



**MEETING OF THE
TEMPLE CITY COUNCIL**

MUNICIPAL BUILDING

2 NORTH MAIN STREET

3rd FLOOR – CONFERENCE ROOM

THURSDAY, NOVEMBER 17, 2011

2:00 P.M.

WORKSHOP AGENDA

1. Discuss, as may be needed, Regular Meeting agenda items for the meeting posted for Thursday, November 17, 2011.
2. Receive update on NW Loop 363 project.
3. Discuss fourth quarter financial results for the fiscal year ended September 30, 2011.
4. Discuss Downtown Linear Park and redevelopment.

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

5:00 P.M.

MUNICIPAL BUILDING

**2 NORTH MAIN STREET
CITY COUNCIL CHAMBERS – 2ND FLOOR
TEMPLE, TX**

TEMPLE CITY COUNCIL

REGULAR MEETING AGENDA

I. CALL TO ORDER

1. Invocation
2. Pledge of Allegiance

II. 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.

III. ELECTION ITEMS

3. [2011-6473-R](#): Consider adopting a resolution canvassing the returns of the November 8, 2011 Charter Amendment Election.

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 3, 2011 Special Called and Regular Meeting](#)

Contracts, Leases & Bid

- (B) [2011-6474-R](#): Consider adopting a resolution amending a lease agreement with ES&S (Election Systems & Software) of Omaha, NE for election equipment.
- (C) [2011-6475-R](#): Consider adopting a resolution authorizing the purchase of three marked police vehicles from Caldwell County of Caldwell, utilizing a BuyBoard contract in the amount of \$111,950.83.
- (D) [2011-6476-R](#): Consider adopting a resolution authorizing the purchase of a 2012 Custom Crimson with a Spartan chassis fire engine from Metro Fire Apparatus Specialists, Inc. of Houston, utilizing the Houston-Galveston Area Council Interlocal Cooperative (HGAC) in the amount of \$580,546.
- (E) [2011-6477-R](#): Consider adopting a resolution authorizing the purchase of 1,450 plastic 96-gallon refuse containers for the Solid Waste Division from Toter, Inc., Statesville, NC, through the State of Texas Contract (Bid# 450-A2) in the amount of \$67,773.
- (F) [2011-6478-R](#): Consider adopting a resolution authorizing a contract with the Department of Veterans Affairs, Veterans Industries/Compensated Work Therapy for the provision of temporary workers for the Parks and Leisure Services Department in the amount of \$73,478.
- (G) [2011-6479-R](#): Consider adopting a resolution ratifying an emergency contract with Bell Contractors of Belton, for the emergency replacement of a 6" and 10" sewer line using the pipe bursting method in the area of North 14th Street and Lamar Avenue in the amount of \$136,404.40
- (H) [2011-6480-R](#): S-FY-12-01: Consider adopting a resolution authorizing a street use license to allow the encroachment of a 140 square-foot accessory building 12 feet within a public drainage easement at Lot 41, Block 1, The Creeks at Deerfield subdivision, commonly known as 6110 Shadow Creek Cove.
- (I) [2011-6481-R](#): Consider adopting a resolution authorizing the following with respect to the procurement of electricity:
1. A memorandum of agreement with Texas Energy Aggregation, LLC of Waco, for consulting services related to the procurement of electricity and ongoing energy consulting services at a cost of \$.0005 per kWh; and

2. The City Manager or the Director of Finance to act on behalf of the City to review pricing offers submitted for the supply of electricity, and if in the best interest of the City, enter into a contract with the lowest responsible bidder for a period of 12 to 59 months beginning for electrical meter reads after May 2012.
- (J) [2011-6482-R](#): Consider adopting a resolution authorizing a contract with Perry Office Plus, of Temple to move and reassemble furniture from the Police Headquarters building back to 209 E. Avenue A in the amount not to exceed \$48,000.
- (K) Consider adopting a resolution authorizing the following contracts related to the demolition of seven (7) properties in the Avenue G area:
1. [2011-6483-R](#): Asbestos abatement contract to AAR, Inc. of Liberty Hill, in the amount of \$47,000;
 2. [2011-6484-R](#): Asbestos consulting contract to Austin Environmental, Inc. of Bryan, in the estimated amount of \$24,600;
 3. [2011-6485-R](#): Demolition contract for six (6) properties to Lloyd D. Nabors Demolitions, Inc. of Hutchins, in the amount of \$35,500; and
 4. [2011-6486-R](#): Demolition contract for one (1) property located at 601 South 7th Street to Precision Contractors of Troy, in the amount of \$75,000.

Ordinances – Second & Final Reading

- (L) SECOND READING – Consider adopting ordinances amending:
1. [2011-4484](#): Chapter 7, “Buildings,” of the Code of Ordinances, by adopting the 2009 International Building Code, 2009 International Residential Code, 2009 International Plumbing Code, 2009 International Mechanical Code, 2009 International Fuel Gas Code, and the 2009 International Energy Conservation Code.
 2. [2011-4485](#): Chapter 12, “Fire Prevention and Protection,” of the Code of Ordinances, by adopting the 2009 International Fire Code.
 3. [2011-4486](#): Chapter 21, “Minimum Housing Standards,” of the Code of Ordinances, by adopting the 2009 International Property Maintenance Code and Amendments.
- (M) [2011-4487](#): SECOND READING - Consider adopting an ordinance authorizing an amendment to the Tax Increment Financing Reinvestment Zone No. 1 Financing and Project Plans to appropriate \$600,000 to the TMED-1st Street @ Loop 363 Project by reallocating funds from Avenue U from S&W Boulevard to 1st Street to the 13th to 17th connector from Avenue R to Loop 363.

- (N) [2011-4489](#): SECOND READING - Consider adopting an ordinance amending the City's strategic investment zones incentive policies.

Misc.

- (O) [2011-6487-R](#): Consider adopting a resolution authorizing budget amendments for fiscal Year 2011-2012.
- (P) [2011-6488-R](#): Consider adopting a resolution approving fourth quarter financial results for the fiscal year ended September 30, 2011.
- (Q) [2011-6489-R](#): Consider adopting a resolution authorizing the carry forward of FY 2010-2011 funds to the FY 2011-2012 budget.
- (R) 1. [2011-6490-R](#): Consider adopting a resolution authorizing a credit sales agreement to purchase necessary credits for off-site wetland mitigation related to the Northwest Loop 363 Project.
2. [2011-6491-R](#): Consider adopting a resolution authorizing a credit sales agreement to purchase necessary credits for off-site stream mitigation related to the northwest Loop 363 Project.

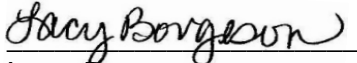
V. REGULAR AGENDA

ORDINANCES

5. [2011-4488](#): SECOND READING - Z-FY-11-50 - Consider adopting an ordinance authorizing a rezoning from Agricultural (AG) to Office Two (O2) on 5.50 acres in the Nancy Chase survey, Abstract No. 5, Bell County, TX, being located at 510 Old Waco Road South of Conner Park and North of Brandon Drive.
6. [2011-4490](#): FIRST READING – PUBLIC HEARING - Z-FY-11-30: Consider adopting an ordinance authorizing amendments to Section 7.6 General Development Standards to provide standards for the use of donation boxes.
7. [2011-4491](#): FIRST READING – PUBLIC HEARING - Z-FY-11-48: Consider adopting an ordinance authorizing a Conditional Use Permit to allow a package store with alcoholic beverage sales for off-premise consumption on a portion of Lots 11, 12, and 13, Block 25, Roach Addition, commonly known as 313 East Central Avenue, zoned Central Area (CA) District.
8. [2011-4492](#): FIRST READING – PUBLIC HEARING - Z-FY-11-51: Consider adopting an ordinance authorizing a rezoning from Multiple-Family One District (MF1) to General Retail District (GR) on ± 0.6 acres in Abstract 5, located on the north side of West Adams Avenue/FM 2305, ±185-feet west of the Holy Trinity Catholic High School driveway, generally known as 6758 West Adams Avenue.

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 3:40 PM, on November 14, 2011.


Lacy Borgeson
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 _____ 2011. _____



COUNCIL AGENDA ITEM MEMORANDUM

11/17/11
Item #3
Regular Agenda
Page 1 of 1

DEPT./DIVISION SUBMISSION & REVIEW:

Jonathan Graham, City Attorney
Lacy Borgeson, City Secretary

ITEM DESCRIPTION: Consider adopting a resolution canvassing the returns of the November 8, 2011 Charter Amendment Election.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: The Temple Police Association filed a petition with the City Secretary on April 1, 2011 proposing an amendment to the City Charter regarding the creation of a minimum staffing level for the number of police officers authorized for the City of Temple Police Department. On July 7, 2011, the City Council called a election for November 8, 2011 seeking voter approval to amend the City Charter.

The official returns of the November 8, 2011 Charter Amendment election as certified by the Bell County Elections Administrator, are as follows:

Proposition: *AN ARTICLE AMENDING THE CHARTER OF THE CITY OF TEMPLE TO CREATE A MINIMUM STAFFING LEVEL FOR THE NUMBER OF POLICE OFFICERS AUTHORIZED FOR THE CITY OF TEMPLE POLICE DEPARTMENT.*

The City of Temple shall authorize, as of April 1st of each budget year, the Temple Police Department to employ a minimum number of Police Officers equivalent to not less than 2.5 Police Officers for every one thousand citizens in population for the city of Temple according to the most recent annual population estimate provided by the state demographer under Chapter 468, Government Code, or the most recent federal decennial census if that estimate is more recent.

For: 655
Against: 3,876

FISCAL IMPACT: None

ATTACHMENTS:

Official tabulation of election returns – To be provided
Resolution



COUNCIL AGENDA ITEM MEMORANDUM

11/17/11
Item #4(A)
Consent Agenda
Page 1 of 1

DEPT./DIVISION SUBMISSION & REVIEW:

Lacy Borgeson, City Secretary

ITEM DESCRIPTION: Approve Minutes:

(A) November 3, 2011 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 3, 2011 Special Called and Regular Meeting](#)

TEMPLE CITY COUNCIL

NOVEMBER 3, 2011

The City Council of the City of Temple, Texas conducted a Special Meeting on Thursday, November 3, 2011, at 3:30 P.M., at the Municipal Building, 2 North Main Street, in the 3rd Floor Conference Room.

Present:

Councilmember Perry Cloud
Councilmember Danny Dunn
Mayor Pro Tem Russell Schneider
Councilmember Judy Morales
Mayor William A. Jones, III

1. Discuss, as may be needed, Regular Meeting agenda items for the meeting posted for Thursday, November 3, 2011.

Mayor Jones asked if any items on the regular agenda needed discussion.

Regular Agenda Item #10 - City's Strategic Investment Zones Incentive Policy -Jonathan Graham, City Attorney gave a brief presentation to Council and identified measures and criteria of the program.

Mayor Pro Tem Schneider, inquired on the time line for the process after the grant is received by the individual.

Kim Foutz, Assistant City Manager stated that the project and timeline is reviewed and if the project is not started within the time approved, the applicant forfeits the grant.

Councilmember Dunn asked for clarification for the meaning of 'starting the project.

Mr. Graham, answered it is defined by once some type of construction has begun. An initiation and completion date will be determined through the application process.

Mayor Pro Tem Schneider stated his concerns with dates being required for the start of the project.

Mrs. Foutz, commented that this is to address Council's concerns with why some projects were taking longer than others.

Mayor Pro Tem Schneider inquired on how the project is determined to be complete.

Mr. Graham, stated the contract agreement is reviewed to make sure all specifications were met and upon receipt of a Certificate of Occupancy.

Traci Barnard, Finance Director asked if a site review is completed prior to issuance of grant funds.

Ms. Foutz responded yes. A site inspection is done, all receipts must be provided to the City.

Mr. Blackburn asked if we have any projects queued up?

Mrs. Foutz noted not at this time.

Councilmember Dunn commented on his support of this project and requested that the Martin Luther King corridor be added to the SIZ Program.

Mr. Blackburn asked for consistent dates for applications to be reviewed by Council.

Mrs. Foutz noted the program is not actively marketed due to the limitation of funds for the program.

Councilmember Dunn, noted this is a great program and we need to be competitive and review each application on a case by case basis so that we can have great projects completed through the program.

Councilmember Morales asked about adding MLK to the program.

Mr. Graham, this is done through the request of a councilmember and with an ordinance.

2. Receive an update on the Sustainability Plan.

Mr. Blackburn, gave background on this item. We would like to adopt a plan at the first of the year.

Brynn Reynolds, presented this item to Council. Ms. Reynolds stated the purpose of this plan is strategic, to enable Temple to move towards more sustainable and efficient operations. Ms. Reynolds noted a few of the goals for the plan: to reduce energy costs and consumption; improve environmental monitoring; water conservation and to educate employees. This plan is intended to serve as a guide in proposing solutions that will help conserve energy and save the City money. This process has been city wide. Ms. Reynolds noted there are many things that we are doing as a city that are sustainable. There are 10 focus areas: General, City Facilities, Administrative Operations, Sustainable Procurement, Transportation/ Fleet, Water Systems, Streets, Solid Waste,

Open Space, and Education and Communication. Ms. Reynolds added that employee surveys were conducted with a 25% response rate. There were three areas that employees felt needed most focus - energy, waste, and recycling. Ms. Reynolds also noted the opportunities and Implementation of the plan.

Mayor Jones asked how the mission and vision was created.

Ms. Reynolds noted it was through the committee that was made up of representatives from each department.

Mayor Pro Tem Schneider commented that doing this in-house is great.

Mr. Blackburn stated there are many steps still to be completed. After you have the opportunity to review, a plan will be adopted. This document will be a living document; to allow changes as needed. This is a key effort for us as a City to be sustainable.

Mayor Jones noted the Council would enter into an executive session at this time, approximately 4:20 pm.

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 City Attorney. No final action will be taken.**

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 3, 2011 at 5:00 PM in the Council Chambers, Municipal Building, 2nd Floor, 2 North Main Street.

Present:

Councilmember Perry Cloud
Councilmember Danny Dunn
Mayor Pro Tem Russell Schneider
Councilmember Judy Morales
Mayor William A. Jones, III

I. CALL TO ORDER

1. Invocation

Judge Kathlene Person, Municipal Court voiced the Invocation.

2. Pledge of Allegiance

Tanya Gray, Executive Director Keep Temple Beautiful led the Pledge of Allegiance.

II. PROCLAMATIONS & SPECIAL RECOGNITIONS

3. (A) Recognize State Representative, Ralph Sheffield, District 55

Mayor Jones presented the proclamation to State Representative, Ralph Sheffield, District 55.

(B) Municipal Court Week November 7-11, 2011

Mayor Jones presented the proclamation to Judge Kathlene Person and the Municipal Court Staff.

(C) "Recycle On The Go" November 11, 2011

Mayor Jones presented the proclamation to Tanya Gray, Executive Director Keep Temple Beautiful and the kids from Central Texas Christian School.

4. Recognize the City of Temple for receiving the 2011 Municipal Excellence Award from the Texas Municipal League.

David Blackburn, City Manager noted that this is the first excellence award the City of Temple has ever received from Texas Municipal League. Mr. Blackburn presented a brief video from the TML Conference. This award was received for the City's SIZ Program which is a vision of both the Staff and Council.

Mayor Jones thanked the City Staff for making this program work.

Mayor Pro Tem Schneider stated he was not a supporter of this program in the beginning; but he now believes that it works and thanked staff for what they do.

5. Recognize the City of Temple's Finance Department for receiving the Certificate of Achievement for Excellence in Financial Reporting.

Traci Barnard, Director of Finance along with Staff were recognized for receiving this award. Mrs. Barnard thanked her staff for the work they do all year long to make this happen.

III. PUBLIC COMMENTS

Public Comments: No one signed up

IV. CONSENT AGENDA

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

(A) October 20, 2011 Special Called and Regular Meeting

(B) 2011-6468-R: Consider adopting a resolution authorizing the City Manager to enter into a Municipal Maintenance Agreement with the Texas Department of Transportation.

(C) 2011-6469-R: Consider adopting a resolution authorizing a contract for a professional services agreement with Kasberg, Patrick & Associates, LP., to design a regional detention pond for the drainage area of the Pepper Creek Main Stem upstream of McLane Parkway, in an amount not to exceed \$63,600.

(D) 2011-6470-R: Consider adopting a resolution endorsing the continuation of the existing pretreatment program as required by 40 CFR 403 for the Doshier Farms Wastewater System.

(E) 2011-6471-R: Consider adopting a resolution authorizing amendments to the Chapter 380 "matching grant" agreement with Strasburger Enterprises for redevelopment improvements in the Temple Medical and Education District and the South 1st Street Strategic Investment Zone corridor at 1802 and 1808 South 1st Street in an amount not to exceed \$22,300 plus waiver of permit and other fees.

(F) 2011-4483: SECOND READING - Z-FY-11-47: Consider adopting an ordinance authorizing a rezoning from Commercial District (C) to Planned Development - Commercial (PD-C) for placement of a sign on 0.543 ± acres, more commonly known as 5508 South General Bruce Drive.

(G) 2011-6472-R: Consider adopting a resolution authorizing budget amendments for fiscal Year 2011-2012.

Motion by Councilmember Danny Dunn adopt resolution approving consent agenda. seconded by Councilmember Perry Cloud.

V. REGULAR AGENDA

ORDINANCES

- 7. FIRST READING - PUBLIC HEARING - Consider adopting**

ordinances amending:

(A) 2011-4484: Chapter 7, "Buildings," of the Code of Ordinances, by adopting the 2009 International Building Code, 2009 International Residential Code, 2009 International Plumbing Code, 2009 International Mechanical Code, 2009 International Fuel Gas Code, and the 2009 International Energy Conservation Code.

(B) 2011-4485: Chapter 12, "Fire Prevention and Protection," of the Code of Ordinances, by adopting the 2009 International Fire Code.

(C) 2011-4486: Chapter 21, "Minimum Housing Standards," of the Code of Ordinances, by adopting the 2009 International Property Maintenance Code and Amendments.

Autumn Speer, Director of Community Services presented this item to the Council and Staff. Ms. Speer noted these changes are due to International Code updates which are done every three years. The City is currently operating under the 2006 codes. Ms. Speer added that an extensive review of the codes has been completed and staff is ready to proceed. Staff recommends that upon adoption, the effective date is to be January 1, 2012.

Mayor Jones noted that prior to adoption of these codes, there is buy-in from the community.

Ms. Speer, agreed with Mayor Jones.

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

Mr. Mike Pilkington, 8352 Poison Oak Road, member of Planning and Zoning Commission, thanked City Staff for working through issues.

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

Motion by Mayor Pro Tem Russell Schneider adopt ordinance, with second and final reading set for November 17, 2011. seconded by Councilmember Judy Morales.

- 8. 2011-4487: FIRST READING-PUBLIC HEARING - Consider adopting an ordinance authorizing an amendment to the**

**Tax Increment Financing Reinvestment Zone No. 1
Financing and Project Plans to appropriate \$600,000 to the
TMED-1st Street @ Loop 363 Project by reallocating funds
from Avenue U from S&W Boulevard to 1st Street to the
13th to 17th connector from Avenue R to Loop 363.**

Traci Barnard, Director of Finance presented this item to Council. When the City of Temple applied for the TIGER Grant funds, the funds were matched and this will replenish the General Fund with those dollars from the Reinvestment Zone. This is recommended by the Reinvestment Zone Board.

Mayor Jones declared the public hearing open with regard to agenda item 8 and asked if anyone wished to address this item. There being none, Mayor Jones declared the public hearing closed.

Motion by Councilmember Judy Morales adopt ordinance, with second and final reading set for November 17, 2011. seconded by Councilmember Danny Dunn.

- 9. 2011-4488: FIRST READING - PUBLIC HEARING - Z-FY-11-50 - Consider adopting an ordinance authorizing a rezoning from Agricultural (AG) to Office Two (O2) on 5.50 acres in the Nancy Chase survey, Abstract No. 5, Bell County, TX, being located at 510 Old Waco Road South of Conner Park and North of Brandon Drive.**

Brian Mabry, Director of Planning presented this case to the Council. Mr. Mabry noted that applicant for this case is Mr. Todd Scott who represents the land owner, Mr. Jimenez. This rezoning is to allow the possibility to have future proposed uses of the land, such as office or residential uses. The mentioned uses are allowed in O2, which has been requested. Mr. Mabry presented some photos of the area to Council. The property is currently designated as Suburban Commercial, and Office-Two zoning complies with that recommendation. Mr. Mabry noted a few permitted uses in O2 zoning.

Mr. Mabry added, Old Waco Road is designated as an arterial and is the future route for the Outer Loop. Mr. Mabry noted there have been concerns with the level of traffic on Old Waco when I-35 is being expanded. It is the understanding of the City that Loop 363 will be the bi-pass rather than this part of the future outer loop. There is an existing 100 foot right-of-way for Old Waco Road.

Mayor Jones received clarification from Mr. Mabry that this will

not impact the future expansion project of Old Waco Road.

Mr. Mabry added, there would be screening and buffering requirements built into the UDC when non-residential is adjacent to property with residential uses. This zoning case was approved by Planning and Zoning Commission at its October 3, 2011 meeting.

Mayor Pro Tem Schneider asked Mr. Mabry if there was an intended use for the property noted by the applicant at this time.

Mr. Mabry reminded Mayor Pro Tem Schneider that there are a variety of uses that are permitted for this use. But he has not been told of a specific use.

Mayor Pro Tem Schneider asked, to exclude one of the uses we need to do a Planned Development?

Mr. Mabry replied, yes.

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

Mr. Todd Scott, owner of Riley Scott Homes was available for questions.

Mayor Pro Tem Schneider asked Mr. Scott if he would agree to do a Planned Development and exclude triplexes and duplexes.

Mr. Scott responded that he was not sure what he was going to do with the property; it is an investment opportunity. Mr. Scott stated he has considered many different possibilities for this property to include the sale of.

Mayor Pro Tem Schneider added that in the past we have excluded duplex or triplex.

Mr. Mabry noted that a Planned Development is a method for the Council to approve what will happen on the site.

Mr. Scott stated that at this point it would be difficult for him to commit to doing a planned development. He added that he wasn't sure what he wanted to do with the property at this time.

Mayor Jones commented that by the fact that you are willing to 'flip' the property is where the concerns are.

Mr. Graham added that a planned development requires a site

plan approved.

Mayor Pro Tem Schneider stated he has concerns with triplexes and duplexes in this particular area. So your other option is to go planned development and come back with a site plan.

Mr. Scott noted that whatever he builds on this property will be high-end.

Mr. Mabry added that Neighborhood Service zoning may be an option.

Councilmember Cloud inquired on the suburban commercial land use for the adjacent properties and what was permitted.

Mr. Mabry noted that is the future land use designation which allows the zoning for the area.

Councilmember Cloud asked if the current zoning is agriculture?

Mr. Mabry one is Neighborhood Services - Planned Development which allowed the storage use to be there. Everything else on the other side of Old Waco Road is still zone agriculture but is recommended for office or neighborhood service zoning.

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

Motion by Councilmember Perry Cloud adopt ordinance, with second and final reading set for November 17, 2011. seconded by Councilmember Danny Dunn.

10. 2011-4489: FIRST READING - PUBLIC HEARING - Consider adopting an ordinance amending the City's strategic investment zones incentive policies.

Jonathan Graham, City Attorney presented this item to the Council. Mr. Graham, noted this item was discussed in the worksession earlier. These changes will help make the process for the SIZ program more competitive and yet easier to bring to Council throughout the year. Also addressed will be the funding available for each project, and rules for initiating the project. Mr. Graham, noted the final area will be a reporting measure. Mr. Graham identified the three existing corridors for this program ; South 1st Street, Avenue G/H, and North 3rd Street. The proposal is to take the three free standing ordinance and

consolidate them into one ordinance. This will make the application and review process more streamlined; bringing them to Council in December, March, June and September of each year. Mr. Graham also noted one of the proposed changes will allow funding to match the project size. The evaluation process will be done through a scoring system by staff prior to bringing to Council. Mr. Graham noted the third area of changes is the 'rules'. Once a project has been identified and is tying up SIZ dollars, it will have specific period of time for completion.

Mr. Graham added this is a great program for the City of Temple.

Councilmember Morales noted that she too is excited for this program. It is changing the face of our neighborhoods and is bringing the pride back.

Mayor Jones declared the public hearing open with regard to agenda item 10 and asked if anyone wished to address this item. There being none, Mayor Jones declared the public hearing closed.

Motion by Councilmember Judy Morales adopt ordinance, with second and final reading set for November 17, 2011. seconded by Councilmember Danny Dunn.

William A. Jones, III, Mayor

ATTEST:

Lacy Borgeson
City Secretary



COUNCIL AGENDA ITEM MEMORANDUM

11/17/11
Item #4(B)
Consent Agenda
Page 1 of 1

DEPT./DIVISION SUBMISSION & REVIEW:

Jonathan Graham, City Attorney
Lacy Borgeson, City Secretary

ITEM DESCRIPTION: Consider adopting a resolution amending a lease agreement with ES&S (Election Systems & Software) of Omaha, NE for election equipment.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: In September 2011, Council approved a contract with ES&S for the lease of voting equipment for City conducted elections. The estimated cost for the original agreement was approximately \$6,138. After further developments, Staff is now requesting the original contract be amended to include the lease of HAVA compliant machines, the AutoMARK in the amount of \$8,914.

In 2009 the President signed a bill enacting the Military and Overseas Voter Empowerment Act (MOVE). This bill has placed a burden on the States to designate responsibilities and create a plan for conducting elections, thus SB 100. Prior to SB 100 the County was able to provide election equipment needed for us to conduct municipal elections. This will no longer be the case as the County will no longer provide election support in even numbered years.

We have been using ES&S through Bell County and feel comfortable with the support we will receive from them during election years. This lease is for a 5 year period and costs will be divided between other entities we support during the election period, including Temple ISD, Temple College and the Bioscience District. As part of this lease, ES&S will program, deliver, pick-up and store all equipment.

By leasing the equipment, should we decide to receive support from the County in odd numbered years, we will be able to do so through the cancellation clause contained in the lease agreement.

FISCAL IMPACT: No funds were included in the FY 2012 operating budget to cover this cost. A budget adjustment is presented for Council's approval appropriating \$8,914 from General Fund Designated for Capital Projects – Unallocated Fund Balance to account 110-1400-515-2517, Election Expense. Costs incurred in FY 2012 will be shared equally by all entities having elections in May 2012.

ATTACHMENTS:

[Budget Adjustment
Resolution](#)

FY 2012**BUDGET ADJUSTMENT FORM**

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

Adjustments should be rounded to the nearest \$1.

			+		-	
ACCOUNT NUMBER	PROJECT #	ACCOUNT DESCRIPTION	INCREASE		DECREASE	
110-1400-515-2517		Election Expense	\$ 8,914			
110-0000-352-1345		Gen Fund-Desg for Cap Proj-Unallocated			\$ 8,914	
		Do Not Post				
TOTAL.....			\$ 8,914		\$ 8,914	

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

This budget adjustment appropriates \$8,914 to fund the lease agreement with ES&S (Election Systems & Software) to provide election equipment for City elections in FY 2012.

DOES THIS REQUEST REQUIRE COUNCIL APPROVAL?

☒

Yes

☐

No

DATE OF COUNCIL MEETING

11/17/2011

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, AMENDING A LEASE AGREEMENT WITH ES&S (ELECTION SYSTEMS & SOFTWARE) OF OMAHA, NEBRASKA, FOR ELECTION EQUIPMENT; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, the passage of SB 100 provides that the County is only required to provide election support in even numbered years – Bell County has previously provided election equipment, but now the City will be responsible for obtaining the necessary equipment;

Whereas, the City has been using ES&S (Election Systems & Software) of Omaha, Nebraska, and feels comfortable with the support received from them during election years – the Staff recommends amending a lease agreement with ES&S for election equipment;

Whereas, Staff requests the original contract be amended to include the lease of HAVA compliant machines, the AutoMARK, in the amount of \$8,914;

Whereas, funds were not included in the FY2011-2012 operating budget to cover this cost. A budget adjustment needs to be approved to transfer the funds to Account No. 110-1400-515-2517; 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 amended lease agreement with ES&S (Election Systems & Software) of Omaha, Nebraska, after approval as to form by the City Attorney, for election equipment including HAVA compliant machines, the AutoMARK, in the amount of \$8,914.

Part 2: The City Council approves an amendment to the FY2011-2012 budget, substantially in the form of the copy attached as Exhibit A, for this expenditure.

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 17th day of **November**, 2011.

THE CITY OF TEMPLE, TEXAS

WILLIAM A. JONES, III, Mayor

ATTEST:

APPROVED AS TO FORM:

Lacy Borgeson
City Secretary

Jonathan Graham
City Attorney



COUNCIL AGENDA ITEM MEMORANDUM

11/17/11
Item #4(C)
Consent Agenda
Page 1 of 1

DEPT./DIVISION SUBMISSION & REVIEW:

Gary O. Smith, Chief of Police Department

ITEM DESCRIPTION: Consider adopting a resolution authorizing the purchase of three marked police vehicles from Caldwell Country of Caldwell, utilizing a BuyBoard contract in the amount of \$111,950.83

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: In accordance with the vehicle replacement schedule, ten marked police vehicles are due for replacement this year. The Police Department seeks approval to purchase three 2012 Chevrolet Tahoes for K-9 operations. These vehicles will be equipped to accommodate patrol dogs. The Department has researched various vehicles for use in this function, and has determined that the Tahoe is the best platform to support our operations, from both a utility aspect as well as the safety of the animals.

The purchase of the other 7 replacement units is pending further research at this time.

FISCAL IMPACT: Funding in the amount of \$350,000 is designated for the purchase of the police vehicles and related required equipment in account 110-2031-521-62-13, project #100768.

ATTACHMENTS:

[Resolution](#)

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING THE PURCHASE OF THREE MARKED POLICE VEHICLES FROM CALDWELL COUNTRY OF CALDWELL, TEXAS, THROUGH THE BUYBOARD LOCAL GOVERNMENT ONLINE PURCHASING COOPERATIVE, IN THE AMOUNT OF \$111,950.83; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, in accordance with the vehicle replacement schedule, ten marked police vehicles are due for replacement this fiscal year. The Police Department seeks to purchase three 2012 Chevrolet Tahoe's for K-9 operations;

Whereas, these three vehicles will be equipped to accommodate patrol dogs. The Police Department has researched various vehicles for use in this function, and has determined that the Tahoe is the best platform to support these operations;

Whereas, the Staff recommends purchasing three 2012 Chevrolet Tahoe vehicles through the BuyBoard local government online purchasing cooperative system from Caldwell Country of Caldwell, Texas, in the amount of \$111,950.83;

Whereas, funds are available for this purchase in Account 110-2031-521-6213, project # 100768; 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 three 2012 Chevrolet Tahoe's for K-9 operations from Caldwell Country of Caldwell, Texas, through the BuyBoard local government online purchasing cooperative system, for a cost in the amount of \$111,950.83.

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 17th day of November, 2011.

THE CITY OF TEMPLE, TEXAS

WILLIAM A. JONES, III, Mayor

ATTEST:

APPROVED AS TO FORM:

Lacy Borgeson
City Secretary

Jonathan Graham
City Attorney



COUNCIL AGENDA ITEM MEMORANDUM

11/17/11
Item #4(D)
Consent Agenda
Page 1 of 2

DEPT./DIVISION SUBMISSION & REVIEW:

Lonzo Wallace, Fire Chief

ITEM DESCRIPTION: Consider adopting a resolution authorizing the purchase of a 2012 custom Crimson with a Spartan chassis fire engine from Metro Fire Apparatus Specialists, Inc. of Houston, utilizing the Houston-Galveston Area Council Interlocal Cooperative (HGAC) in the amount of \$580,546.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: On May 10, 2008, the citizens of Temple supported Temple Fire & Rescue's Bond Package in a General Election. The complete Bond Package was comprised of replacing Temple Fire & Rescue's Central Fire Station #1, building a new Fire Station #8 / Training Center / Emergency Operations Center combined facility with an Engine Company #8, and replacing Engine #1 and Engine #4.

The construction of the new Central Fire Station and Fire Station #8/ Training Center / EOC is complete. The replacement of Engines #1 and #4 is also complete. In addition, savings from the construction of the Central Station and Station #8 were used to replace Engine #2.

Fire Station No. 8 went into operations on October 14, 2011. Accordingly, staff is ready to purchase Engine #8 to support the operations of the new station. A reserve apparatus is currently being used until the new engine arrives next September – November 2012.

The proposed new engine/pumper will be a 2012 custom Crimson with a Spartan chassis, a full tilt cab, a stainless steel body, and will be outfitted with the necessary fire fighting equipment. Engine #8 will be equipped with a 1,000-gallon water tank and a 1250-gallon per minute pump in order to provide additional water to the remote sections of West Temple. The engine will be a smaller 450 hp block engine that is estimated to get twice as many miles per gallon as several of the 500 hp engines currently being used throughout the City.

The engine purchase is being recommended utilizing a Houston-Galveston Area Council (HGAC) cooperative contract. All contracts available through the HGAC Cooperative have been awarded by virtue of a public competitive procurement process compliant with state statutes.

FISCAL IMPACT: A budget adjustment is presented for Council's approval appropriating \$650,000 of savings from the construction of the new Central Fire Station to account 363-2200-522-6852, project # 100801 for the purchase of Engine #8 and accessories. This project was approved by Council on September 1, 2011 as part of the FY 2012 CIP.

ATTACHMENTS:

[Metro Fire Proposal](#)
[Budget Adjustment](#)
[Resolution](#)



Metro Fire Apparatus Specialists, Inc.

514 Michigan / South Houston, Texas 77587 / 713-475-2411 / 713-475-2428 fax

Date: August 5, 2011

Temple Fire Department
Attention: Chief Lonzo Wallace
505 North 3rd Street
Temple, TX 76501-3164

Dear Chief Wallace,

The following is our proposal to provide the following through HGAC: Spartan, 4-Door Custom Full-Tilt Aluminum Cab, Pumper, Stainless Steel Body, Single Axle, 1250 GPM Pump, Mid-Mounted

BID # FS12-09

H-GAC Category:	FC04	BASE PRICE	\$295,000.00
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PUBLISHED OPTIONS:

1	Change cab to Gladiator	\$45,000.00
3	Change cab to LFD	\$12,500.00
19	LED lighting for cab exterior access compartment (2)	\$800.00
21	Change cab electrical system to multiplexed	\$5,250.00
35	Add engine air intake skid plate	\$725.00
44	Add driveline retarder	\$14,250.00
47	Add fuel cooler	\$525.00
50	Upgrade front tires, wheels, and suspension to 20,000 pounds	\$2,100.00
55	Upgrade rear tires, wheels, and suspension to 27,000 pounds	\$8,000.00
68	Change front wheels to aluminum	\$800.00
69	Change rear single axle wheels to aluminum	\$1,450.00
71	Balance tires and wheels (3)	\$1,050.00
72	Add wheel trim hub and lug nut covers	\$400.00

81	Add electronic stability control to the brake system on a single rear axle	\$2,800.00
83	Upgrade to disc brakes	\$1,250.00
85	Change air lines to wire braided	\$750.00
94	Upgrade front bumper length to be 21"	\$750.00
97	Upgrade bumper to severe duty	\$1,950.00
101	Add front bumper hose well with cover	\$1,250.00
102	Add Q2 siren	\$2,625.00
108	Add manual cab tilt pump	\$475.00
116	Add cab floor insulation	\$2,450.00
117	Add removable aluminum overlay to under cab insulation	\$1,250.00
125	Upgrade to xtreme duty interior center dash with Line-X paint	\$1,550.00
127	Upgrade to xtreme duty interior right side dash with Line-X paint	\$500.00
131	Change interior metal surfaces to Line-X paint	\$3,450.00
139	Paint the door trim with Line-X	\$825.00
145	Add custom Fire Department seat logo (4)	\$1,000.00
147	Change seat to electric	\$800.00
148	Change SCBA bracket to SecureALL (4)	\$2,500.00
149	Mount the officer seat rearward creating a storage area under it	\$850.00
152	Change exterior door handles to chrome	\$850.00
155	Upgrade to dual vision West Coast mirrors	\$900.00
161	Add rear cab corner trim	\$600.00
168	Upgrade alternator to 320 amps	\$800.00
179	Upgrade ground and step lights to LED	\$1,375.00
183	Add 120 volt eyebrow scene light (2)	\$2,300.00
185	Add 120 volt side cab recessed scene lights	\$1,850.00
189	Change interior overhead DOT lights to LED	\$1,150.00

203	Upgrade light bar to be 72" long LED with no empty modules	\$3,750.00
219	Add dual rear and single side view camera system	\$2,000.00
248	Upgrade to air primer	\$400.00
255	Add foam pump that flows between 0 and 2 gpm of concentrate	\$8,500.00
256	Add foam tank	\$1,200.00
263	Pump cooling and recirculation line	\$500.00
265	Pump anode	\$375.00
280	Add front bumper discharge	\$3,250.00
290	Change bezels to deluxe models	\$1,600.00
293	Upgrade master gauges	\$475.00
353	Upgrade body to Star series	\$27,500.00
381	Add back board compartment in hose bed	\$1,800.00
384	Half depth shelf (3)	\$525.00
385	Full depth shelf (2)	\$500.00
387	Roll out tray (2)	\$4,300.00
451	Bullard T3MAX thermal imager	\$10,750.00

TOTAL PUBLISHED OPTIONS:

\$197,125.00

UNPUBLISHED OPTIONS:

David-Clark radio intercom system	\$5,500.00
Engine to be Cummins ISL 450 hp, 2010 EPA emissions	\$0.00
Holmatro combination rescue tool, pump, and hose	\$11,500.00
Performance Advantage - tool boards, mounts and poly tray liners	\$4,500.00
Knight Light KL-450	\$8,250.00
Task Force Tips Hurricane RC monitor and RC Extenda-Gun	\$9,250.00
Task Force Tips equipment - nozzles, stacked tips, Blitzfire, wyes, BIV, Hydrant Mst	\$20,500.00
Snap-Tite - 5" supply, 3" and 1.75" attack, spanners, special cut sections	\$9,750.00

Lista tool box	\$650.00
Akron equipment - portable electric cord reel with cord and light mounts	\$900.00
Fire extinguishers - CO2, H2O, ABC	\$450.00
Council Tools equipment - axes, crowbar, sledge hammer	\$375.00
Salvage covers	\$225.00
Kochek equipment - valve, double males, double females, adapters, reducers	\$2,250.00
Nupla equipment - broom, shovel, pike poles, mallet, bolt cutters	\$650.00
Miscellaneous equipment - haligan, hose strap, TNT tool, hose jacket, gas can, glas	\$396.00
Streamlight flashlights - SL-40, SL-90	\$625.00
Tele-Lite generator with built-in light	\$1,400.00
PPV fan, cut-off saw, chain saw	\$5,100.00
Custom lettering and striping	\$3,500.00
Turtle tile	\$650.00
TOTAL UNPUBLISHED OPTIONS:	\$86,421.00

BASE PRICE:	\$	295,000.00	
PUBLISHED OPTIONS:	\$	197,125.00	
UNPUBLISHED OPTIONS:	\$	86,421.00	17.56%
HGAC FEE:	\$	2,000.00	
TOTAL COST:	\$	580,546.00	

By: *Brian Russell*
Brian Russell - S. A.

FY **2012****BUDGET ADJUSTMENT FORM**

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

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ACCOUNT NUMBER	PROJECT #	ACCOUNT DESCRIPTION	INCREASE		DECREASE	
363-2200-522-68-52	100801	Fire Engines-Engine #8	\$ 650,000			
363-2200-522-68-50	100120	Fire Station #1			650,000	
TOTAL.....			\$ 650,000		\$ 650,000	

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

To appropriate savings from the construction of the new Central Fire Station for the purchase of Engine #8 and accessories. This agenda item is approving the purchase of a 2012 Crimson with a Spartan chassis fire engine from Metro Fire Apparatus Specialists, Inc. utilizing the Houston-Galveston Area Council Interlocal Cooperative (HGAC) in the amount of \$580,546. A balance of \$69,454 will remain available to purchase accessories and equipment for the engine.

DOES THIS REQUEST REQUIRE COUNCIL APPROVAL?

☒

Yes

☐

No

DATE OF COUNCIL MEETING

November 17, 2011

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 PURCHASE OF A 2012 CUSTOM CRIMSON WITH A SPARTAN CHASSIS FIRE ENGINE FROM METRO FIRE APPARATUS SPECIALISTS, INC., OF HOUSTON, TEXAS, UTILIZING THE HOUSTON-GALVESTON AREA COUNCIL INTERLOCAL COOPERATIVE (HGAC), IN THE AMOUNT OF \$580,546; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, on May 10, 2008, the citizens of Temple chose to support Temple Fire & Rescue's Bond Package in a general election – the package included the purchase of Engine #8;

Whereas, the Staff recommends purchasing a 2012 Custom Crimson with a Spartan Chassis Fire Engine from Metro Fire Apparatus Specialists, Inc., of Houston, Texas, using the Houston-Galveston Area Council Interlocal Cooperative in the amount of \$580,546;

Whereas, funds are available for this purchase, but an amendment to the FY2011-12 budget needs to be approved to transfer the funds to the appropriate expenditure account; and

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

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

Part 1: The City Council authorizes the purchase of a 2012 Custom Crimson Fire Engine with a Spartan Chassis from Metro Fire Apparatus Specialists, Inc., of Houston, Texas, using the Houston-Galveston Area Council Interlocal Cooperative (HGAC), in the amount of \$580,546.

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

Part 3: The City Council approves an amendment to the FY2011-12 budget, substantially in the form of the copy attached as Exhibit A, for this purchase.

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

PASSED AND APPROVED this the 17th day of November, 2011.

THE CITY OF TEMPLE, TEXAS

WILLIAM A. JONES, III, Mayor

ATTEST:

APPROVED AS TO FORM:

Lacy Borgeson
City Secretary

Jonathan Graham
City Attorney



COUNCIL AGENDA ITEM MEMORANDUM

11/17/11
Item #4(E)
Consent Agenda
Page 1 of 1

DEPT./DIVISION SUBMISSION & REVIEW:

Nicole Torralva, Director of Public Works
Lisa Sebek, Superintendent of Solid Waste Services

ITEM DESCRIPTION: Consider adopting a resolution authorizing the purchase of 1,450 plastic 96-gallon refuse containers for the Solid Waste Division from Toter, Inc., Statesville, NC, through the State of Texas Contract (Bid# 450-A2) in the amount of \$67,773.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: Each year, the Solid Waste Division purchases new residential refuse containers, both for new service and for regular container replacement. This year, the purchase will be split between residential garbage containers (black) and curbside pilot program recycling containers (green). Additional recycling containers are needed to expand the curbside pilot program into a new sector of the City.

A current State of Texas bid contract will allow for the splitting of container purchase by color and by receipt of the containers by the end of the current calendar year. Current pricing on the State of Texas bid contract for shipping to Temple is \$46.74 each. Considering the economy and transportation services, we believe this to be a good cost per container.

Toter has agreed to split our order as follows:
1,200 Green Body Containers with Green Lids
250 Black Body Containers with Black Lids

The City has done business with Toter, Inc. and finds them to be a responsible vendor. Utilizing this contract through the State of Texas satisfies the requirement for competitive bids.

FISCAL IMPACT: Funding has been appropriated in the account listed below.

Description	Account #	Budget	Proposed Expenditure
96 Gallon Carts	110-2330-540-2211	\$70,080	\$67,773

ATTACHMENTS:

[Toter Quotation State of Texas Bid #450-A2](#)
[Resolution](#)



Toll Free: (800) 424-0422
Fax: (704) 878-0734

QUOTATION

Quote #: 11-1794
Date: 10/31/2011
Sales Rep: Donald Siptak

Prepared For:

City of Temple
3210 East Ave. H.
Temple, TX 76501
Ms. Tina Adams
254-298-5464
tadams@templetx.gov

Ship To:

City of Temple
3210 East Ave. H.
Temple, TX 76501

Model	Description	Qty	Price	Ext Price
79296	Toter 96 Gallon - EVR II Universal/Nestable Body Color - (940) Green Lid Color - (940) Green Custom Serial Number Hot Stamped in White Body Hot Stamp on LHS Wheels - Standard 10" Sunburst Assembly - 1/3 Assembled (axle & stopbar installed) Warranty - 10 Year Unprorated (special exclusions may apply to non-standard options)	1,450	\$46.74	\$67,773.00

Subtotal = \$67,773.00
Freight Total = \$0.00
Total = **\$67,773.00**

Options

1200 Green body and lid
250 Black body and lid
COMMODITY CODE - 45034879606-6-1

Additional Information:

* Freight: Included in price of container
* Payment Terms: Net 30 days after shipment
* Delivery: 4-6 weeks after receipt of purchase order

PRICE OFF STATE OF TEXAS CONTRACT - REFERENCE BID # 450-A2

Above pricing is based on orders placed in the quantities and options stated above. Please contact Toter for a revised quote if the quantities and/or options change.

This proposal is subject to Toter's Standard Terms and Conditions. Toter prices do not include state and local taxes, if applicable. Price subject to change and may increase prior to shipment based on catastrophic material increase. Prices are based upon total purchase and are good for 15 days. Unless stated otherwise in writing, container sizes indicated on price lists, proposals, quotations, invoices, sales literature and delivery tickets are nominal in sizes. Actual volume may vary from nominal sizes - standard warranties apply. Delivery is subject to availability at time of order entry. Pricing is based on current resin cost(s) and freight which must be confirmed by Toter in writing before acceptance of order. This quote supersedes any past proposal on the same item.

Toter Incorporated:

Linda Lassiter

Sales Service Representative

Accepted By:

City of Temple

Date

PO #

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING THE PURCHASE OF 1,450 PLASTIC 96-GALLON REFUSE CONTAINERS FOR THE SOLID WASTE DIVISION FROM TOTER, INC., OF STATESVILLE, NORTH CAROLINA, THROUGH THE STATE OF TEXAS CONTRACT (BID#450-A2), IN THE AMOUNT OF \$67,773.00; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, each year the Solid Waste Division purchases new residential refuse containers, both for new service and for regular container replacement. This year, the purchase will be split between residential garbage containers (black) and curbside pilot program recycling containers (green);

Whereas, a current State of Texas bid contract will allow for the splitting of container purchase by color and by receipt of the containers by the end of the current calendar year – utilizing this contract through the State of Texas satisfies the requirement for competitive bids;

Whereas, the Staff recommends purchasing the containers from Toter, Inc., of Statesville, North Carolina, in the amount of \$67,773.00 – funds are available for this purchase in Account No. 110-2330-540-2211; and

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

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

Part 1: The City Council authorizes purchasing 1,450 plastic 96-gallon refuse containers for the Solid Waste Division from Toter, Inc., of Statesville, North Carolina, through the State of Texas contract (Bid # 450-A2), in the amount of \$67,773.00.

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 **17th** day of **November**, 2011.

THE CITY OF TEMPLE, TEXAS

WILLIAM A. JONES, III, Mayor

ATTEST:

APPROVED AS TO FORM:

Lacy Borgeson
City Secretary

Jonathan Graham
City Attorney



COUNCIL AGENDA ITEM MEMORANDUM

11/17/11
Item #4(F)
Consent Agenda
Page 1 of 1

DEPT. /DIVISION SUBMISSION & REVIEW:

Ken Cicora, Parks and Leisure Services Director

ITEM DESCRIPTION: Consider adopting a resolution authorizing a contract with the Department of Veterans Affairs, Veterans Industries/Compensated Work Therapy for the provision of temporary workers for the Parks and Leisure Services Department in the amount of \$ 73,478.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: Since 2001, the Parks and Leisure Services Department has utilized the services of the Temple Veterans Affairs (VA) Hospital to provide contract day laborer services to help maintain the park system. The VA has provided temporary workers to conduct a number of duties including: mowing/edging/trimming, restroom cleaning, litter removal, planter bed maintenance, ball field maintenance, painting and carpentry work.

The program has been very successful. We have found that almost every one of the workers the VA assigns to the Parks and Leisure Services Department has worked diligently to do a good job for us and as a result we have chosen to hire a number of them as full-time employees when job opportunities have arisen. We believe this is an excellent program and provides a win-win opportunity for the VA and the Department.

FISCAL IMPACT: Funds are budgeted in account 110-3500-552-26-23 in the FY 2012 in the Parks Operating Budget for these services.

ATTACHMENTS:

[Resolution](#)

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING A CONTRACT WITH THE DEPARTMENT OF VETERANS AFFAIRS, VETERANS INDUSTRIES/COMPENSATED WORK THERAPY FOR THE PROVISION OF TEMPORARY WORKERS FOR THE PARKS AND LEISURE SERVICES DEPARTMENT, IN THE ANNUAL AMOUNT OF \$73,478; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, since 2001, the Parks and Leisure Services Department has utilized the services of the Temple Veterans Affairs (VA) Hospital to provide contract day laborer services to help maintain the park system;

Whereas, the program has been very successful and the Staff recommends authorizing a contract with the Department of Veterans Affairs to continue the compensated work therapy program for the Parks and Leisure Services Department in the amount of \$73,478;

Whereas, funds are budgeted in Account No. 110-3500-552-2623 for this expenditure; and

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

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

Part 1: The City Council authorizes the City Manager, or his designee, to execute a contract in the amount of \$73,478, with the Department of Veterans Affairs, Veterans Industries/Compensated Work Therapy, after approval as to form by the City Attorney, for the provision of workers for the Parks and Leisure Services Department.

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 17th day of November, 2011.

THE CITY OF TEMPLE, TEXAS

WILLIAM A. JONES, III, Mayor

ATTEST:

APPROVED AS TO FORM:

Lacy Borgeson
City Secretary

Jonathan Graham
City Attorney



COUNCIL AGENDA ITEM MEMORANDUM

11/17/11
Item #4(G)
Consent Agenda
Page 1 of 2

DEPT./DIVISION SUBMISSION & REVIEW:

Nicole Torralva, P.E., Director of Public Works
Thomas Brown, Superintendent of Utility Services

ITEM DESCRIPTION: Consider adopting a resolution ratifying an emergency contract with Bell Contractors of Belton, for the emergency replacement of a 6" and 10" sewer line using the pipe bursting method in the area of North 14th Street and Lamar Avenue in the amount of \$136,404.40

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

ITEM SUMMARY: Over the past several years the Public Works Utility Service Division has had numerous wastewater issues in the North 14th Street and Lamar Avenue area. Problems escalated in late October and an in-depth investigation subsequently revealed that the existing clay tile line in this area has deteriorated past the point of rehabilitation. While a capital improvement project is programmed for this area, it is not scheduled to be funded until the year 2019 and given the severe condition of the broken pipe, collapsed main and loss of collection system all together in this location, staff has deemed this issue to be a significant health and environmental hazard. Accordingly, per the Local Government Code 252.022, this project is exempt from the competitive bid process.

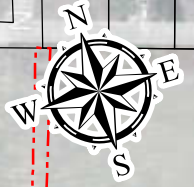
Due to the urgent nature of this project, the Public Works Utility Services Division obtained a proposal from Bell Contractors to complete the work, as they have the necessary materials and equipment to respond quickly. Staff authorized this work as an emergency and a Notice to Proceed was issued on Monday, October 31, 2011. The project is expected to be totally complete, to include clean-up by the middle of December 2011.

FISCAL IMPACT: This project was not budgeted as part of the FY 2012 operating budget. Due to the critical nature of the work, funding has been identified. A budget adjustment is presented for Council's approval appropriating \$136,405 from Water & Sewer Unreserved Retained Earnings to account 520-5400-535-6361, project #100831 for construction of the work.

ATTACHMENTS:

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

NORTH 14TH ST & LAMAR EMERGENCY PIPE BURSTING



PROJECT AREA
IN YELLOW

DISCLAIMER

GIS information is provided as a public resource for general information purposes only. While it is used to locate, identify and inventory Public Infrastructure within the City of Temple, no warranty, express or implied, is given as to its accuracy and the City of Temple does not accept any liability for error or omission. **No portion of the information should be considered to be, or used as, a legal document.** The information is provided subject to the express condition that the user knowingly waives any and all claims for damages against the City of Temple, Texas that may arise from the use of this data.

Legend

	sde.GIS.Easement_Text EASEMENT LINE
	MANHOLE
	CLEANOUT
	SEWEN MAIN
	ABANDONED_SEWER_MAIN
	SEWER_SERVICE_LINE
	LIFT STATION
	FORCE_MAIN
	Parcel

1 inch = 200 feet



FY 2012**BUDGET ADJUSTMENT FORM**

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

Adjustments should be rounded to the nearest \$1.

			+		-	
ACCOUNT NUMBER	PROJECT #	ACCOUNT DESCRIPTION	INCREASE		DECREASE	
520-5400-535-63-61	100831	SLR-North 14th & Lamar Ave	\$ 136,405			
520-0000-373-04-11		Water & Sewer Unreserved Ret Earnings			136,405	
		Do Not Post				
TOTAL.....			\$ 136,405		\$ 136,405	

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

To fund a construction contract with Bell Contractors for the emergency replacement of a 6" and 10" sewer line in the area of North 14th Street and Lamar Ave in the amount of \$136,404.40.

DOES THIS REQUEST REQUIRE COUNCIL APPROVAL?

☒

Yes

☐

No

DATE OF COUNCIL MEETING

November 17, 2011

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, RATIFYING A CONSTRUCTION CONTRACT BETWEEN THE CITY OF TEMPLE, TEXAS, AND BELL CONTRACTORS, INC., OF BELTON, TEXAS, FOR THE EMERGENCY REPLACEMENT OF A 6-INCH AND A 10-INCH SEWER LINE, USING THE PIPE BURSTING METHOD, IN THE AREA OF NORTH 14TH STREET AND LAMAR AVENUE, IN THE AMOUNT OF \$136,404.40; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, over the past several years, the Public Works Utility Service Division has had numerous wastewater issues in the area of North 14th Street and Lamar Avenue, with problems escalating in late October – an in-depth investigation revealed the existing clay tile line in this area has deteriorated past the point of rehabilitation;

Whereas, a capital improvement project is not programmed for this area until 2019 and given the severe condition of the broken pipe, Staff has deemed this issue to be a significant health and environmental hazard;

Whereas, due to the urgent nature of the project, Staff obtained a proposal from Bell Contractors, Inc., to complete the work, since they have the necessary materials and equipment to respond quickly – this project is exempt from the competitive bid process in accordance with the Local Government Code 252.022;

Whereas, this project was not budgeted as part of the FY 2011-2012 operating budget, but due to the critical nature of the work, funding has been identified – a budget adjustment 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 ratifies, and authorizes the City Manager, or his designee, to execute a construction contract, in the amount of \$136,404.40, between the City of Temple, Texas, and Bell Contractors, Inc., of Belton, Texas, after approval as to form by the City Attorney, for the emergency replacement of a 6-inch and a 10-inch sewer line in the area of North 14th Street and Lamar Avenue.

Part 2: The City Council approves an amendment to the FY2011-2012 budget, substantially in the form of the copy attached as Exhibit A, for this project.

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

PASSED AND APPROVED this the **17th** day of **November**, 2011.

THE CITY OF TEMPLE, TEXAS

WILLIAM A. JONES, III, Mayor

ATTEST:

APPROVED AS TO FORM:

Lacy Borgeson
City Secretary

Jonathan Graham
City Attorney



COUNCIL AGENDA ITEM MEMORADUM

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DEPT./DIVISION SUBMISSION & REVIEW:

Brian Mabry, Planning Director

ITEM DESCRIPTION: S-FY-12-01: Consider adopting a resolution authorizing a street use license to allow the encroachment of a 140 square-foot accessory building 12 feet within a public drainage easement at Lot 41, Block 1, The Creeks at Deerfield subdivision, commonly known as 6110 Shadow Creek Cove.

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

ITEM SUMMARY: The applicant, Edanbra Development, requests the Street Use License on behalf of the property owners, Mary and Vo Speights, in order to place a movable shed within a public drainage easement. Due to setback and building separation requirements, and due to the presence of an in-ground pool in the back yard, the proposed location is the only viable spot for the accessory building to be located.

Planning Staff notified the City's Public Works department regarding the applicant's requested street use license. There are no objections to the street use license.

FISCAL IMPACT: Street use licenses require a \$150.00 fee for a 15-year term. The applicant paid the \$150.00 fee with his application submittal.

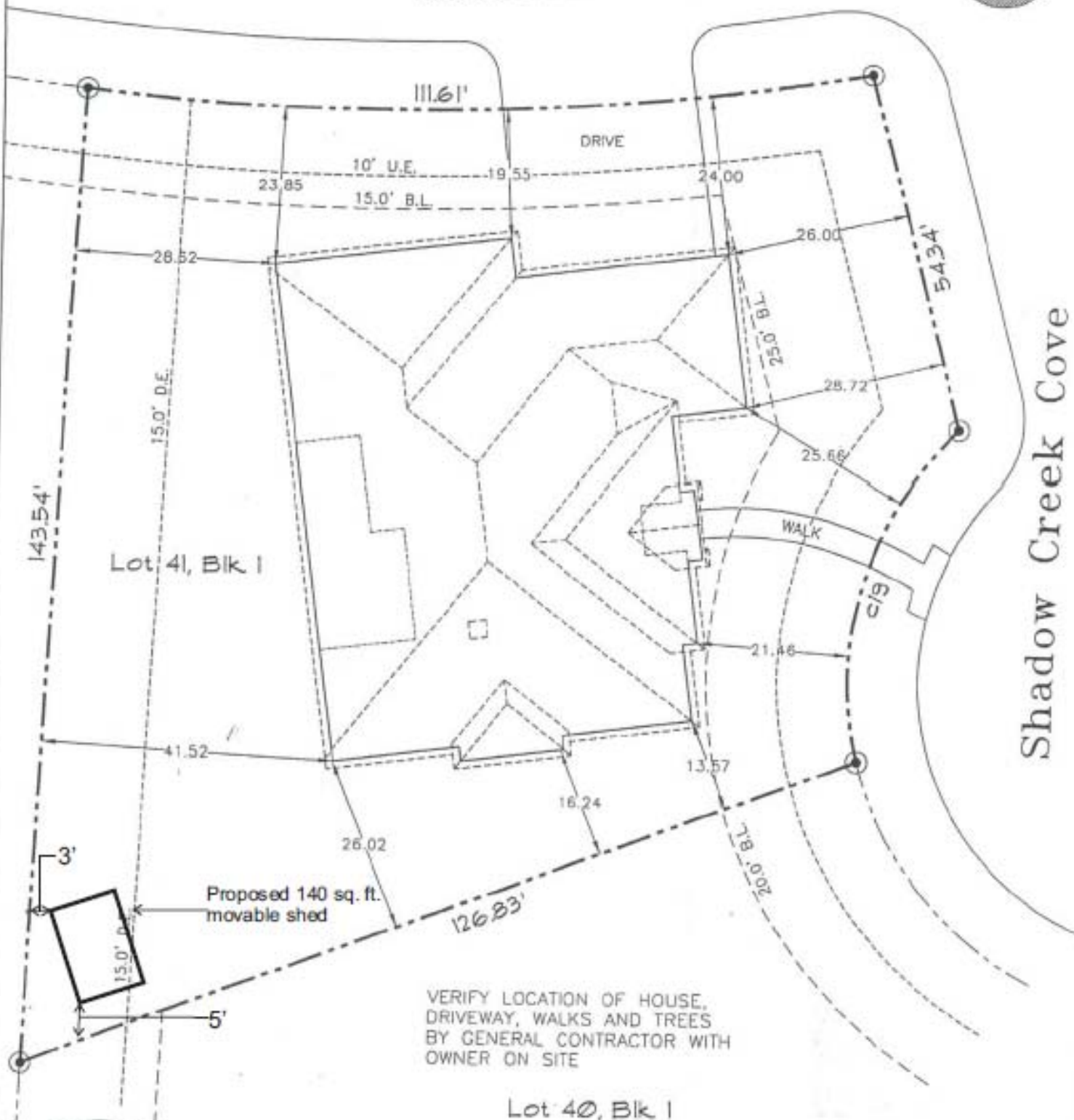
ATTACHMENTS:

Exhibit A
Resolution

Exhibit A



Deerfield Drive



Lot 40, Blk 1



EDC Homes
EDANBRA Custom Homes
EDC Commercial

254-770-1818
Fax 774-8915
Mobile/Pager 715-4083

P.O. Box 3313
Tempe, Texas 76565

6110 Shadow Creek Cove

Lot 41, Block 1
The Creeks at Deerfield
Tempe, Texas

DATE: 03/30/11	SCALE: 1" = 20'	DRWN BY RDC
SHEET 1 of 1	FILE NO. EDC-2011-09	

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, GRANTING A STREET USE LICENSE TO MARY AND VO SPEIGHTS, OR ANY SUCCESSORS IN INTEREST, TO OCCUPY, MAINTAIN AND UTILIZE PROPERTY AT 6110 SHADOW CREEK COVE, FOR A PROPOSED 12 FOOT ENCROACHMENT INTO A PUBLIC DRAINAGE EASEMENT AT LOT 41, BLOCK 1, THE CREEKS AT DEERFIELD SUBDIVISION, FOR A PROPOSED 140 SQUARE-FOOT ACCESSORY BUILDING; PROVIDING FOR THE TERMS AND CONDITIONS OF THIS LICENSE; PROVIDING FOR COMPENSATION; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, a Street Use License has been requested for property located at 6110 Shadow Creek Cove to allow for a 12 foot encroachment into a public drainage easement to allow for a 140 square-foot movable accessory building;

Whereas, Staff notified the City's Public Works Department regarding the applicant's request, and Staff recommends approval of the requested street use license; and

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

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

Part 1: A Street Use License is granted to **Mary and Vo Speights**, or any successors in interest, hereinafter "Licensee," to occupy, maintain, and utilize property at 6110 Shadow Creek Cove, to allow a 12 foot encroachment into a public drainage easement along the rear property line of Lot 41, Block 1, The Creeks at Deerfield subdivision, for a proposed accessory building, more fully shown on Exhibit "A," attached hereto and made a part hereof for all purposes. This Street Use License is approved in accordance with the following terms and conditions:

I. Term

This license is granted for a term of fifteen (15) years unless sooner terminated according to the terms and conditions herein contained. At the end of the fifteen year period, the owner may request an extension or renewal of the license.

II. Fee

Licensee shall pay to the City of Temple, Texas, the sum of One Hundred Fifty Dollars (\$150) for the fifteen (15) year term for the license herein granted upon the execution by Licensee and approval by the City of the agreement.

III. Purpose

The above-described property shall be used by the Licensee to utilize property at 6110 Shadow Creek Cove, to allow a 12 foot encroachment into a public drainage easement along the rear property line of Lot 41, Block 1, The Creeks at Deerfield subdivision, for a proposed accessory building.

IV. Conditions of License

That the above-described license is granted subject to the following conditions, terms, and reservations:

(a) **Maintenance of Encroachment Area.**

(1) Licensee shall maintain the encroachment area at all times in a neat, attractive, and orderly manner. A sufficient area of the public street, right-of-way, alley, sidewalk, or other public property shall remain open after the encroachment, unobstructed and preserved for pedestrian or vehicular traffic (including access for impaired or handicapped persons), as appropriate. No other permanent structure, building, or enclosure shall be installed within the public right-of-way. Licensee shall at all times allow access to utilities and trash receptacles located within the encroachment area.

(2) Licensee shall restore the encroachment area to its original condition at the end of the license period, unless renewed or extended, or in the event that this license is terminated by the City as provided herein. If Licensee fails to maintain the encroachment area as provided herein, or fails to restore the encroachment area when the license is expired or terminated, the City may cause such work to be done, the costs of which shall be born by Licensee.

(3) In the event that City requests removal of the encroachment or any other physical improvement in the area of the license, Licensee shall remove said improvement at his own expense within thirty (30) days of notice thereof. In the event that Licensee fails to remove the improvements within the required thirty day period, the City reserves the right to remove the improvements, and Licensee agrees to reimburse the City for the expense of removing said improvements, and Licensee further agrees to hold the City harmless for any and all claims arising out of the removal of improvements or maintenance of the encroachment area. City shall not be required to restore the improvements, which shall be the sole responsibility of Licensee.

(b) **Right of Cancellation.**

(1) This license is made subordinate to the right of the City to use said area for a public purpose, and in addition to any other reservations made herein, it is understood and agreed that should the City of Temple deem it in the public interest to use the above area, or any portion thereof for a public purpose, or for any utility service which will require the use of said area, then in that event, the City shall give the Licensee thirty (30) days written notice of its intention to cancel this license. Licensee shall likewise have the same right of cancellation upon giving the City thirty (30) days written notice of its intention to cancel.

In either event, upon the termination or cancellation by the City or Licensee, as the case may be, this license shall become null and void, and Licensee or anyone claiming any rights under this instrument shall remove any improvements from said area at Licensee's expense. Failure to do so shall subject Licensee to the provisions of subsection (a)(2) above. All work shall be done at the sole cost of the Licensee and to the satisfaction of the Director of Public Works. The decision of the City Council in this matter shall be final and binding upon all parties insofar as the City's determination as to the public necessity of the use of said area for public use.

(c) **Compliance with Laws.** This license is subject to all State and Federal laws, the provisions of the Charter of the City of Temple as it now exists or as it may hereafter be adopted or amended, and the ordinances of the City of Temple now in effect or those which may hereafter be passed and adopted. The City of Temple shall have the right to increase or decrease the compensation to be charged for this license upon its renewal or extension.

(d) **Hold Harmless.**

(1) As a condition hereof, Licensee agrees and is bound to hold the City whole and harmless against any and all claims for damages, costs, and expenses, to persons or property that may arise out of or be occasioned by the use, occupancy and maintenance of the above-described public property by Licensee, or from any act or omission of any representative, agent, customer, or employee of Licensee, and such indemnity provision shall also cover any personal injury or damage suffered to City property, City employees, agents or officers. This license shall also cover any claim for damages that any utility, whether publicly or privately owned, may sustain or receive by reason of Licensee's use of said license for Licensee's improvements and equipment located thereon.

(2) Licensee shall never make any claim of any kind or character against the City of Temple for damages that it may suffer by reason of the installation, construction, reconstruction, operation, and/or maintenance of any public improvement or utility, whether presently in place or which may in the future be constructed or installed, including but not limited to, any water and/or sanitary sewer mains, and/or storm sewer facilities, and whether such damage is due to flooding, infiltration, natural causes or from any other cause of whatsoever kind or nature.

(3) It is the intention of this indemnity agreement on the part of the Licensee and a condition of this license, that it shall be a full and total indemnity against any kind or character or claim whatsoever that may be asserted against the City of Temple by reason or a

consequence of having granted permission to Licensee to use and maintain the above described public property. Licensee hereby agrees to defend any and all suits, claims, or causes of action brought against the City of Temple on account of same, and discharge any judgment or judgments that may be rendered against the City of Temple in connection herewith.

V. Acceptance by Licensee

Licensee may accept the provisions of this license by signing through its duly authorized officer as indicated below within thirty (30) days after this license shall have become fully effective. In the event said acceptance is not signed as provided for herein, then this license shall be of no further effect and shall be considered as having been canceled fully.

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 on the **17th** day of **November**, 2011.

THE CITY OF TEMPLE, TEXAS

WILLIAM A. JONES, III, Mayor

ATTEST:

APPROVED AS TO FORM:

Lacy Borgeson
City Secretary

Jonathan Graham
City Attorney

STATE OF TEXAS §

COUNTY OF BELL §

This instrument was acknowledged before me on the _____ day of November, 2011, by William A. Jones, III, Mayor of the City of Temple, Texas.

Notary Public, State of Texas

AGREEMENT OF LICENSEE

TO THE HONORABLE MAYOR AND CITY COUNCIL OF THE CITY OF TEMPLE,
TEXAS:

We, **Mary and Vo Speights**, hereby accept the terms and conditions of Resolution No. _____ granting a Street Use License for property located at 6110 Shadow Creek Cove, to allow a 12 foot encroachment into a public drainage easement along the rear property line of Lot 41, Block 1, The Creeks at Deerfield subdivision, for a proposed accessory building.

Mary Speights

Vo Speights

County of Bell §

State of Texas §

This instrument was acknowledged before me on the _____ day of _____, 2011, by Mary Speights and Vo Speights.

Notary Public, State of Texas



COUNCIL AGENDA ITEM MEMORANDUM

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DEPT./DIVISION SUBMISSION & REVIEW:

Traci Barnard, Director of Finance

ITEM DESCRIPTION: Consider adopting a resolution authorizing the following with respect to the procurement of electricity:

1. A memorandum of agreement with Texas Energy Aggregation, LLC of Waco, for consulting services related to the procurement of electricity and ongoing energy consulting services at a cost of \$.0005 per kWh; and
2. The City Manager or the Director of Finance to act on behalf of the City to review pricing offers submitted for the supply of electricity, and if in the best interest of the City, enter into a contract with the lowest responsible bidder for a period of 12 to 59 months beginning for electrical meter reads after May 2012.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: On September 20, 2007, Council adopted a resolution to enter into a five-year contract with World Energy Solutions, Inc. to provide electricity procurement and reverse auction services at a cost of \$.001/kWh of the electricity procured by the City using World Energy's reverse auction platform. As allowed by the contract, it is staff's recommendation to terminate this contract based on the lack of consulting services provided by World Energy.

The City is currently under a 3-year contract until May 2012 with MidAmerican Energy, a retail electric provider (REP), for the purchase of electricity at a rate of \$.0611 per kWh (excluding regulatory fees). The City currently has approximately 238 electric service addresses. Information provided by several different resources, including Texas Energy Aggregation, LLC (TEA), indicate that the fall months are a good time to lock-in on electricity contracts. Accordingly, staff is recommending the engagement of TEA to assist in the evaluation of the electricity market and to assist in the procurement of a new retail electric supplier agreement that would commence in May 2012.

TEA is a Waco-based firm that started business in 2002, shortly after deregulation began. TEA specializes in assisting cities, counties, school districts, colleges, churches, and businesses in procuring electricity, aggregating electricity needs of different clients when needed, and providing well-educated information on managing electricity usage, etc. TEA's proposed fee is \$.0005 per kWh consumed, which will be included in the quoted energy price from the awarded REP, and will be paid directly by the REP to TEA.

With guidance from TEA with respect to timing of the bidding, staff is requesting that Council authorize the bidding process to secure pricing for City procured electricity for meter reads beginning after May 31, 2012. Bids will be requested for periods ranging from as low as 12 to 59 months. Based on the bidding results, staff is requesting that Council give the City Manager or the Director of Finance the flexibility to negotiate a price and term that is most advantageous to the City.

The rates for this commodity are typically only valid for a few hours after the bids close. Accordingly, it is necessary to obtain pre-authorization from the City Council to enter into a contract with a vendor.

Per the Local Government Code 252.022(a)(15), electricity is exempt from the competitive sealed bidding rules. This is relevant based on the fact that TEA will only solicit pricing from REP's that they deem to be reputable and competitive energy providers.

FISCAL IMPACT: TEA's consulting fee will be paid by the contracted REP directly to TEA. Based on an annual electricity usage of approximately 30 million kWh, this calculates out to an annual embedded fee of approximately \$15,000.

The following FY 2012 adopted budget for electricity was calculated with the assumption that there would be no increase in the electrical rates:

General Fund	\$1,754,200
Hotel/Motel Tax Fund	100,000
Water & Wastewater Fund	1,459,000

Total FY 2012 Budget	<u>\$3,313,200</u>

ATTACHMENTS:

[Resolution](#)

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING A MEMORANDUM OF AGREEMENT WITH TEXAS ENERGY AGGREGATION, LLC, OF WACO, TEXAS, FOR CONSULTING SERVICES RELATED TO THE PROCUREMENT OF ELECTRICITY AND ONGOING ENERGY CONSULTING SERVICES AT A COST OF \$.0005 PER kWh; AUTHORIZING THE CITY MANAGER OR THE DIRECTOR OF FINANCE TO ACT ON BEHALF OF THE CITY TO REVIEW PRICING OFFERS SUBMITTED FOR THE SUPPLY OF ELECTRICITY, AND IF IN THE BEST INTEREST OF THE CITY, ENTER INTO A CONTRACT WITH THE LOWEST RESPONSIBLE BIDDER FOR A PERIOD OF 12 TO 59 MONTHS BEGINNING FOR ELECTRICAL METER READS AFTER MAY 2012; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, the City is currently under a contract with World Energy Solutions, Inc., to provide electricity procurement and reverse auction services – as allowed by the contract, the Staff recommends termination of this contract based on the lack of consulting services provided by the company;

Whereas, Texas Energy Aggregation, LLC, of Waco, Texas, specializes in assisting cities and other entities in procuring electricity, aggregating electricity needs of different clients when needed, and in providing well-educated information on managing electricity usage, etc.;

Whereas, the Staff recommends that the City enter into a memorandum of understanding with Texas Energy Aggregation, LLC, at a cost of \$.0005 per kWh consumed – TEA's consulting fee will be paid by the contracted retail electric provider directly to TEA – based on an annual electricity usage of approximately 30 million kWh results in an annual embedded fee of approximately \$15,000;

Whereas, the City is currently under a 3-year contract until May, 2012 with MidAmerican Energy, a retail electric provider (REP), for the purchase of electricity – TEA advises that the fall months are a good time to lock-in on electricity contracts and will assist the City in the evaluation of the electricity market and in the procurement of a new retail electric supplier agreement that would commence in May, 2012; and

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

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

Part 1: The City Council authorizes a memorandum of agreement with Texas Energy Aggregation, LLC, of Waco, Texas, for consulting services related to the procurement of electricity and ongoing energy consulting services at a cost of \$.0005 per kWh.

Part 2: The City Council authorizes the City Manager or the Director of Finance to act on behalf of the City to review pricing offers submitted for the supply of electricity, and if in the best interest of the City, enter into a contract with the lowest responsible bidder for a period of 12 to 59 months beginning for electrical meter reads after May 2012.

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 these services.

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 17th day of **November**, 2011.

THE CITY OF TEMPLE, TEXAS

WILLIAM A. JONES, III, Mayor

ATTEST:

APPROVED AS TO FORM:

Lacy Borgeson
City Secretary

Jonathan Graham
City Attorney



COUNCIL AGENDA ITEM MEMORANDUM

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DEPT./DIVISION SUBMISSION & REVIEW:

Gary Smith, Police Chief
Belinda Mattke, Director of Purchasing

ITEM DESCRIPTION: Consider adopting a resolution authorizing a contract with Perry Office Plus, of Temple to move and reassemble furniture from the Police Headquarters building back to 209 E. Avenue A in the amount not to exceed \$48,000.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: It is anticipated that the Police Headquarters facility mold remediation and renovation activities will be complete in mid-January 2012. In order to accommodate these remediation and renovation activities, the Police Department relocated operations to their old facility at 105 South 5th Street in March 2011.

The largest and most complicated furnishing reinstallation will be the furniture that was originally purchased from and installed by Perry Office Plus (Perry's) in 2005. As ratified by Council on March 3, 2011, Perry's was engaged to disassemble and move the furniture out of the PD facility in February and March 2011 at an amount not to exceed \$27,500. Based on staff time incurred by Perry's, the actual cost billed by Perry's was \$23,657.05.

Based on the design and management services that can be provided by Perry's, staff is recommending that Perry's be engaged again to move and reassemble the furniture back in the furniture's designated locations as already planned out by Perry's. In the original move-out, several of the pieces of furniture, including several cubicle units, were put in storage. Accordingly, Perry's is estimating that the time to reinstall the furniture is going to take approximately twice the time that it took to disassemble and move out the furniture. Perry's not to exceed proposal for design, moving, and reassembly services are as follows:

Project Design/Management/Planning	\$ 4,600
Moving and Reassembly Services	41,000
Electrical Services required for cubicles	2,400

Total Services (not to exceed)	\$48,000

Perry's has agreed to invoice the City based on the actual man hours incurred for a total amount not to exceed \$48,000. Staff is recommending the engagement of Perry's services without receiving competitive bids based on the professional service of design and oversight that Perry's to offer for this project.

It is anticipated that we will be able to begin moving limited pieces of furniture back into the PD Facility in mid-December 2012 with the expectation of the facility being fully operational again by January 30, 2012.

FISCAL IMPACT: The issuance of Limited Tax Notes in an amount not to exceed \$7,600,000 was authorized by Council on February 17, 2011. The notes are designated to finance the costs associated with the construction and renovations of the Temple Police Headquarters, including relocation costs to and from the existing facility. Funding for these three (3) relocation contracts totaling \$63,105 is available in account 364-2000-521-2623, other contracted services designated under these Limited Tax Notes.

ATTACHMENTS:

[Resolution](#)

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT WITH PERRY OFFICE PLUS OF TEMPLE, TEXAS, RELATED TO THE MOVEMENT AND REASSEMBLY OF FURNITURE TO THE POLICE HEADQUARTERS BUILDING LOCATED AT 209 EAST AVENUE A, IN THE AMOUNT NOT TO EXCEED \$48,000; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, in March, 2011, the Police Department relocated their operations to the old facility located at 105 South 5th Street due to mold remediation and renovation activities;

Whereas, Perry Office Plus was engaged in the largest and most complicated disassembly and movement of the furniture from the Police Headquarters building located at 209 East Avenue A to the old Police Headquarters building located at 105 South 5th Street;

Whereas, Staff recommends that Perry Office Plus be engaged again to move and reassemble the furniture back in the furniture's designated locations without receiving competitive bids based on the professional service of design and oversight that Perry's has to offer for this project;

Whereas, Perry's has agreed to invoice the City based on the actual man hours incurred for this project for a total amount not to exceed \$48,000 – funds are available in Account No. 364-2000-521-2623; and

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

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

Part 1: The City Council authorizes the City Manager, or his designee, to execute a contract, in the amount not to exceed \$48,000, between the City of Temple, Texas, and Perry Office Plus of Temple, Texas, after approval as to form by the City Attorney, for disassembly and movement of the furniture from the current Police Headquarters building located at 105 South 5th Street to 209 East Avenue A.

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

PASSED AND APPROVED this the 17th day of **November**, 2011.

THE CITY OF TEMPLE, TEXAS

WILLIAM A. JONES, III, Mayor

ATTEST:

APPROVED AS TO FORM:

Lacy Borgeson
City Secretary

Jonathan Graham
City Attorney



COUNCIL AGENDA ITEM MEMORANDUM

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DEPT./DIVISION SUBMISSION & REVIEW:

Richard Therriault, Chief Building Official
Belinda Mattke, Director of Purchasing

ITEM DESCRIPTION: Consider adopting a resolution authorizing the following contracts related to the demolition of seven (7) properties in the Avenue G area:

1. Asbestos abatement contract to AAR, Inc. of Liberty Hill, in the amount of \$47,000;
2. Asbestos consulting contract to Austin Environmental, Inc. of Bryan, in the estimated amount of \$24,600;
3. Demolition contract for six (6) properties to Lloyd D. Nabors Demolition, Inc. of Hutchins, in the amount of \$35,500; and
4. Demolition contract for one (1) property located at 601 South 7th Street to Precision Contractors of Troy, in the amount of \$75,000.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY:

The seven properties to be abated and demolished are as follows:

1. 410 West Avenue G – Small Office Building
2. 501 West Avenue G – Warehouse
3. 416 West Avenue G – Thrift Store
4. 416 West Avenue G – Meal Disbursement Center
5. 709 South 9th Street – Storage House
6. 409 West Avenue G – Food Bank
7. 601 South 7th Street – Men's Dorm

As shown on the attached Asbestos Abatement Bid Tabulation, on October 18, 2011, five (5) bids were received for the asbestos abatement work that is required prior to the demolition of any each of the facilities. The low bidder is AAR, Inc. out of Liberty Hill. AAR has performed work for the City previously and staff found them to be a responsible bidder.

Staff is recommending that Austin Environmental, Inc. be engaged to provide the on-site asbestos consulting and air monitoring services that are required whenever asbestos abatement activities are needed. Austin Environmental prepared the asbestos survey and design services related to the asbestos abatement project. Accordingly, staff believes that they are the most qualified to provide this professional service. Austin Environmental has proposed a price not to exceed \$24,600, which is based on 45 estimated work days. Austin Environmental's fee will be reduced by \$500 for each day that the asbestos abatement can be completed under the 45 days.

As shown on the attached Demolition Bid Tabulation, on October 18, 2011, twelve (12) bids were received for the demolition of the seven (7) properties. The invitation to bid asked for pricing for two (2) different property groups: Group 'A' included properties indicated in 1 thru 6 above and Group 'B' included the property indicated in 7 above. In addition, the invitation to bid asked for a deductive alternate bid for each property group should the City assume the financial responsibility for the landfill tipping fees associated with the disposal of the demolition materials.

It is staff's recommendation to award the demolition contracts to the low bidder without the deductive alternate for each of the property groups. Staff is making this recommendation based on adequate funding being available to fund the project without taking the deductive alternate, the potential financial risk of the City assuming the tipping fees, and the desire to encourage the contractors to be resourceful in recycling the materials that they can. Accordingly, it is staff's recommendation to award the demolition of Property Group 'A' to Lloyd D. Nabors Demolitions, Inc. in the amount of \$35,500 and Property Group 'B' to Precision Contractors in the amount of \$75,000.

It is anticipated that the asbestos abatement work will begin on December 12, 2011, and that the demolition work will commence in early January 2012. It is anticipated that all work will be complete by the end of March 2012.

FISCAL IMPACT: Funding in the amount of \$200,000 is designated in account 351-3700-524-2631 for the asbestos abatement and demolition of these designated properties. To date, \$4,827.80 has been expended for an asbestos survey and other miscellaneous cost, leaving an available balance of \$195,172.20 in the account. The contracts in this agenda item total \$182,100, which will leave a balance of \$13,072.20 in the account to fund State DSHS asbestos fees and any other miscellaneous costs that may arise.

ATTACHMENTS:

[Bid Tabulation – Asbestos Abatement](#)
[Bid Tabulation - Demolitions](#)
[Resolution](#)

Tabulation of Bids Received
on October 18, 2011 at 2:00 p.m.
Asbestos Abatement of Seven Commercial Properties in the Avenue G Area
Bid# 11-01-11

	Bidders				
	AAR Inc Liberty Hill	Sisk-Robb Inc Leander, TX	Intercon Environmental Inc Mansville, Tx	MKP Enterprises Salt Lake City, UT	ARC Abatement Waco, TX
Description					
Base Bid	\$47,000.00	\$54,230.00	\$56,600.00	\$49,200.00	\$48,950.00
Acknowledged Addendum	Yes	Yes	Yes	Yes	Yes
Bid Bond	5%	5%	5%	cashiers check	5%
Insurance Requirement Affidavit	Yes	Yes	Yes	Yes	Yes
Bond Requirement Affidavit	Yes	Yes	Yes	No	Yes

Recommended for Council Award

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

Belinda Mattke

18-Oct-11

Belinda Mattke, Director of Purchasing

Date

Tabulation of Bids Received
on October 18, 2011 at 2:15 p.m.
Demolition of Seven (7) Commercial Properties in the Avenue G Area
Bid # 11-02-11

Description	Bidders					
	Lloyd D. Nabors Demolitions Inc. Hutchins, TX	AAR Inc. Liberty Hill, TX	Grant Mackay Co Houston, TX	J.T.B. Services Inc. Houston, TX	Lindamood Demolition Inc. Irving, TX	J.R. Ramon & Sons San Antonio, TX
Property Group "A" Base Bid	\$35,500.00	\$72,635.00	\$64,950.00	\$52,400.00	\$52,550.00	\$75,945.00
Property Group "A" Deductive Alternate Bid	-\$5,800.00	-\$15,000.00	-\$18,000.00	-\$18,150.00	-\$15,700.00	-\$7,500.00
Property Group "B" Base Bid	\$112,000.00	\$99,915.00	\$124,864.00	\$87,377.00	\$82,700.00	\$105,000.00
Property Group "B" Deductive Alternate Bid	-\$22,200.00	-\$15,365.00	-\$32,000.00	-\$16,177.00	-\$28,600.00	-\$9,500.00
Acknowledged Addendum	Yes	Yes	Yes	Yes	Yes	Yes
Exceptions	None	None	Yes	None	None	None
Bid Bond	5%	5%	5% not on our form	5%	5%	5% not on our form
Insurance Requirement Affidavit	Yes	Yes	Yes	Yes	Yes	Not executed
Bond Requirement Affidavit	Yes	Yes	Yes	Yes	Yes	Not executed
Credit Check Authorization	Yes	Yes	Yes	Yes	Yes	Yes

Description	Bidders					
	Interncon Environmental Inc. Mansville, TX	Midwest Wrecking Ft. Worth, TX	MKP Enterprises Salt Lake City, UT	Quality Construction Waco, TX	Precision Contractors Troy, TX	Tri-Recycling Inc. Austin, TX
Property Group "A" Base Bid	\$57,299.00	\$66,615.00	\$44,950.00	\$58,000.00	\$48,000.00	\$75,000.00
Property Group "A" Deductive Alternate Bid	-\$15,420.00	-\$19,000.00	-\$10,950.00	-\$10,000.00	No Bid	-\$15,000.00
Property Group "B" Base Bid	No Bid	\$136,840.00	\$93,650.00	No Bid	\$75,000.00	No Bid
Property Group "B" Deductive Alternate Bid	No Bid	-\$41,000.00	-\$20,000.00	No Bid	No Bid	No Bid
Acknowledged Addendum	Yes	Yes	Yes	Yes	Yes	Yes
Exceptions	None	Yes	Yes	None	None	None
Bid Bond	5%	5%	Cashiers Check	5%	5%	5%
Insurance Requirement Affidavit	Yes	Yes	Yes	No	Yes	Yes
Bond Requirement Affidavit	Yes	Yes	Yes	Yes	Yes	Yes
Credit Check Authorization	Yes	Yes	Yes	Yes	Yes	Yes

Recommended for Council Award

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

Belinda Mattke

18-Oct-11

Belinda Mattke, Director of Purchasing

Date

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING A CONTRACT WITH AAR, INC., OF LIBERTY HILL, TEXAS FOR ASBESTOS ABATEMENT RELATED TO THE DEMOLITION OF SEVEN PROPERTIES IN THE AVENUE G AREA, IN THE AMOUNT OF \$47,000; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, on October 18, 2011, the City received five bids for asbestos abatement work that is required prior to demolition of seven properties in the Avenue G area;

Whereas, Staff recommends accepting the bid (\$47,000) received from AAR, Inc., of Liberty Hill, Texas, for this project;

Whereas, funds are budgeted and designated in Account No. 351-3700-524-2631 for this expenditure; and

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

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

Part 1: The City Council authorizes the City Manager, or his designee, to execute a contract between the City of Temple and AAR, Inc., of Liberty Hill, Texas, after approval as to form by the City Attorney, for asbestos abatement related to the demolition of seven properties in the Avenue G area, in the amount of \$47,000.

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 17th day of November, 2011.

THE CITY OF TEMPLE, TEXAS

WILLIAM A. JONES, III, Mayor

ATTEST:

APPROVED AS TO FORM:

Lacy Borgeson
City Secretary

Jonathan Graham
City Attorney

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING A CONTRACT WITH AUSTIN ENVIRONMENTAL, INC., OF BRYAN, TEXAS FOR ON-SITE ASBESTOS CONSULTING AND AIR MONITORING SERVICES RELATED TO THE ASBESTOS ABATEMENT OF SEVEN PROPERTIES IN THE AVENUE G AREA, IN THE AMOUNT NOT TO EXCEED \$24,600; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, on-site asbestos consulting and air monitoring services are required whenever asbestos abatement activities are needed;

Whereas, Austin Environmental, Inc., of Bryan, Texas has prepared the asbestos survey and design services related to the asbestos abatement of seven properties in the Avenue G area;

Whereas, Staff recommends entering into a contract with Austin Environmental, Inc., of Bryan, Texas, for on-site asbestos consulting and air monitoring services for this project;

Whereas, funds are budgeted and designated in Account No. 351-3700-524-2631 for this expenditure; and

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

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

Part 1: The City Council authorizes the City Manager, or his designee, to execute a contract between the City of Temple and Austin Environmental, Inc., of Bryan, Texas, after approval as to form by the City Attorney, for on-site consulting and air monitoring services related to the asbestos abatement of seven properties in the Avenue G area, in the amount not to exceed \$24,600.

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 17th day of November, 2011.

THE CITY OF TEMPLE, TEXAS

WILLIAM A. JONES, III, Mayor

ATTEST:

APPROVED AS TO FORM:

Lacy Borgeson
City Secretary

Jonathan Graham
City Attorney

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING A CONTRACT WITH LLOYD D. NABORS DEMOLITIONS, INC., OF HUTCHINS, TEXAS, FOR DEMOLITION OF SIX PROPERTIES IN THE AVENUE G AREA, IN THE AMOUNT OF \$35,500; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, on October 18, 2011, the City received twelve bids for the demolition of several properties in the Avenue G area;

Whereas, Staff recommends accepting the bid (\$35,500) received from Lloyd D. Nabors Demolitions, Inc., of Hutchins, Texas, for demolition of six properties;

Whereas, funds are budgeted and designated in Account No. 351-3700-524-2631 for this expenditure; and

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

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

Part 1: The City Council authorizes the City Manager, or his designee, to execute a contract between the City of Temple and Lloyd D. Nabors Demolitions, Inc., of Hutchins, Texas, in the amount of \$35,500, after approval as to form by the City Attorney, for the demolition of six properties (410 West Avenue G, 501 West Avenue G, 416 West Avenue G [thrift store and meal disbursement center], 709 South 9th Street, and 409 West Avenue G) in the Avenue G area.

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 17th day of November, 2011.

THE CITY OF TEMPLE, TEXAS

WILLIAM A. JONES, III, Mayor

ATTEST:

APPROVED AS TO FORM:

Lacy Borgeson
City Secretary

Jonathan Graham
City Attorney

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING A CONTRACT WITH PRECISION CONTRACTORS, OF TROY, TEXAS, FOR DEMOLITION OF THE PROPERTY LOCATED AT 601 SOUTH 7TH STREET, TEMPLE, TEXAS, IN THE AVENUE G AREA, IN THE AMOUNT OF \$75,000; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, on October 18, 2011, the City received twelve bids for the demolition of several properties in the Avenue G area;

Whereas, Staff recommends accepting the bid (\$75,000) received from Precision Contractors of Troy, Texas, for demolition of the property located at 601 South 7th Street, in the Avenue G area;

Whereas, funds are budgeted and designated in Account No. 351-3700-524-2631 for this expenditure; and

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

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

Part 1: The City Council authorizes the City Manager, or his designee, to execute a contract between the City of Temple and Precision Contractors of Troy, Texas, in the amount of \$75,000, after approval as to form by the City Attorney, for the demolition of the property located at 601 South 7th Street, in the Avenue G area.

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 17th day of **November**, 2011.

THE CITY OF TEMPLE, TEXAS

WILLIAM A. JONES, III, Mayor

ATTEST:

APPROVED AS TO FORM:

Lacy Borgeson
City Secretary

Jonathan Graham
City Attorney



COUNCIL AGENDA ITEM MEMORANDUM

11/17/11
Item #4(L)
Regular Agenda
Page 1 of 3

DEPT./DIVISION SUBMISSION & REVIEW:

Autumn Speer, Community Services Director

ITEM DESCRIPTION: SECOND READING – Consider adopting ordinances amending:

1. Chapter 7, “Buildings,” of the Code of Ordinances, by adopting the 2009 International Building Code, 2009 International Residential Code, 2009 International Plumbing Code, 2009 International Mechanical Code, 2009 International Fuel Gas Code, and the 2009 International Energy Conservation Code.
2. Chapter 12, “Fire Prevention and Protection,” of the Code of Ordinances, by adopting the 2009 International Fire Code.
3. Chapter 21, “Minimum Housing Standards,” of the Code of Ordinances, by adopting the 2009 International Property Maintenance Code and Amendments.

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

ITEM SUMMARY: The City Currently is under the 2006 version of all aforementioned Codes. These are model codes which are in place to safeguard public health and safety. The new 2009 codes modify and clarify current requirements as well as make additions for new requirements as technology and needs evolve. Codes are updated every three years with the next update occurring in 2012.

The following timeline represents the discussions and meetings that have occurred over the past year to prepare for the adoption of the 2009 codes:

- International Fire code (IFC) Presentation at TABA – November 19, 2010
- Building and Standards Review - January 4, 2011
- TABA International Residential Code (IRC) Review – March 10, 2011
- TABA International Building Code (IBC) Review – March 11, 2011
- City Council Workshop and Review - March 17, 2011

- Building Board of Appeals Review – April 2011
- TABA Internal Review – April – September 2011
- City Council Workshop – October 6, 2011

A. Chapter 7 Amendments. The proposed amendments to Chapter 7 of the City Code include the 2009 International Building Code, 2009 International Residential Code, 2009 International Plumbing Code, 2009 International Mechanical Code, 2009 International Fuel Gas Code, and the 2009 International Energy Conservation Code.

The following summary highlights the specific amendments and or deletions based on staff review and community input:

- 2009 IRC Chapter 2, “Definitions,” “Attic, Habitable,” amended by deleting the reference to “unfinished.”
- 2009 IRC Chapter 11, “Energy Efficiency,” Section N1104, “Lighting System,” Subsection 1104.1, “Lighting Equipment,” deleted until enforcement is mandated by the State.
- 2009 International Energy Code Chapter 4, “Residential Energy Code,” Table 402.1.1, “Insulation and Fenestration Requirements by Components,” amended by deleting requirements found in the “Glazed Fenestration SHGC” in “Climate Zone 2,” until the State mandates these requirements.

B. Chapter 12 Amendments. The proposed amendments to Chapter 12 of the City Code include the 2009 International Fire Code.

- All fire extinguishers in the City of Temple with the exception of class k for cooking equipment, will be 5 pound A:B:C for every 3,000 sq ft. or a 2.5 pound A:B:C for individual dwelling units in multifamily residences (R2 occupancies); Travel distance is 75 ft.
- Modification to sprinkler requirements for Group E (educational buildings) occupancy reduced from 20,000 to 12,000 sq ft.
- Modification to sprinkler requirements for Group M (upholstered furniture display).

C. Chapter 21 Amendments. The proposed amendments to Chapter 21 of the City Code include the 2009 International Property Maintenance Code.

- An addition was made in the 2009 version which includes a boarding standard for covering windows and doors. This has been standard practice, but never included in the code before.

PUBLIC NOTICE:

The newspaper printed notice of the City Council public hearing on October 16 and 19, 2011, in accordance with state law and local ordinance.

FISCAL IMPACT: NA

ATTACHMENTS:

[Proposed Amendment to City Code Chapter 7](#)
[Proposed Amendment to City Code Chapter 12](#)
[Proposed Amendment to City Code Chapter 21](#)

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AMENDING CHAPTER 7, "BUILDINGS," OF THE CODE OF ORDINANCES OF THE CITY OF TEMPLE, TEXAS, ADOPTING THE 2009 INTERNATIONAL BUILDING CODE, THE 2009 INTERNATIONAL RESIDENTIAL CODE, THE 2009 INTERNATIONAL PLUMBING CODE, THE 2009 INTERNATIONAL MECHANICAL CODE, THE 2009 INTERNATIONAL FUEL GAS CODE, AND THE 2009 INTERNATIONAL ENERGY CONSERVATION CODE; PROVIDING A SAVINGS CLAUSE; PROVIDING AN EFFECTIVE DATE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN OPEN MEETINGS CLAUSE.

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

Part 1: Chapter 7, "Buildings," of the Code of Ordinances of the City of Temple, Texas, is amended to read as follows:

CHAPTER 7

BUILDINGS

ARTICLE I. ADMINISTRATION

Section 7-1. Building Official.

Whenever reference is made to the duties of "certain officials" named within the ~~2006~~ 2009 International Building Code, the ~~2006~~ 2009 International Residential Code, the ~~2006~~ 2009 International Plumbing Code, ~~2006~~ 2009 International Mechanical Code, ~~2006~~ 2009 International Fuel Gas Code, and the ~~2006~~ 2009 International Energy Conservation Code, adopted in this chapter, that designated official of Temple, Texas, who has duties corresponding to those of the named official in said Codes shall be deemed to be the responsible official insofar as enforcing the provisions of said Codes are concerned.

Section 7-2. Building Board of Appeals.

(a) Creation and Appointment. A Board is hereby established to be called the Building Board of Appeals (referred to in the ~~2006~~ 2009 International Building Code as the *Building Board of Adjustments and Appeals*), which shall consist of nine (9) members. All Board members shall be appointed by the City Council. The City Council shall endeavor to appoint, when possible, two (2) architects or engineers, one person from the mechanical or air conditioning trade, two (2) master plumbers, two (2) persons from the building industry which

may include a general contractor, engineer or other person at large from the building industry, and two (2) persons at large representing no specific trade.

(b) Term of Office. All members shall be appointed for terms of four (4) years, except the two (2) at-large positions representing no specific trade shall have an initial term of three (3) years. Vacancies shall be filled for an unexpired term in the manner in which original appointments are required to be made. When any member of the Board has been absent from the regular meeting of such Board for three (3) or more consecutive times, without just cause, as determined by the Board or the City Council, the member's office shall become vacant, and the chairman or acting chairman of this Board shall certify such record of absence and vacancy to the City Council which shall appoint a new member to fill the vacancy.

(c) Procedures and Quorum. Four (4) members of the Board shall constitute a quorum. In varying the application of any provisions of this Code or in modifying an order of the Building Official, or Plumbing Official, affirmative votes of the majority present, but not less than three (3) affirmative votes, shall be required. A Board member shall not act in a case in which he has a conflict of interest as that term may be defined in the City Charter, in Chapter 171 of the Local Government Code, or in other applicable laws or statutes.

(d) Records. The Building Official shall act as secretary of the Building Board of Appeals and shall make a detailed record of all its proceedings, which shall set forth the reasons for its decisions, the vote for each member participating therein, the absence of a member and any failure of a member to vote.

(e) Procedure. The Board shall establish rules and regulations for its own procedure not inconsistent with the provisions of this Chapter. The Board shall meet at regular intervals to be determined by the chairman, or, in any event, the Board shall meet within ten (10) days after notice of appeal has been received.

(f) Advisory Responsibility of the Board. The Board shall submit to the City Council such recommendations for the improvement and revision of the ~~2006~~ 2009 International Building Code, the ~~2006~~ 2009 International Mechanical Code, the ~~2006~~ 2009 International One and Two Family Dwelling Code, the ~~2006~~ 2009 International Plumbing Code, the ~~2006~~ 2009 International Gas Code, the 2009 International Energy Code or the ~~2006~~ 2009 International Fire Code as it may from time to time deem necessary and proper in the light of the development of the new materials, methods or techniques which would result in better and more economical installations, and to keep abreast of new developments in applicable portions of the ~~2006~~ 2009 International Building Code, the ~~2006~~ 2009 Mechanical Code, the ~~2006~~ 2009 One and Two Family Dwelling Code, the ~~2006~~ 2009 International Plumbing Code, the ~~2006~~ 2009 International Gas Code, the 2009 International Energy Code and the ~~2006~~ 2009 International Fire Prevention Code. All requests for use of materials or methods not covered in this Code shall be fully supported by factual evidence, or prior approval from recognized testing agency or such other impartial qualified authority acceptable to the Board.

Section 7-3. Appeals; Time Limit.

(a) Whenever the Building Official, or his designee, shall reject or refuse to approve the mode or manner of construction purposed to be followed, or materials to be used in the erection or alteration of a building or structure, or when it is claimed that the provisions of this Code do not apply, or that an equally good more desirable form of construction can be employed in any

specific case, or when it is claimed that the true intent and meaning of this Code, or any of the regulations thereunder have been misconducted or wrongly interpreted, the owner of such building or structure, or his duly authorized agent, may appeal from the decision of the Building Official or his designee to the Building Board of Appeals. Notice of appeal shall be in writing and filed within ninety (90) days after decision is rendered by the Building Official. A fee of ten dollars(\$10.00) shall accompany the notice of appeal.

(b) In case of a building or structure, which, in the opinion of the Building Official is unsafe or dangerous, the Building Official may, in his order, limit the time for such appeal to a shorter period. Appeal hereunder shall be on forms provided by the Building Official.

Section 7-4. Decisions of the Building Board of Appeal.

(a) *Variances and Modifications.*

(1) The Building Board of Appeals, when so appealed to and after hearing, may grant a variance to the application of any provision of the ~~2006~~ 2009 *International Building Code*, the ~~2006~~ 2009 *International Residential Code*, the ~~2006~~ 2009 *International Plumbing Code*, the ~~2006~~ 2009 *International Mechanical Code*, the ~~2006~~ 2009 *International Fuel Gas Code*, and the ~~2006~~ 2009 *Energy Conservation Code* to any particular case when, in its opinion, the enforcement thereof would do manifest injustice, and would be contrary to opinion, the interpretation of the Building Official or his designee should be modified or reversed.

(2) A decision of the Building Board of Appeals to vary the application of any provision of this Code or to modify an order the Building Official or his designee shall specify in what manner such variance or modification is made, the conditions upon which it is made and the reason therefore.

(b) *Decisions.*

(1) Every decision of the Building Board of Appeals shall be final, subject, however, to such remedy as any aggrieved party might have at law or in equity. It shall be in writing and shall indicate the vote upon the decision. Every decision shall be promptly filed in the Office of the Building Official, and shall be open to public inspection; a certified copy shall be sent by mail or otherwise to the appellant and a copy shall be kept publicly posted in the Office of the Building Official for two (2) weeks after filing.

(2) The Building Board of Appeals shall, in every case, reach a decision without unreasonable or unnecessary delay.

(3) If a decision of the Building Board of Appeals reverses or modifies a refusal, order or disallowance of the Building Official or his designee, or varies the application of any provisions of this Code, the Building Official or his designee shall immediately take action in accordance with such decision.

Section 7-5 – 7-20 Reserved.

ARTICLE II. ADMINISTRATION

Section 7-21. Building Code.

The City of Temple adopts, as part of its Building Regulations, the ~~2006~~ 2009 *International Building Code*, as it now exists and as it may be revised from time to time, including appendices. A copy of the ~~Standard Building~~ *International Building Code* shall be maintained in the office of the Building Official.

Section 7-22 Amendments.

What follows are additions, deletions and amendments to the ~~2006~~ 2009 *International Building Code*.

- (a) *Permits*. Chapter 1, “Administration,” Section 105, “Permits,” Subsection 105.2 “Work exempt from a permit” is amended as follows:

Delete sections 1, 2, and 6.

~~101.4.1 Electrical (Delete)~~

~~Refer to the 2005 National Electrical Code and the City of Temple electrical code.~~

- (b) *Temporary Structures and Uses*. Chapter 1, “Administration,” Section 108 “Temporary Structures and Uses,” ~~407.3~~ Subsection 108.3 “Temporary Power” is amended as follows:

Delete the “ICC Electrical Code” and replace with 2008 *National Electrical Code* and City of Temple Electrical Code.

- (c) *Fees*. Chapter 1, “Administration,” Section 109 “Fees,” Subsection 109.1 “Permit Fees” shall be amended as follows:

~~—108.~~ 109. Permit Fees.

The City Council shall adopt by resolution a schedule of the permit fees required or authorized by the ~~2006~~ 2009 *International Building Code*, a copy of which shall be maintained in the office of the Building Official.

- (d) *Board of Appeals*. Chapter 1, “Administration,” Section 113 “Board of Appeals,” Subsection 113.1 shall be deleted and replaced with Section 7-2, “Building Board of Appeals” found within this document.

- (e) *Private garages*. Chapter 4, “Special Detailed Requirements Based on Use and Occupancy,” Section 406, “Motor-Vehicle-Related Occupancies,” Subsection 406.1 “Private garages and carports,” 406.1.2 (2) shall be amended as follows:

The fire separation distance shall be changed from 5 to 10 feet.

Section 7-23 – 7-40 Reserved.

ARTICLE III. MECHANICAL CODE

Section 7-41. Adopted.

The City of Temple adopts as part of its buildings regulations the 2006 2009 *International Mechanical Code* as it now exists and as it may be revised from time to time. A copy of the 2006 2009 *International Mechanical Code* shall be maintained in the office of the Building Official.

Section 7-42 – 7-60 Reserved.

ARTICLE IV. 2006 2009 INTERNATIONAL RESIDENTIAL CODE FOR ONE AND TWO FAMILY DWELLING

Section 7-61. Adopted.

The City of Temple adopts as part of its building regulations the 2006 2009 *International Residential Code for One and Two Family Dwelling* as it now exists and as it may be revised from time to time. A copy of the 2006 2009 *International Residential Code for One and Two Family Dwelling* shall be maintained in the office of the Building Official.

Section 7-62. Amendments.

The City of Temple adopts certain amendments to the 2006 2009 *International Residential Code for One and Two Family Dwelling* which amendments shall be maintained in the office of the Building Official.

~~106 Permits~~

~~106-2-7 (Delete)~~

~~109 Means of Appeal (Delete)~~

- (a) *Work exempted from permits.* Chapter 1, “Administration,” Section 105, “Permits,” R105.2 “Work exempt from permit” shall be amended as follows:

(1) Sections 1, 2, 3, 4, 5 and 10 shall be deleted.

(2) R105.2.3 be amended as follows:

The reference to four feet shall be replaced with two feet.

(3) Any reference to the “ICC Electrical Code” and replace with 2008 *National Electrical Code* and City of Temple Electrical Code, Chapter 10.

- (b) *Manufacture’s instillation instructions.* Chapter 1, “Administration,” Section 106, “Permits,” R106.1.2. Manufacture’s installation instructions shall be amended by deleting the words “on the job site.”

- (c) *Manufacture’s instillation instructions.* Chapter 1, “Administration,” Section 610, “Permits,” R106.3.1 “Approval of construction documents” shall be amended to read as follows:

When the building official issues a permit, the ~~construction documents shall be approved in writing or by a stamp which states "REVIEWED FOR CODE COMPLIANCE."~~ One set of ~~construction documents~~ so reviewed shall be retained by the ~~building official~~. The other set shall be returned to the applicant, shall be kept at the site of work and shall be open to inspection by the ~~building official or his or her authorized representative~~. **construction documents shall be made available and shall be open to inspection by the Building Official or his or her authorized representative.**

- (d) *Frame and Masonry Inspection*. Chapter 1, "Administration," Section 109 "Inspections," R109.1.4 "Frame and masonry inspection" shall be amended by deleting the word masonry throughout the entire section.
- (e) Certificate of Occupancy, Chapter 1, "Administration," Section 110, "Certificate of Occupancy," shall be amended by deleting Sections R110.1; R110.4; R110.3; and R110.5
- (f) *Board of Appeals*. Chapter 1, "Administration," Section 112 "Board of Appeals," shall be deleted and replaced with Section 7-2, "Building Board of Appeals" found within this document.
- (g) *Attics*. Chapter 2, "Definitions," "Attic, Habitable," shall be amended by deleting the reference to "unfinished."
- (h) *Handrails*. Chapter 3, "Means of Egress," Section 311, "Ramps," Subsection 311.8.3, "Handrails required," 311.8.3.1, "Height," shall be amended to delete 34 and 38 inches and replace with 28 and 36 inches respectively.
- (i) *Foundation Anchorage*. Chapter 4, "Foundation," Section 403.1, "Footing," 403.1.6 "General," shall be amended as follows:

Shall extend a minimum of 8" inches in length (178mm) into ~~masonry or concrete~~ **concrete or grouted cells of concrete masonry units.**
- (j) *Foundation Elevation*. Chapter 4, "Foundation," Section 403.1, "Footing," Subsection 403.1.7, "Footing on or adjacent to slope," R 403.1.7.3 shall be deleted and individuals must comply with the City's drainage ordinance.
- (k) *Truss design drawings*. Chapter 5, "Floors," Section 502, "Wood floor framing," Subsection 502.11, "Wood Trusses," 502.11.4 "Truss design drawings," shall be amended by deleting the words "and approved," and replaced with **"on request."**
- (l) *Weepholes*. Chapter 7, "Wall Covering," Section 703, "Exterior Covering," Subsection 703.7, "Stone Masonry," 703.7.6, "Veneer Generally" shall be amended so as to delete the reference to "33 inches" and replace with **"a maximum of 48 inches."**
- (m) *Energy Efficiency*. Chapter 11, "Energy Efficiency," Section N1104, "Lighting System," Subsection 1104.1, "Lighting Equipment," shall be deleted until enforcement is mandated by the State.

- (n) *Plumbing generally.* Chapter 29, “Plumbing,” In all instances, only copper or pex-al-pex shall be used under a concrete slab.
- (o) *Water distribution pipe.* Chapter 29 “Plumbing,” Section P2905, “Materials, joints and connections,” subsection P2905.5, “Water Distribution Pipe” shall be amended by deleting “Brass pipe, Polybutylene (PB) plastic pipe and tubing, Polypropylene (PP) plastic pipe or tubing ot be used for both hot and cold water,” and adding “Aluminum Shielded pex pipe.”
- (p) *Electrical.* Chapters 34-41 shall be deleted and all references shall be replaced with Chapter 10 of the City of Temple Electrical Ordinance.

N1102.1. Thermal performance criteria.

Delete Maximum Glazing U-Factor column from table N 1102.1

R801.3. Roof drainage.

Delete

R905.2.8.3. Crickets and saddles.

Insert: Single piece composite flashing may be used I lieu of cricket.

N1102.1.6. Slab on grade floors.

P2904.5. Water Distribution pipe.

P2904.5.1. Under Concrete Slab

Delete: Brass, Chlorinated polyvinyl chloride (CPVC), Cross-linked polyethylene (PEX), Galvanized steep pipe, Polybutylene (PB) plastic pipe and tubing, Polupropylene (PP) plastic pipe or tubing, Stainless steel (Type 304/304L, Stainless steel (Type 316/316L) pipe.

Add: Aluminum Shielded pex pipe.

Section 7-63 – 7-80. Reserved.

ARTICLE V. PLUMBING CODE

Section 7-81. Amendments.

The City of Temple adopts certain amendments to the–2006 2009 *International Plumbing Code*, which amendments shall be maintained in the Office of the Building Official.

Appendix A. Plumbing Fees.

The City Council shall adopt by resolution a schedule of the permit fees required or authorized by the–2006 2009 *International Plumbing Code*, a copy of which shall be maintained in the office of the Building Official.

Table 906.1. The distance from water closet to vent stack is five feet (5'). If the depth of the flow line of sewer yard is more than 24" at any point, double wyes or combination wyes & 1/8 bends are to be used. A sewer yard line clean out is to be installed at junction of sewer yard line and City sewer

TABLE 906.1 DISTANCE OF FIXTURE TRAP FROM VENT

Size of Fixture	Size of Trap	Falls Per Foot	Distance from Trap
1 1/4"	1 1/4"	1/4"	4'
1 1/2"	1 1/4"	1/4"	4'
1 1/2"	1 1/2"	1/4"	4'
2"	1 1/2"	1/4"	5'
2"	2"	1/4"	5'
*3"	3"	1/8"	5'
*4"	4"	1/8"	5'

* Floor Drains Only 10' & 12' on 3" and 4"

(a) Chapter 6, "Water Supply and Distribution," Chapter 7, "Sanitary Drainage," and Chapter 9, "Vents," shall be amended as follows:

1. All references to air admittance valves shall be deleted.
2. All sinks and washer connections to have a cleanout at or near the foot of each vented waste or soil stack.
3. A dishwashing machine shall not be directly connected to a drainage system.
4. Cold water distribution ASTM D3309-85B may be used in readily accessible places only, not in walls, in or under slab foundations, or in attics.

Section 7-82. Plumbing Installation or Maintenance by Homeowner.

Nothing in this chapter shall prevent a homeowner from installing or maintaining plumbing within his own property boundaries, providing such plumbing work is done by himself and is used exclusively by him or his family. Such privilege does not convey the right to violate any of the provisions of this Chapter, nor is it to be construed as exempting any such property owner from obtaining a permit and paying the required fees thereof.

Section 7-83. Who May Obtain a Permit.

Permits may be issued *only* to the following:

- (a) Master plumber licensed by the State of Texas of Plumbing Examiners;
- (b) Property owner, for plumbing work to be done by him in a building owned and Occupied by him as his home;

- (c) Appliance dealer or dealer's employee, for connecting appliances to existing piping Installation;
- (d) Licensed landscape architects and irrigators.

Section 7-84 – 7-93. Reserved.

ARTICLE VI. GAS CODE

Section 7-94. Adopted.

The City of Temple adopts as part of its Building regulations, the regulations, the 2006 2009 *International Fuel Gas Code* as it exist now and as it may be revised from time to time. A copy of the 2006 2009 *International Fuel Gas Code* shall be maintained in the office of the Building Official.

Section 7-95. Amendments.

The City of Temple adopts certain amendments to the 2006 2009 *International Fuel Gas Code*, which amendments shall be maintained in the Office of the Building Official.

The City Council shall adopt by resolution a schedule of the permit fees required or authorized by the 2006 2009 *International Fuel Gas Code*, a copy of which shall be maintained in the office of the Building Official.

- (a) *Air Testing Lines*. Chapter 4, "Gas Piping Installations," Section 406, "Inspection, testing and purging," Subsection 406.4 "Test pressure measurement," shall be amended as follows:

The test with a diaphragm gage on gas house piping and service lines shall be made by closing all openings and subjecting the pipes to an air pressure of 3 to 5 ounces that will support a column of mercury ten inches in height. If this column of mercury is support by the air pressure for at least fifteen (15) minutes under a constant temperature, the piping shall be considered sufficiently tight.

Section 7-96 Amendments.

The City of Temple adopts certain amendments to the 2006 2009 *International Energy Code*, which amendments shall be maintained in the Office of the Building Official.

- (a) Chapter 4, "Residential Energy Code," Table 402.1.1, "Insulation and Fenestration Requirements by Components," shall be amended by deleting requirements found in the "Glazed Fenestration SHGC" in "Climate Zone 2," until the state mandates these requirements.

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

Part 3: This ordinance shall take effect on **January 1, 2012**.

Part 4: The Code of Ordinances of the City of Temple, Texas, as amended, shall remain in full force and effect, save and except as amended by this ordinance.

Part 5: 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 **3rd** day of **November**, 2011.

PASSED AND APPROVED on Second Reading on the **17th** day of **November**, 2011.

THE CITY OF TEMPLE, TEXAS

WILLIAM A. JONES, III, Mayor

ATTEST:

APPROVED AS TO FORM:

Lacy Borgeson
City Secretary

Jonathan Graham
City Attorney

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AMENDING CHAPTER 12, "FIRE PREVENTION AND PROTECTION," OF THE CODE OF ORDINANCES OF THE CITY OF TEMPLE, TEXAS, BY ADOPTING THE 2009 INTERNATIONAL FIRE CODE; PROVIDING A SAVINGS CLAUSE; PROVIDING AN EFFECTIVE DATE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN OPEN MEETINGS CLAUSE.

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

Part 1: Chapter 12, "Fire Prevention and Protection," of the Code of Ordinances of the City of Temple, Texas, is amended to read as follows:

Chapter 12

Fire Prevention and Protection

Article I. In General

Sec. 12-1. Appointment qualifications, general powers, and duties of the fire chief.

- a) The fire chief of Temple Fire & Rescue shall be appointed by the city manager, with approval of the city council. The fire chief shall be skilled in the management of the department and in the conduct thereof, and in the fighting and control of fires and conflagrations, and shall devote his entire time to the services of the department under such rules and regulations as may be laid down by the city manager and/or city council from time to time.
- b) The chief, under the direction of the city manager, shall have control of all fire stations and apparatus in the city, shall direct the department and preside over same in its efforts to extinguish all fires and conflagrations, and shall at all times be ready with his department for all the services which are usually expected of an efficient department.
- c) Wherever fire chief appears in this chapter, it shall mean the fire chief or his designee.

Sec. 12-2. Appointment qualifications, general powers, and duties of the fire code official

- a) The fire prevention division is hereby created. Such division shall be in Temple Fire & Rescue with the fire code official being a member of that division and reporting directly to the chief.

- b) The fire code official shall be appointed by the fire chief. The fire code official shall be skilled in investigations, inspections, management and shall devote his time to educating the public in fire safety while enforcing federal, state, and local laws as they pertain to fire prevention. The fire code official must be a licensed peace officer, in accordance with 2.12 of the Code of Criminal Procedures, unless otherwise approved by the Fire Chief.
- c) Wherever fire code official appears in this chapter, it shall mean the fire code official or his designee.
- d) When, in the opinion of the fire code official, further investigation of a fire is necessary, he shall take or cause to be taken the testimony on oath of all persons supposed to be cognizant of any facts or to have means of knowledge in relation to the matter under investigation, and shall cause the same to be reduced to writing.
- e) The fire code official shall have the power to summons witness before him to testify in relation to any matter which is, by the provisions of this chapter, a subject of inquiry and investigation, and may require the production of any book, paper, document, or information deemed pertinent thereto. The fire code official is hereby authorized and empowered to administer oaths and affirmation to any persons appearing as witnesses before him.
- f) All investigations held by or under the direction of the fire code official may, in his discretion, be private, and persons other than those required to be present may be excluded from the place where such investigation is held, and witnesses may be kept separate and apart from each other and not allowed to communicate with each other until they have been examined.
- g) Any witness who refuses to be sworn, or who refuses to appear to testify, or who disobeys any lawful order of the fire code official, or who fails or refuses to produce any book, paper, document or information touching any matter under examinations, or who commits any contemptuous conduct during an investigation or inquiry, after being summoned to give testimony in relation to any matter under investigation as provided in this article, may be charged with a misdemeanor, and it shall be the duty of the fire code official to cause all such offenders to be prosecuted.
- h) When the fire code official determines that the condition of any premises creates a serious fire hazard dangerous to human life, he may order the utility company or companies to disconnect the utility service until the hazardous condition is removed. In cases of emergency or in situations where a utility company does not respond to or comply with the order of the fire code official shall have the authority to immediately disconnect or cause the disconnection of utility service. Any person whose property is affected by the act or order of the fire code official shall have the right of direct appeal to the city manager.

Sec. 12-3. Definitions.

In this chapter:

Fire Lane shall mean an off-street area that is accessible to the public and is to remain free

and clear of parked and standing vehicles in order to provide access to commercial buildings for emergency response purposes. This term includes specifically marked areas in public parking lots.

Private Fire Apparatus Access Road shall mean a road that extends from the property line of a private property to within 150 feet of all points on a commercial building located on that property, to include private streets and access roadways.

The route that a fire hose would be laid shall mean the routing of fire hose from either a public or approved on-site fire hydrant to the fire apparatus along the length of the public roadway and/or approved private fire lanes.

Article II. Adoption of Fire Prevention Code

Sec. 12-4. Adoption of fire prevention code.

There is hereby adopted for the purpose of prescribing regulations governing conditions hazardous to life and property from fire and explosion, that certain code known as the International Fire Code 2006⁹, International Code Council, as well as Appendices B, D, E, F, and G, **H, I, and J** as it now exists and as it may be revised from time to time, and the whole thereof, save and except:

- A. Exclusions as noted in Article III of this chapter;
- B. Revisions as noted in Article IV of this chapter;
- C. Additions as noted in Article V of this chapter; and
- D. Such portions as are hereinafter modified and amended, of which code not less than three (3) copies have been and now are filed in the Office of the Building Official and the same are hereby adopted and incorporated as fully as if set out at length herein, and from the date of which this article shall take effect, the provisions thereof shall be controlling within the limits of the City of Temple, Texas.

Article III. Exclusions of International Fire Code 2006⁹

The following provisions of the International Fire Code 2006⁹ are excluded:

- A. Exclude Chapter 3, “General Precautions Against Fire,” Section 307, “Open Burning and Recreation Fires,” but see Section 12-14, “Controlled Burning,” herein.
- B. Exclude Chapter 5, “Fire Service Features,” Section 505, “Premises Identification,” Subsection 505.1, “Address Numbers,” but see Chapter 32, “Streets and Sidewalks,” Section 32-9, “Residence and Building Address Numbering,” from the city code.
- C. Exclude Chapter 33, “Explosives and Fireworks,” in its entirety, but see Section 12-13, “Fireworks,” herein.
- D. Exclude Chapter 5, “Fire Service Features,” Section 508⁷, “Fire Protection Water Supplies”, Subsection 508⁷.5, “Fire Hydrant Systems,” but see Section 12-16, “Fire

Hydrants,” herein.

- E. Exclude Chapter 1, “Administration,” Section 105, “Permits,” Subsection 105.6, “Required operational permits,” Part 105.6.35, “Private Fire Hydrant Exception,” but see Section 12-16, “Fire Hydrants,” herein.
- F. Exclude Chapter 3, “General ~~Precautions Against Fire~~ **Requirements**,” Section 308, “Open Flames,” Subsection 308.3, “Open Flames,” Subsection 308.3, “Open Flames,” Part 308.4 **4**, “Open-flame Cooking Devices Exception,” but see Section 12-14 b, “Recreational Fires and Outside Fires for Domestic Purposes,” herein.
- G. Exclude Chapter 9, “Fire Protection Systems,” Section 906, “Portable Fire Extinguishers,” Subsection 906.1, “Where Required Exception,” but see Section 12-9, Table 906.3 (1), “Fire Extinguishers for Fire Hazards,” and Section 12-10, Table 906.3 (2) “Flammable or Combustible Liquids with Depths of less than or equal to 0.25-inch.”

Article IV. Revisions of International Fire Code 2006-9****

Sec. 12-5. Adjustment to Chapter 1, “Administration.”

- a) Adjustment to Chapter 1, “Administration,” Section 101, “General,” Subsection 101.1, “Title,” amended to read as follows:

- 1) In the title insert “The City of Temple.”
- 2) Replace all references to “the ICC Electrical Code” with “the currently adopted edition of the City of Temple Electric Code.”

- b) Adjust Chapter 1, “Administration,” Section 105, “Permits,” Subsection 105.1, “General,” Part 105.1.1, “Permits Required,” amend to read as follows:

Permits required by this code shall be obtained from the construction safety division of the city. Permit fees, if any, shall be paid prior to issuance of the permit. Issued permits shall be kept on the premises designated therein at all times and shall be readily available for inspection by the fire code official.

- c) Adjustment to Chapter 1, “Administration,” Section 108, “Board of Appeals,” Subsection 108.1, “Board of Appeals Established,” amended to read as follows:

Refer to Chapter 7, “Buildings,” of the City of Temple Code of Ordinances.

~~Sec. 12-6. Adjustment to Chapter 8, “Interior Flush, Decorative Materials and Furnishings,” Section 806, “Decorative Vegetation in New and Existing Buildings,” Subsection 806.1, “Natural Cut Trees,” amend to read as follows:~~

~~Natural cut trees shall be prohibited in all commercial occupancies as well as Group R occupancies, excluding one and two family dwellings, apartments, and townhomes.~~

Sec. 12-76**. Replace Table 906.3(1), “Fire Extinguishers for Class A Fire Hazards,” with the**

following table:

Fire Extinguisher Requirement Based on Square Footage			
	LIGHT (LOW) HAZARD OCCUPANCY	ORDINARY (Moderate) HAZARD OCCUPANCY	EXTRA (High) HAZARD OCCUPANCY
Minimum Rated Single Extinguisher	5 lb. ABC	5 lb. ABC	5 lb. ABC
Maximum Floor Area Per Unit	3,000 square feet	1,500 square feet	1,000 square feet
Maximum Travel Distance to Extinguisher	75 feet	75 feet	75 feet

Sec. 12-87. Replace Table 906.3(2), “Flammable or Combustible Liquids with Depths of Less than or Equal to 0.25-inch,” with the following table:

TYPE OF HAZARD	BASIC MINIMUM EXTINGUISHER RATING	MAXIMUM TRAVEL DISTANCE TO EXTINGUISHERS (FEET)
Light (Low)	5 lb, ABC	75 feet
Ordinary (Moderate)	5 lb, ABC	75 feet
Extra (High)	5 lb, ABC	75 feet

**Sec. 12-9.
Adjustment**

to Chapter 14, “Fire Safety During Construction and Demolition,” Section 1404, “Precautions Against Fire,” Subsection 1404.5, “Fire Watch,” amend to read as follows:

~~When required, as determined by the fire code official, certified firefighter(s) from Temple Fire & Rescue shall be provided as an on-site fire watch for building construction or demolition.~~

Sec. 12-108. Adjustment to Chapter 33, “Explosives and Fireworks,” Section 3307, “Blasting,” Subsection 3307.1, “General,” amend to read as follows:

Blasting operations shall be conducted only by approved, competent operators familiar with the required safety precautions and the hazards involved and in accordance with the provisions of NFPA 495 and Section 12-23, “Extrication Operations Regulations.”

Sec. 12-119. Adjustment to Chapter 38, “Liquefied Petroleum Gases,” Section 3801, “General,” 3801.1 “Scope,” amend to read as follows:

Storage handling and transportation of liquefied petroleum gas (LP-gas) and the installation of LP-gas equipment pertinent to systems for such use shall comply with this chapter, the Texas Railroad Commission Rules governing LP-gas and NFPA 58. Properties of LP-gases shall be determined in accordance with Appendix B of NFPA 58.

Sec. 12-120. Adjustment to Appendix D, “Fire Apparatus Access Roads.”

a) Section D103, “Minimum Specifications,” amended as follows:

- 1) Exclude Table D103.4, “Requirements for Dead-end Fire Apparatus Roads.”
- 2) Subsection D103.4, “Dead-ends,” amend to read as follows:

Public Dead-end fire apparatus access roads in excess of 150 feet (45,720 mm) in length shall be designed in accordance with the City of Temple Design and Development Manual.

- 3) Subsection D103.5, “Fire apparatus road gates,” amended to read as follows

5. Electric gates shall be equipped with a lock box of a type approved by Temple Fire & Rescue and containing a manual release. This release will be used by Temple Fire & Rescue personnel for emergency access in the event of a power failure. Any manual release devices used for emergency access to a property shall be approved by the fire code official.

- 4) Adjustment to Section D103.6 Signs amend to read as follows:

Where required by the fire code official, private fire apparatus access roads shall be marked with permanent NO PARKING—FIRE APPARATUS ROAD signs complying with Figure D103.6. Signs shall have a minimum dimension of 12 inches (305 mm) wide by 18 inches (457 mm) high and have red letters on a white reflective background. Signs shall be posted on one or both sides of the private fire apparatus road, as required by Section D103.6.1 or D103.6.2.

b) Section D106, “Multiple-Family Residential Developments,” amend to read as follows:

- 1) D106.1, “Projects having 1-75 dwelling units.” Multiple-family residential projects having 1-75 dwelling units shall have residential subdivision Entrance/Access roads designated as required by the city’s Design & Development Standards Manual.
- 2) D106.2, “Projects having 75-150 dwelling units.” Multiple-family residential projects having more than 75-150 dwelling units shall have residential subdivision Entrance/Access roads designated as required by the City of Temple Design & Development Standards Manual. The exception to this sub-section is excluded. See Article II of this chapter.
- 3) D106.3, “Projects having 151-300 dwelling units.” Multiple-family residential projects having more than 151-300 dwelling units shall have residential subdivision Entrance/Access roads designated as required by the City of Temple Design & Development Standards Manual.
- 4) D106.4, “Projects having 301 or more dwelling units.” Multiple-family residential projects having 301 or more dwelling units shall have residential subdivision Entrance/Access roads designated as required by the City of Temple Design & Development Standards Manual.

c) Adjustment to Section D107, “One- or Two- Family Dwelling Residential

Developments” amend to read as follows:

- 1) D107.1, “Developments having 1-75 dwelling units.” One- or Two-family dwelling residential development having 1-75 dwelling units shall have residential subdivision Entrance/Access roads designated as required by the City of Temple Design & Development Standards Manual.
- 2) D107.2, “Development having 76-150 dwelling units.” One- or Two- Family residential having 76-150 dwelling units shall have residential subdivision Entrance/Access roads designated as required by the City’s Design & Development Standards Manual. The exception to this subsection is excluded. See Article II of this chapter.
- 3) D107.3, “Developments having 151-300 dwelling units.” One- or Two- Family residential having more than 151-300 dwelling units shall have residential subdivision Entrance/Access roads designated as required by the City’s Design & Development Standards Manual.

Article V. Additions to International Fire Code 2006-9

Sec. 12-131. Fireworks

A. Definitions:

Distributor means a person who:

- a. imports fireworks into this state; or
- b. sells fireworks to:
 1. a jobber, retailer, or other distributor for resale; or
 2. a holder of a single public display permit, a multiple public display permit, or another fireworks permit.

Fireworks means a composition or device:

1. designed for entertainment to produce a visible or audible effect by combustion, explosion, deflagration, or detonation; and
2. defined by 49 C.F.R. Section 173.56(j)(1996).

Fireworks 1.3G means a large fireworks device:

1. primarily designed to produce visible or audible effects by combustion, deflagration, or detonation; and
2. classified as a 1.3G explosive by the department in 49 C.F.R. Part 173 (1996).

Fireworks 1.4G means a small fireworks device:

1. primarily designed to produce visible or audible effects by combustion, deflagration, or detonation;
2. that complies with the construction, labeling, and chemical composition requirements of the United States Consumer Product Safety Commission in 16 C.F.R. Part 1507 (1996), or the most recently adopted version of that rule; and

3. that is classified by the department in 49 C.F.R. Part 173 (1996).

Illegal fireworks means a fireworks device possessed, sold, manufactured, discharged, or transported in violation of this chapter.

Jobber means a person who purchases fireworks only for resale to retailers.

Manufacturer means a person, firm, corporation, or association who makes fireworks.

Person means an individual or entity, including an owner, manager, officer, employee, or occupant.

Public display means the igniting of Fireworks 1.3G for public or private amusement.

Pyrotechnic operator means an individual who, by experience, training, and examination, has demonstrated the necessary skill and ability for safely assembling, discharging, and supervising public displays of Fireworks 1.3G or Fireworks 1.4G.

Pyrotechnic special effects operator means an individual who, by experience, training, and examination, has demonstrated the necessary skill and ability for safely assembling, discharging, and supervising proximate displays of Fireworks 1.3G or Fireworks 1.4G.

Retailer means a person who purchases fireworks for resale only to the general public.

B. Exemptions:

This article does not apply to:

- a. a toy pistol, toy cane, toy gun, or other device that uses paper or plastic caps in sheets, strips, rolls, or individual caps that contain not more than an average of 25 hundredths of a grain of explosive composition per cap and that is packed and shipped under 49 C.F.R. Part 173 (1996).
- b. a model rocket or model rocket motor designed, sold, and used to propel recoverable aero models.
- c. the sale or use of, in emergency situations, pyrotechnic signaling devices or distress signals for marine, aviation, or highway use;
- d. the use of a fusee or a railway torpedo by a railroad;
- e. the sale of blank cartridges for:
 1. use in a radio, television, film or theater production;
 2. a signal or ceremonial purpose in an athletic event; or
 3. an industrial purpose; or
- f. the use of a pyrotechnic device by a military organization.

C. General prohibition against possession, sale, manufacture, discharge, or transportation.
Except as otherwise specifically provided in this article, it shall be unlawful for any person to possess, sell, manufacture, discharge, transport, or otherwise assemble, store,

receive, keep, offer or have in his possession with intent to possess, sell, manufacture, transport, discharge, cause to be discharged, ignite, detonate, fire or otherwise set in action any fireworks of any description.

- D. *Permitted transportation.*** It shall be lawful for any distributor, jobber, manufacturer, pyrotechnic operator, pyrotechnic special effects operator, or retailer to transport fireworks in accordance with the interstate commerce commission regulations regarding the transportation of explosives and other dangerous articles by motor, rail, and water.
- E. *Illegal fireworks as a nuisance; seizure and destruction, etc.*** The presence of any fireworks within the jurisdiction of the city in violation of this section is hereby declared to be a common and public nuisance. The fire code official is directed and required to seize and cause to be safely destroyed any fireworks found in violation of this article and any member of the fire prevention division of the Temple Fire & Rescue Department or any police officer of the city or any other duly constituted peace officer is empowered to stop the transportation of and detain any fireworks found being transported illegally or to close any building where any fireworks are found stored illegally until the fire code official can be notified in order that such fireworks may be seized and destroyed in accordance with the terms of this section. Notwithstanding any penal provision of this article, the city attorney is authorized to file suit on behalf of the city or the fire code official, or both, for such injunctive relief as may be necessary to prevent unlawful storage, transportation, keeping or use of fireworks within the jurisdiction of the city and to aid the fire code official in the discharge of his duties and to particularly prevent any person from interfering with the seizure and destruction of such fireworks, but it shall not be necessary to obtain any such injunctive relief as a prerequisite to such seizure and destruction.
- F. *Section provisions to apply within five thousand feet of the city limits.*** This section shall also be applicable and in force within the area immediately adjacent and contiguous to the city limits of the City of Temple and extending for a distance outside the city limits for a total of five thousand (5,000) feet, and it shall be unlawful to do or perform any act in violation of this Article within such area of five thousand (5,000) feet outside the city limits; provided that this Article shall not apply within any portion of such five thousand-foot area which is contained within the territory of any other municipal corporation.
- G. *Right of entry to enforce section.*** The fire code official is hereby authorized to enter any building where the unlawful presence of fireworks is suspected in order to inspect the same for the presence of such fireworks; but such authority does not include the right to enter a private dwelling or apartment.
- H. *Public displays; when permitted.*** A public display of fireworks shall be-permitted when made in compliance of the terms and conditions of this article.
- I. *Application for permit.*** Any adult person or any firm, co-partnership, corporation or association planning to make a public display of fireworks shall first make written application for a permit to the fire code official at least seventy-two (72) hours in advance of the date of the proposed display. No city permit shall be issued until a permit for said purposes has been issued by the State of Texas.
- J. *Issuance or denial and term of permit; permit non-transferable.*** It shall be the duty of the

fire code official or his designee to make an investigation as to whether the display as proposed by the applicant for a permit under this article shall be of such a character that it may be hazardous to property or dangerous to any person, and he shall, in the exercise of reasonable discretion, grant or deny the application, subject to the conditions prescribed in this section. In the event the application is approved, a permit shall be issued for the public display by the fire code official. The fire code official shall determine what fire protection safety measures will be required before, during and after the display and it is the responsibility of the permittee to make sure the fire protection measures are enforced, such permit shall be for a period of time designated on the permit but can be extended by the fire code official. The permit is non-transferable and shall only be good for one display. In the event the permit is denied by the fire code official, he shall notify the applicant of the denial, in writing.

- K. *Insurance or bond required.*** The applicant for a display permit under this section shall, at the time of making application, furnish proof that he carries compensation insurance for his employees, as provided by the laws of this state, and he shall file with the fire code official a certificate of insurance evidencing the carrying of public liability insurance in an amount not less than one million dollars (\$1,000,000) issued by an insurance carrier authorized to transact business in the state, for the benefit of the person named therein as assured, as evidence of ability to respond to damages in at least the amount of one million dollars (\$1,000,000), such policy to be approved by the City of Temple. In lieu of insurance, the applicant may file with the fire code official, a bond in the amount of one million dollars (\$1,000,000) issued by an authorized surety company approved by the City of Temple, conditioned upon the applicant's payment of all damages to persons or property which shall or may result from or be caused by such public display of fireworks, or any negligence on the part of the applicant or his agents, servants, employees, or subcontractors in the presentation of the public display. The City of Temple shall also be designated as an insured by the insurance policy and bonded by the bond.
- L. *Only aerial displays permitted.*** Any fireworks display authorized under this article shall be limited to an aerial display.
- M. *Storage of material prohibited in the city.*** The material to be used for a public display authorized by this article shall not be stored within the city limits, but shall be brought in on the date of the public display and then shall be taken immediately to the place of display for further handling and storage; except that such materials may be stored within the city limits in a secured storage area designated by the fire code official.
- N. *Hazardous conditions prohibited.*** Any persons overseeing a display of fireworks under this article shall be a competent, adult person, an experienced pyrotechnic operator, and approved by the fire code official. No person shall handle fireworks at a public display unless such person has been approved by to do so by the fire code official. The names of all experienced pyrotechnic operators shall be designated on the permit issued for the public display.
- O. *Firefighter to be present.*** For each public display of fireworks under this section, not less than two (2) firefighters of the city shall be in attendance during the display. The expense of such firefighters at the display shall be borne by the applicant for the permit.

Sec. 12-142. Controlled Burning

a) *Burning of debris and other inflammable materials, generally.*

- 1) Permit. It shall be unlawful for any person to burn trash, brush, tree limbs, grass, trees, leaves, paper, boards, planks, lumber, or any other character of debris or inflammable materials whatsoever in the city, except in an incinerator or container which has been approved, in writing, by the fire code official or his designee. An exception shall be considered by the fire code official on an individual basis when and after the Texas Commission on Environmental Quality (T.C.E.Q.) has issued, in writing, a permit to so burn debris and other inflammable materials.
 - i. A copy of the T.C.E.Q. letter of determination or permission to conduct a controlled burning must be presented to the fire code official or his designee.
 - ii. The fire code official or his designee shall inspect the location of a controlled burn and shall determine if the burn can be safely conducted before any actual burning occurs.
 - iii. The fire code official may require the following, depending on conditions found during the controlled burn site inspection:
 - a. A specified number of individuals be present with fire extinguishing devices and appliances;
 - b. Fire breaks to be cut around the area to be burned;
 - c. A trench to be dug and any burning be conducted in the trench; or
 - d. Any other requirements that the fire code official may be deem necessary to safely conduct the controlled burn.
- 2) A controlled burn that the T.C.E.Q. has authorized and that has been approved by the fire code official must meet criteria as outlined in the remainder of this chapter.
- 3) Burning shall be commenced when the wind will carry smoke and other pollutants away from the city or any residential, recreational, commercial, or industrial area, navigable water, public road, or landing strip which may be affected by the smoke. Burning shall not be conducted when a shift in wind direction is predicted which could produce adverse effects to persons, animals, or property during the burning period. If at any time the burning causes or may tend to cause smoke to blow onto or across a road or highway, it is the responsibility of the person initiating the burn to post a flag person on affected roads in accordance with the requirements of the Department of Public Safety.
- 4) Burning must be conducted downwind of or at least 300 feet from any structure located on adjacent properties unless prior written approval is obtained from the adjacent occupant with possessorory control.
- 5) Burning shall be conducted in compliance with the following meteorological and timing considerations:
 - i. The initiation of burning shall commence no earlier than one hour after sunrise. Burning shall be completed on the same day not later than one hour before sunset, and shall be attended by a responsible party at all times during the active burn phase when the fire is progressing. In cases where residual fires and/or

smoldering objects continue to emit smoke after this time, such areas shall be extinguished if the smoke from these areas has the potential to create a nuisance or traffic hazard conditions. In no case shall the extent of the burn area be allowed to increase after this time.

- ii. Burning shall not be commenced when surface wind speed is predicted to be less than six miles per hour (mph) (five knots) or greater than 23 mph (20 knots) during the burn period. This information can be obtained by contacting the Draughon-Miller Central Texas Regional Airport or the National Weather Service.
- 6) Per T.C.E.Q. Rules & Regulations, heavy oils, asphaltic materials, items containing natural or synthetic rubber, or any material which may produce an unreasonable amount of smoke must not be burned.
 - 7) Incinerator or container for fire. An incinerator or container used for burning of any material mentioned in this section (12-20) shall be located so that smoke will not become a nuisance to occupants of surrounding building and such incinerator or container shall not create a hazard to surrounding property. All incinerators must meet any regulation set forth by the T.C.E.Q.
 - 8) Any and all burning of debris and other inflammable materials will be extinguished immediately if determined by the fire code official to be unsafe or constituting a hazard to the environment or interferes with the reasonable use of any properties.
 - 9) The fire code official is authorized to order the extinguishment by the permit holder, another person responsible or the fire department of open burning that creates or adds to a hazardous or objectionable situation.
- b) *Recreational Fire and Outside fires for domestic purposes.*
- 1) Open burning in approved containers shall be allowed without a permit at single-family homes, duplexes, and town homes, subject to the regulations contained herein.
 - 2) Fires shall be limited to a maximum 3 feet diameter and 2 feet in height, must be contained in a non-combustible chimenea, outdoor fireplace, fire pit, or other method approved by the fire code official.
 - 3) All openings in the container or fire pit must be covered with wire mesh or other screening materials that will prevent the passage of sparks and ember.
 - 4) Fires must be kept at least 10 feet from any structure or combustible exterior wall.
 - 5) Fires must be constantly attended.
 - 6) No such fire or container used for an open burning may be used on any porch, deck, balcony, or other portion of a building; within any room space; or under any building overhang.
 - 7) The burning of yard waste, leaves, brush, vines, evergreen needles, branches smaller than 3 inches in diameter, untreated lumber, garbage, paper products, or anything

other than firewood as set forth herein is prohibited.

- 8) The fire code official, police officer, or code enforcement officer may order any open fire, or use of a chimenea, outdoor fireplace, or fire pit which creates a nuisance to be extinguished.
- 9) All chimineas must be extinguished by 1:00 A.M.
- c) *Burning of garbage, petroleum products and motor vehicles prohibited.* The burning of garbage in any form, or petroleum products, or automobiles or other motor vehicles or any part thereof for wrecking or salvage purposes in or on any lot or other premises within the city limits is hereby prohibited.
- d) *Fire prohibited in streets, alleys and on or in public property.* It shall be unlawful for any person to light or have lighted any fire in or on any street, alley, thoroughfare, or public property.

Sec. 12-153. Private Fire Apparatus Access Road and Fire Lanes

a) Maintenance

- 1) A property owner shall at all times maintain and keep in good repair all private apparatus access roads and fire lanes on the premises.
- 2) The owner shall maintain all signs and/or markings in good condition and legible at all times.

b) Abandonment of Private Fire Apparatus Access Roads and Fire Lanes. No owner or person in charge of any premises served by a private fire apparatus access road shall abandon or close any such fire apparatus access road without complying with the following procedure:

- 1) A request to the fire code official shall be made in writing by the owner stating the reason for abandonment of the private fire apparatus access road;
- 2) The fire code official shall determine if said property is no longer subject to the requirements of this code;
- 3) The fire code official shall either approve or deny the request for abandonment and notify the owner in writing within 10 days of receiving the request; and
- 4) No private fire apparatus access road may be abandoned until the fire code official has approved the abandonment, in writing.

c) Authority to Determine Location. The locations of fire lanes/private apparatus access roads shall be determined by the fire code official of the City of Temple or his designated representative, hereinafter called “the authority,” in conformity with the provisions of this article.

d) Location of Private Fire Apparatus Access Roads and Fire Lanes. No building, other than single-family or two-family dwellings, shall be constructed so that any part of the perimeter of the building is greater than one hundred and fifty (150) feet from a public way or public place unless the owner or property manager constructs and maintains a

private apparatus access road or fire lane having a minimum width of twenty (20) feet and a minimum overhead clearance throughout of no less than thirteen (13) feet six (6) inches and terminating within one hundred and fifty (150) feet from the furthestmost point of said building. The same being reflected on the first plat of the property.

e) Restrictions.

- 1) Private apparatus access road or fire lanes shall not be used as loading zones.
- 2) There shall be no parking in any private apparatus access road or fire lane at any time.

f) Posting of Signage and Markings for Fire Lanes.

- 1) All required fire lanes shall be conspicuously marked and shall have signage posted that shall read “Fire Lane—No Parking,” and all required fire hydrants on private property shall be marked “Fire Hydrant—Do Not Obstruct.”
- 2) Signage can be either rectangular signs or red striping; this to be determined by fire code official.
 - i) Rectangular signs shall be a minimum of 12” width x 18” height. They will have a white background with red lettering and be made of reflective material.
 - ii) Striping will consist of a 5” wide red strip with 4” high white letters.
- 3) Required fire lane signage shall be placed no less than thirty (30) feet and no greater than forty (40) feet apart.
- 4) Required fire hydrant markings shall be placed on both sides of a hydrant and at a distance of no less than fifteen (15) feet from the hydrant.

g) Private Dead-end Fire Apparatus Access Roads. Private dead-end fire apparatus access roads in excess of 150 feet (45 720mm) in length shall be provided with a 120 foot hammerhead, 60 foot “Y”, or 94 foot diameter cul-de-sac in accordance with figure D103.1 of the 2006-9 International Fire Code.

Sec. 12-164. Fire Hydrants

A. Authority to determine location. The fire chief or his designee, hereinafter called “the authority,” shall determine the location of fire hydrants in conformity with the provisions of this article.

B. Fire hydrants; location.

- (1) As residential zoned property is developed, fire hydrants shall be located at a maximum spacing of six hundred (600) feet as measured along the length of the roadway and no part of any structure shall be farther than five hundred (500) feet from the fire hydrant as measured by the route that a fire hose would be laid.
- (2) As non-residential zoned property is developed, fire hydrants shall be located a maximum spacing of three hundred (300) feet as measured along the length of the roadway and no part of any structure shall be further than five hundred (500) feet from the fire hydrant as measured by the route that a fire hose is laid.

C. Restrictions.

- (1) Type of fire hydrants. All required fire hydrants shall be of the national standard three-way breakaway type no less than five and one-fourth (5 ¼) inches in size and shall conform to the provisions of the latest American Water Works Association (A.W.W.A.) specifications C-502 and shall be placed upon approved water mains of no less than six (6) inches in size.
- (2) Valves shall be placed on all fire hydrant leads.
- (3) Required fire hydrants shall be installed in such a manner that the breakaway point will be more than three (3) inches, and not greater than five (5) inches, above the ground surface.
- (4) A spacing of no less than eighteen (18) inches shall be provided between center of the barrel of the large steamer connection and the finished grade surface.
- (5) No fire hydrant located on a six-inch (6 inch) dead-end water main shall be located more than 1,800 ft. from a six-inch (6 inch) or greater main.
- (6) No six-inch looped water main shall exceed three thousand five hundred (3,500) feet in length.
- (7) Fire hydrants shall be installed on a water main that is separate from the domestic water supply, except when it is determined by the fire code official that the required maximum one (1) hour demand plus the needed minimum fire flow of one thousand (1,000) gallons per minute will be met by alternate installation.
- (8) Fire hydrants located on public property shall be located a minimum of two (2) feet and a maximum of four (4) feet behind the curb line.
- (9) Protection of fire hydrants. All fire hydrants placed on private property shall be adequately protected by either curb stops or concrete posts or other methods, as approved by the fire code official. Such stops or posts shall be maintained by the property owner or manager
- (10) All fire hydrants shall be installed so that the steamer connection faces the fire lane or street.
- (11) Fire hydrants, when placed at intersections or access drives to parking lots, when practical, shall be placed so that no part of a fire truck connected to the hydrant will block the intersection or parking lot access.
- (12) Obstructions. Post, fences, vehicles, growth, trash, storage and other materials or objects shall not be placed or kept near fire hydrants, fire department inlet connections or fire protection system control valves in a manner that would prevent such equipment or fire hydrant from being immediately discernible. The fire department shall not be deterred or hindered from gaining immediate access to fire protection equipment or fire hydrants.
- (13) Fire hydrants located on private property shall be accessible to the fire department at all times and free of any type of obstruction that would hinder their use (i.e. vegetation). A 3-foot clear space shall be maintained around the

circumference of fire hydrants.

- (14) The fire code official shall have the authority to approve a variance of up to 10 percent of the footage requirements found at Sec. 12-23.B. parts (a) and (b).

D. Maintenance

- (1) All fire hydrants shall be inspected, flushed and painted at least once annually and such inspections, flushing and painting shall be the responsibility of Temple Fire & Rescue. Fire hydrants shall be color coded as follows:

- i. Less than 500 gpm – Red Bonnet
- ii. 500-999 gpm – Yellow Bonnet
- iii. 1000-1499 gpm – Green Bonnet
- iv. Over 1500 gpm – Blue Bonnet

- (2) Any maintenance or repairs require to keep a fire hydrant in proper working order, other than the maintenance found at a subsection above, shall be the responsibility of the property owner, or manager of the property on which the fire hydrant is located.

- E. Use; opening and closing.** The chief or his designee shall prescribe the manner in which all fire hydrants shall be opened or closed. No person shall open or close any fire hydrant unless authorized to do so by the chief or his designee.

Sec. 12-17⁵. Extraction Operations Regulations

(a) Purpose.

- (1) In order to promote the health, safety, and welfare of those who work or reside near extraction operations, and to protect air quality and the water resources of the city, the regulations in this section are applicable to extraction operations.
- (2) This section shall apply to all extraction operations conducted within the territorial limits of the city and in the extraterritorial jurisdiction within 5000 feet of said territorial limits.

(b) Definitions.

In this section:

Blasting shall mean the practice or occupation of extracting heavy masses of rock, or other materials imbedded in the ground, by means of explosives or blasting agents.

Extraction operations shall mean the use of a lot or tract of land primarily for extraction of materials (including, but not limited to, limestone, rock, sand, gravel, or soil, but not oil or natural gas).

Extraction site shall mean the location of materials or rock removal or extraction operations as delineated by a site plan or a certificate of occupancy.

Regulatory authority shall mean The Temple Fire & Rescue Department

- (c) *Blasting*. All blasting activity that falls within the scope of this Article shall comply with the following provisions;

(1) Permit required.

- i. An appropriate blasting or explosives permit must be acquired from the regulatory authority prior to any blasting activity or preparation for blasting activity at an extraction site.
- ii. A blasting or explosives permit will authorize blasting for the extraction of materials (e.g., rock or stone) only at the extraction site designated on the permit.
- iii. The extraction site operator, or designated representative, may apply for a blasting or explosives permit in accordance with the following procedures:
 1. The applicant shall submit a completed permit application form and fee, as required by the regulations contained in the 2006-9 International Fire Code, as adopted and amended by the City Council. The permit fee shall be in an amount set by resolution of the City Council.
 2. The fire code official shall have thirty (30) days in which to approve or deny a permit application.
 3. Any party aggrieved by the denial of a permit or inaction by the fire code official may appeal such decisions to the Building Board of Appeals, in writing. Upon receipt of an appeal notification, the Board shall take the actions required to review the appeal, in accordance with the 2006-9 International Fire Code.
 4. The application shall contain the following information:
 1. Name of the operator(s) conducting the blasting;
 2. Identification of extraction site;
 3. Description of conditions, if any, which may cause possible adverse blasting effects;
 4. Normal extraction operations schedule;
 5. Type of explosives or blasting agents to be used;
 6. Type of stemming;
 7. Name(s) of licensed blasters on the job;
 8. Copy of Mine Safety Health Administration (MSHA) Certificate of Training (Form 5000-23) for all personnel involved in the extraction operations.
 9. Copy of Insurance Certificate of Blasting Liability Coverage

(2) Insurance required.

i. Before a permit is issued, the applicant shall obtain and maintain general liability insurance having limits of not less than one million dollars (\$1,000,000) per occurrence for bodily injury and property damage combined with one million dollars (\$1,000,000) or greater annual aggregate throughout the permitted period for the purpose of the payment of all damages to persons or property which arise, or are caused by, the conduct of any act or omission authorized by the permit. The general liability insurance shall name the City of Temple as an additional insured with a waiver of subrogation in favor of the City of Temple. The policy shall contain a provision requiring the insurance company to furnish the City of Temple with written notification on any cancellation or nonrenewal of the policy thirty (30) days prior to the cancellation date or inception date, whichever the case may be.

ii. Evidence of compliance with this requirement shall be considered as having been met when the policy, a copy thereof, or a certificate of insurance has been filed with, and approved by, the fire code official. Such policy shall include an endorsement that the fire code official shall be notified at least thirty (30) days in advance in the event the policy or policies are canceled. The City may cancel a permit for any violation of this section.

(3) Regulatory Compliance. All blasting operations located within an extraction site shall comply with the applicable provisions of the 2006-9 International Fire Code and with this section, as well as all applicable local, state, and federal regulations concerning industrial noise and dust levels and applicable drainage, water and air standards.

(4) Annual permit renewal required.

i. In addition to compliance with local, state, or federal regulations, the operator shall be required to comply with the provisions of this section by renewing a permit annually before the anniversary date of the permit.

ii. Upon renewal, the extraction site operator shall:

1. certify in writing that the blasting activities at the permitted extraction site are anticipated to remain materially unchanged from the activities described on the permit application; or
2. provide all relevant information relating to material changes at the permitted extraction site to the fire code official for review;
3. pay the annual permit fee; and
4. file a current certificate of insurance which complies with this section.

iii. A blasting permit will remain in force and effect, provided that the blasting activities at the extraction site specified in the permit are anticipated to remain materially unchanged, the permittee has complied with the requirement of this section during the preceding permit year, and the annual renewal requirements have been met.

(5) Hours of operation. The hours during which extraction operations may take place by blasting shall be at any time during the hours between 8:00 a.m. and 5:00 p.m. Extraction by blasting shall be prohibited on Saturdays, Sundays, and legal holidays unless a variance is obtained from the fire code official based upon public safety concerns or extraordinary economic considerations.

(6) Monitoring of Blasting.

- i. The extraction site operator shall monitor each blast to accumulate data with respect to seismographic and air blast effects of the blasting activity, as required by state and federal law. The extraction site operator shall conduct independent monitoring of blasting events, if directed, and to the extent and frequency reasonably required by the regulatory agency.
- ii. Information generated in the form of reports or other data from this monitoring shall be submitted to the fire code official within seventy-two (72) hours of each blasting event.
- iii. Monitoring information shall include:
 1. actual date and time of the blast;
 2. type of explosives or blasting agents used;
 3. technical data and material safety data sheets for all explosives or blasting agents used;
 4. total pounds of explosives used in each blast;
 5. number, spacing, stemming and depth of holes;
 6. maximum pounds per delay;
 7. firing sequence, delay sequence, and typical hole load diagrams;
 8. location and distance of extraction operation from seismographs;
 9. weather conditions at time and location of blast;
 10. seismograph data;
 11. and ground vibrations or air blast records which shall include:
 1. Type of instrument, sensitivity and calibration signal of certification of annual calibration.
 2. Exact location of instrument and the date, time and distance from the blast;
 3. Name of person and firm taking the reading as well as the person analyzing the seismic record; and
 4. The vibration and air blast level recorded.

(7) Safety Standards. The extraction site operator is responsible and required to comply with all applicable provisions of any state or federal law or applicable regulations promulgated by the Occupational Safety Health Administration (OSHA), Mine Safety Health Administration (MSHA), Alcohol, Tobacco, and Firearms (ATF), or any other executive agency of the state or federal government relating to use, handling, transportation, storage, or detonation of explosives or blasting agents.

(8) Records and Inspections

- i. The holder of a blasting permit shall make the extraction operations site available to the fire code official for inspection at all times during regular business hours.
- ii. The permittee shall retain a record of all blasts and monitoring information for at least five (5) years past the to include date of a blast.
- iii. All records, including monitoring records referenced in subsection (f)(iii) above, relating to blasting activities shall be made available to the fire code official during normal business hours within seventy-two (72) hours of request.

(d) Control of Adverse Effects.

- (1) Air Blast (Noise) Limits. For the purpose of this section, the air overpressure and related noise generated by the use of explosives or blasting agents in extraction operations shall be measured by the air blast created thereby. Air blast shall not exceed 134 dB peak (\pm 3dB) at the location of any dwelling, public building, school, church, or community or institutional building outside the permit area, except as provided in subsection (e) of this section.
- (2) Ground vibration. In all blasting operations, except as otherwise authorized in subsection (e) below, the maximum ground vibration shall not exceed one (1) inch per second at the location of any dwelling.
- (3) Monitoring Requirement. The operator shall conduct monitoring to ensure compliance with the air blast standards and ground vibration standards. Air blast and ground vibration measurements of blasts must be performed to the extent required this section.
- (4) Flyrock. Flyrock traveling in the air or along the ground shall not be cast from the blasting site beyond the area under the control of the operator.
- (5) Exception. The maximum air blast and ground-vibration standards of this section shall not apply at the following locations:
 - i. At structures owned by the permittee and not leased to another person;
 - ii. At structures owned by the permittee and leased to another person, if a written waiver by the lessee has been obtained.

Sec. 12-186. Business Registration.

- i. *Purpose.* Business registration is a procedure administered by Temple Fire & Rescue, in conjunction with the Utilities department, which assures that all businesses within the City of Temple are registered for 911 services, inspected and comply with all city codes.
- ii. *Registration prerequisite to doing business in the City of Temple.* All businesses shall comply with the registration requirements of this article as a precondition of initiating or continuing any business within the City of Temple. For the purpose of this article, the term “business” includes any commercial enterprise, school, church or governmental office located within the city limits. Each occupant of a building used by a business shall

have responsibility for complying with the registration requirements of this section.

iii. Registration procedure.

- i. When a business owner applies for utilities he or she shall fill out a business registration form and return to Temple Fire & Rescue prior to the business receiving utilities or opening its doors for business.
- ii. Registration or re-registration with the city is required prior to changing the name, ownership, operator, location, or use of an existing business.

Article VI. Miscellaneous

Sec. 12-197. Establishment of limits of the fire district.

Beginning at the point of intersection of the south line of Calhoun Avenue with the east line of North 5th Street; thence in southerly direction along the east line of North 5th Street to the south line of Barton Avenue; thence in a westerly direction along said south line of Barton Avenue to the point of intersection with the east right-of-way of the Gulf, Colorado and Santa Fe Railroad; thence in a southeasterly direction along the east line of South 9th Street, if extended; thence in a southerly direction with said line to the north line of Avenue D; thence in a easterly direction with said line to the east line of South 1st Street; thence in a southerly direction along said line to the north line of Avenue E; thence in an easterly direction along said line, if extended, to the west line of 6th Street, if extended; thence in a northerly direction along said west line of 6th Street, if extended, to the north line of Avenue A; thence in an easterly direction along said line to the west line of 8th Street; thence in a northerly direction with said line to the south line of Central Avenue; thence in a westerly direction with said line to the west line of 6th Street; thence in a northerly direction along said line to the south line of Adams Avenue; thence in a westerly direction along said line to the west line of 4th Street; thence in a northerly direction along said line to the south line of Barton Avenue; thence in a westerly direction along said line to the west line of 2nd Street; thence in a northerly direction along said line to the south line of Calhoun Avenue; thence in a westerly direction along said line to the point of beginning.

Sec. 12-2018. Unauthorized use of fire apparatus.

It shall be unlawful for any person, under any pretext whatever, other than for the purposes for which they were intended in Temple Fire & Rescue, to take or use any engine, truck, ladder, fire axe, or other apparatus belonging to or in possession of the department, or any member or company thereof, or to break, deface, or injure the same.

Sec. 12-219. Injuring or driving over fire hose.

It shall be unlawful for any person to cut, deface, tear or otherwise injure, or drive any vehicle over any fire hose belonging to the City of Temple or any fire department that is providing mutual aid for the City of Temple.

Sec. 12-220. Reward for arrest and conviction of arsonists.

The city hereby offers a reward of five hundred dollars (\$500) for the arrest and conviction of

any person for the crime of arson committed within the city limits of the City of Temple. The sum of five hundred (\$500) is hereby appropriated out of any funds belonging to the city not already appropriated for some other purpose for the payment of such reward.

Sec. 12-231. New materials, processes or occupancies which may require permits.

The fire chief or his designee shall act as a committee to determine and specify, after giving affected persons an opportunity to be heard, any new materials, processes or occupancies, which shall require permits, in addition to those enumerated in this chapter. The fire chief or his designee shall post such lists in a conspicuous place in their offices, and distribute copies thereof to interested persons.

Sec. 12-242. Exemptions.

Nothing contained in this Ordinance shall be construed as applying to the regular military or naval forces of the United States, the duly authorized militia of the State, or the police and fire departments of the city in the proper performance of their duties.

Sec. 12-253. Permit Fees.

The city council shall, by resolution, set the amount of all permit fees required by this chapter. A copy of any resolution setting permit fees shall be maintained in the office of the fire code official.

Sec. 12-264. Enforcement.

This chapter shall be enforced by the fire chief or his designee.

Part 2: Penalties

(a) *Criminal Offenses.* 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 an amount not exceeding two thousand (\$2,000) 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.

(b) The city attorney may seek remedies at law or in equity to prevent a violation of this chapter

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

Part 4: This ordinance shall take effect immediately on **January 1, 2012.**

Part 5: The Code of Ordinances of the City of Temple, Texas, as amended, shall remain in full force and effect, save and except as amended by this ordinance.

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 **3rd** day of **November**, 2011.

PASSED AND APPROVED on Second Reading on the **17th** day of **November**, 2011.

THE CITY OF TEMPLE, TEXAS

WILLIAM A. JONES, III, Mayor

ATTEST:

APPROVED AS TO FORM:

Lacy Borgeson
City Secretary

Jonathan Graham
City Attorney

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AMENDING CHAPTER 21, "MINIMUM HOUSING STANDARDS," OF THE CODE OF ORDINANCES OF THE CITY OF TEMPLE, TEXAS, ADOPTING THE 2006 2009 INTERNATIONAL PROPERTY MAINTENANCE CODE AND AMENDMENTS; PROVIDING A SAVINGS CLAUSE; PROVIDING AN EFFECTIVE DATE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN OPEN MEETINGS CLAUSE.

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

Part 1: Chapter 21, "Minimum Housing Standards," of the Code of Ordinances of the City of Temple, Texas, is amended to read as follows:

CHAPTER 21

MINIMUM HOUSING STANDARDS

- Art. I Administration, Sections 21-1 – 21-23**
- Art. II Violations, Sections 21-24 – 21-49**
- Art. III Building and Standards Commission, Sections 21-50 – 21-74**
- Art. IV Housing Standards, Sections 21-75 – 21-78**

ARTICLE I. ADMINISTRATION

Section 21-1. Adopted.

The City of Temple adopts, as part of its Standard Housing Regulations, the 2006 2009 International Property Maintenance Code and Amendments, save and except for the changes which are more fully described in Exhibit A, attached hereto for all purposes.

Section 21-2. Building Official.

Within the *Standard Housing Code* when reference is made to the duties of certain officials named therein, that designated official of the City of Temple who has duties corresponding to those of the named official in said code shall be deemed to be the responsible official insofar as enforcing the provisions of said Code is concerned.

Section 21-3. Intent.

The City of Temple declares every substandard building or structure as herein defined to

be a public nuisance and subject to repair, vacation or demolition to abate such nuisance as herein provided in order to protect the health, safety and welfare of the occupants and the public.

Section 21-4 - 21-23. Reserved.

ARTICLE II. VIOLATIONS.

Section 21-24. Notice of Violation - Service on Owner.

The Building Inspector shall give notice of a violation of this Code. Such notice shall be in writing and shall be via registered or certified mail to the owner as per the tax rolls of the City. If the owner's address is different than the address shown for the property involved, a notice shall also be sent to the address of the property involved, addressed to the occupant of such address. The notice shall constitute an order based upon findings of fact, directing the owner and occupant to repair, vacate, or demolish such building or otherwise comply with such order.

Section 21-25. Contents of Notice.

The notice shall contain the following:

- (1) The name of the owner, occupant, and other persons with a legal interest in the premises;
- (2) The street address or legal description of the premises;
- (3) A general description of the improvements;
- (4) An itemized statement or list of defects;
- (5) Whether or not repairs or correction of the defects shall be made so that the building will comply with the terms of this Code and, if so, a list of the required repairs, or whether the building shall be demolished;
- (6) Whether or not the building shall be vacated by the occupants and, if so, the date by which such vacation shall be effected;
- (7) Whether or not the building constitutes a fire menace; and
- (8) A statement of the time considered reasonable for the party receiving notice to commence to vacate and/or make repairs or otherwise comply with the requirements of the notice. A reasonable time shall not exceed thirty (30) days, except in cases of unusual or extenuating circumstances. The time to commence may be extended by the building inspector for an additional period of up to sixty (60) days; provided, however, an application for an extension is made by the owner, occupant, or some other person interested in the property at least five (5) days before the expiration of the time to commence vacation, repairs, or demolition or otherwise comply with the

notice. A reasonable time to complete the vacation, repair, or demolition or otherwise comply as provided in the notice and such reasonable time for completion shall not exceed ninety (90) days from the date of notice unless the time is extended by action of the Building and Standards Commission.

Section 21-26. Service of Notice When Owner Absent From City.

When the owner and/or occupant, and/or mortgagee, and/or other interested party, is absent from the City, all notices or orders provided for herein shall be sent, via registered mail or certified mail to the owner, and/or occupant, and/or mortgagee, and/or all other persons having an interest in the dwelling or building, to the last known address of each. Such mailing and, in the case of dangerous or uninhabitable buildings, the below described posting, shall be deemed adequate service.

Section 21-27. Posting of Placard on Uninhabitable, Dangerous Buildings.

(a) If the building inspector shall, upon inspection of any building within the City, find the same to be uninhabitable and dangerous, he shall place a placard on the uninhabitable and dangerous building reading as follows:

WARNING

This building has been found to be an UNINHABITABLE AND DANGEROUS STRUCTURE by the Building Inspector. This building is to be vacated immediately. This placard is to remain on the structure until it is repaired or demolished in accordance with the notice dated _____ which has been mailed to all persons having an interest in this building or property as shown by the Tax Office of the City of Temple. It is a violation of City Code Section 21-27(b), punishable by a fine up to \$2,000, for anyone to remove this placard until such notice has been complied with.

Signed _____

Housing Official

(b) No person shall occupy any building posted with such placard nor shall any person deface, destroy, or remove any such placard.

(c) A copy of such notice shall be posted in a conspicuous place on the uninhabitable and dangerous dwelling or building to which it relates.

Section 21-28. Placarded Building to be Secured.

When the placard authorized by Section 21-27 has been posted on any building in the City found to be a violation of this code, the owner or occupant thereof shall render it secure from entry by unauthorized persons.

Section 21-29. Vacation of Uninhabitable, Dangerous Buildings.

Where any building, or portion thereof, fails to comply with the provisions of this code because of the particular use of such building, it shall be unlawful for any persons to make such use or allow such use to be made of such building or portion thereof. Whenever a building is found to violate Section 21-76 of this code and to present an immediate danger requiring demolition of the premises because of potential injury to the occupants, the building inspector shall order the immediate evacuation of the building and it shall remain vacated until the danger is eliminated.

Section 21-30. Emergency Cases.

In cases where it reasonably appears that there is immediate danger to the life or safety of any person unless an uninhabitable and dangerous building is immediately repaired, vacated or demolished, the building inspector shall cause the immediate repair, vacation or demolition of such uninhabitable and dangerous building or dwelling. The costs of such emergency repair, vacation, demolition or other compliance shall be collected in the same manner as provided in Section 21-77 of this Code.

Section 21-31 - 21-49. Reserved.

ARTICLE III. BUILDING AND STANDARDS COMMISSION

Section 21-50. Adoption of Subchapter C of the Local Government Code.

The City of Temple adopts the provision of Chapter 54 of the Local Government Code of the State of Texas and Subchapter C thereof, and amendments thereto if any, which is entitled "QUASI-JUDICIAL ENFORCEMENT OF HEALTH AND SAFETY ORDINANCES OF HOME-RULE MUNICIPALITY," and does declare the implementation of that Chapter.

Section 21-51. Commission Created; Membership; Term of Office.

Pursuant to the authority vested in the City under Chapter 54, Subchapter C, of the Local Government Code, a Building and Standards Commission is hereby created which shall be composed of five (5) regular members and ~~four (4)~~ **three (3)** alternative members appointed for two year terms. Such alternates shall serve in the absence of one or more regular members when requested by the Mayor or City Manager, or their representatives. In making the initial appointments, the City Council shall appoint two regular members for one year terms, and the remaining members for two year terms. Thereafter, all appointments to the Commission shall be for two year terms.

Section 21-52. Authority of Commission.

(a) The Building and Standards Commission shall have all powers, duties and responsibilities authorized by State law, it being the intent of the City of Temple to fully implement Subchapter C of Chapter 54 of the Local Government Code, including specifically the authority to hear and determine cases concerning alleged violations of City ordinances:

- (1) for the preservation of public safety, relating to the materials or methods used to

construct a building or improvement, including the foundation, structural elements, electrical wiring or apparatus, plumbing and fixtures, entrances, or exits;

(2) relating to the fire safety of a building or improvement, including provisions relating to materials, types of construction or design, warning devices, sprinklers or other fire suppression devices, availability of water supply for extinguishing fires, or location, design, or width of entrances or exits;

(3) relating to dangerously damaged or deteriorated buildings or improvements; or

(4) relating to conditions caused by accumulations of refuse, vegetation, or other matter that creates breeding and living places for insects and rodents.

(b) The Building and Standards Commission as created and provided for under the provisions of State law shall, in addition to the statutory duties and responsibilities, have such additional duties and responsibilities as shall be from time to time delegated to it by the City Council of the City of Temple and shall, in addition, determine such issues and render decisions in accordance therewith which may be from time to time required of an appellate body. In such cases, a simple majority of the members of the Building and Standards Commission shall be sufficient to take action, unless by other law or ordinance a greater majority shall be required.

(1) All of the functions of the historic preservation board are hereby assigned and shall be performed by the Building and Standards Commission.

Section 21-53. Procedures.

(a) The Building and Standards Commission shall adopt rules and procedures in accordance with this ordinance governing the conduct of hearings before the Commission, providing ample opportunity for the presentation of evidence and testimony by respondents or persons opposing charges brought by the City, acting through the Building Official, relating to the violation of City ordinances.

(b) If the Building and Standards Commission finds after a hearing that a violation has occurred, the Commission may:

(1) order the repair, within a fixed period, of buildings found to be in violation of an ordinance;

(2) declare a building substandard in accordance with the powers granted by Chapter 54, Subchapter C, of the Local Government Code;

(3) order, in an appropriate case, the immediate removal of persons or property found on private property, enter on private property to secure the removal of persons or property if it is determined that conditions exist on the property that constitute a violation of an ordinance, and order action to be taken as necessary to remedy, alleviate, or remove any substandard building found to exist;

(4) issue orders or directives to any peace officer of the State, including a sheriff or constable or the Police Chief, to enforce and carry out the lawful orders or directives of the Commission; and

(5) determine the amount and duration of a civil penalty the City may recover in an amount permitted by State law.

(c) Procedures for removal of substandard structures.

(1) In cases involving the condemnation or removal of substandard structures, the Building and Standards Commission shall conduct a hearing prior to ordering the removal of a structure. The Commission shall hold an initial hearing not less than forty-five (45) days after the Building Official notifies the required parties that a building is condemned as a substandard structure, and posts a notice to that effect on the structure.

(2) At the initial hearing, if removal of the substandard structure is contested by any party of record with an interest in the property, the Building and Standards Commission shall, if it finds that the structure should be condemned, order the property owner to appear at a future date, not less than forty-five days from the date of the first hearing, and show cause why the Commission shall not order the removal of the substandard structure.

(3) If the property owner(s), or any other person interested in the property fails to appear at the initial hearing, and contest the condemnation of the structure, the finding of the Building and Standards Commission shall be final. Provided further, that, in cases involving an immediate, significant threat to the public health, safety, and welfare, the Commission may shorten the time period prior to either hearing when requested by the Building Official, provided that the requirements for notice under State law are met.

(d) The concurring vote of four members of the Commission is necessary to take any action under Chapter 54, Subchapter C, of the Local Government Code.

Section 21-54. Notice of Hearings.

(a) The Building Official shall give notice of all proceedings before the Commission by certified mail, return receipt requested, to the record owners of the affected property, and to each holder of a recorded lien against the property, as shown by the County Clerk's records. The Building Official shall give notice to all unknown owners, by posting a copy of the notice on the front door of each improvement situated on the affected property or as close to the front door as practical.

(b) The Building Official shall mail and post each required notice at least ten (10) days prior to the date of the scheduled hearing before the Commission. The Building Official shall also cause to be published on one occasion, at least ten (10) days prior to the hearing, notice of the hearing in a newspaper of general circulation in the City.

(c) Notice required to be mailed, posted, or published under this section shall state the date, time, and place of the hearing. In addition, each notice shall contain:

- (1) The name of the owner(s), occupant(s), and other persons interested in the building;
- (2) The street address or legal description of the premises;
- (3) A general description of the improvements;
- (4) A list of defects on the property; and
- (5) A brief statement of the action to be considered by the Commission.

Section 21-55. Appeals; Finality of Decisions.

In each case, the Building and Standards Commission shall mail by first class mail, certified return receipt requested, to all parties entitled to notice of the original hearing, a copy of the final decision of the Commission. All persons aggrieved of a decision of the Building and Standards Commission may present a petition to any district court in Bell County, duly verified, setting forth that the decision is illegal, in whole or part, and specifying the grounds of the illegality. A petition of review must be presented to a district court within thirty (30) calendar days of the date copies of the final decision are sent to interested parties. If no appeals are taken from a decision of the Building and Standards Commission within the required period, the decision of the Commission is, in all things, final and binding.

Section 21-56 - 21-74. Reserved.

ARTICLE IV. HOUSING STANDARDS

Section 21-75. Elimination of Uninhabitable and Dangerous Structures.

All uninhabitable and dangerous structures, including dwellings, are hereby declared to be public nuisances, and shall be repaired, vacated, or demolished.

Section 21-76. Conditions Constituting an Uninhabitable or Dangerous Dwelling.

An uninhabitable and dangerous building or dwelling is defined as any building or dwelling:

- (1) whose walls or other vertical structural members list, lean or buckle in excess of one-eighth (1/8) inch horizontal measurement for each one foot of vertical measurement;
- (2) which, exclusive of the foundation, shows thirty-three (33) percent, or more, of damage or deterioration of the supporting member or members, or fifty (50) percent of damage or deterioration of the nonsupporting enclosing or outside walls or covering;
- (3) which has been damaged by fire, explosion, wind, vandalism or elements of nature so as to have become dangerous to life, safety, or the general health and welfare of the occupants thereof or the people of the City;

- (4) which has inadequate facilities for egress in case of fire or panic or which has insufficient stairways, elevators, fire escapes or other means of ingress or egress;
- (5) which has parts thereof which are so attached that they may fall and injure members of the public or property;
- (6) which, because of its condition is unsafe, or unsanitary, or dangerous to the health, morals, safety, or general welfare of the people of this City; or
- (7) which exists in violation of any material provision of the City's Building Code, Plumbing Code, Fire Prevention Code, Electrical Code or the statutes of the State of Texas as revised, or that fail to comply with any material provision of this Code. For the purposes of this section, a violation of a "material" provision is a violation of any section that involves a significant risk of personal injury, death, or property damage.

Section 21-77. Guide for Repair, Vacation or Demolition of Uninhabitable Buildings.

The following guide shall be followed by the Building Inspector in determining whether to order or recommend the repair or vacation or demolition of any uninhabitable and dangerous building or dwelling:

- (1) ***Repair.*** If a building can reasonably be repaired so that it will no longer exist in violation of the terms of this Code, the Building Inspector shall order it repaired within a reasonable time. A reasonable time shall be as defined in Section 21-25(8) of this Chapter. If the owner or occupant fails to make such repairs within the time frame allowed by Section 21-25(8), the Building Official may recommend that the Building and Standards Commission order repairs, impose fines, order the demolition of a building, or take other appropriate action to implement this Chapter.
- (2) ***Vacation.*** If a building is in such condition as to make it a danger to the health, safety or general welfare of its occupants or the citizens of Temple, the Building Inspector shall order it vacated. If the owner or occupant fails to vacate a building after proper notice, the Building Official may recommend that the Building and Standards Commission order the vacation of the structure, impose a fine, or take other appropriate action to implement this Chapter.
- (3) ***Demolition.*** The Building Inspector shall recommend that the Building and Standards Commission order a building demolished, if it:
 - (a) Is at least fifty (50) percent damaged or deteriorated, on either a structural or original value basis;
 - (b) Is an immediate danger to the life or safety of any person and is not immediately made not an immediate danger;
 - (c) Is in need of repair under Section (1) above and is not repaired within the reasonable time set forth therein; or

- (d) Is in such condition as to make it dangerous to the health, safety, or general welfare, has been ordered by vacated by the Building Inspector, and has not been cured of the defects within a reasonable time.

Section 21-78. Demolition of Building or Dwelling in City.

If, at the expiration of the time allowed for compliance with the provisions of this Code, a building or dwelling ordered demolished under the provisions of this Chapter has not been demolished, it shall be demolished by the City or its agents or contractor at the expense of the owner. If the cost of the demolition exceeds the value of the materials of such building, such excess shall be charged as a lien upon the real property on which the building had been situated.

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

Part 3: This ordinance shall take effect immediately on **January 1, 2012.**

Part 4: The Code of Ordinances of the City of Temple, Texas, as amended, shall remain in full force and effect, save and except as amended by this ordinance.

Part 5: 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 **3rd** day of **November**, 2011.

PASSED AND APPROVED on Second Reading on the **17th** day of **November**, 2011.

THE CITY OF TEMPLE, TEXAS

WILLIAM A. JONES, III, Mayor

ATTEST:

APPROVED AS TO FORM:

Lacy Borgeson
City Secretary

Jonathan Graham
City Attorney

EXHIBIT A

Changes to the 2006 International Property Maintenance Code

~~Section 102.3~~ Change “ICC Electrical Code” to “NEC Electrical Code”

~~Section 107.1~~ Delete

~~Section 107.2~~ Delete

~~Section 107.3~~ Delete

~~Section 110.2~~ Delete

~~Section 111~~ Delete entire section (111.1, 111.2, 111.2.1, 111.2.2, 111.2.3, 111.2.4, 111.2.5, 111.3, 111.4, 111.4.1, 111.5, 111.6, 111.6.1, 111.6.2, 111.7, 111.8)

~~Section 201.3~~ Change “ICC Electrical Code” to “NEC Electrical Code”

~~Section 302.4~~ Insert 9 inches where applicable

~~Section 302.8~~ Delete

~~Section 303.2~~ Delete “at least 48 inches (1219 mm) in height above the finished ground level measured on the side of the barrier away from the pool” *REPLACE* it with “in compliance with Chapter 34 Section (h) 315 of the City of Temple Code of Ordinances”

~~Section [F] 304.3~~ Delete

~~Section 304.14~~ Insert January 1 to December 31 where applicable

~~Section 307.2.1~~ Delete

~~Section 307.2.2~~ Delete

~~Section 307.3.1~~ Delete

~~Section 307.3.2~~ Delete

~~Section 404.5~~ Add the following from the 1998 International Property Maintenance Code:

~~Table 404.5~~ Minimum area requirements

SPACE	MINIMUM AREA IN SQUARE FEET		
	1-2 Occupants	3-5 occupants	6 or more occupants
Living Room (a,b)	No requirements	120	150
Dining Room (a,b)	No requirements	80	100
Kitchen (b)	50	50	60
Bedrooms	Shall comply with Section 404.4		

For SI: 1 square foot = 0.093 square meters

(a) See Section 404.5.2 for combined living room/dining room spaces.

(b) See Section 404.5.1 for limitations on determining the minimum occupancy area for sleeping purposes.

404.5.1 Sleeping Area. The minimum occupancy area required by table 404.5 shall not be included as a sleeping area in determining the minimum occupancy area for sleeping purposes. All sleeping areas shall comply with Section 404.4

404.5.2 Combined Spaces. Combined living room and dining room spaces shall comply with the requirements of Table 404.5 if the total area is equal to that required for separate rooms and if the space is located so as to function as a combination living room/dining room.

~~Section 602.3~~ Insert January 1 to December 31 where applicable

~~Section 602.4~~ Insert January 1 to December 31 where applicable

~~Section 604.2~~ Change “ICC Electrical Code” to “NEC Electrical Code” AND change “60 amperes” to “100 amperes”.

Changes To the 2009 International Property Maintenance Code

Section 102 APPLICABILITY

Subsection 102.3 Application of other codes. Change “NFPA 70” to “City of Temple Chapter 10 Electrical Code.”

Section 107 NOTICES AND ORDERS

Subsection 107.1 Notice to person responsible. Delete

Subsection 107.2 Form. Delete

Subsection 107.3 Method of service. Delete

Section 110 DEMOLITION

Subsection 110.2 Notices and Orders. Delete

Section 111 MEANS OF APPEAL - Delete entire section (111.1, 111.2, 111.2.2, 111.2.3, 111.2.4, 111.2.5, 111.3, 111.4, 111.4.1, 111.5, 111.6, 111.6.1, 111.6.2, 111.7, 111.8).

Section 201 GENERAL

Subsection 201.3 Terms defined in other codes. Change “NFPA 70” to “City of Temple Chapter 10 Electrical Code.”

Section 302 EXTERIOR PROPERTY AREAS

Subsection 302.4 Change “jurisdiction to insert height in inches” to “9 inches”.

Subsection 302.8 Motor vehicles. Delete

Section 303 SWIMMING POOLS, SPAS AND HOT TUBS

Subsection 303.2 Enclosures. Change “at least 48 inches in height above the finished ground level measured on the side of the barrier away from the pool” to “in compliance with Chapter 34 Section (h) 315 of the City of Temple Code of Ordinances”.

Section 304 EXTERIOR STRUCTURE

Subsection [F] 304.3 Premises identification. Delete

Subsection 304.14 Insect screens. Insert January 1 to December 31 where applicable.

Section 308 RUBBISH AND GARBAGE

Subsection 308.2.1 Rubbish storage facilities. Delete

Subsection 308.2.2 Refrigerators. Delete

Subsection 308.3.1 Garbage facilities. Delete

Subsection 308.3.2 Containers. Delete

Section 404 OCCUPANCY LIMITATIONS – Add Table 404.5 Minimum Area Requirements, 404.5.1 Sleeping area, and 404.5.2 from the 1998 International Property Maintenance Code.

TABLE 404.5 MINIMUM AREA REQUIREMENTS			
SPACE	MINIMUM AREA IN SQUARE FEET		
	1-2 occupants	3-5 occupants	6 or more occupants
Living room ^{a,b}	No requirements	120	150
Dining room ^{a,b}	No requirements	80	100
Kitchen ^b	50	50	60
Bedrooms	Shall comply with Section 404.4		

For SI: 1 square foot = 0.093 m².

^a See Section 404.5.2 for combined living room/dining room spaces.

^b See Section 404.5.1 for limitations on determining the minimum occupancy area for sleeping purposes.

404.5.1 Sleeping area. The minimum occupancy area required by Table 404.5 shall not be included as a sleeping area in determining the minimum occupancy area for sleeping purposes. All sleeping areas shall comply with Section 404.4.

404.5.2 Combined spaces. Combined living room and dining room spaces shall comply with the requirements of Table 404.5 if the total area is equal to that required for separate rooms and if the space is located so as to function as a combination living room/dining room.

Section 602 HEATING FACILITIES

Subsection 602.3 Heat Supply. Insert January 1 to December 31 where applicable.

Subsection 602.4 Occupiable work spaces. Insert January 1 to December 31 where applicable.

Section 604 ELECTRICAL FACILITIES

Subsection 604.2 Service. Change “NFPA 70” to “City of Temple Chapter 10 Electrical Code” and change “60 amperes” to “100 amperes”.

Add Appendix A BOARDING STANDARD from the 2009 International Property Maintenance Code.

Appendix A103 INSTALLATION

Subsection A103.1 Boarding installation. Delete “Figures A103.1(1) and A103.1(2) and”.

Subsection A103.1 Boarding installation. Add “Figure A103.1(1) and A103.1(2) is an optional method of boarding”.

Subsection A103.3 Windows. Delete

Subsection A103.4 Door walls. Delete



COUNCIL AGENDA ITEM MEMORANDUM

11/17/11
Item #4(M)
Consent Agenda
Page 1 of 2

DEPT./DIVISION SUBMISSION & REVIEW:

Traci L. Barnard, Director of Finance

ITEM DESCRIPTION: SECOND READING - Consider adopting an ordinance authorizing an amendment to the Tax Increment Financing Reinvestment Zone No. 1 Financing and Project Plans to appropriate \$600,000 to the TMED-1st Street @ Loop 363 Project by reallocating funds from Avenue U from S&W Blvd to 1st St to the 13th to 17th connector from Avenue R to Loop 363.

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

ITEM SUMMARY: The Reinvestment Zone No. 1 Board met on October 26, 2011, to recommend to Council an amendment to the Financing and Project Plans to reprioritize funding within the Financing and Project Plans. The detail for the required amendment is shown below.

TMED-1st Street @ Loop 363, Line 454 (Project Plan):

At the September 28, 2011, Board meeting, the Financing Plan, Line 454, was amended to add \$400,000 to bring the total available funding to \$1,700,000 in FY 2011, 2012, and 2013 for the TMED-1st Street @ Loop 363 project. Kasberg, Patrick and Associates were contracted for survey and engineering services for the project in the amount of \$185,000, leaving a balance of \$1,515,000 available. The \$1,515,000 was the Zone's matching funds to be combined with TxDOT's contribution of \$1,515,000 towards the grant match. Total matching funds currently available are \$3,030,000. This amount represented a 23% grant match to the total project of \$13,030,000.

During the City's process of compiling the grant application to the U.S. Department of Transportation, it was determined that the application would receive a more favorable consideration if additional matching funds were available for the project. The total project has been increased to \$14,230,000, with \$10,000,000 (if awarded) to be reimbursed to the City through federal funding. Texas Department of Transportation (TxDOT) has committed to match Zone funds dollar for dollar.

A Financing Plan amendment is presented to reallocate an additional \$600,000, from Line 457, Avenue U from S&W Blvd to 1st St to the 13th to 17th connector from Avenue R to Loop 363 to add to the funding for the 1st Street and Loop 363 Zone's share of the grant match. This would bring the

amount of the Zone's match to \$2,115,000. TxDOT will also contribute \$2,115,000 towards the grant match.

After the amendment to the plans to increase the matching funds, a total of \$4,230,000 would be available for the matching funds. This amount represents a 30% grant match to the total project of \$14,230,000.

FISCAL IMPACT: The proposed amendment reallocates funding in FY 2012 Financing/Project Plans on Lines 454 and 457 as described above.

There is no change to unreserved fund balance at the end of FY 2012. It remains the same as previously projected which is \$694,162.

A budget adjustment is presented for Council approval to reallocate funds as described above.

ATTACHMENTS:

Financing Plan
Summary Financing Plan with Detailed Project Plan
Budget Adjustment
Ordinance

FINANCING PLAN

DESCRIPTION		Y/E 9/30/11 Year 29	Y/E 9/30/12 Year 30	Y/E 9/30/13 Year 31	Y/E 9/30/14 Year 32	Y/E 9/30/15 Year 33	Y/E 9/30/16 Year 34	Y/E 9/30/17 Year 35	Y/E 9/30/18 Year 36	Y/E 9/30/19 Year 37	Y/E 9/30/20 Year 38	Y/E 9/30/21 Year 39	Y/E 9/30/22 Year 40
1	"Taxable Increment"	\$ 132,020,000	\$ 132,020,000	\$ 139,995,945	\$ 143,080,007	\$ 145,017,763	\$ 202,529,247	\$ 220,811,496	\$ 224,519,611	\$ 228,264,807	\$ 231,297,455	\$ 234,360,430	\$ 236,704,034
1	FUND BALANCE, Begin	\$ 6,901,796	\$ 1,432,152	\$ 694,162	\$ 628,743	\$ 1,725,059	\$ 1,063,666	\$ 568,103	\$ 539,052	\$ 587,232	\$ 684,529	\$ 733,083	\$ 817,104
2	Adjustments to Debt Service Reserve	(1,300,000)	462,707	1,761,865	1,765,643	-	-	-	-	-	-	-	-
3	Fund Balance Available for Appropriation	\$ 5,601,796	\$ 1,894,859	\$ 2,456,027	\$ 2,394,386	\$ 1,725,059	\$ 1,063,666	\$ 568,103	\$ 539,052	\$ 587,232	\$ 684,529	\$ 733,083	\$ 817,104
SOURCES OF FUNDS:													
4	Tax Revenues	4,300,968	4,135,611	4,337,625	4,400,312	4,449,698	6,049,648	6,531,300	6,602,434	6,674,282	6,737,970	6,802,296	6,858,393
6	Allowance for Uncollected Taxes	(114,517)	(115,655)	(116,801)	(117,961)	(119,132)	(120,314)	(121,509)	(122,715)	(123,934)	(125,165)	(126,408)	(127,663)
8	Interest Income-Other	50,000	50,000	50,000	50,000	50,000	50,000	50,000	50,000	40,000	40,000	30,000	10,000
10	Grant Funds	-	50,000	-	-	-	-	-	-	-	-	-	-
12	License Fee - Central Texas Railway	36,000	36,000	36,000	36,000	36,000	36,000	36,000	36,000	36,000	36,000	36,000	36,000
14	Other Revenues	175,000	175,000	-	-	-	-	-	-	-	-	-	-
16	P.I.L.O.T.	1,300,000	1,300,000	-	-	-	-	-	-	-	-	-	-
20	Total Sources of Funds	\$ 5,747,451	\$ 5,630,956	\$ 4,306,824	\$ 4,368,351	\$ 4,416,566	\$ 6,015,334	\$ 6,495,791	\$ 6,565,719	\$ 6,626,348	\$ 6,688,805	\$ 6,741,888	\$ 6,776,730
25	TOTAL AVAILABLE FOR APPROPRIATION	\$ 11,349,247	\$ 7,525,815	\$ 6,762,851	\$ 6,762,737	\$ 6,141,625	\$ 7,079,000	\$ 7,063,894	\$ 7,104,771	\$ 7,213,580	\$ 7,373,334	\$ 7,474,971	\$ 7,593,834
USE OF FUNDS:													
DEBT SERVICE													
26	2003 Bond Issue (\$11.740)	868,420	867,035	869,055	869,855	868,930	866,530	867,440	866,753	869,240	869,640	868,070	870,070
27	2008 Bond Issue (\$16.010 mil)	201,960	201,960	201,960	201,960	201,960	201,960	201,960	201,960	201,960	1,786,960	1,787,292	1,784,972
28	2009 Bond Refunding	370,669	1,473,669	1,474,569	1,479,969	1,499,769	1,508,775	1,510,150	1,488,750	1,485,000	-	-	-
29	2008 Bond Issue-Taxable (\$10.365 mil)	536,935	1,241,935	1,239,641	1,240,495	1,239,233	1,240,854	1,240,096	1,241,957	1,241,173	1,237,744	1,241,670	1,242,422
30	Issuance Costs	-	-	-	-	-	-	-	-	-	-	-	-
31	Refunding Bonds Proceeds	-	-	-	-	-	-	-	-	-	-	-	-
32	Payment to Refunding Bond Agent	-	-	-	-	-	-	-	-	-	-	-	-
33	Paying Agent Services	1,200	1,200	1,200	1,200	1,200	1,200	1,200	1,200	1,200	1,200	1,200	1,200
40	Subtotal-Debt Service	1,979,184	3,785,799	3,786,425	3,793,479	3,811,092	3,819,319	3,820,846	3,800,620	3,798,573	3,895,544	3,898,232	3,898,664
OPERATING EXPENDITURES													
50	Prof Svcs/Proj Mgmt	161,865	175,000	175,000	175,000	175,000	175,000	175,000	175,000	175,000	175,000	175,000	175,000
52	Legal/Audit	1,200	1,200	1,200	1,200	1,200	1,200	1,300	1,300	1,300	1,300	1,300	1,400
54	Zone Park Maintenance [mowing, utilities, botanical supplies]	150,000	150,000	150,000	150,000	150,000	150,000	150,000	150,000	150,000	150,000	150,000	150,000
54	Zone Park Maintenance [maintenance]	25,000	25,000	25,000	25,000	25,000	25,000	25,000	25,000	25,000	25,000	25,000	25,000
56	Rail Maintenance	177,446	100,000	100,000	100,000	100,000	100,000	100,000	100,000	100,000	100,000	100,000	100,000
58	Road/Signage Maintenance	108,574	100,000	100,000	100,000	100,000	100,000	100,000	100,000	100,000	100,000	100,000	100,000
60	Contractual Payments [TEDC - Marketing]	150,000	165,000	181,500	199,650	219,615	241,577	253,655	266,338	279,655	293,638	308,320	323,736
62	TISD-Joint Use facilities	174,779	22,873	23,102	23,333	23,567	23,802	24,040	24,281	24,523	24,769	25,016	25,267
65	Subtotal-Operating Expenditures	948,864	739,073	755,802	774,183	794,382	816,579	828,995	841,919	855,478	869,707	884,636	900,403
70	TOTAL DEBT & OPERATING EXPENDITURES	\$ 2,928,048	\$ 4,524,872	\$ 4,542,227	\$ 4,567,662	\$ 4,605,474	\$ 4,635,898	\$ 4,649,841	\$ 4,642,539	\$ 4,654,051	\$ 4,765,251	\$ 4,782,868	\$ 4,799,067
80	Funds Available for Projects	\$ 8,421,199	\$ 3,000,943	\$ 2,220,624	\$ 2,195,075	\$ 1,536,151	\$ 2,443,103	\$ 2,414,052	\$ 2,462,232	\$ 2,559,529	\$ 2,608,083	\$ 2,692,104	\$ 2,794,767
PROJECTS													
150	North Zone/Rail Park	14,800	50,000	250,000	250,000	250,000	-	-	-	-	-	-	-
200	Airport Park	-	125,000	625,000	-	-	-	-	-	-	-	-	-
250	Bio-Science Park	559,449	175,000	-	-	-	-	-	-	-	-	-	-
300	Outer Loop [from Wendland Rd to IH-35 North]	158,506	-	-	-	-	-	-	-	-	-	-	-
350	Northwest Loop 363 Improvements (TxDOT commitment)	930,000	-	-	-	-	-	-	-	-	-	-	-
400	Synergy Park	126,200	-	-	-	-	-	-	-	-	-	-	-
450	Downtown	570,092	206,781	216,881	220,016	222,485	-	-	-	-	-	-	-
500	TMED	2,780,000	1,500,000	500,000	-	-	-	-	-	-	-	-	-
501	Major Gateway Entrances	-	-	-	-	-	-	-	-	-	-	-	-
505	Airport Corporate Hangar Development	1,850,000	250,000	-	-	-	-	-	-	-	-	-	-
600	Bond Contingency	-	-	-	-	-	-	-	-	-	-	-	-
610	Public Improvements	-	-	-	-	-	1,875,000	1,875,000	1,875,000	1,875,000	1,875,000	1,875,000	2,746,995
	Subtotal-Projects	6,989,047	2,306,781	1,591,881	470,016	472,485	1,875,000	1,875,000	1,875,000	1,875,000	1,875,000	1,875,000	2,746,995
TOTAL USE OF FUNDS		\$ 9,917,095	\$ 6,831,653	\$ 6,134,108	\$ 5,037,678	\$ 5,077,959	\$ 6,510,898	\$ 6,524,841	\$ 6,517,539	\$ 6,529,051	\$ 6,640,251	\$ 6,657,868	\$ 7,546,062
700	FUND BALANCE, End	\$ 1,432,152	\$ 694,162	\$ 628,743	\$ 1,725,059	\$ 1,063,666	\$ 568,103	\$ 539,052	\$ 587,232	\$ 684,529	\$ 733,083	\$ 817,104	\$ 47,772

Project Plan - 10/26/2011 - to Zone Board

SUMMARY FINANCING PLAN					
	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015
1Beginning Available Fund Balance, Oct 1	\$ 6,901,796	\$ 1,432,152	\$ 694,162	\$ 628,743	\$ 1,725,059
20Total Sources of Funds	5,747,451	5,630,956	4,306,824	4,368,351	4,416,566
2Adjustments to Debt Service Reserve	(1,300,000)	462,707	1,761,865	1,765,643	-
25Net Available for Appropriation	11,349,247	7,525,815	6,762,851	6,762,737	6,141,625
50/52General Administrative Expenditures	163,065	176,200	176,200	176,200	176,200
54Zone Park Maintenance [mowing, utilities, botanical supplies]	150,000	150,000	150,000	150,000	150,000
54Zone Park Maintenance [maintenance]	25,000	25,000	25,000	25,000	25,000
56Rail Maintenance	177,446	100,000	100,000	100,000	100,000
58Road/Signage Maintenance	108,574	100,000	100,000	100,000	100,000
60Contractual Payments (TEDC - Marketing)	150,000	165,000	181,500	199,650	219,615
62TISD - Joint Use Facilities [look at contracts and calculation]	174,779	22,873	23,102	23,333	23,567
26Debt Service - 2003 Issue {\$11.740 mil}	869,620	868,235	870,255	871,055	870,130
27Debt Service - 2008 Issue {\$16.010 mil}	201,960	201,960	201,960	201,960	201,960
28Debt Service - 2009 Issue {Refunding}	370,669	1,473,669	1,474,569	1,479,969	1,499,769
29Debt Service - 2008 Taxable Issue {\$10.365 mil}	536,935	1,241,935	1,239,641	1,240,495	1,239,233
30Issuance Costs	-	-	-	-	-
31Refunding Bond Proceeds	-	-	-	-	-
32Payment to Refunding Bond Agent	-	-	-	-	-
70Total Debt & Operating Expenditures	2,928,048	4,524,872	4,542,227	4,567,662	4,605,474
80Funds Available for Projects	\$ 8,421,199	\$ 3,000,943	\$ 2,220,624	\$ 2,195,075	\$ 1,536,151

PROJECT PLAN					
	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015
NORTH ZONE/RAIL PARK (including Enterprise Park):					
100Railroad Spur Improvements	14,800	-	-	-	-
102Elm Creek Detention Pond	-	-	-	-	-
103ROW Acquisition - Public Improvements	-	-	-	-	-
104Extension of Rail Service	-	-	-	-	-
105BN Trans-Load NE Site Phase I - [\$850K total project cost]	-	-	-	-	-
106Wendland Road Improvements	-	-	-	-	-
107Wendland Property Roadway Phase I - [\$1.87M total project cost]	-	-	-	-	-
110Public Improvements in North Zone	-	50,000	250,000	250,000	250,000
150Total North Zone/Rail Park (including Enterprise Park)	14,800	50,000	250,000	250,000	250,000
AIRPORT PARK:					
151Airport Park Infrastructure Construction	-	-	-	-	-
155Pepper Creek Trail Extention Phase I - [\$750K total project cost]	-	125,000	625,000	-	-
200Total Airport Park	-	125,000	625,000	-	-
BIO-SCIENCE PARK:					
201Greenbelt Development along Pepper Creek	34,449	-	-	-	-
202Outer Loop Phase II (from Hwy 36 to FM 2305)	-	-	-	-	-
203Bio-Science Park Phase 1	-	-	-	-	-
204Pepper Creek Trail Connection to S&W (City of Temple portion)	525,000	175,000	-	-	-
250Total Bio-Science Park	559,449	175,000	-	-	-
300Outer Loop (from Wendland Rd to IH-35 North) - [\$15.5M total project cost]	158,506	-	-	-	-
350Northwest Loop 363 Improvements (TxDOT commitment)	930,000	-	-	-	-
SYNERGY PARK:					
351Lorraine Drive (Southeast Industrial Park) - [\$1.5M total project cost]	126,200	-	-	-	-
400Total Synergy Park	126,200	-	-	-	-
DOWNTOWN:					
401Downtown Improvements [look at 1999 Ordinance]	440,092	206,781	216,881	220,016	222,485
402Rail Safety Zone Study	25,000	-	-	-	-
403Lot Identification & Signage	80,000	-	-	-	-
404Santa Fe Plaza Study	25,000	-	-	-	-
405Santa Fe Plaza Parking Lot - [\$1.3M total project cost]	-	-	-	-	-
450Total Downtown	570,092	206,781	216,881	220,016	222,485
TMED:					
451TMED - 1st Street @ Temple College - [\$2.9M total project cost]	500,000	-	-	-	-
452Master Plan Integration 2010	50,000	-	-	-	-
453Monumentation Identification Conceptual Design	30,000	-	-	-	-
454TMED - 1st Street @ Loop 363 Design/Construction - [\$2M total project cost]	300,000	1,500,000	500,000	-	-
455TMED - Friars Creek Trail 5th Street to S&W Blvd. - [\$1.9M total project cost - DOE Grant of \$400K]	1,500,000	-	-	-	-
456Avenue R - S&W Blvd, Ave R - 19th Intersections	50,000	-	-	-	-
457Ave U from S&W Blvd to 1st St & the 13th to 17th connector from Ave R to Loop 363	350,000	-	-	-	-
500Total TMED	2,780,000	1,500,000	500,000	-	-
OTHER PROJECTS:					
501Gateway Entrance Projects	-	-	-	-	-
505Airport Corporate Hangar Development	1,850,000	250,000	-	-	-
550Total Other Projects	1,850,000	250,000	-	-	-
600Undesignated Funding - Bonds	-	-	-	-	-
610Undesignated Funding - Public Improvements	-	-	-	-	-
Total Planned Project Expenditures	6,989,047	2,306,781	1,591,881	470,016	472,485
700Available Fund Balance at Year End	\$ 1,432,152	\$ 694,162	\$ 628,743	\$ 1,725,059	\$ 1,063,666

FY **2012****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	
795-9500-531-65-51	100700	TMED-1st Street @ Loop 363	\$ 600,000			
795-9500-531-65-55	100718	Ave U from S&W Blvd to 1st St			\$ 600,000	
TOTAL.....			\$ 600,000		\$ 600,000	

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

To reallocate funding from the Avenue U from S & W Blvd to 1st Street to the 13th to 17th connector from Avenue R to Loop 363 Project to the TMED-1st Street @ Loop 363 Project in the amount of \$600,000. This amendment increases the grant match for the TIGER III grant to \$2,115,000 of Zone funds. TxDOT will also contribute \$2,115,000 toward the grant match. The total project costs for the project is \$14,230,000 with \$10,000,000 (if awarded) to be reimbursed to the City through federal funding.

DOES THIS REQUEST REQUIRE COUNCIL APPROVAL?

☒

Yes

☐

No

DATE OF COUNCIL MEETING

11/17/2011

WITH AGENDA ITEM?

☒

Yes

☐

No

Department Head/Division Director

Date

☐ Approved☐ Disapproved

Finance

Date

☐ Approved☐ Disapproved

City Manager

Date

☐ Approved☐ Disapproved

ORDINANCE NO. _____

AN ORDINANCE BY THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING AMENDMENTS TO THE TAX INCREMENT FINANCING REINVESTMENT ZONE NO. 1 FINANCING AND PROJECT PLANS TO APPROPRIATE \$600,000 TO THE TMED-1ST STREET @ LOOP 363 PROJECT BY REALLOCATING FUNDS FROM AVENUE U FROM S&W BOULEVARD TO 1ST STREET TO THE 13TH TO 17TH CONNECTOR FROM AVENUE R TO LOOP 363; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; DECLARING FINDINGS OF FACT; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, the City Council (the "Council") of the City of Temple, Texas, (the "City") created Reinvestment Zone Number One, City of Temple, Texas (the "Zone") by Ordinance No. 1457 adopted on September 16, 1982;

Whereas, the Council adopted a Project Plan and Reinvestment Zone Financing Plan for the Zone by Ordinance No. 1525 adopted on December 22, 1983, and thereafter amended such plans by Ordinance No. 1664 adopted on June 20, 1985, Ordinance No. 1719 adopted on November 21, 1985, Ordinance No. 1888 adopted on December 21, 1987, Ordinance No. 1945 adopted on October 20, 1988; Ordinance No. 1961 adopted on December 1, 1988; Ordinance No. 2039 adopted on April 19, 1990; Ordinance No. 91-2119 adopted on December 5, 1991; Ordinance No. 92-2138 adopted on April 7, 1992; Ordinance No. 94-2260 adopted on March 3, 1994; Ordinance No. 95-2351 adopted on June 15, 1995; Ordinance No. 98-2542 adopted on February 5, 1998; Ordinance No. 98-2582 adopted on November 19, 1998; Ordinance No. 99-2619 adopted on March 18, 1999; Ordinance No. 99-2629 adopted on May 6, 1999; Ordinance No. 99-2631 adopted on May 20, 1999; Ordinance No. 99-2647 adopted on August 19, 1999; Ordinance No. 99-2678 adopted on December 16, 1999; Ordinance No. 2000-2682 adopted on January 6, 2000; Ordinance No. 2000-2729 adopted on October 19, 2000; Ordinance No. 2001-2772 adopted on June 7, 2001; Ordinance No. 2001-2782 adopted on July 19, 2001; Ordinance No. 2001-2793 adopted on September 20, 2001; Ordinance No. 2001-2807 on November 15, 2001; Ordinance No. 2001-2813 on December 20, 2001; Ordinance No. 2002-2833 on March 21, 2002; Ordinance No. 2002-2838 on April 18, 2002; Ordinance No. 2002-3847 on June 20, 2002; Ordinance No. 2002-3848 on June 20, 2002; Ordinance No. 2002-3868 on October 17, 2002; Ordinance No. 2003- 3888 on February 20, 2003; Ordinance No. 2003-3894 on April 17, 2003; Ordinance No 2003-3926 on September 18, 2003; Ordinance No. 2004-3695 on July 1, 2004; Ordinance No. 2004-3975 on August 19, 2004; Ordinance No. 2004-3981 on September 16, 2004; Ordinance No. 2005-4001 on May 5, 2005; Ordinance No. 2005-4038 on September 15, 2005; Ordinance No. 2006-4051 on January 5, 2006; Ordinance No. 2006-4076 on the 18th day of May, 2006; Ordinance No. 2006-4118; Ordinance No. 2007-4141 on the 19th day of April, 2007; Ordinance No. 2007-4155 on July 19, 2007; Ordinance No. 2007-4172 on the 20th day of September, 2007; Ordinance No. 2007-4173 on October 25, 2007; Ordinance No. 2008-4201 on

the 21st day of February, 2008; and Ordinance No. 2008-4217 the 15th day of May, 2008; Ordinance No. 2008-4242 the 21st day of August, 2009; Ordinance No. 2009-4290 on the 16th day of April, 2009; Ordinance No. 2009-4294 on the 21st day of May, 2009; Ordinance No. 2009-4316 on the 17th day of September, 2009; Ordinance No. 2009-4320 on the 15th day of October, 2009; Ordinance No. 2010-4338 on the 18th day of February, 2010; Ordinance No. 2010-4371 on the 19th day of August, 2010; Ordinance No. 2010-4405 on November 4, 2010; Ordinance No. 2011-4429 on March 17, 2011; Ordinance No. 2011-4455 on July 21, 2011; and Ordinance No. 2011-4477 on October 20, 2011;

Whereas, the Board of Directors of the Zone has adopted an additional amendment to the Reinvestment Zone Financing and Project Plans for the Zone and forwarded such amendment to the Council for appropriate action;

Whereas, the Council finds it necessary to amend the Reinvestment Zone Financing and Project Plans for the Zone to include financial information as hereinafter set forth;

Whereas, the Council finds that it is necessary and convenient to the implementation of the Reinvestment Zone Financing and Project Plans, including the additional amendment, to establish and provide for an economic development program within the meaning of Article III, Section 52-a of the Texas Constitution ("Article III, Section 52-a"), Section 311.010(h) of the Texas Tax Code and Chapter 380 of the Texas Local Government Code to develop and diversify the economy of the Zone, eliminate unemployment and underemployment in the Zone and develop or expand transportation, business and commercial activity in the Zone including programs to make grants and loans of Zone assets or from the tax increment fund of the Zone in an aggregate amount not to exceed the amount of the tax increment produced by the City and paid into the tax increment fund for the Zone for activities that benefit the Zone and stimulate business and commercial activity in the Zone as further determined by the City;

Whereas, the Council further finds that the acquisition of the land and real property assembly costs as described in the additional amendment to the Reinvestment Zone Financing and Project Plans are necessary and convenient to the implementation of the Reinvestment Zone Financing and Project Plans and will help develop and diversify the economy of the Zone, eliminate unemployment and underemployment in the Zone and develop or expand transportation, business and commercial activity in the Zone by providing land for development of future business and commercial activity, attracting additional jobs within the City and attracting additional sales and other taxes within the City; and

Whereas, the Council finds that such amendment to the Reinvestment Zone Financing and Project Plans are feasible and conforms to the Comprehensive Plan of the City, and that this action will promote economic development within the City of Temple.

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

Part 1: Findings. The statements contained in the preamble of this ordinance are true and correct and are adopted as findings of fact hereby.

Part 2: Reinvestment Zone Financing and Project Plans. The amendment to the Tax Increment Financing Reinvestment Zone No. One Financing and Project Plans, heretofore adopted by the Board of Directors of the Zone and referred to in the preamble of this ordinance, are hereby approved and adopted, as set forth in the Amendments to Reinvestment Zone Number One, City of Temple, Texas, attached hereto as Exhibits A and B. This expenditure requires an amendment to the 2011-2012 budget, a copy of which is attached hereto, as Exhibit C.

Part 3: Plans Effective. The Financing Plan and Project Plans for the Zone heretofore in effect shall remain in full force and effect according to the terms and provisions thereof, except as specifically amended hereby.

Part 4: Copies to Taxing Units. The City Secretary shall provide a copy of the amendment to the Reinvestment Zone Financing and Project Plans to each taxing unit that taxes real property located in the Zone.

Part 5: Economic Development Program. The Council hereby establishes an economic development program for the Zone in accordance with Article III, Section 52-a of the Texas Constitution, Section 311.010(h) of the Texas Tax Code and Chapter 380 of the Texas Local Government Code to develop and diversify the economy of the Zone, eliminate unemployment and underemployment in the Zone and develop or expand transportation, business and commercial activity in the Zone including a program to make grants and loans of Zone assets or from the tax increment fund of the Zone in accordance with the provisions of Article III, Section 52-a, Chapter 311 of the Texas Tax Code and Chapter 380 of the Texas Local Government Code as directed and authorized by the Council. The Council hereby further directs and authorizes the Board of Directors of the Zone to utilize tax increment reinvestment zone bond proceeds to acquire the land and pay other real property assembly costs as set forth in the additional amendment attached hereto to help develop and diversify the economy of the Zone and develop or expand business and commercial activity in the Zone in accordance with Article III, Section 52-a, Chapter 311 of the Texas Tax Code and Chapter 380 of the Texas Local Government Code.

Part 6: Severability. It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses and phrases of this ordinance are severable and, if any phrase, clause, sentence, paragraph or section of this ordinance should be declared invalid by the final judgment or decree of any court of competent jurisdiction, such invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this ordinance, since the same would have been enacted by the City Council without the incorporation in this ordinance of any such invalid phrase, clause, sentence, paragraph or section.

Part 7: Effective Date. This ordinance shall take effect immediately from and after its passage in accordance with the provisions of the Charter of the City of Temple, Texas, and it is accordingly so ordained.

Part 8: Open Meetings. It is hereby officially found and determined that the meeting at which this ordinance is passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meeting Act.

PASSED AND APPROVED on First Reading and Public Hearing on the **3rd** day of **November**, 2011.

PASSED AND APPROVED on Second Reading on the **17th** day of **November**, 2011.

THE CITY OF TEMPLE, TEXAS

WILLIAM A. JONES, III, Mayor

ATTEST:

APPROVED AS TO FORM:

Lacy Borgeson
City Secretary

Jonathan Graham
City Attorney



COUNCIL AGENDA ITEM MEMORANDUM

11/17/11
Item #4(N)
Regular Agenda
Page 1 of 1

DEPT./DIVISION SUBMISSION & REVIEW:

Jonathan Graham, City Attorney

ITEM DESCRIPTION: SECOND READING - Consider adopting an ordinance amending the City's strategic investment zones incentive policies.

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

ITEM SUMMARY: In a September workshop of the City Council, we discussed possible amendments to the City's incentive ordinances for three of the City's Strategic Investment Zones (SIZ): South 1st Street, Avenue G/H and North 3rd Street. The proposed ordinance consolidates our three existing ordinances into the City's Comprehensive Economic Development Ordinance, and makes certain substantive changes to our SIZ program.

The proposed substantive changes to the ordinance include:

- ❖ Revamping the application process to make the process more competitive in nature
- ❖ Adopting criteria for evaluating proposed projects and tying the amount of the grant to nature and size of the proposed investment
- ❖ Establishing new requirements for the initiation and completion of an approved SIZ project
- ❖ Creating a new process to monitor the effectiveness of previously-awarded SIZ grants and to report those findings to the City Council on an annual basis

FISCAL IMPACT:

ATTACHMENTS:

[Ordinance](#)

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF TEMPLE, TEXAS, ESTABLISHING A COMPREHENSIVE ECONOMIC DEVELOPMENT POLICY FOR THE CITY OF TEMPLE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, the City of Temple is committed to establishing long-term economic vitality, an essential key to the growth of any community, by responding and preparing for challenges and changes in an environment characterized by ongoing competition for sustained economic advantage and identity;

Whereas, in an effort to enrich an already substantial diversity of economic activity, the City of Temple desires to establish an *Economic Development Policy* consolidating the City's existing and newly-proposed economic development policies into one comprehensive document;

Whereas, the City has established criteria and guidelines governing tax abatement within the City pursuant to Chapter 312 of the Tax Code, and by ordinance has designated two tax abatement reinvestment zones;

Whereas, the City has by ordinance created a tax increment financing reinvestment zone pursuant to Chapter 311 of the Tax Code, and used the tax increments accrued in said zone to construct public improvements intended to spur economic development of the zone;

Whereas, Article 3, Section 52-a of the State Constitution, authorizes the Legislature to provide for the creation of programs for the making of loans and grants of public money for the public purposes of development and diversification of the economy of the State;

Whereas, the Legislature, in Tex. Rev. Civ. Stat. Ann. art. 835s, has authorized home rule cities to acquire land and buildings for the purpose of leasing the land or improvements thereto to private companies for use in manufacturing or other commercial activity;

Whereas, the Legislature, in Chapter 380 of the Local Government Code, has authorized home rule cities to establish programs for making loans and grants of public money to promote State or local economic activity within their boundaries; and

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

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

Part 1: That a comprehensive *Economic Development Policy* is hereby adopted by the City of Temple, Texas, to read as follows:

ECONOMIC DEVELOPMENT POLICY

FOR THE CITY OF TEMPLE, TEXAS

ADOPTED NOVEMBER 17, 2011

I. Criteria and Guidelines Governing Tax Abatement.

A. Definitions.

1. "**Abatement**" means the full or partial exemption from ad valorem taxes of certain real property in a reinvestment zone designated by the City for economic development purposes.

2. "**Agreement**" means a contract between a property owner or lessee and the City.

3. "**Base year value**" means the assessed value of eligible property on January 1st of the year of the execution of the tax abatement Agreement, plus the agreed upon value of eligible property improvements made after January 1 but before the execution of the Agreement.

4. "**Deferred Maintenance**" means those improvements necessary for continued operation but which do not improve productivity or alter any process technology. Exterior improvements (e.g., painting, installing, repairing, removing or replacing a facade) to the exteriors of buildings in the Downtown Development Area which are designed to improve visual appearance of property are not deferred maintenance.

5. "**Downtown Development Area**" is an approximately 43 block area of downtown Temple as shown by the map and description attached hereto as Exhibit "A."

6. "**Eligible Facilities**" means those new, expanded or modernized buildings and structures, including fixed machinery and equipment, which are reasonably likely as a result of granting abatement, to contribute to the retention or expansion of primary employment or to attract major investment in the reinvestment zone that would be a benefit to the property and that would contribute to the economic development within the City Eligible Facilities in all commercial/industrial tax abatement reinvestment zones include manufacturing, distribution and storage facilities, office buildings, transportation facilities, and entertainment complex. Additional Eligible Facilities in reinvestment zones established in the Downtown Development Area include retail stores, apartment buildings, restaurants and entertainment facilities (excluding sexually oriented businesses) facilities.

7. "**Expansion**" means the addition of buildings, structures, machinery, equipment or payroll for purposes of increasing production capacity.

8. "**Facility**" means property improvements completed or in the process of construction which together comprise an integral whole.

9. **"Modernization"** means a complete or partial demolition of Facilities and the complete or partial reconstruction or installation of a Facility of similar or expanded production capacity. Modernization may result from the construction, alteration, or installation of buildings, structures, machinery or equipment, or both. Modernization in the Downtown Development area includes painting of exterior walls, restoring, removing or installing a facade and related exterior improvements designed to visually improved the exterior of a building or block.

10. **"New Facility"** means a property previously undeveloped which is placed into service by means other than or in conjunction with Expansion and Modernization.

11. **"Productive Life"** means the number of years a property improvement is expected to be in service for a facility.

12. **"South 1st Street Corridor"** is an area comprised of approximately a 74 block area, which includes South 1st Street from Adams Avenue to South Loop 363 and portions of several adjacent streets including portions of South 2nd Street, South 3rd Street and South 5th Street, as shown by the map and description attached hereto as Exhibit "B."

13. **"Avenue H Strategic Investment Zone"** is an area consisting of Avenue F, G, H & I from South 1st Street to South 25th Street, as shown by the map and description attached hereto as Exhibit "C."

14. **"North 3rd Street Strategic Investment Zone"** is an area consisting of two area of land center on North 1st Street; Area A is bounded on the west by North 7th Street [from Central to French] and on the east from Adams—where it adjoins the South 1st SIZ incentive corridor—north to French Avenue, and North 3rd Street Area B Tax Increment Financing Reinvestment Zone is an irregular shaped area (again depicted on the map attached to this Narrative) centered on North 3rd Street running north-south roughly from Munroe Avenue to Industrial Boulevard.

B. Statement of Purpose.

The City is committed to the promotion of high quality commercial and industrial development in all parts of the City, and an ongoing improvement of the quality of life of its citizens. These objectives may be served by the enhancement and expansion of the local economy. The City will consider, on a case-by-case basis granting property tax abatement as a stimulus for economic development in accordance with the criteria and guidelines established herein. Nothing herein shall imply or suggest that the City is under any obligation to provide tax abatement to any applicant, that any applicant has a property right or interest in tax abatement, or that the City is precluded from considering other options which may be in the best interest of the City.

C. Designation of Tax Abatement Reinvestment Zones.

The City will consider designating areas within the City limits or extraterritorial jurisdiction of the City as commercial-industrial tax abatement reinvestment zones which meet one or more of the criteria for designation of a reinvestment zone under Section 312.202 of the Tax Code, and where the property owner meets the minimum qualifications to qualify for a tax abatement under Part I.D. 1.b. of this Policy. Designation of an area as a tax abatement reinvestment zone is a prerequisite to entering into a tax abatement agreement with the owner of the property in a particular area. Property located within a

City created (and State-approved) Enterprise Zone is eligible for consideration for tax abatement agreements without the necessity of separate designation as a tax abatement reinvestment zone.

D. Abatement Authorized.

1. **Eligible Facilities.** Upon application, the City will consider granting tax abatement on Eligible Facilities as hereinafter provided.

a. Creation of New Value. The City will consider granting tax abatement only for the additional value of eligible property improvements made subsequent to, and specified in, an abatement agreement between the City and the property owner or lessee, subject to such limitations as the City may require.

b. New and Existing Eligible Facilities. The City will consider granting abatement for new Eligible Facilities and for improvements to existing Eligible Facilities for purposes of Modernization and Expansion.

c. Eligible Property. The City will consider granting abatement to the value of real property improvements (buildings, structures, fixed [permanently attached] machinery and equipment, site improvements, related fixed improvements necessary to the operation and administration of the Facility), and personal property (excluding inventory or supplies) with a Productive Life of ten years or more.

d. Ineligible Property. The following types of property shall remain fully taxable and ineligible for tax abatement: land, supplies, inventory, housing, Deferred Maintenance, property to be rented or leased except as provided in subpart (5) below, and other property which has a Productive Life of less than ten years.

e. Owned/Leased Facilities. If a Leased Facility is granted abatement, the agreement shall be executed with the lessor and the lessee.

2. Standards for Tax Abatement.

a. Minimum Standards. The City will consider tax abatement only on eligible facilities which meet at least two of the following criteria.

(1) The project involves a minimum increase in property value of three hundred percent (300%) for construction of a new facility, or fifty percent (50%) for expansion of an existing facility, with an overall new investment of at least \$1 million in taxable assets. For eligible facilities in any reinvestment zone within the Downtown Development Area or within the South 1st Street Corridor, the project must involve either a minimum increase in property value of one hundred and fifty percent (150%) for construction of a new facility, or twenty-five percent (25%) for expansion of an existing facility, with an overall new investment of at least \$50,000 in taxable assets.

(2) The project makes a substantial contribution to redevelopment efforts, special area plans, or strategic economic development programs by enhancing either functional or

visual characteristics, e.g., historical structures, traffic circulation, parking facades, materials, signs.

(3) The project has high visibility, image impact, or is of a significantly higher level of development quality.

(4) The project is an area which might not otherwise be developed because of constraints of topography, ownership patterns, site configuration, etc.

(5) The project can serve as a prototype and catalyst for other development of a higher standard.

(6) The project stimulates desired concentrations of employment or commercial activity.

(7) The project generates greater employment than would otherwise be achieved, e.g., commercial/industrial versus manufacturing versus warehousing.

(8) For eligible facilities in any reinvestment zone within the Downtown Development Area, the project improves the aesthetic appearance of the neighborhood, brings new jobs to the Downtown area, increases the availability of public parking, or increases the amount of green space (landscaping).

b. Minimum Required Investment. An applicant requesting tax abatement shall agree as a condition of any tax abatement ultimately approved by the City Council to expend a certain minimum amount of funds on real or personal property improvements, or to provide a certain number of jobs, as provided below:

Percentage of increased value to be abated	Minimum Required Real or Personal Property Investment or Job Creation		
	Eligible Real Property Improvements	Eligible Personal Property*	Job Creation [†]
25%	\$250,000-\$400,000	\$1,000,000-\$1,600,000	25-30 jobs
30%	400,001-550,000	1,600,001-2,200,000	31-35 jobs
35%	550,001-700,000	2,200,001-2,800,000	36-40 jobs
40%	700,001-850,000	2,800,001-3,400,000	41-45 jobs
45%	850,001-1,000,000	3,400,001-4,000,000	46-50 jobs
50%	1,000,001-1,300,000	4,000,001-5,200,000	51-55 jobs
55%	1,300,001-1,600,000	5,200,001-6,400,000	56-60 jobs
60%	1,600,001-1,900,000	6,400,001-7,600,000	61-65 jobs
65%	1,900,001-2,200,000	7,600,001-8,800,000	66-70 jobs
70%	2,200,001-2,500,000	8,800,001-10,000,000	71-75 jobs
75%	2,500,001-3,500,000	10,000,001-14,000,000	76-85 jobs
80%	3,500,001-4,500,000	14,000,001-18,000,000	86-95 jobs
85%	4,500,001-5,500,000	18,000,001-22,000,000	96-105 jobs
90%	5,500,001-6,500,000	22,000,001-26,000,000	106-115 jobs
95%	6,500,001-7,500,000	26,000,001-30,000,000	116-125 jobs
100%	7,500,001-10,000,000	30,000,001-40,000,000	126-175 jobs

Percentage of increased value To be abated	Inside the Downtown Development Area or the South 1 st Street Corridor Minimum Required Real or Personal Property Investment or Job Creation		
	Eligible Real Property Improvements	Eligible Personal Property*	Job Creation
100%	\$50,000 or more	\$100,000 or more	5-25 jobs

Percentage of increased value To be abated	Inside the Avenue H Strategic Investment Zone Minimum Required Real or Personal Property Investment or Job Creation		
	Eligible Real Property Improvements	Eligible Personal Property*	Job Creation
100%	\$35,000 or more	\$60,000 or more	5-25 jobs

Percentage of increased value To be abated	Inside the North 3 rd Street Strategic Investment Zone Area A and Area B Minimum Required Real or Personal Property Investment or Job Creation		
	Eligible Real Property Improvements	Eligible Personal Property*	Full Time Job Creation
100%	\$50,000 or more	\$100,000 or more	10-25 full time jobs

Projects involving an investment in real property in excess of \$10,000,000 (\$250,000 in the Downtown Development Area, or the South 1st Street and Avenue H Strategic Investment Zones) in eligible personal property of more than \$40,000,000 (\$1,000,000 in the Downtown Development Area or the South 1st Street and Avenue H Strategic Investment Zones), or the creation of more than 175 (25 in the Downtown Development Area, the South 1st Street, Avenue H Strategic or the North 3rd Street Investment Zones) new full time jobs, or requests for tax abatement for more than 5 years, will be individually negotiated.

If a request for tax abatement is justified on the basis of the purchase and maintenance of eligible personal property or on the creation of jobs, the applicant must agree to maintain the personal property or jobs for a period of not less than twice the period for which tax abatement is granted. For example, if an applicant requests and receives 75% tax abatement for five years based on the purchase and maintenance of eligible personal property, the applicant must agree in the tax abatement agreement, subject to recapture of all abated taxes, to maintain the personal property on the property tax roll for not less than ten years.

*Personal property with a useful life of less than ten years is not eligible for tax abatement. Personal property on site prior to the effective date of the tax abatement agreement is not eligible. Supplies and inventory are ineligible for tax abatement under this policy and State law.

† As used herein, the creation of jobs refers to the creation of a job paying not less than \$10 per hour, the approximate median salary for employees in Bell County. To qualify for a level of tax abatement, e.g., 25%, based on the creation of a specific number of jobs, you must commit to hiring the required effective number of employees by the end of year 2 of the agreement. To calculate the effective number of jobs created: (1) calculate the total annual payroll created (based on the number of employees you will hire at various annual salaries); (2) divide this annual payroll by \$20,640 (our calculated annual salary for a \$10/hr employee); and (3) round this figure to the nearest whole integer.

c. Additional or Enhancement Factors. In addition to the minimum investment or job creation criteria listed in (2) above, the following factors, among others, shall be considered in

determining whether to grant Tax Abatement, and if so, in what percentage of value to be abated and the duration:

- (1) value of land and existing improvements, if any;
- (2) type and value of proposed improvements;
- (3) productive life of proposed improvements;
- (4) number of existing jobs to be retained by proposed improvements;
- (5) number, salary, and type of new jobs to be created by proposed improvements;
- (6) amount of local payroll to be created;
- (7) whether the new jobs to be created will be filled by persons residing or projected to reside within the City;
- (8) amount of local sales taxes to be generated directly;
- (9) the costs, if any, to be incurred by the City to provide facilities or services directly resulting from the new improvements;
- (10) the amount of ad valorem taxes to be paid the City during the Abatement period considering the existing values, the percentage of new value abated, the Abatement period, and the projected property value after expiration of the Abatement period;
- (11) population growth that occurs directly as a result of new improvements;
- (12) the types and value of public improvements, if any, to be constructed and paid for by the applicant seeking Abatement;
- (13) the extent to which the proposed improvements compete with existing businesses;
- (14) the positive or negative impact on the opportunities of existing businesses;
- (15) the attraction of other new businesses to the area;
- (16) the overall compatibility with the City's zoning and subdivision regulations, and over-all comprehensive plan; and
- (17) whether the project is environmentally compatible with the community (no appreciable negative impact on quality-of-life perceptions).

Each Eligible Facility shall be reviewed on its merits utilizing the factors provided above. After such review, abatement may be denied entirely or may be granted to the extent deemed appropriate after full evaluation.

3. Abatement barred in certain circumstances. Neither a reinvestment zone nor an abatement agreement shall be authorized, if the City Council determines that:

- a. there would be a substantial adverse effect on the provision of government service or tax base;
- b. the applicant has insufficient financial capacity to meet the requirements of the proposed abatement agreement;
- c. planned or potential use of the property would constitute a hazard to public safety, health, or morals;
- d. approval of a reinvestment zone or abatement agreement would violate State or Federal laws or regulations; or
- e. there exists any other valid reason for denial deemed appropriate by the City.

4. Property subject to Taxation. From the execution of an Abatement Agreement to the end of the effective abatement period under the Agreement, taxes shall be payable as follows:

- a. the value of ineligible property (Part I.D.1.d.) shall be fully taxable;
- b. the base year value of existing eligible property as determined each year shall be fully taxable;
- c. the additional value of new eligible property shall be taxed in the manner and for the period provided for in the Abatement Agreement; and
- d. the additional value of new, eligible property shall be fully taxable at the end of the Abatement period.

5. Application for Tax Abatement.

a. Any present or potential owner of taxable property in the City of Temple, Texas, may request the creation of a tax abatement reinvestment zone and tax abatement by filing a written request with the City. The application shall then be forwarded to the City Manager for review. After processing the application, the City Manager shall make a recommendation to the City Council of the City for final disposition.

b. The application shall consist of a completed application form, which shall provide detailed information on the items described in Part I.D.2. above; a map and property description; and a time schedule for undertaking and completing the planned improvements. In the case of Modernization, a statement of the assessed value of the facility, separately stated for real and personal property, shall be given for the tax year immediately proceeding the application. The application form may require such financial and other information as may be deemed appropriate for evaluating the financial capacity and other factors of the applicant.

c. The City shall give notice as provided by the Tax Code, i.e., written notice to the presiding officer of the governing body of each taxing unit in which the property to be subject to the agreement is located, no later than the seventh day before the date the City Council considers approval of a tax abatement agreement.

d. The City shall not establish a reinvestment zone for the purpose of Abatement if it finds that the request for the abatement was filed after the commencement of construction of a New Facility, or alteration, Modernization, Expansion of an existing Facility.

6. Tax Abatement Agreements

a. After preliminary approval of an application, the City shall formally pass a resolution authorizing an Agreement with the owner (and lessee, where applicable) of the Facility, which Agreement shall include, but not be limited to:

- (1) The kind, number, and location of all proposed improvements of the property;
- (2) A provision for access to and authorize inspection of the property by municipal employees to ensure that the improvements or repairs are made according to the specifications and conditions of the Agreement;

- (3) Limits for the uses of the property consistent with the general purpose of encouraging development or redevelopment of the zone during the period the property tax exemptions are in effect;
- (4) Provide for recapturing property tax revenue lost as a result of the Agreement if the owner of the property fails to make the improvements or repairs as provided by the Agreement;
- (5) Each term agreed to by the owner of the property;
- (6) A requirement that the owner of the property annually certify to the governing body of each taxing unit that the owner is in compliance with each applicable term of the Agreement;
- (7) Provide that the City Council may cancel or modify the Agreement if the property fails to comply with the Agreement;
- (8) The percentage of value to be abated each year; and
- (9) The commencement date and the termination date of Abatement.

b. To be effective, a tax abatement agreement must be approved by the affirmative vote of a majority of the members of the City Council at a regularly scheduled meeting of the City Council.

c. Agreements shall normally be approved or disapproved within sixty (60) days from the date the applicant filed a properly completion application for tax abatement with the City Manager.

7. Recapture of Abated Taxes Upon Default.

a. In the event that the company or individual:

- (1) allows its ad valorem taxes owed the City to become delinquent and fails to timely and properly follow the legal procedures for their protest or contest, or
- (2) violates any of the terms and conditions of the Abatement Agreement, and fails to cure during the Cure Period hereinafter described,
- (3) the Agreement then may be terminated, and the company or individual whose Agreement is terminated shall repay, as liquidated damages, all taxes previously abated by virtue of the Agreement to the City within thirty (30) days of the termination.

b. Should the City determine that the company or individual is in default according to the terms and conditions of its Agreement, the City shall notify the company or individual of such default in writing at the address stated in the Agreement, and if such is not cured within thirty (30) days from the date of such notice ("Cure Period"), then the Agreement may be terminated.

8. Administration.

a. The Chief Appraiser of the Bell County Appraisal District will annually determine an assessment of the real and personal property comprising the reinvestment zone. Each year, the company or individual receiving abatement shall furnish the Appraiser with such information as may be necessary for the Abatement. Once value has been established, the Chief Appraiser will notify the City of the amount of the assessment.

b. An abatement agreement shall stipulate that employees or designated representatives of the City will have access to the reinvestment zone during the term of the Abatement to inspect the Facility to determine if the terms and conditions of the agreement are being met. All inspections will be made only after the giving of twenty-four (24) hours prior notice and will only be conducted in such manner as to not unreasonably interfere with the construction or operation of the Facility. All inspections will be made with one or more representatives of the company or individual and in accordance with its safety standards.

c. Upon completion of construction, the designated representative of the City shall annually evaluate each Facility receiving Abatement to insure compliance with the agreement, and a formal report shall then be made to the City Council of Temple regarding the findings of the evaluation.

9. Assignment of Tax Abatement Agreements.

Abatement may be transferred and assigned by the holder to a new owner or lessee of the same Facility upon the approval by resolution of the City subject to the financial capacity of the assignee and provided that all conditions and obligations in the Abatement Agreement are guaranteed by the execution of a new contractual Agreement with the City. No assignment or transfer shall be approved if the parties to the existing Agreement, the new owner or new lessee, are liable to any jurisdiction for outstanding taxes or other obligations. Approval of assignments will not be unreasonably withheld.

10. Sunset Provision.

These tax abatement criteria and guidelines are effective upon the date of their adoption and will remain in force for two years, unless amended by three-quarters vote of the City Council, at which time all reinvestment zones and tax abatement agreements created pursuant to these provisions will be reviewed to determine whether the goals have been achieved. Based on that review, the criteria and guidelines may be modified, renewed or eliminated.

II. Availability of Tax Increment Financing of Public Improvements.

A. Existence of tax increment financing district.

The City of Temple has previously created Tax Increment Financing District Number One. To be designated as a tax increment financing reinvestment zone (TIFRZ), an area must meet the criteria established for reinvestment zones under Section 311.005 of the Tax Code. Designation of an area of the City as an enterprise zone under Tex. Rev. Civ. Stat. Ann. art. 5190.7, the Texas Enterprise Zone Act, qualifies an area automatically for designation as a tax increment financing reinvestment zone.

B. Development agreements.

The City will consider entering into development agreements with the owners of property within a TIFRZ where construction of a public improvement(s), e.g., a street, sewer or water line, bridge,

railroad spur, or drainage project, using tax increment funds is likely to result in the significant expansion or modernization of an existing facility, the construction of a major new facility, the creation of a significant number of new jobs, or otherwise accomplishes one of the major goals of Chapter 311 of the Tax Code. The City Council may by ordinance or resolution, with the advise and recommendation of the Board of Directors of Tax Increment Financing Reinvestment Zone Number One, may establish minimum criteria for consideration of development agreements.

III. Additional Economic Incentives within the City

A. Designation of Enterprise Zone.

The City has nominated an area of the City for designation as an enterprise zone by the State of Texas, acting through its Department of Commerce, under Tex. Rev. Civ. Stat. Ann. art. 5190.7 (the Texas Enterprise Zone Act). Pending approval of the area as an enterprise zone by the State, the City will consider granting several types of economic incentives with the enterprise zone.

1. Sales and use tax refunds.

a. Minimum qualifications. To encourage development of the Enterprise Zone, the City will consider granting sales and use tax rebates to businesses within the Enterprise Zone which:

- (1) meet the definition of "qualified businesses" for purposes of Section 3(a)(11) of the Enterprise Zone Act;
- (2) meet the qualifications for, and receive designation by the State as an enterprise project as an enterprise project as provided for in Section 10 of the Enterprise Zone Act.

b. Eligible taxes. The City may agree to a refund of its sales and use taxes paid by qualified business designated as a enterprise project on the purchase, lease, or rental of equipment or machinery for use in an enterprise zone or on the purchase of material for use in remodeling, rehabilitating, or constructing a structure in the Enterprise Zone.

c. Agreement required. The City will, by development agreement, consider refunding up to one-half (1/2) of the *eligible* sales and use tax paid by a qualified business and enterprise project for a period of up to three (3) years.

d. Documentation required. A qualified business and enterprise project entitled to a refund of sales and use tax under this Section by agreement shall pay the entire amount of State and local sales and use taxes at the time of purchase. A qualified business and enterprise project entitled to a refund of sales and use tax by agreement may request a refund once each year in writing. A qualified business and enterprise project entitled to a refund of sales and use tax by agreement must provide documentation necessary to support a refund claim in a form prescribed by the City's Director of Finance.

2. Waiver of permit fees.

By resolution, the City Council may adopt a policy to waive certain building, permit, license or development fees to qualified businesses which have been designated as enterprise projects within the Enterprise Zone. The City Council is authorized to waive building, permit, license or development fees

up to \$10,000 as part of a Chapter 380 agreement approved by the City Manager under Part III, B(2) of this ordinance.

B. Other economic incentives within the City.

1. Pursuant to authority delegated by the Legislature to cities under Chapter 380 of the Local Government Code, and as authorized by Article 3, Section 52-a of the Texas Constitution, the City will consider making loans or grants of public funds or property, or the selling or leasing City property at or below the fair market value of said property, to promote State or local economic development and to stimulate business and commercial activity within the City.

2. Upon application, the City may consider one or more of the following economic tools to encourage economic development:

- (a) The City may purchase tracts of land in the City to encourage economic development if it determines that assembly of smaller tracts into larger tracts will promote the sale or development of property over the long term. The City may also purchase land to sell or lease to a qualified business in the City, if it determines that a qualified business meets the minimum requirements for additional incentives set out below.
- (b) To promote economic development within the City, the City Manager is authorized to execute Chapter 380 agreements involving grants of public funds, or the transfer of land with value, providing personnel and services of the municipality, up to \$25,000 within the South 1st Street SIZ Incentive Zone, the Avenue G/H SIZ Investment Zone, or the North 3rd Street SIZ Incentive Zone, subject to the availability of funds appropriated annually for that purpose.
- (c) To promote economic development within the City, the City Manager is authorized to execute Chapter 380 agreements involving grants of public funds, or the transfer of land with value, providing personnel and services of the municipality, up to \$10,000 within any of the City's other Strategic Investment Zones, as designated in City Resolution No. 2007-4965-R. To promote economic development within the City, the City Manager is authorized to execute Chapter 380 agreements involving grants of public funds, or the transfer of land with value, providing personnel and services of the municipality, up to \$7,500 in any part of the City not covered by one of the City's Strategic Investment Zones, as designated in City Resolution No. 2007-4965-R.
- (d) The City Manager shall provide the City Council with a quarterly report listing and describing the terms and conditions of any Chapter 380 agreements approved under Part III, B(2) of this ordinance in the preceding quarter.
- (e) As further authorized by Tex. Rev. Civ. Stat. Ann. art. 5190.7 § 20(b), the City may sell or lease City-owned property to private developers, if the City Council determines that the property is not needed for any other public purpose, and that sale of the property to a private developer will result in capital improvements or the creation of new jobs within the City. The City will generally sell or lease public property at its fair market value, but will consider making a one-time grant to an applicant, or selling or leasing property at less than fair market value, according to the following formula:

Additional Incentives within the City		
Value of grant, or value of reduction in lease payments or sale price	To qualify for additional incentive, a qualified business must agree to the following minimum investment in <u>both</u> improvements to real property (new construction or expansion of existing facility) <u>and</u> the creation of new jobs	
Not to exceed \$150,000	Not less than \$7.5 million	Not less than 125 new jobs
Not to exceed \$300,000	Not less than \$15 million	Not less than 250 new jobs
Not to exceed \$450,000	Not less than \$22.5 million	Not less than 375 new jobs
Not to exceed \$600,000	Not less than \$28 million	Not less than 500 new jobs

Incentives under Chapter 380 of the Local Government Code where the investment and number of jobs exceed the chart above will be individually negotiated. The City Council may on a case by case basis consider approving chapter 380 agreements involving grants of public funds, or the transfer of land with value, providing personnel and services of the municipality, with a value of greater than \$7,500 but less than \$150,000.

C. Incentives in Certain Strategic Incentive Zones (SIZ)

1. **Authority.** Pursuant to Article 3, Section 52-a of the Texas Constitution, Chapter 380 of the Texas Local Government Code, and Section III.B of the City's Economic Development Policy ordinance, the City will consider offering additional economic incentives for development within certain of the City's Strategic Investment Zones. If property is located within the boundaries of more than one Strategic Investment Zone which has available incentives, an applicant may apply for incentives under either incentive program (but not more than one), subject to the applicable rules of eligibility.

2. **Purpose.** The City desires to encourage the redevelopment of certain of its Strategic Investment Zones by offering economic development incentives (SIZ grants) within those corridors to property owners who meet certain criteria.

3. **Application Process.** Applications for SIZ grants are available through the City Manager's office. Applications may be picked up at any time, but the City only approves new applications for SIZ grants four times a year: December, March, June & September. Completed applications for SIZ grants must be filed as follows:

For consideration in:

December
March
June
September

Completed Application Due No Later Than:

November 10th
February 10th
May 10th
August 10th

4. **Types of Grants.**

- a. **Façade Improvement Grants.** (commercial or industrial property only) The City will consider making grants (the amount varies depending on the eligible SIZ incentive corridor) on a 1:1 matching basis for the replacement or upgrade of an existing façade with an eligible masonry product to an eligible property, or to remove an existing façade to expose the original façade. Eligible masonry materials for a replacement façade under this subsection include brick, stone, stucco, EIFS, rough-faced block, fiber cement siding products, such as HardiPlank® and such other materials that the City may approve from time to time. A list of eligible materials for the eligible SIZ incentive corridors (See Section 6 below) are maintained in the Construction Safety Office, 1st Floor, the Municipal Building, 2 North Main Street. Façade improvement costs eligible for reimbursement with a façade improvement grant include demolition costs (including labor), landfill costs, and material and construction (including labor) costs, but specifically *exclude* design costs.
- b. **Sign Improvement Grants.** (commercial property only) The City will consider making grants (the amount varies depending on the eligible SIZ incentive corridor) on a 1:1 matching basis for the installation of new ground-mounted, monument type (building mounted signs within TMED) signs on eligible properties or the replacement of a dilapidated sign. To be eligible, the base or footing of the sign must be concrete or metal. Sign improvement costs eligible for reimbursement with a sign improvement grant include demolition costs (including labor), landfill costs, and City-approved material and construction (including labor) costs, but specifically *exclude* design costs.
- c. **Landscaping Improvement Grants.** (commercial or industrial property only) The City will consider making grants (the amount varies depending on the eligible SIZ incentive corridor) on a 1:1 matching basis for the installation of new or additional landscaping to an eligible property. To be eligible the landscaping must exceed the City's landscaping requirements for the area, as the same may be established from time to time. If an irrigation system is installed, or already exists, and will be maintained by the applicant, the maximum amount of the landscaping grant is greater than if no irrigation system exists. Landscaping improvement costs eligible for reimbursement with a landscaping improvement grant include ground preparation costs (including labor), materials (trees, shrubs, soil and amendments thereto and other decorative hardscape such as arbors, art, and walls or fences) and material and construction (including labor) costs, curbed islands, but specifically *exclude* design costs. The City will also consider making grants of trees from the City's tree farm if requested by the applicant as part of a landscaping improvement grant application.
- d. **Asbestos Survey or Abatement Grants.** (commercial or industrial property only) The City will consider a grant (the amount varies depending on the eligible SIZ incentive corridor) on a 1:1 matching basis for owner-initiated asbestos survey of a building and for asbestos abatement for a building on eligible property. Asbestos survey and abatement grant eligible costs include professional fees, labor costs, select demolition/removal costs, and replacement materials.

- e. **Demolition Grants.** (residential, commercial or industrial property) When requested by an applicant the City will consider in its sole discretion, demolishing buildings, signs or parking lots, and disposing of the same at the City's cost, when the City has the capacity and equipment to do so. The City will not demolish buildings where the City in its sole discretion determines that there is a reasonable probability that the building contains asbestos, unless the applicant has obtained an asbestos survey and abated asbestos, where necessary, prior to demolition of the structure. In lieu of doing the demolition work with its own crews, the City will also consider a grant on a 1:1 matching basis for the demolition of existing buildings, signs, or parking lots on eligible property. Where the applicant is performing the demolition and seeking a demolition grant, eligible costs include the labor and landfill costs, and equipment rental, but exclude any design costs.
- f. **Sidewalk Improvement Grants.** (residential, commercial or industrial property) The City will consider grants (the amount varies depending on the eligible SIZ incentive corridor) on a 1:1 matching basis for the construction of new sidewalks, curb and guttering or the replacement of existing sidewalks or curb and guttering on eligible property. Sidewalk improvement costs eligible for reimbursement with a sidewalk improvement grant include demolition costs (where applicable) (including labor), landfill costs, and material and construction (including labor) costs and equipment rental, but specifically *exclude* design costs.
- g. **Waiver of Platting, Zoning and Permit Fees.** (commercial or industrial property only) The City will consider waiving platting, zoning, and building permit fees for eligible projects. The City *cannot* waive water and wastewater tap fees.

5. **Maximum Amount of Grants.** The chart below shows the types and dollar amounts of grants available in each of the current SIZ incentive zone corridors. An applicant can request consideration for up to the maximum for each type of grant applicable to his/her property and application, but the total amount that an applicant can receive for any particular application and property is limited by the size of the applicant's actual investment.

SIZ Incentive Grants			
TYPE OF GRANT	South 1 st Street	Avenue G/H	North 3 rd Street
Façade	\$15,000	\$10,000	\$15,000
Sign	\$2,500	\$1,500	\$2,500
Landscaping	\$5,000 or \$10,000 (higher amt w/ irrigation)	\$2,500 or \$3,500 (higher amt w/ irrigation)	\$5,000 or \$10,000 (higher amt w/ irrigation)
Asbestos	\$1,000 + \$3,000 (survey + abatement)	\$1,000+ \$3,000 (survey + abatement)	\$1,000+ \$3,000 (survey + abatement)
Demolition	\$2,500	\$2,500	\$2,500
Sidewalk	\$10,000	\$5,000	\$10,000
Fee Waiver	\$2,000	\$2,000	\$2,000
Code Upgrade (Residential)	n/a	\$5,000	n/a
Theoretical Maximum Grant (lesser of the	\$46,000	\$33,500	\$46,000

sum of individual grants and 33% of total investment if project < \$100K or 25% if total investment is ≥ \$100K)			
Required Minimum Investment	\$20K Comm./\$10K Res.	\$20K Comm./\$10K Res.	\$50K Comm. Or Ind.

The total maximum grant (the sum of all of the individual grants the project is eligible for) is the lesser of: (1) the sum of the individual grants, AND (2) 33% of the applicant's total investment where the investment is less than \$100,000, OR 25% of the applicant's total investment where the investment is greater than \$100,000. Total investment is measured at the time the project is completed, and is subject to verification by the City.

The chart also shows the minimum required investment by a property owner for consideration of a SIZ grant.

6. **SIZ Incentive Zones; Eligible Property.** To be eligible for a SIZ incentive grant under subsection 5 above, the applicant must be the owner or a lessee of property lying within the boundaries of one of the City's SIZ Incentive Zones. The current SIZ Incentive Zones are:

- South 1st Street Incentive Zone
- Avenue G/H Incentive Zone
- North 3rd Street Incentive Zone (Parts A & B)

7. **Application Form.** To be eligible for the grants described in Part C an applicant must submit an application and received approval from the City prior to commencing the work for which a grant or assistance by the City is sought. Applications must be submitted on a form provided by the City, be fully and accurately completed, and signed by the owner(s) [and the lessee(s), where applicable] of the property. Forms are available in the **City Manager's Office** (c/o of the Assistant City Manager) and in the office of **Keep Temple Beautiful**, 100 West Adams, Suite 302, Temple, TX 76501, and must be submitted to the City Manager's office for review and potential approval by the City. A completed application must contain a rendering of all proposed improvements and a written description of the same. Where the proposed scope of work requires professional work by an engineer or architect, the plans must be sealed by an engineer or architect prior to the issuance of building permits, as applicable.

8. **Evaluation of Applications.** In evaluating whether to recommend an application for a grant under Part C for consideration by the City Council, the Staff will review and evaluate all SIZ incentive applications using the following criteria:

- (a) the extent to which the property for which a grant is sought is blighted or fails to meet

City codes or regulations in one or more aspect (15 points)

(b) whether the proposed redevelopment is at a higher level than which exists on other properties in the SIZ incentive corridor in which the property is situated (15 points);

(c) whether the applicant has the financial resources to complete the described in the application (10 points);

(d) whether the property is unlikely to redevelop without an incentive by the City (20 points);

(e) whether the proposed use of the property is in keeping with the future uses of property identified in the City's Comprehensive Plan or a master plan adopted by the City Council (8 points);

(f) whether the development is in an overlay that requires higher standards than in other parts of the City (10 points);

(g) whether the development remedies deteriorated existing city infrastructure (10 points);

(h) whether the development implements elements of the City Master Plan including sidewalk, trail, or parks master plan (7 points); and

(i) whether there is a known occupant/tenant for the proposed development (5 points).

Applications receiving a score of less than 85 points will not be recommended by the Staff for approval by the City Council. Where the amounts being requested in any quarter exceed the amount of uncommitted funds available for SIZ incentive grants, the City Council may take the rating system into consideration when deciding which applications, if any, to approve.

9. **Evaluation of application.** Upon receipt of an application for a grant under Part 3(a), the City Manager shall cause the application to be evaluated using the criteria established in Part 8 above, and submit the application and the Staff's recommend to approve or deny the request, in whole or part, to the City Council for their consideration.
10. **Approval of grants; duration of approval.** The City Council may approve a request for a grant under Part C in whole or in part, or deny the same.
11. **No Vested Right to Receive a Grant.** The existence of the grant program established in Section C does not create any vested rights to receive a grant or convey a property interest to any person to receive a grant. The award or denial of a grant under this Ordinance shall be at the sole discretion of the City Council. The City Council shall annually appropriate funds for the administration of the grant program in this ordinance, and the granting of funds under the programs established by this ordinance are subject to the availability of funds appropriated for that purpose in any given fiscal year.
12. **Compliance with Terms of a Grant; payment to recipient.** A recipient of a grant from the City must enter into a Chapter 380 development agreement with the City prior to receiving any grant funds or in-kind services by the City. The agreement shall provide that the applicant agrees to: (1) complete the work described in the application in a timely fashion; (2) give the City the right to inspect the work described in the development agreement and the financial records associated with the same during reasonable business hours; (3) perform all of the work described in the grant application in accordance with all applicable City codes and regulations; and (4) to maintain those improvements in the future. The failure by an applicant for a grant to satisfy all of the terms and conditions of the development agreement shall relieve the City of any obligation to provide grants funds under

this Ordinance or as described in the development agreement. The Staff is authorized to grant extensions of up to ninety (90) days in the completion date.

Payment to grantees shall be made within thirty (30) days of the work described in the development agreement being completed, inspected and a certificate of occupancy issued by the City. When the recipient of a SIZ grant fails to complete a project by the date provided for completion in his Chapter 380 agreement with the City, inclusive of any extension approved by the Staff (up to ninety days), the amount of the grant provided for in the Chapter 380 agreement shall be reduced by 5% for each thirty days that the project lacks completion. Completion under this section means the inspection and acceptance of any public improvements by the City and the issuance of a certificate of occupancy (where applicable) by the City.

D. Additional economic incentives in Downtown Development Area.

1. Pursuant to authority delegated by the Legislature to cities under Chapter 380 of the Local Government Code, and as authorized by Article 3, Section 52-a of the Texas Constitution, the City will consider making loans or grants of public funds or property, or the selling or leasing City property at or below the fair market value of said property, to promote State or local economic development and to stimulate business and commercial activity in the Downtown Development Area (as shown on Exhibit "A").

2. Upon application, the City of Temple will consider one or more of the following economic tools to encourage economic development in the Downtown Development Area:

- (a) The City may purchase tracts of land in the Downtown Development Area to encourage economic development if it determines that assembly of smaller tracts into larger tracts will promote the sale or development of property over the long term. The City may also purchase land to sell or lease to a qualified business in the Downtown Development Area, if it determines that a qualified business meets the minimum requirements for additional incentives set out below.
- (b) As further authorized by Tex. Rev. Civ. Stat. Ann. art. 5190.7 § 20(b), the City may sell or lease City-owned property to private developers, if the City Council determines that the property is not needed for any other public purpose, and that sale of the property to a private developer will result in capital improvements or the creation of new jobs in the Downtown Development Area. The City will generally sell or lease public property at its fair market value, but will consider making a one-time grant to an applicant, or selling or leasing property at less than fair market value, according to the following formula:

Additional Incentives in the Downtown Development Area	
Value of grant, or value of reduction in lease payments or sale price or surplus	To qualify for additional incentive, a qualified business must agree to the following minimum investment in <u>either</u> improvements to real property (new construction or expansion of existing facility) <u>or</u> the creation of new jobs

property	(25% of the holders of which must be residents of zone or economically disadvantaged).	
Not to exceed \$6,000	Not less than \$70,000	Not less than 3 new jobs
Not to exceed \$8,000	Not less than \$100,000	Not less than 5 new jobs
Not to exceed \$10,000	Not less than \$175,000	Not less than 10 new jobs
Not to exceed \$15,000	Not less than \$225,000	Not less than 15 new jobs
Not to exceed \$18,000	Not less than \$300,000	Not less than 20 new jobs

3. In order for a proposal to be considered for the Additional Incentives under this subsection, an applicant is required to submit a Business Plan detailing sufficient information to evaluate the development and the opportunities for success. A development agreement will provide clauses that insure the return of monetary or real incentives granted for a project in the event that the project is not undertaken within a specified time.

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

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

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

PASSED AND APPROVED on First Reading and Public Hearing on the **17th** day of **November**, 2011.

PASSED AND APPROVED on Second and Final Reading on the **1st** day of **December**, 2011.

THE CITY OF TEMPLE, TEXAS

WILLIAM A. JONES, III, Mayor

ATTEST:

APPROVED AS TO FORM:

Lacy Borgeson
City Secretary

Jonathan Graham
City Attorney



COUNCIL AGENDA ITEM MEMORANDUM

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DEPT./DIVISION SUBMISSION & REVIEW:

Traci Barnard, Director of Finance

ITEM DESCRIPTION: Consider adopting a resolution authorizing budget amendments for fiscal year 2011-2012.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: This item is to recommend various budget amendments, based on the adopted FY 2011-2012 budget. The amendments will involve transfers of funds between contingency accounts, department and fund levels.

FISCAL IMPACT: The total amount of budget amendments is \$618,806

ATTACHMENTS:

[Budget Amendments
Resolution](#)

CITY OF TEMPLE
BUDGET AMENDMENTS FOR FY 2012 BUDGET
November 17, 2011

ACCOUNT #	PROJECT #	DESCRIPTION	APPROPRIATIONS	
			Debit	Credit
110-3280-551-2540		Other Services - Mayor's Fitness Council (Recreation Events)	\$ 11,000	
110-0000-445-1587		Donations/Parks		\$ 11,000
<p>The Mayor's Fitness Council is being increased due to corporate sponsorships being made to the council. The Donations/Parks account is where the donations were deposited.</p>				
110-3700-524-2516		Judgments & Damages (Construction Safety)	\$ 6,677	
110-1500-515-6531		Contingency - Judgments & Damages		\$ 6,677
<p>Deductible reimbursement to the Texas Municipal League for expenses related to a former employee's termination appeal.</p>				
520-5200-535-2516		Judgments & Damages (Water Distribution)	\$ 1,129	
520-5000-535-6532		Contingency		\$ 1,129
<p>Deductible reimbursement to the Texas Municipal League for settlement of a claim filed against the City seeking reimbursement for damage to a vehicle after the driver of a City vehicle made an unsafe lane change and struck the vehicle in the 1100 Block of North 3rd Street.</p>				
110-0000-352-1345		Designated Capital Project - Tiger III Grant		\$ 600,000
110-0000-352-1345		Designated Capital Project - Unallocated	\$ 600,000	
<p>The total grant match for the Tiger III grant is \$4,230,000. \$2,115,000 of that match is a commitment from TxDOT. The City's share of the match of \$2,115,000 will come from Reinvestment Zone No. 1 funding. In the currently adopted Financing and Project Plans, there is \$1,515,000 appropriated for the grant match. The Finance and Project Committees are making the recommendation to the Reinvestment Zone No. 1 Board to add an additional \$600,000 to that amount which will bring the total amount up to \$2,115,000. The Board met on October 26th and approved the amendment. Final reading for the amendment is 11/17/11. Since the grant application was due by October 31, 2011, it was necessary to designate General Fund dollars for the remainder of the grant match. Since the plans have been amended, this subsequent budget adjustment is presented to Council to undesignate the General Fund dollars.</p>				
TOTAL AMENDMENTS			\$ 618,806	\$ 618,806
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			\$	(11,677)
Net Balance of Judgments & Damages Contingency Account			\$	68,323

CITY OF TEMPLE
BUDGET AMENDMENTS FOR FY 2012 BUDGET
November 17, 2011

ACCOUNT #	PROJECT #	DESCRIPTION	APPROPRIATIONS	
			Debit	Credit
		Beginning Compensation Contingency	\$	863,600
		Added to Compensation Contingency	\$	-
		Taken From Compensation Contingency	\$	(828,585)
		Net Balance of Compensation Contingency Account	\$	35,015
		Net Balance Council Contingency	\$	103,338
		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	\$	(1,129)
		Net Balance of Contingency Account	\$	48,871
		Beginning Compensation Contingency	\$	97,000
		Added to Compensation Contingency	\$	-
		Taken From Compensation Contingency	\$	(84,685)
		Net Balance of Compensation Contingency Account	\$	12,315
		Net Balance Water & Sewer Fund Contingency	\$	61,186
		HOTEL/MOTEL TAX FUND		
		Beginning Contingency Balance	\$	79,303
		Added to Contingency Sweep Account	\$	-
		Carry forward from Prior Year	\$	-
		Taken From Contingency	\$	-
		Net Balance of Contingency Account	\$	79,303
		Beginning Compensation Contingency	\$	11,300
		Added to Compensation Contingency	\$	-
		Taken From Compensation Contingency	\$	(9,855)
		Net Balance of Compensation Contingency Account	\$	1,445
		Net Balance Hotel/Motel Tax Fund Contingency	\$	80,748
		DRAINAGE FUND		
		Beginning Compensation Contingency	\$	13,200
		Added to Compensation Contingency	\$	-
		Taken From Compensation Contingency	\$	(12,386)
		Net Balance of Compensation Contingency Account	\$	814
		FED/STATE GRANT FUND		
		Beginning Contingency Balance	\$	24,387
		Carry forward from Prior Year	\$	-
		Added to Contingency Sweep Account	\$	-
		Taken From Contingency	\$	(1,074)
		Net Balance of Contingency Account	\$	23,313

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
TEMPLE, TEXAS, APPROVING BUDGET AMENDMENTS TO
THE FISCAL YEAR 2011-2012 CITY BUDGET; AND
PROVIDING AN OPEN MEETINGS CLAUSE.

—
Whereas, on the 1st day of September, 2011, the City Council approved a
budget for the 2011-2012 fiscal year; and

Whereas, the City Council deems it in the public interest to make certain
amendments to the 2011-2012 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 Fiscal Year 2011-2012
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 17th day of **November**, 2011

THE CITY OF TEMPLE, TEXAS

WILLIAM A. JONES, III, Mayor

ATTEST:

APPROVED AS TO FORM:

Lacy Borgeson
City Secretary

Jonathan Graham
City Attorney



COUNCIL AGENDA ITEM MEMORANDUM

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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, 2011.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

BACKGROUND: This item will present in detail the Fiscal 2010/2011 year end results for the General Fund, Water & Sewer Fund, Hotel/Motel Tax Fund, Drainage Fund, Internal Service Fund and the Reinvestment Zone No. 1 Fund as of September 30, 2011.

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 2012.

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 - To be provided
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, 2011; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, the fourth quarter fiscal year ended September 30, 2011, 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 fiscal year ended September 30, 2011, financial results, a copy of which is on file in the Finance Department, said document incorporated and referred to herein by reference.

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 **17th** day of **November**, 2011.

THE CITY OF TEMPLE, TEXAS

WILLIAM A. JONES, III, Mayor

ATTEST:

APPROVED AS TO FORM:

Lacy Borgeson
City Secretary

Jonathan Graham
City Attorney



COUNCIL AGENDA ITEM MEMORANDUM

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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 2010-2011 funds to the FY 2011-2012 budget.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: This resolution is to recognize and carry forward to fiscal year 2011-2012 outstanding purchase orders and contracts that were not completed at the end of fiscal year 2010-2011. These items will be received or completed during fiscal year 2012. Also, all unencumbered Community Development funds and ongoing Capital Projects will be carried forward to fiscal year 2012.

Line item expenditure accounts in the fiscal year 2012 budget will be amended to reflect fiscal year 2011 funds that will be carried forward. The total of all expenditure-related carry forwards is \$38,444,771. The total of all expenditure-related carry forwards from prior fiscal year was \$46,795,792. The decrease compared to the prior year is due to the expenditure of bond proceeds on projects funded in the Capital Improvement Program. Revenue carry forwards related to park fees, Capital Projects and Federal/State Grant funding, detailed on the attachment, total \$4,935,484.

Itemization by fund is as follows:

<u>Fund</u>	<u>Carry Forward</u>
General Fund	\$ 1,109,456
Hotel/Motel Tax Fund	52,261
Federal/State Grant Fund	4,367,030
Drainage Fund	53,659
Capital Projects	532,114
Bond Projects	8,394,570
Water & Sewer Fund	17,524,735
Reinvestment Zone No. 1	6,410,946
Total Carry Forwards	<u>\$38,444,771</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 2011.

ATTACHMENTS:

[Carry Forward to FY 2011/2012
Resolution](#)

CITY OF TEMPLE, TEXAS
PRIOR YEAR ENCUMBRANCES, UNENCUMBERED AMOUNTS & CONTRACTS
CARRY FORWARD TO FY 2011-2012

ACCOUNT #	DESCRIPTION	PROJECT #	APPROPRIATION	
			DEBIT	CREDIT
	GENERAL FUND			
110-1121-513.25-14	TRAVEL & TRAINING		\$ 2,000	
110-1200-515.26-16	PROFESSIONAL		6,210	
110-1200-515.26-23	OTHER CONTRACTED SERVICES		6,000	
110-1200-515.26-30	BANKING FEES		16,000	
110-1400-511.22-10	FURNITURE & FIXTURES		3,297	
110-1400-511.26-23	OTHER CONTRACTED SERVICES		1,465	
110-1500-515.26-92	EMERGENCY REHAB		840	
110-1500-515.26-95	SIZ PROGRAM		184,238	
110-1700-519.26-16	PROFESSIONAL		54,200	
110-1900-519.62-28	PEG CAPITAL EXPENDITURES		17,689	
110-2011-521.21-36	PUBLIC SAFETY EXPENDITURES		13,357	
110-2011-521.25-15	DUES & SUBSCRIPTIONS		600	
110-2020-521.25-33	DARE EXPENDITURES		10,713	
110-2031-521.25-14	TRAVEL & TRAINING		14,650	
110-2041-521.25-38	CRIME VICTIM EXPENDITURES		56	
110-2041-521.26-16	PROFESSIONAL		750	
110-2057-521.21-21	FIREARMS/MUNITIONS		132	
110-2060-521.22-23	COMPUTER SOFTWARE		3,000	
110-2060-521.25-14	TRAVEL & TRAINING		3,700	
110-2210-522.25-13	SPECIAL SERVICES		3,163	
110-2231-522.21-13	CLOTHING & UNIFORMS		3,368	
110-2232-522.22-11	INSTRUMENTS/SPECIAL EQUIPMENT		5,460	
110-2310-540.25-11	PRINTING & PUBLICATIONS		850	
110-2330-540.25-11	PRINTING & PUBLICATIONS		335	
110-2350-540.25-11	PRINTING & PUBLICATIONS		120	
110-2360-540.25-11	PRINTING & PUBLICATIONS		850	
110-2370-540.25-11	PRINTING & PUBLICATIONS		276	
110-2400-519.23-45	GO GREEN EXPENDITURES		890	
110-2700-515.22-10	FURNITURE & FIXTURES		96	
110-2700-515.25-19	CIVIL SERVICE EXPENDITURES		9,000	
110-2700-515.26-16	PROFESSIONAL		12,989	
110-3110-551.27-13	COST OF GOODS SOLD-MERCHANDISE		4,312	
110-3221-551.27-21	COST OF GOODS SOLD-FOOD PRODUCTS		1,290	
110-3270-551.63-10	BUILDINGS & GROUNDS	100627	12,864	
110-3300-519.25-84	ECONOMIC DEVELOPMENT		11,002	
110-3400-531.23-15	SIDEWALK/CURB/GUTTER		5,325	
110-3400-531.23-44	SPEED HUMPS-CHILD SAFETY FEES		17,480	
110-3500-552.22-32	PARK FEE EXPENDITURES		7,793	
110-3500-552.23-11	REPAIR & MAINTENANCE		10,006	
110-3500-552.63-10	BUILDINGS & GROUNDS	100825	2,000	
110-3500-552.63-32	BLUESTEM PARK	100616	671	
110-3500-552.63-32	FREEDOM PARK	100617	1,266	
110-3500-552.63-32	MILLER PARK	100618	3,699	
110-3500-552.63-32	GUTHRIE FIELD	100825	14,696	
110-3634-560.23-11	REPAIR & MAINTENANCE		7,200	

CITY OF TEMPLE, TEXAS
PRIOR YEAR ENCUMBRANCES, UNENCUMBERED AMOUNTS & CONTRACTS
CARRY FORWARD TO FY 2011-2012

ACCOUNT #	DESCRIPTION	PROJECT #	APPROPRIATION	
			DEBIT	CREDIT
110-3634-560.23-11	REPAIR & MAINTENANCE		6,600	
110-3700-524.26-31	LOT CLEAN UP		22,700	
110-3700-524.26-49	TIPPING FEES		21,500	
110-3900-533.26-16	PROFESSIONAL		800	
110-4000-555.25-22	MICRO FILM/AUDIO VISUAL		1,054	
110-5900-540.63-10	BUILDINGS & GROUNDS	100737	7,780	
110-5924-519.63-10	BUILDINGS & GROUNDS	100407	32,182	
110-5924-519.63-10	BUILDINGS & GROUNDS	100520	8,400	
110-5924-519.63-10	BUILDINGS & GROUNDS	100631	784	
110-5924-519.63-10	BUILDINGS & GROUNDS	100738	62,472	
110-5924-519.63-10	BUILDINGS & GROUNDS	100631	27,136	
110-5935-552.63-10	BUILDINGS & GROUNDS	350009	35,441	
110-9100-591.81-51	TRANSFER OUT-CAPITAL PROJECTS		352,274	
110-9100-591.81-60	TRANSFER OUT-GRANTS		46,220	
110-9100-591.81-64	TRANSFER OUT-BONDS		8,215	
110-0000-461.08-30	PARK FEES-BLUESTEM PARK			671
110-0000-461.08-30	PARK FEES-FREEDOM PARK			1,266
110-0000-461.08-30	PARK FEES-MILLER PARK			3,699
110-0000-461.08-30	PARK FEES-GUTHRIE FIELD			14,696
110-0000-461.08-30	PARK FEES			7,793
TOTAL GENERAL FUND			\$ 1,109,456	\$ 28,125
HOTEL/MOTEL FUND				
240-4400-551.25-11	PRINTING & PUBLICATION		4,570	
240-4400-551.26-16	PROFESSIONAL		306	
240-4400-551.62-11	INSTRUMENTS/SPECIAL EQUIPMENT	100827	8,150	
240-4400-551.63-10	BUILDINGS & GROUNDS	100736	23,996	
240-4600-551.22-11	INSTRUMENTS/SPECIAL EQUIPMENT		3,762	
240-4600-551.25-11	PRINTING & PUBLICATION		600	
240-7000-551.26-16	PROFESSIONAL		10,877	
TOTAL HOTEL/MOTEL FUND			\$ 52,261	
GRANT FUND				
260-1100-513.21-10	OFFICE SUPPLIES		\$ 213	
260-1100-513.22-21	COMPUTER EQUIPMENT		644	
260-1100-552.63-16	HIKE & BIKE TRAILS	100585	78,637	
260-2000-521.21-13	CLOTHING & UNIFORMS		393	
260-2000-521.62-11	INSTRUMENTS/SPECIAL EQUIPMENT	100588	608	
260-2000-521.62-11	INSTRUMENTS/SPECIAL EQUIPMENT	100731	2,560	
260-2000-521.62-13	AUTOMOTIVE	100586	4,996	
260-2000-521.62-21	COMPUTER SOFTWARE	100587	68	
260-3210-551.11-18	EXTRA HELP/SEASONAL		106	
260-3210-551.21-12	FOOD ITEMS/SUPPLIES		563	
260-3210-551.22-14	BUILDINGS & GROUNDS		782	
260-3400-531.63-15	SIDEWALK/CURB/GUTTER	100690	505,908	

CITY OF TEMPLE, TEXAS
PRIOR YEAR ENCUMBRANCES, UNENCUMBERED AMOUNTS & CONTRACTS
CARRY FORWARD TO FY 2011-2012

ACCOUNT #	DESCRIPTION	PROJECT #	APPROPRIATION	
			DEBIT	CREDIT
260-3400-531.63-15	SIDEWALK/CURB/GUTTER	100691	511,317	
260-3400-531.63-15	SIDEWALK/CURB/GUTTER	100690	6,000	
260-3400-531.63-15	SIDEWALK/CURB/GUTTER	100691	6,000	
260-3400-531.63-15	SIDEWALK/CURB/GUTTER	100690	37,850	
260-3400-531.63-15	SIDEWALK/CURB/GUTTER	100691	36,530	
260-3500-552.63-16	HIKE & BIKE TRAILS	100629	2,297,914	
260-3600-560.65-24	FAA RUNWAY REHABILITATION	100716	473,919	
260-6000-515.65-32	CONTINGENCY		6,007	
260-6100-571.26-91	HOUSING REHABILITATION		18,123	
260-6100-571.26-98	CODE ENFORCEMENT		12,542	
260-6100-571.63-10	BUILDINGS & GROUNDS	100505	12,289	
260-6100-571.63-15	SIDEWALK/CURB/GUTTER	100623	114,253	
260-6100-571.63-15	SIDEWALK/CURB/GUTTER	100506	713	
260-6100-571.63-15	SIDEWALK/CURB/GUTTER	100623	27,966	
260-6100-571.63-17	STREETS & ALLEYS	100735	200,000	
260-6100-571.65-16	PARK IMPROVEMENTS	100507	4,031	
260-6100-571.65-32	CONTINGENCY		6,098	
260-0000-431.01-31	CDBG GRANT			402,022
260-0000-431.01-63	FEDERAL GRANTS			3,797,472
260-0000-490.25-89	TRANSFER IN-GENERAL			1,373
260-0000-490.25-88	TRANSFER IN-GENERAL			23,347
260-0000-490.25.82	TRANSFER IN-GENERAL			21,500
260-0000-490.25.82	TRANSFER IN-BOND FUND			121,316
TOTAL GRANT FUND			\$ 4,367,030	\$ 4,367,030
DRAINAGE FUND				
292-2910-534.26-16	PROFESSIONAL		\$ 153	
292-2923-534.63-10	BUILDINGS & GROUNDS	100782	35,006	
292-2930-534.26-16	PROFESSIONAL		18,500	
TOTAL DRAINAGE FUND			\$ 53,659	
CAPITAL PROJECTS FUND				
351-1100-513.26-16	PROFESSIONAL		\$ 4,649	
351-1800-525.68-49	MUNICIPAL COURT FACILITY	100240	523	
351-1900-519.22-21	COMPUTER EQUIPMENT		145	
351-1900-519.26-23	OTHER CONTRACTED SERVICES		5,000	
351-1900-519.62-18	COMPUTER HARDWARE	100734	125	
351-1900-519.62-18	COMPUTER HARDWARE	100741	13	
351-1900-519.62-21	COMPUTER SOFTWARE	100710	97	
351-1900-519.62-21	COMPUTER SOFTWARE	100715	67	
351-1900-519.62-24	COMMUNICATION EQUIPMENT	100622	1,323	
351-1900-519.62-24	COMMUNICATION EQUIPMENT	100671	5,617	
351-1900-519.65-19	FINANCIAL SOFTWARE	190001	592	
351-2300-540.61-10	LAND	100197	45,000	
351-3400-531.61-10	LAND	100346	179,840	

CITY OF TEMPLE, TEXAS
PRIOR YEAR ENCUMBRANCES, UNENCUMBERED AMOUNTS & CONTRACTS
CARRY FORWARD TO FY 2011-2012

ACCOUNT #	DESCRIPTION	PROJECT #	APPROPRIATION	
			DEBIT	CREDIT
351-3500-552.23-11	REPAIR & MAINTENANCE	350009	55,811	
351-3500-552.63-15	SIDEWALK/CURB/GUTTER	100726	12,000	
351-3500-552.63-16	HIKE & BIKE TRAILS	100728	11,000	
351-3500-552.65-16	PARK IMPROVEMENTS	100725	3,140	
351-3500-552.65-16	PARK IMPROVEMENTS	100727	12,000	
351-3700-524.26-31	LOT CLEAN UP		195,172	
351-0000-461.08-65	MISCELLANEOUS REIMBURSEMENTS			179,840
351-0000-490.25-82	TRANSFER IN-GENERAL FUND			352,274
TOTAL CAPITAL PROJECTS FUND			\$ 532,114	\$ 532,114
BOND PROJECTS FUND				
361-2400-519.68-07	FACILITY IMPROVEMENTS	100160	\$ 115,446	
361-2800-532.68-10	TRAFFIC SIGNALS	100504	175,000	
361-2800-532.68-10	TRAFFIC SIGNALS	100673	1,845	
361-2900-534.68-20	DRAINAGE IMPROVEMENTS	290001	86,950	
361-3400-531.25-88	NW LOOP 363 IMPROVEMENTS	100681	3,383,991	
361-3400-531.68-13	OUTER LOOP	100089	242,193	
361-3400-531.68-34	1S STREET GATEWAY/LOOP 363	100332	31,110	
361-3400-531.68-47	TARVER ROAD EXT TO OLD WACO ROAD	100392	66,305	
361-3400-531.68-54	RECONST-5TH/BARTON-CALHOUN	100407	14,208	
361-9100-591.81-60	TRANSFER OUT-GRANT FUND		121,316	
363-2200-522.65-32	CONTINGENCY		176,400	
363-2200-522.68-50	FIRE STATION NO. 1	100120	2,560,364	
363-2200-522.68-51	FIRE STATION NO. 8	100411	1,410,595	
363-2200-522.68-52	FIRE ENGINES	100407	542	
363-2200-522.68-56	FIRE EQUIPMENT	100407	90	
364-2000-521.68-55	POLICE MOLD REMEDIATION	100683	8,215	
364-0000-490.25-82	TRANSFER IN-GENERAL FUND			8,215
TOTAL BOND PROJECTS FUND			\$ 8,394,570	\$ 8,215
WATER & SEWER FUND				
520-5000-535.26-16	PROFESSIONAL		\$ 1,834	
520-5000-535.63-69	APPROACH MAINS	100652	31,069	
520-5122-535.63-10	BUILDING & GROUNDS	100407	36,000	
520-5121-535.23-11	REPAIR & MAINTENANCE		2,350	
520-5122-535.23-20	REPAIR & MAINTENANCE-A/C		24,244	
520-5200-535.25-14	TRAVEL & TRAINING		700	
520-5400-535.25-14	TRAVEL & TRAINING		925	
520-5400-535.63-59	SEWER LINE-IN HOUSE CREW	100656	66,969	
520-5400-535.63-61	SEWER LINE REPLACEMENT	100659	102,968	
520-5521-535.26-16	PROFESSIONAL		311	
520-5800-535.22-23	COMPUTER SOFTWARE		1,600	
520-5900-535.63-57	WATER LINE IMPROVEMENTS	100601	11,700	
520-5900-535.63-66	WATER LINE EXTENSION	100476	11,730	
520-5900-535.63-66	WATER LINE EXTENSION	520004	54,685	

CITY OF TEMPLE, TEXAS
PRIOR YEAR ENCUMBRANCES, UNENCUMBERED AMOUNTS & CONTRACTS
CARRY FORWARD TO FY 2011-2012

ACCOUNT #	DESCRIPTION	PROJECT #	APPROPRIATION	
			DEBIT	CREDIT
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	100706	145,020	
520-5900-535.66-18	WATER & SEWER SPECIAL PROJECT	100682	130,827	
520-5900-535.66-18	WATER & SEWER SPECIAL PROJECT	100687	77,757	
520-5900-535.66-18	WATER & SEWER SPECIAL PROJECT	100688	47,921	
561-5100-535.69-04	TANK REFURBISHMENT	100619	296,093	
561-5100-535.69-04	TANK REFURBISHMENT	100620	2,592	
561-5100-535.69-04	TANK REFURBISHMENT	100619	1,000	
561-5100-535.69-04	TANK REFURBISHMENT	100620	45,567	
561-5100-535.69-06	EMERGENCY OPERATIONS INFRASTRUCTURE	100407	6,078	
561-5100-535.69-06	EMERGENCY OPERATIONS INFRASTRUCTURE	100100	11,480	
561-5100-535.69-06	EMERGENCY OPERATIONS INFRASTRUCTURE	100679	124,500	
561-5100-535.69-21	WTP MEMBRANE FACILITY	100229	75,357	
561-5100-535.69-31	WTP SCADA SYSTEM UPGRADES	100336	61,229	
561-5200-535.69-07	317 WATERLINE RELOCATION	100223	201,241	
561-5200-535.69-09	S. TEMPLE WATER SYSTEM IMPROVEMENTS	100333	2,066,298	
561-5200-535.69-23	PRESSURE PLANE EXPANSION	100407	54,726	
561-5200-535.69-28	WEST WATER & SEWER EXT NORTH OF 2305	100407	119,636	
561-5200-535.69-36	TARVER/OLD WACO UTILITY RELOCATION	100391	183,550	
561-5200-535.69-39	CHARTER OAKS WATERLINE	100608	4,533,715	
561-5200-535.69-40	UTILITY RELOCATION-NW LOOP 363	100681	4,004,930	
561-5400-535.69-05	LIFT STATION IMPROVEMENTS	100667	858,399	
561-5400-535.69-20	SEWER LINE EXTENSION-FM 2305	100095	101,033	
561-5400-535.69-25	SEWER LINE REPLACEMENT-BIRD CREEK	100045	931,398	
561-5400-535.69-26	SEWER LINE REPLACEMENT	100407	310,828	
561-5400-535.69-35	LILAC LANE SEWER PROJECT	100407	55,898	
561-5400-535.69-37	GENERAL BRUCE & 57TH UTILITY RELOCATION	100407	101,678	
561-5400-535.69-37	GENERAL BRUCE & 57TH UTILITY RELOCATION	100470	234,738	
561-5500-535.69-33	DOSHIER-REHAB BELT FILTER	100407	13,132	
561-5500-535.69-38	TBRSS PLANT EXPANSION	100584	2,165,341	
561-5800-535.69-29	WATER BUSINESS OFFICE IMPROVEMENTS	100407	6,397	
TOTAL WATER & SEWER FUND			\$ 17,524,735	
REINVESTMENT ZONE NO. 1				
795-9500-531.25-39	DOWNTOWN IMPROVEMENTS	100698	\$ 64,800	
795-9500-531.25-39	DOWNTOWN IMPROVEMENTS	100699	5,000	
795-9500-531.25-39	DOWNTOWN IMPROVEMENTS	100697	3,150	
795-9500-531.25-39	DOWNTOWN IMPROVEMENTS	100698	15,200	
795-9500-531.25-87	ROW ACQUISITION	100681	741,570	
795-9500-531.26-16	PROFESSIONAL		3,167	
795-9500-531.26-31	LOT CLEAN UP		46,404	
795-9500-531.63-17	STREETS & ALLEYS	100258	37,100	
795-9500-531.63-17	STREETS & ALLEYS	100693	58,826	
795-9500-531.65-14	RAIL SPUR REPAIRS	100167	74,575	
795-9500-531.65-14	REINVESTMENT ZONE NO. 1	100692	100,000	

CITY OF TEMPLE, TEXAS
PRIOR YEAR ENCUMBRANCES, UNENCUMBERED AMOUNTS & CONTRACTS
CARRY FORWARD TO FY 2011-2012

ACCOUNT #	DESCRIPTION	PROJECT #	APPROPRIATION	
			DEBIT	CREDIT
795-9500-531.65-28	DOWNTOWN IMPROVEMENTS	100328	350,892	
795-9500-531.65-50	TMED PHASE I	100629	466,633	
795-9500-531.65-51	1ST STREET/LOOP 363	100700	201,120	
795-9500-531.65-52	FRIAR'S CREEK TRAIL	100585	106,900	
795-9500-531.65-53	AVENUE R	100696	35,500	
795-9500-531.65-54	PEPPER CREEK TRAIL EXTENSION	100695	525,000	
795-9500-531.65-55	AVENUE U	100718	276,150	
795-9500-531.65-57	OUTER LOOP	100810	36,105	
795-9500-531.65-58	AIRPORT CORPORATE HANGAR	100811	1,720,921	
795-9600-531.65-52	FRIAR'S CREEK TRAIL	100585	653,553	
795-9700-531.25-87	ROW ACQUISITION	100681	157,780	
795-9700-531.65-52	FRIAR'S CREEK TRAIL	100585	670,000	
795-9700-531.68-25	NORTH ZONE RAIL SPUR	100256	8,800	
795-9700-531.68-28	SYNERGY PARK	100258	51,800	
TOTAL REINVESTMENT ZONE NO. 1			\$ 6,410,946	
TOTAL CARRY FORWARDS-ALL FUNDS			\$ 38,444,771	\$ 4,935,484

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE,
TEXAS, AUTHORIZING THE CARRY FORWARD OF FISCAL YEAR
2010-2011 FUNDS TO THE FISCAL YEAR 2011-2012 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 2010-2011 which need to be carried forward to Fiscal Year 2011-2012;

Whereas, these items will be received or completed during Fiscal Year 2011-2012;

Whereas, all unencumbered Community Development funds and ongoing Capital Projects also need to be carried forward to Fiscal Year 2011-2012; and

Whereas, the City Council deems it in the public interest to authorize the carry forward of Fiscal Year 2010-2011 funds to the Fiscal Year 2011-2012 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 2010-2011 funds to the Fiscal Year 2011-2012 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 **17th** day of **November**, 2011.

THE CITY OF TEMPLE, TEXAS

WILLIAM A. JONES, III, Mayor

ATTEST:

APPROVED AS TO FORM:

Lacy Borgeson
City Secretary

Jonathan Graham
City Attorney



COUNCIL AGENDA ITEM MEMORANDUM

11/17/11
Item #4(R-1)
Consent Agenda
Page 1 of 1

DEPT./DIVISION SUBMISSION & REVIEW:

Nicole Torralva, P.E., Director of Public Works
Jonathan Graham, City Attorney

ITEM DESCRIPTION: Consider adopting a resolution authorizing a credit sales agreement to purchase necessary credits for off-site wetland mitigation related to the Northwest Loop 363 Project.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: Design efforts related to the expansion of Northwest Loop 363, upgrading approximately 4 miles of existing roadway by creating a four lane divided, continuous roadway from the northern Loop 363 interchange with I-35 to the southern Loop 363 interchange with I-35 through the western side of the City, are nearing completion. In the vicinity of Wendland Road, existing wetland and stream impacts will be sustained, thereby resulting in the necessary acquisition of an environmental permit through the Army Corps of Engineers.

In an effort to facilitate acquisition of the permit, City staff is seeking authorization to negotiate and enter into an agreement with an eligible mitigation bank for the purchase of necessary credits related to off-site wetland mitigation.

FISCAL IMPACT: NA

ATTACHMENTS:

Resolution



COUNCIL AGENDA ITEM MEMORANDUM

11/17/11
Item #4(R-2)
Consent Agenda
Page 1 of 1

DEPT./DIVISION SUBMISSION & REVIEW:

Nicole Torralva, P.E., Director of Public Works
Jonathan Graham, City Attorney

ITEM DESCRIPTION: Consider adopting a resolution authorizing a credit sales agreement to purchase necessary credits for off-site stream mitigation related to the Northwest Loop 363 Project.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: Design efforts related to the expansion of Northwest Loop 363, upgrading approximately 4 miles of existing roadway by creating a four lane divided, continuous roadway from the northern Loop 363 interchange with I-35 to the southern Loop 363 interchange with I-35 through the western side of the City, are nearing completion. In the vicinity of Wendland Road, existing wetland and stream impacts will be sustained, thereby resulting in the necessary acquisition of an environmental permit through the Army Corps of Engineers.

In an effort to facilitate acquisition of the permit, City staff is seeking authorization to negotiate and enter into an agreement with an eligible mitigation bank for the purchase of necessary credits related to off-site stream mitigation.

FISCAL IMPACT: NA

ATTACHMENTS:

Resolution



COUNCIL AGENDA ITEM MEMORANDUM

11/17/11

Item #5

Regular Agenda

Page 1 of 3

DEPT. / DIVISION SUBMISSION & REVIEW:

Brian Mabry, Planning Director

ITEM DESCRIPTION: SECOND READING – Z-FY-11-50: Consider adopting an ordinance authorizing a rezoning from Agricultural (AG) to Office Two (O2) on 5.50 acres in the Nancy Chase survey, Abstract No. 5, Bell County, TX, being located at 510 Old Waco Rd. South of Conner Park and North of Brandon Drive.

P&Z COMMISSION RECOMMENDATION: At its October 3, 2011, meeting, the Planning and Zoning Commission voted 8/0 to recommend approval of a rezoning from AG to O2 for the subject property.

Commissioner Pope was absent.

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

Staff recommends approval of the rezoning from AG to O2 for the following reasons:

1. The request complies with the Future Land Use and Character Map.
2. The request complies with the Thoroughfare Plan.
3. Public and private facilities serve the property.

ITEM SUMMARY: Update: Staff presented this case to City Council at First Reading on November 3rd, 2011. At the meeting, Councilmember Schneider expressed concerns that the rezoning would allow duplexes adjacent to the single-family property to the west and south. During the public hearing, the applicant stated that he was not committed to developing the property as duplexes but that it was also not out of the question to do duplexes there if the rezoning were approved. During the meeting, the idea came up to possibly pursue a Planned Development (PD) designation for the property, so that the Council could specify what uses would be permitted on the property. A PD would require the submittal of a site plan showing building footprints, landscaping, screening, parking and other site elements. The site plan could be submitted and approved at a later date when the applicant is ready to develop the property. Another idea that came up during the meeting was to designate the property Neighborhood Service (NS). This zoning district would allow many of the nonresidential uses permitted in the originally requested O2 zoning district, but would not allow duplexes. The applicant did not support a PD approach or the NS rezoning for the property. Staff has been in contact with the applicant and he wishes to pursue the originally requested O2 rezoning.

Please refer to the Staff Report and draft minutes of case Z-FY-11-50, from the Planning and Zoning meeting, October 3, 2011.

The applicant, Todd Scott for Arturo Jimenez, is requesting the rezoning from AG to O2 on Old Waco Road, south of Conner Park and north of Brandon Drive, because he wishes to have the possibility to build offices or residences on the property in the future. Such uses are allowed in the O2 zoning district.

Some typical permitted uses in the O2 zoning district include, but are not limited to:

Residential Uses

Single Family Attached
Single Family Detached
Triplex
Duplex
Apartments
Home for the Aged

Nonresidential Uses

Hospital
Office
Restaurant
Veterinary Office (no kennels)
Bank
Gym

COMPREHENSIVE PLAN COMPLIANCE:

The proposed rezoning relates to the following goals, objectives or maps of the Comprehensive Plan and Sidewalk and Trails Plan:

Document	Policy, Goal, Objective or Map	Compliance?
CP	Map 3.1 - Future Land Use and Character	Y
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*
STP	Temple Trails Master Plan Map	Y

* = See Comments Below CP = Comprehensive Plan STP = Sidewalk and Trails Plan

Availability of Public Facilities (CP Goal 4.1)

The property is served by a 24" and 4" water line and by a 10" sewer line. The property is bounded to the south by an approximately 50' wide drainage tract that is part of the Old Waco Road West subdivision. Issues related to drainage, water, wastewater and other utilities for the subject property will be addressed through the platting process. Public facilities are available for this property.

DEVELOPMENT REGULATIONS:

The Office 2 zoning district permits a variety of low, mid and high rise office developments. In addition, single-family attached and detached dwellings, duplexes and apartments are allowed. Buildings in the Office 2 District may be built to any legal height. Nonresidential buildings over 40 feet in height must provide additional front and side setbacks. Continuous buffering is required between

nonresidential or multiple-family uses and residential zoning districts. Buffering must consist of either evergreen hedges a minimum of 6 feet high or a wood fences or masonry wall 6 to 8 feet high.

PUBLIC NOTICE:

30 notices to property owners within 200-feet of the subject property were sent regarding the Planning and Zoning Commission public hearing. As of Wednesday, September 28, at 5 PM, no notices were returned in favor of and four notices were returned in opposition to the request. However, Planning staff has received several phone calls from surrounding property owners expressing concern about the proposed rezoning. The newspaper printed notice of the Planning and Zoning Commission public hearing on September 19, 2011, in accordance with state law and local ordinance.

FISCAL IMPACT: NA

ATTACHMENTS:

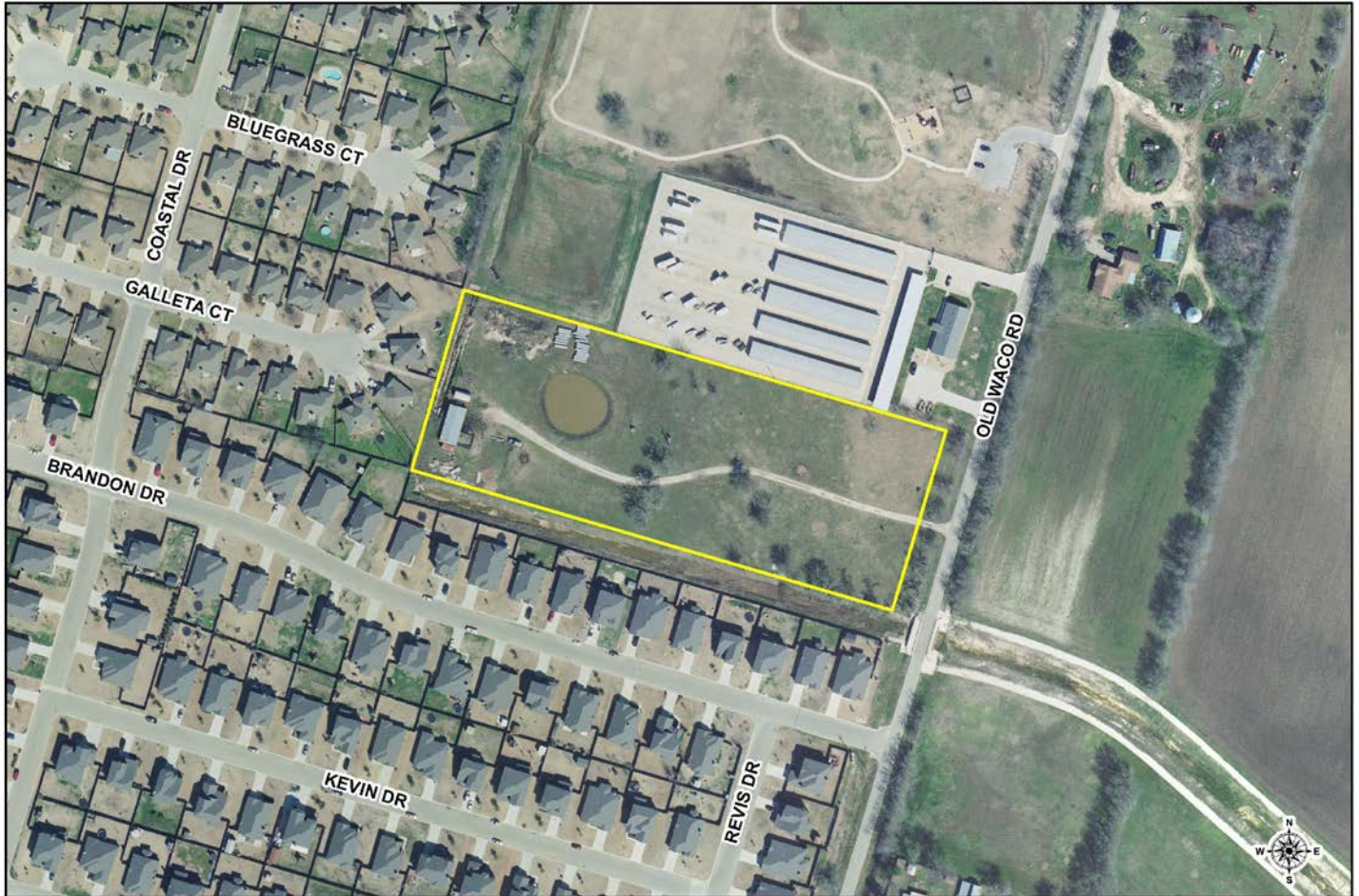
Aerial Map
Future Land Use and Character Map
Zoning Map
Thoroughfare Plan Map
Utility Map
Citywide Trails Master Plan
Notice Map
Response Letters (4)
P&Z Staff Report (Z-FY-11-50)
P&Z Minutes (October 3, 2011)
Ordinance



Z-FY-11-50

AG to O2
Todd Scott for Arturo Jimenez

510 Old Waco Road
South of Conner Park
North of Brandon Dr.



 ZFY 11-50

Feet 0 100 200 300 400 500 600

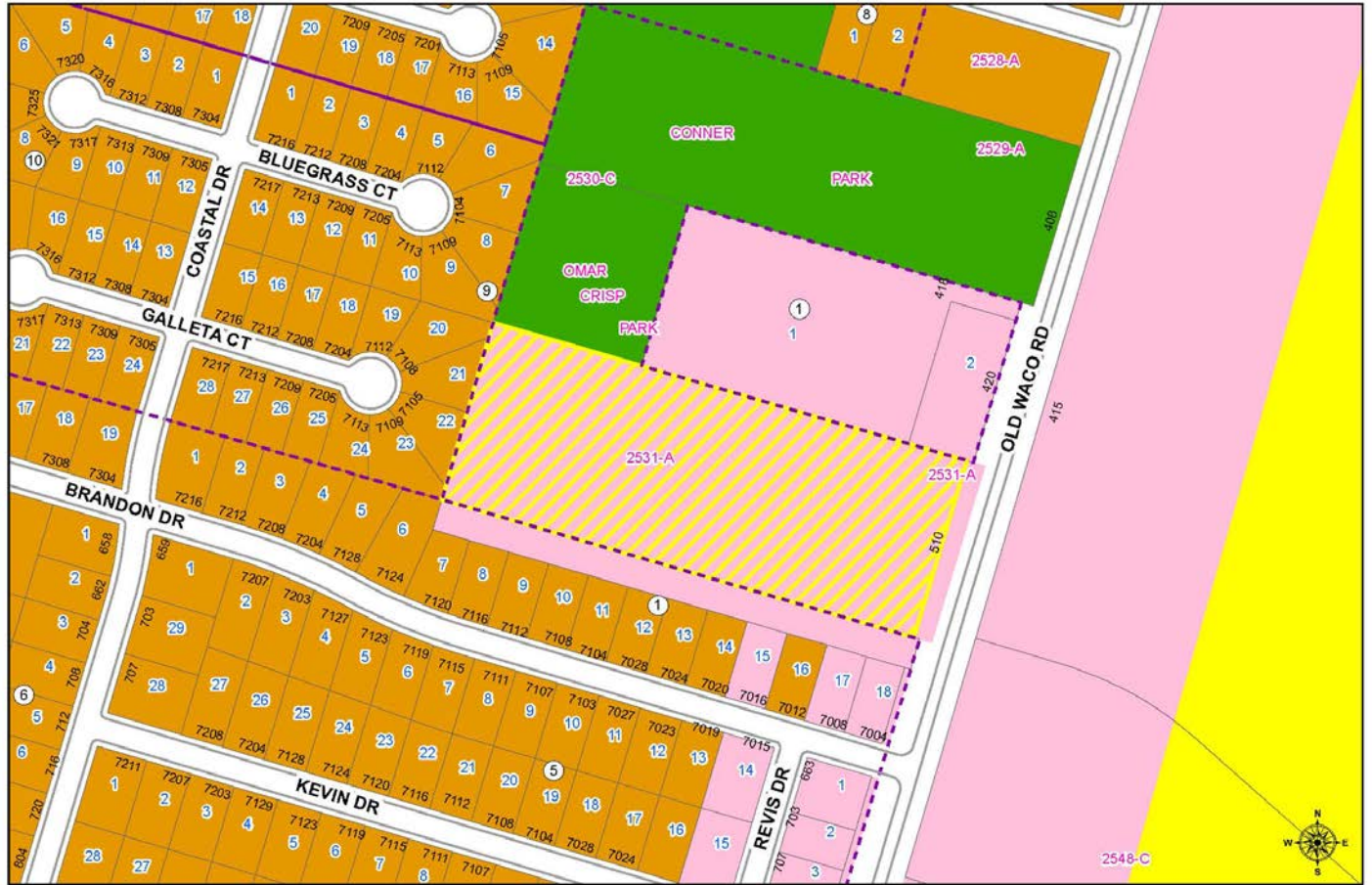
JCalhoun 09.12.11



Z-FY-11-50

AG to O2
Todd Scott for Arturo Jimenez

510 Old Waco Road
South of Conner Park
North of Brandon Dr.



- | | | | | | |
|-----------------------|-------------------------|--------------------|---------------------------|-----------------------------------|--------------|
| ZFY 11-50 | 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 = 210 feet

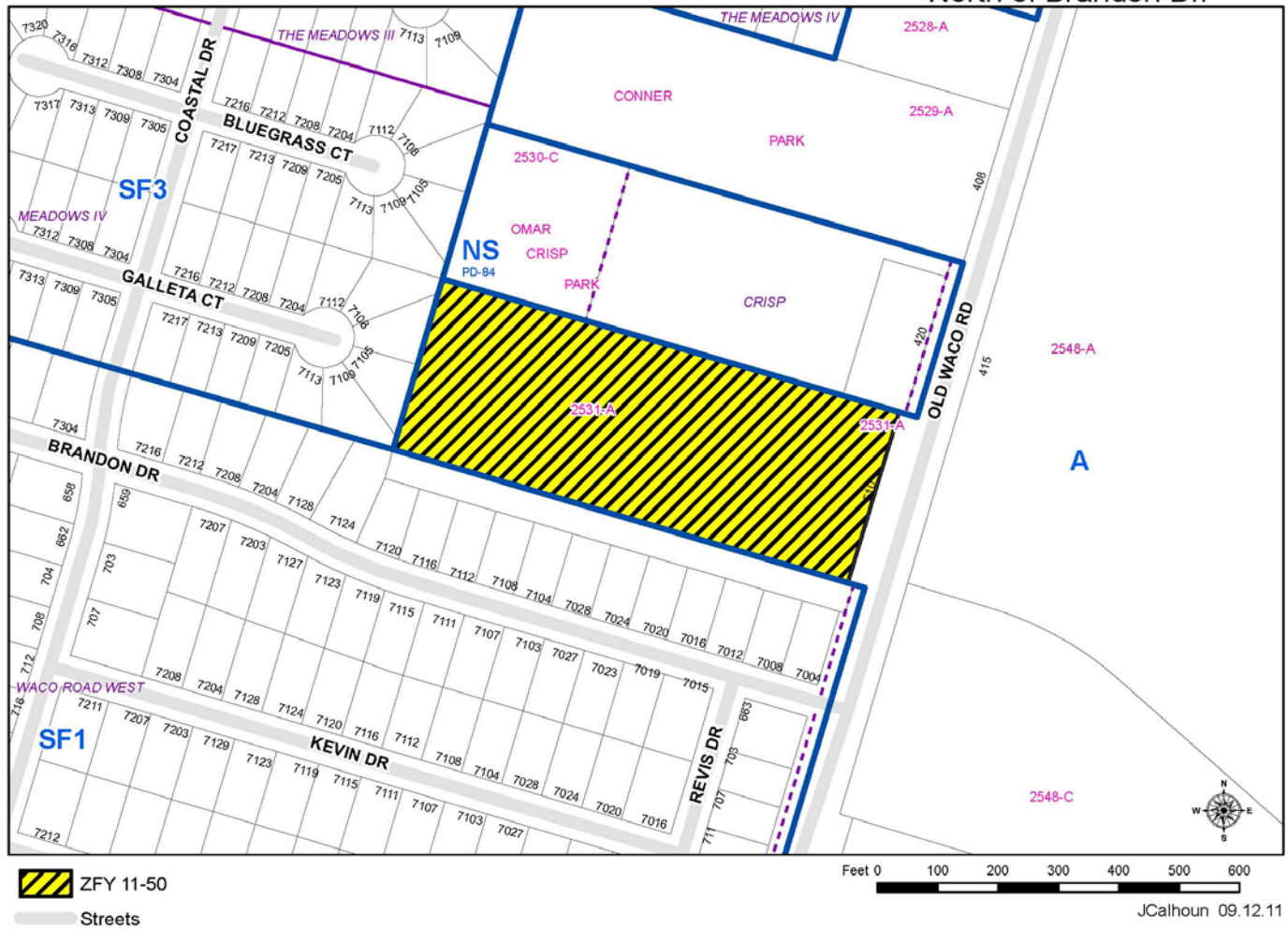
JCalhoun Planning 9.12.11



Z-FY-11-50

AG to O2
Todd Scott for Arturo Jimenez

510 Old Waco Road
South of Conner Park
North of Brandon Dr.



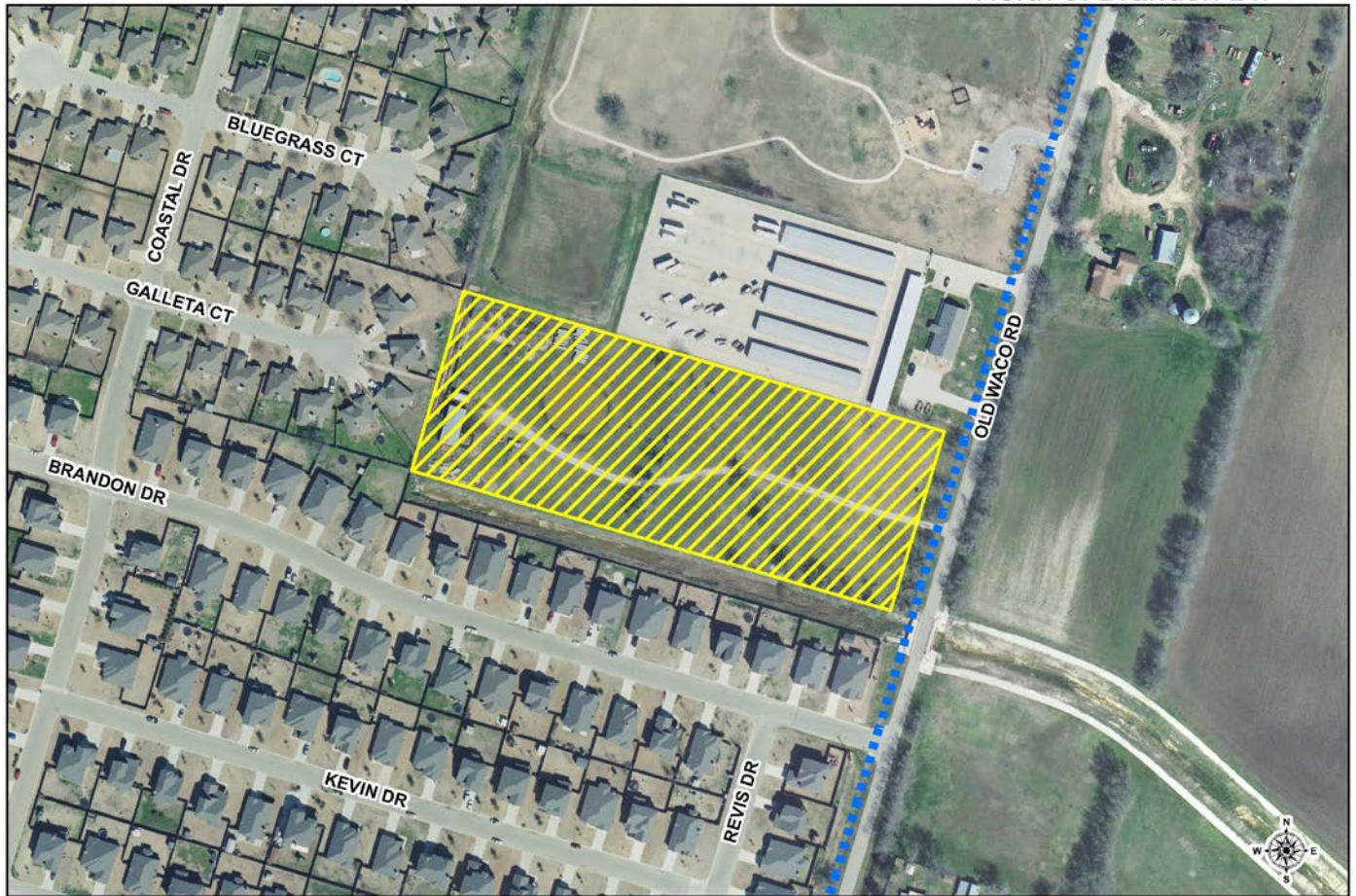
JCalhoun 09.12.11




Z-FY-11-50

AG to O2
Todd Scott for Arturo Jimenez

510 Old Waco Road
South of Conner Park
North of Brandon Dr.



 ZFY 11-50

 Proposed Major Arterial

Feet 0 100 200 300 400 500 600

JCalhoun 09.12.11



Z-FY-11-50

AG to O2
Todd Scott for Arturo Jimenez

510 Old Waco Road
South of Conner Park
North of Brandon Dr.





Z-FY-11-50

AG to O2
Todd Scott for Arturo Jimenez

510 Old Waco Road
South of Conner Park
North of Brandon Dr.



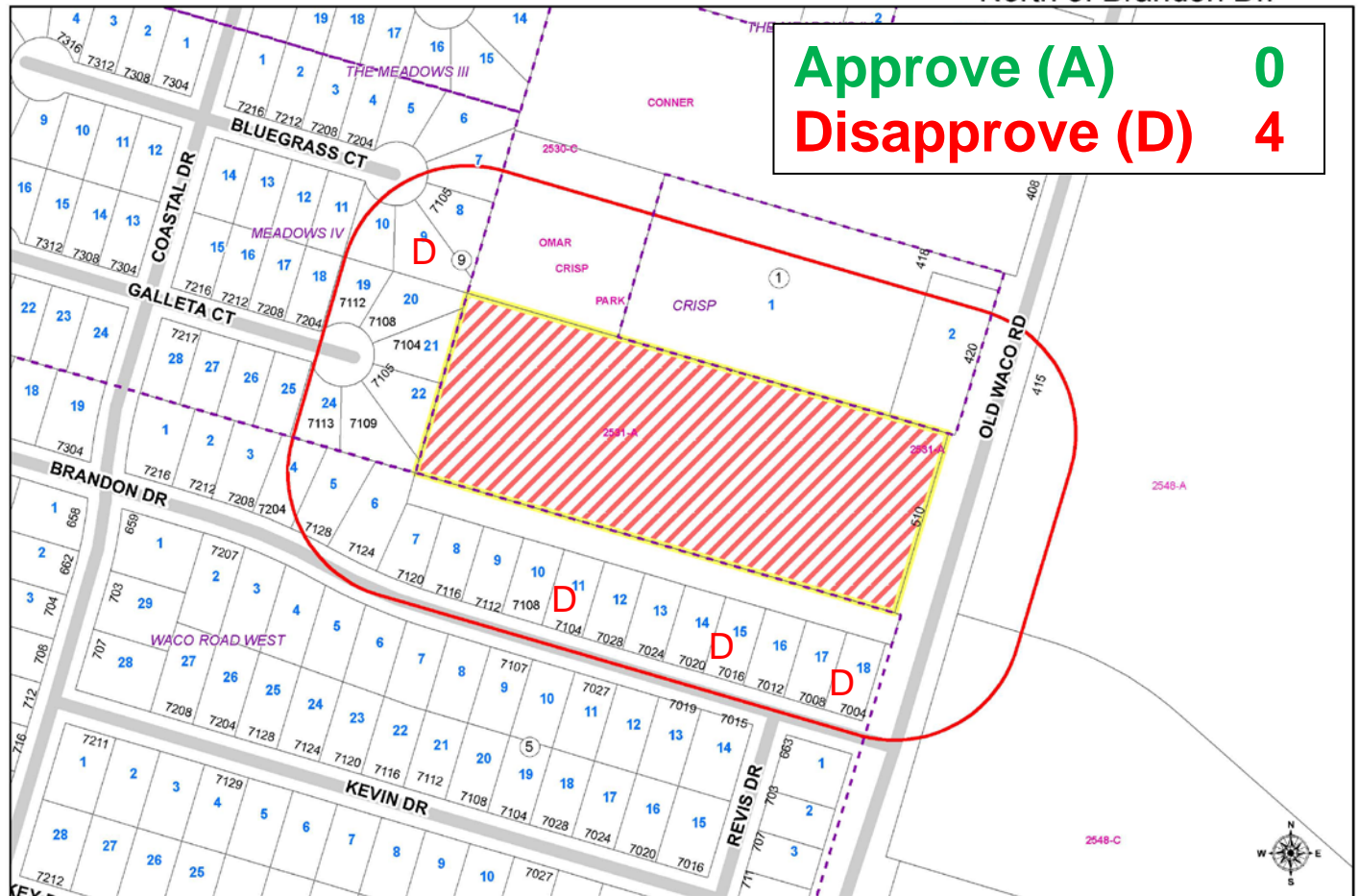


Z-FY-11-50

AG to O2
Todd Scott for Arturo Jimenez

510 Old Waco Road
South of Conner Park
North of Brandon Dr.

Approve (A)	0
Disapprove (D)	4



 ZFY 11-50
 200' Buffer

Feet 0 100 200 300 400 500 600

JCalhoun 09.12.11



RESPONSE TO PROPOSED
REZONING REQUEST
CITY OF TEMPLE

Linda D. Veale
7109 Bluegrass
Temple, Texas 76502

Zoning Application Number: Z-FY-11-50

Project Manager: Jacob Calhoun

Location: On west side of Old Waco Road, South of Conner Park and North of Brandon Drive

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

I recommend () approval ☒ denial of this request.

Comments:

Concerned about how noisy it would be depending
on the type of commercial business.
I would not object if the business would be standard
offices

Linda Veale
Signature

Linda Veale
Print Name
7109 Bluegrass Ct

Please mail or hand-deliver this comment form to the address shown below, no later than October 3, 2011

RECEIVED

OCT 04 2011

City of Temple
Planning & Development

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

RECEIVED

OCT 04 2011

City of Temple
Planning & Development



RESPONSE TO PROPOSED
REZONING REQUEST
CITY OF TEMPLE

Confidential Owner
7016 Brandon Drive
Temple, Texas 76502

Zoning Application Number: Z-FY-11-50

Project Manager: Jacob Calhoun

Location: On west side of Old Waco Road, South of Conner Park and North of Brandon Drive

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

I recommend () approval (✓) denial of this request.

Comments:

I am strongly against this as the traffic down Old Waco will be changing when traffic is redirected off I-35. There will be large amounts of semi trucks coming down the road and additional traffic is not needed. I am not pleased with the potential thought of additional lights and people being right on the other side of my back yard. It is my belief that the only reason they are interested in this change is because they are hoping to gain more money when the expansion comes through.

Dawn Orange
Signature

Dawn Orange
Print Name

Please mail or hand-deliver this comment form to the address shown below, no later than October 3, 2011

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



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

Lloyd Etux Sharon Fabianke
7104 Brandon Drive
Temple, Texas 76502

Zoning Application Number: Z-FY-11-50

Project Manager: Jacob Calhoun

Location: On west side of Old Waco Road, South of Conner Park and North of Brandon Drive

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

I recommend () approval ☒ denial of this request.

Comments:

Lloyd Sharon Fabianke
Signature

Lloyd and Sharon Fabianke
Print Name

Please mail or hand-deliver this comment form to the address shown below, no later than October 3, 2011

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

RECEIVED

SEP 29 2011

City of Temple
Planning & Development



RESPONSE TO PROPOSED
REZONING REQUEST
CITY OF TEMPLE

James Etux Linda Carpenter
7004 Brandon Drive
Temple, Texas 76502

Zoning Application Number: Z-FY-11-50

Project Manager: Jacob Calhoun

Location: On west side of Old Waco Road, South of Conner Park and North of Brandon Drive

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

I recommend () approval

☒ denial of this request.

Comments:

James Linda Carpenter
Signature

James F. Carpenter
LINDA D. Carpenter
Print Name

Please mail or hand-deliver this comment form to the address shown below, no later than October 3, 2011

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

RECEIVED

OCT 03 2011

City of Temple
Planning & Development

Number of Notices Mailed: 30

Date Mailed: September 22, 2011



PLANNING AND ZONING COMMISSION AGENDA ITEM

10/6/11
Item #3
Regular Agenda
Page 1 of 4

APPLICANT / DEVELOPMENT: Todd Scott for Arturo Jimenez

CASE MANAGER: Jacob Calhoun, Planning Intern

ITEM DESCRIPTION: Z-FY-11-50 Hold a public hearing to discuss and recommend action on a rezoning from Agricultural (AG) to Office Two (O2) on 5.50 acres in the Nancy Chase survey, Abstract No. 5, Bell County, TX, being located at 510 Old Waco Rd. South of Conner Park and North of Brandon Drive.

BACKGROUND: The applicant is requesting the rezoning from AG to O2 because he wishes to have the possibility to build offices, residences or a retirement development in the future. All of these uses are allowed in the O2 zoning district.

SURROUNDING PROPERTY AND USES:

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

Direction	Zoning	Current Land Use	Photo
Subject Property	AG	Agricultural use	

Direction	Zoning	Current Land Use	Photo
North	NS	"A" Storage Place	
South	SF1	Waco Road West Subdivision	
East	AG	Agricultural	

Direction	Zoning	Current Land Use	Photo
West	SF3	Meadows IV Subdivision	

COMPREHENSIVE PLAN COMPLIANCE:

The proposed rezoning relates to the following goals, objectives or maps of the Comprehensive Plan and Sidewalk and Trails Plan:

Document	Policy, Goal, Objective or Map	Compliance?
CP	Map 3.1 - Future Land Use and Character	Y
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
STP	Temple Trails Master Plan Map	Y

* = See Comments Below CP = Comprehensive Plan STP = Sidewalk and Trails Plan

Future Land Use and Character (CP Map 3.1)

The future land use and character map designates the property as Suburban Commercial. The rezoning request complies with the FLUC map.

Thoroughfare Plan (CP Map 5.2)

The Thoroughfare Plan designates Old Waco Rd. as a major arterial. The right-of-way is approximately 100' wide adjacent to the subject property. The paved width is approximately 22'. Perimeter street fees will apply when the property is platted. The rezoning request complies with the Thoroughfare Plan.

Availability of Public Facilities (CP Goal 4.1)

The property is served by a 24" and 4" water line and by a 10" sewer line. The property is bounded to the south by an approximately 50' wide drainage tract that is part of the Old Waco Road West subdivision. Issues related to drainage, water, wastewater and other utilities will be addressed through the platting process. Public facilities are available for this property.

Temple Trails Master Plan Map

The Sidewalk and Trails Plan designates a City Wide Spine trail in this area. This rezoning will not trigger dedication for the Trails Master Plan.

DEVELOPMENT REGULATIONS:

The Office 2 zoning district permits a variety of low, mid and high rise office developments. In addition, single-family attached and detached dwellings, duplexes and apartments are allowed. Buildings in the Office 2 District may be built to any legal height. Nonresidential buildings over 40 feet in height must provide additional setback space. The Office 2 district is intended to allow for office uses in an area that is primarily business or high density residential. This district provides for professional, financial, medical and other office services and may include corporate offices and major employment centers. Uses in this district generally have low traffic generation characteristics and do not require high visibility to conduct business. Continuous buffering is required between nonresidential or multiple-family uses and residential zoning districts. Buffering must consist of either evergreen hedges a minimum of 6 feet high or a wood fences or masonry wall 6 to 8 feet high.

PUBLIC NOTICE:

30 notices to property owners within 200-feet of the subject property were sent regarding the Planning and Zoning Commission public hearing. As of Wednesday, September 28, at 5 PM, no notices were returned in favor of and no notices were returned in opposition to the request. However, Planning staff has received several phone calls from surrounding property owners expressing concern about the proposed rezoning. The newspaper printed notice of the Planning and Zoning Commission public hearing on September 19th, 2011, in accordance with state law and local ordinance.

STAFF RECOMMENDATION: Staff recommends approval of the rezoning from AG to O2 for case Z-FY-11-50 for the following reasons:

1. The request complies with the Future Land Use and Character Map.
2. The request complies with the Thoroughfare Plan.
3. Public and private facilities serve the property.

FISCAL IMPACT: Not applicable

ATTACHMENTS:

[Aerial](#)
[Land Use and Character Map](#)
[Zoning Map](#)
[Thoroughfare Plan Map](#)
[Utility Map](#)
[Trails Map](#)
[Notice Map](#)

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

MONDAY, OCTOBER 3, 2011

ACTION ITEMS

Item 3: Z-FY-11-50 – Hold a public hearing to discuss and recommend action on a rezoning from Agricultural District (AG) to Office Two District (O2) on 5.50 acres in the Nancy Chase survey, Abstract No. 5, Bell County, Texas, located at 510 Old Waco Rd. South of Conner Park and North of Brandon Drive. (Todd Scott for Arturo Jimenez)

Mr. Jacob Calhoun, Planning Intern, stated the subject property was 5.5 acres and located on Old Waco Road. The applicant was requesting a zone change from Agricultural (AG) to Office Two (O2) in order to develop the following possible allowed uses:

- Offices
- Single Family homes
- Retirement setting

Surrounding properties include Single Family One (SF1) to the south, undeveloped AG to the east, mini storage to the north and SF3 to the west.

The Future Land Use and Character Map designate this area as Suburban-Commercial. Old Waco Road is proposed to be a major arterial on the Thoroughfare Plan but is currently not at that stage.

There is a 10 inch sewer line to the west and two water lines to the east, a 24 inch and 4 inch. There is also a 50 foot drainage easement in the south end of the property.

There is a proposed city wide spine trail for the area.

There were 30 notices mailed out and three were returned in opposition, zero returned in favor. Some of the concerns received included screening and buffering, Old Waco Road being proposed as a major arterial, and traffic generated on Old Waco Road from the I35 expansion, however, the traffic will be diverted to Loop 363 and not the proposed Outer Loop.

Current conditions of the road include 100 feet of right-of-way and paved width is 22 feet, which is 27 feet away from the actual major arterial with a width of 49 feet.

Some permitted uses in O2 district include, but are not limited to:

- Residential uses
- Home for the aged

Single Family Attached
Single Family Detached
Triplex
Duplex
Apartments

Nonresidential uses

Hospital
Place of Worship
Business School
Office
Bank
Gym

Staff recommends approval of the zoning request from AG to O2 because it complies with the Future Land Use and Character Map, the Thoroughfare Plan, and adequate public facilities will serve the site.

Commissioner Staats asked if the drainage to the south was truly an easement and Mr. Calhoun stated yes and was maintained by the City.

Chair Martin opened the public hearing.

Mr. Todd Scott, 5883 Denman's Loop, Belton, Texas, is the purchaser of the property and was available to answer any questions.

Commissioner Rhoads stated he had some calls from concerned citizens regarding Mr. Scott's planned intentions for the property. Mr. Scott stated he had no real set plans for the property but the O2 zoning gave him an option for possibly single family homes, garden homes, or retirement homes or he may just hold the property until he finds something he wants to do with it. The O2 zoning seem to fit with the Comprehensive Plan.

O2 does not allow for nightclub activities.

Commissioner Talley asked Mr. Scott if he was aware that the citizens were not wanting a multi-family type of dwelling there and Mr. Scott stated yes, and O2 does not allow apartments. Ms. Matlock provided correction to the applicant's statement by informing the Commission that the O2 district does indeed allow apartments.

Chair Martin closed the public hearing.

Commissioner Sears made a motion to approve Item 3, **Z-FY-11-50** and Commissioner Jones made a second.

Motion passed: (8:0)

Commissioner Pope absent

ORDINANCE NO. _____

(PLANNING NO. Z-FY-11-50)

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, APPROVING A REZONING FROM AGRICULTURAL DISTRICT (AG) TO OFFICE TWO (O2) ON 5.50 ACRES IN THE NANCY CHASE SURVEY, ABSTRACT NO. 5, BELL COUNTY, TEXAS, BEING LOCATED AT 510 OLD WACO ROAD, SOUTH OF CONNER PARK AND NORTH OF BRANDON DRIVE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND PROVIDING AN OPEN MEETINGS CLAUSE.

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

Part 1: The City Council approves a rezoning from Agricultural District (AG) to Office Two (O2) on 5.50 acres of land in the Nancy Chase survey, Abstract No. 5, Bell County, Texas, being located at 510 Old Waco Road, south of Conner Park and north of Brandon Drive, more fully described in Exhibit 'A,' attached hereto and made a part hereof for all purposes.

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

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

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

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

PASSED AND APPROVED on First Reading and Public Hearing on the **3rd** day of **November**, 2011.

PASSED AND APPROVED on Second Reading on the **17th** day of **November**, 2011.

THE CITY OF TEMPLE, TEXAS

WILLIAM A. JONES, III, Mayor

ATTEST:

APPROVED AS TO FORM:

Lacy Borgeson
City Secretary

Jonathan Graham
City Attorney



COUNCIL AGENDA ITEM MEMORANDUM

11/17/11
Item #6
Regular Agenda
Page 1 of 2

DEPT./DIVISION SUBMISSION & REVIEW:

Autumn Speer, Community Services Director

ITEM DESCRIPTION: FIRST READING – PUBLIC HEARING - Z-FY-11-30: Consider adopting an ordinance authorizing amendments to Section 7.6 General Development Standards to provide standards for the use of donation boxes.

CITY COUNCIL PRIOR ACTION: At its October 6, 2011 meeting, the City Council opened the public hearing concerning amendments to Section 5.1 Use Standards, Section 7.6 General Development Standards and Article 11 Definitions of the Unified Development Code to establish Storage Container Sales or Rental as a permitted use, to provide standards for the use of semi-trailers, shipping containers, temporary portable storage containers and donation boxes and to establish definitions related to such standards.

Several members from the public spoke primarily concerning the specific language pertaining to shipping containers and storage on site of businesses. One member spoke in favor of the donation box amendments. After much discussion, the Public Hearing was closed and a motion was made by Councilmember Schneider to table and seconded by Councilmember Morales.

In light of this, staff is bringing each section forward to consider on its own merits. The first section for review and discussion pertains to Donation Boxes only. No changes have been made to the original proposal.

P&Z COMMISSION RECOMMENDATION: At its June 6, 2011 meeting, the Planning and Zoning Commission voted 7/0 to recommend approval of the requested amendment to the Unified Development Code with the exceptions of removing Special District restrictions for donations boxes so that non-profit organizations still be allowed to have them, remove provision requiring location behind primary structure, and add a permit required for donation boxes, free of charge, for a 12 month period.

STAFF RECOMMENDATION: Conduct public hearing and adopt ordinance as presented in the item description, on first reading, and schedule second reading and final adoption for December 1, 2011.

ITEM SUMMARY: Please refer to the Planning and Zoning Commission staff report and minutes of case Z-FY-11-30, from the Planning and Zoning meeting, June 6, 2011.

The placement of small and large donation or collection boxes has been occurring on a more frequent basis and this ordinance framework provides the opportunity to address these uses.

As proposed, donation boxes would be permitted on the immediate site of an operating non-profit faith based organization, institutional use or school. These sites can offer a location to charities other than their specific organization.

A maximum of one collection box is permitted per any 500 linear feet of street frontage, regardless of property ownership. Collection boxes are not permitted in required parking spaces or landscaped areas. Collection boxes may be up to four feet in length, six feet in height or six feet in width and must be placed at least 50 feet from all public right-of-way.

All collection boxes must be maintained in repaired and painted condition or will be subject to immediate removal and regularly emptied and not allow overflow or accept large donations outside of box or will be subject to immediate removal.

An applicant must apply for and receive a permit for the placement of a collection box. The permit for such collection box must be displayed on the container. The permit expires 365 days after approval. The applicant must apply for and receive another permit prior to the expiration of the original permit. No time limits are implied; however the containers must remain in good condition and conform to the location and size specifications in this section.

PUBLIC NOTICE:

The newspaper printed notice of the Planning and Zoning Commission public hearing on May 26, 2011, in accordance with state law and local ordinance.

FISCAL IMPACT: NA

ATTACHMENTS:

[Proposed Amendment to UDC](#)
[P&Z Staff Report \(Z-FY-11-30\)](#)
[P&Z Minutes \(June 6, 2011\)](#)
[City Council Minutes \(October 6, 2011\)](#)
[Ordinance](#)

Article 7 General Development Standards

7.6.8 Outdoor Storage

....

C. Outdoor Collection Boxes

1. Where Permitted

- a. Outdoor collection boxes are permitted only on the immediate site of a school, an operating non-profit organization, or other institutional use, in accordance with the following standards.

2. Number Permitted and Location

- a. A maximum of one collection box is permitted per any 500 linear feet of street frontage, regardless of property ownership.
- b. Collection boxes are not permitted in required parking spaces.
- c. Collection boxes are not permitted in landscaped areas.

3. Dimensions and Specifications

- a. No permitted collection box may have dimensions greater than four feet in length, six feet in height or six feet in width.
- b. All permitted collection boxes must be placed at least 50 feet from all public right-of-way.
- c. All permitted collection boxes must be maintained in repaired and painted condition or will be subject to immediate removal.
- d. All permitted collection boxes must be regularly emptied and not allow overflow or accept large donations outside of box or will be subject to immediate removal.

4. Permits Required

- a. An applicant must apply for and receive a permit for the placement of a collection box. The permit for such collection box must be displayed on the container. The permit expires 365 days after approval. The applicant must apply for and receive another permit prior to the expiration of the original permit. There is no limit on the number of renewals.



PLANNING AND ZONING COMMISSION AGENDA ITEM

06/6/11
Item #9
Regular Agenda
Page 1 of 2

APPLICANT / DEVELOPMENT: City of Temple

CASE MANAGER: Autumn Speer, Director of Community Services

ITEM DESCRIPTION: Z-FY-11-30 Hold a public hearing to discuss and recommend action on amendments to Unified Development Code Section 5.1 Use Standards, Section 7.6 General Development Standards and Article 11 Definitions of the Unified Development Code to establish Storage Container Sales or Rental as a permitted use, to provide standards for the use of semi-trailers, shipping containers, temporary portable storage containers and donation boxes and to establish definitions related to such standards. (City of Temple)

BACKGROUND: Shipping containers, also referred to as connexes have been gaining in popularity as alternative storage solutions as businesses move, outgrow their site or have a need to store seasonal items. These types of containers and others have shown up in several areas of the City. Code Enforcement and the Planning Department has had numerous requests to review the placement and length of time that shipping containers may stay in one location and what types are permitted.

There are currently no rules regulating the location, size, condition or type of storage containers. This proposed amendment is an attempt to address the different scenarios where this alternative type of storage is appropriate and what requirements need to be in place.

Staff presented this item for informational purposes at the Planning and Zoning Commission workshop on April 18, 2011. Since the workshop, staff has made some amendments to the ordinance that would remove the permit requirements for portable storage containers and removed the landscaping requirement for shipping container screening.

On a similar note, the placement of small and large donation or collection boxes has been occurring on a more frequent basis and this ordinance framework provides the opportunity to address those uses as well. Staff has included a section addressing donation boxes in the proposed ordinance.

SUMMARY OF ORDINANCE AMENDMENTS:

Article 5: Adding the use Storage Container Sales and Rental to the use table as permitted in LI and HI Zoning districts.

Article 7: Adding standards for outdoor collection boxes, semi-trailers, temporary portable storage containers, and shipping containers:

Collection Boxes – Permitted on site of non-profit faith based organizations, institutional use or school. Not permitted in special districts. They must be no greater than 4' x 4' x 6' tall. Specific locations are outlined. No permit is required.

Semi-trailers – Prohibited for Temporary storage.

Portable Storage Containers – Permitted in all districts for 30 day periods, no more than 2 per site. Specific locations are outlined. No permit is required.

Shipping Containers – TEMPORARY – Permitted in all non-residential districts. Permit is required for 30 day periods, up to twice per year for one container no greater than 20X8X10. Specific locations are outlined.

Shipping Containers – PERMANENT – Permitted in C, LI, and HI zoning districts. Permit is required for up to three containers no greater than 20X8X10. Specific locations and screening requirements are outlined.

Shipping Containers – PERMANENT LARGE FORMAT RETAIL – Permitted in non-residential districts with Large Format user (60,000 sq ft). Permit is required for unlimited containers no greater than 20X8X10. Specific locations and screening requirements are outlined.

Existing Non-conforming Containers – The proposed code amendment allows one year from the effective date of this ordinance to allow users time to bring existing shipping containers into compliance.

Article 11: Adding definitions for large format retail, permanent storage, semi-trailer, shipping container, temporary portable storage container, and temporary storage.

PUBLIC NOTICE:

The newspaper printed notice of the Planning and Zoning Commission public hearing on May 26, 2011, in accordance with state law and local ordinance. As of Wednesday, June 1, 2011, no citizens or property owners have provided any feedback on this proposal.

STAFF RECOMMENDATION: Staff recommends approval of the proposed amendment to UDC Unified Development Code Section 5.1 Use Standards, Section 7.6 General Development Standards and Article 11 Definitions of the Unified Development Code to establish Storage Container Sales or Rental as a permitted use, to provide standards for the use of semi-trailers, shipping containers, temporary portable storage containers and donation boxes and to establish definitions related to such standards.

FISCAL IMPACT: Not Applicable

ATTACHMENTS:

Attachment 1: Proposed Amendment to UDC Sections 5.1 Use Standards, Section 7.6 General Development Standards and Article 11 Definitions

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

TUESDAY, SEPTEMBER 6, 2011

ACTION ITEMS

Item 9: Z-FY-11-30 – Hold a public hearing to discuss and recommend action on amendments to Unified Development Code Section 5.1, Section 7.6 and Article 11 of the Unified Development Code to establish Storage Container Sales or Rental as a permitted use, to provide standards for the use of semitrailers, shipping containers, temporary portable storage containers and donation boxes

Ms. Autumn Speer, Director of Community Services, stated one new item for donation boxes has been added to this issue since the last presentation. There are numerous donation boxes around town which have no consistency of standards.

Donation boxes would be permitted on the site of any non-profit faith-based organization and any institutional use or school, except they would be prohibited in Special District such as TMED, I-35, and Central Area (CA). There will be no time limit on the permit, the number of boxes would be limited to one per 500 linear feet, the limited size would be 4x4x6 and they should be placed a minimum of 50 feet from the right-of-way, located behind the primary structure.

Use of semi-trailers has not change and remains prohibited for temporary or permanent storage. They are allowed for loading and unloading of transit goods but not for storage purposes.

Portable storage containers (i.e., PODS) do not need a permit. There is a consecutive 30 day time period twice a year, two per site, standard size, five feet from property line, driveway if residential, and paved area if non-residential.

Shipping containers for all temporary uses are permitted in all non-residential uses (i.e., connexes). A permit will be required, 30 day time limit twice a year, one per site, located behind the structure and cannot be visible.

Permanent shipping containers are allowed in C, LI, HI and all large format users (45,000 square feet or over). Agricultural, rail and business park uses are exempt. A permit will be required, no time limit, one per 10,000 square feet or a maximum of three, 20x8x10 (smaller size), and located will be behind the structure, not within setbacks or in parking spaces. The Planning Director will have discretion in making exceptions for site constraints, such as Academy.

Permanent large format users (i.e., Wal-Mart, Sam's) have no maximum but they have to be screened. A permit will be required. Screening is still required but the landscaping requirements have been removed.

For non-conforming users there would be a 12-month period to comply. Code Enforcement would document existing cases, prepare a written letter with the Ordinance and requirements and allow 12 months to rectify the situation.

Commissioner Staats stated he did not agree with the donation boxes being located behind the main structure since people would not see them, making them useless. Ms. Speer stated this was only a baseline to work with and items may be changed. Staff does not want donation boxes to be right in the front of the street dropped wherever seems convenient. Chair Talley and Commissioner Pilkington were in agreement with Commissioner Staats and it was suggested having a permit, possibly free.

Commissioner Staats also disagreed with the Special Districts, especially if a church is located there, and would like that removed.

Chair Talley opened the public hearing.

Mr. Charles Viktorin, 914 Yorktown Drive, owner of PODS Central Texas stated he welcomed the standards Temple has brought to the industry. Mr. Viktorin was pleased that the permit requirement was removed.

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

Commissioner Staats made a motion to approve Z-FY-11-30 as presented with the exceptions of removing Special District restrictions and non-profit organizations still be allowed to have them, remove provision requiring location behind primary structure, and add a permit required for donation boxes, free of charge, for a 12 month period and

Commissioner Rhoads made a second.

Motion passed: (7:0)

Vice-Chair Martin and Commissioner Brown absent

TEMPLE CITY COUNCIL

OCTOBER 6, 2011

The City Council of the City of Temple, Texas conducted a Special Meeting on Thursday, October 6, 2011, at 4:00 P.M., at the Municipal Building, 2 North Main Street, in the 3rd Floor Conference Room.

Present: Councilmember Perry Cloud, Councilmember Danny Dunn, Mayor Pro Tem Russell T. Schneider, Councilmember Judy Morales, Mayor Jones

1. Discuss, as may be needed, Regular Meeting agenda items for the meeting posted for Thursday, October 6, 2011.

Regular Agenda Item 7 - Amendments to UDC establishing Storage Container standards. Councilmember Dunn asked staff about screen criteria and possible expemptions for businesses. Mayor Pro Tem Schneider inquired on grandfathering businesses. Ms. Speer advised that there were currently two business locations that had permits for the containers on their property.

Regular Agenda Item 10 - Tax Appraisal District Board Member: Mayor Jones asked if Council had any recommendations and if not than we will bring this forward at a later date.

2. Discuss Building and Fire Codes.

Autumn Speer, Community Services Director presented this to the Council and Staff. Ms. Speer reviewed the proposed changes to the Building and Fire Codes.

3. Discuss Street Perimeter Fees.

Jonathan Graham, City Attorney presented this to the Council and Staff. Mr. Graham explained what perimeter street fees were and gave background to Council. Mr. Graham focused on Exactions and how that process worked and presented case law. Mr. Graham noted that we need to consider updating our UDC.

The City Council of the City of Temple, Texas conducted a Regular Meeting on Thursday, October 6, 2011 at 5:00 PM in the Council Chambers, Municipal Building, 2nd Floor, 2 North Main Street.

Present:

Councilmember Perry Cloud
Councilmember Danny Dunn
Mayor Pro Tem Russell Schneider

Councilmember Judy Morales
Mayor William A. Jones, III

I. CALL TO ORDER

1. Invocation

Chief Lonzo Wallace voiced the Invocation.

2. Pledge of Allegiance

The Jr. Fire Cadets of 2011 led the Pledge of Allegiance.

II. PROCLAMATIONS & SPECIAL RECOGNITIONS

3. (A) Fire Prevention Week October 9 - 15, 2011

Mayor Jones presented Chief Wallace with the proclamation.

The Jr. Fire Cadets asked the Council a few fire safety questions.

Chief Wallace mentioned events in the City for Safety week.

III. PUBLIC COMMENTS

DeAnna DeGraff, Temple Resident and President of VIP, Invited Council to the "Come Walk In My Shoes" 13th Annual event which will be held at the Temple Public Library, 3rd floor, Saturday, October 8 from 1-4pm.

Milton Hensley, 301 Mitchell Drive, Temple, TX - addressed the City Council. He thanked the City of Temple for the support shown for the Life Chain event. They had over 170 participants. Mr. Hensley thanked Chick-fil-A and Crawford Bowers Funeral Home for allowing them to use their parking lots.

IV. CONSENT AGENDA

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

(A) September 15, 2011 Special Called and Regular Meeting

(B) 1. 2011-6440-R: Consider adopting a resolution authorizing a utility cost sharing agreement for Wyndham Hill Phase II.

2. 2011-6441-R: Consider adopting a resolution

authorizing a beautification agreement for Phase II of the Wyndham Hill subdivision with the Wyndham Hill Home Owners' Association and Omega Community Builders for the right-of-way and median along South 5th Street adjacent to the Wyndham Hill subdivision.

(C) 2011-6422-R: Consider adopting a resolution authorizing annual purchase agreements for various forms of rock and topsoil with Superior Crushed Stone of Jarrell and Miller Springs Materials of Belton for FY 2012 in the estimated annual amount of \$26,058.

(D) 2011-6442-R: Consider adopting a resolution authorizing amendments to the awarded annual purchase agreements for utility supplies for FY 2012 with the following vendors:

- 1. Municipal Water Work Supply of Royse City, \$176,121.01;**
- 2. ACT Pipe and Supply of Temple, \$108,666.73; and**
- 3. HD Supply Waterworks of Belton, \$125,331.54**

(E) 2011-4476: SECOND READING - Z-FY-11-42: Consider adopting an ordinance authorizing amendments to Section 7.6.5 of the Unified Development Code related to electric fences within the City limits.

(F) 2011-6443-R: Consider adopting a resolution authorizing certain City employees to conduct investment transactions, transfer funds, and represent the City in other financial transactions.

(G) 2011-6444-R: Consider adopting a resolution authorizing property, liability and workers compensation insurance premiums for FY2011-12.

Motion by Councilmember Danny Dunn adopt resolution approving Consent Agenda, except item B-1 and B-2. seconded by Councilmember Judy Morales.

(B) 1. 2011-6440-R: Consider adopting a resolution authorizing a utility cost sharing agreement for Wyndham Hill Phase II.

- 2. 2011-6441-R: Consider adopting a resolution authorizing a beautification agreement for Phase II of the Wyndham Hill subdivision with the Wyndham Hill**

Home Owners' Association and Omega Community Builders for the right-of-way and median along South 5th Street adjacent to the Wyndham Hill subdivision

Motion by Councilmember Perry Cloud adopt resolution seconded by Councilmember Danny Dunn.

Mayor Pro Tem Russell Schneider abstained. The other Councilmembers voted aye. The motion passed.

V. REGULAR AGENDA

ORDINANCES

5. **2011-4477: FIRST READING - PUBLIC HEARING - Consider adopting an ordinance authorizing amendments to the Tax Increment Financing Reinvestment Zone No. 1 Financing and Project Plans as follows:**
 - A. **Appropriating \$450,000 to the Pepper Creek Trail Connection to Scott & White by recognizing a contribution from Scott & White Healthcare in the amount \$350,000 and reallocating \$100,000 from Professional Services.**
 - B. **Appropriating \$800,000 to the Airport Corporate Hangar Project by reallocating \$450,000 from Public Improvements in North Zone, \$300,000 from the Outer Loop, and recognizing \$50,000 in revenue from a TxDOT RAMP grant.**
 - C. **Appropriating \$400,000 to the TMED-1st Street @ Loop 363 Project by reallocating funds from Avenue R-S&W Blvd, Avenue R - 19th Street Intersections.**

Traci Barnard, Finance Director presented this item to the Council. Ms. Barnard discussed the allocation of funds within the plan for each of the items.

David Blackburn, City Manager discussed the significance of each of the projects listed.

Mayor Jones declared the public hearing open with regard to agenda item 5(A)-(C) and asked if anyone wished to address this item. There being none, Mayor Jones declared the public hearing closed.

Motion by Mayor Pro Tem Russell Schneider adopt ordinance

on item 5(A) and 5(C), with second reading and final adoption set for October 20, 2011. seconded by Councilmember Judy Morales.

B. Appropriating \$800,000 to the Airport Corporate Hangar Project by reallocating \$450,000 from Public Improvements in North Zone, \$300,000 from the Outer Loop, and recognizing \$50,000 in revenue from a TxDOT RAMP grant.

Motion by Councilmember Danny Dunn adopt ordinance with second and final reading set for October 20, 2011. seconded by Councilmember Perry Cloud.

Mayor Pro Tem Russell Schneider abstained. The other Councilmembers voted aye. The motion passed.

6. 2011-4478: FIRST READING - PUBLIC HEARING - Consider amending the Code of Ordinances by repealing the current Article V, "Industrial Wastes Standards," of Chapter 38, "Water, Sewers and Sewage Disposal," and adopting a new Article V, "Industrial Wastes Standards," of Chapter 38, "Water, Sewers and Sewage Disposal," and authorizing any other changes to the Industrial Pre-Treatment Program as required by law.

Jonathan Graham, City Attorney presented this item to the Council. In 2005 th EPA adopted changes that applied to Cities. In July 2009 we renewed our permit with them that triggered these changes. Mr. Graham, noted there are several changes that relate to records retention and sampling requirments. This mandated and we recommended the changes.

Mayor Jones declared the public hearing open with regard to agenda item 6 and asked if anyone wished to address this item. There being none, Mayor Jones declared the public hearing closed.

Motion by Councilmember Danny Dunn adopt ordinance, with second reading and final adoption for October 20, 2011. seconded by Councilmember Judy Morales.

7. 2011-4479: FIRST READING - PUBLIC HEARING - Z-FY-11-30: Consider adopting an ordinance authorizing amendments to Section 5.1 Use Standards, Section 7.6 General Development Standards and Article 11 Definitions of the Unified Development Code to establish Storage

Container Sales or Rental as a permitted use, to provide standards for the use of semi-trailers, shipping containers, temporary portable storage containers and donation boxes and to establish definitions related to such standards.

Autumn Speer, Community Services Director presented this item to the Council. Ms. Speer gave background on this proposal and requirements. Historically our Code Enforcement Department has been tasked to enforce a policy that we don't have in place. Ms. Speer noted that this has been an extensive process involving the Planning and Zoning Commission as well as Local businesses. This was recommended for approval at the Planning and Zoning Commission meeting in June 2011. At this meeting amendments were made at the direction of staff to remove special restrictions for donation boxes, and location requirements as well as added a permit requirement. Ms. Speer discussed Semi-trailers, portable storage containers and shipping containers and donation boxes. Ms. Speer noted semi-trailers are prohibited for temporary or permanent storage. Portable storage containers will not require a permit from the City and are to be used on a temporary basis. Shipping containers will require a permit from the City and can be either on a temporary or permanent basis. These containers must be behind the structure and not visible from the street. Donation boxes are permitted on the site of the non-profit faith based institutions. Ms. Speer noted there is no time limit and to increase the size of boxes. Planning and Zoning added a stipulation for an annual permit. Nonconforming structures will have twelve months to comply to the standards. Policy direction is needed from Council on accessory structures.

Mayor Pro Tem Schneider inquired on the containers used for construction and remodel sites. Are they exempt? What about the units placed at home office while waiting for a job?

Ms. Speer stated this was not addressed, and could present a challenge.

Councilmember Morales commented on donation boxes and how can we keep it local.

Ms. Speer deferred to legal.

Mr. Graham stated the locations of businesses could be limited.

Councilmember Dunn commented on the need to keep the donations local, but there are several national groups that we would like to continue to allow within the city so that they are

able to receive contributions from residents.

Councilmember Morales stated we have several local organizations that have boxes and depend on the local donations.

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

Adam Soorholtz, represented the Chamber of Commerce, 1208 North 2nd Street, Temple addressed the Council. Chambers position is to beautify the city. Mr. Soorholtz noted PODS will be allowed no more than 30 days and must be on a driveway; connexes are prohibited to be in any set back or encroachment or landscaping areas or parking space. Mr. Soorholtz also noted the screening requirements of an 8 foot fence with self closing and latching gate.

John Bolin, 1719 W Avenue M, Suite C Sun Country Bicycles addressed the Council. His business currently uses three 40 foot containers for permanent storage. Mr. Bolin noted he has concerns with limiting the size and this is not good for the small business. These containers are vital to the business; without them he has no offsite storage for his bikes. Being allowed to use them as storage saves him money.

Councilmember Cloud asked Mr. Bolin where the containers are located on his property?

Mr. Bolin answered, on the side and behind the building. He also noted they are the same color as his building.

Mayor Pro Tem Schneider asked Mr. Bolin is there was adequate room behind the building to store the containers?

Mr. Bolin answered no.

Ms. Speer added he would only be allowed to have one as the ordinance is written.

Scott and Kristi Andrews, 319 South 1st Street Business, represent Armadillo Box which rents and sales storage containers. Ms. Andrews noted this proposed ordinance discourages people to come to Temple. This ordinance appears to be anti-business and will hurt the community. Mr. Andrews noted that he is very upset that his product is not mentioned in this ordinance, but a competitor is. There are many technical

issues that still need to be addressed.

Kristi Andrews made note that in 2008 they were approached by Code Enforcement to come into compliance and acquire permits or they would be fined. We are limited to deliver boxes in Temple due the size of boxes. First Baptist Church, Spice Emporium and a few other businesses have boxes and were required to have a permit on file. Mrs. Andrews addressed the overlapping terminology for definitions. Exclusion of necessary storage places an undue hardship on businesses. Mrs. Andrews also noted that screening requirements make it very difficult to maneuver and deliver containers and that the definitions need to be clarified. Mrs. Andrews noted that this is selective enforcement and asked if this regulation necessary.

Mr. Andrews ask for disapproval of this ordinance or modify it so that it doesn't negatively impact the local businesses.

Mayor Pro Tem Schneider inquired on the permit for temporary or permanent?

Mrs. Andrews responded, yes we require our customers to acquire a permit from the city.

Mayor Pro Tem Schneider asked, Ms. Speer if we require permits for others?

Ms. Speer responded, currently we do not require permits for shipping and connect containers.

Mr. Andrews stated that they were told differently from the beginning.

Mayor Pro Tem Schneider inquired on Wal-Mart and how this will affect their ability to have the containers.

Ms. Speer stated yes they would have to screen as well. The Planning Director will be able to work with the individual for alternate locations.

Howard Thomas, Wal-Mart 3401 South 31st Street, addressed storage containers. He commented that this is not feasible for the store and they must have forty foot containers. The fencing requirement will limit the delivery of merchandise. Mr. Thomas stated he is not opposed to screening but only from the view of public and not the entire container. This ordinance will greatly impact our business and ask for consideration prior to adopting the ordinance.

Mayor Pro Tem Schneider asked Mr. Thomas if he receives any containers larger than forty feet.

Mr. Thomas stated no.

Susan Robison, Nolanville representing Scott and White Hospice Thrift Store, 1929 North 3rd Street. Ms. Robison currently has a container for donations and merchandise. This is needed so that merchandise can be delivered frequently. Ms. Robison suggested she be grand-fathered into this. There are too many donation boxes in the City and there is no accountability on the donations received and accepted. The donations need to stay local and not go elsewhere.

Mayor Pro Tem Schneider asked Ms. Speer what the dimensions were for donation boxes.

Ms. Speer stated, 6x4x6

Ms. Sue Hamby, 4110 Cripple Creek thanked the Council for implementing guidelines and standards for donation boxes. She encourages local donation boxes. Ms. Hamby stated the storage containers around town are not eye sores, but are extremely beneficial to the local businesses. Ms. Hamby suggested that the City Council look at small businesses and make sure the ordinance will not impact the businesses negatively and causing undue hardships.

Councilmember Dunny asked how this ordinance will affect having donation boxes in place after a natural disaster.

Ms. Speer stated no, donation boxes will be allowed on another non-profit site as the ordinance is currently written.

Ross Vest, owner of Sun Country Bicycle, at 1719 West Avenue M stated he would be happy to fence his containers, but he will have to continue using them as this is a viable part of the business.

Mayor Jones commented this is the first reading and can be amended or tabled at this state. There would be a second reading before the ordinance would be implemented. We want staff to make it the best ordinance for the community.

Mayor Pro Tem Schneider stated there are still a lot of questions that need to be addressed prior to this moving forward. Mayor Pro Tem Schneider stated that he is not comfortable voting either way at this point.

Councilmember Morales agreed. There are many issues that could impact the local businesses, and those need to be resolved.

Mayor Pro Tem Schneider noted that staff was directed by Council to fix this problem. He thanked them for the time spent in drafting this ordinance. We just need to work together to make this the right ordinance for all.

Councilmember Dunn concurred with Mayor Pro Tem Schneider. He stated this started with the best of intentions; and not to hurt local businesses. He also mentioned that he is comfortable with the donation boxes

Mayor Jones stated we are not ready to tackle this without more work from staff and recognized staff and all the work put into this at council's direction. We want to grow our community and not see the businesses negatively impacted.

Mayor Pro Tem Schneider suggested we have workshops with the community and stakeholders.

Mayor Jones declared the public hearing closed.

Motion by Mayor Pro Tem Russell Schneider to table ordinance. seconded by Councilmember Judy Morales.

8. **2011-4480: FIRST READING - PUBLIC HEARING Z-FY-11-44: Consider adopting an ordinance authorizing a rezoning from Commercial District (C) to Planned Development - Two-Family District (PD-2F) on Lot 1, Block 1, West Ridge Commercial Addition, Phase 1, being 3.384 - acres located on the southwest corner of 205 Loop and East Ridge Boulevard.**

Brian Mabry, Planning Director presented this item to the Council. Mr. Mabry gave background for the site for rezoning. This is a proposal for a Planned Development two family. Current zoning allows duplexes but this property does not have adequate lot depth. The developer is proposing 13 duplex lots/ 24 units proposed. Mr. Mabry presented the site plan and other photos of the proposed area. It is requested that the developer add a wood fence with stone columns along 205 Loop and East Ridge Boulevard. Mr. Mabry also mentioned the landscaping requirements. This request doesn't comply with the land use map but the Planning and Zoning Commission recommended approval. Mr. Mabry noted that this proposes

a less intensive use than on the map and is near a public park which could service this development.

Mayor Pro Tem Schneider inquired on why a fence is built and how does this help the depth of the lots?

Mr. Mabry noted this is consistent with other developments that have frontage along streets and fences were erected. Staff believes this to be appropriate and the developer has agreed.

Mayor Jones inquired on the construction and maintenance of the green space.

Mr. Mabry responded yes, it would be maintained by either the Property owners Association or an HOA. Mr. Mabry stated the fence would be near the property line, with exception of row.

Mayor Jones asked Mr. Mabry about sidewalk requirements.

Mr. Mabry noted there are no requirements as part of the development and this will be optional to the developer.

Mayor Jones declared the public hearing open with regard to agenda item 8 and asked if anyone wished to address this item. There being none, Mayor Jones declared the public hearing closed.

Motion by Councilmember Danny Dunn adopt ordinance, with second reading and final adoption set for October 20, 2011. seconded by Mayor Pro Tem Russell Schneider.

9. **2011-4481: FIRST READING - PUBLIC HEARING - Z-FY-11-45: Consider adopting an ordinance authorizing a rezoning from Agricultural District (AG) to Commercial District (C) on 10.143 ± acres of land, located at the northeast corner of Martin Luther King, Jr. Drive and State Highway 36.**

Brian Mabry, Planning Director presented this item to the Council. Mr. Mabry gave background on this case. He mentioned it's location at the NE corner of MLK Dr. and SH 36 and noted that both are SIZ corridors. Mr. Mabry noted the property owner has not committed to a specific use; but there are several allowed uses for this property. Mr. Mabry presented photos of the adjacent properties. The recommended use for this property, per the land use and character map, is Auto Urban Commercial. This requests meets that recommendation. Mr.

Mabry noted that this area could in the future become TMED should Council choose to do so. The Planning and Zoning Commission recommended approval of the rezoning.

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

Rodney Deyoe, 5309 Park Hollow, Austin, addressed the Council and requested a favorable vote from council.

There being none, Mayor Jones declared the public hearing closed.

Motion by Councilmember Perry Cloud adopt ordinance, with second reading and final adoption set for October 20, 2011. seconded by Mayor Pro Tem Russell Schneider.

RESOLUTIONS

- 10. 2011-6445-R: Consider adopting resolution appointing one member to the Tax Appraisal District of Bell County Board of Directors**

Mayor Jones presented this item to the Council. At this time there are no recommendations to be considered.

Motion by Mayor Pro Tem Russell Schneider adopt resolution to table. seconded by Councilmember Danny Dunn.

- 11. 2011-6446-R: Consider adopting a resolution authorizing the City Manager to execute a purchase contract with Bank of America for the purchase of the following three lots: 201 North 5th Street, 118 North 3rd Street, and 112 North 3rd Street.**

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.

Jonathan Graham, City Attorney presented this item to the Council. Mr. Graham presented background for this purchase. Bank of America currently has three properties that the City will have first right of refusal. All three tracts are located on North 3rd Street. One being adjacent to Main Fire Station, another being to the south which has a small structure to be

demolished, and the third is to the north of Jack in the Box which is also unimproved. Mr. Graham gave descriptions of each property and presented photos of improved structures. Bank of America has accepted the offer of \$125,000 to acquire the lots. Once agreement is executed there will be 45 days period for due diligence. Mr. Graham recommended we do a Phase I Environmental on all lots and an Asbestos Survey on the two improved structures.

Motion by Councilmember Judy Morales adopt resolution seconded by Councilmember Danny Dunn.

William A. Jones, III, Mayor

ATTEST:

Lacy Borgeson
City Secretary

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AMENDING ORDINANCE NO. 2010-4413, THE “UNIFIED DEVELOPMENT CODE,” ARTICLE 7, “GENERAL DEVELOPMENT STANDARDS,” SECTION 7.6.8, “OUTDOOR STORAGE,” SUBSECTION C, “OUTDOOR COLLECTION BOXES,” TO PROVIDE STANDARDS FOR THE USE OF DONATION BOXES; PROVIDING A REPEALER; PROVIDING A SAVINGS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, on December 16, 2010, the City of Temple adopted Ordinance No. 2010-4413, the “Unified Development Code,” which is a consolidated set of land development regulations related to zoning, platting and site design;

Whereas, at its June 6, 2011 meeting, the Planning and Zoning Commission voted to amend the UDC to establish storage container sales or rental as a permitted use; to provide standards for the use of semi-trailers, shipping containers, temporary portable storage containers and donation boxes;

Whereas, at its October 6, 2011 meeting, the City Council opened the public hearing concerning amendments to Section 7.6, “General Development Standards,” and Article 11, “Definitions,” of the Unified Development Code to establish Storage Container Sales or Rental as a permitted use, to provide standards for the use of semi-trailers, shipping containers, temporary portable storage containers and donations boxes, and to establish definitions related to such standards;

Whereas, the City Council chose to table the item at its October 6, 2011, meeting and to bring back each section for review and discussion – the Staff recommends amending the Unified Development Code to provide standards for the use of donation boxes at this time; and

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

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

Part 1: The City Council approves an amendment to Ordinance No. 2010-4413, the “Unified Development Code,” by amending Article 7, “General Development Standards,” Section 7.6.8, “Outdoor Storage,” Subsection C, “Outdoor Collection Boxes,” said amendment being more fully described in Exhibit A, attached hereto for all purposes, to provide standards for the use of donation boxes.

Part 2: All ordinances or parts of ordinances in conflict with the provisions of this ordinance are to the extent of such conflict hereby repealed.

Part 3: It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses and phrases of this ordinance are severable and, if any phrase, clause, sentence, paragraph or section of this ordinance should be declared invalid by the final judgment or decree of any court of competent jurisdiction, such invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs 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 4: This ordinance shall take effect immediately from and after its passage in accordance with the provisions of the Charter of the City of Temple, Texas, and it is accordingly so ordained.

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

PASSED AND APPROVED on First Reading and Public Hearing on the **17th** day of **November**, 2011.

PASSED AND APPROVED on Second Reading on the **1st** day of **December**, 2011.

THE CITY OF TEMPLE, TEXAS

WILLIAM A. JONES, III, MAYOR

ATTEST:

APPROVED AS TO FORM:

Lacy Borgeson
City Secretary

Jonathan Graham
City Attorney



COUNCIL AGENDA ITEM MEMORANDUM

11/17/11

Item #7

Regular Agenda

Page 1 of 3

DEPT. / DIVISION SUBMISSION & REVIEW:

Brian Mabry, AICP, Planning Director

ITEM DESCRIPTION: FIRST READING – PUBLIC HEARING - Z-FY-11-48: Consider adopting an ordinance authorizing a Conditional Use Permit to allow a package store with alcoholic beverage sales for off-premise consumption on a portion of Lots 11, 12, and 13, Block 25, Roach Addition, commonly known as 313 E. Central Avenue, zoned Central Area (CA) District.

P&Z COMMISSION RECOMMENDATION: At its October 17, 2011, meeting, the Planning and Zoning Commission voted 6/1, in accordance with staff recommendation, to recommend approval of the CUP subject to the CUP site plan and with the condition that any burglar bars on the entire building be removed within a year's time of the opening of this business.

Commissioner Brown was absent; Commissioner Talley voted nay.

STAFF RECOMMENDATION: Conduct public hearing and adopt ordinance as presented in the item description, on first reading, and schedule second reading and final adoption for December 1, 2011.

If the City Council approves the CUP for the package store, Staff recommends the approval be in accordance with the P&Z recommendation.

ITEM SUMMARY: The Applicant, Mohammed Naveed Usman on behalf of Galaxy Retail, Inc., requests this CUP in order to establish a package store at the southeast corner of E. Central Avenue and N. Martin Luther King Blvd. This is the second time that this applicant has requested a CUP for a package store at this site. Please refer to the draft minutes of case Z-FY-11-18, from the Planning and Zoning meeting, March 7, 2011, and from the City Council meeting, April 7, 2011. These are part of the P&Z Report attached to this memo.

At the original public hearing for the request before the Planning and Zoning Commission in March, the Commission generally saw this addition as improving the area with the increased landscaping and hardscaping that the Applicant proposed. At this March meeting, the Commission unanimously voted to recommend this CUP with the condition that the burglar bars be removed within one year of opening.

During the April City Council public hearing, Council members expressed concern about the close proximity of the other package store approved on the same block face. The case did not receive a

motion for or against; therefore, it was considered denied for lack of a motion. It has been over six months since the case was originally heard, legally allowing for this new hearing.

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
	Goal 4.1 - Growth and development patterns should be consistent with the City's infrastructure and public service capacities	Y
	Map 5.2 - Thoroughfare Plan	Y
STP	NA	NA

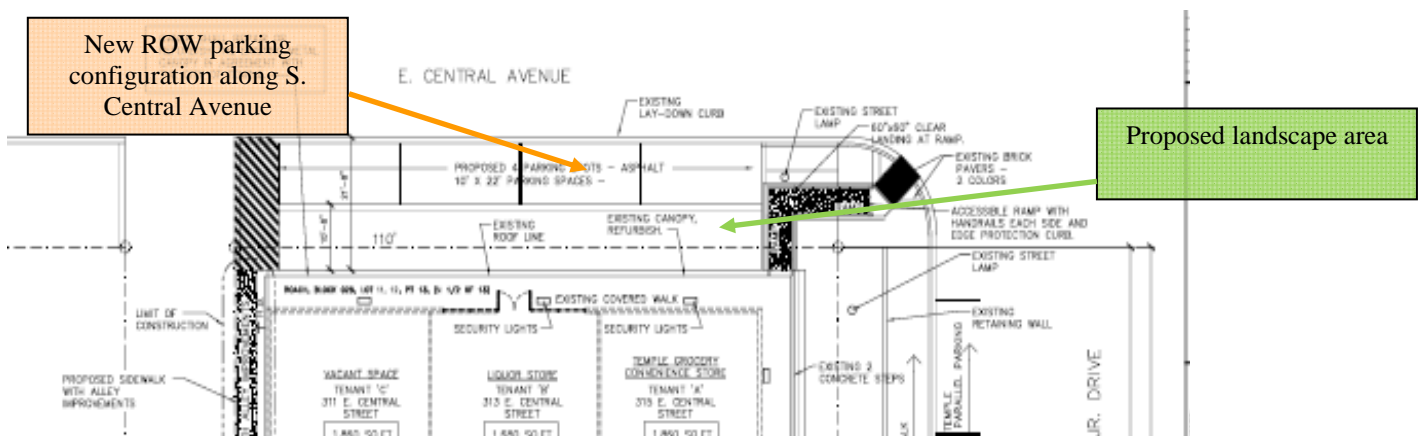
CP = Comprehensive Plan STP = Sidewalk and Trails Plan

CUP SITE PLAN: If the City Council approves this CUP request, the site must be developed according to the approved CUP site plan before the proposed package store may open for business. Below are some critical elements of the CUP site plan along with explanatory notes.

Parking

Package stores are required to have one on-site parking space per 250 square feet of retail area, even in the CA District, which normally does not require on-site parking. A minimum of seven spaces are required for this proposed store. The applicant has purchased the adjacent vacant lot behind the building, to provide nine spaces.

There are currently seven head-in, on-street spaces along E. Central Avenue and three parallel spaces along Martin Luther King Jr. Drive. The CUP site plan shows the perpendicular parking space frontage removed and reoriented to have four parallel spaces along Central. Parallel parking spaces increase vehicle safety and free up an area with which to plant required landscaping and improve pedestrian access. This plan is attached to the end of the report.



Landscaping and Hardscaping

The site plan shows improvements to the lot meeting the standards that are within the landscaping portion of the UDC and completing pedestrian links to the new parking lot and the existing sidewalks near the building. This plan is attached to the end of the report.

Landscaping proposed includes planting one, six-foot or taller, approved tree for every 40-ft of street frontage, and to cover any other irrigated unpaved area with ground cover, which can include turf, Asian jasmine or similar species. The site plan additional shows light poles at the entrance of the parking lot in the landscaped areas that match with the City installed Acorn-styled globes and historic posts.

Building Elevation Improvements:

The building dates from the early 1970's and is in need of repair. The canopy around the face of the building has damage, and the applicant proposes to repair and repaint the entire canopy.

PUBLIC NOTICE: Eight notices of the Planning and Zoning Commission public hearing were sent to surrounding property owners. As of Wednesday, October 12th at 5 PM, no notices were returned in favor of and two notices were returned in opposition to the request. One notice was returned by the Post Office as undeliverable. The newspaper printed notice of the Planning and Zoning Commission public hearing on September 30, 2011, in accordance with state law and local ordinance.

FISCAL IMPACT: NA

ATTACHMENTS:

Aerial Map
Land Use and Character Map
Zoning Map
Thoroughfare Plan Map
Utility Map
Notice Map
Responses
Applicant's Exhibits
P&Z Staff Report (Z-FY-11-48)
P&Z Minutes (October 17, 2011)
Ordinance



Z-FY-11-48

Portion of Lots 11,12,and 13,
Block 25, Roach Addition

313 E. Central Avenue



2008 Bell County Aerial



Z-FY-11-48

Feet 0 50 100 150

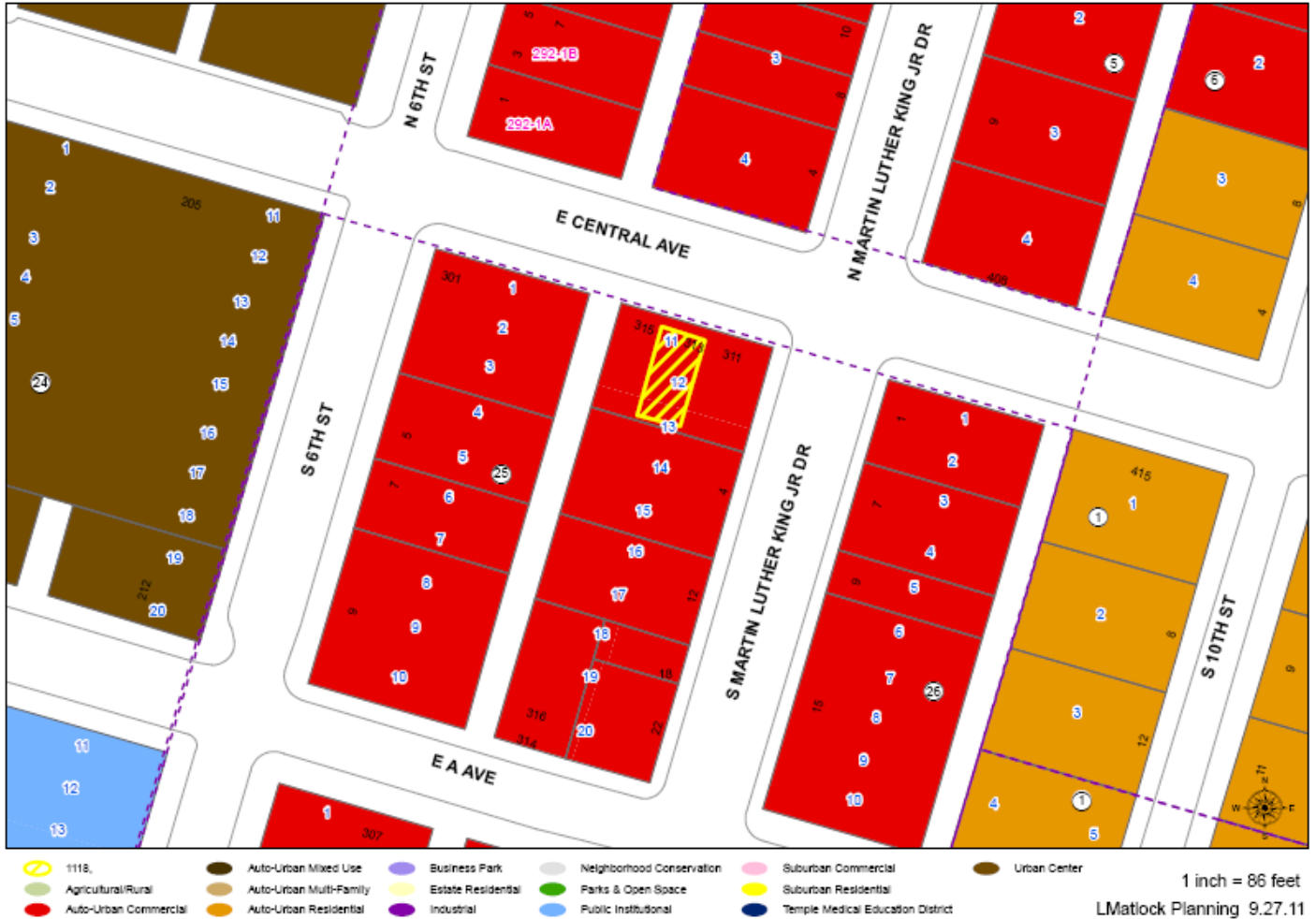
LMatlock Planning 9.2.11



Z-FY-11-48

Portion of Lots 11, 12, and 13,
Block 25, Roach Addition

313 E. Central Avenue





Z-FY-11-48

Portion of Lots 11,12,and 13,
Block 25, Roach Addition

313 E. Central Avenue



-  Case 11-48
-  Zoning

Feet 0 50 100 150

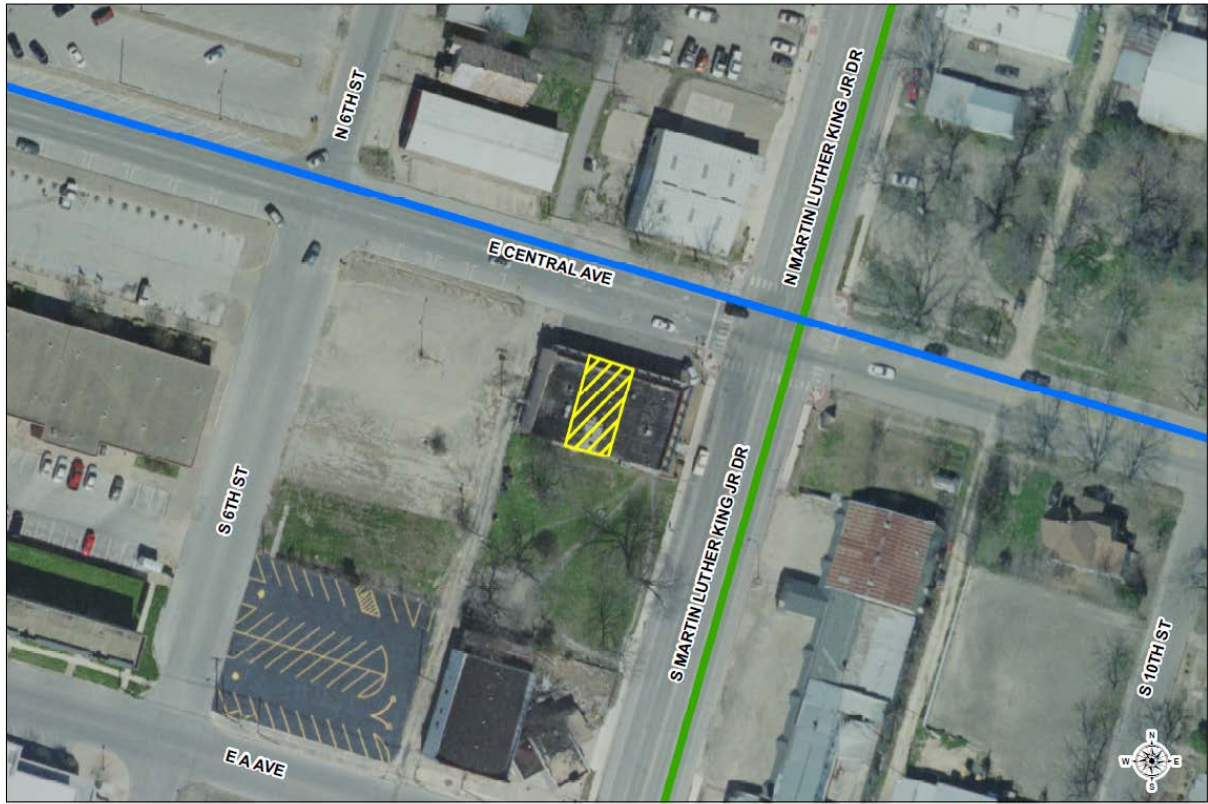
LMatlock Planning 9.27.11



Z-FY-11-48

Portion of Lots 11,12,and 13,
Block 25, Roach Addition

313 E. Central Avenue



- Major Arterial
- Minor Arterial
- Case ZFY 11-48

Feet 0 50 100 150

LMatlock Planning 9.27.11



Z-FY-11-48

Portion of Lots 11,12,and 13,
Block 25, Roach Addition

313 E. Central Avenue

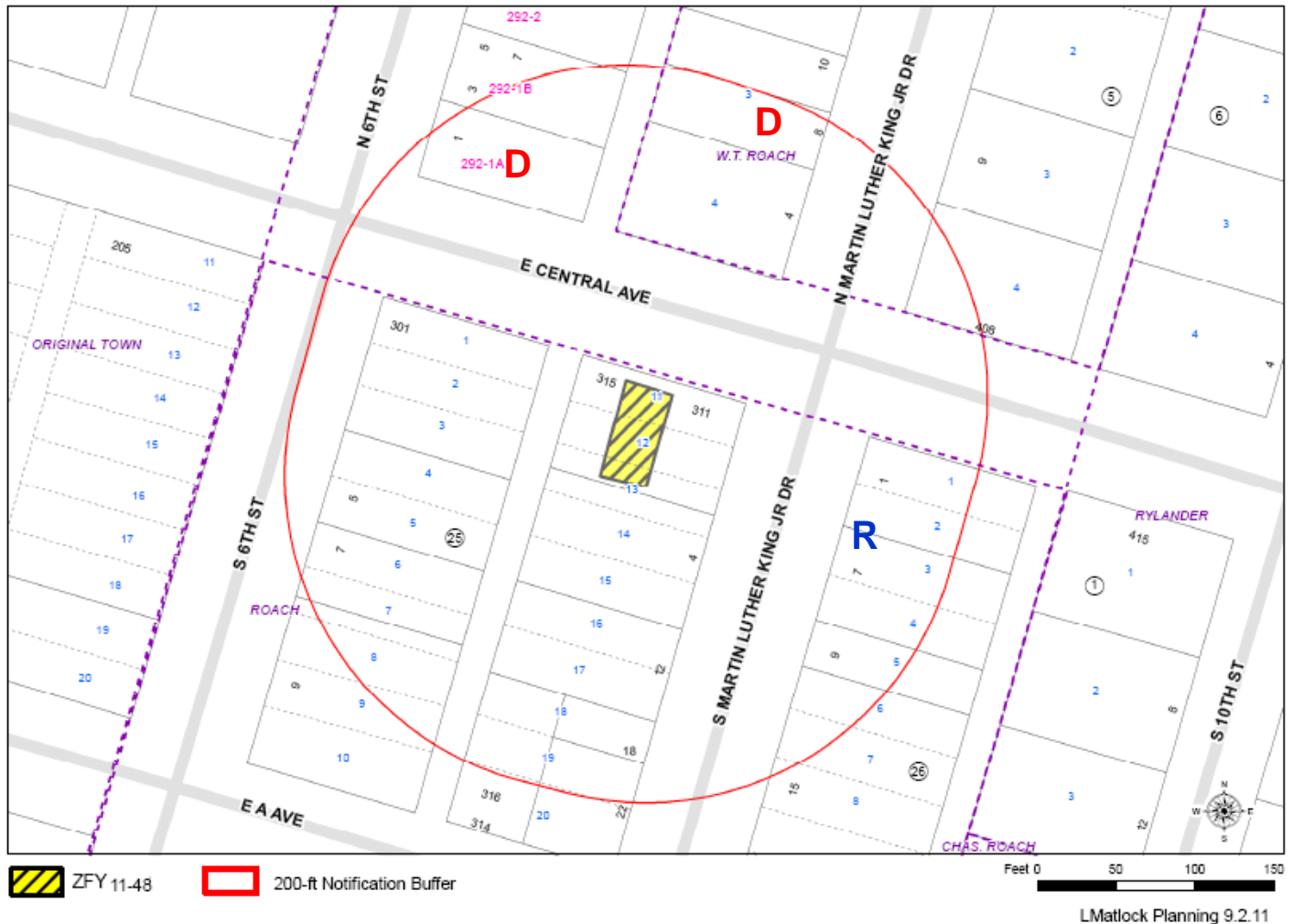




Z-FY-11-48

Portion of Lots 11,12,and 13,
Block 25, Roach Addition

313 E. Central Avenue



Returned mail addressed to:

Love Outreach Pentecostal Church I
15 South Martin Luther King Drive
Temple Texas 76501

8 Notices Mailed

0 Agree (A)

2 Disagree (D)

1 Returned Mail (R)

Public Notice Responses for this application:



RESPONSE TO PROPOSED
CONDITIONAL USE PERMIT
CITY OF TEMPLE

Richard Lewis Heating & Air Condition Ltd
1218 South 27th Street
Temple, Texas 76054

Zoning Application Number: Z-FY-11-48

Project Manager: Leslie Matlock

Location: 313 East Central Avenue

Proponent/Applicant: Muhammad Usman (Galaxy Retail Inc) for C's Investment

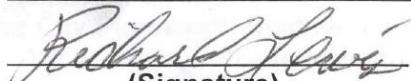
The proposed request for a Conditional Use Permit is the area shown in hatched marking on the attached map. The Conditional Use Permit will allow an off-premise consumption package store. Because you own property within 200 feet of the requested change, your opinions are welcomed. Please use this form 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:

city commission said they didn't
need 2 liquor stores on central &
I am taking out a remodel permit at
1 North 6th I just opened 2 in Keller

City commission said they didn't need 2 liquor stores on
central and I am taking out a remodel permit at
1 No. 6th. I just opened 2 stores in Keller.


(Signature)

Richard Lewis
(Print Name)

Please mail or hand-deliver this comment form to the address shown below, no later than October 17, 2011.

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

RECEIVED

OCT 11 2011

City of Temple
Planning & Development

Number of Notices Mailed: 8

Date Mailed: October 6, 2011



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

Amanda Krcha
8917 Oak Hills Drive
Temple, Texas 76052

Zoning Application Number: Z-FY-11-48

Project Manager: Leslie Matlock

Location: 313 East Central Avenue

Proponent/Applicant: Muhammad Usman (Galaxy Retail Inc) for C's Investment

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:

I strongly disapprove of any liquor store in this area. We have enough drunks around here as it is!

The parking around this store sucks — it would be much worse with a liquor store.

Amanda Krcha
(Signature)

Amanda Krcha
(Print Name)

Please mail or hand-deliver this comment form to the address shown below, no later than October 17, 2011.

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

RECEIVED

OCT 11 2011

City of Temple
Planning & Development

Number of Notices Mailed: 8

Date Mailed: October 6, 2011

October 12, 2011

Krcha's Auto Sales
10 N. Martin Luther King Jr. Dr.
Temple, Texas 76501

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

RE: Zoning Application Number: Z-FY-11-48
Location: 313 East Central Ave.

We recommend that the request for a Conditional Use Permit be denied. We do not need a liquor store in our neighborhood. We have continued to watch homeless and drunk people in our area for years and do not think a liquor store would be in the best interest of the City of Temple. There are almost as many liquor stores now in Temple as there are fast food restaurants. The proposed site is nothing more than a drug hangout and having a liquor store would make it worse.

Sincerely,



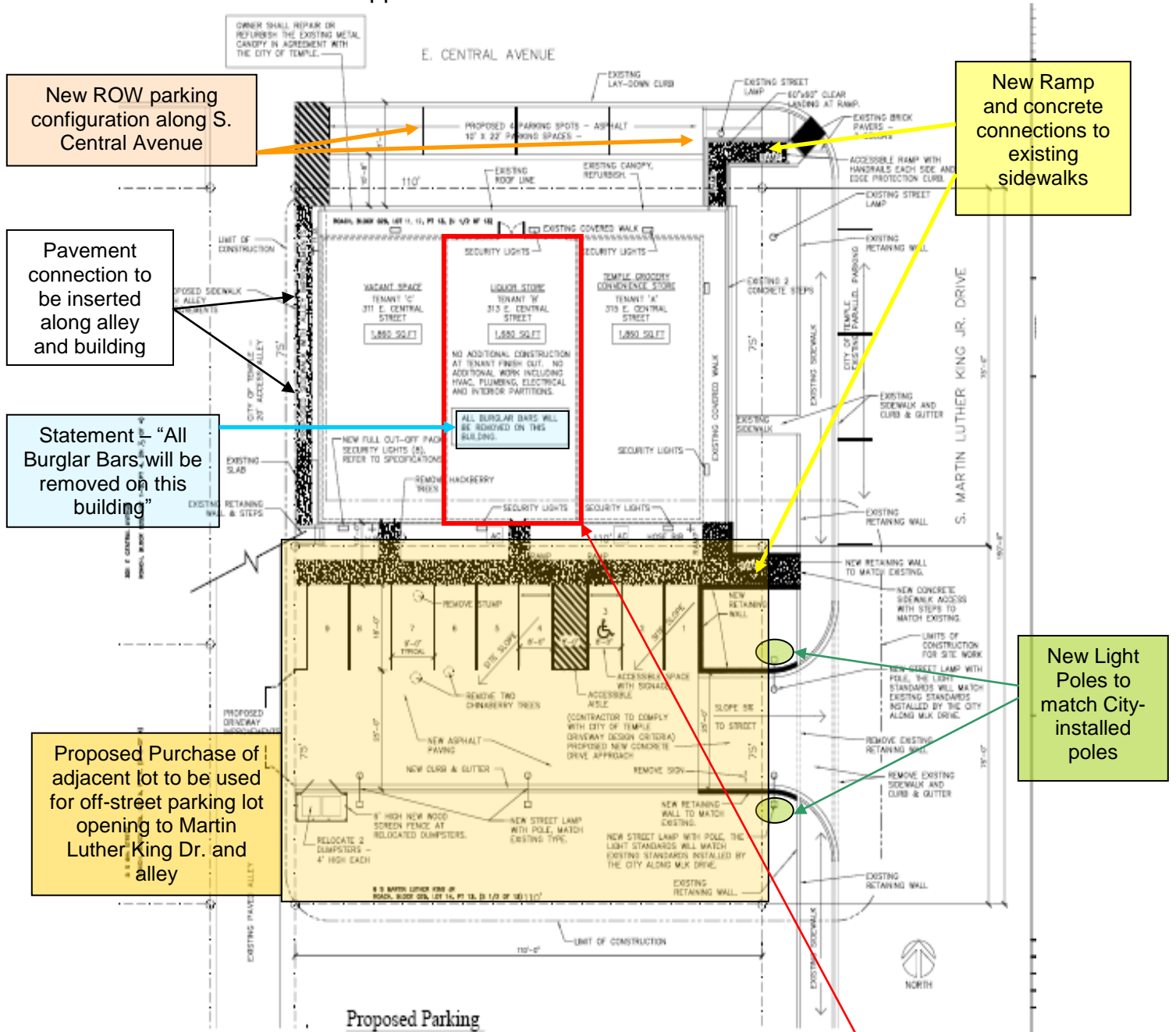
David Krcha

RECEIVED

OCT 13 2011

City of Temple
Planning & Development

Applicant Site Plan with Staff Illustrations



Proposed Parking Site Plan

1
SCALE: 1" = 10'-0"

PLANNING	
a.	LOT SIZE = 0.189 ACRES, 8,250 square feet
b.	BUILDING AREA = 5,400 square feet
c.	BUILDING HEIGHT = 13.42 feet
d.	SQUARE FOOTAGE:
i.	ENTIRE RETAIL BUILDING = 5,400 square feet
ii.	PROPOSED PACKAGE STORE LEASE SPACE = 1,680 square feet
e.	TOTAL REQUIRED PARKING REQUIRED FOR CONVENIENCE STORE AND RETAIL SPACE = 15 SPACES
f.	TOTAL PARKING NEEDED FOR PACKAGE STORE = 7 SPACES
g.	TOTAL PARKING FOR ALL USES: EXISTING AND PROVIDED = 18 SPACES
i.	ON-STREET SPACES EXISTING 12 SPACES : PROPOSED 7 SPACES.
ii.	OFF-STREET SPACES EXISTING 0 SPACES : PROPOSED 9 SPACES.
iii.	ACCESSIBLE PARKING = ONE (1) SPACE PROPOSED.
GENERAL NOTES:	
THE LIGHT STANDARDS WILL MATCH EXISTING STANDARDS INSTALLED BY THE CITY ALONG MLK DRIVE.	
ALL BURGULAR BARS WILL BE REMOVED ON THIS BUILDING.	
OWNER SHALL REPAIR OR REFURBISH THE EXISTING METAL CANOPY IN AGREEMENT WITH THE CITY OF TEMPLE.	

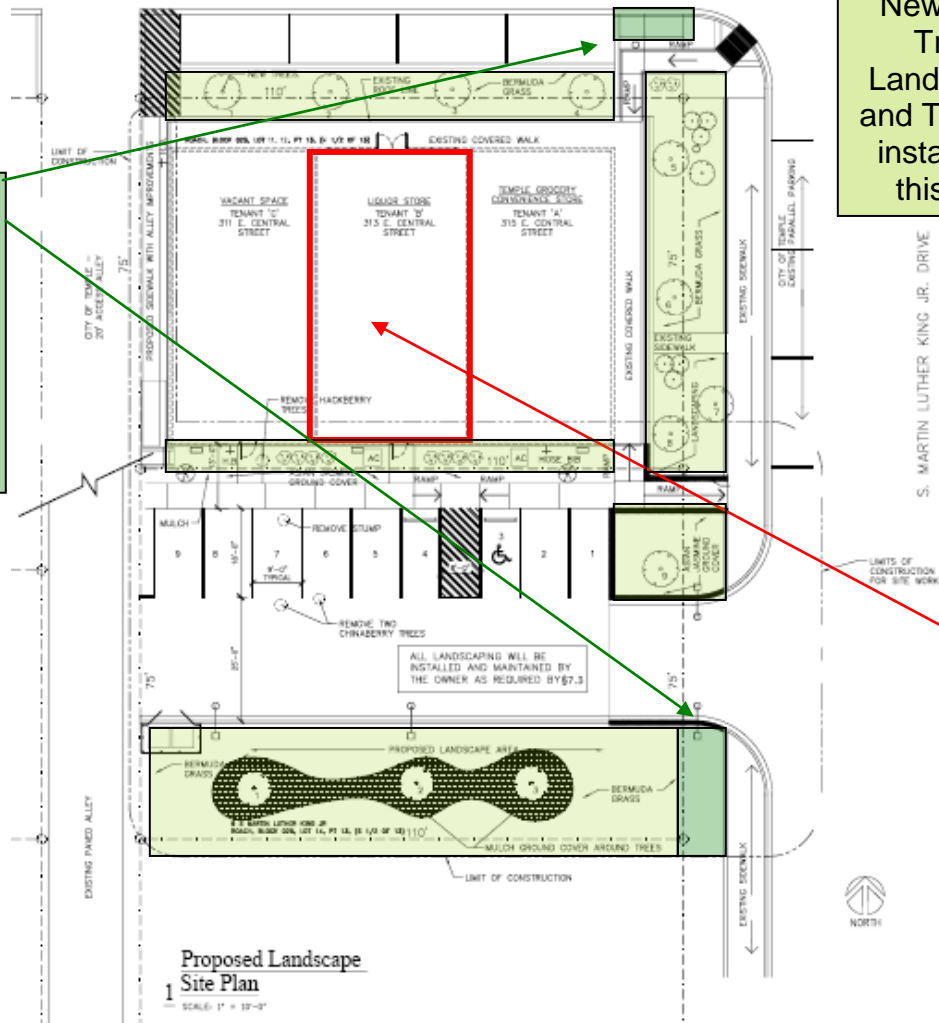
Applicant Landscape Plan with Staff Illustrations

E. CENTRAL AVENUE

Areas that should be landscaped and maintained with either shrubs or turf

New Street Trees, Landscaping and Turf to be installed for this CUP

Proposed Package Store Lease Site



PLANNING	
h. LANDSCAPING REQUIRED: 50%; PROVIDED = 1.3% OF THE BUILDING SITE	PROVIDED = 36% OF PARKING LOT SITE
i. NUMBER OF TREES REQUIRED (0); PROVIDED THREE (3) FOR LANDSCAPING.	
j. NUMBER OF TREE REQUIRED SEVEN (7); PROVIDED (9) FOR STREET FRONTAGE	SEE LANDSCAPE LEGEND
LANDSCAPE LEGEND	
PLANT / TREE SCHEDULE	
	8 - 2.5" CALIPER LIVE OAKS
	4 MULTI TRUNK CREPE MYRTLES
	2-RED / 2-WHITE
	8 - CLUMP OF NODINAS
	2 - INDIAN HAWTHORNE
	6 - CLUMP OF YOUNGONS
	700 SQUARE FEET - MULCH AREA 4" PINE BARK MULCH TOPPING.
	400 SQUARE FEET - PROPOSED GROUND COVER AREA JASMINE GROUND COVER.
	±3,900 SQUARE FEET - PROPOSED BERMUDA GRASS AREA.
	IRRIGATION PROVIDE 3 HOSE BORES = 100' EACH COVERING EACH PLANTING AREA, INCLUDING GROUND COVER AREAS.

GENERAL NOTES:
ALL LANDSCAPING WILL BE INSTALLED AND MAINTAINED BY THE OWNER AS REQUIRED BY §7.3

To,

The City Council/Planning Department

SUBJECT: CUP Application

Dated: 03/02/2011

Dear Sir/Madam,

I as an Officer of the company wanted to add some comments to the CUP application by submitting this letter.

First of all I am a small business owner, and this will be the only Liquor store business, I will have if the CUP application is granted. Already all the TABC permits and county permits for this particular location are secured and all the furniture and Inventory is being purchased and secured on the location. Also security systems, Handicap Accessible restroom, camera systems are installed. In short I can safely say that the store is in a ready to go condition. The store can be opened within 30-60 days after the CUP application is granted and the work according to the CUP application is done.

Also I came to know that the City has approved another Liquor store in the same neighborhood. I must state that as our proposed parking is on the south side of the store so we will be catering more to the south and MLK side of the road, which is a 2-way road. I must state that the presence of 2 liquor stores will not make people buy more alcohol, but will only generate competitive prices. For example if some body wants to buy a bottle of red wine before going home, he will not buy one bottle each from both the stores but will try to buy at the store which has a better price. Also no development has been done by the other Liquor store, even approx 4 months after their CUP application approval. No application with TABC is made.

At the last I must state that after meeting with the City Planning department and working out on the plans, I have the understanding that this will be a high cost project. This project will also affect the Grocery store, which is in the same business strip as the proposed Liquor store. Their parking spaces will be reduced to almost half during the construction phase of the project. I must suggest the City to also consider the following,

1. We should be allowed up-to 5 years to keep the burglar bars as the area is still developing. There is no business around us for 200 feet but the grocery store. All are either closed or vacant lots. I must clarify as a retail business owner, that we don't like to put the burglar bars either, as it may scare away a good customer and it does not give good impression also. We will take them away as soon as possible within the time frame as suggested by the City Counsel and Planning Department.

RECEIVED

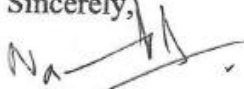
MAR 04 2011

City of Temple
Planning & Development

2. As the primary requirement for the Liquor store in this location is the parking space, which we have suggested on the south side of the store. I request that we be allowed to start the business as soon as the parking space is developed including Ramps, Handicap parking and other stuff related to proper parking requirements. But we should be allowed one year to complete the landscaping/parking part of the project, in front of the suggested store. This should allow our next-door store to operate without facing hardship due to us. This will also allow us to start the business as soon as possible and manage the total expenditure of the project over the course of a year. Also taxes will be paid and at least 3 jobs will be created sooner then later.

Please note that the above points are only suggestions and hopefully City Counsel and Planning Department will take note of our viewpoint of the CUP application.

Sincerely,



Muhammad N Usman
President
Galaxy Retail Inc.

RECEIVED

MAR 04 2011

City of Temple
Planning & Development

APPLICANT: Mohammed Naveed Usman on behalf of Galaxy Retail, Inc.

CASE MANAGER: Leslie Matlock, AICP, Senior Planner

ITEM DESCRIPTION: Z-FY-11-48 Hold a public hearing to discuss and recommend action on a Conditional Use Permit to allow a package store with alcoholic beverage sales for off-premise consumption on a Portion of Lots 11,12,and 13, Block 25, Roach Addition, commonly known as 313 E. Central Avenue, zoned Central Area (CA) District.

BACKGROUND: This site is the center lease space of a three-business retail building on the southwest corner of N. Martin Luther King Jr. Drive and E. Central Avenue. It is located across the street from 1 N. 6th Street, Case Z-FY-10-33, an approved package store which received a Conditional Use Permit (CUP) in August of 2010. That case, Z-FY-10-33, was originally denied earlier in the same year. It was revised and brought back to the Commission and Council where it was approved. The approved CUP site plan shows demolition of the neighboring duplex for a parking lot and on-site landscaping. That business has not yet opened and the demolition of the duplex to the north has not taken place as of this date.



Z-FY-10-33 CUP
Approved Package
Store, still unopened at
1 North 6th Street





Subject Property across
same block face at
313 East Central Avenue



This case was originally heard in April of this year as Z-FY-11-18. The P&Z held a public hearing, and approved the CUP request subject to the CUP site plan and with the condition that the building's burglar bars be removed after one year in business. The City Council then held a public hearing and discussed the case. Council members expressed concern about the close proximity of the other package store approved on the same block face. The case did not receive a motion for or against; therefore, it was denied for lack of a motion. Minutes are attached at the end of this report for your convenience.

The Applicant has resubmitted this case after six months of the case denial in compliance with the provisions of the Unified Development Code (UDC).

Surrounding Property and Uses

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

Direction	Zoning	Current Land Use	Photo
Subject Property	CA	Retail Building with 3 lease spaces - Convenience Store occupies east side, Package Store proposed in center space, and vacant lease space on the west side.	
Subject Property	CA	Additional view +to the west from corner of N. Martin Luther King Jr. Drive and E. Central Avenue to front of subject building and entrance of subject proposal.	
North	CA	Vacant Commercial Building siding on E. Central Avenue.	
South	CA	Vacant Lot (Proposed site of additional off-street parking lot to be added if approved; subject building on right)	

Direction	Zoning	Current Land Use	Photo
East	CA	Vacant Commercial Building (former church)	
West	CA	Alley and Paved Parking Lot west of subject building	

COMPREHENSIVE PLAN COMPLIANCE REVIEW: The proposed CUP relates to the following goals, objectives or maps of the Comprehensive Plan and Sidewalk and Trails Plan:

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

* = See Comments Below CP = Comprehensive Plan STP = Sidewalk and Trails Plan

Future Land Use and Character (CP Map 3.1)

The request conforms to the Future Land Use and Character Map which designates the property as Auto Urban Commercial. This use is classed as retail and is compatible with the Future Land Use and Character Map, but because of its nature, requires discretionary judgment in districts which allow the use.

Thoroughfare Plan (CP Map 5.2)

This request conforms to the Thoroughfare Plan since the subject tract has access to E. Central Avenue and N. Martin Luther King Jr. Drive. Both are designated as Arterial streets. The surrounding area is in transition and most surrounding lots are underutilized. This strip center has three tenant spaces and for at least the last five years, has had two spaces empty. Traffic congestion will not be

unreasonably increased by this proposed use nor will it require a change in the infrastructure surrounding this lot.

Availability of Public Facilities (CP Goal 4.1)

A four- and an eight-inch water line and an eight-inch sewer line currently serve the site. No additional services are required for this use.

CONDITIONAL USE SITE PLAN REVIEW:

If the City Council approves this CUP request, the site must be developed according to the approved CUP site plan before the proposed package store may open for business. Below are some critical elements of the CUP site plan along with explanatory notes.

Parking

In the CA, Central Area District, off street parking is not required of businesses locating there. In Sec. 5.3.16 of the UDC however, package stores are required to have one on-site parking space per 250 square feet of retail area, even in the CA District. The regulation requires a minimum of seven spaces of this lease space. The applicant has purchased the adjacent vacant lot, to provide nine off-street parking spaces. The lot is behind the building and fronting on Martin Luther King Jr. Drive. Parking behind the subject building satisfies the “on-site” parking requirement as direct access to the building is possible. This will also serve as overflow for the other lease spaces in the building. There is also a large parking lot to the west that is underutilized.



Photo shows a car in one of the seven perpendicular parking spaces in front of this proposed liquor store which back into traffic on Central Avenue.

There are currently seven perpendicular on-street spaces along the street perimeter of this lot and three parallel spaces on Martin Luther King Jr. Drive right-of-way. Staff has asked that the perpendicular parking space frontage be removed and reoriented to have four parallel spaces on E. Central Avenue. Vehicle maneuvering into E. Central Avenue directly backs into the east-bound turning queue. Parallel parking spaces would increase vehicle safety along this right-of-way and would also free up an area with which to plant required landscaping and improve pedestrian access (see section below).

Landscaping and Hardscaping

Staff has requested that the applicant improve the lot to the basic standards that are within the landscaping portion of the UDC and to complete pedestrian links to the new parking lot and the existing sidewalks from the building. This plan is attached to the end of the report.

Landscaping proposed includes planting one, six-foot or taller, approved tree for every 40-ft of street frontage, and to cover any other irrigated unpaved area with ground cover, which can include turf, Asian jasmine or similar species. Because the parking is being rearranged along E. Central Avenue, part of the parking spaces on private and public right-of-way can be removed for the planting area. Additionally, along the Martin Luther King Jr. Drive side of the building, there is a portion of unpaved

area that currently has minimal landscaping. Because this would be the access area for patrons parking in the proposed onsite parking area behind the building, Staff has requested the applicant to add trees and ground cover, which is shown on the site plan.

The applicant shows the requested access connections from the building to the street in the form of ADA-compliant ramps, as this building is higher than the surrounding street and sidewalk level. He has additionally provided light standards at the entrance of the parking lot in the landscaped areas that match with the City installed Acorn-styled globes and historic posts.

Building Elevation Improvements:

The building dates from the early 1970's and is in need of repair. The canopy around the face of the building has damage, and Staff has requested that it be repaired and the entire canopy be repainted. The applicant has agreed to this.



Current canopy damage on far west side of Central Ave. building elevation.



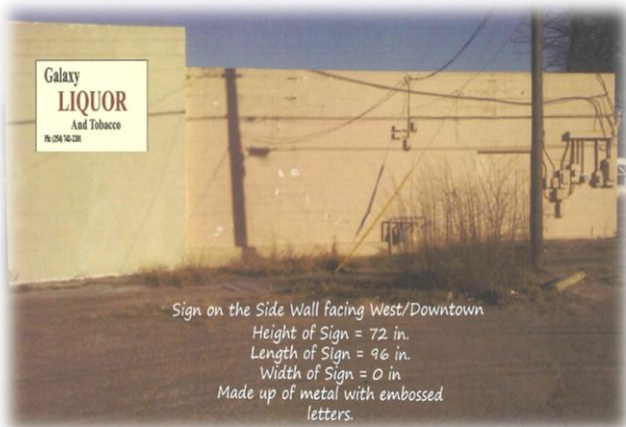
These photos show the aluminum bars on the windows of the convenience store and the proposed liquor store.

Signs

Staff requested a mock up of the signs that the Applicant planned to install. The photos below reflect the proposed signs \ and will not be part of the CUP ordinance. They show that the applicant intends to place professionally-produced signs in proportion with the size of the building.



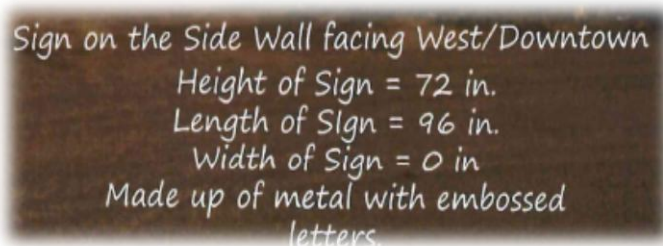
Applicant provided illustrations.



Alley side of the building – visible from
East Central Avenue- proposed size below



Yellow Sign is proposed. Existing window signs shown
along bottom of windows – actual sizes are below



Location

Staff has raised the concern as to whether this subject property is a good location for a package store, given the recent approval of another package store across the street. 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 decision guide, the UDC establishes seven general criteria for evaluation of all CUPs. They are listed below for the P&Z's consideration:

- A. The conditional use is compatible with and not injurious to the use and enjoyment of the property, and does not significantly diminish or impair property values within the immediate vicinity.
- B. The establishment of the conditional use does not impede the normal and orderly development and improvement of surrounding vacant property.
- C. Adequate utilities, access roads, drainage, and other necessary support facilities have been or will be provided.
- D. 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.
- E. Adequate nuisance prevention measures have been or will be taken to prevent or control offensive odors, fumes, dust, noise and vibration.
- F. Directional lighting is provided so as not to disturb or adversely affect neighboring properties.
- G. There is sufficient landscaping and screening to insure harmony and compatibility with adjacent property.

PUBLIC NOTICE:

Eight notices of the Planning and Zoning Commission public hearing were sent to surrounding property owners. As of Wednesday, October 12th at 5 PM, no notices were returned in favor of and two notices was returned in opposition to the request. One notice was returned by the Post Office as undeliverable. The newspaper printed notice of the Planning and Zoning Commission public hearing on October 6, 2011, in accordance with state law and local ordinance.

The returned undeliverable notice was addressed to the Love Outreach Pentecostal Church. Temple Code of Ordinance Section 4-2 states it is an offense for sales of alcoholic beverages within 300-feet of a Church, public school or public hospital. This section is referenced to the State Alcoholic Beverage Code. The building in question is within 300 feet from front door to front door and along property lines.

Staff referred the issue to the Deputy City Attorney who researched the Attorney General opinions. She believes that the Church has to be in operation in order for this restriction to apply to an alcoholic beverage sales business. Staff called the contact number posted in the window of the shuttered building, and followed up by calling other Pentecostal Churches in the area for a current number. Because there is no activity in the building, this Package Store has been forwarded to the Planning and Zoning Commission and the City Council for consideration.

STAFF RECOMMENDATION: No recommendation, per direction of the City Council. If the P&Z recommends approval of the CUP request, please base the recommendation on the submitted site plan with the additional condition that landscaped areas be extended to the areas west of the parallel parking along E. Central Avenue and east of the landscaped area on the parking lot. The P&Z may again recommend that burglar bars be allowed on the building for a maximum of one year after issuance of a Certificate of Occupancy for the building.

FISCAL IMPACT: Not Applicable

ATTACHMENTS:

[Planning and Zoning Minutes Excerpt, March 7, 2011, Original CUP Submission Hearing](#)
[City Council Minutes Excerpt, April 21, 2011, Original CUP Submission Hearing](#)

[Aerial](#)

[Land Use and Character Map](#)

[Zoning Map](#)

[Utility Map](#)

[Notice Map](#)

[Response Letters](#)

[CUP Site Plan](#)

[CUP Landscaping Plan](#)

[Applicant Narrative Dated March 2, 2011](#)

PLANNING AND ZONING COMMISSION

Approved Meeting Excerpt

March 7, 2011

Item 3: Z-FY-11-18: Hold a public hearing to discuss and recommend action on a Conditional Use Permit to allow a package store with alcoholic beverage sales for off-premise consumption on a Portion of Lots 11,12,and 13, Block 25, Roach Addition, commonly known as 313 E. Central Avenue, zoned Central Area (CA) District. (Mohammed Naveed Usman for Galaxy Retail, Inc.)

Ms. Leslie Matlock, Senior Planner, stated this was a CUP request for a package store located at E. Central and MLK on the east side of a three store building, currently zoned Central Area (CA) and across the street from another package store.

Property surrounding the subject building includes a vacant commercial building to the north, a vacant parcel to the south (applicant's proposed parking lot), a non-residential building to the east (formerly a church), and a paved parking to the west. Land uses of surrounding areas are also given.

Ms. Matlock reads the CUP criteria for the benefit of newer Board members.

- A. The conditional use is compatible with and not injurious to the use and enjoyment of the property, and does not significantly diminish or impair property values within the immediate vicinity.
- B. The establishment of the conditional use does not impede the normal and orderly development and improvement of surrounding vacant property.
- C. 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.
- D. Adequate nuisance prevention measures have been taken to prevent or control offensive odors, fumes, dust, noise and vibration.
- E. Directional lighting is provided so as not to disturb or adversely affect neighboring properties.

Ms. Matlock states the entrance to the package store would be along East Central Avenue and the lot boundaries are described including the lot at the rear of the building where the parking area would be located. There is some perpendicular parking available along East Central Avenue and three parking spaces along Martin Luther King Drive.

Pedestrian passageways would be connecting to the sidewalk already in place. Sidewalks and access to the building, along with a ramp, would be put in the rear of the building. Curbing and edging would be installed around the ramp in the parking lot and a new retaining wall would be constructed between MLK and the parking lot. Applicant would install additional acorn lights to match the current City acorn lights.

The applicant has proposed to put in all required street trees with landscaping along the adjacent streets and trees and landscaping in the rear along the building and around the parking area. The applicant has proposed to repair and repaint the canopy and remove all burglar bars. The signs (not part of the CUP) will be professionally painted and proportional with the building.

Eight notification letters were mailed out: Two letters were received recommending denial and one was received in favor of the request.

Vice-Chair Martin asked about the burglar bars being removed since Mr. Usman requested in his letter that the bars be left up for five years. Ms. Matlock explained the applicant's letter arrived after the P&Z packet was finalized and sent out to the Commissioners.

Commissioner Pilkington stated the request as presented seems to meet all requirements.

Chair Talley asked if the building across the street was no longer a church and Ms. Matlock confirmed. Due diligence was done in trying to contact someone at that building but attempts was unsuccessful.

Chair Talley asked about the handicapped parking and that the applicant only showed one handicapped space. Ms. Matlock stated only one handicapped space per every five parking spaces was required. This matter would also be reviewed during the permitting process.

Vice-Chair Martin opened the public hearing.

Mr. Mohammad Naveed Usman, 406 Verona Circle, Kyle, Texas, 78640, stated the convenience store owner was concerned about no parking during the construction phase. Mr. Usman suggested switching around the areas that need work in order to accommodate the neighbor's business. Mr. Usman also stated the burglar bars would be helpful for now since there are no other businesses in the immediate area around the building and requested they not be removed for four or five years. Currently, it would be difficult to remove them. He suggested a shutter could possibly be placed on the inside.

Vice-Chair Martin asked Mr. Usman if he had any problem with the timeline of redoing the rear parking area first, rather than the rest of the work. Mr. Usman said no, the City's main concern was no provided parking for the package store and did not want the applicant to use the public parking areas as they currently were laid out. It would take approximately a month to complete each section of work.

Mr. Usman stated someone has some concern about another liquor store across the street but that building is empty and nothing has been started yet.

Commissioner Rhoads asked for the customers who park in the back, would they would still need to walk around to the front to enter the store or would there be a rear entry and Vice-Chair Martin asked if the rear door would be opened to the public. Mr. Usman stated according to TABC law, he could not open the rear door to the public since the rear door was specifically for loading and unloading. A store was required to have two entries: one for the rear for loading and unloading and one in the front for customers.

Commissioner Pope asked what portion of the work Mr. Usman was asking to be delayed for a year and Mr. Usman stated the landscaping and everything on the south side should be completely finished first.

Ms. Matlock stated in the CO (Certificate of Occupancy) process, starting at the time that a building permit is issued, the applicant only had six months to build whatever he was going to build. The CO would be issued after the building was finished if it complied with the approved CUP site plan and approved building permit. Vice-Chair Martin stated and clarified Mr. Usman would have only six months, not one year, to complete everything he needed to do after the building permit is approved. Mr. Usman stated he understood. Vice-Chair Martin stated in order to get a CO, all of the work,

landscaping, parking, etc., was to be completed before the business would be able to open and Mr. Usman again concurred.

Mr. Brian Armstrong, 117 East Bob White Lane, Harker Heights, Texas 76548, stated he had some pictures of the site as it currently sits and they were ready to open for business. (*Handed out pictures to the Board*). Mr. Armstrong felt it would be better to leave the burglar bars on for now since the store currently contained inventory and stock and the time requested to leave the bars up (4-5 years) would allow them an opportunity to find another method of securing the premises.

Commissioner Rhoads stated the applicant had a lot to do with the landscaping and parking lot before opening for business. Mr. Armstrong stated that the work could be done within the six month period. Vice-Chair Martin asked Mr. Armstrong if he understood the business would not be opened until all of the work was done and Mr. Armstrong stated he understood.

Mr. Armstrong stated they were requested by staff to take down the burglar bars. Ms. Matlock explained the business was originally opened, without a CUP, and the applicant was asked to close the business and go through the process to obtain a CUP which is why the store looks ready to open. Mr. Armstrong stated there was also a request to take their business sign down and it was removed. (*Hands out pictures to Board*).

Commissioner Rhoads asked how long the business had been opened. Mr. Usman stated approximately 30 to 40 minutes and then they were asked to shut down because they needed a permit. Mr. Usman stated they were not currently opened and did not know they needed a permit.

Commissioner Sears asked if a permit was ever pulled for the initial construction (remodeling) inside. Ms. Autumn Speer, Director of Community Services, stated they did not pull a permit but have been very cooperative since asking them to shut down and go through the permit process. Chair Talley stated that as a business owner, Mr. Usman should have known that ahead of time. Mr. Usman stated closer to Austin, if there are no structural changes, usually you do not need a permit. Ms. Speer stated to her knowledge, no major renovation took place inside the building for the required permit. The City of Temple does not have a CO process for a change of occupancy in place, however, one is being worked on to help applicants know what is required to do business.

Commissioner Pilkington asked about the burglar bars and if the City did not want them. Ms. Speer stated burglar bars send a message about the neighborhood and the applicant was asked to remove them. Ms. Speer stated she felt the City could work with the applicant regarding the bars considering all of the circumstances involved, and a time limit was up to the Board. Commissioner Pope stated burglar bars were not an issue last year on the package store across the street and did not feel these bars should be an issue on this store.

Commissioner Rhoads asked if the other store (across the street) was opened and the response was no. Mr. Armstrong stated it was his understanding that the applicant who was granted a CUP had not yet applied for the TABC license and the store was currently empty. Mr. Armstrong stated one of the denial letters was from the applicant across the street because he did not want competition in the area.

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

Commissioner Pilkington asked how the Board should indicate a time limit for the burglar bars and Ms. Matlock replied it could be stated in the motion and would then be included in the Ordinance. Commissioner Pilkington asked if there was an easy way to track this and Ms. Speer stated a Code Enforcement Officer would check on the applicant.

Vice-Chair Martin stated when a CUP is discussed, the phrase “diminish or impair the property within the immediate vicinity” always comes up. Vice-Chair Martin felt the applicant’s site plan covered the landscaping and parking requirements and did not feel it diminished or impaired the property in the immediate vicinity of the area. Commissioner Pilkington agreed with Vice-Chair Martin and said the area would look very nice once completed.

Commissioner Pilkington made a motion to approve the CUP for **Z-FY-11-18** as presented with the additional condition that the burglar bars would be allowed to stay for up to one year after opening and then must be removed. Commissioner Sears made a second.

Commissioner Pope wanted clarification that the bars would be allowed for one year and not five years and Commissioner Pilkington stated yes. Commissioner Pope stated while the site was under construction and not opened for business, the bars could be very valuable to the applicant.

Motion passed: (7:0)

Commissioners Staats and Williams absent

CITY COUNCIL
Approved Meeting Excerpt
April 17, 2011

7. 2011-4436: FIRST READING - PUBLIC HEARING - Z-FY-11-18: Consider adopting an ordinance authorizing a Conditional Use Permit allowing a package store on a portion of Lots 11, 12, and 13, Block 25, Roach Addition, commonly known as 313 East Central Avenue, zoned Central Area (CA) District.

Autumn Speer, Director of Community Services, presented this case to the City Council. She showed the location of the other property in close proximity where the Council previously approved a Conditional Use Permit for a package store. Mrs. Speer also displayed photos of the surrounding vacant property and the proposed site plan, noting parking, landscaping and facade improvements to be made by the applicant.

The Planning and Zoning Commission recommended approval with the condition that the burglar bars be allowed to remain for 12 months from issuance of the Certificate of Occupancy.

Of the notices sent to surrounding property owners, two negative responses were received and one in approval.

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

Mr. Mohammed Naveed Usman, the applicant, discussed his plans for redeveloping one of the other vacant spaces in this strip center. The Texas Alcoholic Beverage Permits have already been acquired for this location.

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

Councilmember Janczak stated he does support the establishment of package stores in Temple but is concerned with the close proximity of this proposed store with one that was previously approved. He expressed concern with clustering of this type of business in a particular area.

Councilmember Dunn stated the citizens voted to allow package stores but that does not mean multiple ones are good in one location and he agreed with Councilmember Janczak's comments about the potential to do more harm because of the close proximity to the other package store.

There was no motion made regarding this item.

ORDINANCE NO. _____

[PLANNING NO. Z-FY-11-48]

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING A CONDITIONAL USE PERMIT TO ALLOW A PACKAGE STORE WITH ALCOHOLIC BEVERAGE SALES FOR OFF-PREMISE CONSUMPTION ON A PORTION OF LOTS 11, 12, AND 13, BLOCK 25, ROACH ADDITION, COMMONLY KNOWN AS 313 EAST CENTRAL AVENUE, ZONED CENTRAL AREA (CA) DISTRICT; DECLARING FINDINGS OF FACT; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND PROVIDING AN OPEN MEETINGS CLAUSE.

WHEREAS, the Unified Development Code 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, voted 6/1, in accordance with staff recommendation, to recommend approval of the CUP subject to the CUP site plan and with the condition that an burglar bars on the entire building be removed within a year's time of the opening of this business; and

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

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

Part 1: The City Council approves a Conditional Use Permit to allow a package store with alcoholic beverage sales for off-premise consumption on a portion of Lots 11, 12, and 13, Block 25, Roach Addition, commonly known as 313 East Central Avenue, 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 in accordance with the standards in Section 7.4 of the Unified Development Code.
- (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 in accordance with Section 3.5 of the Unified Development Code 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 3.5. of the Unified Development Code.

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 6.7.5.H of the Unified Development Code.
- (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.
- (t) The existing burglar bars may remain on the building for a maximum of one year after the Director of Construction Safety approves a certificate of occupancy for the package store.

These conditions run with the land and will be express conditions of any building permit issued for construction on the property. These conditions may be enforced by the City of Temple by an action either at law or in equity, including an action to specifically enforce the requirements of the ordinance.

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 **17th** day of **November**, 2011.

PASSED AND APPROVED on Second Reading on the **1st** day of **December**, 2011.

THE CITY OF TEMPLE, TEXAS

WILLIAM A. JONES, III Mayor

ATTEST:

APPROVED AS TO FORM:

Lacy Borgeson
City Secretary

Jonathan Graham
City Attorney



COUNCIL AGENDA ITEM MEMORANDUM

11/17/11
Item #8
Regular Agenda
Page 1 of 2

DEPT. / DIVISION SUBMISSION & REVIEW:

Brian Mabry, Planning Director

ITEM DESCRIPTION: FIRST READING – PUBLIC HEARING - Z-FY-11-51: Consider adopting an ordinance authorizing a rezoning from Multiple-Family One District (MF1) to General Retail District (GR) on ± 0.6 acres in Abstract 5, located on the north side of W. Adams Avenue/FM 2305, ±185-feet west of the Holy Trinity Catholic High School driveway, generally known as 6758 W. Adams Avenue.

P&Z COMMISSION RECOMMENDATION: At its October 17, 2011, meeting, the Planning and Zoning Commission voted 7/0, in accordance with staff recommendation, to recommend approval of the Zoning Change.

Commissioner Brown was absent.

STAFF RECOMMENDATION: Conduct public hearing and adopt ordinance as presented in the item description, on first reading, and schedule second reading and final adoption for December 1, 2011.

Staff recommends approval for the following reasons:

1. The request complies with the Future Land Use and Character Map.
2. The request complies with the Thoroughfare Plan
3. Public and private facilities are available to serve the property.

ITEM SUMMARY: Please refer to the Staff Report and draft minutes of case Z-FY-11-51, from the Planning and Zoning meeting, October 17, 2011.

The applicant, Lisa Joshlin, has requested the rezoning for future retail or medical development.

COMPREHENSIVE PLAN COMPLIANCE:

The proposed rezoning relates to the following goals, objectives or maps of the Comprehensive Plan and Sidewalk and Trails Plan:

Document	Policy, Goal, Objective or Map	Compliance?
CP	Map 3.1 - Future Land Use and Character Map	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
STP	Temple Trails Master Plan Map	Y

CP = Comprehensive Plan STP = Sidewalk and Trails Plan

The proposal complies with the documents listed in the table above.

DEVELOPMENT REGULATIONS:

The requested GR zoning district is the standard retail district and allows most retail sales, restaurants, grocery stores, department stores, or offices and all residential uses except apartments, with a maximum building height of 3 stories. This would be the zoning on areas that also contain shopping centers. There is no minimum lot area, width or depth.

The building setback for the front yard is 15 feet from the front property line. There is a minimum side yard setback requirement of 10 feet. If a residential use borders the nonresidential use to the rear, then 10 feet setback is required. A remnant portion of the MF1 zoning district is north of this area, making a rear setback requirement relevant to development on this parcel.

PUBLIC NOTICE:

Two notices were sent regarding the Planning and Zoning Commission public hearing to property owners within 200-feet of the subject property. As of Wednesday, October 12th, at 5 PM, no notices were returned in favor of and no notices were returned in opposition to the request. The newspaper printed notice of the Planning and Zoning Commission public hearing on September 30, 2011, in accordance with state law and local ordinance.

FISCAL IMPACT: NA

ATTACHMENTS:

[Aerial Map](#)
[Future Land Use and Character Map](#)
[Zoning Map](#)
[Thoroughfare Plan Map](#)
[Utility Map](#)
[Notice Map](#)
[P&Z Staff Report \(Z-FY-11-51\)](#)
[P&Z Minutes \(October 17, 2011\)](#)
[Ordinance](#)



Z-FY-11-51

0.60 Acre Portion of the
Nancy Chance Survey #5

6758 West Adams Avenue



ZFY 11-51

0 50 100 200 300 400 Feet

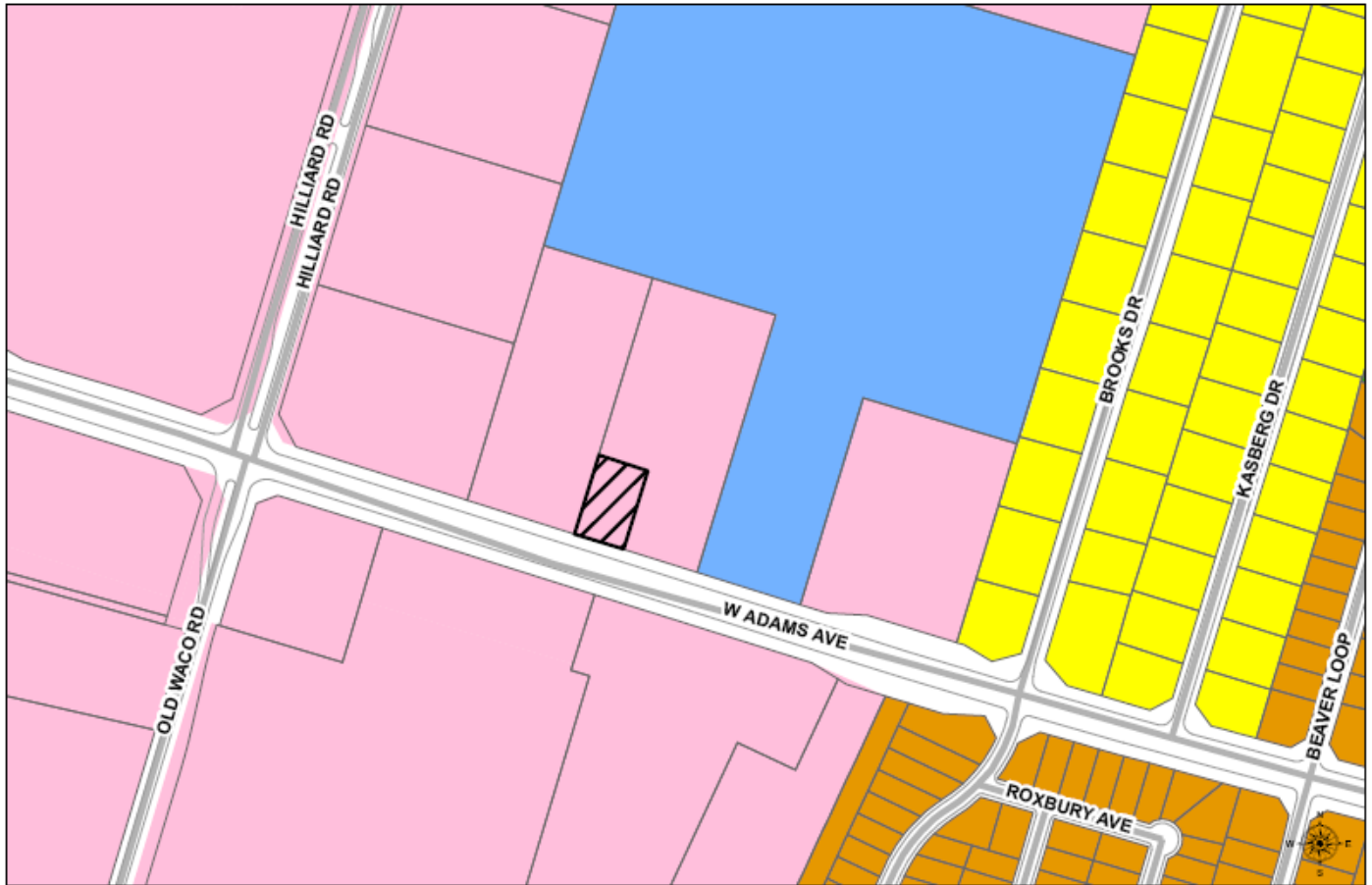
LMatlock Planning 9.23.11



Z-FY-11-51

0.60 Acre Portion of the
Nancy Chance Survey #5

6758 West Adams Avenue



- | | | | | | |
|-----------------------|-------------------------|--------------------|---------------------------|-----------------------------------|--------------|
| ZFY 11-51 | 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 = 329 feet

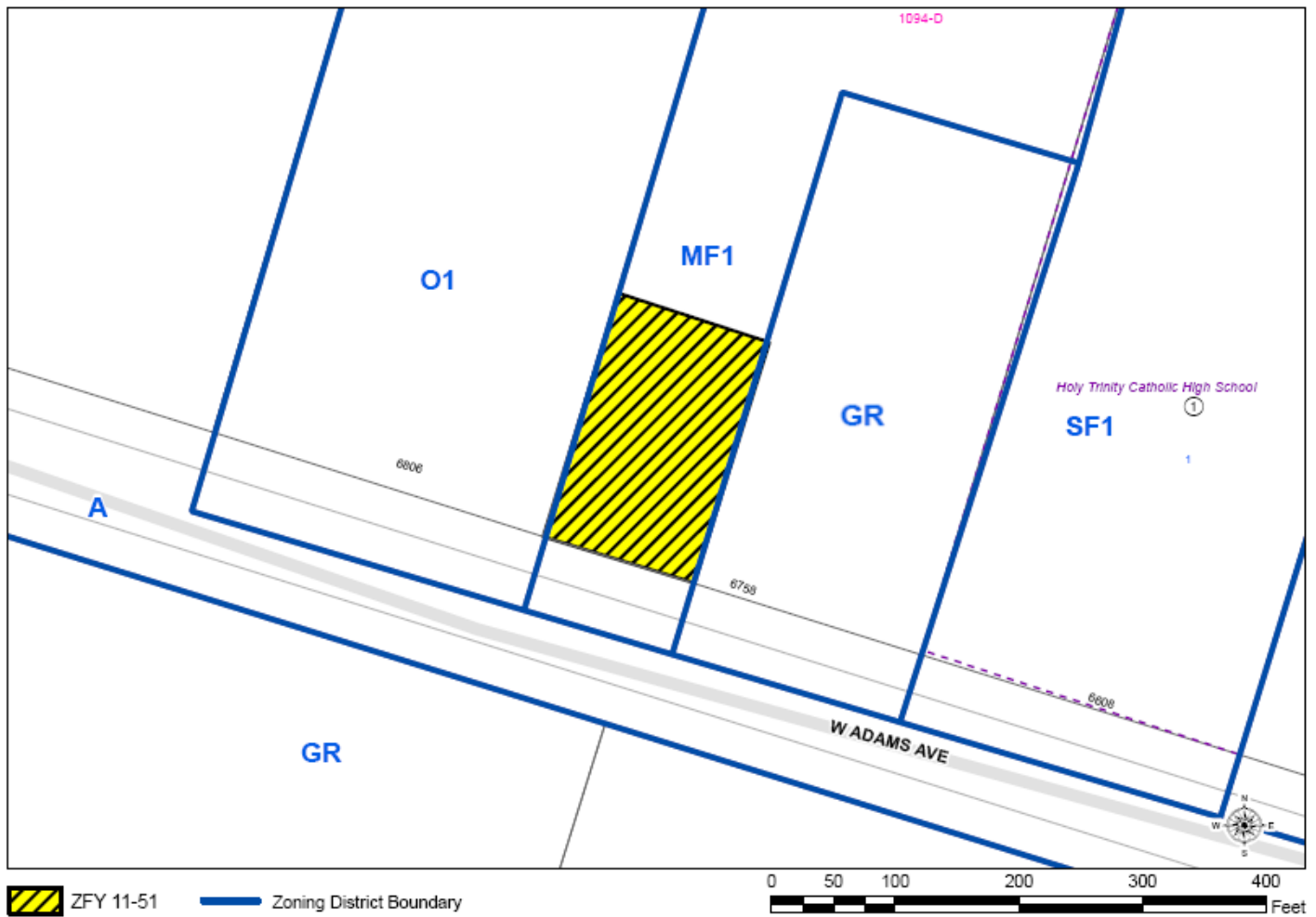
LMatlock Planning 09.23.11



Z-FY-11-51

0.60 Acre Portion of the
Nancy Chance Survey #5

6758 West Adams Avenue



LMatlock Planning 9.23.11



Z-FY-11-51

0.60 Acre Portion of the
Nancy Chance Survey #5

6758 West Adams Avenue



ZFY 11-51



Major Arterial

0 50 100 200 300 400 Feet

LMatlock Planning 9.23.11



Z-FY-11-51

0.60 Acre Portion of the
Nancy Chance Survey #5

6758 West Adams Avenue



ZFY 11-51

Domestic Water Line

Fire Hydrant

Sanitary Sewer Line

0 50 100 200 300 400 Feet

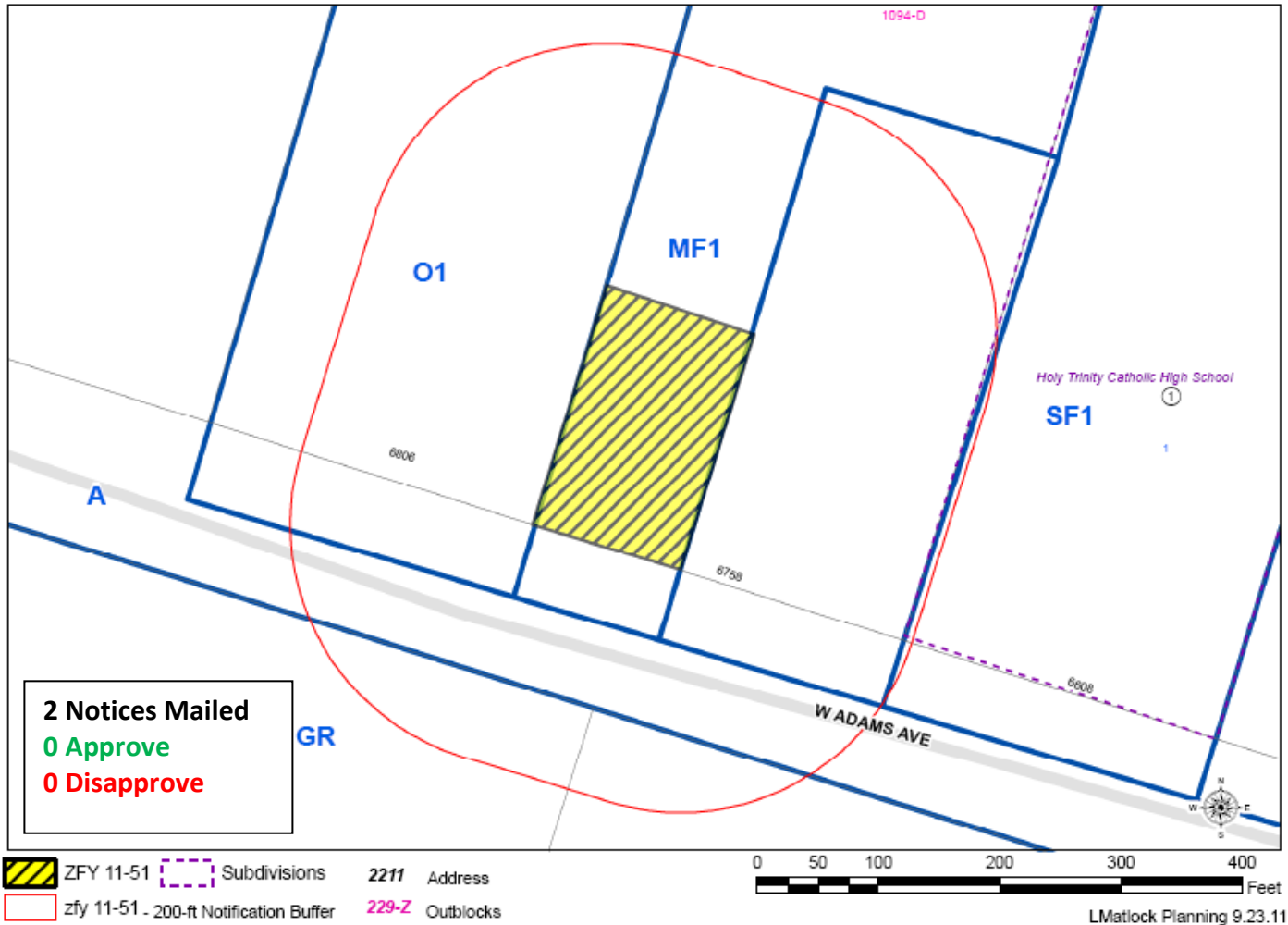
LMatlock Planning 9.23.11



Z-FY-11-51

0.60 Acre Portion of the
Nancy Chance Survey #5

6758 West Adams Avenue





PLANNING AND ZONING COMMISSION AGENDA ITEM

10/17/11
Item #5
Regular Agenda
Page 1 of 3

APPLICANT / DEVELOPMENT: BSP Engineers for Lisa Joshlin



CASE MANAGER: Leslie Matlock, AICP, Senior Planner




ITEM DESCRIPTION: Z-FY-11-51 Hold a public hearing to discuss and recommend action on a rezoning from Multi Family One District (MF1) to General Retail District (GR) ± 0.6 acres in Abstract 5, located on the north side of W. Adams Avenue/FM 2305, ±185-feet west of Holy Trinity Catholic High School driveway, generally known as 6758 W. Adams Avenue.

BACKGROUND: The applicant has requested the rezoning from MF1 to GR. The owner would like to expand the uses allowed on the property and suggests that a medical clinic may be built here. The subject property is adjacent to, and under common ownership with, an approximately 2.1-acre tract to the east that is already zoned GR.

SURROUNDING PROPERTY AND USES:

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

Direction	Zoning	Current Land Use	Photo
Subject Property	MF1 (GR proposed)	Undeveloped Land	
North	MF1	Undeveloped Land	

Direction	Zoning	Current Land Use	Photo
South	GR	Undeveloped Land	
East	GR	Undeveloped Land	
West	O1	Undeveloped Land	



Current Land Uses:

Yellow Outline –
Subject property

Unhighlighted Area –
Undeveloped agricultural uses

Blue Area –
Current driveway for Holy
Trinity High School to the north
(private drive, built after aerial
was shot)

Red Arrow –
Existing Spine Trail

COMPREHENSIVE PLAN COMPLIANCE:

The proposed rezoning relates to the following goals, objectives or maps of the Comprehensive Plan and Sidewalk and Trails Plan:

Document	Policy, Goal, Objective or Map	Compliance?
CP	Map 3.1 - Future Land Use and Character Map	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
STP	Temple Trails Master Plan Map	Y

* = See Comments Below CP = Comprehensive Plan STP = Sidewalk and Trails Plan

The proposal complies with the documents listed in the table above.

DEVELOPMENT REGULATIONS:

The requested GR zoning district is the standard retail district and allows most retail sales, restaurants, grocery stores, department stores, or offices and all residential uses except apartments, with a maximum building height of 3 stories. This would be the zoning on areas that also contain shopping centers. There is no minimum lot area, width or depth.

The building setback for the front yard is 15 feet from the front property line. There is a minimum side yard setback requirement of 10 feet. If a residential use borders the nonresidential use to the rear, then 10 feet setback is required. A remnant portion of the MF1 zoning district is north of this area, making a rear setback requirement relevant to development on this parcel.

PUBLIC NOTICE:

Two notices were sent regarding the Planning and Zoning Commission public hearing to property owners within 200-feet of the subject property. As of Wednesday, October 12th, at 5 PM, no notices were returned in favor of and no notices were returned in opposition to the request. The newspaper printed notice of the Planning and Zoning Commission public hearing on September 30, 2011, in accordance with state law and local ordinance.

STAFF RECOMMENDATION: Staff recommends approval of the rezoning for case Z-FY-11-51 for the following reasons:

1. The request complies with the Future Land Use and Character Map.
2. The request complies with the Thoroughfare Plan.
3. Public facilities serve the property.

FISCAL IMPACT: Not Applicable

ATTACHMENTS:

[Aerial](#)
[Future Land Use and Character Map](#)
[Zoning Map](#)
[Thoroughfare Plan Map](#)

[Utility Map](#)
[Trails Map](#)
[Notice Map](#)
[Responses \(if applicable\)](#)

**EXCERPTS FROM THE
PLANNING & ZONING COMMISSION MEETING
MONDAY, OCTOBER 17, 2011**

ACTION ITEMS

Item 5: Z-FY-11-51 – Hold a public hearing to discuss and recommend action on a rezoning from Multi Family One District (MF1) to General Retail District (GR) ± 0.6 acres in Abstract 5, located on the north side of W. Adams Avenue/FM 2305, ±185-feet west of Holy Trinity Catholic High School driveway, generally known as 6758 W. Adams Avenue. (BSP Engineers for Lisa Joshlin)

Chair Martin and Vice-Chair Staats asked to abstain from this item. Commissioner Pilkington led the meeting for Item 5.

Ms. Matlock stated this was a zone change from Multi-Family One District (MF1) to General Retail (GR) and the applicant was Lisa Joshlin. If approved, City Council first reading would be November 17th and second and final reading would be December 1st.

The subject property is a vacant lot. Surrounding properties include vacant properties on the north, south, east and west—the west having a new driveway leading to the Holy Trinity Catholic High School.

The Future Land Use and Character Map designates this area as Suburban Commercial.

GR allows most retail businesses but no apartments.

Adequate utilities serve the site.

Six notices were mailed out and zero notices were returned.

Staff recommends approval of this request since it complies with the Future Land Use and Character Map, the Thoroughfare Plan, and public facilities serve the property.

Commissioner Pilkington opened the public hearing.

There being no speakers, the public hearing was closed.

Commissioner Talley made a motion to approve Item 5, **Z-FY-11-51**, from MF1 to GR and Commissioner Rhoads made a second.

Motion passed: (5:0)

Commissioner Brown absent; Chair Martin and Vice-Chair Staats abstained

ORDINANCE NO. _____

(PLANNING NO. Z-FY-11-51)

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, APPROVING A REZONING FROM MULTIPLE FAMILY ONE DISTRICT (MF1) TO GENERAL RETAIL DISTRICT (GR) ON APPROXIMATELY 0.6 ACRES IN ABSTRACT 5, LOCATED ON THE NORTH SIDE OF WEST ADAMS AVENUE/FM2305, APPROXIMATELY 185 FEET WEST OF THE HOLY TRINITY CATHOLIC HIGH SCHOOL DRIVEWAY, GENERALLY KNOWN AS 6758 WEST ADAMS AVENUE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND PROVIDING AN OPEN MEETINGS CLAUSE.

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

Part 1: The City Council approves a rezoning from Multiple Family One District (MF1) to General Retail District (GR) on approximately 0.6 acres in Abstract 5, located on the north side of west Adams Avenue/FM2305, approximately 185 feet west of the Holy Trinity Catholic High School driveway, generally known as 6758 West Adams Avenue, Bell County, Texas, and more fully described in Exhibit A, attached hereto and made a part hereof for all purposes.

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

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

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

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

PASSED AND APPROVED on First Reading and Public Hearing on the **17th** day of **November**, 2011.

PASSED AND APPROVED on Second Reading on the **1st** day of **December**, 2011.

THE CITY OF TEMPLE, TEXAS

WILLIAM A. JONES, III, Mayor

ATTEST:

APPROVED AS TO FORM:

Lacy Borgeson
City Secretary

Jonathan Graham
City Attorney