

City of Temple
Application for Cost Sharing Agreement—Off-Site Extension
(See City Ordinance 2004-3935 attached)

Applicant's
 Name
 And
 Address

Name and
 Location of
 Subdivision
 To Be
 Served

This subdivision () exists () is proposed

If your subdivision is not yet constructed, please indicate the date you expect to begin and complete construction of all internal water and wastewater mains. If you propose to plat & construct the subdivision in phases, indicate the estimated beginning and completion date for internal improvements in each phase:

Please attach a drawing showing the location of the closest available *existing* water and wastewater facilities capable of serving your subdivision, and the location of all *proposed* extensions of water and wastewater mains to serve your subdivision. Your drawing must indicate the estimated number of feet of water or wastewater main extension required to connect to your subdivision. The engineer for my subdivision is (or was) _____

What is the *minimum* number of new water and wastewater hookups proposed for your subdivision? If construction of your subdivision will be phased in, please provide a breakdown of the number of water and wastewater hookups in each phase:

Water:

Wastewater:

To assist the City Council in making a conflict of interest analysis, please list the name and address of the developer and all current owners of property within the subdivision. If the applicant or any owner of the property is a corporation, partnership, joint venture, or other business entity, please disclose the name and address of each person having an interest in such entity. (A separate sheet is attached for this purpose.)

I understand I will be required to deposit with the City, at the time I execute such agreement with the City, 110% of my share of costs as determined by the City's cost sharing formula, and that if my share of the actual cost of completing the project exceeds the amount I deposit with the City, I will pay the additional amount on demand by the City. I also understand that, if approved, I will be required to acquire, or pay the cost of acquiring, at the time a cost sharing agreement is executed, any easements required to extend water or wastewater service to my subdivision. The City Council reserves the right to deny any application, see Ordinance No. 2004-3935 attached.

Applicant's Signature: _____ Date: _____

Telephone No. _____

City of Temple
 Application for Cost Sharing Agreement—Off-Site Extension
 Identification of Parties-in-Interest

Subdivision		
Developer		
Name and address of each owner of property in the subdivision	<u>Full Name</u>	<u>Address</u>
	1.	
	2.	
	3.	
	4.	
	5.	
	6.	
	7.	
	8.	
	9.	
	10.	

If any of the owners listed above are businesses, please provide the following:

1. Name of Entity:
 Nature of Entity:
 (e.g., corporation)
 Shareholders/partners/members:

2. Name of Entity:
 Nature of Entity:
 (e.g., corporation)
 Shareholders/partners/members:

3. Name of Entity:
 Nature of Entity:
 (e.g., corporation)
 Shareholders/partners/members:

Completed by: _____ Date: _____

ORDINANCE NO. 2004-3935

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, REESTABLISHING THE CITY'S POLICY FOR COST SHARING IN THE EXTENSION OF WATER AND WASTEWATER MAINS TO NEW AND EXISTING SUBDIVISIONS WITHIN THE CITY AND ITS EXTRATERRITORIAL JURISDICTION; REESTABLISHING A POLICY FOR THE COST SHARING OF WATER AND WASTEWATER MAINS WITHIN EXISTING SUBDIVISIONS INSIDE THE CITY LIMITS; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; REPEALING ALL ORDINANCES IN CONFLICT WITH THIS ORDINANCE AND PROVIDING AN OPEN MEETINGS CLAUSE

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

Part 1: Ordinance No. 94-2298 adopted on October 6, 1994 and amended by Ordinance No. 96-2433 on May 16, 1996, Ordinance No. 97-2503 on July 3, 1997, and Ordinance No. 2001-2805 on November 15, 2001, are hereby repealed, and the City Council adopts the following policy for cost sharing in the design and construction of water and wastewater mains to serve new and existing subdivisions within the City and its extraterritorial jurisdiction, and to share costs in the design and construction of water and wastewater improvements within existing subdivisions inside the City limits:

Subchapter 1 Extension of Water and Wastewater Mains to New and Existing Subdivisions within the City's Extraterritorial Jurisdiction.

Section 1.1 Policy Established.

(a) *Purpose.* This policy provides a mechanism for the City Council to authorize the City Manager to execute cost sharing agreements with applicants who request that the City, using its Water and Wastewater Fund as a source of funds, extend water and wastewater mains to new and existing single family residential subdivisions within the City or its Extraterritorial Jurisdiction (ETJ).

(b) *General rule.* Subject to the availability of funds appropriated in the current fiscal year budget for such purpose, the City Council may authorize the City Manager to enter into cost sharing agreements with developers of single family residential subdivisions which agreements may provide for the extension of water or wastewater mains by the City or the developer to a particular subdivision with the cost of such extension being shared by the

City and the developer according to the cost sharing formula established in this subchapter. For purposes of this ordinance, mobile home parks and manufactured home developments are not eligible for cost sharing agreements with the City under this ordinance as single-family residential subdivisions.

(c) *Unavailability of funds.* Where insufficient funds are appropriated or left unencumbered in the current fiscal year budget for the purposes of this policy, the City Council may appropriate additional funds for such purpose at the time it considers a cost sharing agreement, or it may provide in said agreement that if the developer elects to finance the entire cost of such extension in advance, the City will reimburse the developer twenty percent (20%) per year, for five years, of the City's share of the actual cost of extending water and wastewater mains according to the cost sharing formula established in this subchapter. The City may in its sole discretion retain responsibility for the design, bidding, and actual construction of the project, or may enter into development participation agreements with the developer to have the developer design and construct such improvements in accordance with City standards for the benefit of the City, as provided for under State law (currently found at Chapter 212, Subchapter C, "Developer Participation in Contract for Public Improvements," of the Local Government Code).

(d) *Payment of developer's share where City elects to construct the improvements.* A developer executing a cost sharing agreement with the City under this policy where the City elects to construct the water and wastewater improvements must provide the City at the time of execution of the cost sharing agreement with cash, a certified or cashier's check, or a letter of credit in an amount equal to one hundred percent (100%) of the developer's share of the estimated cost of the project as determined by the City's Director of Utilities. (In situations described above where the developer is financing the entire project cost subject to five year reimbursement by the City, the developer must put up 100% of the entire project cost.) In lieu of receiving the entire amount up front, the City may in its discretion agree to accept twenty-five percent of the developer's share of the estimate cost of the project up front, with the balance being due as the City makes progress payments on the project. For example, if the City receives 25% up front from a developer, and then makes one or more progress payments to its contractor so that the contractor has been paid 47% of the total estimated contract price, the City may request a progress payment from the developer to bring developer's paid in share to 47% of his agreed share of the total contract price. Failure of the developer to make a progress payment to City with 10 days of demand shall cause the entire remaining amount owed to the City to come due.

(e) *Developer participation agreements.* At its discretion, the City may agree pursuant to the cost sharing agreement with the developer of a subdivision or land within the City that the developer shall construct the water and/or wastewater improvements with the City participating in the type of improvements and the percentage of cost of said improvements authorized by this ordinance. As provided under authority of Chapter 212, Subchapter C of the Local Government Code, the City may agree to be liable for an agreed share of the total contract price for said public improvements, which shall be determined in advance either as a lump sum or a percentage of the total actual cost of the project public improvements, provided that in no event may the City's share exceed thirty percent (30%) of the actual total contract cost. In addition, the City may agree to pay one hundred percent (100%) of the total actual cost for oversizing any public improvements required by the City. (See definition of "oversizing" in Section 1.6.) The developer or his contractor must execute a performance bond to the City for the construction and completion of the public improvements to ensure completion of the project. The bond must be executed by a corporate surety in compliance with Chapter 2253 of the Government Code. All of the developer's books and others related to the public works portion of the project shall be available for inspection by the City during normal business hours.

(e) *Density Eligibility Requirements.* To be eligible for a cost sharing agreement under this policy, the developer must propose an extension of water or wastewater mains, or both, where the ratio of new hookups per one hundred feet of required extension of main is at least 1:1. A developer requesting the extension of both water and wastewater mains to a subdivision must demonstrate that ratios of new hookups to hundred feet of water and wastewater main extension are both at least 1:1. The City Council will not approve a cost sharing agreement for a subdivision where the ratio of new hookups per hundred feet of water or wastewater extensions is less than 1:1, unless the applicant developer agrees to pay one hundred percent (100%) of the cost of water or wastewater extensions beyond that required to provide one hundred feet of water or wastewater extension for each new hookup.

(f) *Completion of improvements.* Where the City authorizes the execution of a cost sharing agreement to install water or wastewater mains, the City will perform all design work, bidding, and construction work using City Staff or contracted services, except where the City elects under subsection (d) above to have the developer construct the improvements. The City shall, at its sole discretion on the advice and recommendation of the Director of Utilities, determine the design parameters of the extension, including but not limited to, the size and location of water or wastewater lines, and the size, number and location of manholes, hydrants, valves, and other design and construction details pertinent to the project. (See Section 1.6 below relating to the City bearing certain costs of oversizing water and wastewater extensions.)

(g) Acquisition of easements. A developer applying for a cost sharing agreement shall provide the City with all onsite easements necessary for the project for which cost sharing is sought. The applicant developer shall make a reasonable effort to secure all necessary offsite easements required by the project. If the applicant developer cannot reasonably acquire all necessary offsite easements at no cost to the City, the City will use its best efforts to acquire the necessary offsite easements for the proposed project using its eminent domain authority where necessary. For purposes of this policy, acquisition costs of offsite easements obtained by the City shall be deemed to be “shared costs” between the City and applicant developer. The City reserves the right to withdraw from any cost sharing agreement under this policy, if the City determines in its discretion that the cost of acquiring any necessary offsite easements is prohibitively expensive.

(h) *Exceptions.* The City Council reserves the right to refuse to extend water or wastewater mains pursuant to this policy, when it determines in its sole discretion:

(1) the extension of the proposed water or wastewater main is not cost effective due to topography, soil conditions, or the condition or capacity of the City's existing water/wastewater facilities;

(2) the condition of the City's Water and Wastewater Fund does not warrant additional expenditures for water or wastewater extension at such time;

(3) the proposed extension is contrary to the policies previously approved by the City Council in its Water and Wastewater Master Plan, the Comprehensive Master Plan (zoning), or other development policies adopted by the City Council, as those policies may currently exist or be amended in the future;

(4) the proposed improvement is designed primarily as a service line to serve one or two individual dwellings rather than an extension of the City's water or wastewater system, or that the proposed extension merely serves to extend a water or wastewater line across or under existing public property or right-of-way; or

(5) the developer lacks the financial resources or responsibility to complete the subdivision proposed in his application in order to satisfy the minimum hookup ratio requirement.

Section 1.2 Contract Authorized; Cost Sharing Formula.

(a) *Cost Sharing Percentages.* When authorized by the City Council, and subject to the density eligibility requirements in Section 1.1(e), the City Manager may enter into cost sharing agreements with developers which provide for the extension of water or wastewater

mains to subdivisions and which allocate the cost of designing and constructing such extensions between the developer and the City according to the following formula:

- (1) For the first twenty-five hundred feet (2,500') of required extension, the City will pay one hundred percent (100%) of the cost;
- (2) For the next twenty-five hundred feet (2,500') of required extension, the City will pay fifty percent (50%) and the developer will pay fifty percent (50%) of the cost;
- (3) For any required extension beyond five thousand feet (5,000'), the developer must pay one hundred percent of the cost of the portion extending beyond five thousand feet; and
- (4) In allocating cost between the developer and the City, the City will pay a proportionate share of the actual final cost of construction, based on the percentage of the total number of actual feet constructed represented by the City's portion, without regard to the actual cost of building any one particular section of the extension.

Section 1.3 Procedure for Applying for Cost Sharing.

(a) *New subdivisions.* A developer seeking to enter into a cost sharing agreement for the extension of water or wastewater mains to a new subdivision shall make application to the Planning Department. Applicants are encouraged to make application to the Planning Department as early in the planning of a new subdivision as practical. Application must be made no later than the time application is made for preliminary plat approval.

(b) *Existing subdivisions.* The owners of lots in an existing subdivision seeking to enter into a cost sharing agreement for the extension of water or wastewater mains to their subdivision shall make application to the Planning Department.

(c) *Form of application.* The application shall be in a form approved by the City, and shall include at a minimum:

- (1) a drawing showing the location of existing water and wastewater facilities capable of serving the subdivision and the location of proposed extension of water and wastewater mains;
- (2) where the proposed extension of water or wastewater mains requires additional onsite easements dedicated to the City, a statement by the applicant that he/she will secure such easements at the applicant's cost and submit the same to the City at the time a cost sharing agreement is entered into between the City and the developer;

- (3) a calculation of the estimated number of feet of water or wastewater mains required to bring service to the proposed subdivision;
- (4) a statement of the minimum number of new water and wastewater hookups in the proposed subdivision sought to be served;
- (5) a statement that the applicant will comply with subsection 1.1(d) of this Ordinance by depositing with the City, at the time a cost sharing agreement is executed, a sum equal to one hundred percent (100%) of the applicant's share of costs as determined by the cost sharing formula, or deposit twenty-five percent down and make progress payments on demand by the City if agreed to by the City, and that if the applicant's share of the actual costs at the time of completion of the project exceeds the amount on deposit the developer will pay the difference on demand; and
- (6) the applicant's name, and the name of all of the current owners of the subdivision proposed to be served. If the developer or any owner of the property is a corporation, partnership, joint venture, or other business entity, the application must disclose the names of all owners or partners making up such business (this section is included to assist the City Council in performing their conflict of interest analysis).

Section 1.4 Approval of Applications.

(a) *Required Authority.* The City Manager is authorized to and may approve cost sharing agreements with developers under the terms of this subchapter without further City Council action, where the City's share of the cost of the proposed extension of water or wastewater mains does not exceed Twenty-five Thousand Dollars (\$25,000.00) and sufficient unencumbered funds are available in the current fiscal year budget for that purpose. City Council approval of cost sharing agreements is required in all other cases.

(b) *Timing for approval.* The City Council, or where appropriate the City Manager, may authorize cost sharing agreements only when the preliminary plat for the subdivision served by an extension covered by an agreement is approved by the City Council or the Planning & Zoning Commission, where applicable. Provided that the cost sharing agreement shall not be executed by the City until the final plat for the subdivision is approved, or where a subdivision is approved in phases, only when a sufficient number of units are approved in a final plat so that the ratio of water or wastewater hookups, or both, to the number of hundred feet of extension mains meets or exceeds 1:1. Where an existing subdivision is requesting an extension of water or wastewater under this policy, the City Council, or where appropriate the City Manager, may authorize a cost sharing agreement when all other requirements of this policy are met.

(c) *Staff report required.* The City Manager, or his designee, shall place cost sharing agreements requiring City Council approval on the City Council's agenda. In considering any cost sharing agreement, the City Council shall allow any interested person to speak for or against the proposed cost sharing agreement. As part of the City Council's packet, the City Manager, or his designee, shall provide the City Council with a report and recommendation addressing:

- (1) a description and drawings of the proposed project that clearly indicate the scope and estimated cost of the project, estimated completion date, the City's share of the estimated cost, the estimated number of water and wastewater hookups generated by the project, and other relevant information about the construction project;
- (2) the availability of unencumbered, but appropriated, funds in the City's Water and Wastewater Fund;
- (3) whether the proposed project furthers the needs of the City taking into consideration the Water and Wastewater Master Plan, the Comprehensive Master Plan (zoning), and any other development policies and goals adopted by the City Council;
- (4) whether the proposed project is cost effective taking into consideration: the size of the proposed subdivision, other areas of the City that may be opened up to development by the project, topography, soil conditions, and demands on current treatment and line capacity generated by the project; and
- (5) the name(s) of the applicant and all owners of the properties that will directly benefit from the proposed project (to assist the City Council in avoiding a conflict of interest problem).

Section 1.5 Property Subject to Policy. This policy applies within the City limits and within those portions of the City's extraterritorial jurisdiction in which the City is certificated to provide service.

Section 1.6 Oversized Mains.

Notwithstanding any other provision of this policy, the City shall bear the entire cost of over sizing water and wastewater mains, or of additional water or wastewater infrastructure, required or constructed by the City, but not necessitated or dictated by the proposed subdivision. For purposes of this Ordinance: the City has determined that the following items are or are not “necessitated or dictated by new subdivisions”:

Costs Shared Between City & Developer

Gate valves for the operation & maintenance of the distribution system

Fire hydrants and manholes spaced according to City standards

Other appurtenances to the distribution system needed to meet City and State requirements
Offsite easements secured by the City for water and wastewater lines

Costs Borne Entirely by the City (“Oversizing” costs)

Oversizing of mains (upgrading line sizes to meet future development)
Costs associated with installing sewer mains at a great depth to serve a greater development area
Construction costs related to installing larger mains than are dictated by the development seeking cost sharing
Additional offsite easement costs associated with rerouting water and wastewater lines to increase the potential service area

The City shall, in its discretion based on the advice and recommendation of the Director of Utilities, determine the route and size of water and wastewater mains, the portion if any of oversizing required by the City, and whether additional water or wastewater infrastructure and improvements not listed above are necessitated or dictated by the proposed subdivision.

Part 2: The City Council adopts the following policy for extending water and wastewater mains *within* existing single family residential subdivisions and to individual single family residential lots in the City:

Subchapter 2 Extension of Water and Wastewater Mains within Existing Subdivisions within the City limits.

Section 2.1 Policy Established.

(a) *Purpose.* This policy replaces any current policy relating to the extension of water and wastewater mains within existing single family residential subdivisions or to individual single family residential lots within the City limits. This policy creates a mechanism to authorize the City Manager to execute cost sharing agreements with residents of existing subdivisions or with owners of individual lots within the City limits who request that the City extend water or wastewater mains *within* their subdivision.

(b) *General rule.* Subject to the availability of funds appropriated in the current fiscal year budget, the City Council may authorize the City Manager to enter into cost sharing agreements with the owners of individual single family resident lots or property in single family residential subdivisions that provide for the extension of water or wastewater mains within subdivisions or to such individual lots not currently served by water or wastewater with the cost of such extension shared by the City and the owners of property in said subdivision according to the cost sharing formulas provided in this subchapter. This policy applies only to existing single family residential subdivisions or individual lots within the City, that were platted or developed *prior to* the effective date of this policy or date of annexation of the property into the City, whichever comes later. The policy authorizes the execution of cost sharing agreements with

individual property owners that provide for the sharing of the actual cost of such improvements with the City financing such improvements for property owners over a ten year period repayable through the property owner's water bill. Individual mobile homes, manufactured home developments, or mobile home parks are not eligible for purposes of this ordinance as single family residences or subdivisions.

(c) *Unavailability of funds.* Where insufficient funds are appropriated or left unencumbered in the current fiscal year budget for the purposes of this policy, the City Council may appropriate additional funds for such purpose at the time it considers a cost sharing agreement, or may defer approval of such agreement until the next fiscal year.

(d) *Payment of property owner's share.* A property owner executing a cost sharing agreement with the City under this policy must provide the City at the time of execution of the cost sharing agreement with an amount equal to one hundred percent (100%) of the property owner's share of the estimated cost of the extension project as determined by the City's Director of Utilities, or agree to repay the City through his water bill for his share over a period of time not to exceed ten years in equal installments at five percent (5%) interest. Cost sharing agreements requiring monthly payments through the water bill are not transferable and must be paid in full upon sale or transfer of the property of the applicant.

(e) *Eligibility for cost sharing.* The City will consider entering into cost sharing agreements with individual property owners in three ~~two~~ different situations:

(1) where property owners representing not less than fifty percent (50%) of the frontage of property which can be served by a proposed extension of a water or wastewater main within a subdivision agree to enter into cost sharing agreements with the City, the City may authorize a cost sharing agreement with the City paying fifty percent (50%) and each property owner paying his/her prorata share of the remaining fifty percent (50%) of the actual cost of installation of water or sewer mains; ~~or~~

(2) where property owners representing at least twenty-five percent but less than fifty percent of the frontage of property which can be served by a proposed extension of a water or wastewater main within a subdivision agree to enter into cost sharing agreements with the City, the City may authorize a cost sharing agreement, with the City financing the project, but each property owner (tying on to the water or wastewater system) paying his prorata share of one hundred percent (100%) of the actual cost of installation of water or sewer mains; or

(3) where the City Council determines because of the need to protect public health and safety that special circumstances exist, the City Council may authorize special terms and conditions for cost sharing agreements between the City and petitioning property owners, for example, reducing the

percentage of property owners required to agree to enter into a cost sharing agreement with the City, reducing or eliminating the percentage of the cost borne by property owners, or otherwise setting new terms and conditions for cost sharing agreements with the City.

(f) *Completion of improvements.* At such time as the City executes cost sharing agreements with the required percentage of property owners, the City will commence the design, bidding, and construction of the required capital improvements using its own staff or contracted services. The City shall, at its sole discretion on the advice and recommendation of the Director of Utilities, determine the design parameters of the extension, including but not limited to, the size and location of water or wastewater lines, and the size, number and location of manholes, hydrants, valves, and other design and construction details.

(g) *Exceptions.* The City Council, or in appropriate circumstances the City Manager, may refuse to authorize cost sharing agreements when they find, in their sole discretion, that extending water or wastewater mains within a particular subdivision or to an existing individual lot, is not in the best interest of the City taking into consideration such factors as topography, soil conditions, the relative importance of the project as reflected in the City's Water and Wastewater Master Plan and other development policies approved by the City Council, the treatment and capacity demands required by the proposed addition, and other relevant factors identified by the City Council or Staff.

Section 2.2 Cost Sharing Formula.

(a) *Cost sharing (fifty percent or more participation) under Section 2(e)(1) above.* (1) When authorized by the City Council, the City Manager may enter into cost sharing agreements with individual property owners to extend water or wastewater mains within existing subdivisions or to individual lots within the City. Where fifty percent (50%) or more of the affected property owners have agreed to share cost as provided herein, the cost sharing agreements shall allocate the cost between the City and property owners so that the City pays fifty percent (50%) of the actual cost of providing water or wastewater mains within the subdivision or to the individual lot, where there is one potential water or wastewater hookup, as applicable, per one hundred feet of required extension of water or wastewater main. The City Council will not approve a cost sharing agreement for a subdivision or an individual lot where the ratio of new hookups per hundred feet of water or wastewater extensions is less than 1:1, unless the applicants agree to pay one hundred percent (100%) of the cost of water or wastewater extensions beyond that required to provide one hundred feet of water or wastewater extension for each new hookup.

(2) The percentage of cost borne by each property owner of a platted lot shall be calculated by taking the total actual cost of the project

less the amount incurred by the City under the formula shown above, adding the amount that must be borne by property owners to satisfy the 1:1 ratio of new hookups to one hundred feet of required extensions, if any, and dividing this amount by the total number of potential hookups (lots) served by the project.

(3) If any portion of the property that fronts the proposed improvement has not been platted, but consists of a single (unsubdivided) tract, the percentage of cost borne by the property owner of such tract shall be equivalent to the percentage that the frontage of such tract represents of the total frontage of property directly fronting such improvements.

(4) The City will pay the property owner's portion for those property owners who do not execute cost sharing agreements with the City. Property owners who do not execute cost sharing agreements with the City, but who later request permission from the City to tap into the water or wastewater main subject to prior cost sharing agreements, shall be required to pay as a condition of receiving service the amount they would have paid under subsections (a)(2) or (a)(3) above had they entered into a cost sharing agreement. Notwithstanding the above, the City shall not enter into cost sharing agreements under this subsection, unless property owners representing fifty percent or more of the frontage of property which can be served by a proposed extension of a water or wastewater main within a subdivision agree to enter into cost sharing agreements with the City according to the cost sharing formula established in this subchapter.

(b) Cost sharing (at least twenty-five percent but less than fifty percent participation) under Section 2(e)(2) above. (1) When authorized by the City Council, the City Manager may enter into cost sharing agreements with individual property owners to extend water or wastewater mains within existing subdivisions or to individual lots within the City. Where at least twenty-five percent, but less than fifty percent, of the adjoining property owners have agreed to share the cost, the cost sharing agreements shall require that the City finance the actual cost of construction and the abutting property owners as a condition of tying on to the water or wastewater line servicing their property pay their prorata share of one hundred percent (100%) of the cost of such lines. The City Council will not approve a cost sharing agreement for a subdivision or an individual lot where the ratio of new hookups per hundred feet of water or wastewater extensions is less than 1:1, unless the applicants agree to pay, up front, one hundred percent (100%) of the cost of water or wastewater extensions beyond that required to provide one hundred feet of water or wastewater extension for each new hookup.

(2) The percentage of cost borne by each property owner of a platted lot shall be calculated by taking the total actual cost of the project, adding the amount that must be borne by property owners to satisfy the 1:1 ratio of new hookups to one hundred feet of required

extensions, if any, and dividing this amount by the total number of potential hookups (lots) served by the project.

(3) If any portion of the property that fronts the proposed improvement has not been platted, but consists of a single (unsubdivided) tract, the percentage of cost borne by the property owner of such tract shall be equivalent to the percentage that the frontage of such tract represents of the total frontage of property directly fronting such improvements.

(4) The City will pay the property owner's portion for those property owners who do not execute cost sharing agreements with the City. Property owners who do not execute cost sharing agreements with the City, but who later request permission from the City to tap into the water or wastewater main subject to prior cost sharing agreements, shall be required to pay as a condition of receiving service the amount they would have paid under subsections (b)(2) or (b)(3) above had they entered into a cost sharing agreement. Notwithstanding the above, the City shall not enter into cost sharing agreements under this subsection, unless property owners representing at least twenty-five percent of the frontage of property which can be served by a proposed extension of a water or wastewater main within a subdivision agree to enter into cost sharing agreements with the City according to the cost sharing formula established in this subchapter.

(c) *Cost sharing under Section 2(e)(3) above.* When the City Council determines that it is in the public interest to do so, the City Council may authorize the City Manager to enter into cost sharing agreements with individual property owners to extend water or wastewater mains within existing subdivisions or to individual lots within the City under such terms and conditions that the City Council shall set on a case-by-case basis. When authorizing such agreements, the City Council shall determine:

(1) what percentage, if any, of property owners in the area requesting cost sharing by the City shall be required to agree to enter into cost sharing agreements;

(2) what percentage of cost should be borne by the City, and what percentage of cost should be borne by property owners;

(3) what the terms of repayment should be for the cost required to be repaid by eligible property owners; and

(4) such other terms and conditions as the City Council shall deem necessary and appropriate under the circumstances.

(d) In situations where the City Manager or the Director of Utilities determine that it is not cost effective to enter into an agreement with individual property owners to extend wastewater mains within an existing subdivision or to serve existing individual residences, the City Council may consider entering into cost sharing

agreements with individual property owners to replace or upgrade their septic tank systems, the cost of which shall be borne equally by the City and property owner. An agreement with an individual property owner to share the cost of replacing or upgrading a septic tank system shall contain a provision requiring the property owner to tie in to any future sewer line serving the property owner's lot constructed by or on behalf of the City within thirty days of the line being placed in service by the City. The design and construction of improvements under this subsection shall be undertaken by the City, subject to the availability of funds.

Section 2.3 Application Procedure.

(a) *Minimum requirements.* Application for a cost sharing agreement under this policy may be made by eligible property owners to the City's Director of Utilities. The City Council will not consider approval of cost sharing agreements until applications for agreements are received from property owners representing the required percentage of the frontage of property which can be served by a proposed extension of a water or wastewater main within a subdivision.

(b) *Form of application.* The application shall be in a form approved by the City, and shall include at a minimum:

(1) a drawing showing the location of existing water and wastewater facilities capable of serving the subdivision and the location of proposed extension of water and wastewater mains;

(2) where the proposed extension of water or wastewater mains requires additional easements dedicated to the City, a statement by the applicant(s) that he/she will secure such easements and submit the same to the City at the time a cost sharing agreement is entered into between the City and the developer;

(3) a calculation of the estimated number of feet of water or wastewater main required to bring service to the proposed subdivision or lot;

(4) a statement of the minimum number of new water and wastewater hookups in the proposed subdivision sought to be served;

(5) where applicable, agreement to pay the City one hundred percent (100%) of the applicant's share of the project at the time a cost sharing agreement is exercised, *or* authorization by the applicant to have the City bill the applicant for the applicant's share of the proposed improvements on the City's water bill to the applicant in an amount calculated to recover the applicant's share of the cost of the proposed improvements as calculated under the cost sharing formula of this subchapter plus five percent annual interest payable in equal payments over a period not to exceed ten years (a maximum of 120 payments);

(6) an agreement by the applicant that the water or wastewater mains once installed by the City shall constitute an improvement to the applicant's property and that the City shall have a mechanic's lien against the applicant's property in the amount of the applicant's share of the proposed improvements as calculated under the cost sharing formula of this subchapter; and

(7) the applicant(s) name(s), and the name of all of the current owners of the subdivision proposed to be served. If the developer or any owner of the property is a corporation, partnership, joint venture, or other business entity, the application must disclose the names of all owners or partners making up such business (this section is included to assist the City Council in performing their conflict of interest analysis).

Section 2.4 Approval of Applications.

(a) *Required authority.* The City Manager is authorized to and may approve cost sharing agreements with applicants under the terms of this subchapter without further City Council action where the City's share of the cost of the proposed extension of water or wastewater mains does not exceed Twenty-five Thousand Dollars (\$25,000.00), and where sufficient unencumbered funds are available in the current fiscal year budget for that purpose. City Council approval of cost sharing agreements is required in all other cases.

(b) *Timing for approval.* Property owners may submit an application for approval of a cost sharing agreement under this subchapter to the Director of Utilities at any time. The City Council or, where authorized, the City Manager will consider the approval of cost sharing agreements under the terms of this subchapter only when the City has received applications meeting the terms of this subchapter.

(c) *Staff report required.* At such time as the Director of Utilities shall receive applications meeting the requirements of this subchapter from the property owners served by a proposed extension of water or wastewater mains within an existing subdivision, the City Manager, or his designee, shall place cost sharing agreements requiring City Council approval on the City Council's agenda. When considering the approval of a cost sharing agreement, the City Council shall allow any interested person to speak for or against the item. As part of the City Council's packet, the City Manager, or his designee, shall provide the City Council with a report and recommendation addressing:

(1) a description and drawings of the proposed project that clearly indicate the scope and estimated cost of the project, estimated completion date, the City's share of the estimated cost, the estimated number of water and wastewater hookups

generated by the project, and other relevant information about the construction project;

(2) the availability of unencumbered, but appropriated, funds in the City's Water and Wastewater Fund for the purposes of the proposed project;

(3) whether the proposed project furthers the needs of the City taking into consideration the Water and Wastewater Master Plan, the Comprehensive Master Plan (zoning), and any other development policies and goals adopted by the City Council;

(4) whether the proposed project is cost effective taking into consideration: the size of the proposed subdivision, other areas of the City that may be opened up to development by the project, the topography, soil conditions, and demands on current treatment and line capacity generated by the project; and

(5) the name(s) of the applicant and all of the owners of the property that stand to directly benefit from the proposed project (to assist the City Council in avoiding a conflict of interest problem).

Section 2.5 Property Subject to Policy. This policy applies only within the City limits. The City Council will not approve cost sharing agreements to extend water or wastewater mains within subdivisions or to individual lots located outside the City limits. The policy under this subchapter does not apply to any subdivision or lot platted or developed after the effective date of this policy, or to any utilities installed prior to the effective date of this policy.

Section 2.6 Oversized Mains.

Notwithstanding any other provision of this policy, the City shall bear the entire cost of over sizing water and wastewater mains, or of additional water or wastewater infrastructure, required or constructed by the City, but not necessitated or dictated by the proposed subdivision. For purposes of this Ordinance: the City has determined that the following items are or are not “necessitated or dictated by new subdivisions”:

Costs Shared Between City & Developer

Gate valves for the operation & maintenance of the distribution system

Fire hydrants and manholes spaced according to City standards

Other appurtenances to the distribution system needed to meet City and State requirements

Costs Borne Entirely by the City (“Oversizing” costs)

Oversizing of mains (upgrading line sizes to meet future development

Costs associated with installing sewer mains at a great depth to serve a greater development area

Construction costs related to installing larger mains than are dictated by the development seeking cost sharing

The City shall, in its discretion based on the advice and recommendation of the Director of Utilities, determine the size of water and wastewater mains, the portion if any of oversizing required by the City, and whether additional water or wastewater infrastructure and improvements not listed above are necessitated or dictated by the proposed subdivision.

Part 3: Severance Clause. If any provision of this ordinance or the application of any provision to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are declared to be severable.

Part 4: Effective Date. This ordinance shall take effect immediately from and after its passage and publication in accordance with the provisions of the Charter of the City of Temple, Texas, and it is accordingly so ordained. Subchapter 2 in Part 2 of this Ordinance, dealing with cost sharing agreements for extensions of the water and wastewater systems *within* existing subdivisions applies only to subdivisions platted prior to October 6, 1994 (the original date of this policy) or annexed into the City after that date.

Part 5: The Code of Ordinances of the City of Temple, Texas, as amended, shall remain in full force and effect, save and except as amended by this ordinance.

Part 6: It is hereby officially found and determined that the meeting at which this ordinance is passed was open to the public, and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act.

PASSED AND APPROVED on First Reading on the **18th** day of **December**, 2003.

PASSED AND APPROVED on Second and Final Reading on the **15th** day of January, 2004.

THE CITY OF TEMPLE, TEXAS

William A. Jones, III Mayor

ATTEST:

APPROVED AS TO FORM:

Clydette Entzminger
City Secretary

Jonathan Graham
City Attorney