



**MEETING OF THE  
TEMPLE CITY COUNCIL**

**MUNICIPAL BUILDING**

**2 NORTH MAIN STREET**

**THURSDAY, MAY 6, 2010**

**2:00 P.M.**

**CITY COUNCIL CHAMBERS – 2<sup>ND</sup> FLOOR**

**WORKSHOP AGENDA**

1. Receive presentations from the following public service agencies regarding their activities and funding requests for FY 2010-2011:

Bell County Business Alliance (Incubator)  
Bell County Public Health District  
Ronald McDonald House of Temple  
Cultural Activities Center  
Family Promise  
Hill Country Transit District  
Railroad & Heritage Museum

**4:00 P.M.**

**3<sup>RD</sup> FLOOR CONFERENCE ROOM**

**WORKSHOP AGENDA**

1. Discuss, as may be needed, Regular Meeting agenda items for the meeting posted for Thursday, May 6, 2010.
2. Discuss proposed policy to require quarterly disclosure by City Councilmembers of amounts received by them, directly or indirectly, as a contractor, subcontractor or materials supplier from contractors entered into by the City or from projects that are funded in whole or in part from City funds or funds administered by the City.

5:00 P.M.

**MUNICIPAL BUILDING**

**2 NORTH MAIN STREET  
CITY COUNCIL CHAMBERS – 2<sup>ND</sup> FLOOR**

**TEMPLE, TX**

**REGULAR MEETING AGENDA**

**I. CALL TO ORDER**

1. Invocation
2. Pledge of Allegiance

**II. PROCLAMATIONS & SPECIAL RECOGNITIONS**

3. Presentation of Proclamations:
  - (A) *Youth Week* May 1-7, 2010
  - (B) *Tourism Week* May 8-16, 2010
4. Presentation of [award to Temple Fire & Rescue](#) from the National Committee for Employer Support of the Guard and Reserve.

**III. PUBLIC COMMENTS**

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

**IV. CONSENT AGENDA**

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

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

## **Minutes:**

### **(A) [April 15, 2010 Special Called and Regular Meeting](#)**

## **Contracts, Leases & Bids**

- (B) [2010-5995-R](#): Consider adopting a resolution authorizing the renewal of a Cooperative Working Agreement (CWA) with Bell County for the Bell County Crime Coalition project administered by the Bell County Juvenile Probation Department.
- (C) [2010-5996-R](#): Consider adopting a resolution authorizing an interlocal agreement with the Texas Water Development Board in the amount not to exceed \$13,860 to perform a hydrographic survey of a section of the Leon River from Belton Dam to the City of Temple Low Water Dam.
- (D) [2010-5997-R](#): Consider adopting a resolution authorizing a professional services agreement with Lone Star Right of Way Services, Inc., of Belton in the not to exceed amount of \$26,000 to acquire right of way entry and temporary construction easements for 26 properties related to the Bellaire Water Line Improvement Project.
- (E) [2010-5998-R](#): Consider adopting a resolution ratifying testing services performed and authorizing additional testing services on the new Central Fire Station by Kleinfelder Central, Inc. of Waco, in an estimated amount of \$26,500.
- (F) [2010-5999-R](#): Consider adopting a resolution ratifying work performed and authorizing change order #2 to the new Central Fire Station construction contract with EMJ Corporation of Irving in the amount of \$60,142.

## **Ordinances – Second and Final Reading**

- (G) [2010-4358](#): SECOND READING – Consider adopting an ordinance establishing the prima facie speed limit on the US 190/LP363 frontage road, within the City limits.

## **Misc.**

- (H) [2010-6000-R](#): Consider adopting a resolution authorizing the conveyance of a 2.236 acre parcel of City-owned land described as Lot 13, Block 2, Enterprise Business Park Phase II, part of the Enterprise Business Park, located near Enterprise Road, to the Temple Economic Development Corporation.
- (I) [2010-6001-R](#): Consider adopting a resolution dedicating as public right-of-way 1.469 acres located between the HEB-CTRSC subdivision and McLane Boulevard.
- (J) [2010-6002-R](#): Consider adopting a resolution authorizing the Mayor to execute a deed conveying property bequeathed to the City to the purchaser of the property.
- (K) [2010-6003-R](#): Consider adopting a resolution dedicating a public water and wastewater utility easement on 1.53 acres located at the Draughon-Miller Central Texas Regional Airport.

- (L) [2010-6004-R](#): Consider adopting a resolution authorizing budget amendments for fiscal year 2009-2010.
- (M) [2010-6005-R](#): Consider adopting a resolution supporting the nomination of a member to serve on the Brazos G Regional Water Planning Group representing County interests.

## **V. REGULAR AGENDA**

### **ORDINANCES**

6. [2010-4357](#): SECOND READING – PUBLIC HEARING - Consider adopting an ordinance re-naming a portion of Hilliard Road to Lightner Lane.
7. [2010-4359](#): FIRST READING – PUBLIC HEARING - Consider adopting an ordinance abandoning the 0.433-acre unnamed road, located along the north edge of Coughran Subdivision, between the east right-of-way of South Pea Ridge Road and the north right-of-way of West Adams Avenue, and retaining a 15-foot wide utility easement along the north line of the abandoned road.
8. [2010-4360](#): FIRST READING – PUBLIC HEARING – Consider adopting an ordinance establishing a juvenile case manager fund requiring certain defendants to pay as part of court costs a juvenile case manager fee, not to exceed \$5, for deposit in a restricted fund.

### **RESOLUTIONS**

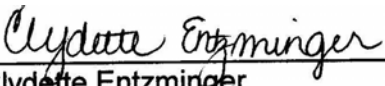
9. [2010-6006-R](#): Consider adopting a resolution authorizing the City Manager to submit an application for a Pass-Through Financing Project proposal for improvements to the Northwest Loop 363 with the Texas Department of Transportation (TxDOT).
10. [2010-6007-R](#): Consider adopting a resolution approving a policy to require quarterly disclosure by City Councilmembers of amounts received by them, directly or indirectly, as a contractor, subcontractor or materials supplier from contractors entered into by the City or from projects that are funded in whole or in part from City funds or funds administered by the City.

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

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I hereby certify that a true and correct copy of this Notice of Meeting was posted in a public place at 3:15 PM, on April 30, 2010.

  
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 \_\_\_\_\_ 2010. \_\_\_\_\_





## COUNCIL AGENDA ITEM MEMORANDUM

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05/06/10  
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) *Youth Week* May 1-7, 2010

(B) *Tourism Week* May 8-16, 2010

**STAFF RECOMMENDATION:** Present proclamations as presented in item description.

**ITEM SUMMARY:**

(A) This proclamation was requested and will be received by Mr. Willie Capps on behalf of the Temple Elks Lodge #138.

(B) This proclamation will be received by Ken Cicora and Parks and Leisure Services Staff.

**FISCAL IMPACT:** None

**ATTACHMENTS:** None



## COUNCIL AGENDA ITEM MEMORANDUM

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Item #4  
Regular Agenda  
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**DEPT./DIVISION SUBMISSION & REVIEW:**

Lonzo Wallace, Fire Chief

**ITEM DESCRIPTION:** Presentation of award to Temple Fire & Rescue from the National Committee for Employer Support of the Guard and Reserve.

**STAFF RECOMMENDATION:** Receive presentation as described in item description.

**ITEM SUMMARY:** Captain Kelley and Major Simmons from the 1<sup>st</sup> of the 124<sup>th</sup> CAV request to present Chief Lonzo Wallace, Jr. and Temple Fire & Rescue the Patriotic Employer award. This award is for contributing to national security and protecting liberty and freedom by supporting employee participation in Texas Army National Guard.

**FISCAL IMPACT:** N/A

**ATTACHMENTS:** N/A



## COUNCIL AGENDA ITEM MEMORANDUM

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Item #5(A)  
Consent Agenda  
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**DEPT./DIVISION SUBMISSION & REVIEW:**

Clydette Entzminger, City Secretary

**ITEM DESCRIPTION:** Approve Minutes:

(A) April 15, 2010 Special Called and Regular Meeting

**STAFF RECOMMENDATION:** Approve minutes as presented in item description.

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

**FISCAL IMPACT:** N/A

**ATTACHMENTS:**

[April 15, 2010 Special Called and Regular Meeting](#)

## TEMPLE CITY COUNCIL

**APRIL 15, 2010**

The City Council of the City of Temple, Texas conducted a Special Meeting on Thursday, April 15, 2010, at 3:30 pm, in the 3rd Floor Conference Room, Municipal Building, 2 North Main Street.

### **Present:**

Councilmember Tony Jeter  
Councilmember Marty Janczak  
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, April 15, 2010.**

Agenda Item 4(G) - Demolition contracts: Councilmember Schneider indicated he would abstain from the discussion and vote on this item.

Agenda Item 4(M) - Election judges: Clydette Entzminger, City Secretary, provided the names of the judges that have agreed to serve in the May 8th election.

Agenda Item 6 - Renaming Hilliard Road: Mayor Jones stated this item was not posted for a public hearing but he would receive comments from the public anyway. Another public hearing will be conducted on the second reading of the ordinance also.

### **2. Review and discuss the City's extraterritorial jurisdiction map and consider possible revisions thereto.**

Jonathan Graham, City Attorney, presented this item for discussion, beginning with a review of what extraterritorial jurisdiction (ETJ) is and what control the City has within its ETJ. The City's ETJ is 3.5 miles and Mr. Graham displayed this area on a map. The significance of ETJ is that this area may become a part of the City at some future date.

Mr. Graham continued with an explanation of how Temple's ETJ was established in 1963 and how it was expanded through annexation or population increases. It is a matter of "who gets there first." A map was displayed showing Temple historical ETJ growth. In 1963, Temple apportioned overlapping ETJ with Belton and Morgan's Point Resort. Overlapping ETJ cannot occur but cities can in effect swap ETJ if there would be overlapping ETJ but for one city being there first.

Next, Mr. Graham discussed some encroachments into Belton's ETJ that occurred with Temple's most recent voluntary annexation in the Northcliffe Subdivision. Maps were presented showing Temple's proposal to swap approximately 48.4 acres of ETJ in the "claw" on the south side of Lake Belton, crossing FM 439, for approximately 34 acres of the Belton ETJ in the Northcliffe Subdivision area. Belton made a counter proposal, which led to a counter proposal from Temple, resulting in a proposed swap of 143 acres from Belton ETJ to Temple ETJ (2 tracts) and about 175 acres from

Temple ETJ to Belton ETJ (3 tracts). The area Temple would receive under this proposal is the Northcliffe Subdivision area and the tip of Arrowhead Point Subdivision.

Mr. Blackburn asked the Council if they were interested in swapping any ETJ with Belton and whether it should be acre for acre or something different.

Councilmember Schneider asked that property lines be considered whenever possible, as well as other features such as streets, etc.

Mayor Jones stated he favored using a valuation factor to swap ETJ, not necessarily acre for acre.

Councilmember Janczak stated he was in favor of pursuing the proposed ETJ swap with Belton, either on an acre by acre basis or something different if that makes sense.

**3. Discuss proposed ordinance changes related to off-street parking in residential neighborhoods.**

David Blackburn, City Manager, discussed this item with the City Councilmembers, which is continued from most recent discussions on March 18th. He reviewed the proposed residential parking standards, which address vehicles parked in front yards, both motorized and non motorized. Existing unpaved parking areas will be allowed where there is a non-erodible surface such as crushed granite or stone, compacted gravel, brick pavers, brick or stone, or where contained within a defined border. Existing non-erodible parking areas would be allowed where it extends in a continuous course from curb cut, if in existence before June 03, 2010, if parked perpendicular to front property line, except if curvilinear, and is maintained.

Mr. Blackburn also reviewed the circumstances under which parking on existing erodible surfaces would be allowed, explaining that unpaved driveways/parking areas would no longer be grandfathered when the parking area is expanded, the home is expanded by more than 10% or the home is destroyed by more than 60% of its value. The proposed parking standards would not apply in Agricultural Districts, on tracts 3 acres or greater in size, when parking occurs beyond 150' from the front property line, or temporary parking associated with construction or landscaping or loading/unloading.

Mr. Blackburn noted that TABA has reviewed this proposed ordinance and has recommended no boats be allowed in front yards. The Council discussed this condition but did not concur with including the recommendation in the proposed ordinance.

The City Council of the City of Temple, Texas conducted a Regular Meeting on Thursday, April 15, 2010 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**

Councilmember Russell Schneider voiced the Invocation.

**2. Pledge of Allegiance**

Val Roming, Parks & Leisure Services Department, led the Pledge of Allegiance.

**II. PROCLAMATIONS & SPECIAL RECOGNITIONS**

**3. Presentation of Proclamations:**

**(A) Fair Housing Month April, 2010**

Mayor Jones presented this proclamation to Beth Correa, Regional Planner, Central Texas Council of Governments.

**(B) Arbor Day - May 7, 2010**

Mayor Jones presented this proclamation to Val Roming, Parks and Leisure Services Department.

**III. PUBLIC COMMENTS**

There were no public comments.

**IV. CONSENT AGENDA**

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

**(A) April 1, 2010 Special Called and Regular Meeting**

**(B) 2010-5985-R: Consider adopting a resolution authorizing an out of scope contract with CH2MHill/OMI of Englewood, Colorado for replacement of the chlorine feed lines at the Doshier Wastewater Treatment Plant in the not to exceed amount of \$144,242.27.**

**(C) 2010-5986-R: Consider adopting a resolution authorizing the purchase of various replacement parts for the Membrane Water Treatment Plant from**

- 1. Pall System Services of Cortland, NY, as a sole source provider, in the amount of \$104,344.41;**
- 2. Genesis Systems, Inc. of Plano, as a sole source provider, in**

the amount of \$18,262.00; and

3. **Dealers Electrical Supply of Temple in the amount of \$20,360.76.**

**(D) 2010-5987-R: Consider adopting a resolution authorizing a professional services agreement with InHouse Systems, Inc. for the purchase and installation of audio visual technology equipment for the newly renovated Mayborn Convention Center in an amount not to exceed \$29,500.**

**(E) 2010-5988-R: Consider adopting a resolution authorizing the purchase of Wireless Video Surveillance and Network Services and equipment from Redmoon Broadband in the amount of \$74,500 in the support of implementing a video surveillance Wireless SCADA network for the City of Temple.**

**(F) 2010-5989-R: Consider adopting a resolution authorizing the purchase of eleven (11) mobile digital video systems for the new police vehicles from L-3 Mobile Vision utilizing the Houston-Galveston Area Council Interlocal Cooperative, HGAC contract # EF04-09, in the amount of \$59,353.25.**

**(G) 2010-5990-R: Consider adopting a resolution authorizing demolition contracts with Gulf States Demolition of Kingwood in the amount of \$12,590 and with Intercon Environmental, Inc. of Mansfield in the amount of \$5,962 for the demolition of four (4) residential structures funded through the Community Development Block Grant (CDBG).**

**(H) 2010-4352: SECOND READING - Consider adopting an ordinance abandoning 164 feet of a 20-foot wide alley located on the north side of West Adams Avenue, between Lot 3, Block 1 and Lot 1, Block 2, Blacks Addition.**

**(I) 2010-4354: SECOND READING - Z-FY-10-23 - Consider adopting an ordinance authorizing a zoning change from Light Industrial District (LI) to Planned Development (Light Industrial) District (PDD-LI) on a 250 ± acre tract of land situated in the Maximo Moreno survey, Abstract 14, Bell County, located in the Southeast Industrial Park, south of Lorraine Drive.**

**(J) 1. 2010-4355: SECOND READING - Z-FY-10-24A - Consider adopting an ordinance authorizing a zoning change from Agricultural District (A) to General Retail District (GR) on 0.9 ± acres out of the Daniel Meador Survey, Abstract 577, Bell County Texas, located at 8800 Airport Road.**

2. **2010-4356: SECOND READING - Z-FY-10-24B - Consider adopting an ordinance authorizing a Conditional Use Permit (CUP) to allow a package store with alcoholic beverage sales for off-premise consumption on 0.9 ± acres out of the Daniel Meador Survey, Abstract 577, Bell County Texas, located on the north side of Airport Road east of the State Highway 317 interchange at 8800 Airport Road.**

**(K) 2010-5991-R: Consider adopting a resolution authorizing a grant application to the Texas Parks and Wildlife Department, in the amount of \$180,521, to complete the Lions Parks National Recreation Trail.**

**(L) 2010-5992-R: Consider adopting a resolution authorizing budget amendments for fiscal year 2009-2010.**

**(M) 2010-5995-R: Consider adopting a resolution appointing the presiding and alternate judges for the May 8, 2010 City of Temple - Temple ISD Joint Election.**

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

Motion passed unanimously.

**(G) 2010-5990-R: Consider adopting a resolution authorizing demolition contracts with Gulf States Demolition of Kingwood in the amount of \$12,590 and with Intercon Environmental, Inc. of Mansfield in the amount of \$5,962 for the demolition of four (4) residential structures funded through the Community Development Block Grant (CDBG).**

Motion by Councilmember Marty Janczak to adopt resolution approving Consent Agenda Item 4(G), seconded by Councilmember Tony Jeter.

Councilmember Russell Schneider abstained. The other Councilmembers voted aye. The motion passed.

## **V. REGULAR AGENDA**

### **ORDINANCES**

- 5. 2010-4353: SECOND READING - Z-FY-10-20 - Consider adopting an ordinance authorizing a zoning change from General Retail District (GR) to Planned Development General Retail District (PD-GR) on a portion of Lot 1, Block 1, Number One Market Loop, located at 1521 SW H K Dodgen Loop.**

Brian Mabry, Planner, presented this zoning change request to the City Council. He showed a photo of the subject property for the requested billboard. Denial by the Planning and Zoning Commission and staff was based on concerns related to the Comprehensive Plan, Zoning Ordinance and the scale of the design. Mr. Mabry explained the concerns with the proposal as it relates to the Comprehensive Plan and the Future Land Use and Character Map. He also explained that billboards are not allowed in the General Retail zoning district and the proposed billboard is out of scale with the surrounding structures and signs. Eight notices were mailed to property owners in the surrounding area, with one being returned in disapproval of the request. The Planning and Zoning



Commission recommended denial of the request, therefore, four affirmative votes of the City Council would be required for approval.

Mayor Jones asked for an explanation of the concern with the Comprehensive Plan.

Mr. Mabry explained the spacing standards are met by the proposal and there is no prohibition of billboards along Loop 363. The concern relates to any possible hinderance to the future development of the existing retail shopping center.

Mayor Pro Tem Luna asked if there are larger billboards located along Loop 363.

Mr. Mabry replied yes.

Councilmember Schneider stated he did not feel this billboard would hinder the back of the development since it only a service area.

Councilmember Jeter stated the property owner has no concern with the billboard hindering the redevelopment of the area.

Councilmember Janczak stated the adjacent property is commercial and he asked if the billboard could be located there.

Mr. Mabry replied that property has a conditional use permit and it would have to be amended to allow a billboard.

Mat Naegele, the applicant in this request, addressed the City Council. He clarified that their sign is smaller than most in the area. All other billboards from 31st street to IH-35 are larger. He added this is a viable location for a billboard.

Motion by Councilmember Marty Janczak to adopt ordinance on second and final reading, seconded by Mayor Pro Tem Patsy E. Luna.

Motion passed unanimously.

**6. 2010-4357: FIRST READING - Consider adopting an ordinance re-naming a portion of Hilliard Road to Lightner Lane.**

Tim Dolan, Director of Planning, presented this item to the City Council. He displayed an aerial photo of the property. This renaming is proposed due to the realignment of Hilliard Road. The address numbers would remain the same and only the street name would be changed to reflect the name of the property owners that previously lived in this area.

Mayor Jones stated this item was not posted for a public hearing, in error, but the Council would receive comments regarding this item from anyone present. Another public hearing will be conducted on the second reading of the item.

There being no comments, Mayor Jones closed the public hearing.

Motion by Mayor Pro Tem Patsy E. Luna to adopt ordinance of first reading and schedule second reading and public hearing for May 6, 2010, seconded by Councilmember Tony Jeter.

Motion passed unanimously.

7. **2010-4358: FIRST READING - PUBLIC HEARING - Consider adopting an ordinance establishing the prima facie speed limit on the US 190/LP363 frontage road, within the City limits.**

Michael Newman, Assistant Director of Public Works, presented this item to the City Council. The speed limit is proposed to be increased from 30 mph to 45 mph on the westbound frontage road of Loop 363 between South 5th Street and South 57th Street. The Texas Department of Transportation has conducted a traffic engineering study to determine the appropriate speed. City Staff concurs with the recommendation.

Mayor Jones declared the public hearing open with regard to this item.

There being no comments, Mayor Jones closed the public hearing.

Motion by Councilmember Marty Janczak to adopt ordinance on first reading, with second reading scheduled for May 6 2010, seconded by Councilmember Russell Schneider.

Motion passed unanimously.

## RESOLUTIONS

8. **2010-5993-R: Consider adopting a resolution directing the City Attorney to develop a policy to require quarterly disclosure by City Councilmembers of gross income earned by them, directly or indirectly, as a contractor, subcontractor or materials supplier from contracts entered into by the City or from projects that are funded in whole or in part from City funds or funds administered by the City.**

Mayor Pro Tem Luna stated she is asking this issue to be looked at and a recommendation brought back to Council to consider some type of regular reporting of income the City Councilmembers earn from City contracts. The report could also show amounts of money saved by awarding to the low bidder. There is a lot of perception that our policy is not right and Mayor Pro Tem Luna felt this should be looked at to avoid any appearance of Councilmembers unduly benefiting from their position.

Motion by Councilmember Marty Janczak to adopt resolution, seconded by Councilmember Russell Schneider.

Councilmember Jeter asked the time frame for this recommendation to come back before Council.

Jonathan Graham, City Attorney, stated he could bring something back by the

next Council meeting, May 6th.

Motion by Councilmember Tony Jeter to amend previous motion to provide that the first report filed disclose income from the beginning of each Councilmember's term to present, with future quarterly reports, Motion failed due to lack of second.

Motion by Councilmember Marty Janczak to adopt resolution as presented (original motion), seconded by Councilmember Russell Schneider.

Motion passed unanimously.

## **BOARD APPOINTMENTS**

9. **2010-5994-R: Consider adopting a resolution appointing members to the following City boards and commissions:**

**(A) One member to the Temple Public Safety Advisory Board to fill an unexpired term through September 1, 2012**

It was recommended that John Mayo be appointed to this board.

**(B) One member to the Community Services Advisory Board to fill an unexpired term through September 1, 2011**

It was recommended that Dee Blackwell be appointed to serve on this board.

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

Motion passed unanimously.

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William A. Jones, III, Mayor

ATTEST:

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Clydette Entzminger  
City Secretary



## COUNCIL AGENDA ITEM MEMORANDUM

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05/06/10  
Item #5(B)  
Consent Agenda  
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### **DEPT./DIVISION SUBMISSION & REVIEW:**

Gary O. Smith, Chief of Police

**ITEM DESCRIPTION:** Consider adopting a resolution authorizing the renewal of a Cooperative Working Agreement (CWA) with Bell County for the Bell County Crime Coalition project administered by the Bell County Juvenile Probation Department.

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

**ITEM SUMMARY:** This agreement will allow Temple Police Officers assigned to investigate juvenile crimes to work with Bell County Juvenile Probation Officers in making home visits of children on court ordered probation within the City of Temple. This program has been in place for a number of years. The program provides reimbursement for the overtime pay incurred by officers performing home visits after normal business hours.

The goal of this program is to team Juvenile Police Officers with Juvenile Probation Officers to monitor and reduce technical violations of court imposed sanctions through home visits, curfew checks, and drug screening for juveniles on court ordered probation.

The contract will commence upon Council approval, and will end on July 31, 2011.

**FISCAL IMPACT:** This program is funded through the Criminal Justice Division (CJD) of the Office of the Governor, grant # 1362311. Bell County will receive grant funds and manage the program as required by the CJD. The City of Temple Police Department will act as a service provider under this agreement. Bell County will reimburse the City of Temple for all expenditures related to the payment of Temple Police Officers that participate in the services rendered under the agreement.

### **ATTACHMENTS:**

[Resolution](#)

RESOLUTION NO. \_\_\_\_\_

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING THE RENEWAL OF A COOPERATIVE WORKING AGREEMENT BETWEEN THE CITY OF TEMPLE AND BELL COUNTY FOR THE BELL COUNTY CRIME COALITION PROJECT THAT IS ADMINISTERED BY THE BELL COUNTY JUVENILE PROBATION DEPARTMENT; AND PROVIDING AN OPEN MEETINGS CLAUSE.

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**Whereas,** the Bell County Crime Coalition project is administered by the Bell County Juvenile Probation Department – the goal of the program is to team juvenile police officers with juvenile probation officers to monitor and reduce technical violations of court imposed sanctions through home visits, curfew checks, and drug screening for juveniles on court ordered probation;

**Whereas,** the City is required to enter into a cooperative working agreement with Bell County to participate in this program;

**Whereas,** the City will not be required to provide any funding for the program, and all expenditures with regard to the payment of Temple police officers will be reimbursed by Bell County; 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 Manager, or his designee, is authorized to execute a Cooperative Working Agreement between the City of Temple, Texas, and Bell County, after approval as to form by the City Attorney, for the Bell County Crime Coalition 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 **6<sup>th</sup>** day of **May**, 2010.

THE CITY OF TEMPLE, TEXAS

WILLIAM A. JONES, III, Mayor

ATTEST:

APPROVED AS TO FORM:

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Clydette Entzminger

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Jonathan Graham

City Secretary

City Attorney



## COUNCIL AGENDA ITEM MEMORANDUM

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05/06/10  
Item #5(C)  
Consent Agenda  
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### **DEPT./DIVISION SUBMISSION & REVIEW:**

Nicole Torralva, P.E., Interim Director of Public Works  
Johnnie Reisner, Superintendent of Water Production

**ITEM DESCRIPTION:** Consider adopting a resolution authorizing an interlocal agreement with the Texas Water Development Board in the amount not to exceed \$13,860 to perform a hydrographic survey of a section of the Leon River from Belton Dam to the City of Temple Low Water Dam.

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

**ITEM SUMMARY:** In January, 2010, City staff became aware of upcoming Army Corps of Engineers improvements scheduled to occur through 2010 and 2011 related to maintenance activities on Belton Dam, originally constructed in the early 1950's. Several meetings have occurred between the COE, BRA, and City staff since that time to discuss impacts of the work on the Leon River and ultimately, City water treatment facilities.

As water moves from Belton Lake through the dam gates, sediment and debris moves with it, often being deposited in the river bottom of the receiving channel downstream. The City's raw water intake structure, located approximately 3.8 miles downstream of the dam, is in a location that has experienced substantial sediment build up over the years. This sedimentation, combined with other obstructions or irregularities in the river bottom between the dam and the intake structure, have the potential to impact the City's ability to adequately receive and treat water for potable consumption in the distribution system.

As a result, the Texas Water Development Board (TWDB) has been contacted to perform a hydrographic survey of the Leon River, from Belton Dam to the City of Temple's low water dam (located approximately 0.2 miles downstream of the intake location), to develop an elevation and contour map of the channel. Results obtained from the survey will provide a better picture of river conditions and help to identify any potential impact to water supplies in the coming months as a result of work occurring on the dam.

**FISCAL IMPACT:** Funding in the amount of \$13,860 is available in account 520-5100-535-26-16, for completion of work.

**ATTACHMENTS:**

[TWDB Contract  
Resolution](#)



**Interlocal Agreement Between the  
Texas Water Development Board  
and the City of Temple Regarding  
Hydrographic Survey of Leon River**

This Interlocal Agreement ("Agreement") is made by and between the Texas Water Development Board, hereinafter called "TWDB", and the City of Temple hereinafter called "the City" under the authority of Chapter 791, Texas Government Code.

**ARTICLE I DESCRIPTION OF SERVICES TO BE PROVIDED**

The parties hereto agree to the performance of a hydrographic survey of the section of the Leon River, Texas from Belton Dam to the City of Temple Low Water Dam. A detailed Scope of Services, incorporated into this Agreement as Attachment A, shall provide the substantive basis for definition of the conduct of the technical work, reporting, and coordination requirements of this Agreement.

**ARTICLE II RESPONSIBILITIES OF TWDB**

TWDB will furnish all necessary equipment and personnel with professional classification, skill, and expertise required to perform the tasks set forth in this Agreement.

TWDB shall designate an authorized representative to direct the field and office work pertaining to the volumetric survey performed under this Agreement.

TWDB will initially pay all expenses incurred by TWDB in the performance of the Scope of Services incorporated as Attachment A.

This Agreement shall not be construed as creating any debt by or on behalf of the State of Texas, and for TWDB; any obligations are subject to the availability of funds.

**ARTICLE III RESPONSIBILITIES OF THE CITY**

| The City shall provide TWDB with, to the best of its knowledge, an overview of the river conditions as they may affect the conduct of the survey, including such possible situations as extreme current conditions, impediments to navigation, or other potentially hazardous conditions.

The City shall provide TWDB with an authorized contact person, on call during the hydrographic survey, to facilitate the access to public and private property as may be needed to conduct the hydrographic survey in an expeditious manner.

The City, as outlined in Attachment A, shall provide a secure, locked enclosure for storage of TWDB equipment and survey vessels during the survey should the field survey activities extend beyond one working day at the river site. Such enclosure should be relatively proximate to the location of work activities and ready access should be provided TWDB staff.

This Agreement shall not be construed as creating any debt by or on behalf of the City. Payments by the City under this Agreement are subject to the availability of funds and must be made from current revenues available to the City.

#### **ARTICLE IV COMPENSATION**

TWDB agrees to perform the tasks prescribed by this Agreement in consideration for an amount not to exceed \$13,860 to be paid by the City, as conditioned by the terms of the Scope of Services incorporated into this Agreement as Attachment A.

TWDB will invoice for 75% of the cost of the survey upon completion of the field work. The remaining 25% of the cost of the survey will be invoiced upon completion of the volumetric survey report. The total cost of the survey and report shall not exceed \$13,860.

The City will provide payment to the TWDB for cost incurred associated with performance of the survey as defined Attachment A, Scope of Services, Cost Estimate within forty-five (45) days from receipt of the TWDB's respective invoices, unless such invoices are not approved. If an invoice is not approved, it shall be returned by the City to the TWDB within 15 days with a written explanation of why it was not approved.

#### **ARTICLE V TIME OF PERFORMANCE**

This Agreement is valid upon execution by both parties. The field survey performed under this Agreement will commence on an agreed date with the initial set-up activities necessary prior to actual conduct of the field survey by TWDB staff. TWDB shall make all reasonable efforts to perform the field survey by April 30, 2010 unless conditions of river water level, weather, or other conditions beyond the TWDB's control, may delay the field survey work. TWDB may commence the field survey three weeks prior to or following the stated date, with three working days notice to the City. Should any rescheduling of the survey be required outside of the period stated above, such schedule will be determined in a mutually satisfactory manner within 60 days of the above stated period of field performance or this Agreement will be terminated. The records and report manuscripts resulting from this Agreement shall be completed and provided to the City within three months of completion of field survey efforts.

#### **ARTICLE VI RECORDS AND USE OF INFORMATION**

Upon request of the City, TWDB shall make available to the City all records, worksheets, and other evidence directly related to the performance of work under this Agreement. With written agreement of both parties, either party shall have the privilege of publishing the records, reports,

and report manuscripts provided that all publications by either party shall contain a statement acknowledging the joint-study efforts of TWDB and the City.

The City without the prior written consent of TWDB may not modify the published report manuscript developed by TWDB under this Agreement.

#### **ARTICLE VII LIABILITIES**

TWDB shall not assume any liability regarding the presentation or reproduction of this survey information or for the misuse of this information in a manner not consistent with the survey design; for example, maps produced from this hydrographic survey are not intended for use as recreational boating maps or for river boundary determinations. Any published use of data, developed as a product of this Agreement, should contain an adequate and prominent statement referencing the survey intent and proper use of the information.

#### **ARTICLE VIII AMENDMENTS**

It is agreed that, without invalidating this Agreement, upon the advance written agreement of each party, this Agreement may be altered or amended to include additional work to be performed or to change the scheduled period of fieldwork, and to adjust the consideration to be paid hereunder by virtue of such alterations or amendments by formal written amendment.

#### **ARTICLE IX SEVERANCE PROVISIONS**

Should any one or more provisions of this Agreement be held to be null, void, voidable, or any reason whatsoever of no force and effect, such provision(s) shall be construed as severable from the remainder of this Agreement and shall not affect the validity of all other provisions of this Agreement which shall remain in full force and effect.

#### **ARTICLE X TERMINATION**

The Agreement shall terminate upon the earlier of the completion of the Scope of Services, incorporated as Attachment A or six months after the effective date, unless extended by written agreement pursuant to Article VIII of this Agreement. This Agreement may be terminated prior to full performance only by 30 days written notification by either party of this Agreement, and in all cases, the non-terminating party shall be afforded an opportunity for consultation with the terminating party prior to termination. In the event of breach of performance, either party may terminate this Agreement by giving written notice to the other party at least one (1) week prior to the date of termination.

## ARTICLE XI CORRESPONDENCE

All correspondence between the parties shall be made to the following addresses:

For TWDB:

Jason Kemp  
Team Leader, Hydrographic Survey Program  
Texas Water Development Board  
P.O. Box 13231, Capitol Station  
Austin, Texas 78711-3231

For the City:

Nicole M. Torralva, P.E.  
Interim Director, Department of Public Works  
City of Temple Department of Public Works  
3210 East Avenue H, Bldg A, Ste 130  
Temple, TX 76501

IN WITNESS WHEREOF, the parties have caused this Interlocal Cooperation Agreement to be duly EXECUTED in two (2) counterparts, each of which is deemed to be an original.

### AGREED:

**CITY OF Temple**

**TEXAS WATER DEVELOPMENT  
BOARD**

By: \_\_\_\_\_  
**David Blackburn,**  
**City Manager**

By: \_\_\_\_\_  
**Robert E. Mace,**  
**Deputy Executive Administrator**

Date: \_\_\_\_\_

Date: \_\_\_\_\_

Approved as to form:

\_\_\_\_\_  
**City of Temple Law Department**

## **ATTACHMENT A SCOPE OF SERVICES**

### **INTRODUCTION**

The Texas Water Development Board (TWDB) proposes to perform a hydrographic survey of the section of the Leon River, Texas from Belton Dam to the City of Temple Low Water Dam. The purpose of this survey is to collect bathymetric data to develop an elevation/contour map. All maps generated from this survey are related to this purpose, and TWDB makes no representation or assumes any liability if this information is used for any other purposes, such as boating maps.

The City of Temple (the City) is the ultimate beneficiary of the data to be collected under this study. The Hydrographic Survey Program is a non-profit, user-funded program within TWDB. It was established to provide essential information at an affordable rate. In an effort to keep costs to a minimum, basic needs were identified and are presented in the Specifications section below. Should the City require analysis beyond that identified in the basic Agreement, information can be provided at an additional cost as identified in the Budget section.

### **LOCATION OF STUDY**

The section of the Leon River, to be surveyed, is from Belton Dam downstream to the City of Temple Low Water Dam in Bell County, near the City of Temple, Texas. The approximate location of Belton Dam is -97.47°W 31.12°N and the approximate location of Temple Low Water Dam is -97.44°W 31.06°N. This section of Leon River is approximately 4 miles in length.

Deleted: .

### **SURVEY PLAN, SPECIFICATIONS, AND ANALYSES**

Surface acreages will be based on Digital Orthophoto Quadrangles, if available. Positioning on the river surface will be established utilizing Differential Global Positioning System (DGPS). Survey data will be collected from survey lines designed at no more than 500 feet spacing. Positioning and sounding data will be collected and stored electronically at the rate of one measurement every second and sounding accuracy will be verified to within 0.3 feet. Survey lines will be followed to the extent possible as permitted by obstructions. TWDB represents the accuracy of the area where data was collected. The model of the river bottom is mathematically interpolated between collected points by accepted engineering practices, and is a mathematical estimate of the actual bottom.

Analyses of the survey data will include: (1) a bottom contour map with definition of 5 feet, depending on legibility and (2) a shaded relief plot of the river bottom. TWDB will provide a copy of the report text and bottom contour map to the City for review and comment prior to preparation of the final report. The City must submit written comments on the draft report text and bottom contour map within 60 days of receipt. If no comments are received by TWDB within sixty days from receipt TWDB may finalize the report. TWDB will address any legitimate questions regarding accuracy in writing within thirty days of receipt, and TWDB will address the comments in the final report. Three hard copies and one (1) electronic copy of the final report will be provided to the City along with the digital data. Additional copies of the

reports will be provided at the cost of \$50.00 per copy. All data from the survey will be stored for future reference on TWDB computers and backup up on tape, CD or DVD.

A Triangulated Irregular Network (TIN) Model will be created using a mass points file, from bathymetric data collected during the survey. All vertical data will be adjusted and referenced to **USGS 08102500 Leon River Belton, TX** ([http://waterdata.usgs.gov/nwis/nwisman/?site\\_no=08102500&agency\\_cd=USGS](http://waterdata.usgs.gov/nwis/nwisman/?site_no=08102500&agency_cd=USGS)). The horizontal datum will be referenced to NAD83 State Plane, Texas Central Zone. These procedures will be described in the final report.

## **SURVEY SCHEDULE**

TWDB will schedule the field survey to begin on an agreed date after the Agreement has been signed and to be completed in 3 to 5 days after commencement. The first day will be spent meeting the City representative, visually surveying the river conditions, and finding and checking the condition of boat ramps. The survey will begin after the completion of these activities. Current river elevation, weather, and condition of equipment are some of the possible factors that could affect the actual time of performing the survey on the scheduled date.

TWDB will contact the City, the week prior to the survey to confirm the proposed dates. Confirmation by the City's representative will signify the City's approval that the survey be conducted at the current river elevation. If any delays are anticipated, TWDB will reschedule the survey as soon as possible. The new dates will be determined with the approval of the City.

## **ON-SITE STORAGE**

The City shall provide a secure locked enclosure for storage of the survey vessel(s) if TWDB deems necessary. The secured area may be a fenced enclosure. The enclosed, secured structure will need a vertical clearance of sufficient height to allow storage of the survey vessel(s) on its trailer, or approximately 12 feet. TWDB personnel traveling in marked State vehicles should have unlimited access to the area during the performance of the field survey.

## **COST ESTIMATE**

- a. Survey Cost. Standard charges for the cost of the survey and report are proposed as lump sum fees based on hourly rates for field work and office work shown in paragraph 6.b below. A contingency fee may be charged for navigational hazards.

The total survey cost shall not exceed \$13,860.

- b. Hydrographic Survey Program Cost Computation.  
The Texas Water Development Board computes Standard Charges for bathymetric surveys based on the following hourly rates:

Base Rate= \$150/hour (field) x 20hours + \$200/hour (office) x 48hours

The estimated number of hours to complete field work is 20 hours and 48 hours for office work. The estimated base rate is therefore \$12,600. The cost of the survey and report are

proposed as lump sum fees based on hourly rates for field work and office work and represents the typical charges for a "standardized" underwater bathymetric survey. This standard hourly charge assumes: normal river elevation; an underwater bathymetric survey only; a 500-foot maximum width between the surveying transects; acceptable weather conditions; no significant surface or sub-surface obstructions to navigation; no unusual owner-induced delays once the field mobilization and survey effort has been initiated; a coordination meeting with the City's Representative; and a standard survey report consisting of a description of the river and previously-known physical conditions, description of the hydrographic survey methodology, narrative and tabular descriptions of the newly surveyed physical parameters of the river bathymetry, representative cross-sections of the river survey, a two-dimensional contour map and shaded relief plot of the river bathymetry, and associated digital files of the survey results.

A contingency fee not to exceed 10% of the base rate, \$1,260, may be charged for navigational obstructions encountered during the field survey. These obstructions such as submerged trees and vegetation, sand bars, marinas, boat docks and piers delay the data collection process.

c. <u>Cost Summary</u>	
Base rate (20 hours field and 48 hours office)	\$12,600
Contingency: Navigational obstructions not to exceed	\$ 1,260
<b>TOTAL NOT TO EXCEED AMOUNT</b>	<b>\$13,860</b>

## SUMMARY

Based on the above hourly rates, and assuming the total number of hours to complete field work is 20 hours and 48 hours to complete office work, the maximum total cost of this survey will be \$13,860 (including \$1,260 contingency for navigational obstructions). The final cost analysis will be conducted at the conclusion of the survey.

TWDB shall furnish invoices to the City as follows: (1) An invoice for 75% of the cost of the survey upon completion of the data collection and (2) An invoice for the remaining 25% of the cost of the survey upon completion of each reservoir survey report.

RESOLUTION NO. \_\_\_\_\_

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING AN INTERLOCAL COOPERATION AGREEMENT WITH THE TEXAS WATER DEVELOPMENT BOARD IN THE AMOUNT NOT TO EXCEED \$13,860 TO PERFORM A HYDROGRAPHIC SURVEY OF A SECTION OF THE LEON RIVER FROM BELTON DAM TO THE CITY OF TEMPLE LOW WATER DAM; AND PROVIDING AN OPEN MEETINGS CLAUSE.

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**Whereas,** the Staff recommends entering into an interlocal agreement with the Texas Water Development Board to perform a hydrographic survey of a section of the Leon River from Belton Dam to the City of Temple Low Water Dam;

**Whereas,** the results obtained from the survey will provide a better picture of river conditions and help to identify any potential impact to water supplies in the coming months as a result of work occurring on the dam, and ultimately City water treatment facilities;

**Whereas,** the cost will not exceed \$13,860, and funds are available for this project in Account No. 520-5100-535-2211; 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 Manager, or his designee, is authorized to execute an Interlocal Cooperation Agreement between the City of Temple, Texas, and the Texas Water Development Board, after approval as to form by the City Attorney, for a hydrographic survey of a section of the Leon River from Belton Dam to the City of Temple Low Water Dam.

**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 6<sup>th</sup> day of **May**, 2010.

THE CITY OF TEMPLE, TEXAS



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WILLIAM A. JONES, III, Mayor

ATTEST:

APPROVED AS TO FORM:

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Clydette Entzminger  
City Secretary

---

Jonathan Graham  
City Attorney



## COUNCIL AGENDA ITEM MEMORANDUM

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05/06/10  
Item #5(D)  
Consent Agenda  
Page 1 of 2

### **DEPT./DIVISION SUBMISSION & REVIEW:**

Nicole Torralva, P.E., Interim Director of Public Works  
Thomas Brown, Superintendent of Distribution and Collections

**ITEM DESCRIPTION:** Consider adopting a resolution authorizing a professional services agreement with Lone Star Right of Way Services, Inc., of Belton in the amount not to exceed of \$26,000 to acquire right of way entry and temporary construction easements for 26 properties related to the Bellaire Water Line Improvement Project.

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

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

As a part of this project, several existing waterlines currently located within alleys are planned to be replaced by new, larger lines in existing street right of way. These lines, located on Young, Xavier and Walker Ave (see attached map for specific addresses), will require that new water services be installed from the existing homes to the new waterline. New water meters will be installed at the property lines within the street right of way. Installation of the new service lines and meters will require right of entry and temporary construction easements from property owners to allow the work to proceed.

After careful evaluation of the project, Public Works staff recommends securing the services of Lone Star Right of Way Services to assist in the acquisition of temporary construction easements and right of entry to install the new services and meters. The City has used Lone Star Right of Way Services in the past on various Public Works project and their services have been exceptional. The services provided by Lone Star Right of Way Services is deemed a professional service, and accordingly, is exempt from the competitive procurement process per the Local Government § 252.022.

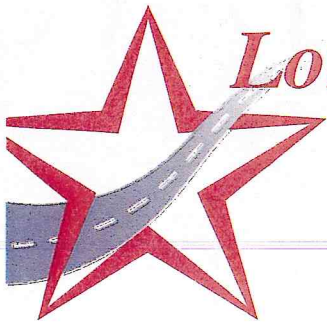
**FISCAL IMPACT:** Funding in the amount of \$210,000 was appropriated in account 520-5200-535-6357, project #100486 for this project from the FY 2009 operating budget. The operational funds were used for engineering related services in the amount of \$43,300, advertising cost of \$151 and partially funded construction in the amount \$166,549. An additional \$379,132 of Water & Sewer Unreserved Retained Earnings was appropriated to account 520-5900-535-6357, project #100486 to fund the remaining constructions costs.

A budget adjustment is presented for Council's approval appropriating Water & Sewer Unreserved Retained Earnings in the amount of \$26,000 to account #520-5900-535-6357, project #100486, for professional services related to easement acquisition.

This project was approved by Council as part of the FY 2010 Capital Improvement Program as revised on November 19, 2009.

**ATTACHMENTS:**

[Lone Star Right of Way Services Proposal](#)  
[Map of properties](#)  
[Budget Adjustment](#)  
[Resolution](#)



# *Lone Star Right of Way Services, Inc.*

P. O. Box 1535 • 10379 FM 93 West • Belton, Texas 76513  
(254) 939-2056 • Toll Free (866) 939-2056 • Fax (254) 933-8865

March 11, 2010

Mr. Thomas Brown  
Superintendent of Distribution & Collection  
City of Temple  
3210 East Avenue H  
Building A, Suite 123  
Temple, Texas 76501

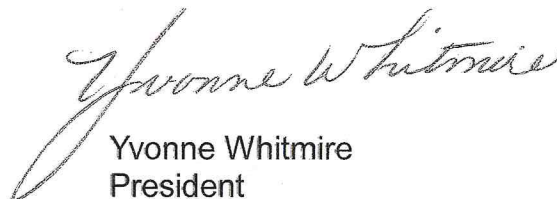
Dear Mr. Brown:

I would like to thank you for the opportunity to submit the enclosed Proposal for your consideration.

Our organization is based in Belton, Texas. We are a family owned and operated HUB/DBE company. We are large enough to handle all of your right of way needs and small enough to deliver unprecedented personal service, quality work product and timely completion of projects. We would appreciate the opportunity to work with you and your staff on the Bellaire Service Line Project.

The Scope of Services as well as our Fee Schedule for this project is attached. If you have any questions or concerns, please contact me at (254) 939-2056.

Sincerely,

  
Yvonne Whitmire  
President

## **SECTION I**

### **Statement of Work**

#### **1.0 SERVICE REQUIREMENTS OF THE PROVIDER (Lone Star Right of Way Services, Inc.):** Services shall include the following activities:

##### **1.1 Project Administration**

###### **1.1.1 Negotiation of the Scope of Services for Work Authorization**

1.1.1.1 Provider will visit project site.

###### **1.1.2 Project Field Office**

1.1.2.1 A project field office is not contemplated under this form of right of way acquisition contract. The assumption is that the provider will maintain administrative services adequate to support the timely performance of the scope of work agreed to herein.

###### **1.1.3 Overhead Costs**

1.1.3.1 All normal, reasonable and necessary administrative costs including mileage (Bell County), telephone, equipment, supplies, postage, notary fees etc. will be included in the per parcel fee.

1.1.3.2 Travel outside Bell County will be billed separately utilizing the IRS standard mileage rate plus the hourly rate as provided in the fee schedule for Lone Star Right of Way Services, Inc. All such travel will be pre-approved by the Client.

###### **1.1.4 Communication**

1.1.4.1 Maintain current status reports of all parcel and project activities and provide monthly to Client, or as directed.

1.1.4.2 Participate in monthly project review meetings at dates and times determined by Client. Provider will be available to attend any additional requested meetings. Additional meetings will be billed at an hourly rate per agent in attendance.

###### **1.1.5 File Management**

1.1.5.1 Original project and parcel files will be maintained in the office of Lone Star Right of Way Services, Inc. Executed documents (easements, deeds and any curative documents) will be delivered to the Client for review and recording (if desired).

1.1.5.2 Prepare invoices utilizing Lone Star Right of Way Services, Inc. standard invoice for payment submissions forms with supporting documentation.

1.1.5.3 Maintain records of all payments to property owners including, but not limited to, warrant number, amount, and date paid, etc.

1.1.5.4 Maintain copies of all correspondence and contacts with property owners, and upon request, deliver copies to Client.



## 1.2 Title Services (as needed)

- 1.2.1 Secure preliminary title search and five-year sales data in order to determine current ownership of property. Identify any curative issues to be addressed. The cost of all curative work necessary to provide clear title to the Client is the responsibility of the Provider and is included in the negotiated fee schedule for this service.

OR

- 1.2.2 Secure preliminary title commitment from the Title Company that will be providing title insurance. Selection of the Title Company to provide title insurance and the above mentioned services will be by Lone Star Right of Way Services, Inc. Title insurance premium (which is based on policy amount and set by the State Insurance Board) will be a pass through expense and billed directly to the Client. The title insurance premium is not included in the fee schedule of Lone Star Right of Way Services, Inc.

Secure title commitment updates in accordance with insurance rules and requirements for parcel payment submissions. Secure title insurance for all parcels acquired, insuring acceptable title to the Client. Written approval will be required for any exception. Cost of title insurance is paid by the Client and is not included in the fee schedule of Lone Star Right of Way Services.

- 1.2.3 All fees charged by the Title Company and fees incidental to the acquisition of property as listed on the title company closing statement will be paid by the Client and are not included in the fee schedule provided by Lone Star Right of Way Services, Inc.

OR

- 1.2.4 Secure Run sheet information from Title Company on a parcel by parcel basis (as requested by Client). Fees for preparation of Run sheets will be considered pass through billing and charged at the rate billed by Title Company.

## 1.3 Negotiation Services

- 1.3.1 Analyze maps, plats and aerals, ownership lists, Appraisal District information, and run sheets to obtain proper identification of property owners prior to making contact with property owners.
- 1.3.2 Analyze preliminary title report or run sheets to identify potential ownership changes or potential title problems.
- 1.3.3 Prepare correspondence to property owners. Note – Correspondence will be prepared on Provider's letterhead.
- 1.3.4 Prepare instruments of conveyance on promulgated forms provided by the Client.

- 1.3.5 Contact each property owner or owner's designated representative, to present information concerning the project. In circumstances where personal contact is unreasonable, the written information will be delivered by Certified Mail. Maintain follow-up contacts and secure the necessary instruments upon acceptance.
- 1.3.6 If appraised, provide a copy of the appraisal report for the subject property exclusively to the property owner or authorized representative at the time of the offer. Maintain original signed Receipt of Appraisal for the parcel file.
- 1.3.7 Respond to property owner inquiries within two business days.
- 1.3.8 Prepare and maintain a separate negotiator contact report for each parcel.
- 1.3.9 Maintain parcel files of duplicate documentation related to the property interests acquired. Files will be maintained for a period of five years.
- 1.3.10 Provider will make every reasonable effort to secure the property for the Client in a timely and cost effective manner.
  - 1.3.10.1 Transmit to Client any written or verbal concerns from property Owners including supporting documentation and deliver response from the Client back to the property owner.
  - 1.3.10.2 Assist in scheduling and attend (when requested) any meeting requested by property owner in order to resolve issues concerning location of new water lines.
- 1.3.11 The cost of the Provider appearing as an expert witness for testimony at a hearing is not part of this contract and will be billed at the hourly rate.
- 1.4 Closing Services (as needed)
  - 1.4.1. Coordinate with Title Company to obtain an updated title commitment along with other forms and certified copy of the instrument of conveyance necessary when requesting the Parcel Payment from the Client.
  - 1.4.2. Provider shall attend closings and provide closing services in conjunction with Title Company. Provider will deliver all required conveyance documents, curative documents, and funds for the acquisition of the property (provided by the Client) to the title company.
  - 1.4.3. If the Client chooses not to obtain title insurance, Lone Star Right of Way Services, Inc. will provide closing services. All original documents will be delivered to the Client for acceptance and recording.
  - 1.4.4. All donations will be delivered to the Client for acceptance and recording.

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**2.0 SERVICE REQUIREMENTS OF CLIENT:** Services shall include, but are not limited to the following activities:

- 2.1 Assurance of Right of Way Project Release. Issue Notice to Proceed.
- 2.2 Provide an approved Right of Way Map, original legal Descriptions or plats, aerials, and ownership lists, for property to be acquired.
- 2.3 Provide timely reviews and approval of submissions.
- 2.4 Provide acceptance or rejection notification of any counter proposal submitted by Provider within 10 business days of receipt.
- 2.5 Provide all necessary standard forms.
- 2.6 Process and issue all checks for payment of approved purchase prices for each parcel, relocation payment and incidental expense involved in the transfer of property to the Client.
- 2.7 Provide final approval for all documents including appraisals, relocation supplements, moving payments, and/or Permanente or Temporary Easements.
- 2.8 Provide Bill of Sale for disposal of improvements.
- 2.9 Will pay direct cost of run sheets, preliminary title commitment and/or title Insurance for all parcels acquired.
- 2.10 Record all required documents for each parcel not closed at a title Company and for which no title insurance is to be purchased.
- 2.11 Provide Lone Star Right of Way Services, Inc. a written statement for each project as to whether or not State or Federal Funds will be utilized or will be sought in the future for reimbursement. This statement must be provided prior to initiation of any services by Lone Star Right of Way Services, Inc. This will enable the provider to determine which policies, procedures, and requirements must be met in order to best protect the interest of the Client.



**EXHIBIT "A"**  
**FEE SCHEDULE**  
**Lone Star Right of Way Services, Inc.**

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**BELLAIRE SERVICE LINE PROJECT ONLY**

All fees are on a per parcel basis

**I. Project Administration, Communication, File Management & Negotiation Services**

**A. TEMPORARY CONSTRUCTION EASEMENT**

\$1,000.00 per parcel (fees reduced due to negotiations with Nicole Torralva)

**II. Title Services & Closing Services (easement or fee)**

**Option 1: No title insurance required**

Perform preliminary title search. Secure vesting Deed and five year sales history in order to determine current ownership and identify any curative issues to be addressed. Clear title to extent required by City (easement or fee acquisition). Run Sheets will be updated immediately before offer is made to ensure current information is obtained.

\$400.00 per parcel

**Option 2: Title insurance required**

Legal description will be delivered to title company in order to secure preliminary title commitment to establish current ownership. Provider will attempt to secure all documents to clear any defects in title. We will also work with the title company to remove any exceptions from "Schedule C" of the title policy that are not considered standard exception in order to provide City clear title to property. All fees charged by the title company for vesting information, preliminary title commitments and any and all closing costs charged by the title company on the closing statement, including but not limited to, title insurance premiums, recording fees, document preparation, tax certificates, courier fees, guaranty fee, overnight fees, escrow and/or closing fees will be a pass through expense and billed directly to City by the title company. Provider's assistance in clearing title and fulfilling requirements of the title commitment results in expedited closings.

\$300.00 per parcel

**OPTION 3: No title insurance required**

Secure run sheet from Title Company. Billing for run sheet prepared by title company will be billed as pass through expense on providers invoice and provider will pay title company when payment is received from client.

**III. Negotiator Services**

Agent and Project Manager hourly rate for services not defined in the Scope of Services provided will be billed at an hourly rate. This hourly rate also applies when an Agent of Lone Star Right of Way Services, Inc. is requested to participate in hearings, public or company meetings held outside the office of Lone Star Right of Way Services, Inc.

Agent \$75/hr

Project Manager \$150/hr

**IV. Obtain Right of Entry**

\$800.00 (Bell County)

\$1,000.00 (out of county)



ZENITH

# Bellaire Waterline Improvements



8TH

YOUNG

219

305

309

313

401

405

409

304

308

312

404

408

412

XAVIER

209

301

305

309

401

405

409

415

308

312

400

404

408

WALKER

XAVIER

WALKER

10TH



1 inch = 125 feet

Drawn By:  
Chris Deal  
11 Mar 10

FY 2010**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	
520-5900-535-63-57	100486	Bellaire Waterline Improvements	\$ 26,000			
520-0000-373-04-11		Water & Sewer Unreserved Ret Earnings			\$ 26,000	
		<b>Do Not Post</b>				
<b>TOTAL.....</b>			\$ 26,000		\$ 26,000	

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

To fund a professional services agreement with Lone Star Right of Way Services, Inc. in the amount of \$26,000 to acquire right of way entry and temporary construction easements for 26 properties related to the Bellaire Waterline Improvement Project. This project was approved by Council as part of the FY 2010 Capital Improvement Program as revised on November 19, 2009.

DOES THIS REQUEST REQUIRE COUNCIL APPROVAL?

☒

Yes

☐

No

DATE OF COUNCIL MEETING

May 6, 2010

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 PROFESSIONAL SERVICES AGREEMENT WITH LONE STAR RIGHT OF WAY SERVICES, INC., OF BELTON, TEXAS, TO ACQUIRE RIGHT OF WAY ENTRY AND TEMPORARY CONSTRUCTION EASEMENTS FOR 26 PROPERTIES RELATED TO THE BELLAIRE WATER LINE IMPROVEMENT PROJECT, IN THE AMOUNT NOT TO EXCEED \$26,000; AND PROVIDING AN OPEN MEETINGS CLAUSE.

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**Whereas,** the Bellaire Water Line Improvement Project will require right of way and temporary construction easements from 26 property owners to allow the work to proceed;

**Whereas,** the Staff recommends securing the services of Lone Star Right of Way Services, Inc., of Belton, Texas, to assist in the acquisition of temporary construction easements and right of way to install the new services and meters for this project;

**Whereas,** the City has used Lone Star Right of Way Services in the past on various Public Works projects and their services have been exceptional – the services for this project will not exceed \$26,000;

**Whereas,** funds are available for this service, but an amendment to the FY2009-10 budget needs to be approved to transfer the funds to the appropriate expenditure account; and

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

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

**Part 1:** The City Manager, or his designee, is authorized to execute a professional services agreement between the City of Temple, Texas, and Lone Star Right of Way Services, Inc., of Belton, Texas, after approval as to form by the City Attorney, to acquire right of way and temporary construction easements for 26 properties related to the Bellaire Water Line Improvement Project, in an amount not to exceed \$26,000.

**Part 2:** The City Council approves an amendment to the FY2009-2010 budget, substantially in the form of the copy attached as Exhibit A, for this project.

**Part 3:** It is hereby officially found and determined that the meeting at which this Resolution is passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act.

PASSED AND APPROVED this the 6<sup>th</sup> day of **May**, 2010.

THE CITY OF TEMPLE, TEXAS

---

WILLIAM A. JONES, III, Mayor

ATTEST:

APPROVED AS TO FORM:

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Clydette Entzminger  
City Secretary

---

Jonathan Graham  
City Attorney





## COUNCIL AGENDA ITEM MEMORANDUM

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05/06/10  
Item #5(E)  
Consent Agenda  
Page 1 of 1

### **DEPT./DIVISION SUBMISSION & REVIEW:**

Lonzo Wallace, Fire Chief  
Belinda Mattke, Director of Purchasing

**ITEM DESCRIPTION:** Consider adopting a resolution ratifying testing services performed and authorizing additional testing services on the new Central Fire Station by Kleinfelder Central, Inc. of Waco, in an estimated amount of \$26,500.

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

**ITEM SUMMARY:** On December 3, 2009, Council authorized a contract for the construction of a new Central Fire Station. Construction of this facility commenced on December 11, 2009. Kleinfelder Central did the geo-technical site evaluation work for this project, and as a result, staff felt they were most qualified to perform the construction testing services associated with this project.

It was initially anticipated that the fees associated with the construction testing services would be less than \$25,000. However, due to additional work required as a result of encountering unexpected ground water, the piers had to be encased, and as a result, the scope of Kleinfelder's testing services increased. Kleinfelder's testing focuses on the following areas: soil compaction moisture and density testing, concrete compressive strength, grout strength, mortar strength, and welding strength.

Kleinfelder had submitted their qualifications and had been accepted on the City's pre-approved list of engineers pre-qualified to perform engineering services for the City. Per the Local Government Code Section 252.022, professional services are exempt from the competitive procurement rules.

**FISCAL IMPACT:** Funding in the amount of \$7,361,311 was designated for the construction of the new Central Fire Station in the General Obligation bonds issued in the fall of 2009, funded in account 363-2200-522-6850, project #100120. Of the \$7,361,311 designated for this project, \$4,191,626.14 has currently been committed for architectural services, consulting services, and construction of the facility. This also includes payments in the amount of \$21,648.64 to Kleinfelder for construction testing services provided thus far on the project.

### **ATTACHMENTS:**

[Change Order](#)  
[Resolution](#)

## CHANGE ORDER

<b>PROJECT:</b>	<b>Construction of New Central Fire Station</b>
<b>OWNER:</b>	<b>City of Temple</b>
<b>CONTRACTOR:</b>	<b>EMJ Corporation</b>
<b>ARCHITECT/ENGINEER:</b>	<b>Wiginton Hooker Jeffry</b>
<b>CHANGE ORDER #:</b>	<b>Two (2)</b>

Make the following additions, modifications or deletions to the work described in the Contract Documents: Due to encountering unexpected subsurface water, it was necessary to encase all of the 102 piers. Price per linear foot of encasing the piers was included in EMJ's original proposed pricing. Please see attached documents related to this change order.

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	\$ 3,406,125
Previous Net Change in Contract Amount	\$ 16,852
Net Change in Contract Amount	\$ 60,142
Percentage Change in Contract Amount	1.76%
Revised Contract Amount	\$ 3,483,119
Original Final Completion Date	November 5, 2010
Previous Net Change in Contract Time	__-__ days
Net Change in Contract Time	__-__ days
Revised Final Completion Date:	November 5, 2010

**Recommended by:**

\_\_\_\_\_  
Larry Davis, EMJ Corporation

**Recommended by:**

\_\_\_\_\_  
Dan Duffy, Wiginton Hooker Jeffry

**Recommended by:**

\_\_\_\_\_  
Belinda Mattke, Project Coordinator

**Approved by Finance Department:**

\_\_\_\_\_  
Finance Department

**Approved as to form:**

\_\_\_\_\_  
City Attorney's Office

**Approved by City of Temple:**

\_\_\_\_\_  
David Blackburn, City Manager



**EMJ CORPORATION**  
5525 N. MacArthur Blvd Suite 400  
Irving, TX 75038

Telephone: 972-580-1210  
Facsimile: 972-580-8202

## Change Order Request



Owner :

Project: 5241-01 / New Central Fire Station  
210 N. 3rd Street  
Temple, TX 76501

PCOType: CR

Change Order Request # : 10 Pier Reconciliation Log

Item : 1 Pier Reconciliation Log

This change is associated with the pier reconciliation based on the Drilled Pier Observation Reports, provided by Kleinfelder.

Sub Cost: \$58,587  
SubGuard (1.13%): \$662  
Sub Total: \$59,249  
Bond (1%): \$592  
General Liability (.508%): \$301  
Grand Total: \$60,142

Phase	Description	Cost Type	Amount
000103- 00-	Bond Premium	5OT	592.00
030005- 00-	Sub Guard	5OT	662.00
030100- 00-	Concrete	3SUB	58,587.00
424000- 00-	General Liability	5OT	301.00

Adjustment: 0.00

Requested Total For Item 1 60,142.00

Total For Change Order 60,142.00

Approved By:

Signed: \_\_\_\_\_

Date: \_\_\_\_\_

# 5241-Temple Central Fire Station

## Owner Pier Reconciliation

Bid Depth  
Total Number of  
Piers

20  
100  
ea

Depth Variance  
TOTAL \$ (945.23)  
Casing TOTAL \$ 59,532.00  
GRAND TOTAL: \$ 58,587

### Depth Variance

Mark	Ø	Bid Depth (l.f.)	Actual Depth (l.f.)	Unit Cost - Includes Casing (\$)	Total Cost
1	1.5'	20.0	17.60	\$ 13.11	\$ (31.46)
2	1.5'	20.0	17.80	\$ 13.11	\$ (28.84)
3	1.5'	20.0	18.30	\$ 13.11	\$ (22.29)
4	1.5'	20.0	17.90	\$ 13.11	\$ (27.53)
5	1.5'	20.0	17.80	\$ 13.11	\$ (28.84)
6	1.5'	20.0	17.90	\$ 13.11	\$ (27.53)
7	1.5'	20.0	21.5	\$ 13.11	\$ 19.67
8	1.5'	20.0	25.0	\$ 13.11	\$ 65.55
9	1.5'	20.0	21.5	\$ 13.11	\$ 19.67
10	1.5'	20.0	21.40	\$ 13.11	\$ 18.35
11	1.5'	20.0	21.5	\$ 13.11	\$ 19.67
12	1.5'	20.0	24.70	\$ 13.11	\$ 61.62
13	1.5'	20.0	23.80	\$ 13.11	\$ 49.82
14	1.5'	20.0	21.00	\$ 13.11	\$ 13.11
15	1.5'	20.0	24.00	\$ 13.11	\$ 52.44
16	1.5'	20.0	20.50	\$ 13.11	\$ 6.56
17	1.5'	20.0	17.7	\$ 13.11	\$ (30.15)
18	1.5'	20.0	17.0	\$ 13.11	\$ (39.33)
19	1.5'	20.0	18.2	\$ 13.11	\$ (23.60)
20	1.5'	20.0	18.50	\$ 13.11	\$ (19.67)
21	1.5'	20.0	18.70	\$ 13.11	\$ (17.04)
22	1.5'	20.0	18.80	\$ 13.11	\$ (15.73)
23	1.5'	20.0	20.80	\$ 13.11	\$ 10.49
24	1.5'	20.0	19.0	\$ 13.11	\$ (13.11)
25	1.5'	20.0	21.10	\$ 13.11	\$ 14.42
26	1.5'	20.0	20.10	\$ 13.11	\$ 1.31
27	1.5'	20.0	21.00	\$ 13.11	\$ 13.11
28	1.5'	20.0	22.20	\$ 13.11	\$ 28.84
29	1.5'	20.0	22.20	\$ 13.11	\$ 28.84
30	1.5'	20.0	21.30	\$ 13.11	\$ 17.04
31	1.5'	20.0	22.80	\$ 13.11	\$ 36.71
32	1.5'	20.0	18.4	\$ 13.11	\$ (20.98)
33	1.5'	20.0	19.2	\$ 13.11	\$ (10.49)
34	1.5'	20.0	20.00	\$ 13.11	\$ -
35	1.5'	20.0	20.50	\$ 13.11	\$ 6.56
36	1.5'	20.0	20.50	\$ 13.11	\$ 6.56
37	1.5'	20.0	19.00	\$ 13.11	\$ (13.11)
38	1.5'	20.0	22.00	\$ 13.11	\$ 26.22
39	1.5'	20.0	20.20	\$ 13.11	\$ 2.62
40	1.5'	20.0	19.50	\$ 13.11	\$ (6.56)
41	1.5'	20.0	17.8	\$ 13.11	\$ (28.84)
42	1.5'	20.0	19.80	\$ 13.11	\$ (2.62)
43	1.5'	20.0	19.5	\$ 13.11	\$ (6.56)
44	1.5'	20.0	19.30	\$ 13.11	\$ (9.18)
45	1.5'	20.0	27.50	\$ 13.11	\$ 98.33
46	1.5'	20.0	19.50	\$ 13.11	\$ (6.56)
47	1.5'	20.0	18.60	\$ 13.11	\$ (18.35)
48	1.5'	20.0	19.10	\$ 13.11	\$ (11.80)
49	1.5'	20.0	18.8	\$ 13.11	\$ (15.73)
50	1.5'	20.0	20.50	\$ 13.11	\$ 6.56
51	1.5'	20.0	18.70	\$ 13.11	\$ (17.04)
52	1.5'	20.0	22.40	\$ 13.11	\$ 31.46
53	1.5'	20.0	19.40	\$ 13.11	\$ (7.87)
54	1.5'	20.0	19.60	\$ 13.11	\$ (5.24)
55	1.5'	20.0	18.90	\$ 13.11	\$ (14.42)
56	1.5'	20.0	19.30	\$ 13.11	\$ (9.18)
57	1.5'	20.0	19.20	\$ 13.11	\$ (10.49)

Mark	Ø	Bid Depth (l.f.)	Actual Depth (l.f.)	Unit Cost - Includes Casing (\$)	Total Cost
58	1.5'	20.0	19.00	\$ 13.11	\$ (13.11)
59	1.5'	20.0	18.3	\$ 13.11	\$ (22.29)
60	1.5'	20.0	22.50	\$ 13.11	\$ 32.78
61	1.5'	20.0	19.00	\$ 13.11	\$ (13.11)
62	1.5'	20.0	19.5	\$ 13.11	\$ (6.56)
63	1.5'	20.0	19.70	\$ 13.11	\$ (3.93)
64	1.5'	20.0	22.10	\$ 13.11	\$ 27.53
65	1.5'	20.0	20.80	\$ 13.11	\$ 10.49
66	1.5'	20.0	18.80	\$ 13.11	\$ (15.73)
67	1.5'	20.0	21.50	\$ 13.11	\$ 19.67
68	1.5'	20.0	19.90	\$ 13.11	\$ (1.31)
69	1.5'	20.0	0.0	\$ 13.11	
70	1.5'	20.0	19.4	\$ 13.11	\$ (7.87)
71	1.5'	20.0	20.10	\$ 13.11	\$ 1.31
72	1.5'	20.0	18.20	\$ 13.11	\$ (23.60)
73	1.5'	20.0	20.70	\$ 13.11	\$ 9.18
74	1.5'	20.0	19.80	\$ 13.11	\$ (2.62)
75	1.5'	20.0	19.80	\$ 13.11	\$ (2.62)
76	1.5'	20.0	19.80	\$ 13.11	\$ (2.62)
77	1.5'	20.0	19.70	\$ 13.11	\$ (3.93)
78	1.5'	20.0	20.20	\$ 13.11	\$ 2.62
79	1.5'	20.0	19.40	\$ 13.11	\$ (7.87)
80	1.5'	20.0	19.9	\$ 13.11	\$ (1.31)
81	1.5'	20.0	19.40	\$ 13.11	\$ (7.87)
82	1.5'	20.0	21.00	\$ 13.11	\$ 13.11
83	1.5'	20.0	19.90	\$ 13.11	\$ (1.31)
84	1.5'	20.0	20.2	\$ 13.11	\$ 2.62
85	1.5'	20.0	20.1	\$ 13.11	\$ 1.31
86	1.5'	20.0	21.00	\$ 13.11	\$ 13.11
87	1.5'	20.0	20.50	\$ 13.11	\$ 6.56
88	1.5'	20.0	19.50	\$ 13.11	\$ (6.56)
89	1.5'	20.0	20.9	\$ 13.11	\$ 11.80
90	1.5'	20.0	20.3	\$ 13.11	\$ 3.93
91	1.5'	20.0	20.9	\$ 13.11	\$ 11.80
92	1.5'	20.0	20.50	\$ 13.11	\$ 6.56
94	1.5'	20.0	18.30	\$ 13.11	\$ (22.29)
93	1.5'	20.0	0.00	\$ 13.11	\$ -
95	1.5'	20.0	14.70	\$ 13.11	\$ (69.48)
96	1.5'	20.0	14.90	\$ 13.11	\$ (66.86)
97	1.5'	20.0	13.90	\$ 13.11	\$ (79.97)
98	1.5'	20.0	16.20	\$ 13.11	\$ (49.82)
99	1.5'	20.0	14.5	\$ 13.11	\$ (72.11)
100	1.5'	20.0	14.6	\$ 13.11	\$ (70.79)
101	1.5'	20.0	14.9	\$ 13.11	\$ (66.86)
102	1.5'	20.0	14.8	\$ 13.11	\$ (68.17)
Overall Footage		2040.0	1967.9	\$ 13.11	\$ (945.23)

Casings addition:

Pier Quantity:  
102

Casing Add (per contact):  
30.25

Actual Depth Variance:  
1968

Casing Add:  
\$ 59,532.00

	\$ 59,532.00	Addition of Casing
	\$ 945.00	Credit for Footage Variance
<b>Grand Total</b>	<b>\$ 58,587.00</b>	

## BID SCHEDULE

THIS PROPOSAL SUBMITTED TO:

City of Temple

The Undersigned Bidder proposes to complete the work as shown on the Plans and described in the specifications:

**TOTAL PROPOSED BASE BID:** Bidder proposes to construct the Temple Central Fire Station for the stipulated sum of Three Million Five Hundred Twenty - and 00/100 Dollars  
 (\$ 3,527,000 ) - Seven thousand

Offeror to provide bid amount in both written and numerical format.

**Alternate Prices (as defined in specifications):**

Bidder hereby proposes the following alternate prices:

Alternate No. 1:	ADD/(DEDUCT)	\$ <u>(40,000)</u>
Alternate No. 2:	ADD/(DEDUCT)	\$ <u>(35,900)</u>
Alternate No. 3:	ADD/(DEDUCT)	\$ <u>(5,000)</u>
Alternate No. 4:	ADD/(DEDUCT)	\$ <u>4,125</u>

**Unit Prices:** Bidder hereby guarantees the following unit prices to apply throughout the project for changing work upon written instruction of the Owner.

Description	Unit	Unit Price
Excavated Soil:	Cubic yards	\$ 5.04
Excavated Rock:	Cubic yards	\$ 8.07
Un-cased Straight Shaft Pier: 18" diameter:	Linear feet	\$ 13.11
Un-cased Straight Shaft Pier: 24" diameter:	Linear feet	\$ 19.16
Un-cased Belled Pier: 18" diameter:	Linear feet	\$ 17.14
Steel Casing: 18" diameter:	Linear feet	\$ 30.25
Steel Casing: 24" diameter:	Linear feet	\$ 36.32
Select Fill	Cubic yards	\$ 13.11
Duplex Electrical Outlet	Each	\$ 123.00
Quad Electrical Outlet	Each	\$ 145.00
Light Switch	Each	\$ 115.00

RESOLUTION NO. \_\_\_\_\_

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, RATIFYING TESTING SERVICES PERFORMED AND AUTHORIZING ADDITIONAL TESTING SERVICES ON THE NEW CENTRAL FIRE STATION BY KLEINFELDER CENTRAL, INC., OF WACO, TEXAS, IN AN ESTIMATED AMOUNT OF \$26,500; AND PROVIDING AN OPEN MEETINGS CLAUSE.

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**Whereas**, construction of the new Central Fire Station is underway – Kleinfelder Central, Inc., did the site evaluation work for this project, and as a result, Staff felt they were most qualified to perform the construction testing services associated with the project;

**Whereas**, it was initially anticipated that the fees associated with the construction testing services would be less than \$25,000; however, due to the additional work required as a result of encountering unexpected ground water, the piers had to be encased, and as a result, the scope of Kleinfelder's testing services increased;

**Whereas**, the services are estimated at \$26,500, and funds are available for this service in Account No. 363-2200-522-6850, Project #100120; 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 ratifies testing services performed and authorizes additional testing services on the new Central Fire Station by Kleinfelder Central, Inc., of Waco, Texas, in the estimated amount of \$26,500, and authorizes the City Manager, or his designee, to execute any documents, after approval as to form by the City Attorney, that may be necessary for these services.

**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 6<sup>th</sup> day of **May**, 2010.

THE CITY OF TEMPLE, TEXAS

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WILLIAM A. JONES, III, Mayor

ATTEST:

APPROVED AS TO FORM:

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Clydette Entzminger  
City Secretary

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Jonathan Graham  
City Attorney



## COUNCIL AGENDA ITEM MEMORANDUM

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05/06/10  
Item #5(F)  
Consent Agenda  
Page 1 of 2

### **DEPT./DIVISION SUBMISSION & REVIEW:**

Lonzo Wallace, Fire Chief  
Belinda Mattke, Director of Purchasing

**ITEM DESCRIPTION:** Consider adopting a resolution ratifying work performed and authorizing change order #2 to the new Central Fire Station construction contract with EMJ Corporation of Irving in the amount of \$60,142.

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

**ITEM SUMMARY:** On December 3, 2009, Council authorized a contract for the construction of a new Central Fire Station with EMJ Corporation in the amount of \$3,406,125. Construction of this facility commenced on December 11, 2009. To date, one change order has been authorized by the City Manager in the amount of \$16,852 for adding approximately two feet of stone beneath the building pad due to unforeseen subsurface water.

In the process of drilling the piers for the project, EMJ again encountered unexpected subsurface water, which ended up making it necessary to encase all 102 piers. Per EMJ's original proposal, their proposed unit price to steel encase an 18" diameter pier was \$30.25 per linear feet. The total linear feet of the 102 piers was 1,968 linear feet, which netted out to an incremental proposed change order #2 in the amount of \$60,142, including overhead charges.

The proposed change order has been reviewed for reasonableness by the architect, Wiginton Hooker Jeffrey PC, and Bert Pope, the City's contracted construction consultant.

**FISCAL IMPACT:** Funding in the amount of \$7,415,000 was designated for the construction of the new Central Fire Station in the General Obligation bonds issued in the fall of 2009. Net of \$53,689 in issuance costs, \$7,361,311 was appropriated in account 363-2200-522-6850, project #100120, for this construction project. After funding architectural services, construction, consulting services, and miscellaneous costs related to the project a balance of \$3,169,684 is available to fund change order #2 in the amount of \$60,142.

### **ATTACHMENTS:**

[Resolution](#)

RESOLUTION NO. \_\_\_\_\_

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, RATIFYING WORK PERFORMED AND AUTHORIZING CHANGE ORDER #2 TO THE NEW CENTRAL FIRE STATION CONSTRUCTION CONTRACT WITH EMJ CORPORATION OF IRVING, TEXAS, IN THE AMOUNT OF \$60,142; AND PROVIDING AN OPEN MEETINGS CLAUSE.

---

**Whereas**, construction of the new Central Fire Station commenced in December, 2009, by EMJ Corporation of Irving, Texas;

**Whereas**, to date, one change order has been authorized by the City Manager in the amount of \$16,852 for adding approximately 2 feet of stone beneath the building pad due to unforeseen subsurface water;

**Whereas**, in the process of drilling the piers for the project, EMJ again encountered unexpected subsurface water, which ended up making it necessary to encase the 102 piers, for an extra amount of \$60,142;

**Whereas**, funds are available for this change order in Account No. 363-2200-522-6850, Project #100120; 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 ratifies work performed and authorizes the City Manager, or his designee, to execute Change Order #2, after approval as to form by the City Attorney, to the new Central Fire Station construction contract with EMJ Corporation, of Irving, Texas, in the amount of \$60,142.

**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 6<sup>th</sup> day of **May**, 2010.

THE CITY OF TEMPLE, TEXAS



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WILLIAM A. JONES, III, Mayor

ATTEST:

APPROVED AS TO FORM:

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Clydette Entzminger  
City Secretary

---

Jonathan Graham  
City Attorney



## COUNCIL AGENDA ITEM MEMORANDUM

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05/06/10  
Item #5(G)  
Consent Agenda  
Page 1 of 1

### **DEPT./DIVISION SUBMISSION & REVIEW:**

Nicole Torralva P.E., Interim Director of Public Works  
Michael Newman P.E., Assistant Director of Public Works/City Engineer

**ITEM DESCRIPTION:** SECOND READING - Consider adopting an ordinance establishing the prima facie speed limit on the US 190/LP363 frontage road, within the City limits.

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

**ITEM SUMMARY:** Based on Traffic Engineering Studies by the State, TxDOT has requested that the City adopt an ordinance setting the prima facie speed limits on US190/LP363 frontage roads. The section of highway described as follows.

Starting at M.P. 3.194, proceeding east on the west bound frontage road of US190/LP363, the speed limit shall be 45 MPH for a distance of 1.888 miles, ending at M.P. 5.082 & South 5<sup>th</sup> Street.

Currently this section of US190/LP363 frontage road is posted at 30 MPH, TxDOT has determined that the prima facie speed limit shall be 45 MPH.

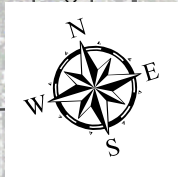
We are required by TxDOT to re-adopt this speed limit at this time with changes being posted.

**FISCAL IMPACT:** None

### **ATTACHMENTS:**

[Map](#)  
[Ordinance](#)



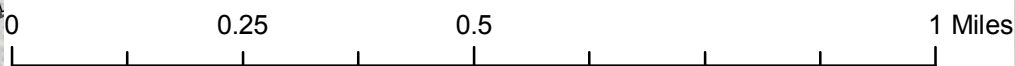


57th STREET

SPEED  
LIMIT  
45

5th STREET

SPEED LIMIT CHANGE





ORDINANCE NO. 2010-4358

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, PROVIDING FOR REASONABLE AND PRUDENT PRIMA FACIE MAXIMUM SPEED LIMIT ON THE US190/LOOP 363 FRONTAGE ROAD WITHIN THE CITY LIMITS; PROVIDING A REPEALER; PROVIDING FOR A PENALTY FOR VIOLATIONS NOT TO EXCEED \$500 FOR EACH VIOLATION; PROVIDING AN EFFECTIVE DATE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN OPEN MEETINGS CLAUSE.

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WHEREAS, an engineering and traffic investigation has been made to determine the reasonable and prudent prima facie maximum speed for motor vehicles on the US190/Loop 363 frontage road within the city limits;

WHEREAS, these traffic investigations and engineering studies have determined the reasonable and safe prima facie maximum speed limits, as more fully described herein; and

WHEREAS, the City Council has considered the matter and deems it in the public interest to approve these speed limits for the benefit of the citizens for the promotion of the public health, welfare, and safety.

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

**Part 1:** The City Council finds that the reasonable and prudent prima facie maximum speed limit for vehicular traffic on the US190/Loop 363 frontage road is as follows:

Starting at M.P. 3.194, proceeding east on the west bound frontage road of US190/LP36, the speed limit shall be 45 MPH for a distance of 1.888 miles, ending at M.P. 5.082 and South 5<sup>th</sup> Street.

**Part 2:** It shall be unlawful for any person to drive or operate a motor vehicle, bicycle, or other vehicle of any kind, whether or not motor powered, on that portion of the roadways described above under the conditions described herein, at a speed greater than is reasonable and prudent under the circumstances then existing, but any speed in excess of the reasonable and prudent prima facie maximum speed limits as set forth in Part 1 hereof shall be prima facie evidence that such speed is not reasonable or prudent and that it is unlawful.

**Part 3:** All ordinances or parts of ordinances in conflict with the provisions of this ordinance are to the extent of such conflict hereby repealed.

**Part 4:** A person who violates a provision of this ordinance is guilty of a separate offense for each day or portion of a day which the offense is committed, continued, or permitted, and each offense is punishable by a fine not to exceed \$500.

**Part 5:** 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 6:** This ordinance shall take effect immediately from and after its passage in accordance with the provisions of the Charter of the City of Temple, Texas, and it is accordingly so ordained.

**Part 7:** It is hereby officially found and determined that the meeting at which this ordinance is passed was open to the public as required and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act.

PASSED AND APPROVED on First Reading on the **15<sup>th</sup>** day of **April**, 2010.

PASSED AND APPROVED on Second Reading on the **6<sup>th</sup>** day of **May**, 2010.

THE CITY OF TEMPLE, TEXAS

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WILLIAM A. JONES, III, Mayor

ATTEST:

APPROVED AS TO FORM:

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Clydette Entzminger  
City Secretary

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Jonathan Graham  
City Attorney



## COUNCIL AGENDA ITEM MEMORANDUM

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05/06/10  
Item #5(H)  
Consent Agenda  
Page 1 of 2

### **DEPT./DIVISION SUBMISSION & REVIEW:**

Jonathan Graham, City Attorney

**ITEM DESCRIPTION:** Consider adopting a resolution authorizing the conveyance of a 2.236 acre parcel of City-owned land described as Lot 13, Block 2, Enterprise Business Park Phase II, part of the Enterprise Business Park, located near Enterprise Road, to the Temple Economic Development Corporation.

**STAFF RECOMMENDATION:** Adopt resolution presented in item description.

**ITEM SUMMARY:** The Board of Directors of the Temple Economic Development Corporation has requested that the City convey this land to TEDC for industrial development purposes, including job creation and additional tax value. The TEDC Board has entered into a contract with Hidden Valley Moving and Storage of Central Texas, Inc. (Mayflower) to convey this land to them for the development of a 30,000 square-foot transport and storage warehouse at this location.

The Staff recommends authorizing the City Manager to convey the 2.236 acre tract of land to TEDC.

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

### **ATTACHMENTS:**

[Map](#)  
[Resolution](#)

# Exhibit "A"

## ENTERPRISE BUSINESS PARK, PHASE II

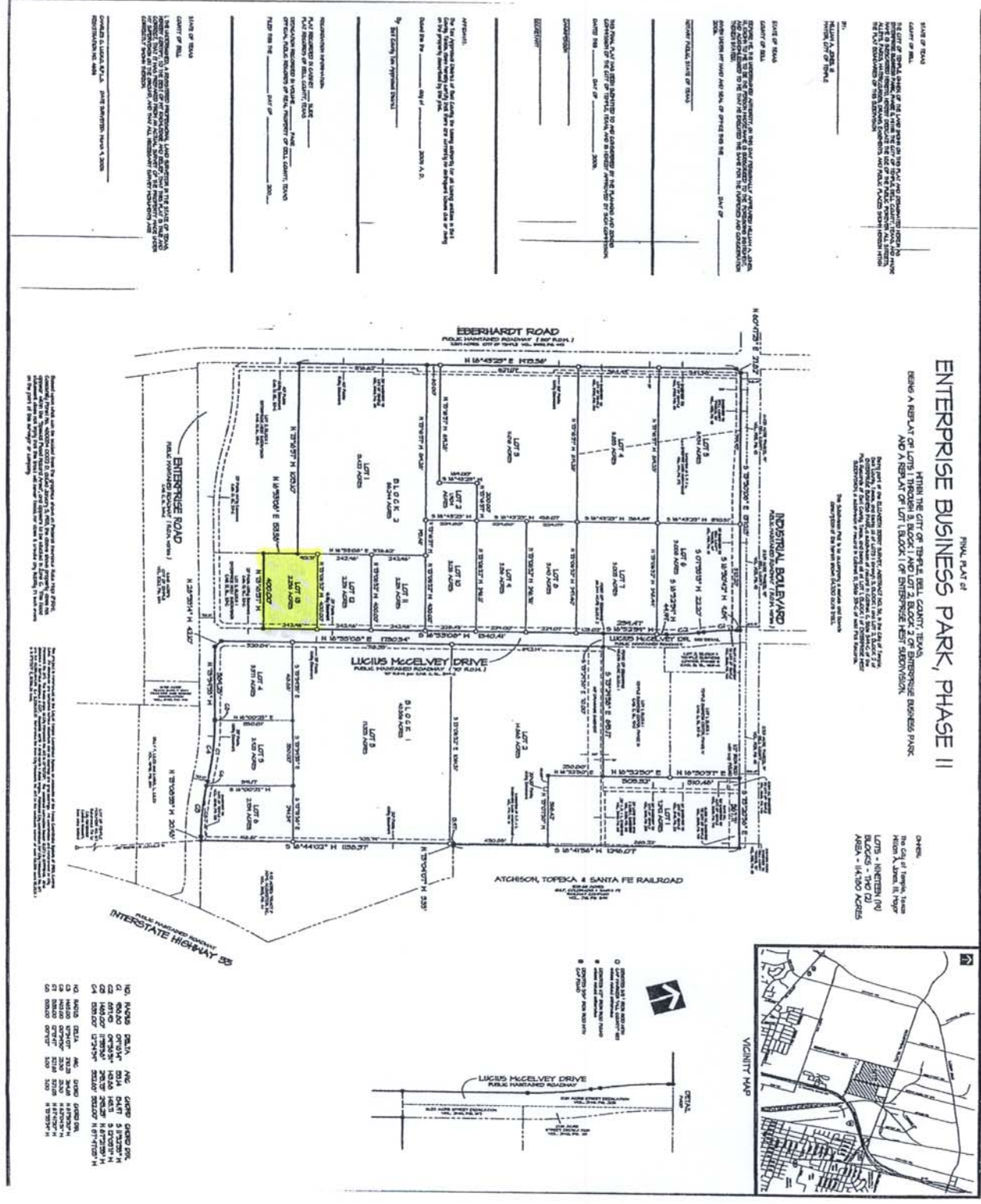
FINAL PLAN OF

BEING A SUBDIVISION OF LOT 1 BLOCK 1 OF ENTERPRISE WEST ADDITION, WITHIN THE CITY OF TERRELL, DEER COUNTY, TEXAS, AND A PART OF LOT 1 BLOCK 1 OF ENTERPRISE WEST ADDITION.

Being part of the subdivision of the City of Terrell, Texas, known as the "Enterprise West Addition," and being a part of the subdivision of the City of Terrell, Texas, known as the "Enterprise West Addition," and being a part of the subdivision of the City of Terrell, Texas, known as the "Enterprise West Addition."

The Subdivisor has to be approved by the City of Terrell, Texas, and the State of Texas, and the County of Deers, Texas.

OWNER:  
The City of Terrell, Texas  
Attest: Mayor, At Large  
LUTS - HERRIN (N)  
BLOCKS - TWO (2)  
AREA - 14,150 ACRES



**RESOLUTION NO. \_\_\_\_\_**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING THE CONVEYANCE OF A 2.236 ACRE PARCEL OF CITY-OWNED LAND DESCRIBED AS LOT 13, BLOCK 2, ENTERPRISE BUSINESS PARK PHASE II, PART OF THE ENTERPRISE BUSINESS PARK, LOCATED NEAR ENTERPRISE ROAD, TO THE TEMPLE ECONOMIC DEVELOPMENT CORPORATION; AND PROVIDING AN OPEN MEETINGS CLAUSE.

---

**Whereas**, the Board of Directors of the Temple Economic Development Corporation (TEDC) has requested that the City convey a 2.236 acre parcel of City-owned land which is part of the Enterprise Business Park, located near Enterprise Road;

**Whereas**, TEDC has requested the City to convey this land to them for economic development purposes related to a contract with Hidden Valley Moving and Storage of Central Texas, Inc., (Mayflower) for the development of a 30,000 square foot transport and storage warehouse at this location; 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 conveyance of an 2.236 acre parcel of City-owned land described as Lot 13, Block 2, Enterprise Business Park Phase II, part of the Enterprise Business Park, located near Enterprise Road, more fully described in Exhibit A, attached hereto and made a part hereof for all purposes, to the Temple Economic Development Corporation.

**Part 2:** It is hereby officially found and determined that the meeting at which this Resolution is passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act.

PASSED AND APPROVED this the 6<sup>th</sup> day of **May**, 2010.

THE CITY OF TEMPLE, TEXAS

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WILLIAM A. JONES, III, MAYOR

ATTEST:

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Clydette Entzminger  
City Secretary

APPROVED AS TO FORM:

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Jonathan Graham  
City Attorney





## COUNCIL AGENDA ITEM MEMORANDUM

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05/06/10  
Item #5(I)  
Consent Agenda  
Page 1 of 1

### **DEPT./DIVISION SUBMISSION & REVIEW:**

Jonathan Graham, City Attorney

**ITEM DESCRIPTION:** Consider adopting a resolution dedicating as public right-of-way 1.469 acres located between the HEB-CTRSC subdivision and McLane Boulevard.

**STAFF RECOMMENDATION:** Adopt resolution presented in item description.

**ITEM SUMMARY:** Oncor is preparing to extend overhead electric lines and AT&T is preparing to extend underground communication lines that will serve the new HEB distribution center. The proposed public utilities will also provide power and communication service for future development of other property in the vicinity.

Kasberg, Patrick & Associates recommends that the utilities be located in a strip of land containing 1.469 acres, approximately 80 feet wide and 800 feet long. The tract is owned by the City and expected to become part of the right-of-way for a roadway intersecting McLane Boulevard. Dedicating the tract as public right-of-way will allow use of the strip for public utilities as well as future roadway.

**FISCAL IMPACT:** None

### **ATTACHMENTS:**

[Resolution](#)

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, DEDICATING AS PUBLIC RIGHT OF WAY 1.469 ACRES LOCATED BETWEEN THE HEB-CTRSC SUBDIVISION AND MCLANE BOULEVARD; AND PROVIDING AN OPEN MEETINGS CLAUSE.

---

**Whereas,** Oncor is preparing to extend overhead electric lines and AT&T is preparing to extend underground communication lines that will serve the new HEB distribution center – the proposed utilities will also provide power and communication service for future development of other property in the vicinity;

**Whereas,** the strip of land that the utilities will be located in contains 1.469 acres – the tract is owned by the City and is expected to become part of the right-of-way for a roadway intersecting McLane Boulevard;

**Whereas,** dedicating the tract as public right-of-way will allow use of the strip for public utilities as well as future roadway; 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 dedicating a 0.696 acre tract of City-owned property, more fully described by metes and bounds contained in field notes in Exhibit A, attached hereto for all purposes, as right-of-way for future Kegley Road improvements.

**Part 2:** It is hereby officially found and determined that the meeting at which this Resolution is passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act.

PASSED AND APPROVED this the 6<sup>th</sup> day of **May**, 2010.

THE CITY OF TEMPLE, TEXAS

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WILLIAM A. JONES, III, Mayor

ATTEST:

APPROVED AS TO FORM:

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Clydette Entzminger  
City Secretary

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Jonathan Graham  
City Attorney



## COUNCIL AGENDA ITEM MEMORANDUM

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05/06/10  
Item #5(J)  
Consent Agenda  
Page 1 of 1

### **DEPT./DIVISION SUBMISSION & REVIEW:**

Jonathan Graham, City Attorney

**ITEM DESCRIPTION:** Consider adopting a resolution authorizing the Mayor to execute a deed conveying property bequeathed to the City to the purchaser of the property.

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

**ITEM SUMMARY:** The City has been designated to receive a portion of the estate of Constance Irene Britton, Deceased, in her Last Will & Testament. Specifically named are "Temple Senior Center, Temple, Texas, and the Belton Texas Senior Center, Belton, Texas." The estate's Executor had the property, described as "Lot 1 and 2, Block 2, Eaton Addition, City of Belton, Texas (315 East 24<sup>th</sup> Street, Belton, Texas), appraised and a title commitment has been issued for sale of the property. It will be necessary for the City to sign a deed to convey its interests in the property to the purchaser.

**FISCAL IMPACT:** The property has been appraised at \$165,000 and the City will receive approximately half of that amount after closing and appraisal costs are deducted.

### **ATTACHMENTS:**

[Excerpt from Last Will & Testament of Constance Irene Britton Resolution](#)

**EXCERPT FROM LAST WILL & TESTAMENT OF  
CONSTANCE IRENE BRITTON**

(d) Termination. Upon the death of my husband, RUFUS WILBURN BRITTON, JR., or upon my death in the event he should predecease me, the Family Trust ~~shall terminate and all of the assets and property comprising the principal of the same, or~~ of my estate as the case may be, shall be distributed, in equal shares, to the TEMPLE SENIOR CENTER, TEMPLE, TEXAS, and the BELTON TEXAS SENIOR CENTER, BELTON, TEXAS, if they are then in existence. If either of the above-named beneficiaries are not then in existence, I give, devise and bequeath that portion of the trust assets to the then existing beneficiary. If my husband should be dead and all of my designated beneficiaries are not then in existence, the trust shall terminate and all of the assets and property comprising the principal of the same shall be delivered and distributed in fee simple and free of trust, in equal shares, unto my heirs at law.

RESOLUTION NO. \_\_\_\_\_

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING THE MAYOR TO EXECUTE A DEED CONVEYING PROPERTY BEQUEATHED TO THE CITY TO THE PURCHASER OF THE PROPERTY; AND PROVIDING AN OPEN MEETINGS CLAUSE.

---

**Whereas**, the City has been designated to receive a portion of the estate of Constance Irene Britton, Deceased, in her Last Will & Testament;

**Whereas**, the estate's Executor had the property, described as Lot 1 and 2, Block 2, Eaton Addition, City of Belton, Texas (315 East 24<sup>th</sup> Street), appraised and a title commitment has been issued for the sale of the property – it will be necessary for the City to sign a deed to convey its interests in the property to the purchaser; and

**Whereas**, the property was appraised at \$165,000 and the City will receive approximately half of that amount after closing and appraisal costs are deducted; 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 Mayor to execute a deed conveying property bequeathed to the City to the purchaser of the property.

**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 6<sup>th</sup> day of **May**, 2010.

THE CITY OF TEMPLE, TEXAS

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WILLIAM A. JONES, III, Mayor

ATTEST:

APPROVED AS TO FORM:

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Clydette Entzminger  
City Secretary

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Jonathan Graham  
City Attorney



## COUNCIL AGENDA ITEM MEMORANDUM

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Item #5(K)  
Consent Agenda  
Page 1 of 1

**DEPT./DIVISION SUBMISSION & REVIEW:**

Jonathan Graham, City Attorney

**ITEM DESCRIPTION:** Consider adopting a resolution dedicating a public water and wastewater utility easement on 1.53 acres located at the Draughon-Miller Central Texas Regional Airport.

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

**ITEM SUMMARY:** Public Works recommends dedicating a public utility easement encompassing all of a 1.53-acre tract at the Draughon-Miller Central Texas Regional Airport. The tract contains an elevated storage tank, pump house, water and wastewater lines, and the new booster pump station.

**FISCAL IMPACT:** N/A

**ATTACHMENTS:**

[Resolution](#)

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, DEDICATING A PUBLIC WATER AND WASTEWATER UTILITY EASEMENT ON 1.53 ACRES LOCATED AT THE DRAUGHON-MILLER CENTRAL TEXAS REGIONAL AIRPORT; AND PROVIDING AN OPEN MEETINGS CLAUSE.

---

**Whereas,** the Public Works department recommends dedicating a public utility easement encompassing all of a 1.53 acre tract at the Draughon-Miller Central Texas Regional Airport;

**Whereas,** the tract contains an elevated storage tank, pump house, water and wastewater lines, and the new booster pump station; 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 dedicating a public water and wastewater utility easement on 1.53 acres, more fully described by metes and bounds contained in field notes in Exhibit A, attached hereto for all purposes, located 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 6<sup>th</sup> day of **May**, 2010.

THE CITY OF TEMPLE, TEXAS

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WILLIAM A. JONES, III, Mayor

ATTEST:

APPROVED AS TO FORM:

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Clydette Entzminger  
City Secretary

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Jonathan Graham  
City Attorney



## COUNCIL AGENDA ITEM MEMORANDUM

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Item #5(L)  
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 2009-2010.

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

**ITEM SUMMARY:** This item is to recommend various budget amendments, based on the adopted FY 2009-2010 budget. The amendments will involve transfers of funds between contingency accounts, department and fund levels.

**FISCAL IMPACT:** The total amount of budget amendments is \$226,407.

**ATTACHMENTS:**

Budget amendments  
Resolution



**CITY OF TEMPLE**  
**BUDGET AMENDMENTS FOR FY 2010 BUDGET**  
**May 6, 2010**

			<b>APPROPRIATIONS</b>	
<b>ACCOUNT #</b>	<b>PROJECT #</b>	<b>DESCRIPTION</b>	<b>Debit</b>	<b>Credit</b>
110-2000-521-1119		Overtime (Police Department)	\$ 23,562	
110-0000-431-0163		Federal Grants		\$ 23,562
<p>Appropriate funds for the Night Special Traffic Accident Reduction Night-Star Program with funds from the 2009 Edward Byrne Memorial Justice Assistance Grant (JAG). This program is intended to arrest impaired drivers to prevent crashes and the subsequent loss of property and risk of life. Council approved the receipt of \$23,562 in grant funds July 2, 2009. There is no City match required.</p>				
110-2000-521-2114		Animal Food & Supplies (Police Department)	\$ 1,031	
110-0000-442-0722		Police Donations		\$ 1,031
<p>Donation through the PETCO Foundation to be used to purchase a dog vest.</p>				
110-2000-521-2510		Contributions/Prizes (Police Department)	\$ 50	
110-0000-442-0722		Police Donations		\$ 50
<p>Donation from Crossroads Distribution to be used toward the Eastside Block Party.</p>				
110-2000-521-6231	100615	Capital Equipment - OCU Seized Funds/Federal (Police Department)	\$ 21,450	
110-0000-313-0330		<b>Federal Seized Funds</b>		<b>\$ 21,450</b>
<p>Use federal seized funds to obtain 6 vehicles that can be seized by Bell County DA's office if we agree to pay off lien held against these vehicles.</p>				
260-1100-513-2110		Office Supplies (City Manager's Grant)	\$ 200	
260-1100-513-2210		Furniture & Fixtures	\$ 1,200	
260-1100-513-2221		Computer Equipment	\$ 1,200	
260-0000-431-0163		Federal Grants		\$ 2,600
<p>The Sustainability and Grant Manager position is a grant funded position. The original grant funding was secured for 3 years of salary and benefits for the position. The grant performance period is 36 months from the date of award (Oct. 16, 2009). Since we had several months of 'hiring lag' for the position, we will not be able to use all of the funds as originally intended because we have to expend all grant funds within the 36-month grant period. In lieu of losing some of the grant money because of the hiring lag, we sought and received permission from the granting agency to use the funding for other expenses within the scope of the original purpose of the grant. Those items specifically are a computer, desk and chairs, and office supplies for the Sustainability Manager position. A budget adjustment is requested to appropriate funds in this manner.</p>				
260-6100-571-6516	100370	Park Improvements (Community Development)	\$ 322	
260-6100-571-6532		<b>Contingency</b>		<b>\$ 322</b>
<p>To allocate additional funds to the Ferguson Park Splash Pad project. Funds are available from program income from FY 2009 that was carried forward.</p>				

**CITY OF TEMPLE**  
**BUDGET AMENDMENTS FOR FY 2010 BUDGET**  
**May 6, 2010**

			<b>APPROPRIATIONS</b>	
<b>ACCOUNT #</b>	<b>PROJECT #</b>	<b>DESCRIPTION</b>	<b>Debit</b>	<b>Credit</b>
351-1800-525-6849	100240	Municipal Court Facility		\$ 54,263
351-0000-490-2582		Transfer In	\$ 54,263	
110-9100-591-8151		Transfer Out		\$ 54,263
110-0000-317-0000		<b>Reserved for Municipal Court Security</b>	<b>\$ 30,764</b>	
110-0000-317-0000		<b>Reserved for Municipal Court Technology</b>	<b>\$ 22,329</b>	
110-0000-317-0000		<b>Reserved for Municipal Court Judicial Efficiency</b>	<b>\$ 1,170</b>	
<p>This budget adjustment "sweeps" unspent restricted Municipal Court Security, Technology, and Judicial Efficiency funds for future uses on eligible expenditures.</p>				
561-5000-535-6912		Capitalized Administrative Costs	\$ 41,320	
561-5400-535-6935	100390	Lilac Lane		\$ 41,320
		<b>75% of salary &amp; benefits for the Senior Accountant - funding from UR Bonds</b>		
361-1900-591-8110		Transfer Out - General Fund	\$ 13,773	
361-0000-461-0111		Interest Income		\$ 13,773
110-0000-490-2582		Transfer In - Bond Fund (361)		\$ 13,773
110-0000-352-1345		<b>Designated Capital Projects - Unallocated</b>	<b>\$ 13,773</b>	
		<b>25% of salary &amp; benefits for the Senior Accountant - funding from CO Bonds</b>		
<p>Funding for the Senior Accountant position. This position is being funded with interest earnings from bond proceeds issued for the FY 2007 CIP projects. 75% of the salary and benefits for the Senior Accountant is being funded from the Series 2008 Utility Revenue Bond proceeds. All interest earnings have been netted against interest expense related to the UR bonds. 25% of the salary and benefits is being funded from the Series 2008 Certificates of Obligation bonds.</p>				
<b>TOTAL AMENDMENTS</b>			<b>\$ 226,407</b>	<b>\$ 226,407</b>
<b>GENERAL FUND</b>				
Beginning <b>Contingency</b> Balance			\$	-
Added to Contingency Sweep Account			\$	-
Carry forward from Prior Year			\$	-
Taken From Contingency			\$	-
Net Balance of Contingency Account			\$	-
Beginning <b>Judgments &amp; Damages</b> Contingency			\$	77,833
Added to Contingency Judgments & Damages from Council Contingency			\$	-
Taken From Judgments & Damages			\$	(57,725)
Net Balance of Judgments & Damages Contingency Account			\$	20,108
Beginning <b>Fuel</b> Contingency			\$	125,000
Added to Fuel Contingency			\$	-
Taken From Fuel Contingency			\$	-
Net Balance of Fuel Contingency Account			\$	125,000
Beginning <b>Solid Waste - Future Capital Replacement</b> Contingency			\$	48,400
Added to Solid Waste - Future Capital Replacement Contingency			\$	-
Taken From Solid Waste - Future Capital Replacement Contingency			\$	-
Net Balance of Solid Waste - Future Capital Replacement Contingency Account			\$	48,400
<b>Net Balance Council Contingency</b>			<b>\$</b>	<b>193,508</b>

**CITY OF TEMPLE**  
**BUDGET AMENDMENTS FOR FY 2010 BUDGET**  
**May 6, 2010**

ACCOUNT #	PROJECT #	DESCRIPTION	APPROPRIATIONS	
			Debit	Credit
		Beginning Balance <b>Budget Sweep</b> Contingency	\$	-
		Added to Budget Sweep Contingency	\$	-
		Taken From Budget Sweep	\$	-
		Net Balance of Budget Sweep Contingency Account	\$	-
		<b>WATER &amp; SEWER FUND</b>		
		Beginning <b>Contingency</b> Balance	\$	247,423
		Added to Contingency Sweep Account	\$	-
		Taken From Contingency	\$	(28,875)
		Net Balance of Contingency Account	\$	218,548
		Beginning <b>Approach Mains</b> Contingency	\$	-
		Added to Approach Mains Contingency	\$	488,270
		Taken From Approach Mains Contingency	\$	(488,270)
		Net Balance of Approach Mains Contingency Account	\$	-
		<b>Net Balance Water &amp; Sewer Fund Contingency</b>	\$	218,548
		<b>HOTEL/MOTEL TAX FUND</b>		
		Beginning <b>Contingency</b> Balance	\$	26,336
		Added to Contingency Sweep Account	\$	-
		Taken From Contingency	\$	(19,000)
		Net Balance of Contingency Account	\$	7,336
		<b>DRAINAGE FUND</b>		
		Beginning <b>Contingency</b> Balance	\$	-
		Added to Contingency Sweep Account	\$	-
		Taken From Contingency	\$	-
		Net Balance of Contingency Account	\$	-
		<b>FED/STATE GRANT FUND</b>		
		Beginning <b>Contingency</b> Balance	\$	15,243
		Carry forward from Prior Year	\$	51,505
		Added to Contingency Sweep Account	\$	-
		Taken From Contingency	\$	(43,745)
		Net Balance of Contingency Account	\$	23,003

**RESOLUTION NO. \_\_\_\_\_**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF  
TEMPLE, TEXAS, APPROVING BUDGET AMENDMENTS TO THE  
2009-2010 CITY BUDGET; AND PROVIDING AN OPEN  
MEETINGS CLAUSE.

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**Whereas**, on the 3<sup>rd</sup> day of September, 2009, the City Council approved a budget for the 2009-2010 fiscal year; and

**Whereas**, the City Council deems it in the public interest to make certain amendments to the 2009-2010 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 2009-2010 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 6<sup>th</sup> day of **May**, 2010.

THE CITY OF TEMPLE, TEXAS

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WILLIAM A. JONES, III, Mayor

ATTEST:

APPROVED AS TO FORM:

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Clydette Entzminger  
City Secretary

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Jonathan Graham  
City Attorney



## COUNCIL AGENDA ITEM MEMORANDUM

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05/06/10  
Item #5(M)  
Consent Agenda  
Page 1 of 1

### **DEPT./DIVISION SUBMISSION & REVIEW:**

David Blackburn, City Manager

**ITEM DESCRIPTION:** Consider adopting a resolution supporting the nomination of a member to serve on the Brazos G Regional Water Planning Group representing County interests.

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

**ITEM SUMMARY:** The Brazos G is soliciting nominations for two voting members representing County interests. Bell County Judge Jon Burrows is currently filling one of those positions. Judge Burrows' term expires December 31, 2010 and he is not eligible for reappointment. The appointed members will fill terms that expire at the last meeting of calendar year 2010 and will be eligible to serve a maximum of five consecutive two-year terms.

The County has nominated Commissioner Tim Brown to represent County interests on the Brazos G Regional Water Planning Group and is seeking support for that nomination from the City of Temple.

The Brazos G Regional Water Planning Group (Brazos G) was established in 1998, as the result of the passage of Senate Bill 1, to develop a comprehensive regional water plan for its 37-county planning area, which extends generally along the Brazos River from Ken, Stonewall and Knox Counties in the northwest to Washington and Lee Counties in the southeast. The goal of the planning process is to assure that sufficient water will be available at a reasonable cost to ensure public health, safety and welfare, further economic development and protect agricultural and natural resources. The Brazos G submitted its first regional water plan to the State in 2001 and has just completed the development of the 2006 Brazos G Regional Water Plan.

**FISCAL IMPACT:** None

### **ATTACHMENTS:**

[Resume – Commissioner Brown](#)  
[Resolution](#)

**EXPERIENCE**

**Management**

- Small business administration (30+ years)
- Personnel management
- Contract negotiation and administration
- Purchasing
- Project development

**Government**

- **Elected official** (15 years) Bell County Commissioner
  - Transportation planning and management
  - Historic courthouse preservation
  - Facilities planning and development
  - Collaborative development and support of information technology
  - Long range planning for water resources
- **Project development and construction management**
  - Developed Bell County's first strategic plan for addressing major capital projects
  - Reconstruction of historic Bell County Courthouse
  - Reconstruction of industrial complex to serve as a Bell County Court's Annex
  - Bell County Juvenile Detention facility and juvenile education complex
  - Bell County Communications Center (911)
  - Renovation of historic downtown building for Bell County Information Systems
  - Expansion of Bell County Museum
  - Construction of Bell County District Courts Complex
  - Construction of Bell County Jail Annex
- **New projects under development**
  - New County Courts Annex
  - Centralized Document Storage facility
  - Expansion of the Bell County Expo Center
- **County Administrative Initiatives**
  - Comprehensive reorganization of job descriptions and salary structure for Bell County
  - Developed the state's first county-wide, integrated 800MHz radio communication system
- **State of Texas Initiatives**
  - **Public Power Pool (P3)**, the largest energy aggregation cooperative in Texas
  - **Techshare**, multi-jurisdictional information technology collaborative
- **Interstate Initiatives**
  - Served as President of **North America's SuperCorridor Coalition (NASCO)**
  - Led a multi-state effort to influence federal transportation policy affecting trade corridors
- **Policy**
  - Taxation
  - Transportation
  - Land use governance
  - Water resources planning and ground water management
  - Waste water regulation

**Boards and Committees**

- **Texas Economic Central Development District**, former president
  - **Central Texas Council of Governments**, former chairman
  - **CDBG Regional Review Committee**, Chairman
  - **Killeen/Temple Urban Transportation Study**, vice-chairman
  - **North America's SuperCorridor Coalition (NASCO)**, former president
-

- Texas Conference of Urban Counties (CUC), former chairman
- CUC Intergovernmental Relations Committee, former chairman
- Texas Historic Courthouse Preservation Work Group
- Texas Historic Courthouse Preservation Advisory Committee
- Texas Transportation Work Group
- TransTexas Corridor (TTC) Advisory Committee, former chairman
- TTC-35 Advisory Committee, chairman

#### EDUCATION

- Master of Science in Land Development, August 1986, Texas A&M University
- Bachelor of Environmental Design, December 1976, Texas A&M University

#### WORK RECORD

- County Commissioner, Bell County, TX 1995 – present
- Designer/Builder, Tim Brown Design, 1976 – present
- Construction Manager, Prime Group, Inc., Austin, TX 1990 -1991
- Manager, William A. Patch, Jr. Real Estate Investments, Bryan, TX, 1983 – 1986

#### REFERENCES

- **Hon. Jeff Moseley**  
President and CEO  
Greater Houston Partnership  
1200 Smith Street, 700  
Houston, Texas 77002  
713-844-3600
  - **Dr. C. Allan Jones**  
Professor  
Texas A&M Agrilife  
Former Director  
Texas Water Resources Institute  
2225 Irwin Street  
Ft. Worth, Texas 76110  
972-952-9224
  - **Hon. Penny Redington**  
Executive Director  
Texas Association of Regional Councils  
701 Brazos, Suite 780  
Austin, Texas 78701  
512-478-4715
  - **Hon. Jon Burrows**  
Bell County Judge  
P.O. Box 768  
Belton, Texas 76513  
254-933-5100
  - **Hon. Mike Bradford**  
Midland County Judge  
200 West Wall  
Midland, Texas 79701  
432-688-4310
-

RESOLUTION NO. \_\_\_\_\_

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, SUPPORTING THE NOMINATION OF A MEMBER TO SERVE ON THE BRAZOS G REGIONAL WATER PLANNING GROUP REPRESENTING COUNTY INTERESTS; AND PROVIDING AN OPEN MEETINGS CLAUSE.

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**Whereas**, the Brazos G Regional Water Planning Group is soliciting nominations for two voting members representing County interests;

**Whereas**, Bell County has nominated Commissioner Tim Brown to represent County interests and is seeking support for that nomination from the City of Temple; and

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

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

**Part 1:** The City Council supports the nomination of Commissioner Tim Brown to serve as a member of the Brazos G Regional Water Planning Group representing County interests.

**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 **6<sup>th</sup>** day of **May**, 2010.

THE CITY OF TEMPLE, TEXAS

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WILLIAM A. JONES, III, Mayor

ATTEST:

APPROVED AS TO FORM:

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Clydette Entzminger  
City Secretary

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Jonathan Graham  
City Attorney





## COUNCIL AGENDA ITEM MEMORANDUM

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05/06/10  
Item #6  
Regular Agenda  
Page 1 of 1

### **DEPT. /DIVISION SUBMISSION & REVIEW:**

Tim Dolan, AICP, Planning Director

**ITEM DESCRIPTION:** SECOND READING – PUBLIC HEARING - Consider adopting an ordinance re-naming a portion of Hilliard Road to Lightner Lane.

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

**ITEM SUMMARY:** This item is a 'clean up' for a portion of a roadway near Research Parkway. Staff recommends it be named Lightner Lane, after the property owners in this area now deceased. (The Council approved a road name change for Research Parkway at its meeting December 03, 2009.) After review of that alignment, a portion existed of Hilliard Road, north or northwest of the Research Parkway.

The proposed street name, Lightner Lane does not conflict with other names in Temple. All City departments reviewed the request. The ordinance will take affect 30 days after the second reading to allow time for the installation of new street signs and update maps.

According to the City of Temple policy, described in Resolution #2002-3395-R, a street name change may be considered when a majority of the area is recognized as a significant contribution by an organization to the enhancement of the quality of life in the community. This portion of the Hilliard Road is suited to the name change of Lightner Lane. While the roadway name changes, the addresses here remain the same. Staff has discussed this change with the executor of the estate.

**FISCAL IMPACT:** Additional signage along Lightner Lane. Estimate cost of \$ 600.

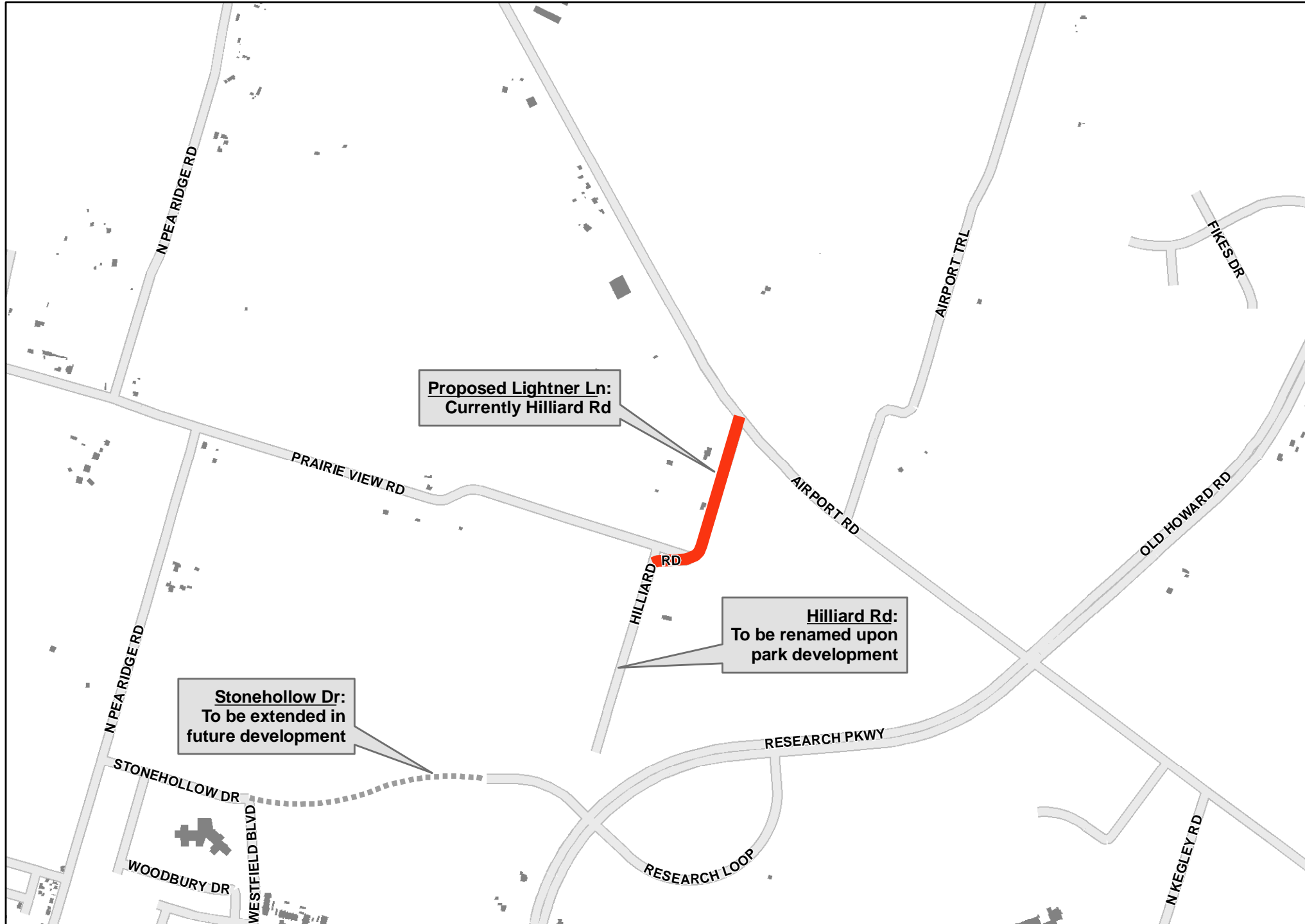
### **ATTACHMENTS:**

[Map](#)  
[Ordinance](#)



**Z-FY-10-25**

## Proposed Renaming of Hilliard Rd



ORDINANCE NO. 2010-4357

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, RENAMING A PORTION OF HILLIARD ROAD TO *LIGHTNER LANE*; DECLARING FINDINGS OF FACT; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND PROVIDING AN OPEN MEETINGS CLAUSE.

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**Whereas**, on December 3, 2009, the City Council adopted dual naming for a portion of the planned Outer Loop (new portion of Old Howard Road and the portion from McLane Parkway to FM 2305) as Old Howard Road/Research Parkway;

**Whereas**, a portion of Hilliard Road near Research Parkway needs to be renamed after review of the recent alignment of Hilliard Road;

**Whereas**, the Staff recommends renaming the portion of roadway to *Lightner Lane* in recognition of the property owners in this area, who are now deceased;

**Whereas**, the proposed street name does not conflict with other street names in the City of Temple, and is in compliance with the City's street name change policy which provides that a street name change may be considered when a majority of the area is recognized as a significant contribution by an organization to the enhancement of the quality of life in the community; and

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

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

**Part 1:** The City Council approves renaming a portion of Hilliard Road to *Lightner Lane*, more fully shown on a map attached hereto as Exhibit A.

**Part 2:** The City Council directs the Street Department of the City of Temple, Texas, to make and place the appropriate signs on said street.

**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:** This ordinance shall take effect 30 days after the second reading to allow time for the installation of new street signs and updating of maps.

**Part 5:** It is hereby officially found and determined that the meeting at which this ordinance is passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act.

PASSED AND APPROVED on First Reading and Public Hearing on the **15<sup>th</sup>** day of **April**, 2010.

PASSED AND APPROVED on Second Reading on the **6<sup>th</sup>** day of **May**, 2010.

THE CITY OF TEMPLE, TEXAS

---

WILLIAM A. JONES, III, Mayor

ATTEST:

APPROVED AS TO FORM:

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Clydette Entzminger  
City Secretary

---

Jonathan Graham  
City Attorney



## COUNCIL AGENDA ITEM MEMORANDUM

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05/06/10  
Item #7  
Regular Agenda  
Page 1 of 2

### **DEPT./DIVISION SUBMISSION & REVIEW:**

Tim Dolan, Planning Director

**ITEM DESCRIPTION:** FIRST READING – PUBLIC HEARING - Consider adopting an ordinance abandoning the 0.433-acre unnamed road, located along the north edge of Coughran Subdivision, between the east right-of-way of South Pea Ridge Road and the north right-of-way of West Adams Avenue, and retaining a 15-foot wide utility easement along the north line of the abandoned road.

**STAFF RECOMMENDATION:** Conduct public hearing and adopt ordinance as presented in item description, on first reading, and schedule second reading and final adoption for May 20, 2010.

**ITEM SUMMARY:** George Coughran, property owner along the south edge of the unnamed road, requests this road abandonment. He wants to use the abandoned road for additional parking for his “Big Chew-Chew’s Burgers & Shakes” restaurant and for access to the back half of his property.

Mr. Coughran obtained a signed document from Kiella Land Investments LTD. (the property owner along the north edge of the unnamed county road) relinquishing any interest regarding closure, conveyance, and purchase of the road adjoining its property.


Staff contacted all utility providers, including all divisions of the Public Works Department, regarding the applicant’s requested road abandonment. The City of Temple does not have any water, wastewater, or drainage utility within this right-of-way. Oncor Electric Delivery requests a 10-foot wide utility easement along the north boundary of the road abandonment to protect existing utilities. AT&T Texas requests a 15-foot wide utility easement along the north boundary of the road abandonment to protect buried and aerial facilities.

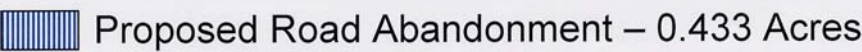
**FISCAL IMPACT:** If approved, Mr. Coughran will be allowed to purchase the abandoned road for a fair market value of \$5,859.


**ATTACHMENTS:**

Aerial  
Abandonment Exhibit  
Easement Exhibit  
Application  
Letter of Relinquishment  
Surveys  
Ordinance

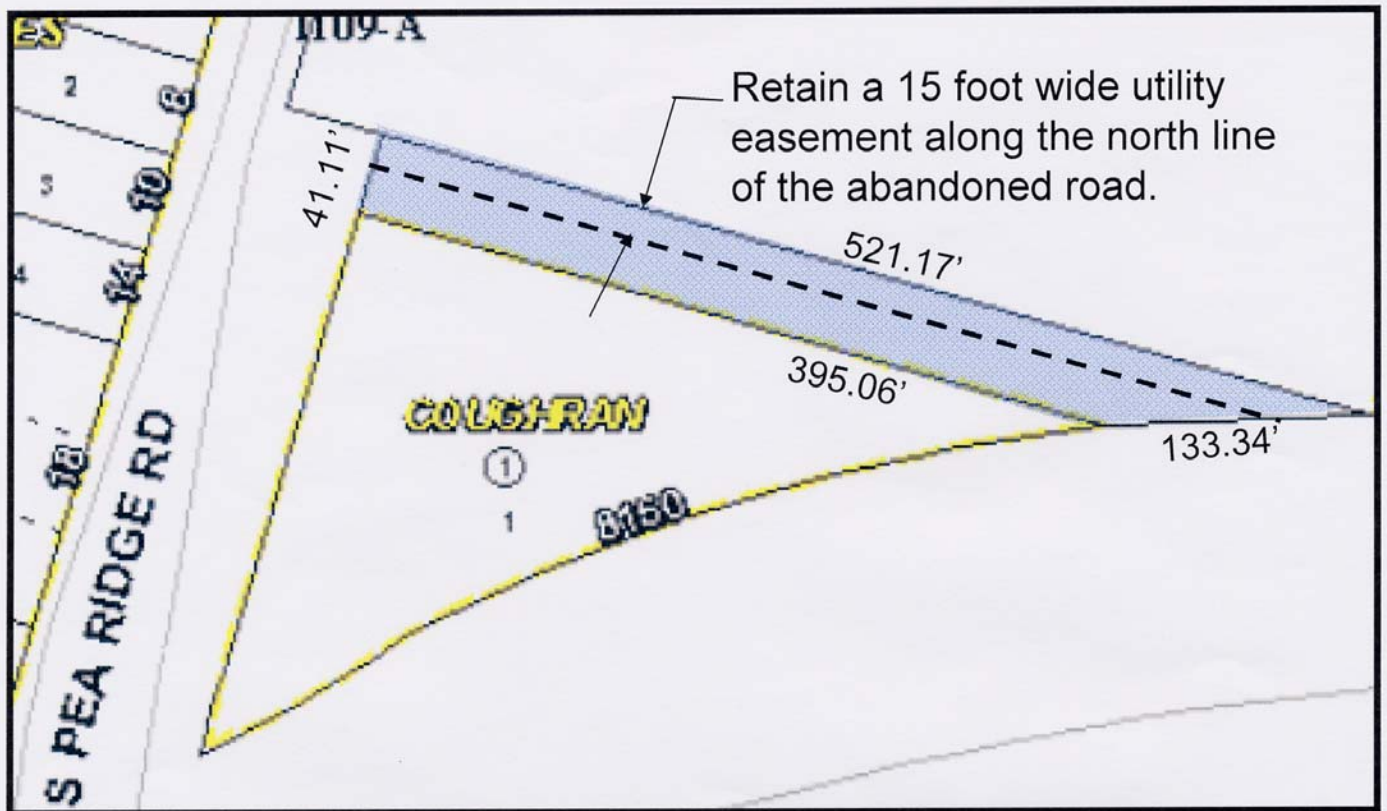


 Proposed Road Abandonment – 0.433 Acres



 Proposed Road Abandonment – 0.433 Acres





### ABANDONMENT APPLICATION

Date: 11-10-09

Property Owner: GEORGE W COUGHRAN - 299 GREEN PARK BELTON 76513  
Name Address Phone #

Applicant: GEORGE W. COUGHRAN 299 GREEN PARK BELTON, TEX, 76513  
Name Address Phone #

Capacity of applicant: ☒ Officer ☐ Broker ☒ Prospective Buyer ☐ Other 780-4300 = 780-9385

Email: \_\_\_\_\_ Fax Number: 254-780-4301

Address of Property: \_\_\_\_\_ Lot: \_\_\_\_\_ Block: \_\_\_\_\_ Subdivision: \_\_\_\_\_

Outblock (if not platted): OLD COUNTY ROAD ON NORTH SIDE COUGHRAN SUBDIVISION

**Filing Fee:** The abandonment application requires a filing fee of \$100 plus the broker's opinion of the value of the property to be abandoned (if applicable). The fee is not refundable, except that a refund of \$25 and the value of the property will be made if an application is withdrawn in writing and received by the Planning Department prior to the notification of utility providers.

**Type of Abandonment:** ☐ Alley ☒ Street ☐ Drainage or utility easement ☐ Other \_\_\_\_\_

**Abandonment Description:** Please explain why the abandonment is needed.

0.456 ACRES OF STREET RIGHT OF WAY

**Use of Abandonment:** Please provide the proposed use of abandoned property, if granted.

FOR PARKING & ENTRANCE TO BACK HALF OF PROPERTY

**Thoroughfare Plan Streets:** Any abandonment of a street reflected on the City's Thoroughfare Plan may be presented to Planning and Zoning Commission and the City Council.

**Certification:** You as the property owner certify with your signature that all of the following statements are true:

- This application is complete and all of the information provided is accurate.
- The person signing below as applicant may act as my agent for the processing and presentation of this request. The designated agent shall be the principal contact person with the City in processing and responding to requirements or issues relevant to this request.

George W. Conghran  
Applicant's Signature

George W. Conghran  
Property Owner's Signature

**For Office Use Only**

☒ Completed Application

Fee Received By: Tammy Lyraly

Case #: A-FY-10-02 Zoning Map Page: \_\_\_\_\_ Project Manager: Tammy Lyraly

Tentative City Council Date: \_\_\_\_\_



Tammy Lyerly, Planner  
City of Temple Planning Department  
2 N Main ST  
Temple TX 76501

Re: Proposed abandonment of old county road located north of the intersection of North Pea Ridge Road and West Adams Avenue/FM 2305, abutting Coughran Subdivision and Outblocks 1109-A and 1109-B.

Dear Ms. Lyerly:

I have received notice of a request for abandonment and sale of the road described above and shown on the attached drawing, which shows Proposed Road Abandonment (Approx. 0.5 AC), Tract A (0.2 AC) abutting Coughran Subdivision, and Tract B (Approx. 0.3 AC) abutting Outblocks 1109-A and 1109-B.

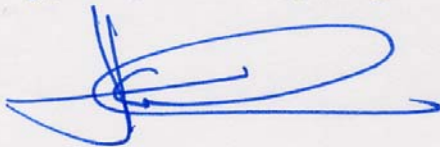
I understand that if the abandonment is approved, the road may be sold to the abutting property owners in proportion to their abutting ownership for the fair market value determined by an appraisal and approved by the City Council.

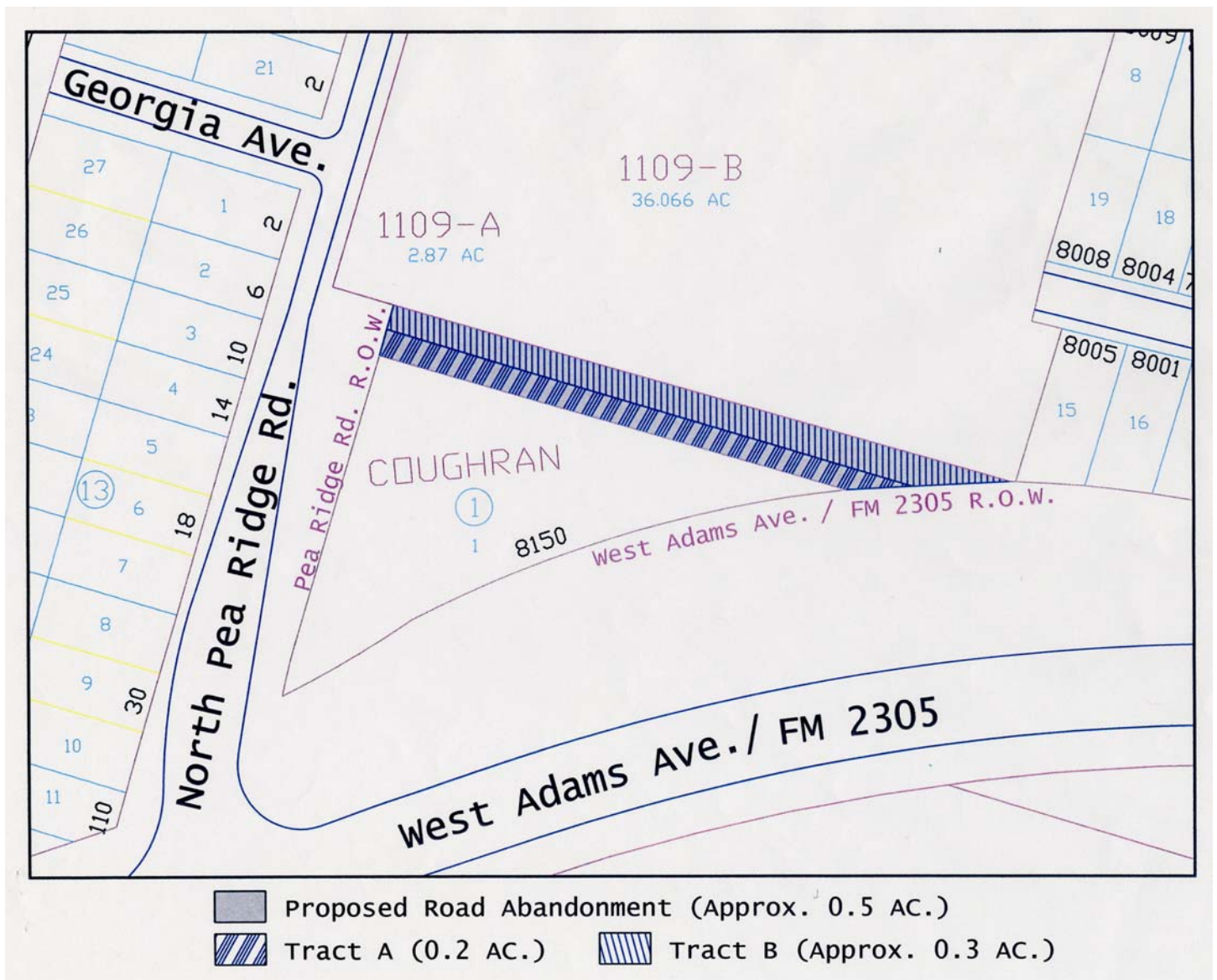
KIELLA LAND INVESTMENTS LTD.

as the sole owner of Outblocks 1109-A and 1109-B, hereby relinquishes any interest it may have regarding closure and conveyance of the road, as it does not wish to purchase the proportionate portion of the road adjoining its property.

John Kiella  
President

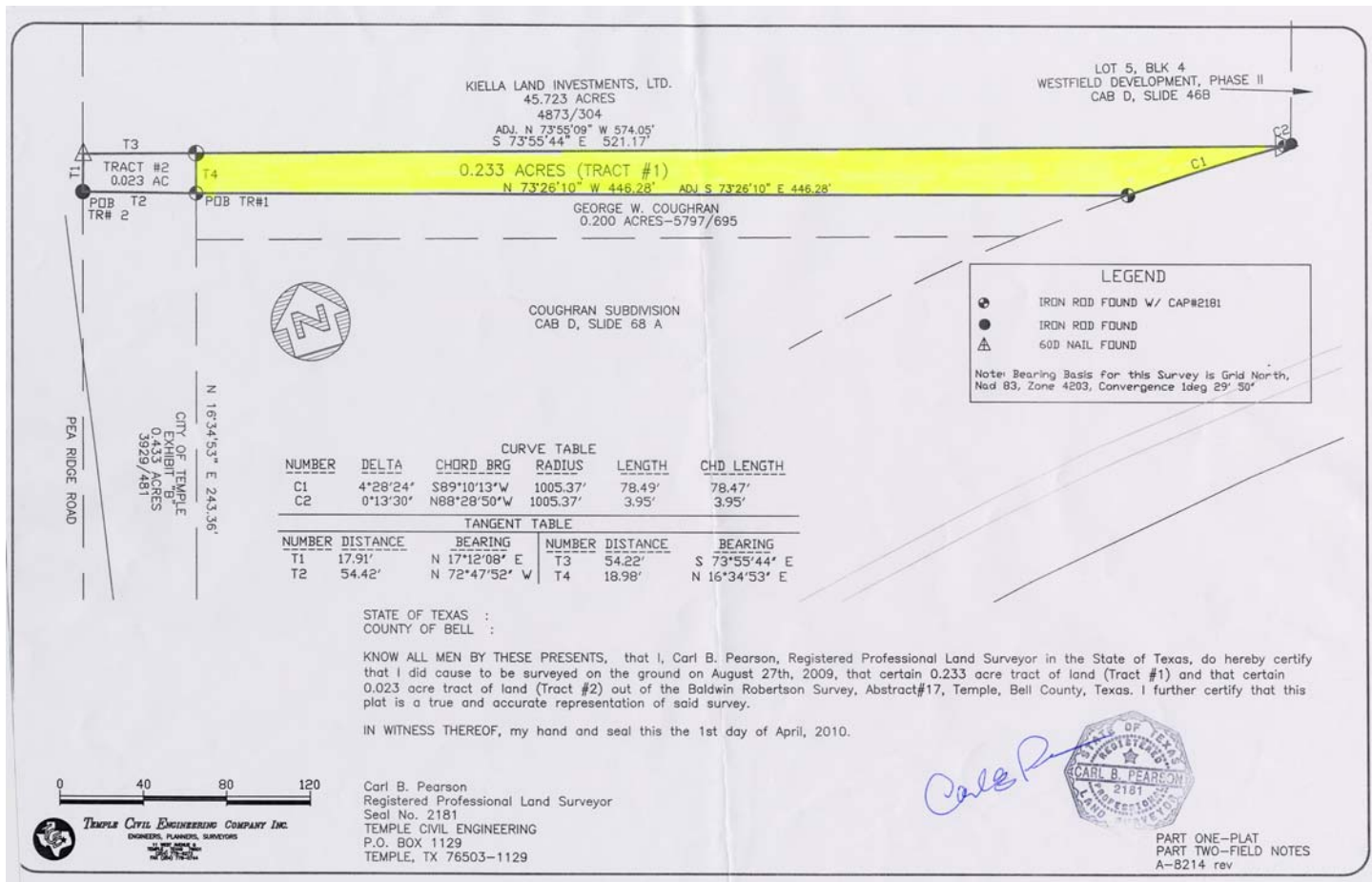
Kiella Land Investment Ms.





(Exhibit with Letter)

## Abandonment Surveys





Tract One

Field Notes for a 0.233 acre tract of land in Temple, Bell County, Texas, being out of and a part of the BALDWIN ROBERTSON SURVEY, ABSTRACT #17, Bell County, Texas, being a part of that certain 50 acre tract of land described in a deed to Edgar L. Von Rosenberg, et al, in Volume 1210, page 188, of the Deed Records, Bell County, Texas, and also being a part of the North one half of an abandoned City of Temple Road, said 0.233 acre tract of land being more fully described as follows:

Beginning at an iron rod found with cap#2181 for the Southwest corner of this tract of land, the Northeast corner of a 0.433 acre City of Temple tract of land described in a deed recorded in Volume 3929, page 481, of the Deed Records, Bell County, Texas, and the Northwest corner of a 0.200 acre tract of land described in a deed to George W. Coughran, recorded in Volume 5797, Page 695, of the Deed Records of Bell County, Texas.

Thence: North 16° 34' 53" East, 18.98 feet with the West line of this tract of land, to an iron set with CAP #2181 for the Northwest corner of this tract of land, said corner being in the North line of the aforementioned City of Temple Abandoned Road.

Thence: South 73° 55' 44" East, 521.17 feet with the North line of this tract of land and the North line of the aforementioned abandoned City of Temple Road to a 8D nail found at a fence corner post for the most Easterly corner of this tract of land and a corner in the North line of the aforementioned Abandoned City of Temple Road, said corner also being the most Westerly corner of a 1.251 acre State of Texas tract of land described in a deed recorded in Volume 758, page 107, of the Deed Records, Bell County, Texas, and bears North 88° 28' 50" West, 3.95 feet from the Southwest corner of Lot 5, Block 4, Westfield Development, Phase II, according to Plat of Record in Cabinet D, Slide 46, of the Plat Records of Bell County, Texas.

Thence: with the East line of this tract of land and the North line of FM 2304 being a curve to the left, a distance of 78.49 feet, to an iron rod found with CAP #2181 for the Southeast corner of this tract of land and the most Easterly corner of the aforementioned 0.200 acre tract of land, said curve having a radius of 1005.37 feet and a chord which bears S 89° 10' 13" W, 78.47 feet.

Thence: North 73° 26' 10" West, 446.28 feet, (adjoiner South 73° 26' 10" East, 446.28 feet) with the South line of this tract of land and with the North line of the aforementioned 0.200 acre tract of land, to the place of beginning, containing 0.233 acres of land.

Bearing Basis for this survey is Grid North, NAD 83, Zone 4203, Convergence = 1° 29' 50".

STATE OF TEXAS:

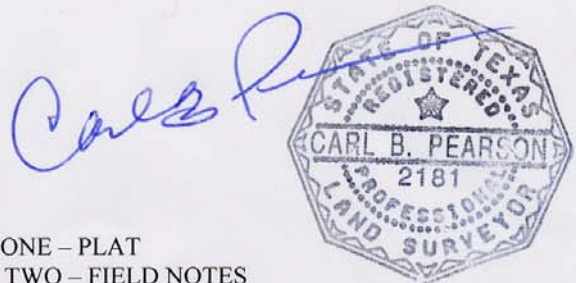
COUNTY OF BELL

KNOW ALL MEN BY THESE PRESENTS, that I, Carl B. Pearson, Registered Professional Land Surveyor, do hereby certify that I did cause to be surveyed on the ground on the 27<sup>th</sup> day of August, 2009, the above described tract of land and to the best of my knowledge and belief, said description is true and accurate.

IN WITNESS THEREOF, my hand and seal, this 1st day of April, 2010.

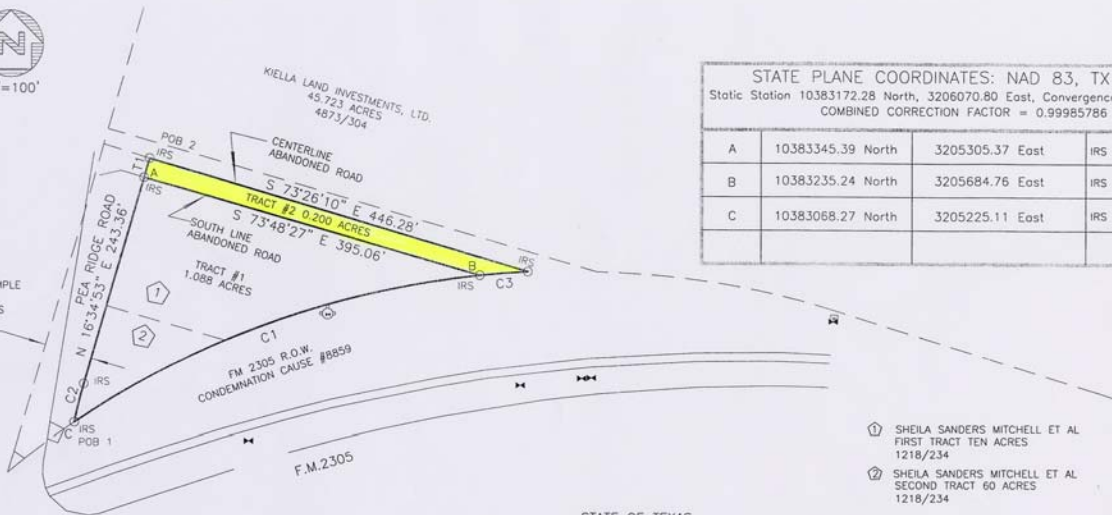
Carl B. Pearson  
Registered Professional Land Surveyor  
Seal No. 2181  
TEMPLE CIVIL ENGINEERING  
P.O. BOX 1129  
TEMPLE, TEXAS 76503-1129

PART ONE – PLAT  
PART TWO – FIELD NOTES  
FN – 8214 Tract One





CITY OF TEMPLE  
EXHIBIT "B"  
0.433 ACRES  
3929/481



STATE PLANE COORDINATES: NAD 83, TX ZONE 4203			
Static Station 10383172.28 North, 3206070.80 East, Convergence 1deg 29' 50.1"			
COMBINED CORRECTION FACTOR = 0.99985786			
A	10383345.39 North	3205305.37 East	IRS NW COR TRACT #1
B	10383235.24 North	3205684.76 East	IRS NE COR TRACT #1
C	10383068.27 North	3205225.11 East	IRS SW COR TRACT #1

- ① SHEILA SANDERS MITCHELL ET AL  
FIRST TRACT TEN ACRES  
1218/234
- ② SHEILA SANDERS MITCHELL ET AL  
SECOND TRACT 60 ACRES  
1218/234

		CURVE TABLE			
NUMBER	CHORD BRG	RADIUS	LENGTH	CHD LENGTH	
C1	S 70°02'11" W	1005.37'	493.99'	489.04'	
C2	N 13°50'37" E	440.00'	45.21'	45.19'	
ADJ	S 13°39'31" W	440.00'	45.21'	44.87'	
C3	S 85°40'32" W	1005.37'	54.85'	54.84'	

TANGENT TABLE	
NUMBER	DISTANCE
T1	22.13'
BEARING	
N 16°34'53" E	

STATE OF TEXAS :  
COUNTY OF BELL :

KNOW ALL MEN BY THESE PRESENTS, that I, Carl B. Pearson, Registered Professional Land Surveyor in the State of Texas, do hereby certify that I did cause to be surveyed on the ground on April 22, 2005, those certain 1.088 and 0.200 acre tracts of land out of the Baldwin Robertson Survey, Abstract #17, Bell County, Texas.

I further certify that this plot is a true and accurate representation of said survey.

IN WITNESS THEREOF, my hand and seal this the 25th day of April, 2005.

Carl B. Pearson  
Registered Professional Land Surveyor  
Sedl No. 2181

TEMPLE CIVIL ENGINEERING  
P.O. BOX 1129  
TEMPLE, TX 76503-1129



ONE-PLAT  
TWO-FIELD NOTES



## Tract 2

Field Notes for a 0.200 acre tract in Temple, Bell County, Texas, out of and a part of the BALDWIN ROBERTSON SURVEY, ABSTRACT #17, and the tract herein described being out of and a part of that certain ten acre First Tract described in a deed to Sheila Sanders Mitchell, et al, of record in Volume 1218, page 234, Deed Records, Bell County, Texas, said 0.200 acre tract being more fully described as follows:

Beginning at an iron rod set in the North line of the said First Tract and in the center line of an abandoned road for the Northwest corner of this tract and the Northeast corner of a certain 0.433 acre Pea Ridge Road right-of-way described in a deed to the City of Temple, Bell County, Texas, of record in Volume 3929, page 481, Deed Records, Bell County, Texas.

Thence: South  $73^{\circ} 26' 10''$  East, 446.28 feet with the North line of this tract, the North line of the said First Tract, and with the center line of the aforementioned abandoned road to an iron rod set in the North line of FM 2305 right-of-way, for the Northeast corner of this tract, said right-of-way established by Condemnation Clause #8859.

Thence: with the East line of this tract being a curve to the left in a Southwesterly direction, a distance of 54.85 feet, to an iron rod set in the South line of the said abandoned road for the Southeast corner of this tract, said curve having a radius of 1005.37 feet and a long chord which bears South  $85^{\circ} 40' 32''$  West, 54.84 feet.

Thence: South  $73^{\circ} 48' 27''$  East, 395.06 feet, with the South line of this tract and with the South line of the said abandoned road to an iron rod set in the East line of the aforementioned 0.433 acre tract for the Southwest corner of this tract.

Thence: North 16° 34' 53" East, 22.13 feet with the West line of this tract and with the East line of the said 0.433 acre tract to the place of BEGINNING containing 0.200 acres of land.

All bearings are grid bearings based on the Texas Plane System, NAD83 and referenced to a "static" station established by Temple Civil Engineering Company, X = 3206070.80, Y = 10383172.28 Convergence Angle = 1° 29' 50.1".

STATE OF TEXAS:  
COUNTY OF BELL

KNOW ALL MEN BY THESE PRESENTS, that I Carl B. Pearson, Registered Professional Land Surveyor, do hereby certify that I did cause to be surveyed on the ground on the 22nd day of April, 2005, the above described tract of land and to the best of my knowledge and belief, said description is true and accurate.

IN WITNESS THEREOF, my hand and seal, this 26<sup>th</sup> day of April, 2005.

Carl B. Pearson  
Registered Professional Land Surveyor  
Seal No. 2181

TEMPLE CIVIL ENGINEERING  
P.O. BOX 1129  
TEMPLE, TEXAS 76503-1129

PART ONE – PLAT  
PART TWO – FIELD NOTES  
FN – 7336 TRACT #1



ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, ABANDONING THE 0.433 UNNAMED ROAD, LOCATED ALONG THE NORTH EDGE OF COUGHRAN SUBDIVISION BETWEEN THE EAST RIGHT-OF-WAY OF SOUTH PEA RIDGE ROAD AND THE NORTH RIGHT-OF-WAY OF WEST ADAMS AVENUE; RETAINING A 15-FOOT WIDE UTILITY EASEMENT ALONG THE NORTH LINE OF THE ABANDONED ROAD; DECLARING FINDINGS OF FACT; AUTHORIZING CONVEYANCE OF SUCH PROPERTY BY A DEED WITHOUT WARRANTY; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND PROVIDING AN OPEN MEETINGS CLAUSE.

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**Whereas**, the City has a request to abandon the 0.433 acre unnamed road located along the north edge of Coughran Subdivision between the east right-of-way of South Pea Ridge Road and the north right-of-way of West Adams Avenue – the property owner along the south edge of the unnamed county road wants to use the abandoned roadway for additional parking for his restaurant and for access to the back half of his property;

**Whereas**, a 15-foot wide public utility easement needs to be retained along the north line of the abandoned road;

**Whereas**, the road is not necessary for the purpose of serving the general public or the owners of adjacent land for purposes of vehicular access; and

**Whereas**, the Staff recommends that the tract be abandoned in exchange for the fair market value of the property; and

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

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

**Part 1:** The City Council abandons the 0.433 acre unnamed road, located along the north edge of Coughran Subdivision between the east right-of-way of South Pea Ridge Road and the north right-of-way of West Adams Avenue, more fully described in Exhibit A, attached hereto for all purposes, retaining a 15-foot wide public utility easement along the north line of the abandoned road.

**Part 2:** The City Council authorizes the Mayor of the City of Temple, Texas, for the consideration set out in Part 3, to execute a Deed Without Warranty conveying the rights and interests of the City of Temple, Texas, to the abutting property owner, retaining a 15-wide public utility easement along the north line of the abandoned road, which when done, shall be and become a binding act and deed of the City of Temple.

**Part 3:** As consideration for the conveyance described in Part 2 hereof, the abutting property owner shall pay to the City of Temple the fair market value of \$5,859.

**Part 4:** If any provision of this ordinance or the application of any provision to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are declared to be severable.

**Part 5:** 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 **6<sup>th</sup>** day of **May**, 2010.

PASSED AND APPROVED on Second Reading the **20<sup>th</sup>** day of **May**, 2010.

THE CITY OF TEMPLE, TEXAS

\_\_\_\_\_  
WILLIAM A. JONES, III, Mayor

ATTEST:

ATTEST:

\_\_\_\_\_  
Clydette Entzminger  
City Secretary

\_\_\_\_\_  
Jonathan Graham  
City Attorney

STATE OF TEXAS           §

COUNTY OF BELL           §

This instrument was acknowledged before me on the \_\_\_\_\_ day of May, 2010, by WILLIAM A. JONES, III, Mayor of the City of Temple, Texas.

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



## COUNCIL AGENDA ITEM MEMORANDUM

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05/06/10  
Item #8  
Regular Agenda  
Page 1 of 1

### **DEPT./DIVISION SUBMISSION & REVIEW:**

Kathleen Person, Municipal Court Judge

**ITEM DESCRIPTION:** FIRST READING – PUBLIC HEARING – Consider adopting an ordinance establishing a juvenile case manager fund requiring certain defendants to pay as part of court costs a juvenile case manager fee, not to exceed \$5, for deposit in a restricted fund.

**STAFF RECOMMENDATION:** Conduct public hearing and adopt ordinance as presented in item description, on first reading, and schedule second reading and final adoption for May 20, 2010.

**ITEM SUMMARY:** Article 102.0174 of the Code of Criminal Procedure provides for the establishment of a *juvenile case manager fund*, which requires a defendant convicted of a misdemeanor offense in a municipal court to pay as a part of court costs a juvenile case manager fee not to exceed \$5.

The judge shall have the authority to waive the fee in cases of financial hardship.

The fund may only be used to finance the salary and benefits of a juvenile case manager. The Municipal Court position currently entitled 'Criminal/Juvenile Coordinator' will be changed to 'Criminal Coordinator' and new 'Juvenile Case Manager' positions will be created.

The juvenile case manager fund shall be administered by, or under the direction of, the governing body of the municipality, as required by the Code of Criminal Procedure." The restrictions on the fund are contained in the Code and generally require that the money be used exclusively to fund juvenile case manager salaries and benefits.

**FISCAL IMPACT:** Approximately \$50,000 - \$100,000 per year would be generated by this fund. The affiliated court fee cannot exceed \$5.

### **ATTACHMENTS:**

[CCP Art.102.0174](#)

[CCP Art. 45.056](#)

[Ordinance](#)

Art. 102.0174. COURT COSTS; JUVENILE CASE MANAGER

FUND. (a) In this article, "fund" means a juvenile case manager fund.

(b) The governing body of a municipality by ordinance may create a juvenile case manager fund and may require a defendant convicted of a fine-only misdemeanor offense in a municipal court to pay a juvenile case manager fee not to exceed \$5 as a cost of court.

(c) The commissioners court of a county by order may create a juvenile case manager fund and may require a defendant convicted of a fine-only misdemeanor offense in a justice court, county court, or county court at law to pay a juvenile case manager fee not to exceed \$5 as a cost of court.

(d) The ordinance or order must authorize the judge or justice to waive the fee required by Subsection (b) or (c) in a case of financial hardship.

(e) In this article, a defendant is considered convicted if:

- (1) a sentence is imposed on the defendant;
- (2) the defendant receives deferred disposition, including deferred proceedings under Article 45.052 or 45.053; or
- (3) the defendant receives deferred adjudication in county court.

(f) The clerks of the respective courts shall collect the costs and pay them to the county or municipal treasurer, as applicable, or to any other official who discharges the duties commonly delegated to the county or municipal treasurer for deposit in the fund.

(g) **A fund created under this section may be used only to finance the salary and benefits of a juvenile case manager employed under Article 45.056.**

(h) A fund must be administered by or under the direction of the commissioners court or under the direction of the governing body of the municipality.

Added by Acts 2005, 79th Leg., ch. 949, Sec. 35, eff. Sept. 1, 2005.



## Art. 45.056. Authority to Employ Juvenile Case Managers; Reimbursement

Art. 45.056. Authority to Employ Juvenile Case Managers; Reimbursement

(a) On approval of the commissioners court, city council, school district board of trustees, juvenile board, or other appropriate authority, a county court, justice court, municipal court, school district, juvenile probation department, or other appropriate governmental entity may:

(1) employ a case manager to provide services in cases involving juvenile offenders before a court consistent with the court's statutory powers; or

(2) agree in accordance with Chapter 791, Government Code, to jointly employ a case manager.

(b) A local entity may apply or more than one local entity may jointly apply to the criminal justice division of the governor's office for reimbursement of all or part of the costs of employing one or more juvenile case managers from funds appropriated to the governor's office or otherwise available for that purpose. To be eligible for reimbursement, the entity applying must present to the governor's office a comprehensive plan to reduce juvenile crimes in the entity's jurisdiction that addresses the role of the case manager in that effort.

(c) A county or justice court on approval of the commissioners court or a municipal court on approval of the city council may employ one or more full-time juvenile case managers to assist the court in administering the court's juvenile docket and in supervising its court orders in juvenile cases.

(d) Pursuant to Article 102.0174, the court may pay the salary and benefits of the juvenile case manager from the juvenile case manager fund.

(e) A juvenile case manager employed under Subsection (c) shall work primarily on cases brought under Sections 25.093 and 25.094, Education Code.

Added by Acts 2001, 77th Leg., ch. 1514, Sec. 9, eff. Sept. 1, 2001. Amended by Acts 2003, 78th Leg., ch. 283, Sec. 33, eff. Sept. 1, 2003.

Subsecs. (a) to (e) added by Acts 2005, 79th Leg., ch. 949, Sec. 34, eff. Sept. 1, 2005.

**ORDINANCE NO. \_\_\_\_\_**

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, ESTABLISHING A JUVENILE CASE MANAGER FUND BY REQUIRING CERTAIN DEFENDANTS TO PAY COURT COSTS NOT TO EXCEED \$5 FOR DEPOSIT IN A RESTRICTED FUND; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND PROVIDING AN OPEN MEETINGS CLAUSE.

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**WHEREAS**, in its 79th Regular Legislative Session, the Texas Legislature amended the Texas Code of Criminal Procedure, by adding a new Section 102.0174 thereto, which amendment authorizes municipalities, by ordinance, to create a "juvenile case manager fund" ("Fund") and require defendants convicted of 'fine-only misdemeanor offenses' to pay a case manager fee not to exceed five dollars (\$5.00) into such Fund, as a cost of court; and

**WHEREAS**, the City Council has considered the implementation of such a Fund, related to the City's Municipal Court, and has determined that the Fund would benefit the operations of the Municipal Court, as well as the health, safety and welfare of the Temple community at large, by providing the youth of the City with access to a juvenile case manager for the court.

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

**Part 1:** The City Council approves the establishment of a Juvenile Case Manager Fee, as set forth in the Texas Code of Criminal Procedure, Article 102.0174 ("Fee").

**Part 2:** A defendant convicted of a 'fine-only misdemeanor offense' in Municipal Court shall pay the Juvenile Case Manager Fee, not to exceed five dollars (\$5.00), as a court cost. The Fee does not apply to parking citations. For purposes of this ordinance, a person is considered to be "convicted" if:

- (A) A sentence is imposed on the defendant by the Court: or
- (B) The defendant receives deferred disposition from the Court, including deferred proceedings under Article 45.052 or 45.053 of the Texas Code of Criminal Procedure.

**Part 3:** The Municipal Court Judge is authorized to waive the Juvenile Case Manager Fee in cases of demonstrated financial hardship on the part of a convicted defendant, such as having insufficient resources or income to pay the Fee or, is otherwise unable to pay all or part of the underlying fine or costs.

**Part 4:** The Municipal Court clerks shall collect the Fee and pay it to the City Treasurer to be kept in a separate fund known as the "Juvenile Case Manager Fund" (the



“Fund”). The Fund may be used only to finance the salary of a juvenile case manager and the benefits of a juvenile case manager and any persons employed by the Municipal Court under Texas Code of Criminal Procedure, Article 45.056. The Fund shall be administered by or under the direction of the City Council.

**Part 5:** Upon approval of the City Council, the Municipal Court may employ one or more full-time juvenile case managers to assist the Court in administering the Court's juvenile docket and in supervising its court orders in juvenile cases.

**Part 6:** The juvenile case manager Fee shall be charged to and applied only to conduct that occurs on or after the date this ordinance is adopted.

**Part 7:** If for any reason any section, paragraph, subdivision, clause, phrase, word or provision of this ordinance shall be held invalid or unconstitutional by final judgment of a court of competent jurisdiction, it shall not affect any other section, paragraph, subdivision, clause, phrase, word, or provision of this ordinance, for it is the definite intent of this City Council that every section, paragraph, subdivision, clause, phrase, word or provision of this ordinance be given full force and effect for its purpose.

**Part 8:** This ordinance shall take effect immediately from and after its passage in accordance with the Charter of the City of Temple, Texas.

**Part 9:** 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 **6<sup>th</sup>** day of **May**, 2010.

PASSED AND APPROVED on Second Reading on the **20<sup>th</sup>** day of **May**, 2010.

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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05/06/10  
Item #9  
Regular Agenda  
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### **DEPT./DIVISION SUBMISSION & REVIEW:**

David A. Blackburn, City Manager

**ITEM DESCRIPTION:** Consider adopting a resolution authorizing the City Manager to submit an application for a Pass-Through Financing Project proposal for improvements to the Northwest Loop 363 with the Texas Department of Transportation (TxDOT).

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

**ITEM SUMMARY:** On April 01, 2010 Council approved a resolution to engage the services of Bucher, Willis & Ratliff Corporation (BWR) to assist the City in preparing a Pass-Through Financing Project Proposal for TxDOT's FY 2010 Category 12 Program Call submission. The services provided include preparing a proposal for improvements to NW Loop 363, addressing any and all questions from TxDOT during proposal review, and acting as a technical advisor during negotiations if the proposal is selected for funding.

The Pass-Through Financing Program was established as a means to benefit local areas by accelerating improvements in mobility and safety on the state highway system. Under the "pass through financing" concept, cities or counties enter into an agreement with TxDOT in which the parties agree that an addition to the State highway system will be constructed within the boundaries of the city/county, and that the city/county will finance the cost of those improvements upfront. In return TxDOT will reimburse the city or county that financed the improvements based on future usage of that road improvement by the public. With the future expansion of IH 35 through Temple nearing, the NW Loop 363 will serve as a reliever route for traffic on IH 35. We believe that our Loop 363 project in west Temple is an excellent candidate for a pass-through financing agreement with TxDOT.

The project scope under consideration is an expansion of Loop 363('I-35 Reliever') to include the following: 1) adding two frontage roads on NW Loop 363 from FM 2305/West Adams north up to the BNSF main line; 2) a grade separated interchange at SH36/Airport Road; 3) and a grade separation at Industrial Blvd. TxDOT has completed design and is scheduled to begin construction in June 2010 of the segment just south of the BNSF main line to include the bridge over the BNSF railroad up to the connection to North IH 35 with no turn arounds.

**FISCAL IMPACT:** According to the guidelines of the program, TxDot will only reimburse for the construction cost. The City of Temple will be responsible for all other cost. However, there is the ability to negotiate the allowed cost for construction which can close the gap between what TxDot will reimburse and the total cost to deliver and finance the project. Preliminary cost estimates for the project are \$56,160,000. The 'gap' (City of Temple's net share) of the project is estimated to be \$9,160,000 plus financing cost. Financing options for the gap between the state reimbursement and the total cost, principal and interest, for a Pass Through project can include debt issuance, available cash or a mix of both debt and cash.

The City has the ability to sell Pass Through Revenue and Limited Tax Bonds in order to fund the total project including the 'gap'. The bonds would be secured by both TxDOT reimbursements per an agreement and a limited tax pledge of the City. The pledge of the TxDOT reimbursements helps identify to rating agencies that the City and TxDOT, through an agreement, share a responsibility for debt service on the project. Other funding sources that will be included in the City's share include RZ#1 Funding and Utility Revenue bonds.

The issuance process is similar to any other debt financing by the City. The City Council requirement is approval of an Ordinance authorizing the issuance of the bonds after pricing of the bonds.

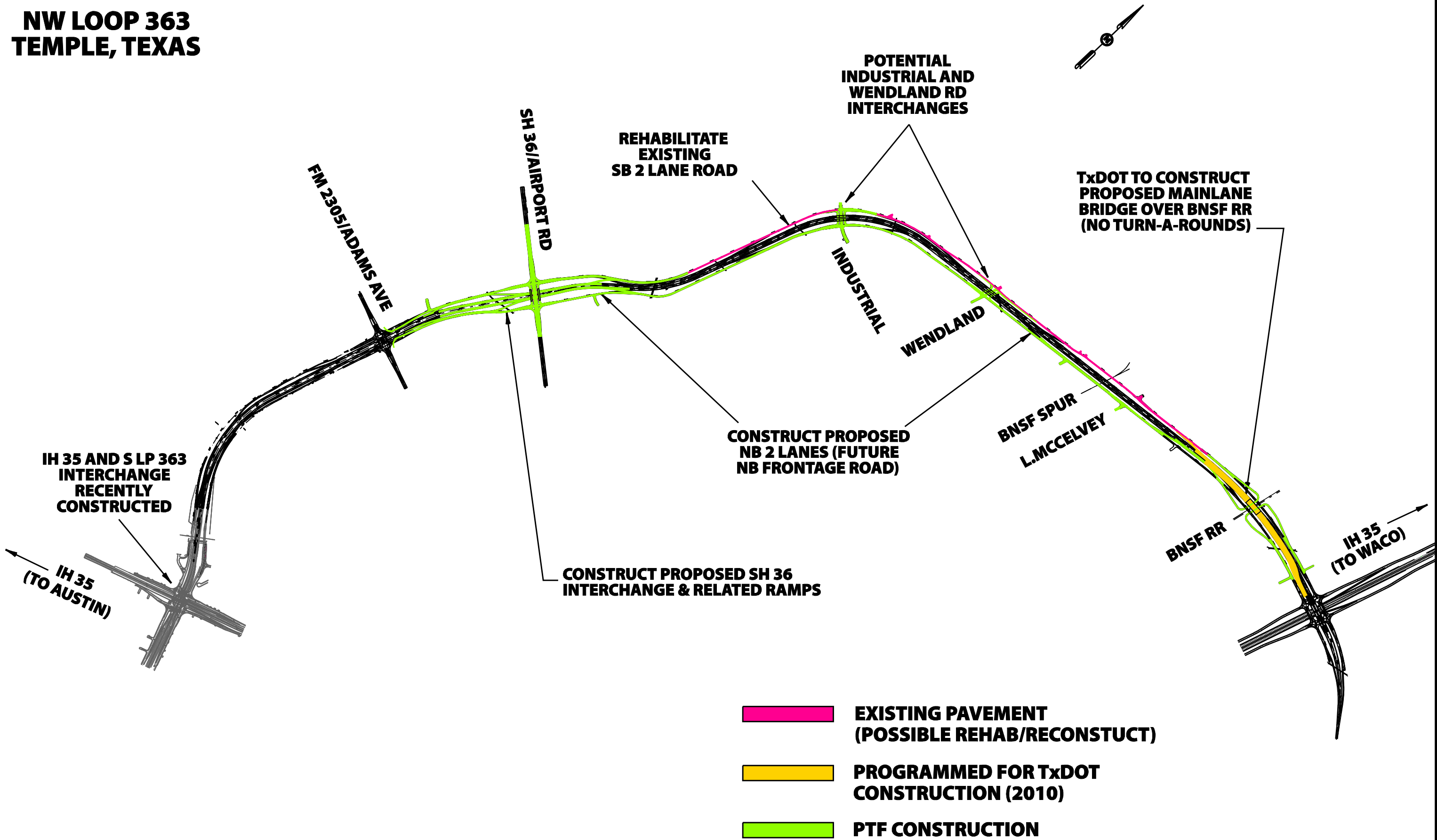
The debt structure and issuance associated with Pass Through Financing is complex and involves many variables. At this point in the application process, we are working with estimates and conservative assumptions. Dan Wegmiller, with Specialized Public Finance Inc. will be at the Council meeting on Thursday May 6, 2010 to address questions related to Pass Through Financing.

There is no fee for the services of BWR to assist in the preparation of the application. BWR offers the services as business development. If the City of Temple's application is selected and approved by TXDOT for the Pass-Through Program, BWR will be considered for project design and management on the NW Loop 363 project.

**ATTACHMENTS:**

[363 PTF Exhibit A](#)  
[Resolution](#)

**NW LOOP 363  
TEMPLE, TEXAS**



-  **EXISTING PAVEMENT  
(POSSIBLE REHAB/RECONSTUCT)**
-  **PROGRAMMED FOR TxDOT  
CONSTRUCTION (2010)**
-  **PTF CONSTRUCTION**

RESOLUTION NO. \_\_\_\_\_

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING THE CITY MANAGER TO FILE AN APPLICATION FOR A PASS-THROUGH FINANCING PROJECT PROPOSAL FOR IMPROVEMENTS TO THE NORTHWEST LOOP 363 WITH THE TEXAS DEPARTMENT OF TRANSPORTATION (TXDOT); AND PROVIDING AN OPEN MEETINGS CLAUSE.

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**Whereas**, on April 1, 2010, the City Council approved a resolution to engage the services of Bucher, Willis & Ratliff Corporation to assist the City in preparing a Pass-Through Financing Project Proposal for TxDOT's FY 2010 Category 12 Program Call submission – the services provided include preparing a proposal for improvements to Northwest Loop 363, address any questions from TxDOT during proposal review and act as a technical advisor during negotiations if the proposal is selected for funding;

**Whereas**, there is no fee for the services of Butcher, Willis & Ratliff Corporation to assist in the preparation of the application – the company offers the services as business development whereby if the City's application is selected and approved by TxDOT for the Pass-Through Program, the company will be considered for project design and management on the Northwest Loop 363 Project;

**Whereas**, the Staff requests authorization for the City Manager to submit an application with TxDOT to enter into a "pass through financing agreement" in which the parties agree that an addition to the State highway system will be constructed within the boundaries of the City, and that the City will finance the cost of those improvements upfront, in return for a promise by TxDOT to reimburse the City for financing the improvements based on future usage of the road improvement by the public;

**Whereas**, financing options for the gap between the State reimbursement and the total cost, principal and interest, for a Pass Through project can include debt issuance, available cash or a mix of both debt and cash – the debt structure and issuance is complex and involves many variables;

**Whereas**, final project costs, to include the total amount of "gap" funding required from the City won't be available under after the project is accepted into the Pass Through program at TxDOT and a subsequent agreement is negotiated with TxDOT which would come back to the City Council for consideration and approval; 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 submit an application for a Pass-Through Financing Project proposal, after approval as to form by the City Attorney, for improvements to the Northwest Loop 363 with the Texas Department of Transportation (TxDOT).

**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 **6<sup>th</sup>** day of **May**, 2010.

THE CITY OF TEMPLE, TEXAS

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WILLIAM A. JONES, III, Mayor

ATTEST:

APPROVED AS TO FORM:

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Clydette Entzminger  
City Secretary

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Jonathan Graham  
City Attorney



## COUNCIL AGENDA ITEM MEMORANDUM

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05/06/10  
Item #10  
Regular Agenda  
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### **DEPT./DIVISION SUBMISSION & REVIEW:**

Jonathan Graham, City Attorney

**ITEM DESCRIPTION:** Consider adopting a resolution approving a policy to require quarterly disclosure by City Councilmembers of amounts received by them, directly or indirectly, as a contractor, subcontractor or materials supplier from contractors entered into by the City or from projects that are funded in whole or in part from City funds or funds administered by the City.

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

**ITEM SUMMARY:** *Background.* This item relates to the request received from Councilmember Luna at the last City Council meeting, and is in response to the motion adopted by a majority of the City Council at that meeting. I want to emphasize that the City Council's motion directed me to prepare a policy that could be considered by the City Council. The motion made by the City Council was to direct the City Attorney to prepare a policy for the City Council's consideration that would "require the quarterly disclosure by City Councilmembers of gross income earned by them, directly or indirectly, as a contractor, subcontractor or materials supplier from contractors entered into by the City or from projects that are funded in whole or in part from City funds or funds administered by the City."

Depending on your perspective, the development of a policy that implements the Council's adopted motion may seem like either a relatively straightforward proposition (I could simply repeat the words of the motion and call it a "policy") or a potentially complicated one (we could engage in long discussions about what is meant by "gross income," "contractor," "subcontractor," "earned," "directly," and "indirectly").

A councilmember subject to the proposed policy will want to clearly know what kinds of activities the policy applies to (and for whom—just the councilmember or a close relative?) and how to report the results of those kinds of activities. A councilmember will also want to know what the standard of care/state of mind is . . . and what are the consequences of a failure to comply with the policy might be.

The City Council as a whole will want to know that they have adopted a straightforward rule, easy to apply, interpret and enforce. What lawyers typically refer to as a "**bright line**" rule.

I think it's important for the City Council to be aware that a policy like the one under consideration, while related to conflict of interest provisions under Chapter 171 of the Local Government Code and our own City Charter, is clearly a separate matter—and one self-imposed if adopted by the City Council. A conflict under Chapter 171 *requires* a councilmember to abstain from discussion or voting on an item. A conflict under Chapter 171 that requires abstention may not result in payments, directly or indirectly to that councilmember, that might trigger some reporting/disclosure under this new policy under consideration by the City Council. That highlights a fundamental difference between Chapter 171 and the policy under consideration—Chapter 171 deals with avoiding real or perceived financial conflicts of interest. So even when a councilmember isn't a low bidder, or isn't sure that he or she may be a potential subcontractor, they abstain even though they may never generate reportable income or payments from the City—directly or indirectly. Or they may abstain from discussing or voting on a zoning case that never results in or relates to a disclosure of payments received from the City.

I am also considering the relationship between this proposed policy and Chapter 176 of the Local Government Code, which requires the disclosure of certain relationships between public officials and individuals who do business with cities.

As this item goes to “packet,” I am still working through a draft of the policy itself. I fully expect to have a draft policy ready for discussion and possible action by the City Council on May 6<sup>th</sup>. As I have given thought to this policy over the last few weeks, it is apparent to me that during our discussion of this item next week, there are several areas that I will be asking the City Council to identify the fence posts on in terms of defining the boundaries and application of the policy itself. For example, I'll have several hypothetical situations and ask the City Council as a whole whether they view those hypothetical facts as ones that should trigger a disclosure/reporting requirement under the proposed policy.

I have asked Clydette to reserve some time for discussion of this item at our workshop on the 6<sup>th</sup> at 4 p.m.

I hope to get a draft policy to you on Monday or Tuesday so that you have a chance to review it prior to our Thursday meeting.

**FISCAL IMPACT:** n/a

**ATTACHMENTS:**

Draft Policy (to be provided)

[Resolution](#)



RESOLUTION NO. \_\_\_\_\_

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, APPROVING A POLICY TO REQUIRE QUARTERLY DISCLOSURE BY CITY COUNCILMEMBERS OF AMOUNTS RECEIVED BY THEM, DIRECTLY OR INDIRECTLY, AS A CONTRACTOR, SUBCONTRACTOR OR MATERIALS SUPPLIER FROM CONTRACTS ENTERED INTO BY THE CITY OR FROM PROJECTS THAT ARE FUNDED IN WHOLE OR IN PART FROM CITY FUNDS OR FUNDS ADMINISTERED BY THE CITY; AND PROVIDING AN OPEN MEETINGS CLAUSE.

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**Whereas,** on April 15, 2010, the City Council passed a resolution directing the City Attorney to develop a policy to require quarterly by City Councilmembers of gross income earned by them, directly or indirectly, as a contractor, subcontractor or materials supplier from contracts entered into by the City or from projects that are funded in whole or in part from City funds or funds administered by the City; and

**Whereas,** the City Council has considered the matter and deems it in the public interest to adopt this policy.

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

**Part 1:** The City Council adopts a policy to require quarterly disclosure by City Councilmembers of amounts received by them, directly or indirectly, as a contractor, subcontractor or materials supplier from contracts entered into by the City or from projects that are funded in whole or in part from City funds or funds administered by the City, said policy being more fully described in the attached 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 6<sup>th</sup> day of May, 2010.

THE CITY OF TEMPLE, TEXAS

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WILLIAM A. JONES, III, Mayor

ATTEST:

APPROVED AS TO FORM:

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Clydette Entzminger  
City Secretary

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Jonathan Graham  
City Attorney