



**MEETING OF THE
TEMPLE CITY COUNCIL**

MUNICIPAL BUILDING

2 NORTH MAIN STREET

3RD FLOOR CONFERENCE ROOM

THURSDAY, OCTOBER 21, 2010

3:30 P.M.

WORKSHOP AGENDA

1. Discuss, as may be needed, Regular Meeting agenda items for the meeting posted for Thursday, October 21, 2010.
2. Discuss proposed locations for bus shelters to be installed by Hill Country Transit District.
3. Discuss the water treatment plant process assessment.
4. Executive Session: Chapter 551, Government Code, §551.074 – Personnel Matter – The City Council will meet in executive session to discuss the employment, evaluation, duties and work plan of the City Secretary. No final action will be taken.

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. (A) *Community Planning Month* October, 2010

III. PUBLIC COMMENTS

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

IV. CONSENT AGENDA

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

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

Minutes:

- (A) *October 7, 2010 Special Called and Regular Meeting*

Contracts, Leases & Bids

- (B) [2010-6152-R](#): Consider adopting a resolution authorizing the purchase of a brush chipper from Poston Equipment Sales of Pearland on the HGAC contract in the amount of \$34,168.93.
- (C) [2010-6153-R](#): Consider adopting a resolution authorizing the purchase of a crack sealer off of the BuyBoard from Crafcu Texas Inc. of San Antonio in the amount of \$26,703.50.
- (D) [2010-6154-R](#): Consider adopting a resolution authorizing the purchase of a Volvo EC160C excavator from Romco Equipment Company of Round Rock off the TXMAS contract in the net amount of \$101,770.19.
- (E) [2010-6155-R](#): Consider adopting a resolution authorizing the purchase of the following equipment:
 - 1. Truck chassis to equip a new Vactor truck from Freightliner of Austin utilizing the BuyBoard in the amount of \$88,743; and
 - 2. Truck mounted Vactor equipment and accessories from Kinloch Equipment of Arlington utilizing the BuyBoard in the amount of \$209,970.80.
- (F) [2010-6156-R](#): Consider adopting a resolution authorizing the purchase and installation of Toro irrigation control equipment from Professional Turf Products of Euless, Texas, utilizing the BuyBoard in the amount of \$94,697.06.
- (G) [2010-6157-R](#): Consider adopting a resolution authorizing the purchase of sewer line chemical root control services for FY 10-11 from Duke's Root Control, Inc. of Syracuse, New York, utilizing a BuyBoard contract in the estimated annual amount of \$65,000.
- (H) [2010-6158-R](#): 1. Consider adopting a resolution authorizing the City Manager to execute a Letter of Understanding with Texas Department of Transportation (TxDOT) to provide reimbursement to the City by TxDOT, in the amount of \$212,880 for utility engineering relocation services in association with IH-35 improvements from South Loop 363 to North Loop 363.

[2010-6159-R](#): 2. Consider adopting a resolution authorizing a professional services agreement with Kasberg, Patrick & Associates LP of Temple (KPA) in an amount not to exceed \$126,690 for utility relocation engineering services in association with IH-35 Improvements from South Loop 363 to Nugent.

[2010-6160-R](#): 3. Consider adopting a resolution authorizing a professional services agreement with Kasberg, Patrick & Associates LP of Temple (KPA) in an amount not to exceed \$86,190 for utility relocation engineering services in association with IH-35 Improvements from Nugent to North Loop 363.
- (I) [2010-6161-R](#): Consider adopting a resolution authorizing an amendment to the Interlocal Agreement with the Temple Independent School District (TISD) providing for one additional Temple Police Department School Resource Officer.

Ordinances – Second and Final Reading

- (J) [2010-4396](#): SECOND READING – Consider adopting an ordinance dual naming a portion of North and South 34th Street, beginning at East Adams Avenue and ending at East Avenue H, to North or South 34th Street/Myrtle Captain Street.
- (K) [2010-4397](#): SECOND READING – Z-FY-10-49: Consider adopting an ordinance authorizing a zoning change from Agricultural District (A) to Single Family One District (SF1), on a 0.23 ± acre tract of land in the John Cummings Survey, Abstract No. 178, located at 8566 Little Mexico Road.
- (L) [2010-4400](#): SECOND READING – Z-FY-10-51: Consider adopting an ordinance authorizing an amendment to Section 7-564, “Applicability,” in the Zoning Ordinance, related to the I-35 Corridor Overlay.
- (M) [2010-4401](#): 1. SECOND READING – Consider adopting an ordinance amending Chapter 28, “Police,” of the Code of Ordinances, Article III, “Burglar Alarm Systems.”
[2010-6162-R](#): 2. Consider adopting a resolution establishing alarm permit renewal and reinstatement fees, and false alarm service fees.

Misc.

- (N) [2010-6163-R](#): Consider adopting a resolution authorizing the use of the Construction Manager-at-Risk procurement delivery method for the acquisition of construction services related to the rehabilitation of the Police Headquarters facility.
- (O) [2010-6164-R](#): Consider adopting a resolution authorizing budget amendments for fiscal year 2010-2011.
- (P) [2010-6165-R](#): Consider adopting a resolution authorizing an interlocal agreement with Hill Country Transit District for transit services.

V. REGULAR AGENDA

ORDINANCES

- 5. [2010-4391](#): THIRD & FINAL READING – PUBLIC HEARING: Consider adopting an ordinance granting Richard Curtis, dba Good Times Carriage Rides, a non-exclusive franchise for five years to operate horse-drawn carriages upon the public streets and highways of the City of Temple.
- 6. [2010-4392](#): THIRD & FINAL READING – PUBLIC HEARING: Consider adopting an ordinance granting Temple Transportation, Inc., dba Yellow Cab, a non-exclusive franchise for five years to provide taxicab service in the City of Temple.

7. [2010-4398](#): SECOND READING – Z-FY-10-50: Consider adopting an ordinance authorizing a zoning change from Agricultural District (A) to Single Family One District (SF1) on a 10.00 ± acre tract of land in the Maximo Moreno Survey, Abstract No. 14, in the City of Temple, Bell County, Texas, located on the north side of West FM 93, adjacent to and west of Ridgewood Estates.
8. [2010-4402](#): FIRST READING – PUBLIC HEARING - Z-FY-10-54: Consider adopting an ordinance authorizing a zoning change from Two Family District (2F) and General Retail District (GR) to Planned Development - General Retail District (PD-GR) on Lots 4 - 6, and 10 - 12, Block 5, Eugena Terrace Addition, located at 1510 South 1st Street.
9. [2010-4378](#): FIRST READING – PUBLIC HEARING - Z-FY-10-33: Consider adopting an ordinance authorizing a Conditional Use Permit allowing a package store with alcoholic beverage sales for off-premise consumption on the South one-half of Lot 1, Block 292-1, Temple Original at 1 North 6th Street. (Note: approval of this item will require four affirmative votes of the City Council)
10. (A) [2010-6166-R](#): Consider adopting a resolution adopting the 2022 Master Plan of the Tax Increment Financing Reinvestment Zone Number One.

(B) [2010-4403](#): 1. FIRST READING – PUBLIC HEARING- Consider adopting an ordinance authorizing the expansion of the boundary of Tax Increment Financing Reinvestment Zone Number One.

[2010-4404](#): 2. FIRST READING – PUBLIC HEARING – Consider adopting an ordinance extending the life of Tax Increment Financing Reinvestment Zone Number One.

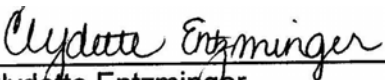
[2010-4405](#): 3. FIRST READING – PUBLIC HEARING – Consider adopting an ordinance authorizing amendments to the Tax Increment Financing Reinvestment Zone Number One Financing Plan and Project Plan to align with the 2022 Master Plan.

RESOLUTIONS

11. [2010-6167-R](#): Consider adopting a resolution authorizing a Chapter 380 grant agreement with Jimmy Palasota for redevelopment improvements at 500 West Avenue G in the Avenue G and H Strategic Investment Zone corridor in an amount not to exceed \$27,500 plus waiver of permit fees.

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

I hereby certify that a true and correct copy of this Notice of Meeting was posted in a public place at 2:15 PM, on October 15, 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

10/21/10
Item #3
Regular Agenda
Page 1 of 1

DEPT./DIVISION SUBMISSION & REVIEW:

William A. Jones, III, Mayor

ITEM DESCRIPTION: Presentation of Proclamation:

Community Planning Month October, 2010

STAFF RECOMMENDATION: Present proclamation as presented in item description.

ITEM SUMMARY: This proclamation will be received by Planning Director Brian Mabry, Planning Department Staff, and members of the Planning & Zoning Commission.

FISCAL IMPACT: None

ATTACHMENTS: None



COUNCIL AGENDA ITEM MEMORANDUM

10/07/10
Item #4(A)
Consent Agenda
Page 1 of 1

DEPT./DIVISION SUBMISSION & REVIEW:

Clydette Entzminger, City Secretary

ITEM DESCRIPTION: Approve Minutes:

(A) October 7, 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:

[October 7, 2010 Special Called and Regular Meeting](#)

TEMPLE CITY COUNCIL

OCTOBER 7, 2010

The City Council of the City of Temple, Texas conducted a Special Meeting on Thursday, October 7, 2010 at 3:30 P.M., in the Staff Conference Room, 3rd Floor, Municipal Building, 2 North Main Street.

Present:

Councilmember Danny Dunn
Councilmember Marty Janczak
Mayor Pro Tem Patsy E. Luna
Councilmember Russell Schneider
Mayor William A. Jones, III

1. Discuss, as may be needed, Regular Meeting agenda items for the meeting posted for Thursday, October 7, 2010.

Consent Agenda Item 6(M) - Change order to Central Fire Station construction contract: Mayor Jones stated this item will be removed from the Consent Agenda for voting purposes.

David Blackburn, City Manager, stated the Council has been provided with the change order and revised resolution relating to this item. The project is about 60 days from substantial completion.

Consent Agenda Item 6(H) - Agreement with Architectural Edge for renovations to Police Headquarters: Mr. Blackburn noted the Council has been provided with the proposal submitted by Architectural Edge, as well as the revised resolution.

Consent Agenda Item 6(Q) - TxDOT grant for rehab and overlay of Runway 02/20 at Airport: Mr. Blackburn stated staff has worked with TxDOT to restructure the amount and timing of this project. The grant amount has been reduced from \$7.4 million to \$3.549 million.

Regular Agenda Item #10 - Rezoning in Stonegate III: Mayor Jones stated the applicant has requested this item be tabled.

Regular Agenda Item #13 - Chapter 380 Agreement at 1510 South 1st Street: Mr. Blackburn stated the SIZ program has been very popular and the City is receiving good responses. The Council has been provided with some language amending the contract to allow the demolition to occur by City of Temple personnel or through contracted services.

2. Executive Session: Chapter 551, Government Code, §551.074 - Personnel Matter - The City Council will meet in executive session to discuss the employment, evaluation, duties and work plan of the City Attorney. No final action will be taken.

Mayor Jones stated the City Council would enter into executive session at this time, approximately 3:44 p.m.

Mayor Jones reconvened the work session at approximately 5:00 p.m., with no action being taken by the City Council.

The City Council of the City of Temple, Texas conducted a Regular Meeting on Thursday, October 7, 2010 at 5:00 PM in the Council Chambers, Municipal Building, 2nd Floor, 2 North Main Street.

Present:

Councilmember Marty Janczak
Mayor Pro Tem Patsy E. Luna
Councilmember Russell Schneider
Mayor William A. Jones, III
Councilmember Danny Dunn

I. CALL TO ORDER

1. Invocation

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

2. Pledge of Allegiance

Thomas Pechal, Temple Fire & Rescue, and the Junior Fire Cadets led the Pledge of Allegiance.

II. PROCLAMATIONS & SPECIAL RECOGNITIONS

3. (A) Fire Prevention Week October 3 - 9, 2010

Mayor Jones presented the proclamation to Thomas Pechal, Temple Fire & Rescue, and the Junior Fire Cadets.

The Junior Fire Cadets tested the City Council's knowledge of fire prevention by asking them several questions.

(B) Love Cures Month October 2010

Councilmember Janczak read this proclamation. There was no one present to receive the proclamation.

(C) Lawsuit Abuse Awareness Week October 4 - 8, 2010

Mayor Jones stated this proclamation would be mailed as requested since the representative was not able to attend the meeting.

**(D) Temple Lions Service Month October 2010
& White Cane Safety Day October 15, 2010**

Mayor Jones presented this proclamation to members of the Temple Lions Club and Visually Impaired Persons Support Group.

(E) Local Life Chain Day October 3, 2010

Mayor Pro Tem Luna presented this proclamation to Mr. Milton Hensley, supporter of the Local Life Chain Day event in Temple.

III. PUBLIC APPEARANCE

4. Receive comments from Amy Ponce regarding the daybreak homes on Stonehaven Drive, McCullough Loop, and McFadden.

Amy Ponce, 4716 Stonehaven Drive, addressed the City Council. She stated her family bought their first new home a few years ago in this subdivision. She expressed her concern with Daybreak Community Services, Inc. that is located in their neighborhood and the great number of police calls for service to those homes. The residents in these homes are mentally challenged and there should be two staff members with the residents at all times. Mrs. Ponce stated she has spoken with the regional director of Daybreak Homes for this area and was told they want to give the residents the same quality of life as everyone else.

Mrs. Ponce related an event that occurred on September 29th, on Stonehaven Drive, involving a Daybreak staff member and a resident of the home. This incident occurred in the middle of the street and was witnessed by Mrs. Ponce and her children. The Police came and eventually dealt with the situation. Mrs. Ponce asked if these residents are supposed to be supervised, and they are community based residents with disabilities, why are they allowed to roam the neighborhood. The statutes governing 'community homes' states they must not be located within one-half mile of each other but there are four of these homes within a very small area. Mrs. Ponce also asked who regulates these homes, who checks on the welfare of the residents, who trains the staff, is there a permit required to have a community home and is there an appeal process for citizens. There have been over 75 calls for police service to this area since August 2009 and Mrs. Ponce stated she is afraid someone is going to get hurt.

IV. PUBLIC COMMENTS

Milton Hensley, 301 Mitchell Drive, addressed the City Council. He thanked the Council for the proclamation presented earlier in the meeting and for their support of the 2010 Life Chain event in Temple. This event was attended by more than 130 people from Temple and surrounding communities.

V. PRESENTATIONS & REPORTS

5. Receive presentation from Dr. Glenda Barron regarding the upcoming Temple College bond election.

Dr. Glenda Barron, President of Temple College, gave a short presentation to the City Council regarding their upcoming November bond election. She outlined the needs of Temple College as they continue to grow, with a Fall 2010 enrollment exceeding 6,000. These needs include instruction spaces and additional parking/access areas. Dr. Barron explained the bond election is for an amount up to \$13 million, with a tax impact of no more than 2 cents per \$100 valuation and will have no impact on taxpayers over 65 years of age or older or disabled.

The proposed improvements include a new classroom building, with 15 classrooms and office spaces; 550 parking spaces; improved pedestrian traffic and safety through walkways; signage and landscaping; closing Marvin Felder Drive between 1st and 5th Streets; additional simulation space for Temple College health professions and

community medical partners; additional classroom teaching space to accommodate increased enrollments in arts programs. Dr. Barron displayed the architect's rendering of the proposed buildings and improvements.

Mr. Perry Cloud, Friend of Temple College, addressed the Council. Temple College is in the middle of the Temple Medical and Education District (TMED) and will continue to be a vital part of this area. He encouraged those present to vote for the bond election to support Temple College. Jennifer Graham, Temple College Foundation, presented each Councilmember with a yard sign supporting Temple College's upcoming bond election.

VI. CONSENT AGENDA

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

(A) September 16, 2010 Special Called and Regular Meeting

(B) 2010-6133-R: Consider adopting a resolution authorizing an annual contract for electric motor and pump repair services needed at the Water Treatment Plant for FY 2011 with Austin Armature Works, LP of Buda in the estimated annual amount of \$120,000.

(C) 2010-6134-R: Consider adopting a resolution authorizing the purchase of an annual maintenance contract for FY2011 with Sungard Public Sector, Inc. in the amount of \$142,749.

(D) 2010-6135-R: Consider adopting a resolution authorizing the purchase of an annual maintenance contract for FY2011 with Intergraph Corporation in the amount of \$42,528.

(E) (1) 2010-6136-R: Consider adopting a resolution authorizing the City Manager to execute a Letter of Understanding with Texas Department of Transportation (TxDOT) to provide reimbursement to the City by TxDOT, in the amount of \$191,000, for utility engineering relocation services in association with IH-35 improvements from North Loop 363 to the northern Temple City limits.

(2) 2010-6137-R: Consider adopting a resolution authorizing a professional services agreement with Kasberg, Patrick & Associates LP of Temple in an amount not to exceed \$193,240 for utility relocation engineering services in association with IH-35 Improvements from North Loop 363 to northern Temple city limits.

(F) 2010-6138-R: Consider adopting a resolution authorizing a professional services agreement with Bucher, Willis & Ratliff Corporation in an amount not to exceed \$5,122,579 for professional services related to the Pass-Through Financing Project along NW Loop 363 from FM 2305/West Adams north up to the BNSF main line.

(G) 2010-6139-R: Consider adopting a resolution authorizing a professional services agreement with Kasberg, Patrick & Associates, LP of Temple for engineering and surveying services required to produce an Integration Plan of

all partner master plans in the Temple Medical and Education District (TMED) in an amount not to exceed \$49,800.

(H) 2010-6140-R: Consider adopting a resolution authorizing a professional services agreement with Architectural Edge, Inc., of Temple to provide architectural and engineering services related to renovations of the Police Headquarters facility and declaring an official intent to reimburse associated expenditures made prior to the issuance of tax-exempt obligations for this project.

(I) 2010-6141-R: Consider adopting a resolution authorizing an interlocal agreement with the Temple Health and Bioscience Economic Development District to provide financial administration services.

(J) 2010-6142-R: Consider adopting a resolution authorizing a construction contract with Temple Heat & Air for replacement HVAC units at three locations in the amount not to exceed \$93,667.13

(K) 2010-6143-R: Consider adopting a resolution authorizing a construction contract with Temple Lawn Landscape for 5th Street Beautification Project Phase III irrigation installation in the amount not to exceed \$62,490.

(L) 2010-6144-R: Consider adopting a resolution authorizing a contract with the Department of Veterans Affairs, Veterans Industries/Compensated Work Therapy for the provision of temporary workers for the Parks and Leisure Services Department in the amount of \$ 73,478.

(M) 2010-6145-R: Consider adopting a resolution authorizing change order #4 to the new Central Fire Station construction contract with EMJ Corporation of Irving for road reconstruction work on Calhoun Avenue and 5th Street.

(N) 2010-4394: SECOND READING - Z-FY-10-47: Consider adopting an ordinance authorizing a zoning change from Agricultural District (A) to Single Family Two District (SF2) on 35.49 ± acres of land being out of the Maximo Moreno Survey, A-14, Bell County, Texas, located along the east side of South 5th Street, across from Wyndham Hill Parkway.

(O) 2010-4391: SECOND READING - Consider adopting an ordinance granting Richard Curtis, dba Good Times Carriage Rides, a non-exclusive franchise for five years to operate horse-drawn carriages upon the public streets and highways of the City of Temple.

(P) 2010-4392: SECOND READING - Consider adopting an ordinance granting Temple Transportation, Inc., dba Yellow Cab, a non-exclusive franchise for five years to provide taxicab service in the City of Temple.

(Q) 2010-6128-R: Consider adopting a resolution authorizing acceptance of grant funding in the estimated amount of \$3,549,000 from the Texas Department of Transportation, Aviation Division, Airport Project Participation Grant Fund, for rehabilitation and overlay of Runway 02/20 at the Draughton-Miller Central Texas Regional Airport, with an estimated City match of 10% or \$354,900.

(R) 2010-6146-R: Consider adopting a resolution authorizing acceptance of grant funding from Communities of Texas Mini-Grant Program in the amount of \$10,000.

(S) 2010-6147-R: Consider adopting a resolution designating the Temple Daily Telegram as the official newspaper for the City for fiscal year 2010-2011, in accordance with Section 4.20 of the Charter of the City of Temple.

(T) 2010-6148-R: Consider adopting a resolution authorizing the City Manager to provide Solid Waste services to various entities at the City's cost.

(U) 2010-6149-R: Consider adopting a resolution authorizing budget amendments for fiscal year 2009-2010.

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

Motion passed unanimously.

(H) 2010-6140-R: Consider adopting a resolution authorizing a professional services agreement with Architectural Edge, Inc., of Temple to provide architectural and engineering services related to renovations of the Police Headquarters facility and declaring an official intent to reimburse associated expenditures made prior to the issuance of tax-exempt obligations for this project.

Motion by Councilmember Marty Janczak to adopt resolution presented in item 6 (H), seconded by Councilmember Danny Dunn.

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

(M) 2010-6145-R: Consider adopting a resolution authorizing change order #4 to the new Central Fire Station construction contract with EMJ Corporation of Irving for road reconstruction work on Calhoun Avenue and 5th Street.

Motion by Councilmember Marty Janczak to adopt resolution presented in item 6(M), seconded by Mayor Pro Tem Patsy E. Luna.

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

VII. REGULAR AGENDA

ORDINANCES

7. 2010-4396: FIRST READING - PUBLIC HEARING - Consider adopting an

ordinance re-naming a portion of North and South 34th Street, beginning at East Adams Avenue and ending at East Avenue H, to Myrtle Captain Street.

Tammy Lyerly, Planner, presented this item to the City Council. She stated this renaming is in honor of Ms. Myrtle Captain, who is recently deceased. Ms. Lyerly noted some of the many accomplishments of Ms. Captain. A petition containing 44 signatures was submitted requesting this name change. If approved, the ordinance would be effective 30 days from approval.

Mayor Jones declared the public hearing open with regard to agenda item 7 and asked if anyone wished to address this item.

Mary Engbrock, resident on 34th Street, addressed the City Council. She stated she is one of the residences affected by the street name change and it will take quite a bit for them to make this change.

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

Motion by Councilmember Russell Schneider to adopt ordinance dual naming that the portion of the street, with second reading and final adoption set for October 21, 2010, seconded by Mayor Pro Tem Patsy E. Luna.

Motion passed unanimously.

8. 2010-4397: FIRST READING - PUBLIC HEARING - Z-FY-10-49: Consider adopting an ordinance authorizing a zoning change from Agricultural District (A) to Single Family One District (SF1), on a 0.23 ± acre tract of land in the John Cummings Survey, Abstract No. 178, located at 8566 Little Mexico Road.

Tammy Lyerly, Planner, presented this case to the City Council. The purpose of the request is to establish a single family dwelling. The lot is too small to build a house in the Agricultural District. The property is located 200' from the Airport property line. The foundation has already been framed on the property. Ms. Lyerly showed an aerial photo of the property indicating the proximity to the Airport and other residential structures. The Future Land Use and Character Map recommends agricultural/rural uses on the property. Land Use Policy #17 also states the land around the Airport should be reserved for uses less affected by airport noise, such as office or industrial uses. No City utilities serve the site and water is provided by Pendleton Water Supply. The on-site septic facility has already been approved by Bell County. Staff recommended denial of the rezoning request because it is not supported by the Future Land Use and Character Map and is incompatible with the Airport. The Planning and Zoning Commission recommended approval of the rezoning by a vote of 8-0.

Councilmember Janczak asked about the anticipated noise levels on the runway approach.

Ms. Lyerly stated she did not know but could provide that information before the second reading of the ordinance.

Councilmember Janczak asked if the size of the lot meets the requirement for a septic tank.

Ms. Lyerly stated the septic tank has been approved by the Bell County sanitarian so it should meet the requirements.

Mayor Jones declared the public hearing open with regard to agenda item 8 and asked if anyone wished to address this item.

Jennie McAllen, United Built Homes, the company constructing the home, addressed the Council, along with David Davila, the owner of the property. Mr. Davila stated he has lived three houses down from this property for 26 years and noise is not a factor. There are other residences in this area also.

Ms. McAllen stated the septic system has already been installed, inspected and approved. A water meter is also in place. This is a residential development.

Councilmember Schneider questioned how construction got to this point without a permit from the City of Temple.

Ms. McAllen stated they did not know the property was in the City. They went to the County for their approvals up to this point and she was not certain how it was determined a City permit was needed for construction to continue.

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

Motion by Mayor Pro Tem Patsy E. Luna to adopt ordinance, with second reading and final adoption set for October 21, 2010, seconded by Councilmember Danny Dunn.

Councilmember Marty Janczak voted nay. The other Councilmembers voted aye. The motion passed.

9. 2010-4398: FIRST READING - PUBLIC HEARING - Z-FY-10-50: Consider adopting an ordinance authorizing a zoning change from Agricultural District (A) to Single Family One District (SF1) on a 10.00 ± acre tract of land in the Maximo Moreno Survey, Abstract No. 14, in the City of Temple, Bell County, Texas, located on the north side of West FM 93, adjacent to and west of Ridgewood Estates.

Tammy Lyerly, Planner, presented this case to the City Council, the purpose of which is to establish a single-family subdivision. There is no direct access to this property except through an existing subdivision, Ridgewood Estates, through a local street. Ms. Lyerly showed photos of surrounding properties. Estate residential zoning is recommended in the Comprehensive Plan, even though the surrounding subdivisions are zoned SF-1. The property has access to a 2-1/2 inch water line. There is no sewer on the property but a sewer system is proposed by the applicant. Sixteen notices were mailed to surrounding property owners, with three being returned in approval and three in opposition. Staff recommended denial because the request does not comply with the Future Land Use and Character Map or the Thoroughfare Plan and public sewer lines are not

available. The Planning & Zoning Commission approved the request by a vote of 7-1.

Mayor Jones declared the public hearing open with regard to agenda item 9 and asked if anyone wished to address this item.

Mark Rendon, Stellar Development Company, 413 Downing Street, Belton, applicant in the request, addressed the Council. He stated the land use map has been a point of contention with him in the past regarding the Las Colinas development. Mr. Rendon made a presentation to the Council describing the type of development he is hoping to create on this property. He will not use septic tanks, only City services. He explained he has two alternatives to get sewer to the site.

Mayor Jones expressed his concern with the traffic to be generated by the subdivision and the single point of access. Lakeview is not a collector street.

Mr. Rendon stated he plans to connect to adjoining property they own, providing access to Hartrick Bluff Road.

Councilmember Dunn asked if a planned development would be appropriate since Mr. Rendon is saying he is going to build less homes than the requested rezoning would allow.

Mr. Rendon stated he has submitted a document that shows what they intend to do and that should communicate their intentions. Final designs are not complete but he could show the preliminary plat, with 28 lots, at the next meeting. Mr. Rendon stated this could be used as the site plan for a planned development. However, he added this area is no longer Urban Estate and the Comprehensive Plan should be amended. This whole area deserves City utilities.

Brandon Dakroub, 219 Timberline Road, stated this development backs up to his home. He has lived here for six months. This is an older, pretty neighborhood and he wants to preserve the treeline behind his house. He stated he does not like the way the proposed development would be accessed through their subdivision and is, therefore not supportive of the requested rezoning.

Ron Robbins, 202 Timberline Road, expressed his concern with there being no curb and gutter in Ridgewood and their current drainage problems. He asked if this development will make the drainage worse or better.

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

Motion by Councilmember Marty Janczak to adopt ordinance, with second reading and final adoption set for October 21, 2010, seconded by Mayor Pro Tem Patsy E. Luna.

Motion passed unanimously.

- 10. 2010-4399: FIRST READING - PUBLIC HEARING - Z-FY-10-52: Consider adopting an ordinance authorizing a zoning change from Planned Development -Single Family One District (PD-SF1) to Planned Development**

-Two Family District (PD-2F) on Lots 20 - 24, Block 1, Stonegate III, located on the north side of H K Allen Parkway, west of Ledgestone Trail, across from Quartz Court.

Mayor Jones stated the applicant has requested this item be tabled, after conducting the public hearing as posted.

Mayor Jones declared the public hearing open with regard to agenda item 10 and asked if anyone wished to address this item.

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

Motion by Councilmember Marty Janczak to table ordinance on first reading, seconded by Councilmember Danny Dunn.

Motion passed unanimously.

11. 2010-4400: FIRST READING - PUBLIC HEARING - Z-FY-10-51: Consider adopting an ordinance authorizing an amendment to Section 7-564, Applicability, in the Zoning Ordinance, related to the I-35 Corridor Overlay.

Tammy Lyerly, Planner, presented this case to the City Council. A recent rezoning brought to light the need to amend this section of the Zoning Ordinance which relates to when the I-35 corridor development standards are effective. Currently, this is based on the increase in value per the tax roll which can be difficult to control at the time of the request. The proposal is to determine the assessment at the time of renovation based on the cost of improvements to the current assessed value, rather than the extent to which an improvement might increase the value of the property the next time it is assessed.

Mayor Jones declared the public hearing open with regard to agenda item 11 and asked if anyone wished to address this item. There being no comments, Mayor Jones closed the public hearing.

Motion by Councilmember Russell Schneider to adopt ordinance, with second reading and final adoption set for October 21, 2010, seconded by Councilmember Danny Dunn.

Motion passed unanimously.

12. 2010-4401: FIRST READING - PUBLIC HEARING - Consider adopting an ordinance amending Chapter 20, "Police," of the Code of Ordinances, Article III, "Burglar Alarm Systems."

Gary Smith, Chief of Police, presented this item to the City Council. He requested the ordinance be amended to match current statute numbers in the Local Government Code. The other proposed change is to allow false alarm service fees when three calls in a twelve-month period are activated. Fee increases will be proposed later, by resolution. The City has about 2500 alarm permits, with about 600 activations in commercial and 60 in residential exceeding 4+ activations per month.

Mayor Jones declared the public hearing open with regard to agenda item 12 and asked if anyone wished to address this issue. There being no comments, Mayor Jones closed the public hearing.

Motion by Mayor Pro Tem Patsy E. Luna to adopt ordinance, with second reading and final adoption set for October 21, 2010, seconded by Councilmember Marty Janczak.

Motion passed unanimously.

RESOLUTIONS

- 13. 2010-6150-R: Consider adopting a resolution authorizing a Chapter 380 grant agreement with Temple G2K Development Partners LLC for redevelopment improvements at 1510 South First Street in the Temple Medical and Education District and the 1st Street Strategic Investment Zone corridor in an amount not to exceed \$65,250, plus waiver of permit fees.**

Kim Foutz, Assistant City Manager, presented this item to the City Council. This application has been submitted by the developer of Family Dollar Stores. The property is located in the Temple Medical and Education District. The current use of the property is the Lamar Hotel. Improvements are to be complete by December 31, 2011, at a total cost of \$750,000 for a new 100% masonry building constructed in accordance with the planned development. Mrs. Foutz reviewed some of the development standards that will be included in this facility and showed the site and landscape plans. The maximum amount of the match is \$35,250 plus waiver of permits/fees and demolition costs.

Motion by Councilmember Danny Dunn to adopt resolution, seconded by Mayor Pro Tem Patsy E. Luna.

Motion passed unanimously.

- 14. 2010-6151-R: P-FY-10-16: Consider adopting a resolution authorizing the final plat of Hartrick Addition, a 3 ± acre, two-lot residential subdivision on the west side of Hartrick Bluff Road, south of FM 93 in Temple's southeastern ETJ, with developer requested exceptions to Sec. 33-98 (Sidewalks), Sec. 33-93 (Perimeter Street Fees), Sec. 33-80 (Fire Hydrants) of the Subdivision Ordinance.**

Tammy Lyerly, Planner, presented this item to the City Council. She showed the location of the property, which is outside the City limits. A copy of the plat was displayed, showing the property to be divided down the middle to create two residential lots. Park fees in the amount of \$450 are required for the plat. Exceptions are requested to the 4-foot sidewalk requirement along Hartrick Bluff Road, perimeter street fees, and fire hydrant requirements. The Planning and Zoning Commission approved the final plat with the requested exceptions.

Councilmember Schneider suggested that park fees be waived for this

development since it is not likely that the property will be brought into the City and a park developed nearby within the next five years.

Motion by Councilmember Russell Schneider to adopt resolution with requested exceptions and no requirement for payment of park fees, seconded by Councilmember Marty Janczak.

Motion passed unanimously.

William A. Jones, III, Mayor

ATTEST:

Clydette Entzminger
City Secretary



COUNCIL AGENDA ITEM MEMORANDUM

10/21/10
Item #4(B)
Consent Agenda
Page 1 of 1

DEPT./DIVISION SUBMISSION & REVIEW:

Nicole Torralva P.E., Director of Public Works
Belinda Mattke, Director of Purchasing

ITEM DESCRIPTION: Consider adopting a resolution authorizing the purchase of a brush chipper from Poston Equipment Sales of Pearland on the HGAC contract in the amount of \$34,168.93.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: The Street Services Division of the Public Works Department regularly utilizes a brush chipper in the maintenance of vegetative areas within street right of way. The existing chipper is 13 years old, has exceeded the recommended replacement cycle and is no longer cost effective or dependable, resulting in the need for replacement.

The price received for replacement of the existing unit is from the HGAC, a cooperative purchasing contract, and is for the supply of a trailer mounted Bandit 1090 Brush Chipper in the amount of \$34,168.93 for use by Street Services Division of Public Works in the Tree Trimming crew.

All purchases from the HGAC meet competitive bid requirements.

FISCAL IMPACT: Funding in the amount of \$37,500.00 is available in account 110-5900-531-62-21, project # 100646.

ATTACHMENTS:

[Resolution](#)

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING THE PURCHASE OF A BRUSH CHIPPER FROM POSTON EQUIPMENT SALES OF PEARLAND, TEXAS, USING THE HOUSTON-GALVESTON AREA COUNCIL INTERLOCAL COOPERATIVE AT A COST \$34,168.93; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, the Street Services Division of the Public Works Department regularly utilizes a brush chipper in the maintenance of vegetative areas within street right of way – the existing chipper is no longer cost effective or dependable and needs to be replaced;

Whereas, the Staff recommends purchasing a trailer mounted Bandit 1090 Brush Chipper in the amount of \$34,168.93 through the Houston-Galveston Area Council Interlocal Cooperative which is available from Poston Equipment Sales of Pearland, Texas;

Whereas, funds are available for this purchase in Account No. 110-5900-531-6221, project # 100646; and

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

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

Part 1: The City Council authorizes the purchase of a brush chipper from Poston Equipment Sales of Pearland, Texas, using the Houston-Galveston Area Interlocal Cooperative, at a cost of \$34,168.93.

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 **21st** day of **October**, 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

10/21/10
Item #4(C)
Consent Agenda
Page 1 of 1

DEPT. /DIVISION SUBMISSION & REVIEW:

Nicole Torralva, Director of Public Works
Belinda Mattke, Director of Purchasing

ITEM DESCRIPTION: Consider adopting a resolution authorizing the purchase of a crack sealer off of the BuyBoard from Crafcot Texas Inc. of San Antonio in the amount of \$26,703.50.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: The Street Services Division of the Public Works Department has begun operations of a new crack sealing crew dedicated to maintaining the condition of streets year round through the application of sealant applied to roadway cracks. Existing crack sealing equipment owned by the City is not capable of year round use, and therefore, a new unit capable of both hot and cold pour sealant is necessary to perform the duties of the job.

The price received for the trailer mounted crack sealing unit is a Crafcot Super Shot 60P Sealer on the BuyBoard, a cooperative purchasing contract, in the amount of \$26,703.50.

All purchases from the BuyBoard meet competitive bid requirements.

FISCAL IMPACT: Funding in the amount of \$30,000 is available in account 110-3400-531-62-22, project # 100643 for the purchase.

ATTACHMENTS:

[Resolution](#)

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING THE PURCHASE OF A CRACK SEALER THROUGH THE BUYBOARD LOCAL GOVERNMENT ONLINE PURCHASING COOPERATIVE FROM CRAFTCO TEXAS, INC., OF SAN ANTONIO, TEXAS, AT A COST OF \$26,703.50; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, the Street Services Division of the Public Works Department has begun operation of a new crack sealing crew dedicated to maintaining the condition of streets year round through the application of sealant applied to roadway cracks – the existing equipment for this operation needs to be replaced;

Whereas, the Staff recommends purchasing a Crafcro Super Shot 60P Sealer through the BuyBoard, a cooperative purchasing contract, from Crafcro Texas, Inc., of San Antonio, Texas, in the amount of \$26,703.50;

Whereas, funds are available for this purchase in Account No. 110-3400-531-6222, project # 100643; and

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

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

Part 1: The City Council authorizes the purchase of a crack sealer through the BuyBoard Local Government Online Purchasing Cooperative from Crafcro Texas, Inc., of San Antonio, Texas, at a cost of \$26,703.50.

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 **21st** day of **October**, 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

10/21/10
Item #4(D)
Consent Agenda
Page 1 of 1

DEPT./DIVISION SUBMISSION & REVIEW:

Nicole Torralva P.E., Director of Public Works
Belinda Mattke, Director of Purchasing

ITEM DESCRIPTION: Consider adopting a resolution authorizing the purchase of a Volvo EC160C excavator from Romco Equipment Company of Round Rock off the TXMAS contract in the net amount of \$101,770.19.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: The Drainage Division of the Public Works Department often requires the use of an excavator to perform regular tasks associated with keeping the drainage systems maintained. The existing excavator is over 15 years old and has exceeded its useful life. As a result, included in the adopted capital budget for FY 2011 is funding for the purchase of a new excavator to replace the aging unit.

The price received for replacement of the existing unit is from TXMAS, a cooperative purchasing contract, and is for the supply of a Volvo EC160C excavator in the amount of \$121,770.19, including all fees. Romco has appraised the existing 1995 Cat 315L excavator unit # 10025 and has agreed to pay \$20,000 for the machine, to be used towards the purchase of the new unit, resulting in a net cost of \$101,770.19 for the excavator

All purchases from the TXMAS meet competitive bid requirements.

FISCAL IMPACT: Funding in the amount of \$130,000.00 is available in account 292-2900-534-6220 project # 100650. The purchase price of the excavator is \$121,770.19, minus the trade in of \$20,000 for a net cost of \$101,770.19.

ATTACHMENTS:

[Resolution](#)

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING THE PURCHASE OF A VOLVO EC160C EXCAVATOR THROUGH THE TXMAS COOPERATIVE PURCHASING CONTRACT FROM ROMCO EQUIPMENT COMPANY OF ROUND ROCK, TEXAS, AT A COST OF \$101,770.19; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, the Drainage Division of the Public Works Department often requires the use of an excavator to perform regular tasks associated with keeping drainage systems maintained – the existing excavator has exceeded its useful life and needs to be replaced;

Whereas, the Staff recommends purchasing a Volvo EC160C excavator through the TXMAS Cooperative Purchasing Contract, from Romco Equipment Company of Round Rock, Texas, in the amount of \$101,770.19 (\$121,770.19 minus \$20,000 trade-in for the old equipment);

Whereas, funds are available for this purchase in Account No. 292-2900-534-6220, project # 100650; and

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

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

Part 1: The City Council authorizes the purchase of Volvo EC160C excavator through the TXMAS Cooperative Purchasing Contract from Romco Equipment Company of Round Rock, Texas, at a cost of \$101,770.19.

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 **21st** day of **October**, 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

10/21/10
Item #4(E)
Consent Agenda
Page 1 of 2

DEPT./DIVISION SUBMISSION & REVIEW:

Nicole Torralva P.E., Director of Public Works
Belinda Mattke, Director of Purchasing

ITEM DESCRIPTION: Consider adopting a resolution authorizing the purchase of the following equipment:

1. Truck chassis to equip a new Vactor truck from Freightliner of Austin utilizing the BuyBoard in the amount of \$88,743; and
2. Truck mounted Vactor equipment and accessories from Kinloch Equipment of Arlington utilizing the BuyBoard in the amount of \$209,970.80.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: The Utility Services Division of the Public Works Department regularly utilizes two vactor trucks during the course of daily work. These specialized units unstop wastewater sewer lines, support regular and routine maintenance efforts, and assist with potholing utilities for various situations. The oldest vactor truck (8 years old) is in need of replacement, and is scheduled to be passed onto the Drainage Division for use in maintaining drainage infrastructure, as required by increased BMP's established in regulatory compliance plans.

The price received for replacement of the existing unit is from the BuyBoard, a cooperative purchasing contract, and is for the supply of a Freightliner M2 106V conventional chassis with Cummins diesel engine and a Vactor truck mounted hydro-jet and vacuum.

The expected gross vehicle weight capacity is 66,000 lbs. Other features of the truck chassis include:

- Allison 3000 RDS automatic transmission with PTO provisions
- Flat roof aluminum conventional cab

The chassis shall be delivered to Kinloch Equipment for mounting of their equipment. The Vactor truck mounted model 2110-J4-Plus shall be equipped with:

- 8' hydraulic telescopic boom with 180 degree rotation with joystick control
- 800' x 1" Aero-Quip sewer hose 2500 PSI mounted on the front of truck
- Hydro excavation kit for potholing
- A signal arrow board for traffic control

The Vactor unit will be used primarily to sustain the sanitary sewer line maintenance program and TCEQ SSO Initiative Program. The equipment will also be used to locate under ground utilities. The purchase price includes necessary training for city personnel.

All purchases from the BuyBoard meet competitive bid requirements.

FISCAL IMPACT: Funding in the amount of \$259,500 is available in account 520-5400-535-6220, project # 100655.

A budget adjustment is presented for Council's approval appropriating \$40,500 for the additional funds needed for this purchase. This will bring the total available to fund this purchase to \$300,000. The additional funding will come from the sale of the 2002 Vactor truck, asset #11323, from the Utilities Division to the Drainage Division in the amount of \$40,500.

ATTACHMENTS:
[Budget Adjustment
Resolution](#)

FY 2011**BUDGET ADJUSTMENT FORM**

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

Adjustments should be rounded to the nearest \$1.

			+		-	
ACCOUNT NUMBER	PROJECT #	ACCOUNT DESCRIPTION	INCREASE		DECREASE	
520-5400-535-62-20	100655	Heavy Equipment	\$ 40,500			
520-0000-443-30-24		Sale of Assets	40,500			
TOTAL.....			\$ 81,000		\$ -	

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

To appropriate the proceeds from the sale of the 2002 Vactor truck, asset # 11323, from the Sewer Division to the Drainage Division. The funds from the sale of the vactor truck will be used to supplement funding in the FY 2011 operating budget for the purchase of a new vactor truck for the Sewer Division.

DOES THIS REQUEST REQUIRE COUNCIL APPROVAL?

☒

Yes

☐

No

DATE OF COUNCIL MEETING

October 21, 2010

WITH AGENDA ITEM?

☒

Yes

☐

No

Department Head/Division DirectorDate☐

Approved

☐

Disapproved

FinanceDate☐

Approved

☐

Disapproved

City ManagerDate☐

Approved

☐

Disapproved

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING THE PURCHASE OF A TRUCK CHASSIS TO EQUIP A NEW VACTOR TRUCK THROUGH THE BUYBOARD LOCAL GOVERNMENT ONLINE PURCHASING COOPERATIVE FROM FREIGHTLINER, OF AUSTIN, TEXAS, AT A COST OF \$88,743, AND TRUCK MOUNTED VACTOR EQUIPMENT AND ACCESSORIES FROM KINLOCH EQUIPMENT OF ARLINGTON, TEXAS, AT A COST OF \$209,970.80; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, the Utility Services Division of the Public Works Department regularly utilizes two vactor trucks during the course of daily work to unstop wastewater sewer lines, support regular and routine maintenance efforts, and assist with potholing utilities for various situations -- the oldest vactor truck needs to be replaced;

Whereas, the Staff recommends purchasing a truck chassis to equip a new vactor truck through the BuyBoard, a cooperative purchasing contract, from Freightliner of Austin, Texas, in the amount of \$88,743.00; and also recommends the purchase of truck mounted vactor equipment and accessories through the BuyBoard Local Government Online Purchasing Cooperative from Kinloch Equipment of Arlington, Texas, at a cost of \$209,970.80;

Whereas, funds are available for this purchase but an amendment to the FY 2011 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 purchase of a truck chassis to equip a new vactor truck through the BuyBoard Local Government Online Purchasing Cooperative from Freightliner of Austin, Texas, at a cost of \$88,743; and authorizes the purchase of truck mounted vactor equipment and accessories through the BuyBoard Local Government Online Purchasing Cooperative from Kinloch Equipment of Arlington, Texas, at a cost of \$209,970.80.

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: The City Council approves an amendment to the FY 2011 budget, substantially in the form of the copy attached as Exhibit A, for this purchase.

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 **21st** day of **October**, 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

10/21/10
Item #4(F)
Consent Agenda
Page 1 of 2

DEPT./DIVISION SUBMISSION & REVIEW:

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

ITEM DESCRIPTION: Consider adopting a resolution authorizing the purchase and installation of Toro irrigation control equipment from Professional Turf Products of Euless, Texas, utilizing the BuyBoard in the amount of \$94,697.06.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: As part of the Bond election passed in 2007, Sammons Golf Links was scheduled for improvement. We are requesting City Council approval for the purchase of the following equipment.

1. Irrigation control systems containing a Computer with E-Series OSMAC operating system, Weather Logic software, Smart OSMAC software, nine 40 station satellites, and one 64 station satellite totaling \$54,627.21.
2. 104 Adjustable 1.5" turf sprinklers totaling \$13,806.00.
3. Electrical components including ground rods, ground plates, wire, and conduit totaling \$2,295.28.
4. Miscellaneous components including a Toro Weather Station, Wireless activation system, Irrigation Construction Observation, and installation totaling \$23,968.57.

This proposed purchase is necessary due to the age of irrigation components and lack of control of the operating system. The replacement of irrigation components and upgraded control system will give golf course staff the ability to effectively irrigate the golf course.

The prices received are through the Buyboard, a cooperative purchasing contract, and meet all competitive bidding requirements.

FISCAL IMPACT: Funding in the amount of \$350,000 was designated in the 2008 General Obligation Bond Issue for improvements at Sammons Golf Links. To date, \$30,030 has been expended for design and consulting services related to the project. A balance of \$319,970 is available in account 362-3100-551-6840, project # 100358 to fund the purchase and installation of the irrigation equipment.

ATTACHMENTS:

[Resolution](#)

RESOLUTION NO. 2010-6156-R

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING THE PURCHASE AND INSTALLATION OF TORO IRRIGATION CONTROL EQUIPMENT THROUGH THE BUYBOARD LOCAL GOVERNMENT ONLINE PURCHASING COOPERATIVE FROM PROFESSIONAL TURF PRODUCTS OF EULESS, TEXAS, AT A COST OF \$94,697.06; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, as part of the Parks Bond Election of 2007, Sammons Golf Links was scheduled for improvement – the Staff recommends purchasing irrigation control equipment due to the age of the current irrigation components and lack of control on the operating system;

Whereas, the Staff recommends purchasing Toro irrigation control equipment through the BuyBoard, a cooperative purchasing contract, from Professional Turf Products of Euless, Texas, at a cost of \$94,697.06;

Whereas, funds are available for this purchase in Account No. 362-3100-551-6840, project # 100358; and

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

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

Part 1: The City Council authorizes the purchase of Toro irrigation control equipment through the BuyBoard Local Government Online Purchasing Cooperative from Professional Turf Products of Euless, Texas, in the total amount of \$94,697.06.

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 **21st** day of **October**, 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

10/21/10
Item #4(G)
Consent Agenda
Page 1 of 2

DEPT./DIVISION SUBMISSION & REVIEW:

Nicole Torralva P.E., Director of Public Works
Thomas Brown, Superintendent of Distribution & Collection

ITEM DESCRIPTION: Consider adopting a resolution authorizing the purchase of sewer line chemical root control services for FY 10-11 from Duke's Root Control, Inc. of Syracuse, New York, utilizing a BuyBoard contract in the estimated annual amount of \$65,000.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

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

Public Works is requesting to purchase these root control services utilizing a BuyBoard contract at the following established prices:

Jet Power II Grease Liquefier, for 5-115 gallons	\$32.00 / gallon
Jet Power II Grease Liquefier, for 120 plus gallons	\$25.00 / gallon
Razeroooter II, 6" Diameter Pipe, Sewer Line	
Chemical Root Control Services, MH to MH	\$ 1.34 / LF
Razeroooter II, 8" Diameter Pipe, Sewer Line	
Chemical Root Control Services, MH to MH	\$ 1.34 / LF
Razeroooter II, 10" Diameter Pipe, Sewer Line	
Chemical Root Control Services, MH to MH	\$ 1.34 / LF
Razeroooter I2, 8" Diameter Pipe, Sewer Line	
Chemical Root Control Services, MH to MH	\$ 1.34 / LF

It is known that the chemicals utilized by Duke's Root Control do not impact either wastewater treatment plant. Staff has been pleased with the services provided by Duke's Root Control and recommends purchase through the BuyBoard this year for this service.

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

ATTACHMENTS:

[Resolution](#)

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING THE PURCHASE OF SEWER LINE CHEMICAL ROOT CONTROL SERVICES FOR FY 2011 FROM DUKE'S ROOT CONTROL, INC., OF SYRACUSE, NEW YORK, THROUGH THE BUYBOARD LOCAL GOVERNMENT ONLINE PURCHASING COOPERATIVE, AT AN ESTIMATED COST OF \$65,000; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, for many years the City has utilized chemical root control to manage and minimize the growth of roots in the sanitary sewer system;

Whereas, the Staff recommends purchasing sewer line chemical root control services for FY 2011 through the BuyBoard, a cooperative purchasing contract, from Duke's Root Control, Inc., of Syracuse, New York, at an estimated cost of \$65,000;

Whereas, funds are available for this service in Account No. 520-5400-535-2616; and

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

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

Part 1: The City Council authorizes the purchase of sewer line chemical root control services for FY 2011 from Duke's Root Control, Inc., of Syracuse, New York, through the BuyBoard Local Government Online Purchasing Cooperative, in the estimated amount of \$65,000.

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

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

PASSED AND APPROVED this the **21st** day of **October**, 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

10/21/10
Item #4(H)
Consent Agenda
Page 1 of 3

DEPT./DIVISION SUBMISSION & REVIEW:

Nicole Torralva, P.E., Director of Public Works

Michael Newman, P.E., CFM, Assistant Director of Public Works/City Engineer

ITEM DESCRIPTION: (1) Consider adopting a resolution authorizing the City Manager to execute a Letter of Understanding with Texas Department of Transportation (TxDOT) to provide reimbursement to the City by TxDOT, in the amount of \$212,880 for utility engineering relocation services in association with IH-35 improvements from South Loop 363 to North Loop 363.

(2) Consider adopting a resolution authorizing a professional services agreement with Kasberg, Patrick & Associates LP of Temple (KPA) in an amount not to exceed \$126,690 for utility relocation engineering services in association with IH-35 Improvements from South Loop 363 to Nugent.

(3) Consider adopting a resolution authorizing a professional services agreement with Kasberg, Patrick & Associates LP of Temple (KPA) in an amount not to exceed \$86,190 for utility relocation engineering services in association with IH-35 Improvements from Nugent to North Loop 363.

STAFF RECOMMENDATION: Adopt resolutions as presented in item description.

ITEM SUMMARY: Earlier this year, TxDOT began discussions with the City related to work required for IH-35 improvements through Temple. TxDOT has retained the services of three separate engineering firms for professional design services for highway expansion through Temple, including two between South Loop 363 and North Loop 363 (divided at Nugent Avenue). On October 7, 2010 City Council authorized the City Manager to execute a Letter of Understanding with TxDOT for the third professional engineering contract that includes highway design work from North Loop 363 to the northern City limits and into and through Troy. On that same date, the Council also approved the professional services contract with KPA for utility relocation engineering services on the same section of IH-35. The third contract (from North Loop 363 to the northern City limits and beyond) is the only interstate project in Temple currently funded for construction. Construction is anticipated to begin in late 2011 or early 2012.

Expansion of IH-35 through Temple will require relocation of existing City owned water and wastewater utilities. TxDOT has bundled design of specific utility relocations impacted by highway

improvements into each individual engineering contract to consolidate and minimize utility disruptions during roadway construction. In recognition and acknowledgement that City utility planning and operations are integral to the highway expansion, TxDOT has solicited input and feedback from City staff related to relocation of City owned utilities. Since this project will require substantial coordinated efforts between the City and the State related to design improvements, plan review, site observation, and construction administration, a professional consultant is needed to act on behalf of the City through this complex expansion effort. The site observation and construction administration scopes of work for IH-35 Loop to Loop will be added as a separate contract at a later date, closer to construction, when construction funding is available.

The resolution proposed in item (1) will authorize the City Manager to execute a Letter of Understanding with TxDOT for reimbursement of engineering services and for city staff time incurred for relocating publicly operated utilities (water and wastewater) in conjunction with the IH-35 roadway improvements pertaining to the remaining first and second sections of IH-35 from South Loop 363 to Nugent and from Nugent to North Loop 363. TxDOT has combined these first and second sections into one Letter of Understanding (IH-35 Loop to Loop) in Temple. According to information received from TxDOT staff, this portion of the interstate is not adequately funded for construction. Construction start date will be determined when funding is available. Prior to initiating IH-35 roadway improvement construction, it is anticipated that a reimbursement agreement between TxDOT and the City will be executed. However, until the agreement is executed, the City will be responsible to make interim payments to KPA. Such interim payments will be reimbursed after the reimbursement agreement is executed, per the terms of the agreement. According to TxDOT staff, an executed reimbursement agreement may be expected to be finalized in the spring of 2011.

Engineering phase services to be performed by KPA, proposed in items (2) and (3), relate to the IH-35 South Loop 363 to Nugent and IH-35 Nugent to North Loop 363, respectively. The engineering services include preliminary plan review and construction plan review only. **It does not include bid document review, and construction phase services such as on-site representation during construction because these sections are not yet funded for construction.** In addition, KPA will review proposed utility relocation plans with respect to Temple's 2008 Water and Sewer Master Plan and current RZ Master Plan in order to recommend utility line betterments. KPA will also review proposed improvements for potential utility conflicts and recommend solutions to TxDOT design consultants. KPA will represent the City's interests in protecting existing public water and wastewater infrastructure and related public utility easements or properties while assessing and planning for future needs as identified in existing planning documents. KPA's scope of services also includes preparing reimbursement standard utility agreements on behalf of the City.

FISCAL IMPACT: The total project cost for the utility engineering relocation services in association with the IH-35 improvements from South Loop 363 to North Loop 363 is \$212,880. TxDOT will reimburse the City 100%. A budget adjustment is presented for Council's approval appropriating the funds to be reimbursed by TxDOT for the two agreements.

ATTACHMENTS:

TxDOT & City Letter of Understanding

KPA Scope of Services South Loop 363 to Nugent

KPA Scope of Services Nugent to North Loop 363

Budget Adjustment

Resolutions



Texas Department of Transportation

October 8, 2010

100 SOUTH LOOP DRIVE • WACO, TEXAS 76704-2858 • (254) 867-2700

Mr. David Blackburn
City of Temple
3210 E. Ave H, Bldg A, Ste 107
Temple, TX 76501

SUBJECT: LETTER OF UNDERSTANDING
HWY: IH 35 – From South Loop 363 to North Loop 363 (Section 2B)
UTILITY: City of Temple water and waste water lines
CNTY: Bell
CCSJ: 0015-14-091 and 0015-14-102

Dear Mr. Blackburn:

As per our understanding, the City of Temple elected Texas Department of Transportation (TxDOT) to provide relocation design for the water and waste water facilities within the limits of the above-referenced project as a part of the roadway construction plans, specifications, and estimates (PS&E). In addition, the City of Temple has opted to relocate the water and sewer lines within the proposed TxDOT right of way, in lieu of relocating back into a new utility easement.

TxDOT will use the professional engineering services to provide the relocation design for your water and waste water lines. Kasberg, Patrick and Associates, LP (KPA) will be utilized for their professional engineering services for City of Temple's Public Works / Engineering Department during the preliminary and final design, bidding and construction phases of IH 35 from South Loop 363 to North Loop 363 (Section 2B).

If this is agreeable to you, please sign and return this letter to me at your earliest convenience.

If you have any questions or need additional information, please contact Mr. Rick Hanks, Utility Coordinator, via email at rick.hanks@txdot.gov or call (210)615-6230.

Sincerely,

Richard J. Skopik, P.E.
District Engineer
Waco District

cc: Michael C. Newman, PE, CFM, Assist Director of Public Works/City Engineer, City of Temple
Rick N. Kasberg, PE, Kasberg, Patrick and Associates, LP
Rick Hanks, Utility Coordinator San Antonio District – TxDOT
Oscar Hurtado, Utility Coordinator Brownwood District – TxDOT
Chris Hehr, PE, Design Division – TxDOT

THE TEXAS PLAN

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PRESERVE THE VALUE OF TRANSPORTATION ASSETS

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HWY: IH 35 – From South Loop 363 to North LP 363 (Section 2B)

UTILITY: City of Temple water and waste water lines

CNTY: Bell

CCSJ: 0015-14-091 & 0015-14-102

The City of Temple agrees to allow Consultants on behalf of Texas Department of Transportation (TxDOT), to design the City's water and waste water facilities relocation and for TxDOT to perform the adjustment of these same facilities within Section 2B of IH 35 proposed right of way.

Kasberg, Patrick and Associates, LP (KPA) will be utilized for their professional engineering services for City of Temple's Public Works / Engineering Department during the preliminary and final design, bidding and construction phases of IH 35 from South Loop 363 to North Loop 363 (Section 2B) for an eligible reimbursable lump sum fee of \$212,880. KPA services will include preliminary coordination and review services, preparation of TxDOT agreements, plan review at 60% and 95%, review of addendum items pertaining to City utilities during bidding process, construction administration, on-site representation and preparation of TxDOT reimbursement requests. The following is a summary of lump sum costs for these services with a detailed breakdown included as Attachment A:

Basic Services

• Preliminary Review / Coordination	\$ 132,420
• Plan Review	\$ 80,460
Sub-Total Basic Services	\$ 212,880

The general proposed schedule consists of having plans complete in January 2011 when funding becomes available. It is understood that it is anticipated to have this project environmentally cleared and an approved right of way map by early 2011. After this point, the City will be reimbursed for this work.

David Blackburn
City Manager

Date

Richard J. Skopik, P.E.
District Engineer, TxDOT Waco District

Date



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

October 7, 2010

Mr. Michael Newman, P.E., C.F.M.
City of Temple
3210 East Avenue H, Building A
Temple, Texas 76501

Re: City of Temple, Texas
Coordination and Review of Utility Relocations associated with TxDOT Widening of IH-35
from **South Loop 363 to Nugent**

Dear Mr. Newman:

This letter proposal is in response to your request for engineering services required for the coordination and review of relocation plans and subsequent construction of City owned utilities (water and sewer) along IH-35 (South Loop 363 to Nugent) in conjunction with the highway reconstruction by the Texas Department of Transportation (TxDOT). The South Loop 363 to Nugent highway reconstruction along IH-35 will impact over 35,000 ft. of City and Temple water and wastewater utilities. The attached Location Map depicts this section of the project.

The Texas Department of Transportation (TxDOT) is currently in the design phase for widening IH-35 from the intersection with South Loop 363 to north of Troy. TxDOT has divided this segment of IH-35 widening into three (3) separate design contracts as follows:

1. South Loop 363 to Nugent Avenue
2. Nugent Avenue to North Loop 363
3. North Loop 363 to North of Troy - (Project 3A1)

TxDOT has included the relocation of City of Temple water and wastewater utilities in these contracts. The design of the utility relocations will be prepared by TxDOT's consultants. TxDOT has indicated that the design of the roadway for the "Loop to Loop" sections of the project (Nugent to North Loop 363 and South Loop 363 to Nugent) will be completed by December 2010. The coordination and review of utility relocations will continue into Spring 2011. Construction of these two sections remains unfunded and the TxDOT letting date has not been established at this time.

Due to the accelerated design schedules, KPA will act as an extension of the City of Temple's Public Works / Engineering Department during the design phases of these projects. A detailed scope of services for KPA's participation in the South Loop 363 to Nugent portion of the TxDOT widening is included as Attachment A.

Mr. Michael Newman, P.E.
October 7, 2010
Page Two

Kasberg, Patrick & Associates, LP services will include preliminary coordination and review services, preparation of TxDOT agreement, plan review at 60%, 90% and 100%, and preparation of TxDOT reimbursement requests on behalf of the City. The following is a summary of lump sum costs for our services; a detailed breakdown is included as Attachment B:

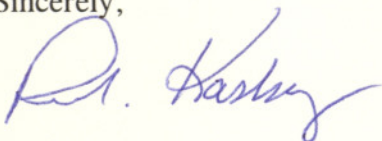
Basic Services

• Preliminary Review/Coordination	\$	77,950
• TxDOT Agreement		
• Plan Review	\$	48,740
TOTAL	\$	126,690

KPA will begin work once written authorization is received in our office. We will not exceed this amount without your authorization. All work will be billed on a monthly basis. We are available to address any questions or comments that you may have about this proposal.

Thank you for allowing us to serve the City of Temple in this capacity.

Sincerely,

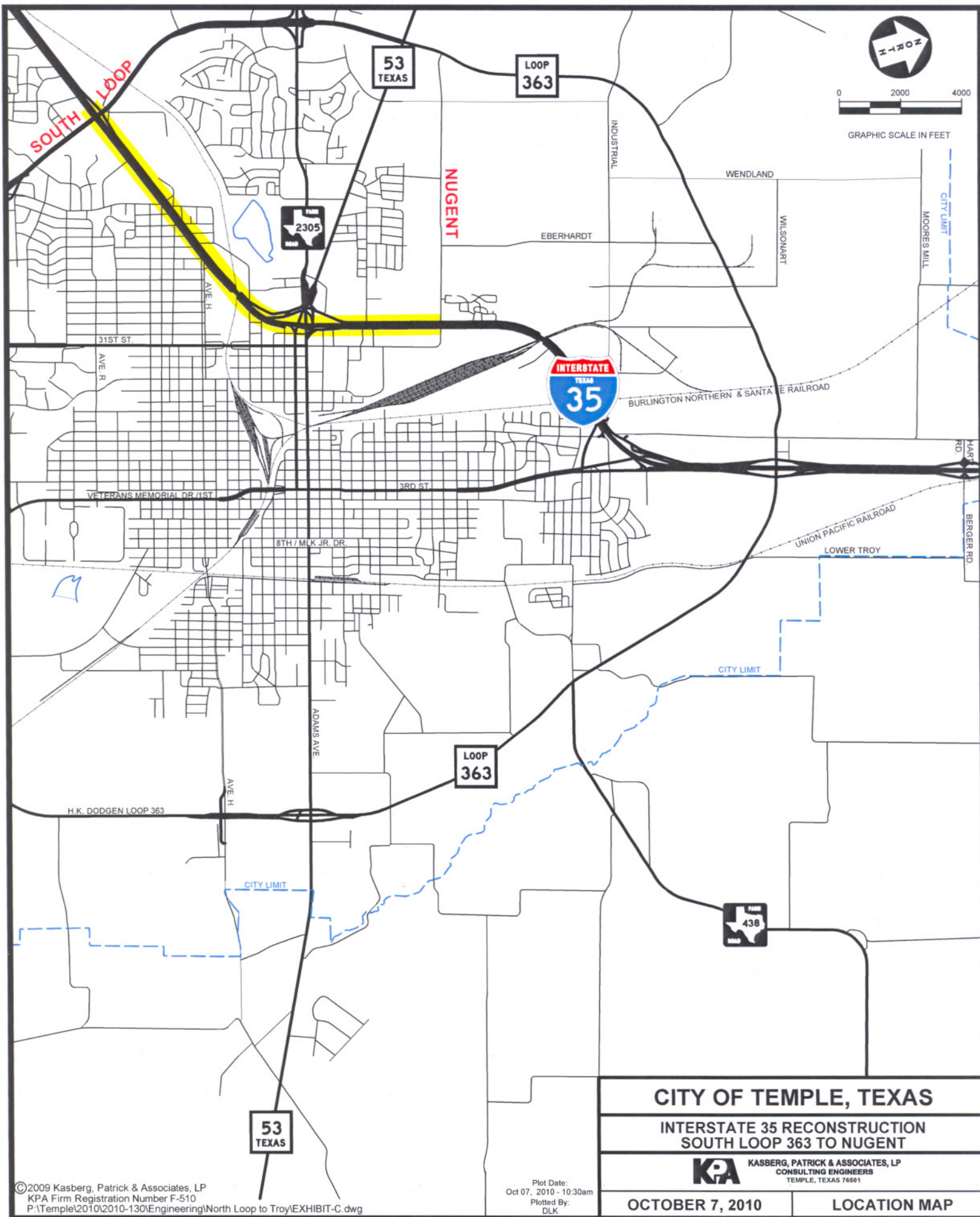


Rick N. Kasberg, P. E.

RNK/crc
2010-136

Approved and Accepted on this _____ day of _____, 2010.

Authorized Signature



CITY OF TEMPLE, TEXAS

INTERSTATE 35 RECONSTRUCTION SOUTH LOOP 363 TO NUGENT



KASBERG, PATRICK & ASSOCIATES, LP
 CONSULTING ENGINEERS
 TEMPLE, TEXAS 76601

OCTOBER 7, 2010

LOCATION MAP

KPA SCOPE OF SERVICES

**City of Temple, Texas
Coordination and Review of Utility Relocations associated
with TxDOT Widening of IH-35
South Loop 363 to Nugent**

October 7, 2010

Background

The Texas Department of Transportation (TxDOT) is currently in the design phase for widening IH-35 from the intersection with South Loop 363 to north of Troy. TxDOT has divided this segment of IH-35 widening into three (3) separate design contracts as follows:

1. South Loop 363 to Nugent Avenue
2. Nugent Avenue to North Loop 363
3. North Loop 363 to North of Troy - (Project 3A1)

TxDOT has included the relocation of City of Temple water and wastewater utilities in these contracts. The design of the utility relocations will be prepared by TxDOT's consultants. TxDOT has indicated that the design of the roadway for the "Loop to Loop" sections of the project (Nugent to North Loop 363 and South Loop 363 to Nugent) will be completed by December 2010. The coordination and review of utility relocations will continue into Spring 2011. Construction of these two sections remains unfunded and the TxDOT letting date has not been established at this time.

I. Preliminary

- A. Meet with TxDOT Utility Coordinator to review proposed schedule, contact persons and information and confirm project eligibility / reimbursable procedures.
- B. Review Subsurface Utility Engineering (SUE) sheets included in 30% Review Plan Sets.
 - a. Conduct meeting with City of Temple staff to verify size and general location of existing City of Temple utilities.
 - b. Conduct field reconnaissance to observe location of existing City of Temple utilities.
 - c. Prepare a summary letter identifying errors and/or omissions as determined from review of as-builts and discussions with Operations Staff.
 - d. Determine existing utilities that are in conflict with the proposed IH-35 widening alignment from the City of Temple's future operations and maintenance perspective.
 - e. Review City of Temple Master Plans and Tax Incremental Refinance Zone #1 (TRZ) plans to determine possible conflicts with proposed expansion. Prepare written summary of potential conflicts to be forwarded to TxDOT's sub-consultant for inclusion in subsequent and final plans.
 - f. Review existing utilities determined to be in conflict and determine if improvements should be investigated (i.e.; abandon force main and install gravity sewer, upsize existing lines, etc.).

- g. Prepare a preliminary assessment of "Betterment" to be reviewed by City Staff.
 - h. Prepare preliminary alignment of utilities to be relocated based on City of Temple's current standards, Staff input and City of Temple best interests. This general alignment and sizing will be reviewed against TxDOT's consultant alignment once it has been prepared and will serve as a basis for discussion on final alignments.
- C. Prepare TxDOT Reimbursable Agreement including preparation of the following forms and documentation to be executed by City of Temple and TxDOT:
- a. Standard Utility Agreement (Form ROW-U-35)
 - b. Attachment A – Plans, Specifications and Estimated Costs
 - i. Preparation of Plans and Specifications for the relocation of City of Temple Utilities are not included in KPA's scope. However, KPA will prepare a summary of Project Costs (not including actual construction/relocation costs) detailing direct City of Temple costs including consultant fees.
 - c. Attachment B – Utility's Accounting Method
 - i. KPA will meet with City of Temple Finance Department Staff to determine acceptable method and recommend steps during the design phase to facilitate reimbursement.
 - d. Attachment C – Utility Schedule of Work and Estimated Date of Completion
 - i. Coordinate with TxDOT and their consultant to determine schedule for inclusion in this attachment.
 - e. Attachment D – Statement Covering Work
 - i. Form ROW-U-48
 - f. Attachment E – Utility Joint Use Acknowledgement
 - i. Form ROW-U-JUAA
 - g. Attachment F – Eligibility Ratio Calculation
 - i. Prepare statement concerning eligibility ratio calculations as they relate to Texas Transportation Code section 203.092 and Interstate Highways when Federal Participation is 100%.

- h. Attachment G – Betterment Calculation and Estimates
 - i. Obtain Opinion of Probable Cost for utility relocations from TxDOT consultant.
 - ii. Using TxDOT consultant's unit costs, prepare OPC with "Betterment".
 - iii. Detail any City of Temple Standards and/or Design Calculations that show the design does not constitute "betterment", if applicable.
- i. Attachment H – Proof of Property
 - i. Obtain and document City of Temple "Real Property Interests" for known easements and/or real property such as Lift Station tracts, etc. This item consists of obtaining a copy of the recorded document from the Bell County Clerk's office and incorporating the documents into the final agreement.
- j. Attachment I – Inclusion in Highway Construction Contract
- D. Meet with TxDOT's Utility Coordination director to review preliminary draft of TxDOT Reimbursable Agreement prior to submission. Incorporate comments.
- E. Meet with City of Temple Staff to review TxDOT Reimbursable Agreement prior to submitting City Council Agenda Item.
- F. Prepare and mail three (3) copies of executed document on behalf of the City.
- G. Address TxDOT review comments.

II. Plan Review

- A. Review 60% Utility Plans for:
 - a. Accuracy with respect to size, material and alignment as determined in preliminary phase.
 - b. Compliance with City of Temple standards and standard practices.
 - c. Potential operation and/or maintenance conflicts in future.
- B. Prepare written review comments for submission to TxDOT Consultant.
- C. Prepare 60% Construction Sequence to allow operation of system during construction including documenting necessary temporary facilities.
- D. Meet with TxDOT Consultant and City of Temple Staff to discuss review comments and construction sequencing.

- E. Review 90% Utility Plans for:
 - a. Accuracy with respect to size, material and alignment as determined in preliminary phase.
 - b. Compliance with City of Temple standards and standard practices.
 - c. Potential operation and/or maintenance conflicts in future.
 - d. Traffic Control Plan.
- F. Prepare 90% Construction Sequence to allow operation of system during construction including documenting necessary temporary facilities.
- G. Review 100% Utility Plans for:
 - a. Accuracy with respect to size, material and alignment as determined in preliminary phase.
 - b. Compliance with City of Temple standards and standard practices.
 - c. Potential operation and/or maintenance conflicts in future.
 - d. Traffic Control Plan.
- H. Prepare 100% Construction Sequence to allow operation of system during construction including documenting necessary temporary facilities.
- I. Attend coordination meetings conducted by TxDOT including preparation of minutes as discussion pertains to City of Temple Utilities.

Attachment B
City of Temple, Texas
Coordination and Review of Utility Relocations associated with TxDOT Widening of IH-35 from South Loop 363 to Nugent
October 7, 2010

Scope Items	Total	Summary of Hours					
		Principal	PE	Grad Eng	CAD	OSR	Clerical
		\$160.00	\$140.00	\$100.00	\$90.00	\$75.00	\$70.00
I. Preliminary							
A. Meet/Coordinate with TxDOT Utility Coordinator	\$ 300	1	1				
B. Review SUE sheets included in 30% Review Plan Sets.	\$ -						
a. Conduct meetings with COT staff to verify existing City of Temple utilities.	\$ 3,200	4	8		16		
b. Conduct field reconnaissance to observe existing City of Temple utilities.	\$ 20,240	12	48	80	40		
c. Prepare a summary letter identifying errors and/or omissions in SUE.	\$ 3,180	2	8	16			2
d. Determine ex. utilities in conflict with proposed IH-35 widening alignment.	\$ 11,280	2	24	40	40		
e. Review COTemple Master Plans and TRZ plans to determine possible conflicts.	\$ 720	1	4				
i. Prepare written summary of potential conflicts.	\$ 720	1	4				
f. Review ex. utilities in conflict and determine if betterment should be investigated.	\$ 1,520	1	4	8			
g. Prepare a preliminary assessment of "Betterment" to be reviewed by City Staff.	\$ 3,040	2	8	16			
h. Prepare prelim. alignment of relocated utilities for COT interests.	\$ 21,640	4	40	64	100		
i. Reviewed vs. TxDOT's consultant alignment and forward comments.	\$ 4,400	2	12	24			
C. Prepare TxDOT Reimbursable Agreement:	\$ -						
a. Standard Utility Agreement (Form ROW-U-35)	\$ -						
b. Attachment A – Plans, Specifications and Estimated Costs	\$ -						
i. Prepare Project Costs detailing City of Temple costs and consultant fees.	\$ 1,320		8	2			
c. Attachment B – Utility's Accounting Method	\$ -						
i. Meet with City of Temple Finance Department Staff.	\$ 380		2	1			
d. Attachment C – Utility Schedule of Work and Estimated Date of Completion	\$ -						
i. Coordinate with TxDOT and their consultant to determine schedule.	\$ 380		2	1			
e. Attachment D – Statement Covering Work	\$ -						
i. Form ROW-U-48	\$ 140		1				
f. Attachment E – Utility Joint Use Acknowledgement	\$ -						
i. Form ROW-U-JUAA	\$ 140		1				
g. Attachment F – Eligibility Ratio Calculation	\$ -						
i. Prepare statement concerning eligibility ratio calculations.	\$ 760		4	2			
h. Attachment G – Betterment Calculation and Estimates	\$ -						
i. Obtain Opinion of Probable Cost for utility relocations from TxDOT consultant.	\$ 140		1				
ii. Using TxDOT consultant's unit costs, prepare OPC with "Betterment".	\$ 340		1	2			
iii. Detail COT Standards and/or Design Calculations to determine "Betterment".	\$ 760		4	2			
i. Attachment H – Proof of Property	\$ -						
i. Obtain and document City of Temple "Real Property Interests".	\$ 540		1	4			
j. Attachment I – Inclusion in Highway Construction Contract	\$ 140		1				
D. Meet with TxDOT's Utility director to review draft and incorporate comments.	\$ 760		4	2			
E. Meet with City of Temple Staff to review TxDOT Reimbursable Agreement.	\$ 440	1	2				
F. Prepare and mail three (3) copies of executed document on behalf of the City.	\$ 280		1				2
G. Address TxDOT review comments.	\$ 1,190	1	4	4			1

Scope Items	Total	Summary of Hours					
		Principal	PE	Grad Eng	CAD	OSR	Clerical
		\$160.00	\$140.00	\$100.00	\$90.00	\$75.00	\$70.00
II. Plan Review							
A. Review 60% Utility Plans for:	\$ -						
a. Accuracy with respect to size, material and alignment as determined in preliminary phase.	\$ 7,680	2	24	40			
b. Compliance with City of Temple standards and standard practices.	\$ 2,480	1	8	12			
c. Potential operation and/or maintenance conflicts in future.	\$ 2,320	4	12				
B. Prepare written review comments for submission to TxDOT Consultant.	\$ 3,820	1	8	24			2
C. Prepare 60% Construction Sequence.	\$ 5,760	2	16	32			
D. Meet with TxDOT and COT Staff to discuss review comments and construction sequencing.	\$ 2,560	4	8	8			
E. Review 90% Utility Plans for:	\$ -						
a. Accuracy with respect to size, material and alignment as determined in preliminary phase.	\$ 2,320	1	4	16			
b. Compliance with City of Temple standards and standard practices.	\$ 2,160		4	16			
c. Potential operation and/or maintenance conflicts in future.	\$ 2,880	1	8	16			
d. Traffic Control Plan.	\$ 2,400	1	16				
F. Prepare 90% Construction Sequence.	\$ 2,480	1	8	12			
G. Review 100% Utility Plans for:	\$ -						
a. Accuracy with respect to size, material and alignment as determined in preliminary phase.	\$ 340		1	2			
b. Compliance with City of Temple standards and standard practices.	\$ 340		1	2			
c. Potential operation and/or maintenance conflicts in future.	\$ 920	1	4	2			
d. Traffic Control Plan.	\$ 680		2	4			
H. Prepare 100% Construction Sequence.	\$ 1,280	1	8				
I. Attend coordination meetings conducted by TxDOT.	\$ 8,320	16	24	24			
TOTAL HOURS	1,105	70	354	478	196	0	7
Task I -- Preliminary	701	34	198	268	196	0	5
Task II -- Plan Review	404	36	156	210	0	0	2
TOTAL LABOR COSTS	\$ 126,690	\$11,200	\$ 49,560	\$47,800	\$17,640	\$ -	\$ 490
Task I -- Preliminary	\$ 77,950	\$ 5,440	\$ 27,720	\$26,800	\$17,640	\$ -	\$ 350
Task II -- Plan Review	\$ 48,740	\$ 5,760	\$ 21,840	\$21,000	\$ -	\$ -	\$ 140

TOTAL FEE ESTIMATE	\$ 126,690
---------------------------	-------------------



KASBERG, PATRICK & ASSOCIATES, LP

CONSULTING ENGINEERS

Texas Firm F-510

RICK N. KASBERG, P.E.

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

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One South Main Street
Temple, Texas 76501
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3613 Williams Drive, Suite 406
Georgetown, Texas 78628
(512) 819-9478

October 7, 2010

Mr. Michael Newman, P.E., C.F.M.
City of Temple
3210 East Avenue H, Building A
Temple, Texas 76501

Re: City of Temple, Texas
Coordination and Review of Utility Relocations associated with TxDOT Widening of IH-35
from **Nugent to North Loop 363**

Dear Mr. Newman:

This letter proposal is in response to your request for engineering services required for the coordination and review of relocation plans and subsequent construction of City owned utilities (water and sewer) along IH-35 (Nugent to North Loop 363) in conjunction with the highway reconstruction by the Texas Department of Transportation (TxDOT). The Nugent to North Loop 363 highway reconstruction along IH-35 will impact over 17,000 ft. of City and Temple water and wastewater utilities. The attached Location Map depicts this section of the project.

The Texas Department of Transportation (TxDOT) is currently in the design phase for widening IH-35 from the intersection with South Loop 363 to north of Troy. TxDOT has divided this segment of IH-35 widening into three (3) separate design contracts as follows:

1. South Loop 363 to Nugent Avenue
2. Nugent Avenue to North Loop 363
3. North Loop 363 to North of Troy - (Project 3A1)

TxDOT has included the relocation of City of Temple water and wastewater utilities in these contracts. The design of the utility relocations will be prepared by TxDOT's consultants. TxDOT has indicated that the design of the roadway for the "Loop to Loop" sections of the project (Nugent to North Loop 363 and South Loop 363 to Nugent) will be completed by December 2010. The coordination and review of utility relocations will continue into Spring 2011. Construction of these two sections remains unfunded and the TxDOT letting date has not been established at this time.

Due to the accelerated design schedules, KPA will act as an extension of the City of Temple's Public Works / Engineering Department during the design phases of these projects. A detailed scope of services for KPA's participation in the Nugent to North Loop 363 portion of the TxDOT widening is included as Attachment A.

Kasberg, Patrick & Associates, LP services will include preliminary coordination and review services, preparation of TxDOT agreement, plan review at 60%, 90% and 100%, and preparation of TxDOT reimbursement requests on behalf of the City. The following is a summary of lump sum costs for our services; a detailed breakdown is included as Attachment B:

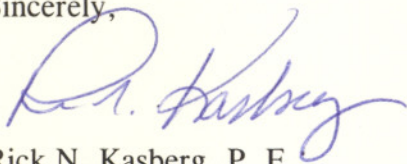
Basic Services

• Preliminary Review/Coordination	\$	54,470
• TxDOT Agreement		
• Plan Review	\$	31,720
TOTAL	\$	86,190

KPA will begin work once written authorization is received in our office. We will not exceed this amount without your authorization. All work will be billed on a monthly basis. We are available to address any questions or comments that you may have about this proposal.

Thank you for allowing us to serve the City of Temple in this capacity.

Sincerely,



Rick N. Kasberg, P. E.

crc/
2010-135

Approved and Accepted on this _____ day of _____, 2010.

Authorized Signature

Attachment A

KPA SCOPE OF SERVICES

City of Temple, Texas Coordination and Review of Utility Relocations associated with TxDOT Widening of IH-35

Nugent to North Loop 363

October 7, 2010

Background

The Texas Department of Transportation (TxDOT) is currently in the design phase for widening IH-35 from the intersection with South Loop 363 to north of Troy. TxDOT has divided this segment of IH-35 widening into three (3) separate design contracts as follows:

1. South Loop 363 to Nugent Avenue
2. Nugent Avenue to North Loop 363
3. North Loop 363 to North of Troy - (Project 3A1)

TxDOT has included the relocation of City of Temple water and wastewater utilities in these contracts. The design of the utility relocations will be prepared by TxDOT's consultants. TxDOT has indicated that the design of the roadway for the "Loop to Loop" sections of the project (Nugent to North Loop 363 and South Loop 363 to Nugent) will be completed by December 2010. The coordination and review of utility relocations will continue into Spring 2011. Construction of these two sections remains unfunded and the TxDOT letting date has not been established at this time.

I. Preliminary

- A. Meet with TxDOT Utility Coordinator to review proposed schedule, contact persons and information and confirm project eligibility / reimbursable procedures.
- B. Review Subsurface Utility Engineering (SUE) sheets included in 30% Review Plan Sets.
 - a. Conduct meeting with City of Temple staff to verify size and general location of existing City of Temple utilities.
 - b. Conduct field reconnaissance to observe location of existing City of Temple utilities.
 - c. Prepare a summary letter identifying errors and/or omissions as determined from review of as-builts and discussions with Operations Staff.
 - d. Determine existing utilities that are in conflict with the proposed IH-35 widening alignment from the City of Temple's future operations and maintenance perspective.
 - e. Review City of Temple Master Plans and Tax Incremental Refinance Zone #1 (TRZ) plans to determine possible conflicts with proposed expansion. Prepare written summary of potential conflicts to be forwarded to TxDOT's sub-consultant for inclusion in subsequent and final plans.
 - f. Review existing utilities determined to be in conflict and determine if improvements should be investigated (i.e.; abandon force main and install gravity sewer, upsize existing lines, etc.).

- g. Prepare a preliminary assessment of "Betterment" to be reviewed by City Staff.
 - h. Prepare preliminary alignment of utilities to be relocated based on City of Temple's current standards, Staff input and City of Temple best interests. This general alignment and sizing will be reviewed against TxDOT's consultant alignment once it has been prepared and will serve as a basis for discussion on final alignments.
- C. Prepare TxDOT Reimbursable Agreement including preparation of the following forms and documentation to be executed by City of Temple and TxDOT:
- a. Standard Utility Agreement (Form ROW-U-35)
 - b. Attachment A – Plans, Specifications and Estimated Costs
 - i. Preparation of Plans and Specifications for the relocation of City of Temple Utilities are not included in KPA's scope. However, KPA will prepare a summary of Project Costs (not including actual construction/relocation costs) detailing direct City of Temple costs including consultant fees.
 - c. Attachment B – Utility's Accounting Method
 - i. KPA will meet with City of Temple Finance Department Staff to determine acceptable method and recommend steps during the design phase to facilitate reimbursement.
 - d. Attachment C – Utility Schedule of Work and Estimated Date of Completion
 - i. Coordinate with TxDOT and their consultant to determine schedule for inclusion in this attachment.
 - e. Attachment D – Statement Covering Work
 - i. Form ROW-U-48
 - f. Attachment E – Utility Joint Use Acknowledgement
 - i. Form ROW-U-JUAA
 - g. Attachment F – Eligibility Ratio Calculation
 - i. Prepare statement concerning eligibility ratio calculations as they relate to Texas Transportation Code section 203.092 and Interstate Highways when Federal Participation is 100%.

- h. Attachment G – Betterment Calculation and Estimates
 - i. Obtain Opinion of Probable Cost for utility relocations from TxDOT consultant.
 - ii. Using TxDOT consultant's unit costs, prepare OPC with "Betterment".
 - iii. Detail any City of Temple Standards and/or Design Calculations that show the design does not constitute "betterment", if applicable.
- i. Attachment H – Proof of Property
 - i. Obtain and document City of Temple "Real Property Interests" for known easements and/or real property such as Lift Station tracts, etc. This item consists of obtaining a copy of the recorded document from the Bell County Clerk's office and incorporating the documents into the final agreement.
- j. Attachment I – Inclusion in Highway Construction Contract
- D. Meet with TxDOT's Utility Coordination director to review preliminary draft of TxDOT Reimbursable Agreement prior to submission. Incorporate comments.
- E. Meet with City of Temple Staff to review TxDOT Reimbursable Agreement prior to submitting City Council Agenda Item.
- F. Prepare and mail three (3) copies of executed document on behalf of the City.
- G. Address TxDOT review comments.

II. Plan Review

- A. Review 60% Utility Plans for:
 - a. Accuracy with respect to size, material and alignment as determined in preliminary phase.
 - b. Compliance with City of Temple standards and standard practices.
 - c. Potential operation and/or maintenance conflicts in future.
- B. Prepare written review comments for submission to TxDOT Consultant.
- C. Prepare 60% Construction Sequence to allow operation of system during construction including documenting necessary temporary facilities.
- D. Meet with TxDOT Consultant and City of Temple Staff to discuss review comments and construction sequencing.

- E. Review 90% Utility Plans for:
 - a. Accuracy with respect to size, material and alignment as determined in preliminary phase.
 - b. Compliance with City of Temple standards and standard practices.
 - c. Potential operation and/or maintenance conflicts in future.
 - d. Traffic Control Plan.
- F. Prepare 90% Construction Sequence to allow operation of system during construction including documenting necessary temporary facilities.
- G. Review 100% Utility Plans for:
 - a. Accuracy with respect to size, material and alignment as determined in preliminary phase.
 - b. Compliance with City of Temple standards and standard practices.
 - c. Potential operation and/or maintenance conflicts in future.
 - d. Traffic Control Plan.
- H. Prepare 100% Construction Sequence to allow operation of system during construction including documenting necessary temporary facilities.
- I. Attend coordination meetings conducted by TxDOT including preparation of minutes as discussion pertains to City of Temple Utilities.

Attachment B
City of Temple, Texas
Coordination and Review of Utility Relocations associated with TxDOT Widening of IH-35 from Nugent to North Loop 363
October 7, 2010

Scope Items	Total	Summary of Hours					
		Principal	PE	Grad Eng	CAD	OSR	Clerical
		\$160.00	\$140.00	\$100.00	\$90.00	\$75.00	\$70.00
I. Preliminary							
A. Meet/Coordinate with TxDOT Utility Coordinator	\$ 300	1	1				
B. Review SUE sheets included in 30% Review Plan Sets.	\$ -						
a. Conduct meeting with COT staff to verify existing City of Temple utilities.	\$ 1,600	2	4		8		
b. Conduct field reconnaissance to observe existing City of Temple utilities.	\$ 13,520	8	32	56	24		
c. Prepare a summary letter identifying errors and/or omissions in SUE.	\$ 1,660	1	4	8			2
d. Determine ex. utilities in conflict with proposed IH-35 widening alignment.	\$ 7,440	4	16	24	24		
e. Review COTemple Master Plans and TRZ plans to determine possible conflicts.	\$ 720	1	4				
i. Prepare written summary of potential conflicts.	\$ 720	1	4				
f. Review ex. utilities in conflict and determine if betterment should be investigated.	\$ 1,520	1	4	8			
g. Prepare a preliminary assessment of "Betterment" to be reviewed by City Staff.	\$ 1,520	1	4	8			
h. Prepare prelim. alignment of relocated utilities for COT interests.	\$ 14,880	2	24	40	80		
i. Reviewed vs. TxDOT's consultant alignment and forward comments.	\$ 2,880	1	8	16			
C. Prepare TxDOT Reimbursable Agreement:	\$ -						
a. Standard Utility Agreement (Form ROW-U-35)	\$ -						
b. Attachment A - Plans, Specifications and Estimated Costs	\$ -						
i. Prepare Project Costs detailing City of Temple costs and consultant fees.	\$ 1,320		8	2			
c. Attachment B - Utility's Accounting Method	\$ -						
i. Meet with City of Temple Finance Department Staff.	\$ 380		2	1			
d. Attachment C - Utility Schedule of Work and Estimated Date of Completion	\$ -						
i. Coordinate with TxDOT and their consultant to determine schedule.	\$ 380		2	1			
e. Attachment D - Statement Covering Work	\$ -						
i. Form ROW-U-48	\$ 140		1				
f. Attachment E - Utility Joint Use Acknowledgement	\$ -						
i. Form ROW-U-JUAA	\$ 140		1				
g. Attachment F - Eligibility Ratio Calculation	\$ -						
i. Prepare statement concerning eligibility ratio calculations.	\$ 760		4	2			
h. Attachment G - Betterment Calculation and Estimates	\$ -						
i. Obtain Opinion of Probable Cost for utility relocations from TxDOT consultant.	\$ 140		1				
ii. Using TxDOT consultant's unit costs, prepare OPC with "Betterment".	\$ 340		1	2			
iii. Detail COT Standards and/or Design Calculations to determine "Betterment".	\$ 760		4	2			
i. Attachment H - Proof of Property	\$ -						
i. Obtain and document City of Temple "Real Property Interests".	\$ 540		1	4			
j. Attachment I - Inclusion in Highway Construction Contract	\$ 140		1				
D. Meet with TxDOT's Utility director to review draft and incorporate comments.	\$ 760		4	2			
E. Meet with City of Temple Staff to review TxDOT Reimbursable Agreement.	\$ 440	1	2				
F. Prepare and mail three (3) copies of executed document on behalf of the City.	\$ 280		1				2
G. Address TxDOT review comments.	\$ 1,190	1	4	4			1

Scope Items	Total	Summary of Hours					
		Principal	PE	Grad Eng	CAD	OSR	Clerical
		\$160.00	\$140.00	\$100.00	\$90.00	\$75.00	\$70.00
II. Plan Review							
A. Review 60% Utility Plans for:	\$ -						
a. Accuracy with respect to size, material and alignment as determined in preliminary phase.	\$ 3,040	2	8	16			
b. Compliance with City of Temple standards and standard practices.	\$ 1,520	1	4	8			
c. Potential operation and/or maintenance conflicts in future.	\$ 720	1	4				
B. Prepare written review comments for submission to TxDOT Consultant.	\$ 1,660	1	4	8			2
C. Prepare 60% Construction Sequence.	\$ 3,040	2	8	16			
D. Meet with TxDOT and COT Staff to discuss review comments and construction sequencing.	\$ 1,600	4	4	4			
E. Review 90% Utility Plans for:	\$ -						
a. Accuracy with respect to size, material and alignment as determined in preliminary phase.	\$ 1,240	1	2	8			
b. Compliance with City of Temple standards and standard practices.	\$ 1,080		2	8			
c. Potential operation and/or maintenance conflicts in future.	\$ 2,880	1	8	16			
d. Traffic Control Plan.	\$ 2,240	1	12	4			
F. Prepare 90% Construction Sequence.	\$ 1,520	1	4	8			
G. Review 100% Utility Plans for:	\$ -						
a. Accuracy with respect to size, material and alignment as determined in preliminary phase.	\$ 340		1	2			
b. Compliance with City of Temple standards and standard practices.	\$ 340		1	2			
c. Potential operation and/or maintenance conflicts in future.	\$ 920	1	4	2			
d. Traffic Control Plan.	\$ 540		1	4			
H. Prepare 100% Construction Sequence.	\$ 720	1	4				
I. Attend coordination meetings conducted by TxDOT.	\$ 8,320	16	24	24			
TOTAL HOURS	748	58	237	310	136	0	7
Task I -- Preliminary	488	25	142	180	136	0	5
Task II -- Plan Review	260	33	95	130	0	0	2
TOTAL LABOR COSTS	\$ 86,190	\$ 9,280	\$33,180	\$31,000	\$12,240	\$ -	\$ 490
Task I -- Preliminary	\$ 54,470	\$ 4,000	\$19,880	\$18,000	\$12,240	\$ -	\$ 350
Task II -- Plan Review	\$ 31,720	\$ 5,280	\$13,300	\$13,000	\$ -	\$ -	\$ 140

TOTAL FEE ESTIMATE	\$ 86,190
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FY 2011**BUDGET ADJUSTMENT FORM**

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

Adjustments should be rounded to the nearest \$1.

			+		-	
ACCOUNT NUMBER	PROJECT #	ACCOUNT DESCRIPTION	INCREASE		DECREASE	
520-5900-535-66-18	100687	Special Projects-South LP 363 to Nugent	\$ 126,690			
520-5900-535-66-18	100688	Special Projects- Nugent to North LP 363	86,190			
520-0000-461-08-65		Miscellaneous Reimbursements	212,880			
TOTAL.....			\$ 425,760		\$ -	

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

To appropriate funding for Kasberg, Patrick & Associates to perform professionals services in an amount not to exceed \$212,880 for utility relocation engineering services in association with IH-35 Improvements from South Loop 363 to North Loop 363. TxDot will reimburse the City 100%.

DOES THIS REQUEST REQUIRE COUNCIL APPROVAL?

☒

Yes

☐

No

DATE OF COUNCIL MEETING

October 21, 2010

WITH AGENDA ITEM?

☒

Yes

☐

No

Department Head/Division DirectorDate☐

Approved

☐

Disapproved

FinanceDate☐

Approved

☐

Disapproved

City ManagerDate☐

Approved

☐

Disapproved

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING THE CITY MANAGER TO EXECUTE A LETTER OF UNDERSTANDING WITH THE TEXAS DEPARTMENT OF TRANSPORTATION (TxDOT) TO PROVIDE REIMBURSEMENT TO THE CITY BY TxDOT, IN THE AMOUNT OF \$212,880, FOR UTILITY ENGINEERING RELOCATION SERVICES IN ASSOCIATION WITH THE IH-35 IMPROVEMENTS FROM SOUTH LOOP 363 TO NORTH LOOP 363; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, the State's expansion of IH-35 through Temple will require relocation of existing City owned water and wastewater utilities – since this project will require substantial coordinated efforts between the City and the State related to design improvements, plan review, site observation, and construction administration, a professional consultant is needed to act on behalf of the City through this complex expansion effort;

Whereas, TxDOT has requested the City to sign a Letter of Understanding for reimbursement of the engineering services and for City staff time incurred for relocating publicly operated utilities in conjunction with the IH-35 roadway improvements project;

Whereas, the total reimbursement to be received by the City from TxDOT is \$212,880; 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 Letter of Understanding with the Texas Department of Transportation (TxDOT), after approval as to form by the City Attorney, to provide reimbursement to the City by TxDOT in the amount of \$212,880 for utility engineering relocation services in association with the IH-35 improvements from South Loop 363 to North Loop 363.

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 **21st** day of **October**, 2010.

THE CITY OF TEMPLE, TEXAS

WILLIAM A. JONES, III, Mayor

ATTEST:

APPROVED AS TO FORM:

Clydette Entzminger
City Secretary

Jonathan Graham
City Attorney

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING A PROFESSIONAL SERVICES AGREEMENT BETWEEN THE CITY OF TEMPLE, TEXAS, AND KASBERG, PATRICK & ASSOCIATES, L.P., FOR UTILITY RELOCATION ENGINEERING SERVICES IN ASSOCIATION WITH IH-35 IMPROVEMENTS FROM SOUTH LOOP 363 TO NUGENT, IN AN AMOUNT NOT TO EXCEED \$126,690; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, the State's expansion of IH-35 through Temple will require relocation of existing City owned water and wastewater utilities – since this project will require substantial coordinated efforts between the City and the State related to design improvements, plan review, site observation, and construction administration, a professional consultant is needed to act on behalf of the City through this complex expansion effort;

Whereas, Kasberg, Patrick & Associates, L.P., submitted a proposal for utility relocation engineering services for South Loop 363 to Nugent in the amount of \$126,690, and the Staff recommends accepting it;

Whereas, funds are available for this project but an amendment to the FY 2011 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 professional services agreement, not to exceed \$126,690, between the City of Temple, Texas, and Kasberg, Patrick & Associates, L.P., after approval as to form by the City Attorney, for utility engineering relocation services in association with IH-35 improvements from South Loop 363 to Nugent.

Part 2: The City Council approves an amendment to the FY 2011 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 **21st** day of **October**, 2010.

THE CITY OF TEMPLE, TEXAS

WILLIAM A. JONES, III, Mayor

ATTEST:

APPROVED AS TO FORM:

Clydette Entzminger
City Secretary

Jonathan Graham
City Attorney

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING A PROFESSIONAL SERVICES AGREEMENT BETWEEN THE CITY OF TEMPLE, TEXAS, AND KASBERG, PATRICK & ASSOCIATES, L.P., FOR UTILITY RELOCATION ENGINEERING SERVICES IN ASSOCIATION WITH IH-35 IMPROVEMENTS FROM NUGENT TO NORTH LOOP 363, IN AN AMOUNT NOT TO EXCEED \$86,190; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, the State's expansion of IH-35 through Temple will require relocation of existing City owned water and wastewater utilities – since this project will require substantial coordinated efforts between the City and the State related to design improvements, plan review, site observation, and construction administration, a professional consultant is needed to act on behalf of the City through this complex expansion effort;

Whereas, Kasberg, Patrick & Associates, L.P., submitted a proposal for utility relocation engineering services for Nugent to North Loop 363 in the amount of \$86,190, and the Staff recommends accepting it;

Whereas, funds are available for this project but an amendment to the FY 2011 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 professional services agreement, not to exceed \$86,190, between the City of Temple, Texas, and Kasberg, Patrick & Associates, L.P., after approval as to form by the City Attorney, for utility engineering relocation services in association with IH-35 improvements from Nugent to North Loop 363.

Part 2: The City Council approves an amendment to the FY 2011 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 **21st** day of **October**, 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

10/21/10
Item #4(I)
Consent Agenda
Page 1 of 1

DEPT./DIVISION SUBMISSION & REVIEW:

Gary O. Smith, Chief of Police

ITEM DESCRIPTION: Consider adopting a resolution authorizing an amendment to the Interlocal Agreement with the Temple Independent School District (TISD) providing for one additional Temple Police Department School Resource Officer.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: The City of Temple and the TISD previously entered into an agreement on this issue. The revised agreement is requested by the TISD to better identify costs associated with the salary and benefits of the police officer assigned to the school resource function. These costs are outlined in Exhibit A, which should include the following for pay: \$74,382 (2010-2011), \$77,308 (2011-2012), \$80,389 (2012-2013). The TISD will agree to pay mileage per year estimated at \$2,825 (\$0.50/mile @day for 226 days). The costs outlined above are estimates, and the City of Temple will bill the TISD based on actual amounts. The TISD will also pay the City for any officer equipment replacement and for the officer's SRO training not to exceed \$7,672.

The original term of this agreement was to end on September 30, 2014 but TISD is asking this be amended to end on June 30, 2013, or for the duration of grant funds, whichever is longer.

FISCAL IMPACT: TISD will reimburse the City of Temple for increases in the salary and benefits of the assigned officer, plus pay for equipment replacement and training.

ATTACHMENTS:

[Resolution](#)

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING AN AMENDMENT TO THE INTERLOCAL AGREEMENT WITH THE TEMPLE INDEPENDENT SCHOOL DISTRICT (TISD) PROVIDING FOR ONE ADDITIONAL SCHOOL RESOURCE OFFICER; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, on July 16, 2009, the City entered into an interlocal agreement with the Temple Independent School District for one additional school resource officer;

Whereas, the agreement needs to be amended to revise the term so that it will coincide with TISD's grant term and also to better identify costs associated with the salary and benefits of the police officer assigned to the school resource function;

Whereas, TISD reimburses the City for increases in the salary and benefits of the assigned police officer and also pays for equipment replacement and training; 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 interlocal agreement with the Temple Independent School District, after approval as to form by the City Attorney, to add one School Resource Officer to better identify costs associated with the salary and benefits of the police officer assigned to the school resource function and to revise the term of the agreement.

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 **21st** day of **October**, 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

10/21/10
Item #4(J)
Consent Agenda
Page 1 of 2

DEPT. /DIVISION SUBMISSION & REVIEW:

Brian Mabry, AICP, Planning Director

ITEM DESCRIPTION: SECOND READING – Consider adopting an ordinance dual naming a portion of North and South 34th Street, beginning at East Adams Avenue and ending at East Avenue H, to North or South 34th Street/Myrtle Captain Street.

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

ITEM SUMMARY: On August 23rd, 2010, the City Secretary received a petition signed by 44 people requesting that a portion of North and South 34th Street be renamed Myrtle Captain Street. Ms. Captain (very recently deceased) was involved in a variety of local organizations such as the National Association for the Advancement of Colored People and the Ebony Cultural Society. In addition, she was instrumental in establishing Wilson and Miller Community Parks.

The street name change will affect three citizens at the following addresses: 4 North 34th Street and 506 & 508 South 34th Street. Other addresses are currently unoccupied or belong to the City. Staff has sent letters to the affected property owners notifying them of this proposed change. **At the October 7th City Council meeting, the Council approved the ordinance, on first reading, to dual name this portion of 34th Street to minimize the impact on the affected addresses.**

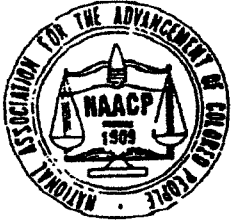
The proposed street name does not conflict with other names in Temple. Applicable City departments reviewed the request. The ordinance will take affect 30 days after the second reading to allow time for the installation of new street signs and update maps.

While the roadway name changes, the address numbers remain the same.

FISCAL IMPACT: Change in street signs along North and South 34th Street. Estimate cost of \$150.

ATTACHMENTS:

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



National Association For The Advancement Of Colored People
Temple Branch
P.O. Box 157
Temple, Texas 76503

PETITION TO RENAME A SECTION OF 34TH STREET

August 23, 2010

Mayor William A. Jones, III & Members of the City Council

Second North Main Street

Temple, Texas 76501

We the citizens of Temple, Texas support the renaming of 34th Street, beginning at Avenue H and ending at Adams, to Myrtle Captain Street:

Signature	Address	Telephone Number
<i>George E. English</i>	<i>2109 E. Ave I</i>	<i>254-778-4115</i>
<i>Dontine English</i>	<i>2109 E. Ave I</i>	<i>254-778-4115</i>
<i>Mrs. + Mrs. Melvin Fowler</i>	<i>508 So. 34th</i>	<i>254-778-8634</i>
<i>William P. J. Long</i>	<i>173006 Vanfelt</i>	<i>Temple 773-1446</i>
<i>Carrie J. Milligan</i>	<i>3906 Brumie Tr.</i>	<i>254-774-9303</i>
<i>Laura L. Alcorn</i>	<i>2015 So 7th</i>	<i>771-2357</i>
<i>Virginia Leak</i>	<i>5120 Waterford Dr.</i>	<i>254-778-2909</i>
<i>William Leak</i>	<i>5120 Waterford Dr.</i>	<i>254-778-2909</i>
<i>Dr. & Gary Smith</i>	<i>709 N 2 ST</i>	<i>254-778-7556</i>
<i>Rose A</i>	<i>107 Twelve Oaks Dr</i>	<i>254-624-7111</i>
<i>Samantha</i>	<i>101 Twelve Oaks</i>	<i>254-624-7133</i>
<i>Mrs. + Mrs. L.C. Bailey</i>	<i>1310 S. 4th St.</i>	<i>254-778-8017</i>

Petition to rename 34th Street (continued)

Rev. Charles E. Mays 409 South 13th St. (254) 778-3494

Susan White Neff 906 So. 38th 223-0586

Rufus M. White

Durvell Canady 910 So. 38th St. 254-773-5120

Lorena Canady 910 So. 38th St. 254-773-5120

Carol Rishy - 412 E. Lamar Ave

Willie Mae Mott 1216 N. 17th (254) 7734936

Bobbie Scott 810 West Point Temple, TX

Union L. Blocker 9 Welton Temple, Texas 76501

Mary Robertson 2421-D Valley Forge, Temple

Louise Williams 1000 S. Milk Tr. Drive 76504

Jacqueline Townsend 917 Crockett St 76501

James Clark 1906 E Ave G Temple 76501

Maurice Y. Storum 1010 South 22nd Temple, Tx 76501

Ellen M. Jenkins 517 So. 21st Temple, Tx. 76504

My Coleman 906 So. 20th St Temple TX 76503

Hattie Stewart 946 Lick Elm, Temple, TX 76501

Anne M. Slides Ave M. Temple 76501

Naomi Milligan 802 Yorktown, Temple, TX 76504

His Ray 8601 Hogan Rd Temple, TX 76502

Rochelle Ray 8601 Hogan Rd Temple, TX 76502

Lanay Francy 813 E Houston Temple TX 76501

Willie Roberts 113 Sundance Drive " " 76502

Robert A. Clay 1516 S 35th St Temple 76504

Louis H. Hamilton 1901 South 15th St Temple 77891, 976504

Phyllis Stevenson 406 South 13th St Temple, 254-771-5447

Ellen M. Carter, 810 South 45th St Temple, TX - 254 773-2382

Jura M. White, 2908 Durango Dr. Temple, TX '04 254 774 8812

Jimmy Noble 309 Duwatts Temple TX 254-220-2261

Ernest Soden 1611 E. Calhoun Ave Temple TX 254-742-0948

Arnette Felton 1611 E. Calhoun Ave Temple TX 254-742-0948

Lucie Jenkins 1081 Martin Luther King Jr Temple TX 254-774-9546



Proposed Renaming: N. & S. 34th Street to N. & S. 34th Street / Myrtle Captain Street

Street name change to
N. & S. 34th Street /
Myrtle Captain Street



1 inch = 700 feet
jstone 9.8.10 Captain St.mxd

ORDINANCE NO. 2010-4396

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, DUAL NAMING A PORTION OF NORTH AND SOUTH 34TH STREET, BEGINNING AT EAST ADAMS AVENUE AND ENDING AT EAST AVENUE H, TO *NORTH OR SOUTH 34TH STREET/MYRTLE CAPTAIN STREET*; DECLARING FINDINGS OF FACT; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, on August 23, 2010, the City Secretary received a petition signed by 44 people requesting that a portion of North and South 34th Street be renamed Myrtle Captain Street in honor of Ms. Captain (recently deceased) who was involved in a variety of local organizations and who was instrumental in establishing Wilson and Miller Community Parks; and

Whereas, the proposed street name does not conflict with other street names in the City of Temple; and

Whereas, the City Council, after a public hearing, has considered the matter and deems it in the public interest to dual name this portion of North and South 34th Street.

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

Part 1: The City Council approves dual naming a portion of North and South 34th Street, beginning at East Adams Avenue and ending at East Avenue H, to *North or South 34th Street/Myrtle Captain Street*, more fully shown on a map attached hereto as Exhibit A.

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

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

Part 4: This ordinance shall take effect 30 days after the second reading to allow time for the installation of new street signs and updating of maps.

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

PASSED AND APPROVED on First Reading and Public Hearing on the **7th** day of **October**, 2010.

PASSED AND APPROVED on Second Reading on the **21st** day of **October**, 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

10/21/10
Item #4(K)
Consent Agenda
Page 1 of 3

DEPT./DIVISION SUBMISSION & REVIEW:

Brian Mabry, AICP, Planning Director

ITEM DESCRIPTION: SECOND READING – Z-FY-10-49: Consider adopting an ordinance authorizing a zoning change from Agricultural District (A) to Single Family One District (SF1), on a 0.23 ± acre tract of land in the John Cummings Survey, Abstract No. 178, located at 8566 Little Mexico Road.

P&Z COMMISSION RECOMMENDATION: At its September 20, 2010 meeting, the Planning and Zoning Commission voted 8/0 to recommend approval of a rezoning from A to SF-1. Commissioner Pope was absent.

STAFF RECOMMENDATION: Adopt ordinance as presented in item description, on second and final reading with staff recommending **denial** of Z-FY-10-49, a rezoning from A to SF-1, for the following reasons:

1. The request does not comply with the Future Land Use and Character Map; and
2. The request does not comply with Land Use Policy #17 related to incompatible uses near the Airport.

ITEM SUMMARY: Please refer to the Staff Report and draft minutes of case Z-FY-10-49, from the Planning and Zoning meeting, September 20, 2010. The applicants request this rezoning in order to build a single-family residence on the subject property, which is 0.23 acres or just over 10,000 square feet in area, and approximately 200 feet from the Draughton-Miller Central Texas Regional Airport.

At the first reading of this case on October 7, 2010, Councilmembers wanted to know more about airport noise levels and how they may impact the subject property and surrounding homes. A report from 2007 titled “Reinvestment Zone Aviation Campus - Temple Draughton-Miller Airport” states that current noise contours are entirely within airport property.

This lot size is too small to build a house on in the Agricultural zoning district. However, a foundation has already been poured for the house without applying for a building permit. Staff became aware of the foundation through routine Code Enforcement patrol. A Code Enforcement officer informed the applicant that he needed a building permit to continue work on the property. At the time of building permit submittal, Planning Staff noticed that the subject property was too small to have a house on it

in Agricultural zoning. If the City Council approves the SF-1 rezoning, the placement of the dwelling would comply with the SF-1 setbacks.

The area in the vicinity of the subject property is developed with single-family dwellings that were constructed prior to annexation. This is the first new dwelling proposed for the area since annexation in January 2008.

As reflected in the attached minutes, during the Planning and Zoning Commission public hearing, one of the applicants acknowledged that the proposed house would be close to the Airport. He stated that he grew up 25 feet from the subject property and personally did not mind the potential noise.

COMPREHENSIVE PLAN COMPLIANCE:

The proposed rezoning relates to the following goals, objectives or maps of the Comprehensive Plan, Trails Master Plan and other adopted plans:

Document	Policy, Goal, Objective or Map	Compliance?
CP	Map 3.1 - Future Land Use and Character	N
CP	Map 5.2 - Thoroughfare Plan	Y
CP	Goal 4.1 - Growth and development patterns should be consistent with the City's infrastructure and public service capacities	NA
CP	Land Use Policy #17 - The area around the Regional Airport should be reserved for appropriate uses that are less affected by aircraft noise, including office and/or industrial development.	N
CTMP	NA	NA

CP = Comprehensive Plan CTMP = Citywide Trails Master Plan

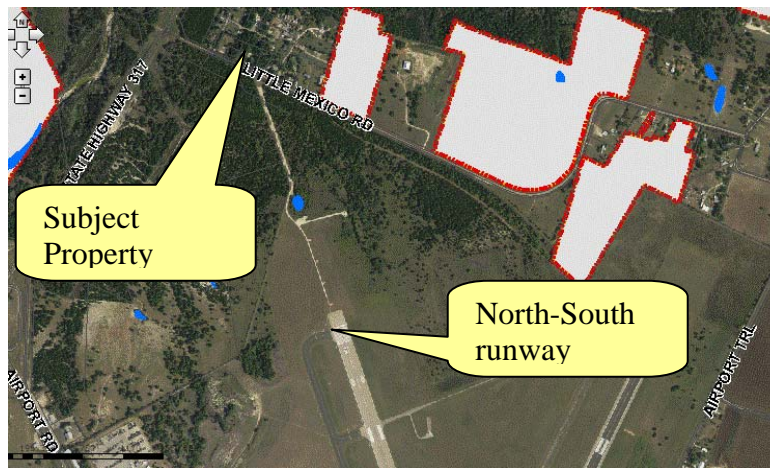
Future Land Use and Character (CP Map 3.1)

The future land use and character map designates the property as Agricultural. The rezoning request does not comply with the map. The proximity to airport property plays a large role in why this area is not shown for future residential development.

Thoroughfare Plan (CP Map 5.2)

The Thoroughfare Plan designates Little Mexico Road as a Local Street. The paved width of Little Mexico road is approximately 22 feet. In a recent survey of all of the roads in the City, the Public Works department assigned Little Mexico Road a C rating, with A being the best and F being the worst. However, with that being said, the rezoning request complies with the Thoroughfare Plan since it is appropriate for single-family residential uses to front on a Local Street.

Notes from the Comprehensive Plan rewrite project in 2008 show that Little Mexico Road was consciously chosen not to be upgraded to a future Collector Street on the Thoroughfare Plan map in order to avoid encouraging residential growth immediately north of the North-South Airport runway.



Availability of Public Facilities (CP Goal 4.1)

The Pendleton Water Supply Corporation maintains a 2½ -inch water line adjacent to the property. Bell County has approved a septic system permit for the property. The City has no public utilities in the vicinity of the subject property.

Land Use Policy #17

The Comprehensive Plan states that the area around the Airport should be reserved for appropriate uses that are less affected by aircraft noise, including office and/or industrial development. The rezoning request does not comply with this policy statement.

PUBLIC NOTICE:

Nine notices of the Planning and Zoning Commission public hearing were sent out. As of Wednesday, September 15 at 5 PM, three 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 September 9, 2010 in accordance with state law and local ordinance

FISCAL IMPACT: NA

ATTACHMENTS:

Aerial
Land Use and Character Map
Building Footprints Map
Zoning Map
Utility Map
Notice Map
Response Letters
P&Z Staff Report (Z-FY-10-49)
P&Z Minutes (September 20, 2010)
Ordinance



Z-FY-10-49

0.253 acres of OB# 7171-A

8566 Little Mexico Rd



Feet 0 50 100 150 200

 ZF Y1049

J Stone 8.25.10



Z-FY-10-49

0.253 acres of OB# 7171-A

8566 Little Mexico Rd



(Note: Map is from 1997 but still accurate. However, subject property currently has no structures on it)



Z-FY-10-49

0.253 acres of OB# 7171-A

8566 Little Mexico Rd



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

ZFY1049

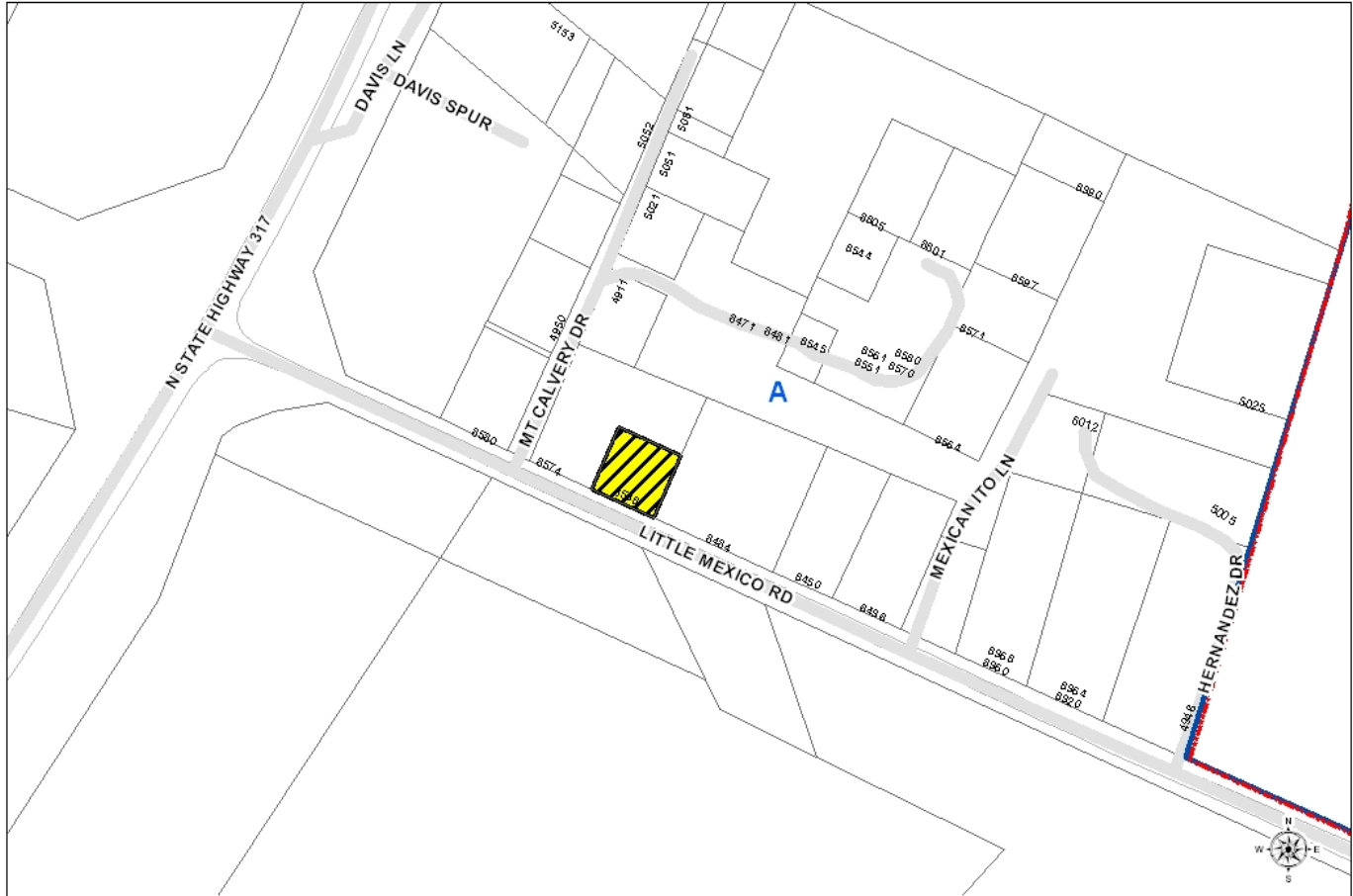
1 inch = 200 feet
J Stone 9.14.10



Z-FY-10-49

0.253 acres of OB# 7171-A

8566 Little Mexico Rd



ZFY1049

Feet 0 50 100 150 200

J Stone 8.25.10



Z-FY-10-49

0.253 acres of OB# 7171-A

8566 Little Mexico Rd



Feet 0 50 100 150 200



J Stone 8.25.10

 ZFY1049  WATER LINE  SEWER LINE

No City utilities in the area



RESPONSE TO PROPOSED
REZONING REQUEST
CITY OF TEMPLE

RECEIVED

SEP 15 2010

City of Temple
Planning & Development

Juanita Davila
8580 Little Mexico Road
Temple, Texas 76504

Zoning Application Number: Z-FY-10-49

Project Manager: Brian Mabry

The proposed rezoning will allow construction of a single family residential home which is the area shown in hatched marking on the attached map. Because you own property within 200 feet of the requested change, your opinions are welcomed. Please use this form to indicate whether you are in favor of the possible rezoning of the property described on the attached notice, and provide any additional comments you may have.

I recommend ☒ approval () denial of this request.

Comments:

Juanita Davila
Signature

Juanita Davila
Print Name

Please mail or hand-deliver this comment form to the address shown below, no later than September 20, 2010.

City of Temple
Planning Department
Room 201
Municipal Building
Temple, Texas 76501

RECEIVED

SEP 17 2010

City of Temple
Planning & Development

Number of Notices Mailed: 9

Date Mailed: September 10, 2010



RESPONSE TO PROPOSED
REZONING REQUEST
CITY OF TEMPLE

Martina Davila
8450 Little Mexico Road
Temple, Texas 76504

Zoning Application Number: Z-FY-10-49

Project Manager: Brian Mabry

The proposed rezoning will allow construction of a single family residential home which is the area shown in hatched marking on the attached map. Because you own property within 200 feet of the requested change, your opinions are welcomed. Please use this form to indicate whether you are in favor of the possible rezoning of the property described on the attached notice, and provide any additional comments you may have.

I recommend ☒ approval () denial of this request.

Comments:

Thank you for allowing this
young couple the opportunity to
build their first home! 😊

Martina Davila
Signature

Martina Davila
Print Name

Please mail or hand-deliver this comment form to the address shown below, no later than September 20, 2010.

City of Temple
Planning Department
Room 201
Municipal Building
Temple, Texas 76501

RECEIVED
SEP 15 2010
City of Temple
Planning & Development

Number of Notices Mailed: 9

Date Mailed: September 10, 2010



RESPONSE TO PROPOSED
REZONING REQUEST
CITY OF TEMPLE

Robert Etux Martha Leija
4971 Mc Calvary Drive
Temple, Texas 76504

Zoning Application Number: Z-FY-10-49

Project Manager: Brian Mabry

The proposed rezoning will allow construction of a single family residential home which is the area shown in hatched marking on the attached map. Because you own property within 200 feet of the requested change, your opinions are welcomed. Please use this form to indicate whether you are in favor of the possible rezoning of the property described on the attached notice, and provide any additional comments you may have.

I recommend ☒ approval ☐ denial of this request.

Comments:

Martha Leija
Signature

Martha Leija
Print Name

Please mail or hand-deliver this comment form to the address shown below, no later than September 20, 2010.

City of Temple
Planning Department
Room 201
Municipal Building
Temple, Texas 76501

RECEIVED

SEP 16 2010

City of Temple
Planning & Development

Number of Notices Mailed: 9

Date Mailed: September 10, 2010



PLANNING AND ZONING COMMISSION AGENDA ITEM

09/20/10
Item #3
Regular Agenda
Page 1 of 5

APPLICANT / DEVELOPMENT: David & Christina Davila

CASE MANAGER: Brian Mabry, AICP, Planning Director


ITEM DESCRIPTION: Z-FY-10-49 Hold a public hearing to discuss and recommend action on a rezoning from Agricultural District (A) to Single Family One District (SF1), on a 0.23 ± acre tract of land in the John Cummings Survey, Abstract No. 178, located at 8566 Little Mexico Road.





BACKGROUND: The applicants request this rezoning in order to build a single-family residence on the subject property, which is .23 acres or just over 10,000 square feet in area, and approximately 200 feet from the Draughton-Miller Central Texas Regional Airport. The property and its surroundings were annexed in January 2008 with the default Agricultural zoning district designation. This lot size is too small to build a house on in the Agricultural zoning district. However, a foundation has already been poured for the house without applying for a building permit. The foundation is setback approximately 34 feet from the front property line and approximately 13 feet and 33 feet from the side property lines. If the SF-1 rezoning were approved, the placement of the dwelling would comply with the SF-1 setbacks. In addition, if the rezoning is approved, and if the Commission believes it is appropriate to allow further residential development in this area, then the Future Land Use and Character Map should be considered for amendment to recommend residential uses for the area.

The attached aerial and building footprint map show that the area is somewhat heavily developed with single-family dwellings that were constructed prior to annexation. This is the first new dwelling proposed for the area since annexation.

SURROUNDING PROPERTY AND USES:

The following table shows the existing zoning and current land uses for the subject property and its general vicinity:

Direction	Zoning	Current Land Use	Photo
Subject Property	A (SF-1 proposed)	Newly poured house foundation	

Direction	Zoning	Current Land Use	Photo
North	A	Undeveloped	
South	A	Undeveloped (across Little Mexico Road)	
East	A	Single-family dwelling	
West	A	Manufactured home	

COMPREHENSIVE PLAN COMPLIANCE:

The proposed rezoning relates to the following goals, objectives or maps of the Comprehensive Plan, Trails Master Plan and other adopted plans:

Document	Policy, Goal, Objective or Map	Compliance?
CP	Map 3.1 - Future Land Use and Character	N
CP	Map 5.2 - Thoroughfare Plan	Y
CP	Goal 4.1 - Growth and development patterns should be consistent with the City's infrastructure and public service capacities	NA

Document	Policy, Goal, Objective or Map	Compliance?
CP	Land Use Policy #17 - The area around the Regional Airport should be reserved for appropriate uses that are less affected by aircraft noise, including office and/or industrial development.	N
CTMP	NA	NA

CP = Comprehensive Plan CTMP = Citywide Trails Master Plan

Future Land Use and Character (CP Map 3.1)

The future land use and character map designates the property as Agricultural. The rezoning request does not comply with the map. The proximity to airport property plays a large role in why this area is known shown for future residential development.

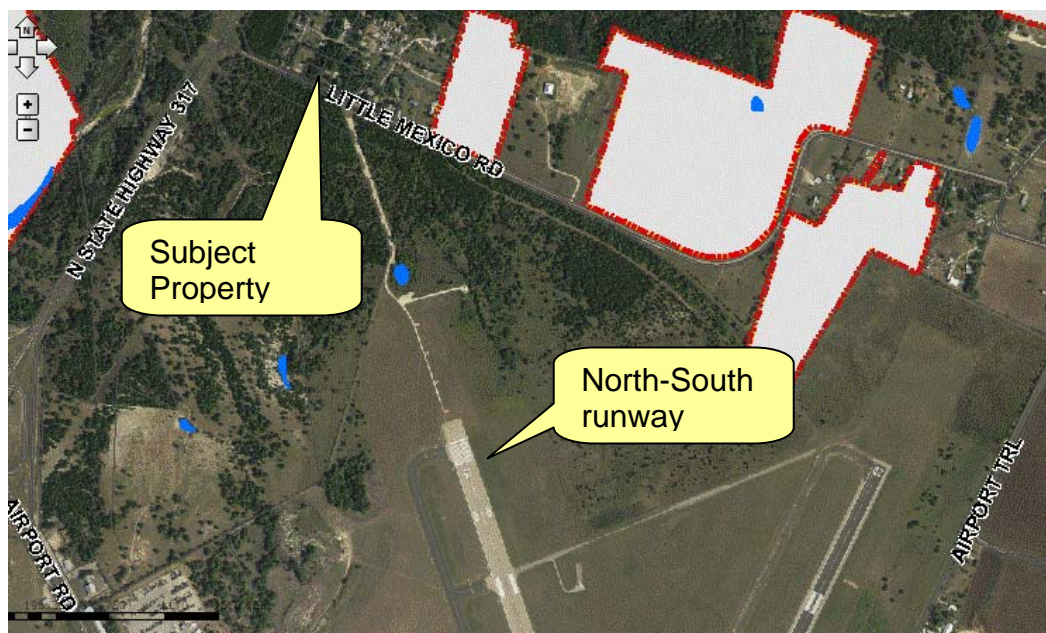
Thoroughfare Plan (CP Map 5.2)

The Thoroughfare Plan designates Little Mexico Road as a Local Street. A newly built Local Street in a platted subdivision must have a paved width of 31 feet. A paved width of 22 feet is allowed if the road serves a subdivision with a maximum of two dwelling units per acre. The paved width of Little Mexico road is approximately 22 feet. The residential density of the vicinity of the subject property is approximately one dwelling unit per 1.2 acres, which is less dense than the previously mentioned two dwelling units per one-acre requirement for a 22-foot wide road in a new subdivision. In a recent survey of all of the roads in the City, the Public Works department assigned Little Mexico Road a C rating, with A being the best and F being the worst. However, with that being said, the rezoning request complies with the Thoroughfare Plan.



Little Mexico Road Looking West

Although it is appropriate for a residential use to front on a Local Street, notes from the Comprehensive Plan rewrite project in 2008 show that Little Mexico Road was consciously chosen not to be upgraded to a future Collector Street on the Thoroughfare Plan map in order to avoid encouraging residential growth immediately north of the North-South airport runway.



Availability of Public Facilities (CP Goal 4.1)

The Pendleton Water Supply Corporation maintains a 2½ -inch water line adjacent to the property. Bell County has approved a septic system permit for the property. The City has no public utilities in the vicinity of the subject property.

Land Use Policy #17

The Comprehensive Plan states that the area around the airport should be reserved for appropriate uses that are less affected by aircraft noise, including office and/or industrial development. The rezoning request does not comply with this policy statement.

DEVELOPMENT REGULATIONS:

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

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

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

PUBLIC NOTICE:

Nine notices of the Planning and Zoning Commission public hearing were sent out. As of Wednesday, September 15 at 5 PM, three 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 September 9, 2010 in accordance with state law and local ordinance

STAFF RECOMMENDATION: Staff recommends denial of rezoning request Z-FY-10-49 for the following reasons:

1. The request does not comply with the Future Land Use and Character Map; and
2. The request does not comply with Land Use Policy #17 related to incompatible uses near the airport.

FISCAL IMPACT: Not Applicable

ATTACHMENTS:

Aerial
Land Use and Character Map
Building Footprints Map
Zoning Map
Utility Map
Notice Map
Response Letters (if applicable)

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

MONDAY, SEPTEMBER 20, 2010

ACTION ITEMS

Item 3: Z-FY-10-49: Hold a public hearing to discuss and recommend action on a rezoning from Agricultural District (A) to Single Family One District (SF1), on a 0.23 ± acre tract of land in the John Cummings Survey, Abstract No. 178, located at 8566 Little Mexico Road. (Applicant: David & Christina Davila)

Mr. Brian Mabry, Planning Director, stated this case would go to City Council for first reading on October 7, 2010, and second reading on October 21, 2010.

This request was to establish a Single Family (SF) dwelling on one lot that was .23± acre, approximately 10,000 square feet. The lot was currently zoned Agricultural (A) which required a one acre minimum lot size. Under the current Zoning Ordinance, this lot was too small to build a house on. Beginnings of a foundation were already on the property. If this request were approved for Single Family One (SF1), the foundation and framed up area would meet the setback standards of SF1.

The property and surrounding area were annexed in 2008 and approximately 200 feet from the nearest airport property line. The Figure Ground Map showed development of several single family dwellings already in the area.

Surrounding properties to the north and south were undeveloped, a single family dwelling lay to the east, and a manufactured home lay to the west.

The Future Land Use and Character Map designated the property as A so the request did not comply with it, nor did it comply with Land Use Policy No. 17 in the Comprehensive Plan that stated area around the airport should be reserved for uses that are less effected for airport noise, such as office and industrial development. The rezoning request did not comply with that policy statement.

The whole area was zoned A and this was the first attempt at a rezoning in this area. The Thoroughfare Plan for the area showed Little Mexico Road designated as a local street. During the drafting of the Comprehensive Plan, proposals of making Little Mexico Road as a collector street were noted, but a conscientious effort was made not to upgrade the status in order to discourage further growth this close to the airport.

Pendleton Water Supply would serve the site with a 2-1/2 inch water line. An on-site septic facility was proposed and approved by Bell County for the property. No City utilities were in the area.

Mr. Mabry gave dimensional standards for single family zoned property. The existing partial foundation met all requirements.

Nine (9) notices were mailed to surrounding property owners; three (3) were returned in favor and zero (0) notices were returned in opposition.

Staff recommended denial of this request since it did not comply with the Future Land Use and Character Map and Land Use Policy No. 17 related to compatible uses.

Commissioner Barton asked if the structures surrounding the property were built prior to annexation and Mr. Mabry stated yes, annexation occurred in 2008 and those predated annexation. Commissioner Barton asked if the applicant got a permit for the foundation and Mr. Mabry stated no, a permit was not issued for the work already done. Chair Talley asked if the permit was obtained by a construction company or the owner and Mr. Mabry stated they were "usually" done by the contractor of the property.

Chair Talley opened the public hearing.

Mr. David Davila Jr. of 5000 Mt. Calvary Dr., Temple, stated he was the owner of the land and asked why their request would not pass when other houses were there and he had lived in the same area for 25 years. The airplanes were not a problem. Mr. Davila stated he did not know a permit was needed.

Mr. Mabry stated the Comprehensive Plan had a recommendation that in the future, residential development should not occur near the airport. The possible rationale was that the noise could possibly lead to other issues even though the airport was located in the area first.

Mr. Davila stated he lived in the area for 25 years and airplanes did not bother him. He did not see what difference it made to live 4 or 5 houses down from where he was currently living.

Commissioner Barton asked Mr. Davila when he purchased the land and Mr. Davila stated "about a year and a half ago." Vice-Chair Martin asked when the community was annexed and Mr. Mabry stated "January '08."

Vice-Chair Martin stated it would be nice to uphold the Comprehensive Plan and everything that had been put into it, but at the same time, Mr. Davila had lived there for 25 years and all he wanted to do was build his house in the same community a couple of lots over. Vice-Chair Martin did not see how the Board could deny him that.

Commissioner Barton asked Mr. Mabry when someone bought a piece of property like this, was there any kind of deed restrictions and Mr. Mabry stated realtors might notify a person when they are buying property, and provide the buyer with the zoning of the property, and whether what the person wanted to do

would be allowed or not. Commissioner Barton specifically asked about Future Land Use and Character Maps and Land Use Policy No. 17. Mr. Mabry stated he had occasionally received calls from realtors asking what the Future Land Use designations were for various properties. Commissioner Pilkington stated it was easy to purchase property and not know that information. Commissioner Barton asked about a deed restriction and Mr. Mabry stated a deed restriction was usually part of a newer platted subdivision were privately enforced rules that the City did not get involved with while zoning is public rules that the City enforced. Commissioner Barton commented that Mr. Davila would not know this when he bought the property and Mr. Mabry stated there were no deed restrictions on that set of homes. As far as zoning, if the seller did not tell or the buyer did not ask, they would not have known. Mr. Davila stated he did not know about any of this. Chair Talley stated Mr. Davila tried to clear as much as he knew through his attorney.

Commissioner Sears asked about the water situation and Mr. Davila stated it would be through Pendleton Water.

Commissioner Pilkington asked Mr. Davila if he understood if this request were approved and the house were built and possibly sold someday; it would be Mr. Davila's responsibility to tell the buyer the house was built knowing the airport was there. Mr. Davila said he would not sell it.

Commissioner Staats stated the airport just went under complete runway expansion and there may be grander plans for the airport. Commissioner Martin stated he asked the City Manager about the runway expansion and part of the reason was due to, in the summertime, small aircraft needed the expanded runway in order to land and Mr. Blackburn stated there were no speculations for commercial aircraft anytime in the foreseeable future. There being no further speakers, Chair Talley closed the public hearing.

Commissioner Staats made a motion for approval of the rezoning request for Z-FY-10-49 and Commissioner Barton made a second.

Motion passed: (8:0)

Commissioner Pope absent

ORDINANCE NO. _____

[PLANNING NO. Z-FY-10-49]

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, APPROVING A ZONING CHANGE FROM AGRICULTURAL DISTRICT (A) TO SINGLE FAMILY ONE DISTRICT (SF1) ON AN APPROXIMATELY 0.23 ACRE TRACT OF LAND IN THE JOHN CUMMINGS SURVEY, ABSTRACT NO. 178, IN THE CITY OF TEMPLE, BELL COUNTY, TEXAS, LOCATED AT 8566 LITTLE MEXICO ROAD; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND PROVIDING AN OPEN MEETINGS CLAUSE.

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

Part 1: The City Council approves a zoning change from Agricultural District (A) to Single Family One District (SF1) on an approximately 0.23 acre tract of land in the John Cummings Survey, Abstract No. 178, located at 8566 Little Mexico Road, Temple, Bell County, Texas, more fully described in Exhibit A, attached hereto and made a part hereof for all purposes.

Part 2: The City Council directs the Director of Planning to make the necessary changes to the City Zoning Map accordingly.

Part 3: It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses, and phrases of this ordinance are severable and, if any phrase, clause, sentence, paragraph or section of this ordinance should be declared invalid by the final judgment or decree of any court of competent jurisdiction, such invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this ordinance, since the same would have been enacted by the City Council without the incorporation in this ordinance of any such phrase, clause, sentence, paragraph or section.

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

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

PASSED AND APPROVED on First Reading and Public Hearing on the 7th day of October, 2010.

PASSED AND APPROVED on Second Reading on the **21st** day of **October**, 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

10/21/10
Item #4(L)
Consent Agenda
Page 1 of 3

DEPT./DIVISION SUBMISSION & REVIEW:

Brian Mabry, AICP, Planning Director

ITEM DESCRIPTION: SECOND READING – Z-FY-10-51: Consider adopting an ordinance authorizing an amendment to Section 7-564, “Applicability,” in the Zoning Ordinance, related to the I-35 Corridor Overlay.

P&Z COMMISSION RECOMMENDATION: At its September 20, 2010 meeting, the Planning and Zoning Commission voted 8/0 in accordance with staff recommendation to amend Sec. 7-564 of the Zoning Ordinance in the following manner with “strike-through” text being proposed for deletion and underlined text being proposed to be added:

7-564 APPLICABILITY

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

Development Type	Site Plan Review	Tree Preservation	Parking	Screening and Wall Standards	Architectural Design	Landscape	Signage	Lighting	Utilities
New construction	✓	✓	✓	✓	✓	✓	✓	✓	✓
Increase in gross floor area of 50% or more or improvement resulting in 50% or more increase in value per tax role modifications with a cost equal to or greater than 50% of the assessed value of improvements per the current tax roll	✓	✓	✓	✓	✓	✓	✓	✓	✓
Increase in gross floor area of 25%-49% or improvement resulting in 25%-49% increase in value per tax role modifications with a cost equal to 25%-49% of the assessed value of improvements per the current tax roll	✓	✓	✓	✓		✓		✓	
Increase in gross floor area of 10%-24% or improvement resulting in 10%-24% increase in value per tax role modifications with a cost equal to 10%-24% of the assessed value of improvements per the current tax roll	✓	✓		✓		✓			

Commissioner Pope was absent.

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

ITEM SUMMARY: Please refer to the Staff Report and draft minutes of case Z-FY-10-51, from the Planning and Zoning Commission meeting, September 20, 2010. The I-35 Corridor Overlay standards were adopted in July 2009. Since that time, there has been minimal new development or redevelopment to trigger the I-35 standards. A recent proposal to redevelop the vacant Albertson's into a package store and bingo hall brought to light a deficiency in the Applicability provisions of the I-35 Standards. It is not uncommon for deficiencies in newer standards to come to light once applied to real development proposals.

Under the existing Applicability Section, improvement work that results in an increase in assessed value of the property on Bell County tax rolls is supposed to trigger compliance with the I-35 standards. A greater degree of compliance with the standards is required in proportion to the amount of work being done on the property and the resulting increase in assessed value. There is not necessarily a one-to-one correspondence between the dollar amount of an improvement made to a property and its resulting increase in assessed value. For example, \$100,000 worth of interior remodeling to a building may not result in a \$100,000 increase in assessed value.

In addition, updates to the tax rolls are made, at best, once a year. A building permit showing improvements to a property could be submitted, approved and built before an increase in the assessed value of the property would show up on the tax rolls.

The Planning and Zoning Commission and Staff propose this amendment which relates the cost of the improvements to the current assessed value of the property, rather than the extent to which an improvement might increase the value of the property the next time the property is assessed. Building permit applications require a cost estimate from the contractor, so that would be Staff's method for tracking the improvement costs.

FISCAL IMPACT: NA

ATTACHMENTS:

[Ordinance](#)

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AMENDING ORDINANCE NO. 91-2101, THE ZONING ORDINANCE OF THE CITY OF TEMPLE, TEXAS, AMENDING SECTION 7-564, "APPLICABILITY," RELATED TO THE I-35 CORRIDOR OVERLAY; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING AN EFFECTIVE DATE; AND PROVIDING AN OPEN MEETINGS CLAUSE.

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

Part 1: The City Council approves an amendment to Ordinance No. 91-2101, the Zoning Ordinance of the City of Temple, by amending Section 7-564, entitled, "Applicability," to read as follows:

7-564 APPLICABILITY

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

Development Type	Site Plan Review	Tree Preservation	Parking	Screening and Wall Standards	Architectural Design	Landscape	Signage	Lighting	Utilities
New construction	✓	✓	✓	✓	✓	✓	✓	✓	✓
Increase in gross floor area of 50% or more or improvement resulting in 50% or more increase in value per tax role modifications with a cost equal to or greater than 50% of the assessed value of improvements per the current tax roll	✓	✓	✓	✓	✓	✓	✓	✓	✓
Increase in gross floor area of 25%-49% or improvement resulting in 25% -49% increase in value per tax role modifications with a cost equal to 25%-49% of the assessed value of improvements per the current tax roll	✓	✓	✓	✓		✓		✓	
Increase in gross floor area of 10%-24% or improvement resulting in 10% -24% increase in value per tax role modifications with a cost equal to 10%-24% of the assessed value of improvements per the current tax roll	✓	✓		✓		✓			

Part 2: If any provision of this ordinance or the application of any provision to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are declared to be severable.

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

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

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

PASSED AND APPROVED on First Reading and Public Hearing on the **7th** day of **October**, 2010.

PASSED AND APPROVED on Second Reading and Public Hearing on the **21st** day of **October**, 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

10/21/10
Item #4(M-1)
Consent Agenda
Page 1 of 1

DEPT./DIVISION SUBMISSION & REVIEW:

Gary Smith, Chief of Police

ITEM DESCRIPTION: SECOND READING – Consider adopting an ordinance amending Chapter 28, “Police,” of the Code of Ordinances, Article III, “Burglar Alarm Systems.”

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

ITEM SUMMARY: On May 3, 2001, the City Council adopted an ordinance that established requirements for burglar alarm systems that are operated within the City. The ordinance amended Chapter 28, “Police” by adding Article III, “Burglar Alarm Systems”.

Since the passage of this ordinance, the Texas Local Government Code sections relating to false alarm responses were renumbered. One of the proposed revisions is to properly identify the correct statute. In this case, the reference to Chapter 218 and Section 218.006 of the Texas Local Government Code should be replaced by Chapter 214, Section 214.196 of that code.

The other requested amendment to the ordinance is to modify Section 28-50 “False Alarm Service Fees”. This section currently provides that a person operating an alarm system must pay a service fee when false alarms exceed 5 in a 12 month period. Staff recommends this threshold be changed to require service fees be paid when false alarm notifications exceed three in a 12 month period.

Upon favorable consideration of these changes, the Police Department plans to bring forward a Resolution requesting the City Council adopt an amended structure for alarm system permits and false alarm fines and fees.

FISCAL IMPACT: None

ATTACHMENTS:
[Ordinance](#)

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AMENDING CHAPTER 28, ENTITLED, "POLICE," OF THE TEMPLE CODE OF ORDINANCES, BY AMENDING ARTICLE III, ENTITLED "BURGLAR ALARM SYSTEMS," TO UPDATE REQUIREMENTS FOR BURGLAR ALARM SYSTEMS, REQUIRING PERMITS AND ALARM COMPANY REGISTRATION; PROVIDING FOR PENALTIES, DECLARING FINDINGS OF FACT; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, on May 3, 2001, the City Council adopted an ordinance to establish requirements for burglar alarm systems by amending Chapter 28, "Police," of the Code of Ordinances to add Article III, "Burglar Alarm Systems;"

Whereas, the ordinance needs to be updated in accordance with certain revisions that have been made to the Texas Local Government Code governing burglar alarm systems;

Whereas, in order to continue to protect the health and safety of the general public and the citizens of Temple, the City Council finds it necessary to update Chapter 28, Article III of the Code of Ordinances which provides for the regulation, control, and monitoring of the number of false burglar alarms generated by alarm systems within the limits of the City of Temple.

Now, Therefore, Be it Ordained by the City Council of the City of Temple, Texas, That:

Part 1: Chapter 28 of the Code of Ordinances of the City of Temple entitled "Police," Article III, "Burglar Alarm Systems," is amended to read as follows:

ARTICLE III. BURGLAR ALARM SYSTEMS

Sec. 28-41. General Provisions.

For the purpose of this article, the following terms shall be defined as follows:

Alarm Company means any person who sells, installs, converts, services, or monitors an alarm system.

Alarm notification means a notification from or activation of an alarm system that is intended to summon the police and designed either to be initiated purposely by a person or automatically by a response to stimulus characteristic of unauthorized intrusion.

Alarm site means a single premise or location (one street address including apartment number, suite number, etc.) served by an alarm system or systems under the control of one

person. Each tenant unit in a multi unit structure or complex shall be considered a separate alarm system if served by a separate alarm system.

Alarm system means a device or system that emits, transmits, or relays a signal intended to summon, or that would reasonably be expected to summon, police services of the city, including, but not limited to, local alarms. Alarm system does not include:

(1) an alarm installed on a vehicle unless the vehicle is permanently located at a site; nor

(2) an alarm system designed to alert only the occupants or inhabitants of the premises where the alarm system is installed, but only if such alarm notification cannot be heard outside the premises where the alarm system is installed or which does not have a local alarm.

Applicant means the person, individual, corporation, partnership, association, organization or similar entity, who is applying to be permit holder.

Burglary means the acts described at Texas Penal Code §§ 30.02 and 30.03.

Chief means the Chief of Police of the City of Temple or an authorized representative.

False Alarm Notification means an alarm notification to the police department, when the responding officer, on reasonable investigation, as required by Section ~~218.006~~ 214.196, "On-Site Inspection Required," of Chapter ~~218~~ 214 of the Texas Local Government Code, finds no evidence of unauthorized intrusion, attempted unauthorized intrusion, robbery, attempted robbery or other illegal activity.

Local Alarm means any Alarm System that annunciates an alarm only by an internal or external audio device.

Monitoring means the process by which an alarm company receives signals from an alarm system and relays an alarm notification to the city.

Permit means a certificate of authorization to operate an alarm system, issued by the police department to the owner or person in control of the premises where a permitted alarm system is located;

Permit Holder means any individual, partnership, corporation, or other legal entity to whom an alarm system permit is issued or the person so designated in the application as required in this ordinance who is responsible for responding to alarms and giving access to the site and who is also responsible for proper maintenance and operation of the alarm system and payment of fees assessed under this ordinance.

Person means an individual, partnership, corporation, association, or other legal entity.

Person in control means the permit holder, owner or operator of an alarm system.

Responds means the act of sending a police officer to an alarm site after the police department receives a report of an alarm at such alarm site.

Unauthorized entry means entry of any type, whether intentional or accidental, not authorized by the owner.

Sec. 28-42. Permit Required.

No person shall operate or cause to be operated an alarm system in the City of Temple without a valid alarm permit issued by the Chief. A separate alarm permit is required for each alarm system on each alarm site.

Sec. 28-43. Alarm Permit Fee.

(1) The fee for a permit, permit renewal or permit reinstatement shall be due when the application is submitted. No refund of a permit, permit renewal, or permit reinstatement fee will be made. The City Council of the City of Temple shall set the amount of the fee by resolution.

(2) Local, state, or federal government, or any of their bona fide agencies shall be exempt from any permit application, renewal or reinstatement fee under this section.

Sec. 28-44. Permit Application.

(1) Upon receipt of a completed application form and the required fee, the Chief shall issue an alarm permit to an applicant unless the applicant has failed to pay a service fee assessed under this ordinance, has had an alarm site revoked at this or any other alarm site, and the violation causing the revocation has not been corrected, or has made a false statement of a material matter for the purpose of obtaining an alarm permit.

(2) An application for an alarm permit must be made on a form provided by the Chief and include the following information:

(A) The name, address (including apt/suite #), and telephones of the person who will be the permit holder and be responsible for the proper maintenance and operation of the alarm system and payment of fees assessed under this article;

(B) The name, address and telephone numbers of at least two individuals who are able and have agreed to receive notification of an alarm activation at any time; respond to the alarm site within 30 minutes after receiving a request from the police department to do so; and who can grant access to the alarm site and deactivate the alarm system if such becomes necessary;

(C) The classification of the alarm site as either residential or commercial;

(D) Any business name, if used for the premises on which the alarm system is to be installed and operated;

(E) The name, address, and phone number of the person or alarm company who will sell, install, convert, service or monitor the alarm system and/or be responsible for selling, installing, converting, servicing or monitoring the alarm system;

(F) The phone number of the alarm company monitoring the alarm system if different from the installing alarm company;

(G) Other information required by the Chief as necessary for the enforcement of this ordinance.

(3) If the applicant is an individual, the application shall be signed and verified by the applicant. If the applicant is a partnership, the application shall be signed and verified by least one of its general partners. If the applicant is a corporation or other entity, the application shall be signed and verified by the president of such corporation or entity or other agent authorized on behalf of the corporation.

(4) Information contained in the records maintained by the City pursuant to this Article and that concerns the location of an alarm system, the name of the occupant of an alarm system site, or the type of alarm system used is confidential and may be disclosed only as permitted by law. Nothing in this article shall prohibit the use of such information for legitimate law enforcement purposes and for enforcement of this ordinance.

(5) Persons operating a newly activated or reactivated alarm system must notify the police department alarm unit (or after normal business hours, the police dispatcher's office) within twelve (12) hours after commencing operation of the address of the alarm site, the name and the address of the operator, and of any contact persons. Persons who give such notification are exempt from the permit requirement for a period not to exceed five (5) calendar days.

(6) Persons operating a newly activated alarm system must immediately submit the signed and completed *Installer False Alarm Prevention Program Checklist* (Appendix A) and *Customer False Alarm Prevention Program Checklist* (Appendix B) to the Chief.

(7) An alarm permit cannot be transferred to another person or another alarm site and shall be valid only for the alarm site designated in the permit. A permit holder shall inform the Chief of Police of any change that alters any information listed on the permit application within five business days. No fee shall be assessed for such changes.

Sec. 28-45. Alarm Permit Duration, Renewal and Inspection.

(1) An alarm permit is issued for two (2) years and must be renewed every two years upon submission of an updated application and permit renewal fee. It is the responsibility of the permit holder to submit an application prior to the permit expiration date. The Chief shall determine the first expiration date of a permit.

(2) An alarm permit will be terminated for non-renewal, however, before terminating a permit for non-renewal, the Chief shall provide 30 days period written notice to the permit holder of the need to renew the permit and file an updated permit application. A permit shall not be renewed if the applicant owes outstanding service fees at other alarm sites for which he is the permit holder.

(3) The permit holder for an alarm system shall keep such permit at the alarm site and shall produce such permit or evidence thereof for inspection upon request of any member of the police department or its designated representative. It shall be unlawful for any person to counterfeit, forge, change, deface, or in any manner alter a permit issued pursuant to this article.

Sec.28-46. Alarm systems in apartment complexes.

(1) A tenant of an apartment complex shall obtain an alarm permit from the Chief before operating or causing the operation of an alarm system in the tenant's residential unit.

(2) If an alarm system installed by an individual tenant in an apartment complex unit is monitored, the tenant must provide the name of a representative of the apartment owner or property manager who can grant access to the apartment to the alarm company.

(3) For purposes of enforcing this article against an individual residential unit, the tenant is responsible for false alarms emitted from the alarm system in the tenant's residential unit.

(4) The owner or property manager of an apartment complex shall obtain a separate alarm permit for any alarm systems operated in a nonresidential area of the apartment complex, including, but not limited to, offices, common areas, storage and equipment areas. The permit fee for the alarm permit or the renewal permit shall be the same as the fee for a residential alarm site.

(5) The owner or property manager of an apartment complex in which an alarm system is installed in one or more individual residential units shall obtain a master alarm permit from the Chief. The permit fee for the alarm permit or the renewal permit shall be the same as the fee for a residential alarm site.

(6) For purposes of assessing service fees and enforcing this article against an individual residential unit of an apartment complex:

(A) The tenant is responsible for payment of all service fees for any false alarm notification emitted from the alarm system in the tenant's residential unit; and

(B) The master alarm permit holder is responsible for payment of all service fees for any false alarm notification emitted from the alarm system in any unoccupied residential unit in the apartment complex.

(7) Each apartment unit shall be considered a separate alarm site.

Sec.28-47. Duties of Permit Holder.

(1) A permit holder or person in control of an alarm system shall:

(A) Maintain the premises containing an alarm system in a manner that ensures proper operation of the alarm system;

(B) Maintain the alarm system in a manner that will minimize false alarm notifications;

(C) Respond or cause a representative to respond within a reasonable period of time when notified by the city to repair or inactivate a malfunctioning alarm system, to provide access to the premises, or to provide security for the premises;

(D) Not intentionally activate an alarm for any reason other than an occurrence of an event that the alarm system was intended to report.

(2) A permit holder or person in control of a local alarm shall adjust the mechanism or cause the mechanism to be adjusted so that an alarm signal audible on the exterior of the alarm site will sound for no longer than 30 minutes after being activated.

(3) Whenever a person listed on the application or listed on an amendment to the application is unable or unwilling to perform the duties set out in this ordinance, the permit holder shall within two (2) business days file an amendment to the permit application listing a person who is able and will perform those duties so that at all times the application on file with the police department designates at least two (2) persons who are able and willing to perform such duties.

(4) No person or permit holder shall operate or cause to be operated any Automatic Voice Dialers which when activated, uses a telephone device or attachment to automatically select a telephone line leading into the police department or other office of the City of Temple and then transmits any prerecorded message or signal.

(5) A permit holder or person in control of an alarm system shall not allow alarm signals to be reported through a relaying intermediary that does not comply with the requirements of this article and any rules and regulations promulgated by the Chief or that is not licensed by the Texas Board of Private Investigators and Private Security Agencies.

(6) No alarm system permitted and regulated by this article shall be tested by activating the alarm notification function, without the permit holder or his agent first notifying the security services contractor monitoring a third party central alarm station or police department before such testing.

(7) All alarm systems permitted and regulated by this article shall be designed and function so as to shut off any alarm notification signals after twenty (20) consecutive minutes of transmitting. All such systems shall be designed and function to require that such systems be manually reset before transmitting any subsequent alarm notification signal.

Sec.28-48. Duties of an Alarm Company.

(1) Any person or his agent who sells, installs, or converts, an alarm system in the City of Temple shall:

(A) Inform permit holder or person in control of alarm system of the city ordinance requiring permits for alarm systems;

(B) Provide proper operating instructions for alarm system to include guidelines for how to avoid false alarms, and

(C) Leave a signed and completed *Installer False Alarm Prevention Program Checklist* (Appendix A) and *Customer False Alarm Prevention Program Checklist* (Appendix B) with the applicant to submit to the Chief.

Sec. 28-49. Monitoring Procedures

(1) Any alarm company engaged in the business of monitoring alarm systems in the city shall:

(A) Report alarm signals by using telephone numbers designated by the Chief;

(B) Before requesting police response to an alarm system signal, attempt to verify every alarm signal, except a duress, holdup, or panic alarm activation, by telephone call to the alarm site;

(2) When reporting an alarm notification to the city, provide:

(A) The alarm permit number and the address of the alarm site from which the alarm notification originated;

(B) All available information (north, south, front, back, floor, etc.) about the location of the alarm;

(C) Type of alarm activation (silent or audible, interior or perimeter);

(D) Contact the permit holder or any of the individuals listed in the permit application as persons able and agreeing to receive notification of an alarm activation at any time of the alarm activation.

(3) Any alarm company must maintain for a period of at least two (2) years, records relating to alarm dispatch requests for inspection by the city.

Sec. 28-50. False Alarm Service Fees.

The holder of an alarm permit or person in control of an alarm system shall pay a service fee for each false alarm notification in excess of ~~five~~ **three** that is emitted from an alarm site, or in the case of an apartment complex from each individual residential unit, within a 12 month period. The City Council of the City of Temple shall set the amount of the service fees by resolution.

Sec. 28-51. False Alarm Inspection and Notification.

(1) The Chief shall notify the permit holder in writing after each false alarm.

(2) The Chief shall not consider a false alarm to have occurred unless the police department responds within thirty minutes of the alarm notification and the department determines from an inspection of the interior or exterior of the premises that the alarm was false.

Sec. 28-52. Revocation and Reinstatement of Permit.

The Chief shall revoke an alarm permit if he determines that:

(A) There is a false statement in the application for a permit;

(B) The permit holder has violated the provisions of this ordinance;

(C) The permit holder has failed to make timely payment of a false alarm (service) fee assessed under this ordinance.

Sec. 28-53. Reinstatement of Permit.

A person whose alarm permit has been revoked may have the permit reinstated if the person:

(A) Submits an updated application and pays a permit reinstatement fee in accordance with this ordinance;

(B) Pays all outstanding false alarm (service) fees assessed under this ordinance for which a bill has been issued;

(C) A reinstated permit expires the same date on which the original permit would have expired had it not been revoked.

Sec. 28-54. Violations; Penalties; Corporations, Partnerships and Other Legal Entities.

(1) A person commits an offense if he operates or causes to be operated an alarm system in the City of Temple without a valid permit issued under this article.

(2) A person commits an offense if he operates an alarm system during the period in which the alarm system is revoked.

(3) An alarm company, an alarm permit holder, or a person in control of an alarm system, commits an offense if he violates any provision of this ordinance by either commission of an act that is forbidden or omission of a duty or responsibility imposed upon him by this ordinance.

(4) A person who violates a provision of this ordinance is guilty of a separate offense for each day or portion of a day during which the violation is committed, continued, permitted. Each offense is a Class C misdemeanor which is punishable by a fine of not more than \$200 for each conviction.

(5) In addition to prohibiting or requiring certain conduct of individuals, it is the intent of this ordinance to hold a corporation, partnership, or other association criminally responsible for acts or omissions performed by an agent acting in behalf of the corporation, partnership, or other association, and within the scope of employment.

Sec. 28-55. Government Immunity and Disclaimer.

(1) Registration of an alarm system is not intended to, nor will it, create a contract, duty or obligation, either expressed or implied, of response. Any and all liability and consequential damage resulting from the failure to respond to a notification is hereby disclaimed and governmental immunity as provided by law is retained.

(2) By registering an alarm system, the permit holder acknowledges that police response may be based on factor's such as: availability of police units, priority of calls, weather conditions, traffic conditions, emergency conditions staffing levels.

Part 2: If any provision of this ordinance or the application of any provision to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are declared to be severable.

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

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

PASSED AND APPROVED on First Reading on the 7th day of **October**, 2010.

PASSED AND APPROVED on Second Reading and Public Hearing on the 21st day of **October**, 2010.

THE CITY OF TEMPLE, TEXAS

WILLIAM A. JONES, III, Mayor

ATTEST:

APPROVED AS TO FORM:

Clydette Entzminger
City Secretary

Jonathan Graham
City Attorney

Appendix A

INSTALLER FALSE ALARM PREVENTION PROGRAM CHECKLIST

Yes	No	(Check One)
_____	_____	1. If a duress feature was installed, I thoroughly explained it and I did not use "+" keypad coding.
_____	_____	2. I confirmed that the control panel has been programmed so that:
_____	_____	a. it will not transmit more than - alarm signals from the same zone until manually restored at the premises. (Recommend no more than two.)
_____	_____	b. it will delay at least fifteen seconds before initiating dialing on intrusion alarm signals.
_____	_____	c. it has adequate delay time on entry/exit doors (delay of 45 seconds or more is recommended).
_____	_____	d. a cancel code can be entered by the customer to cancel accidental alarms.
_____	_____	3. I verified that police and fire panic buttons cause a siren or speaker to sound and that medical panic buttons cause an audible signal.
_____	_____	4. I verified that the keypad(s) emit sufficient sound to inform occupants when an entry/exit door sensor has been triggered.
_____	_____	5. I installed and tested standby/backup power.
_____	_____	6. I reviewed the "Customer False Alarm Prevention Checklist" with the customer.
_____	_____	7. I determined whether the customer had special telephone features, such as call waiting, and took appropriate steps to allow proper control panel dialing and monitoring center verification.
_____	_____	8. I made sure the control panel was properly grounded.
_____	_____	9. I made sure that all door and window contacts were properly selected, installed and tested. I considered loose fitting doors and windows, whether wide gap contacts were needed, and steel doors and windows. I followed the manufacturer's installation instructions.

INSTALLER FALSE ALARM PREVENTION PROGRAM CHECKLIST (cont.)

Yes	No	(Check One)
_____	_____	10. I made sure all glass breakage sensors were properly selected, installed and tested. I gave consideration to pets, on site noises and the general environment I followed the manufacturer's installation instructions.
_____	_____	11. All motion type detectors were properly selected, properly installed and tested. I gave consideration to pets, sunlight other heat sources, and harsh environments.I followed the manufacturer's installation instructions.

Please explain if you answered "No" to any of the above items:

Installation
Technician:_____

Printed Name:

Signature:_____

Site Installed: _____

Date:_____

Appendix B

CUSTOMER FALSE ALARM PREVENTION CHECKLIST

Yes	No	(Check One)
_____	_____	I have been trained in the proper operation of the system.
_____	_____	I have been given a summary operating sheet.
_____	_____	I have been given the security system operating manual.
_____	_____	I know how to cancel an accidental alarm activation.
_____	_____	I have the cancellation code.
_____	_____	I know how to turn off motion detectors while leaving other sensors on.
_____	_____	I know how to test the system including the communication link with the monitoring center.
_____	_____	I understand the length of the delay time on designated entry/exit doors and I believe this will provide sufficient time to get in and out of the premises. My entry time is _____. My exit time is _____.
_____	_____	I have the alarm, company phone number to request repair service or to ask questions about the alarm system.
_____	_____	I have been offered the option of a training/no dispatch period.
_____	_____	I understand that indoor pets can cause false alarms and I will contact my alarm company to adjust the system if I acquire any additional indoor pets.
_____	_____	I know where the main control panel and transformer are located.
_____	_____	I have received an alarm sheet which describes how the alarm company will communicate with me in the event of various alarm signals.
_____	_____	I understand the importance of keeping my emergency contact information updated and I know how to do this.

CUSTOMER FALSE ALARM PREVENTION CHECKLIST (cont.)

Yes	No	(Check One)
_____	_____	I understand the importance of immediately advising the alarm company if my phone number changes including area code changes.
_____	_____	I understand the importance of any other changes to my telephone service such as call waiting or a fax line.
_____	_____	I have been made aware of the alarm ordinance, if any, that governs the operation of system and I will comply with applicable requirements (permits, fees, etc.)
_____	_____	I will advise the alarm company if I do any remodeling (such as extensive painting, moving walls, doors or windows).
_____	_____	I understand that certain building defects (such as loose fitting doors or windows, rodents, inadequate power, and roof leaks) can cause false alarms. I will correct these defects as I become aware of them.
_____	_____	The alarm company has given me written false alarm prevention techniques to help me prevent false alarms.

I understand it is my responsibility to prevent false alarms and I understand it is critical and my responsibility to assure that all users of the system (such as residents, employees, guests, cleaning people, and repair people) are trained on the proper use of the system.

Comments: _____

ALARM
COMPANY: _____ CUSTOMER: _____
Print Name(s): _____

By: _____

Signature(s): _____

Site Installed: _____

Date: _____



COUNCIL AGENDA ITEM MEMORANDUM

10/21/10
Item #4(M-2)
Consent Agenda
Page 1 of 1

DEPT./DIVISION SUBMISSION & REVIEW:

Gary Smith, Chief of Police

ITEM DESCRIPTION: Consider adopting a resolution establishing alarm permit renewal and reinstatement fees, and false alarm service fees.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: On October 7, 2010, the City Council adopted, on first reading, an ordinance amending Chapter 28, "Police", Article III, "Burglar Alarm Systems", providing requirements for burglar alarm systems, requiring permits, alarm company registration, and providing for a fee for false alarms. The ordinance provides that the City Council shall set the fees by resolution.

The Police Department recommends the following fee structure:

Initial permit: No Charge (valid for 2 years)

Permit Renewal: \$15.00

Permit Reinstatement \$15.00

Residential Service Fees

For more than 3, but less than 6 false alarms in a 12 month period: \$25.00

For more than 5, but less than 8 false alarms in a 12 month period: \$35.00

For 8 or more false alarms in a 12 month period: \$50.00

Commercial Service Fees

For more than 3, but less than 6 false alarms in a 12 month period: \$50.00

For more than 5, but less than 8 false alarms in a 12 month period: \$75.00

For 8 or more false alarms in a 12 month period: \$100.00

FISCAL IMPACT: The recommended changes are anticipated to reduce the number of false alarms. However, a 3.5% increase in revenue generated from false alarm fees is likely, or approximately \$1,062.00.

ATTACHMENTS:

[Resolution](#)

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, ESTABLISHING ALARM PERMIT RENEWAL AND REINSTATEMENT FEES AND FALSE ALARM SERVICE FEES; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, on October 7, 2010, the City Council adopted an ordinance amending Chapter 28, "Police," Article III, "Burglar Alarm Systems," providing for requirements for burglar alarm systems, requiring permits, alarm company registration, and providing for a fee for false alarms;

Whereas, the ordinance provides that the City Council of the City of Temple shall set the fees by resolution; 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:

Part 1: The following fees are hereby adopted by the City of Temple, Texas:

Initial Permit Fee (2 years)	None	
Permit Renewal Fee	\$10.00	\$15.00
Permit Reinstatement Fee	\$10.00	\$15.00

~~False Alarm Service Fee: Residential~~ — \$25.00

~~False Alarm Service Fee: Business~~ — \$50.00

Residential Fines and Fees:

- (a) \$25 fine for more than 3 but less than 6 false alarms in a rolling 12 month period;
- (b) \$35 fine for more than 5 but less than 8 false alarm calls in a rolling 12 month period; and
- (c) \$50 fine for 8 or more false alarms in a 12 month period.

Commercial Fines and Fees:

- (a) \$50 fine for more than 3 but less than 6 false alarms in a rolling 12 month period;
- (b) \$75 fine for more than 5 but less than 8 false alarm calls in a rolling 12 month period; and

(c) \$100 fine for 8 or more false alarms in a 12 month period.

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

PASSED AND APPROVED this the **21st** day of **October**, 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

10/21/10
Item #4(N)
Consent Agenda
Page 1 of 2

DEPT./DIVISION SUBMISSION & REVIEW:

Belinda Mattke, Director of Purchasing

ITEM DESCRIPTION: Consider adopting a resolution authorizing the use of the Construction Manager-at-Risk procurement delivery method for the acquisition of construction services related to the rehabilitation of the Police Headquarters facility.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: On October 7, 2010, Council authorized the professional services agreement with Architectural Edge, Inc. to provide architectural and engineering services related to renovations needed to the Police Headquarters facility to remediate the mold from the facility and to make the necessary repairs to the facility that have allowed mold to develop.

In consultation with Architectural Edge, it has been determined that a procurement delivery method other than a competitive sealed bid will provide a better value to the City. Per § 252.021 of the Local Government Code, before a municipality may enter into a contract that requires an expenditure of more than \$50,000, the municipality must comply with competitive sealed bidding procedures. However, the governing body of a municipality may consider using a method other than competitive sealed bidding in order to achieve the best value for the municipality.

The factors relevant to using an alternative procurement delivery method for this project are as follows:

- There is inherent urgency in this project, but design lead-times of the various repairs will not be ready simultaneously:
 - Architectural and structural design should be complete in November 2010, which will allow bidding/construction of the renovations to the exterior envelope and elevator to commence.
 - Mechanical system design will begin immediately, but will have a longer design time due to the complexity of the total system redesign and field verification of existing system. It is anticipated that the mechanical design will be ready for bidding/construction in February 2011.
 - The lead-time for the environmental engineer to develop a mold remediation protocol is in-line with the architectural and structural design, but it will be necessary to make the repairs to the facility that allowed the mold to develop prior to remediating the moldy building materials. It is anticipated that this work should be bid once reconstruction of the mechanical system is underway.

- The design team and staff believes that it will be advantageous to have one general contractor (GC) committed to the entire project to synchronize the various construction disciplines and to have a general contractor involved prior to bidding to provide insight during and after the design of the facility.
- It was recommended in the causation report that a procurement delivery method be used that allows for discovery to be accommodated during the construction phase.

Based on the above factors, staff is recommending the use of the Construction Manager-At-Risk (CMAR) procurement delivery method as defined in the Local Government Code §271.118. The CMAR will allow for the following:

- Selection of a CMAR through a request for proposal (RFP) process. Selection criteria will include the contractor's experience in performing renovations similar to the Police facility project, past performance, proposed personnel and methodology, and the proposed fees of the contractor for fulfilling the general conditions required for the project.
- Involvement of the general contractor in review of the construction documents prior to bidding and continued support after construction commences to help manage items discovered during the renovation process.
- Bidding of the work by the CMAR. The CMAR must publicly advertise for bids all of the major elements of the work just like the City must advertise for bid a project. A CMAR may seek to perform portions of the work itself if the CMAR submits its bid for those portions of work in the same manner as all of the other trade subcontractors. By the CMAR bidding the major elements of the project, when the designs are ready, we can bid the major phases of the project and still maintain a GC over the entire project.

If Council authorizes the use of the CMAR delivery method, a recommendation for the engagement of the CMAR will be brought forth to Council for consideration and authorization for engagement. In addition, guaranteed maximum prices for the major construction phases will be brought forth to Council for consideration and authorization to proceed.

It is staff's desire to solicit proposals for the CMAR immediately with the goal of making a recommendation to Council for award of the CMAR contract on December 2, 2010.

FISCAL IMPACT: There is no defined fiscal impact associated with this Item. It is anticipated that Limited Tax Notes will be issued to fund the construction costs related to the remediation. Initial funding for this project will be allocated from General Fund Balance Designated for Capital Project-Unallocated. Once total project costs are determined, the proceeds from the Limited Tax Notes will reimburse General Fund Balance Designated for Capital Project-Unallocated.

ATTACHMENTS:

[Resolution](#)

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING THE USE OF THE CONSTRUCTION MANAGER-AT-RISK PROCUREMENT DELIVERY METHOD FOR THE ACQUISITION OF CONSTRUCTION SERVICES RELATED TO THE REHABILITATION OF THE POLICE HEADQUARTERS FACILITY; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, on October 7, 2010, the City Council authorized a professional services agreement with Architectural Edge, Inc., to provide architectural and engineering services related to renovations needed at the Police Headquarters facility to remediate the mold from the facility and to make the necessary repairs to the facility that have allowed mold to develop;

Whereas, Architectural Edge and the Staff have determined that a procurement delivery method other than a competitive sealed bid will provide a better value to the City;

Whereas, § 252.021 of the Local Government Code provides that a governing body of a municipality may consider using a method other than competitive sealed bidding in order to achieve the best value for the municipality; 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 use of the Construction Manager-At-Risk procurement delivery method for the acquisition of construction services related to the rehabilitation of the Police Headquarters facility.

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 **21st** day of **October**, 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

10/21/10
Item # 4(O)
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 2010-2011.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: This item is to recommend various budget amendments, based on the adopted FY 2010-2011 budget. The amendments will involve transfers of funds between contingency accounts, department and fund levels.

FISCAL IMPACT: The total amount of budget amendments is \$16,672.

ATTACHMENTS:

Budget amendments
Resolution

CITY OF TEMPLE
BUDGET AMENDMENTS FOR FY 2011 BUDGET
October 21, 2010

			APPROPRIATIONS	
ACCOUNT #	PROJECT #	DESCRIPTION	Debit	Credit
110-1900-519-2511		Printing & Publications (ITS Dept)	\$ 2,000	
110-1110-513-2511		Printing & Publications (City Manager's Dept)		\$ 2,000
Request to reappropriate funds from City Manager's Printing & Publications account to the same account in the ITS Department. ITS Department is taking over the payment of costs associated with a color printer/copier.				
110-2011-521-2516		Judgments & Damages (Police Dept)	\$ 1,085	
110-1500-515-6531		Contingency - Judgments & Damages		\$ 1,085
Deductible reimbursement to the Texas Municipal League for partial settlement of a claim seeking reimbursement for personal injuries and for damage to a vehicle struck by a police vehicle in the 000 Block of West Adams on May 21, 2010.				
110-2320-540-2516		Judgments & Damages (Solid Waste - Brush/Bulk)	\$ 1,443	
110-1500-515-6531		Contingency - Judgments & Damages		\$ 1,443
Deductible reimbursement to the Texas Municipal League for settlement of claim filed against the City seeking reimbursement for damage to a vehicle after it was struck by a tree limb knocked loose by a Solid Waste brush truck traveling down South 43rd Street on July 7, 2010.				
110-2330-540-2516		Judgments & Damages (Solid Waste - Residential)	\$ 2,942	
110-1500-515-6531		Contingency - Judgments & Damages		\$ 2,942
Deductible reimbursement to the Texas Municipal League for expenses related to an employee discrimination complaint filed against the City by a former employee.				
110-3224-551-2637		Gas Utilities (Sammons Indoor Pool)	\$ 2,500	
110-3250-551-2637		Gas Utilities (Summit)	\$ 3,800	
110-3270-551-2637		Gas Utilities (Sammons Community Center)	\$ 2,500	
110-3500-552-2637		Gas Utilities (Parks Dept)		\$ 8,800
Transfer gas utilities from Parks Division to the appropriate program/activity budgets in the Recreation Division for the Sammons Indoor Pool, the Summit Recreation Center, and the Sammons Community Center.				
110-3500-552-2516		Judgments & Damages (Parks Dept)	\$ 402	
110-1500-515-6531		Contingency - Judgments & Damages		\$ 402
Deductible reimbursement to the Texas Municipal League for settlement of a claim filed against the City seeking reimbursement for damage to a fence by a mower at 911 Cearley Road on May 28, 2010.				
TOTAL AMENDMENTS			\$ 16,672	\$ 16,672
GENERAL FUND				
Beginning Contingency Balance			\$	-
Added to Contingency Sweep Account			\$	-
Carry forward from Prior Year			\$	-
Taken From Contingency			\$	-
Net Balance of Contingency Account			\$	-

CITY OF TEMPLE
BUDGET AMENDMENTS FOR FY 2011 BUDGET
October 21, 2010

ACCOUNT #	PROJECT #	DESCRIPTION	APPROPRIATIONS	
			Debit	Credit
		Beginning Judgments & Damages Contingency	\$	80,000
		Added to Contingency Judgments & Damages from Council Contingency	\$	-
		Taken From Judgments & Damages	\$	(5,872)
		Net Balance of Judgments & Damages Contingency Account	\$	74,128
		Beginning Fuel Contingency	\$	55,841
		Added to Fuel Contingency	\$	-
		Taken From Fuel Contingency	\$	-
		Net Balance of Fuel Contingency Account	\$	55,841
		Beginning Self Insurance Start Up Cost Contingency	\$	628,756
		Added to Self Insurance Start Up Cost Contingency	\$	-
		Taken From Self Insurance Start Up Cost Contingency	\$	-
		Net Balance of Self Insurance Start Up Cost Contingency Account	\$	628,756
		Net Balance Council Contingency	\$	758,725
		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	\$	50,000
		Added to Contingency Sweep Account	\$	-
		Taken From Contingency	\$	-
		Net Balance of Contingency Account	\$	50,000
		Beginning Self Insurance Start Up Cost Contingency	\$	100,365
		Added to Self Insurance Start Up Cost Contingency	\$	-
		Taken From Self Insurance Start Up Cost Contingency	\$	-
		Net Balance of Self Insurance Start Up Cost Contingency Account	\$	100,365
		Net Balance Water & Sewer Fund Contingency	\$	150,365
		HOTEL/MOTEL TAX FUND		
		Beginning Self Insurance Start Up Cost Contingency	\$	10,968
		Added to Self Insurance Start Up Cost Contingency	\$	-
		Taken From Self Insurance Start Up Cost Contingency	\$	-
		Net Balance of Self Insurance Start Up Cost Contingency Account	\$	10,968
		DRAINAGE FUND		
		Beginning Self Insurance Start Up Cost Contingency	\$	9,911
		Added to Self Insurance Start Up Cost Contingency	\$	-
		Taken From Self Insurance Start Up Cost Contingency	\$	-
		Net Balance of Self Insurance Start Up Cost Contingency Account	\$	9,911
		FED/STATE GRANT FUND		
		Beginning Contingency Balance	\$	2,284
		Carry forward from Prior Year	\$	-
		Added to Contingency Sweep Account	\$	-
		Taken From Contingency	\$	-
		Net Balance of Contingency Account	\$	2,284

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
TEMPLE, TEXAS, APPROVING BUDGET AMENDMENTS TO THE
2010-2011 CITY BUDGET; AND PROVIDING AN OPEN
MEETINGS CLAUSE.

Whereas, on the 2nd day of September, 2010, the City Council approved a budget for the 2010-2011 fiscal year; and

Whereas, the City Council deems it in the public interest to make certain amendments to the 2010-2011 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 2010-2011 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 **21st** day of **October**, 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

10/21/10
Item #4(P)
Consent Agenda
Page 1 of 1

DEPT./DIVISION SUBMISSION & REVIEW:

Kim Foutz, Assistant City Manager

ITEM DESCRIPTION: Consider adopting a resolution authorizing an interlocal agreement with Hill Country Transit District for transit services.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

BACKGROUND: This item is a resolution renewing an interlocal agreement with Hill Country Transit District (HCTD). HCTD has managed and operated the public transit system within Temple's Urban Transit District since 1999.

The City originally entered into an interlocal agreement with HCTD in January 2001. The agreement was subsequently extended under renewal options in 2005 and 2010. The current agreement expired September 30, 2010.

The agreement renewal is substantially the same as the original agreement. It provides for administrative and financial services, operational functions, maintenance and operation of facilities, performance reporting, and also addresses fixed assets. It continues the commitment to operate the ADA paratransit system and the Fixed Route System and to utilize the City appointed Transit Advisory Board as a sounding board for policy and operational issues. A new section has been added to address transportation services during emergencies and evacuations.

FISCAL IMPACT: Supplemental funding for operation of the HCTD Transit System in the amount of \$39,097 is funded in the FY 2010-2011 budget in account 110-1500-515-2686.

ATTACHMENTS:

[Interlocal Agreement
Resolution](#)

INTERLOCAL COOPERATION AGREEMENT

STATE OF TEXAS

COUNTY OF BELL

This AGREEMENT is entered into between Hill Country Transit District (hereinafter "HCTD") and the City of Temple, Texas, (hereinafter "City"), a Texas home rule city, pursuant to the provisions of the Interlocal Cooperation Act, Texas Government Code §791.001 *et seq.*

WHEREAS, the City wishes to retain the services of an experienced provider to operate public transportation services within the Temple Urban Transit District (hereinafter "UTD"), which is located within the existing city limits of the City and would expand upon future annexation;

WHEREAS, HCTD is a political subdivision district under the laws of the State of Texas as defined by Chapter 458 of the Texas Transportation Code and Chapter 791 of the Texas Government Code;

WHEREAS, HCTD is trained and experienced in the operation and management of a small urban transportation system and has operated the City's transit system since 1999, so that the City believes that it is in the best interest of the public to improve the efficiency and effectiveness of governmental functions and services by authorizing this agreement; and

WHEREAS, the governing bodies of the City and HCTD have authorized their undersigned representatives to enter into this agreement;

THEREFORE, for and in consideration of the mutual promises and covenants contained in this Agreement, the parties agree as follows:

ARTICLE 1

RELATIONSHIP OF PARTIES

The City engages HCTD to manage and operate a public transportation system within the Temple UTD (hereinafter "Transit System"), as an independent contractor, on the terms and conditions hereinafter set forth.

On behalf of the City, HCTD will apply for grants for the Temple UTD from the Federal Transit Administration and Texas Department of Transportation and any other grant source deemed mutually acceptable. HCTD will serve as the grantee and will serve as the designated recipient for the Temple UTD. The parties will ensure federal and state requirements for substituting HCTD for the City in this capacity are completed and maintained.

ARTICLE 2

TERM OF AGREEMENT

This Agreement shall be for a period of five (5) years beginning on October 1, 2010, and terminating on September 30, 2015, to be effective after final execution by the City and HCTD. By mutual written consent, this Agreement may be extended for two additional five-year terms.

ARTICLE 3

TERMINATION

Either party at any time may terminate the Agreement or any extension thereof for convenience upon one-hundred-twenty (120) days prior notice to the other party. The Agreement may be terminated by the City at its sole discretion, without prejudice to any other remedy to which it may be entitled at law or in equity, by giving seven (7) days notice to HCTD if HCTD shall (1) abandon the Agreement; or (2) be adjudicated a voluntary or involuntary bankrupt. The Agreement may also be terminated under the provisions in Attachment "A."

ARTICLE 4

GOVERNANCE OF HCTD

HCTD agrees to appoint one member designated by the City Council to its governing Board of Directors in accordance with HCTD's Bylaws. The City shall have one voting member on the Board upon execution of this Agreement, and for as long as this Agreement is in effect.

ARTICLE 5

TEMPLE TRANSIT ADVISORY COMMITTEE

The City Council shall continue support of the existing Temple Transit Advisory Committee. The Council shall determine the term, composition, and responsibilities of the Committee. The Council shall appoint members to the Committee, and the Committee shall carry out its duties under this Agreement and such other responsibilities as determined by the Council.

ARTICLE 6

URBAN OPERATIONS DIRECTOR

HCTD agrees to furnish a qualified, diligent, expert and efficient transit professional who will reside within reasonable commuting distance from Temple, will perform the function of

Director of Urban Operations for the transit system operated within Temple, and will have responsibility for day-to-day operation of all aspects of the Transit System in an effective manner. Hill Country will give the City thirty (30) days notice prior to replacing the Urban Operations Director unless such notice is unreasonable under the circumstances.

ARTICLE 7

MANAGEMENT AND OPERATION

HCTD shall provide expert management services and efficiently operate, maintain, own all assets unless stated otherwise herein, and insure the Transit System, including all properties, equipment, facilities including but not limited to bus shelters (shelters, signs, benches, pads), routes, and services now or hereafter existing for such purposes.

HCTD shall employ and supervise employees necessary for such operation of the Transit System. HCTD shall be responsible for transportation, maintenance, equipment purchase, schedule preparation, routing, accounting, budgeting, purchasing, contracting, human resources, safety and accident prevention, public relations and advertising, customer relations, and security necessary for the efficient operation of the Transit System. HCTD shall comply with all federal, state, and local laws, regulations, and ordinances that apply to its operation of the Transit System, including those local regulations regarding the use of the City's public streets and right-of-way. It is understood that HCTD has Policies and Procedures applicable to urban transit operations, and that those HCTD Policies and Procedures will be made available to the City for review upon request. HCTD shall continue to provide complementary paratransit service and, in accordance with regulations governing such a service, shall not prioritize trips.

The City Manager shall be the City contact for Transit System operations. The City Finance Director shall be the City contact for Transit System financial matters. The HCTD Urban Operations Director shall be the point of contact for HCTD. Should the City be dissatisfied with the response of the Urban Operations Director, the next point of contact shall be the HCTD General Manager.

ARTICLE 8

ASSURANCES; PERFORMANCE STANDARDS

HCTD shall comply with all assurances contained in Attachment "A" (Consolidated Certification Form - Required Clauses) to this Agreement, which is attached hereto and incorporated herein for all purposes.

HCTD shall meet all performance standards contained in Attachment "B" (Performance Standards) to this Agreement, which is attached hereto and incorporated herein for all purposes. Fulfillment of these performance standards shall be a material obligation under this Agreement.

ARTICLE 9

ROUTES, SCHEDULES, AND FARES

HCTD shall operate the Transit System with the routes, schedules, and fares approved by its Board of Directors. HCTD shall give the City forty-five (45) days written notice prior to the effective date of changes or additions to routes, schedules, and fares. HCTD shall advertise and publish any such changes or additions in the Temple Daily Telegram at least thirty (30) days prior to their effective date. In the event a public hearing is required in accordance with state or federal regulations, based on the impact on the service, an advertisement containing notice of the time and location of a public hearing to be held in Temple, Texas, inviting the attendance of the Temple Transit Advisory Committee, shall be published in the Temple Daily Telegram at least ten (10) days prior to the effective date, where HCTD shall receive questions and comments from the general public and the Transit Advisory Committee regarding the proposed changes or additions.

HCTD shall operate the Transit System using existing routes, schedules, and fares upon the effective date of this Agreement, subject thereafter to changes or additions upon public notice and hearing as provided herein.

ARTICLE 10

GRANTS

HCTD shall pursue and apply for appropriate grant funding to support the Transit System. HCTD shall be solely responsible for executing grant agreements and receiving and managing grant funds. HCTD shall be solely responsible for complying with the obligations and responsibilities under all grants and all accompanying certifications, assurances, and agreements made or given by the Federal Transit Administration, Texas Department of Transportation, or other entity.

ARTICLE 11

FACILITIES AND EQUIPMENT; CONTRIBUTIONS

Upon the effective date of this Agreement, the City agrees that the vehicles, furniture, equipment, and inventory listed in Attachment "D" to the prior Agreement shall be considered as having exceeded its useful life, other than the specific vehicles listed in the Article herein entitled "CITY OWNED VEHICLES" of this new agreement, and HCTD shall no longer be held accountable for the equipment on the list in Attachment D of the prior agreement. If this new Agreement terminates, the parties will agree on a fair and reasonable price for the sale of HCTD-owned assets used for the operation of the Transit System to the City. This price will be based on the percentage of actual funds (not federal or state grant funds) expended by HCTD originally for purchase of the assets. City will pay HCTD this percentage of the asset value at

time of termination, based on an appraisal of such assets by a neutral certified appraiser, the cost of the appraisal to be split evenly between the parties, taking into account the depreciation of the assets since their initial purchase.

The City may, but is under no obligation to, provide local share contributions, in funds or in kind, to HCTD for the enhancement of the Transit System. HCTD shall maintain accounting records that will track how any such funds are used to support the Transit System. The City shall have the right to inspect the financial records of HCTD during regular business hours to assure compliance with this Agreement. It is understood that any local share contributions shall constitute a current expense of the City during the relevant fiscal year and shall not be considered a debt of the City.

ARTICLE 12

CONTRACTING WITH HCTD

HCTD may contract with the City for the provision of support services such as fueling stations and for the lease of real property and use of other City-owned facilities under supplemental agreements. The City may contract with HCTD for special services that are not included in the day-to-day operations of the Transit System. HCTD's provision of these special services shall not interfere with or reduce the quality of service offered to the public by the Transit System, and cannot violate any state or federal regulations governing the use of state or federally funded transit equipment or operations funded, such as, but not limited to, charter service.

ARTICLE 13

EMERGENCY SERVICES

This Article defines responsibilities and procedures for the provision of transportation services related to emergency evacuations in the City of Temple.

General

The transportation service provided by Hill Country Transit District in accordance with this Article is for emergency evacuation services in a disaster related incident. A disaster is an occurrence such as a tornado, severe storm, flood, high water, fire, explosion, building structural collapse, commercial transportation accident, or other incidents that endanger persons that require outside assistance.

Hill Country Transit District Responsibilities

HCTD will provide vehicles and drivers to assist in evacuation of those persons as determined by emergency management administration. HCTD management will determine the availability of transportation service based on priority of need and contractual requirements for

normal service. Vehicles provided by HCTD will be operated only by HCTD personnel. Safety of HCTD vehicles and staff must be considered throughout the evacuation process.

HCTD staff responsibilities will be limited to operating lift mechanisms, securing wheelchair/mobility devices, and operating vehicles. At no time will HCTD staff administer medications.

To request emergency service, The HCTD staff can be reached weekdays from 5 AM until 7 PM and Saturdays 6 AM until 6 PM by calling 616-6800 in Killeen or 791-9601 in Temple. For emergency contact after normal HCTD business hours, the following people, listed in order for contact, are:

Robert Ator 760-5670
Royce Matkin 394-3680
James Ray 290-7887
Greg Garcia 290-4851

HCTD will provide trained, licensed vehicle operators and safe, clean, operable vehicles for services as provided herein.

City of Temple Responsibilities

The City of Temple will utilize available private charter providers before requesting assistance from HCTD.

The City of Temple will notify HCTD, as soon as possible, of the need for emergency evacuation.

The City of Temple emergency management administration will determine persons to be evacuated, a safe location to load/unload evacuees, and the destination of those evacuated. The City of Temple emergency management administration will record and track evacuee manifests information and provide HCTD with the number of evacuees transported.

Emergency evacuation of nursing/medical facilities will require the facility to provide staff to load and unload evacuees and will ensure wheelchair/mobility devices are in good working condition and can be properly secured in the vehicles. Facility staff will ride with the evacuees in each vehicle to provide medical care if needed.

Billing

The City of Temple will be invoiced by HCTD for transportation services on a minimum three (3) hour, per vehicle basis. Per hour cost charge will be current HCTD cost per hour rate. HCTD, at its sole discretion, may consider waiving these costs in catastrophic events that affect a large geographical area or a large number of people.

Termination of the Provisions of This Article

The provisions of this Article may be terminated by either party without cause and at any time upon notice to the other party. The notice will be thirty (30) days; however in urgent situations it may be less. Upon termination, all obligations under this Article shall cease.

The parties of the provisions of this Article may periodically review the results and consequences of their cooperation under this Article. When appropriate, the representatives of HCTD and the City of Temple may consider the need for improvements in the Article or entry of a durably binding agreement and make suitable proposals for modifying and updating these arrangements. Any modification to the Article, its provisions, or its intended purpose must be executed by authorized agents of both parties.

No amendment, supplement, or modification of this Article or any provision hereof shall be binding unless executed in writing by all parties. No waiver of any provision of this Article shall be binding unless evidenced by a writing signed by the party waiving compliance with such provision. No waiver of any of the provisions of this Article shall be deemed or shall constitute a waiver of any other provision hereof, nor shall any such waiver constitute a continuing waiver unless otherwise expressly provided.

ARTICLE 14

REPORTS, DATA AND STANDARDS

HCTD will maintain monthly, quarterly, and annual records, subject to audit by the City Finance Director, in accordance with State and Federal requirements and will submit these records quarterly for review by the City Finance Director and City Manager. HCTD will prepare and present an annual review of the Transit System for the Temple Transit Advisory Committee and the City Council. This review will include financial benchmarks and expenditures, performance results compared with the standards in Attachment "B," customer contact information, presentation of the upcoming budget, grant application status and compliance, and future plans for the Transit System.

ARTICLE 15

COMPLAINT HANDLING

HCTD will provide dispatch services during operating hours which include an advertised telephone number for reserving and scheduling trips, for handling customer complaints, and for handling other transit-related calls. This system will require all such calls to be responded to as quickly and efficiently as possible. Routine matters, such as pickup schedules, should be addressed as soon as possible, while issues that are more complex shall be answered in no more than five business days after the receipt of the call. HCTD will keep records of customer complaints/issues and its responses thereto for inspection by the City Manager and will include relevant information about these matters in its reports to the City.

ARTICLE 16

OPERATION OF FIXED ROUTE SYSTEM

HCTD will continue to operate the Fixed Route System and the associated complementary paratransit service program.

ARTICLE 17

DOCUMENTS, FILES, AND CAPITAL EQUIPMENT

HCTD shall maintain all documents and files in accordance with HCTD's records and retention policies. HCTD shall maintain all capital equipment in good repair, reasonable wear and tear expected.

ARTICLE 18

COMPLIANCE

HCTD represents that it is familiar with the requirements contained in this Agreement and is fully capable of complying therewith.

ARTICLE 19

WAIVER

No waiver of any of the provisions of this Agreement shall be binding upon the parties unless the same is in writing. In no event shall this Agreement be more strictly construed against the City than against HCTD.

ARTICLE 20

VENUE

The parties agree that in any legal action brought hereunder, venue shall lie in Bell County, Texas.

ARTICLE 21

CHOICE OF LAW

The validity of this Agreement and of its terms and provisions, as well as the rights and duties of the parties, shall be governed by the laws of the State of Texas.

ARTICLE 22

SEVERABILITY

In case any one or more of the provisions contained in this Agreement shall for any reason be held invalid, illegal, or unenforceable in any respect, such fact shall not affect any other provision thereof and this Agreement shall be construed as if the stricken provision had never been contained herein.

ARTICLE 23

MODIFICATION

This Agreement may be amended or modified by the mutual agreement of both parties hereto in writing, such writing to be attached hereto and incorporated into this Agreement.

ARTICLE 24

CITY OWNED VEHICLES

The vehicles listed below are the property of the City of Temple. The City grants HCTD permission to use these vehicles within the Central Texas Council of Governments urbanized area for transit service and for support of that service, and outside the city limits of the City. HCTD assumes full legal responsibility for the use of the vehicles and specifically indemnifies the City from any liability resulting from such use. In the event the expected life cycle of a vehicle listed herein expires because of mileage or age, HCTD may dispose of the vehicle in the same manner in which HCTD would dispose of the vehicle if the vehicle were owned by HCTD. Notwithstanding, HCTD must obtain the written approval of the City for such disposal – such written approval may be provided through the proper execution of legally required documents associated with the ownership and sale of vehicles in the State of Texas.

- 1997 Goshen, Unit # 162, VIN 1FDKE30SXVHB97132
- 1999 Goshen, Unit # 213, VIN 1FDXE40S5XHA11110
- 2000 Eldorado, Unit # 227, VIN 1FDXE45S21HA35686
- 2002 Eldorado TransMark, Unit # 901, VIN IN9TBAC852C084140

ARTICLE 25

ASSIGNMENT

This Agreement shall not be assigned or transferred by HCTD.

ARTICLE 26

ENTIRE AGREEMENT

This Agreement contains all commitments and obligations of the parties and represents the entire agreement of said parties. No verbal or written conditions not contained herein shall have any force or effect to alter any term of this Agreement.

ARTICLE 27

FORCE MAJEURE

No party shall be responsible for damages or expected to fulfill its obligations under this Agreement should an act of God or other unforeseen catastrophe occur and cause such damage or prevent the performance of such obligation.

ARTICLE 28

INSURANCE; INDEMNITY

HCTD will provide continuous enforcement of adequate insurance issued by companies authorized to conduct business in the State of Texas covering all employees employed by HCTD. HCTD shall keep in full force and effect during the term of this agreement insurance in the following types and minimum amounts:

<u>TYPE</u>	<u>AMOUNT</u>
Comprehensive, General Liability, including Contractual liability, premises/operations, and Personal injury liability	<u>Bodily Injury</u> \$250,000 per person \$500,000 aggregate <u>Property Damage</u> \$100,000 per occurrence \$100,000 aggregate
Worker's Compensation Employer's Liability	Statutory \$100,000
<u>TYPE</u>	<u>AMOUNT</u>
Comprehensive Automobile Liability, Including owned, nonowned and hired car coverage	<u>Bodily Injury</u> \$250,000 per person \$500,000 aggregate <u>Property Damage</u> \$100,000 per occurrence \$100,000 aggregate
Professional Liability	\$500,000

All insurance policies will name the City of Temple as an additional insured with waiver of subrogation in favor of the City of Temple. All insurance policies shall be subject to the examination and approval of the City of Temple for their adequacy as to form, content, form of protection, and insurance company. HCTD shall furnish to the City's risk manager, for the City files, certificates or copies of the policies, plainly and clearly evidencing such insurance, with exclusions, exceptions, or limitations, prior to the execution of this Agreement by all parties and thereafter new certificates or policies prior to the expiration date of any prior certificate or policy.

HCTD understands that it has sole responsibility to provide this necessary information and that failure to timely comply with these insurance requirements shall be cause for termination of this contract.

All insurance policies required herein shall also provide that such insurance shall not be canceled or materially changed without a minimum of thirty (30) days advance notice in writing to the City of Temple, Texas.

HCTD AGREES TO ASSUME FULL RESPONSIBILITY AND LIABILITY FOR THE SERVICES RENDERED UNDER THIS AGREEMENT AND HEREBY AGREES TO INDEMNIFY, PROTECT AND HOLD HARMLESS THE CITY OF TEMPLE, ITS EMPLOYEES, AGENTS, AND SERVANTS, OF AND FROM ALL CLAIMS, DEMANDS, AND CAUSES OF ACTIONS OF EVERY KIND AND CHARACTER, INCLUDING THE COST OF DEFENSE THEREOF, FOR ANY INJURY TO, INCLUDING DEATH OF, PERSONS AND ANY LOSSES FOR DAMAGES TO PROPERTY CAUSED BY OR ALLEGED TO BE CAUSED, ARISING OUT OF, OR ALLEGED TO ARISE OUT OF, EITHER DIRECTLY OR INDIRECTLY OR IN CONNECTION WITH THE SERVICES TO BE RENDERED HEREUNDER, WHETHER OR NOT SAID CLAIMS, DEMANDS, CAUSES OR ACTIONS ARE CAUSED BY THE SOLE NEGLIGENCE OF THE CITY OF TEMPLE, ITS EMPLOYEES, AGENTS, OR SERVANTS, OR WHETHER IT WAS CAUSED BY CONCURRENT NEGLIGENCE OF THE CITY OF TEMPLE AND A PARTY TO THIS AGREEMENT, OR WHETHER IT WAS CAUSED BY CONCURRENT NEGLIGENCE OF THE CITY OF TEMPLE AND SOME OTHER THIRD PARTY.

ARTICLE 29

EXECUTION

This Agreement shall be executed by the duly authorized official(s) of each party as expressed in the approving resolution or order of the governing body of such party.

THE CITY OF TEMPLE, TEXAS

HILL COUNTRY TRANSIT DISTRICT

By: _____
DAVID BLACKBURN, City Manager

By: _____
CAROLE WARLICK, General Manager

THE STATE OF TEXAS
COUNTY OF _____

I, _____, a Notary Public, do hereby certify that on this _____ day of _____, 2010, personally appeared before me Carole Warlick, who being by me first duly sworn, declared that she is the person who signed the foregoing document as duly authorized official and that the statements therein contained are true.

IN WITNESS WHEREOF, I have hereunto set my hand and seal the day and year above written.

Notary Public in and for
The State of Texas

Attest:

Approved as to form:

Clydette Entzminger
City Secretary

Jonathan Graham
City Attorney

Attachment "A" — Required Contract Clauses — "Consolidated Certification Form"
Attachment "B" — TRANSIT PERFORMANCE STANDARDS

ATTACHMENT A



Consolidated Certification Form

Form PTN-130
(Rev. 02/10)
Page 1 of 4

I. FOR ALL BIDS:

The undersigned vendor certifies to abide by these clauses and include the following clauses in each subcontract financed in whole or in part with Federal Transit Administration (FTA) funds. Vendors are certifying by reference the entire list of FTA FY 2010 Certifications and Assurances, and shall download the same at:
http://www.fta.dot.gov/documents/2010-Certs-Appendix_A.pdf.

A. Disadvantaged Business Enterprises (DBE) Certification

The vendor will provide products compliant with 49 CFR 26.49 regarding the vehicle manufacturer's overall DBE goal.

B. Access to Third Party Contract Records

As required by 49 U.S.C. § 5325(g). The VENDOR agrees provide sufficient access to records as needed to assure proper project management and compliance with Federal laws and regulations.

C. Interest of Members of or Delegates to Congress

The vendor certifies that no member of or delegate to the Congress of the United States (US) shall be admitted to any share or part of this contract or to any benefit arising therefrom.

D. Prohibited Interest

The vendor certifies that no member, officer or employee of the Public Body or of a local public body during his or her tenure or one year thereafter shall have any interest, direct or indirect, in this contract or the proceeds thereof.

E. Cargo Preference - Use of United States-Flag Vessels

The vendor agrees: a. to use privately owned US -Flag commercial vessels to ship at least 50 percent of the gross tonnage (computed separately for dry bulk carriers, dry cargo liners, and tankers) involved, whenever shipping any equipment, material or commodities pursuant to the underlying contract to the extent such vessels are available at fair and reasonable rates for US-Flag commercial vessels; b. to furnish within 20 working days following the date of loading for shipments originating within the US or within 30 working days following the date of loading for shipments originating outside the US, a legible copy of a rated, "on-board" commercial ocean bill-of-lading in English for each shipment of cargo to the Division of National Cargo, Office of Market Development, Maritime Administration, Washington, DC 20590 and to the FTA recipient (through the contractor in the case of a subcontractor's bill-of-lading).

F. Energy Conservation

The vendor agrees to comply with mandatory standards and policies relating to energy efficiency, which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act.

G. No Obligation by the Federal Government.

The Purchaser and vendor acknowledge and agree that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award of the underlying contract, absent the express written consent by the Federal Government, the Federal Government is not a party to this contract and shall not be subject to any obligations or liabilities to the Purchaser, Contractor or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying contract).

H. Program Fraud and False or Fraudulent Statements or Related Acts

The vendor acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. §3801 et seq. and U.S. DOT regulations, "Program Fraud Civil Remedies," 49 C.F.R. Part 31, apply to its actions pertaining to this project. The vendor certifies truthfulness and accuracy of any statement it makes pertaining to the FTA-assisted project. The vendor acknowledges that if it makes, or causes to be made, a false, fictitious or fraudulent claim, statement, submission or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 as deemed appropriate. The vendor acknowledges that if it makes, or causes to be made, a false, fictitious or fraudulent claim, statement submission, or certification to the Federal Government relating to the FTA-assisted project, per 49 U.S.C. §5307, the Government reserves the right to impose the penalties of 18 U.S.C. §1001 and 49 U.S.C. §5307(n)(1) on the Contractor, as deemed appropriate.

I. Contract Work Hours

(1) Overtime requirements - No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

(2) **Violation; liability for unpaid wages; liquidated damages** - In the event of any violation of the clause set forth in paragraph (1) of this section, the contractor & any subcontractor responsible therefore shall be liable for unpaid wages and shall be liable to the United States for liquidated damages which shall be computed for each individual laborer, mechanic, watchman or guard employed in violation of the clause set forth in paragraph (1) of this section, in the sum of \$10 for each calendar day that an individual was required / permitted to work over 40 hours in a workweek without payment of overtime wages required by the clause in paragraph (1) of this section.

(3) **Withholding for unpaid wages and liquidated damages** - The purchaser shall upon its own action or upon written request of the Department of Labor (DOL) withhold or cause to be withheld, from any money payable for work performed by the contractor or subcontractor under any contract or other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as set-forth in paragraph (2) of this section.

(4) **Subcontracts** - The contractor or subcontractor shall include the clauses set forth in this section and require the same from subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with these clauses.

(5) **Payrolls and basic records** - Payrolls and related basic records shall be maintained by the contractor during the course of the work and preserved for three years thereafter for all laborers and mechanics working at the work site (or under the United States Housing Act of 1937 or the Housing Act of 1949, in the construction or development of the project). Such records shall contain the name, address and social security number of each worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records showing that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, that the plan or program has been communicated in writing to the laborers or mechanics affected, and records of the costs anticipated or actual costs incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of registration of apprenticeship programs, certification of trainee programs, registration of the apprentices and trainees, and ratios & wage rates prescribed in applicable programs.

J. Civil Rights

(1) **Nondiscrimination** - In accordance with Title VI of the Civil Rights Act (CRA), as amended, 42 U.S.C. §2000d, section 303 of the Age Discrimination Act of 1975, as amended, 42 U.S.C. §6102, section 202 of the Americans with Disabilities Act of 1990, 42 U.S.C. §12132, and Federal transit law at 49 U.S.C. §5332, the vendor agrees that it will not discriminate against any employee or applicant for employment because of race, color, creed, national origin, sex, age, or disability. In addition, the vendor agrees to comply with applicable Federal implementing regulations and other implementing requirements FTA may issue.

(2) **Equal Employment Opportunity** - The following equal employment opportunity requirements apply:

(a) **Race, Color, Creed, National Origin, Sex** - In accordance with Title VI of the CRA, as amended, 42 U.S.C. §2000e, and Federal transit laws at 49 U.S.C. §5332, the vendor agrees to comply with all applicable equal employment opportunity requirements of U.S. DOL regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, DOL," 41 C.F.R. Parts 60 et seq., (which implement Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," 42 U.S.C. §2000e note), and with any applicable Federal statutes, executive orders, regulations and Federal policies that may in the future affect construction activities undertaken in the course of the Project. The vendor agrees to take affirmative action to ensure that applicants are employed & treated during employment without regard to their race, color, creed, national origin, sex or age. Action shall include but not be limited to employment, upgrading, demotion, transfer, recruitment, layoff, termination, rates of pay or other forms of compensation; and selection for training, including apprenticeship. The vendor agrees to comply with any implementing requirements FTA may issue.

(b) **Age** - In accordance with section 4 of the Age Discrimination in Employment Act of 1967 (29 U.S.C. §§623 and 49 U.S.C. §5332), the vendor agrees to refrain from discrimination against present and prospective employees for reason of age. and comply with any implementing requirements FTA may issue.

(c) Disabilities - In accordance with section 102 of the Americans with Disabilities Act (42 U.S.C. §12112), the contractor agrees to comply with the requirements of U.S. Equal Employment Opportunity Commission, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R. Part 1630, pertaining to employment of persons with disabilities. and to comply with any implementing requirements FTA may issue.

K. Altoona Test Certification (Check one of the following):

- ☐ The vehicle has been Altoona tested, report number: _____
- ☐ The vehicle is exempt from testing IAW 49 CFR 665.
- ☐ The vehicle is currently being tested at Altoona.

Federal funds will not be released until the purchasing agency receives a copy of the Altoona test report, as appropriate, per 49 CFR 665.

L. Federal Standards

The VENDOR agrees to comply with applicable third party procurement requirements of 49 U.S.C. chapter 53, applicable U.S. DOT third party procurement and financial administration regulations at 49 C.F.R. § 18.36 or 49 C.F.R. §§ 19.40 - 19.48, with FTA Circular 4220.1F, "Third Party Contracting Guidance," and any later revision thereto, and other procurement requirements in effect now or as amended to the extent applicable.

M. Federal Motor Vehicle Safety Standards (FMVSS)

Any vehicles provided by the vendor will comply with all applicable FMVSS.

N. Application of Federal, State, & Local Laws, Regulations, & Directives (Federal Changes)

The VENDOR agrees that Federal laws and regulations control project award and implementation. The VENDOR understands and agrees that unless the recipient requests FTA approval in writing, the VENDOR may incur a violation of Federal laws or regulations or this agreement if it implements an alternative procedure or course of action not approved by FTA. The VENDOR understands and agrees that Federal laws, regulations, and directives applicable on the date on which Federal assistance is awarded may be modified from time to time. In particular, new Federal laws, regulations, and directives may become effective after the date the project agreement is effective, and might apply to that project agreement. The VENDOR agrees that the most recent versions of such Federal laws, regulations, and directives will apply to the administration of the project at any particular time.

O. Right of the Federal Government to Terminate

Upon written notice, the VENDOR agrees that the Federal Government may suspend or terminate all or any part of Federal assistance if terms of the project agreement are violated, if the Federal Government determines that the purposes of the laws authorizing the Project would not be adequately served by the continuation of Federal assistance for the Project, if reasonable progress on the Project is not made, if there is a violation of the project agreement that endangers substantial performance of the Project, or if the Federal Government determines that Federal assistance has been willfully misused by failing to make appropriate use of Project property. Termination of Federal assistance for the Project will not typically invalidate obligations properly incurred before the termination date to the extent those obligations cannot be canceled. The Federal Government reserves the right to require the refund of the entire amount of Federal assistance provided for the Project or a lesser amount.

P. Disputes, Breaches, Defaults, or Other Litigation

The VENDOR agrees that FTA has a vested interest in the settlement of any dispute, breach, default, or litigation involving the Project. Accordingly:

a. **Notification to FTA.** The VENDOR is aware that recipients of Federal assistance must notify FTA in writing of any current or prospective major dispute, breach, default, or litigation that may affect the Federal Government's interests in the Project or the administration or enforcement of Federal laws or regulations. If the Federal Government is to be named as a party to litigation for any reason, in any forum, the appropriate FTA Regional Counsel is to be notified in writing before doing so.

b. **Federal Interest in Recovery.** The VENDOR is aware that the Federal Government retains the right to a proportionate share, based on the percentage of the Federal share awarded for the Project, of proceeds derived from any third party recovery.

c. **Enforcement.** The VENDOR agrees to pursue its legal rights and remedies available under any third party contract or available under law or regulations.

d. **FTA Concurrence.** The VENDOR is aware that FTA reserves the right to concur in any compromise or settlement of any claim involving the Project.

e. **Alternative Dispute Resolution.** The VENDOR is aware that FTA encourages the use of alternative dispute resolution procedures, as may be appropriate.

II. FOR BIDS OVER \$100,000:

The vendor agrees to include the following in subcontracts exceeding \$100,000 financed by the FTA.

A. Buy America (Check where applicable):

- ☐ The vendor will comply with 49 USC 5323(j) and 49 CFR 661, providing Buy America compliant vehicles.
- ☐ The vendor cannot comply with the requirements 49 USC 5323(j), but may qualify for an exception to the requirement pursuant to the regulations in 49 CFR 661.7.

B. Non-Lobbying

The vendor certifies that no funds to be provided under this Contract will be used to attempt to influence any member of or delegate to Congress, to favor or oppose any legislation or appropriation by Congress, to lobby the state or local legislatures, or to lobby any officer or employee of an agency. The vendor certifies that it will comply with "Restrictions on Lobbying: Certification and Disclosure Requirements" as imposed by 29 CFR.

C. Debarment and Suspension

The vendor hereby certifies that it and its principals have not presently or within a three year period been debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from covered transactions by any Federal agency; and the vendor hereby certifies that it and its principals have not presently or within a three-year period been convicted of or had a civil judgment rendered against them for the commission of a fraud or a criminal offense in connection with obtaining, attempting to obtain or performing a public (Federal, state or local) transaction; violation of Federal or state antitrust statutes; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements or receiving stolen property.

D. Clean Water & Air

The vendor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq. The vendor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. §§7401 et seq. The vendor agrees to report each violation to the Purchaser and understands and agrees that the Purchaser will, in turn, report each violation as required to assure notification to the FTA and the EPA.

III. CERTIFICATION TO PURCHASER:

- A. The undersigned vendor certifies that the vehicle(s) furnished will meet or exceed the specifications.
- B. The undersigned vendor certifies that it has read all of the bid documents and agrees to abide by the terms, certifications, and conditions thereof.

Name of Company	Printed Name of Person Completing Form
Address	SS# or Tax ID #
Telephone	Signature

Disadvantaged Business Enterprise Information	<u>Type of Organization (circle)</u>	
	<input type="checkbox"/> Sole Proprietorship	<input type="checkbox"/> General Proprietorship
Is your firm a DBE? <input type="checkbox"/> (yes) <input type="checkbox"/> (no)	<input type="checkbox"/> Corporation	<input type="checkbox"/> Limited Partnership
If yes, what type?	<input type="checkbox"/> Limited Proprietorship	

The Texas Department of Transportation maintains the information collected through this form. With few exceptions, you are entitled on request to be informed about the information that we collect about you. Under Sections 552.021 and 552.023 of the Government Code, you also are entitled to receive and review this information. Under Section 559.004 of the Government Code, you are also entitled to have us correct information about you that is incorrect.

ATTACHMENT B

TRANSIT PERFORMANCE STANDARDS

1. Assurances / Qualitative Standards by HCTD

- a. Identify patron sign up, inquiry, and complaint procedure, and link to policies and procedures for consistency.
- b. Comply with National Transit Database reporting standards.
- c. Continue established training program and demonstrate compliance with it for all drivers – maintain records documenting compliance.
- d. Maintain the highest degree of professionalism in provision of transit services and in relations with the City of Temple.
- e. Through the Temple Transit Advisory Committee (TTAC), participate in the planning of the Transit System, developing a common goal of providing a Transit System that will, through the provision of safe, dependable transportation services, enhance the quality of life for all Temple residents.
- f. Provide vehicle reliability standards, assuring:
 - Safety/security of patrons
 - Driver/Dispatcher courtesy
 - Vehicle cleanliness schedule – Standard is to clean inside daily and outside weekly
 - Maintenance schedule – Standard is to provide maintenance schedule for all system components, including fluids, tires, tune ups, etc.

2. Assurances / Qualitative Standards by the City of Temple

- a. Through the Temple Transit Advisory Committee (TTAC), participate in the planning of the Transit System, developing a common goal of providing a transit system that will, through the provision of safe, dependable transportation services, enhance the quality of life for all Temple residents.
- b. Support the functions of the Transit System wherein reasonable and practical, in such areas as police protection, accident investigation, mutually beneficial training programs, and public information systems.
- c. Support and participate in the identification of and request for funding at both the state and federal levels for transit related programs.

3. Data / Quantitative Standards - STS

HCTD will maintain data that is required by NTD standards, and any other data required by State and Federal standards as applicable to the operation of an Urban Transit System. HCTD will maintain the following STS data on a daily basis and will submit pertinent reports monthly to the City of Temple:

- a. Number of one-way trips
- b. Number of service hours
- c. Number of trips per service hour – STANDARD IS = OR > 2.0
- d. Number of trips denied – STANDARD IS = OR < 5%
- e. Number of late pickups – STANDARD IS = OR < 5%

4. Data / Quantitative Standards - FRS

HCTD will maintain data that is required by NTD standards, and any other data required by State and Federal standards as applicable to the operation of an Urban Transit System. HCTD will maintain the following FRS data on a daily basis and will submit pertinent reports monthly to the City of Temple:

- a. Number of passengers carried
- b. Number of service hours
- c. Number of trips per service hour – STANDARD IS = OR > 10.0
- d. Number of missed trips – STANDARD IS = OR < 2%

5. Overall Performance Standards – Safety & Maintenance

- a. Traffic accidents per 100,000 miles driven – STANDARD IS = OR < 4.0
- b. Service related complaints – STANDARD IS = OR < 1/100 PASSENGERS
- c. Number of road calls – STANDARD IS = OR < 25/100,000 MILES

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING THE RENEWAL OF AN INTERLOCAL AGREEMENT WITH HILL COUNTRY TRANSIT DISTRICT (HCTD) FOR MANAGING AND OPERATING THE TRANSIT SYSTEM WITHIN TEMPLE'S URBAN TRANSIT DISTRICT FOR A FIVE (5) YEAR PERIOD; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, on January 1, 2001, the City entered into an interlocal agreement with Hill Country Transit District (HCTD) for a term of three (3) years with the option to extend for two 1-year periods;

Whereas, the initial interlocal agreement term ended on September 30, 2003, and the agreement was extended through September 30, 2005, and the agreement, in 2005, was renewed for a five (5) year term through September 30, 2010;

Whereas, the agreement assigned all administrative, financial, and operational duties and fixed assets regarding Temple Transit to HCTD in exchange for commitment to continue operating the paratransit system and the implementation of a Fixed Route System;

Whereas, HCTD has since implemented a Fixed Route System and has implemented a complementary ADA paratransit program;

Whereas, the Staff is pleased with the performance of HCTD and recommends renewal for a five (5) year term through September 30, 2015, with options for two additional five-year terms;

Whereas, supplemental funding for operation of the HCTD Transit System is available in the FY 2010-2011 budget; 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 renewal of the interlocal agreement between the City of Temple, Texas, and Hill Country Transit District, after approval as to form by the City Attorney, for managing and operating the transit system within Temple's Urban Transit District for a five (5) year period. By mutual written consent, this Agreement may be renewed for two additional five-year terms.

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 **21st** day of **October**, 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

10/21/10
Item #5
Regular Agenda
Page 1 of 1

DEPT./DIVISION SUBMISSION & REVIEW:

Jonathan Graham, City Attorney

ITEM DESCRIPTION: THIRD & FINAL READING – PUBLIC HEARING: Consider adopting an ordinance granting Richard Curtis, dba Good Times Carriage Rides, a non-exclusive franchise for five years to operate horse-drawn carriages upon the public streets and highways of the City of Temple.

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

ITEM SUMMARY: Richard Curtis, dba Good Times Carriage Rides, has requested a renewal of the non-exclusive franchise which will expire October 1, 2010, authorizing a horse-drawn vehicle service in the City of Temple. Mr. Curtis was first granted the five-year non-exclusive franchise in 1995 and it has been renewed for five-year terms since that time.

The current vehicle permit fee is \$150 per year for the first horse-drawn carriage of a business operator. If additional carriages are brought into service those vehicles would be assessed an additional vehicle permit fee of \$25 each per year. All requirements contained in the public transportation ordinance concerning horse-drawn carriage operations are included in the franchise agreement by reference. This allows requirements in the ordinance to address general conditions regarding public transportation, and also includes more specific requirements concerning horse-drawn carriage operations within the City.

FISCAL IMPACT: Annual franchise fee is \$150 for one carriage and \$25 for each additional.

ATTACHMENTS:

[Request for Franchise Renewal Ordinance](#)

September 2, 2010

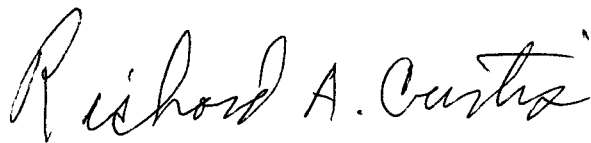
City Attorney
City of Temple
Municipal Building
Main St.
Temple, Tx 76501

Attention:City Attorney:

I am writing to inform you that we would like to renew our franchise for the city of Temple. If you need any further information, please contact me at 3888 Middle Rd., Temple, Tx 76501, or 254-771-2839, or email ce22curtis@gmail.com. Thank you.

Sincerely,

Richard Curtis
Good Time Carriage Rides, Inc.

A handwritten signature in cursive script that reads "Richard A. Curtis".

GOOD TIME CARRIAGE RIDES, INC.
3888 MIDDLE RD.
TEMPLE, TX 76501

RECEIVED
SEP 10 2010
CITY OF TEMPLE, TX
CITY SECRETARY

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, GRANTING RICHARD CURTIS, D/B/A GOOD TIME CARRIAGE RIDES, A NON-EXCLUSIVE FRANCHISE FOR FIVE YEARS TO OPERATE HORSE-DRAWN CARRIAGES UPON THE PUBLIC STREETS AND HIGHWAYS OF THE CITY OF TEMPLE PURSUANT TO THE PROVISIONS OF THE CONSTITUTION AND LAWS OF THE STATE OF TEXAS AND THE CHARTER AND ORDINANCES OF THE CITY OF TEMPLE; DECLARING FINDINGS OF FACT; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, Ordinance No. 95-2363 requires that a person desiring to operate horse-drawn carriages on the streets of the City of Temple obtain a franchise under conditions set out in the City Charter and the Code of Ordinances;

Whereas, Richard Curtis, d/b/a Good Times Carriage Rides (hereinafter "Richard Curtis"), seeks a non-exclusive franchise for a horse-drawn carriage business within the City of Temple; and

Whereas, Richard Curtis has established to the satisfaction of the City Council by clear, cogent and convincing evidence that public convenience and necessity will be served by the granting of said franchise.

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

PART 1: Grant and term.

The City hereby grants to Richard Curtis, d/b/a Good Times Carriage Rides, a non-exclusive franchise to operate horse-drawn carriages upon the public streets and highways of the City of Temple, Texas, for a term of five (5) years, beginning with the effective date of this ordinance.

PART 2: Conditions of Franchise.

The rights, powers and authority herein granted are granted subject to the Constitution and laws of the State of Texas, the Charter of the City of Temple, and where not provided herein, the ordinances and codes of the City of Temple as same now exist or may hereafter be amended so as to constitute reasonable regulations protecting the health, safety and welfare to insure safe, efficient and continuous horse-drawn carriage service, all of which enumerated provisions are incorporated herein by reference and made a part hereof as fully as though the same had been copied herein verbatim

PART 3: Standards and Requirements for Personnel, Vehicles, Equipment and Service.

Richard Curtis shall comply with all of the standards and requirements for personnel, vehicles, equipment and service that are set out in Ordinance No. 95-2363.

PART 4: Payment to the City Required; Vehicle Permit Fees.

Richard Curtis shall, during the life of this franchise, pay to the City of Temple at the office of the franchise administrator, an annual vehicle permit fee, in the amount established by resolution of the city council, for each carriage operated in the City of Temple. A vehicle permit shall be valid for the duration of the calendar year during which the permit was issued. Vehicle permits are issued for particular vehicles, and are not transferable to other vehicles or operators.

PART 5: Rates.

(a) The City Council expressly reserves the right, power, and authority to fully regulate and fix, by resolution, the rates and charges for horse-drawn carriage services provided by Richard Curtis under this franchise, fully reserving to the city council all the rights, powers, privileges, and immunities, subject to the duties, limitations and responsibilities which the Constitution, the laws of the State and the City Charter confer upon the City.

(b) Notice of a proposed rate increase shall be filed in writing with the franchise administrator at least ninety (90) days prior to the effective date of the proposed increase. A proposed rate increase shall be deemed approved if not acted upon by the city council within ninety (90) days from receipt of the notice.

PART 6: Indemnity.

Richard Curtis shall agree and be bound to hold the city whole and harmless against any and all claims for damages, costs, and expenses, to persons or property that may arise out of or be occasioned by the operation of the franchise, or from any act or omission of any representative, agent, customer, or employee of the franchise holder, and such indemnity provision shall also cover any personal injury or damage suffered to city property, city employees, agents or officers. The franchisee shall agree and be bound to defend any and all suits, claims, or causes of action brought against the city on account of same, and discharge any judgment or judgments that may be rendered against the city in connection with the operation of the franchise.

PART 7: Liability Insurance Required.

(1) Richard Curtis shall, at his own expense, purchase, maintain and keep in force for the duration of a public transportation franchise, public liability insurance in the following amounts:

Commercial general liabilityC\$250,000 for each person and \$300,000 for each single occurrence for bodily injury or death and \$100,000 for each single occurrence for injury to or destruction of property or \$300,000 combined single limit.

Richard Curtis shall not commence operations under the franchise until it has obtained all the insurance required for the franchise and such insurance has been approved by the city attorney. All insurance policies provided under the franchise shall be written on an "occurrence" basis and cover every vehicle operated under the franchise.

(2) *Additional insured; waiver of subrogation.* The city shall be named as an additional insured on the commercial general liability policy. The insurance policy shall contain the appropriate additional insured endorsement signed by a person authorized by that

insurer to bind coverage on its behalf, and provide a waiver of subrogation in favor of the city.

(3) *Notice of cancellation.* Each insurance policy required by this section shall be endorsed to state that coverage shall not be suspended, voided, canceled, reduced in coverage or in limits, except after thirty (30) days prior written notice has been provided to the city.

(4) *Authorized carriers.* Insurance is to be placed with insurers with a Best's rating of no less than A:VII. The company must also be duly authorized to transact business in the State of Texas.

(5) In the event that any insurance policy is canceled upon the request of the surety or insurer, and no insurance policy is filed by the franchise holder before the cancellation the franchise to operate horse-drawn carriages granted to such person shall be automatically revoked.

PART 8: Manner of Giving Notice.

Notice to Richard Curtis may be given by mailing or delivering a written copy thereof to Good Time Carriage Rides at 3888 Middle Road, Temple, Texas 76501, during ordinary business hours. Notice to the City may be given by leaving a written copy thereof at the office of the franchise administrator during ordinary business hours.

PART 9: Public Convenience and Necessity.

Richard Curtis has established by clear, cogent and convincing evidence, and the City Council has so found and determined that the present and future convenience and necessity require the operations here authorized to be performed by Richard Curtis and that the public convenience and necessity will be served by the granting of this franchise.

PART 10: This franchise shall become effective thirty (30) days after the final passage and approval of this ordinance, provided that Richard Curtis has filed with the City his written acceptance of the terms and conditions of this franchise.

PART 11: 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 12: 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 13: 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 First Reading on the 16th day of **September**, 2010.

PASSED AND APPROVED on Second Reading on the 7th day of **October**, 2010.

PASSED AND APPROVED on Third and Final Reading on the **21st** day of **October**,
2010.

THE CITY OF TEMPLE, TEXAS

WILLIAM A. JONES, III, Mayor

ATTEST:

Clydette Entzminger
City Secretary

APPROVED AS TO FORM:

Jonathan Graham
City Attorney

Agreement of Franchisee

TO THE HONORABLE MAYOR AND CITY COUNCIL OF THE CITY OF TEMPLE,
TEXAS:

The franchisee, Richard Curtis, d/b/a/ Good Times Carriage Rides, acting by and through its duly authorized and empowered officer, hereby accepts the terms and conditions of Ordinance No. _____, granting a non-exclusive franchise to operate horse-drawn carriages upon the public streets and highways of the City of Temple.

SIGNED this _____ day of _____, 2010.

GOOD TIME CARRIAGE RIDES

RICHARD CURTIS



COUNCIL AGENDA ITEM MEMORANDUM

10/21/10
Item #6
Regular Agenda
Page 1 of 1

DEPT./DIVISION SUBMISSION & REVIEW:

Jonathan Graham, City Attorney

ITEM DESCRIPTION: THIRD & FINAL READING – PUBLIC HEARING: Consider adopting an ordinance granting Temple Transportation, Inc., dba Yellow Cab, a non-exclusive franchise for five years to provide taxicab service in the City of Temple.

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

ITEM SUMMARY: Mr. Bill Kemp, President of Temple Transportation, Inc., dba Yellow Cab, has requested a renewal of the non-exclusive franchise which will expire on October 1, 2010 authorizing a taxicab service in the City of Temple.

The current vehicle permit fee is \$450 per year for each taxicab in service, plus \$10 for each taxicab driver. The City's Police Department performs the investigation of an applicant's driving record, criminal history and completes the permit that is issued to an applicant for driving a taxicab. The City Secretary's Office issues the vehicle permits, after inspection by the City's Fleet Services Division.

All requirements contained in the public transportation ordinance concerning taxicab operations are included in the franchise agreement by reference. This allows requirements in the ordinance to address general conditions regarding public transportation, and also includes the more specific requirements concerning taxicab operation within the City.

FISCAL IMPACT: Annual vehicle permit fee of \$450 per vehicle and \$10 annual driver permit fee. Annual franchise revenue is estimated at \$3,000.

ATTACHMENTS:

[Request for Franchise Renewal Ordinance](#)

08-31-10

Temple Transportation

705 W Ave G

Temple, Tx. 76504

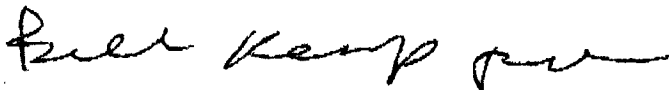
Temple City Council

Temple, Tx.

To whom it may concern;

We respectfully request that the franchise for Temple Transportation, a taxi cab service in Temple, Tx., be renewed. Thank you.

Sincerely,

A handwritten signature in black ink, appearing to read "Bill Kemp", followed by a horizontal flourish.

Bill Kemp, pres.

Temple Transportation

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, GRANTING TEMPLE TRANSPORTATION COMPANY, D/B/A YELLOW CAB, A NON-EXCLUSIVE FRANCHISE FOR FIVE YEARS TO OPERATE TAXICABS UPON THE PUBLIC STREETS AND HIGHWAYS OF THE CITY OF TEMPLE PURSUANT TO THE PROVISIONS OF THE CONSTITUTION AND LAWS OF THE STATE OF TEXAS AND THE CHARTER AND ORDINANCES OF THE CITY OF TEMPLE; DECLARING FINDINGS OF FACT; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, Ordinance No. 95-2363 requires that a person desiring to operate taxicabs on the streets of the City of Temple obtain a franchise under conditions set out in the City Charter and the Code of Ordinances;

Whereas, Temple Transportation Company, d/b/a Yellow Cab ("Temple Transportation"), seeks a non-exclusive franchise for taxicab service within the City of Temple; and

Whereas, Temple Transportation has established to the satisfaction of the City Council by clear, cogent and convincing evidence that public convenience and necessity will be served by the granting of said franchise.

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

PART 1: *Grant and term.*

The City hereby grants to Temple Transportation a non-exclusive franchise to operate taxicabs upon the public streets and highways of the City of Temple, Texas, for a term of five (5) years.

PART 2: *Conditions of Franchise.*

The rights, powers and authority herein granted are granted subject to the Constitution and laws of the State of Texas, the Charter of the City of Temple, and where not provided herein, the ordinances and codes of the City of Temple as same now exist or may hereafter be amended so as to constitute reasonable regulations protecting the health, safety and welfare to insure safe, efficient and continuous taxicab service, all of which enumerated provisions are incorporated herein by reference and made a part hereof as fully as though the same had been copied herein verbatim

PART 3: *Standards and Requirements for Personnel, Vehicles, Equipment and Service.*

Temple Transportation shall comply with all of the standards and requirements for personnel, vehicles, equipment and service that are set out in Ordinance No. 95-2363.

PART 4: *Payment to the City Required; Vehicle and Driver Permit Fees.*

(a) Temple Transportation shall, during the life of this franchise, pay to the City of Temple at the office of the franchise administrator, an annual vehicle permit fee, in the amount established by resolution of the city council, for each taxicab operated in the City of Temple. A vehicle permit shall be valid for the duration of the calendar year during which the permit was issued. Vehicle permits are issued for particular vehicles, and are not transferable to other vehicles or operators.

(b) Temple Transportation shall, during the life of this franchise, pay to the City of Temple at the office of the franchise administrator, an annual taxicab driver's permit fee, in the amount established by resolution of the city council, for each driver operating a taxicab under this franchise. A driver's permit shall be valid for the duration of the calendar year during which the permit was issued. Drivers' permits are issued for particular drivers, and are not transferable to other drivers.

PART 5: *Rates.*

(a) The City Council expressly reserves the right, power, and authority to fully regulate and fix, by resolution, the rates and charges for taxicab services provided by Temple Transportation under this franchise, fully reserving to the city council all the rights, powers, privileges, and immunities, subject to the duties, limitations and responsibilities which the Constitution, the laws of the State and the City Charter confer upon the City.

(b) Notice of a proposed rate increase shall be filed in writing with the franchise administrator at least ninety (90) days prior to the effective date of the proposed increase. A proposed rate increase shall be deemed approved if not acted upon by the city council within ninety (90) days from receipt of the notice.

PART 6: *Indemnity.*

Temple Transportation shall agree and be bound to hold the city whole and harmless against any and all claims for damages, costs, and expenses, to persons or property that may arise out of or be occasioned by the operation of the franchise, or from any act or omission of any representative, agent, customer, or employee of the franchise holder, and such indemnity provision shall also cover any personal injury or damage suffered to city property, city employees, agents or officers. The franchisee shall agree and be bound to defend any and all suits, claims, or causes of action brought against the city on account of same, and discharge any judgment or judgments that may be rendered against the city in connection with the operation of the franchise.

PART 7: *Liability Insurance Required.*

(1) Temple Transportation shall, at its own expense, purchase, maintain and keep in force for the duration of a public transportation franchise, public liability insurance in the following amounts:

Commercial general liabilityC\$250,000 for each person and \$500,000 for each single occurrence for bodily injury or death and \$100,000 for each single occurrence for injury to or destruction of property or \$500,000 combined single limit.

Automobile liability-\$20,000 for each person and \$40,000 for each single occurrence for bodily injury or death and \$15,000 for each single occurrence for injury to or destruction of property.

Temple Transportation shall not commence operations under the franchise until it has obtained all the insurance required for the franchise and such insurance has been approved by the city attorney. All insurance policies provided under the franchise shall be written on an "occurrence" basis and cover every vehicle operated under the franchise.

(2) *Additional insured; waiver of subrogation.* The city shall be named as an additional insured on the commercial general liability policy. The insurance policy shall contain the appropriate additional insured endorsement signed by a person authorized by that insurer to bind coverage on its behalf, and provide a waiver of subrogation in favor of the city.

(3) *Notice of cancellation.* Each insurance policy required by this section shall be endorsed to state that coverage shall not be suspended, voided, canceled, reduced in coverage or in limits, except after thirty (30) days prior written notice has been provided to the city.

(4) *Authorized carriers.* Insurance is to be placed with insurers with a Best's rating of no less than A:VII. The company must also be duly authorized to transact business in the State of Texas.

(5) In the event that any insurance policy is canceled upon the request of the surety or insurer, and no insurance policy is filed by the franchise holder before the cancellation the franchise to operate taxicabs granted to such person shall be automatically revoked.

PART 8: *Manner of Giving Notice.*

Notice to Temple Transportation may be given by leaving a written copy thereof at the principal office of Temple Transportation in Temple, Texas, during ordinary business hours. Notice to the City may be given by leaving a written copy thereof at the office of the franchise administrator during ordinary business hours.

PART 9: *Public Convenience and Necessity.*

Temple Transportation has established by clear, cogent and convincing evidence, and the City Council has so found and determined that the present and future convenience and necessity require the operations here authorized to be performed Temple Transportation and that the public convenience and necessity will be served by the granting of this franchise.

PART 10: This franchise shall become effective thirty (30) days after the final passage and approval of this ordinance, provided that Temple Transportation has filed with the City its written acceptance of the terms and conditions of this franchise.

PART 11: 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 12: 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 13: 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 First Reading on the **16th** day of **September**, 2010.

PASSED AND APPROVED on Second Reading on the **7th** day of **October**, 2010.

PASSED AND APPROVED on Third and Final Reading on the **21st** day of **October**, 2010.

THE CITY OF TEMPLE, TEXAS

WILLIAM A. JONES, III, Mayor

ATTEST:

Clydetta Entzminger
City Secretary

APPROVED AS TO FORM:

Jonathan Graham
City Attorney

Agreement of Franchisee

TO THE HONORABLE MAYOR AND CITY COUNCIL OF THE CITY OF TEMPLE,
TEXAS:

The franchisee, Temple Transportation Company, d/b/a Yellow Cab, acting by and through its duly authorized and empowered officer, hereby accepts the terms and conditions of Ordinance No. _____, granting a non-exclusive franchise to operate taxicabs upon the public streets and highways of the City of Temple.

SIGNED this _____ day of _____, 2010.

TEMPLE TRANSPORTATION COMPANY



COUNCIL AGENDA ITEM MEMORANDUM

10/21/10
Item #7
Regular Agenda
Page 1 of 3

DEPT./DIVISION SUBMISSION & REVIEW:

Brian Mabry, AICP, Planning Director

ITEM DESCRIPTION: SECOND READING – Z-FY-10-50: Consider adopting an ordinance authorizing a zoning change from Agricultural District (A) to Single Family One District (SF1) on a 10.00 ± acre tract of land in the Maximo Moreno Survey, Abstract No. 14, in the City of Temple, Bell County, Texas, located on the north side of West FM 93, adjacent to and west of Ridgewood Estates.

P&Z COMMISSION RECOMMENDATION: At its September 20, 2010 meeting, the Planning and Zoning Commission voted 7/1 to recommend approval of a rezoning from A to SF-1.

Commissioner Hurd voted against the recommendation for approval and Commissioner Pope was absent.

STAFF RECOMMENDATION: Adopt ordinance on second reading approving a rezoning from A to PD-SF-1 with the following stipulations:

1. A maximum of 28 single-family lots are permitted on the subject property.
2. Except as modified by the binding site development plan, the use and development standards of the property must conform to the requirements of the Single Family 1 zoning district.
3. In the event of a conflict between the site development plan and the text of the Planned Development ordinance, the stricter standard applies.

ITEM SUMMARY: Please refer to the Staff Report and draft minutes of case Z-FY-10-50, from the Planning and Zoning meeting, September 20, 2010. The applicant originally requested the SF-1 zoning district in order to establish a single-family residential subdivision. The only access the subject property originally had to a public road is Lakeview Lane, which is part of the existing Ridgewood Estates subdivision. The streets in this subdivision are 22 feet in width from edge of pavement to edge of pavement and have no curb and gutter or ribbon curb. Ridgewood Estates has 74 lots and is approximately 36 acres in area, or 2.1 dwelling units per acre.

At the first reading of this case on October 7, 2010, Councilmembers requested the applicant amend his application to a Planned Development with SF-1 as the underlying zoning district in order to guarantee that the property will not be developed to the maximum capacity allowed in the SF-1 zoning district. The SF-1 district has a minimum lot size of 7,500 square feet. The binding Planned Development site development plan is attached to this report. The purpose of the Planned Development designation is to limit development of the property to 2.8 dwelling units per gross acre, which in the case of the subject property, equals 28 single-family lots. Without such limitation on development, the subject property could accommodate approximately 46 single-family dwellings if zoned SF-1. That equates to 4.6 units per acre, over twice as dense as the subdivision its traffic would be feeding into.

The applicant owns more property in the area and wants to work with Staff in the near future to produce a Planned Development for the remainder that will integrate the subject property.

COMPREHENSIVE PLAN COMPLIANCE:

The proposed rezoning relates to the following goals, objectives or maps of the Comprehensive Plan, Trails Master Plan and other adopted plans:

Document	Policy, Goal, Objective or Map	Compliance?
CP	Map 3.1 - Future Land Use and Character	N
CP	Map 5.2 - Thoroughfare Plan	N
CP	Goal 4.1 - Growth and development patterns should be consistent with the City's infrastructure and public service capacities	N
CTMP	NA	NA

CP = Comprehensive Plan CTMP = Citywide Trails Master Plan

Future Land Use and Character (CP Map 3.1)

The Future Land Use and Character Map designates the property as Estate Residential. The Planned Development rezoning request, which lays out lots that average about 12,500 square feet in area, complies with the map.

Thoroughfare Plan (CP Map 5.2)

The attached binding site development plan shows connection of the new development to Lakeview Lane and shows a proposed connection to future development to the north.

The 28 single-family lots that the Planned Development lays out will statistically generate 280 vehicle trips per day, according to the Institute of Transportation Engineers.

The request complies with the Thoroughfare Plan.

Availability of Public Facilities (CP Goal 4.1)

The property is served by a 2 ½ -inch water line and the closest sewer line is approximately 600 feet to the south. The applicant does not anticipate septic system usage. As stated above, the applicant plans on tying into an existing sewer line approximately 1,800 feet to the north. Public facilities are not currently available for the property.

PUBLIC NOTICE:

Sixteen notices of the Planning and Zoning Commission public hearing were sent out. As of Monday, September 20, at 5 PM, one notice was 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 September 9, 2010 in accordance with state law and local ordinance

FISCAL IMPACT: NA

ATTACHMENTS:

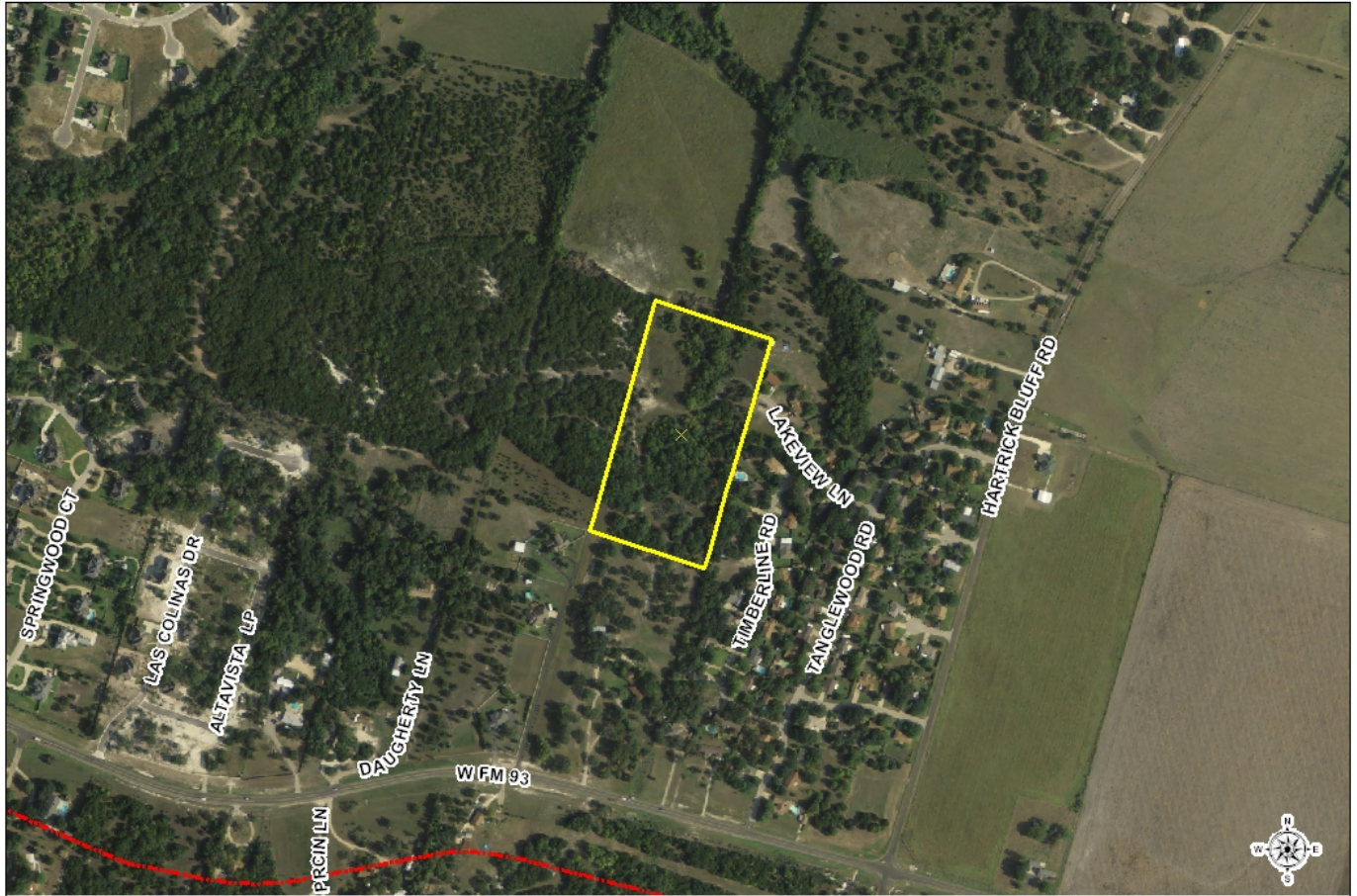
Aerial
Land Use and Character Map
Thoroughfare Plan Map
Zoning Map
Utility Map
Binding Site Development Plan
Notice Map
Response Letters
P&Z Staff Report (Z-FY-10-50)
P&Z Minutes (September 20, 2010)
Ordinance



Z-FY-10-50

10.00 acres

OB#6054-A



Feet 0 200 400 600

 ZF Y1050

J Stone 8.27.10

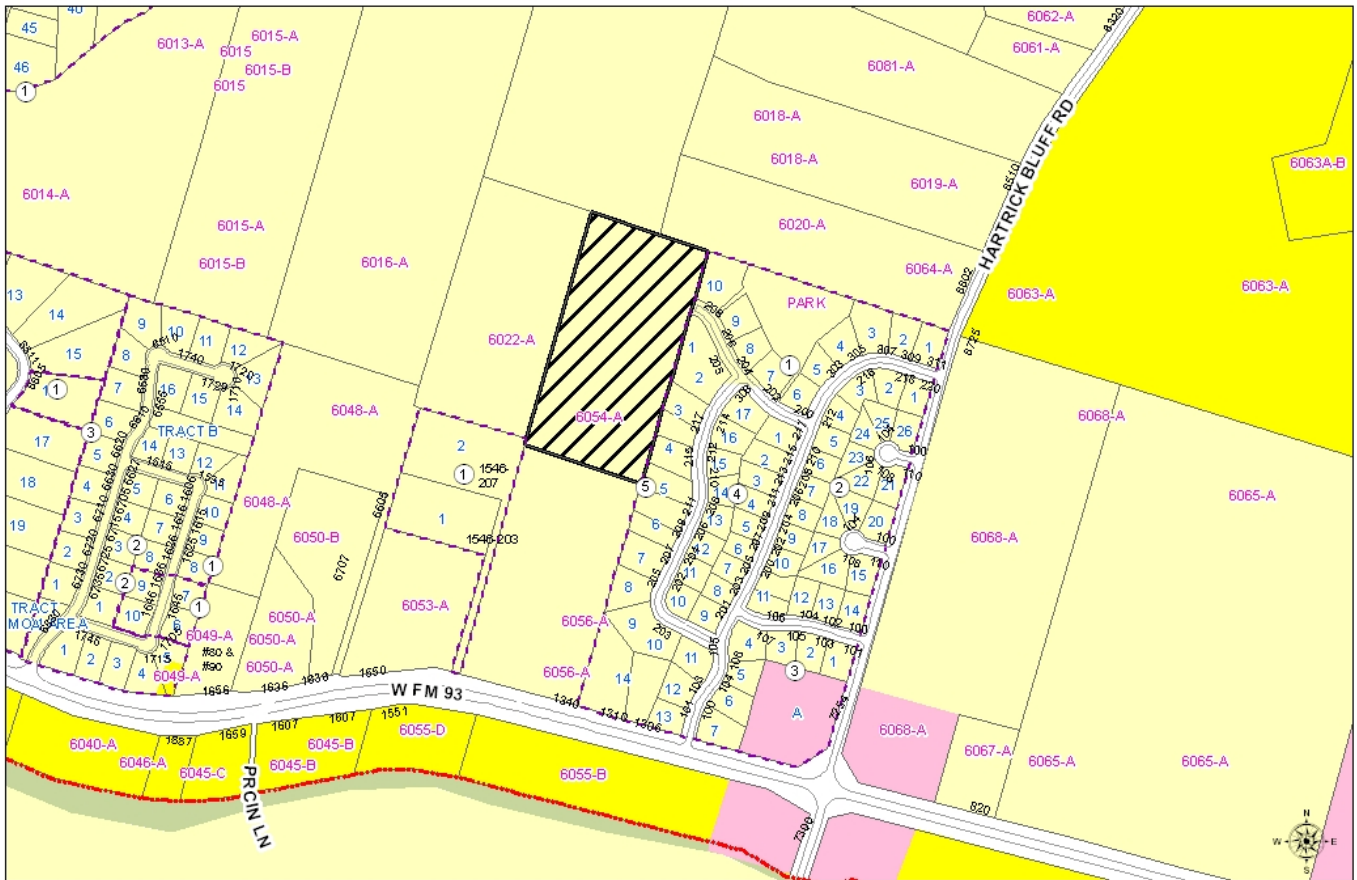


Z-FY-10-50

10.00 acres

Proposed Residential Development

OB#6054-A



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

ZFY1050

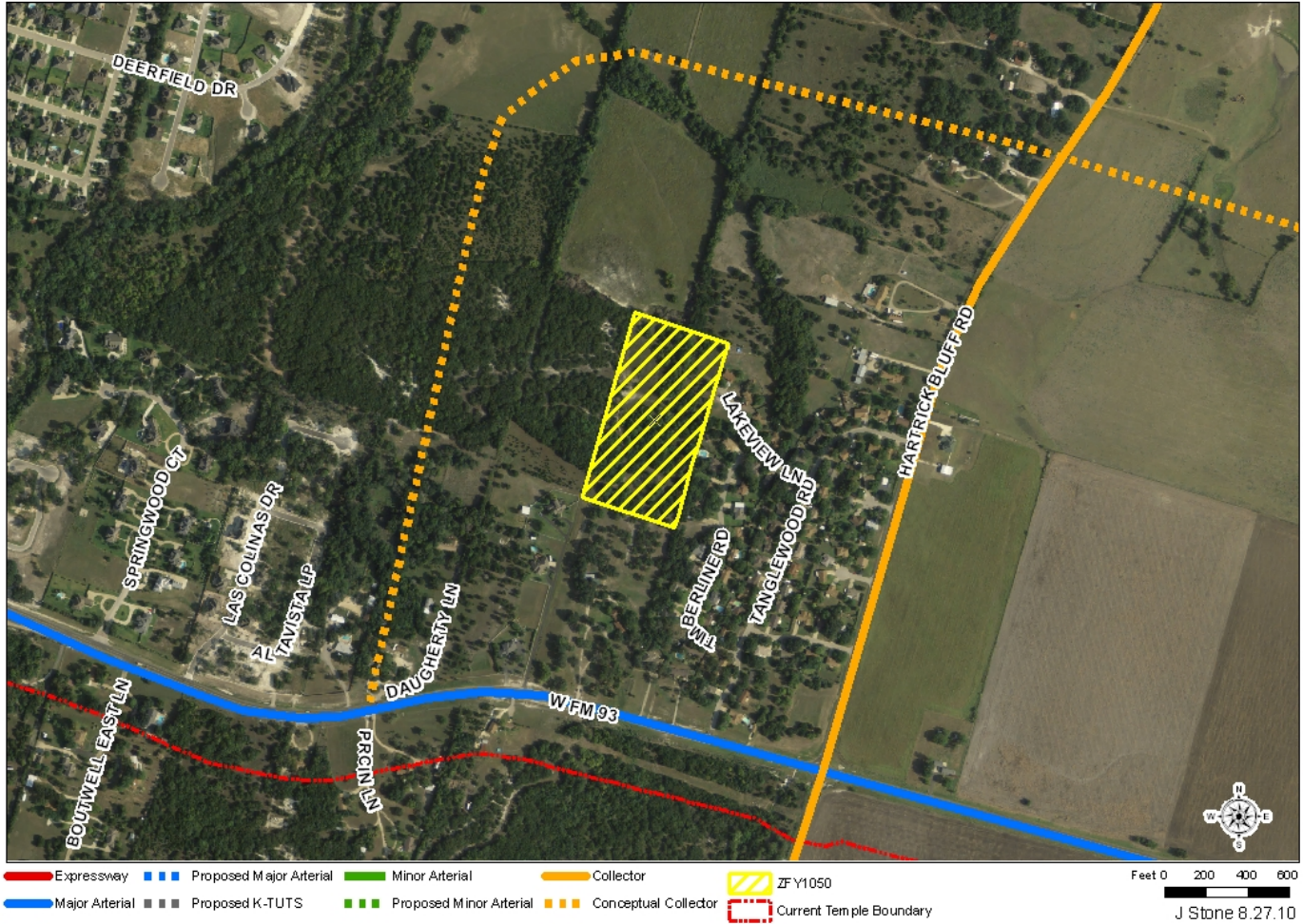
1 inch = 500 feet
J Stone 9.14.10



Z-FY-10-50

10.00 acres

OB#6054-A

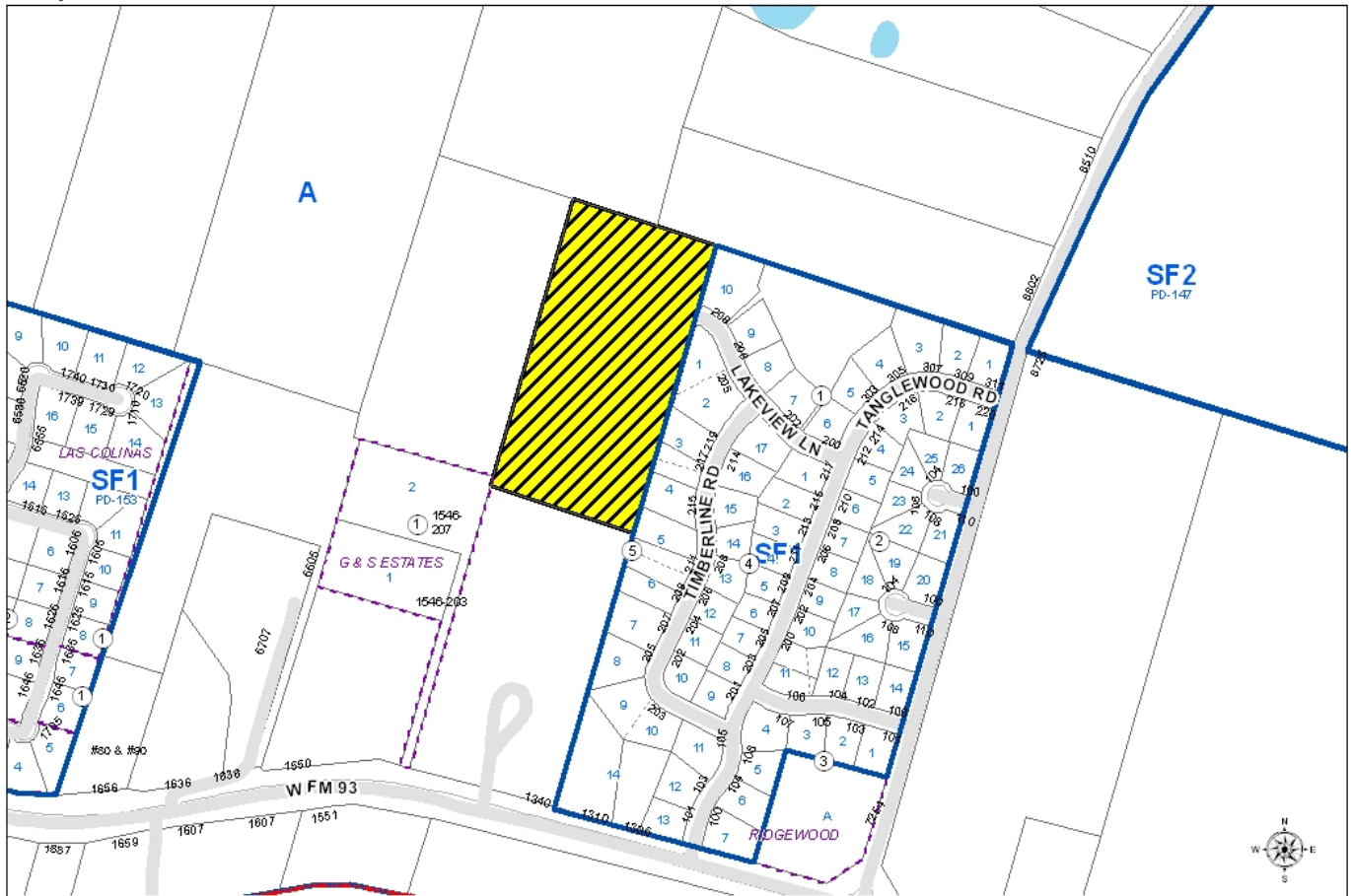




Z-FY-10-50

10.00 acres

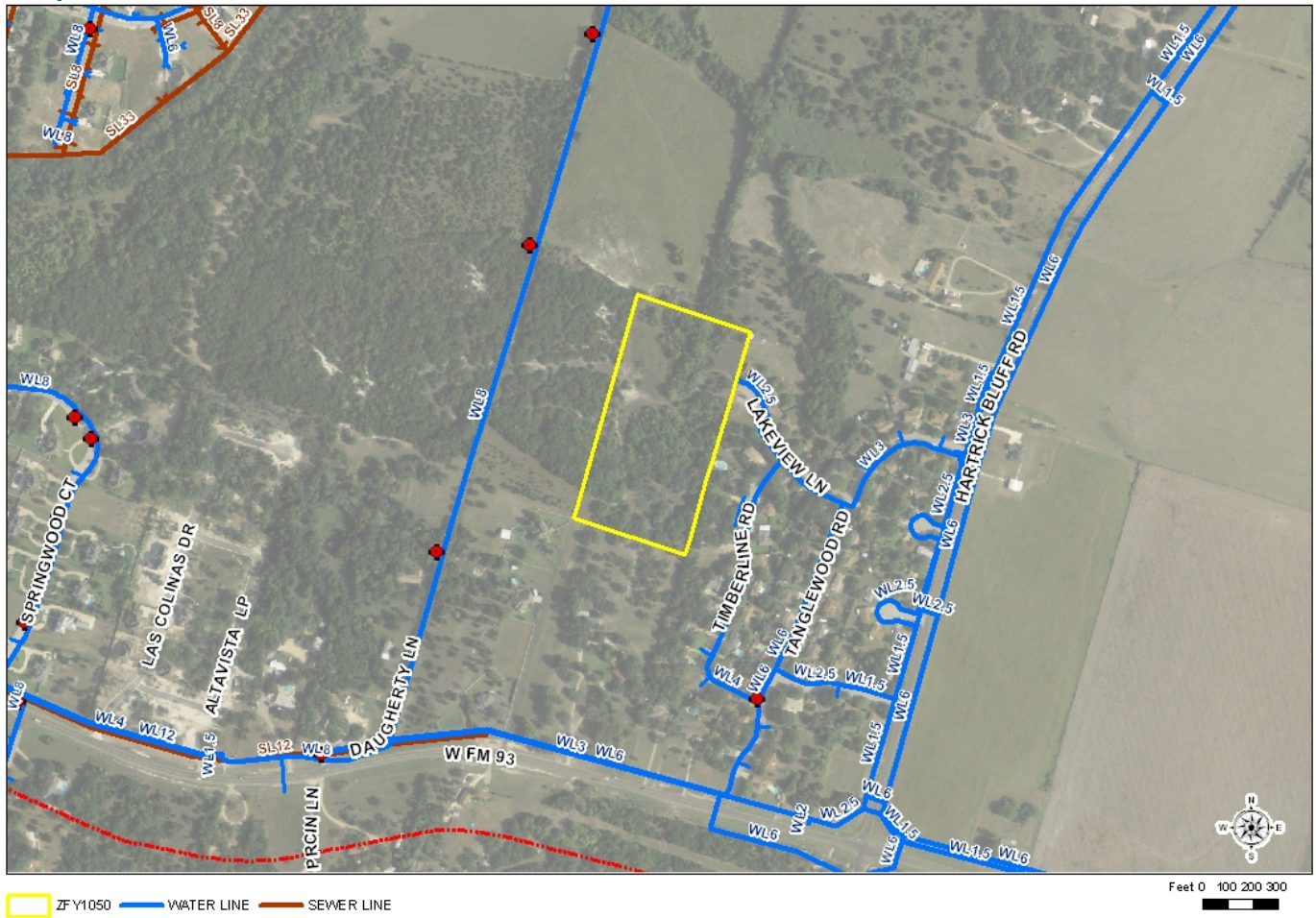
OB#6054-A

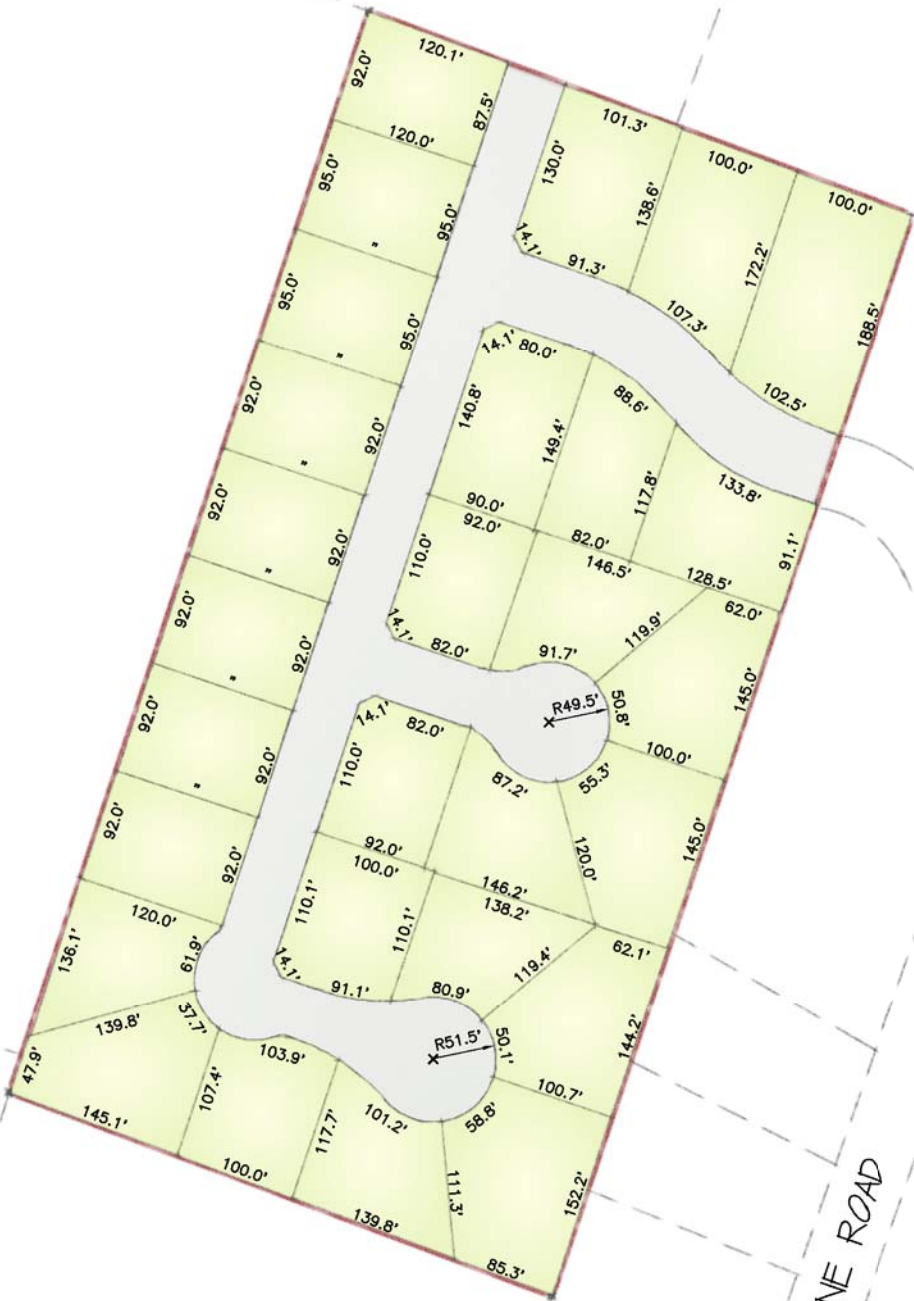


 ZFY1050

Feet 0 100 200 300 400

J Stone 8.27.10





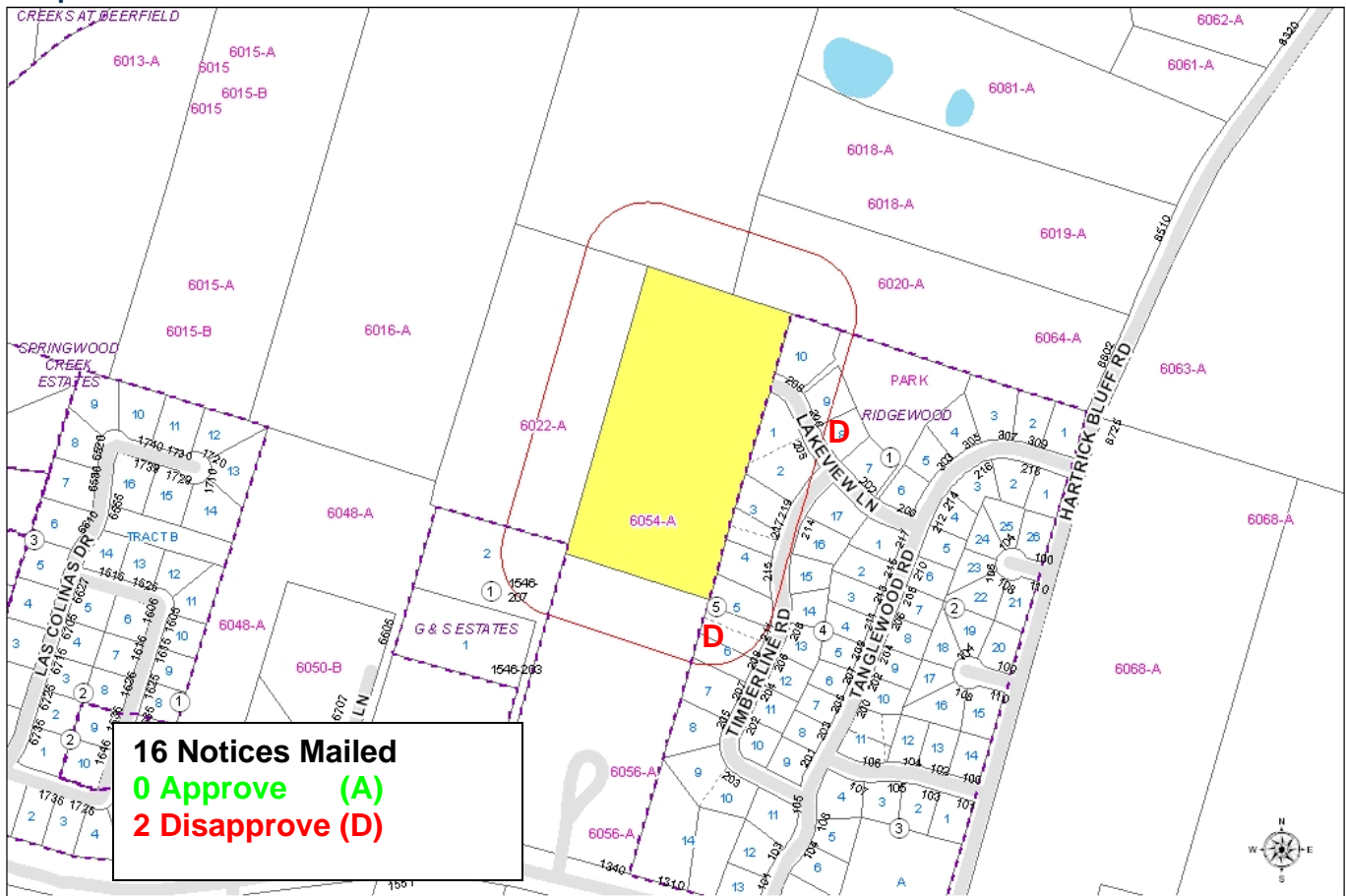
10 ACRE CONCEPTUAL
PATSY REED JACKSON TRACT



Z-FY-10-50

10.00 acres

OB#6054-A



○ ZF Y1050 ■ ZF Y1050

Feet 0 100 200 300

J Stone 8.27.10

Gary Valentine
209 Timberline Road
Temple, Texas 76502-3532
254-773-4643
[*garylee1031@yahoo.com*](mailto:garylee1031@yahoo.com)

RECEIVED

SEP 15 2010

City of Temple
Planning & Development

September 15, 2010

Brian Mabry, Project Manager
Planning Department
Room 201
Municipal Building
Temple, Texas 76501

SUBJECT: Rezoning Application Number: Z-FY-10-50

I recommend denial of this request.

I am submitting the following comments for your consideration:

1. We've enjoyed the peace and tranquility of the proposed area for many years and would like to continue this enjoyment. While I realize that this comment may not bear much weight, I have taken the liberty to include it.
2. From the attached map it appears that the only residential access to the proposed area will be Lakeview Lane. Not only will safety to our residents during construction of new residences be a concern, but the streets are in poor condition to handle construction traffic. Tanglewood Road, in particular, has sections with uneven surfaces due to subsidence.
3. The water lines in our distribution system are quite old, and I'm not sure of their capacity. If my memory is correct, a water main that conveyed water to the former Taylor's Valley WSC plant was installed south from 31st Street and lies on the west side of the proposed area. If this proposed change is accepted, and residences are constructed, their water should be provided from the main on the west side.

4. Our water pressure is normally excellent. However, during times of extended dry spells, the pressure drops quite low in the early morning while lawns are being watered and people are preparing to leave for work or school. Additional residences will only aggravate this problem regardless of being connected to our distribution system or the west water main.

5. New residences in the proposed area will rely on septic systems. I trust that the city will control both the number of residences and installation of the septic systems to insure that those of us southeast and east of the area will not suffer septic odors when the winds blow from the north or northwest.

6. The attached map shows an unnumbered area in the north of our neighborhood with an "SF1" inside the delineation. As I recall, this is the area reserved by the developer of Ridgewood Estates (initially, our neighborhood's name) to be developed into a park. The park project was never undertaken, and eventually we were annexed by Temple. I understood that the city was going to develop a neighborhood park as part of annexation. The area remains undeveloped.

I would hazard a guess that the eight neighbors who border this area would prefer that it remain as is. Further, I imagine that those of us that border the area proposed for rezoning feel the same. If the city council approves the zoning request, they should also authorize development of a neighborhood park for the enjoyment of their citizens in our neighborhood.

A handwritten signature in cursive script that reads "Gary Valentine". The signature is written in dark ink and is positioned above the printed name.

Gary Valentine



RESPONSE TO PROPOSED
REZONING REQUEST
CITY OF TEMPLE

RECEIVED

SEP 14 2010

City of Temple
Planning & Development

Kenneth Etux Mary Rheay
204 Lakeview Lane
Temple, Texas 76502

Zoning Application Number: Z-FY-10-50

Project Manager: Brian Mabry

The proposed rezoning will allow a residential development which is the area shown in hatched marking on the attached map. Because you own property within 200 feet of the requested change, your opinions are welcomed. Please use this form to indicate whether you are in favor of the possible rezoning of the property described on the attached notice, and provide any additional comments you may have.

I recommend () approval

(☒) denial of this request.

Comments:

Developer needs to gain easement so development
can enter/exit on FM93 - perhaps via G&S Estates
Already too much traffic in Ridgewood Estates

Kenneth Rheay
Mary Alice Rheay
Signature

Kenneth Rheay
Mary Alice Rheay
Print Name

Please mail or hand-deliver this comment form to the address shown below, no later than September 20, 2010.

City of Temple
Planning Department
Room 201
Municipal Building
Temple, Texas 76501

Number of Notices Mailed: 16

Date Mailed:

September 10, 2010



PLANNING AND ZONING COMMISSION AGENDA ITEM

09/20/10
Item #4
Regular Agenda
Page 1 of 4

APPLICANT / DEVELOPMENT: Mark Rendon for Sterling Trust Company

CASE MANAGER: Brian Mabry, AICP, Planning Director

ITEM DESCRIPTION: Z-FY-10-50 Hold a public hearing to discuss and recommend action on a rezoning from Agricultural District (A) to Single Family One District (SF1) on a 10.00 ± acre tract of land in the Maximo Moreno Survey, Abstract No. 14, in the City of Temple, Bell County, Texas, located on the north side of West FM 93, adjacent to and west of Ridgewood Estates.

BACKGROUND: The applicant requests the SF-1 zoning district in order to establish a single-family residential subdivision. The only access the subject property has to a public road is Lakeview Lane, which is part of the existing Ridgewood Estates subdivision, platted in 1969 and annexed in 1995. The streets in this subdivision are 22 feet in width from edge of pavement to edge of pavement and have no curb and gutter or ribbon curb. Ridgewood Estates has 74 lots and is approximately 36 acres in area, or 2.1 dwelling units per acre.

The subject property, being 10 acres in area, could accommodate approximately 46 single-family dwellings if zoned SF-1. That equates to 4.6 units per acre, over twice as dense as the subdivision its traffic would be feeding into.

Staff asked the applicant about the feasibility of requesting the Urban Estate zoning district instead of SF-1 and using septic systems instead. However, the applicant replied that he is working with an engineer to connect to an existing 24" sewer line north of the property near Friars Creek, approximately 1800 feet to the northwest and wants to sustain his SF-1 request. This sewer connection would be established through the platting process.

SURROUNDING PROPERTY AND USES:

The following table shows the existing zoning and current land uses for the subject property and its general vicinity:

Direction	Zoning	Current Land Use	Photo	
Subject Property	A (SF-1 proposed)	Undeveloped		
West	A	Undeveloped		

Direction	Zoning	Current Land Use	Photo
North	A	Undeveloped	
South	A	Undeveloped	
East	SF-1	Single-family subdivision	

COMPREHENSIVE PLAN COMPLIANCE:

The proposed rezoning relates to the following goals, objectives or maps of the Comprehensive Plan, Trails Master Plan and other adopted plans:

Document	Policy, Goal, Objective or Map	Compliance?
CP	Map 3.1 - Future Land Use and Character	N
CP	Map 5.2 - Thoroughfare Plan	N
CP	Goal 4.1 - Growth and development patterns should be consistent with the City's infrastructure and public service capacities	N
CTMP	NA	NA

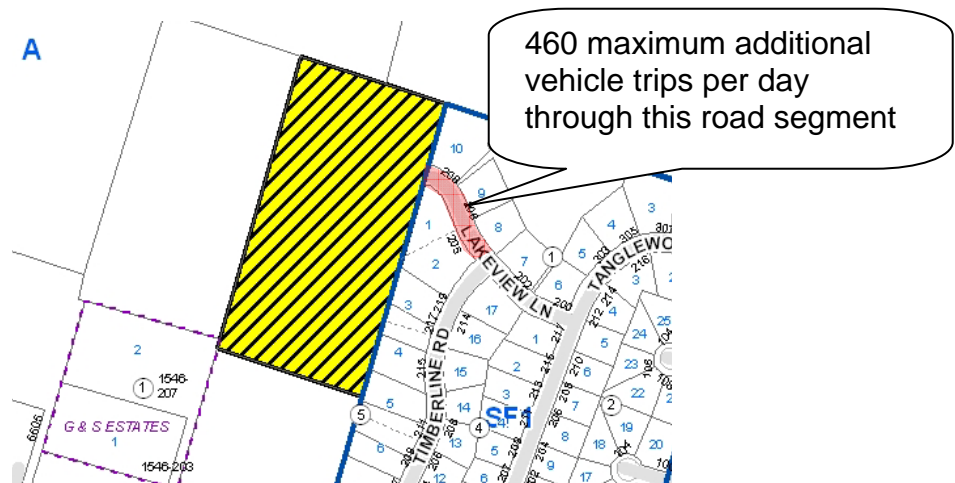
CP = Comprehensive Plan AMP = Airport Master Plan CTMP = Citywide Trails Master Plan

Future Land Use and Character (CP Map 3.1)

The future land use and character map designates the property as Estate Residential. The rezoning request does not comply with the map. However, there are other subdivisions in the area (Las Colinas, Deerfield Estates and Ridgewood Estates) with the same Future Land Use and Character map designations that have SF-1 zoning.

Thoroughfare Plan (CP Map 5.2)

The Thoroughfare Plan designates Lakeview Lane as a Local Street. All other streets in the adjacent Ridgewood Estates subdivision that traffic from the subject property would feed into are Local Streets as well. If the 10 acres were developed at maximum capacity with 46 lots that are 7,500 square feet in area, then according to the Institute of Transportation Engineers, 460 vehicle trips per day would be added to the existing street network of Ridgewood Estates. These additional trips would be forced through the road segment highlighted in red below, before vehicles would have an opportunity to use other streets in Ridgewood Estates.



Lakeview Lane would be functioning as a collector street within the subject property and for the segment highlighted on the map above. Lakeview Lane is not designated as a Collector Street on the Thoroughfare Plan Map, nor is it built to such standard (60' right-of-way and 36' paved width, with curb and gutter). The request does not comply with the Thoroughfare Plan.

Availability of Public Facilities (CP Goal 4.1)

The property is served by a 2 ½ -inch water line and the closest sewer line is approximately 600 feet to the south. The applicant does not anticipate septic system usage. As stated above, the applicant plans on tying into an existing sewer line approximately 1,800 feet to the north. Public facilities are not currently available for the property.

DEVELOPMENT REGULATIONS:

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

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

SF-1, Single-Family 1	
Min. Lot Area (sq. ft.)	7,500
Min. Lot Width (ft.)	60

Min. Lot Depth (ft.)	100
Max. Height (stories)	
Min. Yard (ft)	
Front	25
Side	10% width of lot - 6 min & 7.5 max
Rear	10

PUBLIC NOTICE:

Sixteen notices of the Planning and Zoning Commission public hearing were sent out. As of Friday, September 17, at 5 PM, no 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 September 9, 2010 in accordance with state law and local ordinance

STAFF RECOMMENDATION: Staff recommends denial of Z-FY-10-50 for the following reasons:

1. The request does not comply with the Future Land Use and Character Map;
2. The request does not comply with the Thoroughfare Plan; and
3. Public sewer lines are not currently available to serve the property and the applicant does not anticipate septic system usage.

FISCAL IMPACT: Not Applicable

ATTACHMENTS:

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

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

MONDAY, SEPTEMBER 20, 2010

ACTION ITEMS

Item 4: Z-FY-10-50: Hold a public hearing to discuss and recommend action on a rezoning from Agricultural District (A) to Single Family One District (SF1) on a 10.00 ± acre tract of land in the Maximo Moreno Survey, Abstract No. 14, in the City of Temple, Bell County, Texas, located on the north side of West FM 93, adjacent to and west of Ridgewood Estates. (Applicant: Mark Rendon for Sterling Trust Company)

Commissioner Staats stated he needed to abstain from this Item.

Mr. Mabry stated the purpose of this rezoning was to establish a single family subdivision on 10± acres, located adjacent to Ridgewood Estates Subdivision and the property was annexed in 1995. Under Single Family (SF) zoning, the subject property would yield approximately 46 lots, which amounted to approximately 4.6 dwelling units per acre. Ridgewood Estates had streets 22 feet in width with no ribbon curb or standard curb and gutter. Surrounding areas to the west, north, and south were undeveloped land and to the east was Lakeview Road, which dead ended at the property line for the subject property.

The Future Land Use and Character Map designated the property as Estate-Residential and the zoning request did not comply with the Future Land Use and Character Map. However, there are three subdivisions in the area of the subject property that are SF1 even though designated as Estate-Residential: Creeks of Deerfield, Las Colinas, and Ridgewood Estates. The Thoroughfare Plan designated Lakeview Lane as a local street and all other streets in Ridgewood are local streets. Hartrick Bluff was a collector street and FM 93 was a major arterial.

If the property were subdivided at maximum capacity under SF1, it would yield 46 lots which, according to the Institute of Transportation Engineers, would statistically amount to 460 vehicle trips per day that would be fed onto a portion of Lakeview Lane from the subject property. Lakeview Lane at that point would function as a collector street and would not comply with the Thoroughfare Plan.

Utilities for surrounding properties were served by a 2-1/2 inch water line along Lakeview Lane and dead ended at the subject property. Approximately 600 feet to the south lay a sewer line along FM 93 and outside the boundaries of the aerial was another sewer line the applicant would have the potential to tie onto to serve the subject property and potentially the existing subdivision.

Mr. Mabry gave the dimensional standards.

16 notices were mailed: three (3) were returned in favor and two (2) in opposition.

Staff recommended denial of this rezoning because the request did not comply with the Future Land Use and Character Map or the Thoroughfare Plan and public sewer lines are not currently available to serve the property and applicant did not anticipate septic system usage.

Mr. Mabry clarified the Thoroughfare Plan information for Commissioner Pilkington.

Chair Talley asked about the sewer line being so far away and the property owner not anticipating using septic tanks. He asked who would pay for the sewer to be brought onto the property if rezoning were approved. Mr. Mabry stated no application had been submitted yet, however, there is usually a cost sharing agreement between the City and developer with an agreed upon percentage to be paid by each party. Mr. Mabry was not certain of the percentage.

Chair Talley opened the public hearing.

Ms. Connie Koenig of 205 Lakeview Lane in Ridgewood Estates, stated when the property was annexed in January of '95, within a certain amount of time sewer was suppose to be delivered but never was. Ms. Koenig stated that was why several people in the area were for the rezoning—in order to receive sewer since septic was still being used. Mr. Mabry stated the applicant's plans for the extension was the sewer line that may be built would be adjacent to her subdivision and would allow tying in. The applicant could explain in more detail during his presentation. Commissioner Barton stated it was out of their hands at that point. Ms. Koenig stated she was in favor of approval.

Mr. Ron Robbins, 202 Tanglewood Road, stated Tanglewood Road ran from Hartrick Bluff to FM 93 and would be one of the main roads people would use. Mr. Robbins asked why only 16 notices were sent since this would affect everyone in the neighborhood. Mr. Mabry stated whenever there was a rezoning, state statutes required the City to notify all property owners within 200 feet of the property and based on the tax rolls and ownerships, send out the notifications. Mr. Robbins felt everyone should have been notified since it was a small area.

Mr. Gary Valentine, 209 Timberline Road, stated he submitted comments to Mr. Mabry for consideration. However, after hearing previous testimony, he was interested in the sewer system and asked if the proposed homes would be allowed to be built on septic systems. Mr. Valentine's questions were: 1) what would be the route of the sewer lines and 2) it was his understanding a certain percentage (50% or more) of the residents in the neighborhood would need to vote for the sewer lines, and if approved, then the individual resident would pay to hook up to the lines. Mr. Valentine stated many residents were satisfied with

the septic systems. Mr. Mabry stated he would have to research the annexation agreement before answering. Mr. Mabry also stated any sewer lines installed would have to meet the Subdivision Regulations.

Ms. Trudi Dill stated Mr. Valentine may be referring to a policy in the Ordinance for cost sharing. There was a section for new development with the cost sharing agreement and a subchapter for extension of water and wastewater mains within existing subdivisions. Ms. Dill stated she would get a copy of this information to Mr. Valentine.

Mr. Valentine asked in order for the sewer line to come through the subdivision would more than half of the 74 residents have to vote for the sewer line. Ms. Dill stated there was a provision for 50% and another for 25% and was more complicated than appeared.

Mr. Valentine stated he was concerned with the routing of the sewer line and also Tanglewood Road was not in very good condition to handle the additional traffic and would need significant work done on it.

Mr. Mark Rendon, Stellar Development Company, 413 Downing Street in Belton, stated the purpose of the development was the creation of a high quality residential community that had a uniformed plan of development and preservation of property values and amenities in the community.

Mr. Rendon stated they did not intend to put in the maximum number of lots as suggested. Mr. Rendon described the proposed restrictions to protect the owners of the lots against improper use of surrounding lots that may decrease property value:

- Preserve, as practicable, the natural beauty of the property itself;
- Prohibit the erection of poorly designed or proportion structures and structures built of improper or unsuitable materials;
- Obtain harmonious color schemes;
- Encourage and secure proper location and erection of attractive homes on lots;
- Prevent haphazard and inharmonious improvements on lots; and
- Secure and maintain building setback lines.

Mr. Rendon stated the proposed restrictions were intended to make the area a very nice community. A similar community was located in Little River Academy called The Arbors. There was another community built near this location called Las Colinas.

Stellar Development's vision for the subject property was to target homes in the \$300,000 range and approximately 2200 square feet. They did not want to crowd the area and would not build 4.6 lots per acre as previously discussed. They are looking more at 3 lots per acre although there was no final plan. Mr.

Rendon stated they did not want to overcrowd with a lot of homes and a lot of traffic.

Mr. Rendon stated another vision was to preserve trees. They would like to work with Ridgewood residents for a possible green zone or park area. Stellar would like to work with the City of Temple Planning Department on a new sewer and water supply.

Mr. Rendon showed various examples of Stellar homes and stated Stellar would not build little rental homes and decrease property values. They would like larger than normal lots, to save trees, were high on beautification, intended to do curb and gutter, have lighted streets, etc., a restricted community similar to The Arbors and intended to have all homes tied to city sewer. The chance for Ridgewood to finally get wastewater service is one of their concerns and Stellar would like to see them get that.

Mr. Rendon stated their marketing research showed a need for high end homes in that community and the area shown by Mr. Mabry as UE (Urban Estates) is really not UE anymore. Mr. Rendon would challenge the land use as being urban estate. Adjacent tracts of land are SF1, as well as Deerfield, Las Colinas, and Ridgewood. City services are definitely available nearby. Mr. Rendon used the presentation map to explain several ideas Stellar was proposing.

Mr. Rendon stated Stellar wanted to work with the City on a sensible plan for the area and for the Thoroughfare Plan. Lakeview Lane would have to be used but many things are in the future.

Chair Talley asked Mr. Rendon if the word "ownership" and "control" meant the same to him and he responded yes.

Commissioner Barton asked if the development would have a gated entrance into the area and Mr. Rendon stated no, it would not be a gated community; it was not their plan.

Commissioner Sears stated it was his assumption there was no sketch or plan and Mr. Rendon stated there was nothing finalized at this moment. Commissioner Sears asked if there were any plans to have a construction entrance since there was so much access around the area to avoid the city streets. Mr. Rendon stated it was a good idea but could not answer the question.

Mr. Rendon stated market research showed smaller roads made people go slower so they should be safer.

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

Commissioner Hurd stated he objected to the one way in, one way out, with 40 houses approximately. Mr. Rendon stated his assessment was much less than 40 and Mr. Mabry had to use calculations based on SF1. Mr. Mabry stated 46

lots was the densest scenario that could happen and Mr. Rendon was free to have larger lots than that.

Commissioner Martin made a motion to deny Z-FY-10-50 but died for lack of a second.

Commissioner Sears made a motion to approve the rezoning request of **Z-FY-10-50** and Vice-Chair Martin made a second.

Motion passed: (6:1)

(Commissioner Hurd voted Nay);

Commissioner Staats abstained; Commissioner Pope absent

ORDINANCE NO. 2010-4398

[PLANNING NO. Z-FY-10-50]

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, APPROVING A ZONING CHANGE FROM AGRICULTURAL DISTRICT (A) TO PLANNED DEVELOPMENT (SINGLE FAMILY ONE) DISTRICT (PD-SF1) ON AN APPROXIMATELY 10 ACRE TRACT OF LAND IN THE MAXIMO MORENO SURVEY, ABSTRACT NO. 14, IN THE CITY OF TEMPLE, BELL COUNTY, TEXAS, LOCATED ON THE NORTH SIDE OF WEST FM 93, ADJACENT TO AND WEST OF RIDGEWOOD ESTATES, 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.

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

Part 1: The City Council approves a zoning change from Agricultural District (A) to Planned Development (Single Family One) District (PD-SF1) on an approximately 10 acre tract of land in the Maximo Moreno Survey, Abstract No. 14, in the City of Temple, Bell County, Texas, located on the north side of West FM 93, adjacent to and west of Ridgewood Estates, 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 (Single Family One) District (PD-SF1), 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) A maximum of 28 single-family lots are permitted on the subject property.
- (b) Except as modified by the binding site development plan, attached hereto as Exhibit B, the use and development standards of the property must conform to the requirements of the Single Family 1 zoning district.
- (c) In the event of a conflict between the site development plan and the text of the Planned Development ordinance, the stricter standard applies.

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 2: The City Council directs the Director of Planning to make the necessary changes to the City Zoning Map accordingly.

Part 3: It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses, and phrases of this ordinance are severable and, if any phrase, clause, sentence, paragraph or section of this ordinance should be declared invalid by the final judgment or decree of any court of competent jurisdiction, such invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this ordinance, since the same would have been enacted by the City Council without the incorporation in this ordinance of any such phrase, clause, sentence, paragraph or section.

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

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

PASSED AND APPROVED on First Reading and Public Hearing on the 7th day of **October**, 2010.

PASSED AND APPROVED on Second Reading on the **21st** day of **October**, 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

10/21/10
Item #8
Regular Agenda
Page 1 of 2

DEPT./DIVISION SUBMISSION & REVIEW:

Brian Mabry, Planning Director

ITEM DESCRIPTION: FIRST READING – PUBLIC HEARING - Z-FY-10-54: Consider adopting an ordinance authorizing a zoning change from Two Family District (2F) and General Retail District (GR) to Planned Development - General Retail District (PD-GR) on Lots 4 - 6, and 10 - 12, Block 5, Eugena Terrace Addition, located at 1510 South 1st Street.

P&Z COMMISSION RECOMMENDATION: At its October 4, 2010 meeting, the Planning and Zoning Commission voted 8/0 in accordance with staff recommendation to recommend approval of a zone change from 2F and GR to PD-GR with the following stipulations:

1. Except as modified by the binding site development plan, the use and development standards of the property must conform to the requirements of the General Retail zoning district.
2. In the event of a conflict between the site development plan and the text of the Planned Development ordinance, the stricter standard applies.
3. Notwithstanding what is shown on the site development plan, street tree placement along S. 1st Street is subject to approval of the Texas Department of Transportation (TxDOT). In no case may a reduction in the number of trees adjacent to any public right-of-way be reduced as a result of TxDOT policy.
4. One monument sign, and no other freestanding sign type is allowed on the property as depicted on the site development plan. If built, the monument sign must have a maximum area of 50 square feet and a maximum height of four feet.

Commissioner Barton was absent.

STAFF RECOMMENDATION: Conduct public hearing as presented in item description, on first reading, and schedule second reading and final adoption for November 4, 2010.

ITEM SUMMARY: Please refer to the Staff Report and draft minutes of case Z-FY-10-54, from the Planning and Zoning meeting, October 4, 2010. The applicant requests the rezoning in order to establish an 8,000-square foot Family Dollar store on the subject property, which is in the Temple Medical and Educational District (TMED) and is currently occupied by the vacant Lamar Motel. The

TMED form-based code requires development that is pedestrian-friendly, mixed use and more dense than conventional styles of development rather. The City is providing incentives to the developer to meet such requirements in the form of grant money and in-kind services to the applicant such as demolition of the existing motel. The City Council approved the contract for the grant funding and in-kind services on October 7, 2010.

ENHANCED AMENITIES: Enhancements related to TMED are shown on the attached binding site development plan and elevations and explained in the attached Planning and Zoning Commission Staff Report. The site development plan and elevations will be attached to the ordinance that approves the planned development and are legally binding on the applicant. In order to receive building permit approval from staff, the submitted drawings for the permit must comply with the approved site development plan and elevations.

PUBLIC NOTICE:

Eighteen notices of the Planning and Zoning Commission public hearing were sent out. As of September 29 at 5 PM, three 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 September 23, 2010 in accordance with state law and local ordinance

FISCAL IMPACT: NA

ATTACHMENTS:

Aerial
Land Use and Character Map
Thoroughfare Plan Map
Utility Map
Zoning Map
Binding Site Development Plan
Binding Elevations
Notice Map
Response Letters
P&Z Staff Report (Z-FY-10-54)
P&Z Minutes (October 4, 2010)
Ordinance



Z-FY-10-54

Eugenia Terrace, Blk 5, Lots 4-6 & 10-12

1510 S 1st Street



2008 Aerial Shown (newer image unavailable)

 ZFY1054

Feet 0 50 100 150 200

J Stone 9.14.10



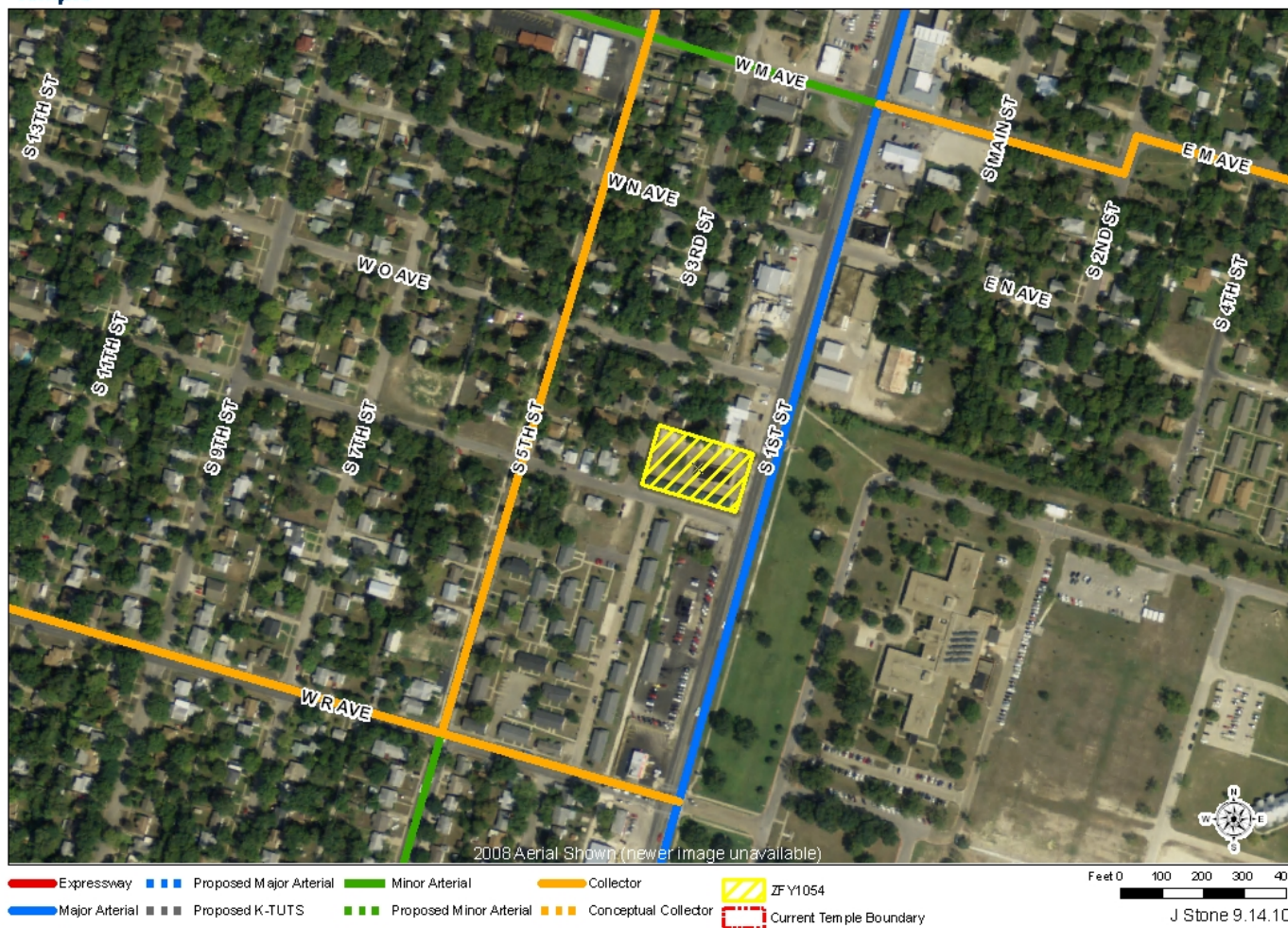
Z-FY-10-54

Eugenia Terrace, Blk 5, Lots 4-6 & 10-12

1510 S 1st Street



1 inch = 200 feet
J Stone 9.14.10

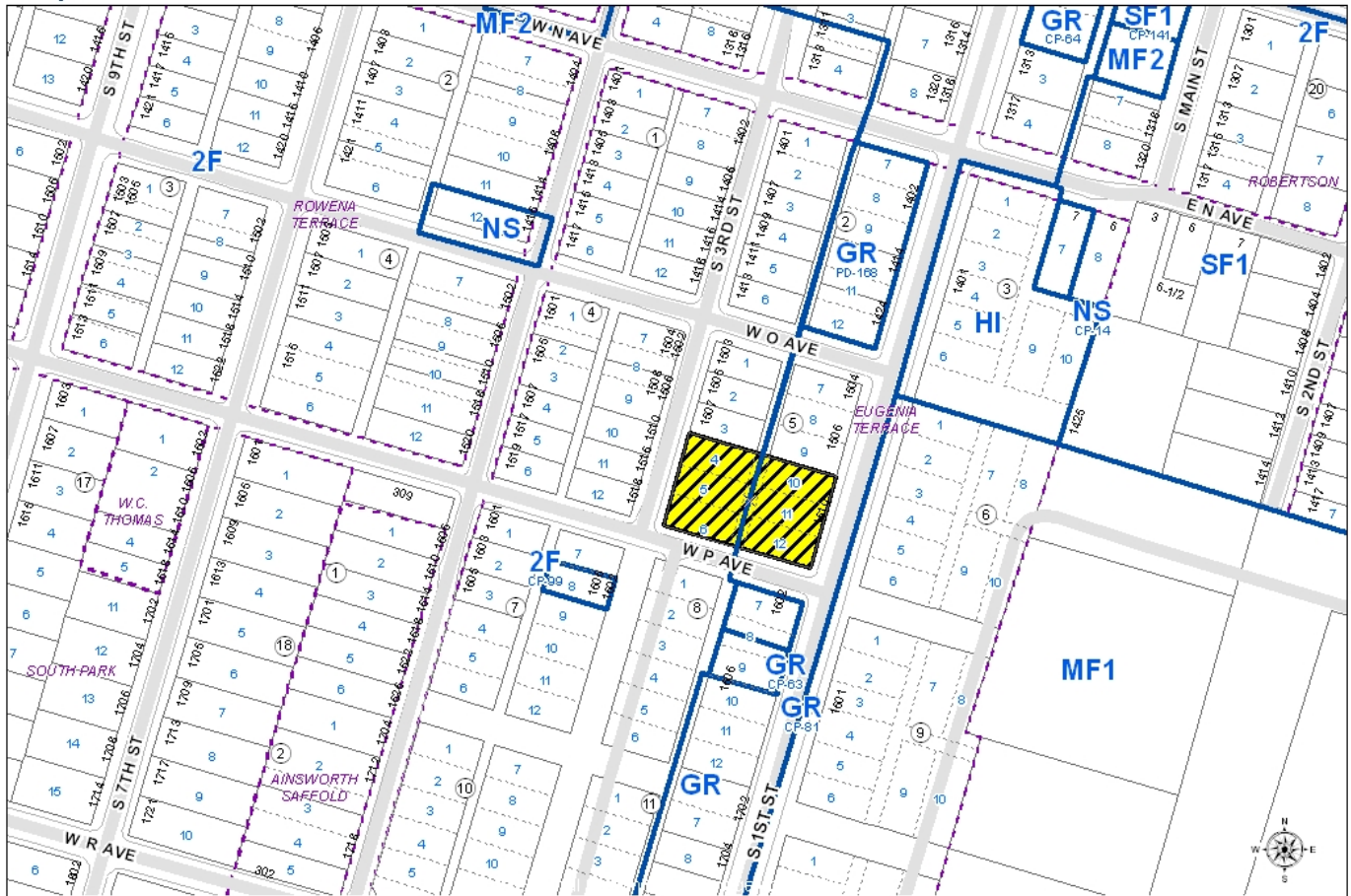




Z-FY-10-54

Eugenia Terrace, Blk 5, Lots 4-6 & 10-12

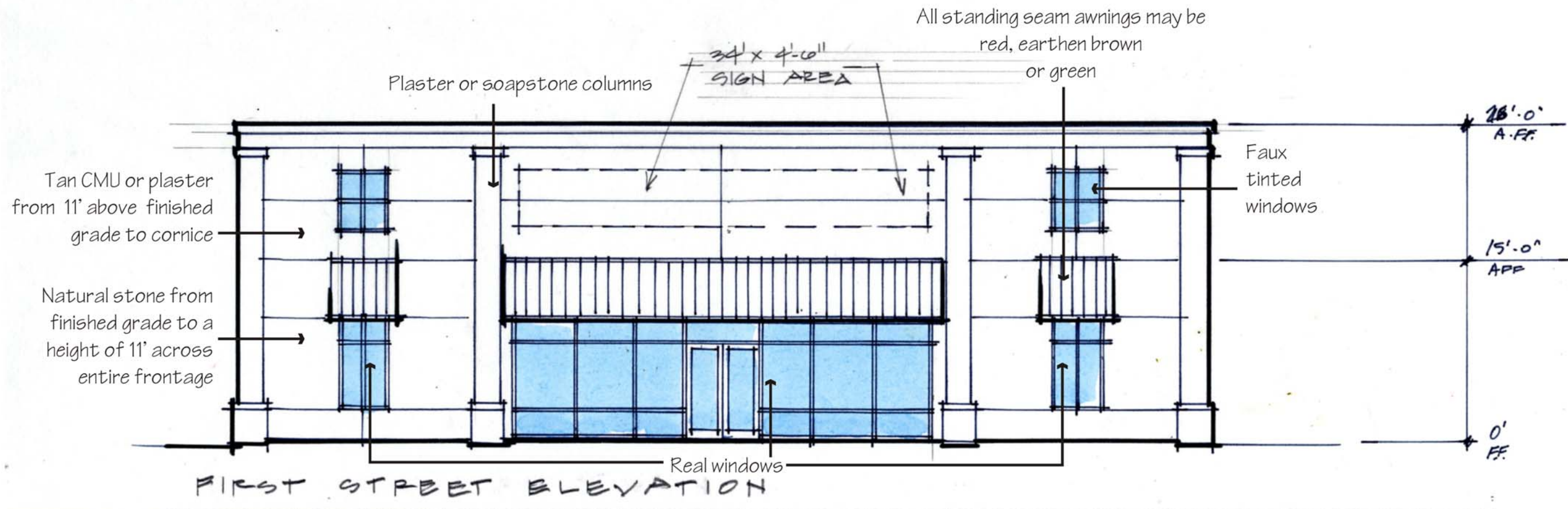
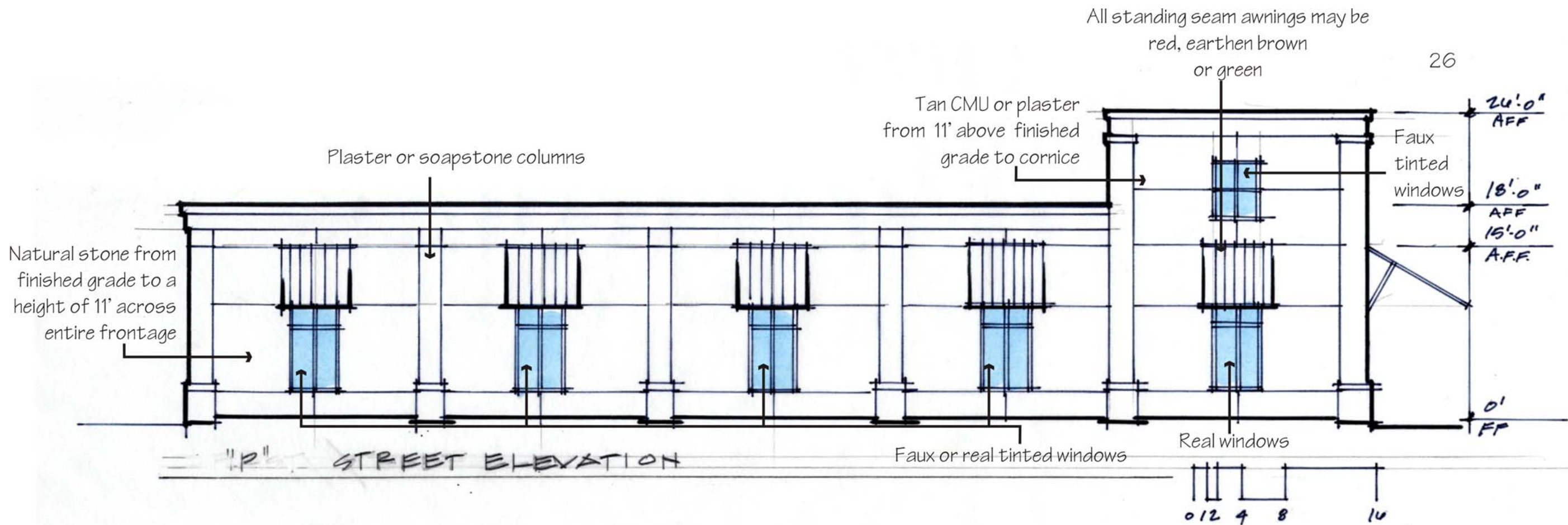
1510 S 1st Street



 ZFY1054

Feet 0 50 100 150 200

J Stone 9.14.10

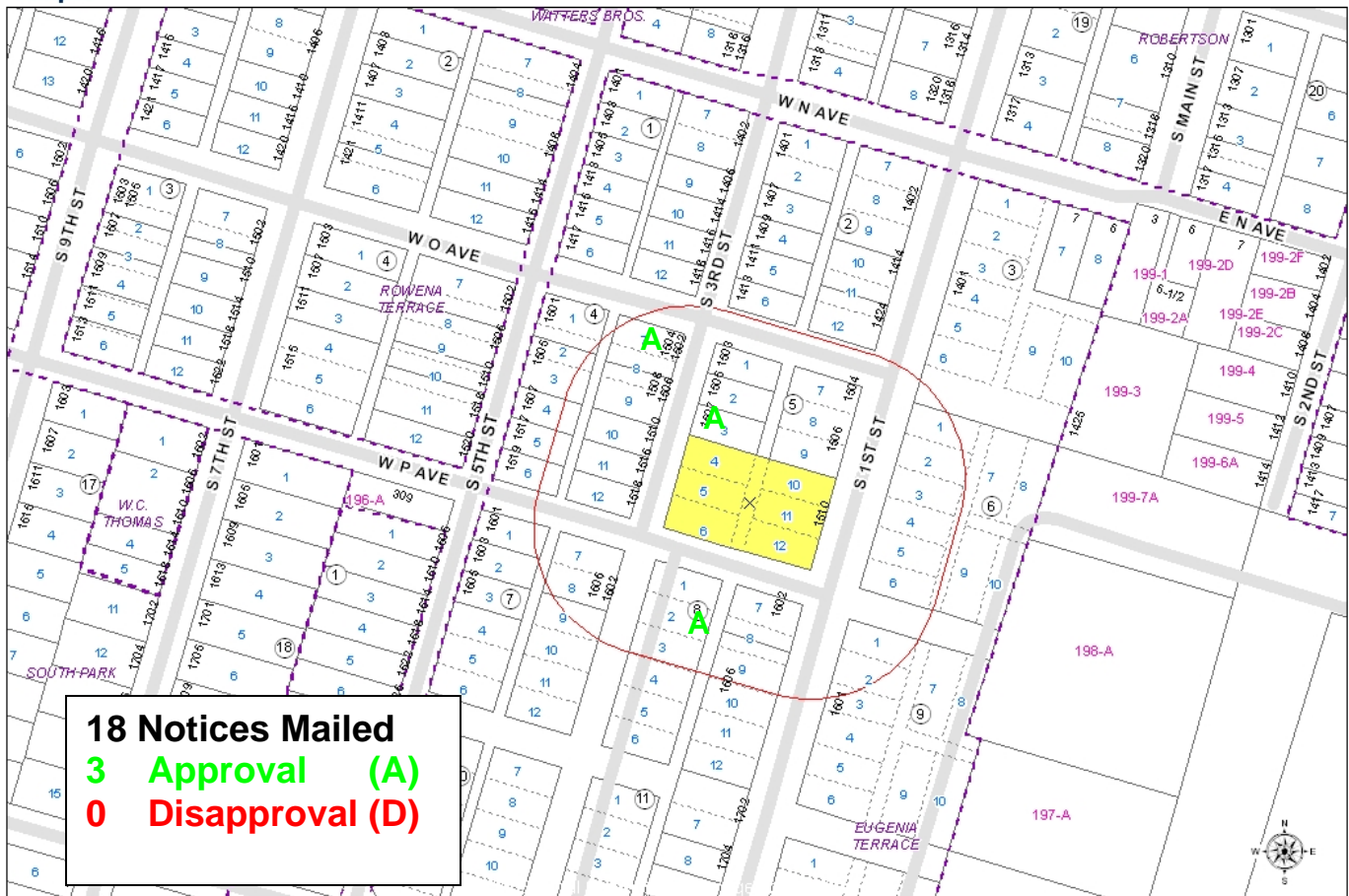




Z-FY-10-54

Eugenia Terrace, Blk 5, Lots 4-6 & 10-12

1510 S 1st Street



18 Notices Mailed

3 Approval (A)

0 Disapproval (D)

Feet 0 50 100 150 200

J Stone 9.14.10



RESPONSE TO PROPOSED
REZONING REQUEST
CITY OF TEMPLE

Douglas R. Griffiths
1507 South 3rd Street
Temple, Texas 76504

Zoning Application Number: Z-FY-10-54

Project Manager: Brian Mabry

The proposed rezoning will allow development of a retail store which is the area shown in hatched marking on the attached map. Because you own property within 200 feet of the requested change, your opinions are welcomed. Please use this form to indicate whether you are in favor of the possible rezoning of the property described on the attached notice, and provide any additional comments you may have.

I recommend ☒ approval ☐ denial of this request.

Comments:

A fire business located at 1504 and 1506 South 1st
street needs to be up graded.

Douglas R. Griffiths
Signature

Douglas R. Griffiths
Print Name

Please mail or hand-deliver this comment form to the address shown below, no later than October 4, 2010.

City of Temple
Planning Department
Room 201
Municipal Building
Temple, Texas 76501

RECEIVED

SEP 27 2010

City of Temple
Planning & Development

Number of Notices Mailed: 18

Date Mailed: September 23, 2010



RESPONSE TO PROPOSED
REZONING REQUEST
CITY OF TEMPLE

James Etux Melissa Przybylski
340 Green Park Drive
Temple, Texas 76513

Zoning Application Number: Z-FY-10-54

Project Manager: Brian Mabry

The proposed rezoning will allow development of a retail store which is the area shown in hatched marking on the attached map. Because you own property within 200 feet of the requested change, your opinions are welcomed. Please use this form to indicate whether you are in favor of the possible rezoning of the property described on the attached notice, and provide any additional comments you may have.

I recommend (☒) approval (☐) denial of this request.

Comments:

So long not liquor sales allowed.

James Przybylski
Signature

Jim Przybylski
Print Name

Please mail or hand-deliver this comment form to the address shown below, no later than October 4, 2010.

City of Temple
Planning Department
Room 201
Municipal Building
Temple, Texas 76501

RECEIVED

SEP 29 2010

City of Temple
Planning & Development

Number of Notices Mailed: 18

Date Mailed: September 23, 2010



**RESPONSE TO PROPOSED
REZONING REQUEST
CITY OF TEMPLE**

RECEIVED
SEP 24 2010

Housing Authority of the City of Temple
P.O. Box 1326
Temple, Texas 76503-1326

BY: _____

Zoning Application Number: Z-FY-10-54

Project Manager: Brian Mabry

The proposed rezoning will allow development of a retail store which is the area shown in hatched marking on the attached map. Because you own property within 200 feet of the requested change, your opinions are welcomed. Please use this form to indicate whether you are in favor of the possible rezoning of the property described on the attached notice, and provide any additional comments you may have.

I recommend (☒) approval (☐) denial of this request.

Comments:

IT IS OUR UNDERSTANDING THIS MAY BECOME A
DOLLAR STORE, THIS WOULD BE CONVENIENT
FOR OUR NEARBY RESIDENTS.

Barbara B. Bozon
Signature

BARBARA B. BOZON
Print Name

Please mail or hand-deliver this comment form to the address shown below, no later than October 4, 2010.

City of Temple
Planning Department
Room 201
Municipal Building
Temple, Texas 76501

Number of Notices Mailed: 18

Date Mailed: September 23, 2010



PLANNING AND ZONING COMMISSION AGENDA ITEM

10/07/10
Item #2
Regular Agenda
Page 1 of 5

APPLICANT / DEVELOPMENT: Jim Gunn for Temple G2K Development Partners, LLC

CASE MANAGER: Brian Mabry, AICP, Planning Director


ITEM DESCRIPTION: Z-FY-10-54 Hold a public hearing to discuss and recommend action on a rezoning from Two Family District (2F) and General Retail District (GR) to Planned Development (General Retail) District (PD-GR) on Lots 4 - 6, and 10 - 12, Block 5, Eugena Terrace Addition, located at 1510 South 1st Street.

BACKGROUND: The applicant requests the rezoning in order to establish an 8,000-square foot Family Dollar store on the subject property, which is in the Temple Medical and Educational District (TMED) and is currently occupied by the vacant Lamar Motel. The TMED form-based code requires development that is pedestrian-friendly, mixed use and more dense than conventional styles of development rather. Rather than concentrating on minimum distances that a building must be setback from the road, it requires buildings to be close to the street, as one might see in a downtown environment. Rather than segregating residential uses from commercial uses, it encourages a mix of residential and appropriate commercial uses in the same building. The form-based code has not yet been adopted by City Council but many of the elements shown on the attached Planned Development site plan and elevations reflect TMED requirements.

The City is providing incentives to the developer to meet such requirements in the form of grant money and in-kind services to the applicant such as demolition of the existing motel. The contract to approve the grant funding and in-kind services goes before City Council on October 7, 2010. Approval of the proposed Planned Development and grant funding will provide assurance that the proposed TMED-oriented site enhancements will be constructed. A standard rezoning with no grant funding cannot provide such assurance.

SURROUNDING PROPERTY AND USES:

The following table shows the existing zoning and current land uses for the subject property and its general vicinity:

Direction	Zoning	Current Land Use	Photo
Subject Property	GR and 2F (PD-GR proposed)	Vacant motel	

Direction	Zoning	Current Land Use	Photo
North	GR	Tire shop	
	2F	Single-family dwelling	
South	GR	Vacant bar	
	2F	Duplex complex	
East	MF1	Hospital	
West	2F	Single-family dwellings	

COMPREHENSIVE PLAN COMPLIANCE:

The proposed rezoning relates to the following goals, objectives or maps of the Comprehensive Plan, Trails Master Plan and other adopted plans:

Document	Policy, Goal, Objective or Map	Compliance?
CP	Map 3.1 - Future Land Use and Character	Y
CP	Map 5.2 - Thoroughfare Plan	Y
CP	Goal 4.1 - Growth and development patterns should be consistent with the City's infrastructure and public service capacities	Y
CTMP	Citywide Trails Master Plan Map	Y

CP = Comprehensive Plan AMP = Airport Master Plan CTMP = Citywide Trails Master Plan

Future Land Use and Character (CP Map 3.1)

The request, with its enhanced amenities described below, conforms to the Future Land Use and Character Map which designates the property as TMED.

Thoroughfare Plan (CP Map 5.2)

This request conforms to the Thoroughfare Plan since the subject tract has access to S. 1st Street and W. Avenue P, designated as Arterial and Local streets, respectively.

Availability of Public Facilities (CP Goal 4.1)

A 12-inch water line and a six-inch sewer line serve the site. Public facilities are available.

Citywide Sidewalk and Trails Master Plan (Spine Trail Map)

The Citywide Sidewalk and Trails Master Plan calls for a spine trail, which may be composed of concrete that is 10 to 12 feet in width along the S. 1st Street Corridor. The proposed sidewalk conforms to such recommendation.

ENHANCED AMENITIES: Enhancements related to TMED are shown on the attached binding site development plan and elevations. They will be attached to the ordinance that approves the planned development and are legally binding on the applicant. In order to receive building permit approval from staff, the submitted drawings for the permit must comply with the approved site development plan and elevations. Below is a description of the enhancements that these two documents show.

Public Frontages

An important part of the TMED form-based code is the requirement that the frontage of a property within the public right-of-way be furnished with public amenities such as generous sidewalks and street trees. These amenities make walking more appealing. The binding site development plan shows a total of 17 trees along the S. 1st St., S. 5th St. and W. Ave. P rights-of-way. The City's existing Zoning Ordinance allows trees in the right-of-way but does not require them as a public amenity. In addition, a 10-foot wide sidewalk is provided along S. 1st St. and a six-foot wide sidewalk is provided along S. 5th St. and W. Ave. P. The landscaping beneath the street trees in the right-of-way will consist of Asian Jasmine, which is a type of groundcover more suited for urban environments than sod or hydromulch.



Asian Jasmine

Private Frontages

Private frontage is the area of the private property between the property line and the building facade. In order to create a pedestrian oriented area, the TMED form-based code allows minimal parking in front of the building. The site plan reflects this concept by showing only a single row of “teaser parking” along the front property line. The row of parking is screened by a solid hedge row across the frontage adjacent to S. 1st Street. Very little private frontage exists along W. Ave. P. The building is brought right up to the property line with the awnings and street trees working together to make the sidewalk more walkable. Public and private street trees on S. 5th Street make that adjacent sidewalk shaded and walkable.

Parts of the building façade are also considered private frontage. The site development plan and elevations show use of awnings to give visual interest to the storefront and provide shade. In addition, real and faux windows are used to reduce the amount of blank wall on the building. This is especially important for the W. Ave. P frontage because pedestrians feel more comfortable walking along a wall that is not blank but instead has some patterned architectural elements such as a sequence of windows.

Building Disposition

The building is as close to S. 1st Street as the City and the applicant could reach consensus on. As TMED develops it is important to maintain a consistent wall plane along the block face, just as one would typically see downtown. The building is very close to the property line along W. Ave. P, which, as stated above, is a pedestrian-related enhancement.

Building Configuration

The TMED form-based code requires buildings along S. 1st to be between two and three stories in height. The form-based code also requires a mixing of uses with retail on the first floor and office or residential use on the second floor. The applicant could not commit to building a true second story so he and the City reached a compromise that a faux second story would be provided along the S. 1st Street façade and along both sides of the building, as shown on the attached elevations. The TMED form-based code does not require a certain architectural theme, but the building will be composed of limestone, soapstone and plaster along its primary and secondary facades. The rear of the building meets the basic masonry standards of the zoning ordinance.

This is advantageous to the City and owner because should the proposed Dollar General go out of business, the building could be marketed for any permitted use, rather than only for another chain format store.

PUBLIC NOTICE:

Eighteen notices of the Planning and Zoning Commission public hearing were sent out. As of September 29 at 5 PM, three 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 September 23, 2010 in accordance with state law and local ordinance

STAFF RECOMMENDATION: Staff recommends approval of Z0FY-10-54, a rezoning from GR and 2F to PD-GR, including the binding site development plan and elevations, with the following stipulations:

1. Except as modified by the binding site development plan, the use and development standards of the property must conform to the requirements of the General Retail zoning district.
2. In the event of a conflict between the site development plan and the text of the Planned Development ordinance, the stricter standard applies.
3. Notwithstanding what is shown on the site development plan, street tree placement along S. 1st Street is subject to approval of the Texas Department of Transportation (TxDOT). In no case may a reduction in the number of trees adjacent to any public right-of-way be reduced as a result of TxDOT policy.
4. One monument sign, and no other freestanding sign type is allowed on the property as depicted on the site development plan. If built, the monument sign must have a maximum area of 50 square feet and a maximum height of four feet.

FISCAL IMPACT: Not Applicable

ATTACHMENTS:

Aerial
Land Use and Character Map
Thoroughfare Plan Map
Utility Map
Zoning Map
Binding Site Development Plan
Binding Elevations
Notice Map
Response Letters

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

MONDAY, OCTOBER 4, 2010

ACTION ITEMS

Item 2: Z-FY-10-54: Hold a public hearing to discuss and recommend action on a rezoning from Two Family District (2F) and General Retail District (GR) to Planned Development (General Retail) District (PD-GR) on Lots 4 - 6, and 10 - 12, Block 5, Eugenia Terrace Addition, located at 1510 South 1st Street. (Applicant: Jim Gunn for Temple G2K Development Partners, LLC)

Mr. Brian Mabry, Planning Director, stated this request was for a Family Dollar Store and although the applicant was unable to attend the meeting, he was in agreement with everything being presented regarding the site plan and building elevations. The proposed Family Dollar would be 8,000 square feet on property zoned GR and 2F and located at the Lamar Motel near South 1st and Avenue P.

Grant money in the amount of approximately \$65,000 had been proposed to the applicant to provide enhanced amenities on the site which were in line with the TMED standards. The purpose of TMED was to have a walkable, mixed use, more urban environment. The Planned Development being recommended by Staff and the grant provide for certainty as to how the site would develop. Staff and applicant were excited about this development and Staff recommended approval.

The surrounding property had a vacant bar to the south, the VA to the east, single family residential to the west, and a tire shop and single family dwellings to the north.

The Future Land Use and Character Map indicated the area as TMED, the Thoroughfare Plan showed South 1st as an arterial and West , the Thoroughfare Plan just off of 1st Street was an arterial and west Avenue P and south 3rd were local streets, and water and sewer are available to serve the property.

The Citywide Hike & Bike Master Plan called for a Citywide spine trail along the front. The trail was actually a sidewalk, 10' wide. The front portion of the property is zoned GR and the rear was zoned 2F and in order for the development to take place the back portion needed to be rezoned to GR. The site plan for the property if adopted and approved, would be binding.

A 10 foot sidewalk along the front and 6 foot wide sidewalk along Avenue P and 3rd Street would be required under the proposed TMED standards. Minimal parking would be in front of the building to get the building closer to the street. One TMED element was to minimize surface parking and have buildings close to the street to make the area more walkable. A screening hedge would be in place for the parking along 1st Street and the awnings would be built almost at the property line to create a walkable environment.

The proposed awnings would be along the front and sides and would provide shade along Avenue P and visual interest. The awnings would be red to represent and substitute for the Family Dollar's brand of a red stripe. Real and faux windows would be intermixed on Avenue P and 1st Street sides to break up the blank wall effect. The applicant proposed a single story, however, under the proposed TMED requirements, two stories are required along 1st Street. Buildings are required to have a mix of uses for retail and residential in the proposed TMED standards. As part of the PD, the applicant and City have compromised on a false second story to be added along the front and a portion of the side on Avenue P and on the north.

18 notices were mailed out; three were received in favor and zero were received in opposition.

Staff recommended approval of this rezoning from GR and 2F to PD-GR, including the binding site plan and elevations, with the following stipulations:

1. Except as modified by the binding site development plan, the use and development standards of the property must conform to the requirements of the General Retail zoning district.
2. In the event of a conflict between the site development plan and the text of the Planned Development ordinance, the stricter standard applies.
3. Notwithstanding what is shown on the site development plan, street tree placement along South 1st Street is subject to approval of the Texas Department of Transportation (TxDOT). In no case may a reduction in the number of trees adjacent to any public right-of-way be reduced as a result of TxDOT policy.
4. One monument sign, and no other freestanding sign type is allowed on the property as depicted on the site development plan. If built, the monument sign must have a maximum area of 50 square feet and a maximum height of four feet.

Commissioner Barton asked if TMED had been approved and Mr. Mabry stated no, it would come to P&Z for a workshop and recommendation probably in late November and then go to City Council for final readings in December and/or January.

Commissioner Barton asked about the TMED two-story requirement, if approved, and would that be considered a variance in the future. Mr. Mabry stated since this was a Planned Development Staff worked with the applicant to try and reach a compromise. The applicant could not commit to building a true second story so he and the City reached a compromise that a faux second story would be provided along the S. 1st Street façade and along both sides of the building. Once TMED was adopted, the base standard would be to have two stories. If someone could not provide two stories, a true hardship would need to be proven and would go before the Zoning Board of Adjustment for a real variance approval.

Commissioner Barton asked if the trees would have grates on the 1st Street side. Mr. Mabry stated right now, no, but discussions with TxDOT are still ongoing. Commissioner Barton asked if TMED have tree grates written into the Ordinance and Mr. Mabry stated parts of the Code do along certain portions of 1st and 5th, but the City was still working with TxDOT to finalize.

Commissioner Barton noted the date on the report was 10/07/10 and Mr. Mabry stated that should have been 10/04/10.

Commissioner Staats asked about the second story and if it would just be a façade with nothing behind it and Mr. Mabry stated that was correct and would be used for screening of mechanical equipment, etc.

Commissioner Sears asked about the maintenance of the trees and landscaping and Mr. Mabry stated maintenance would be the responsibility of the property owner, even if it were in the right-of-way.

Vice-Chair Martin opened the public hearing. There being no speakers, Vice-Chair Martin closed the public hearing.

Vice-Chair Martin stated he appreciated the applicant working with the City for the first development in the TMED and would look very nice.

Commissioner Staats made a motion to approve **Z-FY-10-54** with the exceptions and Commissioner Pilkington made a second.

Motion passed: (7:0)

Commissioner Pope and Chair Talley absent

[PLANNING NO. Z-FY-10-54]

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, APPROVING A ZONING CHANGE FROM TWO FAMILY DISTRICT (2F) AND GENERAL RETAIL DISTRICT (GR) TO PLANNED DEVELOPMENT GENERAL RETAIL DISTRICT (PD-GR) ON LOTS 4—6, AND 10—12, BLOCK 5, EUGENIA TERRACE ADDITION, LOCATED AT 1510 SOUTH 1ST 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 consisting of Lots 4—6, and 10—12, Block 5, Eugenia Terrace Addition, located at 1510 South 1st Street, has requested that the property be rezoned from Two Family District (2F) and General Retail District (GR) to Planned Development General Retail District (PD-GR); 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 Two Family District (2F) and General Retail District (GR) to Planned Development General Retail District (PD-GR) on the property consisting of Lots 4—6, and 10—12, Block 5, Eugenia Terrace Addition, Temple, Bell County, Texas, located at 1510 South 1st 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 General Retail District, 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, attached hereto as Exhibit B, the use and development standards of the property must conform to the requirements of the General Retail zoning district.
- (b) In the event of a conflict between the site development plan and the text of the Planned Development ordinance, the stricter standard applies.
- (c) Notwithstanding what is shown on the site development plan, street tree placement along S. 1st Street is subject to approval of the Texas Department of Transportation

(TxDOT). In no case may a reduction in the number of trees adjacent to any public right-of-way be reduced as a result of TxDOT policy.

- (d) One monument sign, and no other freestanding sign type is allowed on the property as depicted on the site development plan. If built, the monument sign must have a maximum area of 50 square feet and a maximum height of four feet.

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 4: The City Council directs the Director of Planning to make the necessary changes to the City Zoning Map accordingly.

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 **21st** day of **October**, 2010.

PASSED AND APPROVED on Second Reading on the **4th** day of **November**, 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

10/21/10
Item #9
Regular Agenda
Page 1 of 3

DEPT./DIVISION SUBMISSION & REVIEW:

Brian Mabry, Planning Director

ITEM DESCRIPTION: FIRST READING – PUBLIC HEARING - Z-FY-10-33: Consider adopting an ordinance authorizing a Conditional Use Permit allowing a package store with alcoholic beverage sales for off-premise consumption on the South one-half of Lot 1, Block 292-1, Temple Original at 1 North 6th Street. (Note: approval of this item will require four affirmative votes of the City Council)

PLANNING & ZONING COMMISSION RECOMMENDATION: At its August 2, 2010 meeting, the Planning and Zoning Commission voted 7/0 to recommend denial of a Conditional Use Permit to allow a package store with alcoholic beverage sales for off-premise consumption on the subject property.

Chair Pilkington and Commissioner Hurd were absent.

Due to the recommendation for denial from the Planning and Zoning Commission, in order for the City Council to approve this CUP, a minimum of four favorable votes is required.

STAFF RECOMMENDATION: Conduct public hearing and adopt ordinance as presented in item description, on first reading, and schedule second and final reading for November 4, 2010.

ITEM SUMMARY: Please refer to the Staff Report and draft minutes of case Z-FY-10-33, from the Planning and Zoning Commission meeting, August 2, 2010.

This case was originally presented to the Planning and Zoning Commission on May 17, 2010. The Planning and Zoning Commission voted 5/3 to deny approval of the Conditional Use Permit (CUP) for a package store at the subject property.

As a result, on June 3, 2010, the original proposal was not approved at City Council due to a lack of a second of a Council member's motion for approval.

The applicant revised the CUP site plan and resubmitted it for Planning and Zoning Commission review and recommendation on August 2, 2010. The primary outstanding issue was meeting the off-street parking requirement for package stores. The applicant was relying on a parking agreement with a property to the east in order to meet the off-street parking requirement. The Planning and Zoning Commission voted 7/0 to recommend denial. The revised application went to City Council on August 19, 2010 but the applicant voluntarily tabled the application because the property owner to the east

rescinded the parking agreement. The Council held a public hearing but did not vote on the application.

The applicant has since revised the site plan again to show off-street parking on the adjacent lot to the north that a duplex currently occupies. The applicant plans on buying the duplex property, demolishing the duplex and providing off-street parking on the property. An abbreviated copy of the contract to purchase the property and an earnest money check for \$500 is attached to this report. The site plan shows adequate parking spaces at the rate of one space per 250 square feet of retail floor area. In addition, the parking area shows a planter strip along the subject building that is 500 square feet in area.

COMPREHENSIVE PLAN COMPLIANCE: The proposed CUP relates to the following goals, objectives or maps of the Comprehensive Plan and Sidewalk and Trails Plan:

Document	Policy, Goal, Objective or Map	Compliance?
CP	Map 3.1 - Future Land Use and Character	Y*
	Goal 4.1 - Growth and development patterns should be consistent with the City's infrastructure and public service capacities	Y*
	Map 5.2 - Thoroughfare Plan	Y*
STP	NA	NA

* = See Comments Below CP = Comprehensive Plan STP = Sidewalk and Trails Plan

Future Land Use and Character (CP Map 3.1)

The request conforms to the Future Land Use and Character Map which designates the property as Auto Urban Commercial.

Thoroughfare Plan (CP Map 5.2)

This request conforms to the Thoroughfare Plan since the subject tract has access to North 6th Street, a local street on the Thoroughfare Plan and Central Avenue, designated an Arterial street.

Availability of Public Facilities (CP Goal 4.1)

A six-inch water line and a six-inch sewer line serve the site.

CUP APPROVAL CRITERIA:

Part of the CUP process is for the P&Z and City Council to utilize their discretionary abilities in making a recommendation and taking final action. As a guide, the Zoning Ordinance establishes seven general criteria for evaluation of all CUPs. They are listed below the P&Z's consideration:

1. The conditional use permit will be compatible with and not injurious to the use and enjoyment of the property, nor significantly diminish or impair property values within the immediate vicinity;
2. The establishment of the conditional use will not impede the normal and orderly development and improvement of surrounding vacant property;
3. Adequate utilities, access roads, drainage, and other necessary support facilities have been or will be provided;
4. The design, location, and arrangement of all driveways and parking spaces provide for the safe and convenient movement of vehicular and pedestrian traffic without adversely affecting the general public or adjacent development;
5. Adequate nuisance prevention measures have been or will be taken to prevent or control offensive odors, fumes, dust, noise, and vibration;
6. Directional lighting will be provided so as not to disturb or adversely affect neighboring properties; and
7. There is sufficient landscaping and screening to insure harmony and compatibility with adjacent property.

Many of the comments of the adjacent property owners relate to criterion #1.

PUBLIC NOTICE:

Ten notices of the Planning and Zoning Commission public hearing were sent out. As of Monday, August 9 at 5 PM, 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 July 22, 2010 in accordance with state law and local ordinance

FISCAL IMPACT: NA

ATTACHMENTS:

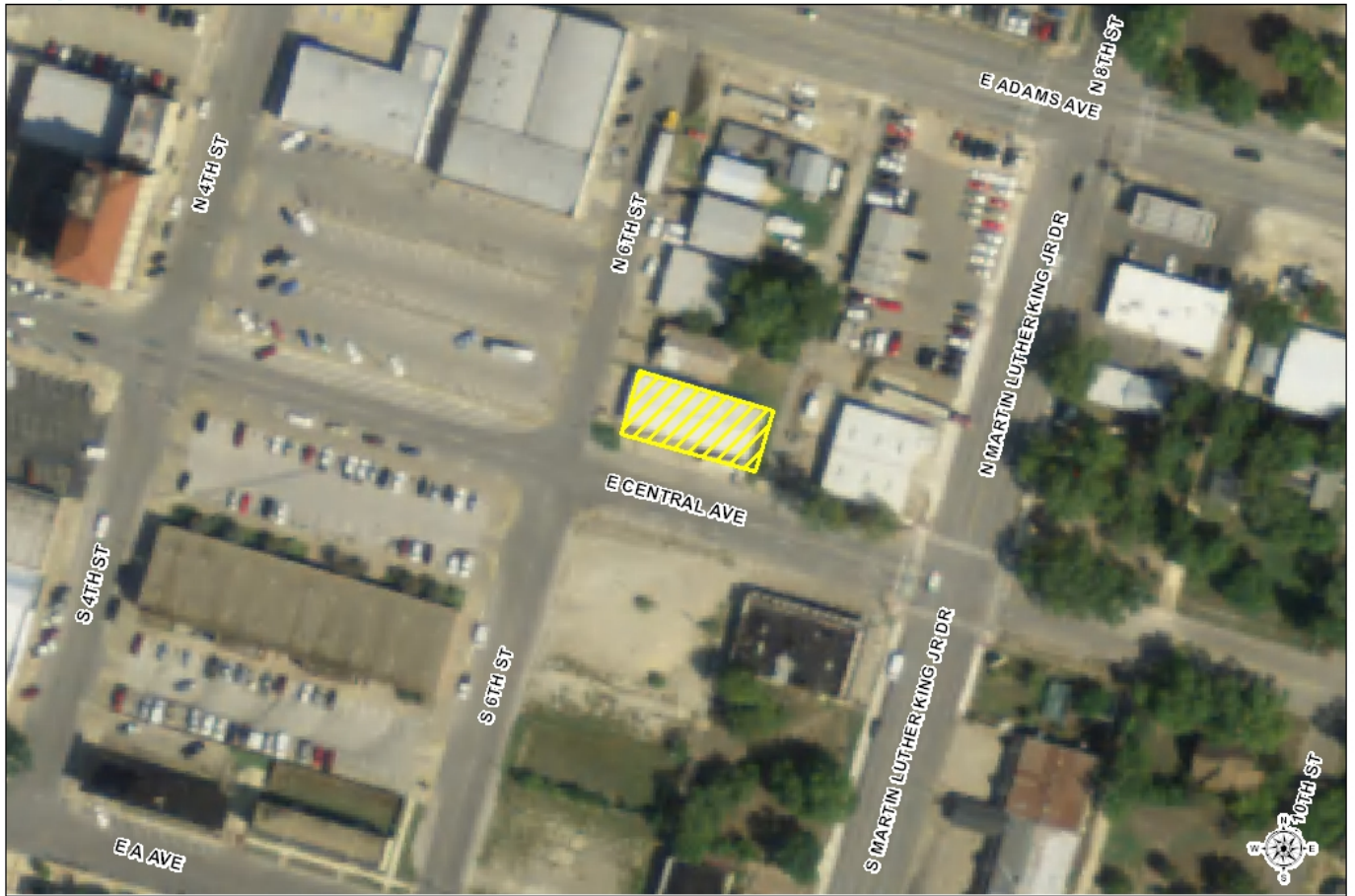
Aerial
Land Use and Character Map
Zoning Map
Utility Map
CUP Site Plan
Contract to Purchase Duplex Property (abbreviated)
Notice Map
Response Letters
P&Z Staff Report (Z-FY-10-33)
P&Z Minutes (08/02/10)
Ordinance



Z-FY-10-33

Temple Original, Blk 292, S 1/2 of Lot 1

1 N 6th Street



Feet 0 50 100 150

J Stone 5.25.10

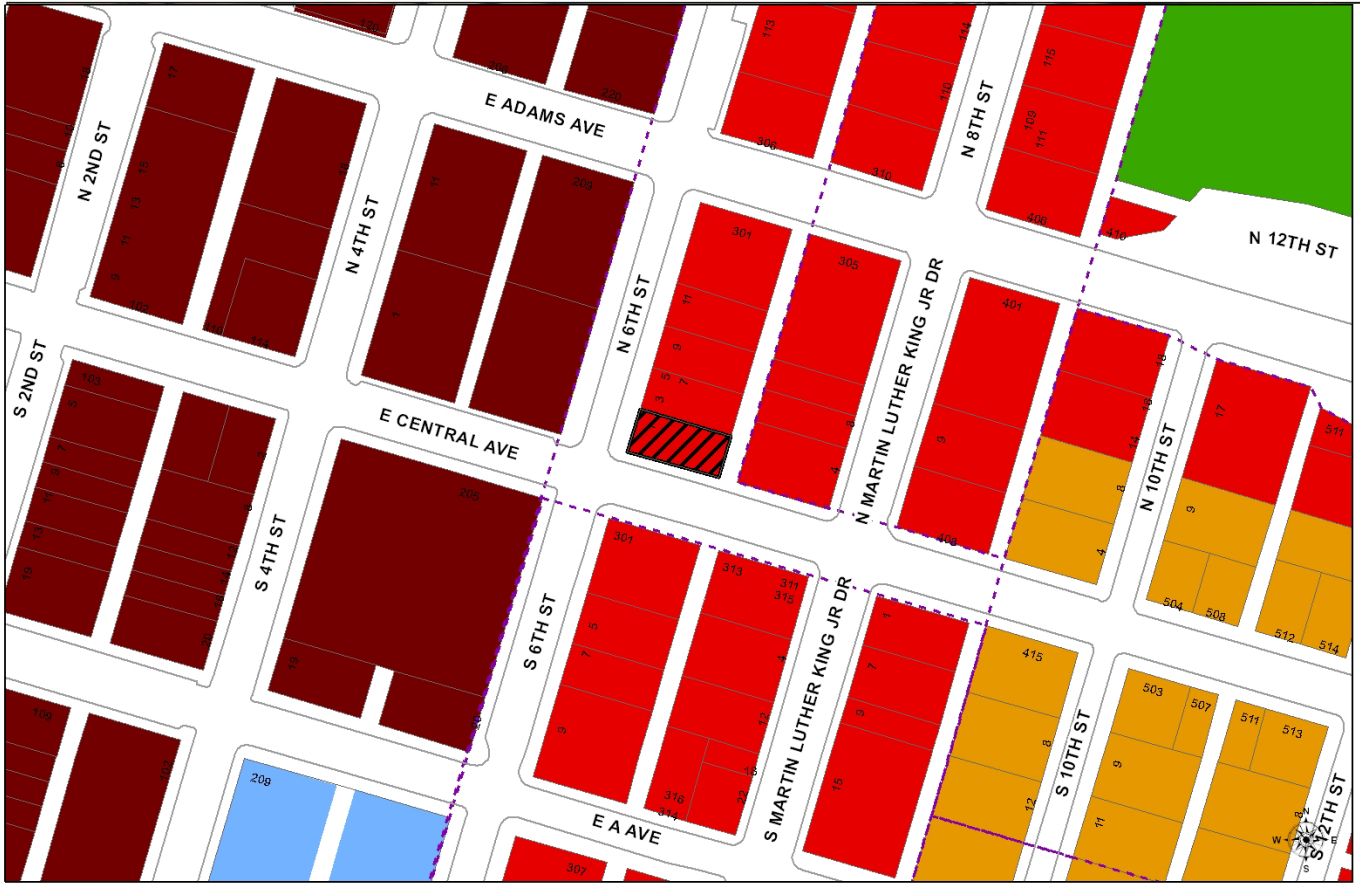
 ZFY 1033



Z-FY-10-33

Temple Original, Blk 292, S 1/2 of Lot 1

1 N 6th Street



Z-FY-10-28

Neighborhood Conservation



Estate Residential



Suburban Residential



Auto-urban Residential



Auto-Urban Multi-Family



Auto-Urban Mixed Use



Auto-Urban Commercial



Suburban Commercial



Urban Center



Temple Medical Education District



Industrial



Business park



Public/Institutional



Parks and Open Space



Agricultural/Rural

1 inch = 150 feet

J Stone 4.14.10




Z-FY-10-33

Temple Original, Blk 292, S 1/2 of Lot 1

1 N 6th Street



 Applicant Property

J Stone 6.18.10



Z-FY-10-33

Temple Original, Blk 292, S 1/2 of Lot 1

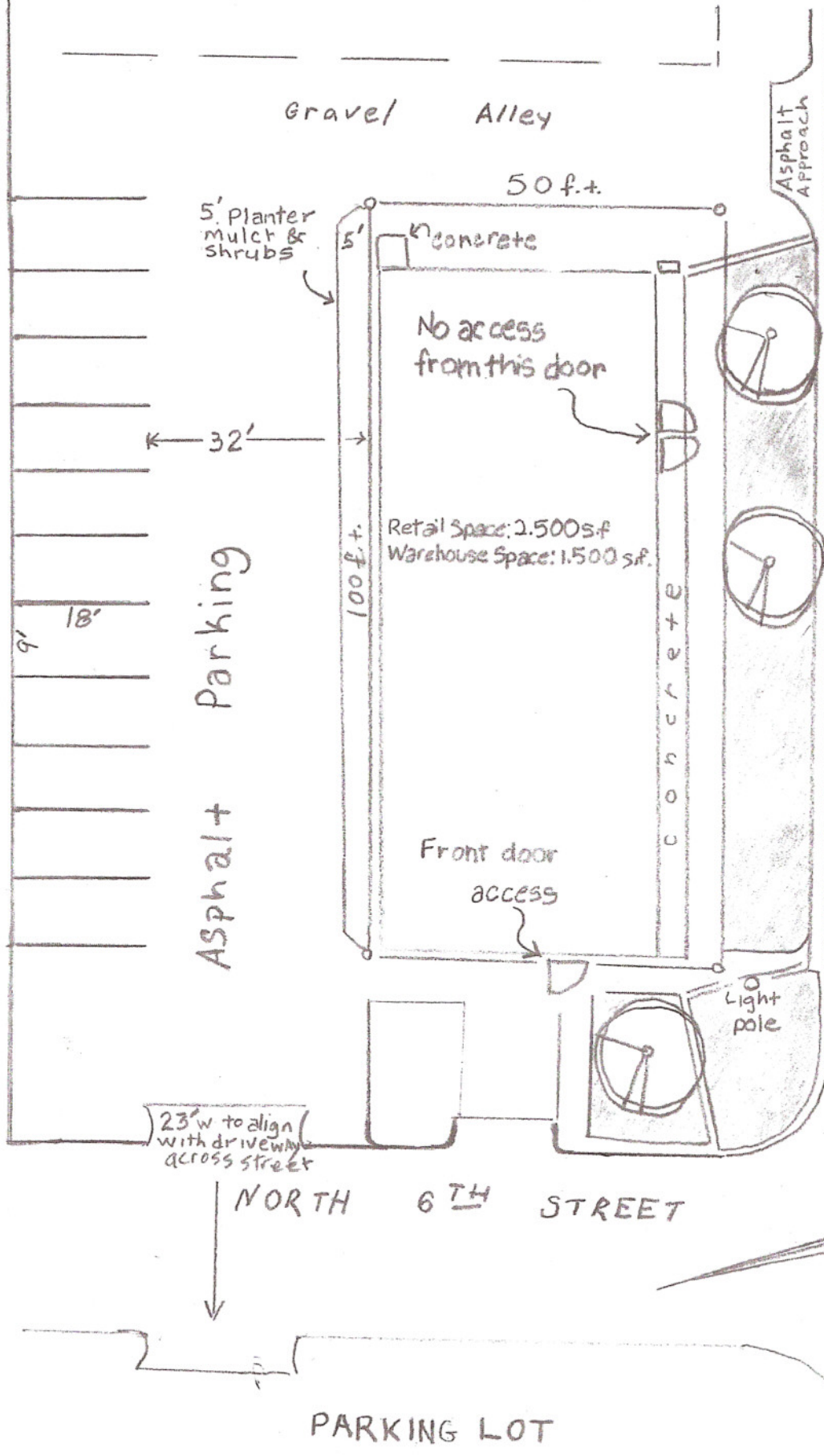
1 N 6th Street



 ZFY1033  WATER LINE  SEWER LINE

Feet 0 50 100 150

J Stone 6.18.10



Note: Only wall signs are permitted Free-standing signs are prohibited.

EAST CENTRAL AVENUE



Min. 5' 2" calip
Canopy Tree
as listed in Zon
Ordinance



Asian Jasmine
Liriope



PROMULGATED BY THE TEXAS REAL ESTATE COMMISSION (TREC)
ONE TO FOUR FAMILY RESIDENTIAL CONTRACT (RESALE)

06-30-08

NOTICE: Not For Use For Condominium Transactions

1. **PARTIES:** The parties to this contract are Jon Mark Johnson, Guadalupe Johnson (Seller) and Richard Lewis Heating & Air (Buyer). Seller agrees to sell and convey to Buyer and Buyer agrees to buy from Seller the Property defined below.

2. **PROPERTY:**

A. **LAND:** Lot N 1/2 of 1 Block 292,
Temple Original Addition, City of
Temple, County of Bell
Texas, known as 3 North 6th Street 76501 (address/zip code), or as described on attached exhibit.

B. **IMPROVEMENTS:** The house, garage and all other fixtures and improvements attached to the above-described real property, including without limitation, the following **permanently installed and built-in items**, if any: all equipment and appliances, valances, screens, shutters, awnings, wall-to-wall carpeting, mirrors, ceiling fans, attic fans, mail boxes, television antennas and satellite dish system and equipment, heating and air-conditioning units, security and fire detection equipment, wiring, plumbing and lighting fixtures, chandeliers, water softener system, kitchen equipment, garage door openers, cleaning equipment, shrubbery, landscaping, outdoor cooking equipment, and all other property owned by Seller and attached to the above described real property.

C. **ACCESSORIES:** The following described related accessories, if any: window air conditioning units, stove, fireplace screens, curtains and rods, blinds, window shades, draperies and rods, controls for satellite dish system, controls for garage door openers, entry gate controls, door keys, mailbox keys, above ground pool, swimming pool equipment and maintenance accessories, and artificial fireplace logs.

D. **EXCLUSIONS:** The following improvements and accessories will be retained by Seller and must be removed prior to delivery of possession: All personal items, wall heater, appliances, window units will be removed prior to demolishing bldg.
The land, improvements and accessories are collectively referred to as the "Property".

3. **SALES PRICE:**

A. Cash portion of Sales Price payable by Buyer at closing \$ 40,000.00
B. Sum of all financing described below (excluding any loan funding fee or mortgage insurance premium) \$ _____
C. Sales Price (Sum of A and B) \$ 40,000.00

4. **FINANCING:** The portion of Sales Price not payable in cash will be paid as follows: (Check applicable boxes below)

☐ A. **THIRD PARTY FINANCING:** One or more third party mortgage loans in the total amount of \$ _____ (excluding any loan funding fee or mortgage insurance premium).

(1) **Property Approval:** If the Property does not satisfy the lenders' underwriting requirements for the loan(s), this contract will terminate and the earnest money will be refunded to Buyer.

(2) **Financing Approval:** (Check one box only)

☐ (a) This contract is subject to Buyer being approved for the financing described in the attached Third Party Financing Condition Addendum.

☐ (b) This contract is not subject to Buyer being approved for financing and does not involve FHA or VA financing.

☐ B. **ASSUMPTION:** The assumption of the unpaid principal balance of one or more promissory notes described in the attached TREC Loan Assumption Addendum.

☐ C. **SELLER FINANCING:** A promissory note from Buyer to Seller of \$ _____, secured by vendor's and deed of trust liens, and containing the terms and conditions described in the attached TREC Seller Financing Addendum. If an owner policy of title insurance is furnished, Buyer shall furnish Seller with a mortgagee policy of title insurance.

5. **EARNEST MONEY:** Upon execution of this contract by all parties, Buyer shall deposit \$ 500.00 as earnest money with Centraland Title Company, as escrow agent, at 2005 Birdcreek Drive, Temple, TX 76502 (address). Buyer shall deposit additional earnest money of \$ N/A with escrow agent within _____ days after the effective date of this contract. If Buyer fails to deposit the earnest money as required by this contract, Buyer will be in default.

6. **TITLE POLICY AND SURVEY:**

A. **TITLE POLICY:** Seller shall furnish to Buyer at ☐ Seller's ☒ Buyer's expense an owner policy of title insurance (Title Policy) issued by Centraland Title Company (Title Company) in the amount of the Sales Price, dated at or after closing, insuring Buyer against loss under the provisions of the Title Policy, subject to the promulgated exclusions

(TAR 1601) 06-30-08 Initialed for identification by Buyer RL and Seller mgj TREC NO. 20-8 Page 1 of 8

Hal Dunn Realty PO Box 4215 Temple, TX 76505
Hal Dunn

Produced with ZipForm® by zipLogix 18070 Fifteen Mile Road, Fraser, Michigan 48026 www.ziplogix.com

Phone: 254.773.7222

Fax: 254.742.1615

Lewis - 3 North 6th

15091

P.O. Box 6136 (254) 771-5550
Temple, Texas 76503-6136



First State Bank
Central Texas
Friendly Style Banking

88-1000/1119
01

9-24-10

DATE

Centralized Title Company — \$ 500.⁰⁰/₁₀₀
Five Hundred & no/100

DOLLARS

Betty Lewis

Enclosed 3 N. 6th St

⑈015091⑈ ⑆111910005⑆ 001 161 9⑈

THE POINT
147 FM 2483 PH. 254-780-1540
MORGANS POINT RESORT
BELTON, TX 76513

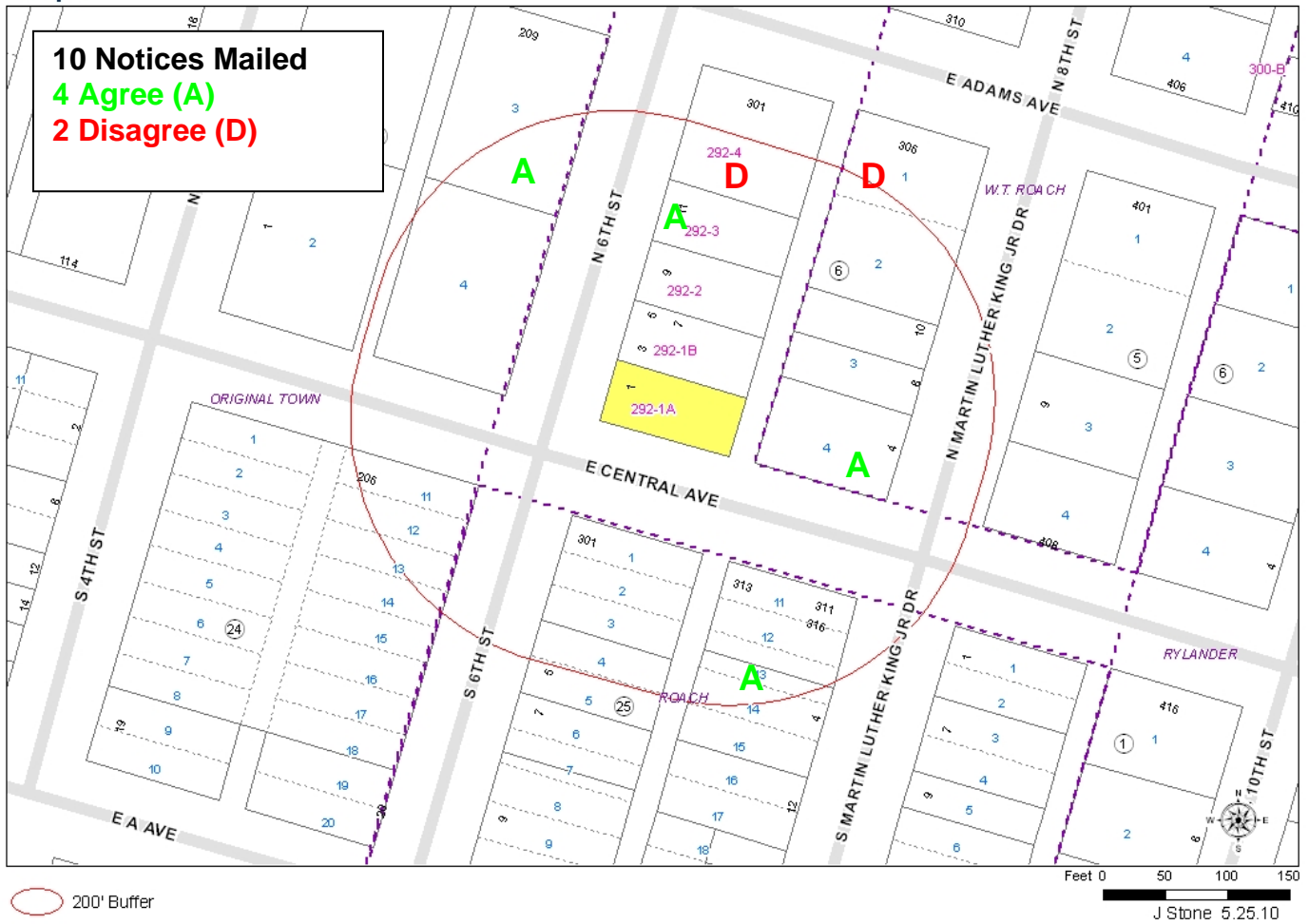
PAY
TO THE
ORDER OF



Z-FY-10-33

Temple Original, Blk 292, S 1/2 of Lot 1

1 N 6th Street





**2nd RESPONSE TO PROPOSED
CONDITIONAL USE PERMIT
CITY OF TEMPLE**

Central Texas Mortuary LLC
11 North 6th Street
Temple, Texas 76701

Zoning Application Number: Z-FY-10-33

Project Manager: Brian Mabry

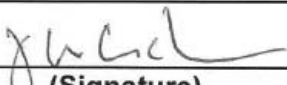
Proponent/Applicant: Mike Grisham for Carmela Thomas

This 2nd notice of a public hearing is being sent to you because the Planning and Zoning Commission did not have enough members to conduct a meeting on July 19, 2010. The Planning and Zoning Commission will consider this request for a Conditional Use Permit on August 2, 2010.

The proposed request for a Conditional Use Permit is the area shown in hatched marking on the attached map. The Conditional Use Permit will allow the sales of distilled liquors, wines and beers in unbroken original containers in a package store for off-premises consumption. Because you own property within 200 feet of the requested change, your opinions are welcomed. Please use this form to indicate whether you are in favor of the possible Conditional Use Permit for the property described on the attached notice, and provide any additional comments you may have.

I recommend ☒ approval () denial of this request.

Comments:


(Signature)

J.W. Anderson
(Print Name)

Please mail or hand-deliver this comment form to the address shown below, no later than August 2, 2010

City of Temple
Planning Department
Room 201
Municipal Building
Temple, Texas 76501

RECEIVED

JUL 27 2010

City of Temple
Planning & Development

Number of Notices Mailed: 10

Date Mailed: July 22, 2010



**RESPONSE TO PROPOSED
CONDITIONAL USE PERMIT
CITY OF TEMPLE**

Michael T. Etux Cody Cramer, Jr.
40 Market Loop
Belton, Texas 76513

Zoning Application Number: Z-FY-10-33

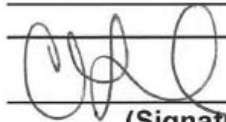
Project Manager: Brian Mabry

Proponent/Applicant: Mike Grisham for Carmela Thomas

The proposed request for a Conditional Use Permit is the area shown in hatched marking on the attached map. The Conditional Use Permit will allow the sales of distilled liquors, wines and beers in unbroken original containers in a package store for off-premises consumption. Because you own property within 200 feet of the requested change, your opinions are welcomed. Please use this form to indicate whether you are in favor of the possible Conditional Use Permit for the property described on the attached notice, and provide any additional comments you may have.

I recommend ☒ approval () denial of this request.

Comments:


(Signature)

Cody Cramer
(Print Name)

Please mail or hand-deliver this comment form to the address shown below, no later than July 19, 2010.

City of Temple
Planning Department
Room 201
Municipal Building
Temple, Texas 76501

RECEIVED

JUL 15 2010

City of Temple
Planning & Development

Number of Notices Mailed: 10

Date Mailed: July 8, 2010



**2nd RESPONSE TO PROPOSED
CONDITIONAL USE PERMIT
CITY OF TEMPLE**

Amanda Krcha
8817 Oak Hills Drive
Temple, Texas 76502

Zoning Application Number: Z-FY-10-33

Project Manager: Brian Mabry

Proponent/Applicant: Mike Grisham for Carmela Thomas

This 2nd notice of a public hearing is being sent to you because the Planning and Zoning Commission did not have enough members to conduct a meeting on July 19, 2010. The Planning and Zoning Commission will consider this request for a Conditional Use Permit on August 2, 2010.

The proposed request for a Conditional Use Permit is the area shown in hatched marking on the attached map. The Conditional Use Permit will allow the sales of distilled liquors, wines and beers in unbroken original containers in a package store for off-premises consumption. Because you own property within 200 feet of the requested change, your opinions are welcomed. Please use this form to indicate whether you are in favor of the possible Conditional Use Permit for the property described on the attached notice, and provide any additional comments you may have.

I recommend () approval ☒ denial of this request.

Comments:

There are enough homeless drunks laying around this neighborhood without a liquor store so I think this would be a horrible addition to the neighborhood.

I am not in favor of this request & this is the 3rd time I've sent in my comments!

Amanda Krcha
(Signature)

AMANDA KRCHA
(Print Name)

Please mail or hand-deliver this comment form to the address shown below, no later than August 2, 2010.

City of Temple
Planning Department
Room 201
Municipal Building
Temple, Texas 76501

RECEIVED

JUL 26 2010

City of Temple
Planning & Development

Number of Notices Mailed: 10

Date Mailed: July 22, 2010



**RESPONSE TO PROPOSED
CONDITIONAL USE PERMIT
CITY OF TEMPLE**

ORO Holdings Ltd
P.O. Box 449
Temple, Texas 76503-449

Zoning Application Number: Z-FY-10-33

Project Manager: Brian Mabry

Proponent/Applicant: Mike Grisham for Carmela Thomas

The proposed request for a Conditional Use Permit is the area shown in hatched marking on the attached map. The Conditional Use Permit will allow the sales of distilled liquors, wines and beers in unbroken original containers in a package store for off-premises consumption. Because you own property within 200 feet of the requested change, your opinions are welcomed. Please use this form to indicate whether you are in favor of the possible Conditional Use Permit for the property described on the attached notice, and provide any additional comments you may have.

I recommend (☒) approval (☐) denial of this request.

Comments:


(Signature)

Barry GIRDEN
(Print Name)

Please mail or hand-deliver this comment form to the address shown below, no later than July 19, 2010.

City of Temple
Planning Department
Room 201
Municipal Building
Temple, Texas 76501

Number of Notices Mailed: 10

Date Mailed: July 8, 2010



**2nd RESPONSE TO PROPOSED
CONDITIONAL USE PERMIT
CITY OF TEMPLE**

Southwest Federated Inc.
1150 North Loop 1604 W
San Antonio, Texas 78248

Hey! I'm running out of stamps :)

Zoning Application Number: Z-FY-10-33

Project Manager: Brian Mabry

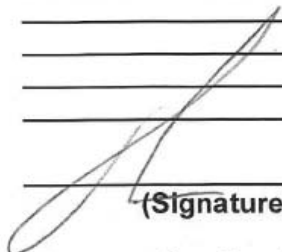
Proponent/Applicant: Mike Grisham for Carmela Thomas

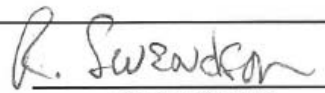
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I recommend ☒ approval () denial of this request.

Comments:


(Signature)


(Print Name)

Please mail or hand-deliver this comment form to the address shown below, no later than August 2, 2010.

City of Temple
Planning Department
Room 201
Municipal Building
Temple, Texas 76501

RECEIVED

JUL 23 2010

City of Temple
Planning & Development

Number of Notices Mailed: 10

Date Mailed: July 22, 2010



**RESPONSE TO PROPOSED
CONDITIONAL USE PERMIT
CITY OF TEMPLE**

David & Randy Sodek
909 West Park
Temple, Texas 76501

Zoning Application Number: Z-FY-10-33

Project Manager: Brian Mabry

Proponent/Applicant: Mike Grisham for Carmela Thomas

The proposed request for a Conditional Use Permit is the area shown in hatched marking on the attached map. The Conditional Use Permit will allow the sales of distilled liquors, wines and beers in unbroken original containers in a package store for off-premises consumption. Because you own property within 200 feet of the requested change, your opinions are welcomed. Please use this form to indicate whether you are in favor of the possible Conditional Use Permit for the property described on the attached notice, and provide any additional comments you may have.

I recommend () approval ☒ denial of this request.

Comments:

David Sodek
(Signature)

DAVID SODEK
(Print Name)

Please mail or hand-deliver this comment form to the address shown below, no later than July 19, 2010.

City of Temple
Planning Department
Room 201
Municipal Building
Temple, Texas 76501

RECEIVED

JUL 14 2010

City of Temple
Planning & Development

Number of Notices Mailed: 10

Date Mailed: July 8, 2010



PLANNING AND ZONING COMMISSION AGENDA ITEM

08/02/10
Item #7
Regular Agenda
Page 1 of 5

APPLICANT: Mike Grisham for Carmella Thomas

CASE MANAGER: Brian Mabry, AICP, Interim Planning Director

ITEM DESCRIPTION: Hold a public hearing to discuss and recommend action on a Conditional Use Permit to allow a package store with alcoholic beverage sales for off-premise consumption on the South one-half of Lot 1, Block 292-1, Temple Original at 1 North 6th Street. Zoned Central Area District (CA).

BACKGROUND: This case was originally presented to the Planning and Zoning Commission (P&Z) on May 17, 2010. The P&Z voted 5/3 to deny approval of the Conditional Use Permit (CUP) for a package store at the subject property. Among the expressed concerns at the P&Z and City Council public hearings were:

- **Parking:** The legitimacy and usefulness of the off-street parking on a lot across the alley behind the proposed package store;
- **Parking:** The potential for patrons of the proposed store to park in the right-of-way public parking in front of the adjacent duplex;
- **Trespassing:** The possibility of patrons trespassing through the narrow space between the proposed package store and the adjacent duplex; and
- **Policy:** Appropriateness of allowing a package store at this location east of downtown.

As a result, the proposal was not approved at City Council due to a lack of a second of a Council member's motion for approval.

The current submittal attempts to address the previous concerns that were raised at P&Z and City Council. See the CONCERNS section below.

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	CA	Vacant building	
North	CA	Duplex	
South	CA	Public parking lot	
East	CA	Alley/vacant building	
West	CA	Public parking lot	

COMPREHENSIVE PLAN COMPLIANCE: The proposed CUP relates to the following goals, objectives or maps of the Comprehensive Plan and Sidewalk and Trails Plan:

Document	Policy, Goal, Objective or Map	Compliance?
CP	Map 3.1 - Future Land Use and Character	Y*
	Goal 4.1 - Growth and development patterns should be consistent with the City's infrastructure and public service capacities	Y*
	Map 5.2 - Thoroughfare Plan	Y*
STP	NA	NA

* = See Comments Below CP = Comprehensive Plan STP = Sidewalk and Trails Plan

Future Land Use and Character (CP Map 3.1)

The request conforms to the Future Land Use and Character Map which designates the property as Auto Urban Commercial.

Thoroughfare Plan (CP Map 5.2)

This request conforms to the Thoroughfare Plan since the subject tract has access to North 6th Street, a local street on the Thoroughfare Plan and Central Avenue, designated an Arterial street.

Availability of Public Facilities (CP Goal 4.1)

A six-inch water line and a six-inch sewer line serve the site.

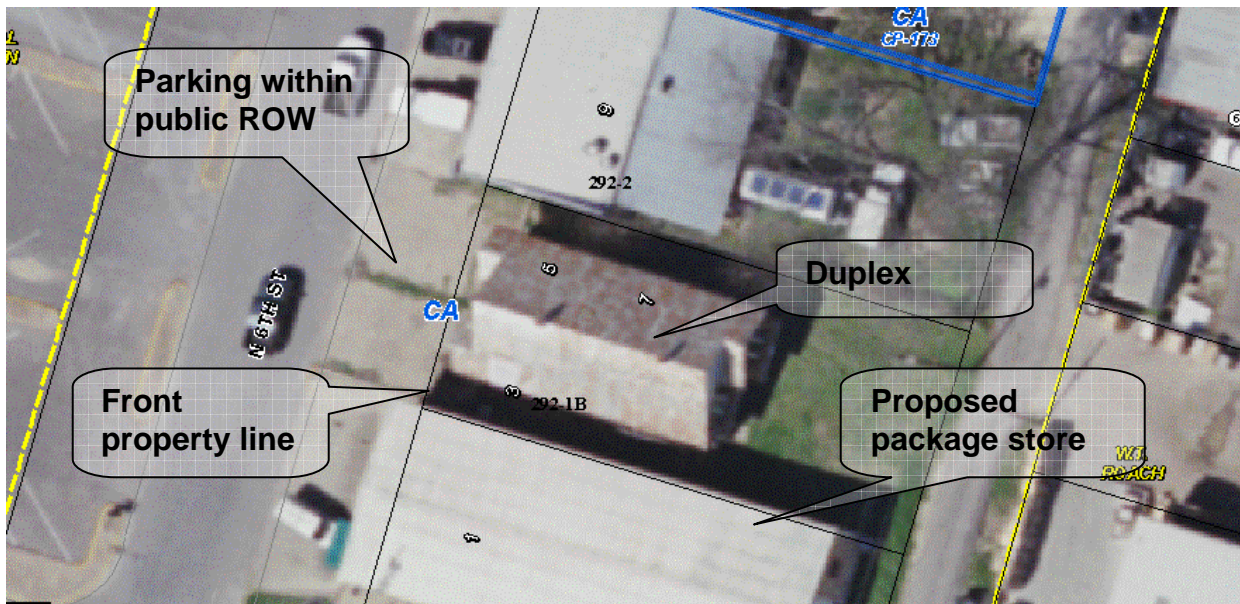
CONCERNS:

Parking

The specific use standards for package stores, adopted by City Council and codified in Sec. 7-611.5 of the Zoning Ordinance, requires that a package store have one on-site parking space per 250 square feet of retail area. Sec. 10-100 of the Zoning Ordinance states that parking is required on a "lot or tract or on an immediately contiguous lot or tract, or on a lot or tract within 150 feet of such building or structure." Therefore Staff's interpretation of the two provisions is that parking a maximum of 150 away from the subject building satisfies the "on-site" parking requirement.

At the time of the original P&Z and City Council public hearings, the applicant had secured a parking agreement for 10 spaces for a duration of 20 years. This would have satisfied the on-site parking requirement described above. However, since that time, the person leasing the spaces to the potential package store operator has canceled the lease. The applicant approached the City about leasing 10 spaces from a nearby public parking lot, but the City Manager declined the offer. At this time, no on-site or off-premises private parking is in place for the proposed package store.

One final parking concern that the owner of the adjacent duplex raised at previous meetings was that the parking in front of the duplex might be used by patrons of the package store, rather than his tenants. As demonstrated in the picture below, the parking in front of the duplex is in the public right-of-way and is therefore available to the general public, regardless of destination. The duplex owner could apply for a street use license to reserve the adjacent right-of-way parking spaces for the duplex. This is a solution consistent with previous similar situations in which a private property owner wanted to reserve adjacent public right-of-way parking spaces for his or her own use.



On the attached site plan, staff additionally recommends four spaces along E. Central Avenue to not be landscaped over in order to discourage parking directly in front of the duplex.

Trespassing

The owner of the duplex, Jon Johnson, expressed concern about trespassing and loitering in the space between the duplex and the proposed package store. The space between the two buildings belongs to Mr. Johnson. As shown on the attached site plan, the package store applicant proposes a fence at the front property line between the two structures and along the rear property line as a preventative measure. Of course, the duplex owner would need to give his permission for this to occur. At the time of writing this staff report, Staff is unaware of such permission being given, but Staff does know that the applicant and duplex owner are in conversation on the matter.

Such trespass was not a Staff concern originally because in the original submittal, the entrance to the building was proposed along E. Central Avenue. Due to the impracticality of building a properly sloped ADA-compliant ramp at this entrance, the applicant has elected to use the entrance along N. 6th Street instead. This location makes it more likely that patrons may walk between the two buildings if they parked across the alley, so Staff thinks that the fences should be required.

Policy

Various stakeholders have raised concern as to whether the subject property is a good location for a package store or not. Part of the CUP process is for the P&Z and City Council to utilize their discretionary abilities in making a recommendation and taking final action. As a guide, the Zoning Ordinance establishes seven general criteria for evaluation of all CUPs. They are listed below the P&Z's consideration:

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

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

Many of the comments of the adjacent property owners relate to criterion #1. The lack of on-site or off-premises private parking should be considered when evaluating criterion #4 above.

PUBLIC NOTICE:

Ten notices of the Planning and Zoning Commission public hearing were sent out. As of Wednesday, July 28 at 5 PM, 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 July 22, 2010 in accordance with state law and local ordinance

STAFF RECOMMENDATION: NA (per direction of the Package Store Subcommittee)

FISCAL IMPACT: Not Applicable

ATTACHMENTS:

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

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

MONDAY, AUGUST 2, 2010

ACTION ITEMS

Item 7: Z-FY-10-33: Hold a public hearing to discuss and recommend action on a Conditional Use Permit to allow a package store with alcoholic beverage sales in a for off-premise consumption on the South one-half of Lot 1, Block 292-1, Temple Original at 1 North 6th Street. Zoning: Central Area District. (Applicant: Mike Grisham for Carmela Thomas)

Mr. Brian Mabry stated the applicant for this item was Mr. Mike Grisham for Ms. Carmela Thomas. If approved, this item would go to City Council on August 19th for first reading and September 2nd for second reading and final action.

This item had been before the P&Z Commission previously, but there are some new changes to the request. This proposal was for a package store and the property is zoned Central Area (CA). This case was originally presented to the Planning and Zoning Commission (P&Z) on May 17, 2010 and P&Z voted 5/3 to deny approval of the Conditional Use Permit (CUP) for a package store at the subject property. Among the expressed concerns at the P&Z and City Council public hearings were:

- Parking: The legitimacy and usefulness of the off-street parking on a lot across the alley behind the proposed package store;
- Parking: The potential for patrons of the proposed store to park in the right-of-way public parking in front of the adjacent duplex;
- Trespassing: The possibility of patrons trespassing through the narrow space between the proposed package store and the adjacent duplex; and
- Policy: Appropriateness of allowing a package store at this location east of downtown.

As a result, the proposal was not approved at City Council due to a lack of a second of a Council member's motion for approval.

The Future Land Use and Character Map designated the property auto/urban and the proposal conformed to the Thoroughfare Plan due to the location at the intersection of a local and arterial street. A 6" water and 6" sewer line would serve the property.

Surrounding uses included a parking lot across Central Avenue, a parking lot across 6th Street, a duplex to the north, and a vacant building across the alley to the east which was where the original parking agreement was located but had since been canceled by the building's property owners.

Package store standards in the Zoning Ordinance:

1. Such use must comply with Chapter 4, "Alcoholic Beverages," of the City Code;
2. Outdoor lighting must comply with the standards in Zoning Ordinance, Section 7-566(G);
3. If applicable, a pick-up window must be visible from the public right-of-way, and may not be placed in the alley;
4. The drive-through lane must provide a minimum of 60 feet of stacking space from the pick-up window to the beginning;
5. An escape (bypass) lane must be provided parallel to the drive-through lane, if applicable, from the beginning of the drive-through lane;
6. Parking (in any zoning district included in CA) must be provided on-site, not less than one space for each 250 square feet of retail space (plus the number of parking spaces required for non-retail space as specified by other City ordinances);
7. Window signs are prohibited; and
8. Lighted advertising signs must be turned off at closing time.

With particular interest to No. 6, parking must be provided on-site which counted as either on-site, adjacent to the property, or within 150 feet of the subject property, for one space per 250 square feet and this was currently not in effect and no parking agreement was currently in effect.

Concerns from the previous P&Z, City Council, and stakeholder meetings were the legitimacy and usefulness of the parking across the alley [which was now moot since the parking agreement had been withdrawn], the potential for customers of the proposed store to park in the right-of-way public parking in front of the adjacent duplex, trespassing through the narrow space between the duplex and store, and the appropriateness of allowing a package store at this location.

The owner of the adjacent duplex had voiced concern that the parking in front of the duplex might be used for package store customers instead of the residents of the duplex; however, the parking in front of the duplex is public right-of-way and

available to any member of the general public. The duplex owner could potentially apply for a street use license to reserve the adjacent right-of-way for parking spaces for the duplex and this would require City Council approval.

Another concern was trespassing between the two buildings, the proposed package store and the duplex. The property line was right at the wall of the proposed package store so anything between the wall of the duplex and the package store is the duplex owner's property. To try and address that, due to ADA requirements, the applicant would make the only entrance to the building oriented toward 6th Street rather than Central Avenue. The proposed plan showed a fence between the package store and the duplex, however, the duplex owner had not shown any interest in having the fence installed.

Various stakeholders have raised concern as to whether the subject property was a good location for a package store or not. Part of the CUP process was for the P&Z and City Council to utilize their discretionary abilities in making a recommendation and taking final action. As a guide, the Zoning Ordinance established seven general criteria for evaluation of all CUPs:

1. The conditional use permit will be compatible with and not injurious to the use and enjoyment of the property, nor significantly diminish or impair property values within the immediate vicinity;
2. The establishment of the conditional use will not impede the normal and orderly development and improvement of surrounding vacant property;
3. Adequate utilities, access roads, drainage, and other necessary support facilities have been or will be provided;
4. The design, location, and arrangement of all driveways and parking spaces provide for the safe and convenient movement of vehicular and pedestrian traffic without adversely affecting the general public or adjacent development;
5. Adequate nuisance prevention measures have been or will be taken to prevent or control offensive odors, fumes, dust, noise, and vibration;
6. Directional lighting will be provided so as not to disturb or adversely affect neighboring properties; and
7. There is sufficient landscaping and screening to insure harmony and compatibility with adjacent property.

Many of the comments of the adjacent property owners related to criterion #1. The lack of on-site or off-premises private parking should be considered when evaluating criterion #4 above.

Four property owners were in favor of this proposal and three were opposed.

Per the Package Store Subcommittee, no Staff recommendation had been made.

Commissioner Barton asked about the parking requirements for Central Area (CA) district being clearly stated that the parking requirement was one space for every 250 feet of the building and now that the parking agreement had been nullified, the applicant no longer met that requirement. Mr. Mabry agreed. Mr. Mabry also stated the applicant informed him the property owner was looking at buying a nearby property within 150 feet, demolishing the building, and using it for parking but had not heard anything final regarding this.

Commissioner Secrest asked if the P&Z and City Council approved this request, the package store would not be able to open until appropriate parking were in place. Mr. Mabry confirmed.

Vice-Chair Talley opened the public hearing.

Mr. John Mark Johnson, owner of the duplex, approached and stated this particular plan looked to be the plan that was not seconded at City Council. Since the parking lot was across the street parking was not an issue. His concern was what it would do to the area. Currently, the area had several vagrants and debris and trash are a problem.

Mr. Johnson stated he was told that if the CUP were not approved, a wine and beer bar would be put there, which was allowed in the CA, and would operate from 8 a.m. to 2 p.m.

Mr. Johnson stated the fence proposed was a 4 foot chain link fence in the back and a 6 foot wooden fence in the front.

Mr. Mike Grisham, representative of the property owner, stated the second property from the proposed building was for sale and the subject property owner was interested in purchasing it. The building on the property had burned and once demolished, the space would provide a nice parking lot which would also be within the 150 foot requirement. Mr. Grisham asked for a proposal to make that a condition of approval if that property could be used for the parking area.

Mr. Richard Lewis, 6819 Jupiter, potential purchaser of the building, stated he already made a proposal for purchase and Mr. Hal Dunn was working on closing the deal on the property so there would be plenty of parking for the proposed package store.

Mr. Grisham stated Mr. Lewis had owned a package store for 25 years at Morgan's Point and had experience. Mr. Lewis would provide jobs, improvements to the building, and provide adequate parking.

Mr. Johnson stated to the Commission that he received a letter and email from Mr. Lewis and then asked Mr. Lewis if the CUP were not approved, would Mr. Lewis still intend to put a bar there and Mr. Lewis stated he had no comment.

Vice-Chair Talley closed the public hearing.

Commissioner Martin stated he made a mistake on this since he did not go by the property and originally look at it. Commissioner Martin felt the way the City presented the case, there was ample parking to satisfy the CUP permits. When Commissioner Martin went to look at the property, he stated he would not park his car where the parking was intended. Commissioner Martin stated he looked more closely at the regulations for the store and parking and did not feel they were appropriate.

Commissioner Secrest asked if he would vote for this if there were parking available because even if this request were approved, the parking would have to be in place before opening the business. Commissioner Secrest stated that if P&Z and City Council passed this request, they would not open until the parking were in place.

Commissioner Barton stated he had concerns about where the parking would be located, even if it met the 150 foot requirement. It was an obvious inconvenience. Commissioner Staats stated it was injurious to the party who had the property between the two and Commissioner Barton agreed.

Mr. Grisham stated there were parking spaces partially owned by the property where the building is currently, and asked the Commission why that parking could not be used. Commissioner Barton stated he could not answer that question but even if it could be used, it was only 4 or 5 parking spaces which did not meet the requirements for a 2500 square foot building--10 spaces were required. Mr. Grisham stated there were 10 existing spaces currently there and Commissioner Barton stated if the required landscaping were done required by the site plan, there would only be 5 parking spaces, one being a handicapped space.

Mr. Mabry tried to clarify that the majority of the parking area was not controlled by the property owner.

Vice-Chair Talley stated the parking, in one respect, was not a problem, people could park anywhere. Vice-Chair Talley stated he felt this was an ethical issue; there were residents right next to the property. Vice-Chair Talley went to look at the area and spoke to the convenience store owner and asked if there a lot of individuals were taking beer and going off into the property next door, which is owned by the City, and he stated this was a problem. Vice-Chair Talley stated he spoke with the Police and they confirmed it was a problem. The neighbors have stated it was a problem. Vice-Chair Talley stated he knew and liked the

applicant, was pro-business for the area, and did not want to see empty buildings but this request did not make any sense to him.

Commissioner Staats stated he did not feel the Commission had yet seen the best proposal for use of this building.

Mr. Richard Lewis stated he had spoken with TABC and was told that if anyone were drinking anywhere around that property, they (TABC) will put them in jail on the spot. You cannot drink around a package store. If Mr. Lewis were running the place and people were drinking on City property, he would call the police or TABC to haul them off.

Mr. Mabry asked the Commission should anyone make a motion regarding parking on the other property two lots down, to tie that parking into the CUP approval by requesting submission of a parking site plan to the City Council as part of the package for the CUP. The description would be Lot 9, Block 7 of Original Town Addition.

Commissioner Martin made a motion for denial of **Z-FY-10-33** and Commissioner Barton made a second.

Motion passed for denial: (7:0)

Chair Pilkington and Commissioner Hurd absent.

ORDINANCE NO. _____

[PLANNING NO. Z-FY-10-33]

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING A CONDITIONAL USE PERMIT TO ALLOW A PACKAGE STORE WITH ALCOHOLIC BEVERAGE SALES FOR OFF-PREMISE CONSUMPTION ON THE SOUTH ONE-HALF OF LOT 1, BLOCK 292-1, TEMPLE ORIGINAL AT 1 NORTH 6TH STREET; 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 1 North 6th Street, recommends that the City Council deny the application for this Conditional Use Permit for an off-premise consumption package store; 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 a package store with alcoholic beverage sales for off-premise consumption on the south one-half of Lot 1, Block 292-1, Temple Original at 1 North 6th Street, 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;

General:

- (a) The permittee must design and operate the establishment in such a manner that the proposed use or actual use of the premises shall not substantially increase traffic congestion or create overcrowding in the establishment or the immediately surrounding area.
- (b) The permittee must comply with applicable licensing and permit provisions of the Alcoholic Beverage Code within 6 months from the date of the issuance of the conditional use permit by the City Council, such limitation in time being subject to review and possible extension by the City.
- (c) The permittee bears the burden of showing that the establishment does not exceed the limitation on gross receipts from sales of alcoholic beverages applicable to its conditional use permit. The permittee must maintain accounting records of the sources of its gross revenue and allow the City to inspect such records during reasonable business hours. (Not applicable for package stores).
- (d) The permittee must demonstrate that the granting of the permit would not be detrimental to the public welfare of the citizens of the City.
- (e) The permittee must, at all times, provide an adequate number of employees for security purposes to adequately control the establishment premises to prevent incidents of drunkenness, disorderly conduct and raucous behavior. The permittee shall consult with the Chief of Police, who shall act in an advisory capacity to determine the number of qualified employees necessary to meet the obligations hereunder.
- (f) The establishment must provide adequate parking spaces to accommodate its members and their guests provided, however, the number of parking spaces shall never be less than those required for similar uses in that zoning district where the establishment is located.
- (g) 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.
- (h) The City Council may deny or revoke this conditional use permit if it affirmatively determines that the issuance of the permit is incompatible with the surrounding uses of property, or detrimental or offensive to the neighborhood or contrary to the health, safety, and general welfare of the City and its inhabitants.
- (i) A conditional use permit issued under this section runs with the property and is not affected by a change in the owner or lessee of a permitted establishment.
- (j) All conditional use permits issued under this section will be further conditioned that the same may be canceled, suspended or revoked in accordance with the revocation clause set forth in Section 7-609.

Specific to Package Stores:

- (k) Such use must comply with Chapter 4, “Alcoholic Beverages,” of the City Code.
- (l) Outdoor lighting must comply with the standards in Section 7.566 (G) of the Zoning Ordinance.
- (m) If applicable, a pick-up window must be visible from the public right-of-way, and may not be placed in alleys.
- (n) The drive-through lane must provide a minimum of 60 feet of stacking space from the pick-up window to the beginning.
- (o) An escape (bypass) lane must be provided parallel to the drive-through lane, if applicable, from the beginning of the drive-through lane.
- (p) Parking (in any zoning district including the CA) must be provided on-site, not less than one space for each 250 square feet of retail space (plus the number of parking spaces required for non-retail space as specified by other City ordinances).
- (q) Window signs are prohibited.
- (r) Lighted advertising signs must be turned off at closing time.

Specific to this CUP:

- (s) The permittee’s site plan is an exhibit to the conditional use permit, attached hereto as Exhibit B.

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 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.

TABLED on First Reading and Public Hearing on the **19th** day of **August**, 2010.

PASSED AND APPROVED on First Reading and Public Hearing on the **21st** day of **October**, 2010.

PASSED AND APPROVED on Second Reading on the **4th** day of **November**, 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

10/21/10
Items #10(A), (B-1) & (B-2)
Regular Agenda
Page 1 of 6

DEPT./DIVISION SUBMISSION & REVIEW:

Jonathan Graham, City Attorney
David Blackburn, City Manager
Traci Barnard, Director of Finance

ITEM DESCRIPTION: (A) [2010-6166-R](#): Consider adopting a resolution adopting the 2022 Master Plan of the Tax Increment Financing Reinvestment Zone Number One.

(B) [2010-4403](#): 1. FIRST READING—PUBLIC HEARING—Consider adopting an ordinance authorizing the expansion of the boundary of City of Temple Tax Increment Financing Reinvestment Zone Number One.

[2010-4404](#): 2. FIRST READING—PUBLIC HEARING—Consider adopting an ordinance extending the life of City of Temple Tax Increment Financing Reinvestment Zone Number One.

STAFF RECOMMENDATION: Adopt resolution (A -single reading) and ordinances (B-1 and B-2, first reading) after conducting a public hearing on the ordinances.

ITEM SUMMARY: These three items are the result of a year-long effort to update the Master Plan for City of Temple Tax Increment Financing Reinvestment Zone Number One (TIFRZ#1). The items under consideration are: (1) a resolution adopting an updated Master Plan for TIFRZ#1; (2) an ordinance expanding the boundaries of TIFRZ#1 to include the Temple Medical Education District (TMED) area; and (3) an ordinance extending the life of TIFRZ#1 for an additional forty year period. A related item under a separate memorandum (Item 10(B)(3)) is an ordinance that amends the Project and Financing Plans for TIFRZ#1.

2022 Master Plan for TIFRZ#1

The Board of Directors for TIFRZ#1 recently completed a year-long study to develop a new Master Plan for the Zone. The proposed “2022 Master Plan” is the most significant revision of the Master Plan for TIFRZ#1 in more than a decade. An executive summary of the 2022 Master Plan is included within your packet. The Master Plan is a planning guide for projects and infrastructure improvements within the boundaries of TIFRZ#1 for its remaining life. The Master Plan attempts to prioritize projects and identify the probable cost of those projects.

Two of the items that came out of the Master Plan process were recommendations to expand the boundaries of TIFRZ#1 to include the TMED area [Item # 10(B)(1)] and a recommendation to extend the life of TIFRZ#1 for an additional forty years [Item # 10(B)(2)]. The Board of Directors recommended approval of the Master Plan at their August 25, 2010 meeting. The Staff recommends approval of the Master Plan. This item does *not* require a public hearing.

Expansion of the Boundaries of TIFRZ#1 Ordinance # 2010-4403

The Board of Directors for TIFRZ#1 also recommended the expansion of the boundaries of the Zone to include the TMED area (as shown on an attachment to the ordinance). The proposed updated Master Plan identifies a number of projects in the TMED area that will encourage redevelopment of that area, and also benefit the existing Zone by providing an improved gateway into the downtown area. Chapter 311 of the Texas Tax Code allows cities with TIFRZs to expand the boundaries of their zones by following certain procedural requirements and subject to certain restrictions on the composition of the TIFRZ. Procedurally, a city is required to publish notice of the proposed expansion in a newspaper at least 7 days prior to the action. We published notice of the proposed expansion on Wednesday, October 13—final action on this ordinance would not be taken until November 4, 2010. We are also required to conduct a public hearing on the proposed expansion, and allow anyone opposed to such action to speak against the item at the public hearing. We are posted for a public hearing on October 21 for the first reading of the ordinance.

To satisfy the compositional requirements under Section 311.006 of the Texas Tax Code, Temple may not add an area to boundaries of our existing TIFRZ#1 if the effect of the addition would result in more than fifteen percent (15%) of the total assessed value of taxable real property for either the City, Bell County or any of our school districts being within the boundaries of the expanded TIFRZ.

Our preliminary calculations show that with the addition of the TMED area, the total assessed value of taxable real property within the boundaries of the expanded TIFRZ#1 would be far less than 15% for the City of Temple, Bell County, Belton Independent School District or Troy Independent School District. Our calculation for Temple Independent School District shows that with the addition of the TMED area, Temple Independent School District would be very close to 15%, or perhaps a slight amount in excess of 15%. We are verifying our numbers with the Bell County Appraisal District, and will have final numbers for our second reading of the ordinance.

Should our final calculations show that the percentage of total assessed taxable real property for TISD would exceed 15% with the full expanded area of TMED as proposed—we will recommend (prior to the 2nd reading of the ordinance) a slight reduction in the area of the proposed addition to reduce TISD's total percentage below 15%. Note that this calculation under Section 311.006 requires that the percentage for TISD be below 15% even though we are not requesting or anticipating that TISD will participate in the expanded area. (School districts choose not to participate because of provisions in the State school financing laws that financially penalize school districts for participating in tax increment financing for an area unless that area was within the boundaries of an existing TIFRZ prior to September 1, 1999).

The City Council must also make a finding that inclusion of the expanded area within the boundaries of a tax increment financing district is necessary because the area is “unproductive, underdeveloped, or blighted,” and that:

The area's present condition substantially impairs the city's growth, retard the provision of housing, or constitute an economic or social liability to the public health, safety, morals or welfare because of the presence of one or more of the following conditions: a substantial number of substandard or deteriorating structures, inadequate sidewalks or street layout, faulty lot layouts, unsanitary or unsafe conditions, a tax or special assessment delinquency that exceeds the fair market value of the land; defective or unusual conditions of title, or conditions that endanger life or property by fire or other cause; *or*

the area is predominately open, and because of obsolete platting, deteriorating structures or other factors, it substantially impairs the growth of the city." **(Section 311.005, Texas Tax Code)**

The Staff and Board of Directors for TIFRZ#1 believe that the TMED area is underdeveloped and blighted and that its present condition has suffered from a number of substandard or deteriorating structures, e.g., the former nursing home property on South 5th Street, the former Seville apartments, and a number of vacant or abandoned properties within its boundaries that substantially impair the City's growth, and that are unlikely to improve without the use of tax increment funds to fund infrastructure improvements.

A final compositional requirement/restriction for expanding TIFRZ#1 is that no more than ten percent (10%) of the property being added can be property used for residential purposes, excluding property that is used for public purposes. For purposes of Section 311.006, only property with single family dwellings, duplexes and quadplexes are counted as residential. Our calculations show that the amount of property being used for residential purposes within the boundary of the TMED area is very close to the ten percent requirement, and may be closer to eleven percent. As with the 15% calculation for TISD, we are verifying our calculations.

If our final calculations show that the amount of property being used for residential purposes is slightly in excess of ten percent, we will propose (prior to the second reading of the ordinance) a slight reduction in the area of the proposed expansion to reduce the amount of residentially used property to ten percent or less. There is a concentration of residential property within the TMED (proposed expansion) boundaries in an area bounded by Avenue M to the north, South 15th on the west, West V Avenue to the south, and South 5th Street to the east. Note that a reduction of the boundaries of the proposed expansion to reduce the percentage of residentially used property within the expanded area will also beneficially reduce the percentage of total assessed taxable real property included within TIFRZ#1 for TISD's calculation.

One final note, expansion of the boundaries to include the TMED area, only impacts the City of Temple's contribution to the increment for TIFRZ#1, it does not without further action by the other participating taxing entities affect their contribution. If the City Council approves the expansion of TIFRZ#1, we will request official action by Bell County (the County and their Road Fund), Temple College, and the Elm Creek Flood Control District to participate in the expanded area of TIFRZ#1. We will not request participation in the expanded area of TIFRZ#1 by Temple ISD, Belton ISD or Troy ISD because of school financing laws.

Each of the taxing entities that we do request participation from will have the option of deciding *whether* to participate and at *what level*. We will be asking them to participate at 100% of their increment (the taxes they will levy on any increased value of taxable real property measured from the date of the expansion). Note that a decision to participate or not participate within the expanded area will not impact the increment contributed by any of the taxing entities on property within the boundaries of the existing TIFRZ#1—all entities including the City and all of the TISDs contribute 100% of their increment within the existing Zone.

Extension of the Life of TIFRZ#1 Ordinance # 2010-4404

Under Chapter 311 of the Texas Tax Code the life of a tax increment financing reinvestment zone is established by the original enacting ordinance. City of Temple Ordinance Number 1457 created TIFRZ#1 and established December 31, 2022 as the termination date for the Zone. Prior to the 2009 session of the Texas Legislature, cities with TIFRZs could only shorten the life of their zone; they could not extend the life of an existing zone beyond the date spelled out in the enacting ordinance for that zone. That changed in 2009, and cities can now extend the life of their TIFRZs.

The Board of Directors for TIFRZ#1 in completing their Master Plan update, recognized that TIFRZ#1 has been the primary economic development tool for Temple and the surrounding area for the past years, and has identified a number of public infrastructure projects within the boundaries of TIFRZ#1 (including the proposed expansion area) that will be difficult or impossible to fund without tax increment funds, or within the time frame of the existing life of TIFRZ#1 (December 2022). For those reasons, the Board has recommended extension of the life for an additional forty years running from 2022 to 2062.

Under Section 311.017 of the Texas Tax Code, the City Council may extend the life of TIFRZ#1 by ordinance. As with the expansion of the boundaries of TIFRZ#1, extending the life of TIFRZ#1 only applies to the City's own contribution of an increment to TIFRZ#1 after the original termination date for the Zone. The other contributing taxing entities, Bell County (the County and their Road Fund), Temple College, and the Elm Creek Flood Control District, and the three participating independent school districts (Temple, Belton and Troy) are not required to pay any of their tax increment in the tax increment fund after the original expiration date (December 2022), unless the governing body of those taxing units enter into an agreement to do so with the City.

Accordingly, if the City Council adopts the proposed ordinance extending the life of TIFRZ#1 to 2062, the Staff will seek to negotiate an agreement with the government body of each of the participating taxing entities, including our three current/participating school districts, to authorize their participation in the extended life of TIFRZ#1 at the 100% level.

As the City Council is aware, the chair of the Board of Directors for TIFRZ#1 and the Staff have been holding meetings with representatives of each of the participating entities to discuss both the possibility of expanding the Zone and extending its life. When we last expanded the boundaries of TIFRZ#1 in 1999, we were required by law to enter into agreements with each of the participating school districts if we wished to secure their participation. (At the time, we didn't need similar

agreements by law with the other taxing entities.) We did so, and one of the terms of those agreements was a commitment by the City/TIFRZ#1 to make each school district whole if they were financially impacted by their contribution to the Zone. The commitment in our 1999 agreements with our three school districts is to track any financial impact, set aside those funds and make those funds available for joint use education facilities that will benefit the City/Zone and the school district.

Since 1999, only TISD has been significantly impacted by their participation. (Usually the impact comes from a lag in reporting tax values so that TISD might have received additional funding from the State in the first year that new taxable real property comes into the Zone. In 2006, the City and TISD agreed to use about \$420,000 in tax increment funds to acquire furniture and lab equipment for the new Temple Bioscience Institute—that \$420,000 represented “make whole” dollars for TISD’s participation.) We will propose similar language to each of our school districts as in inducement for them to participate in the extended life of TIFRZ#1.

It appears from our reading of the State law allowing an extension of life for a TIFRZ (Section 311.017) that school districts *can* participate in the extended life of a zone—given that the property within the TIFRZ was subject to tax increment financing prior to September 1, 1999. The Texas Legislature was very careful to protect cities and TIFRZs when they changed the school financing laws in the mid-2000s to ensure that school districts could continue to contribute to TIFRZs (as they were contractually obligated to do) without a financial penalty throughout the life of their particular TIFRZ. **There remains a lack of clarity in the law as to whether that requirement that the State make local districts who participate in TIFRZs financially whole through their funding mechanism will continue if the life of a TIFRZ is extended by a city that initially created the zone.**

In our discussion with our local school districts, we have ensured them that we will propose the same “make whole” language in any agreement we reach with them regarding their participation after 2022. Should the current law be interpreted, or changed during future legislative sessions, to financially penalize school districts who contribute to a local TIFRZ, we would have to make them whole on a dollar for dollar basis. It wouldn’t be advantageous to continue collecting dollars from school districts after 2022 (assuming they agree to participate) if we had to make them whole by giving them what they contributed to make them whole. TISD currently provides in excess of 60% of the annual funding for TIFRZ#1.

My suggestion is that we make a commitment to our local school districts that if they agree to participate beyond 2022, that we will seek clarification of the law (e.g., AG opinions or court decisions) and if necessary legislative changes to school financing laws or Chapter 311 of the Texas Tax Code to ensure that they are not financial penalized if they participate in TIFRZ#1 beyond 2022. If we were unsuccessful in obtaining a favorable interpretation or a change (if needed) in State law, we would have the option of either changing the termination date of TIFRZ#1 back to 2022 (allowed by State law) or just refunding the contributions by school districts each year and continuing with the other participating taxing entities. Obviously, we would likely need either a favorable clarification of the existing State laws regarding school district participation or a legislative change before we sold bonds financed in whole or part with tax increment funds.

FISCAL IMPACT: The Reinvestment Zone No. 1 Finance and Project Committees recommended changes to the Financing and Project Plans to align with the 2022 Master Plan. These amendments were approved by the Reinvestment Zone No. 1 Board of Directors on August 25, 2010. The total amount allocated in FY 2011 through 2022 is \$78,603,962. With these allocations, fund balance at the end of the year from FY2011-2022 ranges from a high of \$2,584,380 in FY 2011 to a low of \$472,201 in FY 2017. Projected ending fund balance in FY 2022 is \$0.

The Financing and Project Plans are attached for your reference but are being considered for approval in a separate agenda item.

ATTACHMENTS:

[Financing Plan](#)
[Summary Financing Plan with Detailed Project Plan](#)
[Resolution \(A\)](#)
[Ordinance \(B-1\)](#)
[Ordinance \(B-2\)](#)

FINANCING PLAN

DESCRIPTION		Y/E 9/30/10 Year 28	9/30/2010 Forecasted	Y/E 9/30/11 Year 29	Y/E 9/30/12 Year 30	Y/E 9/30/13 Year 31	Y/E 9/30/14 Year 32	Y/E 9/30/15 Year 33	Y/E 9/30/16 Year 34	Y/E 9/30/17 Year 35	Y/E 9/30/18 Year 36	Y/E 9/30/19 Year 37	Y/E 9/30/20 Year 38	Y/E 9/30/21 Year 39	Y/E 9/30/22 Year 40
1	Appraised Value	\$ 129,278,361		\$ 129,282,220	\$ 132,020,000	\$ 139,995,945	\$ 143,080,007	\$ 145,017,763	\$ 202,529,247	\$ 220,811,496	\$ 224,519,611	\$ 228,264,807	\$ 231,297,455	\$ 234,360,430	\$ 236,704,034
1	FUND BALANCE, Begin	\$ 7,946,615	\$ 7,946,615	\$ 6,491,490	\$ 2,584,380	\$ 646,390	\$ 580,971	\$ 1,677,287	\$ 1,015,894	\$ 520,330	\$ 491,280	\$ 539,460	\$ 636,757	\$ 685,311	\$ 769,331
2	Adjustments to Debt Service Reserve	(880,371)	(2,880,371)	(1,300,000)	462,707	1,761,865	1,765,643	-	-	-	-	-	-	-	-
3	Fund Balance Available for Appropriation	\$ 7,066,244	\$ 5,066,244	\$ 5,191,490	\$ 3,047,087	\$ 2,408,255	\$ 2,346,614	\$ 1,677,287	\$ 1,015,894	\$ 520,330	\$ 491,280	\$ 539,460	\$ 636,757	\$ 685,311	\$ 769,331
SOURCES OF FUNDS:															
4	Tax Revenues	3,749,329	3,762,647	3,742,462	4,135,611	4,337,625	4,400,312	4,449,698	6,049,648	6,531,300	6,602,434	6,674,282	6,737,970	6,802,296	6,858,393
6	Allowance for Uncollected Taxes	(112,341)	-	(114,517)	(115,655)	(116,801)	(117,961)	(119,132)	(120,314)	(121,509)	(122,715)	(123,934)	(125,165)	(126,408)	(127,663)
8	Interest Income-Other	50,000	37,702	50,000	50,000	50,000	50,000	50,000	50,000	50,000	50,000	40,000	40,000	30,000	10,000
10	Grant Funds	-	-	-	-	-	-	-	-	-	-	-	-	-	-
12	License Fee - Central Texas Railway	-	36,000	36,000	36,000	36,000	36,000	36,000	36,000	36,000	36,000	36,000	36,000	36,000	36,000
14	Other Revenues	-	-	-	-	-	-	-	-	-	-	-	-	-	-
16	P.I.L.O.T.	2,000,000	2,000,000	1,300,000	1,300,000	-	-	-	-	-	-	-	-	-	-
20	Total Sources of Funds	\$ 5,686,988	\$ 5,836,349	\$ 5,013,945	\$ 5,405,956	\$ 4,306,824	\$ 4,368,351	\$ 4,416,566	\$ 6,015,334	\$ 6,495,791	\$ 6,565,719	\$ 6,626,348	\$ 6,688,805	\$ 6,741,888	\$ 6,776,730
25	TOTAL AVAILABLE FOR APPROPRIATION	\$ 12,753,232	\$ 10,902,593	\$ 10,205,435	\$ 8,453,043	\$ 6,715,079	\$ 6,714,965	\$ 6,093,853	\$ 7,031,228	\$ 7,016,121	\$ 7,056,999	\$ 7,165,808	\$ 7,325,562	\$ 7,427,199	\$ 7,546,061
USE OF FUNDS:															
DEBT SERVICE															
26	2003 Bond Issue {\$11.740}	868,545	868,545	868,420	867,035	869,055	869,855	868,930	866,530	867,440	866,753	869,240	869,640	868,070	870,070
27	2008 Bond Issue {\$16.010 mil}	201,960	201,960	201,960	201,960	201,960	201,960	201,960	201,960	201,960	201,960	201,960	1,786,960	1,787,292	1,784,972
28	2009 Bond Refunding	405,462	405,462	370,669	1,473,669	1,474,569	1,479,969	1,499,769	1,508,775	1,510,150	1,488,750	1,485,000	-	-	-
29	2008 Bond Issue-Taxable {\$10.365 mil}	536,935	536,935	536,935	1,241,935	1,239,641	1,240,495	1,239,233	1,240,854	1,240,096	1,241,957	1,241,173	1,237,744	1,241,670	1,242,422
30	Issuance Costs	57,331	57,331	-	-	-	-	-	-	-	-	-	-	-	-
31	Refunding Bonds Proceeds	(10,877,950)	(10,877,950)	-	-	-	-	-	-	-	-	-	-	-	-
32	Payment to Refunding Bond Agent	10,810,887	10,810,887	-	-	-	-	-	-	-	-	-	-	-	-
33	Paying Agent Services	1,200	1,200	1,200	1,200	1,200	1,200	1,200	1,200	1,200	1,200	1,200	1,200	1,200	1,200
40	Subtotal-Debt Service	2,004,370	2,004,370	1,979,184	3,785,799	3,786,425	3,793,479	3,811,092	3,819,319	3,820,846	3,800,620	3,798,573	3,895,544	3,898,232	3,898,664
OPERATING EXPENDITURES															
50	Prof Svcs/Proj Mgmt	333,463	208,463	250,000	175,000	175,000	175,000	175,000	175,000	175,000	175,000	175,000	175,000	175,000	175,000
52	Legal/Audit	1,100	1,100	1,200	1,200	1,200	1,200	1,200	1,200	1,300	1,300	1,300	1,300	1,300	1,400
54	Zone Park Maintenance [mowing, utilities, botanical supplies]	175,000	150,000	175,000	175,000	175,000	175,000	175,000	175,000	175,000	175,000	175,000	175,000	175,000	175,000
56	Rail Maintenance	254,893	254,893	100,000	100,000	100,000	100,000	100,000	100,000	100,000	100,000	100,000	100,000	100,000	100,000
58	Road/Signage Maintenance	250,111	250,111	100,000	100,000	100,000	100,000	100,000	100,000	100,000	100,000	100,000	100,000	100,000	100,000
60	Contractual Payments [TEDC - Marketing]	100,000	100,000	150,000	165,000	181,500	199,650	219,615	241,577	253,655	266,338	279,655	293,638	308,320	323,736
62	TISD-Joint Use facilities	152,132	-	174,779	22,873	23,102	23,333	23,567	23,802	24,040	24,281	24,523	24,769	25,016	25,267
65	Subtotal-Operating Expenditures	1,266,699	964,567	950,979	739,073	755,802	774,183	794,382	816,579	828,995	841,919	855,478	869,707	884,636	900,403
70	TOTAL DEBT & OPERATING EXPENDITURES	\$ 3,271,069	\$ 2,968,937	\$ 2,930,163	\$ 4,524,872	\$ 4,542,227	\$ 4,567,662	\$ 4,605,474	\$ 4,635,898	\$ 4,649,841	\$ 4,642,539	\$ 4,654,051	\$ 4,765,251	\$ 4,782,868	\$ 4,799,067
80	Funds Available for Projects	\$ 9,482,163	\$ 7,933,656	\$ 7,275,272	\$ 3,928,171	\$ 2,172,852	\$ 2,147,303	\$ 1,488,379	\$ 2,395,330	\$ 2,366,280	\$ 2,414,460	\$ 2,511,757	\$ 2,560,311	\$ 2,644,331	\$ 2,746,995
PROJECTS															
150	North Zone/Rail Park	1,083,290	722,219	250,000	250,000	250,000	250,000	250,000	-	-	-	-	-	-	-
200	Airport Park	101,662	93,232	-	125,000	625,000	-	-	-	-	-	-	-	-	-
250	Bio-Science Park	609,164	363,965	250,000	-	-	-	-	-	-	-	-	-	-	-
300	Outer Loop [from Wendland Rd to IH-35 North]	300,000	41,550	-	1,200,000	-	-	-	-	-	-	-	-	-	-
350	Northwest Loop 363 Improvements (TxDOT commitment)	905,410	-	930,000	-	-	-	-	-	-	-	-	-	-	-
400	Synergy Park	1,246,000	126,200	-	-	-	-	-	-	-	-	-	-	-	-
450	Downtown	388,769	95,000	480,892	206,781	216,881	220,016	222,485	-	-	-	-	-	-	-
500	TMED	-	-	2,780,000	1,500,000	500,000	-	-	-	-	-	-	-	-	-
501	Major Gateway Entrances	400,000	-	-	-	-	-	-	-	-	-	-	-	-	-
600	Bond Contingency	176,730	-	-	-	-	-	-	-	-	-	-	-	-	-
610	Public Improvements	263,964	-	-	-	-	-	-	1,875,000	1,875,000	1,875,000	1,875,000	1,875,000	1,875,000	2,746,995
	Subtotal-Projects	5,474,989	1,442,166	4,690,892	3,281,781	1,591,881	470,016	472,485	1,875,000	1,875,000	1,875,000	1,875,000	1,875,000	1,875,000	2,746,995
TOTAL USE OF FUNDS		\$ 8,746,058	\$ 4,411,103	\$ 7,621,055	\$ 7,806,653	\$ 6,134,108	\$ 5,037,678	\$ 5,077,959	\$ 6,510,898	\$ 6,524,841	\$ 6,517,539	\$ 6,529,051	\$ 6,640,251	\$ 6,657,868	\$ 7,546,062
700	FUND BALANCE, End	\$ 4,007,174	\$ 6,491,490	\$ 2,584,380	\$ 646,390	\$ 580,971	\$ 1,677,287	\$ 1,015,894	\$ 520,330	\$ 491,280	\$ 539,460	\$ 636,757	\$ 685,311	\$ 769,331	\$ (0)

SUMMARY FINANCING PLAN							
	FY 2010	FY 2010 Forecast	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015
1Beginning Available Fund Balance, Oct 1	\$ 7,946,615	\$ 7,946,615	\$ 6,491,490	\$ 2,584,380	\$ 646,390	\$ 580,971	\$ 1,677,287
20Total Sources of Funds	5,686,988	5,836,349	5,013,945	5,405,956	4,306,824	4,368,351	4,416,566
2Adjustments to Debt Service Reserve	(880,371)	(2,880,371)	(1,300,000)	462,707	1,761,865	1,765,643	-
25Net Available for Appropriation	12,753,232	10,902,593	10,205,435	8,453,043	6,715,079	6,714,965	6,093,853
50/52General Administrative Expenditures	334,563	209,563	251,200	176,200	176,200	176,200	176,200
54Zone Park Maintenance [mowing, utilities, botanical supplies]	175,000	150,000	175,000	175,000	175,000	175,000	175,000
56Rail Maintenance	254,893	254,893	100,000	100,000	100,000	100,000	100,000
58Road/Signage Maintenance	250,111	250,111	100,000	100,000	100,000	100,000	100,000
60Contractual Payments (TEDC - Marketing)	100,000	100,000	150,000	165,000	181,500	199,650	219,615
62TISD - Joint Use Facilities [look at contracts and calculation]	152,132	-	174,779	22,873	23,102	23,333	23,567
26Debt Service - 2003 Issue {\$11.740 mil}	869,745	869,745	869,620	868,235	870,255	871,055	870,130
27Debt Service - 2008 Issue {\$16.010 mil}	201,960	201,960	201,960	201,960	201,960	201,960	201,960
28Debt Service - 2009 Issue {Refunding}	405,462	405,462	370,669	1,473,669	1,474,569	1,479,969	1,499,769
29Debt Service - 2008 Taxable Issue {\$10.365 mil}	536,935	536,935	536,935	1,241,935	1,239,641	1,240,495	1,239,233
30Issuance Costs	57,331	57,331	-	-	-	-	-
31Refunding Bond Proceeds	(10,877,950)	(10,877,950)	-	-	-	-	-
32Payment to Refunding Bond Agent	10,810,887	10,810,887	-	-	-	-	-
70Total Debt & Operating Expenditures	3,271,069	2,968,937	2,930,163	4,524,872	4,542,227	4,567,662	4,605,474
80Funds Available for Projects	\$ 9,482,163	\$ 7,933,656	\$ 7,275,272	\$ 3,928,171	\$ 2,172,852	\$ 2,147,303	\$ 1,488,379

PROJECT PLAN							
	FY 2010	FY 2010 Forecast	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015
NORTH ZONE/RAIL PARK (including Enterprise Park):							
100Railroad Spur Improvements	667,166	337,986	-	-	-	-	-
102Elm Creek Detention Pond	98,227	90,954	-	-	-	-	-
103ROW Acquisition - Public Improvements	3,661	-	-	-	-	-	-
104Extension of Rail Service	121,550	121,550	-	-	-	-	-
105BN Trans-Load NE Site Phase I - [\$850K total project cost]	-	-	-	-	-	-	-
106Wendland Road Improvements	192,686	171,729	-	-	-	-	-
107Wendland Property Roadway Phase I - [\$1.87M total project cost]	-	-	-	-	-	-	-
110Public Improvements in North Zone	-	-	250,000	250,000	250,000	250,000	250,000
150Total North Zone/Rail Park (including Enterprise Park)	1,083,290	722,219	250,000	250,000	250,000	250,000	250,000
AIRPORT PARK:							
151Airport Park Infrastructure Construction	101,662	93,232	-	-	-	-	-
155Trail Connections to Airport Park Phase I - [\$750K total project cost]	-	-	-	125,000	625,000	-	-
200Total Airport Park	101,662	93,232	-	125,000	625,000	-	-
BIO-SCIENCE PARK:							
201Greenbelt Development along Pepper Creek	321,723	251,685	-	-	-	-	-
202Outer Loop Phase II (from Hwy 36 to FM 2305)	245,320	96,405	-	-	-	-	-
203Bio-Science Park Phase 1	42,121	15,875	-	-	-	-	-
204Trail Connections to S&W (City of Temple portion)	-	-	250,000	-	-	-	-
250Total Bio-Science Park	609,164	363,965	250,000	-	-	-	-
300Outer Loop (from Wendland Rd to IH-35 North) - [\$15.5M total project cost]	300,000	41,550	-	1,200,000	-	-	-
350Northwest Loop 363 Improvements (TxDOT commitment)	905,410	-	930,000	-	-	-	-
SYNERGY PARK:							
351Southeast Ind Park (Lorraine Drive) - [\$1.5M total project cost]	1,246,000	126,200	-	-	-	-	-
400Total Synergy Park	1,246,000	126,200	-	-	-	-	-
DOWNTOWN:							
401Downtown Improvements [look at 1999 Ordinance]	388,769	95,000	350,892	206,781	216,881	220,016	222,485
402Rail Safety Zone Study	-	-	25,000	-	-	-	-
403Lot Identification & Signage	-	-	80,000	-	-	-	-
404Plaza Study	-	-	25,000	-	-	-	-
405Santa Fe Plaza Parking Lot - [\$1.3M total project cost]	-	-	-	-	-	-	-
450Total Downtown	388,769	95,000	480,892	206,781	216,881	220,016	222,485
TMED:							
451TMED Phase I - [\$2.9M total project cost]	-	-	500,000	-	-	-	-
452Master Plan Integration 2010	-	-	50,000	-	-	-	-
453Monumentation Identification Conceptual Design	-	-	30,000	-	-	-	-
4541st Street Pedestrian Bridge to Loop 363 Design/Construction - [\$2M total project cost]	-	-	300,000	500,000	500,000	-	-
455Friars Creek Trail Phase I - [\$1.9M total project cost - DOE Grant of \$400K]	-	-	1,500,000	-	-	-	-
456Avenue R (31st St to 15th Street) - [\$3.3M total project cost]	-	-	400,000	1,000,000	-	-	-
500Total TMED	-	-	2,780,000	1,500,000	500,000	-	-
OTHER PROJECTS:							
501Gateway Entrance Projects	400,000	-	-	-	-	-	-
550Total Other Projects	400,000	-	-	-	-	-	-
600Undesignated Funding - Bonds	176,730	-	-	-	-	-	-
610Undesignated Funding - Public Improvements	263,964	-	-	-	-	-	-
Total Planned Project Expenditures	5,474,989	1,442,166	4,690,892	3,281,781	1,591,881	470,016	472,485
700Fund Balance at Year End	\$ 4,007,174	\$ 6,491,490	\$ 2,584,380	\$ 646,390	\$ 580,971	\$ 1,677,287	\$ 1,015,894

RESOLUTION NO. 2010-6166-R

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, ADOPTING THE 2022 MASTER PLAN OF THE CITY OF TEMPLE TAX INCREMENT FINANCING REINVESTMENT ZONE NUMBER ONE; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, the Board of Directors for the City of Temple Tax Increment Financing Reinvestment Zone Number One (TIFRZ#1) recently completed a more than year long study to update the Master Plan for the Zone;

Whereas, the Master Plan is the planning guide for projects and infrastructure improvements within the boundaries of TIFRZ#1 for its remaining life – the Master Plan attempts to prioritize projects and identify costs of those projects;

Whereas, the 2022 Master Plan is the most significant update of the Master Plan for TIFRZ#1 in more than a decade; 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 the adoption of the 2022 Master Plan of the City of Temple Tax Increment Financing Reinvestment Zone Number One, attached hereto as Exhibit A.

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

PASSED AND APPROVED this the **21st** day of **October**, 2010.

THE CITY OF TEMPLE, TEXAS

WILLIAM A. JONES, III, Mayor

ATTEST:

APPROVED AS TO FORM:

Clydette Entzminger
City Secretary

Jonathan Graham
City Attorney

ORDINANCE NO. 2010-4403

AN ORDINANCE BY THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING EXPANSION OF THE CITY OF TEMPLE TAX INCREMENT FINANCING REINVESTMENT ZONE NO. ONE BOUNDARIES TO INCLUDE THE TEMPLE MEDICAL EDUCATION DISTRICT; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; DECLARING FINDINGS OF FACT; AND PROVIDING AN OPEN MEETINGS CLAUSE.

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

Whereas, the Board of Directors of the Zone recommended expanding the Zone's boundaries to include the Temple Medical Education District (TMED), and forwarded such plans to the Council for appropriate action;

Whereas, the Council finds that development or redevelopment of the area proposed for expansion would not occur solely through private investment in the reasonably foreseeable future;

Whereas, the Council finds that inclusion of the expanded area within the boundaries of the TIFRZ#1 is necessary because the area is underdeveloped and blighted and that its present condition has suffered from a number of substandard or deteriorating structures and a number of vacant or abandoned properties within its boundaries that substantially impair the City's growth, and are unlikely to improve without the use of tax increment funds to fund infrastructure improvements

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

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

Part 2. Temple Medical Education District Area. The City Council approves the Temple Medical Education District (TMED) area to be included in the Zone expansion, said area being more fully described in Exhibit A, attached hereto and made a part hereof for all purposes, subject to the limitation that any future Financing Plan include up to 5% of the total revenues of the Zone be dedicated to improvements in the TMED area, to be determined on a specific project basis, and not accumulated from year to year, plus whatever increment is created in the downtown area.

Part 3. Copies to Taxing Units. The City Secretary shall provide a copy of this ordinance for Tax Increment Financing Reinvestment Zone Number One to each taxing unit that taxes real property located in the Zone.

Part 4. Severability. It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses and phrases of this ordinance are severable and, if any phrase, clause, sentence, paragraph or section of this ordinance should be declared invalid by the final judgment or decree of any court of competent jurisdiction, such invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this ordinance, since the same would have been enacted by the City Council without the incorporation in this ordinance of any such invalid phrase, clause, sentence, paragraph or section.

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

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

PASSED AND APPROVED on First Reading on the **21st** day of **October**, 2010.

PASSED AND APPROVED on Second and Final Reading on the **4th** day of **November**, 2010.

THE CITY OF TEMPLE, TEXAS

WILLIAM A. JONES, III, Mayor

ATTEST:

APPROVED AS TO FORM:

Clydette Entzminger
City Secretary

Jonathan Graham
City Attorney

ORDINANCE NO. 2010-4404

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS,
EXTENDING THE LIFE OF CITY OF TEMPLE TAX INCREMENT FINANCING
REINVESTMENT ZONE NUMBER ONE; PROVIDING A SEVERABILITY
CLAUSE; PROVIDING AN EFFECTIVE DATE; AND PROVIDING AN OPEN
MEETINGS CLAUSE.

Whereas, under Chapter 311 of the Texas Tax Code the life of a tax increment financing reinvestment zone is established by the original enacting ordinance – Ordinance No. 1457 created the City of Temple Tax Increment Financing Reinvestment Zone Number One (TIFRZ#1) and established December 31, 2022, as the termination date for the Zone;

Whereas, prior to the 2009 session of the Texas Legislature, cities with TIFRZs could only shorten the life of their zone – they could not extend the life of an existing zone beyond the date spelled out in the enacting ordinance for that zone; however, that changed in 2009 and cities can now extend the life of their TIFRZs;

Whereas, the Board of Directors for TIFRZ#1, in completing their Master Plan update, recognized that TIFRZ#1 has been the primary economic development tool for Temple and the surrounding area for the past years, and has identified a number of public infrastructure projects within the boundaries of TIFRZ#1 (including the proposed expansion area) that will be difficult or impossible to fund without tax increment funds, or within the time frame of the existing life of TIFRZ#1 (December 2022);

Whereas, the Board of Directors of TIFRZ#1 recommends extension of the life of the Zone for an additional forty years, running from 2022 to 2062; and

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

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

Part 1: The City Council approves extending the life of the City of Temple Tax Increment Financing Reinvestment Zone Number One through December 31, 2062.

Part 2 : If any provision of this ordinance or the application of any provision to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are declared to be severable.

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

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

PASSED AND APPROVED on First Reading and Public Hearing on the **21st** day of **October**, 2010.

PASSED AND APPROVED on Second Reading on the **4th** day of **November**, 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

10/21/10
Item #10(B-3)
Regular Agenda
Page 1 of 3

DEPT./DIVISION SUBMISSION & REVIEW:

Traci L. Barnard, Director of Finance

ITEM DESCRIPTION: FIRST READING-PUBLIC HEARING - Consider adopting an ordinance authorizing amendments to the Tax Increment Financing Reinvestment Zone No. 1 Financing Plan and Project Plan to align with the 2022 Master Plan, including the expansion of the Zone Boundary and extension of the life of the Zone.

STAFF RECOMMENDATION: Conduct public hearing and adopt ordinance as presented in item description, on first reading and schedule second reading and final adoption for November 4, 2010.

ITEM SUMMARY: The Reinvestment Zone No. 1 Finance and Project Committees met on August 9th, 11th, and 18th to finalize the recommended changes to the Financing and Project Plans to align with the 2022 Master Plan. The outcome of those meetings was the recommendation of the amendments to the Financing and Project Plans as described below. The Reinvestment Zone No. 1 Board approved the recommendation to amend the Financing Plan and Project Plan at its August 25, 2010 board meeting. The Board made an additional recommendation to amend the Financing Plan and Project Plan at its September 22, 2010 board meeting.

Revenues in the plans were adjusted based on the following assumptions:

Property taxes:

FY 2011 Taxable Values were revised to reflect the certified tax roll received from the Bell County Appraisal District. For FY 2012-2022 a 1% growth factor was applied to the FY 2011 base. Adjustments were made for expiring tax abatements and new growth in applicable years.

Payments in lieu of taxes (PILOT):

Funds totaling \$4.6 million were added in FY 2010 (\$2.0M), 2011 (\$1.3M), and 2012 (\$1.3M). These funds will be reserved for future debt service and released beginning in FY 2012.

License Fee:

Beginning in FY 2011-FY 2022, \$36,000 was added each year to reflect the Railroad and Operating Agreement with Temple & Central Texas Railway, Inc. which generates revenue equal to 4% of the Rail Park operations revenue. To date, \$32,300 has been generated from the agreement.

Operating Expenditures in the plans were adjusted as follows:

Debt service payments, Zone park maintenance, and TISD-Joint Use facilities lines have not been amended. These items remain the same as the plans adopted July 28, 2010.

Line 50-General Engineering Services was increased to \$250,000 for FY 2011 and increased to \$175,000 each year for FY 2012-2022.

Line 52-Legal/Audit Fees was increased to \$1,200 in FY 2011-FY 2016, to \$1,300 in FY 2017-2021, and to \$1,400 in FY 2022.

Line 56-Rail Maintenance was funded in FY 2011-2022 at \$100,000 each year.

Line 58-Road/Signage Maintenance was funded in FY 2011-2022 at \$100,000 each year.

Line 60-Marketing services provided by Temple Economic Development Corporation (TEDC) was increased to \$150,000 in FY 2011 and increases by 10% in each FY 2012 through FY 2016 and increases by 5% in each FY 2017 through FY 2022.

The following projects were incorporated into the plans to align with the 2022 Master Plan:

North Zone/Rail Park (including Enterprise Park)

Line 110-Public Improvements North Zone - \$250,000 added each year beginning FY 2011 through FY 2015.

Airport Park

Line 155-Trail Connections to Airport Park Phase I - \$125,000 added in FY 2012 and \$625,000 added in FY 2013. Total project cost is \$750,000.

Bio-Science Park

Line 204-Trail Connections to S&W (City of Temple portion) - \$250,000 added in FY 2011.

Outer Loop (from Wendland Road to IH-35)

Line 300-Outer Loop (from Wendland Road to IH-35) - \$1,200,000 added in FY 2012 for ROW Acquisition. Total project cost is \$15.5M.

Northwest Loop 363 Improvements (TxDOT project)

Line 350-Northwest Loop 363 Improvements) - \$930,000 added in FY 2011. Total project cost is \$44.9M. Funding for the project will come from multiple sources to include Zone, City, and TxDOT.

Downtown

Line 401-Downtown funding was recalculated at 5% of the new calculated levy for FY 2011-2022. FY 2011 also includes remaining funds from FY 2010.

Line 402-Rail Safety Zone Study - \$25,000 added in FY 2011.

Line 403-Lot Identification & Signage - \$80,000 added in FY 2011.

Line 404-Plaza Study - \$25,000 added in FY 2011.

TMED

Line 451-TMED Phase I - \$500,000 added in FY 2011. Total project cost is \$2.9M. Grant funding in the amount of \$2.155M and City funds will also be used for the project.

Line 452-Master Plan Integration 2010 - \$50,000 added in FY 2011.

Line 453-Monumentation Identification Conceptual Design - \$30,000 added in FY 2011.

Line 454-1st Street Pedestrian Bridge to Loop 363 Design/Construction - \$300,000 added in FY 2011, \$500,000 added in FY 2012 and \$500,000 added in FY 2013. Total project cost is \$2.0M.

Line 455-Friars Creek Trail Phase I - \$1,500,000 added in FY 2011. Total project cost is \$1.9M. \$400,000 is funded outside of Zone through a Department of Energy Grant.

Line 456-Avenue R (31st Street to 15th Street) - \$400,000 added in FY 2011 and \$1,000,000 added in FY 2012. Total project cost is \$3.3M.

Public Improvements

Line 610-Beginning in FY 2016, funding for general “non-project specific” improvements is allocated in the Financing Plan. FY 2016-2021 has \$1,875,000 each year. FY 2022 has \$2,746,995 which represents the total amount available to allocate.

FISCAL IMPACT: The total amount allocated in FY 2011 through 2022 is \$78,603,962. With these allocations, fund balance at the end of the year from FY2011-2022 ranges from a high of \$2,584,380 in FY 2011 to a low of \$472,201 in FY 2017. Projected ending fund balance in FY 2022 is \$0.

ATTACHMENTS:

[Financing Plan](#)
[Summary Financing Plan with Detailed Project Plan](#)
[Ordinance](#)

FINANCING PLAN

DESCRIPTION		Y/E 9/30/10 Year 28	9/30/2010 Forecasted	Y/E 9/30/11 Year 29	Y/E 9/30/12 Year 30	Y/E 9/30/13 Year 31	Y/E 9/30/14 Year 32	Y/E 9/30/15 Year 33	Y/E 9/30/16 Year 34	Y/E 9/30/17 Year 35	Y/E 9/30/18 Year 36	Y/E 9/30/19 Year 37	Y/E 9/30/20 Year 38	Y/E 9/30/21 Year 39	Y/E 9/30/22 Year 40
1	Appraised Value	\$ 129,278,361		\$ 129,282,220	\$ 132,020,000	\$ 139,995,945	\$ 143,080,007	\$ 145,017,763	\$ 202,529,247	\$ 220,811,496	\$ 224,519,611	\$ 228,264,807	\$ 231,297,455	\$ 234,360,430	\$ 236,704,034
1	FUND BALANCE, Begin	\$ 7,946,615	\$ 7,946,615	\$ 6,491,490	\$ 2,584,380	\$ 646,390	\$ 580,971	\$ 1,677,287	\$ 1,015,894	\$ 520,330	\$ 491,280	\$ 539,460	\$ 636,757	\$ 685,311	\$ 769,331
2	Adjustments to Debt Service Reserve	(880,371)	(2,880,371)	(1,300,000)	462,707	1,761,865	1,765,643	-	-	-	-	-	-	-	-
3	Fund Balance Available for Appropriation	\$ 7,066,244	\$ 5,066,244	\$ 5,191,490	\$ 3,047,087	\$ 2,408,255	\$ 2,346,614	\$ 1,677,287	\$ 1,015,894	\$ 520,330	\$ 491,280	\$ 539,460	\$ 636,757	\$ 685,311	\$ 769,331
SOURCES OF FUNDS:															
4	Tax Revenues	3,749,329	3,762,647	3,742,462	4,135,611	4,337,625	4,400,312	4,449,698	6,049,648	6,531,300	6,602,434	6,674,282	6,737,970	6,802,296	6,858,393
6	Allowance for Uncollected Taxes	(112,341)	-	(114,517)	(115,655)	(116,801)	(117,961)	(119,132)	(120,314)	(121,509)	(122,715)	(123,934)	(125,165)	(126,408)	(127,663)
8	Interest Income-Other	50,000	37,702	50,000	50,000	50,000	50,000	50,000	50,000	50,000	50,000	40,000	40,000	30,000	10,000
10	Grant Funds	-	-	-	-	-	-	-	-	-	-	-	-	-	-
12	License Fee - Central Texas Railway	-	36,000	36,000	36,000	36,000	36,000	36,000	36,000	36,000	36,000	36,000	36,000	36,000	36,000
14	Other Revenues	-	-	-	-	-	-	-	-	-	-	-	-	-	-
16	P.I.L.O.T.	2,000,000	2,000,000	1,300,000	1,300,000	-	-	-	-	-	-	-	-	-	-
20	Total Sources of Funds	\$ 5,686,988	\$ 5,836,349	\$ 5,013,945	\$ 5,405,956	\$ 4,306,824	\$ 4,368,351	\$ 4,416,566	\$ 6,015,334	\$ 6,495,791	\$ 6,565,719	\$ 6,626,348	\$ 6,688,805	\$ 6,741,888	\$ 6,776,730
25	TOTAL AVAILABLE FOR APPROPRIATION	\$ 12,753,232	\$ 10,902,593	\$ 10,205,435	\$ 8,453,043	\$ 6,715,079	\$ 6,714,965	\$ 6,093,853	\$ 7,031,228	\$ 7,016,121	\$ 7,056,999	\$ 7,165,808	\$ 7,325,562	\$ 7,427,199	\$ 7,546,061
USE OF FUNDS:															
DEBT SERVICE															
26	2003 Bond Issue {\$11.740}	868,545	868,545	868,420	867,035	869,055	869,855	868,930	866,530	867,440	866,753	869,240	869,640	868,070	870,070
27	2008 Bond Issue {\$16.010 mil}	201,960	201,960	201,960	201,960	201,960	201,960	201,960	201,960	201,960	201,960	201,960	1,786,960	1,787,292	1,784,972
28	2009 Bond Refunding	405,462	405,462	370,669	1,473,669	1,474,569	1,479,969	1,499,769	1,508,775	1,510,150	1,488,750	1,485,000	-	-	-
29	2008 Bond Issue-Taxable {\$10.365 mil}	536,935	536,935	536,935	1,241,935	1,239,641	1,240,495	1,239,233	1,240,854	1,240,096	1,241,957	1,241,173	1,237,744	1,241,670	1,242,422
30	Issuance Costs	57,331	57,331	-	-	-	-	-	-	-	-	-	-	-	-
31	Refunding Bonds Proceeds	(10,877,950)	(10,877,950)	-	-	-	-	-	-	-	-	-	-	-	-
32	Payment to Refunding Bond Agent	10,810,887	10,810,887	-	-	-	-	-	-	-	-	-	-	-	-
33	Paying Agent Services	1,200	1,200	1,200	1,200	1,200	1,200	1,200	1,200	1,200	1,200	1,200	1,200	1,200	1,200
40	Subtotal-Debt Service	2,004,370	2,004,370	1,979,184	3,785,799	3,786,425	3,793,479	3,811,092	3,819,319	3,820,846	3,800,620	3,798,573	3,895,544	3,898,232	3,898,664
OPERATING EXPENDITURES															
50	Prof Svcs/Proj Mgmt	333,463	208,463	250,000	175,000	175,000	175,000	175,000	175,000	175,000	175,000	175,000	175,000	175,000	175,000
52	Legal/Audit	1,100	1,100	1,200	1,200	1,200	1,200	1,200	1,200	1,300	1,300	1,300	1,300	1,300	1,400
54	Zone Park Maintenance [mowing, utilities, botanical supplies]	175,000	150,000	175,000	175,000	175,000	175,000	175,000	175,000	175,000	175,000	175,000	175,000	175,000	175,000
56	Rail Maintenance	254,893	254,893	100,000	100,000	100,000	100,000	100,000	100,000	100,000	100,000	100,000	100,000	100,000	100,000
58	Road/Signage Maintenance	250,111	250,111	100,000	100,000	100,000	100,000	100,000	100,000	100,000	100,000	100,000	100,000	100,000	100,000
60	Contractual Payments [TEDC - Marketing]	100,000	100,000	150,000	165,000	181,500	199,650	219,615	241,577	253,655	266,338	279,655	293,638	308,320	323,736
62	TISD-Joint Use facilities	152,132	-	174,779	22,873	23,102	23,333	23,567	23,802	24,040	24,281	24,523	24,769	25,016	25,267
65	Subtotal-Operating Expenditures	1,266,699	964,567	950,979	739,073	755,802	774,183	794,382	816,579	828,995	841,919	855,478	869,707	884,636	900,403
70	TOTAL DEBT & OPERATING EXPENDITURES	\$ 3,271,069	\$ 2,968,937	\$ 2,930,163	\$ 4,524,872	\$ 4,542,227	\$ 4,567,662	\$ 4,605,474	\$ 4,635,898	\$ 4,649,841	\$ 4,642,539	\$ 4,654,051	\$ 4,765,251	\$ 4,782,868	\$ 4,799,067
80	Funds Available for Projects	\$ 9,482,163	\$ 7,933,656	\$ 7,275,272	\$ 3,928,171	\$ 2,172,852	\$ 2,147,303	\$ 1,488,379	\$ 2,395,330	\$ 2,366,280	\$ 2,414,460	\$ 2,511,757	\$ 2,560,311	\$ 2,644,331	\$ 2,746,995
PROJECTS															
150	North Zone/Rail Park	1,083,290	722,219	250,000	250,000	250,000	250,000	250,000	-	-	-	-	-	-	-
200	Airport Park	101,662	93,232	-	125,000	625,000	-	-	-	-	-	-	-	-	-
250	Bio-Science Park	609,164	363,965	250,000	-	-	-	-	-	-	-	-	-	-	-
300	Outer Loop [from Wendland Rd to IH-35 North]	300,000	41,550	-	1,200,000	-	-	-	-	-	-	-	-	-	-
350	Northwest Loop 363 Improvements (TxDOT commitment)	905,410	-	930,000	-	-	-	-	-	-	-	-	-	-	-
400	Synergy Park	1,246,000	126,200	-	-	-	-	-	-	-	-	-	-	-	-
450	Downtown	388,769	95,000	480,892	206,781	216,881	220,016	222,485	-	-	-	-	-	-	-
500	TMED	-	-	2,780,000	1,500,000	500,000	-	-	-	-	-	-	-	-	-
501	Major Gateway Entrances	400,000	-	-	-	-	-	-	-	-	-	-	-	-	-
600	Bond Contingency	176,730	-	-	-	-	-	-	-	-	-	-	-	-	-
610	Public Improvements	263,964	-	-	-	-	-	-	1,875,000	1,875,000	1,875,000	1,875,000	1,875,000	1,875,000	2,746,995
	Subtotal-Projects	5,474,989	1,442,166	4,690,892	3,281,781	1,591,881	470,016	472,485	1,875,000	1,875,000	1,875,000	1,875,000	1,875,000	1,875,000	2,746,995
	TOTAL USE OF FUNDS	\$ 8,746,058	\$ 4,411,103	\$ 7,621,055	\$ 7,806,653	\$ 6,134,108	\$ 5,037,678	\$ 5,077,959	\$ 6,510,898	\$ 6,524,841	\$ 6,517,539	\$ 6,529,051	\$ 6,640,251	\$ 6,657,868	\$ 7,546,062
700	FUND BALANCE, End	\$ 4,007,174	\$ 6,491,490	\$ 2,584,380	\$ 646,390	\$ 580,971	\$ 1,677,287	\$ 1,015,894	\$ 520,330	\$ 491,280	\$ 539,460	\$ 636,757	\$ 685,311	\$ 769,331	\$ (0)

SUMMARY FINANCING PLAN							
	FY 2010	FY 2010 Forecast	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015
1Beginning Available Fund Balance, Oct 1	\$ 7,946,615	\$ 7,946,615	\$ 6,491,490	\$ 2,584,380	\$ 646,390	\$ 580,971	\$ 1,677,287
20Total Sources of Funds	5,686,988	5,836,349	5,013,945	5,405,956	4,306,824	4,368,351	4,416,566
2Adjustments to Debt Service Reserve	(880,371)	(2,880,371)	(1,300,000)	462,707	1,761,865	1,765,643	-
25Net Available for Appropriation	12,753,232	10,902,593	10,205,435	8,453,043	6,715,079	6,714,965	6,093,853
50/52General Administrative Expenditures	334,563	209,563	251,200	176,200	176,200	176,200	176,200
54Zone Park Maintenance [mowing, utilities, botanical supplies]	175,000	150,000	175,000	175,000	175,000	175,000	175,000
56Rail Maintenance	254,893	254,893	100,000	100,000	100,000	100,000	100,000
58Road/Signage Maintenance	250,111	250,111	100,000	100,000	100,000	100,000	100,000
60Contractual Payments (TEDC - Marketing)	100,000	100,000	150,000	165,000	181,500	199,650	219,615
62TISD - Joint Use Facilities [look at contracts and calculation]	152,132	-	174,779	22,873	23,102	23,333	23,567
26Debt Service - 2003 Issue {\$11.740 mil}	869,745	869,745	869,620	868,235	870,255	871,055	870,130
27Debt Service - 2008 Issue {\$16.010 mil}	201,960	201,960	201,960	201,960	201,960	201,960	201,960
28Debt Service - 2009 Issue {Refunding}	405,462	405,462	370,669	1,473,669	1,474,569	1,479,969	1,499,769
29Debt Service - 2008 Taxable Issue {\$10.365 mil}	536,935	536,935	536,935	1,241,935	1,239,641	1,240,495	1,239,233
30Issuance Costs	57,331	57,331	-	-	-	-	-
31Refunding Bond Proceeds	(10,877,950)	(10,877,950)	-	-	-	-	-
32Payment to Refunding Bond Agent	10,810,887	10,810,887	-	-	-	-	-
70Total Debt & Operating Expenditures	3,271,069	2,968,937	2,930,163	4,524,872	4,542,227	4,567,662	4,605,474
80Funds Available for Projects	\$ 9,482,163	\$ 7,933,656	\$ 7,275,272	\$ 3,928,171	\$ 2,172,852	\$ 2,147,303	\$ 1,488,379

PROJECT PLAN							
	FY 2010	FY 2010 Forecast	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015
NORTH ZONE/RAIL PARK (including Enterprise Park):							
100Railroad Spur Improvements	667,166	337,986	-	-	-	-	-
102Elm Creek Detention Pond	98,227	90,954	-	-	-	-	-
103ROW Acquisition - Public Improvements	3,661	-	-	-	-	-	-
104Extension of Rail Service	121,550	121,550	-	-	-	-	-
105BN Trans-Load NE Site Phase I - [\$850K total project cost]	-	-	-	-	-	-	-
106Wendland Road Improvements	192,686	171,729	-	-	-	-	-
107Wendland Property Roadway Phase I - [\$1.87M total project cost]	-	-	-	-	-	-	-
110Public Improvements in North Zone	-	-	250,000	250,000	250,000	250,000	250,000
150Total North Zone/Rail Park (including Enterprise Park)	1,083,290	722,219	250,000	250,000	250,000	250,000	250,000
AIRPORT PARK:							
151Airport Park Infrastructure Construction	101,662	93,232	-	-	-	-	-
155Trail Connections to Airport Park Phase I - [\$750K total project cost]	-	-	-	125,000	625,000	-	-
200Total Airport Park	101,662	93,232	-	125,000	625,000	-	-
BIO-SCIENCE PARK:							
201Greenbelt Development along Pepper Creek	321,723	251,685	-	-	-	-	-
202Outer Loop Phase II (from Hwy 36 to FM 2305)	245,320	96,405	-	-	-	-	-
203Bio-Science Park Phase 1	42,121	15,875	-	-	-	-	-
204Trail Connections to S&W (City of Temple portion)	-	-	250,000	-	-	-	-
250Total Bio-Science Park	609,164	363,965	250,000	-	-	-	-
300Outer Loop (from Wendland Rd to IH-35 North) - [\$15.5M total project cost]	300,000	41,550	-	1,200,000	-	-	-
350Northwest Loop 363 Improvements (TxDOT commitment)	905,410	-	930,000	-	-	-	-
SYNERGY PARK:							
351Southeast Ind Park (Lorraine Drive) - [\$1.5M total project cost]	1,246,000	126,200	-	-	-	-	-
400Total Synergy Park	1,246,000	126,200	-	-	-	-	-
DOWNTOWN:							
401Downtown Improvements [look at 1999 Ordinance]	388,769	95,000	350,892	206,781	216,881	220,016	222,485
402Rail Safety Zone Study	-	-	25,000	-	-	-	-
403Lot Identification & Signage	-	-	80,000	-	-	-	-
404Plaza Study	-	-	25,000	-	-	-	-
405Santa Fe Plaza Parking Lot - [\$1.3M total project cost]	-	-	-	-	-	-	-
450Total Downtown	388,769	95,000	480,892	206,781	216,881	220,016	222,485
TMED:							
451TMED Phase I - [\$2.9M total project cost]	-	-	500,000	-	-	-	-
452Master Plan Integration 2010	-	-	50,000	-	-	-	-
453Monumentation Identification Conceptual Design	-	-	30,000	-	-	-	-
4541st Street Pedestrian Bridge to Loop 363 Design/Construction - [\$2M total project cost]	-	-	300,000	500,000	500,000	-	-
455Friars Creek Trail Phase I - [\$1.9M total project cost - DOE Grant of \$400K]	-	-	1,500,000	-	-	-	-
456Avenue R (31st St to 15th Street) - [\$3.3M total project cost]	-	-	400,000	1,000,000	-	-	-
500Total TMED	-	-	2,780,000	1,500,000	500,000	-	-
OTHER PROJECTS:							
501Gateway Entrance Projects	400,000	-	-	-	-	-	-
550Total Other Projects	400,000	-	-	-	-	-	-
600Undesignated Funding - Bonds	176,730	-	-	-	-	-	-
610Undesignated Funding - Public Improvements	263,964	-	-	-	-	-	-
Total Planned Project Expenditures	5,474,989	1,442,166	4,690,892	3,281,781	1,591,881	470,016	472,485
700Fund Balance at Year End	\$ 4,007,174	\$ 6,491,490	\$ 2,584,380	\$ 646,390	\$ 580,971	\$ 1,677,287	\$ 1,015,894

ORDINANCE NO. 2010-4405

AN ORDINANCE BY THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING AMENDMENTS TO THE TAX INCREMENT FINANCING REINVESTMENT ZONE NO. 1 FINANCING PLAN AND PROJECT PLAN TO ALIGN WITH THE 2022 MASTER PLAN; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; DECLARING FINDINGS OF FACT; AND PROVIDING AN OPEN MEETINGS CLAUSE.

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

Whereas, the Council adopted a Project Plan and Reinvestment Zone Financing Plan for the Zone by Ordinance No. 1525 adopted on December 22, 1983, and thereafter amended such plans by Ordinance No. 1664 adopted on June 20, 1985, Ordinance No. 1719 adopted on November 21, 1985, Ordinance No. 1888 adopted on December 21, 1987, Ordinance No. 1945 adopted on October 20, 1988; Ordinance No. 1961 adopted on December 1, 1988; Ordinance No. 2039 adopted on April 19, 1990; Ordinance No. 91-2119 adopted on December 5, 1991; Ordinance No. 92-2138 adopted on April 7, 1992; Ordinance No. 94-2260 adopted on March 3, 1994; Ordinance No. 95-2351 adopted on June 15, 1995; Ordinance No. 98-2542 adopted on February 5, 1998; Ordinance No. 98-2582 adopted on November 19, 1998; Ordinance No. 99-2619 adopted on March 18, 1999; Ordinance No. 99-2629 adopted on May 6, 1999; Ordinance No. 99-2631 adopted on May 20, 1999; Ordinance No. 99-2647 adopted on August 19, 1999; Ordinance No. 99-2678 adopted on December 16, 1999; Ordinance No. 2000-2682 adopted on January 6, 2000; Ordinance No. 2000-2729 adopted on October 19, 2000; Ordinance No. 2001-2772 adopted on June 7, 2001; Ordinance No. 2001-2782 adopted on July 19, 2001; Ordinance No. 2001-2793 adopted on September 20, 2001; Ordinance No. 2001-2807 on November 15, 2001; Ordinance No. 2001-2813 on December 20, 2001; Ordinance No. 2002-2833 on March 21, 2002; Ordinance No. 2002-2838 on April 18, 2002; Ordinance No. 2002-3847 on June 20, 2002; Ordinance No. 2002-3848 on June 20, 2002; Ordinance No. 2002-3868 on October 17, 2002; Ordinance No. 2003- 3888 on February 20, 2003; Ordinance No. 2003-3894 on April 17, 2003; Ordinance No 2003-3926 on September 18, 2003; Ordinance No. 2004-3695 on July 1, 2004; Ordinance No. 2004-3975 on August 19, 2004; Ordinance No. 2004-3981 on September 16, 2004; Ordinance No. 2005-4001 on May 5, 2005; Ordinance No. 2005-4038 on September 15, 2005; Ordinance No. 2006-4051 on January 5, 2006; Ordinance No. 2006-4076 on the 18th day of May, 2006; Ordinance No. 2006-4118; Ordinance No. 2007-4141 on the 19th day of April, 2007; Ordinance No. 2007-4155 on July 19, 2007; Ordinance No. 2007-4172 on the 20th day of September, 2007; Ordinance No. 2007-4173 on October 25, 2007; Ordinance No. 2008-4201 on the 21st day of February, 2008; and Ordinance No. 2008-4217 the 15th day of May, 2008; Ordinance No. 2008-4242 the 21st day of August, 2009; Ordinance No. 2009-4290 on the 16th day of April, 2009; Ordinance No. 2009-4294 on the 21st day of May, 2009; Ordinance No. 2009-

4316 on the 17th day of September, 2009; Ordinance No. 2009-4320 on the 15th day of October, 2009; Ordinance No. 2010-4338 on the 18th day of February, 2010; and Ordinance No. 2010-4371 on the 19th day of August, 2010;

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

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

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

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

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

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

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

Part 2: Reinvestment Zone Financing Plan. The amendment to the Tax Increment Financing Reinvestment Zone No. One Financing Plan and Project Plan, heretofore adopted by the Board of Directors of the Zone and referred to in the preamble of this ordinance, are hereby

approved and adopted, as set forth in the Amendments to Reinvestment Zone Number One, City of Temple, Texas, attached hereto as Exhibits A and B.

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

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

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

Part 6: Severability. It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses and phrases of this ordinance are severable and, if any phrase, clause, sentence, paragraph or section of this ordinance should be declared invalid by the final judgment or decree of any court of competent jurisdiction, such invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this ordinance, since the same would have been enacted by the City Council without the incorporation in this ordinance of any such invalid phrase, clause, sentence, paragraph or section.

Part 7: Effective Date. This ordinance shall take effect immediately from and after its passage in accordance with the provisions of the Charter of the City of Temple, Texas, and it is accordingly so ordained.

Part 8: Open Meetings. It is hereby officially found and determined that the meeting at which this ordinance is passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meeting Act.

PASSED AND APPROVED on First Reading and Public Hearing on the **21st** day of **October**, 2010.

PASSED AND APPROVED on Second Reading on the **4th** day of **November**, 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

10/21/10
Item #11
Regular 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 grant agreement with Jimmy Palasota for redevelopment improvements at 500 West Avenue G in the Avenue G and H Strategic Investment Zone corridor in an amount not to exceed \$27,500 plus waiver of permit fees.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: This agreement outlines the obligations and representations of Jimmy Palasota and also defines the City's incentive package. 500 West Avenue G (corner of 9th Street and Avenue G) is situated within the Avenue G and H Strategic Investment Zone. The site is currently known as used as the Ramona Business Center.

The agreement and resolution will allow Palasota, to receive a Chapter 380 grant of up to \$15,000 for façade improvements (estimated \$15,000); up to \$10,000 for landscaping, hardscape, and irrigation (estimated \$9,195); up to \$2,500 signage (estimated \$2,500) and up to \$2,000 for waiver of permits and fees. Palasota's total estimated project investment is \$55,000 in building, site, and infrastructure improvements with the City's total cash match being up to \$27,500 plus waiver of permits/fees. These improvements exceed the City's ordinance requirements). Improvements must be completed by May 31, 2011. In return, Palasota has agreed to:

Façade Improvements:

- Power wash and bleach entire exterior
- Scrape all loose paint and crumbling stucco
- Repair stucco in numerous locations
- Prep, caulk and putty
- Prime all new raw or exposed materials
- Paint body one color, trim and doors a second color and clay tile roof at front a third color

- Remove and replace 18 doors with pre-hung metal 6 panel doors
- Trim out each door and install knob and deadbolts
- Remove and replace miscellaneous rotted wood on exterior;
- Remove plywood and old opening and install hardi-board
- Install 6 front “Carriage” lights
- Install 4 globe lights on top of front structure
- Install 2 lights at back of building
- Remove 2 light poles and haul off
- Removal and haul off of all debris and conduit
- Disposal

Landscape/hardscape/irrigation improvements:

- Install irrigation in front of building, in shrub and court yard area
- Demo old shrub area and with replace 24 – 5 gallon plants, install weed barrier and hardwood mulch
- Install approximately 415 yards of sod in courtyard area
- Install a 40’ x 4’ ornamental iron fence with 2 walk gates
- Install courtyard hardscape/sidewalk

Sign improvements:

- Install Aluminum .040 sign with cut or printed vinyl applied

FISCAL IMPACT: The total maximum grant by the City is \$27,500 plus waiver of permit fees. In the FY ’10 budget, there is \$11,807 in SIZ funds remaining which will be carried forward to the FY ’11 budget. In the FY ’11 budget \$85,000 was appropriated for Strategic Investment Zone matching grant incentives bringing the total funds available for FY ’11 of \$96,807 in account 110-1500-515-2695. So far this fiscal year, one grant in the maximum amount of \$35,250 has been approved by Council which leaves \$61,557 to fund this grant. .

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

ATTACHMENTS:

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

Project Site and Location Map



Avenue G and H 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 Jimmy Palasota, 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 Avenue G and H Strategic Investment Zone under City Ordinance Number 2009-4286, the City and the Owner enter into this Agreement to promote economic development within the Avenue G and H Strategic Investment Zone. As an inducement to Owner to make certain specified improvements to the property located at 500 W. Avenue G (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 mixed use retail, office, and multi-family facility 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 described in the subparts of Section 3 including:

Remodel existing exterior structure including wood repair, replace doors, painting, stucco repair, and lighting; replace sign face and paint pole; install irrigation system; install landscaping; install plants; and iron fence; hereinafter collectively referred to as “the Improvements.” The estimate cost of total anticipated Improvements are \$55,000.

Owner agrees to complete said Improvements on or before May 31, 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 and herein.

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 \$15,000 on a 1:1 matching basis (estimated match is \$15,000) for the

replacement of an existing façade with an eligible masonry product on the Improvements. 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 Avenue G and H 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:

- Power wash and bleach entire exterior
- Scrape all loose paint and crumbling stucco
- Repair stucco in numerous locations
- Prep, caulk and putty
- Prime all new raw or exposed materials
- Paint body one color, trim and doors a second color and clay tile roof at front a third color
- Remove and replace 18 doors with pre-hung metal 6 panel doors
- Trim out each door and install knob and deadbolts
- Remove and replace miscellaneous rotted wood on exterior;
- Remove plywood and old opening and install hardi-board
- Install 6 front “Carriage” lights
- Install 4 globe lights on top of front structure
- Install 2 lights at back of building
- Remove 2 light poles and haul off
- Removal and haul off of all debris and conduit
- Disposal

- (b) **Landscaping Improvement Grant.** The City will make a grant of \$10,000.00 on a 1:1 matching basis (estimated match is \$9,195) for the installation of new or additional landscaping and irrigation system on the Property. To be eligible the landscaping must meet or exceed the City’s landscaping requirements for the area, as the same may be established from time to time. Landscaping improvement costs eligible for reimbursement with a landscaping improvement grant include ground preparation costs (including labor), materials (trees, irrigation, shrubs, soil and amendments thereto and other decorative hardscape such as arbors, art, and walls or fences) and material and construction (including labor) costs, but specifically exclude design costs.

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

- Install irrigation in front of building, in shrub and court yard area
- Demo old shrub area and with replace 24 – 5 gallon plants, install weed barrier and hardwood mulch
- Install approximately 415 yards of sod in courtyard area
- Install a 40' x 4' ornamental iron fence with 2 walk gates
- Install courtyard hardscape/sidewalk

- (c) **Sign Improvement Grant.** The City will make a grant of up to \$2,500.00 on a 1:1 matching basis (estimated match is \$2,500) for the installation of new ground mounted, monument type sign on eligible properties as a replacement of a dilapidated sign. To be eligible, then base or footing of the sign must be concrete or metal. Sign improvement costs eligible for reimbursement with a sign improvement grant include demolition costs (including labor), landfill costs, and material and construction (including labor) costs, but specifically exclude design costs.

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

- Install 5'x10'x24" deep monument sign made from white limestone rock and brick with stucco finish & plastic formed lettering.

- (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 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 ten (10) 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

Jimmy Palasota
Owner

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

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 JIMMY PALASOTA FOR REDEVELOPMENT IMPROVEMENTS AT 500 WEST AVENUE G IN THE AVENUE G AND H STRATEGIC INVESTMENT ZONE CORRIDOR, IN AN AMOUNT NOT TO EXCEED \$27,500; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, Jimmy Palasota owns property located at 500 West Avenue G, which is located in the Avenue G and H Corridor Strategic Investment Zone, making the owner eligible to apply for matching grant incentives which are authorized by Ordinance No. 2009-4286, passed by the Temple City Council on March 5, 2009;

Whereas, a Chapter 380 “matching grant” agreement will outline the obligations and representations of the applicants, and define the City’s incentive package;

Whereas, the total project investment for 500 West Avenue G is estimated at \$55,000, and the City’s total match may not exceed \$27,500;

Whereas, funds are available for this matching grant incentive in Account No. 110-1500-515-2695; 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 Jimmy Palasota, after approval as to form by the City Attorney, for redevelopment improvements at 500 West Avenue G which is located in the Avenue G and H Corridor Strategic Investment Zone, in an amount not to exceed \$27,500.

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 **21st** day of **October**, 2010.

THE CITY OF TEMPLE, TEXAS

WILLIAM A. JONES, III, Mayor

ATTEST:

Clydette Entzminger
City Secretary

APPROVED AS TO FORM:

Jonathan Graham
City Attorney