



**MEETING OF THE
TEMPLE CITY COUNCIL**

MUNICIPAL BUILDING

2 NORTH MAIN STREET

THURSDAY, MAY 20, 2010

1:00 P.M.

CITY COUNCIL CHAMBERS – 2ND FLOOR

WORKSHOP AGENDA

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

Keep Temple Beautiful
Ralph Wilson Youth Clubs of Temple, Inc.
Bell County Human Services Dept. (HELP Center)
Temple Civic Theatre
Temple Parks Foundation
Tribal America Network
Visually Impaired Persons Who are VIPs

3:00 P.M.

3RD FLOOR CONFERENCE ROOM

WORKSHOP AGENDA

1. Discuss, as may be needed, Regular Meeting agenda items for the meeting posted for Thursday, May 20, 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.
3. Discuss the City's Demolition Policy.
4. Present and discuss the 2009-2010 mid-year budget and Capital Improvement Program; and preliminary FY 2010-2011 budget and Capital Improvement Program.

5:00 P.M.

MUNICIPAL BUILDING

**2 NORTH MAIN STREET
CITY COUNCIL CHAMBERS – 2ND 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) *Public Works Week* May 16-22, 2010
4. Receive the [Planning and Zoning Commission Annual Report](#).

III. PUBLIC COMMENTS

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

IV. ELECTION ITEMS

5. [2010-6009-R](#): Consider adopting a resolution electing a Mayor Pro Tem for the City of Temple.

V. CONSENT AGENDA

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

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

Minutes:

- (A) [May 6, 2010 Special Called and Regular Meeting](#)

Contracts, Leases & Bids

- (B) [2010-6010-R](#): Consider a resolution authorizing entering into to an Interlocal Agreement with the Belton Independent School District to provide school locations for after school latchkey programming.
- (C) [2010-6011-R](#): Consider adopting a resolution authorizing a contract with BlackTopper Technology, Inc. of Blanco for the FY 2010 Seal Coat Program in the estimated amount of \$649,019.
- (D) [2010-6012-R](#): Consider adopting a resolution authorizing a contract with Brockway, Gersbach, Franklin and Niemeier, P.C. to perform the annual City of Temple audit for an amount not to exceed \$62,500.
- (E) [2010-6013-R](#): Consider adopting a resolution authorizing the following technology contracts and purchases for the new Temple Fire Station:
1. Video surveillance system from Redmoon Inc. of Plano in the amount of \$26,399.54 under State of Texas DIR contract DIR-SDD-475;
 2. Card Access System from A-1 Fire & Security Equipment Company under GSA Contract GSO 7F 7733C in the amount of \$30,262.05; and
 3. Phone system from Affiliated Telephone of Austin in the amount of \$31,184.86 under DIR contract #DIR-SDD-289.
- (F) [2010-6014-R](#): Consider adopting a resolution authorizing a construction contract with Patin Construction, LLC of Taylor for construction services required to install water and wastewater utility relocations and improvements along 57th Street, Phase I of a two phase project that is associated with the Texas Department of Transportation IH 35 & Loop 363 Highway Improvement Project, in an amount not to exceed \$347,625 and declaring an official intent to reimburse this expenditure made prior to the issuance of tax-exempt obligations.

- (G) [2010-6015-R](#): Consider adopting a resolution authorizing a contract with Chapman Marine, Inc., of Austin in the estimated amount of \$60,000 for the emergency removal of sedimentation in the Leon River outside of the Water Treatment Plant Intake; and a supplemental contract with S&M Vacuum and Waste, Ltd., of Killeen in the estimated amount of \$35,000 for the emergency disposal of removed sediments.
- (H) [2010-6016-R](#): Consider adopting a resolution authorizing an amendment to the professional services agreement with Kasberg, Patrick & Associates, LP, for additional engineering services required to complete design improvements necessary to address the solids removal and disposal process from the Membrane Water Treatment Plant waste stream in an amount not to exceed \$77,078.
- (I) [2010-6017-R](#): Consider adopting authorizing a consulting agreement with Tristem, Ltd. of Hewitt for an audit of utility bills paid by the City.
- (J) [2010-6018-R](#): Consider adopting a resolution authorizing a construction contract with Hunter Knepshield Company of Plano for the purchase and installation of a pedestrian bridge at Jeff Hamilton Park utilizing the BuyBoard in the amount of \$49,213.12.
- (K) [2010-6019-R](#): Consider adopting a resolution authorizing a Chapter 380 “matching grant” agreement with Central Texas Lenders, Inc. dba First Finance & Furniture for redevelopment improvements at 108 South Main Street in downtown Temple, located within the 1st Street Strategic Investment Zone corridor, in an amount not to exceed \$22,500 plus waiver of permits and fees.
- (L) [2010-6020-R](#): Consider adopting a resolution authorizing a Chapter 380 “matching grant” agreement with James Fertsch for redevelopment improvements at 12 East Central Avenue in downtown Temple, located within the 1st Street Strategic Investment Zone corridor, in an amount not to exceed \$28,500 plus waiver of permits and fees.
- (M) [2010-6021-R](#): Consider adopting a resolution authorizing a Chapter 380 “matching grant” agreement James Fertsch for redevelopment improvements on 14 East Central Avenue in downtown Temple, located within the 1st Street Strategic Investment Zone corridor, in an amount not to exceed \$28,500 plus waiver of permits and fees.

Ordinances – Second and Final Reading

- (N) [2010-4349](#): SECOND READING – Z-FY-10-17: Consider adopting an ordinance authorizing the voluntary annexation of a 1.7± acre tract of land located west of FM 2271, north of Live Oak Ridge Road, out of the G.W. Lindsey Survey, Abstract 513 and zoning the area Planned Development General Retail District (PD-GR).
- (O) [2010-4360](#): SECOND READING – 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.

Misc.

- (P) [2010-6022-R](#): Consider adopting a resolution authorizing the grant application for the Bureau of Justice Assistance Bulletproof Vest Partnership Program of 2010 for the purchase of ballistic vests and replacements for the Police Department in the amount of \$22,365.
- (Q) [2010-6023-R](#): Consider adopting a resolution authorizing Temple Fire & Rescue to apply for a U.S. Department of Homeland Security, FY 2010 Assistance to Firefighters Grant Program for the purchase of outdoor live fire props and an associated training program in the amount of \$142,000.
- (R) [2010-6024-R](#): Consider adopting a resolution authorizing funding from the Child Safety Fees for the 2010-2011 Travis Science Academy CPR Training Program in the amount \$3,000.
- (S) [2010-6025-R](#): Consider adopting a resolution authorizing funding from the Child Safety Fees for the 2010 Junior Fire Cadet Program in the amount of \$17,874.
- (T) [2010-6026-R](#): Consider adopting a resolution approving second quarter financial results for Fiscal Year 2010.
- (U) [2010-6027-R](#): Consider adopting a resolution authorizing budget amendments for fiscal year 2009-2010.

VI. REGULAR AGENDA

ORDINANCES

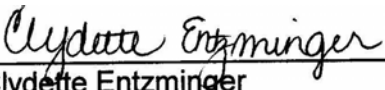
- 7. [2010-4361](#): FIRST READING - PUBLIC HEARING - Z-FY-09-29: Consider adopting an ordinance amending Chapter 37, "Traffic," of the Code of Ordinances of the City of Temple by adding requirements for parking in residential yards.
- 8. [2010-4362](#): FIRST READING – PUBLIC HEARING - Z-FY-10-26: Consider adopting an ordinance authorizing a Conditional Use Permit (CUP) to allow display for sale in a Commercial District on Lot 1, Block 1, Wildflower Commerce Park IV, at 5615 SW H K Dodgen Loop.
- 9. [2010-4363](#): FIRST READING – PUBLIC HEARING - Z-FY-10-29: Consider adopting an ordinance authorizing a zoning change from Commercial District and General Retail District to Planned Development – Commercial District (PD-C) on Lots 1 - 4, Block 33, Temple Heights Addition, located at 2015 West Avenue M, 1305 and 1307 South 41st Street.

RESOLUTIONS

- 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.

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

I hereby certify that a true and correct copy of this Notice of Meeting was posted in a public place at 1:40 PM, on May 14, 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

05/20/10
Item #3
Regular Agenda
Page 1 of 1

DEPT./DIVISION SUBMISSION & REVIEW:

William A. Jones, III, Mayor

ITEM DESCRIPTION: Presentation of Proclamation:

Public Works Week May 16—22, 2010

STAFF RECOMMENDATION: Present proclamation as presented in item description.

ITEM SUMMARY: This proclamation was requested by the City's Public Works Department and will be received by representatives from that Department.

FISCAL IMPACT: None

ATTACHMENTS:

None



COUNCIL AGENDA ITEM MEMORANDUM

05/20/10
Item #4
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DEPT./DIVISION SUBMISSION & REVIEW:

Tim Dolan, AICP, Planning Director

ITEM DESCRIPTION: Receive the Planning and Zoning Commission Annual Report.

STAFF RECOMMENDATION: Accept report as presented in item description.

ITEM SUMMARY: Mike Pilkington, Chair of Planning and Zoning Commission, will present the 2009 Planning and Zoning Commission Annual Report.

FISCAL IMPACT: N/A

ATTACHMENTS: N/A



COUNCIL AGENDA ITEM MEMORANDUM

05/20/10
Item #5
Regular Agenda
Page 1 of 1

DEPT./DIVISION SUBMISSION & REVIEW:

William A. Jones, III, Mayor

ITEM DESCRIPTION: Consider adopting a resolution electing a Mayor Pro Tem for the City of Temple.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: Section 4.6 of the City Charter states....“the City Council shall elected one of its members as a vice-chairman, who shall be known as Mayor Pro Tem, and who shall have and exercise all powers of Mayor in the absence of, or during the disability, from any cause, of the Mayor. The Mayor and Mayor Pro Tem shall hold their office (unless sooner removed as provided herein) until the first meeting of the City Council held after the next regular Municipal Election and their successors have been elected and qualified.”

In order to comply with the Charter requirement, it is recommended the City Council elected a Mayor Pro Tem at this meeting.

FISCAL IMPACT: None

ATTACHMENTS:

[Resolution](#)

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
TEMPLE, TEXAS, ELECTING A MAYOR PRO TEM FOR THE CITY
OF TEMPLE; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, Section 4.6 of the City Charter provides that the City Council shall elect one of its members as a vice-chairman, who shall be known as Mayor Pro Tem, and who shall have and exercise all powers of Mayor in the absence of, or during the disability, from any cause, of the Mayor;

Whereas, in order to comply with the Charter requirement, the City Council desires to elect a Mayor Pro Tem; 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 elects _____ to be Mayor Pro Tem for the City of Temple, to hold the office (unless sooner removed as provided in the Charter) until the first meeting of the City Council held after the next regular Municipal Election and successor has been elected and qualified.

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 ____ 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

05/20/10
Item #6(A)
Consent Agenda
Page 1 of 1

DEPT./DIVISION SUBMISSION & REVIEW:

Clydette Entzminger, City Secretary

ITEM DESCRIPTION: Approve Minutes:

(A) May 6, 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:

May 6, 2010 Special Called and Regular Meeting (to be provided)



COUNCIL AGENDA ITEM MEMORANDUM

05/20/10
Item #6(B)
Consent Agenda
Page 1 of 1

DEPT./DIVISION SUBMISSION & REVIEW:

Ken Cicora, Parks and Leisure Services Director

ITEM DESCRIPTION: Consider a resolution authorizing entering into to an Interlocal Agreement with the Belton Independent School District to provide school locations for after school latchkey programming.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: We are requesting City Council approval to enter into an Interlocal Agreement with the Belton Independent School District (B.I.S.D.). The agreement would allow the Parks and Leisure Services Department to continue to provide an after school program at three (3) B.I.S.D. schools that are located in the Temple city limits.

On April 14, 2009 the Parks and Leisure Services Department received a Request For Qualifications (RFQ) for Latch Key Program Management Services. The RFQ was submitted on April 30, 2009. On June 16, 2009, the Department was informed it was awarded the contract to provide "Latch Key Program Management Services" at Tarver, Pirtle, and Lakewood Elementary Schools. During the 2009-10 school year the Temple Parks and Leisure services department provided an after school program for one hundred and ten 5 to 12 year olds, Monday through Friday, from 3 pm to 6 pm. It also allowed for the opportunity to serve Temple residents in West Temple, an area that until recently has had minimal recreational programs or facilities.

The term of this agreement will be from July 1, 2010 through June 30, 2011, at which time the parties may extend or renegotiate the agreement by mutual consent.

Additionally, B.I.S.D. has agreed to waive all facility usage fees during the time the program is being offered, thus allowing the program to be offered at an affordable rate for the participants.

This agreement with B.I.S.D. helps meet the City Council goal of jointly partnering with school districts to provide services and programs.

FISCAL IMPACT: None

ATTACHMENTS:

[Resolution](#)

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING AN INTERLOCAL AGREEMENT WITH THE BELTON INDEPENDENT SCHOOL DISTRICT (BISD) TO PROVIDE AFTER-SCHOOL LATCHKEY PROGRAMMING; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, the Parks and Leisure Services Department requests authorization for an interlocal agreement with the Belton Independent School District (BISD) to provide after-school latchkey programs for Tarver, Pirtle, and Lakewood Elementary Schools;

Whereas, BISD has agreed to waive all facility usage fees during the time the program is being offered, thus allowing the program to be offered at an affordable rate for the participants – the agreement will help meet the goal of jointly partnering with the school districts to provide services and programs;

Whereas, the term of the agreement would be from July 1, 2010, through June 30, 2011, at which time the parties may extend or renegotiate the agreement by mutual consent; and

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

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

Part 1: The City Council authorizes the City Manager, or his designee, to execute an interlocal agreement with the Belton Independent School District, after approval as to form by the City Attorney, to provide after-school latchkey programming.

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 **20th** day of **May**, 2010.

THE CITY OF TEMPLE, TEXAS

WILLIAM A. JONES, III, Mayor

ATTEST:

Clydette Entzminger
City Secretary

APPROVED AS TO FORM:

Jonathan Graham
City Attorney



COUNCIL AGENDA ITEM MEMORANDUM

05/20/10
Item #6(C)
Consent Agenda
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DEPT./DIVISION SUBMISSION & REVIEW:

Nicole Torralva, P.E., Interim Director of Public Works
Kenny Henderson, Superintendent of Street Services

ITEM DESCRIPTION: Consider adopting a resolution authorizing a contract with BlackTopper Technology, Inc. of Blanco for the FY 2010 Seal Coat Program in the estimated amount of \$649,019.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: On May 4, 2010, the City received four (4) bids for construction of the FY 2010 Seal Coat Program. Unlike recent prior years, this year's bid schedule included provisions for the striping work required to finish recently seal-coated streets. Re-marking streets wasn't required in prior years under the seal coating program as streets that had striping were typically overlaid versus seal coated. However, in an effort to stretch allocated funding for street improvements, certain streets that have been typically overlaid are now being recommended for seal coating. The bid tabulation with unit costs and streets being recommended for seal coat with estimated quantities are attached.

The low bidder on the project is BlackTopper Technology, Inc. of Blanco, Texas. The City has done business with BlackTopper in the past and finds them a responsible bidder. Comparatively, the price per square yard for seal coating was \$1.76/SY in FY 2008 and FY 2009, compared to this year's recommended price of \$1.68/SY.

FISCAL IMPACT: Funds in the amount of \$398,908 are budgeted in the FY 2010 Operating budget in account 110-3400-531-2322. An additional \$250,111 is available within the Reinvestment Zone No. 1's Financing Plan in account 795-9500-531-6317, project 100138, to fund the seal coat program for streets within the Reinvestment Zone boundaries. The unit price award amount is \$1.68 per square yard.

(Estimated annual expenditure of \$649,019; if additional funds are identified for seal coating throughout the contract term, then the contract amount will increase accordingly.)

ATTACHMENTS:

[Bid Tabulation](#)
[Identified Streets](#)
[Project Map](#)
[Resolution](#)

**Tabulation of Bids Received
on May 4, 2010 at 2:00 p.m.
Seal Coat**

		Bidders							
		Clark Construction San Antonio		Big Tex Paving Johnson City		Blacktopper Technology, Inc Blanco, Texas		APAC - Texas Belton	
Description	Est Qty	Unit Price	Total Price	Unit Price	Total Price	Unit Price	Total Price	Unit Price	Total Price
Seal Coat	200,000	\$2.45	\$490,000.00	\$1.71	\$342,000.00	\$1.68	\$336,000.00	\$2.13	\$426,000.00
4" White Thermoplastic Striping	6,300	\$0.30	\$1,890.00	\$0.28	\$1,764.00	\$0.28	\$1,764.00	\$0.28	\$1,764.00
8" White Thermoplastic Striping	2,660	\$0.85	\$2,261.00	\$0.65	\$1,729.00	\$0.65	\$1,729.00	\$0.65	\$1,729.00
4" Double Yellow Thermoplastic Striping	21,150	\$0.65	\$13,747.50	\$0.55	\$11,632.50	\$0.55	\$11,632.50	\$0.55	\$11,632.50
24" White for X-Walks Thermoplastic Strip	1,062	\$5.50	\$5,841.00	\$5.20	\$5,522.40	\$5.20	\$5,522.40	\$5.20	\$5,522.40
24" White Thermoplastic Striping for Stop	1,267	\$5.50	\$6,968.50	\$5.20	\$6,588.40	\$5.20	\$6,588.40	\$5.20	\$6,588.40
Left Arrows	27	\$99.00	\$2,673.00	\$95.00	\$2,565.00	\$95.00	\$2,565.00	\$95.00	\$2,565.00
Right Arrows	3	\$99.00	\$297.00	\$95.00	\$285.00	\$95.00	\$285.00	\$95.00	\$285.00
Straight Arrows	5	\$99.00	\$495.00	\$95.00	\$475.00	\$95.00	\$475.00	\$95.00	\$475.00
Straight /Turn Combo	2	\$155.00	\$310.00	\$110.00	\$220.00	\$110.00	\$220.00	\$110.00	\$220.00
RxR Symbols	4	\$300.00	\$1,200.00	\$395.00	\$1,580.00	\$395.00	\$1,580.00	\$395.00	\$1,580.00
Total Bid Price		\$525,683.00		\$374,361.30		\$368,361.30		\$458,361.30	
Bid Bond?		5%		5%		5%		5%	

Insurance Affidavit?	Yes	Yes	Yes	Yes
Bond Affidavit?	Yes	Yes	Yes	Yes
Acknowledge Addendum	Yes	Yes	Yes	Yes
Credit Check?	Yes	Yes	Yes	Yes

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

**Note: Highlighted bid is recommended
for Council approval.**

Belinda Mattke

Belinda Mattke, Director of Purchasing

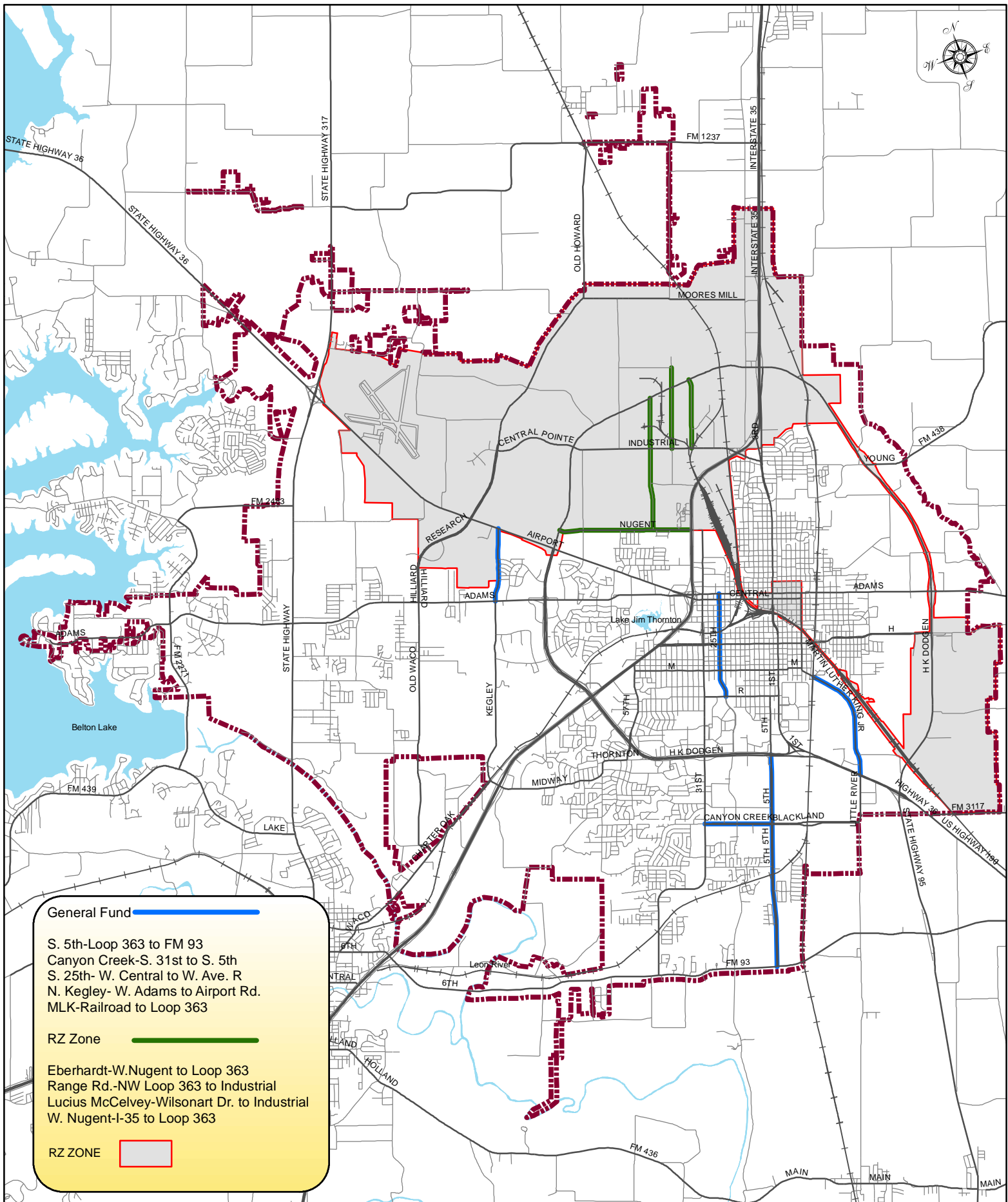
4-May-10

Date

2010 Seal Coat

Street Name	From/To	Sq. Yards	Seal Coat Cost	Striping Cost	Total Cost
General Fund					
S 5th St	Loop 363/FM 93	84,361	\$ 141,726	\$ 15,030	\$ 156,756
N Kegley Rd	W Adams Ave(FM 2305)/Airport Rd(Hwy 53)	24,230	\$ 40,706	\$ 4,310	\$ 45,016
Canyon Creek Dr	S 5th St/S 31st St.	28,517	\$ 47,909	\$ 4,646	\$ 52,555
S 25th St	W Central Ave/W Ave R	32,902	\$ 55,275	\$ 10,722	\$ 65,997
MLK Blvd	RxR/Loop	41,510	\$ 69,737	\$ 7,069	\$ 76,806
			Total General Fund		\$ 397,131
Reinvestment Zone					
W Nugent Ave	I35/Loop	31,525	\$ 52,962	\$ 9,345	\$ 62,307
Eberhardt Rd.	W Nugent Ave/Loop	44,865	\$ 75,373	\$ 8,855	\$ 84,228
Lucius McCelvey	Wilsonart Dr./Industrial Blvd	27,704	\$ 46,543	\$ 3,642	\$ 50,185
Range Rd	NW Loop 363/Industrial Blvd	23,250	\$ 39,060	\$ 3,639	\$ 42,699
			Total Reinvestment Zone		\$ 239,419

Total Project Cost	\$ 636,550
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City of Temple

2010 Sealcoats

1 inch = 8,400 feet



A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING A CONTRACT WITH BLACKTOPPER TECHNOLOGY, INC., OF BLANCO, TEXAS, FOR CONSTRUCTION OF THE FY 2010 SEAL COAT PROGRAM BASED ON A UNIT PRICE OF \$1.68 PER SQUARE YARD; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, on March 4, 2010, the City received 4 bids for the construction of the FY 2010 Seal Coat Program;

Whereas, Staff recommends accepting the bid from BlackTopper Technology, Inc., of Blanco, Texas, based on a unit price of \$1.68 per square yard;

Whereas, funds are available in Account No. 110-3400-531-2322 and 795-9500-531-6317 for this project – estimated annual amount is \$649,019; and

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

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

PART 1: The City Council authorizes the City Manager, or his designee, to execute a contract between the City of Temple and BlackTopper Technology, Inc., of Blanco, Texas, after approval as to form by the City Attorney, for construction of the FY 2010 Seal Coat Program based on a unit price of \$1.68 per square yard.

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 **20th** day of **May**, 2010.

THE CITY OF TEMPLE, TEXAS

WILLIAM A. JONES, III, Mayor

ATTEST:

APPROVED AS TO FORM:

Clydetta Entzminger
City Secretary

Jonathan Graham
City Attorney



COUNCIL AGENDA ITEM MEMORANDUM

05/20/10
Item #6(D)
Consent Agenda
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DEPT./DIVISION SUBMISSION & REVIEW:

Traci L. Barnard, Director of Finance

ITEM DESCRIPTION: Consider adopting a resolution authorizing a contract with Brockway, Gersbach, Franklin and Niemeier, P.C. to perform the annual City of Temple audit for an amount not to exceed \$62,500.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: This item is to engage the audit firm of Brockway, Gersbach, Franklin and Niemeier, P.C. to perform the annual audit of the City of Temple. This will be the first year of a five year contract for audit services. The contract will be renewed annually. Staff anticipates the audit will be completed and presented to the Council in February 2011.

Listed below are the cost proposals related to audit services:

	Fiscal Year Ending	Base Fee
First Year	2010	\$ 62,500
Second Year	2011	65,600
Third Year	2012	67,200
Fourth Year	2013	68,900
Fifth Year	2014	70,500

Per the Local Government Code Section 252.022, professional services are exempt from the competitive bidding rules.

FISCAL IMPACT: FY 2008 was the first year for the implementation of the new risk based standards which cost an additional \$10,400 to our base audit fee of \$42,700. The total audit fee for FY 2008 was \$53,100. The FY 2009 total audit fee was \$55,250.

\$62,500 is proposed in the FY 2010-2011 preliminary budget, to be filed on June 25, 2010. The fee for FY 2010 is impacted by new governmental sampling guidelines and the American Recovery and Reinvestment Act (ARRA) funds spent in 2010 will, by definition, increase the audit risk.

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

City Council and
City of Temple, Texas
Temple, Texas

Understanding of Proposed Engagement

We have attached our engagement letter to provide financial and compliance audit services for the City of Temple, Texas (the City) as of and for the year ending September 30, 2010. We have also provided fee estimates for the next four years, providing the City the option to extend this contract for a period of up to five years.

Unique Qualifications

We are uniquely qualified to provide these services based on the engagement teams ***personal knowledge of the City***, its system of internal controls, its risk assessment process and its overall control environment. Additionally, the Firm has demonstrated its ***commitment to excellence*** in financial reporting and in providing assurance services. Our risk based approach will benefit from this first hand knowledge and our recent rotation on the engagement team will allow us to provide continuity on this engagement.

BROCKWAY, GERSBACH, FRANKLIN & NIEMEIER, P.C.'s qualifications are as follows:

- ***Eleven experienced audit professionals qualified to perform yellow book audit engagements with 70 plus years of combined audit experience;***
- ***During the preceding year, this audit team performed audits subject to the yellow book standards on 43 separate entities including local governments and non profit corporations representing over 8,300 audit hours;***
- ***The audit team is equipped with ProSystem fx Engagement, Checkpoint, on line PPC audit guides and practice aids, including a comprehensive governmental library and on line disclosure tools, and PPC's Smart Practice Aids, and***
- ***Carneiro, Chumney & Co., L.C. has performed an independent review of the Firm's system of quality control for the accounting and auditing practice subject to the standards of the Peer Review Board of the AICPA.***

Changes in 2010

Your audit engagement for 2010 will be similar to your 2009 engagement with two exceptions. A new governmental sampling guide will be released in May and the American Recovery and Reinvestment Act (ARRA) funds spent in 2010 will, by definition, increase audit risk.

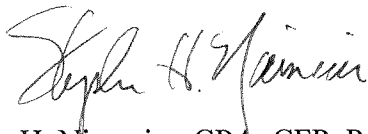
This new sampling guide is anticipated to require all audit samples to reduce audit risk to 5% versus the industry norm of 10% in past years. This one change can increase an audit sample by 30%. The use of ARRA funds in 2010 will potentially increase the number of Federal programs that we will be required to tested. In addition, there is an increase in the compliance supplements related to ARRA funds to increase testing of these specific programs.

The increase in anticipated audit fees in the attached engagement letter is directly related to these two additional audit requirements.

Commitment to Service

Our engagement letter is our commitment to perform the audit services for the year ending September 30, 2010. We appreciate this opportunity to propose on your engagement and welcome any comments or questions you might have.

Respectfully submitted,



Stephen H. Niemeier, CPA, CFP, President
BROCKWAY, GERSBACH, FRANKLIN & NIEMEIER, P.C.



April 29, 2010

Honorable Mayor and
Members of the City Council
Temple, Texas

We are pleased to confirm our understanding of the services we are to provide the City of Temple, Texas for the year ended September 30, 2009. We will audit the financial statements of the governmental activities, the business-type activities, the aggregate discretely presented component units, each major fund, and the aggregate remaining fund information, which collectively comprise the basic financial statements of the City of Temple, Texas as of and for the year ended September 30, 2009. Accounting standards generally accepted in the United States provide for certain required supplementary information (RSI), such as management's discussion and analysis (MD&A), to supplement the City of Temple, Texas' basic financial statements. Such information, although not a part of the basic financial statements, is required by the Governmental Accounting Standards Board who considers it to be an essential part of financial reporting for placing the basic financial statements in an appropriate operational, economic, or historical context. As part of our engagement, we will apply certain limited procedures to City of Temple, Texas' RSI in accordance with auditing standards generally accepted in the United States of America. These limited procedures will consist of inquiries of management regarding the methods of preparing the information and comparing the information for consistency with management's responses to our inquiries, the basic financial statements, and other knowledge we obtained during our audit of the basic financial statements. We will not express an opinion or provide any assurance on the information because the limited procedures do not provide us with sufficient evidence to express an opinion or provide any assurance. The following RSI is required by generally accepted accounting principles and will be subjected to certain limited procedures, but will not be audited:

1. Management's Discussion and Analysis
2. Budgetary Comparison Schedules
3. GASB – Required Supplementary Pension and OPEB Schedules

Supplementary information other than RSI also accompanies the City of Temple, Texas' financial statements. We will subject the following supplementary information to the auditing procedures applied in our audit of the financial statements and certain additional procedures, including comparing and reconciling such information directly to the underlying accounting and other records used to prepare the financial statements or to the financial statements themselves, and other additional procedures in accordance with auditing standards generally accepted in the United States of America and will provide an opinion on it in relation to the financial statements as a whole:

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

The following other information accompanying the financial statements will not be subjected to the auditing procedures applied in our audit of the financial statements, and for which our auditor's report will not provide an opinion or any assurance.

1. Introductory Section
2. Statistical Data

Honorable Mayor and
Members of the City Council
Temple, Texas
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Audit Objectives

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

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

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

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

Management Responsibilities

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

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

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

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

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

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

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

Audit Procedures—General

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

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

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

Audit Procedures—Internal Controls

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

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

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

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

Audit Procedures—Compliance

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

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

Engagement Administration, Fees, and Other

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

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

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

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

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

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

We expect to begin our audit in July, 2010 and to issue our reports no later than February, 2011. Steve Niemeier is the engagement partner and is responsible for supervising the engagement and signing the reports or authorizing another individual to sign them. Our fee for these services will be at our standard rates, except we agree that our gross fee, including expenses, will not exceed \$ 62,500. Our standard hourly rates vary accordingly to the degree of responsibility involved and the experience level of the personnel assigned to your audit. Our invoices for these fees will be rendered each month as work progresses and are payable on presentation. In accordance with our firm policies, work may be suspended if your account becomes 30 days or more overdue and may not be resumed until your account is paid in full. If we elect to terminate our services for nonpayment, our engagement will be deemed to have been completed upon written notification of termination, even if we have not completed our report(s). You will be obligated to compensate us for all time expended and to reimburse us for all out-of-pocket costs through the date of termination. The above fee is based on anticipated cooperation from your personnel and the assumption that unexpected circumstances will not be encountered during the audit. If significant additional time is necessary, we will discuss it with you and arrive at a new fee estimate before we incur the additional costs.

We have attached Schedule A that provides the estimated audit fees for the next four years, providing the City the option to extend this contract for a period of up to five years.

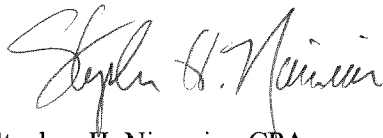
Government Auditing Standards require that we provide you with a copy of our most recent external peer review report and any letter of comment, and any subsequent peer review reports and letters of comment received during the period of the contract. Our 2009 peer review report accompanies this letter.

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

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

Sincerely,

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



Stephen H. Niemeier, CPA

RESPONSE:

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

By: _____

Title: _____

Date: _____

**Schedule of Professional Fees for
the Audit of the Financial Statements**

Fee for Subsequent Years Ending September 30:

2011	\$ <u>65,600</u> *
2012	\$ <u>67,200</u>
2013	\$ <u>68,900</u>
2014	\$ <u>70,500</u>

* The larger than usual increase for 2011 is related to implementing GASB 54.

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS,
AUTHORIZING A CONTRACT WITH BROCKWAY, GERSBACH, FRANKLIN
AND NIEMEIER, P.C., TO PERFORM THE ANNUAL CITY OF TEMPLE
AUDIT, FOR AN AMOUNT NOT TO EXCEED \$62,500; AND PROVIDING AN
OPEN MEETINGS CLAUSE.

Whereas, the Staff recommends engaging the audit firm of Brockway, Gersbach, Franklin and Niemeier, P.C., to perform the annual audit for the City of Temple;

Whereas, this will be the first year of a 5-year contract for audit services;

Whereas, funds will be budgeted in the FY2010-11 proposed budget to be filed on June 25, 2010; and

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

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

Part 1: The City Council authorizes the City Manager, or his designee, to execute an agreement, not to exceed \$62,500, between the City of Temple and Brockway, Gersbach, Franklin and Niemeier, P.C., after approval as to form by the City Attorney, to perform the annual City of Temple audit.

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

PASSED AND APPROVED this the **20th** day of **May**, 2010.

THE CITY OF TEMPLE, TEXAS

WILLIAM A. JONES, III, Mayor

ATTEST:

ATTEST:

Clydette Entzminger
City Secretary

Jonathan Graham
City Attorney



COUNCIL AGENDA ITEM MEMORANDUM

05/20/10
Item #6(E)
Consent Agenda
Page 1 of 2

DEPT./DIVISION SUBMISSION & REVIEW:

Alan DeLoera, Information Technology Director
Belinda Mattke, Director of Purchasing

ITEM DESCRIPTION: Consider adopting a resolution authorizing the following technology contracts and purchases for the new Temple Fire Station:

1. Video surveillance system from Redmoon Inc. of Plano in the amount of \$26,399.54 under State of Texas DIR contract DIR-SDD-475;
2. Card Access System from A-1 Fire & Security Equipment Company under GSA Contract GSO 7F 7733C in the amount of \$30,262.05; and
3. Phone system from Affiliated Telephone of Austin in the amount of \$31,184.86 under DIR contract #DIR-SDD-289.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: On December 3, 2009, EMJ Corporation of Irving was awarded a construction contract for construction of the new Central Fire Station, which is on schedule to be finished in December 2010. Based on the facility design and feedback from and the Fire Department, Wiginton Hooker Jeffry P.C. (Architect) and Purchasing, a technology plan was put forth to ensure telecommunications, data, security and computing needs were met in the new facility. The total cost of the Technology Plan is approximately \$190,000 with the purchases being proposed in this agenda item totaling \$87,846.45 of the \$190,000.

We have used all three of these companies for work in the past and we have had good experiences with these vendors. These vendors also provide the hardware and software that we have standardized across the City for Access Control, Video Surveillance and Telecommunications.

The proposed access control system to be installed will use the same technology as the systems already in place at City Hall, Municipal Court, Water Business Office and the Police Facility. The system will be based on Access Control 7 security management solution based on Hirsch Electronics Velocity access control software and Proximity card readers. The City has used A-1 Fire & Security for other access control projects and staff has found them to be a responsible vendor.

The proposed Video surveillance system to be installed is already in place at the Airport, Water Treatment Plant, and the new Municipal Courts/Water Business Office. This system is based on the OnSSI software and Sony Video cameras and Redmoon Inc. has been used throughout the City on multiple projects with good results.

The City has been working to upgrade and standardized all phone systems to the Nortel system. The State has awarded a DIR contract for licensing and installation of the Nortel phone system to Affiliated Telephone. Accordingly, it is staff's recommendation to piggyback off of this State contract for the purchase and installation of a Nortel 30-phone system.

FISCAL IMPACT: Funding in the amount of \$7,361,311 is appropriated in account 363-2200-522-6850, project #100120 from the 2009 General Obligation Bonds for the design and construction of the new Central Fire Station. After funding architectural services in the amount of \$696,000, consulting services in the amount of \$43,200, miscellaneous cost related to the project to include testing fees in the amount of \$34,299, and construction cost in the amount of \$3,483,119 a balance of \$3,104,693 is available for the purchase of technology equipment included in a technology plan for the new Central Fire Station.

It is staff's recommendation that savings from Central Fire be invested in the new Fire Training Drill Grounds, which is currently planned to be located behind new Station 8/EOC/Training Center.

ATTACHMENTS:

[Resolution](#)

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING THE FOLLOWING TECHNOLOGY CONTRACTS AND PURCHASES FOR THE NEW CENTRAL FIRE STATION: VIDEO SURVEILLANCE SYSTEM FROM REDMOON, INC., OF PLANO, TEXAS, IN THE AMOUNT OF \$26,399.54 UNDER TEXAS DIR CONTRACT DIR-SDD-475; CARD ACCESS SYSTEM FROM A-1 FIRE & SECURITY EQUIPMENT COMPANY, IN THE AMOUNT OF \$30,262.05, UNDER GSA CONTRACT GSO 7F 7733C; AND PHONE SYSTEM FROM AFFILIATED TELEPHONE OF AUSTIN, TEXAS, IN THE AMOUNT OF \$31,184.86 UNDER TEXAS DIR CONTRACT DIR-SDD-289; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, construction of the new Central Fire Station is currently underway and scheduled to be completed in December, 2010;

Whereas, Staff recommends purchasing telecommunications, data, security and computing needs for the new facility through vendors who provide the hardware and software that the City has standardized – the City has had good experience with all 3 vendors;

Whereas, the total amount of the purchases will total \$87,846.45 – funds are available 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 authorizes the following technology contracts and purchases for the new Central Fire Station: Video surveillance system from Redmoon, Inc., of Plano, Texas, in the amount of \$26,399.54 (Texas DIR contract DIR-SDD-475); Card Access System from A-1 Fire & Security Equipment Company, in the amount of \$30,262.05 (GSA Contract GSO 7F 7733C); and phone system from Affiliated Telephone of Austin, Texas, in the amount of \$31,184.86 (Texas DIR contract DIR-SDD-289).

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

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 **20th** 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

05/20/10
Item #6(F)
Consent Agenda
Page 1 of 2

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: Consider adopting a resolution authorizing a construction contract with Patin Construction, LLC of Taylor for construction services required to install water and wastewater utility relocations and improvements along 57th Street, Phase I of a two phase project that is associated with the Texas Department of Transportation IH 35 & Loop 363 Highway Improvement Project, in an amount not to exceed \$347,625 and declaring an official intent to reimburse this expenditure made prior to the issuance of tax-exempt obligations.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: On October 6, 2005, the City Council authorized an Advance Funding Agreement between the City of Temple and the State of Texas Department of Transportation (TxDOT) for betterments associated with water and wastewater utility relocations required for the reconstruction of the IH 35 & Loop 363 interchange.

During construction, TxDOT discovered a utility conflict between an existing City of Temple water distribution main and a proposed storm sewer within their project limits along General Bruce Drive, between Ira Young and 57th Street. In order to relocate the water main per TxDOT's requirement, a deteriorated vitrified clay wastewater main must be relocated as well.

In response to these necessary utility relocation efforts, City staff also identified the need for additional system improvements in this area and included them with the plans for the TxDOT utility relocations. An engineering contract was authorized on November 20, 2008, to prepare plans to address these needs, including upsizing of waterlines and rerouting and upsize of deteriorated sewer mains along 57th Street. This construction contract represents the first half of the overall project (funded by City bond funds), identified as General Bruce Drive & 57th Street New Water Main and Sanitary Sewer Main Improvements – Phase I.

Phase I will consist of installation of 575 linear feet of 12 inch, 1,035 linear feet of 8 inch, and 235 linear feet of 6 inch diameter wastewater mains, primarily along 57th Street. Additionally, 675 linear feet of 12 inch, and 325 linear feet of 8 inch diameter PVC water mains will be installed with this project.

FISCAL IMPACT: In FY 2009 projects savings in the amount of \$116,288 were reallocated to account 561-5400-535-6937, project #100470 to fund engineering services for water and wastewater utility relocations associated with the Texas Department of Transportation IH 35 & Loop 363 Highway improvements. Additional funding in the amount of \$3,434 was appropriated from project savings in FY 2010 to fund change order #1 in the amount of \$3,250 and \$184 for advertising.

Funding in the amount of \$680,000 is designated for the construction of water and wastewater utility relocations and improvements associated with the Texas Department of Transportation IH 35 & Loop 363 Highway Improvement Project in the proposed 2010 Utility Revenue Bond Issue. Initially funding for this contract will come from funding available from the 2008 Utility Revenue Bonds in account 561-5400-535-6937, project #100470, with an intent to reimburse the 2008 Utility Revenue Bonds from the proposed 2010 Utility Revenue Bond Issue. The construction cost related to this project totals \$347,625.

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

ATTACHMENTS:

[Engineer's Letter of Recommendation](#)
[Bid Tabulation](#)
[Project Map](#)
[Resolution](#)



2010 SW HK Dodgen Loop, Suite 105
Temple, Texas 76504
(254) 899-0899
Fax (254) 899-0901
www.clark-fuller.com
Firm Registration No: F-10384

May 3, 2010

City of Temple
Salvador Rodriguez, P.E.
3210 E. Ave. H, Bldg. A
Temple, Texas 76501

Re: City of Temple, General Bruce Drive & 57th Street New Water Main & Sanitary
Sewer main Improvements – Phase I

Dear Mr. Rodriguez,

We have reviewed the bids for the above referenced project. Patin L.L.C. submitted a Bid of \$347,625.00. *Please see the enclosed Bid Tabulation Sheet for detailed information.*

Our firm has no previous experience working with Patin, LLC. Therefore, we contacted numerous entities that have worked with Patin, LLC and interviewed each as to Patin LLC's ability to perform timely and quality construction required for this project. Based upon these interviews, we feel Patin, LLC is a proven company with many successfully completed projects of this scope and magnitude and we look forward to working with them on this project. We are recommending that you award the contract to Patin, LLC.

The list of references can be provided upon request.

Please advise us as to which contractor you select.

Sincerely,

A handwritten signature in black ink, appearing to be "Monty Clark".

Monty Clark, P.E.



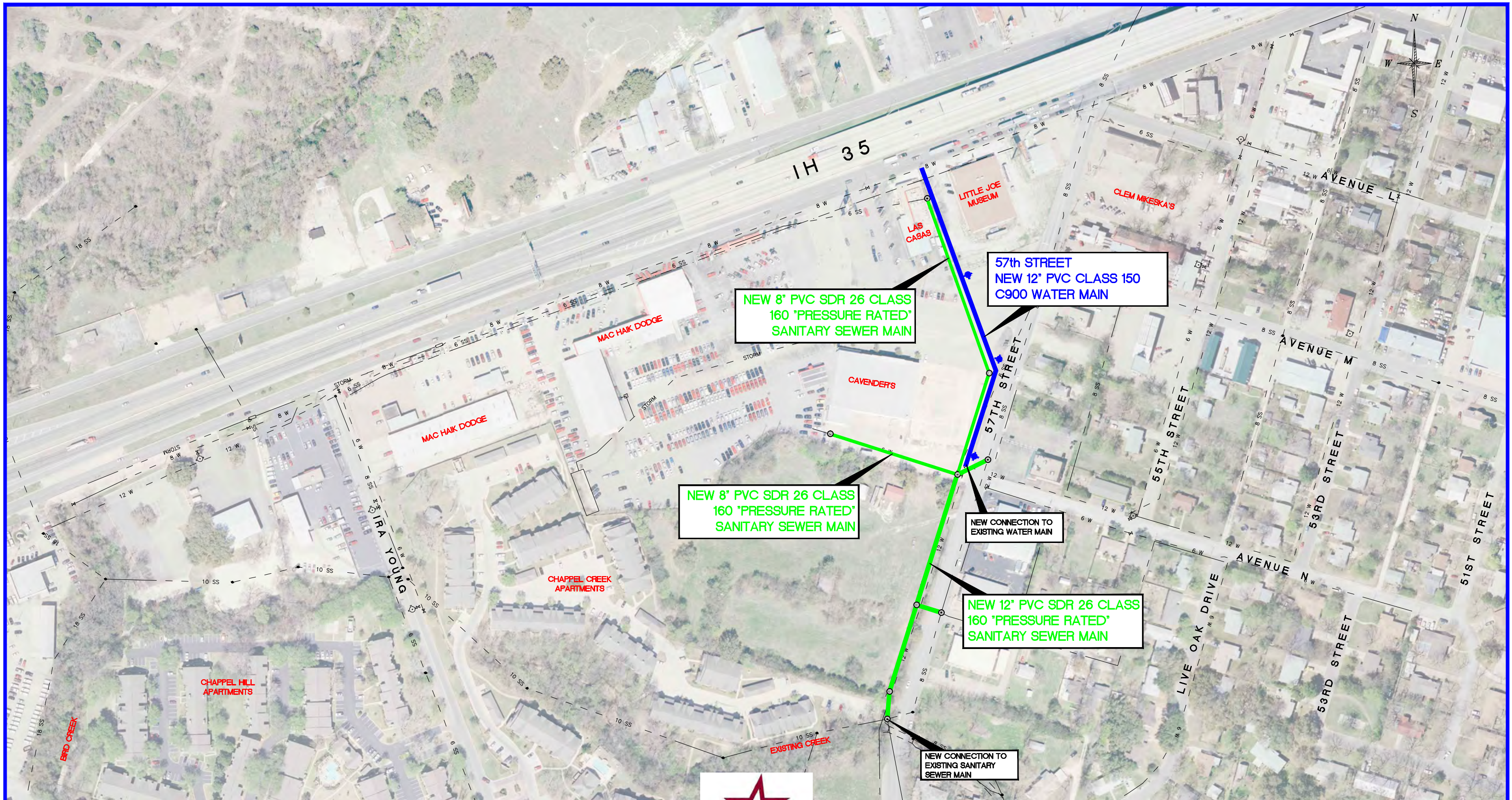
Cc: Belinda Mattke, City of Temple, Purchasing

Bid Tabulation Sheet

General Bruce Drive & 57th Street New Water Main & Sanitary Sewer Main Improvements - Phase I

Bid Date: April 27th, 2010

No.	Base Bid Item Description	Est. Quan.	UOM	Smetana & Associates		TTG Utilities, Inc.		McLean Construction		Patin Construction, LLC		Bell Contractors, Inc.	
				Unit Price	Total Cost	Unit Price	Total Cost	Unit Price	Total Cost	Unit Price	Total Cost	Unit Price	Total Cost
1	Site R.O.W. Preparation & Clearing	19	STA	\$ 289.00	\$ 5,491.00	\$ 390.00	\$ 7,410.00	\$ 401.00	\$ 7,619.00	\$ 500.00	\$ 9,500.00	\$ 830.00	\$ 15,770.00
2	Mobilization, Bonds, Permits, & Insurance	100%	LS	\$ 7,691.00	\$ 7,691.00	\$ 10,700.00	\$ 10,700.00	\$ 16,430.00	\$ 16,430.00	\$ 19,200.00	\$ 19,200.00	\$ 14,400.00	\$ 14,400.00
3	Saw Cut, Removal & Replace Ex. HMAC Pavement	1360	SY	\$ 31.00	\$ 42,160.00	\$ 31.00	\$ 42,160.00	\$ 63.00	\$ 85,680.00	\$ 9.00	\$ 12,240.00	\$ 29.00	\$ 39,440.00
4	Remove & Replace Crushed Limestone Base Pavement	45	SY	\$ 23.00	\$ 1,035.00	\$ 17.50	\$ 787.50	\$ 47.00	\$ 2,115.00	\$ 18.00	\$ 810.00	\$ 11.00	\$ 495.00
5	Sawcut, Remove & Replace Concrete Valley Gutter	20	LF	\$ 30.00	\$ 600.00	\$ 22.45	\$ 449.00	\$ 162.00	\$ 3,240.00	\$ 60.00	\$ 1,200.00	\$ 54.30	\$ 1,086.00
6	Sawcut, Remove & Replace Concrete Curb & Gutter	280	LF	\$ 30.00	\$ 8,400.00	\$ 22.45	\$ 6,286.00	\$ 51.00	\$ 14,280.00	\$ 15.00	\$ 4,200.00	\$ 18.30	\$ 5,124.00
7	Remove & Replace Ex. Chain Link Fencing	40	LF	\$ 36.00	\$ 1,440.00	\$ 30.20	\$ 1,208.00	\$ 65.00	\$ 2,600.00	\$ 30.00	\$ 1,200.00	\$ 33.40	\$ 1,336.00
8	Remove & Replace Ex. Intruder Resistant Fencing	500	LF	\$ 48.00	\$ 24,000.00	\$ 36.40	\$ 18,200.00	\$ 65.00	\$ 32,500.00	\$ 30.00	\$ 15,000.00	\$ 35.90	\$ 17,950.00
9	Provide Bollard	4	EA	\$ 531.00	\$ 2,124.00	\$ 220.00	\$ 880.00	\$ 216.00	\$ 864.00	\$ 250.00	\$ 1,000.00	\$ 230.00	\$ 920.00
10	Provide & Implement a Traffic Control Plan	100%	LS	\$ 7,975.00	\$ 7,975.00	\$ 15,975.00	\$ 15,975.00	\$ 21,004.00	\$ 21,004.00	\$ 4,600.00	\$ 4,600.00	\$ 7,900.00	\$ 7,900.00
11	Provide & Implement a Trench Safety Plan	100%	LS	\$ 7,210.75	\$ 7,210.75	\$ 2,840.00	\$ 2,840.00	\$ 13,774.00	\$ 13,774.00	\$ 3,250.00	\$ 3,250.00	\$ 4,600.00	\$ 4,600.00
Subtotal Site Preparation				\$ 108,126.75		\$ 106,895.50		\$ 200,106.00		\$ 72,200.00		\$ 109,021.00	
12	Demolish & Remove Existing Sanitary Sewer Manhole	5	EA	\$ 1,937.00	\$ 9,685.00	\$ 520.00	\$ 2,600.00	\$ 1,439.00	\$ 7,195.00	\$ 800.00	\$ 4,000.00	\$ 650.00	\$ 3,250.00
13	Provide 4' Dia. Precast Eccentric Concrete Manhole	13	EA	\$ 3,234.00	\$ 42,042.00	\$ 2,850.00	\$ 37,050.00	\$ 2,137.00	\$ 27,781.00	\$ 3,500.00	\$ 45,500.00	\$ 2,500.00	\$ 32,500.00
14	Provide 5' Dia. Precast Eccentric Concrete Manhole	1	EA	\$ 3,925.00	\$ 3,925.00	\$ 4,460.00	\$ 4,460.00	\$ 3,418.00	\$ 3,418.00	\$ 5,000.00	\$ 5,000.00	\$ 4,100.00	\$ 4,100.00
15	Connection to Existing Sanitary Sewer Main	8	EA	\$ 989.00	\$ 7,912.00	\$ 1,480.00	\$ 11,840.00	\$ 1,393.00	\$ 11,144.00	\$ 1,200.00	\$ 9,600.00	\$ 1,100.00	\$ 8,800.00
16	Temporary Connection to Existing Manhole	1	EA	\$ 1,835.00	\$ 1,835.00	\$ 4,685.00	\$ 4,685.00	\$ 13,432.00	\$ 13,432.00	\$ 1,000.00	\$ 1,000.00	\$ 1,200.00	\$ 1,200.00
17	Provide Internal Drop Connection	1	EA	\$ 1,345.00	\$ 1,345.00	\$ 660.00	\$ 660.00	\$ 1,220.00	\$ 1,220.00	\$ 1,250.00	\$ 1,250.00	\$ 640.00	\$ 640.00
18	Provide 6" C.O. with Heavy Duty Cast Iron Lid Assembly	1	EA	\$ 649.00	\$ 649.00	\$ 655.00	\$ 655.00	\$ 738.00	\$ 738.00	\$ 550.00	\$ 550.00	\$ 580.00	\$ 580.00
19	Provide 12" PVC SDR 26 Class 160 "Pressure Rated" Main	575	LF	\$ 84.20	\$ 48,415.00	\$ 61.65	\$ 35,448.75	\$ 38.00	\$ 21,850.00	\$ 50.00	\$ 28,750.00	\$ 86.30	\$ 49,622.50
20	Provide 8" PVC SDR 26 Class 160 "Pressure Rated" Main	1035	LF	\$ 67.66	\$ 70,028.10	\$ 50.80	\$ 52,578.00	\$ 33.00	\$ 34,155.00	\$ 45.00	\$ 46,575.00	\$ 50.40	\$ 52,164.00
21	Provide 6" PVC SDR 26 Sanitary Sewer Main	235	LF	\$ 54.53	\$ 12,814.55	\$ 32.95	\$ 7,743.25	\$ 34.00	\$ 7,990.00	\$ 40.00	\$ 9,400.00	\$ 33.20	\$ 7,802.00
22	Provide New Sanitary Sewer Service & Service Connection	7	EA	\$ 657.00	\$ 4,599.00	\$ 800.00	\$ 5,600.00	\$ -	\$ -	\$ 1,250.00	\$ 8,750.00	\$ 1,100.00	\$ 7,700.00
23	Provide Misc. Sanitary Sewer Service Pipe & Replacement	50	LF	\$ 20.39	\$ 1,019.50	\$ 19.00	\$ 950.00	\$ 18.00	\$ 900.00	\$ 40.00	\$ 2,000.00	\$ 32.60	\$ 1,630.00
24	All Testing per TCEQ & City of Temple Requirements	100%	LS	\$ 4,599.00	\$ 4,599.00	\$ 3,685.00	\$ 3,685.00	\$ 5,082.00	\$ 5,082.00	\$ 1,000.00	\$ 1,000.00	\$ 1,800.00	\$ 1,800.00
Subtotal New Sanitary Sewer Main Construction				\$ 208,868.15		\$ 167,955.00		\$ 134,905.00		\$ 163,375.00		\$ 171,788.50	
25	Provide 12" PVC Class 150 C900 Water Main	675	LF	\$ 49.02	\$ 33,088.50	\$ 47.00	\$ 31,725.00	\$ 41.00	\$ 27,675.00	\$ 60.00	\$ 40,500.00	\$ 44.10	\$ 29,767.50
26	Provide 8" PVC Class 150 C900 Water Main	325	LF	\$ 37.31	\$ 12,125.75	\$ 42.65	\$ 13,861.25	\$ 32.00	\$ 10,400.00	\$ 50.00	\$ 16,250.00	\$ 28.50	\$ 9,262.50
27	Connection to Existing Water Main	4	EA	\$ 2,034.00	\$ 8,136.00	\$ 1,220.00	\$ 4,880.00	\$ 2,783.00	\$ 11,132.00	\$ 1,200.00	\$ 4,800.00	\$ 1,200.00	\$ 4,800.00
28	Inline Connection to Existing Water Main	1	EA	\$ 2,075.00	\$ 2,075.00	\$ 1,200.00	\$ 1,200.00	\$ 2,878.00	\$ 2,878.00	\$ 600.00	\$ 600.00	\$ 860.00	\$ 860.00
29	Provide 12" MJ Gate Valve	3	EA	\$ 2,307.00	\$ 6,921.00	\$ 2,100.00	\$ 6,300.00	\$ 2,044.00	\$ 6,132.00	\$ 3,000.00	\$ 9,000.00	\$ 2,200.00	\$ 6,600.00
30	Provide 12" x 12" MJ Tee	1	EA	\$ 1,158.00	\$ 1,158.00	\$ 1,130.00	\$ 1,130.00	\$ 1,089.00	\$ 1,089.00	\$ 1,400.00	\$ 1,400.00	\$ 1,100.00	\$ 1,100.00
31	Provide 12" x 12" MJ Tapping Sleeve & Valve Assembly	2	EA	\$ 5,921.00	\$ 11,842.00	\$ 6,780.00	\$ 13,560.00	\$ 4,353.00	\$ 8,706.00	\$ 7,000.00	\$ 14,000.00	\$ 4,400.00	\$ 8,800.00
32	Provide 12" x 8" MJ Reducer	2	EA	\$ 552.00	\$ 1,104.00	\$ 570.00	\$ 1,140.00	\$ 583.00	\$ 1,166.00	\$ 560.00	\$ 1,120.00	\$ 510.00	\$ 1,020.00
33	Provide 12" MJ 45 Degree Bend	4	EA	\$ 666.00	\$ 2,664.00	\$ 590.00	\$ 2,360.00	\$ 724.00	\$ 2,896.00	\$ 450.00	\$ 1,800.00	\$ 590.00	\$ 2,360.00
34	Provide 8" x 8" MJ Tee	1	EA	\$ 954.00	\$ 954.00	\$ 540.00	\$ 540.00	\$ 639.00	\$ 639.00	\$ 440.00	\$ 440.00	\$ 580.00	\$ 580.00
35	Provide 8" x 6" MJ Tee	1	EA	\$ 847.00	\$ 847.00	\$ 520.00	\$ 520.00	\$ 628.00	\$ 628.00	\$ 350.00	\$ 350.00	\$ 550.00	\$ 550.00
36	Provide 8" MJ Plug	3	EA	\$ 360.00	\$ 1,080.00	\$ 165.00	\$ 495.00	\$ 482.00	\$ 1,446.00	\$ 230.00	\$ 690.00	\$ 170.00	\$ 510.00
37	Provide 8" MJ Gate Valve	2	EA	\$ 1,207.00	\$ 2,414.00	\$ 1,135.00	\$ 2,270.00	\$ 1,223.00	\$ 2,446.00	\$ 1,290.00	\$ 2,580.00	\$ 1,400.00	\$ 2,800.00
38	Provide 6" MJ Gate Valve	1	EA	\$ 900.00	\$ 900.00	\$ 880.00	\$ 880.00	\$ 976.00	\$ 976.00	\$ 780.00	\$ 780.00	\$ 1,100.00	\$ 1,100.00
39	Provide 6" Check Valve	0	EA	\$ 1,086.00	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
40	Provide 6" MJ 45 Degree Bend	2	EA	\$ 373.00	\$ 746.00	\$ 250.50	\$ 501.00	\$ 504.00	\$ 1,008.00	\$ 200.00	\$ 400.00	\$ 320.00	\$ 640.00
41	Provide Standard Fire Hydrant Assembly	3	EA	\$ 3,425.00	\$ 10,275.00	\$ 3,375.00	\$ 10,125.00	\$ 3,620.00	\$ 10,860.00	\$ 3,700.00	\$ 11,100.00	\$ 3,500.00	\$ 10,500.00
42	Provide Parallel Fire Hydrant Assembly	1	EA	\$ 3,383.00	\$ 3,383.00	\$ 3,575.00	\$ 3,575.00	\$ 3,942.00	\$ 3,942.00	\$ 3,980.00	\$ 3,980.00	\$ 3,400.00	\$ 3,400.00
43	Provide Domestic Water Service Connection & Meter Box	3	EA	\$ 843.00	\$ 2,529.00	\$ 600.00	\$ 1,800.00	\$ 1,284.00	\$ 3,852.00	\$ 420.00	\$ 1,260.00	\$ 770.00	\$ 2,310.00
44	All Testing per TCEQ & City of Temple Requirements	100%	LS	\$ 3,999.00	\$ 3,999.00	\$ 1,600.00	\$ 1,600.00	\$ 5,082.00	\$ 5,082.00	\$ 1,000.00	\$ 1,000.00	\$ 1,100.00	\$ 1,100.00
Subtotal New Water Main Construction				\$ 106,241.25		\$ 98,462.25		\$ 102,953.00		\$ 112,050.00		\$ 88,060.00	
Total Bid General Bruce Drive & 57th Street New Water Main & Sanitary Sewer Main Improvements - Phase I				\$ 423,236.15		\$ 373,312.75		\$ 437,964.00		\$ 347,625.00		\$ 368,869.50	



Clark & Fuller, PLLC
Civil Engineers • Designers • Planners

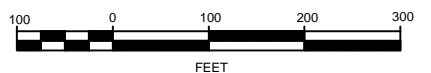
Tel: (254) 899-0899 Fax: (254) 899-0901
2010 SW HK Dodgen Loop, Suite 105, Temple, Texas 76504



2008 GENERAL BRUCE DRIVE AND SOUTH 57TH STREET PH. I NEW WATER MAIN AND SANITARY SEWER MAIN IMPROVEMENTS

LEGEND:

- ◆ NEW FIRE HYDRANT ASSEMBLY
- ⊙ NEW SANITARY SEWER MANHOLE



RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING A CONSTRUCTION CONTRACT WITH PATIN CONSTRUCTION, LLC, OF TAYLOR, TEXAS, FOR CONSTRUCTION SERVICES REQUIRED TO INSTALL WATER AND WASTEWATER UTILITY RELOCATIONS AND IMPROVEMENTS ALONG 57TH STREET, PHASE 1 OF A TWO PHASE PROJECT THAT IS ASSOCIATED WITH THE TEXAS DEPARTMENT OF TRANSPORTATION IH 35 AND LOOP 363 HIGHWAY IMPROVEMENT PROJECT, IN AN AMOUNT NOT TO EXCEED \$347,625; DECLARING OFFICIAL INTENT TO REIMBURSE CERTAIN EXPENDITURES MADE PRIOR TO THE ISSUANCE OF TAX-EXEMPT OBLIGATIONS FOR THIS PROJECT; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, on April 27, 2010, 5 bids were received for Phase 1 of the General Bruce Drive & 57th Street New Main & Sanitary Sewer Main Improvements;

Whereas, the Staff recommends accepting the bid (\$347,625) received from Patin Construction, LLC, of Taylor, Texas;

Whereas, the City of Temple anticipates the issuance of one or more series of obligations, the interest on which will be excludable from gross income under Section 103 of the Internal Revenue Code of 1986, as amended, in order to finance all or a portion of this project;

Whereas, certain expenditures relating to the Project will be paid prior to the issuance of the Obligations;

Whereas, the City hereby certifies that such expenditures have not been made prior to the date of passage of this Resolution;

Whereas, upon issuance of the Obligations, the City desires to reimburse these prior expenditures with proceeds of the Obligations;

Whereas, Section 1.150-2 of the Treasury Regulations provides that an expenditure on the Project may not be reimbursed from Obligation proceeds unless, along with other requirements, the City declares official intent to reimburse the expenditure prior to the date that the expenditure to be reimbursed was paid; and

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

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

Part 1: The City Council authorizes the City Manager, or his designee, to execute an construction contract, not to exceed \$347,625.00, between the City of Temple, Texas, and Patin Construction, LLC, of Taylor, Texas, after approval as to form by the City Attorney, for construction services required to install water and wastewater utility relocations and improvements along 57th Street, Phase 1 of a two phase project that is associated with the Texas Department of Transportation IH 35 and Loop 363 Highway Improvement Project.

Part 2: The findings, determinations and certifications contained in the preamble hereof are incorporated herein for all purposes.

Part 3: This Resolution is a declaration of official intent under Section 1.150.2 of the Treasury Regulations by the City that it reasonably expects to reimburse the expenditures described in Part 4 with proceeds of debt to be incurred by the City, such debt to be issued on or before eighteen (18) months after the date of (i) the date the first expenditure is paid; or (ii) the date on which the property is placed in service, but in no event three years after the first expenditure is paid.

Part 4: The following is a general functional description of the Project for which the expenditures to be reimbursed are paid and a statement of the maximum principal amount of debt expected to be issued for the purpose of paying the costs of the Project.

<u>Project Description</u>	<u>Debt To Be Issued</u>
Installation of water and wastewater utility relocations and improvements along 57 th Street, Phase 1 of a two phase project that is associated with the Texas Department of Transportation IH 35 and Loop 363 Highway Improvement Project.	\$347,625

Part 5: The expenditures described in Part 4 is a capital expenditure under general Federal income tax principles or a cost of issuance.

Part 6: Except for the proceeds of the Obligations, no funds are, or are reasonably expected to be reserved, allocated on a long-term basis, or otherwise set aside by the City

or by any member of the same controlled group to pay for the expenditures described in Part 4.

Part 7: 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 on this the **20th** 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

05/20/10
Item #6(G)
Consent Agenda
Page 1 of 2

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 a contract with Chapman Marine, Inc., of Austin in the estimated amount of \$60,000 for the emergency removal of sedimentation in the Leon River outside of the Water Treatment Plant Intake; and a supplemental contract with S&M Vacuum and Waste, Ltd., of Killeen in the estimated amount of \$35,000 for the emergency disposal of removed sediments.

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, Chapman Marine was contacted to perform an underwater survey and assessment of the immediate area adjacent to the intake structure to determine the extent of sedimentation. Consistent with observations made by WTP personnel over the years, at the time of the dive in April, substantial sediments were found. Chapman Marine has submitted a follow-up proposal, based upon ten 10-hour days of work, to remove the material. Depending upon river and weather conditions, time and expense to remove the mud and debris could either be less or more, resulting in modification of final contract expenses.

In order to better insure that the City maintains a reliable water supply through the summer months while the project work on the dam is being performed by the Corps of Engineers, this work to be performed in early June (prior to the start of COE activities) constitutes an emergency situation. Since Chapman Marine is already familiar with the site and would be completing the work in a design-build fashion, staff recommends award of this emergency contract to Chapman Marine.

This agenda item also seeks authority to enter into a supplemental agreement with S&M Vacuum and Waste to handle disposal of the sediments from the area once removed at a cost of \$225 per load plus 2¢ per gallon disposal fee. Staff estimates that 150 loads of sediment will be removed from the river at a cost approximating \$35,000. The City currently has an annual contract with S&M Vacuum and Waste for the hauling and disposal of sludge with costs ranging from \$.0275-.05 per gallon, depending on location. Due to the intensity of the hauling requirements involved in this particular project, S&M was not comfortable placing this work under the annual contract. Accordingly, staff is recommending a supplemental emergency agreement with S&M Vacuum and Waste Hauling to support this project.

FISCAL IMPACT: Funding in the amount of \$95,000 is available in account 520-5100-535-23-13, for completion of this work.

ATTACHMENTS:
[Resolution](#)

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING A CONTRACT WITH CHAPMAN MARINE, INC., OF AUSTIN, TEXAS, IN THE ESTIMATED AMOUNT OF \$60,000, FOR THE EMERGENCY REMOVAL OF SEDIMENTATION IN THE LEON RIVER OUTSIDE OF THE WATER TREATMENT PLANT INTAKE; AND A SUPPLEMENTAL CONTRACT WITH S&M VACUUM AND WASTE, LTD., OF KILLEEN, TEXAS, IN THE ESTIMATED AMOUNT OF \$35,000 FOR THE EMERGENCY DISPOSAL OF REMOVED SEDIMENTS; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, 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 Army Corps of Engineers, Brazos River Authority, and City staff since that time to discuss impacts of the work on the Leon River and ultimately, City water treatment facilities;

Whereas, 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 and 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;

Whereas, as a result, Chapman Marine, Inc., of Austin, Texas, was contacted to perform an underwater survey and assessment of the immediate area adjacent to the intake structure to determine the extent of sedimentation; consistent with observations made by Water Treatment Plant personnel over the years, at the time of the dive in April, substantial sediments were found;

Whereas, Chapman Marine, Inc., submitted a proposal in the estimated amount of \$60,000 for the emergency removal of the sedimentation, and the Staff recommends authorizing the contract;

Whereas, in addition, the Staff recommends a supplemental agreement with S&M Vacuum and Waste, Ltd., of Killeen, Texas, in the estimated amount of \$35,000 for the emergency disposal of removed sediments;

Whereas, funds are available for this project, but an amendment to the FY 2009-2010 budget needs to be approved to transfer the funds to the appropriate expense account; and

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

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

Part 1: The City Council authorizes the City Manager, or his designee, to execute a contract with Chapman Marine, Inc., of Austin, Texas, after approval as to form by the City Attorney, in the estimated amount of \$60,000, for the emergency removal of sedimentation in the Leon River outside of the Water Treatment Plant Intake; and a supplemental contract with S&M Vacuum and Waste, Ltd., of Killeen, Texas, after approval as to form by the City Attorney, in the estimated amount of \$35,000 for the emergency disposal of removed sediments.

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 20th 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

05/20/10
Item #6(H)
Consent Agenda
Page 1 of 2

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: Consider adopting a resolution authorizing an amendment to the professional services agreement with Kasberg, Patrick & Associates, LP for additional engineering services required to complete design improvements necessary to address the solids removal and disposal process from the Membrane Water Treatment Plant waste stream in an amount not to exceed \$77,078.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: In October, 2007, the City entered into an agreement with KPA to determine the cause of and offer solutions to current solids handling problems associated with the Membrane Water Treatment Plant (MWTP). Since the MWTP was placed into operation in 2004, raw water changes in the Leon River have adversely affected the MWTP's ability to produce the plant's rated capacity of 11.6 MGD. The changes in raw water quality have altered the type and increased the amount of sediment removed during the treatment process.

The first phase of the project, completed in the Spring of 2009, expanded the capacity of existing bulk chemical tanks, allowing for proper implementation of modified cleaning regimens. Since installation, fouling membranes have substantially recovered, resulting in a restored plant capacity of nearly 11 MGD.

The second phase of the project, nearing design completion, will address the backwash water sedimentation process. An equalization and flocculation basin will be constructed in advance of the proposed plate settler units which will remove solids from the recycling stream. Installation of these units in this manner will thereby remove the sludge lagoons from the operation and increase the quality of return water back to the front of the plant.

This engineering contract amendment allows for additional work related to design of the foundation for the plate settler, design and process calculations for the flocculation / settling basin, design of the baffle walls, and design of the plates. It also includes additional work related to compressor room ventilation issues. Detailed design drawings for each specific unit and evaluation of differing sludge removal technologies was also considered, as well as coordination and validation of proposed system

manufacturers. These additional items are a result of recognized efficiencies in treatment technologies found during the design process which will result in a more efficient and cost effective end product. The estimated construction cost for the remaining work is approximately \$2.4 million dollars.

FISCAL IMPACT: Funding in the amount of \$3,665,000 was appropriated in account 561-5100-535-6921, project #100229 for this project from the 2006 and 2008 Utility Revenue Bond issues. After funding engineering related services in the amount of \$607,188, miscellaneous costs including the purchase of module units in the amount of \$10,516, and construction contract services for the chemical bulk tanks in the amount of \$590,524, a balance of \$2,456,772 remains available to fund this amendment to the professional services agreement in the amount of \$77,078 and to complete this project.

ATTACHMENTS:
[Engineer's Proposal](#)
[Resolution](#)



KASBERG, PATRICK & ASSOCIATES, LP

CONSULTING ENGINEERS

Texas Firm F-510

RICK N. KASBERG, P.E.

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

THOMAS D. VALLE, P.E.

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

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

May 11, 2010

Mrs. Nicole Torralva, P.E.
Interim Director of Public Works
3210 E. Avenue H
Building A
Temple, Texas 76501

Re: City of Temple
Membrane WTP Solids Handling & Capacity Improvements

Dear Mrs. Torralva:

This letter is a follow up to our meeting earlier this month concerning the additional scope of work performed by Kasberg, Patrick & Associates (KPA) and our sub-consultants, Carollo Engineers and McCreary & Associates, for the referenced project.

The referenced project consisted of an initial Study to determine and recommend improvements to correct the capacity deficiency experienced at the Membrane Water Treatment Plant (WTP). The Study noted that multiple factors over the past five years had led to the membrane fouling and recommended a modified chemical cleaning regimen. The Membrane WTP Chemical Clean-In-Place Modifications project was designed to accommodate the revised cleaning volumes and construction was completed in May 2009.

The Study also noted that at times the Membrane Reverse Filtration (backwash) water was not sufficiently settling in the existing sludge lagoon basins prior to being recycled to the front of the plant. The turbidity and flow rate of this "unsettled recycle" stream aided in the fouling of the membrane. Additionally, the long detention times in the lagoon increased the potential for forming THMs. The Study recommended the installation of a solids settling facility (Plate Settlers) on the backwash stream to allow the quality of the recycle stream to be of the same or better quality as the raw water feed from the Leon River. The initial recommendation consisted of furnishing and installing "packaged" plate settler units with integrated flocculation basins to replace the sludge lagoon, allowing use of the lagoon for sludge and CIP waste storage. A "packaged" system was recommended due to the requirement of having the modifications operational by Summer 2009.

In mid-December 2008, we met with City Staff to discuss additional information that had been obtained since the conclusion of the Study concerning related to "disinfection byproducts and chemical processes" and the City's concern that the proposed plate settler project may not address the additional factors. Subsequent to this meeting, we received a letter dated December 22, 2008 (attached) informing us to suspend work on the final design of the plate settler project. Invoices submitted on January 30 and February 27, 2009 were for work completed by our sub-consultants prior to the stoppage that were received after our billing deadlines in the previous months.

The KPA design team spent the end of December and January to fully investigate the additional information provided by the City, including additional research and discussion with manufacturers and design professionals. On January 27, 2009, we presented a PowerPoint presentation which addressed the disinfection byproducts and further detailed the operation of the proposed plate settler units. This presentation led to increased understanding of the proposed process and subsequently more discussion and questions. Additional meetings, research and discussions continued from March 2009 to June 2009. In early July 2009, it was determined that we had sufficiently addressed the City's concerns and we were authorized to begin work on the Plate Settler portion of the project. However, several items had changed since the completion of the study, including the timeline.

The Chemical CIP Modifications project had been completed in May 2009 and the all eleven (11) membrane racks had successfully been cleaned and their capacity restored to its original rate. This cleaning process had allowed the Membrane WTP to successfully operate at or near its design capacity for the duration of the Summer of 2009. The operation of the membrane facility removed the "short time frame" discussed above and allowed the design team to re-visit the "packaged" versus "cast-in-place" options for the plate settler units. The "cast-in-place" option was recommended as it provided a better alternative given the time restraints were removed. Additionally, our research during the first half of 2009 led to the recommendation that the "Plate Settler Pilot Study", originally included in the project, be removed.

This letter has outlined two distinct changes in the scope of this project, 1) additional study to address the additional information gathered by the City and alleviate concerns that the Plate Settler project would address the overall problem and 2) changing the plate settlers from "packaged" units to "cast-in-place". The following notes KPA's additional time over the first seven months of 2009 to address the additional information (Item 1):

KPA Additional Services

Rick N. Kasberg, P.E.	27 hours @ \$190/hr =	\$	10,675.00
Thomas D. Valle, P.E.	61 hours @ \$175/hr =		5,130.00
Total KPA Additional Services		\$	15,805.00

Attached is a revised Scope of Services from Carollo Engineers dated March 22, 2010. The revised Scope outlines the additional civil and structural design work required to change the plate settler units from "packaged" to "cast-in-place" (Item 2). The total (original and revised) cost proposal breakdowns are included at the end of the revised Scope and summarized as follows:

Carollo Additional Services

CB Hagar, P.E.	6 hours @ \$245/hr =	\$	1,470.00
Hani Michel, P.E.	18 hours @ \$226/hr =		4,520.00
Vincent Roquebert, P.E.	46 hours @ \$226/hr =		12,656.00
Greg Pope, EIT	204 hours @ \$125/hr =		31,000.00
Joel Mason, P.E.	30 hours @ \$160/hr =		4,800.00
CADD	194 hours @ \$102/hr =		19,788.00
Overhead	Direct Cost =		3,690.00
Total Carollo Additional Services		\$	77,924.00

Mrs. Nicole Torralva, P.E.

May 11, 2010

Page Three

The tables on Page Two list the total additional services performed by KPA and Carollo. However, this does not take into account the deduct for removing the Pilot Study from the Contract. The total cost for conducting the pilot study was \$22,576.00, of which \$1,985.00 was billed for preliminary meetings with Parkson (Plate Settler manufacturer) and the City to detail the requirements of the pilot study. Therefore, a total of \$20,951.00 will be deducted from the contract (KPA = \$11,015.00 , Carollo = \$9,576). This leaves the net change in contract amount at \$4,790 for KPA and \$62,888.00 for Carollo.

In addition to the two scope changes outlined above, the City requested that McCreary & Associates review and prepare modifications to address the ventilation requirements of the compressor room at the Membrane WTP. The original compressors were water cooled units. These water cooled units were later replaced with air cooled units. However, no ventilation modifications were performed at the time the replacements were installed. Attached is an e-mail dated March 3, 2010 detailing the additional scope for the Compressor Room Ventilation Modifications that are to be included in the Construction Plans for the Plate Settler project. The following is a summary of costs associated with this work:

McCreary Additional Services

Preliminary Analysis	\$	1,700.00
HVAC Design / Construction Administration		5,500
Structural Design		2,200
Total McCreary Additional Services	\$	9,400.00

The following is a summary of the net change in contract amount (total and broken down by firm) for the additional services detailed in this letter and outlined in the attachments.

Net Change in Contract Amount

(Additional Services)

KPA Engineers	\$	4,790.00
Carollo Engineers		62,888.00
McCreary & Associates		9,400.00
Total Additional Services	\$	77,078.00

We appreciate the opportunity to provide these services to the City and are available at your convenience to discuss these items.

Sincerely,



Thomas D. Valle, P.E.

TDV/
2007-135-22

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING AN AMENDMENT TO THE PROFESSIONAL SERVICES AGREEMENT BETWEEN THE CITY OF TEMPLE, TEXAS, AND KASBERG, PATRICK & ASSOCIATES, L.P., FOR ADDITIONAL ENGINEERING SERVICES REQUIRED TO COMPLETE DESIGN IMPROVEMENTS NECESSARY TO ADDRESS THE SOLIDS REMOVAL AND DISPOSAL PROCESS FROM THE MEMBRANE WATER TREATMENT PLANT WASTE STREAM, IN AN AMOUNT NOT TO EXCEED \$77,078; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, in October, 2008, the City entered into an agreement with Kasberg, Patrick & Associates, LP, (KPA) to determine the cause of and offer solutions to current solids handling problems associated with the Membrane Water Treatment Plant;

Whereas, the second phase of the project, nearing design completion, will address the backwash water sedimentation process;

Whereas, the Staff recommends amending the contract to allow for additional work related to design of the foundation for the plate settler, design and process calculations for the flocculation/setting basin, design of the baffle walls, and design of the plates – it also includes additional work related to compressor room ventilation issues;

Whereas, Kasberg, Patrick & Associates, L.P., submitted a proposal for these additional engineering services in the amount of \$108,540, and the Staff recommends accepting it;

Whereas, funds are available for this project in Account No. 561-5100-535-6921, Project No. 100229; and

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

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

Part 1: The City Council authorizes the City Manager, or his designee, to execute an amendment to the professional services agreement, not to exceed \$77,078, between

the City of Temple, Texas, and Kasberg, Patrick & Associates, L.P., after approval as to form by the City Attorney, for additional engineering services required to complete design improvements necessary to address the solids removal and disposal process from the Membrane Water Treatment Plant waste stream.

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 **20th** 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

05/20/10
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DEPT./DIVISION SUBMISSION & REVIEW:

Traci Barnard, Director of Finance
Belinda Mattke, Director of Purchasing

ITEM DESCRIPTION: Consider adopting authorizing a consulting agreement with Tristem, Ltd. of Hewitt for an audit of utility bills paid by the City.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: With the onset of deregulation, public entities throughout the state have been exposed to greater risk with regards to utility billings. Tristem is a company that was created to help public agencies by auditing their utility bills to identify overcharges, billing errors, and potential rate errors. Tristem acts as an agent for public entities and they work directly with the utility companies to obtain remedy on their findings

Staff is recommending that Council authorize a consulting agreement (attached) with Tristem for the audit of the City's electric and natural gas bills. The City's annual budget for electricity and natural gas usage totals approximately \$3.8 million. As noted in the attached agreement, Tristem works strictly on a 49% commission of the refunds the City receives as a result of their audit. The City will retain any and all future savings as a result of any billing corrections

The City has not done business with Tristem previously. Accordingly, staff contacted several other cities who have worked with Tristem and got very favorable reports. The services provided by Tristem are deemed professional in nature, and as a result, are exempt from the competitive procurement process per the Local Government Code § 252.022.

FISCAL IMPACT: No funding is required to initiate this contract. The fee to Tristem is contingent upon any refunds the City should receive as a result of Tristem's audit at a rate of 49% of the refund received.

ATTACHMENTS:

[Consulting Agreement](#)

Resolution (To Be Provided)



CONSULTING AGREEMENT

THIS AGREEMENT, entered into this _____ day of _____, 20____, by and between _____ hereinafter referred to as **CLIENT**, and **TRISTEM, LTD.**, hereinafter referred to as **TRISTEM** or **CONSULTANT**, and covers the relationship of **CONSULTANT** and **CLIENT**.

TRISTEM will conduct an audit and study of prior utility billing (including street light bills) to determine that amounts paid by **CLIENT** are correct. **TRISTEM** will also inform **CLIENT** if there is a possibility that **CLIENT** can qualify for a more advantageous rate for future billing. **TRISTEM** will notify **CLIENT** of the results of the audit and study and will seek to obtain refunds for any past overbillings which **TRISTEM** determines have occurred. As a fee for this service, **CLIENT** agrees to pay **TRISTEM** 49% of any refunds **CLIENT** receives as a result of **TRISTEM'S** services or audit process, or any part thereof. *

CONSULTANT'S fee is not due until **CLIENT** receives refund. **CLIENT** agrees to pay **CONSULTANT'S** fee within ten days of receipt of refund, whether refund is in the form of cash, credit to accounts, in-kind contributions or any other form of payment or reimbursement. If future considerations are given in lieu of refunds, **TRISTEM** will receive the same percentage of the value of the future considerations, as **TRISTEM** would have received for refunds obtained.

There are no "up-front" fees or service charges. ALL FUTURE SAVINGS GO TO **CLIENT**. If there are no refunds or credits to the **CLIENT**, there is no fee to **CONSULTANT**.

CLIENT retains **TRISTEM** for audit services for:

☒ Electric ☒ Street Lighting ☒ Gas _____ Water/Sewer

AGREED AND ACCEPTED:

CLIENT: City of Temple, Texas

BY: _____
Signature Title

DATE: _____

TRISTEM, LTD.

BY: _____
Signature Title

DATE: _____

*Plus state and local taxes, if applicable.



COUNCIL AGENDA ITEM MEMORANDUM

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Consent Agenda
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DEPT./DIVISION SUBMISSION & REVIEW:

Ken Cicora, Parks and Leisure Services Director

ITEM DESCRIPTION: Consider adopting a resolution authorizing a construction contract with Hunter Kneppshield Company of Plano for the purchase and installation of a pedestrian bridge at Jeff Hamilton Park utilizing the BuyBoard in the amount of \$49,213.12.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: Over the past few years the Parks and Leisure Services Department has been renovating Jeff Hamilton Park located at 501 South 14th Street. Many improvements to this park have been made, including a new picnic pavilion, playground, basketball court, restrooms, landscaping, and irrigation.

All of the improvements to the park have been well received by the neighborhood and park activity has increased since the renovations. Knob Creek is the southern border of this park and is a barrier that prevents the neighborhood to the south from walking to the park. This bridge will span Knob Creek and allow the residents access to the park without having to walk on City streets to get to the park.

This bridge project is funded through the CDBG program (as were the other renovations to the park). The bridge is being recommended for purchase utilizing the BuyBoard, a purchasing cooperative formed by the Texas Association of School Boards, Texas Municipal League, and the Texas Association of Counties. All products and services offered on the BuyBoard have already been competitively procured.

Once the bridge is installed it will be connected to the neighborhood and to the rest of the park through an ADA approved sidewalk system.

FISCAL IMPACT: Funding in the amount of \$75,000 was designated for this project in the Fiscal Year 2009-2010 CDBG Annual Action Plan and budget adopted by Council. Funding for this proposed \$49,213.12 purchase is available in account #260-6100-571-6516, project #100507.

ATTACHMENTS:

[Resolution](#)

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING A CONSTRUCTION CONTRACT WITH HUNTER KNEPSHIELD COMPANY OF PLANO, TEXAS, FOR THE PURCHASE AND INSTALLATION OF A PEDESTRIAN BRIDGE AT JEFF HAMILTON PARK UTILIZING THE BUYBOARD, IN THE AMOUNT OF \$49,213.12; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, Knob Creek is the southern border of the Jeff Hamilton Park and is a barrier that prevents the neighborhood to the south from walking to the park;

Whereas, the Staff recommends purchasing a pedestrian bridge from Hunter Knepschild Company of Plano, Texas, through the BuyBoard, in the amount of \$49,213.12, to allow the residents access to the park without having to walk a long way out of the way on City streets to get to the park;

Whereas, funds are available in Account 260-6100-571-6516, project #100507, for this purchase; and

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

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

Part 1: The City Council authorizes a construction contract with Hunter Knepschild Company of Plano, Texas, after approval as to form by the City Attorney, for the purchase and installation of a pedestrian bridge at Jeff Hamilton Park utilizing the BuyBoard, in the amount of \$49,213.12.

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

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

PASSED AND APPROVED this the 20th day of May, 2010.

THE CITY OF TEMPLE, TEXAS

WILLIAM A. JONES, III, Mayor

ATTEST:

APPROVED AS TO FORM:

Clydetta Entzminger
City Secretary

Jonathan Graham
City Attorney



COUNCIL AGENDA ITEM MEMORANDUM

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DEPT./DIVISION SUBMISSION & REVIEW:

Kim Foutz, Assistant City Manager
Jonathan Graham, City Attorney

ITEM DESCRIPTION: Consider adopting a resolution authorizing a Chapter 380 “matching grant” agreement with Central Texas Lenders, Inc. dba First Finance & Furniture for redevelopment improvements at 108 South Main Street in downtown Temple, located within the 1st Street Strategic Investment Zone corridor, in an amount not to exceed \$22,500 plus waiver of permits and fees.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: This agreement outlines the obligations and representations of Central Texas Lenders, Inc. dba First Finance & Furniture and also defines the City's incentive package. Central Texas Lenders, Inc. dba First Finance & Furniture, located at 108 S. Main Street, is situated in downtown Temple and is within the South 1st Street Strategic Investment Zone.

The agreement and resolution will allow Central Texas Lenders, Inc. dba First Finance & Furniture to receive a Chapter 380 matching grant of up to \$15,000 match (\$13,698.50 estimated match) for façade improvements; up to \$5,000 match (\$2,455 estimated match) for sign improvements; up to \$2,500 match (\$725 estimated match) for demolition; and waiver of permits and fees. Central Texas Lenders, Inc. dba First Finance & Furniture's total project investment is \$33,757 in renovations and sign improvements with the City's match being up to \$22,500 (\$16,878.50 estimated). These improvements meet the City's ordinance requirements. Improvements must be completed by May 30, 2011. In return, Central Texas Lenders, Inc. has agreed to:

- Remove metal facade
- Refinish front building façade with Decopierre DecoRock
- Install new awning
- Remove old sign and replace with new sign

FISCAL IMPACT: The total maximum grant match by the City is \$22,500 plus waiver of permits, taps, and fees. A total of \$255,000 has been appropriated for the Strategic Investment Zone matching grant incentives over the last three fiscal years, of which \$92,986 is currently available. A budget adjustment is presented for Council approval moving the funds to the appropriate account.

Pending Council approval of the three Strategic Investment Zone agreements on the agenda, a balance of \$13,486 will remain available to fund future agreements.

Payment of the grant matching funds will not be made until work and inspections are completed, and receipts are received by the City.

ATTACHMENTS:

[Grant Agreement](#)
[Location map and picture](#)
[Budget Adjustment](#)
[Resolution](#)

South 1st Street Strategic Investment Zone Chapter 380 Development Agreement



This Agreement is executed by and between the City of Temple, a home rule city in Bell County, Texas (hereinafter “the City”) and Central Texas Lenders Inc. dba First Finance & Furniture, a Limited Liability Company hereinafter “Owner”).

City and Owner agree as follows:

Section 1. Purpose. Pursuant to authority granted to home rule cities under Chapter 380 of the Local Government Code and pursuant to a program established for the South 1st Street Strategic Investment Zone under City Ordinance Number 2009-4285, the City and the Owner enter into this Agreement to promote economic development within the South 1st Street Strategic Investment Zone. As an inducement to Owner to make certain specified improvements to the property located at 108 South Main Street (hereinafter the “Property”), City and Owner agree to assume the responsibilities set forth below.

Section 2. Obligations of Owner. Owner proposes to make certain improvements to the Property, which are described generally below and as attached, and to use the Property as a retail furniture sales and finance company after the Improvements are completed. Owner is seeking matching grants for certain types of additional improvements described in Section 3, and further agrees to complete all of the additional improvements describe in the subparts of Section 3.

Improvements include: refinish front building facade with Decopierre DecoRock, install new awning, remove old sign and replace with new sign, hereinafter collectively referred to as “the Improvements.” The cost of total anticipated Improvements are \$33,757.

Owner agrees to complete said Improvements on or before May 30, 2011. As a condition to receiving the matching grants from the City described in Section 3, Owner further agrees to complete the improvements described in each subpart of Section 3.

Section 3. Matching Grants by the City. The City agrees to provide matching grants to the Owner as described below if Owner satisfactorily completes and maintains the additional improvements described in each subpart below:

- (a) **Façade Improvement Grant.** The City will make a grant of up to \$15,000 on a 1:1 matching basis (\$13,698.50 match estimate based on current quotes) for the replacement of an existing façade with an eligible

masonry product on the Improvement. Eligible masonry materials for a replacement façade under this subsection include brick, stone, stucco, EIFS, simulated stone block, and such other materials that the City may approve from time to time. Decopierre DecoRock, for the purposes of this grant, is considered an eligible product. A list of eligible materials for the South 1st Street Strategic Investment Zone is maintained in the Construction Safety Office, 1st Floor, the Municipal Building, 2 North Main Street. Other façade improvement costs eligible for reimbursement with a façade improvement grant include demolition costs (including labor), landfill costs, and material and construction (including labor) costs, but specifically exclude design costs.

A description of the Façade Improvements to be completed by Owner is as follows:

- Remove sheet metal façade and replace with Decopierre DecoRock limestone veneer
 - Remove existing canopy and replace with new canopy
- (b) **Sign.** The City will make a grant of up to \$5,000.00 on a 1:1 matching basis (\$2,455 match estimate based on current quotes) for sign and pole construction and installation. Improvements will include removal of existing sign and replacement with new lighted flag pole and pole runner sign.
- (c) **Demolition.** The City will make a grant of up to \$2,500 on a 1:1 matching basis (\$725 match based on current quotes) for façade material, awning, and sign demolition. Eligible costs include the labor and landfill costs, and equipment rental, but exclude any design costs.
- (d) **Waiver of Platting, Zoning and Permit Fees.** The City will waive platting, zoning, water and wastewater tap fees, and building permit fees related to the Improvements on the Property.

Section 4. Acceptance of Improvements and Payment of Matching Grants.

The City's obligation to provide the matching grants described in Section 3 is conditioned upon the Owner completing the Improvements described in Section 2 and the specific additional improvements described in the relevant subparts of Section 3. After the Improvements described in Section 2 and in the subparts of Section 3 are inspected and accepted by the City, the City will make payment to the Owner within 30 days of such acceptance and upon evidence of receipts for expenses.

Section 5. Maintenance of Improvements. Owner, or its successors and assigns, agree to maintain the Improvements described in Section 2 and the subparts of Section 3 for a period of not less than five (5) years from the date matching grants are received from the City.

Section 6. Assignment. Owner shall have the right to assign this Agreement as collateral for the financing of the construction of the Improvements, and in the event that Owner is unable to complete the project for any reason, its assignee shall have the right, but not the obligation to finish the project, and receive a contribution from the City in the amounts specified in this Agreement upon final inspection and acceptance of the Improvements by the City.

Section 7. Availability of Records. Owner agrees to make its books and other records related to the construction of the Improvements available for inspection by the City during reasonable business hours.

Executed on this the ____ day of _____, 20__.

City of Temple, Texas

Owner

David A. Blackburn
City Manager

Leonard E. Geiger
Central Texas Lenders Inc.
Db a First Finance & Furniture

Attest:

Approved as to form:

Clydette Entzminger
City Secretary

Jonathan Graham
City Attorney

State of Texas §

County of Bell §

This instrument was acknowledged before me on the ____ day of _____, 20__ by David A. Blackburn, City Manager, for the City of Temple, a Texas home rule City.

Notary Public

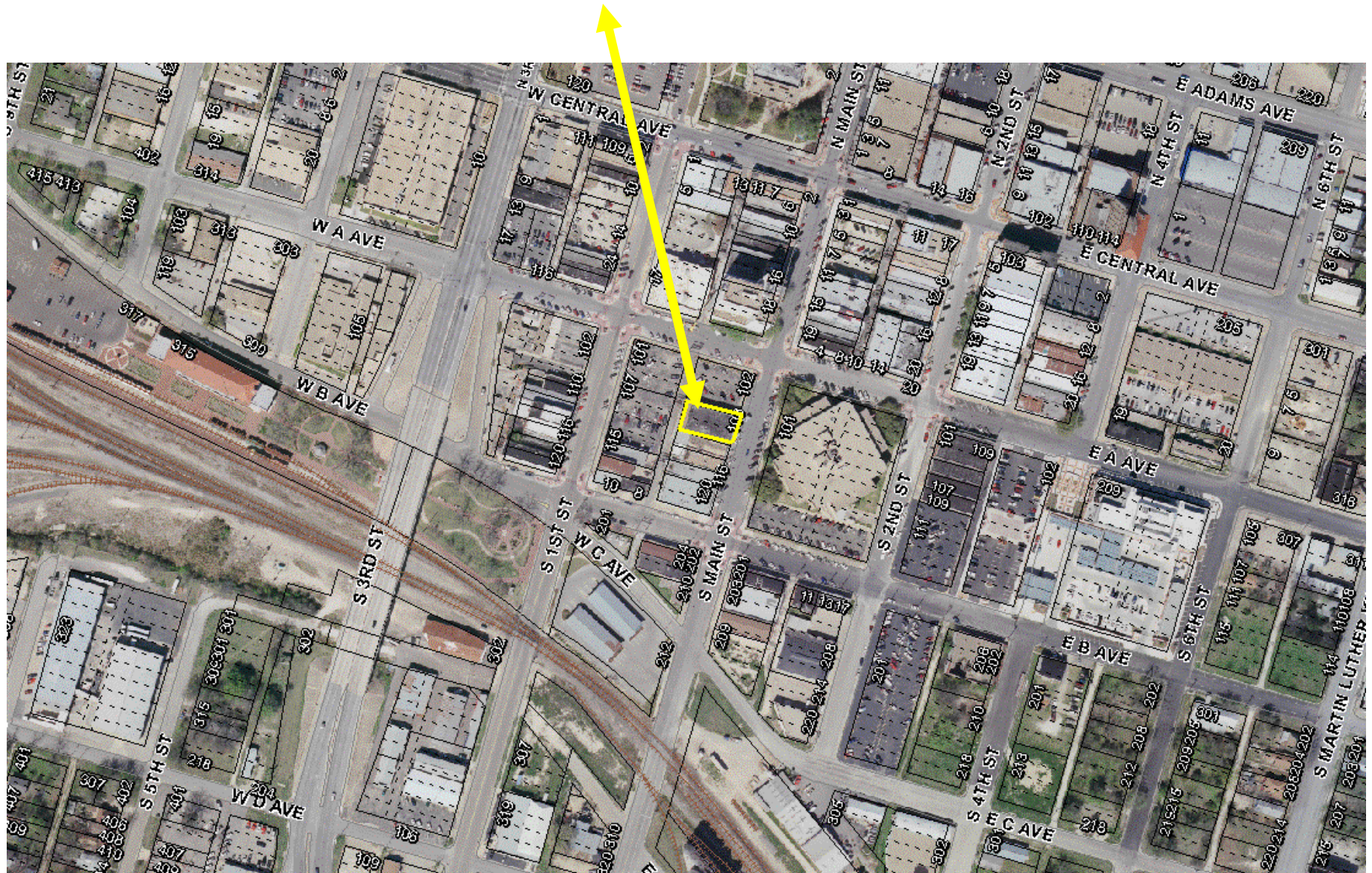
State of Texas §

County of Bell §

This instrument was acknowledged before me on the ____ day of _____,
20__ by _____.

Notary Public

108 S. Main Street



108 S. Main Street



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	
110-1500-515-26-95		Neighborhood Rehabilitation	\$ 22,500			
110-5900-515-61-10		Land Purchase Price			22,500	
TOTAL.....			\$ 22,500		\$ 22,500	

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

Appropriate funds for a Chapter 380 matching grant agreement between the City of Temple and Central Texas Lenders, Inc. dba First Finance & Furniture, for redevelopment improvements on Main Street downtown Temple located within the 1st Street Strategic Investment corridor. The total maximum grant match by the City is \$22,500 plus waiver of permits, taps, and fees.

DOES THIS REQUEST REQUIRE COUNCIL APPROVAL?

☒

Yes

☐

No

DATE OF COUNCIL MEETING

May 20, 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 CHAPTER 380 “MATCHING GRANT” AGREEMENT BETWEEN THE CITY OF TEMPLE AND CENTRAL TEXAS LENDERS, INC., DBA FIRST FINANCE & FURNITURE, FOR REDEVELOPMENT IMPROVEMENTS ON MAIN STREET IN DOWNTOWN TEMPLE WITHIN THE SOUTH 1ST STREET STRATEGIC INVESTMENT ZONE CORRIDOR, FOR A COST NOT TO EXCEED \$22,500, PLUS WAIVER OF PERMITS AND FEES; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, Central Texas Lenders, Inc., dba First Finance & Furniture, is situated within the South 1st Street Strategic Investment Zone which makes it eligible to receive a matching grant incentive from the City which is authorized by Ordinance No. 2008-4218 passed by the Temple City Council on June 5, 2008, and amending Ordinance No. 2009-4285 passed on March 5, 2009;

Whereas, the Staff recommends entering into a Chapter 380 “matching grant” agreement which will outline the obligations and representations of Central Texas Lenders, Inc., dba First Finance & Furniture and define the City’s incentive package;

Whereas, the total project investment by Central Texas Lenders, Inc., dba First Finance & Furniture is \$33,757, and the City’s total match may not exceed \$22,500;

Whereas, funds are available for this matching grant incentive in Account No. 110-1500-515-2695 and an amendment to the FY2009-2010 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 Council authorizes the City Manager, or his designee, to execute a Chapter 380 “matching grant” agreement, between the City of Temple and Central Texas Lenders, Inc., dba First Finance & Furniture, after approval as to form by the City Attorney, for redevelopment improvements in the South 1st Street

Strategic Investment Zone corridor, for a cost not to exceed \$22,500 plus waiver of permits and fees.

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 **20th** 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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DEPT./DIVISION SUBMISSION & REVIEW:

Kim Foutz, Assistant City Manager
Jonathan Graham, City Attorney

ITEM DESCRIPTION: Consider adopting a resolution authorizing a Chapter 380 “matching grant” agreement with James Fertsch for redevelopment improvements at 12 East Central Avenue in downtown Temple, located within the 1st Street Strategic Investment Zone corridor, in an amount not to exceed \$28,500 plus waiver of permits and fees.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: This agreement outlines the obligations and representations of James Fertsch and also defines the City's incentive package. 12 East Central Avenue is situated in downtown Temple and is within the South 1st Street Strategic Investment Zone.

The agreement and resolution will allow James Fertsch to receive a Chapter 380 matching grant of up to \$15,000 match (\$15,000 estimated match) for façade improvements; one tree from the City tree farm; up to \$10,000 match (\$2,400 estimated match) for sidewalk improvements; up to \$1,000 match (\$150 estimated match) for an asbestos survey; up to \$2,500 for demolition (\$1,750 estimated match), and waiver of permits and fees. James Fertsch's total estimated project investment is \$59,773 in façade renovations and infrastructure improvements (plus investment for interior renovations and building/site acquisition) with the City's total match being up to \$28,500 (\$19,300 estimated). These improvements exceed the City's ordinance requirements and meet preservation goals for downtown. Improvements must be completed by May 30, 2011. In return, James Fertsch has agreed to:

- Refinish front of building façade, add doors & windows
- Repair existing historic brick front facade
- Repair/replace sidewalk
- Install trees
- Perform select demolition
- Perform asbestos survey and abatement

FISCAL IMPACT: The total maximum grant match by the City is \$28,500 plus waiver of permits, taps, and fees. It is also anticipated that Mr. Fertsch will be applying for tax abatement. A total of \$255,000 has been appropriated for the Strategic Investment Zone matching grant incentives over the last three fiscal years, of which \$92,986 is currently available. A budget adjustment is presented for Council approval moving the funds to the appropriate account.

Pending Council approval of the three Strategic Investment Zone agreements on the agenda, a balance of \$13,486 will remain available to fund future agreements.

Payment of the grant matching funds will not be made until work and inspections are completed, and receipts are received by the City.

ATTACHMENTS:

[Grant Agreement](#)
[Location map and picture](#)
[Budget Adjustment](#)
[Resolution](#)

South 1st Street Strategic Investment Zone Chapter 380 Development Agreement



This Agreement is executed by and between the City of Temple, a home rule city in Bell County, Texas (hereinafter “the City”) and James Fertsch, a Sole Proprietorship hereinafter “Owner”).

City and Owner agree as follows:

Section 1. Purpose. Pursuant to authority granted to home rule cities under Chapter 380 of the Local Government Code and pursuant to a program established for the South 1st Street Strategic Investment Zone under City Ordinance Number 2009-4285, the City and the Owner enter into this Agreement to promote economic development within the South 1st Street Strategic Investment Zone. As an inducement to Owner to make certain specified improvements to the property located at 12 East Central Avenue (hereinafter the “Property”), City and Owner agree to assume the responsibilities set forth below.

Section 2. Obligations of Owner. Owner proposes to make certain improvements to the Property, which are described generally below and as attached, and to use the Property as a multi-use building to include office, retail, and loft space after the Improvements are completed. Owner is seeking matching grants for certain types of additional improvements described in Section 3, and further agrees to complete all of the additional improvements describe in the subparts of Section 3. Improvements include: refinish front building façade, repair/replace sidewalk, install trees, and select demolition, hereinafter collectively referred to as “the Improvements.” The cost of total anticipated Improvements are \$59,773.

Owner agrees to complete said Improvements on or before May 30, 2011. As a condition to receiving the matching grants from the City described in Section 3, Owner further agrees to complete the improvements described in each subpart of Section 3.

Section 3. Matching Grants by the City. The City agrees to provide matching grants to the Owner as described below if Owner satisfactorily completes and maintains the additional improvements described in each subpart below:

- (a) **Facade Improvement Grant.** The City will make a grant of up to \$15,000 on a 1:1 matching basis (\$15,000 match estimate based on current quotes) for the replacement and repair of an existing façade with an eligible masonry product on the Improvement. Owner will endeavor

to preserve and repair, if needed, the existing brick on the front façade. Eligible masonry materials for a replacement façade under this subsection include brick, stone, stucco, EIFS, simulated stone block, and such other materials that the City may approve from time to time. A list of eligible materials for the South 1st Street Strategic Investment Zone is maintained in the Construction Safety Office, 1st Floor, the Municipal Building, 2 North Main Street. Other façade improvement costs eligible for reimbursement with a façade improvement grant include demolition costs (including labor), landfill costs, and material and construction (including labor) costs, but specifically exclude design costs.

A description of the Façade Improvements to be completed by Owner is as follows:

- Remove darkened glass and replace with new stucco/effis façade, doors, windows, and optional balcony.

- (b) **(b) Landscaping Improvement Grant.** The City will make a grant of one tree from the City's tree farm. Landscaping Improvements to include installation of a tree in the front sidewalk area.
- (c) **Sidewalk Improvement Grant.** The City will make a grant of up to \$10,000.00 on a 1:1 matching basis (\$2,400 estimated match based on current quotes) for the construction or replacement of new sidewalks. Sidewalk improvement costs eligible for reimbursement include demolition costs (where applicable) (including labor), landfill costs, and material and construction (including labor) costs and equipment rental, but specifically exclude design costs.
- (d) **Demolition.** The City will make a grant of up to \$2,500 on a 1:1 matching basis (\$1,750 estimated match based on current quotes) for façade material, awning, and sign demolition. Eligible costs include the labor and landfill costs, and equipment rental, but exclude any design costs.
- (e) **Asbestos Survey and Removal.** The City will make a grant of up to \$1,000 on a 1:1 matching basis (\$150 estimated match based on current quotes) for Owner-initiated asbestos survey of the building.
- (f) **Waiver of Platting, Zoning and Permit Fees.** The City will waive platting, zoning, water and wastewater tap fees, and building permit fees related to the Improvements on the Property.

Section 4. Acceptance of Improvements and Payment of Matching Grants.

The City's obligation to provide the matching grants described in Section 3 is

conditioned upon the Owner completing the Improvements described in Section 2 and the specific additional improvements described in the relevant subparts of Section 3. After the Improvements described in Section 2 and in the subparts of Section 3 are inspected and accepted by the City, the City will make payment to the Owner within 30 days of such acceptance and upon evidence of receipts for expenses.

Section 5. Maintenance of Improvements. Owner, or its successors and assigns, agree to maintain the Improvements described in Section 2 and the subparts of Section 3 for a period of not less than five (5) years from the date matching grants are received from the City.

Section 6. Assignment. Owner shall have the right to assign this Agreement as collateral for the financing of the construction of the Improvements, and in the event that Owner is unable to complete the project for any reason, its assignee shall have the right, but not the obligation to finish the project, and receive a contribution from the City in the amounts specified in this Agreement upon final inspection and acceptance of the Improvements by the City.

Section 7. Availability of Records. Owner agrees to make its books and other records related to the construction of the Improvements available for inspection by the City during reasonable business hours.

Executed on this the ____ day of _____, 20__.

City of Temple, Texas

Owner

David A. Blackburn
City Manager

James Fertsch
Sole Proprietor

Attest:

Approved as to form:

Clydette Entzminger
City Secretary

Jonathan Graham
City Attorney

State of Texas §

County of Bell §

This instrument was acknowledged before me on the ____ day of _____,
20____ by David A. Blackburn, City Manager, for the City of Temple, a Texas
home rule City.

Notary Public

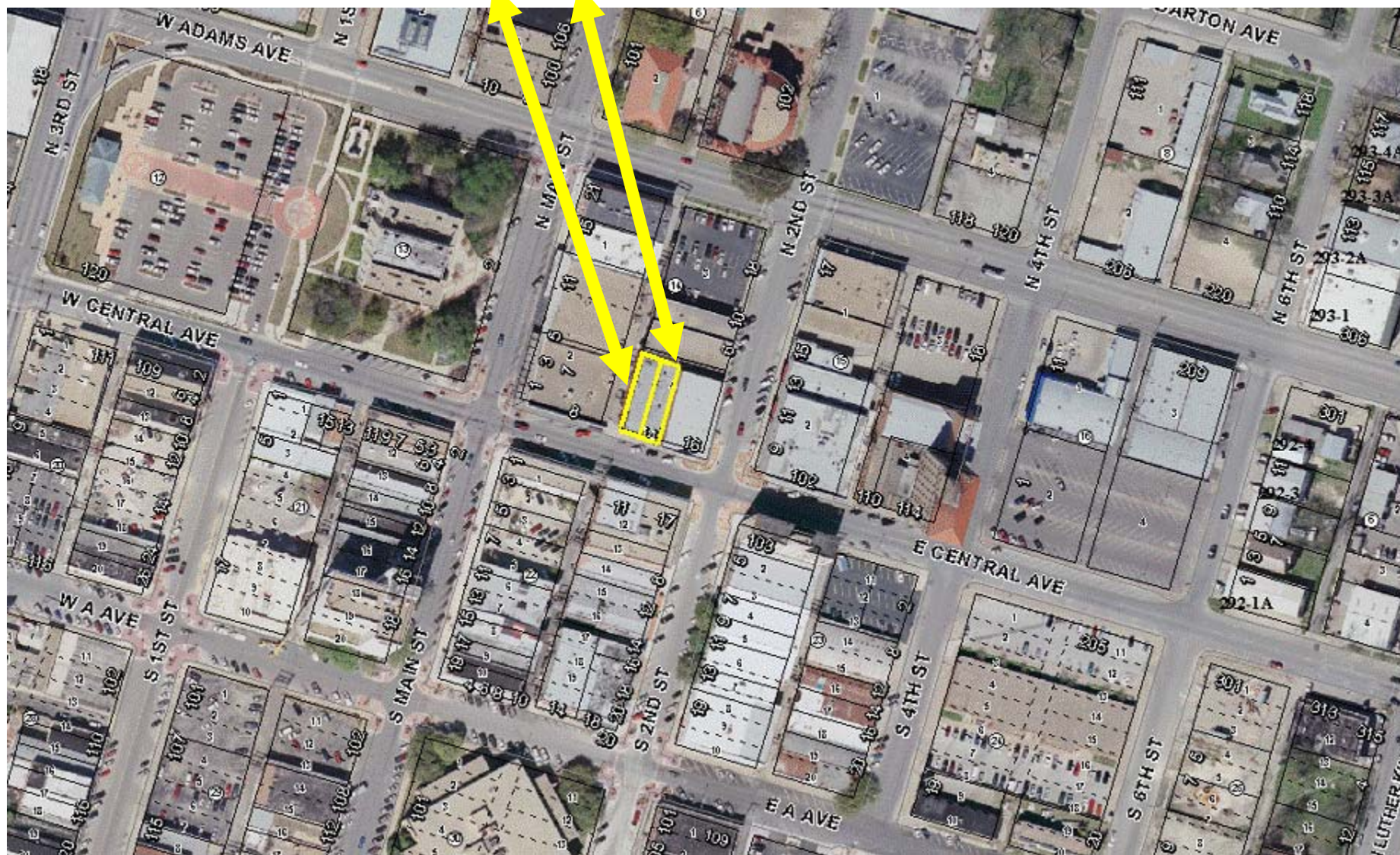
State of Texas §

County of Bell §

This instrument was acknowledged before me on the ____ day of _____,
20__ by _____.

Notary Public

12 & 14 East Central Avenue



12 East Central Avenue

14 East Central Avenue



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
110-1500-515-26-95		Neighborhood Rehabilitation	\$ 28,500	
110-5900-515-61-10		Land Purchase Price		28,500
TOTAL.....			\$ 28,500	\$ 28,500

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

Appropriate funds for a Chapter 380 matching grant agreement between the City of Temple and James Fertsch for redevelopment improvements on Central Avenue in downtown Temple located within the 1st Street Strategic Investment corridor. The total maximum grant match by the City is \$28,500 plus waiver of permits, taps, and fees.

DOES THIS REQUEST REQUIRE COUNCIL APPROVAL?

☒

Yes

☐

No

DATE OF COUNCIL MEETING

May 20, 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 CHAPTER 380 “MATCHING GRANT” AGREEMENT BETWEEN THE CITY OF TEMPLE AND JAMES FETCH FOR REDEVELOPMENT IMPROVEMENTS ON CENTRAL AVENUE IN DOWNTOWN TEMPLE WITHIN THE SOUTH 1ST STREET STRATEGIC INVESTMENT ZONE CORRIDOR, FOR A COST NOT TO EXCEED \$28,500 PLUS WAIVER OF PERMITS AND FEES; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, property owned by James Fetch located at 12 East Central Avenue is situated within the South 1st Street Strategic Investment Zone which makes it eligible to receive a matching grant incentive from the City which is authorized by Ordinance No. 2008-4218 passed by the Temple City Council on June 5, 2008, and amending Ordinance No. 2009-4285 passed on March 5, 2009;

Whereas, the Staff recommends entering into a Chapter 380 “matching grant” agreement which will outline the obligations and representations of James Fetch and define the City’s incentive package;

Whereas, the total project investment by James Fetch is \$59,773, and the City’s total match may not exceed \$28,500;

Whereas, funds are available for this matching grant incentive in Account No. 110-1500-515-2695 and an amendment to the FY2009-2010 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 Council authorizes the City Manager, or his designee, to execute a Chapter 380 “matching grant” agreement, between the City of Temple and James Fetch, after approval as to form by the City Attorney, for redevelopment improvements in the South 1st Street Strategic Investment Zone corridor, for a cost not to exceed \$28,500 plus waiver of permits and fees.

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 **20th** day of **May**, 2010.

THE CITY OF TEMPLE, TEXAS

WILLIAM A. JONES, III, Mayor

ATTEST:

APPROVED AS TO FORM:

Clydetta Entzminger
City Secretary

Jonathan Graham
City Attorney



COUNCIL AGENDA ITEM MEMORANDUM

05/20/10
Item #6(M)
Consent Agenda
Page 1 of 2

DEPT./DIVISION SUBMISSION & REVIEW:

Kim Foutz, Assistant City Manager
Jonathan Graham, City Attorney

ITEM DESCRIPTION: Consider adopting a resolution authorizing a Chapter 380 “matching grant” agreement James Fertsch for redevelopment improvements at 14 East Central Avenue in downtown Temple, located within the 1st Street Strategic Investment Zone corridor, in an amount not to exceed \$28,500 plus waiver of permits and fees.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: This agreement outlines the obligations and representations of James Fertsch and also defines the City's incentive package. 14 East Central Avenue is situated in downtown Temple and is within the South 1st Street Strategic Investment Zone.

The agreement and resolution will allow James Fertsch to receive a Chapter 380 matching grant of up to \$15,000 match (\$15,000 estimated match) for façade improvements; one tree from the City tree farm; up to \$10,000 match (\$2,400 estimated match) for sidewalk improvements; up to \$1,000 match (\$150 estimated match) for an asbestos survey; up to \$2,500 for demolition (\$1,750 estimated match), and waiver of permits and fees. James Fertsch's total estimated project investment is \$50,600 in façade renovations and infrastructure improvements (plus investment for interior renovations and building/site acquisition) with the City's total match being up to \$28,500 (\$19,300 estimated). These improvements exceed the City's ordinance requirements and meet preservation goals for downtown. Improvements must be completed by May 30, 2011. In return, James Fertsch has agreed to:

- Refinish front of building façade, add doors & windows
- Repair existing historic brick front facade
- Repair/replace sidewalk
- Install trees
- Perform select demolition
- Perform asbestos survey and abatement

FISCAL IMPACT: The total maximum grant match by the City is \$28,500 plus waiver of permits, taps, and fees. It is also anticipated that Mr. Fertsch will be applying for tax abatement. A total of \$255,000 has been appropriated for the Strategic Investment Zone matching grant incentives over the last three fiscal years, of which \$92,986 is currently available. A budget adjustment is presented for Council approval moving the funds to the appropriate account.

Pending Council approval of the three Strategic Investment Zone agreements on the agenda, a balance of \$13,486 will remain available to fund future agreements.

Payment of the grant matching funds will not be made until work and inspections are completed, and receipts are received by the City.

ATTACHMENTS:

[Grant Agreement](#)
[Location map and picture](#)
[Budget Adjustment](#)
[Resolution](#)

South 1st Street Strategic Investment Zone Chapter 380 Development Agreement



This Agreement is executed by and between the City of Temple, a home rule city in Bell County, Texas (hereinafter “the City”) and James Fertsch, a Sole Proprietorship hereinafter “Owner”).

City and Owner agree as follows:

Section 1. Purpose. Pursuant to authority granted to home rule cities under Chapter 380 of the Local Government Code and pursuant to a program established for the South 1st Street Strategic Investment Zone under City Ordinance Number 2009-4285, the City and the Owner enter into this Agreement to promote economic development within the South 1st Street Strategic Investment Zone. As an inducement to Owner to make certain specified improvements to the property located at 14 East Central Avenue (hereinafter the “Property”), City and Owner agree to assume the responsibilities set forth below.

Section 2. Obligations of Owner. Owner proposes to make certain improvements to the Property, which are described generally below and as attached, and to use the Property as a multi-use property including office, retail, and loft space after the Improvements are completed. Owner is seeking matching grants for certain types of additional improvements described in Section 3, and further agrees to complete all of the additional improvements describe in the subparts of Section 3.

Improvements include: refinish front building façade, repair/replace sidewalk, install trees, and select demolition, hereinafter collectively referred to as “the Improvements.” The cost of total anticipated Improvements are \$50,600.

Owner agrees to complete said Improvements on or before May 30, 2011. As a condition to receiving the matching grants from the City described in Section 3, Owner further agrees to complete the improvements described in each subpart of Section 3.

Section 3. Matching Grants by the City. The City agrees to provide matching grants to the Owner as described below if Owner satisfactorily completes and maintains the additional improvements described in each subpart below:

- (a) **Facade Improvement Grant.** The City will make a grant of up to \$15,000 on a 1:1 matching basis (\$15,000 match estimate based on current quotes) for the replacement and repair of an existing façade with an eligible masonry product on the Improvement. Owner will endeavor

to preserve and repair, if needed, the existing brick on the front façade. Eligible masonry materials for a replacement façade under this subsection include brick, stone, stucco, EIFS, simulated stone block, and such other materials that the City may approve from time to time. A list of eligible materials for the South 1st Street Strategic Investment Zone is maintained in the Construction Safety Office, 1st Floor, the Municipal Building, 2 North Main Street. Other façade improvement costs eligible for reimbursement with a façade improvement grant include demolition costs (including labor), landfill costs, and material and construction (including labor) costs, but specifically exclude design costs.

A description of the Façade Improvements to be completed by Owner is as follows:

- Remove darkened glass and replace with new stucco/effis façade, doors, windows, and optional balcony.

(b) **Landscaping Improvement Grant.** The City will make a grant of one tree from the City's tree farm. Landscaping Improvements to include installation of one tree in the front sidewalk area.

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(e) **Asbestos Survey and Removal.** The City will make a grant of up to \$1,000 on a 1:1 matching basis (\$150 estimated match based on current quotes) for Owner-initiated asbestos survey of the building.

(f) **Waiver of Platting, Zoning and Permit Fees.** The City will waive platting, zoning, water and wastewater tap fees, and building permit fees related to the Improvements on the Property.

Section 4. Acceptance of Improvements and Payment of Matching Grants.

The City's obligation to provide the matching grants described in Section 3 is

conditioned upon the Owner completing the Improvements described in Section 2 and the specific additional improvements described in the relevant subparts of Section 3. After the Improvements described in Section 2 and in the subparts of Section 3 are inspected and accepted by the City, the City will make payment to the Owner within 30 days of such acceptance and upon evidence of receipts for expenses.

Section 5. Maintenance of Improvements. Owner, or its successors and assigns, agree to maintain the Improvements described in Section 2 and the subparts of Section 3 for a period of not less than five (5) years from the date matching grants are received from the City.

Section 6. Assignment. Owner shall have the right to assign this Agreement as collateral for the financing of the construction of the Improvements, and in the event that Owner is unable to complete the project for any reason, its assignee shall have the right, but not the obligation to finish the project, and receive a contribution from the City in the amounts specified in this Agreement upon final inspection and acceptance of the Improvements by the City.

Section 7. Availability of Records. Owner agrees to make its books and other records related to the construction of the Improvements available for inspection by the City during reasonable business hours.

Executed on this the ____ day of _____, 20__.

City of Temple, Texas

Owner

David A. Blackburn
City Manager

James Fertsch
Sole Proprietor

Attest:

Approved as to form:

Clydette Entzminger
City Secretary

Jonathan Graham
City Attorney

State of Texas §

County of Bell §

This instrument was acknowledged before me on the ____ day of _____,
20____ by David A. Blackburn, City Manager, for the City of Temple, a Texas
home rule City.

Notary Public

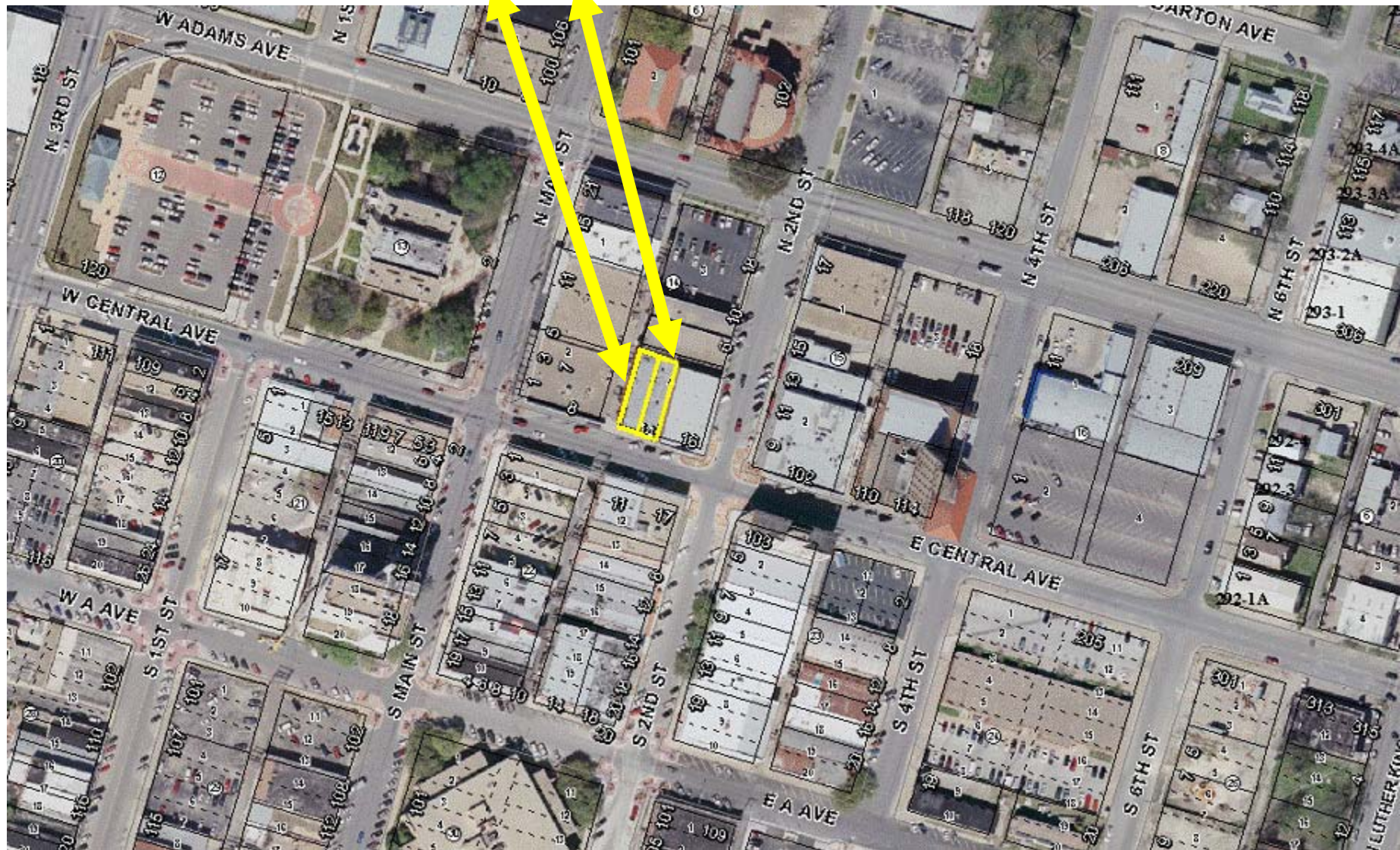
State of Texas §

County of Bell §

This instrument was acknowledged before me on the ____ day of _____,
20__ by _____.

Notary Public

12 & 14 East Central Avenue



12 East Central Avenue

14 East Central Avenue



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.

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ACCOUNT NUMBER	PROJECT #	ACCOUNT DESCRIPTION	INCREASE		DECREASE	
110-1500-515-26-95		Neighborhood Rehabilitation	\$ 28,500			
110-5900-515-61-10		Land Purchase Price			28,500	
TOTAL.....			\$ 28,500		\$ 28,500	

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

Appropriate funds for a Chapter 380 matching grant agreement between the City of Temple and James Fertsch for redevelopment improvements on Central Avenue in downtown Temple located within the 1st Street Strategic Investment corridor. The total maximum grant match by the City is \$28,500 plus waiver of permits, taps, and fees.

DOES THIS REQUEST REQUIRE COUNCIL APPROVAL?

☒ Yes☐ No

DATE OF COUNCIL MEETING

May 20, 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 CHAPTER 380 “MATCHING GRANT” AGREEMENT BETWEEN THE CITY OF TEMPLE AND JAMES FETCH FOR REDEVELOPMENT IMPROVEMENTS ON CENTRAL AVENUE IN DOWNTOWN TEMPLE WITHIN THE SOUTH 1ST STREET STRATEGIC INVESTMENT ZONE CORRIDOR, FOR A COST NOT TO EXCEED \$28,500 PLUS WAIVER OF PERMITS AND FEES; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, property owned by James Fetch located at 14 East Central Avenue is situated within the South 1st Street Strategic Investment Zone which makes it eligible to receive a matching grant incentive from the City which is authorized by Ordinance No. 2008-4218 passed by the Temple City Council on June 5, 2008, and amending Ordinance No. 2009-4285 passed on March 5, 2009;

Whereas, the Staff recommends entering into a Chapter 380 “matching grant” agreement which will outline the obligations and representations of James Fetch and define the City’s incentive package;

Whereas, the total project investment by James Fetch is \$50,600, and the City’s total match may not exceed \$28,500;

Whereas, funds are available for this matching grant incentive in Account No. 110-1500-515-2695 and an amendment to the FY2009-2010 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 Council authorizes the City Manager, or his designee, to execute a Chapter 380 “matching grant” agreement, between the City of Temple and James Fetch, after approval as to form by the City Attorney, for redevelopment improvements in the South 1st Street Strategic Investment Zone corridor for a cost not to exceed \$28,500 plus waiver of permits and fees.

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 **20th** 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

05/20/10
Item #6(N)
Consent Agenda
Page 1 of 2

DEPT. /DIVISION SUBMISSION & REVIEW:

Tim Dolan, AICP, Planning Director
Jonathan Graham, City Attorney

ITEM DESCRIPTION: SECOND READING – Z-FY-10-17: Consider adopting an ordinance authorizing the voluntary annexation of a 1.7± acre tract of land located west of FM 2271, north of Live Oak Ridge Road, out of the G.W. Lindsey Survey, Abstract 513 and zoning the area Planned Development General Retail District (PD-GR).

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

ITEM SUMMARY: On January 21, the Council accepted a petition for voluntary annexation from A.C. Boston, on January 5, 2010, seeking voluntary annexation of approximately 1.7± acres into the City of Temple. The property is located west of the existing City limits line. The Council directed the staff to prepare a municipal services plan for this tract.

Voluntary annexation is governed by Section 43.028 of the Texas Local Government Code and applies only to the annexation of an area that is: (1) less than one-half mile in width; (2) contiguous to the annexing municipality, and (3) vacant and without residents or on which fewer than three qualified voters reside. The landowner's petition met the statutory requirements and is recommended to be granted.

Public hearings were conducted on February 4, 2010 (regular meeting) and February 5, 2010 (special meeting) and the proposed Municipal Services Plan for the area under consideration for annexation was presented. No public comments were received at either hearing.

Note: We have held off on bringing this item back for a second reading to resolve some related issues, we are placing the item back on the agenda with the expectation that those issues will be received by meeting time. If they remain unresolved by May 20th, we will ask the City Council to table the item.

FISCAL IMPACT: No immediate impact. Obligation to provide police and fire services. The Municipal Service Plan does not contain any proposal to extend water or wastewater services to the area, or any other new physical facilities to serve this small tract.

ATTACHMENTS:

[Petition](#)

[Aerial](#)

[Future Land Use and Character Plan](#)

[Utility Plan](#)

[Service Plan](#)

[P&Z Staff Report Z-FY-10-17](#)

[Excerpts Z-FY-10-17](#)

[Ordinance](#)

VOLUNTARY PETITION FOR ANNEXATION

January 5, 2010

To the City Council of the City of Temple:

We are the owners of an approximately 1.651 acre tract of land (hereinafter the Tract), more particularly described as follows:

Exhibit 'A', consisting of two parts, Part 1, a sketch plan of this tract, and Part 2, a metes and bounds description, is attached hereto and made a part hereof by references for all pertinent purposes.

Said tract of land varies in width and is contiguous to the current limits of the City of Temple. There are no residents within this property. I am petitioning the City Council to take appropriate action to annex said Tract pursuant to Section 43.028 of the Local Government Code.



A.C. Boston, Owner

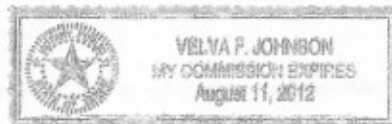
STATE OF TEXAS

COUNTY OF BELL

BEFORE ME, The undersigned authority, personally appeared A.C. Boston, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same, for the purpose and consideration therein expressed.

WITNESS MY HAND AND SEAL OF OFFICE this 5 day of January, 2010


Notary Public, State of Texas



Nancy Boston
Nancy Boston, Owner

STATE OF TEXAS

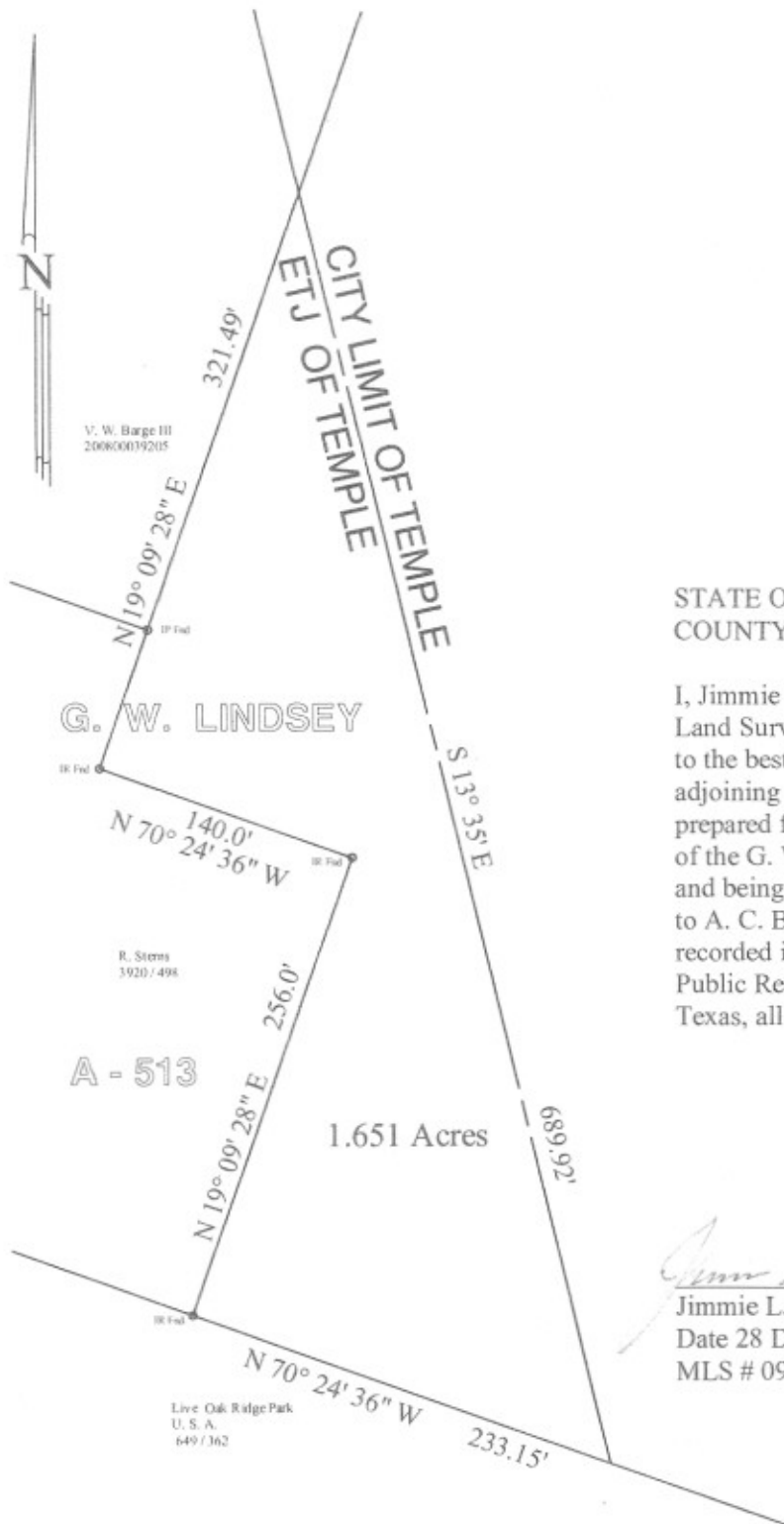
COUNTY OF BELL

BEFORE ME, The undersigned authority, personally appeared Nancy Boston, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same, for the purpose and consideration therein expressed.

WITNESS MY HAND AND SEAL OF OFFICE this 5 day of January, 2010

Velva F. Johnson
Notary Public, State of Texas





STATE OF TEXAS
COUNTY OF BELL

I, Jimmie L. McDonald, a Registered Professional Land Surveyor in the State of Texas, hereby certify to the best of my knowledge and belief that the adjoining plat is true and correct, that it was prepared from available data, being 1.651 acres out of the G. W. Lindsey Survey, Abstract No. 513 and being all out of that 14.032 acres conveyed to A. C. Boston and wife Nancy Boston as recorded in Volume 3805, page 529 of the Official Public Records of Real Property of Bell County, Texas, all survey monuments, are as shown.

Jimmie L. McDonald
 Jimmie L. McDonald RPLS 4332
 Date 28 December 2009
 MLS # 09 - 12379



Field Notes

1.651 Acres

Being 1.651 acres, more or less, out of the G. W. Lindsey Survey, Abstract No. 513, and being all out of that 14.032 acres conveyed to A. C. Boston, and wife Nancy Boston as recorded in Volume 3805, page 529 of the Official Public Records of Real Property of Bell County, Texas, and being more particularly described herein by metes and bounds to-wit:

Beginning at an iron rod found in the north boundary of Live Oak Ridge Park as conveyed to U. S. A. and recorded in Volume 649, page 362 of the Deed Records of Bell County, Texas, and being the southeast corner of a tract of land conveyed to R. Sterns as recorded in Volume 3920, page 498 of the Official Public Records of Real Property of Bell County, Texas, for the southwest corner of said 14.032 acres and this tract;

Thence N 19° 09' 28" E along a fence line for the east boundary of said Sterns tract at 256.0 feet found an iron rod for the northeast corner of said Sterns tract and being a southerly interior corner of said 14.032 acre tract and this tract;

Thence N 70° 24' 36" W along a fence line a northerly boundary of said Sterns tract at 140.0 feet found an iron rod for an interior corner of said Sterns tract, and being a southerly exterior corner of said 14.032 acre tract and this tract;

Thence N 19° 09' 28" E along a fence line passing a northerly exterior corner of said Sterns tract and the southeast corner of a tract of land conveyed to V. W. Barge III as recorded in Document No. 200800039205 of the Official Public Records of Real Property of Bell County, Texas, at 321.49 feet the northeast most corner of this tract;

Thence S 13° 35' E along the easterly boundary of this tract at 689.92 feet a point in a fence line for the north boundary of said Live Oak Ridge Park, the south boundary of said 14.032 acre tract for the southeast corner of this tract;

Thence N 70° 24' 36" W along a fence line for the north boundary of said Live Oak Ridge Park the south boundary of said 14.032 acre tract and this tract at 233.15 feet to the place of beginning, containing 1.651 acres.

28 December 2009.

MLS # 09 - 12379

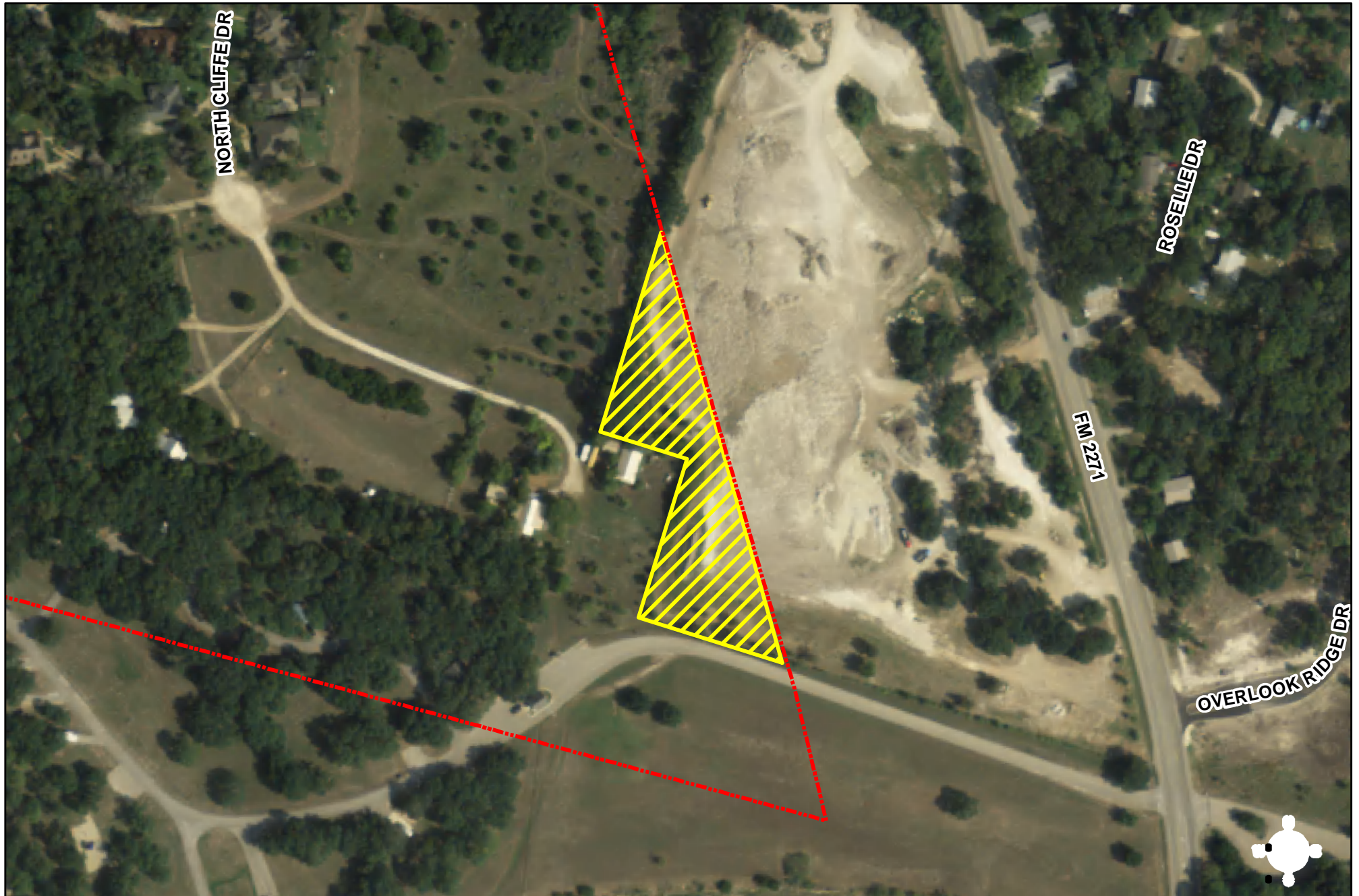




Z-FY-10-17

Voluntary Annexation

1.651 Acres GW Lindsey Survey



Z-FY-10-17

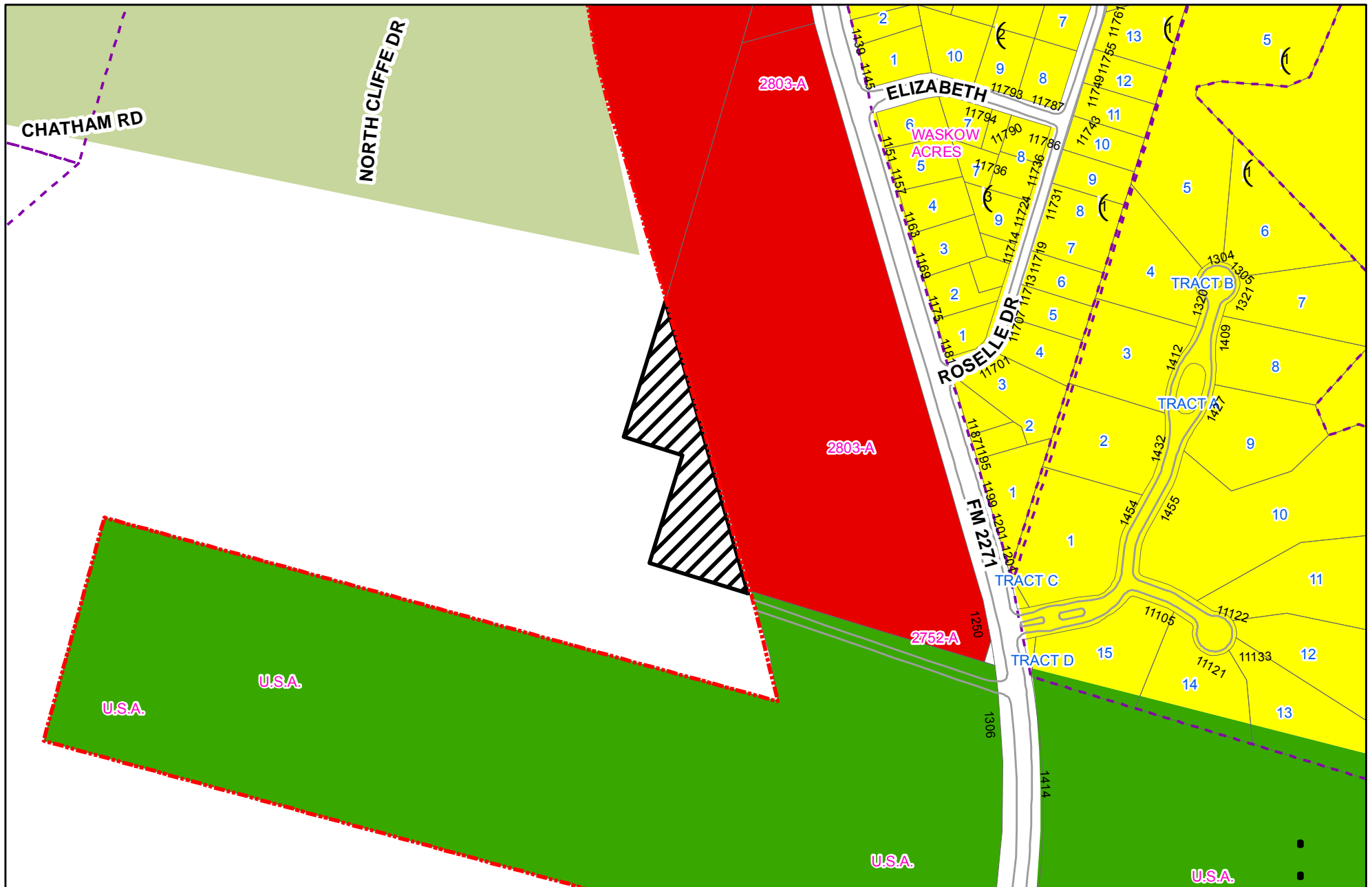
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Z-FY-10-17

Voluntary Annexation

1.651 Acres GW Lindsey Survey



- | | | | | | |
|---------------------------|-------------------------|-----------------------|-----------------------------------|----------------------|--------------------|
| Lot Numbers | Suburban Residential | Auto-Urban Mixed Use | Urban Center | Business park | Agricultural/Rural |
| Neighborhood Conservation | Auto-urban Residential | Auto-Urban Commercial | Temple Medical Education District | Public/Institutional | |
| Estate Residential | Auto-Urban Multi-Family | Suburban Commercial | Industrial | Parks and Open Space | |

1 inch = 300 feet

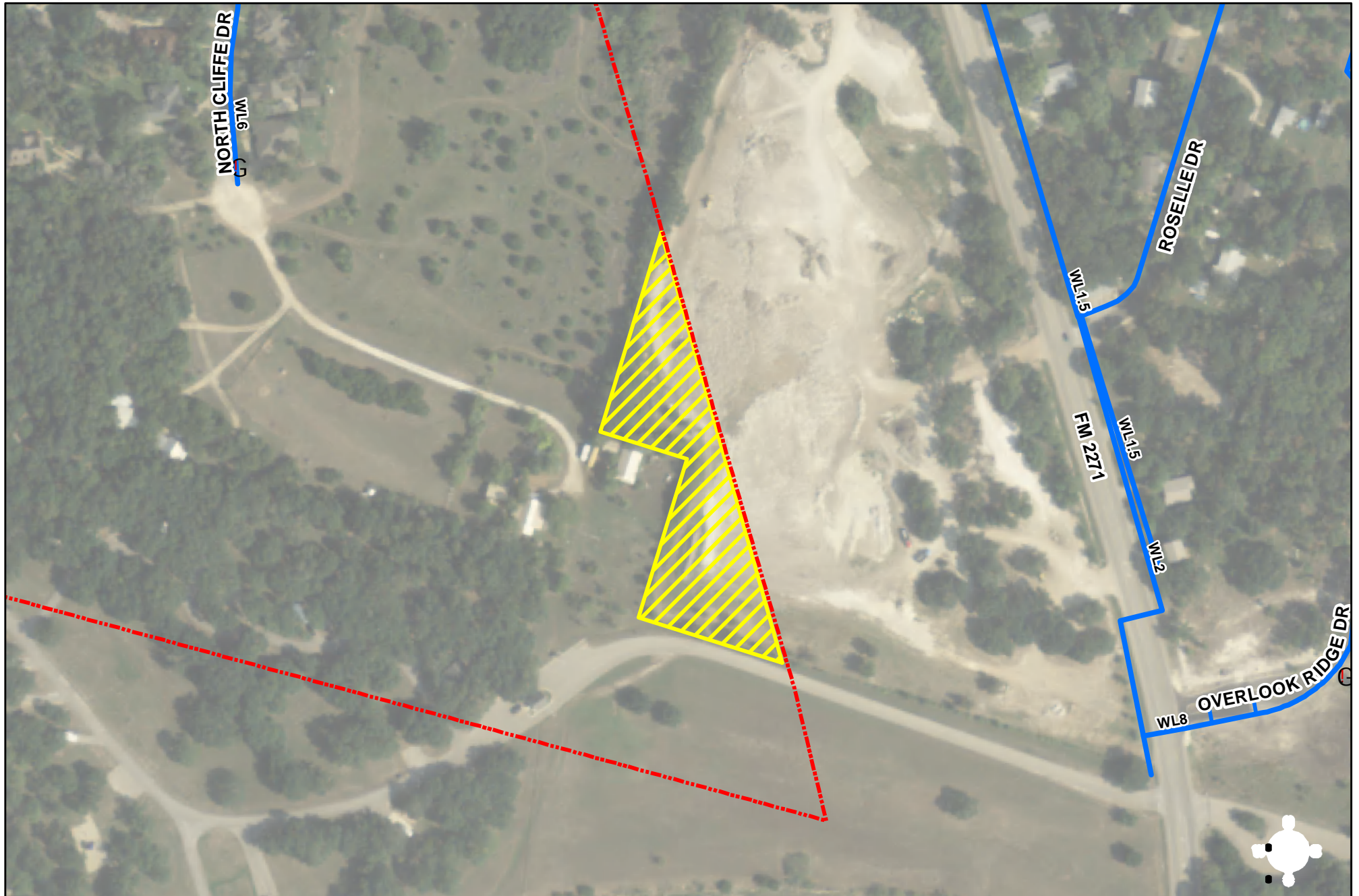
J Stone 1.13.10




Z-FY-10-17

Voluntary Annexation

1.651 Acres GW Lindsey Survey



 Z-FY-10-17

Feet 0 50 100 150 200
J Stone 1.13.09

CITY OF TEMPLE

ANNEXATION SERVICE PLAN—VOLUNTARY ANNEXATION – BOSTON ET AL

For approximately 1.7± acre tract of land located west of FM 2271, north of Live Oak Ridge Road, out of the G.W. Lindsey Survey, Abstract 513, located in Bell County, and being more particularly described an Exhibit “A” and depicted as Exhibit “B” of the Annexation Ordinance (2010-#####).

SERVICES TO BE PROVIDED ON THE EFFECTIVE DATE OF ANNEXATION

1. POLICE PROTECTION

The City will provide protection to the newly-annexed tract at the same or similar level of service now being provided to other areas of the City, with the same or similar topography, land use and population density.

2. FIRE PROTECTION AND AMBULANCE SERVICE

The City will provide fire protection from Station 7 to the newly-annexed area at the same or similar level of service now being provided to other areas of the City with the same or similar topography, land use and population density. The City will provide First Responder services through its Fire Department and contract for emergency medical services (EMS) through the Scott & White Hospital System.

3. SOLID WASTE COLLECTION

Upon payment of any required deposits and the agreement to pay lawful service fees and charges, solid waste collection will be provided to citizens in the newly-annexed area to the extent that the City has access to the area to be serviced. Private contractors currently providing sanitation collecting services in the area may continue to do so for up to two years.

4. MAINTENANCE OF WATER AND WASTEWATER FACILITIES

Any and all water or wastewater facilities owned or maintained by the City at the time of the proposed annexation shall continue to be maintained by the City. Any and all water or wastewater facilities which may be acquired subsequent to the annexation of the proposed area shall be maintained by the City, to the extent of its ownership. Any and all water or wastewater facilities outside the extent of the ownership of the City, and owned by other water or wastewater providers shall continue to be allowed to provide those services to the newly-annexed tract.

5. MAINTENANCE OF ROADS AND STREETS

Any and all public roads, streets or alleyways which have been dedicated to the City, or which are owned by the City, shall be maintained to the same degree and extent that other roads, streets and alleyways are maintained in areas with similar topography, land use and population density. Any and all lighting of roads, streets and alleyways which may be positioned in a right-of-way, roadway or utility company easement shall be maintained by the applicable utility company servicing the City, pursuant to the rules, regulations and fees of such utility.

6. MAINTENANCE OF PUBLIC PARKS, PLAYGROUNDS AND SWIMMING POOLS

The City Council is not aware of the existence of any public parks, playgrounds or swimming pools now located in the area proposed for annexation. In the event any such parks, playgrounds or swimming pools do exist and are public facilities, the City, will maintain such areas to the same extent and degree that it maintains parks, playgrounds and swimming pools and other similar areas of the City now incorporated in the City.

7. MAINTENANCE OF MUNICIPALLY-OWNED FACILITY, BUILDING OR MUNICIPAL SERVICE

The City Council is not aware of the existence of any publicly-owned facility, building or other municipal service now located in the area proposed for annexation. In the event any such publicly-owned facility, building or municipal service does exist and are public facilities, the City will maintain such areas to the same extent and degree that it maintains publicly-owned facilities, buildings or municipal services of the City now incorporated in the City.

8. CONSTRUCTION SAFETY

The City will provide building inspection services upon approved building permits from the City to the newly-annexed tract at the same or similar level of service now being provided to other areas of the City with the same or similar topography, land use and population density.

9. CODE ENFORCEMENT

The City will provide code enforcement services to the newly-annexed tract at the same or similar level of service now being provided to other areas of the City with the same or similar topography, land use and population density.

CAPITAL IMPROVEMENTS

1. POLICE PROTECTION, FIRE PROTECTION AND EMERGENCY MEDICAL SERVICES

The City Council finds and determines it to be unnecessary to acquire or construct any capital improvements for the purposes of providing police protection, fire protection, or emergency medical services. The City Council finds and determines that it has at the present time adequate facilities to provide the same type, kind and level of protection and service which is presently being administered to other areas already incorporated in the City with the same or similar topography, land use and population density.

2. ROADS AND STREETS

The City will undertake to provide the same degree of road and street lighting as is provided in areas of the same or similar topography, land use and population density within the present corporate limits of the City. Maintenance of properly dedicated roads and streets will be consistent with the maintenance provided by the City to other roads and streets in areas of similar topography, land use and sub development of the annexed property. Developers will be required, pursuant to the ordinances of the City to provide internal and peripheral streets and to construct those streets in accordance with the specifications required by the City for the properly dedicated street. City participation in capital expenditures will be in accordance with city policies.

3. WATER AND WASTEWATER FACILITIES

The City of Temple has water facilities within the boundaries of the voluntary annexation, and proposes no other extension of water facilities to the area, taking into consideration the existing land use, and topography and population density relative to areas within the existing City Limits which do not have water services.

The City of Temple has no wastewater providers within the boundaries of the voluntary annexation and property owners rely on septic tank systems. The City of Temple proposes non extensions of wastewater facilities to the boundaries of the voluntary annexation taking into consideration existing service providers, the existing land use, and topography and population density relative to areas within the existing City Limits which do not have water services.

4. CAPITAL IMPROVEMENTS

Notwithstanding any other provision of this service plan, a landowner within the newly annexed area will not be required to fund capital improvements as necessary for municipal services in a manner inconsistent with Chapter 395 of the Local Government Code, unless otherwise agreed to by the landowner.

SPECIFIC FINDINGS

The City Council finds and determines that this proposed Service Plan will not provide any fewer services, and it will not provide a lower level of service in the area proposed to be annexed than were in existence in the proposed area at the time immediately preceding the annexation process.

Because of the differing characteristics of topography, land utilization and population density, the service levels which may ultimately be provided in the newly annexed area may differ somewhat from services provided in other areas of the City. These differences are specifically dictated because of differing characteristics of the property and the City will undertake to perform consistent with this contract so as to provided the newly annexed area with the same type, kind and quality of service presently enjoyed by the citizens of the City who reside in areas of the same or similar topography, land utilization and population density.

APPROVED ON THIS _____ DAY OF _____, 2010.

City of Temple, Texas

Mayor

ATTEST:

City Secretary

Exhibit 'A'

VOLUNTARY PETITION FOR ANNEXATION

January 5, 2010

To the City Council of the City of Temple:

We are the owners of an approximately 1.651 acre tract of land (hereinafter the Tract), more particularly described as follows:

Exhibit 'A', consisting of two parts, Part 1, a sketch plan of this tract, and Part 2, a metes and bounds description, is attached hereto and made a part hereof by references for all pertinent purposes.

Said tract of land varies in width and is contiguous to the current limits of the City of Temple. There are no residents within this property. I am petitioning the City Council to take appropriate action to annex said Tract pursuant to Section 43.028 of the Local Government Code.

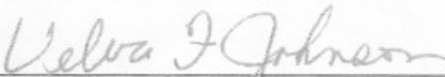

A.C. Boston, Owner

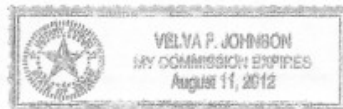
STATE OF TEXAS

COUNTY OF BELL

BEFORE ME, The undersigned authority, personally appeared A.C. Boston, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same, for the purpose and consideration therein expressed.

WITNESS MY HAND AND SEAL OF OFFICE this 5 day of January, 2010


Notary Public, State of Texas



Nancy Boston
Nancy Boston, Owner

STATE OF TEXAS

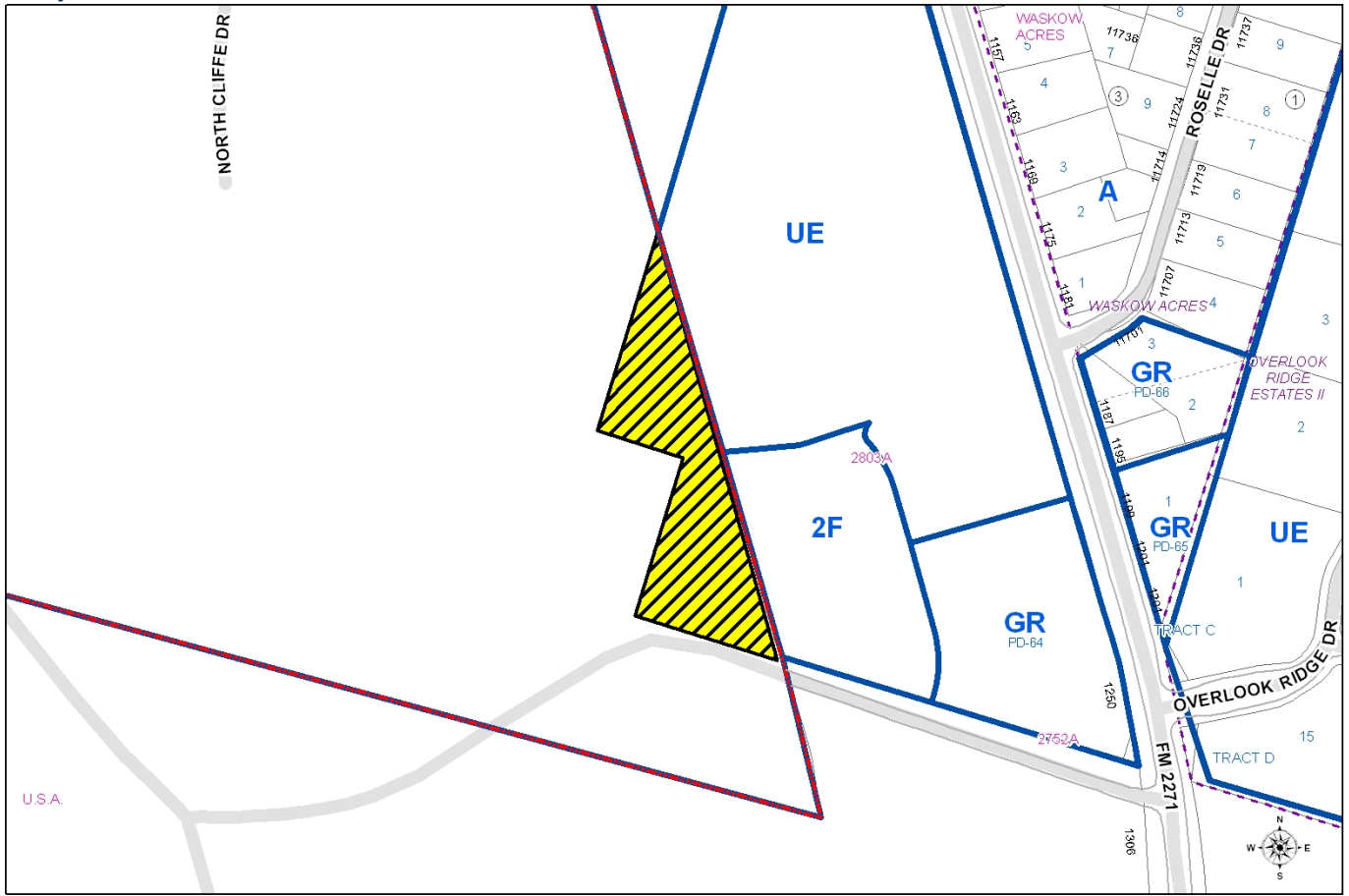
COUNTY OF BELL

BEFORE ME, The undersigned authority, personally appeared Nancy Boston, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same, for the purpose and consideration therein expressed.

WITNESS MY HAND AND SEAL OF OFFICE this 5 day of January, 2010

Velva F. Johnson
Notary Public, State of Texas






 Z-FY-10-17

Exhibit 'B'

Feet 0 50 100 150 200
J Stone 1.13.09



PLANNING AND ZONING COMMISSION AGENDA ITEM

February 15, 2010

Item #2

Regular Agenda

Page 1 of 2

APPLICANT / DEVELOPMENT: A.C. Boston c/o McDonald Surveying


CASE MANAGER: Tim Dolan, AICP, Planning Director



ITEM DESCRIPTION: Public Hearing, Discussion and Action Z-FY-10-17: Discuss and recommend action for a Planned Development (General Retail) District (PD-GR) on 1.7 ± acres as part of a voluntary annexation located west of FM 2271, north of Live Oak Ridge Road, out of the G.W. Lindsey Survey, Abstract 513.

BACKGROUND: The applicant sought voluntary annexation to have City utilities and access for a planned retail center for this area and the property to the east. The property to the east, zoned UE PD-GR and SF2 and this area is part of another zoning request for a zoning request to a PD-GR (scheduled 03/01/10). This area will require platting for as part of the building permit process

Surrounding Property and Uses

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

Direction	Zoning	Current Land Use	Photo
Subject Property	Voluntary annexation (PD-GR proposed)	Undeveloped	

Direction	Zoning	Current Land Use	Photo
North	Urban Estate (UE) (PD-GR proposed)	Undeveloped	
South	County	Lake Ridge Drive (entrance to park)	

Direction	Zoning	Current Land Use	Photo
East	Urban Estate, (UE) Two Family (2F), (PD-GR proposed)	Undeveloped	
West	County	Rural Residential	

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

Future Land Use and Character Plan

The Future Land Use and Character Plan show the area for Suburban Commercial and the requested PDD-GR conforms to the Future Land Use and Character Plan.

Thoroughfare Plan

The proposed PDD-GR subdivision will have access to FM 2271 a designated Arterial Roadway, which conforms to the Thoroughfare Plan.

Availability of Public Facilities

Water and sewer are being extended along FM 2271 and the applicant is approved for an agreement for utility extension as part of the City policy.

Planned Development Regulations

The purpose of the GR, General Retail district is to serve larger service areas than neighborhoods. This district should provide total on-site traffic maneuvering such that traffic entering and exiting the facility should have room to turn, queue for parking areas, and park within the confines of the retail facility. This is the standard retail district and allows most retail uses including retail sales, fuel sales, restaurants, grocery stores, or offices and residential uses except apartments. The applicant has requested a PD-GR and these stipulations appeared in the existing PD-GR for the property to the east. The minimum lot area and setback requirements for the Planned Development-General Retail PD-GR district are as follows.

PD-GR, Planned Development General Retail	
Min. Lot Area (sq. ft.)	None
Min. Lot Width (ft.)	None
Min. Lot Depth (ft.)	None
Max. Height (stories)	25'
Min. Yard (ft)	
Front	30 from street centerline
Side	10 adjacent to residential district
Rear	10 adjacent to residential district
Building Appearance	Residential appearance, pitched roofs, windows and foundation plantings
Building Materials	70% masonry façades
Parking	Screened from all streets by continuous landscaped edge
Driveway Spacing	150' separation
On-premise Signs	Maximum 30' height, maximum 50 square foot area

In accordance with Planned Development submittal requirements, the applicant has submitted a binding development plan showing building locations and heights, general parking areas and access points. The applicant is requesting to construct a meandering trail along SH 2271 in lieu of a six-foot sidewalk. Sidewalks are a platting requirement for discussion. This area will require platting for as part of the building permit process.

STAFF RECOMMENDATION: Allow a PD-GR, Planned Development General Retail District with a Binding development plan for the following reasons:

1. The annexation will comply with the Suburban Commercial on the Future Land Use and Character Plan;

2. The request complies with the Thoroughfare Plan for access to FM 2271, a designated Arterial roadway; and
3. Available utilities will serve the site.

FISCAL IMPACT: Not Applicable

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

MONDAY, FEBRUARY 15, 2010

ACTION ITEMS

Item 2: Public Hearing, Discussion and Action Z-FY-10-17: Discuss and recommend action on a zoning change to Planned Development (General Retail) District (PD-GR) on 1.7 ± acres as part of a voluntary annexation out of the located west of FM 2271, north of Live Oak Ridge Road, out of the G.W. Lindsey Survey, Abstract 513. (Applicant: A.C. Boston c/o McDonald Surveying)

Mr. Tim Dolan, Planning Director, presented the case to the Commission and stated the subject property had been sought for voluntary annexation. The property owner was unable to be present at the meeting but the matter required a public hearing. This case would go forward to City Council on March 4th and 18th.

This property would be brought in as a Planned Development (PD) General Retail (GR) district and would be part of a further development which would come forward to the Commission on March 1st for the remainder of the property. The Future Land Use and Character Plan showed this area to be a suburban/commercial area and the PD-GR would be in conformance.

The existing utilities are part of a Utility Extension Agreement and would be improved as part of the development.

Staff recommended approval of this case since it conformed with the Future Land Use and Character Plan, suburban/commercial use, the Thoroughfare Plan, as it was developed, with access to 2271, an arterial designated roadway, and the availability of public services to serve the lot at time of development.

No notices were required for the annexation.

Commissioner Hurd asked about the additional acreage and Mr. Dolan stated that portion would be coming to the Commission on the March 1st meeting.

Chair Pilkington opened the public hearing and there being no speakers, the public hearing was closed.

Commissioner Hurd made a motion to approve the zone request and Commissioner Staats made a second.

Motion passed: (6:0)

Commissioners Pope, Barton and Secrest absent.

ORDINANCE NO. 2010-4349

AN ORDINANCE OF THE CITY OF TEMPLE, TEXAS, ANNEXING ADJACENT AND CONTIGUOUS TERRITORY CONSISTING OF AN APPROXIMATELY 1.7 ACRE TRACT OF LAND LOCATED WEST OF FM 2271, NORTH OF LIVE OAK RIDGE ROAD, OUT OF THE G.W. LINDSEY SURVEY, ABSTRACT 513, AND APPROVING A SERVICE PLAN FOR THIS TRACT PROPOSED TO BE ANNEXED; FINDING THAT ALL NECESSARY AND REQUIRED LEGAL CONDITIONS HAVE BEEN SATISFIED; PROVIDING THAT SUCH AREA SHALL BECOME A PART OF THE CITY AND THAT THE OWNERS AND INHABITANTS THEREOF, IF ANY, SHALL BE ENTITLED TO THE RIGHTS AND PRIVILEGES OF OTHER CITIZENS AND BE BOUND BY THE ACTS AND ORDINANCES NOW IN EFFECT AND TO BE HEREAFTER ADOPTED; PROVIDING A ZONING CLASSIFICATION FOR SAID PROPERTY PROVIDING A SEVERABILITY CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING AN EFFECTIVE DATE; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, the City of Temple is a home-rule city authorized by State law and the City Charter to annex territory lying adjacent and contiguous to the City, or portions of property currently subject to a development agreement within the City's ETJ;

Whereas, two separate public hearings were conducted prior to consideration of this ordinance in accordance with Chapter 43 of the Texas Local Government Code;

Whereas, the hearings were conducted and held not more than forty nor less than twenty days prior to the institution of annexation proceedings;

Whereas, notice of the public hearings was published in a newspaper of general circulation in the City and the territory proposed to be annexed not more than twenty nor less than ten days prior to the public hearings;

Whereas, the property to be annexed is contiguous with and adjacent to the City and not within the boundaries of any other city;

Whereas, there are no dwelling units within the area to be annexed, and no inhabitants; and

Whereas, the City is able to provide all services to the property to be annexed according to the service plan attached hereto.

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

Part 1: All of the above premises are found to be true and correct and are incorporated into the body of this ordinance as if copied in their entirety.

Part 2: The property consisting of an approximately 1.7 acre tract of land, located west of FM 2271, north of Live Oak Ridge Road, out of the G.W. Lindsey Survey, Abstract 513, more fully described in Exhibit "A," attached hereto and incorporated herein for all purposes (hereinafter referred to as the "Property"), is hereby annexed and brought within the corporate limits of the City of Temple, Bell County, Texas, and is made an integral part thereof, in accordance with the request in the *Petition for Annexation* accepted by the City of Temple, Texas, attached hereto and made a part hereof for all purposes as Exhibit "B."

Part 3: The service plan submitted in accordance with Chapter 43 of the Texas Local Government Code is hereby approved as part of this ordinance, made a part hereof and attached hereto as Exhibit "C."

Part 4: The owners and inhabitants of the Property herein annexed shall be entitled to all of the rights and privileges of other citizens and property owners of said City and are hereby bound by all acts, ordinances, and all other legal action now in full force and effect and all those which may be hereafter adopted.

Part 5: The official map and boundaries of the City of Temple, heretofore adopted and amended be and hereby amended so as to include the annexed Property as part of the City of Temple.

Part 6: The annexed Property shall, in compliance with the Zoning Ordinance of the City of Temple, be zoned as *Planned Development General Retail District (PD-GR)*, as shown on the map made a part hereof and attached hereto as Exhibit "D."

Part 7: The annexed Property shall be included in, and become a part of, the City of Temple City Council Election District Number 4.

Part 8: 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 9: If the taking of any territory annexed by this ordinance is declared by a court of competent jurisdiction to be invalid and/or illegal, it shall not affect the balance of the property annexed and attempted to be annexed, and that property shall remain as

part of the City of Temple, Texas. It is the intent of this ordinance that any territory that is not lawful for the City to incorporate be excluded from this annexation and that such exclusion be documented by having a qualified surveyor correct the property description of the annexed area to conform to the Council's intention and to insure that the boundary description closes.

Part 10: 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 11: 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 **4th** day of **March**, 2010.

PASSED AND APPROVED on Second and Final Reading on the **20th** day of **May**, 2010.

THE CITY OF TEMPLE, TEXAS

WILLIAM A. JONES, III, Mayor

ATTEST:

APPROVED AS TO FORM:

Clydetta Entzminger
City Secretary

Jonathan Graham
City Attorney



COUNCIL AGENDA ITEM MEMORANDUM

05/06/10
Item #6(O)
Consent Agenda
Page 1 of 1

DEPT./DIVISION SUBMISSION & REVIEW:

Kathleen Person, Municipal Court Judge

ITEM DESCRIPTION: SECOND READING – 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: Adopt ordinance as presented in item description, on second reading and final adoption.

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.

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 **6th** day of **May**, 2010.

PASSED AND APPROVED on Second Reading on the **20th** 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

05/ 20/10
Item #6(P)
Consent Agenda
Page 1 of 1

DEPT./DIVISION SUBMISSION & REVIEW:

Gary Smith, Chief of Police

ITEM DESCRIPTION: Consider adopting a resolution authorizing the grant application for the Bureau of Justice Assistance Bulletproof Vest Partnership Program of 2010 for the purchase of ballistic vests and replacements for the Police Department in the amount of \$22,365.

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

ITEM SUMMARY: The Temple Police Department desires approval to apply for grant funds available through the Department of Justice, Bureau of Justice Assistance Bulletproof Vest Partnership Program. If awarded, this will be the 7th grant received from this program. The grant requires a City match of 50% of the cost associated with the purchase of new ballistic vests. The Police Department buys vests on a yearly basis and budgets for the matching funds required by the grant.

FISCAL IMPACT: If awarded the grant, the City will receive \$22,365 in grant funds. The City's match will be \$22,365. Total funding for the purchase of approximately 63 bulletproof vests will be \$44,730.

A budget adjustment is presented for Council's approval designating the City's grant match of \$22,365 in account 110-0000-352-1345, from the Police Department's FY 2010 operating budget, account 110-2000-521-2113, Clothing and Uniforms.

The grant funds are reimbursed to the City after the purchase is completed.

ATTACHMENTS:

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

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	
110-0000-352-13-45		Desg Cap Proj-Bulletproof Vest Grant	\$ 22,365			
110-2000-521-21-13		Clothing & Uniform			22,365	
					-	
		Do not post				
TOTAL.....			\$ 22,365		\$ 22,365	

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

To designate funds for 2010 Bulletproof Vest Partnership Program Grant match.

DOES THIS REQUEST REQUIRE COUNCIL APPROVAL?

☒ Yes☐ No

DATE OF COUNCIL MEETING

5/20/2010

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 THE ACCEPTANCE OF GRANT FUNDS FROM THE BUREAU OF JUSTICE ASSISTANCE BULLETPROOF VEST PARTNERSHIP PROGRAM OF 2010 FOR THE PURCHASE OF BALLISTIC VESTS AND REPLACEMENTS FOR THE POLICE DEPARTMENT, IN THE AMOUNT OF \$22,365; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, the Temple Police Department desires approval to accept grant funds available through the Bureau of Justice Assistance Bulletproof Vest Program which is available to provide units of local government funds to purchase bulletproof vests for police officers;

Whereas, the grant requires a City match of 50% of the cost associated with the purchase of new ballistic vests;

Whereas, if awarded the grant, the City will receive \$22,365 in grant funds, and the City's match will be \$22,365.

Whereas, the City's matching funds have been budgeted in the FY 2007-2008 Police Department budget – a budget amendment 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 Council authorizes an application to the Bureau of Justice Assistance (BJA) funding under the Bulletproof Vest Partnership Grant Program of 2010 to purchase bulletproof vests and replacements for the Temple Police Department, and commits to the City's matching funds of \$22,365.

Part 2: The City Council approves an amendment to the FY 2009-2010 budget, substantially in the form of the copy attached as Exhibit A, for this purpose.

Part 3: The City Manager, or his designee, is authorized to execute any documents which may be necessary to apply, accept funds, implement or renew this grant, after approval as to form by the City Attorney.

Part 4: It is hereby officially found and determined that the meeting at which this Resolution is passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act.

PASSED AND APPROVED this the **20th** 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

05/20/10
Item #6(Q)
Consent Agenda
Page 1 of 2

DEPT./DIVISION SUBMISSION & REVIEW:

Lonzo Wallace, Fire Chief

ITEM DESCRIPTION: Consider adopting a resolution authorizing Temple Fire & Rescue to apply for a U.S. Department of Homeland Security, FY 2010 Assistance to Firefighters Grant Program for the purchase of outdoor live fire props and an associated training program in the amount of \$142,000.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: Assistance to Firefighters Grants (AFG) provides financial assistance to fire departments and nonaffiliated EMS organizations to enhance their capabilities with respect to fire and fire-related hazards. The primary goal of the grant program is to help fire departments and nonaffiliated EMS organizations meet their firefighting and emergency response needs. AFG seeks to support organizations that lack the tools and resources necessary to more effectively protect the life and safety of the public and their emergency response personnel with respect to fire and all other hazards.

Eligible applicants for this grant include fire departments, and national, regional, State, local, or community organizations that are recognized for their experience and expertise in training activities or safety programs. The maximum award is \$1,000,000 for a community with a population with less than 500,000. Fire departments that serve a population of more than 50,000 must match the Federal grant funds with an amount of non-Federal funds equal to 20 percent of the total project costs.

Temple Fire & Rescue contracted with Abercrombie to provide a comprehensive master plan and study of a fire training facility and training grounds. The study concluded that Temple Fire & Rescue, due to growth and demands, required more in-depth training grounds. One of the items needed for the training grounds includes outdoor live fire props for car fire and propane tank fire. These props would provide hands on live-fire training opportunities. The acquisition of this equipment through the grant program would be accompanied by an associated training program for car and propane fires.

FISCAL IMPACT: The estimated cost of the outdoor live fire props is \$132,000 and the cost of the associated training program is estimated to not exceed \$10,000. The Assistance to Firefighters Grant will fund 80 percent of the cost which totals \$113,600 with a required 20 percent matching from city funding which totals \$28,400. Of that amount \$26,400 is the match required for the live fire props with the proposed source of funding the 2009 Fire GO Bond funds; and \$2,000 is the match required for the associated training program with the proposed source of funding the Fire Department's travel and training account.

An additional \$150,000 for site prep work will be required for the live fire props and is not a grant eligible expense. The proposed funding source for this additional expenditure is the 2009 Fire GO Bond funds. The total project costs for the outdoor live fire props is \$282,000, with grant funding to cover \$105,600 of the costs, the city providing the grant match of \$26,400, and the city providing the additional funds of \$150,000 for the site prep work.

A budget adjustment is attached for Council's approval designating the City's match for the outdoor fire props of \$26,400 and the additional \$150,000 for site prep work from the 2009 Fire GO Bond funds.

ATTACHMENTS:

[Budget Adjustment
Resolution](#)

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.

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ACCOUNT NUMBER	PROJECT #	ACCOUNT DESCRIPTION	INCREASE	DECREASE
363-2200-522-65-32		Capital - Special Prj/Cont. Fund Bal.	\$ 176,400	
363-2200-522-68-50	100120	Capital - Bonds/ Fire Station # 1		176,400
TOTAL.....			\$ 176,400	\$ 176,400

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

Budget Adjustment to designate grant match for the FY 2010 Assistance to Firefighter Grant Program (AFG) in the amount of \$26,400 and an additional \$150,000 of site prep work. Temple Fire & Rescue is seeking approval to apply for the FY 2010 AFG program to assist with the purchase of outdoor live fire props and an associated training program. The total project costs are estimated to be \$282,000, with grant funding to cover \$105,600 of the costs, the city providing the grant match of \$26,400, and the city providing the additional funds of \$150,000 for the site prep work.

DOES THIS REQUEST REQUIRE COUNCIL APPROVAL?

☒

Yes

☐

No

DATE OF COUNCIL MEETING

5/20/2010

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 THE SUBMISSION OF A GRANT APPLICATION TO THE U.S. DEPARTMENT OF HOMELAND SECURITY, FY 2010 ASSISTANCE TO FIREFIGHTERS GRANT PROGRAM FOR THE PURCHASE OF OUTDOOR LIVE FIRE PROPS AND AN ASSOCIATED TRAINING PROGRAM, IN THE AMOUNT OF \$113,600, WITH A CITY MATCH OF \$28,400; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, the Department of Homeland Security's Office of Grants and Training is responsible for the implementation and administration of the Assistance to Firefighter's Grant (AFG) program – the purpose of the AFG is to enhance the safety of the public and firefighters with respect to fire and fire-related hazards;

Whereas, Temple Fire & Rescue desires to submit a grant application for the purchase of Outdoor Live Fire Props and associated training;

Whereas, the total price for Outdoor Live Fire Props and an associated training program is \$113,600 – if the grant is awarded to Temple Fire & Rescue, the City will be required to provide a 20% match of \$28,400;

Whereas, funds are available for the City's match 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 Council authorizes the submission of a grant application to the U.S. Department of Homeland Security, FY 2010 Assistance to Firefighters Grant Program for the purchase of outdoor live fire props and an associated training program, in the amount of \$113,600.

Part 2: The City Council accepts any funds that may be received for this grant, commits to the City's 20% match of funds (\$28,400), and authorizes the City Manager to execute any documents which may be necessary for this grant.

Part 3: 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 4: It is hereby officially found and determined that the meeting at which this Resolution is passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act.

PASSED AND APPROVED this the **20th** day of **May**, 2010.

THE CITY OF TEMPLE, TEXAS

WILLIAM A. JONES, III, Mayor

ATTEST:

ATTEST:

Clydette Entzminger
City Secretary

Jonathan Graham
City Attorney



COUNCIL AGENDA ITEM MEMORANDUM

05/20/10
Item #6(R)
Consent Agenda
Page 1 of 1

DEPT./DIVISION SUBMISSION & REVIEW:

Lonzo Wallace, Jr., Fire Chief

ITEM DESCRIPTION: Consider adopting a resolution authorizing funding from the Child Safety Fees for the 2010-2011 Travis Science Academy CPR Training Program in the amount \$3,000.

STAFF RECOMMENDATION: Adopt resolution as presented in item description

ITEM SUMMARY: Under the authority of the Texas Transportation Code, in 2001, the Bell County Commissioners Court imposed a \$1.50 per vehicle Child Safety registration fee to be collected by our County Tax Assessor-Collector. The City of Temple's allocation is based on population. These funds must be used for a school crossing guard program if the City operates one. Since the City does not operate a crossing guard program, the funds may be spent on programs designed to enhance child safety, health, or nutrition, including child abuse prevention and intervention, and drug and alcohol abuse prevention.

Staff recommends that \$3,000 of the Child Safety Fees collected be provided to reimburse the Public Safety Advisory Board for the purchase of 200 at-home CPR training kits for the 2010-2011 Travis Science Academy CPR Training Program. As part of their academic program, 6th grade students would be provided the American Heart Association's at-home CPR Training kit and assigned to use the kit to train four or more family and friends. A process will be put in place to evaluate the student learning from the CPR training process.

FISCAL IMPACT: A budget adjustment is presented for Council's approval appropriating \$3,000 to account 110-0000-452-0164, from the Child Safety Fees collected by the County on behalf of the City, to the Public Safety Advisory Board (PSAB1) CPR Kit reserve account 110-0000-313-0331, to reimburse the PSAB1 for the purchase of 200 at-home CPR training kits for the 2010-2011 Travis Science Academy CPR Training Program.

If funding for this expenditure and the Jr. Fire Cadet Program is approved, there will be \$ 205,768 available in Child Safety Funds for future eligible expenditures.

ATTACHMENTS:

[Budget Adjustment
Resolution](#)

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.

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ACCOUNT NUMBER	PROJECT #	ACCOUNT DESCRIPTION	INCREASE		DECREASE	
110-0000-452-01-64		Child Safety Fee Revenue	\$ 3,000			
110-0000-313-03-31		Reserved for Public Safety-CPR anytime	3,000			
		<i>Do not post</i>				
TOTAL.....			\$ 6,000		\$ -	

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

To appropriate funding from Child Safety Fees to the Public Safety Advisory Board account to cover the purchase of 200 CPR Anytime kits to be used by 6th graders participating in the 2010-2011 Travis School Science Academy CPR Training Program. The kits were originally funded with Public Safety Advisory Board (PSAB) funds. This budget adjustment reimburses the PSAB for the purchase.

DOES THIS REQUEST REQUIRE COUNCIL APPROVAL?

X

Yes

☐ No

DATE OF COUNCIL MEETING

5/20/2010

WITH AGENDA ITEM?

X

☒ Yes

☐ No

5/11/2010

Date _____

Department Head/Division Director

☒ Approved

☐ Disapproved

Finance

Date _____

☐ Approved☐ Disapproved

City Manager

Date _____

☐ Approved☐ Disapproved

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING FUNDING FROM THE CHILD SAFETY FEES TO FUND THE 2010-2011 TRAVIS SCIENCE ACADEMY CPR TRAINING PROGRAM, IN THE AMOUNT OF \$3,000; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, the City of Temple receives an annual allocation of child safety fees from Bell County that are collected on every vehicle registered in Bell County;

Whereas, these funds must be used for programs such as school crossing guards, child safety, health or nutrition, child abuse prevention and intervention and drug and alcohol abuse prevention;

Whereas, from those funds, the Fire Department requests an amount of \$3,000 to fund the 2010-2011 Travis Science Academy CPR Training Program;

Whereas, an amendment to the FY2009-2010 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 Council approves providing funding from the Child Safety Fees-Bell County for the 2010-2011 Travis Science Academy CPR Training Program in the amount of \$3,000.

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 purpose.

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 **20th** day of **May**, 2010.

THE CITY OF TEMPLE, TEXAS

WILLIAM A. JONES, III, Mayor

ATTEST:

APPROVED AS TO FORM:

Clydetta Entzminger
City Secretary

Jonathan Graham
City Attorney



COUNCIL AGENDA ITEM MEMORANDUM

05/20/10
Item #6(S)
Consent Agenda
Page 1 of 2

DEPT./DIVISION SUBMISSION & REVIEW:

Lonzo Wallace, Jr., Fire Chief

ITEM DESCRIPTION: Consider adopting a resolution authorizing funding from the Child Safety Fees for the 2010 Junior Fire Cadet Program in the amount of \$17,874.

STAFF RECOMMENDATION: Adopt resolution as presented in item description

ITEM SUMMARY: Under the authority of the Texas Transportation Code, in 2001, the Bell County Commissioners Court imposed a \$1.50 per vehicle Child Safety registration fee to be collected by our County Tax Assessor-Collector. The City of Temple's allocation is based on population. These funds must be used for a school crossing guard program if the City operates one. Since the City does not operate a crossing guard program, the funds may be spent on programs designed to enhance child safety, health or nutrition, including child abuse prevention and intervention and drug and alcohol abuse prevention.

Staff recommends that \$17,874 of the Child Safety Fees collected be provided to the 2010 Junior Fire Cadet Program. Firefighters serve as instructors to youngsters between the ages of 9 to 13. The cadets participate in hands-on activities such as confidence building, ladders, fire hose, and CPR/first-aid. Students learn the importance of setting goals, working as a team, ethics, and respect of self and others. The goal of the program is to give kids the opportunity to improve themselves. Guest speakers explain the importance of exercise, proper nutrition, and staying in school. The Temple Independent School District has partnered with the department and has provided a campus for the program since 2002.

The department started the program in the summer of 1999 with 31 boys and girls attending the four-week long class. We quickly learned the value of this program by seeing the young faces in the classroom and feeling the difference firefighter's role models in their lives. It is impossible to put an exact value on the benefits of this program but we do know that we enrich the lives of all the people participating in the program. Funding will be used to operate the class which will last for three weeks, and one day. We anticipate a class of 50 participants.

FISCAL IMPACT: A budget adjustment is presented for Council's approval appropriating \$17,874 to account 110-0000-452-0164, from the Child Safety Fees collected by the County on behalf of the City, to Temple Fire and Rescue's overtime account, 110-2200-522-11-19, in the amount of \$13,949; and Contributions and Prizes, account 110-2200-522-25-10 in the amount of \$3,925.

If funding for this expenditure is approved, there will be \$208,768 available in Child Safety Funds for future eligible expenditures.

ATTACHMENTS:

[Budget Adjustment
Resolution](#)

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.

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ACCOUNT NUMBER	PROJECT #	ACCOUNT DESCRIPTION	INCREASE	DECREASE
110-0000-452-01-64		Child Fee Safety Fee	\$ 17,874	
110-2200-522-11-19		Fire Department Overtime	13,949	
110-2200-522-25-10		Fire Department Contributions & Prizes	3,925	
TOTAL.....			\$ 35,748	\$ -

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

The Child Safety Fee funding acct.# 110-000-452-01-64 can be used to fund programs designed to enhance child safety, health or nutrition, child abuse. The Temple Fire & Rescue Junior Fire Cadet Program provides a youth development program for children at risk. The Child Safety Fee funding covers fire department overtime costs acct.# 110-2200-522-11-19 and pays for supplies and activities through acct.# 110-2200-522-25-10 associated with the program.

DOES THIS REQUEST REQUIRE COUNCIL APPROVAL?

☒

Yes

☐

No

DATE OF COUNCIL MEETING

5/20/2010

WITH AGENDA ITEM?

☐

Yes

☒

No

Department Head/Division Director

5/12/2010

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 FUNDING FROM THE CHILD SAFETY FEES FOR THE 2010 JUNIOR FIRE CADET PROGRAM, IN THE AMOUNT OF \$17,874; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, the City of Temple receives an annual allocation of child safety fees from Bell County that are collected on every vehicle registered in Bell County;

Whereas, these funds must be used for programs such as school crossing guards, child safety, health or nutrition, child abuse prevention and intervention and drug and alcohol abuse prevention;

Whereas, from those funds, the Fire Department requests an amount of \$17,874 for the 2010 Junior Fire Cadet Program;

Whereas, an amendment to the FY2009-2010 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 Council approves providing funding from the Child Safety Fees-Bell County for the 2010 Junior Fire Cadet Program in the amount of \$17,874.

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 purpose.

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 20th day of May, 2010.

THE CITY OF TEMPLE, TEXAS

WILLIAM A. JONES, III, Mayor

ATTEST:

Clydette Entzminger
City Secretary

APPROVED AS TO FORM:

Jonathan Graham
City Attorney



COUNCIL AGENDA ITEM MEMORANDUM

05/20/10
Item #6(T)
Consent Agenda
Page 1 of 1

DEPT./DIVISION SUBMISSION & REVIEW:

Traci L. Barnard, Director of Finance

ITEM DESCRIPTION: Consider adopting a resolution approving second quarter financial results for Fiscal Year 2010.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

BACKGROUND: This item will present in detail the second quarter ending March 31, 2010, for the General, Water & Sewer, Hotel/Motel Tax and Drainage Funds.

Included with these second quarter results will be various schedules detailing grants, sales tax, capital projects and investments.

The second quarter financial statements also include a forecast of year-end financial results for the General Fund as of September 30, 2010.

FISCAL IMPACT: N/A

ATTACHMENTS:

Quarterly Financial Statements (Hard copy)
[Resolution](#)

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, APPROVING THE SECOND QUARTER FINANCIAL RESULTS FOR THE FISCAL YEAR 2010; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, the second quarter 2010 fiscal year financial results need to be approved by the City Council;

Whereas, included in the second quarter results are various schedules detailing grants, sales tax, capital projects and investments; and

Whereas, the City Council 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 the second quarter 2010 fiscal year financial results, 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 **20th** day of **May**, 2010.

THE CITY OF TEMPLE, TEXAS

WILLIAM A. JONES, III, Mayor

ATTEST:

APPROVED AS TO FORM:

Clydetta Entzminger
City Secretary

Jonathan Graham
City Attorney



COUNCIL AGENDA ITEM MEMORANDUM

05/20/10
Item #6(U)
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 \$72,045.

ATTACHMENTS:

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

CITY OF TEMPLE
BUDGET AMENDMENTS FOR FY 2010 BUDGET
May 20, 2010

ACCOUNT #	PROJECT #	DESCRIPTION	APPROPRIATIONS	
			Debit	Credit
110-1124-513-1113		Technical (City Manager's Office)	\$ 3,821	
110-1124-513-1220		Retirement/Pension	\$ 596	
110-1124-513-1221		Social Security	\$ 55	
110-1124-513-1222		Health Insurance	\$ 259	
110-1124-513-1223		Worker Compensation	\$ 8	
110-1124-513-1224		Unemployment Insurance	\$ 32	
110-1124-513-1225		Dental Insurance	\$ 10	
110-1124-513-1226		Life Insurance	\$ 1	
110-1124-513-1227		AD&D Insurance	\$ 5	
110-1124-513-1228		Long Term Disability	\$ 9	
110-1131-513-1113		Technical (City Manager's Office)	\$ 3,184	
110-1131-513-1220		Retirement/Pension	\$ 497	
110-1131-513-1221		Social Security	\$ 46	
110-1131-513-1222		Health Insurance	\$ 215	
110-1131-513-1223		Worker Compensation	\$ 6	
110-1131-513-1224		Unemployment Insurance	\$ 27	
110-1131-513-1225		Dental Insurance	\$ 8	
110-1131-513-1226		Life Insurance	\$ 1	
110-1131-513-1227		AD&D Insurance	\$ 5	
110-1131-513-1228		Long Term Disability	\$ 7	
110-1132-513-1113		Technical (City Manager's Office)	\$ 20,059	
110-1132-513-1220		Retirement/Pension	\$ 3,131	
110-1132-513-1221		Social Security	\$ 291	
110-1132-513-1222		Health Insurance	\$ 1,357	
110-1132-513-1223		Worker Compensation	\$ 41	
110-1132-513-1224		Unemployment Insurance	\$ 170	
110-1132-513-1225		Dental Insurance	\$ 50	
110-1132-513-1226		Life Insurance	\$ 6	
110-1132-513-1227		AD&D Insurance	\$ 29	
110-1132-513-1228		Long Term Disability	\$ 46	
110-1133-513-1113		Technical (City Manager's Office)	\$ 4,776	
110-1133-513-1220		Retirement/Pension	\$ 746	
110-1133-513-1221		Social Security	\$ 69	
110-1133-513-1222		Health Insurance	\$ 323	
110-1133-513-1223		Worker Compensation	\$ 10	
110-1133-513-1224		Unemployment Insurance	\$ 41	
110-1133-513-1225		Dental Insurance	\$ 12	
110-1133-513-1226		Life Insurance	\$ 1	
110-1133-513-1227		AD&D Insurance	\$ 7	
110-1133-513-1228		Long Term Disability	\$ 11	
110-1900-519-1113		Technical (ITS)		\$ 9,009
110-1900-519-1118		Extra Help/Seasonal		\$ 26,171
110-1900-519-1220		Retirement/Pension		\$ 4,085
110-1900-519-1221		Social Security		\$ 380
110-1900-519-1223		Worker Compensation		\$ 53
110-1900-519-1224		Unemployment Insurance		\$ 270
Communication Specialist position was transferred from the ITS Department to the City Manager's Office. This budget adjustment transfers the funds budgeted for this position from ITS to the City Manager's Office.				
110-3500-552-2232		Park Developer Fee Exp < \$5,000 (Parks Dept.)	\$ 10,775	
110-3500-552-6332	100616	Park Developer Fee Exp > \$5,000 - Bluestem	\$ 5,300	
110-3500-552-6332	100617	Park Developer Fee Exp > \$5,000 - Freedom	\$ 6,840	
110-3500-552-6332	100618	Park Developer Fee Exp > \$5,000 - Miller	\$ 7,618	
110-3500-552-2311		Buildings & Grounds		\$ 3,841
110-0000-461-0830		Developer Fees		\$ 26,692

CITY OF TEMPLE
BUDGET AMENDMENTS FOR FY 2010 BUDGET
May 20, 2010

			APPROPRIATIONS	
ACCOUNT #	PROJECT #	DESCRIPTION	Debit	Credit
We are purchasing items for the following parks from developer fees. Blue Stem (Saulsbury 1-4) - stand alone slide \$3,825; Northwest Hills (Todds) - drinking fountain \$900; Freedom Park (Westwood 3/Sage Meadows) - grill/bench/shade shelter \$6,750; Hodge (Chappell Hill 2) - mulch \$5,400; Ferguson (Downs 1) - shade shelter \$1,125; Scott & White (Addison) - dirt/grass \$450; Kiwanis (Meadow Oaks/Avanti) - drinking fountain \$675; Jeff Hamilton (Bell) - park ID sign \$450; Miller (Lantana 1-2) - 2 shade shelters \$6,666; and Conner (Jupiter) - drinking fountain \$450. In addition to the \$26,692 available in park developer fees, an additional \$3,841 from parks operating funds is needed to complete the projects. Total project costs for all projects are \$30,533.				
351-2200-522-2331		Instruments/Special Equipment (Fire Department)	\$ 772	
351-0000-490-2582		Transfer In from General Fund		\$ 772
110-9100-591-8151		Transfer Out - Designated Capital Projects	\$ 772	
110-0000-352-1345		Desg Capital Projects - Desg for Fire Dept. (thermal camera/education trailer)		\$ 772
Transfer funds to pay for repairs of the thermal imaging camera. Funds are available in Designated Capital Projects - Designated for Fire Department (Thermal Camera/ Education Trailer).				
TOTAL AMENDMENTS			\$ 72,045	\$ 72,045
GENERAL FUND				
Beginning Contingency Balance			\$	-
Added to Contingency Sweep Account			\$	-
Carry forward from Prior Year			\$	-
Taken From Contingency			\$	-
Net Balance of Contingency Account			\$	-
Beginning Judgments & Damages Contingency			\$	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 Fuel Contingency			\$	125,000
Added to Fuel Contingency			\$	-
Taken From Fuel Contingency			\$	-
Net Balance of Fuel Contingency Account			\$	125,000
Beginning Solid Waste - Future Capital Replacement 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
Net Balance Council Contingency			\$	193,508
Beginning Balance Budget Sweep Contingency			\$	-
Added to Budget Sweep Contingency			\$	-
Taken From Budget Sweep			\$	-
Net Balance of Budget Sweep Contingency Account			\$	-
WATER & SEWER FUND				
Beginning Contingency Balance			\$	247,423
Added to Contingency Sweep Account			\$	-
Taken From Contingency			\$	(28,875)
Net Balance of Contingency Account			\$	218,548

CITY OF TEMPLE
BUDGET AMENDMENTS FOR FY 2010 BUDGET
May 20, 2010

ACCOUNT #	PROJECT #	DESCRIPTION	APPROPRIATIONS	
			Debit	Credit
		Beginning Approach Mains Contingency	\$	-
		Added to Approach Mains Contingency	\$	488,270
		Taken From Approach Mains Contingency	\$	(488,270)
		Net Balance of Approach Mains Contingency Account	\$	-
		Net Balance Water & Sewer Fund Contingency	\$	218,548
		HOTEL/MOTEL TAX FUND		
		Beginning Contingency Balance	\$	26,336
		Added to Contingency Sweep Account	\$	-
		Taken From Contingency	\$	(19,000)
		Net Balance of Contingency Account	\$	7,336
		DRAINAGE FUND		
		Beginning Contingency Balance	\$	-
		Added to Contingency Sweep Account	\$	-
		Taken From Contingency	\$	-
		Net Balance of Contingency Account	\$	-
		FED/STATE GRANT FUND		
		Beginning Contingency 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.

Whereas, on the 3rd 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 20th 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

05/20/10
Item #7
Regular Agenda
Page 1 of 2

DEPT. /DIVISION SUBMISSION & REVIEW:

Tim Dolan, Planning Director

ITEM DESCRIPTION: FIRST READING - PUBLIC HEARING - Z-FY-09-29: Consider adopting an ordinance amending Chapter 37, "Traffic," of the Code of Ordinances of the City of Temple by adding requirements for parking in residential yards.

PLANNING AND ZONING COMMISSION RECOMMENDATION: At its May 3, 2010, meeting, the Planning and Zoning Commission voted 5/0, in accordance with staff recommendation, to recommend approval to add requirements for parking in residential yards. Commissioners Secrest, Martin, Barton and Chairperson Pilkington were absent.

STAFF RECOMMENDATION: Conduct public hearing and adopt ordinance as presented in the item description, on first reading, and schedule second reading and final adoption for June 3, 2010.

ITEM SUMMARY: Please refer to the Staff Report and draft minutes of case Z-FY-09-29, from the Planning and Zoning meeting, May 3, 2010. The parking amendment discusses parking regulations in residential yards.

Exceptions to the proposed ordinance include land zoned Agricultural (A), lot areas larger than 3 acres which may be zoned single-family or two-family, residential parking 150' away from the front property line and construction or landscaping and the unloading of any vehicle, provided it is removed within 72 hours of the completion of work.

Parking on erodible surfaces may continue where a person may park or allow parking of an automobile or truck on an erodible parking area (grass or dirt) where the parking area extends in a continuous course from an allowed curb cut with a standard drive approach, the parking area existed and was in use before June 3, 2010, (2nd Reading), the parking area is perpendicular to the front property line, the parking area is a maximum of 20 feet wide, and the parking area is part of a residentially developed lot.

Parking on a non-erodible surface may also continue where a person may park or allow parking of a vehicle or boat on a maintained non-erodible parking area that extends in a continuous course from an allowed curb cut with a standard drive approach, if the driveway or parking area existed before June 3, 2010. (2nd Reading). Non-erodible surfacing includes concrete, asphalt, brick and stone. Gravel, crushed stone and crushed granite are considered non-erodible if bordered by cement curbing or similar permanent border, and the parking area is part of a residentially developed lot.

Both driveway types that existed before June 3, 2010, must be improved to current standards with asphalt or concrete if the driveway or parking area is expanded; the size of the dwelling is expanded by more than 10 percent; or the dwelling is destroyed by more than 60 percent of its value.

The newspaper printed notice of the text amendment April 22, 2010 as required.

FISCAL IMPACT: NA

ATTACHMENTS:

[P&Z Staff Report \(Z-FY-09-29\)](#)

[P&Z Minutes \(05/03/10\)](#)

[Ordinance](#)



PLANNING AND ZONING COMMISSION AGENDA ITEM

05/03/10
Regular Agenda
Item 2
Page 1 of 2

APPLICANT / DEVELOPMENT: Planning & Zoning Commission c/o City Council

CASE MANAGER: Tim Dolan, AICP, Planning Director

ITEM DESCRIPTION: Z-FY-10-25: Public Hearing to discuss and recommend action to amend the Chapter 37 of the Code of Ordinances and add requirements for parking in residential yards.

BACKGROUND:

The City Council recommended the Commission to consider amending several ordinances for all residential parking, primarily to have all vehicles on private property and to be aligned. Standards exist for required parking, yet none exist for additional parking of boats, trailers, etc. The Council recommended some exceptions; they also recommended allowing some existing parking on erodible surfaces, with some triggers to improve to non-erodible, and to allow some existing parking on non-erodible surfaces, different than asphalt or concrete. (New construction requires driveway pavement of asphalt or concrete.)

Exceptions

The ordinance does not apply to property with the temporary zoning of Agricultural (A), or property which may be zoned SF-1 or SF-2, yet is equal to or larger than three acres, or for residential parking 150' away from a property line or for the temporary vehicle parking for construction/landscaping loading and unloading of any vehicle, provided it is removed with 72 hours of completion of work.

Parking on Erodible Surfaces

(1) A person may park or allow parking of an automobile or truck on an erodible parking area that has the following characteristics:

- (a) The parking area extends in a continuous course from an allowed curb cut with a standard drive approach,
 - (b) The parking area existed and was in use on [insert date of new aerial photo]
 - (c) The parking area is perpendicular to the front property line.
 - (d) The parking area is a maximum of 20 feet wide.
 - (e) The parking area is part of a residentially developed lot.
- (2) Erodible surfacing includes any material other than the materials listed in (e)(2) above.
- (3) An erodible parking area that existed before [insert date of new aerial photo] must be improved to current standards set forth in subsection (d) above if:
- (i) The driveway or parking area is expanded;
 - (ii) The size of the dwelling is expanded by more than 10 percent; or
 - (iii) The dwelling is destroyed by more than 60 percent of its value.

Parking on Non-erodible Surfaces

(1) A person may park or allow parking of a vehicle or boat on a maintained non-erodible parking area that extends in a continuous course from an allowed curb cut with a standard drive approach, if the driveway or parking area existed on [insert date of new aerial photo]. Non-erodible surfacing includes concrete, asphalt, brick and stone. Gravel, crushed stone and crushed granite are considered non-erodible if bordered by cement curbing or similar permanent border.

(2) An unpaved driveway that existed before [insert date of new aerial photo] must be improved to current standards if:

- (i) The driveway or parking area is expanded;
- (ii) The size of the dwelling is expanded by more than 10 percent; or
- (iii) The dwelling is destroyed by more than 60 percent of its value.

Construction of paved parking surfaces

The following provisions apply to a paved parking surface constructed after [insert date of new aerial photo], according to a City of Temple aerial photo taken on such date:

(1) Paved parking surfaces may cover no more than 50 percent of the actual front yard for a single-family or two-family dwelling.

(2) Paved parking surfaces may cover no more than 70 percent of the actual front yard for a townhome or single-family attached dwelling.

(3) A paved parking surface may exceed the coverage limitation if necessary to provide a two-car-wide driveway for each dwelling.

(4) The maximum width of a driveway for a single-family dwelling is 20 feet, measured at the property line. The 20-foot maximum driveway width is increased to 30 feet for a driveway connected to a three-car garage.

(5) The maximum width of each driveway for a two-family dwelling is 20 feet, measured at the property line. The driveways for a two-family dwelling must be at least 5 feet apart.

(6) A parking surface may be located in front of the primary entrance to a single-family dwelling in only two circumstances:

- (a) The parking surface is a curvilinear driveway, or
- (b) The lot width is 40 feet or less.

STAFF RECOMMENDATION: Staff recommends the Commission recommend approval of Z-FY-10-25 to amend the Chapter 37 of the Code of Ordinances and add requirements for parking in residential yards.

ATTACHMENTS: Proposed Ordinance

**EXCERPTS FROM THE
PLANNING & ZONING COMMISSION MEETING
MONDAY, MAY 3, 2010**

ACTION ITEMS

Item 2: Z-FY-09-29: Public Hearing to discuss and recommend action to amend the Chapter 37 of the Code of Ordinances and add requirements for parking in residential yards. (Applicant: Planning & Zoning Commission).

Mr. Tim Dolan, Planning Director, stated the City Council recommended the Commission to consider amending several ordinances for all residential parking, primarily to have all vehicles on private property and to be aligned. Standards exist for required parking, yet none exist for additional parking of boats, trailers, etc. The Council recommended some exceptions; they also recommended allowing some existing parking on erodible surfaces, with some triggers to improve to non-erodible, and to allow some existing parking on non-erodible surfaces, different than asphalt or concrete. (New construction requires driveway pavement of asphalt or concrete.)

Exceptions to this would apply to property with temporary zoning of Agricultural (A), or property which may be zoned SF-1 or SF-2, yet is equal to or larger than three acres, or for residential parking 150' away from a property line or for the temporary vehicle parking for construction/landscaping loading and unloading of any vehicle, provided it is removed with 72 hours of completion of work.

The proposed standards focus on the location of vehicles parked in the front yard, which could include both motorized vehicles (as defined by the Ordinance) and non-motorized vehicles, which could include trailers, trailer mounted equipment and its machinery. The front yard is essentially the front of the house out to the property line and from side yard to side yard.

Mr. Dolan stated some sections will be looked at for existing uses termed as grandfathered. A grass or dirt lot which existed before June 3rd, which is the date City Council would have their second reading provided this item moved forward, would have to be on a developed residential lot (has to have a house), and could be a pickup or automobile aligned with existing garage, carport, enclosed garage, or if none of these in an area that would be parked perpendicular to the street and exist from a curb cut in a continuous course and parked perpendicular to the property line unless there was a curvilinear road.

Parking on Non-erodible Surfaces

(1) A person may park or allow parking of a vehicle or boat on a maintained non-erodible parking area that extends in a continuous course from an allowed curb cut with a standard drive approach, if the driveway or parking area existed on **[insert date of new aerial photo]**. Non-erodible surfacing includes concrete, asphalt, brick and stone. Gravel, crushed stone and crushed granite are considered non-erodible if bordered by cement curbing or similar permanent border.

(2) An unpaved driveway that existed before [insert date of new aerial photo] must be improved to current standards if:

- (i) The driveway or parking area is expanded;
- (ii) The size of the dwelling is expanded by more than 10 percent; or
- (iii) The dwelling is destroyed by more than 60 percent of its value.

Parking on Erodible Surfaces

(1) A person may park or allow parking of an automobile or truck on an erodible parking area that has the following characteristics:

- (a) The parking area extends in a continuous course from an allowed curb cut with a standard drive approach,
- (b) The parking area existed and was in use;
- (c) The parking area is perpendicular to the front property line.
- (d) The parking area is a maximum of 20 feet wide.
- (e) The parking area is part of a residentially developed lot.

(2) Erodible surfacing includes any material other than the materials listed in (e)(2) above.

(3) An erodible parking area that existed before **[insert date of new aerial photo]** must be improved to current standards set forth in subsection (d) above if:

- (i) The driveway or parking area is expanded;
- (ii) The size of the dwelling is expanded by more than 10 percent; or
- (iii) The dwelling is destroyed by more than 60 percent of its value.

Construction of paved parking surfaces

The following provisions apply to a paved parking surface constructed after [insert date of new aerial photo], according to a City of Temple aerial photo taken on such date:

- (1) Paved parking surfaces may cover no more than 50 percent of the actual front yard for a single-family or two-family dwelling.
- (2) Paved parking surfaces may cover no more than 70 percent of the actual front yard for a town home or single-family attached dwelling.
- (3) A paved parking surface may exceed the coverage limitation if necessary to provide a two-car-wide driveway for each dwelling.
- (4) The maximum width of a driveway for a single-family dwelling is 20 feet, measured at the property line. The 20-foot maximum driveway width is increased to 30 feet for a driveway connected to a three-car garage.
- (5) The maximum width of each driveway for a two-family dwelling is 20 feet, measured at the property line. The driveways for a two-family dwelling must be at least 5 feet apart.
- (6) A parking surface may be located in front of the primary entrance to a single-family dwelling in only two circumstances:

- (a) The parking surface is a curvilinear driveway, or
- (b) The lot width is 40 feet or less.

The grandfather goes away when the driving or parking area is expanded or the house is expanded by 10%, or if the home is destroyed more than 60% of its value.

The visibility triangle would be City wide and would be a 15 x 15 foot triangle clear of obstructions and able to see oncoming traffic.

Mr. Dolan stated Staff recommended approval of amendments to Chapter 37 of the Code of Ordinances and add the parking requirements for residential yards. If this item moved forward, May 20th would be City Council first reading and June 3rd would be the second reading and adoption.

Vice-Chair Talley opened the public hearing.

Ms. Dorothy Jenkins, 7108 Brandon Drive, Temple, Texas, approached the Commission. Ms. Jenkins stated she was not clear about this issue. Ms. Jenkins asked if Mr. Dolan was stating he doesn't want anything on her side of the sidewalk or the City side and Mr. Dolan stated it needed to be on the private side of the sidewalk, that parking should not occur within the right-of-way. Mr. Dolan stated the sidewalk was in the right-of-way and Ms. Jenkins should try not to have a vehicle parked where it would be in the right-of-way, where the sidewalk would be. Ms. Jenkins asked if Mr. Dolan was saying, 'between the house and the sidewalk is cool' and Mr. Dolan stated 'that's correct, that's cool, just don't have your cars parked on the sidewalk.'

Ms. Shirley Grandison, 420 S. 15th Street, a dead end. Ms. Grandison stated they did not have sidewalks, lived on the corner, the streets are real narrow, and in their yard was a circle gravel driveway which had not been paved yet. If asphalt were laid down would they be able to park there. Mr. Dolan stated if the vehicle were on private property and the property were zoned some type of single family or two family zoning, a building permit could be obtained for the pavement (asphalt or concrete) and Ms. Grandison could pave up to 50% of the front yard (as defined previously).

Mr. Dolan clarified what conditions would trigger the end of grandfathered areas.

Ms. Grandison asked if back yards could be used for parking and Mr. Dolan stated some type of paved surface had to be available. Ms. Grandison asked about the selling of recycled asphalt and Mr. Dolan asked Ms. Grandison to leave her name and address and he would research the question and get back to her.

Commissioner Staats asked if the property line was the back side of the sidewalk and Mr. Dolan stated if a sidewalk existed. Commissioner Staats suggested looking at property surveys and/or deeds if people had any questions regarding where their property lines were located.

Ms. Jessie Louise Hall, 416 S. 15th Street, Temple, Texas, stated she had no sidewalks, lived on a dead end road, and wanted to know why the City let the neighbors put a house on the Avenue making it difficult for her to get out of her driveway. The neighbors' driveway was located off of 15th Street and on the side of the house instead

of Avenue E. The neighbors also have a lot of cars and Ms. Hall cannot get out of her driveway.

Ms. Hall wanted to know how and why the City allowed that type of situation to occur. Mr. Dolan asked Ms. Hall, if the Commission were in favor, to leave her phone number and he would research the issue and history and get back to her.

Vice-Chair Talley asked Ms. Hall to leave her number with Ms. Evans and one of the Staff would research the matter and contact her with any information.

There being no further speakers, Vice-Chair Talley closed the public hearing.

Commissioner Pope asked Mr. Dolan about the 'loading and unloading' containers and to go over those items again since there was some question about the timeline at the last meeting. Mr. Dolan stated the exceptions regarding temporary parking could be done if the vehicle were removed within 72 hours of completion.

Commissioner Pope asked about PODS, temporary storage units, and wondered if they were a separate issue. Mr. Dolan stated they were a separate issue since those containers are looked at as a 'structure' and not necessarily for residential parking purposes. These are covered under different ordinances.

Commissioner Pope made a motion to amend Chapter 37 of Code of Ordinances and Commissioner Williams made a second.

Motion passed: (5:0)

Commissioners Secrest, Barton Martin and Chair Pilkington absent.

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AMENDING CHAPTER 37, "TRAFFIC," OF THE CODE OF ORDINANCES OF THE CITY OF TEMPLE TO ADD REQUIREMENTS FOR PARKING IN RESIDENTIAL YARDS; PROVIDING A REPEALER; PROVIDING A SAVINGS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND PROVIDING AN OPEN MEETINGS CLAUSE.

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

Part 1: Chapter 37, "Traffic," of the Code of Ordinances of the City of Temple, Texas, Section 37-1, "Definitions," is amended as follows:

Sec. 37-1. Definitions.

Wherever in this chapter the following terms are used, they shall have the meanings respectively ascribed to them in this section, unless clearly indicated to the contrary:

Authorized emergency vehicle. Vehicles of the fire department, police vehicles and such ambulances and emergency vehicles of municipal departments or public service corporations as are designated or authorized by the chief of police.

Crosswalk. That portion of a roadway ordinarily included within the prolongation of curb and property lines at intersections, or any other portion of a roadway clearly indicated for pedestrian crossing by lines or other markings on the surface.

Hand signals. All signals made by the operator by use of the hand and forearm for the purpose of indicating his intention of turning, stopping, or changing the course of the vehicle.

Intersection. The area embraced within the prolongation of the lateral curb lines or, if none, then the lateral boundary lines of two (2) or more streets or highways which join one another at an angle, whether or not one such street or highway crosses the other.

Intersection visibility triangle. That area enclosed by drawing an imaginary line connecting two points located within 15 feet of the curb line of any street intersection, street/driveway intersection or street/alley intersection. It includes that portion of public street right-of-way and any corner lot in the triangular area formed by extending the curb lines of the intersecting streets to their imaginary point of intersection for the first point of the triangle, then proceeding back

from this imaginary point of intersection 15 feet along the curb lines of the intersecting streets to establish the two remaining points of the triangle. These points must then be connected with imaginary lines, thereby forming a triangle. If there are no curbs existing, the triangular area are formed by extending the pavement edges to the imaginary point of intersection of the streets and then proceeding in the same manner described above.

Motor vehicle. Every vehicle, which is self-propelled.

Non-motor Vehicle. Any vehicle or device without motive power and which is not self-propelled and is designed or used to carry property or passengers on its own structure and is drawn by a motor vehicle. Such non-motor vehicle shall include boat trailers, utility trailers, trailer-mounted equipment or wheel-mounted machinery.

Official traffic signs. All signals, not inconsistent with this chapter, placed or erected by authority of a public body or official having jurisdiction for the purpose of directing, warning or regulating traffic.

Operator. Any person who is in actual physical control of a vehicle.

Park or parking. ~~The standing of a vehicle, whether occupied or not, upon a roadway, otherwise than temporarily for the purpose of and while actually engaged in loading or unloading, or in obedience to traffic regulations or traffic signs and signals.~~ To stand an occupied or unoccupied vehicle, other than temporarily while loading or unloading merchandise or passengers.

Pedestrian. Any person afoot.

Police officer. Every officer of the city police department or any officer authorized to direct or regulate traffic or to make arrests for violations of traffic regulations.

Private road or driveway. ~~Every road or driveway not open to the use of the public for purposes of vehicular travel.~~ A privately owned way or place used for vehicular travel and used only by the owner and persons who have the owner's express or implied permission.

Recreational vehicle. A motor vehicle primarily designed or used as temporary living quarters for recreational camping or travel use. Recreational vehicle includes a travel trailer, camping trailer, tent trailers, motor homes, and converted buses, but shall not include truck campers which do not exceed one ton in capacity and are not longer than twenty-two (22) feet in length.

Right-of-way. The privilege of the immediate use of the street or highway.

Roadway. That portion of a street or highway between the regularly established curb lines or that part devoted to vehicular travel.

Safety zone. That area or space officially set apart within a roadway for the exclusive use of pedestrians and which is protected or is so marked or indicated by adequate signs as to be plainly visible at all times while set apart as a safety zone.

Sidewalk. ~~That~~ The portion of a street that is:

- (a) between the curb lines a curb or lateral line of a roadway and the adjacent property lines; and
- (b) intended for pedestrian use.

Street or highway. Every way set apart for public travel, except foot paths.

Traffic. Pedestrians, ridden or herded animals, vehicles, and other conveyances, either singly or together, while using any street for purposes of travel.

Vehicle. ~~Every device in, upon or by which any person or property is or may be transported or drawn upon a street or highway, excepting devices moved by human power or used exclusively upon stationary rails or tracks.~~ A device that can be used to transport or draw persons or property on a highway. The term does not include:

- (a) a device exclusively used on stationary rails or tracks; or
- (b) manufactured housing as that term is defined by Chapter 1201, Occupations Code.

Part 2: Chapter 37, "Traffic," of the Code of Ordinances of the City of Temple, Texas, is amended to add a new Section 37-91, entitled "Intersection Visibility Triangle," to read as follows:

Sec. 37-91. Intersection Visibility Triangle.

- (a) A vehicle, fence, wall, screen, view obstruction, or foliage is not allowed within the intersection visibility triangle at elevations between three feet and eight feet above the average street grade. Obstructions of this nature are declared to be a public traffic nuisance. person may not park or allow parking of a vehicle or boat in the intersection visibility triangle at elevations between three feet and eight feet above the average street grade.
- (b) Obstruction of an intersection visibility triangle must be abated within 10 days after written notice.

Part 2: Chapter 37, "Traffic," of the Code of Ordinances of the City of Temple, Texas, is amended to add a new Section 37-108, entitled, "Parking in Residential Yards," to read as follows:

Sec. 37-108. Parking in residential yards.

(a) Purpose

The purpose of this section is to regulate parking in the front and side yards of residential property, to preserve the property values and esthetics of neighborhoods,

promote traffic safety and prevent damage to public infrastructure.

(b) Parking restricted

(1) A person may not park or allow parking of a vehicle or boat in the actual front yard or actual side yard of a dwelling except on a paved surface (asphalt or concrete) that extends in a contiguous course from an allowed curb cut with a standard drive approach.

(2) A person may not park or allow parking of a vehicle or boat on a residentially zoned vacant lot except on a paved surface that extends in a contiguous course from an allowed curb cut with a standard drive approach.

(3) The actual front yard is the area extending from side property line to side property line, between the front façade of the dwelling and the front property line. The actual side yard is the area between the sides of the dwelling and the side property lines, from the front façade of the dwelling to the rear property line.

(4) In this Section, the term “vehicle” includes a device that can be used to transport or draw persons or property, not only on a highway or street, but also off road, whether or not the vehicle is operable. For purposes of this Section, examples of vehicles include, but are not limited to, an automobile, truck, motorcycle, all-terrain vehicle, golf car or cart, motorhome, camper, trailer, trailer-mounted equipment, wheel-mounted machinery, mower, farm equipment and construction equipment.

(5) In this Section, the term “boat” includes personal watercraft.

(c) Parking orientation

The following provisions apply regardless of the parking surface on the subject property:

(1) A vehicle or boat parked in the front yard of a single-family or two-family residence must be parked perpendicular to the front property line unless the vehicle is parked in a paved curvilinear driveway.

(2) A vehicle or boat parked in the front yard of a single-family or two-family dwelling must be aligned with any garage, carport or garage converted to living space unless the vehicle or boat is parked in a paved curvilinear driveway.

(d) Construction of paved parking surfaces

The following provisions apply to a paved parking surface constructed after [insert date of new aerial photo], according to a City of Temple aerial photo taken on such date:

(1) Paved parking surfaces may cover no more than 50 percent of the actual front yard for a single-family or two-family dwelling.

(2) Paved parking surfaces may cover no more than 70 percent of the actual front yard for a townhome or single-family attached dwelling.

(3) A paved parking surface may exceed the coverage limitation if necessary to provide a two-car-wide driveway for each dwelling.

(4) The maximum width of a driveway for a single-family ~~or two-family~~ dwelling is 20 feet, measured at the property line. The 20-foot maximum driveway width is increased to 30 feet for a driveway connected to a three-car garage.

(5) The maximum width of each driveway for a two-family dwelling is 20 feet, measured at the property line. The driveways for a two-family dwelling must be at least 5 feet apart.

(6) A parking surface may be located in front of the primary entrance to a single-family dwelling in only two circumstances:

- (a) The parking surface is a curvilinear driveway, or
- (b) The lot width is 40 feet or less.

(e) Existing non-erodible parking areas

(1) A person may park or allow parking of a vehicle or boat on a maintained non-erodible parking area that extends in a continuous course from an allowed curb cut with a standard drive approach, if the driveway or parking area existed on [insert date of new aerial photo]. Non-erodible surfacing includes concrete, asphalt, brick and stone. Gravel, crushed stone and crushed granite are considered non-erodible if bordered by cement curbing or similar permanent border.

(2) An unpaved driveway that existed before [insert date of new aerial photo] must be improved to current standards if:

- (i) The driveway or parking area is expanded;
- (ii) The size of the dwelling is expanded by more than 10 percent; or
- (iii) The dwelling is destroyed by more than 60 percent of its value

(f) Existing erodible parking areas

- (1) A person may park or allow parking of an automobile or truck on an erodible parking area that has the following characteristics:
 - (a) The parking area extends in a continuous course from an allowed curb cut with a standard drive approach.
 - (b) The parking area existed and was in use on [insert date of new aerial photo].
 - (c) The parking area is perpendicular to the front property line.
 - (d) The parking area is a maximum of 20 feet wide.
 - (e) The parking area is part of a residentially developed lot that does not have a non-erodible, two-car-wide parking area.
 - (f) The parking area is not in front of the primary entrance to a single-family dwelling.
- (2) Erodible surfacing includes any material other than the materials listed in (e)(2) above.
- (3) An erodible parking area that existed before [insert date of new aerial photo] must be improved to current standards set forth in subsection (d) above if:
 - (i) The driveway or parking area is expanded;
 - (ii) The size of the dwelling is expanded by more than 10 percent; or
 - (iii) The dwelling is destroyed by more than 60 percent of its value.

(g) Exceptions

- (1) This Section does not apply in Agricultural Zoning Districts.
- (2) This Section does not apply to properties greater than three acres in area or to parking areas farther than 150 feet from the front property line.
- (3) Temporary vehicle parking associated with construction, landscaping, loading and unloading is exempt from this section if the vehicle is removed within 72 hours of completion of the work.

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: It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses and phrases of this ordinance are severable and, if any phrase, clause, sentence, paragraph or section of this ordinance should be declared invalid by the final judgment or decree of any court of competent jurisdiction, such invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this ordinance, since the same would have been enacted by the City Council without the incorporation in this ordinance of any such invalid phrase, clause, sentence, paragraph or section.

Part 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 **20th** day of **May**, 2010.

PASSED AND APPROVED on Second Reading on the **3rd** day of **June**, 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

05/20/10
Item #8
Regular Agenda
Page 1 of 2

DEPT./DIVISION SUBMISSION & REVIEW:

Tim Dolan, Planning Director

ITEM DESCRIPTION: FIRST READING – PUBLIC HEARING - Z-FY-10-26: Consider adopting an ordinance authorizing a Conditional Use Permit (CUP) to allow display for sale in a Commercial District on Lot 1, Block 1, Wildflower Commerce Park IV, at 5615 SW H K Dodgen Loop.

PLANNING AND ZONING COMMISSION RECOMMENDATION: At its May 3, 2010 meeting, the Planning and Zoning Commission voted 4/1 in accordance with staff recommendation to recommend approval of a Conditional Use Permit for the outdoor display of portable buildings with the following conditions:

1. The permittee must design and operate the establishment in such a manner that the proposed use does not substantially increase traffic congestion or create overcrowding in the establishment or the immediately surrounding area.
2. The permittee must demonstrate that the granting of the permit would not be detrimental to the public welfare of the citizens of the City.
3. The permittee must operate the establishment in such a manner as to prevent excessive noise, dirt, litter and odors in the establishment or in the surrounding area and operate the establishment in such a manner as to minimize disturbance to surrounding property owners.
4. The City Council may cancel, suspend, deny or revoke this CUP, in accordance with the revocation clause set forth in Section 7-608 of the Zoning Ordinance.
5. The CUP runs with the property. Changes in the owner or lessee of a permitted establishment do not affect the permit.
6. The CUP may be canceled, suspended or revoked in accordance with the revocation clause set forth in Section 7-608 of the Zoning Ordinance.
7. The applicant's site plan and application are exhibits to the ordinance granting the CUP.

Vice-Chair Talley voted against the recommendation. Chair Pilkington and Commissioners Secrest, Barton and Martin were absent.

STAFF RECOMMENDATION: Conduct public hearing and adopt ordinance as presented in the item description, on first reading, and schedule second reading and final adoption for June 3, 2010.

ITEM SUMMARY: Please refer to the Staff Report and draft minutes of case Z-FY-10-26, from the Planning and Zoning meeting, May 3, 2010. The applicant wishes to display portable sheds for outdoor retail display. The subject property is located at the corner of SW H. K. Dodgen Loop and Greenview Drive. The property formerly served as a vehicle sales facility and has recently been re-established as a vehicle sales facility and landscape supply and portable building store.

Parking, landscaping and screening shown on the attached CUP site plan meets or exceeds the requirements of the Zoning Ordinance. The applicant proposes four trees along Greenview Drive in addition to the five that are already in place to assist in screening the portable buildings and five trees along the SW H. K. Dodgen Loop frontage road. The applicant does not propose changing the outside of the building. The site plan also proposes six "stalls" for storage and sale of loose mulch, topsoil, sand and other such materials. The stalls are proposed to be made of limestone blocks. A detail of one of the stalls is in the upper right corner of the site plan.

Public Notice

Seven notices of the Planning and Zoning Commission public hearing were sent out. As of April 27 at 5 PM, two notices were returned in favor of and no notices were returned in opposition to the request. The newspaper printed notice of the Planning and Zoning Commission public hearing on April 22, 2010 in accordance with state law and local ordinance

FISCAL IMPACT: NA

ATTACHMENTS:

Aerial
Land Use and Character Map
Zoning Map
Utility Map
CUP Site Plan
Notice Map
P&Z Staff Report (Z-FY-10-26)
P&Z Minutes (May 3, 2010)
Ordinance




Z-FY-10-26

Lot 1, Block 1 Wildflower Commerce Park IV

5615 S.W. HK Dodgen Loop



 Z-FY-10-26

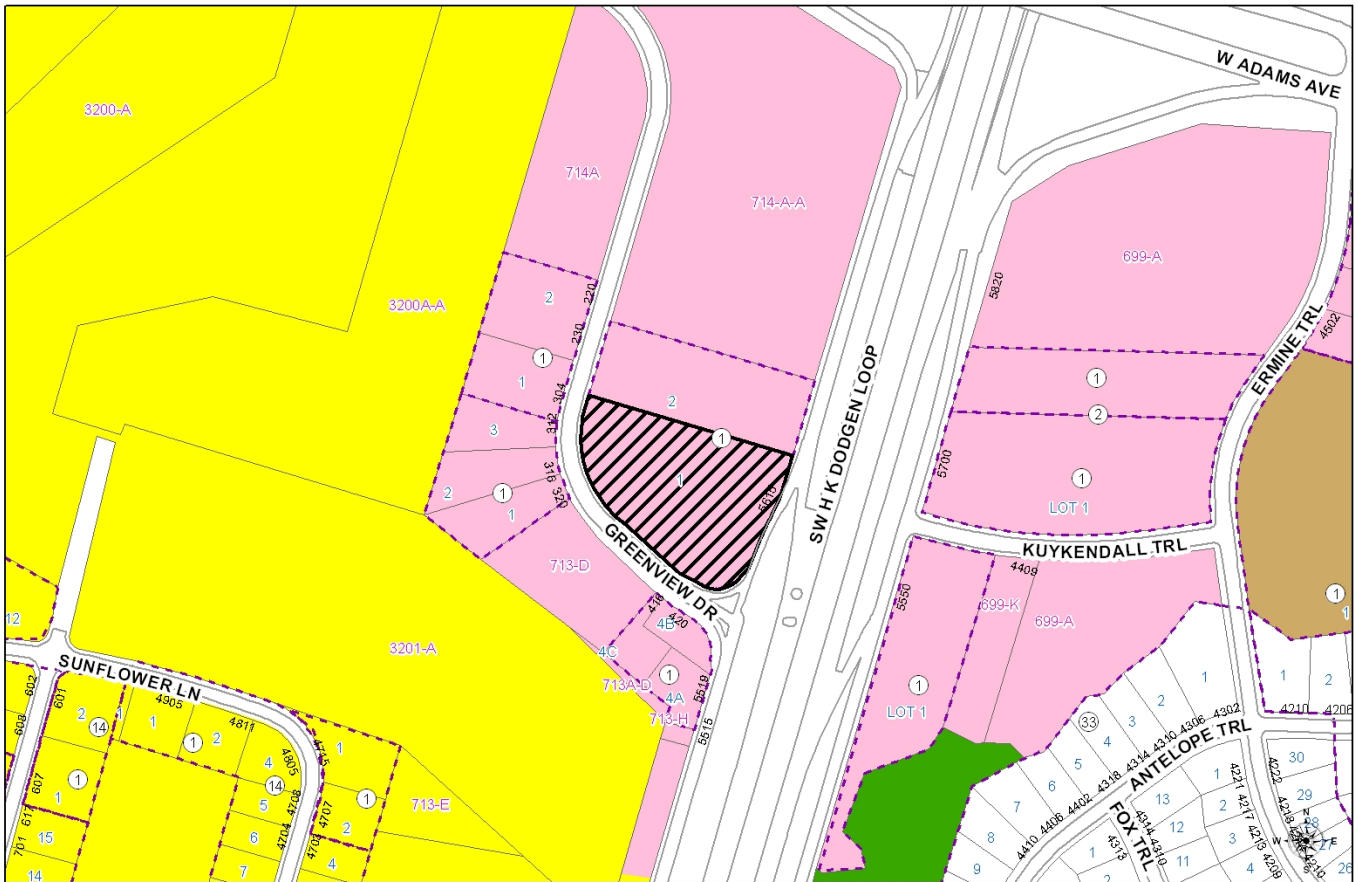
Feet 0 100 200 300 400
L Evans 4.5.10



Z-FY-10-26

Lot 1, Block 1 Wildflower Commerce Park IV

5615 S.W. HK Dodgen Loop



- | | | | | | |
|---------------------------|-------------------------|-----------------------|-----------------------------------|----------------------|------------|
| Neighborhood Conservation | Auto-urban Residential | Auto-Urban Commercial | Temple Medical Education District | Public/Institutional | Z-FY-10-26 |
| Estate Residential | Auto-Urban Multi-Family | Suburban Commercial | Industrial | Parks and Open Space | |
| Suburban Residential | Auto-Urban Mixed Use | Urban Center | Business park | Agricultural/Rural | |

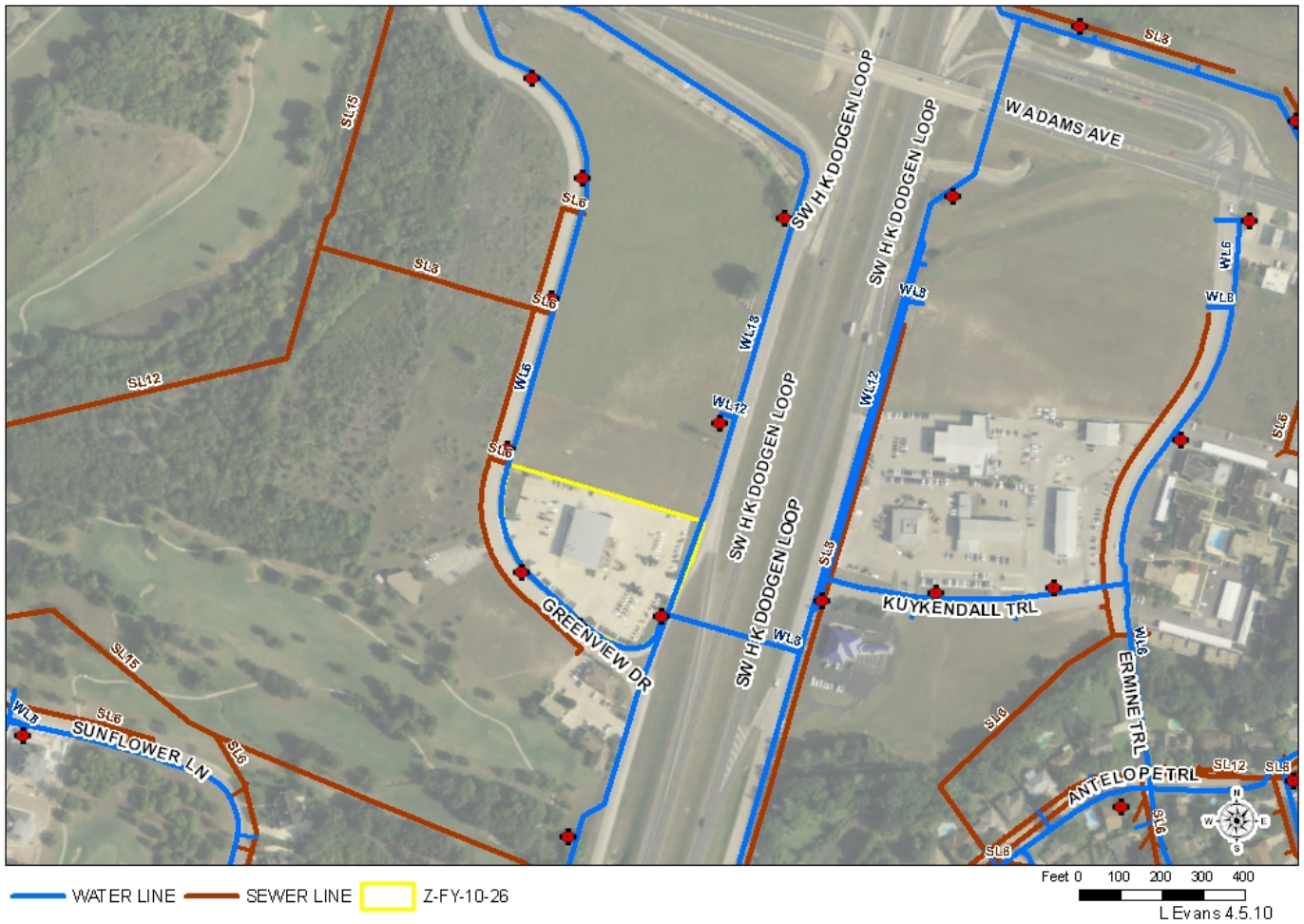
1 inch = 300 feet
J Stone 4.28.10

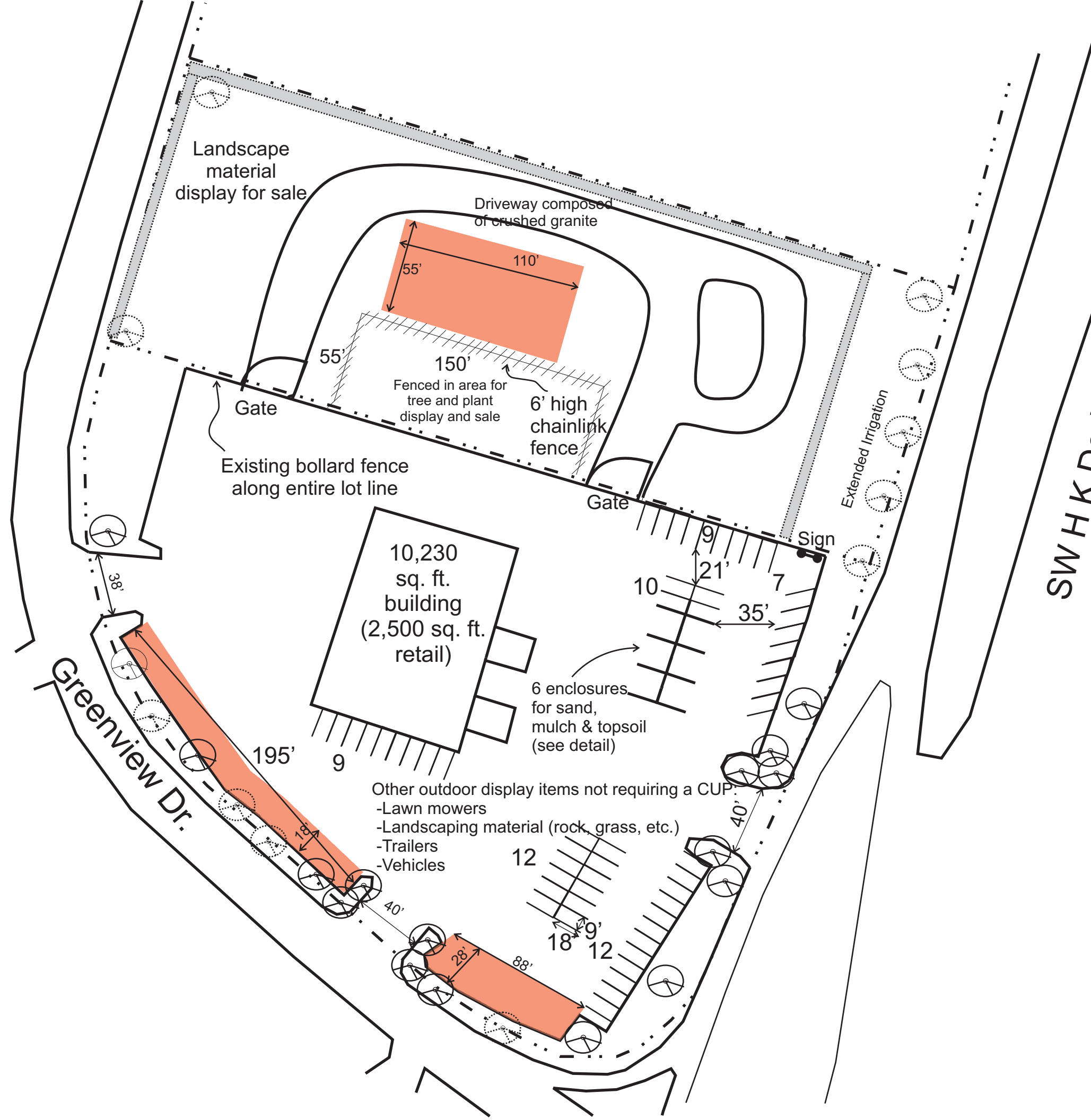


Z-FY-10-26

Lot 1, Block 1 Wildflower Commerce Park IV


5615 S.W. HK Dodgen Loop





2,500 sq. ft. retail = 10 required spaces
(1 per 250 sq. ft.)
3,500 sq. ft. auto shop = 18 required spaces
(1 per 200 sq. ft.)
4,230 sq. ft. warehouse = 4 required spaces
(1 per 1,000 sq. ft.)

Total Provided = 59

 Proposed limestone blocks
approx. 2' thick x 4' tall x 5' long

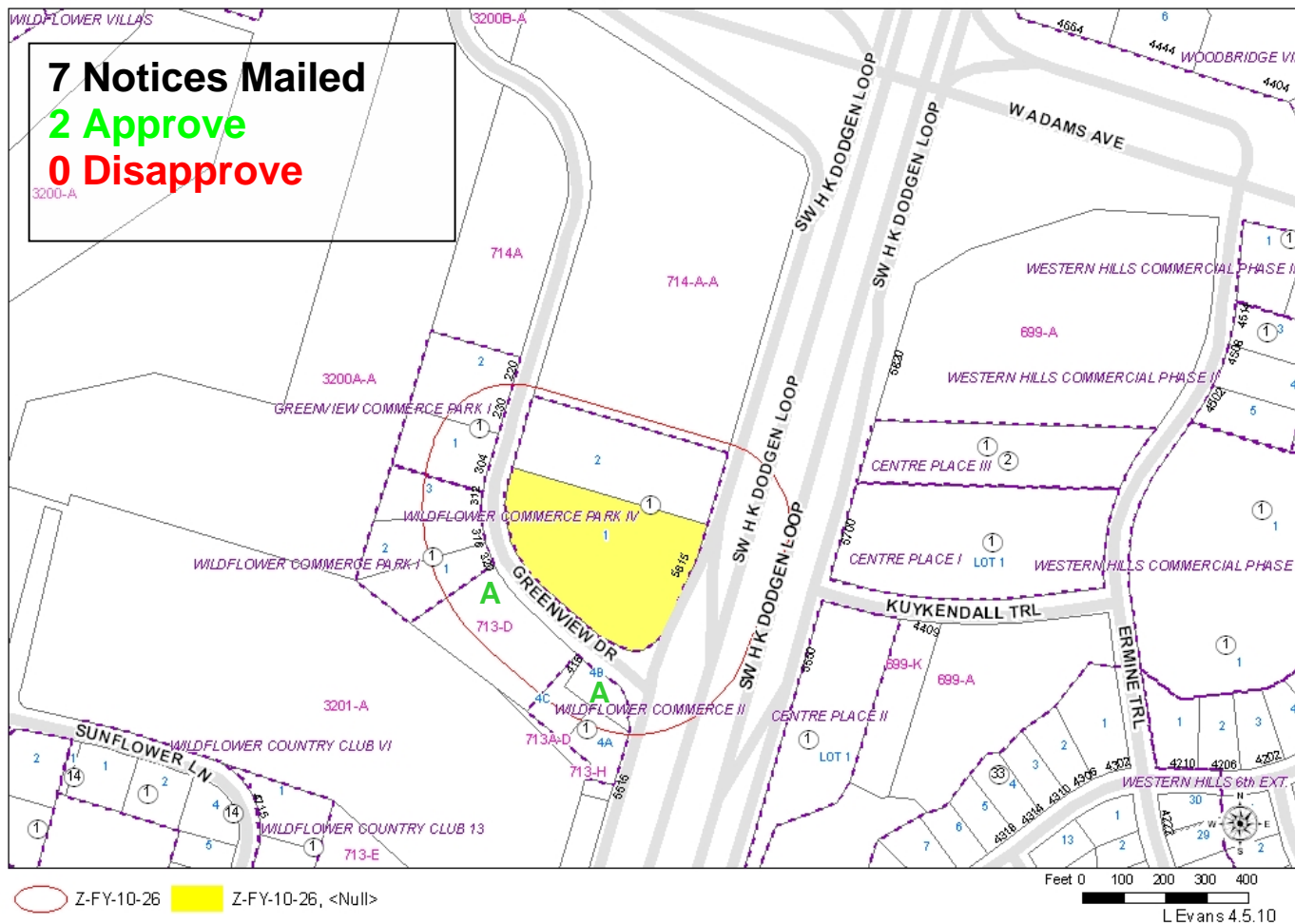
Scale: 1" = 60'



Z-FY-10-26

Lot 1, Block 1 Wildflower Commerce Park IV

5615 S.W. HK Dodgen Loop





PLANNING AND ZONING COMMISSION AGENDA ITEM

05/03/10
Item #3
Regular Agenda
Page 1 of 4

APPLICANT / DEVELOPMENT: Trey Gallaway for Don Ringler

CASE MANAGER: Brian Mabry, AICP. Senior Planner

ITEM DESCRIPTION: Z-FY-10-26 - Public Hearing to discuss and recommend action on a Conditional Use Permit to allow portable building retail display on Lot 1, Block 1, Wildflower Commerce Park IV, at 5615 SW H K Dodgen Loop. Zoned C, Commercial.

BACKGROUND: The applicant wishes to display portable sheds for outdoor retail display. Section 13-105(3) requires a CUP (with some display allowed by right) for outdoor retail display in the C, Commercial zoning district.

The subject property is located at the corner of SW H. K. Dodgen Loop and Greenview Drive. The property formerly served as a vehicle sales facility and has recently been re-established as a vehicle sales facility and landscape supply and portable building store. The subject property is approximately five acres in area and the building is approximately 10,000 square feet with about 2,500 square feet of retail and office space. Parking, landscaping and screening shown on the attached CUP site plan meets or exceeds the requirements of the Zoning Ordinance.

The CUP site plan shows approximately 12,000 square feet of outdoor area designated for retail display of portable buildings. The largest buildings to be sold on the site will be a maximum of 384 square feet. The site plan also shows 3,000 square feet dedicated to display of plants for sale. It is proposed to be surrounded by a split rail fence that is four feet in height. The site plan also proposes six "stalls" for storage and sale of loose mulch, topsoil, sand and other such materials. The stalls are proposed to be made of limestone blocks. A detail of one of the stalls is in the upper right corner of the site plan.

The applicant agrees with the CUP site plan and Staff Recommendation.

CUP Criteria

The Commission must consider the following items when reviewing a CUP:

1. The conditional use permit will be compatible with and not injurious to the use and enjoyment of the property, nor significantly diminish or impair property values within the immediate vicinity;
2. The establishment of the conditional use will not impede the normal and orderly development and improvement of surrounding vacant property;
3. Adequate utilities, access roads, drainage, and other necessary support facilities have been or will be provided;
4. The design, location, and arrangement of all driveways and parking spaces provide for the safe and convenient movement of vehicular and pedestrian traffic without adversely affecting the general public or adjacent development;


Double Sided

5. Adequate nuisance prevention measures have been or will be taken to prevent or control offensive odors, fumes, dust, noise, and vibration;
6. Directional lighting will be provided so as not to disturb or adversely affect neighboring properties; and
7. There is sufficient landscaping and screening to insure harmony and compatibility with adjacent property.

Surrounding Property and Uses

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

Direction	Zoning	Current Land Use	Photo
Subject Property	C	Vehicle sales, landscape supply and portable building sales	
North	C	Undeveloped	
South	C	Office	
East	C	Vehicle sales	

Direction	Zoning	Current Land Use	Photo
West	C	Office	

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

Future Land Use and Character

The Future Land Use and Character Map designates the subject property as Suburban Commercial. The proposal complies with the Future Land Use and Character Map.

Thoroughfare Plan

The Thoroughfare Plan designates SW H. K. Dodgen Loop as an Expressway and Greenview Drive as a Local Street. The proposal complies with the Thoroughfare Plan.

Adequacy of Public Facilities

A six-inch water line and a six-inch sewer line serve the subject property. Public facilities are available.

Public Notice

Seven notices of the Planning and Zoning Commission public hearing were sent out. As of April 27 at 5 PM, two notices were returned in favor of and no notices were returned in opposition to the request. The newspaper printed notice of the Planning and Zoning Commission public hearing on April 22, 2010 in accordance with state law and local ordinance.

STAFF RECOMMENDATION: Staff recommends approval of Z-FY-10-26 subject to the following conditions:

1. The permittee must design and operate the establishment in such a manner that the proposed use does not substantially increase traffic congestion or create overcrowding in the establishment or the immediately surrounding area.
2. The permittee must demonstrate that the granting of the permit would not be detrimental to the public welfare of the citizens of the City.
3. The permittee must operate the establishment in such a manner as to prevent excessive noise, dirt, litter and odors in the establishment or in the surrounding area and operate the establishment in such a manner as to minimize disturbance to surrounding property owners.
4. The City Council may cancel, suspend, deny or revoke this CUP, in accordance with the revocation clause set forth in Section 7-608 of the Zoning Ordinance.
5. The CUP runs with the property. Changes in the owner or lessee of a permitted establishment do not affect the permit.
6. The CUP may be canceled, suspended or revoked in accordance with the revocation clause set forth in Section 7-608 of the Zoning Ordinance.
7. The applicant's site plan and application are exhibits to the ordinance granting the CUP.

FISCAL IMPACT: Not Applicable

ATTACHMENTS:

Aerial
Land Use and Character Map
Zoning Map
Utility Map
CUP Site Plan
Notice Map
Response Letters

**EXCERPTS FROM THE
PLANNING & ZONING COMMISSION MEETING
MONDAY, MAY 3, 2010**

ACTION ITEMS

Item 3: Z-FY-10-26: Public Hearing to discuss and recommend action on a Conditional Use Permit to allow portable building retail display on Lot 1, Block 1, Wildflower Commerce Park IV, at 5615 SW H K Dodgen Loop. Zoned C, Commercial. (Applicant: Trey Gallaway for Don Ringler).

Mr. Brian Mabry stated the applicants for this matter were Trey Gallaway and Cy Long for Don Ringler and Mr. Long was in attendance. If approved, City Council would have first reading on May 20th and second reading on June 3rd.

The purpose of the request was to allow outdoor display of portable buildings. Some items are allowed by right to be displayed for sale which do not require a CUP such as cars, landscaping materials, mulch, topsoil, sand, etc., however, sale of portable buildings required a CUP.

The subject property is located at the corner of SW H. K. Dodgen Loop and Greenview Drive and formerly served as a vehicle sales facility. It had recently been reestablished as a vehicle sales facility and landscape supply and portable building store.

The subject property is approximately five acres in area and the building is approximately 10,000 square feet with about 2,500 square feet of retail and office space. Parking, landscaping and screening shown on the attached CUP site plan meets or exceeds the requirements of the Zoning Ordinance.

Some of the surrounding properties include undeveloped land to the north, vehicle sales across the Loop to the east, offices to the west and south. The subject property is designated suburban/commercial and the request complied with the Future Land Use and Character Map.

The Thoroughfare Plan designated the Loop as an expressway and Greenview is a local street and complied with the Thoroughfare Plan.

The subject property is served by a 6" sewer line and 6" water line.

The CUP site plan showed approximately 12,000 square feet of outdoor area designated for retail display of portable buildings. The largest buildings to be sold on the site would be a maximum of 384 square feet. The applicant also stated anything over 240 square feet would be placed in the less obvious storage area while smaller buildings would be placed along Greenview.

There is another area of 150 feet x 55 feet which would be partially fenced in for sale of trees, plants and other landscaping materials, approximately 3,000 square feet. Six "stalls" (about 12 conventional parking spaces) will be used for storage and sale of

loose mulch, topsoil, sand and other such materials. The stalls are proposed to be made of limestone blocks approximately 3 feet tall.

Existing landscaping is currently along the Loop and Greenview Drive and additional trees would be added.

A total of seven notices were mailed out and two notices were returned in favor.

Staff recommended approval of the CUP for display of portable buildings for sale subject to the following conditions:

1. The permittee must design and operate the establishment in such a manner that the proposed use does not substantially increase traffic congestion or create overcrowding in the establishment or the immediately surrounding area.
2. The permittee must demonstrate that the granting of the permit would not be detrimental to the public welfare of the citizens of the City.
3. The permittee must operate the establishment in such a manner as to prevent excessive noise, dirt, litter and odors in the establishment or in the surrounding area and operate the establishment in such a manner as to minimize disturbance to surrounding property owners.
4. The City Council may cancel, suspend, deny or revoke this CUP, in accordance with the revocation clause set forth in Section 7-608 of the Zoning Ordinance.
5. The CUP runs with the property. Changes in the owner or lessee of a permitted establishment do not affect the permit.
6. The CUP may be canceled, suspended or revoked in accordance with the revocation clause set forth in Section 7-608 of the Zoning Ordinance.
7. The applicant's site plan and application are exhibits to the ordinance granting the CUP.

Vice-Chair Talley asked when the letter notices went out to the property owners, were they aware there would be small portable buildings placed along that road and Mr. Mabry stated they would not have been aware of the exact location, only that the storage buildings are the reason for the CUP.

Vice-Chair Talley then asked that the property owners could have imagined them being anywhere on the property and Mr. Mabry stated yes. The notice stated "consider a CUP to allow display of storage buildings for sale in a Commercial district at 5615 S.W. H.K. Dodgen Loop" and does not specify the location of the buildings.

Commissioner Hurd asked if there were only two places to enter and exit off the property and Mr. Mabry stated there were two existing locations along Greenview and one along S.W. H.K. Dodgen. No more entrances/exits would be added.

Vice-Chair opened the public hearing.

Mr. Jim Vaughn, 4017 Sunflower, Temple, Texas, approached and stated he was representing Chris Von de Hoya, the principal owner of the Wildflower area, more particularly, the lots behind the subject property. Mr. Vaughn stated he understood the area was currently zoned and acceptable for a full scale landscaping operation to be there and Mr. Mabry confirmed.

Mr. Vaughn stated that indicating from the development around Loop 363, the area was destined to be a well taken care of showplace for the City of Temple. This landscaping operation would be moving from off of the service road south of 190. Mr. Vaughn stated like all landscaping operations, 'unintended consequences' may occur, such as failure to maintain property and materials. Since this is a landscaping operation and due to the materials involved, there would be dust and odors, it goes with the territory.

Mr. Vaughn stated putting the portable buildings right at the intersection is "kind of defacing" the whole area there. Mr. Vaughn asked the applicant what type of material will be supporting the road(s) for the coming and goings of trucks that are loading and unloading buildings.

Mr. Vaughn was surprised that the applicant wanted to put four 5-foot trees in the corners when it was a full service landscaping operation. It was Mr. Vaughn's opinion the applicant should do more than just that, considering materials such as throw away pallets, little plastic containers, and the debris which needed to be hidden from public view.

Mr. Vaughn was not supportive of this request due to many 'unintended consequences' he felt would arise should this request be granted. He encouraged the Commission to take into consideration the size of the large buildings, location of the buildings, and what the City of Temple had been working toward. There were other areas in the City better suited for this request.

Mr. Cy Long, representative for the store at 5616 S.W. H.K. Dodgen Loop, approached and stated the buildings located out there now are 10' x 16', 12' x 16', 10' x 20', or smaller and do not stick out further than a parking space. Mr. Long stated he had no problem with moving the buildings back from the Interstate somewhat, but this company guaranteed the buildings with a lifetime warranty on the wood; they are neutral in color, and aligned on the property in a straight and uniform manner.

Mr. Long stated the dirt control was one of the company's main priorities since the area was quite beautiful and the store would like to make everyone happy. Mr. Long stated the irrigation would be moved to the corner to create green more area; a permit had been applied for to erect a 6 foot fence around a 55 foot x 150 foot area to house 30 gallon to 15 gallon trees; control of the mud and ruts by using plastic covering and crushed granite; and having crushed granite or road base material on the drive around. The property would be aesthetically pleasing and maintained.

All the rock purchased for sale are palletized and those pallets are returned. Currently there is no trash laying around and the applicant does not want to destroy the area.

Mr. Long stated all of the bigger buildings would be located out in the field and only a few smaller buildings would be kept in stock and displayed in front.

Vice-Chair Talley asked about the reasons for placing the smaller buildings off of Greenview and Mr. Long stated it was for “future permission.” Currently they sell about 10 a month, it’s more of an eye catcher, and mainly so they don’t cap themselves.

Mr. Mabry stated the Code Enforcement letter stated, for a business to display in front of their building, such as portable buildings, a CUP was required. Due to the structure of the roads, there is no rear section to this building. There was no way to store the buildings without a CUP being required.

Mr. Long stated approximately 6 to 8 smaller buildings would fit in the front section. He did not feel they hid any visibility when turning out to the main road.

Commissioner Staats asked if it was possible to relocate or turn the six ‘stalls’ 90 degrees so the sand and soil was not visible from passing motorists and Mr. Long stated they would prefer to keep it the way it was currently set up since it worked the best and would probably not be interested in doing that due to the lay of the land. The drainage was also a consideration in how it was displayed.

There being no further speakers, Vice-Chair Talley closed the public hearing.

Commissioner Hurd made a motion to approve Z-FY-10-26 and Commissioner Williams made a second.

Motion passed: (4:1)

Vice-Chair Talley voted Nay

Commissioners Secrest, Barton Martin and Chair Pilkington absent.

ORDINANCE NO. _____

[PLANNING NO. Z-FY-10-26]

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING A CONDITIONAL USE PERMIT TO ALLOW DISPLAY FOR SALE IN A COMMERCIAL DISTRICT ON LOT 1, BLOCK 1, WILDFLOWER COMMERCE PARK IV, AT 5615 SW H K DODGEN LOOP; DECLARING FINDINGS OF FACT; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND PROVIDING AN OPEN MEETINGS CLAUSE.

WHEREAS, the Comprehensive Zoning Ordinance of the City of Temple, Texas, provides for the issuance of conditional use permits under certain conditions and authorizes the City Council to impose such developmental standards and safeguards as the conditions and locations indicate to be important to the welfare or protection of adjacent property and for the protection of adjacent property from excessive noise, vibration, dust, dirt, smoke, fumes, gas, odor, explosion, glare, offensive view or other undesirable or hazardous conditions, and for the establishment of conditions of operation, time limits, location, arrangement and construction for any use for which a permit is authorized;

WHEREAS, the Planning and Zoning Commission of the City of Temple, Texas, after due consideration of the conditions, operation and location of Lot 1, Block 1, Wildflower Commerce Park IV, at 5616 SW H K Dodgen Loop, recommends that the City Council approve the application for this Conditional Use Permit to allow display for sale in a Commercial District; and

WHEREAS, the City Council of the City of Temple, Texas, after public notice as required by law, has at a public hearing, carefully considered all the evidence submitted by the applicant concerning the proposed plans for operation of said establishment and has heard the comments and evidence presented by all persons supporting or opposing this application at said public hearing, and after examining the conditions, operation and the location of said establishment, finds that the proposed use of the premises substantially complies with the comprehensive plan and the area plan adopted by the City Council.

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

Part 1: The City Council approves a Conditional Use Permit to allow display for sale in a Commercial District on Lot 1, Block 1, Wildflower Commerce Park IV, at 5615 SW H K Dodgen Loop, more fully shown on Exhibit A, attached hereto and made a part of for all purposes.

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

- (a) The permittee must design and operate the establishment in such a manner that the proposed use does not substantially increase traffic congestion or create overcrowding in the establishment or the immediately surrounding area.
- (b) The permittee must demonstrate that the granting of the permit would not be detrimental to the public welfare of the citizens of the City.
- (c) The permittee must operate the establishment in such a manner as to prevent excessive noise, dirt, litter and odors in the establishment or in the surrounding area and operate the establishment in such a manner as to minimize disturbance to surrounding property owners.
- (d) The City Council may cancel, suspend, deny or revoke this CUP, in accordance with the revocation clause set forth in Section 7-608 of the Zoning Ordinance.
- (e) The CUP runs with the property. Changes in the owner or lessee of a permitted establishment do not affect the permit.
- (f) The CUP may be canceled, suspended or revoked in accordance with the revocation clause set forth in Section 7-608 of the Zoning Ordinance.
- (g) The applicant's site plan and application are attached hereto and made a part hereof for all purposes as Exhibits B and C, respectively.

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

Part 4: The declarations, determinations and findings declared, made and found in the preamble of this ordinance are hereby adopted, restated and made a part of the operative provisions hereof.

Part 5: It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses, and phrases of this ordinance are severable and, if any phrase, clause, sentence, paragraph or section of this ordinance should be declared invalid by the final judgment or decree of any court of competent jurisdiction, such invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this ordinance, since the same would have been enacted by the City Council without the incorporation in this ordinance of any such phrase, clause, sentence, paragraph or section.

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

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

PASSED AND APPROVED on First Reading and Public Hearing on the **20th** day of **May**, 2010.

PASSED AND APPROVED on Second Reading on the **3rd** day of **June**, 2010.

THE CITY OF TEMPLE, TEXAS

WILLIAM A. JONES, III Mayor

ATTEST:

APPROVED AS TO FORM:

Clydetta Entzminger
City Secretary

Jonathan Graham
City Attorney



COUNCIL AGENDA ITEM MEMORANDUM

05/20/10
Item # 9
Regular Agenda
Page 1 of 3

DEPT./DIVISION SUBMISSION & REVIEW:

Tim Dolan, Planning Director

ITEM DESCRIPTION: FIRST READING – PUBLIC HEARING - Z-FY-10-29: Consider adopting an ordinance authorizing a zoning change from Commercial District and General Retail District to Planned Development – Commercial District (PD-C) on Lots 1 - 4, Block 33, Temple Heights Addition, located at 2015 West Avenue M, 1305 and 1307 South 41st Street.

PLANNING AND ZONING COMMISSION RECOMMENDATION: At its May 3, 2010 meeting, the Planning and Zoning Commission voted 3/2 in accordance with staff recommendation to recommend approval of a zone change from C and GR to PD-C with the following conditions:

1. Except as modified by the binding site development plan and the ordinance granting the Planned Development designation, the use and development standards of the property must conform to the requirements of the Commercial zoning district.
2. In the event of a conflict between the site development plan and the text of the ordinance granting the Planned Development designation, the stricter standard applies.
3. All standards of the Zoning Ordinance apply unless the site development plan or the text of the ordinance granting the Planned Development specifically modifies such standards.
4. The following uses, and no other uses, are permitted on the subject property:
 - a) Truck rental and parking;
 - b) Parking lot, trucks or trailers;
 - c) Minor vehicle serving; and
 - d) Any nonresidential use permitted in the NS, Neighborhood Service, or O-1, Office One, zoning districts.
5. Truck and trailer parking is allowed only in the area designated on the development plan as the enclosed truck and trailer parking area.
6. Buffering between the enclosed truck parking area and the property line on the development plan must consist of a fence or wall constructed of wood, masonry, stone, or pre-cast concrete, with integrated color, texture and pattern that is between six feet and eight feet in height. The fence or wall must not contain openings constituting more than 20 square inches in each square foot of wall or fence surface. Gates must be equal in height and screening characteristics to the fence or wall.
7. The enclosed truck and trailer parking area must be striped to accommodate all trucks available for rental and trailers.

8. Any new buildings or additions require a building permit and must meet all City Code requirements.
9. The standards in Section 7-631, Minor Vehicle Servicing, of the Zoning Ordinance applies to any minor vehicle servicing to take place on the property.
10. Portable buildings, if any are erected, require a building permit and must be located in the rear half of lots 3 and 4. Such buildings must meet all City Code requirements including but not limited to the masonry requirements in Sec. 13-300 of the Zoning Ordinance.
11. The following activities or conditions are prohibited:
 - a) Outdoor junk and debris;
 - b) Storage of commodities in a street or alley;
 - c) Dilapidated signs;
 - d) Stagnant water in tires;
 - e) Indoor display of high combustible materials within five feet of doorways; and
 - f) Sign in r-o-w.
12. Any trucks or trailers parked on the property must be maintained in good mechanical condition so that they would pass vehicle inspection and be usable on a public road.
13. On-street parking of trucks and trailers is prohibited. All drop-off parking and storage of trucks and trailers must take place on-site.

Commissioners Pope and Hurd voted against the recommendation. Chair Pilkington and Commissioners Secrest, Barton and Martin were absent.

STAFF RECOMMENDATION: Conduct public hearing and adopt ordinance as presented in the item description, on first reading, and schedule second reading and final adoption for June 3, 2010.

ITEM SUMMARY: Please refer to the Staff Report and draft minutes of case Z-FY-10-29, from the Planning and Zoning meeting, May 3, 2010. The property owner is transferring his minor vehicle repair establishment and moving truck rental and parking business from S. 1st Street in the TMED area to the subject property. He can conduct these businesses on Lots 1 through 3 under the current zoning of the property. He wants to expand the parking of his trucks into Lot 4. Staff recommended a Planned Development to him so that the parking of his vehicles and the use of the property could be better controlled than it would be under base zoning requirements.

The binding site development plan for the PD controls the area in which the property owner can park his vehicles to an area of 80 feet by 110 feet. The PD requires screening in the form of a masonry wall or wood fence six to eight feet in height along the property line. As listed in the recommendations above, it also abates potential nuisances such as junked semi-trailers, parking of commercial vehicles on the street and limits future nonresidential uses to those that are allowed in the Neighborhood Service and Office-1 zoning districts, the least intense districts in the Zoning Ordinance.

Public Notice

Twenty seven notices of the Planning and Zoning Commission public hearing were sent out. As of Tuesday, May 11 at noon, four notices were returned in favor of and three notices were returned in opposition to the request. The newspaper printed notice of the Planning and Zoning Commission public hearing on April 22, 2010 in accordance with state law and local ordinance

FISCAL IMPACT: NA

ATTACHMENTS:

Aerial
Land Use and Character Map
Zoning Map
Utility Map
Binding Site Development Plan
Notice Map
P&Z Staff Report (Z-FY-10-29)
P&Z Minutes (05/03/10)
Ordinance




Z-FY-10-29

Temple Heights Addition, Block 33, Lots 1-4

2015 W Ave M



 Z-FY-10-29

Feet 0 50 100 150



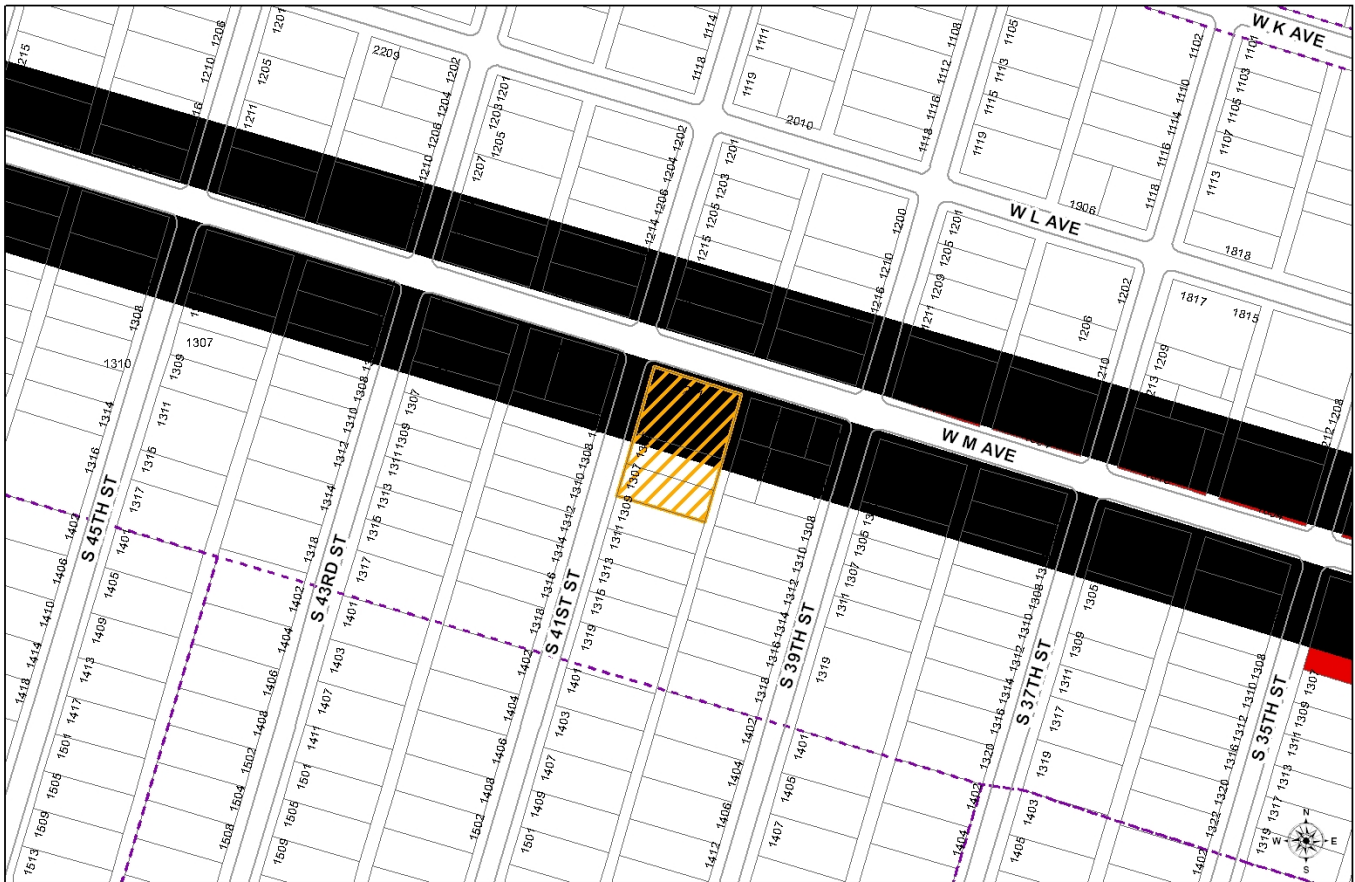
J Stone 4.14.10



Z-FY-10-29

Temple Heights Addition, Block 33, Lots 1-4

2015 W Ave M



- | | | | | | |
|---------------------------|-------------------------|-----------------------|-----------------------------------|----------------------|--------------------|
| Z-FY-10-29 | Suburban Residential | Auto-Urban Mixed Use | Urban Center | Business park | Agricultural/Rural |
| Neighborhood Conservation | Auto-urban Residential | Auto-Urban Commercial | Temple Medical Education District | Public/Institutional | |
| Estate Residential | Auto-Urban Multi-Family | Suburban Commercial | Industrial | Parks and Open Space | |

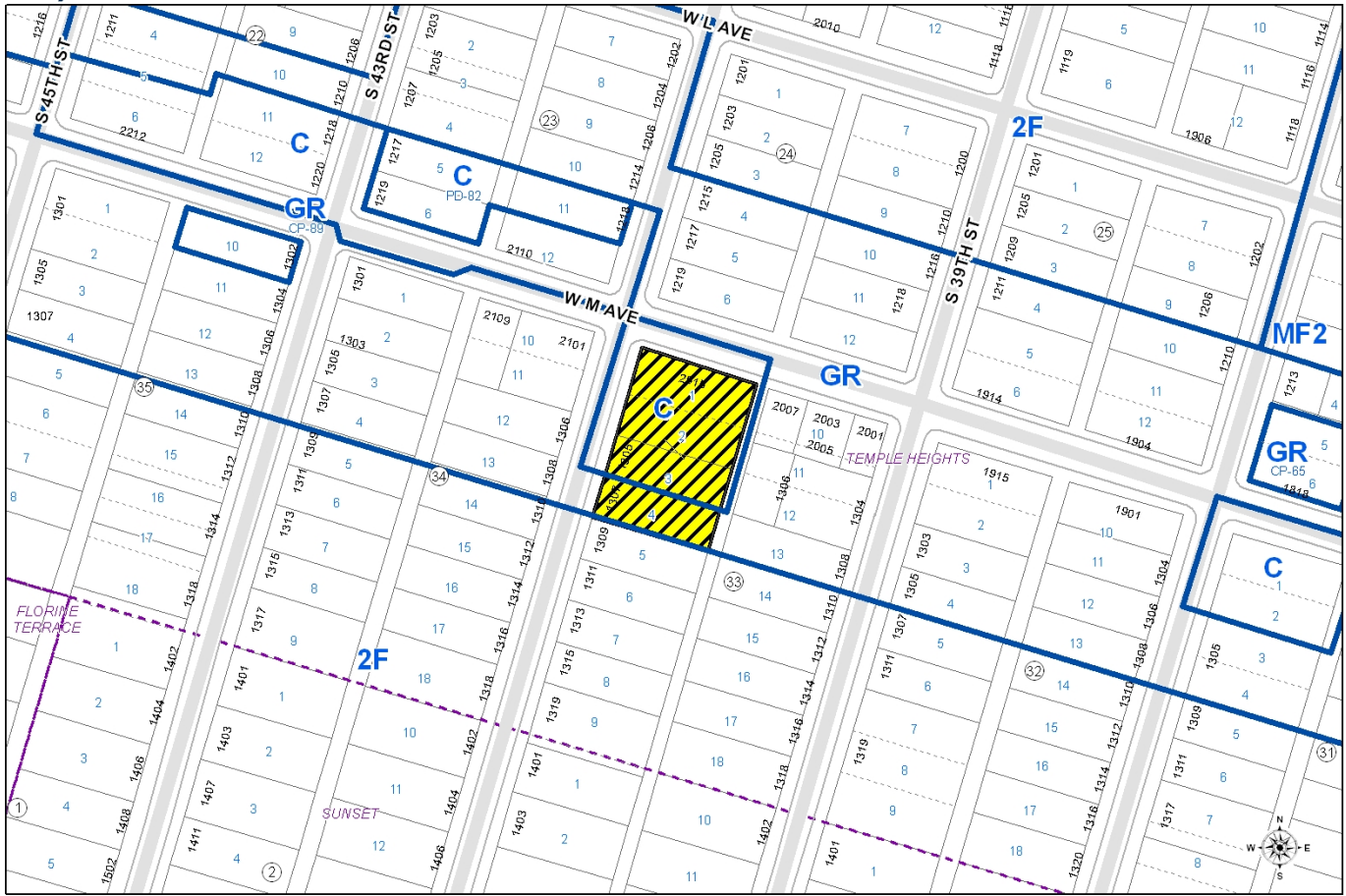
1 inch = 200 feet
J Stone 4.14.10




Z-FY-10-29

Temple Heights Addition, Block 33, Lots 1-4

2015 W Ave M



 Z-FY-10-29

Feet 0 50 100 150
J Stone 4.14.10



 Z-FY-10-29  WATER LINE  SEWER LINE

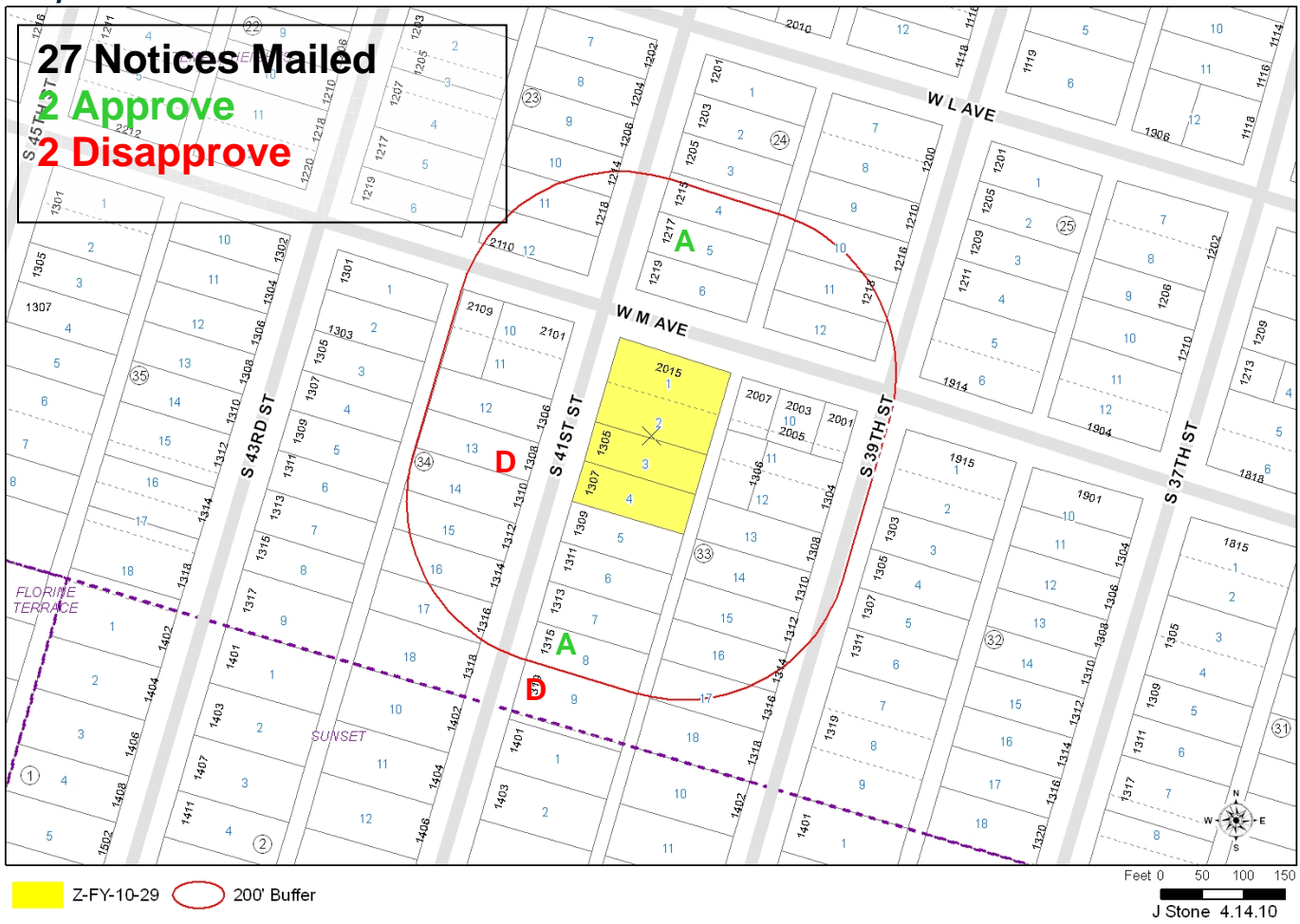
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J Stone 4.14.10



Z-FY-10-29

Temple Heights Addition, Block 33, Lots 1-4

2015 W Ave M





PLANNING AND ZONING COMMISSION AGENDA ITEM

05/03/10
Item #4
Regular Agenda
Page 1 of 4

APPLICANT / DEVELOPMENT: City of Temple for Kellum Pelawatta

CASE MANAGER: Brian Mabry, AICP, Senior Planner

ITEM DESCRIPTION: Z-FY-10-29 Public Hearing to discuss and recommend action on a zoning change from Commercial District and General Retail District to Planned Development – Commercial District (PD-C) on Lots 1 - 4, Block 33, Temple Heights Addition, at 2015 West Avenue M and 1305 and 1307 South 41st Street. (Applicant: City of Temple for Kelum Pelawatta)


BACKGROUND: The property owner wishes to establish a moving van or truck rental and parking; parking area for trucks or trailers; minor vehicle serving; and any nonresidential use permitted in the NS, Neighborhood Service, or O-1, Office One, zoning districts.

The attached PD development plan shows that the area available for truck, trailer and van parking is limited to 80 feet by 110 feet. It must be setback from West Avenue M right-of-way (ROW) by 70 feet, from S. 41st Street ROW by 15 feet and from the residence to the south by 25 feet. In addition, a wood or masonry fence six to eight feet in height must surround the truck, trailer and van parking area on the south property line, along S. 41st Street and along the alley. Other requirements of this PD are not applicable to the PD site plan, but are listed in the Staff Recommendation below.







The applicant agrees with the PD development plan and Staff Recommendation.


Surrounding Property and Uses

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

Direction	Zoning	Current Land Use	Photo
Subject Property	C and GR (PD-C proposed)	Vacant and car parking	

Double Sided

Direction	Zoning	Current Land Use	Photo
Subject Property (cont.)	C and GR (PD-C proposed)	Vacant and car parking	
North	GR	Single-family dwelling (across W. Ave. M)	
South	2F	Single-family dwelling	
East	GR	Minor vehicle serving (across alley)	
		Two-family dwelling (across alley)	
West	GR	Plumbing contractor	

Direction	Zoning	Current Land Use	Photo
West (cont.)	GR	Single-family dwelling	

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

Future Land Use and Character

The Future Land Use and Character Map designates the subject property as Mixed Use. The proposal complies with the Future Land Use and Character Map.

Thoroughfare Plan

The Thoroughfare Plan designates W. Avenue M as a Minor Arterial and S. 41st Street as a Local Street. The proposal complies with the Thoroughfare Plan.

Adequacy of Public Facilities

A two-inch water line and an eight-inch sewer line serve the subject property. Public facilities are available.

Development Regulations

The purpose of the C, Commercial zoning district is, in part, "...to serve citywide or regional service areas. This district should be located along major highways and should provide total on-site traffic maneuvering such that traffic entering and exiting the facility should have room to turn, queue for parking areas, and park within the confines of the facility...This district should be located away from low and medium density residential development and may be used as a buffer between retail and industrial uses." However, as a PD, the only uses proposed to be permitted on the site are a moving van or truck rental and parking; parking area for trucks or trailers; minor vehicle serving; and any nonresidential use permitted in the NS, Neighborhood Service, or O-1, Office One, zoning districts. Typical uses in these zoning districts include, but are not limited to convenience store without fuel sales, bank, barber or beauty shop, dry cleaner or office. Typical prohibited uses include a drive-in restaurant or car wash.

Public Notice

Twenty seven notices of the Planning and Zoning Commission public hearing were sent out. As of Tuesday, April 27 at 5 PM, two notices were returned in favor of and two notices were returned in opposition to the request. The newspaper printed notice of the Planning and Zoning Commission public hearing on April 22, 2010 in accordance with state law and local ordinance

STAFF RECOMMENDATION: Staff recommends approval of Z-FY-10-29, a zoning change from Commercial District and General Retail District to Planned Development – Commercial District (PD-C), subject to the following conditions:

1. Except as modified by the binding site development plan and the ordinance granting the Planned Development designation, the use and development standards of the property must conform to the requirements of the Commercial zoning district.

2. In the event of a conflict between the site development plan and the text of the ordinance granting the Planned Development designation, the stricter standard applies.
3. All standards of the Zoning Ordinance apply unless the site development plan or the text of the ordinance granting the Planned Development specifically modifies such standards.
4. The following uses, and no other uses, are permitted on the subject property:
 - a) Truck rental and parking;
 - b) Parking lot, trucks or trailers;
 - c) Minor vehicle servicing; and
 - d) Any nonresidential use permitted in the NS, Neighborhood Service, or O-1, Office One, zoning districts.
5. Truck and enclosed storage trailer parking is allowed only in the area designated on the development plan as the enclosed truck parking area.
6. Buffering between the enclosed truck parking area and the property line on the development plan must consist of a fence or wall constructed of wood, masonry, stone, or pre-cast concrete, with integrated color, texture and pattern that is between six feet and eight feet in height. The fence or wall must not contain openings constituting more than 20 square inches in each square foot of wall or fence surface. Gates must be equal in height and screening characteristics to the fence or wall.
7. The enclosed truck and trailer parking area must be striped to accommodate all trucks available for rental.
8. Any new buildings or additions require a building permit and must meet all City Code requirements.
9. The standards in Section 7-631, Minor Vehicle Servicing, of the Zoning Ordinance applies to any minor vehicle servicing to take place on the property.
10. Portable buildings, if any are erected, require a building permit and must be located in the rear half of lots 3 and 4. Such buildings must meet all City Code requirements including but not limited to the masonry requirements in Sec. 13-300 of the Zoning Ordinance.
11. The following activities or conditions are prohibited:
 - a) Outdoor junk and debris;
 - b) Storage of commodities in a street or alley;
 - c) Dilapidated signs;
 - d) Stagnant water in tires;
 - e) Indoor display of high combustible materials within five feet of doorways; and
 - f) Sign in r-o-w.

FISCAL IMPACT: Not Applicable

ATTACHMENTS:

Aerial
Land Use and Character Map
Zoning Map
Utility Map
Binding Site Development Plan
Notice Map
Response Letters

**EXCERPTS FROM THE
PLANNING & ZONING COMMISSION MEETING
MONDAY, MAY 3, 2010**

ACTION ITEMS

Item 3: Z-FY-10-29: Public Hearing to discuss and recommend action on a zoning change from Commercial District and General Retail District to Planned Development – Commercial District (PD-C) on Lots 1 - 4, Block 33, Temple Heights Addition, at 2015 West Avenue M and 1305 and 1307 South 41st Street. (Applicant: City of Temple for Kelum Pelawatta).

Mr. Brian Mabry, Senior Planner, presented the case to the Commission and stated the applicant for this project was the City of Temple on behalf of Mr. Kelum Pelawatta who operated a business on the subject property.

The purpose of this case was to allow moving truck rental and parking, as well as parking for trucks and trailers, and non-residential uses which are allowed in the Neighborhood Services (NS) and Office One (O1) zoning districts, the least intensive zoning districts. Another purpose was to protect the surrounding residential uses and minimize the impact of the proposed use on the Avenue M corridor.

Currently trucks are being parked there and Staff was working to make the area legal and conforming activities for the property. A small lot lays to the south to 1307 S. 41st Street where truck parking was not occurring but cars have been parking there during various times of the day.

Mr. Mabry gave the description of the surrounding area and stated there was a single family dwelling to the north across from Avenue M from the subject property, a single family dwelling lies to the south, a two family dwelling to the east across the alley and a single family dwelling to the west across S. 41st Street. A minor vehicle servicing facility (garage/mechanic shop) was across the alley and a plumbing contractor fronted along Avenue M to the west. The site plan tried to minimize the impact to the area, especially to the single family dwelling to the south.

This proposal complied with the Future Land Use and Character Map. Avenue M was a minor arterial and South 41st was a local street and both complied with the Thoroughfare Plan. Existing water and sewer serve the property and public facilities were available.

Three of the lots on the subject property are zoned Commercial (C) and Lot 4 (further south) was zoned General Retail (GR). A large Two Family (2F) zoned area was just to the south of the subject property.

Mr. Mabry stated the designated area for the trucks and storage containers on the site was approximately 110 feet x 80 feet in dimension. The various setbacks for property lines and main building were a 25 foot setback to the south, a 15 foot setback from the right-of-way line for South 41st Street, and if adding approximately the same distance

(another 15 feet = 30 feet total) from the actual curb of South 41st Street. There was a 70 foot separation of designated parking area for trucks, vans, and trailers from the right-of-way line of West Avenue M and approximately 5 feet to the curb. There was a 10 foot separation between designated parking area and the main building. There was also a 40 foot separation from parking area to the alley.

A 6 to 8 foot wood fence or masonry wall was required to be along the south and west property lines and the alley that connected to part of one of the buildings currently on the property, circled around and stopped where the parking area ended on the property.

Mr. Mabry stated 27 notices were mailed for this case to surrounding property owners and 4 were returned in approval and 3 were returned in opposition. Additional notices were received after packet delivery occurred and each Commissioner was provided with copies of those as well.

Staff recommended approval of this case to rezone the property from Commercial (C) and General Retail (GR) to Planned Development Commercial (PD-C) with the following conditions:

1. Except as modified by the binding site development plan and the ordinance granting the Planned Development designation, the use and development standards of the property must conform to the requirements of the Commercial zoning district.
2. In the event of a conflict between the site development plan and the text of the ordinance granting the Planned Development designation, the stricter standard applies.
3. All standards of the Zoning Ordinance apply unless the site development plan or the text of the ordinance granting the Planned Development specifically modifies such standards.
4. The following uses, and no other uses, are permitted on the subject property:
 - a) Truck rental and parking;
 - b) Parking lot, trucks or trailers;
 - c) Minor vehicle serving; and
 - d) Any nonresidential use permitted in the NS, Neighborhood Service, or O-1, Office One, zoning districts.
5. Truck and enclosed storage trailer parking is allowed only in the area designated on the development plan as the enclosed truck parking area.
6. Buffering between the enclosed truck parking area and the property line on the development plan must consist of a fence or wall constructed of wood, masonry, stone, or pre-cast concrete, with integrated color, texture and pattern that is between six feet and eight feet in height. The fence or wall must not contain openings constituting more than 20 square inches in each square foot of

wall or fence surface. Gates must be equal in height and screening characteristics to the fence or wall.

7. The enclosed truck and trailer parking area must be striped to accommodate all trucks available for rental.

8. Any new buildings or additions require a building permit and must meet all City Code requirements.

9. The standards in Section 7-631, Minor Vehicle Servicing, of the Zoning Ordinance applies to any minor vehicle servicing to take place on the property.

10. Portable buildings, if any are erected, require a building permit and must be located in the rear half of lots 3 and 4. Such buildings must meet all City Code requirements including but not limited to the masonry requirements in Sec. 13-300 of the Zoning Ordinance.

11. The following activities or conditions are prohibited:

- a) Outdoor junk and debris;
- b) Storage of commodities in a street or alley;
- c) Dilapidated signs;
- d) Stagnant water in tires;
- e) Indoor display of high combustible materials within five feet of doorways; and
- f) Sign in r-o-w.

Commissioner Pope asked if trailers shown on the photos presented were parked there when the aerial shot was taken and Mr. Mabry stated yes and believed the aerial was taken in 2006 or 2007. Currently, the number of things parked there vary during the day from tree clipping trucks, moving trucks, semi-trucks and other parked vehicles but there is always activity going on there.

Commissioner Pope asked if the trucks being parked there are located in the area designated to be enclosed truck parking area and Mr. Mabry stated he thought the trucks met the distance requirements requested but was unsure.

Commissioner Pope asked about the "truck enclosed storage trailer parking allowed only in the area designated" and wanted clarification of where this was located on the map. Commissioner Pope also asked about the striped area to accommodate all truck parking and if it would have another fence. Mr. Mabry stated it would be painted. Commissioner Pope then asked who would monitor that and Mr. Mabry stated in order to have a Certificate of Occupancy to continue the business, Planning Staff would go out and verify the striping had been painted which would allow the issuance of the Certificate of Occupancy.

Commissioner Pope was curious that the area was approximately 110 feet and would be able to accommodate 10 or 11 trucks in that area and also asked about entry to the property. Mr. Mabry stated Avenue M had an entry and 41st Street had a main point of ingress and egress. Vice-Chair Talley stated he noticed two entrances (gates) off of

41st Street. Mr. Mabry stated a chain link fence was located around the majority of the property.

Commissioner Staats asked if there were any restrictions regarding the trucks to be legally parked on the street for any amount of time and Mr. Mabry stated he was not sure but felt if safety concerns were involved, Code Enforcement could cite them. Commissioner Staats stated his concern being they would have more trucks than parking spaces and would park on the street. Mr. Mabry stated the recommendations Staff previously included should be clear and precise to the applicant about what is expected with the property. Mr. Mabry also suggested that in addition the Commission could make a motion to prohibit any parking in the right-of-way of the moving trucks, vans, etc.

Vice-Chair Talley opened the public hearing.

Ms. Mabel Taylor, 1308 S. 41st Street, Temple, Texas approached the Commission and stated she owned the property right across from the subject property. Ms. Taylor stated 41st Street was a well traveled street and had a lot of traffic. The moving trucks have been parked on the street which caused one-way traffic and people need to stop to let others go by.

Ms. Taylor did not want to look at a 'bunch of trucks.' The trailers mentioned earlier have already been parked there for several years. One is so old and rusty the back doors do not shut and bang in the wind. The third section of the fence that had been there since it was a car lot, fell about three years ago and no attempt has been made to fix it; the broken timbers are laying on the ground. The second section was just hanging by one post and Ms. Taylor has to look at that every day.

Ms. Taylor stated the weeds are not mowed, the lot (1307) is not paved, and she does not want to make 1307 Commercial. She has lived there for 38 years and when the land was purchased were told the north half was zoned General Retail and the south half of that lot was residential because you could not put a business right next to a residence so only half of the lot was allowed. Ms. Taylor assumed 1307 was the same zoning as 1308.

Ms. Taylor asked that the zoning stay as is. She also stated the moving trucks and the tree business trucks all left last week. However, some employees that were parking at 1307 for the tree trimming service are still parking at 1307. They park their vehicles, leave for the day, return in the evening to get their vehicle and then leave.

Ms. Taylor stated currently the first thing closest to Avenue M was a double wide storage unit. Next to it was an old truck, a commercial type truck but not an 18-wheeler, and next to that was a very long old 18-wheeler trailer which had the banging doors. On the other side of that trailer is another smaller 18-wheeler trailer and tires are stored in there.

Ms. Taylor asked the Commission not to pass this request.

Vice-Chair Talley asked Mr. Mabry about 1307 being residential when Ms. Taylor moved there but could have changed over the years. Mr. Mabry stated 1307 was zoned

General Retail (GR) and houses were allowed in the GR district, and there were several in the area (Mr. Mabry indicated on the map) that were zoned GR but have houses on the ground, such as Ms. Taylor's at 1308.

There being no further speakers, Vice-Chair Talley closed the public hearing.

Commissioner Staats asked about the fence request being maintained and Mr. Mabry stated if a fence were required as screening, it had to be maintained.

Commissioner Staats asked what would prohibit the applicant from using this area for storing unusable vehicles, such as the trailer mentioned by Ms. Taylor, and turn it into a junk storage lot. Mr. Mabry stated inoperable vehicles and machinery would constitute a junk or salvage yard and would not be permitted in GR and/or C zoning district.

Commissioner Staats asked about the current Noise Ordinance and whether it covered the banging doors previously mentioned. Mr. Mabry stated under certain hours noise standards are applicable; they are part of the City Code and address noise protection during normal sleeping hours. Beyond that, Mr. Mabry was uncertain if noise protection standards were included in the laws.

Commissioner Pope asked about the existing fence and whether it was required as a screening fence as presently zoned. Mr. Mabry stated a chain link fence would not be considered as a screen. Commissioner Pope stated it sounded like this was a case of 'someone not trying to be a very good neighbor' which was not wise when adjacent to residential areas. The way the area looks in general would have to change for Commissioner Pope to vote in favor of this case. The exceptions did not have enough 'teeth' to prevent the residents living there to not be affected. Mr. Mabry stated No. 11 tried to handle these concerns, but not all.

Vice-Chair Talley asked if the item did not pass, was there something in the Ordinance which stated the present owner needed to maintain the fence that had fallen down and fix banging doors on the truck, etc. This was a concern to him if nothing were currently in the ordinance to prevent the applicant was maintaining the property.

Ms. Trudi Dill, Deputy City Attorney, stated the City does have a property maintenance ordinance which is probably enforced more against larger structures than smaller items because larger structures are more dangerous, however, this could be referred to Code Enforcement to look at the fence complaint. Ms. Dill was unsure about the banging doors but should not be difficult for the owner to remedy.

Vice-Chair Talley stated he felt it was important to make sure Ms. Taylor had options in case this item did not pass.

Commissioner Pope asked if the property was properly being used for the way it was presently zoned and Mr. Mabry stated this case came about since the owner wanted to expand storage of the trailers, etc., into Lot 4. Planned Developments are negotiable so Staff worked with the applicant to allow expansion into Lot 4 in exchange for limiting on Lots 1, 2 and 3 where the trucks and trailers could be parked, and to make sure a fence was placed on the property lines where they were most needed. A fence would not be required along the alley or 41st Street.

Commissioner Pope stated Lot 4 was zoned GR which would not be changed and Mr. Mabry agreed. Commissioner Pope also stated additional exceptions, such as nuisance and parking, etc., could be included in the proposal.

Vice-Chair Talley asked if the owner were in attendance and Mr. Mabry stated no.

Commissioner Staats asked if there were any requirement currently in place for the vehicles parked on the lot, or could be added, to all be 'road-ready' (operable). Mr. Mabry stated that item was not currently part of the conditions of this PD and was unaware if any City-wide requirements were in place. Commissioner Pope asked 'at what point does a vehicle become junk?' Commissioner Staats stated TxDOT had standards for vehicles and wondered if some of those conditions could be incorporated with the current case. Commissioner Staats had a big concern that the subject property did not become storage for old trailers, trucks, etc.

Mr. Mabry stated these items could be worked into the addition of Staff recommendations, including not parking in right-of-way, if the Commission desired.

Commissioner Staats made a motion that in addition with the Staff recommendations, any trailers and/or trucks parked there be in such mechanical condition that they would pass vehicle inspection and be usable on the roads with the City or TxDOT, and the parking of such vehicles be entirely restricted from being parked on the side street or on Avenue M and 41st Street and Commissioner Vice-Chair Talley made a second.

Motion passed: (3:2)

Commissioners Pope and Hurd voted Nay;

Commissioners Secrest, Barton, Martin and Chair Pilkington absent.

Vice-Chair Talley asked for a motion on the zoning of **Z-FY-10-29** and Commissioner Staats made a motion to approve **Z-FY-10-29** in its present form including all of the stipulations in addition to the sound mechanical condition and prohibited parking on the street.

Vice-Chair Talley and Commissioner Staats explained the first motion was only for the additional amendments to be added and the second motion was for the zoning of **Z-FY-10-29**, including the two additional amendments just approved. Commissioner Williams (Dusek) made a second.

Motion passed: (3:2)

Commissioners Pope and Hurd voted Nay;

Commissioners Secrest, Barton, Martin and Chair Pilkington absent.

ORDINANCE NO. _____

[PLANNING NO. Z-FY-10-29]

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, APPROVING A ZONING CHANGE FROM COMMERCIAL DISTRICT AND GENERAL RETAIL DISTRICT TO PLANNED DEVELOPMENT – COMMERCIAL DISTRICT (PD-C) ON LOTS 1—4, BLOCK 33, TEMPLE HEIGHTS ADDITION, LOCATED AT 2015 WEST AVENUE M, 1305 AND 1307 SOUTH 41ST STREET, IN ACCORDANCE WITH SECTIONS 7-500 THROUGH 7-509 OF THE COMPREHENSIVE ZONING ORDINANCE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, the owner of the property on Lots 1—4, Block 33, Temple Heights Addition, located at 2015 West Avenue M, 1305 and 1307 South 41st Street, has requested that the property be rezoned from Commercial District and General Retail District to Planned Development – Commercial District (PD-C); and

Whereas, the City Council, after notice and a public hearing, finds that it is in the public interest to authorize this action.

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

Part 1: The City Council approves a zoning change from Commercial District and General Retail District to Planned Development – Commercial (PD-C) on Lots 1—4, Block 33, Temple Heights Addition, located at 2015 West Avenue M, 1305 and 1307 South 41st Street, more fully described in Exhibit A, attached hereto and made a part hereof for all purposes.

Part 2: In accordance with Sections 7-500 through 7-509 of the Comprehensive Zoning Ordinance of the City of Temple, Texas, Ordinance No. 91-2101, is amended by changing the zoning classification of the property described in Part 1 above, to Planned Development-Commercial District (PD-C), and shall comply with all applicable sections of the Code of Ordinances of the City of Temple, Texas, and all local, State and Federal laws and regulations as they may now read or hereafter be amended, including but not limited to the following conditions:

- (a) Except as modified by the binding site development plan and the ordinance granting the Planned Development designation, the use and development standards of the property shall conform to the requirements of the Commercial zoning district.
- (b) In the event of a conflict between the development plan, attached hereto as Exhibit B, and the text of this ordinance, the stricter standard applies.
- (c) All standards of the Zoning Ordinance apply unless the development plan or the text of this ordinance specifically modifies such standards.
- (d) The following uses, and no other uses, are permitted on the subject property:
 - 1. Truck rental and parking;
 - 2. Parking lot, trucks or trailers;
 - 3. Minor vehicle servicing; and
 - 4. Any nonresidential use permitted in the NS, Neighborhood Service, or O-1, Office One, zoning districts.
- (e) Truck and trailer parking is allowed only in the area designated on the development plan as the enclosed truck and trailer parking area.
- (f) Buffering between the enclosed truck parking area and the property line on the development plan must consist of a fence or wall constructed of wood, masonry, stone, or pre-cast concrete, with integrated color, texture and pattern that is between six feet and eight feet in height. The fence or wall must not contain openings constituting more than 20 square inches in each square foot of wall or fence surface. Gates must be equal in height and screening characteristics to the fence or wall.
- (g) The enclosed truck and trailer parking area must be striped to accommodate all trucks available for rental and trailers.
- (h) Any new buildings or additions require a building permit and must meet all City Code requirements.
- (i) The standards in Section 7-631, Minor Vehicle Servicing, of the Zoning Ordinance applies to any minor vehicle servicing to take place on the property.
- (j) Portable buildings, if any are erected, require a building permit and must be located in the rear half of lots 3 and 4. Such buildings must meet all City Code requirements including but not limited to the masonry requirements in Sec. 13-300 of the Zoning Ordinance.
- (k) The following activities or conditions are prohibited:
 - 1. Outdoor junk and debris;

2. Storage of commodities in a street or alley;
 3. Dilapidated signs;
 4. Stagnant water in tires;
 5. Indoor display of high combustible materials within five feet of doorways; and
 6. Sign in r-o-w.
- (l) Any trucks or trailers parked on the property must be maintained in good mechanical condition so that they would pass vehicle inspection and be usable on a public road.
- (m) On-street parking of trucks and trailers is prohibited. All drop-off, parking and storage of trucks and trailers must take place on-site.

These conditions shall be expressed conditions of any building permit issued for construction on the property which may be enforced by the City of Temple by an action either at law or in equity, including the right to specifically enforce the requirements of the ordinance, and these requirements shall run with the land.

Part 3: The City Council directs the Director of Planning to make the necessary changes to the City Zoning Map accordingly.

Part 4: It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses, and phrases of this ordinance are severable and, if any phrase, clause, sentence, paragraph or section of this ordinance should be declared invalid by the final judgment or decree of any court of competent jurisdiction, such invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this ordinance, since the same would have been enacted by the City Council without the incorporation in this ordinance of any such phrase, clause, sentence, paragraph or section.

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

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

PASSED AND APPROVED on First Reading and Public Hearing on the **20th** day of **May**, 2010.

PASSED AND APPROVED on Second Reading on the **3rd** day of **June**, 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

05/20/10
Item #10
Regular Agenda
Page 1 of 2

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 6th. 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 Clydetta to reserve some time for discussion of this item at our workshop on the 6th 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.

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 **20th** 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