



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

Monday, August 25, 2014 - 7:00 PM

CALL TO ORDER

INVOCATION: Ministerial Alliance

PLEDGE OF ALLEGIANCE: Councilmember Marco Mejia

CITIZENS' COMMENTS:

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

CONSENT AGENDA:

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

- C1. Consider approval of minutes from the City Council Special Meeting held August 4, 2014 and City Council Regular Meeting held August 11, 2014.
- C2. Consider a resolution approving the terms and conditions of the City owned T-Hangar commercial lease from building 670 at Lancaster Regional Airport.
- C3. Consider a resolution approving the terms and conditions of the City owned T-Hangar non-commercial lease from building 660 at the Lancaster Regional Airport.
- C4. Consider a resolution approving the terms and conditions of the City owned tie down T-Spot non-commercial lease at the Lancaster Regional Airport.
- C5. Consider a resolution casting its vote for Trustee in Places 1, 2, 3 and 4 in the Texas Municipal League Intergovernmental Risk Pool Board of Trustees Election on the Official Ballot; authorizing the Mayor to sign the Official Ballot.
- C6. Consider a resolution amending the agreement for Banking Services with JP Morgan Chase Bank, N.A.; for Merchant Services.
- C7. Consider a resolution approving the terms and conditions of the fourth amendment to the interlocal agreement by and between the University of Texas Southwestern Medical Center at Dallas and the City of Lancaster, for services related to the provision of paramedic continuing education.

PUBLIC HEARING:

8. Conduct a public hearing and discuss an ordinance making certain findings in connection with the proposed supplemental services ordered in connection with the Lancaster Mills Public Improvement District.
9. Conduct a public hearing and discuss an ordinance making certain findings in connection with the proposed supplemental services ordered in connection with the Meadowview Public Improvement District.
10. Conduct a public hearing and discuss an ordinance making certain findings in connection with the proposed supplemental services ordered in connection with the Tribute and Tribute East at Mills Branch Public Improvement District.
11. Conduct a public hearing and discuss an ordinance making certain findings in connection with the proposed supplemental services ordered in connection with the Glendover Estates Public Improvement District.
12. Conduct a public hearing and discuss an ordinance making certain findings in connection with the proposed supplemental services ordered in connection with the Rolling Meadows Public Improvement District.
13. Conduct a public hearing and discuss an ordinance making certain findings in connection with the proposed supplemental services ordered in connection with the Millbrook East Public Improvement District.
14. Conduct a public hearing and discuss an ordinance making certain findings in connection with the proposed supplemental services ordered in connection with the Boardwalk Public Improvement District.
15. Conduct a public hearing and discuss and ordinance making certain findings in connection with the proposed supplemental services ordered in connection with the Beltline Ashmoore Public Improvement District.
16. Conduct a public hearing and discuss an ordinance regarding the proposed revenue increase from levying ad valorem taxes for fiscal year 2014/2015 at \$0.8675 per one hundred dollars assessed valuation on all taxable property within the corporate limits to provide revenues for current maintenance and operation expenses and interest and sinking fund requirements; providing due and delinquent dates; penalties and interest; providing a homestead exemption and disability exemption.
17. Conduct a public hearing regarding the proposed fiscal year 2014/2015 budget for the fiscal year beginning October 1, 2014 and ending September 30, 2015.

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 August 22, 2014 @ 1:00 p.m. and copies thereof were provided to the Mayor, Mayor Pro-Tempore, Deputy Mayor Pro-Tempore and Council members.



Sorangel O. Arenas
City Secretary

LANCASTER CITY COUNCIL

Item 1

Agenda Communication

August 25, 2014

Consider approval of minutes from the City Council Special Meeting held August 4, 2014 and City Council Regular Meeting held August 11, 2014.

Background

Attached for your review and consideration are minutes from the:

- City Council Special Meeting held August 4, 2014
- City Council Regular Meeting held August 11, 2014

Submitted by:

Sorangel O. Arenas, City Secretary

MINUTES

LANCASTER CITY COUNCIL MEETING OF AUGUST 4, 2014

The City Council of the City of Lancaster, Texas, met in Special session James R. Williams Pump Station on August 4, 2014 at 6:30 p.m. with a quorum present to-wit:

Councilmembers Present:

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

Councilmembers Absent:

Marco Mejia

City Staff Present:

Opal Mauldin Robertson, City Manager
Rona Stringfellow, Assistant City Manager
Thomas Griffith, Fire Chief
Sean Johnson, Managing Director of Quality of Life & Cultural Services
Cheryl Wilson, Police Chief
Jim Brewer, Director of Public Works
Ed Brady, Director of Economic Development
Dori Lee, Human Resources Director
Angie Arenas, City Secretary

Call to Order:

Mayor Knight called the meeting to order at 6:30 p.m. on August 4, 2014.

- 1. Discuss the proposed FY 2014-2015 tax rate of \$0.8675 per \$100 assessed valuation, receive related tax calculation documents, take record vote on to consider a tax rate to increase total tax revenues from properties on the tax roll in the previous year and set public hearing dates on the proposed tax rate.**

City Manager Mauldin-Robertson stated that on July 23, 2014 the Dallas Central Appraisal District released the Certified Values of properties and the City experienced an 11.78% increase in property values over the previous fiscal year values.

MOTION: Councilmember Morris made a motion, seconded by Councilmember Strain-Burk, to consider a tax rate that will result in an increase in total revenues from properties on the tax roll in the previous year with the first public hearing scheduled for Monday, August 11, 2014 at 7:00 p.m. and the second public hearing scheduled for Monday, August 25, 2014 at 7:00 p.m. both will be held at the Lancaster Municipal Center, 211 North Henry Street, Lancaster, Texas 75146. The vote was cast 6 for, 0 against [Mejia absent].

MOTION: Councilmember Morris made a motion, seconded by Councilmember Jaglowski, to adjourn. The vote was cast 6 for, 0 against [Mejia absent].

The meeting was adjourned at 6:38 p.m.

ATTEST:

Sorangel O. Arenas, City Secretary

APPROVED:

Marcus E. Knight, Mayor

MINUTES

LANCASTER CITY COUNCIL MEETING OF August 11, 2014

The City Council of the City of Lancaster, Texas, met in Regular session in the Council Chambers of City Hall on August 11, 2014 at 7:00 p.m. with a quorum present to-wit:

Councilmembers Present:

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

City Staff Present:

Opal Mauldin Robertson, City Manager
Rona Stringfellow, Assistant City Manager
Fabrice Kabona, Assistant to the City Manager-Intern
Thomas Griffith, Fire Chief
Cheryl Wilson, Police Chief
Jerry Rand, City Marshall
Jim Brewer, Director Public Works
Sean Johnson, Managing Director of Quality of Life and Cultural Services
Robert E. Hager, City Attorney
Angie Arenas, City Secretary
Kim Pekofske, Court Administrator
Austin James, Lead Community Relations Assistant

Call to Order:

Mayor Knight called the meeting to order at 7:00 p.m. on August 11, 2014.

Invocation:

Pastor Richardson with Ministerial Alliance gave the invocation.

Pledge of Allegiance:

Councilmember Stanley Jaglowski led the pledge of allegiance.

Citizens Comments:

There were no speakers.

Consent Agenda:

City Secretary Arenas read the consent agenda.

C1. Consider approval of minutes from the City Council Regular Meeting held July 28, 2014.

MOTION: Councilmember Strain-Burk made a motion, seconded by Councilmember Morris, to approve consent item C1. The vote was cast 7 for, 0 against.

- 2. Conduct a public hearing and discuss an ordinance regarding the proposed revenue increase from levying ad valorem taxes for fiscal year 2014/2015 at \$0.8675 per one hundred dollars assessed valuation of all taxable property within the corporate limits to provide revenues for current maintenance and operational expenses and interest and sinking fund requirements; providing due and delinquent dates; penalties and interest; providing a homestead exemption and disability exemption.**

City Manager Opal Mauldin-Robertson stated that the proposed tax rate is to maintain the current rate at \$0.8675 and that the total tax revenue will increase from properties on the tax roll in the preceding tax year by 11.65%. Staff recommends that council hold the two required meetings the first of which is tonight followed by the second scheduled meeting August 25, 2014 and at the conclusion of the hearing Council would close the public hearing, and announce the date, time and location of the second public hearing as well as the date, time, and location of the consideration for adoption.

Mayor Knight opened the public hearing.

Thomas Allen, 200 North Crest, stated he was looking for discussion the corporation 4B which to his understanding was supposed to a corporation that stood on its own being financed from fees charged and sales tax revenue. Mr. Allen shared his concern about a future trend of a deficit and the fact that to his understanding the tax rate would be subsidizing the money losing operation which was not what was shared during the adoption of the 4B program. Lastly, Mr. Allen wanted an explanation as to why the Airport was not a break even operation.

Carolyn Morris, 887 Wintergreen, asked for verification on whether this public hearing was the tax rate increase or the proposed budget as a whole. Mayor Knight stated that the purpose for the public hearing was for citizens to comment, inquire, or share thoughts concerning the proposed tax rate. Ms. Morris thanked council for not raising the taxes.

MOTION: Councilmember Morris made a motion, seconded by Councilmember Jaglowski, to close the public hearing and announce that the next public hearing would be held August 25, 2014 during a regular Council Meeting at Lancaster Municipal Center, City Council Chambers located at 211 North Henry Street. The adoption of the tax rate is scheduled for Monday, September 8, 2014 at 7:00 p.m. at Lancaster Municipal Center, City Council Chambers located at 211 North Henry Street. The vote was cast 7 for, 0 against.

- 3. Consider an ordinance authorizing the Municipal Court to charge a Special Expense Fee of up to \$25.00 for issuance and service of an arrest warrant.**

City Marshall Jerry Rand shared that the special expense fee has been on the books since 1999 but has never been enforced. The fee would help recover the money spent doing "pick-ups", such as mileage.

MOTION: Councilmember Strain-Burk made a motion, seconded by Councilmember Morris, to approve an ordinance authorizing the Municipal Court to charge a Special Expense Fee. The vote was cast 7 for, 0 against.

4. Consider a resolution amending the Master Fee Schedule, Article 12.000 Municipal Court, by adding, Sec 12.300 Special Expense Fee.

MOTION: Councilmember Strain-Burk made a motion, seconded by Councilmember Jaglowski, to approve a resolution amending the Master Fee Schedule. The vote was cast 7 for, 0 against.

Councilmember Strain-Burk addressed some questions that were proposed during the public hearing. Councilmember Strain-Burk shared that the airport is a valuable asset that will eventually be an economic generator.

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

The meeting was adjourned at 7:17 p.m.

ATTEST:

APPROVED:

Sorangel O. Arenas, City Secretary

Marcus E. Knight, Mayor

LANCASTER CITY COUNCIL

Item 2

Agenda Communication

August 25, 2014

Consider a resolution approving the terms and conditions of the City owned T-Hangar commercial lease from building 670 at Lancaster Regional Airport.

This request supports the City Council 2014-2015 Policy Agenda.

Goal: Sound Infrastructure

Background

The City owns and leases five rows of T-hangars (building 660-700) of three different sizes based off aircraft wingspan. There are 92 units total 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 year. This agenda item brings forward a commercial lease renewal agreement in office space 670-102 & 104 (924.3 sq.ft.) for an aircraft interiors business called Signature Aircraft Interiors owned by a Mr. Andy Gray.

Considerations

- **Operational** - The City T-hangar commercial lease is used for specialty fixed based operators on the airfield and private aircraft owners respectively.
- **Legal** - The lease agreement template was reviewed and approved by the City Attorney.
- **Financial** - Lease rates vary based on size of the hangar or attached office space. All rates were approved in the City's Master Fee Schedule. The monthly rate for this office space attached to our medium sized hangar is \$184.86 per month based off \$0.20 per sq. ft. for the medium T-hangar building.
- **Public Information** – This item is being considered at a regular meeting of the City Council posted in accordance with the Texas Open Meetings Act.

Options/Alternatives

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

Recommendation

Staff recommends approval of the resolution.

Attachments

- Resolution
 - Exhibit “A” Lease Agreement
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Submitted by:

Mark Divita, Airport Manager

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LANCASTER, TEXAS, APPROVING THE TERMS AND CONDITIONS OF THE CITY OWNED T-HANGAR COMMERCIAL LEASE FROM BUILDING 670 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 and office space available for monthly rental for revenue gain; and

WHEREAS, the City Council of Lancaster, Texas, desires to authorize the commercial lease pursuant to the tenant 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 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 25th day of August 2014.

ATTEST:

APPROVED:

Sorangel O. Arenas, City Secretary

Marcus E. Knight, Mayor

APPROVED AS TO FORM:

Robert E. Hager, City Attorney



STATE OF TEXAS §
 § LEASE AGREEMENT
COUNTY OF DALLAS §

This Lease is entered into between the City of Lancaster, Texas ("Landlord") and **Signature Aircraft Interiors** ("Tenant").

In consideration of the mutual covenants and agreements of this Lease, and other good and valuable consideration, Landlord demises and leases to Tenant, and Tenant leases from Landlord, **670-102 & 104**, Lancaster, Dallas County, Texas, depicted in Exhibit "A", attached hereto (the "Premises"). The Premises are referred to in this Lease as the "Premises" or the "Leased Premises." The building is referred to as the "Building."

I. TERM OF LEASE

1.01 **Term:** Term of this Lease is **five (5) years**, beginning on the 1st day of September 2014, and ending on the last day of September 2019, as provided in this Lease ("Lease Term").

1.02 **Renewal:** After the initial term, this Lease may be renewed on an annual basis subject to all the terms and conditions set forth herein.

1.03 **Termination:** Landlord or tenant may, without cause, terminate this Lease during the Lease Term or any extension thereof upon ninety (90) days prior written notice thereof.

1.04 **Holdover:** If Tenant holds over and continues in possession of the Premises after the Lease Term (or any extension of it) expires, Tenant will be considered to be occupying the Premises at will, subject to all of the terms of this Lease.

II. RENT

Basic Rent: Tenant will pay Landlord **\$184.86 per month**, from the beginning of the Lease Term and throughout the Lease Term. The monthly rent due throughout the Lease Term shall be paid in advance of the tenth (10th) day of each month.

III. USE OF PREMISES

3.01 **Permitted Use(s):** Tenant will use the Premises only for aviation business related purpose, to wit: Aircraft Interiors Installation. No other services are permitted unless Landlord gives Tenant prior written consent for additional permitted uses.

3.02 **Insurance Hazards:** Tenant shall during the term hereof, at its sole expense, maintain in full force and effect the following insurance: (1) Commercial general aviation liability policy with coverage: \$500,000 Combined Single Limit (CSL) for premises if customers are allowed on premises; (2) Hangar Keeper's Liability – Value of Aircraft in care up to

\$500,000 custody and control. All insurance and certificate(s) of insurance shall contain the following provisions: (1) name the Landlord, its officers, agents and employees as additional insureds as to all applicable coverage and (2) provide for at least thirty (30) days prior written notice to the Landlord for cancellation, non-renewal, or material change of the insurance.. All insurance companies providing the required insurance shall be authorized to transact business in Texas and rated at least "A" by AM Best or other equivalent rating service. A certificate of insurance evidencing the required insurance shall be on file for review upon request from LESSOR.

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 and in no event shall LESSOR be liable to LESSEE for loss or damage to LESSEE'S aircraft and equipment or personal property of LESSEE.

3.03 **Compliance with Laws:**

(a) Tenant may not use, or permit using, the Premises in any manner that results in waste of premises or constitutes a nuisance or for any illegal purpose. Tenant, at its own expense, will comply, and will cause its officers, employees, agents and invitees to comply, with all applicable laws, ordinances, and governmental rules and regulations concerning the use of the Premises, including Hazardous Materials Laws.

(b) "Hazardous Materials" means any substance, material, or waste that is or becomes regulated by any local governmental agency, the State of Texas, or the Federal Government, including, but not limited to, any material or substance that is (1) *designated as a "hazardous substance" pursuant to § 311 of the Clean Water Act, 33 U.S.C. § 1251 et. seq., or listed pursuant to § 307 of the Clean Water Act, 33 U.S.C. § 1317, (2) defined as a "hazardous substance" pursuant to § 101 of the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. § 9601 et. seq., (3) defined as a "hazardous waste" pursuant to § 1004 of the Resource Conservation and Recovery Act, 42 U.S.C. § 6901 et. seq.; (4) petroleum, (5) asbestos, and (6) polychlorinated biphenyls.*

3.04 **Condition of Premises, Tenant Finish-Out:** Tenant acknowledges and agrees and does hereby accept the Premises AS IS with all faults. Tenant shall, without cost to Landlord, be responsible for the design and construction of all Tenant finish out for the Premises including exterior improvements.

IV. MAINTENANCE AND SURRENDER

Maintenance and Surrender by Tenant: Tenant will maintain the leased Premises and keep them free from waste or nuisance throughout the Lease Term and any extensions of it. The Tenant shall be responsible for routine maintenance of all tenant maintainable consumables for electrical, plumbing, and heating / air conditioning elements of the building on the Premises. When this Lease terminates, Tenant must deliver the Premises in as good a state of repair and condition as they existed when Landlord delivered possession to Tenant, except for reasonable wear and tear commensurate with the age of the Premises and damage by fire, tornado, or other casualty. If Tenant neglects to reasonably maintain the Premises, Landlord may, but is not

required to, cause repairs or corrections to be made. Any reasonable costs incurred for repairs or corrections for which Tenant is responsible under this section are payable by Tenant to Landlord as a reimbursement within thirty (30) days after Lease termination.

V. UTILITIES AND TAXES

Utilities and Taxes on Tenant's Property: Landlord shall pay or cause to be paid all charges for water. Tenant will pay all taxes levied or assessed against personal property, furniture, or fixtures it places in or on the Premises. If any such taxes for which Tenant is liable are levied or assessed against Landlord or Landlord's property, and Landlord elects to pay them, or if the assessed value of Landlord's property is increased by including personal property, furniture, or fixtures placed by Tenant in the Premises, and Landlord elects to pay the taxes based on the increase, Tenant must, upon demand, pay Landlord the part of the taxes for which Tenant is primarily liable under this article.

VI. ALTERATIONS, ADDITIONS, IMPROVEMENTS AND FIXTURES

6.01 **Consent of Landlord:** Tenant may not make any alterations, additions, or improvements to the Premises without Landlord's prior written consent, which shall not be unreasonably denied or delayed.

6.02 **Property of Landlord:** All alterations, additions, or improvements made by Tenant will become Landlord's property when this Lease terminates.

6.03 **Trade Fixtures:** Tenant has the right at all times to erect or install furniture and fixtures, as long as Tenant complies with all applicable governmental laws, ordinances, and regulations. Tenant may remove such items when this Lease terminates, if Tenant is not in default at that time and the fixtures can be removed without structural damage to the Premises. Before this Lease terminates, Tenant must repair any damage caused by removing any fixtures and should have 15 days to comply. Any furniture or fixtures not removed by Tenant when this Lease terminates are considered abandoned by Tenant and automatically become Landlord's property.

6.04 **Construction by Tenant:** Tenant shall have the right during the term of this Lease to erect, maintain, alter, remodel, reconstruct, or rebuild the tenant improvements within the Premises, subject to the following general conditions:

1. Tenant bears cost of any such work;
2. The Premises shall at all be times kept free of mechanics' and material men's liens;
3. Any improvements constructed on the Premises shall be approved by Landlord pursuant to § 6.05 herein and if remaining at the end of the Lease Term, shall become the property of Landlord; and
4. Any removal of tenant improvements must be pre-approved by Landlord.

6.05 **Landlord's Approval:** The following rules govern Landlord's approval of construction, additions, and alterations of the building or other improvements:

(a) **Written approval required.** No tenant or other improvement may be constructed unless the plans, specifications, and proposed location of the improvement have received Landlord's written approval. No material addition to or alterations of the Premises may be begun until plans and specifications covering the proposed addition or alteration have been first submitted to and approved by Landlord. The Landlord shall not unreasonably withhold approval of such plans and specifications.

(b) **Landlord's approval.** Landlord will promptly review and approve all plans submitted under subparagraph above or note in writing any required changes or corrections that must be made to the plans. Failure to object to the plans within thirty (30) days constitutes its approval of the changes. Any required changes or corrections must be made, and the plans resubmitted to Landlord, within thirty (30) days after the corrections or changes have been noted. Landlord's failure to object to the resubmitted plans and specifications within thirty (30) days constitutes its approval of the changes. Minor changes in work or materials not affecting the general character of the Premises project may be made at any time without Landlord's approval, but a copy of the altered plans and specifications must be furnished to Landlord.

VII. DAMAGE OR DESTRUCTION

7.01 **Notice to Landlord:** If the Premises or any structures or improvements are damaged or destroyed by fire, tornado, or other casualty, Tenant must immediately give Landlord written notice of the damage or destruction, including a general description of the damage and, as far as known to Tenant, the cause of the damage.

7.02 **Total Destruction:** If the Premises are totally destroyed by fire, tornado, or other casualty this Lease will terminate, and rent will be abated for the unexpired portion of this Lease, effective as of the date of written notification as provided in § 7.01. The Landlord in its sole discretion may elect to restore the Premises and rebuild the Building in which event the Lease shall continue in under the same terms and conditions set forth herein from the date the Premises has been fully restored. Alternatively, the Tenant with the consent of Landlord may, by written notice within thirty (30) days after the notice as provided in § 7.01, elect to rebuild the Building and restore the Premises provided Tenant commences the restoration of the Premises within one hundred eighty (180) days thereafter and at Tenant's cost.

7.03 **Partial Destruction:** If the Premises are damaged by fire, tornado, or other casualty other than by the negligence, gross negligence, or intentional tort of Tenant or any person in or about the Premises with Tenant's express or implied consent, or if they are so damaged that rebuilding or repairs cannot reasonably be completed within one hundred eighty (180) working days or the damage exceeds the Landlord's insurance recovery, or the Landlord elects not to restore the Premises, this Lease will terminate.

VIII. CONDEMNATION

8.01 **Total Condemnation:** If, during the Lease Term or any extension or renewal of the Lease, all of the Premises are taken for any public or quasi-public use under any

governmental law, ordinance, or regulation, or by right of eminent domain, or are sold to the condemning authority under threat of condemnation, this Lease will terminate, and the rent will be abated during the unexpired portion of this Lease, effective as of the date the condemning authority takes the Premises.

8.02 **Partial Condemnation:** If less than all of the Premises is taken for any public or quasi-public use under any governmental law, ordinance, or regulation or by right of eminent domain, or is sold to the condemning authority under threat of condemnation, either party may terminate this Lease by giving written notice to the other within thirty (30) days. In addition, if all or a portion of the parking area, or the signage, of the Premises is taken for any public or quasi-public use under any governmental law, ordinance, or regulation or by right of eminent domain, or is sold to the condemning authority under threat of condemnation, either party may terminate this Lease by giving Landlord written notice within thirty (30) days. If the Premises are partially condemned and neither party elects to terminate this Lease, this Lease will not terminate, but the rent will be adjusted equitably during the un-expired portion of this lease.

8.03 **Condemnation Award:** Landlord is entitled to receive and retain the entire award in any condemnation proceedings, except for any portion attributable to trade fixtures and personal property owned by Tenant, which Tenant is entitled to receive and retain. The termination of this Lease will not affect the right to this award.

IX. INSPECTION BY LANDLORD

Landlord and its officers, agents, employees, and representatives may enter any part of the Premises during normal business hours for the purpose of inspection, cleaning, maintenance, repairs, alterations, or additions as Landlord considers necessary (but without any obligation to perform any of these functions except as stated in this Lease). Tenant is not entitled to any abatement or reduction of rent by reason of entry of Landlord or any of its officers, agents, representatives, or employees under this article, nor will such an entry be considered an actual or constructive eviction.

X. MECHANIC'S LIEN

Tenant will not permit any mechanic's lien to be placed on the Premises or on improvements made to the Premises. If a mechanic's lien is filed on the Premises or on improvements on them, Tenant will promptly pay it. If default in payment of the lien continues for thirty (30) days after Landlord's written notice to Tenant, Landlord may, at its option, pay the lien or any portion of it without inquiring into its validity. Any amounts Landlord pays to remove a mechanic's lien caused by Tenant to be filed against the Premises or against improvements on the Premises, including expenses and interest, are due from Tenant to Landlord and must be repaid to Landlord immediately on rendition of notice, together with annual interest at the highest rate then allowed by law until paid.

XI. INDEMNITY

11.01 **Tenant's General Indemnity:** Tenant will indemnify and hold Landlord

harmless against any claims, demands," damages, costs, and expenses, including reasonable attorney's fees, for defending claims and demands arising from the conduct or management of Tenant's business on the Premises or its use of the Premises, or from any breach on Tenant's part of any conditions of this Lease, or from any act or negligence of Tenant, its officers, agents, contractors, employees, subtenants, or invitees in or about the Premises. In case of any action or proceeding brought against Landlord by reason of any such claim, Tenant, on notice from Landlord, will defend the action or proceeding by counsel acceptable to Landlord.

11.02 Tenant's Environmental Indemnity:

(a) Tenant is responsible only for the payment of that portion of any cleanup costs for the Premises necessary for compliance with Hazardous Materials Laws that arise as a result of Tenant's discharge of Hazardous Materials on the Premises during Tenant's occupancy of the Premises. Landlord is responsible for all other cleanup costs and for ensuring that any other responsible party participates in the cleanup to the extent of its responsibility for a release.

(b) Tenant must indemnify, defend, and hold harmless Landlord from and against all claims, liabilities, losses, damages, and costs, foreseen or unforeseen, including without limitation counsel, engineering, and other professional or expert fees, that Landlord may incur by reason of Tenant's action or inaction with regard to Tenant's obligations under this section.

XII. ASSIGNMENT AND SUBLEASE

Assignment and Subletting by Tenant: Tenant may not assign this Lease, or any interest in it, nor sublet the Premises, or any part of them without prior written consent of Landlord.

XIII. DEFAULT

13.01 Tenant's Default: The following events are considered events of default by Tenant under this Lease:

(a) Tenant fails to pay any installment of rent due under this Lease, whether base rent or additional rent, or any other amounts owing by Tenant to Landlord, and the failure continues for thirty (30) days after receipt of written thereof.

(b) Tenant fails to comply with any term or covenant of this Lease, other than the payment of rent or any other sum of money owing by Tenant to Landlord, and does not cure the failure within sixty (60) days after written notice of the failure to Tenant; provided that if such failure cannot be cured within sixty (60) days Tenant shall not be in default if Tenant is proceeding to cure the failure and cures such failure within thirty (30) days thereafter.

(c) Tenant makes an assignment for the benefit of creditors.

(d) Tenant deserts or vacates any substantial portion of the Premises for sixty (60) or more consecutive days.

13.02 **Landlord's Remedies:** In the event of any default specified in §13.01, Landlord may pursue one or more of the following remedies:

(a) Landlord may terminate this Lease, in which event Tenant must immediately surrender the Premises to Landlord. If Tenant fails to do so, Landlord may, without prejudice - to any other remedy that it may have for possession or arrearages in rent, enter on and take possession and expel or remove Tenant and any other person occupying the Premises or any part of them, by any lawful means, without being liable for prosecution or any claim of damages for the entrance and expulsion or removal. Tenant will, on demand, pay Landlord the amount of all loss and damage that Landlord suffers by reason of the termination, whether through inability to re-let the Premises on satisfactory terms, if Landlord elects to re-let, or otherwise.

(b) Landlord may enter on and take possession of the Premises and expel or remove Tenant and any other person occupying the Premises or any part of them, by any lawful means, without being liable for prosecution or any claim for damages for the entrance and expulsion or removal; re-let the Premises on the terms Landlord considers advisable; and receive the rent for the re-letting. Tenant will, on demand, pay Landlord any deficiency that may arise by reason of re-letting.

(c) Landlord may enter the Premises, by any lawful means (and Landlord is expressly reserving and retaining the right to so re-enter the Premises), without being liable for prosecution or any claim for damages for the entry, and do whatever Tenant is obligated to do under the terms of this Lease to correct the default. Tenant will, on demand, reimburse Landlord for any expenses that Landlord incurs in effecting compliance with Tenant's obligations under this Lease in this manner, and Tenant further releases Landlord from liability for any damages resulting to Tenant from such an action.

13.03 **Cumulative Remedies:** Landlord's or Tenant's pursuing any remedy provided in this Lease will not preclude pursuing any other remedy provided in this Lease. Either party's pursuing any remedy provided in this lease or by law will not constitute a forfeiture or waiver of any damages accruing to either party by reason of violating any term or covenant of this Lease. Nor will Landlord's pursuing any remedies provided in this Lease constitute a waiver or forfeiture of any rent due under this Lease.

13.04 **Waiver of Default:** Either party's waiving any default or violation or breach of any term or covenant of this Lease does not waive any other violation or breach of any term or covenant of this Lease. Nor does either party's forbearing to enforce one or more of the remedies provided in this Lease or by law on a default waive the default. Landlord's accepting rent following default under this Lease does not waive the default.

13.05 **Surrender of Premises:** No act done by Landlord or its agents during the Lease Term may be considered an acceptance of a surrender of premises is valid unless in writing and subscribed by Landlord.

XIV. MISCELLANEOUS

14.01 **Notices and Addresses:** All notices required under this Lease may be given by the following methods:

(a) By certified mail, return receipt requested, addressed to the proper party, at the following addresses:

If to Landlord:

City of Lancaster
Attn: Opal Mauldin Robertson
City Manager
211 North Henry Street
P. O. Box 940
Lancaster, Texas 75146-0946

If to Tenant:

Signature Aircraft Interiors
Attn: Andy Gray
262 Rutherford Rd.
Waxahachie, Texas 75165

Notices are effective when received. Either party may change the address to which notices are to be sent by sending written notice of the new address or number to the other party in accordance with the terms of this section.

14.02 **Parties Bound:** This agreement binds, and inures to the benefit of, the parties to this Lease and their respective heirs, executors, administrators, legal representatives, successors, and assigns when this agreement permits.

14.03 **Texas Law to Apply:** This agreement is to be construed under Texas law, and all obligations of the parties created by this agreement are performable in Dallas County, Texas. The parties agree to submit to the personal and subject matter jurisdiction of said Court.

14.04 **Legal Construction:** If anyone or more of the provisions in this agreement are for any reason held to be invalid, illegal, or unenforceable in any respect, the invalidity, illegality, or unenforceability will not affect any other provision of the agreement, which will be construed as if it had not included the invalid, illegal, or unenforceable provision.

14.05 **Prior Agreements Superseded:** This agreement constitutes the parties sole agreement and supersedes any prior understandings or written or oral agreements between the parties with respect to the subject matter.

14.06 **Amendment:** No amendment, modification, or alteration of the terms of this agreement is binding unless in writing, dated subsequent to the date of this agreement, and duly

executed by the parties.

14.07 **Rights and Remedies Cumulative:** The rights and remedies provided by this Lease are cumulative, and either party's using any right or remedy will not preclude or waive its right to use any other remedy. These rights and remedies are in addition to any other rights the parties may have by law, statute, ordinance, or otherwise.

14.08 **Attorney's Fees and Costs:** If, as a result of either party's breaching this agreement, the other party employs an attorney to enforce its rights under this Lease, the breaching or defaulting party will pay the other party the reasonable attorney's fees and costs incurred to enforce this Lease.

14.09 **Force Majeure:** Neither Landlord nor Tenant is required to perform any term or covenant of this Lease so long as performance is delayed or prevented *by force majeure*, which includes acts of God, strikes, lockouts, material or labor restrictions by any governmental authority, civil riot, floods, and any other cause not reasonably within Landlord's or Tenant's control and that Landlord or Tenant, by exercising due diligence and paying money, cannot prevent or overcome in whole or part.

The undersigned Landlord and Tenant execute this agreement on the _____ day of _____, 2014

Landlord:

By: _____
Opal Mauldin Robertson, City Manager

Tenant:

By: _____
Name: _____
Title: _____

ATTEST:

Sorangel O. Arenas, City Secretary

Exhibit "A"

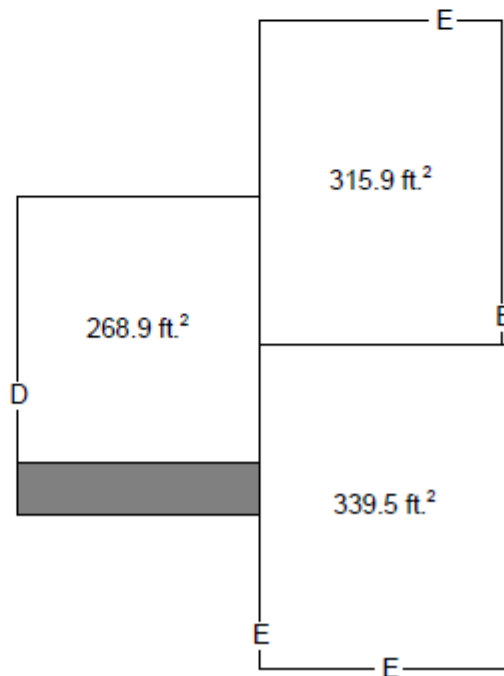
670
Suite
102/104

A, B, C, D, & E indicate
how locks are keyed.
Each letter is a specific
key.

Total Square Feet = 924.3 ft.²

Office Rate = \$0.20 per Square Foot

Total Value = \$184.86 per Month



LANCASTER CITY COUNCIL

Item 3

Agenda Communication

August 25, 2014

Consider a resolution approving the terms and conditions of the City owned T-Hangar non-commercial lease from building 660 at the Lancaster Regional Airport.

This request supports the City Council 2014-2015 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 660-111 (1624 sqft) for a tenant, Mr. Dale Yingling.

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 large size T-hangar is \$290.00 per month.
- **Public Information** – This item is being considered at a meeting of the City Council noticed in accordance with the Texas Open Meetings Act.

Options/Alternatives

1. 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.

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 660 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 25th day of August 2014.

ATTEST:

APPROVED:

Sorangel O. Arenas, City Secretary

Marcus E. Knight, Mayor

APPROVED AS TO FORM:

Robert E. Hager, City Attorney



LANCASTER ReGIONAL AIRPORT

Agreement for Lease of T-Hangar for Storage of Aircraft

Non-Commercial Tenants

This CONTRACT and AGREEMENT OF LEASE, made this **25th** day of **August**, 2014, between the City of Lancaster, Texas, a municipal corporation, ("LESSOR") and **Dale Yingling**, (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 **660-111**, located at the Airport, and consisting of approximately **1624** 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 **25th** day of **August** 2014. Either party may cancel and terminate this agreement by serving thirty (30) days written notice of its election to do so.
4. **Rent:** LESSEE shall pay LESSOR as rent **\$290.00** per month, due and payable in advance on the first day of each month.

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

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

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

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

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

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

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

II.

STANDARD TERMS AND PROVISIONS

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

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

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

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

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

made.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

LESSEE: Dale Yingling

2408 NE Spring Creek Dr.

Lees Summit, MO 64086

706-877-1800

DrDaleYingling@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:

Sorangel O. Arenas, City Secretary

LANCASTER CITY COUNCIL

Item 4

Agenda Communication

August 25, 2014

Consider a resolution approving the terms and conditions of the City owned tie down T-Spot non-commercial lease at the Lancaster Regional Airport.

This request supports the City Council 2014-2015 Policy Agenda.

Goal: Sound Infrastructure

Background

The City owns and leases tie down T-Spots on the airport ramp. There are 72 spots that the City rents for aircraft outdoor storage. This agenda item brings forward a non-commercial lease agreement for T-Spot 55 for a tenant, Mr. William Wahrmond.

Considerations

- **Operational** - The City T-Spot non-commercial lease is used for private aircraft owners.
- **Legal** - The lease agreement was reviewed and approved by the City Attorney.
- **Financial** - All rates were approved in the City's Master Fee Schedule. The monthly rate for this T-Spot is \$30.00 per month.
- **Public Information** – This item is being considered at a regular meeting of the City Council noticed in accordance with the Texas Open Meetings Act.

Options/Alternatives

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

Recommendation

Staff recommends approval of the resolution.

Attachments

- Resolution
 - Exhibit “A” Lease Agreement
-

Submitted by:
Mark Divita, Airport Manager

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LANCASTER, TEXAS, APPROVING THE TERMS AND CONDITIONS OF THE CITY OWNED TIE DOWN T-SPOT NON-COMMERCIAL LEASE AT LANCASTER REGIONAL AIRPORT; AUTHORIZING THE CITY MANAGER TO EXECUTE SAID LEASE; AND PROVIDING AN EFFECTIVE DATE.

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

WHEREAS, the City Council of Lancaster, Texas, desires to authorize the T-spot 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-spot 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 25th day of August 2014.

ATTEST:

APPROVED:

Sorangel O. Arenas, City Secretary

Marcus E. Knight, Mayor

APPROVED AS TO FORM:

Robert E. Hager, City Attorney



LANCASTER ReGIONAL AIRPORT

Agreement for Lease of T-Spot for Storage of Aircraft

Non-Commercial Tenants

This CONTRACT and AGREEMENT OF LEASE, made this **25th** day of **August 2014**, between the City of Lancaster, Texas, a municipal corporation, ("LESSOR") and **William Wahrmund**, (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:** Tie down **T-Spot 55**, located at the Airport, and consisting of approximately 800 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 **25th** day of **August 2014**. Either party may cancel and terminate this agreement by serving thirty (30) days written notice of its election to do so.
4. **Rent:** LESSEE shall pay LESSOR as rent **\$30** per month per T-spot, due and payable in advance on the first day of each month.

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

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

- b. All payments not received by the 10th of each month shall constitute a default

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

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

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

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

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

II.

STANDARD TERMS AND PROVISIONS

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

of any items left behind upon the premises.

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

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

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

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

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

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

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

LESSEE: William Wahrmund

828 Eastridge Cir.

Red Oak, TX 75154

214-577-5207

19. **Insurance:** LESSEE shall, at its own option, carry its own insurance on its aircraft

and other equipment which LESSEE stores in or on the leased premises.

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

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

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

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

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

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

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

CITY OF LANCASTER, LESSOR

LESSEE:

By: _____
Opal Mauldin Robertson,
City Manager

ATTEST:

Sorangel O. Arenas, City Secretary

LANCASTER CITY COUNCIL

Item 5

Agenda Communication

August 25, 2014

Consider a resolution casting its vote for Trustee in Places 1, 2, 3 and 4 in the Texas Municipal League Intergovernmental Risk Pool Board of Trustees Election on the Official Ballot; authorizing the Mayor to sign the Official Ballot.

This request supports the City Council 2014-2015 Policy Agenda.

Goal 1: Financially Sound City Government

Background

The Texas Municipal League Intergovernmental Risk Pool is an interlocal agency that provides Texas municipalities and other units of local government with a stable source of risk financing for workers' compensation, liability, and property protection. As a member of the Texas Municipal League Intergovernmental Risk Pool, the City is entitled to vote in Board of Trustees elections.

The Board of Trustees consists of fifteen members. There are four Trustee places to be voted on for this election. A brief biographic sketch of each candidate is provided on the ballot, which is attached.

Considerations

- **Operational** – Council may select one candidate or submit a write-in candidate for each Place. Officials on the ballot have been nominated to serve a six-year term.
- **Legal** – Ballots must be properly signed and reach the office of the Secretary of the Board no later than September 30, 2014 to be counted.

Options/Alternatives

1. Select a candidate for each Place from the Official Ballot or provide a write-in candidate and authorize the Mayor to execute the Official Ballot as selected by the majority of the Council.
2. Take no action. The City of Lancaster is not able to cast a ballot for Trustee members without taking action through an Official Ballot.

Recommendation

Council selects the candidate of their choice in each Place by majority vote. City Manager Mauldin Robertson supports election of:

Place 1 – Robert T. Herrera
Place 2 – John W. Fullen
Place 3 – George Shackelford
Place 4 – Rona Stringfellow

Attachments

- Resolution with the Official Ballot
-

Submitted by:

Sorangel O. Arenas, City Secretary

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LANCASTER, TEXAS, CASTING ITS VOTE FOR TRUSTEE IN PLACES 1, 2, 3 AND 4 IN THE TEXAS MUNICIPAL LEAGUE INTERGOVERNMENTAL RISK POOL BOARD OF TRUSTEES ELECTION ON THE OFFICIAL BALLOT; AUTHORIZING THE MAYOR TO EXECUTE THE OFFICIAL BALLOT; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Lancaster, Texas, is eligible to vote in the Texas Municipal League Intergovernmental Risk Pool Board of Trustees Election; and,

WHEREAS, as a member of the Intergovernmental Risk Pool, the City of Lancaster desires to cast an Official Ballot in accordance with the requirements thereof;

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

SECTION 1. That the City Council of the City of Lancaster, Texas, does hereby cast its vote for Places 1, 2, 3 and 4 for the Texas Municipal League Intergovernmental Risk Pool Board of Trustees Election as marked on the Official Ballot, which is attached hereto and incorporated herein by reference for all purposes as Exhibit "A".

SECTION 2. That the Mayor of the City of Lancaster, Texas, is hereby authorized to execute said Official Ballot.

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 25th day of August 2014.

ATTEST:

APPROVED:

Sorangel O. Arenas, City Secretary

Marcus E. Knight, Mayor

APPROVED AS TO FORM:

Robert E. Hager, City Attorney

OFFICIAL BALLOT

Texas Municipal League Intergovernmental Risk Pool Board of Trustees Election

This is the official ballot for the election of Places 1 – 4 of the Board of Trustees for the Texas Municipal League Intergovernmental Risk Pool. Each Member of the Pool is entitled to vote for Board of Trustee members. Please record your organization's choices by placing an "X" in the square beside the candidate's name or writing in the name of an eligible person in the space provided. You can only vote for one candidate for each place.

The officials listed on this ballot have been nominated to serve a six-year term on the TML Intergovernmental Risk Pool (Workers' Compensation, Property and Liability) Board of Trustees.

Ballots must reach the office of David Reagan, Secretary of the Board, no later than September 30, 2014. Ballots received after September 30, 2014, cannot be counted. **The ballot must be properly signed and all pages of the ballot must be mailed to: Trustee Election, David Reagan, Secretary of the Board, P. O. Box 149194, Austin, Texas 78714-9194. If the ballot is not signed, it will not be counted.**

PLACE 1



Robert T. Herrera (Incumbent). City Manager, City of Cibolo (Region 7) since 2012. Mr. Herrera served as City Manager of Hondo, Texas from 2003 to 2012 and as City Manager of La Porte from 1986 to 2002. He has served other Texas cities, including management positions with the cities of San Marcos, Missouri City and Woodway. He has been a Board member of the TML Intergovernmental Risk Pool since 1993 and has served as Chair and Vice Chair of the Board.

WRITE IN CANDIDATE:

PLACE 2



John W. Fullen (Incumbent). Commissioner, Henderson Housing Authority (Region 15) since 2011. Mr. Fullen served as Mayor of the City of Henderson from 2004 to 2012, and currently serves on the Henderson Main Street Board (2004–present), Henderson Civic Center Board (2003–present), and the Henderson ETMC Hospital Diabetes Board (2009–present). He has been a Board member of the TML Intergovernmental Risk Pool since 2010.

WRITE IN CANDIDATE:

PLACE 3



George Shackelford. City Manager for Tomball (region 14) since 2010. He has served the past 30 years either as City Manager or Administrative Assistant for the cities of Canyon, Littlefield, Port Lavaca, Texarkana and Liberty. He has also served on the Texas City Management Association (TCMA) Board, numerous TCMA and regional committees, and as the TCMA representative to the TML Board. Mr. Shackelford is a 30-year member of the ICMA.

WRITE IN CANDIDATE:

PLACE 4

☐

Peter Vargas (Incumbent). City Manager, City of Allen (Region 13) since 1999. Mr. Vargas received the 2010 Public Administrator of the Year Award from the North Texas American Society for Public Administration. He has been in public service since 1978. Mr. Vargas has been a Board member of the TML Intergovernmental Risk Pool since 2011 and is currently serving as Chair of its Underwriting Committee.

☐

Rona Stringfellow. Assistant City Manager, City of Lancaster (Region 13), serving in Lancaster since 2004, initially as a Planner. Ms. Stringfellow also served as a Long Range Planner for the City of McKinney. She is a member of TCMA, ICMA, North Texas City Managers Association, Greater Dallas Planning Council, American Planning Association, American Institute of Certified Planners and National Forum for Black Public Administrators.

WRITE IN CANDIDATE:

Certificate

I certify that the vote cast above has been cast in accordance with the will of the majority of the governing body of the public entity named below.

Witness by hand, this _____ day of _____, 2014.

Signature of Authorized Official

Title

Printed Name of Authorized Official

Printed name of Political Entity

LANCASTER CITY COUNCIL

Item 6

Agenda Communication

August 25, 2014

Consider a resolution amending the agreement for Banking Services with JP Morgan Chase Bank, N.A.; to include Merchant Services.

This request supports the City Council 2014-2015 Policy Agenda.

Goal: Financially Sound City Government

Background

In February 2009 Council authorized the awarding of RFP 09-022; an Agreement for Banking Services with JP Morgan Chase Bank, N.A., which included the option for merchant services.

Considerations

- **Operational** - Currently, the city utilizes multiple vendors to process credit card transactions. This action will streamline the process by consolidating merchant card services throughout the organization, and will also expedite acceptance of online ACH payments.
- **Legal** - The City Attorney has reviewed and approved the agreement as to form.
- **Financial** – Funding has been approved in the current year's budget, and this action will result in savings of approximately \$40,000 annually.

Options/Alternatives

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

Recommendation

Staff recommends approving the addendum to the Banking Services Agreement to include Merchant Services as presented.

Attachments

- Resolution
 - Select Merchant Application
 - Schedule A Merchant Agreement
 - Equipment Purchase Agreement
 - Select Government Merchant Payment Card Processing Agreement
 - Authorization Agreement for Automated Billing
-

Submitted by:

Cynthia Pearson, Director of Finance

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LANCASTER, TEXAS, AUTHORIZING AN AMENDMENT TO THE BANKING SERVICES AGREEMENT RFP 09-022; AUTHORIZING THE CITY MANAGER TO EXECUTE A MERCHANT SERVICES AGREEMENT WITH JP MORGAN CHASE, N.A.; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Lancaster ("City") has entered into an agreement with JP Morgan Chase Bank, N.A. for banking services; and wishes to amend that agreement to include Merchant Services; and

WHEREAS, execution of said amendment to the original agreement requires the approval of the Lancaster City Council;

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

SECTION 1. That the City Council of the City of Lancaster, Texas hereby consents to the Merchant Services Agreement under the terms and conditions set forth in the original agreement for Banking Services.

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

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

DULY PASSED and approved by the City Council of the City of Lancaster, Texas, on this 25th day of August, 2014.

ATTEST:

APPROVED:

Sorangel O. Arenas, City Secretary

Marcus E. Knight, Mayor

APPROVED AS TO FORM:

Robert E. Hager, City Attorney

Please print clearly. If you make any corrections to your information in the Application, you MUST initial each change.

Select Merchant Application

THIS SECTION IS FOR INTERNAL USE		Rev. NAPSLECT 06/2014
Application ID:		Sales Rep:
Rep Fax:		Rep Phone:

1. Merchant Business (Federal regulations require us to collect and retain information verifying a merchant's identity.)

A "Doing Business As" (DBA) Information			
Merchant DBA Name			Date Business Started (MM/YYYY)
Address (No PO Box or Paid Mail Box)			Telephone #
City	State	Zip Code	Fax #
Name of Primary Contact		Merchant DBA Email Address	

B Legal Information (If you are an Individual/Sole Proprietor, fill in this section with your personal information)			
Merchant Legal Name		State of Formation	Federal Tax ID/EIN (sole prop use SSN)
Business Type			
<input type="checkbox"/> Individual / Sole Proprietor <input type="checkbox"/> Private Corporation <input type="checkbox"/> Limited Liability Company <input type="checkbox"/> Partnership <input type="checkbox"/> Public Corporation <input type="checkbox"/> Government Agency <input type="checkbox"/> Non-Profit			

Complete this section if different from DBA Information.

Address (No PO Box or Paid Mail Box)			Telephone #
City	State	Zip Code	Fax #
Legal Email Address			

C Taxpayer Information (For help, please consult the Instructions for IRS Form W-9, which are available upon request or online at www.irs.gov)			
Taxpayer Name (as shown on Merchant's income tax return)			Taxpayer Identification Number
Business Name / disregarded entity name, if different from above			
Federal tax classification			Exemptions (if any):
<input type="checkbox"/> Individual / Sole Proprietor <input type="checkbox"/> C Corporation <input type="checkbox"/> S Corporation <input type="checkbox"/> Partnership <input type="checkbox"/> Trust/estate <input type="checkbox"/> Limited Liability Company. Enter the tax classification (C=C Corporation, S=S Corporation, P=Partnership) <input type="checkbox"/> Other			Exempt payee code
			Exemption from FATCA reporting code
Address			Requester's name and address
City	State	Zip Code	Paymentech, LLC 14221 Dallas Parkway Dallas, Texas 75254

Application continues on next page

2. Merchant Profile

Is your business home-based?	<input type="checkbox"/> Yes <input type="checkbox"/> No
If "Yes" above, where is the inventory located?	
What merchandise do you sell or services do you provide?	
Is your business seasonal?	<input type="checkbox"/> Yes <input type="checkbox"/> No
Has business ever been in bankruptcy?	<input type="checkbox"/> Yes <input type="checkbox"/> No

What is your business industry type?		
<input type="checkbox"/> Retail	<input type="checkbox"/> Restaurant	<input type="checkbox"/> Lodging
<input type="checkbox"/> Auto Rental	<input type="checkbox"/> Cash Advance	<input type="checkbox"/> Convenience Store/Gas
<input type="checkbox"/> Other:		
<input type="checkbox"/> Internet - list all websites on which you accept payments and provide a customer service email address:		
www.		
www.		
Customer Service Email Address:		

3. Reporting, Statements, Chargeback Requests, and Retrieval Requests

Reporting and Statements – you may access transaction history and monthly statements online via Resource Online, or have your monthly statements emailed to you.

- | | |
|--|--|
| <input type="checkbox"/> Resource Online. Set up a Resource Online account and use the following email address as the user login: | <input type="checkbox"/> Email Statements to the: |
| | <input type="checkbox"/> Legal email address |
| | <input type="checkbox"/> DBA email address |

Chargeback and Retrieval Requests

- | |
|--|
| Mail Chargeback and Retrieval Requests to |
| <input type="checkbox"/> Legal address |
| <input type="checkbox"/> DBA address |

4. Sales Information

What is the estimated annual breakdown (in %) of your annual Payment Card Transactions?

_____ %	Via mail or phone order
_____ %	Payments accepted on your website
_____ %	Card is swiped
_____ %	Card is present but keyed
100 %	Total

Do you ever charge a Customer on a recurring basis? ☐ Yes ☐ No

If "Yes" above, how often will you charge?

- | | | | |
|----------------------------------|----------------------------------|----------------------------------|-----------------------------------|
| <input type="checkbox"/> 30 Days | <input type="checkbox"/> 60 Days | <input type="checkbox"/> 90 Days | <input type="checkbox"/> Annually |
| <input type="checkbox"/> Other: | | | |

If Customers are required to pay a deposit, what % of total sale? %

5. Ownership Information

If your business is privately owned by one or more individuals (e.g. LLC, Sole Prop, Partnership, or Private Corporation),

- ➔ Complete sections A and B for the owners with the greatest % of ownership.
- ➔ All owners listed below must sign the Application and Agreement in Section 11 and 12.

If your business is a non-profit organization, publicly owned corporation, or government entity,

- ➔ Complete section C only
- If a parent company owns your business,
- ➔ Enter the name of the legal entity(ies) in section A or A and B
- ➔ Provide the name of an Authorized Representative in Section C.
- ➔ Substitute the parent company's Federal Tax ID for the Social Security #.

A Name of Individual/Sole Proprietor or Parent Company	Percentage of Ownership: %	Social Security #
Street Address (Individual/Sole Proprietor use home address) (No PO Box or paid mailbox)		Date of Birth
City	State	Zip Code
		Telephone #

B Name of Individual/Sole Proprietor or Parent Company	Percentage of Ownership: %	Social Security #
Street Address (Individual/Sole Proprietor use home address) (No PO Box or paid mailbox)		Date of Birth
City	State	Zip Code
		Telephone #

C Name of Authorized Representative	Title

Application continues on next page

6. Funding and Account Information

The Merchant must own the bank account provided below and it shall be used by Merchant solely for business purposes and shall not be used for personal, family or household purposes. In accordance with the terms of the Agreement, Chase Paymentech may:

- deposit into this account amounts owed to Merchant by Chase Paymentech, such as proceeds from Merchant's Payment Card Transactions
- debit this account for amounts Merchant owes to Chase Paymentech associated with its Merchant account, such as fees for processing Merchant's Payment Card Transactions
- debit this account for any negative amounts presented, such as refunds, returns or Chargebacks

Merchant's Bank Account	
Name of Financial Institution	Designating this bank account for the purposes outlined above must not violate any of Merchant's organizational documents or any agreement to which the Merchant is a party.
Routing Number (always consists of 9 digits)	Account Number (number of digits will vary)
<p>The image below shows where to find your Routing and Account Numbers. Do not use the Internal routing number that begins with a 5.</p>	

7. Payment and Processing Information

If you have previously accepted payment cards, please include your three (3) most recent monthly processing statements.

Please check all payment methods you wish to accept:	
<input type="checkbox"/> Visa	<input type="checkbox"/> MasterCard
<input type="checkbox"/> Discover/JCB	<input type="checkbox"/> American Express
<input type="checkbox"/> Voyager	<input type="checkbox"/> Wright Express
<input type="checkbox"/> PIN Debit	
Current Payment Processor:	
Has Merchant ever had a breach involving lost card data or received a notification for any violation of the Payment Brand Rules?	
<input type="checkbox"/> Yes	<input type="checkbox"/> No

Estimated Annual Visa/MasterCard Sales Volume	\$
Estimated Annual Discover Sales Volume	\$
Estimated Annual PIN Debit Sales Volume	\$
Estimated Average Ticket Amount (for all card types)	\$
Highest Transaction Amount	\$

8. American Express®

If your American Express annual processing volume is greater than \$500,000.00, please review and complete this Section A only.

➡ If you know your American Express SE #, please provide it here:

➡ If you do not know your American Express SE #, or you would like to apply for one, please contact American Express directly at (855) 894 - 6570.

If your American Express annual processing volume is, or is expected to be, \$500,000.00 or less, and you would like Chase Paymentech to request an American Express SE # on your behalf, please complete and review the information under "Information about American Express Rates and Fees" and sign the American Express Authorization.

Application continues on next page

Information about American Express rates and fees.

Estimated Annual Sales Volume for American Express		\$	
American Express Discount Rate*	%	American Express Prepaid Discount Rate+	1.95 %
*Discount Rate. Based on Merchant's MCC, an additional per transaction fee of no more than \$0.15 may be assessed. For Merchants with a Retail, Restaurant or Travel Agency MCC, an additional 0.30% downgrade will be charged by American Express for transactions whenever a CNP or Card Not Present charge occurs.		+Prepaid Discount Rate. Based on Merchant's MCC, an additional per transaction fee of no more than \$0.30 may be assessed. Fast Food Restaurants, Independent Gas Stations, Mail Order & Internet, Restaurant and Supermarket MCCs will be assessed a Prepaid/Gift Card rate + Transaction Fee of [2.15% + \$0.05], [1.30% + \$0.12], [2.25% + \$0.20], [2.15% + \$0.05] and [0.45% + \$0.20], respectively, in lieu of the 1.95% + variable discount rate described above.	

All American Express fees are set by American Express and are subject to change by American Express. The fees set forth herein are only quotes, based upon the then-current American Express pricing guidelines, which may be modified from time to time.

If Merchant operates an internet/physical delivery, mail order/telephone order, or home-based business, Merchant will not be charged the American Express Discount Rate. Instead, Merchant will be charged a flat monthly fee of \$7.95. If Merchant is charged a flat monthly fee, for any reason, that fee will continue until Merchant's American Express volume exceeds \$4,999 in a 12-month period. At such time American Express will begin charging Merchant the applicable industry-specific American Express Discount Rate.

Except for Education merchants within MCC 7032, 8211, 8220 and 8351, an inbound fee of 0.40% will be applied to any charge made using an American Express Card, including a Prepaid Card, issued by an issuer located outside of the United States.

American Express Authorization

By signing below, I represent that I have read and am authorized to sign and submit this application for the above entity which agrees to be bound by the American Express® Card Acceptance Agreement ("American Express Agreement"), and that all information provided herein is true, complete and accurate. I authorize Paymentech and American Express Travel Related Services Company, Inc. ("American Express") and American Express's agents and Affiliates to verify the information in this application and receive and exchange information about me personally, including by requesting reports from consumer reporting agencies, from time to time, and disclose such information to their agents, subcontractors, Affiliates, and other parties for any purpose permitted by law. I authorize and direct Chase Paymentech and American Express and American Express's agents and Affiliates to inform me directly, or inform the entity above, about the contents of reports about me that they have requested from consumer reporting agencies. Such information will include the name and address of the agency furnishing the report. I also authorize American Express to use the reports on me from consumer reporting agencies for marketing and administrative purposes. I am able to read and understand the English language. Please read the American Express Privacy Statement at <http://www.americanexpress.com/privacy> to learn more about how American Express protects your privacy and how American Express uses your information. I understand that I may opt out of marketing communications by visiting this website or contacting American Express at 1-(800)-528-5200. I understand that in the event I decline to receive marketing communications from American Express, I may continue to receive messages from American Express regarding American Express Services.

I understand that upon American Express' approval of the application, the entity will be provided with the American Express Agreement and materials welcoming it either to American Express' program for Chase Paymentech to perform services for American Express or to American Express' standard Card acceptance program which has different servicing terms (e.g. different speeds of pay). I understand that if the entity does not qualify for the Chase Paymentech servicing program that the entity may be enrolled in American Express' standard Card acceptance program, and the entity may terminate the American Express Agreement. By accepting the American Express Card for the purchase of goods and/or services, or otherwise indicating its intention to be bound, the entity agrees to be bound by the American Express Agreement.

X

Signature

Print Name

Title

Date

9. Site Visit

If your business is selected for a site visit, Chase Paymentech, or a third party representing Chase Paymentech, will contact you at the number provided. You MUST assist with the site visit and Chase Paymentech MUST approve the results of the site visit.

The site visit includes, but is not limited to,

- an interview with you regarding the nature of your business, and
- photographs of your business operation.

If the site visit is not completed or the results of the site visit are not approved, Chase Paymentech may,

- decline your application for a merchant account
- withhold your funds, or
- terminate your Agreement with Chase Paymentech and close your Merchant account.

To help expedite the process, we require the following information:

Best phone # to contact you:	Preferred language: <input type="checkbox"/> English <input type="checkbox"/> Spanish
Best time to reach you:	<input type="checkbox"/> Other:

10. IRS Certification

Under penalty of perjury, I certify that:

1. The number shown on this form (Section 1C) is my correct taxpayer identification number (or I am waiting for a number to be issued to me), and
2. I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest in dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding, and
3. I am a U.S. citizen or other U.S. person (defined in the Instructions), and
4. The FATCA code(s) entered on this form (if any) indicating that I am exempt from FATCA reporting is correct.

Certification Instructions

You must cross out and initial #2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. IRS Form W-9 Instructions are available upon request.

11. Authorized Representative(s)

This document is the Merchant's Application to establish a Merchant account with Paymentech, LLC ("Chase Paymentech") and JPMorgan Chase Bank, N.A. ("Member"). Once submitted, the Application belongs to Chase Paymentech and Member. Any application set up fee paid by Merchant is non-refundable. The Application is subject to approval by Chase Paymentech and Member. If the Application is approved, Chase Paymentech will establish one or more Merchant account(s). All Merchant accounts will be governed by the entire Agreement, which includes: the Application, the Select Merchant Payment Processing Agreement, Schedule A (pricing), and any amendments, supplements or modifications provided to you.

I, the undersigned, certify:

- that I am an owner, partner, officer or other authorized representative of the Merchant ("Authorized Representative"); and
- that I am duly authorized to enter into agreements on behalf of Merchant and to legally bind Merchant to such agreements.

Furthermore, by signing below as an owner of Merchant, I authorize Chase Paymentech, Member, or their designees to:

- investigate and verify personal credit and financial information about me; and
- obtain and use consumer credit reports on me from time to time in connection with establishing Merchant's account and maintaining the Agreement.

By submitting this Application, Merchant, through the undersigned Authorized Representative:

- represents and warrants that the person submitting this Application is duly authorized to enter into agreements on behalf of Merchant and to legally bind Merchant to such agreements;
- represents and warrants that all information contained within the Application as well as any information submitted in conjunction with the Application is true, complete, and not misleading;
- represents and warrants that it owns the bank account provided in Section 6 and the account is being maintained solely for business purposes and not for personal, family or household purposes;
- understands that any unilateral changes to the pre-printed text of any part of the Application may result in Chase Paymentech declining Merchant's Application or terminating the Agreement;
- agrees that Chase Paymentech, Member, or their designees, may:
 - investigate and verify the credit and financial information of Merchant; and
 - obtain credit reports on Merchant from time to time and use them in connection with establishing Merchant's account and maintaining the Agreement; and
- agrees that Member and Chase Paymentech may share credit, financial information about Merchant and Chase Paymentech.

The Internal Revenue Service does not require your consent to any provision of this document other than the certification required to avoid backup withholding. (See Section 10 above).

Owner / Authorized Representative: Signer's name must appear in Section 5

X _____
Signature _____ Print Name _____ Date _____

Owner / Authorized Representative: Signer's name must appear in Section 5

X _____
Signature _____ Print Name _____ Date _____

If any of the information provided in this Merchant Application changes, you must promptly notify Chase Paymentech of such change(s).

CHASETM Schedule A to Merchant Agreement

Paymentech Merchant: City of Lancaster

NAPFNECHDA/CPTS 20140401 V3.1.1.1

Assumptions

Transaction related assumptions		Other assumptions	
Payment Transaction Sales Volume	\$4,120,000	Number of locations	2
Average Transaction Amount	\$133.00	Authorization / Capture %	105.0%
PIN Debit / EBT Transactions	0	Chargebacks as % of Sales Transactions	0.0300%
Conveyed Transactions	2,402	Safetech Encrypted Items	N/A

Target Qualification Level:

MasterCard:	Utilities	MUTC
Visa:	CPS Utilities	VUTC
Discover:	PSL Utilities - Core	D158

- 1. Fees applied on every transaction** — MasterCard, Visa and Discover assess an Interchange Rate, Interchange Fee, Assessment Fee & Network Fee for each transaction. These rates and fees will be passed thru at cost. Payment Brand interchange rates can be accessed by visiting the Learning & Resources section of Chase Paymentech's website, and selecting "Understanding Interchange".

Payment Brand Interchange & any incremental discount rate %

MasterCard, Visa & Discover Interchange Rates	as set by each Payment Brand
MasterCard, Visa & Discover Incremental Discount Rate	0.1500%
Billing Frequency:	Monthly
PIN Debit and/or EBT Network Fees	All standard PIN Debit Network Fees will be assessed
PIN Debit – Incremental Discount Rate	N/A
JCB (Japanese Credit Bureau)	N/A
Voyager Discount Rate (if settled)	N/A

Payment Brand Assessments

MasterCard	(Credit transactions < \$1000 and all Debit Transactions)	0.110%
MasterCard	(Credit transactions > \$1000)	0.130%
Visa		0.110%
Discover		0.105%

Payment Brand Network Fees	Credit	Debit
MasterCard Network Access & Brand Usage Fee (NABU)	\$0.0195	\$0.0195
Visa Auth Processor Fee (APF)	\$0.0195	\$0.0155
Discover Data Usage Fee	\$0.0185	\$0.0185

Transaction Fees

MasterCard per transaction	\$0.0500
Visa per transaction	\$0.0500
Discover per transaction	\$0.0500
JCB per transaction	N/A
American Express per transaction	N/A
PIN Debit per transaction	N/A
EBT per transaction	N/A
Check Verification – Scan per transaction	N/A
Voyager per transaction	N/A
Wright Express per transaction	N/A
Hosted Pay Page per transaction	N/A

Authorization Fees

MasterCard per authorization	\$0.1000
Visa per authorization	\$0.1000
Discover per authorization	\$0.1000
JCB per authorization	N/A
American Express per authorization	\$0.1500
Voyager per authorization	N/A
Wright Express per authorization	N/A
Private Label per authorization	N/A
Dial Backup authorization surcharge	N/A

Encryption Fees

Safetech Encryption per transaction	N/A
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Customer Initials

x

Please initial to acknowledge page 1 of the Schedule A pricing sheet

2. One Time and Periodic Fees

One Time Fees	
Account Setup Fee	N/A
Rush Fee	N/A
Terminal Reprogram Fee	N/A
PIN Debit Setup Fee	N/A
PIN Pad Encryption Fee	N/A
Internet Product: Authorize.Net	
Setup fee	\$75.00
Third Party Setup fee	N/A

Monthly Fees	
Monthly Service Fee ¹	\$5.00
Monthly Minimum Fee ²	\$25.00
Monthly Helpdesk Fee	N/A
Online Reporting Tool	N/A
Safetech Encryption ³	N/A

Monthly Fees – Pass Thru	
Visa Fixed Acquirer Network Fee ⁴	Varies

Annual Fees	
Annual Fee	N/A

- 1 – Monthly service fees will be debited for the first time in the month after your account has been set up. These fees will be debited regardless of whether you are processing transactions through your account.
- 2 – If the total of all fees each month in section 1, 3 and 4 do not equal the Monthly Minimum Fee, your account will be debited for the difference.
- 3 – If Merchant obtains point of sale device(s) from Chase Paymentech for use with Safetech Encryption, the following additional fees shall be assessed: (a) a one-time fee of \$10.90 per device; and (b) an encryption injection fee of \$34.95 per device per occurrence. These assessments are in addition to the above Safetech Encryption Fee(s). If Merchant obtains point of sale device(s) from a third party, additional fees may apply. Merchant acknowledges and understands that its use of any fraud mitigation or security enhancement solution (e.g. an encryption product or service), whether provided to merchant by Paymentech or a third party, in no way limits Merchant's obligation to comply with the Security Standards or Merchant's liabilities set forth in this Agreement.
- 4 – Visa Fixed Acquirer Network Fee is a monthly fee assessed by Visa based on Merchant Category Code (MCC), dollar volume, number of merchant locations, number of tax id's, and whether the physical Visa card is present or not present at the time of the transaction. This fee can vary monthly.

3. Per Incidence Fees

Per Incidence Fees: Charged every time your account incurs one of the below items		
Statement Fee (Email / ROL)	N/A	No charge if statements are sent to a valid email address or accessed by Merchant through Resource Online, as elected by Merchant on the Application.
Statement Fee (Mail)	\$5.00	Charged each month Chase Paymentech mails a statement (whether at the request of Merchant or because delivery to a valid email address has failed)
Statement Fee (Reprint)	N/A	Charged for each archived statement you request to have printed
Supplies: Billed Per Order	N/A	Charges for supply orders vary based on the items ordered
Chargeback Fee	\$10.00	Charged when a cardholder or card-issuing bank formally protests a charge
Voice Authorization Fee	\$0.65	Charged when you call the Voice Authorization phone number to authorize a credit card
AVS Fee – Electronic	N/A	Charge for each electronic address verification authorization
Batch Settlement Fee	N/A	Charged for each batch of transaction(s) you submit for settlement
ACH fee	N/A	Charged for each ACH (transmission of funds) sent to your account
ACH Return Fee	\$25.00	Charged when Chase Paymentech is unable to debit fees from your account
PIN Debit Injection Fee	\$40.00	Charged when merchant elects PIN Debit processing and applies to each device not purchased from Chase Paymentech.
Statement Type:	Resource Online	No Statement / No Recap
Statement Frequency:	N/A	

Customer Initials	x _____	Please initial to acknowledge page 2 of the Schedule A pricing sheet
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4. Payment Brand Fees – Per Incidence		
MC Acquiring License Fee *	0.0040%	Charged on MasterCard Gross Sales volume. See additional information under Payment Brand Charges section on page 4.
DI Network Authorization Fee	\$0.0025	Charged by Discover on all authorizations for card transactions that are settled through the Discover Network
MC AVS Auth Access Fee (Card Present)	\$0.005	Charged by MasterCard when a merchant uses the address verification service to validate a cardholder address
MC AVS Auth Access Fee (Card Not Present)	\$0.0075	
MC Card Validation Code 2 Fee	\$0.0025	Charged by MasterCard when a merchant submits the Card Validation Code 2 (CVC2) in an authorization request
MC Account Status Fee (Intra-regional)	\$0.025	Charged by MasterCard or Visa when a merchant uses this service to do an inquiry that a card number is valid
MC Account Status Fee (Inter-regional)	\$0.03	
Visa Zero \$ Account Verification Fee	\$0.025	
MC Processing Integrity Fee	\$0.055	Charged when a card is authorized but not deposited and the authorization is not reversed in a timely manner
Visa Misuse of Authorization Fee	\$0.048	
Visa Zero Floor Limit Fee	\$0.10	Charged when a transaction is deposited but never authorized
Visa Transaction Integrity Fee	\$0.10	Applies to Visa Debit & Prepaid transactions that do not meet qualification criteria for Custom Payment Service (CPS) categories
MC Cross Border Assessment Fee	0.40%	Charged by MasterCard, Visa and Discover on foreign bank issued cards.
Visa International Service Assessment Fee	0.40%	
Discover International Service Fee	0.55%	
MC International Support Fee	0.85%	Additional fee charged by MasterCard, Visa and Discover on foreign bank issued cards
Visa Interregional Acquiring Fee	0.45%	
Discover International Processing Fee	0.40%	
Visa Partial Auth Non-Participation Fee	\$0.01	Applies to Petroleum merchants using automated fuel pumps that do not support Partial Authorization

5. Other Fees			
Fee Description	Amount	Fee Description	Amount

Customer Initials	x _____	Please initial to acknowledge page 3 of the Schedule A pricing sheet
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Equipment Swap Fees

Type	Description	Fee
Replacement Fee (swap)	In warranty - Terminals, Printers, & Pinpads ¹	\$50.00
Replacement Fee (swap)	Out of warranty - Terminals, Printers, & Pinpads: Replacement (swap) fees vary based on Manufacturer and Model and will fall within the specified range to the right	\$100 - \$500
Injection Fee (swap)	Safetech Encryption Injection	\$34.95
Restocking Fee	Return equipment for any reason other than repair	\$150.00
Late Fee	For all equipment returned late, or not returned	\$500.00

1 New Equipment Warranty timeframes

5 years – Verifone Vx5XX, Vx6XX, PP1000 SE180; Hypercom T42XX, P1300 Pinpad, Ingenico ICT250, IPP320

3 years – Verifone MX830 Pinpad

1 year – all other new equipment

In warranty coverage applies only to new equipment purchased or leased from Chase Paymentech

Amount payable upon Termination

In addition to the other amounts due under this Agreement (including without limitation, the fees and charges described in this Schedule A), you may owe an amount in the event you terminate this Agreement. Whether you will owe that amount, and how much you will owe, will be determined in accordance with Section 10 of the Merchant Agreement.

Payment Brand Charges

Part of the fees that we charge you for processing your transactions consist of fees we pay to the Payment Brands. These charges, called "Payment Brand Charges", include, but are not limited to, interchange rates, assessments, file transmission fees, access fees, and international and cross border fees. Therefore, in addition to the rates set forth above, you also will be charged Payment Brand Charges. Payment Brand interchange rates can be accessed online by visiting the Learning & Resources section of Chase Paymentech's website, and selecting "Understanding Interchange".

Please note that Chase Paymentech may, from time to time, elect not to charge you for certain existing, new or increased Payment Brand Charges. If we elect not to charge you, we still reserve the right to begin charging you for existing, new or increased Payment Brand Charges at any time in the future, upon notice to you. No such Payment Brand Charges will be imposed retroactively.

* MasterCard assesses the MasterCard Acquiring License Fee annually to each Acquirer based on the total annual volume of MasterCard-branded sales (excluding Maestro PIN debit volume) of its U.S. domiciled merchants. To fairly distribute the fee across all Chase Paymentech MasterCard-accepting merchants, a rate of 0.004% will be applied to all of your MasterCard gross sales transactions.

6. Authorized Signature

Authorized Representative Signature: Must appear on Merchant Application section 11

Printed Name

Title

X

Signature

Date

Please ensure you have initialed pages 1, 2 and 3

CHASE Schedule A to Merchant Agreement

Paymentech Merchant: City of Lancaster

NARFNECHDAICPT2 2014 1431 V.14.1

Assumptions

Transaction related assumptions		Other assumptions	
Payment Transaction Sales Volume	\$5,150,000	Number of locations	6
Average Transaction Amount	\$115.00	Authorization / Capture %	105.0%
PIN Debit / EBT Transactions	11,278	Chargebacks as % of Sales Transactions	0.0300%
Conveyed Transactions	3,804	Safetech Encrypted Items	N/A

Target Qualification Level:

MasterCard:	Public Sector	MUPS
Visa:	CPS Retail 2 (Emerging Markets)	VCR2
Discover:	PSL Public Services - Core	D161

1. **Fees applied on every transaction** – MasterCard, Visa and Discover assess an Interchange Rate, Interchange Fee, Assessment Fee & Network Fee for each transaction. These rates and fees will be passed thru at cost. Payment Brand interchange rates can be accessed by visiting the Learning & Resources section of Chase Paymentech's website, and selecting "Understanding Interchange".

Payment Brand Interchange & any incremental discount rate %

MasterCard, Visa & Discover Interchange Rates	as set by each Payment Brand
MasterCard, Visa & Discover Incremental Discount Rate	0.1500%
Billing Frequency:	Monthly

PIN Debit and/or EBT Network Fees	All standard PIN Debit Network Fees will be assessed
PIN Debit – Incremental Discount Rate	0.1500%

JCB (Japanese Credit Bureau)	N/A
Voyager Discount Rate (if settled)	N/A

Payment Brand Assessments

MasterCard	(Credit transactions < \$1000 and all Debit Transactions)	0.110%
MasterCard	(Credit transactions > \$1000)	0.130%
Visa		0.110%
Discover		0.105%

Payment Brand Network Fees

	Credit	Debit
MasterCard Network Access & Brand Usage Fee (NABU)	\$0.0195	\$0.0195
Visa Auth Processor Fee (APF)	\$0.0195	\$0.0155
Discover Data Usage Fee	\$0.0185	\$0.0185

Transaction Fees

MasterCard per transaction	N/A
Visa per transaction	N/A
Discover per transaction	N/A
JCB per transaction	N/A
American Express per transaction	N/A
PIN Debit per transaction	\$0.1000
EBT per transaction	N/A
Check Verification – Scan per transaction	N/A
Voyager per transaction	N/A
Wright Express per transaction	N/A
Hosted Pay Page per transaction	N/A

Authorization Fees

MasterCard per authorization	\$0.1000
Visa per authorization	\$0.1000
Discover per authorization	\$0.1000
JCB per authorization	N/A
American Express per authorization	\$0.1000
Voyager per authorization	N/A
Wright Express per authorization	N/A
Private Label per authorization	N/A
Dial Backup authorization surcharge	N/A

Encryption Fees

Safetech Encryption per transaction	N/A
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Customer Initials

x

Please Initial to acknowledge page 1 of the Schedule A pricing sheet

2. One Time and Periodic Fees

One Time Fees		Monthly Fees		Monthly Fees -- Pass Thru	
Account Setup Fee	N/A	Monthly Service Fee ¹	\$5.00	Visa Fixed Acquirer Network Fee ⁴	Varies
Rush Fee	N/A	Monthly Minimum Fee ²	\$25.00		
Terminal Reprogram Fee	N/A	Monthly Helpdesk Fee	N/A		
PIN Debit Setup Fee	N/A	Online Reporting Tool	N/A		
PIN Pad Encryption Fee	N/A	Safetech Encryption ³	N/A		
Internet Product:	N/A				
Setup Fee	N/A	Monthly Fee	N/A	Annual Fees	
Third Party Setup Fee	N/A	Third Party Monthly Fee	N/A	Annual Fee	N/A

- 1 – Monthly service fees will be debited for the first time in the month after your account has been set up. These fees will be debited regardless of whether you are processing transactions through your account.
- 2 – If the total of all fees each month in section 1, 3 and 4 do not equal the Monthly Minimum Fee, your account will be debited for the difference.
- 3 – If Merchant obtains point of sale device(s) from Chase Paymentech for use with Safetech Encryption, the following additional fees shall be assessed: (a) a one-time fee of \$10.90 per device; and (b) an encryption injection fee of \$34.95 per device per occurrence. These assessments are in addition to the above Safetech Encryption Fee(s). If Merchant obtains point of sale device(s) from a third party, additional fees may apply. Merchant acknowledges and understands that its use of any fraud mitigation or security enforcement solution (e.g. an encryption product or service), whether provided to merchant by Paymentech or a third party, in no way limits Merchant's obligation to comply with the Security Standards or Merchant's liabilities set forth in this Agreement.
- 4 – Visa Fixed Acquirer Network Fee is a monthly fee assessed by Visa based on Merchant Category Code (MCC), dollar volume, number of merchant locations, number of tax id's, and whether the physical Visa card is present or not present at the time of the transaction. This fee can vary monthly.

3. Per Incidence Fees

Per Incidence Fees: Charged every time your account incurs one of the below items

Statement Fee (Email / ROL)	N/A	No charge if statements are sent to a valid email address or accessed by Merchant through Resource Online, as elected by Merchant on the Application.		
Statement Fee (Mail)	\$5.00	Charged each month Chase Paymentech mails a statement (whether at the request of Merchant or because delivery to a valid email address has failed)		
Statement Fee (Reprint)	N/A	Charged for each archived statement you request to have printed		
Supplies: Billed Per Order	N/A	Charges for supply orders vary based on the items ordered		
Chargeback Fee	\$10.00	Charged when a cardholder or card-issuing bank formally protests a charge		
Voice Authorization Fee	\$0.65	Charged when you call the Voice Authorization phone number to authorize a credit card		
AVS Fee – Electronic	N/A	Charge for each electronic address verification authorization		
Batch Settlement Fee	N/A	Charged for each batch of transaction(s) you submit for settlement		
ACH fee	N/A	Charged for each ACH (transmission of funds) sent to your account		
ACH Return Fee	\$25.00	Charged when Chase Paymentech is unable to debit fees from your account		
PIN Debit Injection Fee	\$40.00	Charged when merchant elects PIN Debit processing and applies to each device not purchased from Chase Paymentech.		
Statement Type:	Resource Online	No Statement / No Recap	Statement Frequency:	N/A

Customer Initials	x_____	Please initial to acknowledge page 2 of the Schedule A pricing sheet
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4. Payment Brand Fees – Per Incidence		
MC Acquiring License Fee *	0.0040%	Charged on MasterCard Gross Sales volume. See additional information under Payment Brand Charges section on page 4.
DI Network Authorization Fee	\$0.0025	Charged by Discover on all authorizations for card transactions that are settled through the Discover Network
MC AVS Auth Access Fee (Card Present)	\$0.005	Charged by MasterCard when a merchant uses the address verification service to validate a cardholder address
MC AVS Auth Access Fee (Card Not Present)	\$0.0075	
MC Card Validation Code 2 Fee	\$0.0025	Charged by MasterCard when a merchant submits the Card Validation Code 2 (CVC2) in an authorization request
MC Account Status Fee (Intra-regional)	\$0.025	Charged by MasterCard or Visa when a merchant uses this service to do an inquiry that a card number is valid
MC Account Status Fee (Inter-regional)	\$0.03	
Visa Zero \$ Account Verification Fee	\$0.025	
MC Processing Integrity Fee	\$0.055	Charged when a card is authorized but not deposited and the authorization is not reversed in a timely manner
Visa Misuse of Authorization Fee	\$0.048	
Visa Zero Floor Limit Fee	\$0.10	Charged when a transaction is deposited but never authorized
Visa Transaction Integrity Fee	\$0.10	Applies to Visa Debit & Prepaid transactions that do not meet qualification criteria for Custom Payment Service (CPS) categories
MC Cross Border Assessment Fee	0.40%	Charged by MasterCard, Visa and Discover on foreign bank issued cards.
Visa International Service Assessment Fee	0.40%	
Discover International Service Fee	0.55%	
MC International Support Fee	0.85%	Additional fee charged by MasterCard, Visa and Discover on foreign bank issued cards
Visa Interregional Acquiring Fee	0.45%	
Discover International Processing Fee	0.40%	
Visa Partial Auth Non-Participation Fee	\$0.01	Applies to Petroleum merchants using automated fuel pumps that do not support Partial Authorization

5. Other Fees			
Fee Description	Amount	Fee Description	Amount

Customer Initials	x _____	Please initial to acknowledge page 3 of the Schedule A pricing sheet
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Equipment Swap Fees

Type	Description	Fee
Replacement Fee (swap)	In warranty - Terminals, Printers, & Pinpads ¹	\$50.00
Replacement Fee (swap)	Out of warranty - Terminals, Printers, & Pinpads: Replacement (swap) fees vary based on Manufacturer and Model and will fall within the specified range to the right	\$100 - \$500
Injection Fee (swap)	Safetech Encryption Injection	\$34.95
Restocking Fee	Return equipment for any reason other than repair	\$150.00
Late Fee	For all equipment returned late, or not returned	\$500.00

1 New Equipment Warranty timeframes

5 years – Verifone Vx5XX, Vx6XX, PP1000 SE180; Hypercom T42XX, P1300 Pinpad, Ingenico ICT250, IPP320

3 years – Verifone MX830 Pinpad

1 year – all other new equipment

In warranty coverage applies only to new equipment purchased or leased from Chase Paymentech

Amount payable upon Termination

In addition to the other amounts due under this Agreement (including without limitation, the fees and charges described in this Schedule A), you may owe an amount in the event you terminate this Agreement. Whether you will owe that amount, and how much you will owe, will be determined in accordance with Section 10 of the Merchant Agreement.

Payment Brand Charges

Part of the fees that we charge you for processing your transactions consist of fees we pay to the Payment Brands. These charges, called "Payment Brand Charges", include, but are not limited to, interchange rates, assessments, file transmission fees, access fees, and international and cross border fees. Therefore, in addition to the rates set forth above, you also will be charged Payment Brand Charges. Payment Brand interchange rates can be accessed online by visiting the Learning & Resources section of Chase Paymentech's website, and selecting "Understanding Interchange".

Please note that Chase Paymentech may, from time to time, elect not to charge you for certain existing, new or increased Payment Brand Charges. If we elect not to charge you, we still reserve the right to begin charging you for existing, new or increased Payment Brand Charges at any time in the future, upon notice to you. No such Payment Brand Charges will be imposed retroactively.

* MasterCard assesses the MasterCard Acquiring License Fee annually to each Acquirer based on the total annual volume of MasterCard-branded sales (excluding Maestro PIN debit volume) of its U.S. domiciled merchants. To fairly distribute the fee across all Chase Paymentech MasterCard-accepting merchants, a rate of 0.004% will be applied to all of your MasterCard gross sales transactions.

6. Authorized Signature

Authorized Representative Signature: Must appear on Merchant Application section 11

Printed Name

Title

x

Signature

Date

Please ensure you have initialed pages 1, 2 and 3

1. Merchant Information

Merchant Legal Name ("Merchant") City of Lancaster		Merchant ID	
Address	City	State	Zip Code

2. Equipment Details

Terminal/Equipment Model	Quantity	Price Unit Price	Subtotal	
Ingenico ICT 250 Terminal		\$355.00		
Ingenico ICT 250 Terminal w/IPP320 Pin Pad		\$625.00		
			Shipping	+ TBD
			Subtotal with Shipping	= TBD
Applicable sales tax will also be charged				

3. Terms and Conditions

- A. PURCHASE AND FEE PAYMENTS; INSTALLATION.** Payment for Equipment and Shipping Charges as stated in Section 2, together with applicable sales tax, shall be due and payable upon shipment of the equipment listed above and Paymenttech may debit the Merchant's Settlement Account (as indicated under the Merchant Agreement between Merchant and Chase Paymenttech) or an alternatively designated bank account via Automated Clearing House (ACH) for any such payment. Merchant shall also be responsible for all use, excise and other taxes that may result from the purchase of this equipment. Merchant shall be solely responsible for the installation of all equipment purchased hereunder.
- B. TRANSFER OF TITLE.** Upon payment by Merchant to Chase Paymenttech of the amount required pursuant to Section 3A above, Chase Paymenttech shall sell, transfer and assign the Equipment to Merchant for its use and benefit. All risks of loss and damage to the Equipment shall be borne by Merchant upon such transfer of title. Certain Chase Paymenttech terminals are currently secured to prevent the inadvertent overwriting or modification of the Chase Paymenttech's proprietary software application contained thereon. Upon termination of Merchant's processing agreement with Chase Paymenttech, Merchant may retain the terminals for use with another processor. However, prior to their use with another processor, Merchant will need to contact Chase Paymenttech Customer Service so that any secured terminals can be unlocked.
- C. WARRANTIES; NO WARRANTY FROM CHASE PAYMENTECH.** CHASE PAYMENTECH, NOT BEING THE MANUFACTURER OF THE EQUIPMENT NOR THE MANUFACTURER'S AGENT, MAKES NO EXPRESS OR IMPLIED WARRANTY OF ANY KIND WHATSOEVER WITH RESPECT TO THE EQUIPMENT INCLUDING BUT NOT LIMITED TO: THE MERCHANTABILITY OF THE EQUIPMENT OR ITS FITNESS FOR ANY PARTICULAR PURPOSE; THE DESIGN OR CONDITION OF THE EQUIPMENT; THE QUALITY OR CAPACITY OF THE EQUIPMENT; THE WORKMANSHIP OF THE EQUIPMENT; COMPLIANCE OF THE EQUIPMENT WITH THE REQUIREMENTS OF ANY LAW, RULE SPECIFICATION OR CONTRACT PERTAINING THERETO; THE ABSENCE OF ANY INFRINGEMENT OF ANY PATENT, TRADEMARK OR COPYRIGHT; THE ABSENCE OF LATENT OR OTHER DEFECTS, WHETHER OR NOT DISCOVERABLE; THE ABSENCE OF ANY OBLIGATION BASED ON STRICT LIABILITY IN TORT.

Manufacturer's warranties apply only to new equipment purchased through Chase Paymentech. Applicable manufacturer's warranties are provided as follows:

WARRANTY	EQUIPMENT MODEL
5 Years	Verifone Vx5XX, PP1000SE180; Ingenico ICT250, IPP320
1 Year	All other new equipment

D. ADDITIONAL FEES. All restocking, swap, replacement, return and late fees set forth below will be charged to Merchant when applicable.

TYPE	DESCRIPTION	RATE
Replacement Fee (swap)	In warranty Terminals, Printers, Chase Mobile Checkout Reader & PinPads ¹	\$50.00
Replacement Fee (swap)	Out of warranty Terminals, Printers, Chase Mobile Checkout Reader & PinPads. Replacement (swap) fees vary based on Manufacturer and Model and will fall within the specified range to the right	\$100 - \$500
Injection Fee	All Injection types	\$34.95
Restocking Fee	Return equipment for any reason other than repair	\$150.00
Late Fee	For all equipment returned late, or not returned	\$500.00

1 - \$50.00 swap fee applies to all Equipment that is in warranty at the time of the swap. Whether Equipment is in warranty depends on the Equipment type as well as the applicable manufacturer's warranty, as more specifically set forth in Section 3C.

4. Acknowledgement and Acceptance of the Terms and Conditions

By signing below, you represent and warrant:

- You are authorized to enter into this Equipment Purchase Agreement on behalf of Merchant and to legally bind Merchant to the terms and conditions set forth herein
- You acknowledge and agree to all terms and conditions set forth herein.

X

Signature

Print Name

Date _____

Paymentech, LLC ("Chase Paymentech")

Signature

Title

Date _____



**SELECT GOVERNMENT MERCHANT PAYMENT CARD PROCESSING AGREEMENT
U.S. GOVERNMENT AGREEMENT**

THIS SELECT GOVERNMENT MERCHANT PAYMENT CARD PROCESSING AGREEMENT (the "Agreement") is entered into by and between JPMorgan Chase Bank, N.A., a national banking association ("Member"), Paymenttech, LLC, a Delaware limited liability company ("Paymenttech"), and _____, an entity duly organized under the laws of the state of _____ ("Merchant").

WHEREAS, Member is a member of several Payment Brands and Paymenttech is authorized, through Member, to process the Merchant's Transactions; and

WHEREAS, Merchant wishes to accept Payment Cards from its Payors as a method of payment for goods or services offered by Merchant or as payment on an account held by Merchant;

ACCORDINGLY, in consideration of the mutual promises made and the mutual benefits to be derived from this Agreement, Paymenttech, Member, and Merchant agree to the following terms and conditions intending to be legally bound:

1. MERCHANT'S ACCEPTANCE OF PAYMENT CARDS.

1.1 Exclusivity. Unless otherwise agreed to by the parties in writing, during the term of this Agreement Paymenttech shall be Merchant's exclusive provider of all Transaction processing services (including, without limitation, the authorization, conveyance and settlement of Transactions) and Merchant shall not use the services of any bank, corporation, entity or person other than Paymenttech for such services. Merchant shall submit to Paymenttech Transaction Data generated from all of its Transactions via electronic data transmission according to Paymenttech's formats and procedures throughout the term of this Agreement.

1.2 Certain Payment Acceptance Policies and Prohibitions.

(a) Each Transaction must be evidenced by its own Transaction Receipt completed in accordance with Payment Brand Rules.

(b) Merchant shall not require the Payor to pay the fees payable by Merchant under this Agreement.

(c) Merchant shall never issue Refunds for Transactions by cash or a cash equivalent (e.g., check) unless required by law or permitted by the Payment Brand Rules.

(d) Except to the extent prohibited by the Payment Brand Rules or applicable law, Merchant may request or encourage a Payor to use a Payment Card other than the Payment Card initially presented by the Payor.

(e) Except to the extent permitted by the Payment Brand Rules and applicable law, Merchant must not establish a minimum or maximum Transaction amount as a condition for honoring a Payment Card.

(f) Merchant shall examine each Payment Card physically presented at the point of sale to determine that the Payment Card presented is valid and has not expired. Merchant shall exercise reasonable diligence to determine that the authorized signature on any Payment Card physically presented at the point of sale corresponds to the Payor's signature on the Transaction Receipt. If the Payment Card is not signed by the Payor, Merchant must obtain additional Payor identification.

(g) With respect to any Transaction for which a Payor is not physically present at the point of sale, such as in any on-line, mail, telephone, pre-authorized or recurring Transaction, Merchant must (i) have notified Paymenttech on its Application, or otherwise obtained Paymenttech's prior written approval, of Merchant's intention to conduct such Transactions; and (ii) have appropriate procedures in place to ensure that each Transaction is made to a purchaser who actually is the Payor. Merchant acknowledges that under certain Payment Brand Rules, Merchant cannot rebut a Chargeback where the Payor disputes making the purchase and Merchant does not have an electronic record (e.g., "swiping" or "tapping" a Payment Card) or physical imprint of the Payment Card.

(h) Merchant agrees to accept all categories of Visa and MasterCard Payment Cards (i.e., debit and credit cards), unless Merchant has notified Paymenttech on its Application or otherwise in writing of its election to accept one of the following "limited acceptance" options: (i) all Visa and MasterCard consumer credit cards and Visa and MasterCard commercial credit and debit cards; or (ii) Visa and MasterCard debit cards only (but no credit cards). Notwithstanding the election of one of the foregoing limited acceptance options, Merchant must honor all foreign bank-issued Visa or

MasterCard Payment Cards. If Merchant elects one of the limited acceptance categories: (Y) Merchant must display appropriate signage to indicate the limited acceptance category; and (Z) Paymentech, at its option, may process any Transactions submitted to Paymentech outside of the limited acceptance category, in which case such Transactions will be assessed the applicable interchange fees plus any additional fees/surcharges assessed by Paymentech or the Payment Brands.

(i) Merchant shall not split a single Transaction into two or more Transactions to avoid or circumvent authorization limits or monitoring programs.

(j) Merchant shall not accept Payment Cards for the purchase of scrip, as defined by the Payment Brand Rules.

(k) Merchant shall not require a Payor to complete a postcard or similar device that includes the Payor's Payment Card account number, expiration date, or any other account data in plain view when mailed.

(l) Except to the extent expressly permitted by law or the Payment Brand Rules, Merchant shall not add any tax or surcharge to Transactions. If any tax or surcharge amount is imposed, such amount shall be included in the Transaction amount and shall not be collected separately. Furthermore, Merchant must provide at least thirty (30) days prior notice to Paymentech and the Payment Brands of its intent to impose a surcharge. All of Merchant's surcharge practices must comply with applicable laws and Payment Brand Rules, including, but not limited to, those laws and Payment Brand Rules governing the amount of the surcharge, and Payor disclosures.

(m) Merchant shall not request or use a Payment Card account number for any purpose except as payment for its goods or services, unless required by the Payment Brand Rules in order to support specific services offered by the Payment Brands.

(n) At all times Merchant must prominently and clearly inform Payors of the identity of Merchant at all points of interaction so that the Payor can readily distinguish Merchant from any third party, such as a supplier of products or services to Merchant.

1.3 Payment Brand Rules. Merchant agrees to comply with (a) all Payment Brand Rules as may be applicable to Merchant and in effect from time to time; and (b) such other procedures as Paymentech may from time to time prescribe for the creation or transmission of Transaction Data.

1.4 Requirements for Certain Transactions. As to each Transaction submitted to Paymentech during the term of this Agreement, Merchant represents and warrants that:

(a) The Transaction Data (i) represents a payment for or Refund of a bona fide sale or lease of the goods, services, or both, which Merchant has provided in the ordinary course of its business, as represented in its Application; and (ii) is not submitted on behalf of a third party.

(b) The Transaction Data represents an obligation of the Payor for the amount of the Transaction.

(c) The Transaction is not for any purpose other than payment for the current Transaction, and, except to the extent permitted under the Payment Brand Rules, the Transaction does not represent the collection of a dishonored check or the collection or refinancing of an existing debt.

(d) At the time Merchant submits Transaction Data to Paymentech for processing: (i) Merchant has completed the Transaction with the Payor; (ii) the goods have been provided or shipped, or the services actually rendered to the Payor; and (iii) for recurring Transaction, Merchant has obtained the Payor's consent for the recurring Transaction. For approved prepayments, Merchant must advise the Payor (i) that payment is being made in advance of the shipment or provision of goods or services; and (ii) the time when shipment or provision of the goods or services is expected.

(e) The Transaction Data is free from any material alteration not authorized by the Payor.

(f) The amount charged for the Transaction is not subject to any dispute, setoff, or counterclaim.

(g) Merchant has not disbursed or advanced any cash to the Payor (except as authorized by the Payment Brand Rules) or itself or to any of its representatives, agents, or employees in connection with the Transaction, nor has Merchant accepted payment for effecting credits to a Payor.

(h) The goods or services related to each Transaction are Merchant's property or Merchant has the legal right to sell them.

(i) Merchant has made no representation or agreement for the issuance of Refunds except as stated in Merchant's Refund Policy, which has been previously submitted to Paymentech in writing as provided in Section 3, and which is available to the Payor.

(j) Any Transaction submitted to Paymentech to credit a Payor's account represents a Refund for a Transaction previously submitted to Paymentech.

(k) Merchant has not submitted any Transaction that Merchant knows, or should have known, to be fraudulent, illegal, damaging to the Payment Brand(s), not authorized by the Payor, unenforceable or uncollectible, or otherwise prepared or submitted in violation of any provision of this Agreement, applicable law, or Payment Brand Rules.

1.5 Installment, Prepaid and Recurring Transactions.

(a) Unless specifically stated in its Application or otherwise approved in writing by Paymentech in advance, Merchant shall not accept Payment Cards in connection with installment plans. If the Payor pays in installments or on a deferred payment plan, as previously approved by Paymentech, a Transaction Data record has been prepared separately for each installment transaction or deferred payment on the dates the Payor agreed to be charged. All installments and deferred payments, whether or not they have been submitted to Paymentech for processing, shall be deemed to be a part of the original Transaction.

(b) For recurring Transactions, Merchant shall (i) obtain the Payor's consent to periodically charge the Payor on a recurring basis for the goods or services purchased; (ii) retain this permission for the duration of the recurring services and provide it upon request to Paymentech or the issuing bank of the Payor's Payment Card; and (iii) retain written documentation specifying the frequency of the recurring charge and the duration of time during which such charges may be made. Merchant shall not submit any recurring transaction after receiving: (iv) a cancellation notice from the Payor; or (v) notice from Paymentech or any Payment Brand (via authorization code or otherwise) that the Payment Card is not to be honored. Merchant shall include in its Transaction Data the electronic indicator that the Transaction is a recurring Transaction.

1.6 Stored Value Card Transactions. This Section 1.6 applies only if Merchant elects to accept Stored Value Cards from its Payors and submits such Stored Value Card Transactions to Paymentech for processing.

(a) Stored Value Cards are used by Merchant to issue spending credit to its Payors. Popular uses for Stored Value Cards include, but are not limited to, an electronic version of paper gift certificates, merchandise return cards, and prepaid cards. Merchant provides its Payor with a magnetic stripe card in exchange for money received, merchandise returned, or other consideration. The Stored Value Card represents a dollar value that the Merchant's Payor can either use or give to another individual. The actual record of the balance on the Stored Value Card is maintained by Paymentech. Upon acceptance of the Stored Value Card from a Payor, Merchant must immediately transmit the Stored Value Card information to Paymentech and the appropriate approval response will be routed to Merchant. Paymentech will provide Merchant with access to monthly reporting detailing Merchant's Stored Value Card Transactions and the outstanding balances on the individual Stored Value Cards. Merchant will have access to help desk support through Paymentech for its Stored Value Card Transactions. Payors will have access to an interactive voice response system ("IVR"), via a toll free number, through which they may receive some basic account and Stored Value Card balance information. Merchant's Stored Value Card program will be configured in a manner specified by Merchant to Paymentech during enrollment, which will represent binding program rules related to Merchant's Stored Value Card program.

(b) If Merchant elects to participate in Paymentech's "Now!" or "Advantage" Stored Value Card service, Merchant is obligated to purchase Stored Value Cards from Paymentech. Paymentech will arrange for the Stored Value Card production and may, at its option, invoice Merchant therefore, in lieu of electronically debiting the Settlement Account. Any such invoice will be payable upon receipt. Stored Value Cards, packaging, and point-of-purchase marketing materials are available and priced on a per bundle basis, based on current rates. These rates are captured on the Now! and Advantage enrollment/order form(s). All production and delivery timeframes and costs provided are estimates only and Paymentech does not guarantee any specific date of delivery or price for Stored Value Cards produced by third parties. Merchant is responsible for all production costs and delivery charges for Stored Value Cards. The form and content of all Stored Value Cards may be subject to Paymentech's approval.

(c) If Merchant elects to participate in Paymentech's "Custom" Stored Value Card service, Merchant is not obligated to purchase Stored Value Cards from Paymentech. If Merchant elects to purchase Stored Value Cards from Paymentech, Paymentech will arrange for the Stored Value Card production and may, at its option, invoice Merchant therefore, in lieu of electronically debiting Merchant's Settlement Account. Any such invoice will be payable upon receipt. All production and delivery timeframes and costs provided are estimates only and Paymentech does not guarantee any specific date of delivery or price for Stored Value Cards produced by third parties. Merchant is responsible for all production costs and delivery charges for Stored Value Cards. The form and content of all Stored Value Cards may be subject to Paymentech's approval.

(d) Merchant is solely responsible for:

- (i) complying with all applicable laws and regulations related to the acceptance of Stored Value Cards and Merchant's Stored Value Card program;
- (ii) ensuring that all Stored Value Cards require activation at the point of sale;
- (iii) any and all value adding and fraud losses;
- (iv) providing immediate written notification to Paymentech of any fraud losses;
- (v) deactivating or otherwise removing all value from Stored Value Cards that have been compromised; and

- (vi) any fraudulent Transactions involving Merchant's Stored Value Cards, including, without limitation, the unauthorized activation of Stored Value Cards, reloading of existing Stored Value Cards (whether pursuant to a manual telephone order or otherwise) with additional value, or the unauthorized replication of Stored Value Cards or Stored Value Card data for fraudulent Transactions.

2. AUTHORIZATIONS. Merchant is required to obtain an authorization code through Paymentech, in accordance with this Agreement, for each Transaction. To the extent required by the Payment Brand Rules, each authorization request must include the Payment Card's expiration date. Merchant acknowledges that authorization of a Transaction indicates that the Payment Card (a) contains a valid account number; and (b) has an available credit balance sufficient for the amount of the Transaction; but, it does not constitute a representation from Paymentech, a Payment Brand, or Issuing Bank that a particular Transaction is in fact a valid or undisputed Transaction entered into by the actual Payor. Paymentech reserves the right to refuse to process any Transaction Data presented by Merchant unless it includes a proper authorization.

3. REFUND AND ADJUSTMENT POLICIES AND PROCEDURES; PRIVACY POLICIES.

3.1 Refund Policy. Merchant is required to maintain a Refund Policy and to disclose such Refund Policy to its Payors, prior to the completion of the Transaction at the point of sale. Merchant must also disclose its Refund Policy to Paymentech. Any material change to Merchant's Refund Policy must be submitted to Paymentech, in writing, not less than fourteen (14) days prior to the effective date of such change. Paymentech reserves the right to refuse to process any Transactions made subject to a revised Refund Policy of which Paymentech has not been notified in advance. To the extent that Merchant operates an electronic commerce website through which Transaction Data is generated, Merchant must include its Refund Policy on the website in accordance with Payment Brand Rules.

3.2 Procedure for Refund Transactions. If, under Merchant's Refund Policy, Merchant allows a Refund, Merchant shall prepare and deliver to Paymentech Transaction Data reflecting any such Refund within three (3) days of approving the Payor's request for such Refund. The amount of a Refund cannot exceed the amount shown as the total on the original Transaction Data except by the exact amount required to reimburse the Payor for shipping charges that the Payor paid to return merchandise. Merchant shall not accept any payment from a Payor as consideration for issuing a Refund. Merchant shall not give cash (or cash equivalent) refunds to a Payor in connection with a Transaction, unless required by law or permitted by the Payment Brand Rules.

3.3 Payor Data Protection Policies. To the extent that Merchant operates an electronic commerce website through which Transaction Data is generated, in addition to any requirements otherwise set forth in this Agreement, Merchant shall display the following on its website: (a) its name and the name that will appear on the Payor's Payment Card statement; (b) its customer data privacy policy; (c) a description of its security capabilities and policy for transmission of Payment Card Information; and (d) the address of Merchant's fixed place of business (regardless of website or server locations). Furthermore, Merchant must offer its Payors a data protection method such as 3-D Secure or Secure Sockets Layer (SSL).

4. SETTLEMENT.

4.1 Submission of Transaction Data. Failure to transmit Transaction Data to Paymentech within one (1) business day following the day that such Transaction originated could result in higher interchange fees and other costs, as well as increased Chargebacks. Unless Merchant has notified Paymentech on its Application or Paymentech has otherwise agreed in writing in advance, Merchant shall not submit Transactions for processing until (a) the Transaction is completed; (b) the goods are delivered or shipped; (c) the services are performed; or (d) Merchant has obtained the Payor's consent for a recurring Transaction. Paymentech may from time to time contact Payors to verify that they have received goods or services for which Transactions have been submitted. Paymentech reserves the right to refuse to process any Transaction Data presented by Merchant if Paymentech reasonably believes that the Transaction may be uncollectible from the Payor or was prepared in violation of any provision of this Agreement, applicable law, or the Payment Brand Rules. For all Transactions, Paymentech will submit Merchant's Transaction Data to the applicable Payment Brands.

4.2 Merchant's Settlement Account. In order to receive funds from Paymentech, Merchant must designate and maintain one or more accounts used primarily for business purposes at a bank that is a member of the Automated Clearing House system or the Federal Reserve wire system (collectively referred to as "Settlement Account"). During the Term of this Agreement, and thereafter until Paymentech notifies Merchant that all amounts due from Merchant under this Agreement have been paid in full, Merchant shall not close its Settlement Account without giving Paymentech at least five (5) days' prior written notice and substituting another Settlement Account. Merchant is solely liable for all

fees, costs, and overdrafts associated with the Settlement Account. Merchant authorizes Paymentech or its authorized agent(s) to initiate electronic credit and debit entries (via ACH, wire transfer, or other means) to the Settlement Account, or any other bank account designated by Merchant in writing, at any time without regard to the source of any monies therein, and this authority will remain in full force and effect until Paymentech notifies Merchant that all amounts due from Merchant under this Agreement have been paid in full. Paymentech will not be liable for any delays in receipt of funds or errors in Settlement Account entries caused by third parties, including, without limitation, delays or errors by the Payment Brands or Merchant's bank.

4.3 Conveyed Transactions. For Conveyed Transactions Merchant shall have a valid agreement in effect with the applicable Payment Brand. If Merchant submits Conveyed Transactions to Paymentech and Merchant does not have a valid agreement with the applicable Payment Brand, Paymentech may, but shall not be obligated to, submit such Transaction Data to the applicable Payment Brand and to share with them information about Merchant (from the Application or otherwise) as may be required to approve Merchant's acceptance of the Payment Brand's Payment Card. Payment of proceeds due Merchant for Conveyed Transactions shall be governed by the agreement Merchant has with the applicable Payment Brand, and Paymentech does not bear any responsibility for their performance thereunder, including, without limitation, the funding and settlement of Merchant's Conveyed Transactions.

4.4 Transfer of Transaction Settlement Funds. Subject to Section 4.3, for all Transactions, Paymentech will submit Merchant's Transaction Data to the applicable Payment Brand. Promptly after Paymentech receives funds for Settled Transactions from the Payment Brands, Paymentech will provisionally fund the Settlement Account. The proceeds payable to Merchant shall be equal to the amounts submitted by Merchant in connection with its Transaction Data minus the sum of the following: (a) all fees, charges, and other amounts described on Schedule A or that Merchant has otherwise agreed to pay; (b) all Refunds and Chargebacks; (c) all Reserve Account (as defined in Section 4.6) amounts; (d) all fees, charges, fines, assessments, penalties, or other liabilities that may be imposed on Paymentech or Member from time to time by the Payment Brands and all related costs and expenses incurred by Paymentech. Merchant agrees that all amounts are due and payable as provided in this Agreement. In the event Paymentech does not deduct such amounts from Merchant's proceeds when such amounts are due and payable, Merchant agrees to pay all such amounts to Paymentech immediately without any deduction or offset. Additionally, Paymentech may debit the Settlement Account or Merchant's Reserve Account for such amounts at any time. Furthermore, Merchant agrees to reimburse Paymentech, Member, the Payment Brands, and their respective affiliates, officers, directors, employees, agents, and sponsoring banks from any losses, liabilities, and damages of any and every kind (including, without limitation, Paymentech's costs, expenses, and reasonable attorneys' fees) arising out of any claim, complaint, or Chargeback (a) made or claimed by a Payor with respect to any Transaction or Transaction Data submitted by Merchant; (b) caused by Merchant's noncompliance with this Agreement or the Payment Brand Rules (including without limitation any breach of a representation or warranty made by Merchant or Merchant's failure to comply with the Security Standards); (c) resulting from any voluntary or involuntary bankruptcy or insolvency proceeding by or against Merchant; or (d) related to Merchant's placement or the placement of any person owning or controlling Merchant's business in one or more databases of terminated or high risk merchants maintained by the Payment Brands. The obligations provided for in this Section shall survive termination of this Agreement and do not apply to any claim or complaint to the extent they are caused by Paymentech's own negligence or willful misconduct.

4.5 Negative Amounts. Merchant shall maintain sufficient funds in the Settlement Account to prevent the occurrence of a negative balance. In the event that the proceeds from Merchant's Settled Transactions or the balance of Merchant's Settlement Account are not sufficient to pay amounts due under this Agreement, in addition to any other rights and remedies Paymentech may have under this Agreement, Paymentech may pursue one or more of the following options:

- (a) demand and receive immediate payment for such amounts, and if payment is not made within three (3) days of demand, debit the Settlement Account for the negative amount;
- (b) withhold all or some of Merchant's Settlement funds and apply them against the negative amount; and
- (c) apply funds held in the Reserve Account against the negative amount.

Furthermore, if the amount represented by Merchant's Transaction Data in any day is negative due to Refunds or credits being submitted by Merchant in excess of its proceeds from Transactions, Merchant shall immediately provide Paymentech with sufficient funds to prevent the occurrence of a negative balance.

Reserve Account. If:

- (a) there is a material breach of the Agreement by Merchant;
- (b) Merchant is receiving excessive Chargebacks (as defined in Section 7.2 below);
- (c) Paymentech has reasonable grounds to believe that it may be or become liable to third parties for the provisional

funds extended to Merchant; or

(d) Paymentech has reasonable grounds to believe that it may be subject to any additional liabilities arising out of or relating to this Agreement, including, without limitation, any fines, fees, or penalties assessed against Paymentech or Member by any of the Payment Brands arising out of or relating to Merchant's Transactions, Chargebacks, or failure to comply with the Payment Brand Rules or the Security Standards;

then each such event may subject Paymentech to additional risk (such risk being hereinafter referred to as "Anticipated Risk"). In any such event, Paymentech may temporarily suspend or delay payments to Merchant during Paymentech's investigation of the issue and/or designate an amount of funds that Paymentech must maintain in order to protect itself against Anticipated Risks (such funds being hereinafter referred to as the "Reserve Account"), which may be funded in the same manner as provided for negative balances in Section 4.5. The Reserve Account will contain sufficient funds to cover any unbilled processing costs plus Paymentech's estimated exposure based on reasonable criteria for Chargebacks and all additional Anticipated Risks. Paymentech may (but is not required to) apply funds in the Reserve Account toward, and set off any funds that would otherwise be payable to Merchant against, the satisfaction of any amounts which are or may become due from Merchant pursuant to this Agreement. Funds in the Reserve Account will be held and controlled by Paymentech, will not bear interest, and may be commingled with other funds. Effective upon Paymentech's establishment of a Reserve Account, Merchant irrevocably grants to Paymentech a security interest in any interest Merchant may now have or later acquire in any and all funds, together with the proceeds thereof, that may at any time be in the Reserve Account and that would otherwise be payable to Merchant pursuant to the terms of this Agreement. Merchant agrees to execute and deliver to Paymentech such instruments and documents that Paymentech may reasonably request to perfect and confirm the security interest in the Reserve Account funds. Upon (i) satisfaction of all of Merchant's obligations under this Agreement; and (ii) Merchant's execution of documents reasonably requested by Paymentech in connection with the return of any Reserve Account funds, Paymentech will pay to Merchant any funds then remaining in the Reserve Account.

5. **ACCOUNTING.** Paymentech will supply a detailed statement reflecting the activity of Merchant's account(s) by online access (or otherwise if agreed to by both parties) and Merchant shall ensure that any online access to such statements is secure. If Merchant believes any adjustments should be made with respect to Merchant's Settlement Account, Merchant must notify Paymentech in writing within ninety (90) days after any such adjustment is or should have been effected.

6. **RETRIEVAL REQUESTS.** In order to comply with Retrieval Requests, Merchant shall store and retain Transaction Data and Transaction Receipts in compliance with the Payment Brand Rules, including any time frames set forth therein. Within the timeframe indicated in the Retrieval Request or otherwise provided for in the Payment Brand Rules, but in no event more than twenty one (21) days from the date the Retrieval Request is initiated with the Issuing Bank, Merchant must, to the extent required by the Payment Brand Rules or the Retrieval Request itself, provide to Paymentech, via certified or overnight mail, confirmed fax, or upload to Paymentech's Online Chargeback Management System: (a) written resolution of Merchant's investigation of such Retrieval Request; (b) legible copies of valid Transaction Receipt(s); and (c) any additional supporting documentation. Merchant acknowledges that failure to fulfill a Retrieval Request timely and in accordance with Payment Brand Rules may result in an irreversible Chargeback.

7. **CHARGEBACKS.**

7.1 **Chargeback Reasons.** Merchant shall not require a Payor, as a condition for honoring a Payment Card, to sign a statement that waives the Payor's right to dispute the Transaction. Furthermore, Merchant has full liability for all Chargebacks. Following are some of the most common reasons for Chargebacks:

- (a) Merchant fails to issue a Refund to a Payor upon the return or non-delivery of goods or services;
- (b) A required authorization/approval code was not obtained;
- (c) The Payor claims that the Payment Card is lost, stolen, counterfeit, or fraudulent;
- (d) The Transaction or Transaction Data was prepared incorrectly or fraudulently;
- (e) Paymentech did not receive Merchant's response to a Retrieval Request in accordance with Section 6;
- (f) The Payor disputes the Transaction or the authenticity of the signature on the Transaction Receipt, or claims that the Transaction is subject to a set-off, defense, or counterclaim;
- (g) The Payor refuses to make payment for a Transaction because, in the Payor's opinion, a claim or complaint has not been resolved or has been resolved in an unsatisfactory manner; or
- (h) The credit or debit card comprising the Payment Card was not actually presented at the time of the Transaction or Merchant failed to obtain an electronic record or physical imprint of such Payment Card, and the Payor denies making the purchase.

7.2 Response to Chargebacks. If Merchant has reason to dispute or respond to a Chargeback, then Merchant must do so by the date provided on the applicable Chargeback notice. Paymentech will not investigate or attempt to obtain a reversal or other adjustment to any Chargeback if Merchant has not timely responded to the notice.

7.3 Excessive Chargebacks. If Merchant is receiving an excessive amount of Chargebacks, as determined by the Payment Brands from time to time, in addition to Paymentech's other remedies under this Agreement, Paymentech may take one or more of the following actions: (a) review Merchant's internal procedures relating to acceptance of Payment Cards and notify Merchant of new procedures Merchant should adopt in order to avoid future Chargebacks; (b) notify Merchant of a new rate Paymentech will charge to process Merchant's Chargebacks; or (c) to the extent applicable, require Merchant to replace any magnetic-strip-only point of interaction terminal or electronic cash register with an EMV chip-capable terminal; or (d) establish a Reserve Account. Merchant also agrees to pay any and all penalties, fees, fines, and costs assessed against Merchant, Paymentech, and/or Member relating to Merchant's violation of this Agreement or the Payment Brand Rules with respect to Merchant's acceptance of Payment Cards, its Transactions, or with respect to excessive Chargebacks under this Section.

7.4 Claims of Payors. Following a Chargeback, Merchant may resubmit applicable Transaction Data for a second presentment, but only in accordance with Payment Brand Rules. To the extent Paymentech has paid or may be called upon to pay a Chargeback or Refund for or on the account of a Payor and Merchant does not reimburse Paymentech as provided in this Agreement, then for the purpose of Paymentech obtaining reimbursement of such sums paid or anticipated to be paid, Paymentech has all of the rights and remedies of such Payor under applicable federal, state, or local laws and Merchant authorizes Paymentech to assert any and all such claims in its own name for and on behalf of any such Payor individually or all such Payors as a class.

8. DISPLAY OF PAYMENT BRAND MARKS. Merchant is prohibited from using the Payment Brand Marks, as defined below (sometimes referred to herein as "Marks"), other than as expressly authorized by Paymentech in writing or by the Payment Brands. Payment Brand Marks mean the brands, emblems, trademarks and/or logos that identify a Payment Brand. Additionally, Merchant shall not use the Payment Brand Marks other than to display decals, signage, advertising, and other forms depicting the Payment Brand Marks that are provided to Merchant (a) by the Payment Brands; (b) by Paymentech pursuant to this Agreement; or (c) as otherwise approved in writing by Paymentech. Merchant may use the Payment Brand Marks only to promote the services covered by the Marks by using them on decals, indoor and outdoor signs, advertising materials, and marketing materials; provided, that all such uses by Merchant must be approved by Paymentech and consistent with Payment Brand Rules. Merchant shall not use the Payment Brand Marks in any way that Payors could believe that the goods or services offered by Merchant are sponsored, endorsed, or guaranteed by the owners of the Payment Brand Marks. Merchant recognizes that it has no ownership rights in the Payment Brand Marks. Merchant shall not assign the rights to use the Payment Brand Marks to any third party. Merchant's right to use the Payment Brand Marks hereunder terminates with the termination of this Agreement.

9. FEES; ADJUSTMENTS.

9.1 Schedule A. Merchant shall pay all applicable fees for all Transactions, which shall be calculated and payable pursuant to this Agreement. Merchant acknowledges that the fees stated in Schedule A are based upon the assumption that Merchant's Transactions will qualify for certain interchange rates as determined in each case by the applicable Payment Brand. If any of Merchant's Transactions fail to qualify for such interchange rates, Paymentech shall process each such Transaction at the applicable interchange rate determined by the applicable Payment Brand. Unless otherwise indicated on Schedule A, Merchant shall be solely responsible for all communication expenses required to facilitate the transmission of all Transaction Data to Paymentech. Fees payable under this Agreement that contain a fraction of a cent will be rounded up to the next full cent.

9.2 Price Adjustments. Unless otherwise agreed to by the parties or expressly provided for herein, the fees set forth on Schedule A shall not change during the Initial Term. Notwithstanding the foregoing, the fees set forth on Schedule A and any additional pricing supplements may be adjusted to reflect increases by Payment Brands in interchange, assessments, or other Payment Brand fees, additional fees imposed by the Payment Brands, or increases in third party fees identified in this Agreement. Merchant shall pay all such fees, as so adjusted. Each such adjustment shall become effective upon the date the corresponding increase or additional fee is implemented by the Payment Brand or third party provider.

10. TERMINATION.

10.1 Term. This Agreement takes effect upon the earlier of (a) Paymentech's signature hereto; or (b) the date

Paymentech processes Merchant's first Transaction submitted pursuant to this Agreement and continues until February 28, 2015 (the "Initial Term"). Unless otherwise terminated by either party as provided in this Agreement, this Agreement will automatically renew for successive thirty (30) day terms (each a "Renewal Term"; the Initial Term and all Renewal Terms collectively referred to herein as "Term"). Either party may give notice of non-renewal of this Agreement in writing no more than ninety (90) days and no less than thirty (30) days prior to any expiration date.

10.2 Events of Default. If any of the following events shall occur (each an "Event of Default"):

- (a) any transfer or assignment in violation of Section 15.4 of this Agreement;
- (b) irregular Transactions by Merchant, excessive Chargebacks, or any other circumstances which, in Paymentech's discretion, may increase Paymentech's or Member's exposure for Merchant's Chargebacks or otherwise present an Anticipated Risk to Paymentech;
- (c) any representation or warranty in this Agreement is breached in any material respect or was or is incorrect in any material respect when made or deemed to be made;
- (d) Merchant fails in any material respect to perform any of its obligations with respect to the funding or establishing of a Reserve Account, as detailed in Section 4.6;
- (e) material breach of Section 1.1;
- (f) Merchant fails in any material respect in performance or observance of any term, covenant, condition, or agreement contained in this Agreement, including, without limitation, compliance with Payment Brand Rules and Security Standards;
- (g) a case or other proceeding shall be commenced by or against Merchant in any court of competent jurisdiction seeking relief under the Bankruptcy Code or under any other laws, domestic or foreign, relating to bankruptcy, insolvency, reorganization, winding up, or adjustment of debts, the appointment of a trustee, receiver, custodian, liquidator, or the like of Merchant, or of all or any substantial part of the assets, domestic or foreign, of Merchant, and such case or proceeding shall continue undismissed or unstayed for a period of sixty (60) consecutive days, or an order granting the relief requested in such case or proceeding against Merchant (including, without limitation, an order for relief under the Bankruptcy Code) shall be entered;
- (h) Paymentech, in its sole reasonable discretion, deems Merchant to be financially insecure;
- (i) any Payment Brand (i) notifies Paymentech or Member that it is no longer willing to accept Merchant's Transaction Data; or (ii) requires Paymentech or Member to terminate or limit this Agreement or Merchant's ability to accept Payment Cards from Payors;
- (j) Merchant or any person owning or controlling Merchant's business is listed in one or more databases of terminated or high risk merchants maintained by the Payment Brands;
- (k) Merchant engages in conduct that (i) causes Paymentech or Member to violate the Payment Brand Rules or applicable law; (ii) results in Paymentech's, Member's, or Merchant's participation in a risk-based program under the Payment Brand Rules; or (iii) creates or could tend to create harm or loss to the goodwill of any Payment Brand, Paymentech, or Member;
- (l) for a period of more than sixty (60) consecutive days, Merchant does not transmit Transaction Data to Paymentech;
- (m) Merchant fails to comply with Section 15.15; or
- (n) Paymentech's Transaction processing services under this Agreement fail to conform to generally accepted standards for such services in the Transaction processing industry.

then, the non-defaulting party may terminate this Agreement by providing the defaulting party with written notice of termination. Following receipt of such notice, and solely for termination based on subsections (c), (f) and (n), the defaulting party shall have thirty (30) days to cure the Event of Default, and the Agreement shall terminate in the event such cure is not effected by the end of such period. No cure period shall be provided when termination is based any other Event of Default.

If this Agreement is terminated by Paymentech for Merchant's default hereunder, Merchant acknowledges that Paymentech may be required to report Merchant's business name and the names and other identification of its principals to the Payment Brands. Merchant expressly agrees and consents to such reporting in the event Merchant is terminated for any reason specified, and Merchant agrees to waive and hold Paymentech harmless from and against any and all claims which Merchant may have as a result of such reporting.

10.3 Other Events. In addition to the remedies above and any rights Paymentech may have under this Agreement, Paymentech may suspend the processing of some or all of Merchant's Transactions upon: (a) an occurrence of an Event of Default by Merchant; (b) receipt by Paymentech of notice that a Payment Brand intends to impose any fine or penalty as a result of excessive Chargebacks or Merchant's acts or omissions; or (c) receipt by Paymentech of objections or

concerns expressed by a Payment Brand which render Paymentech's continued processing of Merchant's Transactions unduly burdensome, impractical, or risky.

10.4 Account Activity After Termination; Termination Reserve. The provisions governing processing and settlement of Transactions, all related adjustments, fees and other amounts due from Merchant, and the resolution of any related Chargebacks, disputes, or other issues involving Transactions, will continue to apply even after termination of this Agreement, with respect to all Transactions made prior to such termination or after such termination, as described below. After termination of this Agreement for any reason whatsoever, Merchant shall continue to bear total responsibility for all Chargebacks, fees, fines, assessments, credits, and adjustments resulting from Transactions processed pursuant to this Agreement and all other amounts then due or which thereafter may become due to Paymentech under this Agreement or which may be due to Paymentech before or after such termination to either Paymentech or Member. If Merchant submits Transaction Data to Paymentech after the date of termination, Paymentech may, at its sole discretion and without waiving any of its rights or remedies under this Agreement, process such Transaction Data in accordance with and subject to all of the terms of this Agreement.

Upon notice of termination of this Agreement, Paymentech may estimate the aggregate dollar amount of anticipated Chargebacks, Refunds and Anticipated Risks that Paymentech reasonably anticipates subsequent to termination, and Merchant agrees to immediately deposit such amount in its Settlement Account, or Paymentech may withhold such amount from Merchant's settlement funds in order to establish a Reserve Account pursuant to and governed by the terms and conditions of this Agreement.

11. INDEMNIFICATION. Paymentech agrees to indemnify Merchant and its affiliates, officers, directors, employees, and agents from any losses, liabilities, and damages of any and every kind (including, without limitation, Merchant's costs, expenses, and reasonable attorneys' fees) arising out of any Chargeback or third party claim or complaint (a) made with respect to any error in Transaction Data caused by Paymentech or by malfunctions of Paymentech's processing systems; (b) caused by Paymentech's noncompliance with this Agreement, the Payment Brand Rules, or the Security Standards; or (c) resulting from any voluntary or involuntary bankruptcy or insolvency proceeding by or against Paymentech. This indemnification does not apply to any claim or complaint relating to Merchant's failure to resolve a payment dispute concerning merchandise or services sold by Merchant or Merchant's negligence or willful misconduct. The indemnification provided under this Section 11 shall survive termination and is subject to the limitation of liability set forth in Section 14 of this Agreement.

12. TRANSACTION DATA AND PAYMENT CARD INFORMATION; PAYMENT CARD INDUSTRY COMPLIANCE.

12.1 Merchant financial information, information related to Merchant's Transactions, and other information that Merchant provides to Paymentech may be shared by Paymentech with its affiliates and the Payment Brands. Paymentech will not otherwise disclose or use such information other than (a) as necessary to process Merchant's Transactions or otherwise provide services and maintain Merchant's account pursuant to this Agreement; (b) to detect, prevent, reduce, or otherwise address fraud, security, or technical issues; (c) to enhance or improve Paymentech's products and services generally; or (d) as required or permitted by the Payment Brands or applicable law. Paymentech may prepare, use, and/or share with third parties, aggregated, non-personally identifiable information derived from Transaction Data of all of Paymentech's customers or specific segments of Paymentech's customers.

12.2 Payment Card Industry Compliance. Merchant acknowledges and understands the importance of compliance with the Security Standards, such as those relating to the storage and disclosure of Transaction Data and Payment Card Information. Therefore, Merchant shall not disclose or use Payment Card Information, other than (a) to Merchant's agents and contractors for the purpose of assisting Merchant in completing a Transaction; (b) to the applicable Payment Brand; or (c) as specifically required by law or pursuant to a government or regulatory demand. Furthermore, Merchant acknowledges and understands that its use of any fraud mitigation or security enhancement solution (e.g. an encryption product or service), whether provided to Merchant by Paymentech or a third party, in no way limits Merchant's obligation to comply with the Security Standards or Merchant's liabilities set forth in this Agreement.

Merchant is allowed by the Payment Brand Rules to store only certain Payment Card Information (currently limited to the Payor's name, Payment Card account number, and expiration date) and is prohibited from storing additional Payment Card Information, including, without limitation, any security code data, such as CVV2, CVC2, and PIN data, and any magnetic stripe track data. Merchant shall store all media containing Payment Card Information in an unreadable format wherever it is stored and in an area limited to selected personnel on a "need to know" basis only. Prior to either party discarding any material containing Payment Card Information, the party will render the account numbers unreadable in accordance with the requirements of the Security Standards. If at any time Merchant determines or suspects that Payment Card Information has been compromised Merchant must notify Paymentech immediately and assist in

providing notification to such parties as may be required by law or Payment Brand Rules, or as Paymentech otherwise reasonably deems necessary.

Merchant agrees to comply with all Security Standards, as defined in Section 17. Merchant further agrees to provide Paymentech, upon its request, with such tests, scans, and assessments of Merchant's compliance with Security Standards as may from time to time be required by the Payment Brands.

Merchant must immediately notify Paymentech of its use of any Service Provider. Merchant shall ensure that, to the extent required by each Payment Brand, its Service Providers are (d) compliant with all applicable Security Standards; and (e) appropriately registered with, or otherwise recognized as being compliant with the Security Standards, by all applicable Payment Brands. To the extent required by each Payment Brand, all Payment Applications, or software involved in processing, storing, receiving, or transmitting of Payment Card Information, shall be (f) compliant with all Security Standards applicable to such Payment Applications or software; and (g) registered with and/or recognized by such Payment Brand(s) as being so compliant. Furthermore, to the extent Merchant is required under the Payment Brand Rules, or Merchant otherwise elects, to utilize EMV chip-capable terminals, all EMV chip-capable terminals used by Merchant must appear on the EMV co-approved terminal list maintained by the Payment Brands.

Merchant understands that its failure, or the failure of any of its Service Providers, to comply with the Payment Brand Rules, including the Security Standards, or the compromise of any of Payment Card Information (whether such Payment Card Information is under the control of Merchant or its Service Provider), may result in assessments, fines, and/or penalties by the Payment Brands, and Merchant agrees to indemnify and reimburse Paymentech immediately for any such assessment, fine, or penalty imposed on Paymentech or the Member and any related loss, cost, or expense incurred by Paymentech or the Member. If any Payment Brand requires a forensic examination of Merchant or any of Merchant's Service Providers due to a Data Compromise Event, Merchant agrees to cooperate with, and cause all applicable Service Providers to cooperate with, such forensic examination until it is completed, including, without limitation, the engagement of an examiner acceptable to the relevant Payment Brand. Notwithstanding the foregoing, the Payment Brands may (h) directly engage, or demand that Paymentech engage, an examiner on behalf of the Merchant in order to expedite the investigation of the Data Compromise Event; or (i) pursuant to the Payment Brand Rules, permit Paymentech to investigate the Data Compromise Event. In either scenario, Merchant agrees to pay for all costs and expenses related to such forensic examination, including all of Paymentech's reasonable attorneys' fees and other costs relating to such forensic examination.

By executing this Agreement, Merchant represents that, in the event of its failure, including bankruptcy, insolvency, or other suspension of business operations, Merchant shall not sell, transfer, or disclose to third parties any materials that contain Transaction Data or Payment Card Information. Upon request, Merchant must return such information to Paymentech or provide Paymentech with acceptable proof of its destruction.

13. INFORMATION ABOUT MERCHANT AND MERCHANT'S BUSINESS.

13.1 Additional Financial Information. Upon five (5) days' written notice at any time, Merchant agrees to furnish to Paymentech (a) its most recently prepared financial statements and credit information; and (b) if applicable, its three most recent filings with the SEC.

13.2 Audit Rights. With prior notice and during Merchant's normal business hours, Paymentech's duly authorized representatives may visit Merchant's business premises and may examine Merchant's books and records that pertain to Merchant's Transactions or Merchant's compliance with this Agreement.

13.3 Other Information. Merchant agrees to provide Paymentech at least thirty (30) days' prior written notice of its intent to change current product lines or services, Merchant's trade name, or the manner in which Merchant accepts Payment Cards. If Paymentech determines such a change is material to its relationship with Merchant, Paymentech may refuse to process Transaction Data made subsequent to the change or terminate this Agreement. Merchant agrees to provide Paymentech with prompt written notice if Merchant is the subject of any voluntary or involuntary bankruptcy or insolvency petition or proceeding. Merchant's signature on this Agreement authorizes Paymentech to perform any credit check deemed necessary with respect to Merchant.

14. DISCLAIMER; LIMITATION OF DAMAGES. Subject to Section 5, Paymentech will, at its own expense, correct any Transaction Data to the extent that such errors have been caused by Paymentech or by malfunctions of Paymentech's processing systems. Under no circumstances will Paymentech's financial liability arising out of or related to its performance of services under this Agreement exceed the total fees paid to Paymentech under this Agreement (net of Payment Brand fees, third party fees, interchange, assessments, penalties, and fines) for the six months prior to the time the liability arose. **EXCEPT AS OTHERWISE PROVIDED FOR IN THIS AGREEMENT, IN NO EVENT WILL**

ANY PARTY, ITS RESPECTIVE DIRECTORS, OFFICERS, EMPLOYEES, OR AFFILIATES, BE LIABLE FOR SPECIAL, INCIDENTAL, CONSEQUENTIAL, OR PUNITIVE DAMAGES, REGARDLESS OF THE FORM OF ACTION AND EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. ANY FINES, FEES, PENALTIES OR ASSESSMENTS IMPOSED BY THE PAYMENT BRANDS RELATED TO MERCHANT'S ACCEPTANCE OF PAYMENT CARDS SHALL NOT BE DEEMED TO BE CONSEQUENTIAL DAMAGES. NEITHER PAYMENTECH NOR MEMBER SHALL BE LIABLE OR RESPONSIBLE FOR THE AUTHENTICITY, ACCURACY, CORRUPTION, DISAPPEARANCE, THEFT OF, DAMAGE TO, OR TAMPERING WITH ANY DATA, INCLUDING, WITHOUT LIMITATION, TRANSACTION DATA, TRANSMITTED IN ANY FORM OR FORMAT TO PAYMENTECH BY OR ON BEHALF OF MERCHANT, AND PAYMENTECH AND MEMBER SHALL BE ENTITLED TO RELY ON DATA IT RECEIVES FROM OR ON BEHALF OF MERCHANT IN THE DISCHARGE BY PAYMENTECH AND MEMBER OF ITS OBLIGATIONS HEREUNDER. ALL PARTIES ACKNOWLEDGE THAT THIS IS AN AGREEMENT FOR COMMERCIAL SERVICES. THE UNIFORM COMMERCIAL CODE DOES NOT APPLY AND PAYMENTECH AND MEMBER HEREBY DISCLAIM ANY AND ALL WARRANTIES, EXPRESS OR IMPLIED, MADE TO MERCHANT OR ANY OTHER PERSON, REGARDING QUALITY, SUITABILITY, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR OTHERWISE (REGARDLESS OF ANY COURSE OF DEALING, CUSTOM, OR USAGE OF TRADE) OF ANY SERVICES PROVIDED UNDER THIS AGREEMENT OR ANY GOODS PROVIDED INCIDENTAL TO SUCH SERVICES.

15. MISCELLANEOUS.

15.1 Taxes. Unless Merchant is otherwise exempt, and, if applicable, provides a valid exemption certificate, Merchant agrees to pay any taxes imposed on the services, equipment, supplies, and other property provided under this Agreement, and Merchant authorizes Paymentech to increase the amount collected from Merchant to reflect any and all assessments or increases in the sales, use, occupational, property, lease, or other taxes imposed on such sale or lease of services, tangible property, intellectual property, equipment, supplies, and other goods purchased.

15.2 Section Headings. The section headings of this Agreement are for convenience only and do not define, limit, or describe the scope or intent of this Agreement.

15.3 Assignment.

(a) **Merchant.** Merchant may not transfer or assign this Agreement without the prior written consent of Paymentech. Any purported transfer or assignment of this Agreement by Merchant (including by operation of law, merger, or otherwise) without Paymentech's prior written consent shall be, in Paymentech's sole discretion, null and void and Merchant shall remain bound by the terms and conditions of this Agreement and shall be fully responsible for all Transactions submitted by the purported assignee/transferee, and for all related liabilities arising therefrom. In the case of a permitted transfer or assignment of this Agreement by Merchant, the assignee/transferee shall, as of the effective date of the assignment or transfer, be bound by the terms and conditions of this Agreement and shall be fully responsible for all Transactions submitted and for all related liabilities arising therefrom. No assignee for the benefit of creditors, custodian, receiver, trustee in bankruptcy, debtor in possession, sheriff or any other officer of a court, or other person charged with taking custody of Merchant's assets or business, shall have any right to continue or to assume or to assign this Agreement without Paymentech's prior written consent. Merchant agrees to provide Paymentech with not less than thirty (30) days prior written notice of: (i) any sale of all or substantially all of the assets of Merchant; or (ii) any person or entity becoming the beneficial owner, directly or indirectly, of securities representing more than fifty percent (50%) of the combined voting power of Merchant's securities, or otherwise acquires voting control of Merchant.

(b) **Paymentech; Member.** Upon notice to Merchant, another Payment Brand member may be substituted for Member under whose sponsorship this Agreement is performed and for whom Paymentech is acting as agent hereunder. Subject to Payment Brand Rules, Paymentech may assign or transfer this Agreement and its rights and obligations hereunder and may delegate its duties hereunder, in whole or in part, to any third party, whether in connection with a change in sponsorship, as set forth in the preceding sentence, or otherwise, without notice to or consent of Merchant.

15.4 Parties; Independent Contractor. This Agreement is binding upon and inures to the benefit of the parties and their respective heirs, administrators, representatives, and permitted successors and assigns. Merchant agrees that it is responsible for its employees' actions. In providing services to Merchant, Paymentech will not be acting in the capacity of agent, partner, or joint venturer; Paymentech is acting solely as an independent contractor.

15.5 Representations. The parties shall perform their obligations under this Agreement in compliance with all applicable laws. Merchant represents and warrants that statements made on its Application are true as of the date of this Agreement. Paymentech represents and warrants that its execution of and performance under this Agreement (a) in no way breaches,

contravenes, violates, or in any manner conflicts with any of its other legal obligations, including, without limitation, its corporate charter or similar document or any agreement between Paymentech and any third party or any affiliated entity; (b) has been duly authorized by all necessary action and does not require any consent or other action by or in respect of any third party; and (c) that the person signing this Agreement on behalf of Paymentech is duly authorized to do so. Merchant represents and warrants that its execution of and performance under this Agreement (d) in no way breaches, contravenes, violates, or in any manner conflicts with any of its other legal obligations, including, without limitation, its corporate charter or similar document or any agreement between Merchant and any third party or any affiliated entity; (e) has been duly authorized by all necessary action and does not require any consent or other action by or in respect of any third party; and (f) that the person signing this Agreement on behalf of Merchant is duly authorized to do so. Furthermore, if Merchant is undergoing a forensic investigation at the time this Agreement is executed, Merchant represents and warrants that it is fully cooperating with the investigation and agrees to continue so cooperating until the investigation is completed.

15.6 Publicity. Unless required by law, neither Paymentech nor Merchant may publicly disclose, through press releases or otherwise, the existence of the business relationship that is the subject of this Agreement, without the prior written consent of the non-disclosing party.

15.7 Severability. Should any provision of this Agreement be determined to be invalid or unenforceable under any law, rule, or regulation, including any Payment Brand Rule, such determination will not affect the validity or enforceability of any other provision of this Agreement.

15.8 Waivers. No term or condition of this Agreement may be waived except pursuant to a written waiver executed by the party against whom such waiver is sought to be enforced.

15.9 Entire Agreement. The Payment Brand Rules, Application, taxpayer identification and certification documentation, and all schedules, supplements, and attachments to this Agreement are made a part of this Agreement for all purposes. This Agreement represents the entire understanding between Merchant and Paymentech with respect to the matters contained herein and supersedes any prior agreements between the parties. Merchant agrees that in entering into this Agreement it has not relied on any statement of Paymentech or its representatives. This Agreement shall prevail over any conflicting terms of any agreement governing the Settlement Account. In the event that any of the terms and conditions of this Agreement contradicts or conflict with the terms and conditions of Merchant's previously submitted Request for Proposal ("RFP") or Paymentech's subsequent response to Merchant's RFP, the terms and conditions of this Agreement shall control.

15.10 Notices. Except as otherwise provided in this Agreement, all notices must be given in writing and either hand delivered, faxed, mailed first class, postage prepaid, sent via electronic mail transmission, or sent via overnight courier (and will be deemed to be given when so delivered or mailed) to the addresses set forth below or to such other address as either party may from time to time specify to the other party in writing.

15.11 Governing Law; Waiver of Right to Contest Jurisdiction; Waiver of Jury Trial. UNLESS OTHERWISE MANDATED BY APPLICABLE LAW, THIS AGREEMENT WILL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS WITHOUT REFERENCE TO CONFLICT OF LAW PROVISIONS. THE PARTIES HEREBY KNOWINGLY, VOLUNTARILY, AND INTENTIONALLY WAIVE ANY RIGHTS EITHER OF THEM MAY HAVE TO CONTEST JURISDICTION OR VENUE. THE PARTIES HEREBY KNOWINGLY, VOLUNTARILY, AND INTENTIONALLY WAIVE ANY RIGHTS EITHER OF THEM MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION BASED ON, ARISING OUT OF, OR IN CONNECTION WITH THIS AGREEMENT.

15.12 Force Majeure. Neither party will be liable for delays in processing or other nonperformance caused by such events as fires, telecommunications failures, utility failures, power failures, equipment failures, labor strife, riots, war, terrorist attack, nonperformance of Paymentech's vendors or suppliers, acts of God, or other causes over which the respective party has no reasonable control, except that nothing in this Section 15.12 will affect or excuse Merchant's liabilities and obligations for Chargebacks, refunds, or unfulfilled goods and services.

15.13 Amendment. Except as otherwise set forth in this Agreement, the Agreement may be amended only by written agreement of the parties. Notwithstanding the foregoing, in the event the terms of this Agreement must be amended pursuant to a change required by the Payment Brand Rules or any third party with jurisdiction over the matters described herein, such amendment will be effective immediately. Merchant's electronic signature or continued submission of Transactions to Paymentech following such notice will be deemed to be Merchant's acceptance of such amendment.

15.14 Counterparts and Electronic Signature. This Agreement may be executed in several counterparts, each of which will be deemed an original, but all of which together will constitute one and the same instrument. A signature

received via facsimile or electronically via email shall be as legally binding for all purposes as an original signature.

15.15 Merchant Taxpayer Certification and Paymentech Reporting Obligations. Pursuant to 26 USC 6050W, Paymentech is a "payment settlement entity", obligated to collect and report certain taxpayer information to the United States Internal Revenue Service. Therefore, in conjunction with the execution of this Agreement, Merchant shall provide Paymentech with the appropriate taxpayer certification documentation, via Internal Revenue Service (IRS) Form W-9 (or the appropriate versions of Form W-8, if applicable). Merchant shall promptly notify Paymentech if there are any changes in this information. Paymentech may deduct withholding taxes, if any, from proceeds payable to Merchant or any entity that is a party to this agreement where required under applicable law. Paymentech may, in accordance with applicable law and from time to time during the Term of this Agreement, request Merchant to recertify its taxpayer certification hereunder. Furthermore, Merchant shall be responsible for any penalties related to the reporting obligations of Paymentech hereunder to the extent such penalties accrue based on the actions or inactions of Merchant despite reasonable notice from Paymentech.

16. SURVIVAL. The provisions of Sections 1.6, 4.2, 4.4, 4.5, 4.6, 5, 6, 7, 9, 10.2, 10.4, 11, 12, 14, 15, 16 and 17 shall survive the termination of this Agreement.

17. DEFINITIONS.

"Application" means a statement of Merchant's financial condition, a description of the characteristics of Merchant's business or organization, and related information Merchant has previously or concurrently submitted to Paymentech, including credit, financial and other business related information, to induce Paymentech to enter into this Agreement with Merchant and that has induced Paymentech to process Merchant's Transactions under the terms and conditions of this Agreement.

"Chargeback" means a reversal of a Transaction Merchant previously presented to Paymentech pursuant to Payment Brand Rules.

"Conveyed Transaction" means any Transaction conveyed to a Payment Brand for settlement by such Payment Brand directly to Merchant.

"Payor" or "Customer" means the person or entity to whom a Payment Card is issued or who is otherwise authorized to use the Payment Card.

"Data Compromise Event" means an occurrence that results, or could result, directly or indirectly, in the unauthorized access to or disclosure of Transaction Data and/or Payment Card Information.

"Effective Date" means the date the Agreement takes effect pursuant to Section 10.1.

"EMV" means Europay, MasterCard and Visa.

"Issuing Bank" means the financial institution or other member of a Payment Brand that has a contractual relationship with the Payor for the issuance of a Payment Card.

"Merchant" means the legal entity identified in the Application and on the first and signature pages of this Agreement.

"Member" means JPMorgan Chase Bank, N.A. or other entity providing sponsorship to Paymentech as required by all applicable Payment Brands. Member is a principal party to this Agreement and Merchant's acceptance of Payment Brand products is extended by the Member.

"Payment Application" means a third party application used by merchant that is involved in the authorization or settlement of Transaction Data.

"Payment Brand" means any payment method provider whose payment method is accepted by Paymentech for processing, including, without limitation, Visa Inc., MasterCard International, Inc., Discover Financial Services, LLC, and other credit and debit card providers, debit network providers, gift card, and other stored value and loyalty program providers. Payment Brand also includes the Payment Card Industry Security Standards Council and the Electronic Payment Association (frequently referred to as "NACHA").

"Payment Brand Rules" means all bylaws, rules, programs, regulations, specifications, and manuals, as they exist from time to time, of the Payment Brands.

"Payment Card" or "Payment Instrument" means an account, or evidence of an account, authorized and established between a Payor and a Payment Brand, or representatives or members of a Payment Brand that Merchant accepts from Payors as payment on an account or for goods, or services. Payment Cards include, but are not limited to, credit and debit cards, stored value cards, loyalty cards, electronic gift cards, authorized account or access numbers, paper certificates, and credit accounts. Use of the term Payment Card or Payment Instrument throughout this Agreement includes any Payment Card with an embedded microcomputer EMV chip

"Payment Card Information" means information related to a Payor or the Payor's Payment Card, that is obtained by Merchant from the Payor's Payment Card, or from the Payor in connection with his or her use of a Payment Card (e.g., a security code, a PIN number, credit limits, account balances, or the customer's zip code when provided as part of an

address verification system). Without limiting the foregoing, such information may include the Payment Card account number and expiration date, the Payor's name or date of birth, PIN data, security code data (such as CVV2 and CVC2), and any data read, scanned, imprinted, or otherwise obtained from the Payment Card, whether printed thereon, or magnetically, electronically, or otherwise stored thereon. For the avoidance of doubt, the data elements that constitute Payment Card Information shall be treated according to their corresponding meanings as "cardholder data" and "sensitive authentication data" as such terms are used in the then current PCI DSS.

"Paymentech" means Paymentech, LLC, a Delaware limited liability company, having its principal office at 14221 Dallas Parkway, Dallas, Texas 75254.

"Refund" means any refund or credit issued for any reason, including, without limitation, for a return of merchandise or cancellation of services, and any adjustment of a Transaction.

"Refund Policy" means a written policy with regard to Refunds.

"Retrieval Request" means a request for information by a Payor or Payment Brand relating to a claim or complaint concerning a Transaction.

"Security Standards" means all rules, regulations, standards, or guidelines adopted or required by the Payment Brands or the Payment Card Industry Security Standards Council relating to privacy, data security, and the safeguarding, disclosure, and handling of Payment Card Information, including, without limitation, the Payment Card Industry Data Security Standards ("PCI DSS"), Visa's Cardholder Information Security Program ("CISP"), Discover's Information Security & Compliance Program ("DISC"), American Express's Data Security Operating Policy, MasterCard's Site Data Protection Program ("SDP"), Visa's Payment Application Best Practices ("PABP"), the Payment Card Industry's Payment Application Data Security Standard ("PA DSS"), MasterCard's POS Terminal Security program, and the Payment Card Industry PIN Transmission Security program ("PCI PTS"), in each case as they may be amended from time to time.

"Service Provider" means any party that processes, stores, receives, transmits, or has access to Payment Card Information on Merchant's behalf, including, without limitation, its agents, business partners, contractors, and subcontractors.

"Settled Transaction" means a Transaction conducted between a Payor and Merchant utilizing a Payment Card in which consideration is exchanged between the Payor and Merchant for payment on an account or the purchase of a good or service or a Refund and the value for such Transaction is settled by the Payment Brand through Paymentech to the Merchant.

"Stored Value Card Transaction" means a Transaction in which a Payor adds or redeems value to or from a stored value card, gift card, or loyalty Payment Card issued by or on behalf of Merchant.

"Transaction" means a transaction conducted between a Payor and Merchant utilizing a Payment Card in which consideration is exchanged between the Payor and Merchant.

"Transaction Data" means the written or electronic record of a Transaction, including, without limitation, an authorization code or settlement record, which is submitted to Paymentech

"Transaction Receipt" means an electronic or paper record of a Transaction generated upon completion of a sale or Refund, a copy of which is presented to the Payor.

[Signature Page Follows]

IN WITNESS WHEREOF, the undersigned parties have duly executed this Agreement.

Agreed and Accepted by:

Agreed and Accepted by:

Merchant Legal Name

PAYMENTECH, LLC for itself and on behalf of
JPMORGAN CHASE BANK, N.A.

By (authorized signature)

By

Print Name and Title

Print Name and Title

Date

Date

Address

Address

City, State Zip

City, State Zip

V14242

To Be Completed By Paymentech, LLC

Merchant Agreement Contract Number is: _____
Merchant Processing Identification Number Will Be Provided At Time of Processing Set Up

Authorization Agreement for Automated Billing (ACH Debits)

and

For Direct Deposit (ACH Credits)

By checking the "I Agree" box and providing your name below, the undersigned represents and warrants that he/she (i) is an authorized representative of the legal entities and locations (collectively "Merchant") listed on the "Data Table & DDA-ABA Attachment" tab of this spreadsheet; and (ii) is authorized to enter into this Authorization Agreement for Automated Billing and For Direct Deposit on behalf of the Merchant. Merchant, through its authorized representative, hereby authorizes Paymentech, LLC and its affiliates and subsidiaries (collectively "Chase Paymentech") to initiate credit and debit entries to the account(s) indicated within the "Data Table & DDA-ABA Attachment" tab on a recurring basis and without regard to the source of any moneys in the account(s). Merchant agrees to comply with the National Automated Clearing House Associations' rules for electronic payments at all times. This authority will remain in full force and effect until Chase Paymentech notifies you that all monies due from you under the terms of your Merchant Agreement have been paid in full.

☐ I agree

Na _____ Tit _____ Dat _____

LANCASTER CITY COUNCIL

Item 7

Agenda Communication

August 25, 2014

Consider a resolution approving the terms and conditions of the fourth amendment to the interlocal agreement by and between the University of Texas Southwestern Medical Center at Dallas and the City of Lancaster, for services related to the provision of paramedic continuing education.

This request supports the City Council 2014-2015 Policy Agenda.

Goal: Healthy, Safe & Vibrant Community

Background

The State of Texas requires that each Paramedic obtain 40 hours of Continuing Education (CE) every year. This education is broken down into various content areas required by the State and Lancaster Fire Department Medical Control. To meet these requirements the University of Texas Southwestern Medical Center at Dallas (UT Southwestern) has provided Continuing Education to the Cities of Cedar Hill, Desoto, Duncanville and Lancaster for many years. This is a cooperative agreement with these other cities to reduce cost. We have had this joint agreement for four years now and it has been working very well.

Considerations

- **Operational** – The amendment will continue our Continuing Education agreement another year and provide for an advanced CE program for our paramedics. It also provides the State and Medical Control required training.
- **Legal** – We are legally required by the State of Texas to provide this training to our paramedics.
- **Financial** – There is a \$2,316.25 increase over last year's cost. This amount has been budgeted in the proposed budget.
- **Public Information** – This item is being considered at a meeting of the City Council posted in accordance with the Texas Open Meetings Act.

Options/Alternatives

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

Recommendation

Staff recommends approving the amendment.

Attachments

- Resolution
 - Original agreement
 - Fourth amendment
-

Submitted by:

Thomas Griffith, Fire Chief

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LANCASTER, TEXAS, APPROVING THE TERMS AND CONDITIONS OF THE FOURTH AMENDMENT TO THE INTERLOCAL AGREEMENT BY AND BETWEEN THE UT SOUTHWESTERN MEDICAL CENTER AT DALLAS AND THE CITY OF LANCASTER, WHICH IS ATTACHED HERETO AND INCORPORATED HEREIN AS EXHIBIT A, FOR SERVICES RELATED TO THE PROVISION OF PARAMEDIC CONTINUING EDUCATION; AUTHORIZING THE CITY MANAGER TO EXECUTE SAID AMENDMENT TO THE AGREEMENT; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WITNESSETH:

WHEREAS, the City of Lancaster desires to continue the agreement with The University of Texas Southwestern Medical Center at Dallas to perform continuing education services for the paramedics in the City of Lancaster; and respective emergency medical services programs;

WHEREAS, UT Southwestern Medical Center at Dallas desires to continue our agreement and provide said continuing education services to the City of Lancaster;

WHEREAS, the Interlocal Cooperation Act, Chapter 791 of the Texas Government Code authorizes units of local government to contract with one or more units of local government to perform governmental functions and services;

WHEREAS, this Agreement has been authorized by the governing bodies of the City of Lancaster and UT Southwestern;

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

SECTION 1. The City Council hereby authorizes, approves and accepts the terms and conditions of the Fourth Amendment to the Interlocal Agreement by and between the City of Lancaster and UT Southwestern Medical Center at Dallas, which is attached hereto and incorporated herein by reference as Attachment A; and, the City Manager is hereby authorized to execute said Amendment.

SECTION 2. That this Resolution shall take effect October 1, 2014 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 25th day of August 2014.

APPROVED:

Marcus E. Knight, Mayor

ATTEST:

Sorangel O. Arenas, City Secretary

APPROVED AS TO FORM:

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

2010 - 003279

STATE OF TEXAS

§

COUNTY OF DALLAS

§

§

**INTERLOCAL AGREEMENT FOR
CONTINUING EDUCATION SERVICES**

This Interlocal Agreement for Continuing Education Services (hereinafter, "Agreement") is entered into by and between The University of Texas Southwestern Medical Center at Dallas, 5323 Harry Hines Blvd., Dallas, Texas 75390, hereinafter referred to as "UT Southwestern," and the City of Cedar Hill, Texas, City of DeSoto, Texas, City of Duncanville, Texas, and the City of Lancaster, Texas, all Texas home-rule cities, hereinafter referred to as "Cities".

WITNESSETH:

WHEREAS, the Cities desire to hire UT Southwestern to perform continuing education services for the paramedics in the Cities' respective emergency medical services programs;

WHEREAS, UT Southwestern desires to provide said continuing education services to the Cities;

WHEREAS, the Interlocal Cooperation Act, Chapter 791 of the Texas Government Code authorizes units of local government to contract with one or more units of local government to perform governmental functions and services;

WHEREAS, this Agreement has been authorized by the governing bodies of the Cities and UT Southwestern;

NOW THEREFORE, in consideration of the foregoing, and on the terms and conditions hereinafter set forth, and other valuable consideration the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. Term. The initial term of this contract shall begin October 1, 2010 and shall terminate September 30, 2011 ("Initial Term"). Cities and UT Southwestern shall have the option to renew this Agreement for three (3) successive twelve-month periods upon the same terms and conditions as set forth herein, subject to Cities approval of the amounts to be established by UT Southwestern for each successive year after the Initial Term, as set forth in Section 4 below, and subject to the termination provisions set forth in Section 6 below.

2. Scope of Services.

A. Continuing Education Services.

i. UT Southwestern will provide continuing education services, including the services of a Continuing Education Instructor ("Instructor") for the equivalent of 100% of a person's time to perform continuing education ("CE"), evaluation and record keeping of all paramedic CE related activities, personalized instruction and evaluation, complete all reporting requirements of the Texas Department of State Health Services ("DSHS") and respond to requested data base queries. Such requirements will include the required DSHS category specific CE and NREMT re-registration CE requirements.

ii. CE services do not include copying CE materials or equipment for skills labs.

iii. Status of CE hours of each paramedic will be made available to the respective Cities' Fire Departments on a quarterly basis.

iv. It is understood that UT Southwestern will provide the Instructor with a minimum of eleven different CE topics to be taught throughout the contract year.

v. Additionally, the instructor will conduct an Annual Re-verification Exam (ARE) process for each city. Scheduling of the CE and ARE will be agreed upon between the City representative and the CE instructor.

vi. The instructor shall coordinate tasks and general time issues with the Cedar Hill Fire Dept, EMS Division, or his designee and UT Southwestern Assistant Program Director for Continuing Education.

vii. It is specifically understood that the Instructor will be required to participate in various UT Southwestern staff meetings and departmental events, as well as vacation and/or sick time, during which time he or she will be unavailable to Cities. UT Southwestern will be responsible for the costs of all activities unrelated to the services being provided hereunder, including Instructor's own continuing education requirements and Instructor's travel to UT Southwestern required meetings. The anticipated periods of unavailability of Instructor to City are as follows:

- Ten (10) staff meeting days per year;
- Two (2) retreat days per year, when applicable;
- Average vacation time: Sixteen (16) days per year;
- Sick time: Twelve (12) days per year (UT Southwestern will provide an interim instructor in the event that the Instructor is absent for a period of longer than four (4) weeks); and
- Holidays: Ten (10) days per year

B. UT Southwestern shall be responsible for reimbursing Instructor for all mileage related to performing the continuing education services.

3. Invoicing and Fees.

A. Invoicing. UT Southwestern shall invoice each City for fees due for services rendered during Initial Term upon execution of this Agreement, and on or about September 1st of each year thereafter, and Cities shall each pay the fees due according to their respective invoices within forty-five (45) days after receipt of its respective invoice.

B. Fees.

i. UT Southwestern shall recommend applicable fees for each successive year of this Agreement following the Initial Term and agrees to individually notify Cities of said recommendation on or before April 1st of each succeeding year. Cities shall have forty-five (45) days to accept the new amount or terminate the Agreement.

ii. In consideration of the provision of the services as described in Section 2(A) above, Cities shall pay to UT Southwestern a total annual amount not to exceed \$88,233.00 for the Initial Term of this Agreement. The Cities' respective shares of the total amount stated above are as follows:

Cedar Hill	\$22,058.25
DeSoto	\$22,058.25
Duncanville	\$22,058.25
Lancaster	\$22,058.25
Total	\$88,233.00

iii. In consideration of the services as described in Section 2(A) above, Cities shall also pay UT Southwestern the amount of \$57.00 for each of its respective paramedics' enrollment in the El Centro Paramedic Continuing Education Class. The total amount for two hundred and twenty-one (221) paramedics is a total of \$12,597.00. The Cities' respective shares of the total amount stated above are as follows:

City	Number of Paramedics Enrolled	Amount Due for Initial Term
Cedar Hill	72	\$4,104.00
DeSoto	59	\$3,363.00
Duncanville	43	\$2,451.00
Lancaster	47	\$2,679.00
Total	221	\$12,597.00

iv. The total amount due for services rendered by UT Southwestern during the Initial Term shall be \$100,830.00.

4. **Independent Contractor.** It is understood and agreed by and between the parties that in satisfying the conditions of this Agreement UT Southwestern, including its employees and agents, is acting independently, and that the Cities assume no responsibility or liabilities to any third party in connection with these actions. All services to be performed by UT Southwestern pursuant to this Agreement will be in the capacity of an independent contractor, and not as an agent or employee of the Cities. UT Southwestern agrees to supervise the performance of its services and shall be entitled to control the manner and means by which its services are to be performed, subject to the terms of this Agreement. Cities and UT Southwestern agree that UT Southwestern will be liable for any income taxes or FICA due to the Federal or State

Government. No term, provision, or act of UT Southwestern or Cities under this Agreement shall be construed as changing that status.

5. Indemnification.

A. UT SOUTHWESTERN, TO THE EXTENT PERMITTED BY THE CONSTITUTION AND LAWS OF THE STATE OF TEXAS, AGREES TO INDEMNIFY AND HOLD HARMLESS CITIES AND ALL OF THEIR RESPECTIVE OFFICERS, AGENTS, AND EMPLOYEES FROM ANY AND ALL SUITS, ACTIONS, OR CLAIMS WHATSOEVER THAT MIGHT ARISE ON ACCOUNT OF ANY INJURY OR DAMAGE RECEIVED OR SUSTAINED BY ANY PERSON OR PROPERTY AS A RESULT OF UT SOUTHWESTERN'S CONDUCT OF ANY ACTIVITY OR OPERATION IN CONNECTION WITH UT SOUTHWESTERN'S PROVISION OF SERVICES REQUIRED UNDER THIS AGREEMENT. UT SOUTHWESTERN WILL NOT BE OBLIGATED TO INDEMNIFY OR HOLD HARMLESS CITIES OR ANY OF THEIR RESPECTIVE OFFICERS, AGENTS, OR EMPLOYEES WHEN THE INJURY OR DAMAGE TO A PERSON OR PROPERTY IS CAUSED BY THE GROSS NEGLIGENCE OF CITIES, THEIR OFFICERS, AGENTS, OR EMPLOYEES.

B. Each City shall give UT Southwestern prompt notice of any matter covered by Subsection 5(A) above and shall forward to UT Southwestern every demand, notice, summons, or process received in any claim or legal proceeding covered by Subsection 5(A) above.

C. No provision of this Agreement shall be interpreted to constitute a waiver of the immunities or limits of liability granted to UT Southwestern or Cities under the Constitution and laws of the State of Texas, including the Texas Tort Claims Act.

6. Termination.

A. This Agreement shall terminate upon the occurrence of any one of the following:

i. the execution by all parties of a written agreement terminating this Agreement;

ii. the Expiration Date;

iii. by any party in the event the another party breaches any of the terms or conditions of this Agreement and such breach is not cured within thirty (30) days after written notice thereof;

iv. if any subsequent Federal or State legislation or any final, non-appealable decision of a court of competent jurisdiction declares or renders this Agreement invalid, illegal or unenforceable; or

v. by any party, by giving the other party written notice of termination no later than June 30th of any year under this Agreement, with the understanding that all services being terminated will cease on September 30th following the written notice. Cities shall equitably compensate UT Southwestern in accordance with the terms of this Agreement for the services properly performed prior to the September 30th termination date specified in such notice.

B. UT Southwestern agrees that, should any of the Cities' respective governing bodies fail to appropriate sufficient funds to make payments due pursuant to this Agreement, such City may cancel its participation in this Agreement at the end of the then current fiscal year without cost or penalty to Cities. However, any such City not appropriating sufficient funds agrees to reimburse UT Southwestern in an appropriate proportionate share for the costs of any services provided by UT Southwestern, either directly or through third party vendors, and accepted by such City.

7. Assignment. UT Southwestern shall not sell, assign, transfer or convey this Agreement, in whole or in part, without the prior written consent of Cities' designated Fire Chief; and as a condition of such consent, UT Southwestern shall still remain liable for completion of the services in the event of default by the successor contractor or assignee.

8. Notice. Any notice, payment, statement or demand required or permitted to be given hereunder by either party to the other may be effected by personal delivery in writing or by mail, postage prepaid. Mailed notices shall be addressed to the parties at the addresses appearing below, but each party may change its address by written notice in accordance with this section. Mailed notices shall be deemed communicated as of three days after mailing.

If intended for Cities:

City of Cedar Hill, Texas
Attn: Fire Chief
1212 W. Belt Line
Cedar Hill, TX 75104

City of DeSoto, Texas
Attn: Fire Chief
211 E. Pleasant Run Rd.
DeSoto, TX 75115

City of Duncanville, Texas
Attn: Fire Chief
203 E. Wheatland Rd.
P.O. BOX 380280
Duncanville, TX 75138

City of Lancaster, Texas
Attn: Fire Chief
1650 N. Dallas Ave.
Lancaster, TX 75134

If intended for UT Southwestern:

The University of Texas Southwestern
Medical Center at Dallas
5323 Harry Hines Blvd.
Dallas, TX 75390-9013

9. Applicable Laws. This Agreement is entered into subject to the Charter and ordinances of Cities, as amended, the Rules and Regulations of the Board of Regents of The University of Texas System, and all applicable State of Texas and Federal laws.

10. Venue. The obligations of the parties to this Agreement shall be performable in Dallas County, Texas.

11. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Texas.

12. Legal Construction. In case any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision thereof and this Agreement shall be considered as if such invalid, illegal, or unenforceable provision had never been contained in this Agreement.

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

14. Captions. The captions to the various clauses of this Agreement are for informational purposes only and shall not alter the substance of the terms and conditions of this Agreement.

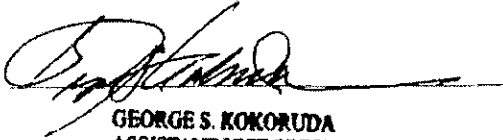
15. Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, executors, administrators, successors and, except as otherwise provided in this Agreement, their assigns.

16. Entire Agreement. This Agreement embodies the complete agreement of the parties hereto, superseding all oral or written previous and contemporary agreements between the parties relating to matters herein; and except as otherwise provided herein, cannot be modified without written agreement of the parties.

[Signature Page to Follow]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the last date written below:

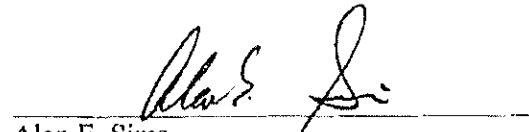
THE UNIVERSITY OF TEXAS
SOUTHWESTERN MEDICAL CENTER
AT DALLAS



GEORGE S. KOKORUDA
ASSISTANT VICE PRESIDENT FOR
ACCOUNTING & FISCAL SERVICES

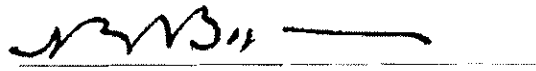
Date: 10/5/10

CITY OF CEDAR HILL, TEXAS


Alan E. Sims,
City Manager

Date: 10/11/10

CITY OF DESOTO, TEXAS


Jim Baugh,
City Manager

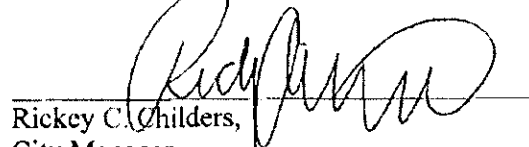
Date: 10/18/10

CITY OF DUNCANVILLE, TEXAS


Kent Cagle,
City Manager

Date: 10/14/10

CITY OF LANCASTER, TEXAS


Rickey C. Childers,
City Manager

Date: 10-26/10

FY2014-2041:0

**FOURTH AMENDMENT TO AGREEMENT FOR CONTINUING EDUCATION SERVICES
BETWEEN UT SOUTHWESTERN MEDICAL CENTER
AND THE CITIES OF CEDAR HILL, DESOTO, DUNCANVILLE AND LANCASTER**

This **Fourth Amendment to the InterLocal Agreement for Continuing Education Services** ("Amendment") is dated effective as of October 1, 2014 ("Effective Date"), and is entered into by and between **The University of Texas Southwestern Medical Center** ("University"), an agency and institution of higher education organized under the laws of the State of Texas, and the cities of Cedar Hill, DeSoto, Duncanville and Lancaster, all Texas home-rule cities ("Cities").

University and Cities entered into that certain Agreement for Continuing Education Services dated effective October 1, 2010 (the "Original Agreement"), as amended by that certain First Amendment to Agreement for Continuing Education Services dated effective October 1, 2011. The Original Agreement, as amended, is referred to as the "Agreement."

University and Cities now desire to further amend the terms of the Agreement as more particularly set forth below:

1. The parties hereby exercise the first option to renew the Agreement as set forth in Section 1 of the agreement, for an additional twelve-month period from October 1, 2014 through September 30, 2015.
2. **Section 3.B.ii of the Agreement** is hereby amended as follows:
 - ii. In consideration of the provision of the services as described in Section 2(A) of the original agreement, Cities shall pay to UT Southwestern a total annual amount not to exceed \$ 101,910.00 for the Term of this Agreement. The Cities' respective shares of the total amount stated above are as follows:

Cedar Hill	\$25,477.50
DeSoto	\$25,477.50
Duncanville	\$25,477.50
Lancaster	\$25,477.50
<u>Total</u>	<u>\$101,910.00</u>

2. **Section 3.B.iii of the Agreement** is hereby amended to reflect the number of paramedics for the renewal term. For the renewal term, the total number of paramedics shall be two hundred and thirty-one (231). Fees for Section 3.B.iii for the renewal term shall be a total of \$15,246, with the Cities' respective shares as follows at \$66 for each paramedic:

City	Number of Paramedics Enrolled	Amount Due for Term
Cedar Hill	77	\$5,082.00
DeSoto	59	\$3,894.00
Duncanville	45	\$2,970.00

FY2014-2041:0

Lancaster	50	\$3,300.00
<u>Total</u>	<u>231</u>	<u>\$15,246.00</u>

3. The total amount due for services rendered by University during the renewal term as set forth in Section 3.B.iv. shall be \$117,156.00.
4. Except as provided in this Amendment, all terms used in this Amendment that are not otherwise defined shall have the respective meanings ascribed to such terms in the Agreement.
5. This Amendment embodies the entire agreement between University and Cities with respect to the amendment of the Agreement. In the event of any conflict or inconsistency between the provisions of the Agreement and this Amendment, the provisions of this Amendment shall control and govern.
6. Except as specifically modified and amended herein, all of the terms, provisions, requirements and specifications contained in the Agreement remain in full force and effect. Except as otherwise expressly provided herein, the parties do not intend to, and the execution of this Amendment shall not, in any manner impair the Agreement, the purpose of this Amendment being simply to amend and ratify the Agreement, as hereby amended and ratified, and to confirm and carry forward the Agreement, as hereby amended, in full force and effect.
7. THIS AMENDMENT SHALL BE CONSTRUED AND GOVERNED BY THE LAWS OF THE STATE OF TEXAS.

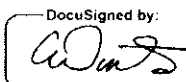
IN WITNESS WHEREOF, University and Cities have executed and delivered this Amendment effective as of the Effective Date.

CITY OF CEDAR HILL, TEXAS


By: _____

Date: _____

**THE UNIVERSITY OF TEXAS
SOUTHWESTERN MEDICAL CENTER**

DocuSigned by:
By: 
6C01E6ADE149478
Arnim Dantes
Executive VP for Business Affairs

Date: 7/13/2014

DS


FY2014-2041:0

CITY OF DESOTO, TEXAS

By: _____

Date: _____

CITY OF DUNCANVILLE, TEXAS

By: _____

Date: _____

CITY OF LANCASTER, TEXAS

By: _____

Date: _____

LANCASTER CITY COUNCIL

Item 8

Agenda Communication

August 25, 2014

Conduct a public hearing and discuss an ordinance making certain findings in connection with the proposed supplemental services ordered in connection with the Lancaster Mills Public Improvement District.

This request supports the City Council 2014-2015 Policy Agenda.

Goal: Healthy, Safe, and Vibrant Community

Background

Lancaster Mills is a subdivision of approximately 60.59 acres located north of Beltline Road and east of the Homestead Addition, south of Redbud Drive and west of the Pecan Hollow Estates Addition. The subdivision has an approved Public Improvement District (PID) to provide for the maintenance of its common areas and entry features.

Annually the PID board in accordance with the provisions of Chapter 372 of the Texas Local Government Code (the "Act") is required to present an updated five (5) year service and assessment plan. Under the Act, the City is required to hold a public hearing on the proposed assessment and service plan details related to the district and the levy of the assessment.

The PID board is required to establish a maintenance budget. The taxable assessed value within the district is used to determine the rate per \$100 of assessed value necessary to meet the maintenance budget. The County Tax Collector will then collect the district's fees and remit them to the City with our property taxes. The City will disperse the income on a reimbursement basis according to the approved budget.

As this district is currently undeveloped, the PID board has proposed an assessment plan at a rate of \$0.0000 per \$100 assessed valuation as there are no budgeted expenses for the 2014/2015 fiscal year.

Considerations

- **Operational** - All PID's require the Finance Department maintain a separate account that will be passed on to the district. The PID's should also help ensure that common areas will be maintained.
- **Legal** - The notice of public hearing was posted in accordance with the provisions of Chapter 372 in the Texas Local Government Code. The proposed five year service and

assessment plan are in accordance with Chapter 372 of Texas Local Government Code and have been reviewed by the City Attorney.

- **Financial** - The PID is not expecting to have any direct financial impact on the City. PID's are a mechanism to assure financial sustainability for the neighborhood. They are considered to be a more equitable means of collecting revenue for maintenance. The 2014/2015 proposed service plan budget is \$0.0000 and assessments are proposed to be \$0.0000 per \$100 assessed valuation. There are currently no homes constructed at this time.
- **Public Information** - City Council is required to hold a public hearing to receive comments regarding the annual maintenance and service plan prior to adoption. The public hearing was posted in the local publication of record, Focus Daily News and notices mailed to the property owner as required by Local Government Code Chapter 372.

Options/Alternatives

1. Close the public hearing and place the item on the September 8, 2014 regular meeting for consideration.
2. Continue the public hearing to the September 8, 2014 regular meeting.

Recommendation

Staff recommends closing the public hearing and placing the item on the September 8, 2014 regular meeting for consideration.

Attachments

- Ordinance
 - Service and Assessment Plan
-

Submitted by:

Rona Stringfellow, Assistant City Manager

ORDINANCE NO.

AN ORDINANCE OF THE CITY OF LANCASTER, TEXAS, MAKING CERTAIN FINDINGS IN CONNECTION WITH THE PROPOSED SUPPLEMENTAL SERVICES ORDERED IN CONNECTION WITH THE LANCASTER MILLS PUBLIC IMPROVEMENT DISTRICT, PROVIDING FOR: FINDINGS OF BENEFITS ACCRUED, ACCEPTING FIVE YEAR SERVICE PLAN, RECORDING FINAL ASSESSMENT ONTO TAX ROLL, SETTING THE ASSESSMENT LEVY FOR USE AND SUPPORT OF THE PUBLIC IMPROVEMENT DISTRICT, ESTABLISHING A METHOD OF PAYMENT, ASSESSMENT DUE, AND PROVIDING CLAUSES FOR CONFLICT, SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, by Resolution No. 2007-02-17 passed on February 12, 2007, after the conduct of a duly notified public hearing, the City Council established the Lancaster Mills Public Improvement District (the "District"); and

WHEREAS, on August 25, 2014 a public hearing was held and all persons owning or claiming any property proposed to be assessed or any interest therein were given an opportunity to be heard, either in person or through an agent or attorney, and all were given an opportunity to testify before the City Council and to contest the assessments proposed to be made on account of the amount thereof or because of any inaccuracy, irregularity, invalidity or insufficiency of the proceedings or contract with reference thereto, or to such improvements or on account of any matter or thing in the discretion of this governing body and on the 25th day of August, 2014, the City Council closed the public hearing; and levied assessments against property and the owners thereof in the District; and

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

SECTION 1 - BENEFITS ACCRUED: That the benefits to accrue to the property assessed and to the owners of such property, from the landscape maintenance and other services identified within the Five Year Service Plan, hereby adopted by the City Council, and herewith to be funded from the assessments, exceed the amount which has been assessed.

SECTION 2 - ADOPTING SERVICE PLAN: That the "*Service and Assessment Plan*", labeled herein as *Exhibit "A"* and attached hereto and made a part hereof is hereby adopted.

SECTION 3 - RECORD FINAL ASSESSMENT ONTO TAX ROLL: That the City Manager and his designated representatives are hereby authorized and directed to carry out the terms and provisions of this ordinance by causing the costs outlined in the final assessment roll to be recorded in the Tax Roll, the names of the property owners and in the amounts shown on

said final assessment roll; and that all prerequisites to the fixing of the assessments therein against the property described and the fixing of the personal liability of the owner or owners thereof have been performed in due time, form and manner as required by law, and no additional proof shall be required in any court.

SECTION 4 – **PROPERTY CLASSIFICATION AND APPORTIONMENT FORMULAS:** The City Council hereby establishes classifications and formulas for the apportionment of costs for various classes of property within the District as follows:

- (a) **Residential lots on which construction of a home has been completed**, for these lots the assessment shall not exceed \$0.0000 per \$100 of valuation through the assessment established for 2014/2015; and
- (b) **Tax exempt property and municipal property**, for these classifications the assessment shall not exceed \$0.0000 per \$100 of valuation.

SECTION 5 - **ASSESSMENT LEVY:** That for 2014/2015 there shall be and is hereby levied and assessed against parcels of property within the District, and against the real and true owners thereof (whether such owners be correctly named or not), the sum of money set forth for in the “*Service and Assessment Plan*”, labeled herein as *Exhibit “A”* and attached hereto and made a part hereof, shown opposite the description of the respective classification of the parcels of property, and the several amounts assessed against the same, and the owners thereof, with the provision that the amount assessed against each property and respective class of properties as shown in the *Service and Assessment Plan* may be adjusted for years subsequent following an annual review of the budget for the District and the *Service and Assessment Plan*.

SECTION 6 - **METHOD OF PAYMENT:** That the method of payment of the assessment shall be in an annual single lump sum payment which shall be immediately due upon receipt of the assessment notice and shall become delinquent on February 1 of the year after receipt of notice. Delinquent assessments are subject to interest, penalties, attorney’s fees and other charges, at the same rate as for the City of Lancaster delinquent ad valorem property taxes.

SECTION 7 - **ASSESSMENT DUE:** That a lien shall be established against each affected property within the district on the date the assessment is due, and shall not be released until the assessment is paid in full. This lien is superior to all other liens and claims except liens or claims for the state, county, school district or city ad valorem taxes.

SECTION 8 - **CONFLICT:** That this ordinance shall be and is hereby declared to be cumulative of all other ordinances of the City of Lancaster, Texas, and this ordinance shall not operate to repeal or affect any other ordinance except insofar as the provisions thereof might be inconsistent or in conflict with the provisions of this ordinance, in which event such conflicting provisions, if any, in such other ordinance or ordinances are hereby repealed.

SECTION 9 - SEVERABILITY: That if any section, subsection, sentence, clause or phrase of this ordinance is for any reason held unconstitutional, such holding shall not affect the validity of the remaining portions of this ordinance.

SECTION 10. EFFECTIVE DATE. This ordinance shall take effect immediately from and after its passage and the publication of the caption as the law and charter in such cases provide.

DULY PASSED and approved by the City Council of the City of Lancaster, Texas, on the 8th day of September, 2014.

APPROVED:

MARCUS E. KNIGHT, MAYOR

ATTEST:

SORANGEL O. ARENAS, CITY SECRETARY

APPROVED AS TO FORM:

ROBERT E. HAGER, CITY ATTORNEY

EXHIBIT “A”
SERVICE AND ASSESSMENT PLAN

Account	Description	2013 FY Actual	2014 FY Actual	2014 FY Adopted Budget	2014 FY Revised Budget	2015 FY Budget	2016 FY Budget	2017 FY Budget	2018 FY Budget	2019 FY Budget
56-0201-04-00 SUPPLIES						1,100.00	1,133.00	1,133.00	1,133.00	1,133.00
56-0211-04-00 MISCELLANEOUS						1,500.00	1,545.00	1,545.00	1,545.00	1,545.00
56-0225-04-00 LANDSCAPING						27,000.00	27,810.00	27,810.00	27,810.00	27,810.00
Subtotal:						27,400.00	27,400.00	29,600.00	30,488.00	30,488.00
56-0372-04-00 IRRIGATION SYS MAINT & REPAIR						600.00	600.00	700.00	721.00	721.00
Subtotal:						600.00	600.00	700.00	721.00	721.00
56-0403-04-00 INSURANCE						3,600.00	3,600.00	3,600.00	206.00	206.00
56-0410-04-00 UTILITIES- ELECTRICITY						9,000.00	9,000.00	9,500.00	9,785.00	9,785.00
56-0413-04-00 SANITARY LANDFILL						9,000.00	9,000.00	9,500.00	9,785.00	9,785.00
56-0416-04-00 OTHER PROFESSIONAL SERVICE						3,500.00	3,500.00	3,500.00	3,605.00	3,605.00
56-0450-04-00 ADMINISTRATIVE MANAGEMENT FEE						14,000.00	14,000.00	15,000.00	15,965.00	15,965.00
Subtotal:						38,700.00	38,700.00	41,100.00	39,346.00	39,346.00
56-0511-04-00 PROPERTY TAXES PAID BY PID						200.00	200.00	200.00	206.00	206.00
Subtotal:						200.00	200.00	200.00	206.00	206.00
Program number:										
Department number: OPERATIONS										
Fund number: 56 LANCASTER MILLS - PID										
***** End of Report *****										

LANCASTER CITY COUNCIL

Item 9

Agenda Communication

August 25, 2014

Conduct a public hearing and discuss an ordinance making certain findings in connection with the proposed supplemental services ordered in connection with the Meadowview Public Improvement District.

This request supports the City Council 2014-2015 Policy Agenda.

Goal: Healthy, Safe, and Vibrant Community

Background

Meadowview is an established subdivision consisting of approximately 215.262 total acreage including 50.614 acres in Phase 1, 36.907 acres in Phase 2, 36.493 in Phase 3, 2.864 acres in Phase 4 and 88.384 acres in Phase 5. This subdivision is generally located east of Ames Road, west of Dizzy Dean Drive and north of Wintergreen Road. The subdivision has an approved Public Improvement District (PID) to provide for the maintenance of its common areas and entry features.

Annually the PID board in accordance with the provisions of Chapter 372 of the Texas Local Government Code (the "Act") is required to present an updated five (5) year service and assessment plan. Under the Act, the City is required to hold a public hearing on the proposed assessment and service plan details related to the district and the levy of the assessment.

The PID board is required to establish a maintenance budget. The taxable assessed value within the district is used to determine the rate per \$100 of assessed value necessary to meet the maintenance budget. The County Tax Collector will then collect the district's fees and remit them to the City with our property taxes. The City will disperse the income on a reimbursement basis according to the approved budget.

The Meadowview PID is proposing an annual assessment of \$0.1000 per \$100 assessed value.

Considerations

- **Operational** - All PID's require the Finance Department maintain a separate account that will be passed on to the district. The PID's should also help ensure that common areas will be maintained.
- **Legal** - The notice of public hearing was posted in accordance with the provisions of Chapter 372 in the Texas Local Government Code. The proposed five year service

assessment plan are in accordance with Chapter 372 of Texas Local Government Code and have been reviewed by the City Attorney.

- **Financial** - The PID is not expecting to have any direct financial impact on the City. PID's are a mechanism to assure financial sustainability for the neighborhood. They are considered to be a more equitable means of collecting revenue for maintenance. The 2014/2015 proposed service plan budget is \$81,970.44 and assessments are proposed at \$0.1000 per one hundred dollars assessed valuation.
- **Public Information** - City Council is required to hold a public hearing to receive comments regarding the annual maintenance and service plan prior to adoption. The public hearing was posted in the local publication of record, Focus Daily News and notices mailed to property owners as required by Local Government Code Chapter 372.

Options/Alternatives

1. Close the public hearing and place the item on the September 8, 2014 regular meeting for consideration.
2. Continue the public hearing to the September 8, 2014 regular meeting.

Recommendation

Staff recommends closing the public hearing and placing the item on the September 8, 2014 regular meeting for consideration.

Attachments

- Ordinance
- Service and Assessment Plan

Submitted by:

Rona Stringfellow, Assistant City Manager

ORDINANCE NO.

AN ORDINANCE OF THE CITY OF LANCASTER, TEXAS, MAKING CERTAIN FINDINGS IN CONNECTION WITH THE PROPOSED SUPPLEMENTAL SERVICES ORDERED IN CONNECTION WITH THE MEADOWVIEW PUBLIC IMPROVEMENT DISTRICT, PROVIDING FOR: FINDINGS OF BENEFITS ACCRUED, ACCEPTING FIVE YEAR SERVICE PLAN, RECORDING FINAL ASSESSMENT ONTO TAX ROLL, SETTING THE ASSESSMENT LEVY FOR USE AND SUPPORT OF THE PUBLIC IMPROVEMENT DISTRICT, ESTABLISHING A METHOD OF PAYMENT, ASSESSMENT DUE, AND PROVIDING CLAUSES FOR CONFLICT, SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, by Resolution No. 2011-08-67 passed on August 8, 2011, after the conduct of a duly notified public hearing, the City Council established the Meadowview Public Improvement District (the "District"); and

WHEREAS, on August 25, 2014 a public hearing was held and all persons owning or claiming any property proposed to be assessed or any interest therein were given an opportunity to be heard, either in person or through an agent or attorney, and all were given an opportunity to testify before the City Council and to contest the assessments proposed to be made on account of the amount thereof or because of any inaccuracy, irregularity, invalidity or insufficiency of the proceedings or contract with reference thereto, or to such improvements or on account of any matter or thing in the discretion of this governing body and on the 25th day of August, 2014, the City Council closed the public hearing; and levied assessments against property and the owners thereof in the District; and

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

SECTION 1 - BENEFITS ACCRUED: That the benefits to accrue to the property assessed and to the owners of such property, from the landscape maintenance and other services identified within the Five Year Service Plan, hereby adopted by the City Council, and herewith to be funded from the assessments, exceed the amount which has been assessed.

SECTION 2 - ADOPTING SERVICE PLAN: That the "*Service and Assessment Plan*", labeled herein as *Exhibit "A"* and attached hereto and made a part hereof is hereby adopted.

SECTION 3 - RECORD FINAL ASSESSMENT ONTO TAX ROLL: That the City Manager and his designated representatives are hereby authorized and directed to carry out the terms and provisions of this ordinance by causing the costs outlined in the final assessment roll to be recorded in the Tax Roll, the names of the property owners and in the amounts shown on

said final assessment roll; and that all prerequisites to the fixing of the assessments therein against the property described and the fixing of the personal liability of the owner or owners thereof have been performed in due time, form and manner as required by law, and no additional proof shall be required in any court.

SECTION 4 – **PROPERTY CLASSIFICATION AND APPORTIONMENT FORMULAS:** The City Council hereby establishes classifications and formulas for the apportionment of costs for various classes of property within the District as follows:

- (a) **Residential lots**, for these lots the assessment shall not exceed \$0.1000 per \$100 of valuation through the assessment established for 2014/2015; and
- (b) **Tax exempt property and municipal property**, for these classifications the assessment shall not exceed \$0.00 per \$100 of valuation.

SECTION 5 - **ASSESSMENT LEVY:** That for 2013/2014 there shall be and is hereby levied and assessed against parcels of property within the District, and against the real and true owners thereof (whether such owners be correctly named or not), the sum of money set forth for in the “*Service and Assessment Plan*”, labeled herein as *Exhibit “A”* and attached hereto and made a part hereof, shown opposite the description of the respective classification of the parcels of property, and the several amounts assessed against the same, and the owners thereof, with the provision that the amount assessed against each property and respective class of properties as shown in the *Service and Assessment Plan* may be adjusted for years subsequent following an annual review of the budget for the District and the *Service and Assessment Plan*.

SECTION 6 - **METHOD OF PAYMENT:** That the method of payment of the assessment shall be in an annual single lump sum payment which shall be immediately due upon receipt of the assessment notice and shall become delinquent on February 1 of the year after receipt of notice. Delinquent assessments are subject to interest, penalties, attorney’s fees and other charges, at the same rate as for the City of Lancaster delinquent ad valorem property taxes.

SECTION 7 - **ASSESSMENT DUE:** That a lien shall be established against each affected property within the district on the date the assessment is due, and shall not be released until the assessment is paid in full. This lien is superior to all other liens and claims except liens or claims for the state, county, school district or city ad valorem taxes.

SECTION 8 - **CONFLICT:** That this ordinance shall be and is hereby declared to be cumulative of all other ordinances of the City of Lancaster, Texas, and this ordinance shall not operate to repeal or affect any other ordinance except insofar as the provisions thereof might be inconsistent or in conflict with the provisions of this ordinance, in which event such conflicting provisions, if any, in such other ordinance or ordinances are hereby repealed.

SECTION 9 - SEVERABILITY: That if any section, subsection, sentence, clause or phrase of this ordinance is for any reason held unconstitutional, such holding shall not affect the validity of the remaining portions of this ordinance.

SECTION 10. EFFECTIVE DATE. This ordinance shall take effect immediately from and after its passage and the publication of the caption as the law and charter in such cases provide.

DULY PASSED and approved by the City Council of the City of Lancaster, Texas, on the 8th day of September, 2014.

APPROVED:

MARCUS E. KNIGHT, MAYOR

ATTEST:

SORANGEL O. ARENAS, CITY SECRETARY

APPROVED AS TO FORM:

ROBERT E. HAGER, CITY ATTORNEY

EXHIBIT “A”
SERVICE AND ASSESSMENT PLAN

Fund: 62 MEADOWVIEW - PID

Department: 4 OPERATIONS

Program:

Period Ending: 9/30/14

Account	Description	2013 FY Actual	2014 FY Actual	2014 FY Adopted Budget	2014 FY Revised Budget	2015 FY Budget	2016 FY Budget	2017 FY Budget	2018 FY Budget	2019 FY Budget
62-0201-04-00	SUPPLIES			250.00	250.00	250.00	250.00	250.00	250.00	250.00
62-0210-04-00	FOOD/BEVERAGE-MTGS/FUNCTIONS	124.00	128.00	150.00	150.00	250.00	250.00	250.00	250.00	250.00
62-0214-04-00	POSTAGE					600.00	600.00	600.00	600.00	600.00
62-0225-04-00	LANDSCAPING	39,488.00	7,109.00	4,000.00	8,000.00	8,000.00	8,000.00	8,000.00	8,000.00	8,000.00
Subtotal:		39,612.00	7,237.00	4,400.00	8,400.00	9,100.00	9,100.00	9,100.00	9,100.00	9,100.00
62-0303-04-00	MAINTENANCE-MISCELLANEOUS									
62-0351-04-00	MISC. MAINTENANCE			500.00	500.00	2,500.00	2,500.00	2,500.00	2,500.00	2,500.00
62-0372-04-00	IRRIGATIONS SYS REPAIR & MAINT	2,464.00	6,538.00	4,000.00	9,000.00	4,500.00	4,500.00	4,500.00	4,500.00	4,500.00
Subtotal:		2,464.00	6,538.00	4,500.00	9,500.00	10,700.00	10,700.00	10,700.00	10,700.00	10,700.00
62-0403-04-00	INSURANCE			6,000.00	6,000.00	6,000.00	6,000.00	6,000.00	6,000.00	6,000.00
62-0410-04-00	UTILITIES - ELECTRICITY	389.26	277.52	525.00	525.00	400.00	400.00	400.00	400.00	400.00
62-0411-04-00	WATER PURCHASES PID	7,415.05	5,299.93	15,000.00	15,000.00	10,000.00	10,000.00	10,000.00	10,000.00	10,000.00
62-0421-04-00	PRINTING			250.00	250.00	450.00	450.00	450.00	450.00	450.00
62-0422-04-00	COMPUTER PROFESSIONAL SERVICES			1,000.00	1,000.00					
62-0423-04-00	CONTRACT MOWING	13,907.00	13,330.00	16,000.00	16,000.00	17,500.00	17,500.00	17,500.00	17,500.00	17,500.00
62-0434-04-00	SPECIAL EVENTS			750.00	750.00	750.00	750.00	750.00	750.00	750.00
62-0436-04-00	IMPROVEMENTS BY CONTRACTORS	11,490.00		15,000.00	6,000.00	20,000.00	20,000.00	20,000.00	20,000.00	20,000.00
62-0446-04-00	LEGAL SERVICES			500.00	500.00	1,500.00	1,500.00	1,500.00	1,500.00	1,500.00
62-0456-04-00	NEWSLETTER			250.00	250.00					
62-0469-04-00	STORAGE					749.00	749.00	749.00	750.00	749.00
Subtotal:		33,201.31	18,907.45	55,275.00	46,275.00	57,349.00	57,349.00	57,349.00	57,350.00	57,349.00
62-0511-04-00	PROPERTY TAXES PAID BY PID		13.04	15.00	15.00	15.00	15.00	15.00	15.00	15.00
62-0537-04-00	DALLAS COUNTY TAX COLL SVCS	2,233.00		2,227.50	2,227.50	2,228.00	2,228.00	2,228.00	2,227.00	2,228.00
62-0546-04-00	REFUNDS					2,578.00	2,578.00	2,578.00	2,578.00	2,578.00
Subtotal:		2,233.00	13.04	2,242.50	2,242.50	4,821.00	4,821.00	4,821.00	4,820.00	4,821.00
Program number:		77,510.31	32,695.49	66,417.50	66,417.50	81,970.00	81,970.00	81,970.00	81,970.00	81,970.00
Department number:	OPERATIONS	77,510.31	32,695.49	66,417.50	66,417.50	81,970.00	81,970.00	81,970.00	81,970.00	81,970.00
Fund number:	62 MEADOWVIEW - PID	77,510.31	32,695.49	66,417.50	66,417.50	81,970.00	81,970.00	81,970.00	81,970.00	81,970.00

***** End of Report *****

LANCASTER CITY COUNCIL

Item 10

Agenda Communication

August 25, 2014

Conduct a public hearing and discuss an ordinance making certain findings in connection with the proposed supplemental services ordered in connection with the Tribute at Mills Branch and Tribute East at Mills Branch Public Improvement District.

This request supports the City Council 2014-2015 Policy Agenda.

Goal: Healthy, Safe, and Vibrant Community

Background

Tribute at Mills Branch is a subdivision of approximately 42.7 acres located south of Beltline Road and east of Southwood Drive and platted as the Tribute at Mills Branch, Phases 1A and 1B, recorded in Volume 2005097, Page 37 and Volume 2005163, Page 183, Deed Records of Dallas County, Texas; and Tribute East at Mills Branch (291 North Blue Grove Road); of approximately 4.64 acres from John M. Rawlins Abstract 1209, pg 245, Tract 8, located south of Beltline Road on the west side of North Bluegrove Road, conveyed to Wilbow Homestead Development Corporation, Volume 2005097, Page 3594 Deed Records of Dallas County, Texas. The subdivision has an approved Public Improvement District (PID) to provide for the maintenance of its common areas and entry features.

Annually the PID board in accordance with the provisions of Chapter 372 of the Texas Local Government Code (the "Act") is required to present an updated five (5) year service and assessment plan. Under the Act, the City is required to hold a public hearing on the proposed assessment and service plan details related to the district and the levy of the assessment.

The PID board is required to establish a maintenance budget. The taxable assessed value within the district is used to determine the rate per \$100 of assessed value necessary to meet the maintenance budget. The County Tax Collector will then collect the district's fees and remit them to the City with our property taxes. The City will disperse the income on a reimbursement basis according to the approved budget.

As this district is not completed, the PID board has proposed an assessment plan for lots with completed homes at a rate of \$0.3600 per \$100 assessed valuation and lots without completed homes at \$0.5000 per \$100 assessed valuation.

Considerations

- **Operational** - All PID's require the Finance Department maintain a separate account that will be passed on to the district. The PID's should also help ensure that common areas will be maintained.
- **Legal** - The notice of public hearing was posted in accordance with the provisions of Chapter 372 in the Texas Local Government Code. The proposed five year service and assessment plan are in accordance with Chapter 372 of Texas Local Government Code and have been reviewed by the City Attorney.
- **Financial** - The PID is not expecting to have any direct financial impact on the City. PID's are a mechanism to assure financial sustainability for the neighborhood. They are considered to be a more equitable means of collecting revenue for maintenance. The 2014/2015 proposed service plan budget is \$29,524 and assessments are proposed at \$0.3600 (lots with homes) per one hundred dollars assessed valuation and \$0.5000 (lots without homes) per one hundred dollars assessed valuation.
- **Public Information** - City Council is required to hold a public hearing to receive comments regarding the annual maintenance and service plan prior to adoption. The public hearing was posted in the local publication of record, Focus Daily News and notices mailed to property owners as required by Local Government Code Chapter 372.

Options/Alternatives

1. Close the public hearing and place the item on the September 8, 2014 regular meeting for consideration.
2. Continue the public hearing to the September 8, 2014 regular meeting.

Recommendation

Staff recommends closing the public hearing and placing the item on the September 8, 2014 regular meeting for consideration.

Attachments

- Ordinance
- Service and Assessment Plan

Submitted by:

Rona Stringfellow, Assistant City Manager

ORDINANCE NO.

**AN ORDINANCE OF THE CITY OF LANCASTER, TEXAS,
MAKING CERTAIN FINDINGS IN CONNECTION WITH
THE PROPOSED SUPPLEMENTAL SERVICES
ORDERED IN CONNECTION WITH THE TRIBUTE AT
MILLS BRANCH AND TRIBUTE EAST AT MILLS
BRANCH PUBLIC IMPROVEMENT DISTRICT,
PROVIDING FOR: FINDINGS OF BENEFITS ACCRUED,
ACCEPTING FIVE YEAR SERVICE PLAN, RECORDING
FINAL ASSESSMENT ONTO TAX ROLL, SETTING THE
ASSESSMENT LEVY FOR USE AND SUPPORT OF THE
PUBLIC IMPROVEMENT DISTRICT, ESTABLISHING A
METHOD OF PAYMENT, ASSESSMENT DUE, AND
PROVIDING CLAUSES FOR CONFLICT, SEVERABILITY
AND AN EFFECTIVE DATE.**

WHEREAS, by Resolution No. 2006-03-28 passed on March 27, 2006, after the conduct of a duly notified public hearing, the City Council established the Tribute at Mills Branch and Tribute East at Mills Branch Public Improvement District (the "District"); and

WHEREAS, on August 25, 2014 a public hearing was held and all persons owning or claiming any property proposed to be assessed or any interest therein were given an opportunity to be heard, either in person or through an agent or attorney, and all were given an opportunity to testify before the City Council and to contest the assessments proposed to be made on account of the amount thereof or because of any inaccuracy, irregularity, invalidity or insufficiency of the proceedings or contract with reference thereto, or to such improvements or on account of any matter or thing in the discretion of this governing body and on the 25th day of August, 2014, the City Council closed the public hearing; and levied assessments against property and the owners thereof in the District; and

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

SECTION 1 - BENEFITS ACCRUED: That the benefits to accrue to the property assessed and to the owners of such property, from the landscape maintenance and other services identified within the Five Year Service Plan, hereby adopted by the City Council, and herewith to be funded from the assessments, exceed the amount which has been assessed.

SECTION 2 - ADOPTING SERVICE PLAN: That the "*Service and Assessment Plan*", labeled herein as *Exhibit "A"* and attached hereto and made a part hereof is hereby adopted.

SECTION 3 - RECORD FINAL ASSESSMENT ONTO TAX ROLL: That the City Manager and his designated representatives are hereby authorized and directed to carry out the terms and provisions of this ordinance by causing the costs outlined in the final assessment roll to be recorded in the Tax Roll, the names of the property owners and in the amounts shown on said final assessment roll; and that all prerequisites to the fixing of the assessments therein against the property described and the fixing of the personal liability of the owner or owners thereof have been performed in due time, form and manner as required by law, and no additional proof shall be required in any court.

SECTION 4 – PROPERTY CLASSIFICATION AND APPORTIONMENT FORMULAS: The City Council hereby establishes classifications and formulas for the apportionment of costs for various classes of property within the District as follows:

(a) **Residential lots on which construction of a home has been completed**, for these lots the assessment shall not exceed \$0.3600 (lots with homes) per \$100 of assessed valuation and \$0.5000 (lots without homes) per \$100 assessed valuation through the assessment established for 2014/2015; and

(b) **Tax exempt property and municipal property**, for these classifications the assessment shall not exceed \$0.00 per \$100 of valuation.

SECTION 5 - ASSESSMENT LEVY: That for 2014/2015 there shall be and is hereby levied and assessed against parcels of property within the District, and against the real and true owners thereof (whether such owners be correctly named or not), the sum of money set forth for in the “*Service and Assessment Plan*”, labeled herein as *Exhibit “A”* and attached hereto and made a part hereof, shown opposite the description of the respective classification of the parcels of property, and the several amounts assessed against the same, and the owners thereof, with the provision that the amount assessed against each property and respective class of properties as shown in the *Service and Assessment Plan* may be adjusted for years subsequent following an annual review of the budget for the District and the *Service and Assessment Plan*.

SECTION 6 - METHOD OF PAYMENT: That the method of payment of the assessment shall be in an annual single lump sum payment which shall be immediately due upon receipt of the assessment notice and shall become delinquent on February 1 of the year after receipt of notice. Delinquent assessments are subject to interest, penalties, attorney’s fees and other charges, at the same rate as for the City of Lancaster delinquent ad valorem property taxes.

SECTION 7 - ASSESSMENT DUE: That a lien shall be established against each affected property within the district on the date the assessment is due, and shall not be released until the assessment is paid in full. This lien is superior to all other liens and

claims except liens or claims for the state, county, school district or city ad valorem taxes.

SECTION 8 - CONFLICT: That this ordinance shall be and is hereby declared to be cumulative of all other ordinances of the City of Lancaster, Texas, and this ordinance shall not operate to repeal or affect any other ordinance except insofar as the provisions thereof might be inconsistent or in conflict with the provisions of this ordinance, in which event such conflicting provisions, if any, in such other ordinance or ordinances are hereby repealed.

SECTION 9 - SEVERABILITY: That if any section, subsection, sentence, clause or phrase of this ordinance is for any reason held unconstitutional, such holding shall not affect the validity of the remaining portions of this ordinance.

SECTION 10. EFFECTIVE DATE. This ordinance shall take effect immediately from and after its passage and the publication of the caption as the law and charter in such cases provide.

DULY PASSED and approved by the City Council of the City of Lancaster, Texas, on the 8th day of September, 2014.

APPROVED:

MARCUS E. KNIGHT, MAYOR

ATTEST:

SORANGEL O. ARENAS, CITY SECRETARY

APPROVED AS TO FORM:

ROBERT E. HAGER, CITY ATTORNEY

EXHIBIT “A”
SERVICE AND ASSESSMENT PLAN

Fund: 55 TRIBUTE MILLS - PID

Department: 4 OPERATIONS

Program:

Revised Budget: 8/2014

Account	Description	2013 FY Actual	2014 FY Actual	2014 FY Adopted Budget	2014 FY Revised Budget	2015 FY Budget	2016 FY Budget	2017 FY Budget	2018 FY Budget	2019 FY Budget
55-0201-04-00 SUPPLIES		400.46	420.27	300.00	300.00	300.00	300.00	300.00	300.00	300.00
55-0211-04-00 MISCELLANEOUS EXPENSE				100.00	100.00	100.00	100.00	100.00	100.00	100.00
55-0214-04-00 POSTAGE		61.25		380.00	380.00	600.00	600.00	600.00	600.00	600.00
55-0225-04-00 LANDSCAPING		14,594.39	13,370.00	11,650.00	11,650.00	16,044.00	16,044.00	16,044.00	16,044.00	16,044.00
Subtotal:		15,056.10	13,790.27	12,430.00	12,430.00	17,044.00	17,044.00	17,044.00	17,044.00	17,044.00
55-0372-04-00 IRRIGATION SYS MAINT & REPAIR		999.86				500.00	500.00	500.00	500.00	500.00
Subtotal:		999.86				500.00	500.00	500.00	500.00	500.00
55-0403-04-00 INSURANCE		2,558.00	2,663.00	2,644.00	2,644.00	2,769.00	2,769.00	2,769.00	2,769.00	2,769.00
55-0410-04-00 UTILITIES - ELECTRICITY		639.67	714.11	1,000.00	1,000.00	1,000.00	1,000.00	1,000.00	1,000.00	1,000.00
55-0411-04-00 UTILITIES - WATER/SEWER		2,395.85								
55-0421-04-00 PRINTING		40.00		40.00	40.00	40.00	40.00	40.00	40.00	40.00
55-0434-04-00 SPECIAL EVENTS			150.00			80.00	80.00	80.00	80.00	80.00
55-0436-04-00 LANDSCAPE IMPROVEMENTS		2,320.10		300.00	300.00	591.00	591.00	591.00	591.00	591.00
55-0437-04-00 AUDIT SERVICES		29.61				300.00	300.00	300.00	300.00	300.00
55-0450-04-00 ADMINISTRATIVE MANAGEMENT FEE		5,000.00	5,000.00	6,000.00	6,000.00	6,702.25	6,702.25	6,702.25	6,702.25	6,702.25
Subtotal:		12,983.23	8,527.11	9,984.00	9,984.00	11,482.25	11,482.25	11,482.25	11,482.25	11,482.25
55-0537-04-00 DALLAS COUNTY TAX COLL SVCS		522.50		497.75	497.75	497.75	497.75	497.75	497.75	497.75
Subtotal:		522.50		497.75	497.75	497.75	497.75	497.75	497.75	497.75
Program number:		29,561.69	22,317.38	22,911.75	22,911.75	29,524.00	29,524.00	29,524.00	29,524.00	29,524.00
Department number: OPERATIONS		29,561.69	22,317.38	22,911.75	22,911.75	29,524.00	29,524.00	29,524.00	29,524.00	29,524.00
Fund number: 55 TRIBUTE MILLS - PID		29,561.69	22,317.38	22,911.75	22,911.75	29,524.00	29,524.00	29,524.00	29,524.00	29,524.00

***** End of Report *****

LANCASTER CITY COUNCIL

Item 11

Agenda Communication

August 25, 2014

Conduct a public hearing and discuss an ordinance making certain findings in connection with the proposed supplemental services ordered in connection with the Glendover Estates Public Improvement District.

This request supports the City Council 2014-2015 Policy Agenda.

Goal: Healthy, Safe, and Vibrant Community

Background

Glendover Estates is an established subdivision of approximately 29.56 acres generally located south of Pleasant Run Road and west of Houston School Road. The subdivision has an approved Public Improvement District (PID) to provide for the maintenance of its common areas and entry features.

Annually the PID board in accordance with the provisions of Chapter 372 of the Texas Local Government Code (the "Act") is required to present an updated five (5) year service and assessment plan. Under the Act, the City is required to hold a public hearing on the proposed assessment and service plan details related to the district and the levy of the assessment.

The PID board is required to establish a maintenance budget. The taxable assessed value within the district is used to determine the rate per \$100 of assessed value necessary to meet the maintenance budget. The County Tax Collector will then collect the district's fees and remit them to the City with our property taxes. The City will disperse the income on a reimbursement basis according to the approved budget.

The Glendover Estates PID is proposing an annual assessment of \$0.2400 per \$100 assessed value.

Considerations

- **Operational** - All PID's require the Finance Department maintain a separate account that will be passed on to the district. The PID's should also help ensure that common areas will be maintained.
- **Legal** - The notice of public hearing was posted in accordance with the provisions of Chapter 372 in the Texas Local Government Code. The proposed five year service and assessment plan are in accordance with Chapter 372 of Texas Local Government Code and have been reviewed by the City Attorney.

- **Financial** - The PID is not expecting to have any direct financial impact on the City. PID's are a mechanism to assure financial sustainability for the neighborhood. They are considered to be a more equitable means of collecting revenue for maintenance. The 2014/2015 proposed service plan budget is \$36,130.26 and assessments are proposed at \$0.2400 per one hundred dollars assessed valuation, a reduction from the previous year assessment of \$0.2500 per one hundred dollars assessed valuation.
- **Public Information** - City Council is required to hold a public hearing to receive comments regarding the annual maintenance and service plan prior to adoption. The public hearing was posted in the local publication of record, Focus Daily News and notices mailed to property owners as required by Local Government Code Chapter 372.

Options/Alternatives

1. Close the public hearing and place the item on the September 8, 2014 regular meeting for consideration.
2. Continue the public hearing to the September 8, 2014 regular meeting.

Recommendation

Staff recommends closing the public hearing and placing the item on the September 8, 2014 regular meeting for consideration.

Attachments

- Ordinance
- Service and Assessment Plan

Submitted by:

Rona Stringfellow, Assistant City Manager

ORDINANCE NO.

AN ORDINANCE OF THE CITY OF LANCASTER, TEXAS, MAKING CERTAIN FINDINGS IN CONNECTION WITH THE PROPOSED SUPPLEMENTAL SERVICES ORDERED IN CONNECTION WITH THE GLENDOVER ESTATES PUBLIC IMPROVEMENT DISTRICT, PROVIDING FOR: FINDINGS OF BENEFITS ACCRUED, ACCEPTING FIVE YEAR SERVICE PLAN, RECORDING FINAL ASSESSMENT ONTO TAX ROLL, SETTING THE ASSESSMENT LEVY FOR USE AND SUPPORT OF THE PUBLIC IMPROVEMENT DISTRICT, ESTABLISHING A METHOD OF PAYMENT, ASSESSMENT DUE, AND PROVIDING CLAUSES FOR CONFLICT, SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, by Resolution No. 2006-09-76 passed on September 25, 2006, after the conduct of a duly notified public hearing, the City Council established the Glendover Estates Public Improvement District (the "District"); and

WHEREAS, on August 25, 2014 a public hearing was held and all persons owning or claiming any property proposed to be assessed or any interest therein were given an opportunity to be heard, either in person or through an agent or attorney, and all were given an opportunity to testify before the City Council and to contest the assessments proposed to be made on account of the amount thereof or because of any inaccuracy, irregularity, invalidity or insufficiency of the proceedings or contract with reference thereto, or to such improvements or on account of any matter or thing in the discretion of this governing body and on the 25th day of August, 2014, the City Council closed the public hearing; and levied assessments against property and the owners thereof in the District; and

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

SECTION 1 - BENEFITS ACCRUED: That the benefits to accrue to the property assessed and to the owners of such property, from the landscape maintenance and other services identified within the Five Year Service Plan, hereby adopted by the City Council, and herewith to be funded from the assessments, exceed the amount which has been assessed.

SECTION 2 - ADOPTING SERVICE PLAN: That the "*Service and Assessment Plan*", labeled herein as *Exhibit "A"* and attached hereto and made a part hereof is hereby adopted.

SECTION 3 - RECORD FINAL ASSESSMENT ONTO TAX ROLL: That the City Manager and his designated representatives are hereby authorized and directed to carry out the terms and provisions of this ordinance by causing the costs outlined in the final assessment roll to be recorded in the Tax Roll, the names of the property owners and in the amounts shown on said final assessment roll; and that all prerequisites to the fixing of the assessments therein against the property described and the fixing of the personal liability of the owner or owners thereof have been performed in due time, form and manner as required by law, and no additional proof shall be required in any court.

SECTION 4 – PROPERTY CLASSIFICATION AND APPORTIONMENT FORMULAS: The City Council hereby establishes classifications and formulas for the apportionment of costs for various classes of property within the District as follows:

- (a) **Residential lots on which construction of a home has been completed**, for these lots the assessment shall not exceed \$0.2400 per \$100 of valuation through the assessment established for 2014/2015; and
- (b) **Tax exempt property and municipal property**, for these classifications the assessment shall not exceed \$0.00 per \$100 of valuation.

SECTION 5 - ASSESSMENT LEVY: That for 2014/2015 there shall be and is hereby levied and assessed against parcels of property within the District, and against the real and true owners thereof (whether such owners be correctly named or not), the sum of money set forth for in the “*Service and Assessment Plan*”, labeled herein as *Exhibit “A”* and attached hereto and made a part hereof, shown opposite the description of the respective classification of the parcels of property, and the several amounts assessed against the same, and the owners thereof, with the provision that the amount assessed against each property and respective class of properties as shown in the *Service and Assessment Plan* may be adjusted for years subsequent following an annual review of the budget for the District and the *Service and Assessment Plan*.

SECTION 6 - METHOD OF PAYMENT: That the method of payment of the assessment shall be in an annual single lump sum payment which shall be immediately due upon receipt of the assessment notice and shall become delinquent on February 1 of the year after receipt of notice. Delinquent assessments are subject to interest, penalties, attorney’s fees and other charges, at the same rate as for the City of Lancaster delinquent ad valorem property taxes.

SECTION 7 - ASSESSMENT DUE: That a lien shall be established against each affected property within the district on the date the assessment is due, and shall not be released until the assessment is paid in full. This lien is superior to all other liens and claims except liens or claims for the state, county, school district or city ad valorem taxes.

SECTION 8 - CONFLICT: That this ordinance shall be and is hereby declared to be cumulative of all other ordinances of the City of Lancaster, Texas, and this ordinance shall not operate to repeal or affect any other ordinance except insofar as the provisions thereof might be inconsistent or in conflict with the provisions of this ordinance, in which event such conflicting provisions, if any, in such other ordinance or ordinances are hereby repealed.

SECTION 9 - SEVERABILITY: That if any section, subsection, sentence, clause or phrase of this ordinance is for any reason held unconstitutional, such holding shall not affect the validity of the remaining portions of this ordinance.

SECTION 10 - EFFECTIVE DATE. This ordinance shall take effect immediately from and after its passage and the publication of the caption as the law and charter in such cases provide.

DULY PASSED and approved by the City Council of the City of Lancaster, Texas, on the 8th day of September, 2014.

APPROVED:

MARCUS E. KNIGHT, MAYOR

ATTEST:

SORANGEL O. ARENAS, CITY SECRETARY

APPROVED AS TO FORM:

ROBERT E. HAGER, CITY ATTORNEY

EXHIBIT “A”
SERVICE AND ASSESSMENT PLAN

Fund: 54 GLENDOVER ESTATES - PID

Department: 4 OPERATIONS

Program:

Revised Budget: 8/2014

Account	Description	2013 FY Actual	2014 FY Actual	2014 FY Adopted Budget	2014 FY Revised Budget	2015 FY Budget	2016 FY Budget	2017 FY Budget	2018 FY Budget	2019 FY Budget
54-0201-04-00	OFFICE SUPPLIES	519.41	402.94	500.00	500.00	500.00	500.00	500.00	500.00	500.00
54-0211-04-00	MISCELLANEOUS			350.00	350.00	50.00	50.00	50.00	50.00	50.00
54-0214-04-00	POSTAGE	108.39		300.00	300.00	100.00	100.00	100.00	100.00	100.00
54-0225-04-00	LANDSCAPING	10,393.75	9,877.50	11,775.00	11,775.00	11,775.00	11,775.00	11,775.00	11,775.00	11,775.00
Subtotal:		11,021.55	10,280.44	12,925.00	12,925.00	12,425.00	12,425.00	12,425.00	12,425.00	12,425.00
54-0301-04-00	MAINT-BLDGS & STRUCTURES			5,830.00	5,830.00					
54-0351-04-00	MISC. MAINTENANCE			500.00	500.00					
54-0372-04-00	IRRIGATION SYS REPAIR & MAINT	975.00	660.00	1,000.00	1,000.00	1,000.00	1,000.00	1,000.00	1,000.00	1,000.00
Subtotal:		975.00	660.00	7,330.00	7,330.00	1,000.00	1,000.00	1,000.00	1,000.00	1,000.00
54-0403-04-00	CASUALTY INSURANCE	1,975.67	1,990.42	2,006.00	2,006.00	2,110.00	2,110.00	2,110.00	2,110.00	2,110.00
54-0410-04-00	UTILITIES - ELECTRICITY	395.04	350.77	750.00	750.00	750.00	750.00	750.00	750.00	750.00
54-0411-04-00	WATER PURCHASE PID	2,120.45	1,856.91	3,500.00	3,500.00	3,500.00	3,500.00	3,500.00	3,500.00	3,500.00
54-0416-04-00	OTHER/PROFESSIONAL SERVICES			500.00	500.00	500.00	500.00	500.00	500.00	500.00
54-0421-04-00	PRINTING			100.00	100.00	38.00	38.00	38.00	38.00	38.00
54-0434-04-00	SPECIAL EVENTS			211.00	211.00	250.00	250.00	250.00	250.00	250.00
54-0436-04-00	LANDSCAPING IMPROVEMENTS		5,557.14	6,700.00	6,700.00	300.00	300.00	300.00	300.00	300.00
54-0437-04-00	AUDIT SERVICES	6.36		300.00	300.00	6,674.50	6,674.50	6,674.50	6,674.50	6,674.50
54-0450-04-00	ADMINISTRATIVE MANAGEMENT FEE	8,200.00	5,750.00	6,900.00	6,900.00	180.00	180.00	180.00	180.00	180.00
54-0469-04-00	STORAGE	180.00	150.00	180.00	180.00					
Subtotal:		12,877.52	15,655.24	21,147.00	21,147.00	14,302.50	14,302.50	14,242.50	14,302.50	14,302.50
54-0511-04-00	PROPERTY TAXES PAID BY PID					8,177.00				
54-0537-04-00	DALLAS COUNTY TAX COLL SVCS	271.89		225.50	225.50	225.50	225.50	225.50	225.50	225.50
Subtotal:		271.89		225.50	225.50	8,402.50	225.50	225.50	225.50	225.50
Program number:		25,145.96	26,595.68	41,627.50	41,627.50	36,130.00	27,953.00	27,893.00	27,953.00	27,953.00
Department number:	OPERATIONS	25,145.96	26,595.68	41,627.50	41,627.50	36,130.00	27,953.00	27,893.00	27,953.00	27,953.00
Fund number:	54 GLENDOVER ESTATES - PID	25,145.96	26,595.68	41,627.50	41,627.50	36,130.00	27,953.00	27,893.00	27,953.00	27,953.00

***** End of Report *****

LANCASTER CITY COUNCIL

Item 12

Agenda Communication

August 25, 2014

Conduct a public hearing and discuss an ordinance making certain findings in connection with the proposed supplemental services ordered in connection with the Rolling Meadows Public Improvement District.

This request supports the City Council 2014-2015 Policy Agenda.

Goal: Healthy, Safe, and Vibrant Community

Background

Rolling Meadows is an established subdivision consisting of approximately 38.8 acres generally located on the east and west side of Rolling Hills Place and on the North side of Beltline. The subdivision has an approved Public Improvement District (PID) to provide for the maintenance of its common areas and entry features.

Annually the PID board in accordance with the provisions of Chapter 372 of the Texas Local Government Code (the "Act") is required to present an updated five (5) year service and assessment plan. Under the Act, the City is required to hold a public hearing on the proposed assessment and service plan details related to the district and the levy of the assessment.

The PID board is required to establish a maintenance budget. The taxable assessed value within the district is used to determine the rate per \$100 of assessed value necessary to meet the maintenance budget. The County Tax Collector will then collect the district's fees and remit them to the City with our property taxes. The City will disperse the income on a reimbursement basis according to the approved budget.

The Rolling Meadows PID is proposing an annual assessment of \$0.250 per \$100 assessed value.

Considerations

- **Operational** - All PID's require the Finance Department maintain a separate account that will be passed on to the district. The PID's should also help ensure that common areas will be maintained.
- **Legal** - The notice of public hearing was posted in accordance with the provisions of Chapter 372 in the Texas Local Government Code. The proposed five year service and assessment plan are in accordance with Chapter 372 of Texas Local Government Code and have been reviewed by the City Attorney.

- **Financial** - The PID is not expecting to have any direct financial impact on the City. PID's are a mechanism to assure financial sustainability for the neighborhood. They are considered to be a more equitable means of collecting revenue for maintenance. The 2014/2015 proposed service plan budget is \$45,155.58 and assessments are proposed at \$0.250 per one hundred dollars assessed valuation.
- **Public Information** - City Council is required to hold a public hearing to receive comments regarding the annual maintenance and service plan prior to adoption. The public hearing was posted in the local publication of record, Focus Daily News and notices mailed to property owners as required by Local Government Code Chapter 372.

Options/Alternatives

1. Close the public hearing and place the item on the September 8, 2014 regular meeting for consideration.
2. Continue the public hearing to the September 8, 2014 regular meeting.

Recommendation

Staff recommends closing the public hearing and placing the item on the September 8, 2014 regular meeting for consideration.

Attachments

- Ordinance
- Service and Assessment Plan

Submitted by:
Rona Stringfellow, Assistant City Manager

ORDINANCE NO.

AN ORDINANCE OF THE CITY OF LANCASTER, TEXAS, MAKING CERTAIN FINDINGS IN CONNECTION WITH THE PROPOSED SUPPLEMENTAL SERVICES ORDERED IN CONNECTION WITH THE ROLLING MEADOWS PUBLIC IMPROVEMENT DISTRICT, PROVIDING FOR: FINDINGS OF BENEFITS ACCRUED, ACCEPTING FIVE YEAR SERVICE PLAN, RECORDING FINAL ASSESSMENT ONTO TAX ROLL, SETTING THE ASSESSMENT LEVY FOR USE AND SUPPORT OF THE PUBLIC IMPROVEMENT DISTRICT, ESTABLISHING A METHOD OF PAYMENT, ASSESSMENT DUE, AND PROVIDING CLAUSES FOR CONFLICT, SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, by Resolution No. 2008-08-77 passed on August 25, 2008, after the conduct of a duly notified public hearing, the City Council established the Rolling Meadows Public Improvement District (the "District"); and

WHEREAS, on August 25, 2014 a public hearing was held and all persons owning or claiming any property proposed to be assessed or any interest therein were given an opportunity to be heard, either in person or through an agent or attorney, and all were given an opportunity to testify before the City Council and to contest the assessments proposed to be made on account of the amount thereof or because of any inaccuracy, irregularity, invalidity or insufficiency of the proceedings or contract with reference thereto, or to such improvements or on account of any matter or thing in the discretion of this governing body and on the 25th day of August, 2014, the City Council closed the public hearing; and levied assessments against property and the owners thereof in the District; and

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

SECTION 1 - BENEFITS ACCRUED: That the benefits to accrue to the property assessed and to the owners of such property, from the landscape maintenance and other services identified within the Five Year Service Plan, hereby adopted by the City Council, and herewith to be funded from the assessments, exceed the amount which has been assessed.

SECTION 2 - ADOPTING SERVICE PLAN: That the "*Service and Assessment Plan*", labeled herein as *Exhibit "A"* and attached hereto and made a part hereof is hereby adopted.

SECTION 3 - RECORD FINAL ASSESSMENT ONTO TAX ROLL: That the City Manager and his designated representatives are hereby authorized and directed to carry out the terms and provisions of this ordinance by causing the costs outlined in the final assessment roll to be recorded in the Tax Roll, the names of the property owners and in the amounts shown on

said final assessment roll; and that all prerequisites to the fixing of the assessments therein against the property described and the fixing of the personal liability of the owner or owners thereof have been performed in due time, form and manner as required by law, and no additional proof shall be required in any court.

SECTION 4 – **PROPERTY CLASSIFICATION AND APPORTIONMENT FORMULAS:** The City Council hereby establishes classifications and formulas for the apportionment of costs for various classes of property within the District as follows:

- (a) **Residential lots on which construction of a home has been completed**, for these lots the assessment shall not exceed \$0.250 per \$100 of valuation through the assessment established for 2014/2015; and
- (b) **Tax exempt property and municipal property**, for these classifications the assessment shall not exceed \$0.00 per \$100 of valuation.

SECTION 5 - **ASSESSMENT LEVY:** That for 2014/2015 there shall be and is hereby levied and assessed against parcels of property within the District, and against the real and true owners thereof (whether such owners be correctly named or not), the sum of money set forth for in the “*Service and Assessment Plan*”, labeled herein as *Exhibit “A”* and attached hereto and made a part hereof, shown opposite the description of the respective classification of the parcels of property, and the several amounts assessed against the same, and the owners thereof, with the provision that the amount assessed against each property and respective class of properties as shown in the *Service and Assessment Plan* may be adjusted for years subsequent following an annual review of the budget for the District and the *Service and Assessment Plan*.

SECTION 6 - **METHOD OF PAYMENT:** That the method of payment of the assessment shall be in an annual single lump sum payment which shall be immediately due upon receipt of the assessment notice and shall become delinquent on February 1 of the year after receipt of notice. Delinquent assessments are subject to interest, penalties, attorney’s fees and other charges, at the same rate as for the City of Lancaster delinquent ad valorem property taxes.

SECTION 7 - **ASSESSMENT DUE:** That a lien shall be established against each affected property within the district on the date the assessment is due, and shall not be released until the assessment is paid in full. This lien is superior to all other liens and claims except liens or claims for the state, county, school district or city ad valorem taxes.

SECTION 8 - **CONFLICT:** That this ordinance shall be and is hereby declared to be cumulative of all other ordinances of the City of Lancaster, Texas, and this ordinance shall not operate to repeal or affect any other ordinance except insofar as the provisions thereof might be inconsistent or in conflict with the provisions of this ordinance, in which event such conflicting provisions, if any, in such other ordinance or ordinances are hereby repealed.

SECTION 9 - SEVERABILITY: That if any section, subsection, sentence, clause or phrase of this ordinance is for any reason held unconstitutional, such holding shall not affect the validity of the remaining portions of this ordinance.

SECTION 10. EFFECTIVE DATE. This ordinance shall take effect immediately from and after its passage and the publication of the caption as the law and charter in such cases provide.

DULY PASSED and approved by the City Council of the City of Lancaster, Texas, on the 8th day of September, 2014.

APPROVED:

MARCUS E. KNIGHT, MAYOR

ATTEST:

SORANGEL O. ARENAS, CITY SECRETARY

APPROVED AS TO FORM:

ROBERT E. HAGER, CITY ATTORNEY

EXHIBIT “A”
SERVICE AND ASSESSMENT PLAN

Fund: 57 ROLLING MEADOWS - PID

Department: 4 OPERATIONS

Program:

Account	Description	2013 FY Actual	2014 FY Actual	2014 FY Adopted Budget	2014 FY Revised Budget	2015 FY Budget	2016 FY Budget	2017 FY Budget	2018 FY Budget	2019 FY Budget
57-0201-04-00 OFFICE SUPPLIES			25.00							
57-0210-04-00 FOOD/BEV-MEETINGS/FUNCTIONS		241.40	124.16	1,000.00	1,000.00	1,000.00	1,000.00	1,000.00	1,000.00	1,000.00
57-0211-04-00 ADMINISTRATIVE MANAGEMENT FEE		25.00		1,236.00	1,236.00	7,800.00	7,800.00	7,800.00	7,800.00	7,800.00
57-0214-04-00 POSTAGE		48.18		500.00	500.00	250.00	250.00	250.00	250.00	250.00
57-0225-04-00 LANDSCAPING		7,327.60	6,920.00	8,304.00	8,304.00	8,304.00	8,304.00	8,304.00	8,304.00	8,304.00
Subtotal:		7,642.18	7,069.16	11,040.00	11,040.00	17,354.00	17,354.00	17,354.00	17,354.00	17,354.00
57-0303-04-00 MAINT-LIGHTING/MISC										
57-0351-04-00 MISC. MAINTENANCE		2,820.00	8,389.89	13,830.00	13,830.00	1,900.00	1,900.00	1,900.00	1,900.00	1,900.00
57-0372-04-00 IRRIGATION MAINT & REPAIRS		432.96	525.77	2,000.00	2,000.00	6,500.00	6,500.00	6,500.00	6,500.00	6,500.00
Subtotal:		3,252.96	8,915.66	15,830.00	15,830.00	9,700.00	9,700.00	9,700.00	9,700.00	9,700.00
57-0403-04-00 CASUALTY INSURANCE		2,534.70	2,915.00	2,573.00	2,573.00	3,100.00	3,100.00	3,100.00	3,100.00	3,100.00
57-0410-04-00 UTILITIES - ELECTRICITY		763.52	554.21	2,000.00	2,000.00	1,000.00	1,000.00	1,000.00	1,000.00	1,000.00
57-0411-04-00 WATER PURCHASE PID		2,107.20	2,309.85	3,276.00	3,276.00	3,276.00	3,276.00	3,276.00	3,276.00	3,276.00
57-0416-04-00 OTHER/PROFESSIONAL SERVICES		151.20	75.77	1,304.00	1,304.00	100.00	100.00	100.00	100.00	100.00
57-0421-04-00 PRINTING				100.00	100.00	125.00	125.00	125.00	125.00	125.00
57-0437-04-00 AUDIT SERVICES				720.00	720.00	750.00	750.00	750.00	750.00	750.00
57-0442-04-00 COMPUTER PROFESSIONAL SERVICE				1,000.00	1,000.00	7,380.00	7,380.00	7,380.00	7,380.00	7,380.00
57-0446-04-00 ATTORNEY SERVICES		60.00		1,000.00	1,000.00	750.00	750.00	750.00	750.00	750.00
57-0450-04-00 ADMINISTRATIVE MGMT FEE		8,613.35	6,500.00	7,800.00	7,800.00	7,380.00	7,380.00	7,380.00	7,380.00	7,380.00
57-0469-04-00 STORAGE FEES		435.00	420.00	420.00	420.00	420.00	420.00	420.00	420.00	420.00
Subtotal:		14,664.97	12,774.83	19,318.00	19,318.00	16,151.00	16,151.00	16,151.00	16,151.00	16,151.00
57-0511-04-00 PROPERTY TAXES PAID BY PID										
57-0537-04-00 DALLAS COUNTY TAX COLL SVCS		407.00		407.00	407.00	1,530.57	1,530.57	1,530.57	1,530.57	1,530.57
Subtotal:		407.00		407.00	407.00	407.00	407.00	407.00	407.00	407.00
Program number:		25,967.11	28,759.65	46,595.00	46,595.00	45,142.57	45,142.57	45,142.57	45,142.57	45,142.57
Department number: OPERATIONS		25,967.11	28,759.65	46,595.00	46,595.00	45,142.57	45,142.57	45,142.57	45,142.57	45,142.57
Fund number: 57 ROLLING MEADOWS - PID		25,967.11	28,759.65	46,595.00	46,595.00	45,142.57	45,142.57	45,142.57	45,142.57	45,142.57

***** End of Report *****

LANCASTER CITY COUNCIL

Item 13

Agenda Communication

August 25, 2014

Conduct a public hearing and discuss an ordinance making certain findings in connection with the proposed supplemental services ordered in connection with the Millbrook East Public Improvement District.

This request supports the City Council 2014-2015 Policy Agenda.

Goal: Healthy, Safe, and Vibrant Community

Background

Millbrook East is an established subdivision consisting of approximately 46.265 acres in Phase 1 and 17.572 acres Phase 2A and 13.540 acres Phase 2B for a total of 77.377 acres generally located on the south side of Pleasant Run Road east of Houston School Road and west of Bluegrove Road. The subdivision has an approved Public Improvement District (PID) to provide for the maintenance of its common areas and entry features.

Annually the PID board in accordance with the provisions of Chapter 372 of the Texas Local Government Code (the "Act") is required to present an updated five (5) year service and assessment plan. Under the Act, the City is required to hold a public hearing on the proposed assessment and service plan details related to the district and the levy of the assessment.

The PID board is required to establish a maintenance budget. The taxable assessed value within the district is used to determine the rate per \$100 of assessed value necessary to meet the maintenance budget. The County Tax Collector will then collect the district's fees and remit them to the City with our property taxes. The City will disperse the income on a reimbursement basis according to the approved budget.

The Millbrook East PID is proposing an annual assessment of \$0.1800 per \$100 assessed value.

Considerations

- **Operational** - All PID's require the Finance Department maintain a separate account that will be passed on to the district. The PID's should also help ensure that common areas will be maintained.

- **Legal** - The notice of public hearing was posted in accordance with the provisions of Chapter 372 in the Texas Local Government Code. The proposed five year service and assessment plan are in accordance with Chapter 372 of Texas Local Government Code and have been reviewed by the City Attorney.
- **Financial** - The PID is not expecting to have any direct financial impact on the City. PID's are a mechanism to assure financial sustainability for the neighborhood. They are considered to be a more equitable means of collecting revenue for maintenance. The 2014/2015 proposed service plan budget is \$59,550.00 and assessments are proposed at \$0.1800 per one hundred dollars assessed valuation and a reduction from the previous year assessment of \$0.2200 per one hundred dollars of assessed valuation.
- **Public Information** - City Council is required to hold a public hearing to receive comments regarding the annual maintenance and service plan prior to adoption. The public hearing was posted in the local publication of record, Focus Daily News and notices mailed to property owners as required by Local Government Code Chapter 372.

Options/Alternatives

1. Close the public hearing and place the item on the September 8, 2014 regular meeting for consideration.
2. Continue the public hearing to the September 8, 2014 regular meeting.

Recommendation

Staff recommends closing the public hearing and placing the item on the September 8, 2014 regular meeting for consideration.

Attachments

- Ordinance
- Service and Assessment Plan

Submitted by:

Rona Stringfellow, Assistant City Manager

ORDINANCE NO.

AN ORDINANCE OF THE CITY OF LANCASTER, TEXAS, MAKING CERTAIN FINDINGS IN CONNECTION WITH THE PROPOSED SUPPLEMENTAL SERVICES ORDERED IN CONNECTION WITH THE MILLBROOK EAST PUBLIC IMPROVEMENT DISTRICT, PROVIDING FOR: FINDINGS OF BENEFITS ACCRUED, ACCEPTING FIVE YEAR SERVICE PLAN, RECORDING FINAL ASSESSMENT ONTO TAX ROLL, SETTING THE ASSESSMENT LEVY FOR USE AND SUPPORT OF THE PUBLIC IMPROVEMENT DISTRICT, ESTABLISHING A METHOD OF PAYMENT, ASSESSMENT DUE, AND PROVIDING CLAUSES FOR CONFLICT, SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, by Resolution No. 2011-08-69 passed on August 8, 2011, after the conduct of a duly notified public hearing, the City Council established the Millbrook East Public Improvement District (the "District"); and

WHEREAS, on August 25, 2014 a public hearing was held and all persons owning or claiming any property proposed to be assessed or any interest therein were given an opportunity to be heard, either in person or through an agent or attorney, and all were given an opportunity to testify before the City Council and to contest the assessments proposed to be made on account of the amount thereof or because of any inaccuracy, irregularity, invalidity or insufficiency of the proceedings or contract with reference thereto, or to such improvements or on account of any matter or thing in the discretion of this governing body and on the 25th day of August 2014, the City Council closed the public hearing; and levied assessments against property and the owners thereof in the District; and

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

SECTION 1 - BENEFITS ACCRUED: That the benefits to accrue to the property assessed and to the owners of such property, from the landscape maintenance and other services identified within the Five Year Service Plan, hereby adopted by the City Council, and herewith to be funded from the assessments, exceed the amount which has been assessed.

SECTION 2 - ADOPTING SERVICE PLAN: That the "*Service and Assessment Plan*", labeled herein as *Exhibit "A"* and attached hereto and made a part hereof is hereby adopted.

SECTION 3 - RECORD FINAL ASSESSMENT ONTO TAX ROLL: That the City Manager and his designated representatives are hereby authorized and directed to carry out the terms and provisions of this ordinance by causing the costs outlined in the final assessment roll to be recorded in the Tax Roll, the names of the property owners and in the amounts shown on

said final assessment roll; and that all prerequisites to the fixing of the assessments therein against the property described and the fixing of the personal liability of the owner or owners thereof have been performed in due time, form and manner as required by law, and no additional proof shall be required in any court.

SECTION 4 – **PROPERTY CLASSIFICATION AND APPORTIONMENT FORMULAS:** The City Council hereby establishes classifications and formulas for the apportionment of costs for various classes of property within the District as follows:

- (a) **All residential lots**, for these lots the assessment shall not exceed \$0.18 per \$100 of assessed valuation through the assessment established for 2014/2015; and
- (b) **Tax exempt property and municipal property**, for these classifications the assessment shall not exceed \$0.00 per \$100 of valuation.

SECTION 5 - **ASSESSMENT LEVY:** That for 2014/2015 there shall be and is hereby levied and assessed against parcels of property within the District, and against the real and true owners thereof (whether such owners be correctly named or not), the sum of money set forth for in the “*Service and Assessment Plan*”, labeled herein as *Exhibit “A”* and attached hereto and made a part hereof, shown opposite the description of the respective classification of the parcels of property, and the several amounts assessed against the same, and the owners thereof, with the provision that the amount assessed against each property and respective class of properties as shown in the *Service and Assessment Plan* may be adjusted for years subsequent following an annual review of the budget for the District and the *Service and Assessment Plan*.

SECTION 6 - **METHOD OF PAYMENT:** That the method of payment of the assessment shall be in an annual single lump sum payment which shall be immediately due upon receipt of the assessment notice and shall become delinquent on February 1 of the year after receipt of notice. Delinquent assessments are subject to interest, penalties, attorney’s fees and other charges, at the same rate as for the City of Lancaster delinquent ad valorem property taxes.

SECTION 7 - **ASSESSMENT DUE:** That a lien shall be established against each affected property within the district on the date the assessment is due, and shall not be released until the assessment is paid in full. This lien is superior to all other liens and claims except liens or claims for the state, county, school district or city ad valorem taxes.

SECTION 8 - **CONFLICT:** That this ordinance shall be and is hereby declared to be cumulative of all other ordinances of the City of Lancaster, Texas, and this ordinance shall not operate to repeal or affect any other ordinance except insofar as the provisions thereof might be inconsistent or in conflict with the provisions of this ordinance, in which event such conflicting provisions, if any, in such other ordinance or ordinances are hereby repealed.

SECTION 9 - SEVERABILITY: That if any section, subsection, sentence, clause or phrase of this ordinance is for any reason held unconstitutional, such holding shall not affect the validity of the remaining portions of this ordinance.

SECTION 10. EFFECTIVE DATE. This ordinance shall take effect immediately from and after its passage and the publication of the caption as the law and charter in such cases provide.

DULY PASSED and approved by the City Council of the City of Lancaster, Texas, on the 8th day of September 2014.

APPROVED:

MARCUS E. KNIGHT, MAYOR

ATTEST:

SORANGEL O. ARENAS, CITY SECRETARY

APPROVED AS TO FORM:

ROBERT E. HAGER, CITY ATTORNEY

EXHIBIT “A”
SERVICE AND ASSESSMENT PLAN

Fund: 63 MILLBROOK EAST PID

Department: 4 OPERATIONS

Program:

Account Description

2013 FY Actual 2014 FY Actual 2014 FY Adopted Budget 2014 FY Revised Budget 2015 FY Budget 2016 FY Budget 2017 FY Budget 2018 FY Budget 2019 FY Budget

63-0201-04-00 SUPPLIES 609.24 468.61 600.00 600.00 700.00 621.00 639.00 658.00 658.00
63-0214-04-00 POSTAGE 480.78 600.00 600.00 600.00 750.00 636.00 654.00 674.00 674.00
63-0225-04-00 LANDSCAPING 13,931.00 13,360.00 16,032.00 16,032.00 16,032.00 16,032.00 16,032.00 16,032.00 16,032.00

Subtotal: 15,021.02 13,828.61 17,232.00 17,232.00 17,482.00 17,289.00 17,325.00 17,364.00 17,364.00

63-0301-04-00 MISC. MAINTENANCE 2,915.88 883.00 10,000.00 10,000.00 1,000.00 300.00 300.00 300.00 300.00
63-0301-04-00 MAINT-BUDGS & STRUCTURES 2,915.88 883.00 10,000.00 10,000.00 300.00 700.00 721.00 742.00 742.00
63-0311-04-00 LANDSCAPING REPAIR & MAINT 1,218.00 440.00 1,500.00 1,500.00 1,545.00 1,591.00 1,639.00 1,688.00 1,688.00
63-0372-04-00 IRRIGATIONS SYS REPAIR & MAINT

Subtotal: 7,049.76 2,206.00 22,810.00 22,810.00 3,545.00 2,591.00 2,660.00 2,730.00 2,730.00

63-0403-04-00 INSURANCE 6,298.99 1,450.00 3,549.00 3,549.00 3,600.00 477.00 492.00 506.00 506.00
63-0410-04-00 UTILITIES - ELECTRICITY 253.72 169.57 450.00 450.00 464.00 7,426.00 7,649.00 7,878.00 7,878.00
63-0411-04-00 WATER PURCHASES PID 7,103.51 7,000.00 7,000.00 7,000.00 7,210.00 79.00 82.00 84.00 84.00
63-0421-04-00 PRINTING 21.15 436.02 300.00 300.00 300.00 300.00 300.00 300.00 300.00
63-0434-04-00 SPECIAL EVENTS 300.00 300.00 300.00 300.00 300.00 300.00 300.00 300.00 300.00
63-0437-04-00 AUDIT SERVICES 500.00 500.00 500.00 500.00 1,000.00 500.00 500.00 500.00 500.00
63-0446-04-00 LEGAL SERVICES 10,969.17 7,200.00 9,600.00 9,600.00 14,400.00 14,400.00 14,400.00 14,400.00 14,400.00
63-0450-04-00 ADMINISTRATIVE MANAGEMENT FEE 195.00 180.00 180.00 180.00 180.00 180.00 180.00 180.00 180.00
63-0469-04-00 STORAGE

Subtotal: 18,174.05 16,058.08 21,654.00 21,654.00 27,304.00 23,362.00 23,603.00 23,848.00 23,848.00

63-0517-04-00 DALLAS COUNTY TAX COLL SVCS 937.75 888.25 888.25 888.25 932.25 932.25 932.25 932.25 932.25

Subtotal: 937.75 888.25 888.25 888.25 932.25 932.25 932.25 932.25 932.25

Program number: 41,182.58 32,092.69 62,584.25 62,584.25 49,263.25 44,174.25 44,520.25 44,874.25 44,874.25

Department number: OPERATIONS 41,182.58 32,092.69 62,584.25 62,584.25 49,263.25 44,174.25 44,520.25 44,874.25 44,874.25

Fund number: 63 MILLBROOK EAST PID 41,182.58 32,092.69 62,584.25 62,584.25 49,263.25 44,174.25 44,520.25 44,874.25 44,874.25

***** End of Report *****

LANCASTER CITY COUNCIL

Item 14

Agenda Communication

August 25, 2014

Conduct a public hearing and discuss an ordinance making certain findings in connection with the proposed supplemental services ordered in connection with the Boardwalk Public Improvement District.

This request supports the City Council 2014-2015 Policy Agenda.

Goal: Healthy, Safe, and Vibrant Community

Background

Boardwalk is an established subdivision consisting of approximately 38.002 acres in Phase 1 and 43.237 acres in Phase 2 totaling 80.239 acres generally located on the South side of Cedardale Road and on the east side of Houston School Road. The subdivision has an approved Public Improvement District (PID) to provide for the maintenance of its common areas and entry features.

Annually the PID Advisory Board in accordance with the provisions of Chapter 372 of the Texas Local Government Code (the "Act") is required to present an updated five (5) year service and assessment plan. Under the Act, the City is required to hold a public hearing on the proposed assessment and service plan details related to the district and the levy of the assessment.

The PID Advisory Board is required to establish a maintenance budget. The taxable assessed value within the district is used to determine the rate per \$100 of assessed value necessary to meet the maintenance budget. The County Tax Collector will then collect the district's fees and remit them to the City with our property taxes. The City will disperse the income on a reimbursement and/or direct pay basis according to the approved budget.

The Boardwalk PID is proposing an annual assessment of \$0.2300 per \$100 assessed value.

Considerations

- **Operational** - All PID's require that the Finance Department maintain a separate account that will be passed on to the district. The PIDs should also help ensure that common areas will be maintained.
- **Legal** - The notice of public hearing was posted in accordance with the provisions of Chapter 372 in the Texas Local Government Code. The proposed five year service and

assessment plan are in accordance with Chapter 372 of Texas Local Government Code and have been reviewed by the City Attorney.

- **Financial** - The PID is not expecting to have any direct financial impact on the City. PIDs are a mechanism to assure financial sustainability for neighborhoods. They are considered to be a more equitable means of collecting dues for neighborhood maintenance. The 2014/2015 proposed service plan budget is \$73,730.25 and assessments are proposed at \$0.2300 per one hundred dollars assessed valuation this is a reduction from the previous year assessment of \$0.2500 per one hundred dollars of assessed valuation.
- **Public Information** - City Council is required to hold a public hearing to receive comments regarding the annual maintenance and service plan prior to adoption. The public hearing was posted in the local publication of record, Focus Daily News and notices mailed to property owners as required by Local Government Code Chapter 372.

Options/Alternatives

1. Close the public hearing and place the item on the September 8, 2014 regular meeting for consideration.
2. Continue the public hearing to the September 8, 2014 regular meeting.

Recommendation

Staff recommends closing the public hearing and placing the item on the September 8, 2014 regular meeting for consideration.

Attachments

- Ordinance
- Service and Assessment Plan

Submitted by:

Rona Stringfellow, Assistant City Manager

ORDINANCE NO.

AN ORDINANCE OF THE CITY OF LANCASTER, TEXAS, MAKING CERTAIN FINDINGS IN CONNECTION WITH THE PROPOSED SUPPLEMENTAL SERVICES ORDERED IN CONNECTION WITH THE LANCASTER BOARDWALK PUBLIC IMPROVEMENT DISTRICT, PROVIDING FOR: FINDINGS OF BENEFITS ACCRUED, ACCEPTING FIVE YEAR SERVICE PLAN, RECORDING FINAL ASSESSMENT ONTO TAX ROLL, SETTING THE ASSESSMENT LEVY FOR USE AND SUPPORT OF THE PUBLIC IMPROVEMENT DISTRICT, ESTABLISHING A METHOD OF PAYMENT, ASSESSMENT DUE, AND PROVIDING CLAUSES FOR CONFLICT, SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, by Resolution No. 2011-08-68 passed on August 8, 2011, after the conduct of a duly notified public hearing, the City Council established the Lancaster Boardwalk Public Improvement District (the "District"); and

WHEREAS, on August 25, 2014 a public hearing was held and all persons owning or claiming any property proposed to be assessed or any interest therein were given an opportunity to be heard, either in person or through an agent or attorney, and all were given an opportunity to testify before the City Council and to contest the assessments proposed to be made on account of the amount thereof or because of any inaccuracy, irregularity, invalidity or insufficiency of the proceedings or contract with reference thereto, or to such improvements or on account of any matter or thing in the discretion of this governing body and on the 25th day of August, 2014, the City Council closed the public hearing; and levied assessments against property and the owners thereof in the District; and

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

SECTION 1 - BENEFITS ACCRUED: That the benefits to accrue to the property assessed and to the owners of such property, from the landscape maintenance and other services identified within the Five Year Service Plan, hereby adopted by the City Council, and herewith to be funded from the assessments, exceed the amount which has been assessed.

SECTION 2 - ADOPTING SERVICE PLAN: That the "*Service and Assessment Plan*", labeled herein as *Exhibit "A"* and attached hereto and made a part hereof is hereby adopted.

SECTION 3 - RECORD FINAL ASSESSMENT ONTO TAX ROLL: That the City Manager and his designated representatives are hereby authorized and directed to carry out the terms and provisions of this ordinance by causing the costs outlined in the final assessment roll to be recorded in the Tax Roll, the names of the property owners and in the amounts shown on

said final assessment roll; and that all prerequisites to the fixing of the assessments therein against the property described and the fixing of the personal liability of the owner or owners thereof have been performed in due time, form and manner as required by law, and no additional proof shall be required in any court.

SECTION 4 – **PROPERTY CLASSIFICATION AND APPORTIONMENT FORMULAS:** The City Council hereby establishes classifications and formulas for the apportionment of costs for various classes of property within the District as follows:

- (a) **All residential lots**, for these lots the assessment shall not exceed \$0.2300 per \$100 of valuation through the assessment established for 2014/2015; and
- (b) **Tax exempt property and municipal property**, for these classifications the assessment shall not exceed \$0.00 per \$100 of valuation.

SECTION 5 - **ASSESSMENT LEVY:** That for 2014/2015 there shall be and is hereby levied and assessed against parcels of property within the District, and against the real and true owners thereof (whether such owners be correctly named or not), the sum of money set forth for in the “*Service and Assessment Plan*”, labeled herein as *Exhibit “A”* and attached hereto and made a part hereof, shown opposite the description of the respective classification of the parcels of property, and the several amounts assessed against the same, and the owners thereof, with the provision that the amount assessed against each property and respective class of properties as shown in the *Service and Assessment Plan* may be adjusted for years subsequent following an annual review of the budget for the District and the *Service and Assessment Plan*.

SECTION 6 - **METHOD OF PAYMENT:** That the method of payment of the assessment shall be in an annual single lump sum payment which shall be immediately due upon receipt of the assessment notice and shall become delinquent on February 1 of the year after receipt of notice. Delinquent assessments are subject to interest, penalties, attorney’s fees and other charges, at the same rate as for the City of Lancaster delinquent ad valorem property taxes.

SECTION 7 - **ASSESSMENT DUE:** That a lien shall be established against each affected property within the district on the date the assessment is due, and shall not be released until the assessment is paid in full. This lien is superior to all other liens and claims except liens or claims for the state, county, school district or city ad valorem taxes.

SECTION 8 - **CONFLICT:** That this ordinance shall be and is hereby declared to be cumulative of all other ordinances of the City of Lancaster, Texas, and this ordinance shall not operate to repeal or affect any other ordinance except insofar as the provisions thereof might be inconsistent or in conflict with the provisions of this ordinance, in which event such conflicting provisions, if any, in such other ordinance or ordinances are hereby repealed.

SECTION 9 - SEVERABILITY: That if any section, subsection, sentence, clause or phrase of this ordinance is for any reason held unconstitutional, such holding shall not affect the validity of the remaining portions of this ordinance.

SECTION 10 - EFFECTIVE DATE: This ordinance shall take effect immediately from and after its passage and the publication of the caption as the law and charter in such cases provide.

DULY PASSED and approved by the City Council of the City of Lancaster, Texas, on the 8th day of September, 2014.

APPROVED:

MARCUS E. KNIGHT, MAYOR

ATTEST:

SORANGEL O. ARENAS, CITY SECRETARY

APPROVED AS TO FORM:

ROBERT E. HAGER, CITY ATTORNEY

EXHIBIT “A”
SERVICE AND ASSESSMENT PLAN

gibase_6-flx fk3880
16:21 08/06/14
Fund: 64 BOARDWALK PID

City of Lancaster
6 Year Budget Worksheet
Department: 4 OPERATIONS
Program: 34/0004

Account	Description	2013 FY Actual	2014 FY Actual	2014 FY Adopted Budget	2014 FY Revised Budget	2015 FY Budget	2016 FY Budget	2017 FY Budget	2018 FY Budget	2019 FY Budget
64-0201-04-00	SUPPLIES	288.93		300.00	300.00	600.00	250.00	250.00	250.00	250.00
64-0210-04-00	FOOD/BEVERAGE-WTGS/FUNCTIONS			250.00	250.00	2,000.00	300.00	300.00	300.00	300.00
64-0211-04-00	MISCELLANEOUS	50.00		5,900.00	5,900.00	5,000.00	300.00	300.00	300.00	300.00
64-0214-04-00	POSTAGE	369.03		300.00	300.00	500.00	15,630.00	15,630.00		
64-0225-04-00	LANDSCAPING	9,744.00	10,900.80	15,630.00	15,630.00	2,500.00	16,480.00	16,480.00	850.00	850.00
Subtotal:		10,451.96	10,900.80	22,380.00	22,380.00	10,600.00	2,500.00	2,500.00	2,500.00	2,500.00
64-0301-04-00	MAINT-BLDGS & STRUCTURES			12,000.00	12,000.00	12,000.00	634.00	634.00	634.00	634.00
64-0351-04-00	MISC. MAINTENANCE	1,252.80		1,500.00	1,500.00	1,202.75	1,202.75	1,202.75	1,688.00	1,388.00
64-0371-04-00	LANDSCAPING REPAIR & MAINT	1,682.10		1,500.00	1,500.00	1,091.00	1,091.00	1,139.00	1,688.00	1,000.00
64-0372-04-00	IRRIGATION SYS REPAIR & MAINT	463.50		1,500.00	1,500.00	5,427.75	5,427.75	5,523.75	6,510.00	5,522.00
Subtotal:		3,398.40		17,500.00	17,500.00	31,241.75	3,317.00	3,418.00	3,520.00	3,520.00
64-0403-04-00	INSURANCE	1,743.00	1,486.00	3,128.00	3,128.00	5,000.00	477.00	492.00	506.00	506.00
64-0410-04-00	UTILITIES - ELECTRICITY	190.15	99.84	450.00	450.00	2,900.00	12,000.00	12,000.00	12,000.00	12,000.00
64-0411-04-00	WATER PURCHASES PID		17,429.08	12,000.00	12,000.00	800.00	169.00	174.00	180.00	180.00
64-0416-04-00	OTHER PROFESSIONAL SERVICES	25.00		13,132.25	13,132.25	496.96	500.00	500.00	500.00	500.00
64-0421-04-00	PRINTING	20.00		160.00	160.00	350.00	1,000.00	1,000.00	1,000.00	1,000.00
64-0434-04-00	SPECIAL EVENTS			500.00	500.00	9,695.45	180.00	180.00	180.00	180.00
64-0437-04-00	AUDIT SERVICES			10,200.00	10,200.00	10,200.00	10,200.00	10,200.00	10,200.00	10,200.00
64-0446-04-00	LEGAL SERVICES	7,729.95	2,965.00	180.00	180.00	180.00	180.00	180.00	180.00	180.00
64-0450-04-00	ADMINISTRATIVE MANAGEMENT FEE	135.00		39,750.25	39,750.25	30,422.41	26,843.00	26,964.00	27,086.00	27,086.00
64-0469-04-00	STORAGE			888.25	888.25	888.25	888.25	888.25	888.25	888.25
Subtotal:		9,843.10	21,979.92	888.25	888.25	888.25	888.25	888.25	888.25	888.25
64-0537-04-00	DALLAS COUNTY TAX COLL SVCS	891.00		888.25	888.25	888.25	888.25	888.25	888.25	888.25
Subtotal:		891.00		888.25	888.25	888.25	888.25	888.25	888.25	888.25
Program number:										
Department number:	OPERATIONS	24,584.46	32,880.72	80,518.50	80,518.50	73,152.41	49,639.00	49,856.00	35,334.25	34,346.25
Department number:	OPERATIONS	24,584.46	32,880.72	80,518.50	80,518.50	73,152.41	49,639.00	49,856.00	35,334.25	34,346.25
Fund number:	64 BOARDWALK PID	24,584.46	32,880.72	80,518.50	80,518.50	73,152.41	49,639.00	49,856.00	35,334.25	34,346.25
Fund number:	64 BOARDWALK PID	24,584.46	32,880.72	80,518.50	80,518.50	73,152.41	49,639.00	49,856.00	35,334.25	34,346.25
*****	End of Report *****									

LANCASTER CITY COUNCIL

Item 15

Agenda Communication

August 25, 2014

Conduct a public hearing and discuss an ordinance making certain findings in connection with the proposed supplemental services ordered in connection with the Beltline Ashmoore Public Improvement District.

This request supports the City Council 2014-2015 Policy Agenda.

Goal: Healthy, Safe, and Vibrant Community

Background

Beltline Ashmoore is an established subdivision consisting of approximately 19.42 acres generally located on the north side of Beltline Road between Houston School Road and Blue Grove. The subdivision has an approved Public Improvement District (PID) to provide for the maintenance of its common areas and entry features.

Annually the PID board in accordance with the provisions of Chapter 372 of the Texas Local Government Code (the "Act") is required to present an updated five (5) year service and assessment plan. Under the Act, the City is required to hold a public hearing on the proposed assessment and service plan details related to the district and the levy of the assessment.

The PID board is required to establish a maintenance budget. The taxable assessed value within the district is used to determine the rate per \$100 of assessed value necessary to meet the maintenance budget. The County Tax Collector will then collect the district's fees and remit them to the City with our property taxes. The City will disperse the income on a reimbursement basis according to the approved budget.

The Beltline Ashmoore PID is proposing an annual assessment of \$0.1500 per \$100 assessed value.

Considerations

- **Operational** - All PID's require the Finance Department maintain a separate account that will be passed on to the district. The PID's should also help ensure that common areas will be maintained.
- **Legal** - The notice of public hearing was posted in accordance with the provisions of Chapter 372 in the Texas Local Government Code. The proposed five year service and

assessment plan are in accordance with Chapter 372 of Texas Local Government Code and have been reviewed by the City Attorney.

- **Financial** - The PID is not expecting to have any direct financial impact on the City. PID's are a mechanism to assure financial sustainability for neighborhoods. They are considered to be a more equitable means of collecting dues for neighborhood maintenance. The 2014/2015 proposed service plan budget is \$16,521.00 and assessments are proposed at \$0.1500 per one hundred dollars assessed valuation.
- **Public Information** - City Council is required to hold a public hearing to receive comments regarding the annual maintenance and service plan prior to adoption. The public hearing was posted in the local publication of record Focus Daily News and notices mailed to property owners as required by Local Government Code Chapter 372.

Options/Alternatives

1. Close the public hearing and place the item on the September 8, 2014 regular meeting for consideration.
2. Continue the public hearing to the September 8, 2014 regular meeting.

Recommendation

Staff recommends closing the public hearing and placing the item on the September 8, 2014 regular meeting for consideration.

Attachments

- Ordinance
- Service and Assessment Plan

Submitted by:
Rona Stringfellow, Assistant City Manager

ORDINANCE NO.

AN ORDINANCE OF THE CITY OF LANCASTER, TEXAS, MAKING CERTAIN FINDINGS IN CONNECTION WITH THE PROPOSED SUPPLEMENTAL SERVICES ORDERED IN CONNECTION WITH THE BELTLINE ASHMOORE PUBLIC IMPROVEMENT DISTRICT, PROVIDING FOR: FINDINGS OF BENEFITS ACCRUED, ACCEPTING FIVE YEAR SERVICE PLAN, RECORDING FINAL ASSESSMENT ONTO TAX ROLL, SETTING THE ASSESSMENT LEVY FOR USE AND SUPPORT OF THE PUBLIC IMPROVEMENT DISTRICT, ESTABLISHING A METHOD OF PAYMENT, ASSESSMENT DUE, AND PROVIDING CLAUSES FOR CONFLICT, SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, by Resolution No. 2010-12-96 passed on December 13, 2010, after the conduct of a duly notified public hearing, the City Council established the Beltline Ashmoore Public Improvement District (the "District"); and

WHEREAS, on August 25, 2014 a public hearing was held and all persons owning or claiming any property proposed to be assessed or any interest therein were given an opportunity to be heard, either in person or through an agent or attorney, and all were given an opportunity to testify before the City Council and to contest the assessments proposed to be made on account of the amount thereof or because of any inaccuracy, irregularity, invalidity or insufficiency of the proceedings or contract with reference thereto, or to such improvements or on account of any matter or thing in the discretion of this governing body and on the 25th day of August, 2014, the City Council closed the public hearing; and levied assessments against property and the owners thereof in the District; and

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

SECTION 1 - BENEFITS ACCRUED: That the benefits to accrue to the property assessed and to the owners of such property, from the landscape maintenance and other services identified within the Five Year Service Plan, hereby adopted by the City Council, and herewith to be funded from the assessments, exceed the amount which has been assessed.

SECTION 2 - ADOPTING SERVICE PLAN: That the "*Service and Assessment Plan*", labeled herein as *Exhibit "A"* and attached hereto and made a part hereof is hereby adopted.

SECTION 3 - RECORD FINAL ASSESSMENT ONTO TAX ROLL: That the City Manager and his designated representatives are hereby authorized and directed to carry out the terms and provisions of this ordinance by causing the costs outlined in the final assessment roll to be recorded in the Tax Roll, the names of the property owners and in the amounts shown on said final assessment roll; and that all prerequisites to the fixing of the assessments therein against the property described and the fixing of the personal liability of the owner or owners thereof have been performed in due time, form and manner as required by law, and no additional proof shall be required in any court.

SECTION 4 – PROPERTY CLASSIFICATION AND APPORTIONMENT FORMULAS: The City Council hereby establishes classifications and formulas for the apportionment of costs for various classes of property within the District as follows:

- (a) **Residential lots on which construction of a home has been completed**, for these lots the assessment shall not exceed \$0.1500 per \$100 of valuation through the assessment established for 2014/2015; and
- (b) **Tax exempt property and municipal property**, for these classifications the assessment shall not exceed \$0.00 per \$100 of valuation.

SECTION 5 - ASSESSMENT LEVY: That for 2014/2015 there shall be and is hereby levied and assessed against parcels of property within the District, and against the real and true owners thereof (whether such owners be correctly named or not), the sum of money set forth for in the “*Service and Assessment Plan*”, labeled herein as *Exhibit “A”* and attached hereto and made a part hereof, shown opposite the description of the respective classification of the parcels of property, and the several amounts assessed against the same, and the owners thereof, with the provision that the amount assessed against each property and respective class of properties as shown in the *Service and Assessment Plan* may be adjusted for years subsequent following an annual review of the budget for the District and the *Service and Assessment Plan*.

SECTION 6 - METHOD OF PAYMENT: That the method of payment of the assessment shall be in an annual single lump sum payment which shall be immediately due upon receipt of the assessment notice and shall become delinquent on February 1 of the year after receipt of notice. Delinquent assessments are subject to interest, penalties, attorney’s fees and other charges, at the same rate as for the City of Lancaster delinquent ad valorem property taxes.

SECTION 7 - ASSESSMENT DUE: That a lien shall be established against each affected property within the district on the date the assessment is due, and shall not be released until the assessment is paid in full. This lien is superior to all other liens and claims except liens or claims for the state, county, school district or city ad valorem taxes.

SECTION 8 - CONFLICT: That this ordinance shall be and is hereby declared to be cumulative of all other ordinances of the City of Lancaster, Texas, and this ordinance shall not operate to repeal or affect any other ordinance except insofar as the provisions thereof might be inconsistent or in conflict with the provisions of this ordinance, in which event such conflicting provisions, if any, in such other ordinance or ordinances are hereby repealed.

SECTION 9 - SEVERABILITY: That if any section, subsection, sentence, clause or phrase of this ordinance is for any reason held unconstitutional, such holding shall not affect the validity of the remaining portions of this ordinance.

SECTION 10. EFFECTIVE DATE. This ordinance shall take effect immediately from and after its passage and the publication of the caption as the law and charter in such cases provide.

DULY PASSED and approved by the City Council of the City of Lancaster, Texas, on the 8th day of September, 2014.

APPROVED:

MARCUS E. KNIGHT, MAYOR

ATTEST:

SORANGEL O. ARENAS, CITY SECRETARY

APPROVED AS TO FORM:

ROBERT E. HAGER, CITY ATTORNEY

EXHIBIT “A”
SERVICE AND ASSESSMENT PLAN

Account	Description	2013 FY Actual	2014 FY Actual	2014 FY Adopted Budget	2014 FY Revised Budget	2015 FY Budget	2016 FY Budget	2017 FY Budget	2018 FY Budget	2019 FY Budget
60-0201-04-00	SUPPLIES			250.00	250.00	250.00	250.00	250.00	250.00	250.00
60-0210-04-00	FOOD/BEVERAGES-MTGS/FUNCTIONS			250.00	250.00	250.00	250.00	250.00	250.00	250.00
60-0211-04-00	MISCELLANEOUS			60.00	60.00	60.00	60.00	60.00	60.00	60.00
60-0214-04-00	POSTAGE			179.00	179.00	179.00	179.00	179.00	179.00	179.00
60-0225-04-00	LANDSCAPING	6,800.00	1,485.57	2,000.00	2,000.00	3,000.00	3,000.00	3,000.00	3,000.00	3,000.00
Subtotal:		6,800.00	1,485.57	2,739.00	2,739.00	3,739.00	3,739.00	3,739.00	3,739.00	3,739.00
60-0301-04-00	MAINT-BLDGS & STRUCTURES			1,000.00	1,000.00	4,700.00	4,700.00	4,700.00	4,700.00	4,700.00
60-0372-04-00	IRRIGATION SYS REPAIR & MAINT	3,050.00		2,500.00	2,500.00	2,500.00	2,500.00	2,500.00	2,500.00	2,500.00
Subtotal:		3,050.00		3,500.00	3,500.00	7,200.00	7,200.00	7,200.00	7,200.00	7,200.00
60-0403-04-00	INSURANCE			2,190.00	2,190.00	2,190.00	2,190.00	2,190.00	2,190.00	2,190.00
60-0407-04-00	TAXES			100.00	100.00					
60-0410-04-00	UTILITIES - ELECTRICITY			1,500.00	1,500.00	560.00	560.00	560.00	560.00	560.00
60-0411-04-00	WATER PURCHASE PID			1,200.00	1,200.00	500.00	500.00	500.00	500.00	500.00
60-0416-04-00	OTHER PROFESSIONAL SERVICES			1,000.00	1,000.00	100.00	100.00	100.00	100.00	100.00
60-0421-04-00	PRINTING	150.00		175.00	175.00	175.00	175.00	175.00	175.00	175.00
60-0423-04-00	CONTRACT MOWING									
60-0434-04-00	SPECIAL EVENTS		311.95	965.00	965.00	840.98	840.98	840.98	840.98	840.98
60-0442-04-00	COMPUTER PROFESSIONAL SERVICES			300.00	300.00	300.00	300.00	300.00	300.00	300.00
60-0446-04-00	LEGAL SERVICES			500.00	500.00	500.00	500.00	500.00	500.00	500.00
60-0456-04-00	NEWSLETTER			175.00	175.00	175.00	175.00	175.00	175.00	175.00
Subtotal:		150.00	311.95	8,105.00	8,105.00	5,340.98	5,340.98	5,340.98	5,340.98	5,340.98
60-0537-04-00	DALLAS COUNTY TAX COLL SVCS	242.00		242.00	242.00	242.00	242.00	242.00	242.00	242.00
Subtotal:		242.00		242.00	242.00	242.00	242.00	242.00	242.00	242.00
Program number:		10,242.00	1,797.52	14,586.00	14,586.00	16,521.98	16,521.98	16,521.98	16,521.98	16,521.98
Department number:	OPERATIONS	10,242.00	1,797.52	14,586.00	14,586.00	16,521.98	16,521.98	16,521.98	16,521.98	16,521.98
Fund number:	60 BELTLINE ASHMOORE - PID	10,242.00	1,797.52	14,586.00	14,586.00	16,521.98	16,521.98	16,521.98	16,521.98	16,521.98
*****	End of Report *****									

LANCASTER CITY COUNCIL

Item 16

Agenda Communication

August 25, 2014

Conduct a public hearing and discuss an ordinance regarding the proposed revenue increase from levying ad valorem taxes for fiscal year 2014/2015 at \$0.8675 per one hundred dollars assessed valuation of all taxable property within the corporate limits to provide revenues for current maintenance and operation expenses and interest and sinking fund requirements; providing due and delinquent dates; penalties and interest; providing a homestead exemption and disability exemption.

This request supports the City Council 2014-2015 Policy Agenda.

Goal: Financially Sound City Government

Background

State Truth-in-Taxation law, Local Government Code and the City Charter require that an ordinance levying the ad valorem taxes be read and a public hearing held at a regular or special meeting of the Lancaster City Council.

The current tax rate for fiscal year 2014/2015 is proposed at \$0.8675 per one hundred dollars assessed valuation on taxable property within the corporate limits. These tax dollars provide revenue for current operating and maintenance expenses and interest and sinking fund requirements. The total tax revenue will increase from properties on the tax roll in the preceding tax year by \$1,486,392 or 11.65% (percentage by which the tax rate will be higher than effective tax rate calculated under Chapter 26, Tax Code.) Individual taxes may increase or decrease at a rate greater or lesser depending on the change in the taxable value of each property.

A public hearing was conducted on Monday, August 11, 2014 at the City Council regular meeting to receive comment from the public regarding the proposed tax rate. This is the second and final public hearing regarding the proposed tax rate. The governing body may not adopt the tax rate at the public hearing.

The governing body must announce the date, time and place of the meeting at which it will officially vote on the tax rate. The vote on the tax rate is scheduled for Monday, September 8, 2014 at 7:00 p.m. at Lancaster Municipal Center, City Council Chambers located at 211 North Henry Street.

Considerations

- **Operational** – The proposed tax rate of eighty-six seventy-five one thousandths cents (\$0.8675) on each one hundred dollars (\$100.00) assessed value of taxable property to be apportioned and distributed as follows: \$0.6012 for the purpose of maintenance and operations, and \$0.2663 for interest and sinking fund requirements.
- **Legal** - The required notice and vote are being held in accordance with state law and the City Charter. The ordinance has been reviewed and approved as to form by the City Attorney.
- **Financial** - The proposed tax rate is to cover the cost of the maintenance and operations and interest and sinking fund requirements.
- **Public Information** - Public notices were published in the official City publication of record, Focus Daily News on the City of Lancaster website. The first public hearing was conducted on Monday, August 11, 2014. Information regarding the proposed tax rate is being made available in accordance with state law and the City Charter.

Options/Alternatives

Close the public hearing and announce date, time, and location of final vote.

Recommendation

Staff recommends Council close the public hearing, and announce the date, time and location of the vote scheduled for Monday, September 8, 2014, 7:00 p.m. at the Lancaster Municipal Center, Council Chambers, 211 North Henry, Lancaster, Texas.

Attachments

- Ordinance
-

Submitted by:

Opal Mauldin Robertson, City Manager

ORDINANCE NO.

AN ORDINANCE OF THE CITY OF LANCASTER, TEXAS LEVYING AD VALOREM TAXES FOR FISCAL YEAR 2014/2015 AT \$0.8675 PER ONE HUNDRED DOLLARS ASSESSED VALUATION OF ALL TAXABLE PROPERTY WITHIN THE CORPORATE LIMITS TO PROVIDE REVENUES FOR CURRENT MAINTENANCE AND OPERATIONAL EXPENSES AND INTEREST AND SINKING FUND REQUIREMENTS; PROVIDING DUE AND DELINQUENT DATES; PENALTIES AND INTEREST; PROVIDING A HOMESTEAD EXEMPTION AND DISABILITY EXEMPTION; AND PROVIDING AN EFFECTIVE DATE.

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

RECITAS: On Monday, August 11, 2014 and August 25, 2014 City Council read the ordinance and conducted a public hearing to receive comment regarding the proposed ad valorem tax rate of \$0.8675 per one hundred dollars assessed valuation. 2 comments were received on August 11, 2014 and 0 comments were received on August 25, 2014. The public hearing and meetings were noticed in accordance with the Texas Open Meetings Act, Tax Code, Truth-In-Taxation and Lancaster Home Rule Charter.

SECTION 1. There be and is hereby levied for the fiscal year 2014/2015 on all taxable property, real, personal and mixed, situated within the corporate limits of the City of Lancaster, Texas, and not exempt by the Constitution of the State and valid State laws, a tax of eighty-six and seventy-five one thousandths cents (\$0.8675) on each one hundred dollars (\$100.00) assessed value of taxable property, and shall be apportioned and distributed as follows: \$0.6012 for the purpose of paying maintenance and operation, and, defraying the expenses of current operations, and \$0.2663 for interest and sinking fund requirements of the municipal government of the City.

SECTION 2. THAT THIS TAX RATE WILL RAISE MORE TAXES FOR MAINTENANCE AND OPERATIONS AND INTEREST AND SINKING FUND REQUIREMENTS THAN LAST YEAR'S TAX RATE.

SECTION 3. THAT THE TAX REVENUE WILL INCREASE FROM PROPERTIES ON THE TAX ROLL IN THE PRECEDING TAX YEAR BY 11.65% (PERCENTAGE BY WHICH TAX RATE WILL BE LOWER THAN EFFECTIVE TAX RATE CALCULATED UNDER CHAPTER 26, TAX CODE.)

SECTION 4. All ad valorem taxes shall become due and payable on October 1, 2014, and all ad valorem taxes for fiscal year 2014/2015 shall become delinquent after January 31, 2015. If any person fails to pay the ad valorem taxes on or before the 31st day of January 2015, the penalties and interest as set forth under Section 33.01 of the Texas State Property Tax Code shall apply.

SECTION 5. Taxes are payable to the Dallas County Tax Assessor-Collector, Records Building, Dallas, Texas, by contract dated November 12, 2001 and amended April 2014. The City shall have available all the rights and remedies provided by law for the enforcement of the collection of taxes levied under this ordinance.

SECTION 6. The tax rolls as presented to the City Council, together with any supplement thereto, be and the same are hereby approved.

SECTION 7. All delinquent taxes shall accrue interest at the rate of one percent (1%) per month, in addition to the penalties provided for herein. All taxes that remain delinquent on July 1st of the year in which they become delinquent shall incur an additional penalty to defray costs of collection, of an amount not to exceed 20% of the amount of taxes, penalty and interest due.

SECTION 8. In accordance with the Texas State Property Tax Code, and effective with the passage of the ordinance, there is hereby provided an exemption of \$30,000 on homestead property for those head-of-household persons who have attained the age of 65 years prior to January 1, 2015 and an exemption of \$30,000 on disability designations.

SECTION 9. This Ordinance shall become effective upon its adoption as the law in such cases provides.

SECTION 10. All recitals are incorporated herein by reference as if fully written.

DULY PASSED by the City Council of the City of Lancaster, Texas, on this the 8th day of September 2014.

APPROVED:

Marcus E. Knight, Mayor

ATTEST:

Sorangel O. Arenas, City Secretary

APPROVED AS TO FORM:

Robert E. Hager, City Attorney

LANCASTER CITY COUNCIL

Item 17

Agenda Communication

August 25, 2014

Conduct a public hearing and discuss an ordinance regarding the proposed fiscal year 2014/2015 budget for the fiscal year beginning October 1, 2014 and ending September 30, 2015; providing that expenditures for said fiscal year shall be in accordance with said budget.

This request supports the City Council 2014-2015 Policy Agenda.

Goal: Financially Sound City Government

Background

State Truth-in-Taxation and the City Charter require the City of Lancaster to conduct a public hearing on the proposed annual budget. The proposed total tax rate required to provide revenue for maintenance and operations and interest and sinking fund requirements is \$0.8675 cents per \$100 assessed valuation. The approval of the proposed ordinance will adopt the FY 2014/2015 budget and appropriate necessary funds for the City's operation, maintenance and debt service requirements.

The proposed budget was presented to the Lancaster City Council at work sessions held on Monday, August 4, August 7, August 11 and August 18, 2014.

This is the first of two public hearings on the proposed budget. The second and final public hearing and consideration of adoption of the proposed budget is scheduled on Monday, September 8, 2014 at the Lancaster City Council Regular Meeting. A copy of the proposed budget is available for public review in the City Secretary's office.

Considerations

- **Operational** - The proposed tax rate is \$0.8675 per \$100 assessed valuation to be assessed on taxable property to generate revenues for the maintenance, operations, interest and sinking fund requirements. The proposed maintenance and operations fund requirements (\$0.6012) and the interest and sinking fund requirements (\$0.2663) will remain the same.
- **Legal** - The ordinance has been reviewed and approved as to form by the City Attorney.
- **Financial** - The proposed budget is a plan for revenues and expenditures related to the operations of the City.

- **Public Information** - Notice regarding the public hearing was posted in accordance with state law in the City's newspaper of record, Focus Daily News and on the City of Lancaster website.

Options/Alternatives

Close the public hearing and announce date, time, and location of the final public hearing and vote on the proposed FY 2014-2015 budget Monday, September 8, 2014 at 7:00 p.m. at Lancaster Municipal Center, Council Chambers 211 North Henry Street, Lancaster, Texas.

Recommendation

Staff recommends closing the public hearing and announcing the final public hearing and vote will be held on Monday, September 8, 2014 at 7:00 p.m. at Lancaster Municipal Center Council Chambers located at 211 North Henry Street, Lancaster, Texas.

Attachments

- Ordinance
-

Submitted by:

Opal Mauldin Robertson, City Manager

ORDINANCE NO.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LANCASTER, TEXAS, APPROVING AND ADOPTING A BUDGET FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2014 AND ENDING SEPTEMBER 30, 2015; PROVIDING THAT EXPENDITURES FOR SAID FISCAL YEAR SHALL BE IN ACCORDANCE WITH SAID BUDGET; PROVIDING FOR THE REPEAL OF ALL ORDINANCES IN CONFLICT; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Manager of the City of Lancaster has submitted to the City Council a proposed budget of the revenues and expenditures for conducting the affairs of the City and providing a complete financial plan for fiscal year 2014-2015; and

WHEREAS, the City Council has received the City Manager's proposed budget, a copy of which proposed budget has been filed with the City Secretary of the City of Lancaster;

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

SECTION 1. That the Budget of the revenues and expenditures necessary for conducting the affairs of the City of Lancaster and providing a financial plan for the ensuing fiscal year beginning October 1, 2014 and ending September 30, 2015, as submitted by the City Manager, be and the same is hereby adopted as the Budget of the City of Lancaster for the fiscal year beginning October 1, 2014 and ending September 30, 2015.

SECTION 2. That the appropriation for the fiscal year including the budgets of the Lancaster Economic Development Corporation (Type A) and Lancaster Recreational Development Corporation (Type B), which are hereby approved beginning October 1, 2014, and ending September 30, 2015, for the various funds and purposes of the City of Lancaster, which is attached hereto and incorporated herein as Exhibit A and is summarized as follows:

2014-2015 Budget	
Fund	Expenditures
General Fund	\$21,344,213
G.O. Debt Service	\$4,209,523
WaterWastewater	\$13,044,066
Airport	\$522,032
HotelMotel	\$50,358
LEDC/4A	\$899,269
LRDC/4B	\$3,086,107
Golf Course	\$99,877
Sanitation	\$1,594,850
E911	\$126,681
Stormwater	\$1,266,376
Total	\$ 46,243,893

SECTION 3. Those expenditures during the fiscal year shall be made in accordance with the budget approved by this ordinance and made part hereof for all purposes unless otherwise authorized by a duly enacted ordinance of the City.

SECTION 4. That all notices and public hearings required by law have been duly completed.

SECTION 5. That all provisions of the ordinances of the City of Lancaster in conflict with the provisions of this ordinance be and the same are hereby repealed, and all other provisions of the ordinances of the City of Lancaster not in conflict with the provisions of this ordinance shall remain in full force and effect.

SECTION 6. That should any sentence, paragraph, subdivision, clause, phase or section of this ordinance be adjudged or held to be unconstitutional, illegal, or invalid, the same shall not affect the validity of this ordinance as a whole, or any part or provision thereof other than the part so decided to be invalid, illegal or unconstitutional.

DULY PASSED and approved by the City Council of the City of Lancaster, Texas, on this the 8th day of September 2014.

ATTEST:

APPROVED:

Sorangel O. Arenas, City Secretary

Marcus E. Knight, Mayor

APPROVED AS TO FORM:

Robert E. Hager, City Attorney