



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

**Monday, September 22, 2014 - 7:00 PM**

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**CALL TO ORDER**

**INVOCATION:** Ministerial Alliance

**PLEDGE OF ALLEGIANCE:** Deputy Mayor Pro Tem LaShonjia Harris

**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 September 8, 2014.

**ACTION:**

2. Consider confirmation of Civil Service Commission appointments as designated by the City Manager.
3. Discuss and consider annual appointments to City of Lancaster Animal Shelter Advisory Committee.
4. Consider a resolution authorizing an Economic Development Incentive Agreement by and between the City of Lancaster and Blue Grove @ Beltline 2014 LP. a Texas limited partnership.

**ADJOURNMENT**

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

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

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**Certificate**

**I hereby certify the above Notice of Meeting was posted at the Lancaster City Hall on September 19, 2014 @ 1:45 p.m. and copies thereof were provided to the Mayor, Mayor Pro-Tempore, Deputy Mayor Pro-Tempore and Council members.**



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Sorangel O. Arenas  
City Secretary

# LANCASTER CITY COUNCIL

Item 1

## Agenda Communication

September 22, 2014

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**Consider approval of minutes from the City Council Regular Meeting held September 8, 2014.**

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### Background

Attached for your review and consideration are minutes from the:

- City Council Regular Meeting held September 8, 2014

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**Submitted by:**  
Sorangel O. Arenas, City Secretary

## MINUTES

### LANCASTER CITY COUNCIL MEETING OF September 08, 2014

The City Council of the City of Lancaster, Texas, met in Regular session in the Council Chambers of City Hall on September 8, 2014 at 7:02 p.m. with a quorum present to-wit:

#### **Councilmembers Present:**

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

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

Opal Mauldin Robertson, City Manager  
Rona Stringfellow, Assistant City Manager  
Fabrice Kabona, Assistant to the City Manager-Intern  
Thomas Griffith, Fire Chief  
Cheryl Wilson, Police Chief  
Sam Urbanski, Assistant Police Chief  
Jason Boulton, Assistant Police Chief  
Jim Brewer, Director Public Works  
Cynthia Pearson, Director of Finance  
Baron Sauls, Assistant Director of Finance  
Sean Johnson, Managing Director of Quality of Life and Cultural Services  
Ed Brady, Director of Economic Development  
Robert E. Hager, City Attorney  
Angie Arenas, City Secretary  
Mark Divita, Airport Manager  
Alton Dixon, Purchasing Agent  
Gina Garcia, Engineer

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

Mayor Knight called the meeting to order at 7:02 p.m. on September 8, 2014.

#### **Invocation:**

Deacon Jones with Ministerial Alliance gave the invocation.

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

Mayor Pro Tem James Daniels led the pledge of allegiance.

#### **Citizens Comments:**

Jim Cheshire, 739 N. Dallas Avenue shared his concerns with landscaping issues down Dallas Avenue by the golf course and at the city park.

Elnora Lacey, 1516 Dewberry Blvd apartment 118, asked what was the next step in the issue of Bel Air Place Apartments and shared that the manager has begun to use "tactics" to keep residents from speaking their concerns.

LaToya Flanagan, 1510 Dewberry Blvd apartment 143, stated that she shared the same concerns as the citizen before her.

Joe Thomas, 709 Sewell Drive, shared praise for the city and its councilmembers as well as suggested keeping the broadcasting of the city council meetings current for those that do not attend the meetings.

**Consent Agenda:**

City Secretary Arenas read the consent agenda.

- C1. Consider approval of minutes from the City Council Regular Meeting held August 25, 2014.**
- C2. Consider a resolution approving the terms and conditions of the City owned tie down T-Spot non-commercial lease at the Lancaster Regional Airport.**
- C3. Consider a resolution approving the terms and conditions of the Grant Agreement for the Routine Airport Maintenance Program by and between the City of Lancaster, as Airport Sponsor, and the Texas Department of Transportation, on behalf of the State of Texas; authorizing matching funds in the amount of \$50,000 at the Lancaster Regional Airport.**
- C4. Consider a resolution adopting the City of Lancaster financial policy providing for prudent financial management of all funds to enable the city to maintain a long term stable and positive financial condition and provide guidelines for the day-to-day planning and operation of the city's financial matters.**
- C5. Consider a resolution adopting the City of Lancaster Investment Policy providing that all funds of the city be managed and invested for safety, liquidity, diversification and yield and that investments be chosen in a manner which promotes diversity by market sector, credit and maturity; providing that this policy serve to satisfy the requirements of Chapter 2256 of the Local Government Code, "Public Funds Investment Act".**
- C6. Consider a resolution canceling the City Council Work Session of September 15, 2014 and regular City Council meetings of November 24, 2014, and December 22, 2014.**
- C7. Consider a resolution providing for the adoption of the new Master Fee Schedule for all fees and charges assessed and collected by the City.**
- C8. Consider a resolution adopting the Lancaster City Council Rules and Procedures.**

**MOTION:** Councilmember Morris made a motion, seconded by Mayor Pro Tem Daniels, to approve consent items C1 – C8. The vote was cast 7 for, 0 against.

- 9. Consider and discuss an ordinance making certain findings in connection with the proposed supplemental services ordered in connection with the Beltline Ashmoore Public Improvement District.**

Assistant City Manager Stringfellow stated that a public hearing was held on Monday, August 25, 2014 for this item.

**MOTION:** Councilmember Strain-Burk made a motion, seconded by Councilmember Jaglowski, to approve the ordinance. The vote was cast 7 for, 0 against.

- 10. Consider and discuss an ordinance making certain findings in connection with the proposed supplemental services ordered in connection with the Glendover Estates Public Improvement District.**

Assistant City Manager Stringfellow stated that a public hearing was held on Monday, August 25, 2014 for this item.

**MOTION:** Councilmember Strain-Burk made a motion, seconded by Councilmember Jaglowski, to approve the ordinance. The vote was cast 7 for, 0 against.

- 11. Consider and discuss an ordinance making certain findings in connection with the proposed supplemental services ordered in connection with the Boardwalk Public Improvement District.**

**MOTION:** Councilmember Strain-Burk made a motion, seconded by Mayor Pro Tem Daniels, to approve the ordinance. The vote was cast 7 for, 0 against.

- 12. Consider and discuss an ordinance making certain findings in connection with the proposed supplemental services ordered in connection with the Lancaster Mills Public Improvement District.**

**MOTION:** Councilmember Strain-Burk made a motion, seconded by Councilmember Jaglowski, to approve the ordinance. The vote was cast 7 for, 0 against.

- 13. Consider and discuss an ordinance making certain findings in connection with the proposed supplemental services ordered in connection with the Meadowview Public Improvement District.**

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

- 14. Consider and discuss an ordinance making certain findings in connection with the proposed supplemental services ordered in connection with the Millbrook East Public Improvement District.**

**MOTION:** Councilmember Strain-Burk made a motion, seconded by Councilmember Jaglowski, to approve the ordinance. The vote was cast 7 for, 0 against.

- 15. Consider and discuss an ordinance making certain findings in connection with the proposed supplemental services ordered in connection with the Rolling Meadows Public Improvement District.**

**MOTION:** Councilmember Strain-Burk made a motion, seconded by Mayor Pro Tem Daniels, to approve the ordinance. The vote was cast 7 for, 0 against.

**16. Consider and discuss an ordinance making certain findings in connection with the proposed supplemental services ordered in connection with the Tribute at Mills Branch and Tribute East at Mills Branch Public Improvement District.**

**MOTION:** Councilmember Strain-Burk made a motion, seconded by Mayor Pro Tem Daniels, to approve the ordinance. The vote was cast 7 for, 0 against.

**17. Discuss and consider a resolution amending the rate for certain fees and charges assessed and collected by the City for water service; providing a repealing clause; and providing an effective date.**

Assistant City Manager Stringfellow stated that a utility rate study was presented to Council on August 18, 2014. At that time, there had been no water or sewer rate increase considered for over three years, even though Dallas Water Utilities and Trinity River Authority had substantially raised rates charged to the City of Lancaster. At the August 21st meeting, staff provided an option for an increase to the senior discount totaling \$3.00 and provided demographic information for the segment of Lancaster's population that utilizes the senior discount. Staff recommends adoption of the rate option as presented.

Councilmember Morris shared that she sympathizes with the residents because she understands that every dollar counts to the citizens of Lancaster and wanted to express that council and city staff do care. The reason for this increase is to avoid a significant increase in rates in the future and a deficit for the city. Councilmember Morris also shared that if citizens need assistance in paying for their bills to come up to City Hall and take advantage of the options offered.

Deputy Mayor Pro Tem Harris stated that she made a promise to the constituents of District 5 not to raise the water or sewer rates and she does not elect to support the rise in rates. She commends her peers and the efforts put into this decision especially those efforts to include the discount for senior citizens.

Councilmember Mejia wanted to make certain that the citizens understand that the city itself is not raising the rates they are passing along the costs being charged to the city. He also stated that the city had no options or bargaining power in this situation and the city could not absorb the costs of the increase. Councilmember Mejia stated that council and staff are not happy about the increase and that it has been an extremely difficult decision.

Councilmember Strain-Burk stated that she concurred with Councilmember Mejia's statements and that this issue is one that all city councils have to face and that this issue is not just in Lancaster but throughout all of the area utilizing Dallas Water Utilities.

Mayor Pro Tem Daniels stated that council was elected to make hard decisions and this in fact was a hard decision but it was in the best interest of the citizens.

**MOTION:** Councilmember Strain-Burk made a motion, seconded by Mayor Pro Tem Daniels, to approve the resolution amending the rate for certain fees and charges assessed and collected by the City for water service. The vote was cast 6 for, 1 against [Harris].

**18. Discuss and consider a resolution amending Section 10.700 of the Master Fee Schedule for fees and charges assessed for water and wastewater rates.**

**MOTION:** Councilmember Morris made a motion, seconded by Mayor Pro Tem Daniels, to approve the resolution amending Section 10.700 of the Master Fee Schedule. The vote was cast 6 for, 1 against [Harris].

**20. Conduct a public hearing and consider an ordinance regarding the proposed budget for the fiscal year beginning October 1, 2014 and ending September 30, 2015.**

City Manager Mauldin-Robertson stated that in accordance with State Truth-in-Taxation and the City Charter the proposed budget was presented to the Lancaster City Council at work sessions held on Monday, August 4, August 7, August 11 and August 18, 2014. Notice regarding the public hearing was posted in accordance with state law in the City's newspaper of record, Focus Daily News. Staff recommends closing the public hearing and approving the ordinance as presented.

Mayor Knight opened the public hearing.

Carolyn Morris, 887 Wintergreen, applauded council and staff for the countless hours put into the budget for the city. She also noted that even though no one is happy about the water rate increase it was inevitable and she respects the decision of council. Ms. Morris concluded in thanks and appreciation towards council and staff for working to move the city in the right direction.

**MOTION:** Councilmember Morris made a motion, seconded by Councilmember Strain-Burk, close the public hearing. The vote was cast 6 for, 0 against.

Councilmember Mejia shared that council has brought the city further along in past couple of years in managing the budget and in making better business deals. The city is putting forth the funds that it does have without increasing the tax rate which is always difficult and staff is also able to receive a well-deserved 5% increase in salary.

Councilmember Morris shared that even with all of the positive movement in the city it is still unable to give everyone what they deserve but asks that the citizens be aware that change is coming. Councilmember Morris also thanked the city manager and her team for their hard work.

Mayor Pro Tem Daniels thanked staff for their efforts and reassured citizens that better times are coming.

Deputy Mayor Pro Tem Harris stated that she strongly supports the 5% increase because it represents an investment in the city by retaining seasoned, well trained, quality employees.

Councilmember Morris also shared that some staff members have worked with the city 7 years without getting a raise which shows the dedication of employees in Lancaster. Councilmember Morris also shared that staff continuously seeks out grants and funding for their departments to avoid taxing citizens which should be commended.



Councilmember Jaglowski thanked the City Manager and her team for making strides for improvement in the City of Lancaster.

**MOTION:** Councilmember Morris made a motion, seconded by Councilmember Jaglowski, to approve an ordinance regarding the proposed budget for the fiscal year beginning October 1, 2014 and ending September 30, 2015. The vote was cast 7 for, 0 against.

- 19. Discuss and consider an ordinance regarding the proposed revenue increase from levying ad valorem taxes for fiscal year 2014/2015 at \$0.8657 per one hundred dollars assessed valuation on all taxable property within the corporate limits to provide revenues for current maintenance and operation expenses and interest and sinking fund requirements; providing due and delinquent dates; penalties and interest; providing a homestead exemption and disability exemption.**

City Manager Mauldin-Robertson stated that the tax rate for fiscal year 2014/2015 is proposed at \$0.8675 per one hundred dollars assessed valuation and the total tax revenue will increase from properties on the tax roll in the preceding tax year by 11.65%. Individual taxes may increase or decrease at a rate greater or lesser depending on the change in the taxable value of each property. A public hearing was conducted on Monday, August 11, 2014 and August 25, 2014 at the City Council regular meeting to receive comment from the public regarding the proposed tax rate. Public notices were published in the official City publication of record, Focus Daily News and staff recommends approval of the ordinance as presented.

**MOTION:** Councilmember Strain-Burk made a motion, seconded by Councilmember Morris, to approve an ordinance to adopt a tax rate of 0.8675, which is effectively an 11.65% increase in the tax rate revenues. The vote was cast 7 for, 0 against.

- 21. Discuss and consider a resolution ratifying the budget for the fiscal year 2014/2015 that results in an increase of revenues by 11.65% from property taxes than the previous year.**

City Manager Mauldin-Robertson stated that as of September 1, 2007 several laws went into effect, including House Bill 3195 as passed by the 80th Legislature. It requires cities and counties that will be raising more revenue from property taxes than in the previous year, to have a separate vote of the governing body to ratify the tax increase reflected in the budget.

The FY 2014/2015 budget and tax rate results in an increase in revenues by 11.65%. Staff recommends approval of the resolution.

**MOTION:** Councilmember Morris made a motion, seconded by Councilmember Strain-Burk, to approve a resolution ratifying the budget for the fiscal year 2014/2015 resulting in an increase in revenue by 11.65% from property tax from the previous year. The vote was cast 7 for, 0 against.

- 22. Consider an ordinance establishing Civil Service classifications within the Police and Fire Departments; prescribing the number of positions in each classification.**

City Manager Mauldin-Robertson stated that pursuant to Title 5, Chapter 143, of the Texas Local Government Code, the City Council must establish the civil service classifications in the Police and Fire Departments and the number of positions in each classification. The proposed

ordinance is consistent with the staffing levels discussed in the proposed FY 2014-2015 budget. The proposed classifications are Fire Prevention 1, Fire Suppression 61, and Police 53 all of which are funded in the FY 2014/2015 budget.

Mayor Pro Tem Daniels asked that the Chief of Police and the Fire Chief come forward and share the status of their departments with the citizens.

Chief Wilson stated that there are a total of 5 vacancies. From October 2013 to present 7 officers have been hired, 3 have gone to other agencies, and 3 are currently in the academy. The next civil service exam is at 9 a.m. on September 20<sup>th</sup> in which they wish to fill the 5 vacancies. Chief Wilson feels that the department is on a great track to attract new candidates to serve the city.

Chief Griffith shared that 6 positions have been filled under the SAFER Grant and that there are currently 3 vacancies. Testing is October 25<sup>th</sup> for these positions and pre certification as a fire fighter is required and paramedic certification is preferred.

Mayor Pro Tem Daniels commends both Chief Griffith and Chief Wilson for jobs well done. Deputy Mayor Pro Tem Harris commends Chief Wilson in her efforts to keep the police department visible in the community.

**MOTION:** Councilmember Morris made a motion, seconded by Mayor Pro Tem Daniels, to approve the ordinance establishing civil service classifications. The vote was cast 7 for, 0 against.

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

Nominated for the vacant position on Planning and Zoning Commission was Racheal Hill.

**MOTION:** Councilmember Strain-Burk made a motion, seconded by Councilmember Jaglowski, to reappoint Genevieve Robinson and appoint Racheal Hill to the Planning and Zoning Commission for terms expiring July 2016. The vote was cast 7 for, 0 against.

**MOTION:** Councilmember Mejia made a motion, seconded by Councilmember Jaglowski, to reappoint members Andy Mungenast, Charles Waldrop Jr. and Keith Hutchinson to the Airport Advisory Board for terms expiring July 2016 and alternate member James O. Knight Jr. with a term to expire July 2015. The vote was cast 7 for, 0 against.

Nominated for the vacant position on the Property Standards and Appeals Board was Carlon Terry.

**MOTION:** Councilmember Strain-Burk made a motion, seconded by Councilmember Jaglowski, to reappoint Carolyn Morris and Sue Wyrick to the Property Standards and Appeals Board, appoint Don McCoo to a regular position of the Property Standards and Appeals Board for terms expiring July 2016 and alternate member Carlon Terry with a term to expire July 2015. The vote was cast 7 for, 0 against.

Nominated for the vacant position on Parks and Recreation Advisory Board/Lancaster Recreational Development Corporation were: Terrence Comick and Carolyn DeLoach. The vote was cast 5 for Mr. Comick [Morris, Harris, Daniels, Mejia, Jaglowski] and 3 for Ms. DeLoach [Knight, Strain-Burk]. Mr. Comick is appointed as an alternate member to the Parks and Recreation Advisory Board/Lancaster Recreational Development Corporation for a term expiring July 2015.

**MOTION:** Councilmember Strain-Burk made a motion, seconded by Councilmember Jaglowski, to reappoint Cecelia Rutherford, Jerry Giles, Spencer Hervey, and Willene Watson to the Parks and Recreation Advisory Board/Lancaster Recreational Development Corporation with terms to expire July 2016. The vote was cast 7 for, 0 against.

Nominated for the vacant position on the Lancaster Economic Development Corporation was Octavia Giadolor.

**MOTION:** Councilmember Strain-Burk made a motion, seconded by Councilmember Jaglowski, to reappoint Jon Cole and Vanessa Sheffield to the Lancaster Economic Development Corporation with terms to expire July 2017 and appoint Octavia Giadolor as a member to the Lancaster Economic Development Corporation with a term expiring July 2017. The vote was cast 7 for, 0 against.

Nominated for the vacant positions on the Library Advisory Board were Sonja Shipp, Quinest Banks, Anne Ordone, Carolyn DeLoach, and Desarea Bradley.

**MOTION:** Councilmember Jaglowski made a motion, seconded by Councilmember Morris, to reappoint Angela McCowan to the Library Advisory Board with a term to expire July 2016, appoint Tiffany Devereaux, Anne Ordone, and Sonja Shipp to the Library Advisory Board with a terms to expire July 2016, appoint Quinest Banks and Carolyn DeLoach to the Library Advisory Board with a terms to expire July 2015 and appoint Desarea Bradley to an alternate position with a term expiring July 2015. The vote was cast 7 for, 0 against.

**MOTION:** Councilmember Strain-Burk made a motion, seconded by Councilmember Jaglowski, to reappoint Cecelia Rutherford, Jerry Giles, Spencer Hervey, and Willene Watson to the Parks and Recreation Advisory Board/Lancaster Recreational Development Corporation with terms to expire July 2016. The vote was cast 7 for, 0 against.

Councilmember Jaglowski inquired whether or not a councilmember could serve on the Animal Shelter Advisory Committee and showed interest in doing so. City Attorney Hager stated that the correct resolution was needed in order to proceed with that process.

Councilmember Morris asked if it was possible to undo a previously made and passed motion to appoint a member to this board. City Attorney Hager stated that the best way to approach that situation would be to have the member in question resign to create a vacancy and appoint them to the appropriate board.

**MOTION:** Councilmember Mejia made a motion, seconded by Councilmember Jaglowski, to table appointments to the Animal Shelter Advisory Board until the next meeting. The vote was cast 7 for, 0 against.

Nominated for the vacant positions on the Museum Advisory Board were Mary Ryan, Dianne McBride Allen, Ellie Pope, and Yolanda Edwards.

Deputy Mayor Pro Tem Harris suggested that it would be a good idea to have a diverse group of applicants.

**MOTION:** Councilmember Strain-Burk made a motion, seconded by Councilmember Jaglowski, to appoint Mary Ryan, Dianne McBride Allen, and Ellie to the Museum Advisory Board with terms to expire July 2016 and Yolanda Edwards as an alternate member to the Museum Advisory Board with a term to expire July 2015. The vote was cast 7 for, 0 against.

Below is a recap of the 2014 appointments.

	<u>Term Expires</u>	
<u>Planning &amp; Zoning Commission</u>		
Genevieve Robinson	2016	reappointment, regular position
Racheal Hill	2016	new appointment, regular position
<u>Airport Advisory Board</u>		
Andy Mungenast	2016	reappointment, regular position
Charles Waldrop Jr.	2016	reappointment, regular position
Keith Hutchinson	2016	reappointment, regular position
James Knight	2015	reappointment, alternate position
<u>Property Standards and Appeals Board</u>		
Carolyn Morris	2016	reappointment, regular position
Sue Wyrick	2016	reappointment, regular position
Don McCoo	2016	reappointment, regular position (from alter to reg)
Carlton Terry	2016	new appointment, alternate position
<u>Parks and Recreation Advisory Board / Lancaster Recreational Development Corp.</u>		
Cecelia Rutherford	2016	reappointment, regular position
Jerry Giles	2016	reappointment, regular position
Spencer Hervey	2016	reappointment, regular position
Willene Watson	2016	reappointment, regular position
Terrence Comick	2015	new appointment, alternate position
<u>Economic Development Corp. (3 year term)</u>		
Jon Cole	2017	reappointment, regular position
Vanessa Sheffield	2017	reappointment, regular position
Octavia Giadolor	2017	new appointment, regular position
<u>Library Advisory Board</u>		
Angela McCowan	2016	reappointment, regular position
Tiffany Devereaux	2016	reappointment, regular position (from alter to reg)
Quinnest Banks	2015	new appointment, regular position (unexpired term)
Carolyn DeLoach	2015	new appointment, regular position (unexpired term)

Sonja Shipp	2016	new appointment, regular position
Anne Ordone	2016	new appointment, regular position
Desarea Bradley	2015	new appointment, alternate position

Museum Advisory Board

Mary Ryan	2016	new appointment, regular position
Dianne McBride Allen	2016	new appointment, regular position
Ellie Pope	2016	new appointment, regular position
Yolanda Edwards	2015	new appointment, alternate position

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

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

Jack McCauley, reappointment, term expires July 2016  
Rebecca Torres Swanson, reappointment, term expires July 2016  
Edward Sutton, reappointment, alternate position, terms expires July 2015

**MOTION:** Councilmember Morris made a motion, seconded by Mayor Pro Tem, to approve the nominations made by the Mayor for appointment to the City of Lancaster Zoning Board of Adjustment. The vote was cast 7 for, 0 against.

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

The meeting was adjourned at 8:34 p.m.

**ATTEST:**

**APPROVED:**

\_\_\_\_\_  
Sorangel O. Arenas, City Secretary

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

# LANCASTER CITY COUNCIL

Item 2

## Agenda Communication

September 22, 2014

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**Consider confirmation of Civil Service Commission appointments as designated by the City Manager.**

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

**Goal: Civic Engagement**

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### Background

Our Police Officers and Firefighters serve under the State Civil Service provisions. State law requires the City to have a three-member Civil Service Commission. It also requires that the City Manager make the appointments to the Commission with confirmation by City Council.

At present one seat on the Civil Service Commission is available due to the previously appointed member's term expiration. We have received a request from Lafayette Miles to be re-appointed to the Commission and vacant position. There are no other terms that expire in 2014.

The City Manager respectfully submits the following name for appointment to the Civil Service Commission:

- Re-Appoint Lafayette Miles, term expires 2017

Current members include:

- Mark A. Gonzales, term expires 2015
- Audley Logan, term expires 2016

### Considerations

- **Operational** - State law requires that the City maintain a Civil Service Commission. With only three members on the Commission, it is important that all three positions be filled as soon as possible in order for the Commission to conduct its required business.
- **Legal** - State law requires that the City Manager make the appointments to the Commission with confirmation by City Council.
- **Financial** - Civil Service Commission members are not compensated.
- **Public Information** – This item is being considered at a meeting of the City Council posted in accordance with State Law.

**Options/Alternatives**

1. Confirm the City Manager's recommendation.
2. Reject the City Manager's recommendation and request Manager to solicit additional applications.

**Recommendation**

The City Manager is asking for favorable consideration from City Council by confirming the appointment.

**Attachments**

- Lafayette Mile's application to seek appointment to the Commission.
- 

**Submitted by:**

Opal Mauldin Robertson, City Manager

B&C Application General.pdf

Open with



City of Lancaster, Texas  
Boards and Commissions  
Application



Name: LAFAYETTE Miles Date: 9-11-14  
Address: 215 ANNETTE ST Zip: 75146  
Home Phone: 972-218-9826 Work/Cell Phone: 214-558-0356  
Email Address: Lafayettem56@gmail.com Length of residency: 12  
Occupation: Bus driver

Please list the Boards/Commissions/Corporations you wish to serve on in order of preference.

- 1. Civil Service Commission Advisory Bd.
- 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.

Present Board member

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 Lafayette Miles Date 9-11-14

Please return your completed application to the City Secretary's Office at 211 N. Henry St., or mail to P. O. Box 640, Lancaster, TX 75146 or fax to 972-218-1399.

Office Use Only
Received by: _____ Date: _____



## Agenda Communication

September 22, 2014

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**Discuss and consider annual appointments to City of Lancaster Animal Shelter Advisory Committee.**

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

**Goal: Civic Engagement**

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### **Background**

At the September 8, 2014 City Council meeting, Council tabled appointments to the Animal Shelter Advisory Committee for further insight into state requirements.

This year for board and commission appointments, we expanded recruiting efforts to include several new areas including social media and invitation letters to homeowners associations. Requests for applications were made through various sources including:

- Spring Issue - *Lancaster Connection*
- *Lancaster Live* – weekly email for 5 weeks
- Invitation letter to 2013 graduates of the Civic Leadership Academy
- Invitation letter to representatives for Homeowners Associations
- City of Lancaster website home page
- Press release
- Social media: Facebook and Twitter

### **Considerations**

Vacancies may be filled through any combination of reappointment of existing members or appointment of new applicants and alternates. Appointments for regular members are for a two-year term unless filling an unexpired term. Alternates are appointed for a one-year term.

### **Animal Shelter Advisory Board**

Please note that there are state requirements for appointment to the Animal Shelter Advisory Board. Under Section 823.005 of the Texas Health and Safety Code, a municipality in which an animal shelter is located is required to appoint an advisory committee to assist in complying with state requirements.

Under the state code, the advisory committee must be composed of at least:

- one licensed veterinarian
- one municipal officer

- one person whose duties include the daily operation of animal shelter
- one representative from an animal welfare organization

In addition, a resolution adopted by Council in October 2009 provides for a councilmember and a resident to be on the advisory committee for a total of five regular members and one alternate. A resident and councilmember are not required by the state code. Currently a councilmember is not seated on the advisory committee. Council may choose to seat a councilmember if desired. The Animal Shelter Advisory Committee consists of the following five members and alternate:

<u>Member</u>	<u>Role / Capacity</u>	<u>Term Expires</u>
Dr. Jean Eye	veterinarian*	2015
Vacant	involved in operations of shelter*	2014
Vacant	municipal officer*	2014
Stacey Jaglowski	regular member	2015
Mark Wilson	animal welfare*	2015
Vacant	alternate	2014

*\*state requirement*

It is necessary that Council make appointments such that state requirements are met.

### **Options/Alternatives**

The Council may choose to:

1. Make appointments from new applications on hand.
2. Reappoint members whose terms are expiring.
3. Appoint an alternate to fill a regular position and then appoint a new alternate.
4. Delay some appointments until a future Council meeting.
5. Leave any regular position or alternate position unfilled at this time.

### **Recommendation**

Staff recommends appointing Steve Gilbert to fulfill the state requirement for municipal officer and Katherine Corrao to fulfill the state requirement for a member involved in operations of the shelter.

### **Attachments**

- 2014 Appointment Worksheet
- List of applicants (indicates board/commission preferences)

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**Submitted by:**  
Sorangel O. Arenas, City Secretary



# Boards and Commissions Applicants

2014



Applicants	Airport	PSAB	HLPC	Library	ZBA	LEDC	P&Z	Parks/4B	Animal SAB	Museum	Comments
Banks, Quinnest				1				2			
Bradly, Desarea						1		2	3		
Burrell, Philicia							1	2			
Comick, Terrence							3	1		2	
Corrao, Katherine									1		fulfilling staff state requirement
DeLoach, Carolyn	3						2	1			
Ewards, Yolanda						1					
Giadolar, Octavia						1					
Hill, Racheal				1						2	
McBride Allen, Dianne										1	
Ordone, Anne				1							
Pope, Ellie										1	
Ryan, Mary										1	
Shipp, Sonjia				2				3		1	
Terry, Carlon		3			2			1			
Wilson, Howard						1	2				3-Youth



**Worksheet  
Board & Commission Appointments  
September 22, 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. \_\_\_\_\_ vacant (municipal officer)\*
2. \_\_\_\_\_ vacant (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

# LANCASTER CITY COUNCIL

Item 4

## Agenda Communication

September 22, 2014

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**Consider a resolution authorizing an Economic Development Incentive Agreement by and between the City of Lancaster and Blue Grove @ Beltline 2014 LP a Texas limited partners.**

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

**Goal: Quality Development**

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### **Background**

The Stainback Group, developers of the retail project called Blue Grove @ Beltline 2014, LP has a retail shopping center at the intersection of Blue Grove and Beltline Roads that includes a WalMart Neighborhood Market grocery store. The developer has applied for a real property tax incentive grant which is in compliance with the City's Incentive Policy.

### **Considerations**

- **Operational** – Blue Grove @ Belt Line 2014, LP will annually submit receipts for real property tax payments in order to exercise the grant. Within 60 days of verification of payment the City will remit forty percent (40%) of the payment to the company for a period of five (5) years.
- **Legal** -The City Attorney has reviewed and approved as to form the resolution and agreement.
- **Financial** - Based on the estimated value of the capital improvements submitted by the company and in consideration of the (40%) forty percent real property tax grant for( 5) years, the project will represent approximately \$450,000 over the (5) five year period in new revenue to the City.
- **Public Information** – This item is being considered at a meeting of the City Council posted in accordance with the Texas Open Meetings Act.

### **Options/Alternatives**

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

**Recommendation**

Staff recommends approval of the resolution and the economic development incentive agreement.

**Attachments**

- Resolution
  - Incentive Agreement
- 

**Submitted by:**

Ed Brady, Director of Economic Development



**RESOLUTION NO.**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LANCASTER, TEXAS, AUTHORIZING THE CITY MANAGER TO EXECUTE AN ECONOMIC DEVELOPMENT AGREEMENT WHICH IS ATTACHED HERETO AS EXHIBIT A PURSUANT TO CHAPTER 380, TEXAS LOCAL GOVERNMENT CODE, BY AND BETWEEN THE CITY OF LANCASTER AND BLUE GROVE @ BELTLINE 2014 LP, A TEXAS LIMITED PARTNERSHIP (BG@B2014); PROVIDING A REPEALING CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, Blue Grove @ Beltline 2014 LP, a Texas limited partnership has purchased approximately seven and one half (7.5) acres of real property in Lancaster, Texas and desires to construct a retail shopping center; and

**WHEREAS**, BG@B2014's development of the premises will provide employment opportunities within the City; and

**WHEREAS**, the location of BG@B2014's project on the premises will result in a significant capital investment and improvements on the premises; and

**WHEREAS**, BG@B2014 has advised the City that a contributing factor that would induce the company to construct and occupy the facility would be an agreement by the City to provide an economic development grant to the company; and

**WHEREAS**, the City has adopted programs for promoting economic development, and this Agreement and the economic development incentives set forth herein are given and provided by the City pursuant to and in accordance with those programs; and

**WHEREAS**, the City is authorized by Article III, Section 52-a of the Texas Constitution and Texas Local Government Code Chapter 380 to provide economic development grants to promote local economic development and to stimulate business and commercial activity in the City; and

**WHEREAS**, the City has determined that making an economic development grant to BG@B2014 in accordance with this Agreement is in accordance with the City Economic Development Policy and will: (i) further the objectives of the City; (ii) benefit the City and the City's inhabitants; and (iii) will promote local economic development and stimulate business and commercial activity in the City; and

**WHEREAS**, the City desires to authorize the City Manager to enter into an Economic Development Agreement with Blue Grove @ Beltline 2014 LP pursuant to Chapter 380 of the Texas Local Government Code.

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

**SECTION 1.** That the City Manager is hereby authorized to execute an Economic Development Agreement, which is attached hereto and incorporated herein as Exhibit A, pursuant to Chapter 380 of the Texas Local Government Code (and any amendments thereto, including any related instruments), on behalf of the City of Lancaster, Texas, with Blue Grove @ Beltline 2014 LP (and its affiliated and related entities).

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

**SECTION 3.** That should any word, sentence, paragraph, subdivision, clause, phrase or section of this resolution be adjudged or held to be void or unconstitutional, the same shall not affect the validity of the remaining portions of said resolution which shall remain in full force and effect.

**SECTION 4.** 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 22<sup>nd</sup> day of September 2014.

**ATTEST:**

**APPROVED:**

\_\_\_\_\_  
Sorangel O. Arenas, City Secretary

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

**APPROVED AS TO FORM:**

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

STATE OF TEXAS           §  
  §  
COUNTY OF DALLAS       §

**Economic Development Agreement**

This Economic Development Agreement (“Agreement”) is made by and between the City of Lancaster, Texas (“City”), and Blue Grove @ Beltline 2014 LP, a Texas limited partnership, (the “Company”), acting by and through their respective authorized representatives.

**WITNESSETH:**

**WHEREAS,** the Company has purchased approximately 7.5 acres of real property in the City of Lancaster, Texas, and being more particularly described in **Exhibit “A”** (the “Property”); and

**WHEREAS,** the Company intends to construct a retail shopping center with a minimum of 42,000 square feet of retail tenant space in one or more buildings and associated infrastructure with a capital improvement value to the Premises of approximately \$10,500,000 (the “Project”); and

**WHEREAS,** the Company has advised the City that a contributing factor that would induce the Company to undertake the Project would be an agreement by the City to provide an economic development grant to the Company to reimburse it for a portion of the Real Estate Taxes (hereinafter defined); and

**WHEREAS,** the City desires to encourage business expansions within the City that will add property tax base and generate additional sales tax and other revenue for the City; and

**WHEREAS,** the promoting the expansion of new or existing businesses within the City will promote economic development, stimulate commercial activity, generate additional sales tax and will enhance the Premises tax base and economic vitality of the City; and

**WHEREAS,** the City has adopted programs for promoting economic development, and this Agreement and the economic development incentives set forth herein are given and provided by the City pursuant to and in accordance with those programs; and

**WHEREAS,** the City is authorized by Article III, Section 52-a of the Texas Constitution and Texas Local Government Code Chapter 380 to provide economic development grants to promote local economic development and to stimulate business and commercial activity in the City; and

**WHEREAS,** the City has determined that making an economic development grant to the Company in accordance with this Agreement is in accordance with the City Economic Development Policy and will: (i) further the objectives of the City; (ii) benefit the City and the City’s inhabitants; and (iii) will promote local economic development and stimulate business and commercial activity in the City.

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

## **Article I Definitions**

For purposes of this Agreement, each of the following terms shall have the meaning set forth herein unless the context clearly indicates otherwise:

“Annual Grant(s)” shall mean annual economic development grants to be provided by the City in an amount equivalent to 40 percent (40%) of the Real Property Taxes assessed against the Premises and the Project for a given tax year for a period of five (5) consecutive tax years beginning with the first calendar year following the Commencement Date, to be paid as set forth herein.

“Casualty” shall mean the Improvements are wholly or partially destroyed by fire, tornado, hurricane, earthquake, flood or similar casualty that renders the Improvements unfit for the intended purpose.

“City” shall mean the City of Lancaster, Texas.

“Commencement Date” shall mean the later of (a) January 1 of the calendar year immediately following the date a Certificate of Occupancy is issued by the City for the Company’s occupancy of the improvements; and (b) January 1, 2015.

“Company” shall mean Blue Grove @ Beltline 2014 LP, a Texas limited partnership.

“Company Affiliate” shall mean any parent of Company or any wholly-owned subsidiary of either Company or of Company’s parent.

“Effective Date” shall mean the last date of execution hereof.

“Event of Bankruptcy or Insolvency” shall mean the dissolution or termination of a party’s existence as a going business, insolvency, appointment of receiver for any part of such party’s property and such appointment is not terminated within ninety (90) days after such appointment is initially made, any general assignment for the benefit of creditors, or the commencement of any proceeding under any bankruptcy or insolvency laws by or against such party and such proceeding is not dismissed within ninety (90) days after the filing thereof.

“Event of Force Majeure” shall mean any contingency or cause beyond the reasonable control of a party including, without limitation, acts of God or the public enemy, war, terrorist act, or threat thereof, riot, civil commotion, insurrection, government action or inaction (unless caused by the intentionally wrongful acts or omissions of the party), fires,

earthquake, tornado, hurricane, explosions, floods, strikes, slowdowns or work stoppages.

“Expiration Date” shall mean the fourth (4th) year after the payment of the first Annual Grant.

“Impositions” shall mean all taxes, assessments, use and occupancy taxes, charges, excises, license and permit fees, and other charges by public or governmental authority, general and special, ordinary and extraordinary, foreseen and unforeseen, which are or may be assessed, charged, levied, or imposed by any public or governmental authority on the Company or any property or any business owned by Company within the City.

“Premises” shall mean the real property described on Exhibit “A with or without improvements.”

“Payment Request” shall mean a written request from Company to the City for payment of an Annual Grant.

“Project” shall mean the commencement and completion of the development of the approximately 7.5 acre Premises and the construction of a shopping center in one or more buildings to include at least 42,000 square feet of retail tenant space and associated infrastructure for the operation of the retail shopping center.

“Real Property Taxes” shall mean all real estate ad valorem taxes assessed by the City on the real property with or without improvements..

“Required Use” shall mean continuous operation of a retail project on the Premises.

“Taxable Value” shall mean the assessed value of the Premises as certified by the appraisal district, or its successor, for a given year.

## **Article II Term**

The term of this Agreement shall begin on the last date of execution hereof (the “Effective Date”) and end on December 31 of the fifth (5th) anniversary of the date of issuance by the City of a final certificate of occupancy for the Project.

## **Article III Economic Development Grants**

3.1 **Annual Grants.** Subject to the Company’s continued satisfaction of all the terms and conditions of this Agreement, the City agrees to provide the Company with the Annual Grants to be paid on March 1 of each calendar year, (or the immediately following business day of March 1 is not a business day), beginning with March 1 of the first full calendar year following

the Commencement Date, provided the City has timely received the Real Estate Taxes assessed against the Premises and the Project in full for the respective tax year (i.e., the tax year immediately preceding the year in which an Annual Grant is made; and such Real Estate Taxes with respect to that immediately preceding tax year are used to determine the amount of each Annual Grant). For illustration purposes only, assume that the Real Estate taxes assessed against the Premises and the Project for tax year 2015 is \$100,000.00 then the amount of the first Annual Grant for the Premises and the Project for Tax Year 2015 would be, \$40,000.00 (\$100,000.00 x 40%), and would be paid on March 1, 2016.

3.2 **Grant Limitations.** Under no circumstances shall City obligations hereunder be deemed to create any debt within the meaning of any constitutional or statutory provision. Further, City shall not be obligated to pay any commercial bank, lender or similar institution for any loan or credit agreement made by the Company. None of the City's obligations under this Agreement shall be pledged or otherwise encumbered in favor of any commercial lender and/or similar financial institution.

3.3 **Current Revenue.** The Annual Grants made hereunder shall be paid solely from lawfully available funds that have been appropriated by the City; provided however the City agrees during the term of this Agreement to make a good faith effort to appropriate funds each year to pay the Annual Grant for the then ensuing fiscal year. Consequently, notwithstanding any other provision of this Agreement, the City shall have no obligation or liability to pay any Grants except as allowed by law. The City shall not be required to pay any Annual Grants if prohibited under federal or state legislation or a decision of a court of competent jurisdiction.

3.4 **Tax Protest.** In the event the Company or the owner of the Premises timely and properly protests or contests (including any motion to correct the appraisal roll) the Taxable Value and/or the taxation of the Premises, or any portion thereof, with the applicable appraisal district (or its successor), and such protest and/or contest results in a final determination that changes the appraised value and/or the Taxable Value of the Premises or the amount of ad valorem taxes assessed and due for the Premises, or portion thereof, after an Annual Grant has been paid for such Premises for such tax year, the Annual Grant for such tax year shall be adjusted (increased or decreased as the case may be) accordingly and paid on the date of payment of the next Annual Grant payment date, or if change resulted in overpayment, differences shall be deducted from next annual grant or within sixty (60) business days after such determination in the event no further Annual Grant payments are due under the Agreement.

3.5 **Refunds.** In the event the City determines in its sole discretion that the amount of an Annual Grant paid by the City to the Company was incorrect, the Company shall, within sixty (60) days after receipt of written notification thereof from the City specifying the amount by which such Annual Grant exceeded the correct amount to which the Company was entitled (together with such records, reports and other information necessary to support such determination), pay such amount to the City. If the City determines that the amount by which such Annual Grant was less than the correct amount to which the Company was entitled (together with such records, reports and other information necessary to support such determination), the City shall, within sixty (60) days, pay the adjustment to the Company. If the Company disputes the City's determination or the City's calculation of any Annual Grant, the parties shall seek to amicably resolve the matter, subject to either party's right to pursue any available rights or remedies in connection therewith.

**Article IV**  
**Conditions to the Economic Development Grant**

The obligation of the City to provide the Grants shall be conditioned upon the Company's continued compliance with and satisfaction of each of the terms and conditions of this Agreement and each of the conditions set forth below:

4.1 During the term of this Agreement following the Commencement Date and continuing thereafter until the Expiration Date, or earlier termination, the Company agrees to continuously own the Improvements and shall not allow the operation of the Improvements in conformance with the Required Use to cease for more than ninety (90) days except in connection with, and to the extent of a Casualty or an Event of Force Majeure.

4.2 The Company shall commence and complete Project construction on the Premises within twelve months (12 months) of the execution date of this agreement subject to Casualty and any Event of Forced Majeure.

4.3 The Company shall not have an uncured breach or default of this Agreement.

4.4 The Company shall comply with all the terms and conditions of this Agreement.

**Article V**  
**Termination**

5.1 This Agreement terminates on the Expiration Date, and may prior to the Expiration Date, be terminated upon any one or more of the following:

- (a) by mutual written agreement of the parties;
- (b) by either party, if the other party defaults or breaches any of the material terms or conditions of this Agreement and such default or breach is not cured within sixty (60) days after written notice thereof;
- (c) by City, if any Impositions owed to the City or the State of Texas by Company shall have become delinquent (provided, however, Company retains the right to timely and properly protest and contest any such taxes or Impositions);
- (d) by City, if Company suffers an Event of Bankruptcy or Insolvency; or
- (e) by either party if any subsequent Federal or State legislation or any decision of a court of competent jurisdiction declares or renders this Agreement invalid, illegal or unenforceable.

5.2 In the event the Agreement is terminated by the City pursuant to Section 5.1(b), (c), or (d), the Company shall not be entitled to receive any subsequent Annual Grants under this Agreement but shall have no obligation to refund to the City any Annual Grants (or portion thereof or interest accrued thereon) previously paid by the City to the Company.

5.3 In the event the Agreement is terminated by the City pursuant to Section 5.1(e), the Company shall, only if such legislation or court decision requires, immediately refund to the City an

amount equal to the annual Grant(s) paid by the City to the Company immediately preceding the date of such termination. The repayment obligation of Company set forth in this section 5.3 hereof shall survive termination.

## **Article VI Miscellaneous**

6.1 **Binding Agreement.** The terms and conditions of this Agreement are binding upon the successors and permitted assigns of the parties hereto.

6.2 **Limitation on Liability.** It is understood and agreed between the parties that the Company and City, in satisfying the conditions of this Agreement, have acted independently, and the City assumes no responsibilities or liabilities to third parties in connection with these actions.

6.3 **No Joint Venture.** It is acknowledged and agreed by the parties that the terms hereof are not intended to and shall not be deemed to create a partnership or joint venture among the parties.

6.4 **Authorization.** Each party represents that it has full capacity and authority to grant all rights and assume all obligations that are granted and assumed under this Agreement. The undersigned officers and/or agents of the parties hereto are the properly authorized officials and have the necessary authority to execute this Agreement on behalf of the parties hereto.

6.5 **Notice.** Any notice required or permitted to be delivered hereunder shall be deemed received three (3) days thereafter sent by United States Mail, postage prepaid, certified mail, return receipt requested, addressed to the party at the address set forth below (or such other address as such party may subsequently designate in writing) or on the day actually received if sent by courier or otherwise hand delivered.

If intended for City, to:

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

With a copy to:

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

If intended for Company:

Blue Grove @ Beltline 2014 LP  
Attn: Kent Stainback  
5622 Dyer Street Suite 200  
Dallas, Texas 75206



6.6 **Entire Agreement.** This Agreement is the entire Agreement between the parties with respect to the subject matter covered in this Agreement. There is no other collateral oral or written Agreement between the parties that in any manner relates to the subject matter of this Agreement, except as provided in any Exhibits attached hereto.

6.7 **Governing Law.** The Agreement shall be governed by the laws of the State of Texas, without giving effect to any conflicts of law rule or principle that might result in the application of the laws of another jurisdiction; and exclusive venue for any action concerning this Agreement shall be in the State District Court of Dallas County, Texas. The parties agree to submit to the personal and subject matter jurisdiction of said court.

6.8 **Amendment.** This Agreement may only be amended by the mutual written agreement of the parties.

6.9 **Legal Construction.** In the event any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect other provisions, and it is the intention of the parties to this Agreement that in lieu of each provision that is found to be illegal, invalid, or unenforceable, a provision shall be added to this Agreement which is legal, valid and enforceable and is as similar in terms as possible to the provision found to be illegal, invalid or unenforceable.

6.10 **Exhibits.** All exhibits to this Agreement are incorporated herein by reference for all purposes wherever reference is made to the same.

6.11 **Successors and Assigns.** This Agreement may not be assigned without the City's prior written consent, except to a Company Affiliate. Neither the Company nor its legal representatives or successors in interest shall, by operation of law or otherwise, assign, mortgage, pledge, encumber or otherwise transfer this Agreement or any part hereof, or the interest of the Company under this Agreement in either case except to a Company Affiliate, without obtaining the City's prior written consent, which may be given or withheld in the City's sole discretion. Any attempted assignment by the Company, except to a Company Affiliate, in violation of the terms and provisions of this Agreement shall be void and shall constitute a material breach of this Agreement. Notwithstanding the foregoing, in the event that the Company ceases to lease the Property prior to the end of the Term of this Agreement, Company may assign this Agreement to the then-current owner of the Property, subject to the City's consent, which shall not be unreasonably withheld.

6.12 **Recitals.** The recitals to this Agreement are incorporated herein.

6.13 **Counterparts.** This Agreement may be executed in counterparts. Each of the counterparts shall be deemed an original instrument, but all of the counterparts shall constitute one and the same instrument.

6.14 **Survival of Covenants.** Any of the representations, warranties, covenants, and obligations of the parties, as well as any rights and benefits of the parties, pertaining to a period of time following the termination of this Agreement shall survive termination.

6.15 **Conditions Precedent.** This Agreement is subject to and conditioned upon the following conditions which are conditions precedent to the obligations of the parties: (i) Company shall diligently and faithfully, in a good and workmanlike manner, make or cause the construction and finish out improvements to the Premises in accordance with all applicable state and local laws and regulations or a valid waiver thereof; (ii) Company shall obtain a Certificate of Occupancy for the Premises.

**Signature page to follow**

**EXECUTED** on this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

**CITY OF LANCASTER, TEXAS**

By: \_\_\_\_\_  
Opal Mauldin Robertson, City Manager

**Attest:**

By: \_\_\_\_\_  
Sorangel O. Arenas, City Secretary

**Approved as to Form:**

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

**EXECUTED** on this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

**BLUE GROVE @ BELTLINE 2014 LP**

By: KMS Retail, Inc.  
a Texas corporation  
its general partner

By: \_\_\_\_\_  
Kent Stainback, President

**EXHIBIT A**  
**PROPERTY**

BEING a tract of land situated in the A, Bledsoe Survey, Abstract No. 113, City of Lancaster, Dallas County, Texas, and being a portion of a called 4.119 acre tract of land described in the deed to Mills Branch Village Center, LTD., as recorded in Volume 2004039, Page 8433, Deed Records of Dallas County, Texas, and a portion of a called 9.012 acre tract of land described in the deed to Mills Branch Village Center, LTD., as recorded in Volume 2004039, Page 8437, said Deed Records of Dallas County, Texas, and a portion of a called 1.104 acre tract of land described in the deed to Mills Branch Village Center, LTD., as recorded in Instrument No. 20080077097, Official Public Records of Dallas County, Texas, and being more particularly described as follows:

BEGINNING at a 1/2 inch iron rod found at the southwest corner of a corner clip at the intersection of the east right-of-way line of Blue Grove Road and the south right-of-way line of West Belt Line Road, said point being the western-most northwest corner of said 4.119 acre tract;

THENCE North 43°54'46" East, along said corner clip, a distance of 11.23 feet to a 5/8-inch iron rod with a red plastic cap, stamped "KHA" set for corner in said south right-of-way line of West Belt Line Road;

THENCE North 88°50'03" East, along the north line of said 4.119 acre tract, a distance of 495.82 feet to a 5/8-inch iron rod with a red plastic cap, stamped "KHA" set for corner from which the northern-most northwest corner of 0.706 acre street easement described in the deed to City of Lancaster, as recorded in Instrument No. 20080063068, said Official Public Records of Dallas County, Texas, bears North 88°50' 03" East, a distance of 178.96 feet;

THENCE South 01°09'57" East, departing said south right-of-way line of West Belt Line Road, crossing said 9.012 acre tract and said 1.104 acre tract, a distance of 654.17 feet to a 5/8-inch iron rod with a red plastic cap, stamped "KHA" set for corner in the south line of said 1.104 acre tract, and in the north line of a called 73.962 acre tract described in the deed to C.T. Beckhamt as recorded in Instrument No. 200600470490, said Official Public Records of Dallas County, Texas, and from which the southeast corner of said 1.104 acre tract bears North 88° 29' 40" East, a distance of 448.03 feet;

THENCE South 88°29'40" West, along the south line of said 1.104 acre tract, and along the north line of said 73.962 acre tract, a distance of 515.24 feet to a 5/8-inch iron rod with a red plastic cap, stamped "KHA" set for corner in said east right-of-way line of Blue Grove Road;

THENCE along said east right-of-way line of said Blue Grove Road, the following four (4) courses and distances:

North 1°29'52" West, a distance of 268.79 feet to a 1/2 inch capped iron rod stamped "C&P INC" found for corner at a salient corner in the said east right-of-way line of Blue Grove Road;

North 88°39'18" East, a distance of 33.45 feet to a 1/2 inch iron rod found for corner at an-entrant corner in said east line of said Blue Grove Road;

North  $0^{\circ}44'18''$  West, a distance of 200.30 feet to a 5/8-inch iron rod with a red plastic cap, stamped "KHA" set for corner at the beginning of a curve to the left having a central angle of  $14^{\circ}37'31''$ , a radius of 712.78 feet, a chord bearing and distance of North  $8^{\circ}06'31''$  West, 181.45 feet;

In a northwesterly direction, with said curve to the left, an arc distance of 181.94 feet to a point at the **POINT OF BEGINNING** containing 326,642 square feet, containing 7.499 acres of land, more or less.

ACKNOWLEDGMENT

STATE OF TEXAS       §  
                                  §  
COUNTY OF DALLAS   §

BEFORE ME, the undersigned authority, a Notary Public in and for the State of Texas, on this day personally appeared \_\_\_\_\_, City Manager of the City of Lancaster, a Texas non-profit corporation, known to me to be the person and officer whose name is subscribed to the foregoing instrument and acknowledged to me that the same was the act of the said corporation, and that he executed the same as the act of said corporation for the purpose and consideration therein expressed and in the capacity therein stated.

GIVEN UNDER MY HAND SEAL OF OFFICE this the \_\_\_\_ day of \_\_\_\_\_, 2014.

\_\_\_\_\_  
Notary Public, State of Texas

My Commission Expires:  
\_\_\_\_\_

