



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

Monday, April 22, 2013 - 7:00 PM

CALL TO ORDER

INVOCATION: Ministerial Alliance

PLEDGE OF ALLEGIANCE: Deputy Mayor Pro Tem James Daniels

CITIZENS' COMMENTS:

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

CONSENT AGENDA:

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

- C1. Consider a resolution canceling the regular City Council meetings scheduled for May 13 and 27, 2013; and providing for a called Special Meeting on May 20, 2013.
- C2. Consider a resolution approving the terms and conditions of a License Agreement by and between the City of Lancaster and the North Texas Commission (NTC) and the Texas Commission on Environmental Quality, for the construction, development, operating and maintenance of an air monitoring station at Cedardale Park.
- C3. Consider a resolution approving the terms and conditions of the City owned T-Hangar non-commercial lease from building 700 at the Lancaster Regional Airport.
- C4. Consider a resolution approving the terms and conditions of the City owned T-Hangar non-commercial lease from building 700 at the Lancaster Regional Airport.
- C5. Consider a resolution approving the terms and conditions of the City owned T-Hangar non-commercial lease from building 690 at the Lancaster Regional Airport.
- C6. Consider a resolution approving the terms and conditions of the City owned terminal building cafe commercial lease from building 730 at the Lancaster Regional Airport.
- C7. Consider a resolution authorizing the purchase of one (1) Lifepak Monitor/Defibrillator from Physio Control through the federally funded program Resuscitation Outcomes Consortium (ROC) for a total amount not to exceed \$39,897.80

- C8. Consider a resolution authorizing the award of Bid #2013-66 for miscellaneous fire equipment to multiple vendors for a total amount not to exceed \$104,892.41.
- C9. Consider a resolution authorizing the purchase of radios from Motorola through an Interlocal Agreement with Houston Galveston Area Council (HGAC) (Contract RA05-12) for a total amount not to exceed \$6,520.23.
- C10. Consider a resolution authorizing the purchase of two (2) thermal cameras from Casco Industries, Inc., through an Interlocal Agreement with BuyBoard (Contract 363-10) for a total amount not to exceed \$26,491.44.
- C11. Consider a resolution authorizing the purchase of a Mobile Data Terminal (MDT) from CDW Government (CDWG) through an Interlocal Agreement with Texas Cooperative Purchasing Network (TCPN) (Contract R5106) for a total amount not to exceed \$5,716.71.
- C12. Consider a resolution authorizing the award of a unit price bid #2013-70 for miscellaneous water and sewer parts to Fortiline Waterworks for a total amount not to exceed \$50,000.00.
- C13. Consider a resolution authorizing the award of a unit price bid #2013-71 for water and sewer pipe to Fortiline Waterworks as the primary vendor and Texas Water Products, Inc. as the secondary vendor for a total amount not to exceed \$95,500.
- C14. Consider a resolution authorizing the award of a unit price bid # 2013-69 for water meters to Texas Water Products, Inc. as the primary vendor and Britton Meter Supply, Inc. as the secondary vendor for a total amount not to exceed \$262,500.

PUBLIC HEARING:

- 15. Conduct a public hearing and consider a resolution approving the 2013-2014 Standards of Care for Youth Programs operated by the Lancaster Parks and Recreation Department.

ACTION:

- 16. Discuss and consider appointments to the Planning and Zoning Commission and the Library Advisory Board.
- 17. Consider a resolution adopting the Lancaster City Council Rules and Procedures, as amended.

ADJOURNMENT

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

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

Certificate

I hereby certify the above Notice of Meeting was posted at the Lancaster City Hall on April 19, 2013 @ 10:30 a.m. and copies thereof were hand delivered to the Mayor, Mayor Pro-Tempore, Deputy Mayor Pro-Tempore and Council members.

Angie Arenas
Assistant City Secretary

LANCASTER CITY COUNCIL

Agenda Communication

April 22, 2013

Item 1

Consider a resolution canceling the regular City Council meetings scheduled for May 13 and 27, 2013; and providing for a called Special Meeting on May 20, 2013.

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

Goal: Civic Engagement

Background

The City Council generally meets on the second and fourth Mondays of each month. The official period to canvass results for the May 11 municipal election is May 14-22, 2013. The May 13 meeting date is prior to the available canvass period, and the May 27 meeting falls on Memorial Day. City Council may call a Special Meeting on May 20, 2013 to canvass the election results, seat newly elected officers and conduct other essential business, if needed.

Considerations

Essential City business can be completed at a called Special Meeting on May 20, 2013. The May 20 meeting date allows sufficient time for Dallas County Elections to qualify and count provisional ballots and overseas ballots, if any.

Options/Alternatives

1. Council may approve the resolution as presented.
2. Council may amend the resolution to provide for a different called meeting date.

Recommendation

Staff recommends approval of the resolution canceling the May 13 and 27, 2013 meetings and providing for a called Special Meeting on May 20, 2013.

Attachments

- Resolution

Submitted by:

Dolle K. Downe, City Secretary

RESOLUTION NO. 2013

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LANCASTER, TEXAS, CANCELING THE REGULAR CITY COUNCIL MEETINGS SCHEDULED FOR MAY 13 AND 27, 2013; PROVIDING FOR A CALLED SPECIAL MEETING ON MAY 20, 2013 TO CONDUCT CITY BUSINESS; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the period for official canvass of the results from the May 11, 2013 municipal election is May 14 - 22, 2013 and the regularly scheduled Council meeting is May 13, 2013; and

WHEREAS, the second regularly scheduled Council meeting is May 27, 2013, which is the Memorial Day holiday; and

WHEREAS, the City Council is of the opinion that all essential City business may be conducted at a called Special Meeting on May 20, 2013;

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

SECTION 1. The regularly scheduled meetings of the City Council set for May 13 and 27, 2013 are hereby canceled.

SECTION 2. The City Council shall conduct a called Special Meeting on Monday, May 20, 2013 to conduct necessary business.

SECTION 3. This resolution shall take effect immediately from and after its adoption and it is so resolved.

DULY PASSED and approved by the City Council of the City of Lancaster, Texas, on this the 22nd day of April 2013.

ATTEST:

APPROVED:

Dolle K. Downe, City Secretary

Marcus E. Knight, Mayor

APPROVED AS TO FORM:

Robert E. Hager, City Attorney

LANCASTER CITY COUNCIL

Agenda Communication

April 22, 2013

Item 2

Consider a resolution approving the terms and conditions of a License Agreement by and between the City of Lancaster and the North Texas Commission (NTC) and the Texas Commission on Environmental Quality, for the construction, development, operating and maintenance of an air monitoring station at Cedardale Park.

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

Goal 3: Healthy, Safe & Vibrant Neighborhoods

Background

In February 2013, Parks & Recreation and Development Services staff met with representatives of the North Texas Commission (NTC) and Texas Commission on Environmental Quality (TCEQ) who received a grant to establish a new network of air quality monitors across the greater North Texas area.

During the planning process of this project, the NTC/ TCEQ Air Monitor Committee received a letter from Mayor Marcus Knight on behalf of the Best Southwest Partnership (BSWP) requesting that an air monitor be located in the BSWP service area. Upon receipt of this request the committee conducted research and recommended the City of Lancaster as a location for a monitor because of our rapid growth in population, industry, and commerce.

After evaluating the area with City staff and NTC/ TCEQ staff and contractors, it was determined that Cedardale Park was the ideal location.

The establishment of an air monitor on this site will generate previously unavailable air quality data about the City of Lancaster and the southeastern portion of Dallas County which will be useful for protecting health, improving the current network's comprehensiveness, and creating baseline measurements of air quality.

This license agreement is for an initial term of five (5) years and requires NTC/ TCEQ to assume all funding obligations to construct, develop, operate and maintain the air monitoring station.

The proposed Air Monitoring station proposal was presented, reviewed and recommended for approval by the Parks and Recreation Advisory Board during their regular meeting on March 18, 2013.

Considerations

- **Operational** - The proposed agreement will permit NTC/ TCEQ to develop, construct, operate and maintain an air monitoring station at Cedardale Park. The agreement will assist in protecting public health by monitoring air quality in the southeastern section of Dallas County:
- **Legal** - The City Attorney has reviewed and approved as to form the attached resolution for the development agreement.
- **Financial** – NTC/ TCEQ covenants to design, develop, construct, operate and maintain the air monitoring station on the premises as herein provided with all such costs solely the responsibility of NTC.
- **Public Information** - There are no public information requirements.

Options/Alternatives

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

Recommendation

Staff recommends approval of the resolution and agreement as presented.

Attachments

- Resolution
 - License Agreement
-

Submitted by:

Sean Johnson, Parks and Recreation Director

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LANCASTER, TEXAS, APPROVING THE TERMS AND CONDITIONS OF A LICENSE AGREEMENT BY AND BETWEEN THE CITY OF LANCASTER AND NORTH TEXAS COMMISSION (NTC) AND THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY FOR THE CONSTRUCTION, DEVELOPMENT, OPERATION AND MAINTENANCE OF AN AIR MONITORING STATION AT CEDARDALE PARK; AUTHORIZING THE CITY MANAGER TO EXECUTE SAID AGREEMENT; REPEALING ALL RESOLUTIONS IN CONFLICT; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Lancaster, Texas, desires to contract with NTC, for the above referenced services;

WHEREAS, City desires to have NTC construct, develop, operate, and maintain the Premises for the use of collecting air samples which will be useful for protecting public health; and

WHEREAS, City is owner of Cedardale Park, located at 1930 Cedardale Rd, Lancaster, Texas, (hereinafter, the "Property") and desires to enhance its use as a municipal park by developing an air monitoring station, landscaping and all associated improvements within the Park limits; and

WHEREAS, the Air Monitoring Station is to be located on an area of land located within the Park, said area being more particularly described on Exhibit "A", which is attached hereto and incorporated herein by reference, (hereinafter, the "Premises"); and

WHEREAS, NTC is a Texas non-profit corporation established and existing under Texas law for the purpose of constructing, developing, operating, and maintaining the Air Monitoring Station at the Premises.

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

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

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

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

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

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

DULY PASSED and approved by the City Council of the City of Lancaster, Texas, on this the 22nd day of April 2013.

ATTEST:

APPROVED:

Dolle K. Downe, City Secretary

Marcus E. Knight, Mayor

APPROVED AS TO FORM:

Robert E. Hager, City Attorney

STATE OF TEXAS §
COUNTY OF DALLAS §

LICENSE AGREEMENT

This License Agreement ("AGREEMENT") is made by and between City of Lancaster, Texas (hereinafter referred to as "CITY"), the North Texas Commission (hereinafter referred to as "LICENSEE" or "NTC"), and the Texas Commission on Environmental Quality (hereinafter referred to as "TCEQ") acting by and through their authorized representatives.

WITNESSETH:

WHEREAS, CITY owns the real property located in Cedardale Park, described in Exhibit "A", attached hereto and incorporated herein for all purposes (the "Property"); and

WHEREAS, LICENSEE has identified the Property as an ideal location for an air monitoring station; and

WHEREAS, LICENSEE has requested the CITY allow the use and occupancy of the Property for the purpose of LICENSEE installing and operating an air monitoring station (hereinafter referred to as "STATION");

NOW, THEREFORE, in consideration of the covenants contained herein and other valuable consideration the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. **Purpose:** CITY hereby grants LICENSEE a license, pursuant to the terms of this AGREEMENT, for the purpose of installing and/or operating an air monitoring STATION, as described on the plans attached hereto as Exhibit "B", within that certain CITY Property being more particularly described in Exhibit "A". In consideration for such permission, the CITY will have full access, via the TCEQ website (<http://www.tceq.state.tx.us/nav/data/aq-data.html>), to the monitoring information gathered by NTC, TCEQ, or a designated TCEQ grantee from the STATION situated at the Site.
2. **Terms:** The term of this AGREEMENT is five (5) years from the date this AGREEMENT is executed. At the end of this term, this AGREEMENT renews automatically for additional five-year periods thereafter, unless written notice of termination is provided by one of the parties. Notice of termination from NTC, TCEQ, or a designated TCEQ grantee only affects the rights and duties of the terminating party and the CITY as to the terminating party.
3. **Non-exclusive:** This AGREEMENT is nonexclusive and is subject to any existing utility, drainage or communications facility located in, on, under or upon the Property owned by CITY, or any utility or communication company, public or private; to all vested rights presently owned by any utility or communication company, public or private, for the use of the CITY Property for facilities presently located within the boundaries of the Property; and to any existing lease, license, or other interest in the Property granted by CITY to any individual, corporation or other entity, public or private. The CITY will not grant any additional encumbrances on the Property during the term of this AGREEMENT.
4. **Equipment Site Location (the "Site"):** The equipment is located on the Property of the CITY at Cedardale Park, Lancaster, Texas, more particularly described in Exhibit "A".

5. **Air Monitoring Equipment and Utilities:** The proposed method of monitoring is with canisters in trailers or traffic boxes and/or a continuous air monitoring system housed in an aluminum utility trailer with metal roof plus auxiliary equipment outside the trailer, including a 10-meter weather tower. The STATION requires approximately 2,000 square feet of ground space covered with a site pad. The trailer is environmentally controlled and contains instrumentation as deemed appropriate by the NTC as well as peripherals required for the proper operation of the instruments. Additional trailers containing air monitors and outside peripherals may also be added within the 2,000 square foot Site. The NTC or its contractors will arrange and pay for phone and electrical installation and service. The NTC agrees to build the STATION in conformity with the aesthetic requirements of the CITY.
6. **Occupation of the Site and Right of Access:** The STATION and equipment normally will be unmanned, except for routine maintenance by NTC or its contractors occurring approximately three times per week. The NTC or its contractors have the right of ingress and egress to the Property, during regular working hours and when issues related to the Site arise, including equipment and utility malfunctions and emergencies, at the direction of the CITY or its staff maintaining or in possession of the Property, subject to the CITY's property management policies and practices, and not inconsistent with the CITY's primary use of the Property and other operations incident thereto, of which the entity operating the STATION is on notice. The CITY will provide written notice of change to the entity operating the STATION of CITY's management policies and practices of which it previously has provided written notice, and of its primary use of the Property and other operations incident thereto of which it has previously provided written notice.
7. **Mechanic's liens not permitted:** LICENSEE shall fully pay for all labor and materials used in, on or about the Property and will not permit or suffer any mechanic's or materialman's liens of any nature be affixed against the Property by reason of any work done or materials furnished to the Property at LICENSEE's instance or request.
8. **Future CITY use:** This AGREEMENT is made expressly subject and subordinate to the right of CITY to use the Property for any public purpose whatsoever. In the event that CITY shall, at any time subsequent to the date of this AGREEMENT, at its sole discretion, determine that the modification or relocation of the STATION shall be necessary or convenient for CITY's use of the Property, LICENSEE shall at its sole cost and expense make or cause to be made such modifications or relocate said STATION so as not to interfere with the CITY's or CITY's assign's use of the Property. The City shall provide notice to LICENSEE of its exercise of the above right, detailing the required change at or relocation of the STATION. Prior to the 90th day following the delivery of the Notice, the LICENSEE shall make the required changes or relocation. If the LICENSEE does not make the changes, the LICENSEE must reimburse CITY for the cost of making such required changes.
9. **Maintenance:** The LICENSEE, or its assignee, agrees to maintain the STATION for the duration of this AGREEMENT to the reasonable satisfaction of the CITY. In the event that the STATION is not maintained to the reasonable satisfaction of CITY, CITY will notify LICENSEE or its assignee. LICENSEE or its Assignee shall have thirty (30) days to bring the STATION into satisfactory maintenance. However, if after thirty (30) days the STATION has not been satisfactorily maintained, the CITY may maintain or cause to be maintained the STATION and assess all costs for such maintenance against LICENSEE or its assignee, as applicable.
10. **Compliance with laws:** LICENSEE agrees to abide by and be governed by all laws, ordinances and regulation of any and all government entities having jurisdiction over the LICENSEE.

11. **Indemnification:** LICENSEE shall defend, protect and keep CITY forever harmless and indemnified against and from any penalty, or any damage, or charge, imposed for any violation of any law, ordinance, rule or regulation arising out of the use of the Property by the LICENSEE, whether occasioned by the neglect of LICENSEE, its employees, officers, agents, contractors or assigns or those holding under LICENSEE. LICENSEE shall at all times defend, protect and indemnify and it is the intention of the parties hereto that LICENSEE hold CITY harmless against and from any and all loss, cost, damage, or expense, including attorney's fee, arising out of or from any accident or other occurrence on or about the Property causing personal injury, death or property damage resulting from use of Property by LICENSEE, its agents, employees, customers and invitees, except when caused by the negligence or willful misconduct of CITY, its officers, employees or agents, and only then to the extent of the proportion of any fault determined against CITY for its negligent or willful misconduct. LICENSEE shall at all times defend, protect, indemnify and hold CITY harmless against and from any and all loss, cost, damage, or expense, including attorney's fees arising out of or from any and all claims or causes of action resulting from any failure of LICENSEE, its officers, employees, agents, contractors or assigns in any respect to comply with and perform all the requirements and provisions hereof.
12. **Specific Provisions Regarding TCEQ:** TCEQ has the option to operate an air monitoring station at the Site (either by installing its own air monitoring station or by taking responsibility for a STATION previously installed and/or operated by NTC or another party subject to this AGREEMENT). If TCEQ exercises this option, TCEQ shall notify the CITY in writing, specifically describing the air monitoring equipment for which TCEQ will be responsible. TCEQ at any time may transfer responsibility for an air monitoring station at the Site to NTC, by either: sending a written notification signed by TCEQ and NTC to the CITY, or permitting NTC to operate the air monitoring station on a regular or routine basis. TCEQ's employees and agents, as well as its contractors, have the rights of occupation of the station and access. TCEQ will notify CITY in writing if a TCEQ grantee will operate an air monitoring station at the Site (either by installing its own air monitoring station or by assuming responsibility for a STATION previously operated on the Site by NTC, TCEQ, or another party subject to this AGREEMENT). If TCEQ designates a grantee in writing, a TCEQ grantee has the same rights and duties regarding installation and operation of the STATION that the TCEQ grantee places on the Site or for which the TCEQ grantee assumes responsibility as those of the NTC under this AGREEMENT. If the designated grantee is a governmental entity with sovereign immunity, or restrictions on its liability, ability to indemnify, or funding, the entity's sovereign immunity and restrictions shall apply under this AGREEMENT.

If and to the extent that TCEQ exercises the option to operate an air monitoring station at the Site, the TCEQ has the same rights and duties as the NTC, except as follows:

Liability and Indemnity. The TCEQ acknowledges that it is not an agent, servant, or employee of the CITY, and that it is responsible for its own acts and deeds and for those of its agents, servants, or employees to the extent provided by the Texas Tort Claims Act, Civ. Rem & Prac. Code, Title 5, Chapter 101 (Vernon's 2011), provided the legislature appropriates funds to satisfy any such claims. Any provision in this AGREEMENT creating a debt against the State is void ab initio. Further, in no way do the foregoing declarations waive the sovereign immunity of any party to this AGREEMENT.

Restoration of Property. The TCEQ shall make reasonable repairs and/or replace any property of the CITY damaged by the TCEQ's operations conducted at the Site, to the extent funds are made available by the Texas Legislature for such purpose. Upon removal of the TCEQ equipment, and at the request of the CITY, the TCEQ shall restore the Site to the condition it was in prior to the installation of its monitoring equipment, to the extent funds are made available by the Texas Legislature for such purpose. If the CITY requests that TCEQ leave any items in place, such as the site pad, TCEQ shall make reasonable efforts to do so. If items are left in place at the CITY's

request, the CITY shall be solely responsible for the items left in place, in the condition that they are left in place.

Sovereign Immunity. The CITY agrees that by entering this AGREEMENT, TCEQ does not waive the State's sovereign immunity relating to suit, liability, and the payment of damages. The parties agree that all claims, suits, or obligations arising under or related to this AGREEMENT are subject and limited to the availability of funds appropriated by the Texas legislature for that respective claim, suit, or obligation.

13. **Title to the Equipment:** All equipment installed at the Site (whether or not said equipment constitutes a fixture under Texas Property Code) shall remain the property of the owner of the equipment, unless the equipment owner legally transfers the equipment to another party or a designated grantee.
14. **Assignment:** Neither LICENSEE, nor CITY, shall assign or transfer its rights under this AGREEMENT to any other person or entity without the prior consent of the opposite party, which consent will not be unreasonably withheld. Upon consent to assignment, the party making the assignment is released from all duties, obligations, responsibilities, and liabilities arising under or pursuant to the terms and provisions of this AGREEMENT.
15. **Termination:** This AGREEMENT shall terminate and be of no further force and effect in the event LICENSEE discontinues or abandons the use of the STATION or in the event LICENSEE removes the STATION from the Property or upon termination as set forth below. If the CITY determines that the LICENSEE has discontinued or abandoned the use of the STATION or removed the STATION from the Property, the CITY may provide written Notice of Termination to the entity that was operating the STATION.

The CITY may terminate this AGREEMENT as to all parties and designated grantees or individually as to NTC, to TCEQ, or to individual, designated grantees. If the CITY wishes to terminate this AGREEMENT in total and reclaim possession and use of the Site, or terminate this AGREEMENT as to one or more parties or a designated grantee, the CITY shall give the Notice of Termination to the entity whose rights and duties are being terminated and provide a copy to entities whose rights and duties are not being terminated. The NTC or TCEQ or a designated grantee each may terminate their own rights and duties under this AGREEMENT by written Notice of Termination to the CITY. The terminating entity shall provide a copy of the Notice of Termination to entities whose rights and duties are not being terminated.

All Notices of Termination are effective on the 90th day following the delivery of the Notice of Termination. Prior to the 90th day following the delivery of the Notice of Termination, the entities to which the termination applies shall each remove the equipment for which they are responsible. In the event of a termination by the CITY, the CITY agrees to make a reasonable effort to assist NTC, TCEQ, and the designated grantee in locating an alternative Site in the general vicinity.

Restoration of Property. The NTC shall make reasonable repairs and/or replace any property of the CITY damaged by the NTC's operations conducted at the Site. Upon removal of the NTC equipment, and at the request of the CITY, the NTC shall restore the Site to the condition it was in prior to the installation of the monitoring equipment. If the CITY requests that NTC leave any items in place and NTC agrees to leave the item(s) in place, such as the site pad, the CITY will be solely responsible for the items left in place, in the condition that they are left in place.

16. **Notice:** When notice is PERMITTED or required by this AGREEMENT, it shall be in writing and

shall be deemed delivered when delivered in person or when placed, postage prepaid in the United States mail, certified return receipt requested, and addressed to the parties at the address set forth below. Either party may designate from time to time another and different address for receipt of notice by giving notice of such change of address.

to City: Opal Robertson
City Manager
City of Lancaster
211 North Henry
P.O. Box 940
Lancaster, Texas 75146

to NTC: Robert Kent
Director of Environmental Programs
North Texas Commission
P.O. Box 610246
DFW Airport, TX 75261

to TCEQ: Chris Owen
Texas Commission on Environmental Quality
12100 Park 35 Circle
Bldg. F, MC-206
Austin, TX 78753

17. **Governing law:** This AGREEMENT is governed by the laws of the State of Texas; and venue for any action shall be in Dallas County, Texas.
18. **Binding effect:** This AGREEMENT shall be binding upon and inure to the benefit of the executing parties and their respective heirs, personal representatives, successors and assigns.
19. **Entire Agreement:** This AGREEMENT embodies the entire agreement between the parties and supersedes all prior agreements, understandings, if any, relating to the Property and the matters addressed herein and may be amended or supplemented only by written instrument executed by the party against whom enforcement is sought.
20. **Recitals:** The recitals to this AGREEMENT are incorporated herein by reference.
21. **Headings:** The headings of this AGREEMENT are for the convenience of reference only and shall not affect in any manner any of the terms and conditions hereto.
22. **Severability:** The fact that a particular provision is held under any applicable law to be void or unenforceable in no way affects the validity of other provisions and this AGREEMENT will continue to be binding on all of the parties. Any provision that is held to be void or unenforceable will be replaced, upon agreement of the parties, with language that is as close as possible to the intent of the original provision.
23. **Legal construction:** The provisions of this AGREEMENT are hereby declared covenants running with the Property and are fully binding on all successors, heirs, and assigns of the City and the LICENSEE who acquire any right, title, or interest in or to the Property or any part

thereof. Any person who acquires any right, title, or interest in or to the Property, or any part hereof, thereby agrees and covenants to abide by and fully perform the provisions of this AGREEMENT with respect to the right, title or interest in such Property.

IN WITNESS WHEREOF, the parties have executed this AGREEMENT below:

CITY OF LANCASTER

By: _____
MARCUS KNIGHT, MAYOR

Date: _____

ATTEST:

By: _____
DOLLE DOWNE, CITY SECRETARY

Date: _____

APPROVED AS TO FORM:

By: _____
ROBERT E. HAGER, CITY ATTORNEY

Date: _____

NORTH TEXAS COMMISSION

By:

Signature

Printed Name

Title

Date

**TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

By:

Signature

Printed Name

Title

Date

EXHIBIT A
PROPERTY DESCRIPTION

Lots 32 and 33 of the Franklin Farms Addition, City of Lancaster, Dallas County, Texas.
Red marker indicates location of air monitoring station.



EXHIBIT B
AIR MONITORING STATION PLANS & DESIGN

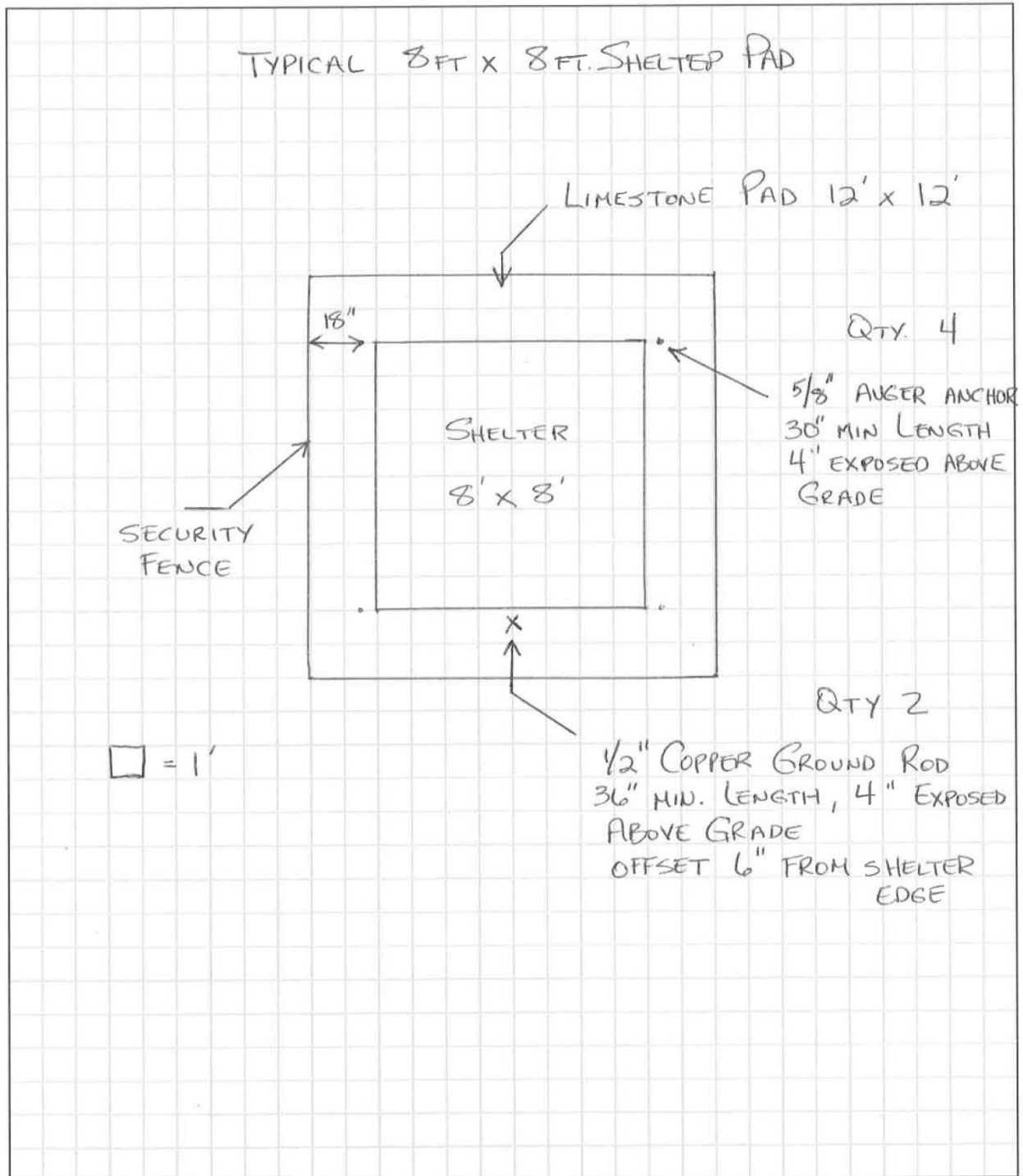


EXHIBIT B (Con't)
AIR MONITORING STATION PLANS & DESIGN

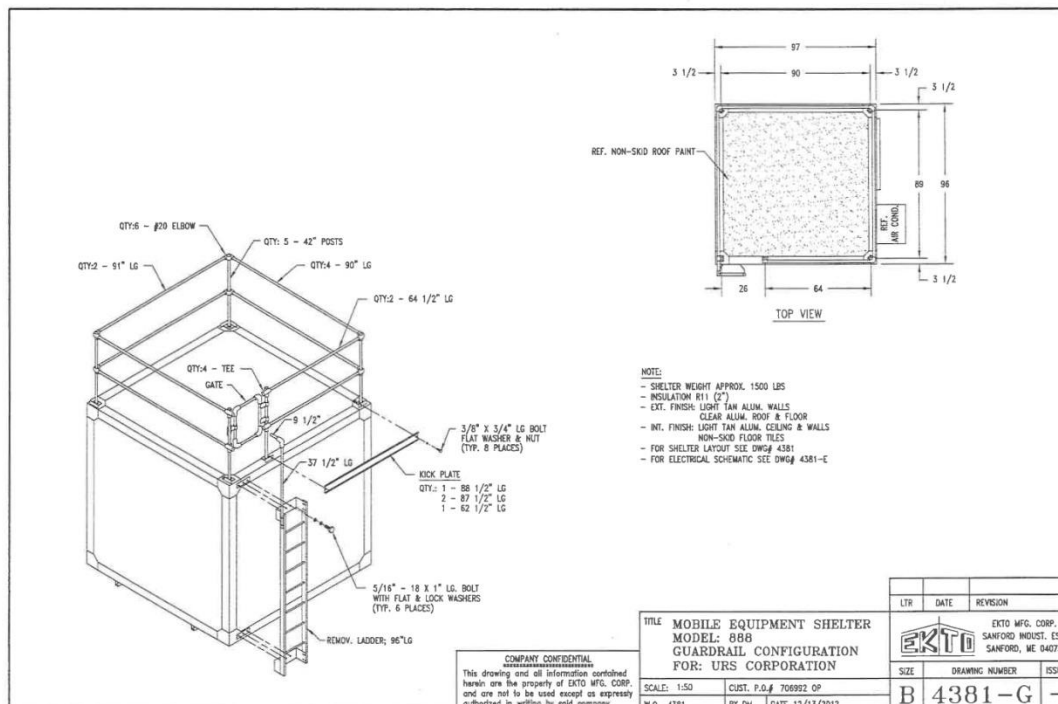
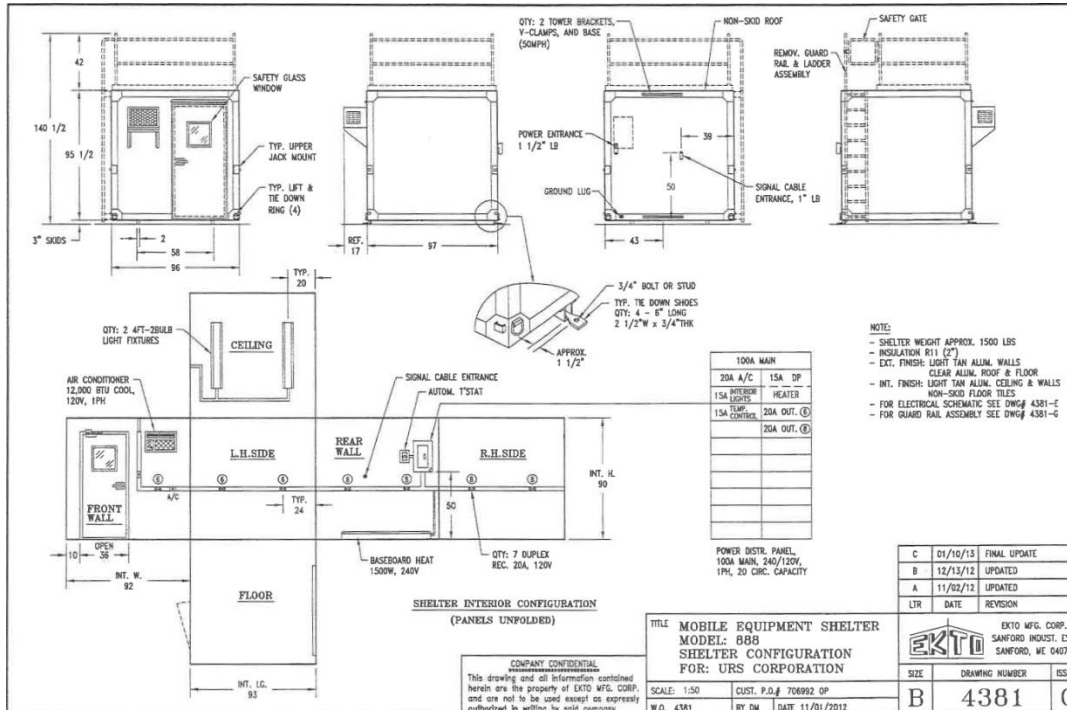


EXHIBIT B (Con't)
AIR MONITORING STATION PLANS & DESIGN



LANCASTER CITY COUNCIL

Agenda Communication

April 22, 2013

Item 3

Consider a resolution approving the terms and conditions of the City owned T-Hangar non-commercial lease from building 700 at the Lancaster Regional Airport.

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

Goal: Sound Infrastructure

Background

The City owns and leases five rows of T-hangars (buildings 660-700) of three different sizes based off aircraft wingspan. There are 92 units that the City rents for aircraft storage with end cap commercial spaces on the east end of each hangar row. The City T-hangars are near full occupancy most of the time. This agenda item brings forward a non-commercial lease agreement for T-hanger 700-112 (956 sqft) for a tenant, Mr. Sterling May.

Considerations

- **Operational** - The City T-hangar non-commercial lease is used for private aircraft owners.
- **Legal** - The lease agreement was reviewed and approved by the City Attorney.
- **Financial** - Lease rates vary based on size of the hangar. All rates were approved in the City's Master Fee Schedule. The monthly rate for this small size Community T-hangar is \$170.00 per month.
- **Public Information** - There are no public information requirements.

Options/Alternatives

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

Recommendation

Staff recommends approval of the resolution.

Attachments

- Resolution
 - Exhibit “A” Lease Agreement
-

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 CITY OWNED T-HANGAR NON-COMMERCIAL LEASE FROM BUILDING 700 AT LANCASTER REGIONAL AIRPORT; AUTHORIZING THE CITY MANAGER TO EXECUTE SAID LEASE; AND PROVIDING AN EFFECTIVE DATE.

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

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

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

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

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

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

DULY PASSED and approved by the City Council of the City of Lancaster, Texas, on this the 22nd day of April 2013.

ATTEST:

APPROVED:

Dolle K. Downe, City Secretary

Marcus E. Knight, Mayor

APPROVED AS TO FORM:

Robert E. Hager, City Attorney



LANCASTER Regional AIRPORT

Agreement for Lease of T-Hangar for Storage of Aircraft

Non-Commercial Tenants

This CONTRACT and AGREEMENT OF LEASE, made this _____ day of _____, 20 _____, between the City of Lancaster, Texas, a municipal corporation, ("LESSOR") and **Sterling May**, (LESSEE"), evidences the following:

I.

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

1. **Premises:** Hangar Row and Suite **700-112**, located at the Airport, and consisting of approximately 956 square feet ("Leased Premises").
2. **Uses:** The leased premises shall be used and occupied only for the storing of aircraft owned, leased, and/or legally operated by LESSEE and related equipment. The leased premises shall be used and occupied only for the personal, business, and/or private use of the LESSEE. LESSEE shall provide LESSOR with a copy of the FAA Certificate of Aircraft Registration for the aircraft to be stored under this agreement. If the registration is not in the name of LESSEE, a copy of a valid lease or other documentation showing a possessory interest in the aircraft shall be provided. LESSEE shall not store non-aviation items such as house hold goods in leased premises. LESSEE shall not use the leased premises for any on going business or commercial operations warehousing goods or services for sale to third parties.
3. **Term:** The term of this lease will be from month to month, beginning the _____ day of _____, 20 _____. Either party may cancel and terminate this agreement by serving thirty (30) days written notice of its election to do so.
4. **Rent:** LESSEE shall pay LESSOR as rent **\$170.00** per month, due and payable in advance on the first day of each month.

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

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

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

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

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

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

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

II.

STANDARD TERMS AND PROVISIONS

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

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

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

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

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

made.

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

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

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

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

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

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

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

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

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

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

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

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

- a. LESSEE shall fail to pay any installment of rent, and such failure shall continue for a period of ten (10) days following the due date of said installment.
- b. LESSEE shall fail to comply with any term, provision or covenant of this Lease Agreement, other than the payment of rent, and shall not cure such failure within twenty (20) days after written notice thereof to LESSEE.
- c. LESSEE shall fail to provide lock combination or key to lock on assigned hangar to airport administration.
- d. LESSEE shall fail to provide accurate and correct contact information as set forth in paragraph 18 – "Notices".

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

LESSEE: Sterling May

3916 Potomac Ave

Dallas, TX 75005

219-522-7735

A56tc@yahoo.com

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

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

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

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

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

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

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

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

CITY OF LANCASTER, LESSOR

LESSEE:

By: _____
Opal Mauldin Robertson,
City Manager

ATTEST:

Dolle K. Downe, City Secretary

LANCASTER CITY COUNCIL

Agenda Communication

April 22, 2013

Item 4

Consider a resolution approving the terms and conditions of the City owned T-Hangar non-commercial lease from building 700 at the Lancaster Regional Airport.

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

Goal: Sound Infrastructure

Background

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

Considerations

- **Operational** - The City T-hangar non-commercial lease is used for private aircraft owners.
- **Legal** - The lease agreement was reviewed and approved by the City Attorney.
- **Financial** - Lease rates vary based on size of the hangar. All rates were approved in the City's Master Fee Schedule. The monthly rate for this small size Community T-hangar is \$170.00 per month.
- **Public Information** - There are no public information requirements.

Options/Alternatives

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

Recommendation

Staff recommends approval of the resolution.

Attachments

- Resolution
 - Exhibit “A” Lease Agreement
-

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 CITY OWNED T-HANGAR NON-COMMERCIAL LEASE FROM BUILDING 700 AT LANCASTER REGIONAL AIRPORT; AUTHORIZING THE CITY MANAGER TO EXECUTE SAID LEASE; AND PROVIDING AN EFFECTIVE DATE.

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

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

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

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

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

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

DULY PASSED and approved by the City Council of the City of Lancaster, Texas, on this the 22nd day of April 2013.

ATTEST:

APPROVED:

Dolle K. Downe, City Secretary

Marcus E. Knight, Mayor

APPROVED AS TO FORM:

Robert E. Hager, City Attorney



LANCASTER Regional AIRPORT

Agreement for Lease of T-Hangar for Storage of Aircraft

Non-Commercial Tenants

This CONTRACT and AGREEMENT OF LEASE, made this _____ day of _____, 20____, between the City of Lancaster, Texas, a municipal corporation, ("LESSOR") and **Billy Conley**, (LESSEE"), evidences the following:

I.

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

1. **Premises:** Hangar Row and Suite **700-120**, located at the Airport, and consisting of approximately 956 square feet ("Leased Premises").
2. **Uses:** The leased premises shall be used and occupied only for the storing of aircraft owned, leased, and/or legally operated by LESSEE and related equipment. The leased premises shall be used and occupied only for the personal, business, and/or private use of the LESSEE. LESSEE shall provide LESSOR with a copy of the FAA Certificate of Aircraft Registration for the aircraft to be stored under this agreement. If the registration is not in the name of LESSEE, a copy of a valid lease or other documentation showing a possessory interest in the aircraft shall be provided. LESSEE shall not store non-aviation items such as house hold goods in leased premises. LESSEE shall not use the leased premises for any on going business or commercial operations warehousing goods or services for sale to third parties.
3. **Term:** The term of this lease will be from month to month, beginning the _____ day of _____, 20____. Either party may cancel and terminate this agreement by serving thirty (30) days written notice of its election to do so.
4. **Rent:** LESSEE shall pay LESSOR as rent **\$170.00** per month, due and payable in advance on the first day of each month.

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

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

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

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

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

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

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

II.

STANDARD TERMS AND PROVISIONS

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

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

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

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

made.

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

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

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

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

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

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

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

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

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

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

- a. LESSEE shall fail to pay any installment of rent, and such failure shall continue for a period of ten (10) days following the due date of said installment.
- b. LESSEE shall fail to comply with any term, provision or covenant of this Lease Agreement, other than the payment of rent, and shall not cure such failure within twenty (20) days after written notice thereof to LESSEE.
- c. LESSEE shall fail to provide lock combination or key to lock on assigned hangar to airport administration.
- d. LESSEE shall fail to provide accurate and correct contact information as set forth in paragraph 18 – "Notices".

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

LESSEE: Billy Conley

2501 Featherstone Ct.

Arlington, TX 76001

817-291-3155

Billconley2@gmail.com

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

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

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

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

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

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

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

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

CITY OF LANCASTER, LESSOR

LESSEE:

By: _____
Opal Mauldin Robertson,
City Manager

ATTEST:

Dolle K. Downe, City Secretary

LANCASTER CITY COUNCIL

Agenda Communication

April 22, 2013

Item 5

Consider a resolution approving the terms and conditions of the City owned T-Hangar non-commercial lease from building 690 at the Lancaster Regional Airport.

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

Goal: Sound Infrastructure

Background

The City owns and leases five rows of T-hangars (buildings 660-700) of three different sizes based off aircraft wingspan. There are 92 units that the City rents for aircraft storage with end cap commercial spaces on the east end of each hangar row. The City T-hangars are near full occupancy most of the time. This agenda item brings forward a non-commercial lease agreement for T-hanger 690-116 (956 sqft) for a tenant, Mr. Kurtis Samples.

Considerations

- **Operational** - The City T-hangar non-commercial lease is used for private aircraft owners.
- **Legal** - The lease agreement was reviewed and approved by the City Attorney.
- **Financial** - Lease rates vary based on size of the hangar. All rates were approved in the City's Master Fee Schedule. The monthly rate for this small size Community T-hangar is \$170.00 per month.
- **Public Information** - There are no public information requirements.

Options/Alternatives

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

Recommendation

Staff recommends approval of the resolution.

Attachments

- Resolution
 - Exhibit “A” Lease Agreement
-

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 CITY OWNED T-HANGAR NON-COMMERCIAL LEASE FROM BUILDING 690 AT LANCASTER REGIONAL AIRPORT; AUTHORIZING THE CITY MANAGER TO EXECUTE SAID LEASE; AND PROVIDING AN EFFECTIVE DATE.

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

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

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

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

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

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

DULY PASSED and approved by the City Council of the City of Lancaster, Texas, on this the 22nd day of April 2013.

ATTEST:

APPROVED:

Dolle K. Downe, City Secretary

Marcus E. Knight, Mayor

APPROVED AS TO FORM:

Robert E. Hager, City Attorney



LANCASTER Regional AIRPORT

Agreement for Lease of T-Hangar for Storage of Aircraft

Non-Commercial Tenants

This CONTRACT and AGREEMENT OF LEASE, made this _____ day of _____, 20 _____, between the City of Lancaster, Texas, a municipal corporation, ("LESSOR") and Kurtis Samples, (LESSEE"), evidences the following:

I.

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

1. **Premises:** Hangar Row and Suite **690-116**, located at the Airport, and consisting of approximately 956 square feet ("Leased Premises").
2. **Uses:** The leased premises shall be used and occupied only for the storing of aircraft owned, leased, and/or legally operated by LESSEE and related equipment. The leased premises shall be used and occupied only for the personal, business, and/or private use of the LESSEE. LESSEE shall provide LESSOR with a copy of the FAA Certificate of Aircraft Registration for the aircraft to be stored under this agreement. If the registration is not in the name of LESSEE, a copy of a valid lease or other documentation showing a possessory interest in the aircraft shall be provided. LESSEE shall not store non-aviation items such as house hold goods in leased premises. LESSEE shall not use the leased premises for any on going business or commercial operations warehousing goods or services for sale to third parties.
3. **Term:** The term of this lease will be from month to month, beginning the _____ day of _____, 20 _____. Either party may cancel and terminate this agreement by serving thirty (30) days written notice of its election to do so.
4. **Rent:** LESSEE shall pay LESSOR as rent **\$170.00** per month, due and payable in advance on the first day of each month.

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

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

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

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

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

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

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

II.

STANDARD TERMS AND PROVISIONS

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

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

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

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

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

made.

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

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

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

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

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

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

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

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

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

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

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

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

- a. LESSEE shall fail to pay any installment of rent, and such failure shall continue for a period of ten (10) days following the due date of said installment.
- b. LESSEE shall fail to comply with any term, provision or covenant of this Lease Agreement, other than the payment of rent, and shall not cure such failure within twenty (20) days after written notice thereof to LESSEE.
- c. LESSEE shall fail to provide lock combination or key to lock on assigned hangar to airport administration.
- d. LESSEE shall fail to provide accurate and correct contact information as set forth in paragraph 18 – "Notices".

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

LESSEE: Kurtis Samples

7324 Gaston Ave #124-169

Dallas, TX 75214

214-796-4305

kkboat@airmail.net

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

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

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

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

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

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

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

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

CITY OF LANCASTER, LESSOR

LESSEE:

By: _____
Opal Mauldin Robertson,
City Manager

ATTEST:

Dolle K. Downe, City Secretary

LANCASTER CITY COUNCIL

Agenda Communication

April 22, 2013

Item 6

Consider a resolution approving the terms and conditions of the City owned terminal building café commercial lease from building 730 at the Lancaster Regional Airport.

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

Goal: Sound Infrastructure

Background

The City owns and leases the café space in the terminal building. The City desires to have a proprietor operate and lease the café to boost activity and business at the Airport. This agenda item brings forward a commercial lease agreement for 730 Ferris Road, Suite 101 for a tenant, Mr. Phillip Burda.

Considerations

- **Operational** – The City commercial lease is used for airport businesses. The lease requires the operator to have the café open at least each Tuesday through Sunday from 7:00 a.m. to 3:00 p.m. The operator is allowed to be closed on Thanksgiving Day, Christmas Day, New Year's Day, and Independence Day.
- **Legal** – The Proposal was processed in accordance with all local and state purchasing statutes. Two responses were received and neither of the responses were M/WBE certified. The lease agreement was reviewed and approved by the City Attorney.
- **Financial** – The monthly lease rate is \$175 per month, then after the first six months it is \$175 per month plus 5.5% of monthly net sales receipts. The term of the lease is for three years with a 2 year extension option.
- **Public Information** – Proposals were advertised on February 11 and 18, 2013. A pre-bid meeting was held on March 7 and proposals were due on March 15, 2013.

Options/Alternatives

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

Recommendation

Staff recommends approval of the lease agreement to Phillip Burda Enterprises of Texas, LLC.

Attachments

- Resolution
 - Exhibit "A" Lease 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 CITY OWNED TERMINAL BUILDING CAFÉ COMMERCIAL LEASE FROM BUILDING 730 AT LANCASTER REGIONAL AIRPORT; AUTHORIZING THE CITY MANAGER TO EXECUTE SAID LEASE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Lancaster Regional Airport has terminal building café space available for monthly rental for revenue gain; and

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

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

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

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

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

DULY PASSED and approved by the City Council of the City of Lancaster, Texas, on this the 22nd day of April 2013.

ATTEST:

APPROVED:

Dolle K. Downe, City Secretary

Marcus E. Knight, Mayor

APPROVED AS TO FORM:

Robert E. Hager, City Attorney

THIS AIRPORT RESTAURANT LEASE AND OPERATING AGREEMENT ("Agreement"), made and entered into this 22nd day of April 2013, by and between the *CITY OF LANCASTER*, a Texas Home-rule Municipal Corporation ("City" or "Lessor") and Phillip Burda Enterprises of Texas, LLC. ("Lessee").

WITNESSETH:

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

WHEREAS, Lessee desires to lease, develop, and use the Leased Premises (defined below) for the operation of a restaurant and catering service for Airport customers and associated uses as authorized herein; and

WHEREAS, in accordance with the provisions contained within this Agreement, City desires to allow Lessee to use the Property for the foregoing purpose;

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

ARTICLE 1: DEFINITIONS

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

Additional Rent means five point five percent (5.5%) of Monthly Net Receipts less the Base Rent, payable as set forth herein.

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

Base Rent means ONE HUNDRED SEVENTY-FIVE AND NO/100 (\$175.00) per month.

Catering means the provision of food and/or drinks (whether prepared on the Leased Premises or pre-packaged) pursuant to a limited pre-arranged menu for a specific event and served either inside or outside the Leased Premises.

City Equipment shall mean the personal property constituting restaurant equipment owned by City and described in Exhibit "B," attached hereto and incorporated herein by reference.

Hazardous Materials is defined herein as that term is so defined by state or federal law including but not limited to EPA, TCEQ, NFPA and City ordinances, inclusive.

Leased Premises means an approximately 720 square foot space located within the Airport Terminal Building owned by City and located at 730 Ferris Road, Lancaster, Texas, said space being more

commonly known as "Suite 101," and generally depicted as set forth in Exhibit "A," attached hereto and incorporated herein by reference. The Leased Premises shall also include:

- A. Small storage closet located within Terminal lobby area to be identified by Airport Manager;
- B. An area of the floor space in the hangar attached to the Terminal Building to be designated by the Airport Manager;

Monthly Net Receipts means all payments, whether by coin or currency, on account, by check, credit card, or debit card, collected or uncollected, received by Lessee during each calendar month of this Agreement, in connection with, food or drink sold, prepared in, or delivered from the Leased Premises, or goods sold on the Leased Premises, regardless of where or by whom the payment is made or where the food and/or drink is consumed or where the goods are used, less:

- A. Sales and/or use taxes collected by Lessee in accordance with applicable provisions of the Texas Tax Code which are separately stated payable to the Texas Comptroller of Public Accounts;
- B. The value of any merchandise and/or equipment exchanged or transferred from or to other business locations of Lessee, where such exchanges or transfers are not made for the purpose of avoiding a sale or service fee by Lessee that would otherwise be made from or at the Lancaster Regional Airport;
- C. Receipts with respect to any refunds made to Lessee's customers, to the extent of any refund actually granted or adjustment actually made, either in the form of cash or credit, providing the refund and reason therefore is documented along with the name and address of the person receiving the refund; and
- D. Documented discounts and rebates to customers.

Rent means, collectively, Base Rent and Additional Rent.

ARTICLE 2: PREMISES LEASED

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

2.2 Acceptance of Leased Premises Conditions: By acceptance of this Agreement Lessee warrants and represents that:

- A has carefully and completely examined and inspected the entire Leased Premises and is fully informed of the condition of the Leased Premises; and
- B. is completely satisfied as to the suitability of the Leased Premises for all of the activities contemplated by this Agreement.

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

ARTICLE 3: USE OF LEASED PREMISES

- 3.1 Permitted Use:** Subject to the provisions of this Agreement, Lessee is granted the right to use and occupy the Leased Premises for the operation of a restaurant or catering services for Airport customers, on or off airport, or incidental uses as approved from time to time by the Airport Manager in accordance ("the Permitted Use"). Lessee agrees not to engage in any other activity on the Leased Premises other than the Permitted Use and agrees not to use, develop, or occupy the Leased Premises in any manner contrary to the Lancaster Regional Airport Layout Plan or Airport Minimum Standards for any purpose other than that specified in this Agreement, without the prior express written consent of City.
- 3.2 Ingress and Egress:** Lessee, its employees, customer, guests, patrons, suppliers, vendors, and invitees shall have the right of ingress and egress to and from the Leased Premises. If the rights granted by this provision adversely affect Airport operations, City shall have the right, upon prior notice to Lessee, to restrict and/or limit hours in which such rights may be exercised, provided such restrictions do not unreasonably affect Lessee's ability to access and use the Leased Premises for the Permitted Uses.
- 3.3 Quiet Enjoyment:** Upon payment of rents and fees and the performance of the covenants, agreements, and conditions to be observed and performed by Lessee, Lessee shall peacefully and quietly have, hold, and enjoy the Leased Premises and privileges granted for the term of this Agreement free from hindrance or interruption by City. Lessee agrees that temporary inconveniences such as noise, disturbances, traffic detours and the like, caused by or associated with the construction of Airport improvements or Airport events, shall not constitute a breach of quiet enjoyment of the Leased Premises, provided same do not materially adversely affect Lessee's ability to access and use the Leased Premises.

ARTICLE 4: TERM

- 4.1 Initial Term:** The initial term of this Agreement shall be three (3) years commencing on May 1, 2013, and ending on April 30, 2016, unless sooner terminated in accordance with the provisions hereof.
- 4.2 Optional Extension of Term by City:** City shall have the right to extend the term of this Agreement for a two year period beginning May 1, 2016, and ending April 30, 2018, upon City delivering written notice to Lessee of City's affirmative decision to exercise the option, which notice must be delivered by City not later than November 30, 2013.
- 4.3. Right of First Refusal:** If prior to end of the Term of this Agreement, City receives a solicited or unsolicited proposal from a third-party for the lease of the Leased Premises for the Permitted Use that City finds desirable and acceptable; City agrees to provide a copy of such proposal to Lessee. Not later than ten (10) days after delivery of such proposal to Lessee, Lessee shall notify City that it will enter into an agreement with the City on substantially the same terms as contained in the third-party proposal ("the Right of First Refusal"). Lessee's failure to enter such agreement within twenty (20) days after notifying City of its desire to enter such agreement shall terminate Lessee's right to enter such agreement as provided in this Section 4.3. Notwithstanding the above provisions, the Right of First Refusal granted in this Section 4.3 shall not be effective if:

A. Lessee is in default of this Agreement at the time of receipt of the third-party proposal; or

- B. During the term of this Agreement, Lessee has been declared by City to be in default of this Agreement three or more times and has provided a notice of default to Lessee, notwithstanding that Lessee may have cured said defaults to avoid termination of this Agreement; or
- C. Lessee has been delinquent on the payment of Rent more than three (3) or more times during the term of this Agreement.

4.4 Holdover: In the event that Lessee should hold over and remain in possession of the Leased Premises after the expiration of the term of this Agreement or termination for any other cause, such holding over shall be deemed not to operate as a renewal or extension of this Agreement and shall create a tenancy-at-will which may be terminated at any time by the Airport Manager or Lessee by providing one (1) days written notice. The rents, fees, and/or other charges paid during the holding over period shall be equal to 150% of the monthly rents, fees, and/or other charges that were being charged by City at the time the Agreement expired.

ARTICLE 5: RENT

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

- A. For the period of May 1, 2013, until April 30, 2016, Lessee will pay Base Rent.
- B. For the period beginning November 1, 2013, and thereafter during the term of this Agreement, Lessee shall pay Rent in an amount equal to the Base Rent plus the Additional Rent.

5.2 Payment of Rent: The Base Rent and Additional Rent shall be payable as follows:

- A. Base Rent shall be due on the first (1st) day of each calendar month during the Term of this Agreement, with the first payment of Base Rent being due on May 1, 2013, and a payment of Base Rent being due on the first (1st) day of each month thereafter.
- B. Payment of Additional Rent shall be due on the first (1st) day of the second (2nd) calendar month following the month in which the Monthly Net Receipts are received by Lessee, with the first payment of Additional Rent being due on November 1, 2013, and a payment of Additional Rent being due on the first (1st) day of each month thereafter. For purposes of clarification, the amount of Additional Rent due on November 1, 2013, shall be calculated by using the Monthly Net Receipts for the month of September 2013, the amount of Additional Rent due on December 1, 2013, shall be calculated by using the Monthly Net Receipts for the month of October 1 2013, and so on.

5.3 No Setoffs: Payment of Rent shall be absolutely net to City and shall be made without any abatement, deductions, reductions, set offs, or counterclaims of any kind.

5.4 Effect of Negative Amount of Additional Rent: If in calculating the amount of Additional Rent due the amount is less than \$0.00, no Additional Rent shall be due for that month. Furthermore, such negative amount calculation shall not be deducted from the Base Rent, it being intended and agreed that in no case shall the Base Rent be reduced during the term of this Agreement.

5.5 Late Charges: A late charge of Ten Percent (10%) per month shall be automatically added to any installment of Rent not received by City by the close of business of the 10th day of the month in which it is due. The late charge shall become part of the Rent due and owing to City. Additional late charges of Ten Percent (10%) shall be automatically added to any installment of Rent not received by City by the close of business of the 30th day of the month in which it is due and thereafter imposed for each thirty (30) day period any payment remains due and owing. Such charges shall also become part of the Rent which is due and owing to City.

5.6 Payment Location: All payments of Rent or other amounts due under this Agreement, if any, shall be made to City of Lancaster and sent to the attention of the Finance Department at P.O. Box 940, Lancaster, Texas 75146 or to such other place as City may in writing direct Lessee from time to time. The failure to make any payment of any amount due under this Agreement when due may result in a termination of the Agreement as provided in Article 12.

5.7 Books and Records: Lessee shall maintain complete financial records of its activities on the Leased Premises or at another mutually acceptable location in the State of Texas for the longer of:

- A. two (2) years after the termination of this Agreement; or
- B. the completion of any pending audit or litigation action between the parties relating to or arising from this Agreement.

All books and records shall be kept by Lessee in accordance with generally accepted accounting principles and shall reflect amounts due to City. Any information, records and reports provided to or obtained by City pursuant to this Section 5.7 or to which City otherwise comes into possession of pursuant to this Agreement, may be subject to the provisions of the Texas Public Information Act, including provisions regarding limitations to access based upon trade secret information and state and federal restrictions.

5.8 Audit: City and/or its authorized representatives shall, at any time during the Term of this Agreement and for a period of two years after the Termination of this Agreement, have the right to access, audit, examine, or reproduce any and all records of Lessee related to Lessee's performance under this Agreement. If an audit reveals that Lessee has underpaid Additional Rent or any other amount due City, Lessee shall pay such unpaid Additional Rent, plus interest and penalties, not later than ten (10) days after delivery of written notice and demand by City. Interest will be calculated at one and one-half percent (1 ½%) per month for each month after the day the additional amount should have originally been paid. The penalty will be twenty percent (20%) of the total of the Additional Rent due (not including interest). If the audit reveals that Lessee has overpaid the Additional Rent, such overpayment shall be credited to the Rent due for the following calendar month(s) until such credit is exhausted, or refunded by City to Lessee if this Agreement is terminated and all other obligations of Lessee have been satisfied. If the audit reveals an underpayment of more than five percent (5%), the cost of the audit shall be borne by Lessee.

5.9 Misdirection of Business: In addition to the interest and penalty payments set forth in Section 5.8, above, a determination by City that Lessee has deliberately attempted to misrepresent its Monthly Net Receipt or attempted to divert airport earned revenue to an off-airport site will be cause for default of this Agreement.

ARTICLE VI: LESSEE'S OPERATIONS

- 6.1 Generally:** Lessee understands, acknowledges, and agrees that as substantial motivation and consideration for the grant of the leasehold interest described in this Agreement is Lessee's agreement to operate the Leased Premises for the Permitted Use. In furtherance of that understanding and agreement, Lessee agrees that it will conduct the Permitted Use in accordance with the operational procedures and standards set forth in this Agreement. In particular, Lessee agrees that in conducting the Permitted Use, it will provide professional, prompt and efficient food and beverage service from the Leased Premises adequate to meet all reasonable demands for restaurant service at the Airport, such service to be provided on a fair and reasonable basis, and subject to prices for such services established in accordance with generally acceptable practices in the restaurant industry.
- 6.2 Staffing:** At all times during the term of this Agreement, Lessee shall hire and keep employed a sufficient number of employees to allow Lessee to provide prompt and efficient food and beverage service in the Leased Premises.
- 6.3 Hours of Operation:** During the term of this Agreement, Lessee's restaurant operations in the Leased Premises shall be open to the public, and food and beverage service provided to customers, at least each Tuesday through Sunday, inclusive, opening not later than 7:00 a.m. Central Time and closing not earlier than 3:00 p.m., Central Time; provided, however, Lessee shall not be required to be open for business on Thanksgiving Day, Christmas Day, and New Year's Day, Independence Day, or, such other official City holidays or events as may be approved by the Airport Manager. Lessee shall post its hours of operations in a prominent location of the Leased Premises visible to the public. Nothing herein shall be construed as prohibiting Lessee from being open to the public during days and hours in addition to the times and dates described in this Section 6.3.
- 6.4 Conduct:** Lessee shall take all reasonable measures to control the conduct, demeanor and appearance of its employees, agents, and invitees, while in the Leased Premises and ensure their compliance with all applicable federal, state, and local laws, ordinances, and regulations related to Lessee's use of the Leased Premises. Lessee will further conduct itself, and cause its employees, agents and invitees to conduct themselves, with full regard for the rights, convenience and welfare of all other tenants in the Terminal Building and on the Airport. All employees having contact with the public shall be courteous, clean, appropriately attired, and neat in appearance. Lessee agrees that it shall not permit any loud, abusive or obscene language or offensive acts or conduct on the Leased Premises by its employees. Should any employee or agent of Lessee fail to conduct themselves in accordance with the provisions of this Section 6.4, Lessee shall, upon written notice from City, take immediate corrective action with respect to such employee and otherwise take all reasonable steps necessary to resolve or remove the cause of the complaint.
- 6.5 Relation to Others:** Lessee, for itself and its agents, and employees agree to maintain a friendly and cooperative, though competitive, relationship with other companies engaged in similar or like business or with other tenants on Airport property. Lessee shall not engage in open public disputes, disagreements, denigration or conflicts regarding activities at the Airport which would tend to deteriorate the quality of the service of Lessee or its competitors or other tenants or which would be incompatible with the best interest of the public at the Airport.
- 6.6 Complaints Regarding Service Quality:** City, through the City Manager, Airport Manager or other designated representative, shall have the right to raise reasonable objections to

appearance or condition of the Leased Premises, the quality or quantity of food and beverage service, the character of the service, the hours of operation, the appearance and performance of service personnel and other employees, and to require any such conditions or objectionable practices to be remedied by Lessee.

6.7 Prohibited Activities: Lessee shall not:

- A. install or operate, or otherwise cause or authorize the installation or operation, of amusement machines, video or audio equipment (other than video or audio equipment related to any security or anti-theft system installed in the Leased Premises), automated teller machines, or vending machines in or upon the Leased Premises without the written approval of City;
- B. sell or serve, or authorize the sale or service, of alcoholic beverages, on the Leased Premises;
- C. sell, rent, or deliver, or authorize the sale, rental, or delivery, books, magazines or other printed matter, or photographs, films, motion pictures or video cassettes which depict or describe sexual activities, or contain nudity or humans in a state of nudity, as those terms are defined in Lancaster Code of Ordinances §4.601, as amended.

6.8 Customer Transactions; Method of Payment: In addition to payments by cash, for transactions of \$5.00 or more for the sale of goods and services provided by Lessee on the Leased Premises and for Catering Services, Lessee shall accept as payment traveler's checks and at least three major, nationally recognized credit or debit cards, at least two of which must be American Express, VISA or Master Card. Lessee shall install, establish and maintain the necessary equipment and processes for credit card services. Lessee shall provide receipts to customers for all purchases that state, at a minimum, the date of the sales transaction, the Lessee's business name and telephone number, and all detailed sales transaction information, including sales taxes collected by Lessee as part of the transaction.

6.9 Use of City Equipment: City agrees to make available for Lessee's use the City Equipment. City makes no warranty as to the condition of the City Equipment. Inspection, care and maintenance of the City Equipment shall be the sole responsibility of Lessee. Upon termination of this Agreement, the City Equipment shall be returned to the City in as good condition as at the time of execution of this lease, reasonable wear and tear accepted.

6.10 Health Compliance: Lessee, its officers, employees, contractors, and vendors, shall at all times comply with applicable Federal, State, and local laws and regulations regarding the preparation, transportation, sale, and/or service of food and beverage to the public. Lessee shall maintain all required permits and licenses necessary to lawfully conduct a business relating to the sale and service of food and beverages.

ARTICLE 7: LESSEE MAINTENANCE OF LEASED PREMISES

7.1 Installation of Fixtures, Equipment, etc: Lessee shall not in the Leased Premises:

- A. install in or upon the Leased Premises any fixtures, machines, tools, equipment, or other items of personal property; or
- B. drill or make any holes in any brick or plaster; or

- C. permanently affix to any door or wall any placard or decorative material; or
- D. commit any waste; or
- E. make any material structural alterations or additions to the Leased Premises without the prior written consent of City. Any personal property belonging to Lessee located on the Leased Premises located thereon shall be there at the sole risk of Lessee. City shall have no liability or responsibility for any theft, misappropriation or damage to any personal property belonging to Lessee or any customer of Lessee unless due to the willful misconduct of City.

7.2 Removal on Termination of Lease: Lessee shall remove all equipment, fixtures, and systems owned by Lessee and installed in or upon the Leased Premises not later than five (5) days after termination or expiration of this Agreement; provided, however, any such equipment, fixtures, or systems installed by Lessee that cannot be removed without permanently damaging the Leased Premises shall remain and become the sole property of City. Subject to the rights of any party holding a superior security interest in the equipment, fixtures, and systems, if Lessee fails to remove such property from the Leased Premises within five (5) days of termination or expiration of this Agreement, then City retains the right to remove or have removed at the expense of Lessee all equipment, fixtures, and systems and Lessee agrees to pay City for such expense within fifteen (15) days after receipt of an invoice from City.

7.3 Signs: Lessee may, at its own expense and upon written approval by the Airport Manager (which shall not be unreasonably withheld), install signs in the Terminal Building at locations to be determined by the Airport Manager indicating the name, location, and hours of operation of Lessee's business in the Leases Premises. Such signs shall be consistent with the size, color, location, copy and manner of display of other signs throughout the Terminal Building. Lessee agrees to reimburse City for any damage or injury to the Leased Premises resulting from the installation, maintenance or removal of any such signs.

7.4 Hazardous Materials: Lessee shall not:

- A. cause or allow any Hazardous Material, as defined in applicable federal or state laws or regulations, to be placed, stored, generated, used, released or disposed of, in, on, under, about, or transported from the Leased Premises; or
- B. do, or allow to be done, any act, nor store any material, which will in any manner conflict with any term or provision of any policy of insurance insuring the Terminal Building or its contents.

7.5 Utilities: Lessee shall directly procure and promptly pay for all utilities and utility services including electricity, sewer, water, natural gas and telephone charges relating to the Leased Premises during the Term of this Agreement.

7.6 General Maintenance: Lessee shall, at all times and at its expense, keep and maintain the Leased Premises, including all structural and other improvements installed in the Leased Premises, together with all of its fixtures, plate and mirror glass, equipment and personal property therein, in good repair and in a clean and orderly condition and appearance. Lessee

shall keep the areas immediately adjacent to the exits and entrances to the Leased Premises clean and orderly and free of obstructions.

7.7 Preventive Maintenance: Lessee shall maintain and repair all interior areas and surfaces of the Leased Premises, including sweeping, washing, servicing, repairing, replacing, cleaning and interior painting that may be required to properly maintain the Leased Premises in a safe, clean, wholesome, sanitary, orderly and attractive condition. Lessee shall establish an adequate preventive maintenance program and the provisions of which shall be subject to periodic review by City, and which shall include, without limitation, the cleaning and repair of all floors, interior walls, ceilings, lighting, decor and equipment. Regardless of Lessee's compliance with its preventive maintenance program, Lessee shall clean such surfaces and equipment immediately upon being instructed to do so by City or by other governmental agencies having such authority.

7.8 Plumbing System: Lessee shall be responsible for the following with respect to plumbing within the Leased Premises:

- A. The repair and maintenance of all sanitary sewer lines from the Leased Premises to the point that the line connects to the Airport's main sewer line; and
- B. The repair and maintenance of all domestic hot and cold water lines from the point of connection of the Airport's water meter throughout the Leased Premises.

If Lessee fails to maintain the plumbing system or places liquid, grease, debris, etc. that results in stoppage or damage to City's plumbing system for the Terminal Building such that City is required to conduct a clean-up or make repairs thereto, Lessee will be billed by City for the cost of such clean-up or repairs, plus fifteen (15%) percent of said cost for administrative overhead related to managing/coordinating such services. Such amounts shall be paid by Lessee to City on demand and shall become Additional Rent due hereunder.

7.9 Exhaust Vents; Fire Suppression System: Lessee shall at Lessee's cost clean and/or repair all exhaust vents as required to properly maintain the sanitary and operational requirements of the ventilation system installed in the Leased Premises. Lessee shall further maintain and keep in good repair the fire suppression system installed to service the Leased Premises. If Lessee fails to perform such cleaning or maintenance as recommended by City, City may, at its sole discretion, perform such cleaning, maintenance, or repairs as it may deem necessary, and, in such event, Lessee will be billed by City for the cost of such cleaning, maintenance or repair, plus fifteen (15%) percent of said cost for administrative overhead related to managing/coordinating such services. Such amounts shall be paid by Lessee to City on demand and shall become Additional Rent due hereunder.

7.10 Grease Trap Maintenance: Lessee is liable and responsible for all material that is deposited into the plumbing system from the Leased Premises and for cleaning the grease traps to which the Leased Premises' sanitary sewer system is connected as required by City Ordinances and Dallas County Health requirements.

7.11 Pest Control: Lessee understands and acknowledges that City desires and intends to maintain a pest free environment within the entire Terminal Building. Lessee shall be solely responsible for a pest free environment within its Leased Premises by maintaining its own pest control services, in accordance with the most modern and effective control procedures applicable to the Permitted Use. All materials used in pest control shall conform to Federal

State, and City laws, regulations and ordinances. All control substances utilized shall be used with all precautions to obviate the possibility of accidents to humans, domestic animals and pets. Whenever City deems that pest control services must be provided to a building or area that includes the Leased Premises, Lessee shall pay for the costs of services provided for the Leased Premises.

- 7.12 Review of Maintenance Records:** City reserves the right to review all records, including, but not limited to, maintenance contracts, billing invoices, payment documents, and inspection reports related to Lessee's maintenance obligations set forth in this Agreement.
- 7.13 System Components Exterior to Leased Premises:** City and Lessee acknowledge that components of certain systems to be maintained or repaired by Lessee pursuant to this Agreement may be located exterior to the Leased Premises. Access to these areas will be coordinated with the designated the Airport Manager or representative of the City.
- 7.14 Quality of Work:** Lessee covenants and agrees to make all repairs necessary or advisable to keep the Leased Premises from deteriorating in value or condition and to restore and maintain the Leased Premises, with the exception of normal wear and tear and aging consistent with normal office usage and time. City shall have the right and privilege, through its agents and officials, to make inspections of the Leased Premises and thereafter to make recommendations to Lessee of any repairs that in City's opinion are necessary to be performed by Lessee in the Leased Premises in accordance with the provisions of this Agreement.
- 7.15 Refuse Disposal:** Lessee shall immediately clean up all refuse, rubbish, scrap material and debris caused or generated by its use of the Leased Premises, so that the Leased Premises shall at all times present a clean, neat, sanitary and orderly appearance. Lessee shall provide and use covered receptacles of all garbage, trash and other refuse at the Leased Premises provided on the exterior of the Terminal Building. Lessee shall not use any trash receptacles located on the interior of the Terminal Building but exterior to the Leased Premises for depositing trash and other refuse. Lessee shall not allow boxes, cartons, barrels, or other items to accumulate in or upon the Leased Premises in an unsightly manner or in a manner that may pose a safety hazard of any kind. In the event City discontinues providing garbage removal services as it is currently providing, Lessee shall ensure the proper storage and removal from the Airport of all garbage, debris and other waste materials, whether solid or liquid, generated by or arising out of the operations and activities occurring on the Leased Premises, whether by Lessee or a third party occupying the Leased Premises. With respect to recyclable products, Lessee agrees to participate in the City's recycling program by depositing all recyclable products in the appropriate recycling container in lieu of the other trash receptacles.

ARTICLE 8: CITY MAINTENANCE OF AIRPORT

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

- 8.2 Terminal Building Maintenance:** City agrees, at City's sole expense, to maintain and repair the structural parts of the Terminal Building and other improvements exterior to the Leased Premises (including, without limitation, the roof, foundation and bearing and exterior walls, windows, window glass, plate glass, doors, pest control and extermination) and the parking lot, drives, sidewalks and common areas.
- 8.3 Airport Development:** City reserves the right, but shall not be obligated to Lessee, to develop and/or improve the landing areas and/or other portions of the Airport as City determines in its sole discretion. City reserves the right to close any portion of the Airport and/or any of the facilities located thereon when it deems that such action is reasonably necessary to maintain, repair, or develop the Airport and/or facilities located thereon and/or for the safety of the general public; provided, however, that except in times of temporary emergency, adverse weather conditions, or public calamity, City shall use its best efforts at all times to keep the Airport open with sufficient access to, and use of, the Leased Premises by Lessee for the Permitted Use. City shall provide advance notice of any closures of the Airport to the extent possible.
- 8.4 War, National Emergency, Riot, or Natural Disaster:** During time of war, national emergency, riot or natural disaster, City shall have the right to lease the Airport or any part thereof to the United States or the State of Texas for government or military use. In this case, any provisions of this Agreement which are inconsistent with the provisions of any lease with a government entity shall be suspended for the term of the lease with the government entity.
- 8.5 Access to the Leased Premises:** City and/or its representatives shall have the right to enter the Leased Premises at all times and for any purpose necessary, incidental to, or connected with the performance of Lessee and/or City's obligations under this Agreement. City shall provide three (3) hours advance written notice (which shall include email transmission) prior to entering any non-public area except when City determines that emergency circumstances due to safety concerns require immediate entry without prior notice. Nothing herein shall be construed as restricting City and or its employees or agents from entering any part of the Leased Premises for purposes of carrying out any inspection related to the enforcement of City's ordinances and regulations.
- 8.6 Performance of Acts:** All acts performable under this Agreement by City or City Council may, at the option of City and without right of objection by Lessee, be performed by a representative or delegate of City.
- 8.7 Exercising Rights:** No exercise of any rights reserved by City herein shall be deemed or construed as an eviction of Lessee nor shall such exercise be grounds for any abatement of rents, fees or charges nor serve as the basis for any claim or demand for damages of any nature whatsoever, unless such exercise materially interferes with the rights granted Lessee in this Agreement.
- 8.8 Rights in Addition to Others:** The rights and reservations set forth in Sections 8.1 through 8.7, inclusive, are in addition to all other rights and privileges reserved by City including those outlined under Federal and/or State Sponsor Assurances.

ARTICLE 9: ADDITIONAL LESSEE OBLIGATIONS

- 9.1 Taxes, Assessments, and Fees:** Lessee shall pay and discharge all taxes, assessments or other fees whether general or special, ordinary or extraordinary, charged by any govern

or quasi-governmental entity relating directly to the Leased Premises and/or the Permitted Use conducted at the Airport including leasehold (or possessory interest tax), personal property, income, excise, or any other business tax, assessment, or fee, as applicable. The foregoing notwithstanding, Lessee shall have the right, before delinquency occurs, of protesting, contesting, objecting to or opposing the legality or amount of any such tax, assessment or fee which Lessee deems, in good faith, are illegal or excessive; and in the event of such contest, Lessee may, to the extent provided by law, defer the payment of any such tax, assessment or fee. However, Lessee shall deposit with City that amount of any taxes that are not the subject of any contest and which are not in dispute to be held by City, in trust, until the conclusion of any tax contest and payment of any final determination.

9.2 Costs, Expresses, and Other Charges: Lessee shall pay all required costs, expenses and other charges or obligations of every kind and nature whatsoever relating to the Leased Premises and/or the Permitted Use, which may arise or become due during the term of this Agreement.

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

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

- (1) no person on the grounds of race, color, gender or national origin shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities;
- (2) in the construction of any improvements on, over, or under such land and the furnishing of services thereon, no person on the grounds of race, color or national origin shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination; and
- (3) Lessee shall use the Leased Premises in compliance with all other requirements imposed by or pursuant to 49 CFR Part 21, Nondiscrimination in Federally Assisted Programs of the Department of Transportation and as said regulations may be amended. In the event of breach of any of the preceding nondiscrimination covenants, Lessee agrees that City has the right to take such action against Lessee as the Federal government may direct to enforce this covenant, including termination of this Agreement.

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

9.4 Insurance: Prior to the Effective Date of this Agreement, without limiting any of the other obligations or liabilities of Lessee during the term of this Agreement, Lessee shall pur

and maintain the herein stipulated minimum insurance with companies duly approved to do business in the State of Texas and satisfactory to City. Certificates of each policy shall be delivered to City before any Effective Date of this Agreement, along with a written statement from the issuing company stating that said policy shall not be canceled, non-renewed or materially changed without thirty (30) days advance written notice being given to City, except when the policy is being canceled for nonpayment of premium, in which case ten (10) days advance written notice is required. Prior to the effective date of cancellation, Lessee must deliver to City a replacement certificate of insurance or proof of reinstatement.

A. The types and minimum amounts of coverage shall be as follows:

- (1) Commercial General Liability Insurance, including independent contractor's liability and contractual liability covering, but not limited to, the liability assumed under the indemnification provisions of this Agreement, fully insuring Lessee's liability for injury to or death of City's employees and any third parties, extended to include personal injury liability coverage, with damage to property of third parties, with minimum limits as set forth below:

General Aggregate	\$500,000
Products-Components Operations Aggregate	\$500,000
Each Occurrence	\$500,000
Medical Expense (any one person)	\$5,000

- (2) Comprehensive Automobile and Truck Liability Insurance, covering owned, hired and non-owned vehicles, with a combined bodily injury and property damage minimum limit of \$500,000 per occurrence; or separate limits of \$250,000 for bodily injury (per person), \$500,000 bodily injury (per accident), and \$100,000 for property damage. Such insurance shall include coverage for loading and unloading hazards.

- (3) Workers Compensation – Statutory

B. Each insurance policy to be furnished by Lessee shall include the following conditions by endorsement to the policy:

- (1) Name the City as an additional insured as to all applicable coverage (except Workers Compensation);
- (2) The term "City" shall include all authorities, boards, commissions, divisions, departments and offices of City and individual members, employees and agents thereof in their official capacities, and/or while acting on behalf of City;
- (3) The policy phrase "other insurance" shall not apply to City where City is an additional insured on the policy; and
- (4) All provisions of this Agreement concerning liability, duty and standard of care together with the indemnification provision, shall be underwritten by contractual liability coverage sufficient to include such obligations within applicable policies.

C. Insurance furnished by Lessee shall be in accordance with the following requirements:

- (1) Any policy submitted shall not be subject to limitations, conditions or restrictions deemed inconsistent with the intent of the insurance requirements to be fulfilled by Lessee. City's decision thereon shall be final;
 - (2) All liability policies required herein shall be written with an "occurrence" basis coverage trigger.
- C. Lessee hereby waives subrogation rights for loss or damage to the extent same are covered by insurance. Insurers shall have no right of recovery or subrogation against City, it being the intention that the insurance policies shall protect all parties to the Agreement and be primary coverage for all losses covered by the policies.
- D. Companies issuing the insurance policies and Lessee shall have no recourse against City for payment of any premiums or assessments for any deductibles, as all such premiums and deductibles are the sole responsibility and risk of Lessee.
- E. Approval, disapproval or failure to act by Lessee regarding any insurance supplied by Lessee shall not relieve Lessee of full responsibility or liability for damages and accidents as set forth in this Agreement. Neither shall the bankruptcy, insolvency or denial of liability by the insurance company exonerate Lessee from liability.
- F. No special payments shall be made for any insurance that Lessee is required to carry; all are included in the agreement price and the agreement unit prices.
- G. Any of such insurance policies required under this section may be written in combination with any of the others, where legally permitted, but none of the specified limits may be lowered thereby.

ARTICLE 10: INDEMNIFICATION

LESSEE AGREES TO INDEMNIFY, PROTECT, DEFEND, SAVE AND COMPLETELY HOLD HARMLESS CITY AND ITS CITY COUNCIL (INDIVIDUALLY AND COLLECTIVELY), REPRESENTATIVES, OFFICERS, OFFICIALS, EMPLOYEES, AGENTS AND VOLUNTEERS (HEREINAFTER REFERRED TO COLLECTIVELY IN THIS ARTICLE AS "CITY") FROM ANY AND ALL LIENS, CLAIMS, CHARGES, ENCUMBRANCES, DEMANDS, DAMAGES, FINES, OBLIGATIONS, SUITS, JUDGMENTS, PENALTIES, CAUSES OF ACTION, LOSSES, LIABILITIES, ADMINISTRATIVE PROCEEDINGS, ARBITRATION, OR COSTS OF ANY NATURE WHATSOEVER INCLUDING REASONABLE ATTORNEY'S FEES, AT ANY TIME RECEIVED, INCURRED, OR ACCRUED BY CITY RELATING TO THIS AGREEMENT OR ARISING FROM DAMAGE OR INJURY OF ANY NATURE WHATSOEVER WHICH MAY RESULT FROM LESSEE'S POSSESSION, USE, OCCUPANCY, MANAGEMENT, MAINTENANCE, OR CONTROL OF THE LEASED PREMISES AND/OR THE CONDUCT OF LESSEE'S ACTIVITIES AT THE AIRPORT OR ARISING OUT OF LESSEE'S ACTIONS OR INACTIONS, REGARDLESS OF ANY SOLE OR CONCURRENT NEGLIGENCE OF THE CITY.

ARTICLE 11: DEFAULTS AND REMEDIES

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

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

- B. The assignment of all or substantially all of Lessee's assets for the benefit of Lessee's creditors;
- C. A court making or entering any decree or order:
 - (1) adjudging Lessee to be bankrupt or insolvent;
 - (2) approving as properly filed a petition seeking reorganization of Lessee or an arrangement under the bankruptcy laws or any other applicable debtor's relief law or statute of the United States or any state thereof;
 - (3) appointing a receiver, trustee or assignee of Lessee in bankruptcy or insolvency or for its property; and
 - (4) directing the winding up or liquidation of Lessee and such decree or order shall continue for a period of (60) days.
- D. The filing of any non-consensual lien against the Leased Premises resulting from any act or omission of Lessee which is not discharged or contested in good faith as determined by City by proper legal proceedings within sixty (60) days of receipt of actual notice by Lessee, unless Lessee posts a bond within this time period equal to the amount of the lien;
- E. The voluntary abandonment by Lessee of the Leased Premises or its failure to maintain an on-going business at the Leased Premises for a period of thirty (30) days or more, coupled with the failure to pay rent as provided in Article 5;
- F. The transfer of Lessee's interest in a manner not authorized herein or by other operation of law;
- G. Lessee becomes in arrears in the payment of the whole or any part of the amount(s) agreed upon herein for a period of thirty (30) days after the time such payments become due;
- H. Intentional falsification by Lessee of any record which results in the deprivation of any Rent, fee or other charge from the City granted under this Agreement;
- I. The failure by Lessee to perform any of the covenants, conditions or obligations imposed on it by this Agreement or any other Agreement with City where the failure continues for a period of twenty (20) days after written notice from City; and
- J. The transfer or assignment or attempted transfer or assignment of this Agreement by Lessee, without securing prior written approval of City. It shall be understood for the purpose of this provision that negotiations by Lessee for the assignment or transfer of this Agreement shall not be construed as "attempted transfer."

11.2 Failure to Cure Default: In the event of any default by Lessee that is not cured within twenty (20) days of receiving notice from City, City may, in addition to any other remedies available to City, terminate this Agreement. If the default concerns a failure to make payments to City as described by Section 11.1G, however, no written or other notice of default shall be required, and the City may, in addition to any other remedies available to City, terminate this Agree

on the thirty-first (31st) day after such time as payments became due. If this Agreement is terminated, any payments made to City shall be forfeited to City and Lessee shall have no rights to recover the payments. This forfeiture shall not diminish nor limit City's right to recover such damages as may result from the default by Lessee.

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

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

- A. The recovery of any unpaid Rent, fees and other payments due and owing at the time of termination, plus any unpaid Rent and fees that would have been earned and other payments that would have been made in the Agreement had not been breached by Lessee.
- B. The recovery of any damages, costs, fees and expenses incurred by City as a result of the breach of the Agreement by Lessee, including reasonable attorneys' fees and expenses.
- C. The removal of all persons from the Leased Premises and the removal and storage at Lessee's expense of all of Lessee's property on the Leased Premises, in accordance with the law.
- D. Any other right or remedy, legal or equitable, including specific performance, that City is entitled to under applicable law, whether stated in this Agreement or not.

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

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

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

ARTICLE 12: TERMINATION

This Agreement shall terminate upon any of the following events:

- A. Mutual written Agreement of the parties;

- B. Upon the end of the Lease Term, including any extensions thereof, as set forth in Article 2, above;
- C. Lessee providing written notice to City not later than thirty (30) days prior to the date of termination; provided, however, Lessee's termination of this Agreement pursuant to this Article 12 shall not relieve Lessee of any obligations to pay Rent or other fees to City that accrued prior to the date of termination, which obligations shall survive the termination of this Agreement; and
- D. Upon Lessee's failure to cure any default of this Agreement following the notice provided in this Agreement, including, but not limited to, any one or more of the events described in Article 11, above.

ARTICLE 13: NO WAIVER

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

ARTICLE 14: DAMAGE TO LEASED PREMISES

If at any time during the Term of this Agreement any part of the Leased Premises is damaged or destroyed, City shall be under no obligation to rebuild or repair the damaged or destroyed portion of the Leased Premises. This Agreement shall terminate and Lessee shall be obligated to pay Rent only through the date the event causing the damage occurred if the damage is to such extent that Lessee is unable to use the Leased Premises for the Permitted Use and City elects to not make such repairs. If City does make repairs to Leased Premises and Lessee is unable to operate while repairs are being completed, the Base Rent due from Lessee shall be calculated on a pro rata basis, reduced according to the number of days the Lessee was not able to operate on the Leased Premises due to completion of the repairs.

ARTICLE 15: MISCELLANEOUS

- 15.1 Assignment:** No portion of this Agreement may be assigned without the prior express written consent of City. In the event this Agreement is assigned, Lessee shall remain liable to City for the remainder of the term of the Agreement to pay to City any portion of rents, fees, and/or other charges not paid by the assignee when due. The assignee shall not assign the Agreement without the prior express written consent of City and any assignment by Lessee shall contain a provision to this effect. Further, any assignee of Lessee shall be bound by the terms and conditions of this Agreement. Any assignment without City's prior express written consent shall be null and void and, at City's election, shall constitute a default.
- 15.2 No Subleasing:** Lessee shall not sublease the Leased Premises (or any part of the Leased Premises) or subcontract any operation or service it performs or is permitted to perform, without the prior express written consent of the City, which consent may be withheld at the sole discretion of City. A sublease made contrary to the requirements of this section shall be null and void. Unless otherwise stated in a written consent, a sublease is subject to all of the terms and conditions of the Agreement. In addition, the Lessee shall at all times assume total responsibility for the acts and omissions of a sublessee and/or subcontractor.

- 15.3 Encumbrances:** Lessee shall have no authority, express or implied, to create any lien, charge or encumbrance upon the Leased Premises or its leasehold interest created by this Agreement. Lessee shall further not allow the Leased Premises to be or become subject to any non-consensual lien (including mechanic's liens), charge or encumbrance whatsoever. Lessee acknowledges and understands that the Leased Premises are owned by City, a Texas governmental entity, and as such, as a matter of law, no lien may attach to the Leased Premises and is void.
- 15.4 Landlord's Lien:** Lessee hereby grants a lien to City upon all personal property owned by Lessee in or on the Leased Premises as a possessory pledge to secure the timely performance by Lessee of all its obligations hereunder. In the event of default of this Agreement by Lessee, City is authorized to seize and hold all of the personal property belonging to Lessee on the Leased Premises to secure such performance, to sell same at public or private sale and to apply the proceeds thereof first to pay the expenses of the sale, and to pay all amounts due to City hereunder, holding the balance remaining subject to Lessee's order. A copy of this Agreement shall be the only warrant required.
- 15.5 Non Partnership or Joint Venture:** Nothing in this Agreement is intended to nor shall be construed as in any way creating or establishing the relationship of partners between City and Lessee or as constituting either party as the agent, representative, or employee of the other party for any purpose or in any manner whatsoever, or of creating any joint enterprise of the parties.
- 15.6 Binding Effect:** This Agreement shall be binding on and shall inure to the benefit of the heirs, legal representatives, successors and assigns of the parties hereto.
- 15.7 Subordination:** This Agreement is subject and subordinate to the provisions of any existing or future agreements between the City and the United States or the State of Texas pertaining to the operation, management, maintenance, planning, and/or development of the Airport the terms and execution of which have been (or may be) required as a condition precedent to receiving federal and/or state funds for the development of the Airport and Lessee further agrees to conduct its operations under this Agreement in accordance with and be subject to all obligations (including grant assurances), existing and future, of City to any regulatory authority. Should this Agreement contain provisions in conflict therewith, the latter shall control, and the terms of this Agreement shall be modified accordingly.
- 15.8 Governing Law; Venue:** This Agreement shall be deemed to have been made and shall be construed in accordance with the laws of the State of Texas. Venue shall be in Dallas County, Texas.
- 15.9 Headings:** All section, paragraph, and subparagraph headings contained in this Agreement are for the convenience in reference only, and are not intended to define or limit the scope of this Agreement or any provision therein.
- 15.10 Severability:** In the event that any provision in this Agreement is held to be invalid by any court of competent jurisdiction, the invalidity of any such provision shall in no way affect any other provision in this Agreement, provided that the invalidity of any such provision does not materially prejudice either City or Lessee in their respective rights and obligations contained in the valid provisions of this Agreement.

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

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

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

If to City:
Airport Manager
LANCASTER REGIONAL AIRPORT
P.O. Box 940
Lancaster, Texas 75146

If to Lessee:
Phillip Burda Enterprises of Texas, LLC
525 La Cresta Dr.
Red Oak, TX 75154

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

With Copy to:
Robert E. Hager
Nichols, Jackson, Dillard, Hager & Smith
500 N Akard, Suite 1800
Dallas, Texas 75201

With Copy to:

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

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

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their proper officers, this 22nd day of April, 2013.

CITY OF LANCASTER, TEXAS

LESSEE:

Opal Mauldin Robertson, City Manager

Phillip Burda, Manager/Member

ATTEST:

Dolle Downe, City Secretary

EXHIBIT A

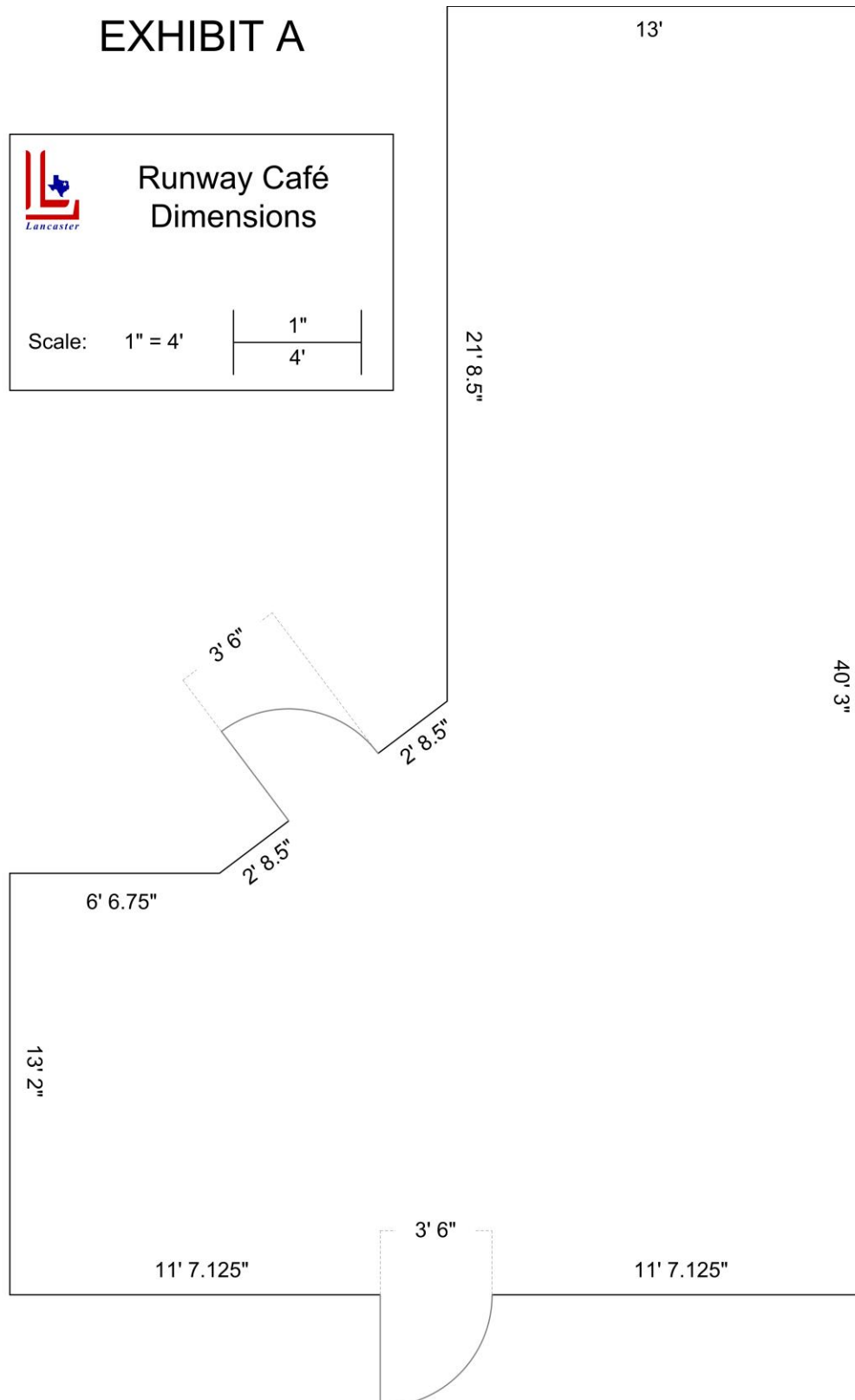


EXHIBIT “B”**LIST OF AIRPORT CAFE EQUIPMENT OWNED BY CITY OF LANCASTER
AND FURNISHED FOR USE BY LESSEE IN THE RUNWAY CAFÉ**

ITEM	DESCRIPTION	QTY	DETAILS
1	VENT-A-HOOD	1	STAINLESS STEEL, W/FIRE SUPPRESSION SYSTEM
2	REFRIGERATOR	1	MODEL T-23-2, 23 CU. FT., REACH IN
3	GRIDDLE	1	MODEL 136T, COUNTER MODEL
4	RANGE/OVEN	1	MODEL SS686, FLOOR MODEL
5	FRYER, FLOOR MODEL, FULL POT	1	MODEL SE14XSSCTC-S, FLOOR MODEL
6	HAND SINK	1	MODEL 7-PS-20
7	THREE COMPARTMENT SINK	1	CUSTOM MADE
8	WORK TABLE	1	60”, MODEL KSS-305
9	DISPLAY CASE	1	REFRIGERATED, COUNTER TOP, MODEL CR5GE-1W-G
10	DISHWASHER	1	UNDERCOUNTER, MODEL AVENGER HT
11	FREEZER	1	UNDERCOUNTER, REACH IN, MODEL TUC-27F-ADA
12	HOT FOOD WELL UNIT	1	BUILT-IN, MODEL BM-80C UL
13	REFRIGERATED COUNTER, SANDWICH TOP	1	MODEL TSSU-27-8
14	PANINI GRILL	1	MODEL CG14B
15	CONDIMENT ORGANIZER BIN RACK	1	MODEL 381106LVG
16	WORK TABLE	1	84”, MODEL KMG-247
17	MICROWAVE OVEN	1	MODEL ALD10D
18	INSIDE DINING TABLES	14	
19	INSIDE DINING CHAIRS	32	
20	OUTSIDE DINING TABLES	5	
21	OUTSIDE DINING CHAIRS	20	
22	CEILING FAN WITH PLANE ART	1	

LANCASTER CITY COUNCIL

Agenda Communication

April 22, 2013

Item 7

Consider a resolution authorizing the purchase of one (1) Lifepak Monitor/Defibrillator from Physio Control through the federally funded program Resuscitation Outcomes Consortium (ROC) for a total amount not to exceed \$39,897.80

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

Goal: Healthy, Safe & Vibrant Neighborhoods

Background

On September 24, 2012 the Council approved the purchase of a new ambulance as part of the equipment replacement plan; that ambulance is due to arrive within the month. A critical piece of equipment carried on the Lancaster Fire Department ambulances is the heart monitor.

The Resuscitation Outcomes Consortium (ROC) is a national research program to study cardiac outcomes regarding CPR. As part of the Consortium, the Federal Government has contracted with various vendors for related equipment. The Lifepak/Defibrillator qualifies for the discount under this program.

Considerations

- **Operational** – This unit is essential for operations.
- **Legal** – The City maintains an executed cooperative agreement with ROC and is eligible to receive the equipment discount through the Federal GSA program. Texas law authorizes cooperative agreements to help save time developing specifications and duplication during the bid process.
- **Financial** – Expenditures will not exceed \$39,897.80. The monitor's cost was included in the price of the ambulance within the Equipment Replacement Fund. However, this monitor was purchased separately from the ambulance as we were able to save approximately 10% on the cost of the unit.
- **Public Information** – No public notifications are required.

Options/Alternatives

1. City Council may approve the purchase as outlined
2. City Council may reject the resolution.

Recommendation

Staff recommends authorizing the purchase of one (1) Lifepak/Defibrillator from Physio Control for a total amount not to exceed \$39,897.80.

Attachments

- Resolution
 - Quote
-

Submitted by:

Thomas Griffith, Fire Chief

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LANCASTER, TEXAS, AUTHORIZING THE PURCHASE OF ONE (1) LIFEPAK MONITOR/DEFIBRILLATOR FROM PHYSIO CONTROL THROUGH THE FEDERALLY FUNDED PROGRAM RESUSCITATION OUTCOMES CONSORTIUM (ROC) FOR A TOTAL AMOUNT NOT TO EXCEED \$39,897.80; AUTHORIZING THE CITY MANAGER OR DESIGNEE TO ISSUE A PURCHASE ORDER PURSUANT TO APPROVAL; REPEALING ALL RESOLUTIONS IN CONFLICT; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council desires to purchase a new Defibrillator for use on the newly purchased ambulance and utilize the ROC Consortium agreement with Physio Control.

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

SECTION 1. The City Council approves the purchase of one (1) Lifepak Monitor/Defibrillator from Physio Control through the federally funded program Resuscitation Outcomes Consortium (ROC) in the amount not to exceed thirty-nine thousand eight hundred ninety-seven dollars and eighty cents (\$39,897.80). A copy of the quote is attached hereto and incorporated herein as Exhibit A.

SECTION 2. The City Manager or designee is authorized to issue a purchase order.

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 22nd day of April, 2013.

ATTEST:

Dolle K. Downe, City Secretary

APPROVED:

Marcus E. Knight, Mayor

APPROVED AS TO FORM:

Robert E. Hager, City Attorney



Physio-Control, Inc.
 11811 Willows Road NE
 P.O. Box 97023
 Redmond, WA 98073-9723 U.S.A
 www.physio-control.com
 tel 800.442.1142
 fax 800.732.0956

To: Dee Dee Hilary
 Lancaster Fire Department
 1650 N Dallas Ave
 LANCASTER, TX 75134
 Phone: (214) 227-1813

Quote#: 1-256271383

Rev#: 2

Quote Date: 04/03/2013

Sales Consultant: Elizabeth Roberts
 800-442-1142 x 72438

FOB: Redmond, WA

Terms: All quotes subject to credit approval and
 the following terms & conditions

Contract: ROC

Exp Date: 04/26/2013

Line	Catalog # / Description	Qty	Price	Unit Disc	Trade-In	Unit Price	Ext Total
1	99577-001257 - LP15 MONITOR/DEFIB, CPR, Pace, to 360j, SPO2/CO/MetHb, 12L GL, NIBP, CO2, Trend, BT THE LIFEPAK 15 IS AN ADAPTIV BIPHASIC FULLY ESCALATING (TO 360 JOULES) MULTI-PARAMETER MONITOR/DEFIBRILLATOR . 2 PAIR QUIK-COMBO ELECTRODES PER UNIT - 11996-000091, TEST LOAD - 21330-001365, IN-SERVICE DVD - 21330-001486 (one per order) , SERVICE MANUAL CD- 21300-008084 (one per order) and SHIP KIT (RC Cable) 41577-000126 INCLUDED. HARD PADDLES, BATTERIES AND CARRYING CASE NOT INCLUDED.	1	\$36,595.00	\$7,319.00	\$0.00	\$29,276.00	\$29,276.00
2	11577-000004 - STATION BATTERY CHARGER AC OPERATION FOR STATIONARY APPLICATIONS, FOR USE WITH THE LI-ION 5.7 AMP BATTERY. INCLUDES AC POWER CORD, MOUNTING BRACKET AND OPERATING INSTRUCTIONS	1	\$1,633.00	\$326.60	\$0.00	\$1,306.40	\$1,306.40
3	21330-001176 - LI-ION BATTERY 5.7 AMP HOUR CAPACITY RECHARGEABLE LITHIUM-ION, WITH FUEL GAUGE	5	\$412.00	\$82.40	\$0.00	\$329.60	\$1,648.00
4	11996-000323 - MASIMO SET RED LNCS PATIENT CABLE - 4 FEET RED LNC-04,PATIENT CABLE,4FT,REF 2055	1	\$196.00	\$39.20	\$0.00	\$156.80	\$156.80
5	11171-000032 - RAINBOW DCI-DC8,ADULT REUSE SENSOR,8FT,REF 2407 RAINBOW DCI-DC8,ADULT REUSE SENSOR,8FT,REF 2407	1	\$844.00	\$168.80	\$0.00	\$675.20	\$675.20
6	11171-000033 - RAINBOW DCIP-DC8,PED REUSE SENSOR,8FT,REF 2640 RAINBOW DCIP-DC8,PED REUSE SENSOR,8FT,REF 2640	1	\$844.00	\$168.80	\$0.00	\$675.20	\$675.20
7	11160-000001 - NIBP CUFF-REUSEABLE,INFANT	1	\$20.00	\$4.00	\$0.00	\$16.00	\$16.00
8	11160-000003 - NIBP CUFF-REUSEABLE,CHILD	1	\$23.00	\$4.60	\$0.00	\$18.40	\$18.40

Quote#: 1-256271383
 Rev#: 2
 Quote Date: 04/03/2013

Quote Products (continued)

Line	Catalog # / Description	Qty	Price	Unit Disc	Trade-In	Unit Price	Ext Total
9	11160-000005 - NIBP CUFF- REUSEABLE,ADULT	1	\$28.00	\$5.60	\$0.00	\$22.40	\$22.40
10	11160-000007 - NIBP CUFF- REUSEABLE,LARGE ADULT	1	\$31.00	\$6.20	\$0.00	\$24.80	\$24.80
11	11160-000009 - NIBP CUFF- REUSEABLE,X-LARGE ADULT	1	\$46.00	\$9.20	\$0.00	\$36.80	\$36.80
12	11577-000002 - LIFEPAK 15 Basic Carry Case w/ right & left pouches Includes shoulder strap 11577-000001	1	\$276.00	\$55.20	\$0.00	\$220.80	\$220.80
13	11220-000028 - Top Pouch Storage for sensors and electrodes. Insert in place of standard paddles.	1	\$49.00	\$9.80	\$0.00	\$39.20	\$39.20
14	11260-000039 - LP15 Rear Pouch for carrying case	1	\$71.00	\$14.20	\$0.00	\$56.80	\$56.80
15	MC999-001005-5 - POS - 5 YEAR . On-site repair and one inspection per year. Price per unit. Contracts with 4 and 5 year terms must be paid in full up front.	1	\$5,165.00	\$0.00	\$0.00	\$5,165.00	\$5,165.00
16	50999-000118 - ZONE TRAVEL CHARGE: ZONE 2	5	\$75.00	\$0.00	\$0.00	\$75.00	\$375.00

SUB TOTAL	\$39,712.80
ESTIMATED TAX	\$0.00
ESTIMATED SHIPPING & HANDLING	\$185.00
GRAND TOTAL	\$39,897.80

Pricing Summary Totals

List Price:	\$48,256.00
Cash Discounts:	- \$8,543.20
Tax + S&H:	+ \$185.00

GRAND TOTAL FOR THIS QUOTE	\$39,897.80
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**TO PLACE AN ORDER, PLEASE FAX A COPY OF THE QUOTE AND PURCHASE ORDER TO:
800-732-0956, ATTN: REP SUPPORT**

PHYSIO-CONTROL, INC. REQUIRES WRITTEN VERIFICATION OF THIS ORDER. A PURCHASE ORDER IS REQUIRED ON ALL ORDERS \$10,000 OR GREATER BEFORE APPLICABLE FREIGHT AND TAXES. THE UNDERSIGNED IS AUTHORIZED TO ACCEPT THIS ORDER IN ACCORDANCE WITH THE TERMS AND PRICES DENOTED HEREIN. SIGN TO THE RIGHT:

CUSTOMER APPROVAL (AUTHORIZED SIGNATURE)

NAME

TITLE

DATE

Ref. Code: MH//1-48KS8V

Notes:

Taxes, shipping and handling fees are estimates only and are subject to change at the time of order. Shipping and handling applies to ground transport only. Physio-Control will assess a \$10 handling fee on any order less than \$200.00.

Above pricing valid only if all items in quote are purchased (optional items not required).

To receive a trade-in credit, Buyer agrees to return the trade-in device(s) within 30 days of receipt of the replacement device(s) to Physio-Control's place of business or to an authorized Physio-Control representative. Physio-Control will provide instructions for returning the device(s) and will pay for the associated shipping cost.

In the event that trade-in device(s) are not received by Physio-Control within the 30-day window, Buyer acknowledges that this quote shall constitute a purchase order and agrees to be invoiced for the amount of the trade-in discount. Invoice shall be payable upon receipt.

Items listed above at no charge are included as part of a package discount that involves the purchase of a bundle of items. Buyer is solely responsible for appropriately allocating the discount extended on the bundle when fulfilling any reporting obligations it might have.

If Buyer is ordering service, Buyer affirms reading and accepts the terms of the Physio-Control, Inc. Technical Service Support Agreement which is available from your sales representative or <http://www.physio-control.com/uploadedFiles/products/service-plans/TechnicalServiceAgreement.pdf>

TERMS OF SALE

General Terms

Physio-Control, Inc.'s acceptance of the Buyer's order is expressly conditioned on product availability and the Buyer's assent to the terms set forth in this document and its attachments. Physio-Control, Inc. agrees to furnish the goods and services ordered by the Buyer only on these terms, and the Buyer's acceptance of any portion of the goods and services covered by this document shall confirm their acceptance by the Buyer. These terms constitute the complete agreement between the parties and they shall govern any conflicting or ambiguous terms on the Buyer's purchase order or on other documents submitted to Physio-Control, Inc. by the Buyer. These terms may only be revised or amended by a written agreement signed by an authorized representative of both parties.

Pricing

Unless otherwise indicated in this document, prices of goods and services covered by this document shall be Physio-Control, Inc. standard prices in effect at the time of delivery. Prices do not include freight insurance, freight forwarding fees, taxes, duties, import or export permit fees, or any other similar charge of any kind applicable to the goods and services covered by this document. Sales or use taxes on domestic (USA) deliveries will be invoiced in addition to the price of the goods and services covered by this document unless Physio-Control, Inc. receives a copy of a valid exemption certificate prior to delivery. Please forward your tax exemption certificate to the Physio-Control, Inc. Tax Department P.O. Box 97006, Redmond, Washington 98073-9706.

Payment

Unless otherwise indicated in this document or otherwise confirmed by Physio-Control, Inc. in writing, payment for goods and services supplied by Physio-Control, Inc. shall be subject to the following terms:

- Domestic (USA) Sales - Upon approval of credit by Physio-Control, Inc., 100% of invoice due thirty (30) days after invoice date.
- International Sales - Sight draft or acceptable (confirmed) irrevocable letter of credit.

Physio-Control, Inc. may change the terms of payment at any time prior to delivery by providing written notice to the Buyer.

Delivery

Unless otherwise indicated in this document, delivery shall be FOB Physio-Control, Inc. point of shipment and title and risk of loss shall pass to the Buyer at that point. Partial deliveries may be made and partial invoices shall be permitted and shall become due in accordance with the payment terms. In the absence of shipping instructions from the Buyer, Physio-Control, Inc. will obtain transportation on the Buyer's behalf and for the Buyer's account.

Delays

Delivery dates are approximate. Physio-Control, Inc. will not be liable for any loss or damage of any kind due to delays in delivery or non-delivery resulting from any cause beyond its reasonable control, including but not limited to, acts of God, labor disputes, the requirements of any governmental authority, war, civil unrest, terrorist acts, delays in manufacture, obtaining any required license or permit, and Physio-Control, Inc. inability to obtain goods from its usual sources. Any such delay shall not be considered a breach of Physio-Control, Inc. and the Buyer's agreement and the delivery dates shall be extended for the length of such delay.

Inspections and Returns

Claims by the Buyer for damage to or shortages of goods delivered shall be made within thirty (30) days after shipment by providing Physio-Control, Inc. with written notice of any deficiency. Payment is not contingent upon immediate correction of any deficiencies and Physio-Control, Inc. prior approval is required before the return of any goods to Physio-Control, Inc. Physio-Control, Inc. reserves the right to charge a 15% restocking fee for returns. The Physio-Control Returned Product Policy is located at http://www.physio-control.com/uploadedFiles/support/ReturnPolicy_3308529_A.pdf.

Service Terms

All device service will be governed by the Physio-Control, Inc. Technical Services Support Agreement which is available from your sales representative or <http://www.physio-control.com/uploadedFiles/products/service-plans/TechnicalServiceAgreement.pdf>. All devices that are not under Physio-Control Limited Warranty or a current Technical Service Support Agreement must be inspected and repaired (if necessary) to meet original specifications at then-current list prices prior to being covered under a Technical Service Support Agreement. If Buyer is ordering service, Buyer affirms reading and accepts the terms of the Technical Service Support Agreement.

Warranty

Physio-Control, Inc. warrants its products in accordance with the terms of the standard Physio-Control, Inc. product warranty applicable to the product to be supplied. Physio-Control, Inc. warrants services and replacement parts provided in performing such services against defects in accordance with the terms of the Physio-Control, Inc. service warranty set forth in the Technical Service Support Agreement. The remedies provided under such warranties shall be the Buyer's sole and exclusive remedies. Physio-Control, Inc. makes no other warranties, express or implied, including, without limitation, NO WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, AND IN NO EVENT SHALL PHYSIO-CONTROL, INC. BE LIABLE FOR INCIDENTAL, CONSEQUENTIAL, SPECIAL OR OTHER DAMAGES.

Patent & Indemnity

Upon receipt of prompt notice from the Buyer and with the Buyer's authority and assistance, Physio-Control, Inc. agrees to defend, indemnify and hold the Buyer harmless against any claim that the Physio-Control, Inc. products covered by this document directly infringe any United States of America patent.

Miscellaneous

a) The Buyer agrees that products purchased hereunder will not be reshipped or resold to any persons or places prohibited by the laws of the United States of America. b) Through the purchase of Physio-Control, Inc. products, the Buyer does not acquire any interest in any tooling, drawings, design information, computer programming, patents or copyrighted or confidential information related to said products, and the Buyer expressly agrees not to reverse engineer or decompile such products or related software and information. c) The rights and obligations of Physio-Control, Inc. and the Buyer related to the purchase and sale of products and services described in this document shall be governed by the laws of the State of Washington, United States of America. All costs and expenses incurred by the prevailing party related to enforcement of its rights under this document, including reasonable attorneys fees, shall be reimbursed by the other party.

LANCASTER CITY COUNCIL

Agenda Communication

April 22, 2013

Item 8

Consider a resolution authorizing the award of Bid #2013-66 for miscellaneous fire equipment to multiple vendors for a total amount not to exceed \$104,892.41.

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

Goal: Healthy, Safe & Vibrant Neighborhoods

Background

On September 24, 2012 the Council approved the purchase of a new fire truck as part of the equipment replacement plan. Included in the budget estimate of the fire truck was the equipment necessary to put the engine in service. This equipment was purchased separately from the fire truck because we were able to save approximately 10% on the cost of the equipment.

Considerations

- **Operational** – These units are essential for operations at all fires.
- **Legal** – This bid was processed in accordance with all local and state purchasing statutes. Six bids were received and none of the vendors are certified M/WBE.
- **Financial** – Funding is available in the equipment replacement fund. Expenditures will not exceed \$104,892.41.
- **Public Information** – Bids were advertised on January 8 and 15, 2013 and closed on January 22, 2013.

Options/Alternatives

1. City Council may approve the purchase as outlined.
2. City Council may reject and direct staff as appropriate.

Recommendation

Staff recommends awarding Bid 2013-66 for the items and vendors listed below:

- Metro Fire, \$17,751.00
- Fire Storm, \$2,408.00

- Emergency Response Solutions, \$1,871.67
- Fire Supply, \$27,448.29
- MES, \$47,135.42
- Fisher Scientific, \$8,278.03
- Total: \$104,892.41.

There were no bids received for items 28 and 48. These items will be purchased off the open market.

Attachments

- Resolution
 - Quote
-

Submitted by:

Thomas Griffith, Fire Chief

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LANCASTER, TEXAS, AUTHORIZING THE AWARD OF BID #2013-66 FOR MISCELLANEOUS FIRE EQUIPMENT TO MULTIPLE VENDORS FOR A TOTAL AMOUNT NOT TO EXCEED \$104,892.41. AUTHORIZING THE ISSUANCE OF PURCHASE ORDERS PURSUANT TO APPROVAL; REPEALING ALL RESOLUTIONS IN CONFLICT; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, The City Council of the City of Lancaster desires to purchase miscellaneous fire equipment for the new fire truck.

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 bid 2013-66 for miscellaneous fire equipment from:

- Metro Fire for items 4, 5, 7, 15, 16, 19, 31, 67, 68, 70, 74, and 90 in an amount not to exceed \$17,751.00;
- Firestorm for item 20 in an amount not to exceed \$2,408.00;
- Emergency Response Solutions for items 39, 40, 41, 51, 75, 77, 78, 81, 82, and 87 in an amount not to exceed \$1,871.67.
- Fire Supply for items 11, 12, 13, 14, 21, 22, 27, 33, 55, 57, 60, 61, 62, 63, 65, 69, 88, and 94 for an amount not to exceed \$27,448.29;
- MES for items 1, 2, 3, 6, 8, 9, 10, 17, 18, 25, 26, 29, 30, 34, 35, 36, 37, 38, 42, 43, 45, 46, 47, 52, 54, 58, 59, 68, 71, 73, 83, 89, 91, and 93 for an amount not to exceed \$47,135.42;
- Fisher Scientific for items 23, 24, 32, 44, 49, 50, 53, 56, 64, 66, 76, 79, 80, 84, 85, 86, and 92 in an amount not to exceed \$8,278.03.

SECTION 2. The City Manager or designee is authorized to issue appropriate purchase orders in conformity herewith.

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 22nd day of April, 2013.

ATTEST:

Dolle K. Downe, City Secretary

APPROVED:

Marcus E. Knight, Mayor

APPROVED AS TO FORM:

Robert E. Hager, City Attorney

Bid Request Number	2013-66	Organization	Lancaster Purchasing
Title	Fire Equipment	Bid Creator	Dawn Berry Purchasing Agent
Description		Email	dberry@lancaster-tx.com
Bid Type	ITB	Phone	(972) 218-1329
Issue Date	1/8/2013 5:19:05 PM Central	Fax	(972) 218-3621
Close Date	1/22/2013 3:00:00 PM Central		

Responding Suppliers

Name	City	State	Response Submitted	Lines Responded	Response Total
Metro Fire Apparatus Specialists, Inc.	Houston	TX	1/22/2013 1:50:53 PM CST	78	\$26,554.00
FIRESTORM	Flower Mound	TX	1/17/2013 8:44:55 AM CST	20	\$27,534.00
Emergency Response Solutions-Texas	The Woodlands	TX	1/22/2013 2:35:28 PM CST	27	\$39,427.51
Fire Supply Inc.	Godley	TX	1/9/2013 2:34:31 PM CST	39	\$39,459.77
MES	Southbury	CT	1/17/2013 5:12:57 PM CST	83	\$955,387.24
Fisher Scientific Company, L.L.C.	Atlanta	GA	1/22/2013 2:05:15 PM CST	49	\$8,569,515.60

Response Notes

Supplier	Line	Notes
Metro Fire Apparatus Specialists, Inc.	1	-5? STORZ X 2.5? MALE RIGID ADAPTER, COLOR CODED BLUE, LASER ENGRAVED ?LANCASTER FIRE?-STORZ MOUNTING PLATE 4? & 5? WITH K-BRITE FINISH
	2	-DOUBLE FEMALE 2.5? X 2.5? SWIVEL ADAPTER, COLOR CODED BLUE, LASER ENGRAVED ?LANCASTER FIRE?-2.5? MALE MOUNTING PLATE
	3	-DOUBLE MALE 2.5? X 2.5? ADAPTER, COLOR CODED BLUE, LASER ENGRAVED ?LANCASTER FIRE?-2.5? FEMALE MOUNTING PLATE
	4	-2.5? FEMALE X 1.5? MALE REDUCER ADAPTER, COLOR CODED BLUE, LASER ENGRAVED ?LANCASTER FIRE?
	5	-1.5? FEMALE X GARDEN HOSE ADAPTER, COLOR CODED BLUE, LASER ENGRAVED ?LANCASTER FIRE?
	6	-5? STORZ X 4? LONG HANDLE SWIVEL FEMALE ADAPTER, COLOR CODED BLUE, LASER ENGRAVED ?LANCASTER FIRE?-STORZ MOUNTING PLATE 4? & 5? WITH K-BRITE FINISH
	7	-5? STORZ X 4.5? LONG HANDLE SWIVEL FEMALE ADAPTER, COLOR CODED BLUE, LASER ENGRAVED ?LANCASTER FIRE?-STORZ MOUNTING PLATE 4? & 5? WITH K-BRITE FINISH
	8	-5? STORZ X (2) 2.5? MALE NST VALVE-STORZ MOUNTING PLATE 4? X 5? WITH K-BRITE FINISH
	9	SPANNER/HYDRANT WRENCH SET, COMPLETE SET
	10	STORZ SPANNER WRENCH SET WITH FOUR SPANNERS AND MOUNT
	11	-HAND HELD HOSE ROLLER FOR LDH HOSE-TOOL MOUNT / HANGER
	15	MIDMATIC WITH GRIP, 1.5? 70-200GPM @ 100PSI, BLUE PISTOL GRIP WITH WHITE HANDLE
	17	1? ULTIMATIC NOZZLE WITH GRIP, 10-125 GPM @ 100psi, BLUE PISTOL GRIP WITH WHITE HANDLE
		-MONSOON RC MONITOR, 2000 GPM WITH 3.5? OUTLET (NEED TO CONFIRM INLET SIZE PRIOR TO ORDERING)-WIRELESS MONITOR
		OPERATOR STATION, 900 MHZ-MASTER STREAM ELECTRIC RC FOG NOZZLE, 3.5?, 300-2000 GPM-4 STACKED TIPS, 2.5?-5? STREAM
	18	STRAIGHTNER, 3.5? FEMALE X 2.5?
	19	BLITZFIRE COMBO PACK, WITH STACKED TIPS, STREAM STRAIGHTNER AND TRUCK BRACKET
	20	-BALL INTAKE VALVE, 5? STORZ X 6? NH FEMALE WITH RELIEF VALVE-BLIND CAP, 5? STORZ WITH LANYARD
	21	SALVAGE COVER, 10 OZ. RED VINYL, 14 X 18
	22	SALVAGE COVER, 10 OZ. RED VINYL, 12 X 14
	23	SALVAGE COVER 10 OZ. RED VINYL, 3 X 18 HALL RUNNER
	24	SALVAGE COVER 10 OZ. RED VINYL, 4 X 10
	26	24? BOLT CUTTER, HEAVY DUTY
	27	ELEVATOR KEY SET, 12 KEYS WITH HEAVY DUTY RING
	30	-51? PINCH POINT BAR-PINCH POINT BAR HOLDER SET
	31	BIG EASY ?GLO? LOCKOUT KIT WITH PAINT PROTECTOR, WEDGE, EASY INFLATABLE WEDGE AND YELLOW GLOWING TOOL
	32	30? TRAFFIC CONE PACK & POP WITH RUBBER BASE AND LED LIGHT FOR NIGHT USE****MUST ORDER CASE OF 5
	33	DOOR BAR ASSEMBLY
	34	AMEREX 10# CO2 EXTINGUISHER WITH MOUNT
	35	AMEREX 20# ABC EXTINGUISHER WITH MOUNT
	36	GLAS-MASTER COMPLETE WITH PAC HANDLELOK MOUNT
	39	FIRE RESCUE HARNESS, CLASS III, LARGE/XLARGE
	40	FIRE RESCUE HARNESS, CLASS III, SMALL/MEDIUM
	41	PETZL VERTEX VENT HELMET, RED
	44	8 DRYWALL HOOK WITH CELTEX GRIP AND GAS SHUT OFF
	50	SURVIVOR LED FLASHLIGHT, ORANGE WITH AC / DC CHARGER
	51	SKED RESCUE SYSTEM, BASIC ORANGE

	55	ANSI 207 PUBLIC SAFETY VEST WITH 5 POINT BREAK AWAY, LIME YELLOW, SIZE SMALL - 3XL, WITH ?FIRE / RESCUE? ON BACK
	57	16? ELECTRIC SMOKE EJECTOR WITH 1/3 HP ELECTRIC MOTOR (PER PART NUMBER LISTED IN DESCRIPTION)
	59	TRUE NORTH L-2 RIT BAG WITH SKID PLATE AND L-2 SEARCH ROPE BAG, 200 CAPACITY (ROPE NOT INCLUDED)
	69	TEAM EQUIPMENT 14? PIRAYA ALL PURPOSE DIAMOND BLADE
	75	RESCUE 8, ALUMINUM BLK, CMC
	76	CARABINER, PS AUTO RED, CMC
	77	RESCUE RACK, CMC
	78	SINGLE PULLEY, PROSERIES, 2? CMC
	81	GIBBS ASCENDER, SPRING LOADED
	82	RED HELMET BAG, CMC
	84	PRUSIK, BOUND LOOP 8MM RED, 18?
	85	ANCHOR STRAP, 3 BLUE
	86	ANCHOR STRAP SLEEVE FOR SMALL ANCHOR STRAP, 2
	87	TRUCK CACHE GEAR BAG, RED
	88	PIERCING APPLICATOR, 1.5? X 3 LENGTH
	89	MAGNUM HOSE STRAP
	90	50 THROW BAG SET WITH REDI-LINE
	91	6 DRYWALL HOOK WITH CELTEX GRIP AND GAS SHUT OFF
	92	CMC RESCUE MESH DUFFLE BAG, 20? X 12?, YELLOW/BLUE
	93	PAC HANDLELOK STRAP MOUNT WITH PAC TRAC HARDWARE
	94	HOOKLOK MOUNT
	8 Alt 1	-5? STORZ X (2) 2.5? MALE GATED WYE-STORZ MOUNTING PLATE 4? X 5? WITH K-BRITE
	12 Alt 1	HFX HOSE, 5? STORZ X 100 YELLOW, STENCILED ?LANCASTER FIRE DEPARTMENT?
	13 Alt 1	N-DURA HOSE, 2? X 50 RED WITH 1.5? COUPLINGS, STENCILED ?LANCASTER FIRE DEPARTMENT?
	14 Alt 1	N-DURA HOSE, 1.75? X 50 (6 YELLOW & 6 BLUE) WITH 1.5? COUPLINGS, STENCILED ?LANCASTER FIRE DEPARTMENT? -VALVE INTEGRAL TOP NOZZLE WITH 7/8? DIAMETER TIP, 1.5? X 1.5? OUTLET WITH BLUE PISTOL GRIP AND WHITE HANDLE-MID-FORCE TIP
	15 Alt 1	ONLY, 1.5? DUAL PRESSURE (70-200GPM @ 100PSI)
	16 Alt 1	HANDLINE SERIES NOZZLE WITH GRIP, 2.5? 95-300GPM @ 100PSI, BLUE PISTOL GRIP WITH WHITE HANDLE -VALVE INTEGRAL TIP NOZZLE WITH 1? DIAMETER TIP, 2.5? X 1.5? OUTLET WITH BLUE PISTOL GRIP AND WHITE HANDLE-DUAL FORCE TIP
	16 Alt 2	ONLY, 1.5? DUAL PRESSURE (95-300GPM @ 100PSI)
	19 Alt 1	BLITZFIRE OSCILLATOR COMBO PACK, WITH DUAL PRESSURE NOZZLE, STACKED TIPS, STREAM STRAIGHTNER AND TRUCK BRACKET
	37 Alt 1	150 OF 1/2? CMC RED LIFELINE ROPE WITH RED ROPE BAG #2
	38 Alt 1	200 OF 1/2? CMC YELLOW LIFELINE ROPE WITH YELLOW ROPE BAG #2
	49 Alt 1	E-SPOT LITEBOX WITH VEHICLE MOUNT SYSTEM, LED, ORANGE, 12V
	60 Alt 1	SR-20 GAS POWERED PUMP WITH CORE TECHNOLOGY, 3 STAGE PUMP WITH HONDA MOTOR
	61 Alt 1	4321 HYDRAULIC RAM WITH CORE TECHNOLOGY, 10,500PSI
	62 Alt 1	4322 HYDRAULIC RAM WITH CORE TECHNOLOGY, 10,500PSI
	63 Alt 1	4242 HYDRAULIC SPREADER WITH CORE TECHNOLOGY, 10,500PSI
	64 Alt 1	4050NCT (NEW CAR TECHNOLOGY) HYDRAULIC CUTTER WITH CORE TECHNOLOGY, 10,500PSI
	65 Alt 1	32 HYDRAULIC HOSE, CORE TECHNOLOGY, 10,500PSI, (1) ORANGE & (1) BLUE HOSE
	66 Alt 1	CU 4007 MINI CUTTER WITH CORE TECHNOLOGY, 10,500PSI
	67 Alt 1	STIHL 20? RESCUE SAW FOR FIRE DEPARTMENTS, CARBIDE CHAING FOR RESCUE ONLY AND DEPTH LIMITER WITH SPECIAL BAR GUIDE
	68 Alt 1	STIHL CUTQUIK 14? CUT OFF SAW WITH TEAM EQUIPMENT 14? PIRAYA ALL PURPOSE DIAMOND BLADE
	70 Alt 1	-DIGITAL FIRECOM FOR 1 RADIO-6C FLAT WIRE, 150 SPOOL-UNDER HELMET HEADSET WITH RADIO TRANSMIT (X2)-UNDER HELMET HEADSET INTERCOM ONLY (X3)-YELLOW NFPA HANGER HOOD FOR HEADSETS (X6)-MR-2X INTERFACE MODULE FOR MOTOROLA CM300 RADIO-DW-60US DIRECT WIRE HEADSE -T3MAX THERMAL IMAGING CAMERA, RED-TRUCK MOUNTING BRACKET, 12V DIRECT WIRE-T3 TRANSMITTER, 2 CHANNEL WIRELESS
	72 Alt 1	REMOTE -KPI-8 8 TON KEVLAR AIRBAG, 12? X 12?-KPI-12 12 TON KEVLAR AIRBAG, 15? X 15?-KPI-22 22 TON KEVLAR AIRBAG, 20? X 20?-6000PSI AIR CONTROL PACKAGE WITH DUAL DEADMAN CONTROLLER (WITH RELIEF VALVE), PRESSURE REGULATOR AND (3) 16 COLORED HOSES-
	73 Alt 1	PLASTIC CARRYING
	74 Alt 1	20? GAS PPV, 5 HP HONDA GC MOTOR, 17,650 CFM
	79 Alt 1	1? WEBBING, RED X 251? WEBBING, BLUE X 25
	80 Alt 1	PRUSIK, ROUND LOOP 8MM GREEN, 25?
FIRESTORM	18	Hurricane RF monitor, 1250 electric nozzle, RC remote controller; installed at Pierce service center in Denton.
Fire Supply Inc.	1	5? Storz x 2.5? NST Male w/ mount
	6	5? Storz x 4? NST Female Swivel, Long Handle w/ 5? Storz mount

MES

7	5? Storz x 4.5? NST Female Swivel, Long Handle w/ 5? Storz mount
24	6x10, 18 oz Vinyl
60	Amkus #GH2S2-STD - Honda Simo Power Unit w/ Carry Handle, TNT Compatible
61	Amkus # AMK-20R - Small Ram, TNT Compatible
62	Amkus # AMK-60R - Large Ram, TNT Compatible
63	Amkus # AMK-30CRT - Spreader, TNT Compatible
64	Amkus # AMK-22 - High Strength Cutter, TNT Compatible
65	30 Hydraulic Extension Hose, TNT Compatible
66	Amkus # AMK-25P - Confined Space Cutter, TNT Compatible
1	KOCHEK 5? Male Mounting Plate, MM501 = \$29.57
2	KOCHEK 2 1/2? Male Mounting Plate, MM2501 = \$11.35
3	KOCHEK 2 1/2? Female Mounting Plate, MF2501 = \$16.12
6	KOCHEK 5? Male Mounting Plate, MM501 = \$29.57
7	KOCHEK 5? Male Mounting Plate, MM501 = \$29.57
8	KOCHEK 5? Male Mounting Plate, MM501 = \$29.57
11	2 = PAC TOOLOK 1003
18	TFT TORNADO REMOTE CONTROLL MONITOR
19	TFT BLITZFIRE OSC MONITORSTORAGE BRACKET; 3 STACKED TIP
20	TFT BALL INTAKE VALVE 5 inch STORZ x 6 inch NST SWIVEL
21	HUSKY HTV-14 x 18 - 10 OZ.
23	HUSKY HALL RUNNERS HR 3 x 18
24	HUSKY SALVAGE OVER 4 X 10
25	RINGERS RINGERS GLOVE SPLIT FIT AIR ALL BLK X-LARGE
30	AKRON Horizontal Tool Bracket 1 1/2in, HM-59
31	BIG EASY PUBLIC SAFETY LOCK OUT KITS, BIG EASY STORAGE POUCH
33	HURST JL-B JACKRABBIT TOOLKIT, COMPLETE KIT
37	CMC Pro Lifeline 150ft Length 7/16 Inch Rope - Blue-White, CMC Rescue Rope Bag #2 - Orange
38	CMC static-Pro Lifeline 200ft Length 7/16 Inch Rope - Blue-White, CMC Rescue Rope Bag #3 - Blue
39	CMC HARNESS,PROTECH FIRE-RESCUE L/XL
40	CMC HARNESS,PROTECH FIRE-RESCUE SM
49	SURVIVOR SL90 HAS BEEN DISCONTINUED & REPLACED WITH THE SURVIVOR LED.
51	CMC SKED BASIC RESCUE SYSTEM, ORANGE
55	ERGODYNE Vest, Public Safety, Lime L/XL -Fire Dept- on upper back
56	WING LITTLE GIANT FLIP-N-LITE M4-Shrinkwrap
57	PI64S IS A 16? EJECTOR
59	TRUE NORTH L-2 RIT Bag (Skid Plate) & TRUE NORTH L-2 Search Rope Bag - 200ft (rope not included)
68	SPOKE TO ECHO & THEY NO LONGER MAKE THIS PRODUCT
69	TEAM BLADE CARBIDE CHIP DYNABLE 14 inch X 1 inch, DYNA14A AP-2140204000202 SCOTT AIR PAK 75, 4.5, CBRN E-Z FLO+ REGULATOR, FACTORY INSTALLED INTEGRATED PASS, 85773-72 SCOTT FACEPIECE FOR AV-3000 MEDIUM, 804721-01 SCOTT CYLINDER & VALVE ASSEMBLY, CARBON, 30MIN, 4500, 200260 SCOTT EPIC VOICE
71	AMP, 200715 SCOTT AV30
72	SCOTT Eagle Attack, Red Bumper Fahrenheit greyscale TCS Accy Kit2
73	VETTER S.Tec Bag kit 10 bar (145 psi) 395 KN Set
74	EQUAL TO OR BETTER
76	CARABINER, S/S AUTO LOCK NFPA, CMC
77	CMC Rescue Rack
78	CMC Rescue ProSeries Pulleys - Single 2-1/4in x 1/2in - Blue
79	YOU DID NOT SPECIFY LENGTH OR COLOR. WEB, 1? FLAT, ORANGE, PRICE IS PER FOOT
80	YOU DID NOT SPECIFY LENGTH OR COLOR. PRUSIK CORD, CMC RESCUE, 8MM, GREEN PRICE PER FOOT
81	GIBBS, 1/2 inch ALUM SPRING, FORGED CAM
82	BAG, HELMET RED, CMC
83	7.5mm SearchLite x 200 (61M)
84	PRUSIK, BOUND LOOP 8MM RED 18?, CMC
85	CMC ProSeries Anchor Strap - Blue - Small - 3 Feet
86	SLEEVE, ANCHOR STRAP LG, CMC
87	TRUCK CACHE, RED, CMC
88	AKRON
90	THROW BAG SET, SRT 50 PC, CMC
92	DUFFEL, WATER SM, CMC
93	PAC TOOLOK
94	PAC HANDLELOK GRIP RANGE 1/8 inch - 1-3/4 inch
15 Alt 1	ELKHART Battalion 1.5NH SWVL nozzle 60-200@75 psi P/G (SM-20FGLP)
15 Alt 2	10 YEAR WARRANTY Apollo PE Electric Monitor with: Direct Mount, Permanent Truck Connector, Quad Stacked Tips, and Wireless Controller (this doesn?t have a truck controller, just wireless as in the spec)
18 Alt 1	

Fisher Scientific Company, L.L.C.	68 Alt 1	TEAM SAW K960/K12FD 14? RESCUE
	72 Alt 1	SCOTT Eagle Attack, Red Bumper Fahrenheit greyscale TCS Accy Kit2
	74 Alt 1	EQUAL TO OR BETTER
	10	Style #13 Mount not included. Individual price \$64.48
	12	PART #HF50YD STORZ COUPLINGS
	13	PART #DJ20RB NST COUPLINGS
	14	YELLOW PART #DY17YB BLUE PART #DJ17BB BOTH WITH NST COUPLINGS.
	21	Select Color Red, Yellow, Green, Blue, Black
	22	Select Color Red, Yellow, Green, Blue, Black
	23	Select Color Red, Yellow, Green, Blue, Black
	24	Select Color Red, Yellow, Green, Blue, Black 11-395-40C Salisbury Electrical SafetyNo.:E011B/9H Glove; Linemans; Insulating Rubber; Class 0; Max. use: 1000VAC (1500VDC); Black; Flare cuff; 11 in.; Size: 9.5 BAG NOT INCLUDED
	25	
	27	19-041-563 AmerexNo.:A411 Extinguisher, Fire; Amerex; ABC Dry Chemical; Aluminum; Hose/nozzle; H x W x dia.: 23.3 x 10.3 x 7 in.;
	35	Range: 15-21 ft.; Capacity: 20 lb.
	37	CMC Bag PN: 430203CMC Rope PN: 273230
	38	CMC Bag PN: 430207CMC Rope PN: 273270
	41	Catalog No.: 19-808-515 -----Fisher Scientific offers many products that do not
	53	appear in our catalogs. This may be one of those products, so pictures and detailed descriptions are 8 x 42M
	57	Super Vac Smoke Ejector Ideal for fire/emergency service. Steel construction and 16 in. (41cm) square housing provides strength and
	59	stability. Handles on every corner make unit easy to stack or hang on windows, doorways or ladders. Also features 1/3hp exp True North L-2 RIT BAG
	62	TNT Rescue* TLS-40 Ram Better grip strength provides greater control and increased safetyPenetrating ?Bear Teeth? on ram tip and base plunge through plastic and other materialsTrue variable speed control, deadman control increases manageability in critica
	63	TNT Rescue S-100 Spreaders Combination grabber jaw and automotive spreader tips made of heat-treated tool steel for better tool grip and relocation of metal.Variable speed deadman control provides more control in critical situationsD-shape wrap around han
	64	TNT Rescue* C-20 and C-25 Cutters Portable cutters for firefighters and first respondersAvailable with choice of two working pressures. Cutter blades made from high-quality, heat-treated tool steelWear-resistant anodized surface Variable speed, deadman co
	65	TNT Rescue* Hydraulic Extension Hose For use with a variety of hydraulic equipment, including spreaders and cuttersDurable extension hoseMaximum pressure: 10,500psi
	66	TNT Rescue* Confined Space Cutter Handheld cutter for use in confined spacesSmall, compact design is perfect for work in tight quarters.
	67	Includes: Pelican* protective caseRegrindable cutter blades made from high-quality, heat-treated tool steelInternal sa
	71	Ten-8 Fire Equipment CHAIN SAW P/N MS440 20? SCBA PN:AP2140204100101 4500. EZ-FLO w/QC GAUGE & HUD PRICE INCLUDES 1 EA SCBA, AV3000 FACEPIECE AND CYLINDER 804721- 01PRICE FOR SPARE CYLINDER IS \$742.53 EACH
	72	MSA* Evolution* 5200 Thermal Imaging Camera Delivers high-sense image quality up to 320F, matching the temperature range at which
	79	most structural firefighting occursCamera offers a super-high Instantaneous Scene Dynamic Range? (ISDR) of 4795, providing cl
	80	PRICE IS PER FOOT PRICE IS PER FOOT

				Metro Fire Apparatus Specialists		FIRESTORM		Emergency Response Solutions		Fire Supply Inc.		MES		Fisher Scientific Company, L.L.C.	
Line	Description	UOM	QTY	Unit	Extended	Unit	Extended	Unit	Extended	Unit	Extended	Unit	Extended	Unit	Extended
1	5 inch to 2.5 inch male w/ mount	EA	2	121.00	242.00	284.00	568.00	NB	NB	180.95	361.90	103.28	206.56	NB	NB
2	2.5 inch double female w/ mount	EA	2	36.00	72.00	38.00	76.00	NB	NB	44.17	88.34	30.23	60.46	NB	NB
3	2.5 inch double male w/ mount	EA	2	32.00	64.00	38.00	76.00	NB	NB	39.32	78.64	27.77	55.54	NB	NB
4	2.5 inch to 1.5 inch reducer	EA	2	16.00	32.00	38.00	76.00	NB	NB	31.52	63.04	24.31	48.62	NB	NB
5	1.5 inch to 3/4 inch Reducer	EA	1	15.00	15.00	38.00	38.00	NB	NB	17.38	17.38	21.26	21.26	NB	NB
6	5 inch to 4 inch female hydrant adapter w/ mount	EA	1	155.00	155.00	164.00	164.00	NB	NB	230.32	230.32	132.35	132.35	NB	NB
7	5 inch to 4.5 inch female hydrant adapter w/ mount	EA	1	158.00	158.00	164.00	164.00	NB	NB	235.61	235.61	176.28	176.28	NB	NB
8	5 inch to 2.5 inch gated wye w/ mount	EA	1	355.00	355.00	1,074.00	1,074.00	NB	NB	654.78	654.78	293.00	237.57	NB	NB
9	Spanner / hydrant wrench set w/ mount	EA	2	78.00	156.00	180.00	360.00	NB	NB	88.65	177.30	66.55	133.10	NB	NB
10	5 inch spanner / hydrant wrench set w/ mount	EA	2	59.00	118.00	306.00	612.00	NB	NB	NB	NB	65.00	130.00	128.96	257.92
11	5? two man LDH hose roller w/ mount	EA	1	172.00	172.00	141.00	141.00	NB	NB	89.32	89.32	168.27	168.27	NB	NB
12	(Firequip Hydro Flow LDH) 5in hose, 1200 ft in 100 ft section, (yellow)	FT	1200	NB	NB	5.31	6,372.00	5.24	6,288.00	5.24	6,288.00	5.66	6,792.00	5.77	6,924.00

				Metro Fire Apparatus Specialists		FIRESTORM		Emergency Response Solutions		Fire Supply Inc.		MES		Fisher Scientific Company, L.L.C.	
13	(Firequip DJ 800) 2 ½ hose 500 ft in 50 ft section hose (Red)	FT	500	2.90	1,450.00	3.29	1,645.00	2.81	1,406.50	2.72	1,360.00	2.84	1,420.00	2.93	1,465.00
14	(Firequip DJ 800) 1 ¾ hose 600 ft in 50 ft section hose (300 ft yellow, 300 ft blue)	FT	600	2.32	1,740.00	2.24	1,344.00	1.98	1,186.80	1.86	1,116.00	2.10	1,260.00	2.08	1,248.00
15	TFT Mid Matic 200 gpm nozzles for 1.5	EA	4	822.00	3,288.00	632.00	2,528.00	NB	NB	NB	NB	948.00	3,792.00	NB	NB
16	TFT Mid Matic 2.5 nozzle	EA	1	926.00	926.00	NB	NB	NB	NB	NB	NB	1,243.38	1,243.38	NB	NB
17	TFT nozzle for red line	EA	1	547.00	547.00	172.00	172.00	NB	NB	NB	NB	258.37	258.37	NB	NB
18	TFT remote control gun deck gun with stack tips	EA	1	8,565.00	8,565.00	6,959.00	6,959.00	NB	NB	NB	NB	5,889.75	5,889.75	NB	NB
19	TFT blitz fire ground monitor with mounting bracket and stacked tips	EA	1	2,178.00	2,178.00	2,051.00	2,051.00	NB	NB	NB	NB	4,544.00	4,544.00	NB	NB
20	TFT BGV, 6 inch female x 5 inch storz with caps	EA	2	1,268.00	2,536.00	1,204.00	2,408.00	NB	NB	NB	NB	1,720.00	3,440.00	NB	NB
21	Salvage tarp vinyl laminated polyester 14 feet x 18 feet - 10oz	EA	1	157.00	157.00	NB	NB	110.92	110.92	99.04	99.04	110.00	110.00	115.06	115.06
22	Salvage tarp vinyl laminated polyester 12 feet x 14 feet - 10oz.	EA	1	105.00	105.00	NB	NB	80.95	80.95	72.34	72.34	75.65	75.65	81.18	81.18

				Metro Fire Apparatus Specialists		FIRESTORM		Emergency Response Solutions		Fire Supply Inc.		MES		Fisher Scientific Company, L.L.C.	
23	Salvage tarp vinyl laminated polyester hall runner 3 feet x 18 feet - 10oz.	EA	1	34.00	34.00	NB	NB	38.38	38.38	26.17	26.17	28.60	28.60	25.92	25.92
24	Salvage tarp vinyl laminated polyester tool tarp 4 feet x 10 feet-10oz.	EA	1	25.00	25.00	NB	NB	216.43	216.43	209.59	209.59	35.00	35.00	32.64	32.64
25	Lineman?s gloves w/ bag	EA	1	NB	NB	NB	NB	NB	NB	NB	NB	19.75	19.75	82.41	82.41
26	24 inch bolt cutter	EA	1	112.00	112.00	NB	NB	NB	NB	59.50	59.50	52.94	52.94	56.97	56.97
27	Elevator keys	EA	1	164.00	164.00	NB	NB	NB	NB	153.20	153.20	164.70	164.70	169.16	169.16
28	Hood release tool	EA	1	NB	NB	NB	NB	NB	NB	NB	NB	NB	NB	NB	NB
29	Leatherhead 36 inch - 8lb Sledge Hammer (hi-viz green)	EA	1	NB	NB	NB	NB	NB	NB	NB	NB	34.10	34.10	NB	NB
30	42 inch Pry Bar w/ mount	EA	1	87.00	87.00	NB	NB	NB	NB	NB	NB	62.93	62.93	NB	NB
31	Steck Big Easy glow public safety unlock kit w/ case	EA	1	62.00	62.00	NB	NB	NB	NB	NB	NB	63.43	63.43	NB	NB
32	Collapsible 28 inch traffic cones with 6+4 reflective stripes w/ case	EA	5	37.40	187.00	NB	NB	NB	NB	NB	NB	187.50	937.50	25.43	127.15
33	Door jab spreaders (manually operated)	EA	1	169.00	169.00	NB	NB	NB	NB	158.40	158.40	180.00	180.00	NB	NB
34	"CO2 extinguisher 10lb B, C w/ mount "	EA	1	216.00	216.00	NB	NB	289.65	289.65	NB	NB	176.82	176.82	NB	NB
35	ABC Dry Powder Extinguisher 20lb w/ mount	EA	1	177.00	177.00	NB	NB	190.95	190.95	NB	NB	105.67	105.67	247.96	247.96

				Metro Fire Apparatus Specialists		FIRESTORM		Emergency Response Solutions		Fire Supply Inc.		MES		Fisher Scientific Company, L.L.C.	
36	Glass master windshield saw w/ (1) handlelok mounts	EA	1	213.00	213.00	NB	NB	NB	NB	174.50	174.50	135.88	135.88	NB	NB
37	(CMC) 150ft of (1/2in.) red rescue rope (general use) w/ bag	EA	1	NB	NB	NB	NB	182.00	182.00	NB	NB	173.93	173.93	191.59	191.59
38	(CMC) 200ft of (1/2in) yellow rescue rope (general use) w/ bag	EA	1	NB	NB	NB	NB	227.20	227.20	NB	NB	224.52	224.52	240.41	240.41
39	CMC Fire Rescue harness - Size Large	EA	1	355.00	355.00	NB	NB	256.00	256.00	NB	NB	271.50	271.50	270.59	270.59
40	CMC Fire Rescue harness - Size Small	EA	1	355.00	355.00	NB	NB	256.00	256.00	NB	NB	271.50	271.50	270.59	270.59
41	Petzl classic rescue helmet	EA	2	115.00	230.00	NB	NB	83.73	167.45	NB	NB	86.25	172.50	139.05	278.10
42	6ft Leatherhead dog bone fiberglass D handle trash hook (hi-viz green)	EA	1	NB	NB	NB	NB	NB	NB	NB	NB	82.30	82.30	NB	NB
43	"6ft Leatherhead New York hook w/ chisel end, cletex grip (hi-viz yellow) no strap "	EA	1	NB	NB	NB	NB	NB	NB	NB	NB	68.35	68.35	NB	NB
44	"Firehooks unlimited 8ft dry wall hook, celtex grip, w/ gas shut off	EA	1	141.00	141.00	NB	NB	NB	NB	98.24	98.24	95.12	95.12	91.76	91.76

				Metro Fire Apparatus Specialists		FIRESTORM		Emergency Response Solutions		Fire Supply Inc.		MES		Fisher Scientific Company, L.L.C.	
45	"8ft Leatherhead New York hook w/ chisel end (hi- viz yellow) no strap, cletex grip "	EA	1	NB	NB	NB	NB	NB	NB	NB	NB	74.14	74.14	NB	NB
46	QRAE Multi gas detector (rechargeable)	EA	1	NB	NB	NB	NB	NB	NB	NB	NB	549.05	549.05	NB	NB
47	QRAE CO gas detector (rechargeable)	EA	1	NB	NB	NB	NB	NB	NB	NB	NB	305.11	305.11	NB	NB
48	Ryobi Sawzall (with cord / Blades)	EA	1	NB	NB	NB	NB	NB	NB	NB	NB	NB	NB	NB	NB
49	Survivor SL90 12v base flashlight (orange)	EA	2	NB	NB	NB	NB	NB	NB	149.90	299.80	134.00	268.00	92.99	185.98
50	Survivor LED flash lights with truck charger (orange)	EA	6	105.00	630.00	NB	NB	NB	NB	108.26	649.56	123.00	738.00	103.93	623.58
51	Basic rescue sked stretcher (orange)	EA	1	586.00	586.00	NB	NB	454.65	454.65	NB	NB	485.88	485.88	485.88	485.88
52	Leatherhead 36 inch - 6lb pick head axe (hi-viz green) w/ (1) inside truck mount	EA	2	NB	NB	NB	NB	NB	NB	NB	NB	35.36	70.72	NB	NB
53	Binoculars 7 x 21	EA	1	NB	NB	NB	NB	NB	NB	NB	NB	NB	NB	417.89	417.89
54	"36 inch Halligan, Leatherhead 36 inch - 6lb flat head (hi-viz green) axe combination with truck mount "	EA	1	NB	NB	NB	NB	NB	NB	NB	NB	176.82	176.82	NB	NB

				Metro Fire Apparatus Specialists		FIRESTORM		Emergency Response Solutions		Fire Supply Inc.		MES		Fisher Scientific Company, L.L.C.	
55	4 or 5 point break away Public safety vest with word Fire (XL orange and yellow)	EA	5	48.00	240.00	NB	NB	NB	NB	18.95	94.75	24.25	121.25	NB	NB
56	4ft fiberglass step ladder	EA	1	NB	NB	NB	NB	NB	NB	NB		64.50	64.50	62.39	62.39
57	Super Vac P164S 18? 1/2 horse power smoke ejector	EA	1	713.00	713.00	NB	NB	NB	NB	675.00	675.00	765.00	765.00	1,791.80	1,791.80
58	3 feet Leatherhead Dog Bone D handle Dry wall closet hook (hi-viz green)	EA	1	NB	NB	NB	NB	NB	NB	NB	NB	73.78	73.78	NB	NB
59	True North 2 Rit bag with L2 search rope bag.	EA	1	214.00	214.00	NB	NB	NB	NB	216.14	216.14	207.80	207.80	271.60	271.60
60	TNT high pressure 10,500 power plant	EA	1	NB	NB	NB	NB	NB	NB	6,290.00	6,290.00	NB	NB	NB	NB
61	TNT high Pressure Small Ram serial number R201269	EA	1	NB	NB	NB	NB	NB	NB	1,740.00	1,740.00	NB	NB	NB	NB
62	TNT high pressure Large Ram serial number R401660	EA	1	NB	NB	NB	NB	NB	NB	2,081.00	2,081.00	NB	NB	3,746.23	3,746.23
63	TNT high pressure Spreaders serial number S321182	EA	1	NB	NB	NB	NB	NB	NB	5,650.00	5,650.00	NB	NB	6,135.20	6,135.20
64	TNT high pressure Cutters serial number C251165	EA	1	NB	NB	NB	NB	NB	NB	4,980.00	4,980.00	NB	NB	3,991.16	3,991.16

				Metro Fire Apparatus Specialists		FIRESTORM		Emergency Response Solutions		Fire Supply Inc.		MES		Fisher Scientific Company, L.L.C.	
65	TNT high pressure hydraulic hose 32	EA	2	NB	NB	NB	NB	NB	NB	488.00	976.00	NB	NB	1,275.74	2,551.48
66	TNT high press confined spacecutter w/control	EA	1	NB	NB	NB	NB	NB	NB	3,360.00	3,360.00	NB	NB	2,399.45	2,399.45
67	Stile 20 inch chain saw	EA	1	1,401.00	1,401.00	NB	NB	NB	NB	NB	NB	NB	NB	901.90	901.90
68	Echo CSG-680 14 inch K-12 w/ all purpose blade	EA	1	1,199.00	1,199.00	NB	NB	NB	NB	NB	NB	1,170.58	NB	NB	NB
69	14? K-12 replacement blades	EA	2	201.00	402.00	NB	NB	NB	NB	89.00	178.00	NB	NB	NB	NB
70	Fire Com 3010R Intercom w/ (5) UH-10 headsets (1) DW-60US headset	EA	1	3,327.00	3,327.00	NB	NB	NB	NB	NB	NB	1,210.60	1,210.60	NB	NB
71	(6) Scott 4500 30min scba /w Pac alert, HUD, voice amplifier masks, 6 spare bottles	EA	1	NB	NB	NB	NB	NB	NB	NB	NB	34,368.36	34,368.36	5,410.29	5,410.29
72	(2) MSA 5200 thermal cameras w/ transmitters, truck chargers and spare batteries	EA	1	NB	NB	NB	NB	NB	NB	NB	NB	NB	NB	18,082.66	18,082.66
73	(Hurst Vetter) Rescue Air Bag set w/ case for control and hose	EA	1	NB	NB	NB	NB	NB	NB	NB	NB	2,511.20	2,511.20	NB	NB

				Metro Fire Apparatus Specialists		FIRESTORM		Emergency Response Solutions		Fire Supply Inc.		MES		Fisher Scientific Company, L.L.C.	
74	Ventry fan model 20GC160 with 4.6 Honda GC160 with small pneumatic wheels.	EA	1	1,728.00	1,728.00	NB	NB	NB	NB	NB	NB	NB	NB	NB	NB
75	CMC Rescue 8 (general use)	EA	2	60.00	120.00	NB	NB	44.26	88.52	NB	NB	45.88	91.76	68.82	137.64
76	CMC Auto locking D carabiners (general use)	EA	6	42.00	252.00	NB	NB	NB	NB	NB	NB	35.25	211.50	32.12	192.72
77	CMC Brake bar (general use)	EA	1	144.00	144.00	NB	NB	105.52	105.52	NB	NB	110.15	110.15	110.12	110.12
78	CMC pro series pulley (general use)	EA	3	95.00	285.00	NB	NB	68.47	205.41	NB	NB	72.64	217.92	72.65	217.95
79	CMC (1in.) Rescue webbing (general use)	EA	6	NB	NB	NB	NB	NB	NB	NB	NB	15.90	95.40	0.31	1.86
80	CMC Prussic cord 8mm 13? (general use)	EA	5	NB	NB	NB	NB	6.51	32.55	NB	NB	22.20	111.00	0.48	2.40
81	CMC Aluminum Gibbs ascenders (general use)	EA	2	55.00	110.00	NB	NB	40.72	81.44	NB	NB	56.38	112.76	42.06	84.12
82	CMC helmet bag	EA	2	58.00	116.00	NB	NB	42.84	85.68	NB	NB	44.88	89.76	44.35	88.70
83	Sterling: SearchLite 7.5mm 200ft of reflective HiVis RIT search line	FT	200	NB	NB	NB	NB	NB	NB	NB	NB	0.69	138.00	NB	NB
84	CMC bound-loop prusiks 18? 8mm	EA	2	14.00	28.00	NB	NB	11.66	23.32	NB	NB	11.10	22.20	10.71	21.42
85	CMC 3ft Anchor strap	EA	1	39.00	39.00	NB	NB	31.13	31.13	NB	NB	30.95	30.95	30.41	30.41
86	CMC 2ft Anchor strap sleeve	EA	1	33.00	33.00	NB	NB	26.88	26.88	NB	NB	30.12	30.12	25.42	25.42
87	CMC Truck Cache storage bag	EA	1	235.00	235.00	NB	NB	171.00	171.00	NB	NB	186.28	186.28	179.71	179.71

				Metro Fire Apparatus Specialists		FIRESTORM		Emergency Response Solutions		Fire Supply Inc.		MES		Fisher Scientific Company, L.L.C.	
88	3? Piercing nozzle	EA	1	687.00	687.00	NB	NB	NB	NB	335.00	335.00	664.00	664.00	NB	NB
89	Magnum Hose strap	EA	1	75.00	75.00	NB	NB	NB	NB	NB	NB	70.08	70.08	NB	NB
90	CMC 50ft water rescue throw bag	EA	1	60.00	60.00	NB	NB	60.18	60.18	NB	NB	63.45	63.45	61.18	61.18
91	"Fire Hooks Unlimited 6ft, celtex grip, Dry wall hook w/ gas shut off "	EA	1	117.00	117.00	NB	NB	NB	NB	78.20	78.20	76.47	76.47	82.67	82.67
92	CMC Mesh Duffel Bag	EA	1	60.00	60.00	NB	NB	46.00	46.00	NB	NB	46.40	46.40	45.88	45.88
93	Handle loks mounting brackets	EA	14	33.00	462.00	NB	NB	NB	NB	28.92	404.88	19.50	273.00	NB	NB
94	Hook loks mounting brackets	PAIR	4	26.00	104.00	NB	NB	NB	NB	23.06	92.24	33.50	134.00	NB	NB
Total				17,751.00		2,408.00		1,871.67		27,448.29		47,135.42		8,278.03	

104,892.41

LANCASTER CITY COUNCIL

Agenda Communication

April 22, 2013

Item 9

Consider a resolution authorizing the purchase of radios from Motorola through an Interlocal Agreement with Houston Galveston Area Council (HGAC) (Contract RA05-12) for a total amount not to exceed \$6,520.23.

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

Goal: Healthy, Safe & Vibrant Neighborhoods

Background

On September 24, 2012 the Council approved the purchase of a new fire truck as part of the equipment replacement plan. The plan price of the fire truck included the equipment necessary to put engine in service. However, the radio equipment was purchased separately from the fire truck to save approximately 10% on the cost of the unit.

Considerations

- **Operational** – The radio equipment is essential for communications and operations at all fires and EMS incidents.
- **Legal** - The City maintains an executed Interlocal Agreement with HGAC, a cooperative agency. Texas law authorizes cooperative agreements to help save time in developing specifications and duplication during the bid process.
- **Financial** – Funding is available in the equipment replacement fund. Expenditures will not exceed \$6,520.23
- **Public Information** – There are no other public information requirements.

Options/Alternatives

1. City Council may approve the purchase as outlined.
2. City Council may reject the resolution.

Recommendation

Staff recommends authorizing the purchase of the radio equipment from Motorola for a total amount not to exceed \$6,520.23.

Attachments

- Resolution
 - Quote
-

Submitted by:
Thomas Griffith, Fire Chief

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LANCASTER, TEXAS, AUTHORIZING THE PURCHASE OF RADIOS FROM MOTOROLA THROUGH AN INTERLOCAL AGREEMENT WITH HOUSTON GALVESTON AREA COUNCIL (HGAC) (CONTRACT RA05-12) FOR A TOTAL AMOUNT NOT TO EXCEED \$6,520.23; AUTHORIZING THE CITY MANAGER OR DESIGNEE TO ISSUE A PURCHASE ORDER PURSUANT TO APPROVAL; REPEALING ALL RESOLUTIONS IN CONFLICT; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council desires to purchase new radio equipment for use on the newly purchased fire truck and utilize HGAC's Interlocal contract with Motorola.

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

SECTION 1. The City Council approves the purchase of radio equipment from Motorola through an Interlocal Agreement with HGAC in the amount not to exceed six thousand five hundred twenty dollars and twenty-three cents (\$6,520.23). A copy of the quote is attached hereto and incorporated herein as Exhibit A.

SECTION 2. The City Manager or designee is authorized to issue a purchase order.

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 22nd day of April, 2013.

ATTEST:

Dolle K. Downe, City Secretary

APPROVED:

Marcus E. Knight, Mayor

APPROVED AS TO FORM:

Robert E. Hager, City Attorney



Date: Jan. 24, 2013

Account Manager - Robert F. Bondurant Phone # (817) 205-6997

Quote #: H-GAC contract. # RA05-12.

PREPARED FOR : Dawn Berry, Purchasing Agent

COMPANY : City of Lancaster.

PO Box 940, Lancaster, TX 75146

PHONE : 972-218-1329

Email: dberry@lancaster-tx.com

Equipment Details and Pricing

HT1250_PORTABLE UNITS							
HT1250							
Qty.	Model	Description	HGAC UNIT PRICING		HGAC EXTENDED PRICING		
6	AAH25KDF9AA5 N	HT1250 136-174 MHZ 128 CH 1-5W DISPLAY-LIMITED KEYPAD	\$676.31		\$4,057.83		
6	PMMN4021A	REMOTE SPEAKER MICROPHONE W/3.5 JACK / IP57	\$55.20		\$331.20		
6	HNN9008 R	NIMH, 1500 MAH, 7.5V BATTERY	\$51.20		\$307.20		
6	NNTN7618B	VEHICLE CHARGER	\$304.00		\$1,824.00		
			TOTAL		\$6,520.23		

REMOTE SPEAKER MICROPHONES (RSM)

PMMN4021A Remote Speaker Microphone
with 3.5mm audio jack IP54

\$51.20



HT1250 FULL KEYPAD

HT1250 (6) BUTTON LIMITED KEYPAD



RLN4883B Travel Charger

\$89.25



NNTN7618B Vehicle Charger

\$304.00



LANCASTER CITY COUNCIL

Agenda Communication

April 22, 2013

Item 10

Consider a resolution authorizing the purchase of two (2) thermal cameras from Casco Industries, Inc., through an Interlocal Agreement with BuyBoard (Contract 363-10) for a total amount not to exceed \$26,491.44.

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

Goal: Healthy, Safe & Vibrant Neighborhoods

Background

On September 24, 2012 the Council approved the purchase of a new fire truck as part of the equipment replacement plan. The plan price of the fire truck included the equipment necessary to put the engine in service. However, the thermal cameras were purchased separately from the fire truck to save approximately 10% on the cost of the unit.

Considerations

- **Operational** – These units are thermal imaging and allow the firefighters to see through heavy smoke to find victims and the seat of the fire. These cameras have a proven track record with the Department of greatly reducing fire loss and finding victims. Search and attack teams consist of two firefighters and will utilize these units on every fire.
- **Legal** – The City maintains an executed Interlocal Agreement with BuyBoard, a cooperative agency. Texas law authorizes cooperative agreements to help save time in developing specifications and duplication during the bid process.
- **Financial** – Funding is available in the equipment replacement fund. Expenditures will not exceed \$26,491.44.
- **Public Information** – There are no public information requirements.

Options/Alternatives

1. City Council may approve the purchase as outlined
2. City Council may reject the resolution.

Recommendation

Staff recommends authorizing the purchase of the thermal cameras from Casco Industries, Inc. for a total amount not to exceed \$26,491.44.

Attachments

- Resolution
 - Quote
-

Submitted by:
Thomas Griffith, Fire Chief

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LANCASTER, TEXAS, AUTHORIZING THE PURCHASE OF TWO (2) THERMAL CAMERAS FROM CASCO INDUSTRIES, INC., THROUGH AN INTERLOCAL AGREEMENT WITH BUYBOARD (CONTRACT 363-10) FOR A TOTAL AMOUNT NOT TO EXCEED \$26,491.44; AUTHORIZING THE CITY MANAGER OR DESIGNEE TO ISSUE A PURCHASE ORDER PURSUANT TO APPROVAL; REPEALING ALL RESOLUTIONS IN CONFLICT; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council desires to purchase two new thermal cameras for use on the newly purchased fire truck, and utilize The BuyBoard's Interlocal contract with Casco Industries, Inc.

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

SECTION 1. The City Council approves the purchase of two (2) thermal cameras from Casco Industries, Inc., through an Interlocal Agreement with The BuyBoard in the amount not to exceed twenty-six thousand four hundred and ninety-one dollars and forty-four cents (\$26,491.44). A copy of the quote is attached hereto and incorporated as Exhibit A.

SECTION 2. The City Manager or designee is authorized to issue a purchase order.

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 22nd day of April, 2013.

ATTEST:

Dolle K. Downe, City Secretary

APPROVED:

Marcus E. Knight, Mayor

APPROVED AS TO FORM:

Robert E. Hager, City Attorney



REVEPORT, LOUISIANA 71148 8007

QUOTE

Sold To: City of Lancaster

Ship To: Lancaster Fire Dept.

ATTN. Dawn Berry
PHONE#

ATTN: Terry Hunter

[illegible]

LANCASTER CITY COUNCIL

Agenda Communication

April 22, 2013

Item 11

Consider a resolution of the City Council of the City of Lancaster, Texas, authorizing the purchase of a Mobile Data Terminal (MDT) from CDW Government (CDWG) through an Interlocal Agreement with Texas Cooperative Purchasing Network (TCPN) (Contract R5106) for a total amount not to exceed \$5,716.71.

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

Goal: Healthy, Safe & Vibrant Neighborhoods

Background

On September 24, 2012 the Council approved the purchase of a new fire truck as part of the equipment replacement plan. The plan price of the fire truck included the equipment necessary to put the engine in service. The mobile data terminal was purchased separately from the fire truck to save approximately 10% on the cost of the unit.

Considerations

- **Operational** – These units are essential for operations at all fires.
- **Legal** – The City maintains an executed Interlocal Agreement with TCPN, a cooperative agency. Texas law authorizes cooperative agreements to help save time in developing specifications and duplication during the bid process.
- **Financial** – Funding is available in the equipment replacement fund. Expenditures will not exceed \$5,716.71.
- **Public Information** – There are no other public information requirements.

Options/Alternatives

1. City Council may approve the purchase as outlined
2. City Council may reject resolution.

Recommendation

Staff recommends authorizing the purchase of the mobile data terminal from CDW Government for a total amount not to exceed \$5,716.71.

Attachments

- Resolution
 - Quote
-

Submitted by:
Thomas Griffith, Fire Chief

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LANCASTER, TEXAS, AUTHORIZING THE PURCHASE OF A MOBILE DATA TERMINAL (MDT) FROM CDW GOVERNMENT (CDWG) THROUGH AN INTERLOCAL AGREEMENT WITH TEXAS COOPERATIVE PURCHASING NETWORK (TCPN) (CONTRACT R5106) FOR A TOTAL AMOUNT NOT TO EXCEED \$5,716.71; AUTHORIZING THE CITY MANAGER OR DESIGNEE TO ISSUE A PURCHASE ORDER PURSUANT TO APPROVAL; REPEALING ALL RESOLUTIONS IN CONFLICT; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council desires to purchase a new mobile data terminal for use on the newly purchased fire truck from CDW Government.

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

SECTION 1. The City Council approves the purchase of a mobile data terminal from CDW Government in the amount not to exceed five thousand seven hundred sixteen dollars and seventy-one cents (\$5,716.71). A copy of the quote is attached hereto and incorporated herein as Exhibit A.

SECTION 2. The City Manager or designee is authorized to issue a purchase order.

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 22nd day of April, 2013.

ATTEST:

APPROVED:

Dolle K. Downe, City Secretary

Marcus E. Knight, Mayor

APPROVED AS TO FORM:

Robert E. Hager, City Attorney



SALES QUOTATION

QUOTE NO.	ACCOUNT NO.	DATE
DJZL517	4402704	4/10/2013

BILL TO:
CITY OF LANCASTER
PO BOX 940

SHIP TO:
CITY OF LANCASTER
Attention To: SCOT SHEPPERD
PO BOX 940

Accounts Payable
LANCASTER , TX 75146-0940

LANCASTER , TX 75146-0940
Contact: SCOT
SHEPPERD 972.218.2730

Customer Phone #972.227.2111

Customer P.O. # CF-31 QUOTE

ACCOUNT MANAGER		SHIPPING METHOD		TERMS	EXEMPTION CERTIFICATE
MELVIN HARMON 877.625.7681		DROP SHIP-GROUND		Net 30 Days-Govt State/Local	GOVT-EXEMPT
QTY	ITEM NO.	DESCRIPTION		UNIT PRICE	EXTENDED PRICE
1	488805	PAN TOUGHBOOK WARRANTY PRO PLUS 5YR Mfg#: CF-SVCLTNF5Y Contract: TCPN - Technology Solutions R5106		700.44	700.44
1	2802548	Electronic distribution - NO MEDIA BTO PAN TB 31 I5-3320M 500GB 4GB W7 Mfg#: CF-31SFLEX1M Contract: TCPN - Technology Solutions R5106		4,104.18	4,104.18
1	180437	GAMBER HORIZONTAL SURFACE BASE Mfg#: DS-56 Contract: TCPN - Technology Solutions R5106		22.54	22.54
1	2226976	GAMBER JOHNSON QUAD MOTION TS5 Mfg#: 7160-0285 Contract: TCPN - Technology Solutions R5106		82.10	82.10
1	2344879	GAMBER MAG DOCK DUAL RF F/CF30/31 Mfg#: 7160-0318-06 Contract: TCPN - Technology Solutions R5106		807.45	807.45
		SUBTOTAL			5,716.71
		FREIGHT			0.00
		TAX			0.00
					US Currency
TOTAL					5,716.71

CDW Government
230 North Milwaukee Ave.
Vernon Hills, IL 60061

Fax: 312.752.4223

Please remit payment to:
CDW Government
75 Remittance Drive
Suite 1515
Chicago, IL 60675-1515

LANCASTER CITY COUNCIL

Agenda Communication

April 22, 2013

Item 12

Consider a resolution authorizing the award of a unit price bid 2013-70 for miscellaneous water and sewer parts to Fortiline Waterworks for a total amount not to exceed \$50,000.00.

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

Goal: Sound Infrastructure

Background

The water and sewer materials to be purchased from this contract will be used by the Water, Waste Water and Meter Reading divisions for daily maintenance and repairs to the City's water and wastewater infrastructure.

Bids were issued as a "shopping list" of items and based on prior year usage. Vendors are aware that quantities may increase or decrease based on usage during required maintenance and repairs.

Considerations

- **Operational** - The Water/Wastewater Division are primarily responsible for the purchase of water and sewer parts. The award of the annual bid will streamline and enhance purchases by reducing man hours required in obtaining quotes and delays for purchases as needed. The annual bid also promotes competitive pricing for repair materials.
- **Legal** - This bid was processed in accordance with all local and state purchasing statutes. One bid was received and the vendor is not M/WBE certified. The contract is for one year and should be awarded by unit price. The total amount of the award is estimated and the actual expenditures may be less depending on actual needs. The price per unit will not change.
- **Financial** – Funding for this project has been approved in the current year's budget. Expenditures will not exceed \$50,000. Funds will be committed at the issuance of each purchase order.
- **Public Information** – Bids were advertised in the Focus Daily News on February 22 and March 1, 2013. Bids were posted on the City's electronic procurement system. Bids were opened on March 15, 2013.

Options/Alternatives

1. Council may award the bid.
2. Council may reject the use of the contracted services.

Recommendation

Staff recommends approval of the resolution as presented.

Attachments

- Resolution
 - Exhibit A: Tab Sheet
-

Submitted by:

Rona Stringfellow, Managing Director Public Works & Development Services
Dawn Berry, Purchasing Agent

RESOLUTION NO. 2013-XX-XX

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LANCASTER, TEXAS, AUTHORIZING THE AWARD OF A UNIT PRICE BID #2013-70 FOR MISCELLANEOUS WATER AND SEWER PARTS TO FORTILINE WATERWORKS FOR A TOTAL AMOUNT NOT TO EXCEED \$50,000; AUTHORIZING THE ISSUANCE OF A PURCHASE ORDER PURSUANT TO APPROVAL; REPEALING ALL RESOLUTIONS IN CONFLICT; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Lancaster desires to purchase water and sewer parts 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 2013-70 for water and sewer parts from Fortiline Waterworks. The unit prices are attached hereto and incorporated herein by reference as Exhibit "A".

SECTION 2. The City Manager or designee is authorized to issue appropriate purchase orders in conformity herewith.

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 22nd day of April 2013.

ATTEST:

APPROVED:

Dolle K. Downe, City Secretary

Marcus E. Knight, Mayor

APPROVED AS TO FORM:

Robert E. Hager, City Attorney

Bid Request Number 2013-70
Title Water & Sewer Parts
Description The City of Lancaster is seeking bids from qualified firms for water & sewer parts.
Bid Type ITB
Issue Date 2/22/2013 8:01:00 AM Central
Close Date 3/15/2013 3:00:00 PM Central

Organization Lancaster Purchasing
Bid Creator Dawn Berry Purchasing Agent
Email dberry@lanaster-tx.com
Phone (972) 218-1329
Fax (972) 218-3621

Responding Suppliers

Name	City	State	Response Submitted	Lines Responded	Response Total
Fortiline Waterworks	Atlanta	GA	3/11/2013 7:09:57 PM CST	150	\$61,978.18

Specification Responses

Fortiline

Line	Description	UOM	QTY	Unit
	6? Mega-lugs with Accessories- CI	Ea	3	\$27.40
2	8? Mega-lugs with Accessories - CI	Ea	1	\$37.80
3	12? Mega-lugs with Accessories - CI	Ea	1	\$73.95
4	6? Mega-lugs with Accessories- PVC	Ea	28	\$31.80
5	8? Mega-lugs with Accessories - PVC	Ea	1	\$45.45
6	12? Mega-lugs with Accessories - PVC	Ea	1	\$83.15
7	6? MJ Gland Pack / C-900	Ea	1	\$19.00
8	8? MJ Gland Pack / C-900	Ea	1	\$21.75
9	12? MJ Gland Pack / C-900	Ea	1	\$32.65
10	"6? Stainless Steel Flange Bolt, Nut, Gasket Set"	Ea	4	\$28.00
11	"8? Stainless Steel Flange Bolt, Nut, Gasket Set"	Ea	1	\$30.50
12	"12? Stainless Steel Flange Bolt, Nut, Gasket Set "	Ea	1	\$69.00
13	6? x 12? Solid Sleeve with Accessories	Ea	6	\$120.50
14	8? x 12? Solid Sleeve with Accessories	Ea	1	\$151.00
15	12? x 12? Solid Sleeve with Accessories	Ea	1	\$283.00
16	6? MJ Solid Caps with Accessories	Ea	1	\$56.50
17	8? MJ Solid Caps with Accessories	Ea	1	\$81.00
18	12? MJ Solid Caps with Accessories	Ea	1	\$143.00
19	6? X 6? MJ Tee with Accessories	Ea	1	\$193.30
20	8? X 8? MJ Tee with Accessories	Ea	1	\$268.15
21	12? X 8? MJ Tee with Accessories	Ea	1	\$426.00
22	6? MJ x FLG Tee with Accessories	Ea	2	\$185.80
23	8? MJ x FLG Tee with Accessories	Ea	1	\$314.45
24	12? MJ x FLG Tee with Accessories	Ea	1	\$598.25
25	6 ? DI compact 45 degree bends with Accessories	Ea	2	\$115.70
26	8? DI compact 45 degree bends with Accessories	Ea	1	\$153.80
27	12? DI compact 45 degree bends with Accessories	Ea	1	\$341.65
28	6 ? DI compact 90 degree bends with Accessories	Ea	1	\$132.00
29	8? DI compact 90 degree bends with Accessories	Ea	1	\$181.70
30	12? DI compact 90 degree bends with Accessories	Ea	1	\$413.00
31	3? Plastic Threaded Cleanout Plug	Ea	50	\$1.80
32	3 PVC SCH40 SXF ADAPTER	Ea	200	\$4.40
33	4? Plastic Cleanout Adapter FIP X Glue SDR-35)	Ea	200	\$2.90
34	4 PVC SCH40 SXF ADAPTER	Ea	500	\$5.55
35	4? Plastic Threaded Cleanout Plug	Ea	500	\$2.65
36	4? Bass and Hays 404 Ductile Iron Cleanout	Ea	1	\$54.95
37	4? Bass and Hays 404 Plastic Cleanout	Ea	1	\$18.50
38	4? SDR 26 B X B 90	Ea	1	\$20.50
39	4? SDR 26 B X B 45	Ea	1	\$11.55
40	4? Female Adapter SDR 26	Ea	1	\$4.05
41	4? SDR 26 Tee Wyes BXBXB	Ea	1	\$31.50
42	4? SDR 26 THD Plug	Ea	1	\$2.60

Specification Responses

Fortiline

Line	Description	UOM	QTY	Unit
43	6" SDR 26 B X B 45	Ea	1	\$21.20
44	6" X 6" SDR 26 Tee	Ea	1	\$37.35
45	6" X 4" SDR 26 Tee	Ea	1	\$33.80
46	6" X 4" SDR 26 TY	Ea	1	\$37.25
47	4" DFW Tapping Saddle w- Stainless Steel Bands	Ea	1	\$34.00
48	8" SDR 26 B X S 45	Ea	1	\$51.00
49	8" SDR 26 B X B 45	Ea	1	\$51.00
50	8" X 8" SDR 26 Tee	Ea	1	\$77.65
51	8" X 6" SDR 26 Tee	Ea	1	\$52.50
52	8" X 4" SDR 26 Tee	Ea	1	\$47.10
53	8" X 4" SDR 26 TY	Ea	1	\$49.75
54	12" X 6" SDR 26 Tee	Ea	1	\$157.50
55	12" X 4" SDR 26 Tee	Ea	1	\$150.35
56	12" X 4" SDR 26 T-WYE	Ea	1	\$179.50
57	Lids for #339 Clean Out	Ea	1	\$22.15
58	#339 Clean Out Boot	Ea	1	\$188.35
59	4" PVC-PVC Adapter- Non Shear	Ea	1	\$12.85
60	4" PVC-Clay Adapter- Non Shear	Ea	1	\$13.60
61	6" PVC-Clay Adapter -Non Shear	Ea	1	\$21.00
62	6" PVC-PVC Adapter- Non Shear	Ea	1	\$21.00
63	8" PVC-PVC Adapter- Non Shear	Ea	1	\$27.00
64	8" PVC-CLAY Adapter- Non Shear	Ea	1	\$28.55
65	"2" Concrete riser rings"	Ea	1	\$41.50
66	24" PAMREX Hinged Manhole Ring and Lid W/ Gasket	Ea	10	\$397.90
67	2" X 12" SS Repair Clamp - Mueller 550 Series / C-900	Ea	1	\$43.10
68	"4" X 12" SS Repair Clamp - Mueller 550 Series / C-900"	Ea	1	\$59.60
69	"6" X 12" SS Repair Clamp - Mueller 550 Series / C-900"	Ea	200	\$71.65
70	"6" X 15" SS Repair Clamp - Mueller 550 Series / C-900"	Ea	1	\$88.30
71	"8" X 12" SS Repair Clamp - Mueller 550 Series / C-900"	Ea	5	\$77.00
72	"8" X 15" SS Repair Clamp - Mueller 550 Series / C-900"	Ea	1	\$88.00
73	"12" X 12" SS Repair Clamp - Mueller 550 Series / C-900"	Ea	1	\$116.60
74	"12" X 15" SS Repair Clamp - Mueller 550 Series / C-900"	Ea	1	\$131.80
75	"16" X 15" SS Repair Clamp - Mueller 550 Series / C-900"	Ea	1	\$233.00
76	"6" X " Tapping Saddle CC ? Mueller BR2B"	Ea	23	\$72.35
77	"6" X 1" Tapping Saddle CC ? Mueller BR2B"	Ea	2	\$72.35
78	"8" X " Tapping Saddle CC ? Mueller BR2B"	Ea	1	\$89.55
79	"8" X 1" Tapping Saddle CC ? Mueller BR2B"	Ea	1	\$89.55
80	"6" X 2" Tapping Saddle CC ? Mueller BR2B"	Ea	1	\$90.90
81	"8" X 2" Tapping Saddle CC ? Mueller BR2B"	Ea	1	\$102.65
82	"12" X 2" Tapping Saddle CC ? Mueller BR2B"	Ea	1	\$149.10
83	"6" X 6" All Stainless Tap Sleeve Mueller H-304-SS"	Ea	1	\$382.10
84	"8" X 6" All Stainless Tap Sleeve Mueller H-304-SS"	Ea	1	\$411.00

Specification Responses

Fortiline

Line	Description	UOM	QTY	Unit
85	6? Tap Valve - Mueller T-2360-16	Ea	1	\$437.00
86	8? Tap Valve - Mueller T-2360-16	Ea	1	\$684.00
87	12? Tap Valve - Mueller T-2360-16	Ea	1	\$1,312.00
88	"6"" MJ x MJ Gate Valve Mueller / 2360 Series with accessories"	Ea	1	\$475.00
89	"8"" MJ x MJ Gate Valve Mueller / 2360 Series with accessories"	Ea	1	\$739.00
90	12? MJ X MJ Gate Valve Mueller / 2360 Series with accessories	Ea	1	\$1,452.00
91	4.5? Bury Cent. Fire Hydrant	Ea	1	\$1,670.00
92	5? Bury Cent. Fire Hydrant	Ea	1	\$1,708.00
93	Short Valve Box w/Lid # 340-1	Ea	1	\$66.00
94	Sampling Station =Kupferle Eclipse ? 88 all bronze piping	Ea	1	\$767.00
95	Gradelok Fire Hydrant Riser- Assured Flow	Ea	1	\$325.00
96	Kupferle Automatic Flusher	Ea	1	\$1,487.00
97	Mueller Traffic Repair Kit w/ Safety Flange	Ea	1	\$110.00
98	Smoke Testing Smoke Bombs	Ea	6	\$95.00
99	marking flags, blue	Ea	900	\$0.10
100	"Spray Paint, Inverted sprayer, Blue"	Ea	24	\$3.00
101	"Spray Paint, Inverted sprayer, Fluorescent Green"	Ea	24	\$4.30
102	"Spray Paint, Inverted sprayer, White"	Ea	12	\$3.00
103	"?"" Mueller H-15403 / 3-Piece Compression Union-CTS"	Ea	1	\$12.75
104	"?"" FIPT x Comp / Mueller H-15451 Coupling"	Ea	1	\$11.00
105	?? MIPT x Comp / Mueller H-15458 Coupling	Ea	1	\$10.50
106	1? Mueller H-15403 / 3-Piece Compression Union-CTS	Ea	1	\$14.60
107	1? FIPT x Comp / Mueller H-15451 Coupling	Ea	1	\$14.95
108	1? MIPT x Comp / Mueller H-15458 Coupling	Ea	1	\$12.40
109	1 ? ? MIPT x Comp / Mueller H-15458 Coupling	Ea	1	\$34.00
110	1 ? ? FIPT x Comp / Mueller H-15451 Coupling	Ea	1	\$43.50
111	1 ?? Mueller H-15403 / 3-Piece Compression Union-CTS	Ea	1	\$48.85
112	2? PVC x PVC / Mueller H-15404 Coupling	Ea	1	\$93.40
113	2? FIPT x Comp / Mueller H-15451 Coupling	Ea	1	\$51.75
114	2? MIPT x Comp / Mueller H-15458 Coupling	Ea	1	\$49.50
115	2? Mueller H-15403 / 3-Piece Compression Union-CTS	Ea	1	\$65.95
116	? Meter Coupling H-10891	Ea	1	\$6.80
117	3/4? Corporation Stop / Mueller B-25008	Ea	50	\$33.80
118	"?"" Ball Valve ? Mueller 110 X FIP / B-20283-3"	Ea	1	\$28.60
119	? Angle Stop ? B-24265-3 FIP X MSN	Ea	1	\$27.15
120	"?"" Angle Stop / Mueller 110 / B-24258-3"	Ea	20	\$31.75
121	1? Corporation Stop / Mueller B-25008	Ea	36	\$44.50
122	"1"" Angle Stop / Mueller 110 / B-24258-3"	Ea	1	\$63.80
123	"1"" Ball Valve ? Mueller 110 X FIP / B-20283-3"	Ea	1	\$50.45
124	1 ?? Ball Valve ? Mueller 110 X FIP / B-20283-3	Ea	1	\$138.15
125	1 ? ? Corporation Stop / Mueller B-25008	Ea	1	\$99.65
126	1 ? ? Angle Stop / Mueller B-24276	Ea	1	\$183.65

Specification Responses

Fortiline

Line	Description	UOM	QTY	Unit
127	1 ? ? - Mueller 110 X Flange B-24335-3	Ea	1	\$128.10
128	2? Corporation Stop / Mueller B-25008	Ea	1	\$164.85
129	2? Ball Valve - Mueller 110 X FIP / B-20283-3	Ea	1	\$191.20
130	2? Angle Stop / Mueller B-24276	Ea	1	\$233.10
131	2? Straight Stop- Mueller 110 X Flange B-24335-3	Ea	1	\$191.25
132	?? Ball Valve - Mueller 110 X FIP / B-25172-3	Ea	1	\$28.60
133	1? Ball Valve - Mueller 110 X FIP / B-25172-3	Ea	1	\$50.45
134	1 ? ? Ball Valve - Mueller 110 / B-25172-3	Ea	1	\$136.70
135	2? Ball Valve - Mueller 110 / B-25172-3	Ea	1	\$191.25
136	Meter Box ? PGMB -18 x 15 - for ?? meters Plastic Galvanized Meter Box - United Plastic Ultra Ribbed Body with a Bass & Hays or Sigma, round cast iron ring & lid	Ea	7	\$75.00
137	Meter Box ? PGMB -24 x 18 - for 1? meters Plastic Galvanized Meter Box - United Plastic Ultra Ribbed Body with a Bass & Hays or Sigma, round cast iron ring & lid	Ea	1	\$160.00
138	"Meter Box ? PGMB -36 - for 1 ?? - 2? meters Plastic Galvanized Meter Box - United Plastic Ultra Ribbed Body with a Bass & Hays or Sigma, round cast iron ring & lid"	Ea	1	\$350.00
139	Meter Vault 3?-6? Park Equipment	Ea	1	
140	Meter Vault 8?-12? Park Equipment	Ea	1	
141	1? x 3/4? meter adapter Mueller H-10889	Ea	1	\$13.35
142	"?"" X 2?"" Meter Coupling Mueller H-10891"	Ea	1	\$6.80
143	?? Thick Rubber Meter Gaskets	Ea	1	\$0.09
144	"1"" X 2?"" Meter Coupling"	Ea	1	\$10.50
145	1? Thick Rubber Meter Gaskets	Ea	1	\$0.14
146	"1 ??"" Brass Meter Flange Kit with Accessories"	Ea	1	\$48.00
147	1 ? ? Drop-In Gasket	Ea	1	\$0.70
148	"2"" Brass Meter Flange Kit with Accessories"	Ea	1	\$49.00
149	2? Drop-In Gasket	Ea	1	\$0.75
150	12 Security Lids, Red	Ea	150	\$35.85
151	Security Bolt	Ea	150	\$4.50
152	Security Tool for Bolt	Ea	4	\$16.50

Specification Responses

Fortiline Waterworks

Line	Attribute Name	Type	Response
Header	Questions	Checkbox	Agree
Header	Annual Contract	Checkbox	Agreed
Header	T&C Acknowledgement	Checkbox	Agreed
Header	Bid Acknowledgement	Checkbox	Agreed
Header	Late Submission	Checkbox	Understood
Header	Litigation with City of Lancaster	Long Text	no
Header	Electronic Payment	Short Text	toby.brutsman@fortiline.com
Header	Open Records Act	Checkbox	Agreed
Header	PROPERTY TAXES	List of Values	Do Not
Header	Reciprocal Information 1	List of Values	Texas
Header	Reciprocal Information 2	List of Values	N/A
Header	Reciprocal Information 3	Short Text	dollar
Header	Website Address	URL	www.fortiline.com
Header	Warranty Information	Short Text	per each Manufatuer
Header	Cooperative Agreement	List of Values	Yes
Header	Contract Clause	Checkbox	Agreed
Header	Insurance	Checkbox	Understood
Header	County	Short Text	Dallas
Header	Immigration	Note	
Header	Audit	Note	
Header	MWBE 1	List of Values	No
Header	MWBE 2	Short Text	
Header	MWBE 3	Short Text	
Header	MWBE 4	Short Text	
Header	Shipping Method	List of Values	Company Truck
Header	Shipping Date	Short Text	stock-14 days
Header	Shipping & Handling	Short Text	no
Header	Returns / Exchanges	Short Text	30 days
Header	Restocking Fee	Short Text	none
Header	Notification	List of Values	e-pro
Header	Plan Room - Other	Short Text	no
Header	Price Increases	Checkbox	Agree
Header	Response Term	Checkbox	Agree
Header	One Year - 2 Renewals	Checkbox	Agree
Header	American Made	Short Text	yes
Header	Lead Free	Short Text	yes
Header	Lead Free	List of Values	YES
Header	AWWA	List of Values	YES
1	Manufacturer's Name	Short Text	FORD
1	Manufacturer's Part Number	Short Text	UFR1400
1	Shipping	Short Text	STOCK-14
2	Manufacturer's Name	Short Text	FORD
2	Manufacturer's Part Number	Short Text	UFR1400
2	Shipping	Short Text	STOCK-14
3	Manufacturer's Name	Short Text	FORD
3	Manufacturer's Part Number	Short Text	UFR1400
3	Shipping	Short Text	SK-14
4	Manufacturer's Name	Short Text	FORD
4	Manufacturer's Part Number	Short Text	UFR1500
4	Shipping	Short Text	SK-14
5	Manufacturer's Name	Short Text	FORD
5	Manufacturer's Part Number	Short Text	UFR1500
5	Shipping	Short Text	SK-14
6	Manufacturer's Name	Short Text	FORD
6	Manufacturer's Part Number	Short Text	UFR1500
6	Shipping	Short Text	SK-14
7	Manufacturer's Name	Short Text	TYLER
7	Manufacturer's Part Number	Short Text	086291
7	Shipping	Short Text	SK-5
8	Manufacturer's Name	Short Text	TYLER
8	Manufacturer's Part Number	Short Text	085188

8	Shipping	Short Text	S-5
9	Manufacturer's Name	Short Text	TYLER
9	Manufacturer's Part Number	Short Text	085201
9	Shipping	Short Text	5
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10	Manufacturer's Part Number	Short Text	6FKSS
10	Shipping	Short Text	2
11	Manufacturer's Name	Short Text	EGW
11	Manufacturer's Part Number	Short Text	8FKSS
11	Shipping	Short Text	2
12	Manufacturer's Name	Short Text	EGW
12	Manufacturer's Part Number	Short Text	12FKSS
12	Shipping	Short Text	2
13	Manufacturer's Name	Short Text	TYLER
13	Manufacturer's Part Number	Short Text	0819551
13	Shipping	Short Text	3
14	Manufacturer's Name	Short Text	TYLER
14	Manufacturer's Part Number	Short Text	081968
14	Shipping	Short Text	3
15	Manufacturer's Name	Short Text	TYLER
15	Manufacturer's Part Number	Short Text	081982
15	Shipping	Short Text	3
16	Manufacturer's Name	Short Text	TYLER
16	Manufacturer's Part Number	Short Text	082163
16	Shipping	Short Text	3
17	Manufacturer's Name	Short Text	TYLER
17	Manufacturer's Part Number	Short Text	082170
17	Shipping	Short Text	3
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42	Manufacturer's Part Number	Short Text	H
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44	Manufacturer's Part Number	Short Text	H106
44	Shipping	Short Text	3
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46	Manufacturer's Part Number	Short Text	H157-4
46	Shipping	Short Text	3
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47	Manufacturer's Part Number	Short Text	TST-4
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51	Shipping	Short Text	3

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52	Shipping	Short Text	3
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62	Shipping	Short Text	7
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65	Shipping	Short Text	3
66	Manufacturer's Name	Short Text	BASS&HAYS
66	Manufacturer's Part Number	Short Text	ERGO24
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68	Shipping	Short Text	14
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69	Manufacturer's Part Number	Short Text	FS1724125
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73	Shipping	Short Text	14
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74	Manufacturer's Part Number	Short Text	FS1135015
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75	Manufacturer's Part Number	Short Text	FS2179015
75	Shipping	Short Text	14
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76	Manufacturer's Part Number	Short Text	202B750CC3
76	Shipping	Short Text	14
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77	Manufacturer's Part Number	Short Text	202B750CC4
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83	Manufacturer's Part Number	Short Text	FTSS7006
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92	Manufacturer's Part Number	Short Text	K81
92	Shipping	Short Text	14
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93	Shipping	Short Text	3
94	Manufacturer's Name	Short Text	KUPFERLE
94	Manufacturer's Part Number	Short Text	88
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96	Manufacturer's Part Number	Short Text	9700
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117	Manufacturer's Part Number	Short Text	FB10003QNL
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119	Manufacturer's Part Number	Short Text	BA13-232WRNL
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124	Manufacturer's Part Number	Short Text	B41-666WRQNL
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125	Manufacturer's Part Number	Short Text	FB10006QNL
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137	Manufacturer's Part Number	Short Text	WRMC2418
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138	Manufacturer's Name	Short Text	EGW
138	Manufacturer's Part Number	Short Text	WRMC3618

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142	Manufacturer's Part Number	Short Text	C382325
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143	Manufacturer's Part Number	Short Text	34RMW
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145	Manufacturer's Part Number	Short Text	1RMW
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147	Manufacturer's Part Number	Short Text	112DIG
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148	Shipping	Short Text	3
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149	Manufacturer's Part Number	Short Text	2DIG
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150	Manufacturer's Part Number	Short Text	DFW18AMR7SALID
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151	Manufacturer's Part Number	Short Text	DFWSBOLT
151	Shipping	Short Text	14
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152	Manufacturer's Part Number	Short Text	DFWSDRIVER
152	Shipping	Short Text	14

LANCASTER CITY COUNCIL

Agenda Communication

April 22, 2013

Item 13

Consider a resolution authorizing the award of a unit price bid # 2013-71 for water and sewer pipe to Fortiline Waterworks as the primary vendor and Texas Water Products, Inc. as the secondary vendor for a total amount not to exceed \$95,500.

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

Goal: Sound Infrastructure

Background

The water and sewer pipe to be purchased from this contract will be used by the Water and Wastewater Department for daily maintenance and repairs to the City's water and wastewater infrastructure.

Bids were issued as a "shopping list" of items and based on prior year usage. Vendors are aware that quantities may increase or decrease based on usage during required maintenance and repairs.

Considerations

- **Operational** - The Water/Wastewater Division are primarily responsible for the purchase of water and sewer pipe parts. The award of the annual bid will streamline and enhance purchases by reducing man hours required in obtaining quotes and delays for purchases as needed. The annual bid also promotes competitive pricing for repair materials.
- **Legal** - This bid was processed in accordance with all local and state purchasing statutes. Two bids were received and neither of the vendors are certified M/WBE. The contract is for one year and should be awarded by unit price. The total amount of the award is estimated and the actual expenditures may be less depending on actual needs. The price per unit will not change.
- **Financial** – Funding for this project has been approved in the current year's budget. Expenditures will not exceed funds \$95,500. Funds will be committed at the time of invoice payment.
- **Public Information** – Bids were advertised in the Focus Daily News on February 22 and March 1, 2013 and were posted on the City's electronic procurement system. Bids were opened on March 15, 2013.

Options/Alternatives

1. Council may award the bid.
2. Council may reject the use of the contracted services.

Recommendation

Staff recommends approval of the resolution as presented.

Attachments

- Resolution
 - Exhibit A: Tab Sheet
-

Submitted by:

Rona Stringfellow, Managing Director of Public Works & Development Services
Dawn Berry, Purchasing Agent

RESOLUTION NO. 2013-XX-XX

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LANCASTER, TEXAS, AUTHORIZING THE AWARD OF A UNIT PRICE BID #2013-71 FOR WATER AND SEWER PIPE TO FORTILINE WATERWORKS AS THE PRIMARY VENDOR AND TEXAS WATER PRODUCTS, INC. AS THE SECONDARY VENDOR FOR A TOTAL AMOUNT NOT TO EXCEED \$95,500; AUTHORIZING THE ISSUANCE OF A PURCHASE ORDER PURSUANT TO APPROVAL; REPEALING ALL RESOLUTIONS IN CONFLICT; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Lancaster desires to purchase water and sewer pipe 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 2013-71 for water and sewer pipe from Fortiline Waterworks as the primary vendor and Texas Water Products, Inc. as the secondary vendor. The unit prices are attached hereto and incorporated herein by reference as Exhibit "A".

SECTION 2. The City Manager or designee is authorized to issue appropriate purchase orders in conformity herewith.

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 22nd day of April 2013.

ATTEST:

APPROVED:

Dolle K. Downe, City Secretary

Marcus E. Knight, Mayor

APPROVED AS TO FORM:

Robert E. Hager, City Attorney

Specification Responses

						Fortiline Waterworks	Texas Water Products
Line	Description	Mfgr	MfgNo	UOM	QTY	Unit	Unit
1	WATER PIPE & TUBING						
1.1	6" C900 DR 18 PVC Water Pipe		618	FT	860	\$4.20	\$4.60
1.2	8" C900 DR 18 PVC Water Pipe		818	FT	1	\$7.28	\$7.95
1.3	10" C900 DR 18 PVC Water Pipe		1018	FT	1	\$10.93	\$11.95
1.4	12" C900 DR 18 PVC Water Pipe		1218	FT	1	\$15.43	\$16.85
1.5	16" C900 DR 18 PVC Water Pipe		1618	FT	1	\$27.52	\$29.75
1.6	18" C900 DR 18 PVC Water Pipe		1818	FT	1	\$34.69	\$38.40
1.7	SDR 9 Polyethylene Svc Tubing 100'		34PEC100	Roll	5	\$0.20	\$0.30
1.8	PE Inserts		FOMINSERT5'	FT	100	\$1.14	\$1.35
1.9	1" SDR 9 Polyethylene Svc Tubing 100'		1PEC100	Roll	4	\$0.30	\$0.45
1.10	1 PE Metal Inserts			Ea	1	\$1.22	\$1.45
1.11	2" SDR 9 Polyethylene Svc Tubing 100'		2PEC100	Roll	1	\$1.06	\$1.40
1.12	2 PE Metal Inserts			Ea	1	\$1.66	\$1.95
1.13	3/4 X 500' CTS Polyethylene Svc Tubing		34PEC500	FT	1	\$0.20	\$0.30
2	SEWER PIPE						
2.1	4" SDR 26 PVC Sewer Pipe		426HW	FT	210	\$1.16	\$1.30
2.2	6" SDR 26 PVC Sewer Pipe		626HW	FT	1	\$2.50	\$2.75
2.3	8" SDR 26 PVC Sewer Pipe		826HW	FT	1	\$4.51	\$4.95
2.4	10" SDR 26 PVC Sewer Pipe		1026HW	FT	28	\$7.08	\$7.75
2.5	12" SDR 26 PVC Sewer Pipe		1226HW	FT	28	\$10.09	\$11.05
2.6	15" SDR 26 PVC Sewer Pipe		1626HW	FT	1	\$15.33	\$16.75

LANCASTER CITY COUNCIL

Agenda Communication

April 22, 2013

Item 14

Consider a resolution authorizing the award of a unit price bid # 2013-69 for water meters to Texas Water Products, Inc. as the primary vendor and Britton Meter Supply, Inc. as the secondary vendor for a total amount not to exceed \$262,500.

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

Goal: Sound Infrastructure

Background

The water meters to be purchased from this contract are a radio read meter by Master Meter and will be used by the Meter Reading Division for daily maintenance to the City's infrastructure. These water meters are compatible to the radio frequency we are currently using with our automated meter reading process.

Bids were issued as a "shopping list" of items and based on prior year usage. Vendors are aware that quantities may increase or decrease based on usage during required maintenance and repairs.

Considerations

- **Operational** – The Water/Wastewater Division are primarily responsible for the purchase of water meters. Awarding this bid will allow staff to order required items as needed from the vendor without obtaining quotes for each order. As a result, productivity and efficiency will increase.
- **Legal** – This bid was processed in accordance with all local and state purchasing statutes. Three bids were received and none of the vendors are M/WBE certified. The contract is for one year with two one-year renewal options, and should be awarded by unit price. The total amount of the award is estimated and the actual expenditures may be less depending on actual needs. The price per unit will not change.
- **Financial** – Funding for this project has been approved in the current year's budget. Expenditures will not exceed \$262,500. Funds will be committed at the time of invoice payment.

- **Public Information** – Bids were advertised on February 22, March 1, 2013 and posted on the City's electronic procurement system. Bids were opened on March 15, 2013.

Options/Alternatives

1. Council may award the bid.
2. Council may reject the use of the contracted services.

Recommendation

Staff recommends approval of the resolution as presented.

Attachments

- Resolution
 - Tab Sheet
-

Submitted by:

Rona Stringfellow, Managing Director Public Works & Development Services
Dawn Berry, Purchasing Agent

RESOLUTION NO. 2013-XX-XX

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LANCASTER, TEXAS, AUTHORIZING THE AWARD OF A UNIT PRICE BID #2013-69 FOR WATER METERS TO TEXAS WATER PRODUCTS, INC. AS THE PRIMARY VENDOR AND BRITTON METER SUPPLY, INC. AS THE SECONDARY VENDOR FOR A TOTAL AMOUNT NOT TO EXCEED \$262,500; AUTHORIZING THE ISSUANCE OF A PURCHASE ORDER PURSUANT TO APPROVAL; REPEALING ALL RESOLUTIONS IN CONFLICT; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Lancaster desires to purchase water meters 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 2013-69 for water meters from Texas Water Products Inc. as the primary vendor and Britton Meter Supply, Inc. as the secondary vendor. The unit prices are attached hereto and incorporated herein by reference as Exhibit "A".

SECTION 2. The City Manager or designee is authorized to issue appropriate purchase orders in conformity herewith.

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 22nd day of April 2013.

ATTEST:

APPROVED:

Dolle K. Downe, City Secretary

Marcus E. Knight, Mayor

APPROVED AS TO FORM:

Robert E. Hager, City Attorney

Bid Request Number 2013-69
Title Water Meters

Responding Suppliers

Name	City	State	Response Submitted	Lines Responded	Response Total
Texas Water Products, Inc	Fort Worth	TX	3/15/2013 10:50:01 AM CST	20	\$82,482.80
Britton Meter Supply, Inc.	Red Oak	TX	3/15/2013 11:15:00 AM CST	20	\$84,973.50
HydroPro Solutions	Cedar Park	TX	3/13/2013 1:29:53 PM CST	20	\$86,187.55

LANCASTER CITY COUNCIL

Agenda Communication

April 22, 2013

Item 15

Conduct a public hearing and consider a resolution approving the 2013-2014 Standards of Care for Youth Programs operated by the Lancaster Parks and Recreation Department.

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

Goal 3: Healthy, Safe & Vibrant Neighborhoods

Background

Chapter 42 of the Human Resources Code, which regulates certain facilities, homes, and agencies that provide child-care services, states that municipal youth recreation programs may be exempted from the state's licensing requirement if cities comply with the provisions of the legislation. The legislation requires that cities establish and annually review their Parks and Recreation Department Standards of Care for Youth Programs and conduct a public hearing to allow citizen input.

The proposed 2013-2014 Standards of Care were reviewed and recommended for approval by the Parks and Recreation Advisory Board during their regular meeting on March 18, 2013.

Considerations

- **Operational** - The Standards of Care policies clearly identify the staff responsibilities, department policies and procedures, parent's responsibilities, authorization forms required for participation in various activities and necessary contact information. There are no changes from the previous year.
- **Legal** - Formal annual adoption of the Standards of Care for Youth Programs is required by the State of Texas. Failure to adopt a Standards of Care would result in termination of after school programs and day camps. The City Attorney has reviewed and approved the attached resolution and Standards of Care policies and procedures as to form.
- **Financial** - There are no costs associated with adoption of the Standards of Care.
- **Public Information** - A public hearing is required to receive citizen input regarding the Standards of Care. The public hearing was posted in accordance with the Texas Open Meetings Act.

Options/Alternatives

1. City Council may conduct the Public Hearing and approve the resolution as presented and as recommended by the Parks and Recreation Advisory Board.
2. City Council may conduct the Public Hearing and approve the resolution with modifications to the Standards of Care.
3. City Council may conduct the Public Hearing and reject the resolution or take no action which will terminate all City Youth After School and/or Day Camp programs

Recommendation

Staff recommends approval of the resolution adopting the Standards of Care for Youth Programs operated by the Lancaster Parks and Recreation Department as presented.

Attachments

- Resolution
 - Proposed 2013 – 2014 Standards of Care for Youth Programs operated by the Parks and Recreation Department
 - State of Texas Child Care Standards
-

Submitted by:

Sean Johnson, Parks and Recreation Director

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LANCASTER, TEXAS, APPROVING THE 2013-2014 STANDARDS OF CARE POLICIES FOR YOUTH PROGRAMS OPERATED BY THE LANCASTER PARKS AND RECREATION DEPARTMENT; PROVIDING A REPEALING CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Mayor and City Council of the City of Lancaster desire the Parks and Recreation Department to operate Youth Programs for citizens of Lancaster; and

WHEREAS, state law exempts from regulation city sponsored youth programs from licensing requirements where the City has adopted a youth standard of care policy providing (a) standards relating to staff ratios, staff training, health, and safety; (b) a mechanism for monitoring and enforcing the standards and receiving complaints from parents of enrolled children; (c) does not advertise as or otherwise represent the program as a child-care facility, day care center, or licensed before-school or after-school program or that the program offers child care services; (d) informs parents that the program is not licensed by the state; (e) does not solicit donations as compensation or payment for any good or service provided as part of the program and, (f) conducts background checks for all program employees and volunteers who work with children in the program using information that is obtained from the Department of Public Safety; and

WHEREAS, the legislation requires that cities establish and annually review their Park and Recreation Department Standards of Care for Youth Programs and conduct public hearings to allow citizen input; and

WHEREAS, the City has adopted an ordinance which provides that after public hearing, the city council will annually approve such standards of care; and

WHEREAS, the city council has held a public hearing to receive citizen input regarding the 2013-2014 Standards of Care for Youth Programs operated by the City of Lancaster Parks and Recreation Department;

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

SECTION 1. The City Council hereby adopts the 2013 – 2014 Standards of Care for Youth Programs, which is attached hereto and incorporated herein as Exhibit A.

SECTION 2. That all resolutions of the City of Lancaster heretofore adopted which are in conflict with the provisions of this resolution be, and the same are hereby

repealed, and all resolutions of the City of Lancaster not in conflict with the provisions hereof shall remain in full force and effect.

SECTION 3. If any article, paragraph, subdivision, clause or provision of this resolution, as hereby amended, be adjudged invalid or held unconstitutional for any reason, such judgment or holding shall not affect the validity of this resolution as a whole or any part or provision thereof, as amended hereby, other than the part so declared to be invalid or unconstitutional.

SECTION 4. 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 22nd day of April 2013.

APPROVED:

Marcus E. Knight, Mayor

ATTEST:

Dolle K. Downe, City Secretary

APPROVED AS TO FORM:

Robert E. Hager, City Attorney
(REH/cdb)

City of Lancaster Parks & Recreation Department



2013 - 2014 Standards of Care For Youth Programs

Parks and Recreation Department
1700 Veterans Memorial Parkway
Lancaster, TX 75134
(972) 218-3700
(972) 218-5607 (Fax)
www.lancaster-tx.com

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LANCASTER YOUTH PROGRAMS

STANDARDS OF CARE

The following Standards of Care have been adopted by the City Council of the City of Lancaster, Texas to comply with Senate Bill 212 as approved by the Texas Legislature during the 74 legislative sessions. The Standards of Care are intended to be minimum standards by which the City of Lancaster Parks and Recreation Department will operate the City's Youth Programs. The programs operated by the City are recreational in nature and are not day care programs.

General Administration

1. Organization

- A.** The governing body of the City of Lancaster Youth Programs is the City of Lancaster City Council.
- B.** Implementation of the Youth Program Standards of Care is the responsibility of the Parks and Recreation Department Director and Departmental employees.
- C.** Youth Programs ("Program") to which these Standards will apply include the Summer Day Camp Program and the Holiday Day Camp Program.
- D.** Each Youth Program site will have available for public and staff review a current copy of the Standards of Care.
- E.** Parents of participants will be provided a current copy of the Standards of Care during the registration process.
- F.** Criminal background checks will be conducted on prospective Youth Program employees. If results of that criminal check indicate that an applicant has been convicted of any of the following offenses, he or she will not be considered for employment:
 - 1. A felony or a misdemeanor classified as an offense against a person or family.
 - 2. A felony or misdemeanor classified as public indecency.
 - 3. A felony or misdemeanor violation of any law intended to control the possession or distribution of any controlled substance.
 - 4. Any offense involving moral turpitude.
 - 5. Any offense that would potentially put the City of Lancaster at risk.

2. Definitions

- A.** City: City of Lancaster
- B.** City Council: City Council of the City of Lancaster
- C.** Department: Parks and Recreation Department of the City of Lancaster
- D.** Youth Programs or Program: City of Lancaster Youth Programs consisting of the After School Programs, the Summer Day Camp Programs, Holiday Break Day Camp Programs, and ongoing recreational program offerings.
- E.** Program Manual: Notebook of policies, procedures, required forms, and organizational and programming information relevant to City of Lancaster Youth Programs.
- F.** Director: City of Lancaster Parks and Recreation Department Director or his or her designee.

- G.** Program Coordinator or Coordinator: City of Lancaster Parks and Recreation Department full-time programmer who has been assigned administrative responsibility for a City of Lancaster Youth Program.
- H.** Program Leader or Leader: City of Lancaster Parks and Recreation Department full-time or part-time employee who has been assigned responsibility to implement the City's Youth Programs.
- I.** Program Site: Area and facilities where City of Lancaster Youth Programs are held, consisting of, but not limited to: Lancaster Parks and Recreation sites and Lancaster Independent School District sites as required.
- J.** Participant: A youth whose parent(s) or legal guardian(s) have completed all required registration procedures and determined to be eligible for a City of Lancaster Youth Program.
- K.** Parent(s): This term will be used to represent one or both parent(s) or legal guardian(s) who have legal custody and authority to enroll their child(ren) in City of Lancaster Youth Programs.
- L.** Employee(s): Term used to describe people who have been hired to work for the City of Lancaster and have been assigned responsibility for managing, administering, or implementing some portion of the City of Lancaster Youth Programs.
- M.** Recreation Center or Center: The Lancaster Recreation Center located at 1700 Veterans Memorial Parkway, Lancaster, TX 75134, (972) 218-3700.

3. Inspections/Monitoring/Enforcement

- A.** The Coordinator of each Program to confirm the Standards of Care are being adhered to will initiate a monthly inspection report.
 - 1. Inspection reports will be sent to the Director or his/ her designee for review and kept on record for at least two years.
 - 2. The Director or his/ her designee will review the report and establish deadlines and criteria for compliance with the Standards of Care.
- B.** The Director will make visual inspections of the Program based on the following schedule.
 - 1. The Summer Day Camp Program will be inspected twice during its summer schedule.
 - 2. The Holiday Day Camp Program will be inspected once during the winter break and once during the spring break.
- C.** Complaints regarding enforcement of the Standards of Care will be directed to the Coordinator. The Coordinator will be responsible to take the necessary steps to resolve the problem(s). The Coordinator will record complaints regarding enforcement of the Standards of Care and their resolution. The Director will address serious complaints regarding enforcement of the Standards of Care and the complaint and the resolution will be noted.
- D.** The Director or his/ her designee will make an annual report to the City Council on the overall status of the Youth Programs and their operation relative to compliance with the adopted Standards of Care.

4. Enrollment

- A. Before a child can be enrolled, the parents must sign registration forms that contain the child's:
 - 1. name, home address, home telephone number;
 - 2. name and address of parent(s) or legal guardian(s) and telephone during program hours;
 - 3. the names and telephone numbers of people to whom the child can be released;
 - 4. a statement of the child's special problems or needs;
 - 5. emergency medical authorization;
 - 6. proof of residency when appropriate; and
 - 7. a liability waiver.

5. Suspected Abuse

Program employees will report suspected child abuse or neglect in accordance with the Texas Family Code. In a case where a City employee is involved in an incident with a child that could be construed as child abuse, the incident must be reported immediately to the Recreation Supervisor. The Recreation Supervisor will immediately notify the Police Department and any other agency as may be appropriate.

Texas state law requires the staff of these youth Programs to report any suspected abuse or neglect of a child to the Texas Department of Protective and Regulatory Services or a law enforcement agency. Failure to report suspected abuse is punishable by fines up to \$1000 and/or confinement up to 180 days. Confidential reports may be reported by calling 1-800-252-5400 (The Texas Abuse Hotline of the Department of Family and Protective Services).

Staffing - Responsibilities and Training

1. Youth Program Leader ("Leader") Qualifications

- A. Leaders will be full-time, part-time, or temporary employees of the Parks and Recreation Department.
- B. Staff working with children must be age 18 or older.
- C. Must be able to consistently exhibit competency, good judgment, and self-control when working with children.
- D. Must relate to children with courtesy, respect, tolerance, and patience.
- E. Must have successfully completed a course in first aid and CPR based on either American Heart Association or American Red Cross standards. An exception can be made for no more than one staff person at each site, and that person shall successfully complete a first aid and CPR course within four weeks of starting work.
- F. Must be able to furnish proof of a clear tuberculosis test within the 12 months prior to their employment date.
- G. Must pass a background investigation including testing for illegal substances.
- H. Must be mature, responsible, and able to complete duties with minimal supervision.
- I. Must have a high school diploma or GED.

- J. Must be able to communicate well with the public and skilled at interacting with children.
- K. Must be skilled in supervising children of varying age levels in a group setting.
- L. Must have a valid Texas driver's license and eligible for a CDL.
- M. Must pass a departmental criminal background check and drug screening.
- N. Must have previous experience in supervising children and possess knowledge of recreational games, crafts, and activities.
- O. Must have First Aid and CPR certification during orientation.
- P. Must complete departmental day camp staff training.

2. Leader Responsibilities

- A. Provide participants with an environment in which they can feel safe, enjoy wholesome recreation activities, and participate in appropriate social opportunities with their peers.
- B. Know and follow all City, Departmental, and Program standards, policies, and procedures that apply to City Of Lancaster Youth Programs.
- C. Ensure that participants are released only to a parent or an adult designated by the parent. All Program Sites will have a copy of the Department approved plan to verify the identity of a person authorized to pick up a participant if the Leader does not know that person.

3. Training/Orientation

- A. The Department is responsible to provide training and orientation to Program employees in working with children and for specific job responsibilities. Coordinators will provide each Leader with a Program manual specific to each Youth Program.
- B. Program employees must be familiar with the Standards of Care for Youth Program operation as adopted by the City Council.
- C. Program employees must be familiar with the Program's policies including discipline, guidance, and release of participants as outlined in the General Program Information section of this document.
- D. Program employees will be trained in appropriate procedures to handle emergencies.
- E. Program employees will be trained in areas including City, Departmental, and Program policies and procedures, provision of recreation activities, safety issues, child psychology, and organization.
- F. Program employees will be required to sign an acknowledgment that they received the required training.

Service Standards

- A. Appearance and Behavior
 - 1. Staff shirts and name badges will be worn and clearly visible.
 - 2. Participants and parents will be treated with respect at all times.
- B. Communication with Parents

1. Staff will keep parents continuously informed of activities and schedules. A weekly schedule will be distributed and copies will be kept with the daily sign in sheets.
2. Staff will note details of behavior of participants (accomplishments, discipline problems, general activities, etc.) and update parents regularly.

C. Additional Staff Responsibilities

1. Staff will monitor the sign in/out log at all times.
2. Staff will spend 100% of their time actively involved with participants and/or parents.
3. Staff will attempt to answer any complaints at the site and resolve all problems. Situations that cannot be resolved on site by staff will be passed to a supervisor immediately. All complaints will be addressed within 24 hours if they are not resolved on site.
4. Prior to beginning work each day, all staff will check in at the appointed location for any messages, instructions, or information.

Operations

1. Staff/Participant Ratio

- A. In a Lancaster Youth Program, the standard ratio of participants to Leaders will be 20 to 1. In the event a Leader is unable to report to the Program site, a replacement will be assigned.
- B. Each participant shall have a Program employee who is responsible for him or her and who is aware of the participant's habits, interests and any special problems as identified by the participant's parent(s) during the registration process.
- C. At no time will a Program employee be alone with a child.

2. Discipline

- A. Program employees will implement discipline and guidance in a consistent manner based on the best interests of Program participants.
- B. There must be no cruel or harsh punishment or treatment.
- C. Program employees may use brief, supervised separation from the group if necessary.
- D. As necessary, Program employees will initiate discipline reports to the parent(s) of participants. Parents will be asked to sign discipline reports to indicate they have been advised about specific problems or incidents.
- E. A sufficient number and/or severe nature of discipline reports as detailed in the Program Manual may result in a participant being suspended from the Program.
- F. In instances where there is a danger to participants or staff, offending participants will be removed from the Program site as soon as possible.
- G. Any person(s) creating a nuisance, causing a disturbance, or creating an unsafe environment at any program site will be subject to ejection from the site, possible arrest, and legal action.
- H. The department reserves the right to terminate a participant from the program if they exhibit severe or extreme behavioral problems, which prevent staff from effectively administering the Program.

3. Programming

- A. Program employees will attempt to provide activities for each group according to participants' age, interests, and abilities. The activities must be appropriate to participants' health, safety, and well-being. The activities also must be flexible and promote the participants' emotional, social, and mental growth.
- B. Program employees will attempt to provide indoor and outdoor time periods that include:
 - 1. Alternating active and passive activities;
 - 2. Opportunity for individual and group activities;
 - 3. Outdoor time each day weather permitting.
- C. Program employees will be attentive and considerate of the participants' safety on field trips and during any transportation provided by the Program.
 - 1. During trips, Program employees supervising participants must have immediate access to emergency medical forms and emergency contact information for each participant;
 - 2. Program employees must have a written list of the participants in the group and must check the attendance frequently;
 - 3. Program employees must have first aid supplies and a guide to first aid and emergency care available on field trips.

4. Communication

- A. Program site will have a telephone to allow the site to be contacted by Recreation Center personnel. Each site will have access to a telephone for use in contacting the Recreation Center or making emergency calls
- B. The Coordinator will post the following telephone numbers adjacent to a telephone accessible to all Program employees at each site:
 - 1. Lancaster ambulance or emergency medical services;
 - 2. Lancaster Police Department;
 - 3. Lancaster Fire;
 - 4. Lancaster Recreation Center;
 - 5. Numbers at which parents may be reached;
 - 6. The telephone number for the site itself.

5. Transportation

- A. Before a participant can be transported to and from City sponsored activities, a transportation form must be completed by the parent of the participant and filed with the Coordinator
- B. First aid supplies and a first aid and emergency care guide will be available in all Program vehicles that transport children.

- C. All Program vehicles used for transporting participants must have available a 6-BC portable fire extinguisher which will be installed in the passenger compartment of the vehicle and must be accessible to the adult occupants.

Facility Standards

1. Safety

- A. Program employees will inspect Youth Program sites daily to detect sanitation and safety concerns that might affect the health and safety of the participants. A daily inspection report will be completed by the Program staff and kept on file by the Program Coordinator.
- B. Buildings, grounds, and equipment on the Program site will be inspected, cleaned, repaired, and maintained to protect the health of the participants.
- C. Program equipment and supplies must be safe for the participant's use.
- D. Program employees must have first aid supplies available at each site, during transportation, and for the duration of any off-site activity.
- E. Program air conditioners, electric fans, and heaters must be mounted out of participants' reach or have safeguards that keep participants from being injured.
- F. Program porches and platforms more than 30 inches above the ground must be equipped with railings participants can reach.
- G. All swing seats at Program sites must be constructed of durable, lightweight, relatively pliable material.
- H. Program employees must have first aid supplies readily available to staff in a designated location. Program employees must have an immediately accessible guide to first aid and emergency care.

2. Fire

- A. In case of fire, danger of fire, explosion, or other emergency, Program employees' first priority is to evacuate the participants to a designated safe area.
- B. The Program site will have an annual fire inspection by the local Fire Marshall, and the resulting report will detail any safety concerns observed. The report will be forwarded to the Director who will review and establish deadlines and criteria for compliance. Information from this report will be included in the Director's annual report to the Council.
- C. Each Program site must have at least one fire extinguisher approved by the Fire Marshall readily available to all Program employees. The fire extinguisher is to be inspected monthly by the Program Coordinator, and a monthly report will be forwarded to the coordinator's supervisor who will keep the report on file for a minimum of two years. All Youth Program staff members will be trained in the proper use of fire extinguisher.
- D. Fire drills will be initiated at Program sites based on the following schedule:
 - 1. Summer Day Camp Program: A fire drill twice during the entire summer session.
 - 2. Holiday Day Camp: A fire drill once during the fall and spring sessions.

3. Health

A. Illness or Injury

1. A participant who is considered a health or safety concern to other participants or staff will not be admitted to the Program.
2. Illnesses and injuries will be handled in a manner to protect the health of all participants and employees.
3. Program employees will follow plans to provide emergency care for injured participants or for participants with symptoms of an acute illness as specified in the Program manual.
4. Program employees will follow the recommendation of the Texas Department of Health concerning the admission or readmission of any participant after a communicable disease.

B. Program employees will administer medication only if:

1. Parent(s) complete and sign a medication form that provides authorization for staff to dispense medication with details as to times and dosages. The form will include a hold harmless clause to protect the City.
2. Prescription medications are in the original containers labeled with the child's name, a date, directions, and the physician's name. Program staff members will administer the medication only as stated on the label. Program staff will not administer medication after the expiration date.
3. Nonprescription medications are labeled with the child's name and the date the medication was brought to the Program. Nonprescription medication must be in the original container. The Program staff will administer it only according to label direction.
4. Medications dispensed will be limited to routine oral ingestion not requiring special knowledge or skills on the part of Program employees. The Program employees will administer no injections.
5. Program employees must ensure medications are inaccessible to participants. No refrigeration will be provided.

C. Toilet Facilities

1. The Program site will have inside toilets located and equipped so children can use them independently and program staff can supervise as needed.
2. There must be one flush toilet for every 30 children. Urinals may be counted in the ratio of toilets to children, but must not exceed 50% of the total number of toilets.
3. An appropriate and adequate number of lavatories will be provided.

D. Sanitation

1. The Program facilities must have adequate light, ventilation, and heat.
2. The Program must have an adequate supply of water meeting the standards of the Texas Department of Health for drinking water and ensure that it will be supplied to the participants in a safe and sanitary manner.
3. Program employees must see that garbage is removed from buildings daily.

City of Lancaster
Parks & Recreation
Department



2013 - 2014
General Information
For Summer Camp Programs

General Program Information

Registration Procedures

Registration for Lancaster Youth Programs is on a first come, first serve basis with limited enrollment. Registration must be done by the child (ren)'s parent or legal guardian.

All participants must be toilet trained to participate in a Youth Program.

Parents/legal guardians will be required to purchase Participant Membership Card, pay the first installment and any activity fees at registration. Please see the section for Summer Day Camp Program fees in the current Lancaster Connection or visit the Parks and Recreation page at www.lancaster-tx.com.

Participant's Information Files

Parents/legal guardians must complete a set of registration forms for each child. The registration forms include the child's personal information, emergency information, authorized persons to release the child (ren) to, a medical release, and a liability waiver. The registration forms must indicate whether the child's shot record is on file at their school; if not, a copy of the shot record must be provided to be kept on file at the Recreation Center. A copy of these forms will be kept on file at the Recreation Center and a copy will be kept in the child's group binder. A parent/legal guardian may be removed by the other parent/legal guardian from the pick up list only with approved court documentation. The City Attorney may review court documents. Parents are responsible for providing Leaders or the Recreation Center office staff with updated information in writing.

Registration forms are not carried over from program to program. A new set of forms is required at registration for each program. Parents may stop by the Recreation Center to pick up registration forms or ask any additional information on programs.

Attendance

Parent(s) or legal guardian(s) of children who are enrolled in a Youth Program will check in with program employees upon arrival to the Program. The City is not responsible for participants until they have been checked in to the Program.

When a child is absent, the parent should call the Recreation Center at (972) 218-3700 to inform staff of the absenteeism. Staff will not call parents to verify an absence if the child is not in attendance.

Late Pick Up

Youth programs end at 6:00 pm. The first incident will result in a written reminder to the parents. Further incidents will result in a \$5.00 late charge for every 10-minute period after 6:00 pm.

Being late three times in a 30-day period could be cause for termination from the Program. Not paying the late fees within one week of the incident may result in termination from the program.

Appeals can be made to the Program Coordinator or Recreation Supervisor.

Discipline Policy

Disciplinary action will be taken when a child acts inappropriately, is disruptive, verbally or physically abusive, or creates a safety concern. Children will be warned and/or placed in time-out. If the behavior continues or is severe, the child will receive a Behavioral Report. Behavioral Reports are to be signed by the parent/legal guardian. Suspensions and terminations are determined by the severity of the incident and/or the number of Behavioral Reports issued.

Suspensions and terminations will have Recreation Superintendent Approval before being implemented, unless the parent requests immediate enforcement. Suspensions and terminations include all Lancaster Parks & Recreation Youth Programs.

1st Behavioral Report – Parent/legal guardian signs and receives a copy of the report.

2nd Behavioral Report – Parent/legal guardian signs and receives a copy of the report. The Program Coordinator will contact the parent to set up a conference. The mandatory conference is held with the parent/legal guardian, child, and Recreation Supervisor to discuss the reports. The parent/legal guardian and child are reminded the next report may result in a one-week suspension. If the parent/legal guardian does not respond to the request for a conference within five days, a written notice will be sent home to inform the parent/legal guardian that the two Behavioral Reports remain and the next Behavioral Report may result in a one-week suspension from the program.

3rd Behavioral Report – Parent/legal guardian signs and receives copy of report. Upon Recreation Superintendent Approval, the parent may have one business day grace period before the suspension begins. During the suspension period, the child will not be eligible to be registered for other youth programs. When the suspension period is completed, the child may register for other youth programs if space is available or may be placed on the waiting list. Refunds will not be issued for days the child serves on suspension. Parents will be responsible for staying current on program fees.

4th Behavioral Report – The parent signs and receives a copy of report. Upon Recreation Superintendent Approval, the parent may have one business day grace period before the termination begins.

The Parks & Recreation Department reserves the right to accelerate disciplinary steps as determined necessary.

Three months after being terminated from City of Lancaster Youth Programs, the parent may submit a written request to the Recreation Superintendent requesting the child be considered eligible for re-enrollment into the Lancaster Youth Programs. A meeting may be held between the parent/legal guardian, child, Recreation Superintendent and the Program Coordinators to

determine if the child will regain eligibility for enrollment. Eligibility may or may not be regained. A written response will be sent from the Recreation Superintendent to the parent/legal guardian regarding the decision.

A child who has been terminated from the Lancaster Youth Programs will not be eligible for enrollment or participation in any Lancaster Youth Programs unless eligibility has been regained. Children terminated from the Lancaster Youth Programs and who have already been registered for an upcoming Lancaster Youth Program will be removed from the upcoming program and fees refunded. If the child regains eligibility to enroll in Lancaster Youth Programs, then the child may register if space is available or may be placed on the waiting list.

When the probation period ends, the child will return to the normal disciplinary steps.

Two terminations in a calendar year may result in permanent termination from Lancaster Youth Programs.

Parent Release/Sign Out

The registration form includes a section for the parent/legal guardian to provide the names of those persons allowed to pick up their child (ren) from the youth program. Driver's license numbers are to be supplied for each authorized person, including the parent/legal guardian. Registration forms are not carried over from program to program. A new set of forms is required at registration for each program. For security reasons, staff may not give out information over the phone.

The following procedures will be followed at all times:

- a. When a parent/legal guardian picks up the child (ren), they are to sign the child (ren) out. Beckoning or waiving for the child (ren) to come out to the car is not acceptable.
- b. Identification may be requested.

When an unauthorized person picks up a child, the following procedures will be followed:

- a. Leaders will ask for identification from anyone with whom they are not familiar.
- b. The sign out policy will be explained.
- c. The parent/legal guardian will be called at work or at home to inform them of the person on site asking to pick up their child (ren). The parent or guardian will be asked for their driver's license number to verify that staff is speaking to parent/legal guardian.
- d. The parent/legal guardian will be asked to grant permission for their child (ren) to be released to the person on site. The parent or guardian will be asked to fax a signed permission letter to the Recreation Center at (972) 218-5607.
- e. Once permission is granted, the child will be released to the person on site.
- f. If the parent/legal guardian cannot be reached or does not grant permission, the child will not be released to the unauthorized person.
- g. If the unauthorized person takes the child (ren) without permission, the police will be notified and the situation will be handled as a criminal incident.

Visitors/Drop Ins

Parents/legal guardians are welcome to drop in and observe the program. Parents/legal guardians signing out their child (ren) should leave the program once child (ren) has been signed out.

Withdrawal Procedures

Any parent/legal guardian requesting to withdraw their child (ren) from a Youth Program must fill out a drop form at the time of departure. Drop forms will be available at the main office of the Recreation Center or may be requested by fax. Any child (ren) withdrawn from the program may be readmitted only as space allows.

Illness of Participants

Parents are responsible for informing the City of any special needs, concerns or information regarding their child (ren)'s health.

All participants must be able to participate in the full range of activities offered. Any child meeting any of the following criteria will not be admitted to any program:

- a. If the illness prevents the child from participating comfortably in the program activities.
- b. If the illness results in greater need for care than the staff can provide without compromising the health, safety, and supervision of the other children or staff.
- c. If the child has an oral temperature of 100.4 degrees or greater.
- d. If the child's symptoms and signs of possible severe illness include, but not limit to, the following: lethargy, uncontrolled breathing, uncontrolled diarrhea, vomiting illness, rash with fever, mouth sores with drooling, or wheezing. The participant will not be admitted back into the program until staff is comfortable that the child can be included in the Program activities.
- e. If the child has been diagnosed with a communicable disease, until medical evaluation determines the child is no longer communicable.
- f. If the child vomited in the morning prior to coming to program.
- g. If the child has discolored nasal discharge.

Participants with extensive sunburns (open sores, blisters) will be allowed into the Program, but will not be allowed to participate in any swimming activities until the area is completely healed.

Participants with a communicable disease, such as pink eye or lice, may not attend the program. Participants showing symptoms of illness will be removed from common areas and the parent will be notified and asked to pick up the child. Participants with lice will be required to return a form, signed by the parent, stating an initial treatment and a follow up treatment for lice have been applied. The receipt or the product's label must be attached to the signed treatment form. Participants may not return to the program until this signed form is on file. A copy of the form may be found in the Supplement section or at the main office. Participants with reoccurring head lice may be removed from the program at the Coordinator's discretion.

Parents/legal guardian will be notified by phone if the participant becomes ill while at the program. If the parent cannot be reached, the emergency contact will be called. Any child experiencing a fever over 100.4 degrees, vomiting, diarrhea three times within two hours or contagious skin or eye infections will be removed from common areas and should be picked up within one hour of contact with the parent/legal guardian.

Parents/legal guardian must provide a written statement from a physician stating the child is free from contagious disease before returning to the program after a contagious illness. Medical information may be faxed to the Recreation Center at (972) 218-5607.

In the event of critical illness or injury, proper medical personnel and parents/legal guardian will be notified. At the discretion of the medical personnel, the child may be transported to an emergency room or clinic by ambulance or by the parent/legal guardian. Parents/legal guardian will be responsible for any expenses incurred with treatment or transportation.

Medication

The City of Lancaster Youth Programs will administer medicine only with written parental permission and will administer medication only as stated on the label directions or as amended by the physician. A medicine form must be completed for each prescription the child receives at the Program. Medicine forms are available at the main office of the Recreation Center and at each site.

Medications must be in their original container, labeled with child name, the date (if prescription), directions on how to administer and include the physician name (if prescription). Refrigeration of medication is not available. Inhalers and peak flows must have instruction on label. The City of Lancaster Youth Program staff will not administer any type of injection. Over-the-counter drugs will be administered only when accompanied by a medicine form, in the original container and by label direction only.

Parents/legal guardians are responsible for removing medication at the end of the Program or when child is withdrawn. Leaders are responsible for administering medication at the time indicated on medicine form. Medications and the completed form will be kept in lock bag with each group.

Youth Program Payments

Parents/legal guardians are responsible for paying fees as scheduled. Youth Program payments may be made at the Recreation Center by cash or credit card.

Non-payment of fees within two months will be turned over to a collection agency. Payments for special activities and field trips not included in a program's activity fee are to be paid in cash. This applies to all programs.

Transportation

The participant to staff ratio, as stated in the Standards of Care, will be adhered to at all times when transporting participants. Participants may be transported only by City vehicle or any vehicle designated by the City. Participants may not be transported to and from activities or home by staff's personal vehicles.

All children will wear seat belts while being transported with the exception of commercial vehicles that do not offer seat belts.

Field Trips

Parents/legal guardian will be asked to sign permission form for their child (ren) to attend special field trips. Please do not send large amounts of spending money with your child (ren) on field trips. The City is not responsible for items lost during field trips. Parents are discouraged from picking their child up during field trip activities.

Parent/Child Communication

When a parent needs to contact their child (ren) at the Program, for emergency reasons only, the parent must call the Recreation Center at (972) 218-3700. Recreation Center staff will contact the child's Leader to deliver the message.

Personal Property

Personal electronics (i.e. cell phones, ipods, mp3 players, video games systems, etc.) are strictly prohibited. If caught using personal electronics, they will be confiscated and may only be retrieved by a parent or guardian. Personal property or electronics are not the responsibility of Lancaster Recreation Staff.

Staff Code of Ethics

Program Leaders are expected to adhere to the City's Staff Code of Ethics, which includes not accepting gifts from participants or babysitting/socializing with participants outside of the Program. If staff members do not comply with this policy, they are subject to disciplinary procedures.

City of Lancaster
Parks & Recreation
Department



2013 - 2014
Summer Day Camp
Registration Packet



Lancaster Parks and Recreation Department
YOUTH PROGRAMS REGISTRATION FORM

Check program you are registering for:

☐ Holiday Camp

☐ Summer Day Camp

PLEASE COMPLETE ALL BLANK AREAS IN ORDER TO QUALIFY FOR PROGRAM(S)
(Please print or type)

Registration Date_____

Child's Name_____ Home #_____

Address_____ City, State_____ Zip_____

School Attending_____ Grade Entering_____

Age_____ Date of Birth____/____/____ Gender: ☐ Female ☐ Male

Mother/Legal Guardian Name_____ DL #_____

Address_____ City, State_____ Zip_____

Mother/Legal Guardian Workplace_____

Best Daytime #_____ Alternate Daytime #_____

Father/Legal Guardian Name_____ DL #_____

Address_____ City, State_____ Zip_____

Father/Legal Guardian Workplace_____

Best Daytime #_____ Alternate Daytime #_____

EMERGENCY CONTACTS/PERMISSION TO PICK UP CHILD:

Name_____ Relationship_____ DL #_____

Home #_____ Work #_____

Name_____ Relationship_____ DL #_____

Home #_____ Work #_____

Name_____ Relationship_____ DL #_____

Home #_____ Work #_____

ATTENDANCE AND TRANSPORTATION INFORMATION:

How will your child get home? (Check all that apply)

☐ Parent/Guardian ☐ Carpool ☐ Other If Other, please explain_____



**Lancaster Parks and Recreation Department
PROGRAMS MEDICAL AND AUTHORIZATION FORM**

EMERGENCY MEDICAL AUTHORIZATION

I, _____ as parent and/or legal guardian, do hereby release The City of Lancaster, its staff and volunteers, from liability in the case of an accident or injury to my child or ward:

Name _____ Age _____ Grade Entering _____

Further, in case of accident, injury or sudden illness, I authorize any first aid or emergency medical care that may become necessary for my child or ward while he or she is enrolled in any Lancaster Youth Program. I also authorize that my child or ward may be transported to a local medical facility. If I cannot be contacted in an EMERGENCY, I hereby give permission to the physician selected by the Program Coordinator to hospitalize, secure proper treatment for, and to order injection, anesthesia or surgery for my child or ward, named above. I understand I am financially responsible for any expenses incurred for medical care or transportation on my child's behalf. By executing this document, I hereby assume, on behalf of my child or ward, all risk of injury or loss to which he or she may be exposed.

Parent/Legal Guardian Signature

Date

EMERGENCY MEDICAL AUTHORIZATION

In the event of an EMERGENCY, individuals will be taken directly to the nearest hospital.

If applicable, Family Physician Name _____

Address _____ Phone # _____

Shot Record/Medical Record on file at School: ☐ Yes ☐ No Date _____

Please list any medical allergies, physical or behavioral conditions of your child: _____

Please explain special need/problems your child may have: _____

**AUTHORIZATIONS
(Initial all boxes that apply and sign below)**

_____ I understand that responsibility for my child will be assumed by Lancaster Youth Program only when he/she has checked in with an authorized staff member of the program.

_____ I authorize any Lancaster Youth Program to transport my child to and from Program activities and field trips.

_____ I acknowledge that the child described herein has permission to engage in all Program activities, except noted by me or family physician.

_____ I authorize the Youth Program to involve my child in appropriate water activities.

_____ I acknowledge receipt of the Lancaster Parks and Recreation Department "Standards of Care" for Youth Programs.

My signature below constitutes authorization for items initialed above.

Parent/Legal Guardian Signature

Date



**Lancaster Parks and Recreation Department
YOUTH PROGRAMS LIABILITY WAIVER**

Date: _____

Program: _____

Child's Name: _____

Age: _____

School Attending: _____ **Grade Entering:** _____

I understand that the activities in the Lancaster Parks and Recreation Department Youth Programs will include physical activity and exercise with the possibility of physical contact and bodily injury to my child or ward (named above), and that the Department, its staff and the City of Lancaster are not undertaking responsibility to see that the activities are free from risk of injury, loss or damage to person or property. I hereby assume all said risks for my child.

In consideration of the use and availability of services and facilities of the program site by my above named child or ward, I hereby agree to release, relieve, hold harmless, and indemnify the City, the Recreation Center, the Department, the Program, and their respective supervisors, Program Directors, Coordinators, leaders, agents, instructors and other employees from all liability and claims arising out of any accident or injury suffered or incurred by my above named child or ward at the Program site or while participating in any activity sponsored, organized or supervised by the Program except for acts of negligence of said responsible supervisors, directors, coordinators, leaders, agents, instructors or other employees.

Parent/Legal Guardian Signature

Date



Lancaster Parks and Recreation Department
YOUTH PROGRAM LATE PICK UP RECORD

Date_____

Parent's Name_____

Daytime #_____ Cell #_____

Child(ren)'s Name(s)_____

Circle One: 1st Incident 2nd Incident 3rd Incident

DATE _____

SIGNATURE _____

ARRIVAL TIME _____

REASON _____

AMOUNT PAID _____

STAFF INITIALS _____

Method of Payment: Cash, credit card or debit

First Incident: Warning, no charge

Subsequent Incidents: \$5.00 for each 10-minute period after 6:00 p.m.

Three incidents in a 30 day period may result in termination from the Program.

Non-payment of late pick up fees within one week may result in termination from the Program.

An appeals process is available and should be directed to the Recreation Superintendent at
(972) 218-3715



DAILY SITE INSPECTION – YOUTH PROGRAMS

Date _____ Site Inspected _____

General Weather Conditions: _____

Inspection Item	Good	Needed Action	Initials of Employee Checking
First Aid Kit Present & Stocked			
Fire Extinguisher Present & Charged			
Program & Participant Files Present			
Program Areas Clean & Safe			
Participant Check-in/Check-out Sheet Completed			
Bathrooms Clean/Stocked			
Program Supplies Present/Put Away			

Please specifically detail what actions were taken to address any of the inspection items that needed action:



Lancaster Parks and Recreation Department DAILY SITE INSPECTION – YOUTH PROGRAMS

Date _____ Site Inspected _____

General Weather Conditions: _____

Inspection Item	Good	Needed Action	Initials of Employee Checking
First Aid Kit Present & Stocked			
Fire Extinguisher Present & Charged			
Program & Participant Files Present			
Program Areas Clean & Safe			
Participant Check-in/Check-out Sheet Completed			
Bathrooms Clean/Stocked			
Program Supplies Present/Put Away			

Please specifically detail what actions were taken to address any of the inspection items that needed action:



Lancaster Parks and Recreation Department
BEHAVIORAL REPORT

Date: _____

Program: _____

Participant's Name _____ Age _____

Address _____ Home # _____

Description of Incident _____

Staff Comments _____

1st Offense _____

2nd Offense _____

Mandatory meeting with Recreation Supervisor
Notification of next Report result in one (1) week suspension

3rd Offense _____

Notification of effective suspension dates

4th Offense _____

Termination from Program

Patron's Signature

Site Supervisor's Signature

Parent/Legal Guardian Signature

Program Coordinator's Signature

Parent's Cell or Work Phone#: _____

HUMAN RESOURCES CODE

TITLE 2. DEPARTMENT OF HUMAN SERVICES AND DEPARTMENT OF PROTECTIVE AND REGULATORY SERVICES

SUBTITLE D. DEPARTMENT OF FAMILY AND PROTECTIVE SERVICES; CHILD WELFARE AND PROTECTIVE SERVICES

CHAPTER 42. REGULATION OF CERTAIN FACILITIES, HOMES, AND AGENCIES THAT PROVIDE CHILD-CARE SERVICES

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 42.001. PURPOSE. The purpose of this chapter is to protect the health, safety, and well-being of the children of the state who reside in child-care facilities by establishing statewide minimum standards for their safety and protection and by regulating the facilities through a licensing program. It is the policy of the state to ensure the protection of all children under care in child-care facilities and to encourage and assist in the improvement of child-care programs. It is also the intent of the legislature that freedom of religion of all citizens is inviolate. With respect to a school or child-care facility sponsored by a religious organization, nothing in this chapter gives a governmental agency authority to regulate, control, supervise, or in any way be involved in the:

(1) form, manner, or content of religious instruction, ministry, teaching, or the curriculum offered by the school or facility;

(2) ability of the school or facility to select and supervise qualified personnel, and otherwise control the terms of employment, including the right to employ individuals who share the religious views of the school or facility;

(3) internal self-governance and autonomy of the school or facility; or

(4) religious environment of the school or facility, such as symbols, art, icons, and scripture.

Acts 1979, 66th Leg., p. 2358, ch. 842, art. 1, Sec. 1, eff. Sept. 1, 1979. Amended by Acts 1997, 75th Leg., ch. 664, Sec. 2, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1063, Sec. 2, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 218, Sec. 1, eff. Sept. 1, 2001.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. [1406](#), Sec. 27, eff. September 1, 2007.

Sec. 42.002. DEFINITIONS. In this chapter:

(1) "Child" means a person under 18 years of age.

(2) "Division" means the division designated by the department to carry out the provisions of this chapter.

(3) "Child-care facility" means a facility licensed, certified, or registered by the department to provide assessment, care, training, education, custody, treatment, or supervision for a child who is not related by blood, marriage, or adoption to the owner or operator of the facility, for all or part of the 24-hour day, whether or not the facility is operated for profit or charges for the services it offers.

(4) "General residential operation" means a child-care facility that provides care for more than 12 children for 24 hours a day, including facilities known as children's homes, halfway houses, residential treatment centers, emergency shelters, and therapeutic camps.

(5) "Foster group home" means a child-care facility that provides care for 7 to 12 children for 24 hours a day.

(6) "Foster home" means a child-care facility that provides care for not more than six children for 24 hours a day.

(7) "Day-care center" means a child-care facility that provides care at a location other than the residence of the director, owner, or operator of the child-care facility for seven or more children under 14 years of age for less than 24 hours a day, but at least two hours a day, three or more days a week.

(8) "Group day-care home" means a child-care facility that provides care at the residence of the director, owner, or operator of the child-care facility for seven or more children under 14 years of age for less than 24 hours a day, but at least two hours a day, three or more days a week.

(9) "Family home" means a home that provides regular care in the caretaker's own residence for not more than six children under 14 years of age, excluding children who are related to the caretaker, and that provides care after school hours for not more than six additional elementary school children, but the total number of children, including children who are related to the caretaker, does not exceed 12 at any given time. The term does not include a home that provides care exclusively for any number of children who are related to the caretaker.

(10) "Agency foster group home" means a facility that provides care for seven to 12 children for 24 hours a day, is used only by a licensed child-placing agency, and meets department standards.

(11) "Agency foster home" means a facility that provides care for not more than six children for 24 hours a day, is used only by a licensed child-placing agency, and meets department standards.

(12) "Child-placing agency" means a person, including an organization, other than the natural parents or guardian of a child who plans for the placement of or

places a child in a child-care facility, agency foster home, agency foster group home, or adoptive home.

(13) "Facilities" includes child-care facilities and child-placing agencies.

(14) "State of Texas" or "state" does not include political subdivisions of the state.

(15) "Religious organization" means a church, synagogue, or other religious institution whose purpose is to support and serve the propagation of truly held religious beliefs.

(16) "Children who are related to the caretaker" means children who are the children, grandchildren, siblings, great-grandchildren, first cousins, nieces, or nephews of the caretaker, whether by affinity or consanguinity or as the result of a relationship created by court decree.

(17) "Regular care" means care that is provided at least:

(A) four hours a day, three or more days a week, for three or more consecutive weeks; or

(B) four hours a day for 40 or more days in a period of 12 months.

(18) "Controlling person" means a person who, either alone or in connection with others, has the ability to directly or indirectly influence or direct the management, expenditures, or policies of a facility or family home.

(19) "Residential child-care facility" means a facility licensed or certified by the department that operates for all of the 24-hour day. The term includes general residential operations, child-placing agencies, foster group homes, foster homes, agency foster group homes, and agency foster homes.

(20) "Before-school or after-school program" means a child-care facility that provides care before or after, or before and after, the customary school day and

during school holidays, for at least two hours a day, three days a week, to children who attend prekindergarten through grade six.

(21) "School-age program" means a child-care facility that provides supervision, along with recreation or skills instruction or training, and may provide transportation, before or after the customary school day, for at least two hours a day, three days a week, to children attending prekindergarten through grade six. A school-age program may also operate during school holidays, the summer period, or any other time when school is not in session.

(22) "Children's product" means a product that is designed or intended to be used by a child under 13 years of age or used by a caregiver during the care of a child under 13 years of age. The term does not include:

(A) an item that is not designed or intended to be used solely or primarily by a child under 13 years of age or in the care of a child under 13 years of age;

(B) a medication, a drug, food, or another item that is intended to be ingested; or

(C) clothing.

(23) "Other maltreatment" means:

(A) abuse, as defined by Section 261.001 or 261.401, Family Code; or

(B) neglect, as defined by Section 261.001 or 261.401, Family Code.

Acts 1979, 66th Leg., p. 2359, ch. 842, art. 1, Sec. 1, eff. Sept. 1, 1979. Amended by Acts 1981, 67th Leg., p. 2812, ch. 759, Sec. 1, eff. Aug. 31, 1981; Acts 1987, 70th Leg., ch. 1052, Sec. 4.01, eff. Sept. 1, 1987; Acts 1989, 71st Leg., ch. 984, Sec. 1, eff. June 15, 1989; Acts 1997, 75th Leg., ch. 1022, Sec. 23, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1063, Sec. 3, eff. Sept. 1, 1997;

Acts 1997, 75th Leg., ch. 1217, Sec. 1, eff. Sept. 1, 1997;
Acts 2001, 77th Leg., ch. 218, Sec. 2, eff. Sept. 1, 2001.
Amended by:

Acts 2005, 79th Leg., Ch. [268](#), Sec. 1.90, eff.
September 1, 2005.

Acts 2009, 81st Leg., R.S., Ch. [46](#), Sec. 1, eff.
September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. [720](#), Sec. 2, eff.
September 1, 2009.

Acts 2011, 82nd Leg., R.S., Ch. [91](#), Sec. 27.001(34),
eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. [1082](#), Sec. 1, eff.
September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. [1323](#), Sec. 3, eff.
June 17, 2011.

Sec. 42.003. REFERENCE TO CHILD-CARE INSTITUTION. A
reference in law to a "child-care institution" means a
general residential operation.

Added by Acts 2009, 81st Leg., R.S., Ch. [720](#), Sec. 3, eff.
September 1, 2009.

SUBCHAPTER B. ADMINISTRATIVE PROVISIONS

Sec. 42.021. DIVISION DESIGNATED. (a) The
department may designate a division within the department
to carry out responsibilities the department may delegate
or assign under this chapter. The department shall ensure
the independence of the division from the child protective
services division.

(b) The commissioner shall appoint as director of a
division designated under Subsection (a) a person who meets
the qualifications set by the executive commissioner. The
commissioner shall ensure the director's independence from
the child protective services division and may not

terminate the director without the approval of the executive commissioner.

(c) The department shall employ sufficient personnel and provide training for the personnel to carry out the provisions of this chapter.

(d) The commissioner may divide the state into regions for the purpose of administering this chapter.

Acts 1979, 66th Leg., p. 2360, ch. 842, art. 1, Sec. 1, eff. Sept. 1, 1979. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 8.020, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1063, Sec. 4, eff. Sept. 1, 1997.

Amended by:

Acts 2005, 79th Leg., Ch. [268](#), Sec. 1.91, eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. [1406](#), Sec. 28, eff. September 1, 2007.

Sec. 42.0211. SAFETY SPECIALISTS, RISK ANALYSTS, AND PERFORMANCE MANAGEMENT. (a) The division shall employ at least one specially trained investigation safety specialist, whose duties include the duty to:

(1) review and evaluate the intake of reports that include allegations associated with a higher risk of harm to the child; and

(2) consult with the assigned investigator to provide specialized guidance and resources to assist the investigation.

(b) The division shall employ at least one risk analyst, whose duties include the duty to:

(1) identify facilities, including child-placing agencies, whose compliance histories indicate the potential for a higher risk of harm to children in the care of the facility;

(2) review the monitoring and inspection reports for any facilities described by Subdivision (1) to assess the quality of the investigation or monitoring; and

(3) identify any additional monitoring or enforcement action that may be appropriate to ensure the safety of a child in the care of the facility.

(c) The division must include a performance management unit with duties that include:

(1) conducting quality assurance reviews of randomly selected monitoring and investigative reports to ensure compliance with all relevant laws, rules, and agency policies; and

(2) making recommendations to improve the quality and consistency of monitoring and investigations.

Added by Acts 2007, 80th Leg., R.S., Ch. [1406](#), Sec. 29(a), eff. September 1, 2007.

Sec. 42.0221. COMMITTEE ON LICENSING STANDARDS. (a) The committee on licensing standards is composed of seven members appointed by the governor as follows:

(1) one member who operates a residential child-care facility licensed by the department;

(2) one member who operates a child-placing agency licensed by the department;

(3) one member who operates a licensed child-care facility that provides care for children for less than 24 hours a day;

(4) one member who is a parent, guardian, or custodian of a child who uses a facility licensed by the department;

(5) one member who is an expert in the field of child care and child development; and

(6) two members employed by the department who work with facilities licensed by the department.

(b) Members of the committee serve two-year terms, with the terms of three or four members, as appropriate, expiring February 1 of each year.

(c) The governor shall designate a member of the committee to serve as the presiding officer.

(d) The committee shall meet twice a year at the call of the presiding officer.

(e) The committee shall review and analyze the information provided by the department and committee members and shall make recommendations for policy and statutory changes relating to licensing standards and facility inspections. The review and analysis by the committee shall include the analysis of:

(1) the deaths of children who are in substitute care, including reports and findings of child fatality review teams under Subchapter F, Chapter 264, Family Code;

(2) the types of licensing violations for each weighted risk and region;

(3) the details of administrative reviews and appeals; and

(4) the type of technical assistance provided and the qualifications of those providing technical assistance.

(f) The committee shall report its findings and recommendations to the department and the legislature not later than December 1 of each year.

Added by Acts 2007, 80th Leg., R.S., Ch. [1406](#), Sec. 30, eff. September 1, 2007.

Sec. 42.023. ANNUAL REPORT. (a) The department shall prepare an annual written report regarding the department's activities under this chapter.

(b) The annual report shall include:

(1) a report by regions of applications for licensure or certification, of initial licenses issued,

denied, or revoked, of licenses issued, denied, suspended or revoked, of emergency closures and injunctions, and of the compliance of state-operated agencies, if such agencies exist, with certification requirements;

(2) a summary of the training programs required by the department and their effectiveness;

(3) a summary of training and other professional development opportunities offered to facilities' staffs;

(4) a report of new administrative procedures, of the number of staff and staff changes, and of plans for the coming year; and

(5) a report of trends in licensing violations on a statewide and regional basis and the department's plans to address those trends through the provision of technical assistance.

(c) Copies of the annual report shall be available to any state citizen on request.

Acts 1979, 66th Leg., p. 2360, ch. 842, art. 1, Sec. 1, eff. Sept. 1, 1979. Amended by Acts 1985, 69th Leg., ch. 18, Sec. 2, eff. April 3, 1985; Acts 1995, 74th Leg., ch. 76, Sec. 8.022, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1063, Sec. 6, eff. Sept. 1, 1997.

Amended by:

Acts 2005, 79th Leg., Ch. [268](#), Sec. 1.92, eff. September 1, 2005.

Sec. 42.024. ADMINISTRATIVE PROCEDURE. Chapter 2001, Government Code applies to all procedures under this chapter except where it is contrary to or inconsistent with the provisions of this chapter.

Acts 1979, 66th Leg., p. 2361, ch. 842, art. 1, Sec. 1, eff. Sept. 1, 1979. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.95(49), eff. Sept. 1, 1995.

SUBCHAPTER C. REGULATION OF CERTAIN FACILITIES, HOMES, AND
AGENCIES

Sec. 42.041. REQUIRED LICENSE. (a) No person may operate a child-care facility or child-placing agency without a license issued by the department.

(b) This section does not apply to:

(1) a state-operated facility;

(2) an agency foster home or agency foster group home;

(3) a facility that is operated in connection with a shopping center, business, religious organization, or establishment where children are cared for during short periods while parents or persons responsible for the children are attending religious services, shopping, or engaging in other activities, including retreats or classes for religious instruction, on or near the premises, that does not advertise as a child-care facility or day-care center, and that informs parents that it is not licensed by the state;

(4) a school or class for religious instruction that does not last longer than two weeks and is conducted by a religious organization during the summer months;

(5) a youth camp licensed by the Department of State Health Services;

(6) a facility licensed, operated, certified, or registered by another state agency;

(7) an educational facility that is accredited by the Texas Education Agency, the Southern Association of Colleges and Schools, or an accreditation body that is a member of the Texas Private School Accreditation Commission and that operates primarily for educational purposes for prekindergarten and above, a before-school or after-school program operated directly by an accredited educational facility, or a before-school or after-school program operated by another entity under contract with the

educational facility, if the Texas Education Agency, the Southern Association of Colleges and Schools, or the other accreditation body, as applicable, has approved the curriculum content of the before-school or after-school program operated under the contract;

(8) an educational facility that operates solely for educational purposes for prekindergarten through at least grade two, that does not provide custodial care for more than one hour during the hours before or after the customary school day, and that is a member of an organization that promulgates, publishes, and requires compliance with health, safety, fire, and sanitation standards equal to standards required by state, municipal, and county codes;

(9) a kindergarten or preschool educational program that is operated as part of a public school or a private school accredited by the Texas Education Agency, that offers educational programs through grade six, and that does not provide custodial care during the hours before or after the customary school day;

(10) a family home, whether registered or listed;

(11) an educational facility that is integral to and inseparable from its sponsoring religious organization or an educational facility both of which do not provide custodial care for more than two hours maximum per day, and that offers an educational program in one or more of the following: prekindergarten through at least grade three, elementary grades, or secondary grades;

(12) an emergency shelter facility providing shelter to minor mothers who are the sole support of their natural children under Section 32.201, Family Code, unless the facility would otherwise require a license as a child-care facility under this section;

(13) a juvenile detention facility certified under Section 51.12, Family Code, a juvenile correctional

facility certified under Section 51.125, Family Code, a juvenile facility providing services solely for the Texas Youth Commission, or any other correctional facility for children operated or regulated by another state agency or by a political subdivision of the state;

(14) an elementary-age (ages 5-13) recreation program operated by a municipality provided the governing body of the municipality annually adopts standards of care by ordinance after a public hearing for such programs, that such standards are provided to the parents of each program participant, and that the ordinances shall include, at a minimum, staffing ratios, minimum staff qualifications, minimum facility, health, and safety standards, and mechanisms for monitoring and enforcing the adopted local standards; and further provided that parents be informed that the program is not licensed by the state and the program may not be advertised as a child-care facility;

(15) an annual youth camp held in a municipality with a population of more than 1.5 million that operates for not more than three months and that has been operated for at least 10 years by a nonprofit organization that provides care for the homeless;

(16) a food distribution program that:

(A) serves an evening meal to children two years of age or older; and

(B) is operated by a nonprofit food bank in a nonprofit, religious, or educational facility for not more than two hours a day on regular business days;

(17) a child-care facility that operates for less than three consecutive weeks and less than 40 days in a period of 12 months;

(18) a program:

(A) in which a child receives direct instruction in a single skill, talent, ability, expertise, or proficiency;

(B) that does not provide services or offerings that are not directly related to the single talent, ability, expertise, or proficiency;

(C) that does not advertise or otherwise represent that the program is a child-care facility, day-care center, or licensed before-school or after-school program or that the program offers child-care services;

(D) that informs the parent or guardian:

(i) that the program is not licensed by the state; and

(ii) about the physical risks a child may face while participating in the program; and

(E) that conducts background checks for all program employees and volunteers who work with children in the program using information that is obtained from the Department of Public Safety;

(19) an elementary-age (ages 5-13) recreation program that:

(A) adopts standards of care, including standards relating to staff ratios, staff training, health, and safety;

(B) provides a mechanism for monitoring and enforcing the standards and receiving complaints from parents of enrolled children;

(C) does not advertise as or otherwise represent the program as a child-care facility, day-care center, or licensed before-school or after-school program or that the program offers child-care services;

(D) informs parents that the program is not licensed by the state;

(E) is organized as a nonprofit organization or is located on the premises of a participant's residence;

(F) does not accept any remuneration other than a nominal annual membership fee;

(G) does not solicit donations as compensation or payment for any good or service provided as part of the program; and

(H) conducts background checks for all program employees and volunteers who work with children in the program using information that is obtained from the Department of Public Safety;

(20) a living arrangement in a caretaker's home involving one or more children or a sibling group, excluding children who are related to the caretaker, in which the caretaker:

(A) had a prior relationship with the child or sibling group or other family members of the child or sibling group;

(B) does not care for more than one unrelated child or sibling group;

(C) does not receive compensation or solicit donations for the care of the child or sibling group; and

(D) has a written agreement with the parent to care for the child or sibling group;

(21) a living arrangement in a caretaker's home involving one or more children or a sibling group, excluding children who are related to the caretaker, in which:

(A) the department is the managing conservator of the child or sibling group;

(B) the department placed the child or sibling group in the caretaker's home; and

(C) the caretaker had a long-standing and significant relationship with the child or sibling group before the child or sibling group was placed with the caretaker; or

(22) a living arrangement in a caretaker's home involving one or more children or a sibling group, excluding children who are related to the caretaker, in

which the child is in the United States on a time-limited visa under the sponsorship of the caretaker or of a sponsoring organization.

(b-1) Repealed by Acts 2009, 81st Leg., R.S., Ch. 720, Sec. 19(1), eff. September 1, 2009.

(c) A single license that lists addresses and the appropriate facilities may be issued to a general residential operation that operates noncontiguous facilities that are across the street from, in the same city block as, or on the same property as one another and that are demonstrably a single operation as indicated by patterns of staffing, finance, administrative supervision, and programs.

(d) A facility exempt from the provisions of Subsection (a) of this section that desires to receive or participate in federal or state funding shall be required to comply with all other provisions of this chapter and with all regulations promulgated under this chapter.

(e) The exemptions provided by Subsection (b) of this section do not affect the authority of local, regional, or state health department officials, the state fire marshal, or local fire prevention officials to inspect child-care facilities.

Text of subsection as added by Acts 2011, 82nd Leg., R.S.,
Ch. [343](#), Sec. 1

(f) A child-care facility that is exempt under Subsection (b)(3) from the licensing requirement of Subsection (a) may provide care for each child at the child-care facility for not more than 15 hours a week if the child-care facility:

(1) provides the child care so that a person may attend an educational class provided by a nonprofit entity; and

(2) is located in a county with a population of 800,000 or more that is adjacent to an international border.

Text of subsection as added by Acts 2011, 82nd Leg., R.S.,
Ch. [1082](#), Sec. 2

(f) Notwithstanding the requirements of Subsection (b)(14), a municipality that operates an elementary-age (ages 5-13) recreation program may, in lieu of an annual public hearing, accept public comment through the municipality's Internet website for at least 30 days before the municipality adopts standards of care by ordinance if the municipality:

- (1) has a population of 300,000 or more; and
- (2) has held at least two annual public hearings on the standards of care and adopted standards of care by ordinance after those public hearings.

Acts 1979, 66th Leg., p. 2361, ch. 842, art. 1, Sec. 1, eff. Sept. 1, 1979. Amended by Acts 1981, 67th Leg., p. 2812, ch. 759, Sec. 2, 3, eff. Aug. 31, 1981; Acts 1987, 70th Leg., ch. 1052, Sec. 4.03, eff. Sept. 1, 1987; Acts 1987, 70th Leg., ch. 1115, Sec. 2, eff. June 19, 1987; Acts 1995, 74th Leg., ch. 262, Sec. 54, eff. Jan. 1, 1996; Acts 1995, 74th Leg., ch. 847, Sec. 1, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 165, Sec. 7.46, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 664, Sec. 3, 4, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1063, Sec. 7, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1217, Sec. 2, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 218, Sec. 3, eff. Sept. 1, 2001.

Amended by:

Acts 2005, 79th Leg., Ch. [268](#), Sec. 1.93(a), eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. [263](#), Sec. 25, eff. June 8, 2007.

Acts 2007, 80th Leg., R.S., Ch. [1037](#), Sec. 1, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. [1414](#), Sec. 1, eff. September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. [720](#), Sec. 4, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. [720](#), Sec. 5, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. [720](#), Sec. 19(1), eff. September 1, 2009.

Acts 2011, 82nd Leg., R.S., Ch. [343](#), Sec. 1, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. [1082](#), Sec. 2, eff. September 1, 2011.

Sec. 42.042. RULES AND STANDARDS. (a) The department shall make rules to carry out the provisions of this chapter.

(b) The department shall conduct a comprehensive review of all rules and standards at least every six years. For purposes of this subsection, the six-year period begins on the latest of the date of:

(1) the conclusion of the review of the rules and standards;

(2) a decision by the department not to revise the rules and standards;

(3) a decision by the board not to revise the rules and standards; or

(4) board action adopting new standards.

(c) The department shall provide a standard procedure for receiving and recording complaints. The executive commissioner shall adopt rules regarding the receipt of anonymous complaints made regarding child-care facilities

and family homes to limit the number of anonymous complaints investigated by the department.

(d) The department shall provide standard forms for applications and inspection reports.

(e) The department shall promulgate minimum standards that apply to licensed child-care facilities and to registered family homes covered by this chapter and that will:

(1) promote the health, safety, and welfare of children attending a facility or registered family home;

(2) promote safe, comfortable, and healthy physical facilities and registered family homes for children;

(3) ensure adequate supervision of children by capable, qualified, and healthy personnel;

(4) ensure adequate and healthy food service where food service is offered;

(5) prohibit racial discrimination by child-care facilities and registered family homes;

(6) require procedures for parental and guardian consultation in the formulation of children's educational and therapeutic programs;

(7) prevent the breakdown of foster care and adoptive placement; and

(8) ensure that a child-care facility or registered family home:

(A) follows the directions of a child's physician or other health care provider in providing specialized medical assistance required by the child; and

(B) maintains for a reasonable time a copy of any directions from the physician or provider that the parent provides to the facility or home.

(e-1) The department may not prohibit possession of lawfully permitted firearms and ammunition in a foster home of any type, including a foster group home, a foster home, an agency foster group home, and an agency foster

home. Minimum standards may be adopted under this section relating to safety and proper storage of firearms and ammunition, including standards requiring firearms and ammunition to be stored separately in locked locations.

(e-2) The department may not prohibit the foster parent of a child who resides in the foster family's home from transporting the child in a vehicle where a handgun is present if the handgun is in the possession and control of the foster parent and the foster parent is licensed to carry the handgun under Subchapter H, Chapter 411, Government Code.

(f) In promulgating minimum standards for the provision of child-care services, the department shall recognize the various categories of services, including services for specialized care, the various categories of children and their particular needs, and the differences in the organization and operation of child-care facilities and general residential operations. Standards for general residential operations must require an intake study before a child is placed in an operation. The intake study may be conducted at a community mental health and mental retardation center.

(g) In promulgating minimum standards the department may recognize and treat differently the types of services provided by the following:

- (1) registered family homes;
- (2) child-care facilities, including general residential operations, foster group homes, foster homes, group day-care homes, and day-care centers;
- (3) child-placing agencies;
- (4) agency foster homes;
- (5) agency foster group homes;
- (6) before-school or after-school programs; and
- (7) school-age programs.

(g-1) In determining and enforcing minimum standards for a school-age program, the department shall consider

commonly accepted training methods for the development of a skill, talent, ability, expertise, or proficiency that are implemented with the consent of the parent or guardian of the participant and that are fundamental to the core purpose of the program.

(g-2) Repealed by Acts 2011, 82nd Leg., R.S., Ch. 1082, Sec. 16(2), eff. September 1, 2012.

(h) The department shall promulgate minimum standards for child-placing agencies.

(h-1) The executive commissioner shall adopt rules governing:

(1) the placement and care of children by a child-placing agency, as necessary to ensure the health and safety of those children;

(2) the verification and monitoring of agency foster homes, agency foster group homes, and adoptive homes by a child-placing agency; and

(3) if appropriate, child-placing agency staffing levels, office locations, and administration.

(i) Before adopting minimum standards, the department shall:

(1) convene a temporary work group to advise the department regarding the proposed standards, composed of at least six members who represent the diverse geographic regions of this state, including:

(A) a department official designated by the commissioner to facilitate the work group's activities;

(B) a person with demonstrated expertise or knowledge regarding the different types and classifications of child-care facilities, homes, agencies, or programs that will be covered by the proposed standards;

(C) a parent with experience related to one of the different types or classifications of child-care facilities, homes, agencies, or programs that will be covered by the proposed standards; and

(D) a representative of a nonprofit entity licensed under this chapter; and

(2) send a copy of the proposed standards to each licensee covered by the proposed standards at least 60 days before the standards take effect to provide the licensee an opportunity to review and to send written suggestions to the department.

(j) The department may waive compliance with a minimum standard in a specific instance if it determines that the economic impact of compliance is sufficiently great to make compliance impractical.

(k) The department may not regulate or attempt to regulate or control the content or method of any instruction or curriculum of a school sponsored by a religious organization.

(l) In promulgating minimum standards for the regulation of family homes that register with the department, the department must address the minimum qualifications, education, and training required of a person who operates a family home registered with the department.

(m) In determining minimum standards relating to staff-to-child ratios, group sizes, or square footage requirements applicable to nonresidential child-care facilities that provide care for less than 24 hours a day, the department shall, within available appropriations, conduct a comprehensive cost-benefit analysis and economic impact study that includes families and licensed child-care providers.

(n) Not later than the 60th day before the date the board adopts a revision to the minimum standards for child-care facilities, the department shall present the revision to the appropriate legislative oversight committees that have jurisdiction over child-care facilities for review and comment.

(p) The department by rule shall prescribe minimum training standards for an employee of a regulated child-care facility, including the time required for completing the training. The department may not require an employee to repeat required training if the employee has completed the training within the time prescribed by department rule. The department's local offices shall make available at the local office locations a copy of the rules regarding minimum training standards, information enabling the owner or operator of a regulated facility to apply for training funds from other agencies to lower facility costs, and any other materials the department may develop to assist the owner or operator or other entity in providing the training.

(q) Each residential child-care facility shall notify the department and the appropriate local law enforcement agency immediately on determining that a child is missing from the facility.

(r) A residential child-care facility that provides emergency services may temporarily exceed the facility's capacity for not more than 48 hours to provide temporary care for a child in an emergency. The facility shall notify the department within 24 hours of the placement that the facility temporarily exceeded the facility's capacity.

Acts 1979, 66th Leg., p. 2362, ch. 842, art. 1, Sec. 1, eff. Sept. 1, 1979. Amended by Acts 1987, 70th Leg., ch. 1052, Sec. 4.04, eff. Sept. 1, 1987; Acts 1995, 74th Leg., ch. 920, Sec. 10, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1022, Sec. 24, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1063, Sec. 7, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1121, Sec. 1, eff. June 19, 1997; Acts 1997, 75th Leg., ch. 1217, Sec. 3, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1129, Sec. 1, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 218, Sec. 4, eff. Sept. 1, 2001. Amended by:

Acts 2005, 79th Leg., Ch. [268](#), Sec. 1.94(a), eff. September 1, 2005.

Acts 2005, 79th Leg., Ch. [526](#), Sec. 1, eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. [366](#), Sec. 1, eff. June 15, 2007.

Acts 2007, 80th Leg., R.S., Ch. [1406](#), Sec. 31, eff. September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. [720](#), Sec. 6, eff. September 1, 2009.

Acts 2011, 82nd Leg., R.S., Ch. [471](#), Sec. 2, eff. June 17, 2011.

Acts 2011, 82nd Leg., R.S., Ch. [1082](#), Sec. 16(2), eff. September 1, 2012.

Acts 2011, 82nd Leg., R.S., Ch. [1300](#), Sec. 1, eff. June 17, 2011.

Sec. 42.0421. MINIMUM TRAINING STANDARDS. (a) The minimum training standards prescribed by the department under Section 42.042(p) for an employee, director, or operator of a day-care center, group day-care home, or registered family home must include:

(1) 24 hours of initial training that must be completed not later than the 90th day after the employee's first day of employment for an employee of a day-care center who has no previous training or less than two years of employment experience in a regulated child-care facility, eight hours of which must be completed before the employee is given responsibility for a group of children;

(2) 24 hours of annual training for each employee of a day-care center or group day-care home, excluding the director, which must include at least six hours of training in one or more of the following areas:

(A) child growth and development;

(B) guidance and discipline;

- (C) age-appropriate curriculum; and
- (D) teacher-child interaction; and
- (3) 30 hours of annual training for each director of a day-care center or group day-care home, or operator of a registered family home, which must include at least six hours of training in one or more of the following areas:

- (A) child growth and development;
- (B) guidance and discipline;
- (C) age-appropriate curriculum; and
- (D) teacher-child interaction.

(b) The minimum training standards prescribed by the department under Section 42.042(p) must require an employee of a licensed day-care center or group day-care home who provides care for children younger than 24 months of age to receive special training regarding the care of those children. The special training must be included as a component of the initial training required by Subsection (a)(1) and as a one-hour component of the annual training required by Subsections (a)(2) and (a)(3). The special training must include information on:

- (1) recognizing and preventing shaken baby syndrome;
 - (2) preventing sudden infant death syndrome;
- and
- (3) understanding early childhood brain development.

(c) The department by rule shall require an operator of a registered family home who provides care for a child younger than 24 months of age to complete one hour of annual training on:

- (1) recognizing and preventing shaken baby syndrome;
 - (2) preventing sudden infant death syndrome;
- and

(3) understanding early childhood brain development.

(d) Section 42.042(m) does not apply to the minimum training standards required by this section.

(e) In addition to other training required by this section, the department by rule shall require an owner, operator, or employee of a day-care center, group day-care home, registered family home, child-care institution, foster group home, or agency foster group home who transports a child under the care of the facility whose chronological or developmental age is younger than nine years of age to complete at least two hours of annual training on transportation safety.

Text of subsection as added by Acts 2011, 82nd Leg., R.S.,
Ch. [882](#), Sec. 1

(f) In adopting the minimum training standards under Section 42.042(p), the department may not require more training hours than the number of hours prescribed by Subsection (a) for a day-care center, group day-care home, or a registered family home.

Text of subsection as added by Acts 2011, 82nd Leg., R.S.,
Ch. [82](#), Sec. 1

(f) The training required by this section must be appropriately targeted and relevant to the age of the children who will receive care from the individual receiving training and must be provided by a person who:

(1) is a training provider registered with the Texas Early Care and Education Career Development System's Texas Trainer Registry that is maintained by the Texas Head Start State Collaboration Office;

(2) is an instructor at a public or private secondary school or at a public or private institution of higher education, as defined by Section 61.801, Education Code, who teaches early childhood development or another relevant course, as determined by rules adopted by the commissioner of education and the commissioner of higher education;

(3) is an employee of a state agency with relevant expertise;

(4) is a physician, psychologist, licensed professional counselor, social worker, or registered nurse;

(5) holds a generally recognized credential or possesses documented knowledge relevant to the training the person will provide;

(6) is a registered family home care provider or director of a day-care center or group day-care home in good standing with the department, if applicable, and who:

(A) has demonstrated core knowledge in child development and caregiving; and

(B) is only providing training at the home or center in which the provider or director and the person receiving training are employed; or

(7) has at least two years of experience working in child development, a child development program, early childhood education, a childhood education program, or a Head Start or Early Head Start program and:

(A) has been awarded a Child Development Associate (CDA) credential; or

(B) holds at least an associate's degree in child development, early childhood education, or a related field.

Text of subsection as added by Acts 2011, 82nd Leg., R.S.,
Ch. [882](#), Sec. 1

(g) The executive commissioner by rule shall adopt minimum training standards for before-school or after-school and school-age programs as required by Section 42.042(p). In adopting minimum training standards for before-school or after-school and school-age programs under this subsection, the executive commissioner may not require more initial or annual training hours than the number of hours required by Subsection (a) immediately before September 1, 2011.

Text of subsection as added by Acts 2011, 82nd Leg., R.S.,
Ch. [82](#), Sec. 1

(g) A person described by Subsection (f)(6) may provide training under this section only if the department has not taken an action under Section 42.071, 42.072, or 42.078, other than an evaluation, against the license, listing, or registration of the person or the home or center for which the person is a provider or director during the two-year period preceding the date on which the person provides the training.

Added by Acts 1999, 76th Leg., ch. 1211, Sec. 1, eff. Jan. 1, 2000. Amended by Acts 2001, 77th Leg., ch. 169, Sec. 1, eff. Sept. 1, 2001.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. [748](#), Sec. 2, eff. September 1, 2009.

Acts 2011, 82nd Leg., R.S., Ch. [82](#), Sec. 1, eff. January 1, 2012.

Acts 2011, 82nd Leg., R.S., Ch. [882](#), Sec. 1, eff. September 1, 2011.

Sec. 42.0422. RESTRAINT AND SECLUSION. A person providing services to a resident of a general residential

operation, including a state-operated facility that is a residential treatment center or a general residential operation serving children with mental retardation, shall comply with Chapter 322, Health and Safety Code, and the rules adopted under that chapter.

Added by Acts 2005, 79th Leg., Ch. [698](#), Sec. 7, eff. September 1, 2005.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. [720](#), Sec. 7, eff. September 1, 2009.

Sec. 42.0423. CHILDREN'S PRODUCT SAFETY FOR CERTAIN NONRESIDENTIAL CHILD-CARE FACILITIES. (a) This section applies only to a licensed day-care center, licensed group day-care home, or registered family home.

(b) A children's product is presumed to be unsafe for purposes of this section if it has been recalled for any reason by the United States Consumer Product Safety Commission and the recall has not been rescinded.

(c) A children's product that has been recalled for any reason by the United States Consumer Product Safety Commission is not presumed to be unsafe if the product has been remanufactured or retrofitted so that the product is safe.

(d) The department shall include on its public Internet website a link to the United States Consumer Product Safety Commission's Internet website.

(e) A child-care facility subject to this section may not use an unsafe children's product or have an unsafe children's product on the premises of the child-care facility unless:

(1) the product is an antique or collectible children's product and is not used by, or accessible to, any child in the child-care facility; or

(2) the unsafe children's product is being retrofitted to make it safe and the product is not used by, or accessible to, any child in the child-care facility.

(f) The department shall notify a child-care facility subject to this section of the provisions of this section in plain, nontechnical language that will enable the child-care facility to effectively inspect the children's products at the facility and identify unsafe children's products. The department shall provide the notice required by this subsection:

(1) during the department's pre-application interview for a license, registration, or certification; and

(2) during an inspection.

(g) At least annually, each child-care facility subject to this section shall certify in writing that the facility has reviewed each of the bulletins and notices issued by the United States Consumer Product Safety Commission regarding unsafe children's products and that there are no unsafe products in the facility except products described by Subsection (e). The facility shall retain the certification form completed by each facility in the facility's licensing file.

(h) The executive commissioner of the Health and Human Services Commission shall adopt rules and forms necessary to implement this section.

Added by Acts 2009, 81st Leg., R.S., Ch. [46](#), Sec. 2, eff. September 1, 2009.

Sec. 42.0425. ASSESSMENT SERVICES. (a) The department by rule shall regulate assessment services provided by child-care facilities or child-placing agencies. A child-care facility or child-placing agency may not provide assessment services unless specifically authorized by the department.

(b) The department by rule shall establish minimum standards for assessment services. The standards must provide that consideration is given to the individual needs of a child, the appropriate place for provision of services, and the factors listed in Section 42.042(e).

(c) In this section, "assessment services" means the determination of the placement needs of a child who requires substitute care.

Added by Acts 1997, 75th Leg., ch. 1022, Sec. 25, eff. Sept. 1, 1997.

Sec. 42.0426. TRAINING OF PERSONNEL. (a) A licensed facility shall provide training for staff members in:

(1) the recognition of symptoms of child abuse, neglect, and sexual molestation and the responsibility and procedure of reporting suspected occurrences of child abuse, neglect, and sexual molestation to the department or other appropriate entity;

(2) the application of first aid; and

(3) the prevention and spread of communicable diseases.

(b) A residential child-care facility shall implement a behavior intervention program approved by the department for the benefit of a child served by the facility who needs assistance in managing the child's conduct. The program must include:

(1) behavior intervention instruction for staff members who work directly with children served by the facility; and

(2) training for all employees regarding the risks associated with the use of prone restraints.

(c) Not later than the seventh day after the date an employee begins employment at a day-care center, group day-care home, or registered family home, the employee must complete an orientation to the facility.

Added by Acts 1997, 75th Leg., ch. 1022, Sec. 25, eff.
Sept. 1, 1997.

Amended by:

Acts 2005, 79th Leg., Ch. [268](#), Sec. 1.95, eff.
September 1, 2005.

Acts 2011, 82nd Leg., R.S., Ch. [882](#), Sec. 2, eff.
September 1, 2011.

Sec. 42.04261. OTHER TRAINING OF PERSONNEL: CHILD-
PLACING AGENCIES AND DAY-CARE CENTERS.

(a) Notwithstanding Section 42.0426(a)(1), a child-placing agency or day-care center shall provide training for staff members in prevention techniques for and the recognition of symptoms of sexual abuse and other maltreatment of children and the responsibility and procedure of reporting suspected occurrences of sexual abuse and other maltreatment of children to the department or other appropriate entity.

(b) The type of training required under Subsection (a) shall be determined by department rule. The training must be provided for at least an hour annually and must include training concerning:

(1) factors indicating a child is at risk for sexual abuse or other maltreatment;

(2) likely warning signs indicating a child may be a victim of sexual abuse or other maltreatment;

(3) internal procedures for reporting sexual abuse or other maltreatment; and

(4) community organizations that have existing training programs that are able to provide training or other education for child-placing agency or day-care center staff members, children, and parents.

(c) If a child-placing agency or day-care center determines that it does not have sufficient resources to provide the training required under this section, the agency or center may contact a department licensing

employee to obtain information concerning community organizations that will provide such training at no cost to the agency or center.

Added by Acts 2011, 82nd Leg., R.S., Ch. [1323](#), Sec. 4, eff. June 17, 2011.

Sec. 42.0427. PARENTAL VISITATION. All areas of a licensed facility must be accessible to a parent of a child who is receiving care at the facility if the parent visits the child during the facility's hours of operation.

Added by Acts 1997, 75th Leg., ch. 1022, Sec. 25, eff. Sept. 1, 1997.

Sec. 42.0428. POLICIES ADDRESSING SEXUAL ABUSE AND OTHER MALTREATMENT OF CHILDREN. (a) Each child-placing agency or day-care center shall adopt and implement a policy addressing sexual abuse and other maltreatment of children.

(b) A policy required by this section must address:

(1) methods for increasing child-placing agency and day-care center staff and parent awareness of issues regarding and prevention techniques for sexual abuse and other maltreatment of children, including knowledge of likely warning signs indicating that a child may be a victim of sexual abuse or other maltreatment; and

(2) actions that, after contacting an agency or center, the parent of a child who is a victim of sexual abuse or other maltreatment should take to obtain assistance and intervention.

(c) The methods under Subsection (b)(1) for increasing awareness of issues regarding and prevention techniques for sexual abuse and other maltreatment of children must include:

(1) the training required under Section 42.04261; and

(2) strategies for coordination between the child-placing agency or day-care center and appropriate community organizations.

Added by Acts 2011, 82nd Leg., R.S., Ch. [1323](#), Sec. 5, eff. June 17, 2011.

Sec. 42.043. RULES FOR IMMUNIZATIONS. (a) The department shall make rules for the immunization of children in facilities regulated under this chapter.

(b) The department shall require that each child at an appropriate age have a test for tuberculosis and be immunized against diphtheria, tetanus, poliomyelitis, mumps, rubella, rubeola, invasive pneumococcal disease, and hepatitis A and against any other communicable disease as recommended by the Department of State Health Services. The immunization must be effective on the date of first entry into the facility. However, a child may be provisionally admitted if the required immunizations have begun and are completed as rapidly as medically feasible.

(c) The Texas Department of Health shall make rules for the provisional admission of children to facilities regulated under this chapter and may modify or delete any of the immunizations listed in Subsection (b) of this section or require additional immunizations as a requirement for admission to a facility.

(d) No immunization may be required for admission to a facility regulated under this chapter if a person applying for a child's admission submits one of the following affidavits:

(1) an affidavit signed by a licensed physician stating that the immunization poses a significant risk to the health and well-being of the child or a member of the child's family or household; or

(2) an affidavit signed by the child's parent or guardian stating that the applicant declines immunization for reasons of conscience, including a religious belief.

(d-1) An affidavit submitted under Section (d)(2) must be on a form described by Section 161.0041, Health and Safety Code, and must be submitted not later than the 90th day after the date the affidavit is notarized.

(e) Each regulated facility shall keep an individual immunization record for each child admitted, and the records shall be open for inspection by the department at all reasonable times.

(f) The Texas Department of Health shall provide the immunizations required by this section to children in areas where there is no local provision of these services.

Acts 1979, 66th Leg., p. 2362, ch. 842, art. 1, Sec. 1, eff. Sept. 1, 1979. Amended by Acts 1993, 73rd Leg., ch. 43, Sec. 5, eff. Sept. 1, 1993; Acts 1997, 75th Leg., ch. 1063, Sec. 7, eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 198, Sec. 2.164, eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. [563](#), Sec. 1, eff. September 1, 2005.

Sec. 42.0431. ENFORCEMENT OF SCREENING REQUIREMENTS RELATING TO VISION, HEARING, AND OTHER SPECIAL SENSES AND COMMUNICATION DISORDERS. (a) The department, after consultation with the Texas Department of Health, shall adopt rules necessary to ensure that children receiving care at a day-care center or group day-care home licensed under this chapter are screened for vision, hearing, and any other special senses or communication disorders in compliance with rules adopted by the Texas Board of Health under Section 36.004, Health and Safety Code.

(b) Each day-care center or group day-care home licensed under this chapter shall maintain individual

screening records for children attending the facility who are required to be screened, and the department may inspect those records at any reasonable time. The department shall coordinate the monitoring inspections in compliance with protocol agreements adopted between the department and the Texas Department of Health pursuant to Section 42.0442.

(c) Repealed by Acts 2009, 81st Leg., R.S., Ch. 720, Sec. 19(2), eff. September 1, 2009.

Added by Acts 1999, 76th Leg., ch. 712, Sec. 1, eff. June 18, 1999.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. [720](#), Sec. 19(2), eff. September 1, 2009.

Sec. 42.044. INSPECTIONS. (a) An authorized representative of the department may visit a facility regulated under this chapter or a registered family home during operating hours to investigate, inspect, and evaluate.

(b) The department shall inspect all licensed or certified facilities at least once a year and may inspect other facilities or registered family homes as necessary. At least one of the annual visits must be unannounced and all may be unannounced.

(b-1) At least one of the unannounced, annual inspections of a residential child-care facility must be conducted by a team of at least two residential child-care monitoring staff, and, if feasible, members of the inspection team must be from different residential child-care monitoring units.

(b-2) Except as otherwise provided by this subsection, during an unannounced annual inspection of a day-care center, the department shall meet with the director designated by the day-care center as having daily, on-site responsibility for the operation of the day-care

center to assess whether the director meets the qualifications of a director specified by this chapter and department rules. If the director is not present during the unannounced annual inspection, the department shall schedule a subsequent meeting with the director for that purpose and shall conduct that meeting at the day-care center.

(c) The department must investigate a facility regulated under this chapter or a registered family home when a complaint is received. The representative of the department must notify the operator of a registered family home or the director or authorized representative of a regulated facility when a complaint is being investigated and report in writing the results of the investigation to the family home's operator or to the regulated facility's director or the director's authorized representative.

(c-1) The department:

(1) shall investigate a listed family home if the department receives a complaint that:

(A) a child in the home has been abused or neglected, as defined by Section 261.401, Family Code; or

(B) otherwise alleges an immediate risk of danger to the health or safety of a child being cared for in the home; and

(2) may investigate a listed family home to ensure that the home is providing care for compensation to not more than three children, excluding children who are related to the caretaker.

(c-2) The department must notify the operator of a listed family home when a complaint is being investigated under this section and report in writing the results of the investigation to the family home's operator.

(d) The department may call on political subdivisions and governmental agencies for assistance within their authorized fields.

(e) In addition to the department's responsibility to investigate an agency foster home or agency foster group home under Subsection (c), the department shall:

(1) periodically conduct inspections of a random sample of agency foster homes and agency foster group homes;

(2) investigate any report of a serious incident in an agency foster home or agency foster group home that pertains to a child under the age of six;

(3) investigate any alleged violation of a minimum standard by an agency foster home or agency foster group home that poses a high degree of risk to a child in the care of the home who is under the age of six; and

(4) conduct at least one annual enforcement team conference for each child-placing agency to thoroughly review the investigations or inspections of the child-placing agency and all of its agency homes to monitor and enforce compliance by a child-placing agency with rules and standards established under Section 42.042.

(f) The department shall use an inspection checklist that includes a list of all required items for inspection in conducting a monitoring inspection under this section.

Acts 1979, 66th Leg., p. 2363, ch. 842, art. 1, Sec. 1, eff. Sept. 1, 1979. Amended by Acts 1997, 75th Leg., ch. 1063, Sec. 7, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1022, Sec. 27, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1217, Sec. 4, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 218, Sec. 5, eff. Sept. 1, 2001.

Amended by:

Acts 2005, 79th Leg., Ch. [268](#), Sec. 1.96, eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. [1406](#), Sec. 32(a), eff. September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. [720](#), Sec. 8, eff. September 1, 2009.

Acts 2011, 82nd Leg., R.S., Ch. [1082](#), Sec. 3, eff. September 1, 2011.

Sec. 42.0441. INSPECTION RESULTS FOR CERTAIN NONRESIDENTIAL CHILD-CARE FACILITIES. Immediately after completing a monitoring inspection of a licensed day-care center, licensed group day-care home, or registered family home under Section 42.044, the authorized representative of the department shall review the results of the monitoring inspection with a representative of the facility and give the facility an opportunity to respond to the inspection results.

Added by Acts 1997, 75th Leg., ch. 253, Sec. 1, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1022, Sec. 28, eff. Sept. 1, 1997.

Amended by:

Acts 2005, 79th Leg., Ch. [268](#), Sec. 1.97, eff. September 1, 2005.

Sec. 42.04411. INSPECTION RESULTS AND EXIT CONFERENCE FOR RESIDENTIAL CHILD-CARE FACILITIES. (a) On completion of an inspection of a residential child-care facility under Section 42.044, the inspector shall hold an exit conference with a representative of the inspected facility. The inspector shall provide to the representative a copy of the inspection checklist used by the inspector.

(b) The inspector shall provide the representative an opportunity to communicate regarding potential violations.

Added by Acts 2005, 79th Leg., Ch. [268](#), Sec. 1.98, eff. September 1, 2005.

Sec. 42.04412. INTERFERENCE WITH INSPECTION; COURT ORDER. (a) A person may not interfere with an

investigation or inspection of a facility or family home conducted by the department under this chapter.

(b) During an investigation or inspection of a facility or family home under this chapter, the facility or family home shall cooperate with the department and allow the department to:

(1) access the records of the facility or family home;

(2) access any part of the premises of the facility or family home; and

(3) interview any child, employee, or other person who is present at the facility or family home and who may have information relevant to the investigation or inspection.

(c) If access to the records or premises of the facility or family home cannot be obtained, a district court in Travis County or in the county in which the facility or family home is located, for good cause shown and without prior notice or a hearing, shall issue an order granting the department access to the records or premises in order to conduct the inspection, investigation, or interview.

(d) To assist the department in investigating whether a person is operating a facility or family home without a required license, certification, registration, or listing, a district court in Travis County or in the county in which the suspected facility or family home is located may, for good cause shown and without prior notice or a hearing, issue an order allowing the department to enter the suspected facility or family home at a time when the department's evidence shows that the suspected facility or family home may be providing child care subject to regulation under this chapter.

Added by Acts 2009, 81st Leg., R.S., Ch. [720](#), Sec. 9, eff. September 1, 2009.

Sec. 42.0442. COORDINATION OF INSPECTIONS;
ELIMINATION OF DUPLICATIVE INSPECTIONS. (a) The
department shall coordinate monitoring inspections of
licensed day-care centers, licensed group day-care homes,
and registered family homes performed by another state
agency to eliminate redundant inspections.

(b) The department shall form an interagency task
force with the Texas Department of Health, the Texas
Department of Human Services, and the Texas Workforce
Commission to develop an inspection protocol that will
coordinate inspections by those agencies. The protocol
must assign the required items for inspection by each
agency and facilitate the sharing of inspection data and
compliance history.

(c) The interagency task force shall establish an
inspection checklist based on the inspection protocol
developed under Subsection (b). Each state agency that
inspects a facility listed in Subsection (a) shall use the
inspection checklist in performing an inspection. A state
agency shall make a copy of the completed inspection
checklist available to the facility at the facility's
request to assist the facility in maintaining records.

(d) The department shall provide to facilities listed
in Subsection (a) information regarding inspections,
including who may inspect a facility and the purpose of
each type of inspection.

Added by Acts 1997, 75th Leg., ch. 253, Sec. 1, eff. Sept.
1, 1997; Acts 1997, 75th Leg., ch. 1022, Sec. 28, eff.
Sept. 1, 1997. Amended by Acts 2001, 77th Leg., ch. 169,
Sec. 2, eff. Sept. 1, 2001.

Text of section as added by Acts 1997, 75th Leg., ch. 253,
Sec. 1

Sec. 42.0443. INSPECTION INFORMATION DATABASE. (a) If feasible using available information systems, the department shall establish a computerized database containing relevant inspection information on licensed day-care centers, licensed group day-care homes, and registered family homes from other state agencies and political subdivisions of the state.

(b) The department shall make the data collected by the department available to another state agency or political subdivision of the state for the purpose of administering programs or enforcing laws within the jurisdiction of that agency or subdivision. If feasible using available information systems, the department shall make the data directly available to the Texas Department of Health, the Texas Department of Human Services, and the Texas Workforce Commission through electronic information systems. The department, the Texas Department of Health, the Texas Department of Human Services, and the Texas Workforce Commission shall jointly plan the development of child-care inspection databases that, to the extent feasible, are similar in their design and architecture to promote the sharing of data.

(c) The department may provide inspection data on licensed day-care centers, licensed group day-care homes, or registered family homes to the public if the department determines that providing inspection data enhances consumer choice with respect to those facilities.

Added by Acts 1997, 75th Leg., ch. 253, Sec. 1, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1022, Sec. 28, eff. Sept. 1, 1997.

Text of section as added by Acts 2003, 78th Leg., ch. 709, Sec. 1.

Sec. 42.0443. COORDINATION OF FIRE SAFETY AND SANITATION INSPECTIONS. (a) The department may not inspect a licensed day-care center, licensed group day-care home, or registered family home for compliance with the department's fire safety or sanitation standards if the facility, at the time of the department's inspection, provides the department with documentation relating to a current fire safety or sanitation inspection, as applicable, performed by a political subdivision of this state that indicates that the facility is in compliance with the applicable standards of the political subdivision.

(b) If the documentation provided under Subsection (a) indicates that the facility was required to take corrective action or that the political subdivision imposed a restriction or condition on the facility, the department shall determine whether the facility took the required corrective action or complied with the restriction or condition.

(c) The department may inspect a facility subject to this section for compliance with the department's fire safety or sanitation standards if:

(1) the facility does not provide the documentation described by Subsection (a); or

(2) the department determines that the facility did not take a corrective action or comply with a restriction or condition described by Subsection (b).

(d) Notwithstanding any other provision of this section, the department shall report to the appropriate political subdivision any violation of fire safety or sanitation standards observed by the department at a facility subject to this section.

(e) The department shall adopt rules necessary to implement this section.

Added by Acts 2003, 78th Leg., ch. 709, Sec. 1, eff. Sept. 1, 2003.

Sec. 42.04431. ENFORCEMENT OF STATE LAW BY COUNTY OR MUNICIPALITY. (a) A municipality or a county may enforce state law and rules adopted under state law concerning fire safety standards at a licensed group day-care home or a registered family home.

(b) A municipality or county shall report to the department any violation of fire safety standards observed by the municipality or county at a licensed group day-care home or registered family home.

Added by Acts 2011, 82nd Leg., R.S., Ch. [354](#), Sec. 1, eff. September 1, 2011.

Sec. 42.0445. REQUIRED BACKGROUND SEARCH OF CENTRAL REGISTRY OF REPORTED CASES OF CHILD ABUSE OR NEGLECT. (a) Before the department issues a license, listing, registration, or certification under this subchapter, the department shall search the central registry of reported cases of child abuse or neglect established under Section 261.002, Family Code, to determine whether the applicant or the owner or an employee of the facility or family home is listed in the registry as a person who abused or neglected a child.

(b) The department may adopt rules to implement this section.

Added by Acts 1997, 75th Leg., ch. 1022, Sec. 29, eff. Sept. 1, 1997.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. [1406](#), Sec. 33, eff. September 1, 2007.

Sec. 42.0446. REMOVAL OF CERTAIN INVESTIGATION INFORMATION FROM INTERNET WEBSITE. The executive

commissioner shall adopt rules providing a procedure by which the department removes from the department's Internet website information with respect to a child-care facility or registered family home that relates to an anonymous complaint alleging that the facility or family home failed to comply with the department's minimum standards if, at the conclusion of an investigation, the department determines that the complaint is false or lacks factual foundation.

Added by Acts 2005, 79th Leg., Ch. [526](#), Sec. 2, eff. September 1, 2005.

Sec. 42.0447. FALSE REPORT; CRIMINAL PENALTY. (a) A person commits an offense if the person knowingly or intentionally files a complaint alleging that a child-care facility or registered family home failed to comply with the department's minimum standards and the person knows the allegation is false or lacks factual foundation.

(b) An offense under this section is a Class A misdemeanor unless it is shown on the trial of the offense that the person has previously been convicted under this section, in which case the offense is a state jail felony.

Added by Acts 2005, 79th Leg., Ch. [526](#), Sec. 2, eff. September 1, 2005.

Sec. 42.0448. NOTIFICATION OF FAMILY VIOLENCE CALLS. The department shall notify a child-placing agency of each family violence report the department receives under Article 5.05, Code of Criminal Procedure, that:

(1) occurred at an agency foster home verified by the child-placing agency; or

(2) involves a person who resides at an agency foster home verified by the child-placing agency.

Added by Acts 2007, 80th Leg., R.S., Ch. [524](#), Sec. 4, eff. June 16, 2007.

Sec. 42.0449. REQUIRED ACTIONS AFTER NOTICE OF FAMILY VIOLENCE CALL. The executive commissioner shall adopt rules specifying the actions that the department, an independent foster home, and a child-placing agency shall take after receiving notice of a family violence report under Article 5.05, Code of Criminal Procedure, or Section 42.0448 to ensure the health, safety, and welfare of each child residing in the licensed foster home or verified agency foster home.

Added by Acts 2007, 80th Leg., R.S., Ch. [524](#), Sec. 4, eff. June 16, 2007.

Sec. 42.045. RECORDS. (a) A person who operates a licensed or certified facility shall maintain individual child development records, individual health records, statistical records, and complete financial records.

(b) A person who provides adoption services under a license to operate a child-placing agency shall furnish information required by the department to determine whether adoption related income and disbursements are reasonable, appropriate, and in compliance with the department's minimum standards.

(c) If a child-placing agency terminates operation as a child-placing agency, it shall, after giving notice to the department, transfer its files and records concerning adopted children, their biological families, and their adoptive families to the Bureau of Vital Statistics or, after giving notice to the Bureau of Vital Statistics, to a facility licensed by the department to place children for adoption.

(d) An independent foster home and a child-placing agency shall notify the department of any change of address for a licensed foster home or a verified agency foster home. The independent foster home and child-placing agency shall notify the department of the address change within the earlier of two business days or 72 hours of the date the foster home changes its address.

Acts 1979, 66th Leg., p. 2363, ch. 842, art. 1, Sec. 1, eff. Sept. 1, 1979. Amended by Acts 1983, 68th Leg., p. 1782, ch. 342, Sec. 2, eff. Jan. 1, 1984; Acts 1989, 71st Leg., ch. 707, Sec. 1, eff. Sept. 1, 1989; Acts 1997, 75th Leg., ch. 1063, Sec. 7, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1129, Sec. 2, eff. Sept. 1, 1999.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. [524](#), Sec. 5, eff. June 16, 2007.

Sec. 42.0451. DATABASE OF FOSTER HOMES; INFORMATION PROVIDED TO DEPARTMENT OF PUBLIC SAFETY. (a) The department shall maintain a database of licensed foster homes and verified agency foster homes including the current address for each licensed or verified home as reported to the department. The database must be updated on a regular basis.

(b) The department shall make the database available to the Department of Public Safety for the purposes of Subsection (c).

(c) The Department of Public Safety shall include the information provided under Subsection (b) in the Texas Crime Information Center database and establish a procedure by which a peace officer or employee of a law enforcement agency who provides the department with a street address is automatically provided information as to whether the address is licensed as a foster home or verified as an agency foster home under this chapter.

(d) Information provided to the Department of Public Safety under this section is confidential and not subject to disclosure under Chapter 552, Government Code.

Added by Acts 2007, 80th Leg., R.S., Ch. [524](#), Sec. 6, eff. June 16, 2007.

Sec. 42.0452. FOSTER PARENT RIGHTS AND RESPONSIBILITIES STATEMENT. (a) The department shall develop a statement that lists the rights and responsibilities of a foster parent in a foster home or an agency foster home and of the department or a child-placing agency, as applicable.

(b) The department shall provide a written copy of the statement developed under Subsection (a) to each foster parent in a foster home and to each child-placing agency licensed by the department. A child-placing agency shall provide a written copy of the statement developed under Subsection (a) to each foster parent in an agency foster home verified by the child-placing agency.

Added by Acts 2009, 81st Leg., R.S., Ch. [939](#), Sec. 1, eff. June 19, 2009.

Sec. 42.046. APPLICATION FOR LICENSE, LISTING, OR REGISTRATION. (a) An applicant for a license to operate a child-care facility or child-placing agency or for a listing or registration to operate a family home shall submit to the department the appropriate fee prescribed by Section 42.054 and a completed application on a form provided by the department.

(b) The department shall supply the applicant the application form and a copy of the appropriate minimum standards, if applicable.

(c) After receiving an application, the department shall investigate the applicant and the plan of care for children, if applicable.

(d) The department shall complete the investigation and decide on an application within two months after the date the department receives a completed application.

(e) The department may deny an application under this section if the applicant:

(1) has a residential child-care facility license revoked in another state; or

(2) is barred from operating a residential child-care facility in another state.

Acts 1979, 66th Leg., p. 2363, ch. 842, art. 1, Sec. 1, eff. Sept. 1, 1979. Amended by Acts 1985, 69th Leg., ch. 212, Sec. 1, eff. Sept. 1, 1985; Acts 1985, 69th Leg., ch. 239, Sec. 4, eff. Sept. 1, 1985; Acts 1997, 75th Leg., ch. 1022, Sec. 30, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1063, Sec. 7, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1217, Sec. 5, eff. Sept. 1, 1997.

Amended by:

Acts 2005, 79th Leg., Ch. [268](#), Sec. 1.99, eff. September 1, 2005.

Sec. 42.0461. PUBLIC NOTICE AND HEARING IN CERTAIN COUNTIES: RESIDENTIAL CHILD CARE. (a) Before the department may issue a license or certificate for the operation or the expansion of the capacity of a foster group home or foster family home that is located in a county with a population of less than 300,000 and that provides child care for 24 hours a day at a location other than the actual residence of a child's primary caretaker or of a general residential operation, the applicant for the license, certificate, or expansion shall, at the applicant's expense:

(1) conduct a public hearing on the application in accordance with department rules after notifying the department of the date, time, and location of the hearing; and

(2) publish notice of the application in a newspaper of general circulation in the community in which the child-care services are proposed to be provided.

(b) The notice required by Subsection (a)(2) must be published at least 10 days before the date of the public hearing required by Subsection (a)(1) and must include:

(1) the name and address of the applicant;

(2) the address at which the child-care services are proposed to be provided;

(3) the date, time, and location of the public hearing;

(4) the name, address, and telephone number of the department as the licensing authority; and

(5) a statement informing the public that a person may submit written comments to the department concerning the application instead of or in addition to appearing at the public hearing.

(c) The department shall require a representative of the department to attend the public hearing in an official capacity for the purpose of receiving public comments on the application.

(d) Before issuing a license or certificate described by Subsection (a), the department shall consider:

(1) the amount of local resources available to support children proposed to be served by the applicant;

(2) the impact of the proposed child-care services on the ratio in the local school district of students enrolled in a special education program to students enrolled in a regular education program and the effect, if any, on the children proposed to be served by the applicant; and

(3) the impact of the proposed child-care services on the community and the effect on opportunities for social interaction for the children proposed to be served by the applicant.

(e) The department may deny the application if the department determines that:

(1) the community has insufficient resources to support children proposed to be served by the applicant;

(2) granting the application would significantly increase the ratio in the local school district of students enrolled in a special education program to students enrolled in a regular education program and the increase would adversely affect the children proposed to be served by the applicant; or

(3) granting the application would have a significant adverse impact on the community and would limit opportunities for social interaction for the children proposed to be served by the applicant.

(f) A child-placing agency that proposes to verify an agency foster home or agency foster group home that is located in a county with a population of less than 300,000 that provides child care for 24 hours a day at a location other than the actual residence of a child's primary caretaker shall:

(1) comply with the notice and hearing requirements imposed by Subsections (a) and (b); and

(2) after conducting the required public hearing, provide the department with information relating to the considerations specified in Subsection (d).

(g) The department may prohibit the child-placing agency from verifying the proposed agency foster home or agency foster group home on the same grounds that the department may deny an application under Subsection (e). The department may invalidate the verification of an agency foster home or agency foster group home that was not

verified using the procedures required by Subsection (f) on or after September 1, 1997.

Added by Acts 1997, 75th Leg., ch. 1022, Sec. 31, eff. Sept. 1, 1997.

Amended by:

Acts 2005, 79th Leg., Ch. [268](#), Sec. 1.100, eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. [1406](#), Sec. 34, eff. September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. [720](#), Sec. 10, eff. September 1, 2009.

Sec. 42.047. CONSULTATIONS. (a) The department shall offer consultation to potential applicants, applicants, and license, listing, registration, and certification holders about meeting and maintaining standards for licensing, listing, registration, and certification and achieving programs of excellence in child care.

(b) The department shall offer consultation to prospective and actual users of facilities or homes.

Acts 1979, 66th Leg., p. 2364, ch. 842, art. 1, Sec. 1, eff. Sept. 1, 1979. Amended by Acts 1997, 75th Leg., ch. 1063, Sec. 7, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1217, Sec. 6, eff. Sept. 1, 1997.

Sec. 42.048. LICENSING. (a) The department shall issue a license after determining that an applicant has satisfied all requirements.

(b) When issuing a license, the department may impose restrictions on a facility, including but not limited to the number of children to be served and the type of children to be served.

(c) The department may grant a variance of an individual standard set forth in the applicable standards for good and just cause.

(d) A license holder must display a license issued under this chapter in a prominent place at the facility.

(e) A license issued under this chapter is not transferable and applies only to the operator and facility location stated in the license application. Except as provided by this subsection, a change in location or ownership automatically revokes a license. A change in location of a child-placing agency does not automatically revoke the license to operate the child-placing agency.

(f) A license must be issued if the department determines that a facility meets all requirements. The evaluation shall be based on one or more visits to the facility and a review of required forms and records. A license is valid until revoked or surrendered.

Acts 1979, 66th Leg., p. 2364, ch. 842, art. 1, Sec. 1, eff. Sept. 1, 1979. Amended by Acts 1987, 70th Leg., ch. 1081, Sec. 1, eff. Sept. 1, 1987. Renumbered from Human Resources Code Sec. 42.049 and amended by Acts 1997, 75th Leg., ch. 1063, Sec. 7, eff. Sept. 1, 1997.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. [1406](#), Sec. 35, eff. September 1, 2007.

Sec. 42.049. LIABILITY INSURANCE REQUIRED. (a) A license holder shall maintain liability insurance coverage in the amount of \$300,000 for each occurrence of negligence. An insurance policy or contract required under this section must cover injury to a child that occurs while the child is on the premises of the license holder or in the care of the license holder.

(b) A license holder shall file with the department a certificate or other evidence from an insurance company

showing that the license holder has an unexpired and uncanceled insurance policy or contract that meets the requirements of this section.

(c) Should the license holder for financial reasons or for lack of availability of an underwriter willing to issue a policy be unable to secure the insurance required under Subsection (a) or should the policy limits be exhausted, the license holder shall notify the parent or a person standing in parental relationship to each child for whom the license holder provides care a written notice that the liability coverage is not provided and there will not be a ground for suspension or revocation of the license holder's license under this chapter. The license holder shall also notify the department that the coverage is not provided and provide the reason for same. In no case shall the inability to secure coverage serve to indemnify the license holder for damages due to negligence.

(d) The insurance policy or contract shall be maintained at all times in an amount as required by this section. Failure by a license holder to renew the policy or contract or to maintain the policy or contract in the required amount is a ground for suspension or revocation of the license holder's license under this chapter.

(e) This section does not apply to a group day-care home or a listed or registered family home.

Added by Acts 1993, 73rd Leg., ch. 1002, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1997, 75th Leg., ch. 1217, Sec. 7, eff. Sept. 1, 1997. Renumbered from Human Resources Code, Sec. 42.0491 and amended by Acts 1997 75th Leg., ch. 1063, Sec. 7, eff. Sept. 1, 1997.

Sec. 42.050. LICENSE RENEWAL. (a) A license holder may apply for a new license in compliance with the requirements of this chapter and the rules promulgated by the department.

(b) The application for a new license must be completed and decided on by the department before the expiration of the license under which a facility is operating.

(c) The department shall evaluate the application for a new license to determine if all licensing requirements are met. The evaluation may include a specified number of visits to the facility and must include a review of all required forms and records.

Amended by Acts 1997, 75th Leg., ch. 1063, Sec. 7, eff. Sept. 1, 1997.

Sec. 42.051. INITIAL LICENSE. (a) The department shall issue an initial license when a facility's plans meet the department's licensing requirements and one of the following situations exists:

- (1) the facility is not currently operating;
- (2) the facility has relocated and has made changes in the type of child-care service it provides; or
- (3) there is a change in ownership of the facility resulting in changes in policy and procedure or in the staff who have direct contact with the children.

(b) An initial license is valid for six months from the date it is issued and may be renewed for an additional six months.

Acts 1979, 66th Leg., p. 2365, ch. 842, art. 1, Sec. 1, eff. Sept. 1, 1979. Amended by Acts 1989, 71st Leg., ch. 707, Sec. 2, eff. Sept. 1, 1989; Acts 1997, 75th Leg., ch. 1063, Sec. 7, eff. Sept. 1, 1997.

Amended by:

Acts 2005, 79th Leg., Ch. [268](#), Sec. 1.101, eff. September 1, 2005.

Sec. 42.052. CERTIFICATION, LISTING, AND REGISTRATION. (a) A state-operated child-care facility or child-placing agency must receive certification of approval from the department. The certification of approval remains valid until revoked or surrendered.

(b) To be certified, a facility must comply with the department's rules and standards and any provisions of this chapter that apply to a licensed facility of the same category. The operator of a certified facility must display the certification in a prominent place at the facility.

(c) A family home that provides care for compensation for three or fewer children, excluding children who are related to the caretaker, shall list with the department if the home provides regular care in the caretaker's own residence. The home may register with the department.

(d) A family home that provides care for four or more children, excluding children who are related to the caretaker, shall register with the department. A family home that provides care exclusively for any number of children who are related to the caretaker is not required to be listed or registered with the department.

(e) A registration or listing remains valid until revoked or surrendered. The operator of a registered home must display the registration in a prominent place at the home.

(f) To remain listed or registered with the department, a family home must comply with the department's rules and standards, if applicable, and any provision of this chapter that applies to a listed or registered family home.

(g) The certification requirements of this section do not apply to a Texas Youth Commission facility, a Texas Juvenile Probation Commission facility, or a facility providing services solely for the Texas Youth Commission.

(h) The certification requirements of this section do not apply to a juvenile detention facility certified under Section 51.12, Family Code, or a juvenile correctional facility certified under Section 51.125, Family Code.

(i) The department shall provide to a listed family home a copy of the listing. A listing must contain a provision that states: "THIS HOME IS A LISTED FAMILY HOME. IT IS NOT LICENSED OR REGISTERED WITH THE DEPARTMENT OF PROTECTIVE AND REGULATORY SERVICES. IT HAS NOT BEEN INSPECTED AND WILL NOT BE INSPECTED." The operator of a listed home is not required to display the listing in a prominent place at the home but shall make the listing available for examination. The department by rule shall provide for a sufficient period to allow operators of family homes to comply with the listing requirement of this section.

(j) The operator of a listed family home shall undergo initial and subsequent background and criminal history checks required under Section 42.056. If the operator of a listed family home fails to submit the information required by Section 42.056 for a subsequent background and criminal history check, the department shall automatically:

(1) suspend the home's listing until the required information is submitted; and

(2) revoke the home's listing if the required information is not submitted within six months after the date the automatic suspension begins.

(j-1) A suspension or revocation under Subsection (j) is not a suspension or revocation under Section 42.072.

(k) The department shall issue a listing or registration to a family home, as appropriate, in both English and Spanish when the most recent federal census shows that more than one-half of the population in a municipality or in a commissioners precinct in a county in

which the family home is located is of Hispanic origin or Spanish-speaking.

Acts 1979, 66th Leg., p. 2365, ch. 842, art. 1, Sec. 1, eff. Sept. 1, 1979. Amended by Acts 1981, 67th Leg., p. 2813, ch. 759, Sec. 4, eff. Aug. 31, 1981; Acts 1985, 69th Leg., ch. 212, Sec. 2, eff. Sept. 1, 1985; Acts 1985, 69th Leg., ch. 915, Sec. 1, eff. Sept. 1, 1985; Acts 1987, 70th Leg., ch. 1052, Sec. 4.06, eff. Sept. 1, 1987; Acts 1989, 71st Leg., ch. 707, Sec. 3, eff. Sept. 1, 1989; Acts 1995, 74th Leg., ch. 76, Sec. 8.023, eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 262, Sec. 55, eff. Jan. 1, 1996; Acts 1997, 75th Leg., ch. 1022, Sec. 32, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1063, Sec. 7, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1217, Sec. 8, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 218, Sec. 6 to 8, eff. Sept. 1, 2001.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. [263](#), Sec. 26, eff. June 8, 2007.

Acts 2011, 82nd Leg., R.S., Ch. [1082](#), Sec. 4, eff. September 1, 2011.

Sec. 42.0521. DEPOSIT OF FEES. The fees authorized by this chapter and received by the department shall be deposited in the general revenue fund.

Added by Acts 1985, 69th Leg., ch. 239, Sec. 5, eff. Sept. 1, 1985.

Sec. 42.0522. PUBLIC ADVERTISING OF FAMILY HOMES.
(a) A family home may not place a public advertisement that uses the title "registered family home" or any variation of that phrase unless the home is registered under this chapter. Any public advertisement for a registered family home that uses the title "registered

family home" must contain a provision in bold type stating: "THIS HOME IS REGISTERED WITH THE DEPARTMENT OF PROTECTIVE AND REGULATORY SERVICES BUT IS NOT LICENSED OR REGULARLY INSPECTED."

(b) A family home may not place a public advertisement that uses the title "listed family home" or any variation of that phrase unless the home is listed as provided by this chapter. Any public advertisement for a listed family home that uses the title "listed family home" must contain a provision in bold type stating: "THIS HOME IS A LISTED FAMILY HOME. IT IS NOT LICENSED OR REGISTERED WITH THE DEPARTMENT OF PROTECTIVE AND REGULATORY SERVICES. IT HAS NOT BEEN INSPECTED AND WILL NOT BE INSPECTED."

Added by Acts 1997, 75th Leg., ch. 1063, Sec. 7, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1217, Sec. 9, eff. Sept. 1, 1997.

Sec. 42.0523. LISTING OF RELATIVE CHILD-CARE PROVIDERS. (a) A child-care provider who only provides child care under Chapter 313, Labor Code, to children related to the provider may list the provider's home as a family home.

(b) Before the department may list a child-care provider's home under this section, in addition to conducting any other background or criminal history check required for a family home listing, the department must search the central database of sex offender registration records maintained by the Department of Public Safety under Chapter 62, Code of Criminal Procedure, to determine whether the provider is listed in the registry as a sex offender.

(c) The address of a family home listed under this section is the address of the child-care provider's home, regardless of whether the child care is provided in the provider's home or in the child's home.

(d) A relative child-care provider's home listed as a family home under this section is exempt from the health and safety requirements of 45 C.F.R. Section 98.41(a).

Added by Acts 2011, 82nd Leg., R.S., Ch. [869](#), Sec. 3, eff. September 1, 2011.

Sec. 42.053. AGENCY FOSTER HOMES AND AGENCY FOSTER GROUP HOMES. (a) An agency foster home or agency foster group home is considered part of the child-placing agency that operates the agency foster home or agency foster group home for purposes of licensing.

(b) The operator of a licensed agency shall display a copy of the license in a prominent place in the agency foster home or agency foster group home used by the agency.

(c) An agency foster home or agency foster group home shall comply with all provisions of this chapter and all department rules and standards that apply to a child-care facility caring for a similar number of children for a similar number of hours each day.

(d) The department shall revoke or suspend the license of a child-placing agency if an agency foster home or agency foster group home operated by the licensed agency fails to comply with Subsection (c) of this section.

Acts 1979, 66th Leg., p. 2365, ch. 842, art. 1, Sec. 1, eff. Sept. 1, 1979. Amended by Acts 1987, 70th Leg., ch. 1052, Sec. 4.07, eff. Sept. 1, 1987; Acts 1997, 75th Leg., ch. 1063, Sec. 7, eff. Sept. 1, 1997.

Sec. 42.0535. REQUIRED INFORMATION FOR VERIFICATION. (a) A child-placing agency that seeks to verify an agency home or an agency group home shall request background information about the agency home or group home from a child-placing agency that has previously verified that agency home or agency group home.

(b) Notwithstanding Section 261.201, Family Code, a child-placing agency that has verified an agency home or an agency group home is required to release to another child-placing agency background information requested under Subsection (a).

(c) A child-placing agency that releases background information under this section is immune from civil and criminal liability for the release of the information.

(d) For purposes of this section, background information means the home study under which the agency home or agency group home was verified by the previous child-placing agency and any record of noncompliance with state minimum standards received and the resolution of any such noncompliance by the previous child-placing agency.

(e) The department, by rule, shall develop a process by which a child-placing agency shall report to the department:

(1) the name of any verified foster home or foster group home that has been closed for any reason, including a voluntary closure;

(2) information regarding the reasons for the closure of the foster home or foster group home; and

(3) the name and other contact information of a person who may be contacted by another child-placing agency to obtain the records relating to the closed foster home or foster group home that are required to be maintained and made available under this section.

(f) Information gathered under Subsection (e) must be made available to child-placing agencies through a searchable database maintained by the department.

Added by Acts 1997, 75th Leg., ch. 575, Sec. 36(a), eff. Sept. 1, 1997.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. [1406](#), Sec. 36, eff. September 1, 2007.

Sec. 42.0536. TRANSFER OF AGENCY FOSTER HOME. (a) An agency foster home that is verified by a child-placing agency may transfer to another child-placing agency only if, before the date of the transfer, the agency foster home notifies the child-placing agency to which the agency foster home is transferring of each licensing violation for which the agency foster home has been cited by the department during the preceding three years.

(b) The child-placing agency to which the agency foster home is transferring shall submit a written request for transfer to the child-placing agency that verified the agency foster home.

(c) Not later than the 10th day after the date the child-placing agency receives a request for transfer under Subsection (b), the child-placing agency shall provide the child-placing agency that submitted the request a copy of any of the following documents regarding the agency foster home:

- (1) a corrective action plan;
- (2) an annual development plan; or
- (3) a description of any imposed or potential service limitation.

(d) The department caseworker for each child placed in the agency foster home may conduct a review meeting to determine whether the transfer of the agency foster home is in the best interest of each child in the home on the request of:

- (1) the child-placing agency to which the agency foster home is transferring;
- (2) the child-placing agency that verified the agency foster home;
- (3) the agency foster home; or
- (4) the caseworker.

(e) After a review meeting, the caseworker shall determine whether each child placed in the agency foster home shall:

(1) stay in the agency foster home after the agency foster home is transferred to the new child-placing agency; or

(2) be removed from the agency foster home before the agency foster home is transferred to the new child-placing agency.

Added by Acts 2007, 80th Leg., R.S., Ch. [1406](#), Sec. 37, eff. September 1, 2007.

Sec. 42.054. FEES. (a) The department shall charge an applicant a nonrefundable application fee of \$35 for an initial license to operate a child-care facility or a child-placing agency.

(b) The department shall charge each child-care facility a fee of \$35 for an initial license. The department shall charge each child-placing agency a fee of \$50 for an initial license.

(c) The department shall charge each licensed child-care facility an annual license fee in the amount of \$35 plus \$1 for each child the child-care facility is permitted to serve. The fee is due on the date on which the department issues the child-care facility's initial license and on the anniversary of that date.

(d) The department shall charge each licensed child-placing agency an annual license fee of \$100. The fee is due on the date on which the department issues the child-placing agency's initial license and on the anniversary of that date.

(e) The department shall charge each family home that is listed or registered with the department an annual fee to cover a part of the department's cost in regulating family homes. The amount of the fee is \$20 for a listed

home or \$35 for a registered home. The fee is due on the date on which the department initially lists or registers the home and on the anniversary of that date.

(f) If a facility, agency, or home fails to pay the annual fee when due, the license, listing, or registration, as appropriate, is automatically suspended until the fee is paid. The license, listing, or registration shall be revoked if the fee is not paid within six months after the date the automatic suspension begins. A suspension or revocation under this subsection is not a suspension or revocation under Section 42.072.

(g) The provisions of Subsections (b) through (f) of this section do not apply to:

(1) licensed foster homes and licensed foster group homes;

(2) nonprofit facilities regulated under this chapter that provided 24-hour care for children in the managing conservatorship of the department during the 12-month period immediately preceding the anniversary date of the facility's license;

(3) facilities operated by a nonprofit corporation or foundation that provides 24-hour residential care and does not charge for the care provided; or

(4) a family home listed under Section 42.0523 in which the relative child-care provider cares for the child in the child's own home.

Amended by Acts 1997, 75th Leg., ch. 1063, Sec. 7, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1217, Sec. 10, 11, eff. Sept. 1, 1997.

Amended by:

Acts 2005, 79th Leg., Ch. [268](#), Sec. 1.102, eff. September 1, 2005.

Acts 2011, 82nd Leg., R.S., Ch. [869](#), Sec. 5, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. [1082](#), Sec. 5, eff. September 1, 2011.

Sec. 42.055. SIGN POSTING. (a) Each child-care facility shall post in a location that is conspicuous to all employees and customers a sign that includes:

- (1) a description of the provisions of the Family Code relating to the duty to report child abuse or neglect;
- (2) a description of the penalties for violating the reporting provisions of the Family Code; and
- (3) a brief description of sudden infant death syndrome, shaken-baby syndrome, and childhood diabetes and methods for preventing those phenomena.

(a-1) A licensed day-care center, licensed group day-care home, or registered family home subject to Section 42.0423 shall include in the sign required under Subsection (a) a description of how to access a listing of unsafe children's products on the United States Consumer Product Safety Commission's Internet website or through the department's public Internet website.

(b) The department by rule shall determine the design, size, and wording of the sign.

(c) The department shall provide the sign to each child-care facility without charge.

(d) A person who operates a child-care facility commits an offense if the department provides a sign to the facility as provided by this section and the person intentionally fails to display the sign in the facility as prescribed by this section. An offense under this subsection is a Class C misdemeanor.

Added by Acts 1989, 71st Leg., 1st C.S., ch. 20, Sec. 1, eff. Nov. 1, 1989. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 7.47, eff. Sept. 1, 1997. Renumbered from Human Resources Code Sec. 42.056 and amended by Acts 1997, 75th

Leg., ch. 1063, Sec. 7, eff. Sept. 1, 1997. Amended by Acts 2001, 77th Leg., ch. 221, Sec. 1, eff. Sept. 1, 2001. Amended by:

Acts 2009, 81st Leg., R.S., Ch. [46](#), Sec. 3, eff. September 1, 2009.

Sec. 42.0551. POSTING OF EMPLOYEE LIST. (a) Each day-care center, group day-care home, and family home shall post a list of all current employees at the center or home in accordance with rules adopted by the executive commissioner.

(b) The executive commissioner shall adopt rules regarding the size, wording, and placement of the list required under this section.

Added by Acts 2005, 79th Leg., Ch. [308](#), Sec. 1, eff. September 1, 2005.

Sec. 42.056. REQUIRED BACKGROUND AND CRIMINAL HISTORY CHECKS; CRIMINAL PENALTIES. (a) In accordance with rules adopted by the executive commissioner, the director, owner, or operator of a child-care facility, child-placing agency, or family home shall, when applying to operate a child-care facility or child-placing agency or when listing or registering a family home and at least once during each 24 months after receiving a license, listing, registration, or certification of approval, submit to the department for use in conducting background and criminal history checks the name of:

(1) the director, owner, and operator of the facility, agency, or home;

(2) each person employed at the facility, agency, or home;

(3) each prospective employee of the facility, agency, or home;

(4) each current or prospective foster parent providing foster care through a child-placing agency;

(5) each prospective adoptive parent seeking to adopt through a child-placing agency;

(6) each person at least 14 years of age, other than a client in care, who:

(A) is counted in child-to-caregiver ratios in accordance with the minimum standards of the department;

(B) will reside in a prospective adoptive home if the adoption is through a child-placing agency;

(C) has unsupervised access to children in care at the facility or family home; or

(D) resides in the facility or family home;

or

(7) each person 14 years of age or older, other than a client in care, who will regularly or frequently be staying or working at a facility, family home, or prospective adoptive home, while children are being provided care.

(a-1) Repealed by Acts 2009, 81st Leg., R.S., Ch. 720, Sec. 19(3), eff. September 1, 2009.

(a-2) In accordance with rules adopted by the executive commissioner, the director, owner, or operator of a day-care center, before-school or after-school program, or school-age program shall submit a complete set of fingerprints of each person whose name is required to be submitted by the director, owner, or operator under Subsection (a), unless the person is only required to have the person's name submitted based on criteria specified by Subsection (a)(7). This subsection does not apply to a program that is exempt from the licensing requirements of Section 42.041.

(a-3) In accordance with rules adopted by the executive commissioner, the director, owner, or operator of a child-placing agency, foster home, or foster group home must, before a child for whom the department is the

managing conservator is placed with the agency or in the home, submit a complete set of fingerprints of the following persons:

(1) a person who applies to be a foster or adoptive parent, including a person who has previously adopted a child unless the person is also verified as a foster or adoptive home; and

(2) a person who is 18 years of age or older and who lives in the home of a person who applies to be a foster or adoptive parent.

(a-4) In accordance with rules adopted by the executive commissioner, the director, owner, or operator of a child-care facility or family home shall submit a complete set of fingerprints of each person whose name is required to be submitted by the director, owner, or operator under Subsection (a) if:

(1) the person resided in another state during the five years preceding the date the person's name was required to be submitted under Subsection (a); or

(2) the director, owner, or operator has reason to suspect that the person has a criminal history in another state.

(a-5) The rules adopted by the executive commissioner under Subsections (a-2), (a-3), and (a-4):

(1) must require that the fingerprints be submitted in a form and of a quality acceptable to the Department of Public Safety and the Federal Bureau of Investigation for conducting a criminal history check;

(2) may require that the fingerprints be submitted electronically through an applicant fingerprinting service center; and

(3) may allow the department to waive the submission of fingerprints required by this section if:

(A) the person for whom the submission is required has:

(i) a fingerprint-based criminal history record check on file with the department; or

(ii) a fingerprint-based criminal history clearinghouse record, as provided by Section 411.0845, Government Code, that is accessible to the department through the Department of Public Safety; and

(B) the date on which the current submission of fingerprints is required occurs before the second anniversary of a previous name-based criminal history check of the person.

(b) The department shall conduct background and criminal history checks using:

(1) the information provided under Subsection (a);

(2) the information made available by the Department of Public Safety under Section 411.114, Government Code, or by the Federal Bureau of Investigation or other criminal justice agency under Section 411.087, Government Code; and

(3) the department's records of reported abuse and neglect.

(b-1) In addition to any other background or criminal history check conducted under Subsection (b), for each person whose fingerprints are submitted under Subsection (a-2), (a-3), or (a-4), the department shall conduct a state and Federal Bureau of Investigation criminal history check by:

(1) submitting the person's fingerprints, or causing the fingerprints to be submitted electronically, to the Department of Public Safety for the purpose of conducting a state and federal criminal history check; and

(2) using the resulting information made available by that department under Section 411.114, Government Code, and by the Federal Bureau of Investigation and any other criminal justice agency under Section 411.087, Government Code.

(c) The department by rule shall require a child-care facility, child-placing agency, or registered family home to pay to the department a fee in an amount not to exceed the administrative costs the department incurs in conducting a background and criminal history check under this section.

(d) Repealed by Acts 2009, 81st Leg., R.S., Ch. 720, Sec. 19(3), eff. September 1, 2009.

(e) Repealed by Acts 2009, 81st Leg., R.S., Ch. 720, Sec. 19(3), eff. September 1, 2009.

(f) As part of a background check under this section, the department shall provide any relevant information available in the department's records regarding a person's previous employment in a facility or family home to the person submitting the request.

(g) Except as otherwise provided by this subsection, a person whose name is submitted under Subsection (a) may not provide direct care or have direct access to a child in a facility or family home before the person's background and criminal history checks under Subsections (b) and (b-1) are completed. A person may be employed at a facility or family home and may provide direct care or have direct access to a child in the facility or family home before the person's criminal history check under Subsection (b-1) is completed if:

(1) the facility or family home is experiencing a staff shortage;

(2) the state criminal history check and the background check using the department's records of reported abuse and neglect have been completed under Subsection (b), and the resulting information does not preclude the person from being present at the facility or family home; and

(3) the person's fingerprints are submitted as soon as possible, but not later than the 30th day after the earliest of the date on which the person first:

(A) provides direct care to a child;

- (B) has direct access to a child; or
- (C) is hired.

(h) If the results of a criminal history check under Subsection (b-1) for a person employed by a facility or family home during a staffing shortage as authorized by Subsection (g) preclude the person from being present at the facility or family home, the director, owner, or operator of the facility or family home shall immediately terminate the person's employment.

(i) A director, owner, or operator of a facility or family home commits an offense if the director, owner, or operator knowingly:

- (1) fails to submit to the department information about a person as required by this section and department rules for use in conducting background and criminal history checks with respect to the person; and

- (2) employs the person at the facility or family home or otherwise allows the person to regularly or frequently stay or work at the facility or family home while children are being provided care.

(j) A director, owner, or operator of a facility or family home commits an offense if, after the date the director, owner, or operator receives notice from the department that, based on the results of a person's background or criminal history check, the person is precluded from being present at the facility or family home, the director, owner, or operator knowingly:

- (1) employs the person at the facility or family home; or

- (2) otherwise allows the person to regularly or frequently stay or work at the facility or family home while children are being provided care.

(k) An offense under Subsection (i) or (j) is a Class B misdemeanor.

(l) In accordance with rules adopted by the executive commissioner, a person that contracts to provide one or

more substitute employees to a facility or family home must submit to the department for use in conducting background and criminal history checks the name of each substitute employee. Before a substitute employee may be present at a facility or family home, the employee must meet the same requirements under this section as an employee present at the facility or family home who performs similar duties. The director, owner, or operator of a facility or family home must verify with the department that a substitute employee is eligible to be present at the facility or family home before allowing the employee to begin work.

Amended by Acts 1997, 75th Leg., ch. 1063, Sec. 7, eff. Sept. 1, 1997.

Amended by:

Acts 2005, 79th Leg., Ch. [268](#), Sec. 1.103(a), eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. [1406](#), Sec. 38, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. [1406](#), Sec. 39, eff. September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. [720](#), Sec. 11, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. [720](#), Sec. 19(3), eff. September 1, 2009.

Acts 2011, 82nd Leg., R.S., Ch. [1082](#), Sec. 6, eff. September 1, 2011.

Sec. 42.0561. INFORMATION RELATING TO FAMILY VIOLENCE REPORTS. Before the department may issue a license or registration for a foster home or a child-placing agency may issue a verification certificate for an agency foster home, the department or child-placing agency must obtain information relating to each family violence report at the applicant's residence to which a law enforcement agency

responded during the 12 months preceding the date of the application. The applicant shall provide the information on a form prescribed by the department.

Added by Acts 2007, 80th Leg., R.S., Ch. [524](#), Sec. 7, eff. June 16, 2007.

Sec. 42.057. DRUG TESTING. (a) Each residential child-care facility shall establish a drug testing policy for employees. A residential child-care facility may adopt the model employee drug testing policy adopted by the executive commissioner under Subsection (b) or may use another employee drug testing policy approved by the executive commissioner.

(b) The executive commissioner by rule shall adopt a model employee drug testing policy for use by a residential child-care facility. The policy must be designed to ensure the safety of resident children through appropriate drug testing of employees while protecting the rights of employees. The model policy must require:

- (1) preemployment drug testing;
- (2) random, unannounced drug testing of each employee who has direct contact with a child in the care of the facility;
- (3) drug testing of an employee against whom there is an allegation of drug abuse; and
- (4) drug testing of an employee whom the department is investigating for the abuse or neglect of a child in the care of the facility, if the allegation of abuse or neglect includes information that provides good cause to suspect drug abuse.

(c) The department shall require a drug test of a person who directly cares for or has access to a child in a residential child-care facility within 24 hours after the department receives notice of an allegation that the person has abused drugs.

(d) An employee may not provide direct care or have direct access to a child in a residential child-care facility before completion of the employee's initial drug test.

(e) A residential child-care facility shall pay any fee or cost associated with performing the drug test for an employee.

Added by Acts 2005, 79th Leg., Ch. [268](#), Sec. 1.104(a), eff. September 1, 2005.

Sec. 42.058. COMPETITIVE BIDDING OR ADVERTISING RULES. (a) The board may not adopt rules restricting competitive bidding or advertising by a license holder or registration holder except to prohibit false, misleading, or deceptive practices or to prevent a violation of this chapter.

(b) In its rules to prohibit false, misleading, or deceptive practices, the board may not include a rule that:

(1) restricts the use of any medium for advertising;

(2) restricts the use of a license holder's or registration holder's personal appearance or voice in an advertisement;

(3) relates to the size or duration of an advertisement by the license holder or registration holder; or

(4) restricts the license holder's or registration holder's advertisement under a trade name.

Added by Acts 1997, 75th Leg., ch. 1022, Sec. 33, eff. Sept. 1, 1997.

Sec. 42.059. REQUIRED AFFIDAVIT FOR APPLICANTS FOR EMPLOYMENT WITH FACILITY OR REGISTERED FAMILY HOME. (a) An applicant for temporary or permanent employment with a

licensed facility or registered family home whose employment or potential employment with the facility or home involves direct interactions with or the opportunity to interact and associate with children must execute and submit the following affidavit with the application for employment:

STATE OF _____

COUNTY OF _____

I swear or affirm under penalty of perjury that I do not now and I have not at any time, either as an adult or as a juvenile:

1. Been convicted of;
 2. Pleaded guilty to (whether or not resulting in a conviction);
 3. Pleaded nolo contendere or no contest to;
 4. Admitted;
 5. Had any judgment or order rendered against me (whether by default or otherwise);
 6. Entered into any settlement of an action or claim of;
 7. Had any license, certification, employment, or volunteer position suspended, revoked, terminated, or adversely affected because of;
 8. Resigned under threat of termination of employment or volunteerism for;
 9. Had a report of child abuse or neglect made and substantiated against me for; or
 10. Have any pending criminal charges against me in this or any other jurisdiction for;
- Any conduct, matter, or thing (irrespective of formal name thereof) constituting or involving (whether under criminal or civil law of any jurisdiction):
1. Any felony;
 2. Rape or other sexual assault;
 3. Physical, sexual, emotional abuse and/or neglect of a minor;

4. Incest;
5. Exploitation, including sexual, of a minor;
6. Sexual misconduct with a minor;
7. Molestation of a child;
8. Lewdness or indecent exposure;
9. Lewd and lascivious behavior;
10. Obscene or pornographic literature, photographs,
or videos;
11. Assault, battery, or any violent offense involving
a minor;
12. Endangerment of a child;
13. Any misdemeanor or other offense classification
involving a minor or to which a minor was a witness;
14. Unfitness as a parent or custodian;
15. Removing children from a state or concealing
children in violation of a court order;
16. Restrictions or limitations on contact or
visitation with children or minors resulting from a court
order protecting a child or minor from abuse, neglect, or
exploitation; or
17. Any type of child abduction.

Except the following (list all incidents, location,
description, and date) (if none, write NONE)

Signed _____

Date _____.

Subscribed and sworn to (or affirmed) before me this
_____ day of _____, _____.

Signature of notarial officer

_____.

(seal, if any, of notarial officer)

My commission expires: _____

(b) The failure or refusal of the applicant to sign
or provide the affidavit constitutes good cause for refusal
to hire the applicant.

Added by Acts 1997, 75th Leg., ch. 1022, Sec. 33, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 1129, Sec. 3, eff. Sept. 1, 1999.

Sec. 42.060. CARBON MONOXIDE DETECTORS. (a) In this section, "carbon monoxide detector" means a device that detects and sounds an alarm to indicate the presence of a harmful level of carbon monoxide gas.

(b) Except as provided by Subsection (d), each day-care center, group day-care home, and family home must be equipped with carbon monoxide detectors in accordance with department rules.

(c) The department by rule shall prescribe requirements regarding the placement, installation, and number of carbon monoxide detectors and maintenance procedures for those detectors.

(d) A day-care center is exempt from the carbon monoxide detector requirements prescribed by this section if the day-care center is located in a school facility that is subject to the school facility standards adopted by the commissioner of education under Section 46.008, Education Code, or similar safety standards adopted by the board of a local school district.

Added by Acts 2003, 78th Leg., ch. 127, Sec. 1, eff. Sept. 1, 2003.

Sec. 42.062. CERTAIN EMPLOYMENT AND SERVICE PROHIBITED. A person may not be employed as a controlling person or serve in that capacity in a facility or family home if the person is not eligible to receive a license or certification for the operation of a facility or family home under Section 42.072(g) or has been denied a license under Section 42.046 for a substantive reason.

Added by Acts 2005, 79th Leg., Ch. [268](#), Sec. 1.105, eff. September 1, 2005.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. [1082](#), Sec. 7, eff. September 1, 2011.

Sec. 42.063. REPORTING OF INCIDENTS AND VIOLATIONS.

(a) In this section, "serious incident" means a suspected or actual incident that threatens or impairs the basic health, safety, or well-being of a child. The term includes:

- (1) the arrest, abuse, neglect, exploitation, running away, attempted suicide, or death of a child;
- (2) a critical injury of a child; and
- (3) an illness of a child that requires hospitalization.

(b) A person licensed under this chapter shall report to the department each serious incident involving a child who receives services from the person, regardless of whether the department is the managing conservator of the child.

(c) An employee of a person described by Subsection (b) shall report suspected abuse or neglect directly to the statewide intake system.

(d) An employee or volunteer of a general residential operation, child-placing agency, foster home, or foster group home shall report any serious incident directly to the department if the incident involves a child under the care of the operation, agency, or home.

(e) A foster parent shall report any serious incident directly to the department if the incident involves a child under the care of the parent.

(f) The executive commissioner by rule shall prescribe:

(1) procedures governing reporting required under this section; and

(2) the manner in which a report under this section must be provided.

(g) The department shall implement this section using existing appropriations.

Added by Acts 2005, 79th Leg., Ch. [268](#), Sec. 1.106, eff. September 1, 2005.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. [720](#), Sec. 12, eff. September 1, 2009.

Sec. 42.064. INFORMATION REGARDING GANG-FREE ZONES. Each day-care center shall, in accordance with rules adopted by the executive commissioner, distribute to parents and guardians of children who attend the center information on gang-free zones and the consequences of engaging in organized criminal activity within those zones.

Added by Acts 2009, 81st Leg., R.S., Ch. [1130](#), Sec. 6, eff. June 19, 2009.

Sec. 42.065. ADMINISTERING MEDICATION. (a) In this section, "medication" means a drug that may be obtained with or without a prescription, excluding a topical ointment obtained without a prescription.

(b) This section applies only to a day-care center, group day-care home, before-school or after-school program, school-age program, or family home regardless of whether the facility or program is licensed, registered, or listed.

(c) A director, owner, operator, caretaker, employee, or volunteer of a child-care facility subject to this section may not administer a medication to a child unless:

(1) the child's parent or guardian has submitted to the child-care facility a signed and dated document that

authorizes the facility to administer the medication for not longer than one year; and

(2) the authorized medication:

(A) is administered as stated on the label directions or as amended in writing by a practitioner, as defined by Section 551.003, Occupations Code; and

(B) is not expired.

(d) Notwithstanding Subsection (c)(1), a director, owner, operator, caretaker, employee, or volunteer of a child-care facility subject to this section may administer medication to a child under this section without a signed authorization if the child's parent or guardian:

(1) submits to the child-care facility an authorization in an electronic format that is capable of being viewed and saved; or

(2) authorizes the child-care facility by telephone to administer a single dose of a medication.

(e) An authorization under Subsection (d)(1) expires on the first anniversary of the date the authorization is provided to the child-care facility.

(f) This section does not apply to a person that administers a medication to a child in a medical emergency to prevent the death or serious bodily injury of the child if the medication is administered as prescribed, directed, or intended.

(g) A person commits an offense if the person administers a medication to a child in violation of this section. If conduct constituting an offense under this section also constitutes an offense under a section of the Penal Code, the actor may be prosecuted under either section or both sections.

(h) An offense under this section is a Class A misdemeanor.

Added by Acts 2011, 82nd Leg., R.S., Ch. [762](#), Sec. 2, eff. September 1, 2011.

SUBCHAPTER D. REMEDIES

Sec. 42.0705. RANGE OF PENALTIES. The department shall revoke or suspend a license or registration, place on probation a person whose license or registration has been suspended, or reprimand a license holder or registration holder for a violation of this chapter or a rule of the board. If a license or registration suspension is probated, the department may require the license holder or registration holder to:

- (1) report regularly to the department on matters that are the basis of the probation;
- (2) limit services to the areas prescribed by the department;
- (3) continue or review professional education until the license holder or registration holder attains a degree of skill satisfactory to the department in those areas that are the basis of the probation; or
- (4) take corrective action relating to the violation on which the probation is based.

Added by Acts 1997, 75th Leg., ch. 1022, Sec. 34, eff. Sept. 1, 1997.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. [1406](#), Sec. 40, eff. September 1, 2007.

Sec. 42.071. SUSPENSION, EVALUATION, OR PROBATION OF LICENSE OR REGISTRATION. (a) The department may suspend the license of a facility or the registration of a family home that has temporarily ceased operation but has definite plans for starting operations again within the time limits of the issued license or registration.

(b) The department may suspend a facility's license or a family home's registration for a definite period

rather than deny or revoke the license or registration if the department finds repeated noncompliance with standards that do not endanger the health and safety of children. To qualify for license or registration suspension under this subsection, a facility or family home must suspend its operations and show that standards can be met within the suspension period.

(c) If the department finds a facility or family home is in repeated noncompliance with standards that do not endanger the health and safety of children, the department may schedule the facility or family home for evaluation or probation rather than suspend or revoke the facility's license or the family home's registration. The department shall provide notice to the facility or family home of the evaluation or probation and of the items of noncompliance not later than the 10th day before the evaluation or probation period begins. The department shall designate a period of not less than 30 days during which the facility or family home will remain under evaluation. During the evaluation or probation period, the facility or family home must correct the items that were in noncompliance and report the corrections to the department for approval.

(d) The department shall revoke the license of a facility or the registration of a family home that does not comply with standards at the end of a license or registration suspension.

(e) The department may suspend or revoke the license of a facility or the registration of a family home that does not correct items that were in noncompliance or that does not comply with required standards within the applicable evaluation or probation period.

Acts 1979, 66th Leg., p. 2365, ch. 842, art. 1, Sec. 1, eff. Sept. 1, 1979. Amended by Acts 1983, 68th Leg., p. 111, ch. 23, Sec. 1, eff. Aug. 29, 1983; Acts 1987, 70th Leg., ch. 1081, Sec. 2, eff. Sept. 1, 1987; Acts 1997,

75th Leg., ch. 1022, Sec. 35, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1063, Sec. 7, eff. Sept. 1, 1997.

Sec. 42.0715. COSTS CHARGED TO FACILITY OR FAMILY HOME. The department may charge a facility or family home for reimbursement of the reasonable cost of services provided by the department in formulating, monitoring, and implementing a corrective action plan for the facility or family home.

Added by Acts 1997, 75th Leg., ch. 1022, Sec. 36, eff. Sept. 1, 1997.

Sec. 42.072. LICENSE, LISTING, OR REGISTRATION DENIAL, SUSPENSION, OR REVOCATION. (a) The department may suspend, deny, revoke, or refuse to renew the license, listing, registration, or certification of approval of a facility or family home that does not comply with the requirements of this chapter, the standards and rules of the department, or the specific terms of the license, listing, registration, or certification. The department may revoke the probation of a person whose license, listing, or registration is suspended if the person violates a term of the conditions of probation.

(b) If the department proposes to take an action under Subsection (a), the person is entitled to a hearing conducted by the State Office of Administrative Hearings. Proceedings for a disciplinary action are governed by the administrative procedure law, Chapter 2001, Government Code. An action under this section, including a revocation of a person's license, is a contested case as defined by Chapter 2001, Government Code, and is subject to judicial review under the substantial evidence rule in accordance with that chapter. Rules of practice adopted by the board under Section 2001.004, Government Code,

applicable to the proceedings for a disciplinary action may not conflict with rules adopted by the State Office of Administrative Hearings.

(c) The department may not issue a license, listing, registration, or certification to a person whose license, listing, registration, or certification is revoked or whose application for a license, listing, registration, or certification is denied for a substantive reason under this chapter before the fifth anniversary of the date on which the revocation takes effect by department or court order or the decision to deny the application is final.

(c-1) A person described by Subsection (c) may not be a controlling person in any facility or family home during the five-year period in which the person is ineligible to receive a license, listing, registration, or certification.

(d) The department by rule may provide for denial of an application or renewal for a licensed facility or for listing or registering a family home or may revoke a facility's license or a family home's listing or registration based on findings of background or criminal history as a result of a background or criminal history check.

(e) A person may continue to operate a facility or family home during an appeal of a license, listing, or registration revocation unless the operation of the facility or family home poses a risk to the health or safety of children. The executive commissioner shall by rule establish the criteria for determining whether the operation of a facility or family home poses a risk to the health or safety of children. The department shall notify the facility or family home of the criteria the department used to determine that the operation of the facility or family home poses a risk to health or safety and that the facility or family home may not operate. A person who has been notified by the department that the facility or home may not operate under this section may seek injunctive

relief from a district court in Travis County or in the county in which the facility or home is located to allow operation during the pendency of an appeal. The court may grant injunctive relief against the agency's action only if the court finds that the child-care operation does not pose a health or safety risk to children. A court granting injunctive relief under this subsection shall have no other jurisdiction over an appeal of final agency action unless conferred by Chapter 2001, Government Code.

(f) The department shall deny an application or renewal for listing or registering a family home or shall revoke a family home's listing or registration if the results of a background or criminal history check conducted by the department under Section 42.056 show that a person has been convicted of an offense under Title 5, or 6, Penal Code, or Chapter 43, Penal Code.

(g) Notwithstanding Subsection (c), the department may refuse to issue a license, listing, registration, or certification to:

(1) a person whose license, listing, registration, or certification for a facility or family home was revoked by the department or by court order;

(2) a person who was a controlling person of a facility or family home at the time conduct occurred that resulted in the revocation of the license, listing, registration, or certification of the facility or family home;

(3) a person who voluntarily closed a facility or family home or relinquished the person's license, listing, registration, or certification after:

(A) the department took an action under Subsection (a) in relation to the facility, family home, or person; or

(B) the person received notice that the department intended to take an action under Subsection (a) in relation to the facility, family home, or person; or

(4) a person who was a controlling person of a facility or family home at the time conduct occurred that resulted in the closure of the facility or family home or relinquishment of the license, listing, registration, or certification in the manner described by Subdivision (3).

Acts 1979, 66th Leg., p. 2365, ch. 842, art. 1, Sec. 1, eff. Sept. 1, 1979. Amended by Acts 1983, 68th Leg., p. 111, ch. 23, Sec. 2, eff. Aug. 29, 1983; Acts 1993, 73rd Leg., ch. 977, Sec. 1, eff. Sept. 1, 1993; Acts 1995, 74th Leg., ch. 76, Sec. 5.95(49), eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1022, Sec. 37, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1063, Sec. 7, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1217, Sec. 13, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 218, Sec. 11, eff. Sept. 1, 2001.

Amended by:

Acts 2005, 79th Leg., Ch. [268](#), Sec. 1.107, eff. September 1, 2005.

Acts 2005, 79th Leg., Ch. [526](#), Sec. 3, eff. September 1, 2005.

Acts 2009, 81st Leg., R.S., Ch. [720](#), Sec. 13, eff. September 1, 2009.

Acts 2011, 82nd Leg., R.S., Ch. [1082](#), Sec. 8, eff. September 1, 2011.

Sec. 42.073. EMERGENCY SUSPENSION AND CLOSURE OF A FACILITY OR FAMILY HOME. (a) The department shall suspend a facility's license or a family home's listing or registration and order the immediate closing of the facility or family home if:

(1) the department finds the facility or family home is operating in violation of the applicable standards prescribed by this chapter; and

(2) the violation creates an immediate threat to the health and safety of the children attending or residing in the facility or family home.

(b) An order suspending a license, listing, or registration and an order closing a facility or family home under this section is immediately effective on the date on which the holder of the license, listing, or registration receives written notice or on a later date specified in the order.

(c) An order is valid for 30 days after the effective date of the order.

Acts 1979, 66th Leg., p. 2366, ch. 842, art. 1, Sec. 1, eff. Sept. 1, 1979. Amended by Acts 1993, 73rd Leg., ch. 977, Sec. 2, eff. Sept. 1, 1993; Acts 1995, 74th Leg., ch. 76, Sec. 5.95(49), eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1022, Sec. 38, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1063, Sec. 7, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1217, Sec. 14, eff. Sept. 1, 1997. Amended by:

Acts 2005, 79th Leg., Ch. [268](#), Sec. 1.108, eff. September 1, 2005.

Acts 2009, 81st Leg., R.S., Ch. [720](#), Sec. 14, eff. September 1, 2009.

Sec. 42.074. INJUNCTIVE RELIEF. (a) The department may file suit in a district court in Travis County or in the county in which a facility or family home is located for assessment and recovery of a civil penalty under Section 42.075, for injunctive relief, including a temporary restraining order, or for both a civil penalty and injunctive relief when it appears that a person:

(1) has violated, is violating, or is threatening to violate the licensing, certification, listing, or registration requirements of this chapter or

the department's licensing, certification, listing, or registration rules and standards; or

(2) knowingly fails to meet or maintain an exemption authorized under Section 42.041 and engages in activities that require a license or registration.

(b) The district court shall grant the injunctive relief the facts may warrant.

(c) At the department's request, the attorney general or the county or district attorney of the county in which the facility or family home is located shall conduct a suit in the name of the State of Texas for injunctive relief, to recover the civil penalty, or for both injunctive relief and civil penalties as authorized by Subsection (a).

(d) Injunctive relief provided by this section is in addition to any other action, proceeding, or remedy authorized by law. It is not necessary to allege or prove in an action filed under this section that an adequate remedy at law does not exist or that substantial or irreparable harm would result from the continued violation.

(e) The department is not required to give an appeal bond in an action arising under this section.

Acts 1979, 66th Leg., p. 2367, ch. 842, art. 1, Sec. 1, eff. Sept. 1, 1979. Amended by Acts 1987, 70th Leg., ch. 1052, Sec. 4.09, eff. Sept. 1, 1987; Acts 1997, 75th Leg., ch. 1022, Sec. 39, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1063, Sec. 7, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1217, Sec. 15, eff. Sept. 1, 1997.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. [720](#), Sec. 15, eff. September 1, 2009.

Sec. 42.075. CIVIL PENALTY. (a) A person is subject to a civil penalty of not less than \$50 nor more than \$100 for each day of violation and for each act of violation if the person:

(1) threatens serious harm to a child in a facility or family home by violating a provision of this chapter or a department rule or standard;

(2) violates a provision of this chapter or a department rule or standard three or more times within a 12-month period;

(3) places a public advertisement for an unlicensed facility or an unlisted or unregistered family home;

(4) knowingly fails to meet or maintain any criterion of an exemption authorized under Section 42.041 and engages in activities that require a license or registration; or

(5) fails to inform the department of a change in status and the person knows the change in status requires the person to be licensed or registered under this chapter.

(b) The civil penalty authorized by this section is cumulative and in addition to the criminal penalties and injunctive relief provided by this chapter.

Acts 1979, 66th Leg., p. 2367, ch. 842, art. 1, Sec. 1, eff. Sept. 1, 1979. Amended by Acts 1997, 75th Leg., ch. 1022, Sec. 40, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1063, Sec. 7, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1217, Sec. 16, eff. Sept. 1, 1997.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. [720](#), Sec. 16, eff. September 1, 2009.

Sec. 42.076. CRIMINAL PENALTIES. (a) A person who operates a child-care facility or child-placing agency without a license commits a Class B misdemeanor.

(b) A person who operates a family home without a required listing or registration commits a Class B misdemeanor.

(c) A person who places a public advertisement for an unlicensed facility or an unlisted or unregistered family home commits a Class C misdemeanor.

(d) It is not an offense under this section if a professional provides legal or medical services to:

(1) a parent who identifies the prospective adoptive parent and places the child for adoption without the assistance of the professional; or

(2) a prospective adoptive parent who identifies a parent and receives placement of a child for adoption without assistance of the professional.

Acts 1979, 66th Leg., p. 2367, ch. 842, art. 1, Sec. 1, eff. Sept. 1, 1979. Amended by Acts 1985, 69th Leg., ch. 915, Sec. 2, eff. Sept. 1, 1985; Acts 1995, 74th Leg., ch. 411, Sec. 2, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 664, Sec. 5, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1022, Sec. 41, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1063, Sec. 7, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1217, Sec. 17, eff. Sept. 1, 1997.

Sec. 42.0761. CRIMINAL PENALTY FOR OPERATING DAY-CARE CENTER WITHOUT QUALIFIED DIRECTOR. (a) An owner or operator of a day-care center commits an offense if the owner or operator knowingly operates the day-care center:

(1) without a director who meets the qualifications of a director prescribed by department rules; or

(2) without the routine presence during the day-care center's hours of operation of a director described by Subdivision (1).

(b) An offense under this section is a Class B misdemeanor.

Added by Acts 2007, 80th Leg., R.S., Ch. [1406](#), Sec. 41, eff. September 1, 2007.

Sec. 42.077. NOTICE OF ACTION AGAINST FACILITY OR FAMILY HOME. (a) If the department revokes or suspends a facility's license or a family home's listing or registration, the department shall publish notice of this action:

(1) in a newspaper of general circulation in the county in which the facility or family home is located; or

(2) on the department's Internet website along with other information regarding child-care services.

(a-1) If notice is published in a newspaper under Subsection (a), the newspaper shall place the notice in the section in which advertisements for day-care services are normally published.

(b) If a person who operates a facility or family home that has had its license, listing, or registration revoked or suspended later applies for a new license, listing, or registration to operate the same facility or family home, the department shall charge the person an application fee in an amount necessary to reimburse the department for the cost of the notice relating to that facility or family home.

(c) The department shall pay for publication of the notice from funds appropriated to the department for licensing and regulating child-care facilities and for listing, registering, and regulating family homes and from appeal and application fees collected under Subsection (b) and appropriated to the department.

(d) A facility or family home that has its license, listing, or registration revoked or suspended shall mail notification of this action by certified mail to the parents or guardian of the child served by the facility or family home. The facility or family home shall mail the notification within five days of the effective date of the

revocation or suspension of the license, listing, or registration.

(d-1) If the department determines that the license of a residential child-care facility should be revoked or suspended, the facility shall mail notification of the action or proposed action by certified mail to a parent of each child served by the facility, if the person's parental rights have not been terminated, and to the child's managing conservator, as appropriate. The residential child-care facility shall mail the notification not later than the fifth day after the date the facility is notified of the department's determination that revocation or suspension of the license is appropriate.

(e) When the most recent federal census shows that more than one-half of the population in a municipality or in a commissioners precinct in a county in which a family home whose listing or registration has been revoked or suspended is located is of Hispanic origin or Spanish-speaking, the department shall publish the notice under Subsection (a) in both English and Spanish.

Amended by Acts 1997, 75th Leg., ch. 1022, Sec. 42, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1063, Sec. 7, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1217, Sec. 18, eff. Sept. 1, 1997.

Amended by:

Acts 2005, 79th Leg., Ch. [268](#), Sec. 1.109, eff. September 1, 2005.

Acts 2009, 81st Leg., R.S., Ch. [720](#), Sec. 17, eff. September 1, 2009.

Sec. 42.078. ADMINISTRATIVE PENALTY. (a) The department may impose an administrative penalty against a facility or family home licensed, registered, or listed under this chapter that violates this chapter or a rule or order adopted under this chapter. In addition, the

department may impose an administrative penalty against a residential child-care facility or a controlling person of a residential child-care facility if the facility or controlling person:

(1) violates a term of a license or registration issued under this chapter;

(2) makes a statement about a material fact that the facility or person knows or should know is false:

(A) on an application for the issuance of a license or registration or an attachment to the application; or

(B) in response to a matter under investigation;

(3) refuses to allow a representative of the department to inspect:

(A) a book, record, or file required to be maintained by the facility; or

(B) any part of the premises of the facility;

(4) purposefully interferes with the work of a representative of the department or the enforcement of this chapter; or

(5) fails to pay a penalty assessed under this chapter on or before the date the penalty is due, as determined under this section.

(a-1) Nonmonetary, administrative penalties or remedies, including but not limited to corrective action plans, probation, and evaluation periods, shall be imposed when appropriate before monetary penalties.

(b) Each day a violation continues or occurs is a separate violation for purposes of imposing a penalty. The penalty for a violation may be in an amount not to exceed the following limits, based on the maximum number of children for whom the facility or family home was authorized to provide care or the number of children under

the care of the child-placing agency when the violation occurred:

(1) for violations that occur in a facility other than a residential child-care facility:

Number of children	Maximum amount of penalty
20 or less	\$50
21-40	\$60
41-60	\$70
61-80	\$80
81-100	\$100
More than 100	\$150

(2) for violations that occur in a residential child-care facility:

Number of children	Maximum amount of penalty
20 or less	\$100
21-40	\$150
41-60	\$200
61-80	\$250
81-100	\$375
More than 100	\$500

(c) In addition to the number of children, the amount of the penalty shall be based on:

(1) the seriousness of the violation, including the nature, circumstances, extent, and gravity of any prohibited acts, and the hazard or potential hazard created to the health, safety, or economic welfare of the public;

(2) the economic harm to property or the environment caused by the violation;

(3) the history of previous violations;

(4) the amount necessary to deter future violations;

(5) efforts to correct the violation; and

(6) any other matter that justice may require.

(d) Monetary penalties shall not be assessed for violations that are the result of clerical errors.

(e) If the department determines that a violation has occurred, the department may issue a recommendation on the

imposition of a penalty, including a recommendation on the amount of the penalty.

(f) Within 14 days after the date the recommendation is issued, the department shall give written notice of the recommendation to the person owning or operating the facility or family home or to the controlling person, if applicable. The notice may be given by certified mail. The notice must include a brief summary of the alleged violation and a statement of the amount of the recommended penalty and must inform the person that the person has a right to a hearing on the occurrence of the violation, the amount of the penalty, or both the occurrence of the violation and the amount of the penalty.

(g) Within 20 days after the date the person receives the notice, the person in writing may accept the determination and recommended penalty of the department or may make a written request for a hearing on the occurrence of the violation, the amount of the penalty, or both the occurrence of the violation and the amount of the penalty.

(h) If the person accepts the determination and recommended penalty of the department or fails to respond to the notice in a timely manner, the department shall issue an order and impose the recommended penalty.

(i) If the person requests a hearing, the department shall set a hearing and give notice of the hearing to the person. The hearing shall be held by an administrative law judge of the State Office of Administrative Hearings. The administrative law judge shall make findings of fact and conclusions of law and issue a final decision finding that a violation has occurred and imposing a penalty or finding that no violation occurred.

(j) The notice of the administrative law judge's order given to the person under Chapter 2001, Government Code, must include a statement of the right of the person to judicial review of the order.

(k) Within 30 days after the date the administrative law judge's order becomes final as provided by Section 2001.144, Government Code, the person shall:

(1) pay the amount of the penalty;

(2) pay the amount of the penalty and file a petition for judicial review contesting the occurrence of the violation, the amount of the penalty, or both the occurrence of the violation and the amount of the penalty; or

(3) without paying the amount of the penalty, file a petition for judicial review contesting the occurrence of the violation, the amount of the penalty, or both the occurrence of the violation and the amount of the penalty.

(1) Within the 30-day period, a person who acts under Subsection (k)(3) may:

(1) stay enforcement of the penalty by:

(A) paying the amount of the penalty to the court for placement in an escrow account; or

(B) giving to the court a supersedeas bond that is approved by the court for the amount of the penalty and that is effective until all judicial review of the order is final; or

(2) request the court to stay enforcement of the penalty by:

(A) filing with the court a sworn affidavit of the person stating that the person is financially unable to pay the amount of the penalty and is financially unable to give the supersedeas bond; and

(B) giving a copy of the affidavit to the department by certified mail.

(m) On receipt of a copy of an affidavit under Subsection (1)(2), the department may file with the court, within five days after the date the copy is received, a contest to the affidavit. The court shall hold a hearing on the facts alleged in the affidavit as soon as

practicable and shall stay the enforcement of the penalty on finding that the alleged facts are true. The person who files an affidavit has the burden of proving that the person is financially unable to pay the amount of the penalty and to give a supersedeas bond.

(n) If the person does not pay the amount of the penalty and the enforcement of the penalty is not stayed, the department may refer the matter to the attorney general for collection of the amount of the penalty.

(o) Judicial review of the order:

(1) is instituted by filing a petition as provided by Subchapter G, Chapter 2001, Government Code; and

(2) is under the substantial evidence rule.

(p) If the court sustains the occurrence of the violation, the court may uphold or reduce the amount of the penalty and order the person to pay the full or reduced amount of the penalty. If the court does not sustain the occurrence of the violation, the court shall order that no penalty is owed.

(q) When the judgment of the court becomes final, the court shall proceed under this subsection. If the person paid the amount of the penalty and if that amount is reduced or is not upheld by the court, the court shall order that the appropriate amount plus accrued interest be remitted to the person. The rate of the interest is the rate charged on loans to depository institutions by the New York Federal Reserve Bank, and the interest shall be paid for the period beginning on the date the penalty was paid and ending on the date the penalty is remitted. If the person gave a supersedeas bond and if the amount of the penalty is not upheld by the court, the court shall order the release of the bond. If the person gave a supersedeas bond and if the amount of the penalty is reduced, the court shall order the release of the bond after the person pays the amount.

(r) A penalty collected under this section shall be sent to the comptroller for deposit in the general revenue fund.

(s) All proceedings under this section are subject to Chapter 2001, Government Code.

Added by Acts 1997, 75th Leg., ch. 1022, Sec. 43, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 1129, Sec. 4, eff. Sept. 1, 1999.

Amended by:

Acts 2005, 79th Leg., Ch. [268](#), Sec. 1.110(a), eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. [1406](#), Sec. 42, eff. September 1, 2007.

Acts 2011, 82nd Leg., R.S., Ch. [1082](#), Sec. 9, eff. September 1, 2011.

SUBCHAPTER F. REGULATION OF EMPLOYER-BASED DAY-CARE FACILITIES

Sec. 42.151. DEFINITIONS. In this subchapter:

(1) "Employer-based day-care facility" means a day-care facility that is:

(A) operated by a small employer to provide care to not more than 12 children of the employer's employees; and

(B) located on the employer's premises.

(2) "Small employer" means a corporation, partnership, sole proprietorship, or other legal entity that employs fewer than 100 full-time employees.

Added by Acts 2007, 80th Leg., R.S., Ch. [1414](#), Sec. 2, eff. September 1, 2007.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. [89](#), Sec. 1, eff. September 1, 2009.

Sec. 42.152. PERMIT REQUIRED. (a) Except as provided by Subsection (b), a small employer may not operate an employer-based day-care facility unless the employer holds a permit issued by the department under this subchapter.

(b) A small employer is not required to obtain a permit to operate an employer-based day-care facility under this subchapter if the employer holds a license to operate a child-care facility that is issued by the department under Subchapter C. An employer that holds that license must comply with the applicable provisions of Subchapter C, the applicable rules of the department, and any specific terms of the license.

(c) Notwithstanding any other law, including Section 42.041, a small employer that holds a permit issued under this subchapter is not required to hold a license under Subchapter C to operate an employer-based day-care facility.

Added by Acts 2007, 80th Leg., R.S., Ch. [1414](#), Sec. 2, eff. September 1, 2007.

Sec. 42.153. APPLICATION; INITIAL INSPECTION AND BACKGROUND AND CRIMINAL HISTORY CHECKS. (a) The department shall develop and implement a streamlined procedure by which a small employer may apply for and be issued a permit to operate an employer-based day-care facility. The employer must submit an application for the permit to the department on a form prescribed by the department.

(b) Except as provided by Section 42.154, on receipt of a small employer's application for a permit, the department shall:

(1) conduct an initial inspection of the employer-based day-care facility to ensure that the

employer is able to comply with the provisions of this subchapter and that the facility complies with the fire safety and sanitation standards of the political subdivision in which the facility is located; and

(2) conduct a background and criminal history check on each prospective caregiver whose name is submitted as required by Section 42.159(a).

(c) The department may charge an applicant an administrative fee in a reasonable amount that is sufficient to cover the costs of the department in processing the application.

(d) The department shall process an application not later than the 30th day after the date the department receives all of the required information.

Added by Acts 2007, 80th Leg., R.S., Ch. [1414](#), Sec. 2, eff. September 1, 2007.

Sec. 42.154. CONVERSION OF LICENSE. (a) The department shall develop and implement a procedure by which a small employer that holds a license to operate a child-care facility that is issued under Subchapter C before September 1, 2007, may convert the license to a permit under this subchapter. The procedure must include an abbreviated application form for use by the employer in applying for the permit.

(b) The department may waive the requirements under Section 42.153(b) for an initial inspection or background and criminal history checks with respect to a facility operated by a small employer seeking to convert a license to a permit under this section if the department determines that previously conducted inspections or background and criminal history checks, as applicable, are sufficient to ensure the safety of children receiving care at the facility.

Added by Acts 2007, 80th Leg., R.S., Ch. [1414](#), Sec. 2, eff. September 1, 2007.

Sec. 42.155. PARENT OR GUARDIAN WITHIN IMMEDIATE VICINITY. An employer-based day-care facility operating under this subchapter may provide care only for a child whose parent or guardian:

- (1) is an employee of the small employer to which the permit to operate the facility was issued;
- (2) works within the same building in which the facility is located; and
- (3) is away from that building only for limited periods, as defined by department rules, during the hours the child is receiving care.

Added by Acts 2007, 80th Leg., R.S., Ch. [1414](#), Sec. 2, eff. September 1, 2007.

Sec. 42.156. CAREGIVER-TO-CHILD RATIO. An employer-based day-care facility operating under this subchapter shall maintain a caregiver-to-child ratio of at least one caregiver to every four children receiving care.

Added by Acts 2007, 80th Leg., R.S., Ch. [1414](#), Sec. 2, eff. September 1, 2007.

Sec. 42.157. MINIMUM STANDARDS. The department shall encourage an employer-based day-care facility operating under this subchapter to comply with the minimum standards applicable to a child-care facility licensed under Subchapter C.

Added by Acts 2007, 80th Leg., R.S., Ch. [1414](#), Sec. 2, eff. September 1, 2007.

Sec. 42.158. CAREGIVER QUALIFICATIONS. A caregiver employed by an employer-based day-care facility operating under this subchapter must:

- (1) be at least 18 years of age;
- (2) have received a high school diploma or its equivalent, as determined by the department;
- (3) receive at least the minimum training required for an employee of a licensed day-care center as prescribed by department rules in accordance with Sections 42.042(p) and 42.0421;
- (4) have a Child Development Associate or Certified Child-Care Professional credential or an equivalent credential, as determined by the department; and
- (5) not have been precluded from providing direct care or having direct access to a child by the department based on the results of a background and criminal history check conducted under Section 42.159.

Added by Acts 2007, 80th Leg., R.S., Ch. [1414](#), Sec. 2, eff. September 1, 2007.

Sec. 42.159. BACKGROUND AND CRIMINAL HISTORY CHECKS REQUIRED. (a) In accordance with rules adopted by the executive commissioner, a small employer shall, when applying for a permit under this subchapter and at least once during each 24 months after receiving that permit, submit to the department for use in conducting background and criminal history checks:

- (1) the name of any director of the employer-based day-care facility and the name of each caregiver employed at the facility to provide care to children; and
- (2) the name of each person 14 years of age or older who will regularly or frequently be staying or working at the facility while children are being provided care.

(b) The small employer shall also submit to the department for use in conducting background and criminal history checks the name of each prospective caregiver who will provide care to children at the facility or other prospective employee who will have direct access to those children.

(c) The department shall conduct background and criminal history checks using:

(1) the information provided under Subsection (a) or (b), as applicable;

(2) the information made available by the Department of Public Safety under Section 411.114, Government Code, or by the Federal Bureau of Investigation or other criminal justice agency under Section 411.087, Government Code; and

(3) the department's records of reported abuse and neglect.

(d) For purposes of Sections 411.114 and 411.087, Government Code:

(1) a small employer that applies for a permit is considered an applicant for a license under this chapter; and

(2) an employer-based day-care facility operating under a permit issued under this subchapter is considered a child-care facility licensed under this chapter.

(e) The department shall require the small employer to pay to the department a fee in an amount not to exceed the administrative costs the department incurs in conducting a background and criminal history check under this section.

Added by Acts 2007, 80th Leg., R.S., Ch. [1414](#), Sec. 2, eff. September 1, 2007.

Sec. 42.160. APPLICABILITY OF OTHER LAW. Except as otherwise provided by this subchapter, an employer-based day-care facility operating under this subchapter is not a child-care facility, as defined by Section 42.002, and the provisions of this chapter and the department's rules that apply to a child-care facility licensed under Subchapter C do not apply to an employer-based day-care facility.

Added by Acts 2007, 80th Leg., R.S., Ch. [1414](#), Sec. 2, eff. September 1, 2007.

Sec. 42.161. REPORTING OF INCIDENTS AND VIOLATIONS. An employer-based day-care facility operating under this subchapter and each employee of that facility are subject to the reporting requirements of Section 42.063 to the same extent a licensed child-care facility and employees of licensed child-care facilities are subject to that section.

Added by Acts 2007, 80th Leg., R.S., Ch. [1414](#), Sec. 2, eff. September 1, 2007.

Sec. 42.162. AUTHORITY TO CONDUCT LIMITED INSPECTIONS. (a) The department may inspect an employer-based day-care facility operating under this subchapter if the department receives a complaint or report of child abuse or neglect alleged to have occurred at the facility.

(b) If the department inspects an employer-based day-care facility as authorized by this section, the department may require the small employer operating the facility to take appropriate corrective action the department determines necessary to comply with the requirements of this subchapter and to ensure the health and safety of children receiving care at the facility. The department may continue to inspect the facility until corrective action is taken and for a reasonable time after that action is taken to ensure continued compliance.

(c) The department may charge a small employer issued a permit under this subchapter a reasonable fee for the cost of services provided by the department in formulating, monitoring, and implementing a corrective action plan under this section.

Added by Acts 2007, 80th Leg., R.S., Ch. [1414](#), Sec. 2, eff. September 1, 2007.

Sec. 42.163. SUSPENSION, DENIAL, OR REVOCATION. (a) The department may suspend, deny, or revoke a permit issued to a small employer under this subchapter if the employer does not comply with the provisions of this subchapter or any applicable department rules.

(b) The department may refuse to issue a permit under this subchapter to a small employer that had its authorization to operate a child-care facility issued under another subchapter revoked, suspended, or not renewed for a reason relating to child health or safety as determined by the department.

(c) An employer-based day-care facility is subject to the emergency suspension of its permit to operate and to closure under Section 42.073 to the same extent and in the same manner as a licensed child-care facility is subject to that section.

Added by Acts 2007, 80th Leg., R.S., Ch. [1414](#), Sec. 2, eff. September 1, 2007.

SUBCHAPTER G. REGULATION OF TEMPORARY SHELTER DAY-CARE FACILITIES

Sec. 42.201. DEFINITIONS. In this subchapter:

(1) "Shelter" means a supervised publicly or privately operated shelter or other facility that is designed to provide temporary living accommodations to

individuals and families, including a family violence shelter, a homeless shelter, and an emergency shelter. The term does not include a temporary facility established in response to a natural or other disaster.

(2) "Shelter care" means child care that is provided:

(A) to seven or more children under 14 years of age who temporarily reside at a shelter each with an adult who is related to the child by blood or who is the child's managing conservator;

(B) by a person who is not a temporary resident of a shelter; and

(C) while the adult described by Paragraph (A) is away from the shelter.

(3) "Shelter day-care facility" means a shelter that provides shelter care for not more than 24 hours a day, but at least four hours a day, three or more days a week.

Added by Acts 2011, 82nd Leg., R.S., Ch. [1082](#), Sec. 10, eff. September 1, 2012.

Sec. 42.202. PERMIT REQUIRED. (a) Except as provided by Subsections (b) and (e), a shelter may not provide shelter care unless the shelter holds a permit issued by the department under this subchapter.

(b) A shelter is not required to obtain a permit to provide shelter care under this subchapter if the shelter holds a license to operate a child-care facility that is issued by the department under Subchapter C. A shelter that holds that license must comply with the applicable provisions of Subchapter C, the applicable rules of the department, and any specific terms of the license.

(c) Notwithstanding any other law, including Section 42.041, a shelter that holds a permit issued under this

subchapter is not required to hold a license under Subchapter C to operate a shelter day-care facility.

(d) The department may not issue a permit under this subchapter to a shelter that provides child care to a child who is not a resident of the shelter. A shelter that provides child care described by this subsection must hold a license to operate a child-care facility issued under Subchapter C.

(e) A shelter is not required to obtain a permit under this subchapter or a license under Subchapter C if the shelter provides shelter care for:

(1) less than four hours a day or for less than three days a week; or

(2) six or fewer children.

Added by Acts 2011, 82nd Leg., R.S., Ch. [1082](#), Sec. 10, eff. September 1, 2012.

Sec. 42.203. APPLICATION; INITIAL INSPECTION AND BACKGROUND AND CRIMINAL HISTORY CHECKS. (a) The department shall develop and implement a streamlined procedure by which a shelter may apply for and be issued a permit to operate a shelter day-care facility. The shelter must submit an application for the permit to the department on a form prescribed by the department.

(b) Except as provided by Section 42.204, on receipt of a shelter's application for a permit, the department shall:

(1) conduct an initial inspection of the shelter day-care facility to ensure that the shelter is able to comply with the provisions of this subchapter and that the facility complies with the fire safety and sanitation standards of the political subdivision in which the facility is located; and

(2) conduct a background and criminal history check on each prospective caregiver whose name is submitted as required by Section 42.206(a).

(c) The department may charge an applicant an administrative fee in a reasonable amount that is sufficient to cover the costs of the department in processing the application.

(d) The department shall process an application not later than the 30th day after the date the department receives all of the required information.

Added by Acts 2011, 82nd Leg., R.S., Ch. [1082](#), Sec. 10, eff. September 1, 2012.

Sec. 42.204. CONVERSION OF LICENSE. (a) The department shall develop and implement a procedure by which a shelter that holds a license to operate a child-care facility that is issued under Subchapter C before September 1, 2012, may convert the license to a permit under this subchapter. The procedure must include an abbreviated application form for use by the shelter in applying for the permit.

(b) The department may waive the requirements under Section 42.203(b) for an initial inspection or background and criminal history checks with respect to a licensed child-care facility seeking to convert a license to a permit under this section if the department determines that previously conducted inspections or background and criminal history checks, as applicable, are sufficient to ensure the safety of children receiving care at the facility.

Added by Acts 2011, 82nd Leg., R.S., Ch. [1082](#), Sec. 10, eff. September 1, 2012.

Sec. 42.205. CAREGIVER QUALIFICATIONS AND TRAINING; CHILD-TO-CAREGIVER RATIOS. (a) The executive commissioner shall adopt rules that specify the minimum:

(1) qualifications and training required for a person providing child care in a shelter day-care facility; and

(2) child-to-caregiver ratios in a shelter day-care facility.

(b) In adopting rules under this section, the executive commissioner shall consider:

(1) the special circumstances and needs of families that seek temporary shelter; and

(2) the role of a shelter in assisting and supporting families in crisis.

Added by Acts 2011, 82nd Leg., R.S., Ch. [1082](#), Sec. 10, eff. September 1, 2012.

Sec. 42.206. BACKGROUND AND CRIMINAL HISTORY CHECKS REQUIRED. (a) In accordance with rules adopted by the executive commissioner, a shelter shall, when applying for a permit under this subchapter and at least once during each 24-month period after receiving that permit, submit to the department for use in conducting background and criminal history checks:

(1) the name of any director or prospective director of the shelter day-care facility and the name of each caregiver or prospective caregiver employed at the facility to provide care to children;

(2) the name of each person counted in child-to-caregiver ratios at the shelter day-care facility; and

(3) the name of each person 14 years of age or older who will have unsupervised access to one or more children while in the care of the shelter day-care facility.

(b) In addition to the requirements of Subsection (a), a shelter shall submit a complete set of fingerprints of each person required to undergo a criminal history check under Subsection (a) if:

(1) the person has lived outside the state at any time during the previous five years; or

(2) the shelter has reason to suspect that the person has a criminal history in another state.

(c) The department shall conduct background and criminal history checks using:

(1) the information provided under Subsection (a) or (b), as applicable;

(2) the information made available by the Department of Public Safety under Section 411.114, Government Code, or by the Federal Bureau of Investigation or another criminal justice agency under Section 411.087, Government Code; and

(3) the department's records of reported abuse and neglect.

(d) For purposes of Sections 411.114 and 411.087, Government Code:

(1) a shelter that applies for a permit is considered to be an applicant for a license under this chapter; and

(2) a shelter day-care facility operating under a permit issued under this subchapter is considered to be a child-care facility licensed under this chapter.

(e) The department shall require the shelter to pay to the department a fee in an amount not to exceed the administrative costs the department incurs in conducting a background and criminal history check under this section.

Added by Acts 2011, 82nd Leg., R.S., Ch. [1082](#), Sec. 10, eff. September 1, 2012.

Sec. 42.207. APPLICABILITY OF OTHER LAW. Except as otherwise provided by this subchapter, a shelter day-care facility operating under this subchapter is not a child-care facility, as defined by Section 42.002, and the provisions of this chapter and the department's rules that apply to a child-care facility licensed under Subchapter C do not apply to a shelter day-care facility.

Added by Acts 2011, 82nd Leg., R.S., Ch. [1082](#), Sec. 10, eff. September 1, 2012.

Sec. 42.208. REPORTING OF INCIDENTS AND VIOLATIONS. A shelter day-care facility operating under this subchapter and each employee of that facility are subject to the reporting requirements of Section 42.063 to the same extent a licensed child-care facility and employees of licensed child-care facilities are subject to that section.

Added by Acts 2011, 82nd Leg., R.S., Ch. [1082](#), Sec. 10, eff. September 1, 2012.

Sec. 42.209. AUTHORITY TO CONDUCT LIMITED INSPECTIONS. (a) The department may inspect a shelter day-care facility operating under this subchapter if the department receives a complaint or report of child abuse or neglect alleged to have occurred at the shelter day-care facility.

(b) If the department inspects a shelter day-care facility as authorized by this section, the department may require the facility to take appropriate corrective action the department determines necessary to comply with the requirements of this subchapter and to ensure the health and safety of children receiving care at the facility. The department may continue to inspect the facility until

corrective action is taken and for a reasonable time after that action is taken to ensure continued compliance.

(c) The department may charge a shelter issued a permit under this subchapter a reasonable fee for the cost of services provided by the department in formulating, monitoring, and implementing a corrective action plan under this section.

Added by Acts 2011, 82nd Leg., R.S., Ch. [1082](#), Sec. 10, eff. September 1, 2012.

Sec. 42.210. SUSPENSION, DENIAL, OR REVOCATION.

(a) The department may suspend, deny, or revoke a permit issued to a shelter under this subchapter if the shelter does not comply with the provisions of this subchapter or any applicable department rules.

(b) The department may refuse to issue a permit under this subchapter to a shelter that had its authorization to operate a child-care facility issued under another subchapter revoked, suspended, or not renewed for a reason relating to child health or safety as determined by the department.

(c) A shelter day-care facility is subject to the emergency suspension of its permit to operate and to closure under Section 42.073 to the same extent and in the same manner as a licensed child-care facility is subject to that section.

Added by Acts 2011, 82nd Leg., R.S., Ch. [1082](#), Sec. 10, eff. September 1, 2012.

LANCASTER CITY COUNCIL

Agenda Communication

April 22, 2013

Item 16

Discuss and consider appointments to the Planning and Zoning Commission and the Library Advisory Board.

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

Goal: Civic engagement

Background

At the March 11 and 25, 2013 Council meetings, a motion was made and approved to table appointments until the next regular Council meeting.

Currently the City has the following vacancies on boards/commissions:

		<u>Term expires</u>
Planning and Zoning Commission	regular member	2013
Library Advisory Board	regular member	2013

Considerations

We had very few applications remaining on hand from annual appointments in August 2012 that expressed interest in either the Planning and Zoning Commission or the Library Advisory Board.

Due to the limited number of applications on hand, we have recruited for board and commission applicants since late January through a number of resources including the website, Lancaster Live, the Lancaster Connection, the City's social sites and a press release. We received four additional applications for P&Z. One of those new applicants also asked to be considered for the Library Advisory Board. A spreadsheet of applicants is attached.

LaToya Browning currently serves as an alternate on the Library Advisory Board and may be appointed to the vacant regular position.

Options/Alternatives

Council may choose to:

1. Make one or both appointments from applications on hand or new applications.

2. For the Library Advisory Board, Council may appoint the current alternate, LaToya Browning, to the regular position and then make an appointment to the vacated alternate position.
3. Leave one or both vacancies unfilled at this time.

It is in the best interest of the boards to operate with full membership as soon as is practical.

Recommendation

Board and Commission appointments are solely at Council's discretion.

Attachments

- Spreadsheet of applicants
 - Applications
-

Submitted by:

Dolle K. Downe, City Secretary

Boards and Commissions Applicants

April 2013



Applicants	Airport	PSAB	HLPC	Library	ZBA	LEDC	P&Z	Parks/4B	Animal SAB	Comments
Barnett Jr., Tom							1			<i>new applicant</i>
Burrell, Philicia						2	1	3		<i>new applicant</i>
Nichols, Roosevelt							1			<i>2012 applicant</i>
Slaughter, Marcus				1			1			<i>new applicant</i>
Smith, Arlandre R.	3			1				2		<i>2012 applicant</i>
Walker, Frankie Renee							1			<i>new applicant</i>
Weeks, Donald J.					2		1			<i>2012 applicant</i>

updated 4-8-2013



City of Lancaster, Texas
Boards and Commissions
Application



Name: Tom Barnett Jr. Date: 2-1-2013
Address: 803 E. 3rd St. Lancaster, Tex. Zip: 75146
Home Phone: 972-227-1959 Work/Cell Phone: _____
Email Address: _____ Length of residency: 40+
Occupation: _____

Please list the Boards/Commissions/Corporations you wish to serve on in order of preference.

1. PLANNING + ZONING
2. _____
3. _____

Have you ever served as a member of any Lancaster boards, commissions, or committees?

☒ YES

☐ NO

List any particular qualifications you feel would be beneficial to serving on any particular board or commission. You may also attach additional sheets as well as a resume.

I served as a member and chair of Planning and Zoning, thus, I feel that I may be able to now assist with business of the Board

To be an effective member of a Board or Commission, you must be willing to attend and participate in all scheduled meetings.

Applications are always welcome as vacancies may occur throughout the year.

Signature Tom Barnett Jr. Date 2-1-2013

Please return your completed application to the City Secretary's Office at 211 N. Henry St., or mail to P. O. Box 940, Lancaster, TX 75146 or fax to 972-218-1399.

Received by: _____

Office Use Only

Date: _____



City of Lancaster, Texas
Boards and Commissions
Application



Name: Burrell, Philicia R. Date: 2-18-2013
Address: 1506 Becky Lane Zip: 75134
Home Phone: 972-227-0581 Work/Cell Phone: 469-879-7788
Email Address: queenamina09@gmail.com Length of residency: 13 yrs
Occupation: Instructional Aide III

Please list the Boards/Commissions/Corporations you wish to serve on in order of preference.

1. Planning and Zoning Commission
2. Lancaster Economic Development Corp.
3. Parks and Recreation Advisory Board

Have you ever served as a member of any Lancaster boards, commissions, or committees?

☐ YES

☒ NO

List any particular qualifications you feel would be beneficial to serving on any particular board or commission. You may also attach additional sheets as well as a resume.

Retired from Tx Dept. Criminal Justice

To be an effective member of a Board or Commission, you must be willing to attend and participate in all scheduled meetings.

Applications are always welcome as vacancies may occur throughout the year.

Signature P.M. Burrell Date 2/18/2013

Please return your completed application to the City Secretary's Office at 211 N. Henry St., or mail to P. O. Box 940, Lancaster, TX 75146 or fax to 972-218-1399.

Received by: dd

Office Use Only
Date:

RECEIVED FEB 25 2013



City of Lancaster, Texas
Boards and Commissions
Application



Name: Roosevelt Nichols Date: 7-28-12
Address: 2318 Montclair Lancaster TX Zip: 75146
Home Phone: 9-227-0619 Work/Cell Phone: 469-358-8759
Email Address: NICK0420@SBCS106ale.net Length of residency: 26 Yrs
Occupation: _____

Please list the Boards/Commissions/Corporations you wish to serve on in order of preference.

1. P&Z / Planning and Zoning Commission
2. _____
3. _____

Have you ever served as a member of any Lancaster boards, commissions, or committees?

☒ YES

☐ NO

List any particular qualifications you feel would be beneficial to serving on any particular board or commission. You may also attach additional sheets as well as a resume.

comprehensive plan steering committee

To be an effective member of a Board or Commission, you must be willing to attend and participate in all scheduled meetings.

Applications are always welcome as vacancies may occur throughout the year.

Signature Roosevelt Nichols Date 7-28-12

Please return your completed application to the City Secretary's Office at 211 N. Henry St., or mail to P. O. Box 940, Lancaster, TX 75146 or fax to 972-218-1399.

Received by: <u>AAA</u>	Office Use Only: _____
Date: <u>7-30-12</u>	_____



Roosevelt Nichols
2318 Montclair
Lancaster, Texas 75146
(972)227-0619 or (469) 358-8722
Nick0420@sbcglobal.net

Personal:

Residence: Twenty-six years resident of Lancaster, Texas

Educational Background

Norfolk State University, Norfolk, Virginia:

Bachelor of Arts in Business Administration and Marketing

Cedar Valley Community College, Principles Management

Various Continuing Education Courses

Professional Credentials

Nichols Mobile African American History Museum

Nichols Transportation Company

Forty hours of Special Event Certification Training

Certified Mediator in Personal Property and Multi-Cultural Conflict Resolution/Grievance

Museum Certification:

Administration (A): Human Resource, Legal Issues, Operations, Budgeting, Governance, by laws, Mission, Board Development, Ethics.

Resource Development (E): Public Relations, Development, Membership, Marketing.

Exhibitions (E): Curation, Installation, Evaluation, Labels, Gallery Guides, Object Mounting, Furnishing Plans for Historic Houses, Interpretation

Military Background

U.S. Navy (Honorable)

Vietnam ERA Veteran

Special Affiliations

32nd Degree Mason

National Riffle Association

Lancaster Chambers of Commerce

Dallas Black Chambers of Commerce

Civic and Community Based Experience for City of Lancaster

- Organized and served as coordinator for Millbrook Neighborhood Crime Watch Committee
- President of the Millbrook Homeowners Association since 1993 to current.
- Chaired the committee that sponsor the culture celebration event for Cinco De Mayo, Juneteenth and Fourth of July celebration (1997 to 1999)
- Recognized as one of the thirteenth most influential people in the City of Lancaster by Today's Newspaper, February 1998
- Member of the Charter Review Committee, 1999 and 2002
- Organized and chaired a committee that sponsor The Armed Forces Day support and pray for our troops 2002.
- Help organized and chaired Lancaster Human Relations Commission served four years
- Served as a member of a Regional and Urban Design Assistance Team Steering Committee in Lancaster, Texas after the tornado that destroyed downtown area of Lancaster.
- Received numerous hours of Sensitivity Training
- Served on the Comprehensive Plan Steering Committee for Lancaster, TX (2003 & 2004)
- Dallas County Election Judge for four years
- Received Trailblazer Award at the at the 1999 Juneteenth Celebrations
- Rosa Parks Millbrook Campus Improvement Committee, 1997 and 1998
- Leading advocate of changing name of the Millbrook Elementary to Rosa Parks -Millbrook Elementary. I met with Mrs. Rosa parks to obtain permission to re-name Millbrook Elementary School in her honor.
- Airport Advisor Board (2005 & 2006)
- Former Lancaster High School Cheerleader Booster Club President
- Present Board member of the Lancaster Historical Society (2007-2008)
- Lancaster independence School District Improvement Council 2006
- Founder and President of Lancaster Martin Luther King, Jr. Foundation and parade Committee since 2003.
- Served on the Keep Lancaster Beautiful Committee
- Member of Texas Association of Museum and North Texas Association Museum
- Lancaster Lions Club



City of Lancaster, Texas
Boards and Commissions
Application



Name: Marcus Slaughter Date: 4 Feb 2013
Address: 1323 Kentucky Ave Zip: 75134
Home Phone: _____ Work/Cell Phone: 214 546 6586
Email Address: marcus_slaughter@hotmail.com Length of residency: 5 yrs
Occupation: Teacher/Mentor

Please list the Boards/Commissions/Corporations you wish to serve on in order of preference.

1. Planning and Zoning Commission
2. _____
3. _____

Have you ever served as a member of any Lancaster boards, commissions, or committees?

☐ YES

☒ NO

List any particular qualifications you feel would be beneficial to serving on any particular board or commission. You may also attach additional sheets as well as a resume.

To be an effective member of a Board or Commission, you must be willing to attend and participate in all scheduled meetings.

Applications are always welcome as vacancies may occur throughout the year.

Signature  Date 4 Feb 2013

Please return your completed application to the City Secretary's Office at 211 N. Henry St., or mail to P. O. Box 940, Lancaster, TX 75146 or fax to 972-218-1399.

Received by _____	Office Use Only Date _____
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City of Lancaster, Texas
Boards and Commissions
Application



Name: Marcus Slaughter Date: 4 Feb 2013
Address: 1323 Kentucky Ave Zip: 75134
Home Phone: _____ Work/Cell Phone: 214 946 6586
Email Address: marcus.slaughter@hotmail.com Length of residency: 5 yrs
Occupation: Teacher / Mentor

Please list the Boards/Commissions/Corporations you wish to serve on in order of preference.

1. Library Advisory Board
2. _____
3. _____

Have you ever served as a member of any Lancaster boards, commissions, or committees?

☐ YES

☒ NO

List any particular qualifications you feel would be beneficial to serving on any particular board or commission. You may also attach additional sheets as well as a resume.

To be an effective member of a Board or Commission, you must be willing to attend and participate in all scheduled meetings.

Applications are always welcome as vacancies may occur throughout the year.

Signature: [Signature] Date: 4 Feb 2013

Please return your completed application to the City Secretary's Office at 211 N. Henry St., or mail to P. O. Box 940, Lancaster, TX 75146 or fax to 972-218-1399.

Received by	Office Use Only
	Date



City of Lancaster, Texas
Boards and Commissions
Application



Name: Arlandra R. Smith Date: 5-2-12
Address: 609 W 8th St Lancaster, TX Zip: 75146
Home Phone: 972-585-2 Work/Cell Phone: 214-289-4475 Primary
Email Address: arlandrasmith18@gmail.com Length of residency: 4 yrs
Occupation: Self employed

Please list the Boards/Commissions/Corporations you wish to serve on in order of preference.

1. Library advisory Board
2. LRDC - 4B Sales Tax
3. Airport Adv. Board

Have you ever served as a member of any Lancaster boards, commissions, or committees?

☐ YES

☒ NO

List any particular qualifications you feel would be beneficial to serving on any particular board or commission. You may also attach additional sheets as well as a resume.

tax paying citizen the cares, I'm always @ the library I know
their strengths & weakness, I work @ the airport (Love Field)
for 5 yrs as a customer serv. specialist I @ work with
air force one + 2 sec. serv. and military
To be an effective member of a Board or Commission, you must be willing to attend and participate in all scheduled meetings.

Applications are always welcome as vacancies may occur throughout the year.

Signature: [Signature] Date: 5-2-12

Please return your completed application to the City Secretary's Office at 211 N. Henry St., or mail to P. O. Box 940, Lancaster, TX 75146 or fax to 972-218-1399.

Received by: <u>[Signature]</u>	Office Use Only Date: <u>5-2-12</u>
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RECEIVED MAY 02 2012



City of Lancaster, Texas
Boards and Commissions
Application



Name: Frankie Renee' Date: 2/25/13
Address: 1534 Kensington Place Zip: 75134
Home Phone: 214-809-4084 Work/Cell Phone: 214-809-4084
Email Address: texaswalker Length of residency: 8yrs,
Occupation: Realtor and MCE Instructor

Please list the Boards/Commissions/Corporations you wish to serve on in order of preference.

1. Planning & Zoning
2. _____
3. _____

Have you ever served as a member of any Lancaster boards, commissions, or committees?

☐ YES

☒ NO

List any particular qualifications you feel would be beneficial to serving on any particular board or commission. You may also attach additional sheets as well as a resume.

See Attached

To be an effective member of a Board or Commission, you must be willing to attend and participate in all scheduled meetings.

Applications are always welcome as vacancies may occur throughout the year.

Signature [Signature] Date 2/25/13

Please return your completed application to the City Secretary's Office at 211 N. Henry St., or mail to P. O. Box 940, Lancaster, TX 75146 or fax to 972-218-1399.

Received by: dd

Office Use Only

Date: 3-6-13

FRANKIE RENEE' WALKER

214-809-4084

texaswalker2014@gmail.com

WORK EXPERIENCE

LICENSE REALTOR

Great Real Estate, Inc., Grapevine, Texas

March 2009 – Present

Rent, buy, or sell property for clients. Perform duties such as study property listings, interview prospective clients, accompany clients to property for showers. Discuss conditions of sale and draw up real estate contract. Includes agents who represent buyers.

Batched payments for posting to customers' accounts, tracked expenses of legal and appraisal bad debts, determined cost per square foot for real estate; developed charts for analysis and tracking; and completed special projects.

Office Manager, assistant to the Broker in the daily real estate day to day activities within the office. Such as dispersing information and supervising staff. I am responsible for training new agents, explaining compensation benefits.

Approved Apartment Locator in the Texas area. I have 20 plus years of Real Estate experience.

Certification: Short Sale and Foreclosure Resource (SFR)

Texas Certified Leasing Specialist (TCLS)

Texas Certified Leasing Property Manager (TCLPM)

Texas Real Estate Commission (TREC) MCE Instructor

Merchandising Representative

News America Marketing, Fort Worth, Texas

December 2001- June 10, 2011

Assisted in the execution of clients' requirements in retail stores, objectives were realized by following program guidelines, reporting, and building productive in-store relationships.

Participates in routing, counting and inspecting items that needed to be put on displayed or returned. Communicated with Territory Manager as requested on an on-going basis training new staff on operation process in their local store. Instructed retail management in regards to product pricing, quantity, and displaying of merchandise. Due to job performance was placed me in the position of **Field Trainer** for new hires.

Administrator

Church of the Living God, Dallas, Texas

April 1997 – July 2008

Senior Pastor modest congregation was responsible for oversight of all church operations and staff. Prepare and deliver weekly sermons and/or in-depth instructional training. Review and approve budgets and various financial reports; responsible for providing and conducting training classes; function as facilitator or moderator at various events such as workshops and conferences; officiate weddings, funerals and other ministerial events. Greeted guest provided support and encouragement, developed and managed a food pantry. Implemented new members class, design the manual for this class it was a week program.



Boards and Commissions

City of Lancaster, Texas Boards and Commissions Application



Name: Donald J. Weeks Date: Aug. 3, 2012
 Address: 112-W. 7th ST. Lancaster, TX. Zip: 75146
 Home Phone: 214 274-6787 Work/Cell Phone: Same
 Email Address: None Length of residency: 11-years
 Occupation: Retired

Please list the Boards/Commissions/Corporations you wish to serve on in order of preference.

1. CITY OF LANCASTER COUNCIL Board
2. PLANNING AND ZONING COMMISSION
3. ZONING Board OF ADJUSTMENT

Have you ever served as a member of any Lancaster boards, commissions, or committees?

☐ YES

☒ NO

List any particular qualifications you feel would be beneficial to serving on any particular board or commission. You may also attach additional sheets as well as a resume.

I Have been working Hard all my Life, I am 73 year's
old, and I am a VETERAN For 7-year's I was IN THE
THE US Army!.. (I would like to see Lancaster Grow!..)

To be an effective member of a Board or Commission, you must be willing to attend and participate in all scheduled meetings.

For consideration during the annual appointment process, please submit your application by August 13, 2012.

Applications are always welcome as vacancies may occur throughout the year.

Signature Donald J. Weeks Date Aug. 3, 2012

Please return your completed application to the City Secretary's Office at 211 N. Henry St., or mail to P. O. Box 940, Lancaster, TX 75146 or fax to 972-218-1399.

Received by: AA

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Date:

LANCASTER CITY COUNCIL

Agenda Communication

April 22, 2013

Item 17

Consider a resolution adopting the Lancaster City Council Rules and Procedures, as amended.

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

City Charter Provision

Background

At the March 25, 2013 City Council meeting, a motion to table the agenda item on amending City Council Rules and Procedures was approved to allow for all councilmembers to be present for discussion and consideration of the matter.

At the February 25, 2013 City Council meeting, the item was withdrawn from the agenda for further discussion during a work session. Council discussed revisions to the procedure for a councilmember to request an item be placed on an agenda at the work session on March 18, 2013 and previously at the February 18, 2013 work session. Following discussion, Council directed staff to bring the amendment forward for consideration as previously presented.

Section 3.14 of the City's Home Rule Charter requires the Council to determine its own rules of order and business. City Council Rules and Procedures provide the framework in which the Council conducts its business and may be amended at any time by a majority vote of City Council.

Considerations

- **Operational** - With amendment to the City Council Rules and Procedures, a councilmember's request for a matter to be placed on an agenda must be submitted in writing, on the specified form, signed by the requesting councilmember and acknowledged by the City Manager and City Secretary. The amendment does not in any way limit a councilmember's right to place an item on the agenda.

Proposed changes to Section D. 1.c. are below.

D. CITY COUNCIL AGENDA PROCESS

1. Agenda Items

. . . .

- c. A Councilmember may place an item on the agenda by presenting same

~~in writing or verbally,~~ on the prescribed form, to the City Manager not later than noon on the Friday one week before the Council meeting. The City Manager and City Secretary shall acknowledge receipt of the request form and provide a copy to the requesting councilmember. The City Manager may discuss with the requesting Councilmember delay of the agenda item one meeting due to time considerations. However, the Councilmember may choose to direct the City Manager to place the agenda item on the upcoming Council meeting without a one meeting delay. Such direction shall be noted in the agenda communication regarding the agenda item.

- **Legal** - The City Attorney has reviewed and approved as to form the attached resolution.
- **Financial** - Amending City Council Rules and Procedures does not create any financial impact.
- **Public Information** - There are no public information requirements other than the duly posted agenda for the matter to be considered.

Options/Alternatives

1. Council may approve the resolution adopting the amendment as presented.
2. Council may modify the rules and procedures and then adopt the revisions.
3. Council may reject the resolution.

Recommendation

Staff recommends adoption of the resolution amending the rules and procedures as presented.

Attachments

- Resolution
- Redlined City Council Rules and Procedures
- Councilmember Request to Schedule Item for City Council Discussion/Action [form]

Submitted by:

Opal Mauldin Robertson, City Manager
Dolle K. Downe, City Secretary

RESOLUTION NO. 2013-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LANCASTER, TEXAS, ADOPTING THE LANCASTER CITY COUNCIL RULES AND PROCEDURES, AS AMENDED, AS ATTACHED HERETO AND INCORPORATED HEREIN FOR ALL PURPOSES AS EXHIBIT "A"; PROVIDING A REPEALING CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Section 3.14 of the City of Lancaster Home Rule Charter requires the City Council to review and determine its own rules of order and business not later than ninety (90) days following the municipal elections; and

WHEREAS, the City Council has reviewed and discussed the City Council Rules and Procedures at work sessions held on February 18 and March 18, 2013; and

WHEREAS, after discussion and consideration, the City Council has determined that certain revisions to the Rules and Procedures are appropriate;

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

Section 1. That the City Council Rules and Procedures, as amended, 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 and adopted.

Section 2. That any prior resolutions of the City of Lancaster, Texas, in conflict with the provisions of this resolution, except as noted herein, be, and the same are hereby, repealed and revoked.

Section 3. That this resolution shall take effect immediately from and after its adoption and it is accordingly so resolved.

DULY PASSED and approved by the City Council of the City of Lancaster, Texas, on this the 22nd day of April 2013.

APPROVED:

Marcus E. Knight, Mayor

ATTEST:

Dolle K. Downe, City Secretary

APPROVED AS TO FORM:

Robert E. Hager, City Attorney

City of Lancaster

City Council

Rules and Procedures



As Amended
~~*July 9, 2012*~~
April 22, 2013

Last CC Review: June 22, 2012
Amended: April 22, 2013

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STATEMENT OF MISSION

The City Council shall faithfully discharge all duties imposed upon it by the City Charter and the Constitution and laws of the State of Texas, independently and impartially deciding all matters brought before it with responsibility to the citizens and each other.

COUNCIL DUTIES AND RESPONSIBILITIES

The City Council is the governing body for the City of Lancaster and must bear responsibility for the integrity of governance. This policy intends to ensure effective and efficient governance.

The Council shall govern the City with a commitment to preserving the values and integrity of representative local government and democracy. The following statements will serve as a guide to that commitment:

1. The Council must strive for continual improvement of each member's personal knowledge and ability to serve in an atmosphere conducive to the responsible exchange of ideas.
2. The Council will keep the community informed on municipal affairs; encourage communication between the citizens and Council and strive for constructive relationships with Dallas County, neighboring communities, Lancaster Independent School District and other governmental bodies.
3. The Council will recognize and address the rights and privileges of the social, cultural, and physical characteristics of the community when setting policy.
4. The Council will seek to improve the quality and image of public service.
5. The Council will commit to improving the quality of life for the individual and the community by being dedicated to the faithful stewardship of the public trust.

SECTION I

MAYOR - CITY COUNCIL RELATIONS

A. MAYORAL RESPONSIBILITIES

1. The Mayor shall be the presiding officer at all meetings. The Mayor Pro Tem shall preside in the absence of the Mayor. The Deputy Mayor Pro Tem shall preside in the absence of both the Mayor and Mayor Pro Tem.
2. The Mayor shall have a voice and vote in all matters before the Council.

3. The Mayor is the spokesperson for the Council on all matters unless absent, at which time a designee will assume the role.
4. The Mayor shall preserve order and decorum and is responsible for keeping the meetings orderly by recognizing each Member for discussion, limiting speaking time, encouraging debate among Members, and keeping discussion on the agenda items being considered.
5. Should a conflict arise among Councilmembers, the Mayor serves as mediator and arbiter.

B. COUNCILMEMBER RESPONSIBILITIES

1. Councilmembers shall know and observe the adopted rules and procedures governing their duties and responsibilities.
2. Councilmembers shall be prepared to discuss and act upon the posted agenda.
3. Councilmembers shall take the initiative to be informed about Council actions taken in their absence. When absent the individual Councilmember is responsible for obtaining relevant information prior to the Council meeting when said item is to be considered.
4. Councilmembers appointed to serve as liaison to a board, commission, or study group are responsible for keeping all Councilmembers informed of significant board, commission, or study group activities.

C. HOUSE RULES: CODE OF CONDUCT

1. Listen and understand before judging.
2. Focus on the Vision and goals;
no personal attacks or inferences.
3. Look for areas of agreement before differences.
4. Be on time; start on time; turn off all communication devices.
5. Once a decision is made,
support the City decision, but state your reservation.

6. Agree to disagree;
move on to the next issue.
7. Come prepared to discuss issues;
When possible ask questions of staff prior to the meeting so that staff can be prepared.
8. Praise in public;
provide constructive feedback in private.
9. Participate in discussions and focus on the issue;
avoid side conversations. Need to be mindful that sidebar conversations are disruptive.
10. Be courteous, honest and treat others with respect.
11. Communicate in an open, direct manner;
keep others informed.
12. If you have a problem with another member of Council, go to that member directly and not to other council members, the community or staff.
13. Be a positive ambassador for the City.

D. CITY COUNCIL AGENDA PROCESS

1. Agenda Items
 - a. The City Manager shall be responsible for the placement of agenda items.
 - b. Any member of the City Council shall have the unabridged right to place an item on the agenda of a duly convened meeting of the council and nothing contained in the Charter or these Rules and Procedures shall be construed to limit or circumscribe such right.
 - c. A Councilmember may place an item on the agenda by presenting same, ~~in writing or verbally~~, **on the prescribed form**, to the City Manager not later than noon on the Friday one week before the Council meeting. **The City Manager and City Secretary shall acknowledge receipt of the request form and provide a copy to the**

requesting councilmember. The City Manager may discuss with the requesting Councilmember delay of the agenda item one meeting due to time considerations. However, the Councilmember may choose to direct the City Manager to place the agenda item on the upcoming Council meeting without a one meeting delay. Such direction shall be noted in the agenda communication regarding the agenda item.

2. Parliamentary Considerations

- a. Discussion on agenda items will be initiated following introduction by the Mayor, explanatory comments by staff, and a motion and a second for or against the proposal.
- b. The Mayor will encourage all Councilmembers to participate in discussion and debate, ensuring all members the opportunity to speak, limiting each speaker to ensure efficient use of time as appropriate.
- c. Generally accepted Parliamentary Procedure will determine the precedence of motions and the general conduct and composition of meetings except as otherwise provided herein or by State law.

3. Citizens Comments

- a. When Citizens' Comments are listed on the posted agenda, the Mayor may enforce the three (3) minute rule. The Mayor, at his/her discretion, may adjust the length of time per speaker. All speakers shall be accorded the courtesy of the same time allowance. All citizens requesting to speak during Citizens' Comments must fill out a speaker card prior to the call to order of the meeting. *(Approved by motion at City Council meeting June 7, 1999)*
- b. When Public Hearings are listed on the posted agenda, citizens wishing to speak during the Public Hearing will be asked to fill out a speaker card prior to the call to order of the meeting.
- c. Public comment shall not be accepted during a Council work session.

A councilmember may request that the Mayor recognize a person to speak during a work session if the councilmember believes the person has pertinent, factual information that is directly relevant to the Council's discussion. The Mayor, at his/her discretion, may ask the person to speak.

4. Minutes

- a. The City Secretary will keep Action Minutes for all City Council meetings where Council takes official action and description minutes for all citizens' comments and Public Hearings.
- b. The City Secretary shall maintain recordings of City Council meetings in accordance with the City's adopted Records Management Program ordinance and applicable state law.
- c. Any questions regarding minutes shall be directed to the City Secretary prior to the council meeting.

5. Any Councilmember may appeal to the Council as a whole from a ruling by the Mayor. If the appeal is seconded, the person making the appeal may make a brief statement and the Mayor may explain the Mayor's position, but no other Member may speak on the motion. The Mayor will then put the ruling to a vote of the Council.

6. Any Councilmember may ask the Mayor to enforce the rules established by the Council. Should the Mayor fail to do so, a majority vote of the Council present shall require the Mayor to do so.

E. COUNCIL MEMBER TRAINING AND PROFESSIONAL DEVELOPMENT

1. Council members are encouraged to attend at least one training event per year, and others as found beneficial to performance of their elective duties, subject to the availability of funds as appropriated in the annual budget for the Mayor and each council district.

2. Council shall appropriate an amount for Mayor and each council district. Travel and training funds appropriated for the Mayor and each council district shall not be available for transfer to another council district or the Mayor.
3. Selection of professional development events are at the discretion of each council member, but are limited to expenditures within the amount appropriated for mayor and each council district. Unexpended funds for each elective position are non-transferable and shall be returned to fund balance at the end of each fiscal year.
4. Council members are encouraged to select training events from the following providers:
 - Texas Municipal League
 - North Central Texas Council of Government
5. Additional expenditures from miscellaneous professional development funds, subject to annual appropriation, for the Mayor and/or a council member chosen to represent the council, may be made for special events as the need may arise. Such additional expenditures may be made only after having been placed on the agenda of a regular council meeting and acted upon by motion, second, and favorable majority vote. *(Resolution 46-99)*

SECTION II

COUNCIL - STAFF RELATIONS

The City Manager is the primary link between the Council and the professional staff. The Council's relationship with the staff shall be through the City Manager, subject only to the "inquiry" provision of the City Charter.

- A. **AGENDA QUESTIONS.** Questions arising from Councilmembers after receiving their agenda information packet should be presented to the City

Manager for staff consideration prior to the Council meeting. The additional information will be distributed to all Councilmembers.

B. PRESENTATIONS TO COUNCIL. The City Manager shall designate appropriate staff to address each agenda item and shall see that it is adequately prepared and presented to the Council. Presentation should be professional, timely, and allow for discussion of options for resolving the issue. Staff shall make it clear that no Council action is required, present the staff recommendation, or present the specific options for Council consideration.

C. PROBLEM RESOLUTION. If the City Manager or staff time is being dominated or misdirected by a Councilmember or in any conflict arising between staff and Council, the City Manager shall:

1. Visit with the Councilmember and discuss the problem and/or impact on City Manager or staff time;
2. If unresolved, ask the Mayor to arbitrate a resolution to the issue;
3. If still unresolved, ask the Mayor to present the concerns to the Council.
4. If the unresolved issue is with the Mayor, ask the Mayor Pro Tem to arbitrate a resolution to the issue.
5. If still unresolved issue involves the Mayor, ask the Mayor Pro Tem to present the concerns to the Council.

D. STAFF CONDUCT AND TRAINING

1. The City Manager is responsible for the professional and ethical behavior of the City Staff. All staff members shall show each other, Council, and the public respect and courtesy at all times.
2. The City Manager is responsible, within the constraints of the appropriated budget, for staff development.

E. COUNCIL ORIENTATION. The City Manager will, in a timely manner, provide appropriate orientation services for new Councilmembers. Such services shall include, but not be limited to, the following:

1. Availability of Texas Municipal League conferences and seminars.
2. An individual meeting with new Members informing them about City facilities and procedures.
3. Printed documents and resource materials necessary to the performance of the office of Councilmember.

F. COUNCIL - MANAGER/STAFF RELATIONS

1. The rules and procedures governing Council right of inquiry shall apply only to the administrative staff reporting directly to the City Manager and shall not be in any way construed to limit the right of Council to direct access, verbal or written, with the City Manager, City Secretary, and City Attorney, unless otherwise specifically provided herein.
2. Inquiries: All administrative inquiries of staff may be made in writing and addressed to the person with a copy to the City Manager. Staff may respond in writing as soon as possible, but not later than five (5) business days, via the City Manager, as follows:
 - a. The full response to the inquiry.
 - b. Refer the inquiry to a more appropriate staff personnel with notice to the City Manager of the referral.
 - c. City Manager shall send a copy of all responses to all members of the Council.

3. Dispute Resolution
 - a. Visit with the Mayor and/or Councilmembers, and discuss abuse and/or impact on City Manager or staff time.
 - b. If unresolved, ask the Mayor to mediate a resolution to the issue; if the dispute is with the Mayor, the Mayor Pro-Tem shall mediate;
 - c. If still unresolved, the Council shall mediate a final resolution. (*Resolution 43-98, October 12, 1998*)
4. Communications with Staff
 - a. In order to make the most efficient use of council members and staff time and to facilitate responsiveness to both staff and constituents, Council members may, upon request and funding availability, be issued a cellular telephone and tablet with service plans.
5. Disclosure of Police or Code Offense Reports and Related Records
 - a. To protect the integrity of an investigation and prosecution of an offense, no Information regarding police or code enforcement matters, other than what may be made to the public or media generally, will be released verbally or in written form to any council member.
 - b. A Council member request for open records may be made through the City Secretary's office for personal subject matters.
A council member may not use an Open Records Request to circumvent a copy of requested city documents being shared with other council members.

SECTION III

MEDIA RELATIONS

It is through an informed public that progress is ensured and good government remains sensitive to its constituents. These guidelines are designed to help ensure fair relationships with print, radio, and television reports without infringing upon the First Amendment rights of the media.

The Council and the City Manager recognize the important link to the public provided by the media. It is the Council's desire to strengthen this link by establishing a professional working relationship to maintain a well-informed citizenry.

- A. Media Orientation. Since each government body conducts business differently, it is requested that all reporters new to City Council meetings meet with the City Manager, Mayor or the designated media relations representative prior to covering their first meeting for information on policies and procedures.
- B. Agenda Information. All reporters requesting same will receive an agenda package in advance and will be furnished support material needed for clarification for themselves or the general public.
- C. Chamber Seating. During the conduct of official business, the news media shall occupy the places designated for them or the general public.
- D. Conduct in Chambers. Representatives of the media are requested to refrain from conversing privately with others in the audience while Council is in session. Interviews with the public should be conducted outside the Council Chambers while Council is in session.
- E. Spokesperson for Staff. On administrative matters, the City Manager or his/her designee is the spokesperson to present staff information on the agenda.
- F. Spokesperson for City. The Mayor, or the Mayor's designee, is the primary spokesperson for the official position of the City on matters regarding policy decisions and Council information pertaining to issues on the agenda. Any clarifications requested by the media on the issues should be addressed after the meeting.

- G. Equal Access for Opposing Positions. The ethical burden for fair presentation of opposing positions on any issue falls upon the media. When opposing positions have been debated, regardless of the outcome, the public is better informed when all sides have adequate coverage by the media. Interviews by the media should provide equitable representation from all Councilmembers.

SECTION IV

BOARDS/COMMISSIONS

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.

- A. 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.
- B. Each Councilmember will be allowed to select the board or commission they would like to serve as liaisons to by order of seniority.
- C. Councilmembers are strongly encouraged, rather than required, to attend all meetings of their selected boards and/or commissions.
- D. Each Councilmember may submit a quarterly report to the entire council through the City Secretary on their respective board and/or commission's activity.

This Section was added after Res. No. 50-97 was adopted October 13, 1997. Item D was added after Res. 2007-09-105 was adopted on September 24, 2007.

CODE OF ETHICS

Since the office of elected official is one of trust and service to the citizens of Lancaster, certain ethical principles shall govern the conduct of Councilmembers, who shall:

- A. Be dedicated to the highest ideals of honor and integrity in all public and personal relationships;
- B. Recognize that the primary function of local government is to serve the best interests of all the people;
- C. Be dedicated to public service by being cooperative and constructive, and by making the best and most efficient use of available resources;
- D. Refrain from any activity or action that may hinder one's ability to be objective and impartial on any matter coming before the Council;
- E. Not seek nor accept gifts or special favors and shall believe that personal gain by use of confidential information or by misuse of public funds or time is dishonest;
- F. Recognize that public and political policy decisions are ultimately the responsibility of the City Council;
- G. Conduct business in open, well-publicized meetings in order to be directly accountable to the citizens of Lancaster in compliance with the City Charter and Texas Open Meetings Act;
- H. Avoid inappropriate reference to personalities, and refrain from impugning the integrity or motives of another;
- I. Demonstrate respect and courtesy to others;
- J. Refrain from rude and derogatory remarks and shall not belittle staff members, other Councilmembers and members of the public;
- K. Not condone any unethical or illegal activity.

CENSURE POLICY

1. Two or more City Councilmembers may file a written notice of censure against another City Councilmember with the City Secretary. The written notice shall set forth the allegation(s) of conduct and City Charter provisions which the accused Councilmember shall have allegedly violated. A copy shall be delivered to all Councilmembers. A written response to the allegation(s) may be filed by the accused Councilmember ten (10) days after receipt thereof. A copy of the notice of censure and response thereto shall be delivered to each Councilmember within two (2) days after the response is filed.
2. On the first regularly called meeting of the Council, which complies with the Texas Open Meetings Act, after the filing of the notice and response, the City Secretary shall formally read the notice and response into the public record. The Council, by majority vote, shall thereafter determine whether or not good cause shall exist to set a formal hearing on the merits of the notice of censure or dismiss the allegation(s). A public hearing shall be set on the allegation(s) by the City Council. A vote to hold a public hearing shall not be construed to be a vote of censure.
3. The accused City Councilmember has the right to be represented by legal counsel and present witnesses relative to the allegation(s).
4. A public hearing on the allegation(s) and response shall be held at either a regular or special called meeting of the City Council, which shall be open to the public.

CENSURE POLICY

(continued)

5. The City Council will hear evidence concerning the notice of censure. The City Councilmembers proffering the charges shall present evidence in support of the allegation(s) contained in the notice of censure. The Councilmember who is the subject of the censure shall have the opportunity to present evidence to support his or her position with respect to the notice of censure. After receiving evidence at an open public meeting, the City Council shall then take a roll-call vote, after motion duly made and seconded, a majority of five members of the City Council shall be required to sustain the censure of the Councilmember.



COUNCILMEMBER REQUEST TO SCHEDULE ITEM FOR CITY COUNCIL DISCUSSION/ACTION

Note: Pursuant to Section D. 1.b. of the City Council Rules and Procedures, any member of the City Council shall have the unabridged right to place an item on the agenda of a duly convened meeting of the council and nothing contained in the Charter or the City Council Rules and Procedures shall be construed to limit or circumscribe such right.

All requests must be presented on this form, signed by the requesting councilmember and acknowledged by the City Manager and the City Secretary not later than noon on the Friday one week before the council meeting. As prescribed by Section D. 1.c., the City Manager may discuss with the requesting councilmember delay of the agenda item one meeting due to time consideration. However, the requesting councilmember may choose to direct the City Manager to place the agenda item on the upcoming council meeting without a one meeting delay. Such direction shall be noted in the agenda communication regarding the agenda item.

Proposed Wording/Description for Council Agenda Discussion/Consideration:

Submitted by: _____
Councilmember Signature _____ Print Name _____

Date: _____

Exceptions: Some matters dealing with current or pending litigation and matters dealing with personnel (city employees) under the direction of the City Manager.

FOR CMO USE ONLY:

Date/Time Received: _____

Acknowledgement by City Manager: _____

Acknowledgement by City Secretary: _____

Agenda Date: _____