommendation

Staff recommends extending Stage 2 water restrictions of the City of Lancaster's Water Conservation and Drought Contingency and Emergency Response Plan for an additional 120 days through June 8, 2012.

Attachments

- Resolution with contract
- City of Dallas email request for Drought Stage Extension

Prepared and submitted by:
Clovia English, Director of Public Works

Date: February 14, 2012

RESOLUTION NO. 2012-02-20

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LANCASTER, TEXAS AUTHORIZING THE CITY MANAGER TO EXTEND STAGE 2 ACTIVATION OF THE CITY OF LANCASTER WATER CONSERVATION AND DROUGHT CONTINGENCY AND WATER EMERGENCY RESPONSE PLAN BY 120 DAYS UNTIL JUNE 8, 2012 AS REQUIRED BY THE WHOLESALE TREATED WATER CONTRACT BETWEEN THE CITY OF DALLAS AND THE CITY OF LANCASTER AS OUTLINED IN EXHIBIT "A" ATTACHED HERETO AND INCORPORATED HEREIN; REPEALING ALL RESOLUTIONS IN CONFLICT; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Lancaster contracts with the City of Dallas for the purchase of water supply for the City of Lancaster; and

WHEREAS, under this contract, the City of Lancaster is required to comply with formal requests from the City of Dallas to initiate or extend Drought or Water Emergency Response Stages during times of drought; and

WHEREAS, it is well documented that the Texas region has been in a serious drought condition; and

WHEREAS, on December 12, 2011, the City of Lancaster City Council authorized implementation of Stage 2 of the City of Lancaster's Water Conservation and Drought Contingency and Water Emergency Response Plan, which targets a goal of five percent (5%) reduction in water consumption, at the formal request of the City of Dallas who had also implemented a like stage of their Drought Contingency Plan; and

WHEREAS, on February 10, 2012, the City of Lancaster received official notification from the City of Dallas that they had extended their initiated drought Stage 1 by 120 days through June 8, 2012 and were requesting that the City of Lancaster extend their like initiated drought stage (Stage 2) for the same period.

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

SECTION 1. The City Council of the City of Lancaster, Texas, hereby approves extending Stage 2 of the City of Lancaster's Water Conservation and Drought Contingency and Water Emergency Response Plan for 120 days through June 8, 2012 as did the City of Dallas and as is required by contract.

SECTION 2. The City Manager is hereby authorized to take any action necessary to extend Stage 2 of the City of Lancaster's Water Conservation and Drought Contingency and Water Emergency Response Plan for 120 days through June 8, 2012.

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 to be invalid for any reason, the remainder shall not be affected thereby, and such remaining portions are hereby declared to be severable.

SECTION 5. This Resolution shall take effect immediately from and after its passage, and it is duly resolved.

DULY PASSED and approved by the City Council of the City of Lancaster, Texas on this the 27th day of February 2012.

ATTEST:

APPROVED:

Dolle K. Downe, City Secretary

Marcus E. Knight, Mayor

APPROVED AS TO FORM:

Robert E. Hager, City Attorney

WHOLESALE TREATED WATER CONTRACT BETWEEN
CITY OF DALLAS AND CITY OF LANCASTER

STATE OF TEXAS §
 §
COUNTY OF DALLAS §

THIS WHOLESALE TREATED WATER CONTRACT ("Contract") is made and entered into this the 4th day of October, 2011, by and between the CITY OF DALLAS, a Texas home rule municipality (hereinafter called "Dallas"), and the CITY OF LANCASTER, TEXAS, a Texas home rule municipality (hereinafter called "Customer").

WHEREAS, Customer currently purchases wholesale treated water from Dallas, and Dallas currently delivers and sells wholesale treated water to Customer as set forth under the terms, covenants, and conditions stated the Current Contract; and

WHEREAS, from time to time, both Dallas and Customer have had the need to request the other to furnish water and/or wastewater service to each other's customers along common boundary lines wherein only one of the parties has facilities available; and

WHEREAS, the Current Contract with Dallas will expire on November 11, 2011; and

WHEREAS, Dallas and Customer desire to enter into a new wholesale treated water contract and reciprocal water and wastewater agreement; and

NOW, THEREFORE, Dallas and Customer, in consideration of the mutual terms, covenants, and conditions contained in this Contract, agree as follows:

Article 1. DEFINITIONS

1.1 Definitions. In addition to the definitions stated in the preamble hereof, the following words and phrases as used in this Contract, unless the context clearly shows otherwise, shall have the following meanings:

"Current Contract" means that certain Wholesale Treated Water Contract dated and effective November 11, 1981, by and between Dallas and Customer.

"Customer's Service Area" means the area within Customer's incorporated limits, as amended from time to time through annexation or disannexation, and any service area described in a certificate of convenience and necessity issued by the TCEQ for the provision of retail public water service, even if such service area is outside of Customer's incorporated limits, such service area on the Effective Date being as set forth in Exhibit "B," attached hereto and incorporated herein by reference.

“Delivery Facilities” means the pipe, valves, meters, and other associated equipment and appurtenances necessary to connect Dallas’ water distribution system to Customer’s water distribution system at the Delivery Points so that delivery of Treated Potable Water from Dallas to Customer is made possible.

“Delivery Points” means those locations set forth in Exhibit “C,” attached hereto and incorporated herein by reference, or as may be added to or deleted by agreement of the parties from time to time, where Dallas’ water distribution system connects to Customer’s water system and at which delivery of Treated Potable Water occurs to Customer.

“Demand” means the maximum rate of flow of Treated Potable Water that may be taken by Customer from Dallas within a Water Year.

“Demand Schedule” means Customer’s written estimate of Customer’s annual requirements for delivery and use of Potable Treated Water from Dallas.

“Director” means the Director of Dallas’ Department of Water Utilities, or the Director’s designated representative.

“Effective Date” shall mean November 11, 2011.

“Memorandum of Agreement” or “MOA” means that certain *Memorandum of Agreement for Wholesale Treated Water* effective December 17, 2009, by and among Dallas, Customer and other local governmental entities, a copy of which is attached hereto as Exhibit “A,” and incorporated herein by reference.

“Potable Treated Water” means raw water that has been treated and purified to at least Drinking Water Standards as required by applicable TCEQ rules and regulations for Public Waters Systems, as amended from time to time.

“TCEQ” means the Texas Commission on Environmental Quality or its successor agency.

“Water Year” means the period described by applicable ordinance of the City of Dallas, as may be amended from time to time, which on the Effective Date begins on June 1st of each calendar year and ends on May 31st of the immediately subsequent calendar year.

Article 2. TERM; TERMINATION OF CURRENT CONTRACT

2.1. Term. This Contract shall remain in full force and effect for a term of thirty (30) years from November 11, 2011 (“Effective Date”) unless terminated earlier as provided herein.

2.2 Termination of Current Contract. Upon the Effective Date, the Current Contract shall be null, void, and of no further legal force or effect except as to any provisions that expressly survive the termination of the Current Contract.

Article 3. WATER SALES

- 3.1 Sale and Delivery of Treated Water.** Dallas agrees to sell and deliver to Customer, on a wholesale cost basis, Potable Treated Water in accordance with the specifications and restrictions contained in Article 4 of this Contract and in sufficient quantities to meet Customer's volume and demand requirements as provided in this Contract.
- 3.2 Limitations on Delivery.** Customer understands and acknowledges that delivery of Potable Treated Water to meet Customer's volume and demand requirements is subject to and limited by available system supply and system deliverability, as reasonably determined by the Director as well as events of Force Majeure; provided, however, delivery of Potable Treated Water to Customer shall not be unreasonably withheld.
- 3.3 Demand Schedule.** Not later than 60 days after the Effective Date, Customer shall provide to Dallas a Demand Schedule which factors in any reasonably anticipated increases or decreases in Demand during the term of this Contract. Customer shall either reaffirm or, if necessary, revise and update the Demand Schedule not later than ninety (90) days prior to the end of the fifth, tenth, fifteenth, twentieth, and twenty-fifth anniversaries of the Effective Date of this Contract. Customer shall also either reaffirm or update the Demand Schedule not later than ninety (90) days following receipt of a written request for same from Dallas.
- 3.4 Customer Changes in Demand.** Customer may from time to time change its Demand as set forth in the Demand Schedule subject to Section 3.7, below. Except as provided in the Special Condition contained in Exhibit "D", Customer shall be required to pay Dallas the Annual Demand Charge based on Section 3.8.
- 3.5 Failure to Deliver Demand – Seven Days.** If Dallas fails to make available the currently established Demand for seven (7) or more consecutive days, the Demand Charge for such days shall be an amount equal to the maximum rate of delivery of Potable Treated Water for the days in which full Demand was not met, multiplied by the current Annual Demand Charge, then divided by 365, then multiplied by the number of days the Demand was not met.
- 3.6 Failure to Deliver Demand – Thirty Days.** If Dallas fails to make available to Customer the currently established Demand for thirty (30) or more consecutive days, the Demand Charge for that Water Year shall be calculated by using the maximum rate of delivery of Potable Treated Water to Customer for the days in which the full Demand was not met, multiplied by the current Annual Demand Charge.
- 3.7 Notice of Demand Changes.** Customer shall give reasonable notice to Dallas of anticipated changes in its Demand. Such notice shall be given not less than six (6) months in advance of the effective date of the change if the requested change, when considered with other Dallas Customer requests, does not require the construction of additional facilities. The Director may waive the six-month notice requirement for good cause shown. If construction of additional facilities is required, enough additional advance notice shall be given as is necessary to allow for financing, design, and construction of the needed facilities.

3.8 Year on Which Annual Demand Charge is Based. Customer agrees, for each Water Year, to pay Annual Demand Charges based on the greater of: (a) the Demand for the current Water Year; or (b) the highest Demand established during the five (5) Water Years preceding the current Water Year.

Article 4. DELIVERY POINT, ACCESS, ETC.

4.1 Delivery Point. Dallas agrees to deliver Potable Treated Water sold to Customer for use within Customer's designated service area as identified in Exhibit B, at the Delivery Point(s).

4.2 Cost of Delivery Facilities. Except as set forth in Sections 4.3, 4.4, and 4.5, the cost for design and construction of all proposed Delivery Facilities, whether designated in Exhibit C or mutually agreed upon at a later date, shall be borne by Customer. Unless otherwise mutually agreed to by Dallas and Customer, Customer shall be responsible for the design, contracting, construction, and financing of Delivery Facilities and for the acquisition of any right-of-way for delivery of Treated Potable Water from the Dallas water system to the Delivery Points.

4.3 Oversizing of Delivery Facilities – Dallas Request. Dallas may elect to oversize a proposed Delivery Facility for the benefit of Dallas or other parties. If Dallas requires oversizing of a proposed Delivery Facility, Dallas shall be responsible for oversize costs to the extent of the documented difference in cost between the size of the Delivery Facility required for Customer's need and the size of the Delivery Facility specified by Dallas, including, but not limited to, any additional right of way or other temporary or permanent interests in real property that would not otherwise be required without the oversizing of the Delivery Facility.

4.4 Approval of Plans; Inspection. All designs, materials, and specifications for Delivery Facilities shall conform to Dallas' requirements. Plans for the construction of a proposed Delivery Facility shall be submitted to the Director for written approval prior to advertising for bids for such construction. Customer agrees that Dallas has the right to make periodic inspections during the construction phase of the Delivery Facilities. Final acceptance of completed Delivery Facilities is subject to the written approval of the Director. Dallas agrees that any approval or consent of Dallas or the Director required by this Section 4.4 shall not be unreasonably withheld or delayed.

4.5 Meters and Meter Vaults. Unless otherwise agreed by the parties, Dallas, shall construct and maintain meter vaults, meters, and all associated facilities, and obtain electric and telephone service in connection therewith, if needed. Customer agrees to reimburse Dallas for actual design and construction costs incurred pursuant to this Section 4.5, but only to the extent such costs are attributable to services provided to Customer, excluding costs of telemetry equipment, telephone and electric service.

4.6 Conveyance of Delivery Facilities to Dallas. Customer agrees that after final inspection and acceptance by the Director of completed Delivery Facilities, Customer will convey title of those facilities and rights-of-way in conjunction therewith to Dallas. Upon conveyance of title to Delivery Facilities by appropriate instrument, Dallas shall be responsible for operation and maintenance thereof. In no event shall Customer be required to transfer to Dallas fee simple title

to real property if an easement in that real property is sufficient to allow Dallas to operate, maintain, repair, replace, or reconstruct the Delivery Facility.

4.7 Additional Delivery Points. Customer may at any time during the term of this Contract request additional Delivery Points for delivery of Potable Treated Water under this Contract. The additional requests may be granted with the approval of the Director and shall, when so approved in writing, be deemed to be made a part of this Contract, thereby amending Exhibit C of this Contract without need for a further written supplemental agreement.

4.8 Access to Dallas Facilities. Customer agrees to provide ingress and egress to Customer's property located within Customer's incorporated limits to employees, contractors, and agents of Dallas to install, operate, inspect, test, and maintain facilities and read meters owned or maintained by Dallas; provided, however, Dallas' employees, contractors, and agents shall at all times comply with Customer's policies regarding security and safety as may be adopted from time to time by Customer for the purpose of safeguarding Customer's public water system and supply.

4.9 Access to Customer Facilities. Dallas agrees to provide ingress and egress to Dallas' property located within Dallas' incorporated limits to employees, contractors, and agents of Customer to install, operate, inspect, test, and maintain facilities and read meters owned or maintained by Customer; provided, however, Customer's employees, contractors, and agents shall at all times comply with Dallas' policies regarding security and safety as may be adopted from time to time by Dallas for the purpose of safeguarding Dallas' public water system and supply.

4.10 Accuracy of Meters. It shall be the duty of each party to notify the other party as soon as reasonably possible after a party obtains information that it believes indicates that a meter used to measure the delivery of Potable Treated Water under this Contract is registering inaccurately or malfunctioning. Each meter will be operated and maintained so as to record with commercial accuracy. Dallas will notify Customer prior to any meter tests. Either party has the right to request in writing that a meter be tested, with the other party having the right to witness the test. If Customer requires an independent testing service be used, Customer shall pay the cost of the testing service if any meter used to measure delivery under this Contract is found to be accurate. If the meter is found to be inaccurate, Dallas shall pay the cost of the testing service.

4.11 Liability; Loss of Water. All liability related to, and all accounting for loss of, all Potable Treated Water supplied under the terms of this Contract by Dallas to Customer shall belong to Dallas up to Dallas' side of the meter at each Delivery Point. Liability related to, and all accounting for loss of, all Potable Treated Water shall pass to Customer, after the Potable Treated Water passes to the Customer side of the meter at each Delivery Point.

Article 5. INSPECTION OF BOOKS AND RECORDS

Dallas agrees that Customer or its employees or agents may have access to and inspect the books and records of Dallas Water Utilities relating to the delivery and sale of Potable Treated Water to Customer, including, but not limited to, records relating to charges therefor

paid by Customer, during reasonable business hours after reasonable prior written notice to the Director. Customer agrees that Dallas or its employees or agents may have access to and inspect the books and records of the Customer's Water Utilities relating to the receipt and resale of Potable Treated Water to its end user customers during reasonable business hours and after reasonable prior written notice to Customer's City Manager.

Article 6. ADDITIONAL SURFACE WATER SUPPLIES

6.1 New Water Source; Reduce Demand Obligation. If Customer develops or acquires additional surface water supplies from any source other than Dallas, and Customer's reliance on such additional surface water supplies results in reduced Demand from Dallas, Dallas is released from its obligation to supply the Demand established pursuant to Section 3 of this Contract to the extent of such reduction in Customer's Demand. In this event, Dallas may adjust its supply obligation to levels commensurate with Customer's reduced demand on Dallas.

6.2 Payment for Reduction of Demand. Except as the result of a reduction in Demand as agreed pursuant to Article 3 of this Contract, if during the term of this Contract, Customer ceases (wholly or in part) to take water from Dallas for any reason, Customer shall for five (5) years or the balance of this Contract, whichever is less, remain liable for Demand Charges at the billing level in effect at the date of notification of such partial or total cessation. This obligation, once established, shall serve as liquidated damages and is intended to compensate Dallas for the expenditures incurred on Customer's behalf for the cost of installation of supply, transmission, treatment, delivery and service facilities. Provided, however, Dallas may waive Customer's obligation pursuant to this Section 6.2 in the event of nominal reductions based on Customer's plans if Dallas has received prior notice of the plans and concurred in the reduction. It is agreed by the parties that liquidated damages are a reasonable substitute for compensatory damages which are difficult or impossible to calculate herein. This obligation is intended by the parties not to be a penalty, but instead, a reasonable measure of damages.

Article 7. RATES AND PAYMENT

7.1 Setting of Charges by Dallas Ordinance. Rates charged Customer, including Demand Charges established herein, shall be established by ordinance of Dallas. The capital costs contributed by the Customer for Delivery Facilities and metering facilities shall be excluded from the rate base.

7.2 Rate Setting Method; Notice of Change. Customer understands that the Dallas City Council has the right to change, by ordinance, the rates charged as needed to cover all reasonable, actual and expected costs. Any change of rates shall be pursuant to principles set forth in the Memorandum of Agreement. Dallas shall give Customer a minimum of six (6) months written notice of intent to change rates. Dallas will furnish Customer a draft copy of the Cost of Service Study for Proposed Rates thirty (30) days prior to Dallas submitting a rate increase request to its City Council.

7.3 Customer Protest. Customer agrees to give Dallas a minimum of thirty (30) days notice of its intent to protest rates, or any other condition of service, before the TCEQ or any other state agency.

7.4 Monthly Invoice. Each month during the term of this Contract, Dallas agrees to deliver to Customer a statement of charges setting forth the amount of Potable Treated Water delivered to Customer through the Delivery Points for the period covered by the statement, the volume charge for that month, and any past due amounts carried over from prior invoices (including accrued interest) ("the Monthly Statement"). Payment is due upon receipt of the Monthly Statement. Customer agrees to pay promptly. The Demand Charge shall be billed on the Monthly Statement.

7.5 Late Payment. Customer agrees that a payment is deemed late if received by Dallas more than 30 days after the date of the Monthly Statement. Late payments shall accrue interest at the interest rate provided in Section 2-1.1 of the Dallas City Code, as amended, or as authorized by Ch. 2251 of the Texas Government Code, as amended, whichever applies. If any money due and owing by Customer to Dallas is placed with an attorney for collection, Customer agrees to pay to Dallas, in addition to all other payments provided for by this Contract, including interest, Dallas' collection expenses, including court costs and reasonable attorney's fees.

7.6 Malfunctioning Meter; Estimated Payments. In the event a meter(s) is discovered to be malfunctioning, the amount of Potable Treated Water that has passed through the meter will be estimated for each day the meter has not functioned correctly. The last correctly measured monthly consumption will be used as a basis for computing the amount of Potable Treated Water delivered to the Customer during the time the meter has not been functioning correctly.

7.7 Disputed Charges. Dallas and Customer agree that any disputed charges on the Monthly Statement shall be protested and resolved in accordance with Tex. Govt. Code §2251.042, as amended. Customer agrees that in the event it disputes any portion of the charges on the Monthly Statement, Customer will timely pay any undisputed amount in accordance with Section 7.4.

Article 8. CURTAILMENT, WATER CONSERVATION, AND DROUGHT CONTINGENCY PLANS

8.1 Dallas Curtailment of Water During Water Shortage. During a water shortage, Customer understands and acknowledges the Potable Treated Water being provided by Dallas under this Contract is subject to curtailment in accordance with Texas Water Code § 11.039, "Distribution of Water During Shortage," Dallas' water rights, and Dallas' Drought Contingency Plan. Customer agrees that if water supplies or services are curtailed within Dallas, Dallas may impose a like curtailment on deliveries to Customer. Customer shall cooperate by imposing conservation measures upon its sales of Potable Treated Water to its end user customers.

8.2 Customer Water Conservation and Drought Contingency Plan. Customer agrees to institute and maintain usage practices which ensure water is used in a manner that prevents waste, conserves water resources for their most beneficial and vital uses, and protects the public

health. Customer agrees to develop and implement water conservation and drought contingency plans consistent with the applicable elements of Title 30, Texas Administrative Code, Chapter 288, "Water Conservation Plans, Drought Contingency Plans, Guidelines and Requirements." Customer agrees to furnish to Dallas electronic copies of its water conservation and drought contingency plans and associated TCEQ and TWDB implementation reports.

8.3 Receipt of Dallas Plans. Customer acknowledges that Dallas has provided a copy of its current Water Conservation Plan and Drought Contingency Plan and has advised Customer of where to locate copies of plan updates.

8.4 No Discrimination in Curtailments. To the extent Dallas imposes restrictions or grants privileges of general applicability to itself and customer cities, including rules relating to the curtailment of water delivery and availability, Dallas agrees to impose such restrictions and grant such privileges equitably and in a non-discriminatory fashion.

Article 9. RESALE, WATER RIGHTS, AND REUSE

9.1 No Resale Outside Service Area. Customer agrees not to sell Potable Treated Water purchased from Dallas to any person or entity outside Customer's Service Area unless Customer has received prior written approval from the Director. In granting such authorization, Dallas may establish the terms and conditions of the conveyance of such Potable Treated Water including, but not restricted to, the setting of monetary rates for sale of such water. "Convey" means sell, trade, donate, exchange, transfer title or contract therefor.

9.2 Resale Customers to Adopt Water Conservation and Drought Contingency Plans. In consideration of the written approval of the resale of Potable Treated Water, if so granted, Customer agrees that the wholesale water supply contract with each successive wholesale customer to whom Potable Treated Water is resold must contain a provision requiring said customer to develop and implement a water conservation plan or water conservation measures consistent with the requirements of Section 8.2.

9.3. Rights to Water and Return Flows. Customer understands, acknowledges, and agrees that Customer shall acquire no water rights or title or right to the use, reuse, or recycling of water generated as the result of Dallas' sale and delivery of treated water to Customer pursuant to this Contract. Dallas makes no claim and asserts no water rights related to the wastewater effluent return flows produced by Customer as a result of Customer's water use under this Contract, it being expressly understood and agreed to that Customer is not prohibited by this Contract from treating and using such wastewater effluent return flows in accordance with applicable law and TCEQ regulations.

Article 10. RIGHTS-OF-WAY AND STREET USE

10.1 Provision of Easements. Customer agrees to furnish any easements or rights-of-way necessary within or without Customer's boundaries reasonably necessary for Dallas to deliver Potable Treated Water to Customer as provided in Article 4, hereof, and to convey such easements or rights-of-way to Dallas as therein provided.

10.2 Use of Customer Streets, Alleys, and Easements. Subject to the prior written approval of Customer, Dallas may use Customer's streets, alleys and other public rights-of-way and public utility easements within Customer's boundaries for pipeline purposes to provide Potable Treated Water to Customer or to other customers without charges or tolls to the extent that Customer has the legal right to make such grant. Dallas agrees to make, at Dallas' cost, the necessary repairs to restore the streets, alleys or public rights-of-way used in accordance with Customer's then existing specifications for such work. Such use and repairs shall be pursuant to the terms and conditions of the conveyance Customer duly grants for such purposes.

10.3 Use of Dallas Streets, Alleys, and Easements. Subject to the prior written approval of Dallas, Customer may use Dallas' streets, alleys and other public rights-of-way and public utility easements within Dallas' boundaries for pipeline purposes to provide Potable Treated Water to Customer without charges or tolls to the extent that Dallas has the legal right to make such grant. Customer agrees to make at Customer's cost, the necessary repairs to restore the streets, alleys or public rights-of-way used in accordance with Dallas' then existing specifications for such work. Such use and repairs shall be pursuant to the terms and conditions of a private license duly granted by the Dallas City Council.

Article 11. CUSTOMER SYSTEM OPERATION STANDARDS

Customer agrees to operate its water distribution system subject to the following:

- A. Customer shall protect Customer's storage and distribution system from cross connections under the specifications required by health standards of the State of Texas.
- B. Customer agrees to provide air gaps for any ground storage and backflow preventers for any elevated storage.
- C. Customer agrees to provide internal storage sufficient to meet its emergency needs and to maintain a reasonable load factor for deliveries from Dallas to Customer.
- D. Customer agrees to maintain and operate its internal system in compliance with all local, state, and federal laws and regulations.

Article 12. MEMORANDUM OF AGREEMENT

The Memorandum of Agreement is incorporated herein, as if copied word for word and is made a part of this Contract. Any revision of the Memorandum of Agreement according to its terms and not in conflict herewith shall automatically be incorporated into and become a part of this Contract.

Article 13. FORCE MAJEURE; RELEASE; INDEMNITY

13.1 Force Majeure. Neither party shall be liable to the other party for any failure, delay, or interruption in the performance of any of the terms, covenants, or conditions of this Contract due to causes beyond their respective control or because of applicable law, including, but not limited

to, war, nuclear disaster, strikes, boycotts, labor disputes, embargoes, acts of God, acts of the public enemy, acts of superior governmental authority, floods, riots, rebellion, sabotage, terrorism, or any other circumstance for which a party is not legally responsible or which is not reasonably within its power to control. The affected party's obligation shall be suspended during the continuance of the inability then claimed, but for no longer period. To the extent possible, the party shall endeavor to remove or overcome the inability claimed with all reasonable dispatch.

13.2 Release for Line Damages. CUSTOMER HEREBY AGREES TO RELEASE AND HOLD DALLAS WHOLE AND HARMLESS FROM ANY CLAIMS OR DAMAGES ARISING NOW AND IN THE FUTURE: (1) TO CUSTOMER'S WATER MAINS OR WATER SYSTEM RESULTING FROM THE RATE OF FLOW OR QUANTITY OF WATER DELIVERED; AND (2) AS A RESULT OF THE CHEMICAL OR BACTERIOLOGICAL CONTENT OF WATER PROVIDED TO CUSTOMER, UNLESS THE DAMAGES RESULTING FROM THE CHEMICAL OR BACTERIOLOGICAL CONTENT OF THE WATER ARE CAUSED BY THE NEGLIGENT ACT OR OMISSION OF DALLAS, ITS OFFICERS, EMPLOYEES, AGENTS, OR CONTRACTORS.

13.3 Indemnification. TO THE EXTENT ALLOWED BY LAW, CUSTOMER AGREES TO DEFEND, INDEMNIFY AND HOLD DALLAS, ITS OFFICERS, AGENTS AND EMPLOYEES, HARMLESS FROM ANY LIABILITY IN CLAIMS, ADMINISTRATIVE PROCEEDINGS OR LAWSUITS FOR JUDGMENTS, PENALTIES, FINES, COSTS EXPENSES AND ATTORNEY'S FEES FOR PERSONAL INJURY (INCLUDING DEATH), PROPERTY DAMAGE, OTHER HARM FOR WHICH RECOVERY OF DAMAGES IS SOUGHT, SUFFERED BY ANY PERSON OR PERSONS, OR FOR VIOLATIONS OF STATE OR FEDERAL LAWS OR REGULATIONS, THAT MAY ARISE OUT OF OR BE OCCASIONED BY: (A) A BREACH OF THIS CONTRACT BY CUSTOMER; (B) THE NEGLIGENT ACT OR OMISSION OF CUSTOMER IN THE PERFORMANCE OF THIS CONTRACT OR IN CUSTOMER'S DAY-TO-DAY WATER OR WASTEWATER UTILITY OPERATIONS; OR (C) THE CONDUCT OF CUSTOMER THAT CONSTITUTES A VIOLATION OF STATE OR FEDERAL LAWS OR REGULATIONS. PROVIDED, HOWEVER, THAT THE INDEMNITY STATED ABOVE SHALL NOT APPLY TO ANY LIABILITY RESULTING FROM DALLAS' SOLE VIOLATION OF A STATE OR FEDERAL LAW OR REGULATION OR FROM THE SOLE NEGLIGENCE OF DALLAS, ITS OFFICERS, AGENTS, EMPLOYEES OR SEPARATE CONTRACTORS, AND IN THE EVENT OF THE JOINT AND CONCURRING RESPONSIBILITY OF CUSTOMER AND DALLAS, RESPONSIBILITY AND INDEMNITY, IF ANY, SHALL BE APPORTIONED COMPARATIVELY IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS, WITHOUT WAIVING GOVERNMENTAL IMMUNITY OR ANY OTHER DEFENSES OF THE PARTIES UNDER APPLICABLE TEXAS LAW. THE PROVISIONS OF THIS PARAGRAPH ARE SOLELY FOR THE BENEFIT OF THE PARTIES TO THIS CONTRACT AND ARE NOT INTENDED TO CREATE OR GRANT ANY RIGHTS, CONTRACTUAL OR OTHERWISE, TO ANY OTHER PERSON OR ENTITY.

13.4 Equitable Remedies. Recognizing that Dallas' and Customer's undertakings as provided in this Contract are obligations, the failure in the performance of which cannot be adequately compensated in money damages, Dallas and Customer agree that, in the event of any default, the other party shall have available to it the equitable remedy of specific performance in addition to other legal or equitable remedies which may be available to such party.

Article 14. SPECIAL PROVISIONS

This Contract shall incorporate and be subject to the following additional special provisions:

A. Provisions peculiarly applicable to the Contract with Customer as opposed to other wholesale treated water customers, which are set forth in Exhibit "D," attached hereto and incorporated herein by reference; and

B. Conditions under which the parties may provide reciprocal water or wastewater services to customers along their common boundaries and conditions under which the parties to this Contract may provide each other with temporary water or wastewater services, which conditions and provisions are set forth in Exhibit "E," attached hereto and incorporated herein by reference.

Article 15. MISCELLANEOUS PROVISIONS

15.1. Contract Administration. This Contract shall be administered on behalf of Dallas by the Director and on behalf of Customer by its authorized official or designated representative, who shall initially be Customer's Director of Public Works.

15.2 Notice of Contract Claim. This Contract is subject to the provisions of Section 2-86 of the Dallas City Code, as amended, relating to requirements for filing a notice of a breach of contract claim against City. Section 2-86 of the Dallas City Code, as amended, is expressly incorporated by reference and made a part of this Contract as if written word for word in this Contract. Customer shall comply with the requirements of this ordinance as a precondition of any claim relating to this Contract, in addition to all other requirements in this Contract related to claims and notice of claims.

15.3 Venue. The obligations of the parties to this Contract shall be performable in Dallas County, Texas, and if legal action is necessary in connection with or to enforce rights under this Contract, exclusive venue shall lie in Dallas County, Texas.

15.4 Governing Law. This Contract shall be governed by and construed in accordance with the laws and court decisions of the State of Texas, without regard to conflict of law or choice of law principles of any other state.

15.5 Legal Construction. In case any one or more of the provisions contained in this Contract shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision of this Contract, and

this Contract shall be considered as if such invalid, illegal, or unenforceable provision had never been contained in this Contract.

15.6 Counterparts. This Contract may be executed in any number of counterparts, each of which shall be deemed an original and constitute one and the same instrument. If this Contract is executed in counterparts, then it shall become fully executed only as of the execution of the last such counterpart called for by the terms of this Contract to be executed.

15.7 Captions. The captions to the various clauses of this Contract are for informational purposes only and shall not alter the substance of the terms and conditions of this Contract.

15.8 Successors and Assigns. This Contract shall be binding upon and inure to the benefit of the parties and their respective successors and, except as may otherwise be provided in this Contract, their assigns.

15.9 Notices. Except as otherwise provided in Section 15.2, any notice, payment, statement, or demand required or permitted to be given under this Contract by either party to the other may be effected by personal delivery in writing or by mail, postage prepaid. Mailed notices shall be addressed to the parties at the addresses appearing below, but each party may change its address by written notice in accordance with this section. Mailed notices shall be deemed communicated as of three (3) days after mailing.

If to DALLAS:

City of Dallas
Director of Water Utilities
1500 Marilla Street – 4/a/North
Dallas, Texas 75201

If to CUSTOMER:

City of Lancaster
Attn: City Manager
P. O. Box 548
Lancaster, Texas 75146

15.10 Conflict of Interest. The following section of the Charter of the City of Dallas shall be one of the conditions, and a part of, the consideration of this Contract, to wit:

“CHAPTER XXII. Sec. 11. FINANCIAL INTEREST OF EMPLOYEE OR OFFICER PROHIBITED --

(a) No officer or employee shall have any financial interest, direct or indirect, in any contract with the City or be financially interested, directly or indirectly, in the sale to the City of any land, materials, supplies or services, except on behalf of the City as an officer or employee. Any violation of this section shall constitute malfeasance in office, and any officer or employee guilty thereof shall thereby forfeit the officer’s or employee’s office or position with the City. Any violation of this section, with knowledge, express or implied, of the person or corporation contracting with the City shall render the contract involved voidable by the City Manager or the City Council.

(b) The alleged violations of this section shall be matters to be determined either by the Trial Board in the case of employees who have the right to appeal to the Trial Board, and by the City Council in the case of other employees.

(c) The prohibitions of this section shall not apply to the participation by City employees in federally-funded housing programs, to the extent permitted by applicable federal or state law.”

For purposes of this Section 15.10, the word “City” means “City of Dallas.”

15.11 Gift to Public Servant. This Contract shall be subject to the following additional provisions:

A. Dallas may terminate this Contract immediately if Customer has offered, or agreed to confer any benefit upon a Dallas employee or official that the Dallas employee or official is prohibited by law from accepting.

B. For purposes of this section, “benefit” means anything reasonably regarded as pecuniary gain or pecuniary advantage, including benefit to any other person in whose welfare the beneficiary has a direct or substantial interest, but does not include a contribution or expenditure made and reported in accordance with law.

C. Notwithstanding any other legal remedies, Dallas may require Customer to remove any officer or employee of Customer from the administration of this Contract or any role in the performance of this Contract who has violated the restrictions of this section or any similar state or federal law, and obtain reimbursement for any expenditures made as a result of the improper offer, agreement to confer, or conferring of a benefit to a Dallas employee or official.

15.12 Applicable Laws and Regulations. This Contract is made subject to, and Dallas and Customer agree to comply with, all applicable laws of the State of Texas, applicable rules, regulations and orders of the TCEQ and Texas Water Development Board (TWDB), Federal Law (including but not limited to environmental and water quality laws, rules, orders, and regulations), and the Charter and other ordinances of the City of Dallas and the City of Lancaster, as same may hereafter be amended. This Contract’s effectiveness is dependent upon Dallas’ and Customer’s compliance with Title 30, Texas Administrative Code, Section 295.101 and Title 30, Texas Administrative Code, Chapter 297, Subchapter J (relating to water supply contracts and amendments), as amended. This Contract may be subject to review and approval by TCEQ or TWDB. In the event of any final judgment finding any violation of the laws, rules, regulations, or orders described above, Customer shall be strictly liable for any damages caused to the property of Dallas as a result of such violation.

15.13 Authorization to Act. By their signature below, the representatives of Dallas and Customer state that they are authorized to enter into this Contract. Dallas and Customer shall

each provide documentation that this Contract has been authorized by its respective governing body.

15.14 Entire Agreement; No Oral Modifications. This Contract (with all referenced Exhibits, attachments, and provisions incorporated by reference) embodies the entire agreement of both parties, superseding all oral or written previous and contemporary agreements between the parties relating to matters set forth in this Contract. Except as otherwise provided elsewhere in this Contract, this Contract cannot be modified without written supplemental agreement executed by both parties.

EXECUTED this the 25th day of October, 2011, by the City of Dallas, signing by and through its City Manager, duly authorized to execute same by Resolution No. ~~11-10-92~~ adopted by the City Council on ~~November 7, 2011~~, and by Customer, acting through its duly authorized officials. October 24, 2011

APPROVED AS TO FORM:
THOMAS P. PERKINS, JR.
City Attorney

CITY OF DALLAS
MARY K. SUHM
City Manager

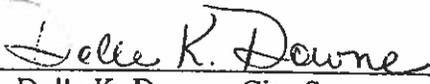
BY _____
Assistant City Attorney

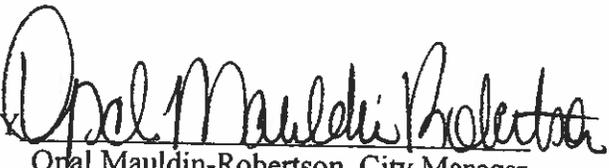

Submitted to City Attorney

BY _____
Assistant City Manager

ATTEST:

CUSTOMER:
CITY OF LANCASTER

BY 
Dolle K. Downe, City Secretary

BY 
Opal Mauldin-Robertson, City Manager

APPROVED AS TO FORM:

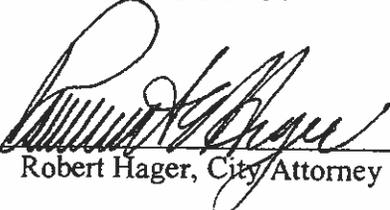
BY 
Robert Hager, City Attorney

Exhibit A

MEMORANDUM OF AGREEMENT

Exhibit A

Memorandum of Agreement (MOA) for Wholesale Treated Water

Preamble: The 1979 MOA settled a rate dispute lawsuit between Dallas and its Wholesale Treated Water Customers regarding the wholesale treated water rate-setting methodology ("rate-setting methodology"), and as such has served the rate-setting methodology process well over the past 30 years. This amended agreement recognizes that changes to the rate-setting methodology have occurred over this timeframe, and incorporates consensus changes between Dallas and its Wholesale Treated Water Customers, and as such will serve to govern the rate-setting methodology for the next 30 years.

1. Purpose: Dallas is a regional water provider currently providing treated water service to Wholesale Treated Water Customers located within Dallas' established service area in North Central Texas. The purpose of this agreement is to establish the rate-setting methodology and formalize the mutual expectations of Dallas and its Wholesale Treated Water Customers with respect to rate-setting methodology. This rate-setting methodology will provide the basis for determining wholesale treated water rates after its effective date.
2. Applicability: This agreement is subject to all applicable orders, laws and regulations of the City of Dallas, State of Texas and the United States. If any state or federal governmental agency having jurisdiction disapproves any material part of this agreement during the term, the agreement is subject to cancellation by any party and renegotiation by Dallas and its Wholesale Treated Water Customers.
3. Water System Policy: Dallas operates a water system to provide a regulatory compliant, safe and reliable water supply, adequate for the current water use and future growth of Dallas and its Wholesale Treated Water Customers, and to avoid subsidization of any class of customers.
4. Definitions: A glossary which defines applicable cost of service terms is located in Appendix A of this MOA. Cost of service terms may be added, or the definition of an existing term amended, from time to time, without the necessity of amending this MOA. Additions and amendments will be reflected in the appendices attached to the annual cost of service studies.
5. Responsibilities:
 - a. Dallas is responsible for planning, financing, constructing, operating and maintaining the water supply system to the extent permitted by available water revenues, for developing cost of service information to support wholesale rate changes, and for informing Wholesale Treated Water Customers of wholesale rate changes and other pertinent utility information.

- b. Wholesale Treated Water Customers are responsible for keeping Dallas informed concerning their projected water supply needs and operating requirements for planning, managing and maintaining their retail systems to promote water conservation and efficient system operation, and for paying adequate rates to Dallas to cover the costs incurred by Dallas in providing service to them.

6. Rate-Setting Methodology for Wholesale Treated Water:

- a. Revenue requirements are to be determined on a utility basis, at original cost, including construction work in progress.
- b. Dallas is to receive a rate of return on rate base equal to embedded interest rate on water revenue bonds, commercial paper and other debt instruments plus 1.5 percent, which is agreed to be an adequate return to cover its costs and risks and as compensation for ownership and management responsibilities.
- c. All existing and future water supplies and associated facilities are to be included in a common water rate base. Wholesale Treated Water Customers, as a class, shall pay their proportionate share of costs for water supply, including that portion held for future use. For the 2010 cost of service study, wholesale treated water customers shall be allocated a percentage of total reservoir costs based on a 10-year future use percentage calculated using a 24-year linear regression. This percentage shall be increased or decreased in direct proportion to future changes in actual usage in conjunction with the cost of service studies. (Dallas will pay the balance of water supply costs which are not allocated to Wholesale Treated Water Customers under the cost of service allocation.) Allocation of costs other than water supply costs, including but not limited to operations and maintenance costs, shall be based on current use.
- d. Direct reuse of treated wastewater effluent is an Inside Dallas only cost and will be allocated to Inside Dallas customers only. Indirect reuse of treated wastewater effluent for lake augmentation will be included as a cost and as a benefit common-to-all.
- e. There will be a two part wholesale treated water rate (volume and demand), with allocation of costs in rate design so as to encourage conservation and efficient operation of the water systems of Dallas and its Wholesale Treated Water Customers.
- f. At the end of ten years from the Effective Date of the MOA, and each ten years thereafter, the City of Dallas or a majority of the Wholesale Treated Water Customers who are parties to this agreement may request a review of the above rate-setting methodology; and if so, the methodology shall be subject to renegotiation.

7. **Wholesale Treated Water Rates:** After the effective date of this MOA, Dallas will prepare a cost of service study to support wholesale treated water rates and allocations, and will submit it to the Wholesale Treated Water Customers to review and accept prior to submission to the Dallas City Council. Except as noted herein, the cost of service rate-setting principles will adhere to the 2009 cost of service study, including changes that have been identified and implemented since that date.
8. **Effective Date:** This MOA is effective as of December 17, 2009.
9. **Term:** The term of this MOA is thirty (30) years from its effective date, or until December 16, 2039, and for such additional periods as the parties may mutually agree upon.
10. **Approved changes:** Changes in the rate-setting methodology or other conditions may be made by mutual agreement of all parties at any time.
11. **Individual contracts:** This MOA is considered a replacement of and supersedes the 1979 MOA and shall automatically be incorporated and become a part of all existing wholesale treated water contracts without any further action or approval on the part of the City or of the Wholesale Treated Water Customers. Rate-setting methodology for individual contracts for wholesale treated water service between Dallas and its Wholesale Treated Water Customers will be consistent with this MOA. Dallas and its Wholesale Treated Water Customers will honor their existing water service contracts until such time as the contracts are amended or superseded by a new contract. Contracts for new Wholesale Treated Water Customers will be consistent with this MOA.
12. **Recognition of MOA Participants:** The MOA renegotiation process took place over many months during 2009 and 2010 and involved a number of meetings to discuss possible changes, revisions, and alternatives to the existing MOA. To that end, the City of Dallas would like to thank the individuals listed below for their outstanding input and contributions in the MOA update and renegotiation process, without whose help this revised document would not have been possible. Participants are listed in attached Appendix B.
13. **Authorization to Act:** By their signatures below, the representatives of Dallas and the Wholesale Treated Water Customers state that they are authorized to enter into this MOA. Dallas and the Wholesale Treated Water Customers will each provide documentation that this MOA has been authorized by its respective governing body.
14. **Counterparts:** This MOA may be executed in any number of counterparts, each of which shall be deemed an original and constitute one and the same instrument.

EXECUTED as of the 1st day of June, 2010, on behalf of Dallas by its City Manager, duly authorized by Resolution No. 10-1231, adopted on the 12th day of May, 2010 and approved as to form by its City Attorney.

APPROVED AS TO FORM:
THOMAS P. PERKINS, JR.
City Attorney

CITY OF DALLAS
MARY K. SUHM
City Manager

BY [Signature]
Assistant City Attorney
Submitted to City Attorney

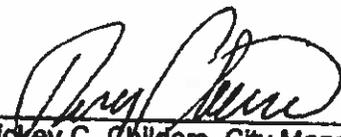
BY [Signature]
Assistant City Manager

EXECUTED as of the 24th day of May, 2010, on behalf of the City of Lancaster, Texas, by its City Manager, duly authorized by Resolution No. 2010-05-51, adopted on the 24th day of May, 2010 and approved as to form by its City Attorney.

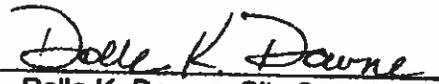
APPROVED AS TO FORM:

CITY OF LANCASTER, TEXAS

BY 
Robert E. Hagar, City Attorney

BY 
Rickey C. Childers, City Manager

ATTEST:

BY 
Dolle K. Downe, City Secretary

APPENDIX A GLOSSARY OF TERMS

- Allocation** - The apportioning of the common-to-all cost of service.
- Common-To-All** - Facilities, and their associated cost, that are dedicated to providing treated water service to both Dallas and Wholesale Treated Water Customers.
- Construction Work in Progress (CWIP)** - The utility's investment in facilities under construction but not yet dedicated to service.
- Demand Costs** - Costs associated with providing facilities to meet peak rates of use, or demand, placed on the system by the customers.
- Depreciation** - The wearing out or loss in service value of property used in utility operations.
- Depreciation Rate** - The rate of loss in service value, based on the expected service life of property.
- Depreciation Reserve** - The accumulated amount of the loss in service value of property.
- Direct Reuse** - The use of treated wastewater effluent from Dallas' wastewater treatment plants for non-drinking water purposes within the boundaries of the City of Dallas.
- Embedded Interest Rate** - Annual interest expense expressed as a percentage of average debt.
- Indirect Reuse** - The use of treated wastewater effluent from Dallas' wastewater treatment plants for raw water supply augmentation purposes.
- Inside Dallas** - The group of retail treated water service customers, comprised of residential, commercial and industrial customers served by Dallas Water Utilities.
- Interest Expense** - Payment made for the use of borrowed funds.
- Materials & Supplies** - Assets in inventory which are required to meet current obligations and service responsibilities of the utility.
- Maximum Day Demand** - The maximum demand placed on the system over a 24-hour period.
- Maximum Hour Demand** - The maximum demand placed on the system over a 60-minute period on the system's maximum day.
- MGD** - Million gallons per day flow rate.
- Operating Expenses** - Operation and maintenance charges incurred in operating a utility.

**APPENDIX A
GLOSSARY OF TERMS
(PAGE 2 OF 2)**

Original Cost - The amount of investment in facilities when first put into service.

Rate Base - Total investment dedicated to providing utility service.

Rate of Return - The percentage of return authorized to be earned on an investment (e.g. a rate base).

Reservoir Capacity - The amount of water available from a reservoir.

Reservoir Costs - Costs incurred in acquiring and maintaining an untreated water supply system.

ROFC - Rate of flow controller: A device limiting instantaneous flow rate to a specific amount. Instantaneous flow rate for rate setting purposes is a per day setting.

Standby Service - Connection to wholesale treated water customer which is not normally used, excluding bypass lines which are required by Dallas Water Utilities as a part of an active metering facility.

Test Period (or Test Year) - Selected to be representative of the period of time over which the new rates are expected to be in effect.

Treated Water - Raw water that has passed the purification process.

Unaccounted for Water - Water produced but not billed to customers that result from metering inaccuracies, system leakage, and miscellaneous unmetered uses.

Volume Costs - Costs that tend to vary directly with the amount of water produced and sold.

Water Supplies and Associated Facilities – Dallas' water supply system, including, but not limited to, all reservoirs, indirect reuse water, and all system infrastructure.

Wholesale Cost of Service - The sum total of: (1) operating expense, (2) depreciation expense, and (3) return on investment. Depreciation expense and rate of return are on the original cost of investment less accumulated depreciation, capitalized interest and contributed capital.

Wholesale Treated Water Customers – The group of water customers of the City of Dallas which currently have a wholesale treated water contract with Dallas.

Working Capital - Assets (funds) which are required to meet current obligations and service responsibilities of the utility.

APPENDIX B

MOA WORKING GROUP

Addison:	Randy Moravec Lauren Clark
Carrollton:	Bob Scott Lori Iwanicki David Gaines
Cedar Hill:	Ruth Antebi-Guten
The Colony:	Tod Maurina
Coppell:	Chad Beach Kim Tiehen
Dallas Fort Worth Airport:	Jerry Dennis
Dallas County W.C.&I.D. #6:	Robert Rodriguez Red Taylor William Freeman
Denton:	Tim Fisher
DeSoto:	Isom Cameron Tom Johnson
Duncanville:	Frank Trando Richard Summertin Dennis Schwartz
Farmers Branch:	Charles Cox Mark Pavageaux
Flower Mound:	Chuck Springer Kenneth Parr
Glenn Heights:	Judy Bell
Grand Prairie:	Ron McCuller Doug Cuny
Grapevine:	Ramana Chinnakotla Kent Conkle
Irving:	Aimee Kaslik David Cardenas
Lewisville:	Carole Bassinger

Red Oak:

Charles Brewer

Richardson:

Kent Pfeil
Keith Dagen

University Park:

Kent Austin

Upper Trinity Regional Water District:

Tom Taylor
Larry Patterson

Dallas:

Jo M. (Jody) Puckett
Bobby Praytor
Charles Stringer
Terry Lowery
Denis Qualls
Jacqueline Culton
Tonia Barrix
Melissa Paschall-Thompson
Erica Robinson
Maria Salazar

WHEREAS, for over fifty years the City of Dallas ("Dallas") has been a regional provider of drinking water to both the citizens of Dallas and wholesale customers, currently a total of 23 Wholesale Treated Water Customers who are all located within Dallas' established service area in North Central Texas; and,

WHEREAS, on August 15, 1979, pursuant to Resolution No. 79240, the Dallas City Council approved a Memorandum of Agreement governing wholesale treated water rate-setting methodology (1979 MOA); and,

WHEREAS, the 1979 MOA became effective on December 17, 1979 for a term of 30 years after execution by Dallas and wholesale treated water customers; and,

WHEREAS, the 1979 MOA expired on December 17, 2009; and,

WHEREAS, Dallas and its Wholesale Treated Water Customers negotiated and reached consensus on a new agreement for wholesale treated water rate-setting methodology, which provides for full cost recovery plus a fair return on investment and which is also fair and equitable to all customers (new MOA); and,

WHEREAS, the term of the new MOA is December 17, 2009 through December 16, 2039; and,

WHEREAS, approval of the new MOA would be in the best interest of the City of Dallas; Now, Therefore,

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF DALLAS:

Section 1. That the new MOA for wholesale treated water rate-setting methodology, as reflected in Attachment A is approved and that following approval as to form by the City Attorney, the City Manager is hereby authorized to execute this new MOA.

Section 2. That the City Manager is instructed and authorized to provide the new MOA to each Wholesale Treated Water Customer for execution.

Section 3. That the City Manager is hereby authorized to prepare a cost of service study for wholesale treated water rates in accordance with the terms and provisions of the new MOA.

Section 4. That Dallas hereby thanks all Wholesale Customer participants for their outstanding input and contributions in the MOA update and renegotiation process, without whose help this new MOA would not have been possible.

COUNCIL CHAMBER

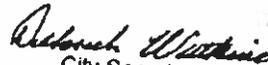
101231
May 12, 2010

Section 5. That this resolution shall take effect immediately from and after its passage in accordance with the provisions of the Charter of the City of Dallas and it is accordingly so resolved.

DISTRIBUTION: Water-Administration, 4AN, Cheryl Glenn
Water-Administration, 4AN, James Carrigan
Office of Financial Services, 4FN, Shelle Robinson

APPROVED BY
CITY COUNCIL

MAY 12 2010


City Secretary

RESOLUTION NO. 2010-05-51

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LANCASTER, TEXAS, APPROVING A MEMORANDUM OF AGREEMENT AND AMENDING THE CONTRACT BETWEEN THE CITY OF DALLAS AND THE CITY OF LANCASTER FOR THE PURCHASE OF WHOLESALE TREATED WATER; AUTHORIZING THE CITY MANAGER TO EXECUTE SAID AGREEMENT; PROVIDING FOR THE REPEAL OF ANY AND ALL RESOLUTIONS IN CONFLICT; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, for over fifty years the City of Dallas ("Dallas") has been a regional provider of drinking water to both the citizens of Dallas and wholesale customers, currently serving a total of 23 Wholesale Treated Water Customers who are all located within Dallas' established service area in North Central Texas; and,

WHEREAS, Dallas, acting through its Water Utilities Department ("DWU"), provides wholesale treated water service to Lancaster; and,

WHEREAS, Dallas' wholesale treated water rates are calculated and adopted in accordance with the terms and conditions of the 1979 Memorandum of Agreement ("1979 MOA"), which agreement settled a rate dispute lawsuit between Dallas and its Wholesale Treated Water Customers regarding the wholesale treated water rate-setting methodology; and,

WHEREAS, the 1979 MOA is attached to all of Dallas' wholesale treated water contracts; and,

WHEREAS, although both Dallas and the City of Lancaster agree that the 1979 MOA has served the rate-setting methodology process well over the past 30 years, the 1979 MOA expired on December 17, 2009, and a new agreement should be adopted; and,

WHEREAS, the MOA renegotiation process took place over many months during 2009 and 2010 and involved a number of meetings between Dallas and its wholesale customers to discuss possible changes, revisions, and alternatives to the 1979 MOA; and,

WHEREAS, Dallas and its Wholesale Treated Water Customers have reached consensus on a new 30-year memorandum of agreement ("New MOA") for wholesale treated water rate-setting methodology; and,

WHEREAS, the City Council of the City of Dallas has considered and approved the New MOA on May 12, 2010, and Dallas has requested that the governing bodies of its Wholesale Treated Water Customers also approve the New MOA; and,

WHEREAS, approval of the New MOA would be in the best interest of the City of Lancaster and its citizens;

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

SECTION 1. That the Wholesale Treated Water Contract, MOA, for rate-setting methodology as reflected in Exhibit "1" hereof, attached hereto and incorporated herein by reference for all purposes, is hereby in all things approved, and that the City Manager is hereby authorized to execute this agreement as provided herein.

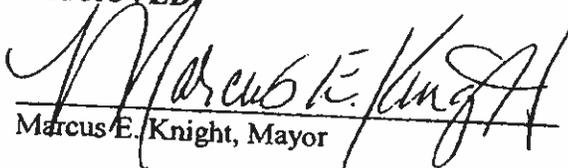
SECTION 2. All resolutions of the City of Lancaster heretofore adopted which are in conflict with the provisions of this resolution be, and the same are hereby repealed, and all resolutions of the City of Lancaster not in conflict with the provisions hereof shall remain in full force and effect.

SECTION 3. If any article, paragraph, subdivision, clause or provision of this resolution, as hereby amended, be adjudged invalid or held unconstitutional for any reason, such judgment or holding shall not affect the validity of this resolution as a whole or any part or provision thereof, as amended hereby, other than the part so declared to be invalid or unconstitutional.

SECTION 4. This resolution shall take effect immediately from and after its passage, and it is accordingly so resolved.

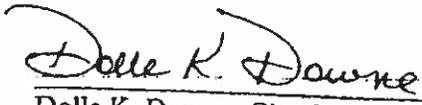
DULY PASSED by the City Council of the City of Lancaster, Texas, on this the 24th day of May 2010.

APPROVED:



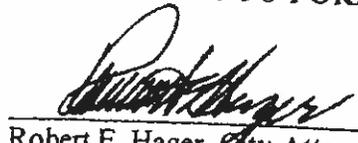
Marcus E. Knight, Mayor

ATTEST:



Dolle K. Downe, City Secretary

APPROVED AS TO FORM:



Robert E. Hager, City Attorney

Exhibit B

DESCRIPTION AND MAP OF CUSTOMER'S SERVICE AREA

SEE ATTACHED MAP

Exhibit C

DELIVERY POINTS OF ENTRY AND METERING FACILITIES

Description: Wholesale Treated Water is currently provided to the City of Lancaster at two delivery points:

FACILITY NO. 1: Houston School Metering Station

Location: 8180 Houston School Road in the northeast quadrant of the intersection of Wheatland & Houston School Road in the City of Lancaster.

There is also a bypass meter for Facility No. 1 which is located in the intersection of Wheatland Road & Houston School Road within the City of Lancaster.

Description: A rate-of-flow controlled metering station is fed by a 24" Dallas main which is fed by a 66" Dallas transmission main running along Houston School Road. The station is equipped with a 24" Venturi meter and associated equipment. This meter connects to a 24" Lancaster main. Telemetry equipment is connected to Dallas' control station. This meter will currently deliver a maximum of 15 MGD.

The 6" F.M. maintenance/bypass meter is fed by a 12" Dallas main which is fed by a 66" Dallas transmission main running along Houston School Road, that reduces to a 6" main, then flanges to an 8" main and feeds into a 24" Lancaster main. This meter will currently deliver a maximum of 3.6 MGD.

Ownership: The metering vault is owned, operated, and maintained by the City of Dallas.

FACILITY NO. 2: Bonnie View Metering Station

Location: 1999 N. Jefferson Street metering station located on the southwest quadrant of the intersection of Bonnie View Road/Jefferson Street & Wintergreen Road in the City of Lancaster.

Description: A rate-of-flow controlled metering station is fed by a 24" Dallas main which is fed by a 30" Dallas water line that runs along Bonnie View Road and feeds into a 24" Lancaster main. The station is equipped with an 8" F.M. meter, a 10" turbine meter, and associated equipment. Telemetry equipment is connected to Dallas' control station. This meter will currently deliver a maximum of 6.0 MGD.

Ownership: This metering vault is owned, operated, and maintained by the City of Dallas

Anticipated Future Facilities:

Should additional delivery points be agreed upon in the future, this Exhibit C will be revised to recognize these facilities. Revisions to this Exhibit C in order to add, delete, or modify delivery points or metering facilities do not require city council approval.

Exhibit D

SPECIAL CONTRACT CONDITIONS/AGREEMENTS

No special conditions or agreements are required as of the Effective Date of this Contract.

If special conditions or agreements pertaining to this Contract are required in the future, Exhibit D will be amended. Amendments to this Exhibit D that do not materially effect the terms of the Contract do not require city council approval.

Exhibit E

RECIPROCAL WATER AND/OR WASTEWATER SERVICE AGREEMENT

1. RECIPROCAL WATER AND/OR WASTEWATER SERVICE AGREEMENT FOR SINGLE FAMILY RESIDENCES OR DUPLEXES – WHEN SERVICING CITY HAS MAINS IN PLACE

The City of Dallas, Texas, hereinafter called “Dallas” and the City of Lancaster, Texas, hereinafter called “Customer”, hereby mutually agree, that when mains of the servicing city are currently in place, to provide water and/or wastewater service to customers along the public streets, roadways, alleys and easements forming a common city limit boundary of Dallas and Customer upon written request of either city to the other, provided that neither city will be required to provide such service to customers of the other city if doing so would result in a need for substantial construction or diminution of the level of service being provided to other customers of said city.

The class of service contemplated by this Paragraph 1 anticipates a temporary connection until such time as the city requesting service will have water and wastewater mains available. This category of service requires consideration on an individual case basis. Determination will be rendered upon written request being made by the city in which the potential customer is located.

Nothing contained in this Agreement shall require that either city will be compelled to accept a customer classed under this Paragraph 1 after a determination by the servicing city that service is not economical or otherwise not in the best interest of the servicing city.

- A. Service will be provided to single family residences or duplexes situated on no more than one acre of land located immediately adjacent to the common boundary.
- B. The city providing the water and/or wastewater service contemplated under this Paragraph shall charge the customer so served the same rates and associated charges as charged customers whose property lies within its own areas and boundaries.
- C. The customer being served will be required to pay all applicable fees related to the services provided including a connection service charge to the city furnishing service. The connection service charge shall be the then current amount established by the servicing city’s ordinances. If a service charge is not specified by the current ordinances for the size or type service to be provided, the service charge shall be the servicing city’s actual cost for rendering the service.

2. RECIPROCAL WATER AND/OR WASTEWATER SERVICE AGREEMENT FOR: (1) SINGLE FAMILY RESIDENCES OR DUPLEXES WHERE MAINS ARE NOT IN PLACE, (2) COMMERCIAL AND INDUSTRIAL COMPLEXES, (3) RESIDENTIAL SUBDIVISIONS, APARTMENTS OR TOWNHOUSES AND OTHER MULTI-DEWLLING RESIDENTIAL UNITS.

Dallas and Customer hereby mutually agree to provide temporary water or wastewater service, or both, to customers along the public streets, roadways, alleys and easements forming a common city limit boundary of Dallas and Customer upon written request of either city to the other, provided that neither city will be required to provide such service to customers of the other city if doing so would result in a need for substantial construction or diminution of the level of service being provided to other customers of said city.

The class of service contemplated by this Paragraph 2 anticipates a temporary connection until such time as the city requesting service will have water and wastewater mains available. This category of service requires consideration on an individual case basis. Determination will be rendered upon written request being made by the city in which the potential customer is located. Nothing contained in this Agreement shall require that either city will be compelled to accept a customer classed under this Paragraph 2 after a determination by the servicing city that service is not economical or otherwise not in the best interest of the servicing city.

- A. Service will be provided to the following type customers whose properties are located immediately adjacent to or in reasonable proximity of the common boundary:
- (1) Single family residences or duplexes where mains are not in place.
 - (2) Individual commercial and industrial properties containing no more than 200,000 square feet of building floor space, provided that commercial or industrial facilities in excess of 200,000 square feet consuming only nominal amounts of water or contributing only nominal amounts of wastewater may be considered as an exception to this provision.
 - (3) Specific residential subdivisions consisting of no more than 20 single family units and apartment complexes, townhouses or other types of multiple dwelling units consisting of nor more than 35 single family units in the immediate area for which service is being requested.
- B. The city providing the water and/or wastewater service contemplated under this Paragraph shall charge the customer served the same rates and associated charges as charged customers whose property lies within its own areas and boundaries.
- C. As a precondition of receiving service, the customer being served may also be required to pay all or part of the costs determined to be necessary to extend service and to pay the normal service charges for the type service being offered. Applicability of costs of extending service shall be determined by the officials designated in paragraph 4.A. of this

Agreement. Normal service costs will be determined as contemplated by Paragraph 1.C. All construction work shall meet the specifications of the city within whose boundaries the facilities are constructed.

3. TEMPORARY RECIPROCAL SERVICES PROVIDED (1) DIRECTLY TO BORDERING CITIES AND (2) TO COMMERCIAL, INDUSTRIAL OR OTHER COMPLEXES NOT CONTEMPLATED BY PARAGRAPH 2.

When services are requested and it is determined by the city from which service is requested that the service is appropriate and can be offered without diminution of the level of service being provided to other customers of the servicing city, Dallas and Customer hereby mutually agree to provide temporary water and/or wastewater service on a reciprocal basis when (1) the service to be furnished is to be provided directly to the reciprocating city as the customer or, (2) the service to be furnished is for a commercial, industrial, or other customer not meeting the criteria for service consideration in Paragraph 2.

The class of service contemplated by this Paragraph 3 shall be offered at the option of the servicing city. Determination of service feasibility will be rendered upon written request being made by the city requiring service. Nothing contained in this Agreement shall require that either city will be compelled to offer service after a determination by the servicing city that service is not economical or otherwise not in the best interest of the servicing city.

The city providing the water or wastewater service contemplated under this Paragraph shall charge the customer served the same rate and associated charges as charged customers whose property lies within its own areas and boundaries.

The city requesting the service shall pay full cost of any extension, facilities or improvements required to make the service available. The amount of the charges shall be determined by the officials designated in Paragraph 4.A. of this Agreement. All construction work shall meet the specifications of the city within whose boundaries the facilities are constructed.

4. GENERAL TERMS AND CONDITIONS

Service will be provided from mains in the public streets, roadways, alleys and easements existing along the common boundaries of Dallas and Customer under the following terms and conditions, which shall apply equally to either city:

- A. Neither party to this Agreement is obligated to provide water or wastewater service to the other party, and each party has the right to refuse to provide water or wastewater service, as described in this Agreement, to the other party.
- B. The city requiring services shall initiate the request for reciprocal services by forwarding a written request for service. The request shall be accompanied by a map which identifies the location of the proposed properties. Approval of requests for service shall be in writing and will be forwarded or approved by the following:

If for Dallas:

Dallas Water Utilities
Director of Utilities
1500 Marilla – 4AN
Dallas, Texas 75201

If for Customer:

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

- C. Meter boxes, service lines, laterals and other facilities necessary to provide service shall, upon installation, become the property of the city furnishing service.
- D. The customer to be served will sign a contract with the city furnishing service, agreeing to abide by all the ordinances of that city which relate to the furnishing of said service.
- E. The city requesting service under this Agreement hereby grants to the city providing such service authorization to go upon the public streets, roadways, alleys and easements of the former city for the purpose of installing, maintaining and removing such facilities as are necessary to provide service.

Customer agrees that, with prior written approval of Customer, Dallas may use streets, alleys and public rights-of-way within Customer's boundaries for the purposes detailed in this Agreement to provide retail water and wastewater service to Customer or to other customers without charges or tolls, provided that Dallas makes the necessary repairs to restore the streets, alleys or public rights-of-way used to their original condition. Such use and repairs shall be pursuant to the terms and conditions of the conveyance or license Customer duly grants for such purposes.

Dallas agrees that, with prior written approval of Dallas, Customer may use streets, alleys and public rights-of-way within Dallas' boundaries for the purposes detailed in this Agreement to provide retail water and wastewater service to Dallas or to other customers without charges or tolls, provided that Customer makes the necessary repairs to restore the streets, alleys or public rights-of-way used to their original condition. Such use and repairs shall be pursuant to the terms and conditions of a license duly granted by the Dallas City Council.

- F. If at any time the city requesting service under this Agreement shall construct a main capable of providing water and/or wastewater service to any customer being served under the terms of this Agreement, then upon request, the city so providing the service shall terminate same, reserving the right to remove its meters and materials from the property previously served; provided, the customer shall have a reasonable time, not to exceed one month, to connect to the new service.
- G. In the cases where a customer receives water service from one city and wastewater service from the other, the city furnishing water service will provide the other city with monthly meter readings and water consumption information on such customers and will permit appropriate employees of the city furnishing wastewater service to read and examine the meters serving such customers to determine the accuracy of readings so

furnished and to permit appropriate employees of the city furnishing wastewater service to examine water consumption records of such customers, provided that no meter shall be removed or adjusted except by the city furnishing water service.

5. CLAIMS OF LIABILITY

It is further mutually agreed by Dallas and Customer that insofar as the services contemplated hereunder are performed by either city within the jurisdiction of the other city and to that extent only, Dallas and Customer hereby mutually agree that they will release, hold harmless and defend the other city from all claims of liability which result from damage to property (real or personal) or persons arising directly or indirectly from the performance of the services provided for under this Agreement.

6. TERMINATION OR MODIFICATION

This Agreement is to remain in force for the term of the Contract to which it is attached.

FORWARD

This water conservation and drought contingency and water emergency response plan was prepared by Freese and Nichols for the City of Lancaster. The plan was prepared pursuant to Texas Commission on Environmental Quality rules. To develop a regional approach, the conservation plan and drought contingency plans for the City of Dallas and information from the *2006 Region C Water Plan* were consulted.

Questions regarding this water conservation and drought contingency and water emergency response plan should be addressed to the following:

Tom Gooch, P.E.
Freese and Nichols, Inc.
(817) 735-7300
tcg@freese.com

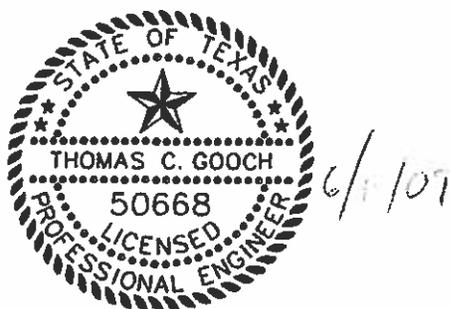
Amy Kaarlela
Freese and Nichols, Inc.
(817) 735-7300
adk@freese.com

Jim Smith
Director of Public Works
City of Lancaster
(972) 275-1700
jsmith@lancaster-tx.com

The water conservation and drought contingency and water emergency response plan is based on the Texas Administrative Code in effect in May 2009.

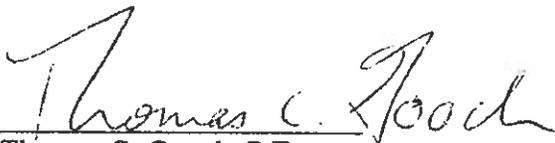
**WATER CONSERVATION
AND DROUGHT
CONTINGENCY AND
WATER EMERGENCY
RESPONSE PLAN**

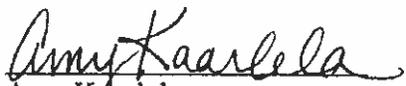
JUNE 2009



Prepared for:

CITY OF LANCASTER


Thomas C. Gooch, P.E.


Amy Kaariela

Prepared by:

Freese and Nichols, Inc.
4055 International Plaza
Suite 200
Fort Worth, TX 76109
817/735-7300

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Water Conservation and Drought Contingency and Water Emergency Response Plan for the City of Lancaster

JUNE 2009

1. INTRODUCTION AND OBJECTIVES

Water supply has always been a key issue in the development of Texas. In recent years, the growing population and economic development of North Central Texas has led to increasing demands for water supplies. At the same time, local and less expensive sources of water supply are largely developed. Additional supplies to meet higher demands will be expensive and difficult to develop. It is therefore important that the City of Lancaster make the most efficient use of existing supplies. This will delay the need for new supplies, minimize the environmental impacts associated with developing new supplies, and delay the high cost of additional water supply development. Lancaster is a wholesale customer of the City of Dallas and is subject to the rules and restrictions of the City of Dallas *Water Conservation Plan*¹ and *Drought Contingency Plan*².

Recognizing the need for efficient use of existing water supplies, the Texas Commission on Environmental Quality (TCEQ) has developed guidelines and requirements governing the development of water conservation and drought contingency plans for public water suppliers^{3, 4}. TCEQ guidelines and requirements are included in Appendix B. The best management practices established by the Water Conservation Implementation Task Force⁵, established pursuant to SB1094 by the 78th Legislature, were also considered in the development of the water conservation measures. The City of Lancaster has developed this water conservation and drought contingency and water emergency response plan following TCEQ guidelines and requirements and considering the City of Dallas *Water Conservation Plan*¹ and *Drought Contingency Plan*². The plan replaces Lancaster's previous drought contingency plan dated May 2005⁶.

The water conservation sections of this plan include measures that are intended to result in ongoing, long-term water savings. The drought contingency and water emergency response sections of this plan address strategies designed to temporarily reduce water use in response to specific conditions.

The objectives of this water conservation plan are as follows:

- To reduce water consumption from the levels that would prevail without conservation efforts.
- To reduce the loss and waste of water.
- To improve efficiency in the use of water.

¹ Superscripted numbers match references listed in Appendix A.

- To extend the life of current water supplies by reducing the rate of growth in demand.
- To satisfy the requirements set forth by TCEQ and other agencies.

This plan includes all of the elements required by TCEQ. Some elements of this plan go beyond TCEQ requirements. Appendix C shows where the plan addresses specific TCEQ requirements.

2. WATER SYSTEM DESCRIPTION AND UTILITY PROFILE

Appendix D to this water conservation and drought contingency and water emergency response plan is the water utility profile for Lancaster. The City of Lancaster is located in southeast Dallas County and encompasses approximately 28.82 square miles⁷. The City of Lancaster has a contract with the City of Dallas for 8 MGD peak day of treated water. Lancaster provides this treated water to residential, commercial and industrial customers within the city of Lancaster. Lancaster also provides this water to one wholesale customer, Lancaster Municipal Utility District #1 (MUD #1). The 2000 census reported a population of 25,894 people for Lancaster. The 2008 population is estimated at 35,800. The City's ground and elevated storage capacities total 9.0 and 3.0 million gallons respectively. All of the city's wastewater is treated by the Trinity River Authority at the Ten Mile Creek Wastewater Treatment Plant.

Figure 2.1 shows the historical per capita use by the City of Lancaster. Figure 2.2 shows the historical percentage of water loss by the City of Lancaster. Figure 2.3 is a map showing the service area for the City of Lancaster.

Figure 2.1: City of Lancaster Per Capita Water Use

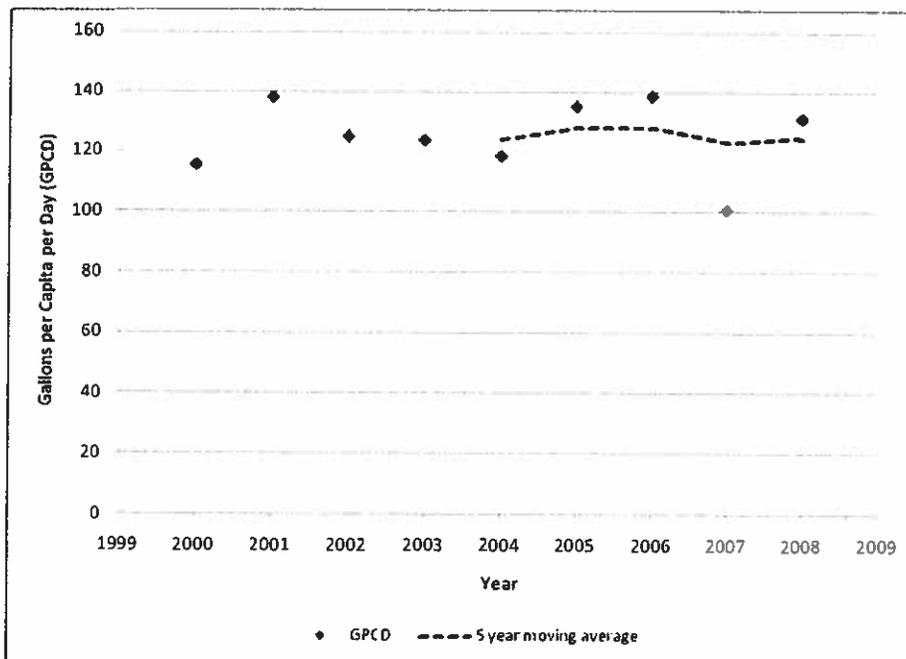
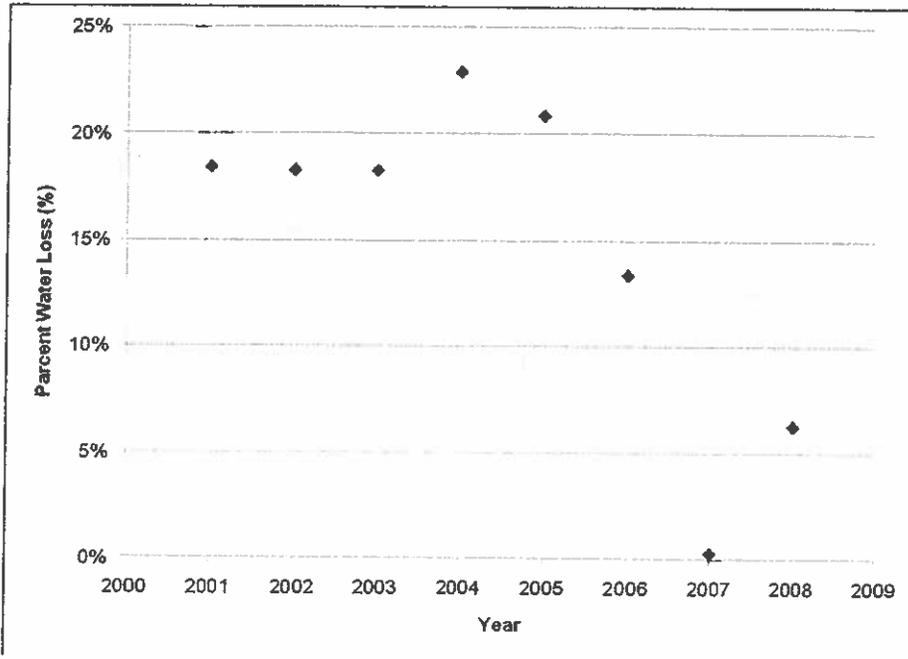


Figure 2.2: City of Lancaster Percent Water Loss



3. SPECIFICATION OF WATER CONSERVATION GOALS

TCEQ rules for water conservation plans require the adoption of specific water conservation goals. The City of Lancaster has developed 5-year and 10-year goals for per capita municipal use. These goals are shown in Table 3.1. The goals for this water conservation plan include the following:

- Maintain the per capita municipal water use below the specified 5-year and 10-year goals.
- Maintain the level of unaccounted water in the system below 12 percent annually in 2009 and subsequent years, as discussed in Section 4.3.
- Implement and maintain a program of universal metering and meter replacement and repair, as discussed in Section 4.2.
- Increase the efficiency of water usage through a landscape water management ordinance, order or resolution as discussed in Section 7.4. Decrease waste in lawn irrigation by implementation and enforcement of landscape water management regulations, as discussed in Section 7.4.
- Raise public awareness of water conservation and encourage responsible public behavior by a public education and information program, as discussed in Section 5.
- Conserving water during peak demands, thereby, reducing the peak use.

**Table 3.1
Five-Year and Ten-Year Municipal Per Capita Water Use Goals**

Description	Current Average (gpcd)	5-Year Goal (gpcd)	10-Year Goal (gpcd)
Current 5-Year Average Per Capita Municipal Use	129	129	129
Projected Reduction Due to Elements in this Plan	0	2	4
Water Conservation Goals	129	127	125

*Note: 1. gpcd is gallons per capita per day.

4. METERING, LEAK DETECTION AND RECORD MANAGEMENT

One of the key elements of water conservation is tracking water use and controlling losses through leaks or illegal diversions. It is important to carefully meter water use, detect and repair leaks in the distribution system and provide regular monitoring of unaccounted water.

4.1 Accurate Metering of Treated Water Deliveries from City of Dallas

Water deliveries from the City of Dallas are metered by the City of Dallas with an accuracy of $\pm 2\%$ ¹. The recorded delivery amount is provided to Lancaster by the City of Dallas.

4.2 Universal Metering

The City of Lancaster meters all water customers. The city is in the process of replacing all of their meters. At this time they have replaced 7,500 out of 10,000 active meters. Lancaster has one wholesale customer whose water use is metered by the City of Lancaster with an accuracy of $\pm 5\%$.

4.3 Determination and Control of Unaccounted Water

Unaccounted water is the difference between water delivered to the City of Lancaster from the City of Dallas and metered water sales to customers plus authorized but unmetered uses. (Authorized but unmetered uses would include use for fire fighting, releases for flushing of lines, etc.) Unaccounted water can be caused by the following:

- Inaccuracies in customer meters. (Customer meters tend to run more slowly as they age and under-report actual use.)
- Accounts which are being used but have not yet been added to the billing system.
- Losses due to water main breaks and leaks in the water distribution system.
- Losses due to illegal connections and theft.

Measures to control unaccounted water are part of the routine operations of the City. A leak detection and repair program is described in Section 4.4 below. Meter readers watch for and report signs of illegal connections, so they can be quickly addressed.

Unaccounted water should be calculated in accordance with the provisions of the Water Utility Profile in Appendix D. With the measures described in this plan, Lancaster should maintain unaccounted water below 12 percent in 2009 and subsequent years. If unaccounted water exceeds this goal, Lancaster will implement a more intensive audit to determine the source(s) of unaccounted water, and take measures to reduce unaccounted water.

4.4 Leak Detection and Repair

In the past, the City of Lancaster has contracted with a leak detection service, but found that the service was not effective. Currently, City staff targets areas known to have non surfacing

leaks by listening and sounding devices to locate potential leaks. Water lines with known leakage and breakage problems are replaced as budget allows.

4.5 Record Management System

As required by TAC Title 30, Part 1, Chapter 288, Subchapter A, Rule 288.2(a)(2)(B), a record management system should allow for the separation of water sales and uses into residential, commercial, public/institutional, and industrial categories. The City has a record management system in place that separates water sales into the categories listed above.

5. CONTINUING PUBLIC EDUCATION AND INFORMATION CAMPAIGN

The continuing public education and information campaign on water conservation includes the following elements:

- Quarterly newsletter to customers providing conservation tips
- The City website include information on water conservation tips <http://www.lancaster-tx.com/> .
- City of Lancaster water customers will be notified in their water bill of the availability of information on the Water Conservation and Drought Contingency Plan.
- The City of Lancaster benefits greatly from the City of Dallas' public education program, "Save Water – Nothing Can Replace It". Television and radio ads sponsored by City of Dallas are aired throughout the Dallas metroplex area including the City of Lancaster.

6. WATER RATE STRUCTURE

The City of Lancaster has an increasing block rate structure for residential customers to discourage excessive use. Current rates as of April 2009 are given below:

Residential Rates

1. Monthly minimum charge of \$12.32.
2. 1st tier up 14,999 gallons, \$1.91 per 1,000 gallons.
3. 2nd tier 15,000 to 29,999 gallons, \$2.39 per 1,000 gallons.
4. 3rd tier 30,000 gallons or more, \$2.99 per 1,000 gallons.

Commercial/Industrial Rates

Commercial and industrial customers are charged the same rates as residential customers.

Wholesale/Customer Rates

Wholesale customers are charged a flat rate of 115% of what Lancaster retail customers are charged in the first tier.

7. OTHER WATER CONSERVATION MEASURES

7.1 City of Dallas System Operation Plan

Since Lancaster purchases treated water from the City of Dallas, the city does not have its own surface water supplies for which to implement a system operation plan. Dallas operates its water supply reservoirs as a system to achieve the most economical operation consistent with assuring adequate supply for future years, maintenance of water rights, and maintenance requirements of the supply and transmission facilities¹.

7.2 Reuse and Recycling of Wastewater

The City of Lancaster does not own or operate a wastewater treatment plant. Wastewater from the City of Lancaster is treated by the Trinity River Authority at the Ten Mile Creek Wastewater Treatment Plant.

7.3 Ordinances, Plumbing Codes, or Rules on Water-Conserving Fixtures

The state has required water-conserving fixtures in new construction and renovations since 1992. The state standards call for flows of no more than 2.5 gallons per minute (gpm) for faucets, 3.0 gpm for showerheads, and 1.6 gallons per flush for toilets. Similar standards are now required nationally under federal law. These state and federal standards assure that all new construction and renovations will use water-conserving fixtures. The City of Lancaster adopted the International Plumbing Code in 2003 incorporating these standards.

7.4 Landscape Water Management Measures

The following landscape water management measures are enforced by the City of Dallas for retail customers in the City of Dallas. Lancaster will adopt these measures to match the City of Dallas measures.

- Time of day restrictions prohibiting lawn irrigation watering from 10 AM to 6 PM beginning April 1 and ending October 31 of each year. Watering with a hand held hose or soaker hose may be conducted at any time.
- Prohibition of watering of impervious surfaces. (Wind driven water drift will be taken into consideration.)
- Prohibition of over-watering lawn or landscape, such that a constant stream of water overflows from the lawn or landscape onto a street or other drainage area.
- Prohibition of outdoor watering during precipitation or freeze events.
- Prohibition of outdoor watering with misdirected or broken sprinkler heads.
- Rain and freeze sensors required on all new irrigation systems. Rain and freeze sensors must be maintained to function properly.

In addition, the City of Lancaster adopted ordinance # 2008-12-49⁹ in 2008 to address the requirements of Texas House Bill 1656 regarding installation of new irrigation systems.

7.5 Requirement for Water Conservation Plans by Wholesale Customers

The City of Lancaster currently has one wholesale customer, Lancaster MUD # 1. Every contract for the wholesale sale of water by the City of Lancaster that is entered into, renewed, or extended after the adoption of this water conservation plan will include a requirement that the wholesale customer and any wholesale customers of that wholesale customer develop and implement a water conservation plan. These plans must meet the requirements of Title 30, Part 1, Chapter 288, Subchapter A, Rule 288.2 of the Texas Administrative Code.³ The requirement will also extend to each successive wholesale customer in the resale of the water.

7.6 Coordination

A copy of this Water Conservation and Drought Contingency and Water Emergency Response Plan will be provided to the City of Dallas and the Region C Water Planning Group. A copy of the cover letter to be sent with those plans is included in Appendix E.

7.7 Water Conservation Implementation Report

Appendix G includes the TCEQ-required water conservation implementation report. The report is due to the TCEQ by May 1 of every year, starting in the year 2010. This report lists the various water conservation strategies that have been implemented, including the date the strategy was implemented. The report also calls for the five-year and ten-year per capita water use goals from the previous water conservation plan (which is not applicable to Lancaster because they do not have a previous conservation plan). The amount of water saved is also requested.

**8. IMPLEMENTATION AND ENFORCEMENT OF THE WATER
CONSERVATION PLAN**

Appendix F contains a copy of an ordinance, adopted by the City Council regarding the water conservation plan. The ordinance designates responsible officials to implement and enforce the water conservation plan.

9. REVIEW AND UPDATE OF WATER CONSERVATION PLAN

TCEQ requires that the water conservation plans be updated prior to May 1, 2009. The plans are required to be updated every five years thereafter. This plan was prepared in response to the May 1, 2009 requirement, and the plan will be updated as required and as appropriate based on new or updated information.

10. DROUGHT CONTINGENCY AND WATER EMERGENCY RESPONSE PLAN

10.1 Introduction

The purpose of this drought contingency and water emergency response plan is as follows:

- To conserve the available water supply in times of drought and emergency
- To maintain supplies for domestic water use, sanitation, and fire protection
- To protect and preserve public health, welfare, and safety
- To minimize the adverse impacts of water supply shortages
- To minimize the adverse impacts of emergency water supply conditions.
- To satisfy the requirements set forth by TCEQ and other agencies.

A drought is defined as an extended period of time when an area receives insufficient amounts of rainfall to replenish the water supply, causing water supply shortages. In the absence of drought response measures, water demands tend to increase during a drought due to the need for additional outdoor irrigation. The severity of a drought depends on the degree of depletion of supplies and on the relationship of demand to available supplies.

10.2 Provisions to Inform the Public and Opportunity for Public Input

The City of Lancaster will provide opportunity for public input in the development of this drought contingency and water emergency response plan by the following means:

- Providing written notice of the proposed plan and the opportunity to comment on the plan by newspaper, and notice on the web site <http://www.lancaster-tx.com/>.
- Making the draft plan available on the web site <http://www.lancaster-tx.com/>.
- Providing the draft plan to anyone requesting a copy.
- Holding a public meeting at a City Council meeting to receive public comments on the draft plan.

10.3 Provisions for Continuing Public Education and Information

After the plan is adopted the City will continue to inform and educate the public about the drought contingency and water emergency response plan by the following means:

- Making the plan available to the public through the web site <http://www.lancaster-tx.com/>.
- Including information about the drought contingency and water emergency response plan on the web site <http://www.lancaster-tx.com/>.
- City of Lancaster water customers will be notified in their water bill of the availability of information on the Water Conservation and Drought Contingency

Plan and of any additional water use restrictions that may become effective in response to future drought conditions.

At any time that the drought contingency and water emergency response plan is activated or the drought stage or water emergency response stage changes, the City will notify local media of the issues, the drought response stage or water emergency response stage, and the specific actions required of the public. The information will also be publicized on the city web site. Information about the current stage and restrictions will be included in the quarterly newsletter sent to customers.

10.4 Initiation and Termination of Drought or Water Emergency Response Stages

Initiation of a Drought or Water Emergency Response Stage

The Public Works Director or official designee may order the implementation of a drought or water emergency response stage with City Council approval when one or more of the trigger conditions for that stage is met. The following actions will be taken when a drought or water emergency response stage is initiated:

- The public will be notified through local media and the city web site as described in Section 10.3.
- Lancaster MUD #1 and the City of Dallas will be notified by e-mail with a follow-up letter or fax that provides details of the reasons for initiation of the drought/water emergency response stage.
- If any mandatory provisions of the drought contingency and water emergency response plan are activated, Lancaster will notify the Executive Director of the TCEQ and the Director of the Dallas Water Utilities within 5 business days.

Drought contingency/water emergency response stages imposed by the City of Dallas will be initiated by the City of Lancaster. For other trigger conditions internal to the city, the Public Works Director or official designee may decide not to order the implementation of a drought response stage or water emergency with approval of City Council even though one or more of the trigger criteria for the stage are met. Factors which could influence such a decision include, but are not limited to, the time of the year, weather conditions, the anticipation of replenished water supplies, or the anticipation that additional facilities will become available to meet needs. The reason for this decision should be documented.

Termination of a Drought/Water Emergency Response Stage

The Public Works Director or official designee may order the termination of a drought or water emergency response stage with City Council approval when the conditions for termination are met. The following actions will be taken when a drought or emergency response stage is terminated:

- The public will be notified through local media and the city web site as described in Section 10.3.
- Lancaster MUD #1 and the City of Dallas will be notified by e-mail with a follow-up letter or fax.
- If any mandatory provisions of the drought contingency and water emergency response plan are terminated, the City will notify the Executive Director of the TCEQ and the Director of the Dallas Water Utilities within 5 business days.

The Public Works Director or official designee may decide not to order the termination of a drought or water emergency response stage with approval of City Council even though the conditions for termination of the stage are met. Factors which could influence such a decision include, but are not limited to, the time of the year, weather conditions, or the anticipation of potential changed conditions that warrant the continuation of the drought stage. The reason for this decision should be documented.

10.5 Drought Contingency and Water Emergency Response Stages and Measures

Stage 1

Initiation and Termination Conditions for Stage 1

Stage 1 of the Drought Contingency and Water Emergency Response Plan will be initiated when:

- With approval of City Council the Public Works Director or official designee deems it necessary to implement Stage 1 restrictions. Circumstances which may cause initiation include:
 - System demand exceeds 85% of delivery capacity for 3 consecutive days
 - Ground storage reservoirs have dropped below 65% of capacity.
 - Natural or manmade contamination occurs anywhere in the system
 - Conditions are such that initiation of Stage 1 is desirable
- Dallas Water Utilities has initiated Stage 1 restrictions.

Stage 1 may terminate when Dallas Water Utilities terminates its Stage 1 condition, when the circumstances that caused the initiation of Stage 1 no longer prevail, or when conditions are such that termination of Stage 1 is desirable.

Goal for Use Reduction and Actions Available under Stage 1

Stage 1 is intended to raise public awareness of potential drought or water emergency problems. The goal for water use reduction under Stage 1 is to achieve a 1 percent reduction in water use.

The Public Works Director or official designee may order the implementation of any of the actions listed below:

- All Water Users
 - Encourage reduction in frequency of watering new and first year landscaping.
 - Encourage only initial filling of ornamental fountains.
 - Encourage reduction in frequency of washing or rinsing of vehicles and recommend use of bucket/container, hand held hose with positive shut-off valve or commercial car wash.
 - Encourage reduction in frequency in draining or refilling swimming pools.
 - Encourage reduction in frequency of recreational use including use of faucets, hoses, or sprinklers.
 - Encourage reduction of water use through voluntary day of week lawn watering schedule for established landscape. Irrigation of landscapes areas with hose-end sprinklers or automatic irrigation systems shall be limited to Sundays and Thursdays for customers with a street address ending in an even number (0, 2, 4, 6 or 8) and for locations without addresses, and Saturdays and Wednesdays for water customers with a street address ending in an odd number (1, 3, 5, 7 or 9). Apartments, office building complexes or other property containing multiple addresses may be identified by the lowest address number. Irrigation of landscaped areas is permitted at anytime by means of a hand-held hose, a faucet filled bucket or drip irrigation system.
- City Government
 - Initiate public education campaign and encourage reduced water use practices.
 - Encourage 25% reduction in frequency of water street sweeping, vehicle washing and rinsing.
 - Intensify normal leak detection and repair activities on water pipes and mains.
 - Encourage reduction of water use in city-owned ornamental fountains.
 - Encourage reductions in landscape used for parks and city owned golf courses.
- Commercial Customers
 - Identify and encourage voluntary reduction measures by high-volume water users.
 - Encourage reduction in landscape uses for parks and golf courses.
 - Encourage reduction in water use for landscape nursery stock.
- Wholesale Water Customer

- Encourage implementation of like procedures by wholesale customers.

Stage 2

Initiation and Termination Conditions for Stage 2

Stage 2 of the Drought Contingency and Water Emergency Response Plan will be initiated when:

- With approval of City Council the Public Works Director or official designee, deems it necessary to implement Stage 2 restrictions. Circumstances which may cause initiation include:
 - System demand exceeds 90% of delivery capacity for 3 consecutive days.
 - Ground storage reservoirs have dropped below 55%.
 - Natural or manmade contamination occurs anywhere in the system.
 - Conditions are such that initiation of Stage 2 is desirable.
- City of Dallas has initiated Stage 2 restrictions.

Stage 2 may terminate when the City of Dallas terminates its Stage 2 condition, when the circumstances that caused the initiation of Stage 2 no longer prevail, or when conditions are such that termination of Stage 2 is desirable.

Goal for Use Reduction and Actions Available under Stage 2

The goal for water use reduction under Stage 2 is a five percent reduction in water use. If circumstances warrant or if required by the City of Dallas, the Public Works Director or official designee can set a goal for greater water use reduction with City Council approval. The Public Works Director or official designee may order the implementation of any of the actions listed below, as deemed necessary. Measures described as “requires notification to TCEQ” impose mandatory requirements on customers. The supplier must notify TCEQ and the City of Dallas within five business days if these measures are implemented:

- All Water Users
 - Continue or initiate any actions available under Stage 1.
 - **Requires Notification to TCEQ** - Restrict operation of ornamental fountains or ponds to initial filling except where necessary to support aquatic life or where such fountains or ponds are equipped with a recirculation system.
 - **Requires Notification to TCEQ** - Prohibit recreational water use including use of faucets, hoses or sprinklers, which use water in such a manner as to allow run-off or other wastes.
 - **Requires Notification to TCEQ** - Restrict washing of any motor vehicle, motorbike, boat, trailer, airplane or other vehicle to the use of a hand-held bucket or a hand-held hose equipped with a positive shutoff nozzle for quick rinses. Vehicle washing may be done at any time on the immediate premises of a commercial car

- wash or commercial service station. Further, such washing may be exempted from these regulations if the health, safety and welfare of the public is contingent upon frequent vehicle cleansing, such as garbage trucks and vehicles used to transport food or perishables.
- Encourage further reduction of in frequency in draining and refilling of swimming pools.
 - **Requires Notification to TCEQ** - Prohibit hosing off paved area, buildings, windows or other surfaces.
 - **Requires Notification to TCEQ** - Require reductions of water use through mandatory day-of-week landscape watering schedule and require watering only during off-peak hours. Irrigation of landscaped areas with hose-end sprinklers or automatic irrigations systems shall be limited to Sundays and Thursdays for customers with a street address ending in an even number (0, 2, 4, 6 or 8) and for locations without addresses, and Saturdays and Wednesdays for water customers with an address ending in an odd number (1, 3, 5, 7, or 9). Irrigation of landscaped areas is further limited to the hours of 12:00 midnight until 10:00 a.m. and between 6:00 p.m. and 12:00 midnight on designated watering days. Apartments, office building complexes or other property containing multiple addresses may be identified by the lowest address number. Irrigation of landscaped areas is permitted at any time if it is by means of a hand-held hose, a faucet filled bucket or drip irrigation system.
 - **Requires Notification to TCEQ** - A 10 percent rate increase for high water demand users (greater than 10,000 gallons per month per account) or any other percentage as deemed appropriate by the Public Works Director with City Council approval.
- **City Government**
 - Initiate engineering studies to evaluate alternatives to mitigate drought conditions should conditions worsen.
 - Accelerate public education campaign teaching and encouraging reduced water use practices.
 - Reduce frequency of water street sweeping and city vehicle washing or rinsing by 50 percent.
 - Prohibit flushing of new mains not immediately required to provide service.
 - Continue intensified leak detection and repair activities on water pipes and mains.
 - Prohibit operation of ornamental fountains by city government.
 - City government restricted to day-of-week landscape watering schedule except for parks and city owned golf courses.
 - Increase enforcement efforts.
 - **Commercial Customers**
 - Identify and encourage voluntary reduction measures by high-volume water users.

- **Requires Notification to TCEQ** - Require reduction of water use through day-of-week landscape watering schedule for private parks and golf courses.
- Encourage further reduction in landscape uses for nursery stock.
- Wholesale Water Customer
 - Require water demand reductions in accordance with contract obligations for wholesale water customers.

Stage 3

Initiation and Termination Conditions for Stage 3

Stage 3 of the Drought Contingency and Water Emergency Response Plan will be implemented when:

- With approval of City Council the Public Works Director or official designee, deems it necessary to implement Stage 3 restrictions. Circumstances which may cause initiation include:
 - System demand exceeds 95% of delivery capacity for 2 consecutive days
 - Ground storage reservoirs have dropped below 45% of capacity.
 - Water demand exceeds a reduced pumping capacity for all or part of the system, as determined by the Director of Public Works.
 - Pump or system failures occur, which causes unprecedented loss of capability to provide water service.
 - Natural or manmade contamination occurs anywhere in the system.
 - Conditions are such that initiation of Stage 3 is desirable
- City of Dallas has initiated Stage 3 restrictions.

Stage 3 may terminate when the City of Dallas terminates its Stage 3 condition, when the circumstances that caused the initiation of Stage 3 no longer prevail, or when conditions are such that termination of Stage 3 is desirable.

Goals for Use Reduction and Actions Available under Stage 3

The goal for water use reduction under Stage 3 is a reduction target of fifteen percent in water use. If circumstances warrant or if required by the City of Dallas, the Public Works Director or official designee can set a goal for greater water use reduction with City Council approval.

The Public Works Director or official designee will implement any action(s) required by the City of Dallas. In addition, the Public Works Director or official designee may order the implementation of any of the actions listed below, as deemed necessary. Measures described as “requires notification to TCEQ” impose mandatory requirements on customers.

The supplier must notify TCEQ and the City of Dallas within five business days if these measures are implemented:

- All Water Users
 - Continue or initiate any actions available under Stages 1 and 2.
 - **Requires Notification to TCEQ** - Irrigation of landscaped areas shall be limited to day-of-week watering schedule between the hours of 6:00 a.m. and 10:00 a.m. and between 6:00 p.m. and 12:00 midnight and shall be by means of hand-held hoses, hand held buckets, or drip irrigation only. The use of hose-end sprinklers or permanently installed automatic sprinkler systems is prohibited at all times.
 - **Requires Notification to TCEQ** – Use of water to wash any motor vehicle, motorbike, boat, trailer, airplane or other vehicle not occurring on the premises of a commercial car wash and commercial service stations and not in the immediate interest of public health, safety, and welfare is prohibited. Further such vehicle washing at commercial car washes and commercial service stations shall occur only between the hours of 6:00 a.m. and 10:00 a.m. and between 6:00 p.m. and 10:00 p.m.
 - **Requires Notification to TCEQ** – The filling, refilling or adding of water to swimming pools, wading pools and Jacuzzi type pools is prohibited.
 - **Requires Notification to TCEQ** – Foundations may be watered for a two-hour period during off-peak hours with soaker or hand-held hose equipped with a positive shutoff nozzle.
 - **Requires Notification to TCEQ** – Operation of any ornamental fountain or pond for aesthetic or scenic purposes is prohibited except where necessary to support aquatic life or where such fountains or ponds are equipped with a recirculation system.
 - **Requires Notification to TCEQ** – No application for new, additional, expanded, or increases-in-size water service connections, meters, service lines, pipeline extensions, mains, or other water service facilities of any kind shall be approved, and time limits for approval of such applications are hereby suspended for such time as this drought response stage or higher-numbered stage shall be in effect.
 - **Requires Notification to TCEQ** – Permitting of new swimming pools, hot tubs, spas, ornamental ponds and fountain construction is prohibited.
 - **Requires notification to TCEQ** - A 10 percent rate increase for high water demand users (greater than 10,000 gallons per month per account) or any other percentage as deemed appropriate by the Public Works Director with City Council approval.
- City Government
 - Wet street sweeping and city vehicle washing is prohibited.
 - Municipal landscape watering prohibited except golf courses (see below).
 - Water of golf course greens and tee boxes restricted to off-peak hours; watering of other golf course areas and parks is prohibited.

- Commercial Customers
 - Watering of golf course greens and tee boxes restricted to off-peak hours; watering of other golf course areas and parks is prohibited unless the golf course utilizes a water source other than that provided by the City of Lancaster.
 - Watering of nursery plant stock restricted to designated off-peak hours and day-of-week landscape watering schedule.
- Wholesale Customer
 - Require water demand reductions in accordance with contract obligations for wholesale water customers.

Stage 4

Initiation and Termination Conditions for Stage 4

Stage 4 of the Drought Contingency and Water Emergency Response Plan will be initiated when:

- With approval of City Council the Public Works Director or official designee deems it necessary to implement Stage 4 restrictions. Circumstances which may cause initiation include:
 - System demand has reached or exceeded 98% of delivery capacity for 1 consecutive days
 - Ground storage reservoirs have dropped below 30% of capacity.
 - Major water line breaks
 - Pump or system failures occur, which cause unprecedented loss of capability to provide water service; or natural or man-made contamination of the water supply source(s) occurs.
 - Conditions are such that initiation of Stage 4 is desirable.
- City of Dallas has initiated Stage 4 restrictions.

Stage 4 may terminate when the City of Dallas terminates its Stage 4 condition, when the circumstances that caused the initiation of Stage 4 no longer prevail, or when conditions are such that termination of Stage 4 is desirable.

Goals for Use Reduction and Actions Available under Stage 4

The goal for water use reduction under Stage 4 is a reduction target of twenty-five percent in water use or whatever amount is deemed necessary by the Public Works Director. If circumstances warrant or if required by the City of Dallas, the Public Work Director or official designee can set a goal for water use reduction greater than twenty-five percent with City Council approval.

The Public Works Director or official designee will implement any action(s) required by the City of Dallas. In addition, the Public Works Director or official designee may order the implementation of any of the actions listed below, as deemed necessary. Measures described as “requires notification to TCEQ” impose mandatory requirements. Lancaster must notify TCEQ and the City of Dallas within five business days if these measures are implemented.

- Continue or initiate any actions available under Stages 1, 2, and 3.
- **Requires Notification to TCEQ** – Irrigation of landscaped areas is absolutely prohibited.
- **Requires Notification to TCEQ** – Use of water to wash any motor vehicle, motorbike, boat, trailer, airplane or other vehicle is absolutely prohibited.
- **Requires Notification to TCEQ** - A 10 percent rate increase for high water demand users (greater than 10,000 gallons per month per account) or any other percentage as deemed appropriate by the Public Works Director with City Council approval.
- **Requires Notification to TCEQ** – With City Council approval the Public Works Director can initiate allocation of water supplies on a pro rata basis in accordance with the latest revision of Texas Water Code Section 11.039.

10.6 Procedures for Granting Variances to the Plan

The Public Works Director or official designee may grant temporary variances for existing water uses otherwise prohibited under this drought contingency and water emergency response plan if one or more of the following conditions are met:

- Failure to grant such a variance would cause an emergency condition adversely affecting health, sanitation, or fire safety for the public or the person or entity requesting the variance.
- Compliance with this plan cannot be accomplished due to technical or other limitations.
- Alternative methods that achieve the same level of reduction in water use can be implemented.

Variances shall be granted or denied at the discretion of the Public Work Director or official designee. All petitions for variances should be in writing and should include the following information:

- Name and address of the petitioners
- Purpose of water use
- Specific provisions from which relief is requested
- Detailed statement of the adverse effect of the provision from which relief is requested
- Description of the relief requested
- Period of time for which the variance is sought

- Alternative measures that will be taken to reduce water use
- Other pertinent information.

10.7 Procedures for Enforcing Mandatory Water Use Restrictions

Mandatory water use restrictions may be imposed in Stage 2, Stage 3 and Stage 4. The penalties associated with the mandatory water use restrictions will be determined by the City of Lancaster.

Appendix F contains potential ordinances, resolutions, and orders that may be adopted by the city council including enforcement of same.

10.8 Coordination

A copy of this Water Conservation and Drought Contingency and Water Emergency Response Plan will be provided to the City of Dallas and the Region C Water Planning Group. A copy of the cover letter to be sent with those plans is included in Appendix E.

10.9 Review and Update of Drought Contingency and Water Emergency Response Plan

As required by TCEQ rules, the City of Lancaster will review the drought contingency and water emergency response plan every five years. The plan will be updated as appropriate based on new or updated information.

APPENDIX A
LIST OF REFERENCES

Appendix A
List of References

- (1) City of Dallas, Dallas Water Utilities, *Water Conservation Plan*, April 13, 2005.
- (2) City of Dallas, Dallas Water Utilities, *Drought Contingency Plan*, April 13, 2005.
- (3) Title 30 of the Texas Administrative Code, Part 1, Chapter 288, Subchapter A, Rules 288.1 and 288.2, downloaded from [http://info.sos.state.tx.us/pls/pub/readtac\\$ext.ViewTAC?tac_view=4&ti=30&pt=1&ch=288](http://info.sos.state.tx.us/pls/pub/readtac$ext.ViewTAC?tac_view=4&ti=30&pt=1&ch=288), January 29, 2009.
- (4) Title 30 of the Texas Administrative Code, Part 1, Chapter 288, Subchapter B, Rule 288.20, downloaded from <http://www.tnrcc.state.tx.us/oprd/rules/pdflib/288a.pdf>, January, 2009.
- (5) Water Conservation Implementation Task Force: "Texas Water Development Board Report 362, Water Conservation Best Management Practices Guide," prepared for the Texas Water Development Board, Austin, November 2004.
- (6) City of Lancaster, *Drought Contingency Plan*, May 5, 2005.
- (7) Freese and Nichols Inc., *City of Lancaster Water Master Plan*, Fort Worth, November 12, 2007.
- (8) Freese and Nichols Inc., Alan Plummer Associates, Inc., Chiang, Patel and Yerby Inc., Cooksey Communications, Inc. *2006 Region C Water Plan*, January 2006.
- (9) City of Lancaster, *Irrigation Ordinance #2008-12-49*, Adopted December 8, 2008.

APPENDIX B
TCEQ RULES ON MUNICIPAL WATER CONSERVATION AND DROUGHT
CONTINGENCY PLANS

APPENDIX B
**Texas Commission on Environmental Quality Rules on Municipal Water
Conservation and Drought Contingency Plans**

	Texas Administrative Code
<u>TITLE 30</u>	ENVIRONMENTAL QUALITY
<u>PART 1</u>	TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
<u>CHAPTER 288</u>	WATER CONSERVATION PLANS, DROUGHT CONTINGENCY PLANS, GUIDELINES AND REQUIREMENTS
<u>SUBCHAPTER A</u>	WATER CONSERVATION PLANS
RULE §288.1	Definitions

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise.

- (1) Agricultural or Agriculture--Any of the following activities:
 - (A) cultivating the soil to produce crops for human food, animal feed, or planting seed or for the production of fibers;
 - (B) the practice of floriculture, viticulture, silviculture, and horticulture, including the cultivation of plants in containers or non-soil media by a nursery grower;
 - (C) raising, feeding, or keeping animals for breeding purposes or for the production of food or fiber, leather, pelts, or other tangible products having a commercial value;
 - (D) raising or keeping equine animals;
 - (E) wildlife management; and
 - (F) planting cover crops, including cover crops cultivated for transplantation, or leaving land idle for the purpose of participating in any governmental program or normal crop or livestock rotation procedure.
- (2) Agricultural use--Any use or activity involving agriculture, including irrigation.
- (3) Conservation--Those practices, techniques, and technologies that reduce the consumption of water, reduce the loss or waste of water, improve the efficiency in the use of water, or increase the recycling and reuse of water so that a water supply is made available for future or alternative uses.
- (4) Drought contingency plan--A strategy or combination of strategies for temporary supply and demand management responses to temporary and potentially recurring water supply shortages and other water supply emergencies. A drought contingency plan may be a separate document identified as such or may be contained within another water management document(s).
- (5) Industrial use--The use of water in processes designed to convert materials of a lower

order of value into forms having greater usability and commercial value, commercial fish production, and the development of power by means other than hydroelectric, but does not include agricultural use.

- (6) Irrigation--The agricultural use of water for the irrigation of crops, trees, and pastureland, including, but not limited to, golf courses and parks which do not receive water through a municipal distribution system.
- (7) Irrigation water use efficiency--The percentage of that amount of irrigation water which is beneficially used by agriculture crops or other vegetation relative to the amount of water diverted from the source(s) of supply. Beneficial uses of water for irrigation purposes include, but are not limited to, evapotranspiration needs for vegetative maintenance and growth, salinity management, and leaching requirements associated with irrigation.
- (8) Mining use--The use of water for mining processes including hydraulic use, drilling, washing sand and gravel, and oil field repressuring.
- (9) Municipal per capita water use--The sum total of water diverted into a water supply system for residential, commercial, and public and institutional uses divided by actual population served.
- (10) Municipal use--The use of potable water within or outside a municipality and its environs whether supplied by a person, privately owned utility, political subdivision, or other entity as well as the use of sewage effluent for certain purposes, including the use of treated water for domestic purposes, fighting fires, sprinkling streets, flushing sewers and drains, watering parks and parkways, and recreational purposes, including public and private swimming pools, the use of potable water in industrial and commercial enterprises supplied by a municipal distribution system without special construction to meet its demands, and for the watering of lawns and family gardens.
- (11) Municipal use in gallons per capita per day--The total average daily amount of water diverted or pumped for treatment for potable use by a public water supply system. The calculation is made by dividing the water diverted or pumped for treatment for potable use by population served. Indirect reuse volumes shall be credited against total diversion volumes for the purpose of calculating gallons per capita per day for targets and goals.
- (12) Nursery grower--A person engaged in the practice of floriculture, viticulture, silviculture, and horticulture, including the cultivation of plants in containers or nonsoil media, who grows more than 50% of the products that the person either sells or leases, regardless of the variety sold, leased, or grown. For the purpose of this definition, grow means the actual cultivation or propagation of the product beyond the mere holding or maintaining of the item prior to sale or lease, and typically includes activities associated with the production or multiplying of stock such as the development of new plants from cuttings, grafts, plugs, or seedlings.
- (13) Pollution--The alteration of the physical, thermal, chemical, or biological quality of, or the contamination of, any water in the state that renders the water harmful, detrimental, or injurious to humans, animal life, vegetation, or property, or to the

public health, safety, or welfare, or impairs the usefulness or the public enjoyment of the water for any lawful or reasonable purpose.

- (14) Public water supplier--An individual or entity that supplies water to the public for human consumption.
- (15) Regional water planning group--A group established by the Texas Water Development Board to prepare a regional water plan under Texas Water Code, §16.053.
- (16) Retail public water supplier--An individual or entity that for compensation supplies water to the public for human consumption. The term does not include an individual or entity that supplies water to itself or its employees or tenants when that water is not resold to or used by others.
- (17) Reuse--The authorized use for one or more beneficial purposes of use of water that remains unconsumed after the water is used for the original purpose of use and before that water is either disposed of or discharged or otherwise allowed to flow into a watercourse, lake, or other body of state-owned water.
- (18) Water conservation plan--A strategy or combination of strategies for reducing the volume of water withdrawn from a water supply source, for reducing the loss or waste of water, for maintaining or improving the efficiency in the use of water, for increasing the recycling and reuse of water, and for preventing the pollution of water. A water conservation plan may be a separate document identified as such or may be contained within another water management document(s).
- (19) Wholesale public water supplier--An individual or entity that for compensation supplies water to another for resale to the public for human consumption. The term does not include an individual or entity that supplies water to itself or its employees or tenants as an incident of that employee service or tenancy when that water is not resold to or used by others, or an individual or entity that conveys water to another individual or entity, but does not own the right to the water which is conveyed, whether or not for a delivery fee.

Source Note: The provisions of this §288.1 adopted to be effective May 3, 1993, 18 TexReg 2558; amended to be effective February 21, 1999, 24 TexReg 949; amended to be effective April 27, 2000, 25 TexReg 3544; amended to be effective August 15, 2002, 27 TexReg 7146, amended to be effective October 7, 2004, 29 TexReg 9384.

Texas Administrative Code

TITLE 30

ENVIRONMENTAL QUALITY

PART 1

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

CHAPTER 288

WATER CONSERVATION PLANS, DROUGHT
CONTINGENCY PLANS, GUIDELINES AND
REQUIREMENTS

SUBCHAPTER A

WATER CONSERVATION PLANS

RULE §288.2

**Water Conservation Plans for Municipal Uses by Public
Water Suppliers**

-
- (a) A water conservation plan for municipal water use by public water suppliers shall provide information in response to the following. If the plan does not provide information for each requirement, the public water supplier shall include in the plan an explanation of why the requirement is not applicable.
- (1) Minimum requirements. All water conservation plans for municipal uses by public drinking water suppliers must include the following elements:
- (A) a utility profile including, but not limited to, information regarding population and customer data, water use data, water supply system data, and wastewater system data;
 - (B) until May 1, 2005, specification of conservation goals including, but not limited to, municipal per capita water use goals, the basis for the development of such goals, and a time frame for achieving the specified goals;
 - (C) beginning May 1, 2005, specific, quantified five-year and ten-year targets for water savings to include goals for water loss programs and goals for municipal use, in gallons per capita per day. The goals established by a public water supplier under this subparagraph are not enforceable;
 - (D) metering device(s), within an accuracy of plus or minus 5.0% in order to measure and account for the amount of water diverted from the source of supply;
 - (E) a program for universal metering of both customer and public uses of water, for meter testing and repair, and for periodic meter replacement;
 - (F) measures to determine and control unaccounted-for uses of water (for example, periodic visual inspections along distribution lines; annual or monthly audit of the water system to determine illegal connections; abandoned services; etc.);
 - (G) a program of continuing public education and information regarding water conservation;
 - (H) a water rate structure which is not "promotional," i.e., a rate structure which is cost-based and which does not encourage the excessive use of water;
 - (I) a reservoir systems operations plan, if applicable, providing for the

- coordinated operation of reservoirs owned by the applicant within a common watershed or river basin in order to optimize available water supplies; and
- (J) a means of implementation and enforcement which shall be evidenced by:
- (i) a copy of the ordinance, resolution, or tariff, indicating official adoption of the water conservation plan by the water supplier; and
 - (ii) a description of the authority by which the water supplier will implement and enforce the conservation plan; and
- (K) documentation of coordination with the regional water planning groups for the service area of the public water supplier in order to ensure consistency with the appropriate approved regional water plans.
- (2) Additional content requirements. Water conservation plans for municipal uses by public drinking water suppliers serving a current population of 5,000 or more and/or a projected population of 5,000 or more within the next ten years subsequent to the effective date of the plan must include the following elements:
- (A) a program of leak detection, repair, and water loss accounting for the water transmission, delivery, and distribution system in order to control unaccounted-for uses of water;
 - (B) a record management system to record water pumped, water deliveries, water sales, and water losses which allows for the desegregation of water sales and uses into the following user classes:
 - (i) residential;
 - (ii) commercial;
 - (iii) public and institutional; and
 - (iv) industrial;
 - (C) a requirement in every wholesale water supply contract entered into or renewed after official adoption of the plan (by either ordinance, resolution, or tariff), and including any contract extension, that each successive wholesale customer develop and implement a water conservation plan or water conservation measures using the applicable elements in this chapter. If the customer intends to resell the water, then the contract between the initial supplier and customer must provide that the contract for the resale of the water must have water conservation requirements so that each successive customer in the resale of the water will be required to implement water conservation measures in accordance with the provisions of this chapter.
- (3) Additional conservation strategies. Any combination of the following strategies shall be selected by the water supplier, in addition to the minimum requirements in paragraphs (1) and (2) of this subsection, if they are necessary to achieve the stated water conservation goals of the plan. The commission may require that any of the following strategies be implemented by the water supplier if the commission determines that the strategy is necessary to achieve the goals of the

water conservation plan:

- (A) conservation-oriented water rates and water rate structures such as uniform or increasing block rate schedules, and/or seasonal rates, but not flat rate or decreasing block rates;
 - (B) adoption of ordinances, plumbing codes, and/or rules requiring water-conserving plumbing fixtures to be installed in new structures and existing structures undergoing substantial modification or addition;
 - (C) a program for the replacement or retrofit of water-conserving plumbing fixtures in existing structures;
 - (D) reuse and/or recycling of wastewater and/or graywater;
 - (E) a program for pressure control and/or reduction in the distribution system and/or for customer connections;
 - (F) a program and/or ordinance(s) for landscape water management;
 - (G) a method for monitoring the effectiveness and efficiency of the water conservation plan; and
 - (H) any other water conservation practice, method, or technique which the water supplier shows to be appropriate for achieving the stated goal or goals of the water conservation plan.
- (b) A water conservation plan prepared in accordance with 31 TAC §363.15 (relating to Required Water Conservation Plan) of the Texas Water Development Board and substantially meeting the requirements of this section and other applicable commission rules may be submitted to meet application requirements in accordance with a memorandum of understanding between the commission and the Texas Water Development Board.
- (c) Beginning May 1, 2005, a public water supplier for municipal use shall review and update its water conservation plan, as appropriate, based on an assessment of previous five-year and ten-year targets and any other new or updated information. The public water supplier for municipal use shall review and update the next revision of its water conservation plan not later than May 1, 2009, and every five years after that date to coincide with the regional water planning group.

Source Note: The provisions of this §288.2 adopted to be effective May 3, 1993, 18 TexReg 2558; amended to be effective February 21, 1999, 24 TexReg 949; amended to be effective April 27, 2000, 25 TexReg 3544; amended to be effective October 7, 2004, 29 TexReg 9384.

Texas Administrative Code

TITLE 30
PART 1
CHAPTER 288

ENVIRONMENTAL QUALITY
TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
WATER CONSERVATION PLANS, DROUGHT
CONTINGENCY PLANS, GUIDELINES AND
REQUIREMENTS

SUBCHAPTER B
RULE §288.20

DROUGHT CONTINGENCY PLANS
**Drought Contingency Plans for Municipal Uses by Public
Water Suppliers**

-
- (a) A drought contingency plan for a retail public water supplier, where applicable, must include the following minimum elements.
- (1) Minimum requirements. Drought contingency plans must include the following minimum elements.
- (A) Preparation of the plan shall include provisions to actively inform the public and affirmatively provide opportunity for public input. Such acts may include, but are not limited to, having a public meeting at a time and location convenient to the public and providing written notice to the public concerning the proposed plan and meeting.
- (B) Provisions shall be made for a program of continuing public education and information regarding the drought contingency plan.
- (C) The drought contingency plan must document coordination with the regional water planning groups for the service area of the retail public water supplier to ensure consistency with the appropriate approved regional water plans.
- (D) The drought contingency plan must include a description of the information to be monitored by the water supplier, and specific criteria for the initiation and termination of drought response stages, accompanied by an explanation of the rationale or basis for such triggering criteria.
- (E) The drought contingency plan must include drought or emergency response stages providing for the implementation of measures in response to at least the following situations:
- (i) reduction in available water supply up to a repeat of the drought of record;
- (ii) water production or distribution system limitations;
- (iii) supply source contamination; or
- (iv) system outage due to the failure or damage of major water system components (e.g., pumps).
- (F) The drought contingency plan must include the specific, quantified targets for water use reductions to be achieved during periods of water shortage and drought. The entity preparing the plan shall establish the targets. The goals

established by the entity under this subparagraph are not enforceable.

- (G) The drought contingency plan must include the specific water supply or water demand management measures to be implemented during each stage of the plan including, but not limited to, the following:
 - (i) curtailment of non-essential water uses; and
 - (ii) utilization of alternative water sources and/or alternative delivery mechanisms with the prior approval of the executive director as appropriate (e.g., interconnection with another water system, temporary use of a non-municipal water supply, use of reclaimed water for non-potable purposes, etc.).
 - (H) The drought contingency plan must include the procedures to be followed for the initiation or termination of each drought response stage, including procedures for notification of the public.
 - (I) The drought contingency plan must include procedures for granting variances to the plan.
 - (J) The drought contingency plan must include procedures for the enforcement of any mandatory water use restrictions, including specification of penalties (e.g., fines, water rate surcharges, discontinuation of service) for violations of such restrictions.
- (2) Privately-owned water utilities. Privately-owned water utilities shall prepare a drought contingency plan in accordance with this section and incorporate such plan into their tariff.
- (3) Wholesale water customers. Any water supplier that receives all or a portion of its water supply from another water supplier shall consult with that supplier and shall include in the drought contingency plan appropriate provisions for responding to reductions in that water supply.
- (b) A wholesale or retail water supplier shall notify the executive director within five business days of the implementation of any mandatory provisions of the drought contingency plan.
- (c) The retail public water supplier shall review and update, as appropriate, the drought contingency plan, at least every five years, based on new or updated information, such as the adoption or revision of the regional water plan.

Source Note: The provisions of this §288.20 adopted to be effective February 21, 1999, 24 TexReg 949; amended to be effective April 27, 2000, 25 TexReg 3544; amended to be effective October 7, 2004, 29 TexReg 9384.

APPENDIX C
CONSERVATION AND DROUGHT CONTINGENCY PLAN SECTION
ADDRESSING TCEQ RULES

APPENDIX C

CONSERVATION AND DROUGHT CONTINGENCY PLAN

SECTIONS ADDRESSING TCEQ RULES

Conservation Plans

The TCEQ rules governing development of water conservation plans for public water suppliers are contained in Title 30, Part 1, Chapter 288, Subchapter A, Rule 288.2 of the Texas Administrative Code, which is included in Appendix B. For the purpose of these rules, a water conservation plan is defined as “A strategy or combination of strategies for reducing the volume of water withdrawn from a water supply source, for reducing the loss or waste of water, for maintaining or improving the efficiency in the use of water, for increasing the recycling and reuse of water, and for preventing the pollution of water.”¹ The elements in the TCEQ water conservation rules covered in this conservation plan are listed below.

Minimum Conservation Plan Requirements

The minimum requirements in the Texas Administrative Code for Water Conservation Plans for Public Water Suppliers are covered in this report as follows:

- 288.2(a)(1)(A) – Utility Profile – Section 2 and Appendix D
- 288.2(a)(1)(B) – Specification of Goals – Section 3
- 288.2(a)(1)(C) – Specific, Quantified Goals – Section 3
- 288.2(a)(1)(D) – Accurate Metering – Sections 4.1
- 288.2(a)(1)(E) – Universal Metering – Section 4.2
- 288.2(a)(1)(F) – Determination and Control of Unaccounted Water – Section 4.3
- 288.2(a)(1)(G) – Public Education and Information Program – Section 5
- 288.2(a)(1)(H) – Non-Promotional Water Rate Structure – Section 6
- 288.2(a)(1)(I) – Reservoir System Operation Plan – Section 7.1
- 288.2(a)(1)(J) – Means of Implementation and Enforcement – Section 8
- 288.2(a)(1)(K) – Coordination with Regional Water Planning Group – Section 7.6 and Appendix E
- 288.2(c) – Review and Update of Plan – Section 9

Conservation Additional Requirements (Population over 5,000)

The Texas Administrative Code includes additional requirements for water conservation plans for drinking water supplies serving a population over 5,000:

- 288.2(a)(2)(A) – Leak Detection, Repair, and Water Loss Accounting – Sections 4.3 and 4.4
- 288.2(a)(2)(B) – Record Management System – Section 4.5

- 288.2(a)(2)(C) – Requirement for Water Conservation Plans by Wholesale Customers – Section 7.5

Additional Conservation Strategies

The TCEQ requires that a water conservation implementation report be completed and submitted on an annual basis. This report is included in Appendix G.

TCEQ rules also include optional, but not required, conservation strategies, which may be adopted by suppliers.

- 288.2(a)(3)(A) – Conservation Oriented Water Rates – Section 6
- 288.2(a)(3)(B) – Ordinances, Plumbing Codes or Rules on Water-Conserving Fixtures – Section 7.3
- 288.2(a)(3)(C) – Replacement or Retrofit of Water-Conserving Plumbing Fixtures – Section 7.4
- 288.2(a)(3)(D) – Reuse and Recycling of Wastewater – Section 7.2
- 288.2(a)(3)(E) – Program for pressure control – Not included in this plan
- 288.2(a)(3)(F) – Considerations for Landscape Water Management Regulations – Section 7.4
- 288.2(a)(3)(G) – Monitoring Method – Not Included in this plan.
- 288.2(a)(3)(H) – Additional Conservation Ordinance Provisions – Section 7.4

Drought Contingency Plans

This model drought contingency and water emergency response plan is consistent with Texas Commission on Environmental Quality guidelines and requirements for the development of drought contingency plans for public water suppliers, contained in Title 30, Part 1, Chapter 288, Subchapter B, Rule 288.20 of the Texas Administrative Code.² This rule is contained in Appendix B.

Minimum Requirements

TCEQ's minimum requirements for drought contingency plans are addressed in the following subsections of this report:

- 288.20(a)(1)(A) – Provisions to Inform the Public and Provide Opportunity for Public Input – Section 10.2
- 288.20(a)(1)(B) – Provisions for Continuing Public Education and Information – Section 10.3
- 288.20(a)(1)(C) – Coordination with the Regional Water Planning Group – Section 10.8
- 288.20(a)(1)(D) – Criteria for Initiation and Termination of Drought Stages – Section 10.4
- 288.20(a)(1)(E) – Drought and Emergency Response Stages – Section 10.5

- 288.20(a)(1)(F) – Specific, Quantified Targets for Water Use Reductions – Section 10.5
- 288.20(a)(1)(G) – Water Supply and Demand Management Measures for Each Stage – Section 10.5
- 288.20(a)(1)(H) – Procedures for Initiation and Termination of Drought Stages – Section 10.4
- 288.20(a)(1)(I) - Procedures for Granting Variances – Section 10.6
- 288.20(a)(1)(J) - Procedures for Enforcement of Mandatory Restrictions – Section 10.7
- 288.20(a)(3) – Consultation with Wholesale Supplier – Sections 1, 10.4, and 10.6
- 288.20(b) – Notification of Implementation of Mandatory Measures – Section 10.4
- 288.20(c) – Review and Update of Plan – Section 10.9

APPENDIX D
TCEQ WATER UTILITY PROFILE

APPENDIX D
TCEQ Water Utility Profile
 (Based on November 5, 2004 TCEQ Profile)

The purpose of the Water Utility Profile is to assist an applicant with water conservation plan development and to ensure that important information and data be considered when preparing your water conservation plan and goals. You may contact the Municipal Water Conservation Unit of the TWDB at 512-936-2391 for assistance, or the Resource Protection Team at 512-239-4691 if submitted to the TCEQ.

Name of Entity: City of Lancaster
 Address & Zip: P.O. Box 940 Lancaster, TX. 75146
 Telephone Number: 972-218-2326
 Fax Number: 972-218-3644
 Form Completed by: Phillip Curtis
 Title: Utility Superintendent
 Signature: _____
 Date: June 9, 2009

Jim Smith, P.E., D.P.W.
 Jim Smith, P.E., D.P.W.

Name and phone number of person/department responsible for implementing a water conservation program:

Name: Phillip Curtis
 Phone Number: 972-218-2326

I. POPULATION AND CUSTOMER DATA

A. Population and Service Area Data

1. Please attach a copy of your service-area map and, if applicable, a copy of your Certificate of Convenience and a service-area map.
2. Service area size (square miles): 28.82
3. Current population of service area: 35,800 as of year 2008
4. Current population served by utility:
 - water: 35,800
 - wastewater: 34,368
5. Population served by water utility for the previous five years. (Please list by year in ascending order.)

Year	Population
2004	29,850
2005	31,700
2006	33,550
2007	35,050
2008	35,800

6. Projected population for service area in the following decades:

Year	Population
2010	37,200
2020	59,664
2030	65,301
2040	65,301
2050	65,301
2060	65,301

7. List source/method for the calculation of current and projected population:
 Historical and Projected Population based on NCTCOG population estimates.

B. Active Connections

1. Current number of active connections.

Check whether multi-family service is counted as Residential X or Commercial ____
 Current year is: 2008

Treated Water Users	Metered	Non-Metered	Total
Residential	10,794	0	10,794
Commercial	534	0	534
Industrial	1	0	1
Other	0	0	0
Total	11,329	0	11,329

2. List the net number of new connections per year for most recent three years:

Year	2006	2007	2008
Residential	636	328	107
Commercial	8	10	9
Industrial	0	0	0
Public	0	0	2
Other	0	0	0
Total	644	338	118

C. High Volume Customers

List annual water use for the five highest volume customers.
 (Please indicate if treated or raw water delivery.):

Customer	Use (1,000 gal/yr)	Treated or Raw Water?
Lancaster ISD	39,617	Treated
Portofino Apartments	35,233	Treated
Hunter Creek Apartments	33,650	Treated
Lancaster MUD	29,001	Treated
Rolling Hills Place Apartments	26,391	Treated

II. WATER USE DATA FOR SERVICE AREA

A. Water Accounting Data

1. Amount of water use for previous five years (in 1,000 gal):

Please indicate: Diverted Water X
 Treated Water —

Year	2004	2005	2006	2007	2008
January	88,885	96,300	112,152	90,746	112,200
February	81,856	87,200	94,775	81,102	102,200
March	89,951	102,700	108,834	90,754	115,500
April	95,094	115,100	125,116	96,486	116,660
May	106,094	114,925	141,743	103,720	132,638
June	107,799	142,500	160,126	100,669	168,750
July	136,472	153,511	201,320	108,019	206,352
August	135,614	172,800	229,690	151,400	193,766
September	126,768	173,834	158,302	123,000	161,807
October	112,416	153,800	141,083	109,100	145,907
November	103,500	130,800	124,709	123,000	125,641
December	105,700	118,100	96,041	109,100	128,195
Total	1,290,149	1,561,570	1,693,891	1,287,096	1,709,616

Please indicate how the above figures were determined (e.g., from a master meter located at the point of diversion, from a stream, or located at a point where raw water enters the treatment plant, or from water sales)
 The above water use figures were obtained from the Dallas Water Utilities flow meters located at the diversion point with the City of Lancaster.

2. Amount of water (in 1,000 gallons) delivered (sold) as recorded by the following account types

Year	Residential	Commercial	Industrial	Wholesale	Other	Total Sold
2004	696,405	297,330	0	0	N/A	993,735
2005	792,725	440,170	0	2,249	N/A	1,235,144
2006	944,399	520,238	0	2,249	N/A	1,466,886
2007	916,422	364,457	2	2,249	N/A	1,283,130
2008	1,200,025	400,128	6	29,001	N/A	1,629,160

3. List previous five years records for water loss (the difference between water diverted (or treated) and water delivered (sold)).

Year	Amount (gal.)	%
2004	296,413,900	23%
2005	326,425,923	21%
2006	227,005,423	13%
2007	3,966,423	0%
2008	80,455,700	5%

4. Municipal water use for previous five years:

Year	Population	Total Purchased from Dallas (1,000 gal)	Industrial	Wholesale	Municipal (Assumed to Equal Purchases minus Industrial and Wholesale)
2004	29,850	1,290,149	0	0	1,290,149
2005	31,700	1,561,570	0	2,249	1,559,321
2006	33,550	1,693,891	0	2,249	1,691,642
2007	35,050	1,287,096	2	2,249	1,284,845
2008	35,800	1,709,616	6	29,001	1,680,609

B. Projected Water Demands

If applicable, attach projected water supply demands for the next ten years using information such as population trends, historical water use, and economic growth in the service area over the next ten years and any additional water supply requirement from such growth.

Year	Projected Demand (Ac-Ft)	Source of data	Additional Water Supply Requirements
2009	6,297	NCTCOG Population and Lancaster Per Capita Water Use	
2010	7,348	NCTCOG Population and Lancaster Per Capita Water Use	
2011	7,422	NCTCOG Population and Lancaster Per Capita Water Use	
2012	7,496	NCTCOG Population and Lancaster Per Capita Water Use	
2013	7,569	NCTCOG Population and Lancaster Per Capita Water Use	
2014	7,643	NCTCOG Population and Lancaster Per Capita Water Use	
2015	7,717	NCTCOG Population and Lancaster Per Capita Water Use	
2016	7,791	NCTCOG Population and Lancaster Per Capita Water Use	
2017	7,865	NCTCOG Population and Lancaster Per Capita Water Use	
2018	7,938	NCTCOG Population and Lancaster Per Capita Water Use	

III. WATER SUPPLY SYSTEM DATA

A. Water Supply Sources

List all current water supply sources and the amounts authorized with each:

Type	Source	Amount Available (AF/Y)
Surface Water		
Groundwater	N/A	
Contracts	Dallas Water Utilities	8,968
Other		

B. Treatment and Distribution System

1. Design daily capacity of system: 10.4 MGD
2. Storage capacity:

Elevated	<u>3</u>	MG
Ground	<u>2</u>	MG
3. If surface water, do you recycle filter backwash to the head of the plant?
 Yes ___ No X. If yes, approximately ___ MGD.
4. Please attach a description of the water system. Include the number of treatment plants, wells, and storage tanks. If possible, include a sketch of the system layout.

IV. WASTEWATER SYSTEM DATA

A. Wastewater System Data

1. Design capacity of wastewater treatment plant(s): N/A MGD
2. Is treated effluent used for irrigation on-site ____, off-site ____, plant washdown ____, or chlorination/dechlorination ____? If yes, approximately ____ gallons per month.
3. Briefly describe the wastewater system(s) of the area serviced by the water utility. Describe how treated wastewater is disposed of. Where applicable, identify treatment plant(s) with the TCEQ name and number, the operator, owner, and, if wastewater is discharged, the receiving stream. Please provide a sketch or map which locates the plant(s) and discharge points or disposal sites.

Treatment Plant Name	TCEQ Number	Operator	Owner	Receiving Stream
Ten Mile Creek WWTP	RNI00751577	Trinity River Authority	Trinity River Authority	Ten Mile Creek

B. Wastewater Data for Service Area

1. Percent of water service area served by wastewater system:
2. Monthly wastewater volume for previous three years (in 1,000 gallons):

96 %

Year	2006	2007	2008
January	104,650	206,425	118,353
February	99,734	117,967	130,936
March	141,191	142,410	218,228
April	107,287	152,501	189,516
May	109,868	133,328	131,551
June	105,096	234,911	117,853
July	109,294	222,381	116,072
August	116,225	125,126	131,025
September	113,490	135,226	117,634
October	118,453	125,911	116,063
November	107,124	114,585	114,383
December	126,087	123,990	112,312
Total	1,358,499	1,834,761	1,613,926

APPENDIX E
LETTER TO REGION C WATER PLANNING GROUP AND THE CITY OF
DALLAS



City of Lancaster
PUBLIC WORKS DEPARTMENT
ADMINISTRATION



TREE CITY USA.

1425 N. Dallas Ave., Suite 101 * Lancaster, TX 75134 * 972.275.1700
www.lancaster-tx.com

June 9, 2009

Ms. Carole Davis
City of Dallas
1500 Marilla Street
Dallas, TX 75201

Re: Water Conservation, Drought Contingency and Water Emergency Response Plan

Dear Ms. Davis:

Enclosed please find a copy of the recently completed Water Conservation and Drought Contingency and Water Emergency Response Plan for the City of Lancaster. I am submitting a copy of this plan to the City of Dallas in accordance with the Texas Water Development Board and Texas Commission on Environmental Quality rules. The Lancaster City Council adopted the plan June 8, 2009.

Sincerely,

A handwritten signature in black ink, appearing to read 'Jim Smith'.

Jim Smith, P.E.
Director of Public Works
City of Lancaster

Cc: Phillip Curtis, Superintendent of Water, City of Lancaster



City of Lancaster
PUBLIC WORKS DEPARTMENT
ADMINISTRATION



1425 N. Dallas Ave., Suite 101 * Lancaster, TX 75134 * 972.275.1700
www.lancaster-tx.com

June 9, 2009

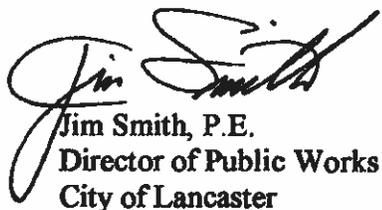
Mr. Denis Qualls
City of Dallas
1500 Marilla Street
Dallas, TX 75201

Re: Water Conservation, Drought Contingency and Water Emergency Response Plan

Dear Mr. Qualls:

Enclosed please find a copy of the recently completed Water Conservation and Drought Contingency and Water Emergency Response Plan for the City of Lancaster. I am submitting a copy of this plan to the City of Dallas in accordance with the Texas Water Development Board and Texas Commission on Environmental Quality rules. The Lancaster City Council adopted the plan June 8, 2009.

Sincerely,



Jim Smith, P.E.
Director of Public Works
City of Lancaster

Cc: Phillip Curtis, Superintendent of Water, City of Lancaster



City of Lancaster
PUBLIC WORKS DEPARTMENT
ADMINISTRATION



1425 N. Dallas Ave., Suite 101 * Lancaster, TX 75134 * 972.275.1700
www.lancaster-tx.com

June 9, 2009

Mr. Jim Parks
Region C Water Planning Group
North Texas Municipal Water District
P.O. Box 2408
Wylie, TX 75098

Re: Water Conservation, Drought Contingency and Water Emergency Response Plan

Dear Sir:

Enclosed please find a copy of the recently completed Water Conservation and Drought Contingency and Water Emergency Response Plan for the City of Lancaster. I am submitting a copy of this plan to the Region C Water Planning Group in accordance with the Texas Water Development Board and Texas Commission on Environmental Quality rules. The Lancaster City Council adopted the plan on June 8, 2009.

Sincerely,

A handwritten signature in black ink, appearing to read 'Jim Smith', written over a printed name and title.

Jim Smith, P.E.
Director of Public Works
City of Lancaster

Cc: Phillip Curtis, Superintendent of Water, City of Lancaster

APPENDIX F

**ADOPTION OF WATER CONSERVATION AND DROUGHT CONTINGENCY
AND WATER EMERGENCY RESPONSE PLAN**

ORDINANCE NO. 2009-06-14

AN ORDINANCE OF THE CITY OF LANCASTER, TEXAS, AMENDING THE CODE OF ORDINANCES BY AMENDING ARTICLE 13.100, EMERGENCY WATER SYSTEM SITUATIONS, BY ADDING SECTION 13.106 TO PROVIDE FOR THE ADOPTION OF A WATER CONSERVATION AND DROUGHT CONTINGENCY AND WATER EMERGENCY RESPONSE PLAN, WHICH IS ATTACHED HERETO AND INCORPORATED HEREIN AS EXHIBIT A, TO PROMOTE RESPONSIBLE USE OF WATER AND TO PROVIDE FOR PENALTIES AND/OR THE DISCONNECTION OF WATER SERVICE FOR NONCOMPLIANCE WITH THE PROVISIONS OF THE WATER CONSERVATION AND DROUGHT CONTINGENCY AND WATER EMERGENCY RESPONSE PLAN; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A SAVINGS CLAUSE; AND PROVIDING AN EFFECTIVE DATE

WHEREAS, the City of Lancaster, Texas (the "City"), recognizes that the amount of water available to its water customers is limited; and

WHEREAS, the City recognizes that due to natural limitations, drought conditions, system failures and other acts of nature which may occur, the City cannot guarantee an uninterrupted water supply for all purposes at all times; and

WHEREAS, the Water Code and the regulations of the Texas Commission on Environmental Quality (the "Commission") require that the City adopt a Water Conservation and Drought Contingency and Water Emergency Response Plan; and

WHEREAS, the City has determined an urgent need in the best interest of the public to adopt a Water Conservation and Drought Contingency and Water Emergency Response Plan; and

WHEREAS, pursuant to Chapter 54 of the Local Government Code, the City is authorized to adopt such Ordinances necessary to preserve and conserve its water resources; and

WHEREAS, the City Council of the City of Lancaster desires to adopt the Water Conservation and Drought Contingency and Water Emergency Response Plan, which is attached hereto and incorporated herein as Exhibit A, as official City policy for the conservation of water.

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

SECTION 1. That the City of Lancaster Code of Ordinances be and the same is hereby amended by amending Article 13.100 by adding Section 13.106, Water Conservation and

Drought Contingency and Water Emergency Response Plan, to provide for the adoption of said plan as the official City policy for the conservation of water, which shall read as follows:

“ARTICLE 13.100 EMERGENCY WATER SYSTEM SITUATIONS

.....

Sec. 13.106 Water Conservation and Drought Contingency and Water Emergency Response Plan

(a) The Water Conservation and Drought Contingency and Water Emergency Response Plan is hereby adopted by reference as the official City policy for the conservation of water. The City commits to implement the requirements and procedures set forth in the adopted Plan. Unless deleted, amended, expanded or otherwise changed herein, all provisions of each such Plan shall be fully applicable and binding. One copy of each such Plan, together with the exceptions and amendments thereto, shall be kept at all times in the office of the city secretary.

(b) For the purpose of this section it shall be presumed that a person who is receiving economic benefit of public water has knowingly tampered with the tangible property of the City of Lancaster if the communication of supply has been:

- 1) Diverted from passing through a metering device; or
- 2) Prevented from being correctly registered by a metering device; or
- 3) Activated by any device installed to obtain public water without a City of Lancaster authorized metering device.

A person violates this section if they knowingly tamper with public property as described above or otherwise seek to take public water without proper payment, regardless of the amount of the pecuniary losses. Any person failing to comply with this section shall be subject to a fine of up to two thousand dollars (\$2,000.00) and/or discontinuance of water service by the City. Proof of a culpable mental state is not required for a conviction of an offense under this section. Each day a person fails to comply with the Plan is a separate violation. The City's authority to seek injunctive or other civil relief available under the law is not limited by this section.”

SECTION 2. The City Manager or his designee is hereby directed to file a copy of the Plan and this Ordinance with the Commission in accordance with Title 30, Chapter 288 of the Texas Administrative Code.

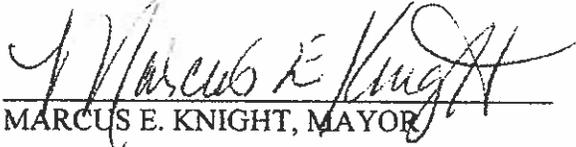
SECTION 3. That all provisions of the Ordinances of the City of Lancaster, Texas, in conflict with the provisions of this ordinance be, and the same are hereby amended, repealed, and all other provisions of the Ordinances of the City not in conflict with the provisions of this ordinance shall remain in full force and effect.

SECTION 4. If any article, paragraph or subdivision, clause or provision of this Ordinance shall be adjudged invalid or held unconstitutional, the same shall not affect the validity of this Ordinance as a whole or any part or provision thereof, other than the part so decided to be invalid or unconstitutional.

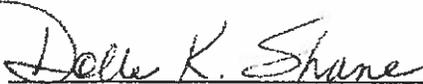
SECTION 5. This Ordinance shall take effect immediately from and after the publication of its caption, as the law in such cases provides.

DULY PASSED by the City Council of the City of Lancaster, Texas, on the 8th day of June 2009.

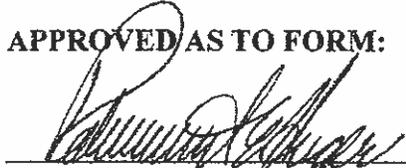
APPROVED:


MARCUS E. KNIGHT, MAYOR

ATTEST:


DOLLE K. SHANE, CITY SECRETARY

APPROVED AS TO FORM:


ROBERT E. HAGER, CITY ATTORNEY
(REH/cdb 05/14/09)

APPENDIX G
TCEQ WATER CONSERVATION IMPLEMENTATION REPORT

APPENDIX G
TCEQ Water Conservation Implementation Report

	Texas Commission on Environmental Quality
Water Conservation Implementation Report	
<p>This report must be completed by entities that are required to submit a water conservation plan to the TCEQ in accordance with Title 30 Texas Administrative Code, Chapter 288. Please complete this report and submit it to the TCEQ. If you need assistance in completing this form, please contact the Resource Protection Team in the Water Supply Division at (512) 239-4691.</p>	

Name: City of Lancaster
Address: P.O. Box 940 Lancaster, TX. 75146
Telephone Number: (972) 218-2326 **Fax:** (972) 218-3644
Form Completed By: Phillip Curtis **Title:** Utility Superintendent
Signature: *Jim Smith for Phillip Curtis* **Date:** June 9, 2009

I. WATER USES

Indicate the type(s) of water uses (example: municipal, industrial, or agricultural).

- Municipal (Residential and Commercial) Use
Industrial Use
Wholesale Use

II. WATER CONSERVATION MEASURES IMPLEMENTED

Provide the water conservation measures and the dates the measures were implemented.

Description of Water Conservation Measure:

Public Education: quarterly Newsletter to customers, conservation tips on the city website.

Date Implemented: 2003

Description of Water Conservation Measure:

Meter Replacement Program: The City has begun replacing all meters within the city. They have completed 7,500 out of 10,000 active meters.

Date Implemented: 2003

Description of Water Conservation Measure:

Water Rate Structure: The City has an increasing block rate structure.

Date Implemented: 2008

Description of Water Conservation Measure:

Landscape Water Management: The City has time of day restriction during the summer months, prohibition on wasting water, requirement for rain/freeze sensors on new irrigation systems.

Date Implemented: 2006

Description of Water Conservation Measure:

Leak Detection Program: City staff targets areas known to have non surfacing leaks by listening devices and sounding devices to locate potential leaks. Water lines with known leakage and breakage problems are replaced as budget allows.

Date Implemented: 2006

Description of Water Conservation Measure:

Date Implemented: _____

Description of Water Conservation Measure:

Date Implemented: _____

Description of Water Conservation Measure:

Date Implemented: _____

Description of Water Conservation Measure:

Date Implemented: _____

Description of Water Conservation Measure:

Date Implemented: _____

III. TARGETS

- A. Provide the **specific and quantified five and ten-year targets** as listed in water conservation plan for previous planning period.

5-Year Specific/Quantified Target: N/A (No plan before May 2009)

Date to achieve target: _____

10-Year Specific/Quantified Target: N/A (No plan before May 2009)

Date to achieve target: _____

- B. State if these targets in the water conservation plan are being met.
The first water conservation plan was completed in May 2009. The City has not been able to track the targets set in the plan at this time.
- C. List the **actual amount of water saved**.
The first water conservation plan was completed in May 2009. The City has not been able to track the actual amount of water saved from these programs at this time.
- D. If the targets are not being met, provide an explanation as to why, including any progress on the targets.

If you have any questions on how to fill out this form or about the Water Conservation program, please contact the Texas Commission on Environmental Quality at (512) 239-4691.

Individuals are entitled to request and review their personal information that the agency gathers on its forms. They may also have any errors in their information corrected. To review such information, contact us at 512-239-3282.

From: Culton, Jacqueline [mailto:jacqueline.culton@dallascityhall.com]

Sent: Friday, February 10, 2012 12:36 PM

To: Ron Whitehead; Lea Dunn; Alison Ream; Jerry Davis; leonard.martin@cityofcarrollton.com; Bob Scott; Robert Kopp; alan.sims@cedarhilltx.com; Sassoon, Elias; Campbell, Adam; Hector Saenz; bhaney@cockrell-hill.tx.us; tpowell@ci.the-colony.tx.us; Tod Maurina; jerrybruce@txairmail.net; Glenn Hollowell; Ken Griffin; cphillips@coppelltx.gov; dhamon@dc6.org; rtaylor@dc6.org; jfegan@dfwairport.com; Jerry Dennis; Fisher, Timothy S.; trichardson@ci.desoto.tx.us; tjohnson@ci.desoto.tx.us; icameron@ci.desoto.tx.us; Steve Miller; Richard Summerlin; jfralicks@ci.duncanville.tx.us; Joel Daugherty; gary.greer@farmersbranch.info; Charles Cox; Mark.Pavageaux@farmersbranch.info; harlan.jefferson@flower-mound.com; Ken Parr; citymanager@glennheights.com; watersuper@glennheights.com; Judy Bell; Ron McCuller; dcuny@GPTX.org; thart@GPTX.org; brumbelow@grapevinetx.gov; stanl@grapevinetexas.gov; Bill Pollock; blindley@hptx.org; mayor@cityofhutchins.org; robrien@cityofhutchins.org; jdaniels@cityofhutchins.org; treck@ci.irving.tx.us; tgonzalez@ci.irving.tx.us; David Cardenas; Robertson, Opal; English, Clovia; Curtis, Phillip; Carole Bassinger; cking@cityoflewsville.com; choward@cityoflewsville.com; ttumulty@ci.mesquite.tx.us; tbarron@ci.mesquite.tx.us; rwhiteman@cityofovilla.org; Brad; TODD FULLER; TIM KELTY; CHARLES BREWER; Keith.Dagen@cor.gov; Jerry.Ortega@cor.gov; bill.keffler@cor.gov; mhitt@seagoville.us; Steve Pettit; lgraves@seagoville.us; ttaylor@utrwd.com; dpcpmud@peoplepc.com; Bob Whaling; Brian Little; Michael Jobe; randy.williams@flower-mound.com; chris.fulks@flower-mound.com; jbristow@seagoville.us

Cc: Puckett, Jo; Lowery, Terry; Stewart, Reginald; Payton, Randall

Subject: Notice to Wholesale Customers Regarding Dallas' Extension of Stage 1 Drought Restrictions through June 8, 2012

Good Afternoon-

Please note that on Feb 8, 2012 the Dallas City Council authorized extension of Stage 1 of Dallas' Drought Contingency Plan for 120 days from February 10, 2012 through June 8, 2012. Attached is a copy of the approved Dallas City Council Agenda Item for your information and use. It provides background and details regarding extension of Stage 1. Official notification regarding this extension will be sent via certified mail to contacts as designated in your respective contracts.

DWU's next drought update to the Dallas City Council is slated for May 23, 2012 unless conditions change prior to that time and we need to brief the Council earlier than anticipated. As is our custom, we will ensure you receive notification and a link to the update briefing.

Just wanted to thank you again and let you know that Dallas appreciates your ongoing efforts to conserve water and to continuously keep us abreast of your individual drought contingency related plans and implementation actions.

Please let me know if you have any questions.

Best Regards,

Jackie Culton, P.E., Manager
Wholesale Services Division
City of Dallas/Water Utilities Department
214-670-5243 (phone)
214-670-1240 (fax)
Jacqueline.Culton@dallascityhall.com

From: Culton, Jacqueline

Sent: Friday, January 27, 2012 6:13 PM

To: Ron Whitehead; Lea Dunn; Alison Ream; Jerry Davis; 'leonard.martin@cityofcarrollton.com'; Bob Scott; Robert Kopp; alan.sims@cedarhilltx.com; Sassoon, Elias; 'Campbell, Adam'; 'Hector Saenz'; 'bhaney@cockrell-hill.tx.us'; 'tpowell@ci.the-colony.tx.us'; Tod Maurina; 'jerrybruce@txairmail.net'; 'Glenn Hollowell'; Ken Griffin; 'cphillips@coppelltx.gov'; 'dhamon@dc6.org'; 'rtaylor@dc6.org'; 'jfegan@dfwairport.com'; 'Jerry Dennis'; Fisher, Timothy S.; 'trichardson@ci.desoto.tx.us'; 'tjohnson@ci.desoto.tx.us'; 'icameron@ci.desoto.tx.us'; 'Steve Miller'; Richard Summerlin; 'jfralicks@ci.duncanville.tx.us'; 'Joel Daugherty'; 'gary.greer@farmersbranch.info'; Charles Cox; 'Mark.Pavageaux@FarmersBranch.info'; 'harlan.jefferson@flower-mound.com'; 'Ken Parr'; 'citymanager@glennheights.com'; 'watersuper@glennheights.com'; 'Judy Bell'; Ron McCuller; 'Doug Cuny (dcuny@gptx.org)'; 'thart@gptx.org'; 'brumbelow@grapevinetx.gov'; stanl@grapevinetexas.gov; 'Bill Pollock'; 'blindley@hptx.org'; 'mayor@cityofhutchins.org'; 'robrien@cityofhutchins.org'; 'jdaniels@cityofhutchins.org'; 'treck@ci.irving.tx.us'; 'tgonzalez@ci.irving.tx.us'; 'David Cardenas'; orobertson@lancaster-tx.com; English, Clovia; 'Curtis, Phillip'; 'Carole Bassinger'; 'cking@cityoflewisville.com'; 'Clifford Howard (choward@cityoflewisville.com)'; 'ttumulty@ci.mesquite.tx.us'; 'tbarron@ci.mesquite.tx.us'; 'rwhiteman@cityofvilla.org'; Brad; TODD FULLER; TIM KELTY; 'CHARLES BREWER'; 'Keith.Dagen@cor.gov'; Jerry.Ortega@cor.gov; 'bill.keffler@cor.gov'; 'mhitt@seagoville.us'; 'Steve Pettit'; 'lgraves@seagoville.us'; 'ttaylor@utrwd.com'; 'dpcmud@peoplepc.com'; Bob Whaling; Brian Little; Michael Jobe; 'randy.williams@flower-mound.com'; Chris Fulks (chris.fulks@flower-mound.com); 'jbristow@seagoville.us'

Cc: Puckett, Jo; Lowery, Terry; Stewart, Reginald; Payton, Randall

Subject: City of Dallas Council Briefing on Feb. 1, 2012 - Drought Update

Greetings,

The City of Dallas Water Utilities Department will brief the Dallas City Council on Wednesday, February 1st, regarding the ongoing drought.

The briefing provides an overview of the ongoing drought weather conditions and its impact on Dallas water supply and other area water providers. Following is a link to the briefing:

http://www.dallascityhall.com/council_briefings/briefings0212/CODDroughtUpdateWaterUtilitiesDepartment_02012012.pdf

On Feb 8, 2012, the Dallas City Council will consider an agenda item to extend Drought Stage 1 by 120 days to June 8, 2012.

We will keep you posted regarding the extension of Stage 1.

Thanks for your efforts to reduce water consumption.

Please let us know if you have any questions.

Sincerely,

Jackie Culton, P.E., Manager
Wholesale Services Division
City of Dallas/Water Utilities Department
214-670-5243 (phone)
214-670-1240 (fax)
Jacqueline.Culton@dallascityhall.com

Click [here](#) to report this email as spam.

LANCASTER CITY COUNCIL
Agenda Communication for
February 27, 2012

7

AG12-007

Consider a resolution ordering a General Election for the election of a mayor at-large and a Special Election for the election of one councilmember for District 5 to fill an unexpired term ending May 2013 to be held on Saturday, May 12, 2012; providing for the publication and posting of notice; providing for early voting dates, times and locations; and providing an effective date.

This request supports the City Council 2011-2012 Policy Agenda.

Goal: Civic Engagement

Background

The municipal General Election for City officers this year includes the mayoral position, an at-large position. At a special meeting on February 20, 2012, City Council adopted a resolution accepting the resignation of Clyde Hairston and declaring District 5 vacant. Under the Texas Election Code and the City's Home Rule Charter, it is necessary for Council to call a Special Election to fill the unexpired term in District 5 (term ending May 2013). The General and Special Elections may be ordered in one resolution. The designated uniform Election Day is Saturday, May 12, 2012.

Pursuant to state and federal laws, election related information that is prepared for voters in English must also be provided in Spanish and any other required minority languages. To comply with this requirement, the City Attorney has advised staff to include the Spanish translation of the election order. In addition, the caption on the City's agenda for this meeting for both the election order and the joint election agreement is in English and Spanish.

Considerations

- **Operational** – To conduct the election, Lancaster will participate in a joint election with other governing entities in Dallas County administered by Dallas County Elections. Participating in a joint election with other cities and school districts greatly reduces election costs for all participants. The joint election services agreement is a companion item to this agenda item.

Early voting will be held at the Lancaster Veterans Memorial Library. This location best serves the election process by offering sufficient space for the voters, easy

entry/exit from the room (without entering the Library itself) and offers the necessary technology access for use by Dallas County Elections personnel. This location is familiar to our voters and has consistently been used in recent elections for early voting as well as for Election Day voting. The Library is one of about thirty-six early voting locations designated by Dallas County. During early voting, registered voters may vote at any Dallas County early voting polling location.

There will be two polling locations for Lancaster citizens on Election Day – the Lancaster Veterans Memorial Library and Lancaster Elsie Robertson Middle School. Voters must vote by precinct on Election Day.

- **Legal** – The City Attorney has reviewed the resolution ordering the election. The statutory last day for City Council to order the election is March 5, 2012.

The 82nd Texas Legislature revised the requirements for notice of early voting locations contained in the election order. Now, the election law only requires the main early voting location to be listed in the election order. The Lancaster early voting location (Veterans Memorial Library) is also included in the election order.

- **Financial** – The estimated cost for the election is \$8,371.50. The City's final actual cost will depend on the number of entities contracting with Dallas County for election services.
- **Public Information** – All requirements for the posting and publishing of the election order will be completed as outlined in the election order.

Recommendation

Staff recommends approval of the resolution as presented, ordering the general and special election for Saturday, May 12, 2012.

Attachments

- Resolution [Election Order] in English and Spanish

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

Date: February 21, 2012

RESOLUTION NO. 2012-02-21

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LANCASTER, TEXAS, ORDERING A GENERAL ELECTION FOR THE ELECTION OF A MAYOR AT-LARGE AND A SPECIAL ELECTION FOR THE ELECTION OF ONE COUNCILMEMBER TO FILL AN UNEXPIRED TERM ENDING MAY 2013 FOR DISTRICT 5 TO BE HELD ON MAY 12, 2012; PROVIDING FOR THE PUBLICATION AND POSTING OF NOTICE; PROVIDING FOR EARLY VOTING DATES, TIMES AND LOCATIONS; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Charter requires that a Mayor shall be elected this year at a General Election and that a Special Election for the election on one councilmember to fill an unexpired term for District 5 shall be held on May 12, 2012, under the TEXAS ELECTION CODE and the City's Home Rule Charter; and

WHEREAS, by law it becomes the ministerial duty of the City Council to call for such municipal elections;

NOW, THEREFORE, BE IT REMEMBERED THAT on this the 27th day of February, 2012, at a duly convened meeting of the City Council of the City of Lancaster, Texas, a quorum being present, the Council issued the following order:

IT IS HEREBY ORDERED that a General Election be held in the City of Lancaster, Texas, on the 12th day of May, 2012, the same being the second Saturday of the month, 7:00 a.m. to 7:00 p.m., for the purpose of electing one Mayor at-large for a three (3) year term; and that a Special Election be held in the City of Lancaster, Texas on the 12th day of May, 2012 for the purpose of electing one Councilmember for District 5 to fill an unexpired term ending May, 2013. The filing deadline for a place on the ballot for Councilmember, District 5 is 5 p.m. on Monday, March 12, 2012; and,

IT IS FURTHER ORDERED: That such general and special elections shall be held as a Joint Election administered by the Dallas County Elections Administrator in accordance with the provisions of the TEXAS ELECTION CODE and a Joint Election Agreement; and,

None but legally qualified voters of the City of Lancaster, Texas, shall be entitled to vote for a Mayor; and none but legally qualified voters of District 5 shall be entitled to vote for the Councilmember for District 5; and,

The candidate for each such office receiving a majority of all votes cast for all candidates for such office shall be elected to serve such term or until his or her successor is duly elected and qualified; and,

In the event any candidate for any one of said offices fails to receive a majority of all votes cast for all the candidates for such office, a run-off election shall be held. If a run-off election becomes necessary, the run-off election shall be held on Saturday, June 23, 2012. The Dallas County Elections Administrator will conduct the run-off election; and,

A Presiding Election Judge and an Alternate Presiding Election Judge shall be appointed in accordance with the Joint Election Agreement; and,

Notice of said election shall be published once in the official newspaper of the City not earlier than April 12, 2012, the 30th day before Election Day, and not later than May 2, 2012, the 10th day before Election Day. Such notice shall also be posted on the Bulletin Board used to publish notice of City Council Meetings not later than April 20, 2012, the last business day prior to the 21st day before Election Day; and,

A copy of the published notice that contains the name of the newspaper and the date of publication shall be retained as a record of such notice, and the person posting the notice shall make a record at the time of posting stating the date and place of posting and deliver a copy of said notice posted to the Mayor of the City of Lancaster after the posting is made; and,

EARLY VOTING

Antoinette "Toni" Pippins-Poole, Dallas County Elections Administrator, is the appointed early voting clerk in compliance with Section 271.006 of the Texas Election

Code. Other deputy early voting clerks will be appointed as needed to process early voting mail and to conduct early voting at the branch locations.

Early voting by personal appearance will be conducted at the main and branch locations beginning Monday, April 30, 2012 through Friday, May 4, 2012, between 8:00 a.m. - 5:00 p.m.; Saturday, May 5, 2012, between 8:00 a.m. - 5:00 p.m.; Sunday, May 6, 2012, between 1:00 p.m. - 6:00 p.m.; and Monday, May 7, 2012 through Tuesday, May 8, 2012, between 7:00 a.m. - 7:00 p.m.; and,

Any qualified voter of Lancaster may vote early for the Joint Election by personal appearance at either the main early voting location or at any Dallas County Branch Early Voting location;

MAIN EARLY VOTING POLLING PLACE:

Dallas County Records Building

509 Main Street
Dallas, Texas 75202

BRANCH EARLY VOTING POLLING PLACES:

Early voting locations are subject to change dependent upon political subdivisions participating in the joint election.

Branch early voting for the joint election to be held on May 12, 2012, will be conducted at various branch early voting polling locations including the Lancaster Veterans Memorial Library at 1600 Veterans Memorial Parkway, Lancaster, Texas 75134. During early voting, registered voters may vote at any Dallas County early voting polling location.

EARLY VOTING BY MAIL

Application for a ballot by mail shall be mailed to:
Toni Pippins-Poole
Early Voting Clerk
Office of the Elections Department
2377 N. Stemmons Freeway, Suite 820
Dallas, Texas 75207

Application for ballot by mail must be received no later than the close of business on April 27, 2012; and,

The polling places for voters on Election Day shall be the Lancaster Veterans Memorial Library, 1600 Veterans Memorial Parkway, Lancaster, Texas 75134; and the Lancaster Elsie Robertson Middle School, 822 W. Pleasant Run Road, Lancaster, Texas 75146. The polls shall be open from 7:00 a.m. to 7:00 p.m.

The City Secretary shall present such returns to the City Council for the canvassing of said elections; and,

The canvass of said election returns for the election of officers shall be conducted by the City Council not earlier than the 3rd day nor later than the 11th day after the election.

DULY ORDERED by the City Council of the City of Lancaster, Texas on this the 27th day of February 2012.

APPROVED:

Marcus E. Knight, Mayor

ATTEST:

Dolle K. Downe, City Secretary

APPROVED AS TO FORM:

Robert E. Hager, City Attorney

RESOLUCIÓN NO. 2012-02-21

RESOLUCIÓN DEL CONSEJO MUNICIPAL DE LA CIUDAD DE LANCASTER, TEXAS, ORDENANDO UNA ELECCIÓN GENERAL PARA LA ELECCIÓN DE UN ALCALDE EN GENERAL Y UNA ELECCIÓN ESPECIAL PARA LA ELECCIÓN DE UN MIEMBRO DEL CONCEJO PARA LLENAR UN TÉRMINO VIGENTE QUE FINALIZA EN MAYO DE 2013 PARA DISTRITO 5 QUE SE CELEBRARÁ EL 12 DE MAYO DE 2012; QUE CONTEMPLA LA PUBLICACIÓN Y PUBLICACIÓN DE LA NOTIFICACIÓN; PROVEYENDO FECHAS DE VOTACIÓN ANTICIPADA, TIEMPOS Y LUGARES, Y PROPORCIONAR UNA FECHA EFECTIVA.

VISTO QUE, la Carta de la Ciudad requiere que un alcalde será elegido este año en una Elección General y que una Elección Especial para la elección de un concejal para llenar un término no vencido por el Distrito 5 se llevará a cabo el 12 de mayo de 2012, bajo el Código Electoral de Texas y la carta de autonomía de la ciudad, y,

VISTO QUE, por ley se convierte en el deber ministerial del Consejo de la Ciudad para pedir estas elecciones municipales,

AHORA, POR LO TANTO, debe recordarse que en este día el 27 de febrero de 2012, en una reunión debidamente convocada del Consejo Municipal de la Ciudad de Lancaster, Texas, que haya quórum, el Consejo emitió la siguiente orden:

SE ORDENA, que una elección general que se celebrará en la ciudad de Lancaster, Texas, el día 12 de mayo 2012, el mismo es el segundo Sábado de cada mes, de 7:00 a.m. a 7:00 p.m., con el propósito de elegir a un alcalde en general por un período de tres (3) años, y que una Elección Especial se celebrará en la ciudad de Lancaster, Texas, el día 12 de mayo 2012 con el propósito de elegir a un concejal del Distrito 5 para llenar un término no vencido que finaliza en mayo de 2013. La fecha límite para presentar un lugar en la boleta para el concejal del Distrito 5 es 5 p.m. el Lunes, 12 de marzo 2012, y,

SE ORDENA ADEMÁS, que tales elecciones generales y especiales se llevará a cabo como una elección conjunta administrada por el Administrador de Elecciones del Condado de Dallas, de conformidad con las disposiciones del Código Electoral de Texas y un Convenio de Elecciones Conjuntas, y,

Nadie más que los votantes legalmente capacitados de la ciudad de Lancaster, Texas, tendrán derecho a votar por un alcalde, y nadie más que los votantes capacitados legalmente de Distrito 5 tendrán derecho a votar por el Concejal por el Distrito 5, y,

El candidato para cada cargo, que obtenga la mayoría de los votos emitidos a favor de todos los candidatos a esos cargos serán elegidos para servir a dicho término o hasta que su sucesor sea debidamente elegido y calificado, y,

En el caso de que cualquier candidato a cualquiera de dichos cargos no recibe la mayoría de los votos emitidos para todos los candidatos a dicho cargo, una segunda vuelta electoral se llevará a cabo. Si una segunda vuelta electoral se hace necesario, la segunda vuelta electoral se llevará a cabo el Sábado, 23 de junio 2012. El Administrador Electoral del Condado de Dallas llevará a cabo la segunda vuelta electoral, y,

Un Juez Presidente Electoral y un Juez Presidente Alterno Electoral serán designados de conformidad con el Convenio de Elecciones Conjuntas, y,

Aviso de dicha elección, se publica una vez en el periódico oficial de la ciudad no antes del 12 de abril de 2012, el día 30 antes de las elecciones, ya más tardar el 2 de mayo 2012, el día 10 antes de las elecciones. Dicho aviso también se publicará en el tablón de anuncios utilizado para publicar el aviso de reuniones del Consejo Municipal no más tarde del 20 de abril de 2012, el último día hábil anterior a 21 días antes del día de las elecciones, y,

Una copia del aviso publicado que contiene el nombre del periódico y la fecha de publicación se mantiene como un registro de tal notificación, y la persona que publica el aviso deberá hacer un registro en el momento de su publicación se indicará la fecha y lugar de publicación y entregar una copia de dicho aviso publicado en el alcalde de la ciudad de Lancaster después de la publicación se realiza, y,

VOTACIÓN TEMPRANA

Antoinette "Toni" Pippins-Poole, Administradora Electoral del Condado de Dallas, es la secretaria designada para la votación anticipada en cumplimiento con la Sección 271.006 del Código Electoral de Texas. Otros secretarios adjuntos de votación anticipada será designado, según sea necesario para procesar el correo de votación temprana y llevar a cabo la votación anticipada en las sucursales.

La votación anticipada en persona se llevará a cabo en los lugares principales y secundarias comenzando Lunes, 30 de abril 2012 a través de Viernes, 04 de mayo 2012, entre las 8:00 am - 5:00 pm; Sábado, 05 de mayo 2012, entre las 8: 12 a.m.-5:00 pm Domingo, 06 de mayo 2012, entre las 1:00 pm - 6:00 pm; y el Lunes, 07 de mayo 2012 a través de Martes, 08 de mayo 2012, entre las 7:00 am - 7:00 pm, y,

Cualquier votante calificado de Lancaster puede votar por adelantado para la elección conjunta de la apariencia personal, ya sea en el lugar principal de votación anticipada o en cualquier lugar del condado de Dallas sucursal de casillas electorales temprana;

LUGAR PRINCIPAL DE VOTACIÓN TEMPRANA:

Condado de Dallas Records Building
509 Main Street
Dallas, Texas 75202

SUCURSAL DE CASILLAS ELECTORALES TEMPRANA:

Lugares de votación temprana están sujetas a cambios depende de las subdivisiones políticas que participan en la elección conjunta.

Poder de votación temprana para la elección conjunta que se celebrará el 12 de mayo de 2012, se llevará a cabo en varias sucursales los primeros lugares de votación, incluyendo la Biblioteca Memorial de los Veteranos de Lancaster en 1600 Veterans Memorial Parkway, Lancaster, Texas 75134. Durante la votación anticipada, los votantes registrados pueden votar en cualquier lugar del condado de Dallas de votación temprana.

VOTACIÓN ADELANTADA POR CORREO

Solicitud de voto por correo deberán enviarse a:

Toni Pippins-Poole

Oficinista de Votación Temprana

Oficina del Departamento de Elecciones

2377 N. Stemmons Freeway, Suite 820

Dallas, Texas 75207

Solicitud de voto por correo deben ser recibidas a más tardar al cierre de operaciones el 27 de abril de 2012, y,

Los lugares de votación para los votantes el día de las elecciones será Lancaster Veterans Memorial Library, 1600 Veterans Memorial Parkway, Lancaster, Texas 75134, y Lancaster Elsie Robertson Middle School, 822 W. Pleasant Run Road, Lancaster, Texas 75146. Los sitio de votación estarán abiertos de 7:00 a.m. a 7:00 p.m.

El Secretario Municipal deberá presentar dichas declaraciones al consejo de la ciudad para el escrutinio de las elecciones, dijo, y,

El escrutinio de resultados de las elecciones dijo que para la elección de la Mesa se llevará a cabo por el Consejo de la Ciudad, no antes de los 3 días ni a más tardar el 11 días después de la elección.

DEBIDAMENTE ORDENADA por el Consejo Municipal de la Ciudad de Lancaster, Texas, el día de hoy el 27 de febrero de 2012.

APPROVED:

Marcus E. Knight, Mayor

ATTEST:

Dolle K. Downe, City Secretary

APPROVED AS TO FORM:

Robert E. Hager, City Attorney

LANCASTER CITY COUNCIL

Agenda Communication for
February 27, 2012

8

AG12-008

Consider a resolution approving the terms and conditions of a Joint Election Contract and Election Services Agreement with Dallas County Elections to conduct a municipal General Election for the election of a mayor at-large and a Special Election for the election of one councilmember for District 5 to fill an unexpired term to be held on Saturday, May 12, 2012.

This request supports the City Council 2011-2012 Policy Agenda.

Goal: Financially Sound City Government

Background

On May 12, 2012, the City will conduct a municipal General Election to elect a mayor at-large and a Special Election for the election of a councilmember for District 5 to fill an unexpired term ending May 2013.

Considerations

- **Operational** - Dallas County Elections has the staff, equipment, and expertise to efficiently conduct elections. Participating with other municipalities and school districts helps defray the cost of the election and streamlines the voting process for residents.
- **Legal** – Attached is the draft election services agreement. At this writing, the finalized agreement is not available. The City Attorney has reviewed and approved the resolution as to form.
- **Financial** - The estimated cost for the City's share of this year's election is \$8,371.50. The City's final cost depends on how many entities contract with Dallas County for election services. Recent general municipal election costs are outlined below.

May 2011	\$9,654 (estimated cost; unaudited by Dallas County Elections; does not include run-off election cost of \$4,312)
May 2010	\$9,069
May 2009	no election held; transition to three year council terms
May 2008	\$9,947 (mayoral race)

Estimated costs for the City's election are calculated by Dallas County Elections based on various factors including shared polling locations and total number of governing entities that participate in the election.

\$12,600 was budgeted for election expenses this fiscal year. If the City withdraws from the joint election contract, there will be a charge for our share of the rental of additional voting equipment for this election. Dallas County Elections rented additional voting equipment following discussions with participating entities and agreed to conduct the May 2012 election (an even year election under Senate Bill 100). The estimated cost to withdraw is \$1,500.

If a run-off election is required, the City will incur additional costs.

- **Public Information** - There are no public information requirements for this matter.

Options/Alternatives

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

Recommendation

Staff recommends approval of the resolution as presented contracting with Dallas County Elections for election services.

Attachments

- Resolution
- Draft Joint Election Contract and Election Services Agreement (without exhibits)

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

Date: February 20, 2012

RESOLUTION NO. 2012-02-22

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LANCASTER, TEXAS, APPROVING THE TERMS AND CONDITIONS OF A JOINT ELECTION CONTRACT AND ELECTION SERVICES AGREEMENT WITH DALLAS COUNTY ELECTIONS TO CONDUCT A MUNICIPAL GENERAL ELECTION FOR THE ELECTION OF A MAYOR AT-LARGE AND A SPECIAL ELECTION FOR THE ELECTION OF A COUNCILMEMBER FOR DISTRICT 5 TO FILL AN UNEXPIRED TERM TO BE HELD ON SATURDAY, MAY 12, 2012; AUTHORIZING THE CITY MANAGER TO EXECUTE SAID CONTRACT; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Lancaster will hold a municipal General Election for the election of a Mayor at-large and a Special Election for the election of a councilmember for District 5 to fill an unexpired term ending May 2013 to be held on Saturday, May 12, 2012; and

WHEREAS, the City of Lancaster desires to participate with other municipalities and entities in Dallas County to help defray the costs of such elections and streamline the voting process for residents; and

WHEREAS, it is the desire of the City of Lancaster to secure election services from Dallas County Elections;

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

SECTION 1. That the Dallas County Joint Election Contract and Election Services 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 the Joint Election Contract and Election Services Agreement with Dallas County Elections to conduct a general and special election.

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

DULY PASSED and approved by the City Council of the City of Lancaster, Texas on this the 27th day of February 2012.

ATTEST:

APPROVED:

Dolle K. Downe, City Secretary

Marcus E. Knight, Mayor

APPROVED AS TO FORM:

Robert E. Hager, City Attorney

JOINT ELECTION CONTRACT

AND

ELECTION SERVICES AGREEMENT

BETWEEN

THE DALLAS COUNTY ELECTIONS ADMINISTRATOR

AND

**TOWN OF ADDISON (TOA)
CITY OF BALCH SPRINGS (COBS)
CITY OF CARROLLTON (COC)
CITY OF CEDAR HILL (COCdH)
CITY OF COCKRELL HILL (COckH)
CITY OF COPPELL (COCp)
CITY OF DESOTO (CODe)
CITY OF DUNCANVILLE (CODu)
CITY OF FARMERS BRANCH (COFB)
CITY OF GARLAND (COG)
CITY OF GLENN HEIGHTS (COGH)
CITY OF GRAND PRAIRIE (COGP)
CITY OF HUTCHINS (COH)
CITY OF IRVING (COI)
CITY OF LANCASTER (COL)
CITY OF MESQUITE (COM)
CITY OF SACHSE (COSa)
CITY OF SEAGOVILLE (COSe)
CITY OF UNIVERSITY PARK (COUP)
CITY OF WILMER (COW)
TOWN OF HIGHLAND PARK (TOHP)
TOWN OF SUNNYVALE (TOS)
DALLAS COUNTY PARK CITIES MUNICIPAL UTILITY DISTRICT (DCPCMUD)
DALLAS COUNTY WCID #6 (DCWCID#6)
DALLAS COUNTY COMMUNITY COLLEGE DISTRICT (DCCCD)
CARROLLTON-FARMERS BRANCH INDEPENDENT SCHOOL DISTRICT (CFBISD)
CEDAR HILL INDEPENDENT SCHOOL DISTRICT (CHISD)
COPPELL INDEPENDENT SCHOOL DISTRICT (CPISD)
DALLAS INDEPENDENT SCHOOL DISTRICT (DISD)
DESOTO INDEPENDENT SCHOOL DISTRICT (DeISD)
DUNCANVILLE INDEPENDENT SCHOOL DISTRICT (DuISD)
GARLAND INDEPENDENT SCHOOL DISTRICT (GISD)
GRAND PRAIRIE INDEPENDENT SCHOOL DISTRICT (GPISD)
HIGHLAND PARK ISD (HPISD)
IRVING INDEPENDENT SCHOOL DISTRICT (IISD)
LANCASTER INDEPENDENT SCHOOL DISTRICT (LISD)
MESQUITE INDEPENDENT SCHOOL DISTRICT (MISD)
RICHARDSON INDEPENDENT SCHOOL DISTRICT (RISD)
SUNNYVALE INDEPENDENT SCHOOL DISTRICT (SUISD)**

**FOR THE CONDUCT OF A JOINT ELECTION
TO BE HELD SATURDAY, MAY 12, 2012**

TO BE ADMINISTERED BY THE DALLAS COUNTY ELECTIONS DEPARTMENT (DCED)

1. JURISDICTION AND PARTICIPATING POLITICAL SUBDIVISIONS

1.1 The Town of Addison (TOA) plans to hold a General Municipal Election May 12, 2012 for 3 City Council Members at-large in TBD Dallas County voting precincts. The City of Balch Springs (COBS) plans to hold a General Municipal Election on May 12, 2012 for City Councilmember Places 2, District 4 and 6 in TBD Dallas County voting precincts. The City of Carrollton (COC) plans to hold a General Municipal Election for City Councilmember Places 1, 3, 5 and 7 in TBD Dallas County voting precincts and TBD Denton County voting precincts. The City of Cedar Hill (COCdH) plans to hold a General Municipal Election for City Councilmember Places 1 and 4 on May 12, 2012 in TBD Dallas County voting precincts and TBD Ellis County voting precinct. The City of Cockrell Hill (COckH) plans to hold a General Municipal Election on May 12, 2012 for Alderman Places 1, 2 and a Mayoral Position in TBD Dallas County voting precinct. The City of Coppell (COCp) plans to hold a General Municipal Election on May 12, 2012 for City Councilmember Places 2, 4, 6 and a Mayoral position in TBD Dallas County voting precincts and TBD Denton County voting precinct. The City of DeSoto (CODE) plans to hold a General Municipal Election on May 12, 2012 for City Councilmember Places 6 and 7 in TBD Dallas County voting precincts. The City of Duncanville (CODu) plans to hold a General Municipal Election on May 12, 2012 for City Councilmember Districts 2, 4 and a Mayoral Position in TBD Dallas County voting precincts. The City of Farmers Branch (COFB) plans to a General Municipal Election on May 12, 2012 for City Councilmember Place 3 and 5 in TBD Dallas County voting precincts. The City of Garland (COG) plans to hold a General Municipal Election for City Councilmember Districts Place 1, 2, 4 and 5 in TBD Dallas County voting precincts and TBD Collin County voting precincts. The City of Glenn Heights (COGH) plans to hold a General Municipal Election on May 12, 2012 for City Councilmember Place 1, 3 and 5 in TBD Dallas County Precinct and TBD Ellis County Precinct. The City of Grand Prairie (COGP) plans to hold a General Municipal Election on May 12, 2012 for City Councilmember Districts 5, 6 and Place 8 at-large and 1 proposition in TBD Dallas County voting precincts and TBD Ellis County voting precinct. The City of Hutchins (COH) plans to hold a General Municipal Election on May 12, 2012 for two (2) City Councilmembers and a Mayoral position in TBD Dallas County voting precincts. The City of Irving (COI) plans to hold a General Municipal Election on May 12, 2012 for City Councilmember District 4 and 6 – single member districts, Place 8 – at large in TBD Dallas County voting precincts. The City of Lancaster (COL) plans to hold a General Municipal Election on May 12, 2012 for a Mayoral Position and a Councilmember District 5 unexpired term in TBD Dallas County voting precincts. The City of Mesquite (COM) plans to hold a General Municipal Election on May 12, 2012 for City Councilmember Places 3, 4 and 5 in TBD Dallas County voting precincts and (TBD) Kaufman County voting precincts. The City of Sachse (COSa) plans to hold a General Election on May 12, 2012 for City Councilmember Places 1 and 2 in TBD Dallas County voting precincts and (TBD) Collin County voting precincts. The City of Seagoville (COSe) plans to hold a General Municipal Election on May 12, 2012 for City Councilmember Places 1, 3 and 5 in TBD Dallas County voting precincts and TBD Kaufman County voting precinct. The City of University Park (COUP) plans to hold a General Municipal Election on May 12, 2012 for four (4) Councilmember seats at large and a Mayoral position in TBD Dallas County voting precincts. The City of Wilmer (COW) plans to hold a General Municipal Election on May 12, 2012 for two (2) City Councilmembers at-large and a Mayoral position in TBD Dallas County voting precinct. The Town of Highland Park (TOHP) plans to hold a General Municipal election on May 12, 2012 for five (5) Town Council Member seats at large and a Mayoral position in TBD Dallas County voting precincts. The Town of Sunnyvale (TOS) plans to hold a General Election on May 12, 2012 for three (3) Councilmember seats in TBD Dallas County voting precinct. The Dallas County Park Cities Municipal Utility District (DCPCMUD) plans to hold an election on May 12, 2012 for three (3) Directors positions Place 2 District 4 and 6 in TBD Dallas County voting precincts. The Dallas County Water Control and Improvement District #6 (DCWCID#6) plans to hold an election on May 12, 2012 for three (3) Board Members positions 1, 3 and 5 in TBD Dallas County voting precincts. The Dallas County Community College District (DCCCD) plans to hold a Board of Education Trustees election on May 12, 2012 for District 1, 5 unexpired term and 7 in TBD Dallas County voting precincts located wholly or partially within the District.

1.2 The Carrollton Farmers Branch Independent School District (**CFBISD**) plans to hold a Board of Education Trustee Election on May 12, 2012 for Places 3 and 4 in TBD Dallas County voting precincts and TBD Denton County voting precincts located wholly or partially within the District. The Cedar Hill Independent School District (**CHISD**) plans to hold a Board of Education Trustee Election on May 12, 2012 for Places 6 and 7 in TBD Dallas County voting precincts located wholly or partially within the District. The Coppell Independent School District (**CpISD**) plans to hold a Board of Education Trustee Election on May 12, 2012 for Places 6 and 7 in TBD Dallas County voting precincts located wholly or partially within the District. The Dallas Independent School District (**DISD**) plans to hold a Board of Education Trustee Election on May 12, 2012 for Places 1, 3, and 9 in TBD Dallas County voting precincts located wholly or partially within the District. The DeSoto Independent School District (**DeISD**) plans to hold a Board of Education Trustee Election on May 12, 2012 for Places 6 and 7 in TBD Dallas County voting precincts located wholly or partially within the District. The Duncanville Independent School District (**DuISD**) plans to hold a Board of Education Trustee Election on May 12, 2012 for Places 6 and 7 in TBD Dallas County voting precincts located wholly or partially within the District. The Garland Independent School District (**GISD**) plans to hold a Board of Education Trustee Election on May 12, 2012 for Places 6 and 7 in TBD Dallas County voting precincts located wholly or partially within the District. The Grand Prairie Independent School District (**GPIISD**) plans to hold a Special Bond Election and a Board of Education Trustee Election for Places 5, 6 and 7 on May 12, 2012 in TBD Dallas County voting precincts located wholly within the District. The Highland Park Independent School District (**HPISD**) plans to hold a Board of Education Trustee Election on May 12, 2012 for Districts 1 and 2 in TBD Dallas County voting precincts located wholly or partially within the District. The Irving Independent School District (**IISD**) plans to hold a Board of Education Trustee Election on May 12, 2012 for Places 3 and 4 in TBD Dallas County voting precincts located wholly or partially within the District. The Lancaster Independent School District (**LISD**) plans to hold a Board of Education Trustee Election on May 12, 2012 for Districts 1 and 2 in TBD Dallas County voting precincts located wholly or partially within the District. The Mesquite Independent School District (**MISD**) plans to hold a Board of Trustee Election on May 12, 2012 for Places 6 and 7 in TBD Dallas County voting precincts located wholly or partially within the District. The Richardson Independent School District (**RISD**) plans to hold a Board of Education Trustee Election on May 12, 2012 for Places 1 and 2 in TBD Dallas County voting precincts located wholly or partially within the District. The Sunnyvale Independent School District (**SuISD**) plans to hold a Board of Education Trustee Election on May 12, 2012 for Places 3, 4 and 5 in TBD Dallas County voting precinct located wholly or partially within the District.

1.3 A list of each election precinct or partial election precinct (each precinct unit) involved in the Joint Election, together with the name of the participating political subdivision holding an election in that precinct unit, and the number of registered voters in that precinct unit, is shown in Attachment "E". DCED will forward an updated and amended version of Attachment "E" to each participating political subdivision showing registered voters as of the deadline for registering to vote in the elections listed in Section 1 of this Election Services Contract and Joint Election Agreement.

2. ADMINISTRATION AND STATUTORY AUTHORITY

2.1 Antoinette "Toni" Pippins-Poole (hereafter referred to as Toni Pippins-Poole) is the duly appointed County Elections Administrator of Dallas County, Texas and the Department Head of the Dallas County Elections Department (DCED). As such, Mrs. Pippins-Poole is the County Election Officer of Dallas County, Texas and is thereby authorized by Subchapter D of Chapter 31 of Title 3 of the Texas Election Code to enter into this joint election agreement and election services contract with the contracting authorities of the participating political subdivisions listed in Section 1 of this contract.

2.2 The contracting authorities of the political subdivisions listed in Section 1 of this joint election agreement and election services contract are hereby participating in the joint election to be held in Dallas County, Texas on May 12, 2012 pursuant to Chapter 271 of Title 16 of the Texas Election Code and are hereby contracting with the Elections Administrator of Dallas County, Texas to perform the election services set forth herein pursuant to Subchapter D of Chapter 31 of Title 3 of the Texas Election Code.

2.3 DCED agrees to coordinate, supervise and handle all aspects of administering the Joint Election in accordance with the provisions of the Texas Election Code and as outlined in this agreement. Each contracting authority of each participating political subdivision agrees to pay DCED for equipment, supplies, services and administrative costs as outlined in this agreement. DCED will serve as administrator for the election; however, each participating political subdivision remains responsible for the lawful conduct of their respective election.

3. **LEGAL DOCUMENTS**

3.1 Each participating political subdivision will be responsible for preparation, adoption and publication of all required election orders, resolutions, notices and any other pertinent documents required by their respective governing bodies.

3.2 Each participating entity will be responsible for making the submission required by the Federal Voting Rights Act of 1965, as amended, with regard to administration of the Joint Election. A copy of the submission will be furnished to DCED by each participating political subdivision. Any other changes which require preclearance by the U.S. Department of Justice will be the responsibility of each participating political subdivision. Preparation of necessary bilingual materials for notices and preparation of the text for the official ballot will also be the responsibility of each participating political subdivision. Each participating political subdivision will provide a copy of their respective election notices and justice submission to DCED.

4. **DIRECT RECORD VOTING SYSTEM/OPTICAL SCAN**

4.1 Each participating political subdivision agrees that voting at the Joint Election will be by use of a direct record and optical scan voting system approved by the Secretary of State in accordance with the Texas Election Code. DCED will be responsible for the preparation of programs and the testing of the direct record system and optical scan system used for tabulating the ballots. Testing of the direct record equipment will be conducted at the Elections Department, 2377 N. Stemmons Frwy, Suite 820, Dallas beginning Tuesday, April 24, 2012 at 10:00 am and testing of the optical scan equipment will be conducted at the Election Equipment Warehouse, 1506 East Langdon Road, Hutchins beginning Thursday, April 12, 2012 at 10:00 am, and before ballots are tabulated at the scheduled polling locations listed in Section 13 of this contract and Attachment "B" by the presiding judges. At least 48 hours before the date and hour of the first testing of each type of equipment, DCED shall publish a newspaper notice of the date, hour, and place of the testing. DCED agrees to establish ten (10) regional sites and a central counting station to receive and tabulate the voted ballots and provisional ballots as outlined in Section 9 of this agreement.

4.2 DCED agrees to provide direct record tabulators, precinct tabulators, and voting booths for the Joint Election. The Gemini voting booth allocation will be based on providing one (1) Gemini for each 300 registered voters in each election precinct unit, not to exceed six (6) Gemini voting booths in any given

precinct unit, one (1) Americans with Disabilities Act (ADA) Terminal per location, one (1) precinct tabulator in any given precinct unit, and not to exceed at any given time eight (8) iVotronics and two (2) Master PEB's per early voting location.

- 4.3 It is estimated that TBD geminis, TBD precinct tabulators, TBD iVotronics, TBD ADA Terminals, and TBD Master PEB's will be needed to conduct the May 12, 2012 Joint Election. The cost of the direct record voting system for the election will be determined by multiplying the total number of iVotronics by \$250.00 each, ADA Terminals by \$300.00 each, and Master PEB's at no cost each. The cost for the use of the Gemini voting booths will be \$35.00 each. The cost for the use of the precinct tabulators will be \$468.00 each (See Attachment "A"). It is agreed by all of the participating political subdivisions that ADA voting terminals will be used during the Joint Election in accordance with the Help America Vote Act of 2002 (HAVA), and that the said terminals will be part of the Joint Election Agreement.

5. VOTING LOCATION

- 5.1 DCED will select and arrange for the use of and payment for all voting locations, subject to the approval of each participating political subdivision. Voting locations will be, whenever possible, the usual voting locations for the precincts. Voting precincts may be combined by mutual agreement between the participating authorities. The proposed voting locations are listed in Attachment "B" of this agreement. In the event a voting location is not available, DCED will arrange for use of an alternate location with the approval of each participating political subdivision affected by the change. DCED will be responsible for submitting any polling location changes to the Department of Justice for pre-clearance. DCED will notify each participating political subdivision of any changes from the locations listed in Attachment "B".
- 5.2 DCED will send each participating political subdivision a final version of Attachment "B", as amended which reflects the actual locations to be used on the day of the election. DCED will send a written notice by U.S. Mail to any registered voter whose precinct polling place location has changed since the preceding election ordered by each political subdivision.

6. ELECTION JUDGES, ALTERNATE JUDGES, CLERKS AND OTHER ELECTION PERSONNEL

- 6.1 DCED will be responsible for the appointment of the presiding judge and alternate judge for each polling location subject to the approval of each participating political subdivision. DCED shall arrange for the training of all presiding judges and alternate judges. The proposed election judges and alternates are listed in Attachment "C" of this agreement. If a person is unable or unwilling to serve, DCED will name a judge for the precinct and notify each participating political subdivision affected by the change.
- 6.2 In compliance with the Federal Voting Rights Act of 1965, as amended, precincts containing more than 5% Hispanic population, according to the 2010 census statistics, are required to have interpreter assistance. If a presiding judge of such a precinct is not bilingual and is unable to hire a bilingual clerk, DCED may recommend an individual to provide interpreter assistance. If DCED is unable to recommend an individual to provide interpreter assistance for such a precinct, DCED shall notify the participating political subdivision which shall then be responsible for recommending an individual to provide interpreter assistance for such a precinct. In the event that a bilingual clerk is hired by DCED for a precinct required to have interpreter assistance, the bilingual clerk shall be paid according to a rate set by DCED. DCED shall then charge that expense to the funds deposited with the Dallas County Treasurer for the conduct of the elections listed in Section 1 of this joint election agreement and election services contract. A participating political subdivision may pay a greater amount of money to a bilingual clerk

than the rate set by DCED, however that expense shall be borne by that participating political subdivision individually and that expense shall not be charged to the funds deposited with the Dallas County Treasurer for the conduct of the elections listed in Section 1 of this agreement.

6.3 DCED is responsible for notifying all election judges of the eligibility requirements of Subchapter C of Chapter 32 of Title 3 of the Texas Election Code and Section 271.005 of the Texas Election Code, and will take the necessary steps to insure that all election judges and alternate judges appointed for the Joint Election are eligible and qualified to serve. According to Section 32.031 (a) of the Texas Election Code, the presiding judge for each election precinct shall appoint the election clerks to assist the judge in the conduct of an election at the polling place served by the judge.

6.4 If a participating political subdivision recommends a person not listed in Attachment "C", and that recommendation conflicts with the recommendation from any of the other entities involved in the election in that precinct, DCED will conduct a drawing by lot from the recommendations to determine the election judge. Once a person has been notified of his/her selection as election judge, no changes may be made by any of the participating authorities, unless that person becomes ineligible to serve as an election judge in the Joint Election.

DCED will send each of the joint participating political subdivisions an updated version of Attachment "C" which reflects the names of judges who were sent the letter requesting service for this election. A final version for Attachment "C" which reflects the name of the judges who actually presided on the day of the election will be sent to each participating political subdivision. Any entity electing to pay their election workers for attending a training class or lab must bear that expense separately from the funds deposited into the joint election account.

6.5 DCED will hold two (2) public schools of instruction on the use of optical scan card voting equipment, ADA terminals and election laws on Saturday, May 5, 2012 from 10am – 12pm, and Thursday, May 10, 2012, from 7pm -9pm in the Central Jury Room, Frank Crowley Courthouse, 133 N. Industrial Blvd, Dallas, Texas 75207. Election Judge training labs are scheduled for Thursday, May 3, 2012 from 10am – 4pm, Saturday, May 5, 2012 from 9am – 4pm, Tuesday, May 8, 2012 6pm – 9pm, Friday, May 11, 2012 from 10am – 2pm at 2377 N. Stemmons Frwy. 8th Floor, Dallas, Texas 75207. No election judge will be appointed unless he/she has attended an election judge training session taught by DCED in the past eighteen (18) months and on the optical scan and direct record systems. However, participating entities may request that judges appointed for the Joint Election should attend one of the scheduled training sessions.

The election judges are responsible for picking up election supplies at the time and place determined by DCED (which will be set forth in the election judge letter requesting service for this election). Each election judge will receive \$9.00 per hour and each clerk will receive \$8.00 per hour (for a maximum of 14 hours). The election judge will receive an additional \$25.00 for picking up the election supplies prior to Election Day and for delivering election returns and supplies to their designated regional drop off site.

6.7 DCED will employ other personnel necessary for the proper administration of the election, including such part-time help as is necessary to prepare for the election, to ensure the timely delivery of supplies and equipment assistance during the period of early voting and on election day, and for the efficient tabulation of ballots at the central counting station and regional sites. Part-time personnel will be paid an amount agreed to by the participating authorities as outlined in Attachment "A".

Part-time personnel working in support of the central counting station and regional sites on election night will receive pay for at least four hours, minimum call for service, regardless of the actual hours worked. (Attachment F)

7. SUPPLIES AND PRINTING

- 7.1 DCED will arrange for all election supplies and election printing, including, but not limited to, all forms, signs and other materials used by the election judges at the voting locations.
- 7.2 DCED will provide maps, if necessary, instructions and other information needed to enable the election judges to conduct a proper election.
- 7.3 Each participating political subdivision shall furnish to DCED a list of candidates and/or propositions showing the order and the exact manner in which their candidate names and/or proposition(s) in both English and Spanish as they are to appear on the official ballot. The form furnished to you by DCED Central Counting Station electronically, shall be delivered to DCED in a **Microsoft Word format** electronically as soon as possible after ballot positions have been determined by each of the participating authorities. Each participating political subdivision will be responsible for proofreading and approving the ballot in so far as it pertains to that authority's candidates and/or propositions.

8. OPTICAL SCAN CARD BALLOTS

- 8.1 The ballot allocation for this election is based on providing enough ballots in every reporting precinct to handle the same turnout as in comparable elections plus thirty-five percent 35% of that number, for an original allocation of no less than 25% of the registered voters.
- 8.2 Approximately 5,000 additional ballots will be available for Early Voting by Mail and for use on Election Day to respond to any precinct requesting additional ballots.

9. RETURNS OF ELECTIONS

- 9.1 DCED will be responsible for establishing and operating the central counting station to receive and tabulate the voted ballots in accordance with the provisions of the Texas Election Code and of this agreement.
- 9.2 The participating authorities hereby, in accordance with Section 127.002, 127.003 and 127.005 of the Texas Election Code, appoint the following central counting station officials:

Manager - Toni Pippins-Poole
Dallas County
Elections Administrator

Tabulating Supervisor - Jana Onyon
Central Counting Station

Presiding Judge - David Hay
Dallas County Community College District

- 9.3 The manager or her representative will deliver timely cumulative reports of the election results as precincts are tabulated. The manager will be responsible for releasing cumulative totals and precinct

returns from the election to the joint participating political subdivisions, candidates, press, and general public by distribution of hard copies or electronic transmittals (where accessible). DCED will operate an election result center to release election results in the Health and Human Services Building, 2377 N. Stemmons Frwy, Suite 820, Dallas, Texas. Any participating political subdivision, upon request, may require release of returns be given only at a specified location other than from the result center. Any participating entity that would like the DCED web-site linked to their web-site must provide their web-site address to the Central Counting Station Manager.

- 9.4 DCED will prepare the unofficial canvass report after all precincts have been counted, and will deliver a copy of the unofficial canvass to each participating political subdivision as soon as possible after all returns, provisional ballots, and late overseas ballots have been tabulated, but in no event no later than 10:00 A.M. Friday, May 18, 2012. All participating authorities will be responsible for the official canvass of their respective elections.
- 9.5 DCED will be responsible for conducting the post election manual recount, unless a waiver is given from the Secretary of State in accordance with Section 127.201 of the Texas Election Code. Notification and copies of the recount, if waiver is denied, will be provided to each participating political subdivision and the Secretary of State's Office. Each political subdivision must notify DCED if such a waiver has been granted or denied twenty (20) days before the election.

10. ELECTION EXPENSES

- 10.1 The participating authorities agree to share the costs of administering the May 12, 2012 Joint Election. A general supervisory fee not to exceed 10% of the total cost of the election shall be assessed as authorized by the Texas Election Code, Sec. 31.100. Allocation of costs, unless specifically stated otherwise, is mutually agreed to be shared according to a formula which is based on average cost per polling place (unit cost) as determined by adding together the overall expenses and dividing expenses equally among the total number of polling places. Any participating political subdivisions requesting a combination of polling places which exceeds the average cost (Unit Cost), shall be billed directly for any excess expenditures (supplies, equipment, personnel, etc..). **The cost of any special request from a participating political subdivision, which is not agreed upon by all participating political subdivisions, shall be borne by the participating political subdivision making the special request.** Each participating political subdivision agrees that no participating political subdivision shall be billed less than the minimum of one full unit cost. See Attachment "A".
- 10.2 The expenses for early voting by mail and personal appearance will be paid equally by each participating political subdivision, unless otherwise agreed by the participating authorities and the Dallas County Elections Department.
- 10.3 Final election expenses will be determined within 120 business days after the election. DCED will provide each participating political subdivision with a final accounting in writing of all funds deposited into the Joint Election account and an accounting of all payments from the Joint Election account.
- 10.4 If additional funds are needed, DCED will bill each participating political subdivision in accordance with the expense formula enumerated herein. Any amount remaining will be refunded accordingly to each participating political subdivision.

11. DEPOSIT OF FUNDS

- 11.1 Each participating political subdivision agrees to deposit with the Dallas County Treasurer's Office, no later than Tuesday, February 28, 2012 a sum equal to 50% of the total estimated cost of

the election expenses to be paid to Dallas County as administrator of the Joint Election, and the remaining 50% is due by March 23, 2012; however any participating entity may pay the total sum on or before February 28, 2012. Entities being billed for a minimum full unit cost are required to deposit the total sum due no later than Friday, March 23, 2012. Such funds will be placed in a joint election account to be used by the County for paying expenses as outlined in this agreement. No funds will be expended by Dallas County except for supplies and services outlined in this agreement, or except as may be agreed to, in writing, by each participating political subdivision. No adjustments will be made to deposits for partial withdrawals after contract has been signed by all participating authorities.

- 11.2 The amounts to be deposited are as follows (calculated on the basis of a cost of \$7,610.46 (per polling place) :

Entity	March 23, 2012
TOA	8,371.50
COBS	12,557.25
COC	26,509.75
COCdH	8,371.50
COCKH	8,371.50
COCP	8,371.50
CODe	8,371.50
CODu	8,371.50
COFB	8,371.50
COG	5,995.76
COGH	8,371.50
COGP	44,927.06
COH	8,371.50
COI	34,183.63
COL	8,371.50
COM	28,602.63
COSa	8,371.50
COSe	8,371.50
COUP	8,371.50
COW	8,371.50
TOHP	8,371.50
TOS	8,371.50
DCPMUD	8,371.50
DCWCID#6	12,557.25
DCCCD	803,943.17
CFBISD	48,833.76
CHISD	12,836.30
CPISD	10,464.38
DISD	583,214.58
DeISD	12,557.25
DuISD	20,510.18
GISD	138,129.77
GPISD	45,345.63
HPISD	8,371.50
IISD	41,857.51
LISD	8,371.50

MISD	52,321.88
RISD	212,775.66
SISD	8,371.50

Total deposit \$2,369,553.42

Deposits should be delivered within the mandatory time frame to:

Joe Wells
Dallas County Treasurer
303 Records Building
509 Main Street
Dallas, Texas 75202

12. RECORDS OF THE ELECTION

- 12.1 Toni Pippins-Poole, County Elections Administrator, is hereby appointed general custodian of the voted ballots and all records of the Joint Election as authorized by Section 271.010 of the Texas Election Code.
- 12.2 Access to the election records will be available to each participating political subdivision as well as to the public in accordance with the Texas Public Information Act, Chapter 552, Government Code, at the Elections Department, 2377 N. Stemmons Frwy, Suite 820, Dallas, Texas, at any time during normal business hours. DCED shall ensure that the records are maintained in an orderly manner, so that records are clearly identifiable and retrievable per records storage container. However, access to election records that contain confidential information that must be redacted pursuant to federal or state law may be provided at the offices of the Civil Division of the Criminal District Attorney's Office of Dallas County, Texas at 411 Elm Street, 5th Floor, Dallas, Texas.
- 12.3 Pursuant to Section 66.058 of the Texas Election Code, DCED will retain the election records for 60 days after the date of the election. 60 days after the date of the election, DCED will make arrangements to deliver the Joint Election records to Dallas County Record Storage. The Joint Election records will then become the responsibility of Dallas County Record Storage for the remainder of the 6 month preservation period. Dallas County Record Storage will be responsible for the destruction of the Joint Election records after the preservation period. DCED will provide each entity a letter of destruction.

13. EARLY VOTING

- 13.1 Toni Pippins-Poole, County Elections Administrator, is appointed the early voting clerk for all of the participating political subdivisions in compliance with Sections 271.006 of the Texas Election Code. Other deputy early voting judges/clerks will be appointed, subject to the approval of the contracting authorities of the participating political subdivisions, as needed to process early voting mail and to conduct early voting at the main location and branch locations. If a participating political subdivision recommends a person not listed in Attachment "D", and that recommendation conflicts with the recommendation from any of the other entities involved in the election in that precinct, DCED will conduct a drawing by lot from the recommendations to determine the deputy early voting judge/clerk. Once a person has been notified of his/her selection as deputy early voting judge/clerk, no changes may be made by any of the participating authorities.

The recommended deputy early voting judges/clerks for the main and branch early voting locations are listed in Attachment "D". DCED shall request the Dallas County Human Resource Department to conduct a criminal background check of election officials, staff and temporary workers who are hired to work in this election.

- 13.2 Early voting by personal appearance will be conducted at the main and branch locations on weekdays beginning Monday, April 30, 2012 and continuing through Friday, May 4, 2012 between 8:00 A.M. and 5:00 P.M.; Saturday, May 5, 2012 between 8:00 A.M. and 5:00 P.M.; Sunday, May 6, 2012, between 1:00 P.M. and 6:00 P.M.; Monday, May 7, 2012 and continuing through Tuesday, May 8, 2012 between 7:00 A.M. and 7:00 P.M. Any qualified voter for the Joint Election may vote early by personal appearance at either the main early voting location or branch locations.

MAIN EARLY VOTING POLLING PLACE:

DALLAS COUNTY RECORDS BUILDING
509 Main Street
Dallas 75202

EARLY VOTING BRANCH POLLING PLACES:

ADDISON FIRE STATION #1
4798 AIRPORT PARKWAY
ADDISON, TEXAS 75001

BALCH SPRINGS CITY HALL
3117 HICKORY TREE
BALCH SPRINGS, TEXAS 75180

CARROLLTON / FARMERS BRANCH ISD
1445 N. PERRY ROAD
CARROLLTON, TEXAS 75006

CEDAR HILL GOV'T CENTER
285 UPTOWN BLVD
CEDAR HILL, TEXAS 75104

COCKRELL HILL CITY HALL
4125 WEST CLAREDON
COCKRELL HILL, TEXAS 75211

COPPELL TOWN CENTER
255 WEST PARKWAY BLVD
COPPELL, TEXAS 75019

CROSSWINDS HIGH SCHOOL
1100 N. CARRIER PKWY
GRAND PRAIRIE, TEXAS 75050

DALLAS COUNTY WCID #6
13503 ALEXANDER ROAD
MESQUITE, TEXAS 75181

DALLAS ISD ADMIN BUILDING
3700 ROSS AVENUE
DALLAS, TX 75204

DESOTO TOWN CENTER LIBRARY
211 E PLEASANT RUN RD
DESOTO, TEXAS 75115

DUNCANVILLE LIBRARY
201 JAMES COLLINS
DUNCANVILLE, TEXAS 75116

FARMERS BRANCH CITY HALL
13000 WILLIAM DIDSON PKWY
FARMERS BRANCH, TEXAS 75234

FRETZ PARK LIBRARY
6990 BELT LINE ROAD
DALLAS, TEXAS 75254

GARLAND CITY HALL
200 N. FIFTH ST.
GARLAND, TEXAS 75040

GLENN HEIGHTS CITY HALL
1938 SOUTH HAMPTON ROAD
GLENN HEIGHTS, TEXAS 75154

HEBRON & JOSEY LIBRARY
4220 N JOSEY LANE
CARROLLTON, TEXAS 75010

HUTCHINS CITY HALL
321 N. MAIN ST.
HUTCHINS, TEXAS 75141

IRVING ARTS CENTER
3333 N. MCARTHUR
IRVING, TEXAS 75062

IRVING CITY HALL
825 W. IRVING BLVD.
IRVING, TEXAS 75060

JOSEY RANCH LIBRARY
1700 KELLER SPRINGS
CARROLLTON, TEXAS 75006

LAKE HIGHLANDS NORTH REC CENTER
9940 WHITE ROCK TRAIL
DALLAS, TEXAS 75238

LAKESIDE ACTIVITY CENTER
101 HOLLEY PARK DRIVE
MESQUITE, TEXAS 75149

LANCASTER VETERANS MEMORIAL LIBRARY
1600 VETERANS MEMORIAL PKWY
LANCASTER, TEXAS 75134

LOCHWOOD LIBRARY
11221 LOCHWOOD BLVD
DALLAS, TEXAS 75218

MARSH LANE BAPTIST CHURCH
10716 MARSH LANE
DALLAS, TEXAS 75229

MARTIN LUTHER KING CORE BLDG
2922 MLK BLVD.
DALLAS, TEXAS 75215

RICHARDSON CIVIC CENTER
411 W ARAPAHO ROAD
RICHARDSON, TEXAS 75080

SACHSE CITY HALL
3815-B SACHSE ROAD
SACHSE, TEXAS 75048

SEAGOVILLE CITY HALL
702 N HWY 175
SEAGOVILLE, TEXAS 75159

ST LUKE COMMUNITY LIFE CENTER
6211 EAST GRAND AVE
DALLAS, TEXAS 75223

SUNNYVALE TOWN CENTER
127 NORTH COLLINS ROAD
SUNNYVALE, TEXAS 75182

VALLEY RANCH LIBRARY
401 CIMARRON TRAIL
IRVING, TEXAS 75063

VETERANS MEDICAL CENTER(MAIN LOBBY)
4500 S LANCASTER ROAD
DALLAS, TEXAS 75216

WILMER COMMUNITY CENTER
101 DAVIDSON PLAZA
WILMER, TEXAS 75172

EARLY VOTING TEMPORARY BRANCH VOTING PLACES:

UNIVERSITY PARK CITY HALL
3800 UNIVERSITY BLVD
UNIVERSITY PARK, TEXAS 75205

HIGHLAND PARK ISD ADMIN BLDG
7015 WESTCHESTER DR
DALLAS, TEXAS 75205

April 30 – (Monday – Friday) May 4, 2012

8:00 AM – 4:30 PM

May 7 – (Monday – Tuesday) May 8, 2012

7:00 AM – 7:00 PM

13.3 All requests for early voting ballots by mail that are received by participating authorities will be transported by runner on the day of receipt to the Dallas County Elections Department, 8th Floor, Health and Human Service Building, 2377 N. Stemmons Frwy, Dallas, Texas 75207 for processing. Persons voting by mail will send their voted ballots to the Dallas County Elections Department.

13.4 All early voting ballots will be prepared for counting by an Early Voting Ballot Board appointed in accordance with Subchapter A of Chapter 87 of the Texas Election Code. Each participating political subdivision will appoint one member to the board/committee and will notify DCED of the person's name, telephone number and address no later than March 23, 2012. The participating political subdivisions agree to appoint SeGwen Tyler as presiding judge of the early voting ballot board.

13.5 A signature verification committee will be appointed in accordance with Section 87.027 of the Texas Election Code. A list of the members of the signature verification committee will be furnished to each participating political subdivision.

14. ELECTION REPORTS

14.1 DCED will be responsible for ensuring the delivery of the reports titled Early Voting Daily Vote Totals and Daily Early Voter Listing (Alphabetical by precinct) to each participating political subdivision each day of Early Voting for the previous day's voting activity. On the day after the conclusion of Early Voting, a Daily Early Voter Listing by precinct report inclusive of all days of Early Voting is to be delivered to each participating political subdivision. When possible, the Early Voters' reports will be delivered by electronic means via e-mail, facsimile, or website.

15. RUNOFF ELECTION

15.1 In the event a runoff is necessary, the date would be TBD and the agreement will automatically be extended to cover the runoff, unless a participating political subdivision states in writing before Monday, May 14, 2012 that it does not wish to participate in a joint runoff. DCED will provide each participating political subdivision in the Joint Runoff Election with an estimate of funds to be deposited in a special joint runoff election account. The funds must be deposited no later than five (5) days after the runoff estimate figures are received from DCED.

16. CONTRACT WITHDRAWAL

16.1 Any contracting authority of any participating political subdivision that certifies their election in accordance with Section 2.051, 2.052 and 2.053 of the Texas Election Code, may withdraw from the Joint Election contract. Any expenditure incurred prior to withdrawal, which includes the additional rented voting equipment acquired that was discussed in the SB100 meeting on July 19, 2011 and the Joint Participants meeting on August 23, 2011, shall be billed separately and that participating political subdivision shall be removed from the contract. An addendum to the contract shall be provided to the

remaining participating political subdivisions no later than five (5) days after notification of all intents to withdraw have been received in writing by DCED.

17. NOTICE

17.1 Whenever this agreement requires any consent, approval notice, request or demand, it must be in writing to be effective and shall be delivered to the party intended to receive it as shown below:

Address for notice to DCED:

Toni Pippins-Poole
Dallas County Elections Administrator
Elections Department – Eighth Floor
Health and Human Service Building – 2377 N. Stemmons Frwy
Dallas, Texas 75207
(214)819-6300

Addresses for notice to the participating political subdivisions:

Chris Terry, (TOA)
Town Secretary
5300 Beltline Road
Addison, Texas 75240
(972) 450-7017

Cindy Gross, (COBS)
City Secretary
3117 Hickory Tree Rd.
Balch Springs, Texas 75180
(972)557-6066

Ashley Mitchell, (COC)
City Secretary
1945 N. Jackson St.
Carrollton, Texas 75006
(972) 466-3021

Lyn Hill, (COCdH)
City Secretary
285 Uptown Blvd. Bldg. 100 4th Fl
Cedar Hill, Texas 75104
(972) 291-5100 ext. 1018

Brett Haney, (COCKH)
Chief Operating Officer
4125 W. Clarendon Dr.
Dallas, Texas 75211
(214) 330-6333

Christel Pettinos, (COCp)
City Secretary
255 Parkway Blvd
Coppell, Texas 75019
(972) 304-3670

Laura Hallmark, (CODE)
City Secretary
211 E. Pleasant Run Rd, Ste A
DeSoto, Texas 75115
(972) 230-9664

Lisa Palomba, (CODU)
City Secretary
203 E. Wheatland Road
Duncanville, Texas 75116
(972) 780-5017

Shanna Sims-Bradish, (COFB)
City Secretary
13000 William Dodson Pkwy
Farmers Branch, Texas 75234
(972) 919-2503

Elaine Simpson, (COG)
City Secretary
200 N. Fifth St.
Garland, Texas 75040
(972) 205-2404

Othel Murphree, (COGH)
City Secretary
1938 S. Hampton Road
Glenn Heights, Texas 75154
(972) 223-1690

Cathy DiMaggio (COGP)
City Secretary
317 W. College
Grand Prairie, Texas 75050
(972) 237-8039

Janis Daniels, (COH)
City Secretary
321 N. Main Street
Hutchins, Texas 75141
(972) 225-6121

Shanae Jennings, (COI)
Acting City Secretary
825 W. Irving Blvd
Irving, Texas 75060
(972) 721-2605

Dolle Downe, (COL)
City Secretary
211 N. Henry St.
Lancaster, Texas 75134
(972) 218-1311

Sonja Land, (COM)
City Secretary
1515 N. Galloway
Mesquite, Texas 75149
(972) 216-6401

Terry Smith, (COSa)
City Secretary
3815 Sachse Rd., Building B
Sachse, Texas 75048
(972) 495-1212 ext. 23

Joy Hart, (COSe)
City Secretary
702 N. Hwy 175
Seagoville, Texas 75159
(972) 287-2050 ext. 123

Alice Holloway, (COW)
City Secretary
128 N. Dallas Ave
Wilmer, Texas 75172
(972) 441-6373

Elizabeth Spector, (COUP)
City Secretary
3800 University Blvd.
University Park, TX 75205
(214) 987-5302

Gayle Kirby, (TOHP)
Town Secretary
4700 Drexel Drive
Highland Park, Texas 75205
(214) 559-9457

Leslie Malone, (TOS)
City Secretary
127 Collins Road
Sunnyvale, Texas 75182
(972) 226-7177

Larry McDaniel, (DCPCMUD)
General Manager
1811 Regal Row
Dallas, Texas 75235
(214) 652-8639

Don Hamon, (DCWCID #6)
General Manager
13503 Alexander Rd.
Balch Springs, Texas 75180
(972) 286-1666

Mark Hyatt, (CFBISD)
Asst. Supt. for Admin & Support Svc.
1445 N. Perry Rd
Carrollton, Texas 75006
(972) 968-6104

Kim Lewis, (CHISD)
Chief Operating Officer
285 Uptown Blvd. Bldg. 300
Cedar Hill, Texas 75104
(972) 291-1581 ext. 4023

Kay Ryon, (CpISD)
Secretary to Superintendent
200 S. Denton Tap Road
Coppell, Texas 75019
(214) 496-8002

Deno Harris, (DISD)
Director of Board Services
3700 Ross Ave., Box 1
Dallas, Texas 75204
(972) 925-3720

David Hay, (DCCCD)
Legal Assistant / Elections Admin.
1601 S. Lamar
Dallas, Texas 75215
(214) 378-1701

Dr. Craig Benedict, (DeISD)
Director, Technology & Operations
200 E. Beltline Road
DeSoto, Texas 75115
(972) 223-3873

Jennifer Wilson, (DUISD)
Chief Financial Officer
802 S. Main
Duncanville, Texas 75137
(972) 708-2029

Dr. Rene Barajas, (GISD)
Assistant Superintendent
for Business Operations
501 S. Jupiter
Garland, Texas 75042
(972) 487-3101

Mike Wallace, (GPISD)
Director of Purchasing
2602 S. Beltline Rd
Grand Prairie, Texas 75052
(972) 237-5592

Tim Turner, (HPISD)
Assistant Superintendent
For Business Services
7015 Westchester Drive
Dallas, Texas 75205
(214) 780-3016

Nora Gonzalez, (IISD)
Secretary to Special Asst.
to Superintendent
2621 West Airport Frwy
Irving, Texas 75062-6020
(972) 600-5005

Fran Allen, (LISD)
Asst. to Superintendent
422 S. Centre Ave
Lancaster, Texas 75146
(972) 218-1400

Michael Coffey, (MISD)
Assistant Superintendent
Administrative Services
405 East Davis
Mesquite, Texas 75149
(972) 882-7313

Judy Whitenton, (RISD)
Exec Asst. to Assistant
Superintendent of Finance
400 S. Greenville Ave.
Richardson, Texas 75080
(469) 593-0331

Doug Williams, (SuISD)
Superintendent of Schools
417 E. Tripp Rd
Sunnyvale, Texas 75182
(972) 226-5974

18. LIABILITY FOR NEGLIGENCE

All parties agree to be responsible, in accordance with applicable state or federal law, each for their own negligent acts or omissions, or other tortious conduct in the course of performance of this Contract without waiving any sovereign immunity, governmental immunity, statutory immunity, or other defenses available to the parties under federal or State law. **NOTHING IN THIS PARAGRAPH SHALL BE CONSTRUED TO CREATE OR GRANT ANY RIGHTS, CONTRACTUAL OR OTHERWISE, IN OR TO ANY THIRD PERSONS OR ENTITIES.** All parties agree that any such liability or damages occurring during the performance of this Contract caused by the joint or comparative negligence of the parties, or their employees, agents or officers shall be determined in accordance with comparative responsibility laws of Texas, but only to the extent such laws are applicable to the party.

19. VENUE

Venue for any cause of action, injunction, or petition for extraordinary relief arising out of the performance of this contract shall lie exclusively in Dallas County, Texas.

20. SEVERABILITY

If any provision of this joint election contract and election services agreement is construed to be illegal or invalid, this will not affect the legality or validity of any of the other provisions. The illegal or invalid provision will be deemed stricken and deleted, but all other provisions shall continue and be given effect as if the illegal or invalid provisions had never been incorporated.

21. ENTIRE CONTRACT

This joint election contract and election services agreement, including all Exhibits and attachments, constitutes the entire Contract between the parties and supersedes any other Contract concerning the subject matter of this transaction, whether oral or written.

22. ORDER OF PRECEDENCE

In the event of any inconsistency between the provisions of this joint election contract and election services agreement and any incorporated documents as described herein, all parties agree that the provisions of this Contract shall take precedence.

23. SIGNATORY WARRANTY

The Elections Administrator of Dallas County, Texas and all of the contracting authorities of all of the participating political subdivisions listed in Section 1 of this joint election contract and election services agreement represent that each has the full right, power and authority to enter and perform this Contract in accordance with all of the terms and conditions, and that the execution and delivery of this Contract has been made by authorized representatives of the parties to validly and legally bind the parties to all terms, performances and provisions set forth in this Contract.

24. COUNTERPARTS.

This joint election contract and election services agreement may be executed in any number of counterparts with the same effect as if all signatory parties had signed the same document. All counterparts will be construed together and will constitute one and the same instrument.

APPROVED AS TO FORM*

TONI PIPPINS-POOLE
COUNTY ELECTIONS ADMINISTRATOR
DALLAS COUNTY, TEXAS

BEN STOOL
ASSISTANT CRIMINAL
DISTRICT ATTORNEY
CIVIL DIVISION
DALLAS COUNTY, TEXAS

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

LANCASTER CITY COUNCIL
Agenda Communication for
February 27, 2012

9

AG12-009

Consider a resolution approving the terms and conditions of an Interlocal Agreement by and between the City of Lancaster and the County of Dallas to resell tax foreclosed properties struck off to the City of Lancaster as trustee.

This request supports the City Council 2011-2012 Policy Agenda.

Goal: Sound Infrastructure

Background

The law firm of Linebarger, Goggan, Blair & Sampson, LLP (LGBS) and the Dallas County Tax Office desire to expand and strengthen Dallas County's current Tax Foreclosure Resale Program ("Program") implemented in 1994. Under the current Program, administered by the Dallas County Public Works – Property Division, the directive was to restrict the number of properties struck off to Dallas County at the Sheriff's Sale.

LGBS, in its April 2011 briefing to the Dallas County Commissioners Court, recommended an initiative to increase the number of properties being offered by Sheriff's Sale in suburban jurisdictions. LGBS also advised of several suburban jurisdictions, including the City of Lancaster, which would benefit from Dallas County's assistance with the selling of said properties. There are currently a total of 15 properties struck off to the City of Lancaster eligible for inclusion in the program by LGBS.

The attached interlocal agreement will permit Dallas County, as trustee, to resell the City's interest in tax foreclosed and seized real properties acquired at sheriff's sale. The sale of said properties will bring them back onto the City of Lancaster's tax roll, increasing the tax base and often recouping the portions of delinquent taxes due as a result of judgments. Other cities who have participated in this program include Balch Springs, Rowlett, Seagoville and Hutchins.

Considerations

- **Operational** - This item is for consideration and approval of the provided interlocal agreement for the City of Lancaster's participation in the Dallas County Tax Foreclosure Resale Program. If approved, Dallas County, as trustee for the City of

Lancaster, coordinates the public sale of selected tax foreclosed properties currently struck off to the City.

- **Legal** – A copy of the interlocal agreement has been reviewed and approved as to form by the City Attorney.
- **Financial** – Participation in the program will require a \$1,500 flat fee per property. The City of Lancaster retains responsibility for the maintenance of all struck off properties until sold.
- **Public Information** – This meeting was properly noticed and is being held in accordance with the Texas Open Meetings Act.

Options/Alternatives

1. City Council may approve the interlocal agreement as presented.
2. City Council may reject the interlocal agreement and redirect staff.

Recommendation

Staff recommends the approval of the interlocal agreement as presented.

Attachments

- Resolution
- Interlocal Agreement

Prepared and submitted by:
Opal Mauldin Robertson, City Manager

Date: February 23, 2012

RESOLUTION NO. 2012-02-23

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LANCASTER, TEXAS, APPROVING THE TERMS AND CONDITIONS OF AN INTERLOCAL AGREEMENT BY AND BETWEEN THE CITY OF LANCASTER AND THE COUNTY OF DALLAS TO RESELL TAX FORECLOSED PROPERTIES STRUCK OFF TO THE CITY OF LANCASTER AS TRUSTEE; AUTHORIZING THE CITY MANAGER EXECUTE SAID AGREEMENT; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, this matter was briefed to the Lancaster City Council ("City Council") on February 20, 2012, wherein the City Council agreed to use this form of Resolution to provide the County of Dallas consent to sell specific properties to the highest bidder by public or private sale; and

WHEREAS, several parcels of land were offered for sale by the Sheriff of Dallas County at public auction pursuant to a judgment of the District Court of Dallas County, Texas, for foreclosure of the tax liens securing payment of delinquent property taxes, accrued penalties, interest, and court costs; and

WHEREAS, those parcels of land which did not receive a sufficient bid as set by law, were struck off to the City of Lancaster as Trustee for itself and for Dallas County, and Lancaster Independent School District, or Dallas Independent School District pursuant to Section 34.01(j) of the Texas Property Tax Code; and

WHEREAS, these parcels of land held in trust by the City of Lancaster, Trustee for itself and Dallas County and Lancaster Independent School District or Dallas Independent School District, are exempt from taxation and it is in the best interest of the taxing authorities to have these parcels of land returned to the tax roll as taxable property; and

WHEREAS, by this resolution the County of Dallas is authorized to resell those parcels of land which have not received a sufficient bid as set by law and to execute a quitclaim deed for such parcels of land conveying to the purchaser the right, title, and interest acquired or held by the City of Lancaster as Trustee for itself and the other taxing entities who were parties to the judgment foreclosing tax liens on the parcels of land; and

WHEREAS, the City of Lancaster and the taxing units involved desire to resell said parcels of land in an expeditious manner pursuant to Section 34.05 of the Texas Property Tax Code and the City of Lancaster to receive its pro-rata share of the proceeds.

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

SECTION 1. T That the Interlocal 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 Interlocal Agreement.

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

DULY PASSED and approved by the City Council of the City of Lancaster, Texas on this the 27th day of February 2012.

ATTEST:

APPROVED:

Dolle K. Downe, City Secretary

Marcus E. Knight, Mayor

APPROVED AS TO FORM:

Robert E. Hager, City Attorney

THE STATE OF TEXAS §
 §
COUNTY OF DALLAS §

INTERLOCAL AGREEMENT BETWEEN
CITY OF LANCASTER
AND DALLAS COUNTY

This Interlocal Agreement is entered into by and between:

The CITY OF LANCASTER, TEXAS a Texas municipal corporation (hereinafter "CITY") located in Dallas County, Texas; and

DALLAS COUNTY on its own behalf and on behalf of other political subdivisions, PARKLAND HOSPITAL DISTRICT, DALLAS COUNTY SCHOOL EQUALIZATION FUND and DALLAS COUNTY COMMUNITY COLLEGE DISTRICT (hereinafter "COUNTY"), whose taxes are collected by the Dallas County Tax Assessor -Collector.

WHEREAS, both CITY and COUNTY want to enter into this agreement to permit COUNTY, as trustee, to resell CITY's interest in tax foreclosed and seized real properties, acquired at a sheriff's sale in compliance with the Texas Property Tax Code, Chapter 34, requirements or the Texas Local Government Code Chapter 272, or any successor thereto; and

WHEREAS, COUNTY can reasonably screen properties for itself and the CITY to allow for an expedited tax foreclosure sheriff's sale and potential resale.

NOW THEREFORE, in consideration of the premises and the agreements, covenants and promises herein set forth, it is agreed as follows:

1.
DEFINITIONS

- (A) "CITY" means the CITY OF LANCASTER, Dallas County, Texas.
- (B) "COUNTY" means the County of Dallas, the Parkland Hospital District, the Dallas County School Equalization Fund, and the Dallas County Community College District.
- (C) "PARTIES" means the CITY and COUNTY.
- (D) "POLICIES" means the Dallas County Tax Foreclosure Resale Policies adopted by the Dallas County Commissioners Court, as outlined in the Dallas County Code, Chapter 62-Taxation, Article II. REAL PROPERTY, Divisions 3 and 4, Sections 62-91 through 62-160, as may be amended.
- (E) "Property" or "Properties" means parcels that are in the inventory of one of

the parties as a result of a delinquent tax foreclosure sale pursuant to Chapter 34 of the Texas Property Tax Code.

II.
PURPOSE

The purpose of this Interlocal Agreement is to expand and expedite the processing of real properties which are encumbered by tax liens and become the subject of litigation resulting in a tax foreclosure sale/resale. This expanded and expedited process will minimize the costs to the citizens of CITY and COUNTY.

III.
TERMS, RIGHTS, OBJECTIVES AND DUTIES OF THE PARTIES

CITY and COUNTY agree to execute this Interlocal Agreement pursuant to the Interlocal Cooperation Act, Chapter 791 of the Texas Government Code, as amended, which provides authorization for any local government to contract with one or more local governments to perform governmental functions and services under the terms of the Act.

1. CITY and COUNTY agree that CITY has been or will be briefed on the various resale procedures to be used by COUNTY in the sale, use and disposition of tax foreclosed real Properties acquired by CITY or COUNTY as trustee for the taxing units authorized by Texas Property Tax Code Chapter 34, or any successor thereto. CITY agrees that COUNTY will assume the lead role in determining which resale procedure, authorized by state law, shall be utilized for the resale of a Property. CITY agrees to timely provide a resolution of the City Council of the CITY consenting to or opposing COUNTY'S sale of the tax foreclosure Property as provided by Section 34.05(i) of the Texas Property Tax Code. Tax foreclosure resales shall be conducted in compliance with this Agreement, except that if any additional terms or conditions become necessary in connection with the resales, such additional terms or conditions shall be agreed upon by a duly authorized supplemental agreement to this Agreement.
2. COUNTY agrees to perform or cause to be performed the following obligations in connection with the resale of properties:
 - a. To inform the CITY of proposed changes to its current resale Policies, as defined in Section I(D).
 - b. To screen for suitability, on behalf of both the CITY and COUNTY, all struck off properties proposed for tax sale or resale by the parties' collection law firm.
 - c. To provide CITY with information about the Properties or resales upon request.
 - d. At COUNTY'S sole discretion, to provide services related to Properties for which reimbursement is permitted pursuant to Texas Property Tax Code,

Chapter 34, or any successor thereto, from the date of the sheriff's sale to the date of the resale of the Property.

- e. To provide for the trustee taxing unit's recovery of reasonable costs, as defined by and in accordance with the Texas Property Tax Code, Chapter 34 or any successor thereto, from the resale proceeds without further formal action.
 - f. To execute deeds conveying CITY's right, title and interest in the Properties upon resale.
3. CITY agrees to perform or cause to be performed the following obligations in connection with the resale of Properties:
- a. To authorize COUNTY, acting through the Dallas County Commissioner's Court, to consent on CITY's behalf to future tax foreclosure resales of properties acquired by CITY or COUNTY as trustee. Such consent is for private or public resale of Properties for an amount less than the lesser of the market value of the Property as stated in the judgment of foreclosure or the total amount of the judgments against the tax foreclosed Property or resale of seized properties in accordance with Texas Property Tax Code requirements or Chapter 272 of the Texas Local Government Code, unless prior written notice is given to COUNTY by CITY that consent for resale of a Property is denied.
 - b. The CITY agrees to implement a procedure in the form of a standard resolution, providing express consent for COUNTY to resell individual tax foreclosure Properties, which are jointly vested in the name of the COUNTY, CITY, and the independent school district(s). COUNTY will provide CITY with a list of individual tax foreclosure Properties targeted for resale and CITY will be responsible for timely submitting the standard resolution granting the COUNTY express consent for the resale of said Properties.
 - c. To assist COUNTY by maintaining, preserving, safekeeping, or any other repairs or improvements required by a city ordinance or building code, as provided by Texas Property Tax Code Chapter 34, or any successor thereto, a Property located in the CITY limits, from the date the Property is struck off to the date the Property is resold.
 - d. To upon request of COUNTY, provide an invoice(s) detailing maintenance costs eligible for reimbursement from the proceeds of a resale.
 - e. To authorize the COUNTY, acting through the Dallas County Commissioner's Court, to act on its behalf in the maintenance, advertisement, sale and disposition of the Properties when resold by the COUNTY as trustee.

4. Each party agrees that when costs are incurred in the resale of Property, those costs will be reimbursed in accordance with Texas Property Tax Code, Chapter 34, or any successor thereto, to the extent funds are available, or from any other available and legally permissible funds.
5. CITY and COUNTY agree to apply the local law of CITY in performing the governmental functions or services required by law. COUNTY may apply Chapter 272 of the Local Government Code to the resale of Properties.
6. Any sale to a taxing unit or a subsequent purchaser shall be subject to the original owner's right of redemption and of the taxing units' rights to proceeds of the sale.
7. In making this authorization, and except for the approvals noted above, CITY retains all of its rights under the Texas Property Tax Code, including entitlement to sale proceeds and right to set aside a sale.
8. This Agreement stays in effect until modified or revoked by the CITY or COUNTY in compliance with Section VII, Termination.
9. This Agreement embodies the complete agreement of the CITY and the COUNTY superseding all oral or written previous and contemporary agreements between the CITY and COUNTY relating to matters contained herein; and, except as otherwise provided in this Agreement, cannot be modified without a written duly authorized supplemental agreement of the CITY and COUNTY.

IV.
NO VERBAL AGREEMENT

This Agreement contains all the terms, commitments and covenants of the Parties pursuant to this Agreement. Any verbal or written commitment not contained in this Agreement or expressly referred to in this Agreement and incorporated by reference shall have no force or effect.

V.
AGREEMENT INTERPRETATION AND VENUE

The Parties covenant and agree that in any litigation relating to this Agreement, the terms and conditions of the Agreement will be interpreted according to the laws of the State of Texas and venue shall be proper exclusively in Dallas County, Texas.

VI.
CAPTIONS

The captions to the various clauses of this Agreement are for informational purposes only and in no way alter the substance of the terms and conditions of this Agreement.

VII.
TERMINATION

A party to this Agreement may withdraw only after providing not less than ninety (90) days written notice of withdrawal to the other party. This Agreement may be terminated at anytime by mutual consent of the parties.

VIII.
IMMUNITY

It is expressly understood and agreed that, in the execution of this Agreement, no party waives, nor shall be deemed hereby to waive, any immunity or defense that would otherwise be available to it against claims arising in the exercise of governmental powers and functions, and all parties retain all immunities otherwise provided by law.

IX.
SEVERABILITY

If any of the terms, sections, subsections, sentences, clauses, phrases, provisions, covenants or conditions of this Agreement are for any reason held to be invalid, void or unenforceable, the remainder of the terms, sections, subsections, sentences, clauses, phrases, provisions, covenants, or conditions in this Interlocal Agreement shall remain in full force and effect and shall in no way be affected, impaired or invalidated.

EXECUTED in multiple original counterparts to be effective on this the ____ day of _____, 201_.

CITY OF LANCASTER

DALLAS COUNTY

By: _____
~~Opal Mauldin-Robertson~~
City Manager

By: _____
Clay Lewis Jenkins,
County Judge

ATTEST:

City Secretary

APPROVED AS TO FORM:

City Attorney

Gordon Hikel,
District Attorney's Office

LANCASTER CITY COUNCIL

Agenda Communication for

February 27, 2012

10

AG12-010

Consider a resolution approving the resale by the County of Dallas of five residential tax foreclosed properties struck off to the City of Lancaster.

This request supports the City Council 2011-2012 Policy Agenda.

Goal: Sound Infrastructure

Background

As presented in its complementary agenda item, the law firm of Linebarger, Goggan, Blair & Sampson, LLP (LGBS) and the Dallas County Tax Office desire to expand and strengthen Dallas County's current Tax Foreclosure Resale Program ("Program") implemented in 1994. With the approval of the interlocal agreement, there are currently a total of 15 properties struck off to the City of Lancaster recommended for inclusion in the program by LGBS.

Contingent upon the approval of this submitted resolution by Council, the City of Lancaster will permit Dallas County, as trustee, to resell the City's interest in tax foreclosed and seized real properties acquired at sheriff's sale. This approval will be for the inclusion of five properties in the program initially. The sale of said properties will bring them back into the City of Lancaster's tax roll, increasing the tax base and often recouping the portions of delinquent taxes due as a result of judgments. Other cities who are participating in this program include Balch Springs, Rowlett, Seagoville and Hutchins.

Considerations

- **Operational** - This item is for the consideration of a resolution for the City of Lancaster's participation in the Dallas County Tax Foreclosure Resale Program. If approved, Dallas County, as trustee for the City of Lancaster, will coordinate the public sale of five (5) tax foreclosed properties currently struck off to the City with opportunity for the addition of more properties in the future.
- **Legal** – A copy of the resolution has been reviewed and approved as to form by the City Attorney.
- **Financial** – Participation in the program will require a \$1,500 flat fee per property, totaling \$7,500. The City of Lancaster retains responsibility for the maintenance of all struck off properties until sold.

- **Public Information** – This meeting was properly noticed and is being held in accordance with the Texas Open Meetings Act.

Options/Alternatives

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

Recommendation

If the Interlocal Agreement with Dallas County is approved, staff recommends the approval of the five tax foreclosed property for resale.

Attachments

- Resolution
- Properties Map
- Property List

Prepared and submitted by:
Opal Mauldin Robertson, City Manager

Date: February 23, 2012

RESOLUTION NO. 2012-02-24

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LANCASTER, TEXAS, APPROVING THE RESALE OF FIVE (5) TAX FORECLOSED PROPERTIES BY THE COUNTY OF DALLAS AS DEPICTED IN EXHIBIT "A" ATTACHED HERETO AND INCORPORATED HEREIN; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, this matter was briefed to the Lancaster City Council ("City Council") on February 20, 2012, wherein the City Council agreed to use this form of Resolution to provide the County of Dallas consent to sell specific properties to the highest bidder by public or private sale; and

WHEREAS, several parcels of land were offered for sale by the Sheriff of Dallas County at public auction pursuant to a judgment of the District Court of Dallas County, Texas, for foreclosure of the tax liens securing payment of delinquent property taxes, accrued penalties, interest, and court costs; and

WHEREAS, those parcels of land which did not receive a sufficient bid as set by law, were struck off to the City of Lancaster as Trustee for itself and for Dallas County, and Lancaster Independent School District, or Dallas Independent School District pursuant to Section 34.01(j) of the Texas Property Tax Code; and

WHEREAS, these parcels of land held in trust by the City of Lancaster, Trustee for itself and Dallas County and Lancaster Independent School District or Dallas Independent School District, are exempt from taxation and it is in the best interest of the taxing authorities to have these parcels of land returned to the tax roll as taxable property; and

WHEREAS, by this resolution the County of Dallas is authorized to resell those parcels of land which have not received a sufficient bid as set by law and to execute a quitclaim deed for such parcels of land conveying to the purchaser the right, title, and interest acquired or held by the City of Lancaster as Trustee for itself and the other taxing entities who were parties to the judgment foreclosing tax liens on the parcels of land; and

WHEREAS, the City of Lancaster and the taxing units involved desire to resell said parcels of land in an expeditious manner pursuant to Section 34.05 of the Texas Property Tax Code and the City of Lancaster to receive its pro-rata share of the proceeds.

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

SECTION 1. That the list of five (5) tax foreclosed properties, 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. 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 27th day of February 2012.

ATTEST:

APPROVED:

Dolle K. Downe, City Secretary

Marcus E. Knight, Mayor

APPROVED AS TO FORM:

Robert E. Hager, City Attorney

City of Lancaster
 Struck Off Properties
 Feb 15, 2012

ID	DCAD Account #	Site Address	Subdivision	Block/Lot	Acres
1	36000500720210100	721 JEFFERSON ST	ORIG TOWN LANCASTER	BLK 72 LTS 21 & 22	0.2508
2	60019500040120000	2624 HULETTE AVE	BROWNLEE PARK 2	BLK D LOT 12	0.6144
3	36071850550120000	301 S STEWART ST	PECAN HOLLOW ESTS PH II REPLAT	BLK E LOT 12	0.1620
4	360712500A0030000	112 PECAN GROVE	PECAN GROVE ESTATES REP	BLK A LT 3	0.2321
5	36050500140110000	849 STANFORD DR	LANCASTER HILLS INST 5	BLK N LT 0011	0.2021
6	36060500040040000	112 LINDENWOOD DR	LANCASTER TERRACE	BLK 4 LOT 4	0.3006
7	602475000216B0000	2823 BASKIN DR	WILL-KEE REP	BLK B LOT 16B	0.3588
8	60247500020030000	1627 FREDERICK ST	WILL-KEE	BLK B LT 3	0.4537
9	36002500020180000	1463 PARK CIRCLE DR	BECKLEY CITY LOTS	BLK B LT 18	0.4917
10	36002500030610000	1665 MARSALIS RD	BECKLEY CITY LOTS	BLK CLTS 61 & 62	1.5945
11	36073500050050000	1056 BAYPORT DR	PLACID MEADOWS	BLK E LOT 5	1.0059
12	36073500050060000	1048 BAYPORT DR	PLACID MEADOWS	BLK E LOT 6	0.9924
13	36073500050070000	1038 BAYPORT DR	PLACID MEADOWS	BLK E LOT 7	0.9954
14	602475000F02A0000	1511 W WINTERGREEN RD	WILL-KEE REP	BLK F LT 2A	0.3872
15	360455000C01A0000	4295 ELKINS AVE	LANCASTER GARDENS REP	BLK C LT 1A	0.3013

Legend

-  Struck Off Property
-  City Limits



0 0.125 0.25 0.5 Miles



City of Lancaster Struck Off Properties Feb 15, 2012

ID	DCAD Account #	Site Address	Subdivision	Block/Lot	Acres
1	36000500720210100	721 JEFFERSON ST	ORIG TOWN LANCASTER	BLK 72 LTS 21 & 22	0.2508
2	60019500040120000	2624 HULETTE AVE	BROWNLEE PARK 2	BLK D LOT 12	0.6144
3	36071650550120000	301 S STEWART ST	PECAN HOLLOW ESTS PH II REPLAT	BLK E LOT 12	0.1620
4	360712500A0030000	112 PECAN GROVE	PECAN GROVE ESTATES REP	BLK A LT 3	0.2321
5	36050500140110000	849 STANFORD DR	LANCASTER HILLS INST 5	BLK N LT 0011	0.2021
6	36060500040040000	112 LINDENWOOD DR	LANCASTER TERRACE	BLK 4 LOT 4	0.3006
7	602475000216B0000	2823 BASKIN DR	WILL-KEE REP	BLK B LOT 16B	0.3588
8	60247500020030000	1627 FREDERICK ST	WILL-KEE	BLK B LT 3	0.4537
9	36002500020180000	1463 PARK CIRCLE DR	BECKLEY CITY LOTS	BLK B LT 18	0.4917
10	36002500030610000	1665 MARSALIS RD	BECKLEY CITY LOTS	BLK C LTS 61 & 62	1.5945
11	36073500050050000	1056 BAYPORT DR	PLACID MEADOWS	BLK E LOT 5	1.0059
12	36073500050060000	1048 BAYPORT DR	PLACID MEADOWS	BLK E LOT 6	0.9924
13	36073500050070000	1038 BAYPORT DR	PLACID MEADOWS	BLK E LOT 7	0.9954
14	602475000F02A0000	1511 W WINTERGREEN RD	WILL-KEE REP	BLK F LT 2A	0.3872
15	360455000C01A0000	4295 ELKINS AVE	LANCASTER GARDENS REP	BLK C LT 1A	0.3013

Legend

-  Struck Off Property
-  City Limits



0 0.125 0.25 0.5 Miles

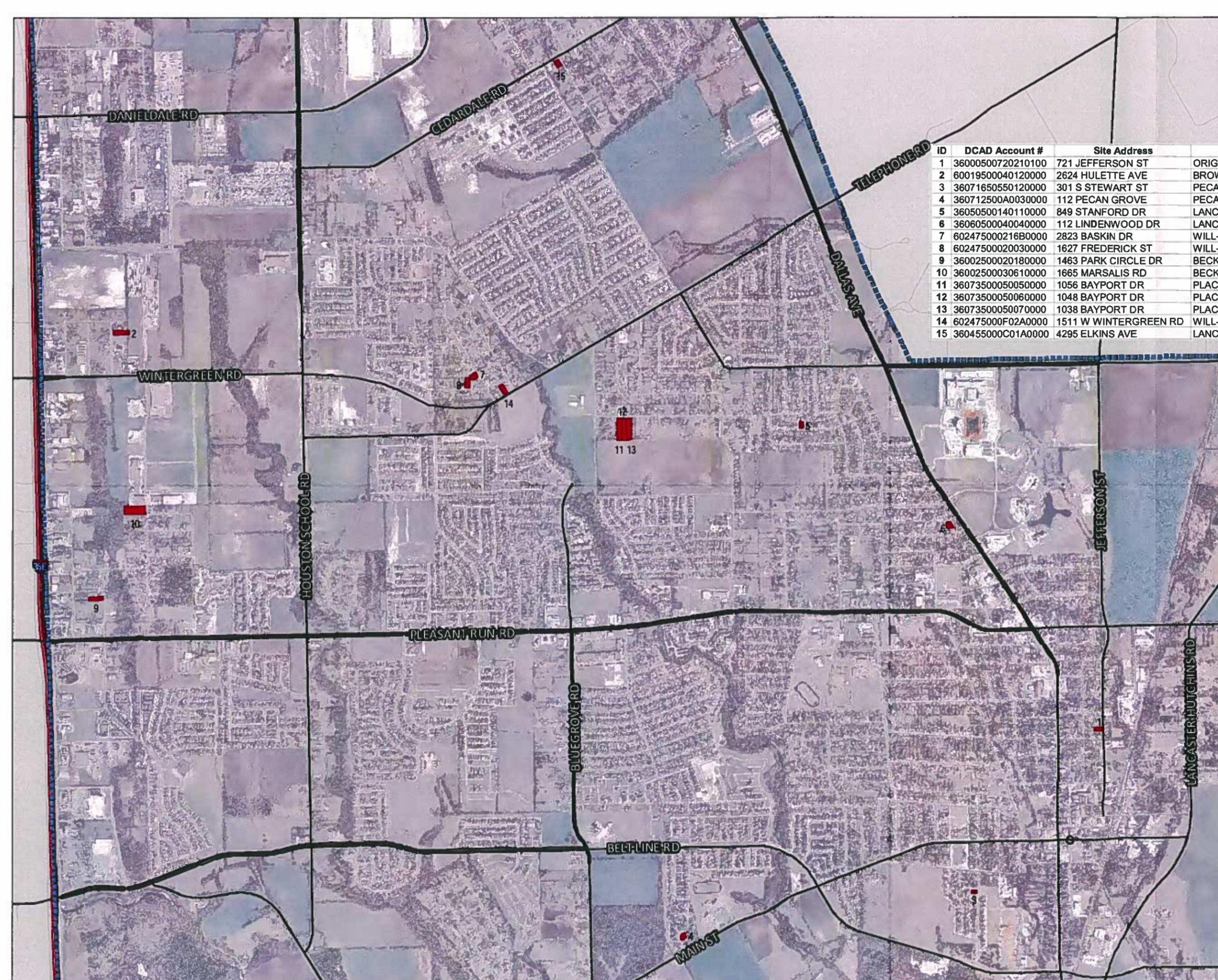


EXHIBIT "A"

<u>DCAD ACCT. NO.</u>	<u>PROPERTY ADDRESS</u>	<u>CAUSE NO. & STYLE OF CASE</u>
60019500040120000	2624 Hulette Lancaster, Texas	00-30439-T-F, <i>Dallas County, et al vs. James Dale Lenamond</i>
36071650550120000	301 S. Stewart Lancaster, Texas	04-30122-T-A, <i>Dallas County, et al vs. George Shelby</i>
360712500A0030000	112 Pecan Grove Lancaster, Texas	04-30919-T-E, <i>Dallas County, et al vs. Dwight A. Nemons, Sr.</i>
36050500140110000	849 Stanford Lancaster, Texas	97-30402-T-H, <i>Dallas County, et al vs. William E. Moulton</i>
360455000C01A0000	4219 Elkins <i>n/k/a 4295 Elkins</i> Lancaster, Texas	03-41115-T-I, <i>Wilmer Hutchins ISD vs. John H. King</i>

LANCASTER CITY COUNCIL
Agenda Communication for
February 27, 2012

11

AG12-011

Discuss and consider a resolution suspending the March 6, 2012, effective date of Atmos Energy Corp., Mid-Tex Division (“Atmos Mid-Tex”) requested rate change to permit the city time to study the request and to establish reasonable rates; approving cooperation with Atmos Cities Steering Committee (“ACSC”) and other cities in the Atmos Mid-Tex service area to hire legal and consulting services and to negotiate with the company and direct any necessary litigation and appeals; and requiring reimbursement of cities’ rate case expenses.

This request supports the City Council 2011-2012 Policy Agenda.

Goal: Healthy, Safe and Vibrant Neighborhoods

Background

Along with approximately 153 other cities served by Atmos Energy Corp., Mid-Tex Division (“Atmos Mid-Tex” or “Company”), Lancaster is a member of the Atmos Cities Steering Committee (“ACSC” or “Steering Committee”). On or about January 31, 2012, Atmos Mid-Tex filed with the City a Statement of Intent to increase rates within the City seeking to increase system-wide base rates (which exclude the cost of gas) by approximately \$49 million or 11.94%. However, the Company is requesting an increase of 13.6%, excluding gas costs, for its residential customers. Additionally, the application would change the way that rates are collected, by increasing the residential fixed-monthly (or customer) charge from \$7.50 to \$18.00 and decreasing the consumption charge from \$0.25 per 100 cubic feet (“ccf”) to \$0.07 per ccf.

The law provides that a rate request made by a gas utility cannot become effective until at least 35 days following the filing of the application to change rates. Atmos has proposed an effective date of March 6, 2012. The law permits the City to suspend the rate change for 90 days after the date the rate change would otherwise be effective. If the City fails to take some action regarding the filing before the effective date, Atmos’ rate request is deemed administratively approved.

The purpose of the resolution is to extend the effective date of Atmos Mid-Tex’s proposed rate increase to give the City time to review the rate-filing package. The resolution suspends the March 6, 2012 effective date of the Company’s rate increase for the

maximum period permitted by law to allow the City, working in conjunction with the other ACSC cities, to evaluate the filing, determine whether the filing complies with law, and if lawful, to determine what further strategy to pursue, including settlement and ultimately to approve reasonable rates.

Considerations

- **Operational** - This is a request for the approval of the attached resolution for the suspension of the effective date of the Atmos Mid-Tex RRM filing that requests an increase for residential, commercial, industrial, and transportation rates applicable to service within the boundaries of the City of Lancaster. This resolution extends the rate effective date from March 6, 2012 to June 4, 2012, allowing for 90 days of continued negotiation between ACSC and Atmos Mid-Tex.
- **Legal** - A copy of the resolution has been reviewed and approved as to form by the ACSC legal counsel.
- **Financial** – On an Atmos Mid-Tex system wide basis, Atmos Energy proposes to increase its annual revenues by approximately \$49 million or 11.94%. For the City of Lancaster, the approval of the RRM filing would entail an approximate Atmos Mid-Tex revenue increase of \$176,160, a percentage increase of 4.4%.
- **Public Information** - This meeting was properly noticed and is being held in accordance with the Texas Open Meetings Act.

Options/Alternatives

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

Recommendation

Staff recommends approval of the resolution as presented suspending the March 6, 2012 effective date of the Atmos Mid-Tex requested rate change.

Attachments

- Resolution

Prepared and submitted by:
Opal Mauldin Robertson, City Manager

Date: February 27, 2012

RESOLUTION NO. 2012-02-25

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LANCASTER SUSPENDING THE MARCH 6, 2012, EFFECTIVE DATE OF ATMOS ENERGY CORP., MID-TEX DIVISION (“ATMOS MID-TEX”) REQUESTED RATE CHANGE TO PERMIT THE CITY TIME TO STUDY THE REQUEST AND TO ESTABLISH REASONABLE RATES; APPROVING COOPERATION WITH ATMOS CITIES STEERING COMMITTEE (“ACSC”) AND OTHER CITIES IN THE ATMOS MID-TEX SERVICE AREA TO HIRE LEGAL AND CONSULTING SERVICES AND TO NEGOTIATE WITH THE COMPANY AND DIRECT ANY NECESSARY LITIGATION AND APPEALS; REQUIRING REIMBURSEMENT OF CITIES’ RATE CASE EXPENSES; FINDING THAT THE MEETING AT WHICH THIS RESOLUTION IS PASSED IS OPEN TO THE PUBLIC AS REQUIRED BY LAW; REQUIRING NOTICE OF THIS RESOLUTION TO THE COMPANY AND ACSC’S LEGAL COUNSEL

WHEREAS, on or about January 31, 2012, Atmos Energy Corp., Mid-Tex Division (“Atmos Mid-Tex” or “Company”), pursuant to Gas Utility Regulatory Act § 104.102 filed with the City of Lancaster (“City”) a Statement of Intent to change gas rates in all municipalities exercising original jurisdiction within its Mid-Tex Division service area, effective March 6, 2012; and

WHEREAS, the City is a regulatory authority under the Gas Utility Regulatory Act (“GURA”) and under Chapter 104, §104.001 et seq. of GURA has exclusive original jurisdiction over Atmos Mid-Tex’s rates, operations, and services within the City; and

WHEREAS, in order to maximize the efficient use of resources and expertise, it is reasonable for the City to maintain its involvement in the Atmos Cities Steering Committee (“ACSC”) and to cooperate with the more than 150 similarly situated city members of ACSC and other city participants in conducting a review of the Company’s application and to hire and direct legal counsel and consultants and to prepare a common response and to negotiate with the Company and direct any necessary litigation; and

WHEREAS, Atmos Mid-Tex proposed March 6, 2012, as the effective date for its requested increase in rates; and

WHEREAS, it is not possible for the City to complete its review of Atmos Mid-Tex’s filing by March 6, 2012; and

WHEREAS, the City will need an adequate amount of time to review and evaluate Atmos Mid-Tex’s rate application to enable the City to adopt a final decision as a local regulatory authority with regard to Atmos Mid-Tex’s requested rate increase; and

WHEREAS, the Gas Utility Regulatory Act § 104.107 grants local regulatory authorities the right to suspend the effective date of proposed rate changes for ninety (90) days; and

WHEREAS, the Gas Utility Regulatory Act § 103.022 provides that costs incurred by Cities in ratemaking activities are to be reimbursed by the regulated utility.

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

SECTION 1. That the March 6, 2012, effective date of the rate request submitted by Atmos Mid-Tex on January 31, 2012, be suspended for the maximum period allowed by law to permit adequate time to review the proposed changes and to establish reasonable rates.

SECTION 2. That the City is authorized to cooperate with ACSC and its member cities in the Mid-Tex service area and under the direction of the ACSC Executive Committee to hire and direct legal counsel and consultants, negotiate with the Company, make recommendations to the City regarding reasonable rates, and to direct any necessary administrative proceedings or court litigation associated with an appeal of a rate ordinance and the rate case filed with the City or Railroad Commission.

SECTION 3. That the City's reasonable rate case expenses shall be reimbursed by Atmos.

SECTION 4. That it is hereby officially found and determined that the meeting at which this Resolution is passed is open to the public as required by law and the public notice of the time, place, and purpose of said meeting was given as required.

SECTION 5. A copy of this Resolution shall be sent to Atmos, care of David Park, Vice President Rates & Regulatory Affairs, at Atmos Energy Corporation, Mid-Tex Division, 5420 LBJ Freeway, Suite 1862, Dallas, Texas 75240, and to Geoffrey Gay, General Counsel to ACSC, at Lloyd Gosselink Rochelle & Townsend, P.C., P.O. Box 1725, Austin, Texas 78767-1725.

DULY PASSED and approved by the City Council of the City of Lancaster, Texas on this the 27th day of February 2012.

ATTEST:

APPROVED:

Dolle K. Downe, City Secretary

Marcus E. Knight, Mayor

APPROVED AS TO FORM:

Robert E. Hager, City Attorney

LANCASTER CITY COUNCIL
Agenda Communication for
February 27, 2012

12

AG12-012

Consider an ordinance amending the Rolling Meadows Public Improvement District Five Year Service Plan, adopted by Ordinance No. 2011-08-20, as hereby amended by increasing the Rolling Meadows Public Improvement District Five Year Service Plan for fiscal year 2011/2012 by a total of \$2,988.

This request supports the City Council 2011-2012 Policy Agenda.

Goal: Healthy, Safe and Vibrant Neighborhoods

Background

On August 22, 2011, the Lancaster City Council approved the Rolling Meadows Public Improvement District (P.I.D.) Five Year Service Plan for the 2011/2012 budget year. In December 2011 the Rolling Meadows P.I.D. Board voted to hire Vision Communities Management, Inc. as the community's management company, resulting in necessary modifications to the previously approved service plan.

The Rolling Meadows Public Improvement District Board submitted a budget amendment to realign its costs as a result of hiring Vision Communities Management, Inc. The net result reduces their fund balance by \$2,988. Consent by Council approving this amendment is required.

Considerations

- **Operational** – This budget amendment is to allow Rolling Meadows Public Improvement District Board to transition the management of the community to Vision Communities Management, Inc. as its agent.
- **Legal** – A copy of the ordinance has been reviewed and approved as to form by the City Attorney.
- **Financial** – The ordinance requests the amendment of the 2011/2012 Rolling Meadows Public Improvement District Five Year Service Plan as adopted by Ordinance 2011-08-20 on August 22, 2011. This amendment seeks to increase the Management line item to \$7,800 within the Administration section. In addition the ordinance amendment will also decrease Administration Expenses by \$2,907, Community Relations Expenses by \$1,505 and Common Area Repairs/Upgrade

Expenses by \$400. All cumulative amendments to the Five Year Service Plan for fiscal year 2011/2012 total an increase of \$2,988. This additional expense will leave the 2011/2012 P.I.D. budget with a balance of \$188.

- **Public Information** - This meeting was properly noticed and is being held in accordance with the Texas Open Meetings Act.

Options/Alternatives

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

Recommendation

Staff recommends the approval of the ordinance as presented.

Attachments

- Ordinance
- Budget Amendment Request- Rolling Meadows P.I.D.
- Amended Rolling Meadows P.I.D. Five Year Service Plan

Prepared and submitted by:
Sheree Haynes, Finance Director
Opal Mauldin Robertson, City Manager

Date: February 27, 2012

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF LANCASTER, TEXAS, AMENDING THE ROLLING MEADOWS PUBLIC IMPROVEMENT DISTRICT FIVE YEAR SERVICE PLAN, ADOPTED BY ORDINANCE NO. 2011-08-20, IS HEREBY AMENDED BY INCREASING THE ROLLING MEADOWS PUBLIC IMPROVEMENT DISTRICT FIVE YEAR SERVICE PLAN BY A TOTAL OF \$2,988; PROVIDING A SAVINGS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Lancaster, Texas is a home rule city under its Charter adopted by the electorate pursuant to Article XI, Section 5 of the Texas Constitution and Chapter 9 of the Local Government Code; and

WHEREAS, the City Council of the City of Lancaster previously approved Ordinance Number 2011-08-20 on August 22, 2011, officially adopting the Rolling Meadows Public Improvement District Five-Year Service Plan; and

WHEREAS, the Rolling Meadows Public Improvement District Board approved amendments to the Five Year Service Plan to account for the contract services of Vision Communities Management, Inc., increasing the Five Year Service Plan by \$2,988.

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

SECTION 1. That the 2011-2012 Rolling Meadows Public Improvement District Five Year Service Plan, adopted by Ordinance No. 2011-08-20, is hereby amended by increasing the Five Year Service Plan in total by \$2,988.

SECTION 2. That the 2011-2012 Rolling Meadows Public Improvement District Five Year Service Plan, adopted by Ordinance No. 2011-08-20, is hereby amended, by increasing the Management line item to \$7,800 under the Administration section and by decreasing Administration Expenses by \$2,907; by decreasing Community Relations Expenses by \$1,505; by decreasing Common Area Repairs/Upgrade Expenses by \$400 and by increasing the Five Year Service Plan by \$2,988.

SECTION 3. That except as amended hereby, or as heretofore amended, the provisions of Ordinance No. 2011-08-20 shall remain in full force and effect.

SECTION 4. That should any sentence, paragraph, subdivision, clause, phrase or section of this ordinance be adjudged or held to be unconstitutional, illegal, or invalid, the same shall not affect the validity of this ordinance as a whole, or any part or provision thereof other than the part decided to be invalid, illegal or unconstitutional.

SECTION 5. That this ordinance shall take effect immediately from and after its passage as the law in such cases provides.

DULY PASSED and approved by the City Council of the City of Lancaster, Texas on this the 27th day of February 2012.

APPROVED:

Marcus E. Knight, Mayor

ATTEST:

Dolle K. Downe, City Secretary

APPROVED AS TO FORM:

Robert E. Hager, City Attorney



**ROLLING MEADOWS PUBLIC IMPROVEMENT DISTRICT
FIVE YEAR SERVICE PLAN
FY 2011-2012**



Revenue Source	2011	2012	2012	2012	2012	2013	2014	2015	2016	2017
	Actual	YTD Actual	Budget	Amendments	% Difference	Budget	Budget	Budget	Budget	Budget
Fund Balance	12,499.70	26,150.24	-	-	0.00%	188.20	376.80	564.60	752.80	941.00
Assessments	34,188.41	33,807.71	34,043.60	34,043.60	0.00%	34,044.00	34,044.00	34,044.00	34,044.00	34,044.00
Total	\$ 46,688.11	\$ 59,957.95	\$ 34,043.60	\$ 34,043.60	0.00%	\$ 34,232.20	\$ 34,420.80	\$ 34,608.60	\$ 34,796.80	\$ 34,985.00
Expenditures	2010	2011	2011	2011	2011	2012	2013	2014	2015	2016
	Actual	YTD Actual	Budget	Amendments	% Difference	Budget	Budget	Budget	Budget	Budget
Office Supplies	772.43	200.94	840.00	-	-100.00%	-	-	-	-	-
Food/Bev-Meetings/Functions	798.79	532.55	2,030.00	475.00	-76.60%	475.00	475.00	475.00	475.00	475.00
Postage	194.64	22.44	660.00	378.00	-42.73%	378.00	378.00	378.00	378.00	378.00
Landscaping	-	635.22	7,800.00	7,800.00	0.00%	7,800.00	7,800.00	7,800.00	7,800.00	7,800.00
Maint-Brick Wall	-	-	-	-	0.00%	-	-	-	-	-
Maint- Lighting/Misc	2,140.57	201.46	475.00	475.00	0.00%	475.00	475.00	475.00	475.00	475.00
Irrigation Maint & Repairs	280.15	-	900.00	900.00	0.00%	900.00	900.00	900.00	900.00	900.00
Casualty Insurance	2,458.00	-	3,300.00	3,300.00	0.00%	3,300.00	3,300.00	3,300.00	3,300.00	3,300.00
Advertising	178.40	197.30	-	-	0.00%	-	-	-	-	-
Travel & Education	-	-	600.00	-	-100.00%	-	-	-	-	-
Utilities - Electricity	1,522.17	487.28	2,400.00	2,400.00	0.00%	2,400.00	2,400.00	2,400.00	2,400.00	2,400.00
Water Purchase PID	3,079.96	1,187.27	3,340.00	3,340.00	0.00%	3,340.00	3,340.00	3,340.00	3,340.00	3,340.00
Other/Professional Services	491.94	107.44	5,292.40	11,812.40	123.20%	11,812.40	11,812.40	11,812.40	11,812.40	11,812.40
Printing	-	-	240.00	-	-100.00%	-	-	-	-	-
Contract Mowing	7,793.82	3,175.60	1,525.00	1,525.00	0.00%	1,525.00	1,525.00	1,525.00	1,525.00	1,525.00
Audit Services	-	-	-	-	0.00%	-	-	-	-	-
Computer Professional Services	-	-	-	-	0.00%	-	-	-	-	-
Attorney Services	-	-	500.00	500.00	0.00%	500.00	500.00	500.00	500.00	500.00
Filing Fees	-	-	50.00	125.00	250.00%	125.00	125.00	125.00	125.00	125.00
Newsletter	-	-	120.00	-	-100.00%	-	-	-	-	-
Storage Fees	420.00	420.00	385.00	415.00	7.79%	415.00	415.00	415.00	415.00	415.00
Dallas County Tax Coll Svcs	407.00	-	410.00	410.00	0.00%	410.00	410.00	410.00	410.00	410.00
Total	\$ 20,537.87	\$ 7,267.40	\$ 30,867.40	\$ 33,855.40	9.68%	\$ 33,855.40				
Net Gain (Loss)	26,150.24	52,790.55	3,176.20	188.20		376.80	565.40	753.20	941.40	1,129.60



BUDGET ADJUSTMENT REQUEST



PLEASE RETURN TO FINANCE DIRECTOR

Date 1/23/2012

Do not enter anything in the shaded area.

	ACCOUNT NUMBER	ACCOUNT DESCRIPTION	CURRENT BUDGET TOTAL	ADJUSTMENT AMOUNT	BUDGET TOTAL LESS ADJUSTMENT
Example:	01-0201-16-00	Supplies	1,000	(500)	500
Decrease		Less: Bad Debt	600	(600)	-
Decrease		Newsletter	120	(120)	-
Decrease		Copies	240	(240)	-
Decrease		Webhosting	240	(240)	-
Decrease		Postage	600	(222)	378
Decrease		Post Office Box	60	(60)	-
Decrease		Supplies	600	(600)	-
Decrease		Meeting Expenses	1,080	(930)	150
Decrease		Social Events/Holiday	950	(625)	325
Decrease		Donations	390	(280)	110
Decrease		Subscriptions	200	(200)	-
Decrease		Education	200	(200)	-
Decrease		Travel	200	(200)	-
Decrease		Community Improvement Projects	4,000	(400)	3,600
		subtotal	9,480	(4,917)	4,563

	ACCOUNT NUMBER	ACCOUNT DESCRIPTION	CURRENT BUDGET TOTAL	ADJUSTMENT AMOUNT	BUDGET TOTAL PLUS ADJUSTMENT
Example:	01-0201-02-00	Supplies	1,300	500	1,800
Increase		Management	-	7,800	7,800
Increase		Tax Return	50	75	125
Increase		Storage	385	30	415
Increase					-
Increase					-
Increase					-
Increase					-
		subtotal	435	7,905	8,340

TOTAL **9,915** **2,988** **12,903**

Explanation with appropriate justification and documentation attached:
 As a result of the hiring of Vision Communities Management, Inc. the Rolling Meadows Public Improvement District Board submits the indicated budget adjustments for the approved FY 2011/2012 Rolling Meadows PID budget. *Balance from their anticipated fund balance*
See attached documents and request from PID board

entered by: _____
 date: _____

Requested By: Rolling Meadows P.I.D. Board
 Department Director Approval: *N/A*
 Finance Director Approval: _____
 City Manager Approval: _____

NOTE: Please utilize one form per budget adjustment to expedite approval and processing.

**ROLLING MEADOWS HOMEOWNERS ASSOCIATION, INC.
2301 Ohio Drive, Suite 236
Plano, TX 75093**

2012 PID BUDGET REVISION RESOLUTION

The Board of Directors for Rolling Meadows Homeowners Association, Inc. resolves to adopt the attached year 2012 Revised PID Operating Budget.

EXECUTED as this 6th day of January, 2012.

Courtney Haeflinger
Signature

Courtney Haeflinger
Print Name

Treasurer
Print Title

Rolling Meadows H.O.A. Board meeting held January 05, 2012

7: oopm @ 112 Cayman Drive 75146

Present: Toni Elkins: President, Ted Darden: Vice President, Courtney Haeflinger: Treasurer, Stacey Jaglowski: Secretary, Stanley M Jaglowski: A.C.A., Kerri Kingsbery: Vision Communities, Shanea Grisby: Vision Communities...

All Rolling Meadows records, copies, files, checkbook, calculator, and office stamp were turned over to Vision Communities as per requests.

Received and reviewed proposed amended budget for 2012.

Discussed County Collection fees to be investigated to be revised.

Revised donations and bad debt: \$100.00 added for Rotary Club (Flags on Holiday's). \$350.00 for bad debt.

Vision Communities to investigate market for different insurance carrier.

Continue with one annual meeting coordinate with National Night Out time frame and Fall festivities.

Continue with "Yard of the Month" Submit selection to Shanea to Coordinate with Calloway's Nurseries.

Link to Vision Communities website operational after budget approval.

Rolling Meadows website hosting to be cancelled immediately Darden.

Create a Facebook page Like Page Darden and Stacey to create and maintain...

Informational letter to be mailed by Vision Communities to all Household of Rolling Meadows Subdivision.

Cancel current Rolling Meadows P.O. Box effective Jan 31, 2012. Fill out change of address. Stanley...

Investigate downsized storage unit. Stanley...

Proposed amended budget for 2012 was approved by all 5 Rolling Meadows Board Members

Meeting adjourned approx. 8:15pm

Rolling Meadows Homeowners Association, Inc.

ASSOCIATION MANAGEMENT AND SERVICES FOR ROLLING MEADOWS

January 12, 2012

Dear Rolling Meadows Homeowner,

Rolling Meadows Homeowners Association Board of Directors is pleased to announce the hiring of Vision Communities Management, Inc. to manage the community's association business, effective January 1st, 2012.

Vision is a "Boutique" Community Management Company specializing in providing highly personalized management services and we are committed to assisting you in protecting the property values in your community.

Vision Communities services all types and sizes of communities and Public Utility Districts in the Dallas/Ft. Worth Metroplex; in particular four other Public Utility Districts within the City of Lancaster. Kerri Kingsbery, the President and founder of Vision, has served on the Boards of the communities in which she has lived which gives her a unique perspective as a homeowner and as a management company owner.

As the community's previous website, <http://rollingmeadowshoa.org> will no longer be in service, website functions are now available to the homeowners in Rolling Meadows through the Vision Communities website, www.visioncommunitiesmgmt.com. Through this website you may:

Submit an Architectural Modification Request form - From the menu bar under "**e-forms**" you can select an automated form that allows you to submit your modification request online.

You will also find e-forms to submit a **Maintenance Request and Question Submission** and you can access your **Community Governing Documents**, just scroll down under "**Documents**".

Vision Communities staff are very pleased to have the opportunity to serve the Rolling Meadows community! Your new **Community Manager is Shanea Grisby**. You may reach her and all the Vision staff at:

Vision Communities Management, Inc.
2301 Ohio Drive #236, Plano, TX 75093
Phone: 972-612-2303
Fax: 214-237-3363
Email: shanea@visioncommunitiesmgmt.com

Visit Rolling Meadows HOA on Facebook at: Rolling Meadows HOA, Lancaster, TX

Thank you,

Vision Communities Management, Inc.
for the Rolling Meadows Board of Directors

LANCASTER CITY COUNCIL
Agenda Communication for
February 27, 2012

13

AG12-013

Discuss and consider a resolution approving the terms and conditions of an Interlocal Agreement by and between the City of Lancaster and North Central Texas Council of Governments (“NCTCOG”) and a certain marketing services agreement with Utility Service Partners Private Label, Inc. (“USP”) d/b/a Service Line Warranties of America (“SLWA”) to license the use of the City of Lancaster (“CITY”) trademark in conjunction with advertisement to the City’s residents of warranty plans for repair of water and sewer lines on residential property.

This request supports the City Council 2011-2012 Policy Agenda.

Goal: Sound Infrastructure

Background

The National League of Cities’ Service Line Warranty Program is an option that could be offered to water and sewer customers as an ‘insurance policy’ that covers the unexpected costs of sewer and water line repairs from a property owner’s structure to the City of Lancaster’s main. The National League of Cities has selected Utility Services Partners, Inc. to offer this program to their members as a value added service to citizens.

Implementing the Utility Service Partners Sewer Line Protection Program in Lancaster would require an interlocal agreement with NCTCOG (who holds the umbrella agreement with Utility Service Partners). In summary, property owners can decide to sign up for the warranty program for the water service and/or the sewer service to their property. This is a voluntary program and no property owner would be required to join. Normal rates are typically about \$5.00 per month for a water service and \$5.00 - \$6.00 per month additional to include a sewer service. The actual rates charged to City of Lancaster property owners would be determined after Utility Service Partners has negotiated rates and fees with local contractors.

A requirement for participation in this program is a clear endorsement by the City. The vendor will complete all advertisements and mailings to City of Lancaster customers. They indicate that information regarding their program is more readily accepted when it has the City endorsement. If the City moves forward with this new program, the vendor would use the City’s seal and also a statement of endorsement of their program on all correspondence. The City would retain the right to review and provide final approval for all

literature using the City's logo and name in advance. Other participating cities include Rowlett, Desoto, Duncanville, Forney and Waxahachie to name a few.

Considerations

- **Operational** - This is a request for the consideration of the attached agreement for participation in the campaign for the Utility Service Partners Sewer Line Protection Program endorsed by the National League of Cities and the North Central Texas Council of Governments (NCTCOG). Utility Service Partners would collaborate with staff for the use of City letterhead to notify our citizens of program availability, and intermittent City-initiated advertisements such as press releases and/or notifications published in the Lancaster Connection Newsletter and on the City's website. All customer mail-outs, customer billing, plumber selection, call taking, plumber dispatching, and payments to vendors remain the responsibility of Utility Service Partners. If approved by the Council, marketing and signup is anticipated to take place in the spring of 2012 and would likely be limited to water services only at that time. Marketing and signup for sanitary sewer services could occur in the fall of 2012.
- **Legal** - A copy of the resolution has been reviewed and approved as to form by the City Attorney.
- **Financial** – There is no cost to the City to provide this warranty program for our customers other than limited administrative time. Participation entitles the City to 12% of premium revenues paid to the City annually. Should the City Council choose to waive the 12% revenue-sharing option, then consumers' monthly premium costs would be reduced by 12%.
- **Public Information** - This meeting was properly noticed and is being held in accordance with the Texas Open Meetings Act.

Options/Alternatives

1. City Council may approve the agreement allowing for the remittance of the 12% royalty to the City of Lancaster.
2. City Council may approve the agreement allowing for the 12% premium reduction resulting in a discounted consumer premium.
3. City Council may reject the resolution and direct staff.

Recommendation

Should Council approve the agreement, staff recommends the declination of the 12% royalty resulting in a discounted consumer premium.

Attachments

- Resolution
- NCTCOG Interlocal Agreement
- Agreement – 12% Royalty
- Agreement – 12% Premium Reduction

Prepared and submitted by:
Opal Mauldin Robertson, City Manager

Date: February 23, 2012

RESOLUTION NO. 2012-02-26

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LANCASTER, TEXAS, APPROVING THE TERMS AND CONDITIONS OF AN INTERLOCAL AGREEMENT BY AND BETWEEN THE CITY OF LANCASTER AND NORTH CENTRAL TEXAS COUNCIL OF GOVERNMENTS (“NCTCOG”) AND A CERTAIN MARKETING SERVICES AGREEMENT WITH UTILITY SERVICE PARTNERS PRIVATE LABEL, INC. (“USP”) D/B/A SERVICE LINE WARRANTIES OF AMERICA (“SLWA”) TO LICENSE THE USE OF THE CITY OF LANCASTER, (“CITY”) TRADEMARK IN CONJUNCTION WITH ADVERTISEMENT TO THE CITY’S RESIDENTS OF WARRANTY PLANS FOR REPAIR OF WATER AND SEWER LINES ON RESIDENTIAL PROPERTY; PROVIDING FOR THE ADOPTION OF REPRESENTATIONS; PROVIDING AN EFFECTIVE DATE.

WHEREAS, residents of the City are responsible for the maintenance and repair of water and sewer service lines that are on their properties and not within the City’s right-of-way, and;

WHEREAS, water and sewer lines, on private property, can vary widely in age and condition, resulting in substantial cost to residents when there is a malfunction on residential property, and;

WHEREAS, the North Central Texas Council of Governments has introduced USP, d/b/a SLWA, as a resource for warranties of residential property owners whose water and sewer lines require repair, and;

WHEREAS, City staff recommends that the City enter into an interlocal agreement with the National League of Cities Service Line Warranty Program, which offers homeowners the opportunity for repairing broken or leaking water or sewer lines for a low monthly fee, for a period of one year, renewing on an annual basis thereafter,

NOW, THEREFORE, BE IT RESOLVED BY THE CITY OF LANCASTER, AS FOLLOWS:

SECTION 1. ADOPTION OF REPRESENTATIONS: The forgoing Whereas paragraphs are hereby ratified and confirmed as being true, and the same are hereby made a specific part of this Resolution.

SECTION 2. AUTHORITY: The City Manager is hereby authorized and directed to execute and attest, respectively, that certain Marketing Services Agreement with Utility Service Partners Private Label, Inc. d/b/a Service Line Warranties of America to license the use of the City of Lancaster’s trademark in conjunction with advertisement to the City’s residents of warranty plans for repair of water and sewer lines on residential property.

SECTION 3. EFFECTIVE DATE: This Resolution shall take effect immediately upon its final passage.

DULY PASSED and approved by the City Council of the City of Lancaster, Texas on this the 27th day of February 2012.

ATTEST:

APPROVED:

Dolle K. Downe, City Secretary

Marcus E. Knight, Mayor

APPROVED AS TO FORM:

Robert E. Hager, City Attorney

**INTERLOCAL AGREEMENT
FOR A
COOPERATIVE PROGRAM
FOR
SERVICE LINE PROTECTION PROGRAMS**

THIS INTERLOCAL AGREEMENT ("Agreement"), made and entered into pursuant to the Texas Interlocal Cooperation Act, Chapter 791, Texas Government Code (the "Act"), by and between the North Central Texas Council of Governments, hereinafter referred to as "NCTCOG," having its principal place of business at 616 Six Flags Drive, Arlington, Texas 76011, and the City of Lancaster a local government, as defined in the Act (a county, a municipality, a special district, or other political subdivision of the State of Texas), hereinafter referred to as "Participant," created and operated to provide one or more governmental functions and services, and having its principal place of business at 211 North Henry Street, Lancaster, TX 75146.

WITNESSETH

WHEREAS, NCTCOG is a regional planning commission and political subdivision of the State of Texas operating under Chapter 391, Texas Local Government Code; and

WHEREAS, NCTCOG has performed the due diligence process for a Water Service Line Protection Program for local municipalities; and

WHEREAS, pursuant to the Act, NCTCOG is authorized to contract with eligible entities to perform governmental functions and services; and

WHEREAS, in reliance on such authority, NCTCOG has a cooperative program under which it contracts with eligible entities under the Act; and

WHEREAS, Participant has represented that it is an eligible entity under the Act, that by Administrative Action has authorized this Agreement on February 27, 2012, and that it desires to contract with NCTCOG on the terms set forth below; and

WHEREAS, NCTCOG's Executive Board approved a resolution to provide these services through interlocal agreements at its January 27, 2011 board meeting;

NOW, THEREFORE, NCTCOG and the PARTICIPANT do hereby agree as follows:

ARTICLE 1: LEGAL AUTHORITY

The Participant represents and warrants to NCTCOG that (1) it is eligible to contract with NCTCOG under the Act because it is one of the following: a local government, as defined in the Act (a county, a municipality, a special district, or other political subdivision of the State of Texas) or any other state, or a combination of two or more of those entities, a state agency (an agency of the State of Texas as defined in Section 771.002 of the Texas Government Code, or a similar agency of another state), or a non-profit corporation created and operated to provide one or more governmental functions and services, and (2) it possesses adequate legal authority to enter into this Contract.

ARTICLE 2: APPLICABLE LAWS

NCTCOG and the Participant agree that this Agreement shall be governed by and subject to all applicable state and federal laws, statutes, rules and regulations in effect or promulgated during the term of this Agreement, whether or not cited herein, including the Texas Interlocal Cooperation Act, Chapter 791 of the Texas Government Code...

ARTICLE 3: WHOLE AGREEMENT

This Agreement and any attachments, as provided herein, constitute the complete contract between the parties hereto regarding the subject matter herein described, and supersede any and all prior oral and written agreements between the parties relating to the matters set forth herein.

ARTICLE 4: MASTER CONTRACT

NCTCOG AND Utility Service Partners Private Label, Inc. ("USP") have entered into a Master Contract calling for USP to provide line repair coverage to homeowners residing within the jurisdiction of the Participant for water lines and sewer lines as part of a protection program. Furthermore it is anticipated that USP will enter into Letters of Engagement with subscribing Participants outlining the services to be

February 21, 2012

Ms. Opal Mauldin
City Manager
City of Lancaster
211 North Henry Street
Lancaster, TX 75146

RE: Marketing Agreement with Utility Service Partners Private Label, Inc. d/b/a Service Line Warranties of America ("SLWA")

Dear Ms. Mauldin:

We have discussed entering into a marketing agreement between the City of Lancaster (the "City") and SLWA.

SLWA provides affordable utility service line warranties to consumers. It is SLWA's understanding that, in consideration of the License Fee (as defined below) to be paid by SLWA to City, City has agreed to cooperate with SLWA in marketing SLWA's services to City's residents and homeowners (the "Residents") as described below:

1. City hereby grants to SLWA a non-exclusive license to use City's name and logos on letterhead and marketing materials to be sent to the Residents from time to time, and to be used in advertising, all at SLWA's sole cost and expense and subject to City's prior review and approval, which will not be unreasonably conditioned, delayed, or withheld.
2. As consideration for such license, SLWA will be liable to pay to City, within 30 days of the end of the final calendar quarter, 12% of the revenue from USP warranty subscriptions collected from the Residents during such calendar year (the "License Fee"), together with a statement certifying collections of such USP revenue, so long as this marketing agreement remains in effect. City will have the right, at its expense, to conduct an annual audit, upon reasonable notice and during normal business hours, of SLWA's books and records pertaining to sales and rentals to the Residents while this marketing agreement is in effect and for one year after any termination of this marketing agreement.
3. The term of this marketing agreement will be for one year from the date of the execution of the acknowledgement below and this agreement will then renew on an annual basis unless one of the parties gives the other advance written notice of at least 90 days that it does not intend to renew this marketing agreement. City may terminate this marketing agreement 30 days after giving notice to SLWA that SLWA is in material breach of this agreement if such breach is not cured during such 30-day period. SLWA will be permitted to complete any marketing initiative initiated or planned prior to the effective date of any termination of this marketing agreement and shall pay the License Fee to the City for the calendar year in which this marketing agreement is terminated after which time, except for SLWA'S obligation to permit City to conduct an audit as described above, neither party will have any further obligations to the other and the license described in this letter will terminate.

4. SLWA shall indemnify, hold harmless, and defend City, its elected officials, appointed officials, and employees from and against any loss, claim, liability, damage, or expense that any of them may suffer, sustain or become subject to in connection with any third party claim (each a "Claim") resulting from the negligence or willfulness of SLWA in connection with, arising out of or by reason of this marketing agreement, provided that the applicable indemnitee notifies SLWA of any such Claim within a time that does not prejudice the ability of SLWA to defend against such Claim. Any indemnitee hereunder may participate in its, his, or her own defense, but will be responsible for all costs incurred, including reasonable attorneys' fees, in connection with such participation in such defense.

If City agrees that the foregoing fully and accurately describes the agreement between City and SLWA, please arrange to have a duly authorized representative of City execute and date the acknowledgement below in each of the duplicate original versions of this letter and return one to me in the enclosed self-addressed stamped envelope.

If you have any questions or wish to further discuss this marketing agreement, please do not hesitate to contact Brian Davis via email at BDavis@utilitysp.net or by phone at (214) 476-3430.

Very truly yours,

Utility Service Partners Private Label, Inc.

By: _____

Print Name: Philip E. Riley, Jr.

Title: President & CEO

By: _____

Print Name: Brad H. Carmichael

Title: Vice President

Acknowledged and Agreed:

City hereby acknowledges and agrees that the foregoing letter fairly and accurately describes the agreement between City and SLWA as of the date of this acknowledgement.

City of Lancaster, TX:

By: _____ Date: _____

Print Name: _____

Title: _____

February 21, 2012

Ms. Opal Mauldin
City Manager
City of Lancaster
211 North Henry Street
Lancaster, TX 75146

**RE: Marketing Agreement with Utility Service Partners Private Label, Inc. d/b/a
Service Line Warranties of America ("SLWA")**

Dear Ms. Mauldin:

We have discussed entering into a marketing agreement between the City of Lancaster (the "City") and SLWA.

SLWA provides affordable utility service line warranties to consumers. It is SLWA's understanding that, in consideration of SLWA offering its external sewer and external water line warranties (the "Warranties") at a 12% discount from its standard rates to the Residents (as defined below) the City has agreed to cooperate with SLWA in marketing SLWA's services to City's residents and homeowners (the "Residents") as described below:

1. City hereby grants to SLWA a non-exclusive license to use City's name and logos on letterhead and marketing materials to be sent to the Residents from time to time, and to be used in advertising, all at SLWA's sole cost and expense and subject to City's prior review and approval, which will not be unreasonably conditioned, delayed, or withheld.
2. As consideration for such license, SLWA shall offer the Warranties to the Residents at a rate that is 12% less than its standard rate for Warranties offered elsewhere.
3. The term of this marketing agreement will be for one year from the date of the execution of the acknowledgement below and this agreement will then renew on an annual basis unless one of the parties gives the other advance written notice of at least 90 days that it does not intend to renew this marketing agreement. City may terminate this marketing agreement 30 days after giving notice to SLWA that SLWA is in material breach of this agreement if such breach is not cured during such 30-day period. SLWA will be permitted to complete any marketing initiative initiated or planned prior to the effective date of any termination of this marketing agreement after which time, neither party will have any further obligations to the other and the license described in this letter will terminate.
4. SLWA shall indemnify, hold harmless, and defend City, its elected officials, appointed officials, and employees from and against any loss, claim, liability, damage, or expense that any of them may suffer, sustain or become subject to in connection with any third party claim (each a "Claim") resulting from the negligence or willfulness of SLWA in connection with, arising out of or by reason of this marketing agreement, provided that the applicable indemnitee notifies SLWA of any such Claim within a time that does not prejudice the ability of SLWA to defend against such Claim. Any indemnitee hereunder may participate in its, his, or her own defense,

but will be responsible for all costs incurred, including reasonable attorneys' fees, in connection with such participation in such defense.

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Very truly yours,

Utility Service Partners Private Label, Inc.

By: _____

Print Name: Philip E. Riley, Jr.

Title: President & CEO

By: _____

Print Name: Brad H. Carmichael

Title: Vice President

Acknowledged and Agreed:

City hereby acknowledges and agrees that the foregoing letter fairly and accurately describes the agreement between City and SLWA as of the date of this acknowledgement.

City of Lancaster, TX:

By: _____ Date: _____

Print Name: _____

Title: _____

LANCASTER CITY COUNCIL
Agenda Communication for
February 27, 2012

14

AG12-014

Consider election of a Mayor Pro Tempore.

Background

Council declared a vacancy in District 5 at a special meeting held February 20, 2012.

Section 3.06 (D) of the City Charter states that if a vacated office is that of the Mayor Pro Tem, the City Council shall elect a new Mayor Pro Tem at the next regular meeting. Section 3.05 (C) of the City Charter provides that the Mayor Pro Tem shall act as Mayor during the disability or absence of the Mayor and in this capacity shall have the rights conferred upon the Mayor.

Considerations

A Mayor Pro Tem elected at this time would serve in the role until elections for a Mayor Pro Tem and Deputy Mayor Pro Tem are made following the May 12, 2012 election as provided by Section 3.05 (C) and (D) of the City Charter.

Options/Alternatives

Council may elect a Mayor Pro Tem at this time or defer action until a later date.

Recommendation

No staff recommendation. This is a matter for Council decision.

Attachments

- Sections 3.05 and 3.06 from the City's Home Rule Charter

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

Date: February 21, 2012

- (2) have resided in their district for a minimum of one (1) year prior to the date of the election and shall reside in that district during the term of office.

In the event that a citizen's residence is changed solely as a result of an approved redistricting plan in accordance with law, the one (1) year district residency requirement shall not apply.

SECTION 3.03 Compensation

The City Council shall serve without compensation. The City Council shall be entitled to reimbursement for actual expenses incurred in the performance of official duties.

SECTION 3.04 Mayor and the City Councilmember; Qualifications; How Nominated and Elected; Official Ballot.

(A) The names of candidates for City Councilmember and Mayor shall be placed on the official ballot upon the filing of a petition, in accordance with the TEXAS ELECTION CODE, with the City Secretary stating the candidate has resided in the City of Lancaster for a period of at least one year prior to such election. If filing for a Council district, the candidate must have also resided within the district for which the candidate is filing for a period of at least one (1) year prior to such election, except as provided herein. The petition shall be signed, in addition to the candidate, by twenty-five (25) qualified voters residing within the district for which the candidate is seeking election, or in the case of the Mayor, twenty-five (25) qualified voters of the City. Upon filing, such name shall be printed upon the official ballot. The order in which the names of the candidates for City Council shall appear on the ballot shall be determined by lot, in a drawing held under the supervision of the City Secretary.

(B) If a member of the Council shall file as a candidate for nomination or election to any public office other than his current office on the City Council, such candidacy shall constitute an automatic resignation.

SECTION 3.05 Mayor, Mayor Pro-Tem and Deputy Mayor Pro-Tem

(A) The Mayor shall preside at all meetings of the City Council, and shall be recognized as head of the City government for all ceremonial purposes, and by the Governor for purposes of military law, but shall have no regular administrative duties. The Mayor may participate in the discussion of all matters coming before the City Council. The Mayor shall be entitled to vote as a member thereof on all legislative or other matters. He shall sign resolutions/ordinances and conveyances made or entered into by the City and all bonds issued under the provisions of this Charter; and such other documents that he/she may be authorized by Council or by law. The Mayor shall not have power to veto any legislative or other matter.

(B) The City Council shall elect a Mayor Pro Tem and a Deputy Mayor Pro Tem at the first meeting as provided herein.

(C) The Mayor Pro-Tem shall be a Councilmember elected by the City Council at the first regular meeting after each election of Councilmembers and/or Mayor. The Mayor Pro-Tem shall act as Mayor during the disability or absence of the Mayor, and in this capacity shall have the rights conferred upon the Mayor.

(D) The Deputy Mayor Pro-Tem shall be a Councilmember elected by the City Council at the first regular meeting after each election of Councilmembers and/or Mayor. The Deputy Mayor Pro-Tem shall act as Mayor during the disability or absence of the Mayor and Mayor Pro-Tem, and in this capacity shall have the rights conferred upon the Mayor.

SECTION 3.06 Vacancies, Forfeiture and Filling of Vacancies

(A) The office of a Councilmember or the Mayor shall become vacant upon his/her death, resignation, forfeiture of, or removal from office by any manner authorized by law.

(B) Any person on the City Council who ceases to possess the required qualifications for office or who is convicted of a felony or is convicted of violating any State laws regulating conflicts of interest of municipal officers shall forfeit his/her office. Every forfeiture shall be declared and enforced by the City Council.

(C) If there is a vacancy in the office of Mayor, a new Mayor shall be elected as provided by state law.

(D) A vacancy in the office of any Councilmember shall be filled by special election in accordance with the TEXAS ELECTION CODE. If the vacated office is that of Mayor Pro-Tem (or Deputy Mayor Pro-Tem), the City Council shall elect a new Mayor Pro-Tem (or Deputy Mayor Pro-Tem) at the next regular meeting.

(E) Vacancies filled by special election shall be for the remainder of the term that was vacated.

SECTION 3.07 Duties and Powers of the City Council

(A) The City Council shall have all powers necessary and incident to the proper discharge of the duties imposed upon it and is hereby invested with all powers necessary to carry out the terms of this Charter; it being intended that the City Council and Mayor shall have and exercise all powers enumerated in this Charter or implied thereby and all powers that are or hereafter may be granted to municipalities by this Charter, the Constitution or laws of the State of Texas.

(B) Any member of the City Council shall have the unabridged right to place an item on the agenda of a duly convened meeting of the Council; nothing contained in this Charter shall be construed to limit or circumscribe such right.

(C) During each calendar year, the City Council shall undertake one (1) annual review of the performance of the City Manager in writing. The City Manager shall be responsible for