



**NOTICE OF SPECIAL MEETING AGENDA  
LANCASTER CITY COUNCIL  
MUNICIPAL CENTER CITY COUNCIL CHAMBERS  
211 N. HENRY STREET, LANCASTER, TEXAS**

**Monday, September 16, 2013 - 7:00 PM**

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**CALL TO ORDER**

**CONSENT AGENDA:**

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

- C1. Consider approval of minutes from the City Council Regular Meeting held September 9, 2013.
- C2. Consider a resolution authorizing the award of a unit price bid (No. 2013-108) for the purchase of asphalt to Austin Asphalt.
- C3. Consider a resolution authorizing the award of bid 2013-109 for the purchase of ready mix concrete to Redi Mix Concrete as the primary vendor for the purchase of concrete mix used in repair work to City streets and sidewalks.
- C4. Consider a resolution approving the rules for the electronic receipt of bids or proposals.
- C5. Consider a resolution approving the terms and conditions of an interlocal agreement by and between the City of Lancaster and Dallas County Department of Health and Human Services to provide certain health services.
- C6. Consider a resolution approving the terms and conditions of an Interlocal Agreement by and between the City of Lancaster and Dallas County Department of Health and Human Services to provide food establishment inspections and other environmental health services.
- C7. Consider a resolution approving the terms and conditions of the Business Associate Addendum with MED3000, Inc. to satisfy certain standards and requirements of the Health Insurance Portability and Accountability Act (HIPAA).
- C8. Consider a resolution approving the terms and conditions of the Grant Agreement for the Routine Airport Maintenance Program by and between the City of Lancaster, as Airport Sponsor, and the Texas Department of Transportation, on behalf of the State of Texas; authorizing matching funds in the amount of \$50,000 at the Lancaster Regional Airport.
- C9. Consider an ordinance amending the Code of Ordinances by amending Chapter 14, Article 14.07, "Residency Restrictions For Sex Offenders," Section 14.07.002 providing offenses, and Section 14.07.003 providing for evidentiary matters; and providing a penalty of fine not to exceed five hundred dollars (\$500.00).

**ACTION:**

10. Discuss and consider appointment of council liaisons to City Boards and Commissions.

**ADJOURNMENT**

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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.

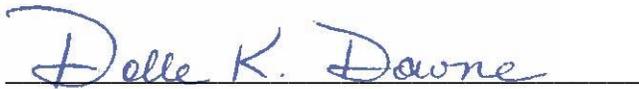
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ACCESSIBILITY STATEMENT: The Municipal Center is wheelchair-accessible. For sign interpretive services, call the City Secretary's office, 972-218-1311, or TDD 1-800-735-2989, at least 72 hours prior to the meeting. Reasonable accommodation will be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

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**Certificate**

I hereby certify the above Notice of Meeting was posted at the Lancaster City Hall on September 13, 2013 @ 11:00 a.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

September 16, 2013

Item 1

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**Consider approval of minutes from the City Council Regular Meeting held September 9, 2013.**

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### **Background**

Attached for your review and consideration are minutes from the:

- City Council Regular Meeting held September 9, 2013

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### **Submitted by:**

Dolle K. Downe, City Secretary

## MINUTES

### LANCASTER CITY COUNCIL MEETING OF SEPTEMBER 9, 2013

The City Council of the City of Lancaster, Texas, met in Regular session in the Council Chambers of City Hall on September 9, 2013 at 7:00 p.m. with a quorum present to-wit:

#### **Councilmembers Present:**

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

#### **City Staff Present:**

Opal Mauldin Robertson, City Manager  
Aretha Adams, Assistant City Manager  
Thomas Griffith, Fire Chief  
Larry Flatt, Police Chief  
Sean Johnson, Parks, Recreation and Library Director  
Dori Lee, Human Resources Director  
Ed Brady, Economic Development Director  
Susan Cluse, Interim Finance Director  
Rona Stringfellow, Managing Director Public Works / Development Services  
Jim Brewer, Assistant Director Public Works / Development Services  
Surupa Sen, Senior Planner  
Julie Doshier, Associate Attorney on behalf of City Attorney Robert Hager  
Dolle Downe, City Secretary

#### **Call to Order:**

Mayor Knight called the meeting to order at 7:00 p.m. on September 9, 2013.

#### **Invocation:**

Pastor John Richardson with Zion Chapel gave the invocation.

#### **Pledge of Allegiance:**

Mayor Pro Tem James Daniels led the pledge of allegiance.

#### **Citizens Comments:**

Aretha Adams, 211 N. Henry Street, announced two upcoming City events: Lancaster Police Chief candidate finalists "meet and greet" on Tuesday, September 10 from 5:30 - 7 p.m. at the Recreation Center and the grand opening of the Lancaster Dog Park on Saturday, September 14 from 10 a.m. to noon at City Park, 211 W. Beltline.

Thomas Allen, 200 N. Crest, stated his opposition to the zoning change [item 5] commenting that the Comp Plan has plenty of Light Industrial land to be developed that is not so near a residential area; stated that the Comp Plan is a long range plan and it makes sense to follow the plan where uses are compatible; commented that residents and developers rely on the Comp Plan for best locations to build in an orderly fashion; asked Council not to take a knee-jerk approach, saying that is not planning; stated that the trucks from this development will interfere with traffic.

Vic Buchanon, 1243 Margaret Court, said that this zoning case is similar to a family breadwinner out of work that finally gets a job offer, saying that no one wants change but it is in the best interest; stated that there is a lot of interest by companies to move south of I-20; commented that potential problems could be mitigated and the potential for jobs and revenue is important; stated that if the City does not approve this logistics center, other companies would not continue to look in Lancaster; urged Council to consider the big picture.

Jeff Melcher, 1520 Golden Grass, commented that in the agenda packet it noted that site factors such as vegetation, storm water, drainage, and tree survey would be addressed as part of the site plan approval process; expressed concerns about storm water asking if the two streams that exist on the property now will still exist after development; noted that the City of Mesquite's storm water ordinance was structured to protect its residents and comment Mr. Mike Anderson was part of that process.

Carolyn Morris, 887 Wintergreen, expressed opposition about this development less than 200 feet from her house; stated that even if the project does bring revenue and jobs, the developer will apply for incentives; stated that public transportation is needed in Lancaster and that there are job opportunities available.

Clarence Smith, 1001 Bumble Bee, stated this project is about 150 feet from his house and that he is strongly opposed; stated that the City does not even have an emergency facility in the City; stated that he has no problems with warehouses, but does not want them so close to his house; stated that residents in the area have shown what matters to them and they voted councilmembers into office; stated that the City needs retail space for shopping and a hospital.

Minnie Fisher, 1020 Bumble Bee, stated there is plenty of areas around the City zoned for warehouses and asked why this has to be so close to a residential area; urged Council not to let money drive the project.

Vashni Thelwell, 1013 Blackberry Trail, said she is opposed to this project being right out her front door; stated there would be truck fumes; commented that she works hard and owns her home and does not want this project for her or her child.

Mayor Knight read into the records those not wishing to speak but opposed to the zoning request [item #5].

Linda Gulley, 1053 Wild Horse Way, in opposition  
Tanya Thomas, 1000 Mayflowers Lane, in opposition  
Tammy Johnson, 1017 Bumble Bee, in opposition

**Consent Agenda:**

City Secretary Downe read the consent agenda.

- C1. Consider approval of minutes from the City Council Joint Work Session with the Parks and Recreation Advisory Board held July 29, 2013 and City Council Regular Meetings held August 12 and 26, 2013.**
- C2. Consider a resolution adopting the City of Lancaster financial policy providing for prudent financial management of all funds to enable the City to maintain a long term stable and positive financial condition and provide guidelines for the day-to-day planning and operation of the City's financial matters.**
- C3. Consider a resolution adopting the City of Lancaster Investment Policy providing that all funds of the City be managed and invested for safety, liquidity, diversification and yield and that investments be chosen in a manner which promotes diversity by market sector, credit and maturity; providing that this policy serves to satisfy the requirements of Chapter 2256 Public Funds Investment Act.**
- C4. Consider a resolution canceling the regular City Council meetings of September 23, 2013, November 11 and 25, 2013, and December 23, 2013; providing for a called meeting November 18, 2013.**

**MOTION:** Deputy Mayor Pro Tem Morris made a motion, seconded by Councilmember Jaglowski, to approve consent items C1 – C4. The vote was cast 7 for, 0 against.

- 5. Discuss and consider an ordinance amending the 2002 Comprehensive Plan and Future Land Use Map of the City of Lancaster, Texas, as heretofore amended, by amending the Land Use Designations on approximately 251 acres of property described as Tracts 3, 3.2, 4, 5, 5.1, 6, 7, 7.1 of Smith Elkins Survey, Abstract 430, Page 325, City of Lancaster, Dallas County, Texas, also known as being West of N. Dallas Avenue, North of Telephone Road and East of Dizzy Dean Road, located in the City of Lancaster, Texas, from Retail, Light Industrial, and Medium Density Residential to Light Industrial (LI); amending the Comprehensive Zoning Ordinance and Map of the City of Lancaster, Texas, as heretofore amended, by granting a change in zoning from Planned Development Mixed Use (PD-MU) to Planned Development Light Industrial (PD-LI) on said property; providing for development regulations; and providing for the approval of the Concept Plan.**

Senior Planner Sen provided a brief background noting that City Council conducted the public hearing on August 26, 2013 and two petitions in opposition of the project were submitted. Senior Planner provided maps illustrating the 46 properties in opposition which is 2.98% of the land area within 200 feet of the project. It was noted that there were nine properties in favor.

Senior Planner Sen stated that calculations show that neither of the petitions submitted and all opposition requests received did not meet the 20% area requirement under the Lancaster Development Code (LDC) for a super majority vote by City Council.

Councilmember Morris asked how realistic it was that a sufficient number of property owners could have met the 20% requirement. It was noted that the calculation is based on land area and not the number of people.

Senior Planner Sen provided a Land Use Table with uses that the applicant is willing to prohibit. It was noted that the applicant has indicated they are amiable to completing additional improvements including median improvements on Dallas Avenue and flower beds and landscaping.

Councilmember Strain-Burk asked about the heavy machinery and equipment use. Senior Planner Sen indicated she believes the applicant would be willing to prohibit that use. Councilmember Strain-Burk asked about noise level. Senior Planner Sen noted that the LDC will help address those concerns along with the screening buffers, masonry walls and staggered trees. Councilmember Strain-Burk asked about night sky lighting. Senior Planner Sen stated that the project calls for a type of down lighting.

Mayor Knight asked about the hours of operation for the business park. Mr. Mike Anderson [applicant] indicated that the business hours are unknown at this time.

Councilmember Jaglowski asked about a retail store use with gasoline products. It was noted that it was for more than two to twelve pumps and did exclude diesel fuel sales.

Councilmember Harris asked what the City will do to ensure that the truck traffic is not in the residential area. Director Stringfellow stated that the City has a truck route ordinance in place. City Manager Mauldin Robertson noted that truck traffic is being closely monitored and the City will enforce the ordinance.

Councilmember Strain-Burk commented on the development regulations, noting the importance of indicating "shall". Director Stringfellow noted that regarding the theme architectural standards, the regulations say "may" to keep appropriate options open to carry the theme.

Mike Anderson, 3819 Town Crossing, Mesquite, Texas, representing White Properties, stated that they are willing to exclude the heavy machinery and equipment use and fueling station use.

**MOTION:** Councilmember Mejia made a motion, seconded by Councilmember Harris, to approve an ordinance with the two excluded uses, amending the 2002 Comprehensive Plan and Future Land Use Map by amending the Land Use Designations on approximately 251 acres of property described as Tracts 3, 3.2, 4, 5, 5.1, 6, 7, 7.1 of Smith Elkins Survey, Abstract 430, Page 325, City of Lancaster, Dallas County, Texas, also known as being west of N. Dallas Avenue, north of Telephone Road and east of Dizzy Dean Road from Retail, Light Industrial, and Medium Density Residential to Light Industrial (LI); amending the Comprehensive Zoning Ordinance and Map of the City of Lancaster, Texas by granting a change in zoning from Planned Development Mixed Use (PD-MU) to Planned Development Light Industrial (PD-LI) on said property; providing for development regulations; and providing for the approval of the Concept Plan. The vote was cast 5 for, 2 against [Daniels, Morris].

Mayor Knight called for a recess at 8:02 p.m. Mayor Knight reconvened the meeting at 8:10 p.m.

6. **Consider an ordinance levying ad valorem taxes for fiscal year 2013-2014 at \$0.8675 per one hundred dollars assessed valuation of all taxable property within the corporate limits to provide revenues for current maintenance and operation expenses and interest and sinking fund requirements; providing due and delinquent dates; penalties and interest; providing a homestead exemption and disability exemption.**

City Manager Mauldin Robertson stated that the proposed fiscal year 2013-2014 ad valorem tax rate is \$0.8675 per one hundred dollars assessed valuation apportioned as \$0.6012 for the purpose of maintenance and operations and \$0.2663 for interest and sinking fund requirements.

**MOTION:** Councilmember Strain-Burk made a motion, seconded by Councilmember Jaglowski, to approve an ordinance levying ad valorem taxes for fiscal year 2013-2014 at \$0.8675 per one hundred dollars assessed valuation of all taxable property within the corporate limits to provide revenues for current maintenance and operation expenses and interest and sinking fund requirements. The roll call vote was cast 7 for, 0 against.

7. **Conduct a public hearing on the proposed Fiscal Year 2013-2014 budget and consider an ordinance approving and adopting a budget for the fiscal year beginning October 1, 2013 and ending September 30, 2014; providing that expenditures for said fiscal year shall be in accordance with said budget.**

City Manager Mauldin Robertson stated this is the second required public hearing on the proposed budget which stands at \$44,257,717 for all funds.

Mayor Knight opened the public hearing.

Carolyn Morris, 887 Wintergreen, commented she is in favor of the proposed budget and commended the City on meeting the needs of the community; noted the City should be cautious of unexpected situations which may create budgetary demands; stated that the City needs public transportation.

There were no other speakers regarding the proposed budget.

Councilmember Mejia commented that the budget contains a 3% increase for employees for cost of living which he favors. Councilmember Mejia stated further that the City does not have a lot of money to put into needed infrastructure such as streets and water lines, noting that this budget provides sufficient money for the basic maintenance and operations of the City. Councilmember Mejia stated that he would like to see more improvements to infrastructure, streets and parks.

**MOTION:** Councilmember Strain-Burk made a motion, seconded by Councilmember Mejia, to close the public hearing and approve an ordinance adopting a budget as presented for the fiscal year beginning October 1, 2013 and ending September 30, 2014. The roll call vote was cast 7 for, 0 against.

**8. Consider a resolution ratifying the budget for the fiscal year 2013-2014 that results in a decrease of revenues from property taxes than previous years.**

City Manager Mauldin Robertson noted that state law requires ratification of the budget in separate action by the City Council.

**MOTION:** Councilmember Mejia made a motion, seconded by Councilmember Strain-Burk, to approve a budget that will result in a decrease of revenue from property taxes than the previous year and to ratify a property tax revenue decrease reflected in said budget. The roll call vote was cast 7 for, 0 against.

Mayor Knight complimented and thanked staff for their work on the budget this year, noting that the budget continues to move the City slowly forward.

**9. Consider an ordinance establishing Civil Service classifications within the Police and Fire Departments; prescribing the number of positions in each classification; and providing an effective date.**

City Manager Mauldin Robertson stated that this ordinance outlines Civil Service classifications for the Fire and Police Departments as required under Civil Service law.

**MOTION:** Councilmember Mejia made a motion, seconded by Mayor Pro Tem Daniels, to approve an ordinance establishing Civil Service classifications within the Police and Fire Departments and prescribing the number of positions in each classification. The vote was cast 7 for, 0 against.

**10. Discuss and consider annual appointments to City of Lancaster boards and commissions.**

**MOTION:** Councilmember Mejia made a motion, seconded by Mayor Pro Tem Daniels, to reappoint Lawrence Prothro and Tom Barnett to the Planning and Zoning Commission. The vote was cast 5 for, 2 against [Strain-Burk, Morris]. Lawrence Prothro and Tom Barnett are reappointed to the Planning and Zoning Commission for terms expiring July 2015.

Nominated for the vacant position on Planning and Zoning Commission were: Roosevelt Nichols and Daryle Clewis. The vote was cast 4 for Mr. Nichols [Strain-Burk, Mejia, Knight, Daniels] and 2 for Mr. Clewis [Jagowski, Morris] with one abstention [Harris]. Mr. Nichols is appointed to the Planning and Zoning Commission for a term expiring July 2015.

**MOTION:** Councilmember Mejia made a motion, seconded by Councilmember Jaglowski, to reappoint Tim Fagan, Dean Byers and John Stewart to the Airport Advisory Board for terms expiring July 2015. The vote was cast 7 for, 0 against.

**MOTION:** Councilmember Strain-Burk made a motion, seconded by Mayor Pro Tem Daniels, to appoint James Knight to the alternate position on the Airport Advisory Board for a term ending July 2014. The vote was cast 7 for, 0 against.

**MOTION:** Councilmember Strain-Burk made a motion, seconded by Mayor Pro Tem Daniels, to reappoint Cassandra Andrews and appoint Donna Lee from the alternate position to the vacant regular position on the Property Standards and Appeals Board for terms expiring July 2015. The vote was cast 7 for, 0 against.

**MOTION:** Councilmember Jaglowski made a motion, seconded by Councilmember Strain-Burk, to appoint Don McCoo to the alternate position on the Property Standards and Appeals Board for a term to expire July 2014. The vote was cast 7 for, 0 against.

**MOTION:** Councilmember Strain-Burk made a motion, seconded by Deputy Mayor Pro Tem Morris, to reappoint Darwin Isham, Abe Cooper and Mary Sykes to regular positions on the Parks & Recreation Advisory / Recreational Development Corporation Board for terms expiring July 2015 and reappoint Donald May to the alternate position for a term expiring July 2014. The vote was cast 7 for, 0 against.

**MOTION:** Councilmember Mejia made a motion, seconded by Councilmember Jaglowski, to reappoint Ric Peterson and Sandi Collier to the Economic Development Corporation for terms expiring in July 2016. The vote was cast 7 for, 0 against.

**MOTION:** Mayor Pro Tem Daniels made a motion, seconded by Councilmember Jaglowski to reappoint Latoya Browning and Valencia Stimage to regular positions on the Library Advisory Board and appoint Marcus Slaughter from the alternate position to the vacant regular position for terms expiring July 2015. The vote was cast 7 for, 0 against.

Nominations were made for the vacant Library Advisory Board regular position for a term expiring July 2014 as follows: Angela McCowan, Tiffany Devereaux and Daryle Clewis. The vote was cast 5 for Ms. McCowan and 2 against [Jaglowski, Morris].

Nominations were made for the vacant Library Advisory Board alternate position for a term expiring July 2014 as follows: Tiffany Devereaux and Daryle Clewis. The vote was cast 5 for Ms. Devereaux and 2 for Mr. Clewis [Strain-Burk, Morris].

**MOTION:** Councilmember Strain-Burk made a motion, seconded by Councilmember Jaglowski, to appoint Dr. Jean Eye [veterinary position] to the Animal Shelter Advisory Committee for a term expiring July 2015. The vote was cast 7 for, 0 against.

**MOTION:** Councilmember Jaglowski made a motion, seconded by Mayor Pro Tem Daniels, to reappoint Mark Wilson [animal welfare] to the Animal Shelter Advisory Committee for a term expiring July 2015. The vote was cast 7 for, 0 against.

**MOTION:** Councilmember Strain-Burk made a motion, seconded by Councilmember Mejia, to appoint Stacey Jaglowski from the alternate to the regular position on the Animal Shelter Advisory Committee with a term expiring July 2015. The vote was cast 6 for, 0 against [Stanley Jaglowski abstained].

**MOTION:** Councilmember Strain-Burk made a motion, seconded by Councilmember Jaglowski, to appoint Joe Johnson as the alternate on the Animal Shelter Advisory Committee with a term expiring July 2014. The vote was cast 7 for, 0 against.

Below is a recap of the 2013 appointments.

	<u>Term Expires</u>	
<u>Planning &amp; Zoning Commission</u>		
Lawrence Prothro	2015	reappointment, regular position
Tom Barnett Jr.	2015	reappointment, regular position
Roosevelt Nichols	2015	new appointment, regular position
<u>Airport Advisory Board</u>		
Tim Fagan	2015	reappointment, regular position
Dean Byers	2015	reappointment, regular position
John Steward	2015	reappointment, regular position
James Knight	2014	new appointment, alternate position
<u>Property Standards and Appeals Board</u>		
Cassandra Andrews	2015	reappointment, regular position
Donna Lee	2015	reappointment, regular position (from alter to reg)
Don McCoo	2014	new appointment, alternate position
<u>Parks and Recreation Advisory Board / Lancaster Recreational Development Corp.</u>		
Darwin Isham	2015	reappointment, regular position
Abe Cooper	2015	reappointment, regular position
Mary Sykes	2015	reappointment, regular position
Donald May	2014	reappointment, alternate position
<u>Economic Development Corp. (3 year term)</u>		
Ric Peterson	2016	reappointment, regular position
Sandi Collier	2016	reappointment, regular position
<u>Library Advisory Board</u>		
Latoya Browning	2015	reappointment, regular position
Valencia Stimage	2015	reappointment, regular position
Marcus Slaughter	2015	reappointment, regular position (from alter to reg)
Angela McCowan	2014	new appointment, regular position (unexpired term)
Tiffany Devereaux	2014	new appointment, alternate position

Animal Shelter Advisory Committee

Dr. Jean Eye	2015	new appointment, regular position
Mark Wilson	2015	reappointment, regular position
Stacey Jaglowski	2015	reappointment, regular position (from alter to reg)
Joe Johnson	2014	new appointment, alternate

**11. Consider confirmation of nominations made by the Mayor for appointment to the City of Lancaster Zoning Board of Adjustment.**

Mayor Knight nominated the following for reappointment to the Zoning Board of Adjustment.

Deborah Taylor, reappointment, term expires July 2015  
Kimest Sanders, reappointment, term expires July 2015  
Margaret Brooks, reappointment, term expires July 2015  
Edward Sutton, reappointment, alternate position, terms expires July 2014

**MOTION:** Councilmember Strain-Burk made a motion, seconded by Mayor Pro Tem Daniels, to confirm appointments to the Zoning Board of Adjustment as made by Mayor Knight. The vote was cast 7 for, 0 against.

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

The meeting was adjourned at 8:37 p.m.

**ATTEST:**

**APPROVED:**

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

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

# LANCASTER CITY COUNCIL

## Agenda Communication

September 16, 2013

Item 2

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**Consider a resolution authorizing the award of a unit price bid (No. 2013-108) for the purchase of asphalt to Austin Asphalt.**

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This request supports the City Council 2012-2013 Policy Agenda.

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

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### **Background**

The City purchases quantities of asphalt to facilitate the repairs to streets, alleys, and curbs. It is expedient to contract with local reliable premix asphalt companies to deliver materials on schedule to locations needing repair/replacement of asphalt.

The asphalt to be purchased from this contract will be used for maintenance and repairs to the City's street infrastructure.

### **Considerations**

- **Operational** – The contract will be administrated by Public Works and Development Services - Streets and Storm Water Division and Purchasing Department. Companies will be notified of award of contract. Contract starting date and length of contract is included in bid process. Purchases will be made through the Purchase Order process.
- **Legal** – The resolution has been reviewed and approved as to form by the City Attorney.

The bid was processed in accordance with all local and state purchasing statutes. One bid was received and the vendor is not a certified MWBE. The contract is for one year and should be awarded by the unit price. The total amount of the award is estimated and the actual expenditures may vary depending on actual needs. The price per unit will not change.

- **Financial** – Funding is available in the Street Division budget. Expenditures will not exceed funds appropriated and funds will be committed at issuance of the purchase order.
- **Public Information** – Bids were posted on the City's electronic procurement system and advertised in the Focus Daily News on August 2 and 9, 2013. Bids were publically opened on August 23, 2013.

**Options/Alternatives**

1. City Council may approve the resolution as presented.
2. City Council may deny the resolution.

**Recommendation**

Staff recommends approval of the resolution as presented.

**Attachments**

- Resolution
  - Tab Sheet
- 

**Submitted by:**

Allen Carsner, Streets and Stormwater Superintendent  
Dawn Berry, Purchasing Agent

RESOLUTION NO. \_\_\_\_\_

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LANCASTER, TEXAS, AUTHORIZING THE AWARD OF A UNIT PRICE BID (NO. 2013-108) FOR THE PURCHASE OF ASPHALT TO AUSTIN ASPHALT; PROVIDING A REPEALING CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, it is necessary to make repairs to the streets, alleys and sidewalks throughout the City; and

**WHEREAS**, the City Council of the City of Lancaster desires to purchase asphalt for repairs and maintenance of the City's infrastructure.

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

**SECTION 1.** The City Council hereby authorizes the award of a unit price bid (No. 2013-108) to Austin Asphalt. Unit prices are attached hereby as Exhibit A (Tab Sheet).

**SECTION 2.** The City Manager or designee is authorized to issue appropriate purchase orders.

**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.** The 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 16<sup>th</sup> day of September 2013.

**ATTEST:**

**APPROVED:**

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

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

**APPROVED AS TO FORM:**

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

Specification Responses

Line	Description	Austin Asphalt
1.1	TYPE "B" ASHPALT, FINE GRADED BASE COURSE, PRICE PER TON FOR PICK UP, SPEC #340.4	\$47.00
1.2	TYPE "D" ASHPALT, FINE GRADED BASE COURSE, PRICE PER TON FOR PICK UP, SPEC #340.4 **BIN 3 NO ROCKS LARGER THAN 3/8".	\$49.50
1.3	ALTERNATE - DELIVERED  TYPE "B" ASHPALT, FINE GRADED BASE COURSE, SPEC #340.4	\$55.00
1.4	ALTERNATE - DELIVERED  TYPE "D" ASHPALT, FINE GRADED BASE COURSE, SPEC #340.4 **BIN 3 NO ROCKS LARGER THAN 3/8".	\$57.00

# LANCASTER CITY COUNCIL

## Agenda Communication

September 16, 2013

Item 3

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**Consider a resolution authorizing the award of bid 2013-109 for the purchase of ready mix concrete to Redi Mix Concrete as the primary vendor for the purchase of concrete mix used in repair work to City streets and sidewalks.**

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**This request supports the City Council 2012-2013 Policy Agenda.**

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

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### **Background**

The City has to purchase quantities of materials including concrete mix to facilitate the repairs to concrete streets, alleys, and curbs. Staff finds it expedient to contract with a local reliable premix concrete company to deliver materials on schedule to locations needing repair/replacement of concrete.

The concrete to be purchased from this contract will be used by the Streets and Stormwater Division for daily maintenance and repairs to the City's street infrastructure.

### **Considerations**

- **Operational** – The contract will be administrated by Public Works and Development Services Department, Streets and Stormwater Division and Purchasing Department. Companies will be notified of the award of contract. Contract starting date and length of contract is included in the bid process. Purchases will be made through the Purchase Order process of the City of Lancaster.
- **Legal** – The bid was processed in accordance with all local and state purchasing statutes. Three bids were received and one vendor is a certified MWBE. The contract is for one year and should be awarded by the unit price. The total amount of the award is estimated, and the actual expenditures may vary depending on actual needs. The price per unit will not change.
- **Financial** – Funding is available in the Street Division budget. Expenditures will not exceed funds appropriated and funds will be committed at issuance of the purchase order.

- **Public Information** – Bids were posted on the City’s electronic procurement system and advertised in the Focus Daily News on August 2 and 9, 2013. Bids were publically opened on August 23, 2013.

**Options/Alternatives**

1. City Council may award the bid.
2. City Council may reject the bid and direct staff.

**Recommendation**

Staff recommends awarding the bid to the lowest responsible bidder as presented.

**Attachments**

Resolution  
Tab Sheet

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**Submitted by:**

Allen Carsner, Streets and Stormwater Superintendent  
Dawn Berry, Purchasing Agent

RESOLUTION NO. \_\_\_\_\_

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LANCASTER, TEXAS, AUTHORIZING THE AWARD OF A UNIT PRICE BID (2013-109) FOR THE PURCHASE OF READY-MIX CONCRETE TO REDI-MIX CONCRETE AS THE PRIMARY VENDOR TO THE CITY OF LANCASTER FOR THE PURCHASE OF CONCRETE MIX USED IN THE REPAIR WORK TO STREETS AND SIDEWALKS, AS LISTED IN THE AGREEMENTS; AUTHORIZING THE CITY MANAGER TO EXECUTE SAID AGREEMENTS; PROVIDING A REPEALING CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, it is necessary to make repairs to the streets, alleys and sidewalks throughout the city; and

**WHEREAS**, the City Council of the City of Lancaster desires to purchase concrete for repairs and maintenance of the City's infrastructure.

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

- SECTION 1.** The City Council hereby authorizes the award of a unit price bid (2013-109) to Redi-Mix Concrete as the primary vendor. Unit prices are attached hereto by reference as Exhibit A (Tab Sheet).
- SECTION 2.** The City Manager or designee is authorized to issue appropriate purchase orders.
- 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.** The 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 16<sup>th</sup> day of September 2013.

**ATTEST:**

**APPROVED:**

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

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

**APPROVED AS TO FORM:**

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

**Bid Request Number**

<u>Specification Responses</u>		<u>Redi-Mix Concrete</u>	<u>United Procurement</u>	<u>LEMCO Construction Services</u>
<u>Line</u>	<u>Description</u>	<u>Unit</u>	<u>Unit</u>	<u>Unit</u>
1.1	4000 PSI - Minimum of 6 sacks of cement per cubic yard which will develop a compressing strength of 4,000 pounds per square inch in twenty eight (28) days. Must be mixed at plant.	\$88.00	\$99.44	\$120.00
1.2	4500 PSI - Minimum of 6 1/2 sacks of cement per cubic yard, which will develop a compressing strength of 4,500 pounds per square inch in twenty eight (28) days. Must be mixed at plant.	\$90.50	\$102.12	\$140.00
1.3	5000 PSI - Minimum of 7 sacks of cement per cubic yard, which will develop a compressing strength of 5000 pounds per square inch in twenty eight (28) days. Must be mixed at plant.	\$93.00	\$105.00	\$150.00

# LANCASTER CITY COUNCIL

## Agenda Communication

September 16, 2013

Item 4

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**Consider a resolution approving the rules for the electronic receipt of bids or proposals.**

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**This request supports the City Council 2012-2013 Policy Agenda.**

**Goal: Financially Sound City Government**

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### **Background**

Chapter 252, Section 252.0415 of the Texas Local Government Code provides authority for cities to receive bids or proposals through electronic transmission. The governing body of the municipality is required to adopt rules to ensure the identification, security, and confidentiality of electronic bids or proposals and to ensure that the electronic bids or proposals remain effectively unopened until the proper time.

### **Considerations**

- **Operational** – The City of Lancaster can receive bids and proposals through our E-Procurement system. Receipt through this manner can be more cost effective for vendors participating in the process. This will not require any operational changes or requirements.
- **Legal** – The resolution has been reviewed and approved as to form by the City Attorney.
- **Financial** – There are no costs associated with approving the rules.
- **Public Information** – The item is considered at a meeting of the City Council noticed in accordance with the Texas Open Meetings Act.

### **Options/Alternatives**

1. City Council may approve the rules as presented.
2. City Council may reject the rules.

### **Recommendation**

Staff recommends approval of the resolution as presented.

**Attachments**

- Resolution
  - Rules
- 

**Prepared and submitted by:**  
Dawn Berry, Purchasing Agent

**RESOLUTION NO. \_\_\_\_\_**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LANCASTER, TEXAS,  
APPROVING RULES FOR THE ELECTRONIC RECEIPT OF BIDS OR PROPOSALS,  
AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, Chapter 252, Section 252.0415 (a) of the Texas Local Government Code provides authority for a municipality to receive bids or proposals through electronic transmission; and

**WHEREAS**, prior to receiving bids or proposals through electronic transmission, the Local Government Code requires the governing body of the municipality to adopt rules ensuring the identification, security, and confidentiality of electronic bids or proposals; and

**WHEREAS**, said rules must further ensure that the electronic bids or proposals remain effectively unopened until the proper time.

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

**Section 1:** The City Council of the City of Lancaster, Texas, in accordance with the Texas Local Government Code 252.0415 hereby approves the rules ensuring the identification, security, and confidentiality of electronic bids or proposals and further ensuring that the electronic bids or proposals remain effectively unopened until the proper time.

**Section 2:** Rules are proposed and attached hereto as Exhibit "A".

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

**Section 3:** 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 16<sup>th</sup> day of September, 2013.

**ATTEST:**

**APPROVED:**

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

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

**APPROVED AS TO FORM:**

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

**City of Lancaster****RULES FOR THE  
ELECTRONIC RECEIPT OF BIDS OR PROPOSALS**

Pursuant to the Texas Local Government Code, Chapter 252, Section 252.0415 “Procedures for Electronic Bids or Proposals,” the City of Lancaster adopts the following rules to ensure the identification, security, and confidentiality of electronic bids or proposals and to ensure that the electronic bids or proposals remain effectively unopened until the proper time.

1. Users of the system shall be assigned a unique user name and password.
2. Access to the system by authorized users shall be logged and tracked in order to record when any user has accessed the system, and what data the user accessed.
3. Transmittal of data through the internet shall be encrypted using SSL technology. All sensitive data within the system shall be encrypted using the Advanced Encryption Standard algorithm (AES), or better.
4. All data shall be encrypted using a time-sensitive mechanism that allows the data to be decrypted only after the due date and time.
5. The system shall be synchronized to two or more atomic clocks to ensure exact recording of the due date and time, and the receipt of date and time, of each submission.
6. Neither vendor identities nor the contents of submissions are available during the bidding process.
7. On the the City’s Purchasing Agent or the agent’s designee, with an authorized password, and only at the established due date and time, can request that the bid/proposal be opened.
8. The Town will determine when and what information is released to the public pursuant to Texas Law.

The Purchasing Agent is responsible for ensuring that any system used for the electronic receipt of bids or proposals with an estimated value of more than \$50,000, or as defined by current State law, complies with the aforementioned rules.

# LANCASTER CITY COUNCIL

## Agenda Communication

September 16, 2013

Item 5

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**Consider a resolution approving the terms and conditions of an interlocal agreement by and between the City of Lancaster and Dallas County Department of Health and Human Services to provide certain health services.**

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**This request supports the City Council 2012-2013 Policy Agenda.**

**Goal: Financially Sound City Government**

---

### **Background**

Annually the City of Lancaster has contracted with Dallas County Health and Human Services in order to provide certain public health programs for citizens of Lancaster. These health services include: Control Services for tuberculosis, sexually transmitted diseases and other communicable diseases; Laboratory Services (chemical, biological, bacteriological analysis); immunizations; child health care; high risk infant case management; and home visits.

Dallas County provides certain health services to various cities throughout Dallas County on a contract for services basis. This cooperative effort allows cities in Dallas County to participate in providing public health services for their residents, which helps promote the effectiveness of local public health programs.

### **Considerations**

- **Operational** – Dallas County Health and Human Services provides program health services such as immunizations, child health care, and control services for communicable diseases for Lancaster residents at various locations throughout Dallas County on a sliding fee based on ability to pay. Fees charged for services by the County help offset Lancaster's program costs for next year.
- **Legal** – The agreement is unchanged from last year and has been previously reviewed by the City Attorney.
- **Financial** - The FY 2013-2014 contract is the same as last year. There is not an increase in fees for services. The cost as stated in Section 3(C) of the contract is \$12,106. This is the amount of the City's share of the total cost less federal and state funding. The City has budgeted for these services in the FY 2013-2014 budget.
- **Public Information** - There are no public information requirements.

**Options/Alternatives**

1. City Council may approve the interlocal agreement for health services for its residents through Dallas County Health and Human Services.
2. City Council may reject the interlocal agreement for resident health services. This would leave residents without access to these health services.

**Recommendation**

Staff recommends approval of the resolution and interlocal agreement as presented.

**Attachments**

- Resolution
  - Dallas County Health and Human Services Interlocal Agreement
- 

**Submitted by:**

Dolle K. Downe, City Secretary

**RESOLUTION NO. 2013**

**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, TEXAS, AND DALLAS COUNTY DEPARTMENT OF HEALTH AND HUMAN SERVICES TO PROVIDE CERTAIN HEALTH SERVICES; AUTHORIZING ITS EXECUTION BY THE CITY MANAGER; REPEALING ALL RESOLUTIONS IN CONFLICT; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, Dallas County Health and Human Services has offered to provide certain health services to cities throughout the County on a contract for services basis; and

**WHEREAS**, the City of Lancaster desires to participate with Dallas County in establishing coordinated health services for its residents and all of Dallas County; and

**WHEREAS**, Dallas County will operate certain health services for the residents of the City in order to promote the effectiveness of local public health programs;

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

**SECTION 1.** That the Dallas County Health and Human Services Interlocal Agreement for Fiscal Year 2014, 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 of the City of Lancaster, Texas, is hereby authorized to execute said agreement.

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

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

**SECTION 5.** That 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 16<sup>th</sup> day of September 2013.

**ATTEST:**

**APPROVED:**

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

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

**APPROVED AS TO FORM:**

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



and tests on which are based diagnosis of disease, effectiveness of treatment, the quality of the environment, the safety of substance for human consumption, and the control of communicable disease.

B. County agrees to provide to City, in accordance with state and federal law, the following public health services:

- 1) Immunizations;
- 2) Child health care;
- 3) High risk infant case management; and
- 4) Home visits.

County also agrees to work with City in order to decentralize clinics and to plan and provide for desired services by City; however, any other services that City requires, in addition to the above mentioned services, may result in additional fees to City.

C. County agrees to charge a sliding fee based on ability to pay to all residents of every municipality, including City, in Dallas County. The fees charged by County for the services listed in Section 2A of this Agreement will be used to offset the City's Program costs for the next Agreement Term. A schedule of fees to be charged by County is set out in Exhibit A, attached and incorporated herein by reference for all purposes.

D. County agrees that the level of service provided in the Program for City will not be diminished below the level of service provided to City for the same services in the prior Agreement Term except as indicated in Section 2E of this Agreement. For purposes of Section 2E, level of service is measured by the number of patient visits and number of specimens examined. County will submit to City a monthly statement, which will also include the number of patient visits and number of specimens examined during the preceding month.

The possibility exists of reductions in state and federal funding to the Program that could result in curtailment of services if not subsidized at the local level. County will notify City in writing of any amount of reduction, and any extent to which services will be curtailed as a result. The notice will also include an amount that City may elect to pay to maintain the original level of services. City will notify County in writing no later than fourteen (14) calendar days after the date of City's receipt of the notice of funding reduction as to City's decision to pay the requested amount or to accept the curtailment of service. If City elects to pay the requested amount, payment is due no later than forty-five (45) calendar days after the date of the notice of funding reduction.

### **3. BUDGET**

- A. County agrees to submit to City by July 31st of each year a proposed budget describing the proposed level of services for the next Agreement Term;
- B. For the Term of this Agreement, County agrees to provide the services listed in Section 2 of this Agreement at the level of services and for the amount stated in Exhibit D, which is

attached and incorporated herein by reference for all purposes;

- C. Payment. City shall pay County the following amount, as stated in Exhibit D, Twelve thousand one hundred six and 00/100 Dollars (\$12,106.00), which is the agreed upon amount for City's share of the total cost of the Program less federal and state funding.
- D. In lieu of paying the actual dollar amount stated in this Agreement, City has the option, to the extent authorized by law, ordinances or policy, of making a request to negotiate for in-kind services that are equal in value to the total amount.
- E. This Agreement is contingent upon City's appropriation of funds, or ability to perform in-kind services as described in Section 3D of this Agreement, for the services set forth herein. In the event City fails to appropriate such funds, or provide in-kind services, County shall not incur any obligations under this Agreement.

#### **4. ASSURANCES**

- A. County shall operate and supervise the Program.
- B. Nothing in this Agreement shall be construed to restrict the authority of City over its health programs or environmental health programs or to limit the operations or services of those programs.
- C. City agrees to provide to County or assist County in procuring adequate facilities to be used for the services under this Agreement. These facilities must have adequate space, waiting areas, heating, air conditioning, lighting, and telephones. None of the costs and maintenance expenses associated with these facilities shall be the responsibility of County and County shall not be liable to City or any third party for the condition of the facilities, including any premises defects.
- D. City agrees that these facilities will be publicly accessible to the extent required under the Americans with Disabilities Act of 1990, as amended, and related state and municipal laws and regulations.
- E. City and County agree that other cities/towns/municipalities may join the Program by entering into an agreement with County that contains the same basic terms and conditions as this Agreement.
- F. Each party paying for the performance of governmental functions or services under this Agreement must make those payments from current revenues available to the paying party.

#### **5. FINANCING OF SERVICES**

- A. The health services provided under this Agreement will be financed as follows:
  - 1) City and County will make available to the Program all appropriate federal and state funds, personnel, and equipment to provide the health services included under this

Agreement and will use best efforts to cause these funds and resources to continue to increase.

- 2) City shall pay to County, or provide in-kind services, its share of budgeted costs that are in excess of the federal and state funding for providing the health services under this Agreement. Budgeted costs shall not exceed those reflected in Exhibits B, C and D for the appropriate Agreement Term.
- B. County shall bill City each month an amount equal to one-twelfth (1/12) of its share of annual budgeted costs that exceed federal and state funding for the expenses of the preceding month.
  - C. Any payment not made within thirty (30) calendar days of its due date shall bear interest in accordance with Chapter 2251 of the Texas Government Code.
  - D. City and County agree that no more than ten percent (10%) of the City's cost of participating in the Program will be used for administration of the Program.

## 6. TERM

The Term of this Agreement shall be effective from October 1, 2013 through September 30, 2014, unless otherwise stated in this Agreement.

## 7. TERMINATION

- A. Without Cause: This Agreement may be terminated in writing, without cause, by either party upon thirty (30) calendar days prior written notice to the other party.
- B. With Cause: Either party may terminate the Agreement immediately, in whole or in part, at its sole discretion, by written notice to the other party, for the following reasons:
  - 1) Lack of, or reduction in, funding or resources;
  - 2) Non-performance;
  - 3) The improper, misuse or inept/inefficient use of funds or resources directly related to this Agreement;
  - 4) The submission of data, statements and/or reports that is incorrect, incomplete and/or false in any way.

## 8. RESPONSIBILITY

**County and City agree that each shall be responsible for its own negligent acts or omissions or other tortious conduct in the course of performance of this Agreement, without waiving any governmental immunity available to County or City or their respective officials, officers, employees, or agents under Texas or other law and without waiving any available defenses under Texas or other 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.

## 9. INSURANCE

City and County agree that they will, at all times during the Term of this Agreement, maintain in full force and effect insurance or self-insurance to the extent permitted by applicable laws. City and County will be responsible for their respective costs of such insurance, any and all deductible amounts in any policy and any denials of coverage made by their respective insurers.

## 10. ACCESS TO RECORDS RELEVANT TO PROGRAM

City and County agree to provide to the other upon request, copies of the books and records relating to the Program. City and County further agree to give City and County health officials access to all Program activities. Both City and County agree to adhere to all applicable confidentiality provisions, including those relating to Human Immunodeficiency Virus (HIV) and Sexually Transmitted Disease (STD) information, as mandated by federal and State law, as well as by DSHS.

## 11. NOTICE

Any notice to be given under this Agreement shall be deemed to have been given if reduced to writing and delivered in person by a reputable courier service or mailed by Registered Mail, postage pre-paid, to the party who is to receive such notice, demand or request at the addresses set forth below. Such notice, demand or request shall be deemed to have been given, if by courier, at the time of delivery, or if by mail, three (3) business days subsequent to the deposit of the notice in the United States mail in accordance herewith. The names and addresses of the parties' hereto to whom notice is to be sent are as follows:

**Zachary Thompson, Director**

Dallas County Health & Human Services  
2377 N. Stemmons Freeway, LB 12  
Dallas, TX 75207-2710

\_\_\_\_\_  
City of Lancaster  
P.O. Box 940  
Lancaster, TX 75146

## 12. IMMUNITY

**This Agreement is expressly made subject to County's and City's Governmental Immunity, including, without limitation, Title 5 of the Texas Civil Practices and Remedies Code, and all applicable federal and state laws. The parties expressly agree that no provision of this Agreement is in any way intended to constitute a waiver of any immunities from suit or from liability, or a waiver of any tort limitation, that City or County has by operation of law or otherwise. Nothing in this Agreement is intended to benefit any third party beneficiary.**

## 13. COMPLIANCE WITH LAWS AND VENUE

In providing services required by this Agreement, City and County must observe and comply with all licenses, legal certifications, or inspections required for the services, facilities, equipment, or materials, and all applicable federal, State, and local statutes, ordinances, rules, and regulations. Texas law shall govern this Agreement and exclusive venue shall lie in Dallas County, Texas.

#### **14. AMENDMENTS AND CHANGES IN THE LAW**

No modification, amendment, novation, renewal or other alteration of this Agreement shall be effective unless mutually agreed upon in writing and executed by the parties hereto. Any alteration, addition or deletion to the terms of this Agreement which are required by changes in federal or State law are automatically incorporated herein without written amendment to this Agreement and shall be effective on the date designated by said law.

#### **15. ENTIRE AGREEMENT**

This Agreement, including all Exhibits and attachments, constitutes the entire agreement between the parties hereto and supersedes any other agreements concerning the subject matter of this transaction, whether oral or written.

#### **16. BINDING EFFECT**

This Agreement and the respective rights and obligations of the parties hereto shall inure to the benefit and be binding upon the successors and assigns of the parties hereto, as well as the parties themselves.

#### **17. GOVERNMENT FUNDED PROJECT**

If this Agreement is funded in part by either the State of Texas or the federal government, County and City agree to timely comply without additional cost or expense to the other party, unless otherwise specified herein, to any statute, rule, regulation, grant, contract provision or other State or federal law, rule, regulation, or other similar restriction that imposes additional or greater requirements than stated herein and that is directly applicable to the services rendered under the terms of this Agreement.

#### **18. DEFAULT/ CUMULATIVE RIGHTS/ MITIGATION**

In the event of a default by either party, it is not a waiver of default if the non-defaulting party fails to immediately declare a default or delays in taking any action. The rights and remedies provided by this Agreement are cumulative, and either party's use of any right or remedy will not preclude or waive its right to use any other remedy. These rights and remedies are in addition to any other rights the parties may have by law, statute, ordinance or otherwise. Both parties have a duty to mitigate damages.

#### **19. FISCAL FUNDING CLAUSE**

Notwithstanding any provisions contained herein, the obligations of County and City under this Agreement are expressly contingent upon the availability of funding for each item and obligation contained herein for the Term of the Agreement and any extensions thereto. City and County shall have no right of action against the other party in the event the other party is unable to fulfill its obligations under this Agreement as a result of lack of sufficient funding for any item or obligation from any source utilized to fund this Agreement or failure to budget or authorize funding for this

Agreement during the current or future Agreement Terms. In the event that County or City is unable to fulfill its obligations under this Agreement as a result of lack of sufficient funding, or if funds become unavailable, each party, at its sole discretion, may provide funds from a separate source or may terminate this Agreement by written notice to the other party at the earliest possible time.

## **20. COUNTERPARTS, NUMBER, GENDER AND HEADINGS**

This Agreement may be executed in multiple counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same instrument. Words of any gender used in this Agreement shall be held and construed to include any other gender. Any words in the singular shall include the plural and vice versa, unless the context clearly requires otherwise. Headings herein are for the convenience of reference only and shall not be considered in any interpretation of this Agreement.

## **21. PREVENTION OF FRAUD AND ABUSE**

City and County shall establish, maintain and utilize internal management procedures sufficient to provide for the proper, effective management of all activities funded under this Agreement. Any known or suspected incident of fraud or program abuse involving County or City's employees or agents shall be reported immediately for appropriate action. Moreover, City and County warrant to be not listed on a local, county, State or federal consolidated list of debarred, suspended and ineligible contractors and grantees. City and County agree that every person who, as part of their employment, receives, disburses, handles or has access to funds collected pursuant to this Agreement does not participate in accounting or operating functions that would permit them to conceal accounting records and the misuse of said funds. Each party shall, upon notice by the other party, refund their respective expenditures that are contrary to this Agreement.

## **22. AGENCY / INDEPENDENT CONTRACTOR**

County and City agree that the terms and conditions of this Agreement do not constitute the creation of a separate legal entity or the creation of legal responsibilities of either party other than under the terms of this Agreement. County and City are and shall be acting as independent contractors under this Agreement; accordingly, nothing contained in this Agreement shall be construed as establishing a master/servant, employer/employee, partnership, joint venture, or joint enterprise relationship between County and City. City and County are responsible for their own acts, forbearance, negligence and deeds, and for those of their respective officials, agents or employees in conjunction with the performance of work covered under this Agreement.

## **23. SEVERABILITY**

If any provision of this Agreement is construed to be illegal or invalid, this will not affect the legality or validity of any of the other provisions in this Agreement. 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.

## **24. SIGNATORY WARRANTY**

Each person signing and executing this Agreement does hereby warrant and represent that such person has been duly authorized to execute this Agreement on behalf of City or County, as the case may be.

**DALLAS COUNTY:**

**CITY OF LANCASTER:**

\_\_\_\_\_  
By: Clay Lewis Jenkins  
Dallas County Judge

\_\_\_\_\_  
By: City Manager/Mayor

DATE: \_\_\_\_\_

DATE: \_\_\_\_\_

**Recommended:**

**Attested:**

\_\_\_\_\_  
By: Zachary Thompson  
Director, DCHHS

\_\_\_\_\_  
By: City Secretary

**Approved as to Form\*:**  
CRAIG WATKINS  
DISTRICT ATTORNEY

**Approved as to Form:**

\_\_\_\_\_  
By: Melanie Barton  
Assistant District Attorney

\_\_\_\_\_  
By: City Attorney

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

## FY 2014 FEE SCHEDULE

SEXUALLY TRANSMITTED

Treatment	\$20 - \$45 (Sliding Scale)
Blood Drawing	\$5
Cryotherapy	\$15
Chemical Lesion Reduction	\$45
Medical Records Copies	\$5 each

TUBERCULOSIS

TB Testing-Level I (Office Visit)	\$30
TB Testing-Level II (QuantiFeron)	\$50
Chest X-Ray Copies	\$5

LABORATORY

Wet Prep	\$6 each
Gram Stain	\$6 each
GC Culture	\$14 each
RPR	\$11 each
GEN Probe GC Screen	\$47 each
GEN Probe CT Screen	\$47 each
HIV Test	\$15 each
HIV Test - Rapid	\$20 each
Salmonella/Shigella	\$16 each
TB Culture & Concentration	\$25 each
TB Identification	\$15 each
TB Susceptibility	\$31 each
TB Acid Fast Stain	\$ 8 each

NURSING SERVICE

Hepatitis A Havrix*	\$50/Injection
Hepatitis B Vaccine*	\$55/Injection
Twinrix	\$70/Injection
Rabies (PE)	\$240/Injection
IPV	\$45/Injection
Pneumococcal*	\$90/Injection
Adacel (Pertusis)	\$55/injection
HIB	\$45/injection
Japanese Encephalitis	\$120/Injection
Meningococcal (Menomune)	\$135/Injection
Typhoid (Polysaccharide)	\$65/Injection
Typhoid (Oral)	\$50/box
Yellow Fever Vaccine	\$115/Injection
Boostrix Vaccine	\$50/Injection
Influenza Vaccine*	\$20/Injection
MMR*	\$75/Injection
Rabies Administrative Fee/	
Serves State Vaccine	\$25
Foreign Travel Office Visit Fee	\$25
TD*	\$40/Injection

ENVIRONMENTAL HEALTH

Septic Tank Inspection	\$310/Commercial/Business \$260/Residential
Septic Tank Re-inspection	\$35/Residential \$85/Commercial
Food Establishment Inspection	\$150/yr./establishment
Half-Way Houses & Boarding Homes, Residential	\$75/plus \$25 for each additional unit on site
Mosquito Spraying for Non-contracting cities	\$185/ per hour
Water Sample	\$50
Mosquito Testing	\$35
Food Mgr. Cert. Program	\$100/per person
Food Mgr. Cert. Retesting	\$50/per person

Note: 1) # Indicates \$10 charge for State fee

CRIMINAL TESTING

Blood Draws	\$38
Buccal Swabs	\$38

Comprehensive TB Testing & Evaluation (Incl. Chest X-ray)	\$80
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MTD Testing for TB	\$40/ each
Pregnancy Test	\$20 each
Urinalysis	\$15 each
Dark Field	\$16 each
Chancroid Culture	\$10 each
Herpes Culture	\$38 each
Herpes Type 1 & 2 Serology	\$50 each
Group A Strep	\$14 each
<i>Urine Screen:</i>	
Neisseria Gonorrhoeae	\$47 each
Chlamydia Trachomatis	\$47 each
Lead Screen	\$10 each
Staphylococcus/Aureus Culture	\$17 each

Varivax*	\$110/Injection
Meningococcal (MCV4)*	\$130/Injection
Zostavax (Shingles)*	\$215.00/Injection
Gardasil (HPV)*	\$175.00/Injection
Hepatitis A (Pediatric)	\$30.00/injection
Hepatitis B (Pediatric)	\$25.00/injection
DT	\$50.00/injection
DTaP-HepB-IPV	\$80.00/injection
DTaP-IPV	\$65.00/injection
Rotavirus	\$120.00/injection
PCV13	\$160.00/injection
<i>Communicable Disease Program:</i>	
Hepatitis C Screening	\$35/Test
<i>Immunization/VFC Program:</i>	
DPT,DT,Hib,	\$5/Per child
Well Baby	\$5/Visit
Diabetic Testing	\$5/Test
Immunization Record	\$5 each
Foreign Travel Yellow Card	\$5 each

\*Note Vaccines marked with asterisks are part of the Adult Safety Net Program (ASNP) Clients eligible to receive through the ASNP will be charged a fee of \$10/shot

Day Care Center Inspections	\$2/per authorized child
Temporary Food Permit	\$75/plus \$10 per day
Funeral Home Inspection	\$200
FHA, VA, Conventional Loans	\$125/Licensed \$150/Unlicensed
Annual Group Home Inspection	\$50
Food Handler Class	\$15/per person
Sub-division Plat Approval	\$200/Residential \$150/Commercial
Animal Control/Quarantine	\$7/per day
Animal Control/Vicious Animal	\$12/per day
Food Manager Re-certification	\$50/Test w/Multiple Test Sites

## January, 2012 thru December, 2012

<i>Municipality</i>	<i>Tuberculosis</i>	<i>Sexually Transmitted Disease</i>	<i>Laboratory</i>	<i>Communicable Disease</i>
<i>Addison</i>	153	37	179	283
<i>Balch Springs</i>	325	182	1049	165
<i>Carrollton</i>	1071	267	1980	437
<i>Cedar Hill</i>	726	285	347	267
<i>Cockrell Hill</i>	123	0	32	35
<i>Coppell</i>	222	35	86	250
<i>Dallas</i>	40122	12605	64822	38089
<i>Desoto</i>	784	411	599	502
<i>Duncanville</i>	420	269	831	321
<i>Farmers Branch</i>	247	61	678	218
<i>Garland</i>	3909	812	7108	592
<i>Glenn Heights</i>	111	56	126	190
<i>Grand Prairie</i>	1526	466	2957	855
<i>Highland Park</i>	0	1	0	40
<i>Hutchins</i>	31	44	165	73
<i>Irving</i>	4073	1049	6612	1423
<i>Lancaster</i>	776	449	868	299
<i>Mesquite</i>	2176	789	3239	1117
<i>Richardson</i>	1248	133	1107	459
<i>Rowlett</i>	548	22	359	102
<i>Sachse</i>	65	13	86	39
<i>Seagoville</i>	460	52	511	106
<i>Sunnyvale</i>	9	5	1	55
<i>University Park</i>	2	0	1	10
<i>Wilmer</i>	177	32	203	15
<i>Out of County</i>	1118	2173	164190	7522
<b>Total</b>	<b>60422</b>	<b>20248</b>	<b>258136</b>	<b>53464</b>

July 22, 2013

DALLAS COUNTY HEALTH & HUMAN SERVICES  
FY '14

EXHIBIT C

Municipality	Tuberculosis	Sexually Transmitted Disease	Laboratory	Communicable Disease	FY '14 Contract Total
Addison	3,844	2,989	1,244	2,773	2,500
Balch Springs	8,166	14,704	7,293	1,617	9,377
Carrollton	26,910	21,571	13,765	4,282	23,823
Cedar Hill	18,241	23,025	2,412	2,616	2,498
Cockrell Hill	3,090	0	222	343	2,301
Coppell	5,578	2,828	598	2,450	3,131
Dallas	1,008,097	1,018,339	450,649	373,251	1,754,252
Desoto	19,699	33,204	4,164	4,919	17,620
Duncanville	10,553	21,732	5,777	3,146	11,273
Farmers Branch	6,206	4,928	4,714	2,136	6,856
Garland	98,217	65,600	49,416	5,801	80,156
Glenn Heights	2,789	4,524	876	1,862	574
Grand Prairie	38,342	37,647	20,557	8,379	38,854
Highland Park	0	81	0	392	132
Hutchins	779	3,555	1,147	715	3,149
Irving	102,337	84,747	45,967	13,945	81,906
Lancaster	19,498	36,274	6,034	2,930	12,106
Mesquite	54,674	63,742	22,518	10,946	31,608
Richardson	31,357	10,745	7,696	4,498	23,756
Rowlett	13,769	1,777	2,496	1,000	4,925
Sachse	1,633	1,050	598	382	362
Seagoville	11,558	4,201	3,553	1,039	6,440
Sunnyvale	226	404	7	539	99
University Park	50	0	7	98	48
Wilmer	4,447	2,585	1,411	147	2,597
Out of County	28,091	175,553	1,141,466	73,711	77,142
	\$1,518,150	\$1,635,806	\$1,794,588	\$523,918	\$2,197,485

## FY'14 CONTRACT COSTS

MUNICIPALITIES	CONTRACT COST
ADDISON	\$2,500
BALCH SPRINGS	\$9,377
CARROLLTON	\$23,823
CEDAR HILL	\$2,498
COCKRELL HILL	\$2,301
COPPELL	\$3,131
* DALLAS	\$1,754,252
* DESOTO	\$17,620
* DUNCANVILLE	\$11,273
FARMERS BRANCH	\$6,856
* GARLAND	\$80,156
GLENN HEIGHTS	\$574
GRAND PRAIRIE	\$38,854
HIGHLAND PARK	\$132
HUTCHINS	\$3,149
IRVING	\$81,906
LANCASTER	\$12,106
* MESQUITE	\$31,608
* RICHARDSON	\$23,756
* ROWLETT	\$4,925
SACHSE	\$362
* SEAGOVILLE	\$6,440
SUNNYVALE	\$99
UNIVERSITY PARK	\$48
* WILMER	\$2,597
* UNINCORPORATED	\$77,142
<b>TOTAL</b>	<b>\$2,197,485</b>

# LANCASTER CITY COUNCIL

## Agenda Communication

September 16, 2013

Item 6

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**Consider a resolution approving the terms and conditions of an Interlocal Agreement by and between the City of Lancaster and Dallas County Department of Health and Human Services to provide food establishment inspections and other environmental health services.**

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**This request supports the City Council 2012-2013 Policy Agenda.**

**Goal: Healthy, Safe and Vibrant Neighborhoods**

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### **Background**

Annually the City of Lancaster has contracted with Dallas County in order to provide certain food establishment inspections and other environmental health services for citizens of Lancaster. These services include: two (2) inspections per year, per establishment at a rate of \$150.00 with additional inspections at a rate of \$75.00 per inspection, including establishments that are closed due to noncompliance of the Health and Safety laws. The fiscal year 2012-2013 contract will expire on September 30, 2013.

Dallas County provides food establishment inspections and other environmental health services to various cities throughout Dallas County on a contract for services basis. This cooperative effort allows all cities in Dallas County to participate in providing food establishment inspections and environmental health services for their residents, which helps promote the effectiveness of health and safety in food establishments and protection from environmental hazards.

### **Considerations**

- **Operational** – A Registered Professional Sanitarian employed by Dallas County Department of Health and Human Services will perform a minimum of two (2) inspections for each food establishment per year. The inspection includes food and food protection; personnel; food equipment and utensils; water source; sewage; plumbing; toilet and hand-washing facilities; garbage and refuse disposal; insect, rodent and animal control; floors, walls, and ceiling; light; ventilation; and other operations.

The Public Works and Development Services Department, Code Compliance Division has the responsibility of responding to request for records of food inspection results produced under the agreement. Reports are sent on a quarterly basis from Dallas County Department of Health and Human Services.

Dallas County will also respond to Vector and/or Mosquito Control complaints. Ground application services include spraying for adult mosquitoes and treating standing water services. In the event an aerial spraying is needed, the City of Lancaster has the option to participate in Dallas County's emergency aerial mosquito spraying plan. To date, the City has not had a need for aerial spraying.

- **Legal** – The City Attorney has reviewed and approved as to form the resolution.
- **Financial** – The FY 2013-2014 contract fee remains the same. The City is responsible for collection of fees which include a minimum of two (2) inspections at a cost of \$150.00 per year/per establishment. Beginning with the fourth food establishment inspection, the City will pay a \$75.00 fee for each additional inspection requested by the City. Additionally, the City will collect \$75.00 for a re-opening or inspection fee of a food establishment that has been closed due to non-compliance of state rules and regulations. In addition to the cost of contract, the establishment also pays a fifty dollar (\$50.00) administrative fee.
- **Public Information** – This item is being considered at a meeting of the City Council noticed in accordance with Texas Open Meetings Act.

### **Options/Alternatives**

1. City Council may approve the resolution authorizing the City Manager to execute an Interlocal Agreement for food establishment inspections and other environmental health services for its residents through Dallas County.
2. City Council may reject the resolution. This would leave our community without access to food establishments properly inspected for health and safety regulations and without treatment for mosquito protection during critical times of the year.

### **Recommendation**

Staff recommends approval of the resolution

### **Attachments**

- Resolution
- Interlocal Agreement from Dallas County Department of Health and Human Services

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### **Submitted by:**

Rona Stringfellow, Managing Director of Public Works and Development Services

**RESOLUTION NO.**

**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, TEXAS, AND DALLAS COUNTY DEPARTMENT OF HEALTH AND HUMAN SERVICES TO PROVIDE CERTAIN FOOD ESTABLISHMENT INSPECTIONS AND ENVIRONMENTAL SERVICES; AUTHORIZING ITS EXECUTION BY THE CITY MANAGER; REPEALING ALL RESOLUTIONS IN CONFLICT; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS,** Dallas County Department of Health and Human Services has offered to provide certain food establishment inspections and environmental health services to cities throughout the County on a contract for services basis; and

**WHEREAS,** the City of Lancaster desires to participate with Dallas County in establishing coordinated food establishment and environmental health services for its residents and all of Dallas County; and

**WHEREAS,** Dallas County will operate certain food establishment and environmental health services for the residents of the City in order to promote the effectiveness of healthy and safe food and environmental programs;

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

**SECTION 1.** That the Dallas County Department of Health and Human Services Interlocal Agreement for Fiscal Year 2014, 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 of the City of Lancaster, Texas, is hereby authorized to execute said agreement.

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

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

**SECTION 5.** That 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 16<sup>th</sup> day of September 2013.

**ATTEST:**

**APPROVED:**

\_\_\_\_\_  
Dolle Downe, City Secretary

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

**APPROVED AS TO FORM:**

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

**STATE OF TEXAS**

§  
§  
§  
§  
§  
§

**INTERLOCAL AGREEMENT FOR FOOD  
ESTABLISHMENT INSPECTION AND  
ENVIRONMENTAL HEALTH SERVICES BETWEEN  
DALLAS COUNTY, ON BEHALF OF DALLAS  
COUNTY HEALTH AND HUMAN SERVICES, AND  
CITY OF LANCASTER**

**COUNTY OF DALLAS**

**1. PARTIES**

This Interlocal Agreement ("Agreement") is made by and between the City of Lancaster, Texas ("City"), a Texas municipal corporation, and Dallas County, Texas ("County"), on behalf of Dallas County Health and Human Services ("DCHHS"), a governmental entity, pursuant to the authorities granted by Texas Local Government Code Chapter 791, Interlocal Cooperation Act, Texas Health and Safety Code Chapters 437, Food and Drug Health Regulations, and 121, Local Regulation of Public Health, along with 25 Texas Administrative Code, Chapter 229, and any other applicable laws, as well as the City ordinance for inspection services of food establishments within City's jurisdiction and other environmental health services to City.

**2. TERM**

This Agreement is effective from October 1, 2013 through September 30, 2014 unless otherwise stated in this Agreement.

**3. INSPECTION SERVICES AND REQUIREMENTS**

- A. County will perform a minimum of two (2) inspections per Agreement Term of each food establishment for which the City has submitted an inspection request and for which a fee has been collected from the said food establishment;
- B. Additional follow-up inspections will be performed as deemed necessary by County;
- C. Any additional request for follow-up inspections by City of food establishments, including food establishments that are closed due to non-compliance with the State and other applicable rules and regulations will be charged additional fees;
- D. Each food establishment inspection will be made by a Registered Professional Sanitarian employed by DCHHS, in compliance with all state laws and regulations;
- E. An examination of the following will be made during each inspection: food and food protection; personnel; food equipment and utensils; water source; sewage; plumbing; toilet and hand-washing facilities; garbage and refuse disposal; insect, rodent, and animal control; floors, walls, and ceiling; light; ventilation; and other operations.

**4. BUDGET AND PAYMENT TO COUNTY**

- A. City will collect and submit to the County a minimum of One Hundred Fifty and 00/100 Dollars (\$150.00) per Agreement Term.
- B. Beginning with the third food establishment inspection, City will pay a Seventy Five and 00/100 Dollars (\$75.00) fee for each additional inspection requested by City.

- C. City will collect Seventy Five and 00/100 Dollars (\$75.00) to be paid to the County for a re-opening or inspection fee of a food establishment that has been closed due to non-compliance of Chapter 437 of the Texas Health and Safety Code, or any other state rules and regulations.
- D. The fees are subject to change, upon prior written notice to City, if additional cost is associated with the services under this Agreement
- E. City shall pay County the stipulated fees within thirty (30) days of the monthly request for payment, or if County fails to make the payment request, then City shall pay the stipulated fees no later than the last date of this Agreement Term. Any payment not made within thirty (30) days of its due date shall bear interest in accordance with Chapter 2251 of the Texas Government Code.

**5. OTHER ENVIRONMENTAL HEALTH SERVICES**

- A. Upon written request from City, County will respond to Vector and/or Mosquito Control complaints. Ground application services will include spraying for adult mosquitoes (“adulticiding”), and treating standing water (“larvaciding”) services.
- B. In the event aerial spraying is needed to control St. Louis Encephalitis or West Nile virus throughout the County, City will have the option to participate in the County’s emergency aerial mosquito spraying plan. Should City agree to participate in the plan, City must provide written notice to County and agree to the following:
  - 1) Indicate the areas and amount of acres to be sprayed; and
  - 2) Pay City’s proportioned share of the cost based upon the number of acres to be sprayed multiplied by the per-acre spraying cost.

**6. RECORDS**

City shall have the sole responsibility of responding to requests for records of food inspection results produced under this Agreement. County will make its best effort to forward any requests for such records that it received to City within three business days after County’s receipt of such requests.

**7. TERMINATION**

- A. Without Cause: This Agreement may be terminated in writing, without cause, by either party upon thirty (30) days prior written notice to the other party;
- B. With Cause: The County reserves the right to terminate the Agreement immediately, in whole or in part, at its sole discretion, for the following reasons:
  - 1) Lack of, or reduction in, funding or resources;
  - 2) Non-performance;
  - 3) City’s improper, misuse or inept use of funds or resources; and/or
  - 4) City’s submission of data, statements and/or reports that are incorrect, incomplete and/or false in any way.

**8. CITY ORDINANCE**

In order for this Agreement to be valid, the City must have or adopt a City ordinance that provides for the inspection of food establishments by a Registered Professional Sanitarian. City must require the payment of a fee(s) by each food establishment. Ordinance enforcement shall be the responsibility of the City.

**9. INDEMNIFICATION**

County and City, including their respective employees and elected officials, agree that each shall be responsible for its own negligent acts or omissions or other tortious conduct in the course of performance of this Agreement, without waiving any governmental immunity available to County or City under Texas and other applicable laws, and without waiving any available defenses under Texas and other applicable laws. Nothing in this paragraph shall be construed to create or grant any rights, contractual or otherwise, in or to any third persons or entities.

**10. INSURANCE**

City agrees that it will at all times during the term of this Agreement maintain in full force and effect insurance, or self-insurance, to the extent permitted by applicable law under a plan of self-insurance, that is also maintained in accordance with sound accounting practices. It is expressly agreed that City will be solely responsible for all cost of such insurance; any and all deductible amounts in any policy; and in the event that the insurance company should deny coverage.

**11. NOTICE**

Any notice or certification required or permitted to be delivered under this Agreement shall be deemed to have been given when personally delivered, or if mailed, seventy-two (72) hours after deposit of the same in the United States Mail, postage prepaid, certified, or registered, return receipt requested, properly addressed to the contact person shown at the respective addresses set forth below, or at such other addresses as shall be specified by written notice delivered in accordance herewith:

**DALLAS COUNTY**

Zachary Thompson, Director  
Dallas County Health & Human Svcs.  
2377 N. Stemmons Frwy., Suite 600  
Dallas, Texas 75207-2710

**CITY OF LANCASTER**

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

**12. ENTIRE AGREEMENT AND AMENDMENT**

This Agreement, including any Exhibits and Attachments, constitutes the entire agreement between the parties and supersedes any other agreements concerning the subject matter of this transaction, whether oral or written. No modification, amendment, novation, renewal or other alteration of this Agreement shall be effective unless mutually agreed upon in writing and executed by the parties.

**13. COUNTERPARTS, NUMBER/GENDER AND HEADINGS**

This Agreement may be executed in multiple counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same instrument. Words of any gender used in this Agreement shall be held and construed to include any other gender. Any words in the singular

shall include the plural and vice versa, unless the context clearly requires otherwise. Headings are for the convenience of reference only and shall not be considered in any interpretation of this Agreement.

#### **14. SEVERABILITY**

If any provision of this Agreement is construed to be illegal, invalid, void or unenforceable, this construction will not affect the legality or validity or any of the remaining provisions. The unenforceable or illegal provision will be deemed stricken and deleted, but the remaining provisions shall not be affected or impaired, and such remaining provisions shall remain in full force and effect.

#### **15. FISCAL FUNDING CLAUSE**

Notwithstanding any provisions contained in this Agreement, the obligations of the County under this Agreement are expressly contingent upon the availability of funding for each item and obligation for the term of the Agreement and any pertinent extensions. City shall not have a right of action against County in the event County is unable to fulfill its obligations under this Agreement as a result of lack of sufficient funding for any item or obligation from any source utilized to fund this Agreement or failure to budget or authorize funding for this Agreement during the current or future fiscal years. In the event that County is unable to fulfill its obligations under this Agreement as a result of lack of sufficient funding, or if funds become unavailable, County, at its sole discretion, may provide funds from a separate source or may terminate this Agreement by written notice to City at the earliest possible time prior to the end of its fiscal year.

#### **16. DEFAULT/CUMULATIVE RIGHTS/MITIGATION**

It is not a waiver of default if the non-defaulting party fails to immediately declare a default or delays in taking any action. The rights and remedies provided by this Agreement are cumulative, and either party's use of any right or remedy will not preclude or waive its right to use any other remedy. These rights and remedies are in addition to any other rights the parties may have by law, statute, ordinance or otherwise. Both parties have a duty to mitigate damages.

#### **17. IMMUNITY**

This Agreement is expressly made subject to City's and County's Governmental Immunity, including, without limitation, Title 5 of the Texas Civil Remedies Code and all applicable State and federal laws. The parties expressly agree that no provision of this Agreement is in any way intended to constitute a waiver of any immunities from suit or from liability, or a waiver of any tort limitation, that City or County has by operation of law, or otherwise. Nothing in this Agreement is intended to benefit any third party beneficiary.

#### **18. COMPLIANCE OF LAWS AND VENUE**

In providing services required by this Agreement, City and County must observe and comply with all licenses, legal certifications, or inspections required for the services, facilities, equipment, or materials, and all applicable federal, State, and local statutes, ordinances, rules, and regulations. Texas law shall govern this Agreement and venue shall lie exclusively in Dallas County, Texas.

#### **19. RELATIONSHIP OF PARTIES**

City is an independent contractor and not an agent, servant, joint enterpriser, joint venturer or

employee of County. City and County agree and acknowledge that each entity shall be responsible for its own acts, forbearance, negligence and deeds, and for those of its agents or employees in conjunction with the performance of work covered under this Agreement.

**20. SIGNATORY WARRANTY**

City and County represent that each has the full right, power and authority to enter and perform this Agreement in accordance with all of the terms and conditions, and that the execution and delivery of Agreement have been made by authorized representatives of the parties to validly and legally bind the respective parties to all terms, performances and provisions set forth in this Agreement.

**COUNTY:**

**CITY:**

BY: Clay Lewis Jenkins  
County Judge

BY: \_\_\_\_\_  
City Manager

DATE: \_\_\_\_\_

DATE: \_\_\_\_\_

**Recommended:**

BY: Zachary Thompson  
Director, DCHHS

BY: \_\_\_\_\_  
Title: \_\_\_\_\_

**Approved as to Form\*:**

**Approved as to Form:**

CRAIG WATKINS  
DISTRICT ATTORNEY

TERESA GUERRA SNELSON  
CHIEF, CIVIL DIVISION

BY: Melanie Barton  
Assistant District Attorney

BY: \_\_\_\_\_  
Title: \_\_\_\_\_

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

# LANCASTER CITY COUNCIL

## Agenda Communication

September 16, 2013

Item 7

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**Consider a resolution approving the terms and conditions of the Business Associate Addendum with MED3000, Inc. to satisfy certain standards and requirements of the Health Insurance Portability and Accountability Act (HIPAA).**

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**This request supports the City Council 2012-2013 Policy Agenda.**

**Goal: Healthy, Safe & Vibrant Neighborhoods**

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### **Background**

In January 2012, the City Council approved an agreement with MED3000 to provide EMS billing. With that agreement a Business Associate Agreement was passed as required by the Health Insurance Portability and Accountability Act (HIPAA). This addendum is needed to satisfy certain new standards and requirements of HIPAA. The addendum provides for additional security for protected health information gathered by Paramedics serving the Lancaster Fire Department.

### **Considerations**

- **Operational** - This addendum outlines new requirements for the handling of protected health information.
- **Legal** - This addendum is a HIPAA requirement and the resolution has been reviewed and approved as to form by the City Attorney.
- **Financial** - This addendum has no financial impact on our agreement with MED3000.
- **Public Information** – This item is being considered at a meeting of the City Council noticed in accordance with the Texas Open Meetings Act.

### **Options/Alternatives**

1. Approve the resolution and addendum as presented.
2. Reject the resolution.

### **Recommendation**

Staff recommends approval of the resolution and addendum.

**Attachments**

- Resolution
  - Business Associate Addendum
- 

**Submitted by:**  
Thomas Griffith, Fire Chief

**RESOLUTION NO.**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LANCASTER, TEXAS, APPROVING THE TERMS AND CONDITIONS OF THE BUSINESS ASSOCIATE ADDENDUM TO SATISFY CERTAIN STANDARDS AND REQUIREMENTS OF THE HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT (HIPPA) WITH MED3000, INC., A DELAWARE CORPORATION, WHICH IS ATTACHED HERETO AND INCORPORATED HEREIN AS EXHIBIT "A"; AUTHORIZING THE CITY MANAGER TO EXECUTE SAID ADDENDUM; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the City of Lancaster Fire Department entered into an Agreement with MED3000; and

**WHEREAS**, the City provides emergency medical services within the corporate limits of the City;

**WHEREAS**, MED3000 provides billing services and security of medical information; and

**WHEREAS**, the City Council finds it is in the best interest of the City of Lancaster and its citizens to approve said Business Associate Addendum.

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

**SECTION 1.** The City Council hereby authorizes, approves and accepts the terms and conditions of the Business Associate Addendum for protected health information with MED3000, Inc., a Delaware Corporation, which is attached hereto and incorporated herein as Exhibit A.

**SECTION 2.** The Manager of the City of Lancaster, Texas, is hereby authorized to execute said Addendum provided as Exhibit A.

**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.** That this Resolution shall take effect 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 16<sup>th</sup> day of September 2013.

**APPROVED:**

---

Marcus E. Knight, Mayor

**ATTEST:**

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Dolle K. Downe, City Secretary

**APPROVED AS TO FORM:**

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Robert E. Hager, City Attorney

## BUSINESS ASSOCIATE ADDENDUM

This Business Associate Addendum (“Addendum”) is entered into by and between MED3000, Inc., a Delaware Corporation (“Business Associate”) and City of Lancaster (“Customer”) and is effective as of 08/09/2013 (the “Effective Date”). Business Associate and Customer may be individually referred to as a “Party” and, collectively, the “Parties” in this Addendum.

### RECITALS

- A. Business Associate is providing services to Customer under an existing written agreement (the “Underlying Agreement”), and Customer wishes to disclose certain information to Business Associate pursuant to the terms of such Underlying Agreement, some of which may constitute Protected Health Information (“PHI”) (defined below).
- B. Customer and Business Associate intend to protect the privacy and provide for the security of PHI disclosed to Business Associate pursuant to the Underlying Agreement in compliance with (i) the Health Insurance Portability and Accountability Act of 1996, Public Law No. 104-191 (“HIPAA”); (ii) Subtitle D of the Health Information Technology for Economic and Clinical Health Act (the “HITECH Act”), also known as Title XIII of Division A and Title IV of Division B of the American Recovery and Reinvestment Act of 2009, Public Law No. 111-005 ; and (iii) regulations promulgated thereunder by the U.S. Department of Health and Human Services, including the HIPAA Omnibus Final Rule, which amended the HIPAA Privacy and Security Rules (as those terms are defined below) and implemented a number of provisions of the HITECH Act (the “HIPAA Final Rule”), extending certain HIPAA obligations to Business Associate and their subcontractors.
- C. The purpose of this Addendum is to satisfy certain standards and requirements of HIPAA, the Privacy Rule and the Security Rule (as those terms are defined below), and the HITECH Act, including, but not limited to, Title 45, §§ 164.314(a)(2)(i), 164.502(e) and 164.504(e) of the Code of Federal Regulations (“C.F.R.”).

### SECTION 1: DEFINITIONS

“**Breach**” will have the same meaning given to such term in 45 C.F.R. § 164.402.

“**Designated Record Set**” will have the same meaning as the term “designated record set” in 45 C.F.R. § 164.501.

“**Electronic Protected Health Information**” or “**Electronic PHI**” will have the meaning given to such term under the Privacy Rule and the Security Rule, including, but not limited to, 45 C.F.R. § 160.103, as applied to the information that Business Associate creates, receives, maintains or transmits from or on behalf of Customer.

“**Individual**” will have the same meaning as the term “individual” in 45 C.F.R. § 160.103 and will include a person who qualifies as a personal representative in accordance with 45 C.F.R. § 164.502(g).

“**Privacy Rule**” will mean the Standards for Privacy of Individually Identifiable Health Information at 45 C.F.R. Part 160 and Part 164, Subparts A and E.

“**Protected Health Information**” or “**PHI**” will have the same meaning as the term “protected health information” in 45 C.F.R. § 160.103, as applied to the information created, received, maintained or transmitted by Business Associate from or on behalf of Customer.

“**Required by Law**” will have the same meaning as the term “required by law” in 45 C.F.R. § 164.103.

“**Secretary**” will mean the Secretary of the Department of Health and Human Services or his or her designee.

“**Security Incident**” will have the meaning given to such term in 45 C.F.R. § 164.304.

“**Security Rule**” will mean the Security Standards at 45 C.F.R. Part 160 and Part 164, Subparts A and C.

“**Unsecured PHI**” will have the same meaning given to such term under 45 C.F.R. § 164.402, and guidance promulgated thereunder.

**Capitalized Terms.** Capitalized terms used in this Addendum and not otherwise defined herein will have the meanings set forth in the Privacy Rule, the Security Rule, and the HIPAA Final Rule, which definitions are incorporated in this Addendum by reference.

## **SECTION 2: PERMITTED USES AND DISCLOSURES OF PHI**

2.1 Uses and Disclosures of PHI Pursuant to the Underlying Agreement. Except as otherwise limited in this Addendum, McKesson may use or disclose PHI to perform functions, activities or services for, or on behalf of, Customer as specified in the Underlying Agreement, provided that such use or disclosure would not violate the Privacy Rule if done by Customer.

2.2 Permitted Uses of PHI by Business Associate. Except as otherwise limited in this Addendum, Business Associate may use PHI for the proper management and administration of Business Associate or to carry out the legal responsibilities of Business Associate.

2.3 Permitted Disclosures of PHI by Business Associate. Except as otherwise limited in this Addendum, Business Associate may disclose PHI for the proper management and administration of Business Associate, provided that the disclosures are Required by Law, or Business Associate obtains reasonable assurances from the person to whom the information is disclosed that it will remain confidential and will be used or further disclosed only as Required by Law or for the purpose for which it was disclosed to the person (which purpose must be consistent with the limitations imposed upon Business Associate pursuant to this Addendum), and that the person agrees to notify Business Associate of any instances of which it is aware in which the confidentiality of the information has been breached. Business Associate may disclose PHI to report violations of law to appropriate federal and state authorities, consistent with 45 C.F.R. § 164.502(j)(1).

2.4 Data Aggregation. Except as otherwise limited in this Addendum, Business Associate may use PHI to provide Data Aggregation services for the Health Care Operations of the Customer as permitted by 45 C.F.R. § 164.504(e)(2)(i)(B).

2.5 De-identified Data. Business Associate may de-identify PHI in accordance with the standards set forth in 45 C.F.R. § 164.514(b) and may use or disclose such de-identified data unless prohibited by applicable law.

## **SECTION 3: OBLIGATIONS OF BUSINESS ASSOCIATE**

3.1 Appropriate Safeguards. Business Associate will use appropriate safeguards and will, after the compliance date of the HIPAA Final Rule, comply with the Security Rule with respect to Electronic PHI, to prevent use or disclosure of such information other than as provided for by the Underlying Agreement and this Addendum. Except as expressly provided in the Underlying Agreement or this Addendum, Business Associate shall not assume any obligations of Customer under the Privacy Rule. To the extent that Business Associate is to carry out any of Customer’s obligations under the Privacy Rule as expressly provided in the Underlying Agreement or this Addendum, Business Associate will comply with the requirements of the Privacy Rule that apply to Customer in the performance of such obligations.

3.2 Reporting of Improper Use or Disclosure, Security Incident or Breach. Business Associate will report to Customer any use or disclosure of PHI not permitted under this Addendum, Breach of Unsecured PHI or any Security Incident, without unreasonable delay, and in any event no more than thirty (30) days following discovery; provided, however, that the Parties acknowledge and agree that this Section constitutes notice by Business Associate to Customer of the ongoing existence and occurrence of attempted but Unsuccessful Security Incidents (as defined

below). “Unsuccessful Security Incidents” will include, but not be limited to, pings and other broadcast attacks on Business Associate’s firewall, port scans, unsuccessful log-on attempts, denials of service and any combination of the above, so long as no such incident results in unauthorized access, use or disclosure of PHI. Business Associate’s notification to Customer of a Breach will include: (i) the identification of each individual whose Unsecured PHI has been, or is reasonably believed by Business Associate to have been, accessed, acquired or disclosed during the Breach; and (ii) any particulars regarding the Breach that Customer would need to include in its notification, as such particulars are identified in 45 C.F.R. § 164.404.

3.3 Business Associate’s Agents. In accordance with 45 C.F.R. § 164.502(e)(1)(ii) and 45 C.F.R. § 164.308(b)(2), as applicable, Business Associate will enter into a written agreement with any agent or subcontractor that creates, receives, maintains or transmits PHI on behalf of Business Associate for services provided to Customer, providing that the agent agrees to restrictions and conditions that are substantially similar to those that apply through this Addendum to Business Associate with respect to such PHI.

3.4 Access to PHI. The Parties do not intend for Business Associate to maintain any PHI in a Designated Record Set for Customer. To the extent Business Associate possesses PHI in a Designated Record Set, Business Associate agrees to make such information available to Customer pursuant to 45 C.F.R. § 164.524, within ten (10) business days of Business Associate’s receipt of a written request from Customer; provided, however, that Business Associate is not required to provide such access where the PHI contained in a Designated Record Set is duplicative of the PHI contained in a Designated Record Set possessed by Customer. If an Individual makes a request for access pursuant to 45 C.F.R. § 164.524 directly to Business Associate, or inquires about his or her right to access, Business Associate will either forward such request to Customer or direct the Individual to Customer.

3.5 Amendment of PHI. The Parties do not intend for Business Associate to maintain any PHI in a Designated Record Set for Customer. To the extent Business Associate possesses PHI in a Designated Record Set, Business Associate agrees to make such information available to Customer for amendment pursuant to 45 C.F.R. § 164.526 within twenty (20) business days of Business Associate’s receipt of a written request from Customer. If an Individual submits a written request for amendment pursuant to 45 C.F.R. § 164.526 directly to Business Associate, or inquires about his or her right to amendment, Business Associate will either forward such request to Customer or direct the Individual to Customer.

3.6 Documentation of Disclosures. Business Associate agrees to document such disclosures of PHI and information related to such disclosures as would be required for Customer to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 C.F.R. § 164.528. Business Associate will document, at a minimum, the following information (“Disclosure Information”): (a) the date of the disclosure; (b) the name and, if known, the address of the recipient of the PHI; (c) a brief description of the PHI disclosed; (d) the purpose of the disclosure that includes an explanation of the basis for such disclosure; and (e) any additional information required under the HITECH Act and any implementing regulations.

3.7 Accounting of Disclosures. McKesson agrees to provide to Customer, within twenty (20) business days of Business Associate’s receipt of a written request from Customer, information collected in accordance with Section 3.6 of this Addendum, to permit Customer to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 C.F.R. § 164.528. If an Individual submits a written request for an accounting of disclosures of PHI pursuant to 45 C.F.R. § 164.528 directly to Business Associate, or inquires about his or her right to an accounting, Business Associate will direct the Individual to Customer.

3.8 Governmental Access to Records. Business Associate will make its internal practices, books and records relating to the use and disclosure of PHI received from, or created or received by Business Associate on behalf of, Customer available to the Secretary for purposes of the Secretary determining Customer’s compliance with the Privacy Rule and the Security Rule.

3.9 Mitigation. To the extent practicable, Business Associate will cooperate with Customer’s efforts to mitigate a harmful effect that is known to Business Associate of a use or disclosure of PHI by Business Associate that is not permitted by this Addendum.

3.10 Minimum Necessary. Business Associate will request, use and disclose the minimum amount of PHI necessary to accomplish the purpose of the request, use or disclosure, in accordance with 45 C.F.R. § 164.514(d), and any amendments thereto.

3.11 HIPAA Final Rule Applicability. Business Associate acknowledges that enactment of the HITECH Act, as implemented by the HIPAA Final Rule, amended certain provisions of HIPAA in ways that now directly regulate, or will on future dates directly regulate, Business Associate under the Privacy Rule and Security Rule. Business Associate agrees, as of the compliance date of the HIPAA Final Rule, to comply with applicable requirements imposed under the HIPAA Final Rule, including any amendments thereto.

#### **SECTION 4: OBLIGATIONS OF CUSTOMER**

4.1 Notice of Privacy Practices. Customer will notify Business Associate of any limitation(s) in its notice of privacy practices in accordance with 45 C.F.R. § 164.520, to the extent that such limitation may affect Business Associate's use or disclosure of PHI. Customer will provide such notice no later than fifteen (15) days prior to the effective date of the limitation.

4.2 Notification of Changes Regarding Individual Permission. Customer will obtain any consent or authorization that may be required by the Privacy Rule, or applicable state law, prior to furnishing Business Associate with PHI. Customer will notify Business Associate of any changes in, or revocation of, permission by an Individual to use or disclose PHI, to the extent that such changes may affect Business Associate's use or disclosure of PHI. Customer will provide such notice no later than fifteen (15) days prior to the effective date of the change.

4.3 Notification of Restrictions to Use or Disclosure of PHI. Customer will notify Business Associate of any restriction to the use or disclosure of PHI that Customer has agreed to in accordance with 45 C.F.R. § 164.522, to the extent that such restriction may affect Business Associate's use or disclosure of PHI. Customer will provide such notice no later than fifteen (15) days prior to the effective date of the restriction. If Business Associate reasonably believes that any restriction agreed to by Customer pursuant to this Section may materially impair Business Associate's ability to perform its obligations under the Underlying Agreement or this Addendum, the Parties will mutually agree upon any necessary modification of Business Associate's obligations under such agreements.

4.4 Permissible Requests by Customer. Customer will not request Business Associate to use or disclose PHI in any manner that would not be permissible under the Privacy Rule, the Security Rule or the HITECH Act if done by Customer, except as permitted pursuant to the provisions of Sections 2.2, 2.3, 2.4 and 2.5 of this Addendum.

#### **SECTION 5: TERM AND TERMINATION**

5.1 Term. The term of this Addendum will commence as of the Effective Date, and will terminate when all of the PHI provided by Customer to Business Associate, or created or received by Business Associate on behalf of Customer, is destroyed or returned to Customer. If it is infeasible to return or destroy PHI, Business Associate will extend the protections to such information, in accordance with Section 5.3.

5.2 Termination for Cause. Upon either Party's knowledge of a material breach by the other Party of this Addendum, such Party may terminate this Addendum immediately if cure is not possible. Otherwise, the non-breaching party will provide written notice to the breaching Party detailing the nature of the breach and providing an opportunity to cure the breach within thirty (30) business days. Upon the expiration of such thirty (30) day cure period, the non-breaching Party may terminate this Addendum if the breaching party does not cure the breach or if cure is not possible. If termination is not feasible, the non-breaching party may report the breach or violation to the Secretary.

5.3 Effect of Termination.

5.3.1 Except as provided in Section 5.3.2, upon termination of the Underlying Agreement or this Addendum for any reason, Business Associate Business Associate will return or destroy all PHI received from Customer, or created or received by McKesson on behalf of Customer, at Customer's expense, and will retain no

copies of the PHI. This provision will apply to PHI that is in the possession of subcontractors or agents of Business Associate.

5.3.2 If it is infeasible for Business Associate to return or destroy the PHI upon termination of the Underlying Agreement or this Addendum, Business Associate will: (a) extend the protections of this Addendum to such PHI and (b) limit further uses and disclosures of such PHI to those purposes that make the return or destruction infeasible, for so long as Business Associate maintains such PHI.

## **SECTION 6: COOPERATION IN INVESTIGATIONS**

The Parties acknowledge that certain breaches or violations of this Addendum may result in litigation or investigations pursued by federal or state governmental authorities of the United States resulting in civil liability or criminal penalties. Each Party will cooperate in good faith in all respects with the other Party in connection with any request by a federal or state governmental authority for additional information and documents or any governmental investigation, complaint, action or other inquiry.

## **SECTION 7: SURVIVAL**

The respective rights and obligations of Business Associate under Section 5.3 of this Addendum will survive the termination of this Addendum and the Underlying Agreement.

## **SECTION 8: AMENDMENT**

This Addendum may be modified, or any rights under it waived, only by a written document executed by the authorized representatives of both Parties. In addition, if any relevant provision of the Privacy Rule, the Security Rule or the HIPAA Final Rule is amended in a manner that changes the obligations of Business Associate or Customer that are embodied in terms of this Addendum, then the Parties agree to negotiate in good faith appropriate non-financial terms or amendments to this Addendum to give effect to such revised obligations.

## **SECTION 9: EFFECT OF ADDENDUM**

In the event of any inconsistency between the provisions of this Addendum and the Underlying Agreement, the provisions of this Addendum will control. In the event that a court or regulatory agency with authority over Business Associate or Customer interprets the mandatory provisions of the Privacy Rule, the Security Rule or the HIPAA Final Rule, in a way that is inconsistent with the provisions of this Addendum, such interpretation will control. Where provisions of this Addendum are different from those mandated in the Privacy Rule, the Security Rule, or the HIPAA Final Rule, but are nonetheless permitted by such rules as interpreted by courts or agencies, the provisions of this Addendum will control.

## **SECTION 10: GENERAL**

This Addendum is governed by, and will be construed in accordance with, the laws of the State that govern the Underlying Agreement. Any action relating to this BAA must be commenced within one year after the date upon which the cause of action accrued. Customer will not assign this Addendum without the prior written consent of Business Associate, which will not be unreasonably withheld. If any part of a provision of this Addendum is found illegal or unenforceable, it will be enforced to the maximum extent permissible, and the legality and enforceability of the remainder of that provision and all other provisions of this Addendum will not be affected. All notices relating to the Parties' legal rights and remedies under this Addendum will be provided in writing to a Party, will be sent to its address set forth in the Underlying Agreement, or to such other address as may be designated by that Party by notice to the sending Party, and will reference this Addendum. Nothing in this Addendum will confer any right, remedy, or obligation upon anyone other than Customer and Business Associate. This Addendum is the complete and exclusive agreement between the Parties with respect to the subject matter hereof, superseding and replacing all prior agreements, communications, and understandings (written and oral) regarding its subject matter.

*[Signature page follows]*

IN WITNESS WHEREOF, the Parties have caused this Business Associate Addendum to be executed in their names by their duly authorized representatives as of the date first above written.

<b>MED3000, Inc., a Delaware Corporation</b>	<b>City of Lancaster</b>
<b>Address:</b> <b>5995 Windward Parkway</b> <b>Alpharetta, GA 30005-4184</b>	<b>Address:</b> <b>1650 N. Dallas Avenue</b> <b>Lancaster, TX 75134-3260</b>
_____	_____
<b>Signed</b>	<b>Signed</b>
_____	_____
<b>Name</b>	<b>Name</b>
_____	_____
<b>Title</b>	<b>Title</b>
_____	_____
<b>Date</b>	<b>Date</b>

# LANCASTER CITY COUNCIL

## Agenda Communication

September 16, 2013

Item 8

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**Consider a resolution approving the terms and conditions of the Grant Agreement for the Routine Airport Maintenance Program by and between the City of Lancaster, as Airport Sponsor, and the Texas Department of Transportation, on behalf of the State of Texas; authorizing matching funds in the amount of \$50,000 at the Lancaster Regional Airport.**

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

**Goal: Sound Infrastructure**

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### Background

The Routine Airport Maintenance Program (RAMP) is a 50/50 match grant program designed by TxDOT to smaller Texas airports assist with the routine maintenance requirements. Lancaster Regional Airport has fully participated in and benefited from this program in past years. This grant program supplements airport revenues in maintenance of the airport and defraying 50% of the cost.

### Considerations

- **Operational** - Utilization of the RAMP grant has assisted with the routine maintenance and upkeep on the five city-owned T-hangars. Over the past few years all five roofs have been replaced utilizing RAMP funds. In FY 2014 funds will be applied to the continued rehabilitation of ramp & taxi lane pavement, weather station maintenance, and airport lighting.
- **Legal** - The resolution has been approved as to form by the City Attorney.
- **Financial** - The City match is \$50,000 and is included in the FY 2014 budget.
- **Public Information** – This item is being considered at a regular meeting of the City Council noticed in accordance with the Texas Open Meetings Act.

### Options/Alternatives

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

**Recommendation**

Staff recommends adoption of the resolution approving the Routine Airport Maintenance Program grant agreement and authorizing matching funds in the amount of \$50,000.

**Attachments**

- Resolution
  - Exhibit "A" FY2014 Grant for Routine Airport Maintenance Program Agreement
- 

**Submitted by:**  
Mark Divita, Airport Manager

**RESOLUTION NO. 2013-0X-XX**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LANCASTER, TEXAS, APPROVING THE TERMS AND CONDITIONS OF THE GRANT AGREEMENT FOR THE ROUTINE AIRPORT MAINTENANCE PROGRAM BY AND BETWEEN THE CITY OF LANCASTER, AS AIRPORT SPONSOR, AND THE TEXAS DEPARTMENT OF TRANSPORTATION, ON BEHALF OF THE STATE OF TEXAS; AUTHORIZING MATCHING FUNDS IN THE AMOUNT OF \$50,000 AT LANCASTER REGIONAL AIRPORT; AUTHORIZING THE CITY MANAGER TO EXECUTE SAID AGREEMENT; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the Texas Department of Transportation provides fifty percent matching grants under the Routine Airport Maintenance Program; and

**WHEREAS**, the Lancaster Regional Airport is in need of ongoing routine maintenance; and

**WHEREAS**, the City Council desires to continue participation in the Routine Airport Maintenance Program;

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

**SECTION 1.** The City Council hereby approves the terms and conditions of the grant agreement for the FY2014 Routine Airport Maintenance Program, by and between the City of Lancaster, Texas, and the Texas Department of Transportation, attached hereto and incorporated herein by reference as Exhibit "A".

**SECTION 2.** The City Manager of the City of Lancaster, Texas is authorized to execute said grant agreement.

**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 16<sup>th</sup> day of September 2013.

**ATTEST:**

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

**APPROVED:**

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

**APPROVED AS TO FORM:**

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



AVIATION DIVISION

125 E. 11TH STREET • AUSTIN, TEXAS 78701-2483 • 512/416-4500 • FAX 512/416-4510

September 1, 2013

Mr. Mark Divita, Airport Manager  
The City of Lancaster  
P.O. Box 940  
Lancaster, Texas 75146

TxDOT Project No.: AM 2014LNCA  
TxDOT CSJ No.: M1418LNCA  
Fund Source: 4238500927

Dear Mr. Divita:

The Automated Weather Observation System at the Lancaster Regional Airport provides valuable meteorological information to pilots, the local community, and the National Weather Service. We appreciate the contribution the City of Lancaster makes to the safety of flight and national weather reporting.

The TxDOT CSJ Number M1418LNCA Grant for the Routine Airport Maintenance Program between the City of Lancaster, as airport sponsor, and the Texas Department of Transportation is attached as an Adobe Acrobat document. The grant will cover the TxDOT AWOS Maintenance Contract with Vaisala to continue the required monitoring and certification of your AWOS, and monthly AWOS Avimet Data Link fees.

A General Maintenance description of routine airport maintenance has been included in the Scope of Services so that grant funds can be used for these type of items without having to amend the grant. Special Project work items can be added to the grant at your request, or by amendment any time after execution. Please execute the Agreement, complete the Certifications, and **return the accepted agreements as soon as possible**. It will be necessary for your attorney to endorse your acceptance of the Agreement to assure that it has been accepted in accordance with local laws.

Please print out as many copies the City of Lancaster will need for any retained paper records - TxDOT will be retaining grant files electronically and will not require a paper record copy of your executed grant.

If you **do not need a paper copy** of the executed grant returned to you, please scan the fully signed and witnessed grant document and e-mail to me at [megan.caffall@txdot.gov](mailto:megan.caffall@txdot.gov). I will have the grant executed by the state and e-mail you an electronic copy of the executed grant

Mr. Mark Divita  
Page 2  
September 1, 2013

If you need a paper cop(ies) of the executed grant, please return all copies of the fully signed and witnessed documents to:

**Mailing Address -** *TxDOT Aviation Division  
125 E. 11<sup>th</sup> Street  
Austin, Texas 78701-2483.*

**Overnight Address -** *TxDOT Aviation Division  
150 E. Riverside Dr., 5<sup>th</sup> Floor South Tower,  
Austin TX 78704*

The FY2014 annual cost of the TxDOT AWOS Maintenance Contract with Vaisala, Inc. is \$3,720.00 with the City of Lancaster's share of \$1,860.00. Please remit payment with the attached invoice not later than October 31, 2013 to the address as follows:

***TxDOT, Attn.: Diana Ruiz, P.O. Box 149001, Austin, Texas 78714***

If you have any questions, or need additional information please contact me at 1-800-687-4568 or [megan.caffall@txdot.gov](mailto:megan.caffall@txdot.gov). The Texas Department of Transportation looks forward to working with you at the Lancaster Regional Airport.

Sincerely,



Megan Caffall  
Ramp Program Manager

cc: Diana Ruiz  
Allison Martin

Enclosures

TEXAS DEPARTMENT OF TRANSPORTATION  
AVIATION DIVISION

I N V O I C E

September 1, 2013

Mr. Mark Divita, Airport Manager  
The City of Lancaster  
P.O. Box 940  
Lancaster, Texas 75146

TxDOT CSJ No.: M1418LNCA  
Fund Source: 4238500927

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2014 AWOS Maintenance	\$ 3,720.00
RAMP Share	- <u>\$ 1,860.00</u>
Sponsor share	\$ 1,860.00

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Return this form with your payment to:

TxDOT  
Attn.: Diana Ruiz  
P. O. Box 149001  
Austin, TX 78714

*Payment due by October 31, 2013*

**TEXAS DEPARTMENT OF TRANSPORTATION  
GRANT FOR ROUTINE AIRPORT MAINTENANCE PROGRAM**

**(State Assisted Airport Routine Maintenance)**

**TxDOT Project No.: AM 2014LNCA  
TxDOT CSJ No.: M1418LNCA**

**Part I - Identification of the Project**

TO: The City of Lancaster, Texas

FROM: The State of Texas, acting through the Texas Department of Transportation

This Grant is made between the Texas Department of Transportation, (hereinafter referred to as the "State"), on behalf of the State of Texas, and the City of Lancaster, Texas, (hereinafter referred to as the "Sponsor").

This Grant Agreement is entered into between the State and Sponsor shown above, under the authority granted and in compliance with the provisions of the Transportation Code Chapter 21.

The project is for **airport maintenance** at the Lancaster Regional Airport.

**Part II - Offer of Financial Assistance**

1. For the purposes of this Grant, the annual routine maintenance project cost, Amount A, is estimated as found on Attachment A, Scope of Services, attached hereto and made a part of this grant agreement.

State financial assistance granted will be used solely and exclusively for airport maintenance and other incidental items as approved by the State. Actual work to be performed under this agreement is found on Attachment A, Scope of Services. State financial assistance, Amount B, will be for fifty percent (50%) of the eligible project costs for this project or \$50,000.00, whichever is less, per fiscal year and subject to availability of state appropriations.

Scope of Services, Attachment A, of this Grant, may be amended, subject to availability of state funds, to include additional approved airport maintenance work. Scope amendments require submittal of an Amended Scope of Services, Attachment A.

Services will not be accomplished by the State until receipt of Sponsor's share of project costs.

**Only work items as described in Attachment A, Scope of Services of this Grant are reimbursable under this grant.**

Work shall be accomplished by August 31, 2013, unless otherwise approved by the State.

2. The State shall determine fair and eligible project costs for work scope. Sponsor's share of estimated project costs, Amount C, shall be as found on Attachment A and any amendments.

It is mutually understood and agreed that if, during the term of this agreement, the State determines that there is an overrun in the estimated annual routine maintenance costs, the State may increase the grant to cover the amount of the overrun within the above stated percentages and subject to the maximum amount of state funding.

The State will not authorize expenditures in excess of the dollar amounts identified in this Agreement and any amendments, without the consent of the Sponsor.

3. Sponsor, by accepting this Grant certifies and, upon request, shall furnish proof to the State that it has sufficient funds to meet its share of the costs. The Sponsor grants to the State the right to audit any books and records of the Sponsor to verify expended funds.

Upon execution of this Agreement and written demand by the State, the Sponsor's financial obligation (Amount C) shall be due in cash and payable in full to the State. State may request the Sponsor's financial obligation in partial payments. Should the Sponsor fail to pay their obligation, either in whole or in part, within 30 days of written demand, the State may exercise its rights under Paragraph V-3. Likewise, should the State be unwilling or unable to pay its obligation in a timely manner, the failure to pay shall be considered a breach and the Sponsor may exercise any rights and remedies it has at law or equity.

The State shall reimburse or credit the Sponsor, at the financial closure of the project, any excess funds provided by the Sponsor which exceed Sponsor's share (Amount C).

4. The Sponsor specifically agrees that it shall pay any project costs which exceed the amount of financial participation agreed to by the State. It is further agreed that the Sponsor will reimburse the State for any payment or payments made by the State which are in excess of the percentage of financial assistance (Amount B) as stated in Paragraph II-1.
5. Scope of Services may be accomplished by State contracts or through local contracts of the Sponsor as determined appropriate by the State. All locally contracted work must be approved by the State for scope and reasonable cost. Reimbursement requests for locally contracted work shall be submitted on forms provided by the State and shall include copies of the invoices for materials or services. Payment shall be made for no more than 50% of allowable charges.

The State will not participate in funding for force account work conducted by the Sponsor.

6. This Grant shall terminate upon completion of the scope of services.

### **Part III - Sponsor Responsibilities**

1. In accepting this Grant, if applicable, the Sponsor guarantees that:
  - a. it will, in the operation of the facility, comply with all applicable state and federal laws, rules, regulations, procedures, covenants and assurances required by the State in connection with this Grant; and
  - b. the Airport or navigational facility which is the subject of this Grant shall be controlled by the Sponsor for a period of at least 20 years; and
  - c. consistent with safety and security requirements, it shall make the airport or air navigational facility available to all types, kinds and classes of aeronautical use without discrimination between such types, kinds and classes and shall provide adequate public access during the period of this Grant; and
  - d. it shall not grant or permit anyone to exercise an exclusive right for the conduct of aeronautical activity on or about an airport landing area. Aeronautical activities include, but are not limited to scheduled airline flights, charter flights, flight instruction, aircraft sales, rental and repair, sale of aviation petroleum products and aerial applications. The landing area consists of runways or landing strips, taxiways, parking aprons, roads, airport lighting and navigational aids; and
  - e. it shall not enter into any agreement nor permit any aircraft to gain direct ground access to the sponsor's airport from private property adjacent to or in the immediate area of the airport. Further, Sponsor shall not allow aircraft direct ground access to private property. Sponsor shall be subject to this prohibition, commonly known as a "through-the-fence operation," unless an exception is granted in writing by the State due to extreme circumstances; and
  - f. it shall not permit non-aeronautical use of airport facilities without prior approval of the State; and
  - g. the Sponsor shall submit to the State annual statements of airport revenues and expenses when requested; and
  - h. all fees collected for the use of the airport shall be reasonable and nondiscriminatory. The proceeds from such fees shall be used solely for the development, operation and maintenance of the airport or navigational facility; and
  - i. an Airport Fund shall be established by resolution, order or ordinance in the

treasury of the Sponsor, or evidence of the prior creation of an existing airport fund or a properly executed copy of the resolution, order, or ordinance creating such a fund, shall be submitted to the State. The fund may be an account as part of another fund, but must be accounted for in such a manner that all revenues, expenses, retained earnings, and balances in the account are discernible from other types of moneys identified in the fund as a whole. All fees, charges, rents, and money from any source derived from airport operations must be deposited in the Airport Fund and shall not be diverted to the general revenue fund or any other revenue fund of the Sponsor. All expenditures from the Airport Fund shall be solely for airport purposes. Sponsor shall be ineligible for a subsequent grant or loan by the State unless, prior to such subsequent approval of a grant or loan, Sponsor has complied with the requirements of this subparagraph; and

- j. the Sponsor shall operate runway lighting at least at low intensity from sunset to sunrise; and
  - k. insofar as it is reasonable and within its power, Sponsor shall adopt and enforce zoning regulations to restrict the height of structures and use of land adjacent to or in the immediate vicinity of the airport to heights and activities compatible with normal airport operations as provided in Tex. Loc. Govt. Code Ann. Sections 241.001 et seq. (Vernon and Vernon Supp.). Sponsor shall also acquire and retain aviation easements or other property interests in or rights to use of land or airspace, unless sponsor can show that acquisition and retention of such interest will be impractical or will result in undue hardship to Sponsor. Sponsor shall be ineligible for a subsequent grant or loan by the State unless Sponsor has, prior to subsequent approval of a grant or loan, adopted and passed an airport hazard zoning ordinance or order approved by the State.
  - l. mowing services will not be eligible for state financial assistance. Sponsor will be responsible for 100% of any mowing services.
2. The Sponsor, to the extent of its legal authority to do so, shall save harmless the State, the State's agents, employees or contractors from all claims and liability due to activities of the Sponsor, the Sponsor's agents or employees performed under this agreement. The Sponsor, to the extent of its legal authority to do so, shall also save harmless the State, the State's agents, employees or contractors from any and all expenses, including attorney fees which might be incurred by the State in litigation or otherwise resisting claim or liabilities which might be imposed on the State as the result of those activities by the Sponsor, the Sponsor's agents or employees.
  3. The Sponsor's acceptance of this Offer and ratification and adoption of this Grant shall be evidenced by execution of this Grant by the Sponsor. The Grant shall comprise a contract, constituting the obligations and rights of the State of Texas and the Sponsor with respect to the accomplishment of the project and the operation and maintenance of the airport.

If it becomes unreasonable or impractical to complete the project, the State may void this agreement and release the Sponsor from any further obligation of project costs.

4. Upon entering into this Grant, Sponsor agrees to name an individual, as the Sponsor's Authorized Representative, who shall be the State's contact with regard to this project. The Representative shall receive all correspondence and documents associated with this grant and shall make or shall acquire approvals and disapprovals for this grant as required on behalf of the Sponsor, and coordinate schedule for work items as required.
5. By the acceptance of grant funds for the maintenance of eligible airport buildings, the Sponsor certifies that the buildings are owned by the Sponsor. The buildings may be leased but if the lease agreement specifies that the lessee is responsible for the upkeep and repairs of the building no state funds shall be used for that purpose.
6. Sponsor shall request reimbursement of eligible project costs on forms provided by the State. All reimbursement requests are required to include a copy of the invoices for the materials or services. The reimbursement request will be submitted no more than once a month.
7. The Sponsor's acceptance of this Agreement shall comprise a Grant Agreement, as provided by the Transportation Code, Chapter 21, constituting the contractual obligations and rights of the State of Texas and the Sponsor with respect to the accomplishment of the airport maintenance and compliance with the assurances and conditions as provided. Such Grant Agreement shall become effective upon the State's written Notice to Proceed issued following execution of this agreement.

#### **PART IV - Nomination of the Agent**

1. The Sponsor designates the State as the party to receive and disburse all funds used, or to be used, in payment of the costs of the project, or in reimbursement to either of the parties for costs incurred.
2. The State shall, for all purposes in connection with the project identified above, be the Agent of the Sponsor. The Sponsor grants the State a power of attorney to act as its agent to perform the following services:
  - a. accept, receive, and deposit with the State any and all project funds granted, allowed, and paid or made available by the Sponsor, the State of Texas, or any other entity;
  - b. enter into contracts as necessary for execution of scope of services;
  - c. if State enters into a contract as Agent: exercise supervision and direction of the project work as the State reasonably finds appropriate. Where there is an

irreconcilable conflict or difference of opinion, judgment, order or direction between the State and the Sponsor or any service provider, the State shall issue a written order which shall prevail and be controlling;

- d. receive, review, approve and pay invoices and payment requests for services and materials supplied in accordance with the State approved contracts;
- e. obtain an audit as may be required by state regulations; the State Auditor may conduct an audit or investigation of any entity receiving funds from TxDOT directly under this contract or indirectly through a subcontract under this contract. Acceptance of funds directly under this contract or indirectly through a subcontract under this contract acts as acceptance of the authority of the State Auditor, under the direction of the legislative audit committee, to conduct an audit or investigation in connection with those funds. An entity that is the subject of an audit or investigation must provide the state auditor with access to any information the state auditor considers relevant to the investigation or audit.
- f. reimburse sponsor for approved contract maintenance costs no more than once a month.

#### **PART V - Recitals**

- 1. This Grant is executed for the sole benefit of the contracting parties and is not intended or executed for the direct or incidental benefit of any third party.
- 2. It is the intent of this grant to not supplant local funds normally utilized for airport maintenance, and that any state financial assistance offered under this grant be in addition to those local funds normally dedicated for airport maintenance.
- 3. This Grant is subject to the applicable provisions of the Transportation Code, Chapters 21 and 22, and the Airport Zoning Act, Tex. Loc. Govt. Code Ann. Sections 241.001 et seq. (Vernon and Vernon Supp.). Failure to comply with the terms of this Grant or with the rules and statutes shall be considered a breach of this contract and will allow the State to pursue the remedies for breach as stated below.
  - a. Of primary importance to the State is compliance with the terms and conditions of this Grant. If, however, after all reasonable attempts to require compliance have failed, the State finds that the Sponsor is unwilling and/or unable to comply with any of the terms of this Grant, the State, may pursue any of the following remedies: (1) require a refund of any financial assistance money expended pursuant to this Grant, (2) deny Sponsor's future requests for aid, (3) request the Attorney General to bring suit seeking reimbursement of any financial assistance money expended on the project pursuant to this Grant, provided however, these remedies shall not limit the State's authority to enforce its rules, regulations or

orders as otherwise provided by law, (4) declare this Grant null and void, or (5) any other remedy available at law or in equity.

- b. Venue for resolution by a court of competent jurisdiction of any dispute arising under the terms of this Grant, or for enforcement of any of the provisions of this Grant, is specifically set by Grant of the parties in Travis County, Texas.
4. The State reserves the right to amend or withdraw this Grant at any time prior to acceptance by the Sponsor. The acceptance period cannot be greater than 30 days after issuance unless extended by the State.
5. This Grant constitutes the full and total understanding of the parties concerning their rights and responsibilities in regard to this project and shall not be modified, amended, rescinded or revoked unless such modification, amendment, rescission or revocation is agreed to by both parties in writing and executed by both parties.
6. All commitments by the Sponsor and the State are subject to constitutional and statutory limitations and restrictions binding upon the Sponsor and the State (including Sections 5 and 7 of Article 11 of the Texas Constitution, if applicable) and to the availability of funds which lawfully may be applied.

**Part VI - Acceptances**

**Sponsor**

The City of Lancaster, Texas, does ratify and adopt all statements, representations, warranties, covenants, agreements, and all terms and conditions of this Grant.

Executed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
The City of Lancaster, Texas

Sponsor

\_\_\_\_\_  
Witness Signature

\_\_\_\_\_  
Sponsor Signature

\_\_\_\_\_  
Witness Title

\_\_\_\_\_  
Sponsor Title

**Certificate of Attorney**

I, \_\_\_\_\_, acting as attorney for the City of Lancaster, Texas, do certify that I have fully examined the Grant and the proceedings taken by the Sponsor relating to the acceptance of the Grant, and find that the manner of acceptance and execution of the Grant by the Sponsor, is in accordance with the laws of the State of Texas.

Dated at \_\_\_\_\_, Texas, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Witness Signature

\_\_\_\_\_  
Attorney's Signature

\_\_\_\_\_  
Witness Title

**Acceptance of the State**

Executed by and approved for the Texas Transportation Commission for the purpose and effect of activating and/or carrying out the orders, established policies or work programs and grants heretofore approved and authorized by the Texas Transportation Commission.

STATE OF TEXAS  
TEXAS DEPARTMENT OF TRANSPORTATION

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

Date: \_\_\_\_\_

**Attachment A  
Scope of Services  
TxDOT CSJ No.: M1418LNCA**

<b>Eligible Scope Items:</b>	<b>Estimated Costs</b>	<b>State Share</b>	<b>Sponsor Share</b>
	<b>Amount A</b>	<b>Amount B</b>	<b>Amount C</b>
<b>GENERAL MAINTENANCE</b>	\$96,280.00	\$48,140.00	\$48,140.00
<b>SPECIAL PROJECT</b>	\$0.00	\$0.00	\$0.00
<b>SPECIAL PROJECT</b>	\$0.00	\$0.00	\$0.00
<b>SPECIAL PROJECT</b>	\$0.00	\$0.00	\$0.00
<b>MISC - AWOS Maintenance</b>	\$3,720.00	\$1,860.00	\$1,860.00
<b>Total</b>	<b>\$100,000.00</b>	<b>\$50,000.00</b>	<b>\$50,000.00</b>

Accepted by: The City of Lancaster, Texas

\_\_\_\_\_  
Signature

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

Date: \_\_\_\_\_

Notes: (explanations of any specifications or variances as needed for above scope items) \_\_\_\_\_

MISCELLANEOUS: TxDOT to contract for AWOS maintenance, Sponsor to contract for AWOS AviMet Data Link, AWOS repairs/parts replacement.

GENERAL MAINTENANCE: As needed, Sponsor may contract for services/purchase materials for routine maintenance/improvement of airport pavements, signage, drainage, approach aids, lighting systems, utility infrastructure, fencing, herbicide/application, sponsor owned and operated fuel systems, hangars, buildings, terminal buildings and security systems; professional services for environmental compliance, approved project design. Special projects to be determined and added by amendment.

**Only work items as described in Attachment A, Scope of Services of this Grant are reimbursable under this grant.**

**CERTIFICATION OF AIRPORT FUND**

TxDOT CSJ No.: M1418LNCA

The City of Lancaster does certify that an Airport Fund has been established for the Sponsor, and that all fees, charges, rents, and money from any source derived from airport operations will be deposited for the benefit of the Airport Fund and will not be diverted for other general revenue fund expenditures or any other special fund of the Sponsor and that all expenditures from the Fund will be solely for airport purposes. The fund may be an account as part of another fund, but must be accounted for in such a manner that all revenues, expenses, retained earnings, and balances in the account are discernible from other types of moneys identified in the fund as a whole.

\_\_\_\_\_  
The City of Lancaster, Texas  
(Sponsor)

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

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

Date: \_\_\_\_\_

**State of Texas Single Audit Requirements**

I, \_\_\_\_\_, do certify that the City of Lancaster will comply with all  
(Designated Representative)

requirements of the State of Texas Single Audit Act if the City of Lancaster spends or receives more than \$500,000 in any funding sources during this fiscal year. And in following those requirements, the City of Lancaster will submit the report to the audit division of the Texas Department of Transportation. If your entity did not meet the threshold of \$500,000.00 in grant expenditures, please submit a letter indicating that your entity is not required to have a State Single Audit performed for the most recent audited fiscal year.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

**DESIGNATION OF SPONSOR'S AUTHORIZED REPRESENTATIVE**

TxDOT CSJ Number: M1418LNCA

The City of Lancaster designates, \_\_\_\_\_  
(Name, Title)

as the Sponsor's authorized representative, who shall receive all correspondence and documents associated with this grant and who shall make or shall acquire approvals and disapprovals for this grant as required on behalf of the Sponsor.

\_\_\_\_\_  
The City of Lancaster, Texas  
(Sponsor)

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

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

Date: \_\_\_\_\_

**DESIGNATED REPRESENTATIVE**

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

\_\_\_\_\_  
\_\_\_\_\_

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

\_\_\_\_\_  
\_\_\_\_\_

Telephone/Fax Number: \_\_\_\_\_

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

# LANCASTER CITY COUNCIL

## Agenda Communication

September 16, 2013

Item 9

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**Consider an ordinance amending the Code of Ordinances by amending Chapter 14, Article 14.07, “Residency Restrictions For Sex Offenders,” Section 14.07.002 providing offenses, and Section 14.07.003 providing for evidentiary matters; and providing a penalty of fine not to exceed five hundred dollars (\$500.00).**

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**This request supports the City Council 2012-2013 Policy Agenda.**

**Goal: Healthy, Safe & Vibrant Neighborhoods**

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### **Background**

On June 23, 2008, the City Council adopted an ordinance regarding residency restrictions for sex offenders. State law has recently been amended defining certain restrictions for individuals required to register as sex offenders and that were convicted of an offense under Section 43.26 of the Texas Penal Code, Possession or Promotion of Child Pornography. This amendment specifically addresses these offenders; thus preventing them from living in a restricted area of the City.

### **Considerations**

- **Operational** - The Lancaster Police Department currently enforces Article 14.07 Residency Restrictions for Sex Offenders. This amendment clarifies that offenders convicted of Possession of Child Pornography may not live within the restricted areas of the City.
- **Legal** – The City Attorney prepared the amendment to the ordinance.
- **Financial** - There is no financial impact in amending the ordinance.
- **Public Information** – The item is being considered at a meeting of the City Council noticed in accordance with the Texas Open Meetings Act.

### **Options/Alternatives**

1. Council may amend the ordinance as presented.
2. Council may deny the ordinance and direct staff.

**Recommendation**

Staff recommends approval of amendment of the ordinance as presented.

**Attachments**

- Ordinance
- 

**Submitted by:**

M.C. Smith  
Assistant Chief of Police

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

**AN ORDINANCE OF THE CITY OF LANCASTER, TEXAS, AMENDING THE CODE OF ORDINANCES BY AMENDING CHAPTER 14, ARTICLE 14.07, "RESIDENCY RESTRICTIONS FOR SEX OFFENDERS," SECTION 14.07.002 PROVIDING OFFENSES, AND SECTION 14.07.003 PROVIDING FOR EVIDENTIARY MATTERS; PROVIDING A PENALTY OF FINE NOT TO EXCEED FIVE HUNDRED DOLLARS (\$500.00); PROVIDING FOR SEVERABILITY; PROVIDING A SAVINGS CLAUSE; PROVIDING A REPEALING CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, state law has recently been amended defining certain restrictions for individuals required to register as sex offenders; and

**WHEREAS**, the City desires to amend its Code of Ordinances to reflect such amendments; and

**WHEREAS**, the City desires to provide a safe environment for the children and citizens of its community, therefore, the City believes that it is in the best interest of the City of Lancaster to approve this Ordinance and the contents herein.

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

**SECTION 1.** That Chapter 14 of the Lancaster Code of Ordinances be, and the same is, hereby amended by amending Article 14.07, Residency Restrictions for Sex Offenders, Section 14.07.002 providing offenses, and Section 14.07.003 providing for evidentiary matters as follows:

**"ARTICLE 14.07 RESIDENCY RESTRICTIONS FOR SEX OFFENDERS**

.....

**Sec. 14.07.002 Offenses.**

Each person required by law to register as a sex offender because of an offense involving a minor as defined herein, including an offense under Section 43.26 of the Texas Penal Code, shall be required to register with the police department and it shall be unlawful for such person to establish a permanent residence or temporary residence within 1,000 feet of any "premise where children commonly gather". It shall be a separate offense each and every day that a person violates the provisions of this section.

**Sec. 14.07.003 Evidentiary matters; measurements.**

(a) It shall be prima facie evidence that this Section applies to such a person if that person's record appears on the Database and the Database indicates the offense is an offense involving a minor as defined herein.

.....”

**SECTION 2.** Any person, firm or corporation violating any of the provisions of this ordinance or the provisions of the Code of Ordinances of the City of Lancaster, Texas, as amended hereby, shall be deemed guilty of a misdemeanor and, upon conviction in the municipal court of the City of Lancaster, Texas, shall be subject to a fine not to exceed the sum of Five Hundred (\$500.00) dollars for each offense, and each and every day such offense shall continue shall be deemed to constitute a separate offense.

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

**SECTION 5.** That this ordinance shall take effect immediately from and after its passage as the law and charter in such cases provide.

**DULY PASSED** by the City Council of the City of Lancaster, Texas, this the 16<sup>th</sup> day of September 2013.

**APPROVED:**

\_\_\_\_\_  
MARCUS E. KNIGHT, MAYOR

**ATTEST:**

\_\_\_\_\_  
DOLLE K. DOWNE, CITY SECRETARY

**APPROVED AS TO FORM:**

\_\_\_\_\_  
ROBERT E. HAGER, CITY ATTORNEY  
(REH.wlw)

# LANCASTER CITY COUNCIL

## Agenda Communication

September 16, 2013

Item 10

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### Discuss and consider appointment of council liaisons to City Boards and Commissions.

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This request supports the City Council 2012-2013 Policy Agenda.

**Goal: Civic Engagement**

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#### **Background**

At the September 9, 2013 meeting, City Council made appointments to City Boards and Commissions. Annually, following board and commission appointments, Councilmembers select the boards/commissions that they would like to serve as Council liaison.

In accordance with Resolution 2007-09-105, appointments are based on seniority with the most tenured member choosing from the boards/commissions first. Following is a list of councilmembers by seniority:

Mayor Pro Tem James Daniels  
Deputy Mayor Pro Tem Nina Morris  
Councilmember Marco Mejia  
Councilmember Stanley Jaglowski  
Councilmember LaShonjia Harris  
Councilmember Carol Strain-Burk

#### **Considerations**

Currently serving as liaisons are the following:

<b><u>Board/Commission</u></b>	<b><u>Councilmember</u></b>
Airport Board	vacant
Animal Shelter Advisory Committee	Jaglowski
Civil Service Commission	Daniels
Economic Development Corp.	Mejia
Historic Landmark Preservation Committee	vacant
Library Advisory Board	Harris
Parks and Recreation Advisory Board/ Recreational Development Corp.	Morris

**Board/Commission**

Planning & Zoning Commission  
Property Standards & Appeals Board  
Youth Advisory Committee  
Zoning Board of Adjustment

**Councilmember**

Daniels  
Jagowski  
Morris  
Mejia

**Options/Alternatives**

1. Council may make selections for council liaisons to boards and commissions.
2. Council may postpone selection of council liaisons and direct staff.

**Recommendation**

Selection of council liaisons is solely at Council's pleasure.

**Attachments**

- Resolution 2007-09-105 (council liaison policy)

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**Submitted by:**

Dolle K. Downe, City Secretary

**RESOLUTION NO. 2007-09-105**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LANCASTER, TEXAS, ESTABLISHING A POLICY FOR COUNCILMEMBERS TO SERVE AS LIAISONS TO ALL BOARDS AND COMMISSIONS OF THE CITY; REPEALING ALL RESOLUTIONS IN CONFLICT; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, it is the intention of the City Council of the City of Lancaster to provide effective communication to all the boards and commissions; and

**WHEREAS**, Councilmembers serving as liaisons to the various City's boards and commissions will be able to provide necessary resources and information to the boards and commissions.

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

**Section 1.** All City Councilmembers, with the exception of the Mayor, will serve as Council liaisons to all the boards and commissions of the City for a period of one year. Councilmembers will select different boards and/or commissions to serve as liaisons after or around the completion of the boards and commissions appointments in July.

**Section 2.** Each Councilmember will be allowed to select the board or commission they would like to serve as liaisons to by order of seniority.

**Section 3.** Each Councilmember may submit a quarterly report to the entire council through the City Secretary on their respective board and/or commission's activity.

**Section 4.** Councilmembers are strongly encouraged, rather than required, to attend all meetings of their selected boards and/or commissions.

**Section 5.** Any prior Resolution of the City Council in conflict with the provisions contained in this Resolution are hereby repealed or revoked.

**Section 6.** 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.

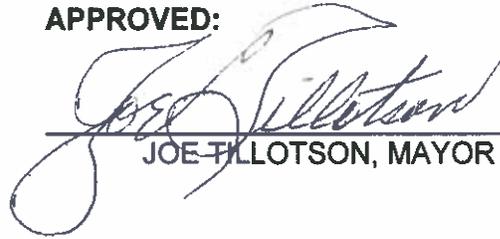
**Section 7.** This Resolution shall take effective immediately from and after its passage, and it is accordingly so resolved.

**DULY PASSED** and approved by the City Council of the City of Lancaster, Texas, on this the 24th day of September 2007.

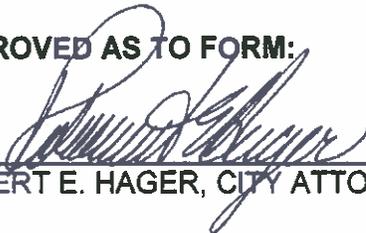
**ATTEST:**

  
\_\_\_\_\_  
DOLLE K. SHANE, CITY SECRETARY

**APPROVED:**

  
\_\_\_\_\_  
JOE TILLOTSON, MAYOR

**APPROVED AS TO FORM:**

  
\_\_\_\_\_  
ROBERT E. HAGER, CITY ATTORNEY