



**MEETING OF THE
TEMPLE CITY COUNCIL**

**MUNICIPAL BUILDING
2 NORTH MAIN STREET
TEMPLE, TX**

THURSDAY, JUNE 5, 2008

**2:00 P.M.
CITY COUNCIL CHAMBERS – 2ND FLOOR**

WORKSHOP AGENDA

1. Receive presentations from the following public service agencies regarding their activities and funding requests for FY 2008-2009:

Bell County Business Alliance
Bell County Health District
Bell County Human Services (HELP Center)
Bloomin' Temple Festival
Cultural Activities Center
Families in Crisis
Hill Country Community Action Association (Meals-on-Wheels)
Hill Country Transit District
Keep Temple Beautiful
Ralph Wilson Youth Clubs of Temple, Inc.
SPJST Library, Archives & Museum dba Czech Heritage Museum
Temple Civic Theatre

2. Discuss, as may be needed, Regular Meeting agenda items for the meeting posted for Thursday, June 5, 2008 as follows:

5:00 P.M.
CITY COUNCIL CHAMBERS – 2ND FLOOR

TEMPLE CITY COUNCIL
REGULAR MEETING AGENDA

I. CALL TO ORDER

1. Invocation
2. Pledge of Allegiance

II. PROCLAMATIONS & SPECIAL RECOGNITIONS

3. Presentation of Proclamations:

(A) [United States Army Day](#)

June 14, 2008

III. PUBLIC COMMENTS

Citizens who desire to address the Council on any matter may sign up to do so prior to this meeting. Public comments will be received during this portion of the meeting. Please limit comments to 3 minutes. No discussion or final action will be taken by the City Council.

IV. ELECTION ITEMS

4. Administer [Oath of Office](#) to newly elected District 3 Councilmember.

V. CONSENT AGENDA

All items listed under this section, Consent Agenda, are considered to be routine by the City Council and may be enacted by one motion. If discussion is desired by the Council, any item may be removed from the Consent Agenda at the request of any Councilmember and will be considered separately.

5. Consider adopting a resolution approving the Consent Agenda items and the appropriate resolutions for each of the following:

Minutes:

- (A) [May 15, 2008 Special Called Meeting and Regular Meeting](#)

Contracts, Leases & Bids:

- (B) [2008-5418-R](#): Consider adopting a resolution authorizing a one year renewal to an existing contract with Atlas Enterprises, Inc. of Fort Worth for the purchase and shooting of the fireworks for July 4th in the amount of \$25,750.
- (C) [2008-5419-R](#): Consider adopting a resolution authorizing acceptance of a grant from the National Parks and Recreation Association to become a 2008 Take Me Fishing Casting Community in the amount of \$500.
- (D) [2008-5420-R](#): Consider adopting a resolution authorizing a contract renewal with the Temple Towman's Association to provide wrecker services at the request of the Temple Police Department.
- (E) [2008-5421-R](#): Consider adopting a resolution authorizing the trade in of existing handguns and the purchase of Glock Model 22 .40 cal pistols with accessories, from GT Distributors.
- (F) [2008-5422-R](#): Consider adopting a resolution authorizing a construction-manager-at-risk agreement with Vanguard Contractors, LP of Temple for the renovations to the Temple Public Library, which includes pre-construction services in the amount of \$2,750.
- (G) [2008-5423-R](#): Consider adopting a resolution authorizing an Interlocal Agreement with the Bell County to provide brush pick up.
- (H) [2008-5424-R](#): Consider adopting a resolution authorizing an interlocal agreement with Bell County for use of the County's software and fiber optic network to process and maintain records regarding early voting, in the amount of \$1200.
- (I) [2008-5425-R](#): Consider adopting a resolution authorizing the purchase of a 177.45 acre tract located at 1122 Moore's Mill Road.

Executive Session – The City Council *may* enter into executive session pursuant to Section 551.072 of the Texas Government Code to discuss the purchase, exchange, lease or sale of real property the public discussion of which may have a detrimental impact on negotiations.

- (J) [2008-5426-R](#): Consider adopting a resolution authorizing the purchase of an approximately 356 acre tract located on Wendland Road.

Executive Session – The City Council *may* enter into executive session pursuant to Section 551.072 of the Texas Government Code to discuss the purchase, exchange, lease or sale of real property the public discussion of which may have a detrimental impact on negotiations. (Executive session is not anticipated at this time.)

Ordinances - Second and Final Reading

- (K) 1. [2008-4222](#): SECOND READING: Consider adopting an ordinance repealing Ordinance No. 2000-2717 and adopting a new ordinance expanding and updating meeting procedures for the Planning and Zoning Commission.
2. [2008-4223](#): SECOND READING - Z-FY-08-11: Consider adopting an ordinance amending Ordinance No. 91-2101, the Zoning Ordinance of the City of Temple, Section 16, "Planning and Zoning Commission," updating procedures for the Planning and Zoning Commission.

Misc:

- (L) [2008-5427-R](#): Consider adopting a resolution supporting the "Army Community Covenant" initiative which recognizes the strength of Army soldiers, their families and the support of the local communities.
- (M) [2008-5428-R](#): Consider adopting a resolution authorizing budget amendments for fiscal year 2007-2008.

VI. REGULAR AGENDA

ORDINANCES

6. [2008-4224](#): FIRST & FINAL READING – PUBLIC HEARING - Consider adopting an ordinance establishing the City of Temple, Texas Reinvestment Zone Number One Tax Increment Revenue Financing Program, hereinafter referred to as the "Master Ordinance", to be considered on an emergency basis.
7. [2008-4225](#): FIRST & FINAL READING – PUBLIC HEARING – Consider adopting an ordinance authorizing "First Supplemental Ordinance to the Master Ordinance Establishing the City of Temple, Texas Reinvestment Zone Number One Tax Increment Revenue Financing Program" and authorizing the issuance, delivery and sale of \$10,365,000* City of Temple, Texas Tax Increment Reinvestment Zone (TIRZ) Revenue Bonds, Taxable Series 2008; pledging of certain revenues and making provisions to the security thereof for the payment of the bonds; a paying agent/registrar agreement, investment and commitment letter and other agreements related to the sale and issuance of the bonds; and authorizing other matters related to the issuance of the bonds, to be considered on an emergency basis.
8. [2008-4218](#): THIRD READING – PUBLIC HEARING - Consider adopting an ordinance designating South 1st Street corridor (from Adams Avenue to Loop 363) as Tax Abatement Reinvestment Zone Number Thirteen for Commercial/Industrial/Residential Tax Abatement and authorizing a number of other economic development incentives for property redevelopment.
9. [2008-4226](#): FIRST READING – PUBLIC HEARING - Consider adopting an ordinance repealing Ordinance No. 1755 establishing the Airport Advisory Board, allowing the Board to be re-established by Resolution.

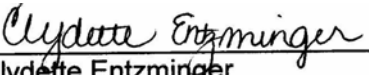
10. [2008-4227](#): FIRST READING – PUBLIC HEARING - Z-FY-08-21: Consider adopting an ordinance authorizing a Conditional Use Permit to allow the sale of alcoholic beverages for on-premise consumption in a restaurant at Holiday Inn, located at 5247 South General Bruce Drive, on Lot 1, Block 1, Kenny B. Addition Replat # 1.
11. [2008-4228](#): FIRST READING – PUBLIC HEARING - Z-FY-08-22B: Consider adopting an ordinance authorizing a zoning change from Agriculture (AG) to Single Family-3 (SF-3) on 24.1± acres, being part of the Maximo Moreno Survey, Abstract No. 14, located on the north side of French Street, west of 42nd Street.
12. [2008-4229](#): FIRST READING – PUBLIC HEARING – Z-FY-08-24: Consider adopting an ordinance authorizing a zoning change from Agriculture (AG) to Office-2 (O-2) with the additional uses of laboratory manufacturing and laboratory, scientific or research on 63.8± acres, being part of the P.M. Mercer Survey, Abstract No. 553, located on the west side of Old Howard Road, 1,500± feet north of SH 36.
13. [2008-4230](#): FIRST READING – PUBLIC HEARING - Z-FY-07-19: Consider adopting an ordinance approving the Draft Comprehensive Plan, *Choices '08*, including the Introduction, Community Overview, Urban Design & Future Land Use, Growth Plan, Transportation, Housing, Economic Development, Implementation, Tables and Documents Included by Reference.

BOARD APPOINTMENTS

14. [2008-5399-R](#): Consider adopting a resolution appointing four at-large members to the Temple Medical Education District Coordinating Group.

***The City Council reserves the right to discuss any items in executive (closed) session
whenever permitted by the Texas Open Meetings Act.***

I hereby certify that a true and correct copy of this Notice of Meeting was posted in a public place at 3:30 PM, on May 30, 2008.


Clydette Entzminger
City Secretary

I certify that this Notice of Meeting Agenda was removed by me from the outside bulletin board in front of the City Municipal Building on _____ day of _____ 2008.



COUNCIL AGENDA ITEM MEMORANDUM

06/05/08
Item #3
Regular Agenda
Page 1 of 1

DEPT./DIVISION SUBMISSION & REVIEW:

William A. Jones, III, Mayor

ITEM DESCRIPTION: Presentation of Proclamations:

United States Army Day June 14, 2008

STAFF RECOMMENDATION: Present proclamations as presented in item description.

ITEM SUMMARY:

This proclamation was requested by Lieutenant Colonel Ronnie J. Williamson on behalf of the Department of the Army, US Army Recruiting Battalion, Dallas, Texas. It will recognize the 233rd birthday of the United States Army.

FISCAL IMPACT: None

ATTACHMENTS: None



COUNCIL AGENDA ITEM MEMORANDUM

06/05/08
Item #4
Regular Agenda
Page 1 of 1

DEPT./DIVISION SUBMISSION & REVIEW:

William A. Jones, III, Mayor

ITEM DESCRIPTION: Administer Oath of Office to newly elected District 3 Councilmember.

STAFF RECOMMENDATION: Administer Oath of Office as indicated in item description.

ITEM SUMMARY: Municipal Court Judge Kathleen Person will be present to administer the Oath of Office to Councilmember Janczak.

FISCAL IMPACT: None

ATTACHMENTS: None



COUNCIL AGENDA ITEM MEMORANDUM

06/05/08
Item #5(A)
Consent Agenda
Page 1 of 1

DEPT./DIVISION SUBMISSION & REVIEW:

Clydette Entzminger, City Secretary

ITEM DESCRIPTION: Approve Minutes:

(A) May 15, 2008 Special Called Meeting & Regular Meeting

STAFF RECOMMENDATION: Approve minutes as presented in item description.

ITEM SUMMARY: Copies of minutes are enclosed for Council review.

FISCAL IMPACT: N/A

ATTACHMENTS:

[May 15, 2008 Special Called Meeting & Regular Meeting](#)

TEMPLE CITY COUNCIL

MAY 15, 2008

The City Council of the City of Temple, Texas conducted a Special Joint Meeting with the Planning and Zoning Commission on Thursday, May 15, 2008 at 3:00pm in the McLane Room, Temple Public Library, 100 West Adams Avenue.

Councilmembers Present:

Councilmember Tony Jeter
Mayor Pro Tem Patsy E. Luna
Councilmember Russell Schneider
Mayor William A. Jones, III

Councilmembers Absent:

Councilmember Marty Janczak

Planning & Zoning

Commissioners Present:

Susan Luck, Chair
Bert Pope, Vice Chair
Jason Carothers
Michael Norman
Mike Pilkington
Jamey Secrest
Allan Talley

Planning & Zoning

Commissioners Absent:

Ken Kjelland
Derek Martin

1. Receive an overview of the draft Comprehensive Plan and discuss implementation schedule.

David Blackburn, City Manager, opened with a brief introduction, followed by comments by Jack Crews, co-chair of the Comprehensive Plan Advisory Committee.

Gary Mitchell, Kendig Keast Collaborative, presented the final draft Comprehensive Plan to the City Council and Planning and Zoning Commission. He reviewed the process by which the plan was developed. The final draft contains the following elements: Executive Summary, Introduction and Vision, Community Overview, Urban Design and Future Land Use, Growth Plan, Transportation, Housing, Economic Development, Implementation, and various maps. Mr. Mitchell discussed each of these elements, providing recommendations from the Comprehensive Plan Advisory Committee (CPAC) where applicable, as well as issues and opportunities.

The City Council and Planning and Zoning Commission discussed the Implementation

Tables and the recommended actions. Councilmember Schneider, who served on the CPAC, explained the committee started with the staff recommendations then they addressed each one.

Mr. Blackburn agreed the Implementation Table is also an attempt to categorize the type of action, as well as the proposed timeframe. Table 8.1 is very significant and he asked the City Council and Planning and Zoning Commission to review these and give their priorities to the staff. The City Council will have an opportunity for such review at its May 29th budget work session.

Questions were asked by several citizens and input was given by CPAC members in attendance. Some of the comments related to land use, zoning and transportation. Mr. Mitchell discussed the need to take a different approach to land use and zoning than what the City does now. Instead of focusing on the use, the focus needs to be on the size and look of the proposed building, the parking, and the impact of businesses that could be built in a particular zoning district.

Tim Dolan, Planning Director, concluded by stating a public hearing will be conducted before the Planning and Zoning Commission on Monday, May 19, 2008.

2. Discuss, as may be needed, Regular Meeting agenda items for the meeting posted for Thursday, May 15, 2008 as follows:

There was no discussion of this item.

The City Council of the City of Temple, Texas conducted a Regular Meeting on Thursday, May 15, 2008 at 5:00 PM in the Council Chambers, Municipal Building, 2nd Floor, 2 North Main Street.

Present:

Councilmember Tony Jeter
Mayor Pro Tem Patsy E. Luna
Councilmember Russell Schneider
Mayor William A. Jones, III

Absent:

Councilmember Marty Janczak

I. CALL TO ORDER

1. Invocation

Municipal Court Judge Kathleen Person voiced the Invocation.

2. Pledge of Allegiance

Jamie Arceneaux, member of the Wild Pelicans Motorcycle Club, led the Pledge of Allegiance.

II. PROCLAMATIONS & SPECIAL RECOGNITIONS

3. Presentation of Proclamations:

(A) Motorcycle Awareness Month May, 2008

Mayor Pro Tem Patsy Luna presented this proclamation to Mr. Jamie Arcineaux, member of the Wild Pelicans Motorcycle Club.

(B) Police Memorial Day & May 15, 2008 Recognition of Fallen Officer David Camden

Mayor Jones presented these proclamations to Deputy Chief Jim Tobin and Lt. Edward Best, who accepted them on behalf of the Temple Police Department and the Camden family.

(C) Public Works Week May 18—24, 2008

Mayor Jones presented Bruce Butscher, Director of Public Works, and the Public Works Staff, with this proclamation.

(D) Temple Tourism Week May 17—24, 2008

Councilmember Jeter presented this proclamation to Ken Cicora, Director of Parks and Leisure Services, Nancy Glover, Tourism Director, and Kenny Martin, Parks and Leisure Services Advisory Board.

Mr. Cicora presented awards to several 2007-2008 Temple Tourism Stars for their significant contributions to the community's tourism industry - Neal Coker, Brit Coleman, Linda Grisham, Ken Higdon, Tony Jeter, Dr. Marc Nigliazzo, and Danny Scott.

III. PUBLIC COMMENTS

Mr. Joe Dobb, 6615 Phillips, Houston, Texas, stated he owns land on 16th Street in Temple. There is only one street light in this area. He also stated there are overgrown weeds and trees on this street and he asked whose property they are on, the City's or Santa Fe's.

IV. ELECTION ITEMS

4. 2008-5400-R & 2008-5401-R: Consider adopting resolutions canvassing the returns of the May 10, 2008 City of Temple general election and bond election, declaring the results thereof and ordering a runoff election if necessary.

David Blackburn, City Manager, presented this item to the Council. He stated the returns remain unchanged from those presented after the election on Saturday evening. The Council is being asked to adopt three separate resolutions canvassing the returns of the general election, the bond election and ordering a run-off in City Councilmember District 2 between Patsy E. Luna and Mia McBride on June 14, 2008. Mr. Blackburn reviewed the elements of the proposed resolutions. Of the 34,853 registered voters in the City of Temple 1,447 cast ballots in the May 10th election.

Motion by Councilmember Russell Schneider to adopt resolutions, seconded by Councilmember Tony Jeter.

Motion passed unanimously.

5. Administer Oaths of Office to newly elected Councilmembers.

Municipal Court Judge Kathleen Person administered the Oath of Office to Mayor Jones.

6. 2008-5402-R: Consider adopting a resolution electing a Mayor Pro Tem for the City of Temple.

Mayor Jones recommended this item be tabled until after the run-off election is held since Mayor Pro Tem Patsy Luna is a candidate in that election.

Motion by Councilmember Russell Schneider to table action on this item until after the June 14, 2008 run-off election, seconded by Councilmember Tony Jeter.

Motion passed unanimously.

V. REPORTS FROM ADVISORY BOARDS & STAFF

7. Receive a report from Kyle McQueen, Chair of the Airport Advisory Board, regarding the board's activities and future issues for discussion.

Kyle McQueen, Chair of the Airport Advisory Board, addressed the City Council and introduced those board members present at the meeting. He stated the role of the board is an advisory capacity to the Staff and Council. The board would like to take a more active role and promote this wonderful asset, our Airport. The board is recommending the membership composition be amended to allow continuous representation from the community. Mr. McQueen also addressed the Airport Planning report prepared by Leslie Sagar and Associates and asked for the Council's support for their implementation of the recommendations in this report. He also provided an update of what is going on at the Airport - Airport of the Year Award for 2008; AMCOM activity; great airshow with great weather this year; new general aviation wash rack; and McLane Group starting construction on a new hangar. Opportunities for Council support during the upcoming year include general aviation expansion by constructing t-hangars and box hangars; support for change in board membership; support for recommendations in the Sagar report; and support for all construction projects undertaken on the Airport. Mr. McQueen expressed appreciation for the Council's support of Airport staff with issues such as compensation increases and staffing levels.

8. Receive a report regarding the City's Drought Contingency and Water Conservation Plan.

Bruce Butscher, Public Works Director, presented this report to the City Council. The City is approaching high water usage months. Mr. Butscher explained our system's capacity and how much we typically use during the high demand months of summer. The City's water conservation plan was filed with the State in 2000 and this

plan includes trigger points for mandatory water conservation measures. Mr. Butscher explained the five stages of various trigger points outlined in the Water Conservation and Drought Contingency Plan. He encouraged all citizens to conserve water and noted that conservation information will be made available on the City's website, utility billing inserts and Channel 10.

Mayor Jones asked if there is a process for changing our plan as capacities are increased.

Mr. Butscher replied the plan filed with the State can be amended.

David Blackburn, City Manager, stated there is no water shortage. Water rights for the City of Temple have been secured for many years due to good planning. Our ability to deliver that water is finite, however, as is the case with every utility system. The water conservation plan is intended to address this issue. The City will provide this type of information about the plan in place at least on an annual basis.

V. BUDGET ITEMS

9. PUBLIC HEARING - Presentation of the proposed Community Development Block Grant Annual Action Plan and Budget for 2008-2009, including the funding recommendations for public service agencies from the Community Services Advisory Board.

Traci Barnard, Director of Finance, introduced Lois Whitley, Community Development Coordinator, who presented the 2008 Action Plan for the use of CDBG funds. She provided a brief history of the Community Development Block Grant (CDBG) Program and displayed a map of the low income neighborhoods in Temple that are qualified for the projects funded by CDBG funds. There has been a strong focus on housing activities in the past. During the public comment period, citizens expressed the desire for more funds to be expended on public improvements such as drainage, streets, parks and recreation. Temple has been awarded \$503,239 for 2008, an amount which has gradually been declining each year. Ms. Whitley presented the proposed allocation of these funds, including the recommended appropriations to public service agencies, infrastructure improvements, park improvements, demolition and general administration. Ms. Whitley also presented the 2008 Action Plan Schedule which included four public hearings. Following today's public hearing, the 30-day comment period will begin. Adoption of the budget and action plan is scheduled for June 19, 2008.

Rev. Roscoe Harrison, Community Services Advisory Board member, stated it gets harder each year to allocate the funds since they are declining each year and the needs are increasing.

Mayor Jones declared the public hearing open with regard to agenda item 9 and asked if anyone wished to address this item. There being no comments, Mayor Jones closed the public hearing.

VI. CONSENT AGENDA

10. Consider adopting a resolution approving the Consent Agenda items and the appropriate resolutions for each of the following:

(A) May 1, 2008 Special Called Meeting and Regular Meeting

(B) 2008-5403-R: Consider adopting a resolution authorizing the purchase of a 16 foot Toro 580D rotary mower from Professional Turf Products of Houston off of the BuyBoard in the amount of \$67,349.11.

(C) 2008-5404-R: Consider adopting a resolution authorizing the purchase of a 10 piece Life Trail fitness station set from The Play Well Group off of the BuyBoard for the Miller Community Park trail in the amount of \$29,676.56 and declaring an official intent to reimburse this expenditure made prior to the issuance of tax-exempt obligations for this project.

(D) 2008-5405-R: Consider adopting a resolution authorizing the following:

- 1. A construction contract with JHL Construction of Gatesville, Texas in the amount of \$212,000.00 for trail renovations in Miller Community Park;**
- 2. A deductive change order from this contract in the amount of \$47,250; and**
- 3. Declaring an official intent to reimburse this net expenditure in the amount of \$164,750 made prior to the issuance of tax-exempt obligations for this project.**

(E) 2008-5406-R: Consider adopting a resolution authorizing a construction contract with TTG Utilities, LP of Gatesville for relocation of City of Temple water utilities along US HWY 190 between SH 95 and FM 3117 in the amount of \$145,203.

(F) 2008-5407-R: Consider adopting a resolution authorizing the purchase of an emergency standby generator and a automatic transfer switch for the Central Service Center Building A from Waukesha-Pearce Industries, Inc. of Austin in the amount of \$76,370.00 and authorizing the installation and necessary electrical work related to this installation by T. Morales Company Electric & Controls, Ltd., the City's contracted electrical service provider.

(G) 2008-5408-R: Consider adopting a resolution authorizing a tax abatement agreement with Jencer Investments, Inc., for real and personal property improvements for property located between 3918 Range Road and 3831 Lucius McCelvey for a computer service center.

(H) 2008-4217: SECOND READING - Consider adopting an ordinance amending the Tax Increment Financing Reinvestment Zone No. 1 Financing Plan for FY 2008-2022 to include redesignation of projects within the Project Plan, bond proceeds, and future year bond payments.

(I) 1. 2008-4220: Z-FY-08-20-A - SECOND READING - Consider adopting an ordinance amending the West Temple Comprehensive Plan to reflect commercial uses on 6.1± acres out of land commonly known as Outblock 1104-C, located on the south side of West Adams Avenue, east of the residential subdivision of Crescent View Phase One.

2. **2008-4221: Z-FY-08-20-B -SECOND READING - Consider adopting an ordinance authorizing a zoning change from Single Family Two District and Planned Development (General Retail District) to Planned Development (General Retail) District on 6.05 ± acres out of land commonly known as Outblock 1104-C, located on the south side of West Adams Avenue, east of the residential subdivision of Crescent View Phase One.**

(J) 1. 2008-4218: SECOND READING - Consider adopting an ordinance designating South 1st Street corridor (from Adams Avenue to Loop 363) as Tax Abatement Reinvestment Zone Number Thirteen for Commercial/Industrial/Residential Tax Abatement and authorizing a number of other economic development incentives for property redevelopment.

2. **2008-4219: SECOND READING - Consider adopting an ordinance establishing the City's Economic Development Policy, setting out a program for promoting economic development within the City by reestablishing criteria and guidelines for tax abatement, authorizing loans and grants of public money and providing personnel and services of the municipality, to promote local economic development and to stimulate business and commercial activity.**

(K) 2008-5409-R: Consider adopting a resolution authorizing acceptance of the Reinvestment Zone Aviation Campus and Airport Planning Project report prepared by Leslie Sagar & Associates for the Draughton-Miller Central Texas Regional Airport.

(L) 2008-5410-R: Consider adopting a resolution authorizing the transfer of certain property to the Temple Economic Development Corporation for economic development purposes.

(M) 2008-5411-R: Consider adopting a resolution approving second quarter financial results for Fiscal Year 2008.

(N) 2008-5412-R: Consider adopting a resolution authorizing budget amendments for fiscal year 2007-2008.

Motion by Mayor Pro Tem Patsy E. Luna to adopt resolution approving the Consent Agenda, with exception of items (D) and (M), seconded by Councilmember Russell Schneider.

Motion passed unanimously.

(D) 2008-5405-R: Consider adopting a resolution authorizing the following:

1. **A construction contract with JHL Construction of Gatesville, Texas in the amount of \$212,000.00 for trail renovations in Miller Community Park;**
2. **A deductive change order from this contract in the amount of \$47,250; and**
3. **Declaring an official intent to reimburse this net expenditure in the amount of \$164,750 made prior to the issuance of tax-exempt obligations for this project.**

David Blackburn, City Manager, requested that Council table this item until further staff review.

Motion by Councilmember Russell Schneider to table item (D), seconded by Mayor Pro Tem Patsy E. Luna.

Motion passed unanimously.

(M) 2008-5411-R: Consider adopting a resolution approving second quarter financial results for Fiscal Year 2008.

Traci Barnard, Director of Finance, reviewed the second quarter financial report. She provided revenue highlights in the General Fund, including a regional sales tax comparison. She also reviewed General Fund expenditures and provided a forecast of fund balance through the end of the fiscal year. Mrs. Barnard provided an outlook through September 30, 2008 noting issues relating to sales tax, interest income, and fuel prices. Mrs. Barnard also reviewed the Water and Wastewater Fund revenues, the Capital Improvement Program projects and the City's investments.

Mayor Jones asked the reason for the decrease in Municipal Court fines.

Mrs. Barnard stated they have not instituted the marshal program for collection of fines. A different approach is being explored.

Mayor Jones also asked about any contingencies for increasing fuel costs.

Mr. Blackburn stated the City does have a contingency plan and this will be reviewed with Council during the budget process.

Motion by Mayor Pro Tem Patsy E. Luna to adopt resolution, seconded by Councilmember Russell Schneider.

Motion passed unanimously.

VII. REGULAR AGENDA

ORDINANCES

11. (A) 2008-4222: FIRST READING - PUBLIC HEARING: Consider adopting an ordinance repealing Ordinance No. 2000-2717 and adopting a new ordinance expanding and updating meeting procedures for the Planning and Zoning Commission.

(B) 2008-4223: FIRST READING - PUBLIC HEARING - Z-FY-08-11: Consider adopting an ordinance amending Ordinance No. 91-2101, the Zoning Ordinance of the City of Temple, Section 16, "Planning and Zoning Commission," updating procedures for the Planning and Zoning Commission.

Tim Dolan, Planning Director, presented items 11(A) and (B) to the Council. This change will streamline the Planning & Zoning Commission meeting procedures and ensure they are current with other City Boards and Commissions. There are no changes proposed in the Commission's power and duties, officers or standing committees.

Mayor Jones declared the public hearing open with regards to items 11(A) and (B) and asked if anyone wished to address these items. There being no comments, Mayor Jones closed the public hearing.

Motion by Mayor Pro Tem Patsy E. Luna to adopt ordinances in items 11(A) and (B), with second reading set for June 5, 2008, seconded by Councilmember Russell Schneider.

Motion passed unanimously.

RESOLUTIONS

- 12. 2008-5413-R: Consider adopting a resolution directing publication of notice of the City's intention to issue Combination Tax and Revenue Certificates of Obligation (C.O.) Series 2008 in the amount not to exceed \$13,975,000.**

Traci Barnard, Director of Finance, presented this item to the Council. She displayed the bond schedule timetable and the projects to be funded with the \$13,975,000 in bond proceeds. She also noted the changes from the original size of the proposed issue. The increase in the issue will not result in an increase in the tax rate.

Councilmember Jeter asked how the \$593,000 for the Hartrick Bluff connector was determined.

Mr. Blackburn explained why this project has been moved forward at this time. The number comes from discussions with Public Works, the overall costs of roadway improvements and what the City might contribute to this project as part of a potential development agreement.

Councilmember Jeter asked if this project will remove the need for the road that is proposed from 31st Street to Hartrick Bluff or is this connector in addition to that.

Mr. Blackburn stated Council would need to make some decisions about connectivity issues in this area of the community.

Councilmember Jeter agreed the City should do one or the other but not both connectors.

Councilmember Schneider stated he felt the Council was just earmarking these dollars for a road project that could be put to one of these projects in either location.

Mr. Blackburn concurred this is intended to identify funds so when Council makes decisions, there is opportunity to participate.

Jonathan Graham, City Attorney, stated Council should view this list as eligible projects. These are kinds of project we intend to do but some may cost more than we can fully fund. The construction projects will be voted on separately.

Mrs. Barnard stated this resolution authorizes the notice of intent to issue these bonds. The ordinance issuing the COs will be broad and will apply to street projects, not any particular projects.

Motion by Mayor Pro Tem Patsy E. Luna to adopt resolution, seconded by Councilmember Russell Schneider.

Motion passed unanimously.

13. **2008-5414-R: Consider adopting a resolution authorizing First Southwest Company to prepare the two Official Statements to proceed with the issuance of the Combination Tax & Revenue Certificates of Obligation for street projects and building construction, the issuance of the General Obligation bonds for Parks projects, and the issuance of Revenue Bonds for the improvements to the Water and Wastewater System and associated costs.**

Traci Barnard, Director of Finance, presented this item to the Council. This will allow First Southwest Company to begin the preparation of two official statements. She outlined the various types of projects to be included in these statements. The Official Statement will be used by bond rating agencies and potential bond investors prior to bidding on the bonds to become familiar with the City's economic and financial position and assess our credit quality. Mrs. Barnard reviewed the fiscal impact of the Certificates of Obligation, General Obligation Bonds and Utility Revenue Bonds. The bond issuance timetable indicates award of these bonds on July 3, 2008.

Motion by Councilmember Russell Schneider to adopt resolution, seconded by Mayor Pro Tem Patsy E. Luna.

Motion passed unanimously.

14. **2008-5415-R: Consider adopting a resolution authorizing an agreement with Temple Lions Club Parks, Inc. and Temple Lions Club to benefit the proposed family aquatic center in south Temple.**

Ken Cicora, Director of Parks and Leisure Services, presented this item to the Council. He stated the swimming pool at Lions Park was constructed in the early 1970's with the support and assistance of the Temple Lions Club. The Lions Club is currently in a 10-year agreement with the City regarding the pool. Mr. Cicora reviewed the elements in the proposed agreement. The Lions Club would provide financial support in the amount of \$200,000 to assist with the aquatic center's construction in return for the center being named after the Lions Club.

Kenny Martin, Chair of the Lions Club Foundation, addressed the Council. The Lions Club has had a long relationship with the City and he asked for the Council's continued support.

Motion by Councilmember Russell Schneider to adopt resolution, seconded by Mayor Pro Tem Patsy E. Luna.

Motion passed unanimously.

15. 2008-5416-R: Consider adopting a resolution confirming the appointment of an Assistant City Attorney.

Jonathan Graham, City Attorney, presented this item to the Council. Subsequent to the confirmation of the appointment of Robin Houston at the last meeting, Tyffany Howard resigned from the City to go into private practice. One of the applicants for the other position was very strong and Mr. Graham outlined Mr. Stoneroad's qualifications and background. He recommended the Council's confirmation of Mr. Randy Stoneroad's appointment as an Assistant City Attorney.

Motion by Mayor Pro Tem Patsy E. Luna to adopt resolution, seconded by Councilmember Russell Schneider.

Motion passed unanimously.

BOARD APPOINTMENTS

16. 2008-5399-R: Consider adopting a resolution appointing four at-large members to the Temple Medical Education District Coordinating Group.

Mayor Jones asked that this item be tabled.

Motion by Mayor Pro Tem Patsy E. Luna to table item 16, seconded by Councilmember Russell Schneider.

Motion passed unanimously.

17. 2008-5417-R: Consider adopting a resolution appointing one member to the Temple Economic Development Corporation Board of Directors to fill an unexpired term through September 1, 2009.

Mayor Jones stated the City tries to maintain a representative from Scott and White on the TEDC Board of Directors. Their representative has resigned and Scott and White has recommended the appointment of Patricia Currie to fill the unexpired term.

Motion by Councilmember Russell Schneider to adopt resolution, seconded by Mayor Pro Tem Patsy E. Luna.

Motion passed unanimously.

William A. Jones, III, Mayor

ATTEST:

Clydette Entzminger
City Secretary



COUNCIL AGENDA ITEM MEMORANDUM

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DEPT. /DIVISION SUBMISSION & REVIEW:

Ken Cicora, Director of Parks and Leisure Services

ITEM DESCRIPTION: Consider adopting a resolution authorizing a one year renewal to an existing contract with Atlas Enterprises, Inc. of Fort Worth for the purchase and shooting of the fireworks for July 4th in the amount of \$25,750.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: On June 21, 2007, Council authorized a contract with Atlas Enterprises, Inc. ("Atlas") for annual 4th of July fireworks show. The original contract allowed for four (4) one-year renewals to the contract with a 3% escalation in price each year.

The July 4th program this year will again be at Miller Park. The afternoon will begin at 2:00 p.m. with food, games, arts and crafts, talent show and music sponsored by the Hispanic Leadership Council. At 7:30 PM Wild Horses will perform on the main stage until 9:30 PM when the 25-minute fireworks show will begin.

Atlas Enterprises, Inc. has produced the Temple fireworks show the past several years and has always done an excellent job for the City. Should the July 4th show be rained out, the fireworks will be shot on a date agreeable to both the City and Atlas Enterprises, Inc.

FISCAL IMPACT: Funding in the amount of \$25,750 for the fireworks program is budgeted and available in account 110-3200-551-26-23, Other Contracted Services.

ATTACHMENTS:

[Resolution](#)

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING A ONE YEAR RENEWAL TO AN EXISTING CONTRACT WITH ATLAS ENTERPRISES, INC., OF FORT WORTH, TEXAS, FOR THE PURCHASE AND SHOOTING OF THE FIREWORKS FOR JULY 4TH IN THE AMOUNT OF \$25,750; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, on June 21, 2007, the City Council authorized a contract with Atlas Enterprises, Inc., of Fort Worth, Texas, for the annual 4th of July fireworks show – the original contract allowed for 4 one year renewals to the contact with a 3% escalation in price each year;

Whereas, the Staff recommends authorizing a one year renewal to the contact for the 4th of July fireworks show which will again be held at Miller Park;

Whereas, funds are available in Account No. 110-3200-551-2623 for this expense; and

Whereas, the City Council has considered the matter and deems it in the public interest to authorize this action.

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

Part 1: The City Council authorizes the City Manager, or his designee, to execute a contract for a cost not to exceed \$25,750, with Atlas Enterprises, Inc., of Fort Worth, Texas, after approval as to form by the City Attorney, for the purchase and shooting of the fireworks for July 4th.

Part 2: It is hereby officially found and determined that the meeting at which this Resolution is passed was open to the public as required 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 this the 5th day of **June**, 2008.

THE CITY OF TEMPLE, TEXAS

WILLIAM A. JONES, III, Mayor

ATTEST:

APPROVED AS TO FORM:

Clydetta Entzminger
City Secretary

Jonathan Graham
City Attorney



COUNCIL AGENDA ITEM MEMORANDUM

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DEPT. /DIVISION SUBMISSION & REVIEW:

Ken Cicora, Director of Parks and Leisure Services

ITEM DESCRIPTION: Consider adopting a resolution authorizing acceptance of a grant from the National Parks and Recreation Association to become a 2008 Take Me Fishing Casting Community in the amount of \$500.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: Last month the Parks and Leisure Services Department applied for a \$500 grant from the Recreational Boating and Fishing Foundation and National Recreation and Parks Association (NRPA) to increase local participation in boating and fishing. We have been notified that we have been selected as a 2008 Fishing Casting Community. We are requesting City Council authorization to accept the grant.

In notifying the Parks and Leisure Services Department of our acceptance, the Recreational Boating and Fishing Foundation and NRPA stated they are thrilled that Temple would be participating in this national initiative to increase participation and create sustainable programming for recreational boating and fishing for youth, ages 6-15. As a component of selecting Temple, they will extend City of Temple a grant in the amount of \$500 to develop and/or otherwise improve upon recreational boating and fishing in our community.

Contingent with receiving these funds and subsequent resources, the department would agree to work towards the following goals and objectives:

- Engage a minimum of 200 youth ages 6-15 in recreational boating and fishing
- Complete the Best Practices for Boating, Fishing and Aquatic Stewardship Education on-line training (scholarship information provided from the Recreational Boating and Fishing Foundation)
- Implement the Passport to Fishing and Boating toolkit
- Utilize the Take Me Fishing marketing and event planning kits as applicable
- Complete a post-grant survey
- Submit a final program evaluation
- Complete quarterly reports and budget to NRPA with final evaluation due May 10, 2009

The Parks and Leisure Services Department plans on utilizing the grant funds to enhance camp Programs - Camp Heatwave, Camp Holiday and Camp Adventure.

FISCAL IMPACT: A budget adjustment is presented for Council's approval appropriating the grant funds in the amount of \$500 in account 260-3200-551-2120 to purchase fishing supplies. The grant funds are reimbursed to the City after the purchase is completed.

ATTACHMENTS:

Budget Adjustment
Resolution

FY **2008****BUDGET ADJUSTMENT FORM**

Use this form to make adjustments to your budget. All adjustments must balance within a Department.

Adjustments should be rounded to the nearest \$1.

+

-

ACCOUNT NUMBER	PROJECT #	ACCOUNT DESCRIPTION	INCREASE		DECREASE	
260-3200-551-21-20		Education/Recreation	\$ 500			
260-0000-431-02-61		State Grant	500			
TOTAL.....			\$ 1,000		\$ -	

EXPLANATION OF ADJUSTMENT REQUEST- Include justification for increases AND reason why funds in decreased account are available.

Appropriate grant funds to purchase fishing supplies. The purchases will be funded by the 2008 Take Me Fishing Casting Community Grant.

DOES THIS REQUEST REQUIRE COUNCIL APPROVAL?

☒

Yes

☐

No

DATE OF COUNCIL MEETING

6/5/2008

WITH AGENDA ITEM?

☒

Yes

☐

No

Department Head/Division Director

Date

☐

Approved

☐

Disapproved

Finance

Date

☐

Approved

☐

Disapproved

City Manager

Date

☐

Approved

☐

Disapproved

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS;
AUTHORIZING ACCEPTANCE OF A GRANT IN THE AMOUNT OF \$500
FROM THE NATIONAL PARKS AND RECREATION ASSOCIATION TO
BECOME A 2008 TAKE ME FISHING CASTING COMMUNITY; AND
PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, the Parks and Leisure Services Department has been accepted to receive a \$500 grant from the Recreational Boating and Fishing Foundation and National Recreation and Parks Association;

Whereas, the grant is a national incentive to increase participation and create sustainable programming for recreational boating and fishing for youth, ages 6-15;

Whereas, the Staff recommends that the City Council approve accepting the \$500 in grant funds;

Whereas, an amendment to the FY2007-08 budget needs to be approved to appropriate the grant funds to the appropriate expenditure account; and

Whereas, the City Council has considered the matter and deems it in the public interest to authorize this action.

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

Part 1: The City Council authorizes accepting grant funds in the amount of \$500 from the National Parks and Recreation Association to become a 2008 Take Me Fishing Casting Community, and authorizes the City Manager, or his designee, to execute any documents, after approval as to form by the City Attorney, that may be necessary for this grant.

Part 2: The City Council approves an amendment to the FY2007-2008 budget, substantially in the form of the copy attached as Exhibit A, for this grant.

Part 3: It is hereby officially found and determined that the meeting at which this Resolution is passed was open to the public as required 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 this the 5th day of **June**, 2008.

THE CITY OF TEMPLE, TEXAS

WILLIAM A. JONES, III, Mayor

ATTEST:

APPROVED AS TO FORM:

Clydette Entzminger
City Secretary

Jonathan Graham
City Attorney



COUNCIL AGENDA ITEM MEMORANDUM

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DEPT./DIVISION SUBMISSION & REVIEW:

Gary O. Smith, Chief of Police

ITEM DESCRIPTION: Consider adopting a resolution authorizing a contract renewal with the Temple Towman's Association to provide wrecker services at the request of the Temple Police Department.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: The proposed resolution would authorize the renewal of the contract with the Towman's Association to provide motor vehicle towing services on the request of the police department. The contract specifies the requirements to be met as a member of the Towman's Association, such as the number of tow trucks a member must have, response times upon receiving a request for service, and fees for towing and storage.

The contract presented for Council consideration is similar to previous documents that have been approved in the past. The primary changes to this contract, as compared to prior documents, deal with fee adjustments. Increases in fees have been requested by Association members due to increased fuel costs, additional state requirements on the amount of insurance carried by tow companies, market considerations, and guidelines promulgated by the Texas Department of Licensing and Regulations (TDLR) setting fee ranges for certain services.

Membership in the Towman's Association is not regulated by the City of Temple, and any number of wrecking companies may participate if they comply with the terms of the contract.

FISCAL IMPACT: City owned vehicles weighing less than $\frac{3}{4}$ ton are towed at no charge, unless the tow initiates outside the city limits, at which time charges are assessed at \$4.00 per mile. Fees for towing a vehicle in excess of $\frac{3}{4}$ ton within the city may be levied as well. Each department is responsible to budget funds to cover such expenses.

ATTACHMENTS:

[Resolution](#)

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING A CONTRACT RENEWAL WITH THE TEMPLE TOWMAN'S ASSOCIATION WHICH PROVIDES WRECKER SERVICE ON REQUEST OF THE TEMPLE POLICE DEPARTMENT; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, the contract between the City of Temple and the Temple Towman's Association expired on May 5, 2008, and the Staff recommends renewing the contract for a three-year term;

Whereas, the wrecker service contract specifies the requirements to be met as a member of the Towman's Association, such as towing and storage fees, and any number of wrecking companies can participate if they comply with these terms; and

Whereas, the City Council has considered the matter and deems it in the public interest to authorize this action;

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

Part 1: The City Council authorizes the City Manager, or his designee, to execute a contract between the City of Temple, Texas, and Temple Towman's Association, after approval as to form by the City Attorney, for wrecker service on request of the Temple Police Department.

Part 2: It is hereby officially found and determined that the meeting at which this Resolution is passed was open to the public as required 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 this the **5th** day of **June**, 2008.

THE CITY OF TEMPLE, TEXAS

WILLIAM A. JONES, III, Mayor

ATTEST:

APPROVED AS TO FORM:

Clydette Entzminger
City Secretary

Jonathan Graham
City Attorney



COUNCIL AGENDA ITEM MEMORANDUM

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DEPT./DIVISION SUBMISSION & REVIEW:

Gary O. Smith, Chief of Police

ITEM DESCRIPTION: Consider adopting a resolution authorizing the trade in of existing handguns and the purchase of Glock Model 22 .40 cal pistols with accessories, from GT Distributors.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: The Police Department is requesting authorization to replace its existing side arm, the Sig Sauer P229, with the Glock Model 22. This move is being requested to update the police inventory. The Glock pistol has been in use with the department's tactical unit for 5 1/2 years, and has proven to be very reliable. This change will provide a uniform weapon throughout the department, as well as provide a better tool for consistent performance by officers.

The total cost of the purchase of 140 Glock pistols, additional magazines, and holsters is \$61,668. The purchase agreement envisions trading the department's 127 Sig Sauer pistols to the vendor for \$409 per weapon, as well as trading in several weapons that the department has been awarded through criminal justice processes totaling \$9,725.

FISCAL IMPACT: The fiscal impact is offset by the trade-in value of items in the department's possession as outlined below:

Glock Pistols, Holsters, Magazines....	\$ 61,668
Trade-in Sig Sauer Pistols.....	(51,943)
Trade-in forfeited weapons.....	(9,725)
Balance.....	zero

ATTACHMENTS:

[Resolution](#)

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE,
TEXAS, AUTHORIZING THE PURCHASE OF GLOCK MODEL 22 .40
CAL PISTOLS WITH ACCESSORIES, FROM GT DISTRIBUTORS,
FOR THE TEMPLE POLICE DEPARTMENT; AUTHORIZING THE
TRADE-IN OF EXISTING HANDGUNS TO GT DISTRIBUTORS; AND
PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, the Police Department seeks authorizing to upgrade its existing side arm, the Sig Sauer P229, with the Glock Model 22;

Whereas, the total cost of the purchase of 140 Glock pistols, additional magazines, and holsters is \$61,668 – the purchase agreement provides for trading the Department’s 127 Sig Sauer pistols to the vendor (GT Distributors) for \$409 per weapon, as well as trading in several weapons that the Department has been awarded through criminal justice proceedings, totaling \$9,725;

Whereas, the fiscal impact is offset by the trade-in value of items as follows: Glock Pistols, Holsters, Magazines (\$61,668); Trade-in Sig Sauer Pistols (\$51,943); Trade-in forfeited weapons (\$9,725) – for a zero balance; and

Whereas, the City Council has considered the matter and deems it in the public interest to authorize this action.

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

Part 1: The City Council authorizes the purchase, including trade-in of existing handguns, of Glock Model 22 .40 cal pistols with accessories, from GT Distributors, at a purchase price of \$61,668 minus the trade-in price of \$61,668, for a balance of \$0.

Part 2: The City Council authorizes the City Manager, or his designee, to execute any documents, after approval as to form by the City Attorney, that may be necessary for this purchase/trade-in.

Part 3: It is hereby officially found and determined that the meeting at which this Resolution is passed was open to the public as required 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 this the 5th day of **June, 2008**.

THE CITY OF TEMPLE, TEXAS

WILLIAM A. JONES, III, Mayor

ATTEST:

APPROVED AS TO FORM:

Clydette Entzminger
City Secretary

Jonathan Graham
City Attorney



COUNCIL AGENDA ITEM MEMORANDUM

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DEPT./DIVISION SUBMISSION & REVIEW:

Judy Duer, Library Director

ITEM DESCRIPTION: Consider adopting a resolution authorizing a construction-manager-at-risk agreement with Vanguard Contractors, LP of Temple for the renovations to the Temple Public Library, which includes pre-construction services in the amount of \$2,750.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: On May 20, 2008, two (2) proposals were received for providing construction-manager-at-risk (CMAR) services for the construction of renovations to the Temple Public Library. Renovations to the library will include incorporating the space currently occupied by Bank of America into the library, and re-designing the existing space to enlarge the story-time room, add a teen area, a reading lounge, and enlarge the area for the Audio-Visual collection as well as repairing the foundation on the southwest corner of the building.

The two (2) firms submitting proposals were Vanguard Contractors, LP, of Temple and Jamail & Smith Construction of Austin. The proposals included amounts for preconstruction phase services, construction phase services, and general conditions. These amounts are shown on the attached proposal tabulation.

A committee comprised of staff from Construction Safety, the Library, and the architect for this project, William P. Chamlee, reviewed the proposals. The committee unanimously recommends Vanguard Contractors for these services based on them offering the lowest fees, their extensive background in working on CMAR contracts, and staff's prior favorable experiences in working with Vanguard.

This agenda item is for authorization of the pre-construction phase services with a corresponding fee of \$2,750. The pre-construction phase includes working with the architectural firm to aid in the design of the facility, continual pricing to make sure that the project will be within the budget, developing a critical path schedule, and bidding the trades for this project. Following the trade bids, Vanguard will provide the City with a guaranteed maximum price (GMP) proposal for construction of the facility. This GMP will include Vanguard's fee for their construction phase services and the general conditions of their contract as stated in the attached proposal tabulation worksheet. If the GMP is not acceptable to the City, the City's has the option to reject the GMP proposal and end the CMAR contract with Vanguard.

FISCAL IMPACT: Funding for the pre-construction services related to this contract in the amount of \$2,750 is available in the 2006 CO Bond Fund account 361-4000-555-6808, project #100348. An additional \$875,000 is designated for the library renovations in the 2008 Certificate of Obligation bond issue. The Foundation of Temple Public Library has also pledged \$200,000 towards the construction costs including paying for the architect's fees.

ATTACHMENTS:

[Proposal Tabulation
Resolution](#)

Tabulation of Proposals Received
on May 20, 2008 at 3:00 p.m.
CMAR Services for Renovations to the Temple Public Library
RFP No. 40-04-08

	Proposers	
	Vanguard Contractors Temple, TX	Jamail & Smith Construction Austin, TX
Description		
Pre-Construction Services	\$2,750.00	\$10,000.00
Construction Phase Services	\$34,500.00	\$57,000.00
General Condition Fees	\$86,748.00	\$96,000.00
Execution of Offer	Yes	Yes
Bond Affidavit	Yes	Yes
Insurance Affidavit	Yes	Yes
Credit Check Authorization	Yes	Yes
Proposal Affidavit	Yes	Yes

I hereby certify that this is a correct and true tabulation of all bids received.

Belinda Mattke

20-May-08

Belinda Mattke, Director of Purchasing

Date

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING A CONSTRUCTION-MANAGER-AT-RISK AGREEMENT WITH VANGUARD CONTRACTORS, LP, OF TEMPLE FOR RENOVATIONS TO THE TEMPLE PUBLIC LIBRARY, WHICH INCLUDES PRE-CONSTRUCTION SERVICES IN THE AMOUNT OF \$2,750; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, on May 20, 2008, the City received 2 proposals for providing construction-manager-at-risk (CMAR) services for the construction of renovations to the Temple Public Library;

Whereas, a Staff committee, as well as the architect of record for the project, reviewed the proposals and recommend Vanguard Contractors, LP, of Temple as being the best suited to construct this project for the City;

Whereas, funds are available for this project in the 2006 CO Bond Fund, Account 361-4000-555-6808, project #100348, and in the 2008 Certificate of Obligation bond issue; and

Whereas, the City Council has considered the matter and deems it in the public interest to authorize this action.

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

Part 1: The City Council authorizes the City Manager, or his designee, to execute a construction-manager-at-risk agreement with Vanguard Contractors, LP, of Temple, after approval as to form by the City Attorney, for construction of the renovations to the Temple Public Library, which includes pre-construction services in the amount of \$2,750.

Part 2: It is hereby officially found and determined that the meeting at which this Resolution is passed was open to the public as required 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 this the 5th day of **June**, 2008.

THE CITY OF TEMPLE, TEXAS

WILLIAM A. JONES, III, Mayor

ATTEST:

APPROVED AS TO FORM:

Clydette Entzminger
City Secretary

Jonathan Graham
City Attorney



COUNCIL AGENDA ITEM MEMORANDUM

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DEPT./DIVISION SUBMISSION & REVIEW:

Bruce Butscher, Director of Public Works

ITEM DESCRIPTION: Consider adopting a resolution authorizing an Interlocal Agreement with the Bell County to provide brush pick up.

STAFF RECOMMENDATION: Adopt resolution as indicated in item description.

ITEM SUMMARY: The proposed resolution authorizes the City Manager to execute a month-long agreement with Bell County to provide brush pick up services from County right-of-way and with right-of-way owned by the Village of Salado. As a result of storms in the area that occurred earlier this month, Bell County has been working to provide emergency brush clearing services in rural areas of the counties and in some of the smaller incorporated areas of the County. In the case of Salado, Bell County has requested the assistance of the City of Temple to provide these emergency brush clearing services.

Under the interlocal agreement, Bell County agrees to reimburse the City in an amount calculated to cover the City's actual cost in providing brushing collection services outside the City limits: \$5,400 per ten (10) hour work day. Bell County also agrees to indemnify the City for certain claims that the City might experience. The proposed agreement has been reviewed and approved as to form by the City Attorney's office.

FISCAL IMPACT: Reimbursement of the City will occur at \$5,400 per 10 hour work day. The agreement will last up to 30 days.

ATTACHMENTS:

[Resolution](#)

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS,
AUTHORIZING AN INTERLOCAL AGREEMENT WITH BELL COUNTY TO
PROVIDE BRUSH PICK UP; AND PROVIDING AN OPEN MEETINGS CLAUSE.**

Whereas, as a result of storms in the area that occurred earlier this month, Bell County has been working to provide emergency brush clearing services in rural areas and in some of the smaller incorporated areas of the County;

Whereas, the Staff recommends authorizing a month-long agreement with Bell County to provide brush pick up services from County right-of-way and right-of-way owned by the Village of Salado;

Whereas, Bell County will reimburse the City \$5,400 per 10-hour work day to cover the City's actual cost in providing brush collection services outside the City limits; and

Whereas, the City Council has considered the matter and deems it in the public interest to authorize this action.

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

Part 1: The City Council authorizes the City Manager, or his designee, to execute an interlocal agreement between the City of Temple and the Bell County, after approval as to form by the City Attorney, for brush pick up.

Part 2: It is hereby officially found and determined that the meeting at which this Resolution is passed was open to the public as required 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 this the **5th** day of **June**, 2008.

THE CITY OF TEMPLE, TEXAS

WILLIAM A. JONES, III, MAYOR

ATTEST:

APPROVED AS TO FORM:

Clydetta Entzminger
City Secretary

Jonathan Graham
City Attorney



COUNCIL AGENDA ITEM MEMORANDUM

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DEPT./DIVISION SUBMISSION & REVIEW:

Clydette Entzminger, City Secretary

ITEM DESCRIPTION: Consider adopting a resolution authorizing an interlocal agreement with Bell County for use of the County's software and fiber optic network to process and maintain records regarding early voting, in the amount of \$1200.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: In 2002, an agreement was entered into with Bell County for the City to use the County's early voting system. This system includes computer software developed by the County to process and maintain records regarding early voting, as well as the County's fiber optic network to access the computer programs and voter registration data throughout the year.

This system has been used in all City elections since 2002 and is the same system used in all elections conducted by Bell County. The County continues to provide staff training and modifications to the programs and reports to meet our needs for each specific election. Utilization of this automated system saves time for both employees and voters by streamlining the early voting process. It also allows us to maintain an electronic database of voters for each election.

We recommend approval of this interlocal agreement with Bell County for a period of one year, at a cost of \$1200.

FISCAL IMPACT: \$1200. Funds are available in 110-1400-511-2517.

ATTACHMENTS:

[Resolution](#)

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING AN INTERLOCAL AGREEMENT WITH BELL COUNTY FOR USE OF THE COUNTY'S SOFTWARE AND FIBER OPTIC NETWORK TO PROCESS AND MAINTAIN RECORDS REGARDING EARLY VOTING, IN THE AMOUNT OF \$1,200; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, in 2002, the City entered into an interlocal agreement with Bell County for the City to use the County's early voting system;

Whereas, the system includes computer software developed by the County to process and maintain records regarding early voting, as well as the County's fiber optic network to access the computer programs and data;

Whereas, the Staff recommends approving an interlocal agreement with Bell County for this purpose for \$1200 per year for a one year period;

Whereas, funds are available in Account No.110-1400-511-2517; and

Whereas, the City Council has considered the matter and deems it in the public interest to authorize this action.

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

Part 1: The City Council authorizes the City Manager, or his designee, to execute an interlocal agreement between the City of Temple and the Bell County, after approval as to form by the City Attorney, for use of the County's software and fiber optic network to process and maintain records regarding early voting, in the amount of \$1200 for a one year period.

Part 2: It is hereby officially found and determined that the meeting at which this Resolution is passed was open to the public as required 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 this the **5th** day of **June**, 2008.

THE CITY OF TEMPLE, TEXAS

WILLIAM A. JONES, III, MAYOR

ATTEST:

APPROVED AS TO FORM:

Clydette Entzminger
City Secretary

Jonathan Graham
City Attorney



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DEPT./DIVISION SUBMISSION & REVIEW:

David Blackburn, City Manager
Jonathan Graham, City Attorney

ITEM DESCRIPTION: Consider adopting a resolution authorizing the purchase of a 177.45 acre tract located at 1122 Moore's Mill Road.

Executive Session – The City Council *may* enter into executive session pursuant to Section 551.072 of the Texas Government Code to discuss the purchase, exchange, lease or sale of real property the public discussion of which may have a detrimental impact on negotiations.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: Temple Economic Development Corporation has negotiated the purchase of an approximately 177.45 acre tract located at 1122 Moore's Mill Road, which is west of I-35 and on the north side of Moore's Mill Road. TEDC worked with the City to acquire the property for the possible realignment of Moore's Mill Road at a future date. The purchase is approximately \$5,000/acre or \$887,730 for the land. Closing costs reimbursable to TEDC by the City include \$36,600 for their original option to acquire the property, \$4,500 for surveying costs, and \$2,600 for a phase one assessment of the property. With some other minor closing costs/adjustments, the amount payable by the City at closing will be approximately \$931,338.62.

FISCAL IMPACT: Funding in the amount of \$950,000 is appropriated in account 795-9700-531-6110, project #100166, in the Reinvestment Zone No. 1 Financing Plan.

ATTACHMENTS:

[Resolution](#)

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING THE PURCHASE OF A 177.45 ACRE TRACT LOCATED AT 1122 MOORE'S MILL ROAD FOR THE APPROXIMATE PURCHASE PRICE OF \$931,338.62; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, the Temple Economic Development Corporation (TEDC) has negotiated the purchase of a 177.45 acre tract of land located at 1122 Moore's Mill Road, which is west of I-35 and on the northside of Moore's Mill Road;

Whereas, TEDC worked with the City to acquire the property for the possible realignment of Moore's Mills Road at a future date – approximately 60 acres of the site could be used for future economic development;

Whereas, the purchase price is approximately \$5,000 an acre or \$887,730 for the land – closing costs reimbursable to TEDC by the City include \$36,600 for the original option to acquire the property, \$4,500 for surveying costs, and \$2,600 for a phase one assessment of the property, along with other minor closing costs/adjustments, for a total amount of approximately \$931,38.62;

Whereas, funds are available for the acquisition of this property in Account No. 795-9700-531-6110, project #100166; and

Whereas, the City Council has considered the matter and deems it in the public interest to authorize this action.

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

Part 1: The City Council authorizes the acquisition of a 177.45 acre tract of land located at 1122 Moores Mill Road for future roadway expansion and economic development purposes, for the approximate purchase price of \$931,338.62.

Part 2: The City Council authorizes the City Manager, or his designee, to execute any documents, after approval by the City Attorney, that may be necessary for this purchase.

Part 3: It is hereby officially found and determined that the meeting at which this Resolution is passed was open to the public as required 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 this the 5th day of **June**, 2008.

THE CITY OF TEMPLE, TEXAS

WILLIAM A. JONES, III, Mayor

ATTEST:

APPROVED AS TO FORM:

Clydette Entzminger
City Secretary

Jonathan Graham
City Attorney



COUNCIL AGENDA ITEM MEMORANDUM

06/05/08
Item # 5(J)
Consent Agenda
Page 1 of 1

DEPT./DIVISION SUBMISSION & REVIEW:

David Blackburn, City Manager
Jonathan Graham, City Attorney

ITEM DESCRIPTION: Consider adopting a resolution authorizing the purchase of an approximately 356 acre tract located on Wendland Road.

Executive Session – The City Council *may* enter into executive session pursuant to Section 551.072 of the Texas Government Code to discuss the purchase, exchange, lease or sale of real property the public discussion of which may have a detrimental impact on negotiations. (Executive session is not anticipated at this time.)

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: Temple Economic Development Corporation has negotiated the purchase of an approximately 356 acre tract located on Wendland Road, south of Moores Mill Road and on the west side of Wendland Road. TEDC worked with the City to acquire the property for economic development purposes. The purchase price is approximately \$7,500/acre or \$2,670,000 for the land. Closing costs reimbursable to TEDC by the City will likely incur include expenses for surveying and an environmental assessment, but the exact amount is not known at this time. With some other minor closing costs/adjustments, the additional amount payable by the City for closing costs should not exceed \$35,000.

FISCAL IMPACT: Acquisition of this property has been identified as an element in the Financing Plan for the Tax Increment Financing Reinvestment Zone Number One. Funding in the amount of \$2,700,000 is appropriated in account 795-9700-531-6110, project #100383. The City will fund the acquisition through the sale of TIRZ Revenue Bonds which occurs on June 5, 2008, with the closing of the bond sale occurring on June 24, 2008. The land closing will occur sometime after that date.

ATTACHMENTS:

[Resolution](#)

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING THE PURCHASE OF AN APPROXIMATELY 356 ACRE TRACT LOCATED ON WENDLAND ROAD; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, the Temple Economic Development Corporation (TEDC) has negotiated the purchase of an approximately 356 acre tract of land located on Wendland Road;

Whereas, TEDC worked with the City to acquire the property for economic development purposes;

Whereas, the purchase price is approximately \$7,500 an acre or \$2,670,000 for the land – closing costs reimbursable to TEDC by the City will likely include expenses for surveying and an environmental assessment, but the exact amount is not know at this time – with some other closing costs/adjustments, the additional amount payable by the City for closing costs should not exceed \$35,000;

Whereas, funds are available for the acquisition of this property in Account No. 795-9700-531-6110, project #100383; and

Whereas, the City Council has considered the matter and deems it in the public interest to authorize this action.

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

Part 1: The City Council authorizes the acquisition of an approximately 356 acre tract of land located on Wendland Road for economic development purposes, for an amount not to exceed \$2,705,000.

Part 2: The City Council authorizes the City Manager, or his designee, to execute any documents, after approval by the City Attorney, that may be necessary for this purchase.

Part 3: It is hereby officially found and determined that the meeting at which this Resolution is passed was open to the public as required 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 this the 5th day of **June**, 2008.

THE CITY OF TEMPLE, TEXAS

WILLIAM A. JONES, III, Mayor

ATTEST:

APPROVED AS TO FORM:

Clydette Entzminger
City Secretary

Jonathan Graham
City Attorney



COUNCIL AGENDA ITEM MEMORANDUM

06/05/08
Item #5(K)
Consent Agenda
Page 1 of 1

DEPT./DIVISION SUBMISSION & REVIEW:

Tim Dolan, AICP, Planning Director

ITEM DESCRIPTION: (A) SECOND READING: Consider adopting an ordinance repealing Ordinance No. 2000-2717 and adopting a new ordinance expanding and updating meeting procedures for the Planning and Zoning Commission.

(B) SECOND READING – Z-FY-08-11: Consider adopting an ordinance amending Ordinance No. 91-2101, the Zoning Ordinance of the City of Temple, Section 16, “Planning and Zoning Commission,” updating procedures for the Planning and Zoning Commission.

P&Z COMMISSION & STAFF RECOMMENDATION: Conduct public hearing and adopt ordinance on second and final reading. The Planning and Zoning Commission voted 9/0 to recommend approval to amend the Procedures of the Planning & Zoning Commission, as recommended by Staff.

ITEM SUMMARY: The Procedures has not been reviewed since the 1980’s and early 1990’s. Several ordinances and resolutions have been approved since then, creating conflicts with the administration of meetings. This item is an administrative clean-up of the procedures.

FISCAL IMPACT: None

ATTACHMENTS:

[P&Z Staff Report](#)
[P&Z Excerpts](#)
[Proposed Ordinances](#)



PLANNING AND ZONING COMMISSION AGENDA ITEM

02/18/08
Item 6
Page 1 of 1

APPLICANT / DEVELOPMENT: Staff c/o Planning & Zoning Commission

CASE MANAGER: Tim Dolan, AICP, Planning Director

ITEM DESCRIPTION: Z-FY-08-11 Hold a public hearing to consider recommending amending Section 16, Procedures of the Planning and Zoning Commission of the City of Temple Zoning Ordinance. (Applicant: Planning Staff)

BACKGROUND: The Planning & Zoning Commission requested Staff to deliver a work product explaining the meeting procedures regarding motions, seconds, amended motions etc. The attached draft contains the items reviewed by the Commission in its work session, February 4th.

STAFF RECOMMENDATION:

Staff requests the Commission recommend approval to amend Section 16, Procedures of the Planning and Zoning Commission of the City of Temple Zoning Ordinance.

FISCAL IMPACT: Not Applicable

ATTACHMENTS:

Draft Document

**EXCERPTS FROM THE
PLANNING & ZONING COMMISSION MEETING**

MONDAY, FEBRUARY 18, 2008

ACTION ITEMS

3. **Z-FY-08-11** Hold a public hearing to consider recommending amending Section 16, Procedures of the Planning and Zoning Commission of the City of Temple Zoning Ordinance. (Applicant: Staff)

Mr. Tim Dolan, Planning Director, presented this item as outlined in the Planning and Zoning Agenda Background. He said the Commission discussed this in the February 4, 2008 work session. Mr. Dolan went over the draft of Section 16. He said Commissioner Secrest asked that in Section 16-196, Amendments to Procedures, an additional paragraph be added titled Severance. Mr. Dolan went over what Commissioner Secrest had submitted.

Vice-Chair Pope asked Commissioner Secrest to explain his request. Commissioner Secrest explained that when Planning and Zoning reviews action items, it has come to his attention that some of the Commissioners just wanted to approve a subdivision while at the same time there will be several Staff recommendations such as requiring streets to be a certain width, concerns about gutters, etc. Commissioner Secrest said that the majority of the time he is for the subdivision, however, he may not agree with one of the Staffs recommendations. He said what this language allows the Commission to do is to sever out one line item to review, discuss, and vote on separately so that it will not affect their vote on the subdivision in general. This process would take place at the same time as the case being heard.

Chair Luck opened the public hearing asking anyone wishing to speak in favor or against this item to address the Commission.

Mr. Steve Wright, 1618 Canyon Creek Dr., addressed the Commission. He inquired what would happen if a portion of an item was pulled and the pulled portion did not pass; what does it do to the plat and how would it go to Council. Chair Luck said her understanding is that if an item is pulled out, the Commission could vote on the zoning change or the plat, the item in question will not be voted on; this motion contains the remainder of the item. The pulled item would be discussed and voted on and incorporated into the main motion for the item.

Chair Luck asked for legal advice from the City Attorney.

Mr. Jonathan Graham, City Attorney, said he would view this proposal as a process of amending a motion. The only difference would be if someone makes a motion to approve an item, if the Commission process is like City Council, before the Commission votes on an item, the Chairperson will first ask if there are any questions. He said two people on the Commission would have to agree that a particular item is worthy of discussion. After discussion and vote on the severed item, it would be incorporated into the original motion.

Chair Luck closed the public hearing.

Vice-Chair Pope wanted it on record that he would not vote for the addition to the draft.

Motion to recommend approval of Z-FY-08-11 as written in the draft presented in the work session with the Severance added, by Commissioner Pilkington; seconded by Commissioner Secrest.

Motion passed (6/3). Commissioner Martin, Vice-Chair Pope, and Chair Luck voted nay.

ORDINANCE NO. 2008-

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, REPEALING ORDINANCE NO. 2000-2717; PROVIDING FOR A PLANNING AND ZONING COMMISSION; PRESCRIBING THE MEMBERSHIP, METHOD OF APPOINTMENT AND TERM OF OFFICE; **AND ADOPTING PLANNING AND ZONING COMMISSION PROCEDURES; ~~PROVIDING FOR ADOPTION OF A COMPREHENSIVE ZONING PLAN AND AREA PLANS; REQUIRING AN ANNUAL REPORT AND RECOMMENDATIONS;~~ PROVIDING A SEVERABILITY CLAUSE; DECLARING FINDINGS OF FACT; PROVIDING A SAVINGS CLAUSE; PROVIDING AN EFFECTIVE DATE; AND PROVIDING AN OPEN MEETINGS CLAUSE.**

Whereas, the City Charter authorizes the City Council to establish by ordinance a Planning and Zoning Commission containing an odd number of members, or such specific number as may be required by State law, with all of the rights, privileges, powers and authority to zone property consistent with State law;

Whereas, it is the desire of the City Council to provide for modern planning concepts and practices, to provide for a Planning and Zoning Commission, ~~to set out the procedures to be followed for zoning matters before the Planning and Zoning Commission and the City Council,~~ and to provide for the adoption of rules and procedures governing the same;

Whereas, it is the desire of the citizens of the City of Temple, Texas, to maintain a comprehensive plan for the purpose of guiding and fostering the future growth of the City in an orderly and scientific manner and to secure all the benefits that may accrue to the City in the way of greater efficiency, economy, comfort, convenience, health, safety, prosperity and general welfare; and

Whereas, after notice and a public hearing the City Council finds that the adoption of this ordinance will promote orderly growth, will enhance the quality of life within the City and is in the public interest.

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

Part 1: Ordinance No. ~~2030~~ **2000**, the “Planning Commission Ordinance,” adopted by the City Council on the 4th **17th** day of ~~March, 1990,~~ **August, 2000**, is repealed, and the following ordinance **“Planning Commission Ordinance”** is substituted as an appendix to the City’s Zoning Ordinance:

Section 1. Planning and Zoning Commission Established. That there shall be and is hereby created a **The Planning and Zoning Commission for and in of the City of Temple, Texas, is a long-established City board, and its existence is continued by this ordinance.**

Section 2. Membership.

(a) The Planning and Zoning Commission shall consist of nine (9) members, appointed by the City Council. ~~The City Council shall select residents of the City for their understanding and unselfish interest in civic affairs.~~

(b) Members must be residents of the City of Temple.

(c) The City Council shall, by ordinance or resolution, determine timing of appointments, qualifications for appointment, appointment process, orientation of new members, goal-setting, reporting, and attendance requirements. [See Resolution No. 2004-40250R, establishing policies for all City boards.]

(d) A regular full term is three years. Each member serving on the ~~existing~~ Planning and Zoning Commission at the time of passage of this ordinance shall hold office for his/her term as appointed or a successor shall hold office for the remaining term as appointed, in order to maintain staggered terms as originally provided. ~~A regular full term shall be for three years, with appointments to occur at the first city council meeting in May. Newly appointed Planning and Zoning Commissioners shall participate in orientation sessions conducted during May, and take office at the first regularly scheduled meeting of the Planning and Zoning Commission in June.~~

~~(e) Following completion of a single three (3) year term, the City Council may reappoint a commissioner for a maximum total of three (3) additional years in one (1) year increments. Members shall continue to serve until their successors have been installed. Vacancies shall be filled by appointment for the unexpired term only.~~

~~(d) Members shall automatically forfeit their office on the Planning and Zoning Commission for any of the following reasons:~~

~~(1) failure to attend 25% of scheduled meetings during any six (6) month period or failure to attend three (3) consecutive meetings; or~~

~~(2) failure to attend 25% of appointed committee meetings during any six (6) month period.~~

~~(e) The City Council may grant an exception to automatic forfeiture for an illness which temporarily affects a commissioner's attendance.~~ **[Stricken text is superseded by Resolution No. 2000-4025.]**

(e) The City Council may, after due consideration, remove a member of the Planning and Zoning Commission for any ~~other~~ good cause related to performance of duty.

(f) All Members shall serve without pay.

Section 3. Powers and duties of Commission.

(a) The Planning and Zoning Commission shall perform studies and recommend to the City Council plans, goals, and objectives relating to growth, development, redevelopment, and all aspects of land use of the City and surrounding areas.

(b) The Planning and Zoning Commission shall develop and recommend to the City Council policies, procedures, ordinances, and other means of carrying out plans in a coordinated and efficient manner.

(c) The Planning and Zoning Commission shall review and, by its action, recommend approval or disapproval of zoning changes, applications for plat approval, and other land use matters. [Combines text in former Sec. 9 with Powers and Duty provisions in former Exhibit A.]

(d) The Planning and Zoning Commission shall perform other duties as assigned or delegated by the City Council. [Combines text in former Sec. 9 with Powers and Duty provisions in former Exhibit A.]

~~**Section 3. Rules and Regulations.** The Planning and Zoning Commission shall adopt rules and regulations as it deems best, subject to the ordinances of the City, for the practical and efficient transaction of business and shall keep a record of its resolutions, transactions, findings, and determination, which record shall be a public record. The Planning and Zoning Commission Procedures, attached hereto as Exhibit AA, @ are hereby adopted as a part of this ordinance.~~

Section 4. Officers.

(a) The officers of this Commission shall consist of a Chairman, a Vice Chairman, and a permanent secretary. The Chairman and Vice Chairman shall serve for a term of one year or until their successors have been chosen.

(b) Each year, following the appointment by the City Council of new members to fill the positions of those members of the Planning and Zoning Commission whose terms expired on or following June 1st of that year, the Commission shall elect a Chairman and a Vice Chairman from among those who will be serving on the Commission during the forthcoming year. [Stricken language is superseded by Resolution No. 2004-4025-R.]

(c) ~~The election of a Chairman and Vice Chairman will occur following the oath of office administered to new Planning and Zoning Commission members at the first meeting in June.~~ [Stricken language is redundant.] The City Attorney-Planning Director or his designee shall conduct the election of officers for the Chairman, and the Chairman shall

conduct the election of the Vice Chairman. ~~of the Planning and Zoning Commission. The Chairman and Vice Chairman shall serve for a term of one year or until their successors have been chosen.~~ [Last sentence moved from (c) to (a).]

Section 5. Duties of Officers.

(a) It shall be the duty of the Chairman to preside at all meetings of the Commission and to enforce all the established rules of order and form at such meetings, and to appoint all Committees in a manner prescribed by these Procedures or by any motion or resolution of the Commission, and to authenticate by his signature, when necessary, all acts, orders, and proceedings of the Commission declaring its will and, in all things, obeying its instructions.

(b) It shall be the duty of the Vice Chairman to act in the place of the Chairman in the absence or upon any inability of the latter to act and he shall succeed to the higher office for the unexpired term thereof in the event of the resignation or the permanent incapacity of the Chairman. In such an event, the Commission shall elect another of its members to serve as Vice Chairman for the unexpired term of the latter office. Any member of the Commission may chair a meeting, at the request of the Planning Director, in the absence of both the Chairman and the Vice Chairman.

(c) It shall be the duty of the permanent secretary to prepare or have prepared minutes of all proceedings and to maintain all other records of the Commission, to conduct all correspondence and issue all notices as directed, to prepare an order of business for all meetings, to furnish all Committees with copies of such papers as should be referred to their attention, to attest by his signature, when necessary, all acts, orders, and proceedings of the Commission declaring its will and in all things obeying its instructions, except as to such instructions which, in his opinion, may infringe upon his legal duties or responsibilities as a City official or employee.

Section 6. Standing Committees.

(a) The Commission, by direction of the Chairman and/or vote of its members, may, from time to time, establish Standing Committees to meet when appropriate. The duties of such Standing Committees shall be set forth at the time they are so established. The Chairman and Vice Chairman of the Commission shall be voting members of all Standing Committees.

(b) The members of any Standing Committee shall be appointed by the Chairman of the Commission immediately following the election of the new officers each year, and shall serve for a term of one year or until their successors have been chosen. The Planning and Zoning Commission Chairman shall appoint the Chairman of each Standing Committee.

(c) Standing Committees shall meet according to a schedule determined by each Committee or when determined necessary by the Commission Chairman or the full Commission or at the request of the Planning Director.

Section 7. Special Committees. Special committees shall be appointed by the Chairman upon motion by the Commission to perform a specific duty and shall exist only until the assigned duties has been accomplished, unless sooner discharged by appropriate action of the Commission. Membership and Chairmanship of special committees shall be determined by the Chairman of the Planning and Zoning Commission.

Section 8. Meetings.

(a) The Planning and Zoning Commission shall conduct at least one meeting per month, and additional meetings may be held from time to time upon the call of the Chairman or the Director of Planning for the City.

(b) Regular meetings of the Planning and Zoning Commission shall be held at 5:00 p.m. on the Mondays following the week of each regularly-scheduled City Council meeting, except when these days fall on a legal holiday, in which instance the meeting will be held on the day designated by the Chairman; or except when the Commission shall designate another date and/or time as circumstances warrant. Meetings will be held in the City Council Room or another suitable location.

(c) Special meetings of the Planning and Zoning Commission may be held for a specific purpose and business upon the call of the Chairman, or the Planning Director. Suitable notice as required by the Open Meetings Act shall be posted for each regular and special meeting of the Commission, detailing the time, location, and subject matter of each item of business to be considered by the Commission.

(d) Committees of the Planning and Zoning Commission shall meet at the call of the respective Chairman, subject to Open Meetings Act requirements.

Section 8. Meeting Procedures.

(a) **Agenda.** The meeting agenda shall be mailed or delivered to the Commission Members by Friday preceding the meeting and each member shall make a serious effort to inspect the involved property on the ground.

(b) **Quorum.** A quorum for the legal transaction of business at any meeting of the Commission shall consist of five-~~(5)~~ members of the Commission, inclusive of the presiding officer.

(c) **Chair.** The Chairman of the Planning and Zoning Commission and the chairman of each subcommittee shall vote on all motions, where applicable.

(d) **Simple majority.** A simple majority vote will determine the recommendation of the Planning and Zoning Commission.

(e) **Roll call.** A roll call vote shall be taken on all items on the Planning and Zoning Commission agenda, except administrative matter(s) and approval of minutes.

(f) **Form.** Motions shall be made by stating, “I move to (a plain statement of the desired action).” Commission members shall not make a motion simply by attempting to substitute prior discussion into a motion (e.g., by saying, “So moved.”). Without a “second” to a motion by another Commission member within a reasonable period of time, a motion requiring a second fails. No main motion may be made while a motion is pending. A Commission member calling for a “point of order” is requesting an immediate decision by the Chairman as to whether there is a second to a motion.

(g) **Modification or Withdrawal.** The Chairman shall state the motion, after it has been made, seconded, and discussed. The Chairman shall rule a motion out of order if it is contrary to these rules or if the wording of the motion is not clear. A motion may be withdrawn or modified only by its mover without asking permission, until the motion has been stated by the Chairman. If the mover modifies his motion, the party who seconded the motion may withdraw his second. After the motion has been stated by the Chairperson, the mover shall neither withdraw it nor modify it without the consent of a majority of the Commission. The Chairman shall have the right to speak out and vote on any item under consideration, but shall not make or second motions. The Vice-Chairman shall have the same right to make, second, or vote on motions as enjoyed by any other Commission member, except when he sits as presiding officer in the absence of the Chairman, in which case he may speak out on an item and vote, but may not make or second a motion.

(h) **Severance.** [This section is not in the City Council’s meeting procedures. It was added by motion amendment when P&Z approved the first draft of additional meeting rules. The proposed severance process would primarily affect applications for Planned Developments and Conditional Use Permits.] At any time before a motion is made on an Action Item a Commission member shall have the right to remove any portion of the Action Item for further consideration and review by the commission (“Severed Item”). The request to remove a Severed Item from an Action Item may be made orally or in writing and no motion or vote is required for approval. The Severed Item shall then be discussed and voted on separate and apart from the Action Item using the same procedures for making and approving motions as outlined in this document. Severed Items shall be inherently linked with their parent Action Items and will again become part of the main Action Item once voted upon by the Commission.

(i) **Amendments.** No motion or proposition of a subject different from that under consideration shall be admitted under color of amendment. A motion to amend an amendment shall be in order, but not to amend an amendment of an amendment to a motion.

(j) **Specific motions.** The following table governs motions made during Planning & Zoning Commission meetings. If deemed necessary, the Planning & Zoning Commission shall, if requested by any five Commission members (which may include the Chairman or

Vice-Chairman), adopt Robert's Rules in Plain English by Doris P. Zimmerman (2nd Ed.) for the remainder of the meeting at which they are approved.

Parliamentary Questions, Motions, and their Precedence				
MOTIONS ▼ (from highest to lowest precedence)	Second Required?	Debatable?	Amendable?	Vote Required?
To Adjourn	YES	NO	NO	Majority
To Take a Recess	YES	NO	YES	Majority
To Amend	YES	YES	YES	Majority
To Amend an Amendment	YES	YES	NO	Majority
To Postpone Indefinitely	YES	YES	NO	Majority
To Table	YES	YES	NO	Majority
Putting or Calling the Question	NO	NO	NO	Majority

Section 9. Post-Meeting Process. [Moved from Policy and Procedure, section 6(h), Exhibit A, Planning and Zoning Commission Procedures.] The permanent secretary or his designee shall prepare a coordinated staff report for the City Council outlining any recommendations by the Planning and Zoning Commission. The coordinated staff report, whether made in writing or in person by the permanent secretary or a member of the Commission, or both, shall contain at a minimum the motion which was made and the vote taken thereon. ~~Motions made by members of the Commission should always include any conditions which the Commission finds to be in the public interest in connection with the application, if any, when the action thereon is favorable.~~ [Stricken text is deleted because Zoning Ordinance, Subdivision Ordinance, and State law determine when conditions may be imposed.] A complete file on the particular case acted upon by the Commission should also be available to the City Council for its consideration of the particular application in order to assist in answering any questions that may arise.

Section 6. Comprehensive Plan.

~~(a) The Planning and Zoning commission shall adopt and maintain a comprehensive zoning plan for the City of Temple and its extra-territorial jurisdiction. Such plan as approved by the Planning and Zoning Commission shall be presented to the City Council for its ratification and acceptance by ordinance.~~

~~(b) The Comprehensive Plan, with accompanying maps, plats, charts and descriptive matter, shall show the Planning and Zoning Commission=s recommendations for the development of said territory, including, among other things, the general location, character~~

and extent of land use, economic development, streets and parkways, playgrounds, aviation fields, municipal airports, water and wastewater systems, athletic fields, school grounds, or public improvements, and the removal, relocation, widening or extension of such public works that exists. As the work of preparing and updating the Comprehensive Plan progresses, the Planning and Zoning Commission may from time to time adopt and publish a part or parts thereof. The Planning and Zoning Commission shall from time to time alter, amend, extend or add to the plan.

Section 5. Comprehensive Planning Related to Present/Future Needs.

(a) In the preparation and maintenance of the comprehensive plan, the Planning and Zoning Commission shall make careful and comprehensive surveys and studies of present conditions and future growth of the City and with due regard to its relation to neighboring territory. The plan shall be made with the general purpose of guiding and accomplishing a coordinated, adjusted and harmonious development of the City and its environs.

(b) In amending and implementing the Comprehensive Plan, the Planning and Zoning Commission shall further the following objectives: to promote health, safety, morals, order, convenience, prosperity and general welfare, as well as efficiency and economy in the process of development; among other things, adequate provision for traffic, the promotion of safety from fire and other dangers, adequate provision for light and air, the promotion of good civic design and arrangement, adequate provision of public utilities and other public requirements.

Section 6. Planning and Zoning Commission Recommendation Required. Whenever the City Council adopts a Comprehensive Plan recommended by the Planning and Zoning Commission, no public buildings, streets, subways, viaducts, bridges, railroads, terminals, parks, parkways, playgrounds, aviation fields, athletic fields, school grounds, fire station sites, or other public grounds or public improvements, or part thereof, shall be constructed within areas affected by said plan, until and unless the location thereof shall be recommended by the Planning and Zoning Commission and approved by the City Council.

Provided, however, that in case of its disapproval, the Planning and Zoning shall communicate its reason for disapproval to the City Council, and thereupon, the City Council shall either permit, or refuse to permit such improvements to be made. The Planning and Zoning Commission may make recommendations to the City Council on the widening, narrowing, ornamentation, abandonment, or change in the use of streets and other public ways, public grounds, or other public improvements as they relate to the adopted plan. The Planning and Zoning Commission may make recommendations to any public authorities or to any corporations or individuals in the City of Temple or in the territory contiguous thereto, concerning the relocation of public buildings, structures or works to be erected or constructed. [Stricken language will be covered in ordinance adopting Comprehensive Plan.]

Section 7. Overrule of Planning and Zoning Commission Denial Recommendation. A three fourths vote of all the members of the City Council shall be

required to overrule a recommendation by the Planning and Zoning Commission that a proposed change to a zoning ordinance, regulation or boundary be denied. [Covered in Section 16 of Zoning Ordinance.]

Section 8. Review of Capital Improvements Plan. ~~The Planning and Zoning Commission shall review the Capital Improvements Plan prepared by the City Manager=s Office for compatibility with the Comprehensive Plan, and shall make its recommendations or comments to the City Manager, prior to the submission of the Capital Improvements Plan to the City Council by the City Manager.~~ [Conflicts with current practice. City Council determines funding.]

Section 9. Planning and Zoning Commission Review and Recommendation of Zone Changes, Subdivision Plats, and other Current Land Use Matters; Additional Duties. ~~The Planning and Zoning Commission shall review and, by its action, recommend approval or disapproval of zoning changes, and other land use matters by acting on all current and comprehensive planning issues, and, in addition, perform such other duties as requested by the City Council.~~ [Stricken text is combined with text from the procedures exhibit about powers and duties.]

~~The planning and zoning commission is the municipal authority responsible for approving plats that do not request an exception to the ordinances and regulations of the City or when an applicant requests a modification or clarification of a requirement imposed by the planning and zoning commission, such plat, together with the related plans, specifications, and staff, public and commission=s comments and recommendations, shall be submitted to the city council. The city council is the municipal authority responsible for approving plats that request an exception to the ordinances and regulations of the City or when an applicant requests a modification or clarification of a requirement imposed by the planning and zoning commission, such plat, together with the related plans, specifications, and staff, public and commission=s comments and recommendations, shall be submitted to the city council. Except where otherwise permitted by State law (e.g., the administrative approval of plats with less than four lots) all plans, plats or replats, of land laid out in building lots, into streets, alleys or other portions of the same intended to be dedicated to public use, or for the purchasers or owners of lots fronting on or adjoining and located within the corporate limits of the City, or within the City=s extra territorial jurisdiction, or as extended by appropriate authority or agreement, shall be approved by the municipal authority responsible for approving plats before any connection shall be permitted with any public utility, such as water and sewers, owned and operated by the City.~~ [Stricken language duplicates text in the Subdivision Ordinance, where it belongs.]

~~No sewer or water improvement shall be voted on or made, nor shall any public money be expended within any lands laid out in building lots, streets and alleys, until the plan, plat or replat of such lands shall have been approved by the Planning and Zoning Commission and approved and accepted by the City Council, provided, however, that if the Planning and Zoning Commission shall not make such recommendations, it shall communicate its reasons therefor to the City Council and the City Council, if it sees proper,~~

may take other action with respect to such. [Stricken language duplicates text in the Subdivision Ordinance, where it belongs.]

Section 10. Annual Report. ~~The Planning and Zoning Commission shall prepare and submit to the City Council, in February of each year, a report describing the activities of the Commission. The Annual Report shall also make recommendations as to future projects to be undertaken by the City or the Planning and Zoning Commission.~~ [Stricken language is superseded by Resolution No. 2000-4025-R.]

Part 2: If any section or part of any section, paragraph, or clause of this ordinance is declared invalid or unconstitutional for any reason, such declaration shall not be held to invalidate or impair the validity, force, or effect of any other section or sections, part of section, paragraph, or clause of this ordinance.

Part 3: This ordinance shall take effect immediately after the date of its passage in accordance with the provisions of the Charter of the City of Temple, Texas, and it is accordingly so ordained.

Part 4: It is hereby officially found and determined that the meeting at which this ordinance is passed was open to the public as required 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 and Public Hearing on the **15th** day of **May**, 2008.

PASSED AND APPROVED on Second Reading on the **5th** day of **June**, 2008.

THE CITY OF TEMPLE, TEXAS

WILLIAM A. JONES, III, Mayor

ATTEST:

Clydetta Entzminger
City Secretary

APPROVED AS TO FORM:

Jonathan Graham

City Attorney

Exhibit A

[The provisions in Exhibit A that still apply are moved into the body of the ordinance. Text that is superseded, outdated, or misplaced text is deleted.]

~~PLANNING AND ZONING COMMISSION PROCEDURES~~

1. ~~OFFICERS.~~

- a. ~~The officers of this Commission shall consist of a Chairman, a Vice Chairman, and a permanent secretary.~~
- b. ~~Each year, following the appointment by the City Council of new members to fill the positions of those members of the Planning and Zoning Commission whose terms expired on or following June 1st of that year, the Commission shall elect a Chairman and a Vice Chairman from among those who will be serving on the Commission during the forthcoming year.~~ [Moved and updated.]
- c. ~~The election of a Chairman and Vice Chairman will occur following the oath of office administered to new Planning and Zoning Commission members at the first meeting in June. The City Attorney or his designee shall conduct the election of officers for Chairman and Vice Chairman of the Planning and Zoning Commission. The Chairman and Vice Chairman shall serve for a term of one year or until their successors have been chosen.~~ [Moved.]
- d. ~~The permanent secretary of the Commission for official business, shall be the Assistant to the City Manager for Planning and Development (the Planning Director), (or the successor in office to his duties as the department director in charge of City Planning), unless another City official or employee is designated by appropriate authority. The permanent secretary shall not be a voting member of the Planning and Zoning Commission.~~ [Moved.]

2. ~~DUTIES OF OFFICERS.~~

- a. ~~It shall be the duty of the Chairman to preside at all meetings of the Commission and to enforce all the established rules of order and form at such meetings, and to appoint all Committees in a manner prescribed by these Procedures or by any motion or resolution of the Commission, and to authenticate by his signature, when necessary, all acts, orders, and proceedings of the Commission declaring its will and, in all things, obeying its instructions.~~ [Moved.]
- b. ~~It shall be the duty of the Vice Chairman to act in the place of the Chairman in the absence or upon any inability of the latter to act and he shall succeed to the~~

higher office for the unexpired term thereof in the event of the resignation or the permanent incapacity of the Chairman. In such an event, the Commission shall elect another of its members to serve as Vice Chairman for the unexpired term of the latter office. [Moved.]

- e. — ~~It shall be the duty of the permanent secretary to prepare or have prepared minutes of all proceedings and to maintain all other records of the Commission, to conduct all correspondence and issue all notices as directed, to prepare an order of business for all meetings, to furnish all Committees with copies of such papers as should be referred to their attention, to attest by his signature, when necessary, all acts, orders, and proceedings of the Commission declaring its will and in all things obeying its instructions, except as to such instructions which, in his opinion, may infringe upon his legal duties or responsibilities as a City official or employee.~~ [Moved.]

3. — **MEETINGS.**

- a. — ~~Regular meetings of the Planning and Zoning Commission shall be held at 5:00 p.m. on the Mondays following the week of each regularly scheduled City Council meeting, except when these days fall on a legal holiday, in which instance the meeting will be held on the day designated by the Chairman; or except when the Commission shall designate another date and/or time as circumstances warrant. Meetings will be held in the City Council Room or another suitable location.~~ [Moved.]
- b. — ~~Special meetings of the Planning and Zoning Commission may be held for a specific purpose and business upon the call of the Chairman, or the Planning Director. Suitable notice as required by the Open Meetings Act shall be posted for each regular and special meeting of the Commission, detailing the time, location, and subject matter of each item of business to be considered by the Commission.~~ [Moved.]
- c. — ~~A quorum for the legal transaction of business at any meeting of the Commission shall consist of five (5) members of the Commission, inclusive of the presiding officer.~~ [Moved.]
- d. — ~~Committees of the Planning and Zoning Commission shall meet at the call of the respective Chairman, subject to Open Meetings Act requirements.~~ [Moved.]

4. — **STANDING COMMITTEES.**

- a. — ~~The Commission, by direction of the Chairman and/or vote of its members, may, from time to time, establish Standing Committees to meet when appropriate. The duties of such Standing Committees shall be set forth at the~~

~~time they are so established. The Chairman and Vice Chairman of the Commission shall be voting members of all Standing Committees.~~ [Moved.]

b. ~~The members of any Standing Committee shall be appointed by the Chairman of the Commission immediately following the election of the new officers each year, and shall serve for a term of one year or until their successors have been chosen. The Planning and Zoning Commission Chairman shall appoint the Chairman of each Standing Committee.~~ [Moved.]

e. ~~Standing Committees shall meet according to a schedule determined by each Committee or when determined necessary by the Commission Chairman or the full Commission or at the request of the Planning Director.~~ [Moved.]

~~5. SPECIAL COMMITTEES.~~

~~Special committees shall be appointed by the Chairman upon motion by the Commission to perform a specific duty and shall exist only until the assigned duties has been accomplished, unless sooner discharged by appropriate action of the Commission. Membership and Chairmanship of special committees shall be determined by the Chairman of the Planning and Zoning Commission.~~ [Moved.]

6. POLICY AND PROCEDURE.

a. ~~Applications for rezoning shall be submitted to the permanent secretary of the Commission on a form suitable for this purpose. Said application shall state the affirmative reasons for the desired zoning change, the use of which the applicant plans to put his property, if rezoned, the time frame within which the applicant plans to apply his property to such use, and such other information as the Commission shall require from time to time.~~ [The application process for zone changes belongs in the Zoning Ordinance Section 20, "Amendments."]

b. ~~Applicants for change in zoning shall be referred by the permanent secretary to the Planning and Zoning Commission. As soon as practical, given notice requirements, the Commission shall hold a public hearing as required by said application. The Planning and Zoning Commission shall review a coordinated Staff report submitted by the permanent secretary, along with the testimony brought forth at the public hearing, shall determine its decision in the matter, and make its recommendations to the City Council.~~ [Stricken language is redundant of Zoning Ordinance Section 20, "Amendments."]

c. ~~The Planning and Zoning Commission shall act on a plat within 30 days after the plat is filed with the permanent secretary of the Commission on a form suitable for this purpose. The Commission shall review a coordinated staff report submitted by the permanent secretary and hold a public hearing when~~

required by State law. [The application process for plat approval is covered in the Subdivision Ordinance.]

- d. ~~Other matters which are subject to a recommendation by the Planning and Zoning Commission shall be submitted to the permanent secretary and forwarded to the Commission as soon as practical. The Planning and Zoning Commission shall, after reviewing a coordinated Staff report submitted by the permanent secretary, and after hearing public comments thereon, shall reach a decision and forward its recommendations to the City Council.~~ [Stricken language is unnecessary and overbroad.]
- e. ~~A roll call shall be taken on all items of the Planning and Zoning Commission agenda, except administrative matters and approval of minutes.~~ [Moved.]
- f. ~~A simple majority vote will determine the recommendation of the Planning and Zoning Commission.~~ [Moved.]
- g. ~~Agenda shall be mailed or delivered to the Commission Members by Friday preceding the meeting and each member shall make a serious effort to inspect the involved property on the ground.~~ [Moved.]
- h. ~~The permanent secretary or his designee shall prepare a coordinated staff report for the City Council outlining any recommendations by the Planning and Zoning Commission. The coordinated staff report, whether made in writing or in person by the permanent secretary or a member of the Commission, or both, shall contain at a minimum the motion which was made and the vote taken thereon. Motions made by members of the Commission should always include any conditions which the Commission finds to be in the public interest in connection with the application, if any, when the action thereon is favorable. A complete file on the particular case acted upon by the Commission should also be available to the City Council for its consideration of the particular application in order to assist in answering any questions that may arise.~~ [Moved.]

7. **POWERS AND DUTIES.** [Section moved and updated.]

- a. ~~The Planning and Zoning Commission's powers and duties are detailed in the Planning and Zoning Commission Ordinance. The powers and duties may be changed or expanded from time to time as determined by the City Council, and include the following:~~
 - 1. ~~Perform studies and recommend to the City Council plans, goals, and objectives relating to growth, development, redevelopment, and all aspects of land use of the City and surrounding areas.~~

2. — Develop and recommend to the City Council policies, procedures, ordinances, and other means of carrying out plans in a coordinated and efficient manner.
3. — Make recommendations to the appropriate authority regarding proposed zone changes, specific use permits, subdivision plats, curb cut appeals, street or easement dedications and abandonments, and other items related to land use in the City.
4. — Perform other duties as assigned or delegated by the City Council.

8. — **RESPONSIBILITIES.** [Stricken text is superseded by Resolution 2004-4025-R]

- a. — Planning and Zoning Commission appointees seriously accept their responsibility to the entire Temple community. The orientation program is the foundation of a quality Commission, and attendance is mandatory for new Commissioners. Adequate preparation and full participation in regular meetings and Committee assignments are expected, as is on going training where available.
- b. — The permanent secretary shall compile monthly attendance reports of Planning and Zoning Commission and Committee meetings. These summaries will be provided to each Planning and Zoning Commission member, as well as to the City Council.

9. — **ORIENTATION PROGRAM.** [Stricken text is superseded by Resolution 2004-4025-R]

In May of each year following the appointment of new members to the Planning and Zoning Commission by the City Council, the Planning Director will conduct an orientation seminar for new and current Planning and Zoning Commissioners, prior to the date the new Commissioners take office in June. Newly appointed Commissioners shall:

- c. — Attend a one day retreat during May with staff representatives of the various City Departments to discuss legal, policy, and fiscal implications of the Commission=s decisions and to examine the influence the Commission=s actions have on the community.
- b. — Attend two regularly scheduled meetings of the Planning and Zoning Commission during the month of May.
- c. — Familiarize themselves with background materials provided by the Staff during the orientation period.

Planning and Zoning Commission workshops, with special emphasis on current topics of interest or need, will also be provided throughout the year, which Commissioners are expected to attend.

10. ~~RULES OF ORDER.~~

~~The proceedings and business of the Planning and Zoning Commission and its committees shall be conducted in accordance with rules adopted by the Planning and Zoning Commission from time to time and, in addition:~~ [Moved.]

~~The Chairman of the Planning and Zoning Commission and the chairman of each subcommittee shall vote on all motions, where applicable.~~ [Moved.]

~~For purposes of assessing the availability of a quorum to transact business, a member who abstains shall be considered as present and a member who disqualifies himself shall be considered as absent from the Commission.~~ [Superseded by new meeting procedures that mirror Council's procedures.]

11. ~~AMENDMENTS TO PROCEDURES.~~ [Section moved.]

~~These procedures may be amended at any regular meeting of the Planning and Zoning Commission by a vote of the majority of the entire membership of the Planning and Zoning Commission. The Procedures as amended by the Commission shall be forwarded to the City Council for final approval.~~

12. ~~EFFECTIVE DATE.~~ [Moved.]

~~These procedures shall be in full force and effect from and after the date of approval by the City Council.~~

~~Adopted by the Planning and Zoning Commission on the 10th day of July, 2000~~

~~Adopted by the City Council on the 3rd day of August, 2000.~~

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AMENDING ORDINANCE NO. 91-2101, THE ZONING ORDINANCE OF THE CITY OF TEMPLE, TEXAS, AMENDING SECTION 16, "PLANNING AND ZONING COMMISSION," UPDATING PROCEDURES FOR THE PLANNING AND ZONING COMMISSION; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING AN EFFECTIVE DATE; AND PROVIDING AN OPEN MEETINGS CLAUSE.

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

Part 1: The City Council approves an amendment to Ordinance No. 91-2101, the Zoning Ordinance of the City of Temple, by amending Section 16, entitled, "Planning and Zoning Commission," to read as follows:

SECTION 16

ZONING PROCEDURES

16-100 Planning and Zoning Commission Established

~~There shall be, and is hereby created, a~~ The Planning and Zoning Commission ~~for and in the City of Temple, Texas~~ is established by the Planning Commission Ordinance in accordance with the City Charter.

16-100 Policies and Procedures

The City Council determines by ordinance or resolution the number of members, quorum, qualifications for appointment, appointment process, orientation of new members, attendance requirements, goal-setting, reporting, meeting schedule, meeting procedures, and other policies and procedures for the Planning and Zoning Commission.

[Note: Sections 16-101 through 16-105, 16-108(1), and 16-109 pertain to P&ZC generally, not just to zoning. The same material is covered in either the Council's policies governing City boards generally or the Planning Commission Ordinance.]

16-101 Membership

- ~~1. The Planning and Zoning Commission shall consist of nine (9) members appointed by the City Council. The City Council shall select residents of the City recognized for their understanding and unselfish interest in civic affairs.~~
- ~~2. Each member serving on the existing Planning Commission at the time of passage of this ordinance shall hold office for his/her term as appointed or a successor shall hold office for the remaining term as appointed, in order to maintain staggered terms as originally provided. A regular full term shall be for three years, with appointments to occur at the first City Council meeting in May. Newly appointed Planning and Zoning Commissioners shall participate in orientation sessions conducted during May, and take office at the first regularly scheduled meeting of the Planning and Zoning Commission in June.~~
- ~~3. Following completion of a single three (3) year term, the City Council may reappoint a commissioner for a maximum total of three (3) additional years in one (1) year increments. Members shall continue to serve until their successors have been installed. Vacancies shall be filled by appointment for the unexpired term only.~~
- ~~4. Members shall automatically forfeit their office on the Planning and Zoning Commission for any of the following reasons:
 - ~~a. failure to attend 25% of scheduled meetings during any six (6) month period or failure to attend three (3) consecutive meetings; or~~
 - ~~b. failure to attend 25% of appointed committee meetings during any six (6) month period.~~~~
- ~~5. The City Council may grant an exception to automatic forfeiture for an illness which temporarily affects a commissioner's attendance.~~
- ~~6. The City Council may, after due consideration, remove a member of the Planning and Zoning Commission for any other good cause related to performance of duty.~~
- ~~7. All members shall serve without pay.~~

~~16-102 Rules and Regulations~~

~~The Planning and Zoning Commission shall adopt rules and regulations as it deems best, subject to the ordinances of the City, for the practical and efficient transaction of business and shall keep a record of its resolutions, transactions, findings, and determination, which record shall be a public record. The Planning and Zoning Commission shall conduct at least one meeting per month, and additional meetings may be held from time to time upon the call of the Chairman or the Director of Planning for the City. The Planning and Zoning Commission Procedures are hereby adopted by reference.~~

~~16-103 Comprehensive Plan~~

- ~~1. The Planning and Zoning Commission shall adopt and maintain a comprehensive zoning plan for the City of Temple and its extra-territorial jurisdiction. Such plan as approved by the Planning and Zoning Commission shall be presented to the City Council for its ratification and acceptance by ordinance.~~
- ~~2. The Comprehensive Plan, with accompanying maps, plats, charts and descriptive matter, shall show the Planning and Zoning Commission's recommendations for the development of said territory, including, among other things, the general location, character and extent of land use, economic development, streets and parkways, playgrounds, aviation fields, municipal airports, water and wastewater systems, athletic fields, school grounds, or public improvements, and the removal, relocation, widening or extension of such public works that exists. As the work of preparing and updating the Comprehensive Plan progresses, the Planning and Zoning Commission may from time to time adopt and publish a part or parts thereof. The Planning and Zoning Commission shall from time to time alter, amend, extend or add to the plan.~~

16-104 Comprehensive Planning Related to Present/Future Needs

- ~~1. In the preparation and maintenance of the comprehensive plan, the Planning and Zoning Commission shall make careful and comprehensive surveys and studies of present conditions and future growth of the City and with due regard to its relation to neighboring territory. The plan shall be made with the general purpose of guiding and accomplishing a coordinated, adjusted and harmonious development of the City and its environs.~~
- ~~2. In amending and implementing the Comprehensive Plan, the Planning and Zoning Commission shall further the following objectives: to promote health, safety, morals, order, convenience, prosperity and general welfare, as well as efficiency and economy in the process of development; among other things, adequate provision for traffic, the promotion of safety from fire and other dangers, adequate provision for light and air, the promotion of good civic design and arrangement, adequate provision of public utilities and other public requirements. [Section 1-100 of the Zoning Ordinance tracks Local Government Code 211.004 regarding compliance with a comprehensive plan.]~~

16-105 Planning and Zoning Commission Recommendation Required

- ~~1. Whenever the City Council adopts a Comprehensive Plan recommended by the Planning and Zoning Commission, no public buildings, streets, subways, viaducts, bridges, railroads, terminals, parks, parkways, playgrounds, aviation fields, athletic fields, school grounds, fire station sites, or other public grounds or public improvements, or part thereof, shall be constructed within areas affected by said plan, until and unless the location thereof shall be recommended by the Planning and Zoning Commission and approved by the City Council.~~
- ~~2. Provided, however, that in case of its disapproval, the Planning and Zoning Commission shall communicate its reason for disapproval to the City Council and, thereupon, the City Council shall either permit, or refuse to permit such improvements to be made. The Planning and Zoning Commission may make~~

~~recommendations to the City Council on the widening, narrowing, ornamentation, abandonment, or change in the use of streets and other public ways, public grounds, or other public improvements as they relate to the adopted plan. The Planning and Zoning Commission may make recommendations to any public authorities or to any corporations or individuals in the City of Temple or in the territory contiguous thereto, concerning the relocation of public buildings, structures or works to be erected or constructed.~~

16-106 16-102 Override of Planning & Zoning Commission Denial Recommendation

A three-fourths vote of all the members of the City Council shall be required to overrule a recommendation by the Planning & Zoning Commission that a proposed change to a zoning ordinance, regulation or boundary be denied.

16-107 Review of Capital Improvements Plan

~~The Planning and Zoning Commission shall review the Capital Improvements Plan prepared by the City Manager's office for compatibility with the Comprehensive Plan, and shall make its recommendations or comments to the City Manager, prior to the submission of the Capital Improvements Plan to the City Council by the City Manager.~~

16-108 Planning and Zoning Commission Review and Recommendation of Zone Changes, Subdivision Plats, and Other Current Land Use Matters; Additional Duties

- ~~1. The Planning and Zoning Commission shall review and, by its action, recommend approval or disapproval of zoning changes, subdivision plats, and other land use matters by acting on all current and comprehensive planning issues, and, in addition, perform such other duties as requested by the City Council.~~
- ~~2. Except where otherwise permitted by State law (e.g., the administrative approval of plats with less than four lots) all plans, plats or replats, of land laid out in building lots, into streets, alleys, or other portions of the same intended to be dedicated to public use, or for the use of purchasers or owners of lots fronting on or adjoining and located within the corporate limits of the City, or within the City's extra territorial jurisdiction, or as extended by appropriate authority or agreement, shall be approved by the municipal authority responsible for approving plats, before any connection shall be permitted with any public utility, such as water and sewers, owned and operated by the City. [Note: 16-108(2) pertains to subdivision regulation.]~~
- ~~3. No sewer or water improvement shall be voted on or made, nor shall any public money be expended within any lands laid out in building lots, streets and alleys, until the plan, plat or replat of such lands shall have been approved by the municipal authority responsible for approving plats. [Note: 16-108(2) pertains to subdivision regulation.]~~

16-109 Annual Report

~~The Planning and Zoning Commission shall prepare and submit to the City Council, in February of each year, a report describing the activities of the Commission. The Annual Report shall also make recommendations as to future projects to be undertaken by the City or the Planning and Zoning Commission.~~

Part 2: 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 3: Ordinance No. 91-2101, the Zoning Ordinance of the City of Temple, Texas, as amended, shall remain in full force and effect, save and except as amended by this ordinance.

Part 4: This ordinance shall take effect immediately from and after its passage in accordance with the provisions of the Charter of the City of Temple, Texas, and it is accordingly so ordained.

Part 5: It is hereby officially found and determined that the meeting at which this ordinance is passed was open to the public as required 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 and Public Hearing on the 15th day of **May**, 2008.

PASSED AND APPROVED on Second Reading on the 5th day of **June**, 2008.

THE CITY OF TEMPLE, TEXAS

WILLIAM A. JONES, III, Mayor

ATTEST:

APPROVED AS TO FORM:

Clydetta Entzminger
City Secretary

Jonathan Graham
City Attorney



COUNCIL AGENDA ITEM MEMORANDUM

06/05/08
Item #5(L)
Consent Agenda
Page 1 of 1

DEPT./DIVISION SUBMISSION & REVIEW:

David Blackburn, City Manager

ITEM DESCRIPTION: Consider adopting a resolution supporting the “Army Community Covenant” initiative which recognizes the strength of Army soldiers, their families and the support of the local communities.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: The Secretary of the Army has developed an initiative entitled “Army Community Covenant” as a follow-on to the Army Family Covenant signed at the 2007 AUSA Conference to “foster and sustain effective state and community partnerships in improving the quality of life for soldiers and their families, both at their current duty stations and as they transfer from state to state. The “Army Family Covenant” was a commitment by the Army leadership to soldiers and their families. By contrast, the “Army Community Covenant” is intended to include a similar broad statement of support and community from local (off-post) communities, such as civic and business leaders, educators, and state and city government officials

The Army Community Covenant is tailored at the local level, with leaders at both local and state levels participating in covenant signing ceremonies recognizing the strength of Army soldiers, their families and the support of the local community. Signing ceremonies are expected to be conducted across the 50 states and 4 territories, as well as in selected overseas locations.

The Central Texas-Fort Hood Army Community Covenant Signing Ceremony will occur on Friday, June 6, 2008, 10:00 a.m. at Central Texas College. Secretary of the Army Geren will attend the ceremony.

The City Manager will be asked to appoint one person to represent their community on a Central Texas regional community task force.

FISCAL IMPACT: None

ATTACHMENTS:

[Resolution](#)

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, SUPPORTING THE “ARMY COMMUNITY COVENANT” INITIATIVE WHICH RECOGNIZES THE STRENGTH OF ARMY SOLDIERS, THEIR FAMILIES AND THE SUPPORT OF THE LOCAL COMMUNITIES; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, the City of Temple, along with the Cities of Belton, Copperas Cove, Gatesville, Harker Heights, Killeen, Lampasas, and Salado are committed to building strong communities for Fort Hood soldiers and their families;

Whereas, as a community of the Greater Fort Hood region, we recognize the significant commitment our soldiers and their families are making every day, and that the strength of Fort Hood families is supported by the strength of our communities;

Whereas, we are committed to building partnerships that support the strength, resilience, and readiness of Fort Hood soldiers and their families and also to assisting in the implementation of the “Army Family Covenant;”

Whereas, it is an honor for the City of Temple to support the “Army Community Covenant” in recognition of our pride in, and gratitude to, present and future Fort Hood soldiers and their families; and

Whereas, the City Council has considered the matter and deems it in the public interest to authorize this action.

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

Part 1: The City Council supports the “Army Community Covenant” initiative which recognizes the strength of Army soldiers, their families, and the support of the local communities.

Part 2: It is hereby officially found and determined that the meeting at which this Resolution is passed was open to the public as required 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 this the 5th day of **June**, 2008.

THE CITY OF TEMPLE, TEXAS

WILLIAM A. JONES, III, Mayor

ATTEST:

APPROVED AS TO FORM:

Clydette Entzminger
City Secretary

Jonathan Graham
City Attorney



COUNCIL AGENDA ITEM MEMORANDUM

06/05/08
Item #5(M)
Consent Agenda
Page 1 of 1

DEPT./DIVISION SUBMISSION & REVIEW:

Traci Barnard, Director of Finance

ITEM DESCRIPTION: Consider adopting a resolution authorizing budget amendments for fiscal year 2007-2008.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: This item is to recommend various budget amendments, based on the adopted FY 2007-2008 budget. The amendments will involve transfers of funds between contingency accounts, department and fund levels.

FISCAL IMPACT: The total amount of budget amendments is \$30,965.

ATTACHMENTS:

[Budget amendments](#)
[Resolution](#)

CITY OF TEMPLE
BUDGET AMENDMENTS FOR FY 2008 BUDGET
June 5, 2008

ACCOUNT #	PROJECT #	DESCRIPTION	APPROPRIATIONS	
			Debit	Credit
110-2000-521-2231		OCU Seized Funds - Federal (Police Dept.)	\$ 8,910	
110-0000-313-0330		Federal Seized Funds		\$ 6,850
110-2000-521-2121		Firearms/Munitions		\$ 2,060
Federal Seized Funds are needed to purchase Tru-Glo Night Sights for the new Glock pistols. The additional cost is taken from the budget for replacement magazines, which we will purchase with the credit we have with GT Distributors after the purchase and trade-ins of the new Glocks.				
110-2000-521-6231		OCU Seized Funds - Federal (Police Dept.)	\$ 2,307	
110-0000-313-0330		Federal Seized Funds		\$ 2,307
Federal Seized Funds are needed to purchase forfeited 2004 Ford F150 Supercru				
110-2000-521-2533		DARE Expenses (Police Dept.)	\$ 10,510	
110-0000-442-0723		DARE Donations		\$ 10,510
Place DARE donations in expense account to be able to purchase supplies for DARE camps.				
110-2200-522-2333		Automotive & Equipment (Fire Dept.)	\$ 9,000	
110-5900-524-6213	100277	Automotive (Const Safety)		\$ 2,205
110-5900-524-6213	100278	Automotive (Const Safety)		\$ 5,986
110-5900-533-6213	100284	Automotive (Engineering)		\$ 356
110-5900-540-6213	100285	Automotive (Solid Waste)		\$ 453
This budget adjustment appropriates funds to replace the transmission in Fire Engine #4. Funds are available from other capital purchases in the Capital Department that came in under budget.				
260-2000-521-2216		Capital < \$5,000 (Police Grant)	\$ 53	
260-0000-490-2582		Transfer In - General Fund		\$ 53
110-9100-591-8160		Transfer Out - Grant Fund	\$ 53	
110-2000-521-2128		Postage (Police Dept.)		\$ 53
Appropriate City funds for expenditures for the 2005 Edward Byrne Memorial Justice Assistance Grant in excess of the grant amount.				
520-5300-535-2516		Judgments & Damages (Metering)	\$ 132	
520-5300-535-6532		Contingency - Judgments & Damages		\$ 132
Settlement of claim filed against the City of Temple by Errol Wendland seeking reimbursement for damage to a sprinkler system at 505 Cherokee Drive while Utility crew was changing a meter.				
TOTAL AMENDMENTS			\$ 30,965	\$ 30,965

CITY OF TEMPLE
BUDGET AMENDMENTS FOR FY 2008 BUDGET
June 5, 2008

		APPROPRIATIONS	
ACCOUNT #	PROJECT #	DESCRIPTION	Debit Credit
GENERAL FUND			
		Beginning Contingency Balance	\$ -
		Added to Contingency Sweep Account	\$ -
		Carry forward from Prior Year	\$ -
		Taken From Contingency	\$ -
		Net Balance of Contingency Account	\$ -
		Beginning Judgments & Damages Contingency	\$ 70,000
		Added to Contingency Judgments & Damages from Council Contingency	\$ -
		Taken From Judgments & Damages	\$ (48,657)
		Net Balance of Judgments & Damages Contingency Account	\$ 21,343
		Beginning Master Plan Implementation Contingency	\$ 250,000
		Added to Master Plan Implementation Contingency	\$ -
		Taken From Master Plan Implementation Contingency	\$ (176,334)
		Net Balance of Master Plan Implementation Contingency Account	\$ 73,666
		Beginning Performance Pay Contingency	\$ 150,000
		Added to Compensation Plan Contingency	\$ -
		Taken From Compensation Plan Contingency	\$ (150,000)
		Net Balance of Compensation Plan Contingency Account	\$ -
		Net Balance Council Contingency	\$ 95,009
		Beginning Balance Budget Sweep Contingency	\$ -
		Added to Budget Sweep Contingency	\$ -
		Taken From Budget Sweep	\$ -
		Net Balance of Budget Sweep Contingency Account	\$ -
WATER & SEWER FUND			
		Beginning Contingency Balance	\$ 904,672
		Added to Contingency Sweep Account	\$ -
		Taken From Contingency	\$ (169,258)
		Net Balance of Contingency Account	\$ 735,414
		Beginning Performance Pay Contingency	\$ 30,000
		Added to Compensation Plan Contingency	\$ -
		Taken From Compensation Plan Contingency	\$ (30,000)
		Net Balance of Compensation Plan Contingency Account	\$ -
		Beginning Approach Mains Contingency	\$ 500,000
		Added to Approach Mains Contingency	\$ -
		Taken From Approach Mains Contingency	\$ (141,419)
		Net Balance of Approach Mains Contingency Account	\$ 358,581
		Net Balance Water & Sewer Fund Contingency	\$ 1,093,995
HOTEL/MOTEL TAX FUND			
		Beginning Contingency Balance	\$ 20,126
		Added to Contingency Sweep Account	\$ -
		Taken From Contingency	\$ -
		Net Balance of Contingency Account	\$ 20,126
		Beginning Performance Pay Contingency	\$ 8,000
		Added to Compensation Plan Contingency	\$ -
		Taken From Compensation Plan Contingency	\$ (8,000)
		Net Balance of Compensation Plan Contingency Account	\$ -
		Net Balance Hotel/Motel Tax Fund Contingency	\$ 20,126

CITY OF TEMPLE
BUDGET AMENDMENTS FOR FY 2008 BUDGET
June 5, 2008

ACCOUNT #	PROJECT #	DESCRIPTION	APPROPRIATIONS	
			Debit	Credit
		DRAINAGE FUND		
		Beginning Contingency Balance	\$	1,495
		Added to Contingency Sweep Account	\$	-
		Taken From Contingency	\$	-
		Net Balance of Contingency Account	\$	1,495
		Beginning Performance Pay Contingency	\$	2,000
		Added to Compensation Plan Contingency	\$	-
		Taken From Compensation Plan Contingency	\$	(838)
		Net Balance of Compensation Plan Contingency Account	\$	1,162
		Net Balance Drainage Fund Contingency	\$	2,657
		FED/STATE GRANT FUND		
		Beginning Contingency Balance	\$	-
		Carry forward from Prior Year	\$	86,477
		Added to Contingency Sweep Account	\$	-
		Taken From Contingency	\$	(51,365)
		Net Balance of Contingency Account	\$	35,112

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE,
TEXAS, APPROVING BUDGET AMENDMENTS TO THE 2007-2008
CITY BUDGET; AND PROVIDING AN OPEN MEETINGS CLAUSE.**

Whereas, on the 23rd day of August, 2007, the City Council approved a budget for the 2007-2008 fiscal year; and

Whereas, the City Council deems it in the public interest to make certain amendments to the 2007-2008 City Budget.

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

Part 1: The City Council approves amending the 2007-2008 City Budget by adopting the budget amendments which are more fully described in Exhibit A, attached hereto and made a part hereof for all purposes.

Part 2: It is hereby officially found and determined that the meeting at which this Resolution is passed was open to the public as required 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 this the 5th day of **June**, 2008.

THE CITY OF TEMPLE, TEXAS

WILLIAM A. JONES, III, Mayor

ATTEST:

APPROVED AS TO FORM:

Clydette Entzminger
City Secretary

Jonathan Graham
City Attorney



COUNCIL AGENDA ITEM MEMORANDUM

06/05/08
Item #6
Regular Agenda
Page 1 of 2

DEPT./DIVISION SUBMISSION & REVIEW:

Traci L. Barnard, Director of Finance

ITEM DESCRIPTION: FIRST & FINAL READING – PUBLIC HEARING - Consider adopting an ordinance establishing the City of Temple, Texas Reinvestment Zone Number One Tax Increment Revenue Financing Program, hereinafter referred to as the “Master Ordinance”, to be considered on an emergency basis.

STAFF RECOMMENDATION: Conduct public hearing and adopt ordinance as presented in Item description on first and final reading.

ITEM SUMMARY: The adoption of the new Reinvestment Zone No. 1 master ordinance serves as the base document for the future issuance of Tax Increment Reinvestment Zone (TIRZ) Revenue Bonds and relates to tests for additional bonds, reserve requirements, covenants, etc.

Master Ordinance

The Master Ordinance establishes a new mechanism for issuing various types of debt obligations payable from the revenues of the Reinvestment Zone No. 1. The Master Ordinance will serve as the base document for the future issuance of all Reinvestment Zone No. 1 Revenue debt as it relates to tests for additional bonds, reserve requirements, covenants, etc. Each time the City wants to effectuate the issuance of Reinvestment Zone No. 1 Revenue debt an additional supplemental ordinance will be adopted with the specific terms related to the particular series of debt obligations.

Here are a few of the highlights related to the new Master Ordinance and First Supplement:

- ❖ No requirement to fund a reserve fund unless coverage falls below 1.25 times (if the coverage drops below such the City must begin making deposits over 60 months or purchase an insurance or surety policy)
- ❖ Accommodates other types of financial instruments such as commercial paper, variable rate bonds and other various types Debt
- ❖ Allows commingling of funds for investment purposes
- ❖ Provides flexibility related to defeasance of debt
- ❖ Rate covenant requires 1.00 average annual debt service

FISCAL IMPACT: Bonds issued under the “Master Ordinance” will not require funding a reserve fund for the life of the Bonds as long as times coverage does not fall below 1.25 times. Average annual debt service for the \$10,365,000 Revenue Issue is estimated at \$1,048,207. Times coverage has been estimated through the life of the Reinvestment Zone No. 1 (FY 2022) and it is anticipated that the lowest times coverage would occur in FY 2012 at an amount of 1.51 times coverage. The revenue projections used to calculate the times coverage do not include any incremental increase in value for the current “parks” under construction.

ATTACHMENTS:

[Revenue Bond Coverage - 2007-2022
Ordinance](#)

CITY OF TEMPLE, TEXAS
REINVESTMENT ZONE NO. 1 - TIMES COVERAGE
2007 - 2022

\$ 26,375,000

Fiscal year	Gross Revenue	Operating Expenses	Net Revenue Available for Debt Service	Debt Service		Total	Times Coverage
				Existing Debt Service	Proposed Issue *		
2007	\$ 4,153,811	\$ 642,789	\$ 3,511,022	\$ 870,466	\$ -	\$ 870,466	4.03
2008	4,994,481	372,042	4,622,439	1,492,840	275,923	1,768,763	2.61
2009	3,982,932	288,503	3,694,429	1,503,045	557,425	2,060,470	1.79
2010	4,529,957	290,530	4,239,427	1,505,205	557,425	2,062,630	2.06
2011	4,615,077	292,594	4,322,483	1,505,080	557,425	2,062,505	2.10
2012	6,205,526	294,797	5,910,729	2,653,695	1,252,425	3,906,120	1.51
2013	6,722,795	296,940	6,425,855	2,658,795	1,254,200	3,912,995	1.64
2014	6,789,062	299,124	6,489,938	2,655,635	1,253,775	3,909,410	1.66
2015	6,855,992	301,350	6,554,642	2,653,914	1,251,150	3,905,064	1.68
2016	6,923,592	303,617	6,619,975	2,653,678	1,251,325	3,905,003	1.70
2017	6,991,867	306,027	6,685,840	2,654,508	1,254,025	3,908,533	1.71
2018	7,060,825	308,382	6,752,443	2,651,497	1,253,975	3,905,472	1.73
2019	8,665,732	310,780	8,354,952	2,654,416	1,251,175	3,905,591	2.14
2020	9,164,081	313,225	8,850,856	2,657,800	1,250,625	3,908,425	2.26
2021	9,244,861	315,715	8,929,146	2,656,562	1,252,050	3,908,612	2.28
2022	9,316,549	318,354	8,998,195	2,656,242	1,250,175	3,906,417	2.30

**MASTER ORDINANCE ESTABLISHING THE
CITY OF TEMPLE, TEXAS
REINVESTMENT ZONE NUMBER ONE TAX INCREMENT
REVENUE FINANCING PROGRAM**

Adopted June 5, 2008

**MASTER ORDINANCE ESTABLISHING THE
CITY OF TEMPLE, TEXAS
REINVESTMENT ZONE NUMBER ONE TAX INCREMENT
REVENUE FINANCING PROGRAM**

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ORDINANCE NO. 2008-_____

**MASTER ORDINANCE ESTABLISHING THE
CITY OF TEMPLE, TEXAS
REINVESTMENT ZONE NUMBER ONE TAX INCREMENT
REVENUE FINANCING PROGRAM**

**THE STATE OF TEXAS §
COUNTY OF BELL §
CITY OF TEMPLE §**

WHEREAS, the City Council (the "Council") of the City of Temple (the "City") created Reinvestment Zone Number One (the "Zone") by Ordinance No. 1457 adopted on September 16, 1982; and

WHEREAS, the Council adopted a Project Plan and Reinvestment Zone Financing Plan for the Zone by Ordinance No. 1525 adopted December 22, 1983 and as thereafter amended (the "Project and Finance Plan") which Project and Finance Plan provides for the financing of projects within the Zone; and

WHEREAS, in order to provide the City with greater financial flexibility, the City desires to establish a new Reinvestment Zone Number One Tax Increment Revenue Financing Program (the "Tax Increment Zone Number One Revenue Financing Program" or the "Financing Program") pursuant to which the City may issue obligations, including bonds, notes and other public securities and execute credit agreements, secured by and payable from a pledge of and lien on all or part of the Security; and

WHEREAS, Chapter 311, Texas Tax Code, as amended (the "Enabling Act"), authorizes the City to issue obligations secured by and payable from a pledge of and lien on all or part of the Security, as hereinafter defined, and which obligations may be issued in multiple series and issues from time to time for one or more purposes authorized by law including to: (i) pay all or part of the costs authorized by the Enabling Act; (ii) create debt service reserve accounts; (iii) pay interest on obligations for the period authorized by State law; (iv) refund or cancel outstanding obligations; and (v) pay the City's costs of issuance; and

WHEREAS, the Debt, as hereinafter defined, issued pursuant to this Master Ordinance shall be secured by a lien upon the Tax Increment Account of the Zone, as hereinafter defined, and the City shall covenant herein not to issue other obligations payable from the Tax Increment Account with a lien superior to the lien created by this Master Ordinance; and

WHEREAS, simultaneously with the adoption of this Master Ordinance, the City is adopting the First Supplement authorizing the initial series of obligations to be issued pursuant to the Financing Program in an aggregate principal amount of \$_____; and

WHEREAS, the terms used in this Master Ordinance, including this preamble, and not otherwise defined shall have the meaning given in Exhibit "A" to this Master Ordinance attached hereto and made a part hereof.

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

Section 1. ESTABLISHMENT OF FINANCING PROGRAM AND ISSUANCE OF PARITY DEBT. As authorized by the Enabling Act and other applicable provisions of State law, the Tax Increment Zone Number One Revenue Financing Program is hereby established for the purpose of providing a new financing structure for the issuance of Debt by the City secured by and payable from a pledge of and lien on all or part of the Security. This Master Ordinance is intended to establish a master financing program under which Parity Debt of the Financing Program can be incurred. Each issue or series of Parity Debt shall be issued pursuant to a Supplement and no Parity Debt shall be issued unless the City has complied with this Master Ordinance. The City covenants that it will not issue obligations payable from the Tax Increment Account with a lien superior to the lien created by this Master Ordinance.

Each Supplement shall provide for the authorization, issuance, sale, delivery, form, characteristics, provisions of payment and redemption, and security of each issue or series of Parity Debt and any other matters related to Parity Debt not inconsistent with this Master Ordinance.

Section 2. SECURITY AND PLEDGE. (a) Pledge. Parity Debt shall be secured by and payable solely from a lien on and pledge of the following (collectively, the "Security"): (i) all amounts in the Tax Increment Account and the Interest and Sinking Account; (ii) any additional account or subaccount that is subsequently established and so designated as being included within the Security pursuant to Section 3(f) hereof; (iii) all of the proceeds of the foregoing, including, without limitation, investments thereof; and (iv) any applicable Credit Agreement to the extent set forth in such Credit Agreement. With respect to any applicable series of Parity Debt, the term "Security" shall also include all amounts in any reserve account or subaccount applicable to such Parity Debt pursuant to Section 3(e) hereof, including any reserve fund surety policy or other Credit Agreement entered into for the benefit of such account or subaccount. The City hereby assigns and pledges the Security to the payment of the Annual Debt Service Requirements on Parity Debt including the obligations due under and in connection with any Credit Agreement, to the extent set forth therein and in the related Supplement, and the Security is further pledged to the establishment and maintenance of any accounts or subaccounts which may be provided to secure the repayment of Parity Debt including the obligations due under and in connection with any Credit Agreement, to the extent set forth therein and in the related Supplement, in accordance with this Master Ordinance and any Supplement.

(b) Credit Agreements. Pursuant to Chapter 1371, Texas Government Code, as amended, the City may execute and deliver one or more Credit Agreements (i) to additionally secure Parity Debt or an issue or series or part of any issue or series of Parity Debt or (ii) in connection with the authorization, issuance, sale, resale, security, exchange, payment, purchase, remarketing or redemption of Parity Debt or an issue or series or part of an issue or series of Parity Debt or interest

on an issue or series or part of an issue or series of Parity Debt without regard to whether a Credit Agreement was contemplated, authorized or executed in relation to the initial issuance, sale or delivery of Parity Debt. Credit Agreements and the obligations thereunder may, pursuant to their terms, constitute: (i) Parity Debt secured by a pledge of the Security on parity with all Parity Debt, (ii) Subordinated Debt secured by a pledge of the Security subordinate to Parity Debt or (iii) partially on a parity with Parity Debt and partially as Subordinated Debt.

(c) Perfection. Chapter 1208, Texas Government Code, applies to the issuance of Parity Debt and the pledge of the Security granted by the City under this Section and in any applicable Supplement, and such pledge is therefore valid, effective, and perfected. If State law is amended at any time while Parity Debt is outstanding and unpaid such that the pledge of the Security granted by the City under this Section and in any applicable Supplement is to be subject to the filing requirements of Chapter 9, Texas Business & Commerce Code, then in order to preserve for the owners of Parity Debt the perfection of the security interest in said pledge, the City agrees to take such measures as it determines are reasonable and necessary under State law to comply with the applicable provisions of Chapter 9, Texas Business & Commerce Code and enable a filing to perfect the security interest in said pledge to occur.

Section 3. ACCOUNTS. (a) Creation or Affirmation of Funds. The City hereby establishes and/or affirms the creation of the following funds or accounts:

- (i) the Tax Increment Fund or Account (the "Tax Increment Account");
- (ii) the Tax Increment Interest and Sinking Account (the "Interest and Sinking Account"); and
- (iii) the Tax Increment Bond Proceeds Account (the "Bond Proceeds Account").

(b) Tax Increment Account. Subject to the provisions of Section 4 of this Master Ordinance, moneys in the Tax Increment Account may be used for any lawful purpose authorized pursuant to the Enabling Act and other State law.

(c) Interest and Sinking Account. Moneys in the Interest and Sinking Account shall be used to pay amounts due on or with respect to Parity Debt, including the principal of, premium, if any, and interest on Parity Debt as the same become due and payable (whether at Stated Maturity or upon prior redemption), and the City shall maintain such account as long as Parity Debt is Outstanding.

(d) Bond Proceeds Account. Proceeds from the issuance of Parity Debt shall be deposited from time to time upon the issuance of such Parity Debt as provided by the applicable Supplement into the Bond Proceeds Account, or any subaccount thereof created with respect to such Parity Debt. Such proceeds and the interest thereon shall remain in the Bond Proceeds Account or applicable subaccount thereof until expended to accomplish the purposes for which such Parity Debt was issued or until otherwise utilized as provided in the applicable Supplement. Amounts in the Bond Proceeds Account do not constitute Security.

(e) Reserve Accounts or Subaccounts. The City may establish a reserve account and/or any other account or subaccount pursuant to the provisions of the applicable Supplement for the purpose of paying or securing a particular issue or series of Parity Debt or any specific group of issues or series of Parity Debt and the amounts, once deposited into said accounts or subaccounts, shall no longer constitute Security for all Parity Debt but shall be held solely for the benefit of the owners of the particular issue or series or group of issues or series of Parity Debt for which such account or subaccount was established. Each such account or subaccount shall be designated in such manner as is necessary to identify the Parity Debt it secures and to distinguish such account or subaccount from any other accounts created for the benefit of any other Parity Debt. Any such reserve accounts or subaccounts shall be established in the Supplement related to such series or issue of Parity Debt. The City may, in its discretion, provide in the applicable Supplement for a surety bond, insurance policy or other Credit Agreement, to the extent then authorized by State law, to be held for the benefit of such a reserve account or subaccount.

(f) Other Accounts. The City reserves the right to establish, in connection with the issuance of Parity Debt or for other purposes, one or more additional accounts or subaccounts for such other purposes as the City may determine from time to time. The City may, at its option, declare in the action establishing the account or subaccount that the amounts in such additional account or subaccount will be either included within or excluded from the Security.

Section 4. FLOW OF FUNDS. All Tax Increment shall be deposited in the Tax Increment Account immediately upon receipt by the City. All Tax Increment is hereby and shall be appropriated, deposited, and transferred from the Tax Increment Account to the other accounts and subaccounts to the extent required for the following uses and in the order of priority shown:

FIRST: to the payment of amounts required to be deposited and credited to the Interest and Sinking Account to meet all financial obligations of the City relating to the Financing Program, including payments then coming due on or with respect to the payment of Parity Debt as the same mature or come due;

SECOND: pro rata, on the basis that the Outstanding Principal Amount of each particular issue or series of Parity Debt secured by a reserve account bears to the aggregate Outstanding Principal Amount of all such issues or series of such Parity Debt secured by any reserve account, to the payment of the amounts required to be deposited and credited to each reserve account created and established to maintain a reserve in accordance with the provisions of any Supplement relating to the issuance of any Parity Debt;

THIRD: any amounts to be deposited into any other fund, account or subaccount to the extent required pursuant to the provisions of any Supplement relating to the issuance of Parity Debt;

FOURTH: to the extent required by any resolution or other instrument adopted or approved by the City pursuant to which Subordinated Debt is issued, the amount necessary to meet all financial obligations on such Subordinated Debt and to

accumulate or restore any required reserves to ensure payment of such principal, premium, and interest shall be deposited to any account or subaccount created for such purpose; and

FIFTH: all remaining Tax Increment shall be retained in the Tax Increment Account and may be used for any lawful purpose authorized pursuant to the Enabling Act and other State law.

Section 5. GENERAL REPRESENTATIONS AND COVENANTS. The City further represents, covenants and agrees that while Parity Debt or interest thereon is Outstanding:

(a) Payment of Parity Debt. The City will duly and punctually pay solely from the Security, (i) the Annual Debt Service Requirements on, and other payments with respect to, each and every Parity Debt on the dates and at the places, as such Parity Debt accrues or matures, or becomes subject to mandatory redemption prior to maturity and such payments will be made in the manner provided in said Parity Debt and the Supplement governing its issuance, according to the true intent and meaning thereof and (ii) the fees and expenses related to Parity Debt, including the fees and expenses of the Paying Agent and any registrar, trustee, remarketing agent, tender agent, or credit provider.

(b) Performance. The City will faithfully perform at all times any and all covenants, undertakings, stipulations, and provisions contained in this Master Ordinance and in each Supplement, and in each and every Parity Debt or evidence thereof and will take such action as is reasonably possible to perform each and every duty with respect to the Parity Debt.

(c) Redemption. The City will duly cause to be called for redemption prior to maturity, and will cause to be redeemed prior to maturity, all Parity Debt which by its terms is mandatorily required to be redeemed prior to maturity, when and as required.

(d) Determination of Annual Debt Service Requirements. For all purposes of this Master Ordinance, the judgment of the Chief Financial Officer shall be deemed final in the determination of the Annual Debt Service Requirements of the Financing Program.

(e) Lawful Authority. The City is lawfully authorized to pledge the Security herein pledged in the manner prescribed herein and has lawfully exercised such right.

(f) Preservation of Lien. Subject to the conditions set forth in subsection (g) of this Section and in Section 6 of this Master Ordinance, the City (i) will not do or suffer any act or thing whereby the pledge of the Security might or could be impaired and (ii) will take all actions to the extent necessary to ensure that the City does not do or suffer any act or thing whereby the pledge of the Security might or could be impaired.

(g) No Additional Encumbrance. The City shall not incur additional Debt secured by the Security in any manner, except as permitted by this Master Ordinance in connection with Parity Debt, unless said Debt is made junior and subordinate in all respects to the liens, pledges, covenants,

and agreements of this Master Ordinance and any Supplement. Any Debt incurred by the City without satisfying the conditions for the issuance of Parity Debt, as set forth in this Master Ordinance, is hereby declared to be Subordinated Debt junior and subordinate in all respects to the liens, pledges, covenants, and agreements of this Master Ordinance and any Supplement whether such status is noted or not.

(h) Investments and Security. Moneys in all accounts and subaccounts established pursuant to this Master Ordinance and any Supplement will be held uninvested or invested and secured in the manner prescribed by State law for such funds and in accordance with the applicable Supplement and written policies adopted by the City. The investments of each account and subaccount shall be made under conditions that will timely provide money sufficient to satisfy the City's obligations hereunder and under any Supplement. Money in all accounts and subaccounts established pursuant to this Master Ordinance and any Supplement may be combined for investment purposes, as directed by the City. Such treatment does not constitute a commingling of the money in such accounts and subaccounts and the City shall keep or cause to be kept full and complete records indicating the money, investments and securities credited to each such account and subaccount. Any profits or losses from investments shall be credited or charged, respectively, on a pro rata basis among the accounts and other sources of money from which such investment was made.

(i) Records; Annual Audit. The City will keep proper books of record and account in which full, true, and correct entries will be made of all dealings, activities, and transactions relating to the Zone. Each year while any Parity Debt is Outstanding, the City covenants that as soon as practicable beginning with the end of the first Fiscal Year in which Parity Debt is issued, it will prepare or cause to be prepared a financial report of the Zone for such Fiscal Year in accordance with generally accepted accounting principles, certified by a Certified Public Accountant. The City shall promptly furnish such audited financial report to the municipal bond rating agencies then maintaining a rating on Parity Debt and to any owner of Parity Debt who shall request the same, and shall file or make available such audited financial report as required by each Supplement. In addition, a copy of each such audited financial report shall be retained on file in the City's finance office and open to the inspection of the owners of Parity Debt, and their respective agents and representatives, at all reasonable times during regular business hours, for at least 365 days following the preparation thereof.

(j) Inspection of Records. The City will permit any owner or owners of twenty-five percent (25%) or more of the then Outstanding Principal Amount of Parity Debt at all reasonable times to inspect all records, accounts, and data of the City relating to the Zone and the Financing Program, except such records as federal or State law may designate as privileged and exempt from disclosure.

Section 6. ISSUANCE OF PARITY DEBT.

(a) General. The City reserves and shall have the right and power to issue or incur Parity Debt for any purpose authorized by State law, including the refunding of Parity Debt, Subordinated Debt, or other obligations of the City issued to finance the costs of a project authorized to be financed under the Financing Program, pursuant to the provisions of this Master Ordinance and Supplements to be hereafter authorized. The City hereby covenants and agrees to comply with all

constitutional and statutory requirements of State law and, to the extent applicable, federal law governing the issuance of Parity Debt.

(b) Parity Debt. Provided that the City is in compliance with the requirements of any then applicable provisions of State law, the City may from time to time incur, assume, guarantee, or otherwise become liable in respect of Parity Debt if, in the applicable Supplement, the City finds that, upon the issuance of such Parity Debt, the Security will be sufficient to meet the financial obligations relating to the Financing Program, including Security in amounts sufficient to satisfy the Annual Debt Service Requirements of the Financing Program. In addition, the City shall not issue or incur such Parity Debt unless (i) an Authorized Representative shall deliver to the City an Officer's Certificate stating that, to the best of his or her knowledge, the City, has not failed to comply with the covenants contained in this Master Ordinance and any Supplement, to any material extent, and are not in default, to any material extent, in the performance and observance of any of the terms, provisions, and conditions hereof, thereof or under any Credit Agreement that constitutes Parity Debt and (ii) the Chief Financial Officer signs and delivers to the City a written certificate to the effect that, during either the next preceding Fiscal Year, or any twelve consecutive calendar month period ending not more than ninety days prior to the date of the then proposed Parity Debt, the Tax Increment were, in the opinion thereof, at least equal to the sum of 1.00 times the average Annual Debt Service Requirements (computed on a Fiscal Year basis) of the Parity Debt and Subordinate Debt to be outstanding after the issuance of the then proposed Parity Debt.

(c) Credit Agreements. To the extent permitted by law, the City may execute and deliver one or more Credit Agreements (i) upon the delivery to the City of the Chief Financial Officer's Certificate to the effect that the Credit Agreement is in the best interest of the City and (ii) compliance with the requirements of subsection (b) or (c) of this section, as the case may be, if the Credit Agreement is to constitute Parity Debt. Each Credit Agreement shall be approved by the City, to the extent required by law, either pursuant to a Supplement or by other action. Credit Agreements and the obligations thereunder may, pursuant to their terms, constitute (i) Parity Debt secured by a pledge of the Security on parity with other Parity Debt, (ii) Subordinated Debt secured by a pledge of the Security subordinate to Parity Debt, or (iii) partially Parity Debt and partially Subordinated Debt.

(d) Non-Recourse Debt and Subordinated Debt. Non-Recourse Debt and Subordinated Debt may be incurred by the City in accordance with State law.

Section 7. WAIVER OF CERTAIN COVENANTS. The City may omit in any particular instance to comply with any covenant or condition set forth in Sections 5 and 6 hereof if before or after the time for such compliance the Holders of the same percentage in Outstanding Principal Amount, the consent of which would be required to amend the applicable provisions to permit such noncompliance, shall either waive such compliance in the particular instance or generally waive compliance with such covenant or condition, but no such waiver shall extend to or affect such covenant or condition except to the extent so expressly waived and, until such waiver shall become effective, the obligations of the City and the duties of the City in respect of any such covenant or condition shall remain in full force and effect. For the purpose of this Section, the City may determine in each Supplement the treatment of who may act as an "owner", "Holder", or

"Bondholder" and other matters relating to such Parity Debt, including designating any municipal bond insurance company providing an insurance policy on the payment of Parity Debt or the provider under a Credit Agreement as the sole owner of such Parity Debt.

Section 8. INDIVIDUALS NOT LIABLE. All covenants, stipulations, obligations, and agreements of the City contained in this Master Ordinance and any Supplement shall be deemed to be covenants, stipulations, obligations, and agreements of the Financing Program, the Zone and the City to the full extent authorized or permitted by State law. No covenant, stipulation, obligation, or agreement herein contained shall be deemed to be a covenant, stipulation, obligation, or agreement of any member of the City Council or agent or employee of the City in his or her individual capacity and neither the members of the City Council, nor any officer, employee, or agent of the City shall be liable personally on Parity Debt when issued, or be subject to any personal liability or accountability by reason of the issuance thereof.

Section 9. SPECIAL OBLIGATIONS; ABSOLUTE OBLIGATION TO PAY PARITY DEBT. All Parity Debt and the interest thereon shall constitute special obligations of the City payable from the Security and the owners of Parity Debt shall never have the right to demand payment out of funds raised or to be raised by taxation, or from any source other than those specified in this Master Ordinance or any Supplement. The obligation of the City to pay or cause to be paid the amounts payable under this Master Ordinance and each Supplement out of the Security shall be absolute, irrevocable, complete, and unconditional, and the amount, manner, and time of payment of such amounts shall not be decreased, abated, rebated, setoff, reduced, abrogated, waived, diminished, or otherwise modified in any manner or to any extent whatsoever, regardless of any right of setoff, recoupment, or counterclaim that the City might otherwise have against any owner or any other party and regardless of any contingency, force majeure, event, or cause whatsoever and notwithstanding any circumstance or occurrence that may arise or take place before, during, or after the issuance of Parity Debt while any Parity Debt is outstanding.

Section 10. DEFAULTS AND REMEDIES. (a) Events of Default. Each of the following occurrences or events for the purpose of this Master Ordinance is hereby declared to be an Event of Default:

(i) the failure to make payment of the principal of or interest on any Debt when the same becomes due and payable; or

(ii) default in the performance or observance of any other covenant, agreement or obligation of the City, the failure to perform which materially, adversely affects the rights of the Registered Owners of the Debt, including, but not limited to, their prospect or ability to be repaid in accordance with this Master Ordinance, and the continuation thereof for a period of 60 days after notice of such default is given by any Registered Owner to the City.

(b) Remedies for Default.

(i) Upon the happening of any Event of Default, then and in every case, any Registered Owner or an authorized representative thereof, including, but not limited to, a

trustee or trustees therefor, may proceed against the City, or any official, officer or employee of the City in their official capacity, for the purpose of protecting and enforcing the rights of the Registered Owners under this Master Ordinance, by mandamus or other suit, action or special proceeding in equity or at law, in any court of competent jurisdiction, for any relief permitted by law, including the specific performance of any covenant or agreement contained herein, or thereby to enjoin any act or thing that may be unlawful or in violation of any right of the Registered Owners hereunder or any combination of such remedies.

(ii) It is provided that all such proceedings shall be instituted and maintained for the equal benefit of all Registered Owners of Debt then outstanding.

(c) Remedies Not Exclusive.

(i) No remedy herein conferred or reserved is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or under the Debt or now or hereafter existing at law or in equity; provided, however, that notwithstanding any other provision of this Master Ordinance, the right to accelerate the Debt shall not be available as a remedy under this Master Ordinance.

(ii) The exercise of any remedy herein conferred or reserved shall not be deemed a waiver of any other available remedy.

(iii) By accepting the delivery of Debt authorized under this Master Ordinance, such Registered Owner agrees that the certifications required to effectuate any covenants or representations contained in this Master Ordinance do not and shall never constitute or give rise to a personal or pecuniary liability or charge against the officers, employees or trustees of the City or the City Council.

(iv) None of the members of the City Council, nor any other official or officer, agent, or employee of the City, shall be charged personally by the Registered Owners with any liability, or be held personally liable to the Registered Owners under any term or provision of this Master Ordinance, or because of any Event of Default or alleged Event of Default under this Master Ordinance.

Section 11. DEFEASANCE OF PARITY DEBT. Each Supplement authorizing Parity Debt may provide by its respective terms the circumstances and conditions under which such Parity Debt may be considered Defeased Debt.

Section 12. AMENDMENT OF MASTER ORDINANCE. (a) Amendment Without Consent. This Master Ordinance and the rights and obligations of the City and of the owners of the Outstanding Parity Debt may be modified or amended at any time without notice to or the consent of any owner of the Outstanding Parity Debt, solely for any one or more of the following purposes:

(i) To add to the covenants and agreements of the City contained in this Master Ordinance, other covenants and agreements thereafter to be observed, or to surrender any right or power reserved to or conferred upon the City in this Master Ordinance;

(ii) To cure any ambiguity or inconsistency, or to cure or correct any defective provisions contained in this Master Ordinance, upon receipt by the City of an approving Opinion of Counsel, that the same is needed for such purpose, and will more clearly express the intent of this Master Ordinance;

(iii) To supplement the Security for the Outstanding Parity Debt in accordance with the Constitutional Provision and State law;

(iv) To make such other changes in the provisions hereof as the City may deem necessary or desirable and which shall not, in the judgment of the City, materially adversely affect the interests of the owners of Outstanding Parity Debt;

(v) To make any changes or amendments requested by the State Attorney General's Office as a condition to the approval of a series or issue of Parity Debt, which changes or amendments do not, in the judgment of the City, materially adversely affect the interests of the owners of the Outstanding Parity Debt; or

(vi) To make any changes or amendments requested by any bond rating agency then rating or requested to rate Parity Debt, as a condition to the issuance or maintenance of a rating, which changes or amendments do not, in the judgment of the City, materially adversely affect the interests of the owners of the Outstanding Parity Debt.

(b) Amendments With Consent. Subject to the provisions of Section 12(g) of this Master Ordinance, the owners of Outstanding Parity Debt aggregating a majority in Outstanding Principal Amount shall have the right from time to time to approve any amendment, other than amendments described in subsection (a) of this Section, to this Master Ordinance which may be deemed necessary or desirable by the City; provided, however, that nothing herein contained shall permit or be construed to permit, without the approval of the owners of all of the Outstanding Parity Debt (unless such amendment shall be determined by the City to affect only the owners of certain Parity Debt, in which case such amendment shall not be made without the approval of the owners so affected), the amendment of the terms and conditions in this Master Ordinance so as to:

- (i) Grant to the owners of any Outstanding Parity Debt a priority over the owners of any other Outstanding Parity Debt; or
- (ii) Materially adversely affect the rights of the owners of less than all Parity Debt then Outstanding; or
- (iii) Change the minimum percentage of the Outstanding Principal Amount necessary for consent to such amendment; or

- (iv) Make any change in the maturity of any Outstanding Parity Debt; or
- (v) Reduce the rate of interest borne by any Outstanding Parity Debt; or
- (vi) Reduce the amount of the principal payable on any Outstanding Parity Debt; or
- (vii) Modify the terms of payment of the amounts required to meet any financial obligations of the City relating to the Financing Program, including payments due on or with respect to the payment of any Outstanding Parity Debt, or impose any conditions with respect to such; or
- (viii) Amend this subsection (b) of this Section.

(c) Notice. If at any time the City shall desire to amend this Master Ordinance pursuant to subsection (b) of this Section, the City shall cause notice of the proposed amendment to be published in a financial newspaper or journal of general circulation in the City of New York, New York (including, but not limited to, The Bond Buyer or The Wall Street Journal) or in the State (including, but not limited to, The Texas Bond Reporter), once during each calendar week for at least two successive calendar weeks or disseminated by electronic means customarily used to convey notices of redemption. Such notice shall briefly set forth the nature of the proposed amendment and shall state that a copy thereof is on file at the principal office of each Registrar for any Parity Debt for inspection by all owners of Parity Debt. Such publication is not required, however, if the City gives or causes to be given such notice in writing, by certified mail, to each owner of Parity Debt. A copy of such notice shall be provided in writing to each national rating agency maintaining a rating on any Parity Debt.

(d) Receipt of Consents. With respect to any amendment undertaken pursuant to subsection (b) above, whenever at any time the City shall receive an instrument or instruments executed by all of the owners or the owners of a majority in Outstanding Principal Amount, as appropriate, which instrument or instruments shall refer to the proposed amendment described in said notice and which specifically consent to and approve such amendment in substantially the form of the copy thereof on file as aforesaid, the City may adopt the amendatory resolution in substantially the same form.

(e) Effect of Amendments. Upon the adoption by the City of any resolution to amend this Master Ordinance pursuant to the provisions of this Section, this Master Ordinance shall be deemed to be amended in accordance with the amendatory resolution, and the respective rights, duties, and obligations of the City and all the owners of then Outstanding Parity Debt and all future Parity Debt shall thereafter be determined, exercised, and enforced under this Master Ordinance, as amended.

(f) Consent Irrevocable. Any consent given by any owner of Parity Debt pursuant to the provisions of this Section shall be irrevocable for a period of six months from the date of the first publication or other service of the notice provided for in this Section or the date of such consent, whichever is later, and shall be conclusive and binding upon all future owners of the same Parity Debt during such period. Such consent may be revoked at any time after the applicable period of time that a consent is irrevocable by the owner who gave such consent, or by a successor in title, by

filing notice thereof with the Registrar for such Parity Debt and the City, but such revocation shall not be effective if the owners of the requisite amount of the Outstanding Principal Amount, prior to the attempted revocation, consented to and approved the amendment. Notwithstanding the foregoing, any consent given by an owner at the time of and in connection with the initial sale or incurrence of an issue or series Parity Debt by the City shall be irrevocable.

(g) Ownership. For the purpose of this Section, the City may determine in each Supplement the treatment of who may act as an "owner", "Holder", or "Bondholder" and other matters relating to all Parity Debt, including designating any municipal bond insurance company providing an insurance policy on the payment of Parity Debt or the provider under a Credit Agreement as the sole owner of such Parity Debt.

(h) Amendments of Supplements. Each Supplement shall contain provisions governing the ability of the City to amend such Supplement; provided, however, that no amendment may be made to any Supplement for the purpose of granting to the owners of Outstanding Parity Debt under such Supplement a priority over the owners of any other Outstanding Parity Debt.

Section 13. REPEAL OF CONFLICTING ORDINANCES AND RESOLUTIONS.

This Master Ordinance shall become effective immediately and all resolutions and all parts of any ordinances and resolutions which are in conflict or inconsistent with this Master Ordinance are hereby repealed and shall be of no further force or effect to the extent of such conflict or inconsistency.

Section 14. PARTIAL INVALIDITY. If any one or more of the covenants or agreements or portions thereof provided in this Master Ordinance on the part of the City should be determined by a court of competent jurisdiction to be contrary to law, then such covenant or covenants, or such agreement or agreements, or such portions thereof, shall be deemed severable from the remaining covenants and agreements or portions thereof provided in this Master Ordinance and the invalidity thereof shall in no way affect the validity of the other provisions of this Master Ordinance, but the Holders shall retain all the rights and benefits accorded to them hereunder and under any applicable provisions of law.

Section 15. FURTHER PROCEDURES. Each Authorized Representative and the other officers, employees, and agents of the City, shall be and they are hereby expressly authorized, empowered, and directed from time to time and at any time to do and perform all such acts and things and to execute, acknowledge, and deliver in the name and under the corporate seal and on behalf of the City all such instruments, whether or not herein mentioned, as may be necessary or desirable in order to carry out the intent, the terms, and the provisions of this Master Ordinance, including with respect to the initial issuance of Parity Debt, approving any technical changes or corrections to this Master Ordinance necessary in order to (i) correct any ambiguity or mistake or properly or more completely document the transactions contemplated by this Master Ordinance, (ii) obtain a rating from any of the national bond rating agencies or satisfy requirements of a municipal bond insurer insuring such Parity Debt or a provider under a Credit Agreement related to such Parity Debt, or (iii) obtain the approval of such Parity Debt by the State's Attorney General's Office.

Section 16. RULES OF INTERPRETATION. For purposes of this Master Ordinance, except as otherwise expressly provided or the context otherwise requires:

(a) The words "herein," "hereof" and "hereunder" and other similar words refer to this Master Ordinance as a whole and not to any particular Article, Section, or other subdivision.

(b) The definitions in a Section are applicable whether the terms defined are used in the singular or the plural.

(c) All accounting terms that are not defined in this Master Ordinance have the meanings assigned to them in accordance with then applicable accounting principles.

(d) Any pronouns used in this Master Ordinance include both the singular and the plural and cover both genders.

(e) Any terms defined elsewhere in this Master Ordinance have the meanings attributed to them where defined.

(f) The captions or headings are for convenience only and in no way define, limit or describe the scope or intent, or control or affect the meaning or construction, of any provisions or sections hereof.

(g) Any references to Section numbers are to Sections of this Master Ordinance unless stated otherwise.

IN ACCORDANCE WITH SECTION 1201.028, Texas Government Code, finally passed,
approved and effective on this 5th day of June, 2008.

Mayor
City of Temple, Texas

ATTEST:

City Secretary
City of Temple, Texas

APPROVED AS TO LEGALITY:

City Attorney
City of Temple, Texas

[SEAL]

EXHIBIT "A"

DEFINITIONS

As used in this Master Ordinance the following terms and expressions shall have the meanings set forth below, unless the text hereof specifically indicates otherwise:

"Annual Debt Service Requirements" means, for any Fiscal Year, (i) the principal of, premium, if any, and interest on all Parity Debt coming due at Maturity or Stated Maturity (or that could come due on demand of the owner thereof other than by acceleration or other demand conditioned upon default by the City on such Parity Debt, or be payable in respect of any required purchase of such Parity Debt by the City) plus (ii) all payments required to be made by the City under each Credit Agreement constituting Parity Debt (net of any credits as provided in (7) below) in such Fiscal Year, and minus (iii) all amounts on deposit to the credit of the Interest and Sinking Account from original proceeds from the sale of Parity Debt or from any other lawfully available source (other than moneys that would constitute Pledged Revenues in the subject annual period) and, for such purposes, any one or more of the following rules shall apply at the election of the City; provided, however, that this definition shall never be applied in a manner which results in Annual Debt Service Requirements for any Fiscal Year being an amount that is less than the aggregate amount actually required to be paid in such Fiscal Year with respect to Outstanding Parity Debt:

(1) Committed Take Out. If the City has entered into a Credit Agreement constituting Parity Debt and constituting a binding commitment within normal commercial practice, from any bank, savings and loan association, insurance company, or similar institution to discharge any of its Funded Debt at its Stated Maturity (or, if due on demand, at any date on which demand may be made) or to purchase any of its Funded Debt at any date on which such debt is subject to required purchase, all pursuant to arrangements whereby the City's obligation to repay the amounts advanced for such discharge or purchase constitutes Funded Debt, then the portion of the Funded Debt committed to be discharged or purchased shall be excluded from such calculation and the principal of and interest on the Funded Debt incurred for such discharge or purchase that would be due in the Fiscal Year for which the calculation is being made, if incurred at the Stated Maturity or purchase date of the Funded Debt to be discharged or purchased, shall be added to such calculation, and the remaining provisions of this definition shall be applied to such added Funded Debt;

(2) Balloon Debt. If the principal, including the accretion of interest resulting from original issue discount or compounding of interest (collectively, "Principal"), of any series or issue of Funded Debt due (or payable in respect of any required purchase of such Funded Debt by the City) in any Fiscal Year either is equal to at least 25% of the total Principal of such Funded Debt or exceeds by more than 50% the greatest amount of Principal of such series or issue of Funded Debt due in any preceding or succeeding Fiscal Year (such Principal due in such Fiscal Year for such series or issue of Funded Debt being referred to herein as "Balloon Debt"), the amount of Principal of such Balloon Debt taken into account during any Fiscal Year shall be equal to the debt service calculated using the Principal of

such Balloon Debt amortized over the Term of Issue on a level debt service basis at an assumed interest rate equal to the rate borne by such Balloon Debt on the date of calculation;

(3) Consent Sinking Fund. In the case of Balloon Debt (as defined in clause (2) above), if an Authorized Representative shall deliver to the City an Officer's Certificate providing for the retirement of (and the instrument creating such Balloon Debt shall permit the retirement of), or for the accumulation of a sinking fund for (and the instrument creating such Balloon Debt shall permit the accumulation of a sinking fund for), such Balloon Debt according to a fixed schedule stated in such Officer's Certificate ending on or before the Fiscal Year in which such principal (and premium, if any) is due, then the principal of (and, in the case of retirement, or to the extent provided for by the sinking fund accumulation, the premium, if any, and interest and other payments due on) such Balloon Debt shall be computed as if the same were due in accordance with such schedule, provided that this clause (3) shall apply only to Balloon Debt for which the installments previously scheduled have been paid or deposited to the sinking fund established with respect to such debt on or before the times required by such schedule; and provided further that this clause (3) shall not apply where the City has elected to apply the rule set forth in clause (2) above;

(4) Prepaid Debt. Principal of, premium, if any, and interest on Parity Debt, or portions thereof, shall not be included in the computation of the Annual Debt Service Requirements for any Fiscal Year for which such principal, premium, if any, or interest are payable from funds on deposit or set aside in trust for the payment thereof at the time of such calculations (including, without limitation, capitalized interest and accrued interest so deposited or set aside in trust) with a financial institution acting as fiduciary with respect to the payment of such Parity Debt;

(5) Variable Rate. As to any Parity Debt that bears interest at a variable interest rate which cannot be ascertained at the time of calculation of the Annual Debt Service Requirement, at the election of the City, the interest rate for such Parity Debt shall be determined to be either (i) an interest rate equal to the average rate borne by such Parity Debt (or by comparable debt in the event that such Parity Debt has not been outstanding during the preceding 24 months) for any 24 month period ending within 30 days prior to the date of calculation, (ii) if the Parity Debt bears interest at tax-exempt rates, an interest rate equal to the 24 month average of the Bond Market Association Bond Index (as most recently published in The Bond Buyer), unless such index is no longer published in The Bond Buyer, in which case the index to be used in its place shall be that index which the City determines most closely replicates such index as set forth in a certificate of an Authorized Representative, (iii) if the Parity Debt bears interest at taxable rates, an interest rate equal to the rate of the 30 day London Interbank Offered Rate, (iv) that interest rate which, in the judgment of the Chief Financial Officer, based, to the extent possible, upon an accepted market index which corresponds with the provisions of the subject Parity Debt, is the average rate anticipated to be in effect with respect to such Parity Debt or (v) that interest rate which, in the judgment of the Chief Financial Officer, based upon the interest rate methodology in the applicable Credit Agreement if calculating payments under a Credit

Agreement in accordance with paragraph 7 of this definition, is the average rate anticipated to be in effect;

(6) Short-Term Obligations. Notwithstanding anything in the foregoing to the contrary, with respect to any Parity Debt issued as Short-Term Obligations, the debt service on such Parity Debt shall be calculated assuming that such Parity Debt will be refunded and refinanced to mature over a 20-year period with level principal requirements and bearing interest at then current market rates; provided, however, that to the extent permitted by law, if in the judgment of the Chief Financial Officer, as set forth in an Officer's Certificate delivered to the City, the result of the foregoing calculation is inconsistent with the reasonable expectations of the City, the interest on such Parity Debt shall be calculated in the manner provided in clause (5) of this definition and the maturity schedule shall be calculated in the manner provided in clause (2) of this definition; and

(7) Credit Agreement Payments. If the City has entered into a Credit Agreement in connection with an issue of Parity Debt, payments due under any such Credit Agreement (other than payments for fees and expenses) from either the City or the provider of a Credit Agreement shall be included in such calculation, except to the extent that the payments are already taken into account under clauses (1) through (6) above and any payments otherwise included under clauses (1) through (6) above which are to be replaced by payments under such a Credit Agreement, from either the City or the provider under a Credit Agreement, shall be excluded from such calculation.

"Authorized Representative" means the City Manager, Assistant City Manager and Finance Director or such other individuals so designated by the City to perform the duties of an Authorized Representative under this Master Ordinance.

"Bond Proceeds Account" has the meaning assigned to that term in Section 3(d) hereof.

"Captured Appraised Value" means, with respect to each Taxing Unit in each year, the total appraised value of property for that year less the Tax Increment Base of the unit.

"Certified Public Accountant" means a certified public accountant or firm or corporation of certified public accountants, selected by the City, which in the case of an individual is not a member of the City Council or an employee of the City, and in the case of a firm or corporation does not have a partner, director, officer, or employee who is a member of the City or a director, officer, or employee of the City.

"Chief Financial Officer" means the Finance Director of the City or such other officer or employee of the City or such other individual so designated by the City to perform the duties of Chief Financial Officer under this Master Ordinance.

"City" means the City of Temple, Texas.

"Code" means the Internal Revenue Code of 1986, as amended, and the rulings, regulations, and procedures (including temporary, proposed, and final regulations and procedures) promulgated thereunder.

"Credit Agreement" means, collectively, a loan agreement, revolving credit agreement, agreement establishing a line of credit, letter of credit, reimbursement agreement, insurance contract, commitments to purchase Debt, purchase or sale agreements, interest rate swap, cap and/or floor agreement or commitment, or other contract or agreement authorized, recognized, and approved by the City as a Credit Agreement in connection with the authorization, issuance, sale, resale, security, exchange, payment, purchase, remarketing, or redemption of Debt, the interest on Debt, or both.

"Debt" means all indebtedness of the City payable from all or part of the Security that is also:

(1) indebtedness incurred or assumed by the City for borrowed money (including all obligations arising under Credit Agreements) and all other financial obligations of the City that, in accordance with generally accepted accounting principles, are shown on the liability side of a balance sheet;

(2) all other indebtedness (other than indebtedness otherwise treated as Debt hereunder) for borrowed money or for the acquisition, construction, or improvement of property or capitalized lease obligations that is guaranteed, directly or indirectly, in any manner by the City, or that is in effect guaranteed, directly or indirectly, by the City through an agreement, contingent or otherwise, to purchase any such indebtedness or to advance or supply funds for the payment or purchase of any such indebtedness or to purchase property or services primarily for the purpose of enabling the debtor or seller to make payment of such indebtedness, or to assure the owner of the indebtedness against loss, or to supply funds to or in any other manner invest in the debtor (including any agreement to pay for property or services irrespective of whether or not such property is delivered or such services are rendered), or otherwise; and

(3) all indebtedness secured by any mortgage, lien, charge, encumbrance, pledge, or other security interest upon property owned by the City whether or not the City has assumed or become liable for the payment thereof.

For the purpose of determining the "Debt" of the City, only outstanding Debt shall be included. No item shall be considered Debt unless such item constitutes indebtedness under generally accepted accounting principles applied on a basis consistent with the financial statements of the City in prior Fiscal Years.

"Defeased Debt" means any Parity Debt and the interest thereon deemed to be paid, retired, and no longer Outstanding pursuant to the provisions of the applicable Supplement authorizing such Parity Debt; and thus, no longer secured by, payable from, or entitled to the benefits of the Security.

"Enabling Act" means Chapter 311, Texas Tax Code, as amended.

"Financing Program" means the "City of Temple, Texas Reinvestment Zone Number One Tax Increment Revenue Financing Program".

"Fiscal Year" means the twelve-month accounting period used by the City in connection with the operation of the Zone, currently ending on September 30 of each year, which may be any twelve consecutive month period established by the City, but in no event may the Fiscal Year be changed more than one time in any three calendar year period.

"Funded Debt" means all Parity Debt created, assumed, or guaranteed by the City that matures by its terms (in the absence of the exercise of any earlier right of demand), or is renewable at the option of the City to a date, more than one year after the original creation, assumption, or guarantee of such Debt by the City.

"Holder" or "Bondholder" or "owner" means the (i) registered owner of any Parity Debt registered as to ownership, (ii) holder of any Parity Debt payable to bearer or (iii) obligee (other than the City) pursuant to any Credit Agreement.

"Interest and Sinking Account" has the meaning assigned to that term in Section 3(c) hereof.

"Master Ordinance" means this "Master Ordinance Establishing the City of Temple, Texas Reinvestment Zone Number One Tax Increment Revenue Financing Program" as may be supplemented or amended from time to time as authorized by the City and this Master Ordinance.

"Maturity" when used with respect to any Debt means the date on which the principal of such Debt or any installment thereof becomes due and payable as therein provided, whether at the Stated Maturity thereof or by call for redemption, or otherwise.

"Non-Recourse Debt" means any debt secured by a lien (other than a lien on the Security), liability for which is effectively limited to the property subject to such lien with no recourse, directly or indirectly, to the Security.

"Officer's Certificate" means a certificate signed by an Authorized Representative.

"Opinion of Counsel" means a written opinion of counsel which shall be acceptable to the City.

"Outstanding" when used with respect to Parity Debt means, as of the date of determination, all Parity Debt theretofore delivered under this Master Ordinance or any Supplement, except:

(1) Parity Debt theretofore cancelled and delivered to the City or delivered to the Paying Agent or the Registrar for cancellation;

(2) Parity Debt deemed to be Defeased Debt;

(3) Parity Debt upon transfer of or in exchange for and in lieu of which other Parity Debt has been authenticated and delivered pursuant to this Master Ordinance or any Supplement; and

(4) Parity Debt under which the obligations of the City have been released, discharged, or extinguished in accordance with the terms thereof;

provided, however, that unless the same is acquired for purposes of cancellation, Parity Debt owned by the City and Parity Debt purchased with funds advanced pursuant to a Credit Agreement shall be deemed to be Outstanding as though it was owned by any other owner.

"Outstanding Principal Amount" means, as of any record date established by a Registrar in connection with a proposed amendment of this Master Ordinance or any Supplement, with respect to all Parity Debt or to a series of Parity Debt that is in the form of bonds, notes, or other similar instruments that have a stated principal amount, the outstanding and unpaid principal amount of such Parity Debt on which interest is paid on a current basis and the outstanding and unpaid principal and compounded interest on such Parity Debt paying accrued, accreted, or compounded interest only at maturity and, with respect to Credit Agreements shall total the amount, if any, then due under such Credit Agreement if it was to be terminated as of the date of calculation of Outstanding Principal Amount.

"Parity Debt" means all Debt of the City which may be issued or assumed in accordance with the terms of this Master Ordinance and a Supplement, subject to the provisions of the ordinances securing the Prior Obligations, secured by a lien on and pledge of the Security.

"Paying Agent" means each entity designated in a Supplement as the place of payment of a series or issue of Parity Debt.

"Registrar" means the entity designated in a Supplement as the Registrar of a series or issue of Parity Debt.

"Reserve Account Obligation" means a surety bond or insurance policy deposited in any reserve account established pursuant to a Supplement whereby the issuer is obligated to provide funds up to and including the maximum amount and under the conditions specified in such agreement or instrument.

"Security" has the meaning assigned to that term in Section 2(a) hereof.

"State" means the State of Texas.

"Stated Maturity" when used with respect to any Parity Debt or any installment of interest thereon means any date specified in the instrument evidencing or authorizing such Parity Debt or such installment of interest as a fixed date on which the principal of such Parity Debt or any installment thereof or the fixed date on which such installment of interest is due and payable.

"Subordinated Debt" means any Debt which expressly provides that all payments thereon shall be subordinated to the timely payment of all Parity Debt then outstanding or subsequently issued.

"Supplement" means a resolution supplemental to, and authorized and executed pursuant to the terms of, this Master Ordinance as may be supplemented or amended from time to time as authorized by the City and such Supplement.

"Tax Increment" means, with respect to each Taxing Unit in each year, the amount of property taxes levied by the Taxing Unit for that year on the Captured Appraised Value of real property taxable by the Taxing Unit and located in the Zone.

"Tax Increment Account" has the meaning assigned to that term in Section 3(b) hereof.

"Tax Increment Base" means, with respect to each Taxing Unit, the total appraised value of all real property taxable by the Taxing Unit and located in the Zone for 1982, the year in which the Zone was established.

"Tax Increment Fund" means the City's Reinvestment Zone Number One, City of Temple, Texas, Tax Increment Fund, heretofore established and continuously maintained into which, among other monies received and to be received, Tax Increments with respect to the Zone have been deposited and are to be deposited by each Taxing Unit in each year while the Bonds and any Additional Parity Obligations, or interest thereon, remain outstanding.

"Taxing Unit" means a county, an incorporated city or town (including a home-rule city), a school district, a special district or authority (including a junior college district, a hospital district, a district created by or pursuant to V.T.C.A. Water Code, a mosquito control district, a fire prevention district, or a noxious weed control district), or any other political unit of the State of Texas, whether created by or pursuant to the Constitution of Texas or a local, special, or general law, that is authorized to impose and is imposing ad valorem taxes on property even if the governing body of another political unit determines the tax rate for the unit or otherwise governs its affairs, that taxes real property in the Zone.

"Term of Issue" means with respect to any Balloon Debt a period of time equal to the greater of (i) the period of time commencing on the date of issuance of such Balloon Debt and ending on the final maturity date of such Balloon Debt or the maximum maturity date in the case of commercial paper or (ii) twenty-five years.



COUNCIL AGENDA ITEM MEMORANDUM

06/05/08
Item #7
Regular Agenda
Page 1 of 2

DEPT./DIVISION SUBMISSION & REVIEW:

Traci L. Barnard, Director of Finance

ITEM DESCRIPTION: FIRST & FINAL READING – PUBLIC HEARING – Consider adopting an ordinance authorizing “First Supplemental Ordinance to the Master Ordinance Establishing the City of Temple, Texas Reinvestment Zone Number One Tax Increment Revenue Financing Program” and authorizing the issuance, delivery and sale of \$10,365,000* City of Temple, Texas Tax Increment Reinvestment Zone (TIRZ) Revenue Bonds, Taxable Series 2008; pledging of certain revenues and making provisions to the security thereof for the payment of the bonds; a paying agent/registrar agreement, investment and commitment letter and other agreements related to the sale and issuance of the bonds; and authorizing other matters related to the issuance of the bonds, to be considered on an emergency basis.

STAFF RECOMMENDATION: Conduct public hearing and adopt ordinance as presented in item description on first and final reading.

ITEM SUMMARY: This item is to award the sale of \$10,365,000* taxable bonds to the lowest negotiated bidder.

The proceeds from the \$10,365,000* million dollar issue will be used to fund the following projects.

- Improving and extending the City’s railway system and project contingency;
- Purchase of 355+/- Acres of land
- Paying the professional services including fiscal, engineering, architectural and legal fees including the cost associated with the issuance of the bonds.

*** THE ISSUE SIZE IS PRELIMINARY AND WILL BE SIZED AT THE TIME OF PRICING.**

The sell the bonds will be through a private bank placement. No insurance or bond ratings will be needed for the sale.

Invitations to bid with bidding parameters and sample debt service were sent to interested banks on May 16, 2008. The bids are due by noon on June 4, 2008. Our financial advisor, First Southwest Company, will be at the meeting to review the offers with Council and designate the negotiated low

interest rate bidder. The Council will consider the offers and award based on the recommendation of First Southwest Company.

Funds are planned to be delivered to our depository for use on June 17, 2008.

FISCAL IMPACT: The proposed **\$10,365,000*** TIRZ Revenue Bonds, Taxable Series 2008 average annual debt service is approximately \$1,048,207. This amount was computed using an assumed interest rate of 5.50% for 15 yrs (the remaining life of the RZ #1). Revenues from the RZ #1 will be used to pay the debt service on these bonds

Available debt capacity was computed using a times coverage ratio of 1.70 and projected future increment growth within the RZ # 1. The debt is structured for interest only payments until FY 2012. (Exception of \$230,000 principal payment in FY 2008). FY 2012 is the year that the improvements associated with Gulf States Toyota will be added to the increment for the RZ # 1.

ATTACHMENTS:

[Detail List of Projects](#)
[Ordinance](#)

CITY OF TEMPLE, TEXAS**REINVESTMENT ZONE NO. 1 - PROPOSED TIRZ REVENUE BOND ISSUE {Taxable}**

Public Improvements:	Engineering	Construction	Total
RAIL PARK PHASE II	\$ 471,400	\$ 6,310,000	\$ 6,781,400
{Rail to serve Gulf States Toyota & Rail Park}			
PURCHASE OF 355 +/- ACRES	-	2,700,000	2,700,000
PROJECT CONTINGENCIES	-	-	800,000
ISSUANCE COST	-	-	83,600
TOTAL	\$ 471,400	\$ 9,010,000	\$ 10,365,000

**FIRST SUPPLEMENTAL ORDINANCE TO THE
MASTER ORDINANCE ESTABLISHING THE
CITY OF TEMPLE, TEXAS
REINVESTMENT ZONE NUMBER ONE TAX INCREMENT
REVENUE FINANCING PROGRAM**

Adopted June 5, 2008

**FIRST SUPPLEMENTAL ORDINANCE TO THE
MASTER ORDINANCE ESTABLISHING THE
CITY OF TEMPLE, TEXAS
REINVESTMENT ZONE NUMBER ONE TAX INCREMENT
REVENUE FINANCING PROGRAM**

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ORDINANCE NO. 2008-_____

**FIRST SUPPLEMENTAL ORDINANCE TO THE
MASTER ORDINANCE ESTABLISHING THE
CITY OF TEMPLE, TEXAS
REINVESTMENT ZONE NUMBER ONE TAX INCREMENT
REVENUE FINANCING PROGRAM**

THE STATE OF TEXAS §

CITY OF TEMPLE §

WHEREAS, on June 5, 2008, the City Council of the City of Temple, Texas (the "City"), adopted a "Master Ordinance Establishing the City of Temple, Texas Reinvestment Zone Number One Tax Increment Revenue Financing Program" (referred to herein as the "Master Ordinance"); and

WHEREAS, in order to enable the City to provide for the financing of projects within the reinvestment zone number one authorized by Chapter 311, Texas Tax Code, as amended, and any other applicable provisions of State law, the Master Ordinance establishes a revenue financing program pursuant to which the City can issue and enter into obligations, including bonds and other types of obligations, secured by and payable from a pledge of and lien on all or part of the Security, as hereinafter defined; and

WHEREAS, for such purposes, the City deems it necessary to issue Parity Debt, as hereinafter defined, pursuant to this "First Supplemental Ordinance to the Master Ordinance establishing the City of Temple, Texas Reinvestment Zone Number One Tax Increment Revenue Financing Program" (the "First Supplement"); and

WHEREAS, the City further finds and determines that all terms and conditions for the issuance of the bonds herein authorized as Parity Debt have been or can be met and satisfied; and

WHEREAS, the bonds authorized to be issued by this First Supplement are to be issued and delivered pursuant to the Enabling Act, as hereinafter defined, and other applicable State laws.

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

**ARTICLE I
BONDS ISSUED UNDER
REVENUE FINANCING PROGRAM**

Section 1.01. DEFINITIONS. (a) Definitions. The capitalized terms used herein (except in the FORM OF BONDS set forth in Exhibit B hereto) and not otherwise defined shall have the meanings given in the Master Ordinance or in Exhibit A to this First Supplement. The recitals to

this First Supplement and the exhibits hereto are incorporated herein and made a part hereof for all purposes.

(b) Construction of Terms. If appropriate in the context of this First Supplement, words of the singular number shall be considered to include the plural, words of the plural number shall be considered to include the singular, words of the masculine, feminine, or neuter gender shall be considered to include the other genders, and words importing persons shall include firms, associations, and corporations.

Section 1.02. ESTABLISHMENT OF FINANCING PROGRAM AND ISSUANCE OF PARITY DEBT. (a) First Supplement. By adoption of the Master Ordinance, the City has established the City of Temple, Texas Reinvestment Zone Number One Tax Increment Revenue Financing Program for the purpose of enabling the City to provide for the financing of projects within the Zone authorized by the Enabling Act and any other applicable provisions of State law pursuant to which, the City may issue and enter into obligations, including bonds and other types of obligations, secured by and payable from a pledge of and lien on all or part of the Security. This First Supplement provides for the authorization, form, characteristics, provisions of payment and redemption, and security of the Bonds. This First Supplement is subject to the terms of the Master Ordinance and the terms of the Master Ordinance are incorporated herein by reference and as such are made a part hereof for all purposes.

(b) Bonds Are Parity Debt. As required by Section 6 of the Master Ordinance governing the issuance of Parity Debt such as the Bonds, the City hereby finds that, upon the issuance of the Bonds, the Security will be sufficient to meet the financial obligations relating to the Financing Program, including Security in amounts sufficient to satisfy the Annual Debt Service Requirements of the Financing Program. The Bonds are hereby declared to be Parity Debt under the Master Ordinance.

Section 1.03. FIRST SUPPLEMENT TO CONSTITUTE A CONTRACT; EQUAL SECURITY. In consideration of the acceptance of the Bonds by those who shall hold the same from time to time, this First Supplement shall be deemed to be and shall constitute a contract between the City and the Owners from time to time of the Bonds, and the pledge made in this First Supplement by the City and the covenants and agreements set forth in this First Supplement to be performed by the City shall be for the equal and proportionate benefit, security, and protection of all Owners from time to time of the Bonds, without preference, priority, or distinction as to security or otherwise of any of the Bonds authorized hereunder over any of the other Bonds by reason of time of issuance, sale, or maturity thereof or otherwise for any cause whatsoever, except as expressly provided in or permitted by this First Supplement and the Master Ordinance.

Section 1.04. LIMITATION OF BENEFITS WITH RESPECT TO THIS FIRST SUPPLEMENT. With the exception of the rights or benefits herein expressly conferred, nothing expressed or contained herein or implied from the provisions of this First Supplement or the Bonds is intended or should be construed to confer upon or give to any person other than the City, the Owners, and the Paying Agent/Registrar, any legal or equitable right, remedy, or claim under or by reason of or in respect to this First Supplement or any covenant, condition, stipulation, promise, agreement, or provision herein contained. This First Supplement and all of the covenants,

conditions, stipulations, promises, agreements, and provisions hereof are intended to be and shall be for and inure to the sole and exclusive benefit of the City, the Owners, and the Paying Agent/Registrar as herein and therein provided.

ARTICLE II BOND AUTHORIZATION AND SPECIFICATIONS

Section 2.01. AMOUNT, PURPOSE AND DESIGNATION OF THE BONDS. The Bonds designated "**CITY OF TEMPLE, TEXAS REINVESTMENT ZONE NUMBER ONE TAX INCREMENT REVENUE BONDS, TAXABLE SERIES 2008**" (the "Bonds") are hereby authorized to be issued pursuant to this First Supplement in the aggregate principal amount of \$_____ for the purpose of (i) paying project costs relating to extending and improving the City's railroad system within the Zone and acquiring land/real property assembly costs within the Zone; and (ii) paying the costs of issuing such Bonds. The Bonds are authorized pursuant to authority conferred by and in conformity with State law, particularly the provisions of the Enabling Act.

The Bonds will be in the form of Current Interest Bonds as provided in Section 2.02 and the FORM OF BONDS in Exhibit B to this First Supplement.

Section 2.02. DATE, DENOMINATIONS, NUMBERS, MATURITIES AND TERMS OF BONDS. (a) Terms of Bonds. The Bonds, there shall initially be issued, sold, and delivered hereunder fully registered bonds, without interest coupons, in the form of Current Interest Bonds, numbered consecutively from R-1 upward, payable to the respective initial registered owners thereof, or to the registered assignee or assignees of said bonds or any portion or portions thereof (in each case, the "Registered Owner"), in Authorized Denominations, maturing and payable serially on _____ in each of the years and in the principal amounts respectively as forth in the following schedule:

YEARS	AMOUNT	YEARS	AMOUNT
2008	\$	2018	\$
2009		2019	
2010		2020	
2011		2021	
2012		2022	
2013		2023	
2014		2024	
2015		2025	
2016		2026	
2017			

(b) In General. The Bonds (i) may and shall be redeemed prior to the respective scheduled maturity dates, (ii) may be assigned and transferred, (iii) may be exchanged for other Bonds, (iv) shall have the characteristics, and (v) shall be signed and sealed, and the principal of and interest on the Bonds shall be payable, all as provided, and in the manner required or indicated, in the FORM OF BONDS set forth in Exhibit B to this First Supplement.

(c) Interest. The Bonds shall bear interest calculated on the basis of a 360-day year composed of twelve 30-day months from the dates specified in the FORM OF BONDS set forth in Exhibit B to this First Supplement to their respective dates of maturity or redemption at the rates per annum set forth in the following schedule:

YEARS	RATE	YEARS	RATE
2008	%	2018	%
2009		2019	
2010		2020	
2011		2021	
2012		2022	
2013		2023	
2014		2024	
2015		2025	
2016		2026	
2017			

(d) Payments on Holidays. In the event that any date for payment of the principal or interest on the Bonds is a Saturday, Sunday, legal holiday, or day on which banking institutions in the city where the Paying Agent/Registrar is located are authorized by law or executive order to close, then the date for such payment will be the next succeeding day that is not a Saturday, Sunday, legal holiday, or day on which such banking institutions are authorized to close. Payment on such later date will not increase the amount of interest due and will have the same force and effect as if made on the original date payment was due.

Section 2.03. PAYMENT OF BONDS; PAYING AGENT/REGISTRAR. The principal of, premium, if any, and the interest on the Bonds shall be payable, without exchange or collection charges to the Owner thereof, in any coin or currency of the United States of America that at the time of payment is legal tender for the payment of public and private debts.

_____ is hereby appointed as Paying Agent/Registrar for the Bonds. By accepting the appointment as Paying Agent/Registrar, the Paying Agent/Registrar acknowledges receipt of copies of the Master Ordinance and this First Supplement, and is deemed to have agreed to the provisions thereof and hereof.

The City agrees and covenants to cause to be kept and maintained at the designated office of the Paying Agent/Registrar a Security Register, all as provided herein, in accordance with the terms and provisions of the Paying Agent/Registrar Agreement and such reasonable rules and regulations as the Paying Agent/Registrar and the City may prescribe. In addition, to the extent required by law, the City covenants to cause to be kept and maintained the Security Register or a copy thereof in the State.

The City expressly reserves the right to appoint one or more successor Paying Agent/Registrars, by filing with the Paying Agent/Registrar a certified copy of a resolution or minute order of the City making such appointment. The City further expressly reserves the right to terminate the appointment of the Paying Agent/Registrar by filing a certified copy of a resolution

of the City giving notice of the City's termination of the City's agreement with such Paying Agent/Registrar and appointing a successor. The City covenants to maintain and provide a Paying Agent/Registrar at all times until the Bonds are paid and discharged, and any successor Paying Agent/Registrar shall be a bank, trust company, financial institution, or other entity duly qualified and legally authorized to serve as and perform the duties and services of Paying Agent/Registrar for the Bonds. If a Paying Agent/Registrar is replaced, such Paying Agent/Registrar, promptly upon the appointment of the successor, will deliver the Security Register (or a copy thereof) and all other pertinent books and records relating to the Bonds to the successor Paying Agent/Registrar. Upon any change in the Paying Agent/Registrar, the City agrees promptly to cause a written notice thereof to be sent to each Owner by United States mail, first-class postage prepaid, which notice shall also give the address of the new Paying Agent/Registrar.

The principal of, premium, if any, and interest on the Bonds due and payable by reason of maturity, redemption, or otherwise, shall be payable only to the Owner thereof appearing on the Security Register, and, to the extent permitted by law, neither the City nor the Paying Agent/Registrar, nor any agent of either, shall be affected by notice to the contrary.

Principal of, and premium, if any, on the Bonds shall be payable only upon the presentation and surrender of said Bonds to the Paying Agent/Registrar at its designated office. Interest on the Bonds shall be paid to the Owner whose name appears in the Security Register at the close of business on the Record Date and shall be paid (i) by check sent on or prior to the appropriate date of payment by United States mail, first-class postage prepaid, by the Paying Agent/Registrar to the address of the Owner appearing in the Security Register on the Record Date or (ii) by such other method, acceptable to the Paying Agent/Registrar, requested in writing by, and at the risk and expense of, the Owner.

In the event of a nonpayment of interest on a scheduled payment date on a Bond, and for thirty (30) days thereafter, a new record date for such interest payment (a "Special Record Date") will be established by the Paying Agent/Registrar, if and when funds for the payment of such interest have been received from the City. Notice of the Special Record Date and of the scheduled payment date of the past due interest (which shall be fifteen (15) days after the Special Record Date) shall be sent at least five (5) business days prior to the Special Record Date by United States mail, first-class postage prepaid, to the address of each Owner of a Bond appearing on the Security Register at the close of business on the last business day next preceding the date of mailing of such notice.

Section 2.04. REDEMPTION. (a) Generally. The Bonds shall be subject to redemption prior to scheduled maturity at such times and with such provisions as provided in the FORM OF BONDS.

(b) Notices of Redemption and Defeasance. (i) Unless waived by any Owner of the Bonds to be redeemed, the Chief Financial Officer shall give notice of redemption or defeasance to the Paying Agent/Registrar at least thirty-five (35) days prior to a redemption date in the case of a redemption (unless a lesser period is acceptable to the Paying Agent/Registrar) and on the defeasance date in the case of a defeasance and the Paying Agent/Registrar shall give notice of redemption or of defeasance of Bonds by mail, first-class postage prepaid at least thirty (30) days

prior to a redemption date and within thirty (30) days after a defeasance date to each Owner and to the central post office or each registered securities depository and to any national information service that disseminates such notices. In addition, in the event of a redemption caused by an advance refunding of the Bonds, the Paying Agent/Registrar shall send a second notice of redemption to the persons specified in the immediately preceding sentence at least thirty (30) days but not more than ninety (90) days prior to the actual redemption date. Any notice sent to the central post office or registered securities depositories or such national information services shall be sent so that they are received at least two (2) days prior to the general mailing or publication date of such notice. The Paying Agent/Registrar shall also send a notice of prepayment or redemption to the Owner of any Bond who has not sent the Bonds in for redemption sixty (60) days after the redemption date.

(ii) Each notice of redemption or defeasance shall contain a description of the Bonds to be redeemed or defeased including the complete name of the Bonds, the date of issue, the interest rate, the maturity date, the CUSIP number, the certificate numbers, the amounts called of each certificate, the publication or mailing date for the notice, the date of redemption or defeasance, the redemption price, if any, the name of the Paying Agent/Registrar, and the address at which the Bonds may be redeemed or paid, including a contact person telephone number.

(iii) All redemption payments made by the Paying Agent/Registrar to the Owners of the Bonds shall include a CUSIP number relating to each amount paid to such Owner.

The failure of any Owner of the Bonds to receive notice given as provided in this Section 2.04, or any defect therein, shall not affect the validity of any proceedings for the redemption of any Bonds. Any notice mailed as provided in this Section 2.04 shall be conclusively presumed to have been duly given and shall become effective upon mailing, whether or not any Owner receives such notice.

(c) Conditional Notice of Redemption. With respect to any optional redemption of the Bonds, unless certain prerequisites to such redemption required by the Master Ordinance or this First Supplement have been met and moneys sufficient to pay the principal of and premium, if any, and interest on the Bonds to be redeemed shall have been received by the Paying Agent prior to the giving of such notice of redemption, such notice shall state that said redemption may, at the option of the City, be conditional upon the satisfaction of such prerequisites and receipt of such moneys by the Paying Agent/Registrar on or prior to the date fixed for such redemption, or upon any prerequisite set forth in such notice of redemption. If a conditional notice of redemption is given and such prerequisites to the redemption and sufficient moneys are not received, such notice shall be of no force and effect, the City shall not redeem such Bonds and the Paying Agent/Registrar shall give notice, in the manner in which the notice of redemption was given, to the effect that the Bonds have not been redeemed.

Section 2.05. REGISTRATION; TRANSFER; EXCHANGE OF BONDS; PREDECESSOR BONDS (a) Registration, Transfer, Exchange, and Predecessor Bonds. The Registrar shall obtain, record, and maintain in the Security Register the name and address of each Owner issued under and pursuant to the provisions of this First Supplement. Any Bond may, in accordance with its terms and the terms hereof, be transferred or exchanged for Bonds in Authorized

Denominations upon the Security Register by the Owner, in person or by his duly authorized agent, upon surrender of such Bond to the Registrar for cancellation, accompanied by a written instrument of transfer or request for exchange duly executed by the Owner or by his duly authorized agent, in form satisfactory to the Registrar.

Upon surrender for transfer of any Bond at the designated office of the Registrar, there shall be registered and delivered in the name of the designated transferee or transferees, one or more new Bonds, executed on behalf of, and furnished by, the City, of Authorized Denominations and having the same Maturity and of a like aggregate principal amount as the Bond or Bonds surrendered for transfer.

At the option of the Owner, Bonds may be exchanged for other Bonds of Authorized Denominations and having the same Maturity, bearing the same rate of interest, and of like aggregate principal amount or Maturity Amount and the Bonds surrendered for exchange, upon surrender of the Bonds to be exchanged at the principal office of the Registrar. Whenever any Bonds are so surrendered for exchange, there shall be registered and delivered new Bonds executed on behalf of, and furnished by, the City to the Owner requesting the exchange.

All Bonds issued upon any transfer or exchange of Bonds shall be delivered at the principal office of the Registrar or sent by United States mail, first-class, postage prepaid to the Owners or the designee thereof, and, upon the registration and delivery thereof, the same shall be the valid obligations of the City, evidencing the same debt, and entitled to the same benefits under the Master Ordinance and this First Supplement, as the Bonds surrendered in such transfer or exchange.

All transfers or exchanges of Bonds pursuant to this Section shall be made without expense or service charge to the Owner, except as otherwise herein provided, and except that the Registrar shall require payment by the Owner requesting such transfer or exchange of any tax or other governmental charges required to be paid with respect to such transfer or exchange.

Bonds canceled by reason of an exchange or transfer pursuant to the provisions hereof are hereby defined to be "Predecessor Bonds," evidencing all or a portion, as the case may be, of the same debt evidenced by the new Bond or Bonds registered and delivered in the exchange or transfer therefor. Additionally, the term "Predecessor Bonds" shall include any mutilated Bond that is surrendered to the Paying Agent/Registrar or any Bond for which satisfactory evidence of the loss of which has been received by the City and the Paying Agent/Registrar and, in either case, in lieu of which a Bond or Bonds have been registered and delivered pursuant to Section 3.05 hereof.

Neither the City nor the Registrar shall be required to issue or transfer to an assignee of a Owner any Bond called for redemption, in whole or in part, within forty-five (45) days of the date fixed for the redemption of such Bond; provided, however, such limitation of transfer shall not be applicable to an exchange by the Owner of the unredeemed balance of a Bond called for redemption in part.

(b) Ownership of Bonds. The entity in whose name any Bond shall be registered in the Security Register at any time shall be deemed and treated as the absolute Owner thereof for all purposes of this First Supplement, whether or not such Bond shall be overdue, and, to the extent

permitted by law, the City and the Paying Agent/Registrar shall not be affected by any notice to the contrary; and payment of, or on account of, the principal of, premium, if any, and interest on any such Bond shall be made only to such Owner. All such payments shall be valid and effectual to satisfy and discharge the liability upon such Bond to the extent of the sum or sums so paid.

Section 2.06. INITIAL BOND. The Bonds shall initially be issued as a fully registered bond, being one bond (the "Initial Bond"). The Initial Bond shall be registered in the name of the initial purchaser(s) of the Bonds. The Initial Bond shall be submitted to the Office of the Attorney General of the State for approval and registration by the Office of the Comptroller of Public Accounts of the State and delivered to the initial purchaser(s) thereof. Immediately after the delivery of the Initial Bond on the Issuance Date, the Registrar shall cancel the Initial Bond and exchange therefor a Bond in the form of a separate single fully-registered Bond in the principal amount.

Section 2.07. FORM OF BONDS. The Bonds (including Initial Bond), the Registration Certificate of the Comptroller of Public Accounts of the State or the Authentication Certificate, and the form of Assignment to be printed on each of the Bonds shall be substantially in the forms set forth in Exhibit B to this First Supplement with such appropriate insertions, omissions, substitutions, and other variations as are permitted or required by this First Supplement, may have such letters, numbers, or other marks of identification and such legends and endorsements (including any reproduction of an opinion of counsel and information regarding the issuance of any bond insurance policy) thereon as may, consistently herewith, be established by the City or determined by the officers executing such Bonds as evidenced by their execution thereof. Any portion of the text of any Bonds may be set forth on the reverse thereof, with an appropriate reference thereto on the face of the Bond.

The Bonds shall be typewritten, photocopied, printed, lithographed, engraved, or produced in any other similar manner, all as determined by the officers executing such Bonds as evidenced by their execution thereof.

ARTICLE III EXECUTION; REPLACEMENT OF BONDS

Section 3.01. EXECUTION AND REGISTRATION. The Bonds shall be executed on behalf of the City by the Mayor under its seal reproduced or impressed thereon and attested by the City Secretary. The signature of said officers on the Bonds may be manual or facsimile. Bonds bearing the manual or facsimile signatures of individuals who are or were the proper officers of the City as of their authorization shall be deemed to be duly executed on behalf of the City, notwithstanding that such individuals or either of them shall cease to hold such offices at the time of delivery of the Bonds to the initial purchaser(s) and with respect to Bonds delivered in subsequent exchanges and transfers, all as authorized and provided in Chapter 1201, Texas Government Code, as amended.

No Bond shall be entitled to any right or benefit under this First Supplement, or be valid or obligatory for any purpose, unless there appears on such Bond either a certificate of registration substantially in the form provided in Exhibit B to this First Supplement, executed by the Comptroller

of Public Accounts of the State or its duly authorized agent by manual signature, or the Paying Agent/Registrar's Authentication Certificate substantially in the form provided in Exhibit B to this First Supplement executed by the manual signature of an authorized officer or employee of the Registrar, and either such certificate duly signed upon any Bond shall be conclusive evidence, and the only evidence, that such Bond has been duly certified, registered, and delivered.

Section 3.02. CONTROL AND CUSTODY OF BONDS. The Chief Financial Officer shall be and is hereby authorized to take and have charge of all necessary orders and records pending investigation and examination by the Attorney General of the State, including the printing and supply of printed Bonds, and shall take and have charge and control of the Initial Bond pending the approval thereof by the Attorney General, the registration thereof by the Comptroller of Public Accounts, and the delivery thereof to the initial purchaser(s).

Furthermore, each Authorized Representative is hereby authorized and directed to furnish and execute such documents relating to the Zone, the City and its financial affairs as may be necessary for the issuance of the Bonds, the approval of the Attorney General, and the registration by the Comptroller of Public Accounts and, together with the City's Bond Counsel and the Paying Agent/Registrar, make the necessary arrangements for the delivery of the Initial Bond to the initial purchaser(s) and the initial exchange thereof for Bonds other than the Initial Bond.

Section 3.03. PRINTED OPINION. The initial purchaser(s)' obligation to accept delivery of the Bonds is subject to the initial purchaser(s) being furnished the final opinion of McCall, Parkhurst & Horton L.L.P. approving the Bonds as to their validity, said opinion to be dated and delivered as of the date of delivery and payment for the Bonds. If bond insurance is obtained for the Bonds, the Bonds may bear an appropriate insurance legend.

Section 3.04. CUSIP NUMBERS. CUSIP numbers may be printed or typed on the Bonds. It is expressly provided, however, that the presence or absence of CUSIP numbers on the Bonds shall be of no significance or effect as regards the legality thereof and neither the City nor attorneys approving the Bonds as to legality are to be held responsible for CUSIP numbers incorrectly printed or typed on the Bonds.

Section 3.05. MUTILATED, DESTROYED, LOST, AND STOLEN BONDS. If (1) any mutilated Bond is surrendered to the Paying Agent/Registrar, or the City and the Paying Agent/Registrar receive evidence to their satisfaction of the destruction, loss, or theft of any Bond, and (2) there is delivered to the City and the Paying Agent/Registrar such security or indemnity as may be required to save each of them harmless, then, in the absence of notice to the City or the Paying Agent/Registrar that such Bond has been acquired by a bona fide purchaser, the City shall execute and, upon its request, the Paying Agent/Registrar shall register and deliver, in exchange for or in lieu of any such mutilated, destroyed, lost, or stolen Bond, a new Bond of the same Maturity and of like tenor and principal amount, bearing a number not contemporaneously outstanding.

In case any such mutilated, destroyed, lost, or stolen Bond has become or is about to become due and payable, the City in its discretion may, instead of issuing a new Bond, pay such Bond and the interest due thereon to the date of payment.

Upon the issuance of any new Bond under this Section, the City may require payment by the Owner of a sum sufficient to cover any tax or other governmental charge imposed in relation thereto and any other expenses (including the fees and expenses of the Paying Agent/Registrar) connected therewith.

Every new Bond issued pursuant to this Section in lieu of any mutilated, destroyed, lost, or stolen Bond shall constitute a replacement of the prior obligation of the City, whether or not the mutilated, destroyed, lost, or stolen Bond shall be at any time enforceable by anyone, and shall be entitled to all the benefits of this First Supplement equally and ratably with all other Outstanding Bonds.

ARTICLE IV PAYMENTS, REBATE ACCOUNT AND RESERVE ACCOUNT

Section 4.01. PAYMENTS. (a) Accrued Interest. Immediately after the delivery of the Bonds the City shall deposit any accrued interest from the sale and delivery of such Bonds to the credit of the Interest and Sinking Account to be held to pay interest on such Bonds.

(b) Debt Service Payments. Semiannually on or before each principal or interest payment date while any of the Bonds are outstanding and unpaid, commencing on the first interest payment date for the Bonds, the City shall make available from the Interest and Sinking Account to the Paying Agent/Registrar, money sufficient to pay such interest on and such principal of the Bonds as will accrue or mature, or be subject to mandatory redemption prior to maturity, on such principal, redemption, or interest payment date. The Paying Agent/Registrar shall cancel all paid Bonds and shall furnish the City with an appropriate certificate of cancellation.

Section 4.02. REBATE ACCOUNT. A separate and special account to be known as the Rebate Account is hereby established by the City pursuant to the requirements of Section 148(f) of the Code and the tax covenants of the City contained in Section 5.01 of this First Supplement for the benefit of the United States of America and the City, as their interests may appear pursuant to this First Supplement. Such amounts shall be deposited therein and withdrawn therefrom as is necessary to comply with the provisions of Section 5.01. Any moneys held within the Rebate Account shall not constitute Security under the Master Ordinance.

Section 4.03. RESERVE ACCOUNT. (a) To accumulate and maintain a reserve for the payment of the Bonds equal to the Average Annual Debt Service Requirements of the Bonds (calculated by the City at the beginning of each Fiscal Year) (the "Required Reserve Amount"), the Reserve Account has been established and shall be maintained by the City. Earnings and income derived from the investment of amounts held for the credit of the Reserve Account shall be retained in the Reserve Account until the Reserve Account contains the Required Reserve Amount; thereafter, such earnings and income shall be deposited to the credit of the Tax Increment Account. The City shall deposit and credit to the Reserve Account amounts required to maintain the balance in the Reserve Account in an amount equal to the Required Reserve Amount by making monthly deposits and credits in amounts equal to not less than 1/60th of the Required Reserve Amount or by the deposit of a Reserve Account Obligation. There shall be deposited into the Reserve Account any Reserve Account Obligations so designated by the City. All funds, investments and Reserve Account

Obligations on deposit and credited to the Reserve Account shall be used solely for (i) the payment of the principal of and interest on the Bonds, when and to the extent other funds available for such purposes are insufficient, (ii) to make Reserve Account Obligation Payments and (iii) to retire the last Stated Maturity or Stated Maturities of or interest on the Bonds. The Reserve Account is solely for the benefit of this series of Bonds and is not available to pay Annual Debt Service Requirements on any other Parity Debt.

(b) When and for so long as the cash, investments and Reserve Account Obligations in the Reserve Account equal the Required Reserve Amount, no deposits need be made to the credit of the Reserve Account; but, if and when the Reserve Account at any time contains less than the Required Reserve Amount, the City covenants and agrees that the City shall cure the deficiency in the Reserve Account by resuming the deposits to such Account from the Pledged Revenues by monthly deposits and credits in amounts equal to not less than 1/60th of the Required Reserve Amount with any such deficiency payments being made on or before each interest payment date until the Required Reserve Amount has been fully restored; provided, however, that no such deposits shall be made into the Reserve Account during any six month period beginning on an interest payment date until there has been deposited into the Interest and Sinking Account the full amount required to be deposited therein by the next following semi-annual payment date, as the case may be. In addition, in the event that a portion of the Required Reserve Amount is represented by a Reserve Account Obligation, the Required Reserve Amount shall be restored as soon as possible from monthly deposits of Pledged Revenues on deposit in the System Account, but subject to making the full deposits and credits to the Interest and Sinking Account required to be made by the next following interest payment date, as the case may be. The City further covenants and agrees that, subject only to the prior deposits and credits to be made to the Interest and Sinking Account, the Pledged Revenues shall be applied and appropriated and used to establish and maintain the Required Reserve Amount, including by paying Reserve Account Obligation Payments when due, and to cure any deficiency in such amounts as required by the terms of this First Supplement.

During such time as the Reserve Account contains the Required Reserve Amount, the obligation to maintain the Required Reserve Amount has been suspended pursuant to subsection (d) below or any cash is replaced with a Reserve Account Obligation pursuant to subsection (c) below, the City may, at its option, withdraw all surplus funds in the Reserve Account and deposit such surplus in the Interest and Sinking Account or otherwise use such amount in any manner permitted by law unless such surplus is required to be rebated in which case such event shall be deposited into the Rebate Account.

(c) A Reserve Account Obligation issued in an amount equal to all or part of the Required Reserve Amount for the Bonds may be used in lieu of depositing cash into the Reserve Account. In addition, a Reserve Account Obligation may be substituted for monies and investments in the Reserve Account if the substitution of the Reserve Account Obligation will not, in and of itself, cause any ratings then assigned to the Bonds by any rating agency to be lowered and the ordinance authorizing the substitution of the Reserve Account Obligation for all or part of the Required Reserve Amount contains a finding that such substitution is cost effective.

(d) Notwithstanding anything to the contrary contained herein, the requirement set forth in subsection (a) above to maintain the Required Reserve Amount in the Reserve Account shall be

suspended for such time as the Net Revenues for each Fiscal Year are equal to at least 1.25 times the average Annual Debt Service Requirements. In the event that the Net Revenues for any Fiscal Year are less than 1.25 times the average Annual Debt Service Requirements, the City will be required to commence making Required Reserve Account Deposits, as provided in subsection (b) above, and to continue such Required Reserve Account Deposits until the earlier of (i) such time as the Reserve Account contains the Required Reserve Amount or (ii) the Net Revenues in each of two consecutive years have been equal to not less than 1.25 times the average Annual Debt Service Requirements. Notwithstanding the provisions of Section 4.03(a) of this section, if the City commences deposits in the Reserve Account and later is authorized to suspend payments into the fund under this section any funds so accumulated may, at the discretion of the City: (i) remain in the Reserve Account or (ii) be used for any lawful purpose including additional projects or to pay debt service on the Bonds.

(e) A Reserve Account Obligation permitted under (a) above, must be in the form of a surety bond or insurance policy meeting the requirements described below.

(1) (i) A surety bond or insurance policy issued to the Paying Agent/Registrar, as agent of the Holders, by a company licensed to issue an insurance policy guaranteeing the timely payment of debt service on the Bonds (a "municipal bond insurer") if the claims paying ability of the issuer thereof shall be rated "AAA" or "Aaa", respectively, by S&P and Moody's, or (ii) a surety bond or insurance policy issued to the Paying Agent/Registrar, as agent of the Holders, by an entity other than a municipal bond insurer, if the form and substance of such instrument and the issuer thereof shall be approved in writing by each Bond Insurer of record.

(2) The obligation to reimburse the issuer of a Reserve Account Obligation for any claims or draws upon such Reserve Account Obligation in accordance with its terms, including expenses incurred in connection with such claims or draws, to the extent permitted by law, (a Reserve Account Obligation Payment) shall be made from the deposits made to the Reserve Account as provided in this Section. The Reserve Account Obligation shall provide for a revolving feature under which the amount available thereunder will be reinstated to the extent of any reimbursement of draws or claims paid. If the revolving feature is suspended or terminated for any reason, the right of the issuer of the Reserve Account Obligation to reimbursement will be subordinated to the cash replenishment of the Reserve Account to an amount equal to the difference between the full original amount available under the Reserve Account Obligation and the amount then available for further draws or claims. In the event (a) the issuer of a Reserve Account Obligation becomes insolvent, or (b) the issuer of a Reserve Account Obligation defaults in its payment obligations thereunder, or (c) the claims paying ability of the issuer of the insurance policy or surety bond falls below "AAA" or "Aaa", by S&P and Moody's, respectively, the obligation to reimburse the issuer of the Reserve Account Obligation shall be subordinated to the cash replenishment of the Reserve Account.

(3) In the event (a) the issuer of a Surety Policy becomes insolvent, or (b) the issuer of a Surety Policy defaults in its payment obligations thereunder, or (c) the claims paying ability of the issuer of the Surety Policy falls below "AAA" by S&P or "Aaa" by moody's, the

obligation to reimburse the issuer of the Surety Policy shall be subordinate to the cash replenishment of the Reserve Fund. In the event (a) the rating of the claims paying ability of the issuer of the Surety Policy falls below "AAA" by S&P or "Aaa" by Moody's, the City shall either (i) deposit into the Reserve Fund, in accordance with this section, an amount sufficient to cause the money or investments on deposit in the Reserve Fund to accumulate to the average annual principal and interest requirements on the Parity Revenue Obligations within thirty-six (36) months, or (ii) replace such instrument with a Surety Policy, meeting the requirements of the definition of Surety Policy, within six (6) months of such occurrence. In the event (a) the rating of the claims-paying ability of the issuer of the Surety Policy falls below "A" by S&P or Moody's, or (b) the issuer of the Surety Policy defaults in its payment obligations hereunder, or (c) the issuer of the Surety Policy becomes insolvent, the City shall either (i) deposit into the Reserve Fund, in accordance with this section, amounts sufficient to cause the money or investments on deposit in the Reserve Fund to accumulate to the average annual principal and interest requirements on the Parity Revenue Obligations, or (ii) replace such instrument with a Surety Policy, meeting the requirements of the definition of Surety Policy above within six (6) months of such occurrence.

It is recognized that a Reserve Account Obligation may be issued which is payable only with respect to a part of the Bonds with the remainder of the Required Reserve Amount being satisfied by monies and investments and in that case any draws upon the Reserve Account will have to be made on a pro-rata basis. Therefore, (i) draws upon one or more such Reserve Account Obligations shall be made on a pro-rata basis with cash and investments available in the Reserve Account and (ii) deposits and credits to the Reserve Account to restore it to the Required Reserve Amount shall be utilized on a pro-rata basis to pay Reserve Account Obligation Payments to reimburse the issuers of the Reserve Account Obligations, thus restoring that part of the Required Reserve Amount, and to restore with cash and investments the balance of the Required Reserve Amount.

ARTICLE V TAXABLE OBLIGATIONS

Section 5.01. TAXABLE OBLIGATIONS The City does not intend to issue the Bonds in a manner such that the Bonds would constitute an obligation described in section 103(a) of the Internal Revenue Code of 1986, as amended, (the "Code") and all applicable temporary, proposed and final regulations and procedures promulgated thereunder or promulgated under the Internal Revenue Code of 1954, to the extent applicable to the Code. Accordingly, the City will not file an Internal Revenue Form 8038 or an Internal Revenue Form 8038-G with respect to the Bonds.

ARTICLE VI AMENDMENTS AND MODIFICATIONS

Section 6.01. AMENDMENTS OR MODIFICATIONS WITHOUT CONSENT OF OWNERS OF BONDS. Subject to the provisions of the Master Ordinance, this First Supplement and the rights and obligations of the City and of the Owners of the Outstanding Bonds may be modified or amended at any time without notice to or the consent of any Owner of the Bonds or any other Parity Debt, solely for any one or more of the following purposes:

(i) To add to the covenants and agreements of the City contained in this First Supplement, other covenants and agreements thereafter to be observed, or to surrender any right or power reserved to or conferred upon the City in this First Supplement;

(ii) To cure any ambiguity or inconsistency, or to cure or correct any defective provisions contained in this First Supplement, upon receipt by the City of an Opinion of Counsel, that the same is needed for such purpose, and will more clearly express the intent of this First Supplement;

(iii) To supplement the Security for the Bonds;

(iv) To make such other changes in the provisions hereof, as the City may deem necessary or desirable and which shall not, in the judgment of the City, materially adversely affect the interests of the Owners of the Outstanding Bonds;

(v) To make any changes or amendments requested by the State Attorney General's Office as a condition to the approval of the Bonds, which changes or amendments do not, in the judgment of the City, materially adversely affect the interests of the Owners of the Outstanding Bonds; or

(vi) To make any changes or amendments requested by any bond rating agency then rating or requested to rate the Bonds, as a condition to the issuance or maintenance of a rating, which changes or amendments do not, in the judgment of the City, materially adversely affect the interests of the Owners of the Outstanding Bonds.

Section 6.02. AMENDMENTS OR MODIFICATIONS WITH CONSENT OF OWNERS OF BONDS. (a) Amendments. Subject to the other provisions of this First Supplement and the Master Ordinance, the Owners of Outstanding Bonds aggregating a majority in Outstanding Principal Amount shall have the right from time to time to approve any amendment, other than amendments described in Section 6.01 hereof, to this First Supplement that may be deemed necessary or desirable by the City, provided, however, that nothing herein contained shall permit or be construed to permit, without the approval of the Owners of all of the Outstanding Bonds, the amendment of the terms and conditions in this First Supplement or in the Bonds so as to:

(i) Make any change in the maturity of the Outstanding Bonds;

(ii) Reduce the rate of interest borne by Outstanding Bonds;

(iii) Reduce the amount of the principal payable on Outstanding Bonds;

(iv) Modify the terms of payment of principal of or interest on the Outstanding Bonds, or impose any conditions with respect to such payment;

(v) Affect the rights of the Owners of less than all Bonds then Outstanding; or

(vi) Change the minimum percentage of the Outstanding Principal Amount of Bonds necessary for consent to such amendment.

(b) Notice. If at any time the City shall desire to amend this First Supplement pursuant to Subsection (a), the City shall cause notice of the proposed amendment to be published in a financial newspaper or journal of general circulation in the City of New York, New York (including, but not limited to, The Bond Buyer or The Wall Street Journal) or in the State (including, but not limited to, The Texas Bond Reporter), once during each calendar week for at least two successive calendar weeks or disseminated by electronic means customarily used to convey notices of redemption. Such notice shall briefly set forth the nature of the proposed amendment and shall state that a copy thereof is on file at the principal office of the Paying Agent/Registrar for inspection by all Owners of Bonds. Such publication is not required, however, if the City gives or causes to be given such notice in writing to each Owner of Bonds. A copy of such notice shall be provided in writing to each rating agency maintaining a rating on the Bonds and to the Bond Insurer.

(c) Receipt of Consents. Whenever at any time the City shall receive an instrument or instruments executed by all of the Owners or the Owners of Outstanding Bonds aggregating a majority in Outstanding Principal Amount, as appropriate, which instrument or instruments shall refer to the proposed amendment described in said notice and which consent to and approve such amendment in substantially the form of the copy thereof on file as aforesaid, the City may adopt the amendatory resolution in substantially the same form.

(d) Consent Irrevocable. Any consent given by any Owner pursuant to the provisions of this Section shall be irrevocable for a period of six (6) months from the date of the first publication or other service of the notice provided for in this Section, and shall be conclusive and binding upon all future Owners of the same Bond during such period. Such consent may be revoked at any time after six (6) months from the date of the first publication of such notice by the Owner who gave such consent, or by a successor in title, by filing notice thereof with the Paying Agent/Registrar and the City, but such revocation shall not be effective if the Owners of Outstanding Bonds aggregating a majority in Outstanding Principal Amount prior to the attempted revocation consented to and approved the amendment. Notwithstanding the foregoing, any consent given at the time of and in connection with the initial purchase of Bonds shall be irrevocable.

(e) Ownership. For the purpose of this Section, the ownership and other matters relating to all Bonds registered as to ownership shall be determined from the Security Register kept by the Paying Agent/Registrar therefor. The Paying Agent/Registrar may conclusively assume that such ownership continues until written notice to the contrary is served upon the Paying Agent/Registrar.

Section 6.03. EFFECT OF AMENDMENTS. Upon the adoption by the City of any resolution to amend this First Supplement pursuant to the provisions of this Article, this First Supplement shall be deemed to be amended in accordance with the amendatory resolution, and the respective rights, duties, and obligations of the City and all the Owners of Outstanding Bonds shall

thereafter be determined, exercised, and enforced under the Master Ordinance and this First Supplement, as amended.

ARTICLE VII MISCELLANEOUS

Section 7.01. DISPOSITION OF BOND PROCEEDS AND OTHER FUNDS. Proceeds from the sale of the Bonds shall, promptly upon receipt thereof, be applied by the Chief Financial Officer as follows:

- (i) accrued interest, if any, shall be deposited as provided in Section 4.01;
- (ii) an amount sufficient to pay the remaining costs of issuance of the Bonds and the project costs being financed with the proceeds of the Bonds shall be deposited in the Bond Proceeds Account to be used for such purposes.

Any sale proceeds of the Bonds remaining after making all deposits and payments provided for above shall be deposited into the Interest and Sinking Account and applied to the payment of principal of and interest on the Bonds.

Section 7.02. MAILED NOTICES. Except as otherwise required herein, all notices required or authorized to be given to the City, or the Paying Agent/Registrar pursuant to this First Supplement shall be in writing and shall be sent by registered or certified mail, postage prepaid, to the following addresses or otherwise given in a manner deemed, in writing, acceptable to the party to receive the notice:

- 1. to the City:
City of Temple, Texas
2 North Main Street
Temple, Texas 76501
Attn: Chief Financial Officer
Telephone: (254) 298-5453
Facsimile: (254) 298-5466

- 2. to the Paying Agent/Registrar:

Attn: Corporate Trust
Telephone: ()
Facsimile: ()

or to such other addresses as may from time to time be furnished to the parties, effective upon the receipt of notice thereof given as set forth above.

Section 7.03. DEFEASANCE OF BONDS. (a) Deemed Paid. The principal of and/or the interest and redemption premium, if any, on any Bonds shall be deemed to be Defeased Debt within the meaning of the Master Ordinance, except to the extent provided in subsections (c) and (e) of this Section, when payment of the principal of such Bonds, plus interest thereon to the due date or dates (whether such due date or dates be by reason of maturity, upon redemption, or otherwise) either (i) shall have been made or caused to be made in accordance with the terms thereof (including the giving of any required notice of redemption or the establishment of irrevocable provisions for the giving of such notice) or (ii) shall have been provided for on or before such due date by irrevocably depositing with or making available to the Paying Agent/Registrar for such Bonds or an eligible trust company or commercial bank for such payment (1) lawful money of the United States of America sufficient to make such payment, (2) Defeasance Securities, certified by an independent public accounting firm of national reputation to mature as to principal and interest in such amounts and at such times as will ensure the availability, without reinvestment, of sufficient money to provide for such payment and when proper arrangements have been made by the City with the Paying Agent/Registrar for such Bonds or an eligible trust company or commercial bank for the payment of its services until all Defeased Debt shall have become due and payable or (3) any combination of (1) and (2). At such time as Bonds shall be deemed to be a Defeased Debt hereunder, as aforesaid, such Bonds and the interest thereon shall no longer be secured by, payable from, or entitled to the benefits of the Security as provided in the Master Ordinance and this First Supplement, and such principal and interest shall be payable solely from such money or Defeasance Securities.

(b) Investments. The deposit under clause (ii) of subsection (a) of this Section shall be deemed a payment of Bonds as aforesaid when proper notice of redemption of such Bonds shall have been given or upon the establishment of irrevocable provisions for the giving of such notice, in accordance with the Master Ordinance and this First Supplement. Any money so deposited with the Paying Agent/Registrar for such Bonds or an eligible trust company or commercial bank as provided in this Section may at the discretion of the City also be invested in Defeasance Securities, maturing in the amounts and at the times as hereinbefore set forth, and all income from all Defeasance Securities in possession of the Paying Agent/Registrar for such Bonds or an eligible trust company or commercial bank pursuant to this Section which is not required for the payment of such Bonds and premium, if any, and interest thereon with respect to which such money has been so deposited, shall be remitted to the City for deposit to the General Account of the System Account.

(c) Continuing Duty of Paying Agent and Registrar. Notwithstanding any provision of any other Section of this First Supplement which may be contrary to the provisions of this Section, all money or Defeasance Securities set aside and held in trust pursuant to the provisions of this Section for the payment of principal of Bonds and premium, if any, and interest thereon, shall be applied to and used solely for the payment of the particular Bonds and premium, if any, and interest thereon, with respect to which such money or Defeasance Securities have been so set aside in trust. Until all Defeased Debt shall have become due and payable, the Paying Agent/Registrar for such Defeased Debt shall perform the services of Paying Agent/Registrar for such Defeased Debt the same as if they had not been defeased, and the City shall make proper arrangements to provide and pay for such services as required by this First Supplement.

(d) Amendment of this Section. Notwithstanding anything elsewhere in this First Supplement, if money or Defeasance Securities have been deposited or set aside with the Paying Agent/Registrar for such Bonds or an eligible trust company or commercial bank pursuant to this Section for the payment of Bonds and such Bonds shall not have in fact been actually paid in full, no amendment of the provisions of this Section shall be made without the consent of the registered owner of each Bonds affected thereby.

(e) Retention of Rights. Notwithstanding the provisions of subsection (a) of this Section, to the extent that, upon the defeasance of any Defeased Debt to be paid at its maturity, the City retains the right under State law to later call that Defeased Debt for redemption in accordance with the provisions of this First Supplemental Ordinance relating to the Defeased Debt, the City may call such Defeased Debt for redemption upon complying with the provisions of State law and upon the satisfaction of the provisions of subsection (a) of this Section with respect to such Defeased Debt as though it was being defeased at the time of the exercise of the option to redeem the Defeased Debt and the effect of the redemption is taken into account in determining the sufficiency of the provisions made for the payment of the Defeased Debt.

Section 7.04. PAYING AGENT/REGISTRAR AGREEMENT, SALE OF BONDS.

(a) The Paying Agent/Registrar Agreement by and between the City and the Paying Agent/Registrar is hereby approved and the Mayor is hereby authorized to execute, and deliver such Paying Agent/Registrar Agreement.

(b) Attached hereto as Exhibit "B" is a substantially final form of the Investment and Commitment Letter relating to the Bonds. The Mayor is hereby authorized to amend, complete or modify such agreement as necessary and is further authorized to execute such agreement and the City Secretary or the Deputy City Secretary is hereby authorized to attest such agreement.

Section 7.05. FURTHER PROCEDURES. Each Authorized Representative is hereby expressly authorized, empowered, and directed from time to time and at any time to do and perform all such acts and things and to execute, acknowledge, and deliver in the name and under the corporate seal and on behalf of the City all such instruments, whether or not herein mentioned, as may be necessary or desirable in order to carry out the terms and provisions of this First Supplement, the Bonds, the sale and delivery of the Bonds, and fixing all details in connection therewith, and the Paying Agent/Registrar Agreement. In connection with the issuance and delivery of each the Bonds, the above-stated officers, with the advice of the City Attorney and Bond Counsel to the City, are hereby authorized to approve, subsequent to the date of the adoption of this First Supplement, any amendments to the above named documents, and any technical amendments to this First Supplement as permitted by Section 6.01 (v) or (vi) and a Authorized Representative is hereby authorized to execute this First Supplement to evidence approval of such changes.

Section 7.06. NONPRESENTMENT OF BONDS. If any Bond shall not be presented for payment when the principal thereof becomes due, either at maturity or otherwise if moneys sufficient to pay such Bond shall have been deposited with the Paying Agent/Registrar, it shall be the duty of the Paying Agent/Registrar to hold such moneys, without liability to the City, any Owner, or any other person for interest thereon, for the benefit of the Owner of such Bond.

Any moneys so deposited with and held by the Paying Agent/Registrar due to nonpresentment of Bonds must be retained by the Paying Agent/Registrar for a period of at least two years after the final maturity date of the Bonds or advance refunding date, if applicable. Thereafter, to the extent permitted by the unclaimed property laws of the State, such amounts shall be paid by the Paying Agent/Registrar to the City, free from the trusts created by this First Supplement and Owners shall be entitled to look only to the City for payment, and then only to the extent of the amount so repaid by the Paying Agent/Registrar.

Section 7.07. EFFECT OF SATURDAYS, SUNDAYS, AND LEGAL HOLIDAYS.

Whenever this First Supplement requires any action to be taken on a Saturday, Sunday, or legal holiday, such action shall be taken on the first business day occurring thereafter. Whenever in this First Supplement the time within which any action is required to be taken or within which any right will lapse or expire shall terminate on a Saturday, Sunday, or legal holiday, such time shall continue to run until midnight on the next succeeding business day.

Section 7.08. PARTIAL INVALIDITY. If any one or more of the covenants or agreements or portions thereof provided in this First Supplement on the part of the City should be determined by a court of competent jurisdiction to be contrary to law, then such covenant or covenants, or such agreement or agreements, or such portions thereof, shall be deemed severable from the remaining covenants and agreements or portions thereof provided in this First Supplement and the invalidity thereof shall in no way affect the validity of the other provisions of this First Supplement or of the Bonds, but the Owners of the Bonds shall retain all the rights and benefits accorded to them hereunder and under any applicable provisions of law.

Section 7.09. NO CONTINUING DISCLOSURE UNDERTAKING AND FINANCIAL REPORTS. (a) The Bonds are being sold pursuant to a private placement with the Purchaser, generally in denominations of \$100,000 or an integral multiple of \$5,000 in excess thereof, to less than thirty-five sophisticated investors, and therefore SEC Rule 15c2-12 is not applicable to the offering of the Bonds. Accordingly, no contract to provide continuing disclosure information after the issuance of the Bonds has been made by the City.

(b) While the Bonds remains outstanding, unless waived by the Purchaser, shall provide the Purchaser audited financial statements within 270 days after the close of each fiscal year ending on and after September 30, 2008 and such other financial information as reasonably requested by the Purchaser.

Section 7.10. CREDIT AGREEMENT. To the extent permitted by law, the City reserves the right to enter into Credit Agreements in connection with the Bonds, upon the written opinion of the Chief Financial Officer that such Credit Agreements are in the best interest of the City given the market conditions at the time. The Credit Agreements will constitute a Credit Agreement as defined in the Master Ordinance. Credit Agreements and the obligations thereunder may, pursuant to their terms, constitute (i) Parity Debt secured by a pledge of the Security on parity with the Bonds and other Parity Debt, (ii) Subordinated Debt secured by a pledge of the Security subordinate to the Bonds and other Parity Debt or (iii) partially Parity Debt and partially Subordinated Debt.

Section 7.11. DEFAULT AND REMEDIES. (a) Events of Default. Each of the following occurrences or events for the purpose of this First Supplement is hereby declared to be an Event of Default:

(i) the failure to make payment of the principal of or interest on any of the Bonds when the same becomes due and payable; or

(ii) default in the performance or observance of any other covenant, agreement or obligation of the City, the failure to perform which materially, adversely affects the rights of the Registered Owners of the Bonds, including, but not limited to, their prospect or ability to be repaid in accordance with this First Supplement, and the continuation thereof for a period of 60 days after notice of such default is given by any Registered Owner to the City.

(b) Remedies for Default.

(i) Upon the happening of any Event of Default, then and in every case, any Registered Owner or an authorized representative thereof, including, but not limited to, a trustee or trustees therefor, may proceed against the City, or any official, officer or employee of the City in their official capacity, for the purpose of protecting and enforcing the rights of the Registered Owners under this First Supplement, by mandamus or other suit, action or special proceeding in equity or at law, in any court of competent jurisdiction, for any relief permitted by law, including the specific performance of any covenant or agreement contained herein, or thereby to enjoin any act or thing that may be unlawful or in violation of any right of the Registered Owners hereunder or any combination of such remedies.

(ii) It is provided that all such proceedings shall be instituted and maintained for the equal benefit of all Registered Owners of Bonds then outstanding.

(c) Remedies Not Exclusive.

(i) No remedy herein conferred or reserved is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or under the Bonds or now or hereafter existing at law or in equity; provided, however, that notwithstanding any other provision of this First Supplement, the right to accelerate the debt evidenced by the Bonds shall not be available as a remedy under this First Supplement.

(ii) The exercise of any remedy herein conferred or reserved shall not be deemed a waiver of any other available remedy.

(iii) By accepting the delivery of a Bond authorized under this First Supplement, such Registered Owner agrees that the certifications required to effectuate any covenants or representations contained in this First Supplement do not and shall never constitute or give rise to a personal or pecuniary liability or charge against the officers, employees or trustees of the City or the City Council.

(iv) None of the members of the City Council, nor any other official or officer, agent, or employee of the City, shall be charged personally by the Registered Owners with any liability, or be held personally liable to the Registered Owners under any term or provision of this First Supplement, or because of any Event of Default or alleged Event of Default under this First Supplement.

Section 7.12. RULES OF INTERPRETATION. For purposes of this First Supplement, except as otherwise expressly provided or the context otherwise requires:

(a) The words "herein," "hereof" and "hereunder" and other similar words refer to this First Supplement as a whole and not to any particular Article, Section, or other subdivision.

(b) The definitions in an Article are applicable whether the terms defined are used in the singular or the plural.

(c) All accounting terms that are not defined in this First Supplement have the meanings assigned to them in accordance with then applicable accounting principles.

(d) Any pronouns used in this First Supplement include both the singular and the plural and cover both genders.

(e) Any terms defined elsewhere in this First Supplement have the meanings attributed to them where defined.

(f) The captions or headings are for convenience only and in no way define, limit or describe the scope or intent, or control or affect the meaning or construction, of any provisions or sections hereof.

(g) Any references to Section numbers are to Sections of this First Supplement unless stated otherwise.

Section 7.13. INDIVIDUALS NOT LIABLE. All covenants, stipulations, obligations, and agreements of the City contained in this First Supplement shall be deemed to be covenants, stipulations, obligations, and agreements of the Financing Program, the Utility System and the City to the full extent authorized or permitted by State law. No covenant, stipulation, obligation, or agreement herein contained shall be deemed to be a covenant, stipulation, obligation, or agreement of any member of the City Council or agent or employee of the City in his or her individual capacity and neither the members of the City Council, nor any officer, employee, or agent of the City shall be liable personally on the Bonds when issued, or be subject to any personal liability or accountability by reason of the issuance thereof.

Section 7.14. PAYMENT OF ATTORNEY GENERAL FEE. The City hereby authorizes the disbursement of a fee equal to the lesser of (i) one-tenth of one percent of the principal amount of the Bonds or (ii) \$9,500, provided that such fee shall not be less than \$750, to the Attorney General of Texas Public Finance Division for payment of the examination fee charged by the State of Texas for the Attorney General's review and approval of public securities and credit agreements,

as required by Section 1202.004 of the Texas Government Code. The Authorized Representative is hereby instructed to take the necessary measures to make this payment. The City is also authorized to reimburse the appropriate City funds for such payment from proceeds of the Bonds.

IN ACCORDANCE WITH SECTION 1201.028, Texas Government Code, finally passed,
approved and effective this 5th day of June, 2008.

Mayor
City of Temple, Texas

ATTEST:

City Secretary
City of Temple, Texas

[SEAL]

APPROVED AS TO LEGALITY:

City Attorney
City of Temple, Texas

The City has caused this First Supplement to be executed by an Authorized Representative.

CITY OF TEMPLE, TEXAS

By: _____
Authorized Representative

EXHIBIT A DEFINITIONS

As used in this First Supplement, the following terms shall have the meanings set forth below, unless the text hereof specifically indicates otherwise:

"Authorized Denominations" - Means \$100,000 and \$5,000 increments in excess of \$100,000 or any integral multiple thereof.

"Authorized Representative" - Means the City Manager, Assistant City Manager or such other individuals so designated by the City to perform the duties of an Authorized Representative under this First Supplement.

"Bonds" - The Bonds issued pursuant to and governed by this First Supplement, as described in Article II hereof.

"Chief Financial Officer" - Means the Finance Director or such other officer or employee of the City or such other individual so designated by the City to perform the duties of Chief Financial Officer under this First Supplement.

"Current Interest Bonds" - The Bonds paying current interest and maturing in each of the years and in the aggregate principal amounts set forth in this Ordinance.

"Defeasance Securities" - Means (i) Federal Securities, (ii) noncallable obligations of an agency or instrumentality of the United States of America, including obligations that are unconditionally guaranteed or insured by the agency or instrumentality and that, on the date the City adopts or approves proceedings authorizing the issuance of refunding bonds or otherwise provide for the funding of an escrow to effect the defeasance of Bonds are rated as to investment quality by a nationally recognized investment rating firm not less than "AAA" or its equivalent, and (iii) noncallable obligations of a state or an agency or a county, municipality, or other political subdivision of a state that have been refunded and that, on the date the City adopts or approves proceedings authorizing the issuance of refunding bonds or otherwise provide for the funding of an escrow to effect the defeasance of Bonds, are rated as to investment quality by a nationally recognized investment rating firm no less than "AAA" or its equivalent.

"Federal Securities" - Direct, noncallable obligations of the United States of America, including obligations that are unconditionally guaranteed by the United States of America (including Interest Strips of the Resolution Funding Corporation).

"First Supplement" - This First Supplemental Ordinance, which was adopted pursuant to authority reserved by the City under the Master Ordinance.

"Issuance Date" - The date of delivery of the Bonds to the initial purchaser(s) thereof against payment therefor.

"Master Ordinance" - The "Master Ordinance Establishing the Reinvested Zone Number One Tax Increment Revenue Financing Program," adopted by the City on June 5, 2008, as may be amended or supplemented from time to time.

"Maturity" - When used with respect to the Bonds, the scheduled maturity of the Bonds.

"Maximum Rate" - A net effective interest rate (as defined in and calculated in accordance with the provisions of the Chapter 1204, Texas Government Code, as amended not to exceed fifteen percent (15%)).

"Owner" - The registered owners of the Bonds as shown on the Security Register and to the extent set forth in a Credit Agreement relating to the Bonds, the party contracting with the City under a Credit Agreement.

"Paying Agent" - The agent selected and appointed by the City for purposes of paying the principal of, premium, if any, and interest on the Bonds to the Owners thereof, as identified in Section 2.03 hereof and any successor to such agent.

"Paying Agent/Registrar" - Collectively, the Paying Agent and the Registrar designated in Section 2.03 of this First Supplement or any successor to such agent.

"Paying Agent/Registrar Agreement" - The agreement having such name executed by and between the City and the Paying Agent/Registrar.

"Predecessor Bonds" - Predecessor Bonds as defined in Section 2.05(a) hereof.

"Purchaser" - _____.

"Rebate Account" - The account by that name described in Section 4.02 hereof.

"Record Date" - With respect to each interest payment date of a Bond, the 15th day of the next preceding month.

"Registrar" - The agent selected and appointed by the City for purposes of keeping and maintaining books and records relating to the registration, transfer, exchange, and payment of the Bonds and interest thereon, as identified in Section 2.03 hereof and any successor to such agent.

"Reserve Account" - The account that was described in Section 4.03 hereof.

"Reserve Account Obligation" - Means a surety bond or insurance policy deposited in the Reserve Account to satisfy the Required Reserve Amount whereby the issuer is obligated to provide funds up to and including the maximum amount and under the conditions specified in such agreement or instrument.

"Rule" - SEC Rule 15c2-12, as amended from time to time.

"SEC" - The United States Securities and Exchange Commission.

"Section" - Unless the context clearly requires otherwise, refers to a Section of this First Supplement.

"Security Register" - The books and records kept and maintained by the Registrar relating to the registration, transfer, exchange, and payment of the Bonds and the interest thereon.

EXHIBIT B

FORM OF BONDS

**UNITED STATES OF AMERICA
STATE OF TEXAS
COUNTY OF BELL
CITY OF TEMPLE, TEXAS
REINVESTMENT ZONE NUMBER ONE TAX
INCREMENT REVENUE BONDS,
TAXABLE SERIES 2008**

No. R-_____

\$_____

**BOND
DATE:**

**INTEREST
RATE:**

**MATURITY
DATE:**

CUSIP:

_____, 2008

REGISTERED OWNER:

PRINCIPAL AMOUNT:

DOLLARS

The City of Temple, Texas (the "City") hereby promises to pay, solely from the sources hereinafter identified and as hereinafter stated, to the Registered Owner named above, or the registered assigns thereof, the Principal Amount specified above on the Maturity Date specified above and to pay interest on the unpaid principal amount hereof from the Bond Date specified above at the per annum rate of interest specified above computed on the basis of a 360-day year of twelve 30-day months; such interest being payable on _____ and _____ of each year, commencing _____. Principal of this Bond shall be payable to the Registered Owner hereof, upon presentation and surrender, at the designated office of the Paying Agent/Registrar named in the registration certificate appearing hereon, or its successor. Interest shall be payable to the Registered Owner of this Bond whose name appears on the "Security Register" maintained by the Paying Agent/Registrar at the close of business on the "Record Date," which is the 15th day of the month next preceding each interest payment date. All payments of principal of, premium, if any, and interest on this Bond shall be payable in lawful money of the United States of America, without exchange or collection charges, and interest payments shall be made by the Paying Agent/Registrar by check sent on or before the appropriate date of payment, by United States mail, first-class postage prepaid, to the Registered Owner hereof at the address appearing in the Security Register or by such other method, acceptable to the Paying Agent/Registrar, requested by, and at the risk and expense of, the Registered Owner hereof.

This Bond is one of a duly authorized issue of bonds designated as "City of Temple, Texas Reinvestment Zone Number One Tax Increment Revenue Bonds, Taxable Series 2008" (the "Bonds"), in the aggregate principal amount of \$_____ issued pursuant to the laws of the State of Texas, including specifically the Enabling Act (the "Act"), and initially under and pursuant

to an ordinance of the City adopted on June 5, 2008, and entitled First Supplemental Ordinance to the Master Ordinance establishing the City of Temple, Texas Reinvestment Zone Number One Tax Increment Revenue Financing Program (the "First Supplement") for the purpose of (i) paying project costs relating to extending and improving the City's railroad system within the Zone and acquiring land/real property assembly costs within the Zone and (ii) paying the costs of issuing such Bonds. The Bonds are secured by a first lien on and pledge of the Security as defined in the Master Ordinance adopted on June 5, 2008 (the "Master Ordinance"), on a parity with all other Parity Debt (as defined in the Master Ordinance and the First Supplement).

The Master Ordinance, as supplemented by the First Supplement, is referred to in this Bond as the "Ordinance." Terms used herein and not otherwise defined shall have the meanings given in the Ordinance.

The Bonds are issued as "Current Interest Bonds," which total in principal amount \$_____, and which pay accrued interest at stated intervals to the Registered Owners.

Redemption Provisions

On _____ or on any date thereafter, the Bonds maturing on and after August 1, 2015 may be redeemed prior to their scheduled maturities, at the option of the City, with funds derived from any available and lawful source, at a redemption price equal to the principal amount to be redeemed plus accrued interest to the date fixed for redemption as a whole, or from time to time in part, and, if in part, the particular Bonds, or portions thereof, to be redeemed shall be selected and designated by the City, and if less than all of a maturity is to be redeemed the Paying Agent/Registrar shall determine by lot the Bonds, or portions thereof within such maturity to be redeemed (provided that a portion of a Bond may be redeemed only in integral multiples of \$5,000 of principal amount).

At least 30 days prior to the date fixed for any redemption of Bonds or portions thereof prior to maturity, a written notice of such redemption shall be sent by the Paying Agent/Registrar by United States mail, first-class postage prepaid, at least 30 days prior to the date fixed for any such redemption to the Registered Owner of each Bond to be redeemed at its address as it appeared on the Registration Books maintained by the Paying Agent/Registrar on the day such notice of redemption is mailed. By the date fixed for any such redemption, due provision shall be made with the Paying Agent/Registrar for the payment of the required redemption price for the Bonds or portions thereof which are to be so redeemed. If such written notice of redemption is mailed and if due provision for such payment is made, all as provided above, the Bonds or portions thereof which are to be so redeemed thereby automatically shall be treated as redeemed prior to their scheduled maturities, and they shall not bear interest after the date fixed for redemption, and they shall not be regarded as being outstanding except for the right of the Registered Owner to receive the redemption price from the Paying Agent/Registrar out of the funds provided for such payment. If a portion of any Bond shall be redeemed a substitute Bond or Bonds having the same maturity date, bearing interest at the same rate, in any denomination or denominations in any integral multiple of \$5,000, at the written request of the Registered Owner, and in an aggregate principal amount equal to the unredeemed portion thereof, will be issued to the Registered Owner upon the surrender thereof for cancellation, at the expense of the City, all as provided in the Bond Ordinance.

With respect to any optional redemption of the Bonds, unless certain prerequisites to such redemption required by the Bond Ordinance have been met and moneys sufficient to pay the principal of and premium, if any, and interest on the Bonds to be redeemed shall have been received by the Paying Agent/Registrar prior to the giving of such notice of redemption, such notice shall state that said redemption may, at the option of the City, be conditional upon the satisfaction of such prerequisites and receipt of such moneys by the Paying Agent/Registrar on or prior to the date fixed for such redemption, or upon any prerequisite set forth in such notice of redemption. If a conditional notice of redemption is given and such prerequisites to the redemption and sufficient moneys are not received, such notice shall be of no force and effect, the City shall not redeem such Bonds and the Paying Agent/Registrar shall give notice, in the manner in which the notice of redemption was given, to the effect that the Bonds have not been redeemed.

Notice of redemption shall be given at the times and in the manner provided in the First Supplement.

If this Bond is in a denomination of \$100,000 and \$5,000 in excess of \$100,000 ("Authorized Denomination"), portions of the principal sum hereof in Authorized Denomination may be redeemed, and, if less than all of the principal sum hereof is to be redeemed, there shall be issued, without charge therefor, to the Registered Owner hereof, upon the surrender of this Bond at the principal office of the Paying Agent/Registrar, a new Bond or Bonds of like maturity, series and interest rate in any authorized denominations provided by the Resolution for the then unredeemed balance of the principal amount hereof. If this Bond is selected for redemption, in whole or in part, neither the City nor the Paying Agent/Registrar shall be required to transfer this Bond to an assignee of the Registered Owner within forty-five (45) days of the redemption date therefor; provided, however, such limitation on transferability shall not be applicable to any exchange by the Registered Owner of the unredeemed balance hereof in the event of its redemption in part.

The Bonds are special obligations of the City, subject to the provisions of ordinances authorizing Prior Obligations, payable solely from and equally secured by a lien on and pledge of the Security. The Bonds do not constitute a legal or equitable pledge, charge, lien, or encumbrance upon any property of the City, except with respect to the Security.

The pledge of the Security and the other obligations of the City under the Ordinance may be discharged at or prior to the maturity of the Bonds upon the making of provision for their payment on the terms and conditions set forth in the Ordinance.

Subject to satisfying the terms and conditions stated in the Ordinance, the City has reserved the right to issue additional Parity Debt payable solely from and equally and ratably secured by a parity lien on and pledge of the Security and other moneys and securities pledged under the Ordinance to the payment of the Bonds.

Reference is hereby made to the Ordinance, a copy of which is on file in the designated office of the Paying Agent/Registrar, and to all of the provisions of which any Registered Owner of this Bond by his acceptance hereof hereby assents, for definitions of terms; the description of and the nature and extent of the security for the Bonds; the Security; the nature and extent and manner of enforcement of the pledge; the terms and conditions for the issuance of additional Parity Debt;

the conditions upon which the Ordinance may be amended or supplemented with or without the consent of the Registered Owners of the Bonds; the rights and remedies of the Registered Owner hereof with respect hereto and thereto; the rights, duties and obligations of the City; the terms and provisions upon which the liens, pledges, charges, and covenants made therein may be discharged at or prior to the maturity or redemption of this Bond and this Bond thereafter no longer to be secured by the Ordinance or be deemed to be outstanding thereunder; and for the other terms and provisions thereof.

This Bond, subject to certain limitations contained in the Ordinance, may be transferred only upon its presentation and surrender at the designated office of the Paying Agent/Registrar named below, or its successor with the Assignment hereon duly endorsed by, or accompanied by a written instrument of transfer in form satisfactory to the Paying Agent/Registrar duly executed by, the Registered Owner hereof, or his duly authorized agent, and such transfer is noted on the Security Register by the Paying Agent/Registrar. When a transfer occurs, one or more new fully-registered Bonds of the same Maturity, of authorized denominations, bearing the same rate of interest, and of the same aggregate principal amount will be issued to the designated transferee or transferees.

The City and the Paying Agent/Registrar, and any agent of either, shall treat the Registered Owner whose name appears on the Security Register (i) on the Record Date as the owner entitled to payment of interest hereon, (ii) on the date of surrender of this Bond as the owner entitled to payment of principal hereof at its Maturity or its redemption, in whole or in part, and (iii) on any other date as the owner for all other purposes, and neither the City nor the Paying Agent/Registrar, nor any agent of either, shall be affected by notice to the contrary. In the event of nonpayment of interest on a scheduled payment date and for thirty (30) days thereafter, a new record date for such interest payment (a "Special Record Date") will be established by the Paying Agent/Registrar, if and when funds for the payment of such interest have been received from the City. Notice of the Special Record Date and of the scheduled payment date of the past due interest (which shall be 15 days after the Special Record Date) shall be sent at least five business days prior to the Special Record Date by United States mail, first-class postage prepaid, to the address of each Registered Owner appearing on the Security Register at the close of business on the last business day next preceding the date of mailing of such notice.

It is hereby certified, recited, represented, and declared that the City is a duly organized and legally existing home-rule city, organized under and by virtue of the Constitution and laws of the State of Texas; that the issuance of this Bond and the series of which it is a part are duly authorized by law; that all acts, conditions, and things required to exist and be done precedent to and in the issuance of this Bond to render the same lawful and valid have been properly done, have happened, and have been performed in regular and due time, form, and manner as required by the Constitution and laws of the State of Texas and the Ordinance; that this series of bonds does not exceed any Constitutional or statutory limitation; and that due provision has been made for the payment of this Bond and the Series of which it is a part as aforesated. In case any provision in this Bond shall be invalid, illegal, or unenforceable, the validity, legality, and enforceability of the remaining provisions shall not in any way be affected or impaired thereby. The terms and provisions of this Bond and the Ordinance shall be construed in accordance with and shall be governed by the laws of the State of Texas. The holder of this Bond is not entitled to demand payment of this Bond out of any money raised by taxation.

IN TESTIMONY WHEREOF, the City has caused its seal to be impressed or a facsimile thereof to be printed hereon and this Bond to be executed in the name of and on behalf of the City with the manual or facsimile signatures of its Mayor, and attested by the City Secretary.

CITY OF TEMPLE, TEXAS

By: _____ By: _____
City Secretary Mayor

(SEAL)

[INSERTIONS FOR THE INITIAL BOND]

The Initial Bond shall be in the form set forth in this exhibit, except that:

- A. Immediately under the name of the Bond, the headings "INTEREST RATE" and "MATURITY DATE" shall both be completed with the words "As shown below", and the heading "CUSIP NO." shall be deleted.
- B. The first paragraph of the Bond shall be deleted and the following will be inserted (with all blanks and bracketed items to be completed with information contained in this Ordinance):

"The City of Temple, Texas (the "City") hereby promises to pay, solely from the sources hereinafter identified and as hereinafter stated, to the Registered Owner named above, or the registered assigns thereof, on August 1 in each of the years, in the principal installments and bearing interest at the per annum rates set forth in the following schedule:

<u>Amount</u>	<u>Year</u>	<u>Rate</u>
(Information from Section 2.02 to be inserted)		

The City promises to pay interest on the unpaid principal amount hereof from the Bond Date specified above at the respective per annum rate of interest specified above computed on the basis of a 360-day year of twelve 30-day months; such interest being payable on _____ and _____ of each year, commencing _____. Principal of this Bond shall be payable to the Registered Owner hereof, upon presentation and surrender, at the principal office of the Paying Agent/Registrar named in the registration certificate appearing hereon, or its successor. Interest shall be payable to the Registered Owner of this Bond whose name appears on the "Security Register" maintained by the Paying Agent/Registrar at the close of business on the "Record Date," which is the 15th day of the next preceding month. All payments of principal of, premium, if any, and interest on this Bond shall be payable in lawful money of the United States of America, without exchange or collection charges, and interest payments shall be made by the Paying Agent/Registrar by check sent on or before the appropriate date of payment, by United States mail, first-class postage

prepaid, to the Registered Owner hereof at the address appearing in the Security Register or by such other method, acceptable to the Paying Agent/Registrar, requested by, and at the risk and expense of, the Registered Owner hereof."

C. The Initial Bond shall be numbered "T-1."

Form of Registration Certificate of Comptroller of Public Accounts
to Appear on Initial Bond only.

**REGISTRATION CERTIFICATE OF
COMPTROLLER OF PUBLIC ACCOUNTS**

OFFICE OF THE COMPTROLLER	§	
OF PUBLIC ACCOUNTS	§	
THE STATE OF TEXAS	§	REGISTER NO. _____

I HEREBY CERTIFY that this Bond has been examined, certified as to validity and approved by the Attorney General of the State of Texas, and duly registered by the Comptroller of Public Accounts of the State of Texas.

WITNESS my signature and seal of office this _____.

Comptroller of Public Accounts
of the State of Texas

(SEAL)

**AUTHENTICATION CERTIFICATE OF
PAYING AGENT/REGISTRAR**

This Bond has been duly issued and registered under the provisions of the within-mentioned Resolution; the bond or bonds of the above titled and designated series originally delivered having been approved by the Attorney General of the State of Texas and registered by the Comptroller of Public Accounts, as shown by the records of the Paying Agent/Registrar.

_____,
as Paying Agent/Registrar

Registered this date:

By: _____

Authorized Signature

Form of Assignment.

ASSIGNMENT

FOR VALUE RECEIVED, the undersigned hereby sells, assigns, and transfers unto

(Please insert Social Security or Taxpayer Identification Number of Transferee)

(Please print or typewrite name and address, including zip code, of Transferee)

the within Bond and all rights thereunder, and hereby irrevocably constitutes and appoints _____ attorney, to transfer the within Bond on the books kept for registration thereof, with full power of substitution in the premises.

DATED: _____

Signature guaranteed by:

NOTICE: The signature on this assignment must correspond with the name of the Registered Owner as it appears on the face of the within Bond in every particular.

[INSURANCE LEGEND IF APPLICABLE]



COUNCIL AGENDA ITEM MEMORANDUM

06/05/08

Item #8

Regular Agenda

Page 1 of 3

DEPT./DIVISION SUBMISSION & REVIEW:

Jonathan Graham, City Attorney

ITEM DESCRIPTION: THIRD READING – PUBLIC HEARING: Consider adopting an ordinance designating South 1st Street corridor (from Adams Avenue to Loop 363) as Tax Abatement Reinvestment Zone Number Thirteen for Commercial/Industrial/Residential Tax Abatement and authorizing a number of other economic development incentives for property redevelopment.

STAFF RECOMMENDATION: Conduct public hearing and adopt ordinance on third and final reading.

ITEM SUMMARY: This ordinance is the first of several planned economic incentive ordinances targeted at encouraging redevelopment in the areas of the City designed by the City Council as Strategic Investment Zones (SIZ). This proposed ordinance encourages redevelopment of the area primarily through two means: (1) the availability of tax abatement on the increased value of eligible real and personal property; and (2) matching grant incentives where the City participates with dollars or in-kind services to encourage redevelopment. The proposed ordinance creates enabling authority, but is subject to the availability of funds that may be appropriated from year to year by the City Council as part of the annual budget process.

On Second Reading, we amended the ordinance as follows:

- 1) We've adjusted the boundaries of the proposed investment area for tax abatement and additional incentives to include both sides of South 3rd Street (on the western side of the corridor) and both sides of South Main Street (on the eastern side);**
- 2) We've made some minor changes in a couple of the incentive amounts based on comments we've received from commercial realtors and potential investors in the targeted area; and**
- 3) We've added the ability to waive platting, zoning and building permit fees as an additional incentive.**

As the SIZ report recommended, the City is employing a 'combined-arms' approach to redevelopment in our Strategic Investment Zones. On one hand we have sought voluntary compliance with existing codes and standards and backed that up with a willingness to require compliance through enforcement proceedings before the City's Building and Standards Commission. We've also tried a "carrot" incentive through a willingness to assist property owners with the demolition of substandard buildings and signs in our corridors. As the report we presented to the City Council in December showed, we've demolished a number of high profile buildings and signs this past year, both within and near our SIZs.

The proposed ordinance continues those efforts by offering tax abatement and economic development incentives. The tax abatement we are proposing is similar to what has been successfully offered in the Downtown area for the past decade: 100% tax abatement for five years on the increased value of eligible real and personal property constructed in accordance with a tax abatement agreement.

Eligible property improvements for tax abatement in this SIZ corridor would include primarily commercial redevelopment with some residential redevelopment in a few blocks. The tax abatement area is essentially South 1st Street from Adams to South Loop 363, but also includes portions of the streets paralleling South 1st Street (South Main Street, South 2nd, South 3rd Street, etc.). A detailed map will be provided to the City Council at our meeting. The condition of property adjoining South 1st Street (and the adjacent streets) in this area is likely to substantially arrest or impair sound growth because of the number of deteriorating structures, inadequate streets and sidewalks, lack of accessibility or usefulness of lots, unsanitary and unsafe conditions, the deterioration of site or other improvements, and conditions that endanger life or property by fire or other cause.

The matching grants for economic development and in-kind services include funds or services related to façade replacement or upgrading, sign improvements, landscaping improvements, asbestos surveys and abatements, demolitions and sidewalk replacement. Available of these matching funds would be on a first-come/first-served basis for eligible projects. A limited amount of funds (approximately \$75,000) are available in the current fiscal year, and if the City Council approves this ordinance we will seek additional funds in future budget years. A detailed description of the matching grants will be made during our presentation before the City Council.

We anticipate bringing several other incentive ordinances forward to the City Council, if directed to do so by the City Council. Other potential candidates for similar ordinances are Martin Luther King, Jr. Boulevard; North 3rd Street, West Avenue G & H, and the Downtown area. Providing adequate funding for the City matching funds will pose a fiscal challenge for the City, but the proposed incentives are tied to private investment in these SIZs that will help the City to recover its investment.

FISCAL IMPACT: The City Council authorized about \$85,000 in this fiscal year for economic development incentives in Strategic Investment Zone corridors. Tax abatement agreements, if entered into in the future on property in this corridor, would rebate taxes on the increase value of eligible real and personal property in the area and would not require a financial outlay by the City.

ATTACHMENTS:

[Ordinance](#)

ORDINANCE NO. 2008-4218

DESIGNATING THE SOUTH 1ST STREET CORRIDOR (FROM ADAMS AVENUE TO LOOP 363) AS TAX ABATEMENT REINVESTMENT ZONE NUMBER THIRTEEN FOR COMMERCIAL, INDUSTRIAL OR RESIDENTIAL TAX ABATEMENT; ESTABLISHING THE BOUNDARIES THEREOF AND OTHER MATTERS RELATING THERETO; ESTABLISHING CERTAIN ECONOMIC DEVELOPMENT INCENTIVES IN THE SOUTH 1ST STREET CORRIDOR; ESTABLISHING A SUNSET PROVISION; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR AN EFFECTIVE DATE; PROVIDING FOR PENALTIES; AND FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS ORDINANCE IS PASSED IS OPEN TO THE PUBLIC AS REQUIRED BY LAW.

WHEREAS, the City Council of the City of Temple, Texas (the "City"), desires to promote the development or redevelopment of a certain contiguous geographic area within its jurisdiction by creation of a reinvestment zone for commercial/industrial tax abatement, as authorized by Section 312.201 of the Texas Tax Code;

WHEREAS, the City held such public hearing after publishing notice of such public hearing, and giving written notice to all taxing units overlapping the territory inside the proposed reinvestment zone;

WHEREAS, the City at such hearing invited any interested person, or his attorney, to appear and contend for or against the creation of the reinvestment zone, the boundaries of the proposed reinvestment zone, whether all or part of the territory described in the ordinance calling such public hearing should be included in such proposed reinvestment zone, the concept of tax abatement; and

WHEREAS, the proponents of the reinvestment zone offered evidence, both oral and documentary, in favor of all of the foregoing matters relating to the creation of the reinvestment zone, and opponents of the reinvestment zone appeared to contest creation of the reinvestment zone.

WHEREAS, the City finds that the condition of property adjoining South 1st Street corridor (from Adams Avenue to South Loop 363) is likely to substantially arrest or impair the sound growth of the municipality, because of the presence of one or more of the conditions: a substantial number of substandard, slum, deteriorated, or deteriorating structures; the predominance of defective or inadequate sidewalks or streets; faulty size, adequacy, accessibility, or usefulness of lots; unsanitary or unsafe conditions; the deterioration of site or other improvements; or conditions that endanger life or property by fire or other cause;

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

Part 1: The facts and recitations contained in the preamble of this ordinance are hereby found and declared to be true and correct.

Part 2: (a) **Designation of South 1st Street Tax Abatement Reinvestment Zone.** Pursuant to Section 312.201 of the Code, the City hereby creates a reinvestment zone for commercial, industrial or residential tax abatement consisting of property within the area described as follows:

Beginning at the south side of West Adams Avenue and the east side of the public alley of North 3rd Street and North 5th Street commencing in a southerly direction along said alley to the south side of W Central Avenue, also being the northeast corner of an alley abandoned on February 17, 1977;

Continuing in a westerly direction along said south side of West Central Avenue to the southeast intersection of South 5th Street and West Central Avenue;

Continuing in a southerly direction along said east side of South 5th Street to the northeast intersection of West Avenue B and South 5th Street;

Continuing in an easterly direction to the east side of the public alley of Block 27 of Original Town Addition, approximately 130 feet;

Continuing in a southerly direction along the projected east side of said alley, also being the public alley between South Third Street and South Fifth Street, to the South Side of East Avenue F;

Continuing in a westerly direction along the south side of said East Avenue F to the east side of an alley abandoned December 2, 1963, also being the alley that is east of South Seventh Street;

Continuing in a southerly direction along the east side of said alley to where it intersects the north side of West Avenue G;

Continuing in an easterly direction to the east side of a public alley between South Fifth Street and South Third Street, of which the portion north of said West Avenue G was abandoned on December 2, 1963;

Continuing in a southerly direction along the east side of said alley and southerly along a line projected between Lots 1 and 5, Block 1, Robertson Addition to the south side of West Avenue M;

Continuing in a westerly direction along said West Avenue M to the east side of a public alley between South 7th Street and South 5th Street;

Continuing in a southerly direction with the east side of said alley, along a common line between Ainsworth Saffold and South Park Additions, the east side of Anderson-Hendler Addition, and thence the east side of a public alley in Blocks 3 and 6 of Hollywood Addition, to the north side of West Avenue V;

Continuing in an easterly direction along the north side of West Avenue V to the northwest corner of the intersection of West Avenue V and South 5th Street;

Continuing in a southerly direction on the west side of South 5th Street to the northeast corner of Tract 7 of Fryers Creek Commercial Phase I;

Continuing in a westerly direction along the north side of said Fryers Creek Commercial Phase I to the northwest corner of Tract 8 of the same addition;

Continuing in a southerly direction along the west side of said Tract 8 to an ell in Fryers Creek Dr;

Continuing in a southerly direction across said Fryers Creek Dr to the northwest corner of Tract 5 of the same addition;

Continuing in a southerly direction along the west side of said Tract 5, and along the west side of Pittman Addition to the north side of Loop 363 (H.K. Dodgen Loop);

Continuing in an easterly direction along the north side of Loop 363 (H.K. Dodgen Loop) to the west side of the Union Pacific Railroad Right-of-Way;

Continuing in a northerly direction along the west boundary of said Union Pacific Railroad to an ell in Lot 1, Block 1, Temple College East Campus;

Continuing westerly along the ell and north side of said Lot 1, Block 1, Temple College East Campus, thence along the north side of Lot 1, Block 1, Temple College Addition, to the east side of South 1st Street;

Continuing in a northerly direction along South 1st Street to the southeast corner of the intersection of South 1st Street and the south side West Avenue O extended, also being the northwest corner of Block 6, Eugenia Terrace Addition;

Continuing in a an easterly direction along the north side of said Block 6, Eugenia Terrace Addition to the common line between Outblocks 199-3 and 199-6A, approximately 400 feet;

Continuing in a northerly direction between said Outblocks and along the south and east side of Outblock 199-2E for an ell, to the south side of East Avenue N;

Continuing in a northerly direction across said East Avenue N to the west side of an alley between South Main Street and South 2nd Street;

Continuing in a northerly direction along the west side of said alley, though the Burlington Northern and Santa Fe Rail lines, and commencing along the east side of said alley between South Main Street and South 2nd Streets to the north side of West Avenue B;

Continuing in an easterly direction along the north side of East Avenue B to the northwest corner of the intersection of the East Avenue B and South 2nd Street;

Continuing in a northerly direction along the west side of South 2nd Street to the southwest corner of the intersection of South 2nd Street and East Avenue A;

Continuing in a westerly direction along the south side of East Avenue A to a point in the south side of East Avenue A and the west side of a public alley running between South Main Street and South 2nd Street, extended;

Continuing in a northerly direction along the west side of said public alley to the south side of East Adams Avenue; and

Continuing in a westerly direction along the south side of Adams Avenue to the northeast corner of the public alley between South 3rd Street and South 5th Street (the point of origin), as depicted in Exhibit "A" attached hereto.

Such reinvestment zone is hereby designated and shall hereafter be officially designated as Tax Abatement Reinvestment Zone Number Thirteen, City of Temple, Texas. The City Council specifically finds that the boundaries of the reinvestment zone (hereinafter "SOUTH 1st STREET STRATEGIC INVESTMENT ZONE") should be the as shown in the map attached hereto as Exhibit "A."

(b) Findings Relative to Creation of Tax Abatement Reinvestment Zone. The City Council, after conducting a public hearing and hearing evidence and testimony, makes the following findings and determinations based on the testimony presented to it:

1. That a public hearing on the adoption of the reinvestment zone has been properly called, held and conducted and that notices of such hearings have been published as required by law and mailed to all taxing units overlapping the territory inside the proposed reinvestment zone;

2. That creation of the SOUTH 1st STREET STRATEGIC INVESTMENT ZONE will result in benefits to the City and to the land included in the zone after the term of any agreement executed hereunder, and the improvements sought are feasible and practical;

3. That the SOUTH 1st STREET STRATEGIC INVESTMENT ZONE meets the criteria for the creation of a reinvestment zone as set forth in Section 312.202 of the Code in that it is "reasonably likely as a result of the designation to contribute to the retention or expansion of primary employment or to attract major investment in the zone that would be a benefit to the property and that would contribute to the economic development of the City;" and

4. That the SOUTH 1st STREET STRATEGIC INVESTMENT ZONE meets the criteria for the creation of a reinvestment zone as set forth in the City of Temple Guidelines and Criteria for granting tax abatement in reinvestment zones.

(c): The SOUTH 1st STREET STRATEGIC INVESTMENT ZONE shall take effect on June 5, 2008, and continue in effect until June 5, 2013.

(d) To be considered for execution of an agreement for tax abatement the commercial/industrial or residential project shall:

1. Be located wholly within the SOUTH 1st STREET STRATEGIC INVESTMENT ZONE as established herein;

2. Not include property that is owned or leased by a member of the City Council of the City of Temple, Texas, or by a member of the Planning and Zoning Commission;

3. Conform to the requirements of the City's Zoning Ordinance, all other City codes and regulations, City of Temple Guidelines and Criteria for granting tax abatement in reinvestment zones previously adopted by the City Council, and all other applicable laws and regulations; and

4. Have and maintain all land located within the SOUTH 1st STREET STRATEGIC INVESTMENT ZONE, appraised at market value for tax purposes.

(e) Written agreements with property owners located within the SOUTH 1st STREET STRATEGIC INVESTMENT ZONE shall provide identical terms regarding duration of exemption and share of taxable real property value exempted from taxation.

(f) Written agreements for tax abatement as provided for by Section 312.205 of the Tax Code shall include provisions for:

1. Listing the kind, number and location of all proposed improvements of the property;

2. Access to and inspection of property by municipal employees to ensure that the improvements or repairs are made according to the specification and conditions of the agreements;

3. Limiting the use of the property consistent with the general purpose of encouraging development or redevelopment of the SOUTH 1st STREET STRATEGIC INVESTMENT ZONE during the period that property tax exemptions are in effect; and

4. Recapturing property tax revenue lost as a result of the agreement if the owner of the property fails to make the improvements as provided by the agreement.

(g) Applications. Applications for tax abatement in the SOUTH 1st STREET STRATEGIC INVESTMENT ZONE are available in the City Attorney's Office, Suite 308, Municipal Building, 2 North Main Street, Temple, TX 76504 or from the City's website, ci.temple.tx.us.

Part 3: (a) **Additional Economic Development Incentives for South 1st Strategic Investment Zone.** Pursuant to Article 3, Section 52-a of the Texas Constitution, Chapter 380 of the Texas Local Government Code, and Section III.B of the City's Economic Development Policy ordinance, the City will consider offering additional

economic incentives for development in the South 1st Street Strategic Investment Zone as provided below. *To be eligible for any of the grants in Part 3 of this Ordinance, the applicant must propose and complete real property improvements on property located within the SOUTH 1st STREET STRATEGIC INVESTMENT ZONE with a minimum investment of not less than \$20,000 for non-residential or \$10,000 for residential.*

- (1) **Façade Improvement Grants.** The City will consider making grants of up to **\$10,000** on a 1:1 matching basis for the replacement of an existing façade with an eligible masonry product to an eligible property, or to remove an existing façade to expose the original façade. Eligible masonry materials for a replacement façade under this subsection include brick, stone, stucco, EIFS, rough-faced block, and such other materials that the City may approve from time to time. A list of eligible materials for the South 1st Street Strategic Investment Zone is maintained in the Construction Safety Office, 1st Floor, the Municipal Building, 2 North Main Street. Façade improvement costs eligible for reimbursement with a façade improvement grant include demolition costs (including labor), landfill costs, and material and construction (including labor) costs, but specifically *exclude* design costs.
- (2) **Sign Improvement Grants.** The City will consider making grants of up to **\$1,500** on a 1:1 matching basis for the installation of new ground-mounted, monument type signs on eligible properties or the replacement of a dilapidated sign. To be eligible, the base or footing of the sign must be concrete or metal. Sign improvement costs eligible for reimbursement with a sign improvement grant include demolition costs (including labor), landfill costs, and material and construction (including labor) costs, but specifically *exclude* design costs.
- (3) **Landscaping Improvement Grants.** The City will consider making grants of up to **\$2,500** on a 1:1 matching basis for the installation of new or additional landscaping to an eligible property. To be eligible the landscaping must meet or exceed the City's landscaping requirements for the area, as the same may be established from time to time. If an irrigation system is installed, or already exists, and will be maintained by the applicant, the maximum amount of the landscaping grant is **\$3,500** on a 1:1 matching basis. Landscaping improvement costs eligible for reimbursement with a landscaping improvement grant include ground preparation costs (including labor), materials (trees, shrubs, soil and amendments thereto and other decorative hardscape such as arbors, art, and walls or fences) and material and construction (including labor) costs, but specifically *exclude* design costs. The City will also consider making grants of trees from the City's tree farm if requested by the applicant as part of a landscaping improvement grant application.
- (4) **Asbestos Survey or Abatement Grants.** The City will consider a grant of up to **\$1,000** on a 1:1 matching basis for owner-initiated asbestos survey of a building and up to **\$3,000** on a 1:1 matching basis for asbestos abatement for a building on eligible property. Asbestos survey and abatement grant eligible costs include professional fees, labor costs, and replacement materials.

(5) **Demolition Grants.** When requested by an applicant the City will consider in its sole discretion, demolishing buildings, signs or parking lots, and disposing of the same at the City's cost, when the City has the capacity and equipment to do so. The City will not demolish buildings where the City in its sole discretion determines that there is a reasonable probability that the building contains asbestos, unless the applicant has obtained an asbestos survey and abated asbestos, where necessary, prior to demolition of the structure. In lieu of doing the demolition work with its own crews, the City will also consider a grant of up to **\$2,500** on a 1:1 matching basis for the demolition of existing buildings, signs, or parking lots on eligible property. Where the applicant is performing the demolition and seeking a demolition grant, eligible costs include the labor and landfill costs, and equipment rental, but exclude any design costs.

(6) **Sidewalk Improvement Grants.** The City will consider grants of up to **\$2,500** on a 1:1 matching basis for the construction of new sidewalks with a minimum width of six feet on South 1st Street and five feet (5') on other streets within the SOUTH 1st STREET STRATEGIC INVESTMENT ZONE, curb and guttering or the replacement of existing sidewalks or curb and guttering on eligible property. Sidewalk improvement costs eligible for reimbursement with a sidewalk improvement grant include demolition costs (where applicable) (including labor), landfill costs, and material and construction (including labor) costs and equipment rental, but specifically *exclude* design costs.

(7) **Waiver of Platting, Zoning and Permit Fees.** The City will consider waiving platting, zoning and building permit fees for eligible projects

(b) **Eligible Property.** To be eligible for a grant under Part 3(a)(1)-(6) above, the applicant must be the owner or lessee of property lying within the boundaries of the South 1st Street Strategic Investment Zone. Eligible property improvements are as described in Part 3(a)(1)-(7) above.

(c) **Application Form.** To be eligible for the grants described in Part 3(a), an applicant must submit an application and received approval from the City prior to commencing the work for which a grant or assistance by the City is sought. Applications must be submitted on a form provided by the City, be fully and accurately completed, and signed by the owner(s) (and the lessee(s), where applicable) of the property. Forms are available in the **City Manager's Office** (c/o of the Assistant City Manager) and in the office of **Keep Temple Beautiful**, 100 West Adams, Suite 302, Temple, TX 76501, and must be submitted to the City Manager's office for review and potential approval by the City. A completed application must contain a rendering of all proposed improvements and a written description of the same. Where the proposed scope of work requires professional work by an engineer or architect, the plans must be sealed by an engineer or architect, as applicable.

(d) **Evaluation of Applications.** In evaluating whether to approve an application for a grant under Part 3(a), the City Council will consider: (1) the extent to which the property for which a grant is sought is blighted or fails to meet City codes or regulations in one or more aspect; (2) whether the proposed redevelopment is at a higher level than

which exists on other properties in the South 1st Street Strategic Investment Zone at the time of adoption of this ordinance; (3) whether the applicant has the financial resources to complete the described in the application; (4) whether the property is unlikely to redevelop without an incentive by the City; (5) if the property for which a grant is sought is on South 1st Street, whether the applicant's proposed redevelopment eliminates a continuous curb cut on South 1st Street or retains limited access to such street; and (6) whether the proposed use of the property is in keeping with the future uses of property identified in the City's Comprehensive Plan or a master plan adopted by the City Council for the Temple Medical Education District (TMED). Upon receipt of an application for a grant under Part 3(a), the City Manager shall cause the application to be evaluated using the criteria established in Part 3(d) above, and submit the application and the Staff's recommend to approve or deny the request, in whole or part, to the City Council for their consideration.

(e) **Approval of grants.** The City Council may approve a request for a grant under Part 3(a) in whole or in part, or deny the same.

(f) **No Vested Right to Receive a Grant.** The existence of the grant program established in Section 3(a) does not create any vested rights to receive a grant or convey a property interest to any person to receive a grant. The award or denial of a grant under this Ordinance shall be at the sole discretion of the City Council. The City Council shall annually appropriate funds for the administration of the grant program in this ordinance, and the granting of funds under the programs established by this ordinance are subject to the availability of funds appropriated for that purpose in any given fiscal year.

(g) **Compliance with Terms of a Grant; payment to recipient.** A recipient of a grant from the City must enter into a development agreement with the City prior to receiving any grant funds or in-kind services by the City. The agreement shall provide that the applicant agrees to: (1) complete the work described in the application in a timely fashion; (2) give the City the right to inspect the work described in the development agreement and the financial records associated with the same during reasonable business hours; (3) perform all of the work described in the grant application in accordance with all applicable City codes and regulations; and (4) to maintain those improvements in the future. The failure by an applicant for a grant to satisfy all of the terms and conditions of the development agreement shall relieve the City of any obligation to provide grants funds under this Ordinance or as described in the development agreement. Payment to grantees shall be made within thirty (3) days of the work described in the development agreement being completed, inspected and accepted by the City.

Part 4: 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 5: Effective date. This ordinance shall take effect immediately from and after its passage in accordance with the provisions of the Charter of the City of Temple, Texas, and it is accordingly so ordained.

Part 6: Sunset provision. The designation of Tax Abatement Reinvestment Zone Number Eleven shall expire five years from the effective date of this ordinance. The designation of a tax abatement reinvestment zone may be renewed for periods not exceeding five years. The expiration of a reinvestment zone designation does not affect an existing tax abatement agreement authorized by the City Council.

Part 7: Open Meeting Act. It is hereby officially found and determined that the meeting at which this ordinance is passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meeting Act.

PASSED AND APPROVED on First Reading and Public Hearing on the **1st** day of **May**, 2008.

PASSED AND APPROVED on Second Reading on the **15th** day of **May**, 2008.

PASSED AND APPROVED on Third and Final Reading after a second Public hearing on the **5th** day of **June**, 2008.

THE CITY OF TEMPLE, TEXAS

William A. Jones, III, Mayor

ATTEST:

APPROVED AS TO FORM:

Clydette Entzminger
City Secretary

Jonathan Graham
City Attorney



COUNCIL AGENDA ITEM MEMORANDUM

06/05/08
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DEPT. /DIVISION SUBMISSION & REVIEW:

Sharon Rostovich, Airport Director

ITEM DESCRIPTION: FIRST READING – PUBLIC HEARING - Consider adopting an ordinance repealing Ordinance No. 1755 establishing the Airport Advisory Board, allowing the Board to be re-established by Resolution.

STAFF RECOMMENDATION: Conduct public hearing and adopt ordinance as presented in item description, on first reading, and schedule second reading and final adoption for June 19, 2008.

ITEM SUMMARY: Section 3.58 of the City Charter states that the City Council shall appoint a City Airport Advisory Board to advise the City Council in matters pertaining to Draughon-Miller Central Texas Regional Airport. The Board was given the charge to keep abreast of legislation; to advise the City Council upon ways and means to strengthen and improve the effectiveness and operation of the Airport; and to investigate and advise the City Council upon the needs of the Airport and the means of alleviating same.

Section 3.59 of the City Charter states the Board shall consist of five residents of the City of Temple, one resident of the City of Belton, and three residents at large. The Airport Manager, City Manager and Mayor shall be ex-officio members of the Board.

The purpose of repealing the Ordinance is to allow the Board to change the membership make-up of the Board to increase representation from the Reinvestment Zone Board and the Temple Economic Development Corporation. At its April 14 meeting, the Airport Advisory Board unanimously recommended the City Council change the membership composition to include six residents of the City of Temple and three residents at-large. Members designated from the Reinvestment Zone and the Temple Economic Development Corporation could be filled from the City of Temple or resident at large seats.

If approved by the Council, a resolution re-establishing the Airport Advisory Board with the new membership composition will be placed on the June 19, 2008 City Council agenda, following the second reading of this ordinance.

FISCAL IMPACT: None

ATTACHMENTS:

Minutes from April 24, 2008 Airport Advisory Board Meeting
Ordinance

MINUTES OF THE AIRPORT ADVISORY BOARD
April 14, 2008

The City of Temple Airport Advisory Board met April 14, 2008 at 4:00 p.m. in the Airport Operations Building Conference Room.

MEMBERS PRESENT: Kyle McQueen, Chair; Perry Cloud, Vice Chair; Don Gidden, David Brown, Hugh Shine

MEMBERS ABSENT: David Patterson, Timm White, Susan Strasburger

EX-OFFICIO MEMBERS: Sharon Rostovich

SPECIAL GUESTS: Lee Holmes

CALL TO ORDER: Kyle McQueen called the meeting to order at 4:00 p.m.

Sharon Rostovich administered the Oath of Office to David Brown.

APPROVE MINUTES: Kyle asked if there were any corrections or additions to the February minutes. None were addressed. The minutes were approved.

REVIEW BOARD MAKE-UP: Kyle stated that Clydette Entzminger, City Secretary had provided information on how the original Airport Board documents were established. Kyle said the Board was established through a City Ordinance and requires two readings. A suggestion was to recommend to City Council a repeal of the Ordinance that created the Airport Advisory Board and re-establish the Board by Resolution. Once established by Resolution, any future changes would only require one reading before the Council, not two as required by Ordinance. The Board's intent is to represent the community and create an active Board that can have input and feedback to the City and support for Sharon and her operations folks with the value of the Reinvestment Zone and the Temple Economic Development Corporation as well as other interested members. The current Board consists of 5 residents of the City of Temple; 1 resident of the City of Belton; 3 residents at-large; and the Mayor, City Manager and Airport Manager serving as ex-officio members of the Board. When the Board is re-established, we would have 2 standing positions - one would be a representative from the Reinvestment Zone and the other would be from the Temple Economic Development Corporation. Those two seats could be filled either by City residents or residents at-large. The outcome would be 6 residents of the City of Temple and 3 residents at-large with a designated representative from TEDC and the Reinvestment Zone. Hugh Shine made the motion to recommend to the City Council repeal of the current ordinance that

created the Airport Advisory Board and re-establish the Airport Board by resolution with a new Board consisting of 6 residents of the City of Temple, 3 residents at-large with 2 standing seats - 1 representative of the Reinvestment Zone and one representative of the Temple Economic Development Corporation. Perry Cloud seconded the motion. The motion carried unanimously. If the City Council approves the change, we would recommend Perry Cloud serve as the representative from the Reinvestment Zone and we would ask TEDC for a representative.

ANNUAL BOARD REVIEW: Kyle stated that he was reminded that City Boards come before the City Council and make a brief presentation of activities. My proposal is to take the current activities of the Board and present it to the Council and do it at the scheduled council meeting as the review of the Board make-up so we can make sure they are comfortable with the fact that we are making a change of the Board make-up and then letting them know what our goals are such as creating a more active Board and are asking for their support.

AIRPORT DEVELOPMENT UPDATE: Sharon reported that Drayton McLane bought a challenger and will build a large corporate hangar just southeast of the McLane Company hangars. The hangar is 180' X 100". Before any building construction can begin, the FAA will complete a review to insure the safe and efficient utilization of airspace and conformance with FAA design criteria and federal grant assurances. The review is also intended to insure the safety of persons and property on the ground.

The review goes through 5 agencies within the FAA:

- Air Traffic Organization (air/ground obstructions)
- Air Traffic (technical/navaids)
- Flight Standards (regulations/enforcement)
- Flight Procedures (airspace/IFR)
- Airports Division (critical data)

The process usually takes 2 - 3 months. The last site selected by McLane was sent to FAA on March 26th.

We had some real challenges finding a site for this size hangar within the Airport operations area. We must look to the future and open up the new general aviation development area shown in Leslie Sagar's report. This development area is on the southwest side of the entrance to the Airport.

Hugh Shine stated that with the construction of the new McLane hangar, it would get us outside of the master plan. Kyle stated that we are currently operating outside the master plan approved by the City. Hugh said we have been talking for years about how we need to have a good plan and stick with it. Not that the proposed general aviation development area is not a good idea,

but that we don't do some things and then go back and spend a couple hundred thousand dollars on a new master plan or development plan. Hugh stated he understands we have a request and a need that we want to address and satisfy, but that does raise some concern. We have been on the drawing board with this overall plan for quite some time and I hate to see us violate what we are saying we are not going to violate.

Kyle stated he thinks it is the best example of why we have got to move forward with infrastructure dollars so that if we have the infrastructure in place, everything will be there and the buildings will go where they are supposed to go.

AIRPORT OPERATIONS REPORT - Sharon Rostovich

GRANT PROJECTS

Our Runway Extension project is ready to bid once the last parcel of land is purchased. TxDOT is doing one last appraisal on this property and if the landowner does not accept it, then they will be forced to start condemnation proceedings. The estimated project cost is \$4 million with cost to the City at \$400,000.

The Ramp Grant is an annual grant I am fortunate to get. It is a \$100,000 grant at a 50-50 share and TxDOT will fund up to a \$50,000 match for our project. We use this grant for maintenance type projects. This year we plan to use the funds to do some runway crack sealing and re-marking on runway 02/20. This money will not go far, but it will definitely buy us some time before I get a grant to overlay and mark Runway 02/20, estimated at \$2.5 million.

AIRSHOW

The Airshow is fast approaching...May 2, 3 & 4. This year Beth is hoping to bring in a larger crowd on Friday night with the Aaron Tippin concert. There will also be a night flying act and a fireworks finale. The gates open at 4 p.m. on Friday night and 10:00 a.m. on Saturday and Sunday for static displays. This year's theme is honoring our Vietnam Veterans.

AIRCRAFT WASH RACK

The Notice To Proceed was issued today, 04/14/08. The project is scheduled for completion August 11th. The cost of the project is \$41,097. The wash rack will be located next to the old terminal building near the old electrical vault, just off the new concrete ramp.

STAFFING

We are working with the Human Resources Department in getting our positions reclassified based on their responsibility level. I am hoping once this reclassification is approved, we will be able to hire for the 2 vacant positions. The starting pay would increase considerably if approved.

Kyle asked when the new AMCOM access road will be completed. Sharon said the Street Department has done all they can do until the City has the annual contract approved for asphalt work. Kyle said at times it is unsafe turning into the Airport because the AMCOM employees use 2 or 3 lanes to turn onto Airport Road. Kyle suggested Sharon talk to AMCOM about the safety issues.

Lee Holmes introduced himself to everyone and stated he has been here as a pilot and hangar customer for about 3 years and was recently accepted through AOPA as the local volunteer for their airport support network. Lee said his role is to look out for the interests of general aviation pilots at this airport and would like to see a more active GA pilot presence out here. Lee said he is not here to be a Board member, but to listen to the meetings and be a voice for the G A pilots and serve as a liaison back and forth between the Airport and its other interests to make sure we are working as a group so that no group suppresses another.

Kyle welcomed Lee to the Board meeting and said most of the Board Members are GA pilots and members of the AOPA. The Board welcomed Lee's feedback anytime. Kyle told Lee if he wanted to place something on the agenda to let Sharon know.

Kyle announced the next Board meeting will be held on June 9th at 4:00 p.m.

ADJOURNMENT

The meeting ended at 4:45 p.m.

RESPECTFULLY SUBMITTED

Perry Cloud, Secretary

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, REPEALING ORDINANCE NO. 1755 ESTABLISHING THE AIRPORT ADVISORY BOARD, ALLOWING THE BOARD TO BE RE-ESTABLISHED BY RESOLUTION; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, in accordance with the requirement in Section 3.58 of the City Charter, Ordinance No. 1755 established an Airport Advisory Board;

Whereas, at a meeting on April 14, 2008, the Airport Advisory Board unanimously recommended that the City Council change the membership composition of the Airport Advisory Board to increase representation from the Reinvestment Zone Board and the Temple Economic Development Corporation;

Whereas, the Staff recommends repealing Ordinance No. 1755 and allowing the Board to be re-established by Resolution; and

Whereas, the City Council has considered the matter and deems it in the public interest to authorize this action.

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

Part 1: The City Council repeals Ordinance No. 1755 establishing the Airport Advisory Board, and allows the Board to be re-established by Resolution.

Part 2: It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses, and phrases of this ordinance are severable and, if any phrase, clause, sentence, paragraph or section of this ordinance should be declared invalid by the final judgment or decree of any court of competent jurisdiction, such invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this ordinance, since the same would have been enacted by the City Council without the incorporation in this ordinance of any such phrase, clause, sentence, paragraph or section.

Part 3: This ordinance shall take effect immediately from and after its passage in accordance with the provisions of the Charter of the City of Temple, Texas, and it is accordingly so ordained.

Part 4: It is hereby officially found and determined that the meeting at which this Ordinance is passed was open to the public as required 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 and Public Hearing on the **5th** day of **June**, 2008.

PASSED AND APPROVED on Second Reading on the **19th** day of **June**, 2008.

THE CITY OF TEMPLE, TEXAS

WILLIAM A. JONES, III, Mayor

ATTEST:

APPROVED AS TO FORM:

Clydette Entzminger
City Secretary

Jonathan Graham
City Attorney



COUNCIL AGENDA ITEM MEMORANDUM

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DEPT./DIVISION SUBMISSION & REVIEW:

Tim Dolan, Planning Director

ITEM DESCRIPTION: FIRST READING – PUBLIC HEARING - Z-FY-08-21: Consider adopting an ordinance authorizing a Conditional Use Permit to allow the sale of alcoholic beverages for on-premise consumption in a restaurant at Holiday Inn, located at 5247 South General Bruce Drive, on Lot 1, Block 1, Kenny B. Addition Replat # 1.

P&Z COMMISSION & STAFF RECOMMENDATION: The Planning and Zoning Commission voted 9/0 in accordance with Staff recommendation to recommend approval of the requested Conditional Use Permit described in the item description, subject to the attached site plan exhibits and compliance with Zoning Ordinance Sections 7-606 and 7-611, at its meeting on May 19, 2008.

ITEM SUMMARY: Please refer to the Staff Report and draft minutes of case Z-FY-08-21, from the Planning and Zoning meeting, May 19, 2008. This request is to allow alcoholic beverage sales for on-premise consumption in a restaurant at Holiday Inn, located in an existing Commercial District.

Zoning Ordinance, Section 7-611(b) requires the permittee to comply with applicable licensing and permit provisions of the Alcoholic Beverage Code within 6 months from the date of the issuance of the conditional use permit by the City Council.

This request complies with Zoning Ordinance, Section 7-611(c), requiring a distance separation of 300 feet from a church, public school, or public hospital. The Holiday Inn is compatible with surrounding uses and complies with its Commercial District regulations.

FISCAL IMPACT:

ATTACHMENTS:

[Aerial](#)
[Land Use Map](#)
[Zoning Map](#)
[Notice Map](#)
[Site Plan Exhibits](#)
[P&Z Staff Report](#)
[P&Z Minutes](#)
[Ordinance](#)





Z-FY-08-21

Kenny B. Addition Replat

5247 S General Bruce Dr

CLUP

Agricultural

- AGRICULTURE

Residential

- LOW DENSITY (UE)
- MOD DENSITY (SF1, SF2, SF3, MH, 2F)
- MED DENSITY (MH, 2F, TH, MF1)
- HIGH DENSITY (MF2)

Commercial

- OFFICE (O1, O2)
- RETAIL (NS, GR)
- COMMERCIAL (C, CA)

Mixed Use

- MIXEDUSE (MU)

Industrial

- INDUSTRIAL (LI, HI)
- Warehouse/Distribution
- Manufacturing/Distribution
- Bio-Science/Technology
- Corporate Capus & Office
- Aviation Industrial Dvmt
- Fwy Com/Tech/Indust
- Intermodal

Community Facilities

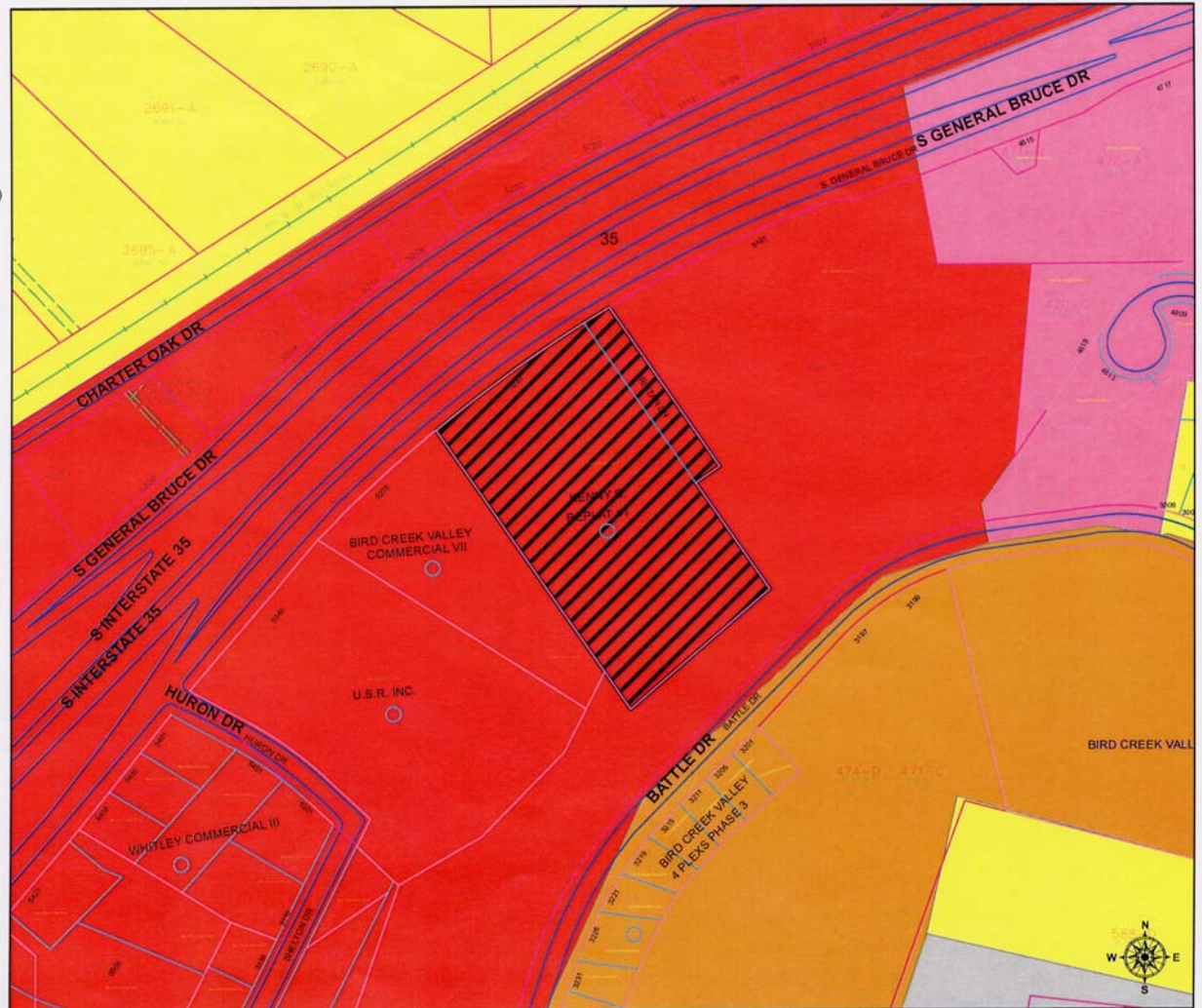
- COMMUNITYFACILITY
- CF-E (EDUCATIONAL)
- CF-G (GENERAL)
- CF-R (RESIDENTIAL)
- CF-M (MEDICAL)

Park Land

- PROPOSED FLOATING PARK
- PARKS

Downtown

- DOWNTOWN



CUP for Alcohol Sales in a Restaurant

1 inch equals 300 feet

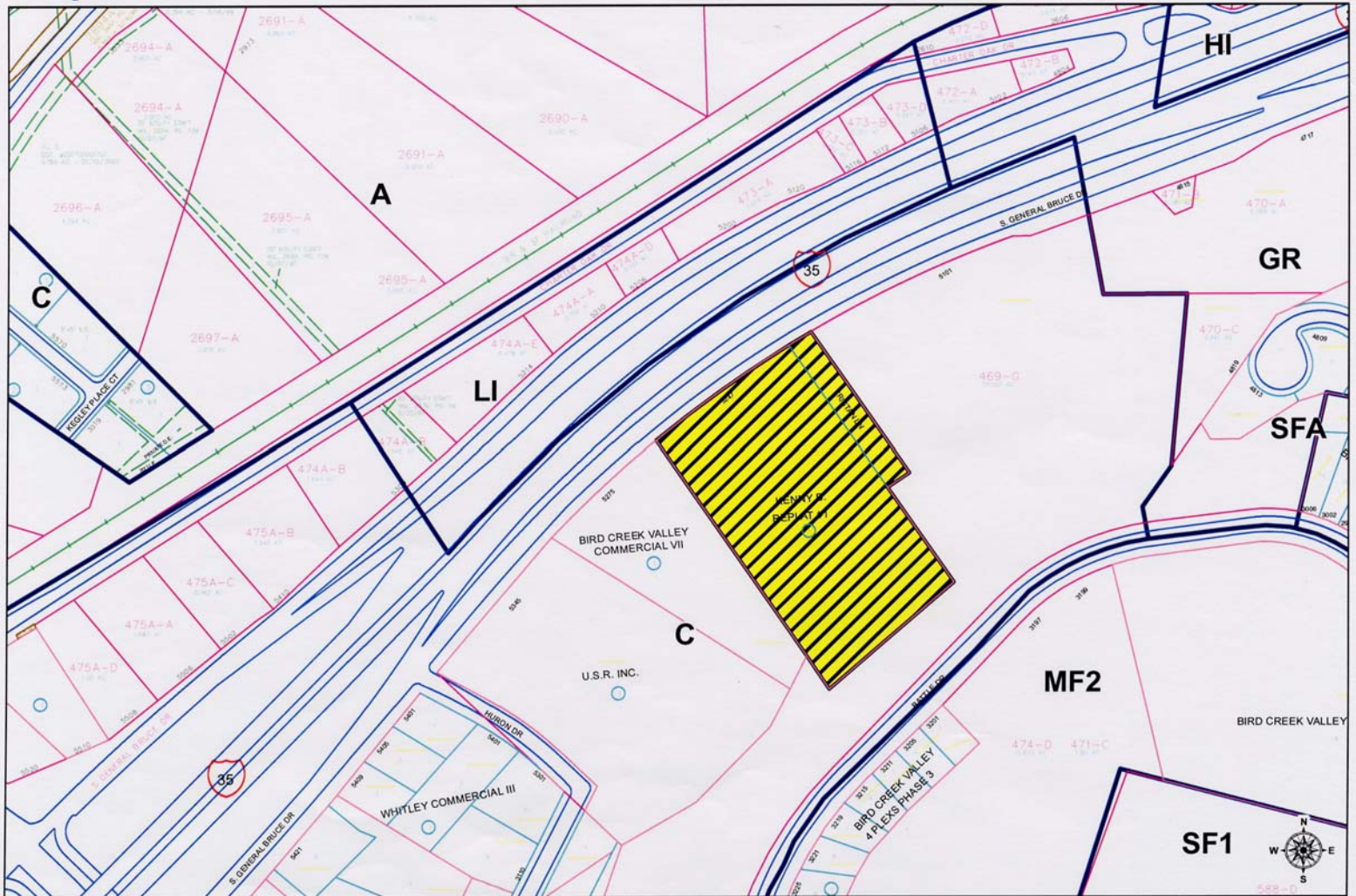
J Stone 04.22.08



Z-FY-08-21

Kenny B. Addition Replat

5247 S General Bruce Dr



 ZFY0821

CUP for Alcohol Sales in a Restaurant

1 inch equals 300 feet

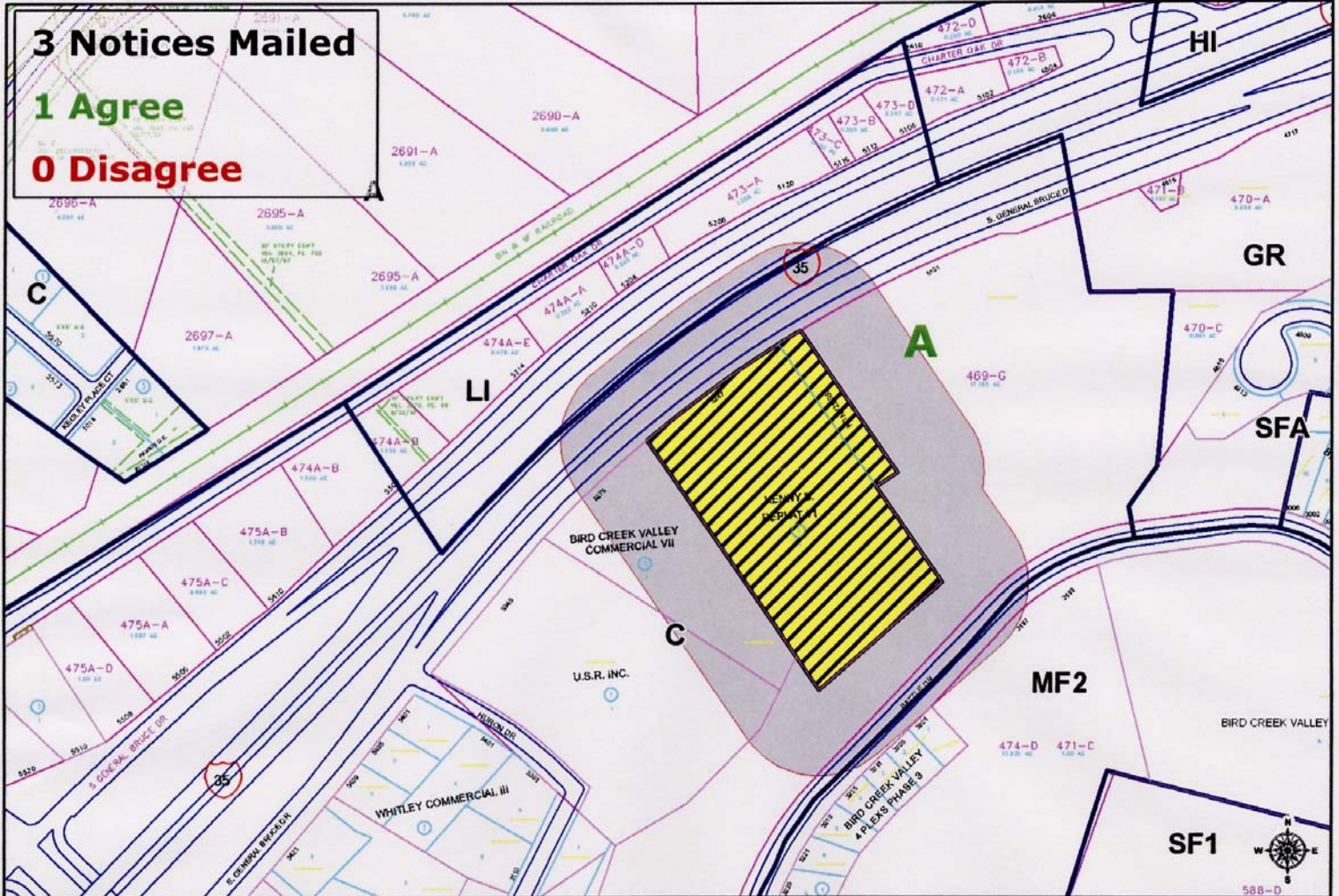
J Stone 04.21.08



Z-FY-08-21

Kenny B. Addition Replat

5247 S General Bruce Dr



3 Notices Mailed

1 Agree

0 Disagree

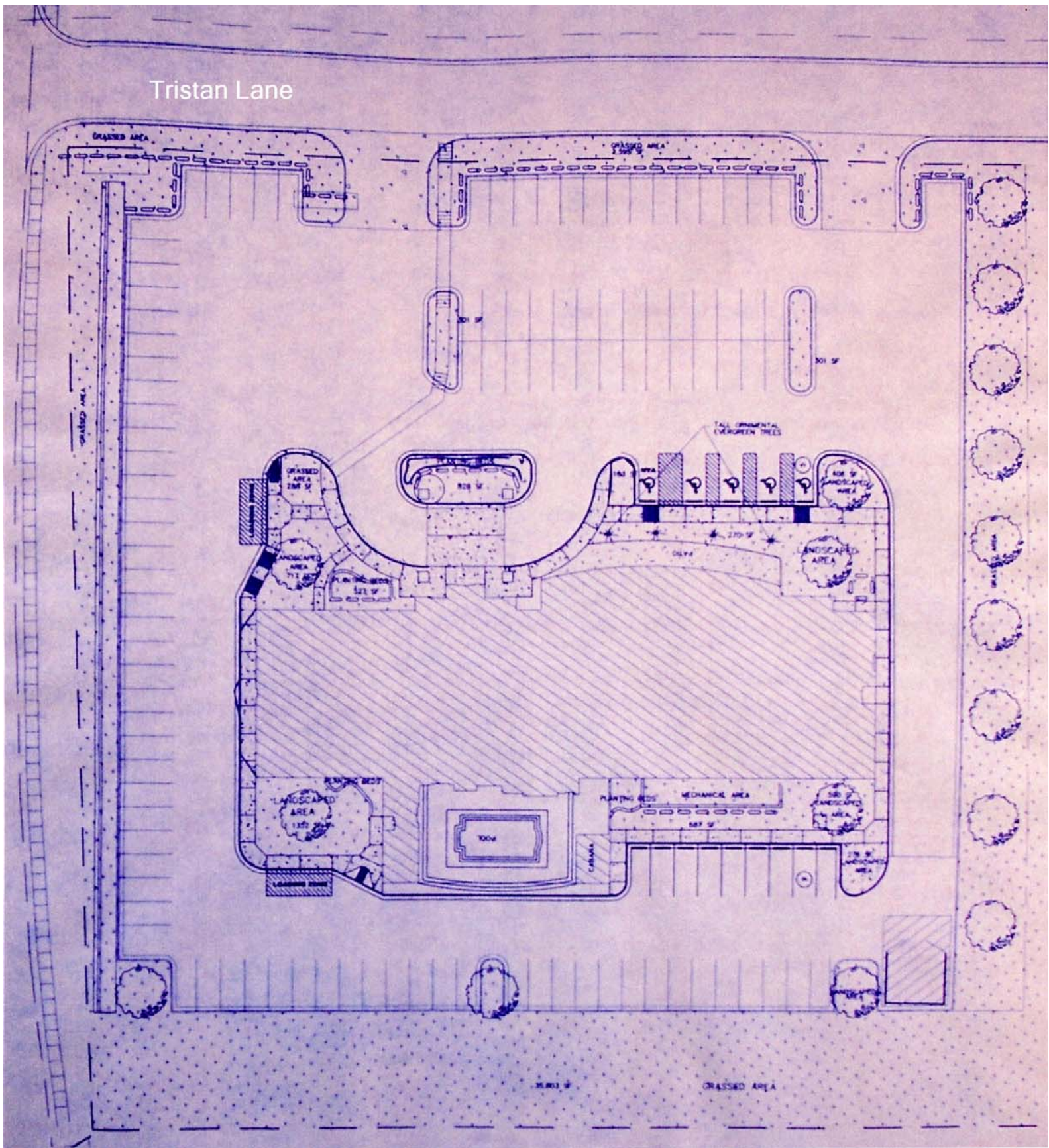
ZF0821 200' Buffer

CUP for Alcohol Sales in a Restaurant

1 inch equals 300 feet

J Stone 04.21.08

Tristan Lane



ABACUS ENGINEERING, INC.		HOLIDAY INN HOTEL ASTON DEVELOPMENT LTD 5247 5TH GENERAL BRIDGE DRIVE TEMPE, TEX LOBBY LEVEL FLOOR	
NO. OF DISBURSED	1000000	NO. OF DISBURSED	85111400
32-24-25		32-24-25	85111421



PLANNING AND ZONING COMMISSION AGENDA ITEM

05/19/08
Item 3
Page 1 of 4

APPLICANT / DEVELOPMENT: Dilip Patel

CASE MANAGER: Tammy Lyerly, Planner

ITEM DESCRIPTION: Z-FY-08-21 Hold a public hearing to consider a Conditional Use Permit to allow the sale of alcoholic beverages for on-premise consumption in a restaurant at Holiday Inn, located at 5247 South General Bruce Drive, on Lot 1, Block 1, Kenny B. Addition Replat # 1. (Zoning: Commercial – Applicant: Dilip Patel)

BACKGROUND: The applicant, Dilip Patel, requests this conditional use permit to allow the sale of alcoholic beverages for on premise consumption in the restaurant at the new Holiday Inn mentioned in the item description. Holiday Inn complies with the property's Commercial District, which allows the sale of alcoholic beverages for on-premise consumption in a restaurant with a Condition Use Permit.

The public hearing for this zoning case was rescheduled from the May 5, 2008, Planning and Zoning Commission meeting. The Planning and Zoning Commission lacked the quorum needed to render action at its May 5, 2008 meeting.

Surrounding Property and Uses

This request complies with Zoning Ordinance, Section 7-611 (c), requiring a distance separation of 300 feet from a church, public school, or public hospital.

The subject property has a Commercial District designation and is compatible with the following surrounding uses.

Direction	Zoning	Use
North	Commercial	Undeveloped Land
South	Commercial	Lone Star Structures and United Rentals
East	Commercial	Undeveloped Land
West	Commercial	IH-35

Future Land Use Plan & Future Trends

The South Temple Comprehensive Plan recommends Commercial Uses for this property and the surrounding area. Holiday Inn complies with this recommendation.

Thoroughfare Plan

The subject property is located along South General Bruce Drive on the east side of IH-35.

Adequacy of Public Facilities

Adequate public facilities serve this site. Water service is through 8-inch and 4-inch water lines. Sewer service is through a new 6-inch line. A new 2 ½ -inch polyethylene natural gas line also serves the property.

Development Regulations

Holiday Inn conforms to the area requirements and uses permitted in the property's Commercial District. The request and the attached site plan exhibits comply with the following conditions of Zoning Ordinance, Section 7-606:

1. The conditional use permit will be compatible with and not injurious to the use and enjoyment of the property, nor significantly diminish or impair property values within the immediate vicinity;
2. The establishment of the conditional use will not impede the normal and orderly development and improvement of surrounding vacant property;
3. Adequate utilities, access roads, drainage, and other necessary support facilities have been or will be provided;
4. The design, location, and arrangement of all driveways and parking spaces provide for the safe and convenient movement of vehicular and pedestrian traffic without adversely affecting the general public or adjacent development;
5. Adequate nuisance prevention measures have been or will be taken to prevent or control offensive odors, fumes, dust, noise, and vibration;
6. Directional lighting will be provided so as not to disturb or adversely affect neighboring properties; and
7. There is sufficient landscaping and screening to insure harmony and compatibility with adjacent property.

Condition Use Permit compliance will be subject to the following conditions of Zoning Ordinance, Section 7-611 (b):

1. The permittee must design and operate the establishment in such a manner that the proposed use or actual use of the premises shall not substantially increase traffic congestion or create overcrowding in the establishment or the immediately surrounding area.
2. The permittee must comply with applicable licensing and permit provisions of the Alcoholic Beverage Code within six (6) months from the date of the issuance of the conditional use permit by the City Council, such limitation in time being subject to review and possible extension by the City.

3. The permittee bears the burden of showing that the establishment does not exceed the limitation on gross receipts from sales of alcoholic beverages applicable to its conditional use permit. The permittee must maintain accounting records of the sources of its gross revenue and allow the City to inspect such records during reasonable business hours.
4. The permittee must demonstrate that the granting of the permit would not be detrimental to the public welfare of the citizens of the City.
5. The permittee must, at all times, provide an adequate number of employees for security purposes to adequately control the establishment premises to prevent incidents of drunkenness, disorderly conduct and raucous behavior. The permittee shall consult with the Chief of Police, who shall act in an advisory capacity to determine the number of qualified employees necessary to meet his obligations hereunder.
6. The establishment must provide adequate parking spaces to accommodate its members and their guests. Provided, however, the number of parking spaces shall never be less than those required for similar uses in that zoning district where the establishment is located.
7. The permittee must operate the establishment in such a manner as to prevent excessive noise, dirt, litter and odors in the establishment or in the surrounding area and operate the establishment in such a manner as to minimize disturbance to surrounding property owners.
8. The City Council may deny or revoke a conditional use permit if it affirmatively determines that the issuance of the same is (a) incompatible with the surrounding uses of property, or (2) detrimental or offensive to the neighborhood or contrary to the health, safety, and general welfare of the City and its inhabitants.
9. A conditional use permit issued under this section runs with the property and is not affected by a change in the owner or lessee of a permitted establishment.
10. All conditional use permits issued under this section will be further conditioned that the same may be canceled, suspended or revoked in accordance with the revocation clause set forth in Section 7-609.

STAFF RECOMMENDATION: Staff recommends approval of the Conditional Use Permit, subject to the attached site plan exhibits and compliance with Zoning Ordinance, Sections 7-606 and 7-611.

Public Notice

Staff mailed notices of both public hearings to the three property owners within 200 feet of the site. As of Wednesday, May 14, 2008, at 5 PM, one property owner returned a response letter in favor of the request. No notices were returned in opposition to the request. The newspaper printed notice of the **first** public hearing (May 5, 2008) on April 26, 2008 in accordance with state law and local ordinance. The newspaper printed notice of the **second** public hearing (May 19, 2008) on May 10, 2008 in accordance with state law and local ordinance.

FISCAL IMPACT: Not Applicable

ATTACHMENTS:

Zoning Map
Land Use Map
Aerial
Site Picture
Application
Applicant's Exhibits
Response Letter

EXCERPTS FROM THE
PLANNING & ZONING COMMISSION MEETING
MONDAY, MAY 19, 2008

ACTION ITEMS

- Item 3.** Z-FY-08-21 Hold a public hearing to consider a Conditional Use Permit to allow the sale of alcoholic beverages for on-premise consumption in a restaurant at Holiday inn, located at 5247 South General Bruce Drive, on Lot 1, Block 1, Kenny B Addition Replat #1. Zoned: Commercial by applicant Dilip Patel.

Ms. Tammy Lyerly, Planner, began with Item Z-FY-08-21, as presented in the Planning and Zoning Agenda Item. She said the applicant is Dilip Patel. She said the property is zoned commercial and that the zoning ordinance does allow for alcoholic beverages to be sold and consumed on the premises with a CUP. She displayed pictures, maps and other supporting documentation showing that it does have adequate public facilities and follows planned developmental regulations. Staff recommends approval subjective to site plan exhibits and with the compliance of zoning ordinances 7-606.

Commissioner Ken Kjelland recommends approval of Conditional Use Permit. Commissioner Derek Martin seconds approval. Vote was called for and approved (9/0).

ORDINANCE NO. _____

[PLANNING NO. Z-FY-08-21]

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, APPROVING A CONDITIONAL USE PERMIT TO ALLOW THE SALE OF ALCOHOLIC BEVERAGES FOR ON-PREMISE CONSUMPTION IN A RESTAURANT AT THE HOLIDAY INN, LOCATED AT 5247 SOUTH GENERAL BRUCE DRIVE, ON LOT 1, BLOCK 1, KENNY B. ADDITION REPLAT #1; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, the Comprehensive Zoning Ordinance of the City of Temple, Texas, provides for the issuance of conditional use permits under certain conditions and authorizes the City Council to impose such developmental standards and safeguards as the conditions and locations indicate to be important to the welfare or protection of adjacent property and for the protection of adjacent property from excessive noise, vibration, dust, dirt, smoke, fumes, gas, odor, explosion, glare, offensive view or other undesirable or hazardous conditions, and for the establishment of conditions of operation, time limits, location, arrangement and construction for any use for which a permit is authorized;

Whereas, the Planning and Zoning Commission of the City of Temple, Texas, after due consideration of the location and zoning classification of the establishment, has recommended that the City Council approve this application; and

Whereas, the City Council of the City of Temple, Texas, after public notice as required by law, has at a public hearing, carefully considered all the evidence submitted concerning the establishment at 5247 South General Bruce Drive, and has heard the comments and evidence presented by all persons supporting or opposing this matter at said public hearing, and after examining the location and the zoning classification of the establishment finds that the proposed use of the premises substantially complies with the comprehensive plan and the area plan adopted by the City Council.

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

Part 1: The City Council approves a Conditional Use Permit to allow the sale of alcoholic beverages for on-premise consumption in a restaurant at the Holiday Inn, located at 5247 South General Bruce Drive, on Lot 1, Block 1, Kenny B. Addition Replat #1, more fully described in Exhibit A, attached hereto and made a part hereof for all purposes.

Part 2: The owners/applicants, their employees, lessees, agents or representatives, hereinafter called "permittee" shall comply with the following developmental standards and conditions of operation:

- A. The sale and consumption of alcoholic beverages (beer and mixed drinks) shall occur only within the bar area, in accordance with the site plan attached as Exhibit B.
- B. The permittee must design and operate the establishment in such a manner that the proposed use or actual use of the premises shall not substantially increase traffic congestion or create overcrowding in the establishment or the immediately surrounding area.
- C. The permittee must comply with applicable licensing and permit provisions of the Alcoholic Beverage Code within six (6) months from the date of the issuance of the conditional use permit by the City Council, such limitation in time being subject to review and possible extension by the City.
- D. The permittee bears the burden of showing that the establishment does not exceed the limitation on gross receipts from sales of alcoholic beverages applicable to its conditional use permit. The permittee must maintain accounting records of the sources of its gross revenue and allow the City to inspect such records during reasonable business hours.
- E. The permittee must demonstrate that the granting of the permit would not be detrimental to the public welfare of the citizens of the City.
- F. The permittee must, at all times, provide an adequate number of employees for security purposes to adequately control the establishment premises to prevent incidents of drunkenness, disorderly conduct and raucous behavior. The permittee shall consult with the Chief of Police, who shall act in an advisory capacity to determine the number of qualified employees necessary to meet his obligations hereunder.
- G. The establishment must provide adequate parking spaces to accommodate its members and their guests. Provided, however, the number of parking spaces shall never be less than those required for similar uses in that zoning district where the establishment is located.
- H. The permittee must operate the establishment in such a manner as to prevent excessive noise, dirt, litter and odors in the establishment or in the surrounding area and operate the establishment in such a manner as to minimize disturbance to surrounding property owners.

- I. The City Council may deny or revoke a conditional use permit if it affirmatively determines that the issuance of the same is (a) incompatible with the surrounding uses of property, or (2) detrimental or offensive to the neighborhood or contrary to the health, safety, and general welfare of the City and its inhabitants.
- J. A conditional use permit issued under this section runs with the property and is not affected by a change in the owner or lessee of a permitted establishment.
- K. All conditional use permits issued under this section will be further conditioned that the same may be canceled, suspended or revoked in accordance with the revocation clause set forth in Section 7-609.

Part 3: The declarations, determinations and findings declared, made and found in the preamble of this ordinance are hereby adopted, restated and made a part of the operative provisions hereof.

Part 4: It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses, and phrases of this ordinance are severable and, if any phrase, clause, sentence, paragraph or section of this ordinance should be declared invalid by the final judgment or decree of any court of competent jurisdiction, such invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this ordinance, since the same would have been enacted by the City Council without the incorporation in this ordinance of any such phrase, clause, sentence, paragraph or section.

Part 5: This ordinance shall take effect immediately from and after its passage in accordance with the provisions of the Charter of the City of Temple, Texas, and it is accordingly so ordained.

Part 6: It is hereby officially found and determined that the meeting at which this Ordinance is passed was open to the public as required 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 and Public Hearing on the **5th** day of **June**, 2008.

PASSED AND APPROVED on Second Reading on the **19th** day of **June**, 2008.

THE CITY OF TEMPLE, TEXAS

WILLIAM A. JONES, III, Mayor

ATTEST:

APPROVED AS TO FORM:

Clydette Entzminger
City Secretary

Jonathan Graham
City Attorney



COUNCIL AGENDA ITEM MEMORANDUM

06/05/08
Item #11
Regular Agenda
Page 1 of 1

DEPT. /DIVISION SUBMISSION & REVIEW:

Tim Dolan, Planning Director

ITEM DESCRIPTION: FIRST READING – PUBLIC HEARING - Z-FY-08-22B: Consider adopting an ordinance authorizing a zoning change from Agriculture (AG) to Single Family-3 (SF-3) on 24.1± acres, being part of the Maximo Moreno Survey, Abstract No. 14, located on the north side of French Street, west of 42nd Street.

P&Z COMMISSION & STAFF RECOMMENDATION: The Planning and Zoning Commission voted 9/0, upon Staff's recommendation, recommended approval of the permanent zoning of Single Family-3 (SF-3) from Agriculture (AG) at its meeting on May 19, 2008.

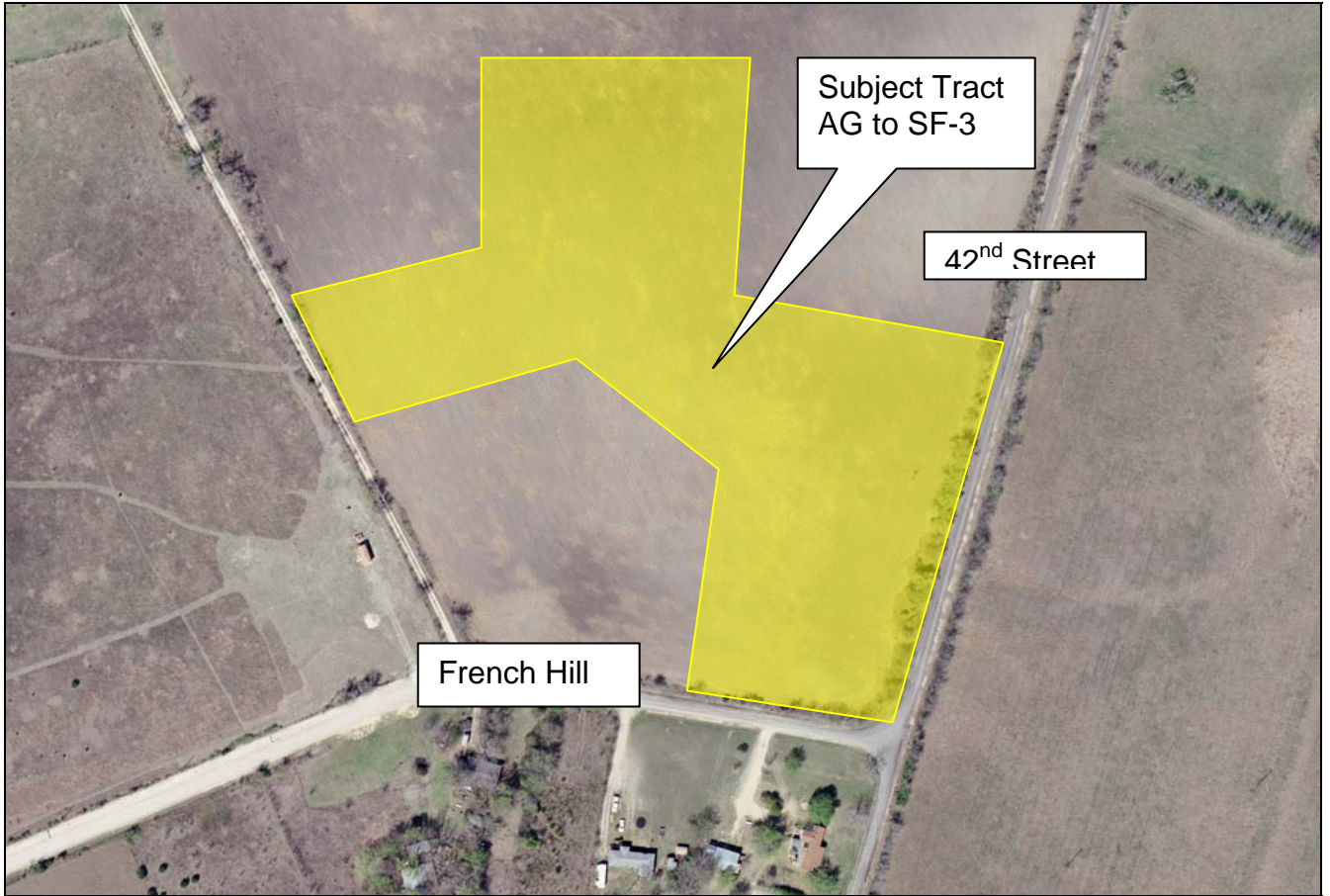
All zoning requests must be compared to the Comprehensive Plan. The request conforms to the Future Land Use Plan for moderate residential uses; the Thoroughfare Plan designation of French Street as a collector sized right-of-way; and the Adequacy of Public Facilities for sufficient water and sewer prior to development of the property.

ITEM SUMMARY: Please refer to the Staff Report and draft minutes of case Z-FY-08-22B, from the Planning and Zoning meeting, May 19, 2008. The request is for a future single-family subdivision planned for market buyers and some lots planned for development in coordination with the Temple Housing Authority.

FISCAL IMPACT: None

ATTACHMENTS:

[Aerial](#)
[Zoning & Notice Map](#)
[P&Z Staff Report](#)
[P&Z Minutes](#)
[Ordinance](#)



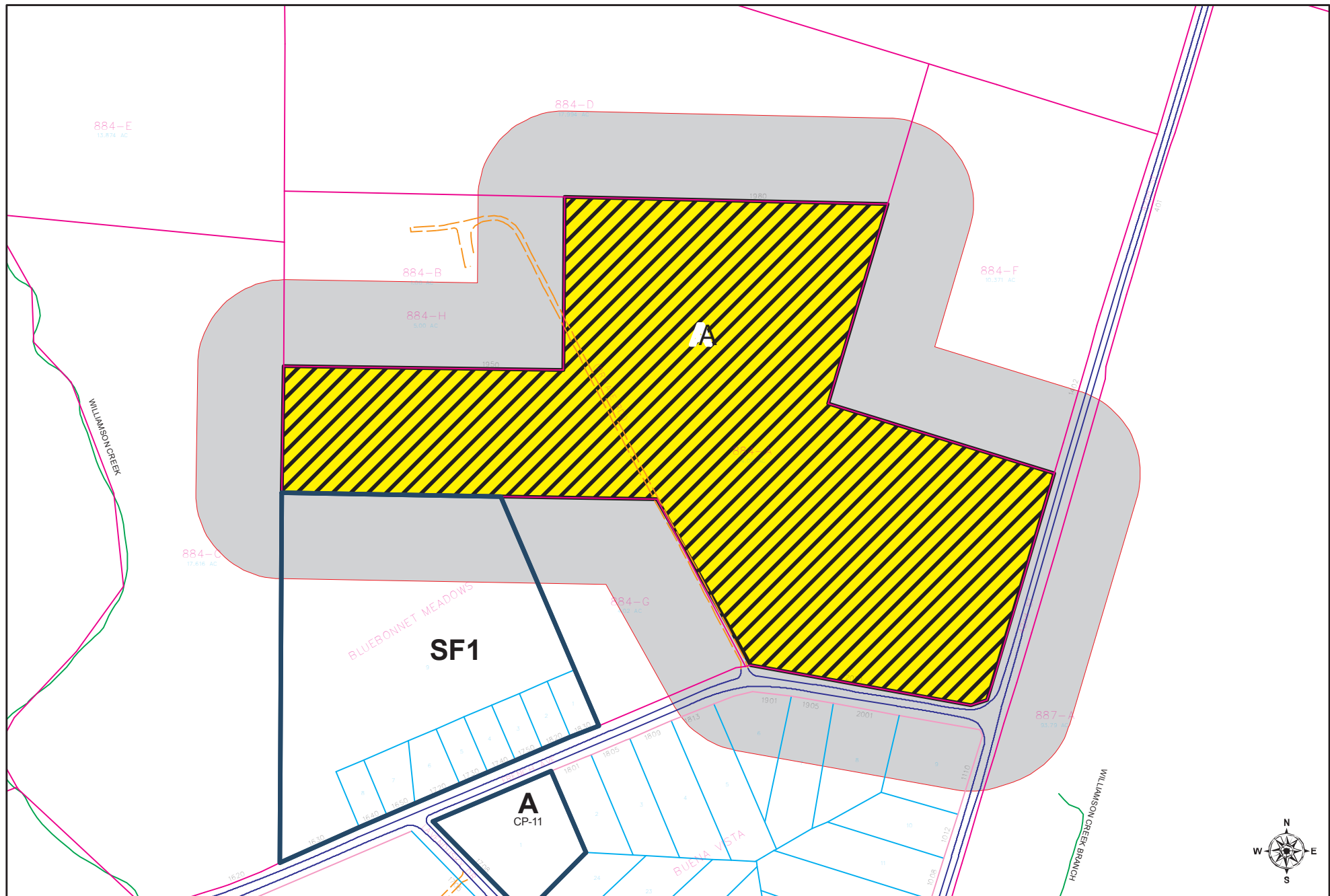


Z-FY-08-22-A

24.012 Acres

OB#884-A

2010 E French Ave



ZFY0822



200' Buffer

A to SF3

1 inch equals 300 feet

J Stone 04.28.08



J Stone 04.28.08



PLANNING AND ZONING COMMISSION AGENDA ITEM

05/19/08

Item 6A

Page 1 of 2

APPLICANT / DEVELOPMENT: John Bandas for New American Dream Ltd.

CASE MANAGER: Tim Dolan, AICP, Planning Director

ITEM DESCRIPTION:

Z-FY-08-22B: Hold a public hearing to consider the permanent zoning of Single Family-3 (SF-3) from Agriculture (AG) on 24.1± acres, being part of the Maximo Moreno Survey, Abstract No. 14, located on the north side of French Street, west of 42nd Street.

BACKGROUND:

The applicant(s) request the zoning for the single-family residential development named French Hill. The proposed lots would meet or exceed the SF-3 Standards. (Please see Item 6B, Final Plat.)

A zoning request must be reviewed for compliance with the Comprehensive Plan.

Surrounding Property and Uses

North and east of the he subject property is undeveloped and has the temporary zoning of AG. Part of the property to the south is undeveloped, also zoned AG, and the remaining property to the south is partially developed and zoned SF-1. Across French Street is the Buena Vista Subdivision containing some developed lots and is zoned SF-1.

Future Land Use Plan

The subject property conforms to the Future Land Use Plan and the Strategic Plan, which shows the area as Agricultural (AG), but is suitable for medium density residential since water lines exist here.

Thoroughfare Plan

French Street is shown as a collector sized street (55' width right-of-way, with 36' pavement width back to back of curb) The applicant will dedicate right-of-way on the north side of French (see next Agenda Item – Final Plat). Other houses in Temple front on collector sized streets.

Adequacy of Public Facilities

Sufficient water exists. A sewer line with sufficient capacity will be extended from 42nd Street down French Hill. The utility construction plans have been submitted to the Engineering Department in Public Works.

SF-3 Development Regulations

Purpose: The SF-3 District is planned for detached single family residences and related accessory structures on a minimum 4,000 square foot lot. The maximum building height is 2 ½ stories. It is designed to provide single family development at urban densities in locations well served by public utilities and roadways. Accessory buildings, backyard compost regulations and home occupations are allowed by right.

Minimum lot area and setback requirements:

Minimum SF-3 Standards	
Front Yard Setback	15'
Lot Width	100'
Lot Depth	40'

The applicant will provide a 20' front yard setback to ensure any vehicle parked in front of a car or carport will be on private property and not in the right-of-way.

Public Notice

A total of nine notices were sent out. As of Thursday, May 15th at 5 PM, no notices were returned. The newspaper printed notice of the public hearing on May 10, 2008 in accordance with state law and local ordinance.

STAFF RECOMMENDATION:

Staff requests the Commission recommend approval of Z-FY-08-22 subject to:

1. Conformance to the Future Land Use Plan for moderate residential uses;
2. Conformance to the requested Thoroughfare Plan Amendment (See Next Item, #6B); and
3. Conformance to the Adequacy of Public Facilities for sufficient water and sewer prior to development of the property.

FISCAL IMPACT: Not Applicable

ATTACHMENTS:

Land Use Map
Zoning Map with 200' buffer
Aerial

EXCERPTS FROM THE
PLANNING & ZONING COMMISSION MEETING
MONDAY, MAY 19, 2008

ACTION ITEMS

ITEM 6A: Z-FY-08-22B Hold hearing to consider the permanent zoning of Single Family-3 from Agriculture on 24.1+ acres, being part of Maximo Moreno Survey, Abstract No. 14, located on the north side of French Street, west of 42nd Street. Applicant: John Bandas for New American Dream Ltd.

Chair Susan Luck calls for questions and comments from the public. J.C. Wall speaks to the commissioners on the proposed rezoning. Chair Luck opens the floor to questions from the commissioners. She asks for clarification on item **Z-FY-08-22B**. Director Tim Dolan explains size and easement requirements. Mr. J.C. Wall further explains the proposal.

Commissioner Ken Kjelland asks, "What type of homes?" J.C. Wall replies that they will be affordable with assistance programs. All houses will have garages.

Chair Susan Luck thanks J.C. Wall. She opens the floor to other speakers. None reply. She then asks Mr. Wall about notices. Planning Director Tim Dolan explains that the notices had just come in and that they have no explanation of decision for or against.

Chair Susan Luck Closes public hearing and again opens the floor to the commissioners.

Commissioner Derek Martin moves to approve rezoning of Item **Z-FY-08-22B** from Agricultural to Single Family-3. Commissioner Ken Kjelland seconds and vote passes (9:0).

ORDINANCE NO. _____

[PLANNING NO. Z-FY-08-22B]

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, APPROVING A ZONING CHANGE FROM AGRICULTURAL DISTRICT TO SINGLE FAMILY-3 ON APPROXIMATELY 24.1 ACRES, BEING PART OF THE MAXIMO MORENO SURVEY, ABSTRACT NO. 14, LOCATED ON THE NORTH SIDE OF FRENCH STREET, WEST OF 42ND STREET; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND PROVIDING AN OPEN MEETINGS CLAUSE.

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

Part 1: The City Council approves a zoning change from Agricultural District to Single Family-3 District on approximately 24.1 acres, being part of the Maximo Moreno Survey, Abstract No. 14, located on the north side of French Street, west of 42nd Street, more fully described in Exhibit A, attached hereto and made a part hereof for all purposes.

Part 2: The City Council directs the Director of Planning to make the necessary changes to the City Zoning Map accordingly.

Part 3: It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses, and phrases of this ordinance are severable and, if any phrase, clause, sentence, paragraph or section of this ordinance should be declared invalid by the final judgment or decree of any court of competent jurisdiction, such invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this ordinance, since the same would have been enacted by the City Council without the incorporation in this ordinance of any such phrase, clause, sentence, paragraph or section.

Part 4: This ordinance shall take effect immediately from and after its passage in accordance with the provisions of the Charter of the City of Temple, Texas, and it is accordingly so ordained.

Part 5: It is hereby officially found and determined that the meeting at which this Ordinance is passed was open to the public as required 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 and Public Hearing on the 5th day of **June**, 2008.

PASSED AND APPROVED on Second Reading on the **19th** day of **June**, 2008.

THE CITY OF TEMPLE, TEXAS

WILLIAM A. JONES, III, Mayor

ATTEST:

APPROVED AS TO FORM:

Clydette Entzminger
City Secretary

Jonathan Graham
City Attorney



COUNCIL AGENDA ITEM MEMORANDUM

06/05/08
Item #12
Regular Agenda
Page 1 of 1

DEPT. /DIVISION SUBMISSION & REVIEW:

Tim Dolan, Planning Director

ITEM DESCRIPTION: FIRST READING – PUBLIC HEARING – Z-FY-08-24: Consider adopting an ordinance authorizing a zoning change from Agriculture (AG) to Office-2 (O-2) with the additional uses of laboratory manufacturing and laboratory, scientific or research on 63.8± acres, being part of the P.M. Mercer Survey, Abstract No. 553, located on the west side of Old Howard Road, 1,500± feet north of SH 36.

P&Z COMMISSION & STAFF RECOMMENDATION: The Planning and Zoning Commission voted 9/0, upon Staff's recommendation, recommended approval of the permanent zoning of Office-2 (O-2) with the additional uses of laboratory manufacturing and laboratory, scientific or research from Agriculture (AG) at its meeting on May 19, 2008.

All zoning requests must be compared to the Comprehensive Plan. The request conforms to the Future Land Use Plan for office uses for the Airport Park and Bio Science Park, making it appropriate for the additional uses of laboratory manufacturing and laboratory, scientific or research; the Thoroughfare Plan designation arterial rights-of-way for both Central Pointe Parkway and Old Howard Road (future Outer Loop); and the Adequacy of Public Facilities for sufficient water and sewer prior to development of the property.

ITEM SUMMARY: Please refer to the Staff Report and draft minutes of case Z-FY-08-24, from the Planning and Zoning meeting, May 19, 2008. The zoning request is for the area encompassing the Airport Commerce Park Phase 1, Final Plat.

FISCAL IMPACT: None

ATTACHMENTS:

[Aerial](#)
[Zoning & Notice Map](#)
[P&Z Staff Report](#)
[P&Z Minutes](#)
[Ordinance](#)




Z-FY-08-24

63.870 Acres

OB#1178-A

Old Howard Road



 Zoning Boundary

A to O2

1 inch equals 600 feet
J Stone 05.08.08

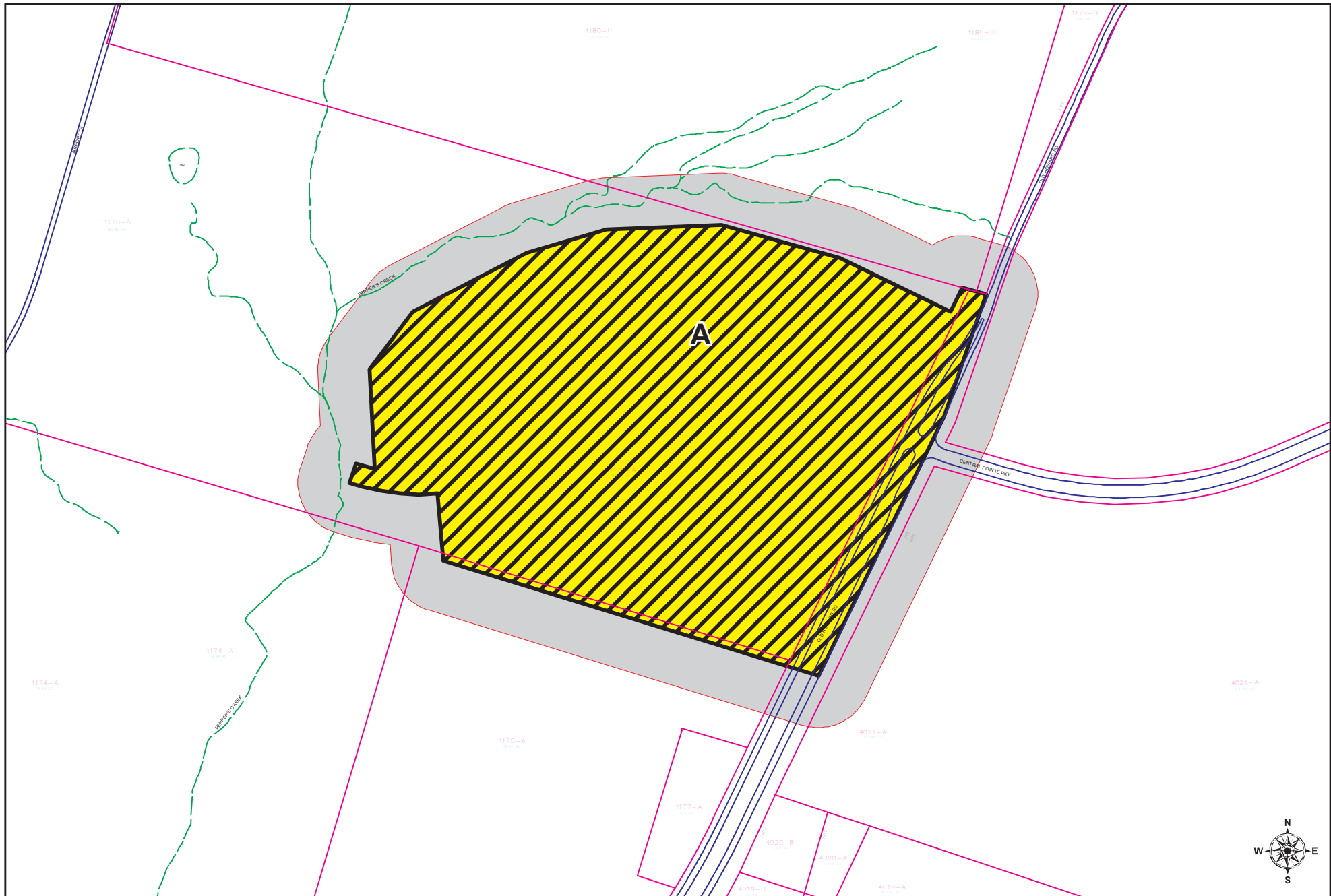


Z-FY-08-24

63.870 Acres

OB#1178-A

Old Howard Road



ZFY0824



200' Buffer

A to 02

1 inch equals 500 feet

J Stone 05.08.08

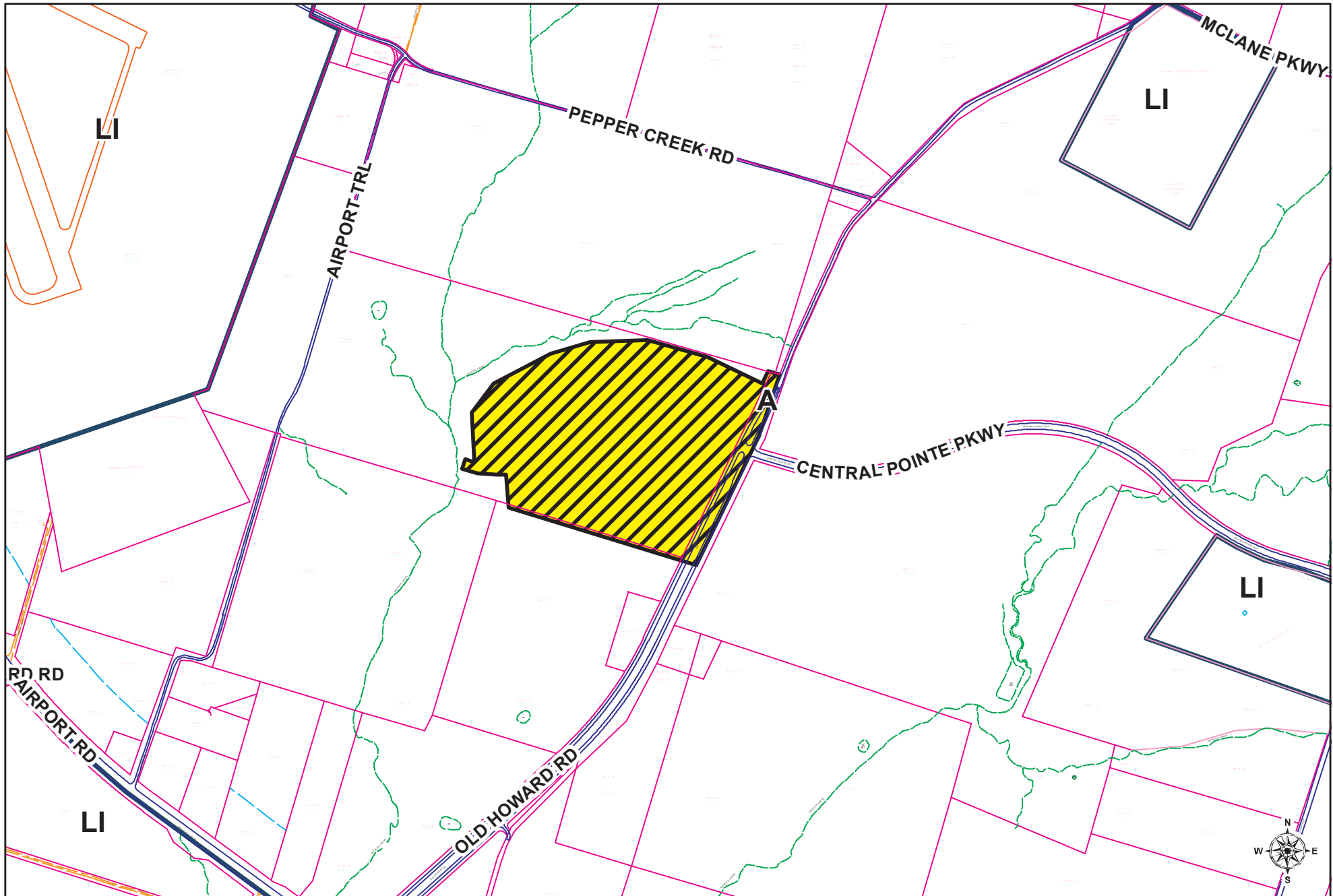


Z-FY-08-24

63.870 Acres

OB#1178-A

Old Howard Road



 ZFY0824

A to 02

1 inch equals 1,000 feet

J Stone 05.08.08



PLANNING AND ZONING COMMISSION AGENDA ITEM

05/19/08
Item 5
Page 1 of 2

APPLICANT / DEVELOPMENT: City of Temple c/o Temple Economic Development Corporation

CASE MANAGER: Tim Dolan, AICP, Planning Director

ITEM DESCRIPTION:

Z-FY-08-24: Hold a public hearing to consider recommending the permanent zoning of Office-2 (O-2) with the additional uses of laboratory manufacturing and laboratory, scientific or research on 63.8± acres, being part of the P.M. Mercer Survey, Abstract No. 553, located on the west side of Old Howard Road, 1,500± feet north of SH 36.

BACKGROUND:

The subject area is part of a series of zoning cases for City owned properties to change the zoning district from Office-2 (O-2) with the additional uses of laboratory manufacturing and laboratory, scientific or research. The subject area is surrounded by undeveloped properties that are zoned Agriculture (A) and Industrial. The area will be part of similar zoning cases as the area develops in the future.

Zoning cases should be compared to the Comprehensive Plan.

Future Land Use Plan

The subject area complies with the Future Land Use Plan as an Industrial Use because the Office-2 request is less intensive than Industrial.

Thoroughfare Plan

The subject area complies with the Thoroughfare Plan, with access to Old Howard, which is part of the future Outer Loop, and from the existing and future Central Pointe Parkway, both designated as Major Arterial Roadways.

Adequacy of Public Facilities

This area will be served by water and sewer as part of the CIP and RZ projects.

Development Regulations

The Office-2 (O-2) District permits a variety of low, mid and high rise office development. Buildings in the O-2 District can be built to any legal height. Office buildings over 40' shall provide additional yard space.

The O-2 District is intended to allow for office uses for professional, financial, medical, and other office services and may include corporate offices and major employment centers. The zoning for this area will also allow the additional uses of laboratory manufacturing and laboratory, scientific or research. Uses in this district generally have low traffic generation characteristics and do not require high visibility to conduct business.

Public Notice

A total of three notices were sent out. As of May 16, 2008 at 5:00 P.M., none were returned. The letters were mailed and the newspaper printed the public hearing on May 9th, in accordance with state law and local ordinance

STAFF RECOMMENDATION:

Staff recommends approval of Z-FY-08-24subject area to:

1. The request complies with the Future Land Use Plan Map for Office Zoning,
2. The Thoroughfare Plan showing Old Howard, which is part of the future Outer Loop, and from the existing and future Central Pointe Parkway, both designated as Major Arterial Roadways, and
3. The Adequacy of Public Facilities shows the area as part of the CIP and RZ areas for water and wastewater improvements.

FISCAL IMPACT: Not Applicable

ATTACHMENTS:

Land Use Map
Thoroughfare Plan Map
Zoning Map
Aerial

**EXCERPTS FROM THE
PLANNING & ZONING COMMISSION MEETING**

MONDAY, MAY 19, 2008

ACTION ITEMS

ITEM 5: **P-FY-08-24** Hold a hearing to recommend permanent zoning of Office-2 with additional uses of laboratory manufacturing and laboratory scientific or research from Agriculture on 63.8+ acres, being part of the P.M. Mercer Survey, Abstract No. 553, located on the west side on Old Howard Road.

Mr. Tim Dolan, Planning Director, states that the O-2 zoning does not usually allow for laboratory uses. However, TEDC requested plot not be zoned light industrial and it does comply with the Future Land Use Plan. It also complies with the Thoroughfare Plan. Also water and sewer are being extended out to the area. Notices have been submitted to surrounding areas and none were returned.

Mr. Tim Dolan, Planning Director, opened the floor for questions from the commissioners. None were posed. Chair Susan Luck opened the floor for questions from the public. None were submitted and the public hearing was closed.

Commissioner H. Allen Talley asked what is meant by "research." Planning Director Tim Dolan replies that no end users have been chosen yet. They are extending the water and sewer to attract end users.

Chair Susan Luck asks for other questions. None were posed and so, she asks for motions.

Commissioner Michael Norman moves that the proposal be approved. Vice-Chair Bert Pope seconds the nomination. Vote called and passed (9/0).

ORDINANCE NO. _____

[PLANNING NO. Z-FY-08-24]

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING THE ZONING OF OFFICE-2 WITH THE ADDITIONAL USES OF LABORATORY MANUFACTURING AND LABORATORY, SCIENTIFIC OR RESEARCH ON APPROXIMATELY 63.8 ACRES, BEING PART OF THE P.M. MERCER SURVEY, ABSTRACT NO. 553, LOCATED ON THE WEST SIDE OF OLD HOWARD ROAD, APPROXIMATELY 1,500 FEET NORTH OF SH 36; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND PROVIDING AN OPEN MEETINGS CLAUSE.

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

Part 1: The City Council approves the zoning of Office-2 with additional uses of Laboratory Manufacturing and Laboratory, Scientific or Research on approximately 63.8 acres, being part of the P.M. Mercer Survey, Abstract No. 553, located on the west side of Old Howard Road, approximately 1,500 feet north of SH 36, more fully described in Exhibit A, attached hereto and made a part hereof for all purposes.

Part 2: The City Council directs the Director of Planning to make the necessary changes to the City Zoning Map accordingly.

Part 3: It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses, and phrases of this ordinance are severable and, if any phrase, clause, sentence, paragraph or section of this ordinance should be declared invalid by the final judgment or decree of any court of competent jurisdiction, such invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this ordinance, since the same would have been enacted by the City Council without the incorporation in this ordinance of any such phrase, clause, sentence, paragraph or section.

Part 4: This ordinance shall take effect immediately from and after its passage in accordance with the provisions of the Charter of the City of Temple, Texas, and it is accordingly so ordained.

Part 5: It is hereby officially found and determined that the meeting at which this Ordinance is passed was open to the public as required 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 and Public Hearing on the **5th** day of **June**, 2008.

PASSED AND APPROVED on Second Reading on the **19th** day of **June**, 2008.

THE CITY OF TEMPLE, TEXAS

WILLIAM A. JONES, III, Mayor

ATTEST:

APPROVED AS TO FORM:

Clydette Entzminger
City Secretary

Jonathan Graham
City Attorney



COUNCIL AGENDA ITEM MEMORANDUM

06/05/08
Item #13
Regular Agenda
Page 1 of 2

DEPT. /DIVISION SUBMISSION & REVIEW:

Tim Dolan, AICP, Planning Director

ITEM DESCRIPTION: FIRST READING – PUBLIC HEARING - Z-FY-07-19: Consider adopting an ordinance approving the Draft Comprehensive Plan, *Choices '08*, including the Introduction, Community Overview, Urban Design & Future Land Use, Growth Plan, Transportation, Housing, Economic Development, Implementation, Tables and Documents Included by Reference.

P&Z COMMISSION & STAFF RECOMMENDATION: The Planning & Zoning Commission by a vote of 9-0, the Comprehensive Plan Advisory Committee (CPAC) and Staff recommends approval of the Draft Comprehensive Plan.

ITEM SUMMARY: In spring 2007, City Council appointed the CPAC to work with Kendig Keast Collaborative and staff to create a new Comprehensive Plan. Councilmembers Jeter and Schneider served on the CPAC which met 12 times for more than 50 hours of regular meetings, workshops, and subcommittee meetings. The CPAC reviewed in-detail all of the chapters that comprise the Plan and recommended revisions throughout.

CPAC Chairman, Jack Crews, presented the Plan with the CPAC's consensus recommendation at the City Council/P&Z Commission joint workshop on May 15th. The City Council had further discussion of the plan at a special meeting on Thursday, May 29th.

Please refer to the Staff Report and minutes from the P&Z Commission meeting.

As a reminder, the purpose of the Comprehensive Plan is to lay out a “big picture” vision for the growth and enhancement of Temple. It considers at once the entire geographic area of the City including the extraterritorial jurisdiction. The Plan also assesses needs and desires across a variety of topics that are the “building blocks” of the city. The draft Comprehensive Plan is organized into the following chapters:

- | | |
|--------------------------------------------|----------------------------------|
| Chapter 1 – Introduction and Vision | Chapter 6 – Housing |
| Chapter 2 – Community Overview | Chapter 7 – Economic Development |
| Chapter 3 – Urban Design & Future Land Use | Chapter 8 – Implementation |
| Chapter 4 – Growth Plan | |
| Chapter 5 – Transportation | |

The Plan contains three very important maps:

- Figure 3.1 – 2030 Future Land Use and Character
- Figure 4.2 – 20 Year Growth Planning
- Figure 5.2 – Thoroughfare Plan

The Plan also includes the most current version of the following documents by reference:

- *Airport Master Plan*
- *Aviation Planning Document*
- *Capital Improvement Plan*
- *Drainage Master Plan*
- *Parks, Recreation and Open Space Master Plan*
- *Temple Fire and Rescue Master Plan*
- *Water and Wastewater Utilities Master Plan*

Ultimately, the Plan aims at accomplishing Temple's VISION that...

Families, merchants & industry leaders CHOOSE TEMPLE...where suburban neighborhoods & an urban center combine with unequalled medical facilities, schools, parks, & people to create economic growth and an excellent quality of life!

The Plan's title is **Choices '08** because it presents the choices that the City has made about how future growth and development should happen from now through the year 2030. The Plan will guide the P&Z Commission, City Council, staff, and citizens in making decisions about:

- Targeted programs and expenditures,
- Major public improvements and land acquisitions,
- New and amended ordinances and regulations,
- Departmental work programs,
- Ongoing planning and studies,
- Pursuit of external funding and partnership initiatives

FISCAL IMPACT: \$239,852.02

ATTACHMENTS:

[P&Z Staff Report](#)
[P&Z Minutes](#)
[Ordinance](#)



PLANNING AND ZONING COMMISSION AGENDA ITEM

5/19/08
Item # 7
Page 1 of 1

APPLICANT: City of Temple

CASE MANAGER: Aaron Adel, AICP – Special Projects Planner

ITEM DESCRIPTION: Z-FY-07-19: Hold a public hearing to consider recommending approval for the Draft Comprehensive Plan, *Choices '08*, including the Introduction, Community Overview, Urban Design & Future Land Use, Growth Plan, Transportation, Housing, Economic Development, Implementation, Tables and Documents Included by Reference.

STAFF RECOMMENDATION: Staff suggests that the Commission recommend approval of the proposed Comprehensive Plan, *Choices '08*, to the City Council.

PROJECT STATUS: All commissioners have received a complete draft of the new Comprehensive Plan (dated May 1, 2008.) in the packets distributed for the last meeting on Monday, May 5th. Both the City Council and the P&Z Commission discussed the findings and recommendations presented in the Plan at the joint workshop on Thursday, May 15th.

If the Commission recommends approval of the Plan at tonight's meeting, it can be scheduled for a public hearing and first reading of the adoption ordinance as early as the June 5th City Council meeting.

As a reminder, the purpose of the Comprehensive Plan is to lay out a "big picture" vision for growth and enhancement of the community. It considers at once the entire geographic area of Temple, including potential growth areas in the extraterritorial jurisdiction. The Plan also assesses needs and desires across a variety of topics that are the "building blocks" of the city.

There is an important distinction between the function of the Comprehensive Plan relative to the City's Zoning Ordinance and Subdivision Regulations. The plan establishes overall policy and direction for various aspects of community enhancement. The Zoning Ordinance and zoning district map then implement the plan in terms of specific land uses and building and site development standards. The Subdivision Regulations also establish standards in conformance with the plan for the division of land, layout of streets and buildings, and the design of roads, water and sewer lines, storm drainage, and other infrastructure that dedicated to the City for long-term maintenance.

The draft Comprehensive Plan is organized into the following chapters:

[over]

Executive Summary
Chapter 1 – Introduction and Vision
Chapter 2 – Community Overview
Chapter 3 – Urban Design & Future Land Use
Chapter 4 – Growth Plan
Chapter 5 – Transportation
Chapter 6 – Housing
Chapter 7 – Economic Development
Chapter 8 – Implementation

The Plan also contains three very important maps:

- Figure 3.1 – 2030 Future Land Use and Character
- Figure 4.2 – 20 Year Growth Planning
- Figure 5.2 – Thoroughfare Plan

The Comprehensive Plan includes the most current version of the following documents by reference:

- *Airport Master Plan*
- *Aviation Planning Document*
- *Capital Improvement Plan*
- *Drainage Master Plan*
- *Parks, Recreation and Open Space Master Plan*
- *Temple Fire and Rescue Master Plan*
- *Water and Wastewater Utilities Master Plan*

Ultimately, the Plan aims at accomplishing Temple's VISION that...

Families, merchants and industry leaders CHOOSE TEMPLE...where suburban neighborhoods and an urban center combine with unequalled medical facilities, schools, parks, and people to create economic growth and an excellent quality of life!

The new Plan's title is **Choices '08** because it presents the choices that the City has made about how future growth and development in Temple should happen from now through the year 2030. The Plan will guide the P&Z Commission, City Council, staff, and citizens in making decisions about:

- Targeted programs and expenditures,
- Major public improvements and land acquisitions,
- New and amended ordinances and regulations,
- Departmental work programs,
- Ongoing planning and studies,
- Pursuit of external funding and
- Partnership initiatives

FISCAL IMPACT: \$239,852.02

ATTACHMENTS: None

EXCERPTS FROM THE
PLANNING & ZONING COMMISSION MEETING
MONDAY, MAY 19, 2008

ACTION ITEMS

ITEM 7 Chair Susan Luck turns Item **Z-FY-07-19** over to Vice-Chair Bert Pope. Hold a public hearing to consider recommending approval for the Draft Comprehensive Plan, *Choices '08*; including the Introduction, Community Overview, Urban Design & Future Land Use, Growth Plan, Transportation, Housing, Economic Development, Implementation, Tables and Documents Included by Reference.

Special Projects Planner, Aaron Adel, presents the plan. She refers the Commissioners to the copies of Table 8.2 where the action agenda has been organized by priority interval. She covers the chapters in overview and points out that other City of Temple plans are included in the Comprehensive Plan by reference. The most current version of those plans will be considered a part of the document.

Ms. Adel informs the Commission that this Comprehensive Plan replaces all other plans currently in use. The vision for Temple is presented as: Families, merchants and industry leaders CHOOSE TEMPLE...where suburban neighborhoods and an urban center combine with unequalled medical facilities, schools, parks and people to create economic growth and an excellent quality of life.

Ms. Adel continues to explain that this document is a guide for the future of Temple. She covers the document chapter by chapter highlighting major findings, issues, opportunities and important maps. In particular, Ms. Adel discusses the 2030 Future Land Use and Character map, the 20-Year Growth Planning map, and the Thoroughfare Plan map. The document includes directions for amending maps and text. Annual and semi-annual amendments of the plan are to be staff driven and the more extensive 5-year amendments may be made by outside consultant.

Ms. Adel continues to explain that one of the major recommendations of the plan is for a Transportation Master Plan to be drafted immediately after the Comprehensive Plan is adopted.

**EXCERPTS FROM THE
PLANNING & ZONING COMMISSION MEETING**

MONDAY, MAY 19, 2008

ACTION ITEMS

ITEM 7 Ms. Adel points presents Table 8.2, points out that there are many regulatory actions recommended and suggests that a consultant could be hired in the short-term to help facilitate an expanded Unified Development Code to address most of these issues.

Chair Susan Luck opens the floor to questions and comments from the commissioners.

Commissioner Norman asks for clarification on how the Future Land Use and Character map will be used in conjunction with our current Zoning Ordinance. Ms. Adel explains that staff's recommendation is to immediately amend the ordinance to directly correlate each zoning district to a character district on the map, much as it is done on the existing Land Use Plan; at least, in the interim.

Chair Luck opens the public hearing. Mr. L.N. Vogel reminds the Commission that years ago there was a petition against a collector street connecting 31st Street and Hartick Bluff north of Highway 93 in the vicinity of the Deerfield development. Commissioner Pope asked Ms. Adel if this will be dealt with in the recommended Transportation Master Plan. Ms. Adel said that this and several other areas have been listed out in the Plan as needing further study in the Transportation Master Plan and that there will be more opportunities for public involvement during that process.

Mr. Merlin Moore asked for specifics on road size and right-of-way width on collector streets. He also voices objections to added traffic on 31st Street. Re-emphasizes that it is a beautiful area and that proposed development may change all of this.

Chair Susan Luck asks if there are any further questions or comments from the public. Seeing none, the public hearing is closed. Chair Luck asks if there are any further comments and questions from the commissioners. Chair Susan Luck reopens the public hearing to hear from Joanna Moore. Ms. Moore states that she will protect the land and creek area in the vicinity of 31st and Fryer's Creek. No questions were posed to Joanna Moore.

**EXCERPTS FROM THE
PLANNING & ZONING COMMISSION MEETING**

MONDAY, MAY 19, 2008

ACTION ITEMS

Item 7. Chair Susan Luck and Ms. Adel continue to discuss the Transportation Master Plan. Public Hearing is closed. Chair Susan Luck asks commissioners for further comments and questions. Commissioner Ken Kjelland and Vice-Chair Bert Pope both voice willingness to move forward.

Commissioner Mike Pilkington moves to approve the Comprehensive Plan and Commissioner Ken Kjelland seconds. Vote passes (9:0).

ORDINANCE NO. _____

[PLANNING NO. Z-FY-07-19]

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, APPROVING THE COMPREHENSIVE PLAN, *CHOICES '08*, INCLUDING THE INTRODUCTION, COMMUNITY OVERVIEW, URBAN DESIGN & FUTURE LAND USE, GROWTH PLAN, TRANSPORTATION, HOUSING, ECONOMIC DEVELOPMENT, IMPLEMENTATION, TABLES AND DOCUMENTS INCLUDED BY REFERENCE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, the City of Temple has adopted comprehensive zoning regulations under Chapter 211 of the Local Government Code;

Whereas, Section 211.004 of the Local Government Code provides that zoning regulations adopted by a city must be adopted in accordance with a comprehensive plan;

Whereas, Section 213.002, “Comprehensive Plan,” of the Local Government Code provides that a city may adopt a comprehensive plan for the long-range development of the city, and Section 213.003 of the Local Government Code provides that a comprehensive plan, if adopted, must authorized by ordinance;

Whereas, in the Spring of 2007, the City Council appointed a Comprehensive Plan Advisory Committee (CPAC) to work with Kendig Keast Collaborative and staff to recommend an updated Comprehensive Plan for the City of Temple;

Whereas, on May 19, 2008, the Planning & Zoning Commission approved the Comprehensive Plan, *Choices '08*;

Whereas, the proposed Comprehensive Plan also assesses needs and desires across a variety of topics that are the “building blocks” of the City;

Whereas, Section 213.005 of the Local Government Code provides that a map of a city’s comprehensive plan must contain a notation that “a comprehensive shall not constitute zoning regulations or establish zoning district boundaries;” and

Whereas, the City Council has considered the matter and deems it in the public interest to authorize this action.

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

Part 1: The City Council adopts the document, entitled “Comprehensive Plan, *Choices* ’08, including the Introduction, Community Overview, Urban Design & Future Land Use, Growth Plan, Transportation, Housing, Economic Development, Implementation, Tables and Documents,” and all exhibits and attachments thereto, made a part hereof by reference, as the Comprehensive Plan for the City of Temple, Texas for purposes of Chapter 213 of the Local Government Code. Any existing land use documents, maps, studies or future land use plans previously approved by the City Council that are in conflict with this ordinance are repealed to the extent that they conflict with this ordinance.

Part 2: Notwithstanding the adoption of the document referenced in Part 1, the City shall have the ability to prepare other plans, policies, or strategies as required in the future, and the same shall also become part of the City’s Comprehensive Plan upon their adoption as provided in Section 213.004 of the Local Government Code.

Part 3: It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses, and phrases of this ordinance are severable and, if any phrase, clause, sentence, paragraph or section of this ordinance should be declared invalid by the final judgment or decree of any court of competent jurisdiction, such invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this ordinance, since the same would have been enacted by the City Council without the incorporation in this ordinance of any such phrase, clause, sentence, paragraph or section.

Part 4: This ordinance shall take effect immediately from and after its passage in accordance with the provisions of the Charter of the City of Temple, Texas, and it is accordingly so ordained.

Part 4: It is hereby officially found and determined that the meeting at which this Ordinance is passed was open to the public as required 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 and Public Hearing on the 5th day of **June**, 2008.

PASSED AND APPROVED on Second Reading on the ____ day of _____, 2008.

THE CITY OF TEMPLE, TEXAS

WILLIAM A. JONES, III, Mayor

ATTEST:

APPROVED AS TO FORM:

Clydette Entzminger
City Secretary

Jonathan Graham
City Attorney



COUNCIL AGENDA ITEM MEMORANDUM

06/05/08
Item #14
Regular Agenda
Page 1 of 1

DEPT./DIVISION SUBMISSION & REVIEW:

Kim Foutz, Assistant City Manager

ITEM DESCRIPTION: Consider adopting a resolution appointing four at-large members to the Temple Medical Education District Coordinating Group.

STAFF RECOMMENDATION: Adopt resolution as presented in the item description.

ITEM SUMMARY: The purpose of the TMED is to jointly facilitate and promote the services and activities offered on the S&W, the VA, Temple College, and the College of Medicine campuses and to promote the redevelopment and revitalization of residential and commercial neighborhoods surrounding those campuses.

In order to carry out this purpose, the sponsoring entities are to create a nine member Coordinating Group to include:

- S&W – Dr. Al Knight
- Temple College – Dr. Marc Nigliazzo
- VA – Bruce Gordon
- College of Medicine – Don Wesson
- Bioscience District – Wendell Williams
- **City Council – 4 representatives to include one appointed at large (David Blackburn) and three residents or individuals who have or maintain a commercial property interest within the TMED boundary.**

Staff will provide a list of qualified and interested individuals at the meeting. The Letter of Understanding is for a term of three years, and the appointees will serve the full duration of that time period. The Group will meet on a called basis with their first project being a conceptual design for the area.

FISCAL IMPACT: None

ATTACHMENTS: None