



**MEETING OF THE
TEMPLE CITY COUNCIL**

MUNICIPAL BUILDING

**2 NORTH MAIN STREET
CITY COUNCIL CHAMBERS – 2ND FLOOR**

TEMPLE, TX

THURSDAY, JUNE 18, 2009

5:00 P.M.

**TEMPLE CITY COUNCIL
REGULAR MEETING AGENDA**

I. CALL TO ORDER

1. Invocation
2. Pledge of Allegiance

II. PROCLAMATIONS & SPECIAL RECOGNITIONS

3. (A) [Recognize the United States Army's 234th Birthday](#) [June 14, 2009](#)
(B) [Presentation of Tourism Stars Awards](#)

III. PUBLIC COMMENTS

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

IV. 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.

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

Minutes:

- (A) [June 4, 2009 Special Called Meeting and Regular Meeting](#)

Contracts, Leases & Bids:

- (B) [2009-5727-R](#): Consider adopting a resolution authorizing the purchase of various traffic signal equipment from Naztec, Inc. for the construction of a new traffic signal at Lowe's Avenue and Marlandwood Road in the amount of \$39,225.74
- (C) [2009-5728-R](#): Consider adopting a resolution authorizing a purchase agreement through September 30, 2010, for the purchase of citric acid for the water treatment plant from Altivia Corporation of Houston at a price of \$7.4053 per gallon.
- (D) [2009-5729-R](#): Consider adopting a resolution authorizing the purchase of 10 mobile digital video systems for new police vehicles from WatchGuard Video of Plano in the amount of \$49,826.
- (E) [2009-5730-R](#): Consider adopting a resolution authorizing a construction contract with K&S Backhoe Services, Inc., of Gatesville for construction activities required to build Phase 2 of the Somerville to Waskow Acres Water Line Improvements in an amount not to exceed \$252,256.94.
- (F) [2009-5731-R](#): Consider adopting a resolution authorizing two change orders to the construction contract with James Construction Group, LLC, for construction activities required to build the Industrial Rail Spur Phases 1 & 2 between northwest H.K. Dodgen Loop and the future outer loop in an amount not to exceed \$178,582.
- (G) [2009-5732-R](#): Consider adopting a resolution authorizing a construction contract with Z Floor Company, Ltd. of Dallas for the purchase and installation of a new wood gym floor for the Wilson Park Recreation Center gymnasium in the amount of \$58,881.
- (H) [2009-5733-R](#): Consider adopting a resolution authorizing a contract with Brockway, Gersbach, Franklin and Niemeier, P.C. to perform the annual City of Temple audit for an amount not to exceed \$53,000.
- (I) [2009-5722-R](#): Consider adopting a resolution authorizing the City Manager to enter into a railroad licensing and operating agreement with Patriot Rail Corp and Temple & Central Texas Railway, Inc. for operational and management services in the Temple Rail Park.

- (J) [2009-5724-R](#): Consider adopting a resolution authorizing the following related to golf cars for Sammons Golf Links:
1. A 54 month conditional sale agreement for 70 fleet electric golf cars, 2 marshal electric golf cars, and 2 beverage cars from Yamaha Golf Car Company with an annual payment of \$52,343.76, and
 2. Electrical improvements to the golf car barn utilizing the annual electrical service contract with T. Morales Company Electric & Controls, Ltd. for an estimated amount of \$30,000.
- (K) [2009-5734-R](#): Consider adopting a resolution authorizing a 5-year lease agreement with Summit Aviation, Inc., under new ownership, to continue to provide aviation maintenance and avionics services at the Draughon-Miller Central Texas Regional Airport.

Misc.:

- (L) [2009-5735-R](#): Consider adopting a resolution authorizing an 11.316 parcel of City owned land be designated as Airport property for the purpose of completing the runway extension project at the Draughon-Miller Central Texas Regional Airport.
- (M) [2009-5736-R](#): Consider adopting a resolution authorizing the City Manager to submit a grant application for a sustainability/energy manager and a hike/bike trail in the Temple Medical Education District through the Department of Energy, Energy Efficiency and Conservation Block Grant Program.
- (N) [2009-5737-R](#): Consider adopting a resolution authorizing budget amendments for fiscal year 2008-2009.

V. REGULAR AGENDA

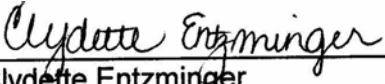
5. [2009-4293](#): SECOND READING – PUBLIC HEARING - Z-FY-07-18: Consider adopting an ordinance authorizing the creation of an IH-35 Overlay District containing regulations for landscaping, building standards, signs and parking by amending the Zoning Ordinance, Section 7-560.
6. [2009-5738-R](#): Consider adopting a resolution naming the General Aviation Terminal Building at the Draughon-Miller Central Texas Regional Airport after Mr. Elmer Reed.
7. [2009-5739-R](#): Consider adopting a resolution authorizing a Letter of Intent between the City of Temple, Temple Historic Arcadia Theatre, Inc, and Astin Redevelopment LP for redevelopment of the Hawn Hotel buildings and Arcadia Theatre located at 110 and 114 East Central Avenue.

BOARD APPOINTMENTS

8. [2009-5710-R](#): Consider adopting a resolution appointing one member to the Bell County Public Health District Board of Directors.

***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 1:15 PM, on June 12, 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

06/18/09
Item #3(A)–(B)
Regular Agenda
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DEPT./DIVISION SUBMISSION & REVIEW:

William A. Jones, III, Mayor

ITEM DESCRIPTION: Presentation of Proclamations:

- (A) Recognize the United States Army's 234th Birthday June 14, 2009
- (B) Presentation of Tourism Stars Awards

STAFF RECOMMENDATION: Present proclamation as presented in item description.

ITEM SUMMARY: (A) This proclamation was requested by the Department of the Army, and will be received by Staff Sergeant Undre Mitchell, Army Recruiting Office for Temple.

(B) Parks & Leisure Services staff has requested the opportunity to recognize businesses and individuals who make outstanding contributions to the success of Temple by presenting them with "Tourism Stars Awards."

FISCAL IMPACT: None

ATTACHMENTS: None



COUNCIL AGENDA ITEM MEMORANDUM

06/18/09
Item #4(A)
Consent Agenda
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DEPT./DIVISION SUBMISSION & REVIEW:

Clydette Entzminger, City Secretary

ITEM DESCRIPTION: Approve Minutes:

(A) June 4, 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:

[June 4, 2009 Special Called Meeting & Regular Meeting](#)

TEMPLE CITY COUNCIL

JUNE 4, 2009

The City Council of the City of Temple, Texas conducted a Special Meeting on Thursday, June 4, 2009, at 1:00 PM in the Council Chambers, 2 North Main Street.

Present:

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

1. Discuss, as may be needed, Regular Meeting agenda items for the meeting posted for Thursday, June 4, 2009.

David Blackburn, City Manager, requested that items 4 (E), the agreement with Patriot Rail, and 4(G) lease of golf cars, be tabled until June 18th.

2. Discuss City code provisions relating to parking in residential areas.

David Blackburn, City Manager, discussed this item, which is the result of several inquiries from various perspectives regarding parking in the front yards of residences. There have also been some issues raised with parking on unimproved areas which our code allows. Vehicles, boats, equipment, and trucks can park anywhere if they don't block sidewalks and are not parked within the visibility triangle. Recreational vehicles and non-motor vehicles must park 6 feet from the back of the curb. City codes do require a specific number of parking spaces for new homes but do not require parking to occur on the improved surfaces. The City Council was provided with a survey of what is being done in other surrounding cities relative to parking on unimproved surfaces.

Jonathan Graham, City Attorney, addressed code requirements in the north side Historic District. Standards have not been adopted for the yard area, cover or parking. There are some general language provisions which primarily focus on structures and buildings. Mr. Graham also discussed some related criteria for Certificates of Appropriateness, none of which reference parking. A Certificate of Appropriateness is a written confirmation issued by the City that an applicant's action comes under the purview of the Historic District chapter of the City Code and the action has been reviewed and found to comply within the purpose and spirit of that chapter. He explained the purpose of the Certificate and the process for an appeal of the decision of the administrator. Mr. Graham stated staff is available to review and recommend either housekeeping or substantive changes relating to parking and other standards.

Mr. Blackburn recommended staff work to improve the process for handling the Certificates of Appropriateness, as well as clarify what standards are proper for review for issuance of the Certificates within the Historic District. A question was raised about the Certificate that was issued for 1014 North 3rd Street and Mr. Blackburn noted that particular construction meets current City codes. He also stated he had no specific recommendation on the issue of parking on improved or unimproved surfaces at this time.

Councilmember Jeter stated there has been a general lack of consistency on how the Certificates of Appropriateness are approved. Some go before the Building and Standards Commission and some don't. Sometimes neighborhood input is solicited and sometimes it is not. The house in question, 1014 North 3rd, does not match the existing homes in this block and the builder needs to honor his commitment made when the plan was submitted. Councilmember Jeter stated he thought all Certificates of Appropriateness should go through the Building and Standards Commission.

Councilmember Jeter continued, stating it has a negative impact on the neighborhood when front yard parking is allowed and he is trying to prevent this from continuing to occur. It is better to delay a project a month and go before the Board instead of having this situation happen.

Mr. Pat Patterson, builder of the home at 1014 North 3rd, discussed the home being constructed and the location of the parking space. He explained what was submitted in the original plans, what was approved and what would be most appropriate. Mr. Patterson stated he asked for consideration of another plan because he was told by the property owner on the corner they could not use the alley since they owned that property. He also felt backing into North 3rd Street from that particular location was very dangerous because of the large trees near the street. Mr. Patterson stated he agreed with the parking standards for new construction but added it would be impossible to enforce in existing neighborhoods. He felt like he was being attacked for what he was approved to do.

Councilmember Jeter stated he would just like to see the driveway constructed like it was originally approved, designed to stack two cars to the rear of the front yard.

Mr. Blackburn stated he will provide direction to staff to review and revise procedures for issuance of Certificates of Appropriateness and to look at City-wide parking issues on unimproved surfaces and bring these issues back to Council. There are also some separate issues that need to be reviewed concerning the north side Historic District Ordinance.

3. Receive presentations from the following public service agencies regarding their activities and funding requests for FY 2009-2010:

David Blackburn, City Manager, reviewed remaining dates on the budget calendar, including possible July work session dates.

The following agencies made presentations regarding their requests for funding, which included the purpose of their programs, description of services provided, and objectives of the program.

Families In Crisis, Inc. - William Hall: Requested funding for the Temple Shelter Program (fund 3 full time equivalent employees at Temple Shelter) - \$60,000

Family Promise - Susan Rivera: Requested funding for the Make a House a Home Program (construct a new building next to current location, site of former Fire Station No. 2) - \$75,000

Hill Country Community Action Association, Inc. - LeeAnn Turner: Funding requested for

the Aging Program (Meals on Wheels- part time cook at Sammons Senior Center and utilities and phone at Temple Senior Services) - \$25,000

Hill Country Transit District - Robert Ator: Funding requested for fixed route and ADA complementary paratransit service - \$70,888

Keep Temple Beautiful, Inc. - Thomas Baird & Zoe Rascoe: Funding requested for continued operations (salary and benefits for director) - \$35,000

Railroad & Heritage Museum - Dr. David Krauss & Judy Covington: Requested funding to assist with continued operation of the Museum - \$173,095

Ralph Wilson Youth Clubs of Temple, Inc. - Charlie Kimmey: Funding requested for the basketball program at the Club - \$20,000

Czech Heritage Museum & Genealogy Center - Sandi Wicker: Requested funding for continued operation of the Museum (utilities and contingencies) - \$22,999

Temple Civic Theatre - Tim Campbell: Requested funding for support of the 2009-2010 season - \$20,000

Temple Education Foundation - Rosemary Hauser: Requested funding for the Temple College Foundation Scholarship Drive - \$5,000

4. Discuss mineral rights and potential regulations relating thereto.

Jonathan Graham, City Attorney, presented this item to the Council. The City does not currently have a drilling ordinance but instead regulates this activity with zoning. The question for Council is do we want to take a proactive approach and adopt a drilling ordinance and if so, how comprehensive should it be. Cities can regulate drilling within their limits although we cannot totally prohibit drilling without having to compensate property owners.

Mr. Graham provided some background information about mineral rights in Texas which is known as the "accommodation doctrine." The Texas Railroad Commission also has jurisdiction over gas and oil wells. Mr. Graham discussed the Barnett Shale, which is a formation of sedimentary rock that is the largest onshore natural gas field in the United States, comprising over 5,000 square miles. Temple may be at the very edge of the Barnett Shale. He displayed maps showing the location of the shale throughout Texas. Current approaches taken by cities have tried to balance rights of miners to explore and extract minerals versus the rights of the owner of the surface and the public at large. Cities have used a variety of approaches, Mr. Graham explained, including a combination of zoning, technical standards, setbacks from sensitive uses, landscaping and screening, noise abatement, and environmental regulations. Many of these very comprehensive ordinances adopted have been in the Dallas/Fort Worth area since that is where the Barnett Shale is prevalent.

Mr. Blackburn stated there is no immediate issue at this time but both the City and Temple Economic Development Corporation (TEDC) own property and from time to time this issue comes up. The recommendation from TEDC is that the Council consider adopting an ordinance. Degrees of regulation will need to be determined by the City, either the minimalist approach or one that is more aggressive.

Councilmember Janczak stated he appreciated the City taking a proactive approach to this issue.

Mayor Pro Tem Luna agreed, adding that the issue will come up in the future and the City should be proactive.

Councilmember Jeter suggested all mineral rights be retained when we sell property, even within our ETJ if possible. When buying land, we should strive to get mineral rights when we pay top dollar for the property.

Mr. Blackburn noted the City wears two different hats, one as a property owner and one as a regulator, so those interests have to be balanced.

The City Council of the City of Temple, Texas conducted a Regular Meeting on Thursday, June 4, 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
Councilmember Russell Schneider
Mayor William A. Jones, III

I. CALL TO ORDER

1. Invocation

Thomas Pechal, Temple Fire & Rescue, voiced the Invocation.

2. Pledge of Allegiance

Rob Smith, Temple CPR Anytime Task Force, led the Pledge of Allegiance.

II. PROCLAMATIONS & SPECIAL RECOGNITIONS

3. (A) CPR-AED Awareness Week June 1-7, 2009

Mayor Jones presented this proclamation to Rob Smith, Temple CPR Anytime Task Force, and Fire Chief Lonzo Wallace.

Chief Wallace shared some information about the Jump Start A Heart Program which has been in place since 2004.

Dr. Robin Smith, representing the CPR Anytime Task Force, provided information about their work in the community to bring awareness and training regarding CPR.

Thomas Pechal, Temple Fire & Rescue, provided the details about a recent save at McLane Southwest by one of their employees using an AED.

III. PUBLIC COMMENTS

Nancie Etzel, 329 Big Timber Drive, addressed the City Council regarding the issue of Temple being a hub for high speed rail. She stated money needs to be spent on marketing and cleaning up structures to make the City attractive to visitors. Accessibility issues throughout the community also need to be addressed.

IV. BUDGET ITEMS

4. PUBLIC HEARING - Presentation of the proposed Community Development Block Grant Annual Action Plan and Budget for 2009-2010, including the funding recommendations for public service agencies from the Community Services Advisory Board.

Traci Barnard, Finance Director, presented this item to the Council. The City will receive \$515,539 for this year's funding. In addition, the City has \$12,335 in program income to allocate and \$26,695 in prior funding reallocation, for a total allocation in the 2009 year of \$554,569.

Lois Whitley, Traylor & Associates, presented a summary of the 2009 Action Plan, the last year in a 5-year plan. Public Service agencies are recommended for funding in the amount of \$72,175 (14% of total). Ms. Whitley reviewed the allocations recommended for each agency. Other City projects recommended for funding include public infrastructure improvements (seal coating and sidewalks), public facilities (HOP bus shelters), park improvements (bridge over Knob Creek in Jeff Hamilton Park), demolition (abandoned and dilapidated structures), and general administration. Tonight is the beginning of the 30 day public review period for the 2009 CDBG Annual Action Plan. Final adoption by City Council is scheduled for July 16th, with submission of the plan to HUD by August 15th for implementation on October 1, 2009.

Councilmember Janczak questioned the percentage of the administrative fee and whether that was too high.

Mrs. Barnard replied she did not feel the administrative fee was too high, considering all of the paperwork, environmental clearances, etc. required to administer the CDBG Action Plan and budget.

Councilmember Janczak asked why Temple received an allocation that was below the average for Texas cities.

Ms. Whitley stated the allocation is determined by population, with larger amounts going to larger cities.

Mr. Blackburn agreed that the allocation is heavily weighted on population. He added this is the lowest administrative cost that he has ever seen for the CDBG program.

Mayor Jones declared the public hearing to be open with regard to item 4 and asked if anyone wished to address this item.

There being no comments, Mayor Jones closed the public hearing. He announced no action was required at this.

V. CONSENT AGENDA

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

(A) May 12, 2009 Special Called Meeting

(B) May 21, 2009 Special Called Meeting and Regular Meeting

(C) 2009-5720-R: Consider adopting a resolution authorizing change order #7 to the Lions Junction Family Water Park construction contract with Chaney-Cox Construction, Inc. for the construction of a sidewalk along South 5th Street in South Temple Community Park in the amount of \$41,225.

(D) 2009-5721-R: Consider adopting a resolution authorizing the following technology contracts and purchases for the new Municipal Court & Utility Business Office Facility:

- 1. Video surveillance system from DHS Security dba 3Sixty Integrated of San Antonio in the amount of \$55,548.80;**
- 2. Reject all three (3) proposals received for the card access system and award the contract to A-1 Fire & Security Equipment Company under GSA Contract GSO 7F 7733C in the amount of \$25,107.93; and**
- 3. Phone system from Affiliated Telephone of Austin in the amount of \$35,958.76 under DIR contract #DIR-SDD-289**

(E) 2009-5722-R: Consider adopting a resolution authorizing the City Manager to enter into a railroad licensing and operating agreement with Patriot Rail Corp and Temple & Central Texas Railway, Inc. for operational and management services in the Temple Rail Park.

(F) 2009-5723-R: Consider adopting a resolution authorizing a renewal agreement with Central Texas 4C, Inc., for lease of space in the Robert M. Blackmon, Jr., Neighborhood Center for preschool programs.

(G) 2009-5724-R: Consider adopting a resolution authorizing a four-year guaranteed buy-back lease of 74 fleet electric golf cars, 2 marshal electric golf cars, and 2 beverage cars from Yamaha Golf Car Company with an annual lease payment of \$52,155.

(H) 2009-4295: SECOND READING - Z-FY-09-20: Consider adopting an ordinance authorizing a permanent zoning change from Agricultural District (A) to General Retail District (GR) at 2 Woodland Trail, located on the north part of Lot 14, Block 7, Woodland Trails Subdivision, at the southwest corner of Woodland Trail and FM 2305.

(I) 2009-4296: SECOND READING - Z-FY-09-21: Consider adopting an ordinance

authorizing a Conditional Use Permit (CUP) for petroleum storage and collecting facilities and the management of petroleum products on 10.5 ± acres located on the east side of Wendland Road between Moore's Mill Road and Wilsonart Drive.

(J) 2009-4297: SECOND READING - Consider adopting an ordinance amending Chapter 7, "Buildings," Article VII, "Landscape Irrigation Standards," Section 7-103, "Backflow Prevention Methods and Devices," to add the Pressure Vacuum Breaker as an acceptable backflow prevention device; amending Section 7-100, "Definitions," to add the definition for the Pressure Vacuum Breaker.

(K) 2009-5725-R: Consider adopting a resolution approving the articles of incorporation and bylaws for the South Central High-Speed Rail and Transportation Authority, Inc., a local government corporation whose purpose is to promote high speed rail passenger service in Texas.

(L) 2009-5726-R: Consider adopting a resolution authorizing the nomination of a member to serve on the Brazos G Regional Water Planning Group.

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

Motion passed unanimously.

(E) 2009-5722-R: Consider adopting a resolution authorizing the City Manager to enter into a railroad licensing and operating agreement with Patriot Rail Corp and Temple & Central Texas Railway, Inc. for operational and management services in the Temple Rail Park.

David Blackburn, City Manager, stated staff has been in discussions with Patriot Rail for some time. He asked that this item be tabled tonight, with final action anticipated at the next meeting.

Motion by Councilmember Marty Janczak to table item 4(E), seconded by Councilmember Russell Schneider.

Motion passed unanimously.

(G) 2009-5724-R: Consider adopting a resolution authorizing a four-year guaranteed buy-back lease of 74 fleet electric golf cars, 2 marshal electric golf cars, and 2 beverage cars from Yamaha Golf Car Company with an annual lease payment of \$52,155.

Motion by Councilmember Marty Janczak to table item 4(G), seconded by Mayor Pro Tem Patsy E. Luna.

Motion passed unanimously.

VI. REGULAR AGENDA

BOARD APPOINTMENTS

6. **2009-5710-R: Consider adopting a resolution appointing one member to the Bell County Public Health District Board of Directors.**

Mayor Jones stated he did not have a recommendation for appointment at this time and asked that the item be tabled.

Motion by Mayor Pro Tem Patsy E. Luna to table item 6, seconded by Councilmember Russell Schneider.

Motion passed unanimously.

ATTEST:

William A. Jones, III, Mayor

Clydette Entzminger
City Secretary



COUNCIL AGENDA ITEM MEMORANDUM

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Item #4(B)
Consent Agenda
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DEPT./DIVISION SUBMISSION & REVIEW:

Bruce Butscher, Director of Public Works
Michael Newman, Assistant Director of Public Works/City Engineer

ITEM DESCRIPTION: Consider adopting a resolution authorizing the purchase of various traffic signal equipment from Naztec, Inc. for the construction of a new traffic signal at Lowe's Avenue and Marlandwood Road in the amount of \$39,225.74

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: A warrant study was done by Street Services in February of 2008, and it was determined that there was a need for a traffic signal at the intersection of Lowe's Avenue and Marlandwood Road. In December of 2008 Alliance Transportation Group, Inc. was contracted to design the traffic signal for this intersection.

On September 18, 2008, the City Council authorized an annual purchase agreement with Naztec, Inc., for traffic signal equipment. The estimated annual purchase under this contract was disclosed on this agenda item as being approximately \$25,000 from account 110-2800-532-2334.

It is staff's desire to construct this project using the labor of City employees and to procure the components needed in the amount of \$39,225.74 for this project from Naztec utilizing the pricing in place under the annual contract authorized by Council in September 2008.

FISCAL IMPACT: Funding for this project is available in account 361-2800-532-6810, project #100502 from the 2006 Certificate of Obligation bond funding designated for traffic signals. The total project cost for this signal is estimated at \$95,000. After funding design in the amount of \$12,388 and poles and mast-arms in the amount of \$21,964, a balance of \$60,648 is available in the project budget to purchase the signal equipment in the amount of \$39,225.74. The remaining amount of \$21,422.26 will be used to complete the traffic light at Lowe's Avenue and Marlandwood.

ATTACHMENTS:

[Resolution](#)

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING THE PURCHASE OF VARIOUS TRAFFIC SIGNAL EQUIPMENT FOR THE CONSTRUCTION OF A NEW TRAFFIC SIGNAL AT LOWES AVENUE AND MARLANDWOOD ROAD FROM NAZTEC, INC., IN THE AMOUNT OF \$39,225.74; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, Staff has determined that there is a need for a traffic signal at the intersection of Lowes Avenue and Marlandwood Road;

Whereas, the traffic signal equipment needed for this project can be purchased under the annual contract prices with Naztec, Inc., for a total amount of \$39,225.74;

Whereas, funds are available for this purchase in Account No. 361-2800-532-6810, project # 100502; 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 various traffic signal equipment for the construction of a new traffic signal at Lowe's Avenue and Marlandwood Road from Naztec, Inc., in the amount of \$39,225.74.

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

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 18th day of June, 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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Item #4(C)
Consent Agenda
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DEPT./DIVISION SUBMISSION & REVIEW:

Nicole Torralva, PE, Assistant Director of Public Works / Operations
Belinda Mattke, Director of Purchasing

ITEM DESCRIPTION: Consider adopting a resolution authorizing a purchase agreement through September 30, 2010, for the purchase of citric acid for the water treatment plant from Altivia Corporation of Houston at a price of \$7.4053 per gallon.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: As shown on the attached bid tabulation, on May 26, 2009, the City received one (1) bid from Altivia Corporation for citric acid at a price of \$7.4053 per gallon. With the recent completion of the bulk chemical storage tank project at the membrane plant, this chemical will be able to be purchased in bulk quantity for cleaning, which results in an overall cost savings for the chemical as compared to the purchase price for buying in totes.

Citric acid is used only at the membrane plant to clean membranes on a regular basis, depending upon the needs of the water and that of the plant. The City has done business with Altivia Corporation in the past and is pleased with products provided and recommends Council award the annual contract to them.

The proposed contract will commence immediately and continue through September 30, 2010, and is renewable for four (4) additional one-year periods, if agreed to by the City and Altivia Corporation.

FISCAL IMPACT: Currently, there is \$198,074 available in account 520-5100-535-2118 for chemical purchases. The estimated expenditure on chemicals identified above through September 30, 2009 is \$59,280. The anticipated appropriation of funds for next fiscal year is estimated at \$250,700.

ATTACHMENTS:

[Bid Tabulation](#)
[Resolution](#)

Tabulation of Bids Received
on May 26, 2009 at 2:30 p.m.
Citric Acid

	BIDDERS
	Altivia Corporation Houston
Description	
Citric Acid (Gallon)	\$7.4053
Delivery	Yes
Local Preference	No
Exceptions?	No
Credit Check Authorization	Yes

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

Belinda Mattke

26-May-09

Belinda Mattke, Director of Purchasing

Date

PLANHOLDERS:

Supplier Name	City	State
ALTIVIA	Houston	TX
Prime Vendor		AB
Shearer & Associates		AB
Shearer & Associates, Inc.	Vancouver	WA
Thatcher Company	Salt Lake City	UT
US Polymers Inc	Charlotte	NC
USA Blue Book	Waukegan	IL

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING A PURCHASE AGREEMENT THROUGH SEPTEMBER 30, 2010, FOR THE PURCHASE OF CITRIC ACID FOR THE WATER TREATMENT PLANT FROM ALTIVIA CORPORATION, AT A PRICE OF \$7.4053 PER GALLON AND AN ESTIMATED EXPENDITURE THROUGH SEPTEMBER, 2009, OF \$59,280 AND PROJECTED EXPENDITURES FOR FY 2010 OF \$250,700; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, on May 26, 2009, the City received one bid from Alivia Corporation for citric acid at a price of \$7.4053 per gallon;

Whereas, with the recent completion of the bulk chemical storage tank project at the membrane plant, this chemical will be able to be purchased in bulk quantity which will result in an overall cost savings;

Whereas, the Staff recommends authorizing a purchase agreement with Alivia Corporation to commence immediately and continue through September 30, 2010, for purchase of citric acid at a price of \$7.403 per gallon;

Whereas, funds are available for chemical purchases in Account No. 520-5100-535-2118; 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 purchase agreement through September 30, 2010, for the purchase of citric acid for the Water Treatment Plant from Alivia Corporation at a price of \$7.4053 per gallon, with an estimated expenditure through September, 2009, of \$59,280, and projected expenditures for FY 2010 at \$250,700.

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

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 **18th** day of **June**, 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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Consent Agenda
Page 1 of 1

DEPT./DIVISION SUBMISSION & REVIEW:

Gary Smith, Chief of Police

ITEM DESCRIPTION: Consider adopting a resolution authorizing the purchase of 10 mobile digital video systems for new police vehicles from WatchGuard Video of Plano in the amount of \$49,826.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: The Police Department seeks approval to purchase mobile digital video systems to be installed in the 10 replacement police vehicles that are on order. The digital video system being considered is the same system purchased by the department in the past two fiscal years. Systems from other vendors are not acceptable because the parts, equipment, and software are not interchangeable with systems already in service. The department requires that the system be fully compatible with existing hardware, software and operational aspects to reduce the costs of maintenance and provide a single method of operation for all users of the system. At this time, WatchGuard is the only vendor that can meet this requirement.

The digital video system being recommended for purchase is a DV-1 Digital In-Car Video System, which is distributed and manufactured exclusively by WatchGuard Video and is sold only by factory authorized representatives in protected territories. Accordingly, this purchase is deemed a single source as allowed under Local Government Code 252.022.

FISCAL IMPACT: In the FY 2009 budget, funding in the amount of \$170,000 was appropriated in account 110-2000-521-6213, project # 100413 and an additional \$170,000 was appropriated in account 361-2000-521-6832, project #100406 for the purchase of 10 marked police vehicles and related accessories. To date, all vehicles have been purchased (and are waiting delivery), leaving \$66,027.65 currently available for accessories

ATTACHMENTS:

[Resolution](#)

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING THE SOLE SOURCE PURCHASE OF 10 MOBILE DIGITAL VIDEO SYSTEMS FOR NEW POLICE VEHICLES FROM WATCHGUARD VIDEO OF PLANO, TEXAS, IN THE AMOUNT OF \$49,826.00; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, the Police Department needs to purchase mobile digital video systems to be installed in 10 replacement police vehicles that are on order;

Whereas, the digital video system being recommended for purchase is a DV-1 Digital In-Car Video System, is distributed and manufactured exclusively by WatchGuard Video and is sold only by factory authorized representatives in protected territories -- accordingly, this purchase is deemed a single source as allowed under Local Government Code 252.022;

Whereas, the purchase price for the video systems is \$49,826.00, and funds are available for this purchase in Account 110-2000-521-6213, project #100413; 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 10 mobile digital video systems for new police vehicles from WatchGuard Video of Plano, Texas, for a cost not to exceed \$49,826.00.

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

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 **18th** day of **June**, 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

06/18/09
Item #4(E)
Consent Agenda
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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 a construction contract with K&S Backhoe Services, Inc., of Gatesville for construction activities required to build Phase 2 of the Somerville to Waskow Acres Water Line Improvements in an amount not to exceed \$252,256.94.

STAFF RECOMMENDATION: Adopt resolution as presented in item discussion.

ITEM SUMMARY: The Pepper Creek Rural Water System that was acquired by the City in the mid 1970's included water lines in the vicinity of Somerville Drive, extending south and west of Roselle Drive to FM 2271. These deteriorated mains have sustained numerous breaks over the years. Additional development has necessitated extension of water services to the south. Replacement of the deteriorated mains and extension of a water main to the south will provide enhanced fire protection and support continued development.

On June 16, 2005, Council authorized a professional services contract with Comprehensive Engineering Solutions, Inc., (CES) in the amount of \$83,200 to design, bid, and administer Phase 1 of the water line improvements. On March 2, 2006, Council authorized a construction contract with TTG Utilities, Inc., in the amount of \$219,492.30 to construct Phase 1, which was completed in February 2007.

On February 21, 2008, Council authorized a professional services contract with CES in the amount of \$34,100 to design, bid, and administer Phase 2 of the water line improvements.

The infrastructure built with this project will consist of approximately 3400 linear feet of 8" PVC water line and 520 linear feet of bored encasement. The engineer's Opinion of Probable Cost for this construction project was \$486,000. Base bids ranged from \$197,533.50 to \$332,332.90, and total bids including the add alternate ranged from \$252,256.94 to \$425,780.30 (see attached Bid Tab & Recommendation). The range and distribution of bid totals were consistent with typical water line improvement projects. CES recommends awarding a contract for the total bid to the low bidder, K&S.

Construction time allotted for this project is 120 days.

FISCAL IMPACT: Funding in the amount of \$335,000 has been appropriated for Phase II of Somerville waterline improvements in the 2008 Utility Revenue Bond Issue. Currently \$297,149 is available in account #561-5200-535-6911, project#100171 to fund this construction contract in the amount of \$252,256.94.

ATTACHMENTS:

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

CONNECT TO
EXISTING
6" WATER LINE

CONNECT TO
EXISTING
6" WATER LINE

PROPOSED 6"
WATER LINE

ROSELLE DR

WASKOW ACRES

PROPOSED 6"
WATER LINE

ELIZABETH LN

PROPOSED 6"
WATER LINE

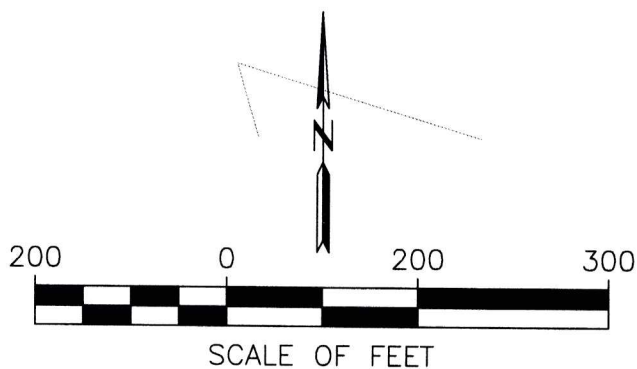
PROPOSED 6"
WATER LINE

FM 2271

BEGIN ADD
ALTERNATE #1

END ADD
ALTERNATE #1

Note: This proposal also includes
constrution administration for
replacing 4" water line under the
flower box to a 6" water line.



**WASKOW ACRES
WATER LINE IMPROVEMENTS**
CITY OF TEMPLE
Temple, Bell County, Texas

Comprehensive Engineering Solutions, Inc.

319 South First St., Suite A Temple, TX 76504
Voice: (254) 742-2050 Fax: (254) 742-2055



Comprehensive Engineering Solutions, Inc.

319 South First Street Temple, TX 76504

VOICE: (254) 742-2050 FAX: (254) 742-2055

June 2, 2009

Mr. Bruce Butscher, P.E.
Director of Public Works
City of Temple
3210 East Avenue H, Building A
Temple, Texas 76501

Re: Somerville to Waskow Acres Waterline Improvements Phase II
Project No. 52-06-09

Dear Mr. Butscher,

The City of Temple received bids on May 26, 2009 for the referenced project. Please see the attached Bid Summary.

Five companies presented a bid for this project. The Total Base Bids ranged from \$197,533.50 (K&S Backhoe Services, Inc.) to \$332,332.90 (McLean Construction). The median Total Base Bid was \$225,820.10. The Add Alternate 1 Bids ranged from \$54,723.44 (K&S Backhoe Services, Inc.) to \$93, 447.40 (McLean Construction).

After reviewing the Bid Summary, we recommend that the City of Temple award a contract to K&S Backhoe Services in the amount of \$252,256.94 for the Total Base Bid and Add Alternate 1.

If you have any questions, please call me at 254-743-2050, ext. 101.

Thank you,

Kristine B. Andrews, P.E.

Xc: Ms. Belinda Mattke, Director of Purchasing, City of Temple
Ms. Tina Adams, Assistant Director of Purchasing, City of Temple

SOMERVILLE / FM2271 WATER LINE IMPROVEMENTS BIDS RECEIVED ON 5-26-09

Base Bid				TTG Utilities		Smetana & Associates		K&S Backhoe Services, Inc.		McLean Construction		Bell Contractors	
Item No.	Description	Estimated Quantity	Unit	Gatesville, Texas		Temple, Texas		Gatesville, Texas		Killeen, Texas		Belton, Texas	
				Unit Price	Total Amount	Unit Price	Total Amount	Unit Price	Total Amount	Unit Price	Total Amount	Unit Price	Total Amount
1	Mobilization & Bonding	1	LS	\$8,250.00	\$8,250.00	\$7,231.00	\$7,231.00	\$9,940.80	\$9,940.80	\$15,431.00	\$15,431.00	\$10,493.50	\$10,493.50
2	Site Preparation	1	LS	\$5,000.00	\$5,000.00	\$10,257.00	\$10,257.00	\$1,710.00	\$1,710.00	\$12,704.00	\$12,704.00	\$1,500.00	\$1,500.00
3	Erosion Control	1	LS	\$4,300.00	\$4,300.00	\$4,710.00	\$4,710.00	\$5,058.18	\$5,058.18	\$4,723.00	\$4,723.00	\$1,600.00	\$1,600.00
4	Testing & Disinfection	1	LS	\$3,525.00	\$3,525.00	\$3,238.00	\$3,238.00	\$3,420.00	\$3,420.00	\$2,822.00	\$2,822.00	\$2,810.00	\$2,810.00
5	Seeding	1875	SY	\$0.65	\$1,218.75	\$5.00	\$9,375.00	\$1.12	\$2,100.00	\$2.90	\$5,437.50	\$1.00	\$1,875.00
6	Traffic Control Plan	1	LS	\$1,475.00	\$1,475.00	\$7,556.00	\$7,556.00	\$1,710.00	\$1,710.00	\$5,353.00	\$5,353.00	\$4,800.00	\$4,800.00
7	Trench Safety Plan	1	LS	\$2,651.00	\$2,651.00	\$2,056.00	\$2,056.00	\$1,370.00	\$1,370.00	\$3,553.00	\$3,553.00	\$1,500.00	\$1,500.00
8	8" C-900 Pipe	2810	LF	\$25.00	\$70,250.00	\$18.51	\$52,013.10	\$18.41	\$51,732.10	\$55.30	\$155,393.00	\$18.11	\$50,889.10
9	8" MJ Tee	3	EA	\$400.00	\$1,200.00	\$374.00	\$1,122.00	\$420.32	\$1,260.96	\$309.00	\$927.00	\$425.20	\$1,275.60
10	8" x 6" MJ Tee	1	EA	\$360.00	\$360.00	\$499.00	\$499.00	\$353.28	\$353.28	\$293.00	\$293.00	\$411.50	\$411.50
11	8" x 2" MJ Tee	1	EA	\$335.00	\$335.00	\$496.00	\$496.00	\$370.13	\$370.13	\$272.00	\$272.00	\$400.00	\$400.00
12	8" Gate Valve	10	EA	\$975.00	\$9,750.00	\$1,051.00	\$10,510.00	\$1,128.41	\$11,284.10	\$882.00	\$8,820.00	\$944.36	\$9,443.60
13	8" 22 1/2° Bend	7	EA	\$303.00	\$2,121.00	\$322.00	\$2,254.00	\$267.81	\$1,874.67	\$250.00	\$1,750.00	\$376.50	\$2,635.50
14	8" 45° Bend	2	EA	\$303.00	\$606.00	\$322.00	\$644.00	\$269.27	\$538.54	\$254.00	\$508.00	\$377.00	\$754.00
15	8" Bore	327	LF	\$180.00	\$58,860.00	\$196.00	\$64,092.00	\$170.00	\$55,590.00	\$214.20	\$70,043.40	\$212.50	\$69,487.50
16	Fire Hydrant Assembly	4	EA	\$2,950.00	\$11,800.00	\$3,018.00	\$12,072.00	\$3,208.05	\$12,832.20	\$3,112.00	\$12,448.00	\$2,452.00	\$9,808.00
17	Furnish & Install Concrete Encasement	35	LF	\$35.00	\$1,225.00	\$29.00	\$1,015.00	\$35.71	\$1,249.85	\$25.00	\$875.00	\$32.10	\$1,123.50
18	Sawcut & Replace Asphalt	420	LF	\$19.30	\$8,106.00	\$23.00	\$9,660.00	\$31.00	\$13,020.00	\$22.00	\$9,240.00	\$42.00	\$17,640.00
19	Remove & Replace Gravel	37	LF	\$15.00	\$555.00	\$11.00	\$407.00	\$11.55	\$427.35	\$19.00	\$703.00	\$30.50	\$1,128.50
20	Connect to 8" Water Line	3	EA	\$530.71	\$1,592.13	\$1,717.00	\$5,151.00	\$762.57	\$2,287.71	\$764.00	\$2,292.00	\$900.00	\$2,700.00
21	Connect to 6" Water Line	1	EA	\$1,725.00	\$1,725.00	\$2,509.00	\$2,509.00	\$2,019.39	\$2,019.39	\$1,852.00	\$1,852.00	\$2,729.00	\$2,729.00
22	Connect Single Short Service	8	EA	\$460.00	\$3,680.00	\$605.00	\$4,840.00	\$536.73	\$4,293.84	\$522.00	\$4,176.00	\$365.00	\$2,920.00
23	Connect Single Long Service	6	EA	\$675.00	\$4,050.00	\$645.00	\$3,870.00	\$788.39	\$4,730.34	\$445.00	\$2,670.00	\$339.00	\$2,034.00
24	Water Meter & Short Service Assembly	1	EA	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
25	Cap & Abandon 1 1/2" Water Line	3	LS	\$360.00	\$1,080.00	\$438.00	\$1,314.00	\$227.43	\$682.29	\$640.00	\$1,920.00	\$443.00	\$1,329.00
26	Cap & Abandon 2" Water Line	1	LS	\$400.00	\$400.00	\$438.00	\$438.00	\$227.43	\$227.43	\$640.00	\$640.00	\$443.00	\$443.00
27	Cap & Abandon 4" Water Line	5	LS	\$455.00	\$2,275.00	\$807.00	\$4,035.00	\$312.84	\$1,564.20	\$658.00	\$3,290.00	\$473.00	\$2,365.00
28	Salvage Fire Plug	1	EA	\$325.00	\$325.00	\$864.00	\$864.00	\$461.99	\$461.99	\$671.00	\$671.00	\$961.00	\$961.00
29	Relocate Mailbox	5	EA	\$100.00	\$500.00	\$249.00	\$1,245.00	\$124.83	\$624.15	\$282.00	\$1,410.00	\$586.00	\$2,930.00
30	Relocate Sign	3	EA	\$135.00	\$405.00	\$495.00	\$1,485.00	\$126.35	\$379.05	\$282.00	\$846.00	\$215.00	\$645.00
31	Remove Tree	1	EA	\$1,000.00	\$1,000.00	\$427.00	\$427.00	\$1,140.00	\$1,140.00	\$310.00	\$310.00	\$800.00	\$800.00
32	Concrete Rip Rap Across Drainage	15	EA	\$91.35	\$1,370.25	\$29.00	\$435.00	\$218.73	\$3,280.95	\$64.00	\$960.00	\$29.25	\$438.75
Total Base Bid				\$209,990.13		\$225,820.10		\$197,533.50		\$332,332.90		\$209,870.05	

Add Alternate

Item No.	Description	Estimated Quantity	Unit	TTG Utilities		Smetana & Associates		K&S Backhoe Services, Inc.		McLean Construction		Bell Contractors	
				Unit Price	Total Amount	Unit Price	Total Amount	Unit Price	Total Amount	Unit Price	Total Amount	Unit Price	Total Amount
1	Seeding	410	SY	\$0.65	\$266.50	\$5.00	\$2,050.00	\$1.12	\$459.20	\$2.90	\$1,189.00	\$1.00	\$410.00
2	8" C-900 PVC Pipe	610	LF	\$25.00	\$15,250.00	\$18.52	\$11,297.20	\$18.41	\$11,230.10	\$69.00	\$42,090.00	\$18.17	\$11,083.70
3	8" Gate Valve	1	EA	\$975.00	\$975.00	\$1,054.00	\$1,054.00	\$1,128.41	\$1,128.41	\$882.00	\$882.00	\$990.00	\$990.00
4	6" Tapping Sleeve	1	EA	\$1,540.00	\$1,540.00	\$2,411.00	\$2,411.00	\$1,954.00	\$1,954.00	\$1,763.00	\$1,763.00	\$2,600.00	\$2,600.00
5	8" 45° Bend	2	EA	\$303.00	\$606.00	\$322.00	\$644.00	\$269.27	\$538.54	\$254.00	\$508.00	\$361.00	\$722.00
6	Fire Hydrant Assembly	1	EA	\$2,950.00	\$2,950.00	\$3,018.00	\$3,018.00	\$3,208.05	\$3,208.05	\$2,991.00	\$2,991.00	\$2,452.00	\$2,452.00
7	Flush Assembly	1	EA	\$1,495.00	\$1,495.00	\$1,358.00	\$1,358.00	\$1,700.00	\$1,700.00	\$1,031.00	\$1,031.00	\$1,400.00	\$1,400.00
8	8" Bore	194	LF	\$180.00	\$34,920.00	\$197.00	\$38,218.00	\$170.00	\$32,980.00	\$214.10	\$41,535.40	\$212.50	\$41,225.00
9	Connect to 8" Water Line	2	EA	\$2,255.00	\$4,510.00	\$3,249.00	\$6,498.00	\$762.57	\$1,525.14	\$729.00	\$1,458.00	\$2,100.00	\$4,200.00
Total Add Alternate 1				\$62,512.50		\$66,548.20		\$54,723.44		\$93,447.40		\$65,082.70	

				TTG Utilities		Smetana & Associates		K&S Backhoe Services, Inc.		McLean Construction		Bell Contractors	
				Gatesville, Texas		Temple, Texas		Gatesville, Texas		Killeen, Texas		Belton, Texas	
Total Base Bid				\$209,990.13		\$225,820.10		\$197,533.50		\$332,332.90		\$209,870.05	

				TTG Utilities		Smetana & Associates		K&S Backhoe Services, Inc.		McLean Construction		Bell Contractors	
				Gatesville, Texas		Temple, Texas		Gatesville, Texas		Killeen, Texas		Belton, Texas	
Total Base Bid + Add Alternate 1				\$272,502.63		\$292,368.30		\$252,256.94		\$425,780.30		\$274,952.75	



Kristine B. Andrews
6/11/09

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING A CONSTRUCTION CONTRACT WITH K&S BACKHOE SERVICES, INC., OF GATESVILLE, TEXAS, TO BUILD PHASE 2 OF THE SOMERVILLE TO WASKOW ACRES WATER LINE IMPROVEMENTS, IN AN AMOUNT NOT TO EXCEED \$252,256.94; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, on May 26, 2009, the City received 5 bids for Phase 2 of the Somerville to Waskow Acres Water Line Improvement project;

Whereas, the Staff recommends accepting the bid (\$252,256.94) received from K&S Backhoe Services, Inc., of Gatesville, Texas, for this project;

Whereas, funds are available for this project in Account No. 561-5200-535-6911, project #100171; 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, for a cost not to exceed \$252,256.94, between the City of Temple and K&S Backhoe Services, Inc., of Gatesville, Texas, after approval as to form by the City Attorney, for Phase 2 of the Somerville to Waskow Acres Water Line Improvement project.

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 **18th** day of **June**, 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

06/18/09
Item #4(F)
Consent Agenda
Page 1 of 2

DEPT./DIVISION SUBMISSION & REVIEW:

Bruce A. Butscher, P.E., Director of Public Works
Michael Newman, P.E., Assistant Director of Public Works/City Engineer

ITEM DESCRIPTION: Consider adopting a resolution authorizing two change orders to the construction contract with James Construction Group, LLC, for construction activities required to build the Industrial Rail Spur Phases 1 & 2 between northwest H.K. Dodgen Loop and the future outer loop in an amount not to exceed \$178,582.

STAFF RECOMMENDATION: Adopt resolution as presented in item discussion.

ITEM SUMMARY: Rail infrastructure is required to provide rail access to the Industrial Rail Park within the TIF Reinvestment Zone #1. Burlington Northern/Santa Fe (BNSF) rail lines currently extend northwest-southeast along the eastern boundary of the rail park. Rail spurs are required to connect future industrial developments with the BNSF line.

On March 17, 2005, Council authorized a professional services agreement with Kasberg, Patrick & Associates, LP, (KPA) in the amount of \$42,000 for services required to develop the conceptual plan for the rail park. On August 17, 2006, Council authorized a professional services agreement with KPA in the amount of \$32,500 for services required to develop the layout of the rail park. On December 7, 2006, Council authorized a professional services agreement with KPA in the amount of \$394,500 for services required to design Phase 1 of the rail park. On April 5, 2007, Council authorized a professional services agreement with KPA in the amount of \$298,400 for services required to design Phase 2 of the rail park. On October 4, 2007, Council authorized an amendment to the April 5th professional services agreement with KPA in the amount of \$173,000 for services required to implement design revisions to Phase 2 of the rail park. On July 3, 2008, Council authorized a construction contract with James Construction Group in the amount of \$9,554,955 to build Phases 1 & 2. Change Order 1 in the amount of \$4,842 was executed by staff to revise the rail line to match the elevation of future rail infrastructure to the north.

Staff is requesting Council authorization for Change Order 2 in the amount of \$94,515 which includes \$89,875 to realign a conflicting sanitary sewer main under the proposed and existing rail lines, as well as \$4,640 to replace razor wire fencing that wasn't specified as razor wire in the original construction documents (see attached Change Orders). Staff is also requesting Council authorization for Change

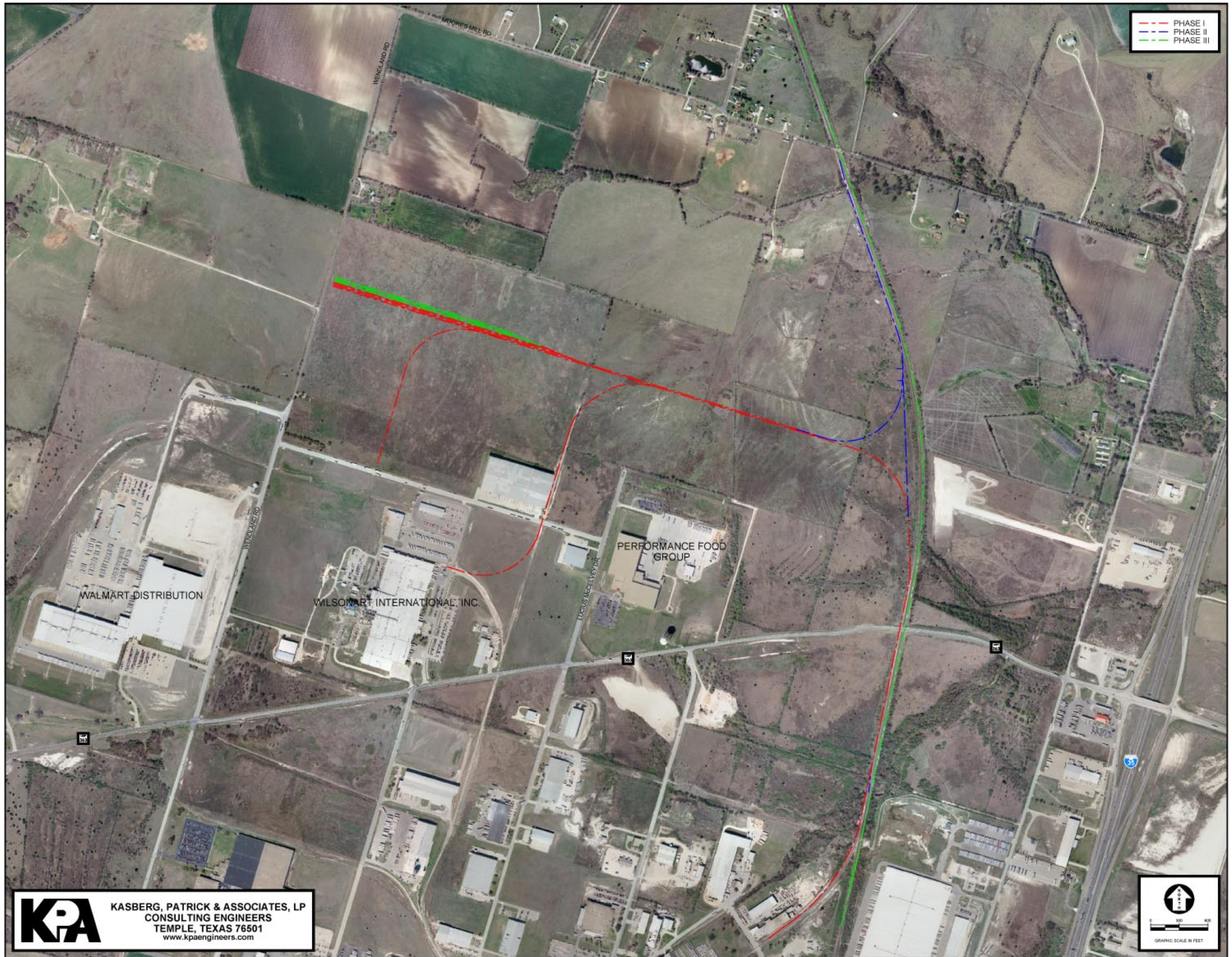
Order 3 in the amount of \$84,067, which includes \$66,000 to install a turnout for future rail infrastructure to the north, as well as \$18,067 to realign the proposed rail line around a conflicting BNSF signal house.

FISCAL IMPACT: Funding in the amount of \$94,515 for change order 2 to realign the conflicting sanitary sewer main and razor wire fencing is available from the 2008 Certificate of Obligation Bonds, Series 2008A issued for the Reinvestment Zone #1 in account 795-9700-531-6837, project #100166.

Funding in the amount of \$84,067 for change order 3 to install a turnout for future rail infrastructure and realignment of the line around the signal house is available from Reinvestment Zone #1 revenues in account 795-9500-531-6825, project #100166. The total cost of these change orders is \$178,582 and are all funded within the Reinvestment Zone #1 Financing Plan, line 100

ATTACHMENTS:

[Map](#)
[Change Orders](#)
[Resolution](#)



PHASE I
PHASE II
PHASE III

KPA KASBERG, PATRICK & ASSOCIATES, LP
CONSULTING ENGINEERS
TEMPLE, TEXAS 76501
www.kpaengineers.com

GRAPHIC SCALE IN FEET

CHANGE ORDER

PROJECT: Industrial Rail Park Rail Spur Phase I & II
OWNER: City of Temple
CONTRACTOR: James Construction Group
ENGINEER: Kasberg, Patrick & Associates, LP
CHANGE ORDER #: 2

Make the following additions, modifications or deletions (circle those that apply) to the work described in the Contract Documents:

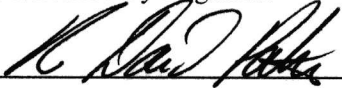
- Razor wire has been added to the fence that was replaced on the Delta Centrifugal property. The razor wire was on the previous fence.

Item	Description	Quantity	Unit	Cost	Total
CO2-1	Razor Wire	1,600	LF	\$ 2.90	\$ 4,640.00
CO2-2	Wastewater Line Replacement	1	LS	\$ 89,875.00	\$ 89,875.00
				Total Add	\$ 94,515.00

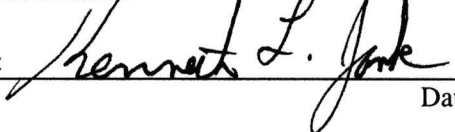
The compensation agreed upon in this Change Order is full, complete and final payment for all costs the Contractor may incur as a result of or relating to this change whether said costs are known, unknown, foreseen or unforeseen at this time, including without limitation, any cost for delay (for which only revised time is available), extended overhead, ripple or impact cost, or any other effect on changed or unchanged work as a result of this Change Order.

Original Contract Amount	\$ 9,554,955.00
Previous Net Change in Contract Amount	\$ 4,842.00
CO2 Net Change in Contract Amount	\$ 94,515.00
Revised Contract Amount	\$ 9,654,312.00
Original Contract Time	365 days
Previous Net Change in Contract Time	N/A
Net Change in Contract Time	0 days
Revised Contract Time	365 days
Original Final Completion Date	September 23, 2009
Revised Final Completion Date	NA

Recommended By Engineer:

By:  4/2/09
Date

Approved By Contractor:

By:  4-2-09
Date

Approved by City of Temple:

Approved as to Form:

By: _____

By: _____
City Attorney's Office Date

CHANGE ORDER

PROJECT: Industrial Rail Park Rail Spur Phase I & II

OWNER: City of Temple

CONTRACTOR: James Construction Group

ENGINEER: Kasberg, Patrick & Associates, LP

CHANGE ORDER #: 3

Make the following additions, modifications or deletions (circle those that apply) to the work described in the Contract Documents:

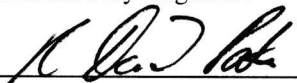
1. An additional number 11 switch has been added to the project to connect the Gulf States Toyota rail to the Rail Park infrastructure. It is not known at this time whether Gulf States Toyota or the City of Temple will pay for the rail. Additional fill was required for an alignment change for the BNSF signal house and additional excavation for channel grading

Item	Description	Quantity	Unit	Cost	Total
CO3-1	Non-Insulated Continuous Weld No. 11 112-Pound Turnout Including Two Rails, Cross Ties, Ballast, Leveling & Appurtenances	1	EA	\$ 66,000.00	\$ 66,000.00
CO3-2	Unclassified Excavation	3,411	CY	\$ 5.00	\$ 17,055.00
CO3-3	Compacted Fill as Detailed in the Geotechnical Report	1,012	CY	\$ 1.00	\$ 1,012.00
Total Add					\$ 84,067.00

The compensation agreed upon in this Change Order is full, complete and final payment for all costs the Contractor may incur as a result of or relating to this change whether said costs are known, unknown, foreseen or unforeseen at this time, including without limitation, any cost for delay (for which only revised time is available), extended overhead, ripple or impact cost, or any other effect on changed or unchanged work as a result of this Change Order.

Original Contract Amount	\$ 9,554,955.00
Previous Net Change in Contract Amount	\$ 99,357.00
CO3 Net Change in Contract Amount	\$ 84,067.00
Revised Contract Amount	\$ 9,738,379.00
Original Contract Time	365 days
Previous Net Change in Contract Time	N/A
Net Change in Contract Time	0 days
Revised Contract Time	365 days
Original Final Completion Date	September 23, 2009
Revised Final Completion Date	NA

Recommended By Engineer:

By:  5/12/09
Date

Approved By Contractor:

By:  5/18/09
Date

Approved by City of Temple:

Approved as to Form:

By: _____

By: _____
City Attorney's Office Date

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING TWO CHANGE ORDERS TO THE CONSTRUCTION CONTRACT WITH JAMES CONSTRUCTION GROUP, LLC, FOR CONSTRUCTION ACTIVITIES REQUIRED TO BUILD THE INDUSTRIAL RAIL SPUR PHASES 1 & 2 BETWEEN NORTHWEST H.K. DODGEN LOOP AND THE FUTURE OUTER LOOP, IN AN AMOUNT NOT TO EXCEED \$178,582; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, on July 3, 2008, the City Council authorized a construction contract with James Construction Group, LLC, for the Industrial Rail Spur, Phases 1 and 2, project;

Whereas, the Staff recommends approval of Change Order #2 in the amount of \$94,515 to realign a conflicting sanitary sewer main under the proposed and existing rail lines and to replace razor wire fencing that wasn't specified as razor wire in the original construction document; and Change Order #3 in the amount of \$84,067 to install a turnout for future rail infrastructure to the north and to realign the proposed rail line around a conflicting BNSF signal base;

Whereas, funding for the change orders is available in Account No. 795-9700-531-6837, project # 100166; and

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

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

Part 1: The City Council authorizes the City Manager, or his designee, to execute two change orders, for a cost not to exceed \$178,582, to the construction contract with James Construction Group, LLC, of Belton, Texas, after approval as to form by the City Attorney, for construction activities required to build the Industrial Rail Spur Phases 1 and 2 between northwest H.K. Dodgen Loop and the future Outer Loop.

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 18th day of **June**, 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

06/18/09
Item #4(G)
Consent Agenda
Page 1 of 1

DEPT. /DIVISION SUBMISSION & REVIEW:

Ken Cicora, Director of Park and Leisure Services

ITEM DESCRIPTION: Consider adopting a resolution authorizing a construction contract with Z Floor Company, Ltd. of Dallas for the purchase and installation of a new wood gym floor for the Wilson Park Recreation Center gymnasium in the amount of \$58,881.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: On May 26, 2009 the City received one bid from Z Floor Company of Dallas to replace the existing gym floor at the Wilson Park Recreation Center. The existing floor at this facility is a sport court type of floor constructed of interlocking tiles. The new floor will be a regulation wood floor constructed of Northern Hard Maple and will be more suitable for basketball and volleyball competitions.

The floor will be marked for a full length basketball court, a main volleyball court and two cross court volleyball floors.

The installation of this new gym floor will be delayed until September to avoid conflicts with programs and competitions already scheduled for the gymnasium portion of the recreation center. The removal of the existing flooring will be completed by Parks and Leisure Services personnel.

This project is funded through the CDBG program.

FISCAL IMPACT: Funding in the amount of \$100,000 was designated for this project in the Fiscal Year 2008-2009 CDBG Annual Action Plan and budget adopted by Council. Funding for this proposed \$58,881 contract is available in account 260-6100-571-65-16, project #100441.

ATTACHMENTS:

[Bid Tabulation](#)
[Resolution](#)

Tabulation of Bids Received
 on May 26, 2009 at 2:00 p.m.
 CDBG Wilson Park Recreation Center Gym Floor Replacement

	Bidders
	Z Floor Co. Ltd Dallas, Texas
Description	
Total Base Bid	\$58,881.00
Acknowledged addendum	Yes
Bid Bond (Required at bid opening)	5%

Bond Affidavit	No
Insurance Affidavit	Yes
Credit Check Authorization Form	No

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

Belinda Mattke, Director of Purchasing

26-May-09

Belinda Mattke, Director of Purchasing

Date

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING A CONSTRUCTION CONTRACT FOR THE PURCHASE AND INSTALLATION OF A NEW WOOD GYM FLOOR FOR THE WILSON PARK RECREATION CENTER GYMNASIUM WITH Z FLOOR, LTD., OF DALLAS, TEXAS, IN AN AMOUNT NOT TO EXCEED \$58,881; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, on May 26, 2009, the City received 1 bid to replace the existing gym floor at the Wilson Park Recreation Center;

Whereas, the Staff recommends accepting the bid (\$58,881) received from Z Floor, Ltd., of Dallas, Texas, for this project;

Whereas, funds are available for this project in Account No. 260-6100-571-6516, project #100441; 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, for a cost not to exceed \$58,881, between the City of Temple and Z Floor Company, Ltd., of Dallas, Texas, after approval as to form by the City Attorney, for the purchase and installation of a new wood gym floor for the Wilson Park Recreation Center gymnasium.

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 **18th** day of **June**, 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

06/18/09
Item #4(H)
Consent Agenda
Page 1 of 1

DEPT./DIVISION SUBMISSION & REVIEW:

Traci L. Barnard, Director of Finance

ITEM DESCRIPTION: Consider adopting a resolution authorizing a contract with Brockway, Gersbach, Franklin and Niemeier, P.C. to perform the annual City of Temple audit for an amount not to exceed \$53,000.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: This item is to engage the audit firm of Brockway, Gersbach, Franklin and Niemeier, P.C. to perform the annual audit of the City of Temple. This will be the fifth year of a five year proposal for audit services. Staff anticipates the audit will be completed and presented to the Council in February 2010.

Listed below are the cost proposals related to audit services:

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FISCAL IMPACT: FY 2008 was the first year for the implementation of the new risk based standards which was cost an additional \$10,400 to our base audit fee of \$42,700. The total audit fee for FY 2008 was \$53,100. The FY 2009 total audit fee will be \$53,000.

\$53,000 is proposed in the FY 2009-2010 preliminary budget, to be filed on June 26, 2009.

ATTACHMENTS:

[Engagement letter](#)
[Resolution](#)

May 14, 2009

Honorable Mayor and
Members of the City Council
Temple, Texas

We are pleased to confirm our understanding of the services we are to provide the City of Temple, Texas for the year ended September 30, 2009. We will audit the financial statements of the governmental activities, the business-type activities, the aggregate discretely presented component units, each major fund, and the aggregate remaining fund information, which collectively comprise the basic financial statements of the City of Temple, Texas as of and for the year ended September 30, 2009. Accounting standards generally accepted in the United States provide for certain required supplementary information (RSI), such as management's discussion and analysis (MD&A), to accompany the City of Temple, Texas' basic financial statements. As part of our engagement, we will apply certain limited procedures to City of Temple, Texas' RSI. These limited procedures will consist principally of inquiries of management regarding the methods of measurement and presentation, which management is responsible for affirming to us in its representation letter. Unless we encounter problems with the presentation of the RSI or with procedures relating to it, we will disclaim an opinion on it. The following RSI is required by generally accepted accounting principles and will be subjected to certain limited procedures, but will not be audited:

1. Management's Discussion and Analysis
2. Budgetary Comparison Schedules
3. Schedule of Funding Progress

Supplementary information other than RSI, such as combining and individual fund financial statements, also accompanies City of Temple, Texas' basic financial statements. We will subject the following supplementary information to the auditing procedures applied in our audit of the basic financial statements and will provide an opinion on it in relation to the basic financial statements:

1. Combining and Individual Fund Statements and Schedules.
2. Schedule of Expenditures of Federal Awards.

The following additional information accompanying the basic financial statements will not be subjected to the auditing procedures applied in our audit of the financial statements, and for which our auditor's report will disclaim an opinion.

1. Introductory Section
2. Statistical Data

Honorable Mayor and
Members of the City Council
Temple, Texas
Page two

Audit Objectives

The objective of our audit is the expression of opinions as to whether your basic financial statements are fairly presented, in all material respects, in conformity with accounting principles generally accepted in the United States of America and to report on the fairness of the additional information referred to in the first paragraph when considered in relation to the basic financial statements taken as a whole. The objective also includes reporting on—

- Internal control related to the financial statements and compliance with laws, regulations, and the provisions of contracts or grant agreements, noncompliance with which could have a material effect on the financial statements in accordance with *Government Auditing Standards*.
- Internal control related to major programs and an opinion (or disclaimer of opinion) on compliance with laws, regulations, and the provisions of contracts or grant agreements that could have a direct and material effect on each major program in accordance with the Single Audit Act Amendments of 1996 and OMB Circular A-133, *Audits of States, Local Governments, and Non-Profit Organizations*.

The reports on internal control and compliance will each include a statement that the report is intended solely for the information and use of management the body of individuals charged with governance, others within the entity, specific legislative or regulatory bodies, federal awarding agencies, and if applicable, pass-through entities and is not intended to be and should not be used by anyone other than these specified parties.

Our audit will be conducted in accordance with auditing standards generally accepted in the United States of America; the standards for financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States; the Single Audit Act Amendments of 1996; and the provisions of OMB Circular A-133, and will include tests of accounting records, a determination of major program(s) in accordance with Circular A-133, and other procedures we consider necessary to enable us to express such opinions and to render the required reports. If our opinions on the financial statements or the Single Audit compliance opinions are other than unqualified, we will fully discuss the reasons with you in advance. If, for any reason, we are unable to complete the audit or are unable to form or have not formed opinions, we may decline to express opinions or to issue a report as a result of this engagement.

Management Responsibilities

Management is responsible for the basic financial statements and all accompanying information as well as all representations contained therein. Management is also responsible for preparation of the schedule of expenditures of federal awards in accordance with the requirements of OMB Circular A-133. As part of the audit, we will assist with preparation of your financial statements, schedule of expenditures of federal awards, and related notes. You are responsible for making all management decisions and performing all management functions relating to the financial statements, schedule of expenditures of federal awards, and related notes and for accepting full responsibility for such decisions. You will be required to acknowledge in the management representation letter our assistance with preparation of the financial statements and the schedule of expenditures of federal awards and that you have reviewed and approved the financial statements, schedule of expenditures of federal awards, and related notes prior to their issuance and have accepted responsibility for them. Further, you are required to designate an individual with suitable skill, knowledge, or experience to oversee any nonaudit services we provide and for evaluating the adequacy and results of those services and accepting responsibility for them.

Honorable Mayor and
Members of the City Council
Temple, Texas
Page three

Management is responsible for establishing and maintaining effective internal controls, including internal controls over compliance, and for monitoring ongoing activities, to help ensure that appropriate goals and objectives are met. You are also responsible for the selection and application of accounting principles; for the fair presentation in the financial statements of the respective financial position of the governmental activities, the business-type activities, the aggregate discretely presented component units, each major fund, and the aggregate remaining fund information of the City of Temple, Texas and the respective changes in financial position and, where applicable, cash flows in conformity with U.S. generally accepted accounting principles; and for compliance with applicable laws and regulations and the provisions of contracts and grant agreements.

Management is also responsible for making all financial records and related information available to us and for ensuring that management and financial information is reliable and properly recorded. Your responsibilities also include, including identifying significant vendor relationships in which the vendor has responsibility for program compliance and for the accuracy and completeness of that information. Your responsibilities include adjusting the financial statements to correct material misstatements and confirming to us in the representation letter that the effects of any uncorrected misstatements aggregated by us during the current engagement and pertaining to the latest period presented are immaterial, both individually and in the aggregate, to the financial statements taken as a whole.

You are responsible for the design and implementation of programs and controls to prevent and detect fraud, and for informing us about all known or suspected fraud, or illegal acts affecting the government involving (1) management, (2) employees who have significant roles in internal control, and (3) others where the fraud or illegal acts could have a material effect on the financial statements. Your responsibilities include informing us of your knowledge of any allegations of fraud or suspected fraud affecting the government received in communications from employees, former employees, grantors, regulators, or others. In addition, you are responsible for identifying and ensuring that the entity complies with applicable laws and regulations, contracts, agreements and grants. Additionally, as required by OMB Circular A-133, it is management's responsibility to follow up and take corrective action on reported audit findings and to prepare a summary schedule of prior audit findings and a corrective action plan.

Management is responsible for establishing and maintaining a process for tracking the status of audit findings and recommendations. Management is also responsible for identifying for us previous financial audits, attestation engagements, performance audits, or other studies related to the objectives discussed in the Audit Objectives section of this letter. This responsibility includes relaying to us corrective actions taken to address significant findings and recommendations resulting from those audits, attestation engagements, performance audits, or studies. You are also responsible for providing management's views on our current findings, conclusions, and recommendations, as well as your planned corrective actions, for the report, and for the timing and format for providing that information.

Audit Procedures—General

An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements; therefore, our audit will involve judgment about the number of transactions to be examined and the areas to be tested. We will plan and perform the audit to obtain reasonable rather than absolute assurance about whether the financial statements are free of material misstatement, whether from (1) errors, (2) fraudulent financial reporting, (3) misappropriation of assets, or (4) violations of laws or governmental regulations that are attributable to the entity or to acts by management or employees acting on behalf of the entity. Because the determination of abuse is subjective, *Government Auditing Standards* do not expect auditors to provide reasonable assurance of detecting abuse.

Honorable Mayor and
Members of the City Council
Temple, Texas
Page four

Because an audit is designed to provide reasonable, but not absolute assurance and because we will not perform a detailed examination of all transactions, there is a risk that material misstatements or noncompliance may exist and not be detected by us. In addition, an audit is not designed to detect immaterial misstatements or violations of laws or governmental regulations that do not have a direct and material effect on the financial statements or major programs. However, we will inform you of any material errors and any fraudulent financial reporting or misappropriation of assets that comes to our attention. We will also inform you of any violations of laws or governmental regulations that come to our attention, unless clearly inconsequential. We will include such matters in the reports required for a Single Audit. Our responsibility as auditors is limited to the period covered by our audit and does not extend to any later periods for which we are not engaged as auditors.

Our procedures will include tests of documentary evidence supporting the transactions recorded in the accounts, and may include tests of the physical existence of inventories, and direct confirmation of receivables and certain other assets and liabilities by correspondence with selected individuals, funding sources, creditors, and financial institutions. We will request written representations from your attorneys as part of the engagement, and they may bill you for responding to this inquiry. At the conclusion of our audit, we will also require certain written representations from you about the financial statements and related matters.

Audit Procedures—Internal Controls

Our audit will include obtaining an understanding of the entity and its environment, including internal control, sufficient to assess the risks of material misstatement of the financial statements and to design the nature, timing, and extent of further audit procedures. Tests of controls may be performed to test the effectiveness of certain controls that we consider relevant to preventing and detecting errors and fraud that are material to the financial statements and to preventing and detecting misstatements resulting from illegal acts and other noncompliance matters that have a direct and material effect on the financial statements. Our tests, if performed, will be less in scope than would be necessary to render an opinion on internal control and, accordingly, no opinion will be expressed in our report on internal control issued pursuant to *Government Auditing Standards*.

As required by OMB Circular A-133, we will perform tests of controls over compliance to evaluate the effectiveness of the design and operation of controls that we consider relevant to preventing or detecting material noncompliance with compliance requirements applicable to each major federal award program. However, our tests will be less in scope than would be necessary to render an opinion on those controls and, accordingly, no opinion will be expressed in our report on internal control issued pursuant to OMB Circular A-133.

An audit is not designed to provide assurance on internal control or to identify significant deficiencies. However, during the audit, we will communicate to management and those charged with governance internal control related matters that are required to be communicated under AICPA professional standards, *Government Auditing Standards*, and OMB Circular A-133.

Audit Procedures—Compliance

As part of obtaining reasonable assurance about whether the financial statements are free of material misstatement, we will perform tests of the City of Temple, Texas' compliance with applicable laws and regulations and the provisions of contracts and agreements, including grant agreements. However, the objective of those procedures will not be to provide an opinion on overall compliance and we will not express such an opinion in our report on compliance issued pursuant to *Government Auditing Standards*.

Honorable Mayor and
Members of the City Council
Temple, Texas
Page five

OMB Circular A-133 requires that we also plan and perform the audit to obtain reasonable assurance about whether the auditee has complied with applicable laws and regulations and the provisions of contracts and grant agreements applicable to major programs. Our procedures will consist of the tests of transactions and other applicable procedures described in the *OMB Circular A-133 Compliance Supplement* for the types of compliance requirements that could have a direct and material effect on each of City of Temple, Texas' major programs. The purpose of those procedures will be to express an opinion on Texas' compliance with requirements applicable to each of its major programs in our report on compliance issued pursuant to OMB Circular A-133.

Audit Administration, Fees, and Other

We may from time to time, and depending on the circumstances, use third-party service providers in serving your account. We may share confidential information about you with these service providers, but remain committed to maintaining the confidentiality and security of your information. Accordingly, we maintain internal policies, procedures, and safeguards to protect the confidentiality of your personal information. In addition, we will secure confidentiality agreements with all service providers to maintain the confidentiality of your information and we will take reasonable precautions to determine that they have appropriate procedures in place to prevent the unauthorized release of your confidential information to others. In the event that we are unable to secure an appropriate confidentiality agreement, you will be asked to provide your consent prior to the sharing of your confidential information with the third-party service provider. Furthermore, we will remain responsible for the work provided by any such third-party service providers.

We understand that your employees will prepare all cash, accounts receivable, or other confirmations we request and will locate any documents selected by us for testing.

At the conclusion of the engagement, we will complete the appropriate sections of the Data Collection Form that summarizes our audit findings. It is management's responsibility to submit the reporting package (including financial statements, schedule of expenditures of federal awards, summary schedule of prior audit findings, auditors' reports, and corrective action plan) along with the Data Collection Form to the federal audit clearinghouse. We will coordinate with you the electronic submission and certification. If applicable, we will provide copies of our report for you to include with the reporting package you will submit to pass-through entities. The Data Collection Form and the reporting package must be submitted within the earlier of 30 days after receipt of the auditors' reports or nine months after the end of the audit period, unless a longer period is agreed to in advance by the cognizant or oversight agency for audits.

The audit documentation for this engagement is the property of Brockway, Gersbach, Franklin & Niemeier, P. C. and constitutes confidential information. However, pursuant to authority given by law or regulation, we may be requested to make certain audit documentation available to a federal agency providing direct or indirect funding, or the U.S. Government Accountability Office for purposes of a quality review of the audit, to resolve audit findings, or to carry out oversight responsibilities. We will notify you of any such request. If requested, access to such audit documentation will be provided under the supervision of Brockway, Gersbach, Franklin & Niemeier, P. C. personnel. Furthermore, upon request, we may provide copies of selected audit documentation to the aforementioned parties. These parties may intend, or decide, to distribute the copies or information contained therein to others, including other governmental agencies.

Honorable Mayor and
Members of the City Council
Temple, Texas
Page six

The audit documentation for this engagement will be retained for a minimum of five years after the date the auditors' report is issued or for any additional period requested by the City. If we are aware that a federal awarding agency, pass-through entity, or auditee is contesting an audit finding, we will contact the party(ies) contesting the audit finding for guidance prior to destroying the audit documentation.

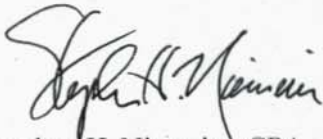
We expect to begin our audit in August, 2009 and to issue our reports no later than February, 2010. Steve Niemeier is the engagement partner and is responsible for supervising the engagement and signing the reports or authorizing another individual to sign them. Our fee for these services will be at our standard rates, except we agree that our gross fee, including expenses, will not exceed \$ 53,000. Our standard hourly rates vary accordingly to the degree of responsibility involved and the experience level of the personnel assigned to your audit. Our invoices for these fees will be rendered each month as work progresses and are payable on presentation. In accordance with our firm policies, work may be suspended if your account becomes 30 days or more overdue and may not be resumed until your account is paid in full. If we elect to terminate our services for nonpayment, our engagement will be deemed to have been completed upon written notification of termination, even if we have not completed our report(s). You will be obligated to compensate us for all time expended and to reimburse us for all out-of-pocket costs through the date of termination. The above fee is based on anticipated cooperation from your personnel and the assumption that unexpected circumstances will not be encountered during the audit. If significant additional time is necessary, we will discuss it with you and arrive at a new fee estimate before we incur the additional costs.

Government Auditing Standards require that we provide you with a copy of our most recent external peer review report and any letter of comment, and any subsequent peer review reports and letters of comment received during the period of the contract. Our 2006 peer review report accompanies this letter.

We appreciate the opportunity to be of service to the City of Temple, Texas and believe this letter accurately summarizes the significant terms of our engagement. If you have any questions, please let us know. If you agree with the terms of our engagement as described in this letter, please sign the enclosed copy and return it to us.

Sincerely,

BROCKWAY, GERSBACH, FRANKLIN & NIEMEIER, P.C.



Stephen H. Niemeier, CPA

RESPONSE:

This letter correctly sets forth the understanding of the City of Temple, Texas

By: _____

Title: _____

Date: _____

Carneiro, Chumney & Co., L.C.

Robert M. McAdams, CPA
Robert L. Lewis, CPA
Franklin W. Burk, CPA
Paul Roth-Roffy, CPA

CERTIFIED PUBLIC ACCOUNTANTS

J. Lowell Goode, CPA
Julia C. Norton, CPA
Allen E. Robertson, Jr., CPA

July 11, 2006

To the Shareholders
Brockway, Gersbach, McKinnon & Niemeier, P.C.

We have reviewed the system of quality control for the accounting and auditing practice of Brockway, Gersbach, McKinnon & Niemeier, P.C. (the firm) in effect for the year ended April 30, 2006. A system of quality control encompasses the firm's organizational structure, the policies adopted and procedures established to provide it with reasonable assurance of conforming with professional standards. The elements of quality control are described in the Statements on Quality Control Standards issued by the American Institute of CPAs (AICPA). The firm is responsible for designing a system of quality control and complying with it to provide the firm reasonable assurance of conforming with professional standards in all material respects. Our responsibility is to express an opinion on the design of the system of quality control and the firm's compliance with its system of quality control based on our review.

Our review was conducted in accordance with standards established by the Peer Review Board of the AICPA. During our review, we read required representations from the firm, interviewed firm personnel and obtained an understanding of the nature of the firm's accounting and auditing practice, and the design of the firm's system of quality control sufficient to assess the risks implicit in its practice. Based on our assessments, we selected engagements and administrative files to test for conformity with professional standards and compliance with the firm's system of quality control. The engagements selected represented a reasonable cross-section of the firm's accounting and auditing practice with emphasis on higher-risk engagements. The engagements selected included among others, audits of Employee Benefit Plans and engagements performed under Government Auditing Standards. Prior to concluding the review, we reassessed the adequacy of the scope of the peer review procedures and met with firm management to discuss the results of our review. We believe that the procedures we performed provide a reasonable basis for our opinion.

In performing our review, we obtained an understanding of the system of quality control for the firm's accounting and auditing practice. In addition, we tested compliance with the firm's quality control policies and procedures to the extent we considered appropriate. These tests covered the application of the firm's policies and procedures on selected engagements. Our review was based on selected tests therefore it would not necessarily detect all weaknesses in the system of quality control or all instances of noncompliance with it. There are inherent limitations in the effectiveness of any system of quality control and therefore noncompliance with the system of quality control may occur and not be detected. Projection of any evaluation of a system of quality control to future periods is subject to the risk that the system of quality control may become inadequate because of changes in conditions, or because the degree of compliance with the policies or procedures may deteriorate.

To the Shareholders
Brockway, Gersbach, McKinnon &
Niemeier, P.C.

- 2 -

July 11, 2006

In our opinion, the system of quality control for the accounting and auditing practice of Brockway, Gersbach, McKinnon & Niemeier, P.C. in effect for the year ended April 30, 2006, has been designed to meet the requirements of the quality control standards for an accounting and auditing practice established by the AICPA and was complied with during the year then ended to provide the firm with reasonable assurance of conforming with professional standards.

Carreiro, Chumney & Co., L.C.

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS,
AUTHORIZING RENEWAL OF A CONTRACT WITH BROCKWAY,
GERSBACH, FRANKLIN AND NEIMEIER, P.C., TO PERFORM THE ANNUAL
CITY OF TEMPLE AUDIT FOR AN AMOUNT NOT TO EXCEED \$53,000; AND
PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, the City entered into a 5-year proposal for audit services on July 7, 2005,
with Brockway, Gersbach, Franklin and Neimeier, P.C.;

Whereas, the Staff recommends renewing the contract for a one-year term for these
services;

Whereas, the cost for the fifth year of the proposal is \$53,000, and funds are budgeted
in the FY2009-2010 proposed budget for this expenditure; 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 to execute an agreement, not
to exceed \$53,000, between the City of Temple and Brockway, Gersbach, Franklin and
Neimeier, P.C., after approval as to form by the City Attorney, to perform the annual City of
Temple audit.

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 **18th** day of **June**, 2009.

THE CITY OF TEMPLE, TEXAS

WILLIAM A. JONES, III, Mayor

ATTEST:

ATTEST:

Clydette Entzminger
City Secretary

Jonathan Graham
City Attorney's Office



COUNCIL AGENDA ITEM MEMORANDUM

06/18/09
Item #4(I)
Consent Agenda
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DEPT./DIVISION SUBMISSION & REVIEW:

David Blackburn, City Manager

ITEM DESCRIPTION: Consider adopting a resolution authorizing the City Manager to enter into a railroad licensing and operating agreement with Patriot Rail Corp and Temple & Central Texas Railway, Inc. for operational and management services in the Temple Rail Park.

STAFF RECOMMENDATION: Adopt resolution presented in item description.

ITEM SUMMARY: The proposed resolution would authorize a twenty year license and operating agreement (Licensing Agreement) with Patriot and Central Texas Railway (CTR) (CTR is a wholly owned subsidiary of Patriot) to manage the City's Rail Park. The agreement has a two year initial term after which the agreement automatically extends to a twenty year term (in total) if Patriot and CTR are still in compliance and performing satisfactorily.

After a selection process to select a firm to manage our rail park and handle switching operations within the Park, the City signed a letter of intent with Patriot Rail expressing its intent to enter into a definitive operating agreement. Over the past two months, we have negotiated the terms of that agreement.

The major elements of the Licensing Agreement are that the City grants an exclusive right for Patriot and CTR to actively manage and assist the City and TEDC in developing the Rail Park. The typical "railroad functions," rail car switching, loading, unloading and storage operations, routine maintenance of the rail infrastructure (rails, switches, etc.) would be performed by CTR. While Patriot, the parent company, would focus their efforts on developing a master plan for the Rail Park, conducting a site survey to identify any needed rail improvements, developing a marketing plan to increase usage of the Rail Park and to attract new customers to the Rail Park, and provide the City with data about usage of the Rail Park.

As the rail service provider, CTR will have ninety days under the Licensing Agreement to enter into an agreement with Burlington Northern Santa Fe Railroad to provide switching services from BNSF's rail yard. If they are unable to do so, the Licensing Agreement will terminate. CTR agrees to provide "safe, consistent and reliable rail service, which service shall be consistent with the providing of quality rail service as recognized in the rail service industry" and to charge users in the Rail Park

“fees charged to users of services offered by Licensee shall be reasonably competitive with similar services offered by rail service providers in the rail service industry.”

As compensation to the City for the exclusive right to provide rail services within the Rail Park, Patriot and CTR agree to compensate the City with four percent (4%) of their gross receipts prior to Gulf States Toyota coming on line, and five percent (5%) thereafter.

A team consisting of the City Manager, and members of TEDC and the Reinvestment Zone boards, interviewed several railroads with strong credentials to manage and operate rail parks, what set Patriot apart in the group being considered was their experience and enthusiasm for identifying and bringing businesses into rail parks and recent experience developing new business parks.

FISCAL IMPACT: The City will receive a percentage of Patriot’s and CTR’s gross receipts from their switching operations—4% initially, escalating to 5% when Gulf States Toyota comes online. The responsibility for repairs, maintenance, and capital improvements for the Rail Park will still remain with the City, but under the Licensing Agreement there is the potential for the City to contract some of that work with Patriot/CTR and for Patriot to finance some of those improvements.

ATTACHMENTS:

[Resolution](#)

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING THE CITY MANAGER TO ENTER INTO A RAILROAD LICENSING AND OPERATING AGREEMENT WITH PATRIOT RAIL CORP AND CENTRAL TEXAS RAILWAY, INC., FOR OPERATIONAL AND MANAGEMENT SERVICES IN THE TEMPLE RAIL PARK; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, after a selection process to select a firm to manage the City's rail park and handle switching operations within the Park, the Staff recommends entering into a railroad licensing and operating agreement with Patriot Rail Corp and Central Texas Railway, Inc.,(CTR), a wholly owned subsidiary of Patriot Rail Corp, because of their experience and enthusiasm for identifying and bringing businesses into rail parks and recent experience developing new business parks;

Whereas, the license and operating agreement has a 2 year initial term after which the agreement automatically extends to a 20 year term (in total) if Patriot and CTR are still in compliance and operating satisfactorily;

Whereas, the City will receive a percentage of Patriot's and CTR's gross receipts from their switching operations—4% initially, escalating to 5% when Gulf States Toyota comes online – the responsibility for repairs, maintenance, and capital improvements for the Rail Park will still remain with the City, but under the Licensing Agreement there is the potential for the City to contract some of that work with Patriot/CTR and for Patriot to finance some of those improvements; 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 enter into a railroad licensing and operating agreement with Patriot Rail Corp and Central Texas Railway, Inc., after approval as to form by the City Attorney, for operational and management services in the Temple Rail Park.

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 **18th** day of **June**, 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

06/18/09
Item #4(J)
Consent Agenda
Page 1 of 3

DEPT./DIVISION SUBMISSION & REVIEW:

Ken Cicora, Parks and Leisure Services Director
Belinda Mattke, Director of Purchasing

ITEM DESCRIPTION: Consider adopting a resolution authorizing the following related to golf cars for Sammons Golf Links:

1. A 54 month conditional sale agreement for 70 fleet electric golf cars, 2 marshal electric golf cars, and 2 beverage cars from Yamaha Golf Car Company with an annual payment of \$52,343.76, and
2. Electrical improvements to the golf car barn utilizing the annual electrical service contract with T. Morales Company Electric & Controls, Ltd. for an estimated amount of \$30,000.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: The City's current three-year lease on 75 gas-powered golf cars for Sammons Golf Links expires on July 31, 2009, with a guaranteed buy-back of \$1,700 per car. On March 19, 2009, Council authorized the use of a Request for Proposals (RFP) for the acquisition of new golf cars through a lease agreement. On May 5, 2009, 1 proposal was received from Yamaha Golf Car Company, the City's current lessor. However, as noted in the RFP, staff also considered offerings available from E-Z-Go and Club Car through the TxMAS and BuyBoard cooperatives, respectively.

Sammons currently runs gas powered golf cars and the course does not currently have any food and beverage designated units. In addition, the course currently uses fleet golf cars for marshalling purposes. As a result, it was staff's desire as part of this procurement process to evaluate the following:

If transitioning to electric cars, which is preferred by golfers due to their quiet nature, was an affordable option for the course;

If 2 uniquely painted and equipped marshal cars could be obtained in place of 2 of the standard equipped fleet cars; and

If 2 beverage cars could be obtained to facilitate beverage food and beverage service on the course.

As part of this evaluation, golf course personnel stated that they were willing to reduce the fleet size of the golf cars to accommodate these enhancements as the need to have a full fleet of 75 golf cars on hand is only necessary for certain tournaments.

With respect to converting from gas powered cars to electric cars, it was determined that it will cost approximately \$30,000 to add the necessary electrical infrastructure to the golf car barn. This estimate includes \$22,000 in facility electrical upgrades, proposed to be provided by T. Morales, along with \$8,000 to upgrade the electrical transformer feeding the facility, as required by Oncor. Staff has determined that there are savings to be reaped in the amount of approximately \$8,000 per year to operate and maintain the electric golf cars versus the gas cars. So even though gas cars are a less expensive alternative initially by approximately \$7,000 per year, the cost of equipping the golf barn to electric is recoverable over a period of time.

With respect to leasing 2 specially equipped marshal cars and 2 beverage cars, staff determined that a reduction to the standard fleet could be done to accommodate these enhancements to the golf course operations. Accordingly, it is staff's recommendation to enter into a lease/purchase agreement for 70 fleet electric golf cars, two uniquely painted and equipped electric marshal cars, and two gas-powered beverage cars (one Fairway Lounge and one multi-purpose utility vehicle with drop in cooler) with the following pricing from Yamaha Golf Car Company:

Payment per month @ \$56.60 x 70 cars	\$ 3,962.00
Payment per month for 2 marshal cars	113.20
Payment per month for 2 beverage cars	<u>286.78</u>
Total Monthly Payment	<u>\$ 4,361.98</u>
Annualized	<u>\$ 52,343.76</u>

The above negotiated pricing reflects the inclusion of split windshields and a battery watering system for all of the fleet and marshal cars. In addition, the above negotiated pricing reflects the ability for the City to put the units 'on vacation' with no payments required for six months while public works and golf course improvements are being done beginning in October 2010; thus the proposed agreement is a 54-month term, but payments are only required for 48 of the 54 months.

The evaluation criteria as defined within the RFP weighted price at 50%; reputation of the offeror and the quality of the offeror's goods and services at 20%; extent to which the proposed cars meet the City's needs, including maintenance, service, and warranties at 15%; and payment terms, responsiveness to timeline, and the presentation of their offerings at 15%. Staff's evaluation concluded that the pricing offered by Yamaha, with the E-Z-Go and Club Car offerings being over 30% higher, would offer the City the best value.

It is staff's recommendation to use a conditional sale agreement (i.e. a lease/purchase agreement), which will save on personal property taxes and will give the City flexibility at the end of the lease term. The guaranteed buy-back offered by Yamaha on the fleet and marshal cars is \$1,300 per unit while the buy-back on the two beverage cars is a total of \$3,400.

FISCAL IMPACT: Funding for the golf cars is currently appropriated in the FY 2009 budget in the amount of \$52,155, the current annual lease commitment under the lease expiring on July 31, 2009. Staff has requested funding in the FY 2010 budget in the amount of \$55,000, which would allow for adequate funding for the proposed conditional sale agreement in the amount of \$52,343.76 per year. The golf car lease and maintenance expenditures are recovered through usage fees charged to golfers.

Funding for the electrical improvements in the estimated amount of \$30,000 is available in savings accumulated on projects funded with budget-designated building & grounds capital funds. A budget adjustment is attached for Council approval to reallocate \$30,000 of these project savings to account 110-5931-552-6310, project #100503, designated for the cart barn electrical improvements.

ATTACHMENTS:

[Budget Adjustment
Resolution](#)

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	
110-5931-552-63-10	100503	Building & Grounds	\$ 30,000			
110-5900-552-63-10	2006CF	Building & Grounds			24,410	
110-5924-519-63-10	100268	Building & Grounds			5,590	
TOTAL.....			\$ 30,000		\$ 30,000	

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

To reallocate funds for upgrading the Golf Car Barn to accommodate electric golf cars. Funding is available from building improvement project savings.

DOES THIS REQUEST REQUIRE COUNCIL APPROVAL?

☒

Yes

☐

No

DATE OF COUNCIL MEETING

June 18, 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 54 MONTH CONDITIONAL SALE AGREEMENT FOR 70 FLEET ELECTRIC GOLF CARS, 2 MARSHAL ELECTRIC GOLF CARS, AND 2 BEVERAGE CARS FROM YAMAHA GOLF CAR COMPANY, WITH AN ANNUAL PAYMENT OF \$52,343.76; AUTHORIZING ELECTRICAL IMPROVEMENTS TO THE GOLF BARN UTILIZING THE ANNUAL ELECTRICAL SERVICE CONTRACT WITH T. MORALES COMPANY ELECTRIC & CONTROLS, LTD, FOR AN ESTIMATED AMOUNT OF \$30,000; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, the City's current 3-year lease on 75 gas-powered golf cars for Sammons Golf Links expires on July 31, 2009 – on March 19, 2009, the City Council authorized the use of a Request for Proposals (RFP) for the acquisition of new golf cars through a lease agreement;

Whereas, on May 5, 2009, one proposal was received from Yamaha Golf Car Company, the City's current lessor; however as noted in the RFP, Staff also considered offerings available from E-Z-Go and Club Car through the TxMAS and BuyBoard cooperatives, respectively;

Whereas, Staff's evaluation concluded that the pricing offered by Yamaha would offer the City the best value and recommend a 54 month conditional sale agreement for 70 fleet electric golf cars, 2 marshal electric golf cars, and 2 beverage cars, with an annual payment of \$52,343.76;

Whereas, since the City will be converting from gas powered cars to electric cars, it will be necessary to add the required electrical infrastructure to the golf car barn – Staff recommends that these improvements be made by utilizing the annual electrical service contract with T. Morales Company Electric & Controls, Ltd., for an estimated amount of \$30,000;

Whereas, funding for the golf cars is currently appropriated in the FY 2009 budget and will be appropriated in the FY 2010 budget – an amendment to the FY 2009 budget is necessary to reallocate funds to Account No. 110-5931-552-6310, project 100503 designated for the cart barn electrical improvements; 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 54 month conditional sale agreement for 70 fleet electric golf cars, 2 marshal electric golf cars, and 2 beverage cars from Yamaha Golf Car Company, after approval as to form by the City Attorney, with an annual lease payment of \$52,343.76.

Part 2: The City Council authorizes electrical improvements to the golf car barn utilizing the annual electrical service contract with T. Morales Company Electric & Controls, Ltd., for an estimated amount of \$30,000.

Part 3: 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 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 **18th** day of **June**, 2009.

THE CITY OF TEMPLE, TEXAS

WILLIAM A. JONES, III, Mayor

ATTEST:

APPROVED AS TO FORM:

Clydetta Entzminger
City Secretary

Jonathan Graham
City Attorney



COUNCIL AGENDA ITEM MEMORANDUM

06/18/09
Item #4(K)
Consent Agenda
Page 1 of 1

DEPT./DIVISION SUBMISSION & REVIEW:

Sharon Rostovich, Airport Director

ITEM DESCRIPTION: Consider adopting a resolution authorizing a 5 year lease agreement with Summit Aviation, Inc., under new ownership, to continue to provide aviation maintenance and avionics services at the Draughon-Miller Central Texas Regional Airport.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: Gary Chambless and Wesley Brown have negotiated with Bill Maedgen, dba Summit Aviation to purchase the existing leasehold improvements incurred by Mr. Maedgen on April 1, 2004. The new owners will retain the same qualified staff members and continue to provide the same excellent service to our flying customers. Bill Maedgen will remain as a consultant for the new owners for a minimum of six months to assure a smooth transition.

The new owners currently work under contract for Fort Hood to provide helicopter training and firefighting on the range.

The hangar is 6,000 square feet and the rent has been calculated at \$0.10 per square foot which is comparable to the lease with the other FBO on the Airport approved January 2009. The rental rate will be \$600 per month and the lease term will be from July 1, 2009 through June 30, 2014.

The new owners have agreed to make significant improvements to the hangar to include painting, new flooring, displays and fixtures.

FISCAL IMPACT: The Airport will receive \$7,200 in hangar rent, an increase of \$2,700 from the previous tenant.

ATTACHMENTS:

[Resolution](#)

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING A FIVE YEAR LEASE AGREEMENT WITH SUMMIT AVIATION, INC., UNDER NEW OWNERSHIP, TO CONTINUE TO PROVIDE AVIATION MAINTENANCE AND AVIONICS SERVICES AT THE DRAUGHON-MILLER CENTRAL TEXAS REGIONAL AIRPORT; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, Bill Maedgen, d/b/a Summit Aviation, operated an effective and productive aircraft maintenance and avionics shop on the Airport since May, 2004;

Whereas, Gary Chambless and Wesley Brown have negotiated with Bill Maedgen to purchase the existing leasehold improvements – the new owners will retain the same qualified staff members and will continue to provide the same excellent service to the Airport's customers, and have also agreed to make significant improvements to the hangar to include painting, new flooring, displays and fixtures;

Whereas, the Staff recommends approval of a five year lease with Summit Aviation, Inc., under the new ownership, effective from July 1, 2009, through June 30, 2014, at a rental rate of \$600 per month; 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 five year lease agreement with Summit Aviation, Inc., after approval as to form by the City Attorney, to provide aviation maintenance and avionics services at the Draughon-Miller Central Texas Regional Airport.

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 **18th** day of **June**, 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

06/18/09
Item #4(L)
Consent Agenda
Page 1 of 1

DEPT./DIVISION SUBMISSION & REVIEW:

Sharon Rostovich, Airport Director

ITEM DESCRIPTION: Consider adopting a resolution authorizing an 11.316 parcel of City owned land be designated as Airport property for the purpose of completing the runway extension project at the Draughon-Miller Central Texas Regional Airport.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: As part of the runway extension grant project, several parcels of land at the end of Runway 33 were purchased including an 11.316 tract of land owned by the City of Temple. The City will receive \$86,000 for 95% of the value of the land under the grant project. The calculation is as follows: 11.316 acres X \$8,000 X 95% = \$86,000.

The purpose of designating the property as airport property is to protect and preserve its use in a manner consistent with airport operations.

TxDOT, Aviation Division, will reimburse the City for the land once the designation has been made by Resolution.

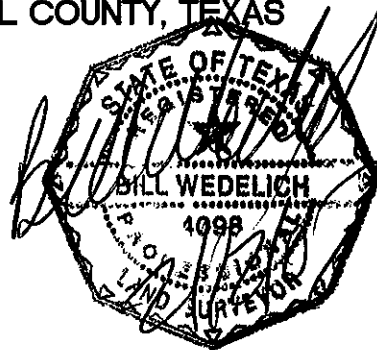
FISCAL IMPACT: The City will receive \$86,000 for the 11.316 acre tract of land.

ATTACHMENTS:

[Survey](#)
[Resolution](#)

PETER MERCER SURVEY,
A-553

BOUNDARY SURVEY OF
11.316 ACRES SITUATED IN THE
PETER MERCER SURVEY,
ABSTRACT 553
BELL COUNTY, TEXAS



CALLED 34.08 ACRES
CARL R. GRISHAM,
CHARLES GRISHAM
& LORETTA GRISHAM
VOL. 5437, PG. 535
O.P.R.B.C.T.

OLD TEMPLE AIRPORT ROAD
(PRESCRIPTIVE ROADWAY)
N16°29'13"E
PROPERTY LINE 1.064.59'

PARCEL 5
11.316 ACRES
(492,922 SQ. FT.)

CALLED 74.44 ACRES
CITY OF TEMPLE
VOL. 475, PG. 207
O.P.R.B.C.T.

PROPERTY LINE

SET 5/8" IR
WITH "GS" CAP
N73°20'27"W 387.98'

CALLED 4.590 ACRES
RANDLE C. GREENWAY
VOL. 2092, PG. 451
O.P.R.B.C.T.

FND. 3/4" IP
BEARS
S17°44'W, 0.93'

SET 5/8" I.R.
WITH "GS" CAP

PROPOSED AIRPORT EXPANSION
PROPERTY LINE

TRACT 8
CALLED 16.69 ACRES
GREENWAY INVESTMENT COMPANY,
A Texas General Partnership
VOL. 2118, PG. 125
O.P.R.B.C.T.

P.O.B.
SET 5/8" I.R.
WITH "GS" CAP
N73°20'27"W 386.57'
PROPERTY LINE

P.O.C.
FND. 3/4" I.P.
BEARS
S16°39'W, 0.24'

LINE TABLE		
LINE NO.	BEARING	LENGTH
L1	S71°06'22"W	368.00'

- NOTES:
1. A Title Commitment was not provided for this boundary survey. GeoSolutions did not abstract the subject tract or research easements. Abstracting was performed by First Community Title.
 2. GeoSolutions did not locate improvements on subject tract.
 3. All bearings are referenced to the Texas State Coordinate System, Central Zone, NAD83. Surface Adjustment Factor is 1.000120.



1440 Lake Front Circle, Suite #110
The Woodlands, Texas 77380
Phone: 281-681-9766 Fax: 281-681-9779

Drawing By: JGA	Date: 01/09/07	Scale: 1"=200'
Checked By: BW	F.B.: N/A	COUNTY: BELL
Project No. 06-017-229	Drawing Name 06017229PARCEL7.DWG	

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING AN 11.316 ACRE PARCEL OF CITY OWNED LAND TO BE DESIGNATED AS AIRPORT PROPERTY FOR THE PURPOSE OF COMPLETING THE RUNWAY EXTENSION PROJECT AT THE DRAUGHON-MILLER CENTRAL TEXAS REGIONAL AIRPORT; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, as part of the runway extension grant project, several parcels of land at the end of Runway 33 were purchased including an 11.316 acre tract of land owned by the City of Temple;

Whereas, the City will receive \$86,000 for 95% of the value of the land under the grant project from the TxDOT Aviation Division;

Whereas, the purpose of designating the property as Airport property is to protect and preserve its use in a manner consistent with Airport operations; 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 an 11.316 acre parcel of City-owned land, more fully described in Exhibit "A," attached hereto for all purposes, to be designated as Airport property for the purpose of completing the runway extension project at the Draughon-Miller Central Texas Regional Airport.

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 **18th** day of **June**, 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

06/18/09
Item #4(M)
Consent Agenda
Page 1 of 2

DEPT./DIVISION SUBMISSION & REVIEW:

Kim Foutz, Assistant City Manager

ITEM DESCRIPTION: Consider adopting a resolution authorizing the City Manager to submit a grant application for a sustainability/energy manager and a hike/bike trail in the Temple Medical Education District through the Department of Energy, Energy Efficiency and Conservation Block Grant Program.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: The Department of Energy (DOE) has announced a formula based grant program titled “Energy Efficiency and Conservation Block Grant Program” intended to provide funding to municipalities for 1) reducing fossil fuel emissions in a manner that is environmentally sustainable, and to the extent practicable, maximizes benefits for local and regional communities; 2) reduce the total energy use of the eligible entities; and 3) improve energy efficiency in the building sector, the transportation sector, and other appropriate sectors.

Staff is recommending two projects to submit to the DOE. One of the projects is to hire a sustainability/energy manager to develop and implement an energy master plan for the City. This position would audit the city’s facilities and current energy use, identify projects to facilitate energy conservation and efficiency, perform cost/benefit analyses, apply for grants, and develop and monitor performance metrics. Estimated cost for a three year grant funded position is \$180,000.

The second project is design and development of a hike/bike trail in the Temple Medical Education District. This trail was identified as a critical element of the TMED framework plan, runs east and west, and connects Scott and White Hospital, the conceptual location of the A&M Medical School, and Temple College. Conceptual design and estimates for this project are currently underway. Remaining funds in the amount of \$413,000 would be utilized for the trail.

This grant is the fourth stimulus grant fund application. Prior funded or requested grants include: the COPS grant, Outer Loop, and CDBG project improvements.

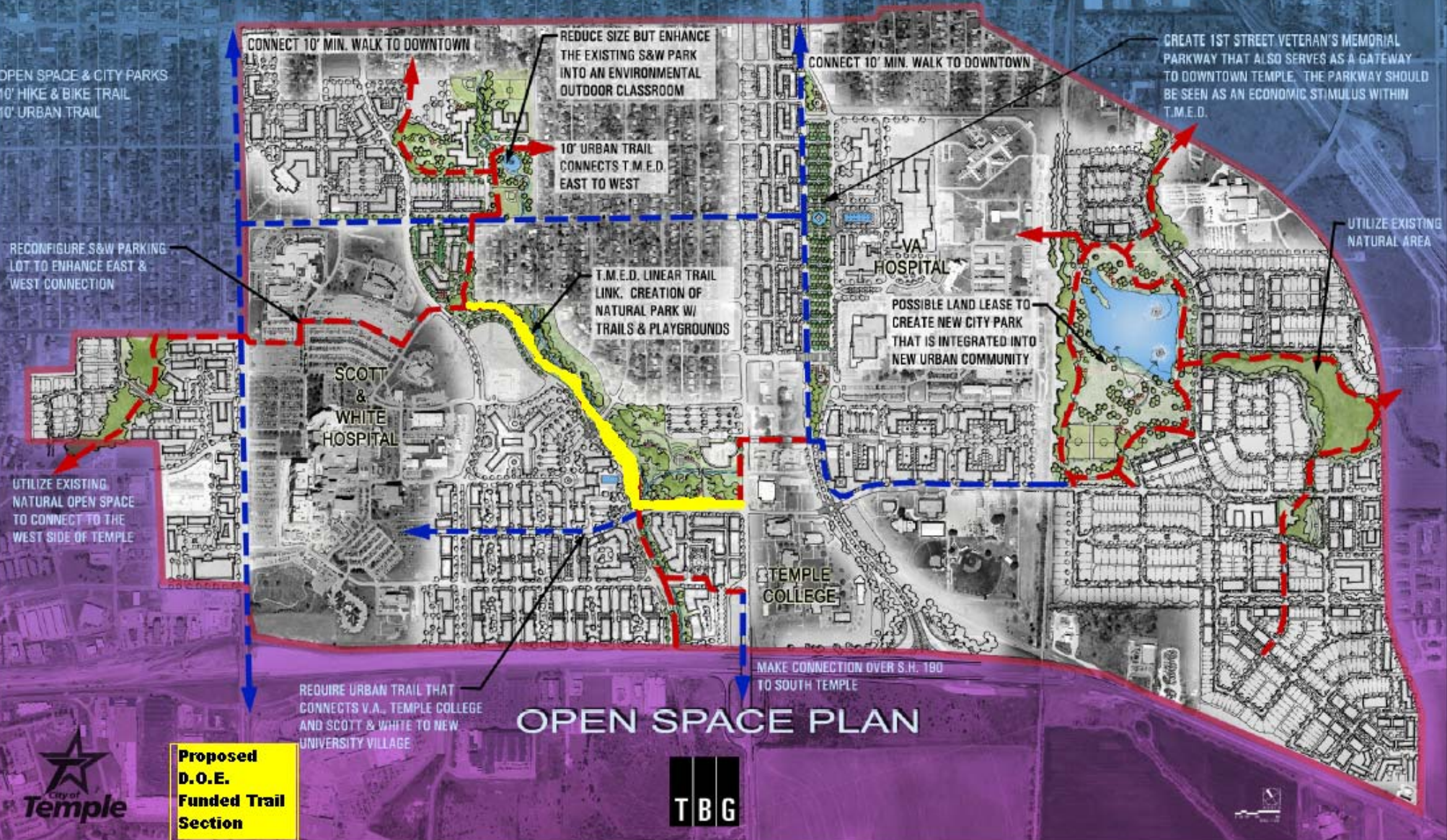
FISCAL IMPACT: There is no local matching requirement for this grant. Total grant funding made available to Temple is \$593,000.

ATTACHMENTS:

Map of trail location
Resolution

TEMPLE MEDICAL EDUCATIONAL DISTRICT

- OPEN SPACE & CITY PARKS
- 10' HIKE & BIKE TRAIL
- 10' URBAN TRAIL



RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING THE CITY MANAGER TO SUBMIT A GRANT APPLICATION FOR A SUSTAINABILITY/ENERGY MANAGER AND A HIKE & BIKE TRAIL IN THE TEMPLE MEDICAL EDUCATION DISTRICT THROUGH THE DEPARTMENT OF ENERGY, ENERGY EFFICIENCY AND CONSERVATION BLOCK GRANT PROGRAM; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, the Department of Energy has announced a formula based grant program entitled, “Energy Efficiency and Conservation Block Grant Program” which is intended to provide funding to municipalities for: 1) reducing fossil fuel emissions in a manner that is environmentally sustainable, and to the extent practicable, and maximizes benefits for local and regional communities; 2) reduce the total energy use of the eligible entities; and 3) improve energy efficiency in the building sector, the transportation sector, and other appropriate sectors;

Whereas, the Staff recommends submitting a grant application for a sustainability/energy manager and a hike & bike trail in the Temple Medical Education District;

Whereas, there is no local matching requirement for this grant – total grant funding available to the City of Temple is \$593,000; 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 submit a grant application for a sustainability/energy manager and a hike & bike trail in the Temple Medical Education District through the Department of Energy, Energy Efficiency and Conservation Block Grant Program.

Part 2: The City Manager, or his designee, is authorized to execute any documents which may be necessary to apply for this grant, after approval as to form by the City Attorney.

Part 3: The City Council accepts any funds that may be received for this grant.

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 **18th** day of **June**, 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

06/18/09
Item #4(N)
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 \$187,518.

ATTACHMENTS:

[Budget amendments
Resolution](#)

CITY OF TEMPLE
BUDGET AMENDMENTS FOR FY 2009 BUDGET
June 18, 2009

			APPROPRIATIONS	
ACCOUNT #	PROJECT #	DESCRIPTION	Debit	Credit
110-0000-313-0330		Federal Seized Funds	\$ 4,200	
110-0000-442-0722		Police Donations		\$ 4,200
To refund the federal seized funds for money that was used to purchase a computer shooting/training simulator. Temple College donated \$4,200 to be used for the purchase of the simulator.				
110-1500-515-6531		Contingency - Judgments & Damages	\$ 20,000	
110-1500-515-6536		Contingency - Compensation		\$ 20,000
Contingency Judgments & Damages has been depleted mostly due to one large payout for judgment in the case of Steven Taylor v. City of Temple. This budget adjustment transfers contingency funds available in Contingency Compensation to cover Contingency Judgments & Damages for the remainder of the fiscal year.				
351-1800-525-6849	100240	Municipal Court Facility	\$ 9,571	
351-0000-490-2582		Transfer In		\$ 9,571
110-9100-591-8151		Transfer Out - Designated Capital Projects	\$ 9,571	
110-0000-317-0000		Reserved for Municipal Court Security		\$ 9,571
520-5800-535-6224	100240	Capital Equipment - Communications	\$ 3,363	
520-5800-535-2511		Printing/Publications		\$ 3,363
This budget adjustment appropriates restricted Municipal Court funds and operating funds for additional card readers for the Municipal Court/Utility Business Office Facility.				
110-2000-521-2516		Judgments & Damages (Police)	\$ 285	
110-1500-515-6531		Contingency - Judgments & Damages		\$ 285
Attorney fees for lawsuit filed against the City - Steven Taylor v. City of Temple.				
110-2200-522-2516		Judgments & Damages (Fire)	\$ 1,222	
110-1500-515-6531		Contingency - Judgments & Damages		\$ 1,222
Deductible reimbursement to the Texas Municipal League for settlement of a claim damage to his vehicle after it was struck by a Fire Department vehicle on April 9, 2006 in the 300 block of South General Bruce Drive				
110-2330-540-2516		Judgments & Damages (Solid Waste)	\$ 1,496	
110-1500-515-6531		Contingency - Judgments & Damages		\$ 1,496
Deductible reimbursement to the Texas Municipal League for settlement of a claim filed against the City by Carroll Gibson, Jr., seeking reimbursement for damage to his vehicle by a container being dumped by a Solid Waste truck on March 27, 2008 in the 2500 block of Paul Revere.				

CITY OF TEMPLE
BUDGET AMENDMENTS FOR FY 2009 BUDGET
June 18, 2009

ACCOUNT #	PROJECT #	DESCRIPTION	APPROPRIATIONS	
			Debit	Credit
110-2400-519-2516		Judgments & Damages (Facility Services)	\$ 700	
110-1500-515-6531		Contingency - Judgments & Damages		\$ 700
Deductible reimbursement to the Texas Municipal League for final settlement of a claim filed against the City of Temple by Jovita Carlson seeking reimbursement for damage to her vehicle after it was struck by a Facility Services' vehicle on November 19, 2007 at 511 North Main Street (Social Security parking lot).				
110-3500-552-2516		Judgments & Damages (Parks)	\$ 437	
110-1500-515-6531		Contingency - Judgments & Damages		\$ 437
Settlement of claim filed against the City by Don Hinton seeking reimbursement for damage to his vehicle by a rock thrown by a mower on April 14, 2009 on West Adams Avenue.				
260-6000-515-2616		Professional (CDBG)	\$ 13,667	
260-6100-571-6516	100501	Park Improvements - Jones Park	\$ 123,006	
260-0000-431-0131		CDBG Federal Grant Revenue		\$ 136,673
Appropriate CDBG Recover Act of 2009 Program funds as allocated in the amendment to the 2008-2009 CDBG Annual Action Plan.				
TOTAL AMENDMENTS			\$ 187,518	\$ 187,518
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			\$	20,000
Taken From Judgments & Damages			\$	(73,747)
Net Balance of Judgments & Damages Contingency Account			\$	16,253
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
Beginning Compensation Contingency			\$	184,700
Added to Compensation Contingency			\$	-
Taken From Compensation Contingency			\$	(118,395)
Net Balance of Compensation Contingency Account			\$	66,305
Net Balance Council Contingency			\$	87,411
Beginning Balance Budget Sweep Contingency			\$	-
Added to Budget Sweep Contingency			\$	-
Taken From Budget Sweep			\$	-
Net Balance of Budget Sweep Contingency Account			\$	-

CITY OF TEMPLE
BUDGET AMENDMENTS FOR FY 2009 BUDGET
June 18, 2009

ACCOUNT #	PROJECT #	DESCRIPTION	APPROPRIATIONS	
			Debit	Credit
		WATER & SEWER FUND		
		Beginning Contingency Balance	\$	174,121
		Added to Contingency Sweep Account	\$	-
		Taken From Contingency	\$	(166,411)
		Net Balance of Contingency Account	\$	7,710
		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	\$	(95,424)
		Net Balance of T-BRSS Future Plant Expansion Contingency	\$	354,576
		Net Balance Water & Sewer Fund Contingency	\$	850,556
		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
		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 **18th** day of **June**, 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

06/18/09
Item #5
Regular Agenda
Page 1 of 2

DEPT. /DIVISION SUBMISSION & REVIEW:

Tim Dolan, Planning Director

ITEM DESCRIPTION: SECOND READING – PUBLIC HEARING - Z-FY-07-18: Consider adopting an ordinance authorizing the creation of an IH-35 Overlay District containing regulations for landscaping, building standards, signs and parking by amending the Zoning Ordinance, Section 7-560.

ACTION FROM CITY COUNCIL FIRST READING: The Council approved the first reading of the ordinance May 7th. Since that time, the City Manager and Staff presented the ordinance to the Chamber of Commerce, Temple Economic Development Corporation and the Reinvestment Zone #1 to gather comments. The RZ#1 also recommended approval of the ordinance knowing some suggested changes will be made for second reading. Staff received suggestions from five persons involved in the presentations and has incorporated many of those changes. The changes in the proposed ordinance appear highlighted in yellow with the deleted language struck-through.

PLANNING & ZONING COMMISSION RECOMMENDATION: The Planning and Zoning Commission voted 8/0, April 20, 2009, upon Staff's recommendation, recommending approval for Case Z-FY-07-18 subject to:

1. The request complies with the Future Land Use & Character Plan;
2. The request complies with the Thoroughfare Plan; and
3. Existing public facilities serve existing development and will be extended as development or redevelopment occurs.

Please refer to the Staff Report and draft minutes of case Z-FY-07-18, from the Planning and Zoning meeting, April 20, 2009. If approved on first reading, the second reading is set for May 21, 2009.

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

ITEM SUMMARY: The Commission has worked on this ordinance since 2004. In advance of the reconstruction of IH 35, the Commission was interested in the appearance of the major gateway into Temple. In 2008, the City Manager's office initiated an idea to include members of the Reinvestment Zone, Temple Economic Development Corporation, Keep Temple Beautiful and representation from

the Planning & Zoning Commission. The sub-committee met seven times and included a property owners meeting to discuss the ordinance. The City also hired TBG Architects as the professional consultant to create an ordinance for the Interstate 35 area from the southern city limits to the northern city limits.

The proposed ordinance contains standards for the following areas, Civic District, Industrial District, Freeway Retail/Commercial District and a City Entry District. These areas contain regulations for site plan review, tree preservation, parking, screening and wall standards, landscape, signage, lighting and utilities.

FISCAL IMPACT: N/A

ATTACHMENTS:

[PZ Staff Report](#)
[PZ Minutes](#)
[Comments on the proposed ordinance](#)
[Proposed Ordinance - Revised](#)



PLANNING AND ZONING COMMISSION AGENDA ITEM

04/06/09
Item # 3
Page 1 of 1

APPLICANT / DEVELOPMENT: City of Temple

CASE MANAGER:

Tim Dolan, AICP, Planning Director c/o Planning & Zoning Commission

ITEM DESCRIPTION: Z-FY-07-18: Hold a public hearing to discuss and recommend action for creating an IH-35 Overlay District to discuss landscaping, building standards, signs and parking.

BACKGROUND:

The Commission called a public hearing for today's meeting to amend the Zoning Ordinance Section 7-60 creating the development regulations for the Interstate 35 Overlay District. The City hired TBG Architects, as the professional consultant to create an ordinance for the Interstate 35 area from the southern city limits to the northern city limits. A sub-committee, of which Chairperson Pope and Commissioner Talley are members, has met six times with representatives from the Reinvestment Zone, the Temple Economic Development Corporation, citizen stakeholders from area banks, real estate companies and engineering companies. More recently, TBG presented the draft ordinance to area property owners. The purpose of the memo is to explain the draft ordinance with the assistance of Chairperson Pope and Commissioner Talley.

The ordinance still needs review by the City Attorney's office for appearance to form requirements and for codification.

FISCAL IMPACT:

Not Applicable

ATTACHMENTS:

Draft Ordinance

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

MONDAY, APRIL 20, 2009

ACTION ITEMS

Z-FY-07-18: Hold a public hearing to discuss and recommend action for creating an IH-35 Overlay District to discuss landscaping, building standards, signs and parking. (City of Temple)

Mr. Tim Dolan, Planning Director, stated a P&Z work session was held on this item on April 6, 2009. If recommended for approval tonight, this item would move forward to City Council for the May 7th and 21st meetings. The purpose of this Ordinance is to serve as a focal point or gateway to the City and to address the safety, aesthetic and functional characteristics of development and redevelopment of the City of Temple.

Mr. Dolan stated the history of this item goes back about five or six years. It was first discussed in 2004 and reinitiated in late 2008 to include Temple Economic Development Corporation and the Reinvestment Zone and also involved some subcommittee members from Planning & Zoning Commission and Keep Temple Beautiful. A property owner meeting was held in late March of 2009 and approximately half of the property owners invited attended a presentation made by TBG Partners.

Mr. Dolan stated the I35 area included southern to northern city limits. Areas along the north are still being planned for industrial uses which fit with the Reinvestment Zone area and going south there are retail and commercial uses described as freeway commercial. Some other areas are being looked at for City entry districts where one would come off the interstate and go through Temple. Mr. Dolan explained various aspects of architectural designs and elevations, sidewalk types, landscaping, foundation plantings, and buffer yards, to name a few of the issues.

Chair Pope opened the public hearing for comment.

Mr. Lloyd Thomas of 18 N. 3rd Street approached the Commission and stated he has served on this committee and one item he discovered with car dealerships, boats, motorcycles, etc., was their concern about the parking areas. In discussions with some of the dealerships, concerns were made regarding the landscaped islands, how it affected ability to display the vehicles, constant movement of inventory, and the tree coverage within those islands.

Mr. Dolan confirmed the architects have looked at some of these issues previously and suggestions have been made for using shrubs instead of trees, **keeping the plant percentages, but vary methods of planting** (clusters v. rows), spacing issues, movement of pedestrian and vehicle traffic, etc., but still remain consistent in the requirements needed.

Chair Pope closed the public hearing.

There being no further speakers Chair Pope closed the public hearing.

Commissioner Secrest made a motion to approve **Z-FY-07-18** in accordance with Paragraph E, Subsection 11, and to include 1) Allowing dealerships for passenger cars, trucks, recreational vehicles, motorcycles and boats to use inventory areas with parking islands containing shrubs, and the use of perimeter buffering; and 2) allowing lot areas smaller than required for freeway commercial and industrial uses to conform to the proposed standards for its proportional requirement. Commissioner Hurd made the second.

Motion passed. (7:0)

Commissioners Luck and Dusek were absent

Comments from Persons Involved in Presentations	
Recommendation	Proposed Ordinance
Define area for Civic Sub-district	Add – Sub-district is south of Bellaire North Drive, 1,000± feet south to the northern edge of Bellaire North 2 nd Addition
Increase threshold to require parking standards for improvements 25%-49%	Add - Require parking requirements to apply
Decrease threshold to require lighting standards for improvements 25%-49%	No change - keep lighting standards; only applies to the improved area
Add standards for preliminary site plan review	Add - Create preliminary site plan review plus shift some requirements to final site plan from concept plan stage (engineering related: drainage, storm water retention, etc.)
Create timeline for response to applicant for final site plan review	Add – Written response in 12 working days
Create appeals process	Add - Appeals go to the Planning & Zoning Commission
Tree Preservation – how to keep someone from cutting down all vegetation prior to submitting plan	Add - Create tree inventory on aerial maps with dimensioned vegetation
Tree Preservation – what if insufficient area exists to plant the same total inches of trees that are cut down?	No change - keep criteria to pay \$1 per inch to Parks & Leisure
Allow parking to the side and consider wider sidewalks next to building in lieu of wheel stops for all parking	Add – Allow parking next to building with wider raised sidewalk in lieu of wheel stops
Maintenance problems for wildflower plantings	No change - keep planting requirements
Remove date for replacing all bulb to cut-off lenses by 05/21/09	Deleted
Industrial Sub-district Use Chart – Move minor and major vehicle repair from conditional use to allowed use	No change – sub-committee recommended
All sub districts to have architectural metal panels as ‘primary’, cast stone as ‘accent’	Add – to all sub-districts
City Entry Sub-district Uses – remove day camp for children	Typographical error and deleted
Sign Lighting - for ‘on-premises’ only – delete off-premises language	Add - apply to on-premises only
Screening & Wall Standards – request consideration to not screen service bay doors from public view by masonry wall	Add - require landscaping islands near entrances and exits and count towards total landscaping in lieu of masonry wall

Comments from Persons Involved in Presentations	
Recommendation	Proposed Ordinance
Screening & Wall Standards for masonry wall next to electrical transformers –cost to be charged to requesting party	Add – costs charged to requesting party
Landscaping –request to not have interior parking islands for ‘sales inventory areas’	Add - require parking islands only at the end of ‘inventory sales areas’ – no trees, only 5 gallon shrubs
General Comment - not a good time to initiate this program, may restrict growth and development within the City. More restrictive development regulations will increase cost of construction and may turn some people away.	Goal is to enhance the overall appearance of the corridor. If businesses do not change then ordinance does not apply. Prepare standards in anticipation of future highway improvement. Standards apply for new and increased thresholds of development. Building appearance similar built projects on the Inner Loop.

ORDINANCE NO. 2009-4293

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AMENDING ORDINANCE NO. 91-2101, THE ZONING ORDINANCE OF THE CITY OF TEMPLE, TEXAS, ADDING A NEW SECTION 7-560, ENTITLED, "INTERSTATE 35 CORRIDOR OVERLAY DISTRICT," AUTHORIZING THE CREATION OF AN INTERSTATE 35 OVERLAY DISTRICT CONTAINING REGULATIONS FOR LANDSCAPING, BUILDING STANDARDS, SIGNS AND PARKING; AMENDING SECTION 21-100, "DEFINITIONS," TO ADD DEFINITIONS CONTAINED IN THE NEW SECTION 7-560; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING AN EFFECTIVE DATE; AND PROVIDING AN OPEN MEETINGS CLAUSE.

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

Part 1: The City Council approves an amendment to Ordinance No. 91-2101, the Zoning Ordinance of the City of Temple, by adding a new Section 7-560, entitled, "Interstate 35 Overlay District," to read as follows:

7-560 INTERSTATE 35 CORRIDOR OVERLAY DISTRICT

7-561 GENERAL PURPOSE AND DESCRIPTION

The general purpose of this overlay zoning district is to exercise greater control over the aesthetic, functional and safety characteristics of development and redevelopment along Interstate 35 (I-35) within the City where higher development standards can effectively enhance the City's image as a desirable place to live, work and shop. This overlay zoning district is limited to specified areas encompassing land that has already been assigned conventional base zoning district classifications. It supplements the standards of the base zoning districts with new or different standards that are more restrictive.

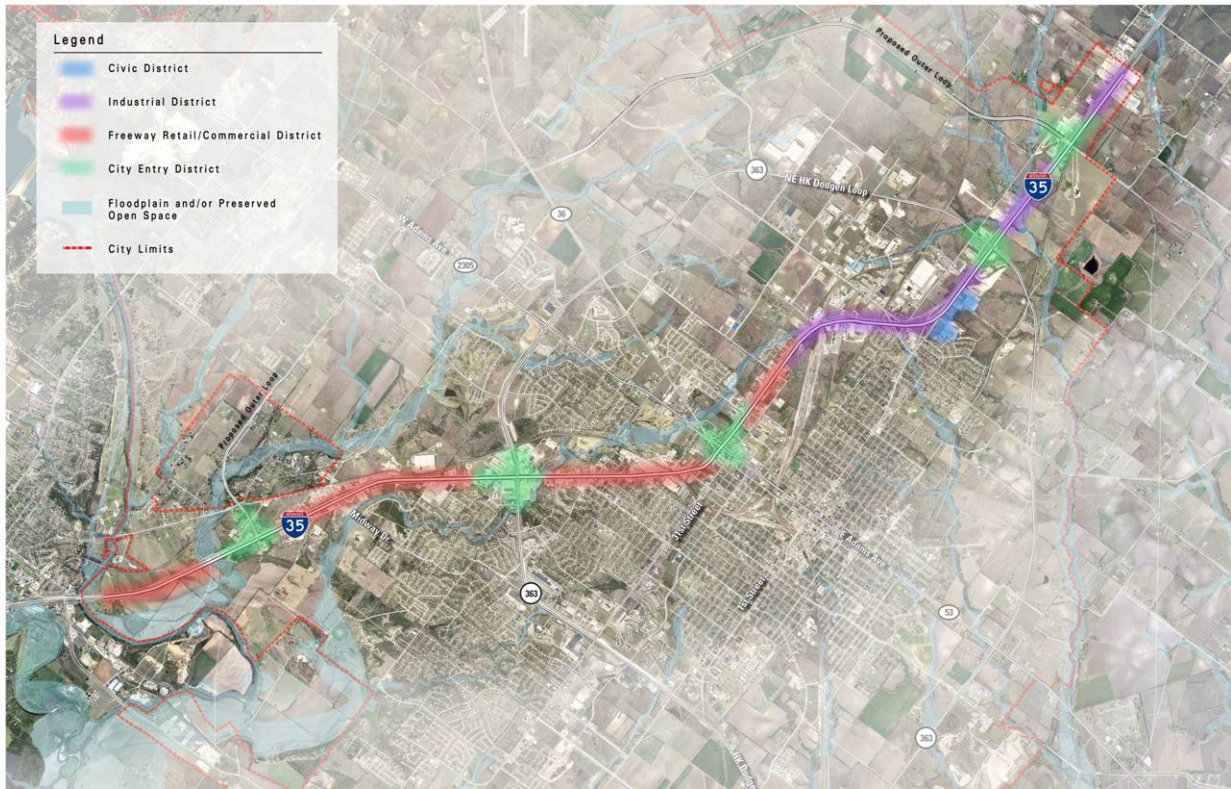
7-562 BOUNDARY

The I-35 Corridor Overlay District applies to the entire length of the Interstate within the City Limits of the City of Temple. The I-35 Corridor Overlay District is defined as the land including:

- A. Tracts of land that abut or adjoin a public street or an intersection with I-35;
- B. Tracts of land that are developed used, managed, or marketed as a group that includes a tract of land that abuts or adjoins a public or private access street or an intersection with I-35; or

Commentary: The interior portion of a shopping center with pad sites is an example of land that lies within I-35 without abutting the highway.

C. Tracts of land that shares parking space with a tract of land that abuts or adjoins a public or private access street or an intersection with I-35.



7-563 SUB-DISTRICTS

The I-35 Corridor Overlay District is divided into four sub-districts. If a property falls within more than one sub-district, the more restrictive sub-district standards apply, regardless of how much land area is in the less restrictive sub-district. Each sub-district must comply with the general requirements listed in this Section and the sub-district requirements. Where the Overlay District requirements conflict with the base zoning requirements, the I-35 Overlay District standards apply. See City of Temple I-35 Corridor Overlay District map. Those sub-districts are:

- A. Civic Sub-District – ~~Located east of I-35 at the Frank W. Mayborn Convention Center and Evangelical Brethren Church~~ The boundary extends from the south

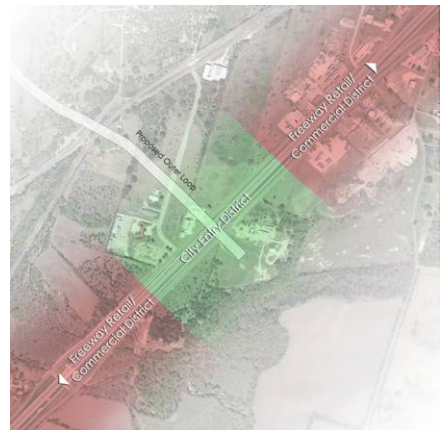
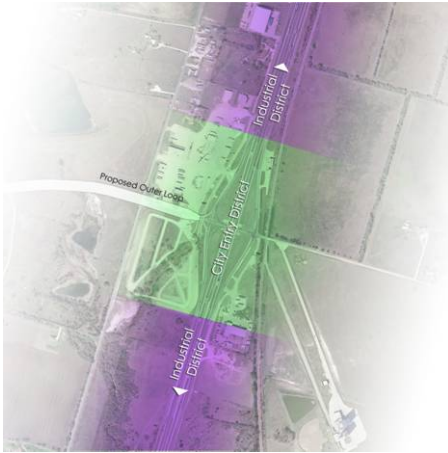


side of Bellaire North Drive and approximately 1,000 south to the north side of Bellaire North 2nd Addition.

- B. Industrial Sub-District – The boundary extends from the northern city limits, approximately 1,100 feet south of Enterprise Road on the west of I-35 and 560 feet north of Nugent Avenue on the east. It is interrupted by city entry ~~zones~~ sub-districts, with ~~more strict~~ stricter standards, at the north outer loop and NE HK Dodgen Loop.
- C. Freeway Retail/Commercial Sub-District – The boundary extends from south of Enterprise Avenue to the Leon River, the south City Limits. It is interrupted by city entry ~~zones~~ sub-districts at Adams Avenue, HK Dodgen Loop and the South outer loop.



D. City Entry Sub-District – There are five City Entry Sub-Districts located at major street locations that access industrial areas, the Central Area, the hospital areas, shopping centers and future retail nodes.



7-564 APPLICABILITY

The provisions of I-35 Corridor Overlay District apply to development types in the table below. Improvements to existing buildings are cumulative within a 15-year period when determining which of the following provisions apply. A development type not shown in the table below is not subject to the requirements of the I-35 Corridor Overlay District.

Development Type	Site Plan Review	Tree Preservation	Parking	Screening and Wall Standards Architectural Design	Landscape	Signage	Lighting	Utilities
New construction	✓	✓	✓	✓	✓	✓	✓	✓
Increase in gross floor area of 50% or more or improvement resulting in 50% or more increase in value per tax role	✓	✓	✓	✓	✓	✓	✓	✓
Increase in gross floor area of 25%-49% or improvement resulting in 25%-49% increase in value per tax role	✓	✓	✓	✓	✓	✓	✓	
Increase in gross floor area of 10%-24% or improvement resulting in 10%-24% increase in value per tax role	✓	✓		✓	✓			

7-565 DESIGN REVIEW

A site development plan must be submitted, reviewed and approved prior to construction for all developments within the I-35 Corridor Overlay District as required by this Section.

A. Design Review Process

1. This Section establishes a design review process to ensure that all development within the I-35 Corridor Overlay District meets requirements set forth in these design standards. The review covers site planning, architecture, landscaping, exterior lighting and exterior signage, as well as any changes, additions or renovations to any development on the site.
2. The design review process is divided into ~~three~~ **four** steps:
 - a. Design Orientation
 - b. Conceptual Design Review
 - b. **Preliminary Design Review**
 - d. Construction Documents Review
3. Formal submittals for design review must be provided at each of the steps in the design review process listed above. Official approvals must be obtained in writing for each of these steps.
4. All requests for design review approvals must be submitted in writing to the City.
5. All required submittals must be provided to the City in a single package that includes the following information:
 - a. Lot owner's name, mailing address, business telephone and

- home telephone numbers
 - b. Lot number (location of proposed construction)
 - c. Name, address and phone number of architect or owner's representative
 - d. Scale, north arrow, and Engineering plans at a scale of 1"=100' or smaller
 - e. Architectural plans at a scale 1/4 " = 1' or smaller.
6. Questions, meetings and informal and partial submittals are encouraged to promote early communication and resolution of issues. Verbal responses are unofficial and are subject to change in written response. Only written approvals from the City are official.

B. Submittal Requirements

Any and all of the information on the plans required below may be combined to reduce the number of sheet submittals, as long as all sheet detail is provided.

1. Design Orientation

Before any design begins, an optional design orientation session is recommended between a representative of the City and the parcel owner, design architect, landscape architect, engineer and/or contractor. This session includes a discussion of the design concept and design standards for the I-35 Corridor Overlay District, the specific design standards for the particular site and the design review process. This orientation provides valuable information to assist the owner and designers in expediting design review.

2. Conceptual Design Review

- a. When the initial design for the project is prepared, two conceptual drawings must be submitted to the City for formal review. This review covers conceptual site planning, architecture, landscaping landscape areas, grading and signage location.
- b. The purpose of this conceptual design review is to provide the owner and designer with written assurance that the fundamental designs are acceptable, before requiring plans suitable for City permitting. It also provides a clear list of any issues to be resolved in the Construction Documents Submittal step.

3. Preliminary Design Review

- a. Two sets of conceptual preliminary design plans must be submitted for this review. These plans must include, but are not limited to the following:
 - i) Conceptual Preliminary Site Plan

- a. All property lines, easements, setbacks and buildable area limits;
 - b. Location of water, sewer and electrical connections and conceptual distribution layout;
 - c. All buildings, walls, driveways, parking, walks, pools, patios, terraces, signs and any other above grade development;
 - d. Dimensions between existing and proposed construction and between proposed construction and nearest property lines;
 - e. Building height reference elevation; and
 - f. Vicinity map showing relationships of this site to the rest of the I-35 Corridor Overlay District.
- ii) Preliminary Grading
- a. Existing and proposed ground level contour **concepts** and spot elevations; and
 - b. Slope treatment and drainage concepts.
- iii) ~~Conceptual Building Floor Plan(s)~~
- a. ~~Layout of all rooms, terraces, atriums, balconies, decks, carports, garages and any other proposed structures and floor area;~~
 - b. ~~Total gross floor area (measured to the outside edge of the exterior building wall) of all covered (roofed) building space in square feet;~~
 - c. ~~Conceptual floor level elevation of all floors, terraces, patios and atriums, etc; and~~
 - d. ~~All window and door openings, exterior columns, arcades, terraces, patios, atriums, roof overhangs, patio covers and exterior design of the building.~~
- iii)** ~~Conceptual~~ **Preliminary** Roof Plan
- a. ~~Plan of all proposed roofs with slope pitches and ridge heights measured from the building height reference elevation;~~
 - a.** Any unusual conditions or construction requirements; and
 - b.** All roof mounted equipment and required screening.
- iv)** ~~Conceptual~~ **Preliminary** Building Elevations
- a. At least two principal exterior elevations of all proposed buildings **labeled with primary and accented materials and desired building color;**
 - b. Maximum building heights on each elevation drawing; and

- c. Conceptual finish materials, colors and textures under consideration.
 - vi) ~~Conceptual~~ Preliminary Building Sections
 - a. ~~Two primary sections, perpendicular to one another, through the site and the principal building(s); and~~
 - a. All significant g Grade and building height elevations for slopes greater than seven and one-half percent (7.5%).
 - vii) ~~Conceptual~~ Preliminary Landscape Plan
 - a. Planting concept, including locations and types of all plant materials; and
 - b. ~~Hardscape concept, including locations and materials for driveways, parking, walkways, terraces, patios, walls, fences, planter beds, fountains, trellises and pools; and~~
 - c. Demonstration that plant and wall design along the street frontage meets the streetscape design guideline requirements for the I-35 Corridor Overlay District.
 - viii) Fence and Wall Plans
 - a. Locations, materials, colors and heights in relation to on-site grades; and
 - b. Relationships to walls, fences and grades on adjacent parcels.
 - ix) ~~viii)~~ Sign Plan
 - a. ~~Locations materials, colors and heights in relation to on-site grades; and~~
 - b. Elevations and details of sign graphics with data table of permitted and proposed.
 - x) ~~Materials Board~~
 - a. ~~Materials and color palette board or samples.~~
 - ix) Tree Survey
 - a. Location of hardwood trees measuring six inches or greater in diameter, measured at breast height, not including Bois D' Arc, Ashe Junipers, Hackberry, Willow, Cottonwood and Mesquite trees.
- 3. Construction Documents Design Review
 - a. When the ~~conceptual~~ preliminary design is further refined and the final construction drawings and specifications for the project have been prepared, they must be submitted to the City Construction Services Department for official review and final decision. This review covers all design necessary for construction, including site development, architecture,

- signage, grading, driveways, parking, walkways, terraces, patios, walls, fences, planter beds, fountains, trellises, utilities, architecture, landscaping, walls, pools, mechanical equipment, exterior lighting and exterior signage.
- b. The purpose of construction documents design review is to provide the owner and designers with written assurance that the final design is acceptable for construction and that any conditions placed on the previous review have been resolved.
 - c. Two sets of final construction plans must be submitted for this review. They must contain, but are not limited to a Final Site Plan showing:
 - i) Final locations of all structures, terraces, patios, driveways, parking and walk ways, etc. and show dimensions from buildings and paved areas to setbacks and property lines;
 - ii) Water, sewer and electrical connection points and distribution lines.
 - iii) Locations of all above-ground mechanical equipment, including electrical transformers, fuel tanks, water tanks, filtration equipment, backflow ~~preventer~~ prevention devices, air-conditioning units and irrigation controllers, etc; and
 - iv) Any other drawings required by the City for construction permitting.
 - d. After the Final Site Plan is approved, an approval letter must be submitted to the owner within 12 working days, giving written assurance the Final Site Plan drawings have been found acceptable for construction. At this time the building plans may be submitted to the City for construction permitting.

7-566 GENERAL REQUIREMENTS FOR SITE PLAN REVIEW

This Section establishes the general requirements for site plan review that includes standards for tree preservation, parking, screening, landscape, signs, lighting and utilities. All development within the I-35 Corridor Overlay District must comply with these regulations, which supersede all other regulations. Additional standards and requirements apply for each of the sub-districts.

A. Site Plan Review

1. The site plan must contain sufficient information demonstrating compliance with all of the applicable requirements of this overlay zoning district and any additional information required by the Planning Director
2. A site development plan must be submitted, reviewed and approved prior to construction for all developments proposed on a tract of land with the I-35 Corridor Overlay District as required by the City.
3. In reviewing the site development plan, the City may consider other factors that may be relevant to a particular application, which may include the following:
 - a. The relationship to neighboring properties;
 - b. The zoning and the uses of nearby properties;
 - c. The extent to which the proposed use would substantially harm the value of nearby properties;
 - d. The extent to which the proposed use would adversely affect the capacity or safety of that portion of the road network influence by the use, or present parking problems in the vicinity of the property;
 - e. The extent to which utilities and services, including, but not limited to, sewer, water service, police and fire protection and are available and adequate to serve the proposed use;
 - f. The conformance of the proposed use to the I-35 Corridor Overlay District, the Comprehensive Plan and other adopted planning policies; and
 - g. The recommendation of the professional staff.
 - h. Appeals shall be to the Planning & Zoning Commission.

B. Tree Preservation

The purpose for these tree preservation standards is to protect the natural beauty of the city, decrease soil erosion, prevent clear cutting and preserve many existing hardwood and canopy trees. Efforts should be made to protect trees on site. All trees over six inches in diameter at breast height (DBH) located within the floodplain plus the area within 300 feet of the floodplain must be protected. A \$100 per caliper-inch fee payable to the City of Temple Parks Department may be made for trees that cannot be accommodated after the required landscape elements are added. Tree mitigation requirements and fees do not apply to Bois D' Arc, Ashe Junipers, Hackberry, Willow, Cottonwood and Mesquite trees on the site. The tree mitigation requirements do not count toward required landscape in Section E below. Tree mitigation requirements are as follows:

1. A tree survey and preservation plan is required with preliminary site plan submittal. The tree survey must be signed and sealed by a licensed landscape architect, arborist, engineer, or land surveyor.
2. The location, diameter, height and common name of all trees with more than a six-inch DBH must be shown on the plan.

3. The removal of protected trees must be replaced on the property by planting new trees, found in Exhibit E, which are equal to the total caliper-inches of the removed trees.
4. The City of Temple of Temple shall make an inventory of existing vegetation along the IH 35 Corridor to ensure compliance with this Section.

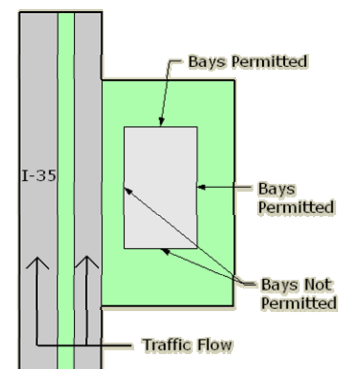
C. Parking

Parking presents one of the greatest challenges in creating an appealing image for the City and the business itself. Parking may be provided in surface lots, parking structures, beneath buildings or below grade, in whatever combination that meets the needs for required spaces and the limits on impervious surface areas.

1. Curb and gutter six inches in height is required around the perimeter of the parking area and all landscaped parking islands.
2. Parking aisles must be designed to be perpendicular to the front of the primary building.
3. Parking to the side and rear of buildings is encouraged and preferred.
4. Parking areas must be planned so that vehicles are not required to back out of parking spaces directly into a public or private street.
5. Parking lots must be designed to preserve the maximum amount of existing trees on site as possible.
6. Parking spaces that face and are adjacent to a building must utilize wheel stops.
7. Wheel stops are required at all landscape and sidewalk conditions.
8. Wheel stops are required at all sidewalk conditions, except for raised sidewalks at least 6 feet in width (8 feet if parking spaces front both sides).
9. All parking must be landscaped and screened per the standards set forth in Section E below.
10. No parking is allowed in the landscape buffer.

D. Screening and Wall Standards

1. Storage in connexes, shipping containers and semi-trailers is not permitted. Portable buildings may not be made into permanent structures in any form.
2. All garage and service bays, including but not limited to off-street loading bays and service bays used for vehicle repair and servicing, must be located to the rear of the primary building or on the side of the building that is not visible to the traffic flow on the abutting side of I-35, as illustrated right. Such bays may be located on the on-coming traffic flow side of the building at the approval of the Planning Director, but must be screened by a masonry wall matching the architectural style and color of the building contain landscaped islands at each end of the bays, a minimum

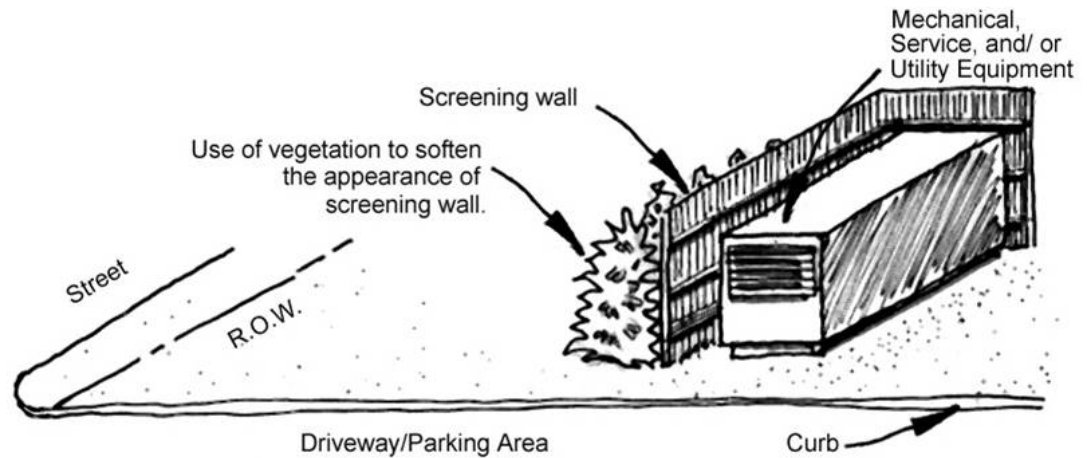


of 360 square feet containing one three-inch caliper hardwood shade tree, located in the center island with the remaining area planted with five-gallon shrubs allowed in Exhibit E.

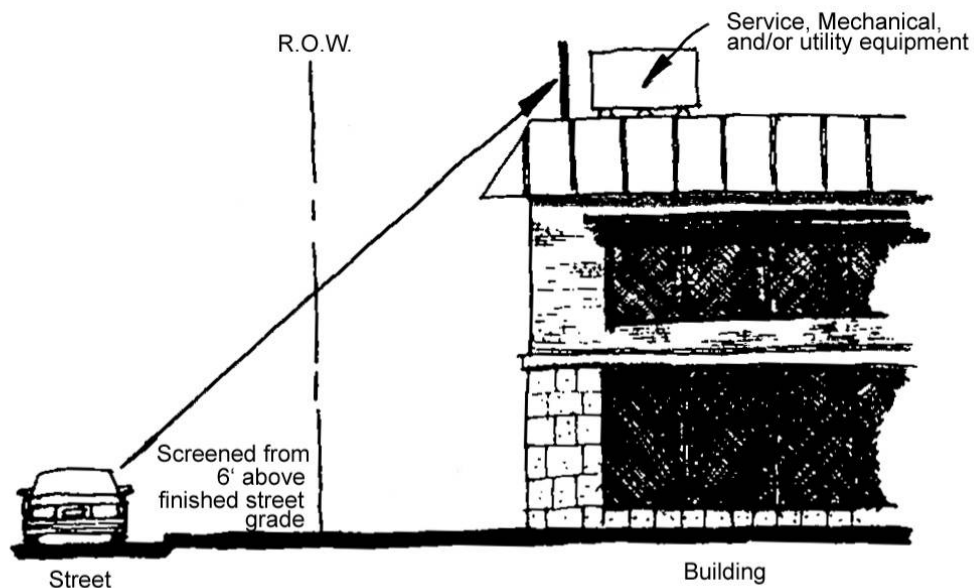
3. No outside storage and display, sales, leasing or operation of merchandise outside of sales areas for dealerships for new trucks, cars, boats and motorcycles, are permitted unless such activity is visually screened with a continuous solid screening device from all streets and adjacent property lines of residentially zoned properties or areas shown as a residential use on the Future Land Use and Character Map.
4. Any public utility stations, such as lift stations and electric sub-stations, must be screened from public view with a masonry wall.
5. A masonry wall matching the architectural style and color of the building must be located between properties when a multiple-family or nonresidential use abuts a residential use or zoning district. Such wall must not be less than six feet or more than eight feet in height, and constructed at grade along the abutting property line. The screening wall is not required if a comparable screening wall in satisfactory condition already exists on the abutting property.
6. Except as provided below, the following site elements must not be clearly visible at eye level from any public right-of-way or any adjoining residential use or located within 100 feet of any public right-of-way, unless a masonry screening wall matching the architectural style and color of the building is used.
 - a. Vehicle Loading and Unloading Zones and Service Areas
Screening for vehicle loading and unloading zones must consist of a continuous solid masonry wall to match the building, earthen berms or evergreen opaque landscaping a minimum of six feet in height. Landscape screening must be solid and reach a minimum height of six feet within two years of the issue date of the Certificate of Occupancy for the building or change of use.
 - b. Refuse Storage and Compactors
Refuse storage and compactors must be enclosed on three sides by a solid wall of wood or masonry to match the building color and be a minimum of one foot taller than the equipment being screened. The enclosure must have a minimum eight-foot self-closing gate. The enclosure must be designed to contain all refuse generated on-site between solid waste collections. The refuse storage and compactors must not be located in required setbacks.
 - c. Mechanical and Utility Equipment
 - i. All ground mounted service equipment such as air conditioners, transformers, trash collection equipment, and other service functions must be located at the rear of buildings, and integrated into the building envelope or enclosed service areas, unless the rear of the building faces I-35, in which case such equipment must be located

on the side least visible from a public right-of-way. Reduce pressure zones are allowed in front of the building if properly landscaped.

- ii. As illustrated below, if such equipment is visible from a public right-of-way, the screening materials must be 100 percent opaque. Screens must incorporate shrubbery with year-round foliage, or a wall, fence, or architectural element of the adjacent building, and be a minimum of one foot taller than the equipment being screened.



- iii. As illustrated below, all roof-mounted equipment must be screened from a vantage point that is six feet above finished street grade with materials that are 100 percent opaque. In all cases, screening must be compatible with building materials.

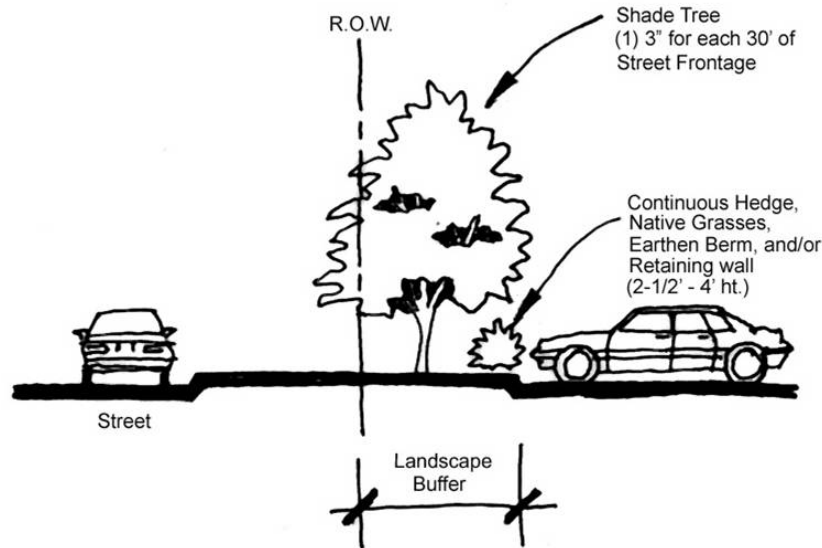


E. Landscape

Each site, outside of a City Entry Sub-District, must provide a minimum of the following landscape elements.

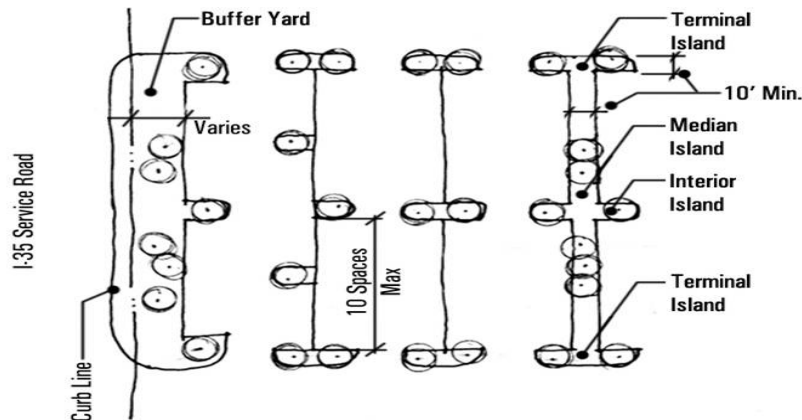
1. A total of 15 percent of the total site area must be landscaped with living approved trees, shrubs and groundcovers as set forth in the approved list of planting materials in Exhibit E of this Ordinance. Such landscape areas must consist of approved plants and irrigation covering 100 percent of the required landscaped area.
2. All required landscaping must be maintained in good condition after installation. Any plant material that becomes diseased deteriorated or dies must be replaced by the owner within 30 days.
3. Areas not covered by building or pavement must be landscaped.
4. Drainage facilities are not allowed within the landscape area except those that are necessary to convey drainage in the shortest possible route to or from the street right-of-way. Drainage facilities include detention ponds, water quality ponds, outlet structures, drainage berms or other improvements associated with the drainage improvements. Such drainage facilities must have a natural look to them with minimum slopes and landscaping.
5. Vegetation must be used to soften the appearance of walls, including those used for screening. This may include either vines trained up the wall or minimum five-gallon shrubs planted a minimum of thirty inches on center.
6. Foundation plantings are required within a planting area a minimum of six feet in width along 70 percent of the length of any façade visible to the public. Foundation planting may count toward the required minimum site landscape area required in paragraph 1 above.
7. All landscape and turf areas must be irrigated and maintained on a regularly scheduled basis.
8. A landscape buffer is required adjacent to any public right-of-way based on the sub-district's Area Regulations and as follows.
 - a. One minimum three-inch caliper canopy tree must be planted for each 30 feet of frontage along public rights-of-way as measured along the lot lines. (See Exhibit E – Approved list of Planting Materials).
 - b. Required trees must not be planted in a regular interval, but in clusters.
 - c. Substituting four ornamental trees per one canopy tree is allowed under power lines.
 - d. A minimum 60 percent of required trees must be evergreen with year around foliage.
 - e. A minimum 20 percent of the required landscape buffer must have native grass beds or wildflowers.
 - f. Berms not less than 24 inches or more than 48 inches in height at no more than a four to one slope are required in the landscape buffer, covering a minimum of 50 percent of the area.

9. As illustrated below, any of the following must be screened by a continuous hedge or native grasses shrubs, earthen berms, or retaining walls that are two and one-half to four feet in height:
- Parking lot or vehicle use area;
 - Fuel pumps visible from the direction of traffic flow; or
 - Vehicle drive-through window facing the street or traffic flow.



10. Meandering sidewalks a minimum of five feet in width are required in accordance with City standards within the landscape buffer the entire length of the street frontage. Such sidewalks are not required in the Industrial Sub-District.
11. Landscaped parking islands are required as follows in all parking lots, but are not required adjacent to industrial truck docks. Parking islands for the sales inventory areas for new automobile, truck, motorcycle, boat and recreational vehicle dealerships must be located at both ends of the sales inventory areas conforming to all construction dimensions and shall contain only 5-gallon evergreen shrubs filling the island area. Parking islands may count toward the required minimum landscape area set forth in the sub-district Area Regulations.
- Interior Islands**
A curbed landscape island must be provided for every 10 parking spaces. Each island must be a minimum of 170 square feet in area and 10 feet in width back of curb to back of curb. A minimum three-inch caliper tree is required in each island. See illustration below.
 - Terminal Islands**
All parking rows must terminate in a curbed landscape island. Each terminal island must conform to the specifications described in the paragraph above, except it must be a minimum of 360 square feet in area and contain two minimum three-inch caliper trees. See illustration below.
 - Median Islands**

A curbed median island a minimum of 10 feet in width back of curb to back of curb must be located after every third parking bay and along primary internal access drives. Each median island must conform to the applicable specifications described in the paragraphs above and must contain one minimum three-inch caliper tree a minimum of every 30 feet on center. See illustration below.



12. All landscape areas must accent building features, entryways and driveways.
13. Native plants and drought tolerant species are preferable to reduce water requirements.

F. Signage

1. The signage standards for the I-35 Corridor Overlay District are the same as required for On-Premise Low Profile Signs in the Central Avenue Corridor as found in Section 12-205 of this Zoning Ordinance.
2. The General Standards for Off-Premise Signs as found in Section 12-166-190 of this Zoning Ordinance apply to the I-35 Corridor Overlay District.
3. Design, materials and finish of monument signs must match those of the buildings on the same lot.
4. Signs must be reviewed and approved or denied by the Manager of Construction Safety and Services in accordance with the City of Temple Zoning Ordinance.

G. On Premises Lighting

The purpose of these lighting regulations is to permit reasonable uses of outdoor lighting for nighttime safety, utility, security and enjoyment while preserving the ambiance of the night. By minimizing glare and obtrusive light that is misdirected, excessive, or unnecessary, energy and resources can be conserved and the natural environment can be protected from the damaging effects of night lighting. ~~Any lighting not in compliance with the standards of this Section within~~

~~seven years from (June 18, 2009), must be immediately brought into compliance.~~

1. Directional Control

- a. All luminaires of 1,800 or more lumens must be full-cutoff as installed. For luminaires under 1,800 the bulb must be frosted glass or installed behind a translucent cover. Floodlights must be aimed no higher than 45 degrees below horizontal. This can be accomplished by the use of full-cutoff fixture design, shielding, visors, louvers, or other devices.
- b. Exterior lighting must have soft, indirect illumination concealed behind landscaping or placed in outdoor lighting fixtures that do not produce direct glare. Lighting must be focused and provide the minimum amount of illumination required for safety.
- c. On-site lighting design must be used to identify and illuminate entries, walks and parking areas. Site lighting used for building illumination must be down wall washing only. No flood lighting or up lighting is permitted.
- d. Security lighting must be designed to avoid glare, and must direct light toward the building or storage area instead of away.

2. Reasonableness of Intensity

- a. The maximum allowable total lumens generated on each parcel are 80,000 lumens per net acre with full-cutoff lighting. Parcels less than one net acre are allowed full-cutoff lumens in a portion equal to the parcel's portion of a net acre.
- b. Lights mounted on the underside of a roof 15 or more feet from any edge of the roof count one-quarter toward the limit. Lights on the underside of a roof less than 15 feet from the edge of the roof count one-half toward total lumens.
- c. Exterior lighting must have soft, indirect illumination concealed behind landscaping or placed in outdoor lighting fixtures that do not produce direct glare.
- d. Lighting must be focused and provide the minimum amount of illumination required for safety.
- e. Outdoor lighting fixtures must be a maximum of 30 feet in height. All light fixtures located within 50 feet of any residential use must not exceed 15 feet in height.
- f. Lighting that flashes, blinks, or moves in any way is not allowed.
- g. Mercury vapor lighting is not allowed.

3. Light Trespass

- a. The maximum illumination at five feet inside an adjacent residential parcel or public right-of-way, or beyond, from light emitted from an artificial light source is 0.1 horizontal foot-candles and 0.1 vertical foot-candles. Such illumination at 10 feet inside an adjacent nonresidential parcel or on a public roadway, or beyond, must not exceed 0.1 horizontal foot-candles or 0.1 vertical foot-candles.

- b. No line of sight to a bulb is permitted five feet or more beyond a residential or public right-of-way property line by an observer viewing from a position that is level with or higher than the ground below the fixture. Compliance is achieved with fixture shielding, directional control designed into the fixture, fixture location, fixture height, fixture aim, or a combination of these factors.
- 4. Signage

All illuminated signs must be lighted internally or lighted by top-mounted lights pointed downward. No sign may be illuminated with fixtures not shielded from upward transmission of light. ~~The maximum size of the signs and minimum distances between signs should be established. Off-premise signs must be turned off after 10:30 p.m., and On-site signs must be turned off upon closing if after 10:30p.m.~~ Lights that flash, pulse, rotate, move, or simulate motion are not permitted.
- 5. Temporary Lighting
 - a. The temporary use of low wattage or low voltage lighting for public festivals, celebrations and the observance of holidays are exempt from regulation except where they create a hazard or nuisance from glare. Light trespass requirements remain in effect. Permits are required for commercial activities such as carnivals and are valid for up to seven consecutive days. Where possible lighting should be full-cutoff.
- 6. All-Night Lighting

Lighting at places of business or public venues, except for security, must be turned off no later than one hour after closing. The lights of vacant parking lots must not remain lighted except for illuminating entryways by the fixtures closest to building entrances.
- 7. Lighting Exemptions

The following uses or features are exempt from the standards of this Section unless otherwise noted:

 - a. Swimming pools and other water features, monuments, historic structures, or flags;
 - b. Stairs and ramps, as required by the Building Code;
 - c. Signs must meet the requirements in Sec. 12-127 of this Zoning Ordinance, but all signs are recommended to be fully shielded;
 - d. Holiday and temporary lighting must meet the requirements in Sec. 13-124 of this Zoning Ordinance;
 - e. Sports lighting is exempt from the lumens per net acre limitations as to the playing field only, but full-cutoff fixture design is required and light trespass requirements apply; and
 - f. Low voltage landscape lighting, but such lighting should be shielded in such a way as to eliminate glare and light trespass.

H. Utilities

All electric, telephone and cable television wires and cables from the property line

to all structures being served on the site must be located underground.

7-567 CIVIC SUB-DISTRICT

The Civic Sub-District provides a location for important buildings and services that are essentially noncommercial or non-profit in nature and that often serve as community landmarks, gathering places and settings for social interaction. This sub-district is meant to be a destination for events, performances, festivals, and other activities related to civic and cultural arts.

A. Permitted Uses

The following use table establishes land uses allowed by right in the Civic Sub-District. Unless otherwise regulated in the standards for this overlay district, permitted uses are governed by the standards of this Zoning Ordinance for the underlying base zoning district.

B. Prohibited and Conditional Uses

Notwithstanding such uses being permitted in the underlying base zoning district according to Section 7 of this Zoning Ordinance, the following uses require a conditional use permit in accordance with Section 7-600. Uses not listed are prohibited.

USES	PERMITTED USE	CONDITIONAL USE
Art Gallery or Museum	✓	
Accessory Building	✓	
Day Camp for Children		✓
Community Unit Development		✓
Community Center (public)	✓	
Church or Rectory	✓	
Convent or Monastery	✓	
Kindergarten or Pre-School	✓	
Off Street Parking Incidental to Main Use	✓	
School, Public, or Denominational		✓
Mortuary or Funeral Home		✓
Park or Playground	✓	
Single Family Dwelling Attached or Detached		✓
Swimming pool (private)	✓	

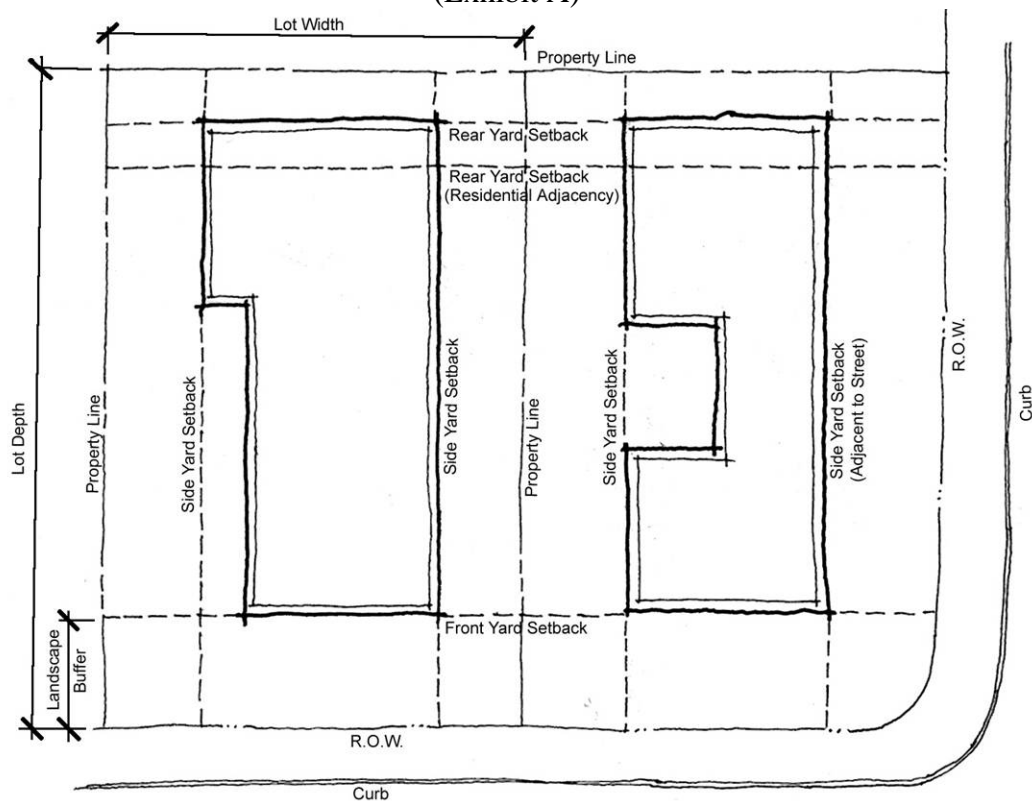
C. Area Regulations (See Exhibit A)

Area regulations for the base zoning districts as found in Section 8 of this Zoning Ordinance shall apply except that the following regulations supersede such requirements for properties in the Civic Sub-District. Nonconforming lots of record that are smaller than the minimum required lot area may be developed but

all requirements of the I-35 Corridor Overlay District apply.

Regulation	Measurement
Minimum Lot Area	12,500 sf.
Minimum Lot Width	80 ft.
Minimum Lot Depth	80 ft.
Minimum Front Yard Setback	25 ft.
Minimum Side Yard Setback	10 ft.
Minimum Side Yard Setback at Street	25 ft.
Minimum Rear Yard Setback	10 ft. (20 ft. adjacent to residential)
Minimum Landscape	15% of lot area
Minimum Landscape Buffer	25 ft. front and adjacent to public street 10 ft. rear (20 ft. adjacent to residential) 10 ft. side
Maximum Building Coverage	60%
Maximum FAR	4 to 1
Maximum Building Height	6 stories or 100 ft. including mechanical and roof structure

AREA REGULATIONS DIAGRAM (Exhibit A)



D. Landscape

The following landscape requirements are required in addition to those requirements described in Section E, Landscape, above.

1. An additional 10 percent of vegetation is required above the general landscaping requirements in landscape buffer areas.
2. In addition to those trees already required, ornamental trees must be used in the landscape buffer; one minimum two-inch caliper tree must be planted for each 30 feet of frontage along public street rights-of-way as measured along the lot lines.

7-568 INDUSTRIAL SUB-DISTRICT

The industry component of Temple's economy has been and should continue to be a major factor in the City's growth and employment. These Industrial Sub-District standards will keep the City's industrial base strong and growing while protecting the City's image and enhancing the I-35 Corridor.

A. Permitted Uses

Permitted uses are governed by the uses permitted in the land use tables in Section 7 of the City's Zoning Ordinance for the underlying zoning district. Unless otherwise regulated in the standards for this overlay district, permitted uses are governed by the standards of this Zoning Ordinance for the underlying base zoning district.

B. Prohibited and Conditional Uses

Notwithstanding such uses being permitted in the underlying district according to above section, the following uses are prohibited or require a conditional use permit in accordance with Section 7-600.

USES	PROHIBITED USE	CONDITIONAL USE
Residential		
All Residential Uses Except as Follows:	✓	
Multiple Family Dwelling(Apartment)		✓
Nonresidential		
Animal Feed Lot	✓	
Animal Pound (public or private)		✓
Auto Laundry (car wash)		✓
Auto Storage or Auto Auction	✓	
Boat Sales, Servicing		✓
Bottling Works		✓
Building Material Sales		✓
Child Care Facility	✓	
Contractor Storage and		✓

USES	PROHIBITED USE	CONDITIONAL USE
Equipment Yard		
Day Camp For Children	✓	
Drag Strip or Commercial Racing	✓	
Flea Market (outdoors)	✓	
Greenhouse or Plant Nursery		✓
Hatchery, Fish/Shrimp, Fish Farm	✓	
Hatchery, Poultry	✓	
Heavy Machinery Sales Storage and Repair		✓
Heavy Manufacturing or Industrial Uses		✓
Kennel		✓
Light Manufacturing or Industrial Uses		✓
Live Stock Auction	✓	
Major Vehicle Repair		✓
Milk Depot, Dairy or Ice Cream Plant		✓
Minor Vehicle Servicing		✓
Motorcycle or Scooter Sales and Repair		✓
Open Storage of Furniture, Appliances or Machinery	✓	
Paint Shop		✓
Penal Correctional Facility	✓	
Sales or Rental: Trailer, Portable Bldg., HUD-Code Manufactured Home		✓
Sexually Oriented Business	✓	
Shooting Range (outdoor)	✓	
Stable (private)	✓	
Upholstery Shop		✓
Veterinarian Hospital (outside pens)		✓
Wrecker or Salvage Yard	✓	

C. Area Regulations (See Exhibit A)

Area regulations for the base zoning districts as found in Section 8 of this Zoning Ordinance shall apply except that the following regulations supersede such requirements for properties in the Industrial Sub-District. All nonconforming lots of record that are smaller than the minimum required lot area may be developed but all requirements of the I-35 Corridor Overlay District apply.

Regulation	Measurement
Minimum Lot Area	1 acre

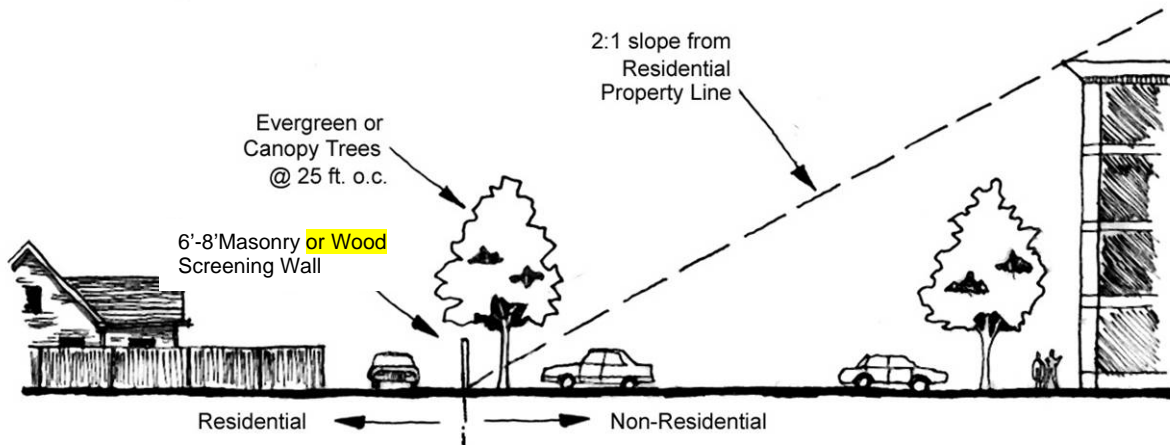
Regulation	Measurement
Minimum Lot Width	160 ft.
Minimum Lot Depth	160 ft.
Minimum Front Yard Setback	50 ft.
Minimum Side Yard Setback	20 ft.
Minimum Side Yard Setback at Street	50 ft.
Minimum Rear Yard Setback	20 ft. (30 ft. adjacent to residential)
Minimum Landscape	10% of lot area
Minimum Landscape Buffer	35 ft. front and adjacent to public street 10 ft. rear (20 ft. adjacent to residential) 20 10 ft. side
Maximum Building Coverage	50%
Maximum FAR	1 to 1
Maximum Building Height	42 ft. including mechanical and roof structure

D. Architectural Design

1. Site Development

- a. The location and placement of buildings on individual sites must reflect consideration for roadway access, the preservation of major existing natural vegetation, visual impact and the relationship to surrounding developments.
- b. In order to preserve privacy of residential properties when located adjacent to nonresidential uses in a non-mixed use setting, the building must fit within a 2:1 slope from the residential property line, regardless if distance is greater than that listed in the Area Regulations table above. See Exhibit B.

**Relationship between Residential and Nonresidential in a Non-Mixed Use setting
(Exhibit B)**

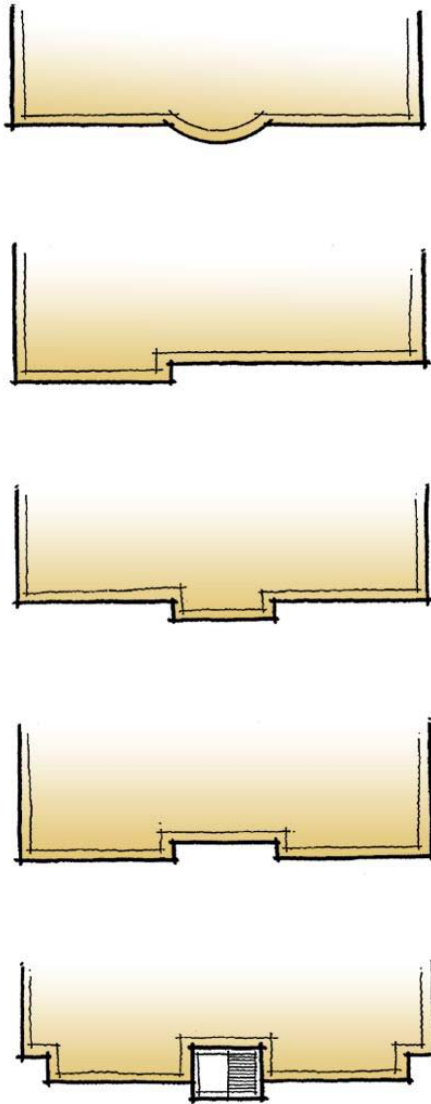


2. Exterior Appearance of Buildings and Structures

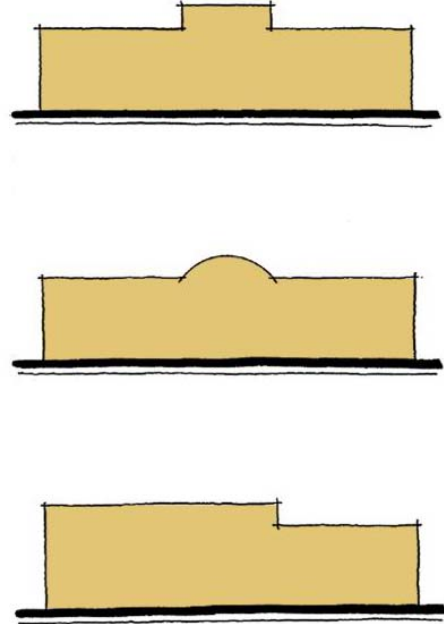
- a. All buildings must be architecturally finished on all sides with same materials, detailing and features, with a higher level of finish on the primary facades.
- b. Building entrances must be articulated six feet and defined to present a strong entry presence (see Exhibit C). All buildings must be designed to incorporate no less than one of the following architectural elements. Buildings over 50,000 square feet must include a minimum of two of the following elements. Buildings over 100,000 square feet must include a minimum of three of the following elements.
 - i) Canopies, awnings or porticos;
 - ii) Overhangs;
 - iii) Recesses or projections;
 - iv) Arcades;
 - v) Peaked roof forms;
 - vi) Arches;
 - vii) Outdoor patios;
 - viii) Display windows;
 - ix) Architectural details (such as tile work or moldings) integrated into building façade;
 - x) Articulated ground floor levels or base;
 - xi) Articulated cornice line;
 - xii) Integrated planters or wing walls that incorporate landscape and sitting areas;
 - xiii) Offsets, reveals or projecting rib used to express architectural or structural bay; or
 - xiv) Accent materials.

BUILDING ARTICULATION DIAGRAM
(Exhibit C)

Possible Building Plans



Possible Building Elevations



- c. Building design must incorporate a basic level of architectural variety. All industrial buildings with facades greater than 250 feet in length, visible from a public right-of-way, must have wall plane projections or recesses that are a minimum of six feet deep. Projections and recesses must be at least 25 percent of the length of the façade on those sides facing a public street. No uninterrupted length of facade may exceed 200 feet in length.

3. Building Materials and Colors

- a. Conceptual facade plans, color palette and sample boards must be submitted with preliminary site plan application. Final facade plan and sample boards must be submitted with final site plan application for all nonresidential uses.
- b. The color of all structures must be generally earth-tone in hue. Accent colors that are not earth tone may be approved by the Planning Director, but not to exceed 10 percent of each façade, ~~Other colors may be approved by the Planning Director,~~ but no color may be neon or florescent.
- c. A variety of exterior materials may be selected for use as the dominant material on the facades of a building, but the number of materials on a single building must be limited to no more than three materials in order to achieve a clean design style.
- d. Windows must not be glazed or re-glazed with mirrored or reflective glass.
- e. Maintenance and durability of materials must be considered as important qualities for every element of the design. Special care must be taken to specify the use of vandal resistant building components.
- f. The following is a list of approved building materials and accent materials per façade (not to exceed 20 percent of materials used). Materials not listed may be approved by the Planning Director.

Primary Materials: Max. 100%, Min. 80%	Accent Materials: Max. 20%
<ul style="list-style-type: none"> • Cast Stone • Architectural Metal • Stone • Brick • Stucco • Color Integrated Split Face Block • Painted Tilt Wall • Smooth Insulated Wall Panel 	<ul style="list-style-type: none"> • Cast Stone • Wood • Glass Block • Architectural Metal • Tile • Granite • Marble • Textured or Patterned Concrete • All Primary Materials (other than material used to achieve the min. 80%)

7-569 FREEWAY RETAIL / COMMERCIAL SUB-DISTRICT

The freeway retail and commercial locations of Temple's economy has been and should continue to be a major factor in the City's effort growth and employment. These standards will continue to attract new commercial activity to the City and enhance the City's image as a desirable place to live, work and shop on the I-35 Corridor.

A. Permitted Uses

Permitted uses are governed by the uses permitted in the land use tables in Section 7 of the City's Zoning Ordinance for the underlying zoning district. Unless otherwise regulated in the standards for this overlay district, permitted uses are governed by the standards of this Zoning Ordinance for the underlying base zoning district.

B. Prohibited and Conditional Uses

Notwithstanding such uses being permitted in the underlying district according to above section, the following uses are prohibited or require a conditional use permit in accordance with Section 7-600.

USES	PROHIBITED USE	CONDITIONAL USE
Residential		
All Residential Uses Except as Follows:	✓	
Multiple Family Dwelling(Apartment)		✓
Nonresidential		
Animal Feed Lot	✓	
Animal Pound (public or private)		✓
Auto Laundry (car wash)		✓
Auto Storage or Auto Auction	✓	
Boat Sales, Servicing		✓
Bottling Works	✓	
Building Material Sales	✓	
Child Care Facility		✓
Contractor Storage and Equipment Yard	✓	
Day Camp For Children	✓	
Drag Strip or Commercial Racing	✓	
Flea Market (outdoors)	✓	
Greenhouse or Plant Nursery		✓
Hatchery, Fish/Shrimp, Fish Farm	✓	
Hatchery, Poultry	✓	
Heavy Machinery Sales Storage and Repair	✓	
Heavy Manufacturing or Industrial Uses	✓	
Kennel	✓	
Light Manufacturing or Industrial Uses	✓	
Live Stock Auction	✓	
Major Vehicle Repair		✓
Milk Depot, Dairy or Ice Cream Plant	✓	

USES	PROHIBITED USE	CONDITIONAL USE
Minor Vehicle Servicing		✓
Open Storage of Furniture, Appliances or Machinery	✓	
Paint Shop		✓
Penal Correctional Facility	✓	
Sales or Rental: Trailer, Portable Bldg., HUD-Code Manufactured Home	✓	
Sexually Oriented Business	✓	
Shooting Range (outdoor)	✓	
Stable (private)	✓	
Upholstery Shop		✓
Veterinarian Hospital (outside pens)		✓
Wrecker or Salvage Yard	✓	

C. Area Regulations (See Exhibit A)

Area regulations for the base zoning districts as found in Section 8 of this Zoning Ordinance shall apply except that the following regulations supersede such requirements for properties in the Freeway Retail / Commercial Sub-District. Nonconforming lots of record that are smaller than the minimum required lot area may be developed but all requirements of the I-35 Corridor Overlay District apply.

Regulation	Measurement
Minimum Lot Area	12,500 sf.
Minimum Lot Width	80 ft.
Minimum Lot Depth	80 ft.
Minimum Front Yard Setback	25 ft.
Minimum Side Yard Setback	20 ft.
Minimum Side Yard Setback at Street	25 ft.
Minimum Rear Yard Setback	10 ft. (20 ft. adjacent to residential)
Minimum Landscape	15% of lot area
Minimum Landscape Buffer	25 ft. front and adjacent to public street 10 ft. rear (20 ft. adjacent to residential) 20 10 ft. side
Maximum Building Coverage	50%
Maximum FAR	4 to 1
Maximum Building Height	6 stories or 100 ft. including mechanical and roof structure

D. Architectural Design

1. Site Development
 1. Development must be sited as to maximize street presence.
 2. The location and placement of buildings on individual sites must reflect consideration for roadway access, the preservation of major existing natural vegetation, visual impact and the relationship to surrounding developments.
 3. In order to preserve privacy of residential properties when located adjacent to nonresidential uses in a non-mixed use setting, the building must fit within a 2:1 slope from the residential property line, regardless if distance is greater than that listed in the Area Regulations table above. See Exhibit B.
4. Exterior Appearance of Buildings and Structures
 - a. All buildings, including accessory buildings, must be architecturally finished on all sides with the same materials, detailing and features, with a higher level of finish on the primary facades.
 - b. As an alternative for facades that are not visible from the public streets, a single row of trees can be planted along the building or in the landscape buffer on offset 30-foot centers in a minimum 10-foot landscape edge, where 50 percent of the trees are canopy evergreen trees. In this case, the architectural finish must match the remainder of the building in color only.
 - c. Building entrances must be articulated and defined to present a strong entry presence. Such entries must be inset or offset from the front building plane by at least six feet (see Exhibit C). All buildings must be designed to incorporate no less than three of the following architectural elements. Buildings over 50,000 square feet must include a minimum of five of the following elements. Buildings over 100,000 square feet must include a minimum of seven of the following elements:
 - d. Canopies, awnings, or porticos;
 - i) Overhangs;
 - ii) Recesses or projections;
 - iii) Arcades;
 - iv) Peaked roof forms;
 - v) Arches;
 - vi) Outdoor patios;
 - vii) Display windows;
 - viii) Architectural details (such as tile work or moldings) integrated into building facade;
 - ix) Articulated ground floor levels or base;
 - x) Articulated cornice line;
 - xi) Integrated planters or wing walls that incorporate landscape and sitting areas;
 - xii) Offsets, reveals or projecting rib used to express architectural or structural bay; or

- xiii) Accent materials (minimum 10 percent of exterior façade).
- e. All buildings must be designed and constructed in tri-partite architecture to express a base, midsection and top (see Exhibit D). The base and tops of buildings must vary in material, and the heaviest building material must be used as the base. All facades must include:
 - i) Articulated ground floor levels;
 - ii) Minimum three-foot overhangs at eaves; and
 - iii) Articulated cornice lines.

TRI-PARTITE ARCHITECTURE

Building with a “Base”, “Middle” and “Top”
(Exhibit D)



- Heaviest building material located at base.
 - No more than three materials in order to achieve a clean design style.
 - Incorporate architectural elements
 - Use of overhangs and eaves and articulated cornice lines.
 - Use of windows on building elevation falls within the required 40 percent to 80 percent.
- f. All buildings must be designed to be consistent with the purpose of the I-35 Corridor Overlay District. Building design must incorporate a basic level of architectural variety. All retail and commercial buildings with facades greater than 200 feet in length, visible from a public right-of-way, must incorporate wall plane projections or recesses that are at least six feet deep. Projections and recesses must be at least 25 percent of the length of the facade. No uninterrupted length of facade may exceed 100 feet in length.
- g. Windows must be a minimum of 40 percent up to a maximum of 80 percent of each building elevation.
- 2) Building Materials and Colors
- a) Conceptual facade plans, color palette and sample boards must be submitted with preliminary site plan application for all nonresidential uses. Final facade plan and sample boards must be submitted with final site plan application for all nonresidential uses.
 - b) The color of all structures must be generally earth-tone in hue. Accent colors that are not earth tone may be approved by the Planning Director, but not to exceed 10 percent of each façade. Other colors may be approved by the Planning Director, but no color may be neon or florescent.

- c) A variety of exterior materials may be selected for use as the dominant material on the facade of a building, but the number of materials on a single building must be limited to no more than three materials in order to achieve a clean design style.
- d) No single building material may cover more than 80 percent of the front of any building, with the exception of on-site utility or service structures.
- e) Windows must not be glazed or re-glazed with mirrored or reflective glass.
- f) Maintenance and durability of materials must be considered as important qualities for every element of the design. Special care must be taken to specify the use of vandal resistant building components.
- g) The following is a list of approved building materials and accent materials per façade (not to exceed 20 percent of materials used). Materials not listed may be approved by the Planning Director.

Primary Materials: Max. 90%, Min. 70%
<ul style="list-style-type: none"> • Cast Stone • Stone • Architectural Metal • Brick • Stucco • Granite • Marble • Painted Tilt Wall

Accent Materials: Max. 30%, Min. 10%
<ul style="list-style-type: none"> • Wood • Cast Stone • Glass Block • Architectural Metal • Tile • Textured or Patterned Concrete • Color Integrated Split Face Block • All Primary Materials (other than material used to achieve the min. 80%)

7-570 CITY ENTRY SUB-DISTRICT

This sub-district is the gateway into the city core, hospitals, neighborhoods, shopping, airport and industrial parks. Development should enhance the image of the City and entice people to stop shop and visit the City of Temple. These entries need to create attractive portals to the City.

A. Permitted Uses

Permitted uses are governed by the uses permitted in the land use tables in Section 7 of the City's Zoning Ordinance for the underlying zoning district. Such uses are permitted subject to the requirements of this Section.

B. Prohibited and Conditional Uses

Notwithstanding such uses being permitted in the underlying district according to above section, the following uses are prohibited or require a conditional use permit in accordance with Section 7-600.

USES	PROHIBITED USE	CONDITIONAL USE
Residential		
All Residential Uses Except as Follows:	✓	
Multiple Family Dwelling(Apartment)		✓
Nonresidential		
Animal Feed Lot	✓	
Animal Pound (public or private)	✓	
Auto Laundry (car wash)		✓
Auto Storage or Auto Auction	✓	
Boat Sales, Servicing	✓	
Bottling Works	✓	
Building Material Sales	✓	
Child Care Facility		✓
Contractor Storage and Equipment Yard	✓	
Day Camp For Children		✓
Drag Strip or Commercial Racing	✓	
Flea Market (outdoors)	✓	
Greenhouse or Plant Nursery		✓
Hatchery, Fish/Shrimp, Fish Farm	✓	
Hatchery, Poultry	✓	
Heavy Machinery Sales Storage and Repair	✓	
Heavy Manufacturing or Industrial Uses	✓	
Kennel	✓	
Light Manufacturing or Industrial Uses	✓	
Live Stock Auction	✓	
Major Vehicle Repair	✓	
Milk Depot, Dairy or Ice Cream Plant	✓	
Minor Vehicle Servicing		✓
Motorcycle or Scooter Sales and Repair		✓
Open Storage of Furniture, Appliances or Machinery	✓	
Paint Shop		✓
Penal Correctional Facility	✓	

USES	PROHIBITED USE	CONDITIONAL USE
Sales or Rental: Trailer, Portable Bldg., HUD-Code Manufactured Home	✓	

C. Area Regulations (See Exhibit A)

Area regulations for the base zoning districts as found in Section 8 of this Zoning Ordinance shall apply except that the following regulations supersede such requirements for properties in the City Entry Sub-District. Nonconforming lots of record that are smaller than the minimum required lot area may be developed but all requirements of the I-35 Corridor Overlay District apply.

Regulation	Measurement
Minimum Lot Area	12,500 sf.
Minimum Lot Width	80 ft.
Minimum Lot Depth	80 ft.
Minimum Front Yard Setback	25 ft.
Minimum Side Yard Setback	20 ft.
Minimum Side Yard Setback at Street	25 ft.
Minimum Rear Yard Setback	10 ft. (20 ft. adjacent to residential)
Min. Landscape	15% of lot area
Minimum Landscape Buffer	25 ft. front and adjacent to public street 10 ft. rear (20 ft. adjacent to residential) 20 10 ft. side
Maximum Building Coverage	60%
Maximum FAR	4 to 1
Maximum Building Height	6 stories or 100 ft. including mechanical and roof structure

D. Architectural Design

1. Site Development
 - a. Development must be sited as to maximize street presence.
 - b. The location and placement of buildings on individual sites must reflect consideration for roadway access, the preservation of major existing natural vegetation, visual impact and the relationship to surrounding developments.
 - c. In order to preserve privacy of residential properties when located adjacent to nonresidential uses in a non-mixed use setting, the building must fit within a 2:1 slope from the residential property line, regardless if distance is greater than that listed in the Area Regulations table above. See Exhibit B.
2. Exterior Appearance of Buildings and Structures

- a. All buildings, including “out” buildings, must be architecturally finished on all sides with same materials, detailing and features, with a higher level of finish on the primary facades.
- b. For facades that are not visible from the public streets, a single row of trees can be planted along the building or in the landscape buffer on offset 25-foot centers in a minimum 10-foot landscape edge, where 50 percent of the trees are canopy evergreen trees. In this case, the architectural finish must match the remainder of the building in color only.
- c. The primary building wall is to be setback 18-24 feet from the back of the drive curb.
- d. Building entrances must be articulated and defined to present a strong entry presence. Such entries must be inset or offset from the front building plane by at least four feet (see Exhibit C). All buildings must be designed to incorporate no less than three of the following architectural elements. Buildings over 50,000 square feet must include a minimum of five of the following elements. Buildings over 100,000 square feet must include a minimum of seven of the following elements.
 - 1) Canopies, awnings or porticos
 - 2) Overhangs
 - 3) Recesses or projections
 - 4) Arcades
 - 5) Peaked roof forms
 - 6) Arches
 - 7) Outdoor patios
 - 8) Display windows
 - 9) Architectural details (such as tile work or moldings) integrated into building facade
 - 10) Articulated ground floor levels or base
 - 11) Articulated cornice line
 - 12) Integrated planters or wing walls that incorporate landscape and sitting areas
 - 13) Offsets, reveals or projecting rib used to express architectural or structural bay
 - 14) Accent materials (minimum 10 percent of exterior façade)
- e. All buildings must be designed and constructed in tri-partite architecture to express a base, midsection and top (see Exhibit D). The base and tops of buildings must vary in material, and the heaviest building material must be used as the base. All facades must include:
 - 1) Articulated ground floor levels;
 - 2) Minimum three-foot overhangs at eaves; and
 - 3) Articulated cornice lines.
- f. All buildings must be designed to be consistent with the purpose of the I-35 Corridor Overlay District. Building design must incorporate a

basic level of architectural variety. All retail or commercial buildings with facades greater than 150 feet in length, visible from a public right-of-way, must incorporate wall plane projections or recesses that are at least eight feet deep. Projections or recesses must be at least 25 percent of the length of the facade. No uninterrupted length of facade may exceed 100 feet in length.

- g. Windows must be a minimum of 40 percent up to a maximum of 80 percent of each building elevation.
3. Building Materials and Colors
- a. Conceptual facade plans with **labeled colors**, ~~color palette and sample boards~~ must be submitted with preliminary site plan application for all nonresidential uses. Final facade plan, **color palette** and sample boards must be submitted with final site plan application for all nonresidential uses.
 - b. The color of all structures must be generally earth-tone in hue. Accent colors that are not earth tone may be approved by the Planning Director, but not to exceed 10 percent of each façade. Other colors may be approved by the Planning Director, but no color may be neon or florescent.
 - c. A variety of exterior materials may be selected for use as the dominant material on the facade of a building, but the number of materials on a single building must be limited to no more than three materials in order to achieve a clean design style.
 - d. No single building material may cover more than 80 percent of the front of any building, with the exception of on-site utility or service structures.
 - e. Windows may not be glazed or re-glazed with mirrored or reflective glass.
 - f. Maintenance and durability of materials are considered important qualities for every element of the design. Special care must be taken to specify the use of vandal resistant building components.
 - g. The following is a list of approved building materials and accent materials per façade (not to exceed 20 percent of materials used). Materials not listed may be approved by the Planning Director.

Primary Materials: Max. 90%, Min. 70%
<ul style="list-style-type: none"> • Cast Stone • Stone • Brick

Primary Materials: Max. 70%
<ul style="list-style-type: none"> • Painted Tilt Wall

Accent Materials: Max. 30%, Min. 10%
<ul style="list-style-type: none"> • Wood • Cast Stone • Glass Block • Architectural Metal • Tile • Granite • Marble • Textured or Patterned Concrete • All Primary Materials (other than material used to achieve the min. 70%)

E. Landscape

The following landscape requirements are required in addition to those requirements described in Section E, Landscape.

1. A minimum of 15 percent of the total site area must be landscaped.
2. All driveways into the site must have enhanced paving of stone, brick, or patterned concrete for a minimum of 50 percent of the driveway throat.
3. An additional 10 percent of vegetation is required above the general landscaping requirements in landscaped buffer areas.
4. In addition to those trees already required, ornamental trees must be used in the landscape buffer; one minimum two-inch caliper tree must be planted for each 30 feet of frontage along public street rights-of-way as measured along the lot lines; and
5. One minimum three-inch caliper canopy tree must be planted for each 25 feet of frontage along public street rights-of-way as measured along the lot lines.

F. Lighting

All on-premises outdoor lighting fixtures in the City Entry Sub-District must be ornamental or decorative where appropriate.

G. Utilities

All electric, telephone and cable television wires along the public right-of-way must be located underground in the City Entry Sub-District.

EXHIBIT E

Common Name	Scientific Name
Canopy Trees	
Ash, Green	Fraxinus pennsylvanica
Ash, Texas	Fraxinus texensis
Cypress, Arizona	Cupressus arizonica
Cypress, Bald	Taxodium distichum
Elm, American	Ulmus americana
Elm, Cedar	Ulmus crassifolia
Eve's Necklace	Sophora affinis
Holly, American	Ilex opaca
Laurelcherry, Carolina	Prunus caroliniana
Maple, Bigtooth	Acer grandidentatum
Oak Shumard	Quercus shumardii
Oak, Blackjack	Quercus marilandica
Oak, Bur	Quercus macrocarpa
Oak, Chinquapin	Quercus muhlenbergii
Oak, Durand	Quercus sinuate
Oak, Live	Quercus virginiana
Oak, Post	Quercus stellata
Oak, Red	Quercus texana
Oak, Shumard	Quercus shumardii
Pecan	Carya drummondii
Sycamore	Platanus occidentalis
Walnut, Arizona	Juglans major
Walnut, Eastern	Juglans negra
Ornamental Trees	
Blackhaw, Rusty	Viburnum rufidulum
Buckeye, Mexican	Ungnadia speciosa
Crabapple	
Crepe Myrtle Cultivars: Basham's Party Pink Biloxi Choctaw Dynamite Miami Muscogee Natchez Pink Velour Potomac Red Rocket Siren Red Townhouse Tuscarora Wichita	Lagerstroemia indica
Chaste Tree	Vitex agnus-castus

Common Name	Scientific Name
Dogwood, Roughleaf	<i>Cornus drummondii</i>
Hawthorn	<i>Crataegus</i> spp.
Holly, Yaupon	<i>Ilex vomitoria</i>
Laurel, Texas Mountain	<i>Sophora secundiflora</i>
Leadtrees, Goldenball	<i>Leucaena retusa</i>
Oak, Lacey	<i>Quercus laceyi</i>
Persimmon, Texas	<i>Diospyros texana</i>
Pine, Eldarica	<i>Pinus eldarica</i>
Pistache, Texas	<i>Pistacia texana</i>
Plum, Mexican	<i>Prunus mexicana</i>
Possumhaw Holly	<i>Ilex deciduas</i>
Redbud, Mexican	<i>Cercis canadensis</i> var. <i>mexicana</i>
Redbud, Texas	<i>Cercis canadensis</i> var. <i>texensis</i>
Smoketree, American	<i>Cotinus obovatus</i>
Sumac, Prairie Flameleaf	<i>Rhus lanceolata</i>
Wax Myrtle	<i>Myrica cerifera</i>
Walnut, Texas	<i>Juglans microcarpa</i>
Willow, Desert	<i>Chilopsis linearis</i>
Shrubs	
Abelia Glossy	<i>Abelia grandiflora</i>
Agarita	<i>Berberis trifoliata</i>
Agave, Century Plant	<i>Agave</i> sp.
Althea	<i>Hibiscus syriacus</i>
American Beautyberry	<i>Callicarpa americana</i>
Artemisia	<i>Artemisia</i> 'Powis Castle'
Barbados Cherry	<i>Malpighia glabra</i>
Barberry, Japanese	<i>Berberis thunbergii</i>
Basket Grass (Sacahuista)	<i>Nolina texana</i>
Black Dalea	<i>Dalea frutescens</i>
Bush Germander	<i>Teucrium fruticans</i>
Butterfly Bush	<i>Buddleja davidii</i>
Butterfly Bush, Woolly	<i>Buddleja marrubifolia</i>
Coralberry	<i>Symphoricarpos orbiculatus</i>
Cotoneaster	<i>Cotoneaster</i> sp.
Crape Myrtle Cultivars Not Listed in Ornamental Trees Above	<i>Lagerstroemia indica</i>
Esperanza/ Yellow Bells	<i>Tecoma stans</i>
Flame Acanthus	<i>Anisacanthus quadrifidus</i> var.
Holly, Burford	<i>Ilex cornuta</i> 'Burfordii'
Holly, Dwarf Burford	<i>Ilex cornuta</i> 'Burfordii Nana'
Holly, Dwarf Chinese	<i>Ilex cornuta</i> 'Rotunda nana'
Holly, Dwarf Yaupon	<i>Ilex vomitoria</i> 'Nana'
Lantana, Pink	<i>Lantana camara</i>
Lantana, Texas	<i>Lantana horrida</i>
Mistflower, White	<i>Ageratina havanense</i>
Mistflower, BlueBlue Boneset	<i>Eupatorium coelestinum</i>

Common Name	Scientific Name
Mountain Sage	Salvia regia
Nandina (dwarf-types)	Nandina sp
Oleander	Nerium oleander
Palmetto, Dwarf Texas	Sabal minor
Primrose Jasmine	Jasminum mesnyi
Rock Rose	Pavonia lasiopetala
Rose, Belinda's Dream	Rosa 'Belinda's Dream'
Rose, Knock Out	Rosa 'Knock Out'
Rose, Livin' Easy	Rosa 'Livin' Easy'
Rose, Marie Pavie	Rosa 'Marie Pavie'
Rose, Mutabilis	Rosa 'Mutabilis'
Rose, Nearly Wild	Rosa 'Nearly Wild'
Rose, Old Blush	Rosa 'Old Blush'
Rosemary	Rosmarinus officinalis
Sage, Texas	Leucophyllum frutescens
Sotol, Texas	Dasylirion texanum
Sumac, Evergreen	Rhus virens
Sumac, Fragrant (Aromatic)	Rhus aromatica
Turk's Cap	Malvaviscus arboreus
Wax Myrtle, Dwarf	Myrica pusilla
Wax Myrtle, Southern	Myrica cerifera
Yucca, Paleleaf	Yucca pallida
Yucca, Red	Hesperaloe parviflora
Yucca, Softleaf	Yucca recurvifolia
Yucca, Twistleaf	Yucca rupicola
Groundcover	
Asian Jasmine	Trachelospermum asiaticum
Aztec Grass	Ophiopogon japonicus
Bamboo	Muhlenbergia dumosa Muhly
Big Bluestem	Andropogon gerardii
Bushy Bluestem	Andropogon glomeratus
Carolina Jessamine	Gelsemium sempervirens
Coral Honeysuckle	Lonicera sempervirens
Coral Vine	Antigonon leptopus
Crossvine	Bignonia capreolata
Dwarf Fountain Grass	Pennisetum alopecuroides
English Ivy	Hedera helix
Fig Vine	Ficus pumila
Frogfruit	Phyla incisa
Horseherb	Calypocarpus vialis
Indian Grass	Sorghastrum nutans
Inland Seaots	Chasmanthium latifolium
Japanese Honeysuckle	Lonicera japonica
Lady Banksia Rose	Rosa banksiae
Leadwort Plumbago	Ceratostigma plumbaginoides

Common Name	Scientific Name
Liriope	Liriope muscari
Little Bluestem	Schizachyrium scoparium
Mexican Feathergrass (Wiregrass)	Stipa tenuissima
Monkey Grass (Mondo Grass)	Ophiopogon japonicus
Muhly, Big	Muhlenbergia lindheimeri
Muhly, Deer	Muhlenbergia rigens
Muhly, Gulf	Muhlenbergia capillaris
Muhly, Seep	Muhlenbergia reverchonii
Oregano	Origanum vulgare
Passion Vine	Passiflora incarnata
Periwinkle, Littleleaf	Vinca minor
Pigeonberry	Rivina humilis
Purple Heart	Secresea pallida
Santolina (Lavender Cotton)	Santolina chamaecyparissus
Sedge, Berkeley	Carex tumulicola
Sedge, Meadow	Carex perdentata
Sedge, Texas	Carex texensis
Sedum (Stonecrop)	Sedum nuttallianum
Sideoats Grama	Bouteloua curtipendula
Silver Pony-foot	Dichondra argentea
Sweet Autumn Clematis	Clematis paniculata
Switch Grass	Punica virgatum
Trumpet Vine	Campsis radicans
Virginia Creeper	Parthenocissus quinquefolia
Wild Rye	Elymus canadensis
Wooly Stemodia	Stemodia lanata or tomentosa

Part 2: The City Council approves an amendment to Ordinance No. 91-2101, the Zoning Ordinance of the City of Temple, by amending Section 21-100, “Definitions,” to include the following the definitions:

21-100 DEFINITIONS.

Cutoff luminaire - A luminaire in which 2.5 percent or less of the lamp lumens are emitted above a horizontal plane through the luminaire's lowest part and 10 percent or less of the lamp lumens are emitted at a vertical angle 80 degrees above the luminaire's lowest point.

Diameter at Breast Height (DBH) – Diameter of a tree measured three and one-half above the ground level on the downhill side of an existing tree.

Impervious surface - A surface consisting of asphalt, concrete, brick, paving block, plastic or other similar material which does not readily absorb water.

Lumen - Measure of brightness of the illumination exiting a bulb, provided by manufacturer.

Luminaire - The complete lighting unit, including the lamp, the fixture and other parts.

Monument sign - A freestanding sign having a low profile and made of stone, concrete, metal, routed wood planks or beams, brick, or similar materials, including individual lettering, which repeat or harmonize with the architecture of the establishment it serves.

Nonconforming lot of record – A legally established lot that does not conform to the Area Regulations of the zoning district in which it is located.

Outdoor lighting fixture - means any type of fixed or movable lighting equipment that is designed or used for illumination outdoors. The term includes billboard lighting, street lights, searchlights and other lighting used for advertising purposes and area lighting.

Primary facade - The exterior wall or walls of a building that are visible from any public or private street or central green space.

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

Part 4: Ordinance No. 91-2101, the Zoning Ordinance of the City of Temple, Texas, as amended, shall remain in full force and effect, save and except as amended by this ordinance.

Part 5: This ordinance shall take effect immediately from and after its passage in accordance with the provisions of the Charter of the City of Temple, Texas, and it is accordingly so ordained.

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

PASSED AND APPROVED on First Reading and Public Hearing on the 7th day of May, 2009.

PASSED AND APPROVED on Second Reading on the 18th day of June, 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

06/18/09
Item #6
Regular Agenda
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DEPT./DIVISION SUBMISSION & REVIEW:

Sharon Rostovich, Airport Director

ITEM DESCRIPTION: Consider adopting a resolution naming the General Aviation Terminal Building at the Draughon-Miller Central Texas Regional Airport after Mr. Elmer Reed.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: At the February 23, 2009 Airport Advisory Board Meeting, a request was made by Darr Kuykendall and supported by the Airport Board Members to name the general aviation terminal building after Mr. Elmer Reed.

A brief history of Mr. Reed's life:

Mr. Reed was born in 1910 in Davila and died December 20, 1994 in Temple. Mr. Reed was an auto mechanic during the depression. In 1935, he was sitting on his porch with his wife Alma when a bird landed in the yard. When it took off over the shrubs, Mr. Reed said "sure wish I could fly like that bird." A week later, Mr. Reed took his first flying lesson. He swapped his automobile for a 40 H.P. Taylor Cub and the rest is history. Mr. Reed's early flying days were tough and it was said every time Elmer got enough money, he would buy 5 gallons of gas. Mr. Reed did not stop at just learning to fly. He held multiple ratings from private pilot, examiner, commercial pilot examiner and aircraft maintenance inspector. In the late 1930s, Dr. Burbank Woodson helped establish an airport for private flying northwest of Temple (Woodson Field today). Reed's Air service was born in 1939. Mr. Reed trained thousands of military pilots during World War II. During Mr. Reed's colorful aviation career, he served as Airport Manager from 1951 to 1972 and was 62 years old when he decided Reed's Air Service needed his full time attention. Under Mr. Reed's leadership, the City put in \$439,000 in bond money with a \$450,000 federal grant to construct a new fire rescue station, lengthen runway 15/33 to 6,300' and remodel the airline terminal building. Mr. Reed personally constructed the first T-hangars on the field and these T-hangars stand today. He was instrumental in getting the instrument landing system for the Airport at a cost of \$180,000. Mr. Reed saw the Airport grow from a grass strip on the northwest side of Temple to a multi million dollar complex on SH36. *Mr. Reed pioneered aviation in Temple and was considered "Mr. Aviation."*

Mr. Reed received the Charles Taylor Master Mechanic Award December 16, 1993. The criteria for this prestigious FAA award is testimony to Mr. Reed's 50+ year career in aviation maintenance. Mr. Reed was the only mechanic in the San Antonio Flight Safety District's Office 86-county district to qualify for and receive this distinction. Mr. Reed's name was added to the Roll of Honor book kept at the Washington, DC Federal Aviation Administration Building.

Lane Reed, Elmer Reed's oldest son and only living relative, supports the naming of the GA Terminal building after his Dad.

Following established policy, a public hearing was conducted during the April 13, 2009 Airport Board Meeting and public comments were accepted for 30 days following the meeting. No public comments were received opposing the naming of the GA terminal building after Mr. Elmer Reed.

The Airport Board recommends the GA Terminal Building be named the Elmer Reed General Aviation Terminal Building in honor of Mr. Reed's lifelong contributions not only to the City of Temple Airport, but to the aviation community.

FISCAL IMPACT: Funds are available in the Airport operations budget to cover the cost of signage.

ATTACHMENTS:

[Resolution](#)

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, NAMING THE GENERAL AVIATION TERMINAL BUILDING AT THE DRAUGHON-MILLER CENTRAL TEXAS REGIONAL AIRPORT AFTER ELMER REED; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, on February 23, 2009, the Airport Advisory Board voted to recommend naming the General Aviation Terminal Building at the Airport after the late Elmer Reed who is well-known for pioneering aviation in Temple;

Whereas, on April 13, 2009, a public hearing was conducted during the meeting of the Airport Advisory Board and public comments were received for 30 days following the meeting – no public comments were received opposing the naming of the terminal building after Mr. Reed;

Whereas, Mr. Reed served as the Airport Manager for the City of Temple from 1951 through 1972, and under his leadership many improvements were made to the Airport, including the construction of a new fire rescue station, lengthening of runway 15/33 to 6,300 feet, remodeling of the airline terminal building, construction of the first T-hangars, and obtaining the Airport's first instrument landing system;

Whereas, in addition to outstanding leadership as the City's Airport Manager, Mr. Reed, who held multiple ratings from private pilot, examiner, commercial pilot examiner, and aircraft maintenance inspector, trained thousands of military pilots during World War II, and received the prestigious *Charles Taylor Master Mechanic Award* in December, 1993, which led to the honor of his name being added to the Roll of Honor book kept at the Washington, D.C. Federal Aviation Administration Building;

Whereas, it is fitting and proper to honor such an outstanding individual who not only contributed so much to the City's Airport, but also to the entire aviation community; 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: In honor and deep respect of the late Elmer Reed (1910-1994), the City Council authorizes naming the General Aviation Terminal Building at the Draughon-Miller Central Texas Regional Airport the *Elmer Reed General Aviation Terminal*

Building to recognize Mr. Reed's lifelong contributions to the City of Temple Airport and to the entire aviation community.

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 **18th** day of **June**, 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

06/18/09
Item #7
Regular Agenda
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DEPT./DIVISION SUBMISSION & REVIEW:

Kim Foutz, Assistant City Manager

ITEM DESCRIPTION: Consider adopting a resolution authorizing a Letter of Intent between the City of Temple, Temple Historic Arcadia Theatre, Inc, and Astin Redevelopment LP for redevelopment of the Hawn Hotel buildings and Arcadia Theatre located at 110 and 114 East Central Avenue.

STAFF RECOMMENDATION: Adopt resolution as presented in the item description.

ITEM SUMMARY: Staff has been working for several months to negotiate a Letter of Intent (LOI) which creates a tri-party public/private partnership for redevelopment in downtown. A briefing was provided to City Council during a March 2009 workshop.

This LOI is non-binding and indicates intent to proceed with, and negotiate in good faith, a Definitive Agreement for redevelopment of the Hawn Hotel and Arcadia Theatre. The LOI provides all parties the exclusive right to negotiate for 6 months.

The proposed LOI includes the following concepts:

- 1) Redevelopment of the two Hawn Hotel buildings by Astin Redevelopment to include:
 - City conveys Hawn Hotel buildings to Astin Redevelopment for \$1
 - Astin Redevelopment to be hotel developer & owner
 - Operator is Senate Hospitality (former execs from Gaylord Hospitality) or comparable
 - Franchise is Marriott Courtyard or Hilton Garden Inn or comparable
 - 80+ rooms, boutique style, maintain historical integrity
 - \$10,000,000 investment
 - 2 story (former coffee house) redeveloped as common area shared by hotel & theater/conference space
 - Amenities include: restaurant, kitchen, bar, gathering area, coffee bar
 - Reversionary clause if construction is not initiated within two years
 - City to resurface and improve the parking lot on 4th Street; 80 spaces exclusively available for use by hotel and performing arts/conference center
 - City to improve on-site and surrounding off-site sidewalks, ADA, ramps, and streetscape
 - City to consider full or partial closing of 4th street

- Incentives to include: tax abatement; waiver of permits and fees; application assistance for historic or new market tax credits; apply Federal \$137,200 grant toward redevelopment; sponsor and pay for State Enterprise Fund application for State sales tax reimbursement; and pursue tax abatement through Temple College

Redevelopment of the Arcadia Theatre by Astin Redevelopment to include:

- Arcadia Theatre Inc. transfers Arcadia ownership to City for \$1; City transfers to Astin for \$1
- Astin will renovate, own, and operate Arcadia as mixed use theater & conference center subject to certain Arcadia conditions
- Reversionary clause for non-performance
- Maintain historical integrity
- Mixed use: performing arts, conference center, other uses tbd
- Operator will have experience with special events/conference booking and operation

A feasibility study was performed for this economic development and redevelopment project by PKF Consulting and CDS. The study confirmed that the project was feasible.

FISCAL IMPACT: The TEDC had Impact DataSource Inc. perform an economic impact study for the first 10 years which revealed the following: \$23 million in direct and indirect worker salaries, \$31 million in taxable sales (\$466,200 sales tax revenue to the City and \$155,000 to County), \$10 million in facility improvements, and \$2 million revenue to the City in hotel occupancy taxes. The payback period is estimated at 1.5 years excluding public infrastructure improvements. Also see incentive listing above.

ATTACHMENTS:

[Letter of Intent
Resolution](#)



June 18, 2009

Astin Redevelopment, L.P.
120 North Main Street
Bryan, Texas 77803

Temple Historic Arcadia Theatre, Inc.
110 East Central Avenue
Temple, Texas

Re: Letter of Intent Regarding the Redevelopment of the Hawn Hotel Property and the Arcadia Theatre Property

To Whom It May Concern:

The City of Temple is pleased to submit this Letter of Intent with respect to the proposed redevelopment of the Hawn Hotel and Arcadia Theatre properties located at 114 East Central Avenue and 110 East Central Avenue, respectively. This Letter of Intent, while nonbinding, summarizes all negotiations between the City, Astin Redevelopment (“Astin”) and the Temple Historic Arcadia Theatre, Inc. (“THAT”) to date, and evidences the City’s intent to negotiate exclusively with Astin and THAT for a period of not greater than six months, contingent upon both Astin and THAT indicating their willingness to negotiate a definitive agreement to provide for the redevelopment of the Hawn Hotel property and the Arcadia Theatre property (the “Definitive Agreement”) with the City by returning a signed copy of this Letter of Intent to the City.

Project Description. The City is the owner of the Hawn Hotel property. THAT is the owner of the Arcadia Theatre property. The City is also the owner of a parking lot located east of the Hawn Hotel property (“Parking Lot”). In November 2007, the City requested proposals from the private sector to redevelop the Hawn Hotel property and Astin submitted a proposal to redevelop the Hawn Hotel property as a boutique, full-service hotel (“Boutique Hotel”). In our continuing discussions, the City proposes to convey the Hawn Hotel property to Astin, THAT proposes to convey the Arcadia Theatre to the City—which in turn the City will convey to Astin, and Astin proposes to develop the Arcadia Theater as a performing arts and conference center (“Performing Arts/Conference Center”) associated with their development of the Hawn Hotel property as the Boutique Hotel. This Letter of Intent sets out the major terms that the parties desire to incorporate into the Definitive Agreement.

Subject to the negotiation of the Definitive Agreement between the City, Astin and THAT, the parties to this Letter of Intent have agreed in principal that:

Proposed obligations of Astin:

1. Subject to the conveyance of the Hawn Hotel property and the Arcadia Theatre property by the City and THAT, respectively, Astin agrees to accept conveyance of those properties and to develop the Hawn Hotel property as the Boutique Hotel and the Arcadia Theatre as a Performing Arts/Conference Center. The Boutique Hotel must have no less than 80 rooms, and the Boutique Hotel must include a bar, restaurant, kitchen, coffee bar, fitness and business centers as well as meeting space. Astin's investment in the Boutique Hotel shall be not less than \$10 million. The cost of developing the Performing Arts/Conference Center has not been developed by the parties as of the date of this Letter of Intent. The design and construction of the Performing Arts/Conference Center shall include rehabilitation of the interior and exterior of the Arcadia Theatre, development of a common area with restrooms and a reception area between the Performing Arts/Conference Center and the Boutique Hotel (in the area presently occupied by the two story addition to the Hawn Hotel), and construction of a ticket box near the present entrance to the Arcadia Theatre.
2. Astin agrees to use its best efforts to enter into a franchising arrangement for the Boutique Hotel with a major national franchiser. The parties contemplate that the Boutique Hotel will be a "flag" hotel comparable in quality and reputation to Marriot Courtyard or Hilton Garden Inn.
3. Astin agrees to use its best efforts to secure all necessary financing for the development and construction of the Boutique Hotel and the Performing Arts/Conference Center.
4. Astin agrees to use its best efforts to secure the services of a company to manage the Boutique Hotel. The parties contemplate that the hotel management firm will be a firm comparable in experience and qualifications to Senate Hospitality, Brentwood, Tennessee.
5. Astin agrees to use its best efforts to secure the services of a company to manage the Performing Arts/Conference Center. The parties contemplate that the performing arts/conference center management firm will have experience with special event and conference booking, marketing, facility maintenance and working with local performing arts groups. The Performing Arts/Conference Center management services may be provided by Astin, the hotel management firm, or a third party.
6. Astin agrees to negotiate terms and conditions with THAT regarding redevelopment, operation, and use of the Arcadia Theater.

Proposed obligations of City:

1. The City agrees to accept the conveyance of the Arcadia Theatre in trust from THAT in anticipation of conveying it to Astin under the terms of the Definitive Agreement to allow Astin to redevelop the Arcadia Theater as the Performing Arts/Conference Center.
2. The City agrees to convey the Hawn Hotel property to Astin for \$1 for development of the Boutique Hotel with a reversionary clause should the construction of the Boutique Hotel not be initiated within two years and completed within four years.
3. The City agrees to convey the Arcadia Theatre property to Astin for \$1 for development of the Performing Arts/Conference Center with a reversionary clause should the construction of the Performing Arts/Conference Center not be initiated and completed within a mutually agreeable timeline.
4. The City agrees to resurface the Parking Lot with not less than 96 parking spaces and to make 80 of those parking places exclusively available for the use of the Boutique Hotel and the Performing Arts/Conference Center. The Parking Lot will meet or exceed all City standards and incorporate the following elements: landscaping strips, decorative lighting, an irrigation system, striping, resurfacing, handicapped ramps & signage, and a crosswalk on South 4th Street.
5. The City will engage a consultant to perform a phase 1 environmental assessment of the Hawn Hotel and Arcadia Theatre properties and provide copies of the assessment to Astin.
6. The City will provide certain incentives to Astin: (1) subject to approval of its City Council, including 10 year, declining term (100% years 1-5, 80-80-70-60-40% last 5 years) tax abatement on the increased value of real and eligible (useful life of at least 10 years) personal property; (2) waiver of applicable permits and fees; (3) assistance in applying for historic tax credits and new market tax credits; (4) provide a grant in the form of \$137,200 in Federal grant dollars towards redevelopment of the Hawn

Hotel property, (5) sponsor and pay for an application to the State Enterprise Fund; and (6) redevelop on-site and surrounding off-site sidewalks, ADA improvements, ramps, and streetscape. The City will also pursue tax abatement from Temple College.

7. The City will consider full or partial closing of 4th Street to accommodate additional parking, building area, or porte cache.

Proposed obligations of THAT:

1. THAT agrees to convey the Arcadia Theatre property to City for \$1 in anticipation of the City conveying it with a reversionary clause to Astin for development of the Performing Arts/Conference Center. The City will agree to convey the Arcadia Theatre back to THAT in the event that the Arcadia Theatre reverts back to the City.

Other terms:

1. The final design of the Boutique Hotel is subject to the approval of the City, which shall not be unreasonably withheld. The final design of the Performing Arts/Conference Center and the common area between the Performing Arts/Conference Center and the Boutique Hotel is subject to the approval of the City and THAT, which shall not be unreasonably withheld.
2. All construction is subject to applicable State and local statutes and codes.
3. Redevelopment of the Performing Arts/Conference Center and the Boutique Hotel must maintain the historical integrity of the Hawn Hotel and the Arcadia Theatre.
4. The transfer by the City to Astin of the Hawn Hotel property and Arcadia Theatre shall not take place until final design of the Performing Arts/Conference Center and the Boutique Hotel have been approved by the City and Astin has: 1) provided satisfactory evidence that Astin has secured financing for the construction of both the Performing Arts/Conference Center and the Boutique Hotel, and 2) provided satisfactory evidence of securing a hotel franchise.
5. The terms of the Definitive Agreement shall be binding on any successor in interest to Astin's interest in that agreement.
6. This Letter of Intent constitutes the obligation of the City to negotiate exclusively with Astin and THAT on the terms of the Definitive Agreement for the development of the Performing Arts/Conference Center and the Boutique Hotel for six months from the date when it is accepted in writing by both Astin and THAT.

We are excited about redevelopment of the Hawn Hotel and Arcadia Theatre properties and how it furthers the City's strategic goal of making downtown Temple a more attractive and vibrant place. We look forward to hearing back from you and finalizing the terms of the Definitive Agreement.

Sincerely,

David Blackburn
City Manager

Accepted:

Astin Redevelopment, L.P. Date

Accepted:

Temple Historic Arcadia Theatre, Inc. Date

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, APPROVING A LETTER OF INTENT AMONG THE CITY OF TEMPLE, TEMPLE HISTORIC ARCADIA THEATRE, INC., AND ASTIN REDEVELOPMENT, L.P., FOR REDEVELOPMENT OF THE HAWN HOTEL BUILDING AND ARCADIA THEATRE LOCATED AT 110 AND 114 EAST CENTRAL AVENUE; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, the Staff has been working for several months to negotiate a Letter of Intent which creates a tri-party public/private partnership for redevelopment in downtown Temple;

Whereas, the Letter of Intent is non-binding and indicates intent to proceed with, and negotiate in good faith, a Definitive Agreement for redevelopment of the Hawn Hotel and Arcadia Theatre, providing all parties the exclusive right to negotiate for 6 months;

Whereas, redevelopment of the Hawn Hotel and Arcadia Theatre properties will further the City's strategic goal of making downtown Temple a more attractive and vibrant place; 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 approves a Letter of Intent among the City of Temple, Temple Historic Arcadia Theatre, Inc., and Astin Redevelopment, L.P., for redevelopment of the Hawn Hotel building and Arcadia Theatre located at 110 and 114 East Central Avenue, substantially in the form of the copy attached hereto as Exhibit `A.

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 **18th** day of **June**, 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

06/18/09
Item #8
Regular Agenda
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DEPT./DIVISION SUBMISSION & REVIEW:

William A. Jones, III, Mayor

ITEM DESCRIPTION: Consider adopting a resolution appointing one member to the Bell County Public Health District Board of Directors.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: Dr. William Hardin has served as Temple's representative on the Bell County Public Health District Board of Directors since 1992. Dr. Hardin has indicated his desire to step down from the board at this time to allow a new member some transition time under the direction of the current District Director, Wayne Farrell. Dr. Hardin will continue to serve until his replacement is named by the Council.

FISCAL IMPACT: None

ATTACHMENTS:

[Letter from Dr. Hardin](#)

APR 2 2009
CITY OF TEMPLE, TX
CITY CLERK
April 2, 2009

Mayor Bill Jones
City of Temple
Municipal Building
Temple, Texas 76501

Ref: Public Health District

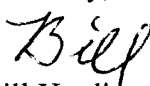
Dear Bill,

I have had the honor of being the representative of the City of Temple on the board of the Bell County Health District since 1992. I feel it is time for a change so I request that you replace me.

The district is in wonderful shape from a financial and leadership standpoint. Wayne Farrell could not be a better District Director. He and I are getting older and he will probably retire in the next few years. I think it would be in the best interest of the city to have someone on board to learn from Wayne and be there for a transition to a new director rather than have me step down about the same time. I will be happy to serve until you name a replacement.

Again, let me say what a pleasure it has been to serve on this board. Wayne's leadership has been a blessing to the entire county!!!

Sincerely,


Bill Hardin

CC:
Wayne Farrell