



MEETING OF THE TEMPLE CITY COUNCIL

THURSDAY, APRIL 16, 2009

3:00 P.M.

**CITY OF TEMPLE SERVICE CENTER
PUBLIC WORKS DEPARTMENT
3210 EAST AVENUE H, BLDG A
TEMPLE, TX**

WORKSHOP AGENDA

1. Discuss, as may be needed, Regular Meeting agenda items for the meeting posted for Thursday, April 16, 2009.
2. Receive a briefing and tour of the new Emergency Operations Center located in the Temple Service Center.
3. Receive an update regarding the City's Water Conservation Plan.
4. Discuss Senate Bill 1570 and the formation of a local government corporation to facilitate, analyze and implement the development of high-speed passenger rail service within the South Central High-Speed Rail Corridor and the Gulf Coast High-Speed Rail Corridor. (Regular Meeting - Agenda Item 10)

5:00 P.M.

MUNICIPAL BUILDING

2 NORTH MAIN STREET
CITY COUNCIL CHAMBERS – 2ND FLOOR

TEMPLE, TX

TEMPLE CITY COUNCIL

REGULAR MEETING AGENDA

I. CALL TO ORDER

1. Invocation
2. Pledge of Allegiance

II. PROCLAMATIONS & SPECIAL RECOGNITIONS

3. (A) [Arbor Day](#) [April 24, 2009](#)
(B) [Fair Housing Month](#) [April 2009](#)
(C) [Parks & Leisure Services - 65th Anniversary](#)

III. PUBLIC APPEARANCES

4. Receive recommendation letter from Dr. Lee Crossley for the [2009-2010 Community Development Block Grant](#) (CDBG) proposal.
5. Receive comments from Mr. Robert Boop opposing the [Conditional Use Permit \(Z-FY-09-14\)](#) for a mining and mining storage at SH 36 and SH 317.
6. Receive comments from Mr. Mark Forbes opposing the [Conditional Use Permit \(Z-FY-09-14\)](#) for a mining and mining storage at SH 36 and SH 317.

IV. 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 promotion of the meeting. Please limit comments to 3 minutes. No discussion or final action will be taken by the City Council.

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.

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

Minutes:

- (A) [April 2, 2009 Special Called Meeting and Regular Meeting](#)

Contracts, Leases & Bids:

- (B) [2009-5691-R](#): Consider adopting a resolution authorizing a contract with Eagle Airport Marking, Inc., of Gladewater for airfield crack filling and runway and taxiway markings at the Draughton-Miller Central Texas Regional Airport in an amount not to exceed \$100,000.
- (C) [2009-5692-R](#): Consider adopting a resolution authorizing a construction contract with Bell Contractors, Inc., of Belton for construction activities required to build the Airport Pump Station as part of the Expansion of West Temple Water & Wastewater Utilities North of FM 2305, Phase 2, in an amount not to exceed \$866,429.
- (D) [2009-5693-R](#): Consider adopting a resolution authorizing a construction contract with Myers Concrete Construction, LP of Wimberley for construction services required for Phase IV of the City of Temple Community Development Block Grant (CDBG) Martin Luther King, Jr. (MLK) Drive Sidewalk and Lighting Improvements in the amount of \$88,250.
- (E) [2009-5694-R](#): Consider adopting a resolution authorizing a professional services agreement with Turley Associates, Inc., of Temple for engineering services including design, surveying, and construction administration required for the Bellaire Waterline Rehabilitation Project (Victory, Virginia, Shell from 3rd to Mayborn) in an amount not to exceed \$43,300.
- (F) [2009-5695-R](#): Consider adopting a resolution authorizing the purchase of sewer line chemical root control services for FY 08-09 from Duke's Root Control, Inc. of Syracuse, New York, utilizing a BuyBoard contract in the estimated annual amount of \$65,000.
- (G) [2009-5696-R](#): Consider adopting a resolution authorizing the execution of agreement granting a right of first refusal to acquire from the City a 10.01 acre tract in Enterprise Park to B & D MAYS LIMITED PARTNERSHIP, d/b/a Indeco.

Ordinances - Second Reading:

- (H) **2009-4290:** SECOND READING – Consider adopting an ordinance authorizing an amendment to the Tax Increment Financing Reinvestment Zone No. 1 Financing Plan for FY 2009 in an amount not to exceed \$30,000 and authorizing a payment to Temple Economic Development Corporation for the acquisition of Block 2, Lot 12, Enterprise Business Park Phase 2.

Misc.:

- (I) **2009-5697-R:** Consider adopting a resolution authorizing a Memorandum of Understanding with the Cities of Killeen, Belton, and Harker Heights, and Bell County to establish the rights, duties, administration and division of funds received under the 2009 American Recovery and Reinvestment Act Edward Byrne Justice Assistance Grant (JAG) program award.
- (J) **2009-5698-R:** Consider adopting a resolution authorizing the acceptance of 0.410 acre from the Temple Economic Development Corporation.
- (K) **2009-5699-R:** Consider adopting a resolution authorizing budget amendments for fiscal year 2008-2009.

VI. REGULAR AGENDA

ORDINANCES

8. **2009-4291:** SECOND READING – Z-FY-09-14: Consider adopting an ordinance authorizing a Conditional Use Permit for mining and mining storage on 119± acres located in the vicinity of the southwest corner of SH 36 (Airport Road) and North SH 317 and authorizing a zoning change from Agricultural to Light Industrial on a 26.3± acre portion of that tract.
9. **2009-4292:** FIRST READING – PUBLIC HEARING - Z-FY-09-17: Consider adopting an ordinance authorizing a zoning change on a 18± acre tract of land from Commercial District (C) and Multiple-Family Two District (MF-2) to Two-Family District (2F) and a 3.2± acre tract of land from Single-Family Attached District (SF-A) and General Retail District (GR) to Single-Family One District (SF-1) on a total of 21.2± acres situated in the George Givens Survey, Abstract No 345, with platted land recorded as Bird Creek Valley VI, Bird Creek Valley Patio Homes, Bird Creek Valley Commercial Park Phase IV and Bird Creek Valley 4-Plexes Phase III, located on both sides of Battle Drive, 352± feet north of Midway Drive, 190± west of Arrowhead Drive.

RESOLUTIONS

10. Consider adopting resolutions:

(A) **2009-5700-R:** Supporting the adoption of Senate Bill 1570 by the Texas Legislature, which would authorize the State of Texas to contract with the "South Central High Speed Rail Corporation, Inc.," a local government corporation organized under Chapter 431 of the Transportation Code, to facilitate, analyze, and implement high speed passenger rail service within the South Central High-Speed Rail Corridor and the Gulf Coast High-Speed Rail Corridor.

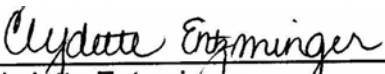
(B) **2009-5701-R:** Authorizing the City of Temple to form a local government corporation, to facilitate, analyze, and implement the development of high-speed passenger rail service within the South Central High-Speed Rail Corridor and the Gulf Coast High-Speed Rail Corridor.

BOARD APPOINTMENTS

11. **2009-5702-R:** Consider adopting a resolution appointing one member to the Tax Increment Financing Reinvestment Zone No. 1 Board of Directors to fill an unexpired term through September 1, 2010.

***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 2:55 PM, on April 9, 2009.


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 at _____ on the _____ day of _____ 2009. _____



COUNCIL AGENDA ITEM MEMORANDUM

04/16/09
Item #3(A)-(C)
Regular Agenda
Page 1 of 1

DEPT./DIVISION SUBMISSION & REVIEW:

William A. Jones, III, Mayor

ITEM DESCRIPTION: Presentation of Proclamations:

- (A) Arbor Day April 24, 2009
- (B) Fair Housing Month April, 2009
- (C) Parks & Leisure Services – 65th Anniversary

STAFF RECOMMENDATION: Present proclamations as presented in item descriptions.

ITEM SUMMARY: (A) This proclamation was requested by the City of Temple Parks & Leisure Services and it will be received by representatives from that department.

(B) The Central Texas Council of Governments requested this proclamation. It will be received by Charlotte Humpherys, Regional Planner.

(C) This proclamation was also requested by the City of Temple Parks & Leisure Services and it will also be received by representatives from that department.

FISCAL IMPACT: None

ATTACHMENTS: None



COUNCIL AGENDA ITEM MEMORANDUM

04/16/09
Item #4
Regular Agenda
Page 1 of 1

DEPT./DIVISION SUBMISSION & REVIEW:

David Blackburn, City Manager

ITEM DESCRIPTION: Receive recommendation letter from Dr. Lee Crossley for the 2009-2010 Community Development Block Grant (CDBG) proposal.

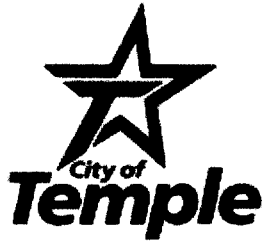
STAFF RECOMMENDATION: Receive comments as presented in item description.

ITEM SUMMARY: Dr. Lee Crossley filed a Request for Placement on the City Council Agenda. Please see the attached form.

FISCAL IMPACT: None

ATTACHMENTS:

[Request for placement on agenda](#)



CITY OF TEMPLE, TEXAS
CITY COUNCIL MEETINGS

NLT 4/10 Noon

REQUEST FOR PLACEMENT ON AGENDA

__Priority

NAME OF PRESENTER: Dr. Lee A. Crossley

ADDRESS: 5102 Sturbridge Dr. Temple, TX 76502

TELEPHONE NO. 254-778-4824

DATE REQUESTED TO APPEAR BEFORE THE COUNCIL: (Note – The City Council meets the first and third Thursdays of each month.) 4-16-09

SUBJECT TO BE PRESENTED: (Your description must identify the subject matter of your appearance in sufficient detail to alert the public what topic you will discuss and what action you are requesting by the Council.) _____

Recommendation (Letter of) for 2009-2010
CDBG proposal

Note: Separate requests must be completed for each subject presented.

I, the above identified presenter, have read the procedures for public appearances before the City Council of the City of Temple, Texas, and will abide by these procedures.

Lee A. Crossley
SIGNATURE OF PRESENTER

3-27-09
DATE

For Office Use:

RECEIVED

MAR 27 2009

CITY OF TEMPLE, TX
CITY SECRETARY



COUNCIL AGENDA ITEM MEMORANDUM

04/16/09
Item #5
Regular Agenda
Page 1 of 1

DEPT./DIVISION SUBMISSION & REVIEW:

David Blackburn, City Manager

ITEM DESCRIPTION: Receive comments from Mr. Robert Boop opposing the Conditional Use Permit (Z-FY-09-14) for a mining and mining storage at SH 36 and SH 317.

STAFF RECOMMENDATION: Receive comments as presented in item description.

ITEM SUMMARY: Mr. Robert Boop filed a Request for Placement on the City Council Agenda. Please see the attached form.

FISCAL IMPACT: None

ATTACHMENTS:

[Request for placement on agenda](#)

CITY OF TEMPLE, TEXAS

CITY COUNCIL MEETINGS

REQUEST FOR PLACEMENT ON AGENDA

_____ Priority

NAME OF PRESENTER: Robert Boop

ADDRESS: 10990 St Hwy 36 Temple Tx 76502

TELEPHONE NO. 254-486-8312

DATE REQUESTED TO APPEAR BEFORE THE COUNCIL: (Note - The City Council meets the first and third Thursdays of each month.) 4-16-09

SUBJECT TO BE PRESENTED: (Your description must identify the subject matter of your appearance in sufficient detail to alert the public what topic you will discuss and what action you are requesting by the Council.) I wish to oppose the re-opening of the quarry at Northwest corner of Intersection of Seps highways 36+317. I will strongly urge the Council to not grant a conditional ~~use~~ permit to allow mining in this area by Mine Service Ltd. of Rockdale Tx.

Note: Separate requests must be completed for each subject presented.

I, the above identified presenter, have read the procedures for public appearances before the City Council of the City of Temple, Texas, and will abide by these procedures.

Robert Boop
SIGNATURE OF PRESENTER

4-8-09
DATE

RECEIVED

APR 9 - 2009

For Office Use:

CITY OF TEMPLE, TX
CITY SECRETARY



COUNCIL AGENDA ITEM MEMORANDUM

04/16/09
Item #6
Regular Agenda
Page 1 of 1

DEPT./DIVISION SUBMISSION & REVIEW:

David Blackburn, City Manager

ITEM DESCRIPTION: Receive comments from Mr. Mark Forbes opposing the Conditional Use Permit (Z-FY-09-14) for a mining and mining storage at SH 36 and SH 317.

STAFF RECOMMENDATION: Receive comments as presented in item description.

ITEM SUMMARY: Mr. Mark Forbes filed a Request for Placement on the City Council Agenda. Please see the attached form.

FISCAL IMPACT: None

ATTACHMENTS:

[Request for placement on agenda](#)

CITY OF TEMPLE, TEXAS

CITY COUNCIL MEETINGS

REQUEST FOR PLACEMENT ON AGENDA

_____ Priority

NAME OF PRESENTER: MARK FORBES

ADDRESS: 10044 S.H.W. 36 Temple TX.

TELEPHONE NO. ⁽²⁵⁴⁾ 986-2969 760-5523

DATE REQUESTED TO APPEAR BEFORE THE COUNCIL: (Note - The City Council meets the first and third Thursdays of each month.) 4-16-09

SUBJECT TO BE PRESENTED: (Your description must identify the subject matter of your appearance in sufficient detail to alert the public what topic you will discuss and what action you are requesting by the Council.) _____

The request to open a strip mine in the City
of Temple. Contamination of Lake Bottom which
is our drinking water. Entering City of Temple and
first impression being a strip mine. action requested, denial!

Note: Separate requests must be completed for each subject presented.

I, the above identified presenter, have read the procedures for public appearances before the City Council of the City of Temple, Texas, and will abide by these procedures.

Mark Forbes
SIGNATURE OF PRESENTER

4/7/09
DATE

RECEIVED

APR 9 - 2009

For Office Use:

CITY OF TEMPLE, TX
CITY SECRETARY



COUNCIL AGENDA ITEM MEMORANDUM

04/16/09
Item #7(A)
Consent Agenda
Page 1 of 1

DEPT./DIVISION SUBMISSION & REVIEW:

Clydette Entzminger, City Secretary

ITEM DESCRIPTION: Approve Minutes:

(A) April 2, 2009 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:

[April 2, 2009 Special Called Meeting & Regular Meeting](#)

TEMPLE CITY COUNCIL

APRIL 2, 2009

The City Council of the City of Temple, Texas conducted a Special Meeting on Thursday, April 2, 2009, at 3:30 PM in the 3rd Floor Conference Room, 2 North Main Street.

Present:

Councilmember Tony Jeter
Councilmember Marty Janczak
Mayor Pro Tem Patsy Luna
Mayor William A. Jones, III

Absent:

Councilmember Russell Schneider

1. Discuss, as may be needed, Regular Meeting agenda items for the meeting posted for Thursday, April 2, 2009.

Mayor Jones indicated he would need to abstain from item 4(H) on the Consent Agenda and item 6 on the regular agenda, both relating to the proposed mining operation on Airport Road and SH 317.

Councilmember Jeter stated he would like item 4(K) on the Consent Agenda to be reviewed during the regular meeting.

David Blackburn, City Manager, noted Consent Agenda item 4(I), which authorizes the City Manager or his designee to use alternative procurement methods for purchases other than primary construction contracts. He asked if Council had any questions regarding this proposed resolution. No questions or issues were raised.

Mr. Blackburn also explained that item 7 on the regular agenda is the reconsideration of vehicle purchases approved by Council at the March 19th meeting. This item will allow the Council to consider authorizing the local option preference on several of the vehicles.

Next, Mr. Blackburn addressed Consent Agenda item #4(K), the grant application for new police officer positions through the COPS 2009 Stimulus Bill. This very competitive grant program will pay 100% of salary and benefits for a 36-month period. The last COPS grant was submitted in 2004 for fourteen patrol officers to establish the Westside Patrol Division.

Gary Smith, Police Chief, reviewed some of the basic grant information which focuses on economic issues in the community. He also provided the Council with some background on the staffing in the Police Department. This grant application would request eight additional positions, all assigned to patrol duties. Year 5 following the grant award would probably be the first full year of budget impact, which would be approximately \$580,000 for salaries and benefits only.

Chief Smith continued by providing the Council with some facts regarding response times and how these were used to establish assumptions to determine how the response time

would be impacted with the addition of these eight officers. The conclusion of the formula was that, with the addition of eight patrol officers, the average response time City-wide should decrease to 5 minutes and 7 seconds and officers should arrive at priority one calls within 5 minutes 62% of the time.

Councilmember Jeter asked if this grant included funding for police vehicles. Mr. Blackburn replied no.

Chief Smith stated there will be no immediate need for vehicles since the officers must go through the Police Academy and training before they are assigned a vehicle. The turn over in personnel also frees up vehicles throughout the year. The vehicle and equipment needs will be assessed on a fiscal year basis. Chief Smith provided details regarding the Individual Vehicle Assignment Program (IVAP) and how that is managed, along with pool cars that are available.

Mr. Blackburn stated it is not his intention to abandon the IVAP since it has proven to be very beneficial. The Council action requested today is only authorization to apply for the grant. This grant program is a very competitive process and if the City is successful, the Council will have to authorize the acceptance of the grant funds.

Mayor Jones stated it is likely the patrol vehicle fleet will be supplemented each year by using fund balance while replacement cars are funded in the operational budget.

Councilmember Jeter stated he just wanted it to be clear that if the grant funds are awarded, the City must be prepared to fund the full cost, including vehicles.

2. Receive an update on the I-35 Overlay Project.

Tim Dolan, Planning Director, provided the Council with an update on the process of developing the I-35 Overlay District Ordinance. The intent of this ordinance is to address the safety, aesthetic and functional characteristics of development and redevelopment along the highway, while enhancing the City's image as a desirable place to live, work and shop. The ordinance will supplement the standards of the underlying conventional districts with new or different standards.

The development of the I-35 Overlay District began in 2004 as an initiative of the Planning and Zoning Commission, later reinitiated in 2008 with the RZ No. 1 umbrella group including members from TEDC and the Planning and Zoning Commission. This group has met six times, property owner meetings have been conducted and the group will meet again with the Reinvestment Zone Board to develop standards for the portion of the District in the Zone.

Mr. Dolan noted the various districts along the I-35 corridor map. The proposed ordinance will apply to all new construction in the District and, within a 15-year period, existing buildings that add or refurbish 25% of the floor area or that equal 25% of the value of the structure. Mr. Dolan also explained the tri-partite architecture and building articulation diagrams, as well as the landscape design standards for all districts.

Mr. Blackburn stated the implementation of the I-35 Overlay District is a very long term process. Redevelopment and development will occur along I-35 and we can change the face of Temple by controlling how that development occurs with this ordinance.

Mayor Jones asked if there will be an incentive program to encourage renovations to comply with the ordinance now.

Kim Foutz, Assistant City Manager, stated that has been proposed but the Council will need to discuss how to fund the incentives.

3. Presentation and discussion regarding development of a City-wide trails, bike route, and sidewalk master plan.

David Blackburn, City Manager, presented this report to the City Council. He explained one of the immediate goals in the Comprehensive Plan is the creation of a comprehensive bike and pedestrian plan for the community. There are also several potential grant opportunities that require the City to have a Master Plan. Such a multi-faceted plan would promote City-wide connectivity of trail, bike and sidewalk systems.

TBG Consulting has provided the City with a grant for planning services related to the development of our Master Plan. Staff has been gathering and compiling data for use in this planning process. Mr. Blackburn reviewed the elements to be included in the plan, which include a Master Plan map, recommended prioritization of trail segments, recommended trail design standards and guidelines, cost estimates for the top ten priority trail segments and recommended strategies for implementation of the Master Plan. The Coordinating Committee will conduct a kick-off meeting on April 9th, with stakeholder and other meetings to follow. The goal is to bring the Master Plan to the Parks and Leisure Services Advisory Board and City Council for consideration in August and September 2009.

Ken Cicora, Parks and Leisure Services Director, stated they are in the process of wrapping up the design for the Friars Creek Trail which will be bid in June. This will connect the South Temple Park to Marlandwood.

4. Receive an update on proposed legislation being considered during the 81st Legislative Session.

David Blackburn, City Manager, provided this update on proposed legislation to the City Council, beginning with an overview of the legislative process. 7,340 bills were filed in the 81st Legislative Session, with approximately 1,200 being City-related.

Mr. Blackburn gave an example of how many bills change substantially from the time they are initially filed until the session ends. There were at least eight bills filed relating to the requirement for back-up generators for water and sewer plants. The bill has now been amended to apply to only counties with populations over 3.3 million, of which there is only one.

Texas Municipal League (TML), a state-wide association of cities, has requested the City's review and financial impact analysis on many proposed bills such as those relating to annexation, eminent domain and civil service rules. Mr. Blackburn noted another proposed bill HB 1159/SB313, which would give cities and counties the ability to extend the life of tax increment reinvestment zones. Since the City's tax increment financing reinvestment zone expires in 2022, this bill is being monitored by staff. Mr. Blackburn added that Temple's legislative priority this session has been one of support for the Texas A&M budget for the development of the medical school.

The City Council of the City of Temple, Texas conducted a Regular Meeting on Thursday, April 2, 2009 at 5:00 PM in the Council Chambers, Municipal Building, 2nd Floor, 2 North Main Street.

Present:

Councilmember Marty Janczak
Councilmember Tony Jeter
Mayor Pro Tem Patsy E. Luna
Mayor William A. Jones, III

Absent:

Councilmember Russell Schneider

I. CALL TO ORDER

1. Invocation

Pastor Pat Dietrich, First Lutheran Church, voiced the Invocation.

2. Pledge of Allegiance

Barbara Stephens, Temple Families in Crisis Shelter Director, led the Pledge of Allegiance.

II. PROCLAMATIONS & SPECIAL RECOGNITIONS

3. (A) Recognition of Residence Inn employees and others assisting with the accident that occurred at the Residence Inn in Temple on March 12, 2009.

Mayor Jones joined Mr. James Kirkland, Director of Sales, Marriott - Residence Inn, in recognizing Juan Carlos Camacho, John Graves, and Donald Tomasek, employees of Residence Inn. Mr. Kirkland read a note from the General Manager, Mr. Abbi Bhakta, explaining the events that occurred on March 12, 2009 at the Residence Inn in Temple. He recognized Juan Carlos Camacho, John Graves and Donald Tomasek for their heroic actions on that day. Deputy Chief Scott Hoelscher, Temple Fire & Rescue, presented Certificates of Appreciation to these employees.

(B) Child Abuse Awareness Month April 2009

Mayor Pro Tem Patsy Luna presented this proclamation to Diane Gunn, Bell County Welfare Board.

(C) Sexual Assault Awareness Month April 2009

Mayor Jones presented this proclamation to Barbara Stephens, Temple Families in Crisis Shelter Director.

(D) National 9-1-1 Education Month April 2009

Cindy Bridges, 911 Public Education Coordinator, Bell County Communications Center, received this proclamation presented by Mayor Jones.

III. PUBLIC COMMENTS

Ms. Betty Elliott, 305 East Xavier, stated she really enjoyed the recent cooking school held at the Mayborn Center. The Play-by-Play Brochure just came out and she congratulated Ken Cicora on his comments about the Parks Department's 65th anniversary. Ms. Elliott also reminded everyone to always have proper identification on them when they leave their homes.

Mr. Robert Wells, 3001 North 12th Street and lifetime member of the community, asked that the old police station and the surrounding area be used for parks, possibly to be known as the Mayborn-Santa Fe Central Park. This area could be used for a miniature train with green space. Some of the buildings could be converted to gift shops, ice cream parlors, and various specialty museums.

IV. CONSENT AGENDA

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

(A) March 19, 2009 Special Called Meeting and Regular Meeting

(B) 2009-5679-R: Consider adopting a resolution authorizing a construction contract with Smetana & Associates of Temple for the relocation of a wastewater line in the vicinity of 3rd Street, Barton Avenue, 5th Street, and Calhoun Avenue in the amount of \$57,062.70.

(C) 2009-5680-R: Consider adopting a resolution authorizing T. Morales Company Electric & Controls, Ltd. of Florence, the City's contracted electrical service provider, to provide installation and programming services related to improvements needed to the City's SCADA system in an estimated amount of \$80,000.

(D) 2009-5681-R: Consider adopting a resolution authorizing an out of scope contract with CH2MHill/OMI of Englewood, Colorado for replacement of the belt press and gravity belt thickener polymer feed units in the not to exceed amount of \$36,585.75.

(E) 2009-5682-R: Consider adopting a resolution authorizing a one-year renewal to the contract with Big Tex Paving of Johnson City for the FY 2009 Seal Coat Program based upon unit price of \$1.76 per square yard.

(F) 2009-5683-R: Consider adopting a resolution authorizing the purchase of exercise equipment for the renovated Summit Fitness & Recreation Center utilizing TxMAS and BuyBoard contracts as part of the parks bond project in the amount of \$118,609.

(G) 2009-4288: SECOND READING - Z-FY-09-15: Consider adopting an ordinance authorizing a Conditional Use Permit (CUP) to allow the sale of

alcoholic beverages for on-premise consumption in a restaurant to be known as 'Kazam's Family Entertainment Center,' located at 2001 West Adams Avenue on Tract 1, Albertson's Addition Replat.

(H) 2009-4289: SECOND READING - Consider adopting an ordinance authorizing the voluntary annexation of a 176.534 acre tract of land located in the vicinity of Airport Road and SH 317.

(I) 2009-5684-R: Consider adopting a resolution authorizing the City Manager or his designee to authorize the use of an alternative procurement delivery method for procurements that do not relate to a primary contract for construction.

(J) 2009-5685-R: Consider adopting a resolution authorizing City of Temple support for the submittal of a senior citizen tax credit project by Clifton Phillips and Michael Hartman dba Roundstone Development LLC for senior living to be located at 2201 West Adams Avenue.

(K) 2009-5686-R: Consider adopting a resolution authorizing the City Manager to submit a grant application for new police officer positions through the COPS 2009 Stimulus Bill.

(L) 2009-5687-R: Consider adopting a resolution authorizing budget amendments for fiscal year 2008-2009.

Motion by Mayor Pro Tem Patsy E. Luna to adopt resolution approving the Consent Agenda, with the exception of item 4(H), seconded by Councilmember Marty Janczak.

Motion passed unanimously.

(H) 2009-4289: SECOND READING - Consider adopting an ordinance authorizing the voluntary annexation of a 176.534 acre tract of land located in the vicinity of Airport Road and SH 317.

Motion by Councilmember Marty Janczak to adopt ordinance approving item 4 (H), seconded by Councilmember Tony Jeter.

Mayor William A. Jones, III abstained. The other Councilmembers voted aye. The motion passed.

V. REGULAR AGENDA

ORDINANCES

5. 2009-4290: FIRST READING - PUBLIC HEARING -Consider adopting an ordinance authorizing an amendment to the Tax Increment Financing Reinvestment Zone No. 1 Financing Plan for FY 2009 in an amount not to

exceed \$30,000 and authorizing a payment to Temple Economic Development Corporation for the acquisition of Block 2, Lot 12, Enterprise Business Park Phase 2.

Traci Barnard, Finance Director, presented this item to the City Council. The Reinvestment Zone No. 1 purchased 131 acres to serve as the Enterprise Business Park Phase 2. A 2.23 acre parcel of this land in the Park was deeded to Temple Economic Development Corporation (TEDC) in March 2007.

In April 2007, Specialty Pharmacy Services, Inc. purchased this 2.23 acre tract from TEDC for \$30,000 to construct a 6,000 square foot building for the company's manufacturing and distribution operations. The net proceeds from the sale were remitted to the Zone. Since that time, Specialty Pharmacy Services, Inc. has determined that they will not construct a building at that location but instead will be rehabilitating a building on South 1st Street.

On February 1, 2008, TEDC entered into a repurchase agreement with Specialty Pharmacy Services, Inc. for the tract if certain conditions were not met. Since it has been determined that Specialty Pharmacy Services, Inc. will not be constructing on the specified property, TEDC wishes to exercise its right to repurchase the property for the original purchase price of \$30,000. This amendment allocates funding for the purchase of Block 2, Lot 12, Enterprise Business Park Phase 2, in an amount not to exceed \$30,000.

Mayor Jones declared the public hearing open with regard to agenda item 5 and asked if anyone wished to address this item. There being no comments, Mayor Jones closed the public hearing.

Motion by Mayor Pro Tem Patsy E. Luna to adopt ordinance, with second reading set for April 16, 2009, seconded by Councilmember Marty Janczak.

Motion passed unanimously.

- 6. 2009-4291: FIRST READING - PUBLIC HEARING - Z-FY-09-14: Consider adopting an ordinance authorizing a Conditional Use Permit for mining and mining storage on 119± acres located in the vicinity of the southwest corner of SH 36 (Airport Road) and North SH 317 and authorizing a zoning change from Agricultural to Light Industrial on a 26.3+ acre portion of that tract.**

Tim Dolan, Planning Director, presented this case to the City Council. The Planning and Zoning Commission recommended approval of this conditional use permit by a vote of 4-3. Mr. Dolan showed a map of the property, as well as the zoning map. He also displayed some photos of the property. The Comprehensive Plan shows this area to be agricultural in nature. When the use changes, the future land use plan is to be updated bi-annually. Two surrounding property owners disapproved the request for a conditinal use permit for the mining operation. Mr. Dolan showed the area to be mined and reviewed the seven items the Council should consider when reviewing CUP conditions. Twenty-one conditions have been established for this property as part of the proposed ordinance. Mr. Dolan reviewed these conditions. Staff

recommended approval of the request.

Mayor Pro Tem Luna declared the public hearing open with regard to agenda item 6 and asked if anyone wished to address this item.

Lloyd Thomas, Aldrich-Thomas Group Realtors, 18 North 3rd Street, addressed the Council representing the owners. He clarified where the applicant intended to conduct the mining operation and stated an amendment to the CUP has already been filed with the Planning Department to expand that area to the entire 119 acres.

Councilmember Janczak about the area covered by the air quality permit.

Mr. Thomas replied the permit includes the entire 119 acres.

Mr. Dolan explained the site plan submitted by the applicant showed only the reduced area for the mining operation and that was what was approved by the Planning and Zoning Commission. The site plan governs the conditional use permit.

Mr. Thomas stated the site plan really shows what is in place now. There was some confusion on the part of the applicant about what should have been included. That is why the applicant has filed an application to amend the CUP to increase the minable area, unless it can be addressed by the City Council.

Councilmember Jeter stated Exhibit B to the ordinances shows the CUP to be for the entire 119 acres.

Mr. Dolan replied that is correct but the site plan limits the mining area to the 20-25 acre portion. This site plan was reviewed by the Development Review Committee and the Planning and Zoning Commission. This site plan was also shown to interested surrounding property owners.

Councilmember Jeter asked which Commissioners voted against the CUP.

Mr. Dolan stated Chair Pope, Vice Chair Pilkington and Commissioner Talley voted against the request. Commissioners Luck and Martin were absent.

Councilmember Janczak asked if this is just an administrative error and if so, how it could be fixed.

David Blackburn, City Manager, stated the question is whether this is an expansive change or not. If surrounding property owners were notified that the entire 119 acres was proposed for a mining operation, he asked if the Council could modify the site plan within the boundary of the notice area.

Trudi Dill, Deputy City Attorney, recommended the City Council vote on the site plan before them and allow the amended conditional use permit to come forward. The item could also be tabled, allowing the Planning and Zoning Commission to consider the amended conditional use application before the Council takes action. Mrs. Dill asked if the notices to the surrounding property owners included the site plan submitted by the applicant.

Mr. Dolan replied the notices were sent for the entire 119 acre boundary and the site plan was not included in the notice. The application to amend the CUP to expand the mining area was filed following the March 16th Planning and Zoning Commission meeting. The applicant requested that the original request for the smaller mining area continue on to Council as planned and that is the reason this request is before the Council tonight.

Mrs. Dill stated if the new site plan is approved by Council it will replace this ordinance. If this item is approved on first reading tonight, the staff can review options for amendments prior to the second reading on April 16th.

Thomas Parker, engineer representing Mine Services, the applicant, discussed the site plan and his misunderstanding about how it was to be submitted.

There being no further comments, Mayor Pro Tem Luna closed the public hearing.

Motion by Councilmember Tony Jeter to adopt ordinance, with second reading set for April 16, 2009, seconded by Councilmember Marty Janczak.

Mayor William A. Jones, III abstained. The other Councilmembers voted aye. The motion passed.

RESOLUTIONS

7. **2009-5688-R: RECONSIDER the following acquisition authorized by Council on March 19, 2009: Consider adopting a resolution authorizing the purchase of three (3) vehicles from Planet Ford of Spring, Texas, in the amount of \$67,393 and rejecting all bids received for two (2) one-ton light duty pickups with special purpose bodies.**

Belinda Mattke, Purchasing Director, presented this item to the City Council. This item is being reconsidered, at the request of the City Council. Ms. Mattke explained in accordance with the City's adopted Local Preference Policy, Council does have the option to award the two ¾-ton full size pickups (Bid Tab #1) to Johnson Brothers Ford of Temple in the amount of \$43,411.16, versus the low bid of \$43,008.00 from Planet Ford, a \$403.16 spread. Johnson Brother's bid is within 1% of Planet Ford's low bid.

Motion by Councilmember Tony Jeter adopt resolution, invoking the local preference option to award the purchase of the two ¾ ton full size pickups to Johnson Brothers Ford in the amount of their bid, seconded by Councilmember Marty Janczak.

Motion passed unanimously.

8. **2009-5689-R: Consider adopting a resolution naming the Santa Fe Gardens area at the Santa Fe Depot "Fred Springer Park".**

Ken Cicora, Parks and Leisure Services Director, presented this item to the City Council. Fred Springer has been a true supporter of the City for many years. Mr. Cicora provided some history about Mr. Springer's contributions to the Railroad and Heritage Museum and the City of Temple. The request to rename the Santa Fe Gardens to Fred Springer Park meets the City's policy. Mr. Cicora felt this was an opportune time to rename the Park since Mr. Springer is over 80 years old and will be moving soon to Santa Fe new Mexico to be closer to his grandchildren. The Parks and Leisure Services Advisory Board recommended the renaming of this park, as well.

Motion by Mayor Pro Tem Patsy E. Luna to adopt resolution, seconded by Councilmember Marty Janczak.

Motion passed unanimously.

BOARD APPOINTMENTS

- 9. 2009-5690-R: Consider adopting a resolution appointing one member to the Tree Board to fill an unexpired term through March 1, 2012.**

It was recommended that Dr. Tom Gerik, Director of Blackland Research Center, be appointed to fill the unexpired term on the Tree Board.

Motion by Councilmember Marty Janczak to adopt resolution appointing Dr. Tom Gerik to the Tree Board, seconded by Mayor Pro Tem Patsy E. Luna.

Motion passed unanimously.

ATTEST:

William A. Jones, III, Mayor

Clydette Entzminger
City Secretary



COUNCIL AGENDA ITEM MEMORANDUM

04/16/09
Item #7(B)
Consent Agenda
Page 1 of 2

DEPT./DIVISION SUBMISSION & REVIEW:

Sharon Rostovich, Airport Director

ITEM DESCRIPTION: Consider adopting a resolution authorizing a contract with Eagle Airport Marking, Inc., of Gladewater for airfield crack filling and runway and taxiway markings at the Draughon-Miller Central Texas Regional Airport in an amount not to exceed \$100,000.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: On February 5, 2009, the City accepted a 2009 Texas Department of Transportation, Aviation Division Routine Airport Maintenance Grant in the amount of \$100,000 (City match \$50,000) to crack seal and repaint runways, taxiways, tie down and hangar access areas. The Council authorized the use of competitive sealed proposals (RFP) for the acquisition of services needed to crack seal and repaint runways and taxiways on March 5, 2009.

On March 24, 2009, two proposals were received for the services needed: Eagle Airport Marking, Inc. of Gladewater, Texas, and Hi-Lite Markings, Inc. of Adam Center, New York. The evaluation criteria as defined in the RFP were as follows: price, 60%; reputation of the vendor and the quality of vendor's services, 20%; and the proven experience for providing like-kind services to airports, 20%. An evaluation committee was formed consisting of employees from the Purchasing Department and the Airport.

As shown on the attached proposal tabulation sheet, Hi-Lite Markings provided the best value from a cost perspective. However, references were difficult to check on Hi-Lite because contact information submitted in their proposal was inaccurate and they did not include in their proposal a list of completed like-kind projects as requested in the RFP. Eagle Airport Marking, Inc. provided the City with these like-kind services last fall and staff was very pleased with the services provided. Accordingly, based on the evaluation criteria and weighting, the committee determined that Eagle was the top rated company, and accordingly, the committee is recommending them for award of this contract.

It is the intent of this contract to do as much work as possible at the contracted rates in an amount not to exceed \$100,000. Eagle Airport Marking has agreed to complete the work within 30 days of receiving the notice to proceed, while shutting down activities on May 1-3 to accommodate the air show.

FISCAL IMPACT: Funds in the amount of \$100,000 were appropriated in FY 2008-2009 Operating Budget. The \$100,000 included the City's match of \$50,000 and the state's grant amount of \$50,000. Attached is a budget adjustment for Council's approval reallocating the funds to the Federal/State Grant Fund. Upon approval of the reallocation of funds to the Federal/State Grant Fund, \$100,000 will be available in account 260-3600-560-6310, project #100440. Upon acceptance of the project and submittal of the project related invoices to TxDOT, a 50% grant reimbursement up to \$50,000 will be received from the State.

ATTACHMENTS:

[Proposal Tabulation](#)
[Budget Adjustment](#)
[Resolution](#)

**Tabulation of Proposals Received
on March 24, 2009 at 3:00 p.m.
RFP 36-02-09: Airport Runway and Taxiway Crack-Sealing and Re-Painting**

| | | | Eagle Airport Marking, Inc. Gladewater, Texas | | Hi-Lite Markings, Inc Adams Center, NY | |
|--------------------|-----------|----------------|--|--------------|---|--------------|
| | UM | Est Qty | Unit Price | Total | Unit Price | Total |
| Crack Sealing | lf | 80000 | \$ 0.600 | \$ 48,000.00 | \$ 0.600 | \$ 48,000.00 |
| Reflective Paint | sf | 105000 | \$ 0.384 | \$ 40,320.00 | \$ 0.360 | \$ 37,800.00 |
| Non-Reflective Pai | sf | 32350 | \$ 0.384 | \$ 12,422.40 | \$ 0.330 | \$ 10,675.50 |
| Paint Removal | sf | 8500 | \$ 0.400 | \$ 3,400.00 | \$ 0.400 | \$ 3,400.00 |

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

Belinda Mattke

24-Mar-09

Belinda Mattke, Director of Purchasing

Date

**Note: Highlighted bid is
recommended**

FY **2009****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 | |
|--------------------|-----------|------------------------------|-------------------|--|-------------------|--|
| 260-3600-560-63-10 | 100440 | Building & Grounds | \$ 100,000 | | | |
| 260-0000-431-02-61 | | State Grants | 50,000 | | | |
| 260-0000-490-25-88 | | Transfer In - Airport Grant | 50,000 | | | |
| 110-9100-591-81-60 | | Transfer Out - Airport Grant | 50,000 | | | |
| 110-0000-431-02-61 | | State Grants | | | 50,000 | |
| 110-5900-560-63-10 | 100440 | Building & Grounds | | | 100,000 | |
| | | | | | | |
| | | | | | | |
| | | | | | | |
| | | | | | | |
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| | | | | | | |
| | | | | | | |
| | | | | | | |
| TOTAL..... | | | \$ 250,000 | | \$ 150,000 | |

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

This budget adjustment moves the 2009 Airport RAMP grant budgeted in the FY 2009 Operating Budget to the Grant Fund. The total grant project for FY 2009 is \$100,000. The funds will be used to assist with airfield crack filling and runway/taxiway pavement markings at the airport.

DOES THIS REQUEST REQUIRE COUNCIL APPROVAL?

☒

Yes

☐

No

DATE OF COUNCIL MEETING

4/16/2009

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 A CONTRACT WITH EAGLE AIRPORT MARKING, INC., OF GLADEWATER, TEXAS, FOR AIRFIELD CRACK FILLING AND RUNWAY AND TAXIWAY MARKINGS AT THE DRAUGHON-MILLER CENTRAL TEXAS REGIONAL AIRPORT, IN AN AMOUNT NOT TO EXCEED \$100,000; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, On February 5, 2009, the City accepted a Texas Department of Transportation, Aviation Division Routine Airport Maintenance Grant in the amount of \$100,000 (City match \$50,000) to crack seal and repaint runways, taxiways, tie down and hangar access areas at the Draughon-Miller Central Texas Regional Airport;

Whereas, 2 proposals were received and reviewed by a staff committee who recommend awarding a contract, for a cost not to exceed \$100,000, to Eagle Airport Marking, Inc. of Gladewater, Texas, who have extensive airport experience and received favorable references from TxDOT Aviation and several airports in Texas;

Whereas, funds are available for this project but an amendment to the FY2008-2009 budget needs to be approved to reallocate the funds to the Federal/State Grant Fund; 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 with Eagle Airport Marking, Inc., of Gladewater, Texas, after approval as to form by the City Attorney, for airfield crack filling and runway and taxiway markings at the Draughon-Miller Central Texas Regional Airport, in an amount not to exceed \$100,000.

Part 2: The City Council approves an amendment to the FY2008-2009 budget, substantially in the form of the copy attached as Exhibit A, for this project.

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 **16th** day of **April**, 2009.

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

04/16/09
Item #7(C)
Consent Agenda
Page 1 of 2

DEPT./DIVISION SUBMISSION & REVIEW:

Bruce A. Butscher, P.E., Director of Public Works
Nicole Torralva, P.E., Assistant Director of Public Works/Operations

ITEM DESCRIPTION: Consider adopting a resolution authorizing a construction contract with Bell Contractors, Inc., of Belton for construction activities required to build the Airport Pump Station as part of the Expansion of West Temple Water & Wastewater Utilities North of FM 2305, Phase 2, in an amount not to exceed \$866,429.

STAFF RECOMMENDATION: Adopt resolution as presented in item discussion.

ITEM SUMMARY: Current and anticipated growth in west Temple is placing an excessive burden on the water delivery system in the area, resulting in near water shortages to this region of the city. Currently, all water supplied to west Temple is delivered through infrastructure east of SH 317 and is pumped through the FM 2305 pump station to the Pepper Creek storage tank (near FM 2271) where the majority of water is stored for west Temple. In addition, there is no sanitary sewer service from north of FM 2305 (near SH 317) to the intersection of FM 2483. A map is attached showing the proposed project area.

This project, "Expansion of West Temple Water and Wastewater Utilities North of FM 2305" consists of two phases. Phase 1 will provide sanitary sewer service from FM 2305 northwest to the intersection of FM 2483 and SH 317. Also, water service will be extended from SH 317 along FM 2483 to loop an existing 10-inch diameter pipeline west of the city limits. Council authorized an engineering contract with Kasberg, Patrick & Associates, LP, (KPA) for Phase 1 on July 5, 2007, in the amount of \$327,340 for design of the sewer line and Phase 1 water line.

Phase 2 of this project will include a pump station at the Draughon-Miller Central Texas Regional Airport capable of pumping water south through a 16-inch line to a new elevated storage tank located in the vicinity of the intersection of SH 317 and FM 2483. Transfer of water through this route will provide a second feed to the west side of Temple from the north, reducing the dependency on water delivery through the FM 2305 pump station. Council authorized an engineering contract with KPA for Phase 2 on October 18, 2007, in the amount of \$453,580 for design of the pump station, Phase 2 water line, and elevated storage tank.

Council authorized a construction contract with CB&I, Inc., of the Woodlands to build the elevated

storage tank as part of Phase 2 in an amount not to exceed \$2,010,000 on September 18, 2008. Council authorized a construction contract with Austin Engineering, Inc., of Austin to build the water and sewer lines as part of Phases 1 and 2 in an amount not to exceed \$1,501,147 on December 18, 2008.

This third and final construction contract will consist of a booster pump station, altitude valve and vault, and flow meter. Bids ranged from \$866,429 to \$1,290,940 (see attached Bid Tab & Recommendation). The engineer's OPC for this construction project was \$740,000. Nine contractors submitted bids, and the range and distribution of bids are normal for projects of this type and magnitude. It is believed that the bid totals accurately reflect current market prices. KPA recommends awarding the contract to the low bidder, Bell Contractors, Inc.

Construction time allotted for this project is 270 days.

FISCAL IMPACT: Funding in the amount of \$5,900,000 was appropriated in account 561-5200-535-6928, project #100172, as part of the FY 2007 and FY 2008 Capital Improvement Program funded with Utility Revenue Bonds for design, construction and expansion of West Temple Water & Wastewater Utilities North of FM 2305. After funding engineering related services for phase I and II in the amount of \$733,960, miscellaneous cost of \$13,699, telephone relocation cost of \$25,350 and the two construction contracts awarded in the amounts of \$2,010,000 and \$1,501,147, a balance of \$1,615,844 remains available to fund this construction contract.

ATTACHMENTS:

[Bid Tab & Recommendation](#)
[Map](#)
[Resolution](#)



KASBERG, PATRICK & ASSOCIATES, LP

CONSULTING ENGINEERS

mail@kpaengineers.com

RICK N. KASBERG, P.E.

R. DAVID PATRICK, P.E., C.F.M.

THOMAS D. VALLE, P.E.

Temple
One South Main Street
Temple, Texas 76501
(254) 773-3731

Georgetown
3613 Williams Drive, Suite 406
Georgetown, Texas 78628
(512) 819-9478

March 26, 2009

Mr. Don Bond, E.I.T.
CIP Project Manager
3210 E. Avenue H
Building A
Temple, Texas 76501

Re: City of Temple, Texas
Extension of West Temple Utilities North of FM 2305 – Phase II
Airport Pump Station

Dear Mr. Bond:

On March 24, 2009, the City of Temple received competitive bids from nine contractors for the referenced project, which is the final of three components to the overall project. This bid contained an Add Alternate to seal coat the existing access drive through the adjacent elevated tank site. A Bid Tabulation is provided for your reference.

The attached Bid Tabulation shows Bell Contractors, Inc. of Belton, Texas as the low bidder with a Base Bid \$860,554.00. Their Total Amount Bid, including the Add Alternate, is \$866,429.00. Our Final Opinion of Probable Cost for this project was increased to \$740,000, which we revised based on current costs and the addition of several major components such as an altitude valve vault, variable frequency drives for the pumps and bridge crane.

Although the bids for the electrical components, altitude valve vault, fencing, painting, flow meter and asphalt were higher than anticipated, the distribution or range of bids is normal. Therefore, we believe that the total bids accurately reflect the current market prices.

Our Total Preliminary Opinion of Probable Construction Cost for the overall project was \$4,379,355. The Bids Received, including this Pump Station at \$866,429, total \$4,377,576. Since the bid amounts total slightly less than the preliminary estimate, the savings on the previous portions should be able to fund the overage on the pump station.

Mr. Don Bond, E.I.T.
March 26, 2009
Page Two

Therefore, we recommend that a contract be awarded to Bell Contractors, Inc., with the Add Alternate in the amount of \$866,429.00. As you know, Bell Contractors has performed numerous projects for the City of Temple and is well qualified to construct this project.

Sincerely,


Ginger R. Tolbert, P.E.

GRT/

xc: Ms. Belinda Mattke, City of Temple (1 copy with Original Bid Documents)
2007-141-41

BID TABULATION

2007-141-41

Extension of West Temple Utilities North of FM 2305 Phase II - AIRPORT PUMP STATION

March 24, 2009; 10:00 AM
3210 E Ave H, Bldg C, Temple TX 76501

| | | | | BIDDER INFORMATION | | | | | | | | | |
|----------|--------------------|------|--|---|-----------------|---|-----------------|---|-----------------|--|-----------------|---|-----------------|
| | | | | Bell Contractors, Inc. 3082 W Hwy 190 Belton TX 76513 | | Shelton & Shelton Plumbing, LP 584 W Stagecoach Road Killeen TX 76542 | | Job Site Construction, LLC P O Box 40 Round Rock TX 78680 | | Purcell Contracting, Ltd. P O Box 525 Meridian TX 76665-0525 | | CRU, Ltd. 500 Canyon Ridge Ste L250-148 Austin TX 78753 | |
| Item No. | Estimated Quantity | Unit | Bid Data Description | Unit Price | Extended Amount | Unit Price | Extended Amount | Unit Price | Extended Amount | Unit Price | Extended Amount | Unit Price | Extended Amount |
| 1 | 100% | LS | Mobilization, Bonds & Insurance, not-to-exceed 5% of the Base Bid Amount | \$ 25,816.00 | \$ 25,816.00 | \$ 30,635.00 | \$ 30,635.00 | \$ 30,348.00 | \$ 30,348.00 | \$ 45,000.00 | \$ 45,000.00 | \$ 47,000.00 | \$ 47,000.00 |
| 2 | 100% | LS | Prepare Trench Safety Plan in Conformance with State Law & OSHA, Sealed by a Licensed Professional Engineer in the State of Texas | 2,250.00 | 2,250.00 | 848.00 | 848.00 | 810.00 | 810.00 | 1,000.00 | 1,000.00 | 600.00 | 600.00 |
| 3 | 100% | LS | Implement & Follow Trench Safety Plan (Pipe) | 1,000.00 | 1,000.00 | 565.00 | 565.00 | 1,080.00 | 1,080.00 | 1,500.00 | 1,500.00 | 1,600.00 | 1,600.00 |
| 4 | 100% | LS | Implement & Follow Trench Safety Plan (Structures) | 2,000.00 | 2,000.00 | 1,412.00 | 1,412.00 | 540.00 | 540.00 | 1,500.00 | 1,500.00 | 1,600.00 | 1,600.00 |
| 5 | 100% | LS | Prepare Stormwater Pollution Prevention Plan, Including Submission to & Receiving Permits from Texas Commission on | 4,500.00 | 4,500.00 | 271.00 | 271.00 | 1,350.00 | 1,350.00 | 1,000.00 | 1,000.00 | 4,500.00 | 4,500.00 |
| 6 | 100% | LS | Furnish Equipment, Materials, Tools, Labor & Construction of the Airport Booster Pump Station, including all Mechanical, Electrical, | 579,320.00 | 579,320.00 | 695,015.00 | 695,015.00 | 716,821.00 | 716,821.00 | 744,960.00 | 744,960.00 | 725,000.00 | 725,000.00 |
| 7 | 100% | LS | Furnish & Install Flow Meter Assembly, including Flow Meter, Manhole, Dresser Coupling & Field Painting Exposed Ducitle Iron | 23,565.00 | 23,565.00 | 23,260.00 | 23,260.00 | 17,408.00 | 17,408.00 | 20,000.00 | 20,000.00 | 17,000.00 | 17,000.00 |
| 8 | 100% | LS | Furnish & Install Altitude Valve Assembly, including Altitude Valve, Vault & Field Painting Exposed Ducitle Iron Pipe, Complete For | 73,200.00 | 73,200.00 | 75,124.00 | 75,124.00 | 104,980.00 | 104,980.00 | 69,000.00 | 69,000.00 | 118,000.00 | 118,000.00 |
| 9 | 100% | LS | Paint Pumps, Piping, Yard Piping, Vault Covers, Bollards & Miscellaneous Metal Surfaces | 29,635.00 | 29,635.00 | 4,294.00 | 4,294.00 | 11,101.00 | 11,101.00 | 21,000.00 | 21,000.00 | 9,300.00 | 9,300.00 |
| 10 | 100% | LS | Provide & Install 18-inch Diameter DIP Water Line, including Fittings, Connections & Thrust Restraint | 41,658.00 | 41,658.00 | 39,325.00 | 39,325.00 | 41,605.00 | 41,605.00 | 32,200.00 | 32,200.00 | 64,000.00 | 64,000.00 |
| 11 | 100% | LS | Provide & Install 12-inch Diameter DIP Water Line, including Fittings, Connections, Flush Assembly & Thrust Restraint | 10,500.00 | 10,500.00 | 11,151.00 | 11,151.00 | 5,658.00 | 5,658.00 | 7,000.00 | 7,000.00 | 8,300.00 | 8,300.00 |
| 12 | 100% | LS | Provide & Install 6-inch Diameter DIP Water Line, including Fittings, Connections, Concrete Splash Pad & Thrust Restraint | 13,135.00 | 13,135.00 | 4,602.00 | 4,602.00 | 7,465.00 | 7,465.00 | 3,000.00 | 3,000.00 | 3,600.00 | 3,600.00 |
| 13 | 1 | EA | Furnish & Install Standard Fire Hydrant | 3,200.00 | 3,200.00 | 9,295.00 | 9,295.00 | 4,059.00 | 4,059.00 | 11,000.00 | 11,000.00 | 8,500.00 | 8,500.00 |
| 14 | 100% | LS | Provide Project Record Drawings (As Built) | 3,000.00 | 3,000.00 | 3,000.00 | 3,000.00 | 3,000.00 | 3,000.00 | 3,000.00 | 3,000.00 | 3,000.00 | 3,000.00 |
| 15 | 100% | LS | Provide DVD of site pre-construction & post construction site conditions for the total project | 3,500.00 | 3,500.00 | 605.00 | 605.00 | 810.00 | 810.00 | 1,500.00 | 1,500.00 | 5,500.00 | 5,500.00 |
| 16 | 100% | LS | Furnish & Install perimeter fencing | 13,500.00 | 13,500.00 | 8,074.00 | 8,074.00 | 10,426.00 | 10,426.00 | 8,300.00 | 8,300.00 | 12,500.00 | 12,500.00 |
| 17 | 6,000 | SY | Furnish & Install Hydro Mulch Seeding For Permanent Erosion Control | 0.55 | 3,300.00 | 0.36 | 2,160.00 | 1.00 | 6,000.00 | 0.45 | 2,700.00 | 0.90 | 5,400.00 |
| 18 | 720 | SY | Furnish & Install Two Course Seal Coat | 26.75 | 19,260.00 | 25.90 | 18,648.00 | 20.85 | 15,012.00 | 22.00 | 15,840.00 | 29.00 | 20,880.00 |
| 19 | 50 | LF | Furnish, Install, Maintain & Remove Rock Berm as required in the Stormwater Pollution Prevention Plan | 24.50 | 1,225.00 | 18.00 | 900.00 | 16.00 | 800.00 | 38.00 | 1,900.00 | 28.00 | 1,400.00 |
| 20 | 400 | LF | Furnish, Install, Maintain & Remove Silt Fence as required in the Stormwater Pollution Prevention Plan | 2.45 | 980.00 | 2.50 | 1,000.00 | 2.25 | 900.00 | 3.00 | 1,200.00 | 4.00 | 1,600.00 |
| 21 | 100% | LS | For Furnishing All Materials, Equipment, Tools & Labor Necessary for Microbiological Testing in accordance with AWWA C-651 | 2,200.00 | 2,200.00 | 303.00 | 303.00 | 3,780.00 | 3,780.00 | 2,000.00 | 2,000.00 | 3,600.00 | 3,600.00 |
| 22 | 100% | LS | For Furnishing All Materials, Equipment, Tools & Labor Necessary for Pressure Testing Water Pipe, Including Any Necessary Repairs | 3,800.00 | 3,800.00 | 3,289.00 | 3,289.00 | 1,080.00 | 1,080.00 | 1,400.00 | 1,400.00 | 2,200.00 | 2,200.00 |
| | | | | | \$ 860,544.00 | | \$ 933,776.00 | | \$ 985,033.00 | | \$ 996,000.00 | | \$ 1,065,080.00 |

| Item No. | Estimated Quantity | Unit | Bid Data Description | Unit Price | Extended Amount | Unit Price | Extended Amount | Unit Price | Extended Amount | Unit Price | Extended Amount | Unit Price | Extended Amount |
|----------------------------|--------------------|------|--|------------|-----------------|------------|-----------------|------------|-----------------|------------|-----------------|------------|-----------------|
| 1 | 220 | SY | Furnish & Install Two Course Seal Coat | \$ 26.75 | \$ 5,885.00 | \$ 36.33 | * \$ 7,992.60 | \$ 20.85 | \$ 4,587.00 | \$ 25.00 | \$ 5,500.00 | \$ 25.00 | \$ 5,500.00 |
| BID AMOUNT - ADD ALTERNATE | | | | | \$ 5,885.00 | | \$ 7,992.60 | | \$ 4,587.00 | | \$ 5,500.00 | | \$ 5,500.00 |

| BID SUMMARY | BIDDER INFORMATION | | | | |
|---------------------------------|---|---|---|--|---|
| | Bell Contractors, Inc. 3082 W Hwy 190 Belton TX 76513 | Shelton & Shelton Plumbing, LP 584 W Stagecoach Road Killeen TX 76542 | Job Site Construction, LLC P O Box 40 Round Rock TX 78680 | Purcell Contracting, Ltd. P O Box 525 Meridian TX 76665-0525 | CRU, Ltd. 500 Canyon Ridge Ste L250-148 Austin TX 78753 |
| | | | | | |
| | | | | | |
| | | | | | |
| TOTAL BID AMOUNT (ITEMS 1 - 22) | \$ 860,544.00 | \$ 933,776.00 | \$ 985,033.00 | \$ 996,000.00 | \$ 1,065,080.00 |
| TOTAL BID AMOUNT ADD ALTERNATE | \$ 5,885.00 | \$ 7,992.60 | \$ 4,587.00 | \$ 5,500.00 | \$ 5,500.00 |
| | \$ 866,429.00 | \$ 941,768.60 | \$ 989,620.00 | \$ 1,001,500.00 | \$ 1,070,580.00 |

| | | | | | |
|---------------------------------------|-----|-----|-----|-----|-----|
| Did Bidder Acknowledge Addenda No. 1? | YES | YES | YES | YES | YES |
| Did Bidder provide Bid Security? | YES | YES | YES | YES | YES |

BID TABULATION

Extension of West Temple Utilities North of FM 2305 Phase II - AIRPORT PUMP STATION

March 24, 2009; 10:00 AM
3210 E Ave H, Bldg C, Temple TX 76501

| | | | | BIDDER INFORMATION | | | | | | | |
|-------------|-----------------------|------|--|---|--------------------|--|--------------------|--|--------------------|--|--------------------|
| | | | | Gracon Construction, Inc. P O Box 360039 Dallas TX 75336-0039 | | Matous Construction, Ltd. 8602 North Hwy 317 Belton TX 76513 | | Austin Engineering Co., Inc. P O Box 342349 Austin TX 78734-2349 | | Patin Construction, LLC 641 West Front Street Hutto TX 78634 | |
| | | | | Unit Price | Extended Amount | Unit Price | Extended Amount | Unit Price | Extended Amount | Unit Price | Extended Amount |
| Item No. | Estimated Quantity | Unit | Bid Data Description | | | | | | | | |
| 1 | 100% | LS | Mobilization, Bonds & Insurance, not-to-exceed 5% of the Base Bid Amount | \$ 53,000.00 | \$ 53,000.00 | \$ 50,000.00 | \$ 50,000.00 | \$ 50,000.00 | \$ 50,000.00 | \$ 50,000.00 | \$ 50,000.00 |
| 2 | 100% | LS | Prepare Trench Safety Plan in Conformance with State Law & OSHA, Sealed by a Licensed Professional Engineer in the State of Texas | 1,000.00 | 1,000.00 | 1,000.00 | 1,000.00 | 500.00 | 500.00 | 1,500.00 | 1,500.00 |
| 3 | 100% | LS | Implement & Follow Trench Safety Plan (Pipe) | 500.00 | 500.00 | 1,000.00 | 1,000.00 | 4,000.00 | 4,000.00 | 2,000.00 | 2,000.00 |
| 4 | 100% | LS | Implement & Follow Trench Safety Plan (Structures) | 500.00 | 500.00 | 1,000.00 | 1,000.00 | 1,000.00 | 1,000.00 | 2,000.00 | 2,000.00 |
| 5 | 100% | LS | Prepare Stormwater Pollution Prevention Plan, Including Submission to & Receiving Permits from Texas Commission on | 1,000.00 | 1,000.00 | 1,500.00 | 1,500.00 | 1,500.00 | 1,500.00 | 2,500.00 | 2,500.00 |
| 6 | 100% | LS | Furnish Equipment, Materials, Tools, Labor & Construction of the Airport Booster Pump Station, including all Mechanical, Electrical, | 800,000.00 | 800,000.00 | 775,000.00 | 775,000.00 | 880,000.00 | 880,000.00 | 945,000.00 | 945,000.00 |
| 7 | 100% | LS | Furnish & Install Flow Meter Assembly, including Flow Meter, Manhole, Dresser Coupling & Field Painting Exposed Ductile Iron | 18,000.00 | 18,000.00 | 21,000.00 | 21,000.00 | 30,100.00 | 30,100.00 | 48,000.00 | 48,000.00 |
| 8 | 100% | LS | Furnish & Install Altitude Valve Assembly, including Altitude Valve, Vault & Field Painting Exposed Ductile Iron Pipe, Complete For | 77,000.00 | 77,000.00 | 70,000.00 | 70,000.00 | 104,000.00 | 104,000.00 | 90,000.00 | 90,000.00 |
| 9 | 100% | LS | Paint Pumps, Piping, Yard Piping, Vault Covers, Bollards & Miscellaneous Metal Surfaces | 15,000.00 | 15,000.00 | 22,000.00 | 22,000.00 | 45,000.00 | 45,000.00 | 35,000.00 | 35,000.00 |
| 10 | 100% | LS | Provide & Install 18-inch Diameter DIP Water Line, including Fittings, Connections & Thrust Restraint | 45,000.00 | 45,000.00 | 57,000.00 | 57,000.00 | 43,500.00 | 43,500.00 | 35,000.00 | 35,000.00 |
| 11 | 100% | LS | Provide & Install 12-inch Diameter DIP Water Line, including Fittings, Connections, Flush Assembly & Thrust Restraint | 9,000.00 | 9,000.00 | 13,000.00 | 13,000.00 | 11,800.00 | 11,800.00 | 6,000.00 | 6,000.00 |
| 12 | 100% | LS | Provide & Install 6-inch Diameter DIP Water Line, including Fittings, Connections, Concrete Splash Pad & Thrust Restraint | 7,000.00 | 7,000.00 | 8,000.00 | 8,000.00 | 14,000.00 | 14,000.00 | 8,000.00 | 8,000.00 |
| 13 | 1 | EA | Furnish & Install Standard Fire Hydrant | 10,000.00 | 10,000.00 | 11,000.00 | 11,000.00 | 4,000.00 | 4,000.00 | 5,000.00 | 5,000.00 |
| 14 | 100% | LS | Provide Project Record Drawings (As Builts) | 3,000.00 | 3,000.00 | 3,000.00 | 3,000.00 | 3,000.00 | 3,000.00 | 3,000.00 | 3,000.00 |
| 15 | 100% | LS | Provide DVD of site pre-construction & post construction site conditions for the total project | 500.00 | 500.00 | 6,000.00 | 6,000.00 | 2,500.00 | 2,500.00 | 5,000.00 | 5,000.00 |
| 16 | 100% | LS | Furnish & Install perimeter fencing | 8,000.00 | 8,000.00 | 11,000.00 | 11,000.00 | 8,000.00 | 8,000.00 | 13,000.00 | 13,000.00 |
| 17 | 6,000 | SY | Furnish & Install Hydro Mulch Seeding For Permanent Erosion Control | 0.75 | 4,500.00 | 1.00 | 6,000.00 | 0.50 | 3,000.00 | 0.50 | 3,000.00 |
| 18 | 720 | SY | Furnish & Install Two Course Seal Coat | 25.00 | 18,000.00 | 47.00 | 33,840.00 | 10.00 | 7,200.00 | 12.00 | 8,640.00 |
| 19 | 50 | LF | Furnish, Install, Maintain & Remove Rock Berm as required in the Stormwater Pollution Prevention Plan | 20.00 | 1,000.00 | 40.00 | 2,000.00 | 25.00 | 1,250.00 | 30.00 | 1,500.00 |
| 20 | 400 | LF | Furnish, Install, Maintain & Remove Silt Fence as required in the Stormwater Pollution Prevention Plan | 3.00 | 1,200.00 | 2.00 | 800.00 | 2.00 | 800.00 | 2.50 | 1,000.00 |
| 21 | 100% | LS | For Furnishing All Materials, Equipment, Tools & Labor Necessary for Microbiological Testing in accordance with AWWA C-651 | 500.00 | 500.00 | 1,500.00 | 1,500.00 | 2,000.00 | 2,000.00 | 4,000.00 | 4,000.00 |
| 22 | 100% | LS | For Furnishing All Materials, Equipment, Tools & Labor Necessary for Pressure Testing Water Pipe, Including Any Necessary Repairs | 1,000.00 | 1,000.00 | 3,000.00 | 3,000.00 | 50.00 | 50.00 | 2,000.00 | 2,000.00 |
| | | | | | \$ 1,074,700.00 | | \$ 1,098,640.00 | | \$ 1,217,200.00 | | \$ 1,271,140.00 |

| Item No. | Estimated Quantity | Unit | Bid Data Description | Unit Price | Extended Amount | Unit Price | Extended Amount | Unit Price | Extended Amount | Unit Price | Extended Amount |
|----------------------------|--------------------|------|--|------------|-----------------|------------|-----------------|------------|-----------------|------------|-----------------|
| 1 | 220 | SY | Furnish & Install Two Course Seal Coat | \$ 25.00 | \$ 5,500.00 | \$ 50.00 | \$ 11,000.00 | \$ 10.00 | \$ 2,200.00 | \$ 90.00 | \$ 19,800.00 |
| BID AMOUNT - ADD ALTERNATE | | | | | \$ 5,500.00 | | \$ 11,000.00 | | \$ 2,200.00 | | \$ 19,800.00 |

| BID SUMMARY | BIDDER INFORMATION | | | |
|---------------------------------|---|--|--|--|
| | Gracon Construction, Inc. P O Box 360039 Dallas TX 75336-0039 | Matous Construction, Ltd. 8602 North Hwy 317 Belton TX 76513 | Austin Engineering Co., Inc. P O Box 342349 Austin TX 78734-2349 | Patin Construction, LLC 641 West Front Street Hutto TX 78634 |
| | | | | |
| | | | | |
| | | | | |
| TOTAL BID AMOUNT (ITEMS 1 - 22) | \$ 1,074,700.00 | \$ 1,098,640.00 | \$ 1,217,200.00 | \$ 1,271,140.00 |
| TOTAL BID AMOUNT ADD ALTERNATE | \$ 5,500.00 | \$ 11,000.00 | \$ 2,200.00 | \$ 19,800.00 |
| | \$ 1,080,200.00 | \$ 1,109,640.00 | \$ 1,219,400.00 | \$ 1,290,940.00 |

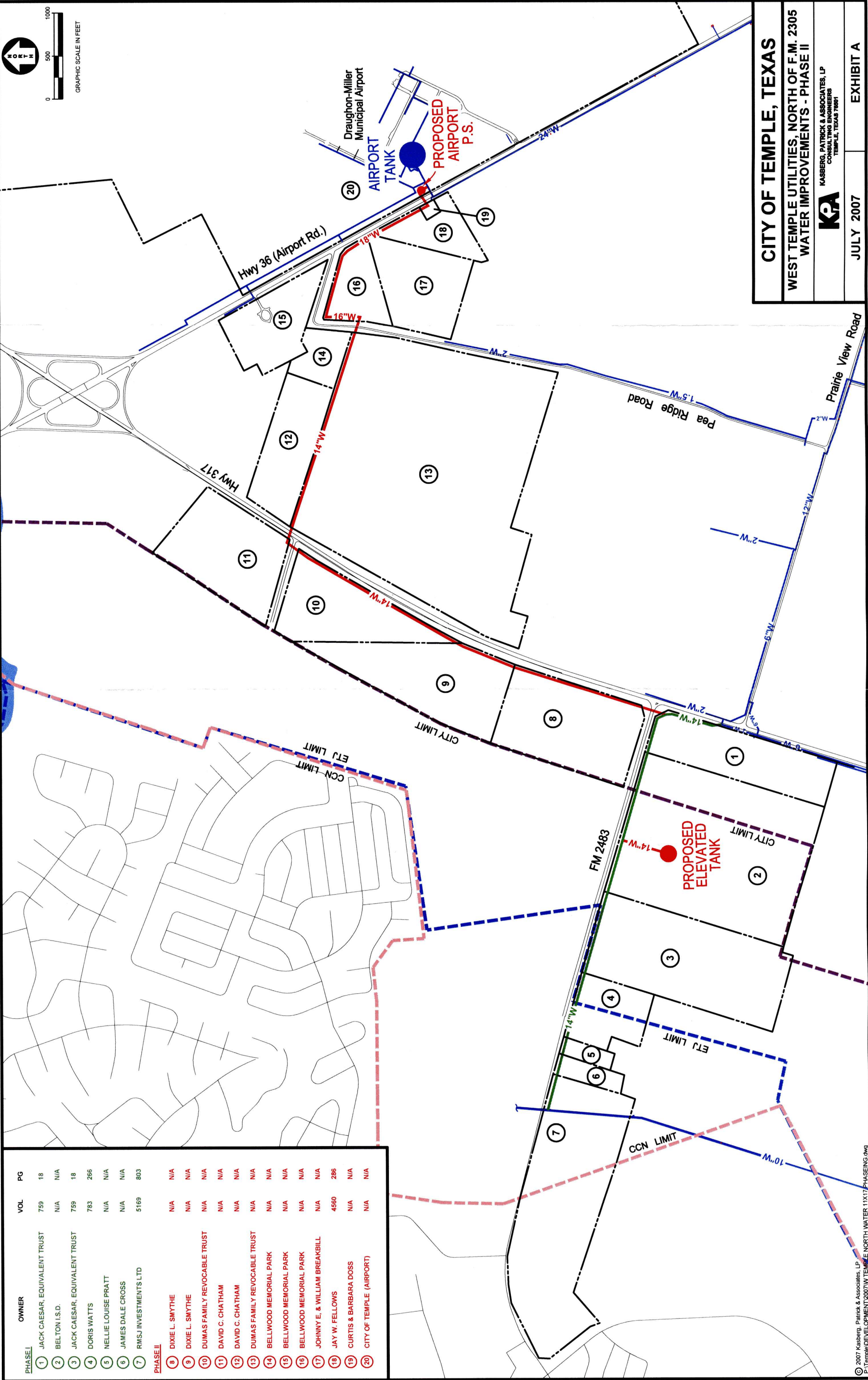
| | | | | |
|---------------------------------------|-----|-----|-----|-----|
| Did Bidder Acknowledge Addenda No. 1? | YES | YES | YES | YES |
| Did Bidder provide Bid Security? | YES | YES | YES | YES |



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


Ginger R. Tolbert 3/26/09
Ginger R. Tolbert, P.E. Date
Kasberg, Patrick & Associates, LP

| PHASE I | OWNER | VOL | PG |
|----------|-------------------------------|------|-----|
| 1 | JACK CAESAR, EQUIVALENT TRUST | 759 | 18 |
| 2 | BELTON I.S.D. | N/A | N/A |
| 3 | JACK CAESAR, EQUIVALENT TRUST | 759 | 18 |
| 4 | DORIS WATTS | 783 | 266 |
| 5 | NELLIE LOUISE PRATT | N/A | N/A |
| 6 | JAMES DALE CROSS | N/A | N/A |
| 7 | RMSJ INVESTMENTS LTD | 5169 | 803 |
| PHASE II | | | |
| 8 | DIXIE L. SMYTHE | N/A | N/A |
| 9 | DIXIE L. SMYTHE | N/A | N/A |
| 10 | DUMAS FAMILY REVOCABLE TRUST | N/A | N/A |
| 11 | DAVID C. CHATHAM | N/A | N/A |
| 12 | DAVID C. CHATHAM | N/A | N/A |
| 13 | DUMAS FAMILY REVOCABLE TRUST | N/A | N/A |
| 14 | BELLWOOD MEMORIAL PARK | N/A | N/A |
| 15 | BELLWOOD MEMORIAL PARK | N/A | N/A |
| 16 | BELLWOOD MEMORIAL PARK | N/A | N/A |
| 17 | JOHNNY E. & WILLIAM BREAKBILL | N/A | N/A |
| 18 | JAY W. FELLOWS | 4560 | 286 |
| 19 | CURTIS & BARBARA DOSS | N/A | N/A |
| 20 | CITY OF TEMPLE (AIRPORT) | N/A | N/A |



CITY OF TEMPLE, TEXAS

WEST TEMPLE UTILITIES, NORTH OF F.M. 2305
WATER IMPROVEMENTS - PHASE II



KASBERG, PATRICK & ASSOCIATES, LP
CONSULTING ENGINEERS
TEMPLE, TEXAS 76701

JULY 2007

EXHIBIT A

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING A CONSTRUCTION CONTRACT WITH BELL CONTRACTORS, INC., OF BELTON, TEXAS, FOR CONSTRUCTION ACTIVITIES REQUIRED TO BUILD THE AIRPORT PUMP STATION AS PART OF THE EXPANSION OF WEST TEMPLE WATER & WASTEWATER UTILITIES NORTH OF FM 2305, PHASE 2, IN THE AMOUNT OF \$866,429; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, on March 24, 2009, the City received 9 bids for construction activities required to build the Airport Pump Station as part of the expansion of West Temple Water & Wastewater Utilities North of FM 2305, Phase 2;

Whereas, the Staff recommends accepting the bid (\$866,429) received from Bell Contractors, Inc., of Belton, Texas;

Whereas, funds are available for this project in Account No. 561-5200-535-6928, Project #100172; 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 contract, not to exceed \$866,429 with Bell Contractors, of Belton, Texas, after approval as to form by the City Attorney, for construction activities required to build the Airport Pump Station as part of the expansion of West Temple Water & Wastewater Utilities North of FM 2305, Phase 2.

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 16th day of April, 2009.

THE CITY OF TEMPLE, TEXAS

WILLIAM A. JONES, III, Mayor

ATTEST:

Clydette Entzminger
City Secretary

APPROVED AS TO FORM:

Jonathan Graham
City Attorney



COUNCIL AGENDA ITEM MEMORANDUM

04/16/09
Item #7(D)
Consent Agenda
Page 1 of 2

DEPT./DIVISION SUBMISSION & REVIEW:

Bruce Butscher, P.E., Director of Public Works

ITEM DESCRIPTION: Consider adopting a resolution authorizing a construction contract with Myers Concrete Construction, LP of Wimberley for construction services required for Phase IV of the City of Temple Community Development Block Grant (CDBG) Martin Luther King, Jr. (MLK) Drive Sidewalk and Lighting Improvements in the amount of \$88,250.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: The Fiscal Year 2008-2009 CDBG Annual Action Plan reflects the City of Temple's funding priorities and identifies projects for neighborhood revitalization, public improvements, and public service activities. The associated funds enhance the City of Temple's community development programs supporting safe, well planned residential and business districts. CDBG financed projects respond to the most urgent needs of limited income residents.

For more than 30 years, the CDBG program has been assisting metropolitan cities and urban counties across this country to fund their community and economic development activities. The City of Temple is one of 76 entitlement communities located in the State of Texas.

This project was identified as MLK Sidewalk and Lighting Improvements Project in the Fiscal Year 2008-2009 CDBG Annual Action Plan. Project limits for these improvements are along MLK within the boundaries of Avenue C to Avenue D and will include new pedestrian flatwork and handicap accessibility improvements, general site lighting plans, pavement striping for pedestrian access, and signage.

Bids ranged from \$88,250 to \$126,023 (see attached Bid Tab and Engineer's Recommendation Letter). The engineer's opinion of probable cost for the construction of this project was \$99,091. Seven contractors submitted bids, and the range and distribution of bids are normal for projects of this type. Beach Sulak Partners recommends awarding the contract to the low bidder, Myers Concrete Construction, LP.

FISCAL IMPACT: Funding in the amount of \$130,000 was designated for this project in the Fiscal Year 2008-2009 CDBG Annual Action Plan and budget adopted by Council. Funding for this proposed \$88,250 construction contract is available in account 260-6100-571-6317, Project 100178.

ATTACHMENTS:

[Bid Tab](#)

[Map showing project location](#)

[Resolution](#)

BID SUMMARY

City of Temple

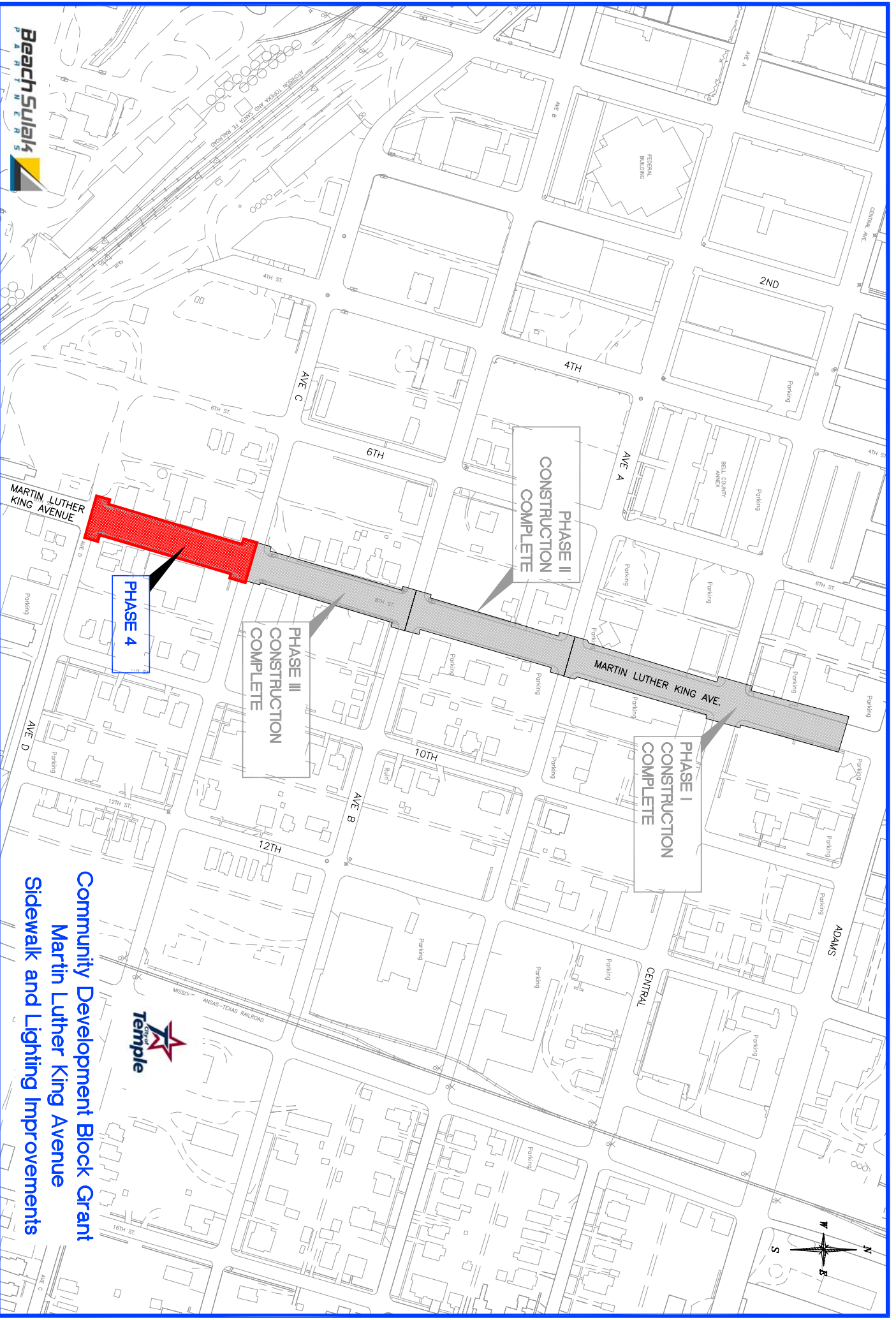
CDBG MLK Sidewalk and Lighting Improvements Project, Ph. IV

Bid Date - March 10, 2009

Bidders

Base Bid

| | | |
|---------------------------------|----|------------|
| Myers Concrete Construction, LP | \$ | 88,250.00 |
| Alpha Constructors, Inc. | \$ | 89,867.00 |
| TCB Construction, Inc. | \$ | 90,865.00 |
| Westar Construction, Inc. | \$ | 97,261.20 |
| Patin Construction, LLC | \$ | 102,885.00 |
| Barsh Company | \$ | 108,675.00 |
| Prism Development, Inc. | \$ | 126,023.25 |



PHASE 4

PHASE II
CONSTRUCTION
COMPLETE

PHASE III
CONSTRUCTION
COMPLETE

PHASE I
CONSTRUCTION
COMPLETE



Community Development Block Grant
Martin Luther King Avenue
Sidewalk and Lighting Improvements

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING A CONSTRUCTION CONTRACT WITH MYERS CONCRETE CONSTRUCTION, LP, OF WIMBERLY, TEXAS, FOR CONSTRUCTION SERVICES REQUIRED FOR PHASE IV OF THE CITY OF TEMPLE COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) MARTIN LUTHER KING, JR., DRIVE SIDEWALK AND LIGHTING IMPROVEMENTS, IN AN AMOUNT NOT TO EXCEED \$88,250; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, on March 10, 2009, the City received 7 bids for Phase IV of the CDBG Martin Luther King, Jr., Drive Sidewalk and Lighting Improvements;

Whereas, the Staff recommends accepting the bid (\$88,250) received from Myers Concrete Construction, LP, of Wimberly, Texas;

Whereas, funds are available for this project in Account No. 260-6100-571-6317, Project 100178; 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 an amount not to exceed \$88,250, between the City of Temple and Myers Concrete Construction, LP, of Wimberly, Texas, after approval as to form by the City Attorney, for Phase IV of the CDBG Martin Luther King, Jr., Drive Sidewalk and Lighting Improvements.

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 16th day of April, 2009.

THE CITY OF TEMPLE, TEXAS

WILLIAM A. JONES, III, Mayor

ATTEST:

Clydette Entzminger
City Secretary

APPROVED AS TO FORM:

Jonathan Graham
City Attorney



COUNCIL AGENDA ITEM MEMORANDUM

04/16/09
Item #7(E)
Consent Agenda
Page 1 of 2

DEPT./DIVISION SUBMISSION & REVIEW:

Bruce A. Butscher, P.E., Director of Public Works
Nicole Torralva, P.E., Assistant Director of Public Works / Operations

ITEM DESCRIPTION: Consider adopting a resolution authorizing a professional services agreement with Turley Associates, Inc., of Temple for engineering services including design, surveying, and construction administration required for the Bellaire Waterline Rehabilitation Project (Victory, Virginia, Shell from 3rd to Mayborn) in an amount not to exceed \$43,300.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: For several years, the Utility Services Department has experienced numerous operational waterline issues in the area bounded generally by Victory, Virginia, and Shell Ave from 3rd Street to the Mayborn Center (also known as Bellaire Addition). This area contains numerous undersized cast iron, lead poured joint waterlines (less than 6" in size) and an absence of valves, providing minimal fire protection to the area.

Each year, some money is allocated in the operational water distribution budget for improvements to the existing water distribution system. This is the next project identified in the Water Master Plan for proposed upgrades with work to be performed during fiscal year 2009-2010. Through project savings resulting from this year's waterline improvements project (Calvin and Ottoway), money is currently available to fund engineering for next year's project, Victory, Virginia, and Shell (also known as Bellaire Addition).

As identified in the attached proposal letter, the proposed timeline for the design phase of this project is approximately 90 days, with a total project length of 12 months. Per the attachment, the engineering services are broken down as follows:

Basic Services

| | |
|-----------------------------|-----------------|
| Civil Design | \$ 33,300 |
| Bidding | \$ 2,000 |
| Construction Administration | <u>\$ 8,000</u> |

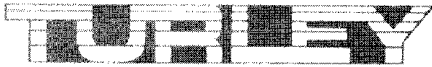
TOTAL **\$ 43,300**

The engineer's opinion of probable cost for construction of the project is approximately \$390,000 to be constructed and funded during next fiscal year.

FISCAL IMPACT: Funding in the amount of \$210,000 is currently appropriated in account 520-5200-535-6357, Project 100486, for the Bellaire Waterline Reconstruction Project.

ATTACHMENTS:

[Engineer's Proposal](#)
[Project Map](#)
[Resolution](#)



TURLEY ASSOCIATES, INC.

301 NORTH THIRD STREET • TEMPLE, TEXAS 76501 • (254) 773-2400
FAX • (254) 773-3998

April 6, 2008

City of Temple
Attn: Bruce Butscher, P.E.
Director of Public Works
3210 E. Ave. H, Bldg A
Temple, Texas 76501

RE: Waterline Rehab Project for Victory Avenue, Virginia Avenue, Walker Avenue, Xavier Avenue, Young Avenue and Upshaw Avenue

Dear Mrs. Torralva,

Turley Associates, Inc. is pleased to present the following Project Description, Proposed Scope of Work, Engineering and Surveying Fees, Preliminary Construction Cost Estimate, and Estimated Project Time Line discussed in regards to the City of Temple water line rehabilitation project as defined by the attached project Area Map.

It is our understanding that **Project Description** is as follows:

The City of Temple, Texas is interested in replacing existing undersized water lines located in the neighborhoods that are bounded by 3rd Street to the west, Upshaw Avenue to the north, the Union Pacific Railroad to the east, and Virginia Avenue to the south. The City is concerned about current water pressure in this area as well as fire protection. A preliminary study has shown that approximately 7,645 linear feet of existing 2 inch water line will need to be replaced by either a 6 or 8 inch line depending upon current water pressure available. With this upgrade, approximately 180 services will need to be reconnected with the possibility of 65 of those services needing to be rerouted to the front of the residence from the back and 9 fire hydrants will need to be added to provide adequate fire protection. The preferred methods of construction are to: place the new line in the road 3 to 5 feet inside of the existing curb and gutter; connect to the existing properly sized water lines with tee fittings and valves; test newly laid line before services are connected; and run new services to existing meters and then cut and cap existing lines causing as little interference with water service as possible to residences.

Proposed Scope of Work:

1. Preliminary assessment.
Gather required data to supply professional fees, and preliminary quantities and cost estimate.
2. Design survey for alignment and control.
Perform a neighborhood survey to determine the location of existing utilities in relation to the back of curb of existing roads. This will include locating water valves, water meters, fire hydrants, sanitary sewer manholes, underground utilities as marked by service providers, and locating the back of curb in intermediate locations to determine locations of new water lines as well as set construction control.

3. Download, layout.
Create existing as-built of area to determine best layout for project
4. Prepare 9,000 linear feet of Plan & Profile sheets & Cover, detail and other sheets as required.
Create drawings for construction. A full set of construction drawings to include site plan, utility plan and plan and profile sheets along with required CoT detail sheets will be created to locate and properly install the new system.
5. Bid package and plans.
Prepare a full set construction bid documents to include above mentioned drawings, specifications and required contract documentation.
6. Bidding, contract and quantities.
Once the construction documents are completed a more precise quantities and cost estimate document will be compiled for bid comparison and selection. The contract will be negotiated and executed through our office.
7. Perform construction staking.
Perform a survey to determine the location of construction items and set markers at those locations.
8. Contract management.
Periodic site visits to insure construction is following the construction and contract documents as well as provide construction assistance.
9. As-builts
Once construction is complete and approved by the CoT, as-built drawings of the area showing the location of the newly placed waterline and it's components will be provided to the City.

Engineering and Surveying Fees:

| | |
|---|--------------------|
| 1. Preliminary Assessment | \$ 500.00 |
| 2. Design Survey for alignment and control | \$ 6,000.00 |
| 3. Download, layout | \$ 800.00 |
| 4. Prepare 9,000 linear feet of Plan & Profile sheets | \$ 8,000.00 |
| 5. Cover, detail and other sheets as required | \$ 2,000.00 |
| 6. Engineering, insurance, etc. | \$15,000.00 |
| 7. Bid package and plans | \$ 1,000.00 |
| 8. Bidding, contract and quantities | \$ 2,000.00 |
| 9. Construction staking (one-time) | \$ 4,000.00 |
| 10. Contract management | \$ 3,000.00 |
| 11. As-builts | \$ 1,000.00 |
| Engineering, Surveying and Construction Inspection Total | \$43,300.00 |

Items not included in proposal:

- Field notes, drawings or survey work for easements
- Property ownership deed research

Preliminary Construction Cost Estimate

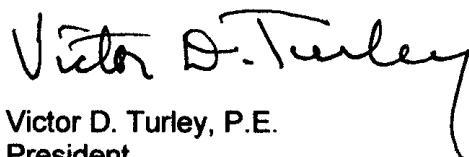
| | | | |
|--|------------|-----------------|---------------------|
| 1. 6" – 8" water line | 7,650 l.f. | @ \$ 25 l.f. | \$191,250.00 |
| 2. Locate & cap existing 2" line | 19 ea | @ \$ 300 ea | \$ 5,700.00 |
| 3. Tap existing lines: | | | |
| a. 6" line w/ 6"x6" Tee | 12 ea. | @ \$ 292 ea. | \$ 3,504.00 |
| b. 8" line w/ 8"x6" Tee | 9 ea. | @ \$ 375 ea. | \$ 3,375.00 |
| 4. Water valves: | | | |
| a. 6" valve | 40 ea. | @ \$ 588 ea. | \$ 23,520.00 |
| b. 8" valve | 8 ea. | @ \$ 800 ea. | \$ 6,400.00 |
| 5. Fire hydrants | 9 ea. | @ \$ 3,200 ea | \$ 28,800.00 |
| 6. Service lines: | | | |
| a. Front locale services | 115 ea. | @ \$ 32 ea. | \$ 3,680.00 |
| b. Services to be rerouted | 65 ea. | @ \$ 350 ea. | \$ 22,750.00 |
| 7. Cut and repair asphalt road | 4,500 s.y. | @ \$ 14.10 s.y. | \$ 63,450.00 |
| 8. Signage, barricades, safety personnel, etc. | | | \$ 2,000.00 |
| Construction Sub-Total | | | \$354,429.00 |
| Contingency 10% | | | \$ 35,443.00 |
| Probable Construction Cost | | | \$389,872.00 |

Estimated Project Time-Line:

| | |
|---|--------------------|
| Submit work proposal to COT | April 6, 2009 |
| Have proposal approved by City Council | April 16, 2009 |
| Contact utility companies to locate underground utilities | April 17, 2009 |
| Begin survey work | April 20, 2009 |
| Begin work on plans | April 27, 2009 |
| Submit preliminary construction plans to COT | May 25, 2009 |
| Make changes per comments | June 15, 2009 |
| Submit final construction plans to COT | July 6, 2009 |
| Post Job for bid | July 27, 2009 |
| Deadline for bid proposals | August 21, 2009 |
| Award bid for construction | August 28, 2009 |
| Construction documents signed by all parties | September 9, 2009 |
| Begin construction | September 28, 2009 |
| Construction 25% done | November 9, 2009 |
| Construction 50% done | December 28, 2009 |
| Construction 75% done | February 8, 2010 |
| Construction 100% done | March 21, 2010 |

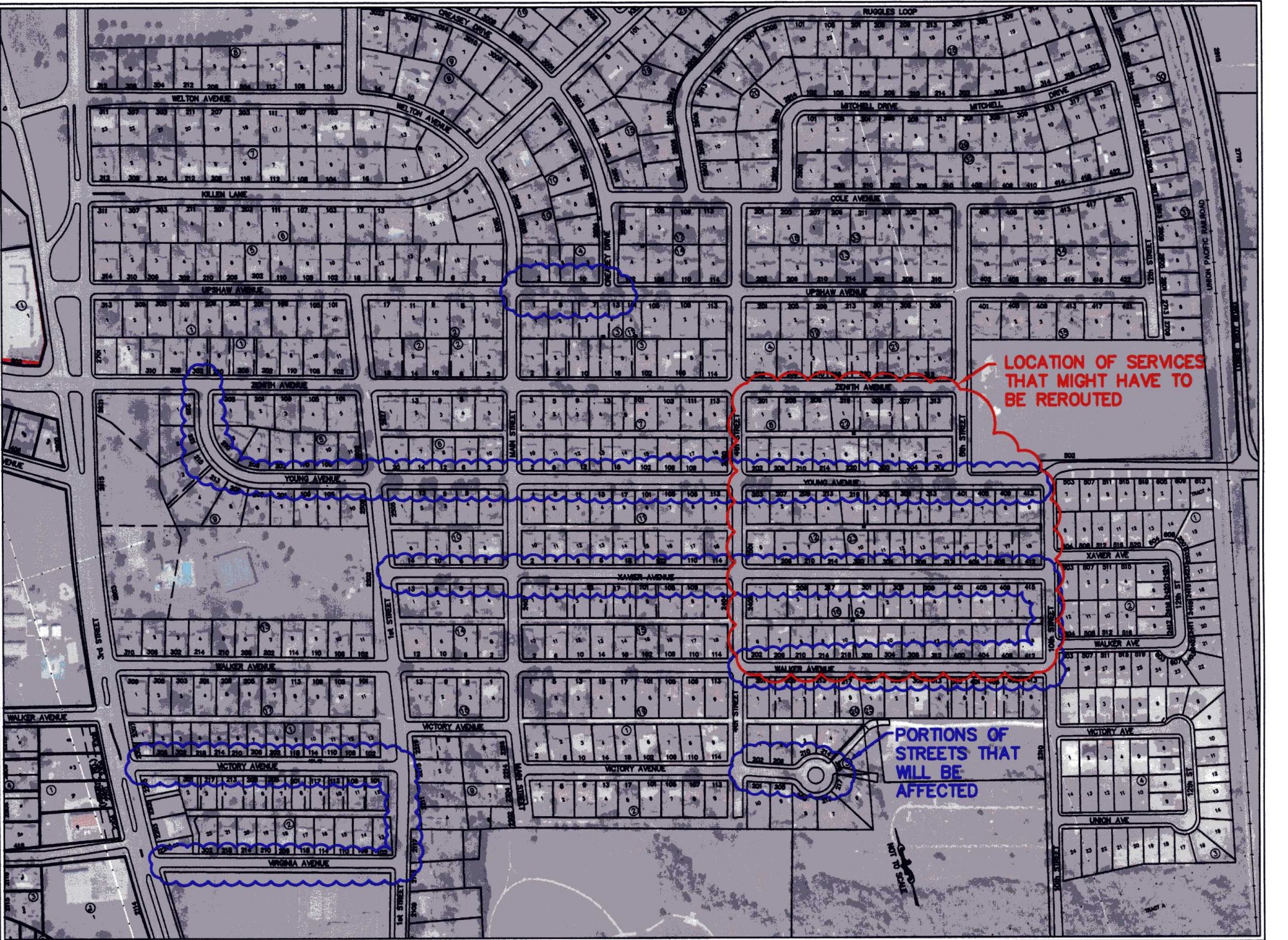
We hope this proposal meets with your approval. Please call if you have any questions.

Sincerely
TURLEY ASSOCIATES, INC.



Victor D. Turley, P.E.
President

VDT/ms



LOCATION OF SERVICES
THAT MIGHT HAVE TO
BE REROUTED

PORTIONS OF
STREETS THAT
WILL BE
AFFECTED

WATERLINE REHAB PROJECT AREA MAP

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING A PROFESSIONAL SERVICES AGREEMENT WITH TURLEY ASSOCIATES, INC., OF TEMPLE, TEXAS, FOR ENGINEERING SERVICES INCLUDING DESIGN, SURVEYING, AND CONSTRUCTION ADMINISTRATION REQUIRED FOR THE BELLAIRE WATERLINE REHABILITATION PROJECT (VICTORY, VIRGINIA, SHELL FROM 3RD STREET TO THE MAYBORN CENTER), IN AN AMOUNT NOT TO EXCEED \$43,300; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, the Bellaire Waterline Rehabilitation Project is the next project identified in the Water Master Plan for proposed upgrades;

Whereas, the Staff recommends accepting a proposal for engineering services, including design, surveying, and construction administration, from Turley Associates, Inc., of Temple, Texas, for a cost not to exceed \$43,300;

Whereas, funds are available for this project in Account No. 561-5200-535-6357, Project #100486; 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 professional services agreement, not to exceed \$43,300 with Turley Associates, Inc., of Temple, Texas, after approval as to form by the City Attorney, for engineering services including design, surveying, and construction administration required for the Bellaire Waterline Rehabilitation Project (Victory, Virginia, Shell, from 3rd Street to the Mayborn Center).

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 16th day of April, 2009.

THE CITY OF TEMPLE, TEXAS

WILLIAM A. JONES, III, Mayor

ATTEST:

Clydette Entzminger
City Secretary

APPROVED AS TO FORM:

Jonathan Graham
City Attorney



COUNCIL AGENDA ITEM MEMORANDUM

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DEPT./DIVISION SUBMISSION & REVIEW:

Bruce A. Butscher, P.E., Director of Public Works
Nicole Torralva, P.E., Assistant Director of Public Works / Operations

ITEM DESCRIPTION: Consider adopting a resolution authorizing the purchase of sewer line chemical root control services for FY 08-09 from Duke's Root Control, Inc. of Syracuse, New York, utilizing a BuyBoard contract in the estimated annual amount of \$65,000.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: For many years, the City of Temple has utilized chemical root control to manage and minimize the growth of roots in the sanitary sewer system. In older sanitary sewer systems, roots from trees and vegetation enter the system through cracks in the pipes in an attempt to find a source of water. These roots grow, eventually making any existing cracks in the system bigger which in turn results in further deterioration of the lines and blockages in the system. Chemical root control, when applied in targeted areas, can substantially reduce roots from blocking the system and help keep lines open.

For the past five years, the City of Temple has contracted this service with Duke's Root Control through an annual contract with four one-year extensions. This year, that contract has expired and we are now seeking to purchase these services utilizing a BuyBoard contract at prices established in the attached price schedule. It is known that the chemicals utilized by Duke's Root Control do not impact either wastewater treatment plant. Staff has been pleased with the services provided by Duke's Root Control and recommends purchase through the BuyBoard this year for this service.

FISCAL IMPACT: Funding in the amount of \$65,000 has been appropriated in account 520-5400-535-2616, for this service.

ATTACHMENTS:

[BuyBoard Price Schedule](#)
[Resolution](#)

Search Results: All Commodities[Help](#)**Narrow Search by Keyword(s):**[Search](#)[Back](#)

| Part # / Vendor | Description | Qty | Unit | Price | | |
|---|---|-----|------|---------|---------------------|----------------------|
| Catalog Duke's Root Cont | Root Control. Click red "Info" button for price list. | | EA | \$0.00 | Add | Info |
| JPII 5115 Duke's Root Cont | Jet Power II Grease Liquefier; \$32.00 per gallon | | GAL | \$32.00 | Add | Info |
| JPII120 Duke's Root Cont | Jet Power II Grease Liquefier; \$25.00 per gallon | | GAL | \$25.00 | Add | Info |
| RRII-6 Duke's Root Cont | Razorooter II, 6" Diameter Pipe, Sewer Line Chemical Root Control Services, Manhole to Manhole | | FT | \$1.59 | Add | Info |
| RRII-8 Duke's Root Cont | Razorooter II, 8" Diameter Pipe, Sewer Line Chemical Root Control Services, Manhole to Manhole | | FT | \$1.59 | Add | Info |
| RRII-10 Duke's Root Cont | Razorooter II, 10" Diameter Pipe, Sewer Line Chemical Root Control Services, Manhole to Manhole | | FT | \$1.76 | Add | Info |
| RRII-12 Duke's Root Cont | Razorooter II, 12" Diameter Pipe, Sewer Line Chemical Root Control Services, Manhole to Manhole | | FT | \$1.92 | Add | Info |
| RRII-15 Duke's Root Cont | Razorooter II, 15" Diameter Pipe, Sewer Line Chemical Root Control Services, Manhole to Manhole | | FT | \$2.73 | Add | Info |
| RRII-18 Duke's Root Cont | Razorooter II, 18" Diameter Pipe, Sewer Line Chemical Root Control Services, Manhole to Manhole | | FT | \$3.97 | Add | Info |
| RRII-21 Duke's Root Cont | Razorooter II, 21" Diameter Pipe, Sewer Line Chemical Root Control Services, Manhole to Manhole | | FT | \$4.94 | Add | Info |

1-10 of 11 items [\[Next >> \]](#)**Search Criteria:****Vendor: Duke's Root Control, Inc**[\[Log Out \]](#)©1996 - 2009 TASB
ALL RIGHTS RESERVED

Search Results:[Help](#)**Narrow Search by Keyword(s):**[Search](#)[Back](#)

| Part # / Vendor_ | Description | Qty | Unit | Price | |
|--|---|-----|------|--------|--|
| RRII-24-36 Duke's Root Cont | Razerooter II, 24"-36" Diameter Pipe, Sewer Line Chemical Root Control Services, Manhole to Manhole | | FT | \$6.25 | Add Info |

11-11 of 11 items [<< Previous]

Search Criteria:**Vendor: Duke's Root Control, Inc**[\[Log Out \]](#)©1996 - 2009 TASB
ALL RIGHTS RESERVED

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING THE PURCHASE OF SEWER LINE CHEMICAL ROOT CONTROL SERVICES FOR FY 2008-09 FROM DUKE'S ROOT CONTROL, INC., OF SYRACUSE, NEW YORK, UTILIZING A BUYBOARD CONTRACT IN THE ESTIMATED ANNUAL AMOUNT OF \$65,000; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, for many years, the City of Temple has utilized chemical root control to manage and minimize the growth of roots in the sanitary sewer system – for the past 5 years the City has contracted with Duke's Root Control, Inc., of Syracuse, New York through an annual contract with one year extensions;

Whereas, this year, that contract has expired and Staff recommends purchasing these services utilizing a BuyBoard contract with Dukes's Root Control, Inc.;

Whereas, funds are budgeted in Account No. 520-5400-535-2616 for this service; 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 of sewer line chemical root control services for FY2008-09 from Duke's Root Control, Inc., of Syracuse, New York, utilizing a BuyBoard contract in the estimated annual amount of \$65,000.

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 service.

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 16th day of April, 2009.

THE CITY OF TEMPLE, TEXAS

WILLIAM A. JONES, III, Mayor

ATTEST:

Clydette Entzminger
City Secretary

APPROVED AS TO FORM:

Jonathan Graham
City Attorney



COUNCIL AGENDA ITEM MEMORANDUM

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DEPT./DIVISION SUBMISSION & REVIEW:

Jonathan Graham, City Attorney

ITEM DESCRIPTION: Consider adopting a resolution authorizing the execution of agreement granting a right of first refusal to acquire from the City a 10.01 acre tract in Enterprise Park to B & D MAYS LIMITED PARTNERSHIP, d/b/a Indeco.

STAFF RECOMMENDATION: Adopt resolution presented in item description.

ITEM SUMMARY: Indeco owns and operates a business located at 2204 North General Bruce Drive in Temple. The City owns the property west of the Indeco site. Indeco is considering an expansion of their facilities in Temple, and has worked with TEDC to identify sites that serve their purposes. TEDC has asked the City to consider granting a right of first refusal to Indeco to acquire a 10.01 acre tract in Enterprise Park at \$30,000/acre. As part of the agreement granting that right of first refusal, TEDC is asking the City to credit against the \$30,000/acre purchase price an amount equal to the incentive that TEDC would grant Indeco under their incentive matrix which considers among other things, the number of new jobs created, the wage rates of those jobs, and the incremental investment in real and personal property that Indeco proposes to make.

The right of first refusal would have a term of five years.

FISCAL IMPACT: At the present time, the property is exempt from property taxes, and it will remain so under the ownership of the City. If the property is conveyed at some point for an industrial purpose it will be added back to the property tax rolls. Revenue from the sale would come back to the City. The gross amount of the sale, roughly \$300,000 would be reduced by the incentive credit provided by TEDC, which cannot be determined at this time.

ATTACHMENTS:

[Resolution](#)

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING THE EXECUTION OF AN AGREEMENT GRANTING A FIVE (5) YEAR RIGHT OF FIRST REFUSAL TO ACQUIRE FROM THE CITY A 10.01 ACRE TRACT IN ENTERPRISE PARK TO B&D MAYS LIMITED PARTNERSHIP, d/b/a INDECO; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, B&D Mays Limited Partnership, d/b/a Indeco, is considering an expansion of their facilities located at 2204 North General Bruce Drive in Temple – the City owns a 10.01 acre tract in Enterprise Park which is west of the Indeco site;

Whereas, the Temple Economic Development Corporation (TEDC) has asked the City to consider entering into an agreement granting a right of first refusal to Indeco to acquire from the City the 10.01 acre tract at \$30,000 an acre;

Whereas, as part of the agreement granting the right of first refusal, TEDC is asking the City to credit against the \$30,000/acre purchase price an amount equal to the incentive that TEDC would grant Indeco under their incentive matrix which considers among other things, the number of new jobs created, the wage rates of those jobs, and the incremental investment in real and personal property that Indeco proposes to make; 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 agreement granting a five (5) year right of first refusal, after approval as to form by the City Attorney, to acquire from the City a 10.01 acre tract in Enterprise Park to B&D Mays Limited Partnership, d/b/a Indeco.

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 16th day of April, 2009.

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:

Traci L. Barnard, Director of Finance

ITEM DESCRIPTION: SECOND READING – Consider adopting an ordinance authorizing an amendment the Tax Increment Financing Reinvestment Zone No. 1 Financing Plan for FY 2009 in an amount not to exceed \$30,000 and authorizing a payment to Temple Economic Development Corporation for the acquisition of Block 2, Lot 12, Enterprise Business Park Phase 2.

STAFF RECOMMENDATION: Adopt ordinance as presented in item description on second and final reading.

ITEM SUMMARY: The Reinvestment Zone No. 1 purchased 131 acres to serve as the Enterprise Business Park Phase 2. A 2.23 acre parcel of this land in the Enterprise Business Park Phase 2, known as Block 2, Lot 12, was deeded to Temple Economic Development Corporation (TEDC) in March 2007.

In April 2007, Specialty Pharmacy Services, Inc. purchased Block 2, Lot 12, in Enterprise Park Phase 2 from TEDC for \$30,000 to construct a 6,000 square foot building for the company's manufacturing and distribution operations. The net proceeds from the sale were remitted to the Zone. Since that time, Specialty Pharmacy Services, Inc. has determined that they will not construct a building at that location. The company will be rehabilitating a building on South 1st Street.

On February 1, 2008, TEDC entered into a repurchase agreement with Specialty Pharmacy Services, Inc. for Block 2, Lot 12, in Enterprise Park Phase 2 if certain conditions were not met. Since it has been determined that Specialty Pharmacy Services, Inc. will not be constructing on the specified property, TEDC wishes to exercise its right to repurchase the property for the original purchase price of \$30,000. This amendment allocates funding for the purchase of Block 2, lot 12, Enterprise Business Park Phase 2 in an amount not to exceed \$30,000.

FISCAL IMPACT: The proposed amendment to fund the purchase Block 2, Lot 12, Enterprise Business Park Phase 2 is proposed to be funded from Unreserved Fund Balance within the Reinvestment Zone No. 1. In April 2007, this same property was purchased by Specialty Pharmacy Services, Inc. and proceeds from the sale in the amount of \$29,325.03 were received by TEDC and remitted to the Zone at that time.

ATTACHMENTS:

Financing Plan

Summary Financing Plan with Detailed Project Plan

Budget Adjustment

Ordinance

| | | Y/E 9/30/09 | Y/E 9/30/10 | Y/E 9/30/11 | Y/E 9/30/12 | Y/E 9/30/13 | Y/E 9/30/14 | Y/E 9/30/15 | Y/E 9/30/16 | Y/E 9/30/17 | Y/E 9/30/18 | Y/E 9/30/19 | Y/E 9/30/20 | Y/E 9/30/21 | Y/E 9/30/22 |
|--------------------|---|----------------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|
| DESCRIPTION | | Year 27 | Year 28 | Year 29 | Year 30 | Year 31 | Year 32 | Year 33 | Year 34 | Year 35 | Year 36 | Year 37 | Year 38 | Year 39 | Year 40 |
| 1 | Appraised Value | \$ 131,160,668 | \$ 140,238,368 | \$ 144,626,499 | \$ 212,822,764 | \$ 233,450,991 | \$ 235,785,501 | \$ 238,143,356 | \$ 240,524,790 | \$ 242,930,038 | \$ 245,359,338 | \$ 314,562,931 | \$ 336,208,561 | \$ 339,570,646 | \$ 342,966,353 |
| 5 | FUND BALANCE, Begin | \$ 23,998,646 | \$ 1,209,569 | \$ 2,374,743 | \$ 2,334,314 | \$ 1,475,872 | \$ 1,403,636 | \$ 1,795,805 | \$ 1,753,657 | \$ 1,773,433 | \$ 1,356,959 | \$ 1,306,173 | \$ 1,553,676 | \$ 1,795,022 | \$ 2,109,843 |
| SOURCES OF CASH: | | | | | | | | | | | | | | | |
| 10 | Tax Revenues | 4,051,439 | 4,592,298 | 4,679,594 | 6,271,181 | 6,789,596 | 6,857,023 | 6,925,124 | 6,993,906 | 7,063,376 | 7,133,540 | 8,749,666 | 9,249,246 | 9,341,269 | 9,434,212 |
| 15 | Allowance for Uncoll. Taxes | (108,507) | (112,341) | (114,517) | (115,655) | (116,801) | (117,961) | (119,132) | (120,314) | (121,509) | (122,715) | (123,934) | (125,165) | (126,408) | (127,663) |
| 20 | Interest Income-Bonds | - | - | - | - | - | - | - | - | - | - | - | - | - | - |
| 25 | Interest Income-Other | 40,000 | 50,000 | 50,000 | 50,000 | 50,000 | 50,000 | 50,000 | 50,000 | 50,000 | 50,000 | 40,000 | 40,000 | 30,000 | 10,000 |
| 30 | Other-Bond Proceeds | - | - | - | - | - | - | - | - | - | - | - | - | - | - |
| 33 | Miscellaneous Reimbursements {GST} | - | - | - | - | - | - | - | - | - | - | - | - | - | - |
| 34 | Sale of Land | - | - | - | - | - | - | - | - | - | - | - | - | - | - |
| 35 | Grant Funds | - | - | - | - | - | - | - | - | - | - | - | - | - | - |
| 35 | Miscellaneous Income | - | - | - | - | - | - | - | - | - | - | - | - | - | - |
| 40 | TOTAL SOURCES | 3,982,932 | 4,529,957 | 4,615,077 | 6,205,526 | 6,722,795 | 6,789,062 | 6,855,992 | 6,923,592 | 6,991,867 | 7,060,825 | 8,665,732 | 9,164,081 | 9,244,861 | 9,316,549 |
| USES OF CASH: | | | | | | | | | | | | | | | |
| Operating Expenses | | | | | | | | | | | | | | | |
| 50 | Prof Svcs/Proj Mgmt | 125,202 | 92,007 | 93,847 | 95,724 | 97,638 | 99,591 | 101,583 | 103,615 | 105,687 | 107,801 | 109,957 | 112,156 | 114,399 | 116,687 |
| 51 | Legal/Audit | 1,100 | 1,100 | 1,100 | 1,200 | 1,200 | 1,200 | 1,200 | 1,200 | 1,300 | 1,300 | 1,300 | 1,300 | 1,300 | 1,400 |
| 55 | Zone Mtc | 75,000 | 75,000 | 75,000 | 75,000 | 75,000 | 75,000 | 75,000 | 75,000 | 75,000 | 75,000 | 75,000 | 75,000 | 75,000 | 75,000 |
| 60 | TEDC | 100,000 | 100,000 | 100,000 | 100,000 | 100,000 | 100,000 | 100,000 | 100,000 | 100,000 | 100,000 | 100,000 | 100,000 | 100,000 | 100,000 |
| 62 | Other Contracted Services | 30,000 | - | - | - | - | - | - | - | - | - | - | - | - | - |
| 65 | TISD-Joint Use facilities | 129,709 | 22,423 | 22,647 | 22,873 | 23,102 | 23,333 | 23,567 | 23,802 | 24,040 | 24,281 | 24,523 | 24,769 | 25,016 | 25,267 |
| 90 | Subtotal-Operating Expenses | 461,011 | 290,530 | 292,594 | 294,797 | 296,940 | 299,124 | 301,350 | 303,617 | 306,027 | 308,382 | 310,780 | 313,225 | 315,715 | 318,354 |
| Projects (2) | | | | | | | | | | | | | | | |
| 199 | North Zone (3) | 13,726,479 | 40,000 | - | - | 800,000 | - | - | - | - | 2,700,000 | - | - | - | - |
| 299 | Western Aviation Zone (3) | 42,342 | 300,000 | 1,225,150 | 2,175,850 | 1,100,000 | - | - | - | - | - | - | - | - | - |
| 399 | Western Bio-Science & Medical Zone (3) | 7,173,186 | - | - | - | - | - | - | - | - | - | - | - | - | - |
| 400 | Southeast Industrial Park Zone (3) | 1,273,500 | - | - | - | - | - | - | - | - | - | - | - | - | - |
| 405 | General Roadway Improvements | 250,111 | - | - | - | - | - | - | - | - | - | - | - | - | - |
| 410 | Major Gateway Entrances | 400,000 | - | 400,000 | - | - | - | - | - | - | - | - | - | - | - |
| 415 | Downtown Improvements | 204,260 | 192,113 | 195,747 | 197,691 | 199,655 | 201,639 | 203,643 | 205,667 | 207,710 | 209,775 | 211,860 | 213,966 | 216,093 | 218,241 |
| 420 | Loop 363 Improvements | 905,410 | - | - | - | - | - | - | - | - | - | - | - | - | - |
| 430 | Reserve for Acer facility | - | - | - | - | - | - | - | - | - | - | - | - | - | - |
| 500 | Zone Projects - Public Improvements | 295,730 | 500,000 | 500,000 | 500,000 | 500,000 | 2,000,000 | 2,500,000 | 2,500,000 | 3,000,000 | - | 4,000,000 | 4,500,000 | 4,500,000 | 6,874,548 |
| 600 | Subtotal-Projects | 24,271,018 | 1,032,113 | 2,320,897 | 2,873,541 | 2,599,655 | 2,201,639 | 2,703,643 | 2,705,667 | 3,207,710 | 2,909,775 | 4,211,860 | 4,713,966 | 4,716,093 | 7,092,789 |
| Debt Service | | | | | | | | | | | | | | | |
| 625 | 2003 Bond Issue | 866,385 | 868,545 | 868,420 | 867,035 | 869,055 | 869,855 | 868,930 | 866,530 | 867,440 | 866,753 | 869,240 | 869,640 | 868,070 | 870,070 |
| 626 | 2008 Bond Issue-Nontaxable {\$16.010 mil} | 635,460 | 635,460 | 635,460 | 1,785,460 | 1,788,540 | 1,784,580 | 1,783,784 | 1,785,948 | 1,785,868 | 1,783,544 | 1,783,976 | 1,786,960 | 1,787,292 | 1,784,972 |
| 627 | 2008 Bond Issue-Taxable {\$10.365 mil} | 536,935 | 536,935 | 536,935 | 1,241,935 | 1,239,641 | 1,240,495 | 1,239,233 | 1,240,854 | 1,240,096 | 1,241,957 | 1,241,173 | 1,237,744 | 1,241,670 | 1,242,422 |
| 628 | Issuance Costs | - | - | - | - | - | - | - | - | - | - | - | - | - | - |
| 630 | Paying Agent Services | 1,200 | 1,200 | 1,200 | 1,200 | 1,200 | 1,200 | 1,200 | 1,200 | 1,200 | 1,200 | 1,200 | 1,200 | 1,200 | 1,200 |
| 635 | Subtotal-Debt Service | 2,039,980 | 2,042,140 | 2,042,015 | 3,895,630 | 3,898,436 | 3,896,130 | 3,893,147 | 3,894,532 | 3,894,604 | 3,893,454 | 3,895,589 | 3,895,544 | 3,898,232 | 3,898,664 |
| 650 | TOTAL USES | 26,772,009 | 3,364,783 | 4,655,506 | 7,063,968 | 6,795,031 | 6,396,893 | 6,898,140 | 6,903,816 | 7,408,341 | 7,111,611 | 8,418,229 | 8,922,735 | 8,930,040 | 11,309,807 |
| 660 | FUND BALANCE, End | 1,209,569 | 2,374,743 | 2,334,314 | 1,475,872 | 1,403,636 | 1,795,805 | 1,753,657 | 1,773,433 | 1,356,959 | 1,306,173 | 1,553,676 | 1,795,022 | 2,109,843 | 116,585 |
| 670 | Required Debt Reserve | (873,237) | (873,237) | (873,237) | (873,237) | (873,237) | (873,237) | (873,237) | (873,237) | (873,237) | (873,237) | (873,237) | (873,237) | (873,237) | - |
| 700 | AVAILABLE FUND BALANCE | \$ 336,332 | \$ 1,501,506 | \$ 1,461,077 | \$ 602,635 | \$ 530,399 | \$ 922,568 | \$ 880,420 | \$ 900,196 | \$ 483,722 | \$ 432,936 | \$ 680,439 | \$ 921,785 | \$ 1,236,606 | \$ 116,585 |
| 800 | FUND BALANCE, Begin | 23,998,646 | 1,209,569 | 2,374,743 | 2,334,314 | 1,475,872 | 1,403,636 | 1,795,805 | 1,753,657 | 1,773,433 | 1,356,959 | 1,306,173 | 1,553,676 | 1,795,022 | 2,109,843 |
| | Prior period Adjustment-net | - | - | - | - | - | - | - | - | - | - | - | - | - | - |
| 805 | Revenue over(under)expense | (22,789,077) | 1,165,174 | (40,429) | (858,442) | (72,236) | 392,169 | (42,148) | 19,776 | (416,474) | (50,786) | 247,503 | 241,346 | 314,821 | (1,993,258) |
| 810 | FUND BALANCE, End | \$ 1,209,569 | \$ 2,374,743 | \$ 2,334,314 | \$ 1,475,872 | \$ 1,403,636 | \$ 1,795,805 | \$ 1,753,657 | \$ 1,773,433 | \$ 1,356,959 | \$ 1,306,173 | \$ 1,553,676 | \$ 1,795,022 | \$ 2,109,843 | \$ 116,585 |

| SUMMARY FINANCING PLAN | | | | | | | | |
|--|---|--------------|--------------|--------------|--------------|--------------|--------------|--|
| | Adjusted FY 09 (with Carry Forwards) | FY 2010 | FY 2011 | FY 2012 | FY 2013 | FY 2014 | FY 2015 | |
| 5Beginning Available Fund Balance, Oct 1 | \$ 23,998,646 | 1,239,569 | 2,404,743 | 2,364,314 | 1,505,872 | 1,433,636 | 1,825,805 | |
| 40Total Sources (Revenue & Bonds) | 3,982,932 | 4,529,957 | 4,615,077 | 6,205,526 | 6,722,795 | 6,789,062 | 6,855,992 | |
| 45Less Required Debt Reserve | - | - | - | - | - | - | - | |
| 49Net Available for Appropriation | 27,981,578 | 5,769,526 | 7,019,820 | 8,569,840 | 8,228,667 | 8,222,698 | 8,681,797 | |
| 50General Administrative Expenditures | 126,302 | 93,107 | 94,947 | 96,924 | 98,838 | 100,791 | 102,783 | |
| 55Zone Maintenance | 75,000 | 75,000 | 75,000 | 75,000 | 75,000 | 75,000 | 75,000 | |
| 60Contractual Payments (TEDC) | 100,000 | 100,000 | 100,000 | 100,000 | 100,000 | 100,000 | 100,000 | |
| 62Other Contracted Services | 30,000 | - | - | - | - | - | - | |
| 65TISD - Joint Use Facilities | 129,709 | 22,423 | 22,647 | 22,873 | 23,102 | 23,333 | 23,567 | |
| 70Debt Service - 2003 Issue | 867,585 | 869,745 | 869,620 | 868,235 | 870,255 | 871,055 | 870,130 | |
| 71Debt Service - 2008 Issue {\$16.010 mil} | 635,460 | 635,460 | 635,460 | 1,785,460 | 1,788,540 | 1,784,580 | 1,783,784 | |
| 72Debt Service - 2008 Taxable Issue {\$10.365 mil} | 536,935 | 536,935 | 536,935 | 1,241,935 | 1,239,641 | 1,240,495 | 1,239,233 | |
| 73Issuance Costs | - | - | - | - | - | - | - | |
| 75Total Operating & Committed Expenditures | 2,500,991 | 2,332,670 | 2,334,609 | 4,190,427 | 4,195,376 | 4,195,254 | 4,194,497 | |
| 99Net Available for Projects | \$ 25,480,587 | \$ 3,436,856 | \$ 4,685,211 | \$ 4,379,413 | \$ 4,033,291 | \$ 4,027,444 | \$ 4,487,300 | |

| PROJECT PLAN | | | | | | | | |
|--|--|--------------|--------------|--------------|--------------|--------------|--------------|--|
| | Adj'd FY 2009 (with Carry Forwards) | FY 2010 | FY 2011 | FY 2012 | FY 2013 | FY 2014 | FY 2015 | |
| NORTH ZONE (including Enterprise Park): | | | | | | | | |
| 100Railroad Spur Improvements | 9,324,943 | - | - | - | - | - | - | |
| 105Elm Creek Detention Pond | 1,177,044 | - | - | - | - | - | - | |
| 110Railroad Improvements Engineering Analysis | - | - | - | - | - | - | - | |
| 115Railroad Repairs/Maintenance based on Analysis | 243,469 | 40,000 | - | - | - | - | - | |
| 120Enterprise Park Water Tank | - | - | - | - | 800,000 | - | - | |
| 121ROW Acquisition - Public Improvements | 3,661 | - | - | - | - | - | - | |
| 122Land Acq-Wendland property {approx 355 acres} | - | - | - | - | - | - | - | |
| 125Wendland Road Improvements | 2,977,362 | - | - | - | - | - | - | |
| 199Total North Zone (including Enterprise Park) | 13,726,479 | 40,000 | - | - | 800,000 | - | - | |
| WESTERN AVIATION ZONE: | | | | | | | | |
| 200Detention Pond #2 including W 1-A | - | - | - | - | - | - | - | |
| 205Old Howard Road from Ind Blvd to SH36 | - | - | - | - | - | - | - | |
| 210Old Howard Road Gateway Entrance Project | 8,872 | - | - | - | - | - | - | |
| 215WWI--Waste Water Ext SH36 to Ind Blvd | - | - | - | - | - | - | - | |
| 220R I-B, W I-B--Industrial Blvd Extension | 2,100 | - | - | - | - | - | - | |
| 221Airport Park Infrastructure Construction | 31,370 | - | - | - | - | - | - | |
| 225Airport Study | - | - | - | - | - | - | - | |
| 230Airport Trail Roadway-Ind Blvd to Pepper Crk (RIII) | - | - | 115,500 | 654,500 | - | - | - | |
| 235Airport Trail Utilities (W-V, W II, W III) | - | - | 109,650 | 621,350 | - | - | - | |
| 240Old Howard North (R II) | - | 300,000 | 1,000,000 | 700,000 | - | - | - | |
| 245Airport Trail Roadway-Pepper Crk to Mouser (R V) | - | - | - | 200,000 | 1,100,000 | - | - | |
| 299Total Western Aviation Zone | 42,342 | 300,000 | 1,225,150 | 2,175,850 | 1,100,000 | - | - | |
| WESTERN BIO-SCIENCE & MEDICAL ZONE: | | | | | | | | |
| 300Greenbelt Development along Pepper Creek | 2,376,428 | - | - | - | - | - | - | |
| 305Outer Loop Phase 2 | 4,335,463 | - | - | - | - | - | - | |
| 306Bio-Science Park Phase 1 | 461,295 | - | - | - | - | - | - | |
| 310Bio-Science Institute | - | - | - | - | - | - | - | |
| 399Total Western Bio-Science & Medical Zone | 7,173,186 | - | - | - | - | - | - | |
| OTHER PROJECTS: | | | | | | | | |
| 400Southeast Ind Park (Lorraine Drive) | 1,273,500 | - | - | - | - | - | - | |
| 405Roadway Maintenance/Improvements | 250,111 | - | - | - | - | - | - | |
| 410Gateway Entrance Projects (after Old Howard) | 400,000 | - | 400,000 | - | - | - | - | |
| 415Downtown Improvements | 204,260 | 192,113 | 195,747 | 197,691 | 199,655 | 201,639 | 203,643 | |
| 420Loop 363 Improvements (TxDOT commitment) | 905,410 | - | - | - | - | - | - | |
| 430Reserve for Acer facility | - | - | - | - | - | - | - | |
| 499Total Other Projects | 3,033,281 | 192,113 | 595,747 | 197,691 | 199,655 | 201,639 | 203,643 | |
| 500Undesignated Funding-Public Impr-nontaxable bonds | 295,730 | 500,000 | 500,000 | 500,000 | 500,000 | 2,000,000 | 2,500,000 | |
| 501Undesignated Funding-Public Impr-taxable bonds | - | - | - | - | - | - | - | |
| 600Total Planned Project Expenditures | 24,271,018 | 1,032,113 | 2,320,897 | 2,873,541 | 2,599,655 | 2,201,639 | 2,703,643 | |
| 660Fund Balance at Year End | \$ 1,209,569 | \$ 2,404,743 | \$ 2,364,314 | \$ 1,505,872 | \$ 1,433,636 | \$ 1,825,805 | \$ 1,783,657 | |
| 670Required Debt Reserve | (873,237) | (873,237) | (873,237) | (873,237) | (873,237) | (873,237) | (873,237) | |
| 700AVAILABLE FUND BALANCE | \$ 336,332 | \$ 1,531,506 | \$ 1,491,077 | \$ 632,635 | \$ 560,399 | \$ 952,568 | \$ 910,420 | |

FY 2009

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 | |
|--------------------|-----------|---------------------------|-----------|--|-----------|--|
| 795-9500-531-26-23 | | Other Contracted Services | \$ 30,000 | | | |
| 795-0000-358-11-10 | | Unreserved Fund Balance | | | 30,000 | |
| | | | | | | |
| | | | | | | |
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| | | <i>Do not post</i> | | | | |
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| | | | | | | |
| | | | | | | |
| TOTAL..... | | | \$ 30,000 | | \$ 30,000 | |

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

To appropriate funds to amend the Reinvestment Zone No. 1 financing plan to fund the payment to TEDC for the purchase of Block 2, Lot 12, Enterprise Business Park Phase 2 from Specialty Pharmacy Services, Inc. per the repurchase agreement between the two entities.

DOES THIS REQUEST REQUIRE COUNCIL APPROVAL?

☒ Yes☐ No

DATE OF COUNCIL MEETING

4/16/2009

WITH AGENDA ITEM?

☒ Yes☐ No

Department Head/Division Director

Date _____

☐ Approved☐ Disapproved

Finance

Date _____

☐ Approved

☐ Disapproved

City Manager

Date _____

☐ Approved

| | |
|--|-------------|
| | Disapproved |
|--|-------------|

ORDINANCE NO. 2009-4290

AN ORDINANCE BY THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AMENDING THE TAX INCREMENT FINANCING REINVESTMENT ZONE #1 FINANCING PLAN FOR FY 2009 IN AN AMOUNT NOT TO EXCEED \$30,000 AND AUTHORIZING PAYMENT TO THE TEMPLE ECONOMIC DEVELOPMENT CORPORATION FOR THE ACQUISITION OF BLOCK 2, LOT 12, ENTERPRISE BUSINESS PARK PHASE 2 FOR THE PURPOSE OF PROMOTING ECONOMIC DEVELOPMENT WITHIN THE CITY OF TEMPLE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; DECLARING FINDINGS OF FACT; AND PROVIDING AN OPEN MEETINGS CLAUSE.

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

Whereas, the Council adopted a Project Plan and Reinvestment Zone Financing Plan for the Zone by Ordinance No. 1525 adopted on December 22, 1983, and thereafter amended such plans by Ordinance No. 1664 adopted on June 20, 1985, Ordinance No. 1719 adopted on November 21, 1985, Ordinance No. 1888 adopted on December 21, 1987, Ordinance No. 1945 adopted on October 20, 1988; Ordinance No. 1961 adopted on December 1, 1988; Ordinance No. 2039 adopted on April 19, 1990; Ordinance No. 91-2119 adopted on December 5, 1991; Ordinance No. 92-2138 adopted on April 7, 1992; Ordinance No. 94-2260 adopted on March 3, 1994; Ordinance No. 95-2351 adopted on June 15, 1995; Ordinance No. 98-2542 adopted on February 5, 1998; Ordinance No. 98-2582 adopted on November 19, 1998; Ordinance No. 99-2619 adopted on March 18, 1999; Ordinance No. 99-2629 adopted on May 6, 1999; Ordinance No. 99-2631 adopted on May 20, 1999; Ordinance No. 99-2647 adopted on August 19, 1999; Ordinance No. 99-2678 adopted on December 16, 1999; Ordinance No. 2000-2682 adopted on January 6, 2000; Ordinance No. 2000-2729 adopted on October 19, 2000; Ordinance No. 2001-2772 adopted on June 7, 2001; Ordinance No. 2001-2782 adopted on July 19, 2001; Ordinance No. 2001-2793 adopted on September 20, 2001; Ordinance No. 2001-2807 on November 15, 2001; Ordinance No. 2001-2813 on December 20, 2001; Ordinance No. 2002-2833 on March 21, 2002; Ordinance No. 2002-2838 on April 18, 2002; Ordinance No. 2002-3847 on June 20, 2002; Ordinance No. 2002-3848 on June 20, 2002; Ordinance No. 2002-3868 on October 17, 2002; Ordinance No. 2003- 3888 on February 20, 2003; Ordinance No. 2003-3894 on April 17, 2003; Ordinance No 2003-3926 on September 18, 2003; Ordinance No. 2004-3695 on July 1, 2004; Ordinance No. 2004-3975 on August 19, 2004; Ordinance No. 2004-3981 on September 16, 2004; Ordinance No. 2005-4001 on May 5, 2005; Ordinance No. 2005-4038 on September 15, 2005; Ordinance No. 2006-4051 on January 5, 2006; Ordinance No. 2006-4076 on the 18th day of May, 2006; Ordinance No. 2006-4118; Ordinance No. 2007-4141 on the 19th day of April, 2007; Ordinance No. 2007-4155 on July 19, 2007; Ordinance No. 2007-4172 on the 20th day of September, 2007; Ordinance No. 2007-4173 on October 25, 2007; Ordinance No. 2008-4201 on the 21st day of

February, 2008; and Ordinance No. 2008-4217 the 15th day of May, 2008; and Ordinance No. 2008-4242 the 21st day of August, 2009;

Whereas, the Board of Directors of the Zone has adopted an additional amendment to the Reinvestment Zone Financing Plan for the Zone and forwarded such amendment to the Council for appropriate action;

Whereas, the Council finds it necessary to amend the Reinvestment Zone Financing Plan for the Zone to include financial information as hereinafter set forth;

Whereas, the Council finds that it is necessary and convenient to the implementation of the Reinvestment Zone Financing Plan, including the additional amendment, to establish and provide for an economic development program within the meaning of Article III, Section 52-a of the Texas Constitution ("Article III, Section 52-a"), Section 311.010(h) of the Texas Tax Code and Chapter 380 of the Texas Local Government Code to develop and diversify the economy of the Zone, eliminate unemployment and underemployment in the Zone and develop or expand transportation, business and commercial activity in the Zone including programs to make grants and loans of Zone assets or from the tax increment fund of the Zone in an aggregate amount not to exceed the amount of the tax increment produced by the City and paid into the tax increment fund for the Zone for activities that benefit the Zone and stimulate business and commercial activity in the Zone as further determined by the City;

Whereas, the Council further finds that the acquisition of the land and real property assembly costs as described in the additional amendment to the Reinvestment Zone Financing Plan is necessary and convenient to the implementation of the Reinvestment Zone Financing Plan and will help develop and diversify the economy of the Zone, eliminate unemployment and underemployment in the Zone and develop or expand transportation, business and commercial activity in the Zone by providing land for development of future business and commercial activity, attracting additional jobs within the City and attracting additional sales and other taxes within the City; and

Whereas, the Council finds that such amendment to the Reinvestment Zone Financing Plan is feasible and conforms to the Comprehensive Plan of the City, and that this action will promote economic development within the City of Temple.

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

Part 1: Findings. The statements contained in the preamble of this ordinance are true and correct and are adopted as findings of fact hereby.

Part 2: Reinvestment Zone Financing Plan. The amendment to the Tax Increment Financing Reinvestment Zone No. One Financing Plan, heretofore adopted by the Board of Directors of the Zone and referred to in the preamble of this ordinance, is hereby approved and adopted, as set forth in the Amendment to Reinvestment Zone Number One, City of Temple, Texas, attached hereto as Exhibit A. This expenditure requires an amendment to the 2008-2009 budget, a copy of which is attached as Exhibit B.

Part 3: Plans Effective. The Financing Plan for the Zone heretofore in effect shall remain in full force and effect according to the terms and provisions thereof, except as specifically amended hereby.

Part 4: Copies to Taxing Units. The City Secretary shall provide a copy of the amendment to the Reinvestment Zone Financing Plan to each taxing unit that taxes real property located in the Zone.

Part 5: Economic Development Program. The Council hereby establishes an economic development program for the Zone in accordance with Article III, Section 52-a of the Texas Constitution, Section 311.010(h) of the Texas Tax Code and Chapter 380 of the Texas Local Government Code to develop and diversify the economy of the Zone, eliminate unemployment and underemployment in the Zone and develop or expand transportation, business and commercial activity in the Zone including a program to make grants and loans of Zone assets or from the tax increment fund of the Zone in accordance with the provisions of Article III, Section 52-a, Chapter 311 of the Texas Tax Code and Chapter 380 of the Texas Local Government Code as directed and authorized by the Council. The Council hereby further directs and authorizes the Board of Directors of the Zone to utilize tax increment reinvestment zone bond proceeds to acquire the land and pay other real property assembly costs as set forth in the additional amendment attached hereto to help develop and diversify the economy of the Zone and develop or expand business and commercial activity in the Zone in accordance with Article III, Section 52-a, Chapter 311 of the Texas Tax Code and Chapter 380 of the Texas Local Government Code.

Part 6: Severability. 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 and sections of this ordinance, since the same would have been enacted by the City Council without the incorporation in this ordinance of any such invalid phrase, clause, sentence, paragraph or section.

Part 7: 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 8: Open Meetings. 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 on the **2nd** day of **April**, 2009.

PASSED AND APPROVED on Second and Final Reading on the **16th** day of **April**, 2009.

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

04/16/09
Item #7(I)
Consent Agenda
Page 1 of 1

DEPT./DIVISION SUBMISSION & REVIEW:

Gary O. Smith, Chief of Police

ITEM DESCRIPTION: Consider adopting a resolution authorizing a Memorandum of Understanding with the Cities of Killeen, Belton, and Harker Heights, and Bell County to establish the rights, duties, administration and division of funds received under the 2009 American Recovery and Reinvestment Act Edward Byrne Justice Assistance Grant (JAG) program award.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: The Department of Justice has made a grant award of \$554,756 to be allocated between Bell County, Killeen, Belton, Harker Heights and Temple, as follows:

Bell County will receive \$65,942
Killeen will receive \$352,570
Belton will receive \$20,455
Harker Heights will receive \$23,221
Temple will receive \$92,568

These funds are to be used to fund state and local initiatives, technical assistance, training, personnel, equipment, supplies, contractual support, and information systems for criminal justice for any one or more of the following purposes: law enforcement programs; prosecution and court programs; prevention and education programs; corrections and community corrections programs; drug treatment programs; and/or planning evaluation and technology improvement programs.

Pursuant to the terms of the grant, the parties agree to expend \$554,756 from the Byrne Justice Assistance Grant Program by a date not later than forty-eight (48) months after the project start date of October 1, 2009.

FISCAL IMPACT: The City of Temple will receive \$92,568 to be used as indicated above. There are no City matching funds required.

ATTACHMENTS:

[Resolution](#)

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS; AUTHORIZING A MEMORANDUM OF UNDERSTANDING WITH THE CITIES OF KILLEEN, BELTON, AND HARKER HEIGHTS AND BELL COUNTY TO ESTABLISH THE RIGHTS, DUTIES, ADMINISTRATION AND DIVISION OF FUNDS RECEIVED UNDER THE 2009 AMERICAN RECOVERY AND REINVESTMENT ACT EDWARD BYRNE JUSTICE ASSISTANCE GRANT (JAG) PROGRAM AWARD; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, the Edward Byrne Memorial Justice Assistance Grant (JAG) provides funds for state and local initiatives, technical assistance, training, personnel, equipment, supplies, contractual support and information systems for criminal justice for law enforcement programs, prosecution and court programs, prevention and education programs, corrections and community corrections programs, drug treatment programs, and planning evaluation and technology improvements programs;

Whereas, the Department of Justice has made a grant award of \$554,756 to be allocated by Bell County and the cities of Killeen, Belton, Temple and Harker Heights;

Whereas, Bell County will receive \$65,942; the City of Killeen will receive \$352,570; the City of Belton will receive \$20,455; the City of Temple will receive \$92,568; and the City of Harker Heights will receive \$23,221;

Whereas, the City Council needs to authorize a Memorandum of Understanding to establish the rights, duties, administration and division of funds received under the grant; 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 a Memorandum of Understanding with the Cities of Killeen, Belton, and Harker Heights, and Bell County, after approval as to form by the City Attorney, to establish the rights, duties, administration and division of funds received under the 2009 American Recovery and Reinvestment Act Edward Byrne Justice Assistance Grant (JAG) program award.

Part 2: The City Council accepts the funds (\$92,568) received under the 2009 American Recovery and Reinvestment Act Edward Byrne Justice Assistance Grant (JAG) program award.

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 **16th** day of **April**, 2009.

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

04/16/09
Item #7(J)
Consent Agenda
Page 1 of 1

DEPT./DIVISION SUBMISSION & REVIEW:

Jonathan Graham, City Attorney

ITEM DESCRIPTION: Consider adopting a resolution authorizing the acceptance of 0.410 acre from the Temple Economic Development Corporation.

STAFF RECOMMENDATION: Adopt resolution presented in item description.

ITEM SUMMARY: The Board of Directors of the Temple Economic Development Corporation has requested that the City accept the donation of 0.410 acre which is located under the railroad next to property owned by Delta Centrifugal. The property was originally acquired by TEDC in anticipation that it would be needed as part of the rail park project, but it is no longer needed for that purpose.

FISCAL IMPACT: At the present time, the property is exempt from property taxes, and it will remain so under the ownership of the City. If the property is conveyed at some point for an industrial purpose it will be added back to the property tax rolls.

ATTACHMENTS:

[Resolution](#)

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING THE ACCEPTANCE OF 0.410 ACRE FROM THE TEMPLE ECONOMIC DEVELOPMENT CORPORATION; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, the Board of Directors of the Temple Economic Development Corporation (TEDC) requested that the City accept the donation of a 0.410 acre tract of land that is located under the railroad next to property owned by Delta Centrifugal;

Whereas, the property was originally acquired by TEDC in anticipation that it would be needed as part of the rail park project, but it is no longer needed for that purpose; 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 acceptance of a 0.410 acre tract of land, more fully described by metes and bounds contained in field notes and surveyor's drawing attached hereto as Exhibit A, from the Temple Economic Development Corporation.

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 16th day of **April**, 2009.

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

04/16/09
Item #7(K)
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 2008-2009.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: This item is to recommend various budget amendments, based on the adopted FY 2008-2009 budget. The amendments will involve transfers of funds between contingency accounts, department and fund levels.

FISCAL IMPACT: The total amount of budget amendments is \$6,275.

ATTACHMENTS:

[Budget amendments
Resolution](#)

CITY OF TEMPLE
BUDGET AMENDMENTS FOR FY 2009 BUDGET
April 16, 2009

| ACCOUNT # | PROJECT # | DESCRIPTION | APPROPRIATIONS | |
|--|-----------|---|--|-----------------|
| | | | Debit | Credit |
| 110-2000-521-2516 110-1500-515-6531 | | Judgments & Damages (Police) Contingency - Judgments & Damages | \$ 1,973 | \$ 1,973 |
| Deductible reimbursement to the Texas Municipal League for settlement of a claim filed against the City by Viviansha Godfrey seeking reimbursement for damage to a vehicle after it was involved in an accident with a Police vehicle on January 22, 2009. | | | | |
| 110-2000-521-2516 110-1500-515-6531 | | Judgments & Damages (Police) Contingency - Judgments & Damages | \$ 372 | \$ 372 |
| Deductible reimbursement to the Texas Municipal League for attorney fees for a suit filed by Bruce Wayne Ervin against peace officers serving on a task force. Claim arises out of seizure of items in Ervin's possession when his premises were searched. Ervin is appealing a judgment for the officers. | | | | |
| 110-3700-524-2516 110-1500-515-6531 | | Judgments & Damages (Construction Safety) Contingency - Judgments & Damages | \$ 894 | \$ 894 |
| Deductible reimbursement to the Texas Municipal League for a lawsuit filed against the City by Willis Martin, Jr., seeking reimbursement for alleged damage from purchasing a house he felt should have been demolished or repaired. | | | | |
| 110-3700-524-1113 110-3700-524-1119 110-3700-521-2112 110-3700-524-2115 110-3700-524-2514 110-0000-431-0261 | | Technical (Construction Safety) Overtime Food Items/Supplies Automotive Supplies Travel & Training State Grants (GDEM Reimbursement) | \$ 779 \$ 526 \$ 168 \$ 1,007 \$ 556 | \$ 3,036 |
| Estimated reimbursement from Governor's Division of Emergency Management (GDEM) for expenditures incurred for sending an Inspector to the City of Galveston after Hurricane Ike to perform building inspections. | | | | |
| TOTAL AMENDMENTS | | | \$ 6,275 | \$ 6,275 |

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 | \$ (35,895) |
| Net Balance of Judgments & Damages Contingency Account | \$ 34,105 |
| Beginning SAFER Grant Match Contingency | \$ 46,821 |
| Added to SAFER Grant Match Contingency | \$ - |
| Taken From SAFER Grant Match Contingency | \$ (41,968) |
| Net Balance of SAFER Grant Match Contingency Account | \$ 4,853 |

CITY OF TEMPLE
BUDGET AMENDMENTS FOR FY 2009 BUDGET
April 16, 2009

| | | | APPROPRIATIONS | |
|------------------|------------------|--|-----------------------|----------------|
| ACCOUNT # | PROJECT # | DESCRIPTION | Debit | Credit |
| | | Beginning Compensation Contingency | \$ | 184,700 |
| | | Added to Compensation Contingency | \$ | - |
| | | Taken From Compensation Contingency | \$ | (98,395) |
| | | Net Balance of Compensation Contingency Account | \$ | 86,305 |
| | | Net Balance Council Contingency | \$ | 125,263 |
| | | 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 | \$ | 174,121 |
| | | Added to Contingency Sweep Account | \$ | - |
| | | Taken From Contingency | \$ | (164,121) |
| | | Net Balance of Contingency Account | \$ | 10,000 |
| | | Beginning Compensation Contingency | \$ | 34,334 |
| | | Added to Compensation Contingency | \$ | - |
| | | Taken From Compensation Contingency | \$ | (34,334) |
| | | Net Balance of Compensation Contingency Account | \$ | - |
| | | Beginning Approach Mains Contingency | \$ | 500,000 |
| | | Added to Approach Mains Contingency | \$ | - |
| | | Taken From Approach Mains Contingency | \$ | (11,730) |
| | | Net Balance of Approach Mains Contingency Account | \$ | 488,270 |
| | | Beginning T-BRSS Future Plant Expansion Contingency | \$ | 450,000 |
| | | Added to T-BRSS Future Plant Expansion Contingency | \$ | - |
| | | Taken From T-BRSS Future Plant Expansion Contingency | \$ | (73,424) |
| | | Net Balance of T-BRSS Future Plant Expansion Contingency | \$ | 376,576 |
| | | Net Balance Water & Sewer Fund Contingency | \$ | 874,846 |
| | | HOTEL/MOTEL TAX FUND | | |
| | | Beginning Contingency Balance | \$ | 75,221 |
| | | Added to Contingency Sweep Account | \$ | - |
| | | Taken From Contingency | \$ | - |
| | | Net Balance of Contingency Account | \$ | 75,221 |
| | | Beginning Compensation Contingency | \$ | 5,401 |
| | | Added to Compensation Contingency | \$ | - |
| | | Taken From Compensation Contingency | \$ | (3,222) |
| | | Net Balance of Compensation Contingency Account | \$ | 2,179 |
| | | Net Balance Hotel/Motel Tax Fund Contingency | \$ | 77,400 |
| | | DRAINAGE FUND | | |
| | | Beginning Contingency Balance | \$ | - |
| | | Added to Contingency Sweep Account | \$ | - |
| | | Taken From Contingency | \$ | - |
| | | Net Balance of Contingency Account | \$ | - |
| | | Beginning Compensation Contingency | \$ | 4,631 |
| | | Added to Compensation Contingency | \$ | - |
| | | Taken From Compensation Contingency | \$ | (1,901) |
| | | Net Balance of Compensation Contingency Account | \$ | 2,730 |
| | | Net Balance Drainage Fund Contingency | \$ | 2,730 |

CITY OF TEMPLE
BUDGET AMENDMENTS FOR FY 2009 BUDGET
April 16, 2009

| | | | APPROPRIATIONS | |
|-----------------------------|------------------|--------------------------------------|-----------------------|---------------|
| ACCOUNT # | PROJECT # | DESCRIPTION | Debit | Credit |
| FED/STATE GRANT FUND | | | | |
| | | Beginning Contingency Balance | \$ | 7,962 |
| | | Carry forward from Prior Year | \$ | 99,254 |
| | | Added to Contingency Sweep Account | \$ | - |
| | | Taken From Contingency | \$ | (70,458) |
| | | Net Balance of Contingency Account | \$ | 36,758 |

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE,
TEXAS, APPROVING BUDGET AMENDMENTS TO THE 2008-2009
CITY BUDGET; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, on the 28th day of August, 2008, the City Council approved a budget for the 2008-2009 fiscal year; and

Whereas, the City Council deems it in the public interest to make certain amendments to the 2008-2009 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 2008-2009 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 16th day of **April**, 2009.

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

04/16/09

Item #8

Regular Agenda

Page 1 of 4

DEPT. /DIVISION SUBMISSION & REVIEW:

Tim Dolan, Planning Director

ITEM DESCRIPTION: SECOND READING – Z-FY-09-14: Consider adopting an ordinance authorizing a Conditional Use Permit for mining and mining storage on 119± acres located in the vicinity of the southwest corner of SH 36 (Airport Road) and North SH 317 and authorizing a zoning change from Agricultural to Light Industrial on a 26.3± acre portion of that tract.

ORIGINAL P&Z COMMISSION RECOMMENDATION: At its March 16, 2009 meeting, the P&ZC voted 4/3 (Barton, Dusek, Hurd & Secrest *for*, Pope, Pilkington & Talley *against*, Luck & Martin *absent*) in favor of the Light Industrial (LI) zoning for this area with a Conditional Use Permit (CUP) for mining and mining storage. The CUP included a number of conditions (about 21) including a site plan to be adopted as part of the CUP ordinance. *At its April 6, 2009 meeting, the Planning and Zoning Commission voted 7-1 to recommend denial of the revised site plan discussed by the applicant's representative at the Council meeting, April 2, 2009. The Commission did not consider any other revisions to the recommended conditions to the CUP.*

STAFF RECOMMENDATION: Adopt ordinance on second reading with the original CUP conditions and site plan, or remand the item for reconsideration by the P&ZC with the requested changes by the applicant to the site plan previously approved and to the hours of operation (explained below).

ITEM SUMMARY: *Synopsis.* The City Council is considering whether to grant a CUP for mining and mining storage on a 119 acre tract. The City Council is being asked by the applicant to consider a revised site plan for the area covered by the CUP. The applicant may also specifically request a change in the hours of operation allowed by the CUP. On first reading, the City Council approved the CUP for mining and mining storage with the original site plan. On second and final reading, the City Council must decide: (1) whether to approve the CUP; and (2) whether to approve it with a revised site plan showing a greater area available for mining operations. The City Council may choose in its discretion to incorporate the revised site plan requested by the applicant, over the P&ZC's unfavorable recommendation—though the Staff concurs with the P&ZC in denying the revised site plan. There is no “super-majority” voting requirement on this item, since the CUP was favorably recommended by the P&ZC.

Background/Time Line. The application is for a conditional use permit for an area zoned LI (light industrial) to allow mining and mining storage. A timeline for this application is as follows:

February 2nd—Application for CUP filed for 119 acre tract; application deemed incomplete by Staff.

March 9th—application deemed administratively complete with submission of a site plan.

March 16th—P&ZC approved the CUP with 21 conditions, including a Site Plan showing a single, contiguous “mining area” near the center of the 119 acres. The vote was 4-3 in favor of approval.

March 24th—The applicant contacted the Planning Department with a request to amend the original site plan; the revised site plan indicates that “the initial locations for blasting, stockpiling of materials, crusher and access are indicated [on the site plan] . . . however, these locations will be moved and relocated over and across the 119 acres covered by the CUP” Later the same day, the realtor for the applicant advised Tim Dolan that the applicant would move forward with the original CUP and site plan which would allow them to fulfill contractual commitments the applicant has, while the request for a revised site plan was separately considered by P&ZC and the City Council.

April 2nd—at the first reading of the CUP ordinance by the City Council, during the public hearing, the realtor for the applicant advised the City Council that the applicant was requesting that the City Council consider approving the CUP with the revised site plan; the City Council approved the CUP on first reading with the original site plan.

April 6th—the revised site plan was submitted to the P&ZC for a recommendation ONLY on the revised site plan; the P&ZC voted 7-1 in favor of a “motion to deny the revised site plan” (Barton, Dusek, Hurd, Secrest, Pope, Pilkington, Luck & Talley *for denial of the revised site plan*, Hurd *against denial of the revised site plan*).

April 7th, applicant contacted Staff seeking an additional amendment of the CUP from the condition in the original CUP establishing hours of operation of 7 a.m. to 6 p.m. Monday through Friday and 7 a.m. to 7 p.m. on Saturday. The applicant sought changes allowing longer period for mining in times of inclement weather. (Note: Chapter 12 of the City Code establishes allowable hours for blasting as 8 a.m.-5 p.m., Monday through Friday. The CUP deals with hours of operation only, and doesn't change the hours allowed for blasting.

Considerations in Granting a CUP. Please refer to the Staff Report and draft minutes of case Z-FY-09-14, from the Planning and Zoning meeting, March 16, 2009. The Mining, Inc., c/o Thomas Parker for Paul Mark Woods Trust, submitted the application for a conditional use permit (CUP) for mining and mining storage of limestone for the subject property located off Airport Highway, north of SH 317. The site is the location of an existing quarry. The applicant has requested the owner's permission to continue mining the area.

This area includes a portion of the area recently annexed and a portion of the land (26.3 ± acres) already in the City Limits. Since the Planning and Zoning Commission meeting on March 16th, the applicant has submitted another CUP application, with a site plan showing a larger area for mining and mining storage in this area. That item will process through the Development Review Committee (DRC), the Planning & Zoning Commission and City Council. Provided the new CUP application is recommended for approval by the Commission, the Council will review it May 7th in a public hearing and the second reading May 21st.

The site plan will also be adopted as Exhibit 'B' to the CUP ordinance which shows the locations where the quarrying, storage, rock crushing, silt fences, berms, etc., can be placed. The applicant will use the mine for a source of needed construction materials in the Bell County area. The mining and

extraction operations will be sited and designed to minimize conflicts with adjacent land uses, and to have a minimal impact on critical habitats, natural vistas, cultural resources and the environment. The applicant has also applied for an air quality permit with the Texas Commission on Environmental Quality, Registration Number 87255, customer number CN602311896 and the regulation entity number RN105672588.

The applicant will use existing topography to screen and minimize blasting, noise, dust, vibration, and visual impacts when developing new mineral extraction sites. Where heavy equipment, mines and pits cannot be effectively screened from residential and/or commercial areas, a combination of existing topography, berms and landscaping may be utilized to screen the site. Adequate screening and buffering will be maintained between adjacent land uses and the mining site, and will be the responsibility of the new or expanded mineral extraction development. A vertical wall which measures 12± vertical feet will screen the rock crusher, stockpile area and mining area from SH 36. Because the site is within a 100 year flood plan and subject to Corp of Engineers regulation, the applicant's ability to place berms, septic tanks, and other permanent vertical improvements may be restricted.

The applicant will need to ensure that mining sites and associated off-site stockpiles are maintained during the life of the operation, particularly in regard to the control of noxious weeds and dust. Any reclamation of mining and extraction sites is an integral part of all mining operations, and will be required and completed in a manner that will encourage future land uses that are compatible with local comprehensive plans. All road construction projects shall meet or exceed the minimum requirements for storm water runoff.

The City Council must consider the following items when reviewing a conditional use permit (CUP):

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.

Surrounding Property and Uses

The following table shows the existing zoning and current land uses abutting the subject property:

| Direction | Current Land Use |
|-----------|--|
| North | Vacant – area being annexed as Agriculture (A) |
| East | Vacant – area being annexed as Agriculture (A) |
| South | Vacant – county land |
| West | Vacant – area being annexed as Agriculture (A) |

Future Land Use & Character Plan – The map shows this area as Agriculture (A). When the City Council adopted the Plan, Staff advised they would update the map twice a year. A portion of this area will be shown as industrial for the mining and mining storage area, provided the CUP is approved.

This CUP property was subject to a 'Development Agreement' when the City Council annexed areas near here in 2008. This area contained more than 10 acres, and had an agriculture classification since the mine was inactive. The City offered development agreements to property owners who owned more than 10 acres and the Bell County Tax Appraisal District had classified as having an exemption for agriculture, timber or wildlife management. The same agreement states if a property owner changes the use of its land, here the continuation of mining, that it would trigger annexation. The property owner sought voluntary annexation, leasing the area to continue the mining operation.

Thoroughfare Plan – This application conforms to the Thoroughfare Plan for access to State Highway 36 (SH36) designated as a Freeway.

The applicant also contacted Staff April 7th, requesting to amend the condition on operating time, allowing longer periods for mining due to inclement weather. Staff recommends keeping the condition as written in the proposed ordinance: *During construction, all work associated with the proposed project shall occur between the hours of 7:00 a.m. to 6:00 p.m., Monday through Friday and 7:00 a.m. to 7:00 p.m., Saturday.*

FISCAL IMPACT: NA

ATTACHMENTS:

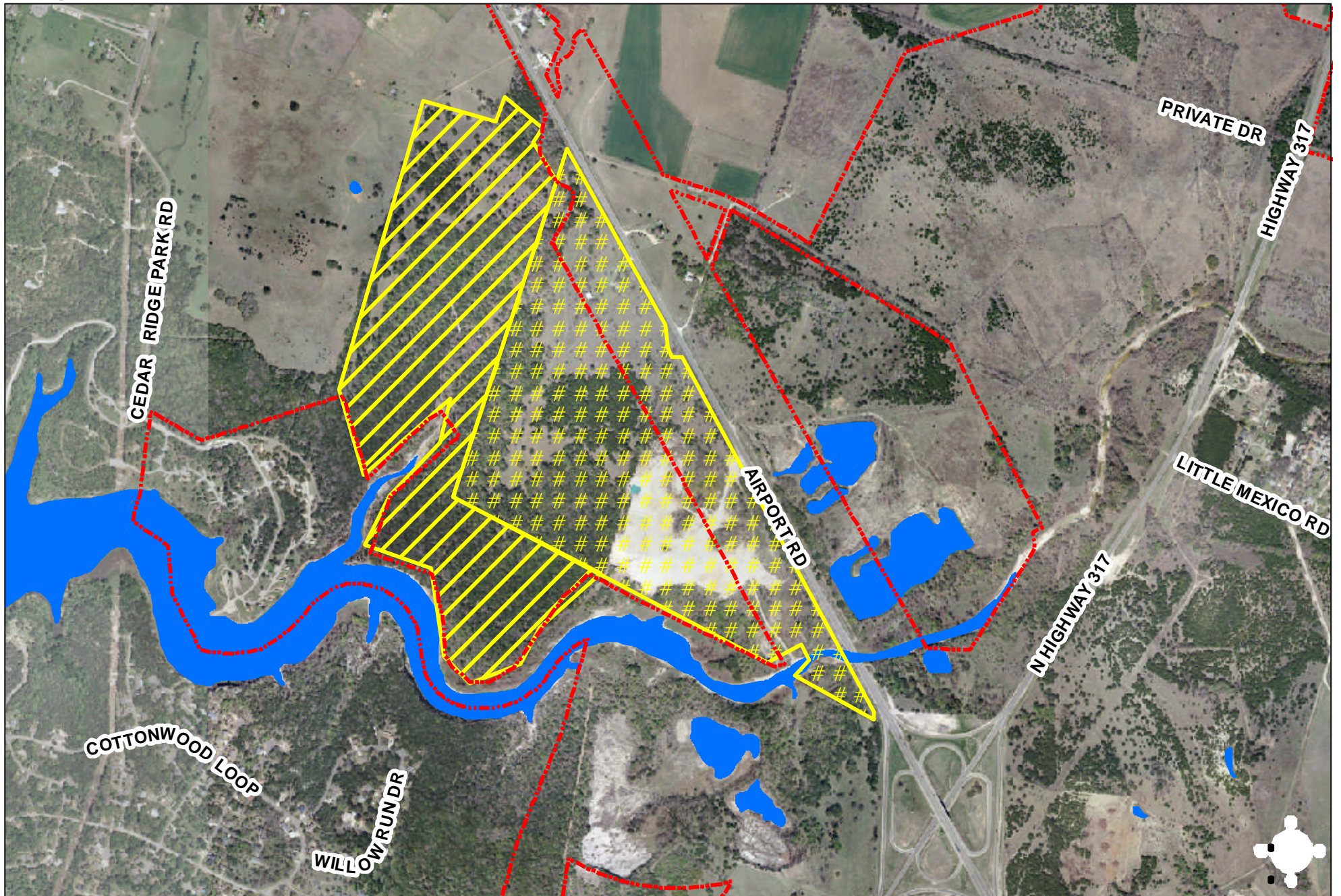
Aerial
Land Use and Character Map
Zoning Map
Buffer Map
Contrasting Map between Area Annexed – A & LI Zoning
Site Plan
P&Z Staff Report (Z-FY-08-14)
P&Z Minutes Excerpts (March 16, 2008 & April 6, 2009)
Ordinance



Z-FY-09-14

Outblock #2088-A

Mining Operations



 Temple Boundary  AG Zoning  LI Zoning with CUP

CUP for Mining

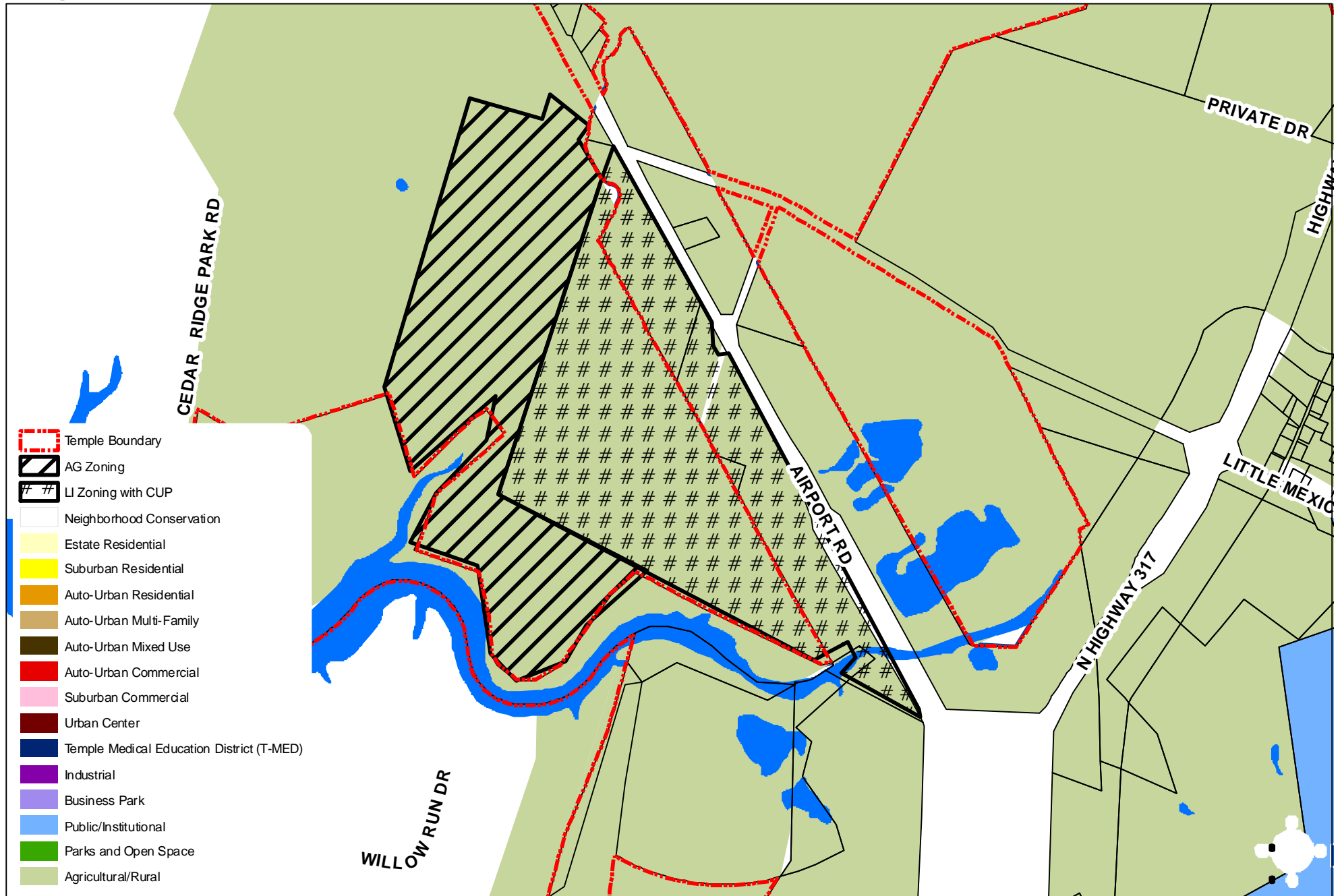
1 inch = 1,000 feet
J Stone 2.5.9



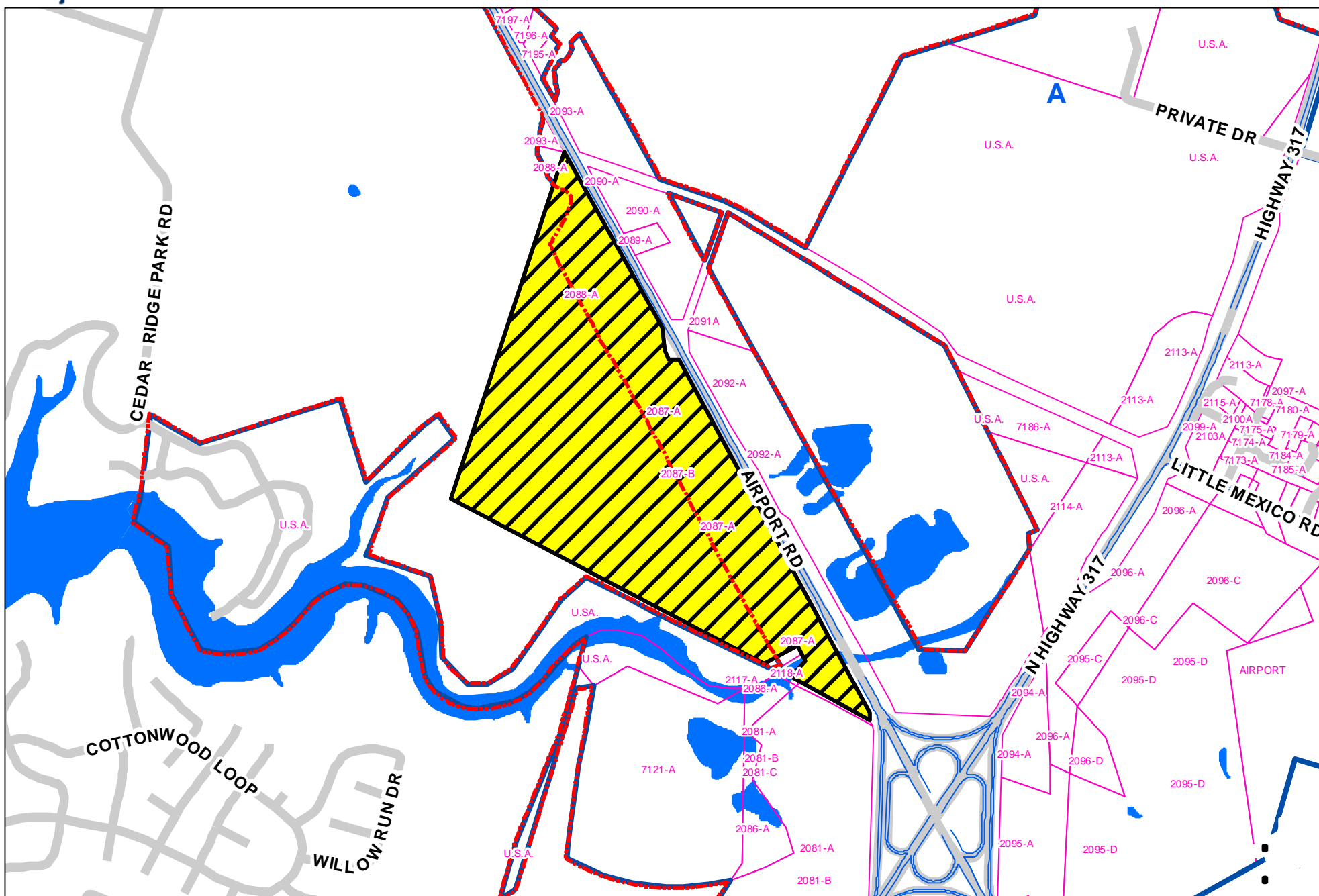
Z-FY-09-14

Outblock #2088-A

Mining Operations



CUP for Mining



 Temple Boundary Area of Proposed Zoning

CUP for Mining

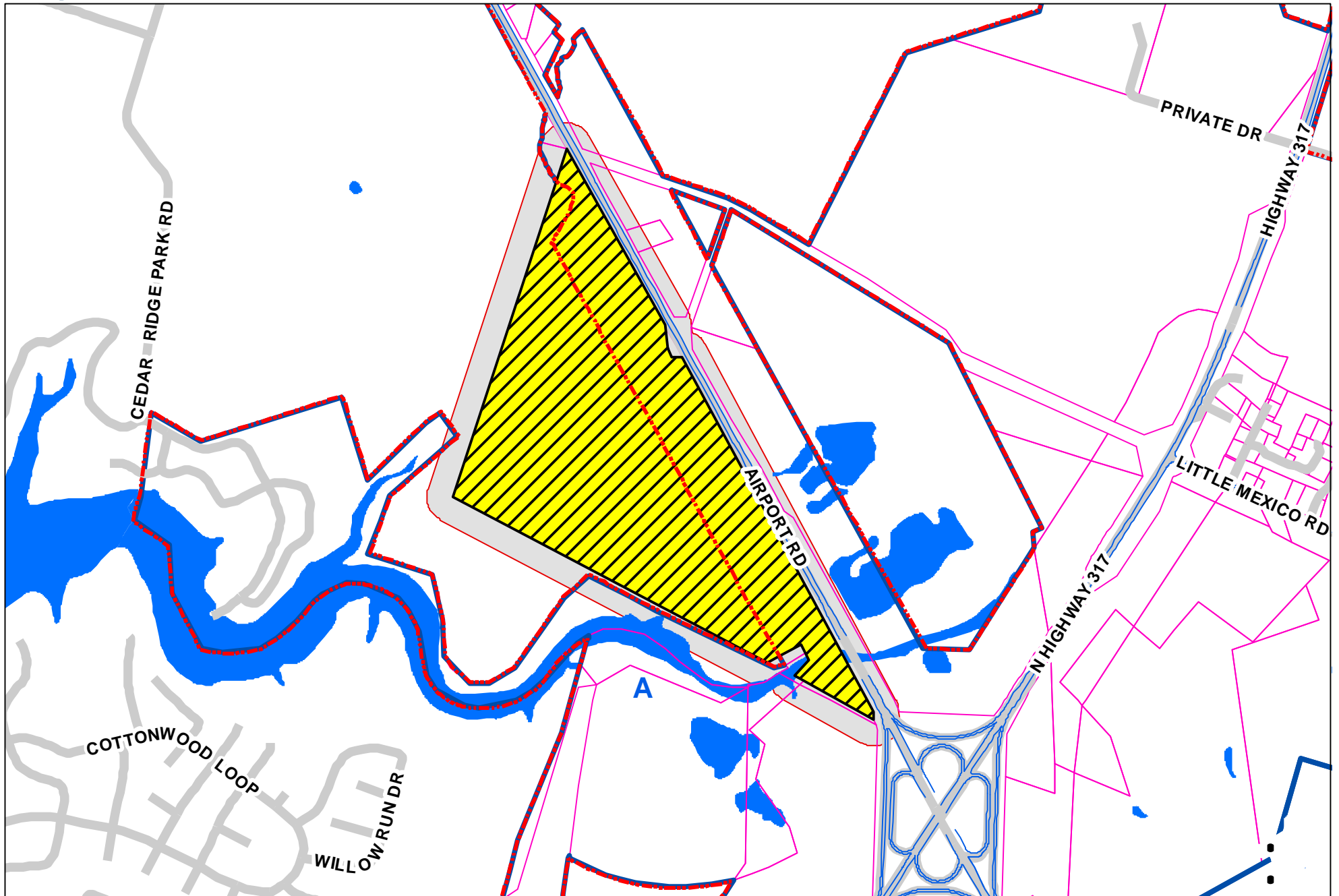
1 inch = 1,000 feet
J Stone 2.5.9



Z-FY-09-14

Outblock #2088-A

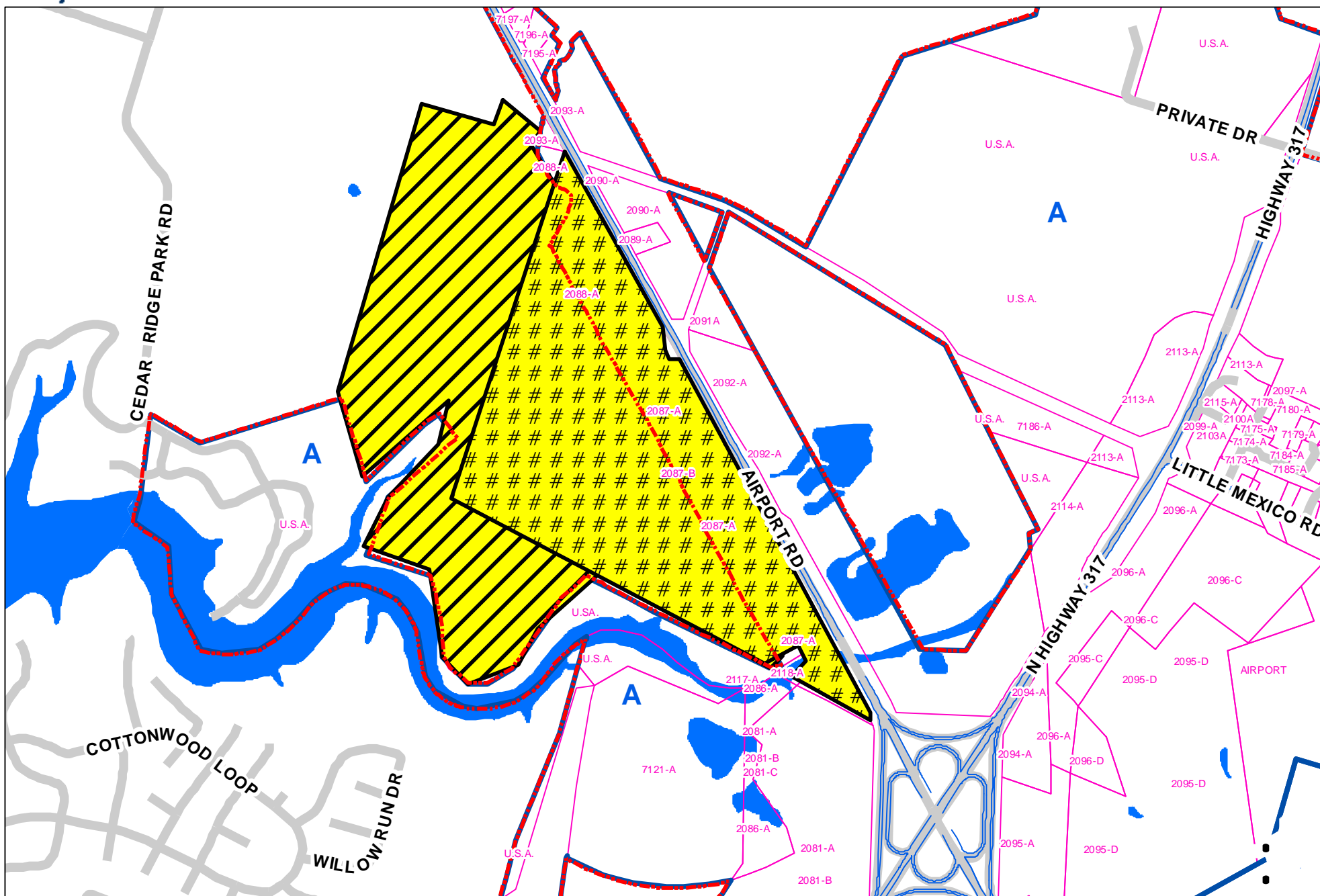
Mining Operations



 Temple Boundary  ZFY0914  200' Buffer

CUP for Mining

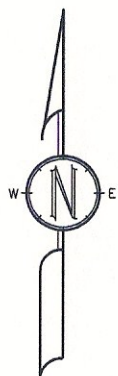
1 inch = 1,000 feet
J Stone 2.5.9



 Temple Boundary
  AG Zoning
  LI Zoning with CUP

CUP for Mining

1 inch = 1,000 feet
J Stone 2.5.9



Agricultural

WOODS ROBINS TRUST
A-0529 McCampbell Longley
Property ID 130699
Geographic ID 0549250000
192.831 Acres
Vol. 5632 / Page 741



119 Acre C.U.P.

NOTES:

1. No proposed signs since only mining personnel will be present.
2. No setbacks or easements within C.U.P. property boundaries.
3. No Landscaping or fencing proposed.

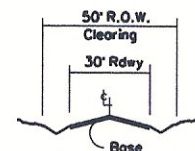
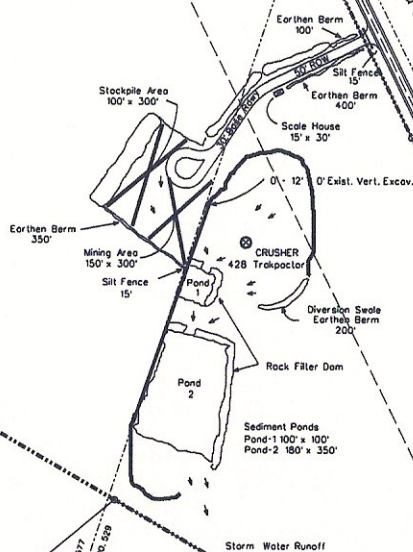
Texas Commission on Environmental Quality

4. Air Quality Registration No. 87255
5. Customer Reference No. CN602311896
6. Regulation Entity No. RN105672588

192.831 Acres
C.U.P. Area
119 Acres

Corps
Land

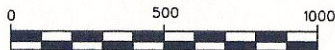
State Highway 36



Proposed Access Road

Agricultural

SCALE



(Feet)



PLANNING & ZONING COMMISSION MEMORANDUM

03/16/09

Item 3

Regular Agenda

Page 1 of 5

APPLICANT:

Mining, Inc. c/o Thomas Parker for Paul Mark Woods Trust

DEPT. /DIVISION SUBMISSION & REVIEW:

Tim Dolan, AICP, Planning Director

ITEM DESCRIPTION: Z-FY-09-14: Hold a public hearing to discuss and recommend action for a Conditional Use Permit for mining and mining storage on 119± acres which includes a 26.3± acre tract of land in the Temple City Limits, described as Outblock 2088-A, City Addition, to be zoned Light Industrial District, and the City Council's review of the applicant's request for permanent zoning for a 92.7± acre tract of land out of the McCampbell Langley Survey, Abstract No. 529 and the Elias Tuttle Survey, Abstract No. 835 upon annexation for the Light Industrial District with a Conditional Use Permit for mining and mining storage to be located in the vicinity of the southwest corner of SH 36 (Airport Road) and North SH 317.

STAFF RECOMMENDATION: The annexation and zoning for Light Industrial (LI) for this area will have its second reading and approval April 2, 2009 by the City Council. Today, the Commission should consider a conditional use permit for mining and mining storage of limestone for the subject property located off Airport Highway, north of SH 317. The site is the location of an existing limestone quarry. The applicant has requested the owner's permission to continue mining the area. Staff requests the Commission recommend approval of the Staff's conditions. The applicant agrees.

ITEM SUMMARY: City Staff will recommend a Light Industrial (LI) zoning for this area with a Conditional Use Permit (CUP) for mining and mining storage, with the site plan to be adopted as part of the ordinance subject to the conditions discussed below. The site plan will also be adopted which shows the locations where the quarrying, storage, rock crushing, silt fences, berms, etc will be placed. If for example, an applicant wanted to quarry material outside of the adopted plan area, an applicant would be required to apply again for the CUP process. The remaining area being annexed, outside of the quarry will be zoned Agriculture (A).

The site characteristics for the subject property are characterized as relatively sloping (0-7% slope) to sloping toward the east (35-40% slope). The proposed rock crusher, mining and mining storage area and activities would be located on the relatively flat portion of the site. There are currently past stockpiles located onsite. A scale house (450 square feet) would be placed on-site north of the access road from State Highway 36 for truck access entering and leaving the site.

The applicant will use the mine for a source of needed construction materials in the Bell County area. The mining and extraction operations will be sited and designed to minimize conflicts with adjacent land uses, and to have a minimal impact on critical habitats, natural vistas, cultural resources and the environment. The applicant has also applied for an air quality permit with the Texas Commission on Environmental Quality, Registration Number 87255, customer number CN602311896 and the regulation entity number RN105672588.

The applicant will use existing topography to screen and minimize blasting, noise, dust, vibration, and visual impacts when developing new mineral extraction sites. Where heavy equipment, mines and pits cannot be effectively screened from residential and/or commercial areas, a combination of existing topography, berms and landscaping may be utilized to screen the site. Adequate screening and buffering will be maintained between adjacent land uses and the mining site, and will be the responsibility of the new or expanded mineral extraction development. Here a vertical wall which measures 12± vertical feet will screen the rock crusher, stockpile area and mining area from SH 36.

The applicant will need to ensure that mining sites and associated off-site stockpiles are maintained during the life of the operation, particularly in regard to the control of noxious weeds and dust. Any reclamation of mining and extraction sites is an integral part of all mining operations, and will be required and completed in a manner that will encourage future land uses that are compatible with local comprehensive plans. All road construction projected shall meet or exceed the minimum requirements for storm water runoff.

The Planning and Zoning Commission must consider the following items when reviewing a conditional use permit (CUP):

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
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| West | Vacant – area being annexed as Agriculture (A) |

Future Land Use & Character Plan – The map shows this area as Agriculture (A). When the City Council adopted the Plan, Staff would revise the map twice with updates. A portion of this area will be shown as industrial for the mining and mining storage area, provided the approval of the CUP.

This area was part of a 'Development Agreement' when the City Council annexed area near here in 2009, which began in 2008. This area contained more than 10 acres, and had an agriculture classification since the mine was inactive. By practice the Legal Department offered development agreements to property owners who owned more than 10 acres, and the county assessor's office had classified it as agriculture or wildlife management. The same agreement states if a property owner changes the use of its land, here the continuation of mining, that it would trigger annexation. The property owner sought voluntary annexation, leasing the area to continue the mine.

Thoroughfare Plan – This application conforms to the Thoroughfare Plan for access to State Highway 36 (SH36) designated as a Freeway.

Staff Suggested Conditions of Approval Staff recommends approval of Z-FY-09-14 subject to:

- 1) The project shall proceed in substantial conformance with the plans and application materials submitted February 2, 2009, amended on March 9, 2009, and March 12, 2009 and on file except as amended by the conditions herein. The DRC deemed it complete March 9, 2009.
- 2) The field notes for the area shall be adopted as Exhibit 'A'.
- 3) The mining and mining storage shall be limited to the area shown on the site plan, adopted as Exhibit 'B'.
- 4) The applicant is responsible for compliance with all applicable local, state and federal rules and regulations, and must obtain all appropriate permits and approvals.
- 5) The maximum height of stockpiles shall not exceed 30 feet.
- 6) All operations will be conducted in a manner that complies the maximum permissible environmental noise levels specified of 75 decibels received stated in Zoning Ordinance Section 7-300 (Noise) and the City of Temple Code of Ordinances four hours of operation to be Monday-through Friday, 7:00 a.m. to 6:00 p.m.
- 7) Blasting shall be done by permit and in accordance with regulations found in Chapter 12 of the City of Temple Code of Ordinances.

- 8) Site illumination shall be designed and located so that lighting sources are not directly visible from the highway or residential uses. Lighting shall not cast glare on adjacent properties.
- 9) A commercial building permit will be required for concrete foundations related to stabilization of equipment and containment devices, and scale house.
- 10) An emergency spill response plan shall be established for the new site prior to the commencement of operation. In the event of a spill or waste generated during the move, the company shall designate the waste as per state and or federal regulations.
- 11) Prior to building permit issuance the City of Temple Fire Department shall verify that storage of combustible and flammable liquids shall comply with applicable Fire Code and Building Code regulations.
- 12) The applicant is responsible for compliance with all applicable local, state and federal rules and regulations, and must obtain all appropriate permits and approvals.
- 13) During construction, all work associated with the proposed project shall occur between the hours of 7:00 a.m. to 6:00 p.m., Monday through Friday and 7:00 a.m. to 7:00 p.m., Saturday.
- 14) Final "as built" drawings shall be delivered to the City of Temple Construction Services Department upon completion.
- 15) Private improvements shall be clearly shown and labeled as such on each sheet of the construction plans. The note below shall appear on the cover sheet of the construction plans for private improvements:

The City of Temple shall not be responsible for the maintenance of roadway and appurtenant improvements, including storm drainage structures and pipes for all roadways in the development, specifically driveways and private accesses.
- 16) The applicant shall be responsible for preventing mud, dirt and debris from the site, including storm water runoff from being tracked or otherwise discharging onto the public right-of-way or adjacent properties. One access point for construction (via SH 36) shall be approved by the Texas Department of Transportation (TXDOT).
- 17) The internal circulation plan shall be approved by the City of Temple Fire Marshal as part of the construction plan review/acceptance process.
- 18) Prior to building occupancy, the engineer of record shall provide written certification that the above improvements have been completed in conformance with city code and geotechnical assessments. Monitoring shall be required as determined appropriate by the engineer or geologist of record and in accordance with the Comprehensive Road Standards (DCC) with final reports submitted to the City of Temple Fire Department.
- 19) A final storm water drainage report and plan prepared by a professional engineer licensed in the State of Texas shall be submitted to and approved by City of Temple construction services prior to construction. The storm water plan shall have supporting calculations and, in the event that a computer program is used as an aid in the analysis, all input data and variables used shall be clearly identified. This includes but is not necessarily limited to: design storm unit hydrograph data points; basin data & time of concentration calculation; runoff hydrograph; reach data; storage / infiltration data; and a summary of the hydraulic design parameters for each storm water conveyance and detention / infiltration element proposed on the plans. Final "as built" drawings and material test reports shall be delivered to the City of Temple Construction Services upon completion.
- 20) The storm water facilities shall be owned and maintained by the property owner.

21) The property owner and lessee shall be responsible for the long-term operation, maintenance, repair and replacement of the storm water facility, and that the City of Temple will not be responsible for the maintenance of the storm water facility.

FISCAL IMPACT: NA

ATTACHMENTS:

Aerial
Land Use and Character Map
Zoning Map and Buffer Map
Contrasting Map between Area Annexed – A & LI Zoning
Site Plan

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

**MONDAY, MARCH 16, 2009
(REVISED ON APRIL 7, 2009)**

ACTION ITEMS

Z-FY-09-14: Hold a public hearing to discuss and recommend action for a Conditional Use Permit for mining and mining storage on 119± acres which includes a 26.3± acre tract of land in the Temple City Limits, described as Outblock 2088-A, City Addition, to be zoned Light Industrial District, and the City Council's review of the applicant's request for permanent zoning for a 92.7± acre tract of land out of the McCampbell Langley Survey, Abstract No. 529 and the Elias Tuttle Survey, Abstract No. 835 upon annexation for the Light Industrial District with a Conditional Use Permit for mining and mining storage to be located in the vicinity of the southwest corner of SH 36 (Airport Road) and North SH 317 (Applicant: Thomas Parker for Paul Mark Woods Trust).

Mr. Tim Dolan, Planning Director, presented the background to the Commission and stated the Commission should consider a conditional use permit (CUP) for mining and mining storage of limestone for the subject property located off Airport Highway, north of SH 317. The site is the location of an existing limestone quarry. The applicant had requested the owner's permission to continue mining the area.

Mr. Dolan stated if the CUP was recommended for approval tonight, it would appear on the City Council agenda on April 2nd for the Ordinance's first reading followed by a second reading on April 16th.

Mr. Dolan stated this would be the site plan that would be adopted as **Exhibit "B"** showing the proximity of the facilities being planned by the applicant which included the roadway access from SH 36 with the area being planned for the storage area, the mining area, detention pond, and several fences and berms. The Commission must consider several items when reviewing a CUP.

Mr. Dolan went on to state the conditions:

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.

Mr. Dolan also stated there are 21 stipulations being recommended by Staff for the CUP and they've been shown to the applicant and no questions have been raised by the applicant.

1. The project shall proceed in substantial conformance with the plans and application materials submitted February 2, 2009, amended on March 9, 2009, and March 12, 2009 and on file except as amended by the conditions herein. The DRC deemed it complete March 9, 2009.
2. The field notes for the area shall be adopted as **Exhibit 'A'**.
3. The mining and mining storage shall be limited to the area shown on the site plan, adopted as **Exhibit 'B'**.
4. The applicant is responsible for compliance with all applicable local, state and federal rules and regulations, and must obtain all appropriate permits and approvals.
5. The maximum height of stockpiles shall not exceed 30 feet.
6. All operations will be conducted in a manner that complies the maximum permissible environmental noise levels specified of 75 decibels received stated in Zoning Ordinance Section 7-300 (Noise) and the City of Temple Code of Ordinances four hours of operation to be Monday-through Friday, 7:00 a.m. to 6:00 p.m.
7. Blasting shall be done by permit and in accordance with regulations found in Chapter 12 of the City of Temple Code of Ordinances.

8, Site illumination shall be designed and located so that lighting sources are not directly visible from the highway or residential uses. Lighting shall not cast glare on adjacent properties.

9. A commercial building permit will be required for concrete foundations related to stabilization of equipment and containment devices, and scale house.

10. An emergency spill response plan shall be established for the new site prior to the commencement of operation. In the event of a spill or waste generated during the move, the company shall designate the waste as per state and or federal regulations.

11. Prior to building permit issuance the City of Temple Fire Department shall verify that storage of combustible and flammable liquids shall comply with applicable Fire Code and Building Code regulations.

12. The applicant is responsible for compliance with all applicable local, state and federal rules and regulations, and must obtain all appropriate permits and approvals.

13. During construction, all work associated with the proposed project shall occur between the hours of 7:00 a.m. to 6:00 p.m., Monday through Friday and 7:00 a.m. to 7:00 p.m., Saturday.

14. Final "as built" drawings shall be delivered to the City of Temple Construction Services Department upon completion.

15. Private improvements shall be clearly shown and labeled as such on each sheet of the construction plans. The note below shall appear on the cover sheet of the construction plans for private improvements:

The City of Temple shall not be responsible for the maintenance of roadway and appurtenant improvements, including storm drainage structures and pipes for all roadways in the development, specifically driveways and private accesses.

16. The applicant shall be responsible for preventing mud, dirt and debris from the site, including storm water runoff from being tracked or otherwise discharging onto the public right-of-way or adjacent properties. One access point for construction (via SH 36) shall be approved by the Texas Department of Transportation (TXDOT).

17. The internal circulation plan shall be approved by the City of Temple Fire Marshal as part of the construction plan review/acceptance process.

18. Prior to building occupancy, the engineer of record shall provide written certification that the above improvements have been completed in

conformance with city code and geotechnical assessments. Monitoring shall be required as determined appropriate by the engineer or geologist of record and in accordance with the Comprehensive Road Standards (DCC) with final reports submitted to the City of Temple Fire Department.

19. A final storm water drainage report and plan prepared by a professional engineer licensed in the State of Texas shall be submitted to and approved by City of Temple construction services prior to construction. The storm water plan shall have supporting calculations and, in the event that a computer program is used as an aid in the analysis, all input data and variables used shall be clearly identified. This includes but is not necessarily limited to: design storm unit hydrograph data points; basin data & time of concentration calculation; runoff hydrograph; reach data; storage / infiltration data; and a summary of the hydraulic design parameters for each storm water conveyance and detention / infiltration element proposed on the plans. Final "as built" drawings and material test reports shall be delivered to the City of Temple Construction Services upon completion.

20. The storm water facilities shall be owned and maintained by the property owner.

21. The property owner and lessee shall be responsible for the long-term operation, maintenance, repair and replacement of the storm water facility, and that the City of Temple will not be responsible for the maintenance of the storm water facility.

Mr. Dolan stated a total of five letters were sent out to property owners in the vicinity. Only two letters were received back in opposition to this request. The Commission was given copies of these responses prior to the meeting.

Mr. Dolan stated Staff requested the Commission to recommend approval of the CUP with the Staff's recommendations to which the applicant agreed.

Chair Pope opened the public hearing for comment.

Mr. Robert Boop of 10990 W. Highway 36 approached the Commission. Mr. Boop is a property owner in the area and stated this project will be nothing more than leaving a 120 acre hole in the ground which would never be repaired or used for anything else. Mr. Boop opposed this request due to the desolation and destruction he felt it would bring to the area.

Mr. Mark Forbes of 10044 State Highway 36 approached the Commission to speak. Mr. Forbes stated a few years back another pit had been opened and when some of the blasting occurred it created cracks in his sheetrock which Mr. Forbes spent approximately \$4,000 out of his own pocket to have repaired.

Mr. Forbes was also concerned the mining would end up extending all the way up to the highway and the amount of traffic and dust this would create.

Commissioner Talley asked Mr. Forbes about his written concern regarding the oil and grease from the crusher and trucks affecting the drinking water. Mr. Forbes stated when it rains, it all goes to Lake Belton which is where the area gets their water. Mr. Forbes did admit he had never tasted any tainted water himself but was just looking at possibilities down the road.

Mr. Keith Debault of P.O. Box 32, Rockdale, Texas addressed the Commission. to respond to some of the issues raised. In reference to spillage or contamination Mr. Debault stated their equipment was fitted with "spill kits" which are absorbent pads and buckets in case a hydraulic hose broke or some type of rupture occurred. He stated all of their diesel tanks would be double lined to help prevent any kind of spills. It is a law that if a 5 or 10 gallon spill occurs, it has to be cleaned up properly.

Mr. Debault also stated the mining operation would be looking at working perhaps 3-5 acres per year. When asked by the Commission where the mining would occur exactly, Mr. Tim Dolan responded they would not expand outward than what is shown on the current site plan without coming through the CUP process again. Mr. Dolan stated that was why Staff recommended the site plan be adopted as **Exhibit "B."**

Regarding the dynamite issues, Mr. Debault stated they would put up seismographs to measure the waves but dynamiting can be done very close to anything without any type of damage, which has been proven over the years. The people they use for blasting are insured and well trained and they try to discourage any blasting during high humidity or cloudy days.

Chair Pope asked Mr. Debault about keeping down the dust and noise. Mr. Debault responded they would have misters at each transfer point for dust and a water truck would be on-site in the areas being worked in. With the newer equipment and the type of engines they have now, the noise should not be a problem.

Mr. Tom Parker, Engineer from Mine Services, P.O. Box 32, Rockdale, Texas approached the Commission. Mr. Parker stated he did not want to leave anybody the idea that this was the only area which would be worked on. Mr. Parker offered to submit a revised map showing a year by year plan in areas where they anticipated doing work. Mr. Dolan explained why the site plan currently submitted should be adopted as part of the plan to show that it would occur only in this area. If expansion were required, the applicant would have to go through the CUP process again which included proper newspaper notification(s), contact of all pertinent property owners, and another hearing. Mr. Parker agreed to proceed as is.

Mr. Damon Boniface, 5038 Lakeaire Circle, Temple, Texas approached the Commission. Mr. Boniface manages a surface water treatment plant located on Lake Belton and spoke regarding the pollution and/or contamination issue raised. Mr. Boniface stated that State agencies have stringent rules and regulations for compliance should problems or violations occur. Once a violation occurred, a time period is allowed to cure or fix that violation. If the violation is fixed during that given time period, it is not recorded and will not show up on any records.

There being no further speakers, discussion or questions, Chair Pope closed the public hearing.

Commissioner Hurd made a motion to approve **Z-FY-09-14** request from county land to Light Industrial (LI) with the CUP for mining and mining storage subject to City Council annexing the land and subject to Staff's 21 recommendations and that the request complied with the Future Land Use Plan, the Thoroughfare Plan and water services. Commissioner Secrest made the second.

Motion passed. (4:3)

AYE:

Commissioner Barton
Commissioner Dusek
Commissioner Secrest
Commissioner Hurd

NAY:

Vice-Chair Pilkington
Chair Pope
Commissioner Talley

ABSENT:

Commissioner Susan Luck
Commissioner Derek Martin

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

MONDAY, APRIL 6, 2009

ACTION ITEMS

Z-FY-09-14: Discuss and make recommendation on a revised site plan for a Conditional Use Permit (CUP) for mining and mining storage on a 119± acre tract of land zoned Light Industrial District (LI) located in the vicinity of the southwest corner of SH 36 (Airport Road) and North SH 317, out of the McCampbell Langley Survey, Abstract No. 529 and the Elias Tuttle Survey, Abstract No. 835 (Applicant: Thomas Parker for Paul Mark Woods Trust).

Mr. Tim Dolan, Planning Director, stated as part of the public hearing discussed April 2nd with the City Council. The applicant's representative testified about a revised site plan to be used and on April 3rd the City Attorney and City Manager offices asked to acquiesce to the City Council's ideas for the Commission to review a revised site plan. None of the 21 conditions changed and they are as follows:

1. The project shall proceed in substantial conformance with the plans and application materials submitted February 2, 2009, amended on March 9, 2009, and March 12, 2009 and on file except as amended by the conditions herein. The DRC deemed it complete March 9, 2009.
2. The field notes for the area shall be adopted as **Exhibit 'A'**.
3. The mining and mining storage shall be limited to the area shown on the site plan, adopted as **Exhibit 'B'**.
4. The applicant is responsible for compliance with all applicable local, state and federal rules and regulations, and must obtain all appropriate permits and approvals.
5. The maximum height of stockpiles shall not exceed 30 feet.
6. All operations will be conducted in a manner that complies the maximum permissible environmental noise levels specified of 75 decibels received stated in Zoning Ordinance Section 7-300 (Noise) and the City of Temple Code of Ordinances four hours of operation to be Monday-through Friday, 7:00 a.m. to 6:00 p.m.
7. Blasting shall be done by permit and in accordance with regulations found in Chapter 12 of the City of Temple Code of Ordinances.

8, Site illumination shall be designed and located so that lighting sources are not directly visible from the highway or residential uses. Lighting shall not cast glare on adjacent properties.

9. A commercial building permit will be required for concrete foundations related to stabilization of equipment and containment devices, and scale house.

10. An emergency spill response plan shall be established for the new site prior to the commencement of operation. In the event of a spill or waste generated during the move, the company shall designate the waste as per state and or federal regulations.

11. Prior to building permit issuance the City of Temple Fire Department shall verify that storage of combustible and flammable liquids shall comply with applicable Fire Code and Building Code regulations.

12. The applicant is responsible for compliance with all applicable local, state and federal rules and regulations, and must obtain all appropriate permits and approvals.

13. During construction, all work associated with the proposed project shall occur between the hours of 7:00 a.m. to 6:00 p.m., Monday through Friday and 7:00 a.m. to 7:00 p.m., Saturday.

14. Final "as built" drawings shall be delivered to the City of Temple Construction Services Department upon completion.

15. Private improvements shall be clearly shown and labeled as such on each sheet of the construction plans. The note below shall appear on the cover sheet of the construction plans for private improvements:

The City of Temple shall not be responsible for the maintenance of roadway and appurtenant improvements, including storm drainage structures and pipes for all roadways in the development, specifically driveways and private accesses.

16. The applicant shall be responsible for preventing mud, dirt and debris from the site, including storm water runoff from being tracked or otherwise discharging onto the public right-of-way or adjacent properties. One access point for construction (via SH 36) shall be approved by the Texas Department of Transportation (TXDOT).

17. The internal circulation plan shall be approved by the City of Temple Fire Marshal as part of the construction plan review/acceptance process.

18. Prior to building occupancy, the engineer of record shall provide written certification that the above improvements have been completed in

conformance with city code and geotechnical assessments. Monitoring shall be required as determined appropriate by the engineer or geologist of record and in accordance with the Comprehensive Road Standards (DCC) with final reports submitted to the City of Temple Fire Department.

19. A final storm water drainage report and plan prepared by a professional engineer licensed in the State of Texas shall be submitted to and approved by City of Temple construction services prior to construction. The storm water plan shall have supporting calculations and, in the event that a computer program is used as an aid in the analysis, all input data and variables used shall be clearly identified. This includes but is not necessarily limited to: design storm unit hydrograph data points; basin data & time of concentration calculation; runoff hydrograph; reach data; storage / infiltration data; and a summary of the hydraulic design parameters for each storm water conveyance and detention / infiltration element proposed on the plans. Final "as built" drawings and material test reports shall be delivered to the City of Temple Construction Services upon completion.

20. The storm water facilities shall be owned and maintained by the property owner.

21. The property owner and lessee shall be responsible for the long-term operation, maintenance, repair and replacement of the storm water facility, and that the City of Temple will not be responsible for the maintenance of the storm water facility.

Mr. Dolan stated this item is still scheduled for the April 16th City Council meeting for a second reading. He went through the background information again for the Commission's review and stated the plan before them tonight was what the applicant requested to be considered at the City Council meeting on April 2nd, which City Council then asked the P&Z Commission to review and make a recommendation on.

Mr. Dolan stated that the previous CUP notices mailed out totaled 5 notices, 2 notices denied approval.

Chair Pope stated the basic changes to this site plan are the additional future sites for the crushing operation and Mr. Dolan confirmed.

No public hearing is required for this item but the Commission can take comments from the public, if desired.

Mr. Lloyd Thomas approached the Commission and stated on the April 6th drawing it sets forth more of the buffer area along the highway that would be maintained to ensure the mining operation stayed out of that area. The previous drawing on March 16th did not show this. This is a better presentation of what will transpire at the mining operation.

Commissioner Barton asked if the City Council already voted on this and Mr. Thomas said yes. Mr. Dolan stated the CUP was approved on the first reading on April 2nd, and the City Council asked that the Commission make a recommendation on the site plan only.

Mr. Robert Boop, 10990 W. Highway 36, approached the Commission and requested again that the Commission deny this item. It would become a 120 acre hole that will not benefit anyone and only detrimental to the area. Mr. Boop reiterated his previous concerns about this matter.

After all speakers were finished a discussion followed by the Commission regarding the recommendation on the revised site plan only. Commissioner Barton stated if he had seen this before and knew the site plan would be expanded at the original meeting, he would probably have not voted the way he did at the original meeting on March 16th.

Mr. Dolan stated he brought that issue up with City Council and Trudi Dill, Deputy City Attorney, approached the dais and stated "ultimately the outcome of the CUP is determined by the City Council." Mr. Dolan stated the City Council voted on the CUP and 21 conditions but the question from City Council was the recommendation on the revised site plan.

Ms. Dill stated that the Planning Department originally understood the first site plan would limit the mining area to the smaller area but the applicant was saying that was not their intention.

The Commissioners all seemed in agreement it was their understanding when they voted at March 16th meeting, that if the site plan were to be expanded, the applicant would have to come back through the P&Z Commission and start the procedure over. Ms. Dill stated that this was the Planning Department's recommendation but it is not the City Council's desire.

Commissioner Talley asked if this was recommended by the P&Z Commission could the Commission also request another public hearing for the City Council and Ms. Dill and Mr. Dolan stated there was probably not sufficient time for required notification and advertising for the next meeting scheduled.

Commissioner Talley made a motion to deny the recommendation for the revised site plan on the CUP and Commissioner Luck made the second.

Motion passed. (7:1)

With Commissioner Hurd voting against this motion and Commissioner Martin being absent.

ORDINANCE NO. 2009-4291

[PLANNING NO. Z-FY-09-14]

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING A CONDITIONAL USE PERMIT FOR MINING AND MINING STORAGE ON APPROXIMATELY 119 ACRES LOCATED IN THE VICINITY OF THE SOUTHWEST CORNER OF SH 36 (AIRPORT ROAD) AND NORTH SH 317, AND AUTHORIZING A ZONING CHANGE FROM AGRICULTURAL DISTRICT TO LIGHT INDUSTRIAL DISTRICT ON AN APPROXIMATELY 26.3 ACRE PORTION OF THAT TRACT; DECLARING FINDINGS OF FACT; 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 conditions, operation and location of land located in the vicinity of the southwest corner of SH 36 (Airport Road) and North SH 317, recommends that the City Council approve the application for this Conditional Use Permit for mining and mining storage, including a zoning change from Agricultural District to Light Industrial District on an approximately 26.3 acre portion of that tract; 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 by the applicant concerning the proposed plans for operation of said establishment and has heard the comments and evidence presented by all persons supporting or opposing this application at said public hearing, and after examining the conditions, operation and the location of said 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 for mining and mining storage on approximately 119 acres located in the vicinity of the southwest corner of SH 36

(Airport Road) and North SH 317, and authorizes a zoning change from Agricultural to Light Industrial on an approximately 26.3 acre portion of that tract, both tracts being more fully shown on a map which is attached hereto and made a part hereof for all purposes as Exhibit A.

Part 2: The owner/applicant, his employees, lessees, agents or representatives, hereinafter called "permittee" shall comply with the following developmental standards and conditions of operation:

- A. The project shall proceed in substantial conformance with the plans and application materials submitted February 2, 2009, amended on March 9, 2009, and March 12, 2009, and on file except as amended by the conditions herein. The DRC deemed it complete March 9, 2009.
- B. The mining and mining storage shall be limited to the area shown on the site plan, attached hereto as Exhibit B.
- C. The applicant is responsible for compliance with all applicable local, state and federal rules and regulations, and must obtain all appropriate permits and approvals.
- D. The maximum height of stockpiles shall not exceed 30 feet.
- E. All operations will be conducted in a manner that complies the maximum permissible environmental noise levels specified of 75 decibels received stated in Zoning Ordinance Section 7-300 (Noise) and the City of Temple Code of Ordinances four hours of operation to be Monday-through Friday, 7:00 a.m. to 6:00 p.m.
- F. Blasting shall be done by permit and in accordance with regulations found in Chapter 12 of the City of Temple Code of Ordinances.
- G. Site illumination shall be designed and located so that lighting sources are not directly visible from the highway or residential uses. Lighting shall not cast glare on adjacent properties.
- H. A commercial building permit will be required for concrete foundations related to stabilization of equipment and containment devices, and scale house.
- I. An emergency spill response plan shall be established for the new site prior to the commencement of operation. In the event of a spill or waste generated during the move, the company shall designate the waste as per state and or federal regulations.
- J. Prior to building permit issuance the City of Temple Fire Department shall verify that storage of combustible and flammable liquids shall comply with applicable Fire Code and Building Code regulations.
- K. Final "as built" drawings shall be delivered to the City of Temple Construction Services Department upon completion.
- L. Private improvements shall be clearly shown and labeled as such on each sheet of the construction plans. The note below shall appear on the cover sheet of the construction plans for private improvements:

The City of Temple shall not be responsible for the maintenance of roadway and appurtenant improvements, including storm drainage structures and pipes for all roadways in the development, specifically driveways and private accesses.

- M. The applicant shall be responsible for preventing mud, dirt and debris from the site, including storm water runoff from being tracked or otherwise

discharging onto the public right-of-way or adjacent properties. One access point for construction (via SH 36) shall be approved by the Texas Department of Transportation (TXDOT).

- N. The internal circulation plan shall be approved by the City of Temple Fire Marshal as part of the construction plan review/acceptance process.
- O. Prior to building occupancy, the engineer of record shall provide written certification that the above improvements have been completed in conformance with city code and geotechnical assessments. Monitoring shall be required as determined appropriate by the engineer or geologist of record and in accordance with the Comprehensive Road Standards (DCC) with final reports submitted to the City of Temple Fire Department.
- P. A final storm water drainage report and plan prepared by a professional engineer licensed in the State of Texas shall be submitted to and approved by City of Temple construction services prior to construction. The storm water plan shall have supporting calculations and, in the event that a computer program is used as an aid in the analysis, all input data and variables used shall be clearly identified. This includes but is not necessarily limited to: design storm unit hydrograph data points; basin data & time of concentration calculation; runoff hydrograph; reach data; storage / infiltration data; and a summary of the hydraulic design parameters for each storm water conveyance and detention / infiltration element proposed on the plans. Final "as built" drawings and material test reports shall be delivered to the City of Temple Construction Services upon completion.
- Q. The storm water facilities shall be owned and maintained by the property owner.
- R. The property owner and lessee shall be responsible for the long-term operation, maintenance, repair and replacement of the storm water facility, and that the City of Temple will not be responsible for the maintenance of the storm water facility.

Part 3: The Director of Planning is hereby directed to make the necessary changes to the City Zoning Map accordingly.

Part 4: 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 5: 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 6: 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 7: 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 **2nd** day of **April**, 2009.

PASSED AND APPROVED on Second Reading on the **16th** day of **April**, 2009.

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

04/16/09
Item #9
Regular Agenda
Page 1 of 2

DEPT./DIVISION SUBMISSION & REVIEW:

Tim Dolan, Planning Director

ITEM DESCRIPTION: FIRST READING – PUBLIC HEARING - Z-FY-09-17: Consider adopting an ordinance authorizing a zoning change on a 18± acre tract of land from Commercial District (C) and Multiple-Family Two District (MF-2) to Two-Family District (2F) and a 3.2± acre tract of land from Single-Family Attached District (SF-A) and General Retail District (GR) to Single-Family One District (SF-1) on a total of 21.2± acres situated in the George Givens Survey, Abstract No 345, with platted land recorded as Bird Creek Valley VI, Bird Creek Valley Patio Homes, Bird Creek Valley Commercial Park Phase IV and Bird Creek Valley 4-Plexes Phase III, located on both sides of Battle Drive, 352± feet north of Midway Drive, 190± west of Arrowhead Drive.

STAFF AND P&Z COMMISSION RECOMMENDATION: At its April 6, 2009 meeting, the Planning and Zoning Commission voted 8/0 in accordance with staff recommendation to recommend approval of a zone change from C and MF-2 zoning districts to 2F zoning district and from SF-A and GR zoning districts to SF-1 zoning district for the following reasons:

1. The request complies with the Future Land Use and Character Map;
2. The request complies with the Thoroughfare Plan; and
3. Adequate public facilities will serve the property.

Commissioner Martin was absent.

ITEM SUMMARY: Please refer to the Staff Report and draft minutes of case Z-FY-09-17, from the Planning and Zoning meeting, April 6, 2009. The City requests this zone change to accommodate a two-family and single-family subdivision. The rezoning request conforms to the Council's amendment for Suburban Residential uses shown on the Future Land Use and Character Plan approved December 4, 2008. The existing zoning of Commercial and Multiple-Family 2 already allows two-family dwellings and the existing zoning of General Retail and Single-Family Attached allows single-family detached dwellings. The applicant could build such dwellings without this rezoning taking place. The zoning change is requested because future amendments to the Zoning Ordinance may make the proposed dwellings nonconforming uses if no rezoning takes place.

The new Comprehensive Plan recommends the use table in the Zoning Ordinance be modernized. One of the ways to modernize the use table is to move away from the cumulative structure so that each zoning district has its own 'flavor' with a predictable set of permitted uses. The two-family dwellings are currently permitted by right in the C and MF-2 zoning districts. The property should be rezoned in the event that two-family dwellings become prohibited in these zoning districts. Otherwise, the development could become a nonconforming use. The same reasoning applies to changing the zoning on the GR and SFA properties to SF-1 to accommodate the single-family dwellings that are proposed in the subdivision.

The Commission did not raise any issues requiring additional staff attention.

FISCAL IMPACT: NA

ATTACHMENTS:

[Aerial](#)
[Zoning Map](#)
[Land Use and Character Map](#)
[Notice Map](#)
[P&Z Staff Report \(Z-FY-09-17\)](#)
[P&Z Minutes \(04/06/09\)](#)
[Ordinance](#)



Z-FY-09-17

Proposed Residences at Bird Creek

2900-3300 Battle Drive



Proposed 2F



Proposed SF1

C & MF2 to 2F

SFA & GR to SF1

1 inch = 400 feet

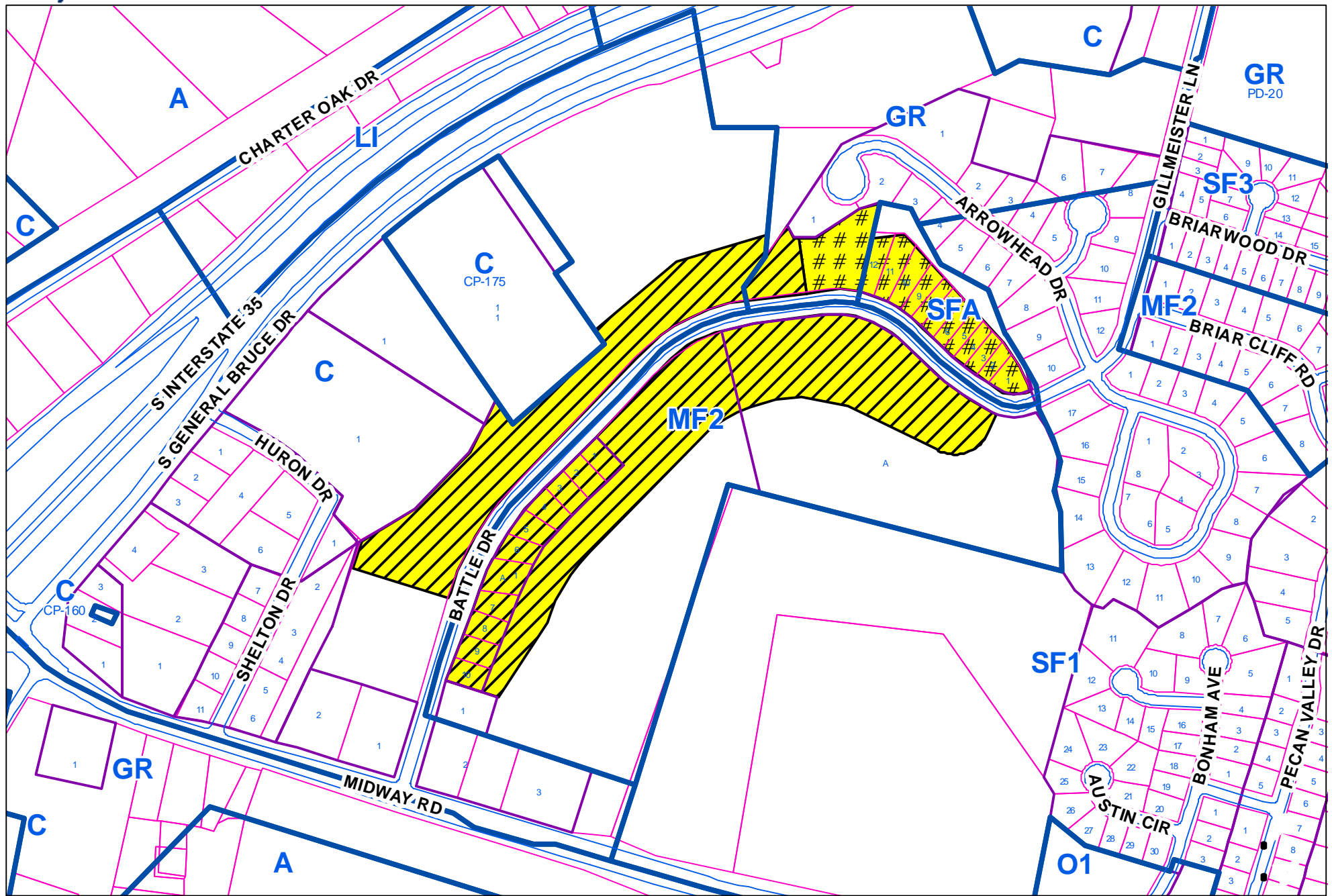
J Stone 3.13.09





Z-FY-09-17

Proposed Residences at Bird Creek

2900-3300 Battle Drive



 Proposed 2F  Proposed SF1

C & MF2 to 2F SFA & GR to SF1

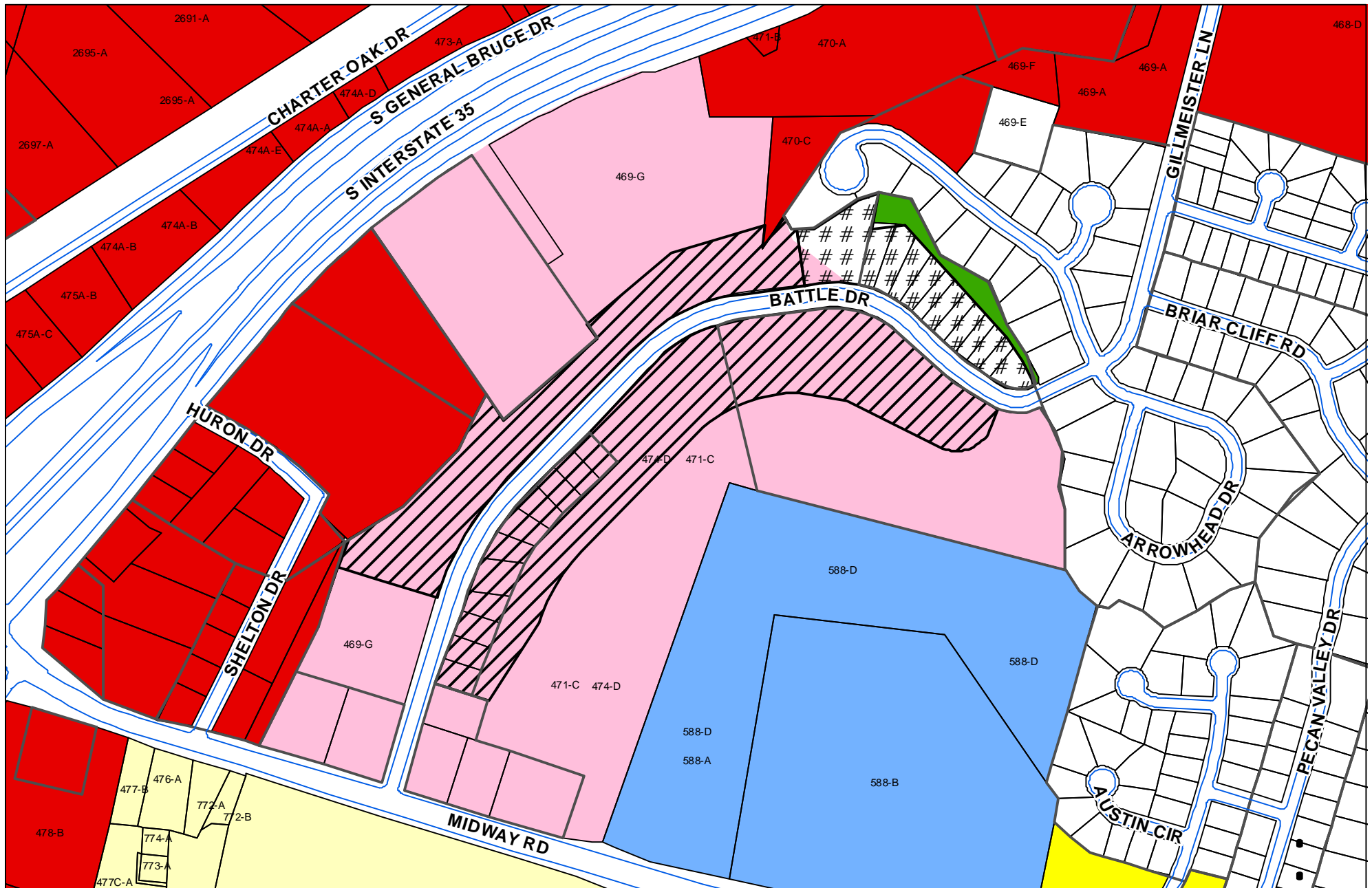
1 inch = 400 feet
J Stone 3.13.09



Z-FY-09-17

Proposed Residences at Bird Creek

2900-3300 Battle Drive



- | | | | | | |
|-----------------|---------------------------|-------------------------|-----------------------|-----------------------------------|----------------------|
| Temple Boundary | Neighborhood Conservation | Auto-urban Residential | Auto-Urban Commercial | Temple Medical Education District | Public/Institutional |
| Proposed 2F | Estate Residential | Auto-Urban Multi-Family | Suburban Commercial | Industrial | Parks and Open Space |
| Proposed SF1 | Suburban Residential | Auto-Urban Mixed Use | Urban Center | Business park | Arroyo/SF2/Rural |

1 inch = 400 feet

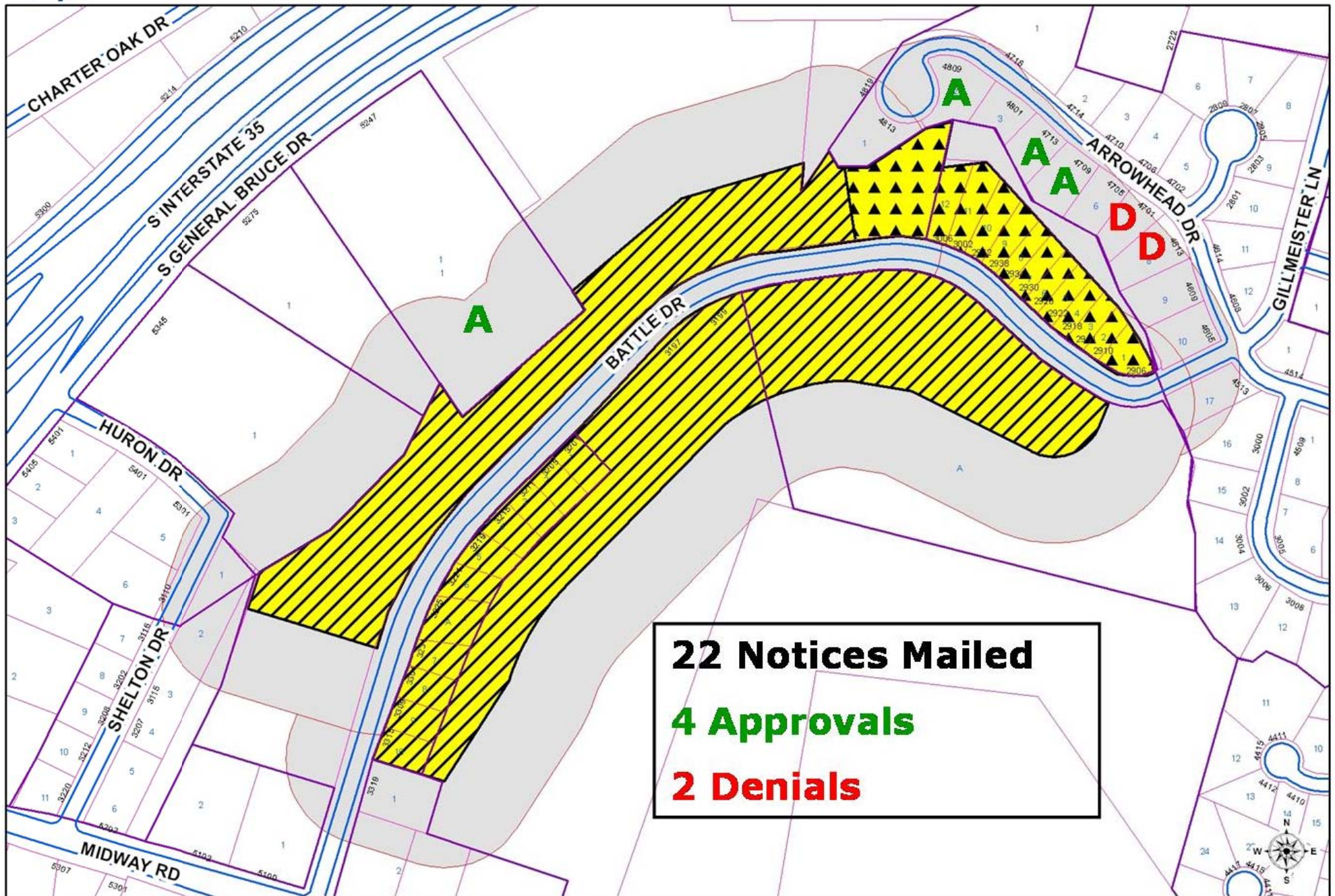
J Stone 3.13.09



Z-FY-09-17

Proposed Residences at Bird Creek

2900-3300 Battle Drive



Proposed 2F Proposed SF1 200' Buffer

C & MF2 to 2F SFA & GR to SF1

1 inch = 300 feet
J Stone 3.13.09



PLANNING AND ZONING COMMISSION AGENDA ITEM

04/06/09
Item #2
Regular Agenda
Page 1 of 3

APPLICANT / DEVELOPMENT: City of Temple

CASE MANAGER: Brian Mabry, AICP, Senior Planner

ITEM DESCRIPTION: **Z-FY-09-17:** Hold a public hearing to discuss and recommend action on a zone change on a 18± acre tract of land **from** Commercial District (C) and Multiple-Family Two District (MF-2) **to** Two-Family District (2F) and a 3.2± acre tract of land **from** Single-Family Attached District (SF-A) and General Retail District (GR) **to** Single-Family One District (SF-1) on a total of 21.2± acres situated in the George Givens Survey, Abstract No 345, with platted land recorded as Bird Creek Valley VI, Bird Creek Valley Patio Homes, Bird Creek Valley Commercial Park Phase IV and Bird Creek Valley 4-Plexes Phase III, located on both sides of Battle Drive, 352± feet north of Midway Drive, 190± west of Arrowhead Drive.

BACKGROUND: The City requests this zone change to accommodate a two-family and single-family subdivision. The existing zoning of C, Commercial and MF-2, Multiple-Family 2 already allows two-family dwellings and the existing zoning of GR, General Retail and SFA, Single-Family Attached allows single-family detached dwellings. The applicant could build such dwellings without this rezoning taking place.

The zone change is requested because future amendments to the Zoning Ordinance may make the proposed dwellings nonconforming uses if no rezoning takes place. The use table in the Zoning Ordinance has a cumulative structure, meaning that uses allowed in less intensive zoning districts – including residential uses – frequently carry over into more intensive zoning districts. The new Comprehensive Plan recommends that the use table in the Zoning Ordinance be modernized. One of the ways to modernize the use table is to move away from the cumulative structure so that each zoning district has its own ‘flavor’ with a predictable set of permitted uses. Although two-family dwellings are currently permitted by right in the C and MF-2 and zoning districts, the property should be rezoned in the event that two-family dwellings become prohibited in these zoning districts. Otherwise, the development could become a nonconforming use. Applying the 2F, Two-Family zoning district to the property would also prohibit potentially incompatible nonresidential uses from being established in the subdivision. In addition, the 2F zoning district requires a 25’ minimum front yard setback rather than the front yard setback of 30 feet from the centerline of the road that is required in C.

The same reasoning applies to changing the zoning on the GR and SFA properties to SF-1, Single-Family 1 to accommodate the single-family dwellings that are proposed in the subdivision.

Surrounding Property and Uses

The following table shows the existing zoning and current land uses abutting the subject property:

| Direction | Zoning | Current Land Use |
|-----------|--------|---------------------------|
| North | GR | Single-family subdivision |
| | | Vacant |
| East | MF2 | Vacant |
| | SF-1 | Single-family subdivision |
| South | MF2 | Vacant |
| | C | Vacant |
| West | C | Equipment Rental |

A zoning request should be reviewed for compliance with the Comprehensive Plan.

Future Land Use and Character

The portion outside of the area shown Neighborhood Conservation (the area near Arrowhead Drive) is designated Suburban Residential on the Future Land Use and Character Map. The request complies with the Future Land Use and Character Map.

Thoroughfare Plan

Battle Drive is designated as collector road on the Thoroughfare Plan. A preliminary plat, still an incomplete application, which the Development Review Committee is currently reviewing shows 24 proposed two-family lots on the south side of Battle Drive being served with rear access, reducing the number of potential curb cuts and on-street parking along Battle Drive. The residential request complies with the Thoroughfare Plan.

Adequacy of Public Facilities

The platting process will ensure that adequate public water and sewer lines will be extended and improved for those portions of the property without services.

Development Regulations – 2F & SF-1

The purpose of the 2F zoning district is to accommodate single-family and duplex dwellings allowing an orderly transition from single-family neighborhoods to higher densities of residential use. Permitted uses include two-family dwellings, single-family dwellings and supporting public uses such as schools or places of worship. Most other nonresidential uses are prohibited.

The minimum lot area and setback requirements for a two-family dwelling in the 2F, Two-Family zoning district are as follows.

| 2F, Two-Family Dwelling | |
|-------------------------|-------------------------|
| Min. Lot Area (sq. ft.) | 4,000 per dwelling unit |
| Min. Lot Width (ft.) | 60 |
| Min. Lot Depth (ft.) | 100 |
| Max. Height (stories) | 2 ½ |
| Min. Yard (ft) | |
| Front | 25 |
| Side | 5 |
| Rear | 10 |

The purpose of the SF-1 zoning district is to be developed with average or standard single-family lots which serve as a transition between larger and smaller lot single-family districts.

Permitted uses include single-family dwellings and supporting public uses such as schools or places of worship. Most other nonresidential uses are prohibited.

The minimum lot area and setback requirements for a single-family dwelling in the SF-1 zoning district are as follows.

| SF-1, Single-Family 1 | |
|-------------------------|---------------------------------------|
| Min. Lot Area (sq. ft.) | 7,500 |
| Min. Lot Width (ft.) | 60 |
| Min. Lot Depth (ft.) | 100 |
| Max. Height (stories) | |
| Min. Yard (ft) | |
| Front | 25 |
| Side | 10% width of lot - 6 min & 7.5 max |
| Rear | 10 |

Public Notice

Twenty-two notices were sent out. As of Tuesday, March 31 at 5 PM, one notice was returned in favor of and one notice was returned in opposition to the request. The newspaper printed notice of the public hearing on March 28, 2009 in accordance with state law and local ordinance

STAFF RECOMMENDATION: Staff recommends approval of Z-FY-09-17, the zone change from C and MF-2 zoning districts to 2F zoning district and from SFA and GR zoning districts to SF-1 zoning district for the following reasons:

1. The request complies with the Future Land Use and Character Map;
2. The request complies with the Thoroughfare Plan; and
3. Adequate public facilities will serve the property.

FISCAL IMPACT: Not Applicable

ATTACHMENTS:

Zoning Map
Land Use and Character Map
Aerial
Notice Map
Response Letters

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

MONDAY, APRIL 6, 2009

ACTION ITEMS

Z-FY-09-17: Hold a public hearing to discuss and recommend action on a zone change on a 18+ acre tract of land from Commercial District (C) and Multiple-Family Two District (MF-2) to Two-Family District (2F) and a 3.2+ acre tract of land from Single-Family Attached District (SFA) and General Retail District (GR) to Single-Family One District (SF-1) on a total of 21.2± acres situated in the George Givens Survey, Abstract No 345, with platted land recorded as Bird Creek Valley VI, Bird Creek Valley Patio Homes, Bird Creek Valley Commercial Park Phase IV and Bird Creek Valley 4-Plexes Phase III, located on both sides of Battle Drive, 352+ feet north of Midway Drive, 190+ west of Arrowhead Drive.

Mr. Brian Mabry, Senior Planner presented this Powerpoint presentation to the Commission and explained the City requested this zone change to accommodate a two-family and single-family subdivision. The existing zoning of Commercial (C) and Multiple-Family 2 (MF-2) already allowed two family dwellings and the existing zoning of General Retail (GR) and Single-Family Attached (SFA) allows single-family detached dwellings. The applicant could build such dwellings without this rezoning taking place.

Mr. Mabry explained the purpose of the 2F zoning district is to accommodate single-family and duplex dwellings allowing an orderly transition from single-family neighborhoods to higher densities of residential use. Permitted uses include two-family dwellings, single-family dwellings and supporting public uses such as schools or places of worship. Most other nonresidential uses are prohibited.

Mr. Mabry clarified this item is basically a housekeeping item for Chair Pope and Staff recommended approval of **Z-FY-09-17**, the zone change from C and MF-2 zoning districts to 2F zoning district and from SFA and GR zoning districts to SF-1 zoning district for the following reasons: The request complies with the Future Land Use and Character Map; the request complies with the Thoroughfare Plan; and adequate public facilities will serve the property.

Chair Pope opened the public hearing for comment.

Mr. Wayne Pope, 4713 Arrowhead, approached the Commission and stated the plan is substantially better now than seen in the past and appreciated fewer homes added value to the existing homes. Mr. Pope had one

suggestion that Single Family homes facing Single Family homes versus duplexes would be nice.

Mr. Pope's concerns however, were the same as before: the road, heavy traffic and water/creek issues. Mr. Pope approached the map and explained to the Commission where his areas of concern were located.

Mr. Cy Long, 5227 W. Adams Avenue, #106, approached the Commission on behalf of the Aspen Development Group who currently owned the property and Mr. Long is in the process of buying the property and had a company to perform the work.

Mr. Long stated duplexes were not welcomed in the area and needed the option of doing Single Family dwellings.

Mr. Long stated an intensive flood study was done in the area that has been submitted to FEMA to get the flood plain cleaned up. Mr. Long approached the map and explained what they would need in order for the flood plain to be cleaned up. Mr. Long stated the debris in the creek area would be cleaned up. He wanted a clean, well-maintained and manicured development in the area so everyone would be pleased and possibly a hike and bike trail would be placed in the area.

Chair Pope and Commissioner Talley questioned Mr. Mabry about drainage and the condition of Battle Drive. Mr. Mabry responded that although those are platting issues and this is a rezoning case, Battle Drive is currently adequate in terms of right-of-way and pavement width and so the City cannot require the developer to widen or improve the street. In addition, the street is not on the Capital Improvements Plan for improvement over the next five years. Regarding drainage, it is the responsibility of the developer's engineer to demonstrate that the development complies with the City's drainage standards and that post-development drainage will be equal to or better than pre-development drainage.

There being no further speakers, discussion or questions, Chair Pope closed the public hearing.

Vice-Chair Pilkington made a motion to approve **Z-FY-09-17** as Staff had presented it and Commissioner Hurd made the second.

Commissioner Derek Martin was absent.

Motion passed. (8:0)

ORDINANCE NO. _____

[PLANNING NO. Z-FY-09-17]

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, APPROVING A ZONING CHANGE ON AN APPROXIMATELY 18 ACRE TRACT OF LAND FROM COMMERCIAL DISTRICT (C) AND MULTIPLE-FAMILY TWO DISTRICT (MF-2) TO TWO FAMILY DISTRICT (2F) AND AN APPROXIMATELY 3.2 ACRE TRACT OF LAND FROM SINGLE-FAMILY ATTACHED DISTRICT (SF-A) AND GENERAL RETAIL DISTRICT (GR) TO SINGLE-FAMILY ONE DISTRICT (SF-1) ON A TOTAL OF APPROXIMATELY 21.2 ACRES SITUATED IN THE GEORGE GIVENS SURVEY, ABSTRACT NO. 345, WITH PLATTED LAND RECORDED AS BIRD CREEK VALLEY VI, BIRD CREEK VALLEY PATIO HOMES, BIRD CREEK VALLEY COMMERCIAL PARK PHASE IV AND BIRD CREEK VALLEY 4-PLEXES PHASE III, LOCATED ON BOTH SIDES OF BATTLE DRIVE, APPROXIMATELY 352 FEET NORTH OF MIDWAY DRIVE, APPROXIMATELY 190 FEET WEST OF ARROWHEAD DRIVE; 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 on an approximately 18 acre tract of land from Commercial District (C) and Multiple-Family Two District (MF-2) to Two Family District (2F) and an approximately 3.2 acre tract of land from Single-Family Attached District (SF-A) and General Retail District (GR) to Single-Family One District (SF-1) on a total of approximately 21.2 acres situated in the George Givens Survey, Abstract No. 345, with platted land recorded as Bird Creek Valley VI, Bird Creek Valley Patio Homes, Bird Creek Valley Commercial Park Phase IV and Bird Creek Valley 4-Plexes Phase III, located on both sides of Battle Drive, approximately 352 feet north of Midway Drive, approximately 190 feet west of Arrowhead Drive, 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 **16th** day of **April**, 2009.

PASSED AND APPROVED on Second Reading on the **7th** day of **May**, 2009.

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

04/16/09
Item #10
Regular Agenda
Page 1 of 2

DEPT./DIVISION SUBMISSION & REVIEW:

Jonathan Graham, City Attorney

ITEM DESCRIPTION: Consider adopting resolutions:

(A) Supporting the adoption of Senate Bill 1570 by the Texas Legislature, which would authorize the State of Texas to contract with the "South Central High Speed Rail Corporation, Inc.," a local government corporation organized under Chapter 431 of the Transportation Code, to facilitate, analyze, and implement high speed passenger rail service within the South Central High-Speed Rail Corridor and the Gulf Coast High-Speed Rail Corridor.

(B) Authorizing the City of Temple to form a local government corporation, to facilitate, analyze, and implement the development of high-speed passenger rail service within the South Central High-Speed Rail Corridor and the Gulf Coast High-Speed Rail Corridor.

STAFF RECOMMENDATION: Adopt resolutions presented in item description.

ITEM SUMMARY: **Support for the Adoption of SB 1570:** Senate Bill 1570, a bill currently under consideration by the Texas Senate, authorizes the State of Texas, acting through the Railroad Commission, to contract with a local government corporation (LGC) to facilitate, analyze and implement high-speed passenger rail service in Texas. A high-speed passenger rail service means service capable of operating in excess of 200 miles per hour. The primary focus for the LGC is what is defined as the "South Central High-Speed Rail Corridor," which is a federal designation for an area encompassing Texas, Oklahoma and Arkansas, and the "Gulf Coast High-Speed Rail Corridor," an area in Texas roughly corresponding to the DFW/Houston/San Antonio triangle.

SB 1570 authorizes the local government corporation, among other things, to: (1) seek federal and state funding for high-speed passenger rail service; (2) seek interconnectivity of high-speed passenger rail systems in Texas with similar systems in other states; (3) seek interconnectivity with other high-speed passenger rail system with other existing and planned transportation systems within the state and adjacent states (e.g., airports, seaports, highways and other commuter rail); (4) ensure connectivity with Fort Hood, Texas; (5) contract with private companies or foreign governments for the design, construction, financing and operation of a high-speed passenger rail system; and (6) to coordinate their efforts with the State and its agencies.

Creation of the Local Government Corporation: SB 1570, in its current form, authorizes the State to contract with a local government corporation, which it denotes as the “South Central High Speed Rail Corporation, Inc.” The South Central High Speed Rail Corporation has to be organized under Chapter 431, Subchapter D, of the Texas Transportation Code, and takes its name from the federal designation for a high-speed rail corridor that could serve Texas, Oklahoma and Arkansas.

The City of Temple has been an active participant in the Texas High Speed Rail and Transportation Corporation (THSRTC), a coalition of cities, counties and other entities promoting high speed rail in Texas, and the Mayor of Temple currently serves on its board of directors. Temple is at the central location within the Gulf Coast High-Speed Rail Corridor—at the “T” of a proposed intersection of a high-speed line passenger rail line running from DFW to San Antonio where it intersects a perpendicular high-speed line passenger rail line running from Houston to Temple.

Given our role within THSRTC and our geographical location within the Gulf Coast High Speed Rail Corridor, Temple has been asked to be the local government entity that forms the South Central High Speed Rail Corporation, Inc. (An alternative name of the proposed local government corporation is the “South Central High-Speed Rail and Transportation Authority, Inc.”)

The proposed resolution authorizes the City Attorney to proceed with the filing of articles of incorporation with the Secretary of State’s office to create this local government corporation. The structure of the proposed South Central High Speed Rail Corporation, Inc., allows other municipalities, counties and other local government entities to participate in the board of directors for the corporation.

FISCAL IMPACT: There is a nominal filing fee for filing the articles of incorporation for the South Central High Speed Rail Corporation, Inc. There may be additional nominal fees for filing for tax exempt status with the Internal Revenue Service.

ATTACHMENTS:

[Copy of S.B. 1570](#)
[Draft Articles of Incorporation](#)
[Resolution](#)

A BILL TO BE ENTITLED

AN ACT

relating to the facilitation, analysis, and implementation of high-speed passenger rail in this state.

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

SECTION 1. Title 5, Transportation Code, is amended by adding Chapter 92 to read as follows:

CHAPTER 92. HIGH-SPEED PASSENGER RAIL

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 92.001. DEFINITIONS. In this chapter:

(1) "High-speed rail" means passenger rail service capable of operating at speeds greater than 200 miles per hour.

(2) "Corporation" means the South Central High Speed Rail Authority, Inc., a local government corporation organized under Sec. 431, Subchapter D, Transportation Code.

(3) "Federally-designated high-speed passenger rail corridor" means those corridors designated by the United States Secretary of Transportation prior to the passage of this ACT, pursuant to 23 U.S.C. Section 104(d)(2).

(4) "South Central High-Speed Rail Corridor" means that

federally-designated high-speed rail corridor designated by the Secretary on October 1, 2000 serving the states of Texas, Oklahoma, and Arkansas, including the expansion of that corridor referred to by Sec. 224 (c)(B), Passenger Rail Investment and Improvement Act of 2008.

(5) "Gulf Coast High-Speed Rail Corridor" means that federally-designated high-speed rail corridor designated by 23 U.S.C. Section 104(d)(2)(B)(iii).

[Sections 92.002-92.050 reserved for expansion]

SUBCHAPTER B. HIGH-SPEED PASSENGER RAIL FACILITATION, ANALYSIS, AND IMPLEMENTATION

Sec. 92.051. CONTRACT FOR FACILITATION, ANALYSIS, AND IMPLEMENTATION. (a) The commission shall contract with the corporation to negotiate on behalf of this State to facilitate, analyze, and implement the development of high-speed passenger rail within the South Central High-Speed Rail Corridor and the Gulf Coast High-Speed Rail Corridor and any other corridors identified by the department, commission, or the corporation.

(b) The corporation shall be responsible for:

(1) soliciting federal, state, regional, local, and private funding to be allocated to the corporation for the purposes of this subchapter;

(2) coordinating with federal officials and representatives from adjacent states regarding the

interconnectivity of high-speed passenger rail systems in this state with systems developed in federally designated high-speed passenger rail corridors in other states; and

(3) representing and negotiating on behalf of this state to ensure the interconnectivity of high-speed passenger rail with existing and planned transportation systems, including airports, seaports, transit systems, commuter rail systems, and highways in this state and adjacent states; and

(4) coordinating with federal transportation officials and officials at the United States Department of Defense to ensure the connectivity of high-speed passenger rail with the largest military installation in this state, as determined by land-area, and located entirely or partially within a county in which a federally-designated high-speed rail corridor is also located; and

(5) engaging, negotiating, and entering into contracts with representatives of private companies and foreign governments for the designing, construction, operation, and financing of the high-speed passenger rail system described by and called for in this chapter

(6) coordinating the fulfillment of this chapter with the department

Sec. 92.052. SYSTEM REQUIREMENTS. The high-speed passenger rail system developed under this subchapter must:

(1) provide high-speed passenger rail connectivity to

the state's two busiest airports, as determined by the number of commercial operations as of March 12, 2009, as determined by the Federal Aviation Administration; and

(2) enhance connectivity for and ease of passenger transport to and from the largest military installation by land area located in this state; and

(3) be developed in collaboration with high-speed passenger rail projects in other areas of the United States to ensure interconnectivity with other federally designated high-speed rail corridors; and

(4) use the narrowest right of way determined by the corporation to be necessary or convenient for the construction of the high-speed passenger rail system described by and called for in this chapter; and

(5) where deemed appropriate and possible by the corporation, be elevated and/or grade-separated.

Sec. 92.053. REPORTS. The corporation shall annually submit a report regarding its activities under this subchapter to:

(1) the governor;

(2) the lieutenant governor;

(3) the speaker of the house of representatives;

(4) the senate finance committee;

(5) the house committee on appropriations; and

(6) the standing committee in the senate and the house

of representatives that has primary jurisdiction over rail transportation issues.

SECTION 2. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2009.

ARTICLES OF INCORPORATION
OF
SOUTH CENTRAL HIGH SPEED RAIL AND TRANSPORTATION AUTHORITY, INC.

We the undersigned natural persons, all being residents of the State of Texas and above the age of 18 years, acting as incorporators of a corporation under Subchapter D, Texas Transportation Corporation Act, TEX TRANSP. CODE ANN. §431.101 *et seq.* (the “Act”) and TEX. LOC. GOV’T. CODE ANN. §394.001 *et seq.* adopt the following Articles of Incorporation:

I.

The name of the corporation is the South Central High-Speed Rail and Transportation Authority, Inc.

II.

The Corporation is a public nonprofit corporation.

III.

The period of its duration is perpetual.

IV.

The Corporation is organized to aid and act on behalf of the sponsoring counties, municipalities and authorities, and all local governments in the State of Texas, in developing, managing, operating and maintaining high-speed rail and transportation facilities and related stations and developments. This purpose includes developing and implementing plans to link, with high-speed rail and other transportation systems communities in Texas and other states generally along the routes of the federally-designated high-speed rail corridors known as the South Central High-Speed Rail Corridor and the Gulf Coast High-Speed Rail Corridor and the expansion of these Corridors described in the Passenger Rail Investment and Improvement Act of 2008 and other corridors that may be designated in the national plan or other corridors and routes which will serve to link the communities of Texas together with an efficient rail and transportation system.

V.

The Corporation shall have no members.

VI.

The Corporation shall have all rights, powers, privileges, authority and functions given under the Act and by the general laws of Texas to nonprofit corporations incorporated under the Texas Non-Profit Corporation Act which are consistent with the Act.

VII.

The Corporation's budget, including any budget amendments, shall be subject to the approval by a majority of the sponsoring entities.

VIII.

These Articles of Incorporation and the Bylaws of the Corporation may be amended at any time by the Board of Directors of the Corporation with the approval of the sponsoring governmental entities or by the sponsoring governmental entities in their sole discretion.

IX.

The number of Directors constituting the initial Board of Directors is nine. A change in the number of directors may be made only by amendment to these Articles of Incorporation. The names and addresses of the persons who are to serve as the initial Board of Directors, each of whom resides in the one of the sponsoring governmental entities are:

The sponsoring governmental entities shall appoint Directors for new terms and fill any vacancy in the Board of Directors. Each sponsoring governmental entity shall appoint one Director and the remaining Directors, if any, shall be appointed by a weighted majority vote of all sponsoring entities, each entity being entitled to one vote for Director per resident as determined by the most recent federal census. Members of the initial Board of Directors shall hold office for a term of two, four or six years. At the organizational meeting of the Board, the members shall draw lots to determine their terms, three of which shall be for two years, three of which shall be for four years and three of which shall be for six years. After the initial term, all Directors shall serve a term of six years. A term shall end on the anniversary of the initial appointment regardless of the date of the actual appointment to the board. A director may be removed at any time, with or without cause, by order of the appointing entity or entities. The Board shall select one of its members to serve as Chair of the Board of Directors.

X.

The name and street address of each incorporator, each of whom resides in a sponsoring governmental entity, is:

XI.

No Director shall be liable to the Corporation for monetary damages for an act or omission in the director's capacity as a Director, except to the extent the Director is found to be liable: (i) for any breach of the Director's duty of loyalty to the Corporation, (ii) for acts or omissions not in good faith that constitute a breach of duty or which involve intentional misconduct of the Director or a knowing violation of law, (iii) for any transaction from which the Director received an improper benefit, whether or not the benefit resulted from an act taken within the scope of the Director's office, or (iv) for acts or omissions for which the liability of a Director is expressly provided by statute. Any repeal or amendment of the Article shall be prospective only, and shall not adversely effect any limitation on the personal liability of a Director existing at the time of such repeal or amendment. In addition to the circumstances in which a Director is not personally liable as set forth in the preceding sentences, a Director shall not be liable to the fullest extent permitted by any amendment to the Texas statutes that further limits the liability of a Director.

XII.

In the event of the dissolution of the Corporation, its assets shall be applied and distributed as follows:

- A. All liabilities and obligations of the Corporation shall be paid, satisfied and discharged, as set forth in the Texas Non-Profit Corporation Act, Tex. Rev. Civ. Stat. Ann. Art 1396-6.02 §A.(1)(Vernon 1997).
- B. Assets held by the Corporation upon condition requiring return, transfer, or conveyance, which condition occurs by reason of the dissolution, shall be returned, transferred or conveyed in accordance with those requirements.
- C. The remaining assets shall be distributed to the sponsoring governmental entities or to the State of Texas as agreed by the sponsoring governmental entities. If there is no agreement, the assets shall be distributed as follows: For physical assets, including real estate and personal property, first to the sponsoring governmental entity in which the asset is located and if the asset is located in more than one sponsoring governmental entity, to the entity with the largest total population with an elected governing body; for assets not located in a sponsoring governmental entity, to the nearest sponsoring governmental entity with connecting physical assets or, if there are no connecting physical assets, to the nearest sponsoring governmental entity. All remaining assets shall be distributed based on the value of the physical assets distributed to the sponsoring governmental entity or, if there are no physical assets, distributed proportionately based on the population of the sponsoring governmental entity according to the most recent federal census.

XIII.

A resolution approving this form of the Articles of Incorporation of the Corporation was adopted by the (governing body – Commissioners Court/City Council/etc.) of (county/city/authority) on the ____ day of ____ 2009.

IN WITNESS WHEREOF, we have hereunto set our hands as of this ____ day of _____ 2009.

The State of Texas §

County of _____ §

Before me, the undersigned authority, on this day personally appeared _____,
_____ and _____ whose names are subscribed to the foregoing instrument and,
being by me first duly sworn, declared that the statements therein contained are true and correct.

Given under my hand and seal of office this the _____ day of _____, 2009

Name

Notary Public in and for

The State of Texas

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, SUPPORTING THE ADOPTION OF SENATE BILL 1570 BY THE TEXAS LEGISLATURE, WHICH WOULD AUTHORIZE THE STATE OF TEXAS TO CONTRACT WITH THE "SOUTH CENTRAL HIGH SPEED RAIL CORPORATION, INC.," A LOCAL GOVERNMENT CORPORATION ORGANIZED UNDER CHAPTER 431 OF THE TRANSPORTATION CODE, TO FACILITATE, ANALYZE, AND IMPLEMENT HIGH SPEED PASSENGER RAIL SERVICE WITHIN THE SOUTH CENTRAL HIGH-SPEED RAIL CORRIDOR AND THE GULF COAST HIGH-SPEED RAIL CORRIDOR; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, Senate Bill 1570, a bill currently under consideration by the Texas Senate, authorizes the State of Texas, acting through the Railroad Commission, to contract with a local government corporation (LGC) to facilitate, analyze and implement high-speed passenger rail service in Texas which would be capable of operating in excess of 200 miles per hour;

Whereas, the primary focus for the LGC is what is defined as the "South Central High-Speed Rail Corridor," which is a federal designation for an area encompassing Texas, Oklahoma and Arkansas, and the "Gulf Cost High-Speed Rail Corridor," an area in Texas roughly corresponding to the DFW/Houston/San Antonio triangle;

Whereas, Senate Bill 1570 authorizes the municipal corporation, among other things, to: (1) seek federal and state funding for high-speed passenger rail service; (2) to seek interconnectivity of high-speed passenger rail systems in Texas with similar systems in other states; (3) to seek interconnectivity of high-speed passenger rail system with other existing and planned transportation systems within the state and adjacent states (e.g., airports, seaports, highways and other commuter rail); (4) to ensure connectivity with Fort Hood, Texas, which is the largest military base in the United States; (5) to contract with private companies of foreign governments for the design, construction, financing and operation of a high-speed passenger rail system; and (6) to coordinate their efforts with the State and its agencies;

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 adoption of Senate Bill 1570 by the Texas Legislature and further urges the Legislature to facilitate, analyze and implement high-speed passenger rail service in Texas.

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 **16th** day of **April**, 2009.

THE CITY OF TEMPLE, TEXAS

WILLIAM A. JONES, III, Mayor

ATTEST:

APPROVED AS TO FORM:

Clydette Entzminger
City Secretary

Jonathan Graham
City Attorney

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING THE CITY OF TEMPLE TO FORM A LOCAL GOVERNMENT CORPORATION TO FACILITATE, ANALYZE, AND IMPLEMENT THE DEVELOPMENT OF HIGH SPEED PASSENGER RAIL SERVICE WITHIN THE SOUTH CENTRAL HIGH-SPEED RAIL CORRIDOR AND THE GULF COAST HIGH-SPEED RAIL CORRIDOR; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, the City of Temple has been an active member of the Texas High Speed Rail and Transportation Corporation (THSRTC) a coalition of cities, counties and other entities promoting high speed passenger rail service in Texas;

Whereas, the Mayor of Temple currently serves on its board of directors of the THSRTC;

Whereas, Temple is at a central location within the Gulf Coast High-Speed Rail Corridor and is at the “T” of a intersection of a proposed high-speed passenger rail line running from Dallas-Fort Worth where it intersects with a proposed high speed passenger rail line running from Houston to Temple;

Whereas, given the City’s close proximity to Fort Hood, Texas, which is the largest military base in the United States;

Whereas, Temple has been asked to be the local government entity that forms a local government corporation organized under authority of Chapter 431, Subchapter D, of the Texas Transportation Code;

Whereas, the proposed name of the local government corporation may be the “South Central High Speed Rail Corporation, Inc.,” or the “South Central High-Speed Rail and Transportation Authority, Inc.,”

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 expresses authorizes the City of Temple to form a local government corporation as authorized by Chapter 431, Subchapter D of the Texas Transportation Code to facilitate, analyze, and implement the development of high-speed

passenger rail service within the South Central High-Speed Rail Corridor and the Gulf Coast High-Speed Rail Corridor.

Part 2: The City Council authorizes the City Attorney to proceed with the filing of articles of incorporation with the Secretary of State's Office to create this local government corporation.

Part 3: The local government corporation shall have the following principle duties:

- to seek federal and state funding for high-speed passenger rail service;
- to seek interconnectivity of high-speed passenger rail systems in Texas with similar systems in other states;
- to seek interconnectivity of high-speed passenger rail system with other existing and planned transportation systems within the state and adjacent states (e.g., airports, seaports, highways and other commuter rail);
- to ensure connectivity with Fort Hood, Texas, which is the largest military base in the United States;
- to contract with private companies of foreign governments for the design, construction, financing and operation of a high-speed passenger rail system; and
- to coordinate their efforts with the State and its agencies.

Part 4: 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 **16th** day of **April**, 2009.

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

04/16/09
Item #11
Regular Agenda
Page 1 of 1

DEPT./DIVISION SUBMISSION & REVIEW:

William A. Jones, III, Mayor

ITEM DESCRIPTION: Consider adopting a resolution appointing one member to the Tax Increment Financing Reinvestment Zone No. 1 Board of Directors to fill an unexpired term through September 1, 2010.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: Mr. Michael Thompson was appointed to the Reinvestment Zone No. 1 Board of Directors in September 2006 and was reappointed in 2008 for another two-year term to expire September 1, 2010.

Mr. Thompson has missed three consecutive meetings of the Board for reasons outlined in his letter to the City Council, which is attached. According to the Council adopted policy regarding board appointments, Mr. Thompson has not met the attendance requirements, thereby forfeiting his position on the board.

Mr. Thompson is requesting reinstatement to the Reinvestment Zone No. 1 Board of Directors to allow him to serve his unexpired term.

FISCAL IMPACT: None

ATTACHMENTS:

[Letter from Michael Thompson](#)
[RZ No. 1 Board Summary Form](#)

Extra
Banks

Post Office Box 6101
Temple, TX 76503-6101
254 774 5748
254 774 5546 Fax
mthompson@extrabanks.com

March 24, 2009

Michael W. Thompson
President
Chief Executive Officer

Reinvestment Zone
Clydette Entzminger
City Secretary, City of Temple

As we have discussed, this current year I am participating in monthly University of North Carolina leadership classes that have conflicted in January and February with the Reinvestment Zone meetings and will again tomorrow, March 25th.

Missing tomorrow's meeting, as well, will trigger three consecutive absences. I am very much appreciative of the work the Reinvestment Zone Board does and its importance to our community. In that regard, I would like to request a temporary leave of absence. . In the event the leave is not possible, I would like to request a reinstatement, as soon possible, as my travel/class schedule changes to other days that will not conflict with future meetings for the remainder of the year. I appreciate your assistance in this matter.

Sincerely,

Michael W. Thompson by Carol Clement

Michael W. Thompson

REINVESTMENT ZONE NUMBER ONE

TERM EXPIRATION: SEPTEMBER - 2 YEAR TERMS

APPOINTED BY: C.C., TJC, BELL COUNTY, & TISD

| MEMBER | DATE APPOINTED | EXPIRATION YEAR | ADDRESS | PHONE NUMBER |
|--|-------------------------------|-----------------|---|--|
| Scott Allen svallen@sbcglobal.net OMA | 02/08 | 2010 | 818 North 11 th Street Temple, TX 76501 | 774-9565 W 718-3025 M 774-8579 F |
| John R. Bailey john@johnbaileyfinancial.com | 09/05 | 2009 | 4106 Spanish Oak Temple, TX 76502 | 774-8882 W 774-8883 Fax 760-1486 M |
| Jacob (Jay) Bojorquez jaynbetty@sbcglobal.net | 10/08 | 2009 | 7311 Rickey Drive Temple, TX 76502 | 771-3299 H 931-3269 C |
| Jack W. Jones, Jr. (Temple College Rep.) jackj@vvm.com OMA | 08/07 appt.by TC | 2009 | P O Box 3310 Temple, TX 76505 | 774-7167 H 771-1855 W 760-0827 M |
| Bob Browder bobbrowder@bcswlaw.com O | 10/08 | 2009 | 4101 Briar Cliff Road Temple, TX 76502 | 774-8333 ext 255 W 778-8956 H 760-6164 C |
| Mark Whitaker markwhitaker@bcswlaw.com OMA | 09/05 | 2009 | 3710 Wendy Oaks Temple, TX 76502 | 774-8333 W 742-1418 H |
| Bruce Walker lumber@vvm.com | 09/04 | 2010 | 1106 North 13 th St Temple, Texas 76501 | 773-2609 W 541-1897 M |
| Gail Peek peek@vvm.com | 09/06 | 2010 | 3409 Whispering Oak Temple, Texas 76502 | 778-7892 H/W 493-2000 M |
| Steve Wright (TISD Rep.) steve@wrightbuilders.com | 6/06 appt.by TISD | 2009 | Wright Builders 5640 Kegley Place Ln Temple, TX 76502 | 778-4495 W 541-5124 M |
| Perry Cloud, Chair (9-05) ptcloud@cloudconstruction.com | 02/02 | 2009 | P O Box 667 Temple, Texas 76503 | 778-1363 W 778-6492 H 778-5877 Fax |
| Commiss. Eddy Lange (Bell Co. Rep.) william.lange@co.bell.tx.us | 01/05- appt.by Bell Co. | 2009 | P.O. Box 768 Belton, Texas 76513 | 933-5103 W 933-5179 Fax |
| Michael Thompson mthompson@extracobanks.com Forfeit Term-non attendance | 09/06 | 2010 | 18 South Main Street Temple, TX 76501 | 774-5550 W |
| John Kiella (BISD Rep.) jkiella@kiella.com | 09/05 | 2010 | P O Box 1344 Temple, TX 76503 | 778-0085 W 774-7231 Fax 541-3360 M |
| Gary Schmidt (Troy ISD Rep.) gschmidt@cnb-temple.com | 02/2000 | 2010 | Central National Bank P O Box 4107 Temple, TX 76505 | 743-6965 W 938-2429 H 770-3186 Fax |
| Edward Coufal (Elm Crk) edwardc@cpetem.com | 05/05 | 2009 | 8576 FM 3117 Temple, Texas 76501 | 721-9696 773-9916 W |

Created pursuant to Section 311.004(a)(2) of the Tax Increment Financing Act; Ordinance 1457, December 16, 1982. **Purpose:** Make recommendations to the City Council concerning the administration of the Zone. The board of directors exercise powers necessary to implement the project plan which is delegated by ordinance of the Council. **Membership:** 15 directors - 9 appointed by the Council; 1 director each of every taxing entity with levies taxes within the Zone, currently: TC, TISD, BISD, Troy ISD, Bell County and Elm Creek Water District. To be eligible for appointment to the board an individual must be a qualified voter of the municipality or be at least 18 years of age and own real property in the zone, whether or not the individual resides in the municipality. **Term:** 2 years
Revised 03/24/2009

