



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



Monday, March 27, 2017 - 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.

1. Consider approval of minutes from the City Council Regular Meeting held on February 13, 2017 and the City Council Special Meeting held on March 6, 2017.
2. Consider a resolution authorizing Dallas County to resell 801 Donlee Road, 4453 Highland St., 701 N. Lancaster Hutchins Road, 3203 Baskin Drive, 1038 Bayport Drive, 1048 Bayport Drive, 1056 Bayport Drive, 4156 Portwood Drive, and 615 W. 5th Street, tax foreclosed properties, by public or private sale, to the highest qualified purchaser, as provided by Section 34.05 of the Texas Property Tax Code.
3. Consider a resolution authorizing the purchase and installation of 3,000 water meter registers from HydroPro Solutions through an Interlocal Agreement with Houston Galveston Area Council (HGAC) in an amount not to exceed \$496,350.00.
4. Consider a resolution approving the terms and conditions of an agreement with Environmental Reconstruction Services, Inc. (ERS, Inc.) for the installation of a fuel tank and fuel management system in an amount not to exceed (\$400,000.00) four hundred thousand dollars.

ACTION:

5. Discuss and consider a resolution establishing the City's support for proposed House Bill 1427 (HB 1427), which if passed would provide that a City may enforce its zoning or other land use regulations against an electric cooperative so long as the regulation does not: (1) operate to exclude the electric cooperative from the city; or (2) directly conflict with a certification granted by the Public Utility Commission.
6. Discuss and consider a resolution authorizing the City Manager to submit a support letter to the North Central Texas Council of Governments (NCTCOG) for project funding commitment to the Southern Dallas County Inland Port Loop.
7. Discuss and consider an ordinance granting a franchise for the collection and removal of industrial solid waste and recyclable materials to Custom Recycling Solutions, LLC.
8. Consider confirmation of nominations made by the Planning and Zoning Commission for appointment to the Lancaster Historic Landmark Preservation Committee.

EXECUTIVE SESSION:

9. City Council shall convene into closed executive session pursuant to:
 - a. §551.087 of the Texas Government Code to deliberate an economic incentive grant and agreement for the Lancaster Regional Airport from the Lancaster Economic Development Corporation.
 - b. §551.071 of the Texas Government Code to seek legal advice from the City Attorney concerning pending or contemplated litigation: White Rock Commercial LLC v. City of Lancaster, Cause No. DC-14-06471.
10. Reconvene into open session. Consider and take appropriate action(s), if any, on closed/executive session matters.

ADJOURNMENT

EXECUTIVE SESSION: The City Council reserve 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: Meetings of the City Council are held in municipal facilities are 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.

PURSUANT TO SECTION 30.06 PENAL CODE (TRESPASS BY HOLDER WITH A CONCEALED HANDGUN), A PERSON LICENSED UNDER SUBCHAPTER H, CHAPTER 411, GOVERNMENT CODE (HANDGUN LICENSING LAW), MAY NOT ENTER THIS PROPERTY WITH A CONCEALED HANDGUN.

CONFORME A LA SECCION 30.06 DEL CODIGO PENAL (TRASPASAR PORTANDO ARMAS DE

FUEGO CON LICENCIA) PERSONAS CON LICENCIA BAJO DEL SUB-CAPITULO 411, CODIGO DEL GOBIERNO (LEY DE PORTAR ARMAS), NO DEBEN ENTRAR A ESTA PROPIEDAD PORTANDO UN ARMA DE FUEGO OCULTADA.

PURSUANT TO SECTION 30.07 PENAL CODE (TRESPASS BY HOLDER WITH AN OPENLY CARRIED HANDGUN), A PERSON LICENSED UNDER SUBCHAPTER H, CHAPTER 411, GOVERNMENT CODE (HANDGUN LICENSING LAW), MAY NOT ENTER THIS PROPERTY WITH A HANDGUN THAT IS CARRIED OPENLY.

CONFORME A LA SECCION 30.07 DEL CODIGO PENAL (TRASPASAR PORTANDO ARMAS DE FUEGO AL AIRE LIBRE CON LICENCIA) PERSONAS CON LICENCIA BAJO DEL SUB-CAPITULO H, CAPITULO 411, CODIGO DE GOBIERNO (LEY DE PORTAR ARMAS), NO DEBEN ENTRAR A ESTA PROPIEDAD PORTANDO UN ARMA DE FUEGO AL AIRE LIBRE.

Certificate

I hereby certify the above Notice of Meeting was posted at the Lancaster City Hall on March 23, 2017 @ 10:30 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

City Council Regular Meeting

1.

Meeting Date: 03/27/2017

Policy Statement: This request supports the City Council 2016-2017 Policy Agenda

Submitted by: Sorangel O. Arenas, City Secretary

Agenda Caption:

Consider approval of minutes from the City Council Regular Meeting held on February 13, 2017 and the City Council Special Meeting held on March 6, 2017.

Background:

Attached for your review and consideration are minutes from the:

- City Council Regular Meeting held on February 13, 2017
- City Council Special Meeting held on March 6, 2017.

Attachments

February 13, 2017 Minutes

March 6, 2017 Minutes

MINUTES

LANCASTER CITY COUNCIL REGULAR MEETING OF FEBRUARY 13, 2017

The City Council of the City of Lancaster, Texas, met in a called Regular session in the Council Chambers of City Hall on February 13, 2017 at 7:00 p.m. with a quorum present to-wit:

Councilmembers Present:

Mayor Marcus E. Knight
Mayor Pro Tem Carol Strain-Burk
Deputy Mayor Pro Tem Stanley Jaglowski
Marco Mejia
Spencer W. Hervey Jr.
Clyde C. Hairston

Councilmembers Absent:

Nina Morris

City Staff Present:

Opal Mauldin-Robertson, City Manager
Rona Stringfellow, Assistant City Manager
Dori Lee, Human Resources Director
Shane Shepard, Director of Economic Development
Sean Johnson, Managing Director of Quality of Life & Cultural Services
Baron Sauls, Finance Director
Robert Franklin, Fire Chief
Alton Dixon, Purchasing Manager
Fabrice Kabona, Assistant to the City Manager
Than Nguyen, City Engineer
Zac Beauchamp, Patrol Officer
Clifford Wherley, Police Lieutenant
Sorangel O. Arenas, City Secretary

Call to Order:

Mayor Knight called the meeting to order at 7:00 p.m. on February 13, 2017.

Invocation:

Pastor Brown gave the invocation.

Pledge of Allegiance:

Deputy Mayor Pro Tem Stanley Jaglowski led the pledge of allegiance.

Citizens' Comments:

Frank Mejia, 1500 W. Main St., shared his concerns.

Consent Agenda:

City Secretary Arenas read the consent agenda.

1. **Consider approval of minutes from the City Council Regular Meeting held on January 23, 2017 and City Council Special Meeting held on February 6, 2017.**
2. **Consider a resolution ordering a General Election to be held on Saturday, May 6, 2017, for the election of one councilmember for District 2, one councilmember for District 4, and one councilmember for District 6 for a three year term; providing for the publication and posting of notice; and providing for early voting dates, times and locations.**

Considerar una resolución pidiendo una elección general que se celebrará el Sábado 6 de Mayo de 2017, por la elección de un concejal para el Distrito 2, un concejal para el Distrito 4, y un concejal del Distrito 6 para un período de tres años; se dispone la publicación y la publicación de la notificación; y modo de fechas de votación anticipada, horas y lugares.

3. **Consider a resolution approving the terms and conditions of a Joint Election Contract and Election Services Agreement with Dallas County Elections to conduct a municipal General Election for the election of one councilmember for District 2, one councilmember for District 4, and one councilmember for District 6 to be held on Saturday, May 6, 2017.**

Considere una resolución aprobando los términos y condiciones del Contrato Elección Conjunta y servicios de la elección con las elecciones del condado de Dallas para llevar a cabo una elección general municipal para la elección de los distritos 2, 4 y 6 que se celebrará el Sábado, 6 de mayo 2017.

4. **Consider a resolution awarding Bid 2016-25 for an annual contract for Mowing Services (Code Compliance properties) to Weldon's Lawn and Tree LLC.**
5. **Consider a resolution approving the terms and conditions of an agreement by and between Oncor Electric Delivery Company LLC and the City of Lancaster for street lighting service.**

Deputy Mayor Pro Tem Jaglowski pulled item 4 and 5.

MOTION: Deputy Mayor Pro Tem Jaglowski made a motion, seconded by Councilmember Hairston, to approve consent items excluding items 4 and 5. The vote was cast 6 for, 0 against [Morris absent].

4. **Consider a resolution awarding Bid 2016-25 for an annual contract for Mowing Services (Code Compliance properties) to Weldon's Lawn and Tree LLC.**

City Manager Mauldin-Robertson shared that staff recommends awarding the bid to Weldon's Lawn and Tree LLC in the amount not to exceed \$110,720.00. Bids were advertised in the Focus Daily News on December 11th and 18th of 2016. Bids were posted on the City's electronic procurement system and a pre-bid meeting was held on November 9, 2016.

MOTION: Deputy Mayor Pro Tem Jaglowski made a motion, seconded by Mayor Pro Tem Strain-Burk, to approve consent items 4. The vote was cast 6 for, 0 against [Morris absent].

5. **Consider a resolution approving the terms and conditions of an agreement by and between Oncor Electric Delivery Company LLC and the City of Lancaster for street lighting service.**

City Manager Mauldin-Robertson shared that in 2007 the Beltline Lighting was included in the Street Bonds. Oncor has designed and applied an associated cost to install streetlights along Beltline Road from I-35E to Bluegrove. The cost for the project is estimated at \$185,048.39 and includes civil work. Oncor Electric Delivery is providing street lighting service within the City and requires an agreement for delivery of street lighting service between Oncor Electric Delivery and the City of Lancaster.

Deputy Mayor Pro Tem Jaglowski inquired if the infrastructure is included in the cost. City Manager Mauldin-Robertson confirmed and shared that the cost for the project is estimated at \$185,048.39 and includes civil work. Additionally, the price includes the installation of 68 - 30 foot tall galvanized standard streetlights with 2 - 200 watt fixtures.

MOTION: Councilmember Hairston made a motion, seconded by Deputy Mayor Pro Tem Jaglowski, to approve consent items 5. The vote was cast 6 for, 0 against [Morris absent].

Executive Session:

6. City Council shall convene into closed executive session pursuant to Section 551.072, Texas Gov't Code to deliberate the sale, acquisition or exchange of real property located east of Dallas Avenue, South of Pleasant Run Road, North of Beltline and West of Lancaster-Hutchins Road.
7. Reconvene into open session. Consider and take appropriate action(s), if any, on closed/executive session matters.

The City Council recessed for Executive Session at 7:15 p.m. and reconvened into open session at 7:45 p.m.

No action taken.

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

The meeting was adjourned at 7:46 p.m.

ATTEST:

APPROVED:

Sorangel O. Arenas, City Secretary

Marcus E. Knight, Mayor

MINUTES

LANCASTER CITY COUNCIL SPECIAL MEETING OF MARCH 6, 2017

The City Council of the City of Lancaster, Texas, met in a called Special session in the Council Chambers of City Hall on March 6, 2017 at 7:00 p.m. with a quorum present to-wit:

Councilmembers Present:

Mayor Marcus E Knight
Mayor Pro Tem Carol Strain-Burk
Deputy Mayor Pro Tem Stanley Jaglowski
Marco Mejia
Spencer W. Hervey Jr.
Clyde C. Hairston
Nina Morris

City Staff Present:

Opal Mauldin-Robertson, City Manager
Rona Stringfellow, Assistant City Manager
Dori Lee, Human Resources Director
Jermaine Sapp, Equipment and Facilities Services Director
Sean Johnson, Managing Director of Quality of Life & Cultural Services
Baron Sauls, Finance Director
Fabrice Kabona, Assistant to the City Manager
Jim Brewer, Director of Public Works
Sam Urbanski, Police Chief
Robert Franklin, Fire Chief
Jason B. Boulton, Assistant Chief
Charlie Miller, Assistant Chief
Zac Beauchamp, Patrol Officer
Katherine Hail, Animal Control Officer
Sorangel O. Arenas, City Secretary

Call to Order:

Mayor Knight called the meeting to order at 7:00 p.m. on March 6, 2017.

Proclamation:

Mayor Knight proclaimed March 1st through 7th, 2017 as "Severe Weather Awareness Week," and urged all citizens in our community to learn more about and to participate in severe weather preparedness activities available in Lancaster.

Mayor Knight proclaimed March 9, 2017 as "World Kidney Day" and encouraged all citizens to raise awareness concerning crucial health issues, such as chronic kidney disease, and to seek early screening.

Presentation:

Texas Police Chiefs Association, Thomas Sheehan, presented Chief Urbanski and the Lancaster Police Department with The Texas Best Practices Recognition Certificate. Mr. Sheehan shared that The Law Enforcement Recognition Program is a voluntary process where police agencies in Texas prove their compliance with 168 Texas Law Enforcement Best Practices. In August 2015, the Police Department entered the Recognition Program and a Committee of Chiefs of Police voted to reward recognition status to the Lancaster Police Department.

Mayor Knight expressed his appreciation and congratulated the department for their efforts to continue to conduct themselves in a professional matter.

Sean Johnson, Managing Director of Quality of Life & Cultural Services, shared that Mayor Pro Tem Carol Strain-Burk and Ted Burk donated a historical marker of the Steel Dust Quarterhorse. Mr. Johnson read the marker into the record.

Consent Agenda:

City Secretary Arenas read the consent agenda.

1. **Consider a resolution declaring unopposed candidates in District 2, District 4, and District 6 in the May 6, 2017 general municipal election elected to office; canceling the elections in single member District 2, District 4, and District 6; providing for all other provisions of Resolution No. 2017-02-07, as amended, ordering the election to remain in full force and effect.**

MOTION: Councilmember Hairston made a motion, seconded by Deputy Mayor Pro Tem Jaglowski, to approve consent item 1. The vote was cast for 7, 0 against.

2. **Consider an ordinance granting a franchise for the collection and removal of industrial solid waste and recyclable materials to Custom Recycling Solutions, LLC.**

City Manager Mauldin-Robertson shared that pursuant to the City Charter item 2 may not be voted as a final approval but be read into the record twice.

Councilmember Hervey inquired an explanation on the fiscal impact. City Manager Mauldin-Robertson shared the ten percent (10%) is based on our ordinance. The ordinance will allow the City to collect a percentage of the gross revenue collected from customers within the City limits.

City Manager Mauldin-Robertson responded to Councilmember Mejia that the franchise will allow them to do business in the City of Lancaster for a period of five (5) years, unless the franchise is cancelled.

Councilmember Hervey requested a copy of the report that is collected from the current franchises.

Mayor Knight shared some insight that if CWD cannot or chooses not to provide collections of special waste there are other companies with the ability to collect the special type of waste. However, it has been the long-standing requirement of this community that a company that will provide a particular collection must pay the City a street use fee of a certain percentage of the gross revenue collected for street repairs.

MOTION: Mayor Pro Tem Strain-Burk made a motion, seconded by Councilmember Hairston, to approve item 2. The vote was cast for 6, 1 against [Hervey against].

3. **Discuss and consider a resolution approving the terms and conditions of an Interlocal Agreement by and between the City of Lancaster and the City of Hutchins to provide for the Lancaster Animal Shelter to provide animal shelter services to the City of Hutchins.**

Mayor Knight shared that this item was previously discussed at a Work Session Meeting.

Mayor Pro Tem Strain-Burk inquired the number of animals rescued by the City of Hutchins. Assistant to the City Manager Kabona shared that there is an average of 3-5 animals rescued per week with an adoption rate of 85%.

Mayor Knight shared that this is an opportunity to facilitate adoptions, rescue opportunities, and expanding our network with other groups.

Councilmember Mejia inquired the length of contract and termination notice. Assistant to the City Manager Kabona shared that if approved, the Interlocal Agreement will be for a period of one (1) year with a thirty (30) day termination notice.

Mayor Knight shared that we will continue to identify the number of people from our community and ensure that the board will meet the statutory requirements.

MOTION: Councilmember Mejia made a motion, seconded by Councilmember Hairston to approve item 3. The vote was cast for 7, 0 against.

MOTION: Mayor Pro Tem Strain-Burk made a motion, seconded by Councilmember Hairston, to adjourn. The vote was cast for 7, 0 against.

The meeting was adjourned at 7:28 p.m.

ATTEST:

APPROVED:

Sorangel O. Arenas, City Secretary

Marcus E. Knight, Mayor

LANCASTER CITY COUNCIL

City Council Regular Meeting

2.

Meeting Date: 03/27/2017

Policy Statement: This request supports the City Council 2016-2017 Policy Agenda

Goal(s): Financially Sound Government

Submitted by: Fabrice Kabona, Assistant to the City Manager

Agenda Caption:

Consider a resolution authorizing Dallas County to resell 801 Donlee Road, 4453 Highland St., 701 N. Lancaster Hutchins Road, 3203 Baskin Drive, 1038 Bayport Drive, 1048 Bayport Drive, 1056 Bayport Drive, 4156 Portwood Drive, and 615 W. 5th Street, tax foreclosed properties, by public or private sale, to the highest qualified purchaser, as provided by Section 34.05 of the Texas Property Tax Code.

Background:

Following a judgment of the District Court of Dallas County, parcels of land were offered for sale at public auction for foreclosure of the tax liens, securing payment of delinquent property taxes, accrued penalty and interest, and court costs. These parcels are in the City of Lancaster. These parcels did not receive sufficient bid as set by law and were struck off to City of Lancaster as follows:

- 801 Donlee Road;
- 4453 Highland Street;
- 701 N. Lancaster Hutchins Road;
- 3203 Baskin Drive;
- 1038 Bayport Drive;
- 1048 Bayport Drive;
- 1056 Bayport Drive;
- 4156 Portwood Drive;
- 615 W. 5th Street.

Operational Considerations:

Dallas County is preparing for the resale of properties, as tax foreclosed properties, which are now in the ownership of the taxing authorities. Pursuant to Section 34.05(a) of the Tax Code, Dallas County is requesting the City of Lancaster's consent to sell said properties to the highest qualified purchaser, by either public or private sale.

The sell of said properties will bring them back onto the City of Lancaster's tax roll, increasing the tax base and often recouping portions of delinquent taxes due as a result of judgments.

Legal Considerations:

Dallas County handles all legal matters associated with the public or private sale process. The resolution authorizing the resell has been reviewed and approved as to form by the City Attorney.

Public Information Considerations:

Dallas County is responsible for all applicable legal notices required under the Texas Property Code for the public sale of tax foreclosed properties. This item is being considered at a regular meeting of the City Council noticed in accordance with the Texas Open Meetings Act.

Fiscal Impact:

The property values are as follows:

- 801 Donlee Rd; \$55,680
- 4453 Highland St; \$43,650
- 701 N. Lancaster Hutchins Rd; \$46,370
- 3203 Baskin Dr; 20,000
- 1038 Bayport Dr; 30,000
- 1048 Bayport Dr; 30,000
- 1056 Bayport Dr; 30,000
- 4156 Portwood Dr; 35,650
- 615 W. 5th St; 28,380

Options/Alternatives:

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

Recommendation:

Staff recommends approval of the resolution as presented.

Attachments

Resolution

Exhibit A

Properties Map

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LANCASTER, TEXAS, AUTHORIZING DALLAS COUNTY TO RESELL THE FOLLOWING TAX FORECLOSED PROPERTIES LOCATED AT 801 DONLEE ROAD, 4453 HIGHLAND STREET, 701 N. LANCASTER HUTCHINS ROAD, 3203 BASKIN DRIVE, 1038 BAYPORT DRIVE, 1048 BAYPORT DRIVE, 1056 BAYPORT DRIVE, 4156 PORTWOOD DRIVE, AND 615 W. 5TH STREET BY PUBLIC OR PRIVATE SALE, TO THE HIGHEST QUALIFIED PURCHASER, AS PROVIDED BY SECTION 34.05 OF THE TEXAS PROPERTY TAX CODE.

WHEREAS, his matter was briefed to the Lancaster City Council ("City Council") on March 27, 2017 wherein the City Council agreed to use this form of Resolution to provide the County of Dallas consent to sell specific properties to the highest qualified purchaser by public or private sale; and

WHEREAS, several parcels of land were offered for sale by the Sheriff of Dallas County, Texas, at public auction pursuant to a judgment of the District Court of Dallas County, Texas, for foreclosure of the tax liens securing payment of delinquent property taxes, accrued penalty and interest, and court costs; and

WHEREAS, those parcels of land which did not receive a sufficient bid as set by law were struck off to the County of Dallas, the City of Lancaster and Lancaster Independent School District (Taxing Authorities) pursuant to Section 34.01(j) of the Property Tax Code; and

WHEREAS, by this resolution, the County of Dallas, as Trustee for itself and the other Taxing Authorities is authorized to resell these struck off parcels of land, which did not receive a sufficient bid as set by law and to execute quitclaim deeds for said parcels conveying the right, title, and interest acquired or held by the City of Lancaster as a party to the judgment foreclosing tax liens, and

WHEREAS, the City of Lancaster desires to resell said parcel(s) in an expeditious manner pursuant to Section 34.05 of the Property Tax Code.

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

SECTION 1. The City does hereby provide specific authorization to the County of Dallas to act as Trustee to offer for sale by public or private sale the parcels of land shown in Exhibit "A," attached hereto and made a part hereof and the Lancaster City Council does hereby consent to the sale of said parcels to the highest purchaser, even if the amount tendered is less than the market value of the land specified in the judgment of foreclosure or the total amount of the judgment against the property in compliance with Section 34.05(i) of the Texas Property Tax Code, or for an amount equal to or greater than its current market value as shown by the most recent certified appraisal role, if the sum of the amount of the judgment plus post-judgment taxes, penalties, and interest owing against the property exceeds the market value in compliance with Section 34.05(j) of the Texas Property Tax Code, and each taxing unit entitled to receive proceeds of the sale consents to the sale for that amount.

SECTION 2. This Resolution shall take effect immediately from and after its passage in accordance with the provisions of the law.

DULY PASSED and approved by the City Council of the City of Lancaster, Texas, on this the 27th day of March, 2017.

ATTEST:

APPROVED:

Sorangel O. Arenas, City Secretary

Marcus E. Knight, Mayor

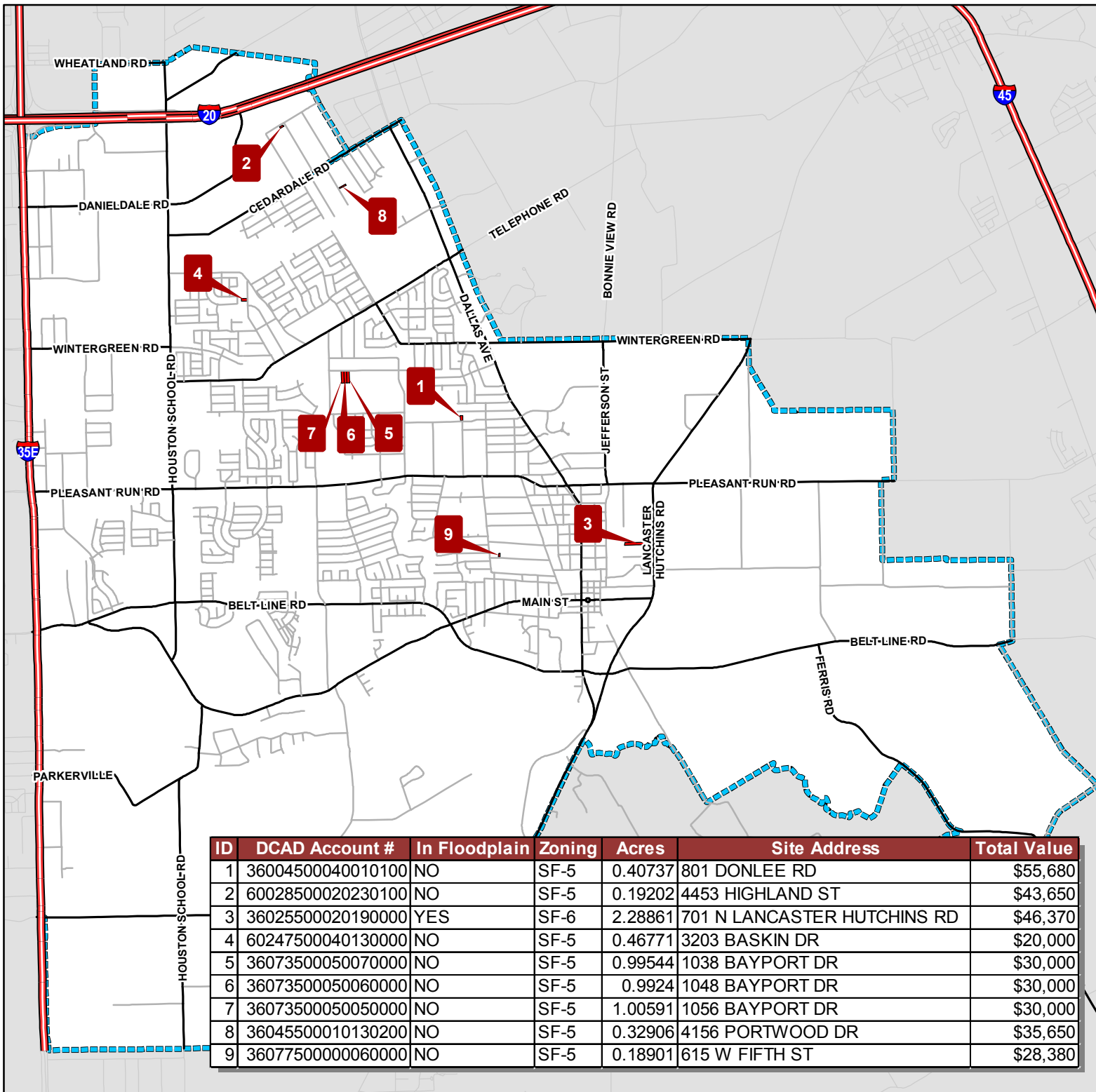
APPROVED AS TO FORM:

Robert E. Hager, City Attorney

EXHIBIT 'A'**TAX FORECLOSURE PROPERTIES STRUCK OFF TO CITY OF LANCASTER
AS TRUSTEE FOR DALLAS COUNTY & LANCASTER I. S. D. OR DALLAS I. S. D.**

PROPERTY ADDRESS	LEGAL DESCRIPTION	STRUCK OFF DATE	SHERIFF'S DEED INSTRUMENT #/ FILE DATE	DCAD ACCOUNT NUMBER
801 Donlee Rd.	100'x182' of Lot 1, City Block D, Bellaire Acres Addn	7/2/2013	201300316359 10/7/13	36004500040010100
4453 Highland St.	Lot 23, Blk B, Cedardale Highlands Addition	10/1/2013	201400008057 1/13/2014	60028500020230100
701 N. Lancaster Hutchins Rd.	Lot 19, Blk 2, Eastside Acres	7/3/2012	201200282121 9/21/2012	36025500020190000
3203 Baskin Dr.	Lot 13, Block D, Will-Kee Addn.	5/2/1995	95107/2605 6/2/1995	60247500040130000
1038 Bayport Drive	Lot 7 Blk E, Placid Meadows	10/4/2011	201100288676 1/03/2011	36073500050070000
1048 Bayport Drive	Lot 6 Blk E, Placid Meadows	10/4/2011	201100288679 11/03/2011	36073500050060000
1056 Bayport Drive	Lot 5 Blk E, Placid Meadows	10/4/2011	201100288675 11/03/2011	36073500050050000
4156 Portwood Dr.	South 1/2 Lot 13, City Block A, Lancaster Gardens	7/2/2013	201300316357 10/7/13	36045500010130200
615 W. 5th St.	Lot 6, Block B, V. H. Post North Fifth St. Resubdivision Lots 49 & 50 of Westridge Annex	9/3/2013	201400008064 1/13/14	36077500000060000

City of Lancaster Tax Foreclosed Property Struck Off to City of Lancaster March, 17, 2017



Legend



City Limits



Foreclosed Property



0 0.375 0.75 1.5 Miles

date: March 17, 2017

LANCASTER CITY COUNCIL

City Council Regular Meeting

3.

Meeting Date: 03/27/2017

Policy Statement: This request supports the City Council 2016-2017 Policy Agenda

Goal(s): Sound Infrastructure

Submitted by: Jim Brewer, Director of Public Works

Agenda Caption:

Consider a resolution authorizing the purchase and installation of 3,000 water meter registers from HydroPro Solutions through an Interlocal Agreement with Houston Galveston Area Council (HGAC) in an amount not to exceed \$496,350.00.

Background:

The City's water meters were replaced in 2006 with a life expectancy of five years. The amount of water meter registers that need to be replaced (3,000) has surpassed the staffing level capabilities and must be outsourced in order to keep the City's water meters functioning properly. Council approved the replacement of nine hundred and seven (907) water meter registers on January 16, 2015 and an additional five hundred eighty-seven (587) water meter registers on July 13, 2015. The Council also approved three thousand (3000) water meter register replacements on February 22, 2016.

Interlocal Agreements allow staff to utilize other agencies' formal bid contracts. Each entity's formal bid process meets the requirements set forth in the statutes, including advertising, M/WBE participation, reference checks, verification of insurance and bonding, if required by specifications, and any other requirements.

Use of Interlocal Agreements allows the City to address the operation needs in a timely manner. Additionally, savings are achieved through aggregate volumes joint bidding opportunities.

Operational Considerations:

Replacement of the current outdated water meter registers will reduce maintenance cost in labor and materials due to service interruptions and improve meter accuracy. The Water and Wastewater Division is primarily responsible for the installation and ongoing maintenance and operation of water meters, water meter registers and related equipment for the tracking of water usage. Due to the volume of water meter register replacements, it is more prudent to outsource this operation for a more efficient and effective use of staff time. Additionally, this will maintain current levels of service to water customers by utilizing this third party method. The current number of water meter registers replaced to date is five thousand six hundred and eight (5,608) the three thousand (3,000) will make eight thousand six hundred and eight (8,608).

Legal Considerations:

The City maintains an executed Interlocal Agreement with Houston Galveston Area Council (HGAC), a cooperative agency. Texas law authorizes cooperative agreements to help save the time of developing specifications and avoid the duplication of the complete bidding process.

Public Information Considerations:

This item is being considered at a meeting of the City Council posted in accordance with the Texas Open Meetings Act.

Fiscal Impact:

Funds are available in the FY 16/17 water division budget.

Options/Alternatives:

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

Recommendation:

Staff recommends approval of the resolution as presented.

Attachments

Resolution

Exhibit "A"

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LANCASTER, TEXAS, AUTHORIZING THE PURCHASE OF THREE THOUSAND (3,000) WATER METER REGISTERS THROUGH AN INTERLOCAL AGREEMENT WITH HOUSTON GALVESTON AREA COUNCIL (HGAC) IN AN AMOUNT NOT TO EXCEED \$496,350.00 TO ACQUIRE THE WATER METER REGISTERS AND INSTALLATION THEREOF EXECUTING SUCH PURCHASE ORDERS AND NECESSARY DOCUMENTS; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council of Lancaster, Texas, desires to authorize the purchase and installation of water meter registers through an Interlocal Agreement with Houston Galveston Area Council (HGA) in an amount not to exceed \$496,350.00; and

WHEREAS, the City's current water meters were replaced in 2006 with life expectancy of five years; and

WHEREAS, the amount of meters that need to be replaced exceeds staff capability at this time; and

WHEREAS, the City of Lancaster maintains an executed Interlocal Agreement with Houston Galveston Area Council (HGAC), a cooperative agency which authorizes cooperative agreements to help save time in developing specification and duplication during the bid process.

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

SECTION 1. The City Council hereby authorizes, approves, accepts, and awards the bid to HydroPro Solutions in an amount not to exceed four hundred ninety six thousand three hundred fifty dollars and zero cents (\$496,350.00) to purchase and install three thousand (3,000) water meter registers, as set forth in Exhibit "A," and;

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

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

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

SECTION 5. This Resolution shall become immediately from and after its passage, and it is duly resolved.

DULY PASSED and approved by the City Council of the City of Lancaster, Texas, on this the 27th day of March, 2017.

ATTEST:

APPROVED:

Sorangel O. Arenas, City Secretary

Marcus E. Knight, Mayor

APPROVED AS TO FORM:

Robert E. Hager, City Attorney



January 22, 2017

City of Lancaster
Andrew Waits
1999 N. Jefferson St
Lancaster, TX 75134

Subject: Master Meter pricing

Andrew,

The following is pricing for Master Meters 3G register retrofit and installation:

Product	Part Number	QTY	Unit Price	Extended
3/4" Master Meter 3G DS Register	199-050-96	3,000	\$137.50	\$412,500.00
3/4" Register Installation	Register Install	3,000	\$27.95	\$83,850.00
				\$496,350.00

Installation will include replacing old Narrow Band registers with new Spread Spectrum DS registers, locking the housing onto the meter, taking a GPS coordinate, taking a photo of old register and new register, and the providing of the work order information in a paperless form to the City of Lancaster.

These prices are discounted from the **HGAC contract WM08-16**.

Please call me with any questions you may have.

Regards,

Gabe Briscoe
HydroPro Solutions
682.219.4042

LANCASTER CITY COUNCIL

City Council Regular Meeting

4.

Meeting Date: 03/27/2017

Policy Statement: This request supports the City Council 2016-2017 Policy Agenda

Goal(s): Healthy, Safe & Vibrant Community
Quality Development

Submitted by: Jermaine Sapp, Director of Equipment and Building Services

Agenda Caption:

Consider a resolution approving the terms and conditions of an agreement with Environmental Reconstruction Services, Inc. (ERS, Inc.) for the installation of a fuel tank and fuel management system in an amount not to exceed (\$400,000.00) four hundred thousand dollars.

Background:

ERS designed and installed the current fuel tanks and fuel management system in May 1995. Two 8-thousand gallon fiberglass underground storage tanks were installed one unleaded the other diesel. The two existing tanks will be tied together. An additional 20 thousand gallons double walled fiberglass tank will split 14 thousand gallons diesel and 6 thousand gallons diesel exhaust fuel which will give the City of Lancaster a capacity of 16 thousand gallons gasoline (unleaded) and 14 thousand diesel gallons and 6 thousand gallons diesel exhaust fuel. The Fuel Island upgrade is part of the design of the new fleet facility approved in April 11, 2016, and scheduled for completion in early May 2017.

Estimated completion of the fuel system upgrade is sixty to ninety days after signed agreement.

Legal Considerations:

The City Attorney prepared the attached agreement; and approved the resolution as to form.

Public Information Considerations:

This item is being considered of a meeting of the City Council noticed in accordance with the Texas Open Meeting Act.

Fiscal Impact:

The agreement total is \$375,874.64 as depicted in the attached agreement and proposal. An additional 24,125.36 is set aside for unforeseen underground exclusions not included in the contract price.

Options/Alternatives:

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

Recommendation:

Staff recommends approval of the resolution as presented.

Attachments

Resolution

Exhibit "A"

Proposal

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LANCASTER, TEXAS, APPROVING THE TERMS AND CONDITIONS OF AN AGREEMENT WITH ENVIRONMENTAL RECONSTRUCTION SERVICES, INC. (ERS, Inc.) AUTHORIZING THE CITY MANAGER TO EXECUTE SAID AGREEMENT IN AN AMOUNT NOT TO EXCEED \$400,000.00 (FOUR-HUNDRED THOUSAND DOLLARS) FOR THE INSTALLATION OF A FUEL TANK AND FUEL MANAGEMENT SYSTEM PROVIDING A REPEALING CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council of Lancaster, Texas, desires to improve its fuel island and fuel management system; and

WHEREAS, the installation of this equipment will improve productivity, efficiency; and

WHEREAS, that the City Council hereby approves and authorizes the installation of a fuel tank and fuel management system with Environmental Reconstruction Services, Inc. (ERS, Inc.) as described in the agreement, attached hereto and incorporated herein by reference as: Exhibit "A" – Contract.

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

SECTION 1. The City Council hereby approves, accepts, and authorizes the contract with Environmental Reconstruction Services, Inc. (ERS, Inc.) in an amount not to exceed four hundred thousand dollars (\$400,000.00), as set forth in Exhibit "A," and;

SECTION 2. That the City Manager or her designee of the City of Lancaster, Texas is hereby authorized to execute the contract in conformity herewith.

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

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

SECTION 5. This Resolution shall become effective immediately from and after its passage, and it is duly resolved.

DULY PASSED and approved by the City Council of the City of Lancaster, Texas, on this the 27th day of March 2017.

ATTEST:

APPROVED:

Sorangel O. Arenas, City Secretary

Marcus E. Knight, Mayor

APPROVED AS TO FORM:

Robert E. Hager, City Attorney

STATE OF TEXAS	§	CITY OF LANCASTER, TEXAS
	§	PUBLIC WORKS PROJECTS AGREEMENT
COUNTY OF DALLAS	§	

This Agreement is made by and between the City of Lancaster, Texas ("Owner") and Environmental Reconstruction Services, Inc. (ERS) ("Contractor"), for contract fuel tank and fuel management system installation (Project(s)), as set forth in Exhibit A/Proposal # 16-053R:

ARTICLE I

THE CONTRACT AND THE CONTRACT DOCUMENTS

1.1 The Contract

The Contract between the Owner and the Contractor, of which this Agreement is a part, consists of the Contract Documents. It shall be effective on the date this Agreement is executed by the last party to execute it.

1.2 The Contract Documents

The Contract Documents consist of this Agreement, any other amendments hereto executed by the parties hereafter, together with the following (if any): Documents not enumerated in this Paragraph are not Contract Documents and do not form part of this Contract.

1.3 Entire Agreement

This Contract, together with the Contractor's performance and payment bonds for the Project, constitute the entire and exclusive agreement between the Owner and the Contractor with reference to the Project. Specifically, but without limitation, this Contract supersedes any bid documents and all prior written or oral communications, representations and negotiations, if any, between the Owner and Contractor not expressly made a part hereof. In the event of a conflict between this Contract and any other document pertaining hereto, this Contract shall govern.

1.4 No Privity with Others

Nothing contained in this Contract shall create, or be interpreted to create, privity or any other contractual agreement between the Owner and any person or entity other than the Contractor.

1.5 Intent and Interpretation

- A. The intent of this Contract is to require complete, correct and timely execution of the Work. Any Work that may be required, implied or inferred by the Contract Documents, or any one or more of them, as necessary to produce the intended result shall be provided by the Contractor for the Contract Price.

- B. This Contract is intended to be an integral whole and shall be interpreted as internally consistent. What is required by any one Contract Document shall be considered as required by the Contract.
- C. When a word, term or phrase is used in this Contract, it shall be interpreted or construed, first, as defined herein; second, if not defined, according to its generally accepted meaning in the construction industry; and third, if there is no generally accepted meaning in the construction industry, according to its common and customary usage.
- D. The words "include", "includes", or "including", as used in this Contract, shall be deemed to be followed by the phrase, "without limitation".
- E. The specification herein of any act, failure, refusal, omission, event, occurrence or condition as constituting a material breach of this Contract shall not imply that any other, non-specified act, failure, refusal, omission, event, occurrence or condition shall be deemed not to constitute a material breach of this Contract.
- F. Words or terms used as nouns in this Contract shall be inclusive of their singular and plural forms, unless the context of their usage clearly requires a contrary meaning.
- G. The Contractor shall have a continuing duty to read, carefully study and compare each of the Contract Documents, the Shop Drawings, the Product Data, and any Plans and Specifications, and shall give written notice to the Owner of any inconsistency, ambiguity, error or omission which the Contractor may discover with respect to these documents before proceeding with the affected Work. The issuance, or the express or implied approval by the Owner or the Designee of the Contract Documents, Shop Drawings or Product Data shall not relieve the Contractor of the continuing duties imposed hereby, nor shall any such approval be evidence of the Contractor's compliance with this Contract. The Owner has requested the Designee to only prepare documents for the Project, including the Drawings and Specifications for the Project, which are accurate, adequate, consistent, coordinated and sufficient for construction. HOWEVER, THE OWNER MAKES NO REPRESENTATION OR WARRANTY OF ANY NATURE WHATSOEVER TO THE CONTRACTOR CONCERNING SUCH DOCUMENTS. By the execution hereof, the Contractor acknowledges and represents that it has received, reviewed and carefully examined such documents, has found them to be complete, accurate, adequate, consistent, coordinated and sufficient for construction, and that the Contractor has not, does not, and will not rely upon any representation or warranties by the Owner concerning such documents as no such representation or warranties have been or are hereby made. Further, the Contractor represents and warrants that it has had a sufficient opportunity to inspect the Project site and assumes any and all responsibility for inadequacies or ambiguities in the plans, drawings or specifications as well as for latent conditions of the site where the work is to be performed.

- H. As between numbers and scaled measurements on the Drawings and in the Design, the numbers shall govern, as between larger scale and smaller scale drawings, the larger scale shall govern.
- I. Neither the organization of any of the Contract Documents into divisions, sections, paragraphs, articles, (or other categories), nor the organization or arrangement of the Design, shall control the Contractor in dividing the Work or in establishing the extent or scope of the Work to be performed by Subcontractors.

1.6 Ownership of Contract Documents

The Contract Documents, and each of them, shall remain the property of the Owner. The Contractor shall have the right to keep one record set of the Contract Documents upon completion of the Project; provided, however, that in no event shall Contractor use, or permit to be used, any or all of such Contract Documents on other projects without the Owner's prior written authorization.

ARTICLE II THE WORK

2.1 The Contractor shall perform all of the Work required, implied or reasonably inferable from this Contract.

2.2 Work

A. The term "Work" shall mean whatever is done by or required of the Contractor to perform and complete its duties under this Contract, including the following: construction of the whole or a designated part of the Projects; furnishing of any required bonds and insurance, and the provision or furnishing of labor, supervision, services, materials, supplies, equipment, fixtures, appliances, facilities, tools, transportation, storage, power, permits and licenses required of the Contractor, fuel, heat, light, cooling and all other utilities as required by this Contract. The Work to be performed by the Contractor is generally described as follows:

[Insert Description of Work to be Performed]: As identified in Exhibit A/Proposal # 16-053R

B. The Contractor shall be responsible for paying for and procuring all materials and labor and furnishing all services necessary or appropriate for the full performance of the Work and the for the full completion of the Projects. All materials shall be new and materials and workmanship shall be of good quality. Upon request, the Contractor shall furnish satisfactory proof of the type, kind, and quality of materials.

ARTICLE III CONTRACT TIME

3.1 Time and Liquidated Damages

- A. The Contractor shall commence the Work on a Project within ten (10) days of receipt of a written Notice to Proceed, and shall achieve Substantial Completion of the Work no later than any Substantial Completion date specified in the Notice to Proceed. The parties acknowledge that time is of the essence in the performance of the terms of this Contract. The term "calendar days" shall mean any and all days of the week or month, no days being excepted. It is contemplated by the parties that the progress of the Work may be delayed by certain conditions beyond the control of the parties; these delays have been contemplated by the parties and considered in the time allotted for performance specified herein and includes, but is not limited to delays occasioned on account of adverse weather, temporary unavailability of materials, shipment delays, and the presence and potential interference of other contractors who may be performing work at the Project site unrelated to this agreement.

The number of calendar days from the date on which the Work is permitted to proceed, through the date set forth for Substantial Completion, shall constitute the "Contract Time" for a particular Project.

- B. The Owner shall have the authority to suspend the Work for any Project wholly or in part for such period or periods of time as it may deem appropriate due to unsuitable conditions considered unfavorable for the proper prosecution of the Work or for the failure of the Contractor to carry out instructions from the Owner or Owner's representative. During any period in which the Work is stopped or during which any of the Work is not actively in progress for any reason, Contractor shall properly protect the site and the Work from damage, loss or harm.

3.2 Substantial Completion

- A. "Substantial Completion" shall mean that stage in the progression of the Work for a particular Project when the Work is sufficiently complete in accordance with this Contract that the Owner can enjoy beneficial use or occupancy of the Work and can utilize the Work for its intended purpose, even though minor miscellaneous work and/or adjustment may be required.

3.3 Time is of the Essence

All limitations of time set forth in the Contract Documents are of the essence of this Contract.

ARTICLE IV CONTRACT PRICE

The Owner shall pay, and the Contractor shall accept, as full and complete payment for all of the Work required herein, the fixed sum of \$375,874.64. The sum set forth in this

Paragraph shall constitute the Contract Price which shall not be modified except by written Change Order as provided in this Contract.

ARTICLE V PAYMENT OF THE CONTRACT PRICE

5.1 Payment Procedure

The Owner shall pay the Contract Price to the Contractor as provided below.

- A. Progress Payments. Based upon the Contractor's Applications for Payment submitted to the Designee and upon Certificates for Payment subsequently issued to the Owner by the Designee, the Owner shall make progress payments to the Contractor on account of the Contract Price.
- B. The Contractor warrants that title to all Work covered by an Application for Payment will pass to the Owner no later than the time of payment. The Contractor further warrants that upon submittal of an Application for Payment, all Work for which payments have been received from the Owner shall be free and clear of liens, claims, security interest or other encumbrances in favor of the Contractor or any other person or entity whatsoever.
- D. The Contractor shall promptly pay each Subcontractor out of the amount paid to the Contractor on account of such Subcontractor's Work, the amount to which such Subcontractor is entitled. In the event the Owner becomes informed that the Contractor has not paid a Subcontractor as herein provided, the Owner shall have the right, but not the duty, to issue future checks in payment to the Contractor of amounts otherwise due hereunder naming the Contractor and such Subcontractor as joint payees. Such joint check procedure, if employed by the Owner, shall create no rights in favor of any person or entity beyond the right of the named payees to payment of the check and shall not be deemed to commit the Owner to repeat the procedure in the future.
- E. No progress payment, nor any use or occupancy of a Project by the Owner, shall be interpreted to constitute an acceptance of any Work not in strict accordance with this Contract.

5.3 Withheld Payment

The Owner may decline to make payment, may withhold funds, and, if necessary, may demand the return of some or all of the amounts previously paid to the Contractor, to protect the Owner from loss because of:

- (i) Defective Work not remedied by the Contractor nor, in the opinion of the Owner, likely to be remedied by the Contractor;

- (ii) claims of third parties against the Owner or the Owner's property;
- (iii) failure by the Contractor to pay Subcontractors or others in a prompt and proper fashion;
- (iv) evidence that the balance of the Work cannot be completed in accordance with the Contract for the unpaid balance of the Contract Price,
- (v) evidence that the Work will not be completed in the time required for substantial or final completion;
- (vi) persistent failure to carry out the Work in accordance with the Contract;
- (vii) damage to the Owner or a third party to whom the Owner is, or may be, liable.

In the event that the Owner makes written demand upon the Contractor for amounts previously paid by the Owner as contemplated in this Subparagraph 5.3.1, the Contractor shall promptly comply with such demand. The Owner shall have no duty to third parties to withhold payment to the Contractor and shall incur no liability for a failure to withhold funds.

5.4 Unexcused Failure to Pay

If within fifteen (15) days after the date established herein for payment to the Contractor by the Owner, the Owner, without cause or basis hereunder, fails to pay the Contractor any amount then due and payable to the Contractor, then the Contractor may after ten (10) additional days' written notice to the Owner, and without prejudice to any other available rights or remedies it may have, stop the Work until payment of those amounts due from the Owner have been received. Late payments shall not accrue interest or other late charge.

5.5 Substantial Completion

When the Contractor believes that the Work is substantially complete, the Contractor shall submit to the Owner a list of items to be completed or corrected. When the Owner on the basis of an inspection determines that the Work is in fact substantially complete, it will prepare a Certificate of Substantial Completion which shall establish the date of Substantial Completion, shall state the responsibilities of the Owner and the Contractor for Project security, maintenance, heat, utilities, damage to the Work, and insurance, and shall fix the time within which the Contractor shall complete the items listed therein. Guarantees required by the Contract shall commence on the date of Substantial Completion of the Work. The Certificate of Substantial Completion shall be submitted to the Owner and the Contractor for their written acceptance of the responsibilities assigned to them in such certificate.

Upon Substantial Completion of the Work, and execution by both the Owner and the Contractor of the Certificate of Substantial Completion, the Owner shall pay the Contractor an amount sufficient to increase total payments to the Contractor to one hundred percent (100%) of the Contract Price less three hundred percent (300%) of the reasonable cost as determined by the Owner for completing all incomplete Work, correcting and bringing into conformance all defective and nonconforming Work, and handling all unsettled claims.

5.6 Completion and Final Payment

- A. When all of the Work for a particular Project is finally complete and the Contractor is ready for a final inspection, it shall notify the Owner thereof in writing. Thereupon, the Owner will make final inspection of the Work and, if the Work is complete in full accordance with this Contract and this Contract has been fully performed, the Owner will promptly issue a final Certificate for Payment certifying to the Owner that the Project is complete and the Contractor is entitled to the remainder of the unpaid Contract Price, less any amount withheld pursuant to this Contract. If the Owner is unable to issue its final Certificate for Payment and is required to repeat its final inspection of the Work, the Contractor shall bear the cost of such repeat final inspection(s) which cost may be deducted by the Owner from the Contractor's final payment.
- B. If the Contractor fails to achieve final completion within the time fixed therefor by the Owner in its Certificate of Substantial Completion, the Contractor shall pay the Owner the sum set forth hereinabove as liquidated damages per day for each and every calendar day of unexcused delay in achieving final completion beyond the date set forth herein for final completion of the Work. Any sums due and payable hereunder by the Contractor shall be payable, not as a penalty, but as liquidated damages representing an estimate of delay damages likely to be sustained by the Owner, estimated at or before the time of executing this Contract. When the Owner reasonably believes that final completion will be inexcusably delayed, the Owner shall be entitled, but not required, to withhold from any amounts otherwise due the Contractor an amount then believed by the Owner to be adequate to recover liquidated damages applicable to such delays. If and when the Contractor overcomes the delay in achieving final completion, or any part thereof, for which the Owner has withheld payment, the Owner shall promptly release to the Contractor those funds withheld, but no longer applicable, as liquidated damages.
- C. The Contractor shall not be entitled to final payment for a particular Project unless and until it submits to the Owner its affidavit that all payrolls, invoices for materials and equipment, and other liabilities connected with the Work for which the Owner, or the Owner's property might be responsible, have been fully paid or otherwise satisfied; releases and waivers of lien from all Subcontractors of the Contractor and of any and all other parties required by the Owner; consent of Surety, if any, to final payment. If any third party fails or refuses to provide a release of claim or waiver of lien as required by the Owner, the Contractor shall furnish a bond satisfactory to the Owner to discharge any such lien or indemnify the Owner from liability.
- D. The Owner shall make final payment of all sums due the Contractor within ten (10) days of the Owner's execution of a final Certificate for Payment.
- E. Acceptance of final payment shall constitute a waiver of all claims against the Owner by the Contractor except for those claims previously made in writing against the Owner by the Contractor, pending at the time of final payment, and identified in writing by the Contractor as unsettled at the time of its request for final payment.

- F. Under no circumstance shall Contractor be entitled to receive interest on any payments or monies due Contractor by the Owner, whether the amount on which the interest may accrue is timely, late, wrongfully withheld, or an assessment of damages of any kind.

ARTICLE VI THE OWNER

6.1 Information, Services and Things Required from Owner

- A. The Owner shall furnish to the Contractor, at the time of executing this Contract, any and all written and tangible material in its possession concerning conditions below ground at the site of a particular Project.
- B. Such written and tangible material is furnished to the Contractor only in order to make complete disclosure of such material and for no other purpose. By furnishing such material, the Owner does not represent, warrant, or guarantee its accuracy either in whole, in part, implicitly or explicitly, or at all, and shall have no liability therefor. The Owner shall also furnish surveys, legal limitations and utility locations (if known), and a legal description of the Project site.
- C. Excluding permits and fees normally the responsibility of the Contractor, the Owner shall obtain all approvals, easements, and the like required for construction and shall pay for necessary assessments and charges required for construction, use or occupancy of permanent structures or for permanent changes in existing facilities.
- D. The Owner shall furnish the Contractor, free of charge, one copy of the Contract Documents for execution of the Work.

6.2 Right to Stop Work

If the Contractor persistently fails or refuses to perform the Work for any Project in accordance with this Contract, or if the best interests of the public health, safety or welfare so require, the Owner may order the Contractor to stop the Work, or any described portion thereof, until the cause for stoppage has been corrected, no longer exists, or the Owner orders that Work be resumed. In such event, the Contractor shall immediately obey such order.

6.3 Owner's Right to Perform Work

If the Contractor's Work on any Project is stopped by the Owner under Paragraph 6.2, and the Contractor fails within seven (7) days of such stoppage to provide adequate assurance to the Owner that the cause of such stoppage will be eliminated or corrected, then the Owner may, without prejudice to any other rights or remedies the Owner may have against the Contractor, proceed to carry out the subject Work. In such a situation, an appropriate Change Order shall be issued deducting from the Contract Price the cost of correcting the subject deficiencies, plus compensation for the Owner's additional services and expenses necessitated thereby, if any. If

the unpaid portion of the Contract Price is insufficient to cover the amount due the Owner, the Contractor shall pay the difference to the Owner.

ARTICLE VII THE CONTRACTOR

7.1 The Contractor is again reminded of its continuing duty set forth in Subparagraph 1.5.G. The Contractor shall perform no part of the Work for a Project at any time without adequate Contract Documents or, as appropriate, approved Shop Drawings, Product Data or Samples for such portion of the Work. If the Contractor performs any of the Work knowing it involves a recognized error, inconsistency or omission in the Contract Documents without such notice to the Owner, the Contractor shall bear responsibility for such performance and shall bear the cost of correction.

7.2 The Contractor shall perform all Work strictly in accordance with this Contract.

7.3 The Contractor shall supervise and direct the Work using the Contractor's best skill, effort and attention. The Contractor shall be responsible to the Owner for any and all acts or omissions of the Contractor, its employees and others engaged in the Work on behalf of the Contractor.

- A. The Contractor shall give adequate attention to the faithful prosecution of the Work and the timely completion of this Contract, with authority to determine the manner and means of performing such Work, so long as such methods insure timely completion and proper performance.
- B. The Contractor shall exercise all appropriate means and measures to insure a safe and secure jobsite in order to avoid and prevent injury, damage or loss to persons or property.

7.4 Warranty

The Contractor warrants to the Owner that all labor furnished to progress the Work under this Contract will be competent to perform the tasks undertaken, that the product of such labor will yield only first-class results, that materials and equipment furnished will be of good quality and new unless otherwise permitted by this Contract, and that the Work will be of good quality, free from faults and defects and in strict conformance with this Contract. All Work not conforming to these requirements may be considered defective.

7.5 The Contractor shall obtain and pay for all permits, fees and licenses necessary and ordinary for the Work. The Contractor shall comply with all lawful requirements applicable to the Work and shall give and maintain any and all notices required by applicable law pertaining to the Work.

7.6 Supervision

- A. The Contractor shall employ and maintain at the Project site only competent supervisory personnel. Absent written instruction from the Contractor to the contrary, the superintendent shall be deemed the Contractor's authorized representative at the site and shall be authorized to receive and accept any and all communications from the Owner.
- B. Key supervisory personnel assigned by the Contractor to these Projects are as follows:

Name	Function
Terry Sauls	Vice President, Operations

So long as the individuals named above remain actively employed or retained by the Contractor, they shall perform the functions indicated next to their names unless the Owner agrees to the contrary in writing. In the event one or more individuals not listed above subsequently assume one or more of those functions listed above, the Contractor shall be bound by the provisions of this Subparagraph 7.6.B as though such individuals had been listed above.

7.7 The Contractor, within fifteen (15) days of commencing the Work on any Project, shall submit to the Owner for its information, the Contractor's schedule for completing the Work. The Contractor's schedule shall be revised no less frequently than monthly (unless the parties otherwise agree in writing) and shall be revised to reflect conditions encountered from time to time and shall be related to the entire Project. Each such revision shall be furnished to the Owner. Failure by the Contractor to strictly comply with the provisions of this Paragraph 7.7 shall constitute a material breach of this Contract.

7.8 The Contractor shall continuously maintain at the site, for the benefit of the Owner, one record copy of this Contract marked to record on a current basis changes, selections and modifications made during construction. Additionally, the Contractor shall maintain at the site for the Owner the approved Shop Drawings, Product Data, Samples and other similar required submittals. Upon final completion of the Work, all of these record documents shall be delivered to the Owner.

7.9 Shop Drawings, Product Data and Samples

- A. Shop Drawings, Product Data, Samples and other submittals from the Contractor do not constitute Contract Documents. Their purpose is merely to demonstrate the manner in which the Contractor intends to implement the Work in conformance with information received from the Contract Documents.
- B. The Contractor shall not perform any portion of the Work requiring submittal and review of Shop Drawings, Product Data or Samples unless and until such submittal shall have been approved by the Designee. Approval by the Owner, however, shall not be evidence that Work installed pursuant thereto conforms with the requirements of this Contract.

7.10 Cleaning the Site and the Project

The Contractor shall keep the site reasonably clean during performance of the Work. Upon final completion of the Work, the Contractor shall clean the site and the Project and remove all waste, rubbish, temporary structures, and other materials together with all of the Contractor's property therefrom. Contractor shall dispose of all refuse at a Texas Natural Resource Conservation Commission approved landfill. The Contractor shall further restore all property damaged during the prosecution of the Work and shall leave the site in a clean and presentable condition. No additional payment shall be made by the Owner for this work, the compensation having been considered and included in the contract price.

7.11 Access to Work and Inspections

The Owner shall have access to the Work at all times from commencement of the Work through final completion. The Contractor shall take whatever steps necessary to provide access when requested. When reasonably requested by the Owner, the Contractor shall perform or cause to be performed such testing as may be necessary or appropriate to insure suitability of the jobsite or the Work's compliance with the Contract requirements.

7.12 Indemnity and Disclaimer

- A. **OWNER SHALL NOT BE LIABLE OR RESPONSIBLE FOR, AND SHALL BE INDEMNIFIED, DEFENDED, HELD HARMLESS AND RELEASED BY CONTRACTOR FROM AND AGAINST ANY AND ALL SUITS, ACTIONS, LOSSES, DAMAGES, CLAIMS, OR LIABILITY OF ANY CHARACTER, TYPE, OR DESCRIPTION, INCLUDING ALL EXPENSES OF LITIGATION, COURT COSTS, AND ATTORNEY'S FEES FOR INJURY OR DEATH TO ANY PERSON, OR INJURY OR LOSS TO ANY PROPERTY, RECEIVED OR SUSTAINED BY ANY PERSON OR PERSONS, INCLUDING THE CONTRACTOR, OR PROPERTY, ARISING OUT OF, OR OCCASIONED BY, DIRECTLY OR INDIRECTLY, THE PERFORMANCE OF CONTRACTOR UNDER THIS AGREEMENT, INCLUDING CLAIMS AND DAMAGES ARISING IN WHOLE OR IN PART FROM THE NEGLIGENCE OF OWNER, WITHOUT, HOWEVER, WAIVING ANY GOVERNMENTAL IMMUNITY AVAILABLE TO THE OWNER UNDER TEXAS LAW AND WITHOUT WAIVING ANY DEFENSES OF THE PARTIES UNDER TEXAS LAW. THE PROVISIONS OF THIS INDEMNIFICATION ARE SOLELY FOR THE BENEFIT OF THE PARTIES HERETO AND NOT INTENDED TO CREATE OR GRANT ANY RIGHTS, CONTRACTUAL OR OTHERWISE, TO ANY OTHER PERSON OR ENTITY. IT IS THE EXPRESSED INTENT OF THE PARTIES TO THIS AGREEMENT THAT THE INDEMNITY PROVIDED FOR IN THIS CONTRACT IS AN INDEMNITY EXTENDED BY CONTRACTOR TO INDEMNIFY AND PROTECT OWNER FROM THE CONSEQUENCES OF THE CONTRACTOR'S AS WELL AS THE OWNER'S NEGLIGENCE,**

**WHETHER SUCH NEGLIGENCE IS THE SOLE OR PARTIAL CAUSE
OF ANY SUCH INJURY, DEATH, OR DAMAGE.**

- B. The Contractor will secure and maintain Contractual Liability insurance to cover this indemnification agreement that will be primary and non-contributory as to any insurance maintained by the Owner for its own benefit, including self-insurance. In addition, Contractor shall obtain and file with Owner a Standard Certificate of Insurance evidencing the required coverage.
- C. In claims against any person or entity indemnified under this Paragraph 7.12 by an employee of the Contractor, a Subcontractor, anyone directly or indirectly employed by them or anyone for whose acts they may be liable, the indemnification obligation under this Paragraph 7.12 shall not be limited by a limitation on amount or type of damages, compensation or benefits payable by or for the Contractor or a Subcontractor under workers' compensation acts, disability benefit acts or other employee benefit acts.

7.13 Nondiscrimination

The Contractor shall not discriminate in any way against any person, employee or job applicant on the basis of race, color, creed, national origin, religion, age, sex, or disability where reasonable accommodations can be effected to enable the person to perform the essential functions of the job. The Contractor shall further insure that the foregoing nondiscrimination requirement shall be made a part and requirement of each subcontract on any Project.

7.14 Job Site Safety Precautions

The Contractor shall at all times exercise reasonable precautions for the safety of its employees, laborers, subcontractors, mechanics, workmen and others on and near the jobsite and shall comply with all laws, ordinances, regulations, and standards of federal, state and local safety laws and regulations. The Contractor shall provide such machinery guards, safe walkways, ladders, bridges, and other safety devices as may be necessary or appropriate to insure a safe and secure jobsite and shall require its subcontractors to comply with this requirement. The Contractor shall immediately comply with any and all safety requirements imposed by the Owner during the progress of any Work.

7.16 Warning Devices and Barricades

The Contractor shall furnish and maintain such warning devices, barricades, lights, signs, pavement markings, and other devices as may be necessary or appropriate or required by the Owner to protect persons or property in, near or adjacent to the jobsite, including . No separate compensation shall be paid to the Contractor for such measures. Where Work is being conducted in, upon or near streets, alleys, sidewalks, or other rights-of-way, the Contractor shall insure the placement, maintenance and operation of any and all such warning devices as may be required by the City of Lancaster and shall do so until no longer required by the City. Such devices shall be in compliance with and conform to the manual and specifications for the uniform system of traffic control devices adopted by the Texas Department of Transportation.

7.17 Protection of Utilities and Other Contractors

- A. The Contractor shall use best efforts to leave undisturbed and uninterrupted all utilities and utility services provided to the jobsite or which presently exists at, above or beneath the location where any Work is to be performed. In the event that any utility or utility service is disturbed or damaged during the progress of the Work, the Contractor shall forthwith repair, remedy or restore the utility at Contractor's sole expense.
- B. The Contractor understands and acknowledges that other contractors of the Owner or of other entities may be present at the jobsite performing other work unrelated to the Project. The Contractor shall use best efforts to work around other contractors without impeding the work of others while still adhering to the completion date established herein. In the event that the Contractor's work is or may be delayed by any other person, the Contractor shall immediately give notice thereof to the Owner and shall request a written Change Order in accordance with the procedures set forth by this Contract. The Contractor's failure to provide such notice and to request such Change Order shall constitute a waiver of any and all claims associated therewith.

ARTICLE VIII CONTRACT ADMINISTRATION

8.1 The Owner or Owner's Designee

The Owner may administer this Contract itself or appoint a Designee to administer this Contract. The Owner's Designee ("Designee") may be an employee of the Owner or may be retained by the Owner as an independent contractor but, in either event, the Designee's duties and authority shall be as set forth hereinafter. The Contractor understands and agrees that it shall abide by the decisions and instructions of the Owner's Designee notwithstanding the contractual relationship between the Owner and Designee. All of the Owner's instructions to the Contractor shall be through the Designee unless otherwise provided by Owner.

In the event the Owner should find it necessary or convenient to replace its Designee, the Owner shall retain a replacement Designee and the status of the replacement Designee shall be that of the former Designee.

8.2 Designee's Administration

- A. The Designee, unless otherwise directed by the Owner in writing, will perform those duties and discharge those responsibilities allocated to the Designee as set forth in this Contract. The Designee shall be the Owner's representative from the effective date of this Contract until final payment has been made.
- B. The Owner and the Contractor shall communicate with each other in the first instance through the Designee.

- C. The Designee shall be the initial interpreter of the requirements of the drawings and specifications and the judge of the performance thereunder by the Contractor. The Designee shall render written or graphic interpretations necessary for the proper execution or progress of the Work with reasonable promptness on request of the Contractor.
- D. The Designee will review the Contractor's Applications for Payment and will certify to the Owner for payment to the Contractor, those amounts then due the Contractor as provided in this Contract.
- E. The Designee shall have authority to reject Work which is defective or does not conform to the requirements of this Contract. If the Designee deems it necessary or advisable, the Designee shall have authority to require additional inspection or testing of the Work for compliance with Contract requirements.
- F. The Designee will review and approve, or take other appropriate action as necessary, concerning the Contractor's submittals including Shop Drawings, Product Data and Samples. Such review, approval or other action shall be for the sole purpose of determining conformance with the design concept and information given through the Contract Documents.
- G. The Designee will prepare Change Orders and may authorize minor changes in the Work by Field Order as provided elsewhere herein.
- H. The Designee shall, upon written request from the Contractor, conduct inspections to determine the date of Substantial Completion and the date of final completion, will receive and forward to the Owner for the Owner's review and records, written warranties and related documents required by this Contract and will issue a final Certificate for Payment upon compliance with the requirements of this Contract.
- I. The Designee's decisions in matters relating to aesthetic effect shall be final if consistent with the intent of this Contract.

8.3 Claims by the Contractor

- A. The Designee shall determine all claims and matters in dispute between the Contractor and Owner with regard to the execution, progress, or sufficiency of the Work or the interpretation of the Contract Documents, including but not limited to the plans and specifications. Any dispute shall be submitted in writing to the Designee within seven (7) days of the event or occurrence or the first appearance of the condition giving rise to the claim or dispute who shall render a written decision within a reasonable time thereafter. The Designee's decisions shall be final and binding on the parties. In the event that either party objects to the Designee's determination as to any submitted dispute, that party shall submit a written objection to the Designee and the opposing party within ten (10) days of receipt of the Designee's written determination in order to preserve the objection. Failure to so object shall constitute a waiver of the objection for all purposes.

- B. Pending final resolution of any claim of the Contractor, the Contractor shall diligently proceed with performance of this Contract and the Owner shall continue to make payments to the Contractor in accordance with this Contract.
- C. Claims for Concealed, Latent or Unknown Conditions. The Contractor expressly represents that it has been provided with an adequate opportunity to inspect all Project sites and thoroughly review the Contract Documents and plans and specifications prior to submission of its bid and the Owner's acceptance of the bid. Subject to the conditions hereof, Contractor assumes full responsibility and risk for any concealed, latent or unknown condition which may affect the Work. No claims for extra work or additional compensation shall be made by Contractor in connection with concealed, latent or unknown conditions except as expressly provided herein. Should concealed, latent or unknown conditions encountered in the performance of any Work (a) below the surface of the ground or (b) in an existing structure be at variance with the conditions indicated by this Contract, or should unknown conditions of an unusual nature differing materially from those ordinarily encountered in the area and generally recognized as inherent in Work of the character provided for in this Contract, be encountered, the Contract Price shall be equitably adjusted by Change Order upon the written notice and claim by either party made within seven (7) days after the first observance of the condition. As a condition precedent to the Owner having any liability to the Contractor for concealed or unknown conditions, the Contractor must give the Owner and the Designee written notice of, and an opportunity to observe, the condition prior to disturbing it. The failure by the Contractor to make the written notice and claim as provided in this Subparagraph shall constitute a waiver by the Contractor of any claim arising out of or relating to such concealed, latent or unknown condition and the Contractor thereby assumes all risks and additional costs associated therewith.
- D. Claims for Additional Costs. If the Contractor wishes to make a claim for an increase in the Contract Price, as a condition precedent to any liability of the Owner therefore, the Contractor shall give the Designee written notice of such claim within seven (7) days after the occurrence of the event, or the first appearance of the condition, giving rise to such claim. Such notice shall be given by the Contractor before proceeding to execute any additional or changed Work. The failure by the Contractor to give such notice and to give such notice prior to executing any Work shall constitute a waiver of any claim for additional compensation.
- E. In connection with any claim by the Contractor against the Owner for compensation in excess of the Contract Price, any liability of the Owner for the Contractor's costs shall be strictly limited to direct costs incurred by the Contractor and shall in no event include indirect costs or consequential damages of the Contractor. The Owner shall not be liable to the Contractor for claims of third parties, including Subcontractors. The Owner shall not be liable to the Contractor for any claims based upon delay to the Contractor for any reason whatsoever including any act or neglect on the part of the Owner.

- F. Claims for Additional Time. If the Contractor is delayed in progressing any task which at the time of the delay is then critical or which during the delay becomes critical, as the sole result of any act or neglect to act by the Owner or someone acting in the Owner's behalf, or by changes ordered in any Work, unusual delay in transportation, unusually adverse weather conditions not reasonably anticipated, fire or any causes beyond the Contractor's control, then the date for achieving Substantial Completion of the Work shall be extended upon the written notice and claim of the Contractor to the Owner and the Designee, for such reasonable time as the Designee may determine. Any notice and claim for an extension of time by the Contractor shall be made not more than seven (7) days after the occurrence of the event or the first appearance of the condition giving rise to the claim and shall set forth in detail the Contractor's basis for requiring additional time in which to complete the Project. In the event the delay to the Contractor is a continuing one, only one notice and claim for additional time shall be necessary. If the Contractor fails to make such claim as required in this Subparagraph, any claim for an extension of time shall be waived. The procedures and remedies provided by this provision shall be the sole remedy of Contractor and Contractor shall not assert nor be entitled to any additional delays or damages associated therewith.

8.4 Field Orders

The Designee shall have authority to order minor changes in any Work not involving a change in the Contract Price or in Contract Time and not inconsistent with the intent of the Contract. Such changes shall be effected by Field Order and shall be binding upon the Contractor. The Contractor shall carry out such Field Orders promptly.

8.5 Mediation

- A. In the event that a dispute arises under the terms of this Contract, following an adverse determination by the Designee and proper preservation of the issue as required herein, the parties agree to submit to mediation. In such event, the parties shall agree to a designated person to serve as mediator and each party shall be responsible for payment of one-half of the total mediation fees. The parties shall submit the dispute to mediation as soon as practical and in no event later than one (1) year after the Designee's written decision on the matter. At least one designated representative of each party must attend and participate in good faith in an effort to resolve the matters in dispute.
- B. In no event shall the foregoing provision justify or authorize any delay in the progress of any Work; the parties shall abide by the decision of the Designee in accomplishing the timely completion of the Project.

ARTICLE IX SUBCONTRACTORS

9.1 Definition

A Subcontractor is an entity which has a direct contract with the Contractor to perform a portion of the Work. No Subcontractor shall be in privity with the Owner.

9.2 Award of Subcontracts

- A. Upon execution of the Contract, the Contractor shall furnish the Owner, in writing, the names of persons or entities proposed by the Contractor to act as a Subcontractor on the Project. The Owner shall promptly reply to the Contractor, in writing, stating any objections the Owner may have to such proposed Subcontractor. The Contractor shall not enter into a subcontract with a proposed Subcontractor with reference to whom the Owner has made timely objection. The Contractor shall not be required to subcontract with any party to whom the Contractor has objection.
- B. All subcontracts shall afford the Contractor rights against the Subcontractor which correspond to those rights afforded to the Owner against the Contractor herein, including those rights afforded to the Owner by Subparagraph 12.2.1 below. All subcontracts shall incorporate by reference the provisions hereof and shall provide that no claims, causes or demands shall be made by any Subcontractor against the Owner.
- C. The Contractor shall indemnify, defend and hold harmless the Owner from and against any and all claims, demands, causes of action, damage, and liability asserted or made against the Owner by or on behalf of any Subcontractor.

ARTICLE X CHANGES IN THE WORK

10.1 Changes Permitted

- A. Changes in any Work within the general scope of this Contract, consisting of additions, deletions, revisions, or any combination thereof, may be ordered without invalidating this Contract, by Change Order or by Field Order.
- B. Changes in the Work shall be performed under applicable provisions of this Contract and the Contractor shall proceed promptly with such changes.

10.2 Change Order Defined

Change Order shall mean a written order to the Contractor executed by the Owner and the Designee, issued after execution of this Contract, authorizing and directing a change in any Work or an adjustment in the Contract Price or the Contract Time, or any combination thereof. The Contract Price and the Contract Time may be changed only by written Change Order.

10.3 Changes in the Contract Price

- A. Any change in the Contract Price resulting from a Change Order shall be determined as follows: (a) by mutual agreement between the Owner and the Contractor as evidenced by

(1) the change in the Contract Price being set forth in the Change Order, (2) such change in the Contract Price, together with any conditions or requirements related thereto, being initialed by both parties and (3) the Contractor's execution of the Change Order, or (b) if no mutual agreement occurs between the Owner and the Contractor, then, as provided in Subparagraph 10.3B below.

- B. If no mutual agreement occurs between the Owner and the Contractor as contemplated in Subparagraph 10.3.A above, the change in the Contract Price, if any, shall then be determined by the Designee on the basis of the reasonable expenditures or savings of those performing, deleting or revising the Work attributable to the change, including, in the case of an increase or decrease in the Contract Price, a reasonable allowance for direct job site overhead and profit. In such case, the Contractor shall present, in such form and with such content as the Owner or the Designee requires, an itemized accounting of such expenditures or savings, plus appropriate supporting data for inclusion in a Change Order. Reasonable expenditures or savings shall be limited to the following: reasonable costs of materials, supplies, or equipment including delivery costs, reasonable costs of labor, including social security, old age and unemployment insurance, fringe benefits required by agreement or custom, and workers' compensation insurance, reasonable rental costs of machinery and equipment exclusive of hand tools whether rented from the Contractor or others, reasonable costs of premiums for all bonds and insurance, permit fees, and sales, use or other taxes related to the Work, and reasonable cost of direct supervision and jobsite field office overhead directly attributable to the change. In no event shall any expenditure or savings associated with the Contractor's home office or other non-jobsite overhead expense be included in any change in the Contract Price. Pending final determination of reasonable expenditures or savings to the Owner, payments on account shall be made to the Contractor on the Designee's Certificate for Payment.
- C. If unit prices are provided in the Contract, and if the quantities contemplated are so changed in a proposed Change Order that application of such unit prices to the quantities of Work proposed will cause substantial inequity to the Owner or to the Contractor, the applicable unit prices shall be equitably adjusted.

10.4 Minor Changes

The Designee shall have authority to order minor changes in any Work not involving a change in the Contract Price or an extension of the Contract Time and not inconsistent with the intent of this Contract. Such minor changes shall be made by written Field Order, and shall be binding upon the owner and the Contractor. The Contractor shall promptly carry out such written Field Orders.

10.5 Effect of Executed Change Order

The execution of a Change Order by the Contractor shall constitute conclusive evidence of the Contractor's agreement to the ordered changes in the Work, this Contract as thus amended, the Contract Price and the Contract Time. The Contractor, by executing the Change Order,

waives and forever releases any claim against the Owner for additional time or compensation for matters relating to or arising out of or resulting from the Work included within or affected by the executed Change Order.

10.6 Notice to Surety; Consent

The Contractor shall notify and obtain the consent and approval of the Contractor's surety with reference to all Change Orders if such notice, consent or approval are required by the Contractor's surety or by law. The Contractor's execution of the Change Order shall constitute the Contractor's warranty to the Owner that the surety has been notified of and consents to, such Change Order and the surety shall be conclusively deemed to have been notified of such Change Order and to have expressly consented thereto.

ARTICLE XI UNCOVERING AND CORRECTING WORK

11.1 Uncovering Work

- A. If any of the Work is covered contrary to the Designee's request or to any provisions of this Contract, it shall, if required by the Designee or the Owner, be uncovered for the Designee's inspection and shall be properly replaced at the Contractor's expense without change in the Contract Time.
- B. If any of the Work is covered in a manner not inconsistent with Subparagraph 11.1.A above, it shall, if required by the Designee or Owner, be uncovered for the Designee's inspection. If such Work conforms strictly with this Contract, costs of uncovering and proper replacement shall by Change Order be charged to the Owner. If such Work does not strictly conform with this Contract, the Contractor shall pay the costs of uncovering and proper replacement.

11.2 Correcting Work

- A. The Contractor shall immediately proceed to correct Work rejected by the Designee as defective or failing to conform to this Contract. The Contractor shall pay all costs and expenses associated with correcting such rejected Work, including any additional testing and inspections, and reimbursement to the Owner for the Designee's services and expenses made necessary thereby.
- B. If, within one (1) year after Substantial Completion of any Work herein, any of the Work is found to be defective or not in accordance with this Contract, the Contractor shall correct it promptly upon receipt of written notice from the Owner. This obligation shall survive final payment by the Owner and termination of this Contract. With respect to Work first performed and completed after Substantial Completion, this one year obligation to specifically correct defective and nonconforming Work shall be extended by the period of time which elapses between Substantial Completion and completion of the subject Work.

- C. Nothing contained in this Paragraph 11.2 shall establish any period of limitation with respect to other obligations which the Contractor has under this Contract. Establishment of the one year time period in Subparagraph 11.2.B. relates only to the duty of the Contractor to specifically correct the Work.

11.3 Owner May Accept Defective or Nonconforming Work

If the Owner chooses to accept defective or nonconforming Work, the Owner may do so. In such event, the Contract Price shall be reduced by the greater of (a) the reasonable cost of removing and correcting the defective or nonconforming Work, and (b) the difference between the fair market value of the Project as constructed and the fair market value of the Project had it not been constructed in such a manner as to include defective or nonconforming Work. If the remaining portion of the unpaid Contract Price, if any, is insufficient to compensate the Owner for its acceptance of defective or nonconforming Work, the Contractor shall, upon written demand from the Owner, pay the Owner such remaining compensation for accepting defective or nonconforming Work.

ARTICLE XII CONTRACT TERMINATION

12.1 Termination by the Contractor

- A. If any Work on any Project is stopped for a period of ninety (90) days by an order of any court or other public authority, or as a result of an act of the Government, through no fault of the Contractor or any person or entity working directly or indirectly for the Contractor, the Contractor may, upon ten (10) days' written notice to the Owner and the Designee, terminate performance under this Contract and recover from the Owner payment for the actual reasonable expenditures of the Contractor (as limited in Subparagraph 10.3. B above) for all Work executed and for materials, equipment, tools, construction equipment and machinery actually purchased or rented solely for the Work, less any salvage value of any such items.
- B. If the Owner shall persistently or repeatedly fail to perform any material obligation to the Contractor for a period of fifteen (15) days after receiving written notice from the Contractor of its intent to terminate hereunder, the Contractor may terminate performance under this Contract by written notice to the Designee and the Owner. In such event, the Contractor shall be entitled to recover from the Owner as though the Owner had terminated the Contractor's performance under this Contract for convenience pursuant to Subparagraph 12.2.1 hereunder.

12.2 Termination by the Owner

- A. For Convenience. The Owner may for any reason whatsoever terminate performance under this Contract by the Contractor for convenience. The Owner shall give written

notice of such termination to the Contractor specifying when termination becomes effective.

- B. The Contractor shall incur no further obligations in connection with the Work and the Contractor shall stop Work when such termination becomes effective. The Contractor shall also terminate outstanding orders and subcontracts. The Contractor shall settle the liabilities and claims arising out of the termination of subcontracts and orders. The Owner may direct the Contractor to assign the Contractor's right, title and interest under terminated orders or subcontracts to the Owner or its designee.
- C. The Contractor shall transfer title and deliver to the Owner such completed or partially completed Work and materials, equipment, parts, fixtures, information and Contract rights as the Contractor has.
- D. The Contractor shall submit a termination claim to the Owner and the Designee specifying the amounts due because of the termination for convenience together with costs, pricing or other data required by the Designee. If the Contractor fails to file a termination claim within one (1) year from the effective date of termination, the Owner shall pay the Contractor, an amount derived in accordance with subparagraph F below.
- E. The Owner and the Contractor may agree to the compensation, if any, due to the Contractor hereunder.
- F. Absent agreement to the amount due to the Contractor, the Owner shall pay the Contractor the following amounts:
 - (i) Contract prices for labor, materials, equipment and other services accepted under this Contract;
 - (ii) Reasonable costs incurred in preparing to perform and in performing the terminated portion of the Work, and in terminating the Contractor's performance, plus a fair and reasonable allowance for overhead and profit thereon (such profit shall not include anticipated profit or consequential damages), provided however, that if it appears that the Contractor would have not profited or would have sustained a loss if the entire Contract would have been completed, no profit shall be allowed or included and the amount of compensation shall be reduced to reflect the anticipated rate of loss, if any; and
 - (iii) Reasonable costs of settling and paying claims arising out of the termination of subcontracts or orders pursuant to Subparagraph 12.2.1.2 of this Paragraph. These costs shall not include amounts paid in accordance with other provisions hereof.

The total sum to be paid the Contractor under this Subparagraph 12.2.1 shall not exceed the total Contract Price, as properly adjusted, reduced by the amount of payments otherwise made, and shall in no event include duplication of payment.

- G. *For Cause.* If the Contractor persistently or repeatedly refuses or fails to prosecute the Work in a timely manner, abandons the jobsite and fails to resume work within five (5) days of written notice thereof by the Owner, fails to grant or allow access to the jobsite by the Owner or Designee, fails to supply enough properly skilled workers, supervisory personnel or proper equipment or materials, fails to make prompt payment to Subcontractors or for materials or labor, persistently disregards laws, ordinances, rules, regulations or orders of any public authority having jurisdiction, or otherwise is guilty of a violation of a material provision of this Contract, then the Owner may by written notice to the Contractor, without prejudice to any other right or remedy, terminate the employment of the Contractor and take possession of the site and of all materials, equipment, tools, construction equipment and machinery thereon owned by the Contractor and may finish the Work by whatever methods it may deem expedient. In such case, the Contractor shall not be entitled to receive any further payment until the Work is finished.
- H. If the unpaid balance of the Contract Price does not exceed the cost of finishing the work, including compensation for the Designee's additional services and expenses made necessary thereby, such difference shall be paid by the Contractor to the Owner. This obligation for payment shall survive the termination of the Contract.
- I. In the event the employment of the Contractor is terminated by the Owner for cause pursuant to Subparagraph 12.2.2 and it is subsequently determined by a Court of competent jurisdiction that such termination was without cause, such termination shall thereupon be deemed a Termination for Convenience under Subparagraph 12.2.1 and the provisions of Subparagraph 12.2.1 shall apply.

ARTICLE XIII INSURANCE

13.1 Contractor shall furnish proof of Owner-stipulated insurance requirements specified below. Proof of insurance shall be in the form of a certificate executed by an approved insurance company authorized to do business in the State of Texas. The Owner's insurance requirements are:

- A. The Contractor shall carry and pay the premiums for insurance of the types and in the amounts stated below. The Owner shall be endorsed as an ADDITIONAL INSURED by the Contractor with respect to the contract. In any event, the Contractor shall carry and pay the premiums for insurance of the types and the amounts of not less than the following:
- (1) Commercial General Liability Insurance Coverage with limits of not less than Two Million and No/100 Dollars (\$2,000,000) Combined Single Limit of Liability for Bodily Injury and Property Damage. Such coverage as herein provided shall be extended for and endorsements included as follows:

- (a) Extended Coverages.
 - (i) Contractual Liability covering the Contractor's obligations herein.
 - (ii) Personal Injury Liability extended to claims arising from employees of the Contractor and the Authority.
 - (iii) Products and Completed Operations Liability of not less than Ten Million and No/100 Dollars (\$10,000,000).

B. Endorsement Included. The Owner named as ADDITIONAL INSURED.

- (1) Workers' Compensation Insurance: Statutory Workers' Compensation coverage in the State of Texas. Employers Liability Insurance with Minimum limits of liability of Five Hundred Thousand and No/100 Dollars (\$500,000) is required. The Contractor shall cause its insurer for Work Compensation Insurance to endorse the Contractor's policy to waive subrogation against Owner, its directors, officers, employees, agents, successors, and assigns for any and all claims incurred by the Contractor's employees which arise out of the work under this contract.
- (2) Automobile Liability Insurance covering all owned, hired and non-owned automobiles used in connection with work with limits not less than One Million and No/100 Dollars (\$1,000,000) Combined Single Limit of Liability for Bodily Injury and Property Damage. If the Contractor uses the delivery services of a common carrier, then the Automobile Liability insurance will not be required. If the Contractor uses personnel and vehicles provided by the Contractor, then Automobile Liability Insurance will be required. Such coverage as herein provided shall include the Owner as an ADDITIONAL INSURED.
- (3) Umbrella Liability Coverage: Umbrella liability coverage with limits not less than Twenty Five Million and No/100 Dollars (\$25,000,000) is required and should include Coverage B Employers Liability.
- (4) Builder's Risk Insurance will be maintained by Construction Managers/General Contractor or an all risk basis including flood and earthquake with a \$10,000 deductible for the period of the contract at the limit to be determined by the Owner at a future date,
- (5) Owner may also consider an Owner Controlled Insurance Program for this project at a future date.

13.2. All required insurance shall be written by an approved insurance company authorized to do business in the State of Texas.

13.3 Proof that insurance coverage exists shall be furnished to the Owner by way of a Certificate of Insurance before any part of the contract work is started. The Certificate shall certify the Owner as an ADDITIONAL INSURED with a provision that in case of cancellation

or any material change in the coverage stated above, the Owner shall be notified no less than thirty (30) days prior to any such change. The Contractor shall be liable for its subcontractor's insurance coverage of the types and in the amounts stated above, and shall furnish the Owner with copies of such Certificates of Insurance. If any insurance coverage required to be provided by the Contractor is canceled, terminated, or modified so that the required insurance coverage are no longer in full force and effect, the Owner may terminate this contract or obtain insurance coverage equal to the required coverage, the full cost of which will be the responsibility of the Contractor and shall be deducted from any payment due Contractor.

13.4 The Contractor and all of its insurers shall, in regard to the above-stated insurance, waive all rights of recovery or subrogation against the Owner and the Owner's insurance companies.

13.5. The Contractor shall indemnify and hold harmless the Owner and its agents, successors, and assigns from and against all injury, loss, damage, or claims of liability, including attorney's fees and disbursements, to any person (including employees of the Owner; Contractor's employees and Contractor's subcontractors and their employees; associates and other persons assisting the Contractor on a paid or voluntary basis) for injury to or death of the person. The Contractor shall also indemnify and hold harmless the Owner and its agents, successors, and assigns from any connection with any negligent act, error or omission of the Contractor during the performance of this contract and the use of the premises incident to the contract.

13.6 The Contractor shall defend all suits brought upon the claims described in Article E above and pay all costs and expenses incident to the suits. The Owner shall have the right, at its own expense, to participate in the defense in any suit without relieving the Contractor of any obligation described above.

13.7 The Owner will give the Contractor reasonably prompt notice in writing of the institution of any suit or proceeding and permit the Contractor to defend same and will give all needed information to do so. The Contractor shall similarly give the Owner immediate notice of any claim arising out of the performance of the contract. The Contractor shall furnish immediately to the Owner copies of all pertinent papers received by the Contractor regarding the suit, action or claim.

13.8 If any part of the contract is sublet, the Contractor shall provide the Owner evidence of subcontractors' insurance currently in place in the form of an insurance certificate. The Owner may require subcontractors to obtain insurance up to the limits required of the Contractor. In the event a subcontractor is unable to furnish insurance in the limits required under the contract, the Contractor shall endorse the subcontractor as an ADDITIONAL INSURED on Contractor's policies.

13.9 All insurance required to be maintained or provided by the Contractor shall be with companies and through policies approved by the Owner. The Owner reserves the right to inspect in person, prior to the commencement of the contract work, all of the Contractor's insurance policy required under this contract.

13.10 If the Contractor has procured insurance at the time of the Contractor's submission of his bid, proof of the required insurance should be submitted with the Contractor's bid or proposal. Alternatively, the Contractor is requested to submit evidence of a commitment from an insurance company or companies, or a duly licensed agent, that the Contractor has made arrangements for the required insurance. If the bid or proposal is considered for award, and the Contractor has not previously furnished either the proof of insurance or evidence of commitment, the Contractor will be required to provide proof of the insurance or evidence of a commitment within five (5) days of request. If the Contractor is awarded the bid, and has submitted evidence of commitment rather than proof of the required insurance, the Contractor must furnish proof of the required insurance within five (5) days of the award of the contract. Certificate of Insurance must indicate the contract number and description. The insurance certificate should be mailed to the attention of the buyer who made the request.

13.11 The above requirements only represent the minimum insurance coverage acceptable to the Owner and these requirements are not intended to represent the maximum risk involved or the maximum liability of the Contractor.

13.12 The Contractor shall be responsible for setting its own requirements, if any, for the kind and amounts of insurance to be carried by its subcontractors in excess of the insurance required by the Owner. No delay in the work caused by the Contractor's enforcements of its subcontractor's insurance requirements shall be excusable delay under the contract.

13.13 All required certificates shall be forwarded to the following address:

City of Lancaster
City Manager, or Director of Equipment and Facilities (Designee)
Post Office Box 940
Lancaster, TX 75146

13.14 Notice of Cancellation. Insurance policies and certificates of insurance shall specifically provide that a thirty (30) day notice of cancellation, non-renewal, or material change be sent to:

City of Lancaster
City Manager
Post Office Box 940
Lancaster, TX 75146

13.15 Other Insurance. Any type of insurance or any increase of limits of liability not described above that the Contractor or subcontractor of any tier requires for its own protection or on account of any statute shall be its own responsibility and at its own expense.

13.16 No Release. The carrying of the above-described insurance shall in no way be interpreted as relieving the Contractor of any other responsibility or liability under this agreement or any applicable law, statute, regulation or order.

ARTICLE XIV MISCELLANEOUS

14.1 Laws and Ordinances

The Contractor shall at all times and in all respects observe and comply with all federal, state and local laws, ordinances, and regulations applicable to the Projects and any Work. The Contractor shall further insure that all Subcontractors observe and comply with said laws, ordinances and regulations.

14.2 Governing Law

The Contract shall be governed by the laws of the State of Texas. Venue for any causes of action arising under the terms or provisions of this Contract or the Work to be performed hereunder shall be in the courts of Dallas County, Texas.

14.3 Successors and Assigns

The Owner and Contractor bind themselves, their successors, assigns and legal representatives to the other party hereto and to successors, assigns and legal representatives of such other party in respect to covenants, agreements and obligations contained in this Contract. The Contractor shall not assign this Contract without written consent of the Owner.

14.4 Surety Bonds

- A. The Contractor shall furnish separate performance and payment bonds to the Owner, according to state statutes to guaranty full and faithful performance of the Contract and the full and final payment of all persons supplying labor or materials to the Project. Each bond required by the bid documents or state statute shall set forth a penal sum in an amount not less than the Contract Price. Each bond furnished by the Contractor shall incorporate by reference the terms of this Contract as fully as though they were set forth verbatim in such bonds. In the event the Contract Price is adjusted by Change Order executed by the Contractor, the penal sum of both the performance bond and the payment bond shall be deemed increased by like amount. The performance and payment bonds furnished by the Contractor shall be in form suitable to the Owner and shall be executed by a surety, or sureties, reasonably suitable to the Owner and authorized to do business in the State of Texas by the State Board of Insurance.
- B. The Contractor, upon execution of the Contract and prior to commencement of the Work, shall furnish to the Owner a two-year maintenance bond in the amount of one hundred percent (100%) of the Contract Price covering the guaranty and maintenance prescribed herein, written by an approved surety authorized and duly licensed to conduct business in the State of Texas. The cost of said maintenance bond shall be included in the Contractor's unit bid prices and shall be paid by the Contractor.

14.5 Severability

The provisions of this Contract are herein declared to be severable; in the event that any term, provision or part hereof is determined to be invalid, void or unenforceable, such determination shall not affect the validity or enforceability of the remaining terms, provisions and parts, and this Contract shall be read as if the invalid, void or unenforceable portion had not been included herein.

14.6 Amendments

This Contract may be amended by the parties only by a written agreement duly executed by both parties. The failure of the Owner to object to any nonperformance or nonconforming work or to enforce any provision hereof shall in no event be regarded as or construed to be a waiver, release or modification of any term or provision in this Contract, nor shall such failure to object or enforce estop the Owner from insisting on strict compliance with this Contract or from recovering damages, costs or expenses arising as a result of such nonperformance or nonconforming work.

14.7 Notices

Any notice or other communication shall be in writing and shall be deemed given when sent Registered or Certified Mail, Postage Prepaid, in the United States Mail, addressed as set forth below, or to such other address as either of the parties shall advise the other in writing.

If intended for Owner:

City of Lancaster
Opal Mauldin-Robertson, City Manager
PO Box 940
Lancaster, TX 75146

with a copy to:

Robert Hager
Nichols, Jackson, Dillard, Hager and Smith, L.L.P.
1800 Lincoln Plaza
500 North Akard
Dallas, Texas 75201

If intended for Company:

EXECUTED on. _____ day of _____, 2017.

OWNER
CITY OF LANCASTER, TEXAS

By: _____
Opal Mauldin-Robertson, City Manger

EXECUTED on. _____ day of _____, 2017.

CONTRACTOR

By: _____
Name: _____
Title: _____

ERS, INC.

ENVIRONMENTAL RECONSTRUCTION SERVICES, INC.

A Registered and Insured UST Contractor

March 22, 2017

Estimator

Proposal # 16-053R

City of Lancaster

Fueling System Installation

SCOPE OF WORK

1. Install one (1) 20,000 gallon double walled fiberglass tanks, split 14,000/6,000.
2. Excavation of tank hold and haul off all debris.
3. Install fiberglass piping for product lines and fiberglass piping for vent lines.
4. Back fill tank hold and pipe chases with pea gravel not to exceed 800 tons.
5. Furnish and install fueling dispensers, tank monitor, and fuel management system.
6. Perform air test upon completion of piping and upon completion of job.
7. Perform tank tightness testing upon completion of job.
8. Furnish all necessary permits for TCEQ and the City of Lancaster.
9. Set new dispensers and hook up product. (2-Gasboy 9853 dual product dispensers, 1-Gasboy 9662 DEF single hose dispenser.)
10. Pour concrete over effected area. Tank pad over underground tank (3000 sq ft).
11. Furnish conduit and electrical for fueling system, to include the following.
 - Furnish and supply sub panel for fueling system.
 - Install conduit and wiring for five (5) dispensers.
 - Install conduit and wiring for seven (7) sump sensors.
 - Install conduit and data cables for five (5) dispensers.
 - Install conduit and wiring for one (1) – 1 ½ H.P. submerged pump motor and one (1) – 2 H.P. submerged pump motor.
 - Install conduit and wiring for one (1) – Fuel Master card reader.
 - Install conduit and wiring for ATG probes and sensors for the unleaded tank and for the diesel tank.
12. Start up, calibration, and purging of lines included in this price.

Estimated Time on Job: 30 Working Days

Estimated Installation Cost Base Price: \$ 233,644.74 (Tax Exempt)

Estimated Equipment Cost: \$ 142,229.90

Total Estimated Cost: \$375,874.64

Exclusions:

1. If contaminated soil is encountered during construction, an additional charge of cost plus 20% will be added.
2. If shoring of tank hole is required an additional charge will be added to the above price.
3. If de-watering of tank hold is required add \$800.00/day.
4. If contaminated water is encountered, add \$.39/gallon, \$110.00/hr for Vacuum truck with 4 hr minimum.
5. Fuel for testing supplied by owner.
6. Sub grade by others.
7. Drawings for City of Lancaster permits by owner.

Sincerely,

Terry Sauls

972-524-2946

Environmental Reconstruction Services, Inc.

V.P. of Operation

LANCASTER CITY COUNCIL

City Council Regular Meeting

5.

Meeting Date: 03/27/2017

Policy Statement: This request supports the City Council 2016-2017 Policy Agenda

Goal(s): Sound Infrastructure
Quality Development

Submitted by: Fabrice Kabona, Assistant to the City Manager

Agenda Caption:

Discuss and consider a resolution establishing the City's support for proposed House Bill 1427 (HB 1427), which if passed would provide that a City may enforce its zoning or other land use regulations against an electric cooperative so long as the regulation does not: (1) operate to exclude the electric cooperative from the city; or (2) directly conflict with a certification granted by the Public Utility Commission.

Background:

House Bill 1427 filed by Representative Pat Fallon is the product of an ongoing dispute between the City of The Colony and an electric cooperative over The Colony's enforcement of its zoning ordinance to deny certain placement of an electric substation. This bill aims to avoid similar disputes in the future by clarifying that cities have the right to enforce zoning ordinances with regard to land use by electric cooperatives, so long as the land use restrictions do not exclude the cooperative from the municipality, and do not conflict with a Certificate of Convenience and Necessity.

This issue could impact cities throughout the state, including Lancaster, since many cities have land use ordinances that prohibit substation siting. If HB 1427 is not passed, utilities may have greater ability to ignore such land use ordinances when selecting where to locate new substations and related electrical infrastructure. Cities are encouraged to strongly support this legislation. HB 1427 has been referred to the House Urban Affairs Committee but has not been set for public hearing.

If approved a copy of this resolution will be forwarded to the members of the House Urban Affairs Committee as well as our State Representative, Helen Giddings.

Legal Considerations:

The City Attorney has reviewed and approved the resolution as to form.

Public Information Considerations:

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 requested.
2. Council may reject the resolution.

Recommendation:

Staff recommends approval of the resolution as presented.

Attachments

Resolution

Exhibit A

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF THE LANCASTER, TEXAS, SUPPORTING HOUSE BILL 1427 WHICH AMENDS SECTION 41.005 OF THE TEXAS UTILITIES CODE TO CLARIFY THAT A MUNICIPALITY MAY REGULATE THE OPERATIONS OF AN ELECTRIC COOPERATIVE THROUGH THE CITY'S ZONING ORDINANCE WHICH IS A PERMISSIBLE PUBLIC HEALTH, SAFETY, OR WELFARE REGULATION; PROVIDING FOR AN IMMEDIATE EFFECTIVE DATE.

WHEREAS, House Bill 1427 (2017), a copy of which is attached hereto as *Exhibit A*, proposes to amend Section 41.005 of the Texas Utilities Code, also referred to as the Public Utility Regulatory Act ("PURA"); and

WHEREAS, Section 41.005 of the Texas Utilities Code currently provides in part that a municipality may not directly or indirectly regulate the rates, operations, and services of an electric cooperative except, with respect to operations, to the extent necessary to protect the public health, safety, or welfare; and

WHEREAS, municipal zoning authority is contained in Chapter 211 of the Texas Local Government Code; and

WHEREAS, Section 211.001 of the Texas Local Government Code states the following: "The [zoning] powers granted under this subchapter are for the purpose of promoting the public health, safety, morals, or general welfare and protecting and preserving places and areas of historical, cultural, or architectural importance and significance;" and

WHEREAS, an inline electrical substation has been defined by the rules of the Public Utility Commission of Texas ("PUC") to be an electrical substation constructed within one (1) mile of an existing electrical transmission line; and

WHEREAS, the Public Utility Commission of Texas currently does not control where an electric cooperative may locate an inline electrical substation; and

WHEREAS, the Public Utility Commission of Texas currently does not require a certificate of convenience and necessity ("CCN") to be held by an electric cooperative for the placement and location of an inline electrical substation; and

WHEREAS, electrical cooperatives' and the PUC's view of Section 41.005 of the Texas Utilities Code and PURA is that electrical cooperatives are the first, only, and final decision-maker on the placement and location of inline electrical substations; and

WHEREAS, electrical cooperatives' and the PUC's view of Section 41.005 of the Texas Utilities Code and PURA results in a regulatory vacuum with no oversight by the State of Texas,

or any county or municipality as to the placement and location of inline electrical substations; and

WHEREAS, the City Council of the City of Lancaster, Texas, believes Section 41.005 of the Texas Utilities Code currently preserves the authority for the City, through its zoning ordinance, to regulate the location of an inline electrical substation of an electric cooperative, provided the City does not use its zoning powers to exclude the electric cooperative from the City; and

WHEREAS, to conclude otherwise leaves the citizens of the State of Texas to the whims of electrical cooperatives on the placement and location of inline electrical substations with no venue for contesting such placement and no oversight by the State of Texas or the impacted local municipality.

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

SECTION 1. The City Council of the City of Lancaster, Texas, strongly supports House Bill 1427 (2017) and any legislation that would clarify that Section 41.005 of the Texas Utilities Code does not prohibit Texas municipalities from enforcing zoning or other land use regulations, authorized pursuant to the Texas Constitution or the laws of the State of Texas, on an electric cooperative.

SECTION 2. This support for House Bill 1427 (2017) and any similar legislation be communicated to members of the Texas Legislature and the Texas Governor's office.

SECTION 3. This Resolution shall become effective from and after its date of passage in accordance with law.

DULY PASSED and approved by the City of Lancaster, Texas, this the 27th day of March, 2017.

ATTEST:

APPROVED:

Sorangel O. Arenas, City Secretary

Marcus E. Knight, Mayor

APPROVED AS TO FORM:

Robert E. Hager, City Attorney

Exhibit A

[House Bill 1427 (2017)]

By: Fallon

H.B. No. 1427

A BILL TO BE ENTITLED

AN ACT

1
2 relating to a municipality's ability to enforce zoning and other
3 land use regulations against electric companies.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Section 41.005, Utilities Code, is amended to
6 read as follows:

7 Sec. 41.005. LIMITATION ON MUNICIPAL AUTHORITY. (a)
8 Notwithstanding any other provision of this title, a municipality
9 may not directly or indirectly regulate the rates, operations, and
10 services of an electric cooperative, except, with respect to
11 operations, to the extent necessary to protect the public health,
12 safety, or welfare.

13 (b) This section does not prohibit a municipality from
14 making a lawful charge for the use of public rights-of-way within
15 the municipality as provided by Section 182.025, Tax Code, and
16 Section 33.008 of this code. An electric cooperative shall be an
17 electric utility for purposes of Section 182.025, Tax Code, and
18 Section 33.008 of this code.

19 (c) This section does not prohibit a municipality from
20 enforcing the municipality's zoning or other land use regulations,
21 including a specific use permit, except that a municipality's
22 enforcement of the municipality's land use regulations may not:

23 (1) operate to exclude the electric cooperative from
24 the municipality; or

1 (2) directly conflict with a certification granted by
2 the commission under Chapter 37.

3 SECTION 2. This Act takes effect September 1, 2017.

LANCASTER CITY COUNCIL

City Council Regular Meeting

6.

Meeting Date: 03/27/2017

Policy Statement: This request supports the City Council 2016-2017 Policy Agenda

Goal(s): Financially Sound Government
Sound Infrastructure
Quality Development

Submitted by: Rona Stringfellow, Assistant City Manager

Agenda Caption:

Discuss and consider a resolution authorizing the City Manager to submit a support letter to the North Central Texas Council of Governments (NCTCOG) for project funding commitment to the Southern Dallas County Inland Port Loop.

Background:

Since 2005 the Dallas County Inland Port has been established in a region of Dallas County that is primarily outside of the urbanized area. The Inland Port is comprised of two class 1 railroads Union Pacific Rail Road and Burlington Northern Santa Fe (UPRR and BNSF) with an impact area of more than 7,000 acres of previously agricultural land and rural roadways.

The North Central Texas Council of Governments (NCTCOG) with the support of Dallas County's implementation and partnership has funded two grade separations over the UPRR and Millers Ferry Road located at Pleasant Run Road and Wintergreen Road. Both are essential to freight circulation and highway access. Dallas County continues to work closely with the cities in this region to improve undersized roadways to establish safe and adequate access and circulation of freight coming in and out of the Inland Port.

In order to strengthen the economic vitality of the entire Southern Dallas County Inland Port area and to allow the Inland Port to fulfill its full capacity, Dallas County is proposing the reconstruction of several thoroughfares that filter in and out of the Inland Port and between two major interstate highways to complete the circulation of roadways needed for freight movement.

NCTCOG confirmed \$18 million is available for the proposed roadway scope shown on the attached map (outlined in orange) which includes Jefferson (from Wintergreen to Pleasant Run), Wintergreen Road (from Jefferson to the easternmost city limits) and a small section of Pleasant Run Road (from Jefferson to Lancaster-Hutchins Road). NCTCOG is requesting that the affected Cities (Lancaster and Hutchins) provide support letters authorizing commitment of funds in order for the Regional Transportation Council (RTC) to consider at their next regular meeting.

Operational Considerations:

This is a request from NCTCOG to support this project and commit to the local match of \$3,000,000 for the entire project. The City would have to provide a letter of commitment by March 31, 2017 in order to meet the deadline for NCTCOG's submittal to the RTC by their May meeting. The NCTCOG has indicated that Dallas County along with additional federal funding would provide up-front funding for the design and all related pre-construction work in order to give both the Cities of Lancaster and Hutchins additional time to build up funds for participation during the construction portion of the project. Construction is scheduled to commence in early 2019.

Within the City of Lancaster the improved roadways will include Wintergreen Road, Jefferson, and Pleasant Run Road. The roadway projects will be divided into two projects with Pleasant Run Road and Jefferson being designed as one project and Wintergreen Road being designed as a second project. Both the City of Lancaster and Hutchins will enter into a Project Specific Agreement with Dallas County as soon as possible in order to secure funding commitments and allowing the Dallas County Public Works staff to begin on-boarding an engineering consultant.

Additionally, within the Inland Port the UPRR is proposing to increase its connectivity/circulation in the Port area and has already begun by implementing some improvements. These segments along with previously completed roadway and rail projects in the area provide an improved grid of roadways interconnecting the intermodal facility with two major interstate highways within its immediate vicinity, IH 45 and IH 20. Furthermore it improves safety and capacity on these inadequate roadways and provides new rail access to help facilitate interaction with nearby distribution centers and manufacturing facilities locating in this area.

Legal Considerations:

The resolution has been reviewed and approved as to form by the City Attorney.

Public Information Considerations:

This item is being considered at a meeting of the City Council noticed in accordance with the Texas Open Meetings Act.

Fiscal Impact:

The involved Cities and other potential governmental entities will participate collectively in a 50% match. By providing a support letter the City will be committing to having \$3,000,000 available in fiscal year 2019/2020. Funding would include but not be limited to issuance of general obligation bonds, and impact fees.

Options/Alternatives:

1. Approve the resolution, as presented.
2. Deny the resolution and direct staff.

Recommendation:

Staff recommends approval of the resolution, as presented.

Attachments

Resolution

Map

Cost estimate

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LANCASTER, TEXAS, AUTHORIZING THE SUPPORT OF A PROJECT FUNDED THROUGH THE NORTH CENTRAL TEXAS COUNCIL OF GOVERNMENTS (NCTCOG), SUPPORTING SOUTHERN DALLAS COUNTY INLAND PORT LOOP; AUTHORIZING THE CITY MANAGER TO ACT ON BEHALF OF THE CITY OF LANCASTER, TEXAS, TO SUPPORT THE PROJECT; AND PLEDGING THAT THE CITY OF LANCASTER, TEXAS, WILL COMPLY WITH ALL PROJECT REQUIREMENTS OF FUNDING MATCH, NOT TO EXCEED THREE MILLION DOLLARS (\$3,000,000).

WHEREAS, the City Council of the City of Lancaster desires to provide a support letter of the Southern Dallas County Inland Port Loop ; and

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

SECTION 1. That the City Manager is hereby authorized to send a support letter on behalf of the City.

SECTION 2. That if funded, the City will comply with the project requirements of the funding match for the Southern Dallas County Inland Port Multi-City Intermodal Connectivity and Access to Interstate Facilities.

SECTION 3. That the City will allocate and expend the necessary monies to support this project should funds be awarded to Dallas County Public Works.

SECTION 4. That the project funds will be used only for the purposes for which they are intended under the project.

SECTION 5. That the project activities will comply with and support the adopted regional and local plans adopted for the geographical area.

DULY PASSED and approved by the City Council of the City of Lancaster, Texas, on this the 27TH day of March, 2017.

ATTEST:

APPROVED:

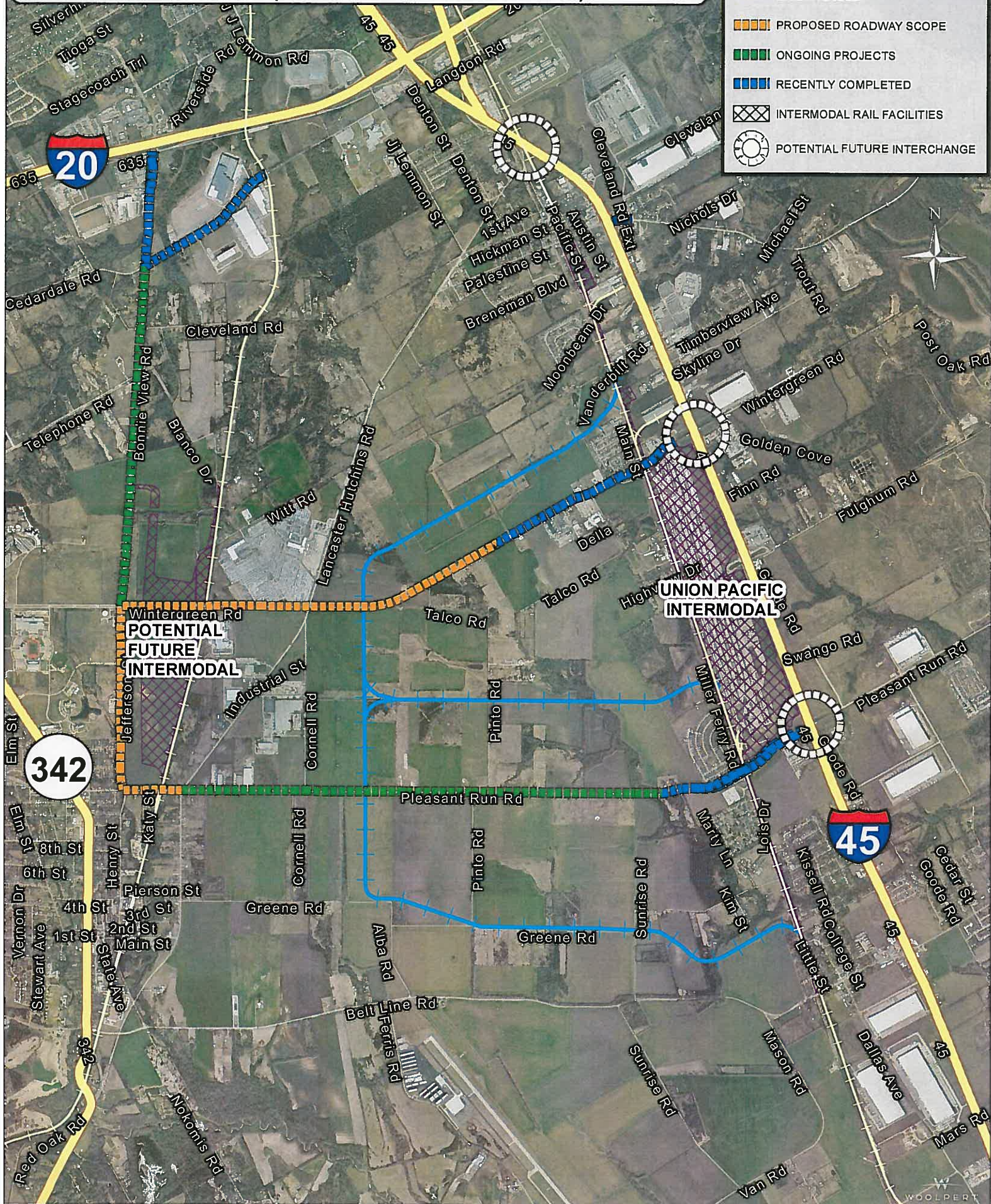
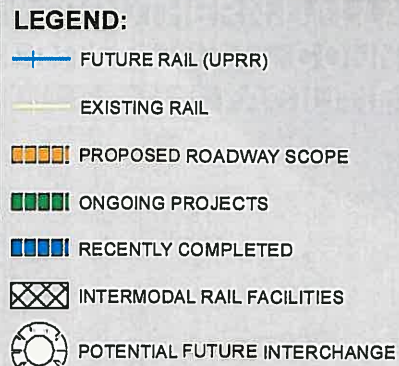
Sorangel O. Arenas, City Secretary

Marcus E. Knight, Mayor

APPROVED AS TO FORM:

Robert E. Hager, City Attorney

**SOUTHERN DALLAS COUNTY INLAND PORT MULTI-CITY
INTERMODAL CONNECTIVITY AND ACCESS TO INTERSTATE
FACILITIES (PROPOSED TIGER SCOPE)**



Proposed Regional Transportation Council and Dallas County 2017 Partnership

Southern Dallas County

Location	Fiscal Year	Description	NCTCOG	City	Dallas County	Total Funding	Total Cost	Comments
Jefferson Avenue "hockey stick" (Pleasant Run to Wintergreen)	2019	Roadway Expansion from 2-4 Lanes					\$8,300,000	<ul style="list-style-type: none"> • \$1.66 M: <ul style="list-style-type: none"> ▪ 50/50 split between Lancaster and Dallas County
Wintergreen Road (BV/ Jefferson to improved section)	2019	Roadway Expansion from 2-4 Lanes					\$17,200,000	<ul style="list-style-type: none"> • \$7.84 M: <ul style="list-style-type: none"> ▪ Dallas County: \$3.92 M ▪ Lancaster: \$1.92M ▪ Hutchins: \$2.0M
Pleasant Run Road (Jefferson to L-H Road)	2019	Roadway Expansion from 2-4 Lanes					\$2,500,000	<ul style="list-style-type: none"> • \$0.5 M <ul style="list-style-type: none"> ▪ 50/50 split between Lancaster and Dallas County
Total							\$28,000,000	

LANCASTER CITY COUNCIL

City Council Regular Meeting

7.

Meeting Date: 03/27/2017

Policy Statement: This request supports the City Council 2016-2017 Policy Agenda

Goal(s): Financially Sound Government

Submitted by: Fabrice Kabona, Assistant to the City Manager

Agenda Caption:

Discuss and consider an ordinance granting a franchise for the collection and removal of industrial solid waste and recyclable materials to Custom Recycling Solutions, LLC.

Background:

In accordance with the Lancaster Charter Article 9, Section 9.06 (C) stating that "No franchise shall ever be granted until it has been approved by the majority of the City Council, after having been read in full at two (2) regular meetings of the City Council"; this will count as the second reading of this franchise application, the first reading was done at the meeting held on March 6, 2017.

Article 13.1400 of the Lancaster Code of Ordinances requires all solid waste operators to obtain a franchise agreement in order to collect, haul, or transport solid waste or industrial solid waste and recyclable materials from commercial properties within the City of Lancaster. It is unlawful for any industrial waste operator to operate within the City of Lancaster without such a franchise. Custom Recycling Solutions, LLC desires to do business in the City of Lancaster.

Operational Considerations:

Custom Recycling Solutions, LLC provides hauling of commercial solid, industrial waste, and recycling. This franchise will allow them to do business in the City of Lancaster for a period of five (5) years, unless the franchise is cancelled. In addition, Custom Recycling Solutions, LLC agrees to carry certain insurance policies for worker's compensation, automobile and public liability in which the City shall be named as additional insured.

Legal Considerations:

The City Attorney has reviewed the attached franchise agreement.

Public Information Considerations:

This item is being considered at a regular meeting posted in accordance with the Texas Open Meetings Act.

Fiscal Impact:

A street use fee of ten percent (10%) of the gross revenue collected from customers within the City limits by Custom Recycling Solutions, LLC will be collected on a monthly basis.

Options/Alternatives:

1. City Council may grant the franchise agreement as presented.
2. City Council may deny the franchise agreement.

Recommendation:

Staff recommends approval of the franchise agreement with Custom Recycling Solutions, LLC.

Attachments

Ordinance

Agreement

Application Form

ORDINANCE NO.

AN ORDINANCE OF THE CITY OF LANCASTER, TEXAS, GRANTING TO CUSTOM RECYCLING SOLUTIONS, LLC, ITS SUCCESSORS AND ASSIGNS, THE RIGHT, PRIVILEGE, AND FRANCHISE FOR THE TERM OF FIVE (5) YEARS TO USE THE PUBLIC STREETS, HIGHWAYS, OR THOROUGHFARES WITHIN THE CITY FOR THE PURPOSE OF ENGAGING IN THE BUSINESS OF COLLECTING AND TRANSPORTING INDUSTRIAL SOLID WASTE AND RECYCLABLE MATERIALS FROM INDUSTRIAL PREMISES AND DEVELOPMENT PROJECTS WITHIN THE CITY; PROVIDING A STREET USE FEE; PROVIDING INSURANCE REQUIREMENTS; PROVIDING FOR CANCELLATION UPON THIRTY (30) DAY WRITTEN NOTICE; PROVIDING FOR DELAYS; PROVIDING FOR NOTICES; PROVIDING FOR ASSIGNMENT BY WRITTEN APPROVAL OF THE CITY; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Custom Recycling Solutions, LLC (hereinafter "Company") desires to provide for the collection, removal and disposal of industrial solid waste and recyclable materials generated by businesses and development projects in the City; and

WHEREAS, Custom Recycling Solutions, LLC has made application to the City requesting a franchise be granted permitting Company the use of public streets, highways, and thoroughfares within the City of Lancaster for the purposes of performing such services; and

WHEREAS, the City Council desires to grant to Company the right, privilege, and franchise for the term of five years to use the public streets, highways, and/or thoroughfares with the City for the purpose of engaging;

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

SECTION 1. That the City Council hereby grants to Custom Recycling Solutions, LLC, its successors and assigns, the right, privilege and franchise for the term of five (5) years to use the public streets, highways and/or thoroughfares within the City for the purpose of engaging in the business of collecting and transporting industrial solid waste and recyclable materials from premises and development projects within the City. This Franchise shall include and incorporate by reference the contents of Article 13.1400 of the City's Code of Ordinances regulating industrial solid waste and recyclable materials removal.

SECTION 2. That Company shall remit on the 15th day of each month a street use fee of ten (10%) percent of the gross revenue collected from customers within the City limits of Lancaster. City reserves the right to audit Company's records at any time with seven (7) days prior notice.

SECTION 3. That Company shall assume the risk of loss or injury to property or persons arising from any of its operations under this franchise and agrees to indemnify and hold harmless City from all claims, demands, suits, judgments, costs or expenses, including expenses of litigation and attorney's fees arising from any such loss or injury. Company agrees to carry insurance during the entire term of this franchise as follows:

- a. Worker's compensation insurance covering all employees of such franchisee engaged in any operation covered by this ordinance.
- b. Automobile and public liability insurance in amounts not less than those established as maximum recovery limits under the TEXAS CIVIL PRACTICE & REMEDIES CODE, or in accordance with any contract with the City, whichever is higher.

Such policies of insurance shall be issued by companies authorized to conduct business in the State of Texas, and shall name the City as an additional insured. Certificates evidencing such insurance contracts shall be deposited with the City. The policy limits provided herein shall change in accordance with the provisions for maximum liability under the TEXAS CIVIL PRACTICE & REMEDIES CODE and the laws of the State of Texas relating to worker's compensation insurance.

SECTION 4. That this franchise may be cancelled by either party, with or without cause, at any time, upon thirty (30) days notice in writing, delivered by registered mail or in person. All written notices described herein shall be sent certified mail, postage prepaid, and addressed as follows:

If to the City:
City of Lancaster
ATTN: City Manager
P. O. Box 940
Lancaster, Texas 75146-0946

If to the Company:
Custom Recycling Solutions, LLC
ATTN: Maria Cantu
P.O. Box 2011
Rowlett, TX 75030

SECTION 5. That in the event that either party is delayed or hindered in or prevented from the performance of any required act by reason of strikes, lockouts, labor troubles, inability to procure materials, failure of power, restrictive governmental laws or regulations, riots, insurrections, war or other reason of a similar nature not the fault of the party delayed in performing work or doing acts required under this ordinance, then performance of that act shall be excused for the period of the delay and the period for the performance of that act shall be extended for an equivalent period.

SECTION 6. That no assignment of this franchise shall be valid or binding unless the assignment is in writing approved by the City of Lancaster.

SECTION 7. That should any sentence, paragraph, subdivision, clause, phrase or section of this ordinance be adjudged or held to be unconstitutional, illegal or invalid, the same shall not affect the validity of this ordinance as a whole, or any part or provision thereof other than the part so decided to be invalid, illegal or unconstitutional, and shall not affect the validity of the Code of Ordinances as a whole.

SECTION 8. This Ordinance shall take effect immediately from and after its passage, as the law and charter in such cases provide.

DULY PASSED and approved by the City Council of the City of Lancaster, Texas, on this the 27th day of March, 2017.

ATTEST:

APPROVED:

Sorangel O. Arenas, City Secretary

Marcus E. Knight, Mayor

APPROVED AS TO FORM:

Robert E. Hager, City Attorney

CITY OF LANCASTER

§
§
§
§

**SOLID WASTE DISPOSAL FRANCHISE
AGREEMENT**

COUNTY OF DALLAS

THIS AGREEMENT is made and entered into this 27th day of March, 2017 by and between the City of Lancaster, Texas (hereinafter "City") and Custom Recycling Solutions, LLC (hereinafter "Company").

WITNESSETH:

WHEREAS, the City desires to enter into an agreement providing for the disposal of industrial waste generated by businesses in the City; and

WHEREAS, the Company desires to enter into a franchise agreement (hereinafter "Franchise") with the City to provide for the collection and removal of industrial solid waste and recyclable materials;

NOW THEREFORE, in consideration of the mutual covenants and agreements contained herein, the City and Company agrees as follows:

1. This Franchise shall be effective as of the first day of March, 2017 and shall continue in effect for a period of five (5) years. This Franchise shall include and incorporate by reference the contents of Article 13.1400 of the City's Code of Ordinances regulating industrial solid waste and recyclable materials removal.

2. Company shall remit on the fifteenth day of each month a street use fee of ten (10) percent of the gross revenue billed from customers within the City limits of Lancaster. City reserves the right to audit Company's records at any time with seven days prior notice.

3. Company shall assume the risk of loss or injury to property or persons arising from any of its operations under this franchise and agrees to indemnify and hold harmless City from all claims, demands, suits, judgments, costs or expenses, including expenses of litigation and attorney's fees arising from any such loss or injury. Company agrees to carry insurance during the entire term of this agreement as follows:

(a) Worker's compensation insurance covering all employees of such franchisee engaged in any operation covered by this agreement.

(b) Automobile and public liability insurance in amounts not less than those established as maximum recovery limits under the Texas Civil Practice and Remedies Code, or in accordance with any contract with the city, whichever is higher.

Such policies of insurance shall be issued by companies authorized to conduct business in the State of Texas, and shall name the city as an additional insured. Certificates evidencing such insurance contracts shall be deposited with the city. The policy limits provided herein shall change in accordance with the provisions for maximum liability under the Texas Civil Practice and Remedies Code and the laws of the State of Texas relating to worker's compensation insurance.

4. This Franchise may be cancelled by either party, with or without cause, at any time, upon thirty (30) days' notice in writing delivered by registered mail or in person.

5. In the event that either party is delayed or hindered in or prevented from the performance of any required act by reason of strikes, lockouts, labor troubles, inability to procure materials, failure of power, restrictive governmental laws or regulations, riots, insurrections, war or other reason of a similar nature not the fault of the party delayed in performing work or doing acts required under the terms of this agreement, then performance of that act shall be excused for the period of the delay and the period for the performance of that act shall be extended for an equivalent period.

6. All written notices described herein shall be mailed certified, and addressed to:

If to the CITY:

City of Lancaster

ATTN: City Manager

P. O. Box 940

Lancaster, Texas 75146-0946

If to the Company:

Custom Recycling Solutions, LLC

ATTN: Maria Cantu

P.O. Box 2011

Rowlett, Texas 75030

7. No assignment of this Franchise shall be valid or binding unless the assignment is in writing approved by the City of Lancaster.

8. This Franchise contains all the terms and conditions agreed on by the parties, and no other agreements, oral or otherwise, regarding the subject matter of this Franchise, shall be deemed to exist or to bind any of the parties.

9. This Franchise shall be executed in duplicate by the parties, each to have the full force and effect of an original for all purposes.

IN WITNESS WHEREOF, that parties hereto have executed this **FRANCHISE** as of the day and year first written above.

Custom Recycling Solutions, LLC
(company name)

By: _____
(authorized agent signature)

(print name)

Its: _____
(title)

City of Lancaster, Texas

ATTEST:

APPROVED:

Sorangel O. Arenas, City Secretary

Marcus E. Knight, Mayor

APPROVED AS TO FORM:

Robert E. Hager, City Attorney



CITY OF LANCASTER
SOLID WASTE HAULERS
Franchise Application



Solid waste franchise fee is 10% of the gross revenue collected from customers within the City limits of Lancaster. The payment is made monthly on the fifteenth of each month. The payment must be accompanied with the City's monthly report form.

This permit allows a company to use the public streets, highways, or thoroughfares within the City of Lancaster for the purpose of engaging in the business of collecting and transporting solid waste and recyclable materials from commercial and industrial premises and development projects within the City.

Please complete the following information and return to the City Secretary's Office, 211 N. Henry St., Lancaster, Texas, 75146. This franchise, if approved by City Council, shall expire on _____.

Business Name: CUSTOM RECYCLING SOLUTIONS, LLC

Owner's (President, CEO, etc.) Name: REYNALDO SANCHEZ

Title: OWNER

Representative's Name: MARIA CANTU

Title: OFFICE MANAGER

Location Address: (City) 893 S Munson Rd Royse City TX (State) TX (Zip) 75189

Mailing Address: (City) P.O. Box 2011 Royse City TX (State) TX (Zip) 75130

Phone Number: 409-994-3768

Type of Business: SOLID WASTE HAULERS

Is the business a: Corporation _____ Association _____ Partnership _____

Other (name the type) LLC

Authorized Signature: Maria Cantu

Date: 2/7/17

I Reynaldo Sanchez as Owner of Custom Recycling Solutions LLC
(Owner's Name) (Title) (Company Name)
understand and agree to the terms of this franchise. I assign Maria Cantu
(Name)
as representative of Custom Recycling Solutions in dealing with the requirements
(Company Name)
of this permit.

Reynaldo Sanchez

State of Texas

County of Dallas

Before me, a notary public, on this day personally appeared Reynaldo Sanchez
known to me to be the person whose name is subscribed to the foregoing document and,
being by me first duly sworn, declared that the statements therein are true and correct.
Given under my hand and seal of office this 7 day of February, 2017.

[Signature]
Notary Public Signature



LANCASTER CITY COUNCIL

City Council Regular Meeting

8.

Meeting Date: 03/27/2017

Policy Statement: This request supports the City Council 2016-2017 Policy Agenda

Goal(s): Civic Engagement

Submitted by: Bester Munyaradzi, Senior Planner

Agenda Caption:

Consider confirmation of nominations made by the Planning and Zoning Commission for appointment to the Lancaster Historic Landmark Preservation Committee.

Background:

Pursuant to Section 14.212 of the Lancaster Development Code, members of the Historic Landmark Preservation Committee are appointed by the Planning and Zoning Commission and confirmed by the City Council.

The Historic Landmark Preservation consists of five regular members and an alternate. Terms of Office: HLPC members shall serve for terms of two (2) years with three (3) member's terms expiring in odd numbered years and two (2) members' terms expiring in even numbered years. At the Tuesday, March 7, 2017 meeting, the Planning and Zoning Commission appointed the following members:

Historic Landmark Preservation Committee (HLPC)	Term Expires	Member Name	
(P&Z appoints, Council confirms)	2018	Dee Hinkle	Re-Appoint
	2018	Patricia Siegfried-Giles	Re-Appoint
	2017	Mindy Truly	Appoint
	2017	Mary Guinn (Alternate)	Appoint

Operational Considerations:

A motion, with a second, and an affirmative vote is required to confirm the appointments.

Recommendation:

Planning and Zoning Commission Recommends approval of this item as presented.

Attachments

Draft P/Z Minutes 02.07.17

Draft P/Z Minutes 03.07.2017



DRAFT MINUTES
PLANNING & ZONING COMMISSION MEETING OF FEBRUARY 7, 2017



TREE CITY USA.

7. Discuss and consider Historic Landmark Preservation Committee member nomination recommendations.

A MOTION WAS MADE BY COMMISSIONER JOHNSON AND WAS WITHDRAWN TO APPOINT CHERYL WRIGHT AS A REGULAR MEMBER AND MINDY GUINN AS THE ALTERNATE MEMBER.

A MOTION WAS MADE BY COMMISSIONER AGUILAR AND FAILED FOR A SECOND TO DELAY ANY APPOINTMENTS UNTIL THE APPLICANTS COULD BE INTERVIEWED.

A MOTION WAS MADE BY COMMISSIONER HILL AND SECONDED BY COMMISSIONER JOHNSON TO APPOINT MINDY TRULY AS A REGULAR MEMBER AND MARY GUINN AS AN ALTERNATE MEMBER TO THE HISTORIC LANDMARK PRESERVATION COMMITTEE.

AYES: HILL, JOHNSON
NAYS: AGUILAR

THE MOTION CARRIED 2 to 1.



DRAFT MINUTES
PLANNING & ZONING COMMISSION MEETING OF MARCH 7, 2017



7. Discuss and consider Historic Landmark Preservation Committee member nomination recommendations.

Bester Munyaradzi, Senior Planner read the staff report into the record.

Commissioner Hill asked why this item was being heard a second time.

Kelley Frazier, Development Coordinator explained that the re-appointments were left off of the previous agenda and therefore the remaining appointments need to be made.

Commissioner Prothro asked about the attendance of the re-appointments.

Development Coordinator Frazier stated the both members requesting re-appointment have excellent attendance.

A MOTION WAS MADE BY COMMISSIONER HILL AND SECONDED BY COMMISSIONER AGUILAR TO RE-APPOINT DEE HINKLE AS A REGULAR MEMBER AND PATRICIA SIEGFREID-GILES AS A REGULAR MEMBER TO THE HISTORIC LANDMARK PRESERVATION COMMITTEE.

AYES: PROTHOR, HILL, AGUILAR

NAYS:

THE MOTION CARRIED 3 to 0.

LANCASTER CITY COUNCIL

City Council Regular Meeting

9.

Meeting Date: 03/27/2017

Policy Statement: This request supports the City Council 2016-2017 Policy Agenda

Goal(s): Professional & Committed City Workforce

Submitted by: Sorangel O. Arenas, City Secretary

Agenda Caption:

City Council shall convene into closed executive session pursuant to:

- a. §551.087 of the Texas Government Code to deliberate an economic incentive grant and agreement for the Lancaster Regional Airport from the Lancaster Economic Development Corporation.
- b. §551.071 of the Texas Government Code to seek legal advice from the City Attorney concerning pending or contemplated litigation: White Rock Commercial LLC v. City of Lancaster, Cause No. DC-14-06471.

Background:

Executive Session matters.

LANCASTER CITY COUNCIL

City Council Regular Meeting

10.

Meeting Date: 03/27/2017

Policy Statement: This request supports the City Council 2015-2016 Policy Agenda

Goal(s): Professional & Committed City Workforce

Submitted by: Sorangel O. Arenas, City Secretary

Agenda Caption:

Reconvene into open session. Consider and take appropriate action(s), if any, on closed/executive session matters.

Background:

This agenda item allows City Council to take action necessary, if any, on item(s) discussed in Executive Session.