



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

Monday, December 8, 2014 - 7:00 PM

CALL TO ORDER

INVOCATION: Ministerial Alliance

PLEDGE OF ALLEGIANCE: Mayor Pro Tem James Daniels

CITIZENS' COMMENTS:

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

CONSENT AGENDA:

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

- C1. Consider approval of minutes from the City Council Regular Meeting held November 10, 2014.
- C2. Consider a resolution authorizing Dallas County to resell 1104 N. Lancaster Hutchins Road tax foreclosed property, by public or private sale, to the highest qualified purchaser, as provided by Section 34.05 of the Texas Property Tax Code.
- C3. Consider a resolution authorizing the award of a unit price bid (2014-177) for the purchase of ready-mix concrete to Redi-Mix Concrete in an amount not to exceed \$40,000.
- C4. Consider a resolution authorizing the award of Bid 2014-187 for janitorial services to M. Hayes Janitorial Services, Inc. in an amount not to exceed \$134,265.82.
- C5. Consider a resolution authorizing the purchase of a Sewer Main Line Camera through an Interlocal Agreement with Houston Galveston Area Council (HGAC) in an amount not to exceed \$68,375.00.

PUBLIC HEARING:

- 6. Conduct a public hearing and consider a resolution approving the 2015 Standards of Care for Youth Programs operated by the Lancaster Parks and Recreation Department.
- 7. Conduct a public hearing and consider an Ordinance amending Ordinance 2006-04-13, the Lancaster Development Code as amended to provide for a definition related to wood based products, to include the use of cementitious materials for external architectural elements and excluding wood products for the same.

ACTION:

8. Consider a resolution authorizing the conveyance of a water easement located on approximately 608 square feet (0.0140 acre) of land being part of Lot 9, Oak Cliff Plantations to Dallas Water Utilities (DWU) for the purposes of installation and maintenance of a City water main(s) and appurtenances.
9. Consider a resolution authorizing the City Manager to execute a license agreement with BNSF Railway granting access to perform utility work within the railroad rights-of-way for an amount not to exceed \$6,000.00
10. Consider a resolution approving a contract for pipe rehabilitation on a portion of the Keller Branch Phase II Wastewater Line Replacement project with Insituform Technologies, LLC. through an Interlocal agreement with Buy Board in an amount not to exceed \$88,695.00.
11. Discuss and consider a resolution approving the City of Lancaster Public Improvement District (PID) Advisory Boards.
12. Consider and discuss a resolution to appoint the board of directors for Reinvestment Zone Number One (also known as Tax Increment Financing District (TIF) Reinvestment Zone No. 1) and providing an effective date.
13. Discuss and consider annual appointments to City of Lancaster Museum Advisory Board.
14. Discuss and consider appointment of council liaisons to City Boards and Commissions.

ADJOURNMENT

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

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

Certificate

I hereby certify the above Notice of Meeting was posted at the Lancaster City Hall on December 5, 2014 @ 5:00 p.m. and copies thereof were provided to the Mayor, Mayor Pro-Tempore, Deputy Mayor Pro-Tempore and Council members.



Sorangel O. Arenas
City Secretary

LANCASTER CITY COUNCIL

Item 1

Agenda Communication

December 8, 2014

Consider approval of minutes from the City Council Regular Meeting held November 10, 2014.

Background

Attached for your review and consideration are minutes from the:

- City Council Regular Meeting held November 10, 2014

Submitted by:

Sorangel O. Arenas, City Secretary

MINUTES

LANCASTER CITY COUNCIL MEETING OF NOVEMBER 10, 2014

The City Council of the City of Lancaster, Texas, met in Regular session in the Council Chambers of City Hall on November 10, 2014 at 7:00 p.m. with a quorum present to-wit:

Councilmembers Present:

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

Councilmembers Absent:

Carol Strain-Burk

City Staff Present:

Opal Mauldin Robertson, City Manager
Rona Stringfellow, Assistant City Manager
Fabrice Kabona, Assistant to the City Manager
Thomas Griffith, Fire Chief
Cynthia Pearson, Finance Director
Baron Sauls, Assistant Finance Director
Ed Brady, Director of Economic Development
Sean Johnson, Managing Director of Quality of Life & Cultural Services
Kelly Ledbetter, Assistant Director of Quality of Life & Cultural Services
Mark Divita, Airport Manager
Alton Dixon, Purchasing Agent
Robert E. Hager, City Attorney
Angie Arenas, City Secretary

Call to Order:

Mayor Knight called the meeting to order at 7:00 p.m. on November 10, 2014.

Consent Agenda:

City Secretary Arenas read the consent agenda.

- C1. Consider approval of minutes from the City Council Regular Meeting held October 13, 2014 and Special Meeting held October 20, 2014.**
- C2. Consider a resolution approving the terms and conditions of the City owned T-Hangar non-commercial lease from building 660 at the Lancaster Regional Airport.**
- C3. Consider a resolution authorizing the award of bid 2014-184 to Sanders & Sanders Group Enterprise, LLC to provide meal services for the senior meal program in an amount not to exceed \$3.75 unit price per meal.**

MOTION: Councilmember Mejia made a motion, seconded by Councilmember Morris, to approve consent items C1 – C3. The vote was cast 6 for, 0 against [Strain-Burk absent].

4. Consider a resolution authorizing an Economic Development Incentive Agreement by and between the City of Lancaster and PIHV South Pointe Industrial, LLC, a Delaware Corporation.

Director of Economic Development Ed Brady shared that Pauls Coporation is a development company which has purchased 30 acres with the intent to build 2 buildings and plan to make an investment of approximately \$25 million. That investment will qualify the developer for a 45% property tax rebate for a period of 5 years.

Mayor Pro Tem Daniels stated that he recalled the property tax rebate being for a period of 10 years and asked Director Brady for further explanation. Director Brady stated that the incentive agreement is based on the value added capital investment of property and the maximum rebate percentage is 65% for a period of 10 years. In order to qualify for the maximum tax rebate the total investment would need to be at least \$75 million.

Councilmember Mejia asked if the developer had a startup date and if they were new to the community. Director Brady stated that per the agreement the developer has an 18 month window in which they would need to start and that confirmed that they were new developers to the community. Councilmember Mejia also stated that he believed this development to be a good opportunity for the city and explained that this type of development was important because it would help relieve the tax burden from the residential community.

MOTION: Councilmember Mejia made a motion, seconded by Councilmember Morris, to approve a resolution authorizing an Economic Development Incentive Agreement. The vote was cast 6 for, 0 against [Strain-Burk absent].

5. Discuss and consider a resolution waiving the subdivision requirement for roadway improvements for the property described as an extension of Springfield Avenue to N. Houston School Road and the extension of Oak Farms Boulevard to the Interstate Highway 20 service road on or adjacent to the property located on the Northwest Corner of Daniieldale Road and Houston School Road.

Assistant City Manager Stringfellow stated that this item was a request for a waiver to the subdivision regulations that requires that all improvements be designed and installed in accordance with the Comprehensive Plan and in 2007 the Southpointe Corporate Center was constructed with an east-west as well as north-south, public roadway known today as Southpointe and Corporate Drive. Assistant City Manager Stringfellow shared that the applicant is in the process of closing on the property and is need of a letter from the City Manager providing assurance from the City of Lancaster that improvement requirements were satisfied with the construction of the Southpointe Corporate Center development in order to move forward on the closing.

Mayor Pro Tem Daniels asked for further explanation. City Attorney Robert Hager stated that the property owners are required when developing the land to build a road for their development to ensure they incur the costs of that infrastructure which is necessary to service their project. The letter from the City Manager would show the applicant's lender that the road is not required to be built and would facilitate the development of the property.

City Manager Mauldin-Robertson stated that the deal is contingent upon the roadway being removed because the Comprehensive Plan is not scheduled to be complete until March 2015 and the applicants would not be able fund their deal without this exception.

Deputy Mayor Pro Tem Harris asked if there was a projected incurred cost that would be made if the applicants were required to put the roadway in. City Manager Mauldin-Robertson stated that they did not have a projected cost but that it would be a substantial amount.

Councilmember Mejia shared that he saw no issues with this item and that by granting the waiver the city would express it's desire of being business friendly.

Councilmember Jaglowski shared that their access point would be off of Daniieldale Road which is scheduled to receive improvements in the near future. City Manager Mauldin-Robertson stated that staff has spoken with the developers and they are in line with the completion of the Daniieldale Road project.

MOTION: Councilmember Mejia made a motion, seconded by Councilmember Morris, to approve a resolution waiving the subdivision requirement for roadway improvements. The vote was cast 6 for, 0 against [Strain-Burk absent].

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

Mayor Knight shares that this item was tabled at the last meeting due to the absence of a councilmember. Councilmember Mejia motions to table the item until the full body is present. Mayor Pro Tem Daniels expresses concern over tabling the item a second time. Councilmember Morris stressed the importance of waiting on a full body to be present. Deputy Mayor Pro Tem Harris shared that the courtesy of tabling the item in her absence was extended to her and she would definitely extend that courtesy to her peers in their absence but she did understand Mayor Pro Tem Daniel's concern as well.

MOTION: Councilmember Mejia made a motion, seconded by Councilmember Morris, to table the item until a full body is present. The vote was cast 7 for, 0 against.

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

The meeting was adjourned at 7:38 p.m.

ATTEST:

APPROVED:

Sorangel O. Arenas, City Secretary

Marcus E. Knight, Mayor

LANCASTER CITY COUNCIL

Agenda Communication

December 8, 2014

Item 2

Consider a resolution authorizing Dallas County to resell 1104 N. Lancaster Hutchins Rd., a tax foreclosed property, by public or private sale, to the highest qualified purchaser, as provided by Section 34.05 of the Texas Property Tax Code.

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

Goal: Financially Sound City Government

Background

Following a judgment of the District Court of Dallas County, a parcel of land was offered for sell at public auction for foreclosure of the tax liens, securing payment of delinquent property taxes, accrued penalty and interest, and court costs. This parcel, 1104 N. Lancaster Hutchins Road did not receive sufficient bid as set by law and was struck off to the City of Lancaster in October 2014.

Dallas County is preparing for the resell of 1104 N. Lancaster Hutchins Road, a tax foreclosed property, which is 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 property to the highest qualified purchaser, by either public or private sale.

The sale of said property will bring it 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.

Considerations

- **Operational** - As trustee for the City of Lancaster, Dallas County coordinates the public or private sale of the tax foreclosed property. The City of Lancaster continues to be responsible for maintenance until the property is sold.
- **Legal** – Dallas County handles all legal matters associated with the public or private sell process. The resolution authorizing the resell has been reviewed and approved as to form by the City Attorney.
- **Financial** – The current judgment/strike off amount for the property at 1104 N. Lancaster Hutchins Rd was \$24,174 as shown on Exhibit A. The City may not recoup all of the back taxes, but if the County is successful in selling the parcel, the property will be placed back on the tax rolls and we will begin to receive tax revenue. At this time, the City is receiving

no tax revenue from this parcel. The City of Lancaster retains responsibility for the maintenance of all struck off properties until sold.

- **Public Information** – 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.

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
- Map

Submitted by:

Opal Mauldin-Robertson, City Manager

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LANCASTER, TEXAS, AUTHORIZING DALLAS COUNTY TO RESELL 1104 N. LANCASTER HUTCHINS ROAD, A TAX FORECLOSED PROPERTY BY PUBLIC OR PRIVATE SALE, TO THE HIGHEST QUALIFIED PURCHASER, AS PROVIDED BY SECTION 34.05 OF THE TEXAS PROPERTY TAX CODE.

WHEREAS, this matter was briefed to the Lancaster City Council ("City Council") on December 8, 2014 wherein the City Council agreed to use this form of Resolution to provide the County of Dallas consent to sell the specific property to the highest qualified purchaser by public or private sale; and

WHEREAS, this parcel of land was 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, this parcel 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 this struck off parcel of land, which did not receive a sufficient bid as set by law and to execute quitclaim deed for said parcel 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; THAT:

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 parcel 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 8th day of December 2014.

ATTEST:

APPROVED:

SORANGEL O. ARENAS, CITY SECRETARY

MARCUS E. KNIGHT, MAYOR

APPROVED AS TO FORM:

ROBERT E. HAGER, CITY ATTORNEY

EXHIBIT "A"

TAX FORECLOSURE PROPERTY

COUNTY OF DALLAS TRUSTEE FOR LANCASTER I.S.D. AND CITY OF LANCASTER

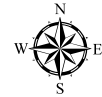
STREET ADDRESS	TAX ACCOUNT #	JUDGMENT CAUSE #	IMPROVED / UNIMP.	LAND SIZE (APPROX.)	JUDGMENT/ STRIKE OFF AMOUNT	MARKET VALUE SPECIFIED IN JUDGMENT	CERTIFIED 2014 DCAD VALUE	TAX YEARS INCLUDED IN JUDGMENT (COUNTY/CITY/ SCHOOL)	DATE OF SHERIFF'S SALE
1104 N. Lancaster-Hutchins Rd., Lancaster	36025500010090000	TX-11-31597 1/31/13 comb. w/ 99-32077-TF 6/11/03	U	100'x671'	\$24,170	\$24,170	\$24,170	County: 1987-2011 City: 1986-2011 LISD: 1986-2011	10/07/14

K:/Property/Dtax/ILA_City-SchoolRes/ExhA-LancasterCity

Exhibit "A"

Tax Forelclosure Property

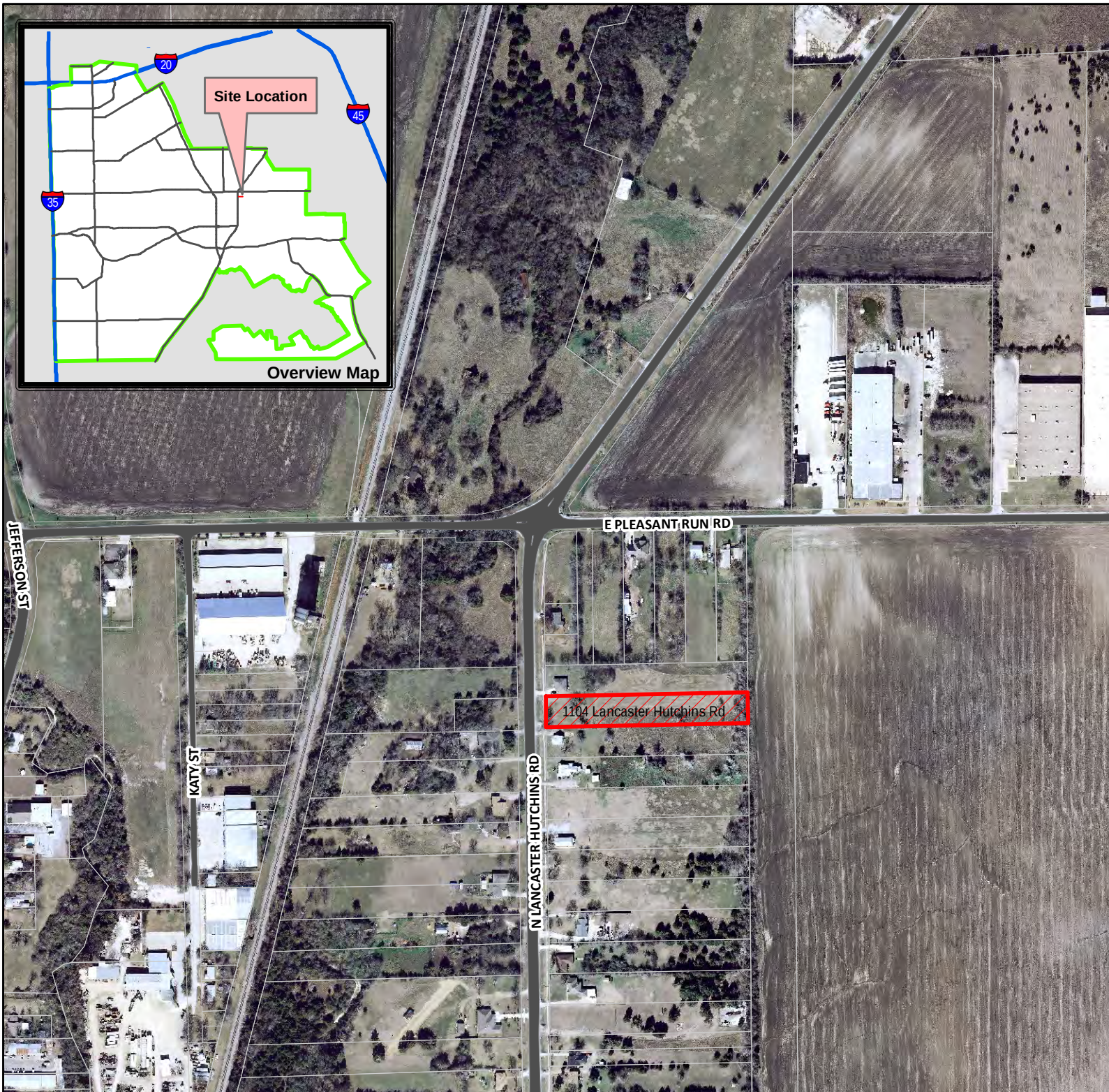
1104 N Lancaster Hutchins Rd



Legend

-  Foreclosure Property
-  Parcels
-  City Limits

0 175 350 700 Feet



LANCASTER CITY COUNCIL

Item 3

Agenda Communication

December 8, 2014

Consider a resolution approving the award of a Unit Price Bid (2014-177) to Redi-Mix Concrete for the Purchase of concrete mix, in an amount not to exceed \$40,000.

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

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

Background

City Staff finds it necessary to purchase quantities of materials including concrete mix to facilitate the repairs to worn, damaged, or broken down concrete streets, alleys, and curbs. Staff finds it expedient to contract with reliable premix concrete companies to deliver materials on schedule to locations needing repair/replacement of concrete.

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

Considerations

- **Operational** - The contract will be administrated by Public Works Department, Streets/Stormwater Division and the Purchasing Department. Concrete will be used to repair streets, alleys and curbs throughout the City.

- **Legal** – The City Attorney has reviewed the resolution and approved it as to form.

The bid was processed in accordance with all local and state purchasing statutes. One bid was received and the vendor is a certified M/WBE. The contract is for one year and shall be awarded by the unit price. The total amount of the award is estimated based upon the approved budget and the actual expenditures will not exceed \$40,000.

- **Financial** – Funding is available in the Street Division budget. Expenditures will not exceed funds appropriated and funds will be committed at issuance of the purchase order, not to exceed \$40,000.
- **Public Information** – Bids were posted on the City's electronic procurement system and advertised in the Focus Daily News on August 21 and 28, 2014. Bids were publically opened on September 5, 2014.

Options/Alternatives

1. City Council may award the bid.
2. City Council may reject the bid.

Recommendation

Staff recommends approving the resolution as presented.

Attachments

- Resolution
 - Tab Sheet
-

Submitted by:

Jim Brewer, Public Works Director
Allen Carsner, Streets and Stormwater Superintendent

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LANCASTER, TEXAS, APPROVING THE AWARD OF A UNIT PRICE BID (2014-177) TO REDI-MIX CONCRETE FOR THE PURCHASE OF CONCRETE MIX; AUTHORIZING THE CITY MANAGER TO ISSUE A PURCHASE ORDER PURSUANT TO APPROVAL; REPEALING ALL RESOLUTIONS IN CONFLICT; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Lancaster desires to purchase concrete mix for routine maintenance and repairs to streets, alleys and sidewalks throughout the City; and

WHEREAS, the City Council desires to contract with REDI-MIX Concrete;

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

SECTION 1. The City Council hereby authorizes the award of a unit price bid (2014-177) to Redi-Mix Concrete for the unite prices stated and pursuant to the bid proposal acknowledgement, attached hereto and incorporated herein by reference as Exhibit "A".

SECTION 2. That the City Manager is hereby authorized to execute the agreement and issue a purchase order.

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

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

SECTION 5. This resolution shall take effect immediately from and after its passage, and it is duly resolved.

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

ATTEST:

APPROVED:

Sorangel O. Arenas, City Secretary

Marcus E. Knight, Mayor

APPROVED AS TO FORM:

Robert E. Hager, City Attorney

Bid Request Number	2014-177	Organization	Lancaster Purchasing
Title	Concrete	Bid Creator	Dawn Berry Purchasing Agent
Description	We strongly request that bidders submit their response electronically.	Email	dberry@lancaster-tx.com
Bid Type	ITB	Phone	(972) 218-1329
Open Date	8/21/2014 6:06:23 PM Central	Fax	(972) 218-3621
Close Date	9/8/2014 12:00:00 PM Central		

Responding Suppliers

Name	City	State	Response Submitted	Lines Responded	Response Total
Redi-Mix Concrete	Euless	TX	9/5/2014 3:31:31 PM CT	3	\$40,000.00

LANCASTER CITY COUNCIL

Item 4

Agenda Communication

December 8, 2014

Consider a resolution of the City Council of the City of Lancaster, Texas authorizing the award of Bid 2014-187 for janitorial services to M. Hayes Janitorial Services, Inc. for an amount not to exceed \$134,265.82.

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

Goal: Financially Sustainable City Government

Background

The City has maintained a formally bid janitorial contract since 2005. The contract requires routine cleansings at two, three, or five day intervals depending on the location. In addition to the daily cleanings, the contract includes weekly, monthly, quarterly, semi-annually cleaning requirements. The total cost to clean the buildings as recommended is \$134,265.82.

Considerations

- **Operational** – Maintaining janitorial services creates a clean and healthy environment for City employees.
- **Legal** – The request for proposal was processed in accordance with all local and state purchasing statutes. Twelve Vendors Responded, two were no bids.
- **Financial** – Funding for this service is available in the current fiscal year budget. Expenditures will not exceed funds appropriated and funds will be committed at the issuance of a purchase order.
- **Public Information** – Proposals were advertised on November 3 and 10 in the Focus Daily News and posted on the City's e-procurement system. A pre-proposal meeting was held on November 11, and proposals were due on November 20, 2014.

Options/Alternatives

1. City Council may award the bid.
2. City Council may reject the bid.

Recommendation

Staff recommends awarding bid 2014-187 to M. Hayes Janitorial Services, Inc. for an amount not to exceed \$134,265.82.

Attachments

- Resolution
 - Contract
 - Tab Sheet
-

Submitted by:

Alton Dixon
Purchasing Agent

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LANCASTER, TEXAS AUTHORIZING THE AWARD OF BID #2014-187 FOR JANITORIAL SERVICES TO M. HAYES JANITORIAL SERVICES, INC. FOR AN AMOUNT NOT TO EXCEED \$134,265.82; AUTHORIZING THE CITY MANAGER TO EXECUTE THE CONTRACT PURSUANT TO AWARD; REPEALING ALL RESOLUTIONS IN CONFLICT; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, The City of Lancaster desires to obtain janitorial services; and

WHEREAS, The City Council of the City of Lancaster finds that it is in the best interest of the City to contract for this service;

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

SECTION 1. The City Council hereby authorizes the award of bid 2014-187 for janitorial services in an amount not to exceed one hundred thirty-six thousand eight hundred sixty-five dollars and eighty-two cents (\$134,265.82) to M. Hayes Janitorial Services, Inc. pursuant to the contract attached and incorporated by reference as Exhibit "A"

SECTION 2. The City Council hereby authorizes the City Manager to execute the contract.

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

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

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

DULY PASSED AND APPROVED by the City Council of the City of Lancaster, Texas on this the 8th day of December, 2014.

ATTEST:

APPROVED:

Sorangel O. Arenas, City Secretary

Marcus E. Knight, Mayor

APPROVED AS TO FORM:

Robert E. Hager, City Attorney

City of Lancaster, Texas

Standard Fixed Price Agreement

This Agreement is made by and between the City of Lancaster, Texas, a home-rule municipality (hereinafter referred to as the "Owner") and **M. Hayes Janitorial**, (hereinafter referred to as the "Provider") for **Janitorial Services (2014-187)**, (hereinafter referred to as the "Services"), the Owner and the Provider hereby agree as follows:

1. THE CONTRACT

1.1 The Contract between the Owner and the Provider, 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 consist of this Agreement, the General Terms and Conditions, the Specifications, all Change Orders issued hereafter, any other amendments executed by the parties hereafter.

Documents not enumerated in this Paragraph 1.2 are not Contract Documents and do not form part of this Contract.

2. NO PRIVITY WITH OTHERS

2.1 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 Provider.

3. WORK

3.1 The term "Work" shall mean whatever is done by or required of the Provider to perform and complete its duties under this Contract, including the following: daily, weekly, monthly, quarterly, biannual and yearly cleaning of City properties in accordance with the specifications of Bid 2014-187. Furnishing of any required surety bonds and insurance, and the provision or furnishing of labor, supervision, services, materials, supplies, equipment, tools, transportation, permits and licenses required of the Provider as provided in the specifications, attached hereto as Exhibit A.

3.2 Electricity and water will be provided by the owner.

3.3 The Work to be performed by the Provider is generally described as follows:

2014-187 –Janitorial Services as provided in the general terms and conditions, the specifications, addendum 1 and relevant change orders.

4. Term

4.1 The Provider hereby agrees to commence work on January 1, 2015 and continue for a period of one year, ending on December 31, 2015.

4.2 The contract contains four one-year renewal options. A renewal request will be sent approximately 120 days prior to the end of each term.

4.3 Provider must notify the City a minimum of 120 days from end of term if provider chooses not to renew the agreement.

4.4 Either party may terminate this Agreement at any time without cause, by a thirty (30) days notice in writing, to the other. Upon the date of such termination, the PROVIDER shall immediately discontinue all services and work, and shall prepare and submit a final invoice.

5. Payment

5.1 The CITY agrees to pay the Provider in current funds the price or prices shown in the proposal, which is attached hereto as Exhibit A.

5.2 The Provider agrees to provide a detailed monthly invoice by location.

6. INDEMNITY AND DISCLAIMER

6.1 **OWNER SHALL NOT BE LIABLE OR RESPONSIBLE FOR, AND SHALL BE INDEMNIFIED, DEFENDED, HELD HARMLESS AND RELEASED BY PROVIDER 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 PROVIDER, OR PROPERTY, ARISING OUT OF, OR OCCASIONED BY, DIRECTLY OR INDIRECTLY, THE PERFORMANCE OF PROVIDER UNDER THIS AGREEMENT, INCLUDING CLAIMS AND DAMAGES ARISING IN WHOLE OR IN PART FROM THE NEGLIGENCE OF OWNER, WITHOUT, HOWEVER, WAIVING ANY GOVERN-MENTAL 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 PROVIDER TO INDEMNIFY AND PROTECT OWNER FROM THE CONSEQUENCES OF THE PROVIDER'S AS WELL AS THE OWNER'S NEGLIGENCE, WHETHER SUCH NEGLIGENCE IS THE SOLE OR PARTIAL CAUSE OF ANY SUCH INJURY, DEATH, OR DAMAGE.**

7. Venue:

7.1 Venue of any suit or cause of action under this Agreement shall in Dallas County. Texas.

8. Notices:

8.1 All notices shall be directed in writing to:

City of Lancaster
PO Box 940
Lancaster, TX 75146

M. Hayes Janitorial Services
1019 E. Beltline Rd.
Desoto, TX. 75115

EXECUTED in single or multiple originals, this 8th day of December, 2014.

CITY OF LANCASTER

M. HAYES JANITORIAL SERVICES

Opal Mauldin-Robertson, City Manager

Type/Print Name and Title

ATTEST:

1019 E. Beltline Rd.
Desoto, TX. 75115

Sorangel O. Arenas, City Secretary

SPECIFICATIONS - GENERAL

The City of Lancaster is requesting proposals for an ANNUAL contract for custodial services for all City buildings. The following requirements and specifications shall be in addition to the other requirements contained herein and shall supersede the other requirements where applicable.

1. ADDITIONS / DELETIONS OF LOCATIONS

- a. If the need arises, locations may be added and/or deleted to the resulting contract. Any additions to the contract shall be in writing in the form of a change order and will be considered a part of the contract thereafter with all prices, terms and conditions stated in the change order. Additional locations added to the contract are to obtain full service as stipulated in the specifications.

2. AWARD

- a. The City shall award the contract to a single provider and be based on the providers ability to meet all the requirements as stated in the evaluation criteria.
- b. The contract shall begin on` December 1, 2014 and continue for twelve (12) months through November 30, 2015
- c. The contract shall contain four (4) one-year renewal options. Both parties must be in agreement. A renewal request will be sent 120 days prior to the end of each term. Provider must respond to request within ten (10) days.

3. BACKGROUND CHECK

- a. The City of Lancaster is a drug free work place.
- b. The awarded Vendor and all employees shall be subject to a valid background check that is acceptable to the City in terms of format and source. All background checks are to be provided to the City at the sole expense of the Vendor. Employees must not have been convicted of a felony or an offence Class B or above in the past ten (10) years.
- c. Awarded vendor must have confirmed the employment eligibility of all employees who are newly hired to perform work under this contract through participation in the either the e-verify program or another Federally approved method.
- d. Prior to the commencement of the contract period, the Vendor shall submit for all employees that will enter the City buildings at any time, two (2) copies of their driver's license, mailing address if different from driver's license, social security number, proof of employment eligibility, and certified copies of the background check results. Copies will be distributed and maintained in the following departments: Purchasing and Police.
- e. Initial background checks must have been completed within the previous six months and submitted yearly during the renewal process.

4. BILLING

- a. Upon completion of the work and verification by an authorized representative of the City, the successful Vendor shall submit an original invoice to Accounts Payable, attention Purchasing at PO Box 940, Lancaster, TX 75146 or to accounts-payable@lancaster-tx.com. The invoice should detail the following items.
 - i. Invoice Number
 - ii. Dates of Service
 - iii. Amount Due by Location
 - iv. Contract Number

5. BUILDING SECURITY

- a. Vendor employees must sign in to obtain keys each day from the Lancaster Police Department. Employees must be on the submitted list and have proper ID with them to be given access. Employees must return keys to the Police Department and sign out. Vendor will be required to

purchase photographic identification and electronic access cards for each individual cleaning crew member that has access to restricted facilities from the city at the city's cost. These cards must on the person of all cleaning staff at all times.

- b. Security cards are \$10.00 per card. Payment will be deducted from the current months invoice.

6. CLEANING SUPPLIES AND EQUIPMENT

- a. All cleaning supplies such as scouring powder, window cleaner, various cleaning solutions as well as mops, brooms, buffers, trash bag liners, paper products (such as toilet paper, paper towels, toilet seat liners, urinal floor mats), restroom air fresheners, etc. will be the responsibility of the successful bidder.
- b. The successful bidder must maintain adequate cleaning supplies as referenced above available to the owner for emergency and after hours needs as they may arise.

7. COMPENSATION / WAGE RATES:

- a. As a mandatory requirement of this contract, the Vendor must pay to employees performing services under this contract, at least the current prevailing minimum wage, according to the State, local and Federal minimum wage schedule as published by the United States Department of Labor and State of Texas. **Vendor must provide quarterly reports that includes employees name, hours, rate and compensation paid, failure to provide this information will be subject to liquidated damages as indicated below and/or termination of contract**

8. COMMUNICATION

- a. All employees are requested to report to their supervisor any discrepancies from the routine work scheduled and an explanation of the circumstances involved. They are asked to report:
 - i. Any property or equipment not in a serviceable or operating condition, listed by description and location. To include burned out light bulbs, etc.
 - ii. Damage, vandalism, broken windows, graffiti, listed by description and location.
 - iii. Work orders and complaints from all locations are received electronically and will be forwarded via email to the designated email address provided. Contractor is responsible for providing all communication information to their staff.

9. CONTRACT ADMINISTRATOR

- a. The City of Lancaster Purchasing Agent will be responsible for ensuring compliance with Contract requirements.

10. COMPLIANCE WITH CODES

- a. Provider shall comply with all City, State and Federal Codes and Laws in force at the time of each award of contract and applicable to such work. Provider shall obtain, at their own expense, such permits, certificates and licenses as may be required in the performance of the work specified.

11. DAMAGE TO PROPERTY

- a. The Vendor shall at all times guard against damage or loss to the property or equipment of the City of Lancaster. Vendor shall assume full responsibility for any loss of or damage to City of Lancaster property or equipment, by employees or agents of the Provider and will reimburse the City in the event of any loss of or damage to property.

12. EMPLOYEES

- a. Vendor will provide competent, reliable, honest and qualified personnel to perform services in a satisfactory and timely manner. The Vendor shall not tolerate any misconduct on the part of its employees while performing services on City property.
- b. All employees shall be physically able and qualified and must have received training in the use of equipment and supplies such as cleaners. Vendor must provide written certification for each employee that will be working on City property of training. In addition, vendor must submit a copy of their training policy and procedures.

- c. The vendor may not use subcontractor's or subcontract employees to perform the janitorial services identified in this document. All cleaning staff must be direct employees of the vendor.
- d. Persons employed by the Vendor, in the performance of the services required under this contract, shall not be considered employees of the City, shall be independent thereof, and shall have no claim against the City for any employee benefit rights or privileges granted by law.
- e. Uniforms – Vendor shall provide each employee performing services under this contract with a freshly laundered uniform, vest, or smock with the Vendor's company name clearly visible. The uniform must be worn at all times while on City property.
- f. Picture ID – Employees must carry a picture ID with them at all times to obtain access to the buildings. A driver's license or a Federal / State approved ID is acceptable.
- g. Termination – Upon termination or transfer of an employee of the Vendor, the Vendor shall immediately (within twelve (12) hours) notify the Building Services and Purchasing.
- h. City of Lancaster may, at any time, request the removal and replacement of any successful proposers employees and the successful proposers will duly consider such request.

13. EMPLOYEE SUPERVISION:

- a. The contractor shall assign not less than one (1) qualified supervisor to physically supervise the Vendor's employees and to ensure adherence to the cleaning schedule. Supervisor must provide a complete cleaning schedule including the minimum of times and locations to be cleaned and number of employees. Any changes or updates to the schedule must be approved in writing by the Director of Parks & Recreation or his designate prior to implementation.
- b. The supervisor is responsible for all keys and cards checked out and assigned nightly to unlock spaces and for the security of the building while they are performing their duties. The supervisor will make certain that all doors are securely locked prior to leaving each night.
- c. The supervisor shall be responsible for the conduct and performance of the contractor's employees and compliance with the following rules:
- d. Vendor employees appearing to be under the influence of alcohol or drugs shall not be permitted in the building.
- e. Vendors employees shall at all times wear the company logo visible on all shirts and a company identification card with name and picture.
- f. No loud or boisterous conduct will be permitted.
- g. Vendor employees will NOT open desk drawers or cabinets at any time.
- h. Vendor employees are not to use or tamper with any office machines, equipment, or City Employees' personal property at any time.
- i. Vendor employees are not to use City telephones at any time.
- j. Vendor employees are not allowed to smoke in City buildings.
- k. **Vendor employees must be able to speak and understand English fluently.**
- l. The Vendor's employees shall not under any circumstances be accompanied in their work area on City premises by acquaintances, family members, or any other persons unless said person is an authorized Vendor employee for whom a background check was submitted and approved to have access to City facilities.

14. EQUIPMENT AND SUPPLIES – CONTRACTOR FURNISHED

- a. Proposer shall furnish all labor, equipment, paper products and cleaning supplies necessary to perform the contract. Adequate supplies are to be kept at each location in the respective storage areas. Upon termination of the contract, all supplies purchased for the City of Lancaster use shall become the property of the City and shall not be removed. In the event the provider fails to have supplies on hand, the cost of the City to purchase the supplies needed during the transition from one contractor to the next will be deducted from the final invoice.

- b. Equipment will be required to be of adequate design and functioning properly to manufacturer's specification. Vacuum cleaners must be top quality (no cloth bags) and maintained in proper working order. Carpet cleaning shall be performed with commercial extracting equipment.
- c. Paper products shall be of good quality and must be equivalent to or better than what is currently in place. A list of current products is included.
- d. Equipment: Space will be provided for all equipment supplied by the contractor, which remains on the job site during the life of the contract. The equipment must be maintained in good operating condition and in sufficient quantities to adequately perform all services and available to the contractor's employees at all times. All equipment must be OSHA certified and/or meet all OSHA requirements. The contractor will be responsible for providing warning signs indicating slippery or wet floor conditions. Additionally, the contractor must provide portable barriers and/or signage to indicate rest rooms are closed for servicing.
- e. Supplies: All supplies furnished by the contractor shall be stored in the janitor closets located at each facility, and must be labeled in accordance with OSHA regulations. Both equipment and supplies are subject to inspection by city personnel at anytime during the length of the contract. A Complete set of MSDS sheets must be maintained at each location and one supplied to Purchasing.
- f. Vending Machines in Restrooms: All machines (famine hygiene type products only) will be maintained by the successful bidder and all monies collected will belong to the successful bidder.
- g. **The City of Lancaster does not assume responsibility for any materials, tools and equipment stored on or about the premises.**

15. EQUIPMENT AND SUPPLIES – PROVIDED BY CITY

- a. The City shall furnish electric light and power at facilities to be serviced to provide power for cleaning equipment to be used in the performance of this contract.
- b. Employees of the contractor shall conserve electric energy at all times. Lights should only be turned on the section of the building that is being cleaned. Lights should be turned off when work is complete.
- c. The City shall furnish water for use in the performance of this contract. Vendor shall adhere to accepted sanitary practices governing the disposal of wastewater of every kind.

16. EVALUATION CRITERIA

- a. An evaluation committee will examine all offers. Offers that do not conform to the instructions given or that do not address all the questions and/or services specified will be disqualified from consideration. The City of Lancaster reserves the right to accept an offer if it is determined to be in the City's best interest to do so.

17. HOLIDAY CLOSINGS

- a. All City facilities (except Public Safety Building, Country View Golf Course Club House, Airport Terminal Building and Hanger Building restroom) are closed and will not require cleaning on the following holidays New Year's Day, Good Friday, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Martin Luther King, Jr. Birthday, Thanksgiving Friday, Christmas Day and either the day before or day after depending on where the holiday falls.

18. INITIAL CLEANING REQUIREMENT

Initial Cleaning shall take place during the first two weeks and shall consist of the following:
Completing all daily, monthly, quarterly and yearly cleanings as detailed in the specifications.

19. INSPECTION AND ACCEPTANCE OF WORK

- a. The City reserves the right to inspect the work under contract at any time for final acceptance.
- b. Unsatisfactory Performance – If work performed is unsatisfactory, the Contract Manager or authorized representative will immediately notify Provider. Upon notice of unsatisfactory cleaning performance, Provider will have two (2) hours from that time to initiate corrective actions and twenty-four (24) hours to complete the work.

to complete any specific instance of unsatisfactory performance. In the event the corrective action to remedy the unsatisfactory performance is not completed within 24 hours, the City has the right to immediately complete the work to its satisfaction, either through the use of City employees at a rate equal to the employee hourly rate plus thirty-percent (30%) for administrative costs; or through use of an outside contractor at the rate charged to the City plus thirty-percent (30%) for City administration costs.

- c. The actual charges, if greater than the minimum charges, will be deducted from any balances due or which may become due to the Contractor.
- d. Continuing non-performance of the awarded vendor in terms of specifications shall be a basis for the termination of the contract by the City. The City shall not pay for work, equipment, or supplies, which are unsatisfactory or not completed per specification/frequency list. Vendors will be given a reasonable opportunity before termination to correct deficiencies. This, however, shall in no way be construed as negating the basis for termination for non-performance. The "Services to be Performed" listed under "Scope of Work" shall be enforced. Work not performed will not be paid.
- e. **The minimum deduction, regardless of time necessary to correct the deficiency shall be \$250.00.**

20. KEYS

- a. The awarded Vendor shall be responsible at their expense for any replacement and rekeying needed as the result of lost keys, card keys and any inherent damages. If not paid up front, the cost shall be deducted from future payments.
- b. Key's may not be duplicated and keys may not be given to any unauthorized persons who are not employees of the vendor and who have not been submitted to the employee list and approved.

21. NOTICES

- a. All notices shall be submitted in writing to:
eMail: purchasing@lancaster-tx.com
Mail: PO Box 940, Lancaster, TX 75146
Delivery: 211 N. Henry, Lancaster, TX 75146
- b. The Vendor must provide contact information for routine and emergency communications in the form of mobile telephone contact numbers for vendor's supervisors and e-mail contact addresses.

22. PACKING SLIPS

- a. Packing slips or other suitable shipping documents shall accompany each special order shipment and shall show: (a) name and address of successful Bidder, (b) name and address of receiving department and/or delivery location, (c) Purchase Order number, and (d) descriptive information as to the item(s) delivered, including product code, item number, quantity, number of containers, etc.

23. PERIODIC CLEANING SCHEDULE

- a. Cleaning specified to be performed weekly, monthly, quarterly, bi-annually or yearly must be pre-scheduled by the Vendor. The vendor is responsible to provide a written schedule of all monthly, quarterly, bi-annual and yearly cleaning activities, subject to approval by the owner's representative. No deviations to these written schedules are permitted without approval of the owner's representative.
- b. By the first of each month, the Vendor must forward to Building Services Manager or his designee in writing a list of cleaning / janitorial services that were performed for that month in accordance with the specifications, listing the starting and completion date for each task.

24. PRE-PROPOSAL / WALK THROUGH

- a. A pre-proposal meeting has been scheduled. Attendance is not mandatory to submit a response; however, it is encouraged. No other site visits will be allowed.

25. MANDATORY MONTHLY MEETING WITH OWNER STAFF

- a. The vendor is required to coordinate and attend a monthly meeting with the owner's representative to address staff changes, cleaning issues, scheduling changes, complaints from various building representatives, etc. The Vendor will be advised by the owner's representative of the date, time and location of the meetings. Failure to comply with this provision will be subject to liquidated damages.

26. SAFETY

- a. Vendors must agree that all products furnished and application methods will comply with applicable provisions of the Occupational Safety and Health Act (OSHA).
- b. The successful Vendor shall be solely responsible for the safety of the persons, including employees, and property during the performance of the work. Safety provisions shall conform to all OSHA requirements, the Texas Hazard Communications Act, Texas Health & Safety Code, Uniform Fire Code and all other applicable federal, state, county and local laws, ordinance codes and regulations. Ignorance on the part of the Vendor will in no way relieve him/her from responsibility.

27. SECURITY

- a. Due to the nature of business conducted in City buildings, security of the premises, items and equipment contained herein shall receive special consideration.
 - i. Successful contractor will have a qualified supervisor on the premises at all times during the cleaning function.
 - ii. Employees of the awarded contractor shall sign in and out each day at each building/location. A log book will be maintained at each reception area.
 - iii. Keys will be furnished to the successful bidder at the time of contract execution. Successful contractor will receive one (1) set of keys for the supervisor.
 - iv. Any key lost shall be reported immediately to the Contract Manager.
 - v. If any keys issued to the contractor during the term of the contract are not returned at the expiration date of the contract, replacement keys or hardware replacement shall be deducted from the final payment to the contractor.
 - vi. Employees are not to bring personal property into City offices/buildings. This includes purses, briefcases, backpacks, etc.

28. SECURITY SYSTEMS

- a. Vendors must agree to keep security codes confidential and understands that this information should only be given to the supervisor on duty. In addition, in the event that an alarm is set off or not reset upon leaving and City staff or the Police Department respond, the vendor will be charged liquidated damages in the amount below to cover staff time.

29. QUESTIONS

- a. All questions shall be submitted to the Purchasing Agent in writing to purchasing@lancaster-tx.com.
- b. Contact relating to this proposal to any City employee or elected official, other than Purchasing, shall result in disqualification.

SUBMITTAL REQUIREMENTS

Minimum qualifications

This section lists the criteria to be considered in evaluating the ability of firms interested in providing the services specified. Specific responses to each must be uploaded to the e-procurement system. It is the responsibility of the proposer to ensure all forms and proposal documents have been uploaded. Vendors that have not submitted all required forms will be considered unresponsive.

It is expected that the successful firm will exceed these qualifications. Firms must have provided services similar to those specified herein to at least five (5) clients of similar size and in the past five (5) years; and,

Proposals will be evaluated and scored as follows:

Pre-Bid Meeting Attendance	10 Points
Response Compliance	10 Points
Experience	15 Points
Qualifications	10 Points
Supervision / Monitoring	10 Points
Price	40 Points

RESPONDENT COST TO DEVELOP PROPOSAL.

All costs for preparing and submitting proposals in response to this RFP are to be the responsibility of the respondent and will not be chargeable in any manner to the City.

INSTRUCTIONS FOR RESPONDING TO THIS RFP.

Upload the information below into the City's e-procurement system in the tab "Response Attachments". Hard copies will not be accepted. Please do not merge attachments into one file.

The following items must be complete and uploaded to the response attachment tab to be considered.

- a. W9
- b. Conflict of Interest
- c. Reference Page
- d. Statement of Qualifications Form
- e. Non-Appropriations Clause Affidavit

Additionally, proposer shall prepare the following attachments and upload to the response attachment tab to be considered.

Attachment A	Statement that you have or can purchase the required insurance prior to beginning the contract and a statement that a binder with MSDS sheets will be provided and stored in each building supply/equipment closet and one will be maintained in Purchasing.
Attachment B	Statement indicating the following: • Contact information for the binding official/owner. • Contact information for the primary contact. • Acknowledgement that your firm has the staff and time to maintain the contract.
Attachment C	Supervision / Monitoring Plan – this shall provide information on how your employees will be supervised and monitoring events to guarantee that services will be provided in accordance with the specifications.
Attachment D	A list of all manufacturers and products that will be used on City property.
Attachment E	A list of all equipment including buckets, mops, brooms, vacuums, etc. shall be submitted. The list should include the manufacturer, model and age where applicable.

CITY FACILITIES
GENERAL SPECIFICATIONS for ALL FACILITIES

SERVICES PERFORMED DAILY

At minimum, Contractor agrees to perform the following janitorial and cleaning maintenance services. Locations to be serviced include, but may not be limited to, office space, lavatories, corridors, lobbies, stairways, elevators, offices, break rooms, and public areas. Such services will be provided in accordance with the frequency schedule listed below.

1. Empty waste receptacles using a cart or barrel for collection in each office. Leaking trash bags create stains that are difficult to remove. Clean and damp dust all waste receptacles and remove all waste and rubbish from the premises nightly to designated locations. Wash receptacles as necessary. Remove trash liners as needed to prevent odors, spills or any offensive appearance.
2. Empty all desk side receptacles marked "RECYCLING" and dispose of contents at the outside bin marked "RECYCLE." No trash shall be placed in the recycling dumpsters at anytime. All recycling trash/debris must be disposed of in clear trash bags/liners, unless the items are too large for bags/liners.
3. Empty all external ashtrays; screen sand all urns nightly and supply or replace sand as necessary and applicable. Replacement sand will be provided by Vendor.
4. Vacuum all rugs and carpeted areas in office, break rooms, lobbies and corridors.
5. Dust and wipe clean with damp or treated cloth all office furniture, file cabinets, fixtures, window sills, and other horizontal surfaces.
6. Remove all finger marks and smudges from all vertical surfaces, including doors, windows, and frames, around light switches, entrance glass, and partitions.
7. Clean, sanitize, and polish all drinking fountains.
8. Sweep all uncarpeted floors and stairways, employing dust control techniques.
9. Damp mop spillage in office, corridors, public areas, and break rooms.
10. Dust tops of picture frames, wall hangings, and other wall accessories.
11. Do not remove items on desks, file cabinets, credenzas or shelving while cleaning. Do not unplug computers, typewriters, copy machines, or other electrical equipment.
12. Discard only the contents in the waste containers. No other items are to be thrown away without express instructions of the building occupants.
13. Occupant doors found locked upon arrival are to be locked after the area has been cleaned.
14. At no time is the Contractor to assist entry of anyone other than the Contractor's employees into the building.
15. Lights are to be turned off upon completion of cleaning unless the workspace is occupied or designated to be left on.
16. Spot wash all glass, including doors and inside of interior glass windows.
17. Clean all break room tables and chairs and wash tabletops. Clean under all kitchen appliances and countertop items.
18. Clean break room sinks daily and polish dry. (Do Not Wash Dishes Left In Sink!!)
19. Sweep exterior entrances to building and vacuum adjacent mats.

20. Clean all interior and exterior surfaces of elevators including doors and floor tracks. Polish metal surfaces sweep/mop or vacuum interior.
21. All trash carts, custodial carts, storage areas, etc. shall be kept clean and orderly. Contractor shall furnish all associated trash carts and equipment needed for transporting to proper locations.

SERVICES PERFORMED WEEKLY

1. Wet mop and spray buff with high speed buffing machine all hard surface floors to a high gloss removing all black marks from flooring. Floors must be wet mopped and cleaned prior to buffing.
2. Sweep and wet mop all stair wells and dust handrails
2. Clean all baseboards to remove and prevent cobwebs.
3. Clean and polish interior of elevator.

SERVICES PERFORMED MONTHLY

1. Clean vents and light fixtures to remove dust and prevent cobwebs.
2. Clean all metal kick plates on doors to remove smudges, dirt and other debris

SERVICES PERFORMED QUARTERLY

1. Wash interior windows, including cleaning of window sills and dusting of window treatments
2. Thoroughly clean all entrances and adjacent glass both inside and out. All non-carpeted floors are to be stripped, sealed and waxed.
3. Vendor must provide a written schedule of dates floors will be stripped, sealed and waxed, dates must be approved by the Director of Parks and Recreation or his designate.
4. Clean all ceramic tiled floors, shower stalls and counter tops. Each must be deep cleaned to remove dirt, debris and cleaning residues and to maintain grout in original color.

SERVICES PERFORMED SEMI-ANNUALLY

1. Clean all carpets (at minimum) in building utilizing commercial steam extractor. Spots or stains on carpet will be removed on a daily basis and cleaned or extracted on a more frequent basis as required. All floor care must be scheduled in advanced and completed so that flooring is completely dry and serviceable for the following work day. Friday's are the best time to accomplish this.

RESTROOMS

SERVICES PERFORMED DAILY

1. Sweep and mop all hard surface floors with an approved odor control disinfectant, grouted tile floors shall be cleaned to prevent accumulations of dirt and mildew. Application of grout sealant at vendor's expense is subject to approval by Contract Manager or his designate.
2. Clean and sanitize all mirrors, chrome and stainless steel. Polish to a shine.
3. Wash and disinfect with approved odor control disinfectant, all wash basins, urinals, and toilet bowls to remove stains and clean the underside of the rims on urinals and bowls including flush holes.
4. Wash both sides of toilet seats and base with antibacterial type approved disinfectant and wipe dry.
5. Clean with disinfectant all partitions, tile walls, and outside surfaces of all dispensers (paper), including soap dishes and receptacles, to remove stains, streaks, watermarks and soil. Polish and sanitize to a shine.
6. Empty and sanitize all receptacles and sanitary napkin disposal, thoroughly clean and wash with disinfectant at least once per week, replace liners.
7. Restock all toilet tissue, paper towel, air fresheners, and soap dispensers with approved products.
8. All urinals must have urinal screens and urinal mats to be supplied by the contractor. Urinal mats must be cleaned nightly and replaced or deep cleaned monthly.

SERVICES PERFORMED WEEKLY

1. Clean and sanitize piping, toilet seat hinges, and other metal.
2. Clean and sanitize floor drain covers.
3. Thoroughly clean shower stalls with abrasive cleaner and treat with a disinfecting sanitizer

SERVICES PERFORMED MONTHLY

1. Vacuum all ventilating grills, vents, and light fixtures to remove dust and prevent cobwebs.
2. Clean tile floor/walls and grout lines. Grout lines must be sealed annually or as determined by the owner's representative.
3. Flush all floor drains with approved odor control disinfectant solution.

CITY HALL - 211 N. HENRY
APPROXIMATELY 8,835 SQUARE FEET

Five (5) CLEANINGS PER WEEK: MONDAY- FRIDAY

EXTERIOR

1. Sweep the exterior concrete entrances and remove chewing gum accumulations and spills.

GENERAL

EACH NIGHTLY CLEANING:

2. Refer to General Specifications for All Buildings.
3. All cleaning in this facility should begin after 9:00 PM.
4. Initiating cleaning in other areas of the building while night meetings are in progress is acceptable. Care should be taken not to disrupt these meetings. Schedule to be coordinated with the Contract Manager.
5. All weekly cleaning requirements should be performed on Monday evening immediately following the City Council Meeting.
6. Council Chambers cleaning may not be done during Council meetings.
7. All offices are to be locked, except where indicated by Director of Parks and Recreation or his designate during initial site inspection upon award of contract, when cleaning is complete.
8. Any noted building maintenance emergencies during cleaning activities should be immediately reported to Police Dispatch at 972-218-2700.

WEEKLY

1. Clean and sanitize microwave
2. Clean and sanitize outside of ice machine.

MONTHLY

1. Refer to general specifications for All Buildings.

QUARTERLY:

1. Refer to general specifications for All Buildings.
2. Dust under Council seating area to remove dirt and cobweb building up.
3. Wipe down / Polish all wood furniture in Council Chambers (Council seating area, podium, pews).

SERVICE CENTER - 700 E. MAIN
APPROXIMATELY 4,200 SQUARE FEET

TWO (2) CLEANINGS PER WEEK: TUESDAY & THURSDAY

GENERAL

1. Refer to General Specifications for All Buildings.
2. All cleaning in this facility should be performed after 7:00 PM Tuesday & Thursday.
3. The door between offices and break room should be locked after cleaning.
4. Sweep the exterior concrete entrances and remove chewing gum accumulations and spills.
5. Any noted building maintenance emergencies during cleaning activities should be immediately reported to Police Dispatch at 972-218-2700.

MONTHLY & QUARTERLY:

1. Refer to general specifications for All Buildings.

PUBLIC SAFETY BUILDING
POLICE AND FIRE ADMINISTRATION - 1650 N. DALLAS AVENUE
APPROXIMATELY 33,000 SQUARE FEET

FIVE (5) NIGHTS PER WEEK: MONDAY- FRIDAY

EXTERIOR

1. Sweep the exterior concrete entrances and remove chewing gum accumulations and spills

GENERAL

NIGHTLY:

1. Refer to General Specifications for All Buildings.
2. All cleaning in this facility should be performed after 7:00 PM on Tuesday, Thursday, and Saturday. The successful bidder can schedule weekend cleaning.
3. Upon arrival to building the crew and supervisor must identify themselves to the dispatch desk to receive access to all areas of the building to complete assigned duties.
4. Any noted building maintenance emergencies during cleaning activities should be immediately reported to Police Dispatch.

MONTHLY & QUARTERLY:

1. Refer to general specifications for All Buildings.

LIBRARY - 1600 VETERANS MEMORIAL PARKWAY

APPROXIMATELY 21,000 SQUARE FEET

THREE (3) NIGHTS PER WEEK: TUESDAY, THURSDAY, & SATURDAY

EXTERIOR

1. Sweep the exterior concrete entrances and remove chewing gum accumulations and spills
2. Clean Exterior Glass Doors nightly.

GENERAL

NIGHTLY:

1. Refer to General Specifications for All Buildings.
2. All cleaning in this facility should be performed after 9:00 PM Tuesday, Thursday, & Saturday.
3. Initiating cleaning in other areas of the building while night meetings are in progress is acceptable. Care should be taken not to disrupt these meetings.
4. All weekly cleaning specifications should be performed on the weekend or Monday evening. A security system is activated at this facility. The successful bidder will be responsible for deactivating it upon arrival, and ensuring it is reset prior to leaving the premises.
5. All offices are to be locked when cleaning is complete.
6. Any noted building maintenance emergencies during cleaning activities should be immediately reported to Police Dispatch.

MONTHLY & QUARTERLY:

1. The contractor is responsible for supplying all sanitary napkins products and will service machines, collect monies for it.
2. Refer to general specifications for All Buildings.

COMMUNITY HOUSE - 100 N. HENRY

APPROXIMATELY 2,000 SQUARE FEET

TWO (2) NIGHTS PER WEEK: FRIDAY & SUNDAY

GENERAL

1. Refer to General Specifications for All Buildings.
2. Cleaning should be performed after 12:00 AM.
3. Any noted building maintenance emergencies during cleaning activities should be immediately reported to Police Dispatch to 972-218-2700.

MONTHLY & QUARTERLY:

1. Refer to general specifications for All Buildings.

VEHICLE MAINTENANCE - 521 E. THIRD ST.

APPROXIMATELY 500 SQUARE FEET

TWO (2) NIGHTS PER WEEK: TUESDAY & THURSDAY

GENERAL

1. Refer to General Specifications for All Buildings.
2. All cleaning in this facility should be performed after 7:00 PM on Tuesday and Thursday
3. Any noted building maintenance emergencies during cleaning activities should be immediately reported to Police Dispatch.

MONTHLY & QUARTERLY:

1. Refer to general specifications for All Buildings.

AQUATIC/RECREATION CENTER - 1700 VETERANS MEMORIAL DR.

APPROXIMATELY 38,000 SQUARE FEET

THREE (3) NIGHTS PER WEEK: TUESDAY, THURSDAY, & SATURDAY

GENERAL

1. Refer to General Specifications for All Buildings.
2. All cleaning in this facility should be performed after 12:00 AM daily (3 days per week)
2. Dust mop gymnasium floor with dry dust mop followed by damp mopping utilizing approved waterless cleaning product and remove all gum.
3. A security system is activated at this facility. The successful bidder will be responsible for deactivating it upon arrival, and ensuring it is reset prior to leaving the premises.
4. Any noted building maintenance emergencies during cleaning activities should be immediately reported to Police Dispatch.

MONTHLY & QUARTERLY:

1. Refer to general specifications for All Buildings.

RESTROOMS:

3. Refer to General Specifications for All Buildings.
4. The contractor is responsible for supplying all sanitary napkins products and will service machines, collect monies for it.

**ANIMAL SHELTER - 690 E. MAIN ST.
APPROXIMATELY 100 SQUARE FEET**

TWO (2) NIGHTS PER WEEK: TUESDAY & THURSDAY

EXTERIOR

1. Sweep exterior entrances and remove cigarette products from ashtrays.
2. Sweep the exterior concrete entrances and remove chewing gum accumulations and spills

GENERAL

1. Refer to General Specifications for All Buildings.
2. All cleaning in this facility should be performed after 7:00 PM on Tuesday and Thursday.
2. Any noted building maintenance emergencies during cleaning activities should be immediately reported to Police Dispatch.

MONTHLY & QUARTERLY:

1. Refer to general specifications for All Buildings.
 - NOTE: The contractor is only responsible for cleaning lobby, office, and restrooms.
 - NOT RESPONSIBLE FOR: Kennel or animal handling areas.

JAMES R WILLIAMS PUMP STATION - 1999 JEFFERSON ST.

APPROXIMATELY 3,500 SQUARE FEET

FIVE (5) NIGHTS PER WEEK: MONDAY- FRIDAY

EXTERIOR

1. Sweep exterior entrances and remove cigarette products from ashtrays.
2. Sweep the exterior concrete entrances and remove chewing gum accumulations and spills

GENERAL

1. Refer to General Specifications for All Buildings.
2. All cleaning in this facility must be performed after 9:00 PM on Monday, Wednesday and Friday. Cleaning may not be performed on Monday night during Council Meetings.
3. A security system is activated at this facility. The successful bidder will be responsible for deactivating it upon arrival, and ensuring it is reset prior to leaving the premises.
4. Any noted building maintenance emergencies during cleaning activities should be immediately reported to Police Dispatch.

MONTHLY & QUARTERLY:

1. Refer to general specifications for All Buildings.

LANCASTER MUNICIPAL COURT FACILITY - 220 W. MAIN STREET

APPROXIMATELY 4,800 SQUARE FEET

THREE (3) NIGHTS PER WEEK: MONDAY, WEDNESDAY, FRIDAY

EXTERIOR

1. Sweep exterior entrances and remove cigarette products from ashtrays.
2. Sweep the exterior concrete entrances and remove chewing gum accumulations and spills

GENERAL

1. Refer to General Specifications for All Buildings.
2. All cleaning in this facility should be performed after 7:00 PM on Monday, Wednesday, and Friday and before 4:00 a.m. unless otherwise noted.
3. Any noted building maintenance emergencies during cleaning activities should be immediately reported to Police Dispatch at 972-218-2700.

MONTHLY & QUARTERLY:

1. Refer to general specifications for All Buildings.

INTERURBAN VISITOR CENTER – 103 N. DALLAS AVENUE

APPROXIMATELY 4,500 SQUARE FEET

THREE (3) NIGHTS PER WEEK: MONDAY, WEDNESDAY, FRIDAY

EXTERIOR

1. Sweep exterior entrances and remove cigarette products from ashtrays.
2. Sweep the exterior concrete entrances and remove chewing gum accumulations and spills

GENERAL

1. Refer to General Specifications for All Buildings.
2. All cleaning in this facility should be performed after 7:00 PM on Monday, Wednesday, and Friday.
3. A security system is activated at this facility. The successful bidder will be responsible for deactivating it upon arrival, and ensuring it is reset prior to leaving the premises.
4. Any noted building maintenance emergencies during cleaning activities should be immediately reported to Police Dispatch.

MONTHLY & QUARTERLY:

1. Refer to general specifications for All Buildings.

LANCASTER AIRPORT TERMINAL & HANGER RESTROOM – 730 FERRIS ROAD

APPROXIMATELY 9,305 SQUARE FEET

TERMINAL BUILDING: THREE (3) NIGHTS PER WEEK: MONDAY, WEDNESDAY, AND FRIDAY

EXTERIOR – Terminal Building

1. Sweep exterior entrances and remove cigarette products from ashtrays.
2. Sweep the exterior concrete entrances and remove chewing gum accumulations and spills

GENERAL

1. Refer to General Specifications for All Buildings.
2. All cleaning in this facility should be performed after 7:00 PM.
3. Any noted building maintenance emergencies during cleaning activities should be immediately reported to Police Dispatch at 972-218-2700.

MONTHLY & QUARTERLY

1. Refer to general specifications for All Buildings.

HANGER RESTROOM: TWO (2) NIGHTS PER WEEK: MONDAY AND FRIDAY

HANGER RESTROOM AREA

1. All paper & soap products replaced, floors sweep & mopped, disinfectant used in area, and toilet surfaces sanitized.
2. Refer to General Specifications for All Buildings.

COUNTRY VIEW GOLF COURSE CLUBHOUSE

APPROXIMATELY 5,000 SQUARE FEET

THREE (3) NIGHTS PER WEEK: TUESDAY, THURSDAY, & SATURDAY

EXTERIOR

1. Sweep exterior entrances and remove cigarette products from ashtrays.
2. Sweep the exterior concrete entrances and remove chewing gum accumulations and spills

GENERAL

1. Refer to General Specifications for All Buildings. All schedule changes and cleaning issues shall be coordinate with the Golf Course Contractor.
2. All cleaning in this facility should be performed after 9:00 PM during Daylight Saving Time Periods and after 7:00 PM during the remaining time.
3. A security system is activated at this facility. The successful bidder will be responsible for deactivating it upon arrival, and ensuring it is reset prior to leaving the premises.
4. Restaurant area, tables, floors, windows, counters, etc. to be sanitized.
5. Steps sweep/vacuumed.
6. Restrooms cleaned and sanitized, paper products replaced, etc.
7. Any noted building maintenance emergencies during cleaning activities should be immediately reported to Police Dispatch.

MONTHLY & QUARTERLY:

1. Refer to general specifications for All Buildings.

LANCASTER SENIOR LIFE CENTER - 240 VETERANS MEMORIAL PARKWAY

APPROXIMATELY 12,000 SQUARE FEET

FIVE (5) NIGHTS PER WEEK: MONDAY, TUESDAY, WEDNESDAY, THURSDAY AND FRIDAY

EXTERIOR

1. Sweep all the exterior concrete entrances and building overhang covers/patios.
2. Remove chewing gum accumulations and spills.

GENERAL

1. Refer to General Specifications for All Buildings.
2. All cleaning in this facility should be performed after 7:00 PM daily.
3. Dining Hall floors, tables, chairs, counters, etc. to be cleaned and sanitized.
4. All restroom floors to be cleaned and sanitized.
5. Any noted building maintenance emergencies during cleaning activities should be immediately reported to Police Dispatch to 972-218-2700.

MONTHLY & QUARTERLY:

1. Refer to general specifications for All Buildings.

HOURS OF CLEANING

FACILITY	DAYS OF CLEANING	HOURS	
		AFTER	BEFORE
City Hall 211 N. Henry Street Council meetings are held on the 2 nd & 4 th Monday of each month. Cleaning may not be conducted during this time. Council meetings start at 7:00 PM and end at various times.	Monday- Friday	9:00 PM	3:00 AM
Public Safety Building 1650 N. Dallas Avenue	Monday- Friday	7:00 PM	3:00 AM
Library 1600 Veterans Memorial Pkwy.	Tuesday, Thursday, Saturday	9:00 PM	3:00 AM
Service Center 700 E. Main Street	Tuesday, Thursday	7:00 PM	3:00 AM
Municipal Court 220 West Main Street	Monday, Wednesday, Friday	7:00 PM	3:00 AM
Community House 100 N. Henry	Friday, Sunday	12:00 AM	3:00 AM
Recreation Center 1700 Veterans Memorial Pkwy.	Tuesday, Thursday, Saturday	12:00 AM	3:00 AM
Animal Shelter 690 E. Main Street	Tuesday, Thursday	7:00 PM	3:00 AM
Vehicle Maintenance 521 E. Third Street	Tuesday, Thursday	7:00 PM	3:00 AM
James R. Williams Pump Station 1999 Jefferson Street Council meetings are held on the 1 st & 3 rd Monday of each month. Cleaning may not be conducted during this time. Council meetings start at 7:00 PM and end at various times.	Monday- Friday	9:00 PM	3:00 AM
Airport Terminal Building 730 Ferris Road	Monday, Wednesday, Friday	7:00 PM	3:00 AM
Airport Hanger Restroom 730 Ferris Road	Monday, Friday	7:00 PM	3:00 AM
Country View Golf Course 240 W. Beltline Road	Daylight Savings Tuesday, Thursday, Saturday	9:00 PM 7:00 PM	3:00 AM
Life Center 240 Veterans Memorial Pkwy	Monday – Friday	7:00 PM	3:00 AM
Interurban Visitor Center 103 N. Dallas Avenue	Monday, Wednesday, Friday	7:00 PM	3:00 AM

PRODUCT AND EQUIPMENT ACCEPTABILITY

SUPPLIES AND MATERIALS

The Contractor shall furnish all supplies, materials and equipment necessary for the performance of work in this contract.

Supplies and materials shall be of high quality and acceptable to the City. The Contractor shall be responsible for furnishing plastic trash bags used in collecting trash and plastic bag liners for trash receptacles, urinal mats for each urinal in all buildings as well as feminine sanitary supplies for vending machines at City Hall, Library and Aquatic/Recreation Center. The Contractor shall be responsible for replenishing supplies in all dispensers. (The City will provide designated storage space to stock (on a rolling basis) toilet tissue, hand towels, liquid soap, trash receptacle plastic liners, etc.)

The successful Contractor shall provide the Building Services Manager with a list of the materials that will be provided on site. Any changes to supplies must be approved in writing before use by the Building Services Manager. This information is to be furnished to the City within fourteen (14) days of notification of award. Material Safety Data Sheets shall be kept in all areas where materials and supplies are stored, in approved notebooks that are readily available to vendor and city staff.

Located at each facility will be storage areas for additional paper products. The Contractor will be responsible for maintaining stocked product. Building Services staff will have access to this area in case of emergency situations.

A list of specific area supplies that must be provided to fit the following:

1. Towel Dispenser – Roll
GP Georgia – Pacific MD. # P-15
Cormatic HDS200K
2. Multi fold Paper Towels Dispensers
Bobick, Stainless Steele w/trash can
3. Soap Dispenser
GP
Designer Services MD. # C-1
Cormatic DS 8008
4. Toilet Paper Dispenser 2/Roll
Tissue Dispenser
GP
Designer Services MD. # S-4C
Cormatic DS0250N
5. Time Mist Air Freshener (Approximately 40 installed)
Automatic Metered Aerosol Dispenser
Classic
32-1111 TM Gray
30 Day Supply
2 – “C” Cell Alkaline Batteries
6. Trash Liners

1.8 ml Heavy Trash Liners (Banquet Hall/ food areas)
Liners to fit (approximately 3/gallon) Office type trash can
Liners to fit “personal Container” in stall of Ladies Restroom

8. If vendor changes style, types or brands of disposal products paper towels, toilet tissue, soap, toilet seat covers, deodorizers, the vendor is responsible for providing new dispensers made specifically for the products, including the cost of installation and removal of replaced equipment.
9. All replacement equipment or replacement disposal products as identified above shall be approved by the owner’s representative prior to implementation.

EQUIPMENT

All necessary cleaning equipment, including commercial type power driven floor scrubber, carpet extraction machines, waxing, and high speed polishing machines, vacuum cleaners, and all necessary vehicles required for the performance of the work in this contract shall be provided by the Contractor.

MANDATORY EQUIPMENT NEEDS

The following major equipment is needed at all buildings and must remain in the buildings. The City of Lancaster personnel for emergency situations may use this equipment clean up during the day.

1. Commercial upright vacuum cleaner and backpack unit
2. Mop/Mop Bucket
3. Push Broom/Dust Pan
4. Commercial wet/dry vacuum
5. Dusting equipment sufficient to reach all areas of the buildings
6. High speed floor buffing machine

QUALITY CONTROL REQUIREMENTS

Services performed under this contract shall be subject to regular inspections by the City of Lancaster representatives. This section outlines acceptable standards.

FLOOR CLEANING

Baseboards, walls, doors, furniture, and equipment shall not be splashed, disfigured, or damaged during cleaning. Proper precautions shall be taken to advise building occupants of wet and/or slippery floor conditions. All waxed surfaces must be maintained so as to provide safe anti-slip walking conditions. Vendor must provide necessary warning signage to warn owner's staff and patrons of potential slip hazards.

Sweeping: Floor shall be swept clean, free of dirt streaks and no dirt shall be left in corners, behind doors, on stair treads, or under furniture or equipment. Likewise, exterior entrances shall be swept clean of all dirt and trash. During sweeping operations, gum, tar and other sticky substances shall be removed with a putty knife. In addition, spills and spots must be removed during the sweeping process. This operation shall be performed with a cotton mop that has been dampened with a neutral detergent solution.

Damp or Wet Mopping: Floors shall be damp or wet mopped to remove dirt and stains that cannot be removed by sweeping. Mopping should be completed so as to leave no water or soap spotting or residue. A cotton mop, mop bucket wringer, and a neutral detergent solution shall be used to remove the soil. Mops and buckets shall be cleaned after each use and kept odor free. Buckets shall not be stored with solutions left in them.

Mopping solution shall be changed frequently to ensure floors are being properly cleaned. Furniture and other equipment shall be moved to mop underneath and replaced in its original position.

Mopped water splashed on baseboards, doors, or furniture shall be removed immediately. On completion of mopping operation there shall be no soil, litter, splash marks, streaks, swirls, or mop strands visible. The floor shall present an overall appearance of cleanliness.

Spot Mopping: This operation shall include the removal of stains by spillage on small areas of floor surface, and when doors have been left open and rain, snow, or sleet has blown in, or other substances have been tracked in.

Sweeping: Sweep all floor surfaces thoroughly. Removal all gum and adhesive material.

Spray Buffing: A high speed buffing machine shall be used with a synthetic buffer pad attached thereto, and the surface shall be buffed only enough to harden the finish and bring the surface to desired luster. Woodwork, baseboards, and furniture shall not be scarred or discolored by the buffing equipment or the solution used. Spray buffing solution shall not be applied to floors near than six (6) inches to the baseboard or non-movable fixtures.

Vacuuming of Carpet: Surface litters such as paper, gum, rubber bands, paper clips, etc. shall be picked up prior to vacuuming. A commercial heavy-duty upright carpet vacuum shall be used to remove obvious dust and soil from carpet. The carpeted floor, after vacuuming, shall be free of all visible litter and soil. In addition, movable furniture or equipment shall be tilted or moved to vacuum underneath or a portable vacuum with a crevice tool shall be used. In areas with permanent or stationary furniture and fixtures, a crevice tool shall be used to remove all dirt/dust from the edges of fixtures, etc. The carpeted floor after vacuuming shall be completely free of litter, soil and embedded grit.

Cleaning Office Furniture: Soil and dust shall be removed from office furniture. Metal desks, file cabinets, chairs, tabletops, etc., shall be dusted with clean wiping cloths and spots removed with sponge dampened in a neutral detergent solution. Vinyl covered furniture shall be cleaned with sponge or wiping cloth dampened in a neutral detergent solution. For hard to remove spots an approved cleaner shall be used. Wood furniture shall be dusted with treated dust cloths that have been sprayed with an approved polish and wiped to a shine with clean cloths.

Regular Dusting: All dust, lint, litter and dry soil shall be removed from horizontal surfaces and walls including office furniture, windowsills, shelves, etc., but items on desktops shall not be disturbed. Dusting shall be performed with clean dust cloths, and surfaces shall be dust free.

Spot Cleaning: Smudges, finger prints, marks and streaks shall be removed from washable surfaces, without scarring or discoloring the finish, by use of a sponge, clean cloth and spray bottle of neutral detergent. Germicidal cleaner solution shall be used in restrooms, eating areas, and drinking fountains. Glass cleaner shall be used on mirrors and windows. After spot cleaning, the surfaces shall have a uniform appearance free of spots, streaks and removable soil.

Washing of Interior and Exterior Glass: Smudges, oily film, dust and soil shall be removed from interior glass and mirrors by cleaning with glass cleaner solution, squeegee, and wiping cloths. Glass cleaner splash and drip marks shall be removed from adjacent surfaces. Glass surfaces shall be rinsed of detergent residue. All necessary precautions shall be taken to assure that safety regulations prescribed by OSHA and the City's representative is followed.

Trash Removal: All wastebaskets shall be emptied and returned to their initial location. Boxes, cans, papers and other trash placed near a trash receptacle and marked "TRASH" shall be removed and emptied directly into a designated trash dumpster, receptacle or area. Soiled or torn plastic wastebasket liners shall be replaced. Sand in cigarette butt urns shall be strained to remove all debris. Both the exterior and interior of wastebaskets and trash containers shall be damp wiped with germicidal detergent solution from a spray bottle using a sponge or cloth as needed. Trash receptacles that have accumulations of debris must be removed from their location and thoroughly cleaned to prevent odor and insect infestations. Trash receptacles that are supplied with lids, the lids must be cleaned to remove all spills and accumulations of food or other substances daily.

Entrance Mats: Carpet mats shall be vacuumed with commercial heavy-duty upright vacuum machine. Entrance mats of rubber or polyester shall be swept, shaken, vacuumed or washed. Entrance mats shall be lifted and soil and moisture underneath shall be removed.

Elevators: Smudges, fingerprints, gum, marks and graffiti shall be removed from interior, exterior surfaces and railings. Floors shall be cleaned in the same manner as other types of floor coverings as specified herein.

Restrooms:

- (1) Germicidal: Using an approved germicidal, detergent solution, completely sanitize restroom; to include floors, walls to ceiling, partitions, doors, and fixtures. Other cleaning materials specified herein shall be in addition to the germicidal.
- (2) General: Schedule of clean restrooms shall include sweeping, mopping, and scrubbing as necessary of floors, cleaning of mirrors, cleaning of nickel and chrome hardware, cleaning of fixtures, walls, stall partitions, and shower stalls. Cleaning of commodes and urinals detail in the following section. Sanitary receptacles in women's restrooms shall be cleaned and wa

daily during cleaning schedule. Paper liners shall be inserted in these receptacles and replaced as necessary. Receptacles shall be emptied; liners folded, collected in separate containers, and disposed of with trash. Servicing and cleaning of restrooms during the building occupants' working hours shall be at intervals frequent enough to police and maintain an adequate supply of white toilet tissue, paper towels, hand soap, etc.

- (3) Fixtures: Commodes shall be cleaned daily to remove all rust and stains, inside and outside.

Urinals shall be cleaned daily to remove rust, and stains in the same manner as commodes. Cleaning solutions shall be flushed through the traps to reduce accumulations of scale. Urinal Mats shall be cleaned daily and replaced or deep cleaned monthly to prevent accumulations of urine and odors.

Commodes shall be cleaned inside and out with one gallon bucket containing germicidal solution.

Exterior of paper towel cabinets, soap dispensers, and tissue dispensers shall be wiped cleaned and refilled.

All stainless steel fixtures shall be cleaned daily with a commercial stainless steel cleaner to maintain the appearance of said fixture.

- (4) Restroom, shower stall, and wall cleaning: Floors shall be cleaned with mildew cleaner and sanitized with germicidal detergent cleaner and allowed to dry. In no instance shall a hose or stream of water be used to wash floor.

Shower stalls shall be cleaned with mildew cleaner to remove stains, soap scum, rust, mildew, etc., and sanitized with a germicidal detergent solution.

Walls, partitions, and woodwork shall be washed with germicidal detergent solution where wall surfaces are covered with a washable paint or vinyl covering.

Cleaning of Drinking Fountains: Soil, streaks, smudges, etc., shall be removed by use of spray bottle, germicidal detergent solution, and sponge, cloth. After cleaning, the fountain shall be free of stains, spots, smudges, and sanitized.

Polishing Metals: Solid push plates, kick plates, nameplates, and other metal fixtures shall be polished to present a bright, neat, clean shining appearance. Polishing shall be performed so as not to damage or scratch the finish

Bid Request Number 2014-187 Addendum 2
Title Janitorial Bid
Description
Bid Type RFP
Issue Date 11/3/2014 11:20:58 AM Central
Close Date 11/20/2014 4:00:00 PM Central

Organization Lancaster Purchasing
Bid Creator Alton Dixon Purchasing Agent
Email adixon@lancaster-tx.com
Phone 1 (972) 218-1329
Fax 1 (972) 218-3621

Responding Suppliers

Name	City	State	Response Submitted	Lines Responded	Response Total	Year Total
Robicheaux's Haven	Lancaster	TX	11/3/2014 2:41:27 PM CT	0	\$0.00	
Member's Building Maintenanc	Dallas	TX	11/20/2014 11:17:40 AM CT	16	\$2,320.70	\$120,676.40
Able Building Maintenace	San Francisco	CA	11/20/2014 2:57:22 PM CT	16	\$2,369.2194	\$123,199.41
M. Hayes Janitorial	Dallas	TX	11/20/2014 3:28:25 PM CT	16	\$2,582.035	\$134,265.82
SALs Janitorial	Dallas	TX	11/20/2014 2:40:40 PM CT	16	\$2,893.05	\$150,438.60
D and T Janitorial	Lancaster	TX	11/20/2014 3:50:25 PM CT	16	\$3,322.03	\$172,745.56
ABM OnSite Services	Dallas	TX	11/20/2014 3:04:25 PM CT	15	\$3,397.96	\$176,693.92
Oriental Building Services, Inc.	Dallas	TX	11/20/2014 3:31:25 PM CT	16	\$3,499.365	\$181,966.98
Allied Supply Chain Support &	Dallas	TX	11/20/2014 3:53:27 PM CT	16	\$4,492.58	\$233,614.16
RAS	Dallas	TX	11/20/2014 Manual	16	\$2,449.58	\$127,378.16

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LANCASTER CITY COUNCIL

Item 5

Agenda Communication

December 8, 2014

Consider a resolution authorizing the purchase of a Sewer Main Line Camera through an Interlocal Agreement with Houston Galveston Area Council (HGAC) in an amount not to exceed \$68,375.00.

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

Goals: Sound Infrastructure

Background

The sewer camera plays a vital part in maintaining the sanitary sewer system. The cost to repair the existing main line sewer camera exceeds the remaining useful life.

Inter local agreements allows 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 requirement.

Use of inter local agreements allows the City to address the operational needs in a timely manner. Additionally savings are achieved through aggregate volumes joint bidding opportunities.

Considerations

- **Operational** – The camera is used to identify existing and potential failures in the sewer main line that are not normally seen above ground. The ability to readily identify and repair these issues reduces the expense to the City for wastewater treatment.
- **Legal** – The City maintains an executed Interlocal Agreement with Houston Galveston Area Council (HGAC), a cooperative agency. Texas law authorizes cooperative agreements to help save time in developing specifications and duplication during the bid process.
- **Financial** – Funds are available in the FY 14/15 waste water budget.

- **Public Information** – The item is being considered at a meeting of the City Council posted in accordance with the Texas Open Meetings Act.

Options/Alternatives

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

Recommendation

Staff recommends approval of the resolution as presented.

Attachments

- Resolution
 - Quote
-

Submitted by:

Jim Brewer, Director of Public Works

Andrew Waits, Water & Wastewater Superintendent

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LANCASTER, TEXAS, AUTHORIZING THE PURCHASE OF A SEWER MAIN LINE CAMERA THROUGH AN INTERLOCAL AGREEMENT WITH HOUSTON GALVESTON AREA COUNCIL (HGAC) IN AN AMOUNT NOT TO EXCEED \$68,375.00 TO ACQUIRE THE COMPONENTS OF THE SYSTEM AND EXECUTE SUCH PURCHASE ORDERS AND NECESSARY DOCUMENTS; AND, PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Lancaster desires a resolution authorizing the purchase of one (1) Standard Rover X Truck System with 300m reel and basic WinCan VX. (Sewer Main Line Camera), hereinafter "the System" through an Interlocal Agreement with Houston Galveston Area Council (HGAC) in an amount not to exceed \$68,375.00; and

WHEREAS, the sewer camera plays a vital part in maintaining the sanitary sewer system. The existing main line sewer camera has been utilized beyond its useful life cycle and is no longer operational; and whereas the cost to repair the existing camera is not economical; and whereas the City of Lancaster maintains an executed Interlocal Agreement with Houston Galveston Area Council (HGAC), a cooperative agency authorizes cooperative agreement to help save time in developing specifications and duplication during the bid process.

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

SECTION 1. The City Council hereby authorizes, approves, accepts, and awards the bid to Green Equipment Co. in an amount not to exceed sixty eight thousand three hundred seventy-five and no hundredths (\$68,375.00) to purchase the System, as set forth in Exhibit "B," and, the City Manager is hereby authorized to issue and execute purchase orders and/or necessary documents.

SECTION 2. That this Resolution shall take effect immediately from and after its passage.

DULY RESOLVED and adopted by the City Council of the City of Lancaster, Texas, on this the 8th day of December, 2014.

ATTEST:

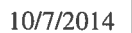
APPROVED:

Sorangel O. Arenas, City Secretary

Marcus E. Knight, Mayor

APPROVED AS TO FORM:

Robert E. Hager, City Attorney



LANCASTER CITY COUNCIL

Agenda Communication

December 8, 2014

Item 6

Conduct a public hearing and consider a resolution approving the 2015 Standards of Care for Youth Programs operated by the Lancaster Parks and Recreation Department.

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

Goal 3: Healthy, Safe & Vibrant Community

Background

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

The proposed 2015 Standards of Care were reviewed and recommended for approval by the Parks and Recreation Advisory Board during a regular stated meeting on November 17, 2014, with the following revision: the addition of the photographic release authorization verbiage is to be included on the registration form.

Considerations

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

Options/Alternatives

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

Recommendation

Staff recommends approval of the resolution adopting the Standards of Care for Youth Programs operated by the Lancaster Quality of Life & Cultural Services (Parks and Recreation) Department as presented.

Attachments

- Resolution
 - Proposed 2015 Standards of Care for Youth Programs operated by the Quality of Life & Cultural Services (Parks and Recreation) Department
 - Park & Recreation Advisory Board Draft Minutes (11-17-14)
 - State of Texas Child Care Standards
-

Submitted by:

Kevin Moore, Recreation Superintendent
Quality of Life & Cultural Services

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LANCASTER, TEXAS, APPROVING THE 2014-2015 STANDARDS OF CARE POLICIES FOR YOUTH PROGRAMS OPERATED BY THE LANCASTER QUALITY OF LIFE & CULTURAL SERVICES (PARKS AND RECREATION) DEPARTMENT; PROVIDING A REPEALING CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Mayor and City Council of the City of Lancaster desire the Quality of Life & Cultural Services (Parks and Recreation) Department to operate Youth Programs for citizens of Lancaster; and

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

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

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

WHEREAS, the city council has held a public hearing to receive citizen input regarding the 2014-2015 Standards of Care for Youth Programs operated by the City of Lancaster Quality of Life & Cultural Services (Parks and Recreation) Department;

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

SECTION 1. The City Council hereby adopts the 2014-2015 Standards of Care for Youth Programs, which is attached hereto and incorporated herein as Exhibit A.

SECTION 2. That all resolutions of the City of Lancaster heretofore adopted which are in conflict with the provisions of this resolution be, and the same are hereby repealed, and all resolutions of the City of Lancaster not in conflict with the provisions hereof shall remain in full force and effect.

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

SECTION 4. That this Resolution shall take effect immediately from and after its passage, as the law and charter in such cases provide.

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

ATTEST:

APPROVED:

Sorangel O. Arenas, City Secretary

Marcus E. Knight, Mayor

APPROVED AS TO FORM:

Robert E. Hager, City Attorney

City of Lancaster
Quality of Life & Cultural
Services Department
(Parks & Recreation Division)



2015
Standards of Care
For
Youth Programs

Parks and Recreation Department
1700 Veterans Memorial Parkway
Lancaster, TX 75134
(972) 218-3700
(972) 218-3648 (Fax)
www.lancaster-tx.com

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LANCASTER YOUTH PROGRAMS

STANDARDS OF CARE

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

General Administration

1. Organization

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

2. Definitions

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

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

3. Inspections/Monitoring/Enforcement

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

4. Enrollment

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

5. Suspected Abuse

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

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

Staffing - Responsibilities and Training

1. Youth Program Leader ("Leader") Qualifications

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

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

2. Leader Responsibilities

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

3. Training/Orientation

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

Service Standards

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

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

C. Additional Staff Responsibilities

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

Operations

1. Staff/Participant Ratio

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

2. Discipline

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

3. Programming

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

4. Communication

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

5. Transportation

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

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

Facility Standards

1. Safety

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

2. Fire

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

3. Health

A. Illness or Injury

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

B. Program employees will administer medication only if:

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

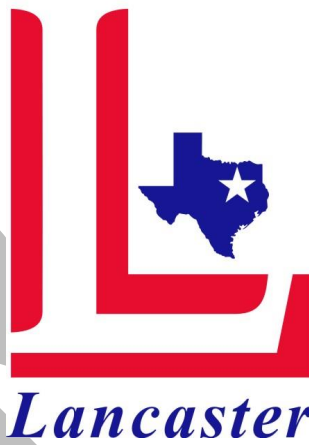
C. Toilet Facilities

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

D. Sanitation

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

City of Lancaster
Quality of Life & Cultural
Services Department
Parks & Recreation Division



2015
General Information
For Youth Camp Programs

General Program Information

Registration Procedures

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

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

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

Participant's Information Files

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

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

Attendance

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

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

Late Pick Up

Youth Summer camp and Seasonal Camp programs end at 6:00 pm. After School Program ends at 6:30pm. The first incident will result in a written reminder to the parents. Further incidents will result in a \$5.00 late charge for every 10-minute period after 6:00 pm. (or) 6:30pm for after school program.

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

Appeals can be made to the Recreation Supervisor or Recreation Superintendent.

Discipline Policy

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

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

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

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

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

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

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

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

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

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

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

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

Parent Release/Sign Out

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

The following procedures will be followed at all times:

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

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

- a. Leaders will ask for identification from anyone with whom they are not familiar.
- b. The sign out policy will be explained.
- c. The parent/legal guardian will be called at work or at home to inform them of the person on site asking to pick up their child (ren). The parent or guardian will be asked for their driver's license number to verify that staff is speaking to parent/legal guardian.
- d. The parent/legal guardian will be asked to grant permission for their child (ren) to be released to the person on site. The parent or guardian will be asked to fax a signed permission letter to the Recreation Center at (972) 218-3648.
- e. Once permission is granted, the child will be released to the person on site.
- f. If the parent/legal guardian cannot be reached or does not grant permission, the child will not be released to the unauthorized person.
- g. If the unauthorized person takes the child (ren) without permission, the police will be notified and the situation will be handled as a criminal incident.

Visitors/Drop Ins

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

Withdrawal Procedures

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

Illness of Participants

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

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

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

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

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

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

Parents/legal guardian must provide a written statement from a physician stating the child is free from contagious disease before returning to the program after a contagious illness. Medical information may be faxed to the Recreation Center at (972) 218-3648.

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

Medication

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

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

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

Youth Program Payments

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

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

Transportation

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

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

Field Trips

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

Parent/Child Communication

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

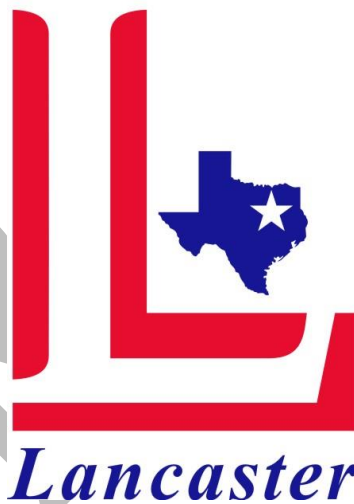
Personal Property

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

Staff Code of Ethics

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

City of Lancaster
Quality of Life & Cultural
Services Department
Parks & Recreation Division



2015
Youth Camp
Registration Packet



Lancaster Parks and Recreation Department
YOUTH PROGRAMS REGISTRATION FORM

Check program you are registering for: ☐ After School Program ☐ Summer Day Camp ☐ Seasonal Camp

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

Registration Date_____

Child's Name_____ Home #_____

Address_____ City, State_____ Zip_____

School Attending_____ Grade Entering_____

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

Mother/Legal Guardian Name_____ DL #_____

Address_____ City, State_____ Zip_____

Mother/Legal Guardian Workplace_____

Best Daytime #_____ Alternate Daytime #_____

Father/Legal Guardian Name_____ DL #_____

Address_____ City, State_____ Zip_____

Father/Legal Guardian Workplace_____

Best Daytime #_____ Alternate Daytime #_____

EMERGENCY CONTACTS/PERMISSION TO PICK UP CHILD:

Name_____ Relationship_____ DL #_____

Home #_____ Work #_____

Name_____ Relationship_____ DL #_____

Home #_____ Work #_____

Name_____ Relationship_____ DL #_____

Home #_____ Work #_____

ATTENDANCE AND TRANSPORTATION INFORMATION:

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

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



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

EMERGENCY MEDICAL AUTHORIZATION

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

Name _____ Age _____ Grade Entering _____

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

Parent/Legal Guardian Signature

Date

EMERGENCY MEDICAL AUTHORIZATION

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

If applicable, Family Physician Name _____

Address _____ Phone # _____

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

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

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

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

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

_____ I authorize the City of Lancaster Quality of Life & Cultural Services Department to utilize my child likeness for promotional purposes both electronically and in print.

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

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

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

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

My signature below constitutes authorization for items initialed above.

Parent/Legal Guardian Signature

Date



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

Date: _____

Program: _____

Child's Name: _____

Age: _____

School Attending: _____

Grade Entering: _____

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

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

Parent/Legal Guardian Signature

Date



Lancaster Parks and Recreation Department
YOUTH PROGRAM LATE PICK UP RECORD

Date _____

Parent's Name _____

Daytime # _____ Cell # _____

Child(ren)'s Name(s) _____

Circle One:

1st Incident

2nd Incident

3rd Incident

DATE _____

SIGNATURE _____

ARRIVAL TIME _____

REASON _____

AMOUNT PAID _____

STAFF INITIALS _____

Method of Payment: Cash, credit card or debit

First Incident: Warning, no charge

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

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

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

An appeals process is available and should be directed to the Recreation Superintendent at

(972) 218-3715



Lancaster Parks and Recreation Department
DAILY SITE INSPECTION – YOUTH PROGRAMS

Date _____ Site Inspected _____

General Weather Conditions: _____

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

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



Lancaster Parks and Recreation Department
DAILY SITE INSPECTION – YOUTH PROGRAMS

Date _____ Site Inspected _____

General Weather Conditions: _____

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

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



Lancaster Parks and Recreation Department
BEHAVIORAL REPORT

Date: _____

Program: _____

Participant's Name _____ Age _____

Address _____ Home # _____

Description of Incident _____

Staff Comments _____

1st Offense _____

2nd Offense _____

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

3rd Offense _____

Notification of effective suspension dates

4th Offense _____

Termination from Program

Patron's Signature

Site Supervisor's Signature

Parent/Legal Guardian Signature

Program Coordinator's Signature

Parent's Cell or Work Phone#: _____



City of Lancaster
QUALITY OF LIFE AND CULTURAL SERVICES

1700 Veterans Memorial Parkway • Lancaster, TX 75134
972.218.3700 (Office) • 972.218.3648 (FAX)
www.lancaster-tx.com



MEETING

LANCASTER PARKS AND RECREATION ADVISORY BOARD

Monday, November 17, 2014, 6:15pm

MINUTES

The Members of the Lancaster Parks and Recreation Advisory Board met Monday, November 17, 2014 at 6:15pm at the Lancaster Recreation Center (Grand Hall), 1700 Veterans Memorial Parkway, Lancaster, TX 75134.

Lancaster Parks and Recreation Advisory Board Members Present: Abe Cooper, Darwin Isham, Mary Sykes, Spencer Hervey, Jerry Giles, Terrence Comick, and Cecelia Rutherford

Lancaster Parks and Recreation Advisory Board Members Absent: Willene Watson

Special Guests and City Staff Present: Managing Director Sean Johnson, Assistant Director Kelly Ledbetter, Park Superintendent Mike Rasco, Library Manager Jerry McCulley, Council Member Stanley Jaglowski, and Administrative Secretary Cynthia D. Williams

I. Call to Order

Chair Jerry Giles called the Lancaster Parks and Recreation Advisory Board meeting to order at 6:44pm.

II. Consider Approval of Minutes (October 6, 2014)

Mr. Hervey made a motion seconded by Mr. Cooper to approve the minutes of October 6, 2014 of the Lancaster Parks and Recreation Advisory Board meeting as written. The motion carried unanimously.

III. FY 2015 Work Plan/Special Projects Discussion (Managing Director Sean Johnson)

Per Park Board request, Mr. Johnson reported on the 2015 – Quality of Life and Cultural Services Work Plan and Special Projects (as it pertains to Parks & Recreation Division). This item discussed summarized new projects and activities that the Parks and Recreation division will pursue with respect to Quality of Life and Cultural Services programs during the current fiscal year. The Work Plan items discussed entailed the primary objective and benefits to our City and Citizens.

There was further questions/discussion.

IV. October 2014 Special Events Update (Assistant Director Kelly Ledbetter)

Mr. Ledbetter gave a brief update on the three major events which took place within the month of October 2014. He reported that:

On Saturday, October 18, 2014 we hosted a Dog's Day Out event from 10am – 2pm at City Park. The Department partnered with Animal Services Staff who provided obedience training and opportunities to adopt a pet. We are looking to expand the Program next year, and hope to include the SPCA.

On Saturday, October 25, 2014 we hosted a Fall Festival and Movie in the Park event from 5pm – 9pm at Community Park. The Department partnered with the Craig Shaw Memorial Foundation to include a 5K Run/Walk event on this day as well. We look to grow the 5K Run/Walk portion next year. The event included costume contest, face painting, car show, candy giveaways and an outdoor showing of the G Rated Film PARANORMAN,

On Wednesday, October 29, 2014 we hosted an Open House/Instructor Fair from 5:30pm – 8:30pm at the Recreation Center. We introduced "Pickle ball" to the community; which is a racquet sport that combines elements of badminton, tennis, and table tennis. We hope to have Pickleball tournaments next year. We also had Zumba, Jr. Mavs, and spin bike demonstrations. Mr. Ledbetter reported that we will have a new Spin Bike Class coming in December 2014.

There was further questions/discussion.

V. Upcoming Special Events "November and December 2014" (Assistant Director Kelly Ledbetter)

Mr. Ledbetter reported on our upcoming special events for the months of November and December 2014. On Saturday, November 22, 2014 we will host our annual Turkey Bowl Block Party at Meadowcreek Park from 10am – 2pm. This event will include program demonstrations, a cheerleading competition, and a rock climbing wall, food, games, a bounce house, and lots of fun. You can even bowl for a turkey. He reported that if it should rain, we will move the event inside the Gym.

On Monday – Wednesday, November 24 – 26, 2014 we will host our annual Turkey Camp at the Recreation Center from 7:30am – 6:30pm. This Camp will include games, and field trips to the Lancaster Memorial Library and the movies.

On Saturday, December 13, 2014 we will host our annual Christmas Parade and Festival. The Festival will take place at the Recreation Center from 5pm – 9pm. The times of the Parade are 3pm – 4:30pm.

There was further questions/discussion.

VI. Standards of Care Final Review (Managing Director Sean Johnson)

Mr. Johnson reported that annually The City Council must approve Standards of Care and provide citizen input at a public hearing. This item was presented at the previous October 6, 2014 meeting and Board members were asked to review and provide any recommendations. Recreation staff collectively reviewed the document and contemplated a few modifications regarding the electronic device usage policy, however, reported that

operationally this this could cause constraints and recommendation is to keep the electronic device policy as currently stated. There was also a recommendation made to include the photographic release authorization form (currently a separate document) verbiage as part of the enrollment packet. Board agreed with the recommendation.

Mr. Hervey made a motion seconded by Mr. Cooper to recommend the present document of the Standards of Care for City Council consideration and approval with the addition of the photographic release authorization being included. The motion carried unanimously.

VII. Cancellation of December Parks and Recreation Advisory Board Meeting

Mr. Hervey made a motion seconded by Mrs. Sykes to cancel our December 2014 meeting. The motion carried unanimously.

VIII. Set Date and Agenda of Next Meeting

- Our next meeting is scheduled for Monday, January 12, 2014
- Items for Agenda include:
 - Basketball Update
 - Pickleball Update
 - Work Plan Update
 - Baseball Update/Plan
 - All Sports Board
 - Update on Football Association

IX. Adjournment

Mr. Cooper made a motion seconded by Mrs. Sykes to adjourn. All present approved and the meeting adjourned at 7:41pm.

ATTEST:

Cynthia D. Williams, Administrative Secretary

APPROVED:

Jerry Giles, Chair
Lancaster Parks and Recreation Advisory Board

HUMAN RESOURCES CODE

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

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

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

SUBCHAPTER A. GENERAL PROVISIONS

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

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

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

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

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

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

Amended by:

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

Sec. 42.002. DEFINITIONS. In this chapter:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(C) clothing.

(23) "Other maltreatment" means:

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

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

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

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

Amended by:

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

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

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

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

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

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

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

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

SUBCHAPTER B. ADMINISTRATIVE PROVISIONS

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

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

terminate the director without the approval of the executive commissioner.

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

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

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

Amended by:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) The annual report shall include:

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

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

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

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

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

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

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

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

Amended by:

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

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

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

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

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

(b) This section does not apply to:

(1) a state-operated facility;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(16) a food distribution program that:

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

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

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

(18) a program:

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

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

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

(D) that informs the parent or guardian:

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

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

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

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

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

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

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

(D) informs parents that the program is not licensed by the state;

(E) is organized as a nonprofit organization or is located on the premises of a participant's residence;

(F) does not accept any remuneration other than a nominal annual membership fee;

(G) does not solicit donations as compensation or payment for any good or service provided as part of the program; and

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

(20) a living arrangement in a caretaker's home involving one or more children or a sibling group, excluding children who are related to the caretaker, in which the caretaker:

(A) had a prior relationship with the child or sibling group or other family members of the child or sibling group;

(B) does not care for more than one unrelated child or sibling group;

(C) does not receive compensation or solicit donations for the care of the child or sibling group; and

(D) has a written agreement with the parent to care for the child or sibling group;

(21) a living arrangement in a caretaker's home involving one or more children or a sibling group, excluding children who are related to the caretaker, in which:

(A) the department is the managing conservator of the child or sibling group;

(B) the department placed the child or sibling group in the caretaker's home; and

(C) the caretaker had a long-standing and significant relationship with the child or sibling group before the child or sibling group was placed with the caretaker; or

(22) a living arrangement in a caretaker's home involving one or more children or a sibling group, excluding children who are related to the caretaker, in

which the child is in the United States on a time-limited visa under the sponsorship of the caretaker or of a sponsoring organization.

(b-1) Repealed by Acts 2009, 81st Leg., R.S., Ch. 720, Sec. 19(1), eff. September 1, 2009.

(c) A single license that lists addresses and the appropriate facilities may be issued to a general residential operation that operates noncontiguous facilities that are across the street from, in the same city block as, or on the same property as one another and that are demonstrably a single operation as indicated by patterns of staffing, finance, administrative supervision, and programs.

(d) A facility exempt from the provisions of Subsection (a) of this section that desires to receive or participate in federal or state funding shall be required to comply with all other provisions of this chapter and with all regulations promulgated under this chapter.

(e) The exemptions provided by Subsection (b) of this section do not affect the authority of local, regional, or state health department officials, the state fire marshal, or local fire prevention officials to inspect child-care facilities.

Text of subsection as added by Acts 2011, 82nd Leg., R.S.,
Ch. [343](#), Sec. 1

(f) A child-care facility that is exempt under Subsection (b)(3) from the licensing requirement of Subsection (a) may provide care for each child at the child-care facility for not more than 15 hours a week if the child-care facility:

(1) provides the child care so that a person may attend an educational class provided by a nonprofit entity; and

(2) is located in a county with a population of 800,000 or more that is adjacent to an international border.

Text of subsection as added by Acts 2011, 82nd Leg., R.S.,
Ch. [1082](#), Sec. 2

(f) Notwithstanding the requirements of Subsection (b)(14), a municipality that operates an elementary-age (ages 5-13) recreation program may, in lieu of an annual public hearing, accept public comment through the municipality's Internet website for at least 30 days before the municipality adopts standards of care by ordinance if the municipality:

- (1) has a population of 300,000 or more; and
- (2) has held at least two annual public hearings on the standards of care and adopted standards of care by ordinance after those public hearings.

Acts 1979, 66th Leg., p. 2361, ch. 842, art. 1, Sec. 1, eff. Sept. 1, 1979. Amended by Acts 1981, 67th Leg., p. 2812, ch. 759, Sec. 2, 3, eff. Aug. 31, 1981; Acts 1987, 70th Leg., ch. 1052, Sec. 4.03, eff. Sept. 1, 1987; Acts 1987, 70th Leg., ch. 1115, Sec. 2, eff. June 19, 1987; Acts 1995, 74th Leg., ch. 262, Sec. 54, eff. Jan. 1, 1996; Acts 1995, 74th Leg., ch. 847, Sec. 1, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 165, Sec. 7.46, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 664, Sec. 3, 4, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1063, Sec. 7, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1217, Sec. 2, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 218, Sec. 3, eff. Sept. 1, 2001.

Amended by:

Acts 2005, 79th Leg., Ch. [268](#), Sec. 1.93(a), eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. [263](#), Sec. 25, eff. June 8, 2007.

Acts 2007, 80th Leg., R.S., Ch. [1037](#), Sec. 1, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. [1414](#), Sec. 1, eff. September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. [720](#), Sec. 4, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. [720](#), Sec. 5, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. [720](#), Sec. 19(1), eff. September 1, 2009.

Acts 2011, 82nd Leg., R.S., Ch. [343](#), Sec. 1, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. [1082](#), Sec. 2, eff. September 1, 2011.

Sec. 42.042. RULES AND STANDARDS. (a) The department shall make rules to carry out the provisions of this chapter.

(b) The department shall conduct a comprehensive review of all rules and standards at least every six years. For purposes of this subsection, the six-year period begins on the latest of the date of:

(1) the conclusion of the review of the rules and standards;

(2) a decision by the department not to revise the rules and standards;

(3) a decision by the board not to revise the rules and standards; or

(4) board action adopting new standards.

(c) The department shall provide a standard procedure for receiving and recording complaints. The executive commissioner shall adopt rules regarding the receipt of anonymous complaints made regarding child-care facilities

and family homes to limit the number of anonymous complaints investigated by the department.

(d) The department shall provide standard forms for applications and inspection reports.

(e) The department shall promulgate minimum standards that apply to licensed child-care facilities and to registered family homes covered by this chapter and that will:

(1) promote the health, safety, and welfare of children attending a facility or registered family home;

(2) promote safe, comfortable, and healthy physical facilities and registered family homes for children;

(3) ensure adequate supervision of children by capable, qualified, and healthy personnel;

(4) ensure adequate and healthy food service where food service is offered;

(5) prohibit racial discrimination by child-care facilities and registered family homes;

(6) require procedures for parental and guardian consultation in the formulation of children's educational and therapeutic programs;

(7) prevent the breakdown of foster care and adoptive placement; and

(8) ensure that a child-care facility or registered family home:

(A) follows the directions of a child's physician or other health care provider in providing specialized medical assistance required by the child; and

(B) maintains for a reasonable time a copy of any directions from the physician or provider that the parent provides to the facility or home.

(e-1) The department may not prohibit possession of lawfully permitted firearms and ammunition in a foster home of any type, including a foster group home, a foster home, an agency foster group home, and an agency foster

home. Minimum standards may be adopted under this section relating to safety and proper storage of firearms and ammunition, including standards requiring firearms and ammunition to be stored separately in locked locations.

(e-2) The department may not prohibit the foster parent of a child who resides in the foster family's home from transporting the child in a vehicle where a handgun is present if the handgun is in the possession and control of the foster parent and the foster parent is licensed to carry the handgun under Subchapter H, Chapter 411, Government Code.

(f) In promulgating minimum standards for the provision of child-care services, the department shall recognize the various categories of services, including services for specialized care, the various categories of children and their particular needs, and the differences in the organization and operation of child-care facilities and general residential operations. Standards for general residential operations must require an intake study before a child is placed in an operation. The intake study may be conducted at a community mental health and mental retardation center.

(g) In promulgating minimum standards the department may recognize and treat differently the types of services provided by the following:

- (1) registered family homes;
- (2) child-care facilities, including general residential operations, foster group homes, foster homes, group day-care homes, and day-care centers;
- (3) child-placing agencies;
- (4) agency foster homes;
- (5) agency foster group homes;
- (6) before-school or after-school programs; and
- (7) school-age programs.

(g-1) In determining and enforcing minimum standards for a school-age program, the department shall consider

commonly accepted training methods for the development of a skill, talent, ability, expertise, or proficiency that are implemented with the consent of the parent or guardian of the participant and that are fundamental to the core purpose of the program.

(g-2) Repealed by Acts 2011, 82nd Leg., R.S., Ch. 1082, Sec. 16(2), eff. September 1, 2012.

(h) The department shall promulgate minimum standards for child-placing agencies.

(h-1) The executive commissioner shall adopt rules governing:

(1) the placement and care of children by a child-placing agency, as necessary to ensure the health and safety of those children;

(2) the verification and monitoring of agency foster homes, agency foster group homes, and adoptive homes by a child-placing agency; and

(3) if appropriate, child-placing agency staffing levels, office locations, and administration.

(i) Before adopting minimum standards, the department shall:

(1) convene a temporary work group to advise the department regarding the proposed standards, composed of at least six members who represent the diverse geographic regions of this state, including:

(A) a department official designated by the commissioner to facilitate the work group's activities;

(B) a person with demonstrated expertise or knowledge regarding the different types and classifications of child-care facilities, homes, agencies, or programs that will be covered by the proposed standards;

(C) a parent with experience related to one of the different types or classifications of child-care facilities, homes, agencies, or programs that will be covered by the proposed standards; and

(D) a representative of a nonprofit entity licensed under this chapter; and

(2) send a copy of the proposed standards to each licensee covered by the proposed standards at least 60 days before the standards take effect to provide the licensee an opportunity to review and to send written suggestions to the department.

(j) The department may waive compliance with a minimum standard in a specific instance if it determines that the economic impact of compliance is sufficiently great to make compliance impractical.

(k) The department may not regulate or attempt to regulate or control the content or method of any instruction or curriculum of a school sponsored by a religious organization.

(l) In promulgating minimum standards for the regulation of family homes that register with the department, the department must address the minimum qualifications, education, and training required of a person who operates a family home registered with the department.

(m) In determining minimum standards relating to staff-to-child ratios, group sizes, or square footage requirements applicable to nonresidential child-care facilities that provide care for less than 24 hours a day, the department shall, within available appropriations, conduct a comprehensive cost-benefit analysis and economic impact study that includes families and licensed child-care providers.

(n) Not later than the 60th day before the date the board adopts a revision to the minimum standards for child-care facilities, the department shall present the revision to the appropriate legislative oversight committees that have jurisdiction over child-care facilities for review and comment.

(p) The department by rule shall prescribe minimum training standards for an employee of a regulated child-care facility, including the time required for completing the training. The department may not require an employee to repeat required training if the employee has completed the training within the time prescribed by department rule. The department's local offices shall make available at the local office locations a copy of the rules regarding minimum training standards, information enabling the owner or operator of a regulated facility to apply for training funds from other agencies to lower facility costs, and any other materials the department may develop to assist the owner or operator or other entity in providing the training.

(q) Each residential child-care facility shall notify the department and the appropriate local law enforcement agency immediately on determining that a child is missing from the facility.

(r) A residential child-care facility that provides emergency services may temporarily exceed the facility's capacity for not more than 48 hours to provide temporary care for a child in an emergency. The facility shall notify the department within 24 hours of the placement that the facility temporarily exceeded the facility's capacity.

Acts 1979, 66th Leg., p. 2362, ch. 842, art. 1, Sec. 1, eff. Sept. 1, 1979. Amended by Acts 1987, 70th Leg., ch. 1052, Sec. 4.04, eff. Sept. 1, 1987; Acts 1995, 74th Leg., ch. 920, Sec. 10, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1022, Sec. 24, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1063, Sec. 7, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1121, Sec. 1, eff. June 19, 1997; Acts 1997, 75th Leg., ch. 1217, Sec. 3, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1129, Sec. 1, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 218, Sec. 4, eff. Sept. 1, 2001. Amended by:

Acts 2005, 79th Leg., Ch. [268](#), Sec. 1.94(a), eff. September 1, 2005.

Acts 2005, 79th Leg., Ch. [526](#), Sec. 1, eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. [366](#), Sec. 1, eff. June 15, 2007.

Acts 2007, 80th Leg., R.S., Ch. [1406](#), Sec. 31, eff. September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. [720](#), Sec. 6, eff. September 1, 2009.

Acts 2011, 82nd Leg., R.S., Ch. [471](#), Sec. 2, eff. June 17, 2011.

Acts 2011, 82nd Leg., R.S., Ch. [1082](#), Sec. 16(2), eff. September 1, 2012.

Acts 2011, 82nd Leg., R.S., Ch. [1300](#), Sec. 1, eff. June 17, 2011.

Sec. 42.0421. MINIMUM TRAINING STANDARDS. (a) The minimum training standards prescribed by the department under Section 42.042(p) for an employee, director, or operator of a day-care center, group day-care home, or registered family home must include:

(1) 24 hours of initial training that must be completed not later than the 90th day after the employee's first day of employment for an employee of a day-care center who has no previous training or less than two years of employment experience in a regulated child-care facility, eight hours of which must be completed before the employee is given responsibility for a group of children;

(2) 24 hours of annual training for each employee of a day-care center or group day-care home, excluding the director, which must include at least six hours of training in one or more of the following areas:

(A) child growth and development;

(B) guidance and discipline;

- (C) age-appropriate curriculum; and
- (D) teacher-child interaction; and

(3) 30 hours of annual training for each director of a day-care center or group day-care home, or operator of a registered family home, which must include at least six hours of training in one or more of the following areas:

- (A) child growth and development;
- (B) guidance and discipline;
- (C) age-appropriate curriculum; and
- (D) teacher-child interaction.

(b) The minimum training standards prescribed by the department under Section 42.042(p) must require an employee of a licensed day-care center or group day-care home who provides care for children younger than 24 months of age to receive special training regarding the care of those children. The special training must be included as a component of the initial training required by Subsection (a)(1) and as a one-hour component of the annual training required by Subsections (a)(2) and (a)(3). The special training must include information on:

- (1) recognizing and preventing shaken baby syndrome;
 - (2) preventing sudden infant death syndrome;
- and
- (3) understanding early childhood brain development.

(c) The department by rule shall require an operator of a registered family home who provides care for a child younger than 24 months of age to complete one hour of annual training on:

- (1) recognizing and preventing shaken baby syndrome;
 - (2) preventing sudden infant death syndrome;
- and

(3) understanding early childhood brain development.

(d) Section 42.042(m) does not apply to the minimum training standards required by this section.

(e) In addition to other training required by this section, the department by rule shall require an owner, operator, or employee of a day-care center, group day-care home, registered family home, child-care institution, foster group home, or agency foster group home who transports a child under the care of the facility whose chronological or developmental age is younger than nine years of age to complete at least two hours of annual training on transportation safety.

Text of subsection as added by Acts 2011, 82nd Leg., R.S.,
Ch. [882](#), Sec. 1

(f) In adopting the minimum training standards under Section 42.042(p), the department may not require more training hours than the number of hours prescribed by Subsection (a) for a day-care center, group day-care home, or a registered family home.

Text of subsection as added by Acts 2011, 82nd Leg., R.S.,
Ch. [82](#), Sec. 1

(f) The training required by this section must be appropriately targeted and relevant to the age of the children who will receive care from the individual receiving training and must be provided by a person who:

(1) is a training provider registered with the Texas Early Care and Education Career Development System's Texas Trainer Registry that is maintained by the Texas Head Start State Collaboration Office;

(2) is an instructor at a public or private secondary school or at a public or private institution of higher education, as defined by Section 61.801, Education Code, who teaches early childhood development or another relevant course, as determined by rules adopted by the commissioner of education and the commissioner of higher education;

(3) is an employee of a state agency with relevant expertise;

(4) is a physician, psychologist, licensed professional counselor, social worker, or registered nurse;

(5) holds a generally recognized credential or possesses documented knowledge relevant to the training the person will provide;

(6) is a registered family home care provider or director of a day-care center or group day-care home in good standing with the department, if applicable, and who:

(A) has demonstrated core knowledge in child development and caregiving; and

(B) is only providing training at the home or center in which the provider or director and the person receiving training are employed; or

(7) has at least two years of experience working in child development, a child development program, early childhood education, a childhood education program, or a Head Start or Early Head Start program and:

(A) has been awarded a Child Development Associate (CDA) credential; or

(B) holds at least an associate's degree in child development, early childhood education, or a related field.

Text of subsection as added by Acts 2011, 82nd Leg., R.S.,
Ch. [882](#), Sec. 1

(g) The executive commissioner by rule shall adopt minimum training standards for before-school or after-school and school-age programs as required by Section 42.042(p). In adopting minimum training standards for before-school or after-school and school-age programs under this subsection, the executive commissioner may not require more initial or annual training hours than the number of hours required by Subsection (a) immediately before September 1, 2011.

Text of subsection as added by Acts 2011, 82nd Leg., R.S.,
Ch. [82](#), Sec. 1

(g) A person described by Subsection (f)(6) may provide training under this section only if the department has not taken an action under Section 42.071, 42.072, or 42.078, other than an evaluation, against the license, listing, or registration of the person or the home or center for which the person is a provider or director during the two-year period preceding the date on which the person provides the training.

Added by Acts 1999, 76th Leg., ch. 1211, Sec. 1, eff. Jan. 1, 2000. Amended by Acts 2001, 77th Leg., ch. 169, Sec. 1, eff. Sept. 1, 2001.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. [748](#), Sec. 2, eff. September 1, 2009.

Acts 2011, 82nd Leg., R.S., Ch. [82](#), Sec. 1, eff. January 1, 2012.

Acts 2011, 82nd Leg., R.S., Ch. [882](#), Sec. 1, eff. September 1, 2011.

Sec. 42.0422. RESTRAINT AND SECLUSION. A person providing services to a resident of a general residential

operation, including a state-operated facility that is a residential treatment center or a general residential operation serving children with mental retardation, shall comply with Chapter 322, Health and Safety Code, and the rules adopted under that chapter.

Added by Acts 2005, 79th Leg., Ch. [698](#), Sec. 7, eff. September 1, 2005.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. [720](#), Sec. 7, eff. September 1, 2009.

Sec. 42.0423. CHILDREN'S PRODUCT SAFETY FOR CERTAIN NONRESIDENTIAL CHILD-CARE FACILITIES. (a) This section applies only to a licensed day-care center, licensed group day-care home, or registered family home.

(b) A children's product is presumed to be unsafe for purposes of this section if it has been recalled for any reason by the United States Consumer Product Safety Commission and the recall has not been rescinded.

(c) A children's product that has been recalled for any reason by the United States Consumer Product Safety Commission is not presumed to be unsafe if the product has been remanufactured or retrofitted so that the product is safe.

(d) The department shall include on its public Internet website a link to the United States Consumer Product Safety Commission's Internet website.

(e) A child-care facility subject to this section may not use an unsafe children's product or have an unsafe children's product on the premises of the child-care facility unless:

(1) the product is an antique or collectible children's product and is not used by, or accessible to, any child in the child-care facility; or

(2) the unsafe children's product is being retrofitted to make it safe and the product is not used by, or accessible to, any child in the child-care facility.

(f) The department shall notify a child-care facility subject to this section of the provisions of this section in plain, nontechnical language that will enable the child-care facility to effectively inspect the children's products at the facility and identify unsafe children's products. The department shall provide the notice required by this subsection:

(1) during the department's pre-application interview for a license, registration, or certification; and

(2) during an inspection.

(g) At least annually, each child-care facility subject to this section shall certify in writing that the facility has reviewed each of the bulletins and notices issued by the United States Consumer Product Safety Commission regarding unsafe children's products and that there are no unsafe products in the facility except products described by Subsection (e). The facility shall retain the certification form completed by each facility in the facility's licensing file.

(h) The executive commissioner of the Health and Human Services Commission shall adopt rules and forms necessary to implement this section.

Added by Acts 2009, 81st Leg., R.S., Ch. [46](#), Sec. 2, eff. September 1, 2009.

Sec. 42.0425. ASSESSMENT SERVICES. (a) The department by rule shall regulate assessment services provided by child-care facilities or child-placing agencies. A child-care facility or child-placing agency may not provide assessment services unless specifically authorized by the department.

(b) The department by rule shall establish minimum standards for assessment services. The standards must provide that consideration is given to the individual needs of a child, the appropriate place for provision of services, and the factors listed in Section 42.042(e).

(c) In this section, "assessment services" means the determination of the placement needs of a child who requires substitute care.

Added by Acts 1997, 75th Leg., ch. 1022, Sec. 25, eff. Sept. 1, 1997.

Sec. 42.0426. TRAINING OF PERSONNEL. (a) A licensed facility shall provide training for staff members in:

(1) the recognition of symptoms of child abuse, neglect, and sexual molestation and the responsibility and procedure of reporting suspected occurrences of child abuse, neglect, and sexual molestation to the department or other appropriate entity;

(2) the application of first aid; and

(3) the prevention and spread of communicable diseases.

(b) A residential child-care facility shall implement a behavior intervention program approved by the department for the benefit of a child served by the facility who needs assistance in managing the child's conduct. The program must include:

(1) behavior intervention instruction for staff members who work directly with children served by the facility; and

(2) training for all employees regarding the risks associated with the use of prone restraints.

(c) Not later than the seventh day after the date an employee begins employment at a day-care center, group day-care home, or registered family home, the employee must complete an orientation to the facility.

Added by Acts 1997, 75th Leg., ch. 1022, Sec. 25, eff.
Sept. 1, 1997.

Amended by:

Acts 2005, 79th Leg., Ch. [268](#), Sec. 1.95, eff.
September 1, 2005.

Acts 2011, 82nd Leg., R.S., Ch. [882](#), Sec. 2, eff.
September 1, 2011.

Sec. 42.04261. OTHER TRAINING OF PERSONNEL: CHILD-
PLACING AGENCIES AND DAY-CARE CENTERS.

(a) Notwithstanding Section 42.0426(a)(1), a child-placing agency or day-care center shall provide training for staff members in prevention techniques for and the recognition of symptoms of sexual abuse and other maltreatment of children and the responsibility and procedure of reporting suspected occurrences of sexual abuse and other maltreatment of children to the department or other appropriate entity.

(b) The type of training required under Subsection (a) shall be determined by department rule. The training must be provided for at least an hour annually and must include training concerning:

(1) factors indicating a child is at risk for sexual abuse or other maltreatment;

(2) likely warning signs indicating a child may be a victim of sexual abuse or other maltreatment;

(3) internal procedures for reporting sexual abuse or other maltreatment; and

(4) community organizations that have existing training programs that are able to provide training or other education for child-placing agency or day-care center staff members, children, and parents.

(c) If a child-placing agency or day-care center determines that it does not have sufficient resources to provide the training required under this section, the agency or center may contact a department licensing

employee to obtain information concerning community organizations that will provide such training at no cost to the agency or center.

Added by Acts 2011, 82nd Leg., R.S., Ch. [1323](#), Sec. 4, eff. June 17, 2011.

Sec. 42.0427. PARENTAL VISITATION. All areas of a licensed facility must be accessible to a parent of a child who is receiving care at the facility if the parent visits the child during the facility's hours of operation.

Added by Acts 1997, 75th Leg., ch. 1022, Sec. 25, eff. Sept. 1, 1997.

Sec. 42.0428. POLICIES ADDRESSING SEXUAL ABUSE AND OTHER MALTREATMENT OF CHILDREN. (a) Each child-placing agency or day-care center shall adopt and implement a policy addressing sexual abuse and other maltreatment of children.

(b) A policy required by this section must address:

(1) methods for increasing child-placing agency and day-care center staff and parent awareness of issues regarding and prevention techniques for sexual abuse and other maltreatment of children, including knowledge of likely warning signs indicating that a child may be a victim of sexual abuse or other maltreatment; and

(2) actions that, after contacting an agency or center, the parent of a child who is a victim of sexual abuse or other maltreatment should take to obtain assistance and intervention.

(c) The methods under Subsection (b)(1) for increasing awareness of issues regarding and prevention techniques for sexual abuse and other maltreatment of children must include:

(1) the training required under Section 42.04261; and

(2) strategies for coordination between the child-placing agency or day-care center and appropriate community organizations.

Added by Acts 2011, 82nd Leg., R.S., Ch. [1323](#), Sec. 5, eff. June 17, 2011.

Sec. 42.043. RULES FOR IMMUNIZATIONS. (a) The department shall make rules for the immunization of children in facilities regulated under this chapter.

(b) The department shall require that each child at an appropriate age have a test for tuberculosis and be immunized against diphtheria, tetanus, poliomyelitis, mumps, rubella, rubeola, invasive pneumococcal disease, and hepatitis A and against any other communicable disease as recommended by the Department of State Health Services. The immunization must be effective on the date of first entry into the facility. However, a child may be provisionally admitted if the required immunizations have begun and are completed as rapidly as medically feasible.

(c) The Texas Department of Health shall make rules for the provisional admission of children to facilities regulated under this chapter and may modify or delete any of the immunizations listed in Subsection (b) of this section or require additional immunizations as a requirement for admission to a facility.

(d) No immunization may be required for admission to a facility regulated under this chapter if a person applying for a child's admission submits one of the following affidavits:

(1) an affidavit signed by a licensed physician stating that the immunization poses a significant risk to the health and well-being of the child or a member of the child's family or household; or

(2) an affidavit signed by the child's parent or guardian stating that the applicant declines immunization for reasons of conscience, including a religious belief.

(d-1) An affidavit submitted under Section (d)(2) must be on a form described by Section 161.0041, Health and Safety Code, and must be submitted not later than the 90th day after the date the affidavit is notarized.

(e) Each regulated facility shall keep an individual immunization record for each child admitted, and the records shall be open for inspection by the department at all reasonable times.

(f) The Texas Department of Health shall provide the immunizations required by this section to children in areas where there is no local provision of these services.

Acts 1979, 66th Leg., p. 2362, ch. 842, art. 1, Sec. 1, eff. Sept. 1, 1979. Amended by Acts 1993, 73rd Leg., ch. 43, Sec. 5, eff. Sept. 1, 1993; Acts 1997, 75th Leg., ch. 1063, Sec. 7, eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 198, Sec. 2.164, eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. [563](#), Sec. 1, eff. September 1, 2005.

Sec. 42.0431. ENFORCEMENT OF SCREENING REQUIREMENTS RELATING TO VISION, HEARING, AND OTHER SPECIAL SENSES AND COMMUNICATION DISORDERS. (a) The department, after consultation with the Texas Department of Health, shall adopt rules necessary to ensure that children receiving care at a day-care center or group day-care home licensed under this chapter are screened for vision, hearing, and any other special senses or communication disorders in compliance with rules adopted by the Texas Board of Health under Section 36.004, Health and Safety Code.

(b) Each day-care center or group day-care home licensed under this chapter shall maintain individual

screening records for children attending the facility who are required to be screened, and the department may inspect those records at any reasonable time. The department shall coordinate the monitoring inspections in compliance with protocol agreements adopted between the department and the Texas Department of Health pursuant to Section 42.0442.

(c) Repealed by Acts 2009, 81st Leg., R.S., Ch. 720, Sec. 19(2), eff. September 1, 2009.

Added by Acts 1999, 76th Leg., ch. 712, Sec. 1, eff. June 18, 1999.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. [720](#), Sec. 19(2), eff. September 1, 2009.

Sec. 42.044. INSPECTIONS. (a) An authorized representative of the department may visit a facility regulated under this chapter or a registered family home during operating hours to investigate, inspect, and evaluate.

(b) The department shall inspect all licensed or certified facilities at least once a year and may inspect other facilities or registered family homes as necessary. At least one of the annual visits must be unannounced and all may be unannounced.

(b-1) At least one of the unannounced, annual inspections of a residential child-care facility must be conducted by a team of at least two residential child-care monitoring staff, and, if feasible, members of the inspection team must be from different residential child-care monitoring units.

(b-2) Except as otherwise provided by this subsection, during an unannounced annual inspection of a day-care center, the department shall meet with the director designated by the day-care center as having daily, on-site responsibility for the operation of the day-care

center to assess whether the director meets the qualifications of a director specified by this chapter and department rules. If the director is not present during the unannounced annual inspection, the department shall schedule a subsequent meeting with the director for that purpose and shall conduct that meeting at the day-care center.

(c) The department must investigate a facility regulated under this chapter or a registered family home when a complaint is received. The representative of the department must notify the operator of a registered family home or the director or authorized representative of a regulated facility when a complaint is being investigated and report in writing the results of the investigation to the family home's operator or to the regulated facility's director or the director's authorized representative.

(c-1) The department:

(1) shall investigate a listed family home if the department receives a complaint that:

(A) a child in the home has been abused or neglected, as defined by Section 261.401, Family Code; or

(B) otherwise alleges an immediate risk of danger to the health or safety of a child being cared for in the home; and

(2) may investigate a listed family home to ensure that the home is providing care for compensation to not more than three children, excluding children who are related to the caretaker.

(c-2) The department must notify the operator of a listed family home when a complaint is being investigated under this section and report in writing the results of the investigation to the family home's operator.

(d) The department may call on political subdivisions and governmental agencies for assistance within their authorized fields.

(e) In addition to the department's responsibility to investigate an agency foster home or agency foster group home under Subsection (c), the department shall:

(1) periodically conduct inspections of a random sample of agency foster homes and agency foster group homes;

(2) investigate any report of a serious incident in an agency foster home or agency foster group home that pertains to a child under the age of six;

(3) investigate any alleged violation of a minimum standard by an agency foster home or agency foster group home that poses a high degree of risk to a child in the care of the home who is under the age of six; and

(4) conduct at least one annual enforcement team conference for each child-placing agency to thoroughly review the investigations or inspections of the child-placing agency and all of its agency homes to monitor and enforce compliance by a child-placing agency with rules and standards established under Section 42.042.

(f) The department shall use an inspection checklist that includes a list of all required items for inspection in conducting a monitoring inspection under this section.

Acts 1979, 66th Leg., p. 2363, ch. 842, art. 1, Sec. 1, eff. Sept. 1, 1979. Amended by Acts 1997, 75th Leg., ch. 1063, Sec. 7, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1022, Sec. 27, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1217, Sec. 4, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 218, Sec. 5, eff. Sept. 1, 2001.

Amended by:

Acts 2005, 79th Leg., Ch. [268](#), Sec. 1.96, eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. [1406](#), Sec. 32(a), eff. September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. [720](#), Sec. 8, eff. September 1, 2009.

Acts 2011, 82nd Leg., R.S., Ch. [1082](#), Sec. 3, eff. September 1, 2011.

Sec. 42.0441. INSPECTION RESULTS FOR CERTAIN NONRESIDENTIAL CHILD-CARE FACILITIES. Immediately after completing a monitoring inspection of a licensed day-care center, licensed group day-care home, or registered family home under Section 42.044, the authorized representative of the department shall review the results of the monitoring inspection with a representative of the facility and give the facility an opportunity to respond to the inspection results.

Added by Acts 1997, 75th Leg., ch. 253, Sec. 1, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1022, Sec. 28, eff. Sept. 1, 1997.

Amended by:

Acts 2005, 79th Leg., Ch. [268](#), Sec. 1.97, eff. September 1, 2005.

Sec. 42.04411. INSPECTION RESULTS AND EXIT CONFERENCE FOR RESIDENTIAL CHILD-CARE FACILITIES. (a) On completion of an inspection of a residential child-care facility under Section 42.044, the inspector shall hold an exit conference with a representative of the inspected facility. The inspector shall provide to the representative a copy of the inspection checklist used by the inspector.

(b) The inspector shall provide the representative an opportunity to communicate regarding potential violations.

Added by Acts 2005, 79th Leg., Ch. [268](#), Sec. 1.98, eff. September 1, 2005.

Sec. 42.04412. INTERFERENCE WITH INSPECTION; COURT ORDER. (a) A person may not interfere with an

investigation or inspection of a facility or family home conducted by the department under this chapter.

(b) During an investigation or inspection of a facility or family home under this chapter, the facility or family home shall cooperate with the department and allow the department to:

(1) access the records of the facility or family home;

(2) access any part of the premises of the facility or family home; and

(3) interview any child, employee, or other person who is present at the facility or family home and who may have information relevant to the investigation or inspection.

(c) If access to the records or premises of the facility or family home cannot be obtained, a district court in Travis County or in the county in which the facility or family home is located, for good cause shown and without prior notice or a hearing, shall issue an order granting the department access to the records or premises in order to conduct the inspection, investigation, or interview.

(d) To assist the department in investigating whether a person is operating a facility or family home without a required license, certification, registration, or listing, a district court in Travis County or in the county in which the suspected facility or family home is located may, for good cause shown and without prior notice or a hearing, issue an order allowing the department to enter the suspected facility or family home at a time when the department's evidence shows that the suspected facility or family home may be providing child care subject to regulation under this chapter.

Added by Acts 2009, 81st Leg., R.S., Ch. [720](#), Sec. 9, eff. September 1, 2009.

Sec. 42.0442. COORDINATION OF INSPECTIONS;
ELIMINATION OF DUPLICATIVE INSPECTIONS. (a) The department shall coordinate monitoring inspections of licensed day-care centers, licensed group day-care homes, and registered family homes performed by another state agency to eliminate redundant inspections.

(b) The department shall form an interagency task force with the Texas Department of Health, the Texas Department of Human Services, and the Texas Workforce Commission to develop an inspection protocol that will coordinate inspections by those agencies. The protocol must assign the required items for inspection by each agency and facilitate the sharing of inspection data and compliance history.

(c) The interagency task force shall establish an inspection checklist based on the inspection protocol developed under Subsection (b). Each state agency that inspects a facility listed in Subsection (a) shall use the inspection checklist in performing an inspection. A state agency shall make a copy of the completed inspection checklist available to the facility at the facility's request to assist the facility in maintaining records.

(d) The department shall provide to facilities listed in Subsection (a) information regarding inspections, including who may inspect a facility and the purpose of each type of inspection.

Added by Acts 1997, 75th Leg., ch. 253, Sec. 1, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1022, Sec. 28, eff. Sept. 1, 1997. Amended by Acts 2001, 77th Leg., ch. 169, Sec. 2, eff. Sept. 1, 2001.

Text of section as added by Acts 1997, 75th Leg., ch. 253,
Sec. 1

Sec. 42.0443. INSPECTION INFORMATION DATABASE. (a) If feasible using available information systems, the department shall establish a computerized database containing relevant inspection information on licensed day-care centers, licensed group day-care homes, and registered family homes from other state agencies and political subdivisions of the state.

(b) The department shall make the data collected by the department available to another state agency or political subdivision of the state for the purpose of administering programs or enforcing laws within the jurisdiction of that agency or subdivision. If feasible using available information systems, the department shall make the data directly available to the Texas Department of Health, the Texas Department of Human Services, and the Texas Workforce Commission through electronic information systems. The department, the Texas Department of Health, the Texas Department of Human Services, and the Texas Workforce Commission shall jointly plan the development of child-care inspection databases that, to the extent feasible, are similar in their design and architecture to promote the sharing of data.

(c) The department may provide inspection data on licensed day-care centers, licensed group day-care homes, or registered family homes to the public if the department determines that providing inspection data enhances consumer choice with respect to those facilities.

Added by Acts 1997, 75th Leg., ch. 253, Sec. 1, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1022, Sec. 28, eff. Sept. 1, 1997.

Text of section as added by Acts 2003, 78th Leg., ch. 709, Sec. 1.

Sec. 42.0443. COORDINATION OF FIRE SAFETY AND SANITATION INSPECTIONS. (a) The department may not inspect a licensed day-care center, licensed group day-care home, or registered family home for compliance with the department's fire safety or sanitation standards if the facility, at the time of the department's inspection, provides the department with documentation relating to a current fire safety or sanitation inspection, as applicable, performed by a political subdivision of this state that indicates that the facility is in compliance with the applicable standards of the political subdivision.

(b) If the documentation provided under Subsection (a) indicates that the facility was required to take corrective action or that the political subdivision imposed a restriction or condition on the facility, the department shall determine whether the facility took the required corrective action or complied with the restriction or condition.

(c) The department may inspect a facility subject to this section for compliance with the department's fire safety or sanitation standards if:

(1) the facility does not provide the documentation described by Subsection (a); or

(2) the department determines that the facility did not take a corrective action or comply with a restriction or condition described by Subsection (b).

(d) Notwithstanding any other provision of this section, the department shall report to the appropriate political subdivision any violation of fire safety or sanitation standards observed by the department at a facility subject to this section.

(e) The department shall adopt rules necessary to implement this section.

Added by Acts 2003, 78th Leg., ch. 709, Sec. 1, eff. Sept. 1, 2003.

Sec. 42.04431. ENFORCEMENT OF STATE LAW BY COUNTY OR MUNICIPALITY. (a) A municipality or a county may enforce state law and rules adopted under state law concerning fire safety standards at a licensed group day-care home or a registered family home.

(b) A municipality or county shall report to the department any violation of fire safety standards observed by the municipality or county at a licensed group day-care home or registered family home.

Added by Acts 2011, 82nd Leg., R.S., Ch. [354](#), Sec. 1, eff. September 1, 2011.

Sec. 42.0445. REQUIRED BACKGROUND SEARCH OF CENTRAL REGISTRY OF REPORTED CASES OF CHILD ABUSE OR NEGLECT. (a) Before the department issues a license, listing, registration, or certification under this subchapter, the department shall search the central registry of reported cases of child abuse or neglect established under Section 261.002, Family Code, to determine whether the applicant or the owner or an employee of the facility or family home is listed in the registry as a person who abused or neglected a child.

(b) The department may adopt rules to implement this section.

Added by Acts 1997, 75th Leg., ch. 1022, Sec. 29, eff. Sept. 1, 1997.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. [1406](#), Sec. 33, eff. September 1, 2007.

Sec. 42.0446. REMOVAL OF CERTAIN INVESTIGATION INFORMATION FROM INTERNET WEBSITE. The executive

commissioner shall adopt rules providing a procedure by which the department removes from the department's Internet website information with respect to a child-care facility or registered family home that relates to an anonymous complaint alleging that the facility or family home failed to comply with the department's minimum standards if, at the conclusion of an investigation, the department determines that the complaint is false or lacks factual foundation.

Added by Acts 2005, 79th Leg., Ch. [526](#), Sec. 2, eff. September 1, 2005.

Sec. 42.0447. FALSE REPORT; CRIMINAL PENALTY. (a) A person commits an offense if the person knowingly or intentionally files a complaint alleging that a child-care facility or registered family home failed to comply with the department's minimum standards and the person knows the allegation is false or lacks factual foundation.

(b) An offense under this section is a Class A misdemeanor unless it is shown on the trial of the offense that the person has previously been convicted under this section, in which case the offense is a state jail felony.

Added by Acts 2005, 79th Leg., Ch. [526](#), Sec. 2, eff. September 1, 2005.

Sec. 42.0448. NOTIFICATION OF FAMILY VIOLENCE CALLS. The department shall notify a child-placing agency of each family violence report the department receives under Article 5.05, Code of Criminal Procedure, that:

(1) occurred at an agency foster home verified by the child-placing agency; or

(2) involves a person who resides at an agency foster home verified by the child-placing agency.

Added by Acts 2007, 80th Leg., R.S., Ch. [524](#), Sec. 4, eff. June 16, 2007.

Sec. 42.0449. REQUIRED ACTIONS AFTER NOTICE OF FAMILY VIOLENCE CALL. The executive commissioner shall adopt rules specifying the actions that the department, an independent foster home, and a child-placing agency shall take after receiving notice of a family violence report under Article 5.05, Code of Criminal Procedure, or Section 42.0448 to ensure the health, safety, and welfare of each child residing in the licensed foster home or verified agency foster home.

Added by Acts 2007, 80th Leg., R.S., Ch. [524](#), Sec. 4, eff. June 16, 2007.

Sec. 42.045. RECORDS. (a) A person who operates a licensed or certified facility shall maintain individual child development records, individual health records, statistical records, and complete financial records.

(b) A person who provides adoption services under a license to operate a child-placing agency shall furnish information required by the department to determine whether adoption related income and disbursements are reasonable, appropriate, and in compliance with the department's minimum standards.

(c) If a child-placing agency terminates operation as a child-placing agency, it shall, after giving notice to the department, transfer its files and records concerning adopted children, their biological families, and their adoptive families to the Bureau of Vital Statistics or, after giving notice to the Bureau of Vital Statistics, to a facility licensed by the department to place children for adoption.

(d) An independent foster home and a child-placing agency shall notify the department of any change of address for a licensed foster home or a verified agency foster home. The independent foster home and child-placing agency shall notify the department of the address change within the earlier of two business days or 72 hours of the date the foster home changes its address.

Acts 1979, 66th Leg., p. 2363, ch. 842, art. 1, Sec. 1, eff. Sept. 1, 1979. Amended by Acts 1983, 68th Leg., p. 1782, ch. 342, Sec. 2, eff. Jan. 1, 1984; Acts 1989, 71st Leg., ch. 707, Sec. 1, eff. Sept. 1, 1989; Acts 1997, 75th Leg., ch. 1063, Sec. 7, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1129, Sec. 2, eff. Sept. 1, 1999.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. [524](#), Sec. 5, eff. June 16, 2007.

Sec. 42.0451. DATABASE OF FOSTER HOMES; INFORMATION PROVIDED TO DEPARTMENT OF PUBLIC SAFETY. (a) The department shall maintain a database of licensed foster homes and verified agency foster homes including the current address for each licensed or verified home as reported to the department. The database must be updated on a regular basis.

(b) The department shall make the database available to the Department of Public Safety for the purposes of Subsection (c).

(c) The Department of Public Safety shall include the information provided under Subsection (b) in the Texas Crime Information Center database and establish a procedure by which a peace officer or employee of a law enforcement agency who provides the department with a street address is automatically provided information as to whether the address is licensed as a foster home or verified as an agency foster home under this chapter.

(d) Information provided to the Department of Public Safety under this section is confidential and not subject to disclosure under Chapter 552, Government Code.

Added by Acts 2007, 80th Leg., R.S., Ch. [524](#), Sec. 6, eff. June 16, 2007.

Sec. 42.0452. FOSTER PARENT RIGHTS AND RESPONSIBILITIES STATEMENT. (a) The department shall develop a statement that lists the rights and responsibilities of a foster parent in a foster home or an agency foster home and of the department or a child-placing agency, as applicable.

(b) The department shall provide a written copy of the statement developed under Subsection (a) to each foster parent in a foster home and to each child-placing agency licensed by the department. A child-placing agency shall provide a written copy of the statement developed under Subsection (a) to each foster parent in an agency foster home verified by the child-placing agency.

Added by Acts 2009, 81st Leg., R.S., Ch. [939](#), Sec. 1, eff. June 19, 2009.

Sec. 42.046. APPLICATION FOR LICENSE, LISTING, OR REGISTRATION. (a) An applicant for a license to operate a child-care facility or child-placing agency or for a listing or registration to operate a family home shall submit to the department the appropriate fee prescribed by Section 42.054 and a completed application on a form provided by the department.

(b) The department shall supply the applicant the application form and a copy of the appropriate minimum standards, if applicable.

(c) After receiving an application, the department shall investigate the applicant and the plan of care for children, if applicable.

(d) The department shall complete the investigation and decide on an application within two months after the date the department receives a completed application.

(e) The department may deny an application under this section if the applicant:

(1) has a residential child-care facility license revoked in another state; or

(2) is barred from operating a residential child-care facility in another state.

Acts 1979, 66th Leg., p. 2363, ch. 842, art. 1, Sec. 1, eff. Sept. 1, 1979. Amended by Acts 1985, 69th Leg., ch. 212, Sec. 1, eff. Sept. 1, 1985; Acts 1985, 69th Leg., ch. 239, Sec. 4, eff. Sept. 1, 1985; Acts 1997, 75th Leg., ch. 1022, Sec. 30, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1063, Sec. 7, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1217, Sec. 5, eff. Sept. 1, 1997.

Amended by:

Acts 2005, 79th Leg., Ch. [268](#), Sec. 1.99, eff. September 1, 2005.

Sec. 42.0461. PUBLIC NOTICE AND HEARING IN CERTAIN COUNTIES: RESIDENTIAL CHILD CARE. (a) Before the department may issue a license or certificate for the operation or the expansion of the capacity of a foster group home or foster family home that is located in a county with a population of less than 300,000 and that provides child care for 24 hours a day at a location other than the actual residence of a child's primary caretaker or of a general residential operation, the applicant for the license, certificate, or expansion shall, at the applicant's expense:

(1) conduct a public hearing on the application in accordance with department rules after notifying the department of the date, time, and location of the hearing; and

(2) publish notice of the application in a newspaper of general circulation in the community in which the child-care services are proposed to be provided.

(b) The notice required by Subsection (a)(2) must be published at least 10 days before the date of the public hearing required by Subsection (a)(1) and must include:

(1) the name and address of the applicant;

(2) the address at which the child-care services are proposed to be provided;

(3) the date, time, and location of the public hearing;

(4) the name, address, and telephone number of the department as the licensing authority; and

(5) a statement informing the public that a person may submit written comments to the department concerning the application instead of or in addition to appearing at the public hearing.

(c) The department shall require a representative of the department to attend the public hearing in an official capacity for the purpose of receiving public comments on the application.

(d) Before issuing a license or certificate described by Subsection (a), the department shall consider:

(1) the amount of local resources available to support children proposed to be served by the applicant;

(2) the impact of the proposed child-care services on the ratio in the local school district of students enrolled in a special education program to students enrolled in a regular education program and the effect, if any, on the children proposed to be served by the applicant; and

(3) the impact of the proposed child-care services on the community and the effect on opportunities for social interaction for the children proposed to be served by the applicant.

(e) The department may deny the application if the department determines that:

(1) the community has insufficient resources to support children proposed to be served by the applicant;

(2) granting the application would significantly increase the ratio in the local school district of students enrolled in a special education program to students enrolled in a regular education program and the increase would adversely affect the children proposed to be served by the applicant; or

(3) granting the application would have a significant adverse impact on the community and would limit opportunities for social interaction for the children proposed to be served by the applicant.

(f) A child-placing agency that proposes to verify an agency foster home or agency foster group home that is located in a county with a population of less than 300,000 that provides child care for 24 hours a day at a location other than the actual residence of a child's primary caretaker shall:

(1) comply with the notice and hearing requirements imposed by Subsections (a) and (b); and

(2) after conducting the required public hearing, provide the department with information relating to the considerations specified in Subsection (d).

(g) The department may prohibit the child-placing agency from verifying the proposed agency foster home or agency foster group home on the same grounds that the department may deny an application under Subsection (e). The department may invalidate the verification of an agency foster home or agency foster group home that was not

verified using the procedures required by Subsection (f) on or after September 1, 1997.

Added by Acts 1997, 75th Leg., ch. 1022, Sec. 31, eff. Sept. 1, 1997.

Amended by:

Acts 2005, 79th Leg., Ch. [268](#), Sec. 1.100, eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. [1406](#), Sec. 34, eff. September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. [720](#), Sec. 10, eff. September 1, 2009.

Sec. 42.047. CONSULTATIONS. (a) The department shall offer consultation to potential applicants, applicants, and license, listing, registration, and certification holders about meeting and maintaining standards for licensing, listing, registration, and certification and achieving programs of excellence in child care.

(b) The department shall offer consultation to prospective and actual users of facilities or homes.

Acts 1979, 66th Leg., p. 2364, ch. 842, art. 1, Sec. 1, eff. Sept. 1, 1979. Amended by Acts 1997, 75th Leg., ch. 1063, Sec. 7, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1217, Sec. 6, eff. Sept. 1, 1997.

Sec. 42.048. LICENSING. (a) The department shall issue a license after determining that an applicant has satisfied all requirements.

(b) When issuing a license, the department may impose restrictions on a facility, including but not limited to the number of children to be served and the type of children to be served.

(c) The department may grant a variance of an individual standard set forth in the applicable standards for good and just cause.

(d) A license holder must display a license issued under this chapter in a prominent place at the facility.

(e) A license issued under this chapter is not transferable and applies only to the operator and facility location stated in the license application. Except as provided by this subsection, a change in location or ownership automatically revokes a license. A change in location of a child-placing agency does not automatically revoke the license to operate the child-placing agency.

(f) A license must be issued if the department determines that a facility meets all requirements. The evaluation shall be based on one or more visits to the facility and a review of required forms and records. A license is valid until revoked or surrendered.

Acts 1979, 66th Leg., p. 2364, ch. 842, art. 1, Sec. 1, eff. Sept. 1, 1979. Amended by Acts 1987, 70th Leg., ch. 1081, Sec. 1, eff. Sept. 1, 1987. Renumbered from Human Resources Code Sec. 42.049 and amended by Acts 1997, 75th Leg., ch. 1063, Sec. 7, eff. Sept. 1, 1997.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. [1406](#), Sec. 35, eff. September 1, 2007.

Sec. 42.049. LIABILITY INSURANCE REQUIRED. (a) A license holder shall maintain liability insurance coverage in the amount of \$300,000 for each occurrence of negligence. An insurance policy or contract required under this section must cover injury to a child that occurs while the child is on the premises of the license holder or in the care of the license holder.

(b) A license holder shall file with the department a certificate or other evidence from an insurance company

showing that the license holder has an unexpired and uncanceled insurance policy or contract that meets the requirements of this section.

(c) Should the license holder for financial reasons or for lack of availability of an underwriter willing to issue a policy be unable to secure the insurance required under Subsection (a) or should the policy limits be exhausted, the license holder shall notify the parent or a person standing in parental relationship to each child for whom the license holder provides care a written notice that the liability coverage is not provided and there will not be a ground for suspension or revocation of the license holder's license under this chapter. The license holder shall also notify the department that the coverage is not provided and provide the reason for same. In no case shall the inability to secure coverage serve to indemnify the license holder for damages due to negligence.

(d) The insurance policy or contract shall be maintained at all times in an amount as required by this section. Failure by a license holder to renew the policy or contract or to maintain the policy or contract in the required amount is a ground for suspension or revocation of the license holder's license under this chapter.

(e) This section does not apply to a group day-care home or a listed or registered family home.

Added by Acts 1993, 73rd Leg., ch. 1002, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1997, 75th Leg., ch. 1217, Sec. 7, eff. Sept. 1, 1997. Renumbered from Human Resources Code, Sec. 42.0491 and amended by Acts 1997 75th Leg., ch. 1063, Sec. 7, eff. Sept. 1, 1997.

Sec. 42.050. LICENSE RENEWAL. (a) A license holder may apply for a new license in compliance with the requirements of this chapter and the rules promulgated by the department.

(b) The application for a new license must be completed and decided on by the department before the expiration of the license under which a facility is operating.

(c) The department shall evaluate the application for a new license to determine if all licensing requirements are met. The evaluation may include a specified number of visits to the facility and must include a review of all required forms and records.

Amended by Acts 1997, 75th Leg., ch. 1063, Sec. 7, eff. Sept. 1, 1997.

Sec. 42.051. INITIAL LICENSE. (a) The department shall issue an initial license when a facility's plans meet the department's licensing requirements and one of the following situations exists:

- (1) the facility is not currently operating;
- (2) the facility has relocated and has made changes in the type of child-care service it provides; or
- (3) there is a change in ownership of the facility resulting in changes in policy and procedure or in the staff who have direct contact with the children.

(b) An initial license is valid for six months from the date it is issued and may be renewed for an additional six months.

Acts 1979, 66th Leg., p. 2365, ch. 842, art. 1, Sec. 1, eff. Sept. 1, 1979. Amended by Acts 1989, 71st Leg., ch. 707, Sec. 2, eff. Sept. 1, 1989; Acts 1997, 75th Leg., ch. 1063, Sec. 7, eff. Sept. 1, 1997.

Amended by:

Acts 2005, 79th Leg., Ch. [268](#), Sec. 1.101, eff. September 1, 2005.

Sec. 42.052. CERTIFICATION, LISTING, AND REGISTRATION. (a) A state-operated child-care facility or child-placing agency must receive certification of approval from the department. The certification of approval remains valid until revoked or surrendered.

(b) To be certified, a facility must comply with the department's rules and standards and any provisions of this chapter that apply to a licensed facility of the same category. The operator of a certified facility must display the certification in a prominent place at the facility.

(c) A family home that provides care for compensation for three or fewer children, excluding children who are related to the caretaker, shall list with the department if the home provides regular care in the caretaker's own residence. The home may register with the department.

(d) A family home that provides care for four or more children, excluding children who are related to the caretaker, shall register with the department. A family home that provides care exclusively for any number of children who are related to the caretaker is not required to be listed or registered with the department.

(e) A registration or listing remains valid until revoked or surrendered. The operator of a registered home must display the registration in a prominent place at the home.

(f) To remain listed or registered with the department, a family home must comply with the department's rules and standards, if applicable, and any provision of this chapter that applies to a listed or registered family home.

(g) The certification requirements of this section do not apply to a Texas Youth Commission facility, a Texas Juvenile Probation Commission facility, or a facility providing services solely for the Texas Youth Commission.

(h) The certification requirements of this section do not apply to a juvenile detention facility certified under Section 51.12, Family Code, or a juvenile correctional facility certified under Section 51.125, Family Code.

(i) The department shall provide to a listed family home a copy of the listing. A listing must contain a provision that states: "THIS HOME IS A LISTED FAMILY HOME. IT IS NOT LICENSED OR REGISTERED WITH THE DEPARTMENT OF PROTECTIVE AND REGULATORY SERVICES. IT HAS NOT BEEN INSPECTED AND WILL NOT BE INSPECTED." The operator of a listed home is not required to display the listing in a prominent place at the home but shall make the listing available for examination. The department by rule shall provide for a sufficient period to allow operators of family homes to comply with the listing requirement of this section.

(j) The operator of a listed family home shall undergo initial and subsequent background and criminal history checks required under Section 42.056. If the operator of a listed family home fails to submit the information required by Section 42.056 for a subsequent background and criminal history check, the department shall automatically:

(1) suspend the home's listing until the required information is submitted; and

(2) revoke the home's listing if the required information is not submitted within six months after the date the automatic suspension begins.

(j-1) A suspension or revocation under Subsection (j) is not a suspension or revocation under Section 42.072.

(k) The department shall issue a listing or registration to a family home, as appropriate, in both English and Spanish when the most recent federal census shows that more than one-half of the population in a municipality or in a commissioners precinct in a county in

which the family home is located is of Hispanic origin or Spanish-speaking.

Acts 1979, 66th Leg., p. 2365, ch. 842, art. 1, Sec. 1, eff. Sept. 1, 1979. Amended by Acts 1981, 67th Leg., p. 2813, ch. 759, Sec. 4, eff. Aug. 31, 1981; Acts 1985, 69th Leg., ch. 212, Sec. 2, eff. Sept. 1, 1985; Acts 1985, 69th Leg., ch. 915, Sec. 1, eff. Sept. 1, 1985; Acts 1987, 70th Leg., ch. 1052, Sec. 4.06, eff. Sept. 1, 1987; Acts 1989, 71st Leg., ch. 707, Sec. 3, eff. Sept. 1, 1989; Acts 1995, 74th Leg., ch. 76, Sec. 8.023, eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 262, Sec. 55, eff. Jan. 1, 1996; Acts 1997, 75th Leg., ch. 1022, Sec. 32, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1063, Sec. 7, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1217, Sec. 8, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 218, Sec. 6 to 8, eff. Sept. 1, 2001.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. [263](#), Sec. 26, eff. June 8, 2007.

Acts 2011, 82nd Leg., R.S., Ch. [1082](#), Sec. 4, eff. September 1, 2011.

Sec. 42.0521. DEPOSIT OF FEES. The fees authorized by this chapter and received by the department shall be deposited in the general revenue fund.

Added by Acts 1985, 69th Leg., ch. 239, Sec. 5, eff. Sept. 1, 1985.

Sec. 42.0522. PUBLIC ADVERTISING OF FAMILY HOMES.
(a) A family home may not place a public advertisement that uses the title "registered family home" or any variation of that phrase unless the home is registered under this chapter. Any public advertisement for a registered family home that uses the title "registered

family home" must contain a provision in bold type stating: "THIS HOME IS REGISTERED WITH THE DEPARTMENT OF PROTECTIVE AND REGULATORY SERVICES BUT IS NOT LICENSED OR REGULARLY INSPECTED."

(b) A family home may not place a public advertisement that uses the title "listed family home" or any variation of that phrase unless the home is listed as provided by this chapter. Any public advertisement for a listed family home that uses the title "listed family home" must contain a provision in bold type stating: "THIS HOME IS A LISTED FAMILY HOME. IT IS NOT LICENSED OR REGISTERED WITH THE DEPARTMENT OF PROTECTIVE AND REGULATORY SERVICES. IT HAS NOT BEEN INSPECTED AND WILL NOT BE INSPECTED."

Added by Acts 1997, 75th Leg., ch. 1063, Sec. 7, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1217, Sec. 9, eff. Sept. 1, 1997.

Sec. 42.0523. LISTING OF RELATIVE CHILD-CARE PROVIDERS. (a) A child-care provider who only provides child care under Chapter 313, Labor Code, to children related to the provider may list the provider's home as a family home.

(b) Before the department may list a child-care provider's home under this section, in addition to conducting any other background or criminal history check required for a family home listing, the department must search the central database of sex offender registration records maintained by the Department of Public Safety under Chapter 62, Code of Criminal Procedure, to determine whether the provider is listed in the registry as a sex offender.

(c) The address of a family home listed under this section is the address of the child-care provider's home, regardless of whether the child care is provided in the provider's home or in the child's home.

(d) A relative child-care provider's home listed as a family home under this section is exempt from the health and safety requirements of 45 C.F.R. Section 98.41(a).

Added by Acts 2011, 82nd Leg., R.S., Ch. [869](#), Sec. 3, eff. September 1, 2011.

Sec. 42.053. AGENCY FOSTER HOMES AND AGENCY FOSTER GROUP HOMES. (a) An agency foster home or agency foster group home is considered part of the child-placing agency that operates the agency foster home or agency foster group home for purposes of licensing.

(b) The operator of a licensed agency shall display a copy of the license in a prominent place in the agency foster home or agency foster group home used by the agency.

(c) An agency foster home or agency foster group home shall comply with all provisions of this chapter and all department rules and standards that apply to a child-care facility caring for a similar number of children for a similar number of hours each day.

(d) The department shall revoke or suspend the license of a child-placing agency if an agency foster home or agency foster group home operated by the licensed agency fails to comply with Subsection (c) of this section.

Acts 1979, 66th Leg., p. 2365, ch. 842, art. 1, Sec. 1, eff. Sept. 1, 1979. Amended by Acts 1987, 70th Leg., ch. 1052, Sec. 4.07, eff. Sept. 1, 1987; Acts 1997, 75th Leg., ch. 1063, Sec. 7, eff. Sept. 1, 1997.

Sec. 42.0535. REQUIRED INFORMATION FOR VERIFICATION. (a) A child-placing agency that seeks to verify an agency home or an agency group home shall request background information about the agency home or group home from a child-placing agency that has previously verified that agency home or agency group home.

(b) Notwithstanding Section 261.201, Family Code, a child-placing agency that has verified an agency home or an agency group home is required to release to another child-placing agency background information requested under Subsection (a).

(c) A child-placing agency that releases background information under this section is immune from civil and criminal liability for the release of the information.

(d) For purposes of this section, background information means the home study under which the agency home or agency group home was verified by the previous child-placing agency and any record of noncompliance with state minimum standards received and the resolution of any such noncompliance by the previous child-placing agency.

(e) The department, by rule, shall develop a process by which a child-placing agency shall report to the department:

(1) the name of any verified foster home or foster group home that has been closed for any reason, including a voluntary closure;

(2) information regarding the reasons for the closure of the foster home or foster group home; and

(3) the name and other contact information of a person who may be contacted by another child-placing agency to obtain the records relating to the closed foster home or foster group home that are required to be maintained and made available under this section.

(f) Information gathered under Subsection (e) must be made available to child-placing agencies through a searchable database maintained by the department.

Added by Acts 1997, 75th Leg., ch. 575, Sec. 36(a), eff. Sept. 1, 1997.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. [1406](#), Sec. 36, eff. September 1, 2007.

Sec. 42.0536. TRANSFER OF AGENCY FOSTER HOME. (a) An agency foster home that is verified by a child-placing agency may transfer to another child-placing agency only if, before the date of the transfer, the agency foster home notifies the child-placing agency to which the agency foster home is transferring of each licensing violation for which the agency foster home has been cited by the department during the preceding three years.

(b) The child-placing agency to which the agency foster home is transferring shall submit a written request for transfer to the child-placing agency that verified the agency foster home.

(c) Not later than the 10th day after the date the child-placing agency receives a request for transfer under Subsection (b), the child-placing agency shall provide the child-placing agency that submitted the request a copy of any of the following documents regarding the agency foster home:

- (1) a corrective action plan;
- (2) an annual development plan; or
- (3) a description of any imposed or potential service limitation.

(d) The department caseworker for each child placed in the agency foster home may conduct a review meeting to determine whether the transfer of the agency foster home is in the best interest of each child in the home on the request of:

- (1) the child-placing agency to which the agency foster home is transferring;
- (2) the child-placing agency that verified the agency foster home;
- (3) the agency foster home; or
- (4) the caseworker.

(e) After a review meeting, the caseworker shall determine whether each child placed in the agency foster home shall:

(1) stay in the agency foster home after the agency foster home is transferred to the new child-placing agency; or

(2) be removed from the agency foster home before the agency foster home is transferred to the new child-placing agency.

Added by Acts 2007, 80th Leg., R.S., Ch. [1406](#), Sec. 37, eff. September 1, 2007.

Sec. 42.054. FEES. (a) The department shall charge an applicant a nonrefundable application fee of \$35 for an initial license to operate a child-care facility or a child-placing agency.

(b) The department shall charge each child-care facility a fee of \$35 for an initial license. The department shall charge each child-placing agency a fee of \$50 for an initial license.

(c) The department shall charge each licensed child-care facility an annual license fee in the amount of \$35 plus \$1 for each child the child-care facility is permitted to serve. The fee is due on the date on which the department issues the child-care facility's initial license and on the anniversary of that date.

(d) The department shall charge each licensed child-placing agency an annual license fee of \$100. The fee is due on the date on which the department issues the child-placing agency's initial license and on the anniversary of that date.

(e) The department shall charge each family home that is listed or registered with the department an annual fee to cover a part of the department's cost in regulating family homes. The amount of the fee is \$20 for a listed

home or \$35 for a registered home. The fee is due on the date on which the department initially lists or registers the home and on the anniversary of that date.

(f) If a facility, agency, or home fails to pay the annual fee when due, the license, listing, or registration, as appropriate, is automatically suspended until the fee is paid. The license, listing, or registration shall be revoked if the fee is not paid within six months after the date the automatic suspension begins. A suspension or revocation under this subsection is not a suspension or revocation under Section 42.072.

(g) The provisions of Subsections (b) through (f) of this section do not apply to:

(1) licensed foster homes and licensed foster group homes;

(2) nonprofit facilities regulated under this chapter that provided 24-hour care for children in the managing conservatorship of the department during the 12-month period immediately preceding the anniversary date of the facility's license;

(3) facilities operated by a nonprofit corporation or foundation that provides 24-hour residential care and does not charge for the care provided; or

(4) a family home listed under Section 42.0523 in which the relative child-care provider cares for the child in the child's own home.

Amended by Acts 1997, 75th Leg., ch. 1063, Sec. 7, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1217, Sec. 10, 11, eff. Sept. 1, 1997.

Amended by:

Acts 2005, 79th Leg., Ch. [268](#), Sec. 1.102, eff. September 1, 2005.

Acts 2011, 82nd Leg., R.S., Ch. [869](#), Sec. 5, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. [1082](#), Sec. 5, eff. September 1, 2011.

Sec. 42.055. SIGN POSTING. (a) Each child-care facility shall post in a location that is conspicuous to all employees and customers a sign that includes:

- (1) a description of the provisions of the Family Code relating to the duty to report child abuse or neglect;
- (2) a description of the penalties for violating the reporting provisions of the Family Code; and
- (3) a brief description of sudden infant death syndrome, shaken-baby syndrome, and childhood diabetes and methods for preventing those phenomena.

(a-1) A licensed day-care center, licensed group day-care home, or registered family home subject to Section 42.0423 shall include in the sign required under Subsection (a) a description of how to access a listing of unsafe children's products on the United States Consumer Product Safety Commission's Internet website or through the department's public Internet website.

(b) The department by rule shall determine the design, size, and wording of the sign.

(c) The department shall provide the sign to each child-care facility without charge.

(d) A person who operates a child-care facility commits an offense if the department provides a sign to the facility as provided by this section and the person intentionally fails to display the sign in the facility as prescribed by this section. An offense under this subsection is a Class C misdemeanor.

Added by Acts 1989, 71st Leg., 1st C.S., ch. 20, Sec. 1, eff. Nov. 1, 1989. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 7.47, eff. Sept. 1, 1997. Renumbered from Human Resources Code Sec. 42.056 and amended by Acts 1997, 75th

Leg., ch. 1063, Sec. 7, eff. Sept. 1, 1997. Amended by Acts 2001, 77th Leg., ch. 221, Sec. 1, eff. Sept. 1, 2001. Amended by:

Acts 2009, 81st Leg., R.S., Ch. [46](#), Sec. 3, eff. September 1, 2009.

Sec. 42.0551. POSTING OF EMPLOYEE LIST. (a) Each day-care center, group day-care home, and family home shall post a list of all current employees at the center or home in accordance with rules adopted by the executive commissioner.

(b) The executive commissioner shall adopt rules regarding the size, wording, and placement of the list required under this section.

Added by Acts 2005, 79th Leg., Ch. [308](#), Sec. 1, eff. September 1, 2005.

Sec. 42.056. REQUIRED BACKGROUND AND CRIMINAL HISTORY CHECKS; CRIMINAL PENALTIES. (a) In accordance with rules adopted by the executive commissioner, the director, owner, or operator of a child-care facility, child-placing agency, or family home shall, when applying to operate a child-care facility or child-placing agency or when listing or registering a family home and at least once during each 24 months after receiving a license, listing, registration, or certification of approval, submit to the department for use in conducting background and criminal history checks the name of:

(1) the director, owner, and operator of the facility, agency, or home;

(2) each person employed at the facility, agency, or home;

(3) each prospective employee of the facility, agency, or home;

(4) each current or prospective foster parent providing foster care through a child-placing agency;

(5) each prospective adoptive parent seeking to adopt through a child-placing agency;

(6) each person at least 14 years of age, other than a client in care, who:

(A) is counted in child-to-caregiver ratios in accordance with the minimum standards of the department;

(B) will reside in a prospective adoptive home if the adoption is through a child-placing agency;

(C) has unsupervised access to children in care at the facility or family home; or

(D) resides in the facility or family home;
or

(7) each person 14 years of age or older, other than a client in care, who will regularly or frequently be staying or working at a facility, family home, or prospective adoptive home, while children are being provided care.

(a-1) Repealed by Acts 2009, 81st Leg., R.S., Ch. 720, Sec. 19(3), eff. September 1, 2009.

(a-2) In accordance with rules adopted by the executive commissioner, the director, owner, or operator of a day-care center, before-school or after-school program, or school-age program shall submit a complete set of fingerprints of each person whose name is required to be submitted by the director, owner, or operator under Subsection (a), unless the person is only required to have the person's name submitted based on criteria specified by Subsection (a)(7). This subsection does not apply to a program that is exempt from the licensing requirements of Section 42.041.

(a-3) In accordance with rules adopted by the executive commissioner, the director, owner, or operator of a child-placing agency, foster home, or foster group home must, before a child for whom the department is the

managing conservator is placed with the agency or in the home, submit a complete set of fingerprints of the following persons:

(1) a person who applies to be a foster or adoptive parent, including a person who has previously adopted a child unless the person is also verified as a foster or adoptive home; and

(2) a person who is 18 years of age or older and who lives in the home of a person who applies to be a foster or adoptive parent.

(a-4) In accordance with rules adopted by the executive commissioner, the director, owner, or operator of a child-care facility or family home shall submit a complete set of fingerprints of each person whose name is required to be submitted by the director, owner, or operator under Subsection (a) if:

(1) the person resided in another state during the five years preceding the date the person's name was required to be submitted under Subsection (a); or

(2) the director, owner, or operator has reason to suspect that the person has a criminal history in another state.

(a-5) The rules adopted by the executive commissioner under Subsections (a-2), (a-3), and (a-4):

(1) must require that the fingerprints be submitted in a form and of a quality acceptable to the Department of Public Safety and the Federal Bureau of Investigation for conducting a criminal history check;

(2) may require that the fingerprints be submitted electronically through an applicant fingerprinting service center; and

(3) may allow the department to waive the submission of fingerprints required by this section if:

(A) the person for whom the submission is required has:

(i) a fingerprint-based criminal history record check on file with the department; or

(ii) a fingerprint-based criminal history clearinghouse record, as provided by Section 411.0845, Government Code, that is accessible to the department through the Department of Public Safety; and

(B) the date on which the current submission of fingerprints is required occurs before the second anniversary of a previous name-based criminal history check of the person.

(b) The department shall conduct background and criminal history checks using:

(1) the information provided under Subsection (a);

(2) the information made available by the Department of Public Safety under Section 411.114, Government Code, or by the Federal Bureau of Investigation or other criminal justice agency under Section 411.087, Government Code; and

(3) the department's records of reported abuse and neglect.

(b-1) In addition to any other background or criminal history check conducted under Subsection (b), for each person whose fingerprints are submitted under Subsection (a-2), (a-3), or (a-4), the department shall conduct a state and Federal Bureau of Investigation criminal history check by:

(1) submitting the person's fingerprints, or causing the fingerprints to be submitted electronically, to the Department of Public Safety for the purpose of conducting a state and federal criminal history check; and

(2) using the resulting information made available by that department under Section 411.114, Government Code, and by the Federal Bureau of Investigation and any other criminal justice agency under Section 411.087, Government Code.

(c) The department by rule shall require a child-care facility, child-placing agency, or registered family home to pay to the department a fee in an amount not to exceed the administrative costs the department incurs in conducting a background and criminal history check under this section.

(d) Repealed by Acts 2009, 81st Leg., R.S., Ch. 720, Sec. 19(3), eff. September 1, 2009.

(e) Repealed by Acts 2009, 81st Leg., R.S., Ch. 720, Sec. 19(3), eff. September 1, 2009.

(f) As part of a background check under this section, the department shall provide any relevant information available in the department's records regarding a person's previous employment in a facility or family home to the person submitting the request.

(g) Except as otherwise provided by this subsection, a person whose name is submitted under Subsection (a) may not provide direct care or have direct access to a child in a facility or family home before the person's background and criminal history checks under Subsections (b) and (b-1) are completed. A person may be employed at a facility or family home and may provide direct care or have direct access to a child in the facility or family home before the person's criminal history check under Subsection (b-1) is completed if:

(1) the facility or family home is experiencing a staff shortage;

(2) the state criminal history check and the background check using the department's records of reported abuse and neglect have been completed under Subsection (b), and the resulting information does not preclude the person from being present at the facility or family home; and

(3) the person's fingerprints are submitted as soon as possible, but not later than the 30th day after the earliest of the date on which the person first:

(A) provides direct care to a child;

- (B) has direct access to a child; or
- (C) is hired.

(h) If the results of a criminal history check under Subsection (b-1) for a person employed by a facility or family home during a staffing shortage as authorized by Subsection (g) preclude the person from being present at the facility or family home, the director, owner, or operator of the facility or family home shall immediately terminate the person's employment.

(i) A director, owner, or operator of a facility or family home commits an offense if the director, owner, or operator knowingly:

- (1) fails to submit to the department information about a person as required by this section and department rules for use in conducting background and criminal history checks with respect to the person; and

- (2) employs the person at the facility or family home or otherwise allows the person to regularly or frequently stay or work at the facility or family home while children are being provided care.

(j) A director, owner, or operator of a facility or family home commits an offense if, after the date the director, owner, or operator receives notice from the department that, based on the results of a person's background or criminal history check, the person is precluded from being present at the facility or family home, the director, owner, or operator knowingly:

- (1) employs the person at the facility or family home; or

- (2) otherwise allows the person to regularly or frequently stay or work at the facility or family home while children are being provided care.

(k) An offense under Subsection (i) or (j) is a Class B misdemeanor.

(l) In accordance with rules adopted by the executive commissioner, a person that contracts to provide one or

more substitute employees to a facility or family home must submit to the department for use in conducting background and criminal history checks the name of each substitute employee. Before a substitute employee may be present at a facility or family home, the employee must meet the same requirements under this section as an employee present at the facility or family home who performs similar duties. The director, owner, or operator of a facility or family home must verify with the department that a substitute employee is eligible to be present at the facility or family home before allowing the employee to begin work.

Amended by Acts 1997, 75th Leg., ch. 1063, Sec. 7, eff. Sept. 1, 1997.

Amended by:

Acts 2005, 79th Leg., Ch. [268](#), Sec. 1.103(a), eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. [1406](#), Sec. 38, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. [1406](#), Sec. 39, eff. September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. [720](#), Sec. 11, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. [720](#), Sec. 19(3), eff. September 1, 2009.

Acts 2011, 82nd Leg., R.S., Ch. [1082](#), Sec. 6, eff. September 1, 2011.

Sec. 42.0561. INFORMATION RELATING TO FAMILY VIOLENCE REPORTS. Before the department may issue a license or registration for a foster home or a child-placing agency may issue a verification certificate for an agency foster home, the department or child-placing agency must obtain information relating to each family violence report at the applicant's residence to which a law enforcement agency

responded during the 12 months preceding the date of the application. The applicant shall provide the information on a form prescribed by the department.

Added by Acts 2007, 80th Leg., R.S., Ch. [524](#), Sec. 7, eff. June 16, 2007.

Sec. 42.057. DRUG TESTING. (a) Each residential child-care facility shall establish a drug testing policy for employees. A residential child-care facility may adopt the model employee drug testing policy adopted by the executive commissioner under Subsection (b) or may use another employee drug testing policy approved by the executive commissioner.

(b) The executive commissioner by rule shall adopt a model employee drug testing policy for use by a residential child-care facility. The policy must be designed to ensure the safety of resident children through appropriate drug testing of employees while protecting the rights of employees. The model policy must require:

- (1) preemployment drug testing;
- (2) random, unannounced drug testing of each employee who has direct contact with a child in the care of the facility;
- (3) drug testing of an employee against whom there is an allegation of drug abuse; and
- (4) drug testing of an employee whom the department is investigating for the abuse or neglect of a child in the care of the facility, if the allegation of abuse or neglect includes information that provides good cause to suspect drug abuse.

(c) The department shall require a drug test of a person who directly cares for or has access to a child in a residential child-care facility within 24 hours after the department receives notice of an allegation that the person has abused drugs.

(d) An employee may not provide direct care or have direct access to a child in a residential child-care facility before completion of the employee's initial drug test.

(e) A residential child-care facility shall pay any fee or cost associated with performing the drug test for an employee.

Added by Acts 2005, 79th Leg., Ch. [268](#), Sec. 1.104(a), eff. September 1, 2005.

Sec. 42.058. COMPETITIVE BIDDING OR ADVERTISING RULES. (a) The board may not adopt rules restricting competitive bidding or advertising by a license holder or registration holder except to prohibit false, misleading, or deceptive practices or to prevent a violation of this chapter.

(b) In its rules to prohibit false, misleading, or deceptive practices, the board may not include a rule that:

(1) restricts the use of any medium for advertising;

(2) restricts the use of a license holder's or registration holder's personal appearance or voice in an advertisement;

(3) relates to the size or duration of an advertisement by the license holder or registration holder; or

(4) restricts the license holder's or registration holder's advertisement under a trade name.

Added by Acts 1997, 75th Leg., ch. 1022, Sec. 33, eff. Sept. 1, 1997.

Sec. 42.059. REQUIRED AFFIDAVIT FOR APPLICANTS FOR EMPLOYMENT WITH FACILITY OR REGISTERED FAMILY HOME. (a) An applicant for temporary or permanent employment with a

licensed facility or registered family home whose employment or potential employment with the facility or home involves direct interactions with or the opportunity to interact and associate with children must execute and submit the following affidavit with the application for employment:

STATE OF _____

COUNTY OF _____

I swear or affirm under penalty of perjury that I do not now and I have not at any time, either as an adult or as a juvenile:

1. Been convicted of;
 2. Pleaded guilty to (whether or not resulting in a conviction);
 3. Pleaded nolo contendere or no contest to;
 4. Admitted;
 5. Had any judgment or order rendered against me (whether by default or otherwise);
 6. Entered into any settlement of an action or claim of;
 7. Had any license, certification, employment, or volunteer position suspended, revoked, terminated, or adversely affected because of;
 8. Resigned under threat of termination of employment or volunteerism for;
 9. Had a report of child abuse or neglect made and substantiated against me for; or
 10. Have any pending criminal charges against me in this or any other jurisdiction for;
- Any conduct, matter, or thing (irrespective of formal name thereof) constituting or involving (whether under criminal or civil law of any jurisdiction):
1. Any felony;
 2. Rape or other sexual assault;
 3. Physical, sexual, emotional abuse and/or neglect of a minor;

4. Incest;
5. Exploitation, including sexual, of a minor;
6. Sexual misconduct with a minor;
7. Molestation of a child;
8. Lewdness or indecent exposure;
9. Lewd and lascivious behavior;
10. Obscene or pornographic literature, photographs, or videos;
11. Assault, battery, or any violent offense involving a minor;
12. Endangerment of a child;
13. Any misdemeanor or other offense classification involving a minor or to which a minor was a witness;
14. Unfitness as a parent or custodian;
15. Removing children from a state or concealing children in violation of a court order;
16. Restrictions or limitations on contact or visitation with children or minors resulting from a court order protecting a child or minor from abuse, neglect, or exploitation; or
17. Any type of child abduction.

Except the following (list all incidents, location, description, and date) (if none, write NONE)

Signed _____

Date _____.

Subscribed and sworn to (or affirmed) before me this _____ day of _____, _____.

Signature of notarial officer

_____.

(seal, if any, of notarial officer)

My commission expires: _____

(b) The failure or refusal of the applicant to sign or provide the affidavit constitutes good cause for refusal to hire the applicant.

Added by Acts 1997, 75th Leg., ch. 1022, Sec. 33, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 1129, Sec. 3, eff. Sept. 1, 1999.

Sec. 42.060. CARBON MONOXIDE DETECTORS. (a) In this section, "carbon monoxide detector" means a device that detects and sounds an alarm to indicate the presence of a harmful level of carbon monoxide gas.

(b) Except as provided by Subsection (d), each day-care center, group day-care home, and family home must be equipped with carbon monoxide detectors in accordance with department rules.

(c) The department by rule shall prescribe requirements regarding the placement, installation, and number of carbon monoxide detectors and maintenance procedures for those detectors.

(d) A day-care center is exempt from the carbon monoxide detector requirements prescribed by this section if the day-care center is located in a school facility that is subject to the school facility standards adopted by the commissioner of education under Section 46.008, Education Code, or similar safety standards adopted by the board of a local school district.

Added by Acts 2003, 78th Leg., ch. 127, Sec. 1, eff. Sept. 1, 2003.

Sec. 42.062. CERTAIN EMPLOYMENT AND SERVICE PROHIBITED. A person may not be employed as a controlling person or serve in that capacity in a facility or family home if the person is not eligible to receive a license or certification for the operation of a facility or family home under Section 42.072(g) or has been denied a license under Section 42.046 for a substantive reason.

Added by Acts 2005, 79th Leg., Ch. [268](#), Sec. 1.105, eff. September 1, 2005.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. [1082](#), Sec. 7, eff. September 1, 2011.

Sec. 42.063. REPORTING OF INCIDENTS AND VIOLATIONS.

(a) In this section, "serious incident" means a suspected or actual incident that threatens or impairs the basic health, safety, or well-being of a child. The term includes:

- (1) the arrest, abuse, neglect, exploitation, running away, attempted suicide, or death of a child;
- (2) a critical injury of a child; and
- (3) an illness of a child that requires hospitalization.

(b) A person licensed under this chapter shall report to the department each serious incident involving a child who receives services from the person, regardless of whether the department is the managing conservator of the child.

(c) An employee of a person described by Subsection (b) shall report suspected abuse or neglect directly to the statewide intake system.

(d) An employee or volunteer of a general residential operation, child-placing agency, foster home, or foster group home shall report any serious incident directly to the department if the incident involves a child under the care of the operation, agency, or home.

(e) A foster parent shall report any serious incident directly to the department if the incident involves a child under the care of the parent.

(f) The executive commissioner by rule shall prescribe:

(1) procedures governing reporting required under this section; and

(2) the manner in which a report under this section must be provided.

(g) The department shall implement this section using existing appropriations.

Added by Acts 2005, 79th Leg., Ch. [268](#), Sec. 1.106, eff. September 1, 2005.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. [720](#), Sec. 12, eff. September 1, 2009.

Sec. 42.064. INFORMATION REGARDING GANG-FREE ZONES. Each day-care center shall, in accordance with rules adopted by the executive commissioner, distribute to parents and guardians of children who attend the center information on gang-free zones and the consequences of engaging in organized criminal activity within those zones.

Added by Acts 2009, 81st Leg., R.S., Ch. [1130](#), Sec. 6, eff. June 19, 2009.

Sec. 42.065. ADMINISTERING MEDICATION. (a) In this section, "medication" means a drug that may be obtained with or without a prescription, excluding a topical ointment obtained without a prescription.

(b) This section applies only to a day-care center, group day-care home, before-school or after-school program, school-age program, or family home regardless of whether the facility or program is licensed, registered, or listed.

(c) A director, owner, operator, caretaker, employee, or volunteer of a child-care facility subject to this section may not administer a medication to a child unless:

(1) the child's parent or guardian has submitted to the child-care facility a signed and dated document that

authorizes the facility to administer the medication for not longer than one year; and

(2) the authorized medication:

(A) is administered as stated on the label directions or as amended in writing by a practitioner, as defined by Section 551.003, Occupations Code; and

(B) is not expired.

(d) Notwithstanding Subsection (c)(1), a director, owner, operator, caretaker, employee, or volunteer of a child-care facility subject to this section may administer medication to a child under this section without a signed authorization if the child's parent or guardian:

(1) submits to the child-care facility an authorization in an electronic format that is capable of being viewed and saved; or

(2) authorizes the child-care facility by telephone to administer a single dose of a medication.

(e) An authorization under Subsection (d)(1) expires on the first anniversary of the date the authorization is provided to the child-care facility.

(f) This section does not apply to a person that administers a medication to a child in a medical emergency to prevent the death or serious bodily injury of the child if the medication is administered as prescribed, directed, or intended.

(g) A person commits an offense if the person administers a medication to a child in violation of this section. If conduct constituting an offense under this section also constitutes an offense under a section of the Penal Code, the actor may be prosecuted under either section or both sections.

(h) An offense under this section is a Class A misdemeanor.

Added by Acts 2011, 82nd Leg., R.S., Ch. [762](#), Sec. 2, eff. September 1, 2011.

SUBCHAPTER D. REMEDIES

Sec. 42.0705. RANGE OF PENALTIES. The department shall revoke or suspend a license or registration, place on probation a person whose license or registration has been suspended, or reprimand a license holder or registration holder for a violation of this chapter or a rule of the board. If a license or registration suspension is probated, the department may require the license holder or registration holder to:

- (1) report regularly to the department on matters that are the basis of the probation;
- (2) limit services to the areas prescribed by the department;
- (3) continue or review professional education until the license holder or registration holder attains a degree of skill satisfactory to the department in those areas that are the basis of the probation; or
- (4) take corrective action relating to the violation on which the probation is based.

Added by Acts 1997, 75th Leg., ch. 1022, Sec. 34, eff. Sept. 1, 1997.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. [1406](#), Sec. 40, eff. September 1, 2007.

Sec. 42.071. SUSPENSION, EVALUATION, OR PROBATION OF LICENSE OR REGISTRATION. (a) The department may suspend the license of a facility or the registration of a family home that has temporarily ceased operation but has definite plans for starting operations again within the time limits of the issued license or registration.

(b) The department may suspend a facility's license or a family home's registration for a definite period

rather than deny or revoke the license or registration if the department finds repeated noncompliance with standards that do not endanger the health and safety of children. To qualify for license or registration suspension under this subsection, a facility or family home must suspend its operations and show that standards can be met within the suspension period.

(c) If the department finds a facility or family home is in repeated noncompliance with standards that do not endanger the health and safety of children, the department may schedule the facility or family home for evaluation or probation rather than suspend or revoke the facility's license or the family home's registration. The department shall provide notice to the facility or family home of the evaluation or probation and of the items of noncompliance not later than the 10th day before the evaluation or probation period begins. The department shall designate a period of not less than 30 days during which the facility or family home will remain under evaluation. During the evaluation or probation period, the facility or family home must correct the items that were in noncompliance and report the corrections to the department for approval.

(d) The department shall revoke the license of a facility or the registration of a family home that does not comply with standards at the end of a license or registration suspension.

(e) The department may suspend or revoke the license of a facility or the registration of a family home that does not correct items that were in noncompliance or that does not comply with required standards within the applicable evaluation or probation period.

Acts 1979, 66th Leg., p. 2365, ch. 842, art. 1, Sec. 1, eff. Sept. 1, 1979. Amended by Acts 1983, 68th Leg., p. 111, ch. 23, Sec. 1, eff. Aug. 29, 1983; Acts 1987, 70th Leg., ch. 1081, Sec. 2, eff. Sept. 1, 1987; Acts 1997,

75th Leg., ch. 1022, Sec. 35, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1063, Sec. 7, eff. Sept. 1, 1997.

Sec. 42.0715. COSTS CHARGED TO FACILITY OR FAMILY HOME. The department may charge a facility or family home for reimbursement of the reasonable cost of services provided by the department in formulating, monitoring, and implementing a corrective action plan for the facility or family home.

Added by Acts 1997, 75th Leg., ch. 1022, Sec. 36, eff. Sept. 1, 1997.

Sec. 42.072. LICENSE, LISTING, OR REGISTRATION DENIAL, SUSPENSION, OR REVOCATION. (a) The department may suspend, deny, revoke, or refuse to renew the license, listing, registration, or certification of approval of a facility or family home that does not comply with the requirements of this chapter, the standards and rules of the department, or the specific terms of the license, listing, registration, or certification. The department may revoke the probation of a person whose license, listing, or registration is suspended if the person violates a term of the conditions of probation.

(b) If the department proposes to take an action under Subsection (a), the person is entitled to a hearing conducted by the State Office of Administrative Hearings. Proceedings for a disciplinary action are governed by the administrative procedure law, Chapter 2001, Government Code. An action under this section, including a revocation of a person's license, is a contested case as defined by Chapter 2001, Government Code, and is subject to judicial review under the substantial evidence rule in accordance with that chapter. Rules of practice adopted by the board under Section 2001.004, Government Code,

applicable to the proceedings for a disciplinary action may not conflict with rules adopted by the State Office of Administrative Hearings.

(c) The department may not issue a license, listing, registration, or certification to a person whose license, listing, registration, or certification is revoked or whose application for a license, listing, registration, or certification is denied for a substantive reason under this chapter before the fifth anniversary of the date on which the revocation takes effect by department or court order or the decision to deny the application is final.

(c-1) A person described by Subsection (c) may not be a controlling person in any facility or family home during the five-year period in which the person is ineligible to receive a license, listing, registration, or certification.

(d) The department by rule may provide for denial of an application or renewal for a licensed facility or for listing or registering a family home or may revoke a facility's license or a family home's listing or registration based on findings of background or criminal history as a result of a background or criminal history check.

(e) A person may continue to operate a facility or family home during an appeal of a license, listing, or registration revocation unless the operation of the facility or family home poses a risk to the health or safety of children. The executive commissioner shall by rule establish the criteria for determining whether the operation of a facility or family home poses a risk to the health or safety of children. The department shall notify the facility or family home of the criteria the department used to determine that the operation of the facility or family home poses a risk to health or safety and that the facility or family home may not operate. A person who has been notified by the department that the facility or home may not operate under this section may seek injunctive

relief from a district court in Travis County or in the county in which the facility or home is located to allow operation during the pendency of an appeal. The court may grant injunctive relief against the agency's action only if the court finds that the child-care operation does not pose a health or safety risk to children. A court granting injunctive relief under this subsection shall have no other jurisdiction over an appeal of final agency action unless conferred by Chapter 2001, Government Code.

(f) The department shall deny an application or renewal for listing or registering a family home or shall revoke a family home's listing or registration if the results of a background or criminal history check conducted by the department under Section 42.056 show that a person has been convicted of an offense under Title 5, or 6, Penal Code, or Chapter 43, Penal Code.

(g) Notwithstanding Subsection (c), the department may refuse to issue a license, listing, registration, or certification to:

- (1) a person whose license, listing, registration, or certification for a facility or family home was revoked by the department or by court order;
- (2) a person who was a controlling person of a facility or family home at the time conduct occurred that resulted in the revocation of the license, listing, registration, or certification of the facility or family home;
- (3) a person who voluntarily closed a facility or family home or relinquished the person's license, listing, registration, or certification after:
 - (A) the department took an action under Subsection (a) in relation to the facility, family home, or person; or
 - (B) the person received notice that the department intended to take an action under Subsection (a) in relation to the facility, family home, or person; or

(4) a person who was a controlling person of a facility or family home at the time conduct occurred that resulted in the closure of the facility or family home or relinquishment of the license, listing, registration, or certification in the manner described by Subdivision (3).

Acts 1979, 66th Leg., p. 2365, ch. 842, art. 1, Sec. 1, eff. Sept. 1, 1979. Amended by Acts 1983, 68th Leg., p. 111, ch. 23, Sec. 2, eff. Aug. 29, 1983; Acts 1993, 73rd Leg., ch. 977, Sec. 1, eff. Sept. 1, 1993; Acts 1995, 74th Leg., ch. 76, Sec. 5.95(49), eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1022, Sec. 37, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1063, Sec. 7, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1217, Sec. 13, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 218, Sec. 11, eff. Sept. 1, 2001.

Amended by:

Acts 2005, 79th Leg., Ch. [268](#), Sec. 1.107, eff. September 1, 2005.

Acts 2005, 79th Leg., Ch. [526](#), Sec. 3, eff. September 1, 2005.

Acts 2009, 81st Leg., R.S., Ch. [720](#), Sec. 13, eff. September 1, 2009.

Acts 2011, 82nd Leg., R.S., Ch. [1082](#), Sec. 8, eff. September 1, 2011.

Sec. 42.073. EMERGENCY SUSPENSION AND CLOSURE OF A FACILITY OR FAMILY HOME. (a) The department shall suspend a facility's license or a family home's listing or registration and order the immediate closing of the facility or family home if:

(1) the department finds the facility or family home is operating in violation of the applicable standards prescribed by this chapter; and

(2) the violation creates an immediate threat to the health and safety of the children attending or residing in the facility or family home.

(b) An order suspending a license, listing, or registration and an order closing a facility or family home under this section is immediately effective on the date on which the holder of the license, listing, or registration receives written notice or on a later date specified in the order.

(c) An order is valid for 30 days after the effective date of the order.

Acts 1979, 66th Leg., p. 2366, ch. 842, art. 1, Sec. 1, eff. Sept. 1, 1979. Amended by Acts 1993, 73rd Leg., ch. 977, Sec. 2, eff. Sept. 1, 1993; Acts 1995, 74th Leg., ch. 76, Sec. 5.95(49), eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1022, Sec. 38, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1063, Sec. 7, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1217, Sec. 14, eff. Sept. 1, 1997. Amended by:

Acts 2005, 79th Leg., Ch. [268](#), Sec. 1.108, eff. September 1, 2005.

Acts 2009, 81st Leg., R.S., Ch. [720](#), Sec. 14, eff. September 1, 2009.

Sec. 42.074. INJUNCTIVE RELIEF. (a) The department may file suit in a district court in Travis County or in the county in which a facility or family home is located for assessment and recovery of a civil penalty under Section 42.075, for injunctive relief, including a temporary restraining order, or for both a civil penalty and injunctive relief when it appears that a person:

(1) has violated, is violating, or is threatening to violate the licensing, certification, listing, or registration requirements of this chapter or

the department's licensing, certification, listing, or registration rules and standards; or

(2) knowingly fails to meet or maintain an exemption authorized under Section 42.041 and engages in activities that require a license or registration.

(b) The district court shall grant the injunctive relief the facts may warrant.

(c) At the department's request, the attorney general or the county or district attorney of the county in which the facility or family home is located shall conduct a suit in the name of the State of Texas for injunctive relief, to recover the civil penalty, or for both injunctive relief and civil penalties as authorized by Subsection (a).

(d) Injunctive relief provided by this section is in addition to any other action, proceeding, or remedy authorized by law. It is not necessary to allege or prove in an action filed under this section that an adequate remedy at law does not exist or that substantial or irreparable harm would result from the continued violation.

(e) The department is not required to give an appeal bond in an action arising under this section.

Acts 1979, 66th Leg., p. 2367, ch. 842, art. 1, Sec. 1, eff. Sept. 1, 1979. Amended by Acts 1987, 70th Leg., ch. 1052, Sec. 4.09, eff. Sept. 1, 1987; Acts 1997, 75th Leg., ch. 1022, Sec. 39, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1063, Sec. 7, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1217, Sec. 15, eff. Sept. 1, 1997.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. [720](#), Sec. 15, eff. September 1, 2009.

Sec. 42.075. CIVIL PENALTY. (a) A person is subject to a civil penalty of not less than \$50 nor more than \$100 for each day of violation and for each act of violation if the person:

(1) threatens serious harm to a child in a facility or family home by violating a provision of this chapter or a department rule or standard;

(2) violates a provision of this chapter or a department rule or standard three or more times within a 12-month period;

(3) places a public advertisement for an unlicensed facility or an unlisted or unregistered family home;

(4) knowingly fails to meet or maintain any criterion of an exemption authorized under Section 42.041 and engages in activities that require a license or registration; or

(5) fails to inform the department of a change in status and the person knows the change in status requires the person to be licensed or registered under this chapter.

(b) The civil penalty authorized by this section is cumulative and in addition to the criminal penalties and injunctive relief provided by this chapter.

Acts 1979, 66th Leg., p. 2367, ch. 842, art. 1, Sec. 1, eff. Sept. 1, 1979. Amended by Acts 1997, 75th Leg., ch. 1022, Sec. 40, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1063, Sec. 7, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1217, Sec. 16, eff. Sept. 1, 1997.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. [720](#), Sec. 16, eff. September 1, 2009.

Sec. 42.076. CRIMINAL PENALTIES. (a) A person who operates a child-care facility or child-placing agency without a license commits a Class B misdemeanor.

(b) A person who operates a family home without a required listing or registration commits a Class B misdemeanor.

(c) A person who places a public advertisement for an unlicensed facility or an unlisted or unregistered family home commits a Class C misdemeanor.

(d) It is not an offense under this section if a professional provides legal or medical services to:

(1) a parent who identifies the prospective adoptive parent and places the child for adoption without the assistance of the professional; or

(2) a prospective adoptive parent who identifies a parent and receives placement of a child for adoption without assistance of the professional.

Acts 1979, 66th Leg., p. 2367, ch. 842, art. 1, Sec. 1, eff. Sept. 1, 1979. Amended by Acts 1985, 69th Leg., ch. 915, Sec. 2, eff. Sept. 1, 1985; Acts 1995, 74th Leg., ch. 411, Sec. 2, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 664, Sec. 5, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1022, Sec. 41, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1063, Sec. 7, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1217, Sec. 17, eff. Sept. 1, 1997.

Sec. 42.0761. CRIMINAL PENALTY FOR OPERATING DAY-CARE CENTER WITHOUT QUALIFIED DIRECTOR. (a) An owner or operator of a day-care center commits an offense if the owner or operator knowingly operates the day-care center:

(1) without a director who meets the qualifications of a director prescribed by department rules; or

(2) without the routine presence during the day-care center's hours of operation of a director described by Subdivision (1).

(b) An offense under this section is a Class B misdemeanor.

Added by Acts 2007, 80th Leg., R.S., Ch. [1406](#), Sec. 41, eff. September 1, 2007.

Sec. 42.077. NOTICE OF ACTION AGAINST FACILITY OR FAMILY HOME. (a) If the department revokes or suspends a facility's license or a family home's listing or registration, the department shall publish notice of this action:

(1) in a newspaper of general circulation in the county in which the facility or family home is located; or

(2) on the department's Internet website along with other information regarding child-care services.

(a-1) If notice is published in a newspaper under Subsection (a), the newspaper shall place the notice in the section in which advertisements for day-care services are normally published.

(b) If a person who operates a facility or family home that has had its license, listing, or registration revoked or suspended later applies for a new license, listing, or registration to operate the same facility or family home, the department shall charge the person an application fee in an amount necessary to reimburse the department for the cost of the notice relating to that facility or family home.

(c) The department shall pay for publication of the notice from funds appropriated to the department for licensing and regulating child-care facilities and for listing, registering, and regulating family homes and from appeal and application fees collected under Subsection (b) and appropriated to the department.

(d) A facility or family home that has its license, listing, or registration revoked or suspended shall mail notification of this action by certified mail to the parents or guardian of the child served by the facility or family home. The facility or family home shall mail the notification within five days of the effective date of the

revocation or suspension of the license, listing, or registration.

(d-1) If the department determines that the license of a residential child-care facility should be revoked or suspended, the facility shall mail notification of the action or proposed action by certified mail to a parent of each child served by the facility, if the person's parental rights have not been terminated, and to the child's managing conservator, as appropriate. The residential child-care facility shall mail the notification not later than the fifth day after the date the facility is notified of the department's determination that revocation or suspension of the license is appropriate.

(e) When the most recent federal census shows that more than one-half of the population in a municipality or in a commissioners precinct in a county in which a family home whose listing or registration has been revoked or suspended is located is of Hispanic origin or Spanish-speaking, the department shall publish the notice under Subsection (a) in both English and Spanish.

Amended by Acts 1997, 75th Leg., ch. 1022, Sec. 42, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1063, Sec. 7, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1217, Sec. 18, eff. Sept. 1, 1997.

Amended by:

Acts 2005, 79th Leg., Ch. [268](#), Sec. 1.109, eff. September 1, 2005.

Acts 2009, 81st Leg., R.S., Ch. [720](#), Sec. 17, eff. September 1, 2009.

Sec. 42.078. ADMINISTRATIVE PENALTY. (a) The department may impose an administrative penalty against a facility or family home licensed, registered, or listed under this chapter that violates this chapter or a rule or order adopted under this chapter. In addition, the

department may impose an administrative penalty against a residential child-care facility or a controlling person of a residential child-care facility if the facility or controlling person:

(1) violates a term of a license or registration issued under this chapter;

(2) makes a statement about a material fact that the facility or person knows or should know is false:

(A) on an application for the issuance of a license or registration or an attachment to the application; or

(B) in response to a matter under investigation;

(3) refuses to allow a representative of the department to inspect:

(A) a book, record, or file required to be maintained by the facility; or

(B) any part of the premises of the facility;

(4) purposefully interferes with the work of a representative of the department or the enforcement of this chapter; or

(5) fails to pay a penalty assessed under this chapter on or before the date the penalty is due, as determined under this section.

(a-1) Nonmonetary, administrative penalties or remedies, including but not limited to corrective action plans, probation, and evaluation periods, shall be imposed when appropriate before monetary penalties.

(b) Each day a violation continues or occurs is a separate violation for purposes of imposing a penalty. The penalty for a violation may be in an amount not to exceed the following limits, based on the maximum number of children for whom the facility or family home was authorized to provide care or the number of children under

the care of the child-placing agency when the violation occurred:

(1) for violations that occur in a facility other than a residential child-care facility:

Number of children	Maximum amount of penalty
20 or less	\$50
21-40	\$60
41-60	\$70
61-80	\$80
81-100	\$100
More than 100	\$150

(2) for violations that occur in a residential child-care facility:

Number of children	Maximum amount of penalty
20 or less	\$100
21-40	\$150
41-60	\$200
61-80	\$250
81-100	\$375
More than 100	\$500

(c) In addition to the number of children, the amount of the penalty shall be based on:

(1) the seriousness of the violation, including the nature, circumstances, extent, and gravity of any prohibited acts, and the hazard or potential hazard created to the health, safety, or economic welfare of the public;

(2) the economic harm to property or the environment caused by the violation;

(3) the history of previous violations;

(4) the amount necessary to deter future violations;

(5) efforts to correct the violation; and

(6) any other matter that justice may require.

(d) Monetary penalties shall not be assessed for violations that are the result of clerical errors.

(e) If the department determines that a violation has occurred, the department may issue a recommendation on the

imposition of a penalty, including a recommendation on the amount of the penalty.

(f) Within 14 days after the date the recommendation is issued, the department shall give written notice of the recommendation to the person owning or operating the facility or family home or to the controlling person, if applicable. The notice may be given by certified mail. The notice must include a brief summary of the alleged violation and a statement of the amount of the recommended penalty and must inform the person that the person has a right to a hearing on the occurrence of the violation, the amount of the penalty, or both the occurrence of the violation and the amount of the penalty.

(g) Within 20 days after the date the person receives the notice, the person in writing may accept the determination and recommended penalty of the department or may make a written request for a hearing on the occurrence of the violation, the amount of the penalty, or both the occurrence of the violation and the amount of the penalty.

(h) If the person accepts the determination and recommended penalty of the department or fails to respond to the notice in a timely manner, the department shall issue an order and impose the recommended penalty.

(i) If the person requests a hearing, the department shall set a hearing and give notice of the hearing to the person. The hearing shall be held by an administrative law judge of the State Office of Administrative Hearings. The administrative law judge shall make findings of fact and conclusions of law and issue a final decision finding that a violation has occurred and imposing a penalty or finding that no violation occurred.

(j) The notice of the administrative law judge's order given to the person under Chapter 2001, Government Code, must include a statement of the right of the person to judicial review of the order.

(k) Within 30 days after the date the administrative law judge's order becomes final as provided by Section 2001.144, Government Code, the person shall:

(1) pay the amount of the penalty;

(2) pay the amount of the penalty and file a petition for judicial review contesting the occurrence of the violation, the amount of the penalty, or both the occurrence of the violation and the amount of the penalty; or

(3) without paying the amount of the penalty, file a petition for judicial review contesting the occurrence of the violation, the amount of the penalty, or both the occurrence of the violation and the amount of the penalty.

(l) Within the 30-day period, a person who acts under Subsection (k)(3) may:

(1) stay enforcement of the penalty by:

(A) paying the amount of the penalty to the court for placement in an escrow account; or

(B) giving to the court a supersedeas bond that is approved by the court for the amount of the penalty and that is effective until all judicial review of the order is final; or

(2) request the court to stay enforcement of the penalty by:

(A) filing with the court a sworn affidavit of the person stating that the person is financially unable to pay the amount of the penalty and is financially unable to give the supersedeas bond; and

(B) giving a copy of the affidavit to the department by certified mail.

(m) On receipt of a copy of an affidavit under Subsection (l)(2), the department may file with the court, within five days after the date the copy is received, a contest to the affidavit. The court shall hold a hearing on the facts alleged in the affidavit as soon as

practicable and shall stay the enforcement of the penalty on finding that the alleged facts are true. The person who files an affidavit has the burden of proving that the person is financially unable to pay the amount of the penalty and to give a supersedeas bond.

(n) If the person does not pay the amount of the penalty and the enforcement of the penalty is not stayed, the department may refer the matter to the attorney general for collection of the amount of the penalty.

(o) Judicial review of the order:

(1) is instituted by filing a petition as provided by Subchapter G, Chapter 2001, Government Code; and

(2) is under the substantial evidence rule.

(p) If the court sustains the occurrence of the violation, the court may uphold or reduce the amount of the penalty and order the person to pay the full or reduced amount of the penalty. If the court does not sustain the occurrence of the violation, the court shall order that no penalty is owed.

(q) When the judgment of the court becomes final, the court shall proceed under this subsection. If the person paid the amount of the penalty and if that amount is reduced or is not upheld by the court, the court shall order that the appropriate amount plus accrued interest be remitted to the person. The rate of the interest is the rate charged on loans to depository institutions by the New York Federal Reserve Bank, and the interest shall be paid for the period beginning on the date the penalty was paid and ending on the date the penalty is remitted. If the person gave a supersedeas bond and if the amount of the penalty is not upheld by the court, the court shall order the release of the bond. If the person gave a supersedeas bond and if the amount of the penalty is reduced, the court shall order the release of the bond after the person pays the amount.

(r) A penalty collected under this section shall be sent to the comptroller for deposit in the general revenue fund.

(s) All proceedings under this section are subject to Chapter 2001, Government Code.

Added by Acts 1997, 75th Leg., ch. 1022, Sec. 43, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 1129, Sec. 4, eff. Sept. 1, 1999.

Amended by:

Acts 2005, 79th Leg., Ch. [268](#), Sec. 1.110(a), eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. [1406](#), Sec. 42, eff. September 1, 2007.

Acts 2011, 82nd Leg., R.S., Ch. [1082](#), Sec. 9, eff. September 1, 2011.

SUBCHAPTER F. REGULATION OF EMPLOYER-BASED DAY-CARE FACILITIES

Sec. 42.151. DEFINITIONS. In this subchapter:

(1) "Employer-based day-care facility" means a day-care facility that is:

(A) operated by a small employer to provide care to not more than 12 children of the employer's employees; and

(B) located on the employer's premises.

(2) "Small employer" means a corporation, partnership, sole proprietorship, or other legal entity that employs fewer than 100 full-time employees.

Added by Acts 2007, 80th Leg., R.S., Ch. [1414](#), Sec. 2, eff. September 1, 2007.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. [89](#), Sec. 1, eff. September 1, 2009.

Sec. 42.152. PERMIT REQUIRED. (a) Except as provided by Subsection (b), a small employer may not operate an employer-based day-care facility unless the employer holds a permit issued by the department under this subchapter.

(b) A small employer is not required to obtain a permit to operate an employer-based day-care facility under this subchapter if the employer holds a license to operate a child-care facility that is issued by the department under Subchapter C. An employer that holds that license must comply with the applicable provisions of Subchapter C, the applicable rules of the department, and any specific terms of the license.

(c) Notwithstanding any other law, including Section 42.041, a small employer that holds a permit issued under this subchapter is not required to hold a license under Subchapter C to operate an employer-based day-care facility.

Added by Acts 2007, 80th Leg., R.S., Ch. [1414](#), Sec. 2, eff. September 1, 2007.

Sec. 42.153. APPLICATION; INITIAL INSPECTION AND BACKGROUND AND CRIMINAL HISTORY CHECKS. (a) The department shall develop and implement a streamlined procedure by which a small employer may apply for and be issued a permit to operate an employer-based day-care facility. The employer must submit an application for the permit to the department on a form prescribed by the department.

(b) Except as provided by Section 42.154, on receipt of a small employer's application for a permit, the department shall:

(1) conduct an initial inspection of the employer-based day-care facility to ensure that the

employer is able to comply with the provisions of this subchapter and that the facility complies with the fire safety and sanitation standards of the political subdivision in which the facility is located; and

(2) conduct a background and criminal history check on each prospective caregiver whose name is submitted as required by Section 42.159(a).

(c) The department may charge an applicant an administrative fee in a reasonable amount that is sufficient to cover the costs of the department in processing the application.

(d) The department shall process an application not later than the 30th day after the date the department receives all of the required information.

Added by Acts 2007, 80th Leg., R.S., Ch. [1414](#), Sec. 2, eff. September 1, 2007.

Sec. 42.154. CONVERSION OF LICENSE. (a) The department shall develop and implement a procedure by which a small employer that holds a license to operate a child-care facility that is issued under Subchapter C before September 1, 2007, may convert the license to a permit under this subchapter. The procedure must include an abbreviated application form for use by the employer in applying for the permit.

(b) The department may waive the requirements under Section 42.153(b) for an initial inspection or background and criminal history checks with respect to a facility operated by a small employer seeking to convert a license to a permit under this section if the department determines that previously conducted inspections or background and criminal history checks, as applicable, are sufficient to ensure the safety of children receiving care at the facility.

Added by Acts 2007, 80th Leg., R.S., Ch. [1414](#), Sec. 2, eff. September 1, 2007.

Sec. 42.155. PARENT OR GUARDIAN WITHIN IMMEDIATE VICINITY. An employer-based day-care facility operating under this subchapter may provide care only for a child whose parent or guardian:

- (1) is an employee of the small employer to which the permit to operate the facility was issued;
- (2) works within the same building in which the facility is located; and
- (3) is away from that building only for limited periods, as defined by department rules, during the hours the child is receiving care.

Added by Acts 2007, 80th Leg., R.S., Ch. [1414](#), Sec. 2, eff. September 1, 2007.

Sec. 42.156. CAREGIVER-TO-CHILD RATIO. An employer-based day-care facility operating under this subchapter shall maintain a caregiver-to-child ratio of at least one caregiver to every four children receiving care.

Added by Acts 2007, 80th Leg., R.S., Ch. [1414](#), Sec. 2, eff. September 1, 2007.

Sec. 42.157. MINIMUM STANDARDS. The department shall encourage an employer-based day-care facility operating under this subchapter to comply with the minimum standards applicable to a child-care facility licensed under Subchapter C.

Added by Acts 2007, 80th Leg., R.S., Ch. [1414](#), Sec. 2, eff. September 1, 2007.

Sec. 42.158. CAREGIVER QUALIFICATIONS. A caregiver employed by an employer-based day-care facility operating under this subchapter must:

- (1) be at least 18 years of age;
- (2) have received a high school diploma or its equivalent, as determined by the department;
- (3) receive at least the minimum training required for an employee of a licensed day-care center as prescribed by department rules in accordance with Sections 42.042(p) and 42.0421;
- (4) have a Child Development Associate or Certified Child-Care Professional credential or an equivalent credential, as determined by the department; and
- (5) not have been precluded from providing direct care or having direct access to a child by the department based on the results of a background and criminal history check conducted under Section 42.159.

Added by Acts 2007, 80th Leg., R.S., Ch. [1414](#), Sec. 2, eff. September 1, 2007.

Sec. 42.159. BACKGROUND AND CRIMINAL HISTORY CHECKS REQUIRED. (a) In accordance with rules adopted by the executive commissioner, a small employer shall, when applying for a permit under this subchapter and at least once during each 24 months after receiving that permit, submit to the department for use in conducting background and criminal history checks:

- (1) the name of any director of the employer-based day-care facility and the name of each caregiver employed at the facility to provide care to children; and
- (2) the name of each person 14 years of age or older who will regularly or frequently be staying or working at the facility while children are being provided care.

(b) The small employer shall also submit to the department for use in conducting background and criminal history checks the name of each prospective caregiver who will provide care to children at the facility or other prospective employee who will have direct access to those children.

(c) The department shall conduct background and criminal history checks using:

(1) the information provided under Subsection (a) or (b), as applicable;

(2) the information made available by the Department of Public Safety under Section 411.114, Government Code, or by the Federal Bureau of Investigation or other criminal justice agency under Section 411.087, Government Code; and

(3) the department's records of reported abuse and neglect.

(d) For purposes of Sections 411.114 and 411.087, Government Code:

(1) a small employer that applies for a permit is considered an applicant for a license under this chapter; and

(2) an employer-based day-care facility operating under a permit issued under this subchapter is considered a child-care facility licensed under this chapter.

(e) The department shall require the small employer to pay to the department a fee in an amount not to exceed the administrative costs the department incurs in conducting a background and criminal history check under this section.

Added by Acts 2007, 80th Leg., R.S., Ch. [1414](#), Sec. 2, eff. September 1, 2007.

Sec. 42.160. APPLICABILITY OF OTHER LAW. Except as otherwise provided by this subchapter, an employer-based day-care facility operating under this subchapter is not a child-care facility, as defined by Section 42.002, and the provisions of this chapter and the department's rules that apply to a child-care facility licensed under Subchapter C do not apply to an employer-based day-care facility.

Added by Acts 2007, 80th Leg., R.S., Ch. [1414](#), Sec. 2, eff. September 1, 2007.

Sec. 42.161. REPORTING OF INCIDENTS AND VIOLATIONS. An employer-based day-care facility operating under this subchapter and each employee of that facility are subject to the reporting requirements of Section 42.063 to the same extent a licensed child-care facility and employees of licensed child-care facilities are subject to that section.

Added by Acts 2007, 80th Leg., R.S., Ch. [1414](#), Sec. 2, eff. September 1, 2007.

Sec. 42.162. AUTHORITY TO CONDUCT LIMITED INSPECTIONS. (a) The department may inspect an employer-based day-care facility operating under this subchapter if the department receives a complaint or report of child abuse or neglect alleged to have occurred at the facility.

(b) If the department inspects an employer-based day-care facility as authorized by this section, the department may require the small employer operating the facility to take appropriate corrective action the department determines necessary to comply with the requirements of this subchapter and to ensure the health and safety of children receiving care at the facility. The department may continue to inspect the facility until corrective action is taken and for a reasonable time after that action is taken to ensure continued compliance.

(c) The department may charge a small employer issued a permit under this subchapter a reasonable fee for the cost of services provided by the department in formulating, monitoring, and implementing a corrective action plan under this section.

Added by Acts 2007, 80th Leg., R.S., Ch. [1414](#), Sec. 2, eff. September 1, 2007.

Sec. 42.163. SUSPENSION, DENIAL, OR REVOCATION. (a) The department may suspend, deny, or revoke a permit issued to a small employer under this subchapter if the employer does not comply with the provisions of this subchapter or any applicable department rules.

(b) The department may refuse to issue a permit under this subchapter to a small employer that had its authorization to operate a child-care facility issued under another subchapter revoked, suspended, or not renewed for a reason relating to child health or safety as determined by the department.

(c) An employer-based day-care facility is subject to the emergency suspension of its permit to operate and to closure under Section 42.073 to the same extent and in the same manner as a licensed child-care facility is subject to that section.

Added by Acts 2007, 80th Leg., R.S., Ch. [1414](#), Sec. 2, eff. September 1, 2007.

SUBCHAPTER G. REGULATION OF TEMPORARY SHELTER DAY-CARE FACILITIES

Sec. 42.201. DEFINITIONS. In this subchapter:

(1) "Shelter" means a supervised publicly or privately operated shelter or other facility that is designed to provide temporary living accommodations to

individuals and families, including a family violence shelter, a homeless shelter, and an emergency shelter. The term does not include a temporary facility established in response to a natural or other disaster.

(2) "Shelter care" means child care that is provided:

(A) to seven or more children under 14 years of age who temporarily reside at a shelter each with an adult who is related to the child by blood or who is the child's managing conservator;

(B) by a person who is not a temporary resident of a shelter; and

(C) while the adult described by Paragraph (A) is away from the shelter.

(3) "Shelter day-care facility" means a shelter that provides shelter care for not more than 24 hours a day, but at least four hours a day, three or more days a week.

Added by Acts 2011, 82nd Leg., R.S., Ch. [1082](#), Sec. 10, eff. September 1, 2012.

Sec. 42.202. PERMIT REQUIRED. (a) Except as provided by Subsections (b) and (e), a shelter may not provide shelter care unless the shelter holds a permit issued by the department under this subchapter.

(b) A shelter is not required to obtain a permit to provide shelter care under this subchapter if the shelter holds a license to operate a child-care facility that is issued by the department under Subchapter C. A shelter that holds that license must comply with the applicable provisions of Subchapter C, the applicable rules of the department, and any specific terms of the license.

(c) Notwithstanding any other law, including Section 42.041, a shelter that holds a permit issued under this

subchapter is not required to hold a license under Subchapter C to operate a shelter day-care facility.

(d) The department may not issue a permit under this subchapter to a shelter that provides child care to a child who is not a resident of the shelter. A shelter that provides child care described by this subsection must hold a license to operate a child-care facility issued under Subchapter C.

(e) A shelter is not required to obtain a permit under this subchapter or a license under Subchapter C if the shelter provides shelter care for:

- (1) less than four hours a day or for less than three days a week; or
- (2) six or fewer children.

Added by Acts 2011, 82nd Leg., R.S., Ch. [1082](#), Sec. 10, eff. September 1, 2012.

Sec. 42.203. APPLICATION; INITIAL INSPECTION AND BACKGROUND AND CRIMINAL HISTORY CHECKS. (a) The department shall develop and implement a streamlined procedure by which a shelter may apply for and be issued a permit to operate a shelter day-care facility. The shelter must submit an application for the permit to the department on a form prescribed by the department.

(b) Except as provided by Section 42.204, on receipt of a shelter's application for a permit, the department shall:

- (1) conduct an initial inspection of the shelter day-care facility to ensure that the shelter is able to comply with the provisions of this subchapter and that the facility complies with the fire safety and sanitation standards of the political subdivision in which the facility is located; and

(2) conduct a background and criminal history check on each prospective caregiver whose name is submitted as required by Section 42.206(a).

(c) The department may charge an applicant an administrative fee in a reasonable amount that is sufficient to cover the costs of the department in processing the application.

(d) The department shall process an application not later than the 30th day after the date the department receives all of the required information.

Added by Acts 2011, 82nd Leg., R.S., Ch. [1082](#), Sec. 10, eff. September 1, 2012.

Sec. 42.204. CONVERSION OF LICENSE. (a) The department shall develop and implement a procedure by which a shelter that holds a license to operate a child-care facility that is issued under Subchapter C before September 1, 2012, may convert the license to a permit under this subchapter. The procedure must include an abbreviated application form for use by the shelter in applying for the permit.

(b) The department may waive the requirements under Section 42.203(b) for an initial inspection or background and criminal history checks with respect to a licensed child-care facility seeking to convert a license to a permit under this section if the department determines that previously conducted inspections or background and criminal history checks, as applicable, are sufficient to ensure the safety of children receiving care at the facility.

Added by Acts 2011, 82nd Leg., R.S., Ch. [1082](#), Sec. 10, eff. September 1, 2012.

Sec. 42.205. CAREGIVER QUALIFICATIONS AND TRAINING; CHILD-TO-CAREGIVER RATIOS. (a) The executive commissioner shall adopt rules that specify the minimum:

(1) qualifications and training required for a person providing child care in a shelter day-care facility; and

(2) child-to-caregiver ratios in a shelter day-care facility.

(b) In adopting rules under this section, the executive commissioner shall consider:

(1) the special circumstances and needs of families that seek temporary shelter; and

(2) the role of a shelter in assisting and supporting families in crisis.

Added by Acts 2011, 82nd Leg., R.S., Ch. [1082](#), Sec. 10, eff. September 1, 2012.

Sec. 42.206. BACKGROUND AND CRIMINAL HISTORY CHECKS REQUIRED. (a) In accordance with rules adopted by the executive commissioner, a shelter shall, when applying for a permit under this subchapter and at least once during each 24-month period after receiving that permit, submit to the department for use in conducting background and criminal history checks:

(1) the name of any director or prospective director of the shelter day-care facility and the name of each caregiver or prospective caregiver employed at the facility to provide care to children;

(2) the name of each person counted in child-to-caregiver ratios at the shelter day-care facility; and

(3) the name of each person 14 years of age or older who will have unsupervised access to one or more children while in the care of the shelter day-care facility.

(b) In addition to the requirements of Subsection (a), a shelter shall submit a complete set of fingerprints of each person required to undergo a criminal history check under Subsection (a) if:

(1) the person has lived outside the state at any time during the previous five years; or

(2) the shelter has reason to suspect that the person has a criminal history in another state.

(c) The department shall conduct background and criminal history checks using:

(1) the information provided under Subsection (a) or (b), as applicable;

(2) the information made available by the Department of Public Safety under Section 411.114, Government Code, or by the Federal Bureau of Investigation or another criminal justice agency under Section 411.087, Government Code; and

(3) the department's records of reported abuse and neglect.

(d) For purposes of Sections 411.114 and 411.087, Government Code:

(1) a shelter that applies for a permit is considered to be an applicant for a license under this chapter; and

(2) a shelter day-care facility operating under a permit issued under this subchapter is considered to be a child-care facility licensed under this chapter.

(e) The department shall require the shelter to pay to the department a fee in an amount not to exceed the administrative costs the department incurs in conducting a background and criminal history check under this section.

Added by Acts 2011, 82nd Leg., R.S., Ch. [1082](#), Sec. 10, eff. September 1, 2012.

Sec. 42.207. APPLICABILITY OF OTHER LAW. Except as otherwise provided by this subchapter, a shelter day-care facility operating under this subchapter is not a child-care facility, as defined by Section 42.002, and the provisions of this chapter and the department's rules that apply to a child-care facility licensed under Subchapter C do not apply to a shelter day-care facility.

Added by Acts 2011, 82nd Leg., R.S., Ch. [1082](#), Sec. 10, eff. September 1, 2012.

Sec. 42.208. REPORTING OF INCIDENTS AND VIOLATIONS. A shelter day-care facility operating under this subchapter and each employee of that facility are subject to the reporting requirements of Section 42.063 to the same extent a licensed child-care facility and employees of licensed child-care facilities are subject to that section.

Added by Acts 2011, 82nd Leg., R.S., Ch. [1082](#), Sec. 10, eff. September 1, 2012.

Sec. 42.209. AUTHORITY TO CONDUCT LIMITED INSPECTIONS. (a) The department may inspect a shelter day-care facility operating under this subchapter if the department receives a complaint or report of child abuse or neglect alleged to have occurred at the shelter day-care facility.

(b) If the department inspects a shelter day-care facility as authorized by this section, the department may require the facility to take appropriate corrective action the department determines necessary to comply with the requirements of this subchapter and to ensure the health and safety of children receiving care at the facility. The department may continue to inspect the facility until

corrective action is taken and for a reasonable time after that action is taken to ensure continued compliance.

(c) The department may charge a shelter issued a permit under this subchapter a reasonable fee for the cost of services provided by the department in formulating, monitoring, and implementing a corrective action plan under this section.

Added by Acts 2011, 82nd Leg., R.S., Ch. [1082](#), Sec. 10, eff. September 1, 2012.

Sec. 42.210. SUSPENSION, DENIAL, OR REVOCATION.

(a) The department may suspend, deny, or revoke a permit issued to a shelter under this subchapter if the shelter does not comply with the provisions of this subchapter or any applicable department rules.

(b) The department may refuse to issue a permit under this subchapter to a shelter that had its authorization to operate a child-care facility issued under another subchapter revoked, suspended, or not renewed for a reason relating to child health or safety as determined by the department.

(c) A shelter day-care facility is subject to the emergency suspension of its permit to operate and to closure under Section 42.073 to the same extent and in the same manner as a licensed child-care facility is subject to that section.

Added by Acts 2011, 82nd Leg., R.S., Ch. [1082](#), Sec. 10, eff. September 1, 2012.

LANCASTER CITY COUNCIL

Item 7

Agenda Communication

December 8, 2014

Conduct a public hearing and consider an Ordinance amending Ordinance 2006-04-13, the Lancaster Development Code as amended to provide for a definition related to wood based products, to include the use of cementitious materials for external architectural elements and excluding wood products for the same.

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

Goal: Quality Development

Background

As prescribed in the City Council Rules and Procedures as amended July 2013, Section 1 D. City Council Agenda Process, Councilmember Marco Mejia requested an item be included on the agenda for the purpose of providing a presentation to Council regarding allowable building materials for residential and commercial construction within the Lancaster Development Code.

At the April 21, 2014 City Council work session, City Council received a presentation from Councilmember Mejia advocating for the increased use of cementitious material as building material element on fascia, soffits, and on exterior wall materials.

The item was presented to the Planning and Zoning Commission at the October 21, 2014 meeting.

Considerations

This amendment would exclude the use of wood based products used for external architectural elements such as eaves, soffits, fascia, chimneys as well as exterior wall surfaces. Currently the LDC requires that residential home exterior walls be constructed of at least 80% standard masonry construction, excluding windows and doors, unless the wall is on a porch, patio, courtyard or breezeway, in which event, the wall may be of non-masonry construction. Cementitious material may be used for up to 50% of the masonry requirement. Buildings with less than 80% shall require approval of the Planning and Zoning Commission.

The percentage of the masonry required by ordinance should remain unchanged. The change is in the types of alternative material utilized in exterior walls, eaves, fascia, soffit and chimneys.

Staff is proposing to add the following definition for wood based products in order to exclude from the use on exterior architectural elements. The definition is as follows:

Wood Products – Materials developed from the use of the hard fibrous substance (wood) which makes up the greater part of the trunks and limbs of trees. Solid wood products include lumber, veneer, plywood, poles, pilings, mine timbers and posts; and composite wood products such as laminated timbers, insulation board, hardy-board and particle board. Fiber wood products can be those which develop initially from the various processes for pulping wood. Chemical wood products result from the chemical modification or conversion of cellulose, lignin, and extractives.

Finally, in defining the above mentioned products, it is the intent of this proposal to include cementitious materials as the required product for all external architectural elements and exclude wood based products, where applicable.

- **Operational** – The Planning Division in conjunction with the Building Inspections Division will work in partnership with builders to review plans.
- **Legal** – The City Attorney has reviewed and approved the ordinance as to form.
- **Financial** – There are no financial considerations for the passage of this ordinance. The proposed amendment to the ordinance will allow additional builder flexibility in the design and construction of homes in the City of Lancaster.
- **Public Information** – This item requires a public hearing for the proposed amendment and it was posted in the City's newspaper of record, the Focus Daily. This item is also being considered at a regular meeting of the City Council noticed in accordance with the Texas Open Meetings Act.

Options/Alternatives

1. Approve the ordinance amendment as presented.
2. Deny the ordinance amendment and direct staff.

Recommendation

At the October 21, 2014 regular meeting of the Planning and Zoning Commission, the P&Z Commission unanimously (5-0) recommended approval of the proposed ordinance amendment.

Staff concurs with the P&Z.

Attachments

- Ordinance
- P&Z agenda w/attachments (October 21, 2014)
- Approved P&Z meeting minutes (October 21, 2014)
- External Architectural Elements

Submitted by:

Rona Stringfellow, Assistant City Manager

ORDINANCE NO.

AN ORDINANCE OF THE CITY OF LANCASTER, TEXAS AMENDING ORDINANCE 2006-04-13, THE LANCASTER DEVELOPMENT CODE OF THE CITY OF LANCASTER, AS AMENDED, TO PROVIDE FOR A DEFINITION RELATED TO WOOD BASED PRODUCTS; AND TO INCLUDE THE USE OF CEMENTITIOUS MATERIALS FOR EXTERNAL ARCHITECTURAL ELEMENTS AND EXCLUDING WOOD PRODUCTS; PROVIDING A REPEALING CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR A PENALTY OF A FINE NOT TO EXCEED THE SUM OF TWO THOUSAND DOLLARS (\$2,000) FOR EACH AND EVERY OFFENSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Lancaster, Texas has determined that with the adoption of Ordinance 2006-04-13, the Lancaster Development Code of the Code of Ordinances, there is a need to include the use of cementitious materials in the use on external architectural elements and preclude and define wood based products for said uses, in order to serve the public interest and the goals of the City; and

WHEREAS, the City Council desires to amend the Lancaster Development Code to serve, protect and enhance the public health, safety and general welfare and to attain to the goals of the City.

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

Section 1. That the Lancaster Development Code be, and the same is, hereby amended by amending Article 14.500, Section 14.503, "Residential Districts", by amending subsection (a) 2 (1) by deleting any reference to non-masonry construction materials including wood bases products.

Section 2. That the Lancaster Development Code be, and the same is, hereby amended by amending Article 14.300 Section 14.302, "Definitions", by amending subsection (a) by adding a new definition for wood products for use in external architectural elements, which shall read as follows:

"ARTICLE 14.300. DEFINITIONS

. . . .

Section 14.302 Definitions

. . . .

(a) General Definitions

Wall, Exterior

Wood Products. Materials developed from use of the hard fibrous substance (wood) which makes up the greater part of the trunks and limbs of trees. Solid wood products include lumber, veneer, and plywood, poles, pilings, mine timbers and posts; and composite wood products such as laminated timbers, insulation board, hard-board and particle board. Fiber wood products can be those which develop initially from the various processes for pulping wood. Chemical wood products result from the chemical modification or conversion of cellulose, lignin, and extractives.

....

....”

Section 3. That all provisions of the Lancaster Development Code in conflict with the provisions of this ordinance be, and the same are hereby, repealed and all other provisions of the Lancaster Development Code not in conflict with the provisions of this ordinance shall remain in full force and effect.

Section 4. That should any word, sentence, paragraph, subdivision, clause, phrase or section of this ordinance, or of the Lancaster Development Code, as amended hereby, be adjudged or held to be void or unconstitutional, the same shall not affect the validity of the remaining portions of said ordinance or the Lancaster Development Code, as amended hereby, which shall remain in full force and effect.

Section 5. Any person, firm or corporation violating any of the provisions of this ordinance or the provisions of the Code of Ordinances of the City of Lancaster, Texas, as amended hereby, shall be deemed guilty of a misdemeanor and, upon conviction in the municipal court of the City of Lancaster, Texas, shall be subject to a fine not to exceed the sum of Two Thousand (\$2,000.00) dollars for each offense, and each and every day such offense shall continue shall be deemed to constitute a separate offense.

Section 6. This Ordinance shall become effective from and after its passage and publication as required by law.

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

ATTEST:

APPROVED:

Sorangel O. Arenas, City Secretary

Marcus E. Knight, Mayor

APPROVED AS TO FORM:

Robert E. Hager, City Attorney

LANCASTER PLANNING AND ZONING COMMISSION

Agenda Communication

October 21, 2014

Discuss and Consider an amendment to the Lancaster Development Code, Article 14.500, Section 14.503 A(2) 1 Exterior Wall Material excluding the use of non-masonry material and adding a new definition for wood based products.

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

Goal: Quality Development

Background

On April 21, 2014 City council work session, the City Council received a presentation from Councilmember Mejia advocating for the increased use of cementitious material as a building material element on fascia, soffits and exterior wall surfaces. As a result of the information received at the work session at the August 18, 2014 meeting, staff presented options to the Council amending the Lancaster development code as it relates to Residential exterior walls.

Considerations

The purpose of this item is to propose to exclude the use of wood based products used for architectural features to include eaves, soffit, fascia, chimneys as well as exterior wall surfaces.

Currently, the Lancaster Development Code (LDC) requires that residential exterior wall materials shall have at least 80 % standard masonry construction, excluding windows and doors, unless the wall is on a porch, patio, courtyard, or breezeway in which event the wall may be of non-masonry construction. Hardy plank or similar cementitious material may be used for up to 50 % of the masonry requirement. Buildings with less than 80% masonry shall require approval of the Planning and Zoning Commission.

Masonry. Masonry construction shall be defined as construction composed of materials in the categories listed below and shall not include hollow clay tile or exposed lightweight block such as cinder block.

Modular:

- Brick
- Natural or quarried stone
- Cast or cultured stone
- Glass block or glass
- Tile

- Custom concrete masonry units (normal or heavy weight blocks with an integral color that is sandblasted, burnished or has a split face)

As a result of the discussion held at these work sessions, the percentage of the masonry required by ordinance should remain unchanged however the concern lies in the types of alternative material utilized in exterior walls, eaves, fascia, soffit and chimneys.

The Building Official will provide a brief presentation to the Planning and Zoning Commission on cementitious material and the basis for the recommendation.

- **Operational** – The planning division in conjunction with the Building Inspections division will work in partnership with builders to review plans for conformance with the proposal, if ultimately approved.
- **Legal** – LDC amendments require a review and recommendation from the Planning and Zoning Commission. If recommendation of approval is received, the City attorney will draft an ordinance.
- **Financial** – There are no financial considerations for the passage of this ordinance. The proposed amendment will limit the materials used for exterior wall surfaces and architectural features.
- **Public Information** – This item requires a public hearing for the proposed amendment and it was posted in the City's newspaper of record, the Daily Focus.

Options/Alternatives

1. Make a recommendation to approve the text amendment.
2. Make a recommendation to deny the proposed request and direct staff.

Recommendation

Staff recommends **approval** of the proposed amendment to exclude non-masonry materials and provide a definition for wood based products.

Attachments

- LDC Excerpt

Submitted By:

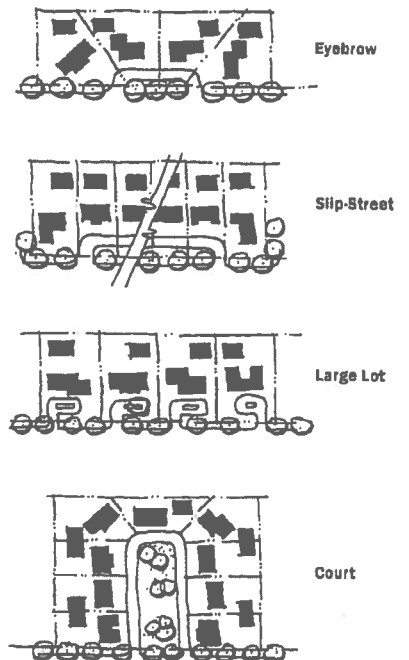
Steve Gilbert, Building Official

3. All such lots shall be within 300 feet of publicly accessible open space of at least 4,000 s.f. which has a minimum dimension of 50 feet. Single family or Townhouse lots must face or side onto this open space.
4. Notwithstanding the above, Empty-Nester units may also include homes designed and built to appear like a traditional large home, but which may include up to four living units meeting the size limitations above.

- (2) Residential Facing Streets. Newly created residential subdivisions shall face or side homes on to streets and open space. Such subdivisions shall not be designed or laid out in a manner that will result in placing the rear of homes next to roadways. This may be achieved on major roadways by utilizing large lots (capable of including additional parking and on-site maneuvering), eyebrows, slip streets or courts. *Facing Homes on to Major Streets.*)

Exterior Wall Materials

1. All buildings of 300 s.f. or more and over nine feet (9) tall shall have exterior walls constructed of at least eighty percent (80%) standard masonry construction, excluding windows and doors, unless the wall is on a porch, patio, courtyard, or breezeway, in which event, the wall may be of non-masonry construction. Hardy Plank or similar cementaceous material may be used for up to 50% of the masonry requirement. Buildings with less than 80% shall require approval of the Planning and Zoning Commission.
2. Buildings less than 300 s.f. and under 9 feet in height may be constructed with non-masonry materials, or may be all metal with a baked-on pre-painted surface, but must be screened from a public street or open space.
3. Exceptions to these requirements, including buildings for farm animals, may be permitted on a case by case basis by the Planning and Zoning Commission upon submission and approval of elevation drawings of the subject structure, and material samples.
4. Barns used for agricultural or farm animal purposes in AO districts are excluded from this masonry requirement.



- (3) Residential Garages and Carports.

- A. Garages. In single family or duplex districts, parking garages must be located off an alley; or if accessed from the front street, must be located at least 20 feet behind closest corner of the front building façade for front entry garages, unless it is a "J-Swing" garage where the garage door is perpendicular to the street. "J-Swing" garages may only be permitted on lots which are 60 or more feet in width.

LANCASTER PLANNING AND ZONING COMMISSION
CONSIDERATION OF THE OCTOBER 21, 2014
MEETING MINUTES

Agenda
Item
#1

As Prepared by:

Rona Stringfellow, Assistant City Manager



**REGULAR MEETING MINUTES
PLANNING & ZONING COMMISSION
CITY OF LANCASTER, TEXAS
TUESDAY, OCTOBER 21, 2014, 7:00 P.M.**



CALL TO ORDER:

Vice Chair Prothro called the meeting to order at 7:00 p.m. on Tuesday, October 21, 2014.

COMMISSIONERS

**LAWRENCE PROTHRO, VICE CHAIR
GENEVIEVE GREGORY, COMMISSIONER
TOM BARNETT, JR., COMMISSIONER
MARVIN EARLE, COMMISSIONER
RACHEAL HILL, COMMISSIONER**

CITY STAFF

**RONA STRINGFELLOW
STEVE GILBERT
JULIE DOSHER**

**ASSISTANT CITY MANAGER
BUILDING OFFICIAL
CITY ATTORNEY**

ELECTION OF A CHAIR AND VICE CHAIR:

Vice Chair Prothro invited nominations for a Chair and Vice-Chair.

Commissioner Earle nominated Vice-Chair Prothro for the role of Chair, seconded by Commissioner Barnett.

Commissioner Gregory nominated Vice-Chair Prothro for the role of Chair, seconded by Commissioner Barnett.

Vice Chair Prothro was elected Chair with a unanimous vote of 5-0.

Commissioner Earle nominated Commissioner Gregory for the role of Vice Chair, seconded by Commissioner Barnett.

Commissioner Gregory was elected Vice-Chair with a unanimous vote of 5-0.

CITIZENS COMMENTS: (At this time citizens will be allowed to speak only on matters contained on the Planning and Zoning Commission agenda)

Chair Prothro invited anyone wishing to speak to come forward state their name and address. He informed that citizens will be allowed to speak on matters included on the agenda. Each speaker will be allowed to speak for three (3) minutes.

There were no citizen comments.



**REGULAR MEETING MINUTES
PLANNING & ZONING COMMISSION
CITY OF LANCASTER, TEXAS
TUESDAY, OCTOBER 21, 2014, 7:00 P.M.**



PUBLIC HEARING

1. Discuss and Consider an amendment to the Lancaster Development Code, Article 14.500, Section 14.503 A (2) 1 Exterior Wall Material excluding the use of non-masonry material and adding a new definition for wood based products.

Commissioners received the staff report from Steve Gilbert, Building Official and addressed questions brought forward by the Commissioners.

Chair Prothro opened the public hearing and asked if anyone wished to speak either in favor or in opposition of item #1.

There being none. Chair Prothro entertained a motion to close the public hearing.

A MOTION WAS MADE BY COMMISSIONER BARNETT AND SECONDED BY VICE CHAIR GREGORY.

**AYES: PROTHRO, GREGORY, BARNETT, HILL, EARLE
NAYES: NONE**

THE MOTION CARRIED 5-0.

Chair Prothro invited the opportunity for discussion. There being no further discussion, Chair Prothro entertained a motion to provide a recommendation.

A MOTION WAS MADE BY VICE CHAIR GREGORY AND SECONDED BY COMMISSIONER HILL.

**AYES: PROTHRO, GREGORY, BARNETT, HILL, EARLE
NAYES: NONE**

THE MOTION CARRIED 5-0.

ACTION

2. Discuss and Consider Annual Appointments to the City of Lancaster Historic Landmark Preservation committee (HLPC).

Commissioners received the staff report from ACM Stringfellow.

With no further comment/question Chair Prothro entertained a motion.

A MOTION WAS MADE BY VICE CHAIR GREGORY AND SECONDED BY COMMISSIONER GREGORY TO REAPPOINT DEE HINKLE TO THE HLPC AND ACCEPT THE RESIGNATION OF THE ALTERNATE PATRICIA SEIGFRIED GILES DUE TO HER RECENT OFFER OF EMPLOYMENT WITH THE CITY OF LANCASTER.



**REGULAR MEETING MINUTES
PLANNING & ZONING COMMISSION
CITY OF LANCASTER, TEXAS
TUESDAY, OCTOBER 21, 2014, 7:00 P.M.**



**AYES: PROTHRO, GREGORY, BARNETT, HILL, EARLE
NAYES: NONE**

THE MOTION CARRIED 5-0.

Chair Prothro entertained a motion to adjourn.

A MOTION WAS MADE BY COMMISSIONER BARNETT AND SECONDED BY VICE CHAIR GREGORY.

**AYES: PROTHRO, GREGORY, BARNETT, HILL, EARLE
NAYES: NONE**

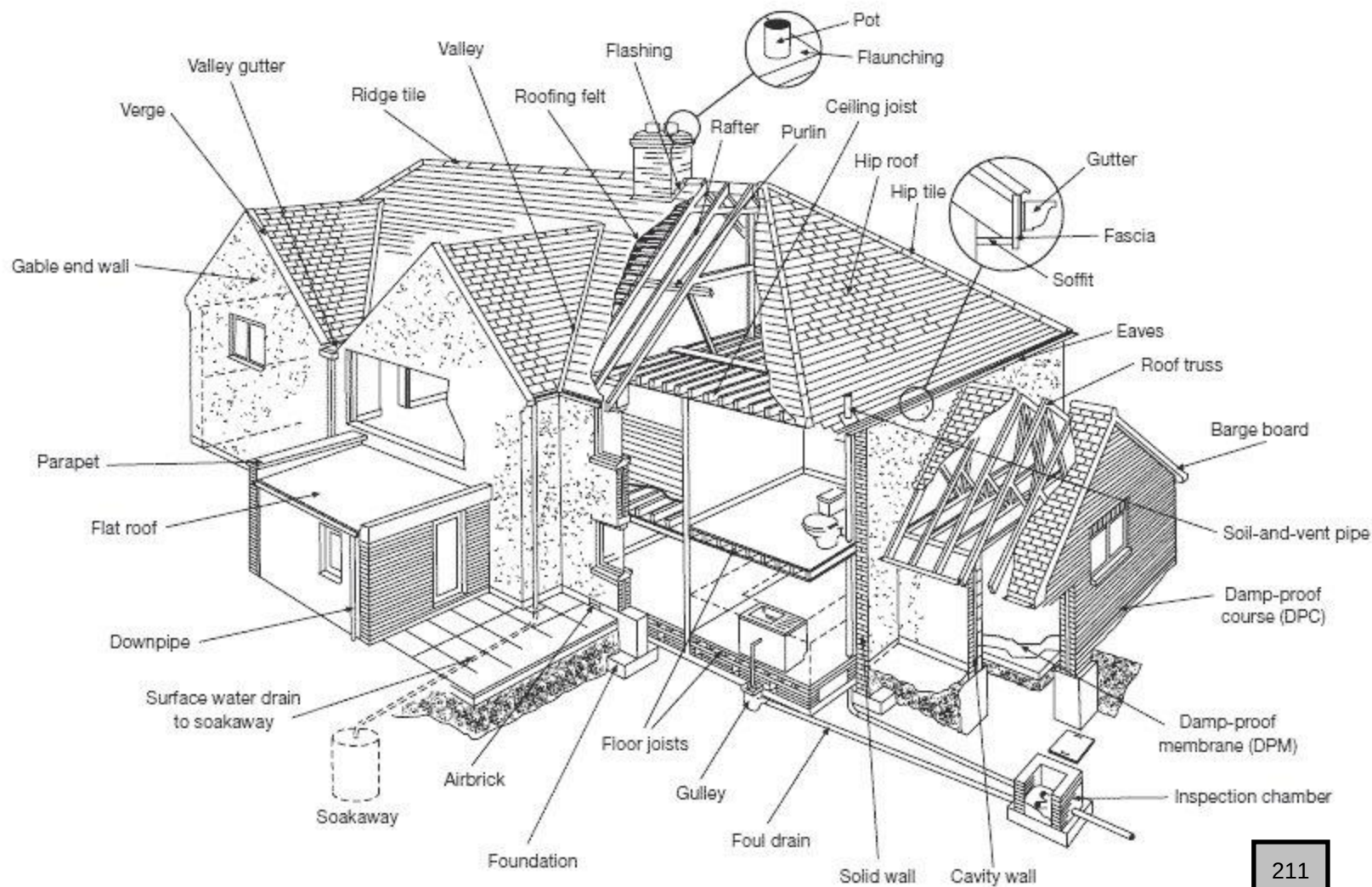
THE MOTION CARRIED 5-0.

Meeting was adjourned at 7:40 p.m.

Lawrence Prothro, Chair

ATTEST

Rona Stringfellow, Assistant City Manager



LANCASTER CITY COUNCIL

Item 8

Agenda Communication

December 8, 2013

Consider a resolution authorizing the conveyance of a water easement located on approximately 608 square feet (0.0140 acre) of land being part of Lot 9 of Oak Cliff Plantations to Dallas Water Utilities (DWU) for the purposes of installation and maintenance of a City water main(s) and appurtenances.

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

Goal: Sound Infrastructure

Background

Dallas Water Utilities (DWU) is in the process of updating their water system. They will be constructing a water meter vault at this location to facilitate an efficient water supply system and improve the overall operations within the City of Lancaster.

Considerations

- **Operational** – The City of Lancaster, a wholesale customer of Dallas Water Utilities (DWU) is required to grant a utility easement for DWU to install and maintain water main (s) and appurtenances.
- **Legal** - The resolution and Easement document have been reviewed and approved as to form by the City Attorney. During the title research, it was discovered that a portion of this property was also co-owned by the Lancaster Independent School District (LISD). A separate action will be taken by LISD to convey this easement on their behalf.
- **Financial** – There are no financial implications related to this item as this is routine action as a DWU wholesale customer and is accounted for in the rates that the City of Lancaster pays to DWU. All action thus far in regard to title research has been paid in whole by DWU.
- **Public Information** – This item is being considered at a meeting of the City Council noticed in accordance with the Texas Open Meetings Act.

Options/Alternatives

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

Recommendation

Staff recommends approval of the resolution dedicating the parcel as easement on said piece of land.

Attachments

- Resolution
 - Exhibit A – City of Dallas Water Easement Document including a signature page for Lancaster Independent School District (LISD)
-

Submitted by:

Gina Garcia, P.E., City Engineer

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LANCASTER, TEXAS, AUTHORIZING THE CONVEYANCE OF A WATER EASEMENT LOCATED ON APPROXIMATELY 608 SQUARE FEET (0.0140 ACRE) OF LAND BEING PART OF LOT 9 OF OAK CLIFF PLANTATIONS TO THE DALLAS WATER UTILITIES (DWU) FOR THE PURPOSES OF INSTALLATION AND MAINTENANCE OF CITY WATER MAIN OR MAINS AND APPURTENANCES; REPEALING ALL RESOLUTIONS IN CONFLICT; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Dallas Water Utilities requires that a utility easement be granted by the City of Lancaster to install and maintain water main or mains and appurtenances on 608 square feet (0.0140 acre) of land being part of Lot 9 of Oak Cliff Plantations; and

WHEREAS, the City of Lancaster desires to grant the utility easement to the Dallas Water Utilities for water main or mains and appurtenances on 608 square feet (0.0140 acre) of land being part of Lot 9 of Oak Cliff Plantations.

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

SECTION 1. That the City of Lancaster hereby certifies that they are authorized to grant utility easements to Dallas Water Utilities.

SECTION 2. That the Mayor of the City of Lancaster, Texas is authorized to execute the appropriate documents attached hereto and described herein as Exhibit "A" to implement the utility easements to Dallas Water Utilities.

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

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

SECTION 5. That this Resolution shall take effect immediately from and after its passage, and it is so duly resolved.

DULY PASSED AND APPROVED by the City Council of the City of Lancaster, Texas, on this the 8th day of December, 2014.

ATTEST:

APPROVED:

Sorangel O. Arenas, City Secretary

Marcus E. Knight, Mayor

APPROVED AS TO FORM:

Robert E. Hager, City Attorney

WATER EASEMENT

THE STATE OF TEXAS §
 § KNOW ALL PERSONS BY THESE PRESENTS:
 COUNTY OF DALLAS §

That City of Lancaster, a Texas municipal corporation (hereinafter called "Grantor" whether one or more natural persons or legal entities) of the County of Dallas, State of Texas, for and in consideration of the sum of TEN AND 00/100 DOLLARS (\$10.00) to the undersigned in hand paid by the **City of Dallas, 1500 Marilla Street, Dallas, Texas, 75201**, a Texas municipal corporation (hereinafter called "City"), the receipt of which is hereby acknowledged and confessed, and the further benefits to be derived by the remaining property as a result of projected public improvements, has granted, sold and conveyed and does hereby grant, sell and convey unto City, its successors and assigns, an easement for the purpose of laying, constructing, maintaining, repairing and replacing a City water main or mains and appurtenances and such additional main or mains and appurtenances as are needed in the future in, under, through, across and along all that certain lot, tract or parcel of land described in Exhibit "A", attached hereto and made a part hereof by reference for all purposes.

The City is acquiring this property for the purpose of laying, constructing, maintaining, repairing and replacing a City water main or mains and appurtenances, and such additional main or mains and appurtenances as are needed in the future, according to such plans and specifications as will, in City's opinion, best serve the public purpose. The payment of the purchase price shall be considered full and adequate compensation for the easement rights herein granted.

Should one or more of the Grantors herein be natural persons and not joined by their respective spouse, it is conclusively presumed that the land herein conveyed is not the residence or business homestead of such Grantor(s). Should one or more of the Grantors herein be a legal entity other than a natural person, it shall be conclusively presumed that the person signing on behalf of such a party has been duly and legally authorized to so sign and there shall be no necessity for a seal or attestation.

The City shall have all other rights and benefits necessary or convenient for the full enjoyment or use of the rights herein granted, including, but without limiting the same to, the right of ingress and egress over and across said property to and from said easement for the purpose of constructing, reconstructing, maintaining, inspecting or repairing said main or mains and appurtenances.

The City shall have the right to remove and keep removed from the permanent easement herein granted any and all structures, fences, trees, shrubs, growths or other obstructions which may endanger or interfere with the construction, reconstruction, maintenance, repair or operation of the said main or mains. (Grantor, its successors or assigns, shall not place or store any material upon, or cover, bury, pave over or otherwise obstruct any cleanout, valve, meter or manhole located within the herein described permanent easement.)

Grantor, its successors or assigns, shall not be permitted to plant trees or shrubs of any kind within the boundaries of the herein described permanent easement.

All expenses in the construction and maintenance of said main or mains and appurtenances shall be borne by the City. In the construction of said main or mains and appurtenances, should the City find it necessary to remove any improvements now on the above-described property, all of those expenses shall also be borne by the City. Upon completion of construction, all surplus excavation, debris, trash or litter resulting from construction shall be cleaned up and hauled off the premises, and the easement property, including any fences disturbed, shall be restored to its original contour and condition.

Nothing in this easement shall be construed as a waiver by the City of any connection charge or charges imposed by ordinance or Charter of the City of Dallas.

SPECIAL PROVISIONS: "None".

TO HAVE AND TO HOLD the above described easement, together with all and singular the rights and appurtenances thereto in anywise belonging unto City, its successors and assigns forever, and Grantor binds Grantor and Grantor's heirs, executors, administrators or successors, to Warrant and Forever Defend all and singular the said easement unto City, its successors and assigns, against every person whomsoever lawfully claiming, or to claim the same or any part thereof.

EXECUTED this _____ day of _____, _____.

ATTEST:

CITY OF LANCASTER
 Marcus E. Knight
Mayor

City Secretary

BY: _____
Mayor

APPROVED AS TO FORM:
 Robert Hager, City Attorney

BY: _____
City Attorney

**LANCASTER Independent
School District**

BY: _____
Dr. Michael D. McFarland
Superintendent of Schools

BY: _____
Ty G. Jones
School Board President

* * * * *
STATE OF TEXAS '
COUNTY OF DALLAS '

This instrument was acknowledged before me on _____ by
_____, Mayor of the City of Lancaster, a Texas municipal
corporation, on behalf of said municipal corporation..

Notary Public, State of Texas

* * * * *
STATE OF TEXAS '
COUNTY OF DALLAS '

This instrument was acknowledged before me on _____ by
_____, Lancaster Independent School District.

Notary Public, State of Texas

After recording return to:
City of Dallas
Department of Sustainable Development and Construction
Real Estate Division
320 East Jefferson Boulevard, Room 203
Dallas, Texas 75203
attn: Lisa Andrews
Water Easement Log No. 39336

**FIELD NOTES DESCRIBING 608 SQUARE FEET (0.0140 ACRE)
WATER VAULT EASEMENT TO BE ACQUIRED
PART OF LOT 9 OF OAK CLIFF PLANTATIONS
FROM THE CITY OF LANCASTER AND LANCASTER I.S.D.**

EXHIBIT A

BEING a 608 square foot (0.0140 acre) tract of land in the Stephen C. Atterbury Survey, Abstract Number 14, in the City of Lancaster, Dallas County, Texas and being part of that certain tract of land called 6.89 acres of land conveyed to City of Lancaster (C.O.L.) and Lancaster Independent School District (L.I.S.D.) as evidenced by Sheriff's Deed recorded in Volume 92074, Page 1196 of the Deed Records of Dallas County, Texas, also being a part of Lot 9 of Oak Cliff Plantations, as evidenced by plat recorded in Volume 8, Page 263 of the Map Records of Dallas County, Texas and being more particularly described as follows:

COMMENCING a at a 1-inch iron pipe found (controlling monument) at the common southwest corner of said C.O.L. & L.I.S.D. tract and the southeast corner of that certain tract of land conveyed to George Lee Montgomery as evidenced by deed recorded in Instrument 201000138002 of the Official Public Records of Dallas County, Texas, from which a 1-inch iron pipe found (controlling monument) for the southwest corner of Lot 17 of said Oak Cliff Plantations, bears North 58°46'14" East a distance of 98.05 feet and South 31°05'44" East a distance of 928.00 feet;

THENCE North 17°09'28" West along the common west line of said C.O.L. & L.I.S.D. tract and the east line of said Montgomery tract a distance of 120.96 feet to a common ell corner of said C.O.L. & L.I.S.D. tract and the northeast corner of said Montgomery tract, from which a 1-inch iron pipe found bears South 33°52'10" West a distance of 0.82 foot;

THENCE South 84°58'32" West along the common west line of said C.O.L. & L.I.S.D. tract and the north line of said Montgomery tract a distance of 139.22 feet to a 5/8-inch iron rod with plastic cap stamped "ARS" set for the **POINT OF BEGINNING**;

THENCE South 84°58'32" West continuing along the common west line of said C.O.L. & L.I.S.D. tract and the north line of said Montgomery tract a distance of 15.04 feet to a 5/8-inch iron rod with plastic cap stamped "ARS" set for the common most westerly corner of said C.O.L. & L.I.S.D. tract and the northwest corner of said Montgomery tract and in the east line of University Hills Boulevard (Houston School Road - a variable width right-of-way);

THENCE North 01°06'22" West along the common west line of said C.O.L. & L.I.S.D. tract and the east line of University Hills Boulevard a distance of 41.03 feet to a 5/8-inch iron rod with plastic cap stamped "ARS" set;

THENCE departing the common west line of said C.O.L. & L.I.S.D. tract and the east line of University Hills Boulevard, over and across said C.O.L. & L.I.S.D. tract the following:

North 88°53'38" East a distance of 15.00 feet to a 5/8-inch iron rod with plastic cap stamped "ARS" set;

South 01°06'22" East a distance of 40.00 feet to the **POINT OF BEGINNING**;

CONTAINING within the metes recited 608 square feet or 0.0140 acre of land, more or less.

FIELD NOTES APPROVED:

.N/L 3/14/12



EXHIBIT A

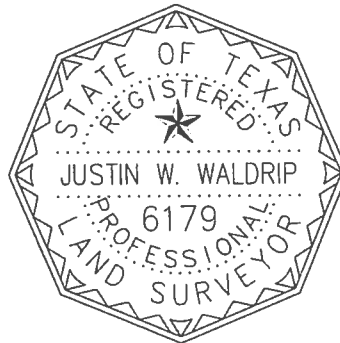
**FIELD NOTES DESCRIBING 608 SQUARE FEET (0.0140 ACRE)
WATER VAULT EASEMENT TO BE ACQUIRED
PART OF LOT 9 OF OAK CLIFF PLANTATIONS
FROM THE CITY OF LANCASTER AND LANCASTER I.S.D.**

Basis of Bearings: BEARINGS AND DISTANCES SHOWN HEREON ARE BASED ON NAD 83, TEXAS STATE PLANE COORDINATE SYSTEM, NORTH CENTRAL ZONE (4202). DISTANCES SHOWN HAVE BEEN MODIFIED TO SURFACE BY APPLYING A SCALE FACTOR OF 1.000136506 TO THE STATE PLANE COORDINATES

A plat of even survey date herewith accompanies this description.

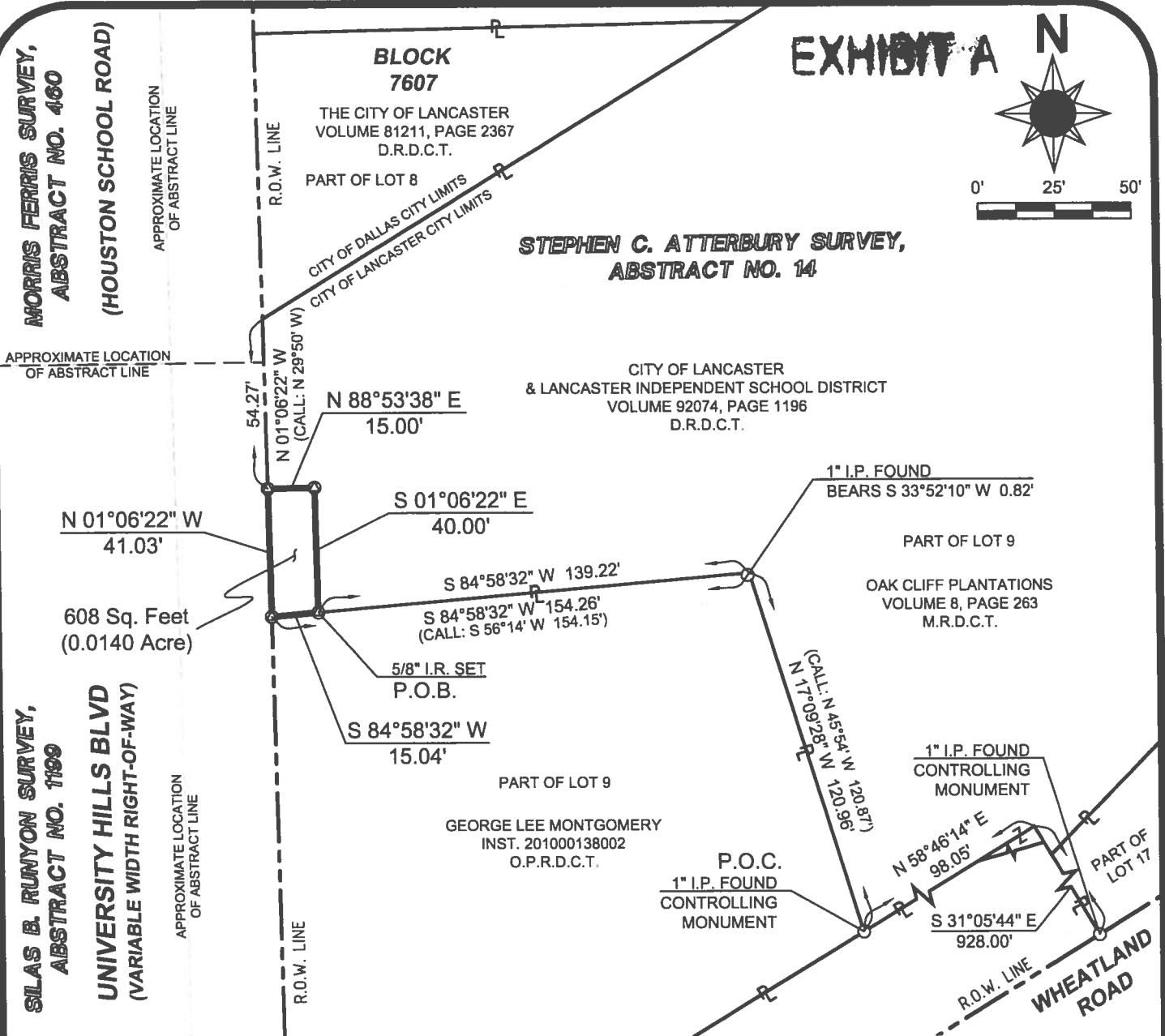
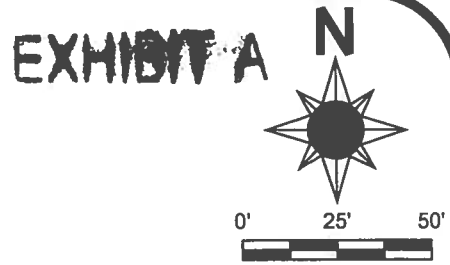
I, Justin W. Waldrip, a Registered Professional Land Surveyor, hereby certify that the legal description hereon and the accompanying plat represent an actual survey made on the ground under my supervision.


Justin W. Waldrip, R.P.L.S.
Texas Registration No. 6179



**MORRIS FERRIS SURVEY,
ABSTRACT NO. 460
(HOUSTON SCHOOL ROAD)**

**SILAS B. RUNYON SURVEY,
ABSTRACT NO. 1199
UNIVERSITY HILLS BLVD
(VARIABLE WIDTH RIGHT-OF-WAY)**



BEARING BASIS: BEARINGS AND DISTANCES SHOWN HEREON ARE BASED ON NAD 83, TEXAS STATE PLANE COORDINATE SYSTEM, NORTH CENTRAL ZONE (4202). DISTANCES SHOWN HAVE BEEN MODIFIED TO SURFACE BY APPLYING A SCALE FACTOR OF 1.000136506 TO THE STATE PLANE COORDINATES

LEGEND

These standard symbols can be found in this drawing.

5/8-INCH IRON ROD W/ PLASTIC CAP STAMPED "ARS" SET

P.O.C. - POINT OF COMMENCEMENT

P.O.B. - POINT OF BEGINNING

I.P. - IRON PIPE

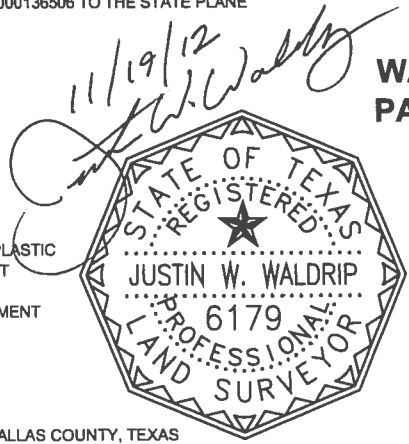
I.R. - IRON ROD

D.R.D.C.T. - DEED RECORDS DALLAS COUNTY, TEXAS

O.P.R.D.C.T. - OFFICIAL PUBLIC RECORDS DALLAS COUNTY, TEXAS

M.R.D.C.T. - MAP RECORDS DALLAS COUNTY, TEXAS

--- APPROXIMATE CITY LIMIT LINE



**608 SQUARE FEET (0.0140 ACRE)
WATER VAULT EASEMENT TO BE ACQUIRED
PART OF LOT 9 OF OAK CLIFF PLANTATIONS
FROM THE CITY OF LANCASTER AND
LANCASTER I.S.D.**

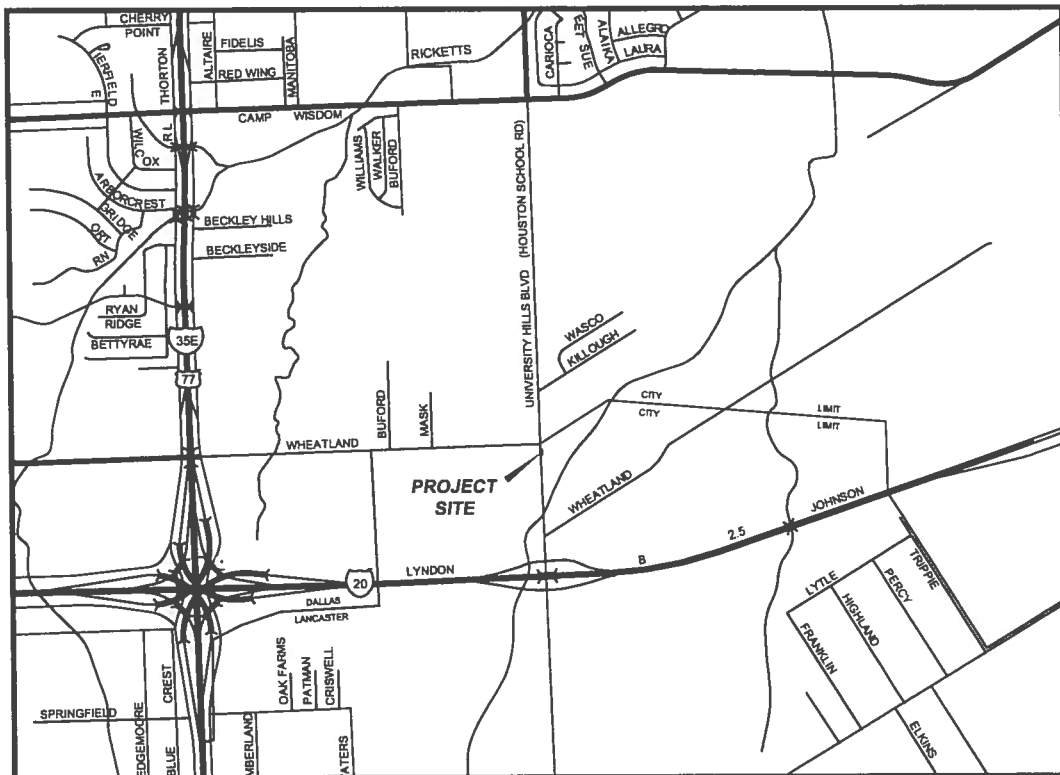
REV. FEBRUARY 25, 2013

DRAWN BY:	J. WALDRIP	DATE:	NOVEMBER 19, 2012
CHECKED BY:	R. WALDRIP	SCALE:	1 INCH = 50 FEET
JOB NUMBER:	302-12-045	SHEET:	3 OF 3

ARS Engineers, Inc.
12801 N Central Expressway, Suite 1250
Dallas, Texas 75243
Phone: (214) 739-3152 Fax: (214) 739-3189

**608 SQUARE FEET (0.0140 ACRE)
WATER VAULT EASEMENT TO BE ACQUIRED
PART OF LOT 9 OF OAK CLIFF PLANTATIONS
FROM THE CITY OF LANCASTER AND LANCASTER I.S.D.**

MAPSCO: 075-B



LOCATION MAP

NOT TO SCALE

LANCASTER CITY COUNCIL

Item 9

Agenda Communication

December 8, 2014

Consider a resolution authorizing the City Manager to execute a license agreement with BNSF Railway granting access to perform utility work within the railroad right of way for an amount not to exceed \$6,000.00.

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

Goal: Sound Infrastructure

Background

The Keller Branch line serves the eastern portion of the City, extending from the connection point at Ten Mile Creek to the most northern part of the City. The majority of the line is vitrified clay tile. The portion of Phase I from the TRA interceptor to Beltline was completed in July 2012. There were additional funds available to complete this section. The City of Lancaster is requesting a license agreement with BNSF to complete this section. The requested easement is 40 feet wide and 935 feet long. The City has agreed to pay \$6000.00 for the work completed within the easement.

Considerations

- **Operational** – Replacement of this line will reduce maintenance cost in labor and materials due to service interruptions and improve sewer services. It will also result in a reduction of overflows caused by heavy rain. Once this has been installed the water/wastewater staff will maintain the sewer line.
- **Legal** – The resolution and license agreement have been reviewed and approved as to form by the City Attorney.
- **Financial** – Funding is available through the 2011 Series bonds authorized at the September 26, 2011 City Council meeting.
- **Public Information** – This item is being considered at a meeting of the City Council that is noticed in compliance with the Texas Open Meetings Act.

Options/Alternatives

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

Recommendation

Staff recommends approving the resolution as presented, authorizing the City Manager to execute a license agreement with BNSF Railway for an amount not to exceed \$6,000.00.

Attachments

- Resolution
 - BNSF Licensing Agreement
-

Submitted by:

Jim Brewer, Public Works Director

Andrew Waits, Water & Wastewater Superintendent

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LANCASTER, TEXAS, AUTHORIZING THE CITY MANAGER TO EXECUTE A LICENSE AGREEMENT WITH BNSF RAILWAY GRANTING ACCESS TO PERFORM UTILITY WORK WITHIN THE RAILROAD RIGHTS-OF-WAY FOR AN AMOUNT NOT TO EXCEED \$6,000.00 AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE CONTRACT PURSUANT TO APPROVAL; REPEALING ALL RESOLUTIONS IN CONFLICT; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, repairs are needed to the Keller Branch, Phase 2 sanitary sewer line; and

WHEREAS, the City Council desires to enter into a license agreement with BNSF Railway allowing utility work to be performed within the railroad rights-of-way.

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

SECTION 1. The City Council approves an agreement which is attached hereto and incorporated hereto as Exhibit A for access to conduct utility work within BNSF Railways rights-of-way in an amount not to exceed six thousand dollars and no cents (\$6,000.00).

SECTION 2. That the City Manager is authorized to execute the license 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 take effect immediately from and after its passage, and it is duly resolved.

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

ATTEST:

APPROVED:

Sorangel O. Arenas, City Secretary

Marcus E. Knight, Mayor

APPROVED AS TO FORM:

Robert E. Hager, City Attorney



JONES LANG
LASALLE

Jones Lang LaSalle Brokerage, Inc.
4300 Amon Carter Blvd., Suite 100
Fort Worth, Texas 76155
tel +1 817-230-2600, fax +1 817 308-8265

April 30, 2014

City of Lancaster
Attention: Mr. Jim Brewer
700 E. Main Street
Lancaster, Texas 75146

Tracking no. 13-49131

Dear Mr. Brewer:

Attached please find the requested contract for execution by an official authorized to execute contract agreements on behalf of your company. Please print two (2) copies execute and return both copies with original signature for completion on part of BNSF Railway Company ("BNSF") to this office, along with the following requirements:

- A check in the amount of \$6,000.00 payable to BNSF Railway Company which covers the contract fee(s).

Please note the agreements cannot be executed by BNSF without an approved insurance certificate. If there are any issues with your insurance, you will be contacted by a member of the Risk Management team of BNSF Railway.

1. A Certificate of Insurance as required in the agreement.
2. A separate policy for Railroad Protective Liability Insurance as required in the agreement (**ORIGINAL POLICY MUST BE PROVIDED**). BNSF Railway Company will be the only insured party; OR;

In lieu of providing a separate policy for Railroad Protective Liability Insurance, you may participate in the BNSF's Railroad Protective Policy by checking the appropriate box in the contract and including an additional \$1150.00 with your check.

PLEASE ADVISE IF THIS PROJECT IS ARRA FUNDED.

Acceptance and deposit of any check by BNSF does not constitute an agreement between BNSF and Licensee for the requested license. BNSF shall not be obligated to hold the check in a separate fund, but may commingle the funds with other funds of BNSF, and in no event shall BNSF be responsible for interest on said funds.

The enclosed permit is not a binding agreement and shall become binding only when, and if, it is executed by you and fully approved and executed by BNSF Railway Company. Upon completion on behalf of BNSF, one fully executed counterpart will be returned for your records.

The specifications/plans you provided may differ from BNSF's minimum specification requirements. Therefore, prior to your installation, please review the Exhibit A to determine the specifications necessary for your installation.

We are in receipt of check no. 193981 in the amount of \$600 for payment of the processing fee. Please be informed that if contracts, fees, and insurance are not returned within sixty (60) days, the processing fee will increase an additional \$600.00.

Sincerely,

Annette Jenkins
Sr. Contract Specialist
Attachment

PIPELINE LICENSE

THIS PIPELINE LICENSE ("License") is made to be effective _____, 2014 (the "Effective Date") by and between **BNSF RAILWAY COMPANY**, a Delaware corporation ("Licensor") and **CITY OF LANCASTER**, a Texas corporation ("Licensee").

In consideration of the mutual covenants contained herein, the parties agree to the following:

GENERAL

1. Grant of License. Licensor hereby grants Licensee a non-exclusive license, subject to all rights, interests, and estates of third parties, including, without limitation, any leases, use rights, easements, liens, or other encumbrances, and upon the terms and conditions set forth below, to construct and maintain, in strict accordance with the drawings and specifications approved by Licensor as part of Licensee's application process (the "Drawings and Specifications"), one (1) pipeline, sixteen (16) inches in diameter (the "Pipeline"), across or along Licensor's rail corridor at or near the station of Lancaster, County of Dallas, State of Texas, Line Segment 8010, Mile Post 781.69 as shown on the attached Drawing No. 1-59642, dated March 26, 2014, attached hereto as Exhibit "A" and incorporated herein by reference (the "Premises").
2. Term. This License shall commence on the Effective Date and shall continue for a period of twenty-five (25) years, subject to prior termination as hereinafter described.
3. Existing Improvements. Licensee shall not disturb any improvements of Licensor or Licensor's existing lessees, licensees, easement beneficiaries or lien holders, if any, or interfere with the use, repair, maintenance or replacement of such improvements.
4. Use of the Premises. Licensee shall use the Premises solely for construction, maintenance, and use of the Pipeline in accordance with the Drawings and Specifications. The Pipeline shall carry sewage water, and Licensee shall not use the Pipeline to carry any other material or use the Premises for any other purpose.
5. Alterations. Except as set forth in this License, Licensee may not make any alterations to the Premises or permanently affix anything to the Premises or any buildings or other structures adjacent to the Premises without Licensor's prior written consent.

COMPENSATION

6. License Fee. Licensee shall pay Licensor, prior to the Effective Date, the sum of Six Thousand and No/100 Dollars (\$6,000.00) as compensation for the use of the Premises.
7. Costs and Expenses.
 - 7.1 For the purpose of this License, "cost" or "costs" and "expense" or "expenses" includes, but is not limited to, actual labor and material costs including all assignable additives, and material and supply costs at current value where used.
 - 7.2 Licensee agrees to reimburse Licensor (pursuant to the terms of **Section 8** below) for all costs and expenses incurred by Licensor in connection with Licensee's use of the Premises or the presence, construction and maintenance of the Pipeline, including but not limited to the furnishing of Licensor's flaggers and any vehicle rental costs incurred. Licensee shall bear the cost of flagger services and other safety measures provided by Licensor, when deemed necessary by Licensor's representative. Flagging costs shall include, but not be limited to, the following: pay for at least an eight (8) hour basic day with time and one-half or double time for overtime, rest days and holidays (as applicable); vacation allowance; paid

holidays (as applicable); railway and unemployment insurance; public liability and property damage insurance; health and welfare benefits; transportation; meals; lodging and supervision. **Negotiations for railway labor or collective bargaining agreements and rate changes authorized by appropriate Federal authorities may increase flagging rates. Flagging rates in effect at the time of performance by the flaggers will be used to calculate the flagging costs pursuant to this Section 7.**

8. **Payment Terms.** All invoices are due thirty (30) days after the date of invoice. If Licensee fails to pay any monies due to Licensor within thirty (30) days after the invoice date, then Licensee shall pay interest on such unpaid sum from the due date until paid at an annual rate equal to the lesser of (i) the prime rate last published in *The Wall Street Journal* in the preceding December plus two and one-half percent (2-1/2%), or (ii) the maximum rate permitted by law.

LICENSOR'S RESERVED RIGHTS

9. **Reserved Rights of Use.** Licensor excepts and reserves the right, to be exercised by Licensor and any other parties who may obtain written permission or authority from Licensor:
- 9.1 to maintain, use, operate, repair, replace, modify and relocate any utility, power or communication pipe/lines/cables and appurtenances (other than the Pipeline) and other facilities or structures of like character upon, over, under or across the Premises existing as of the Effective Date;
 - 9.2 to construct, maintain, renew, use, operate, change, modify and relocate any tracks or additional facilities, structures and related appurtenances upon, over, under or across the Premises; or
 - 9.3 to use the Premises in any manner as Licensor in its sole discretion deems appropriate, provided Licensor uses all commercially reasonable efforts to avoid material interference with the use of the Premises by Licensee for the purpose specified in **Section 4** above.
10. **Right to Require Relocation.** If at any time during the term of this License, Licensor desires the use of its rail corridor in such a manner as would, in Licensor's reasonable opinion, be interfered with by the Pipeline, Licensee shall, at its sole expense, within thirty (30) days after receiving written notice from Licensor to such effect, make such changes in the Pipeline as in the sole discretion of Licensor may be necessary to avoid interference with the proposed use of Licensor's rail corridor, including, without limitation, the relocation of the Pipeline, or the construction of a new pipeline to replace the Pipeline. Notwithstanding the foregoing, Licensee agrees to make all emergency changes and minor adjustments, as determined by Licensor in its sole discretion, to the Pipeline promptly upon Licensor's request.

LICENSEE'S OPERATIONS

11. **Construction and Maintenance of the Pipeline.**
- 11.1 Licensee shall notify Licensor's Roadmaster, at 208 S. 3rd Street, Teague, TX. 75860, telephone (254) 739-2851 or cell phone (979) 549-1239, at least ten (10) business days prior to installation of the Pipeline and prior to entering the Premises for any subsequent maintenance thereon. In the event of emergency, Licensee shall notify Licensor of Licensee's entry onto the Premises at the telephone number above as soon as practicable and shall promptly thereafter follow up with written notice of such entry.
 - 11.2 Licensee's on-site supervisors shall retain/maintain a fully executed copy of this License at all times while on the Premises.

- 11.3 While on the Premises, Licensee shall use only public roadways to cross from one side of Licensor's tracks to the other.
- 11.4 Any contractors or subcontractors performing work on the Pipeline or entering the Premises on behalf of Licensee shall be deemed servants and agents of Licensee for purposes of this License.
- 11.5 Under no conditions shall Licensee be permitted to conduct any tests, investigations or any other activity using mechanized equipment and/or machinery, or place or store any mechanized equipment, tools or other materials, within twenty-five (25) feet of the centerline of any railroad track on the Premises unless Licensee has obtained prior written approval from Licensor. Licensee shall, at its sole cost and expense, perform all activities on and about the Premises in such a manner as not at any time to endanger or interfere with (i) the existence or use of present or future tracks, roadbeds, or property of Licensor, (ii) the safe operation and activities of Licensor or existing third parties, or (iii) the rights or interests of third parties. If ordered to cease using the Premises at any time by Licensor's personnel due to any hazardous condition, Licensee shall immediately do so. Notwithstanding the foregoing right of Licensor, the parties agree that Licensor has no duty or obligation to monitor Licensee's use of the Premises to determine the safe nature thereof, it being solely Licensee's responsibility to ensure that Licensee's use of the Premises is safe. Neither the exercise nor the failure by Licensor to exercise any rights granted in this Section will alter the liability allocation provided by this License.
- 11.6 Licensee shall, at its sole cost and expense, construct and maintain the Pipeline in such a manner and of such material that the Pipeline will not at any time endanger or interfere with (i) the existence or use of present or future tracks, roadbeds, or property of Licensor, (ii) the safe operation and activities of Licensor or existing third parties, or (iii) the rights or interests of third parties. The construction of the Pipeline shall be completed within one (1) year of the Effective Date, and any subsequent maintenance shall be completed within one (1) year of initiation. Within fifteen (15) days after completion of the construction of the Pipeline or the performance of any subsequent maintenance thereon, Licensee shall, at Licensee's own cost and expense, restore the Premises to substantially their state as of the Effective Date, unless otherwise approved in advance by Licensor in writing. On or before expiration or termination of this License for any reason, Licensee shall, at its sole cost and expense, surrender the Premises to Licensor pursuant to the terms and conditions set forth in **Section 24** hereof.
- 11.7 Licensor may direct one or more of its field engineers to observe or inspect the construction and/or maintenance of the Pipeline at any time for compliance with the Drawings and Specifications and Legal Requirements (defined below). If ordered at any time to halt construction or maintenance of the Pipeline by Licensor's personnel due to non-compliance with the Drawings and Specifications or any other hazardous condition, Licensee shall immediately do so. Notwithstanding the foregoing right of Licensor, the parties agree that Licensor has no duty or obligation to observe or inspect, or to halt work on, the Pipeline, it being solely Licensee's responsibility to ensure that the Pipeline is constructed and maintained in strict accordance with the Drawings and Specifications and in a safe and workmanlike manner in compliance with all terms hereof. Neither the exercise of, nor the failure by Licensor to exercise, any right granted by this Section will alter in any way the liability allocation provided by this License. If at any time Licensee shall, in the sole judgment of Licensor, fail to properly perform its obligations under this **Section 11**, Licensor may, at its option and at Licensee's sole expense, arrange for the performance of such work as it deems necessary for the safety of its operations and activities. Licensee shall promptly reimburse Licensor for all costs and expenses of such work, pursuant to the terms of **Section 8**. Licensor's failure to perform any obligations of Licensee shall not alter the liability allocation hereunder.

12. Boring and Excavation.

- 12.1 Prior to Licensee conducting any boring, excavation, or similar work on or about any portion of the Premises, Licensee shall explore the proposed location for such work with hand tools to a depth of at least three (3) feet below the surface of the ground to determine whether pipelines or other structures exist below the surface, provided, however, that in lieu of the foregoing, Licensee shall have the right to use suitable detection equipment or other generally accepted industry practice (e.g., consulting with the Underground Services Association) to determine the existence or location of pipelines and other subsurface structures prior to drilling or excavating with mechanized equipment. Licensee may request information from Licensor concerning the existence and approximate location of Licensor's underground lines, utilities, and pipelines at or near the vicinity of the proposed Pipeline by contacting Licensor's Telecommunications Helpdesk at least thirty (30) business days prior to installation of the Pipeline. Upon receiving Licensee's timely request, Licensor will provide Licensee with the information Licensor has in its possession regarding any existing underground lines, utilities, and pipelines at or near the vicinity of the proposed Pipeline and, if applicable, identify the location of such lines on the Premises pursuant to Licensor's standard procedures. Licensor does not warrant the accuracy or completeness of information relating to subsurface conditions of the Premises and Licensee's operations will be subject at all times to the liability provisions herein.
- 12.2 For all bores greater than 26-inch diameter and at a depth less than 10.0 feet below bottom of rail, a soil investigation must be performed by Licensee and reviewed by Licensor prior to construction. This study is to determine if granular material is present, and to prevent subsidence during the installation process. If the investigation determines in Licensor's reasonable opinion that granular material is present, Licensor may select a new location for Licensee's use, or may require Licensee to furnish for Licensor's review and approval, in Licensor's sole discretion, a remedial plan to deal with the granular material. Once Licensor has approved any such remedial plan in writing, Licensee shall, at Licensee's sole cost and expense, carry out the approved plan in accordance with all terms thereof and hereof.
- 12.3 Any open hole, boring, or well, constructed on the Premises by Licensee shall be safely covered and secured at all times when Licensee is not working in the actual vicinity thereof. Following completion of that portion of the work, all holes or borings constructed on the Premises by Licensee shall be:
- 12.3.1 filled in to surrounding ground level with compacted bentonite grout; or
- 12.3.2 otherwise secured or retired in accordance with any applicable Legal Requirement. No excavated materials may remain on Licensor's property for more than ten (10) days, but must be properly disposed of by Licensee in accordance with applicable Legal Requirements.

LIABILITY AND INSURANCE

13. Liability and Indemnification.

- 13.1 For purposes of this License: (a) "Indemnitees" means Licensor and Licensor's affiliated companies, partners, successors, assigns, legal representatives, officers, directors, shareholders, employees, and agents; (b) "Liabilities" means all claims, liabilities, fines, penalties, costs, damages, losses, liens, causes of action, suits, demands, judgments, and expenses (including, without limitation, court costs, reasonable attorneys' fees, costs of investigation, removal and remediation, and governmental oversight costs) environmental or otherwise; and (c) "Licensee Parties" means Licensee or Licensee's officers, agents, invitees, licensees, employees, or contractors, or any party directly or indirectly employed by any of them, or any party they control or exercise control over.

- 13.2 TO THE FULLEST EXTENT PERMITTED BY LAW, LICENSEE SHALL, AND SHALL CAUSE ITS CONTRACTOR TO, RELEASE, INDEMNIFY, DEFEND AND HOLD HARMLESS INDEMNITEES FOR, FROM, AND AGAINST ANY AND ALL LIABILITIES OF ANY NATURE, KIND, OR DESCRIPTION DIRECTLY OR INDIRECTLY ARISING OUT OF, RESULTING FROM, OR RELATED TO (IN WHOLE OR IN PART):
- 13.2.1 THIS LICENSE, INCLUDING, WITHOUT LIMITATION, ITS ENVIRONMENTAL PROVISIONS,
 - 13.2.2 ANY RIGHTS OR INTERESTS GRANTED PURSUANT TO THIS LICENSE,
 - 13.2.3 LICENSEE'S OCCUPATION AND USE OF THE PREMISES,
 - 13.2.4 THE ENVIRONMENTAL CONDITION AND STATUS OF THE PREMISES CAUSED BY OR CONTRIBUTED TO BY LICENSEE, OR
 - 13.2.5 ANY ACT OR OMISSION OF ANY LICENSEE PARTY.
- 13.3 TO THE FULLEST EXTENT PERMITTED BY LAW, LICENSEE NOW AND FOREVER WAIVES ANY AND ALL CLAIMS THAT BY VIRTUE OF ENTERING INTO THIS LICENSE, LICENSOR IS A GENERATOR, OWNER, OPERATOR, ARRANGER, OR TRANSPORTER FOR THE PURPOSES OF THE COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION, AND LIABILITY ACT, AS AMENDED ("CERCLA") OR OTHER ENVIRONMENTAL LAWS (DEFINED BELOW). LICENSEE WILL INDEMNIFY, DEFEND, AND HOLD THE INDEMNITEES HARMLESS FROM ANY AND ALL SUCH CLAIMS. NOTHING IN THIS LICENSE IS MEANT BY EITHER PARTY TO CONSTITUTE A WAIVER OF ANY INDEMNITEE'S COMMON CARRIER DEFENSES AND THIS LICENSE SHOULD NOT BE SO CONSTRUED. IF ANY AGENCY OR COURT CONSTRUES THIS LICENSE TO BE A WAIVER OF ANY INDEMNITEE'S COMMON CARRIER DEFENSES, LICENSEE AGREES TO INDEMNIFY, HOLD HARMLESS, AND DEFEND INDEMNITEES FOR ANY LIABILITIES RELATED TO THAT CONSTRUCTION OF THIS LICENSE. IN NO EVENT AS BETWEEN LICENSOR AND LICENSEE AS TO USE OF THE PREMISES AS CONTEMPLATED BY THIS LICENSE SHALL LICENSOR BE RESPONSIBLE TO LICENSEE FOR THE ENVIRONMENTAL CONDITION OF THE PREMISES.
- 13.4 IF ANY EMPLOYEE OF ANY LICENSEE PARTY ASSERTS THAT HE OR SHE IS AN EMPLOYEE OF ANY INDEMNITEE, TO THE FULLEST EXTENT PERMITTED BY LAW, LICENSEE SHALL, AND SHALL CAUSE ITS CONTRACTOR TO, RELEASE, INDEMNIFY, DEFEND, AND HOLD THE INDEMNITEES HARMLESS FROM AND AGAINST ANY LIABILITIES ARISING OUT OF OR RELATED TO (IN WHOLE OR IN PART) ANY SUCH ASSERTION INCLUDING, BUT NOT LIMITED TO, ASSERTIONS OF EMPLOYMENT BY AN INDEMNITEE RELATED TO THE FOLLOWING OR ANY PROCEEDINGS THEREUNDER: THE FEDERAL EMPLOYERS' LIABILITY ACT, THE SAFETY APPLIANCE ACT, THE LOCOMOTIVE INSPECTION ACT, THE OCCUPATIONAL SAFETY AND HEALTH ACT, THE RESOURCE CONSERVATION AND RECOVERY ACT, AND ANY SIMILAR STATE OR FEDERAL STATUTE.
- 13.5 THE FOREGOING OBLIGATIONS OF LICENSEE SHALL NOT APPLY TO THE EXTENT LIABILITIES ARE PROXIMATELY CAUSED BY THE GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF ANY INDEMNITEE, BUT SHALL APPLY TO ALL OTHER LIABILITIES, INCLUDING THOSE ARISING FROM OR ATTRIBUTED TO ANY OTHER ALLEGED OR ACTUAL NEGLIGENCE, INTENTIONAL ACTS, OR STRICT LIABILITY OF ANY INDEMNITEE.

- 13.6 Upon written notice from Licensor, Licensee agrees to assume the defense of any lawsuit or other proceeding brought against any Indemnitee by any entity, relating to any matter covered by this License for which Licensee has an obligation to assume liability for and/or save and hold harmless any Indemnitee. Licensee shall pay all costs and expenses incident to such defense, including, but not limited to, reasonable attorneys' fees, investigators' fees, litigation and appeal expenses, settlement payments, and amounts paid in satisfaction of judgments.
14. Personal Property Risk of Loss. **ALL PERSONAL PROPERTY, INCLUDING, BUT NOT LIMITED TO, FIXTURES, EQUIPMENT, OR RELATED MATERIALS UPON THE PREMISES WILL BE AT THE RISK OF LICENSEE ONLY, AND NO INDEMNITEE WILL BE LIABLE FOR ANY DAMAGE THERETO OR THEFT THEREOF, WHETHER OR NOT DUE IN WHOLE OR IN PART TO THE NEGLIGENCE OF ANY INDEMNITEE.**
15. Insurance. Licensee shall, at its sole cost and expense, procure and maintain during the life of this License the following insurance coverage:

- 15.1 Commercial General Liability Insurance. This insurance shall contain broad form contractual liability with a combined single limit of a minimum of \$5,000,000 each occurrence and an aggregate limit of at least \$10,000,000 but in no event less than the amount otherwise carried by Licensee. Coverage must be purchased on a post 2004 ISO occurrence or equivalent and include coverage for, but not limited to, the following:
- Bodily Injury and Property Damage
 - Personal Injury and Advertising Injury
 - Fire legal liability
 - Products and completed operations

This policy shall also contain the following endorsements or language, which shall be indicated on the certificate of insurance:

- The definition of insured contract shall be amended to remove any exclusion or other limitation for any work being done within 50 feet of railroad property.
- Waiver of subrogation in favor of and acceptable to Licensor.
- Additional insured endorsement in favor of and acceptable to Licensor and Jones Lang LaSalle Brokerage, Inc.
- Separation of insureds.
- The policy shall be primary and non-contributing with respect to any insurance carried by Licensor.

It is agreed that the workers' compensation and employers' liability related exclusions in the Commercial General Liability Insurance policy(s) required herein are intended to apply to employees of the policy holder and shall not apply to Licensor's employees.

No other endorsements limiting coverage may be included on the policy.

- 15.2 Business Automobile Insurance. This insurance shall contain a combined single limit of at least \$1,000,000, and include coverage for, but not limited to the following:
- Bodily injury and property damage.
 - Any and all vehicles owned, used or hired.

This policy shall also contain the following endorsements, which shall be indicated on the certificate of insurance:

- Waiver of subrogation in favor of and acceptable to Licensor.
- Additional insured endorsement in favor of and acceptable to Licensor.
- Separation of insureds.

- The policy shall be primary and non-contributing with respect to any insurance carried by Licensors.

15.3 Workers' Compensation and Employers' Liability Insurance. This insurance shall include coverage for, but not limited to:

- Licensee's statutory liability under the workers' compensation laws of the state(s) in which the services are to be performed. If optional under state laws, the insurance must cover all employees anyway.
- Employers' Liability (Part B) with limits of at least \$500,000 each accident, \$500,000 by disease policy limit, \$500,000 by disease each employee.

This policy shall also contain the following endorsements or language, which shall be indicated on the certificate of insurance:

- Waiver of subrogation in favor of and acceptable to Licensors.

15.4 Railroad Protective Liability Insurance. This insurance shall name only Licensors as the insured with coverage of at least \$5,000,000 per occurrence and \$10,000,000 in the aggregate. The coverage obtained under this policy shall only be effective during the initial installation and/or construction of the Pipeline. **THE CONSTRUCTION OF THE PIPELINE SHALL BE COMPLETED WITHIN ONE (1) YEAR OF THE EFFECTIVE DATE.** If further maintenance of the Pipeline is needed at a later date, an additional Railroad Protective Liability Insurance Policy shall be required. The policy shall be issued on a standard ISO form CG 00 35 12 03 and include the following:

- Endorsed to include the Pollution Exclusion Amendment.
- Endorsed to include the Limited Seepage and Pollution Endorsement.
- Endorsed to include Evacuation Expense Coverage Endorsement.
- No other endorsements restricting coverage may be added.
- The original policy must be provided to Licensors prior to performing any work or services under this License.
- Definition of "Physical Damage to Property" shall be endorsed to read: "means direct and accidental loss of or damage to all property owned by any named insured and all property in any named insured's care, custody and control arising out of the acts or omissions of the contractor named on the Declarations."

In lieu of providing a Railroad Protective Liability Policy, for a period of one (1) year from the Effective Date, Licensee may participate in Licensors' Blanket Railroad Protective Liability Insurance Policy available to Licensee or its contractor. The limits of coverage are the same as above. The cost is \$1150.00.

- ☐ I elect to participate in Licensors' Blanket Policy;
- ☐ I elect not to participate in Licensors' Blanket Policy.

15.5 Pollution Legal Liability (PLL) Insurance. Intentionally deleted, not required for this permit

15.6 Other Requirements:

15.6.1 Where allowable by law, all policies (applying to coverage listed above) shall contain no exclusion for punitive damages.

15.6.2 Licensee agrees to waive its right of recovery against Licensors for all claims and suits against Licensors. In addition, Licensee's insurers, through the terms of the policy or a policy endorsement, must waive their right of subrogation against Licensors for all claims and suits, and the certificate of insurance must reflect the waiver of subrogation endorsement. Licensee further waives its right of recovery, and its insurers must also waive their right of subrogation against Licensors for loss of

Licensee's owned or leased property, or property under Licensee's care, custody, or control.

- 15.6.3 Licensee is not allowed to self-insure without the prior written consent of Licensor. If granted by Licensor, any self-insured retention or other financial responsibility for claims shall be covered directly by Licensee in lieu of insurance. Any and all Licensor liabilities that would otherwise, in accordance with the provisions of this License, be covered by Licensee's insurance will be covered as if Licensee elected not to include a self-insured retention or other financial responsibility for claims.
- 15.6.4 Prior to entering the Premises, Licensee shall furnish to Licensor an acceptable certificate(s) of insurance including an original signature of the authorized representative evidencing the required coverage, endorsements, and amendments. Licensee shall notify Licensor in writing at least 30 days prior to any cancellation, non-renewal, substitution, or material alteration. In the event of a claim or lawsuit involving Licensor arising out of this License, Licensee will make available any required policy covering such claim or lawsuit.
- 15.6.5 Any insurance policy shall be written by a reputable insurance company acceptable to Licensor or with a current Best's Guide Rating of A- and Class VII or better, and authorized to do business in the state(s) in which the service is to be provided.
- 15.6.6 If coverage is purchased on a "claims made" basis, Licensee hereby agrees to maintain coverage in force for a minimum of three years after expiration or termination of this License. Annually, Licensee agrees to provide evidence of such coverage as required hereunder.
- 15.6.7 Licensee represents that this License has been thoroughly reviewed by Licensee's insurance agent(s)/broker(s), who have been instructed by Licensee to procure the insurance coverage required by this License. Allocated Loss Expense shall be in addition to all policy limits for coverages referenced above.
- 15.6.8 Not more frequently than once every five years, Licensor may reasonably modify the required insurance coverage to reflect then-current risk management practices in the railroad industry and underwriting practices in the insurance industry.
- 15.6.9 If any portion of the operation is to be subcontracted by Licensee, Licensee shall require that the subcontractor shall provide and maintain insurance coverages as set forth herein, naming Licensor as an additional insured, and shall require that the subcontractor shall release, defend and indemnify Licensor to the same extent and under the same terms and conditions as Licensee is required to release, defend and indemnify Licensor herein.
- 15.6.10 Failure to provide evidence as required by this **Section 15** shall entitle, but not require, Licensor to terminate this License immediately. Acceptance of a certificate that does not comply with this Section shall not operate as a waiver of Licensee's obligations hereunder.
- 15.6.11 The fact that insurance (including, without limitation, self-insurance) is obtained by Licensee shall not be deemed to release or diminish the liability of Licensee, including, without limitation, liability under the indemnity provisions of this License. Damages recoverable by Licensor shall not be limited by the amount of the required insurance coverage.

15.6.12 For purposes of this **Section 15**, Licensors shall mean "Burlington Northern Santa Fe, LLC", "BNSF Railway Company" and the subsidiaries, successors, assigns and affiliates of each.

COMPLIANCE WITH LAWS, REGULATIONS, AND ENVIRONMENTAL MATTERS

16. Compliance with Laws, Rules, and Regulations.

- 16.1 Licensee shall observe and comply with any and all laws, statutes, regulations, ordinances, orders, covenants, restrictions, or decisions of any court of competent jurisdiction ("**Legal Requirements**") relating to the construction, maintenance, and use of the Pipeline and the use of the Premises.
- 16.2 Prior to entering the Premises, Licensee shall and shall cause its contractor(s) to comply with all of Licensors applicable safety rules and regulations. Licensee must ensure that each of its employees, contractors, agents or invitees entering upon the Premises completes the safety orientation program at the Website "www.contractororientation.com" (the "**Safety Orientation**") within one year prior to entering upon the Premises. Additionally, Licensee must ensure that each and every employee of Licensee, its contractors, agents and invitees possess a card certifying completion of the Safety Orientation prior to entering upon the Premises. Licensee must renew the Safety Orientation annually.
- 16.3 Licensee shall obtain on or before the date it or its contractor enters the Premises, any and all additional rights-of way, easements, licenses and other agreements relating to the grant of rights and interests in and/or access to the Premises (collectively, the "**Rights**") and such other rights, licenses, permits, authorizations, and approvals (including without limitation, any necessary local, state, federal or tribal authorizations and environmental permits) that are necessary in order to permit Licensee to construct, maintain, own and operate the Pipeline and otherwise to perform its obligations hereunder in accordance with the terms and conditions hereof.
- 16.4 Licensee shall either require that the initial stated term of each such Rights be for a period that does not expire, in accordance with its ordinary terms, prior to the last day of the term of this License or, if the initial stated term of any such Right expires in accordance with its ordinary terms on a date earlier than the last day of the term of this License, Licensee shall, at its cost, exercise any renewal rights thereunder, or otherwise acquire such extensions, additions and/or replacements as may be necessary, in order to cause the stated term thereof to be continued until a date that is not earlier than the last day of the term of this License.
- 16.5 Upon the expiration or termination of any Right that is necessary in order for Licensee to own, operate or use the Pipeline in accordance with the terms and conditions of this License, this License thereby shall automatically expire upon such expiration or termination of the Right.

17. Environmental.

- 17.1 Licensee shall strictly comply with all federal, state and local environmental Legal Requirements and regulations in its use of the Premises, including, but not limited to, the Resource Conservation and Recovery Act, as amended (RCRA), the Clean Water Act, the Oil Pollution Act, the Hazardous Materials Transportation Act, and CERCLA (collectively referred to as the "**Environmental Laws**"). Licensee shall not maintain a treatment, storage, transfer or disposal facility, or underground storage tank, as defined by Environmental Laws on the Premises. Licensee shall not release or suffer the release of oil or hazardous substances, as defined by Environmental Laws on or about the Premises.

- 17.2 Licensee covenants that it will not handle or transport "hazardous waste" or "hazardous substances", as "hazardous waste" and "hazardous substances" may now or in the future be defined by any federal, state, or local governmental agency or body through the Pipeline on Licensors property. Licensee agrees periodically to furnish Licensor with proof, satisfactory to Licensor that Licensee is in compliance with the provisions of this **Section 17.2**.
- 17.3 Licensee shall give Licensor immediate notice to Licensor's Resource Operations Center at (800) 832-5452 of any known (i) release of hazardous substances on, from, or affecting the Premises, (ii) violation of Environmental Laws, or (iii) inspection or inquiry by governmental authorities charged with enforcing Environmental Laws with respect to Licensee's use of the Premises. Licensee shall use the best efforts to promptly respond to any release on, from, or affecting the Premises. Licensee also shall give Licensor immediate notice of all measures undertaken on behalf of Licensee to investigate, remediate, respond to or otherwise cure such release or violation.
- 17.4 If Licensor has notice from Licensee or otherwise of a release or violation of Environmental Laws arising in any way with respect to the Pipeline which occurred or may occur during the term of this License, Licensor may require Licensee, at Licensee's sole risk and expense, to take timely measures to investigate, remediate, respond to or otherwise cure such release or violation affecting the Premises or Licensor's right-of-way.
- 17.5 Licensee shall promptly report to Licensor in writing any conditions or activities upon the Premises known to Licensee which create a risk of harm to persons, property or the environment and shall take whatever action is necessary to prevent injury to persons, property, or the environment arising out of such conditions or activities; provided, however, that Licensee's reporting to Licensor shall not relieve Licensee of any obligation whatsoever imposed on it by this License. Licensee shall promptly respond to Licensor's request for information regarding said conditions or activities.

DISCLAIMER OF WARRANTIES

18. No Warranties.

- 18.1 **LICENSOR'S DUTIES AND WARRANTIES ARE LIMITED TO THOSE EXPRESSLY STATED IN THIS LICENSE AND SHALL NOT INCLUDE ANY IMPLIED DUTIES OR IMPLIED WARRANTIES, NOW OR IN THE FUTURE. NO REPRESENTATIONS OR WARRANTIES HAVE BEEN MADE BY LICENSOR OTHER THAN THOSE CONTAINED IN THIS LICENSE. LICENSEE HEREBY WAIVES ANY AND ALL WARRANTIES, EXPRESS OR IMPLIED, WITH RESPECT TO THE PREMISES OR WHICH MAY EXIST BY OPERATION OF LAW OR IN EQUITY, INCLUDING, WITHOUT LIMITATION, ANY WARRANTY OF MERCHANTABILITY, HABITABILITY OR FITNESS FOR A PARTICULAR PURPOSE.**
- 18.2 **LICENSOR MAKES NO WARRANTY, REPRESENTATION OR CONDITION OF ANY KIND, EXPRESS OR IMPLIED, CONCERNING (A) THE SCOPE OF THE LICENSE OR OTHER RIGHTS GRANTED HEREUNDER TO LICENSEE OR (B) WHETHER OR NOT LICENSEE'S CONSTRUCTION, MAINTENANCE, OWNERSHIP, USE OR OPERATION OF THE PIPELINE WILL VIOLATE OR INFRINGE UPON THE RIGHTS, INTERESTS AND ESTATES OF THIRD PARTIES, INCLUDING, WITHOUT LIMITATION, ANY LEASES, USE RIGHTS, EASEMENTS AND LIENS OF ANY THIRD PARTY.**

19. **Disclaimer of Warranty for Quiet Enjoyment. LICENSOR DOES NOT WARRANT ITS TITLE TO THE PREMISES NOR UNDERTAKE TO DEFEND LICENSEE IN THE PEACEABLE POSSESSION OR USE THEREOF. NO COVENANT OF QUIET ENJOYMENT IS MADE.**

20. **Eviction at Risk of Licensee.** In case of the eviction of Licensee by anyone owning, claiming title to, or claiming any interest in the Premises, or by the abandonment by Licensor of the affected rail corridor, Licensor shall not be liable (i) to refund Licensee any compensation paid hereunder, except for the pro-rata part of any recurring charge paid in advance, or (ii) for any damage Licensee sustains in connection with the eviction.

LIENS AND TAXES

21. **Liens and Charges.** Licensee shall promptly pay and discharge any and all liens arising out of any construction, alterations or repairs done, suffered or permitted to be done by Licensee on Premises. Licensor is hereby authorized to post any notices or take any other action upon or with respect to Premises that is or may be permitted by law to prevent the attachment of any such liens to Premises; provided, however, that failure of Licensor to take any such action shall not relieve Licensee of any obligation or liability under this **Section 21** or any other Section of this License.
22. **Taxes.** Licensee shall pay when due any taxes, assessments or other charges (collectively, "Taxes") levied or assessed by any governmental or quasi-governmental body upon the Pipeline or any other improvements constructed or installed on the Premises by or for Licensee (collectively, the "Improvements") or any Taxes levied or assessed against Licensor or the Premises that are attributable to the Improvements.

DEFAULT, TERMINATION, AND SURRENDER

23. **Default and Termination.** In addition to and not in limitation of Licensor's right to terminate for failure to provide evidence of insurance as required pursuant to the terms of **Section 15**, the following events are also deemed to be events of default pursuant to which Licensor has the right to terminate as set forth below:
- 23.1 If default shall be made in any of Licensee's covenants, agreements, or obligations contained in this License and Licensee fails to cure said default within thirty (30) days after written notice is provided to Licensee by Licensor, or in case of any assignment or transfer of this License in violation of **Section 26** below, Licensor may, at its option, terminate this License by serving five (5) days' notice in writing upon Licensee. Notwithstanding the foregoing, Licensor shall have the right to terminate this License immediately if Licensee fails to provide evidence of insurance as required in **Section 15**.
 - 23.2 Should Licensee not comply fully with the obligations of **Section 17** regarding the handling or transporting of hazardous waste or hazardous material, notwithstanding anything contained in any other provision of this License, Licensor may, at its option, terminate this License by serving five (5) days' notice of termination upon Licensee.
 - 23.3 Any waiver by Licensor of any default or defaults shall not constitute a waiver of the right to terminate this License for any subsequent default or defaults, nor shall any such waiver in any way affect Licensor's ability to enforce any Section of this License. The remedy set forth in this **Section 23** shall be in addition to, and not in limitation of, any other remedies that Licensor may have at law or in equity.
 - 23.4 In addition to and not in limitation of Licensor's rights to terminate this License for failure to provide evidence of insurance or occurrence of defaults as described above, this License may be terminated by either party, at any time, by serving thirty (30) days' written notice of termination upon the other party. Such termination shall not release either party hereto from any liability or obligation under the License, whether of indemnity or otherwise, resulting from any acts, omissions or events happening prior to the date of termination or thereafter in case by the terms of the License it is provided that anything shall or may be done after termination hereof.

24. Surrender of the Premises.

- 24.1 On or before expiration or termination of this License for any reason, Licensee shall, at its sole cost and expense:
- 24.1.1 if so directed by Licenser in writing, remove the Improvements, the Pipeline and all appurtenances thereto, or, at the sole discretion of Licenser, fill and cap or otherwise appropriately decommission the Pipeline with a method satisfactory to Licenser;
 - 24.1.2 report and restore any damage to the Premises or Licenser's other property arising from, growing out of, or connected with Licensee's use of the Premises;
 - 24.1.3 remedy any unsafe conditions on the Premises created or aggravated by Licensee; and
 - 24.1.4 leave the Premises in substantially the condition which existed as of the Effective Date.
- 24.2 Upon any expiration or termination of this License, if Licensee fails to surrender the Premises to Licenser or if Licensee fails to complete its obligations under **Section 24.1** above (the "**Restoration Obligations**"), Licensee shall have a limited license to enter upon the Premises solely to the extent necessary for Licensee to complete the Restoration Obligations, and all liabilities and obligations of Licensee hereunder shall continue in effect until the Premises are surrendered and the Restoration Obligations are completed. Neither termination nor expiration shall release Licensee from any liability or obligation under this License, whether of indemnity or otherwise, resulting from any acts, omissions or events happening prior to the date of termination, or, if later, the date when Licensee surrenders the Premises and all of the Restoration Obligations are completed.
- 24.3 If Licensee fails to complete the Restoration Obligations within thirty (30) days after the date of such termination of its tenancy, then Licenser may, at its election, either: (i) remove the Pipeline and the other Improvements or otherwise restore the Premises, and in such event Licensee shall, within thirty (30) days after receipt of bill therefor, reimburse Licenser for cost incurred, (ii) upon written notice to Licensee, take and hold the Pipeline and the other Improvements and personal property as its sole property, without payment or obligation to Licensee therefor, or (iii) specifically enforce Licensee's obligation to restore and/or pursue any remedy at law or in equity against Licensee for failure to so restore. Further, if Licenser has consented to the Pipeline and the other Improvements remaining on the Premises following termination, Licensee shall, upon request by Licenser, provide a bill of sale in a form acceptable to Licenser conveying the Pipeline and the other Improvements to Licenser.

MISCELLANEOUS

25. Successors and Assigns. All provisions contained in this License shall be binding upon, inure to the benefit of, and be enforceable by the respective successors and assigns of Licenser and Licensee to the same extent as if each such successor and assign was named a party to this License.
26. Assignment.
- 26.1 Licensee may not sell, assign, transfer, or hypothecate this License or any right, obligation, or interest herein (either voluntarily or by operation of law, merger, or otherwise) without the prior written consent of Licenser, which consent may not be unreasonably withheld or delayed by Licenser. Any attempted assignment by Licensee in violation of this **Section 26** shall be a breach of this License and, in addition, shall be voidable by Licenser in its sole and absolute discretion.

- 26.2 For purposes of this Section 26, the word "assign" shall include without limitation (a) any sale of the equity interests of Licensee following which the equity interest holders of Licensee immediately prior to such sale own, directly or indirectly, less than 50% of the combined voting power of the outstanding voting equity interests of Licensee, (b) any sale of all or substantially all of the assets of (i) Licensee and (ii) to the extent such entities exist, Licensee's parent and subsidiaries, taken as a whole, or (c) any reorganization, recapitalization, merger or consolidation involving Licensee. Notwithstanding the foregoing, any reorganization, recapitalization, merger or consolidation following which the equity interest holders of Licensee immediately prior to such reorganization, recapitalization, merger or consolidation own, directly or indirectly, at least 50% of the combined voting power of the outstanding voting equity interests of Licensee or any successor thereto or the entity resulting from such reorganization, recapitalization, merger or consolidation shall not be deemed an assignment. THIS LICENSE SHALL NOT RUN WITH THE LAND WITHOUT THE EXPRESS WRITTEN CONSENT OF LICENSOR, SUCH CONSENT TO BE IN LICENSOR'S SOLE DISCRETION.
- 26.3 Notwithstanding the provisions of Section 26.1 above or anything contained in this License to the contrary, if Licensee sells, assigns, transfers, or hypothecates this License or any interest herein in contravention of the provisions of this License (a "Purported Assignment") to another party (a "Purported Transferee"), the Purported Transferee's enjoyment of the rights and privileges granted under this License shall be deemed to be the Purported Transferee's agreement to be bound by all of the terms and provisions of this License, including but not limited to the obligation to comply with the provisions of Section 15 above concerning insurance requirements. In addition to and not in limitation of the foregoing, Licensee, for itself, its successors and assigns, shall indemnify, defend and hold harmless Licensor for all Liabilities of any nature, kind or description of any person or entity directly or indirectly arising out of, resulting from or related to (in whole or in part) a Purported Assignment.
- 26.4 The provisions of this Section 26 shall survive the expiration or earlier termination of this License.
- 27 Notices. Any notice, invoice, or other writing required or permitted to be given hereunder by one party to the other shall be in writing and the same shall be given and shall be deemed to have been served and given if (i) placed in the United States mail, certified, return receipt requested, or (ii) deposited into the custody of a nationally recognized overnight delivery service, addressed to the party to be notified at the address for such party specified below, or to such other address as the party to be notified may designate by giving the other party no less than thirty (30) days' advance written notice of such change in address.

If to Licensor: Jones Lang LaSalle Brokerage, Inc.
4300 Amon Carter Blvd., Suite 100
Fort Worth, TX 76155
Attn: Permits/Licenses

with a copy to: BNSF Railway Company
2500 Lou Menk Dr. – AOB3
Fort Worth, TX 76131
Attn: Senior Manager Real Estate

If to Licensee: City of Lancaster
700 E. Main Street
Lancaster, Texas 75146

28. Survival. Neither termination nor expiration will release either party from any liability or obligation under this License, whether of indemnity or otherwise, resulting from any acts, omissions or events happening prior to the date of termination or expiration, or, if later, the date when the Pipeline and the other Improvements are removed and the Premises are restored to its condition as of the Effective Date.
29. Recordation. It is understood and agreed that this License shall not be placed or allowed to be placed on public record.
30. Applicable Law. All questions concerning the interpretation or application of provisions of this License shall be decided according to the substantive laws of the State of Texas without regard to conflicts of law provisions.
31. Severability. To the maximum extent possible, each provision of this License shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this License shall be prohibited by, or held to be invalid under, applicable law, such provision shall be ineffective solely to the extent of such prohibition or invalidity, and this shall not invalidate the remainder of such provision or any other provision of this License.
32. Integration. This License is the full and complete agreement between Licensor and Licensee with respect to all matters relating to Licensee's use of the Premises, and supersedes any and all other agreements between the parties hereto relating to Licensee's use of the Premises as described herein. However, nothing herein is intended to terminate any surviving obligation of Licensee or Licensee's obligation to defend and hold Licensor harmless in any prior written agreement between the parties.
33. Joint and Several Liability. If Licensee consists of two or more parties, all the covenants and agreements of Licensee herein contained shall be the joint and several covenants and agreements of such parties.
34. Waiver. The waiver by Licensor of the breach of any provision herein by Licensee shall in no way impair the right of Licensor to enforce that provision for any subsequent breach thereof.
35. Interpretation.
- 35.1 This License shall be interpreted in a neutral manner, and not more strongly for or against any party based upon the source of the draftsmanship; both parties hereby agree that this License shall not be subject to the principle that a contract would be construed against the party which drafted the same. Article titles, headings to sections and paragraphs and the table of contents (if any) are inserted for convenience of reference only and are not intended to be a part or to affect the meaning or interpretation hereof. The exhibit or exhibits referred to herein shall be construed with and as an integral part of this License to the same extent as if they were set forth verbatim herein.
- 35.2 As used herein, "include", "includes" and "including" are deemed to be followed by "without limitation" whether or not they are in fact followed by such words or words of like import; "writing", "written" and comparable terms refer to printing, typing, lithography and other means of reproducing words in a visible form; references to any person are also to that person's successors and permitted assigns; "hereof", "herein", "hereunder" and comparable terms refer to the entirety hereof and not to any particular article, section, or other subdivision hereof or attachment hereto; references to any gender include references to the masculine or feminine as the context requires; references to the plural include the singular and vice versa; and references to this License or other documents are as amended, modified or supplemented from time to time.

36. Counterparts. This License may be executed in multiple counterparts, each of which shall, for all purposes, be deemed an original but which together shall constitute one and the same instrument, and the signature pages from any counterpart may be appended to any other counterpart to assemble fully executed documents, and counterparts of this License may also be exchanged via email or electronic facsimile machines and any email or electronic facsimile of any party's signature shall be deemed to be an original signature for all purposes.
37. Licensor's Representative. Jones Lang LaSalle Brokerage, Inc. is acting as representative for BNSF Railway Company.

This License has been duly executed by the parties hereto as of the date below each party's signature; to be effective, however, as of the Effective Date.

LICENSOR:

BNSF RAILWAY COMPANY a Delaware corporation

By: Jones Lang LaSalle Brokerage, Inc.,
4300 Amon Carter Blvd, Suite 100
Fort Worth, Texas 76155

By: _____
Ed Darter
Title: Sr. Vice President - National Accounts
Date: _____

LICENSEE:

CITY OF LANCASTER

By: Lancaster, Texas 75146

By: _____
Title: _____
Date: _____

LANCASTER CITY COUNCIL

Item 10

Agenda Communication

December 8, 2014

Consider and discuss a resolution authorizing the City Manager to execute a contract for pipe rehabilitation on a portion of the Keller Branch Phase I Wastewater Line Replacement project with Insituform Technologies, LLC. through an Interlocal agreement with Buy Board for an amount not to exceed \$88,695.00.

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

Goal: Sound Infrastructure

Background

The Keller Branch line serves the eastern portion of the City, extending from the connection point at Ten Mile Creek to the most northern part of the City. The majority of the line is vitrified clay tile. The portion of Phase I from the TRA Interceptor to Beltline was completed in July 2012. There were additional funds available to complete this section under the BNSF railway rights-of-way. Completion of this portion will help eliminate occurrences of sanitary sewer overflows during rain events and will accommodate existing flows and future growth. The current need is to upgrade the existing undersized line from a 12" vitrified clay tile pipe to a 16" PVC pipe. The services obtained through the contract will include rehabilitation and pipe bursting for pipes located along the east side of BNSF Railway from East 2nd Street extending nine hundred thirty five feet (935') south. A license agreement is required for any work that will be completed in the BNSF railway, right of way.

There is a companion item for a license agreement that is under concurrent consideration, should Council choose to authorize this interlocal agreement.

Considerations

- **Operational** – Replacement of this line will reduce maintenance cost in labor and materials due to service interruptions and improve sewer services. It will also result in a reduction of overflows caused by heavy rain. Once this has been installed the water/wastewater staff will maintain the sewer line.
- **Legal** – The City Attorney has reviewed and approved the resolution as to form. The City maintains an executed Interlocal agreement with Buy Board, a cooperative

agency. Texas law authorizes cooperative agreements, like this one to help save the time of developing specifications and avoid the duplication of the competitive bidding process. An Interlocal agreement allows 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 requirement.

Use of Interlocal agreements allows the City to address the operational needs in a timely manner. Additionally savings are achieved through aggregate volume joint bidding opportunities.

- **Financial** – Funding is available through the 2011 Series Bonds authorized at the September 26, 2011 City Council meeting.
- **Public Information** – This item is being considered at a meeting of the City Council noticed in compliance with the Texas Open Meetings Act.

Options/Alternatives

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

Recommendation

Staff recommends approving the resolution as presented, authorizing the City Manager to execute a contract with Insituform Technologies, LLC for an amount not to exceed \$88,695.00.

Attachments

- Resolution
- Contract and proposal – Keller Branch Sewer Line Replacement Phase II Exhibit A "Map"

Submitted by:

Jim Brewer, Public Works Director

Andrew Waits, Water & Wastewater Superintendent

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LANCASTER, TEXAS, AUTHORIZING THE CITY MANAGER TO EXECUTE THE TERMS AND CONDITIONS OF AN AGREEMENT WITH INSITUFORM TECHNOLOGIES, LLC FOR PIPE REHABILITATION ON THE KELLER BRANCH PHASE I SANITARY SEWER LINE REPLACEMENT PROJECT IN AN AMOUNT NOT TO EXCEED \$88,695.00; AUTHORIZING THE CITY MANAGER TO EXECUTE THE CONTRACT PURSUANT TO APPROVAL; REPEALING ALL RESOLUTIONS IN CONFLICT; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, repairs are needed to the Keller Branch sanitary sewer line; and

WHEREAS, the City Council desires to utilize the BuyBoard's Interlocal contract with Insituform Technologies for the repairs.

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

SECTION 1. The City Council approves an agreement which is attached hereto and incorporated herein as Exhibit "A" for a sanitary sewer line rehabilitation project with Insituform Technologies, LLC. in an amount not to exceed eighty eight thousand six hundred ninety five dollars and no cents (\$88,695.00).

SECTION 2. That the City Manager is authorized to execute the 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 take effect immediately from and after its passage, and it is duly resolved.

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

ATTEST:

APPROVED:

Sorangel O. Arenas, City Secretary

Marcus E. Knight, Mayor

APPROVED AS TO FORM:

Robert E. Hager, City Attorney



1103 Postwood Dr
Coffin, TX 76210
www.insituform.com

Name: Tim Peterie
Phone: 214-317-0950

Fax: 940-498-0265
Email: tpeterie@insituform.com

October 30, 2013

Ms. Shwelha Pandurangi, PE
City of Lancaster
700 East Main St
Lancaster, TX 75146-3267

Revised Proposal

Project Name: City of Lancaster, TX – East Side Phase 3 – MH 6 to MH 7
10" to 15" Sanitary Sewer Rehabilitation by Pipe Burst

INSITUFORM TECHNOLOGIES, LLC herein proposes to furnish all labor, materials, equipment, and services necessary to reconstruct the referenced project (as detailed by the City of Lancaster) utilizing the Texas Statewide Cooperative Purchasing Contract #354-10 administered through the BuyBoard.

ASSUMPTIONS AND QUALIFICATIONS

Laterals During TV inspection all side sewers are verified, using best practical efforts, to determine if each is an active hook up. Normal practice only reinstates those that are active. You may direct us to reinstate all, or specific laterals as you desire. This proposal unless otherwise stated, assumes that all laterals will be reconnected externally. Specific service connections will not be reconnected only when written directions are received from the Owner. The Owner will indemnify and hold INSITUFORM TECHNOLOGIES, LLC harmless from all claims arising from backups and other effects of such actions or inaction's.

Insituform Technologies, LLC will supply the City of Lancaster a 2-year Maintenance Bond and Certificate of Insurance as required following acceptance of this proposal.

The pricing in this proposal assumes that all Technical Specifications set forth by the BuyBoard will be strictly adhered to. Any changes to these specifications must be noted and agreed upon by both parties prior to finalizing the proposal pricing.

Water shall be provided at no cost to Insituform Technologies, LLC for all construction phases of this project. Insituform Technologies, Inc. will follow all required deposit, backflow prevention, and metering procedures.

The City of Lancaster is responsible for obtaining all permits (including RR), staking, and survey work that is determined to be necessary to complete the project. It is also the responsibility of the City of Lancaster to coordinate work with the Rail Road. Insituform's Project Manager will prepare the permit application and all associated documents on behalf of the City and assist where necessary with the Rail Road coordination.

Special Notes:

1. The pricing in this proposal takes into account current material prices only. If material prices change prior to approval, price adjustments may be necessary.
2. No as-built drawings were provided by the City of Lancaster. All quantities are estimates only from above ground assessment of the project prior to establishing prices. The final invoice will reflect actual field quantities for all items.
3. Concrete encasement, surrounding utility interference, or other sub surface conditions not anticipated at the time of this proposal will be considered changed conditions and may result in price adjustments by change order.
4. The City of Lancaster will be responsible for the initial permit application fee of \$600 to be paid to BNSF Railway at the time of permit application submittal and participate in the Licensor's Blanket Railroad Protective Liability Insurance Policy for a cost of \$1,150 at the time of agreement execution.
5. Insituform will be responsible for any re-submittal cost associated with the permit application if any errors or omissions are made on the original submittal.

PROPOSAL TERMS AND CONDITIONS

Terms and Conditions from the Texas Statewide Cooperative Purchasing Contract are available upon request from the BuyBoard. Any changes to these conditions must be noted and agreed upon by both parties.

PROPOSAL PRICINGCity of Lancaster East Side Phase 3 (MH6 – MH7) Pipe Burst Adjusted Prices

Description	Qty	Unit of Measure	BuyBoard Price	Adjusted Price	Extended Total
Burst 10" to 12" IPS SDR 19 (0'-8' deep)	935	LF	\$62.00	\$62.00	\$57,970.00
Burst 10" – Increase to 16" IPS SDR 19	935	LF	N/A	\$5.00	\$4,675.00
16" Pipeburst Setup Charge Per Install Length	935	LF	\$15.00	\$7.50	\$7,012.50
10" Clean/TV Sanitary Sewer	935	LF	\$6.00	\$4.00	\$3,740.00
Setup 6" Pump (Per Pump)	1	EA	\$1,250.00	\$1,000.00	\$1,000.00
Setup 6" Piping	935	LF	\$30.00	\$1.50	\$1,402.50
Operate 6" Pumping System	2	Day	\$950.00	\$200.00	\$400.00
16" Post TV Inspection After Rehab	935	LF	\$2.00	\$2.00	\$1,870.00
External Reconnect (0'-8' deep)	3	EA	\$1,250.00	\$850.00	\$2,550.00
Access Pit (0'-6' deep)	4	EA	\$2,000.00	\$950.00	\$3,800.00
Bootholing for Nearby Utility Location (0'-8' deep)	4	EA	\$100.00	\$100.00	\$400.00
Trench Safety	50	LF	\$10.00	\$10.00	\$500.00
Granular Backfill	25	Ton	\$30.00	\$30.00	\$750.00
Repair/Rehab 2' Asphalt Pavement	5	SY	\$75.00	\$75.00	\$375.00
Repair/Rehab 8" Flex Base	5	SY	\$50.00	\$50.00	\$250.00
Travel & Mobilization – TML Region 13	1	EA	\$0.00	\$0.00	\$0.00
Preparation & Handling of RR Permit Application	1	LS	N/A	\$2,000.00	\$2,000.00
TOTAL					\$88,695.00

Note: Insituform anticipates 30 days for substantial completion of the project after receipt of HDPE pipe material. Based on current delivery schedules and receipt of PO & NTP by November 11th, we expect material delivery by the end of December. It should be noted that the expected processing time for the RR Permit is 30 days.

PROPOSAL INCLUSIONS

The prices stated in this proposal include:

- 1 Mobilizations and demobilization.
- 2 Pipe line cleaning. Loose debris and "normal" deposits only. Extraordinary conditions will need to be treated as a point repair at no additional cost to Insituform.
- 3 Bypass pumping.
- 4 Pre-Video inspections and documentation of existing pipe prior to reconstruction by pipe bursting
- 5 Final video inspection following completion of the installation and external reconnections.
- 6 16" IPS SDR-19 HDPE pipe. Note – the average I.D. is 14.21"
- 7 Confined space safe entry practices
- 8 Two-year standard construction warranty and Maintenance Bond.
- 9 Certificate of insurance with a standard coverage.
- 10 RR Permit Application preparation and handling on behalf of the City of Lancaster. All permits, agreements, and blanket insurance policy buy-in are required to be in the name of the City of Lancaster.

PROPOSAL EXCLUSIONS

Not included in the prices stated in this estimate are costs associated with the items listed below. These items, if needed or found to be applicable, would be provided by INSITUFORM TECHNOLOGIES, LLC at your additional cost; or would be furnished by others, at your direction, at no cost to INSITUFORM TECHNOLOGIES, LLC:

- a) If preliminary video inspection of the pipe interior indicates excessive damage, or other extra-ordinary condition, which will require excavation, or other extraordinary remedy, to prepare the pipe for installation, then those services will be provided by the City of Lancaster or by alternate method at no cost to Insituform.
- b) Additional cleaning and televising mobilizations and/or setups due to point repairs, obstruction removals, or delays out of our control may result in an additional charge.
- c) The City of Lancaster will be responsible for all traffic control related to the project.
- d) Manual operation of any pumping and/or metering stations.
- e) Water from fire hydrants within a convenient distance from each cleaning and inversion site location.
- f) Legal dumpsite for debris resulting from pipes cleaning.
- g) If any hazardous or toxic materials are encountered during the project, the Owner will be responsible for the removal and disposal of the materials.
- h) Installation of cleanouts, or other ports, if required for special bypass pumping requirements for businesses.
- i) Manhole installation, rehabilitation, and/or replacement.
- j) Project permits and/or local licenses.
- k) State and local sales and/or use taxes on the value of the project. If you are exempt please submit the appropriate documentation.
- l) Additional premiums for special insurance coverage(s) demanded by you or other parties particular to this project.

PROPOSAL TERMS AND CONDITIONS

- a) Limits of Liability. In consideration of INSITUFORM TECHNOLOGIES, LLC's agreement to maintain no less than \$5,000,000 of comprehensive general liability insurance in the form required by the Contract, INSITUFORM TECHNOLOGIES, LLC's liability to the Owner for any matter covered by such insurance will be limited to the extent of such insurance and the Owner will indemnify and hold INSITUFORM TECHNOLOGIES, LLC harmless from any third party claims covered by such insurance to the extent such claims exceed the limits of such insurance. Neither party shall be liable to the other for consequential damages relating to the contract. In case of conflict between this provision and any other provision in the Contract as ultimately executed, this provision shall govern and prevail.
- b) LIMITED WARRANTY. IN LIEU OF ALL OTHER EXPRESSED, IMPLIED AND/OR STATUTORY WARRANTIES, INCLUDING WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, CONTRACTOR AGREES TO CORRECT ANY DEFECTS IN THE MATERIALS OR SERVICES PROVIDED BY CONTRACTOR WHICH ARE BROUGHT TO THE ATTENTION OF CONTRACTOR WITHIN ONE YEAR FOLLOWING COMPLETION OF CONTRACTOR'S WORK, PROVIDED OWNER AFFORDS CONTRACTOR SUITABLE ACCESS AND WORKING CONDITIONS TO ACCOMPLISH SUCH CORRECTION.
- c) MUTUAL RELEASE OF CONSEQUENTIAL DAMAGES. Neither party shall be liable to the other for consequential damages relating to or arising out of the Contract.
- d) PROPOSAL SUBJECT TO NEGOTIATION OF OTHER STANDARD TERMS OF AGREEMENT. This proposal is subject to agreement of the parties on other terms and conditions as are customary in contracts of this nature.
- e) Quantities are estimated. Unit prices apply for actual invoice and payment.
- f) Payments are due at net within thirty days of invoice. Final payment is due within thirty days of completion of project.
- g) Monthly progress partial payments may be requested for the value of work in progress or completed, including materials secured and on site.
- h) Prices stated are in effect for thirty days from the date of this proposal. The acceptance period may be extended at the sole option of INSITUFORM TECHNOLOGIES, LLC.
- i) Conflicts. In case of conflict between the provision of the aforesaid paragraphs and any other provision in the Contract as ultimately executed the provisions as set forth above shall govern and prevail.

OFFERED BY:

INSITUFORM TECHNOLOGIES, INC.



Timothy R. Peterie
Business Development Manager

Reviewed By:
Kenneth Pipitone Jr.
General Manager

ACCEPTED BY:

Signature

Date

Name

Title

Organization

cc: Kenneth Pipitone Jr.
Josh Awalt

LANCASTER CITY COUNCIL

Item 11

Agenda Communication

December 8, 2013

Discuss and consider a resolution approving the City of Lancaster Public Improvement District (PID) Advisory Board Appointments.

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

Goal: Quality Development

Background

At the April 28, 2014 regular meeting, City Council adopted a Public Improvement District (PID) policy establishing a uniform policy for all PID Advisory Boards. As part of the adoption of the policy was a provision for all of the Board appointments to be confirmed by the governing body.

Considerations

There are currently eight Public Improvement Districts within the City of Lancaster. They are as follows: Beltline Ashmoore, Boardwalk, Glendover Estates, Lancaster Mills, Meadowview, Millbrook East, Rolling Meadows, and Tribute at Mills Branch. Annually, each PID is required to have an election to establish the PID Advisory Board as required by the policy and in compliance with Chapter 372 of the Texas Local Government Code. Confirmation of these appointments will establish the base year for future appointments. Board member appointment will be for 1 year terms, with specified seats serving an initial two year term when a new PID is established or PID Board is elected. Odd numbered sets will be elected in odd numbered years and even numbered seats will be elected in even years. Currently established PID's will begin staggering seats in the current year by selecting three of its members to hold their seats for an additional year.

- **Operational** – The City Manager's office, Community Relations Division is responsible for the implementation of PIDs. As prescribed by Chapter 372 of the Texas Local Government Code and the PID policy, the Lancaster City Council will confirm all PID Advisory board elections following the policy adoption. Each year during PID service plan consideration, the PID Advisory Board confirmations will be included in all future action.
- **Legal** – The City Attorney has reviewed and approved the resolution as to form.
- **Financial** – There is no financial impact.
- **Public Information** – This item is considered at a meeting of the City Council posted in accordance with the Texas Open Meetings Act.

Options/Alternatives

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

Recommendation

Staff recommends that Council approve the resolution as presented.

Attachments

- Resolution
-

Submitted by:

Rona Stringfellow, Assistant City Manager

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LANCASTER, TEXAS APPROVING THE PUBLIC IMPROVEMENT DISTRICT ADVISORY BOARD APPOINTMENTS; PROVIDING A REPEALING CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Lancaster, Texas has previously adopted a Public Improvement District Policy; and

WHEREAS, Public Improvement Districts support Lancaster neighborhoods and seeks to strengthen and connect neighborhoods; and

WHEREAS, the City Council has determined that it is in the best interest of the City to provide a consistent process of implementing Public Improvement Districts; and

WHEREAS, the City Council desires to support the process of policy implementation for the purposes of uniformity amongst all City boards and commissions.

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

SECTION 1. That following appointment of the eight (8) Public Improvement District Advisory Boards attached hereto in Exhibit "A".

SECTION 2. That should any part of this Resolution be held to be invalid for any reason, the remainder shall not be affected thereby, and such remaining portions are hereby declared to be severable.

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

DULY PASSED AND APPROVED by the City Council of the City of Lancaster, Texas on this 8th day of December 8, 2014.

ATTEST:

APPROVED:

Sorangel O. Arenas, City Secretary

Marcus E. Knight, Mayor

APPROVED AS TO FORM:

Robert E. Hager, City Attorney

Beltline Ashmoore

Ivory Barnes
Deborah Taylor
Petra Covington

Boardwalk

Tamara Vaughn
Vincent Johnson
Ella Douglas

Glendover Estates

Darren Reynolds
Brian Fulgence
Shawn Long
Rita Stewart
Shamonica Alexander

Lancaster Mills

Established under the developer Lancaster Mills LP (serves as Board)

Meadowview

Harmonica Mays
Pamella Robinson
Kenneth Kirk
Amos Williams
Cassandra McCray

Millbrook

Sharon Scott
Cynthia Punch
Eldridge Cager
Gordon Butler
Evelyn Dubois

Rolling Meadows

Bobbie Young
Anita Lott
Stacey Jaglowski
Johnny Hampton

Tribute at Mills

Established under the developer Wilbow Corporation (serves as Board)

LANCASTER CITY COUNCIL

Item 12

Agenda Communication

December 8, 2014

Consider and discuss a resolution to appoint the board of directors for Reinvestment Zone Number One (also known as Tax Increment Financing District (TIF) Reinvestment Zone No. 1).

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

Goal: Sound Infrastructure

Background

At the October 13, 2014 City Council regular meeting, Council approved Reinvestment Zone Number One, a Tax Increment Financing District (TIF) to reimburse Dallas County for the cost of design and construction of a 16" water line to provide water to the City of Wilmer. As part of that action, it was required to create a TIF Board of Directors.

Considerations

The purpose of this item is to name the members of Tax Increment Financing District (TIF) Board. As directed by City Council and in accordance with Texas Tax Code, Chapter 311, a Board of Directors shall be appointed within 60 days of the TIF creation. The board of directors will consist of five members. Members of the board are appointed for terms of two years.

Nominations have been requested from the City Council members in District #1 and District #3, within which the TIF District was established. Those may be considered as part of the composition of the Board of Directors, if Council so chooses.

- **Operational** –The City Manager's office and the Finance Department will coordinate with Dallas County staff on implementation of funding and reimbursements. To be eligible for appointment to the board, an individual must be a qualified voter of the municipality; or be at least 18 years of age and own real property in the zone or be an employee or agent of a person that owns real property in the zone.

Each year the board of directors of a reinvestment zone shall elect one of its members to serve as the presiding officer for a term of one year. The board of directors may elect an assistant presiding officer to preside in the absence of the presiding officer or when there is a vacancy in the office of presiding officer. The board may elect other officers as it considers appropriate. A member of the board of directors of a reinvestment zone is not a public official by virtue of that position.

The board of directors of the reinvestment zone shall make recommendations to the governing body of the municipality concerning the administration of Chapter 311 in the zone. The governing body of the municipality by ordinance or resolution may authorize the board to exercise any of the municipality's powers with respect to the administration, management, or operation of the zone or the implementation of the project plan for the zone, except that the governing body may not authorize the board to:

- (1) issue bonds;
- (2) impose taxes or fees;
- (3) exercise the power of eminent domain; or
- (4) give final approval to the project plan.

The board of directors of a reinvestment zone and the governing body of the municipality may each enter into agreements as the board or the governing body considers necessary or convenient to implement the project plan and reinvestment zone financing plan and achieve their purposes. An agreement may provide for the regulation or restriction of the use of land by imposing conditions, restrictions, or covenants that run with the land. The board may exercise a power granted to a municipality only with the consent of the governing body of the municipality.

- **Legal** – The City Attorney will prepare the resolution upon the appointment of the Board of Directors by the City Council.
- **Financial** – The creation of the TIF District will provide a mechanism to reimburse Dallas County for the construction of the waterline and possible other future improvements. Dallas County has agreed in the approved Funding Agreement that the City of Lancaster is not obligated to pay an assessment until there is an increment realized on the District. Additionally, should the entire amount of the construction costs not be recovered by the maturity date, the City's obligation will be considered complete. Dallas County's Major Capital Improvement Program (MCIP) policy allows the allocation of funds for infrastructure associated with economic development. The estimated project cost is approximately \$10 million to design and build. The County is providing up-front funding for the project to the City.
- **Public Information** – This item is being considered at a regular meeting of the City Council noticed in accordance with the Texas Open Meetings Act.

Options/Alternatives

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

Recommendation

Staff recommends approval of the resolution with the following options:

- a) Utilizing the four submitted names from District #1 and District #3, appoint a City Council member to obtain five members;
- b) Appoint five Council members as the Board of Directors;
- c) Appoint any combination of the above

Attachments

- Resolution
-

Submitted by:

Rona Stringfellow, Assistant City Manager

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LANCASTER, TEXAS APPOINTING A TAX INCREMENT FINANCING DISTRICT (TAX REINVESTMENT ZONE #1) BOARD OF DIRECTORS; PROVIDING A REPEALING CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Lancaster, Texas has previously determined to establish a tax reinvestment zone under Texas Tax Code 311; and

WHEREAS, a need for community involvement in addition to the required reviews has been recommended by the City's consultants; and

WHEREAS, the City Council has determined that it is in the best interest of the City to involve citizens in such an advisory committee; and

WHEREAS, the City Council desires to establish such committee for the purposes of conducting the review as recommended by the City's consultants.

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

SECTION 1. The Board of Directors of five people is hereby established to perform such periodic review of the elements of the TIF project and financing plan and possible amendments thereof.

- 1.
- 2.
- 3.
- 4.
- 5.

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

SECTION 4. This Resolution shall become effective immediately from and after its passage, as the law and charter in such cases provide.

DULY PASSED AND APPROVED by the City Council of the City of Lancaster, Texas on this 8th day of December, 2014.

ATTEST:

APPROVED:

SORANGEL O. ARENAS, CITY SECRETARY

MARCUS E. KNIGHT, MAYOR

APPROVED AS TO FORM:

ROBERT E. HAGER, CITY ATTORNEY

LANCASTER CITY COUNCIL

Agenda Communication

December 8, 2014

Item 13

Discuss and consider appointments to City of Lancaster Museum Advisory Board.

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

Goal: Civic Engagement

Background

At the September 8, 2014 City Council meeting, applicants were appointed to the Museum Advisory Board but not all vacancies were filled.

Currently the City has two vacancies on the Museum Advisory Board with terms that expire in 2016.

Considerations

We have applications on hand for those that expressed interest in the Museum Advisory Board. In addition, we recruited applicants through the website, social media and invitations to homeowners association and graduates of the Civic Leadership Academy. Two new applications have been received. A spreadsheet of applicants is attached.

Museum Advisory Board

The Board will consist of 5 regular members serving staggered two year terms and 1 alternate. The Advisory Board will make recommendations regarding the acquisition of exhibits, travel exhibits, fund raising and business practices. The Museum Advisory Board currently consists of the following three members and alternate:

<u>Member</u>	<u>Term Expires</u>
Mary Ryan	2016
Dianne McBride Allen	2016
Ellie Pope	2016
Vacant	2016
Vacant	2016
Yolanda Edwards (alternate)	2015

Options/Alternatives

The Council may choose to:

1. Make appointments from new applications on hand.
2. Appoint an alternate to fill a regular position and then appoint a new alternate.
3. Delay some appointments until a future Council meeting.
4. Leave any regular position or alternate position unfilled at this time.

It is in the best interest of the board to operate with full membership as soon as is practical.

Recommendation

Board and Commission appointments are solely at Council's pleasure.

Attachments

- 2014 Appointment Worksheet
 - Applications
 - Board and Commission Worksheet
-

Submitted by:

Sorangel O. Arenas, City Secretary



**Worksheet
Board & Commission Appointments
December 8, 2014**

Planning and Zoning Commission – 2 regular positions

1. Genevieve Robinson
2. Racheal Hill

Airport Advisory Board – 3 regular positions; 1 alternate

1. Andy Mungenast
2. Charles Waldrop Jr.
3. Keith Hutchinson
4. James O. Knight Jr. (alternate)

Property Standards & Appeals Board – 3 regular positions; 1 alternate

1. Carolyn Morris
2. Sue Wyrick
3. Don McCoo
4. Carlon Terry (alternate)

Parks & Recreation Advisory/

Recreational Development Board – 3 regular positions; 1 alternate

1. Cecelia Rutherford
2. Jerry W. Giles
3. Spencer Hervey
4. Willene Watson
5. Terrence Comick (alternate)

Worksheet (Cont'd)

Desiring Reappt. / Notes

Economic Development Corp. – 3 regular positions (3 year terms)

1. Jon Cole
2. Vanessa Sheffield
3. Octavia Giadolor

Library Advisory Board – 4 regular positions, 1 alternate, 2 Vacancies

1. Quinnett Banks (term to exp 2015)
2. Carolyn DeLoach (term to exp 2015)
3. Angela McCowan
4. Tiffany Devereaux
5. Sonja Shipp
6. Anne Ordone
7. Desarea Bradley (alternate)

Zoning Board of Adjustment (Mayor appoints; Council confirms)

1. Jack McCauley
2. Rebecca Torres Swanson
3. Edward Sutton (alternate)

Historic Landmark Preservation Committee – 2 regular positions, 1 alternate

1. _____ Dee Hinkle
2. _____ Patricia Siegfried-Giles
3. _____ (alternate) Vacant

Worksheet (Cont'd)

Desiring Reappt. / Notes

Animal Shelter Advisory Committee – 2 regular positions, 1 alternate

1. Steve Gilbert (municipal officer)*
2. Katherine Corrao (staff)*
3. _____ (alternate) vacant

*fills state requirement

Museum Advisory Board – 5 regular positions, 1 alternate

1. Mary Ryan
2. Dianne McBride Allen
3. Ellie Pope
4. _____ vacant
5. _____ vacant
6. Yolanda Edwards (alternate)

Notes:

1. Historic Landmark Preservation Committee – P & Z appoints; Council confirms
2. Youth Advisory Committee appointments by City Manager or her designee



City of Lancaster, Texas
Boards and Commissions
Application



Name: Shannon Boyd Date: 10/23/14
Address: 485 Rolling Hills Pl #1216 Zip: 75146
Home Phone: (918) 803-7489 Work/Cell Phone: (918) 795-5740
Email Address: Sboyd2013.sb@gmail.com Length of residency: 10 yrs
Occupation: Accountant

Please list the Boards/Commissions/Corporations you wish to serve on in order of preference.

1. Museum
2. _____
3. _____

Have you ever served as a member of any Lancaster boards, commissions, or committees?

☐ YES

☒ NO

List any particular qualifications you feel would be beneficial to serving on any particular board or commission. You may also attach additional sheets as well as a resume.

Passion for helping Senior Citizens, Active in Community Work

To be an effective member of a Board or Commission, you must be willing to attend and participate in all scheduled meetings.

Applications are always welcome as vacancies may occur throughout the year.

Signature: Shannon Boyd Date: 10/23/14

Please return your completed application to the City Secretary's Office at 211 N. Henry St., or mail to P. O. Box 940, Lancaster, TX 75146 or fax to 972-218-1399.

Office Use Only

Received by: _____ Date: _____



City of Lancaster, Texas
Boards and Commissions
Application

CINC Leadership
Participant



Name: Lillian Cullors Date: 11/5/14
Address: 500 Rollinghills Place #1916 Zip: 75146
Home Phone: cell # Work/Cell Phone: 972.370.6176
Email Address: cullors.lillian@gmail.com Length of residency: 10 years
Occupation: Mentor of Youth Program

Please list the Boards/Commissions/Corporations you wish to serve on in order of preference.

1. Museum
2. Parks and Recreation Advisory
3. Lancaster Recreational Development Corp.

Have you ever served as a member of any Lancaster boards, commissions, or committees?

☐ YES

☒ NO

List any particular qualifications you feel would be beneficial to serving on any particular board or commission. You may also attach additional sheets as well as a resume.

Love to speak, enjoy diversity and supporting
interesting causes.

To be an effective member of a Board or Commission, you must be willing to attend and participate in all scheduled meetings.

Applications are always welcome as vacancies may occur throughout the year.

Signature Lillian Cullors Date 11/5/14

Please return your completed application to the City Secretary's Office at 211 N. Henry St., or mail to P. O. Box 940, Lancaster, TX 75146 or fax to 972-218-1399.

Received by: _____

Office Use Only

Date: _____



**Worksheet
Board & Commission Appointments
December 8, 2014**

Museum Advisory Board – 5 regular positions, 1 alternate

1. Mary Ryan
2. Dianne McBride Allen
3. Ellie Pope
4. _____ vacant
5. _____ vacant
6. Yolanda Edwards (alternate)

Planning and Zoning Commission – 2 regular positions

1. Genevieve Robinson
2. Racheal Hill

Airport Advisory Board – 3 regular positions; 1 alternate

1. Andy Mungenast
2. Charles Waldrop Jr.
3. Keith Hutchinson
4. James O. Knight Jr. (alternate)

Property Standards & Appeals Board – 3 regular positions; 1 alternate

1. Carolyn Morris
2. Sue Wyrick
3. Don McCoo
4. Carlon Terry (alternate)

Worksheet (Cont'd)

Desiring Reappt. / Notes

Parks & Recreation Advisory/

Recreational Development Board – 3 regular positions; 1 alternate

1. Cecelia Rutherford
2. Jerry W. Giles
3. Spencer Hervey
4. Willene Watson
5. Terrence Comick (alternate)

Economic Development Corp. – 3 regular positions (3 year terms)

1. Jon Cole
2. Vanessa Sheffield
3. Octavia Giadolor

Library Advisory Board – 4 regular positions, 1 alternate, 2 Vacancies

1. Quinnest Banks (term to exp 2015)
2. Carolyn DeLoach (term to exp 2015)
3. Angela McCowan
4. Tiffany Devereaux
5. Sonja Shipp
6. Anne Ordone
7. Desarea Bradley (alternate)

Worksheet (Cont'd)

Desiring Reappt. / Notes

Zoning Board of Adjustment (Mayor appoints; Council confirms)

1. Jack McCauley
2. Rebecca Torres Swanson
3. Edward Sutton (alternate)

Historic Landmark Preservation Committee – 2 regular positions, 1 alternate

1. _____ Dee Hinkle
2. _____ Patricia Siegfried-Giles
3. _____ (alternate) Vacant

Animal Shelter Advisory Committee – 2 regular positions, 1 alternate

1. Steve Gilbert (municipal officer)*
2. Katherine Corrao (staff)*
3. _____ (alternate) vacant

*fills state requirement

Notes:

1. Historic Landmark Preservation Committee – P & Z appoints; Council confirms
2. Youth Advisory Committee appointments by City Manager or her designee

LANCASTER CITY COUNCIL

Item 14

Agenda Communication

December 8, 2014

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

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

Goal: Civic Engagement

Background

At the November 10, 2014 meeting, City Council tabled consideration of council liaisons to boards and commissions until its next regular meeting.

At the September 8, 2014 meeting, City Council made appointments to City Boards and Commissions. Annually, following board and commission appointments, Councilmembers select the boards/commissions that they would like to serve as Council liaison.

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

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

Considerations

Currently serving as liaisons are the following:

<u>Board/Commission</u>	<u>Councilmember</u>
Airport Board	Jaglowski
Animal Shelter Advisory Committee	Jaglowski
Civil Service Commission	Harris
Economic Development Corp.	Mejia
Historic Landmark Preservation Committee	Strain-Burk

Board/Commission

Councilmember

Library Advisory Board

Harris

Museum Advisory Board

Parks and Recreation Advisory Board/
Recreational Development Corp.

Morris

Planning & Zoning Commission

Daniels

Property Standards & Appeals Board

Mejia

Youth Advisory Committee

Morris

Zoning Board of Adjustment

Daniels

Options/Alternatives

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

Recommendation

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

Attachments

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

Submitted by:

Sorangel O. Arenas, City Secretary

RESOLUTION NO. 2007-09-105

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

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

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

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

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

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

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

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

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

Section 6. Should any part of this Resolution be held to be invalid for any reason, the remainder shall not be affected thereby, and such remaining portions are hereby declared to be severable.

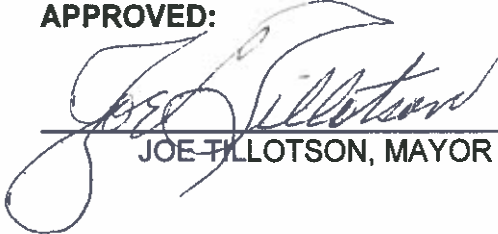
Section 7. This Resolution shall take effective immediately from and after its passage, and it is accordingly so resolved.

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

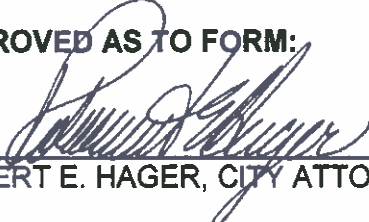
ATTEST:


DOLLE K. SHANE, CITY SECRETARY

APPROVED:


JOE TILLOTSON, MAYOR

APPROVED AS TO FORM:


ROBERT E. HAGER, CITY ATTORNEY