



**MEETING OF THE
TEMPLE CITY COUNCIL**

MUNICIPAL BUILDING

2 NORTH MAIN STREET

3RD FLOOR CONFERENCE ROOM

THURSDAY, NOVEMBER 18, 2010

3:00 P.M.

WORKSHOP AGENDA

1. Discuss, as may be needed, Regular Meeting agenda items for the meeting posted for Thursday, November 18, 2010.
2. Discuss fourth quarter financial results for the fiscal year ended September 30, 2010.
3. Discuss proposed Unified Development Code.
4. Discuss proposed ordinance establishing zoning and development standards within the Temple Medical and Education District (TMED).
5. Discuss potential acquisition of properties on Avenue G.

Executive Session – Pursuant to Chapter 551, Government Code, §551.072 – Real Property – The City Council may enter into executive session to discuss the purchase, exchange, lease or value of real property relating to City projects, the public discussion of which would have a detrimental effect on negotiations with a third party

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) Texas Recycles Month November, 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) [November 4, 2010 Special Called and Regular Meeting](#)

Contracts, Leases & Bids

- (B) [2010-6178-R](#): Consider adopting a resolution authorizing a construction contract with Utility Service Co, Inc., of Perry, GA, for construction activities required to rehabilitate the Pepper Creek and Taylor elevated storage tanks located in west Temple and southeast Temple, respectively, in an amount not to exceed \$724,900.
- (C) [2010-6179-R](#): Consider adopting a resolution authorizing a contract with Rodgers Equipment Company, Inc. of Richardson for the purchase of two new flocculation mixers for Clarifiers #1, #2 and #3 at the Conventional Water Treatment Plant in the amount of \$71,775.
- (D) [2010-6180-R](#): Consider adopting a resolution authorizing a purchase agreement with Miller Uniforms & Emblems, Inc. for 63 ballistic vests by utilizing BuyBoard contracted pricing in an estimated amount of \$44,730.
- (E) [2010-6181-R](#): Consider adopting a resolution authorizing the additional purchase, under the annual purchase agreement with APAC Texas, Inc of Belton, for hot mix asphalt at \$46 per ton in an estimated amount of \$35,000.
- (F) [2010-6182-R](#): Consider adopting a resolution authorizing an agreement with the Texas State Library and Archives Commission for the Loan Star Libraries Grant in the amount of \$19,859.
- (G) [2010-6183-R](#): Consider adopting a resolution authorizing the following:
 - 1. An interlocal agreement with the City of North Richland Hills to allow for the utilization of North Richland Hills' annual contract for fire fighting protective clothing with Casco Industries, and
 - 2. The purchase of fire fighting protective clothing from Casco Industries utilizing the City of North Richland Hills annual contract in the estimated amount for FY 2011 of \$36,000.

Ordinances – Second and Final Reading

- (H) [2010-4407](#): SECOND READING – Consider adopting an ordinance amending the Code of Ordinances of the City of Temple by adding a new Chapter 27, “Storm Water Management,” including a section entitled “Erosion and Sedimentation Control” per the City of Temple’s Storm Water Management Program and as required by Texas Commission on Environmental Quality (TCEQ).

Misc.

- (I) [2010-6184-R](#): Consider adopting a resolution authorizing the carry forward of FY 2009-2010 funds to the FY 2010-2011 budget.

- (J) [2010-6185-R](#): Consider adopting a resolution approving fourth quarter financial results for the fiscal year ended September 30, 2010.
- (K) [2010-6186-R](#): Consider adopting a resolution authorizing budget amendments for fiscal year 2010-2011.

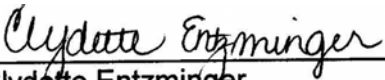
V. REGULAR AGENDA

ORDINANCES

5. [2010-4406](#): SECOND READING – Z-FY-10-53: Consider adopting an ordinance authorizing a Conditional Use Permit for the sale of alcoholic beverages with more than 50% and less than 75% revenue from alcohol sales in a restaurant on Lot 10, Block 1, Hillside Addition, located at 2906 South General Bruce Drive. **(Note: approval of this item will require four affirmative votes of the City Council)**
6. [2010-4408](#): FIRST READING – PUBLIC HEARING – Z-FY-10-55 – Consider adopting an ordinance authorizing a Conditional Use Permit for the sale of distilled liquors, wines and beers in unbroken original containers in a package store for off-premises consumption in a 2,520 square foot lease area on a portion of Lot 1, Block 1, Lakewood Square Subdivision, located at 11725 West Adams Avenue, Suite A.
7. [2010-4409](#): FIRST READING – PUBLIC HEARING – Z-FY-10-56 – Consider adopting an ordinance authorizing an amendment to Ordinance No. 1993 to allow moving van and truck rental in a Planned Development (General Retail) District (PD-GR) on 0.404 ± acres of land being part of the George Givens Survey Abstract No. 345, located at 4515 South General Bruce Drive. **(Note: approval of this item will require four affirmative votes of the City Council)**

***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 9:10 AM, on November 12, 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

11/18/10
Item #3
Regular Agenda
Page 1 of 1

DEPT./DIVISION SUBMISSION & REVIEW:

William A. Jones, III, Mayor

ITEM DESCRIPTION: Presentation of Proclamations:

Texas Recycles Month November, 2010

STAFF RECOMMENDATION: Present proclamation as presented in item description.

ITEM SUMMARY: This proclamation was requested by, and will also be received by, Tanya Gray, the Executive Director of Keep Temple Beautiful.

FISCAL IMPACT: None

ATTACHMENTS:

None



COUNCIL AGENDA ITEM MEMORANDUM

11/18/10
Item #4(A)
Consent Agenda
Page 1 of 1

DEPT./DIVISION SUBMISSION & REVIEW:

Clydetta Entzminger, City Secretary

ITEM DESCRIPTION: Approve Minutes:

(A) November 4, 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:

[November 4, 2010 Special Called and Regular Meeting](#)

TEMPLE CITY COUNCIL

NOVEMBER 4, 2010

The City Council of the City of Temple, Texas conducted a Special Meeting on Thursday, November 4, 2010 at 3:30 P.M., in the Staff Conference Room, 3rd Floor, Municipal Building, 2 North Main Street.

Present:

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

Absent:

Councilmember Marty Janczak

1. Discuss, as may be needed, Regular Meeting agenda items for the meeting posted for Thursday, November 4, 2010.

Consent Agenda Item 4(H) and Regular Agenda Item 5: David Blackburn, City Manager, stated both of these items will require four affirmative votes from the City Council for approval and only four Councilmembers will be present for the regular meeting.

Mayor Jones recommended tabling either of these items if there are any concerns from Council. Regarding item 5, the City Councilmembers discussed the percentage of alcohol sales allowed under each of the use categories.

Regular Agenda Item 7 - Public Safety Advisory Board appointments: Mayor Jones asked for recommendations from Councilmembers regarding appointments to the Public Safety Advisory Board to fill the two unexpired terms. The Council suggested Dr. Jeff Blackwell and Bennie Trevino for appointment to this board.

2. Discuss the proposed contract with Georgetown Railroad for the purchase of approximately 6.2 miles of railroad right of way located in southeast Temple. Executive Session ? Pursuant to Chapter 551, Government Code, §551.072 ? Real Property ? The City Council may enter into executive session to discuss the purchase, exchange, lease or value of real property relating to City projects, the public discussion of which would have a detrimental effect on negotiations with a third party

Mayor Jones stated the City Council would enter into executive session at this time, approximately 3:40 p.m.

Mayor Jones reconvened the work session at approximately 4:30 p.m., with no action being taken by the City Council.

3. 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 Director of Finance. No final action will be taken.

Mayor Jones stated the City Council would enter into an executive session at this time, approximately 4:30 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, November 4, 2010 at 5:00 PM in the Council Chambers, Municipal Building, 2nd Floor, 2 North Main Street.

Present:

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

Absent:

Councilmember Marty Janczak

I. CALL TO ORDER

1. Invocation

Kathleen Person, Municipal Court Judge, voiced the Invocation.

2. Pledge of Allegiance

Frances Oliphant, Deputy Court Clerk, led the Pledge of Allegiance.

II. PROCLAMATIONS & SPECIAL RECOGNITIONS

3. (A) Nurse Practitioner Week November 7-13, 2010

Mayor Jones presented the proclamation to Dr. Susan E. Johnston, Endocrinology Nurse Practitioner, Central Texas Veterans Health Care System, and the other nurse practitioners present at the meeting.

(B) Municipal Court Week November 1-5, 2010

Mayor Jones presented this proclamation to Kathleen Person, Municipal Court Judge, and staff of the Temple Municipal Court.

(C) Recognition of Melissa Saunders, Solid Waste Division Employee

Mayor Jones recognized Ms. Melissa Saunders, employee of the Solid Waste Division, for her efforts in assisting a citizen in need, Mrs. Dorothy Nine.

Mr. and Mrs. Nine expressed their sincere appreciation to Ms. Saunders for the assistance she provided.

III. PUBLIC COMMENTS

There were no public comments made during this meeting.

IV. CONSENT AGENDA

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

(A) October 21, 2010 Special Called and Regular Meeting

(B) 2010-6168-R: Consider adopting a resolution authorizing the purchase of a backhoe with attachments from Hi-Way Equipment Company of Houston, from the BuyBoard contract in the amount of \$81,875.

(C) 2010-6169-R: Consider adopting a resolution authorizing a three-year agreement with Star Tex Propane, Inc. of Waco for propane delivery services in an estimated annual amount for FY 11 of \$35,000.

(D) 2010-6170-R: Consider adopting a resolution authorizing the purchase of Interactive Voice Response (IVR) software from Selectron in the amount of \$80,400 and related interfaces to the HTE Utility Billing software from Sungard Public Sector in the amount of \$16,590 in support of implementing automated telephone functions for the Utility Billing Office.

(E) Consider adopting resolutions approving farm leases with Edward Brenek, Jr. for:

- 1. 2010-6171-R: 8.164 acres east of Wilson Park, and**
- 2. 2010-6172-R: 39 acres on Little Flock Road.**

(F) 2010-6173-R: Consider adopting a resolution authorizing a Chapter 380 grant agreement with James and Jana Warren for redevelopment improvements at 1217 West Avenue H and 807 South 25th Street in the Avenue G and H Strategic Investment Zone corridor in an amount not to exceed \$34,500 plus waiver of permit fees.

(G) 2010-4402: SECOND READING - 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.

(H) 2010-4378: SECOND READING - 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)

(I) 1. 2010-4403: SECOND READING - Consider adopting an ordinance authorizing the expansion of the boundary of Tax Increment Financing Reinvestment Zone Number One.

2. 2010-4404: SECOND READING - Consider adopting an ordinance extending the life of Tax Increment Financing Reinvestment Zone Number One.

3. 2010-4405: SECOND READING - 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.

(J) 2010-6174-R: Consider adopting a resolution authorizing property, liability and workers compensation insurance premiums for FY2010-11.

(K) 2010-6175-R: Consider adopting a resolution authorizing budget amendments for fiscal year 2009-2010.

(L) 2010-6176-R: Consider adopting a resolution authorizing budget amendments for fiscal year 2010-2011.

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

Motion passed unanimously.

V. REGULAR AGENDA

ORDINANCES

5. 2010-4406: FIRST READING - PUBLIC HEARING - Z-FY-10-53: Consider adopting an ordinance authorizing a Conditional Use Permit for the sale of alcoholic beverages with more than 50% and less than 75% revenue from alcohol sales in a restaurant on Lot 10, Block 1, Hillside Addition, located at 2906 South General Bruce Drive. (Note: approval of this item will require four affirmative votes of the City Council)

Brian Mabry, Planning Director, presented this item to the City Council. He explained this is a standard request for a restaurant. The property is zoned Light Industrial and has about 56' of frontage on IH-35. Mr. Mabry displayed an aerial photo of the property and photos of surrounding properties. The nearest protected use, a church, is 1,550 feet away, well outside the minimum 300' separation requirement. The request complies with the Future Land Use and Character Map and the Thoroughfare Plan. Utilities are present to serve the property. Mr. Mabry presented the site

plan for the subject property. The property is so narrow additional landscaping would not be visible from IH 35. Four notices were mailed to surrounding property owners, with two being returned in disapproval and one in approval. The Planning and Zoning Commission unanimously recommended approval of the request. Mr. Mabry reviewed the general conditions that apply to all conditional use permits for on-premise consumption of alcohol. Four affirmative votes are required for approval of the request due the percentage of opposition received from surrounding property owners.

Mayor Jones declared the public hearing open with regard to agenda item 5 and asked if anyone wished to address this item.

Chris McGregor, 2806 Wickersham, addressed the City Council. He stated he owns two properties next to the restaurant. More food than alcohol should be sold in a restaurant and there is a 50% or less permit available to the applicant. Mr. McGregor expressed his opposition to alcohol sales at any level. He bought the bar next to his property to eliminate the problems he experienced with that establishment. There is no way serving alcohol will help his business next door, he stated.

Sergio Lozano, licensed professional, addressed the City Council representing the owner of the property. He stated the request meets the requirements of the Texas Alcoholic Beverage Commission. This is the standard conditional use permit that is issued to restaurants all over the City. The ordinance is also being recommended by staff, as proposed by the applicant. He presented a petition signed by Bell County residents endorsing their request for the conditional use permit. Mr. Lozano also noted that adequate parking and access are available for the property. This is a restaurant, not a bar, and the applicant is just trying to meet their customers' wishes.

Councilmember Dunn stated he has walked the property and does not think this is an inappropriate use. He asked if the applicant would be willing to install a fence between the restaurant and Mr. McGregor's property to serve as a buffer.

Mr. Lozano replied the applicant would comply with the request for a fence if the Council requested it.

Councilmember Schneider asked if the interior layout of the restaurant has to remain the same.

Mr. Mabry replied that the furnishings could be rearranged but if it is renovated an amendment to the conditional use permit would be required.

Councilmember Schneider stated he felt it would be better to leave the property open and not install a fence as it might create the possibility for vandalism at the back of the property.

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 November 18, 2010, seconded by Councilmember Russell Schneider.

Motion passed unanimously.

6. **2010-4407: FIRST READING - PUBLIC HEARING - Consider adopting an ordinance amending the Code of Ordinances of the City of Temple by adding a new Chapter 27, "Storm Water Management," including a section entitled "Erosion and Sedimentation Control" per the City of Temple's Storm Water Management Program and as required by Texas Commission on Environmental Quality (TCEQ).**

Michael Newman, Assistant Director of Public Works, presented this item to the City Council. He stated this is a state mandated ordinance staff is bringing forward for Council consideration. He reviewed the meetings that have been held with various groups in the community, as well as a City Council work session and Planning and Zoning Commission public hearing. Mr. Newman explained how the ordinance will be administered. No new processes or permits are being proposed, only additions and amendments to existing procedures. These requirements will be administered within the City only, not within the ETJ. This erosion and sedimentation control ordinance is part of the 5-year storm water management plan, and one of three new ordinances the City will be required to adopt by August 2011 to be in compliance.

Mr. Newman displayed photos of common forms of erosion and sedimentation control, including curb inlet protection, rock rip-rap, and revegetation. This ordinance applies to residential and non-residential land disturbances of one acre or more within the City limits. The requirements include the submission of an erosion and sedimentation control plan and Mr. Newman reviewed the required components of the plan. An appeal process and enforcement provisions are also contained within the ordinance. The Temple Area Builders Association has reviewed the proposed ordinance and supports its adoption.

Councilmember Schneider asked if Texas Commission on Environmental Quality (TCEQ) permits will still be required.

Mr. Newman replied no, the City will assume that responsibility if this ordinance is approved.

Mayor Jones asked is a contractor can do dirt work prior to getting a permit.

Mr. Newman replies that a permit would be required if more than one acre of land is disturbed. The same rules that exist today will apply but they will be administered and enforced by the City instead of TCEQ.

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

Mike Pilkington, representing Temple Area Builders Association,

addressed the City Council. He reiterated the Council's concerns with unfunded mandates and regulations from the state. He also complimented Mr. Newman on the development of this ordinance since it is one they feel can actually be implemented in the field. TABA supports the ordinance being proposed, Mr. Pilkington stated.

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

Motion by Councilmember Russell Schneider to adopt ordinance, with second reading and final adoption set for November 18, 2010, seconded by Mayor Pro Tem Patsy E. Luna.

Motion passed unanimously.

RESOLUTIONS

- 7. 2010-6177-R: Consider adopting a resolution appointing two members to the Temple Public Safety Advisory Board to fill unexpired terms through September 1, 2011.**

Dr. Jeff Blackwell and Bennie Trevino were recommended for appointment to the Temple Public Safety Advisory Board to fill the unexpired terms.

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

Motion passed unanimously.

William A. Jones, III, Mayor

ATTEST:

Clydette Entzminger
City Secretary



COUNCIL AGENDA ITEM MEMORANDUM

11/18/10
Item #4(B)
Consent Agenda
Page 1 of 2

DEPT./DIVISION SUBMISSION & REVIEW:

Nicole Torralva, P.E., Director of Public Works
Michael Newman, P.E., CFM, City Engineer

ITEM DESCRIPTION: Consider adopting a resolution authorizing a construction contract with Utility Service Co, Inc., of Perry, GA, for construction activities required to rehabilitate the Pepper Creek and Taylor elevated storage tanks located in west Temple and southeast Temple, respectively, in an amount not to exceed \$724,900.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: Rehabilitation of the Pepper Creek 220,000 gallon elevated storage tank, located on F.M. 2305 (map attached), and the Taylor 1,000,000 gallon elevated storage tank, located on MLK Dr. (map attached), is required to maintain compliance with state regulations. This project consists of interior and exterior repair, surface rehabilitation, and recoating of both tanks. Additionally, miscellaneous repairs and upgrades will be performed at both locations.

On June 3, 2010, Council authorized a professional services agreement with Kasberg, Patrick & Associates, LP, (KPA) for engineering services required to implement the Taylor Tank Rehabilitation in an amount not to exceed \$69,100. Council also authorized a professional services agreement with KPA for engineering services required to implement the Pepper Creek Tank Rehabilitation in an amount not to exceed \$57,900.

On November 2, 2010, six bids were received for construction of the work. Per the attached bid tabulation, Utility Service Co. submitted the low bid in the amount of \$724,900. Total cost for the Pepper Creek Tank portion of the project was \$233,600 and total cost for the Taylor elevated storage tank was \$491,300. In summary, bids ranged from \$724,900 to \$1,654,900 (see attached Bid Tab). The engineer's OPC for this project was \$800,000. KPA recommends awarding the contract to the low bidder, USC. (see attached KPA Recommendation). Construction time allotted for this project is 120 days.

FISCAL IMPACT: Funding in the amount of \$600,000 from the 2010 Utility Revenue Bond Issue was appropriated in account 561-5100-535-6904, project #100619 for the rehabilitation of Pepper Creek tank. After funding professional services agreement in the amount of \$57,900 a balance of \$542,100 is available for construction. Total cost for the construction contract for Pepper Creek tank is \$233,600.

Funding in the amount of \$600,000 from the 2010 Utility Revenue Bond Issue was appropriated in account 561-5100-535-6904, project #100620 for the rehabilitation of Taylor tank. After funding professional services in the amount of \$69,100 a balance of \$530,900 is available for construction. Total cost for the construction contract for the Taylor tank is \$491,300.

ATTACHMENTS:

[Engineer's Letter of Recommendation](#)
[Bid Tabulation](#)
[Project Map - Pepper Creek Tank](#)
[Project Map - Taylor Tank](#)
[Resolution](#)



KASBERG, PATRICK & ASSOCIATES, LP

CONSULTING ENGINEERS

Texas Firm F-510

RICK N. KASBERG, P.E.

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

THOMAS D. VALLE, P.E.

Temple

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

Georgetown

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

November 5, 2010

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

Re: City of Temple, Texas
Taylor Road and Pepper Creek Tank Rehabilitation

Dear Mr. Bond:

On November 2, 2010, the City of Temple received competitive bids from six contractors for the referenced project. This bid contained an Add Alternate for upgraded exterior coating systems for each of the tanks. A Bid Tabulation is provided for your reference.

The attached Bid Tabulation shows Utility Service Co., Inc. of Perry, Georgia as the low bidder for the Base Bid at \$724,900.00 and including the add alternate at \$786,900.00. The bids ranged from this low bid to \$1,654,900.00. Our Final Opinion of Probable Cost for this project was \$800,000.

The add alternate bid for the upgraded coating system allows the City to evaluate whether this additional cost is warranted and if funding is available. Based on previous similar projects, it is our opinion that there is not sufficient value in the upgraded coating system to warrant the additional cost. We have reviewed Utility Service Co., Inc.'s bid, similar projects and reference information. Therefore, we recommend that a contract be awarded to Utility Service Co., Inc. for the Base Bid in the amount of \$724,900.00.

Sincerely,

Ginger R. Tolbert, P.E.

GRT/

xc: Ms. Belinda Mattke, City of Temple (1 copy with Original Bid Documents)
2010-121-40

CITY OF TEMPLE, TEXAS TAYLOR ROAD AND PEPPER CREEK REHABILITATION November 2, 2010; 2:00 PM				BIDDER INFORMATION											
				Utility Service Co., Inc 535 Courtney Hodges Blvd Perry GA 31069		Tank Pro Inc 5500 Watermelon Road Northport AL 35473		Caldwell Tanks Inc 4000 Tower Road Louisville KY 40219		M. K. Painting Inc 4157 Seventh Wyandottie MI 48192		Maquire Iron, Inc. PO Box 1446 Sioux Falls SD 57101		TMI Coatings 3291 Terminal Drive St Paul MN 55121	
				Unit Price	Extended Amount	Unit Price	Extended Amount	Unit Price	Extended Amount	Unit Price	Extended Amount	Unit Price	Extended Amount	Unit Price	Extended Amount
Item No.	Estimated Quantity	Unit	Bid Data Description												
1	100%	LS	All materials, equipment, labor & superintendence & incidental work to abrasive blast, prime & paint the INTERIOR of the existing 1,000,000 gallon elevated storage tank, all appendages, ladders including nut/bolt replacement. Test & disposal of blast media as required to provide a service-able facility that is structurally sound & safe, as detailed in these specifications & the section RCRA	\$ 111,000.00	\$ 111,000.00	\$ 197,448.00	\$ 197,448.00	\$ 120,000.00	\$ 120,000.00	\$ 126,000.00	\$ 126,000.00	\$ 139,500.00	\$ 139,500.00	\$ 304,700.00	\$ 304,700.00
2	100%	LS	All materials, equipment, labor & superintendence & incidental work to, abrasive blast, prime & paint with two color finish, the EXTERIOR of the existing 1,000,000 gallon elevated storage tank, all appendages, ladders, vent, manways, balcony railing, hatches including nut/bolt replacement per Section G1.11B3 of the Specifications. Test & disposal of blast media as required to provide a service-able facility that is structurally sound & safe, as detailed in these specifications & the section RCRA	152,000.00	152,000.00	311,468.00	311,468.00	250,000.00	250,000.00	418,000.00	418,000.00	260,000.00	260,000.00	387,800.00	387,800.00
3	100%	LS	All materials, equipment, labor an superintendence & incidental work to PROVIDE DUST COLLECTION & FULLY CONTAIN THE ENTIRE EXTERIOR of the existing 1,000,000 gallon elevated storage tank, including anchors, outriggers, cables, etc. as required to fully contain blast & paint emissions, as detailed in these specifications	125,000.00	125,000.00	28,800.00	28,800.00	115,000.00	115,000.00	100,000.00	100,000.00	150,500.00	150,500.00	35,000.00	35,000.00
4	100%	LS	For finishing all materials, equipment, labor & superintendence & incidental work to DEHUMIDIFY the interior of the existing 1,000,000 gallon elevated storage tank, including hoses, filters, etc., as detailed in these specifications	20,000.00	20,000.00	29,402.00	29,402.00	44,000.00	44,000.00	10,000.00	10,000.00	46,000.00	46,000.00	12,000.00	12,000.00
5	100%	LS	All materials, equipment, labor & superintendence & incidental work to install 6"Ø DRAIN VALVE with handwheel, located at the base of the riser & directed toward sump area.	1,500.00	1,500.00	950.00	950.00	50.00	50.00	2,500.00	2,500.00	4,000.00	4,000.00	9,500.00	9,500.00
6	100%	LS	All materials, equipment, labor & superintendence & incidental work to install DRAINS (3/4" corporation stops) on each leg of the tank.	1,000.00	1,000.00	1,650.00	1,650.00	2,200.00	2,200.00	3,000.00	3,000.00	4,500.00	4,500.00	5,800.00	5,800.00
7	100%	LS	All materials, equipment, labor & superintendence & incidental work to replace GASKETS on all manways & hatches.	2,000.00	2,000.00	150.00	150.00	950.00	950.00	500.00	500.00	500.00	500.00	700.00	700.00
8	100%	LS	All materials, equipment, labor & superintendence & incidental work to install a 30"Ø AWWA APPROVED FROST FREE ALUMINUM ROOF VENT, including removal of existing vent, installing a carbon steel weld-on flanged neck to accommodate the bolt on installation of the new aluminum vent complete with all stainless bolts, gaskets, welding, etc. Provide drawing with P.E. seal for submittal	6,000.00	6,000.00	4,600.00	4,600.00	6,600.00	6,600.00	6,500.00	6,500.00	10,800.00	10,800.00	9,500.00	9,500.00
9	100%	LS	All materials, equipment, labor & superintendence & incidental work to install an OSHA APPROVED roof to interior bowl access ladder with cable type saf-t-climbs. Install riser access grate at bottom of floor. Furnish drawing of ladder with P.E. seal for submittal	4,800.00	4,800.00	5,190.00	5,190.00	16,850.00	16,850.00	15,000.00	15,000.00	8,000.00	8,000.00	10,900.00	10,900.00
10	100%	LS	All materials, equipment, labor & superintendence & incidental work to install an OSHA APPROVED cable type saf-t-climbs on exterior ladder. Furnish drawing of ladder with P.E. seal for submittal	1,500.00	1,500.00	1,250.00	1,250.00	6,150.00	6,150.00	10,000.00	10,000.00	8,500.00	8,500.00	2,900.00	2,900.00
11	100%	LS	All materials, equipment, labor & superintendence & incidental work to install a mid rail & raising the top rail to 42". Furnish drawing of balcony upgrades stating compliance with OSHA & AWWA with P.E. seal for submittal	15,300.00	15,300.00	4,750.00	4,750.00	19,200.00	19,200.00	10,000.00	10,000.00	23,600.00	23,600.00	17,100.00	17,100.00
12	100%	LS	All materials, equipment, labor & superintendence & incidental work to install a 30"Ø aluminum roof access hatch, Model No. FIR3030, manufactured by Halliday Products	4,800.00	4,800.00	1,700.00	1,700.00	2,700.00	2,700.00	3,000.00	3,000.00	9,700.00	9,700.00	5,100.00	5,100.00
13	100%	LS	All materials, equipment,labor, superintendence & incidental work to remove the existing CATHODIC PROTECTION SYSTEM, including replacement of all anode plate covers with aluminum covers & gasket. Contractor shall seal all insulator holes with non-corrosive insert	2,400.00	2,400.00	500.00	500.00	3,200.00	3,200.00	3,000.00	3,000.00	15,500.00	15,500.00	6,500.00	6,500.00
14	100%	LS	All materials, equipment, labor & superindence & incidental work to install FAA beacon light assembly	3,500.00	3,500.00	375.00	375.00	2,600.00	2,600.00	3,000.00	3,000.00	18,500.00	18,500.00	8,700.00	8,700.00
15	40	MHR	All materials, equipment, labor & superintendence & incidental work to perform welding repairs, surface repairs & general repair work as deemed necessary	125.00	5,000.00	150.00	6,000.00	145.00	5,800.00	300.00	12,000.00	240.00	9,600.00	100.00	4,000.00
16	100	Tube	All materials, equipment, labor & superintendence & incidental work to perform caulking (Sika-flex 1A) work as deemed necessary	75.00	7,500.00	4.00	400.00	50.00	5,000.00	40.00	4,000.00	75.00	7,500.00	50.00	5,000.00
17	2	EA	For Painting a "City of Temple" Logo on the exterior of the tank bowl, including clear coat	3,500.00	7,000.00	955.00	1,910.00	7,000.00	14,000.00	6,000.00	12,000.00	8,800.00	17,600.00	1,500.00	3,000.00
18	100%	LS	All materials, equipment, labor & superintendence & incidental work to install a 12" Cla-val Two Way Altitude Control Valve, Model 210-16, including removal of existing valve & presenting to City as salvage, & providing submittal	20,000.00	20,000.00	10,150.00	10,150.00	22,400.00	22,400.00	15,000.00	15,000.00	28,600.00	28,600.00	31,300.00	31,300.00
19	100%	LS	For Video Taping Project Site Before the Start of Construction on the Project	1,000.00	1,000.00	100.00	100.00	2,000.00	2,000.00	1,000.00	1,000.00	3,000.00	3,000.00	500.00	500.00
20	100%	LS	All materials, equipment, labor & superintendence & incidental work to abrasive blast, prime & paint the INTERIOR of the existing 220,000 gallon elevated storage tank, all appendages, ladders including nut/bolt replacement. Test & disposal of blast media as required to provide a service-able facility that is structurally sound & safe, as detailed in these specifications & the section RCRA	41,000.00	41,000.00	94,487.00	94,487.00	70,000.00	70,000.00	44,000.00	44,000.00	80,000.00	80,000.00	115,100.00	115,100.00
21	100%	LS	All materials, equipment, labor & superintendence & incidental work to, abrasive blast, prime & paint with two color finish, the EXTERIOR of the existing 220,000 gallon elevated storage tank, all appendages, ladders, vent, manways, balcony railing, hatches including nut/bolt replacement per Section G1.11B3 of the Specification. Test & disposal of blast media as required to provide a service-able facility that is structurally sound & safe, as detailed in these specifications & the section RCRA	61,000.00	61,000.00	108,322.00	108,322.00	120,000.00	120,000.00	129,000.00	129,000.00	100,000.00	100,000.00	159,300.00	159,300.00
22	100%	LS	All materials, equipment, labor an superintendence & incidental work to PROVIDE DUST COLLECTION & FULLY CONTAIN THE ENTIRE EXTERIOR of the existing 220,000 gallon elevated storage tank, including anchors, outriggers, cables, etc. as required to fully contain blast & paint emissions, as detailed in these specifications	65,000.00	65,000.00	24,211.00	24,211.00	88,000.00	88,000.00	100,000.00	100,000.00	111,500.00	111,500.00	17,500.00	17,500.00
23	100%	LS	For finishing all materials, equipment, labor & superintendence & incidental work to DEHUMIDIFY the interior of the existing 220,000 gallon elevated storage tank, including hoses, filters, etc., as detailed in these specifications	8,100.00	8,100.00	14,950.00	14,950.00	22,000.00	22,000.00	10,000.00	10,000.00	38,200.00	38,200.00	5,000.00	5,000.00
24	100%	LS	All materials, equipment, labor & superintendence & incidental work to install a 30"Ø MANWAY and catwalk, including hinged cover. Provide drawing with P.E. seal for submittal	4,500.00	4,500.00	3,500.00	3,500.00	5,200.00	5,200.00	7,000.00	7,000.00	8,600.00	8,600.00	11,600.00	11,600.00

BID TABULATION

CITY OF TEMPLE, TEXAS TAYLOR ROAD AND PEPPER CREEK REHABILITATION November 2, 2010; 2:00 PM				BIDDER INFORMATION											
				Utility Service Co., Inc 535 Courtney Hodges Blvd Perry GA 31069		Tank Pro Inc 5500 Watermelon Road Northport AL 35473		Caldwell Tanks Inc 4000 Tower Road Louisville KY 40219		M. K. Painting Inc 4157 Seventh Wyandottie MI 48192		Maquire Iron, Inc. PO Box 1446 Sioux Falls SD 57101		TMI Coatings 3291 Terminal Drive St Paul MN 55121	
25	100%	LS	All materials, equipment, labor & superintendence & incidental work to install 6"Ø DRAIN VALVE with handwheel, located at the base of the riser & directed toward sump area.	1,500.00	1,500.00	1,150.00	1,150.00	4,500.00	4,500.00	2,500.00	2,500.00	5,800.00	5,800.00	9,500.00	9,500.00
26	100%	LS	All materials, equipment, labor & superintendence & incidental work to replace GASKETS on all manways & hatches.	1,500.00	1,500.00	150.00	150.00	950.00	950.00	500.00	500.00	500.00	500.00	700.00	700.00
27	100%	LS	All materials, equipment, labor & superintendence & incidental work to install a 24"Ø AWWA APPROVED FROST FREE ALUMINUM ROOF VENT, including removal of existing vent, installing a carbon steel weld-on flanged neck to accommodate the bolt on installation of the new aluminum vent complete with all stainless bolts, gaskets, welding, etc. Provide drawing of vent with P.E. seal for submittal	4,500.00	4,500.00	4,700.00	4,700.00	6,150.00	6,150.00	6,500.00	6,500.00	9,300.00	9,300.00	8,800.00	8,800.00
28	100%	LS	All materials, equipment, labor & superintendence & incidental work to repair & secure an OSHA APPROVED roof to interior bowl access ladder & exterior ladder, including installation of cable type safe-t-climbs. Install riser access grate at bottom of floor. Furnish drawing of ladder with P.E. seal for submittal	4,100.00	4,100.00	10,136.00	10,136.00	14,500.00	14,500.00	10,000.00	10,000.00	20,200.00	20,200.00	10,900.00	10,900.00
29	100%	LS	All materials, equipment, labor & superintendence & incidental work to install a 30"Ø aluminum roof access hatch, Model No. FIR3030, manufactured by Halliday Products	4,800.00	4,800.00	1,700.00	1,700.00	2,700.00	2,700.00	3,000.00	3,000.00	8,700.00	8,700.00	5,100.00	5,100.00
30	100%	LS	All materials, equipment,labor, superintendence & incidental work to remove the existing CATHODIC PROTECTION SYSTEM, including replacement of all anode plate covers wit aluminum covers & gasket. Contractor shall seal all insulator holes with non-corrosive insert	1,000.00	1,000.00	225.00	225.00	2,200.00	2,200.00	3,000.00	3,000.00	8,500.00	8,500.00	8,000.00	8,000.00
31	100%	LS	All materials, equipment, labor & superindence & incidental work to replace FAA beacon light assembly	3,500.00	3,500.00	375.00	375.00	2,600.00	2,600.00	3,000.00	3,000.00	11,000.00	11,000.00	5,300.00	5,300.00
32	100%	LS	All materials, equipment, labor & superindence & incidental work to modify overflow/drain piping, including installation of piping & valves, & connection to overflow junction box	5,000.00	5,000.00	3,100.00	3,100.00	10,000.00	10,000.00	15,000.00	15,000.00	10,000.00	10,000.00	12,400.00	12,400.00
33	20	MHR	All materials, equipment, labor & superintendence & incidental work to perform welding repairs, surface repairs & general repair work as deemed necessary	125.00	2,500.00	150.00	3,000.00	145.00	** 2,900.00	300.00	6,000.00	240.00	4,800.00	100.00	2,000.00
34	40	Tube	All materials, eqipment, labor & superintendence & incidental work to perform caulking (Sika-flex 1A) work as deemed necessary	75.00	3,000.00	4.00	160.00	50.00	** 2,000.00	50.00	2,000.00	75.00	3,000.00	50.00	2,000.00
35	2	EA	For Painting a "City of Temple" Logo on the exterior of the tank bowl, including clear coat	3,300.00	6,600.00	762.00	1,524.00	7,000.00	14,000.00	6,000.00	12,000.00	8,800.00	17,600.00	1,500.00	3,000.00
36	100%	LS	All materials, equipment, labor & superintendence & incidental work to install an 8" Cla-val Two Way Altitude Control Valve, Model 210-16, including removal of existing valve & presenting to City as salvage, & providing submittal	15,000.00	15,000.00	6,500.00	6,500.00	18,700.00	18,700.00	11,000.00	11,000.00	23,300.00	23,300.00	20,400.00	20,400.00
37	100%	LS	For Video Taping Project Site Before the Start of Construction on the Project	1,000.00	1,000.00	100.00	100.00	2,000.00	2,000.00	1,000.00	1,000.00	3,000.00	3,000.00	500.00	500.00
BID AMOUNT (ITEMS 1 - 37)				\$ 724,900.00		* \$ 885,083.00		\$ 1,027,100.00		\$ 1,120,000.00		\$ 1,229,900.00		\$ 1,257,100.00	

ADD ALTERNATE															
Item No.	Estimated Quantity	Unit	Bid Data Description	Unit Price	Extended Amount	Unit Price	Extended Amount	Unit Price	Extended Amount	Unit Price	Extended Amount	Unit Price	Extended Amount	Unit Price	Extended Amount
1	100%	LS	For the ADDITIONAL COST of furnishing all materials, equipment, labor & superintendence & incidental work to, abrasive blast, prime & paint with two color finish, the EXTERIOR of the existing 1,000,000 gallon elevated storage tank, all appendages, ladders, vent, manways, balcony railing, hatches including nut/bolt replacement per Section G1.11B4 of the Specifications. Test & disposal of blast media as required to provide a service-able facility that is structurally sound & safe, as detailed in these specifications & the section RCRA	\$ 46,000.00	\$ 46,000.00	\$ \$ 20,100.00	\$ 20,100.00	\$ 47,000.00	\$ 47,000.00	\$ 60,000.00	\$ 60,000.00	\$ 306,000.00	\$ 306,000.00	\$ 58,000.00	\$ 58,000.00
2	100%	LS	For the ADDITIONAL COST of furnishing all materials, equipment, labor & superintendence & incidental work to, abrasive blast, prime & paint with two color finish, the EXTERIOR of the existing 220,000 gallon elevated storage tank, all appendages, ladders, vent, manways, balcony railing, hatches including nut/bolt replacement per Section G1.11B4 of the Specifications. Test & disposal of blast media as required to provide a service-able facility that is structurally sound & safe, as detailed in these specifications & the section RCRA	\$ 16,000.00	\$ 16,000.00	\$ \$ 5,035.00	\$ 5,035.00	\$ 23,000.00	\$ 23,000.00	\$ 22,000.00	\$ 22,000.00	\$ 119,000.00	\$ 119,000.00	\$ 22,700.00	\$ 22,700.00
BID AMOUNT - ADD ALTERNATE				\$ 62,000.00		\$ 25,135.00		\$ 70,000.00		\$ 82,000.00		\$ 425,000.00		\$ 80,700.00	

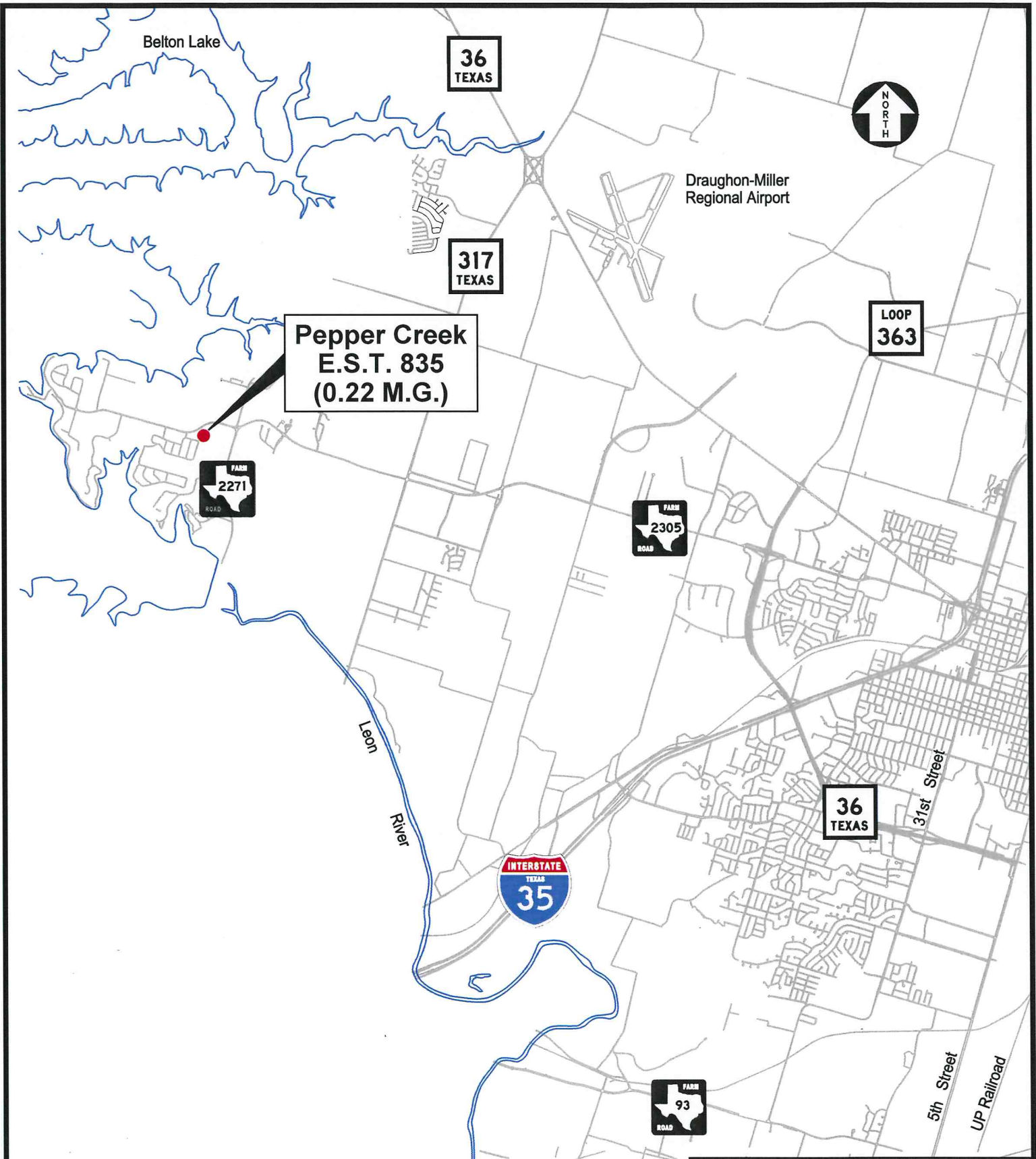
BID SUMMARY							
TOTAL BID AMOUNT (ITEMS 1 - 42)				\$ 724,900.00	\$ 885,083.00	\$ 1,027,100.00	\$ 1,120,000.00
TOTAL BID AMOUNT ADD ALTERNATE				\$ 62,000.00	\$ 25,135.00	\$ 70,000.00	\$ 82,000.00
				\$ 786,900.00	\$ 910,218.00	\$ 1,097,100.00	\$ 1,202,000.00

Did Bidder Attend the Mandatory Pre-Bid Conference?	YES	YES	YES	YES	YES	NO
Did Bidder Acknowledge Addenda No. 1?	YES	YES	YES	YES	YES	YES
Did Bidder provide Bid Security?	YES	YES	YES	YES	YES	YES

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

Ginger R. Tolbert 11/3/10
Ginger R. Tolbert, P.E. Date
Kasberg, Patrick & Associates, LP

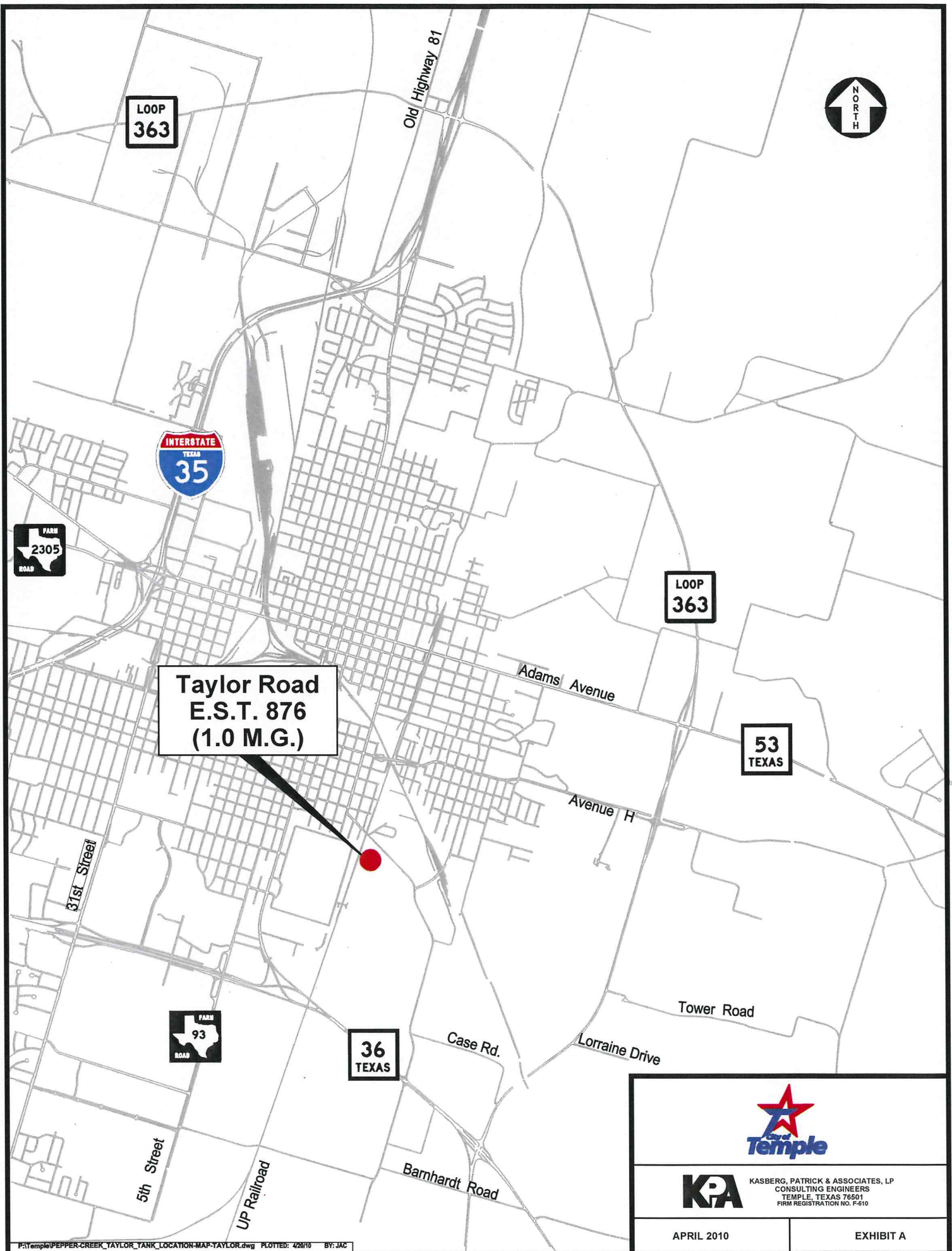




KASBERG, PATRICK & ASSOCIATES, LP
CONSULTING ENGINEERS
TEMPLE, TEXAS 76501
FIRM REGISTRATION NO. F-610

APRIL 2010

EXHIBIT A



RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING A CONSTRUCTION CONTRACT WITH UTILITY SERVICES COMPANY, INC., OF PERRY, GEORGIA, FOR CONSTRUCTION ACTIVITIES REQUIRED TO REHABILITATE THE PEPPER CREEK AND TAYLOR ELEVATED STORAGE TANKS LOCATED IN WEST TEMPLE AND SOUTHEAST TEMPLE, RESPECTIVELY, IN AN AMOUNT NOT TO EXCEED \$724,900; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, on November 2, 2010, the City received 6 bids for construction activities required to rehabilitate the Pepper Creek and Taylor elevated storage tanks located in west Temple and southeast Temple, respectively;

Whereas, the Staff recommends accepting the bid (\$724,900) received from Utility Services Company, Inc., of Perry, Georgia;

Whereas, funds are available for this project in Account No. 561-5100-535-6904 project #100619; and

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

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

Part 1: The City Council authorizes the City Manager, or his designee, to execute a construction contract, not to exceed \$724,900, with Utility Services Company, Inc., of Perry, Georgia, after approval as to form by the City Attorney, for construction activities required to rehabilitate the Pepper Creek and Taylor elevated storage tanks located in west Temple and southeast Temple, respectively.

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

PASSED AND APPROVED this the **18th** day of **November**, 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

11/18/10
Item #4(C)
Consent Agenda
Page 1 of 1

DEPT./DIVISION SUBMISSION & REVIEW:

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

ITEM DESCRIPTION: Consider adopting a resolution authorizing a contract with Rodgers Equipment Company, Inc. of Richardson for the purchase of two new flocculation mixers for Clarifiers #1, #2 and #3 at the Conventional Water Treatment Plant in the amount of \$71,775.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: To maintain TCEQ's regulatory requirements related to water treatment, clarifiers at the conventional treatment plant must remain operational. Flocculation units are utilized in each clarifier for the purpose of mixing chemicals such as coagulants, polymers, and chlorine into the raw water supply that is fed into the clarifier from the raw water pumps. These mixers mix the chemicals into the water, creating flocculation, sedimentation, and disinfection during the treatment process.

Flocculation mixers currently in use on Clarifiers #1, #2 and #3 were installed in 2003. Since their installation, these units have experienced numerous issues, most likely as a result of coupled shafts and worn bearings. It is expected that these new units will be extremely dependable and have an estimated lifespan of 12 to 15 years.

This is a sole source purchase, as the other mixers in operation in the clarifiers are Lightnin brand mixers. Rodgers Equipment is the only authorized Lightnin representative for our area, and is authorized to sell these units and parts exclusively.

FISCAL IMPACT: Funding in the amount of \$71,775 is available in account 520-5100-535-63-10, project # 100664 for the purchase and installation of these flocculation units.

ATTACHMENTS:

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

FY **2010****BUDGET ADJUSTMENT FORM**

Use this form to make adjustments to your budget. All adjustments must balance within a Department.
Adjustments should be rounded to the nearest \$1.

				+		-	
ACCOUNT NUMBER	PROJECT #	ACCOUNT DESCRIPTION	INCREASE		DECREASE		
520-5100-535-63-10	100664	Replace Flocculation Mixers	\$ 1,775				
520-5100-535-63-10	100661	Repair/replacement of pumps, drives,					
		and valves-emergency			1,775		
TOTAL.....			\$ 1,775		\$ 1,775		

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

Costs for replacement of aged flocculation mixers is slightly greater than anticipated. Funding necessary to complete this project is being taken from the same account 63-10, project 100661, emergency pumps, drives, and valves, which is set aside for emergency replacement, as needed.

DOES THIS REQUEST REQUIRE COUNCIL APPROVAL?

☐

Yes

☒

No

DATE OF COUNCIL MEETING _____

WITH AGENDA ITEM?

☐

Yes

☐

No



Department Head/Division Director

11/5/10
Date☒

Approved

☐

Disapproved

Finance

Date

☐

Approved

☐

Disapproved

City Manager

Date

☐

Approved

☐

Disapproved

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING A CONTRACT WITH RODGERS EQUIPMENT COMPANY, INC., OF RICHARDSON, TEXAS, FOR THE PURCHASE OF TWO NEW FLOCCULATION MIXERS FOR CLARIFIERS #1, #2 AND #3 AT THE CONVENTIONAL WATER TREATMENT PLANT, IN THE AMOUNT OF \$71,775.00; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, flocculation mixers currently being used on Clarifiers #1, #2 and #3 at the Convention Water Treatment Plant were installed in 2003 and need to be replaced;

Whereas, the Staff recommends purchasing the mixers (as a sole source purchase) from Rodgers Equipment Company, Inc., of Richardson, Texas, who is the only authorized Lightnin representative for this area – the other mixers in operation in the clarifiers are Lightnin brand mixers;

Whereas, the purchase price will be \$71,775.00, and funds are available for this purchase in Account No. 520-5100-535-6310; 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 two new flocculation mixers for Clarifiers #1, #2 and #3 at the Conventional Water Treatment Plant from Rodgers Equipment Company, Inc., of Richardson, Texas, in the amount of \$71,775.00.

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

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

PASSED AND APPROVED this the 18th day of **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

11/18/10
Item #4(D)
Consent Agenda
Page 1 of 1

DEPT./DIVISION SUBMISSION & REVIEW:

Gary O. Smith, Chief of Police Department

ITEM DESCRIPTION: Consider adopting a resolution authorizing a purchase agreement with Miller Uniforms & Emblems, Inc. for 63 ballistic vests by utilizing BuyBoard contracted pricing in an estimated amount of \$44,730.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: The Temple Police Department has been awarded grant funds through the Department of Justice, Bureau of Justice Assistance Bulletproof Vest Partnership Program and is now seeking approval to purchase 63 vests at one time due to the fact there are 65 Officers that are wearing a vest that is 5 years old or older at this time.

Staff is recommending this purchase be made utilizing an existing contract through the BuyBoard. The contracts available through the BuyBoard have been procured utilizing the State's competitive bidding laws.

FISCAL IMPACT: Funds for the City's match were designated from the Police Department's operating budget to the General Fund's Designated Capital Projects-2010 Bulletproof Partnership Grant Match by Council on 5/20/2010 in the amount of \$22,365. The additional amount needed for the purchase of \$22,365 will be reimbursed through BJA after the purchase is completed.

A budget adjustment is presented for Council's approval appropriating the grant funds and City matching funds to account 260-2000-521-2113 to fund this purchase.

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	
260-2000-521-21-13		Clothing & Uniform	\$ 44,730			
260-0000-490-25-89		Transfer In - Gen Fund	22,365		-	
260-0000-431-01-63		Federal Grants	22,365		-	
110-9100-591-81-60		Transfer Out - Grant Fund	22,365			
110-0000-352-13-45		Desg Cap Proj - Bulletproof Vest Grant			22,365	
		DO NOT POST				
TOTAL.....			\$ 111,825		\$ 22,365	

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

To appropriate grant funds and City matching funds to purchase bulletproof vests for the Police Department. The grant funds are from the Bureau of Justice Assistance under the 2010 Bulletproof Vest Partnership Program. The total grant amount is \$22,365 with city matching funds of \$22,365. On May 20, 2010 Council approved designating \$22,365 for this grant from the Police Department's operating budget.

DOES THIS REQUEST REQUIRE COUNCIL APPROVAL?

☒

Yes

☐

No

DATE OF COUNCIL MEETING

11/18/2010

WITH AGENDA ITEM?

☒

Yes

☐

No

Department Head/Division Director

Date

☐

Approved

☐

Disapproved

Finance

Date

☐

Approved

☐

Disapproved

City Manager

Date

☐

Approved

☐

Disapproved

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING THE PURCHASE OF 63 BALLISTIC VESTS FOR THE TEMPLE POLICE DEPARTMENT FROM MILLER UNIFORMS & EMBLEMS, INC., THROUGH THE BUYBOARD LOCAL GOVERNMENT ONLINE PURCHASING COOPERATIVE, IN THE APPROXIMATE AMOUNT OF \$44,730; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, the Temple Police Department was awarded grant funds through the Department of Justice, Bureau of Justice Assistance Bulletproof Vest Partnership Program and requests approval to purchase 63 vests;

Whereas, the Staff recommends purchasing the ballistic vests from Miller Uniforms and Emblems, Inc., through the BuyBoard local government online purchasing cooperative, in the approximate amount of \$44,730;

Whereas, funds are available for the purchase but an amendment to the FY2010-11 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 63 ballistic vests for the Temple Police Department from Miller Uniforms & Emblems, Inc., through the BuyBoard local government online purchasing cooperative, in the approximate amount of \$44,730.

Part 2: The City Council approves an amendment to the FY2010-2011 budget, substantially in the form of the copy attached as Exhibit A, for this purchase.

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

PASSED AND APPROVED this the 18th day of November, 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

11/18/2010
Item #4(E)
Consent Agenda
Page 1 of 1

DEPT./DIVISION SUBMISSION & REVIEW:

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

ITEM DESCRIPTION: Consider adopting a resolution authorizing the additional purchase, under the annual purchase agreement with APAC Texas, Inc of Belton, for hot mix asphalt at \$46 per ton in an estimated amount of \$35,000.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: On September 16, 2010, City Council authorized an annual contract for FY 2011 with APAC Texas for the purchase of hot mix asphalt. Budgeted funds available for regular City-wide street maintenance (repair of potholes, etc) for FY 2011 are \$46,000.

Over the past several months, pavement conditions in areas near the Airport have deteriorated significantly, resulting in total pavement failure on various sections of Mouser Road, which is located within the Reinvestment Zone. There is a need at this time to perform substantial maintenance on these sections of pavement to ensure the safety of the traveling public. This work will require the additional purchase of 700 to 750 tons of asphalt to perform necessary maintenance, above the estimated purchase of City-wide maintenance needs in the current year.

FISCAL IMPACT: Funds in the amount of \$100,000 are available in the Reinvestment Zone No. 1 Financing Plan, account 795-9500-531-6317, project #100693, for road maintenance within the boundaries of the Reinvestment Zone No. 1. It is estimated that \$35,000 of these funds will be needed for the purchase of hot mix asphalt for various sections of Mouser Road.

ATTACHMENTS:

[Resolution](#)

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING THE ADDITIONAL PURCHASE UNDER THE ANNUAL PURCHASE AGREEMENT WITH APAC TEXAS, INC., OF BELTON, TEXAS, FOR HOT MIX ASPHALT AT \$46 PER TON, IN AN ESTIMATED AMOUNT OF \$35,000; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, on September 16, 2010, the City Council authorized an annual purchase agreement with APAC Texas, Inc., for the purchase of hot mix asphalt;

Whereas, pavement conditions in areas near the Airport have deteriorated significantly and Staff needs to perform the necessary maintenance in these areas which will necessitate the additional purchase of 700-740 tons of asphalt;

Whereas, funds are available for this expenditure in Account No. 795-9500-531-6317, project #100693; 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 additional purchase under the annual purchase agreement with APAC, Texas, Inc., of Belton, Texas, for hot mix asphalt at \$46 per ton, in an estimated amount of \$35,000.

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

PASSED AND APPROVED this the **18th** day of **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

11/18/10
Item #4(F)
Consent Agenda
Page 1 of 2

DEPT./DIVISION SUBMISSION & REVIEW:

Judy Duer, Library Director

ITEM DESCRIPTION: Consider adopting a resolution authorizing an agreement with the Texas State Library and Archives Commission for the Loan Star Libraries Grant in the amount of \$19,859.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: As in the prior nine fiscal years, Temple Public Library will receive funds from the State of Texas through the Loan Star Libraries grant. The amount received by each library is based on a formula that is based on local collection development funds and whether or not the library charges a non-resident fee. Since Council voted to drop our non-resident fee in November 2001, again this fiscal year Temple Public Library will receive the maximum amount for a library our size, \$19,859. This is down from last year's grant due to a reduction in the state's budget. In order to receive the funds, we had to submit a budget and program plan to the state library. Our plan proposed that we expend the funds to augment the library's main collection and the bookmobile collection in several specific areas, including both print and audiovisual resources, based on staff recommendations. We will also purchase two new early literacy computer stations, a second computer for the newly enlarged children's reference desk, and a computer for staff to use to learn Spanish, in order to better help our Spanish speaking patrons. We will also purchase special puppets for use during story time and a Wii gaming system for the new teen center. There is no match required to receive these funds.

As in prior years, the State Library has produced a contract, which will need to be signed by an authorized representative of our governing authority. Once the contract has been signed and returned the grant funds will be disbursed. Grant funds must be obligated by the end of the State fiscal year, August 31, 2011, and expended by October 15, 2011.

FISCAL IMPACT: A budget adjustment is presented for Council's approval appropriating the grant funds in the amount of \$19,859 for the purchase of the following items: \$4,074 for the purchase of books for the library, \$6,800 for the purchase of audiovisual materials for the collection, \$7,635 for the purchase of computers, \$350 for puppets, and \$1,000 for the Wii gaming system. The grant funds must be obligated by August 31, 2011.

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	
260-4000-555-21-20		Furniture & Fixtures	\$ 350			
260-4000-555-22-11		Instruments/Special Eqp	1,000			
260-4000-555-22-21		Computer Equipment	7,635			
260-4000-555-22-25		Books & Periodicals	4,074			
260-4000-555-25-22		Micro Film/Audio Visual	6,800			
260-0000-431-02-61		State Grants	19,859			
TOTAL.....			\$ 39,718		\$ -	

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

Appropriate funds from the Loan Star Libraries Grant in the amount of \$19,859. Grant funds will be used to augment the library's main collection and the bookmobile collection in several specific areas, including both print and audiovisual resources. Grant funds will also be used to purchase two early literacy computer stations, a second computer for the children's reference desk and a staff computer. Additionally, funds will be used to purchase puppets for use during story time and a Wii gaming system for the teen center. The Loan Star Libraries Grant requires no City match but funds must be obligated by August 31, 2011 and expended by October 15, 2011.

DOES THIS REQUEST REQUIRE COUNCIL APPROVAL?

☒

Yes

☐

No

DATE OF COUNCIL MEETING

18-Nov-10

WITH AGENDA ITEM?

☒

Yes

☐

No

Department Head/Division Director_____
Date☐
☐

Approved

Disapproved

Finance_____
Date☐
☐

Approved

Disapproved

City Manager_____
Date☐
☐

Approved

Disapproved

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING THE CITY MANAGER TO EXECUTE AN AGREEMENT WITH THE TEXAS STATE LIBRARY AND ARCHIVES COMMISSION FOR THE LONE STAR LIBRARIES GRANT IN THE AMOUNT OF \$19,859; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, the Temple Public Library is eligible to receive \$19,859 from the Texas State Library and Archives Commission from the Lone Star Libraries Grant program;

Whereas, the Texas State Library and Archives Commission has submitted an agreement which the City must approve and sign prior to receiving the grant funds;

Whereas, an amendment to the 2010-2011 budget needs to be approved to appropriate the funds (once received) to the appropriate Library 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 an agreement with the Texas State Library and Archives Commission, after approval as to form by the City Attorney, for the Lone Star Libraries Grant, and accepts any funding received from this program.

Part 2: The City Council authorizes an amendment, a copy of which is attached hereto and made a part hereof for all purposes as Exhibit A, to the 2010-2011 budget for this grant funding.

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

PASSED AND APPROVED this the **18th** day of **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

11/18/10
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Consent Agenda
Page 1 of 2

DEPT./DIVISION SUBMISSION & REVIEW:

Lonzo Wallace, Fire Chief
Belinda Mattke, Director of Purchasing

ITEM DESCRIPTION: Consider adopting a resolution authorizing the following:

1. An interlocal agreement with the City of North Richland Hills to allow for the utilization of North Richland Hills' annual contract for fire fighting protective clothing with Casco Industries, and
2. The purchase of fire fighting protective clothing from Casco Industries utilizing the City of North Richland Hills annual contract in the estimated amount for FY 2011 of \$36,000.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: The City of North Richland Hills' Council authorized an annual purchase agreement with Casco on October 11, 2010 for the purchase of fire fighting protective equipment. This contract was established on behalf of five (5) cities which include: City of North Richland Hills, City of Watauga, City of Richardson, City of Euless, and City of Southlake. The City of Temple wishes to piggyback onto this annual purchase agreement, and Casco Industries has agreed to extend these contracted prices to the City of Temple.

The ability to do this is made possible through the attached interlocal agreement with the City of North Richland Hills. Staff recommends Council authorize the interlocal agreement in order to facilitate purchases of fire fighting protective equipment with Casco Industries through the annual contract with North Richland Hills.

The Fire Department anticipates needing to purchase 20 sets of protective jackets and trousers in FY 2011 utilizing this contract. The 20 sets will be ordered on an as needed basis for new recruits and others whose equipment is no longer serviceable.

FISCAL IMPACT: Funding for this purchase is available in account 110-2231-522-2113, Fire Department clothing and uniforms. Currently \$65,687.17 is available in this account with a specific designation for the purchase of 16 sets of bunker gear (i.e. protective jackets and trousers) in the amount of \$29,252. Staff anticipates being able to utilize savings from the remaining budget in this account designated for the purchase of uniform pants, shirts, t-shirts, caps, and badges to enable the purchase of an additional 4 sets of bunker gear.

ATTACHMENTS:

[Interlocal Agreement](#)

[North Richland Hills Agenda Item with pricing sheets](#)

[Resolution](#)

INTERLOCAL AGREEMENT
BETWEEN
CITY OF NORTH RICHLAND HILLS AND CITY OF TEMPLE

This Agreement made and entered into by and between the City of North Richland Hills, hereinafter referred to as "NRH", and the City of Temple, hereinafter referred to as "City of Temple".

Pursuant to the authority granted by the Texas Interlocal Cooperation Act {Article 4413 (32c) Vernon's Annotated Texas Statutes} providing for the cooperation between local governmental bodies, the parties hereto, in consideration of the premises and mutual promises contained herein, agree as follows:

NRH and City of Temple desire to enter into an Agreement for the purchase of goods and services from vendors selected through the competitive bidding process. Specifications for said items should be determined in cooperation with the final approval of the entity processing the bid.

The responsibility of each entity shall be as follows:

I.

NORTH RICHLAND HILLS

1. NRH shall be allowed to purchase goods and services from vendors who have been selected by City of Temple through the competitive bidding process. NRH will place orders directly with and pay directly to the selected vendor for goods and services purchased through a contract.
2. All purchases will be within the specifications that have been agreed to. NRH shall be responsible for the Vendors compliance with all conditions of delivery, price and quality of the purchased goods or services.
3. NRH shall give a 30-day written notification to all participating agencies of any change or cancellation of participation.
4. The Purchasing Manager, shall be designated as the official representative to act for NRH all matters relating to this cooperative purchasing agreement.

II.

City of Temple

1. City of Temple shall be allowed to purchase goods and services from vendors who have been selected by NRH through the competitive bidding process of NRH. City of Temple will place orders directly with and pay directly to the selected vendor for goods and services purchased through a contract.

2. All purchases will be within the specifications that have been agreed to. City of Temple shall be responsible for the Vendors compliance with all conditions of delivery, price and quality of the purchased goods or services.
3. City of Temple shall give a 30-day written notification to a participating agency of any change or cancellation of participation.
4. Belinda Mattke, Director of Purch, shall be designated as the official representative to act for City of Temple in all matters relating to this cooperative purchasing agreement.

This Agreement shall take effect upon execution by the signatories and shall be in effect from date of execution until terminated by either party with thirty (30) written notice.

IN WITNESS WHEREOF, the parties hereto have caused this agreement to be executed by their authorized officers.

CITY OF NORTH RICHLAND HILLS

CITY OF TEMPLE

BY: _____
City Manager

BY: _____

TITLE _____

DATE: _____

DATE: _____

ATTEST:

ATTEST:

City Secretary

TITLE: _____

APPROVED AS TO FORM:

APPROVED AS TO FORM:

Attorney for the City

**CITY OF
NORTH RICHLAND HILLS**

Department: Finance
Presented by: Sean Hughes

Council Meeting Date: 10-11-2010
Agenda No. F.7

Subject: PU 2010-023 Approve Bid # 10-042 an Annual Contract for Fire Fighting Protective Clothing to Casco Industries

Summary:

Award the annual contract for Firefighting Protective Clothing.

General Description:

The City of North Richland Hills has taken the lead role in developing and encouraging cooperative purchasing among the governmental entities that are listed below for the purchase of Firefighting Protective Clothing. Council is being asked to award this annual contract to Casco Industries. It is estimated that under this contract a total amount of \$215,500 would be spent by the following cities:

City of North Richland Hills	\$58,032
City of Watauga	\$10,000
City of Richardson	\$86,795
City of Euless	\$30,200
City of Southlake	\$30,416

Notice of the City's intent to bid was advertized in local newspapers, as required by State statute and posted on the City's Purchasing website. Numerous vendors were contacted and requested to participate in this process. Bid specifications were viewed on the City's website by sixteen (16) vendors and three (3) bids were received.

Vendor/Firm		Casco Industries		Municipal Emergency Services (MES)		Galls Incorporated	
Description	Est. Qty	Unit	Total	Unit	Total	Unit	Total
Protective Jacket for Fire Fighting	93	\$979.80	\$91,121.40	\$1,159.34	\$107,818.62		No bid
Protective Trousers for Fire Fighting	93	\$732.20	\$68,094.60	\$787.57	\$73,244.01		No bid
Structural Boots	41	\$305.00	\$12,505.00	\$315.00	\$12,915.00	\$224.00	\$9,184.00
Structural Gloves	138	\$63.50	\$8,763.00	\$65.94	\$9,099.72	\$79.00	\$10,902.00
Firefighters Helmet	56	\$201.00	\$11,256.00	\$187.40	\$10,494.40		No bid
Firefighting Hood	111	\$29.00	\$3,219.00	\$27.34	\$3,034.74	\$38.00	\$4,218.00
Estimated Total			\$194,959.00		\$216,606.49		\$24,304.00

Purchases totaling \$16,032 from FY 09-10 budget were delayed because the Firefighting Protective Clothing contract had expired. The North Richland Hills Fire Department will purchase \$16,032 from encumbered funds and an estimated \$42,000 from FY 10-11 budget totaling \$58,032.

There are no set required quantities to be purchased under this contract. The specifications call for pricing to remain firm for a twelve (12) month period with option to review the pricing and extend the annual contract for four (4) additional twelve (12) month period if it remains beneficial to the City.

Recommendation:

To approve Bid # 10-042 an Annual Contract for Fire Fighting Protective Clothing to Casco Industries

QUOTE / ORDER FORM

PO NUMBER:	0	DATE:	
QUOTE NAME:	NEFDA	EXPIRES:	9/30/2011

SALESMAN _____ DEALER NAME: **CASCO INDUSTRIES**

Jacket Level 1

ORDER QTY		CODE	FEATURE DESCRIPTION	Note :	QUOTED QTY:
	311		7.5 OZ GOLD GEMINI PBI MATRIX G-XTREME JACKET	<i>Due to space limitations, some options & placements are not available on smaller sized garments</i>	
	77-4		* CALDURA SL2 QUILT LINER		
			* CROSSTECH MOISTURE BARRIER		
			* NYC L/Y TRIPLE TRIM		
			* 13PB 3X3.5X9 RADIO PKT LEFT CHEST		
			* SELF MIC STRAP ABOVE RADIO PKT		
			* SURVIVOR FLASHLIGHT HOLDER RIGHT CHEST		ANNUAL CONTRACT
			* NOMEX HAND & WRIST GUARDS sewn to liner		PRICES FOR EACH OF THE FOLLOWING 4 YEARS
			* BLACK SUEDE CUFFS		SUBJECT TO PRICE INCREASE NOT TO EXCEED
			* SEPARATING LINER		CPI INDEX
			* VELCRO & SNAPS FOR HANGING LETTER PATCH		
					NOTE: THE IS AN INITIAL \$75.00 SET-UP CHARGE
					FOR CUSTOM PRINTED PATCHES
					2010 PRICES
Order List (Base List x Qty):				\$979.80	BASE LIST: \$979.80
ALLOWABLE VARIATIONS: (ADD PRICE IF SELECTED)					
			FOR MILLENIA XT SHELL, ADD	\$32.00	
			FOR BLACK GEMINI PBI MATRIX OUTER SHELL, ADD:	\$43.00	
			FOR QUANTUM 3D 2 LYR THERMAL LINER, ADD:	\$31.00	
			FOR CROSSTECH 3 LYR MOISTURE BARRIER, ADD:	\$78.00	
			FOR NFPA VERTICAL TRIM STYLE:	N/C	
			FOR SLT LETTERS, ADD EA:	\$3.00	
			FOR COAT SNAP, ADD: (ADVISE LOC)	\$3.00	
			FOR SELF MIC STRAP, ADD: (ADVISE LOC)	\$3.00	
			FOR DRAGON HIDE CUFFS, ADD	\$7.00	
			FOR GRAY SUEDE CUFFS:	N/C	
			FOR SEWN ON LETTER PATCH, ADD:	\$16.00	
			FOR HANGING LETTER PATCH, ADD:	\$35.00	
			FOR EMBROIDERED AMERICAN FLAG RIGHT SLEEVE, ADD:	\$10.00	
			FOR FULL UPPER THERMAL, ADD:	\$46.00	
			FOR 7C CLOSURE (HOOK&DEE IN/VELCRO OUT), ADD:	\$22.00	
			FOR CUSTOM PRINTED TX FLAG (ADVISE LOC), ADD:	\$15.00	
				TOTAL LIST: \$979.80	

Note : No Oversize charges until size sixty (60).

QUOTE / ORDER FORM

PO NUMBER:	0	DATE:	
QUOTE NAME:	NEFDA	EXPIRES:	9/30/2011

SALESMAN	DEALER NAME: CASCO INDUSTRIES
----------	--------------------------------------

G-Xtreme Pant

MODEL NUMBER: 41177-4						LENGTH:		QUOTED QTY:		
ORDER QTY	CODE	FEATURE DESCRIPTION	Note : Due to space limitations, some options & placements are not available on smaller sized garments							
	411	7.5 OZ GOLD GEMINI PBI MATRIX G-XTREME PANT								
	77-4	* CALDURA SL2 QUILT LINER								
		* CROSSTECH MOISTURE BARRIER								
		* 3" L/Y TRIPLE TRIM AROUND CUFFS								
		* BLACK SUEDE KNEES								
		* SILIZONE PADDED KNEES	ANNUAL CONTRACT							
		* BLACK SUEDE CUFFS	PRICES FOR EACH OF THE FOLLOWING 4 YEARS							
		* SEPARATING LINER	SUBJECT TO PRICE INCREASE NOT TO EXCEED							
			CPI INDEX							
			2010 PRICES							
Order List (Base List x Qty):								\$732.20	BASE LIST:	\$732.20
ALLOWABLE VARIATIONS: (ADD PRICE IF SELECTED)										
		FOR MILLENIA XT SHELL, ADD:	\$25.00			\$0.00				
		FOR BLACK GEMINI PBI MATRIX SHELL, ADD:	\$32.00			\$0.00				
		FOR QUANTUM 3D 2 LYR THERMAL LINER, ADD:	\$27.00			\$0.00				
		FOR CROSSTECH 3 LYR MOISTURE BARRIER, ADD:	\$69.00			\$0.00				
		FOR DRAGONHIDE KNEES, ADD:	\$3.00			\$0.00				
		FOR GRAY SUEDE KNEES, DEDUCT:	N/C			\$0.00				
		FOR DRAGONHIDE CUFFS, ADD:	\$12.00			\$0.00				
		FOR GRAY SUEDE CUFFS, DEDUCT:	N/C			\$0.00				
		FOR DIVIDER IN 16P PKT, ADD: (ADVISE LOC)	\$10.00			\$0.00				
TOTAL LIST:										\$732.20

Note : No Oversize charges until size sixty (60).

QUOTE / ORDER FORM

PO NUMBER:

C

DATE:

QUOTE NAME:

NEFDA

EXPIRES:

9/30/2011

SALESMAN

DEALER NAME: **CASCO INDUSTRIES**

G-Xcel Pant

MODEL NUMBER: E1177-4		LENGTH:	QUOTED QTY:		
ORDER QTY	CODE	FEATURE DESCRIPTION	Note : Due to space limitations, some options & placements are not available on smaller sized garments		
	E11	7.5 OZ GOLD GEMINI PBI MATRIX G-XCEL PANT			
	77-4	* CALDURA SL2 QUILT LINER			
		* CROSSTECH MOISTURE BARRIER			
		* 3" L/Y TRIPLE TRIM AROUND CUFFS			
		* BLACK SUEDE KNEES			
		* SILIZONE PADDED KNEES	ANNUAL CONTRACT		
		* BLACK SUEDE CUFFS	PRICES FOR EACH OF THE FOLLOWING 4 YEARS		
			SUBJECT TO PRICE INCREASE NOT TO EXCEED		
			CPI INDEX		
		NOTE: Seperating liner N/A on G-Xcel style			
			2010 PRICES		
Order List (Base List x Qty):		\$710.00	BASE LIST: \$710.00		
ALLOWABLE VARIATIONS: (ADD PRICE IF SELECTED)					
		FOR MILLENIA XT SHELL ADD	\$18.00		\$0.00
		FOR DRAGON HIDE CUFFS, ADD	\$12.00		\$0.00
		FOR DRAGON HIDE KNEES, ADD	\$3.00		\$0.00
		FOR BLACK GEMINI PBI MATRIX OUTER SHELL, ADD:	\$32.00		\$0.00
		FOR QUANTUM 3D 2 LYR THERMAL LINER, ADD:	\$25.00		\$0.00
		FOR CROSSTECH 3 LYR MOISTURE BARRIER, ADD:	\$64.00		\$0.00
		FOR DIVIDER IN 16P PKT, add	\$10.00		\$0.00
		FOR GREY SUEDE KNEES	N/C		\$0.00
		FOR GREY SUEDE CUFFS	N/C		\$0.00
		FOR NOMEX BELT CLOSURE W/WIDE BELT LOOPS, ADD:	\$35.00		\$0.00

Note : No Oversize charges until size sixty (60).

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING AN INTERLOCAL AGREEMENT WITH THE CITY OF NORTH RICHLAND HILLS TO ALLOW FOR THE UTILIZATION OF NORTH RICHLAND HILLS' ANNUAL CONTRACT FOR FIRE FIGHTING PROTECTIVE CLOTHING WITH CASCO INDUSTRIES; AUTHORIZING THE PURCHASE OF FIRE FIGHTING PROTECTIVE CLOTHING FROM CASCO INDUSTRIES UTILIZING THE CITY OF NORTH RICHLAND HILLS ANNUAL CONTRACT, IN THE ESTIMATED AMOUNT OF \$36,000 FOR FY 2011; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, the City of North Richland Hills' Council authorized an annual purchase agreement with Casco Industries on October 11, 2010, for the purchase of fire fighting protective equipment;

Whereas, the Staff recommends authoring the City to enter into an interlocal agreement with the City of North Richland Hills in order to facilitate purchases of fire fighting protective equipment with Casco Industries through the annual contract with North Richland Hills;

Whereas, the estimated expenditure for FY 2011 for the fire fighting protective clothing by Temple Fire and Rescue is estimated to be \$36,000 – funds are available for this purchase in Account No. 110-2231-522-2113; and

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

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

Part 1: The City Council authorizes the City Manager, or his designee, to execute an interlocal agreement with the City of North Richland Hills, after approval as to form by the City Attorney, to allow for the utilization of North Richard Hills' annual contract for fire fighting protective clothing with Casco, Industries.

Part 2: The City Council authorizes the purchase of fire fighting protective clothing from Casco Industries utilizing the City of North Richland Hills annual contract, in the estimated amount of \$36,000, for FY 2011.

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

PASSED AND APPROVED this the **18th** day of **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

11/18/10
Item #4(H)
Consent Agenda
Page 1 of 2

DEPT./DIVISION SUBMISSION & REVIEW:

Nicole Torralva, PE, Director of Public Works
Michael C. Newman, PE, CFM, Assistant Director of Public Works/City Engineer

ITEM DESCRIPTION: SECOND READING – Consider adopting an ordinance amending the Code of Ordinances of the City of Temple by adding a new Chapter 27, “Storm Water Management,” including a section entitled “Erosion and Sedimentation Control” per the City of Temple’s Storm Water Management Program and as required by Texas Commission on Environmental Quality (TCEQ).

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

ITEM SUMMARY: Staff recommends approval of language to create a new Chapter 27, “Storm Water Management” and to include a section entitled “Erosion and Sedimentation Control” as described above. The EPA has implemented a body of regulations (“Phase II Storm Water Rules”) involving storm water that applied to cities under 100,000 (prior regulations had just applied to cities greater than 100,000). In the State of Texas, TCEQ has implemented the Phase II regulation by requiring cities with a population of less than 100,000 to adopt several new ordinances as a part of the best management practices (BMP) mandated in the City of Temple’s Storm Water Management Program. These ordinances include erosion and sedimentation during construction, post construction after construction, and illicit discharge to streams and illegal dumping. The ordinance being proposed in this item is the erosion and sedimentation control ordinance, intended to improve water quality during land disturbances of an area of one or more acres inside of the city limits. The proposed ordinance language mirrors current state law minimum requirements.

City staff discussed proposed ordinance language with Temple Area Builders Association (TABA) review committee on March 25, 2010 and provided a presentation to the Governmental Affairs Committee on April 28, 2010. City staff provided a workshop presentation to City Council on August 19, 2010. On October 18, 2010 the Planning and Zoning Commission held a public hearing. There were no speakers present. No Planning and Zoning Commission action was taken or required as this ordinance is not amending either the Subdivision or Zoning ordinances.

The City Council is the final authority to approve language changes to ordinances.

FISCAL IMPACT: No fiscal impact to City funds. Requirements for review, inspection and enforcement activities will increase city staff work load. Such workload increases are believed to be absorbed with existing positions. However, as development increases, and as future stated unfunded mandates are implemented, the need for additional city staff may need to be revisited.

ATTACHMENTS:

Temple Area Builders Association – Governmental Affairs Committee Letter of Support
Ordinance



October 11, 2010

Mr. Michael Newman
City Engineer
City of Temple
3210 East Avenue H
Bldg A, Ste 130
Temple, TX 76501

Mr. Newman,

It has been brought to the attention of the Government Affairs Committee of the Temple Area Builders Association that you will soon be asking the Temple City Council to consider adopting an erosion ordinance. We have been made to understand that the Texas Commission on Environmental Quality requires several ordinances as part of Temple's Phase 2 Texas Pollutant Discharge Elimination System - Storm Water Management Program. They are Erosion and Sedimentation Control (ESC), Post-construction (PC) and Illicit Discharge (ID).

You and your staff have graciously included our organization in the formulation of this ordinance. City staff presented to TABA ESC review committee on March 25, 2010 and to the TABA-GAC on April 28, 2010. This ordinance applies to soil disturbance 1 acre or more inside of the city limits. It will be administered through the existing "construction permit" issued by engineering services in Public Works Department; therefore not a new permit, but appending an existing permit process. No new fees are proposed at this time.

We agree with and appreciate the fact that there are some exemptions such as existing nursery and agriculture operations (including ranching), tree cutting and mulching (no soil disturbance over 1 acre), and land fill operations.

It remains our hope that the City will carefully consider questions that remain in regard to the erosion ordinance as they move to adopt it. These include:

- How will the City administer this program?
- Does the City intend to enforce this program in the ETJ?

We remain committed to working with the City to address issues as they arise. The TCEQ mandates under TPDES are among a handful of items that we've worked with the City of Temple on this year. Thanks again for including TABA in the process. We support your effort to adopt the erosion effort in keeping with the TCEQ mandate and we ask that every effort is taken to assure that it accomplishes it's goals while assuring every opportunity to assess future land development projects without unnecessary or costly interruption.

Sincerely,


John Howe
Chairman
TABA Government Affairs Committee

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AMENDING THE CODE OF ORDINANCES OF THE CITY OF TEMPLE BY ADDING A NEW CHAPTER 27, ENTITLED, "STORM WATER MANAGEMENT," PROVIDING REGULATIONS FOR THE DESIGN, CONSTRUCTION, USE, AND MAINTENANCE OF ANY RESIDENTIAL AND NON-RESIDENTIAL SUBDIVISION DEVELOPMENT AND APPLICABLE CITY PROJECTS OR OTHER ACTIVITY THAT DISTURBS OR BREAKS THE TOPSOIL OR RESULTS IN THE MOVEMENT OF EARTH ON LAND IN THE CITY OF TEMPLE; PROVIDING A REPEALER; PROVIDING A SAVINGS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, the construction process causes an increased likelihood of soil erosion;

Whereas, soil erosion threatens water quality, animal habitats, and can require repair of drainage ways, waterways and watercourses; 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 Code of Ordinances of the City of Temple, Texas, is amended by adding a new Chapter 27, entitled, "Storm Water Management," to read as follows:

Chapter 27

STORM WATER MANAGEMENT

ARTICLE I. EROSION AND SEDIMENTATION

Sec. 27 -1. Intent.

During the construction process, soil is highly vulnerable to erosion by wind and water. Eroded soil endangers water resources by reducing water quality and causing the siltation of aquatic habitat for fish and other desirable species. Eroded soil also necessitates repair of

drainage ways, waterways, and watercourses. In addition, clearing and grading during construction cause the loss of native vegetation necessary for terrestrial and aquatic habitat.

As a result, the purpose of this local regulation is to safeguard persons, protect property, and prevent damage to the environment in the city. This ordinance will also promote the public welfare by guiding, regulating, and controlling the design, construction, use, and maintenance of any residential and non-residential subdivision development and applicable city projects or other activity that disturbs or breaks the topsoil or results in the movement of earth on land in the city.

Sec. 27-2. Jurisdiction.

This ordinance shall only apply to projects occurring within the city limits.

Sec. 27 -3. Definitions.

Clearing is any activity that removes the vegetative surface cover. Vegetative cutting and mulching is exempted from this definition.

City Engineer shall mean city engineer or his/her designee.

Drainage way is any creek, stream, channel, swale, or low lying area that conveys surface runoff throughout the site.

Erosion control is a measure that prevents erosion.

Grading is the excavation or fill of material, including the resulting conditions thereof.

Land disturbing activity means any activity, including but not limited to excavation, clearing, and grading, which disturbs the natural or improved vegetative ground cover so as to expose soil to the erosive forces of rain, storm water runoff or wind for residential and non-residential subdivisions and applicable city projects. Land disturbing activity does not include any vegetative cutting and mulching. All installations and maintenance of franchised utilities, including but not limited to telephone, gas, cable and electric, shall be considered land disturbing activities.

Perimeter control is a barrier that prevents sediment from leaving a site by filtering sediment-laden runoff or diverting it to a sediment trap or basin.

Permittee is any individual or organization which holds or acquires a building permit or construction permit.

Phasing is clearing a parcel of land in distinct phases, with the stabilization of each phase completed before the clearing of the next.

Sediment control is any measure that prevents eroded sediment from leaving the site.

Site is a parcel of land or a contiguous combination thereof, where grading work is performed as a single unified operation.

Stabilization is the use of practices that prevent exposed soil from eroding.

Start of construction is the first land-disturbing activity associated with a development, including land preparation such as clearing, grading, and filling; installation of streets and walkways; excavation for basements, footings, piers, or foundations; erection of temporary forms; and installation of accessory buildings such as garages.

Watercourse is any body of water, including, but not limited to lakes, ponds, rivers, streams, and bodies of water delineated by the city.

Waterway is a channel that directs surface runoff to a watercourse or to the public storm drain.

Sec. 27-4. Erosion and sedimentation control plan.

- (a) Generally. An erosion and sedimentation control plan shall consist of a site plan with necessary details, showing the property where land disturbing activity will take place and showing the locations and types of devices, procedure and practices to be used to control erosion and sedimentation. No person shall conduct any land-disturbing activity without the prior written approval of an erosion and sediment control plan by the city engineer.
- (b) Applicability. Any time land disturbing activities which will disturb an area of land one (1) acre or more erosion and sedimentation control plans must be prepared by or under the direction of a licensed professional engineer or a certified professional in erosion and sedimentation control (CPESC) indicating the specific measures and sequencing to be used to control sediment and erosion on a development site during and after construction.
 - 1. The erosion and sedimentation control plan shall be part of the application for construction permit for the construction of public improvements for all sites meeting the aforementioned applicability criteria.
 - 2. The erosion and sedimentation control plan shall be part of the application for building permit for the construction of all structures on sites meeting the aforementioned applicability criteria.
 - 3. If fill or grading are proposed to take place on a site not requiring either a construction permit submittal or building permit submittal, a separate erosion and sedimentation control plan shall be required to be reviewed by the city engineer.
- (c) The erosion and sediment control plan shall include the following:
 - 1. A geotechnical report or soil conservation map identifying soils;
 - 2. A sequence of construction of the development site, including stripping and clearing; rough grading; construction of utilities, infrastructure, and buildings; and final grading and landscaping. Sequencing shall identify the expected date on which clearing will begin, the estimated duration of exposure of cleared areas, areas of clearing, installation of temporary erosion and sediment control measures, and establishment of permanent vegetation;
 - 3. All erosion and sediment control measures necessary to meet the objectives of this local regulation throughout all phases of construction and after completion of development of the site. Depending upon the complexity of the project, the drafting of intermediate plans may be required at the close of each season;
 - 4. Provisions for maintenance of control facilities, including easements and

- estimates of the cost of maintenance where applicable; and
5. Modifications to the plan shall be processed and approved or disapproved in the same manner as subsection 27-4 (f) of this regulation, may be authorized by the city engineer by written authorization to the permittee, and shall include:
 - a. Major amendments of the erosion and sediment control plan submitted to the city engineer; and
 - b. Field modifications of 10% of quantity or greater.
- (d) Once implemented, an erosion and sedimentation control plan shall be maintained by permittee until 70% vegetative coverage, which effectively controls erosion, is achieved.
- (e) Submission by the permittee of an erosion and sediment control plan is not required for the following:
1. Areas zoned agriculture;
 2. Any emergency activity that is immediately necessary for the protection of life, property, or natural resources;
 3. Existing nursery and agricultural operations conducted as a main or accessory use;
 4. A legally permitted land fill operation; or
 5. Vegetative cutting and mulching.
- (f) The city will review each application for an erosion and sedimentation control plan to determine its conformance with the provisions of this regulation and shall:
1. Approve the erosion and sedimentation control plan;
 2. Approve the erosion and sedimentation control plan subject to such reasonable conditions as may be necessary to secure substantially the objectives of this regulation, and issue the permit subject to these conditions; or
 3. Disapprove the erosion and sedimentation control plan, indicating the reason(s) and procedure for submitting a revised application and/or submission.

Sec. 27 -5. Design requirements.

- (a) Grading, erosion control practices, sediment control practices, and waterway crossings shall meet the design criteria set forth in the most recent version of the city's Drainage Criteria and Design Manual Erosion and Sediment Control section, and shall meet all requirements of the Texas Commission on Environmental Quality (TCEQ) and the city. Cut and fill slopes shall be no greater than 3:1, except as approved by the city engineer to meet other community or environmental objectives.
- (b) Clearing and grading of natural resources shall not be permitted, except when in compliance with all other chapters of this code. Clearing techniques that retain natural vegetation and drainage patterns, as described in the city's Drainage Criteria and Design Manual Erosion and Sediment Control section, shall be used to the satisfaction of the city engineer.
- (c) Clearing, except that necessary to establish sediment control devices, engineering and surveying, shall not begin until all sediment control devices have been installed and have been stabilized.

(d) When phasing is requested, the erosion plan in each phase must be established, reviewed and approved by city engineer prior to the start of any subsequent phase.

(e) Erosion control requirements shall include the following:

1. Soil stabilization shall be completed prior to final acceptance of areas within public rights of way and open channel drainage easements.
2. If seeding or another vegetative erosion control method is used, it shall become established within six weeks or the city may require the site to be reseeded or a nonvegetative option employed;
3. Special techniques that meet the design criteria outlined in the city's Drainage Criteria and Design Manual Erosion and Sediment Control section on steep slopes or in drainage ways shall be used to ensure stabilization;
4. Soil stockpiles must have adequate erosion control if in place more than 14 days; and
5. Techniques that divert upland runoff past disturbed slopes may be employed where appropriate.

(f) Sediment controls requirements may include:

1. Silt fencing, rock berms, severe weather rock berms, stabilized construction entrances, settling basins, sediment traps, tanks, perimeter controls or other methods included in the city's Drainage Criteria and Design Manual;
2. Settling basins that are designed in a manner that allows adaptation to provide long term storm water management, if required by the city engineer; and
3. Protection for adjacent properties by the use of a vegetated buffer strip in combination with perimeter controls.

(g) Waterway and watercourse protection requirements shall include:

1. A temporary stream crossing installed and approved by the city engineer if a wet watercourse will be crossed regularly during construction;
2. Stabilization of the watercourse channel before, during, and after any in-channel work;
3. All on-site storm water conveyance channels designed according to the criteria outlined in the city's Drainage Criteria and Design Manual; and
4. Stabilization adequate to prevent erosion located at the outlets of all pipes and paved channels.

(h) Construction site access requirements shall include:

1. A temporary access road provided at all sites;
2. A stabilized construction entrance; or
3. Other measures required by city engineer in order to ensure that sediment is not tracked onto public streets by construction vehicles or washed into storm drains.

Sec. 27-6. Inspection.

(a) The city engineer shall make inspections as hereinafter required and either shall approve

that portion of the work completed or shall notify the permittee wherein the work fails to comply with the erosion and sediment control plan as approved. To obtain inspections, the permittee shall notify the city engineer at least two working days before the following:

1. Start of construction;
 2. Installation of sediment and erosion measures; and
 3. Final acceptance of public infrastructure, or prior to issuance of certificate of occupancy dependent upon respective development stage.
- (b) The permittee or his/her agent shall make regular inspections of all control measures in accordance with the inspection schedule outlined on the approved erosion and sediment control plan. The purpose of such inspections will be to determine the overall effectiveness of the control plan and the need for additional control measures. All inspections shall be documented in written form and kept on file available for viewing upon request.
- (c) The city engineer shall enter the property of the applicant as deemed necessary to make regular inspections to ensure the validity of the reports filed under subsection (b) above.

Sec. 27-7. Appeals and Enforcement.

- (a) *Appeals.* In the event the developer or builder does not agree with a decision of the city engineer, they may appeal to the director of public works. Appeals from the director's decision shall be automatically referred to the city manager for final decision, with due regard for the city engineer and public works directors recommendations. The city manager's decision shall be rendered as soon as possible and shall be final.
- (b) *Stop-Work Order; Revocation of Permit.* In the event that any person holding an approved erosion and sediment control plan pursuant to this ordinance violates the terms of the permit or implements site development in such a manner as to materially adversely affect the health, welfare, or safety of persons residing or working in the neighborhood or development site so as to be materially detrimental to the public welfare or injurious to property or improvements in the neighborhood, the city may suspend or revoke the building or construction (for public infrastructure) permit.
- (c) *Violation and Penalties.* No person shall construct, enlarge, alter, repair, or maintain any grading, excavation, or fill, or cause the same to be done, contrary to or in violation of any terms of this ordinance. In addition to any other penalty authorized by this section, any person, partnership, or corporation convicted of violating any of the provisions of this ordinance shall be required to bear the expense of such restoration.

Part 2: *Criminal penalty.* Any person or persons, firm or corporation which violates any of the provisions of this chapter may be deemed guilty of a misdemeanor and, upon conviction shall be fined not less than fifty (\$50.00) dollars nor more than two thousand (\$2000.00) dollars for each offense and each violation hereof shall be deemed a separate and distinct offense for each of said days and shall be punishable as such.

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

Part 4: It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses and phrases of this ordinance are severable and, if any phrase, clause, sentence, paragraph or section of this ordinance should be declared invalid by the final judgment or decree of any court of competent jurisdiction, such invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this ordinance, since the same would have been enacted by the City Council without the incorporation in this ordinance of any such invalid phrase, clause, sentence, paragraph or section.

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

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

PASSED AND APPROVED on First Reading and Public Hearing on the **4th** day of **November**, 2010.

PASSED AND APPROVED on Second Reading on the **18th** 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

11/18/10
Item #4(I)
Consent Agenda
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DEPT./DIVISION SUBMISSION & REVIEW:

Traci L. Barnard, Director of Finance

ITEM DESCRIPTION: Consider adopting a resolution authorizing the carry forward of FY 2009-2010 funds to the FY 2010-2011 budget.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: This resolution is to recognize and carry forward to fiscal year 2010-2011 outstanding purchase orders and contracts that were not completed at the end of fiscal year 2009-2010. These items will be received or completed during fiscal year 2011. Also, all unencumbered Community Development funds and ongoing Capital Projects will be carried forward to fiscal year 2011.

Line item expenditure accounts in the fiscal year 2011 budget will be amended to reflect fiscal year 2010 funds that will be carried forward. The total of all expenditure-related carry forwards is \$46,795,792. The total of all expenditure-related carry forwards from prior fiscal year was \$38,157,041. The increase compared to the prior year is due to the issuance of bond proceeds funded in the Capital Improvement Program. Revenue carry forwards related to Capital Projects and Federal/State Grant funding, detailed on the attachment, total \$1,845,287.

Itemization by fund is as follows:

<u>Fund</u>	<u>Carry Forward</u>
General Fund	\$ 1,532,990
Utility Fund	27,921,945
Hotel/Motel Tax Fund	1,105
Bond Projects	15,013,812
Capital Projects	590,905
Federal/State Grant Fund	1,264,229
Drainage Fund	108,272
Reinvestment Zone No. 1	362,534
Total Carry forwards	<u>\$46,795,792</u>

FISCAL IMPACT: The fiscal impact will not change the fiscal year results presented in the agenda item detailing year end financial results for FY 2010.

ATTACHMENTS:

Carry Forward to FY 2010/2011
Resolution

CITY OF TEMPLE, TEXAS
PRIOR YEAR ENCUMBRANCES, UNENCUMBERED AMOUNTS & CONTRACTS
CARRY FORWARD TO FY 2010-2011

ACCOUNT #	DESCRIPTION	PROJECT #	APPROPRIATION	
			DEBIT	CREDIT
<div>GENERAL FUND</div>				
110-1022-511.26-16	PROFESSIONAL		\$ 4,000	
110-1121-513.25-14	TRAVEL & TRAINING		2,000	
110-1132-513.25-11	PRINTING & PUBLICATIONS		5,361	
110-1133-513.25-10	CONTRIBUTIONS & PRIZES		954	
110-1200-515.26-16	PROFESSIONAL		15,660	
110-1200-515.26-30	BANKING SERVICE FEES		20,000	
110-1400-511.25-14	TRAVEL & TRAINING		780	
110-1400-511.26-23	OTHER CONTRACTED SERVICES		2,871	
110-1500-515.26-86	HILL COUNTRY TRANSIT		24,000	
110-1500-515.26-92	EMERGENCY REHAB		4,735	
110-1500-515.26-95	NEIGHBORHOOD REHAB SIZ		122,513	
110-1700-519.26-16	PROFESSIONAL		1,000	
110-1800-525.25-14	TRAVEL & TRAINING		428	
110-1900-519.22-28	PUBLIC EDUCATION GOV EXP		15,318	
110-1900-519.23-36	COMMUNICATIONS		25,000	
110-1900-519.23-38	MAINTENANCE CONTRACT		1,634	
110-1900-519.62-28	PUBLIC EDUCATION GOV EXP	190002	17,689	
110-2011-521.11-19	OVERTIME		17,182	
110-2011-521.21-36	PUBLIC SAFETY EXPENDITURES		13,357	
110-2020-521.25-33	DARE CJD EXPENDITURES		10,383	
110-2031-521.21-14	ANIMAL & FOOD SUPPLIES		1,041	
110-2041-521.25-38	CRIME VICTIM EXPENDITURES		493	
110-2041-521.26-10	TELEPHONE		1,065	
110-2057-521.21-21	FIREARMS/MUNITIONS		2,720	
110-2057-521.25-14	TRAVEL & TRAINING		4,750	
110-2210-522.21-13	CLOTHING & UNIFORMS		926	
110-2210-522.25-13	SPECIAL SERVICES		1,215	
110-2231-522.21-13	CLOTHING & UNIFORMS		1,395	
110-2232-522.26-17	EMPLOYMENT EXPENSES		1,380	
110-2350-540.25-11	PRINTING & PUBLICATIONS		495	
110-2380-540.26-49	TIPPING FEES		3,000	
110-2400-519.23-38	MAINTENANCE CONTRACT		50	
110-2700-515.22-10	FURNITURE & FIXTURES		1,620	
110-2700-515.25-19	CIVIL SERVICE		15,000	
110-2700-515.26-16	PROFESSIONAL		10,293	
110-2800-532.63-23	TRAFFIC SIGNALS	100513	15,758	
110-3120-551.23-11	BUILDINGS & GROUNDS		10,989	
110-3270-551.63-10	BUILDINGS & GROUNDS	100627	36,446	
110-3260-551.25-13	SPECIAL SERVICES		56	
110-3270-551.25-13	SPECIAL SERVICES		28	

CITY OF TEMPLE, TEXAS
PRIOR YEAR ENCUMBRANCES, UNENCUMBERED AMOUNTS & CONTRACTS
CARRY FORWARD TO FY 2010-2011

ACCOUNT #	DESCRIPTION	PROJECT #	APPROPRIATION	
			DEBIT	CREDIT
110-3400-531.23-15	SIDEWALK/CURB/GUTTER		4,125	
110-3400-531.23-22	SEAL COATING		5,936	
110-3400-531.23-34	TRAFFIC SIGNALS		1,010	
110-3400-531.23-44	SPEED HUMPS-CHILD SAFETY		2,480	
110-3500-552.22-32	PARK FEE EXPENDITURES		7,793	
110-3500-552.23-11	BUILDINGS & GROUNDS		6,116	
110-3500-552.26-23	OTHER CONTRACTED SERVICES		1,200	
110-3500-552.63-10	BUILDINGS & GROUNDS	100591	234	
110-3500-552.63-32	PARK FEE EXPENDITURES	100616	682	
110-3500-552.63-32	PARK FEE EXPENDITURES	100617	1,682	
110-3500-552.63-32	PARK FEE EXPENDITURES	100618	7,036	
110-3600-560.22-10	FURNITURE & FIXTURES		531	
110-3600-560.23-11	BUILDINGS & GROUNDS		15,091	
110-3600-560.62-21	COMPUTER SOFTWARE	100481	55,824	
110-3600-560.63-10	BUILDINGS & GROUNDS	100626	12,164	
110-3700-524.25-16	JUDGMENTS & DAMAGES		8,444	
110-3700-524.26-23	OTHER CONTRACTED SERVICES		5,048	
110-4000-555.22-25	BOOKS & PERIODICALS		1,073	
110-4000-555.23-11	BUILDINGS & GROUNDS		1,719	
110-4000-555.26-10	TELEPHONE		650	
110-4000-555.26-23	OTHER CONTRACTED SERVICES		1,435	
110-5900-540.62-22	MACHINERY & EQUIPMENT	100531	223,429	
110-5924-519.23-11	BUILDINGS & GROUNDS		1,735	
110-5924-519.63-10	BUILDINGS & GROUNDS	100407	42,156	
110-5924-519.63-10	BUILDINGS & GROUNDS	100517	64,968	
110-5924-519.63-10	BUILDINGS & GROUNDS	100518	29,268	
110-5924-519.63-10	BUILDINGS & GROUNDS	100520	8,400	
110-5924-519.63-10	BUILDINGS & GROUNDS	100521	14,968	
110-5924-519.63-10	BUILDINGS & GROUNDS	100523	12,968	
110-5924-519.63-10	BUILDINGS & GROUNDS	100524	115,467	
110-5935-552.63-10	BUILDINGS & GROUNDS	350009	35,441	
110-5935-552.63-10	BUILDINGS & GROUNDS	100591	716	
110-5935-552.63-16	HIKE & BIKE TRAIL	100628	12,375	
110-5935-552.63-18	IRRIGATION	100540	62,518	
110-9100-591.81-51	TRANSFER OUT-CAPITAL PROJ FUND		333,186	
110-9100-591.81-60	TRANSFER OUT-GRANT FUND		21,537	
110-0000-446.35-30	AMCOM REIMBURSEMENT			24,900
110-0000-431.01-63	2009 JAG GRANT REVENUE			17,182
110-0000-452.01-64	CHILD SAFETY FEES			800
110-0000-461.08-30	PARK FEES			682
110-0000-461.08-30	PARK FEES			1,682
110-0000-461.08-30	PARK FEES			6,436
TOTAL GENERAL FUND			\$ 1,532,990	\$ 51,682

CITY OF TEMPLE, TEXAS
PRIOR YEAR ENCUMBRANCES, UNENCUMBERED AMOUNTS & CONTRACTS
CARRY FORWARD TO FY 2010-2011

ACCOUNT #	DESCRIPTION	PROJECT #	APPROPRIATION	
			DEBIT	CREDIT
<div>HOTEL/MOTEL FUND</div>				
240-4400-551.26-16	PROFESSIONAL		\$ 250	
240-4600-551.21-29	ADVERTISING/MARKETING		815	
240-4600-551.26-15	EQUIPMENT LEASE		40	
TOTAL HOTEL/MOTEL FUND			\$ 1,105	\$ -
260-1100-513.21-10	OFFICE SUPPLIES		\$ 129	
260-1100-513.22-10	FURNITURE & FIXTURES		1	
260-1100-513.22-21	COMPUTER EQUIPMENT		644	
260-1100-552.63-16	HIKE & BIKE TRAIL	100585	413,000	
260-2000-521.21-13	CLOTHING & UNIFORMS		393	
260-2000-521.62-11	INSTRUMENTS/SPECIAL EQUIP	100588	608	
260-2000-521.62-13	OFFICE MACHINES	100586	4,996	
260-2000-521.62-21	COMPUTER SOFTWARE	100587	68	
260-3200-551.11-18	EXTRA HELP/SEASONAL		20,000	
260-3200-551.21-10	OFFICE SUPPLIES		5,183	
260-3300-531.26-23	OTHER CONTRACTED SERVICES		158,351	
260-3600-560.65-24	FAA RUNWAY REHAB	100190	148,260	
260-4100-551.11-18	EXTRA HELP/SEASONAL		8,736	
260-4100-551.21-10	OFFICE SUPPLIES		300	
260-4100-551.21-29	ADVERTISING & MARKETING		15,650	
260-4100-551.25-10	CONTRIBUTIONS & PRIZES		12,150	
260-4100-551.25-11	PRINTING & PUBLICATIONS		2,900	
260-4100-551.25-14	TRAVEL & TRAINING		190	
260-4100-551.26-23	OTHER CONTRACTED SERVICES		28,000	
260-6100-571.26-98	CODE ENFORCEMENT		113,767	
260-6100-571.63-10	BUILDINGS & GROUNDS	100505	45,000	
260-6100-571.63-15	SIDEWALK/CURB/GUTTER	100506	148,290	
260-6100-571.63-17	STREETS & ALLEYS	100178	20,300	
260-6100-571.63-17	STREETS & ALLEYS	100512	19,684	
260-6100-571.65-16	PARK IMPROVEMENTS	100507	50,654	
260-6100-571.65-16	PARK IMPROVEMENTS	100485	21,746	
260-6100-571.65-32	CONTINGENCY		25,229	
260-0000-431.01-63	FEDERAL GRANTS			730,095
260-0000-431.02-61	STATE GRANTS			67,926
260-0000-490.25-89	TRANSFER IN-GENERAL FUND			197
260-0000-490.25-82	TRANSFER IN-GENERAL FUND			21,340
260-0000-431.01-31	CDBG GRANT REVENUE			444,671
TOTAL GRANT FUND			\$ 1,264,229	\$ 1,264,229

CITY OF TEMPLE, TEXAS
PRIOR YEAR ENCUMBRANCES, UNENCUMBERED AMOUNTS & CONTRACTS
CARRY FORWARD TO FY 2010-2011

ACCOUNT #	DESCRIPTION	PROJECT #	APPROPRIATION	
			DEBIT	CREDIT
DRAINAGE FUND				
292-2900-534.26-16	PROFESSIONAL		\$ 15,689	
292-2900-534.63-12	DRAINAGE IMPROVEMENTS	100606	92,583	
TOTAL DRAINAGE FUND			\$ 108,272	\$ -
CAPITAL PROJECTS FUND				
351-1100-513.26-16	PROFESSIONAL		\$ 41,350	
351-1800-525.68-49	COURT FACILITY	100240	523	
351-1900-519.22-21	COMPUTER EQUIPMENT		106	
351-1900-519.26-23	OTHER CONTRACTED SERVICES		11,000	
351-1900-519.62-24	COMMUNICATIONS EQUIPMENT	100622	1,323	
351-1900-519.62-24	COMMUNICATIONS EQUIPMENT	100671	22,000	
351-1900-519.62-24	COMMUNICATIONS EQUIPMENT	100622	65,182	
351-1900-519.62-41	AERIAL PHOTOGRAPHY	100580	71,131	
351-1900-519.65-19	FINANCIAL SOFTWARE	190001	592	
351-3100-551.63-10	BUILDINGS & GROUNDS	100189	8,518	
351-3400-531.61-10	LAND	100346	179,840	
351-3500-552.23-11	BUILDINGS & GROUNDS	350009	102,811	
351-3600-560.61-10	LAND	100475	49,611	
351-3600-560.65-23	T HANGERS	360002	11,918	
351-6100-571.26-61	AFFORDABLE HOUSING		25,000	
351-0000-461.08-65	MISCELLANEOUS REIMBURSEMENTS			179,840
351-0000-461.08-65	MISCELLANEOUS REIMBURSEMENTS			16,350
351-0000-490.25-82	TRANSFER IN-GENERAL FUND			333,186
TOTAL CAPITAL PROJECTS FUND			\$ 590,905	\$ 529,376
BOND PROJECTS FUND				
361-1800-525.68-49	COURT FACILITY	100407	\$ 19,046	
361-1900-519.68-02	BROADBAND NETWORK	100407	1,773	
361-2200-522.68-05	FIRE STATION NO. 1	100120	181,781	
361-2200-522.68-06	EMERGENCY OPERATIONS INFR	100141	65,855	
361-2400-519.68-07	FACILITY IMPROVEMENTS	100160	115,446	
361-2400-519.68-07	FACILITY IMPROVEMENTS	100407	1,260	
361-2800-532.68-10	TRAFFIC SIGNALS	100673	69,031	
361-2900-534.68-20	DRAINAGE IMPROVEMENTS	290001	86,950	
361-3400-531.68-13	OUTER LOOP	100089	3,419,460	
361-3400-531.68-33	INTERSECTION ENHANCEMENTS	100407	1,179	
361-3400-531.68-34	1ST ST GATEWAY/AVE M/LP 363	100332	19,067	

CITY OF TEMPLE, TEXAS
PRIOR YEAR ENCUMBRANCES, UNENCUMBERED AMOUNTS & CONTRACTS
CARRY FORWARD TO FY 2010-2011

ACCOUNT #	DESCRIPTION	PROJECT #	APPROPRIATION	
			DEBIT	CREDIT
361-3400-531.68-34	1ST ST GATEWAY/AVE M/LP 363	100629	166,000	
361-3400-531.68-34	1ST ST GATEWAY/AVE M/LP 363	100332	56,616	
361-3400-531.68-34	1ST ST GATEWAY/AVE M/LP 363	100585	16,705	
361-3400-531.68-35	NW LOOP 363 EXPANSION	100222	2,394	
361-3400-531.68-47	TARVER RD EXT TO OLD WACO	100392	1,270,525	
361-3400-531.68-48	HWY 93/HARTICK BLUFF CONN	100393	500,000	
361-3400-531.68-54	RECONST-5TH/BARTON-CALHOUN	100678	8,600	
361-3500-552.68-53	FRIAR'S CREEK TRAIL	100495	10,562	
361-4000-555.68-08	LIBRARY IMPROVEMENTS	100348	123,534	
361-5700-580.73-12	BOND ISSUANCE COSTS		14,457	
362-3100-551.68-40	GOLF COURSE IMPROVEMENTS	100358	324,059	
362-3200-551.26-31	LOT CLEAN UP		30,000	
362-3200-551.68-41	SUMMIT RENOVATIONS	100407	5,274	
362-3500-552.68-38	FAMILY AQUATICS CENTER	100407	5,427	
362-3500-552.68-44	LIONS SOCCER FIELDS	100362	44,268	
363-2200-522.65-32	CONTINGENCY		176,400	
363-2200-522.68-50	FIRE STATION NO. 1	100120	3,823,023	
363-2200-522.68-51	FIRE STATION NO. 8	100411	3,884,745	
363-2200-522.68-52	FIRE ENGINES	100407	5,534	
363-2200-522.68-52	FIRE ENGINES	100408	564,841	
TOTAL BOND PROJECTS FUND			\$ 15,013,812	\$ -

WATER & SEWER FUND

520-5000-535.26-16	PROFESSIONAL		\$ 1,458	
520-5100-535.22-10	FURNITURE & FIXTURES		1,396	
520-5100-535.22-11	INSTRUMENTS/SPECIAL EQUIP		5,240	
520-5100-535.23-38	MAINTENANCE CONTRACT		6,100	
520-5100-535.63-10	BUILDINGS & GROUNDS	100565	29,999	
520-5100-535.63-10	BUILDINGS & GROUNDS	100300	41,570	
520-5200-535.63-57	WATER LINE IMPROVEMENTS	100674	889	
520-5200-535.63-57	WATER LINE IMPROVEMENTS	100486	1,500	
520-5200-535.63-57	WATER LINE IMPROVEMENTS	100674	4,887	
520-5400-535.63-59	SEWER LINE - IN HOUSE CREW	100454	2,067	
520-5400-535.63-59	SEWER LINE - IN HOUSE CREW	100461	3,506	
520-5400-535.63-59	SEWER LINE - IN HOUSE CREW	100558	12,127	
520-5400-535.63-59	SEWER LINE - IN HOUSE CREW	100559	15,669	
520-5400-535.63-59	SEWER LINE - IN HOUSE CREW	100560	39,802	
520-5400-535.63-59	SEWER LINE - IN HOUSE CREW	100614	9,722	
520-5400-535.63-59	SEWER LINE - IN HOUSE CREW	100454	125	
520-5400-535.63-59	SEWER LINE - IN HOUSE CREW	100461	125	
520-5800-535.22-10	FURNITURE & FIXTURES		7,219	
520-5900-535.26-16	PROFESSIONAL	100609	61,458	
520-5900-535.63-57	WATER LINE IMPROVEMENTS	100486	2,981	

CITY OF TEMPLE, TEXAS
PRIOR YEAR ENCUMBRANCES, UNENCUMBERED AMOUNTS & CONTRACTS
CARRY FORWARD TO FY 2010-2011

ACCOUNT #	DESCRIPTION	PROJECT #	APPROPRIATION	
			DEBIT	CREDIT
520-5900-535.63-57	WATER LINE IMPROVEMENTS	100601	21,566	
520-5900-535.63-57	WATER LINE IMPROVEMENTS	100486	257,718	
520-5900-535.63-57	WATER LINE IMPROVEMENTS	100601	382,687	
520-5900-535.63-61	SEWER LINE REPLACEMENT	100593	400	
520-5900-535.63-61	SEWER LINE REPLACEMENT	100594	402	
520-5900-535.63-61	SEWER LINE REPLACEMENT	100595	441	
520-5900-535.63-61	SEWER LINE REPLACEMENT	100596	440	
520-5900-535.63-61	SEWER LINE REPLACEMENT	100597	250	
520-5900-535.63-61	SEWER LINE REPLACEMENT	100598	400	
520-5900-535.63-61	SEWER LINE REPLACEMENT	100593	16,235	
520-5900-535.63-61	SEWER LINE REPLACEMENT	100594	9,750	
520-5900-535.63-61	SEWER LINE REPLACEMENT	100595	14,420	
520-5900-535.63-61	SEWER LINE REPLACEMENT	100596	14,455	
520-5900-535.63-61	SEWER LINE REPLACEMENT	100597	5,105	
520-5900-535.63-61	SEWER LINE REPLACEMENT	100598	15,460	
520-5900-535.63-61	SEWER LINE REPLACEMENT	100595	552,999	
520-5900-535.63-61	SEWER LINE REPLACEMENT	100596	446,660	
520-5900-535.63-61	SEWER LINE REPLACEMENT	100594	159,172	
520-5900-535.63-61	SEWER LINE REPLACEMENT	100597	58,120	
520-5900-535.63-61	SEWER LINE REPLACEMENT	100598	220,440	
520-5900-535.63-61	SEWER LINE REPLACEMENT	100593	396,890	
520-5900-535.63-66	WATER LINE EXTENSION	100476	11,730	
520-5900-535.63-66	WATER LINE EXTENSION	520004	54,685	
520-5900-535.63-68	SEWER LINE EXTENSION	540003	21,025	
520-5900-535.63-68	SEWER LINE EXTENSION	100575	188,266	
520-5900-535.63-68	SEWER LINE EXTENSION	100576	275,813	
520-5900-535.66-11	SEWER LIFT STATION	100590	432,323	
561-5100-535.69-04	TANK REFURBISHMENT	100619	542,100	
561-5100-535.69-04	TANK REFURBISHMENT	100620	530,900	
561-5100-535.69-04	TANK REFURBISHMENT	100619	44,000	
561-5100-535.69-04	TANK REFURBISHMENT	100620	55,200	
561-5100-535.69-06	EMERGENCY OPERATIONS INFR	100407	17,700	
561-5100-535.69-06	EMERGENCY OPERATIONS INFR	100679	3,500,000	
561-5100-535.69-06	EMERGENCY OPERATIONS INFR	100100	11,480	
561-5100-535.69-21	WTP MEMBRANE FACILITY	100229	2,465,255	
561-5100-535.69-24	WTP REHAB CON FILTERS	100335	44,135	
561-5100-535.69-31	WTP SCADA SYSTEM UPGRADES	100336	133,538	
561-5200-535.69-07	317 WATERLINE RELOCATION	100223	206,341	
561-5200-535.69-09	S. TEMPLE WATER SYSTEM IMPR	100333	2,446,124	
561-5200-535.69-23	PRESSURE PLANE EXPANSION	100043	193,143	
561-5200-535.69-28	WEST WTR & WW EXT N OF 2305	100172	41,834	
561-5200-535.69-28	WEST WTR & WW EXT N OF 2305	100621	81,089	
561-5200-535.69-28	WEST WTR & WW EXT N OF 2305	100172	3,700	
561-5200-535.69-28	WEST WTR & WW EXT N OF 2305	100621	48,592	

CITY OF TEMPLE, TEXAS
PRIOR YEAR ENCUMBRANCES, UNENCUMBERED AMOUNTS & CONTRACTS
CARRY FORWARD TO FY 2010-2011

ACCOUNT #	DESCRIPTION	PROJECT #	APPROPRIATION	
			DEBIT	CREDIT
561-5200-535.69-30	WATERLINE RELOC-OUTERLOOP	100089	912,500	
561-5200-535.69-36	TARVER/OLD WACO UTILITY RELO	100391	183,550	
561-5200-535.69-39	CHARTER OAKS WATERLINE	100608	4,693,600	
561-5400-535.69-05	LIFT STATION IMPROVEMENTS	100667	983,999	
561-5400-535.69-20	WW LINE EXTENSION-FM 2305	100095	101,033	
561-5400-535.69-25	WW LINE REPLACEMENT-BIRDCREEK	100045	3,283,692	
561-5400-535.69-26	WW LINE REPLACEMENT	100592	765,983	
561-5400-535.69-35	LILAC LANE SEWERLINE PROJECT	100407	55,898	
561-5400-535.69-37	GENERAL BRUCE & 57TH UTILITY RELO	100470	532,771	
561-5500-535.69-32	DOSHIER-REHAB 5 LIFT SCREENS	100337	3,110	
561-5500-535.69-33	DOSHIER-REHAB BELT FILTER	100407	13,132	
561-5500-535.69-38	TBRSS EXPANSION	100584	2,215,457	
561-5800-535.69-29	WATER BUSINESS OFFICE IMPRV	100407	6,397	
TOTAL WATER & SEWER FUND			\$ 27,921,945	\$ -
REINVESTMENT ZONE NO. 1				
795-9500-531.26-16	PROFESSIONAL		\$ 11,866	
795-9500-531.26-31	LOT CLEAN UP		89,200	
795-9500-531.63-17	STREET IMPROVEMENTS	100258	52,700	
795-9500-531.63-17	STREET IMPROVEMENTS	100138	8,574	
795-9500-531.65-14	RAIL SPUR IMPROVEMENTS	100167	77,446	
795-9500-531.68-25	NORTH ZONE RAILROAD SPUR	100166	3,750	
795-9500-531.68-29	PEPPER CREEK GREENBELT	100220	34,448	
795-9700-531.68-25	NORTH ZONE RAILROAD SPUR	100256	11,050	
795-9700-531.68-28	SOUTHEAST INDUSTRIAL PARK	100258	73,500	
TOTAL REINVESTMENT ZONE NO. 1			\$ 362,534	\$ -
TOTAL CARRY FORWARDS-ALL FUNDS			\$ 46,795,792	\$ 1,845,287

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE,
TEXAS, AUTHORIZING THE CARRY FORWARD OF 2009-2010 FUNDS
TO THE 2010-2011 BUDGET; AND PROVIDING AN OPEN MEETINGS
CLAUSE.

Whereas, there are outstanding purchase orders and contracts that were not completed at the end of fiscal year 2009-2010 which need to be carried forward to fiscal year 2010-2011;

Whereas, these items will be received or completed during fiscal year 2010-2011;

Whereas, all unencumbered Community Development funds and ongoing Capital Projects also need to be carried forward to fiscal year 2010-2011; and

Whereas, the City Council deems it in the public interest to authorize the carry forward of 2009-2010 funds to the 2010-2011 budget.

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

Part 1: The City Council authorizes the Director of Finance to carry forward fiscal year 2009-2010 funds to the 2010-2011 budget, more fully described in Exhibit A, attached hereto and made a part hereof for all purposes.

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

PASSED AND APPROVED this the **18th** day of **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

11/18/10
Item #4(J)
Consent Agenda
Page 1 of 1

DEPT./DIVISION SUBMISSION & REVIEW:

Traci L. Barnard, Director of Finance

ITEM DESCRIPTION: Consider adopting a resolution approving fourth quarter financial results for the fiscal year ended September 30, 2010.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: This item will present in detail the Fiscal 2009/2010 year end results for the General Fund, Water & Sewer Fund, Hotel/Motel Tax Fund, Drainage Fund, and the Reinvestment Zone No. 1 Fund as of September 30, 2010.

Included with these 4th quarter results will be various schedules detailing construction contracts, grants, sales tax, capital projects and investments.

As in the past years, we do not feel that there will be any significant variances of ending balances shown here when compared with the final audited financial reports. Final audited reports will be presented to the City Council in February 2011.

FISCAL IMPACT: These reports will establish year-end allocations of fund balances for all funds upon acceptance by the City Council.

ATTACHMENTS:

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

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE,
TEXAS, APPROVING THE FOURTH QUARTER FINANCIAL
RESULTS FOR THE FISCAL YEAR ENDED SEPTEMBER 30, 2010;
AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, the fourth quarter 2009-2010 fiscal year financial results need to be approved by the City Council;

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

Whereas, the City Council deems it in the public interest to authorize this action.

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

Part 1: The City Council approves the fourth quarter financial results for the fiscal year ended September 30, 2010, incorporated herein and referred to by reference, a copy of which is on file in the Office the Finance Director.

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

PASSED AND APPROVED this the **18th** day of **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

11/18/10
Item #4(K)
Consent Agenda
Page 1 of 1

DEPT./DIVISION SUBMISSION & REVIEW:

Traci Barnard, Director of Finance

ITEM DESCRIPTION: Consider adopting a resolution authorizing budget amendments for fiscal year 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 \$602,120.

ATTACHMENTS:

[Budget amendments
Resolution](#)

CITY OF TEMPLE
BUDGET AMENDMENTS FOR FY 2011 BUDGET
November 18, 2010

ACCOUNT #	PROJECT #	DESCRIPTION	APPROPRIATIONS	
			Debit	Credit
110-1700-519-2616		Professional - TMED Development Plan & Feasibility Study (Planning)	\$ 60,750	
110-0000-352-1345		Designated Capital Projects - TIGER II Grant Match		\$ 60,750
<p>On November 1, 2010, Staff received notification the City did not receive the TIGER II grant to conduct a transportation planning study. This budget adjustment undesignates funds for the 20% grant match and reallocates the funds to the original purpose for the TMED Development Plan and Feasibility Study.</p>				
110-2011-521-2516		Judgments & Damages (Police - Administrative Services)	\$ 4,506	
110-1500-515-6531		Contingency - Judgments & Damages		\$ 4,506
<p>Deductible reimbursement to the Texas Municipal League for attorney fees for a lawsuit filed against the City alleging unreasonable search and seizure by police officers of plaintiff's property and plaintiff's arrest on July 30, 2004.</p>				
110-4000-555-2522		Microfilm/Audio Visual (Library)	\$ 100	
110-0000-461-0841		Donations/Gifts		\$ 100
<p>Expend donated funds as designated on genealogical materials</p>				
110-4000-555-2225		Books & Periodicals (Library)	\$ 1,000	
110-4000-555-2522		Microfilm/Audio Visual	\$ 500	
110-0000-314-1917		Reserve for Library		\$ 1,500
<p>Purchase history books and microfilm with MacGregor Trust Funds</p>				
110-0000-352-1345		Designated Capital Projects - Unallocated	\$ 500,000	
110-0000-352-1345		Designated Capital Projects - STEP Grant Match		\$ 500,000
<p>To "undesignate" \$500,000 of the General Fund's STEP grant match. The Reinvestment Zone No. 1 included \$500,000 in the FY 2011 Financing Plan that was adopted by Council on 11/04/10 to fund part of the grant match. This will leave a balance of \$21,500 of the STEP grant match as designated within the General Fund's Designated for Capital Projects fund balance allocation.</p>				
292-2900-534-6312	100606	Drainage Improvements	\$ 4,300	
292-0000-352-1345		Designated Capital Projects - 2010 Drainage Improvements		\$ 4,300
<p>The budget adjustment appropriates fund balance to fund change order 1 & 2 for a total of \$4,300 related to the construction contract with Wolff Construction, L.P., for construction services required to install the City of Temple 2010 Drainage Improvements.</p>				
520-5400-535-2516		Judgments & Damages (Sewer Collection)	\$ 9,167	
520-5000-535-6532		Contingency - Judgments & Damages		\$ 9,167
<p>(1) Deductible reimbursement to the Texas Municipal League for settlement of a claim seeking reimbursement for damage to the residence at 1008 S. 21st from a sewer backup on July 22, 2010 (\$4,166.15); and (2) Deductible reimbursement to the Texas Municipal League for settlement of a claim seeking reimbursement for damage to the residence at 4105 Hickory Road from a sewer backup on July 1, 2010 (\$5,000).</p>				

CITY OF TEMPLE
BUDGET AMENDMENTS FOR FY 2011 BUDGET
November 18, 2010

ACCOUNT #	PROJECT #	DESCRIPTION	APPROPRIATIONS	
			Debit	Credit
351-1900-519-6224	100702	Capital Equipment/Communication Equipment (ITS)	\$ 16,797	
350-0000-461-0554		Insurance Claims		\$ 11,797
351-0000-490-2582		Transfer In - General Fund		\$ 5,000
110-9100-591-8151		Transfer Out - Designated Capital Projects	\$ 5,000	
110-0000-352-1345		Designated Capital Projects - Technology Funds		\$ 5,000

This budget adjustment recognizes insurance proceeds from an insurance claim through TML due to a lightning strike on two of the wireless Bridgewave Communication units on water towers. In addition, this budget adjustment appropriates \$5,000 from Designated Capital Projects - Technology Funds to cover the additional funds needed to complete the repair.

TOTAL AMENDMENTS	\$ 602,120	\$ 602,120
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GENERAL FUND

Beginning Contingency Balance	\$ -
Added to Contingency Sweep Account	\$ -
Carry forward from Prior Year	\$ -
Taken From Contingency	\$ -
Net Balance of Contingency Account	\$ -

Beginning Judgments & Damages Contingency	\$ 80,000
Added to Contingency Judgments & Damages from Council Contingency	\$ -
Taken From Judgments & Damages	\$ (10,703)
Net Balance of Judgments & Damages Contingency Account	\$ 69,297

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	\$ (628,756)
Net Balance of Self Insurance Start Up Cost Contingency Account	\$ -

Net Balance Council Contingency	\$ 125,138
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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	\$ (9,167)
Net Balance of Contingency Account	\$ 40,833

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	\$ (100,365)
Net Balance of Self Insurance Start Up Cost Contingency Account	\$ -

Net Balance Water & Sewer Fund Contingency	\$ 40,833
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CITY OF TEMPLE
BUDGET AMENDMENTS FOR FY 2011 BUDGET
November 18, 2010

			APPROPRIATIONS	
ACCOUNT #	PROJECT #	DESCRIPTION	Debit	Credit
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		\$ (10,968)
		Net Balance of Self Insurance Start Up Cost Contingency Account		\$ -
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		\$ (9,911)
		Net Balance of Self Insurance Start Up Cost Contingency Account		\$ -
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 18th 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

11/18/10
Item #5
Regular Agenda
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DEPT./DIVISION SUBMISSION & REVIEW:

Brian Mabry, Planning Director

ITEM DESCRIPTION: SECOND READING – Z-FY-10-53: Consider adopting an ordinance authorizing a Conditional Use Permit for the sale of alcoholic beverages with more than 50% and less than 75% revenue from alcohol sales in a restaurant on Lot 10, Block 1, Hillside Addition, located at 2906 South General Bruce Drive. **(Note: approval of this item will require four affirmative votes of the City Council)**

P&Z COMMISSION RECOMMENDATION: At its October 18, 2010 meeting, the Planning and Zoning Commission voted 6/0 in accordance with staff recommendation to recommend approval of a Conditional Use Permit for the sale of alcoholic beverages with more than 50% and less than 75% revenue from alcohol sales in a restaurant with the following conditions:

General to All CUPs for On-Premise Alcohol Consumption

1. 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.
2. The permittee must comply with applicable licensing and permit provisions of the Alcoholic Beverage Code within six 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.
3. 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 CUP. 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.
4. The permittee must demonstrate that the granting of the permit would not be detrimental to the public welfare of the citizens of the City.
5. 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.
6. 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.
7. 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.

8. The City Council may deny, cancel, suspend or revoke this CUP in accordance with the revocation clause set forth in Section 7-608 of the Zoning Ordinance if it affirmatively determines that the issuance of the permit is (a) incompatible with the surrounding uses of property, or (b) detrimental or offensive to the neighborhood or contrary to the health, safety, and general welfare of the City and its inhabitants.
9. The CUP runs with the property. Changes in the owner or lessee of a permitted establishment do not affect the permit.
10. The applicant's site plan and floor plan are exhibits to the ordinance that grants CUP.

Specific to this CUP

11. The parking lot must be striped to match CUP site plan, including traffic flow arrows.

Commissioners Barton, Williams and Sears were absent.

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

ITEM SUMMARY: Please refer to the Staff Report and draft minutes of case Z-FY-10-53, from the Planning and Zoning meeting, October 18, 2010. The applicant requests a Conditional Use Permit (CUP) in order to sell beer, wine and mixed drinks in his restaurant that is 2,385 square feet in area. The nearest protected use is a church that is approximately 1,550 feet away, measured front door to front door. The minimum separation distance between a business with on-premise alcohol consumption and a protected use is 300 feet. The Temple Police Department was informed of this CUP request and had no issues or concerns about granting the request.

At the November 4, 2010, City Council first reading of this request, Councilmember Dunn asked that Staff and the applicant look into the feasibility of installing an eight-foot tall privacy fence along the common lot line between the subject property and the car dealership to the south. However, Councilmember Schneider expressed concern about a fence creating the possibility for vandalism toward the back of the car lot, since that portion of the lot would not be visible from the I-35 frontage road. Staff reviewed the request with the applicant and suggests if a fence is to be proposed, it should be constructed along the southern property line adjacent to the restaurant's parking area, as reflected on the attached revised CUP site plan.

Per State Statutes, if owners of more than 20 percent of the land area in the notification radius send in written comments disapproving of the proposal, then a super majority vote is required from City Council to approve the proposal. ***In this case, owners of 49 percent of the land in the notification area sent in negative written comments, so a super majority (at least 4 favorable votes) is required from City Council to approve this CUP. (See the Notification Map attached to this report)***

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 for the Council'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.

Adjacent property owners sent in a recommendation for disapproval with a concern related to criterion #1. As shown in the meeting minutes, one surrounding property owner spoke out against the proposed CUP at the Planning and Zoning Commission public hearing. He was opposed to the possibility of littering on his car lot and opposed to the fact that the restaurant could get 50 to 75 percent of its revenue from alcohol sales.

PUBLIC NOTICE:

Four notices of the Planning and Zoning Commission public hearing were sent out to surrounding property owners and occupants. As of Monday, October 25 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 October 7, 2010 in accordance with state law and local ordinance.

FISCAL IMPACT: NA

ATTACHMENTS:

Aerial
Land Use and Character Map
Zoning Map
Thoroughfare Plan Map
Utility Map
CUP Site Plan
CUP Floor Plan
Notice Map
Response Letters
P&Z Staff Report (Z-FY-10-53)
P&Z Minutes (Oct. 18, 2010)
Ordinance



Z-FY-10-53


Approx. 3000sf Hillside Addition, Blk 1, Lot 10

2906 S General Bruce Dr



2008 Aerial Shown (newer image unavailable)

Feet 0 50 100 150 200

 ZFY1053

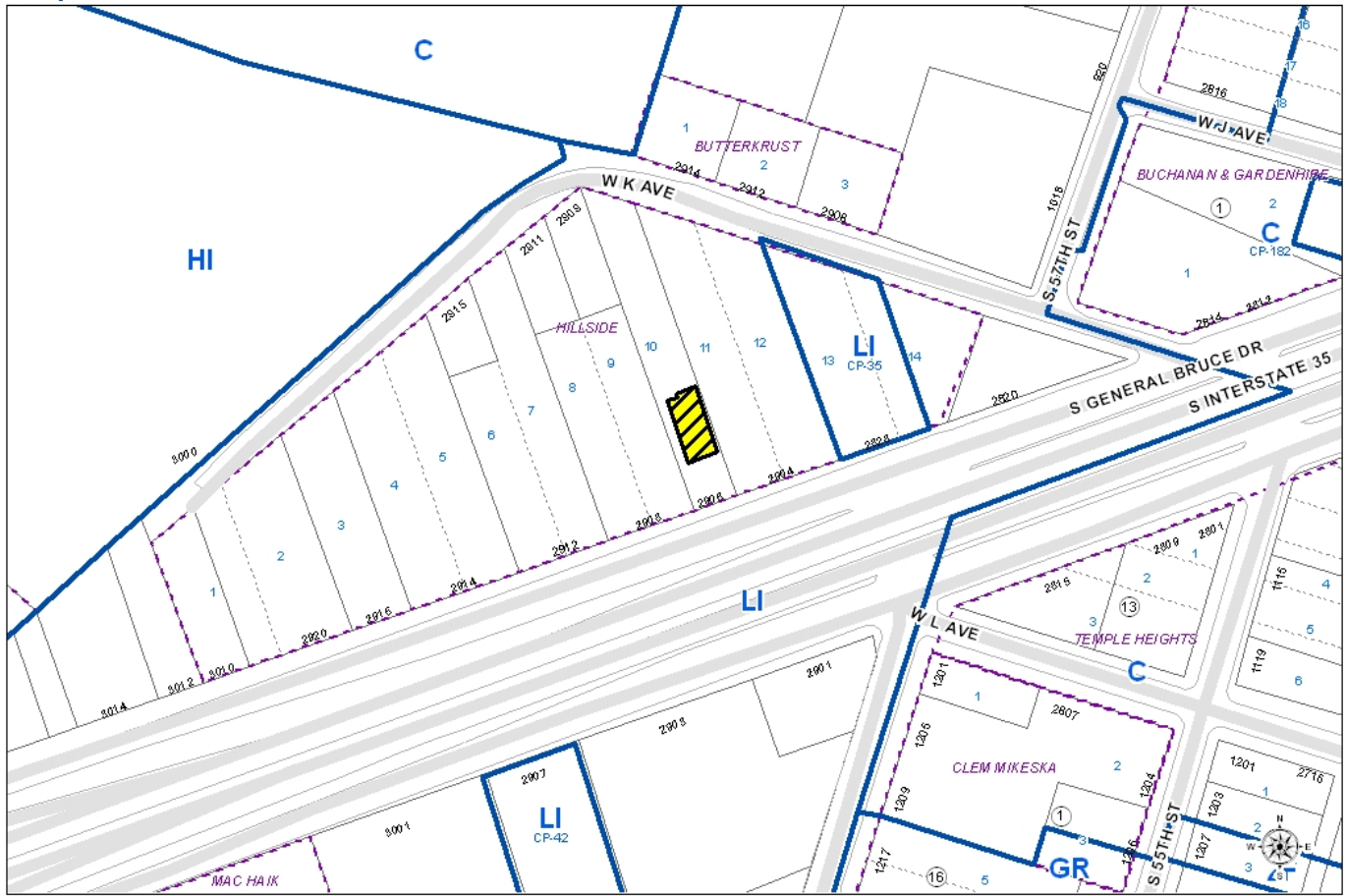
J Stone 9.13.10



Z-FY-10-53

Approx. 3000sf Hillside Addition, Blk 1, Lot 10

2906 S General Bruce Dr



 ZFY1053

Feet 0 50 100 150 200

J Stone 9.13.10



Z-FY-10-53

Approx. 3000sf Hillside Addition, Blk 1, Lot 10

2906 S General Bruce Dr

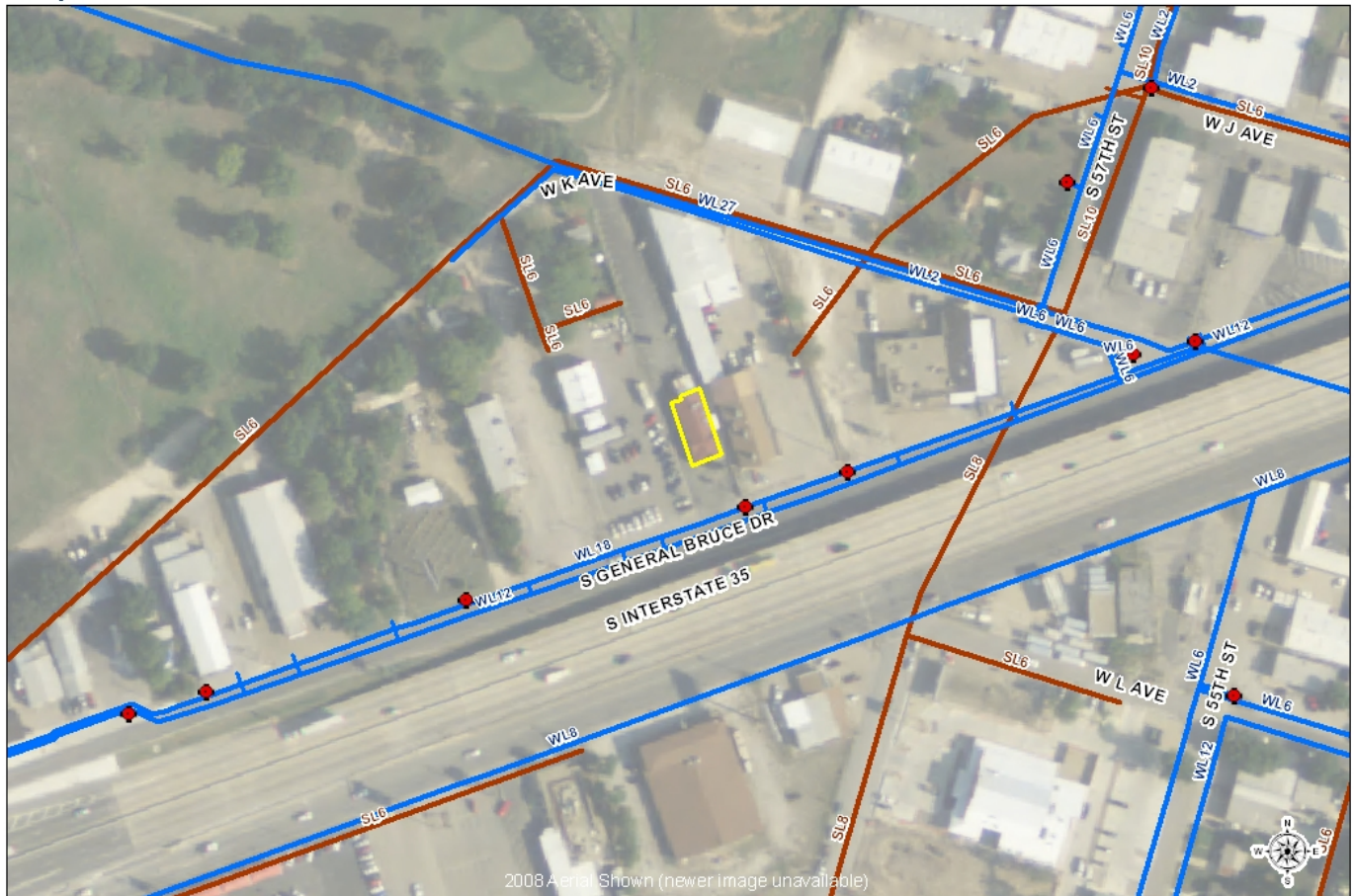




Z-FY-10-53

Approx. 3000sf Hillside Addition, Blk 1, Lot 10

2906 S General Bruce Dr



2008 Aerial Shown (newer image unavailable)

ZFY1053 WATER LINE SEWER LINE

Feet 0 50 100 150 200

J Stone 9.13.10

ZONING: LIGHT INDUSTRIAL (LI)

EXIST. SETBACK 52.7' TO PROPERTY LINE

REQ. FRONT YARD SET-BACK = MIN. 30' CENTER LN. STREET

REQ. SIDE YARD SET-BACK = 0 FT (10' FROM SIDE STREET)

REQ. SIDE YARD SET-BACK = 0' PER 10' PERM.
EXIST. MINIMUM SETBACK 9' TO PROPERTY LINE

REQ. REAR YARD = 0 FEET

EXIST. SETBACK 308.4' TO PROPERTY LINE

NOTE: EXISTING RESIDENTIAL USE ON WEST LINE OF LOT 10
APPROX. 100' DEPTH FROM AVE K. ALL OTHER ADJOINING USES
COMMERCIAL OR LIGHT INDUSTRIAL.

SCREENING FENCES : CHAIN LINK, RET. WALL, WOOD & GUARD
RAIL FENCES EXISTING ON EAST AND WEST PROPERTY LINES.
A SMALL PORTION ON THE WEST PROPERTY LINE CAN BE CONSIDERED
AS SCREENING FENCES.

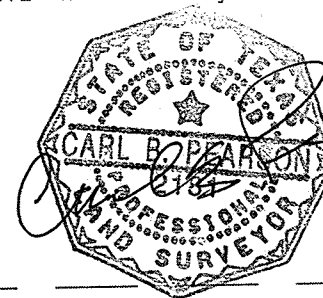
LANDSCAPING: A SMALL PLATER BOX EXIST IN FROM ON THE RESTRAURANT.
NO OTHER LANDSCAPING EXIST ON THE SITE. _____

COUNTY OF BELL;
STATE OF TEXAS;

KNOW ALL BY THESE PRESENTS: That I, Carl B. Pearson did cause to be surveyed on the ground on September 7th, 2010, the improvements located on Lot 10, Hillside Addition to the City of Temple, Texas, and that the attached plat map is a true and accurate representation of said survey.

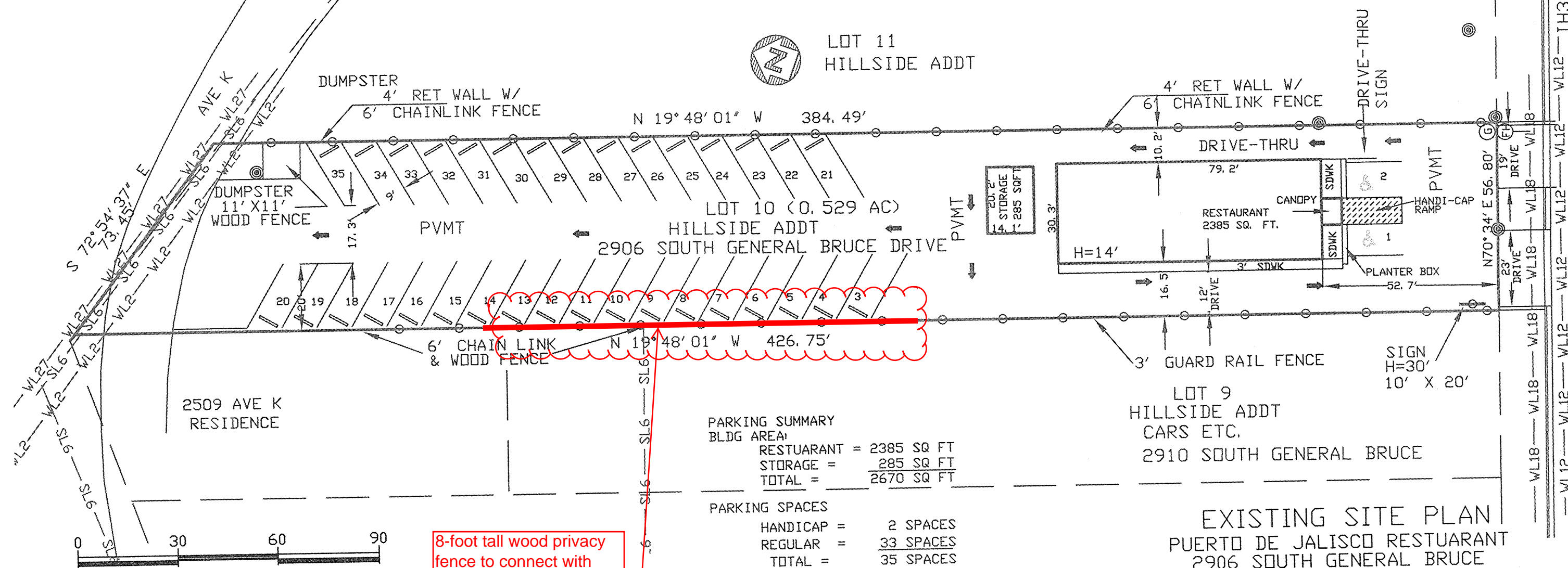
IN WITNESS THEREOF, my hand and seal, this the 8th day of September, 2010.

Carl B. Pearson, P.E., RPLS,
11 West Ave G, Temple, Texas 76504.



PONDERS AUTO & FLEET SERVICE
LONE STAR SECURITY

LOT 11
HILLSIDE ADDT



8-foot tall wood privacy fence to connect with existing wood fence

PARKING SUMMARY
BLDG AREA:

AREA
RESTUARANT = 2385 SQ FT
STORAGE = 285 SQ FT
TOTAL = 2670 SQ FT

PARKING SPACES

HANDICAP =	2 SPACES
REGULAR =	<u>33 SPACES</u>
TOTAL =	35 SPACES

RATIO : 1 SPACE / 76.3. FT. BLDG AREA

LOT 9
HILLSIDE ADDT
CARS ETC.
2910 SOUTH GENERAL BRUCE

EXISTING SITE PLAN
PUERTO DE JALISCO RESTUARANT
2906 SOUTH GENERAL BRUCE

TCE-#8261

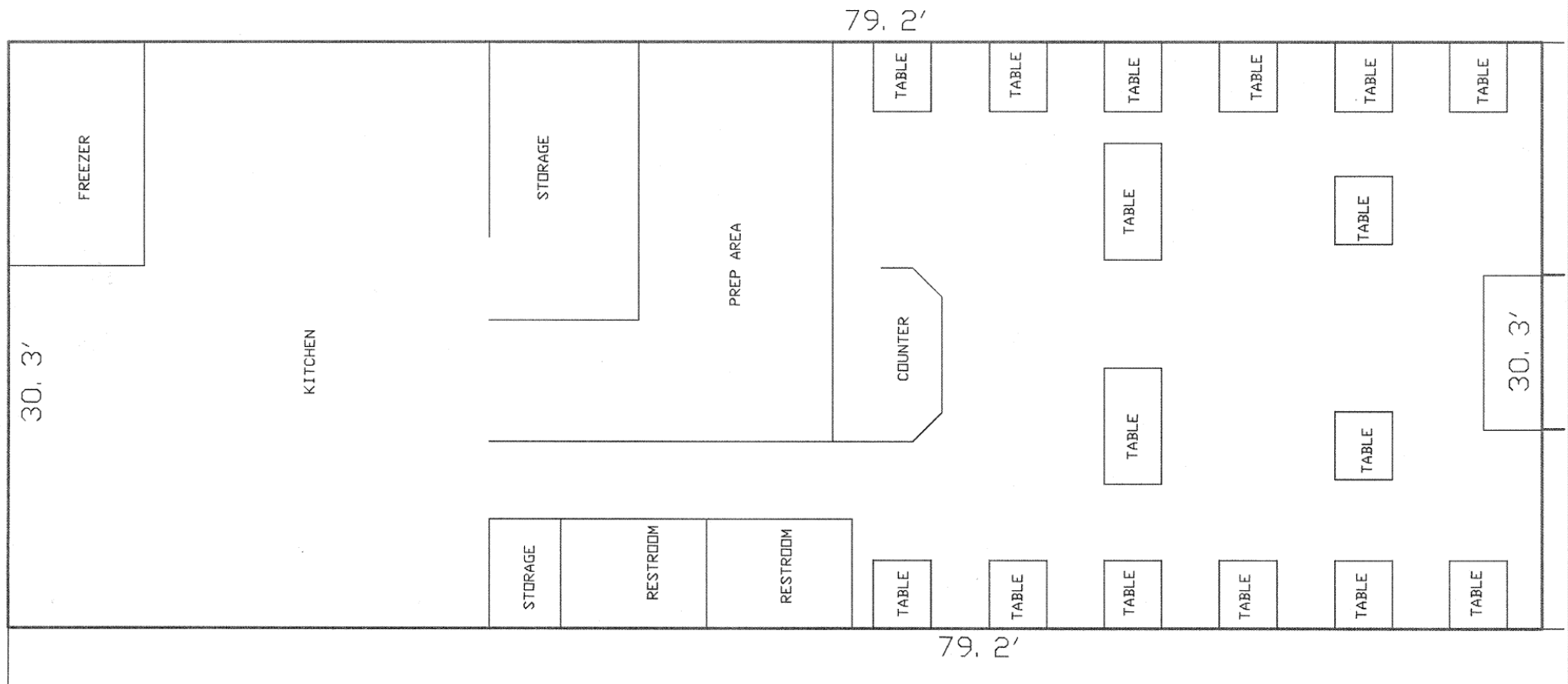
DATE: 9-6-2010



TEMPLE CIVIL ENGINEERING COMPANY INC.

ENGINEERS, PLANNERS, SURVEYORS

11 WEST AVENUE 0
TEMPLE TEXAS 76801
(284) 778-8273
FAX (284) 778-0744



TEMPLE CIVIL ENGINEERING COMPANY INC.
ENGINEERS, PLANNERS, SURVEYORS
11 WEST AVENUE 2
TAMPA, FL 33604
TEL: 813-776-0144
FAX: 813-776-0144

PUERTO DE JALISCO RESTAURANT FLOOR PLAN

SEPT. 8, 2010
TCE-8261

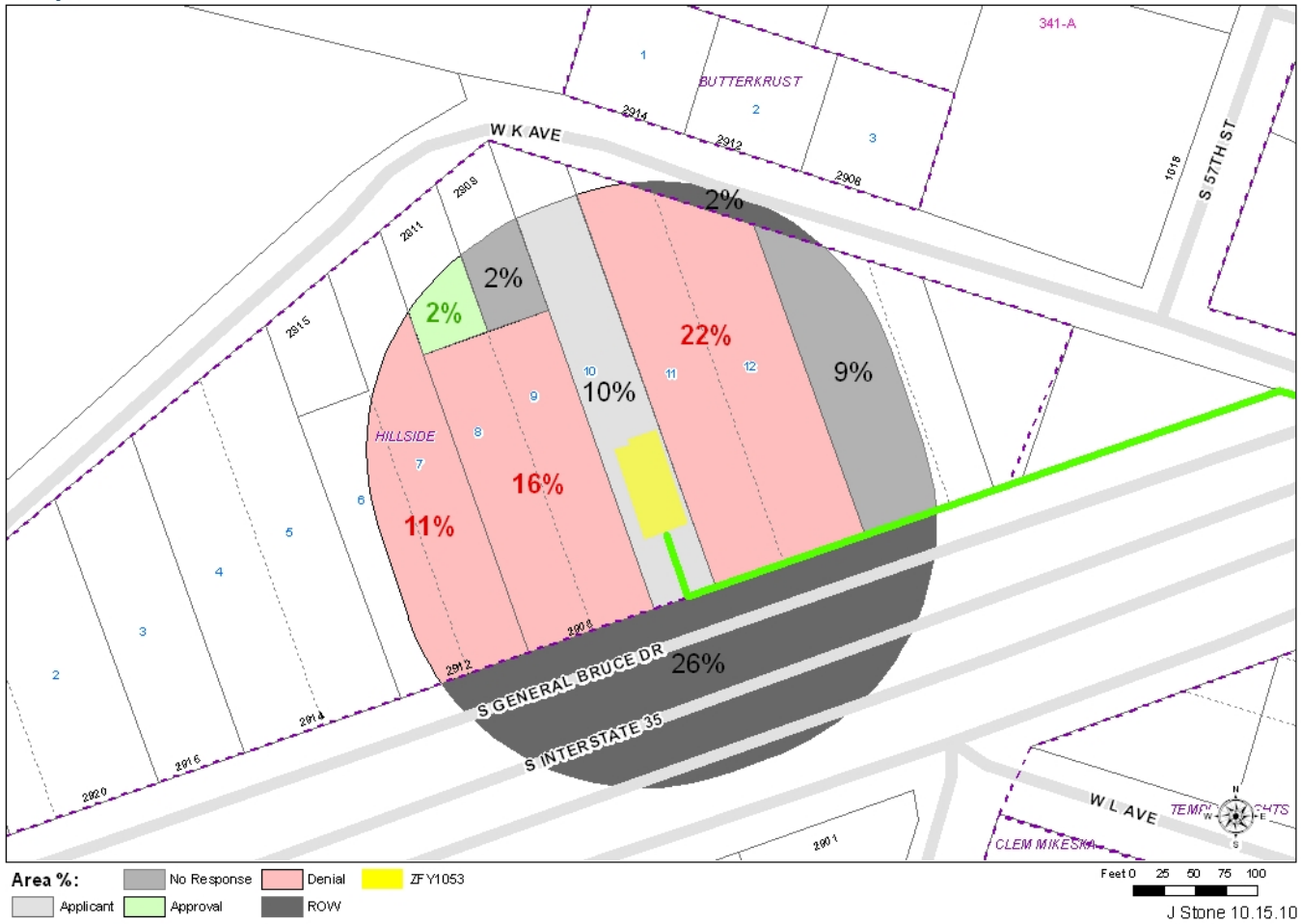




Z-FY-10-53

Approx. 3000sf Hillside Addition, Blk 1, Lot 10

2906 S General Bruce Dr





RESPONSE TO PROPOSED
CONDITIONAL USE PERMIT
CITY OF TEMPLE

RECEIVED

OCT 14 2010

City of Temple
Planning & Development

RMJ Investments Ltd
P.O. Box 826
Temple, Texas 76503-826

Zoning Application Number: Z-FY-10-53 Project Manager: Brian Mabry

Proponent/Applicant: Jose M. Flores / Francisco Camarena

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 sale of alcoholic beverages for on-premise consumption more than 50% and less than 75% of the gross revenue in a restaurant. 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:

Have enough Bars - Liquor
places already.

[Signature]
(Signature)

Reuben masek
(Print Name)

Please mail or hand-deliver this comment form to the address shown below, no later than October 18, 2010.

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

Number of Notices Mailed: 4

Date Mailed: October 7, 2010



**RESPONSE TO PROPOSED
CONDITIONAL USE PERMIT
CITY OF TEMPLE**

Lohman

Donald Etux Leticia Lohan, Sr.
2911 West Avenue K
Temple, Texas 76504

RECEIVED

OCT 15 2010

City of Temple
Planning & Development

Zoning Application Number: Z-FY-10-53

Project Manager: Brian Mabry

Proponent/Applicant: Jose M. Flores / Francisco Camarena

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 sale of alcoholic beverages for on-premise consumption more than 50% and less than 75% of the gross revenue in a restaurant. 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:

Donald Lohman
(Signature)

Donald Lohman
(Print Name)

Please mail or hand-deliver this comment form to the address shown below, no later than October 18, 2010.

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



Attn: Clydette Entsminger

RESPONSE TO PROPOSED
CONDITIONAL USE PERMIT
CITY OF TEMPLE

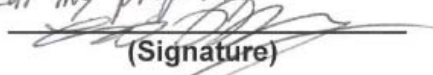
Chris Etux Karen McGregor
2806 Wickersham Drive
Temple, Texas 76502

Zoning Application Number: Z-FY-10-53 Project Manager: Brian Mabry

Proponent/Applicant: Jose M. Flores / Francisco Camarena

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 sale of alcoholic beverages for on-premise consumption more than 50% and less than 75% of the gross revenue in a restaurant. 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: I own 2908 & 2912 S. Gen. Bruce - both within 200' of this. Last year I purchased Train Wreck Bar & Grille on the other side of my car lot just to prevent alcohol sales in the area. I am using this property as storage for my car lot, or would lease to an office store, etc - anything but a bar or alcohol sales. We had trouble with damage to our cars from beer bottles from their customers and were constantly sweeping up broken glass on my lot. By selling alcohol you are attracting drinkers with bottles driving up just looking for a place to throw them. Plus I am sure occasionally several walked out the door with bottles - even though illegal. I am very adamantly against the sale or consumption of alcohol anywhere near my properties.
(Signature)  (Print Name) Chris McGregor

Please mail or hand-deliver this comment form to the address shown below, no later than October 18 2010.

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

RECEIVED

OCT 12 2010

City of Temple
Planning & Development

Number of Notices Mailed: 4

Date Mailed: October 7, 2010



PLANNING AND ZONING COMMISSION AGENDA ITEM

10/18/10
Item #3
Regular Agenda
Page 1 of 4

APPLICANT: Carl Pearson for Francisco Camarena

CASE MANAGER: Brian Mabry, AICP, Planning Director

ITEM DESCRIPTION: Z-FY-10-53 Hold a public hearing to discuss and recommend action on a Conditional Use Permit for the sale of alcoholic beverages more than 50% and less than 75% revenue from alcohol sales in a restaurant on Lot 10, Block 1, Hillside Addition, located at 2906 South General Bruce Drive.






BACKGROUND: The applicant requests a Conditional Use Permit (CUP) in order to sell beer, wine and mixed drinks in his restaurant that is 2,385 square feet in area. The nearest protected use is a church that is approximately 1,550 feet away, measured front door to front door. The minimum separation distance between a business with on-premise alcohol consumption and a protected use is 300 feet. The Temple Police Department was informed of this CUP request and had no issues or concerns about granting the request.

The subject property is very narrow and deep with a width of 56 feet and a depth of 427 feet at its deepest. City staff normally recommends additional landscaping when a property is deficient in that area and needs a CUP. However, additional landscaping was challenging for the applicant to provide without cutting off a drive aisle or placing the landscaping in the public right-of-way. Landscaping placed in the right-of-way would likely be destroyed when the adjacent portion of Interstate 35 is widened in the near future. The current landscaping, in the form of foundation plantings along the front façade of the building, is all that the applicant proposes for this property.

Per State Statutes, if owners of more than 20 percent of the land area in the notification radius send in written comments disapproving of the proposal, then a super majority vote is required from City Council to approval the proposal. In this case, owners of a majority of the land in the notification area sent in negative written comments, so a super majority (at least 4 favorable votes) is required from City Council to approve this CUP. (See the Notification Map attached to this report0

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	LI (CUP proposed)	Restaurant	
North	C	Park (across Ave K)	
South	LI	I-35	
East	LI	Major vehicle repair	
West	LI	Auto sales	

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

Document	Policy, Goal, Objective or Map	Compliance?
CP	Goal 4.1 - Growth and development patterns should be consistent with the City's infrastructure and public service capacities	Y

CP = Comprehensive Plan

Future Land Use and Character (CP Map 3.1)

The Future Land Use and Character Map designates the property as Auto Urban Commercial. The CUP request conforms to the Future Land Use and Character Map.

Thoroughfare Plan (CP Map 5.2)

The Thoroughfare Plan designates Interstate 35 as an expressway. The CUP request conforms to the Thoroughfare Plan.

Availability of Public Facilities (CP Goal 4.1)

An 18-inch water line and a six-inch sewer line serve the property. Public facilities are available for the property.

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.

Adjacent property owners sent in a recommendation for disapproval with a concern related to criterion #1.

PUBLIC NOTICE:

Four notices of the Planning and Zoning Commission public hearing were sent out to surrounding property owners and occupants. As of Wednesday, October 13 at 5 PM, two notices was 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 October 7, 2010 in accordance with state law and local ordinance

STAFF RECOMMENDATION: Staff recommends approval of Z-FY-10-53, a CUP to allow the sale of alcoholic beverages, more than 50% and less than 75% of the total gross revenue, for on-premise consumption in a restaurant subject to the following conditions:

General to All CUPs for On-Premise Alcohol Consumption

1. 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.
2. The permittee must comply with applicable licensing and permit provisions of the Alcoholic Beverage Code within six 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.
3. 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 CUP. 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.
4. The permittee must demonstrate that the granting of the permit would not be detrimental to the public welfare of the citizens of the City.
5. 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.
6. 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.
7. 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.
8. The City Council may deny, cancel, suspend or revoke this CUP in accordance with the revocation clause set forth in Section 7-608 of the Zoning Ordinance if it affirmatively determines that the issuance of the permit is (a) incompatible with the surrounding uses of property, or (b) detrimental or offensive to the neighborhood or contrary to the health, safety, and general welfare of the City and its inhabitants.
9. The CUP runs with the property. Changes in the owner or lessee of a permitted establishment do not affect the permit.
10. The applicant's site plan and floor plan are exhibits to the ordinance that grants CUP.

Specific to this CUP

11. The parking lot must be striped to match CUP site plan, including traffic flow arrows.

FISCAL IMPACT: Not Applicable

ATTACHMENTS:

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

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

MONDAY, AUGUST 16, 2010

ACTION ITEMS

Item 3: Z-FY-10-53: Hold a public hearing to discuss and recommend action on a Conditional Use Permit for the sale of alcoholic beverages more than 50% and less than 75% revenue from alcohol sales in a restaurant on Lot 10, Block 1, Hillside Addition, located at 2906 South General Bruce Drive. (Applicant: Carl Pearson for Francisco Camarena)

Mr. Brian Mabry, Planning Director, stated the applicant was Jose Flores for Francisco Camarena and would go to City Council for first reading on November 4th and second and final action on November 18th.

The applicant requested a CUP to sell alcoholic beverages in a restaurant and was a standard request for a CUP. The property was zoned Light Industrial (LI) and had approximately 55 feet of frontage along I35. The I35 Corridor standards are not triggered by this request since no physical improvements were proposed by the application. The CUP would apply to the building, not the entire lot the building sat on.

The nearest protected use, Faith Baptist Church, was approximately 1,550 feet away on the other side of Interstate 35 located at 51st and Avenue K. Surrounding properties consisted of I35 frontage to the south, a vehicle repair establishment to the east, auto sales to the west, and Sammons Park to the north.

The Future Land Use and Character Map designated the property as Auto-Urban Commercial and the Thoroughfare Plan called I35 an expressway. A 12 inch water line and 6 inch sewer line serve the property.

The site plan for the request indicated adequate parking to the rear of the building, a curb was at the front, and an entry and exit driveway are available. Two small foundation plantings were in front of the building and the only landscaping on the property. Since the property was so narrow and limited, additional landscaping was not necessary. The floor plan for the restaurant would be part of the CUP request.

Four letters were mailed out and two were returned in opposition of the CUP and one in favor. The two property owners in opposition had enough property area to trigger a supermajority requirement from City Council in order for approval. The two property owners also expressed concerns regarding the potential for litter of alcoholic bottles.

The general criteria for all CUPs were as follows:

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.

Adjacent property owners sent in a recommendation for disapproval with a concern related to criterion #1.

Staff recommended approval for this CUP request subject to the following conditions:

General for all CUPs for On-Premise Alcohol Consumption:

1. 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.
2. The permittee must comply with applicable licensing and permit provisions of the Alcoholic Beverage Code within six 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.
3. 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 CUP. 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.
4. The permittee must demonstrate that the granting of the permit would not be detrimental to the public welfare of the citizens of the City.

5. 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.

6. 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.

7. 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.

8. The City Council may deny, cancel, suspend or revoke this CUP in accordance with the revocation clause set forth in Section 7-608 of the Zoning Ordinance if it affirmatively determines that the issuance of the permit is (a) incompatible with the surrounding uses of property, or (b) detrimental or offensive to the neighborhood or contrary to the health, safety, and general welfare of the City and its inhabitants.

9. The CUP runs with the property. Changes in the owner or lessee of a permitted establishment do not affect the permit.

10. The applicant's site plan and floor plan are exhibits to the ordinance that grants CUP.

Specific to this CUP

11. The parking lot must be striped to match CUP site plan, including traffic flow arrows.

Commissioner Hurd asked if the entrance and exit driveways would be one-way and Mr. Mabry stated they would both be one-way due to the narrow width of both, one way entrance and one way exit circulation.

Chair Talley asked if anyone could go to the drive through window and pick up alcoholic beverages and Mr. Mabry stated under the TABC rules and regulations, that would not be permissible.

Brief discussion about protected uses and distances.

Commissioner Pilkington asked about the floor plan being strictly adhered to and Mr. Mabry stated the applicant could not add more tables to increase the parking demand or remove items and create a true bar without having any amendment approved by the P&Z Commission.

Chair Talley opened the public hearing.

Mr. Chris McGregor, 2006 Wickersham, Temple, owned two properties within 200 feet of the subject property; one a car lot and the other the old Train Wreck bar. Mr. McGregor stated although this current business was a restaurant, when the Train Wreck was in operation major problems occurred with bottles coming onto Mr. McGregor's property, broken windshields, and people driving in, parking, and leaving with open containers.

Mr. McGregor stated an establishment selling alcohol would not benefit his business whatsoever, would draw a crowd he was not interested in, and business was hard enough without other problems. There were trash issues from the restaurant which Mr. McGregor just "dealt with," but felt this would further the problem. He purchased the property next to him to try and rid the problem of alcohol issues in the area.

Mr. McGregor stated he realized it was a restaurant with occasional drinking but also wanted to address the wording of the Ordinance "more than 50% and less than 75% of revenue would be alcohol sales." Mr. McGregor felt this made it sound as if the City was forcing people to sell 50 to 75% of alcohol to comply with this wording, intentional or not.

Ms. Trudi Dill, Assistant City Attorney, stated the intention was not to exceed that range. Mr. McGregor insisted it said 50 to 75; it should say 75 or below. Ms. Dill stated a person would not lose their permit if they sold less. Mr. McGregor reiterated "they have to sell 50 to 75, it was very clear" and Ms. Dill did not explain it.

Mr. Mabry stated the categories in the use table, as far as alcohol sales, fall in line with TABC licenses and permits and that was the rationale for the percentages in the use table and to sell less than 50% would not be breaking the terms of their permit. Mr. McGregor stated the wording said "50 to 75" and should say "75 or less" if that was what was meant.

Mr. McGregor stated he was against the request even if it were one percent.

Mr. Carl Pearson, Temple Civil Engineering, stated he did the site plan for the applicant and his observation of their business was that it was strictly a restaurant; they did not sell beer, he did not see trash around the building or the area, and the Commission recently approved a liquor store approximately two blocks from this location.

Mr. Sergio Lozano, LOC Consultants, 1000 E. Cesar Chavez Street, Austin, Texas, stated he had worked with Mr. Camarena before and Mr. Camarena was not in the bar business but the Mexican food business and had operated this particular establishment for more than 6 years. Mr. Lozano stated what the business was trying to do was supplement the type of request his clients have asked for. This business would not become a bar. Mr. Lozano stated the TABC rules and guidelines are very strict and clearly defined and they would not be here if they had less than 50% of alcohol sales. Mr. Camarena had no intention of turning or converting this business into a bar, it would remain a restaurant, and the request only allowed him to sell alcoholic beverages with the food already supplied.

Commissioner Staats stated if there were concerns about the activities of alcohol sales, TABC and the City had regulations in place by which CUPs may be revoked for violations. The owners and operators of the establishment were probably aware of those regulations and being neighbors, a common ground and resolution for both businesses should be sought out. Commissioner Staats encouraged everyone to be good neighbors while being vigilant.

Chair Talley stated the key word was “conditional” use permit.

Mr. McGregor asked to make a further comment and stated he understood the word conditional and there were regulations in place since he had been in business for 35 years. However, Mr. Lozano just stated it would at least 50% of alcohol sales and that was a lot of alcohol. Mr. McGregor stated for a \$20 meal somebody is spending \$20 for alcohol, which is more than an occasional beer.

Chair Talley asked Mr. McGregor if he was correct in his understanding that Mr. McGregor's concerns were more about bottles coming onto his property, damage to his vehicles, and damage to his property than it was about the 50% or 1% and Mr. McGregor stated true, however, the more alcohol sold would create more of a problem.

Commissioner Staats asked the owners/operators of the business if they would or did allow people to come in and buy nothing but alcohol and Mr. Lozano replied no sir, they have to buy a meal in order to buy alcohol.

Mr. Lozano approached the lecturn and stated no, this was not a business that dispensed alcohol only. The consumption of alcohol would only be included with the food consumption. This was not going to be a bar, this was a supplement to the existing food that was sold on the premises. Alcohol would not be dispensed through the drive through window, patrons were not allowed to leave the premises with their glass or bottle, and no one would come in with their own drinks.

Commissioner Pilkington stated there was a category on the use table for all alcoholic beverages 50% or less revenues and had not noticed it before. He agreed with Mr. McGregor's point that it seemed like a lot, 50 to 75. Commissioner Pilkington asked if the owner/applicant could operate the restaurant and sell with 50% or less. Mr. Mabry responded 50% or less still required a CUP in a LI district and was more restrictive than what was originally requested. Commissioner Pilkington asked if the owner could explain why it would be between 50 and 75. Mr. Lozano stated the 50 plus one percent was one of the requirements by the state TABC and he was not aware of the percentages based on the zone district for LI. In order to hold a liquor and beer license they needed 50 plus one percent of alcohol sales.

Vice-Chair Martin asked if this was the same whether it was this Mexican food restaurant or something like Chili's and Mr. Lozano stated it was the same state wide for any establishment that offered food and liquor at the same time.

Vice-Chair Martin stated the percentages sounded off but it they were on par with any other restaurant or CUP offered, this was more an issue with wording or TABC.

Mr. McGregor stated with Applebee's or Chili's you could enter and purchase just a drink so 50% in this restaurant would be more than Chili's or Applebee's.

Chair Talley closed the public hearing.

Vice-Chair Martin made a motion to approve Z-FY-10-53 subject to the conditions stated and Commissioner Hurd made a second.

Motion passed: (6:0)

Commissioners Williams, Barton and Sears absent.

ORDINANCE NO. _____

[PLANNING NO. Z-FY-10-53]

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, APPROVING A CONDITIONAL USE PERMIT TO ALLOW THE SALE OF ALCOHOLIC BEVERAGES, MORE THAN 50% AND LESS THAN 75% REVENUE FROM ALCOHOL SALES, FOR ON-PREMISE CONSUMPTION IN A RESTAURANT ON LOT 10, BLOCK 1, HILLSIDE ADDITION, LOCATED AT 2906 SOUTH GENERAL BRUCE DRIVE; 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 location and zoning classification of the establishment, has recommended that the City Council approve this application; 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 concerning the establishment at 2906 South General Bruce Drive and has heard the comments and evidence presented by all persons supporting or opposing this matter at said public hearing, and after examining the location and the zoning classification of the 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 the sale of alcoholic beverages, more than 50% and less than 75% revenue from alcohol sales, for on-premise consumption in a restaurant on Lot 10, Block 1, Hillside Addition, located at 2906 South General Bruce Drive, more fully described in Exhibit A, attached hereto and made a part hereof for all purposes.

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

General:

- (a) The sale and consumption of alcoholic beverages shall occur only within the designated area, in accordance with the site plan and floor plan attached as Exhibit B.
- (b) 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.
- (c) The permittee must comply with applicable licensing and permit provisions of the Alcoholic Beverage Code within six (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.
- (d) 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.
- (e) The permittee must demonstrate that the granting of the permit would not be detrimental to the public welfare of the citizens of the City.
- (f) 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 his obligations hereunder.
- (g) 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.
- (h) 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.

- (i) The City Council may deny or revoke a conditional use permit if it affirmatively determines that the issuance of the same is (a) incompatible with the surrounding uses of property, or (2) detrimental or offensive to the neighborhood or contrary to the health, safety, and general welfare of the City and its inhabitants.
- (j) 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.
- (k) 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 this CUP:

- (l) The parking lot must be striped to match CUP site plan, including traffic flow arrows.

Part 3: 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 4: It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses, and phrases of this ordinance are severable and, if any phrase, clause, sentence, paragraph or section of this ordinance should be declared invalid by the final judgment or decree of any court of competent jurisdiction, such invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this ordinance, since the same would have been enacted by the City Council without the incorporation in this ordinance of any such phrase, clause, sentence, paragraph or section.

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

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

PASSED AND APPROVED on First Reading and Public Hearing on the **4th** day of **November**, 2010.

PASSED AND APPROVED on Second Reading on the **18th** 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

11/18/10
Item #6
Regular Agenda
Page 1 of 2

DEPT./DIVISION SUBMISSION & REVIEW:

Brian Mabry, AICP, Planning Director

ITEM DESCRIPTION: FIRST READING – PUBLIC HEARING – Z-FY-10-55 – Consider adopting an ordinance authorizing a Conditional Use Permit for the sale of distilled liquors, wines and beers in unbroken original containers in a package store for off-premises consumption in a 2,520 square foot lease area on a portion of Lot 1, Block 1, Lakewood Square Subdivision, located at 11725 West Adams Avenue, Suite A.

P&Z COMMISSION RECOMMENDATION: At its November 1, 2010 meeting, the Planning and Zoning Commission voted 6/3 to recommend approval of the requested Conditional Use Permit to allow a package store on the subject property with the following conditions:

1. The CUP site plan and floor plan are binding;
2. General conditional use standards including but not limited to those related to nuisance-free operation, safety and possible revocation in Zoning Ordinance Sec. 7-611 apply; and
3. Specific use standards for package stores in Zoning Ordinance Sec. 7-611.5 apply

Chair Talley and Commissioners Pilkington and Barton voted for denial.

STAFF RECOMMENDATION: Conduct public hearing and adopt ordinance as presented in item description, on first reading, and schedule second reading and final adoption for December 2, 2010.

ITEM SUMMARY: Please refer to the Staff Report and draft minutes of case Z-FY-10-56, from the Planning and Zoning Commission meeting, November 1, 2010. The applicant requests this Conditional Use Permit in order to establish a package store in the 2,520 square-foot lease space formerly occupied by a video store. Retail space is proposed to total 2,160 square feet. Access to the property comes from the existing 35-foot driveway on West Adams Avenue / FM 2305. Existing landscaping on the property consists of Lantana, grass, Texas Sage and Live Oaks. One parking space is required per 250 square feet of retail area, for a total of nine parking spaces required for the package store. Adequate additional parking spaces remain for the three office lease spaces located in the building. No drive-through is proposed. Facades of the existing building are limestone. The existing site complies with the applicable package store standards set forth in the Zoning Ordinance.

CUP 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.

Thus far, Staff has received no written public input related to the criteria above. An adjacent tenant spoke at the P&Z public hearing and expressed concern related to Criteria #1 and #4. He was concerned that traffic and clientele for a package store would have a negative impact on his insurance business and that access to the property may be difficult to navigate for people with boats who are stopping at the package store on the way to the lake.

PUBLIC NOTICE:

Four notices of the Planning and Zoning Commission public hearing were sent out to surrounding property owners and five courtesy notices were sent to surrounding tenants. As of Wednesday, October 27 at 5 PM, one notice was 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 October 21, 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](#)
[CUP Floor Plan](#)
[Notice Map](#)
[Response Letter](#)
[P&Z Staff Report \(Z-FY-10-56\)](#)
[P&Z Minutes \(11/01/10\)](#)
[Ordinance](#)




Z-FY-10-55

2520sf of Lakewood Square, Lot 1, Block 1

11725 W Adams Ave, Suite A



2008 Aerial Shown (newer image unavailable)

 ZFY1055

Feet 0 50 100 150 200

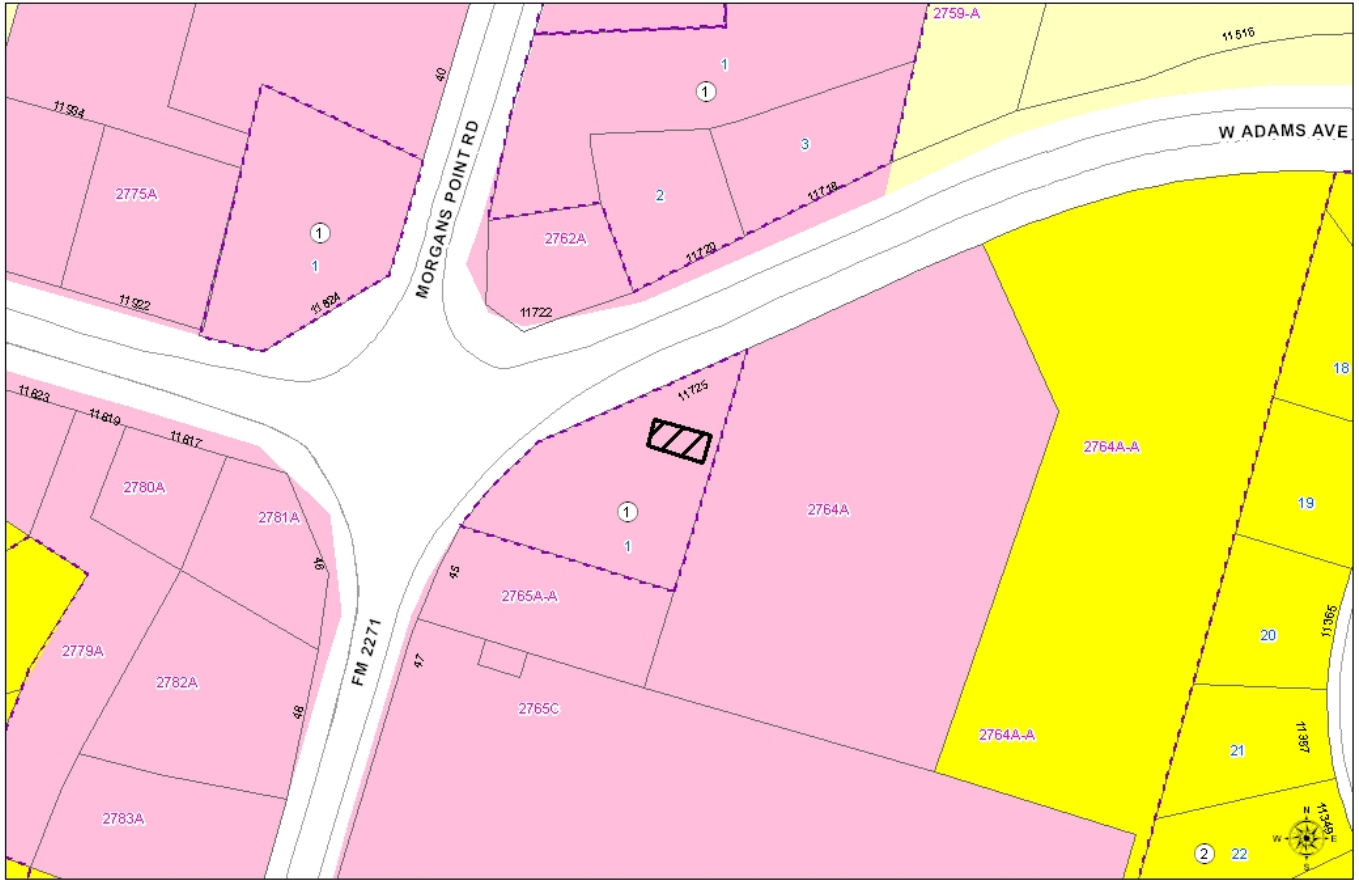
J Stone 9.29.10



Z-FY-10-55

2520sf of Lakewood Square, Lot 1, Block 1

11725 W Adams Ave, Suite A



- | | | | | | |
|-----------------------|-------------------------|--------------------|---------------------------|-----------------------------------|--------------|
| ZFY1055 | Auto-Urban Mixed Use | Business Park | Neighborhood Conservation | Suburban Commercial | Urban Center |
| 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 | |

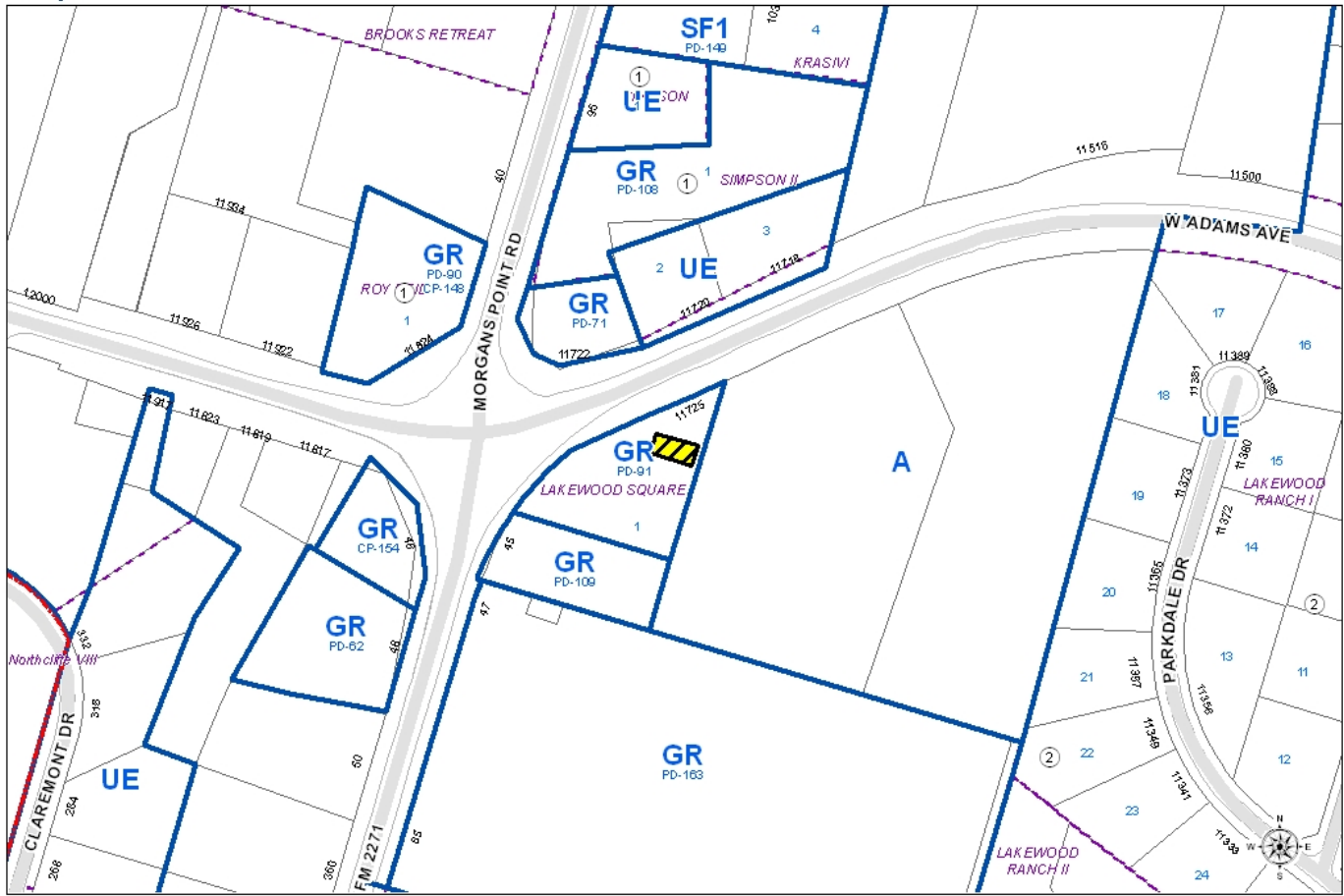
1 inch = 150 feet
J Stone 10.27.10



Z-FY-10-55

2520sf of Lakewood Square, Lot 1, Block 1

11725 W Adams Ave, Suite A



Z-FY1055

Feet 0 50 100 150 200

J Stone 9.29.10



Z-FY-10-55

2520sf of Lakewood Square, Lot 1, Block 1

11725 W Adams Ave, Suite A

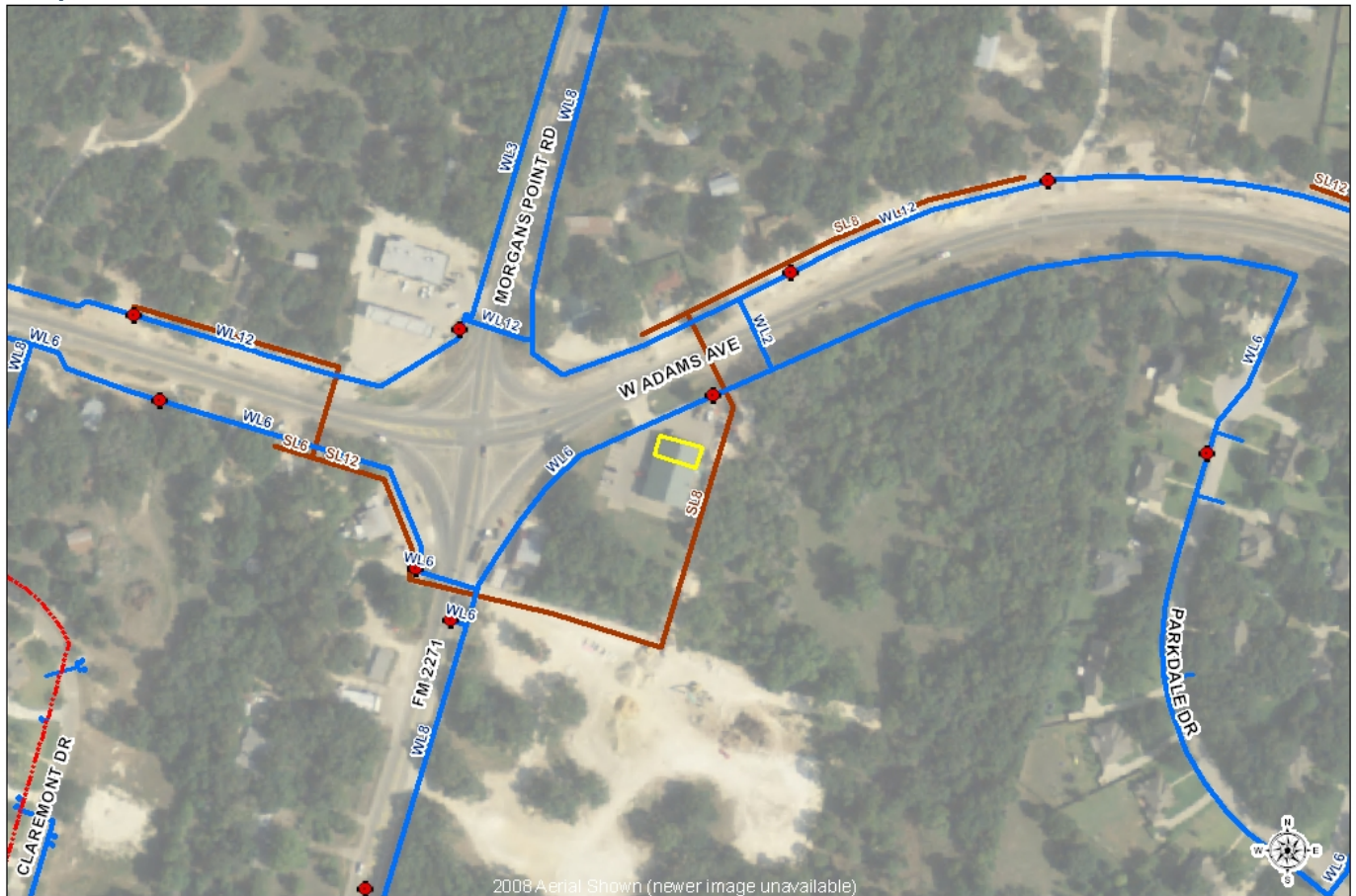






Z-FY-10-55

2520sf of Lakewood Square, Lot 1, Block 1

11725 W Adams Ave, Suite A



 ZFY1055  WATER LINE  SEWER LINE

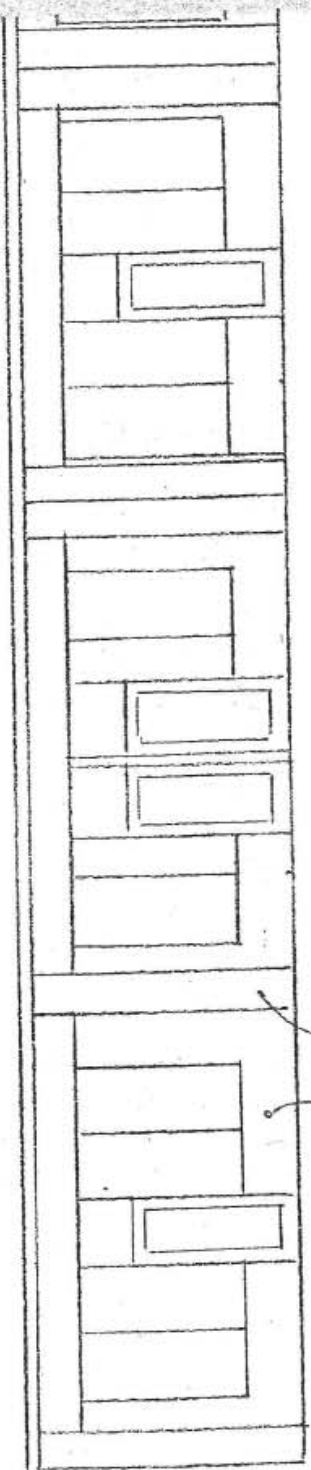
Feet 0 50 100 150 200
J Stone 9.29.10

City of Temple
Planning & Development



100'
Floor Plan
1/8" = 1'

SPLIT FACE BLOCK
WHITE PRES w/ WHITE MOLDING
FRONT & END WALL, COLUMNS



Front Elevation
1/8" = 1'

RECEIVED

SEP 20 2010

City of Temple
Planning & Development



**COURTESY NOTICE
RESPONSE TO PROPOSED
CONDITIONAL USE PERMIT
CITY OF TEMPLE**

Farmers Insurance Group
11725 West Adams Avenue, Suite E
Belton, Texas 76513

Zoning Application Number: Z-FY-10-55

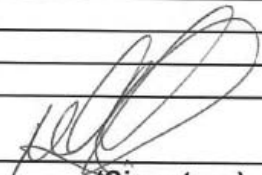
Project Manager: Brian Mabry

Proponent/Applicant: Marc Henderson for Don & Deanna Hinton

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 an off-premise consumption package store. 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)

Mike Seiler
(Print Name)

Please mail or hand-deliver this comment form to the address shown below, no later than November 1, 2010.

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

RECEIVED

OCT 25 2010

City of Temple
Planning & Development

Number of Notices Mailed: 4

Date Mailed: October 21, 2010



PLANNING AND ZONING COMMISSION AGENDA ITEM

11/01/10
Item #2
Regular Agenda
Page 1 of 4

APPLICANT / DEVELOPMENT: Applicant: Marc Henderson for Don & Deanna Hinton

CASE MANAGER: Brian Mabry, AICP, Planning Director

ITEM DESCRIPTION: Z-FY-10-55 - Hold a public hearing to discuss and recommend action on a Conditional Use Permit to allow the sales of distilled liquors, wines and beers in unbroken original containers in a package store for off-premises consumption in a 2,520 square foot lease area on a portion of Lot 1, Block 1, Lakewood Square Subdivision, located at 11725 West Adams Avenue, Suite A.


BACKGROUND: The applicant requests this Conditional Use Permit (CUP) in order to establish a package store in the 2,520 square-foot lease space formerly occupied by a video store. Retail space is proposed to total 2,160 square feet.





Access to the property comes from the existing 35-foot driveway on West Adams Avenue / FM 2305. Existing landscaping on the property consists of Lantana, grass, Texas Sage and Live Oaks. One parking space is required per 250 square feet of retail area, for a total of nine parking spaces required for the package store. Adequate additional parking spaces remain for the three office lease spaces located in the building.

No drive-through is proposed. Facades of the existing building are limestone. The existing site complies with the applicable package store standards set forth in the Zoning Ordinance.

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	PD-GR (CUP proposed)	Empty lease space	

Direction	Zoning	Current Land Use	Photo
North	PD-GR	Veterinarian	
South	PD-GR	Office lease space	
East	A	Undeveloped	
West	PD-GR & CUP	Fuel sales (across FM 2271)	

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	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 Suburban Commercial. The CUP request conforms to the Future Land Use and Character Map.

Thoroughfare Plan (CP Map 5.2)

The Thoroughfare Plan designates W. Adams Ave. as a major arterial. The CUP request conforms to the Thoroughfare Plan.

Availability of Public Facilities (CP Goal 4.1)

A six-inch water line and an eight-inch sewer line serve the property. Public facilities are available for the property.

Citywide Sidewalk and Trails Master Plan (Map F4)

The Citywide Sidewalk and Trails Master Plan calls for a spine trail/sidewalk along W. Adams Ave. which is to be 10 to 12 feet in width. The Safe Routes to Schools grant that the City has received will provide a 10' sidewalk along this portion of W. Adams Avenue, on the other side of the street.

CUP 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.

Thus far, Staff has received no written public input related to the criteria above. An adjacent tenant recently spoke in person with staff and expressed concern related to Criteria #1 and #4. He was concerned that traffic and clientele for a package store would have a negative impact on his insurance business and that access to the property may be difficult to navigate for people with boats who are stopping at the package store on the way to the lake.

PUBLIC NOTICE:

Four notices of the Planning and Zoning Commission public hearing were sent out to surrounding property owners and five courtesy notices were sent to surrounding tenants. As of Wednesday, October 27 at 5 PM, one notice was 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 October 21, 2010 in accordance with state law and local ordinance

STAFF RECOMMENDATION: None, per direction from the Package Store Subcommittee; however, if approved, the following conditions must apply:

1. The CUP site plan and floor plan are binding;
2. General conditional use standards including but not limited to those related to nuisance-free operation, safety and possible revocation in Zoning Ordinance Sec. 7-611 apply; and
3. Specific use standards for package stores in Zoning Ordinance Sec. 7-611.5 apply

FISCAL IMPACT: Not Applicable

ATTACHMENTS:

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

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

MONDAY, NOVEMBER 1, 2010

ACTION ITEMS

Item 2: Z-FY-10-55: Hold a public hearing to discuss and recommend action on a Conditional Use Permit to allow the sales of distilled liquors, wines and beers in unbroken original containers in a package store for off-premises consumption in a 2,520 square foot lease area on a portion of Lot 1, Block 1, Lakewood Square Subdivision, located at 11725 West Adams Avenue, Suite A. (Applicant: Marc Henderson for Don & Deanna Hinton)

Mr. Brian Mabry, Planning Director, stated this case will go to City Council for first reading on November 18th and second reading and final action on December 2nd.

This CUP request was to establish a package store located at (the former Don's Video) leased space at FM 2305 and FM 2271. The leased space was 2,520 square feet with 2,160 square feet as retail. A CUP was required for a package store in the General Retail (GR), Commercial (C), Central Area (CA), Light Industrial (LI), and Heavy Industrial (HI) zoning districts.

Other tenants of the small shopping center included business offices. The parking and landscaping met or exceeded the requirements of the Zoning Ordinance and package stores and offices.

Surrounding properties included a veterinarian office to the north, undeveloped land to the east, a convenience store to the west, and office spaces to the south. The Future Land Use and Character Map designated the property as Suburban Commercial. West Adams was a major arterial on the Thoroughfare Plan and FM 2271 was a minor arterial. The property was served by a 6 inch water line and 8 inch sewer line.

The Zoning Ordinance established seven general criteria for evaluation of all CUPs:

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 alleys;
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 including 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.

All of the applicable standards above are reflected on the CUP site plan. This package store does not propose a pick-up window.

The site plan would be part of the ordinance that granted the CUP if approved.

Four notices were mailed out to both property owners and tenants: one (tenant) response was returned in favor and zero were returned opposed to the request.

In accordance with the Package Store Subcommittee's actions, Staff had no official recommendation for a package store. If this request were approved, the site plan and floor plan would be binding and become part of the ordinance that would grant the CUP. The General Conditional Use Standards included, but were not limited to, those related to nuisance free operation, safety, and possible revocation of the permit, and the Specific Use Standards for package stores would also apply to the property.

Chair Talley asked if a CUP were renewed on a yearly basis and Mr. Mabry stated the CUP ran with the land. A few CUPs have been renewed if City Council were hesitant to initially grant a CUP but normally a CUP will run with the land and remain in place unless revoked by City Council.

Commissioner Sears asked where the next closest CUP was located within the area. Mr. Mabry stated for a package store there were not any in the area, however, a CUP was granted further out for a convenience store to sell beer and wine but never materialized. The CUP remained in place.

Chair Talley opened the public hearing.

Mr. Scott Hrbacek, 1700 Moore's Mill, Temple, Texas stated he has had an occupied space in the subject building/property for the last six years and was speaking to the Commission as a tenant/lessee. He stated the building currently consisted of an insurance agency, his office, and a real estate agency.

Mr. Hrbacek stated he had concerns about parking and access and egress into the property. The entrance into the property had been an ongoing problem but it was on a major arterial on a curve off of FM 2271 onto 2305. Any time a trailer, a boat, or something other than a car pulled into the lot, there was no easy way to get them in and out; they pull in then have to back out. Servicing of a package store with vendors and delivery trucks coming in and out on a daily basis would be an issue for Mr. Hrbacek. Currently, people have to be stopped from pulling a big Class 6, 7, or 8 truck from pulling in and stopping in front of his business. He does not have an issue with that except when people try to get in and out. The cars are parked in such a way that they would not be able to get out until the delivery trucks were done. The location would be a challenge for those trucks servicing the package store.

Mr. Hrbacek also had a concern about the parking. The parking met the requirements but there were three functioning offices with customers, clients, and employees coming in and out

and it was a tight area. The northern part of the parking lot was not utilized at all. Mr. Hrbacek did not like the idea of his clients having to drive through the liquor store parking lot to get to his area. Mr. Hrbacek asked if there were a way to have a pull-through for deliveries made in the back, or extend the curb cut to allow bigger trucks, or if other options were available. Mr. Hrbacek was not against a business opening, he just does not want it to infringe on his business.

Commissioner Staats stated the driveway entrance width may be regulated by TxDOT and may not be able to be changed. Mr. Hrbacek suggested possibly extending the driveway all the way around the building and have the trucks service the package store from the back side.

Commissioner Pilkington asked what the traffic was like when the space was a video store. Mr. Hrbacek stated it was an issue at times but sharing the parking area was not the main problem; it was the trailers, boats, and trucks coming in creating a gridlock and interrupting his business.

Commissioner Sears asked about the back area with the AC units and dumpsters and if it was accessible. Mr. Hrbacek stated he thought the original intent was to have the ability to pull all the way around the building but the external units and air conditioners were placed in the space. The south area could be paved all the way around to have the ability to pull in and out. Commissioner Sears asked if they repaved, would a boat fit back there. Mr. Hrbacek stated it would need to be widened.

Brief discussion about property lines and area.

Commissioner Staats asked about his business hours and Mr. Hrbacek stated it was 8 to 5, but also had after hours and weekend appointments. Commissioner Hurd asked how long he had been there and the response was six years.

Mr. Marc Henderson, CUP applicant for the owner, 5882 Denmans Loop, stated he spoke with the landlord regarding parking on the side and having signage diverting traffic to the side lot were discussed, along with deliveries there, since there was enough room to get inventory in and out of the back without disrupting businesses. Hours of operation were mandated by the state and would be from 10 a.m. to 9 p.m. Mr. Henderson did not anticipate a lot of business during the day and stated the majority of traffic would probably occur after 5 and on the weekends (Friday and Saturday) after 5 and probably all day Saturday.

Mr. Henderson stated he did not want to interfere with the current tenants and had discussed it with the landlord. The plan was to use signage to divert traffic to the side lot as much as possible since there was parking available away from the building. Mr. Henderson was in total agreement that the real estate office and Mr. Hrbacek's office people could pull up, get out, and go in. Deliveries would be made down the side and hand carried off since it was a small space. Mr. Henderson did not see having daily deliveries but rather one to two a week.

Mr. Hrbacek asked if the package store front would be on the north or west side of the building and Mr. Henderson stated it would be where the video store was, on the west, the same as Mr. Hrbacek's. Mr. Henderson stated TABC required this and would not allow the other door to be

opened. Mr. Hrbacek asked how many vendors would serve the store and Mr. Henderson stated one for tobacco products, one for wine and spirits, and one for beer.

Commissioner Sears asked what type of trucks would service the store and Mr. Henderson stated a box truck was used for beer, not an 18-wheeler, liquor and wine distributors sometimes use pick ups, but overall, nothing bigger than a box truck.

Mr. Hrbacek asked the Commission to make a stipulation to the CUP regarding limitation of the size of the delivery trucks.

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

Commissioner Staats commented about possibly having the deliveries made during the time when the least amount of traffic would be parked and asked if deliveries had to be made during the business operation hours. Mr. Henderson responded yes. Mr. Henderson did not feel the daytime hours would be that busy during the work week and would try to arrange for deliveries during that time.

Commissioner Hurd made a motion to approve Z-FY-10-55 and Commissioner Staats made a second.

Motion passed: (6:3)

Commissioners Pilkington, Barton, and Chair Talley voted Nay.

ORDINANCE NO. _____

[PLANNING NO. Z-FY-10-55]

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING A CONDITIONAL USE PERMIT TO ALLOW THE SALES OF DISTILLED LIQUORS, WINES AND BEERS IN UNBROKEN ORIGINAL CONTAINERS IN A PACKAGE STORE FOR OFF-PREMISE CONSUMPTION IN A 2,520 SQUARE FOOT LEASE AREA ON A PORTION OF LOT 1, BLOCK 1, LAKEWOOD SQUARE SUBDIVISION, LOCATED AT 11725 WEST ADAMS, SUITE A; 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 a 2,520 square foot lease area on a portion of Lot 1, Block 1, Lakewood Square Subdivision, located at 11725 West Adams, Suite A, recommends that the City Council approve 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 the sales of distilled liquors, wines and beers in unbroken original containers in a package store for off-premise consumption in a 2,520 square foot lease area on a portion of Lot 1, Block 1,

Lakewood Square Subdivision, located at 11725 West Adams, Suite A, 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.

PASSED AND APPROVED on First Reading and Public Hearing on the **18th** day of **November**, 2010.

PASSED AND APPROVED on Second Reading on the **2nd** day of **December**, 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

11/18/10
Item #7
Regular Agenda
Page 1 of 2

DEPT./DIVISION SUBMISSION & REVIEW:

Brian Mabry, AICP, Planning Director

ITEM DESCRIPTION: FIRST READING – PUBLIC HEARING – Z-FY-10-56 – Consider adopting an ordinance authorizing an amendment to Ordinance No. 1993 to allow moving van and truck rental in a Planned Development (General Retail) District (PD-GR) on 0.404 ± acres of land being part of the George Givens Survey Abstract No. 345, located at 4515 South General Bruce Drive. **(Note: approval of this item will require four affirmative votes of the City Council)**

P&Z COMMISSION RECOMMENDATION: At its November 1, 2010 meeting, the Planning and Zoning Commission voted 9/0 to recommend **denial** of the requested amendment to Planned Development ordinance No. 1993 to allow a moving van or truck rental facility on the subject property with the following stipulations:

1. A moving van or truck rental facility is allowed 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 General Retail zoning district and the specific use standards for minor vehicle servicing set forth in Zoning Ordinance Sec. 7-631(2).
3. No tires are allowed for display or any other purpose outside of the building.
4. In the event of a conflict between the site development plan and the text of the Planned Development ordinance, the stricter standard applies.

STAFF RECOMMENDATION: Conduct public hearing and **deny** the requested amendment to Planned Development Ordinance No. 1993 as presented in item description, on first reading.

ITEM SUMMARY: Please refer to the Staff Report and draft minutes of case Z-FY-10-56, from the Planning and Zoning meeting, November 1, 2010. The applicant has been operating a moving truck and van rental business on the property without the correct zoning district. This Planned Development (PD) request attempts to remedy the situation. The attached binding PD site plan shows in pink the locations where the moving van or truck rentals may park and it shows the addition of three trees along the I-35 frontage road. The I-35 Corridor Overlay zoning district does not prohibit the proposed use.

The applicant claims to only need six standard parking spaces for smaller moving truck or van parking and that other vehicles are stored off-site in the nearby Commercial zoning district, where such use is allowed by right.

Per State Statutes, if owners of more than 20 percent of the land area in the notification radius send in written comments disapproving of the proposal, then a super majority vote is required from City Council to approval the proposal. **In this case, owners of 40% of the land in the notification area sent in negative written comments, so a super majority (at least 4 favorable votes) is required from City Council to approve this CUP.** (See the Notification Map attached to this report)

PUBLIC NOTICE:

Two notices of the Planning and Zoning Commission public hearing were sent out. As of Wednesday, October 27 at 5 PM, one notice was returned in favor of and one notice was returned in opposition to the request. The newspaper printed notice of the Planning and Zoning Commission public hearing on October 21, 2010 in accordance with state law and local ordinance.

FISCAL IMPACT: NA

ATTACHMENTS:

Aerial
Land Use and Character Map
Zoning Map
Utility Map
Binding Site Development Plan
Notice Map
Response Letters
P&Z Staff Report (Z-FY-10-56)
P&Z Minutes (11/01/10)
Ordinance



Z-FY-10-56

Outblock #468-F

4515 S General Bruce Dr



 ZF Y1056

Feet 0 50 100 150 200

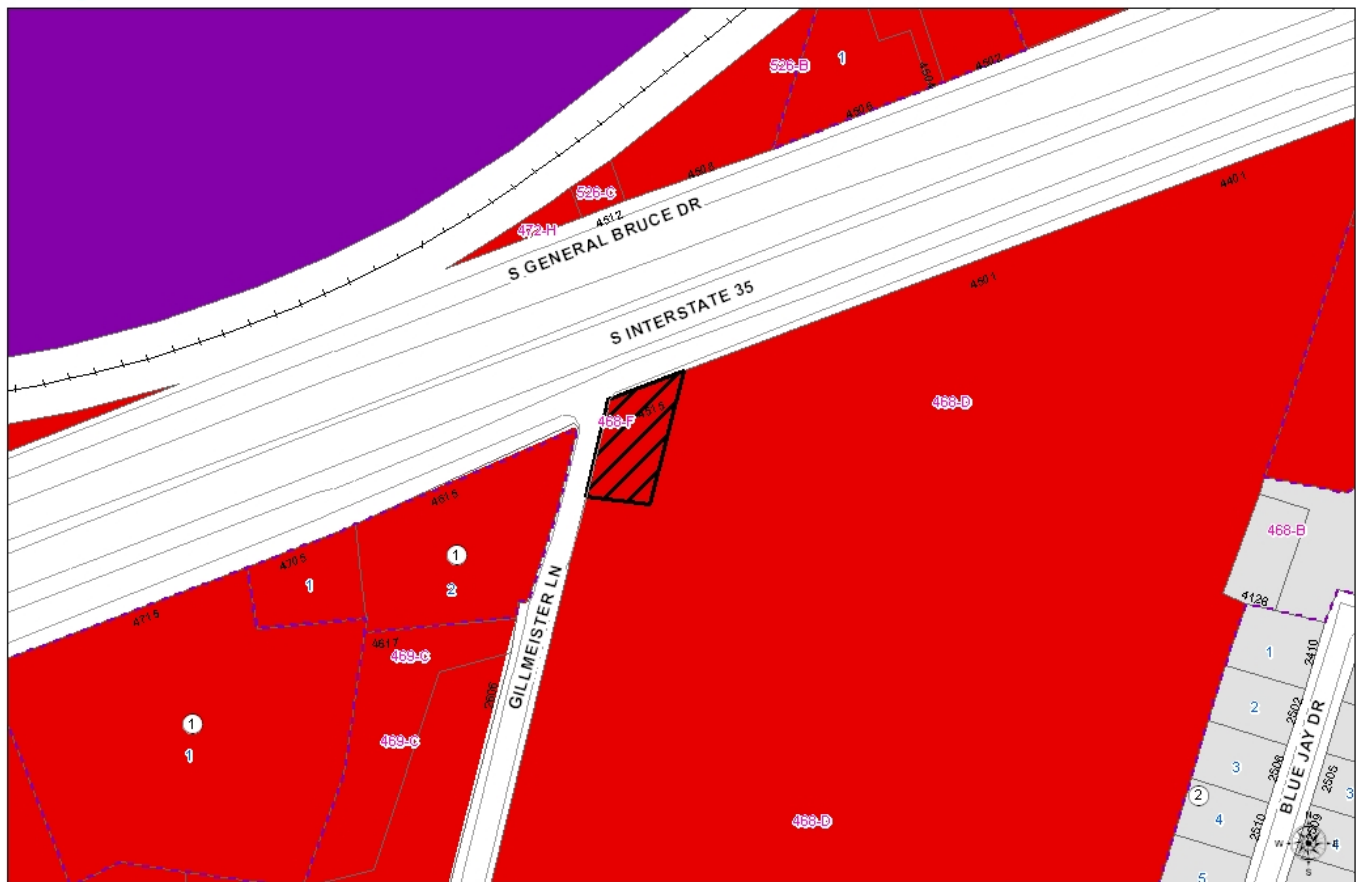
J Stone 9.29.10



Z-FY-10-56

Outblock #468-F

4515 S General Bruce Dr



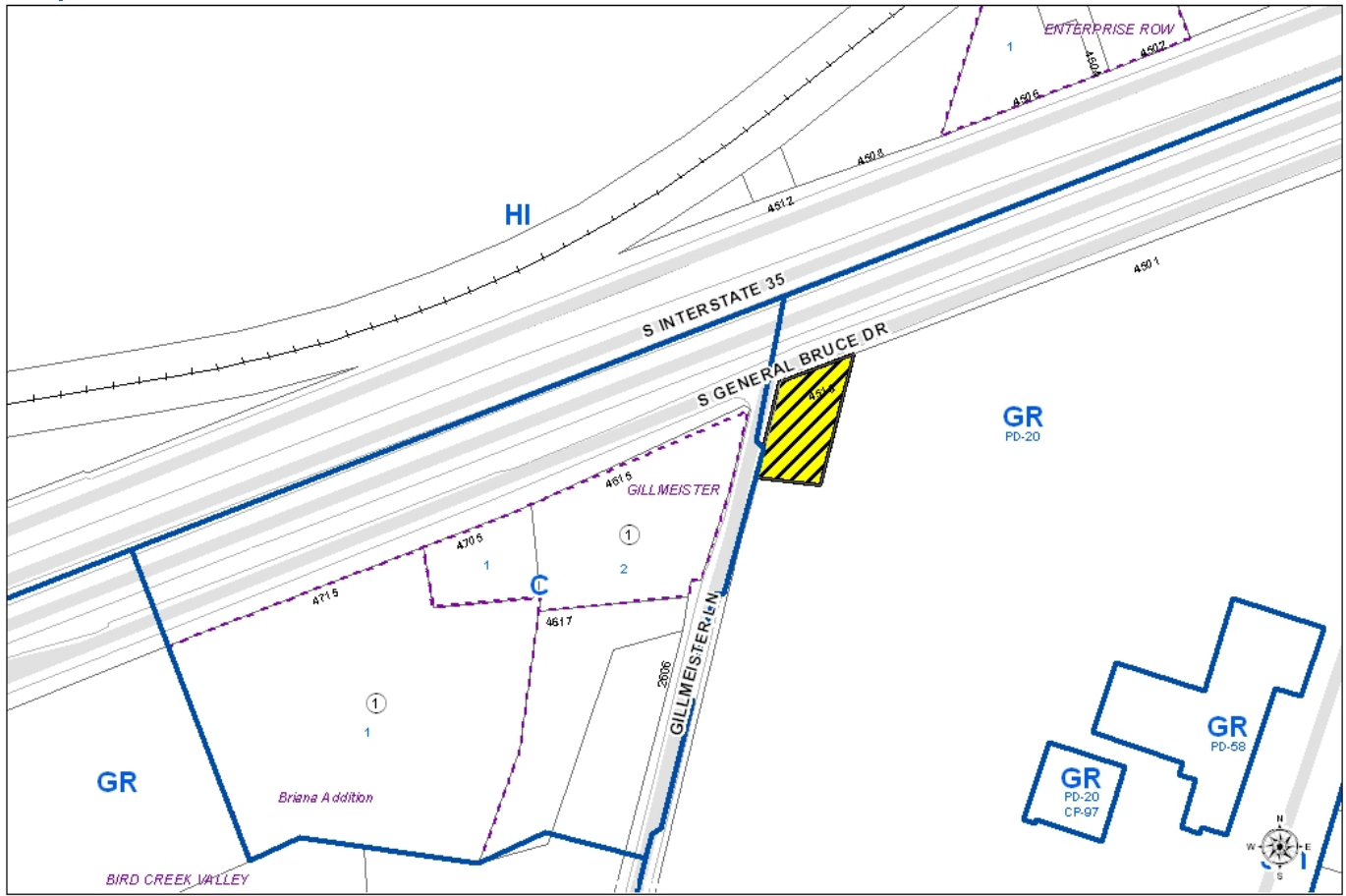
1 inch = 200 feet
J Stone 10.27.10



Z-FY-10-56

Outblock #468-F

4515 S General Bruce Dr



ZF Y1056

Feet 0 50 100 150 200

J Stone 9.29.10



Z-FY-10-56

Outblock #468-F

4515 S General Bruce Dr



Feet 0 50 100 150 200

J Stone 9.29.10

- | | | | | |
|----------------|-------------------------|-------------------------|----------------------|-------------------------|
| Expressway | Proposed Major Arterial | Minor Arterial | Collector | ZFY1056 |
| Major Arterial | Proposed K-TUTS | Proposed Minor Arterial | Conceptual Collector | Current Temple Boundary |






Z-FY-10-56

Outblock #468-F

4515 S General Bruce Dr

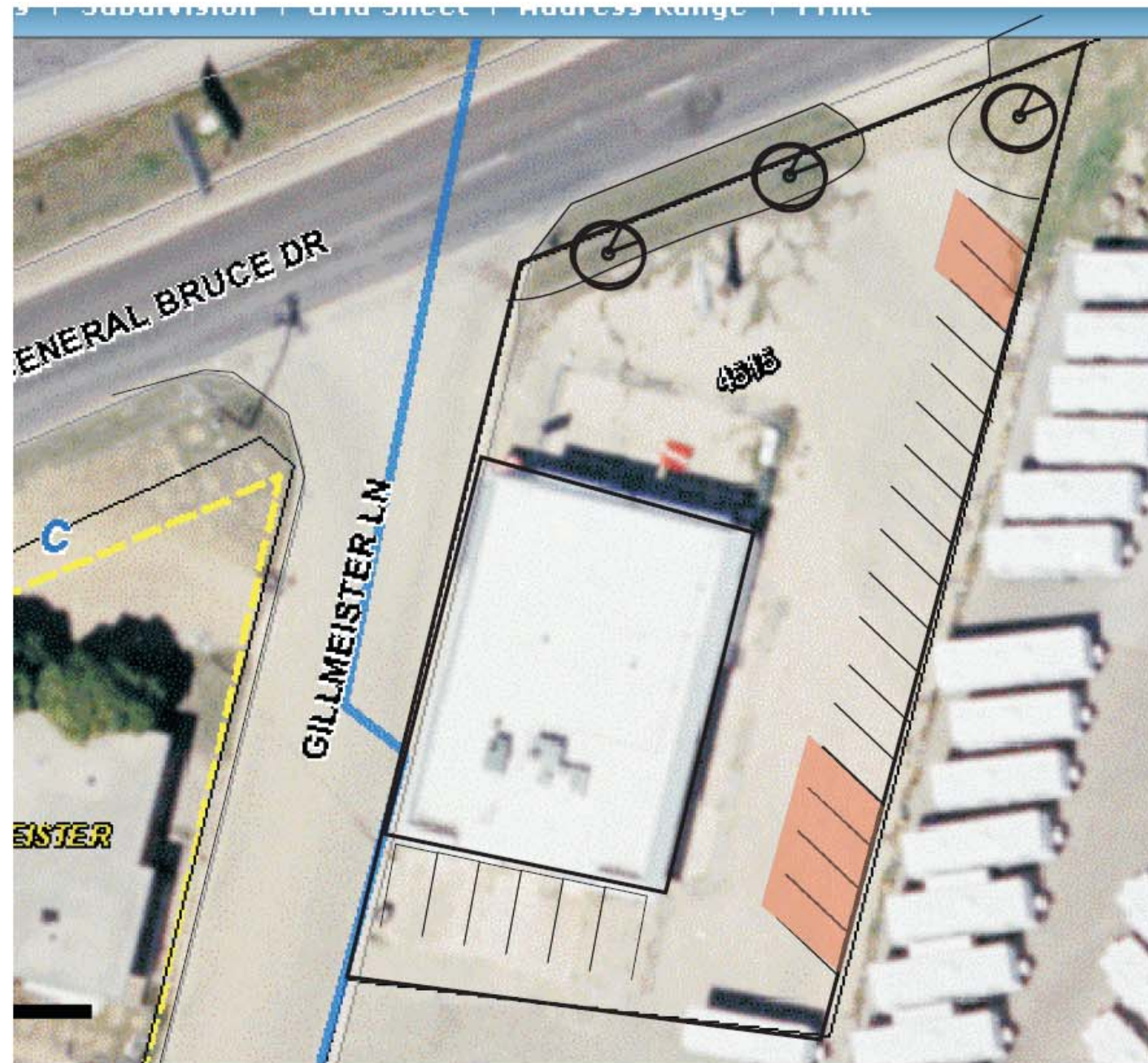


2008 Aerial Shown (newer image unavailable)

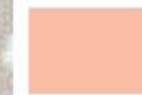
 ZFY1056  WATER LINE  SEWER LINE

Feet 0 50 100 150 200

J Stone 9.29.10



One 2" caliber, 5' tall
Red Oak planted
per 40' of I-35 frontage



Moving Van
Parking Area

Permitted, Conditional and Prohibited uses
are those listed in the GR Zoning District
and I-35 Corridor Overlay in the Zoning Ordinance.
In addition, a moving van rental facility is permitted
on the subject property.

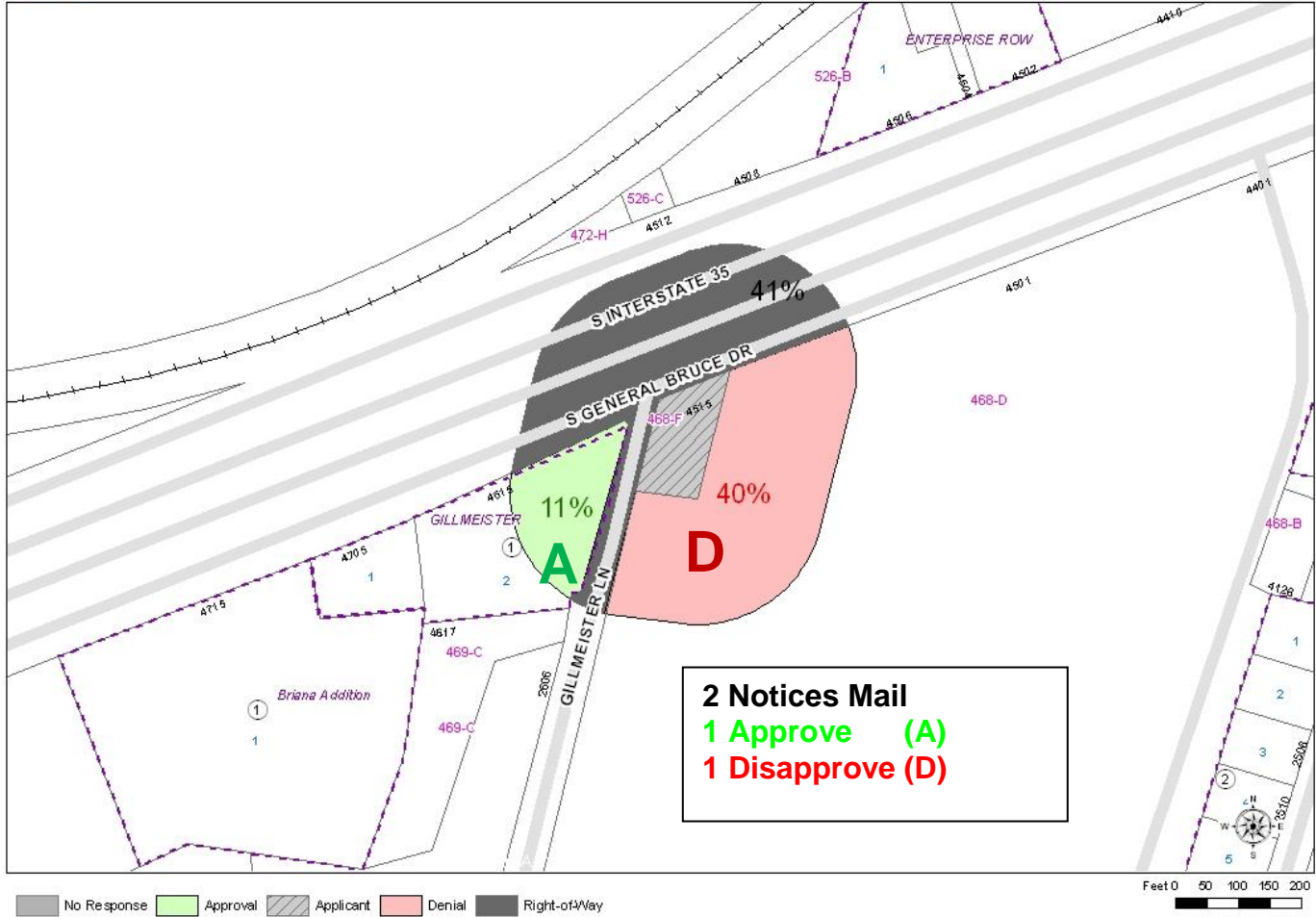
SUPER MAJORITY REQUIRED



Z-FY-10-56

Outblock #468-F

4515 S General Bruce Dr





RESPONSE TO PROPOSED
REZONING REQUEST
CITY OF TEMPLE

RECEIVED

OCT 25 2010

City of Temple
Planning & Development

Gillmeister Properties LC
4615 South General Bruce Drive
Temple, Texas 76502

Zoning Application Number: Z-FY-10-56

Project Manager: Brian Mabry

The proposed rezoning will allow truck rental and parking on 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:

*I highly recommend to allow truck rental
on the area as indicated.*

Leonard Gillmeister
Signature

Leonard Gillmeister
Print Name

Please mail or hand-deliver this comment form to the address shown below, no later than November 1, 2010.

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

Number of Notices Mailed: 2

Date Mailed: October 21, 2010



**RESPONSE TO PROPOSED
REZONING REQUEST
CITY OF TEMPLE**

Bullish Resources Inc.
6111 Bandera Road
San Antonio, Texas 78238

Zoning Application Number: Z-FY-10-56

Project Manager: Brian Mabry

The proposed rezoning will allow development of truck rental and parking on 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 (X) denial of this request.

Comments:

See Attached Addendum "A"


Signature

10-26-10

Rod Deyoe - President of Charter
Print Name

Please mail or hand-deliver this comment form to the address shown below, no later than November 1, 2010.

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

Number of Notices Mailed: 2

Date Mailed: October 21, 2010

Addendum "A"
Comments to Response to Proposed Rezoning Request
City of Temple
October 26, 2010

Comments:

The Owner of the formerly known Out Door America Mall, or former Ancira Mall, is in opposition to the requested zoning change allowing for truck rental storage and parking for the following reasons:

- 1) The subject owner will not be able to safely drive trucks onto his property without encroaching upon our tract of land. We have complained numerous times to the owner of U-Haul rental business to remove his vehicles and trailers from our parking lot. It is clear that he, or the people he is leasing to, is driving on our property without permission. Affectively, this particular business owner is using our parking lot as a means to operate his truck rental business, without permission and against our wishes. Please see attached pictures.
- 2) The recent addition of the State of Texas lease for the Health and Human Service Commission, as well as the Federal Governments VA Clinic, will clearly mean additional vehicular and pedestrian traffic to our facility. It is our opinion that a truck rental business in not a good fit for this. It is well known that many people that rent these large trucks are inexperienced drivers of large trucks, thus increasing the hazardous conditions even greater.
- 3) Using Gillmeister Lane as a way to back these large vehicles onto the property is not a good option, and is the only option unless they use our parking lot. The fact of the matter is, the subject property is simply too small to maneuver vehicles in a truck rental business without creating a hazardous condition to the public, or forcing the subject property owner to use the adjacent parking lot to his benefit, which he does not have permission to do so.

Therefore, we would respectfully request the City of Temple decline this rezoning request and instruct the subject property owner to remove any vehicles, or trailers, from our property. Additionally, we request that the City of Temple make every effort to stop this business owner from trespassing on our property by using our parking lot as a means to operate his truck rental business.

 10-26-10

Ancira Letter cont.







PLANNING AND ZONING COMMISSION AGENDA ITEM

11/01/10
Item #3
Regular Agenda
Page 1 of 3

APPLICANT / DEVELOPMENT: Mohammad Kayani

CASE MANAGER: Brian Mabry, AICP, Planning Director

ITEM DESCRIPTION: Z-FY-10-56 - Hold a public hearing to discuss and recommend action on an amendment to Ordinance No. 1993 to allow moving van and truck rental in a Planned Development (General Retail) District (PD-GR) on 0.404 ± acres of land being part of the George Givens Survey Abstract No. 345, located at 4515 South General Bruce Drive.

BACKGROUND: The applicant has been operating a moving truck and van rental business on the property without the correct zoning district. This Planned Development (PD) request attempts to remedy the situation. The attached binding PD site plan shows in pink the locations where the moving van or truck rentals may park and it shows the addition of three trees along the I-35 frontage road. The applicant and City staff agreed that a PD with a base zoning district of GR was preferable to rezoning to the Commercial (C) zoning district due to the wide range of uses that such district allows and the lack of control related to where the moving vehicles would be allowed to park.






The applicant claims to only need six spaces for moving truck or van parking and that other vehicles are stored off-site in the nearby Commercial zoning district, where such use is allowed by right.

Per State Statutes, if owners of more than 20 percent of the land area in the notification radius send in written comments disapproving of the proposal, then a super majority vote is required from City Council to approval the proposal. In this case, owners of 40% of the land in the notification area sent in negative written comments, so a super majority (at least 4 favorable votes) is required from City Council to approve this CUP. (See the Notification Map attached to this report0

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
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Direction	Zoning	Current Land Use	Photo
Subject Property	GR (PD-GR proposed)	Tire store	
North	PD-GR	I-35	
South	PD-GR	Partially vacant shopping center	
East	PD-GR	Furniture store in shopping center	
West	C	Roofing company	

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

Document	Policy, Goal, Objective or Map	Compliance?
CP	Goal 4.1 - Growth and development patterns should be consistent with the City's infrastructure and public service capacities	Y

CP = Comprehensive Plan

Future Land Use and Character (CP Map 3.1)

The Future Land Use and Character Map designates the property as Auto Urban Commercial. The request conforms to the Future Land Use and Character Map.

Thoroughfare Plan (CP Map 5.2)

The Thoroughfare Plan designates I-35 as an expressway and Gillmeister Lane as a collector street. The CUP request conforms to the Thoroughfare Plan.

Availability of Public Facilities (CP Goal 4.1)

A six-inch water line and an eighteen-inch sewer line serve the property. Public facilities are available for the property.

PUBLIC NOTICE:

Two notices of the Planning and Zoning Commission public hearing were sent out. As of Wednesday, October 27 at 5 PM, one notice was returned in favor of and one notice was returned in opposition to the request. The newspaper printed notice of the Planning and Zoning Commission public hearing on October 21, 2010 in accordance with state law and local ordinance.

STAFF RECOMMENDATION: Staff recommends approval of Z-FY-10-56, an amendment to Ordinance No. 1993 to allow a moving van or truck rental facility on the subject property with the following stipulations:

1. A moving van or truck rental facility is allowed 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 General Retail zoning district and the specific use standards for minor vehicle servicing set forth in Zoning Ordinance Sec. 7-631(2).
3. No tires are allowed for display or any other purpose outside of the building.
4. In the event of a conflict between the site development plan and the text of the Planned Development ordinance, the stricter standard applies.

FISCAL IMPACT: Not Applicable

ATTACHMENTS:

Aerial
Land Use and Character Map
Zoning Map
Thoroughfare Plan Map
Utility Map
Binding Site Development Plan
Notice Map
Response Letters

**EXCERPTS FROM THE
PLANNING & ZONING COMMISSION MEETING
MONDAY, NOVEMBER 1, 2010**

ACTION ITEMS

Item 3: Z-FY-10-56: Hold a public hearing to discuss and recommend action on an amendment to Ordinance No. 1993 to allow moving van and truck rental in a Planned Development (General Retail) District (PD-GR) on 0.404 ± acres of land being part of the George Givens Survey Abstract No. 345, located at 4515 South General Bruce Drive. (Applicant: Mohammad Kayani)

Mr. Mabry stated the purpose of this request was to allow moving van and truck rental which was already taking place on the subject property. The GR uses would be allowed as part of the Planned Development (PD), plus a rental facility taking place as part of the existing tire shop.

The existing PD was approved in the late 80's/early 90's and set parameters for the RV dealership in the main section of the shopping center. The PD would allow control of the parking of rental vehicles and required additional trees along the interstate frontage. If City Council did not approve this request, the rental facility may not take place on the property.

The surrounding properties consisted of I-35 to the north, a furniture store in the shopping center to the east, a roofing company to the west across Gillmeister Lane, and a vacant portion of the shopping center to the south. The Future Land Use and Character Map showed the property as Auto Urban Commercial. Gillmeister Lane was designated as a collector street and I-35 was an expressway. The property was served by a 6 inch sewer line and an 18 inch sewer line.

Surrounding zoning designations include Commercial (C) to the west, Heavy Industrial (HI) across I-35 and General Retail (GR) based zoning with Planned Development for the RV Center.

The parking of moving vans and trucks would be limited to the two spaces closer to the frontage road and four spaces at the back of the property. Three additional 2 inch caliper oaks would need to be planted along the interstate portion, one per 40 feet of frontage.

Some conditions that currently exist on the property are no parking in the right-of-way, whether Gillmeister or I-35 right-of-way, but it was currently taking place on the property. Also, there are tires in the front on a pole.

Two notices were mailed to property owners; one response was returned in favor of the request and one was returned in opposition. The disapproval came from the shopping

area which created enough land percentage in the notification area that a supermajority would be required of City Council to approve the PD.

Staff recommended approval of this request, an amendment to Ordinance No. 1993 to allow a moving van or truck rental facility on the subject property with the following stipulations:

1. A moving van or truck rental facility is allowed 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 General Retail zoning district and the specific use standards for minor vehicle servicing set forth in Zoning Ordinance Sec. 7-631(2).
3. No tires are allowed for display or any other purpose outside of the building.
4. In the event of a conflict between the site development plan and the text of the Planned Development ordinance, the stricter standard applies.

Commissioner Sears asked if under the current GR zoning the van rental was permitted and Mr. Mabry stated no, under GR based standards, it would not be allowed. Applicant could have requested Commercial zoning which would open up allowable uses on the property, some of which may not have been appropriate. The more conservative approach was a PD that keeps the GR uses allowed by the base zoning but would add just the truck rental.

Commissioner Barton asked who would enforce only the six parking spaces to be used and Mr. Mabry stated in all likelihood, it would be based on complaints and Code Enforcement enforcing any violations.

Commissioner Staats stated the pictures shown already indicated more than six spaces were being used. Commissioner Barton also added that vehicles were already on another person's property.

Commissioner Pope asked if only one entry came off the access road and Mr. Mabry responded yes. Commissioner Pope asked if curb and gutter were on the east side of Gillmeister and Mr. Mabry stated he believed there was. Commissioner Pope asked if any barriers were between the mall on the east and the south side and Mr. Mabry responded he was uncertain. Chair Talley responded there was a small curb located there.

Commissioner Staats asked about the parking spaces on the south side of the building and how someone would possibly get into them. Mr. Mabry stated those standard spaces had no curb and vehicles would be coming in from the mall property to park there.

Commissioner Barton asked if Code Enforcement would be going there every day to make sure the spaces were used appropriately. Mr. Mabry stated it was his opinion that when complaints were made Code Enforcement would act upon them. Commissioner Barton asked if those trucks could be moved around without getting onto other property and what was a 'standard parking space.' A 20 foot bob-tailed truck would not fit in a standard parking place.

Commissioner Hurd asked about any dividing lines on the properties and Mr. Mabry stated a curb was located along the east property line, where the RVs were parked in the past.

Chair Talley opened the public hearing.

Mr. Rodney Deyoe, Manager for property owner, 5309 Park Hollow Lane (home), Austin, work address 3000 S. 31st Street, Temple. Mr. Deyoe stated the subject property was just too small to handle this type of business. Mr. Deyoe handed out pictures to the Commissioners which he took that morning to show the situation.

Mr. Deyoe stated he had personally asked the applicant's employees numerous times to remove their vehicles from his property. The trucks were one thing but the trailers were another; there was no way to pull into the property with one curb cut and turn around or pull in and out. When people who leased the vehicles returned them, many times it would be late, after or before hours, and were parked all over. Mr. Deyoe discussed liability issues for all concerned. The Health and Human Service Department (HHSC) had moved to their property which was 17,000 square feet and serviced well over 75 to 150 people per day. Additionally, they were in the process of building a VA clinic in the 10,000 square feet area and that would serve over 100 veterans.

Mr. Deyoe stated they were in the process of working through the HOP with public transportation. The HOP informed them they would not enter their property but if a bus stop were to be created, it would be on the service road and people would be walking from the service road to the property across the parking lot. Mr. Deyoe felt this would create a hazardous condition if a truck rental business were located on the corner. Also, drivers were not used to large trucks and would be bringing them in all hours of the day. Mr. Deyoe had no problems with a U-Haul business itself but the subject property was too small to accommodate the business. Mr. Deyoe stated there was no control either the applicant or the City had over people returning the vehicles.

Mr. Deyoe stated Mr. Gillmeister turned in his response letter since he was in communication with the applicant to lease some land behind his property to store additional U-Hauls. If Mr. Gillmeister leased the applicant additional land, there would be a real mess out there with lots of U-Hauls being dropped off on their property.

Mr. Deyoe stated if this request passed he would assure the Board there would be an iron fence erected along their property line and the south portion of the applicant's property would be totally inaccessible since there was no way to enter it, therefore, those potential parking spaces would disappear. Mr. Deyoe also stated there would be

an inappropriate number of parking spaces and the lack of striping would need to be addressed.

Commissioner Pilkington asked Mr. Deyoe if he personally asked the applicant to move the vehicles. Mr. Deyoe stated he did not believe it was the owner but an employee that worked for the applicant.

Chair Talley asked if any attempt had been made to discuss renting some of Mr. Deyoe's property and Mr. Deyoe stated the request had been made and was denied. He also stated they were currently in negotiations with USDA and a couple of other very large tenants for the 90,000 square feet area and felt sure within the next 12 months something would be done with that space, creating more people coming and going.

Mr. Muhammad Kayani, owner of the business at 4515 S. General Bruce Drive, stated this was the first time he had ever seen Mr. Deyoe, but a couple of times people from his business had asked him to move the vehicles and Mr. Kayani stated they were moved immediately.

Mr. Kayani stated that the tire business was currently not very good, was adding on the U-Haul trucks, and would not park big trucks on the lot. Mr. Kayani stated he already had a place from Mr. Gillmeister across the road which would allow for parking of big trucks. Big trucks were 20 to 26 feet and could be parked there. A small truck was 10 feet and the size of a pick up. The small trucks would be closer to the property and the big ones would be parked on Mr. Gillmeister's place. Mr. Kayani was waiting for approval from Mr. Gillmeister to park the big trucks there.

Mr. Kayani stated some of the place (shopping center) had been empty for 10-15 years and had no businesses. Now they were doing some business. There was a lot of room between his business and the other business and the U-Haul would not interrupt anyone's business. Mr. Kayani would tell his customers to park on the property across the road. Mr. Kayani would like his business to continue instead of closing down and would like to add the U-Haul portion.

Commissioner Pilkington asked Mr. Kayani if he knew the zoning for the property on Mr. Gillmeister's land and Mr. Mabry stated it was Commercial which would allow the parking. Commissioner Sears asked Mr. Kayani if he had considered moving the entire business onto the Gillmeister property and Mr. Kayani stated there was no building, just land.

Commissioner Barton asked about the procedure for notifying his customers of the parking procedures on the other property and Mr. Kayani stated it had not been started but would be started immediately.

Chair Talley asked if people ever dropped off trucks/trailers when no one was in the office and Mr. Kayani stated yes. Chair Talley asked if people were instructed immediately when they were renting what they would be doing and Mr. Kayani stated yes. Mr. Kayani stated the customers would be told when they are dropping off to drop off big trucks on that place and small trucks would be parked in front of the business.

Commissioner Pilkington asked Mr. Kayani if he realized people from the mall had spoken to his people previously and the request had been made to keep the trucks/trailers off the property. Mr. Kayani responded yes, two times, he was not personally contacted but his employees were asked to move the trucks and they were moved. Commissioner Pilkington stated the trucks were still there that morning so something was not working. Mr. Kayani stated someone may have dropped off and everyone cannot be stopped if they don't know. Both sides of the building were empty and if someone did not understand, they would just drop the trailers off and go.

Commissioner Staats asked who drew the parking spaces in the site plan and Mr. Mabry stated he did. Mr. Mabry clarified further by saying if this request were approved, the striping would need to match what was approved by City Council. He was not trying to represent the striping currently in place, but the dimensions should be correct. Commissioner Staats was asking only because the few parking spaces on the south side of the building seemed useless and wondered if the business would still meet the parking requirements. Mr. Mabry stated he did not believe there would be enough spaces if the shaded areas were not included.

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

Commissioner Sears made a motion to deny Z-FY-10-56 and Commissioner Pilkington made a second.

Motion passed: (9:0)

[PLANNING NO. Z-FY-10-56]

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, APPROVING AN AMENDMENT TO ORDINANCE NO. 1993 TO ALLOW MOVING VAN AND TRUCK RENTAL IN A PLANNED DEVELOPMENT (GENERAL RETAIL) DISTRICT (PD-GR) ON APPROXIMATELY 0.404 ACRES OF LAND BEING PART OF THE GEORGE GIVENS SURVEY, ABSTRACT NO. 345, LOCATED AT 4515 SOUTH GENERAL BRUCE DRIVE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, the owner of the property consisting of approximately 0.404 acres of land being part of the George Givens Survey, Abstract No. 345, located at 4515 South General Bruce Drive has requested an amendment to Ordinance No. 1993 to allow moving van and truck rental in a Planned Development (General Retail) District (PD-GR);

Whereas, on November 1, 2010, the Planning and Zoning Commission voted to deny the owner's request; 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 an amendment to Ordinance No. 1993 to allow moving van and truck rental in a Planned Development (General Retail) District (PD-GR) on property consisting of approximately 0.404 acres of land being part of the George Givens Survey, Abstract No. 345, located at 4515 South General Bruce Drive, more fully described in Exhibit A, attached hereto and made a part hereof for all purposes, with the following conditions:

- (a) A moving van or truck rental facility is allowed 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 General Retail zoning district, the I-35 Corridor Overlay zoning district, and the specific use standards for minor vehicle servicing set forth in Zoning Ordinance Sec. 7-631(2);
- (c) No tires are allowed for display or any other purpose outside of the building; and
- (d) 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 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 **18th** day of **November**, 2010.

PASSED AND APPROVED on Second Reading on the **2nd** day of **December**, 2010.

THE CITY OF TEMPLE, TEXAS

WILLIAM A. JONES, III, Mayor

ATTEST:

APPROVED AS TO FORM:

Clydette Entzminger
City Secretary

Jonathan Graham
City Attorney