



**MEETING OF THE
TEMPLE CITY COUNCIL**

MUNICIPAL BUILDING

2 NORTH MAIN STREET

3rd FLOOR – CONFERENCE ROOM

THURSDAY, APRIL 5, 2012

3:00 P.M.

WORKSHOP AGENDA

1. Discuss, as may be needed, Regular Meeting agenda items for the meeting posted for Thursday, April 5, 2012.
2. Discuss acquisition of real property related to the Northwest Loop 363 Pass-Thru Project. (See Item #7(J) on Regular Agenda)

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.

3. Receive briefing on Alternative Fuels.
4. Discuss the Eastside Development Plan.
5. Discuss amending the Ambulance Services Ordinance.

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 APPEARANCE

3. Receive presentation from Dr. Susan Kincannon, BISD Superintendent regarding the Belton ISD Bond package.

III. PUBLIC COMMENTS

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

IV. PROCLAMATIONS & SPECIAL RECOGNITIONS

4. (A) [Absolutely Incredible Kid Day – April 12, 2012](#)
(B) Receive [Certificate of Film Friendly Texas Community](#) from Mr. Evan Fitzmaurice, Director of Texas Film Commission.

V. BONDS

5. [2012-4525](#): FIRST & FINAL READING – PUBLIC HEARING: Consider adopting an Ordinance Authorizing the issuance of City of Temple, Texas General Obligation Refunding Bonds; Approving an Official Statement, a Paying Agent/ Registrar Agreement, a Bond Purchase Agreement and an Escrow Agreement; Establishing the Procedures for selling and delivering one or more of the bonds; and Authorizing Other matters Relating to the Bonds.

6. [2012-4526](#): FIRST & FINAL READING – PUBLIC HEARING: Consider adopting an Ordinance Authorizing the issuance of City of Temple, Texas Pass-Through Agreement Revenue and Limited Tax Bonds; Approving an Official Statement, a Paying Agent/ Registrar Agreement, a Bond Purchase Agreement; Establishing the Procedures for selling and delivering one or more of the bonds; and Authorizing Other matters Relating to the Bonds.

VI. 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.

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

Minutes

- (A) [March 15, 2012, Special Called and Regular Meeting](#)

Contracts, Leases & Bid

- (B) [2012-6585-R](#): Consider adopting a resolution authorizing a professional services agreement with Kasberg, Patrick & Associates, LP, to perform drainage analysis for full build out of the Bioscience Park in an amount not to exceed \$29,620.
- (C) [2012-6586-R](#): Consider adopting a resolution authorizing the City Manager to resubmit a grant application for 6 new police officer positions through the COPS Hiring Program.
- (D) [2012-6587-R](#): Consider adopting a resolution authorizing the receipt of grant funds in the amount of \$1,000 from the National Center for Safe Routes to School, mini-grant program for walking and biking safety classes.
- (E) [2012-6588-R](#): Consider adopting a resolution authorizing the purchase and installation of a shade structure from Grounds For Play Company utilizing a BuyBoard contract in the amount of \$52,365.44.
- (F) 1. [2012-6589-R](#): Consider adopting a resolution granting Panda Temple Power private easements through City owned property for an effluent transmission line from the Doshier Farm Wastewater Treatment Plant to the Panda Plant site.
2. [2012-6590-R](#): Consider adopting a resolution approving an Infrastructure Development Agreement with Panda Temple Power.

Ordinances – Second & Final Reading

- (G) [2012-4522](#): SECOND READING – Z-FY-12-26: Consider adopting an ordinance authorizing a Conditional Use Permit for the sale of alcoholic beverages for on-premise consumption with more than 75% revenue from alcohol sales in an existing bar and restaurant on 5.68 acres of Outblock 5008, City Addition, commonly known as 4984 West FM 93.

Misc.

- (H) [2012-6591-R](#): Consider adopting a resolution changing the work period for employees engaged in fire protection activities who fall under the Fair Labor Standards Act (FLSA) 7(k) partial exemption from a 27-day to a 14-day work period to be effective April 27, 2012.
- (I) [2012-6592-R](#): Consider adopting a resolution authorizing the negotiation and execution of all documents and instruments necessary or desirable to acquire real property interests from Jencer Investments Inc, Wilsonart International, Inc., and McLane Company, Inc. for the Northwest Loop 363 Pass-Through Project, and declaring an official intent to reimburse associated expenditures made prior to the issuance of tax-exempt obligations for this project

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.

- (J) [2012-6593-R](#): Consider adopting a resolution authorizing budget amendments for fiscal Year 2011-2012.

VII. REGULAR AGENDA

ORDINANCES

8. [2012-4524](#): SECOND READING - Consider adopting an ordinance establishing the prima facie speed limit on SH 36, within the City Limits.
9. [2012-4527](#): FIRST READING – PUBLIC HEARING - Z-FY-12-29: Consider adopting an ordinance authorizing a rezoning from Single Family One District (SF1) to General Retail District (GR) on Lot 3, Block 8, Parklawn Addition, Bell County, Texas, located at 2007 North 7th Street, and on 0.25-acre of an abandoned portion of North 7th Street.
10. [2012-4528](#): FIRST READING – PUBLIC HEARING - Z-FY-12-30: Consider adopting an ordinance authorizing a rezoning from General Retail District (GR), Single Family One District (SF1), and Single Family Two District (SF2) to Multiple Family Two (MF2) on a 15 ± acre tract of land out of the McKinney and Williams Survey, City of Temple, Bell County, Texas, located on the north side of SW H.K. Dodgen Loop, west of Bird Creek Crossing shopping center and east of Hopi Trail.
11. [2012-4529](#): FIRST READING – PUBLIC HEARING - Z-FY-12-32: Consider adopting an ordinance authorizing a Conditional Use Permit for the sale of alcoholic beverages for on-premise consumption less than 75% of the gross revenue in a restaurant, on Lot 1, Block 1, The Market Place Section One, located at 3008 South 31st Street.

RESOLUTIONS

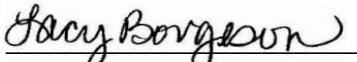
12. **2012-6594-R:** P-FY-12-12: Consider adopting a resolution authorizing the Final Plat of Diamond S Addition, a 10.39± acre, 2-lot non-residential subdivision, being a replat of Midway 1 Addition and part of the George Givens Survey Abstract 345, located at the southeast corner of Midway Drive and South General Bruce Drive.

BOARD APPOINTMENTS

13. **2012-6595-R:** Consider adopting a resolution appointing one alternate member to the Bell County Public Health District Board of Directors.
14. **2012-6596-R:** Consider adopting a resolution appointing one alternate member to the Building and Standards Commission to fill an expiring term through March 2014.

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 4:30 PM, on March 30, 2012.



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 _____ 2012. _____



COUNCIL AGENDA ITEM MEMORANDUM

04/05/12
Item #3
Regular Agenda
Page 1 of 1

DEPT./DIVISION SUBMISSION & REVIEW:

William A. Jones, III, Mayor

ITEM DESCRIPTION: Receive presentation from Dr. Susan Kincannon, BISD Superintendent regarding the [Belton ISD Bond package](#).

STAFF RECOMMENDATION: Receive presentation as presented in item description.

ITEM SUMMARY: Dr. Susan Kincannon, BISD Superintendent, filed the Request for Placement on the City Council Agenda, please see attached form.

FISCAL IMPACT: None

ATTACHMENTS:

[Requests for placement on agenda](#)



CITY OF TEMPLE, TEXAS
CITY COUNCIL MEETINGS

REQUEST FOR PLACEMENT ON AGENDA

☒ Priority

NAME OF PRESENTER: Dr. Susan Hincannon, Supt., Belton ISD

ADDRESS: 400 N. Wall St., Belton TX 76513

TELEPHONE NO. 254.215.2002

DATE REQUESTED TO APPEAR BEFORE THE COUNCIL: (Note – The City Council meets the first and third Thursdays of each month.) Thurs., Apr. 5, 2012

SUBJECT TO BE PRESENTED: (Your description must identify the subject matter of your appearance in sufficient detail to alert the public what topic you will discuss and what action you are requesting by the Council.) _____

Belton FSD Bond Presentation
15 min.

Note: Separate requests must be completed for each subject presented.

I, the above identified presenter, have read the procedures for public appearances before the City Council of the City of Temple, Texas, and will abide by these procedures.

Dr. Susan Hincannon
SIGNATURE OF PRESENTER
by Judy Owens

3-23-2012
DATE

For Office Use:



COUNCIL AGENDA ITEM MEMORANDUM

04/05/12
Item #4(A)
Regular Agenda
Page 1 of 1

DEPT./DIVISION SUBMISSION & REVIEW:

William A. Jones, III, Mayor

ITEM DESCRIPTION: Presentation of Proclamation:

Absolutely Incredible Kid Day April 12, 2012

STAFF RECOMMENDATION: Present proclamation as presented in item description.

ITEM SUMMARY: This proclamation was requested by Karen Allman and will be received by Ms. Allman and Campfire Boys and Girls.

FISCAL IMPACT: None

ATTACHMENTS: None



COUNCIL AGENDA ITEM MEMORANDUM

04/05/12
Item #4(B)
Regular Agenda
Page 1 of 1

DEPT./DIVISION SUBMISSION & REVIEW:

Ken Cicora, Director of Parks and Leisure Services

ITEM DESCRIPTION: Receive Certificate of Film Friendly Texas Community from Mr. Evan Fitzmaurice, Director of Texas Film Commission.

STAFF RECOMMENDATION: Receive presentation as presented in item description.

ITEM SUMMARY: The City of Temple has been certified by the Texas Film Commission as a Film Friend Texas Community.

FISCAL IMPACT: None

ATTACHMENTS: None



COUNCIL AGENDA ITEM MEMORANDUM

04/05/12
Item #5
Regular Agenda
Page 1 of 2

DEPT./DIVISION SUBMISSION & REVIEW:

Traci L. Barnard, Director of Finance

ITEM DESCRIPTION: FIRST & FINAL READING-PUBLIC HEARING- Consider adopting an Ordinance authorizing the issuance of City of Temple, Texas General Obligation Refunding Bonds; Approving an Official Statement, a Paying Agent/Registrar Agreement, a Bond Purchase Agreement and an Escrow Agreement; Establishing the procedures for selling and delivering one or more series of the bonds; and authorizing other matters relating to the bonds.

STAFF RECOMMENDATION: Adopt ordinance as presented in item description.

ITEM SUMMARY: This item is to delegate authority to the Director of Finance or in her absence, the City Manager or Mayor to determine which of the Refundable Obligations shall be refunded and finalize pricing within parameters defined in the attached ordinance in a par amount not to exceed \$28,770,000*. This delegation of authority will allow the City to obtain the most advantageous borrowing costs in order to achieve maximum debt service savings.

Potential refunding candidates include all or a portion of the following outstanding bond issues:

- Combination Tax and Revenue Certificates of Obligations, Series 2003
- Combination Tax and Revenue Certificates of Obligations, Series 2006
- General Obligation Refunding and Improvements Bonds, Series 2003
- Waterworks and Sewer System Revenue Bonds, Series 2002
- Waterworks and Sewer System Revenue Refunding Bonds, Series 2003
- Waterworks and Sewer System Revenue Refunding Bonds, Series 2004
- Utility System Revenue Bonds, Series 2006

***All bonds that are to be considered for refunding are listed. Market conditions will determine which bonds will actually be refunded on the day of pricing.**

Ratings for the bonds have been applied for with Standard & Poors. The ratings will be published prior to the pricing and sale of the bonds. The date and method by which the refunded obligations will be issued, sold, and delivered will be determined to achieve the most advantageous borrowing costs for the City.

The City's Financial Advisor, Specialized Public Finance Inc., and bond council, McCall, Parkhurst & Horton, L.L.P, will be present at the meeting to review the parameters and details of the transaction with Council.

Specialized Public Finance Inc, will return at a date to be determined to brief City Council on the sales results.

FISCAL IMPACT: Refunded Obligations will be refunded, all or a portion, in order to achieve a net present value debt service savings of not less than 3% of the principal amount of the Refunded Obligations net of any City contribution. Other parameters included in the ordinance are a maximum par amount not to exceed \$28.77 million and maximum maturity date of August 1, 2026.

ATTACHMENTS:

[Ordinance](#)

**ORDINANCE AUTHORIZING THE ISSUANCE OF CITY OF TEMPLE, TEXAS
GENERAL OBLIGATION REFUNDING BONDS; APPROVING AN OFFICIAL
STATEMENT, A PAYING AGENT/REGISTRAR AGREEMENT, A BOND PURCHASE
AGREEMENT AND AN ESCROW AGREEMENT; ESTABLISHING THE
PROCEDURES FOR SELLING AND DELIVERING ONE OR MORE SERIES OF THE
BONDS; AND AUTHORIZING OTHER MATTERS RELATING TO THE BONDS**

Adopted April 5, 2012

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ORDINANCE NO. _____

**ORDINANCE AUTHORIZING THE ISSUANCE OF CITY OF TEMPLE, TEXAS
GENERAL OBLIGATION REFUNDING BONDS; APPROVING AN OFFICIAL
STATEMENT, A PAYING AGENT/REGISTRAR AGREEMENT, A BOND PURCHASE
AGREEMENT AND AN ESCROW AGREEMENT; ESTABLISHING THE
PROCEDURES FOR SELLING AND DELIVERING ONE OR MORE SERIES OF THE
BONDS; AND AUTHORIZING OTHER MATTERS RELATING TO THE BONDS**

**THE STATE OF TEXAS
COUNTY OF BELL
CITY OF TEMPLE**

**§
§
§**

WHEREAS, the City of Temple, Texas (the "City") has previously issued and has outstanding several series of obligations payable from ad valorem taxes, water and sewer system revenues or a combination thereof; and

WHEREAS, the City Council of the City deems it advisable and in the best interest of the City to refund the Refunded Obligations, as defined in Exhibit "A" attached hereto, in order to achieve a net present value debt service savings of not less than 3% of the principal amount of the Refunded Obligations net of any City contribution with such savings, among other information and terms to be included in a pricing certificate to be executed by the Pricing Officer, all in accordance with the provisions of Chapters 1207 and 1371 of the Texas Government Code thereof; and

WHEREAS, Chapter 1207, Texas Government Code, as amended ("Chapter 1207") authorizes the City to issue refunding bonds and to deposit the proceeds from the sale thereof together with any other available funds or resources, directly with a place of payment (paying agent) for the Refunded Obligations or with a trust company or commercial bank that does not act as depository for the City, and such deposit, if made before such payment dates, shall constitute the making of firm banking and financial arrangements for the discharge and final payment of the Refunded Obligations; and

WHEREAS, Chapter 1207 further authorizes the City to enter into an escrow agreement with a paying agent for the Refunded Obligations or with a trust company or commercial bank that does not act as depository for the City with respect to the safekeeping, investment, reinvestment, administration and disposition of any such deposit, upon such terms and conditions as the City and such escrow agent may agree, provided that such deposits may be invested and reinvested in Defeasance Securities, as defined herein; and

WHEREAS, the Escrow Agreement hereinafter authorized, constitutes an agreement of the kind authorized and permitted by said Chapter 1207; and

WHEREAS, all the Refunded Obligations mature or are subject to redemption prior to maturity within 20 years of the date of the bonds hereinafter authorized: and

WHEREAS, the Bonds authorized by this Ordinance are being issued and delivered pursuant to the City Charter and Chapters 1207 and 1371 of the Texas Government Code, as amended, and other applicable laws: and

WHEREAS, it is hereby officially found and determined that the meeting at which this Ordinance was passed was open to the public, and public notice of the time, place and purpose of the meeting was given, all as required by Chapter 551, Texas Government Code.

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

Section 1. RECITALS. The recitals set forth in the preamble hereof are incorporated herein and shall have the same force and effect as if set forth in this Section.

Section 2. DEFINITIONS. For all purposes of this Ordinance, except as otherwise expressly provided or unless the context otherwise requires, the terms defined in Exhibit "A" to this Ordinance have the meanings assigned to them in Exhibit "A".

Section 3. AMOUNT, NAME, PURPOSE, AND AUTHORIZATION. One or more Series of the Bonds entitled "**CITY OF TEMPLE, TEXAS GENERAL OBLIGATION REFUNDING BONDS**", are hereby authorized to be issued and delivered in accordance with the Constitution and laws of the State of Texas, particularly Chapters 1207 and 1371, Texas Government Code, as amended, and the Charter of the City. The Bonds shall be issued in one or more Series in the aggregate principal amount not to exceed \$_____ for the purpose of providing funds for (i) refunding the Refunded Obligations and (ii) paying the costs of issuing the Bonds.

Section 4. DATE, DENOMINATION, MATURITIES, NUMBERS, INTEREST AND REDEMPTION. (a) Initially there shall be issued, sold, and delivered hereunder fully registered bonds, without interest coupons, which may be in the form of Current Interest Bonds or Premium Compound Interest Bonds, numbered consecutively from R-1 upward, in the case of Current Interest Bonds, and from PC-1 upward, in the case of Premium Compound Interest Bonds (except the Initial Bond delivered to the Attorney General of the State of Texas which shall be numbered T-1 and TPC-1 respectively) payable to the respective initial Registered Owners thereof, or to the registered assignee or assignees of said Bonds or any portion or portions thereof, in Authorized Denominations, maturing not later than _____, serially or otherwise on the dates, in the years and in the principal amounts, respectively, and dated, as all set forth in the Pricing Certificate to be executed and delivered by the Pricing Officer pursuant to subsection (b) of this section. The Pricing Certificate is hereby incorporated in and made a part of this Ordinance. The Bonds shall be designated by the year in which they are awarded. The authority of the Pricing

Officer to execute a Pricing Certificate shall expire at 5:00 p.m. C.D.T. on April 5, 2013. Bonds priced on or before April 5, 2013 may be delivered to the initial purchaser after such date.

(b) As authorized by Chapters 1207 and 1371, Texas Government Code, as amended, the Pricing Officer is hereby authorized to act on behalf of the City in selling and delivering one or more Series of the Bonds, determining which of the Refundable Obligations shall be refunded and constitute one or more Series of Refunded Obligations under this Ordinance and carrying out the other procedures specified in this Ordinance, including determining the date of the Bonds, any additional or different designation or title by which a Series of the Bonds shall be known, the price at which each Series of the Bonds will be sold, the years in which the Bonds will mature, the principal amount to mature in each of such years, the aggregate principal amount of Current Interest Bonds and Premium Compound Interest Bonds, the rate or rates of interest to be borne by each such maturity, the interest payment periods, the dates, price, and terms upon and at which the Bonds shall be subject to redemption prior to maturity at the option of the City, as well as any mandatory sinking fund redemption provisions, and all other matters relating to the issuance, sale, and delivery of the Bonds and the refunding of the Refunded Obligations, all of which shall be specified in the Pricing Certificate; provided that (i) the price to be paid for each Series of the Bonds shall not be less than 90% of the aggregate original principal amount thereof plus accrued interest thereon from its date to its delivery, (ii) none of the Bonds of a Series shall bear interest at a rate, or yield in the case of Premium Compound Interest Bonds, greater than the maximum authorized by law, (iii) the refunding must produce a net present value debt service savings of at least 3% of the principal amount of the Refunded Obligations, net of any City contribution and (iv) each Series of the Bonds shall be rated by a nationally recognized rating agency in one of the four higher rating categories. In establishing the aggregate principal amount of the Bonds, the Pricing Officer shall establish an amount not to exceed the amount authorized in Section 3, which shall be sufficient to provide for the purposes for which the Bonds are authorized and to pay the costs of issuing the Bonds.

(c) To achieve advantageous borrowing costs for the City, the Bonds shall be sold on a negotiated, placement or competitive basis as determined by the Pricing Officer in the Pricing Certificate. In determining whether to sell the Bonds by negotiated, placement or competitive sale, the Pricing Officer shall take into account any material disclosure issues which might exist at the time, the market conditions expected at the time of the sale and any other matters which, in the judgment of the Pricing Officer, might affect the net borrowing costs on the Bonds.

If the Pricing Officer determines that a Series of the Bonds should be sold at a competitive sale, the Pricing Officer shall cause to be prepared a notice of sale and official statement in such manner as the Pricing Officer deems appropriate, to make the notice of sale and official statement available to those institutions and firms wishing to submit a bid for the Bonds, to receive such bids, and to award the sale of the Bonds to the bidder submitting the best bid in accordance with the provisions of the notice of sale.

If the Pricing Officer determines that a Series of the Bonds should be sold by a negotiated sale or placement, the Pricing Officer shall designate the placement purchaser or the senior managing underwriter for the Bonds and such additional investment banking firms as the Pricing

Officer deems appropriate to assure that the Bonds are sold on the most advantageous terms to the City. The Pricing Officer, acting for and on behalf of the City, is authorized to enter into and carry out a Bond Purchase Agreement or other agreement for the Bonds to be sold by negotiated sale or placement, with the underwriters or placement purchasers at such price, with and subject to such terms as determined by the Pricing Officer pursuant to Section 4(b) above. Each Bond Purchase Agreement or other agreement shall be substantially in the form and substance previously approved by the City in connection with the authorization of ad valorem tax debt with such changes as are acceptable to the Pricing Officer.

In satisfaction of Section 1201.022(a)(3), Texas Government Code, the City hereby determines that the delegation of the authority to the Pricing Officer to approve the final terms and conditions of each Series of the Bonds as set forth in this Ordinance and the decisions made by the Pricing Officer pursuant to such delegated authority and incorporated in each Pricing Certificate will be, in the best interests and shall have the same force and effect as if such determination were made by the Pricing Officer and the Pricing Officer is hereby authorized to make and include in each Pricing Certificate an appropriate finding to that effect.

(d) The Current Interest Bonds shall bear interest calculated on the basis of a 360-day year composed of twelve 30-day months from the dates specified in the FORM OF BONDS set forth in this Ordinance to their respective dates of maturity or redemption at the rates per annum set forth in the Pricing Certificate.

The Premium Compound Interest Bonds shall bear interest from the Issuance Date, calculated on the basis of a 360-day year composed of twelve 30-day months (subject to rounding to the Compounded Amounts thereof), compounded on the Compounding Dates as set forth in the Pricing Certificate, and payable, together with the principal amount thereof, in the manner provided in the Form of Bonds at the rates set forth in the Pricing Certificate. Attached to the Pricing Certificate, if Premium Compound Interest Bonds are to be issued, shall be the Accretion Table. The Accreted Value with respect to any date other than a Compounding Date is the amount set forth on the Accretion Table with respect to the last preceding Compounding Date, plus the portion of the difference between such amount and the amount set forth on the Accretion Table with respect to the next succeeding Compounding Date that the number of days (based on 30-day months) from such last preceding Compounding Date to the date for which such determination is being calculated bears to the total number of days (based on 30-day months) from such last preceding Compounding Date to the next succeeding Compounding Date.

Section 5. REDEMPTION. (a) Right of Redemption. The City reserves the right, at its option, to redeem any Series of the Bonds as set forth in the FORM OF BOND and each Pricing Certificate. The City, at least thirty (30) days before the date of any optional redemption, shall notify the Paying Agent/Registrar of such redemption date and of the amount and maturity of the Bonds to be redeemed.

(b) Notice of Redemption to Bondholder. The Paying Agent/Registrar shall give notice of any redemption of the Bonds by sending notice by first class United States mail, postage prepaid,

not less than twenty (20) days before the date fixed for redemption, to the Bondholder at the address shown in the Register. The notice shall state among other things, the redemption date, the redemption price, the place at which the Bonds are to be surrendered for payment, and that the Bonds so called for redemption shall cease to bear interest after the redemption date. Any notice given as provided in this Section shall be conclusively presumed to have been duly given, whether or not the Bondholder receives such notice. With respect to any optional redemption of the Bonds, unless certain prerequisites to such redemption required by or this Ordinance have been met and moneys sufficient to pay the principal of and premium, if any, and interest on the Bonds to be redeemed shall have been received by the Paying Agent/Registrar prior to the giving of such notice of redemption, such notice shall state that said redemption may, at the option of the City, be conditional upon the satisfaction of such prerequisites and receipt of such moneys by the Paying Agent/Registrar on or prior to the date fixed for such redemption, or upon any prerequisite set forth in such notice of redemption. If a conditional notice of redemption is given and such prerequisites to the redemption and sufficient moneys are not received, such notice shall be of no force and effect, the City shall not redeem such Bonds and the Paying Agent/Registrar shall give notice, in the manner in which the notice of redemption was given, to the effect that the Bonds have not been redeemed.

(c) Effect of Redemption. Notice of redemption having been given as provided in this Section, the Bonds called for redemption shall become due and payable on the date fixed for redemption and, unless the City defaults in the payment of the principal thereof or accrued interest thereon, such Bonds thereof shall cease to bear interest from and after the date fixed for redemption, whether or not such Bond is presented and surrendered for payment on such date. If the Bonds thereof called for redemption are not so paid upon presentation and surrender thereof for redemption, such Bonds thereof shall continue to bear interest at the rate stated on the Bond until paid or until due provision is made for the payment of same.

(d) Conditional Notice of Redemption. With respect to any optional redemption of the Bonds, unless certain prerequisites to such redemption required by this Ordinance have been met and moneys sufficient to pay the principal of the premium, if any, and interest on the Bonds to be redeemed shall have been received by the Paying Agent prior to the giving of such notice of redemption, such notice shall state that said redemption may, at the option of the City, be conditional upon the satisfaction of such prerequisites and receipt of such moneys by the Paying Agent/Registrar on or prior to the date fixed for such redemption, or upon any prerequisite set forth in such notice of redemption. If a conditional notice of redemption is given and such prerequisites to the redemption and sufficient moneys are not received, such notice shall be of no force and effect, the City shall not redeem such Bonds and the Paying Agent/Registrar shall give notice, in the manner in which the notice of redemption was given, to the effect that the Bonds have not been redeemed.

Section 6. CHARACTERISTICS OF THE BONDS. (a) Registration, Transfer, Conversion and Exchange; Authentication. The City shall keep or cause to be kept at The Bank of New York Mellon Trust Company, N.A., Dallas, Texas (the "Paying Agent/Registrar") books or records for the registration of the transfer, conversion and exchange of the Bonds (the "Register"), and the City hereby appoints the Paying Agent/Registrar as its registrar and transfer agent to keep

such Bonds or records and make such registrations of transfers, conversions and exchanges under such reasonable regulations as the City and Paying Agent/Registrar may prescribe; and the Paying Agent/Registrar shall make such registrations, transfers, conversions and exchanges as herein provided within three days of presentation in due and proper form. The Paying Agent/Registrar shall obtain and record in the Register the address of the Registered Owner of each Bond to which payments with respect to the Bond shall be mailed, as herein provided; but it shall be the duty of each Registered Owner to notify the Paying Agent/Registrar in writing of the address to which payments shall be mailed, and such interest payments shall not be mailed unless such notice has been given. The City shall have the right to inspect the Register during regular business hours of the Paying Agent/Registrar, but otherwise the Paying Agent/Registrar shall keep the Register confidential and, unless otherwise required by law, shall not permit their inspection by any other entity. The Paying Agent/Registrar shall make a copy of the Register available in the State of Texas. The City shall pay the Paying Agent/Registrar's standard or customary fees and charges for making such registration, transfer, conversion, exchange and delivery of a substitute Bond. Registration of assignments, transfers, conversions and exchanges of Bonds shall be made in the manner provided and with the effect stated in the FORM OF BOND set forth in this Ordinance. Each substitute Bond shall bear a letter and/or number to distinguish it from each other Bond.

Except as provided in subsection (c) hereof, an authorized representative of the Paying Agent/Registrar shall, before the delivery of any such Bond, date and manually sign the Bond, and no such Bond shall be deemed to be issued or outstanding unless such Bond is so executed. The Paying Agent/Registrar promptly shall cancel all paid Bonds and Bonds surrendered for conversion and exchange. No additional ordinances, orders, or resolutions need be passed or adopted by the City Council or any other body or person so as to accomplish the foregoing conversion and exchange of any Bond or portion thereof, and the Paying Agent/Registrar shall provide for the printing, execution, and delivery of the substitute Bond in the manner prescribed herein, and the Bonds shall be typewritten, photocopied, printed, lithographed, engraved or produced in any other similar manner, all as determined by the officers executing such bond as evidenced by their execution thereof. Pursuant to Chapter 1201, Texas Government Code, as amended, and particularly Subchapter D thereof, the duty of conversion and exchange of Bonds as aforesaid is hereby imposed upon the Paying Agent/Registrar, and, upon the execution of the Bonds, the converted and exchanged Bond shall be valid, incontestable, and enforceable in the same manner and with the same effect as the Bond which initially was issued and delivered pursuant to this Ordinance, approved by the Attorney General, and registered by the Comptroller of Public Accounts.

(b) Payment of Principal and Interest. The City hereby further appoints the Paying Agent/Registrar to act as the paying agent for paying the principal of and interest on the Bond, all as provided in this Ordinance and in the Pricing Certificate. The Paying Agent/Registrar shall keep proper records of all payments made by the City and the Paying Agent/Registrar with respect to the Bond, and of all conversions and exchanges of Bonds, and all replacements of Bonds, as provided in this Ordinance. However, in the event of a nonpayment of interest on a scheduled payment date, and for thirty (30) days thereafter, a new record date for such interest payment (a "Special Record Date") will be established by the Paying Agent/Registrar, if and when funds for the payment of such interest have been received from the City. Notice of the Special Record Date and of the scheduled payment

date of the past due interest (which shall be 15 days after the Special Record Date) shall be sent at least five (5) Business Days prior to the Special Record Date by United States mail, first-class postage prepaid, to the address of each Registered Owner appearing on the Register at the close of business on the last Business Day next preceding the date of mailing of such notice.

(c) In General. The Bonds (i) shall be issued in fully registered form, without interest coupons, with the principal of and interest on such Bonds to be payable only to the Registered Owner, (ii) may be transferred and assigned, (iii) may be converted and exchanged for another Bond, (iv) shall have the characteristics, (v) shall be signed, sealed, executed and authenticated, (vi) shall be payable as to principal and interest and (vii) shall be administered and the Paying Agent/Registrar and the City shall have certain duties and responsibilities with respect to the Bonds, all as provided, and in the manner and to the effect as required or indicated, in the Pricing Certificate and the FORM OF BONDS set forth in this Ordinance. The Bond initially issued and delivered pursuant to this Ordinance is not required to be, and shall not be, authenticated by the Paying Agent/Registrar, but on each substitute Bond issued in exchange for any Bond issued under this Ordinance the Paying Agent/Registrar shall execute the PAYING AGENT/REGISTRAR'S AUTHENTICATION CERTIFICATE, in the form set forth in the FORM OF BONDS. On the closing date, the initial Bond representing the entire principal amount of the Bonds, payable to the underwriter, executed by manual or facsimile signature of the Mayor and City Secretary, approved by the Attorney General of Texas, and registered and manually signed by the Comptroller of Public Accounts of the State of Texas, and with the date of delivery inserted thereon by the Paying Agent/Registrar, will be delivered to the underwriter.

(d) Substitute Paying Agent/Registrar. The City covenants with the Registered Owners of the Bonds that at all times while the Bonds are outstanding the City will provide a competent and legally qualified bank, trust company, financial institution, or other agency to act as and perform the services of Paying Agent/Registrar for the Bonds under this Ordinance, and that the Paying Agent/Registrar will be one entity. The City reserves the right to, and may, at its option, change the Paying Agent/Registrar upon not less than 30 days written notice to the Paying Agent/Registrar, to be effective at such time which will not disrupt or delay payment on the next principal or interest payment date after such notice. In the event that the entity at any time acting as Paying Agent/Registrar (or its successor by merger, acquisition, or other method) should resign or otherwise cease to act as such, the City covenants that promptly it will appoint a competent and legally qualified bank, trust company, financial institution, or other agency to act as Paying Agent/Registrar under this Ordinance. Upon any change in the Paying Agent/Registrar, the previous Paying Agent/Registrar promptly shall transfer and deliver the Register (or a copy thereof), along with all other pertinent Bonds and records relating to the Bonds, to the new Paying Agent/Registrar designated and appointed by the City. Upon any change in the Paying Agent/Registrar, the City promptly will cause a written notice thereof to be sent by the new Paying Agent/Registrar to each Registered Owner of the Bonds, by United States mail, first-class postage prepaid, which notice also shall give the address of the new Paying Agent/Registrar. By accepting the position and performing as such, each Paying Agent/Registrar shall be deemed to have agreed to the provisions of this Ordinance, and a certified copy of this Ordinance shall be delivered to each Paying Agent/Registrar.

(e) Book-Entry-Only System. The Bonds issued in exchange for the Bonds initially issued as provided in Section 6(i) shall be issued in the form of a separate single fully registered Bond for each of the maturities thereof registered in the name of Cede & Co., as nominee of the Depository Trust Company of New York ("DTC") and except as provided in subsection (f) hereof, all of the outstanding Bonds shall be registered in the name of Cede & Co., as nominee of DTC.

With respect to Bonds registered in the name of Cede & Co., as nominee of DTC, the City and the Paying Agent/Registrar shall have no responsibility or obligation to any securities brokers and dealers, banks, trust companies, clearing corporations and certain other organizations on whose behalf DTC was created to hold securities to facilitate the clearance and settlement of securities transactions among DTC participants (the "DTC Participant") or to any person on behalf of whom such a DTC Participant holds an interest in the Bonds. Without limiting the immediately preceding sentence, the City and the Paying Agent/Registrar shall have no responsibility or obligation with respect to (i) the accuracy of the records of DTC, Cede & Co. Or any DTC Participant with respect to any ownership interest in the Bonds, (ii) the delivery to any DTC Participant or any other person, other than a Registered Owner, as shown on the Registration Books, of any notice with respect to the Bonds, or (iii) the payment to any DTC Participant or any person, other than a Registered Owner, as shown in the Registration Books of any amount with respect to principal of or interest on the Bonds.

Notwithstanding any other provision of this Ordinance to the contrary, but to the extent permitted by law, the City and the Paying Agent/Registrar shall be entitled to treat and consider the person whose name each Bond is registered in the registration Books as the absolute owner of such Bond for the purpose of payment of principal of and interest, with respect to such Bond, for the purposes of registering transfers with respect to such Bond, and for all other purposes of registering transfers with respect to such Bonds, and for all other purposes whatsoever. The Paying Agent/Registrar shall pay all principal of and interest on the Bonds only to or upon the order of the respective Registered Owners, as shown in the Registration Books as provided in this Ordinance, or their respective attorneys duly authorized in writing, and all such payments shall be valid and effective to fully satisfy and discharge the City's obligations with respect to payment of principal of and interest on the Bonds to the extent of the sum or sums so paid. No person other than a Registered Owner, as shown in the Registration Books, shall receive a Bond evidencing the obligation of the City to make payments of principal, and interest pursuant to this Ordinance. Upon delivery by DTC to the Paying Agent/Registrar of written notice to the effect that DTC has determined to substitute a new nominee in place of Cede & Co., and subject to the provisions in this Ordinance with respect to interest checks being mailed to the registered owner at the close of business on the Record Date the word "Cede & Co." in this Ordinance shall refer to such new nominee of DTC.

(f) Successor Securities Depository; Transfer Outside Book-Entry-Only System. In the event that the City determines to discontinue the book-entry system through DTC or a successor or DTC determines to discontinue providing its services with respect to the Bonds, the City shall either (i) appoint a successor securities depository, qualified to act as such under Section 17(a) of the Securities and Exchange Act of 1934, as amended, notify DTC and DTC Participants of the availability through DTC of Bonds and transfer one or more separate Bonds to DTC Participants having Bonds credited to their DTC accounts. In such event, the Bonds shall no longer be restricted to being registered in the Registration Books in the name of Cede & Co., as nominee of DTC, but

shall be registered in the name of the successor securities depository, or its nominee, or in whatever name or names the Registered Owner transferring or exchanging Bonds shall designate, in accordance with the provisions of this Ordinance.

(g) Payments to Cede & Co. Notwithstanding any other provision of this Ordinance to the contrary, so long as any Bond is registered in the name of Cede & Co., as nominee of DTC, all payments with respect to principal of, and interest on such Bond and all notices with respect to such Bond shall be made and given, respectively, in the manner provided in the Letter of Representations of the City to DTC.

(h) DTC Blanket Letter of Representations. The City confirms execution of a Blanket Letter of Representations with DTC establishing the Book-Entry-Only System which will be utilized with respect to any Series of the Bonds.

(i) Cancellation of Initial Bond. On the Closing Date, one initial Bond representing the entire principal amount of the Bonds, payable in stated installments to the order of the underwriter of the Bonds or its designee, executed by manual or facsimile signature of the Mayor and City Secretary, approved by the Attorney General of Texas, and registered and manually signed by the Comptroller of Public Accounts of the State of Texas, will be delivered to such underwriter or its designee. Upon payment for the initial Bond, the Paying Agent/Registrar shall cancel the initial Bond and deliver to DTC or the Paying Agent/Registrar on behalf of such underwriter one registered definitive Bond for each year of maturity of the Bonds, in the aggregate principal amount of all the Bonds for such maturity.

Section 7. FORM OF BOND. The form of the Bonds, including the form of Paying Agent/Registrar's Authentication Certificate, the form of Assignment, and the form of Registration Certificate of the Comptroller of Public Accounts of the State of Texas to be attached to the Bonds initially issued and delivered pursuant to this Ordinance shall be, respectively, substantially as follows, with such appropriate variations, omissions, or insertions as are permitted or required by this Ordinance.

FORM OF BOND

(All blanks and any appropriate or necessary insertions or deletions, to be completed as determined by the Pricing Officer in the Pricing Certificate)

R-	UNITED STATES OF AMERICA	PRINCIPAL
	STATE OF TEXAS	AMOUNT
	CITY OF TEMPLE, TEXAS	\$ _____
	GENERAL OBLIGATION REFUNDING BOND	
	SERIES _____*	

* As provided in the Pricing Certificate. To the extent that the Pricing Certificate relating to the Bonds is inconsistent with any provisions in this Form of Bond or contains information to complete missing information in this Form of Bond, the language in the Pricing Certificate shall be used in the executed Bonds.

[FORM OF FIRST PARAGRAPHS OF CURRENT INTEREST BONDS]

INTEREST RATE MATURITY DATE DATE OF BOND CUSIP NO.

REGISTERED OWNER:

PRINCIPAL AMOUNT: _____ **DOLLARS**

ON THE MATURITY DATE specified above, the **CITY OF TEMPLE, TEXAS** (the "Issuer"), being a political subdivision and municipal corporation of the State of Texas, hereby promises to pay to the Registered Owner specified above, or registered assigns (hereinafter called the "Registered Owner"), the Principal Amount specified above, and to pay interest thereon (calculated on the basis of a 360-day year of twelve 30-day months) from _____, _____* at the Interest Rate per annum specified above, payable on _____, _____*, and semiannually on each _____* and _____* thereafter to the Maturity Date specified above, or the date of redemption prior to maturity; except that if this Bond is required to be authenticated and the date of its authentication is later than the first Record Date (hereinafter defined), such Principal Amount shall bear interest from the interest payment date next preceding the date of authentication, unless such date of authentication is after any Record Date but on or before the next following interest payment date, in which case such principal amount shall bear interest from such next following interest payment date; provided, however, that if on the date of authentication hereof the interest on the Bond or Bonds, if any, for which this Bond is being exchanged is due but has not been paid, then this Bond shall bear interest from the date to which such interest has been paid in full. Notwithstanding the foregoing, during any period in which ownership of the Bonds is determined only by a book entry at a securities depository for the Bonds, any payment to the securities depository, or its nominee or registered assigns, shall be made in accordance with existing arrangements between the Issuer and the securities depository.

THE PRINCIPAL OF AND INTEREST ON this Bond are payable in lawful money of the United States of America, without exchange or collection charges. The principal of this Bond shall be paid to the Registered Owner hereof upon presentation and surrender of this Bond at maturity or upon the date fixed for its redemption prior to maturity, at the designated office for payment of The Bank of New York Mellon Trust Company, Dallas, Texas which is the "Paying Agent/Registrar" for this Bond. The payment of interest on this Bond shall be made by the Paying Agent/Registrar to the Registered Owner hereof on each interest payment date by check, dated as of such interest payment date, drawn by the Paying Agent/Registrar on, and payable solely from, funds of the Issuer required

* As provided in the Pricing Certificate. To the extent that the Pricing Certificate relating to the Bonds is inconsistent with any provisions in this Form of Bond or contains information to complete missing information in this Form of Bond, the language in the Pricing Certificate shall be used in the executed Bonds.

by the Ordinance authorizing the issuance of this Bond (the "Bond Ordinance") to be on deposit with the Paying Agent/Registrar for such purpose as hereinafter provided; and such check shall be sent by the Paying Agent/Registrar by United States mail, first-class postage prepaid, on each such interest payment date, to the Registered Owner hereof, at its address as it appeared on the last business day of the month next preceding each such date (the "Record Date") on the Registration Books kept by the Paying Agent/Registrar, as hereinafter described. In the event of a non-payment of interest on a scheduled payment date, and for 30 days thereafter, a new record date for such interest payment (a "Special Record Date") will be established by the Paying Agent/Registrar if and when funds for the payment of such interest have been received from the Issuer. Notice of the Special Record Date and of the scheduled payment date of the past due interest (the "Special Payment Date" which shall be 15 days after the Special Record Date) shall be sent at least five business days prior to the Special Record Date by United States mail, first class, postage prepaid, to the address of each Registered Owner appearing on the Registration Books of the Paying Agent/Registrar at the close of business on the last business day next preceding the date of mailing of such notice. Any accrued interest due upon the redemption of this Bond prior to maturity as provided herein shall be paid to the Registered Owner upon presentation and surrender of this Bond for redemption and payment at the principal office for payment of the Paying Agent/Registrar (unless the redemption date is a regularly scheduled interest payment date, in which case accrued interest on such redeemed Bonds shall be payable in the regular manner described above). The Issuer covenants with the Registered Owner of this Bond that on or before each principal payment date, interest payment date, and accrued interest payment date for this Bond it will make available to the Paying Agent/Registrar, from the "Interest and Sinking Fund" referred to in and maintained by the Bond Ordinance, the amounts required to provide for the payment, in immediately available funds, of all principal of and interest on the Bonds, when due. Terms used in this Bond and not otherwise defined shall have the meaning given in the Bond Ordinance.

DURING ANY PERIOD in which ownership of the Bonds is determined only by a book entry at a securities depository for the Bonds, if fewer than all of the Bonds of the same maturity and bearing the same interest rate are to be redeemed, the particular Bonds of such maturity and bearing such interest rate shall be selected in accordance with the arrangements between the Issuer and the securities depository.

**[FORM OF FIRST PARAGRAPHS
OF PREMIUM COMPOUND INTEREST BOND]**

NO. PC-

**MATURITY
AMOUNT
\$_____**

INTEREST RATE

ISSUANCE DATE

ISSUANCE DATE

CUSIP NO.

REGISTERED OWNER:

MATURITY AMOUNT:

ON THE MATURITY DATE SPECIFIED ABOVE, CITY OF TEMPLE, TEXAS (the "City"), being a political subdivision and municipal corporation of the State of Texas, hereby promises to pay to the Registered Owner set forth above, or registered assigns (hereinafter called the "Registered Owner") the Maturity Amount set forth above, representing the principal amount hereof and accrued and compounded interest hereon. Interest shall accrue on the principal amount hereof from the Issuance Date at the interest rate per annum specified above, calculated on the basis of a 360 day year comprised of twelve 30 day months, compounded semiannually on _____* and _____* of each year commencing _____. For convenience of reference a table of the "Accreted Value" per \$5,000 Maturity Amount is printed on the reverse side of this Bond. The term "Accreted Value" as set forth in the table on the reverse side hereof shall mean the original principal amount plus initial premium per \$5,000 Maturity Amount compounded semiannually on _____* and _____* at the yield shown on such table.

THE MATURITY AMOUNT of this Bond is payable in lawful money of the United States of America, without exchange or collection charges. The Maturity Amount of this Bond shall be paid to the Registered Owner hereof upon presentation and surrender of this Bond at maturity, at the designated office for payment of The Bank of New York Mellon Trust Company, N.A., which is the "Paying Agent/Registrar" for this Bond, and shall be drawn by the Paying Agent/Registrar on, and solely from, funds of the City required by the ordinance authorizing the issuance of the Bonds (the "Bond Ordinance") to be on deposit with the Paying Agent/Registrar for such purpose as hereinafter provided, payable to the Registered Owner hereof, as it appears on the Registration Books kept by the Paying Agent/Registrar, as hereinafter described. The City covenants with the Registered Owner of this Bond that on or before the Maturity Date for this Bond it will make available to the Paying Agent/Registrar, from the "Interest and Sinking Fund" created by the Bond Ordinance, the amounts required to provide for the payment, in immediately available funds of the Maturity Amount, when due. Notwithstanding the foregoing, during any period in which ownership of the Bonds is determined only by a book entry at a securities depository for the Bonds, any payment to the securities depository, or its nominee or registered assigns, shall be made in accordance with existing arrangements between the City and the securities depository.

[FORM OF REMAINDER OF EACH BOND]

IF THE DATE for the payment of the principal of or interest on this Bond shall be a Saturday, Sunday, legal holiday, or day on which banking institutions in the city where the principal office for payment of the Paying Agent/Registrar is located are authorized by law or executive order to close, or the United States Postal Service is not open for business (each a "Non-Business Day"), then the date for such payment shall be the next succeeding day which is not a Non-Business Day,

* As provided in the Pricing Certificate. To the extent that the Pricing Certificate relating to the Bonds is inconsistent with any provisions in this Form of Bond or contains information to complete missing information in this Form of Bond, the language in the Pricing Certificate shall be used in the executed Bonds.

and payment on such date shall have the same force and effect as if made on the original date payment was due.

THIS BOND is one of a series of Bonds dated as of _____, _____* and authorized to be issued pursuant to the Bond Ordinance adopted by the City Council of the City in the principal amount of \$_____ [constituting \$_____ Current Interest Bonds and \$_____ Premium Compound Interest Bonds].**

ON _____* **OR ON ANY DATE THEREAFTER**, the Bonds maturing on and after _____ may be redeemed prior to their scheduled maturities, at the option of the City, with funds derived from any available and lawful source, at a redemption price equal to the principal amount to be redeemed plus accrued interest to the date fixed for redemption as a whole, or from time to time in part, and, if in part, the particular Bonds, or portions thereof, to be redeemed shall be selected and designated by the City, and if less than all of a maturity is to be redeemed the Paying Agent/Registrar shall determine by lot the Bonds, or portions thereof within such maturity to be redeemed (provided that a portion of a Bond may be redeemed only in integral multiples of \$5,000 of principal amount).

[**THE BONDS MATURING ON _____*** are subject to mandatory sinking fund redemption by lot prior to maturity in the following amounts on the following dates and at a price of par plus accrued interest to the redemption date ("Term Bonds").

Term Bonds Maturing _____, 20____*

Redemption Date	Principal Amount
_____, 20____	\$ _____
_____, 20____†	\$ _____†

†Final Maturity

THE PRINCIPAL AMOUNT of the Term Bonds required to be redeemed pursuant to the operation of the mandatory sinking fund redemption provisions shall be reduced, at the option of the City by the principal amount of any Term Bonds of the stated maturity which, at least 50 days prior to a mandatory redemption date, (1) shall have been acquired by the City at a price not exceeding the principal amount of such Term Bonds plus accrued interest to the date of purchase thereof, and delivered to the Paying Agent/Registrar for cancellation, (2) shall have been purchased and canceled by the Paying Agent/Registrar at the request of the City with monies in the Interest and Sinking

* As provided in the Pricing Certificate. To the extent that the Pricing Certificate relating to the Bonds is inconsistent with any provisions in this Form of Bond or contains information to complete missing information in this Form of Bond, the language in the Pricing Certificate shall be used in the executed Bonds.

** To be included only if Current Interest Bonds and Premium Compound Interest Bonds are both issued and completed as determined in the Pricing Certificate.

Fund at a price not exceeding the principal amount of the Term Bonds plus accrued interest to the date of purchase thereof, or (3) shall have been redeemed pursuant to the optional redemption provisions and not theretofore credited against a mandatory sinking fund redemption requirement.]*

AT LEAST 30 days prior to the date fixed for any redemption of Bonds or portions thereof prior to maturity, a written notice of such redemption shall be sent by the Paying Agent/Registrar by United States mail, first-class postage prepaid, to the Registered Owner of each Bond to be redeemed at its address as it appeared on the Registration Books maintained by the Paying Agent/Registrar on the day such notice of redemption is mailed. By the date fixed for any such redemption, due provision shall be made with the Paying Agent/Registrar for the payment of the required redemption price for the Bonds or portions thereof which are to be so redeemed. If such written notice of redemption is mailed and if due provision for such payment is made, all as provided above, the Bonds or portions thereof which are to be so redeemed thereby automatically shall be treated as redeemed prior to their scheduled maturities, and they shall not bear interest after the date fixed for redemption, and they shall not be regarded as being outstanding except for the right of the Registered Owner to receive the redemption price from the Paying Agent/Registrar out of the funds provided for such payment. If a portion of any Bond shall be redeemed a substitute Bond or Bonds having the same maturity date, bearing interest at the same rate, in any denomination or denominations in any integral multiple of \$5,000, at the written request of the Registered Owner, and in an aggregate principal amount equal to the unredeemed portion thereof, will be issued to the Registered Owner upon the surrender thereof for cancellation, at the expense of the Issuer, all as provided in the Bond Ordinance.

ALL BONDS OF THIS SERIES are issuable solely as fully registered Bonds, without interest coupons, in the denomination of any integral multiple of \$5,000 (an "Authorized Denomination"). As provided in the Bond Ordinance, this Bond, or any unredeemed portion hereof, may, at the request of the Registered Owner or the assignee or assignees hereof, be assigned, transferred and exchanged for a like aggregate principal amount of fully registered Bonds, without interest coupons, payable to the appropriate Registered Owner, assignee or assignees, as the case may be, having the same denomination or denominations in any integral multiple of \$5,000 as requested in writing by the appropriate Registered Owner, assignee or assignees, as the case may be, upon surrender of this Bond to the Paying Agent/Registrar for cancellation, all in accordance with the form and procedures set forth in the Bond Ordinance. Among other requirements for such assignment and transfer, this Bond must be presented and surrendered to the Paying Agent/Registrar, together with proper instruments of assignment, in form and with guarantee of signatures satisfactory to the Paying Agent/Registrar, evidencing assignment of this Bond or any portion or portions hereof in any integral multiple of \$5,000 to the assignee or assignees in whose name or names this Bond or any such portion or portions hereof is or are to be registered. The form of Assignment printed or endorsed on this Bond may be executed by the Registered Owner to evidence the assignment hereof, but such method is not exclusive, and other instruments of assignment satisfactory to the Paying Agent/Registrar may be used to evidence the assignment of this Bond or any portion or portions hereof from time to time by the Registered Owner. The Paying Agent/Registrar's reasonable standard or customary fees and charges for transferring and exchanging any Bond or portion thereof shall be paid by the City, but any taxes or governmental charges

required to be paid with respect thereto shall be paid by the one requesting such assignment, transfer or exchange as a condition precedent to the exercise of such privilege. The Paying Agent/Registrar shall not be required to make any such transfer or exchange (i) during the period commencing with the close of business on any Record Date and ending with the opening of business on the next following principal or interest payment date, or, (ii) with respect to any Bond or any portion thereof called for redemption prior to maturity, within 45 days prior to its redemption date; provided, however, such limitation of transfer shall not be applicable to an exchange by the Registered Owner of an unredeemed balance of a Bond called for redemption in part.

WHENEVER the beneficial ownership of this Bond is determined by a book entry at a securities depository for the Bonds, the foregoing requirements of holding, delivering or transferring this Bond shall be modified to require the appropriate person or entity to meet the requirements of the securities depository as to registering or transferring the book entry to produce the same effect.

IN THE EVENT any Paying Agent/Registrar for the Bonds is changed by the City, resigns or otherwise ceases to act as such, the City has covenanted in the Bond Ordinance that it promptly will appoint a competent and legally qualified substitute therefor, and cause written notice thereof to be mailed to the Registered Owners of the Bonds.

IT IS HEREBY certified, recited and covenanted that this Bond has been duly and validly authorized, issued and delivered; that all acts, conditions and things required or proper to be performed, exist, and be done precedent to or in the authorization, issuance and delivery of this Bond have been performed, existed and been done in accordance with law; that this Bond is payable from ad valorem taxes, within the limits prescribed by law.

BY BECOMING the Registered Owner of this Bond, the Registered Owner thereby acknowledges all of the terms and provisions of the Bond Ordinance, agrees to be bound by such terms and provisions, acknowledges that the Bond Ordinance is duly recorded and available for inspection in the official minutes and records of the governing body of the Issuer and agrees that the terms and provisions of this Bond and the Bond Ordinance constitute a contract between each Registered Owner hereof and the City.

IN WITNESS WHEREOF, the City has caused this Bond to be signed with the manual or facsimile signature of the Mayor of the City, and countersigned with the manual or facsimile signature of the City Secretary of the City and the official seal of the City has been duly impressed, or placed in facsimile, on this Bond.

City Secretary, City of Temple, Texas

Mayor, City of Temple, Texas

(CITY SEAL)

**FORM OF REGISTRATION CERTIFICATE
OF THE COMPTROLLER OF PUBLIC ACCOUNTS:**

COMPTROLLER'S REGISTRATION CERTIFICATE: REGISTER NO. _____

I hereby certify that this Bond has been examined, certified as to validity, and approved by the Attorney General of the State of Texas, and that this Bond has been registered by the Comptroller of Public Accounts of the State of Texas.

Witness my signature and seal this

(COMPTROLLER'S SEAL)

Comptroller of Public Accounts
of the State of Texas

FORM OF PAYING AGENT/REGISTRAR'S AUTHENTICATION CERTIFICATE

PAYING AGENT/REGISTRAR'S AUTHENTICATION CERTIFICATE

*(To be executed if this Bond is not accompanied by an executed Registration
Certificate of the Comptroller of Public Accounts of the State of Texas)*

It is hereby certified that this Bond has been issued under the provisions of the Bond Ordinance described in the text of this Bond; and that this Bond has been issued in exchange for a bond or bonds, or a portion of a bond or bonds of a series which originally was approved by the Attorney General of the State of Texas and registered by the Comptroller of Public Accounts of the State of Texas.

Dated: _____.

**THE BANK OF NEW YORK MELLON
TRUST COMPANY, N.A.**
Dallas, Texas
Paying Agent/Registrar

By _____
Authorized Representative

FORM OF ASSIGNMENT:

ASSIGNMENT

FOR VALUE RECEIVED, the undersigned Registered Owner of this Bond, or duly authorized representative or attorney thereof, hereby sells, assigns and transfers this Bond and all rights hereunder unto _____

/_____/

(Assignee's Social Security or
Taxpayer Identification Number)

(Please print or typewrite Assignee's name and address,
including zip code)

and hereby irrevocably constitutes and appoints _____
attorney to transfer the registration of this Bond on the Paying Agent/Registrar's Registration Books
with full power of substitution in the premises.

Dated: _____

Signature Guaranteed:

NOTICE: Signature(s) must be guaranteed by
a member firm of the New York Stock
Exchange or a commercial bank or trust
company.

NOTICE: The signature above must
correspond with the name of the Registered
Owner as it appears upon the front of this
Bond in every particular, without alteration or
enlargement or any change whatsoever.

INSERTIONS FOR THE INITIAL BONDS

(i) The initial Current Interest Bond shall be in the form set forth in this FORM OF BOND,
except that:

A. immediately under the name of the Bond, the headings "INTEREST RATE" and
"MATURITY DATE" shall both be completed with the words "As shown below" and
"CUSIP NO." shall be deleted.

B. the first paragraph shall be deleted and the following will be inserted:

"ON THE MATURITY DATE SPECIFIED ABOVE, the City of Temple, Texas (the
"Issuer"), being a political subdivision, hereby promises to pay to the Registered Owner specified
above, or registered assigns (hereinafter called the "Registered Owner"), on _____* in each of
the years, in the principal installments and bearing interest at the per annum rates set forth in the
following schedule:

Principal Amount	Maturity Date	Interest Rate
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(Information for the Current Interest Bonds from the Pricing Certificate to be inserted)

The Issuer promises to pay interest on the unpaid principal amount hereof (calculated on the basis of a 360-day year of twelve 30-day months) from _____* at the respective Interest Rate per annum specified above. Interest is payable on _____* and semiannually on each _____* and _____* thereafter to the date of payment of the principal installment specified above; except, that if this Bond is required to be authenticated and the date of its authentication is later than the first Record Date (hereinafter defined), such principal amount shall bear interest from the interest payment date next preceding the date of authentication, unless such date of authentication is after any Record Date but on or before the next following interest payment date, in which case such principal amount shall bear interest from such next following interest payment date; provided, however, that if on the date of authentication hereof the interest on the Bond or Bonds, if any, for which this Bond is being exchanged is due but has not been paid, then this Bond shall bear interest from the date to which such interest has been paid in full."

C. The initial Bond shall be numbered "T-1."

(ii) The Initial Compound Interest Bond shall be in the form set forth in this Section, except that:

A. immediately under the name of the Bond, the headings "INTEREST RATE" and "MATURITY DATE" shall both be completed with the words "As shown below" and "CUSIP NO. _____" shall be deleted.

B. the first paragraph shall be deleted and the following will be inserted:

"THE CITY OF TEMPLE, Texas (the "City"), being a political subdivision of the State of Texas, hereby promises to pay to the Registered Owner set forth above, or registered assigns (hereinafter called the "Registered Owner") the Payment at Maturity on _____* in each of the years and in installments of the respective Maturity Amounts set forth in the following schedule:

Maturity Amounts	Maturity Date	Interest Rate
_____	_____	_____

(Information for the Premium Compound Interest Bonds from the Pricing Certificate to be inserted)

The amount shown above as the respective Maturity Amounts represent the principal amount hereof and accrued and compounded interest hereon. Interest shall accrue on the principal amount hereof from the Issuance Date at the interest rate per annum specified above, compounded semiannually on _____* and _____* of each year commencing _____*. For convenience of reference, a table appears on the back of this Bond showing the "Compounded Amount" of the original principal amount plus initial premium, if any, per \$5,000 Maturity Amount compounded semiannually at the yield shown on such table."

* As provided in the Pricing Certificate. To the extent that the Pricing Certificate relating to the Bonds is inconsistent with any provisions in this Form of Bond or contains information to complete missing information in this Form of Bond, the language in the Pricing Certificate shall be used in the executed Bonds.

C. the Initial Premium Compound Interest Bond shall be numbered "TPC-1."

Section 8. TAX LEVY. A special Interest and Sinking Fund (the "Interest and Sinking Fund") is hereby created solely for the benefit of the Bonds, and the Interest and Sinking Fund shall be established and maintained by the City at an official depository bank of the City. The Interest and Sinking Fund shall be kept separate and apart from all other funds and accounts of the City, and shall be used only for paying the interest on and principal of the Bonds. All ad valorem taxes levied and collected for and on account of the Bonds shall be deposited, as collected, to the credit of the Interest and Sinking Fund. During each year while any of the Bonds or interest thereon are outstanding and unpaid, the City Council shall compute and ascertain a rate and amount of ad valorem tax which will be sufficient to raise and produce the money required to pay the interest on the Bonds as such interest comes due, and to provide and maintain a sinking fund adequate to pay the principal of the Bonds as such principal matures (but never less than 2% of the original principal amount of the Bonds as a sinking fund each year); and the tax shall be based on the latest approved tax rolls of the City, with full allowance being made for tax delinquencies and the cost of tax collection. The rate and amount of ad valorem tax is hereby levied, and is hereby ordered to be levied, against all taxable property in the City for each year while any of the Bonds or interest thereon are outstanding and unpaid; and the tax shall be assessed and collected each such year and deposited to the credit of the Interest and Sinking Fund. The ad valorem taxes sufficient to provide for the payment of the interest on and principal of the Bonds, as such interest comes due and such principal matures, are hereby pledged for such payment, within the limit prescribed by law. Accrued interest on the Bonds shall be deposited in the Interest and Sinking Fund.

Section 9. DEFEASANCE OF BONDS. (a) Any Bond and the interest thereon shall be deemed to be paid, retired and no longer outstanding (a "Defeased Bond") within the meaning of this Ordinance, except to the extent provided in subsections (c) and (e) of this Section, when payment of the principal of such Bond, plus interest thereon to the due date or dates (whether such due date or dates be by reason of maturity, upon redemption, or otherwise) either (i) shall have been made or caused to be made in accordance with the terms thereof (including the giving of any required notice of redemption or the establishment of irrevocable provisions for the giving of such notice) or (ii) shall have been provided for on or before such due date by irrevocably depositing with or making available to the Paying Agent/Registrar or an eligible trust company or commercial bank for such payment (1) lawful money of the United States of America sufficient to make such payment, (2) Defeasance Securities, certified by an independent public accounting firm of national reputation to mature as to principal and interest in such amounts and at such times as will ensure the availability, without reinvestment, of sufficient money to provide for such payment and when proper arrangements have been made by the City with the Paying Agent/Registrar or an eligible trust company or commercial bank for the payment of its services until all Defeased Bonds shall have become due and payable or (3) any combination of (1) and (2). At such time as a Bond shall be deemed to be a Defeased Bond hereunder, as aforesaid, such Bond and the interest thereon shall no longer be secured by, payable from, or entitled to the benefits of, the ad valorem taxes herein levied as provided in this Ordinance, and such principal and interest shall be payable solely from such money or Defeasance Securities.

(b) The deposit under clause (ii) of subsection (a) shall be deemed a payment of a Bond as aforesaid when proper notice of redemption of such Bond shall have been given or upon the establishment of irrevocable provisions for the giving of such notice, in accordance with this Ordinance. Any money so deposited with the Paying Agent/Registrar or an eligible trust company or commercial bank as provided in this Section may at the discretion of the City Council also be invested in Defeasance Securities, maturing in the amounts and at the times as hereinbefore set forth, and all income from all Defeasance Securities in possession of the Paying Agent/Registrar or an eligible trust company or commercial bank pursuant to this Section which is not required for the payment of such Bond and premium, if any, and interest thereon with respect to which such money has been so deposited, shall be remitted to the City Council.

(c) Notwithstanding any provision of any other Section of this Ordinance which may be contrary to the provisions of this Section, all money or Defeasance Securities set aside and held in trust pursuant to the provisions of this Section for the payment of principal of the Bond and premium, if any, and interest thereon, shall be applied to and used solely for the payment of the particular Bond and premium, if any, and interest thereon, with respect to which such money or Defeasance Securities have been so set aside in trust. Until all Defeased Bonds shall have become due and payable, the Paying Agent/Registrar shall perform the services of Paying Agent/Registrar for such Defeased Bonds the same as if they had not been defeased, and the City shall make proper arrangements to provide and pay for such services as required by this Ordinance.

(d) Notwithstanding anything elsewhere in this Ordinance, if money or Defeasance Securities have been deposited or set aside with the Paying Agent/Registrar or an eligible trust company or commercial bank pursuant to this Section for the payment of the Bond and such Bond shall not have in fact been actually paid in full, no amendment of the provisions of this Section shall be made without the consent of the registered owner of each Bond affected thereby.

(e) Notwithstanding the provisions of subsection (a) immediately above, to the extent that, upon the defeasance of any Defeased Bond to be paid at its maturity, the City retains the right under Texas law to later call that Defeased Bond for redemption in accordance with the provisions of this Ordinance, the City may call such Defeased Bond for redemption upon complying with the provisions of Texas law and upon the satisfaction of the provisions of subsection (a) immediately above with respect to such Defeased Bond as though it was being defeased at the time of the exercise of the option to redeem the Defeased Bond and the effect of the redemption is taken into account in determining the sufficiency of the provisions made for the payment of the Defeased Bond.

Section 10. DAMAGED, MUTILATED, LOST, STOLEN, OR DESTROYED BONDS. (a) Replacement Bonds. In the event any outstanding Bond is damaged, mutilated, lost, stolen, or destroyed, the Paying Agent/Registrar shall cause to be printed, executed, and delivered, a new Bond of the same principal amount, maturity, and interest rate, as the damaged, mutilated, lost, stolen, or destroyed Bond, in replacement for such Bond in the manner hereinafter provided.

(b) Application for Replacement Bonds. Application for replacement of damaged, mutilated, lost, stolen, or destroyed Bonds shall be made by the Registered Owner thereof to the Paying Agent/Registrar. In every case of loss, theft, or destruction of a Bond, the Registered Owner applying for a replacement bond shall furnish to the City and to the Paying Agent/Registrar such security or indemnity as may be required by them to save each of them harmless from any loss or damage with respect thereto. Also, in every case of loss, theft, or destruction of a Bond, the Registered Owner shall furnish to the City and to the Paying Agent/Registrar evidence to their satisfaction of the loss, theft, or destruction of such Bond, as the case may be. In every case of damage or mutilation of a Bond, the Registered Owner shall surrender to the Paying Agent/Registrar for cancellation the Bond so damaged or mutilated.

(c) No Default Occurred. Notwithstanding the foregoing provisions of this Section, in the event any such Bond shall have matured, and no default has occurred which is then continuing in the payment of the principal of, redemption premium, if any, or interest on the Bond, the City may authorize the payment of the same (without surrender thereof except in the case of a damaged or mutilated Bond) instead of issuing a replacement Bond, provided security or indemnity is furnished as above provided in this Section.

(d) Charge for Issuing Replacement Bonds. Prior to the issuance of any replacement Bond, the Paying Agent/Registrar shall charge the Registered Owner of such Bond with all legal, printing, and other expenses in connection therewith. Every replacement Bond issued pursuant to the provisions of this Section by virtue of the fact that any Bond is lost, stolen, or destroyed shall constitute a contractual obligation of the City whether or not the lost, stolen, or destroyed Bond shall be found at any time, or be enforceable by anyone, and shall be entitled to all the benefits of this Ordinance equally and proportionately with any and all other Bonds duly issued under this Ordinance.

(e) Authority for Issuing Replacement Bonds. In accordance with Subchapter D of Texas Government Code, Chapter 1201, this Section of this Ordinance shall constitute authority for the issuance of any such replacement Bond without necessity of further action by the governing body of the City or any other body or person, and the duty of the replacement of such Bonds is hereby authorized and imposed upon the Paying Agent/Registrar, and the Paying Agent/Registrar shall authenticate and deliver such Bonds in the form and manner and with the effect, as provided in Section 6(a) of this Ordinance for Bonds issued in conversion and exchange for other Bonds.

Section 11. CUSTODY, APPROVAL, AND REGISTRATION OF BOND; BOND COUNSEL'S OPINION. The Pricing Officer is hereby authorized to have control of the initial Bonds issued and delivered hereunder and all necessary records and proceedings pertaining to the Bond pending its delivery and their investigation, examination, and approval by the Attorney General of the State of Texas, and their registration by the Comptroller of Public Accounts of the State of Texas. Upon registration of the Bond the Comptroller of Public Accounts (or a deputy designated in writing to act for the Comptroller) shall manually sign the Comptroller's Registration Certificate attached to such Bond, and the seal of the Comptroller shall be impressed, or placed in facsimile, on such Certificate. The approving legal opinion of the City's Bond Counsel may, at the

option of the City, be printed on the Bond issued and delivered under this Ordinance, but it shall have no legal effect, and shall be solely for the convenience and information of the Registered Owner of the Bonds.

Section 12. COVENANTS REGARDING TAX EXEMPTION OF INTEREST ON THE BOND. (a) Covenants. The City covenants to take any action necessary to assure, or refrain from any action which would adversely affect, the treatment of the Bonds as obligations described in section 103 of the Internal Revenue Code of 1986, as amended (the "Code"), the interest on which is not includable in the "gross income" of the holder for purposes of federal income taxation. In furtherance thereof, the City covenants as follows:

(1) to use all of the proceeds of the Bonds for the payment of principal, interest and redemption premium on the Refunded Obligations.

(2) to take any action to assure that no more than 10 percent of the proceeds of the Bonds or the Refunded Obligations or the projects financed or refinanced therewith (less amounts deposited to a reserve fund, if any) are used for any "private business use," as defined in section 141(b)(6) of the Code or, if more than 10 percent of the proceeds of the Bonds or the Refunded Obligations or the projects financed or refinanced therewith are so used, such amounts, whether or not received by the City, with respect to such private business use, do not, under the terms of this Ordinance or any underlying arrangement, directly or indirectly, secure or provide for the payment of more than 10 percent of the debt service on the Bonds, in contravention of section 141(b)(2) of the Code;

(3) to take any action to assure that in the event that the "private business use" described in subsection (1) hereof exceeds 5 percent of the proceeds of the Bonds or the Refunded Obligations or the projects financed or refinanced therewith (less amounts deposited into a reserve fund, if any) then the amount in excess of 5 percent is used for a "private business use" which is "related" and not "disproportionate," within the meaning of section 141(b)(3) of the Code, to the governmental use;

(4) to take any action to assure that no amount which is greater than the lesser of \$5,000,000, or 5 percent of the proceeds of the Bonds (less amounts deposited into a reserve fund, if any) is directly or indirectly used to finance loans to persons, other than state or local governmental units, in contravention of section 141(c) of the Code;

(5) to refrain from taking any action which would otherwise result in the Bonds being treated as "private activity bonds" within the meaning of section 141(b) of the Code;

(6) to refrain from taking any action that would result in the Bonds being "federally guaranteed" within the meaning of section 149(b) of the Code;

(7) to refrain from using any portion of the proceeds of the Bonds, directly or indirectly, to acquire or to replace funds which were used, directly or indirectly, to acquire

investment property (as defined in section 148(b)(2) of the Code) which produces a materially higher yield over the term of the Bonds, other than investment property acquired with --

(A) proceeds of the Bonds invested for a reasonable temporary period of 3 years or less or, in the case of a current refunding bonds, for a period of 90 days and in the case of an advance refunding bonds, for a period of 30 days,

(B) amounts invested in a bona fide debt service fund, within the meaning of section 1.148-1(b) of the Treasury Regulations, and

(C) amounts deposited in any reasonably required reserve or replacement fund to the extent such amounts do not exceed 10 percent of the proceeds of the Bonds;

(8) to otherwise restrict the use of the proceeds of the Bonds or amounts treated as proceeds of the Bonds, as may be necessary, so that the Bonds do not otherwise contravene the requirements of section 148 of the Code (relating to arbitrage) and, to the extent applicable, section 149(d) of the Code (relating to advance refundings); and

(9) to pay to the United States of America at least once during each five-year period (beginning on the date of delivery of the Bonds) an amount that is at least equal to 90 percent of the "Excess Earnings," within the meaning of section 148(f) of the Code and to pay to the United States of America, not later than 60 days after the Bonds have been paid in full, 100 percent of the amount then required to be paid as a result of Excess Earnings under section 148(f) of the Code.

(b) Rebate Fund. In order to facilitate compliance with the above covenant (8), a "Rebate Fund" is hereby established by the City for the sole benefit of the United States of America, and such fund shall not be subject to the claim of any other person, including without limitation the bondholders. The Rebate Fund is established for the additional purpose of compliance with section 148 of the Code.

(c) Proceeds. The City understands that the term "proceeds" includes "disposition proceeds" as defined in the Treasury Regulations and, in the case of refunding bonds, transferred proceeds (if any) and proceeds of the Refunded Obligations not expended prior to the date of issuance of the Bonds. It is the understanding of the City that the covenants contained herein are intended to assure compliance with the Code and any regulations or rulings promulgated by the U.S. Department of the Treasury pursuant thereto. In the event that regulations or rulings are hereafter promulgated which modify or expand provisions of the Code, as applicable to the Bonds, the City will not be required to comply with any covenant contained herein to the extent that such failure to comply, in the opinion of nationally recognized bond counsel, will not adversely affect the exemption from federal income taxation of interest on the Bonds under section 103 of the Code. In the event that regulations or rulings are hereafter promulgated which impose additional requirements

which are applicable to the Bonds, the City agrees to comply with the additional requirements to the extent necessary, in the opinion of nationally recognized bond counsel, to preserve the exemption from federal income taxation of interest on the Bonds under section 103 of the Code. In furtherance of such intention, the City hereby authorizes and directs the City Manager or the Director of Finance to execute any documents, certificates or reports required by the Code and to make such elections, on behalf of the City, which may be permitted by the Code as are consistent with the purpose for the issuance of the Bonds. This Ordinance is intended to satisfy the official intent requirements set forth in Section 1.150-2 of the Treasury Regulations.

(d) Disposition of Project. The City covenants that the property constituting the projects financed or refinanced with the proceeds of the Bonds will not be sold or otherwise disposed in a transaction resulting in the receipt by the City of cash or other compensation, unless the City obtains an opinion of nationally-recognized bonds counsel that such sale or other disposition will not adversely affect the tax-exempt status of the Bonds. For purposes of the foregoing, the portion of the property comprising personal property and disposed in the ordinary course shall not be treated as a transaction resulting in the receipt of cash or other compensation. For purposes hereof, the City shall not be obligated to comply with this covenant if it obtains an opinion that such failure to comply will not adversely affect the excludability for federal income tax purposes from gross income of the interest.

Section 13. APPROVAL OF OFFERING DOCUMENTS, PAYING AGENT/REGISTRAR AGREEMENT AND ESCROW AGREEMENT. The Pricing Officer is hereby authorized to approve the Preliminary Official Statement, the Official Statement relating to the Bonds and any addenda, supplement or amendment thereto and to deem such documents final in accordance with Rule 15c2-12. The City further approves the distribution of such Official Statement in the reoffering of the Bonds by the Underwriter in final form, with such changes therein or additions thereto as the Pricing Officer executing the same may deem advisable, such determination to be conclusively evidenced by his execution thereof.

The Paying Agent/Registrar Agreement by and between the City and the Paying Agent/Registrar ("Paying Agent Agreement") in substantially the form and substance previously approved by the City in previous transactions. The Pricing Officer is hereby authorized and directed to complete, amend, modify and execute the Paying Agent Agreement as necessary.

The discharge and defeasance of Refunded Bonds shall be effectuated pursuant to the terms and provisions of an Escrow Agreement, in the form and containing the terms and provisions as shall be approved by a Pricing Officer, including any insertions, additions, deletions, and modifications as may be necessary (a) to carry out the program designed for the City by the underwriters or purchasers, (b) to maximize the City's present value savings and/or to minimize the City's costs of refunding, (c) to comply with all applicable laws and regulations relating to the refunding of the Refunded Bonds and (d) to carry out the other intents and purposes of this Order; and, the Pricing Officer is hereby authorized to execute and deliver such Escrow Agreement, on behalf of the City, in multiple counterparts.

To maximize the City's present value savings and to minimize the City's costs of refunding, the City hereby authorizes and directs that certain of the Refunded Bonds shall be called for redemption prior to maturity in the amounts, at the dates and at the redemption prices set forth in the Pricing Certificate, and the Pricing Officer is hereby authorized and directed to take all necessary and appropriate action to give or cause to be given a notice of redemption to the holders or paying agent/registrars, as appropriate, of such Refunded Bonds, in the manner required by the documents authorizing the issuance of such Refunded Bonds.

The Pricing Officer and the Escrow Agent are each hereby authorized (a) to subscribe for, agree to purchase, and purchase Defeasance Securities that are permitted investments for a defeasance escrow established to defease Refunded Bonds, and to execute any and all subscriptions, purchase agreements, commitments, letters of authorization and other documents necessary to effectuate the foregoing, and any actions heretofore taken for such purpose are hereby ratified and approved, and (b) to authorize such contributions to the escrow fund as are provided in the Escrow Agreement.

Section 14. APPROVAL OF OFFICIAL STATEMENT. The Pricing Officer is hereby authorized to approve the Preliminary Official Statement and the Official Statement relating to the Bonds and any addenda, supplement or amendment thereto, and to deem such documents final in accordance with Rule 15c2-12. The City further approves the distribution of such Official Statement in the reoffering of the Bonds with such changes therein or additions thereto as the Pricing Officer executing the same may deem advisable, such determination to be conclusively evidenced by his execution thereof.

Section 15. INSURANCE PROVISIONS. In connection with the sale of one or more Series of the Bonds, the City may obtain municipal bond insurance policies from one or more recognized municipal bond insurance organizations (the "Bond Insurer" or "Bond Insurers") to guarantee the full and complete payment required to be made by or on behalf of the City on the Bonds. The Pricing Officer is hereby authorized to sign a commitment letter or insurance agreement with the Bond Insurer or Bond Insurers and to pay the premium for the bond insurance policies at the time of the delivery of the Bonds to the underwriter out of the proceeds of sale of the Bonds or from other available funds and to execute such other documents and certificates as necessary in connection with the bond insurance policies as the Pricing Officer may deem appropriate. Printing on the Bonds covered by the bond insurance policies a statement describing such insurance, in form and substance satisfactory to the Bond Insurer and the Pricing Officer, is hereby approved and authorized. The Pricing Certificate may contain provisions related to the bond insurance policies, including payment provisions thereunder, and the rights of the Bond Insurer or Insurers, and any such provisions shall be read and interpreted as an integral part of this Ordinance.

Section 16. CONTINUING DISCLOSURE UNDERTAKING. (a) Annual Reports. The City shall provide annually to the MSRB, in an electronic format as prescribed by the MSRB, within six months after the end of any fiscal year, financial information and operating data with respect to the City of the general type included in the final Official Statement authorized by this Ordinance, as designated by the Pricing Officer in the Pricing Certificate. Any financial statements

to be so provided shall be (1) prepared in accordance with the accounting principles described in Exhibit "C" hereto, or such other accounting principles as the City may be required to employ from time to time pursuant to state law or regulation, and (2) audited, if the City commissions an audit of such statements and the audit is completed within the period during which they must be provided. If the audit of such financial statements is not complete within such period, then the City shall provide unaudited financial statements within such period, and audited financial statements for the applicable fiscal year to the MSRB, when and if the audit report on such statements become available.

If the City changes its fiscal year, it will notify the MSRB of the change (and of the date of the new fiscal year end) prior to the next date by which the City otherwise would be required to provide financial information and operating data pursuant to this Section.

The financial information and operating data to be provided pursuant to this Section may be set forth in full in one or more documents or may be included by specific reference to any document that is available to the public on the MSRB's internet web site or filed with the SEC. All documents provided to the MSRB pursuant to this Section shall be accompanied by identifying information as prescribed by the MSRB.

(b) Certain Event Notices. The City shall notify the MSRB, in an electronic format as prescribed by the MSRB, in a timely manner not in excess of ten business days after the occurrence of the event, of any of the following events with respect to the Bonds:

- A. Principal and interest payment delinquencies;
- B. Non-payment related defaults, if material within the meaning of the federal securities laws;
- C. Unscheduled draws on debt service reserves reflecting financial difficulties;
- D. Unscheduled draws on credit enhancements reflecting financial difficulties;
- E. Substitution of credit or liquidity providers, or their failure to perform;
- F. Adverse tax opinions, the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701-TEB) or other material notices or determinations with respect to the tax-exempt status of the Bonds, or other events affecting the tax-exempt status of the Bonds
- G. Modifications to rights of holders of the Bonds, if material within the meaning of the federal securities laws;
- H. Bond calls, if material within the meaning of the federal securities laws and tender offers;

- I. Defeasances;
- J. Release, substitution, or sale of property securing repayment of the Bonds, if material within the meaning of the federal securities laws;
- K. Rating changes;
- L. Bankruptcy, insolvency, receivership or similar event of the City;
- M. The consummation of a merger, consolidation, or acquisition involving the City or the sale of all or substantially all of the assets of the City, other than in the ordinary course of business, the entry into a definitive agreement to undertake such an action or the termination of a definitive agreement relating to any such actions, other than pursuant to its terms, if material within the meaning of the federal securities laws; and
- N. Appointment of a successor or additional trustee or the change of name of a trustee, if material within the meaning of the federal securities laws.

The City shall notify the MSRB, in an electronic format as prescribed by the MSRB, in a timely manner, of any failure by the City to provide financial information or operating data in accordance with subsection (a) of this Section by the time required by such subsection. All documents provided to the MSRB pursuant to this Section shall be accompanied by identifying information as prescribed by the MSRB.

(c) Limitations, Disclaimers, and Amendments. The City shall be obligated to observe and perform the covenants specified in this Section for so long as, but only for so long as, the City remains an "obligated person" with respect to the Bonds within the meaning of the Rule, except that the City in any event will give notice of any deposit made in accordance with Section 9 of this Ordinance that causes the Bonds no longer to be outstanding.

The provisions of this Section are for the sole benefit of the holders and beneficial owners of the Bonds, and nothing in this Section, express or implied, shall give any benefit or any legal or equitable right, remedy, or claim hereunder to any other person. The City undertakes to provide only the financial information, operating data, financial statements, and notices which it has expressly agreed to provide pursuant to this Section and does not hereby undertake to provide any other information that may be relevant or material to a complete presentation of the City's financial results, condition, or prospects or hereby undertake to update any information provided in accordance with this Section or otherwise, except as expressly provided herein. The City does not make any representation or warranty concerning such information or its usefulness to a decision to invest in or sell Bonds at any future date.

UNDER NO CIRCUMSTANCES SHALL THE CITY BE LIABLE TO THE HOLDER OR BENEFICIAL OWNER OF ANY BOND OR ANY OTHER PERSON, IN CONTRACT OR TORT, FOR DAMAGES RESULTING IN WHOLE OR IN PART FROM ANY BREACH BY THE CITY, WHETHER NEGLIGENT OR WITHOUT FAULT ON ITS PART, OF ANY COVENANT SPECIFIED IN THIS SECTION, BUT EVERY RIGHT AND REMEDY OF ANY SUCH PERSON, IN CONTRACT OR TORT, FOR OR ON ACCOUNT OF ANY SUCH BREACH SHALL BE LIMITED TO AN ACTION FOR *MANDAMUS* OR SPECIFIC PERFORMANCE.

No default by the City in observing or performing its obligations under this Section shall comprise a breach of or default under this Ordinance for purposes of any other provision of this Ordinance.

Should the Rule be amended to obligate the City to make filings with or provide notices to entities other than the MSRB, the City hereby agrees to undertake such obligation with respect to the Bonds in accordance with the Rule as amended.

Nothing in this Section is intended or shall act to disclaim, waive, or otherwise limit the duties of the City under federal and state securities laws.

The provisions of this Section may be amended by the City from time to time to adapt to changed circumstances that arise from a change in legal requirements, a change in law, or a change in the identity, nature, status, or type of operations of the City, but only if (1) the provisions of this Section, as so amended, would have permitted an underwriter to purchase or sell Bonds in the primary offering of the Bonds in compliance with the Rule, taking into account any amendments or interpretations of the Rule since such offering as well as such changed circumstances and (2) either (a) the holders of a majority in aggregate principal amount (or any greater amount required by any other provision of this Ordinance that authorizes such an amendment) of the outstanding Bonds consents to such amendment or (b) a person that is unaffiliated with the City (such as nationally recognized bond counsel) determines that such amendment will not materially impair the interest of the holders and beneficial owners of the Bonds. If the City so amends the provisions of this Section, it shall include with any amended financial information or operating data next provided in accordance with paragraph (a) of this Section an explanation, in narrative form, of the reason for the amendment and of the impact of any change in the type of financial information or operating data so provided. The City may also amend or repeal the provisions of this continuing disclosure agreement if the SEC amends or repeals the applicable provision of the Rule or a court of final jurisdiction enters judgment that such provisions of the Rule are invalid, but only if and to the extent that the provisions of this sentence would not prevent an underwriter from lawfully purchasing or selling Bonds in the primary offering of the Bonds.

Section 17. AMENDMENT OF ORDINANCE. The City hereby reserves the right to amend this Ordinance subject to the following terms and conditions, to-wit:

(a) The City may from time to time, without the consent of the Registered Owner, except as otherwise required by paragraph (b) below, amend or supplement this Ordinance in order to (i)

cure any ambiguity, defect or omission in this Ordinance that does not materially adversely affect the interests of the holders, (ii) grant additional rights or security for the benefit of the holders, (iii) add events of default as shall not be inconsistent with the provisions of this Ordinance and that shall not materially adversely affect the interests of the holders, (v) qualify this Ordinance under the Trust Indenture Act of 1939, as amended, or corresponding provisions of federal laws from time to time in effect, or (iv) make such other provisions in regard to matters or questions arising under this Ordinance as shall not be inconsistent with the provisions of this Ordinance and that shall not in the opinion of the City's Bond Counsel materially adversely affect the interests of the holders.

(b) Except as provided in paragraph (a) above, the Registered Owner shall have the right from time to time to approve any amendment hereto that may be deemed necessary or desirable by the City; provided, however, that without the consent of the Registered Owner, nothing herein contained shall permit or be construed to permit amendment of the terms and conditions of this Ordinance or in the Bond so as to:

- (1) Make any change in the maturity of the Bond;
- (2) Reduce the rate of interest borne by the Bond;
- (3) Reduce the amount of the principal of, or redemption premium, if any, payable on the Bond;
- (4) Modify the terms of payment of principal or of interest or redemption premium on the Bond or impose any condition with respect to such payment; or
- (5) Change the requirement with respect to Registered Owner consent to such amendment.

(c) If at any time the City shall desire to amend this Ordinance under this Section, the City shall send by U.S. mail to the Registered Owner a copy of the proposed amendment.

(d) Whenever at any time within one year from the date of publication of such notice the City shall receive an instrument or instruments executed by the Registered Owner, which instrument or instruments shall refer to the proposed amendment and that shall specifically consent to and approve such amendment, the City may adopt the amendment in substantially the same form.

(e) Upon the adoption of any amendatory ordinance pursuant to the provisions of this Section, this Ordinance shall be deemed to be modified and amended in accordance with such amendatory Ordinance, and the respective rights, duties, and obligations of the City and the Registered Owner shall thereafter be determined, exercised, and enforced, subject in all respects to such amendment.

(f) Any consent given by the Registered Owner of a Bond pursuant to the provisions of this Section shall be irrevocable for a period of six months from the date of such consent, and shall

be conclusive and binding upon all future holders of the same Bond during such period. Such consent may be revoked at any time after six months from the date of consent by the Registered Owner who gave such consent, or by a successor in title, by filing notice with the City.

For the purposes of establishing ownership of the Bonds, the City shall rely solely upon the registration of the ownership of such Bonds on the Register kept by the Paying Agent/Registrar.

Section 18. REMEDIES IN EVENT OF DEFAULT. In addition to all the rights and remedies provided by the laws of the State of Texas, it is specifically covenanted and agreed particularly that in the event the City (i) defaults in the payment of the principal, premium, if any, or interest on the Bonds, (ii) declares bankruptcy, or (iii) defaults in the observance or performance of any other of the covenant, agreement or obligation of the City, the failure to perform which materially adversely affects the rights of the owner, including but not limited to, their prospect or ability to be repaid in accordance with this Section and the continuation thereof for a period of 60 days after notice of such default is given by any owner to the City, the following remedies shall be available:

(a) Any owner or an authorized representative thereof, including but not limited to, a trustee or trustees therefor, may proceed against the City for the purpose of protecting and enforcing the rights to the owner under this Ordinance, by mandamus or other suit, action or special proceeding in equity or at law, in any court of competent jurisdiction, for any relief permitted by law, including the specific performance of any covenant or agreement contained herein, or thereby to enjoin any act or thing that may be unlawful or in violation of any right of the owner hereunder or any combination of such remedies.

(b) No remedy herein conferred or reserved is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or under the Bonds or now or hereafter existing at law or in equity; provided, however, that notwithstanding any other provision of this Ordinance, the right to accelerate the debt evidenced by the Bonds shall not be available as a remedy under this Ordinance. The exercise of any remedy herein conferred or reserved shall not be deemed a waiver of any other available remedy.

Section 19. NO RECOURSE AGAINST CITY OFFICIALS. No recourse shall be had for the payment of principal of or interest on the Bonds or for any claim based thereon or on this Ordinance against any official of the City or any person executing any Bond.

Section 20. FURTHER ACTIONS. The Mayor, the City Manager, the Director of Finance and all other officers and employees of the City are hereby authorized, empowered and directed from time to time and at any time to do and perform all such acts and things and to execute, acknowledge and deliver in the name and under the corporate seal and on behalf of the City all such instruments, whether or not herein mentioned, as may be necessary or desirable in order to carry out the terms and provisions of this Ordinance and the Bonds. In addition, prior to the initial delivery of the Bonds, the Mayor, the City Manager, the Director of Finance and Bond Counsel are hereby

authorized and directed to approve any changes or corrections to this Ordinance or to any of the instruments authorized and approved by this Ordinance necessary in order to (i) correct any ambiguity or mistake or properly or more completely document the transactions contemplated and approved by this Ordinance, (ii) obtain a rating from any of the national bond rating agencies or satisfy requirements of any bond insurer, or (iii) obtain the approval of the Bond by the Texas Attorney General's office.

In case any officer of the City whose signature shall appear on any Bonds shall cease to be such officer before the delivery of such Bonds, such signature shall nevertheless be valid and sufficient for all purposes the same as if such officer had remained in office until such delivery.

Section 21. PERFECTION. Chapter 1208, Government Code, applies to the issuance of the Bond and the pledge of ad valorem taxes granted by the City under Section 8 of this Ordinance, and such pledge is therefore valid, effective and perfected. If Texas law is amended at any time while the Bond is outstanding and unpaid such that the pledge of ad valorem taxes granted by the City under Section 8 of this Ordinance is to be subject to the filing requirements of Chapter 9, Business & Commerce Code, then in order to preserve to the Registered Owner of the Bonds the perfection of the security interest in said pledge, the City agrees to take such measures as it determines are reasonable and necessary under Texas law to comply with the applicable provisions of Chapter 9, Business & Commerce Code and enable a filing to perfect the security interest in said pledge to occur.

Section 22. INTERPRETATIONS. All terms defined herein and all pronouns used in this Ordinance shall be deemed to apply equally to singular and plural and to all genders. The titles and headings of the articles and sections of this Ordinance have been inserted for convenience of reference only and are not to be considered a part hereof and shall not in any way modify or restrict any of the terms or provisions hereof. This Ordinance and all the terms and provisions hereof shall be liberally construed to effectuate the purposes set forth herein and to sustain the validity of the Bonds and the validity of the lien on and pledge to secure the payment of the Bonds.

Section 23. INCONSISTENT PROVISIONS. All ordinances, orders or resolutions, or parts thereof, which are in conflict or inconsistent with any provisions of this Ordinance are hereby repealed to the extent of such conflict and the provisions of this Ordinance shall be and remain controlling as to the matters contained herein.

Section 24. INTERESTED PARTIES. Nothing in this Ordinance expressed or implied is intended or shall be construed to confer upon, or to give to, any person or entity, other than the City and the Registered Owner of the Bonds, any right, remedy or claim under or by reason of this Ordinance or any covenant, condition or stipulation hereof, and all covenants, stipulations, promises and agreements in this Ordinance contained by and on behalf of the City shall be for the sole and exclusive benefit of the City and the Registered Owner of the Bonds.

Section 25. SEVERABILITY. The provisions of this Ordinance are severable; and in case any one or more of the provisions of this Ordinance or the application thereof to any person or circumstance should be held to be invalid, unconstitutional, or ineffective as to any person or circumstance, the remainder of this Ordinance nevertheless shall be valid, and the application of any such invalid provision to persons or circumstances other than those as to which it is held invalid shall not be affected thereby.

Section 26. FUNDS AND ACCOUNTS. Notwithstanding anything in this Ordinance to the contrary any funds or accounts created by this Ordinance, other than the Escrow Funds, may be subaccounts of the City's Funds held by the City's depository, and, as such, not held in separate bank accounts, such treatment shall not constitute commingling of the monies in such funds or of funds and the City shall keep full and complete records indicating the monies and investment credited to each such fund.

Section 27. CREDIT AGREEMENT. To the extent permitted by law, the City reserves the right under Chapter 1371 of the Texas Government Code to enter into Credit Agreements in connection with the Bonds, upon the written opinion of the City's Finance Director that such Credit Agreements are in the best interest of the City given the market conditions at the time. The Credit Agreements will constitute a Credit Agreement as defined in Chapter 1371 of the Texas Government Code. Any such Credit Agreements must be reviewed and approved by the Attorney General of the State of Texas.

Section 28. REPEALER. All orders, resolutions and ordinances, or parts thereof, inconsistent herewith are hereby repealed to the extent of such inconsistency.

Section 29. EFFECTIVE DATE. This Ordinance shall become effective upon the final passage of this Ordinance in accordance with Section 1201.028, Texas Government Code, as amended.

Section 30. PAYMENT OF ATTORNEY GENERAL FEE. The City hereby authorizes the disbursement of a fee equal or lesser of (i) one-tenth of one percent of the principal amount of the Bonds or (ii) \$9,500, provided that such fee shall not be less than \$750, to the Attorney General of Texas Public Finance Division for payment of the examination fee charged by the State of Texas for the Attorney General's review and approval of public securities and credit agreements, as required by Section 1202.004 of the Texas Government Code. The appropriate member of the City's staff is hereby instructed to take the necessary measures to make this payment. The City is also authorized to reimburse the appropriate City funds for such payment from proceeds of the Bonds.

[Execution Page Follows]

IN ACCORDANCE WITH SECTION 1201.028, Texas Government Code, finally passed, approved and effective on this 5th day of April, 2012.

THE CITY OF TEMPLE, TEXAS

Mayor
City of Temple, Texas

ATTEST:

City Secretary
City of Temple, Texas

APPROVED AS TO FORM:

City Attorney
City of Temple, Texas

[Ordinance Signature Page]

EXHIBIT "A"

DEFINITIONS

As used in this Ordinance, the following terms and expressions shall have the meanings set forth below, unless the text hereof specifically indicates otherwise:

"*Accountant*" means an independent certified public accountant or accountants or a firm of an independent certified public accountants, in either case, with demonstrated expertise and competence in public accountancy.

"*Accreted Value*" means, with respect to a Premium Compound Interest Bond, as of any particular date of calculation, the original principal amount thereof, plus all interest accrued and compounded to the particular date of calculation, as determined in accordance with the Pricing Certificate and the Accretion Table attached as an exhibit to the Pricing Certificate relating to the respective Bonds that shows the Accreted Value per \$5,000 maturity amount on the calculation date of maturity to its maturity.

"*Accretion Table*" means the exhibit attached to the Pricing Certificate that sets forth the rounded original principal amounts at the Issuance Date for the Premium Compound Interest Bonds and the Accreted Values and maturity amounts thereof as of each Compounding Date until final maturity.

"*Authorized Denominations*" means the denomination of \$5,000 or any integral multiple thereof with respect to the Current Interest Bonds and in the denomination of \$5,000 in maturity amount or any integral multiple thereof with respect to the Premium Compound Interest Bonds.

"*Bond Insurer*" or "*Insurer*" means the provider of a municipal bond insurance policy for the Bonds as determined by the Pricing Officer in the Pricing Certificate or any other entity that insures or guarantees the payment of principal and interest on any Bonds.

"*Bonds*" means one or more Series of the "City of Temple, Texas General Obligation Refunding Bonds."

"*Book-Entry-Only System*" means the book-entry system of bond registration provided in Section 6, or any successor system of book-entry registration.

"*Business Day*" means any day which is not a Saturday, Sunday or a day on which the Paying Agent/Registrar is authorized by law or executive order to remain closed.

"*Cede & Co.*" means the designated nominee and its successors and assigns of The Depository Trust Company, New York.

"*City*" and "*Issuer*" mean the City of Temple, Texas, and where appropriate, the City Council.

"*City Council*" means the governing body of the City.

"*Closing Date*" means the date of initial delivery of and payment for the Bonds.

"*Compounded Amount*" means, with respect to a Premium Compound Interest Bond, as of any particular date of calculation, the original principal amount thereof plus all interest accrued and compounded to the particular date of calculation.

"*Compounding Dates*" means the dates on which interest is compounded on the Premium Compound Interest Bonds as set forth in the Accretion Table attached to the Pricing Certificate.

"*Current Interest Bonds*" means the Bonds paying current interest and maturing in each of the years and in the aggregate principal amounts set forth in the Pricing Certificate.

"*Defeasance Securities*" means (i) Federal Securities, (ii) noncallable obligations of an agency or instrumentality of the United States of America, including obligations that are unconditionally guaranteed or insured by the agency or instrumentality and that, on the date the City Council adopts or approves proceedings authorizing the issuance of refunding bonds or otherwise provide for the funding of an escrow to effect the defeasance of the Bonds are rated as to investment quality by a nationally recognized investment rating firm not less than "AAA" or its equivalent, (iii) noncallable obligations of a state or an agency or a county, municipality, or other political subdivision of a state that have been refunded and that, on the date the City Council adopts or approves proceedings authorizing the issuance of refunding bonds or otherwise provide for the funding of an escrow to effect the defeasance of the Bonds, are rated as to investment quality by a nationally recognized investment rating firm no less than "AAA" or its equivalent and (iv) any other then authorized securities or obligations under applicable State law that may be used to defease obligations such as the Bonds.

"*Depository*" means one or more official depository banks of the City.

"*DTC*" means The Depository Trust Company, New York, New York and its successors and assigns.

"*DTC Participant*" means securities brokers and dealers, banks, trust companies, clearing corporations, and certain other organizations on whose behalf DTC was created to hold securities to facilitate the clearance and settlement of securities transactions among DTC Participants.

"*Escrow Agent*" means The Bank of New York Mellon Trust Company, N.A. or any successor escrow agent under the Escrow Agreement.

"*Escrow Agreement*" means the agreements by and between the City and the Escrow Agent relating to refunding the Refunded Obligations and the cash defeasance, respectively.

"*Federal Securities*" as used herein means direct, noncallable obligations of the United States of America, including obligations that are unconditionally guaranteed by the United States of America (including Interest Strips of the Resolution Funding Corporation).

"*Fiscal Year*" means the twelve-month accounting period used by the City in connection with the operation of the System, currently ending on September 30 of each year, which may be any twelve consecutive month period established by the City, but in no event may the Fiscal Year be changed more than one time in any three calendar year period.

"*Holder*," "*Holders*," "*Owners*" or "*Registered Owners*" means any person or entity in whose name a Bond is registered in the Security Register, for any Parity Obligation.

"*Initial Bonds*" means the Bonds authorized, issued, and initially delivered as provided in Section 4 of this Ordinance.

"*Insurance Policy*" means an insurance policy issued by any Insurer guaranteeing the scheduled principal of and interest on the Bonds when due.

"*Interest and Sinking Fund*" means the special fund maintained by the provisions of Section 8 of this Ordinance.

"*Interest Payment Date*" means a date on which interest on the Bonds is due and payable.

"*Issuance Date*" means the date of delivery of the Bonds.

"*MSRB*" means the Municipal Securities Rulemaking Board.

"*Ordinance*" means this ordinance finally adopted by the City Council on October 20, 2011.

"*Outstanding*", when used with respect to Bonds, means, as of the date of determination, all Bonds theretofore delivered under this Ordinance, except:

- (1) Bonds theretofore cancelled and delivered to the City or delivered to the Paying Agent/Registrar for cancellation;
- (2) Bonds deemed paid pursuant to the provisions of Section 9 of this Ordinance;
- (3) Bonds upon transfer of or in exchange for and in lieu of which other Bonds have been authenticated and delivered pursuant to this Ordinance
- (4) Bonds under which the obligations of the City have been released, discharged or extinguished in accordance with the terms thereof.

"*Permitted Investments*" means any security or obligation or combination thereof permitted under the Public Funds Investments Act, Chapter 2256, Texas Government Code, as amended or other applicable law.

"*Premium Compound Interest Bonds*" means the Bonds on which no interest is paid prior to maturity, maturing in various amounts and in the aggregate principal amount as set forth in the Pricing Certificate.

"*Pricing Certificate*" means the Pricing Certificate of the City's Pricing Officer to be executed and delivered pursuant to Section 4 hereof in connection with the issuance of the Bonds.

"*Pricing Officer*" means the Director of Finance of the City, acting as the designated pricing officer of the City to execute the Pricing Certificate but in her absence, the City Manager may act as the designated pricing officer of the City to execute the Pricing Certificate.

"*Rating Agency*" means any nationally recognized securities rating agency which has assigned, at the request of the City, a rating to the Bonds.

"*Record Date*" means Record Date as defined in Section 7 the Form of Bonds.

"*Redemption Date*" means a date fixed for redemption of any Bond pursuant to the terms of this Ordinance.

"*Refunded Obligations*" means those Refundable Obligations designated by the Pricing Officer in the Pricing Certificate to be refunded.

"*Refundable Obligations*" means all or a portion of the City's outstanding ad valorem tax obligations, waterworks and sewer system revenue obligations and utility system revenue obligations.

"*Register*" or "*Registration Books*" means the registry system maintained on behalf of the City by the Registrar in which are listed the names and addresses of the Registered Owners and the principal amount of Bonds registered in the name of each Registered Owner.

"*Replacement Bonds*" means the Bonds authorized by the City to be issued in substitution for lost, apparently destroyed, or wrongfully taken Bonds as provided in Section 10 of this Ordinance.

"*Rule*" means SEC Rule 15c2-12, as amended from time to time.

"*SEC*" means the United States Securities and Exchange Commission.

"*Series*" means a separate series of Bonds as specified by or pursuant to the terms of this Ordinance.

EXHIBIT "B"

CONTINUING DISCLOSURE
DESCRIPTION OF ANNUAL FINANCIAL INFORMATION

The following information is referred to in Section 16 of this Ordinance.

Accounting Principles

The accounting principles referred to in such Section are the accounting principles described in the current notes to the financial statements used in the Official Statement.



COUNCIL AGENDA ITEM MEMORANDUM

04/05/12
Item #6
Regular Agenda
Page 1 of 2

DEPT./DIVISION SUBMISSION & REVIEW:

Traci L. Barnard, Director of Finance

ITEM DESCRIPTION: FIRST & FINAL READING – PUBLIC HEARING: Consider adopting an Ordinance Authorizing the issuance of City of Temple, Texas Pass-Through Agreement Revenue and Limited Tax Bonds; Approving an Official Statement, a Paying Agent/ Registrar Agreement, a Bond Purchase Agreement; Establishing the Procedures for selling and delivering one or more of the Bonds; and Authorizing Other matters Relating to the Bonds.

STAFF RECOMMENDATION: Adopt ordinance as presented in item description.

ITEM SUMMARY: The City and the Texas Department of Transportation (TxDOT) executed a Pass-Through Financing Agreement effective June 13, 2011 for improvements to the NW Loop 363. The Pass-Through Financing program was established as a means to benefit local areas by accelerating improvements in mobility and safety on the state highway system. Under the “pass through financing” concept, cities or counties enter into an agreement with TxDOT in which the parties agree that an addition to the State highway system will be constructed within the boundaries of the city/county, and that the city/county will finance the cost of those improvements upfront. In return TxDOT will reimburse the city or county that financed the improvements based on future usage of that road improvement by the public.

This item is to delegate authority to the Director of Finance, or in her absence, to the City Manager, or Mayor to act on behalf of the City in selling and delivering the bonds related to the Pass-Through agreement with TxDOT within the parameters defined in the attached ordinance.

The proceeds from the bonds will be used to fund the construction cost and other project cost for the NW Loop 363 improvements. The improvements include the following:

- Adding two frontage roads on FM 2305/West Adams north up to the BNSF main line;
- Grade separated interchange at SH36/Airport Road;
- Grade separation at Wendland Road.

The City will request a bond rating from Standard & Poor's. The ratings will be published prior to the pricing and sale of the bonds. The date and method by which the bond obligations will be issued, sold, and delivered will be determined to achieve the most advantageous borrowing costs for the City.

The City's Financial Advisor, Specialized Public Finance Inc., and bond counsel, McCall, Parkhurst & Horton, L.L.P, will be present at the meeting to review the parameters and details of the transaction with Council.

Specialized Public Finance Inc, will return at a date to be determined to brief City Council on the sales results.

FISCAL IMPACT. According to the guidelines of the program, TxDot will only reimburse for the allowable construction cost. Estimated Total Construction Cost is \$35,800,000. Allowable construction cost for payment of Pass-Through Reimbursements is \$15,050,000. TXDot will also contribute \$20,000,000 of Category 12 Funds. The Bonds to be issued will be sized once we receive bids for construction.

The bonds will be secured by both TxDOT reimbursements per the agreement and a limited tax pledge of the City.

A not to exceed amount for the bonds will be determined prior to Thursday, April 5, 2012.

ATTACHMENTS:

[Attachment – Exhibit C from Pass-Through Agreement Ordinance](#)

ATTACHMENT C

TOTAL ESTIMATED COSTS AND SOURCES OF FUNDING

Project Highway Improvement	Estimated Total Project Cost	Estimated Total Construction Cost	Allowable Construction Costs for Payment of Pass-Through Tolls and Percentage of Total Construction Cost (Department's Proportional Share)	Department's Maximum Pass-Through Reimbursement to Developer (110% of Allowable Construction Costs)	Developer Funding	Other Funding Sources
Loop 363	\$50,491,000	\$35,800,000	42% = \$15,050,000	\$16,555,000	\$30,491,000	\$20,000,000

Payment of Department Direct Participation Funds to Developer

The Department will make available the following funds to the Developer for the construction of the Project. In a request for all or part of the Department direct participation, the Developer shall submit to the Department documentation sufficient to demonstrate to the Department's satisfaction that the Developer made eligible construction expenditures on that highway improvement in accordance with the terms of this agreement. The Department will reimburse the Developer for those actual construction expenditures up to the limits contained in the table below. Payments under this source of funding will be made prior to the Department's pass-through reimbursements and will not be subject to reduction based on the Department's Proportional Share.

Category	Amount
12	\$20,000,000

**ORDINANCE AUTHORIZING THE ISSUANCE OF CITY OF TEMPLE, TEXAS
PASS-THROUGH TOLL REVENUE AND LIMITED TAX BONDS; APPROVING AN
OFFICIAL STATEMENT, A PAYING AGENT/REGISTRAR AGREEMENT AND
BOND PURCHASE AGREEMENT; ESTABLISHING THE PROCEDURES FOR
SELLING AND DELIVERING ONE OR MORE SERIES OF THE BONDS; AND
AUTHORIZING OTHER MATTERS RELATING TO THE BONDS**

Adopted April 5, 2012

**ORDINANCE AUTHORIZING THE ISSUANCE OF CITY OF TEMPLE, TEXAS
PASS-THROUGH TOLL REVENUE AND LIMITED TAX BONDS; APPROVING AN
OFFICIAL STATEMENT, A PAYING AGENT/REGISTRAR AGREEMENT AND
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SELLING AND DELIVERING ONE OR MORE SERIES OF THE BONDS; AND
AUTHORIZING OTHER MATTERS RELATING TO THE BONDS**

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ORDINANCE NO. _____

**ORDINANCE AUTHORIZING THE ISSUANCE OF CITY OF TEMPLE, TEXAS
PASS-THROUGH TOLL REVENUE AND LIMITED TAX BONDS; APPROVING AN
OFFICIAL STATEMENT, A PAYING AGENT/REGISTRAR AGREEMENT AND
BOND PURCHASE AGREEMENT; ESTABLISHING THE PROCEDURES FOR
SELLING AND DELIVERING ONE OR MORE SERIES OF THE BONDS; AND
AUTHORIZING OTHER MATTERS RELATING TO THE BONDS**

THE STATE OF TEXAS §

COUNTY OF BELL §

WHEREAS, Chapter 1510, specifically, Section 1510.002, of the Texas Government Code, as amended (the "Enabling Act"), authorizes the City to issue obligations secured by and payable from a pledge of and lien on all or part of the Security, as hereinafter defined, in multiple series and issues from time to time for one or more purposes authorized by law including to: (i) provide funds for the construction, acquisition, extension, expansion and/or improvement of roadways pursuant to pass-through toll agreement(s); (ii) create debt service reserve accounts; (iii) pay interest on obligations for the period authorized by State law; (iv) refund or cancel outstanding obligations; and (vi) pay the City's costs of issuance; and

WHEREAS, the City and the Texas Department of Transportation executed a Pass-Through Agreement for Payment of Pass-Through Tolls effective June 13, 2011 (the "Agreement"); and

WHEREAS, pursuant to the Agreement the City is authorized to design, develop, construct and finance the Project, as hereinafter defined, and the City desires to issue pass-through toll bonds pursuant to the Enabling Act and payable from a pledge of and lien on all or part of the Security, including reimbursements pursuant to the Agreement, as hereinafter defined, to finance the Project; and

WHEREAS, the bonds authorized to be issued by this Ordinance are to be issued and delivered pursuant to the Enabling Act, as hereinafter defined, and other applicable State laws including Chapter 1371, Texas Government Code.

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

**ARTICLE I
DEFINITIONS, RECITALS AND CONSTRUCTION OF TERMS**

Section 1.01. DEFINITIONS. The capitalized terms used herein (except in the FORM OF BONDS set forth in Exhibit B hereto) and not otherwise defined shall have the meanings given in Exhibit A to this Ordinance. The recitals to this Ordinance and the exhibits hereto are incorporated herein and made a part hereof for all purposes.

Section 1.02. CONSTRUCTION OF TERMS. If appropriate in the context of this Ordinance, words of the singular number shall be considered to include the plural, words of the plural number shall be considered to include the singular, words of the masculine, feminine, or neuter gender shall be considered to include the other genders, and words importing persons shall include firms, associations, and corporations.

ARTICLE II BOND AUTHORIZATION AND SPECIFICATIONS

Section 2.01. AMOUNT, NAME, PURPOSE, AND AUTHORIZATION. (a) The Bonds in one or more Series are being issued to provide funds to (i) design, develop and construct the Project in accordance with the Agreement, (ii) capitalize interest on the Bonds within the limits prescribed by law and as provided in the Pricing Certificate and (iii) pay the costs of issuance of the Bonds. The Bonds shall be issued in one or more Series in the aggregate principal amount not to exceed \$ _____. Each Bond issued pursuant to this Ordinance shall be designated: "**CITY OF TEMPLE, TEXAS PASS-THROUGH TOLL REVENUE AND LIMITED TAX BONDS.**"

Section 2.02. DATE, DENOMINATION, MATURITIES, NUMBERS, INTEREST AND REDEMPTION. (a) Initially there shall be issued, sold, and delivered hereunder fully registered bonds, in one or more Series, without interest coupons, which may be in the form of Current Interest Bonds numbered consecutively from R-1 upward (except the Initial Bond delivered to the Attorney General of the State of Texas which shall be numbered T-1) payable to the respective initial Registered Owners thereof, or to the registered assignee or assignees of said Bonds or any portion or portions thereof, in Authorized Denominations, maturing not later than _____, serially or otherwise on the dates, in the years and in the principal amounts, respectively, and dated, as all set forth in each Pricing Certificate to be executed and delivered by the Pricing Officer pursuant to subsection (b) of this section. The Pricing Certificate is hereby incorporated in and made a part of this Ordinance. The Bonds shall be designated by the year in which they are awarded. The authority of the Pricing Officer to execute a Pricing Certificate shall expire at 5:00 p.m. C.D.T. on April 5, 2013. Bonds priced on or before April 5, 2013 may be delivered to the initial purchaser after such date.

(b) As authorized by Chapter 1371, Texas Government Code, as amended, the Pricing Officer is hereby authorized to act on behalf of the City in selling and delivering one or more Series of the Bonds and carrying out the other procedures specified in this Ordinance, including determining the date of the Bonds, any additional or different designation or title by which the Bonds shall be known, the price at which each Series of the Bonds will be sold, the years in which each Series of the Bonds will mature, the principal amount to mature in each of such years, the aggregate principal amount Bonds, the rate or rates of interest to be borne by each such maturity, the interest payment periods, the dates, price, and terms upon and at which the Bonds may be subject to redemption prior to maturity at the option of the City, as well as any mandatory sinking fund redemption provisions, and all other matters relating to the issuance, sale, and delivery of the each Series of Bonds, all of which shall be specified in the Pricing Certificate; provided that (i) the price to be paid for each Series of the Bonds shall not be less than 90% of the aggregate original principal amount thereof plus accrued interest thereon from its date to its delivery, (ii) none of the Bonds of a Series shall bear interest at a rate, greater than the maximum authorized by law, and (iii) each Series

of the Bonds shall be rated by a nationally recognized rating agency in of the four higher rating categories. In establishing the aggregate principal amount of each Series of the Bonds, the Pricing Officer shall establish an amount not to exceed the amount authorized in Section 2.01, which shall be sufficient to provide for the purposes for which the Bonds are authorized and to pay the costs of issuing each Series of the Bonds.

(c) To achieve advantageous borrowing costs for the City, the Bonds shall be sold on a negotiated, placement or competitive basis as determined by the Pricing Officer in the Pricing Certificate. In determining whether to sell each Series of the Bonds by negotiated, placement or competitive sale, the Pricing Officer shall take into account any material disclosure issues which might exist at the time, the market conditions expected at the time of the sale and any other matters which, in the judgment of the Pricing Officer, might affect the net borrowing costs on each Series of the Bonds.

If the Pricing Officer determines that a Series of the Bonds should be sold at a competitive sale, the Pricing Officer shall cause to be prepared a notice of sale and official statement in such manner as the Pricing Officer deems appropriate, to make the notice of sale and official statement available to those institutions and firms wishing to submit a bid for such Series of the Bonds, to receive such bids, and to award the sale of the Bonds to the bidder submitting the best bid in accordance with the provisions of the notice of sale.

If the Pricing Officer determines that a Series of the Bonds should be sold by a negotiated sale or placement, the Pricing Officer shall designate the placement purchaser or the senior managing underwriter for such Series of the Bonds and such additional investment banking firms as the Pricing Officer deems appropriate to assure that such Series of the Bonds are sold on the most advantageous terms to the City. The Pricing Officer, acting for and on behalf of the City, is authorized to enter into and carry out a Bond Purchase Agreement or other agreement for such Series of the Bonds to be sold by negotiated sale or placement, with the underwriters or placement purchasers at such price, with and subject to such terms as determined by the Pricing Officer pursuant to Section 2.02(b) above. Each Bond Purchase Agreement or other agreement shall be substantially in the form and substance previously approved by the City in connection with the authorization of ad valorem tax debt with such changes as are acceptable to the Pricing Officer.

In satisfaction of Section 1201.022(a)(3), Texas Government Code, the City hereby determines that the delegation of the authority to the Pricing Officer to approve the final terms and conditions of each Series of the Bonds as set forth in this Ordinance and the decisions made by the Pricing Officer pursuant to such delegated authority and incorporated in each Pricing Certificate will be, in the best interests and shall have the same force and effect as if such determination were made by the Pricing Officer and the Pricing Officer is hereby authorized to make and include in each Pricing Certificate an appropriate finding to that effect.

(d) The Bonds shall bear interest calculated on the basis of a 360-day year composed of twelve 30-day months from the dates specified in the FORM OF BONDS set forth in this Ordinance to their respective dates of maturity or redemption at the rates per annum set forth in the Pricing Certificate.

Section 2.03. PAYMENT OF BONDS; PAYING AGENT/REGISTRAR. The principal of, premium, if any, and the interest on the Bonds shall be payable, without exchange or collection charges to the Owner thereof, in any coin or currency of the United States of America that at the time of payment is legal tender for the payment of public and private debts.

The Bank of New York Mellon Trust Company, N.A., Dallas, Texas is hereby appointed as Paying Agent/Registrar for the Bonds. By accepting the appointment as Paying Agent/Registrar, the Paying Agent/Registrar acknowledges receipt of copies of this Ordinance, and is deemed to have agreed to the provisions thereof and hereof.

The City agrees and covenants to cause to be kept and maintained at the designated office of the Paying Agent/Registrar a Security Register, all as provided herein, in accordance with the terms and provisions of the Paying Agent/Registrar Agreement and such reasonable rules and regulations as the Paying Agent/Registrar and the City may prescribe. In addition, to the extent required by law, the City covenants to cause to be kept and maintained the Security Register or a copy thereof in the State.

The City expressly reserves the right to appoint one or more successor Paying Agent/Registrars, by filing with the Paying Agent/Registrar a certified copy of a resolution or minute order of the City making such appointment. The City further expressly reserves the right to terminate the appointment of the Paying Agent/Registrar by filing a certified copy of a resolution of the City giving notice of the City's termination of the City's agreement with such Paying Agent/Registrar and appointing a successor. The City covenants to maintain and provide a Paying Agent/Registrar at all times until the Bonds are paid and discharged, and any successor Paying Agent/Registrar shall be a bank, trust company, financial institution, or other entity duly qualified and legally authorized to serve as and perform the duties and services of Paying Agent/Registrar for the Bonds. If a Paying Agent/Registrar is replaced, such Paying Agent/Registrar, promptly upon the appointment of the successor, will deliver the Security Register (or a copy thereof) and all other pertinent books and records relating to the Bonds to the successor Paying Agent/Registrar. Upon any change in the Paying Agent/Registrar, the City agrees promptly to cause a written notice thereof to be sent to each Owner by United States mail, first-class postage prepaid, which notice shall also give the address of the new Paying Agent/Registrar.

The principal of, premium, if any, and interest on the Bonds due and payable by reason of maturity, redemption, or otherwise, shall be payable only to the Owner thereof appearing on the Security Register, and, to the extent permitted by law, neither the City nor the Paying Agent/Registrar, nor any agent of either, shall be affected by notice to the contrary.

Principal of, and premium, if any, on the Bonds, shall be payable only upon the presentation and surrender of said Bonds to the Paying Agent/Registrar at its designated office. Interest on the Bonds shall be paid to the Owner whose name appears in the Security Register at the close of business on the Record Date and shall be paid (i) by check sent on or prior to the appropriate date of payment by United States mail, first-class postage prepaid, by the Paying Agent/Registrar to the address of the Owner appearing in the Security Register on the Record Date or (ii) by such other method, acceptable to the Paying Agent/Registrar, requested in writing by, and at the risk and expense of, the Owner.

In the event of a nonpayment of interest on a scheduled payment date on a Bond, and for thirty (30) days thereafter, a new record date for such interest payment (a "Special Record Date") will be established by the Paying Agent/Registrar, if and when funds for the payment of such interest have been received from the City. Notice of the Special Record Date and of the scheduled payment date of the past due interest (which shall be fifteen (15) days after the Special Record Date) shall be sent at least five (5) business days prior to the Special Record Date by United States mail, first-class postage prepaid, to the address of each Owner of a Bond appearing on the Security Register at the close of business on the last business day next preceding the date of mailing of such notice.

Section 2.04. REDEMPTION. (a) Generally. The Bonds may be subject to redemption prior to scheduled maturity at such times and with such provisions as provided in the FORM OF BOND and each Pricing Certificate.

(b) Notices of Redemption and Defeasance. (i) Unless waived by any Owner of the Bonds to be redeemed, the Chief Financial Officer shall give notice of redemption or defeasance to the Paying Agent/Registrar at least thirty-five (35) days prior to a redemption date in the case of a redemption (unless a lesser period is acceptable to the Paying Agent/Registrar) and on the defeasance date in the case of a defeasance and the Paying Agent/Registrar shall give notice of redemption or of defeasance of Bonds by mail, first-class postage prepaid at least thirty (30) days prior to a redemption date and within thirty (30) days after a defeasance date to each Owner and to the central post office or each registered securities depository and to any national information service that disseminates such notices. In addition, in the event of a redemption caused by an advance refunding of the Bonds, the Paying Agent/Registrar shall send a second notice of redemption to the persons specified in the immediately preceding sentence at least thirty (30) days but not more than ninety (90) days prior to the actual redemption date. The Paying Agent/Registrar shall also send a notice of prepayment or redemption to the Owner of any Bond who has not sent the Bonds in for redemption sixty (60) days after the redemption date.

(ii) Each notice of redemption or defeasance shall contain a description of the Bonds to be redeemed or defeased including the complete name of the Bonds, the date of issue, the interest rate, the maturity date, the CUSIP number, the certificate numbers, the amounts called of each certificate, the publication or mailing date for the notice, the date of redemption or defeasance, the redemption price, if any, the name of the Paying Agent/Registrar, and the address at which the Bonds may be redeemed or paid, including a contact person telephone number.

(iii) All redemption payments made by the Paying Agent/Registrar to the Owners of the Bonds shall include a CUSIP number relating to each amount paid to such Owner.

The failure of any Owner of the Bonds to receive notice given as provided in this Section 2.04, or any defect therein, shall not affect the validity of any proceedings for the redemption of any Bonds. Any notice mailed as provided in this Section 2.04 shall be conclusively presumed to have been duly given and shall become effective upon mailing, whether or not any Owner receives such notice.

So long as DTC is effecting book-entry transfers of the Bonds, the Paying Agent/Registrar

shall provide the notices specified in this Section 2.04 only to DTC. It is expected that DTC shall, in turn, notify its participants and that the participants, in turn, will notify or cause to be notified the beneficial owners. Any failure on the part of DTC or a participant, or failure on the part of a nominee of a beneficial owner of a Bond to notify the beneficial owner of the Bond so affected, shall not affect the validity of the redemption of such Series of Bonds.

(c) Conditional Notice of Redemption. With respect to any optional redemption of the Bonds, unless certain prerequisites to such redemption required by this Ordinance have been met and moneys sufficient to pay the principal of and premium, if any, and interest on the Bonds to be redeemed shall have been received by the Paying Agent prior to the giving of such notice of redemption, such notice shall state that said redemption may, at the option of the City, be conditional upon the satisfaction of such prerequisites and receipt of such moneys by the Paying Agent/Registrar on or prior to the date fixed for such redemption, or upon any prerequisite set forth in such notice of redemption. If a conditional notice of redemption is given and such prerequisites to the redemption and sufficient moneys are not received, such notice shall be of no force and effect, the City shall not redeem such Bonds and the Paying Agent/Registrar shall give notice, in the manner in which the notice of redemption was given, to the effect that the Bonds have not been redeemed.

Section 2.05. REGISTRATION; TRANSFER; EXCHANGE OF BONDS; PREDECESSOR BONDS; BOOK-ENTRY-ONLY SYSTEM; SUCCESSOR SECURITIES DEPOSITORY; PAYMENTS TO CEDE & CO. (a) Registration, Transfer, Exchange, and Predecessor Bonds. The Registrar shall obtain, record, and maintain in the Security Register the name and address of each Owner issued under and pursuant to the provisions of this Ordinance. Any Bond may, in accordance with its terms and the terms hereof, be transferred or exchanged for Bonds in Authorized Denominations upon the Security Register by the Owner, in person or by his duly authorized agent, upon surrender of such Bond to the Registrar for cancellation, accompanied by a written instrument of transfer or request for exchange duly executed by the Owner or by his duly authorized agent, in form satisfactory to the Registrar.

Upon surrender for transfer of any Bond at the designated office of the Registrar, there shall be registered and delivered in the name of the designated transferee or transferees, one or more new Bonds, executed on behalf of, and furnished by, the City, of Authorized Denominations and having the same Maturity and of a like aggregate principal amount as the Bond or Bonds surrendered for transfer.

At the option of the Owner, Bonds may be exchanged for other Bonds of Authorized Denominations and having the same Maturity, bearing the same rate of interest, and of like aggregate principal amount and Series as the Bonds surrendered for exchange, upon surrender of the Bonds to be exchanged at the principal office of the Registrar. Whenever any Bonds are so surrendered for exchange, there shall be registered and delivered new Bonds executed on behalf of, and furnished by, the City to the Owner requesting the exchange.

All Bonds issued upon any transfer or exchange of Bonds shall be delivered at the principal office of the Registrar or sent by United States mail, first-class, postage prepaid to the Owners or the designee thereof, and, upon the registration and delivery thereof, the same shall be the valid obligations of the City, evidencing the same debt, and entitled to the same benefits under this

Ordinance, as the Bonds surrendered in such transfer or exchange.

All transfers or exchanges of Bonds pursuant to this Section shall be made without expense or service charge to the Owner, except as otherwise herein provided, and except that the Registrar shall require payment by the Owner requesting such transfer or exchange of any tax or other governmental charges required to be paid with respect to such transfer or exchange.

Bonds canceled by reason of an exchange or transfer pursuant to the provisions hereof are hereby defined to be "Predecessor Bonds," evidencing all or a portion, as the case may be, of the same debt evidenced by the new Bond or Bonds registered and delivered in the exchange or transfer therefor. Additionally, the term "Predecessor Bonds" shall include any mutilated Bond that is surrendered to the Paying Agent/Registrar or any Bond for which satisfactory evidence of the loss of which has been received by the City and the Paying Agent/Registrar and, in either case, in lieu of which a Bond or Bonds have been registered and delivered pursuant to Section 2.05 hereof.

Neither the City nor the Registrar shall be required to issue or transfer to an assignee of an Owner any Bond called for redemption, in whole or in part, within forty-five (45) days of the date fixed for the redemption of such Bond; provided, however, such limitation of transfer shall not be applicable to an exchange by the Owner of the unredeemed balance of a Bond called for redemption in part.

(b) Ownership of Bonds. The entity in whose name any Bond shall be registered in the Security Register at any time shall be deemed and treated as the absolute Owner thereof for all purposes of this Ordinance, whether or not such Bond shall be overdue, and, to the extent permitted by law, the City and the Paying Agent/Registrar shall not be affected by any notice to the contrary; and payment of, or on account of, the principal of, premium, if any, and interest on any such Bond shall be made only to such Owner. All such payments shall be valid and effectual to satisfy and discharge the liability upon such Bond to the extent of the sum or sums so paid.

(c) Book-Entry-Only System. The Bonds of each Series issued in exchange for the Initial Bond for such Series issued as provided in Section 2.06 shall be issued in the form of a separate single fully-registered Bond for each of the maturities thereof registered in the name of Cede & Co., as nominee of DTC, and except as provided in this subsection (c), all of the Outstanding Bonds shall be registered in the name of Cede & Co., as nominee of DTC.

With respect to Bonds registered in the name of Cede & Co., as nominee of DTC, the City and the Paying Agent/Registrar shall have no responsibility or obligation to any DTC Participant or to any person on behalf of whom such a DTC Participant holds an interest in the Bonds. Without limiting the immediately preceding sentence, the City and the Paying Agent/Registrar shall have no responsibility or obligation with respect to (i) the accuracy of the records of DTC, Cede & Co. or any DTC Participant with respect to any ownership interest in the Bonds, (ii) the delivery to any DTC Participant or any other person, other than a Owner as shown on the Security Register, of any notice with respect to the Bonds, including any notice of redemption, or (iii) the payment to any DTC Participant or any other person, other than a Owner as shown on the Security Register, of any amount with respect to principal of, premium, if any, or interest on the Bonds. Notwithstanding any other provision of this Ordinance to the contrary but to the extent permitted by law, the City and the

Paying Agent/Registrar shall be entitled to treat and consider the person in whose name each Bond is registered in the Security Register as the absolute owner of such Bond for the purpose of payment of principal, premium, if any, and interest, with respect to such Bond, for the purpose of registering transfers with respect to such Bond, and for all other purposes whatsoever. The Paying Agent/Registrar shall pay all principal of, premium, if any, and interest on the Bonds only to or upon the order of the Owners, as shown in the Security Register as provided in this Ordinance, or their respective attorneys duly authorized in writing, and all such payments shall be valid and effective to fully satisfy and discharge the City's obligations with respect to payment of principal of, premium, if any, and interest on the Bonds to the extent of the sum or sums so paid. No person other than an Owner, as shown in the Security Register, shall receive a Bond certificate evidencing the obligation of the City to make payments of principal, premium, if any, and interest pursuant to this Ordinance. Upon delivery by DTC to the Paying Agent/Registrar of written notice to the effect that DTC has determined to substitute a new nominee in place of Cede & Co., and subject to the provisions in this Ordinance with respect to interest checks being mailed to the Owner at the close of business on the Record Date the words "Cede & Co." in this Ordinance shall refer to such new nominee of DTC.

(d) Successor Securities Depository; Transfers Outside Book-Entry-Only System. In the event that the City determines to discontinue the book-entry-only system through DTC or a successor or DTC determines to discontinue providing its services with respect to a Series of Bonds, the City shall either (i) appoint a successor securities depository, qualified to act as such under Section 17(a) of the Securities and Exchange Act of 1934, as amended, notify DTC and DTC Participants of the appointment of such successor securities depository, and transfer one or more separate Bonds to such successor securities depository or (ii) notify DTC and DTC Participants of the availability through DTC of Bonds and transfer one or more separate Bonds to DTC Participants having Bonds credited to their DTC accounts. In such event, the Bonds of such Series shall no longer be restricted to being registered in the Security Register in the name of Cede & Co., as nominee of DTC, but may be registered in the name of the successor securities depository, or its nominee, or in whatever name or names Owners transferring or exchanging Bonds shall designate, in accordance with the provisions of this Ordinance.

(e) Payments to Cede & Co. Notwithstanding any other provision of this Ordinance to the contrary, so long as any Bond is registered in the name of Cede & Co., as nominee of DTC, all payments with respect to principal of, premium, if any, and interest on such Bond and all notices with respect to such Bond shall be made and given, respectively, in the manner provided in the representation letter of the City to DTC.

(f) Blanket Issuer Letter of Representations. The City heretofore has executed and delivered to DTC a "Blanket Issuer Letter of Representations" with respect to the utilization by the City of DTC's book-entry-only system and the City intends to utilize such book-entry-only system in connection with each Series of the Bonds.

Section 2.06. INITIAL BOND. The Bonds shall initially be issued as a fully registered bond, being one bond (the "Initial Bond"). The Initial Bond shall be registered in the name of the initial purchaser(s) of the Bonds. The Initial Bond shall be submitted to the Office of the Attorney General of the State for approval and registration by the Office of the Comptroller of Public Accounts of the State and delivered to the initial purchaser(s) thereof. Immediately after the

delivery of the Initial Bond of a Series on the Issuance Date, the Registrar shall cancel the Initial Bond and exchange therefor Bonds in the form of a separate single fully-registered Bond for each of the maturities thereof registered in the name of Cede & Co., as nominee of DTC and, except as provided in Section 2.05(d), all of the Outstanding Bonds of such Series shall be registered in the name of Cede & Co., as nominee of DTC.

Section 2.07. FORM OF BONDS. The Bonds (including the Initial Bond), the Registration Certificate of the Comptroller of Public Accounts of the State or the Authentication Certificate, and the form of Assignment to be printed on each of the Bonds shall be substantially in the forms set forth in Exhibit B to this Ordinance with such appropriate insertions, omissions, substitutions, and other variations as are permitted or required by this Ordinance, may have such letters, numbers, or other marks of identification and such legends and endorsements (including any reproduction of an opinion of counsel and information regarding the issuance of any bond insurance policy) thereon as may, consistently herewith, be established by the City or determined by the officers executing such Bonds as evidenced by their execution thereof. Any portion of the text of any Bonds may be set forth on the reverse thereof, with an appropriate reference thereto on the face of the Bond.

The Bonds shall be typewritten, photocopied, printed, lithographed, engraved, or produced in any other similar manner, all as determined by the officers executing such Bonds as evidenced by their execution thereof.

ARTICLE III

SECURITY; ACCOUNTS; FLOW OF FUNDS; COVENANTS AND PARITY DEBT

Section 3.01. SECURITY AND PLEDGE. (a) Pledge. The Bonds and any Parity Debt shall be secured by and payable solely from a first lien on and pledge of the following (collectively, the "Security"): (i) all Pledged Revenues; (ii) all amounts in the Program Account and the Interest and Sinking Account; (iii) any additional account or subaccount that is subsequently established and so designated as being included within the Security pursuant to Section 3.02(f) hereof; (iv) all of the proceeds of the foregoing, including, without limitation, investments thereof; and (v) any applicable Credit Agreement to the extent set forth in such Credit Agreement. With respect to any applicable series of Parity Debt, the term "Security" shall also include all amounts in any reserve account or subaccount applicable to such Parity Debt pursuant to Section 3.02(e) hereof, including any reserve fund surety policy or other Credit Agreement entered into for the benefit of such account or subaccount. The City hereby assigns and pledges the Security to the payment of the Annual Debt Service Requirements on the Bonds and any Parity Debt including the obligations due under and in connection with any Credit Agreement, to the extent set forth therein and in any Supplemental Ordinance, and the Security is further pledged to the establishment and maintenance of any accounts or subaccounts which may be provided to secure the repayment of Parity Debt including the obligations due under and in connection with any Credit Agreement, to the extent set forth therein in accordance with this Ordinance and any Supplemental Ordinance.

(b) Credit Agreements. The City may execute and deliver one or more Credit Agreements (i) to additionally secure the Bonds and any Parity Debt or an issue or series or part of any issue or series of the Bonds and any Parity Debt or (ii) in connection with the authorization,

issuance, sale, resale, security, exchange, payment, purchase, remarketing or redemption of the Bonds and any Parity Debt or an issue or series or part of an issue or series of Parity Debt or interest on an issue or series or part of an issue or series of Parity Debt without regard to whether a Credit Agreement was contemplated, authorized or executed in relation to the initial issuance, sale or delivery of the Bonds or any Parity Debt. Credit Agreements and the obligations thereunder may, pursuant to their terms, constitute: (i) Parity Debt secured by a pledge of the Security on parity with the Bonds and all Parity Debt, (ii) Subordinated Debt secured by a pledge of the Security subordinate to the Bonds and Parity Debt or (iii) partially on a parity with the Bonds and Parity Debt and partially as Subordinated Debt.

(c) Tax Pledge. In addition to the Security pledged to the Bonds under Section 3.01(a) of this Ordinance, but only to the extent such Security is insufficient to pay the interest and principal payments on the Bonds, or to create a sinking fund of two percent (whichever amount is greater) for the payment of the principal thereof when due, and to pay the expenses of assessing and collecting such taxes, there is hereby levied, assessed and collected on all taxable property in the City for each year while any of the Bonds are outstanding, a continuing, direct annual ad valorem tax within the limited prescribed by law. All the proceeds of such collections, except expenses incurred in that connection, shall be paid into the "Interest and Sinking Account", and such proceeds shall be used for such purposes and no other.

(d) Perfection. Chapter 1208, Texas Government Code, applies to the issuance of the Bonds and the pledge of the Security and Texas granted by the City under this Section and in any applicable Supplemental Ordinance authorizing Parity Debt, and such pledge is therefore valid, effective, and perfected. If State law is amended at any time while Parity Debt is outstanding and unpaid such that the pledge of the Security granted by the City under this Section and in any applicable Supplemental Ordinance is to be subject to the filing requirements of Chapter 9, Texas Business & Commerce Code, then in order to preserve for the owners of Parity Debt the perfection of the security interest in said pledge, the City agrees to take such measures as it determines are reasonable and necessary under State law to comply with the applicable provisions of Chapter 9, Texas Business & Commerce Code and enable a filing to perfect the security interest in said pledge to occur.

Section 3.02. ACCOUNTS. (a) Creation or Affirmation of Accounts. The City hereby establishes or affirms the creation of the following accounts on the books and records of the City:

- (i) the Pass-Through Toll Program Revenue Account (the "Program Account");
- (ii) the Pass-Through Toll Interest and Sinking Account (the "Interest and Sinking Account"); and
- (iii) the Pass-Through Toll Bond Proceeds Account (the "Bond Proceeds Account").

(b) Program Account. Subject to the provisions of Section 3.03 of this Ordinance, moneys in the Program Account may be used for any lawful purpose authorized pursuant to the Enabling Act and other State law.

(c) Interest and Sinking Account. Moneys in the Interest and Sinking Account shall be used to pay amounts due on or with respect to the Bonds and any Parity Debt, including the principal of, premium, if any, and interest on the Bonds and any Parity Debt as the same become due and payable (whether at Stated Maturity or upon prior redemption), and the City shall maintain such account as long as the Bonds and any Parity Debt is Outstanding.

(d) Bond Proceeds Account. Proceeds from the issuance of the Bonds and any Parity Debt shall be deposited from time to time upon the issuance of such the Bonds and any Parity Debt as provided in this Ordinance and any by the applicable Supplemental Ordinance into the Bond Proceeds Account, or any subaccount thereof created with respect to the Bonds and any such Parity Debt. Such proceeds and the interest thereon shall remain in the Bond Proceeds Account or applicable subaccount thereof until expended to accomplish the purposes for which the Bonds and any such Parity Debt is issued or until otherwise utilized as provided in the applicable Supplemental Ordinance. Amounts in the Bond Proceeds Account do not constitute Security.

(e) Reserve Accounts or Subaccounts. The City may establish a reserve account and/or any other account or subaccount pursuant to the provisions of the applicable Supplemental Ordinance for the purpose of paying or securing a particular issue or series of Parity Debt or any specific group of issues or series of Parity Debt and the amounts, once deposited into said accounts or subaccounts, shall no longer constitute Security for all Parity Debt but shall be held solely for the benefit of the owners of the particular issue or series or group of issues or series of Parity Debt for which such account or subaccount was established. Each such account or subaccount shall be designated in such manner as is necessary to identify the Parity Debt it secures and to distinguish such account or subaccount from any other accounts created for the benefit of any other Parity Debt. Any such reserve accounts or subaccounts shall be established in the Supplemental Ordinance related to such series or issue of Parity Debt. The City may, in its discretion, provide in the applicable Supplemental Ordinance for a surety bond, insurance policy or other Credit Agreement, to the extent then authorized by State law, to be held for the benefit of such a reserve account or subaccount.

(f) Other Accounts. The City reserves the right to establish, in connection with the issuance of the Bonds and any Parity Debt or for other purposes, one or more additional accounts or subaccounts for such other purposes as the City may determine from time to time. The City may, at its option, declare in the action establishing the account or subaccount that the amounts in such additional account or subaccount will be either included within or excluded from the Security.

Section 3.03. FLOW OF FUNDS. All Pledged Revenues shall be deposited in the Program Account immediately upon receipt by the City. All Pledged Revenues are hereby and shall be appropriated, deposited, and transferred from the Program Account to the other accounts and subaccounts to the extent required for the following uses and in the order of priority shown:

FIRST: pro rata, to the payment of amounts required to be deposited and credited to the Interest and Sinking Account to meet all financial obligations of the City relating to payments due on or with respect to the payment of the Bonds and Parity Debt as the same mature or come due;

SECOND: pro rata, on the basis that the Outstanding Principal Amount of each particular issue or series of Parity Debt secured by a reserve account bears to the aggregate Outstanding Principal Amount of all such issues or series of such Parity Debt secured by any reserve account, to the payment of the amounts required to be deposited and credited to each reserve account created and established to maintain a reserve in accordance with the provisions of any Supplement relating to the issuance of any Parity Debt;

THIRD: any amounts to be deposited into any other fund, account or subaccount to the extent required pursuant to the provisions of any Supplemental Ordinance relating to the issuance of Parity Debt;

FOURTH: to the extent required by any resolution, order or other instrument adopted or approved by the City pursuant to which Subordinated Debt is issued, the amount necessary to meet all financial obligations on such Subordinated Debt and to accumulate or restore any required reserves to ensure that payment of principal, premium, and interest, and any other costs of Subordinated Debt shall be paid or deposited to any account or subaccount created for such purpose; and

FIFTH: all remaining Pledged Revenues shall be retained in the Program Account and may be used for any lawful purpose authorized pursuant to the Enabling Act and other State law.

Section 3.04. TAX PLEDGE. To pay the interest on any series of Parity Debt issued pursuant to this Ordinance and a Supplemental Ordinance hereto, and to create a sinking fund for the payment of the principal thereof when due, and to pay the expenses of assessing and collecting such taxes in any Supplemental Ordinance the City, in its sole discretion, may, in addition to the Security, levy, assess and collect on all taxable property in the City for each year while any such Parity Debt is outstanding, a continuing, direct annual ad valorem tax as prescribed in such Supplemental Ordinance.

Section 3.05. GENERAL REPRESENTATIONS AND COVENANTS. The City further represents, covenants and agrees that while the Bonds and any Parity Debt or interest thereon is Outstanding:

(a) **Payment of Parity Debt.** The City will duly and punctually pay solely from the Security, (i) the Annual Debt Service Requirements on, and other payments with respect to, the Bonds and any Parity Debt on the dates and at the places, as the Bonds and any Parity Debt accrues or matures, or becomes subject to mandatory redemption prior to maturity and such payments will be made in the manner provided in the Bonds and any Parity Debt and this Ordinance and any Supplemental Ordinance governing its issuance, according to the true intent and meaning thereof and (ii) the fees and expenses related to the Bonds and any Parity Debt, including the fees and expenses of the Paying Agent and any registrar, trustee, remarketing agent, tender agent, or credit provider.

(b) **Performance.** The City will faithfully perform at all times any and all covenants,

undertakings, stipulations, and provisions contained in this Ordinance and in each Supplemental Ordinance, and in each and every Bond and Parity Debt or evidence thereof and will take such action as is reasonably possible to perform each and every duty with respect to the Bonds and any Parity Debt.

(c) Redemption. The City will duly cause to be called for redemption prior to maturity, and will cause to be redeemed prior to maturity, all Parity Debt which by its terms is mandatorily required to be redeemed prior to maturity, when and as required.

(d) Determination of Annual Debt Service Requirements. For all purposes of this Ordinance, the judgment of the Chief Financial Officer shall be deemed final in the determination of the Annual Debt Service Requirements.

(e) Lawful Authority. The City is lawfully authorized to pledge the Security herein pledged in the manner prescribed herein and has lawfully exercised such right.

(f) Preservation of Lien. Subject to the conditions set forth in subsection (g) of this Section and in Section 3.06 of this Ordinance, the City (i) will not do or suffer any act or thing whereby the pledge of the Security might or could be impaired and (ii) will take all actions to the extent necessary to ensure that the City does not do or suffer any act or thing whereby the pledge of the Security might or could be impaired. Any taxes levied for the Bonds secure only the Bonds and cannot be used to pay debt service on any other Parity Debt.

(g) No Additional Encumbrance. The City shall not incur additional Debt secured by the Security in any manner, except as permitted by this Ordinance in connection with Parity Debt, unless said Debt is made junior and subordinate in all respects to the liens, pledges, covenants, and agreements of this Ordinance and any Supplemental Ordinance. Any Debt incurred by the City without satisfying the conditions for the issuance of Parity Debt, as set forth in this Ordinance, is hereby declared to be Subordinated Debt junior and subordinate in all respects to the liens, pledges, covenants, and agreements of this Ordinance and any Supplement whether such status is noted or not.

(h) Investments and Security. Moneys in all accounts and subaccounts established pursuant to this Ordinance and any Supplemental Ordinance will be held uninvested or invested and secured in the manner prescribed by State law for such funds and in accordance with this Ordinance and any applicable Supplemental Ordinance and written policies adopted by the City. The investments of each account and subaccount shall be made under conditions that will timely provide money sufficient to satisfy the City's obligations hereunder and under any Supplemental Ordinance. Money in all accounts and subaccounts established pursuant to this Ordinance and any Supplemental Ordinance may be combined for investment purposes, as directed by the City. Such treatment does not constitute a commingling of the money in such accounts and subaccounts and the City shall keep or cause to be kept full and complete records indicating the money, investments and securities credited to each such account and subaccount. Any profits or losses from investments shall be credited or charged, respectively, on a pro rata basis among the accounts and other sources of money from which such investment was made.

(i) Records; Annual Audit. The City will keep proper books of record and account in which full, true, and correct entries will be made of all dealings, activities, and transactions relating to all Pledged Revenue. Each year while any Parity Debt is Outstanding, the City covenants that as soon as practicable beginning with the end of the first Fiscal Year in which Parity Debt is issued, it will prepare or cause to be prepared a financial report of all Pledged Revenue received for such Fiscal Year in accordance with generally accepted accounting principles, certified by a Certified Public Accountant. The City shall promptly furnish such audited financial report to the municipal bond rating agencies then maintaining a rating on the Bonds and any Parity Debt and to any owner of the Bonds and any Parity Debt who shall request the same, and shall file or make available such audited financial report as required by this Ordinance and each Supplemental Ordinance. In addition, a copy of each such audited financial report shall be retained on file in the City's finance office and open to the inspection of the owners of Parity Debt, and their respective agents and representatives, at all reasonable times during regular business hours, for at least 365 days following the preparation thereof.

(j) Inspection of Records. The City will permit any owner or owners of twenty-five percent (25%) or more of the then Outstanding Principal Amount of the Bonds and any Parity Debt at all reasonable times to inspect all records, accounts, and data of the City relating to the Bonds, except such records as federal or State law may designate as privileged and exempt from disclosure.

Section 3.06. ISSUANCE OF PARITY DEBT.

(a) General. The City reserves and shall have the right and power to issue or incur Parity Debt for any purpose authorized by State law, including the refunding of the Bonds and any Parity Debt, Subordinated Debt, or other obligations of the City issued to finance the costs of a project authorized to be financed under State law, pursuant to the provisions of this Ordinance and any Supplemental Ordinance to be hereafter authorized. The City hereby covenants and agrees to comply with all constitutional and statutory requirements of State law and, to the extent applicable, federal law governing the issuance of the Bonds and any Parity Debt.

(b) Parity Debt. Provided that the City is in compliance with the requirements of any then applicable provisions of State law, the City may from time to time incur, assume, guarantee, or otherwise become liable in respect of Parity Debt if, in the applicable Supplemental Ordinance, the City finds that, upon the issuance of such Parity Debt, the Security, taking into account any Tax Pledge, will be sufficient to meet the financial obligations relating to the Bonds and any proposed Parity Debt, including Security, taking into account any Tax Pledge, in amounts sufficient to satisfy the Annual Debt Service Requirements. In addition, the City shall not issue or incur such Parity Debt unless an Authorized Representative shall deliver to the City an Officer's Certificate stating that, to the best of his or her knowledge, the City, has not failed to comply with the covenants contained in this Ordinance and any Supplemental Ordinance, to any material extent, and are not in default, to any material extent, in the performance and observance of any of the terms, provisions, and conditions hereof, thereof or under the Agreement or any Credit Agreement that constitutes Parity Debt.

(c) Credit Agreements. To the extent permitted by law, the City may execute and deliver one or more Credit Agreements (i) upon the delivery to the City of the Chief Financial Officer's

Certificate to the effect that the Credit Agreement is in the best interest of the City and (ii) compliance with the requirements of subsection (b) or (c) of this section, as the case may be, if the Credit Agreement is to constitute Parity Debt. Each Credit Agreement shall be approved by the City, to the extent required by law, either pursuant to a Supplemental Ordinance or by other action. Credit Agreements and the obligations thereunder may, pursuant to their terms, constitute (i) Parity Debt secured by a pledge of the Security on parity with other Parity Debt, (ii) Subordinated Debt secured by a pledge of the Security subordinate to Parity Debt, or (iii) partially Parity Debt and partially Subordinated Debt.

(d) Subordinated Debt. Subordinated Debt may be incurred by the City in accordance with State law.

(e) Tax Debt. Nothing in this Ordinance shall effect the authority of the City to issue ad valorem tax debt as determined by the City.

ARTICLE IV EXECUTION; REPLACEMENT OF BONDS; AND BOND INSURANCE

Section 4.01. EXECUTION AND REGISTRATION. The Bonds shall be executed on behalf of the City by the Mayor under its seal reproduced or impressed thereon and attested by the City Secretary. The signature of said officers on the Bonds may be manual or facsimile. Bonds bearing the manual or facsimile signatures of individuals who are or were the proper officers of the City as of their authorization shall be deemed to be duly executed on behalf of the City, notwithstanding that such individuals or either of them shall cease to hold such offices at the time of delivery of the Bonds to the initial purchaser(s) and with respect to Bonds delivered in subsequent exchanges and transfers, all as authorized and provided in Chapter 1201, Texas Government Code, as amended.

No Bond shall be entitled to any right or benefit under this Ordinance, or be valid or obligatory for any purpose, unless there appears on such Bond either a certificate of registration substantially in the form provided in Exhibit B to this Ordinance, executed by the Comptroller of Public Accounts of the State or its duly authorized agent by manual signature, or the Paying Agent/Registrar's Authentication Certificate substantially in the form provided in Exhibit B to this Ordinance executed by the manual signature of an authorized officer or employee of the Registrar, and either such certificate duly signed upon any Bond shall be conclusive evidence, and the only evidence, that such Bond has been duly certified, registered, and delivered.

Section 4.02. CONTROL AND CUSTODY OF BONDS. The Mayor shall be and is hereby authorized to take and have charge of all necessary orders and records pending investigation and examination by the Attorney General of the State, including the printing and supply of printed Bonds, and shall take and have charge and control of each Initial Bond pending the approval thereof by the Attorney General, the registration thereof by the Comptroller of Public Accounts, and the delivery thereof to the initial purchaser(s).

Furthermore, each Authorized Representative is hereby authorized and directed to furnish and execute such documents relating to the Project, the City and its financial affairs as may be

necessary for the issuance of the Bonds of each Series, the approval of the Attorney General, and the registration by the Comptroller of Public Accounts and, together with the City's Bond Counsel and the Paying Agent/Registrar, make the necessary arrangements for the delivery of the Initial Bond to the initial purchaser(s) and the initial exchange thereof for Bonds of such Series other than the Initial Bond.

Section 4.03. PRINTED OPINION. The initial purchaser(s)' obligation to accept delivery of the Bonds of each Series is subject to the initial purchaser(s) being furnished the final opinion of McCall, Parkhurst & Horton L.L.P. approving the Bonds of such Series as to their validity, said opinion to be dated and delivered as of the date of delivery and payment for the Bonds of such Series. If bond insurance is obtained for the Bonds, the Bonds may bear an appropriate insurance legend.

Section 4.04. CUSIP NUMBERS. CUSIP numbers may be printed or typed on the Bonds. It is expressly provided, however, that the presence or absence of CUSIP numbers on the Bonds shall be of no significance or effect as regards the legality thereof and neither the City nor attorneys approving the Bonds as to legality are to be held responsible for CUSIP numbers incorrectly printed or typed on the Bonds.

Section 4.05. MUTILATED, DESTROYED, LOST, AND STOLEN BONDS. If (1) any mutilated Bond is surrendered to the Paying Agent/Registrar, or the City and the Paying Agent/Registrar receive evidence to their satisfaction of the destruction, loss, or theft of any Bond, and (2) there is delivered to the City and the Paying Agent/Registrar such security or indemnity as may be required to save each of them harmless, then, in the absence of notice to the City or the Paying Agent/Registrar that such Bond has been acquired by a bona fide purchaser, the City shall execute and, upon its request, the Paying Agent/Registrar shall register and deliver, in exchange for or in lieu of any such mutilated, destroyed, lost, or stolen Bond, a new Bond of the same Series and Maturity and of like tenor and principal amount, bearing a number not contemporaneously outstanding.

In case any such mutilated, destroyed, lost, or stolen Bond has become or is about to become due and payable, the City in its discretion may, instead of issuing a new Bond, pay such Bond and the interest due thereon to the date of payment.

Upon the issuance of any new Bond under this Section, the City may require payment by the Owner of a sum sufficient to cover any tax or other governmental charge imposed in relation thereto and any other expenses (including the fees and expenses of the Paying Agent/Registrar) connected therewith.

Every new Bond issued pursuant to this Section in lieu of any mutilated, destroyed, lost, or stolen Bond shall constitute a replacement of the prior obligation of the City, whether or not the mutilated, destroyed, lost, or stolen Bond shall be at any time enforceable by anyone, and shall be entitled to all the benefits of this Ordinance equally and ratably with all other Outstanding Bonds.

Section 4.06. BOND INSURANCE. In connection with the sale of one or more Series of the Bonds, the City may obtain municipal bond insurance policies from one or more recognized

municipal bond insurance organizations (the "Bond Insurer" or "Bond Insurers") to guarantee the full and complete payment required to be made by or on behalf of the City on the Bonds. The Pricing Officer is hereby authorized to sign a commitment letter or insurance agreement with the Bond Insurer or Bond Insurers and to pay the premium for the bond insurance policies at the time of the delivery of the Bonds to the underwriter out of the proceeds of sale of the Bonds or from other available funds and to execute such other documents and certificates as necessary in connection with the bond insurance policies as the Pricing Officer may deem appropriate. Printing on the Bonds covered by the bond insurance policies a statement describing such insurance, in form and substance satisfactory to the Bond Insurer and the Pricing Officer, is hereby approved and authorized. The Pricing Certificate may contain provisions related to the bond insurance policies, including payment provisions thereunder, and the rights of the Bond Insurer or Insurers, and any such provisions shall be read and interpreted as an integral part of this Ordinance.

ARTICLE V PAYMENTS AND REBATE FUND

Section 5.01. PAYMENTS. (a) Accrued and Capitalized Interest. Immediately after the delivery of each Series of Bonds the City shall deposit any accrued interest and any sale proceeds to be used to pay capitalized interest received from the sale and delivery of such Bonds to the credit of the Interest and Sinking Account to be held to pay interest on such Bonds.

(b) Debt Service Payments. Semiannually on or before each principal or interest payment date while any of the Bonds are outstanding and unpaid, commencing on the first interest payment date for the Bonds, the City shall make available from the Interest and Sinking Account to the Paying Agent/Registrar, money sufficient to pay such interest on and such principal of the Bonds as will accrue or mature, or be subject to mandatory redemption prior to maturity, on such principal, redemption, or interest payment date. The Paying Agent/Registrar shall cancel all paid Bonds and shall furnish the City with an appropriate certificate of cancellation.

Section 5.02. REBATE FUND. A separate and special fund to be known as the Rebate Fund is hereby established by the City pursuant to the requirements of Section 148(f) of the Code and the tax covenants of the City contained in Article VI of this Ordinance for the benefit of the United States of America and the City, as their interests may appear pursuant to this Ordinance. Such amounts shall be deposited therein and withdrawn therefrom as is necessary to comply with the provisions of Article VI. Any moneys held within the Rebate Fund shall not constitute Security under this Ordinance.

ARTICLE VI COVENANTS REGARDING TAX EXEMPTION

Section 6.01. COVENANTS REGARDING TAX EXEMPTION. (a) Covenants. The City covenants to take any action necessary to assure, or refrain from any action which would adversely affect, the treatment of the Bonds as obligations described in section 103 of the Code, the interest on which is not includable in the "gross income" of the holder for purposes of federal income taxation. In furtherance thereof, the City covenants as follows:

(1) to take any action to assure that no more than ten percent (10%) of the proceeds of the Bonds or the projects financed therewith (less amounts deposited to a reserve fund, if any) are used for any "private business use," as defined in section 141(b)(6) of the Code or, if more than ten percent (10%) of the proceeds or the projects financed therewith are so used, such amounts, whether or not received by the City, with respect to such private business use, do not, under the terms of this Ordinance or any underlying arrangement, directly or indirectly, secure or provide for the payment of more than ten percent (10%) of the debt service on the Bonds, in contravention of section 141(b)(2) of the Code;

(2) to take any action to assure that in the event that the "private business use" described in subsection (1) hereof exceeds five percent (5%) of the proceeds of the Bonds or the projects financed therewith (less amounts deposited into a reserve fund, if any) then the amount in excess of five percent (5%) is used for a "private business use" which is "related" and not "disproportionate," within the meaning of section 141(b)(3) of the Code, to the governmental use;

(3) to take any action to assure that no amount which is greater than the lesser of \$5,000,000, or five percent (5%) of the proceeds of the Bonds (less amounts deposited into a reserve fund, if any) is directly or indirectly used to finance loans to persons, other than state or local governmental units, in contravention of section 141(c) of the Code;

(4) to refrain from taking any action which would otherwise result in the Bonds being treated as "private activity bonds" within the meaning of section 141(b) of the Code;

(5) to refrain from taking any action that would result in the Bonds being "federally guaranteed" within the meaning of section 149(b) of the Code;

(6) to refrain from using any portion of the proceeds of the Bonds, directly or indirectly, to acquire or to replace funds which were used, directly or indirectly, to acquire investment property (as defined in section 148(b)(2) of the Code) which produces a materially higher yield over the term of the Bonds, other than investment property acquired with --

(A) proceeds of the Bonds invested for a reasonable temporary period of three (3) years or less until such proceeds are needed for the purpose for which the bonds are issued,

(B) amounts invested in a bona fide debt service funds, within the meaning of section 1.148-1(b) of the Treasury Regulations, and

(C) amounts deposited in any reasonably required reserve or replacement funds to the extent such amounts do not exceed ten percent (10%) of the proceeds of the Bonds;

(7) to otherwise restrict the use of the proceeds of the Bonds or amounts treated as proceeds of the Bonds, as may be necessary, so that the Bonds do not otherwise

contravene the requirements of section 148 of the Code (relating to arbitrage) and, to the extent applicable, section 149(d) of the Code (relating to advance refundings); and

(8) to pay to the United States of America at least once during each five-year period (beginning on the date of delivery of the Bonds) an amount that is at least equal to 90 percent of the "Excess Earnings," within the meaning of section 148(f) of the Code and to pay to the United States of America, not later than 60 days after the Bonds have been paid in full, 100 percent of the amount then required to be paid as a result of Excess Earnings under section 148(f) of the Code.

(b) Rebate Fund. In order to facilitate compliance with the above covenant in subsection (a)(8), a "Rebate Fund" is established by the City pursuant to Section 5.02 of this Ordinance.

(c) Proceeds. The City understands that the term "proceeds" includes "disposition proceeds" as defined in the Treasury Regulations and, in the case of refunding bonds, transferred proceeds (if any) and proceeds of the refunded bonds expended prior to the date of issuance of the Bonds. It is the understanding of the City that the covenants contained herein are intended to assure compliance with the Code and any regulations or rulings promulgated by the U.S. Department of the Treasury pursuant thereto. In the event that regulations or rulings are hereafter promulgated which modify or expand provisions of the Code, as applicable to the Bonds, the City will not be required to comply with any covenant contained herein to the extent that such failure to comply, in the opinion of nationally recognized bond counsel, will not adversely affect the exemption from federal income taxation of interest on the Bonds under section 103 of the Code. In the event that regulations or rulings are hereafter promulgated which impose additional requirements which are applicable to the Bonds, the City agrees to comply with the additional requirements to the extent necessary, in the opinion of nationally recognized bond counsel, to preserve the exemption from federal income taxation of interest on the Bonds under section 103 of the Code. In furtherance of such intention, the City hereby authorizes and directs the Chief Financial Officer to execute any documents, certificates or reports required by the Code and to make such elections, on behalf of the City, which may be permitted by the Code as are consistent with the purpose for the issuance of the Bonds.

Section 6.02. ALLOCATION OF, AND LIMITATION ON, EXPENDITURES FOR PROJECT. The City covenants to account for the expenditure of sale proceeds and investment earnings to be used for the purposes described in Section 2.01 of this Ordinance on its books and records by allocating proceeds to expenditures within 18 months of the later of the date that (i) the expenditure is made, or (ii) the purposes for which the Bonds are issued have been accomplished. The foregoing notwithstanding, the City shall not expend sale proceeds or investment earnings thereon more than 60 days after the earlier of (i) the fifth anniversary of the delivery of the Bonds, or (ii) the date the Bonds are retired, unless the City obtains an opinion of nationally-recognized bond counsel that such expenditure will not adversely affect the tax-exempt status of the Bonds. For purposes hereof, the City shall not be obligated to comply with this covenant if it obtains an opinion that such failure to comply will not adversely affect the excludability for federal income tax purposes from gross income of the interest.

Section 6.03. DISPOSITION OF PROJECT. The City covenants that the property financed with the Bonds will not be sold or otherwise disposed in a transaction resulting in the receipt by the City of cash or other compensation, unless the City obtains an opinion of nationally-recognized bond counsel that such sale or other disposition will not adversely affect the tax-exempt status of the Bonds. For purposes of the foregoing, the portion of the property comprising personal property and disposed in the ordinary course shall not be treated as a transaction resulting in the receipt of cash or other compensation. For purposes hereof, the City shall not be obligated to comply with this covenant if it obtains an opinion that such failure to comply will not adversely affect the excludability for federal income tax purposes from gross income of the interest.

ARTICLE VII AMENDMENTS AND MODIFICATIONS

Section 7.01. AMENDMENTS OR MODIFICATIONS WITHOUT CONSENT OF OWNERS OF BONDS. Subject to the provisions of the Ordinance and the rights and obligations of the City and of the Owners of the Outstanding Bonds may be modified or amended at any time without notice to or the consent of any Owner of the Bonds or any other Parity Debt, solely for any one or more of the following purposes:

- (i) To add to the covenants and agreements of the City contained in this Ordinance, other covenants and agreements thereafter to be observed, or to surrender any right or power reserved to or conferred upon the City in this Ordinance;
- (ii) To cure any ambiguity or inconsistency, or to cure or correct any defective provisions contained in this Ordinance, upon receipt by the City of an Opinion of Counsel, that the same is needed for such purpose, and will more clearly express the intent of this Ordinance;
- (iii) To supplement the Security for the Bonds;
- (iv) To make such other changes in the provisions hereof, as the City may deem necessary or desirable and which shall not, in the judgment of the City, materially adversely affect the interests of the Owners of the Outstanding Bonds;
- (v) To make any changes or amendments requested by the State Attorney General's Office as a condition to the approval of the Bonds, which changes or amendments do not, in the judgment of the City, materially adversely affect the interests of the Owners of the Outstanding Bonds; or
- (vi) To make any changes or amendments requested by any bond rating agency then rating or requested to rate the Bonds, as a condition to the issuance or maintenance of a rating, which changes or amendments do not, in the judgment of the City, materially adversely affect the interests of the Owners of the Outstanding Bonds.

Section 7.02. AMENDMENTS OR MODIFICATIONS WITH CONSENT OF OWNERS OF BONDS.

(a) Amendments. Subject to the other provisions of this Ordinance, the Owners of Outstanding Bonds aggregating a majority in Outstanding Principal Amount shall have the right from time to time to approve any amendment, other than amendments described in Section 6.01 hereof, to this Ordinance that may be deemed necessary or desirable by the City, provided, however, that nothing herein contained shall permit or be construed to permit, without the approval of the Owners of all of the Outstanding Bonds, the amendment of the terms and conditions in this Ordinance or in the Bonds so as to:

- (i) Make any change in the maturity of the Outstanding Bonds;
- (ii) Reduce the rate of interest borne by Outstanding Bonds;
- (iii) Reduce the amount of the principal payable on Outstanding Bonds;
- (iv) Modify the terms of payment of principal of or interest on the Outstanding Bonds, or impose any conditions with respect to such payment;
- (v) Affect the rights of the Owners of less than all Bonds then Outstanding; or
- (vi) Change the minimum percentage of the Outstanding Principal Amount of Bonds necessary for consent to such amendment.

(b) Notice. If at any time the City shall desire to amend this Ordinance pursuant to Subsection (a), the City shall cause notice of the proposed amendment to be published in a financial newspaper or journal of general circulation in the City of New York, New York (including, but not limited to, The Bond Buyer or The Wall Street Journal) or in the State (including, but not limited to, The Texas Bond Reporter), once during each calendar week for at least two successive calendar weeks or disseminated by electronic means customarily used to convey notices of redemption. Such notice shall briefly set forth the nature of the proposed amendment and shall state that a copy thereof is on file at the principal office of the Paying Agent/Registrar for inspection by all Owners of Bonds. Such publication is not required, however, if the City gives or causes to be given such notice in writing to each Owner of Bonds. A copy of such notice shall be provided in writing to each rating agency maintaining a rating on the Bonds.

(c) Receipt of Consents. Whenever at any time the City shall receive an instrument or instruments executed by all of the Owners or the Owners of Outstanding Bonds aggregating a majority in Outstanding Principal Amount, as appropriate, which instrument or instruments shall refer to the proposed amendment described in said notice and which consent to and approve such amendment in substantially the form of the copy thereof on file as aforesaid, the City may adopt the amendatory resolution in substantially the same form.

(d) Consent Irrevocable. Any consent given by any Owner pursuant to the provisions of this Section shall be irrevocable for a period of six (6) months from the date of the first publication or other service of the notice provided for in this Section, and shall be conclusive and binding upon all future Owners of the same Bond during such period. Such consent may be revoked at any time

after six (6) months from the date of the first publication of such notice by the Owner who gave such consent, or by a successor in title, by filing notice thereof with the Paying Agent/Registrar and the City, but such revocation shall not be effective if the Owners of Outstanding Bonds aggregating a majority in Outstanding Principal Amount prior to the attempted revocation consented to and approved the amendment. Notwithstanding the foregoing, any consent given at the time of and in connection with the initial purchase of Bonds shall be irrevocable.

(e) **Ownership.** For the purpose of this Section, the ownership and other matters relating to all Bonds registered as to ownership shall be determined from the Security Register kept by the Paying Agent/Registrar therefor. The Paying Agent/Registrar may conclusively assume that such ownership continues until written notice to the contrary is served upon the Paying Agent/Registrar.

Section 7.03. EFFECT OF AMENDMENTS. Upon the adoption by the City of any resolution or order to amend this Ordinance pursuant to the provisions of this Article, this Ordinance shall be deemed to be amended in accordance with the amendatory resolution, and the respective rights, duties, and obligations of the City and all the Owners of Outstanding Bonds shall thereafter be determined, exercised, and enforced under this Ordinance, as amended.

ARTICLE VIII MISCELLANEOUS

Section 8.01. DISPOSITION OF BOND PROCEEDS AND OTHER FUNDS. Proceeds from the sale of each Series of Bonds shall, promptly upon receipt thereof, be applied by the Chief Financial Officer as follows:

- (i) any underwriting discount or fees and any Credit Agreement fees for each Series of Bonds may be retained by and/or wired directly to such parties;
- (ii) any accrued interest and sale proceeds to be used to pay capitalized interest for a Series of Bonds, if any, shall be deposited as provided in Section 5.01;
- (iii) an amount sufficient to pay the remaining costs of issuance of the Bonds and the cost of acquiring, purchasing, constructing, improving, enlarging, and equipping the improvements being financed with the proceeds of each Series of Bonds shall be deposited in a separate subaccount for each Series within the Bond Proceeds Account to be used for such purposes; and

Any sale proceeds of the Bonds remaining after making all deposits and payments provided for above shall be deposited into the Interest and Sinking Account and applied to the payment of principal of and interest on the Bonds.

Section 8.02. MAILED NOTICES. Except as otherwise required herein, all notices required or authorized to be given to the City or the Paying Agent/Registrar pursuant to this Ordinance shall be in writing and shall be sent by registered or certified mail, postage prepaid, to the following addresses or otherwise given in a manner deemed, in writing, acceptable to the party to receive the notice:

1. to the City:
City of Temple, Texas
2 North Main Street
Temple, Texas 76501
Attn: Director of Finance
Telephone: (254) 298-5600
Facsimile: (254) 298-5459
2. to the Paying Agent/Registrar:
The Bank of New York Mellon Trust Company, N.A.
Corporate Trust Division
2001 Bryan Street, 8th Floor
Dallas, Texas 75201
Telephone: (214) 468-6411
Facsimile: (214) 468-6322

or to such other addresses as may from time to time be furnished to the parties, effective upon the receipt of notice thereof given as set forth above.

Section 8.03. DEFEASANCE OF BONDS. (a) Deemed Paid. The principal of and/or the interest and redemption premium, if any, on any Bonds shall be deemed to be Defeased Debt within the meaning of the Ordinance, except to the extent provided in subsections (c) and (e) of this Section, when payment of the principal of such Bonds, plus interest thereon to the due date or dates (whether such due date or dates be by reason of maturity, upon redemption, or otherwise) either (i) shall have been made or caused to be made in accordance with the terms thereof (including the giving of any required notice of redemption or the establishment of irrevocable provisions for the giving of such notice) or (ii) shall have been provided for on or before such due date by irrevocably depositing with or making available to the Paying Agent/Registrar for such Bonds or an eligible trust company or commercial bank for such payment (1) lawful money of the United States of America sufficient to make such payment, (2) Defeasance Securities, certified by an independent public accounting firm of national reputation to mature as to principal and interest in such amounts and at such times as will ensure the availability, without reinvestment, of sufficient money to provide for such payment and when proper arrangements have been made by the City with the Paying Agent/Registrar for such Bonds or an eligible trust company or commercial bank for the payment of its services until all Defeased Debt shall have become due and payable or (3) any combination of (1) and (2). At such time as Bonds shall be deemed to be a Defeased Debt hereunder, as aforesaid, such Bonds and the interest thereon shall no longer be secured by, payable from, or entitled to the benefits of the Security as provided this Ordinance, and such principal and interest shall be payable solely from such money or Defeasance Securities.

(b) Investments. The deposit under clause (ii) of subsection (a) of this Section shall be deemed a payment of Bonds as aforesaid when proper notice of redemption of such Bonds shall have been given or upon the establishment of irrevocable provisions for the giving of such notice, in accordance with this Ordinance. Any money so deposited with the Paying Agent/Registrar for such Bonds or an eligible trust company or commercial bank as provided in this Section may at the

discretion of the City also be invested in Defeasance Securities, maturing in the amounts and at the times as hereinbefore set forth, and all income from all Defeasance Securities in possession of the Paying Agent/Registrar for such Bonds or an eligible trust company or commercial bank pursuant to this Section which is not required for the payment of such Bonds and premium, if any, and interest thereon with respect to which such money has been so deposited, shall be remitted to the City.

(c) Continuing Duty of Paying Agent and Registrar. Notwithstanding any provision of any other Section of this Ordinance which may be contrary to the provisions of this Section, all money or Defeasance Securities set aside and held in trust pursuant to the provisions of this Section for the payment of principal of Bonds and premium, if any, and interest thereon, shall be applied to and used solely for the payment of the particular Bonds and premium, if any, and interest thereon, with respect to which such money or Defeasance Securities have been so set aside in trust. Until all Defeased Debt shall have become due and payable, the Paying Agent/Registrar for such Defeased Debt shall perform the services of Paying Agent/Registrar for such Defeased Debt the same as if they had not been defeased, and the City shall make proper arrangements to provide and pay for such services as required by this Ordinance.

(d) Amendment of this Section. Notwithstanding anything elsewhere in this Ordinance, if money or Defeasance Securities have been deposited or set aside with the Paying Agent/Registrar for such Bonds or an eligible trust company or commercial bank pursuant to this Section for the payment of Bonds and such Bonds shall not have in fact been actually paid in full, no amendment of the provisions of this Section shall be made without the consent of the registered owner of each Bonds affected thereby.

(e) Retention of Rights. Notwithstanding the provisions of subsection (a) of this Section, to the extent that, upon the defeasance of any Defeased Debt to be paid at its maturity, the City retains the right under State law to later call that Defeased Debt for redemption in accordance with the provisions of this Ordinance, the City may call such Defeased Debt for redemption upon complying with the provisions of State law and upon the satisfaction of the provisions of subsection (a) of this Section with respect to such Defeased Debt as though it was being defeased at the time of the exercise of the option to redeem the Defeased Debt and the effect of the redemption is taken into account in determining the sufficiency of the provisions made for the payment of the Defeased Debt.

Section 8.04 FURTHER PROCEDURES. Each Authorized Representative is hereby expressly authorized, empowered, and directed from time to time and at any time to do and perform all such acts and things and to execute, acknowledge, and deliver in the name and under the corporate seal and on behalf of the City all such instruments, whether or not herein mentioned, as may be necessary or desirable in order to carry out the terms and provisions of this Ordinance, each Series of Bonds, the sale and delivery of each Series of Bonds, and fixing all details in connection therewith, and the Paying Agent/Registrar Agreement. In connection with the issuance and delivery of each Series of Bonds, the above-stated officers, with the advice of the City Attorney and Bond Counsel to the City, are hereby authorized to approve, subsequent to the date of the adoption of this Ordinance, any amendments to the above named documents, and any technical amendments to this Ordinance as permitted by Section 7.01 (v) or (vi).

Section 8.05. NONPRESENTMENT OF BONDS. If any Bond shall not be presented for

payment when the principal thereof becomes due, either at maturity or otherwise, or if the Maturity Amounts of Capital Appreciation Bonds become due, if moneys sufficient to pay such Bond shall have been deposited with the Paying Agent/Registrar, it shall be the duty of the Paying Agent/Registrar to hold such moneys, without liability to the City, any Owner, or any other person for interest thereon, for the benefit of the Owner of such Bond.

Any moneys so deposited with and held by the Paying Agent/Registrar due to nonpresentment of Bonds must be retained by the Paying Agent/Registrar for a period of at least two years after the final maturity date of the Bonds or advance refunding date, if applicable. Thereafter, to the extent permitted by the unclaimed property laws of the State, such amounts shall be paid by the Paying Agent/Registrar to the City, free from the trusts created by this Ordinance and Owners shall be entitled to look only to the City for payment, and then only to the extent of the amount so repaid by the Paying Agent/Registrar.

Section 8.06. EFFECT OF SATURDAYS, SUNDAYS, AND LEGAL HOLIDAYS.

Whenever this Ordinance requires any action to be taken on a Saturday, Sunday, or legal holiday, such action shall be taken on the first business day occurring thereafter. Whenever in this Ordinance the time within which any action is required to be taken or within which any right will lapse or expire shall terminate on a Saturday, Sunday, or legal holiday, such time shall continue to run until midnight on the next succeeding business day.

Section 8.07. PARTIAL INVALIDITY. If any one or more of the covenants or agreements or portions thereof provided in this Ordinance on the part of the City should be determined by a court of competent jurisdiction to be contrary to law, then such covenant or covenants, or such agreement or agreements, or such portions thereof, shall be deemed severable from the remaining covenants and agreements or portions thereof provided in this Ordinance and the invalidity thereof shall in no way affect the validity of the other provisions of this Ordinance or of the Bonds, but the Owners of the Bonds shall retain all the rights and benefits accorded to them hereunder and under any applicable provisions of law.

Section 8.08. CONTINUING DISCLOSURE UNDERTAKING. (a) Annual Reports. The City shall provide annually to the MSRB, in an electronic format as prescribed by the MSRB, within six months after the end of any fiscal year, financial information and operating data with respect to the City of the general type included in the final Official Statement authorized by Section 8.09 of this Ordinance, being the information described in the Pricing Certificate. Any financial statements to be so provided shall be (1) prepared in accordance with the accounting principles described in Exhibit C hereto, or such other accounting principles as the City may be required to employ from time to time pursuant to state law or regulation, and (2) audited, if the City commissions an audit of such statements and the audit is completed within the period during which they must be provided. If the audit of such financial statements is not complete within such period, then the City shall provide unaudited financial statements within such period, and audited financial statements for the applicable fiscal year to the MSRB, when and if the audit report on such statements become available.

If the City changes its fiscal year, it will notify the MSRB of the change (and of the date of the new fiscal year end) prior to the next date by which the City otherwise would be required to provide financial information and operating data pursuant to this Section.

The financial information and operating data to be provided pursuant to this Section may be set forth in full in one or more documents or may be included by specific reference to any document that is available to the public on the MSRB's internet web site or filed with the SEC. All documents provided to the MSRB pursuant to this Section shall be accompanied by identifying information as prescribed by the MSRB.

(b) Certain Event Notices. The City shall notify the MSRB, in an electronic format as prescribed by the MSRB, in a timely manner not in excess of ten business days after the occurrence of the event, of any of the following events with respect to the Bonds:

- A. Principal and interest payment delinquencies;
- B. Non-payment related defaults, if material within the meaning of the federal securities laws;
- C. Unscheduled draws on debt service reserves reflecting financial difficulties;
- D. Unscheduled draws on credit enhancements reflecting financial difficulties;
- E. Substitution of credit or liquidity providers, or their failure to perform;
- F. Adverse tax opinions, the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701-TEB) or other material notices or determinations with respect to the tax-exempt status of the Bonds, or other events affecting the tax-exempt status of the Bonds;
- G. Modifications to rights of holders of the Bonds, if material within the meaning of the federal securities laws;
- H. Bond calls, if material within the meaning of the federal securities laws and tender offers;
- I. Defeasances;
- J. Release, substitution, or sale of property securing repayment of the Bonds, if material within the meaning of the federal securities laws;
- K. Rating changes;
- L. Bankruptcy, insolvency, receivership or similar event of the City;

M. The consummation of a merger, consolidation, or acquisition involving the City or the sale of all or substantially all of the assets of the City, other than in the ordinary course of business, the entry into a definitive agreement to undertake such an action or the termination of a definitive agreement relating to any such actions, other than pursuant to its terms, if material within the meaning of the federal securities laws; and

N. Appointment of a successor or additional trustee or the change of name of a trustee, if material within the meaning of the federal securities laws.

The City shall notify the MSRB, in an electronic format as prescribed by the MSRB, in a timely manner, of any failure by the City to provide financial information or operating data in accordance with this subsection by the time required. All documents provided to the MSRB pursuant to this subsection shall be accompanied by identifying information as prescribed by the MSRB.

(c) Limitations, Disclaimers, and Amendments. The City shall be obligated to observe and perform the covenants specified in this Section for so long as, but only for so long as, the City remains an "obligated person" with respect to the Bonds within the meaning of the Rule, except that the City in any event will give the notice required by this Ordinance of any Bond calls and defeasance that cause the Bonds to be no longer outstanding.

The provisions of this Section are for the sole benefit of the holders and beneficial owners of the Bonds, and nothing in this Section, express or implied, shall give any benefit or any legal or equitable right, remedy, or claim hereunder to any other person. The City undertakes to provide only the financial information, operating data, financial statements, and notices which it has expressly agreed to provide pursuant to this Section and does not hereby undertake to provide any other information that may be relevant or material to a complete presentation of the City's financial results, condition, or prospects or hereby undertake to update any information provided in accordance with this Section or otherwise, except as expressly provided herein. The City does not make any representation or warranty concerning such information or its usefulness to a decision to invest in or sell Bonds at any future date.

UNDER NO CIRCUMSTANCES SHALL THE DISTRICT BE LIABLE TO THE HOLDER OR BENEFICIAL OWNER OF ANY BOND OR ANY OTHER PERSON, IN CONTRACT OR TORT, FOR DAMAGES RESULTING IN WHOLE OR IN PART FROM ANY BREACH BY THE DISTRICT, WHETHER NEGLIGENT OR WITHOUT FAULT ON ITS PART, OF ANY COVENANT SPECIFIED IN THIS SECTION, BUT EVERY RIGHT AND REMEDY OF ANY SUCH PERSON, IN CONTRACT OR TORT, FOR OR ON ACCOUNT OF ANY SUCH BREACH SHALL BE LIMITED TO AN ACTION FOR *MANDAMUS* OR SPECIFIC PERFORMANCE.

No default by the City in observing or performing its obligations under this Section shall comprise a breach of or default under this Ordinance for purposes of any other provision of this Ordinance.

Should the Rule be amended to obligate the City to make filings with or provide notices to entities other than the MSRB, the City hereby agrees to undertake such obligation with respect to the Bonds in accordance with the Rule as amended.

Nothing in this Section is intended or shall act to disclaim, waive, or otherwise limit the duties of the City under federal and state securities laws.

The provisions of this Section may be amended by the City from time to time to adapt to changed circumstances that arise from a change in legal requirements, a change in law, or a change in the identity, nature, status, or type of operations of the City, but only if (1) the provisions of this Section, as so amended, would have permitted an underwriter to purchase or sell Bonds in the primary offering of the Bonds in compliance with the Rule, taking into account any amendments or interpretations of the Rule since such offering as well as such changed circumstances and (2) either (a) the holders of a majority in aggregate principal amount (or any greater amount required by any other provision of this Ordinance that authorizes such an amendment) of the outstanding Bonds consents to such amendment or (b) a person that is unaffiliated with the City (such as nationally recognized bond counsel) determines that such amendment will not materially impair the interest of the holders and beneficial owners of the Bonds. If the City so amends the provisions of this Section, it shall include with any amended financial information or operating data next provided in accordance with paragraph (a) of this Section an explanation, in narrative form, of the reason for the amendment and of the impact of any change in the type of financial information or operating data so provided. The City may also amend or repeal the provisions of this continuing disclosure agreement if the SEC amends or repeals the applicable provision of the Rule or a court of final jurisdiction enters judgment that such provisions of the Rule are invalid, but only if and to the extent that the provisions of this sentence would not prevent an underwriter from lawfully purchasing or selling Bonds in the primary offering of the Bonds.

Section 8.09. OFFICIAL STATEMENT AND PURCHASE AGREEMENT. The Pricing Officer is hereby authorized to approve the Preliminary Official Statement, the Official Statement relating to the Bonds and any addenda, supplement or amendment thereto and to deem such documents final in accordance with Rule 15c2-12. The City further approves the distribution of such Official Statement in the reoffering of the Bonds by the Underwriter in final form, with such changes therein or additions thereto as the Pricing Officer executing the same may deem advisable, such determination to be conclusively evidenced by his execution thereof.

The Paying Agent/Registrar Agreement by and between the City and the Paying Agent/Registrar ("Paying Agent Agreement") in substantially the form and substance previously approved by the City in previous transactions. The Pricing Officer is hereby authorized and directed to complete, amend, modify and execute the Paying Agent Agreement as necessary.

Section 8.10. EVENTS OF DEFAULT AND REMEDIES.

(a) Events of Default. Each of the following occurrences or events for the purpose of this Ordinance is hereby declared to be an Event of Default:

(i) the failure to make payment of the principal of or interest on any of the Bonds when the same becomes due and payable; or

(ii) default in the performance or observance of any other covenant, agreement or obligation of the City, the failure to perform which materially, adversely affects the rights of the Registered Owners of the Bonds, including, but not limited to, their prospect or ability to be repaid in accordance with this Ordinance, and the continuation thereof for a period of 60 days after notice of such default is given by any Registered Owner to the City.

(b) Remedies for Default.

(i) Upon the happening of any Event of Default, then and in every case, any Registered Owner or an authorized representative thereof, including, but not limited to, a trustee or trustees therefor, may proceed against the City, or any official, officer or employee of the City in their official capacity, for the purpose of protecting and enforcing the rights of the Registered Owners under this Ordinance, by mandamus or other suit, action or special proceeding in equity or at law, in any court of competent jurisdiction, for any relief permitted by law, including the specific performance of any covenant or agreement contained herein, or thereby to enjoin any act or thing that may be unlawful or in violation of any right of the Registered Owners hereunder or any combination of such remedies.

(ii) It is provided that all such proceedings shall be instituted and maintained for the equal benefit of all Registered Owners of Bonds then outstanding.

(c) Remedies Not Exclusive.

(i) No remedy herein conferred or reserved is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or under the Bonds or now or hereafter existing at law or in equity; provided, however, that notwithstanding any other provision of this Ordinance, the right to accelerate the debt evidenced by the Bonds shall not be available as a remedy under this Ordinance.

(ii) The exercise of any remedy herein conferred or reserved shall not be deemed a waiver of any other available remedy.

(iii) By accepting the delivery of a Bond authorized under this Ordinance, such Registered Owner agrees that the certifications required to effectuate any covenants or representations contained in this Ordinance do not and shall never constitute or give rise to a personal or pecuniary liability or charge against the officers, employees or trustees of the City or the City Council.

(iv) None of the members of the City Council, nor any other official or officer, agent, or employee of the City, shall be charged personally by the Registered Owners with any liability, or be held personally liable to the Registered Owners under any term or

provision of this Ordinance or because of any Event of Default or alleged Event of Default under this Ordinance.

Section 8.11. RULES OF INTERPRETATION. For purposes of this Ordinance, except as otherwise expressly provided or the context otherwise requires:

(a) The words "herein," "hereof" and "hereunder" and other similar words refer to this ordinance as a whole and not to any particular Article, Section, or other subdivision.

(b) The definitions in an Article are applicable whether the terms defined are used in the singular or the plural.

(c) All accounting terms that are not defined in this Ordinance have the meanings assigned to them in accordance with then applicable accounting principles.

(d) Any pronouns used in this Ordinance include both the singular and the plural and cover both genders.

(e) Any terms defined elsewhere in this Ordinance have the meanings attributed to them where defined.

(f) The captions or headings are for convenience only and in no way define, limit or describe the scope or intent, or control or affect the meaning or construction, of any provisions or sections hereof.

(g) Any references to Section numbers are to Sections of this Ordinance unless stated otherwise.

Section 8.12. NO PERSONAL LIABILITY. No covenant or agreement contained in the Bonds, this Ordinance or any corollary instrument shall be deemed to be the covenant or agreement of any member of the City Council or any officer, agent, employee or representative of the City in his individual capacity, and neither the City Council, directors, members, officers, agents, employees or representatives of the City nor any person executing the Bonds shall be personally liable thereon or be subject to any personal liability for damages or otherwise or accountability by reason of the issuance thereof, or any actions taken or duties performed in relation to the issuance of the Bonds, whether by virtue of any constitution, statute or rule of law, or by the enforcement of any assessment or penalty, or otherwise, all such liability being expressly released and waived as a condition of and in consideration for the issuance of the Bonds.

Section 8.13. PAYMENT OF ATTORNEY GENERAL FEE. The City hereby authorizes the disbursement of a fee equal to the lesser of (i) one-tenth of one percent of the principal amount of the Bonds of each Series or (ii) \$9,500 per Series, provided that such fee shall not be less than \$750, to the Attorney General of Texas Public Finance Division for payment of the examination fee charged by the State of Texas for the Attorney General's review and approval of public securities and credit agreements, as required by Section 1202.004 of the Texas Government Code. The Authorized Representative is hereby instructed to take the necessary measures to make

this payment. The City is also authorized to reimburse the appropriate City funds for such payment from proceeds of the Bonds of each Series.

IN ACCORDANCE WITH SECTION 1201.028, Texas Government Code, finally passed, approved and effective on this 5th day of April 2012.

THE CITY OF TEMPLE, TEXAS

Mayor
City of Temple, Texas

ATTEST:

City Secretary
City of Temple, Texas

[CITY SEAL]

APPROVED AS TO FORM:

City Attorney
City of Temple, Texas

EXHIBIT A

DEFINITIONS

As used in this Ordinance, the following terms shall have the meanings set forth below, unless the text hereof specifically indicates otherwise:

"Agreement" means the Pass-Through Toll Agreement between the City and the Texas Department of Transportation, effective June 15, 2011.

"Annual Debt Service Requirements" means, for any Fiscal Year, (i) the principal of, premium, if any, and interest on all Parity Debt coming due at Maturity or Stated Maturity (or that could come due on demand of the owner thereof other than by acceleration or other demand conditioned upon default by the City on such Parity Debt, or be payable in respect of any required purchase of such Parity Debt by the City) plus (ii) all payments required to be made by the City under each Credit Agreement constituting Parity Debt (net of any credits as provided in (7) below) in such Fiscal Year, and minus (iii) all amounts on deposit to the credit of the Interest and Sinking Account from original proceeds from the sale of Parity Debt or from any other lawfully available source (other than moneys that would constitute Pledged Revenues in the subject annual period) and, for such purposes, any one or more of the following rules shall apply at the election of the City; provided, however, that this definition shall never be applied in a manner which results in Annual Debt Service Requirements for any Fiscal Year being an amount that is less than the aggregate amount actually required to be paid in such Fiscal Year with respect to Outstanding Parity Debt:

(1) Committed Take Out. If the City has entered into a Credit Agreement constituting Parity Debt and constituting a binding commitment within normal commercial practice, from any bank, savings and loan association, insurance company, or similar institution to discharge any of its Funded Debt at its Stated Maturity (or, if due on demand, at any date on which demand may be made) or to purchase any of its Funded Debt at any date on which such debt is subject to required purchase, all pursuant to arrangements whereby the City's obligation to repay the amounts advanced for such discharge or purchase constitutes Funded Debt, then the portion of the Funded Debt committed to be discharged or purchased shall be excluded from such calculation and the principal of and interest on the Funded Debt incurred for such discharge or purchase that would be due in the Fiscal Year for which the calculation is being made, if incurred at the Stated Maturity or purchase date of the Funded Debt to be discharged or purchased, shall be added to such calculation, and the remaining provisions of this definition shall be applied to such added Funded Debt;

(2) Balloon Debt. If the principal, including the accretion of interest resulting from original issue discount or compounding of interest (collectively, "Principal"), of any series or issue of Funded Debt due (or payable in respect of any required purchase of such Funded Debt by the City) in any Fiscal Year either is equal to at least 25% of the total Principal of such Funded Debt or exceeds by more than 50% the greatest amount of Principal of such series or issue of Funded Debt due in any preceding or succeeding Fiscal Year (such Principal due in such Fiscal Year for such series or issue of Funded Debt being referred to

herein as "Balloon Debt"), the amount of Principal of such Balloon Debt taken into account during any Fiscal Year shall be equal to the debt service calculated using the Principal of such Balloon Debt amortized over the Term of Issue on a level debt service basis at an assumed interest rate equal to the rate borne by such Balloon Debt on the date of calculation;

(3) Consent Sinking Fund. In the case of Balloon Debt (as defined in clause (2) above), if an Authorized Representative shall deliver to the City an Officer's Certificate providing for the retirement of (and the instrument creating such Balloon Debt shall permit the retirement of), or for the accumulation of a sinking fund for (and the instrument creating such Balloon Debt shall permit the accumulation of a sinking fund for), such Balloon Debt according to a fixed schedule stated in such Officer's Certificate ending on or before the Fiscal Year in which such principal (and premium, if any) is due, then the principal of (and, in the case of retirement, or to the extent provided for by the sinking fund accumulation, the premium, if any, and interest and other payments due on) such Balloon Debt shall be computed as if the same were due in accordance with such schedule, provided that this clause (3) shall apply only to Balloon Debt for which the installments previously scheduled have been paid or deposited to the sinking fund established with respect to such debt on or before the times required by such schedule; and provided further that this clause (3) shall not apply where the City has elected to apply the rule set forth in clause (2) above;

(4) Prepaid Debt. Principal of, premium, if any, and interest on Parity Debt, or portions thereof, shall not be included in the computation of the Annual Debt Service Requirements for any Fiscal Year for which such principal, premium, if any, or interest are payable from funds on deposit or set aside in trust for the payment thereof at the time of such calculations (including, without limitation, capitalized interest and accrued interest so deposited or set aside in trust) with a financial institution acting as fiduciary with respect to the payment of such Parity Debt;

(5) Variable Rate. As to any Parity Debt that bears interest at a variable interest rate which cannot be ascertained at the time of calculation of the Annual Debt Service Requirement, at the election of the City, the interest rate for such Parity Debt shall be determined to be either (i) an interest rate equal to the average rate borne by such Parity Debt (or by comparable debt in the event that such Parity Debt has not been outstanding during the preceding 24 months) for any 24 month period ending within 30 days prior to the date of calculation, (ii) if the Parity Debt bears interest at tax-exempt rates, an interest rate equal to the 24 month average of the Bond Market Association Bond Index (as most recently published in The Bond Buyer), unless such index is no longer published in The Bond Buyer, in which case the index to be used in its place shall be that index which the City determines most closely replicates such index as set forth in a certificate of an Authorized Representative, (iii) if the Parity Debt bears interest at taxable rates, an interest rate equal to the rate of the 30 day London Interbank Offered Rate, (iv) that interest rate which, in the judgment of the Chief Financial Officer, based, to the extent possible, upon an accepted market index which corresponds with the provisions of the subject Parity Debt, is the average rate anticipated to be in effect with respect to such Parity Debt or (v) that interest rate which, in the judgment of the Chief Financial Officer, based upon the interest rate

methodology in the applicable Credit Agreement if calculating payments under a Credit Agreement in accordance with paragraph 7 of this definition, is the average rate anticipated to be in effect;

(6) Short-Term Obligations. Notwithstanding anything in the foregoing to the contrary, with respect to any Parity Debt issued as Short-Term Obligations, the debt service on such Parity Debt shall be calculated assuming that such Parity Debt will be refunded and refinanced to mature over a 20-year period with level principal requirements and bearing interest at then current market rates; provided, however, that to the extent permitted by law, if in the judgment of the Chief Financial Officer, as set forth in an Officer's Certificate delivered to the City, the result of the foregoing calculation is inconsistent with the reasonable expectations of the City, the interest on such Parity Debt shall be calculated in the manner provided in clause (5) of this definition and the maturity schedule shall be calculated in the manner provided in clause (2) of this definition; and

(7) Credit Agreement Payments. If the City has entered into a Credit Agreement in connection with an issue of Parity Debt, payments due under any such Credit Agreement (other than payments for fees and expenses) from either the City or the provider of a Credit Agreement shall be included in such calculation, except to the extent that the payments are already taken into account under clauses (1) through (6) above and any payments otherwise included under clauses (1) through (6) above which are to be replaced by payments under such a Credit Agreement, from either the City or the provider under a Credit Agreement, shall be excluded from such calculation.

"Authorized Denominations" means for Bonds, \$5,000 or any integral multiple thereof.

"Authorized Representative" means the Mayor or Chief Financial Officer or such other individual so designated by the City to perform the duties of an Authorized Representative under this Ordinance.

"Bond Insurer" means one or more companies, if any, insuring all or any portion of any Series of the Bonds (or any portion thereof) or any successor thereof or assignee thereof.

"Bonds" means the Bonds issued pursuant to and governed by this Ordinance, as described in Article II hereof.

"Chief Financial Officer" means the Director of Finance of the City, or such other officer or employee of the City or such other individual so designated by the City to perform the duties of Chief Financial Officer under this Ordinance.

"Debt" means all indebtedness of the City payable from all or part of the Security that is also:

(1) indebtedness incurred or assumed by the City for borrowed money (including all obligations arising under Credit Agreements) and all other financial obligations of the City that, in accordance with generally accepted accounting principles, are shown on the liability

side of a balance sheet;

(2) all other indebtedness (other than indebtedness otherwise treated as Debt hereunder) for borrowed money or for the acquisition, construction, or improvement of property or capitalized lease obligations that is guaranteed, directly or indirectly, in any manner by the City, or that is in effect guaranteed, directly or indirectly, by the City through an agreement, contingent or otherwise, to purchase any such indebtedness or to advance or supply funds for the payment or purchase of any such indebtedness or to purchase property or services primarily for the purpose of enabling the debtor or seller to make payment of such indebtedness, or to assure the owner of the indebtedness against loss, or to supply funds to or in any other manner invest in the debtor (including any agreement to pay for property or services irrespective of whether or not such property is delivered or such services are rendered), or otherwise; and

(3) all indebtedness secured by any mortgage, lien, charge, encumbrance, pledge, or other security interest upon property owned by the City whether or not the City has assumed or become liable for the payment thereof.

For the purpose of determining the "Debt" of the City, only outstanding Debt shall be included. No item shall be considered Debt unless such item constitutes indebtedness under generally accepted accounting principles applied on a basis consistent with the financial statements of the City in prior Fiscal Years.

"Defeased Debt" means any Parity Debt and the interest thereon deemed to be paid, retired, and no longer Outstanding pursuant to the provisions of the applicable Supplement authorizing such Parity Debt; and thus, no longer secured by, payable from, or entitled to the benefits of the Security.

"Defeasance Securities" means (i) Federal Securities, (ii) noncallable obligations of an agency or instrumentality of the United States of America, including obligations that are unconditionally guaranteed or insured by the agency or instrumentality and that, on the date the City adopts or approves proceedings authorizing the issuance of refunding bonds or otherwise provide for the funding of an escrow to effect the defeasance of Bonds are rated as to investment quality by a nationally recognized investment rating firm not less than "AAA" or its equivalent, (iii) noncallable obligations of a state or an agency or a county, municipality, or other political subdivision of a state that have been refunded and that, on the date the City adopts or approves proceedings authorizing the issuance of refunding bonds or otherwise provide for the funding of an escrow to effect the defeasance of Bonds, are rated as to investment quality by a nationally recognized investment rating firm no less than "AAA" or its equivalent and (iii) any other then authorized securities or obligations under applicable State law that may be used to defease obligations such as the Bonds.

"DTC" means The Depository Trust Company, New York, New York, or any successor securities depository.

"DTC Participant" means securities brokers and dealers, banks, trust companies, clearing corporations, and certain other organizations on whose behalf DTC was created to hold securities to

facilitate the clearance and settlement of securities transactions among DTC Participants.

"Enabling Act" has the meaning given in the recitals to this Ordinance.

"Federal Securities" means direct, noncallable obligations of the United States of America, including obligations that are unconditionally guaranteed by the United States of America (including Interest Strips of the Resolution Funding Corporation).

"Issuance Date" means the date of delivery of a Series of Bonds to the initial purchaser(s) thereof against payment therefor.

"Maturity" when used with respect to any Debt means the date on which the principal of such Debt or any installment thereof becomes due and payable as therein provided, whether at the Stated Maturity thereof or by call for redemption, or otherwise.

"MSRB" means the Municipal Securities Rulemaking Board.

"Ordinance" means this Ordinance adopted by the City Council on April 5, 2012 as may be supplemented or amended from time to time as authorized by the City and this Ordinance.

"Outstanding Principal Amount" means, as of any record date established by a Registrar in connection with a proposed amendment of this Ordinance or any Supplemental Ordinance, with respect to all the Bonds and any Parity Debt or to a series of the Bonds and any Parity Debt that is in the form of bonds, notes, or other similar instruments that have a stated principal amount, the outstanding and unpaid principal amount of such Bonds and any Parity Debt on which interest is paid on a current basis and the outstanding and unpaid principal and compounded interest on such the Bonds and any Parity Debt paying accrued, accreted, or compounded interest only at maturity and, with respect to Credit Agreements shall total the amount, if any, then due under such Credit Agreement if it was to be terminated as of the date of calculation of Outstanding Principal Amount.

"Owner" means the registered owners of the Bonds as shown on the Security Register and to the extent set forth in a Credit Agreement relating to the Bonds, the party contracting with the City under a Credit Agreement.

"Parity Debt" means all Debt of the City which may be issued or assumed in accordance with the terms of this Master Ordinance and a Supplement, secured by a first lien on and pledge of the Security.

"Paying Agent" means the agent selected and appointed by the City for purposes of paying the principal of, premium, if any, and interest on the Bonds to the Owners thereof, as identified in Section 2.03 hereof and any successor to such agent.

"Paying Agent/Registrar" means collectively, the Paying Agent and the Registrar designated in Section 2.03 of this Ordinance or any successor to such agent.

"Paying Agent/Registrar Agreement" means the agreement having such name executed by and between the City and the Paying Agent/Registrar.

"Pledged Revenues" means (1) the Revenues, plus (2) any additional revenues, income, receipts, or other resources, including, without limitation, any additional revenues derived from any amendment, grants, donations or income received or to be received from the United States Government, or any other public or private source, whether pursuant to an agreement or otherwise, which hereafter are pledged by the City to the payment of Parity Debt. However, Pledged Revenues hereunder does not include any funds raised or to be raised by taxation unless the City, in its discretion, pledges and levies an ad valorem tax for a series of Parity Debt in accordance with this Ordinance and then only to the extent described in the Supplemental Ordinance authorizing such Parity Debt.

"Predecessor Bonds" means the predecessor Bonds as defined in Section 2.05(a) hereof.

"Pricing Certificate" means each Pricing Certificate of the City's Pricing Officer to be executed and delivered pursuant to Section 2.02 hereof in connection with the issuance of each Series of the Bonds.

"Pricing Officer" means the Director of Finance of the City, acting as the designated pricing officer of the City to execute the Pricing Certificate or in her absence the City Manager, or the Mayor may act as the designated pricing officer of the City to execute the Pricing Certificate.

"Project" means the design, development and construction of the Loop 363 north frontage road, from the BNSF railroad overpass to FM 2305, to provide an interim four lane divided highway and construction of interchanges at Wendland Road and SH36/SH53.

"Rebate Fund" means the fund by that name described in Section 5.02 hereof.

"Record Date" means the last day of the month next preceding an Interest Payment Date.

"Registrar" means the agent selected and appointed by the City for purposes of keeping and maintaining books and records relating to the registration, transfer, exchange, and payment of the Bonds and interest thereon, as identified in Section 2.03 hereof and any successor to such agent.

"Revenues" mean subject to annual appropriation by the Texas Department of Transportation, all revenues, income and receipts of every nature derived or received by the City pursuant to the Agreement and any subsequent pass-through toll or other agreements specifically pledged by the City pursuant to a supplement including the interest income from investment or deposit of money in any account or subaccount created by this Ordinance or maintained by the City in connection therewith and any other revenues hereafter, if any, pledged exclusively to the payment of the Bonds and any Parity Debt pursuant to a Supplemental Ordinance.

"Rule" means SEC Rule 15c2-12, as amended from time to time.

"SEC" means The United States Securities and Exchange Commission.

"Section" means unless the context clearly requires otherwise, refers to a Section of this Ordinance.

"Security" has the meaning assigned to that term in Section 3.01 hereof.

"Security Register" means the books and records kept and maintained by the Registrar relating to the registration, transfer, exchange, and payment of each Series of the Bonds and the interest thereon.

"Series" means a separate series of Bonds as specified by or pursuant to the terms of this Ordinance and each Pricing Certificate.

"Stated Maturity" when used with respect to any Parity Debt or any installment of interest thereon means any date specified in the instrument evidencing or authorizing such Parity Debt or such installment of interest as a fixed date on which the principal of such Parity Debt or any installment thereof or the fixed date on which such installment of interest is due and payable.

"Subordinated Debt" means any Debt which expressly provides that all payments thereon shall be subordinated to the timely payment of all Parity Debt then outstanding or subsequently issued.

"Supplemental Ordinance" means any ordinance authorizing Parity Debt.

"Term of Issue" means with respect to any Balloon Debt a period of time equal to the greater of (i) the period of time commencing on the date of issuance of such Balloon Debt and ending on the final maturity date of such Balloon Debt or the maximum maturity date in the case of commercial paper or (ii) twenty-five years.

EXHIBIT B

FORM OF BOND

**UNITED STATES OF AMERICA
STATE OF TEXAS
CITY OF TEMPLE, TEXAS
PASS-THROUGH TOLL
REVENUE AND LIMITED TAX BONDS,
SERIES _____***

No. _____

\$ _____

**BOND
DATE:**

**ISSUANCE
DATE:**

**INTEREST
RATE:**

**MATURITY
DATE:**

CUSIP:

REGISTERED OWNER:

PRINCIPAL AMOUNT:

DOLLARS

The City of Temple, Texas (the "City") hereby promises to pay, solely from the sources hereinafter identified and as hereinafter stated, to the Registered Owner named above, or the registered assigns thereof, the Principal Amount specified above on the Maturity Date specified above and to pay interest on the unpaid principal amount hereof from the Bond Date specified above at the per annum rate of interest specified above computed on the basis of a 360-day year of twelve 30-day months; such interest being payable on _____* and _____* of each year, commencing _____. Principal of this Bond shall be payable to the Registered Owner hereof, upon presentation and surrender, at the designated office of the Paying Agent/Registrar named in the registration certificate appearing hereon, or its successor. Interest shall be payable to the Registered Owner of this Bond whose name appears on the "Security Register" maintained by the Paying Agent/Registrar at the close of business on the "Record Date," which is the last business day of the month next preceding each interest payment date. All payments of principal of, premium, if any, and interest on this Bond shall be payable in lawful money of the United States of America, without exchange or collection charges, and interest payments shall be made by the Paying Agent/Registrar by check sent on or before the appropriate date of payment, by United States mail, first-class postage prepaid, to the Registered Owner hereof at the address appearing in the Security Register or by such other method, acceptable to the Paying Agent/Registrar, requested by, and at the risk and expense of, the Registered Owner hereof.

This Bond is one of a duly authorized issue of bonds designated as "City of Temple, Texas Pass-Through Toll Revenue and Limited Tax Bonds, Series _____*" (the "Bonds"), in the aggregate principal amount of \$_____ issued pursuant to the laws of the State of Texas,

* As provided in the Pricing Certificate. To the extent that the Pricing Certificate relating to the Bonds is inconsistent with any provisions in this Form of Bond or contains information to complete missing information in this Form of Bond, the language in the Pricing Certificate shall be used in the executed Bonds.

including specifically the Enabling Act (the "Enabling Act"), and initially under and pursuant to an ordinance of the City adopted on April 5, 2012, to provide funds to (i) design, develop and construct the Project in accordance with the Agreement, (ii) capitalize interest on the Bonds to the extent authorized by law and (iii) pay the costs of issuance of the Bonds. The Bonds are secured by a first lien on and pledge of the Security as defined in the Ordinance and, to the extent the Security is insufficient to pay the interest and principal payments on the Bonds, a limited pledge of a direct annual ad valorem tax on all property in the City within the limits prescribed by law.

Redemption Provisions

The City has reserved the option to redeem the Bonds maturing on _____* through _____*, before their respective scheduled maturity in whole or from time to time in part in integral multiples of \$5,000, on _____*, or on any date thereafter, at a price equal to the principal amount of the Bonds so called for redemption plus accrued interest to the redemption date. The City has also reserved the option to redeem the Term Bond maturing on _____*, before its respective scheduled maturity in whole or from time to time in part in integral multiples of \$5,000, on _____*, or on any date thereafter, at a price equal to the principal amount of the Bonds so called for redemption plus accrued interest to the redemption date. If less than all of the Bonds are to be redeemed, the City shall determine the amounts thereof to be redeemed and shall direct the Paying Agent/Registrar to call by lot Bonds, or portions thereof within such maturity or maturities and in such amounts, for redemption.

The Bonds maturing on _____* and _____* (the "Term Bonds") are subject to mandatory sinking fund redemption by lot prior to maturity in the following amounts, on the following dates and at a price of par plus accrued interest to the redemption date.

Bonds Maturing _____*	
Redemption Date	Principal Amount
_____	\$ _____
_____*	_____*

*Final Maturity

The principal amount of the Term Bonds required to be redeemed pursuant to the operation of the mandatory sinking fund redemption provisions shall be reduced, at the option of the City by the principal amount of any Term Bonds of the stated maturity which, at least 50 days prior to a mandatory redemption date, (1) shall have been acquired by the City, at a price not exceeding the principal amount of such Term Bonds plus accrued interest to the date of purchase thereof, and delivered to the Paying Agent/Registrar for cancellation, (2) shall have been purchased and canceled by the Paying Agent/Registrar at the request of the City with monies in the Interest and Sinking Fund at a price not exceeding the principal amount of the Term Bonds plus accrued interest to the

* As provided in the Pricing Certificate. To the extent that the Pricing Certificate relating to the Bonds is inconsistent with any provisions in this Form of Bond or contains information to complete missing information in this Form of Bond, the language in the Pricing Certificate shall be used in the executed Bonds.

date of purchase thereof, or (3) shall have been redeemed pursuant to the optional redemption provisions and not theretofore credited against a mandatory sinking fund redemption requirement.

With respect to any optional redemption of the Bonds, unless certain prerequisites to such redemption required by the Bond Ordinance have been met and moneys sufficient to pay the principal of and premium, if any, and interest on the Bonds to be redeemed shall have been received by the Paying Agent/Registrar prior to the giving of such notice of redemption, such notice shall state that said redemption may, at the option of the District, be conditional upon the satisfaction of such prerequisites and receipt of such moneys by the Paying Agent/Registrar on or prior to the date fixed for such redemption, or upon any prerequisite set forth in such notice of redemption. If a conditional notice of redemption is given and such prerequisites to the redemption and sufficient moneys are not received, such notice shall be of no force and effect, the District shall not redeem such Bonds and the Paying Agent/Registrar shall give notice, in the manner in which the notice of redemption was given, to the effect that the Bonds have not been redeemed.

Notice of redemption shall be given at the times and in the manner provided in the Ordinance.

If this Bond is in a denomination in excess of \$5,000, portions of the principal sum hereof in principal amount of \$5,000 or any integral multiple thereof may be redeemed, and, if less than all of the principal sum hereof is to be redeemed, there shall be issued, without charge therefor, to the Registered Owner hereof, upon the surrender of this Bond at the principal office of the Paying Agent/Registrar, a new Bond or Bonds of like maturity, series and interest rate in any authorized denominations provided by the Resolution for the then unredeemed balance of the principal amount hereof. If this Bond is selected for redemption, in whole or in part, neither the City nor the Paying Agent/Registrar shall be required to transfer this Bond to an assignee of the Registered Owner within forty-five (45) days of the redemption date therefor; provided, however, such limitation on transferability shall not be applicable to any exchange by the Registered Owner of the unredeemed balance hereof in the event of its redemption in part.

The Bonds are special obligations of the City, payable solely from and equally secured by a first lien on and pledge of the Security and, to the extent the Security is insufficient to pay the interest and principal payments on the Bonds, a pledge of an annual ad valorem tax on all taxable property in the City within the limits prescribed by law. The Bonds do not constitute a legal or equitable pledge, charge, lien, or encumbrance upon any property of the City, except with respect to the Security. The bonds are issued pursuant to the Ordinance, whereunder the City covenants, to the extent the Security is insufficient to pay the interest and principal payments on the Bonds, to levy a continuing direct annual ad valorem tax, within legal limit as to rate or amount, on taxable property within the City, for each year while any part of the Bonds are considered outstanding under the provisions of the Ordinance, in sufficient amount, together with revenues and receipts available from other sources which are equally available for such purposes, to pay interest on the Bonds as it becomes due, to provide a sinking fund for the payment of the principal of the Bonds when due or the redemption price at any earlier required redemption date, to pay when due the other contractual obligations of the issuer payable in whole or in part from taxes, and to pay the expenses of assessing and collecting such tax, all as more specifically provided in the Ordinance. Reference is hereby made to the Ordinance for provisions with respect to the custody and application of funds, remedies

in the event of a default hereunder or thereunder, and the other rights of the registered owners of the Bonds. By acceptance of this Bond the registered owner hereof consents to all of the provisions of the Ordinance, a certified copy of which is on file in the office of the City.

The pledge of the Security and the other obligations of the City under the Ordinance may be discharged at or prior to the maturity of the Bonds upon the making of provision for their payment on the terms and conditions set forth in the Ordinance.

Subject to satisfying the terms and conditions stated in the Ordinance, the City has reserved the right to issue additional Parity Debt payable solely from and equally and ratably secured by a parity lien on and pledge of the Security and other moneys and securities pledged under the Resolution to the payment of the Bonds.

Reference is hereby made to the Ordinance, a copy of which is on file in the designated office of the Paying Agent/Registrar, and to all of the provisions of which any Registered Owner of this Bond by his acceptance hereof hereby assents, for definitions of terms; the description of and the nature and extent of the security for the Bonds; the Security; the nature and extent and manner of enforcement of the pledge; the terms and conditions for the issuance of additional Parity Debt; the conditions upon which the Ordinance may be amended or supplemented with or without the consent of the Registered Owners of the Bonds; the rights and remedies of the Registered Owner hereof with respect hereto and thereto; the rights, duties and obligations of the City; the terms and provisions upon which the liens, pledges, charges, and covenants made therein may be discharged at or prior to the maturity or redemption of this Bond and this Bond thereafter no longer to be secured by the Ordinance or be deemed to be outstanding thereunder; and for the other terms and provisions thereof.

This Bond, subject to certain limitations contained in the Ordinance, may be transferred only upon its presentation and surrender at the designated office of the Paying Agent/Registrar named below, or its successor with the Assignment hereon duly endorsed by, or accompanied by a written instrument of transfer in form satisfactory to the Paying Agent/Registrar duly executed by, the Registered Owner hereof, or his duly authorized agent, and such transfer is noted on the Security Register by the Paying Agent/Registrar. When a transfer occurs, one or more new fully-registered Bonds of the same Maturity, of authorized denominations, bearing the same rate of interest, and of the same aggregate principal amount will be issued to the designated transferee or transferees.

The City and the Paying Agent/Registrar, and any agent of either, shall treat the Registered Owner whose name appears on the Security Register (i) on the Record Date as the owner entitled to payment of interest hereon, (ii) on the date of surrender of this Bond as the owner entitled to payment of principal hereof at its Maturity or its redemption, in whole or in part, and (iii) on any other date as the owner for all other purposes, and neither the City nor the Paying Agent/Registrar, nor any agent of either, shall be affected by notice to the contrary. In the event of nonpayment of interest on a scheduled payment date and for thirty (30) days thereafter, a new record date for such interest payment (a "Special Record Date") will be established by the Paying Agent/Registrar, if and when funds for the payment of such interest have been received from the City. Notice of the Special Record Date and of the scheduled payment date of the past due interest (which shall be 15 days after the Special Record Date) shall be sent at least five business days prior to the Special Record Date by

United States mail, first-class postage prepaid, to the address of each Registered Owner appearing on the Security Register at the close of business on the last business day next preceding the date of mailing of such notice.

It is hereby certified, recited, represented, and declared that the City is a duly organized and legally existing home-rule city, organized under and by virtue of the Constitution and laws of the State of Texas; that the issuance of this Bond and the series of which it is a part are duly authorized by law; that all acts, conditions, and things required to exist and be done precedent to and in the issuance of this Bond to render the same lawful and valid have been properly done, have happened, and have been performed in regular and due time, form, and manner as required by the Constitution and laws of the State of Texas and the Ordinance; that this series of bonds does not exceed any Constitutional or statutory limitation; and that due provision has been made for the payment of this Bond and the Series of which it is a part as aforestated. In case any provision in this Bond shall be invalid, illegal, or unenforceable, the validity, legality, and enforceability of the remaining provisions shall not in any way be affected or impaired thereby. The terms and provisions of this Bond and the Ordinance shall be construed in accordance with and shall be governed by the laws of the State of Texas.

IN TESTIMONY WHEREOF, the City has caused its seal to be impressed or a facsimile thereof to be printed hereon and this Bond to be executed in the name of and on behalf of the City with the manual or facsimile signatures of its Mayor, and attested by the City Secretary.

By: _____
City Secretary

By: _____
Mayor

(CITY SEAL)

[INSERTIONS FOR THE INITIAL BOND]

The Initial Bond shall be in the form set forth in this exhibit, except that:

- A. Immediately under the name of the Bond, the headings "INTEREST RATE" and "MATURITY DATE" shall both be completed with the words "As shown below", and the heading "CUSIP NO." shall be deleted.
- B. The first paragraph of the Bond shall be deleted and the following will be inserted (with all blanks and bracketed items to be completed with information contained in the Sections 2.01 and 2.02):

"City of Temple, Texas (the "City") hereby promises to pay, solely from the sources hereinafter identified and as hereinafter stated, to the Registered Owner named above, or the

registered assigns thereof, on _____* in each of the years, in the principal installments and bearing interest at the per annum rates set forth in the following schedule:

<u>Principal Amount</u>	<u>Maturity Date</u>	<u>Interest Rate</u>
-------------------------	----------------------	----------------------

(Information from the Pricing Certificate to be inserted)

The City promises to pay interest on the unpaid principal amount hereof from the Bond Date specified above at the respective per annum rate of interest specified above computed on the basis of a 360-day year of twelve 30-day months; such interest being payable on _____* and _____* of each year, commencing _____. Principal of this Bond shall be payable to the Registered Owner hereof, upon presentation and surrender, at the principal office of the Paying Agent/Registrar named in the registration certificate appearing hereon, or its successor. Interest shall be payable to the Registered Owner of this Bond whose name appears on the "Security Register" maintained by the Paying Agent/Registrar at the close of business on the "Record Date," which is the last business day of the month next preceding each interest payment date. All payments of principal of, premium, if any, and interest on this Bond shall be payable in lawful money of the United States of America, without exchange or collection charges, and interest payments shall be made by the Paying Agent/Registrar by check sent on or before the appropriate date of payment, by United States mail, first-class postage prepaid, to the Registered Owner hereof at the address appearing in the Security Register or by such other method, acceptable to the Paying Agent/Registrar, requested by, and at the risk and expense of, the Registered Owner hereof."

Form of Registration Certificate of Comptroller of Public Accounts
To Appear on Initial Bond only.

**REGISTRATION CERTIFICATE OF
COMPTROLLER OF PUBLIC ACCOUNTS**

OFFICE OF THE COMPTROLLER	§	
OF PUBLIC ACCOUNTS	§	
THE STATE OF TEXAS	§	REGISTER NO. _____

I HEREBY CERTIFY that this Bond has been examined, certified as to validity and approved by the Attorney General of the State of Texas, and duly registered by the Comptroller of Public Accounts of the State of Texas.

WITNESS my signature and seal of office this _____.

Comptroller of Public Accounts
of the State of Texas

* As provided in the Pricing Certificate. To the extent that the Pricing Certificate relating to the Bonds is inconsistent with any provisions in this Form of Bond or contains information to complete missing information in this Form of Bond, the language in the Pricing Certificate shall be used in the executed Bonds.

(SEAL)

AUTHENTICATION CERTIFICATE OF
PAYING AGENT/REGISTRAR

This Bond has been duly issued and registered under the provisions of the within-mentioned Resolution; the bond or bonds of the above titled and designated series originally delivered having been approved by the Attorney General of the State of Texas and registered by the Comptroller of Public Accounts, as shown by the records of the Paying Agent/Registrar.

Registered this date: _____.

**THE BANK OF NEW YORK MELLON
TRUST COMPANY, N.A.,**
as Paying Agent/Registrar

By: _____
Authorized Signature

Form of Assignment.

ASSIGNMENT

FOR VALUE RECEIVED, the undersigned hereby sells, assigns, and transfers unto

(Please insert Social Security or Taxpayer Identification Number of Transferee)

(Please print or typewrite name and address, including zip code, of Transferee)

the within Bond and all rights thereunder, and hereby irrevocably constitutes and appoints _____ attorney, to transfer the within Bond on the books kept for registration thereof, with full power of substitution in the premises.

DATED: _____

Signature guaranteed by:

NOTICE: The signature on this assignment must correspond with the name of the Registered Owner as it appears on the face of the within Bond in every particular.

[INSURANCE LEGEND IF APPLICABLE]

EXHIBIT C

CONTINUING DISCLOSURE

DESCRIPTION OF ANNUAL FINANCIAL INFORMATION

The following information is referred to in Section 8.08 of this Ordinance.

Accounting Principles

The accounting principles referred to in such Section are the accounting principles described in the current notes to the financial statements used in the Official Statement.



COUNCIL AGENDA ITEM MEMORANDUM

04/05/12
Item #7(A)
Consent Agenda
Page 1 of 1

DEPT./DIVISION SUBMISSION & REVIEW:

Lacy Borgeson, City Secretary

ITEM DESCRIPTION: Approve Minutes:

(A) March 15, 2012 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:

March 15, 2012 Special Called and Regular Meeting – to be provided



COUNCIL AGENDA ITEM MEMORANDUM

04/05/12
Item #7(B)
Consent Agenda
Page 1 of 2

DEPT./DIVISION SUBMISSION & REVIEW:

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

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

ITEM DESCRIPTION: Consider adopting a resolution authorizing a professional services agreement with Kasberg, Patrick & Associates, LP, to perform drainage analysis for full build out of the Bioscience Park in an amount not to exceed \$29,620.

STAFF RECOMMENDATION: Adopt resolution as presented in item discussion.

ITEM SUMMARY: The Bioscience Park is a 192 acre tract of land with subdivided lots located in the Temple Reinvestment Zone – Central Pointe. The purpose of this study is to perform drainage analysis for full build out of the park. The study will develop drainage models to determine conveyance of storm water to Pepper Creek. KPA previously prepared hydrologic and hydraulic computer models for Pepper Creek. This study will take into account several levels of impervious cover percentages sufficient to determine peak flow rates and consider current storm water conveyance and potential impacts to Pepper Creek. Post development best management practices will be investigated and options provided in order to meet City of Temple guidelines and requirements.

KPA will begin work once a written notice to proceed is issued by the City. The project will be completed within 60 days. Scope of service tasks are described as follows:

Existing model review and revision	\$ 2,640
Develop H&H for various impervious covers	\$ 6,720
Develop post construction BMPs	\$ 7,260
Determine Storm Water Requirements	\$ 6,060
Prepare opinions of probable cost	\$ 2,960
Develop final report	<u>\$ 3,980</u>

TOTAL **\$ 29,620**

This item was considered and recommended by the Reinvestment Zone Board at its regularly scheduled meeting on March 28th, 2012.

FISCAL IMPACT: Funds are available in the Reinvestment Zone No. 1 Financing and Project Plans, Line 50, to fund this professional services agreement in the amount of \$29,620, in account 795-9500-531-2616.

ATTACHMENTS:

[Engineer's Proposal](#)
[Project Area Map](#)
[Resolution](#)



KASBERG, PATRICK & ASSOCIATES, LP

CONSULTING ENGINEERS

Texas Firm F-510

RICK N. KASBERG, P.E.

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

THOMAS D. VALLE, P.E.

Temple

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

Georgetown

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

February 15, 2012

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

Re: Drainage Analysis for Bioscience Park
Temple Reinvestment Zone

Dear Mrs. Torralva:

Kasberg, Patrick & Associates, LP (KPA) appreciates the opportunity to submit this proposal for performing the drainage analysis for the Bioscience Park located in the Temple Reinvestment Zone. This study will develop drainage models to determine the requirements for conveyance of storm water. The location of the properties to be investigated are shown on the attached Exhibit A.

Generally, the scope of our work will include the use of the existing hydraulic model developed by KPA for Pepper Creek specifically identifying peak flow rates and water surface elevations in the vicinity of the conveyance of storm water from the Bioscience Park. Hydrology and hydraulics will be developed for the park for 40%, 50% and 60% impervious cover. Modeling of the Pepper Creek watershed will be developed to include the 40%, 50% and 60% impervious cover development for full build out of the Bioscience Park. This model will be compared to the existing conditions model to determine peak flow rates and water surface elevations. From this data a determination will be made on the requirements for storm water conveyance for Bioscience Park at full development. Post Development Best Management Practices (Post Development BMPs) for Storm Water Quality will also be investigated as part of the scope of work. KPA will review the current storm water conveyance and develop options for Post Development BMPs to meet the City of Temple guidelines and requirements. This proposal will include exhibits illustrating locations and type of Best Management Practices but does not include plans and specifications for bidding and constructing the Post Development BMPs.

Opinions of probable construction costs for the selected alternatives will also be prepared. The specific tasks are detailed in Attachment A – Scope of Services, and are generalized with their respective cost as follows:

Task 1 – Existing Pepper Creek Model Review and Manipulation	\$ 2,640
Task 2 – Development of Hydrology and Hydraulics for 40%, 50% and 60% Impervious Cover	6,720
Task 3 – Development of Post Development BMPs for 40%, 50% and 60% Impervious Cover	7,260
Task 4 – Determination of Storm Water Requirements for 40%, 50% and 60% Impervious Cover	6,060
Task 5 – Prepare Preliminary Opinions of Probable Cost	2,960
Task 6 – Develop Report	3,980
Total Cost	<u>\$ 29,620</u>

The charges for our services will be a lump sum amount of \$29,620. Attachment B outlines Rates which would be used to charge for special or additional series authorized beyond the scope as described in this proposal.

KPA will begin work once a written notice to proceed is issued by the City. We will complete the project as described within 60 calendar days. We are available to address any questions or comments that you may have about this proposal. As always, we look forward to working with you on this project.

Sincerely,



R. David Patrick, P.E., CFM

RNK/crc

ATTACHMENT A – SCOPE OF SERVICES

CITY OF TEMPLE, TEXAS

Bioscience Drainage Study and Post Development BMPs

Task 1 – Existing Pepper Creek Model Review and Manipulation

- 1.1 - Review and update the existing Pepper Creek Model.
- 1.2 - Identify conveyance points for Bioscience Park.
- 1.3 - Develop peak flows for Pepper Creek at the conveyance points.
- 1.4 - Develop 100 year water surface elevations for Pepper Creek at the conveyance points.

Task 2 – Development of Hydrology and Hydraulics for 40%, 50% and 60% impervious cover

- 2.1 - 40% impervious cover hydrology and hydraulics.
- 2.2 - 50% impervious cover hydrology and hydraulics.
- 2.3 - 60% impervious cover hydrology and hydraulics.

Task 3 – Development of Post Development BMPs for 40%, 50% and 60% impervious cover

- 4.1 - 40% impervious cover requirements.
- 4.2 - 50% impervious cover requirements.
- 4.3 - 60% impervious cover requirements.

Task 4 – Determination of storm water requirements for 40%, 50% and 60% impervious cover

- 4.1 - 40% impervious cover requirements.
- 4.2 - 50% impervious cover requirements
- 4.3 - 60% impervious cover requirements.

Task 5 – Prepare Preliminary Opinions of Probable Cost

- 5.1 - Storm water conveyance.
- 5.2 - Post Development BMPs.

Task 6 – Develop Report

- 8.1 - Develop Report.

ATTACHMENT B

Charges for Additional Services

**City of Temple
Drainage Analysis for Bioscience Park**

<u>POSITION</u>	<u>MULTIPLIER</u>	<u>SALARY COST/RATES</u>
Principal	2.4	\$ 60.00 – 80.00/hour
Project Manager	2.4	45.00 – 58.00/hour
Project Engineer	2.4	40.00 – 45.00/hour
Engineer-in-Training	2.4	32.00 – 40.00/hour
Engineering Technician	2.4	22.00 – 40.00/hour
CAD Technician	2.4	18.00 – 40.00/hour
Clerical	2.4	13.00 – 25.00/hour
Expenses	1.1	actual cost
Computer	1.0	15.00/hour
Survey Crew	1.1	95.00 – 120.00/hour
Registered Public Surveyor	1.0	110.00/hour
On-Site Representative	2.1	30.00 – 40.00/hour



Bioscience Park



Central Pointe

CITY OF TEMPLE

Acreage	A	B	C	D	E	F	G	H	I	J	K	L	M	N	O
	2.846 Acres	5.303 Acres	4.974 Acres	2.286 Acres	2.727 Acres	2.792 Acres	2.679 Acres	3.093 Acres	6.631 Acres	5.447 Acres	7.175 Acres	2.047 Acres	2.015 Acres	2.563 Acres	9.279 Acres

Acreage	TOTAL DEVELOPED AREAS	TOTAL UNDEVELOPED AREAS	TOTAL ACRES
	192.362	0	192.362

LEGEND:
EXISTING GAS
EXISTING TELEPHONE
EXISTING WATER LINE
EXISTING TRUNK SEWER
EXISTING LIFT STATION
AND FORCE MAIN
CITY LIMITS
TEDC
CITY OF TEMPLE



RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE,
TEXAS, AUTHORIZING A PROFESSIONAL SERVICES
AGREEMENT BETWEEN THE CITY OF TEMPLE, TEXAS, AND
KASBERG, PATRICK & ASSOCIATES, L.P., TO PERFORM A
DRAINAGE ANALYSIS FOR FULL BUILD OUT OF THE
BIOSCIENCE PARK, IN THE AMOUNT NOT TO EXCEED \$29,620;
AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, the Bioscience Park is a 192 acre tract of land with subdivided lots located in the Temple Reinvestment Zone, Central Point - the purpose of this requested study will develop drainage models to determine conveyance of storm water to Pepper Creek;

Whereas, Kasberg, Patrick & Associates, L.P. previously prepared hydrologic and hydraulic computer models of Pepper Creek and this study will take into account several levels of impervious cover percentages sufficient to determine peak flow rates and consider current storm water conveyance and potential impacts to Pepper Creek;

Whereas, Kasberg, Patrick & Associates, L.P., has submitted a proposal for performing drainage analysis for the Bioscience Park located in the Temple Reinvestment Zone in the amount of \$29,620, and the Staff recommends accepting it;

Whereas, funds are available for this project in the Reinvestment Zone No. 1 Financing and Project Plans, Line 50, Account No. 795-9500-531-2616; and

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

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

Part 1: The City Council authorizes the City Manager, or his designee, to execute a professional services agreement, not to exceed \$29,620, between the City of Temple, Texas, and Kasberg, Patrick & Associates, L.P., after approval as to form by the City Attorney, for performing a drainage analysis for the Bioscience Park located in the Temple Reinvestment Zone.

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 5th day of **April**, 2012.

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

04/05/12
Item #7(C)
Consent Agenda
Page 1 of 1

DEPT./DIVISION SUBMISSION & REVIEW:

Gary O. Smith, Chief of Police

ITEM DESCRIPTION: Consider adopting a resolution authorizing the City Manager to resubmit a grant application for 6 new police officer positions through the COPS Hiring Program.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: The Department of Justice, Office of Community Oriented Policing Services (COPS) has announced to open the COPS Hiring Program (CHP) intended to provide funding to law enforcement agencies to create and preserve jobs and to increase their community policing capacity and crime-prevention efforts. The funding is available for hiring full-time career law enforcement officers. There is a 25% local matching requirement for the duration of the grant. The 6 Police Officers hired must be post September 11, 2001 military veterans.

FISCAL IMPACT: The total cost of hiring 6 Police Officers over the 36 month grant period is \$1,074,245. This cost includes salary, benefits, and operational costs. The grant would fund 75% of the salary and benefits for a total of \$751,612. The City's 25% match for the salary and benefits covered by the grant is \$250,537. The City's costs not covered under the grant would be approximately \$72,096. Additional equipment items, such as police cars, are not included in the above costs. These requests will follow if the grant is awarded over future budgets as needs are better identified.

CHP grantees are required to retain each officer position awarded for at least 12 months following the conclusion of 36 months of grant funding for that position with an estimated annual cost of \$385,708.

The City is not required to designate the 25% match at the time of the application. If the City is awarded the grant, funding for the City's required 25% match will be identified at that time.

ATTACHMENTS:

[Resolution](#)

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING THE CITY MANAGER TO SUBMIT A GRANT APPLICATION THROUGH THE DEPARTMENT OF JUSTICE, OFFICE OF COMMUNITY ORIENTED POLICING SERVICES - COPS HIRING PROGRAM; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, the Department of Justice, Office of Community Oriented Policing Services (COPS), has announced the opening of the COPS Hiring Program (CHP) intended to provide funding to law enforcement agencies which will create and preserve jobs, increase the community policing capacity and crime-prevention efforts;

Whereas, the City's total cost of hiring 6 new police officers over the 36 month grant period is \$1,074,245 (which includes salary, benefits and operational costs) – the CHP grant would fund 75% of the salary and benefits for a total of \$751,612;

Whereas, the City's 25% local matching grant requirement, which includes salary and benefits for the duration of the grant, would be \$250,537 – the City's costs not covered under the grant would be approximately \$70,096;

Whereas, CHP grantees are required to retain the positions awarded for at least 12 months following the conclusion of the 36 month grant funding for the positions with an estimated annual cost of \$385,708; 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 submit a grant application to the Department of Justice, Office of Community Oriented Policing Services (COPS) Hiring Program.

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

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

PASSED AND APPROVED this the **5th** day of **April**, 2012.

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

04/05/12
Item #7(D)
Consent Agenda
Page 1 of 1

DEPT./DIVISION SUBMISSION & REVIEW:

Brynn Reynolds, Director of Administrative Services
Ashley Williams, Sustainability and Grant Manager

ITEM DESCRIPTION: Consider adopting a resolution authorizing the receipt of grant funds in the amount of \$1,000 from the National Center for Safe Routes to School, mini-grant program for walking and biking safety classes.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: On November 21, 2011 the city was awarded a mini-grant from the National Center for Safe Routes to School. The award allocated \$1,000 to be used at Lakewood Elementary and Bonham Middle School, for the purpose of educating students about safe walking and biking to and from school, in preparation of the completion of trails at the respective schools. These funds support the implementation of the Safe Routes to School Plan, developed and adopted by the City in 2009.

The project includes the involvement of 4th, 5th and 6th grade students in educational sessions during Physical Education classes. The funds are being used to purchase participation prizes for all students, which are water bottles and a magnet with safety tips listed. The students will also participate in a brochure/poster design competition, which the winning brochure/poster will be distributed to remind students of walking and biking safety, upon the completion of the trails. The remaining funds will be used to print these brochures/posters. Finally, the City will film these educational sessions and produce a Public Service Announcement about safe walking and biking. This PSA will be featured on the City TV channel, the City website, Safe Kids Mid-Texas website and each school districts website, among other areas to be identified.

Approval of the resolution will allow the City to make final actions necessary to secure the funds and to execute projects intended by the grant.

FISCAL IMPACT: A budget adjustment is presented for Council's approval appropriating grant funds in the amount of \$1,000 to purchase prizes for students from Bonham Middle School and Lakewood Elementary who participate in education sessions related to safe walking and biking to and from school. The grant requires no City match.

ATTACHMENTS:

[Notice of Receipt Letter](#)
[Budget Adjustment](#)
[Resolution](#)

Dear Ms. Williams,

Congratulations! The National Center for Safe Routes to School is pleased to inform you that the City of Temple has been selected to receive a Safe Routes to School (SRTS) mini-grant for the Spring 2012 semester. We received 212 eligible applications from across the country and were particularly impressed by the strength and creativity of your proposed efforts to increase safe walking and bicycling to school in your community. Please carefully read the remainder of this letter and the accompanying information, as your action is required to assure receipt of the SRTS mini-grant funds.

Attached is a confirmation of the information submitted in your original mini-grant application. If any of the information in the confirmation is incorrect or these activities are no longer feasible, please note the changes on the form and return to me. Specific information addressed in this confirmation includes:

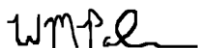
- Your contact information
- Name and address of the school(s) where the proposed activities will occur
- Proposed SRTS-related activities
- Proposed impacts/outcomes and evaluation methods of the SRTS-related activities
- Proposed budget items. This section also includes:
 - How to handle possible changes to budget items
 - What to do with receipts
 - A reminder about funding restrictions
- Requirements for reporting to the National Center
- Confirmation agreement

Please return the signed mini-grant confirmation and agreement with any necessary changes by email to palmer@hsrsrc.unc.edu or fax to (919) 962-8710 no later than **November 30, 2011**. Once the signed confirmation has been received and approved by the National Center, a check in the amount of \$1,000.00 will be disbursed to the recipient organization in January 2012.

If you have any questions, please do not hesitate to contact me at the telephone number or email address below. Additionally, the National Center will publicize a press release about the SRTS mini-grant recipients. If you have any questions about the press release, please contact Caroline Dickson at (919) 962-5835 or dickson@hsrsrc.unc.edu.

Again, congratulations, and best wishes for your project's success!

Warm regards,



Mathew Palmer, MURP
Project Coordinator
National Center for Safe Routes to School
palmer@hsrsrc.unc.edu
919/962-7769 phone
919/962-8710 fax

National Center for Safe Routes to School Mini-grant Confirmation

Recipient Contact Name

Ashley Williams
City of Temple
2 N Main St
Temple, TX 76501
254-298-5600
awilliams@templetx.gov

School Name & Mailing Address

Bonham Middle School and Lakewood Elementary School
Temple, TX 76501

Commitment to Application Proposal Activities

Mini-grant activities and outcome tracking methods, as proposed in the submitted application, are listed below. As a recipient of a Safe Routes to School (SRTS) mini-grant, the recipient organization agrees to perform these activities.

Applicant School's Needs and/or Interests

As explained in the application, the needs and/or interests of the applicant school(s) are supplied below in order to provide context for the proposed activities and tracking methods.

This opportunity will impact two schools, which received funding from the Texas DOT SRTS Program to construct 10-foot wide trails connecting surrounding areas to the schools.

Bonham Middle School serves 576 students in the 6th - 8th grade. According to a survey 90% of students who attend Bonham live within a 2-mile radius of the campus, but less than 8% of students walk or bike to school. The lack of pedestrian and bicycle facilities create an environment that discourages walking/biking to school. To encourage safe walking/biking a trail will be installed during the Spring 2012 semester. In the mean time, walking/biking education needs to be provided to encourage safe travel to and from school for those who currently walk/bike and for those who will be more likely to walk/bike upon the completion of the trail. Currently there is minimal education provided on these matters and the efforts supported by this grant opportunity will help to increase the level of education provided to the students who will be attending the school.

Lakewood Elementary School serves 696 students in kindergarten – 5th grade. According to a survey 38% of students who attend Lakewood live within a 2-mile radius of the campus, but less than 4% of students walk or bike to school. Lack of pedestrian and bicycle facilities create an environment that discourages walking/biking to school. Education needs to be provided to Lakewood students who walk or bike to school, as well as those who will be more likely to walk or bike with the new facilities.

The trails being constructed to connect local residents to the school campuses will also tie into a City-wide Master Trail Plan. This plan connects the entire community by trails with widths between 6-feet to 12-feet. The efforts supported by this grant will not only impact the encouragement of walking/biking safely to students, as well as introduce the important benefits of walking/biking; it will encourage the use of all trails by the entire community.

Proposed SRTS-related Activities

Activities proposed in the SRTS mini-grant application are listed below.

The City of Temple, with the support from Safe Kids Mid-Texas and the Temple and Belton Independent School Districts, is seeking funds to provide educational and marketing opportunities for the City's Safe Routes to School Plan. The grant will allow collaboration with the local Scott and White Hospital Cycling Club and the City Police and Fire Departments. Educational sessions, a student design competition, the implementation of Safe Kids PhotoVoice project, and the production of a Public Service Announcement (PSA) will be supported through a new program. This opportunity will be the first collaborative effort of all involved and will jump start the efforts of the Safe Routes to School Plan.

Educational sessions will be presented to approximately 400 students at Bonham Middle and Lakewood Elementary Schools. Sessions and materials discussing safety and the benefits of walking/biking will be used in the fall to educate students and parents about the completion and use of trails in the spring.

Student participants will be in the 4th-6th grades. Sessions will be implemented through physical education classes. A student committee will be formed and will meet with the Cycling Club and Safe Kids to decide what information should be shared and how. During the session the students will assist in sharing the intended message through interactive skits and games. A school-wide mileage club, with will be encouraged.

The grant will provide funding for materials to be distributed and shared between students, teachers and parents. The materials will provide the following information:

- Walking Safety: using provided sidewalks, walking as far from moving vehicles, etc.
- Biking Safety: properly sized helmets, scanning situations ahead, etc.
- Health Benefits: fun physical activity, impact on cardiovascular and muscular system, etc.
- Environmental Benefits: vehicle use reduction, improved air quality, etc.

The students will participate in a brochure design competition, to include a map of walking/biking routes and information on safety and benefits of walking/biking. Up to two designs for each school will be chosen by the students to be used for distribution in Spring 2012. The students who are chosen will receive prizes donated by the Cycling Club.

The students, Cycling Club, Safe Kids and the City will produce a PSA to be aired on the City channel, City website, Temple and Belton Independent School District websites and Safe Kids website. The PSA will reach out to students at the school, and provide information to other schools and the community at-large.

The above actions will better enable students to connect the choice of walking or biking as a fun but healthy activity and students will also be introduced to how walking or biking helps the environment as a green way of travel.

Desired Project/Program Impacts or Outcomes

The applicant's desired changes in behavior, safety, attitudes, and/or knowledge as a result of the mini-grant activities and the applicant's proposed methods for tracking these changes, are listed below.

Primary goals:

- Increased number of students walking/biking to school
- Improved safety

- Increased awareness of trails
- Improved community wellness and health

Fliers developed by the student committee will be used to inform students and parents about the educational sessions.

Educational magnets will act as at-home go-to references to use in review of walking/biking safety guidelines.

Water bottles will encourage walking/biking through use, acting as a health and safety reminder for those partaking in physical activities.

Brochures and maps will promote safety and use of trails, serving as reminders of walking/biking safety guidelines and trail locations.

The PSA acts as an educational opportunity for the entire community, reaching beyond the boundary of the involved schools. The video will have a positive impact by displaying student involvement with community volunteers. This effort will be the first step to engage the community.

Immediate results should be increased knowledge and safety of walking/biking. It should encourage those who are not walking/biking to do so, whether due to increased comfort level or first-time awareness of the option.

Long-term impact of the program should influence students after school, into adulthood, introducing them to lifelong fitness skills and goals. They should also be aware of safety procedures, which may be passed along to others.

To gauge the success of our efforts data will be collected both before and after implementation of the educational sessions. A similar evaluation method is being used to evaluate the progress of the Safe Routes to Schools Program.

We will measure the impact through the following strategies:

- Count the number of students who walk/bike to and from school.
- Track accidents and citation information.
- Track walking/biking activities through teacher's direct involvement, as well as Student Bike Committee.
- Track the number of views and feedback of the PSA.

Timeline

A brief list of monthly activities proposed in the application is shown below.

January: Form student committee

February: Committee meets with Cycling Club and Safe Kids to determine what to present in educational sessions

March: Distribute fliers to students and parents regarding educational sessions; Educational sessions in PE classes; Introduce brochure design competition; Distribute educational materials

April: Students determine winners of brochure design competition

May: Finalize PSA; Debut PSA to classes and post on website and City channel

**Filming will take place during all activities to develop the PSA

August: Re-debut PSA to all grade levels and hand out brochures/maps, in preparation for the completion of the Safe Routes to School trails

Budget Items

The recipient agrees to use the National Center mini-grant funds for the following budget items only, as submitted in the application:

- Magnets to be handed out at educational sessions (400 ct)
- Fliers/Pamphlets for promotion of educational sessions (400 ct)
- Participation giveaways, i.e. bicycle water bottles (400 ct)
- Competition prizes, donated by Scott and White Hospital Cycling Club
- Miscellaneous information walking/cycling safety brochures, donated by Safe Kids Mid-Texas
- Use of games and materials, donated by Safe Kids Mid-Texas
- Equipment to film, edit and produce Public Service Announcement, provided by the City of Temple

Important Funding Reminders:

- **The mini-grant recipient agrees to discuss with the National Center in advance any change(s) to budget items in order to ensure that these changes meet Federal funding guidelines.**
- **The recipient organization also agrees to retain all original receipts in the recipient organization's records in the event of an audit by the Federal government.**

Funding Restrictions

The National Center mini-grant recipient agrees to abide by the following funding restrictions, as stipulated by the federal government. Mini-grant funds may **not** be used for the following items:

- Staff salaries, including stipends to program volunteers
- Fundraising
- Food or refreshments
- Prizes or incentives, including gift certificates, gift cards, or bicycles for individuals
- The purchase of digital cameras, video cameras, helmet cameras, microphones, or any item that could be used by the recipient for purposes other than promoting, enabling, or performing safe walking or bicycling to school. (Rental of such items is allowed.)

Reporting Requirements

The National Center mini-grant recipient agrees to submit the following required reports to the National Center, as outlined in the application:

1. An informal written report on activities by March 23, 2012 (midway through the implementation period), including an update on activities accomplished, activities in progress, and activities to be completed, as well as any notable challenges or successes.
2. A formal report by June 29, 2012 (end of the implementation period) that provides information about the project.

The formal report will include the following:

- Budget report of actual expenditures
- Description of the project's activities, challenges, successes, and participation rates
- Project impact results (based on methods submitted in the recipient's application)
- At least three digital pictures that show one or more activities of the funded project.

Digital pictures should be submitted using YouSendIt.com, a subscription- and registration-free service.

- Note: Submittal via YouSendIt.com enables the National Center to receive higher-quality photos as opposed to those submitted via email or other methods.

SRTS mini-grant reports should be e-mailed to palmer@hsrc.unc.edu.

Please note: Mini-grant recipients may also be asked to complete a brief questionnaire after the grant period. The purpose of the questionnaire would be to help the National Center understand SRTS patterns and trends among recipients relating to project activities and outcomes.

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	
260-1110-513-25-10		Contributions/Prizes	\$ 1,000			
260-0000-431-01-63		Federal Grants	1,000			
TOTAL.....			\$ 2,000		\$ -	

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

To appropriate grant revenue and expenditures related to the National Center for Safe Routes to School, mini-grant program. The City was awarded a mini-grant from the National Center for Safe Routes to School in the amount of \$1,000. This grant requires no City match. The funds will be used purchase participation prizes for 4th, 5th and 6th grade students at Lakewood Elementary and Bonham Middle School who participate in educational session related to safe walking and biking to and from school.

DOES THIS REQUEST REQUIRE COUNCIL APPROVAL?

☒

Yes

☐ No

DATE OF COUNCIL MEETING

4/5/2012

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 ACCEPTANCE OF GRANT FUNDING FROM THE NATIONAL CENTER FOR SAFE ROUTES TO SCHOOL, MINI-GRANT PROGRAM, IN THE AMOUNT OF \$1,000; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, on November 21, 2011, the City was awarded a \$1,000 mini-grant from the National Center for Safe Routes to School to be used at Lakewood Elementary and Bonham Middle School for the purpose of educating students about safe walking and biking to and from school;

Whereas, these funds support the implementation of the Safe Routes to School Plan, developed and adopted by the City in 2009, and includes involvement of 4th, 5th and 6th grades students in education sessions during Physical Education classes – funds will be used to purchase participation prizes for all students;

Whereas, the City will film these educational sessions and produce a Public Service Announcement about safe walking and biking – the PSA will be featured on the City TV channel, the City website, Safe Kids Mid-Texas website and each school districts website;

Whereas, the grant funds need to be accepted by the City and an adjustment to the FY2011-12 budget needs to be approved to appropriate the funds; 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 acceptance of grant funding in the amount of \$1,000 from the National Center for Safe Routes to School, and authorizes the City Manager, or his designee, to execute any documents, after approval as to form by the City Attorney, that may be necessary for receipt of these grant funds.

Part 2: The City Council approves an adjustment to the FY2011-12 budget, substantially in the form of the copy attached as Exhibit A, to appropriate the funds for this grant.

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 **5th** day of **April**, 2012.

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

04/05/12
Item #7(E)
Consent Agenda
Page 1 of 2

DEPT./DIVISION SUBMISSION & REVIEW:

Ken Cicora, Parks and Leisure Services Director

ITEM DESCRIPTION: Consider adopting a resolution authorizing the purchase and installation of a shade structure from Grounds For Play Company utilizing a BuyBoard contract in the amount of \$52,365.44.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: The Rotary South All Access Playground was constructed in 2010 with numerous community partners and donors. When constructed, we had hoped that the large pecan trees located next to the playground would provide enough shade; however, that has not been the case.

The amount of direct sun that hits the play pieces make it too hot for the children to use for a majority of the day during the summer. To correct the problem, a shade structure over the equipment is needed.

Both the Temple Parks Foundation and the Rotary Club of Temple South agreed with our assessment and also agreed to help fund the shade structure. The Temple Parks Foundation applied for, and received a Carpenter Foundation grant of \$20,000 and the Rotary Club of Temple South membership approved a \$15,000 donation for the shade structure. Parks and Leisure Services agreed to fund the remainder from Park Dedication fees and operating funds.

It is the goal to have the shade structure purchased and erected by summer.

We will obtain the shade structure from Grounds For Play Company out of Mansfield, Texas for \$52,365.44 utilizing a BuyBoard contract. They will install a super span shade structure over the playground.

FISCAL IMPACT: A budget adjustment is presented for Council's approval appropriating \$52,366 to account # 110-3500-552-6310, project # 100855, from Park dedication fees, accumulated interest from Park dedication fees, donations from Rotary Club of Temple South and the Temple Parks Foundation, and from the Parks operating budget to fund the purchase of the super span shade structure.

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	
110-3500-552-63-10	100855	Building & Grounds	\$ 52,366			
110-0000-461-08-30		Park Developer Fees	10,625			
110-0000-445-15-87		Donations-Parks	35,000			
110-3500-552-23-11		Building & Grounds			6,741	
TOTAL.....			\$ 97,991		\$ 6,741	

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

Appropriate accumulated interest (\$9,500) from park dedication fees and park dedication fess (\$1,125) to partially fund a super span shade structure from Grounds For Play Company utilizing the BuyBoard for the Rotary South All Access Playground. The total cost for the shade structure is \$52,365.44. The remaining amount needed is being funded from a Carpenter Foundation grant awarded to the Temple Parks Foundation in the amount of \$20,000, a donation from he Rotary Club of Temple South membership in the amount of \$15,000 and the balance of \$6,741 will be funded from Parks operating budget.

DOES THIS REQUEST REQUIRE COUNCIL APPROVAL?

☒

Yes

☐

No

DATE OF COUNCIL MEETING

April 5, 2012

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 AND INSTALLATION OF A SUPER SPAN SHADE STRUCTURE FROM GROUNDS FOR PLAY COMPANY, OF MANSFIELD, TEXAS, THROUGH THE BUYBOARD LOCAL GOVERNMENT ONLINE PURCHASING COOPERATIVE CONTRACT, IN THE AMOUNT OF \$52,365.44; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, the Rotary South All Access Playground was constructed in 2010 with numerous community partners and donors – large pecan trees located next to the playground had hoped to provide enough shade, however that has not been the case;

Whereas, the amount of direct sun that hits the play pieces, make it too hot for children to use for the majority of the day in the summer months – to correct that problem, a super span shade structure over the equipment is needed;

Whereas, the Temple Parks Foundation applied for, and received a Carpenter Foundation grant in the amount of \$20,000 and the Rotary Club of Temple South membership approved a \$15,000 donation to purchase the shade structure – the remainder of costs (\$15,840.24) will be funded through the Parks and Leisure Services Park Dedication fees and operating funds;

Whereas, Staff recommends purchasing the super span shade structure from Grounds For Play Company of Mansfield, Texas, utilizing the BuyBoard Local Government Online Purchasing Cooperative contract in the amount of \$52,365.44 - funds are budgeted for this purchase in Account No. 110-3500-552-6310, Project No. 100855, but an adjustment to the FY2011-12 budget needs to be approved to transfer the funds to the appropriate expenditure accounts; 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 shade structure from Grounds for Play Company of Mansfield, Texas, utilizing the BuyBoard Local Government Online Purchasing Cooperative contract in the amount of \$50,840.24 to provide shade over the playground located at Rotary South All Access Playground.

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 adjustment 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 **5th** day of **April**, 2012.

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

04/05/12
Item #7(F-1)
Consent Agenda
Page 1 of 1

DEPT./DIVISION SUBMISSION & REVIEW:

Jonathan Graham, City Attorney

ITEM DESCRIPTION: Consider adopting a resolution granting Panda Temple Power private easements through City owned property for an effluent transmission line from the Doshier Farm Wastewater Treatment Plant to the Panda Plant site.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

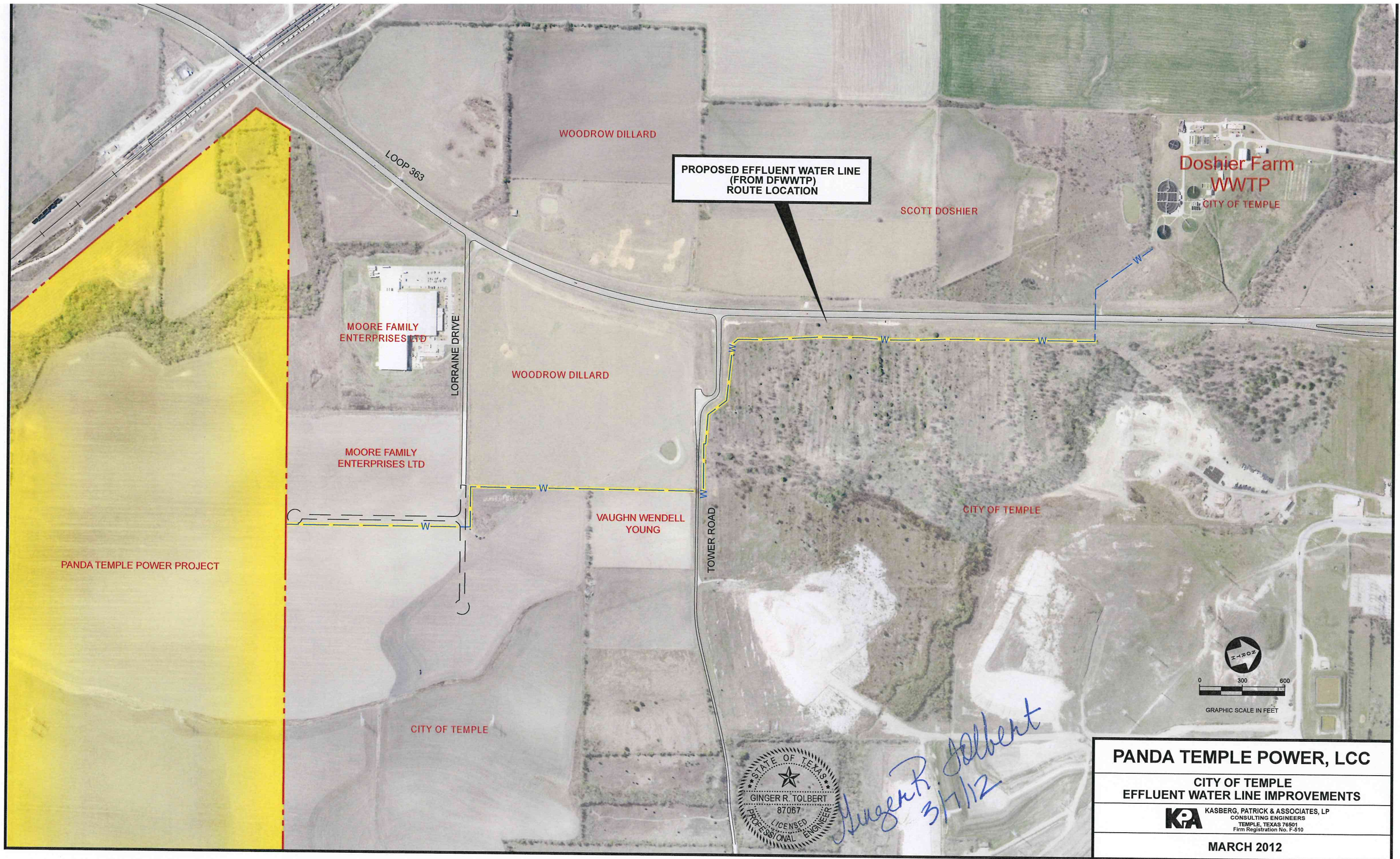
ITEM SUMMARY: Panda is requesting private easements from the City to allow them to construct and maintain a transmission line to carry effluent from the Doshier Farms Wastewater Treatment Plant to the Panda site. Panda is actively seeking other private easements which are necessary for their line. The attached map shows where the easements are located.

Panda will pay the City twelve thousand dollars (\$12,000) as fair market value for the easements.

FISCAL IMPACT: The payment of \$12,000 will be deposited into the City's General Fund.

ATTACHMENTS:

[Location map](#)
[Resolution](#)



RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, GRANTING PANDA TEMPLE POWER, LLC PRIVATE EASEMENTS THROUGH CITY OWNED PROPERTY FOR AN EFFLUENT TRANSMISSION LINE; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, as part of the project by Panda Temple Power, LLC, Panda is requesting private easements from the City of Temple to allow them to construct and maintain a transmission line to carry effluent from the Doshier Farms Wastewater Treatment Plant to the Panda plant site;

Whereas, Panda is actively seeking other private easements which are necessary for their line and Panda will pay the City of Temple, \$12,000 as fair market value for these easements; and

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

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

Part 1: The City Council approves granting Panda Temple Power, LLC private easements through city owned property for an effluent transmission line from the Doshier Farm Wastewater Treatment Plant to the Panda plant site, as outlined in Exhibit A, attached hereto for all purposes.

Part 2: Panda will pay the City of Temple, \$12,000 as fair market value for these easements.

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 5th day of **April**, 2012.

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

04/05/12
Item #7(F-2)
Consent Agenda
Page 1 of 1

DEPT./DIVISION SUBMISSION & REVIEW:

Jonathan Graham, City Attorney

ITEM DESCRIPTION: Consider adopting a resolution approving an Infrastructure Development Agreement with Panda Temple Power.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: The City and Panda have entered into an agreement in which the City agrees to sell, and Panda agrees to purchase, effluent from the City's Doshier Farm Wastewater Treatment Plant, while this is expected to fulfill Panda's water needs, Panda is relying upon potable water as a backup source of water for their proposed 500- 650 megawatt natural gas fueled power plant.

The City's current potable water system that serves the site where the Project is proposed can reliably deliver up to 1 million gallons per day (m.g.d.) of potable water. Panda proposes to construct improvements (two twelve inch (12") water line extensions to the City's potable water system that will allow up to 2 m.g.d. of potable water to be delivered to the site of Panda's proposed power plant. The improvements proposed by Panda will benefit their site, but will also improve the City's potable water delivery system. The proposed agreement allows Panda to proceed with design and construction of the potable water system improvements, and assures them that the improvements when built to City design specifications, and inspected by the City, will be accepted by the City into its potable water system. **The costs for the proposed improvements will be borne entirely by Panda.**

Under the agreement, Panda ability to access and use of potable water is no different than any other user or customer of the City's potable water system, and their purchase of potable water is subject to the same restrictions that apply to all other customers of the City's potable water system, including restrictions on water use under the City's mandatory water conservation ordinance.

Panda shall be responsible for the design and construction of two twelve inch (12") potable water lines, as described and depicted in Exhibit "A" attached to this summary. Upon Panda's completion and successful inspection of the Infrastructure Improvements, the City will accept the Infrastructure Improvements as public infrastructure and will operate and maintain as such.

FISCAL IMPACT: The estimated cost to construct the needed infrastructure is \$650,000. Once the improvements are completed and accepted by the City, the City will be responsible for future costs associated with operation and maintenance of the improvements.

ATTACHMENTS:

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

UTILITY EASEMENT

Surveyor's Sketch showing 1.70 ACRES,
situated in the MAXIMO MORENO SURVEY,
ABSTRACT 14, Bell County, Texas.

This sketch to accompany a metes and bounds
description of the hereon shown 1.70 Acre tract.

CALLED 343.86 ACRES
CITY OF TEMPLE
VOL. 754, PG. 345

(ROW Varies) (Asphalt Surface)
LOOP 363
PUBLIC MAINTAINED ROADWAY
Vol. 1668, Pg. 415

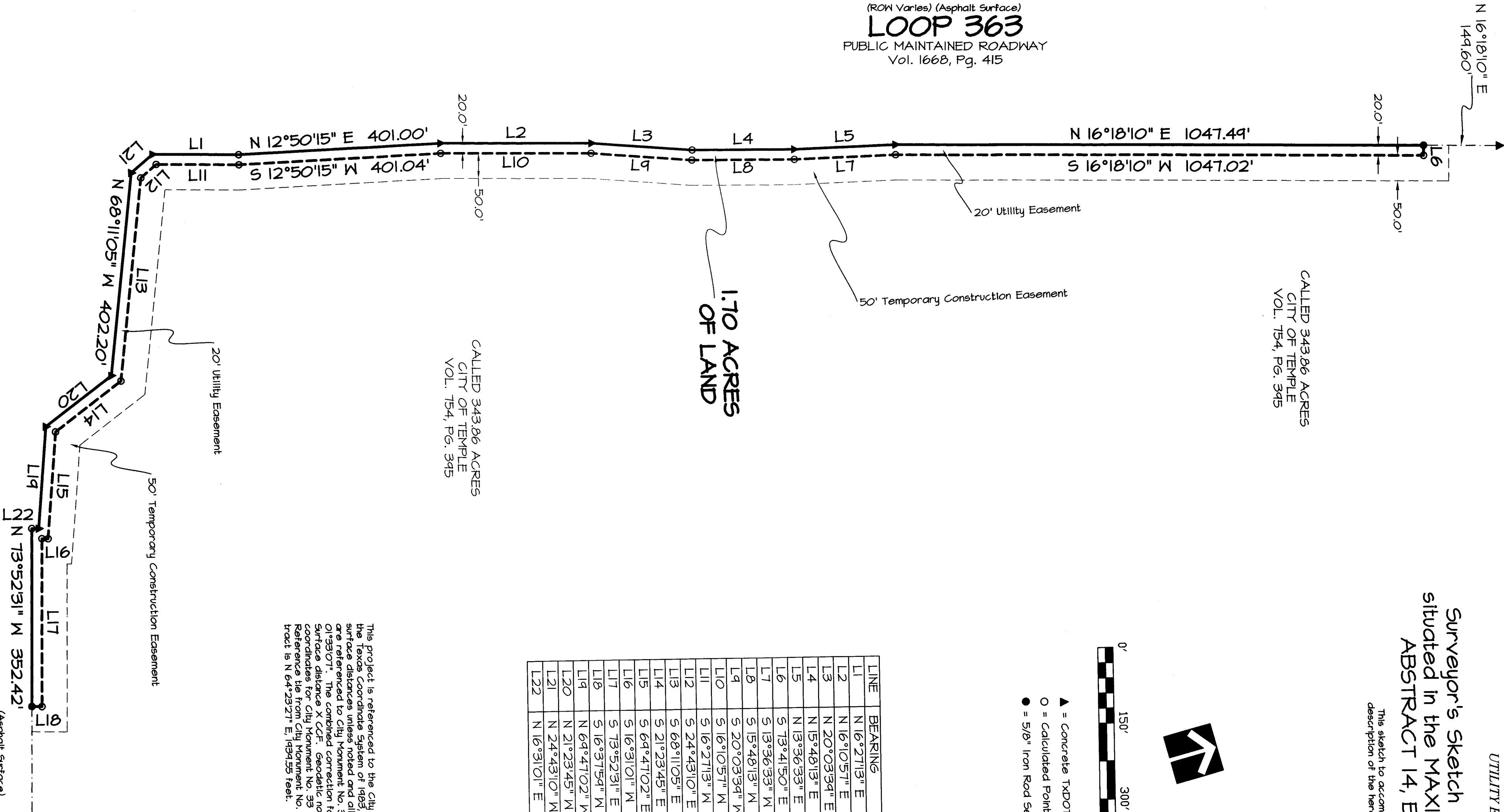
1.70 ACRES
OF LAND

CALLLED 343.86 ACRES
CITY OF TEMPLE
VOL. 754, PG. 345

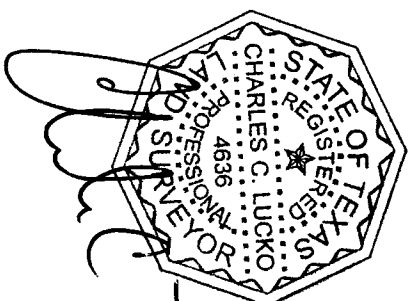
LINE	BEARING	DISTANCE
L1	N 16°18'10" E	149.60'
L2	N 16°10'57" E	300.00'
L3	N 20°03'34" E	200.56'
L4	N 15°48'13" E	202.47'
L5	N 13°36'33" E	201.42'
L6	S 13°41'50" E	20.00'
L7	S 13°36'33" W	201.34'
L8	S 15°48'13" W	203.59'
L9	S 20°03'34" W	200.63'
L10	S 16°10'57" W	298.74'
L11	S 16°27'13" W	164.25'
L12	S 24°43'10" E	40.24'
L13	S 68°11'05" E	402.88'
L14	S 21°23'45" E	163.16'
L15	S 69°47'02" E	210.68'
L16	S 16°31'01" W	12.34'
L17	S 73°52'31" E	332.46'
L18	S 16°37'54" W	20.00'
L19	N 69°47'02" W	200.92'
L20	N 21°23'45" W	164.04'
L21	N 24°43'10" W	55.73'
L22	N 16°31'01" E	13.73'



- ▲ = Concrete TxDOT Monument
- = Calculated Point
- = 5/8" Iron Rod Set



This project is referenced to the City of Temple Coordinate System, an extension of the Texas Coordinate System of 1983, Central Zone. All distances are horizontal surface distances unless noted and all bearings are grid bearings. All coordinates are referenced to City Monument No. 33. The theta angle at City Monument No. 33 is 01°33'07". The combined correction factor (CCF) is 0.999953. Grid distance = Surface distance X CCF. Geodetic north = Grid north + theta angle. Published City coordinates for City Monument No. 33 are N = 10363564.80 E = 3239496.92. Reference to from City Monument No. 33 to the northwest corner of said 1.70 acre tract is N 64°23'27" E, 1594.55 feet.



(Asphalt Surface)
TOWER ROAD
PUBLIC MAINTAINED ROADWAY

ALL COUNTY SURVEYING, INC.
1303 South 21st Street, Temple, Texas 76504
(254) 776-2272 FAX (254) 774-7608

1988 - 2008
20
YEARS OF
EXCELLENCE
IN COUNTY
SURVEYING

Surveyor's Sketch showing 1.70 ACRES,
situated in the MAXIMO MORENO SURVEY,
ABSTRACT 14, Bell County, Texas.

Survey completed 04-24-08
Scale: 1" = 150'
Job No. 441212
Dwg No. 441212-001
Drawn by SLN
Surveyor CCL 441212

Plot Date: 10-10-2008
Copyright 2008 All County Surveying, Inc.

FIELD NOTES PREPARED BY ALL COUNTY SURVEYING, INC.

October 10, 2008

Surveyor's Field Notes for:

1.70 ACRES, situated in the MAXIMO MORENO SURVEY, ABSTRACT 14, Bell County, Texas, and being a portion of the remainder of a called 343.86 Acre tract conveyed to the City of Temple, in Volume 754, Page 395, Deed Records of Bell County, Texas, and being more particularly described as follows:

BEGINNING at a TxDOT concrete monument found on the north line of Tower Road, being the southeast corner of a called 20.104 Acre tract conveyed to the State of Texas for right-of-way for Loop 363 in Volume 1668, Page 415, Deed Records of Bell County, Texas, for an ell corner of the herein described tract;

THENCE, in a westerly direction, with the boundary of said 20.104 Acre tract (Loop 363), the following calls;

1. **N 69° 47' 02" W – 200.92'**, a TxDOT concrete monument,
2. **N 21° 23' 45" W – 164.09'**, a TxDOT concrete monument, and
3. **N 68° 11' 05" W – 402.20'**, to a TxDOT concrete monument on a cut-back corner on the east line of said Loop 363;

THENCE, in a northwesterly direction, with said cut-back corner, **N 24° 43' 10" W – 55.73'**, to a TxDOT concrete monument;

THENCE, in a northerly direction, with the west line of the remainder of said 343.86 Acre tract, same being the east line of said Loop 363, the following calls;

1. **N 16° 27' 13" E – 171.13'**, a calculated point,
2. **N 12° 50' 15" E – 401.00'**, a TxDOT concrete monument,
3. **N 16° 10' 57" E – 300.00'**, a TxDOT concrete monument,
4. **N 20° 03' 39" E – 200.56'**, a calculated point,
5. **N 15° 48' 13" E – 202.47'**, a TxDOT concrete monument,
6. **N 13° 36' 33" E – 201.42'**, a TxDOT concrete monument, and
7. **N 16° 18' 10" E – 1047.49'**, to a 5/8" iron rod set for the northwest corner of the herein described tract;

THENCE, in an easterly direction, severing said remainder tract, **S 73° 41' 50" E – 20.00'**, to a calculated point, for the northeast corner of the herein described tract;

THENCE, in a southerly direction, 20' east of and parallel to the east line of said Loop 363, the following calls;

1. **S 16° 18' 10" W – 1047.02'**, a calculated point,
2. **S 13° 36' 33" W – 201.34'**, a calculated point,
3. **S 15° 48' 13" W – 203.59'**, a calculated point,
4. **S 20° 03' 39" W – 200.63'**, a calculated point,
5. **S 16° 10' 57" W – 298.74'**, a calculated point,
6. **S 12° 50' 15" W – 401.04'**, a calculated point, and
7. **S 16° 27' 13" W – 164.25'**, to a calculated point 20 feet east of said cut-back corner;

THENCE, in a southeasterly, parallel to said cut-back, **S 24° 43' 10" E – 40.24'**, to a calculated point;

THENCE, in an easterly direction, 20 feet north of and parallel to the south line of said remainder tract, same being the boundary of said 20.104 Acre tract, the following calls;

1. **S 68° 11' 05" E – 402.88'**, a calculated point,
2. **S 21° 23' 45" E – 163.76'**, a calculated point,
3. **S 69° 47' 02" E – 210.68'**, a calculated point,
4. **S 16° 31' 01" W – 12.34'**, a calculated point, and
5. **S 73° 52' 31" E – 332.46'**, to a calculated point for the easternmost northeast corner of the herein described tract;

Surveyor's Field Notes for **CITY OF TEMPLE**, (continued):

THENCE, in a southerly direction, **S 16° 37' 59" W – 20.00'**, to a 5/8" iron rod set on the south line of said remainder tract, same being the north line of said Tower Road, for the southeast corner of the herein described tract;

THENCE, in a westerly direction, with the north line of said Tower Road, **N 73° 52' 31" W – 352.42'**, a calculated point, and **N 16° 31' 01" E – 13.73'**, to the **POINT OF BEGINNING** and containing 1.70 Acres of Land.

This project is referenced to the City of Temple Coordinate System, an extension of the Texas Coordinate System of 1983, Central Zone. All distances are horizontal surface distances unless noted and all bearings are grid bearings. All coordinates are referenced to City Monument No. 33. The theta angle at City Monument No. 33 is 01°33'07". The combined correction factor (CCF) is 0.999853. Grid distance = Surface distance X CCF. Geodetic north = Grid north + theta angle. Published City coordinates for City Monument No. 33 are N.= 10,363,564.80 E.= 3,239,906.92 Reference tie from City Monument No. 33 to the northwest corner of said 1.70 acre tract is N 64°23'27" E, 1939.55 feet.

This document is not valid for any purpose unless signed and sealed by a Registered Professional Land Surveyor.

This metes and bounds description is to accompany a Surveyor's Sketch showing the herein described 1.70 Acre tract.

Surveyed September 24, 2008

ALL COUNTY SURVEYING, INC.
1-800-749-PLAT

server/projects/pro9000/999100/999127/999127-esmt1.doc



Charles C. Lucko
Registered Professional Land Surveyor
Registration No. 4636

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
TEMPLE, TEXAS, AUTHORIZING AN INFRASTRUCTURE
DEVELOPMENT AGREEMENT WITH PANDA TEMPLE POWER,
LLC; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, the City of Temple, Texas and Panda Temple Power, LLC, have entered into an agreement in which the City agrees to sell, and Panda agrees to purchase, effluent from the City's Doshier Farm Wastewater Treatment Plant – while this is expected to fulfill Panda's water needs, Panda is relying upon potable water as a backup source of water for their proposed 500-650 megawatt natural gas fueled power plant;

Whereas, the City's current potable water system that serves the site where the project is proposed, can reliably deliver up to 1 million gallons per day (m.g.d.) of potable water – Panda proposes to construct improvements to the City's potable water system that will allow up to 2 m.g.d. of potable water to be delivered to the site of Panda's proposed water plant;

Whereas, the proposed agreement allows Panda to proceed with design and construction of the potable water system improvements, and assures them that the improvements, when built to City design specifications, and inspected by the City, will be accepted by the City into its potable water system;

Whereas, Panda shall be responsible for the design and construction of two twelve inch (12") potable water lines, substantially described and depicted in the form of the copy attached as Exhibit A;

Whereas, the estimated costs to construct the needed infrastructure is \$650,000 and will be born entirely by Panda – once the improvements are completed and accepted by the City, the City will be responsible for future costs associated with operation and maintenance of the improvements; 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 Infrastructure Development Agreement, after approval as to form by the City Attorney, with Panda Temple Power, LLC for the purchase of effluent from the City's Doshier Farm Wastewater Treatment plant.

Part 2: The costs for the proposed improvements will be borne entirely by Panda.

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 **5th** day of **April**, 2012.

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

04/05/12
Item #7(G)
Consent Agenda
Page 1 of 2

DEPT./DIVISION SUBMISSION & REVIEW:

Autumn Speer, Director of Community Services

ITEM DESCRIPTION: SECOND READING – Z-FY-12-26: Consider adopting an ordinance authorizing a Conditional Use Permit for the sale of alcoholic beverages for on-premise consumption with more than 75% revenue from alcohol sales in an existing bar and restaurant on 5.68 acres of Outblock 5008, City Addition, commonly known as 4984 West FM 93.

P&Z COMMISSION RECOMMENDATION: At its February 21, 2012 meeting, the Planning and Zoning Commission voted 7/0 in accordance with staff recommendation to recommend approval of an amended Conditional Use Permit. Commissioner Sears absent; Commissioner Pope has been appointed to the Commission as its ninth member but not yet been seated.

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

ITEM SUMMARY: Please refer to the Staff Report and draft minutes of case Z-FY-12-26, from the Planning and Zoning Commission meeting, February 21, 2012. This subject property is situated at the north side of West FM 95 and is west of Witter Lane, south of Taylor Valley Road. The property has a one-story commercial building formerly used as the Ranch Steakhouse Restaurant. It has been vacant for some time. The site received a Conditional Use Permit (CUP) in June 2003 to authorize on-premise consumption of alcohol with 75% or less of the total gross revenue coming from alcohol sales.

This business, Bo's Barn, has been operating since mid-January at this location in conformance with State licensing procedures for a private club and under the approved CUP authorized in 2003. Staff met with the applicant and encouraged her to apply for this CUP in case she anticipated exceeding the 75% limit. This would avoid situations such as the City has experienced in the past. As a result of the meeting, the applicant is applying for this CUP in order to be able to receive more than 75% revenue from alcohol sales for on-premise consumption.

PUBLIC NOTICE: Four notices of the Planning and Zoning Commission public hearing were sent to surrounding property owners. As of Tuesday, March 6, 2012, one notice was returned in favor. The newspaper printed notice of the Planning and Zoning Commission public hearing on Friday February 10, 2012, in accordance with state law and local ordinance.

FISCAL IMPACT: NA

ATTACHMENTS:

[Planning and Zoning Commission Staff Report and Attachments February 21, 2012](#)
[Planning and Zoning Commission Minutes February 21, 2012](#)
[One Notice Received](#)
[Ordinance](#)



PLANNING AND ZONING COMMISSION AGENDA ITEM

02/21/12
Item #4
Regular Agenda
Page 1 of 7

APPLICANT: Lorinda Baum of Bo's Barn Dancehall and Restaurant, on behalf of David Beevers of Ron's One Stop, Owner

CASE MANAGER: Leslie Matlock, AICP, Senior Planner


ITEM DESCRIPTION: Z-FY-12-26 Hold a public hearing to discuss and recommend action on a Conditional Use Permit for the sale of alcoholic beverages for on-premise consumption with more than 75% revenue from alcohol sales in an existing bar and restaurant on 5.68 acres of Outblock 5008, City Addition, commonly known as 4984 W. FM 93.

BACKGROUND: This subject property is situated at the north side of W. FM 95 and is west of Witter Lane, south of Taylor Valley Road. The property has a one-story commercial building formerly used as the Ranch Steakhouse Restaurant. It has been vacant for some time. The site received a Conditional Use Permit (CUP) in June 2003 to authorize on-premise consumption of alcohol with 75% or less of the total gross revenue coming from alcohol sales.

This business, Bo's Barn, has been operating since mid-January at this location in conformance with State licensing procedures for a private club and under the approved CUP authorized in 2003. Staff met with the applicant and encouraged her to apply for this CUP in case she anticipated exceeding the 75% limit. This would avoid situations such as the City has experienced downtown with a bar that had been operating without the proper alcohol-related CUP. As a result of the meeting, the applicant is applying for this CUP in order to be able to receive more than 75% revenue from alcohol sales for on-premise consumption.

Surrounding Property and Uses

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

Direction	Zoning	Current Land Use	Photo
Subject Property	C CP152	Alcohol Service <75% of total revenue with Restaurant	

Direction	Zoning	Current Land Use	Photo
North	AG	Agricultural Land	
South	AG	Vacant Land	
East	C CP152	Concrete Batch Plant Business	

Direction	Zoning	Current Land Use	Photo
West	LI CP124	Vacant Land	

COMPREHENSIVE PLAN COMPLIANCE:

The proposed Planned Development amendment relates to the following goals, objectives or maps of the Comprehensive Plan and Sidewalk and Trails Plan:

Document	Policy, Goal, Objective or Map	Site Conditions	Compliance?
CP	Map 3.1 - Future Land Use and Character	Industrial	Yes
CP	Map 5.2 - Thoroughfare Plan	FM 93 is a Major Arterial.	Yes
CP	Goal 4.1 - Growth and development patterns should be consistent with the City's infrastructure and public service capacities.	6-inch water line serves this property; no public sewer is available. Septic system is existing.	Yes
STP	Page F3- A proposed city-wide spine trail is shown near the west side of this property	Trail is shown extending onto vacant land to west.	Yes

CP = Comprehensive Plan STP = Sidewalk and Trails Plan

PUBLIC NOTICE:

Four notices of the Planning and Zoning Commission public hearing were sent to surrounding property owners. As of Wednesday, February 29th at 12 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 February 10, 2012, in accordance with state law and local ordinance.

STAFF RECOMMENDATION: Staff recommends approval of the requested CUP to allow gross revenues from alcohol of more than 75%, for on-premise consumption, rather than the existing 75% or less.

FISCAL IMPACT: Not Applicable

ATTACHMENTS:

[Aerial, Thoroughfare and Trail Map](#)

[Land Use and Character Map](#)

[Zoning and Public Notice Map](#)

[Utility Map](#)

[Original 2003 CUP Ordinance with Site Plan for the Ranch Steakhouse](#)



Z-FY-12-26

C-CP-152 to C-Cup
for On Premise Alcohol > 75% Total Gross
Bo's Barn Dance Hall and Restaurant

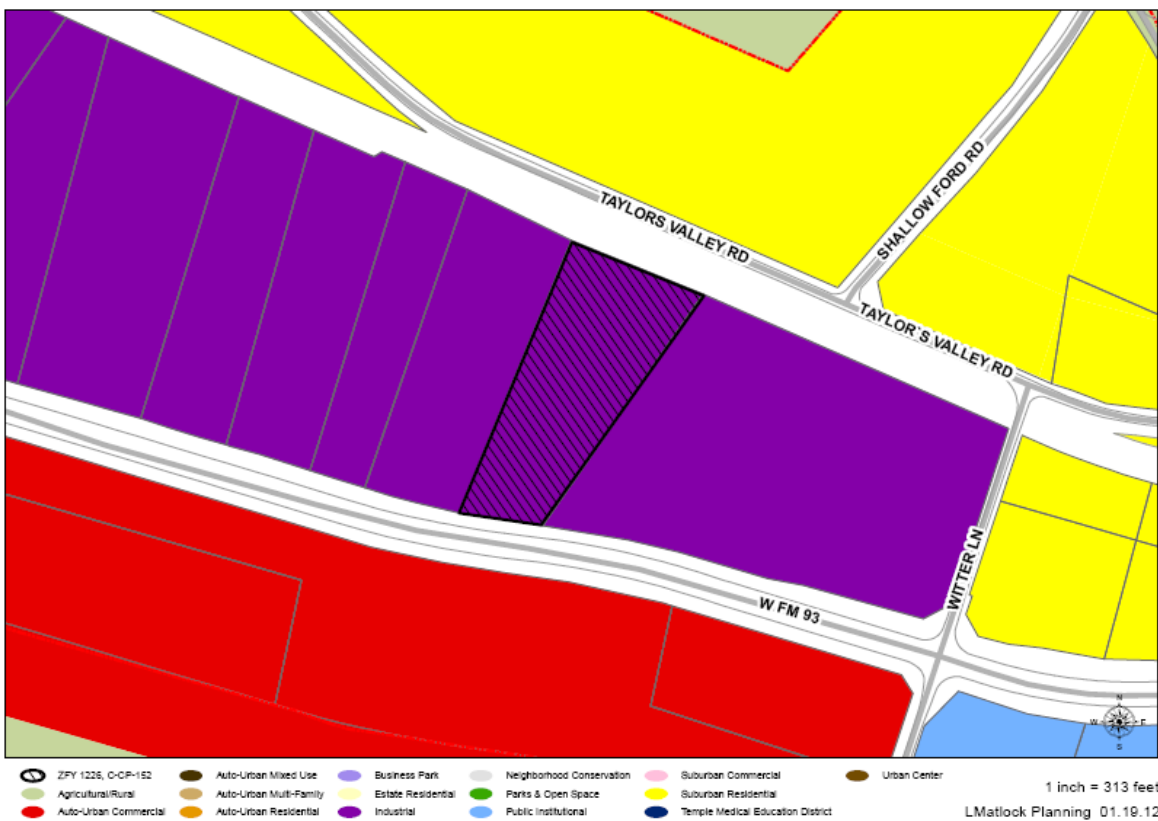
4984 W. FM 93



Z-FY-12-24

C-CP-152 to C-CUP
for On Premise Alcohol >75% Total Gross
Bo's Barn Dance Hall and Restaurant

4984 W. FM 93

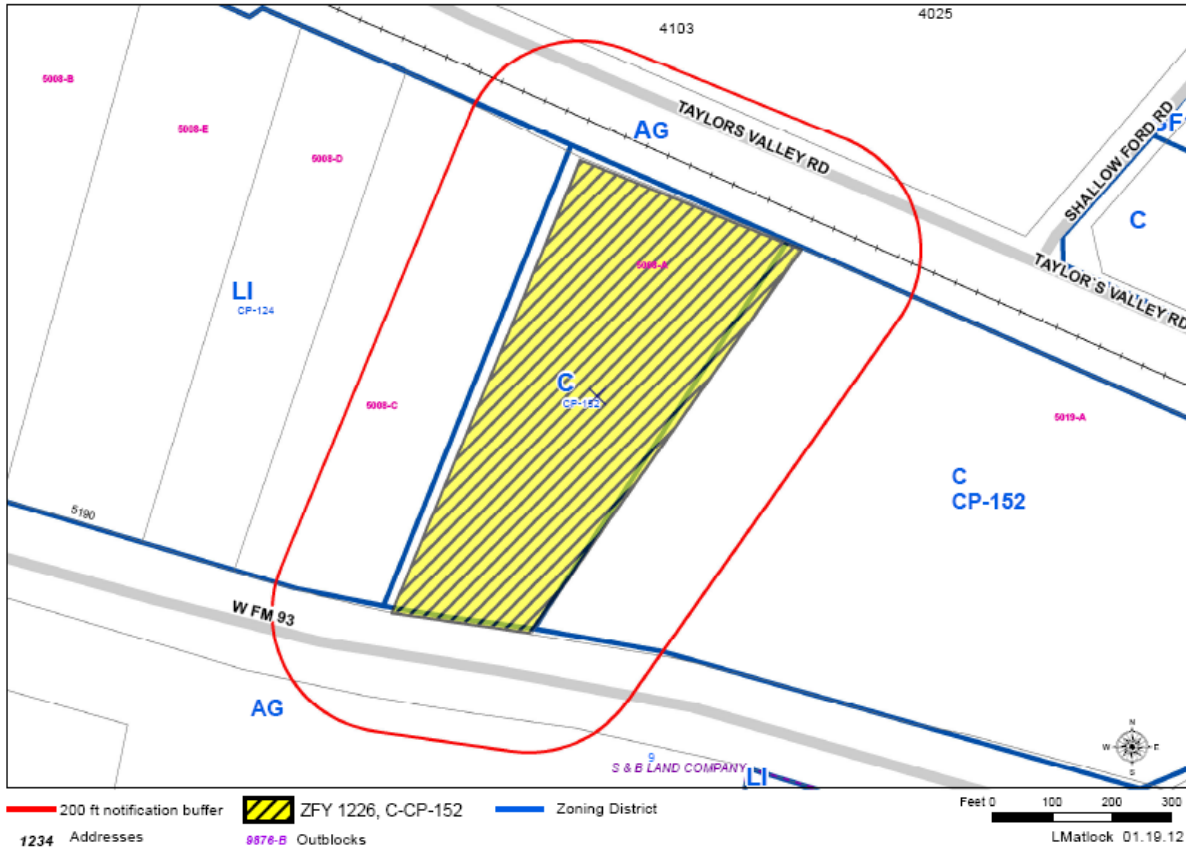




Z-FY-12-26

C-CP-152 to C-Cup
for On Premise Alcohol > 75% Total Gross
Bo's Barn Dance Hall and Restaurant

4984 W. FM 93



Z-FY-12-26

C-CP-152 to C-Cup
for On Premise Alcohol > 75% Total Gross
Bo's Barn Dance Hall and Restaurant

4984 W. FM 93



ORDINANCE NO. 2003-3908

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING A ZONING CHANGE FROM LIGHT INDUSTRIAL DISTRICT (LI) WITH A CONDITIONAL USE PERMIT FOR A CONCRETE/ASPHALT BATCHING PLANT, SAND, GRAVEL PROCESSING PLANT, WITH ASSOCIATED MATERIALS STORAGE TO COMMERCIAL DISTRICT (C) WITH A CONDITIONAL USE PERMIT TO ALLOW THE SALE OF ALCOHOLIC BEVERAGES FOR ON-PREMISES ALCOHOL CONSUMPTION WHERE THE GROSS REVENUE FROM THE SALE OF ALCOHOLIC BEVERAGES IS LESS THAN 75% OF THE TOTAL GROSS REVENUE FOR A PROPOSED STEAKHOUSE ON APPROXIMATELY 5.68 ACRES OF LAND, LOCATED ON THE NORTH SIDE OF FM 93, MOST COMMONLY REFERRED TO AS A PORTION OF OUTBLOCK 5008, CITY ADDITION; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND PROVIDING AN OPEN MEETINGS CLAUSE.

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

Whereas, the Planning and Zoning Commission of the City of Temple, Texas, after due consideration of the location and zoning classification of the establishment, has recommended that the City Council approve this application; and

Whereas, the City Council of the City of Temple, Texas, after public notice as required by law, has at a public hearing, carefully considered all the evidence submitted concerning the proposed steakhouse on approximately 5.68 acres of land, located on the north side of FM 93, and has heard the comments and evidence presented by all persons supporting or opposing this matter at said public hearing, and after examining the location and the zoning classification of the establishment finds that the proposed use of the premises substantially complies with the comprehensive plan and the area plan adopted by the City Council.

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

Part 1: The City Council authorizes a zoning change from Light Industrial District (LI) with a conditional use permit for a concrete/asphalt batching plant, sand, gravel processing plant, with associated materials storage to Commercial District (C) with a conditional use permit to allow the sale of alcoholic beverages for on-premises consumption where the gross revenue from the sale of alcoholic beverages is less than 75% of the total gross revenue for a proposed steakhouse on approximately 5.68 acres of land, located on the north side of FM 93, most commonly referred to as a portion of Outblock 5008, City Addition, more fully described in Exhibit "A," attached hereto and made a part hereof for all purposes.

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

- A. The sale and consumption of alcoholic beverages (beer and mixed drinks) shall occur within the restaurant, in accordance with the site plan attached as Exhibit "B."
- B. Hours of operation will be 9:00 a.m. to 12:00 p.m.
- C. Number of employees shall be 12-18.
- D. The establishments must provide adequate parking spaces to accommodate its members and their guests. Provided, however, the number of parking spaces shall never be less than the number required for similar uses in the zoning district where the establishment is located.
- E. The permittee shall be responsible for providing on-site security to the facilities in a manner which minimizes any conflict to the surrounding residential neighborhood. An adequate number of employees shall be provided for security purposes to adequately control the establishment's 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. That the permittees shall make every reasonable effort to minimize the noise impact of this use to surrounding development.
- G. That 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.

- H. That the permittee must comply with applicable licensing and permit provisions of the Alcoholic Beverage Code within six (6) months from the date of the issuance of this conditional use permit by the City Council, such limitation in time being subject to review and possible extension by the City.
- I. That the permittee must maintain the premises in a manner that will not be detrimental to the public welfare of the citizens of the City.
- J. That the permittee must operate the establishment in such a manner as to prevent excessive noise, dirt, litter, and odors on the establishments or in the surrounding area and shall operate the establishment in such a manner as to minimize disturbance to surrounding property owners.
- K. That the City Council may revoke a conditional use permit if it affirmatively determines that the issuance of the same is (1) incompatible with the surrounding uses of property, or (2) detrimental or offensive to the neighborhood or contrary to the health, safety, and general welfare of the City and its inhabitants.
- L. That 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.
- M. That a conditional use permit may be canceled, suspended, or revoked in accordance with the revocation clause set forth in Section 7-609 of the Zoning Ordinance.

Part 3: The declarations, determinations and findings declared, made and found in the preamble of this ordinance are hereby adopted, restated and made a part of the operative provisions hereof.

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

Part 5: This ordinance shall take effect ten (10) days after the land is sold to David Beevers.

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 on the 5th day of June, 2003.

PASSED AND APPROVED on Public Hearing and Second Reading on the 19th day of June, 2003.

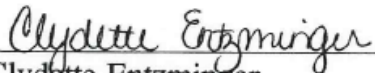
THE CITY OF TEMPLE, TEXAS



WILLIAM A. JONES, III, Mayor


ATTEST:





Clydette Entzminger
City Secretary

APPROVED AS TO FORM:



Jonathan Graham
City Attorney



Z-2003-24

OB #5008

5.678 acres

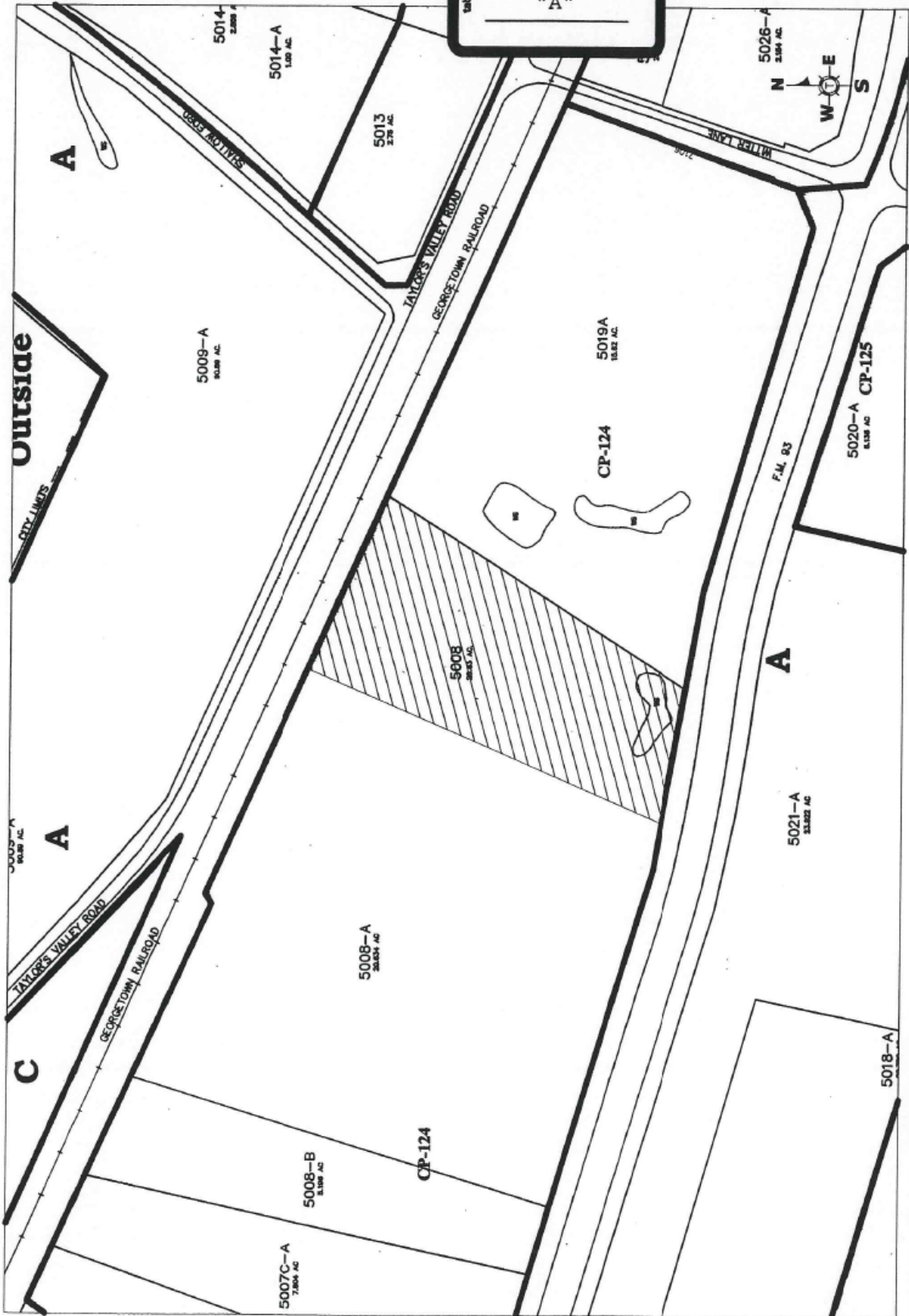


EXHIBIT
"A"

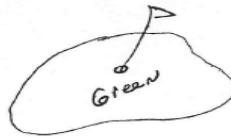
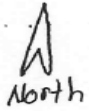
**Area of Proposed
Zone Change**

**K. Beimer/GIS Mapping
05/05/03
Scale: 1"=200'**

Project Concept

EXHIBIT

"B"



GOLF
DRIVING RANGE



OUT DOOR
PATIO AREA



Possible:

Future mini storage Buildings



Belton



HWY 93



Number of CURBS CUTS
unknown

Temple



**RESPONSE TO PROPOSED
PLANNED DEVELOPMENT AMENDMENT
REQUEST
CITY OF TEMPLE**

Nichols Acres LLC
4205 Forrester Roadt
Temple, Texas 76502

Zoning Application Number: Z-FY-12-26

Project Manager: Leslie Matlock

Location: 4984 West FM 93

The proposed amendment to allow the sale of alcoholic beverages more than 75% of the total gross revenue 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:

Hubert A Johnson
Signature

Hubert A Johnson - Nichols Acres
Print Name manager

Please mail or hand-deliver this comment form to the address shown below, no later than February 21, 2012

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

RECEIVED

FEB 14 2012

City of Temple
Planning & Development

Number of Notices Mailed: 4

Date Mailed: February 9, 2012

**EXCERPTS FROM THE
PLANNING & ZONING COMMISSION MEETING
TUESDAY, FEBRUARY 21, 2012**

ACTION ITEMS

Item 4: Z-FY-12-26 - Amendment to Ordinance No. 2003-3908, originally approved June 19, 2003, PD-C District with a CUP to allow the sale of alcoholic beverages for on-premises alcohol consumption where the gross revenue from the sale of alcoholic beverages is more than 75% of the total gross revenue for a proposed dance hall and restaurant located at 4984 West FM 93. (Applicant: Lorinda Baum for David Beevers)

Ms. Matlock stated this matter would go before City Council for first reading on March 15, 2012 and for second reading and final action on April 5, 2012.

This site holds a CUP for alcoholic beverage service in conjunction with a restaurant use in a Commercial district. That service can produce revenue for 75% or less of the total revenue for the entire business. This business, a dancehall, has been opened with a restaurant since mid-January. The applicant wishes to increase the amount of revenue from alcohol in case the restaurant does not succeed.

Surrounding properties includes vacant land with Commercial zoning to the north, vacant land and Agricultural (AG) zoning to the south, vacant land to the east, and cement plant to the west, both zoned Light Industrial (LI).

Four notices were mailed to surrounding property owners and one approval was received.

Staff recommends approval of this request as submitted by applicant.

Chair Martin opened the public hearing.

There being no speakers, Chair Martin closed the public hearing.

Commissioner Rhoads made a motion to approve Item 4, Z-FY-12-26, and Commissioner Jones made a second.

Motion passed: 7:0

Commissioner Sears absent; Commissioner Pope has been appointed to the Commission as its ninth member but not yet been seated.

ORDINANCE NO. 2012-4522

[PLANNING NO. Z-FY-12-26]

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING A CONDITIONAL USE PERMIT FOR THE SALE OF ALCOHOLIC BEVERAGES FOR ON-PREMISE CONSUMPTION WITH MORE THAN 75% REVENUE FROM ALCOHOL SALES IN AN EXISTING BAR AND RESTAURANT; 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, after due consideration of the conditions, operation and location at 4984 W. FM 93, recommends that the City Council approve the application for this Conditional Use Permit for an on-premises consumption with more than 75% alcohol revenue from alcohol sales in an existing bar and restaurant; 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 for the sale of alcoholic beverages for on-premise consumption with more than 75% revenue from alcohol sales in an existing bar and restaurant located on approximately 5.68 acres of Outblock 5008, commonly known as 4984 W. FM 93, 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 this CUP:

- (k) The permittee's site plan is an exhibit to the conditional use permit, attached hereto as Exhibit B.

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 **15th** day of **March**, 2012.

PASSED AND APPROVED on Second Reading on the **5th** day of **April**, 2012.

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

04/05/12
Item #7(H)
Consent Agenda
Page 1 of 2

DEPT./DIVISION SUBMISSION & REVIEW:

Randy A. Stonerod, Director of Human Resources/Civil Service

ITEM DESCRIPTION: Consider adopting a resolution changing the work period for employees engaged in fire protection activities who fall under the Fair Labor Standards Act (FLSA) 7(k) partial exemption from a 27-day to a 14-day work period to be effective April 27, 2012.

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

ITEM SUMMARY: In October of 1985, the City of Temple adopted a 27-day work period for Certified Firefighting and Emergency Medical Services personnel. The FLSA 7(k) partial exemption is federal law that regulates overtime for employees engaged in fire protection activities that work 24-hour shifts. Working 24-hour shifts causes employees engaged in fire protection services to routinely exceed a normal 40-hour work week. By law and for non-7(k) exempt employees, hours worked in excess of a 40-hour work week triggers a need to pay overtime.

Currently, fire protection personnel assigned to a 24-hour shift, 27-day work period who fall under the FLSA 7(k) partial exemption are paid overtime for all hours worked in excess of 204 hours per FLSA work period at the rate of one and one-half (1-1/2) times the regular rate of pay. The current 27 day work period cycle has been in place since the application of the FLSA law to public sector employers. However, the current 27-day work period for civil service fire employees has not ever coincided with the City of Temple's pay period cycle. As a result, this creates opportunities for confusion and complexity. Reconciliation and explanation of pay checks and pay periods is a re-occurring issue as a result.

Fire Department Staff initiated the request to change the 27-day work period to 14-days in order to coincide with the City's pay period. This would allow fire protection personnel the ability to reconcile the number of hours worked and the number of hours paid for each pay period. Further, this proposed change has been discussed with the Fire Department, the City Manager, the Finance Department and Human Resources, and all aforementioned staff is supportive of this change.

In order to accomplish this, the City must adopt a 14-day work period to be effective April 27, 2012. This is the only date this year that the work period and pay period cycle will coincide. Under the FLSA, a 7(k) partial exemption work period may be from seven (7) days to twenty-eight (28) days in length. This proposed resolution is well-supported by law as it falls between these parameters. If this resolution is approved, Human Resources will reflect the change from a 27-day work period to a 14-day work period in the City of Temple Personnel Policies & Procedures Manual.

FISCAL IMPACT: As a result of a shorter time period being used for payroll calculation purposes and based on the historical patterns of leave taken, we estimate the potential for additional overtime expenses to be incurred to be approximately \$50,000

ATTACHMENTS:

[Resolution](#)

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, MODIFYING THE WORK PERIOD FOR EMPLOYEES ENGAGED IN FIRE PROTECTION ACTIVITIES WHO FALL UNDER THE FAIR LABOR STANDARDS ACT (FLSA) 7(k) PARTIAL EXEMPTION FROM A 27-DAY TO A 14-DAY WORK PERIOD, EFFECTIVE APRIL 27, 2012; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, in October, 1985, the City Council adopted a 27-day work period for Certified Firefighting and Emergency Medical Services Personnel;

Whereas, the FLSA 7(k) partial exemption is federal law that regulates overtime for employees engaged in fire protection activities that work 24-hour shifts – these 24-hour shifts cause employees engaged in fire protection services to routinely exceed a normal 40-hour work week.

Whereas, by law, and for non-7(k) exempt employees, hours worked in excess of a 40-hour work week, triggers a need to pay overtime – in order to accomplish this change, the City must adopt a 14-day work period to be effective April 27, 2012;

Whereas, as a result of a shorter time period being used for payroll calculation purposes, and based on the historical patterns of leave taken, it is estimated that the potential for additional overtime expenses to be incurred, could be approximately \$50,000;

Whereas, the Staff recommends modifying the work period for employees engaged in fire protection activities who fall under the Fair Labor Standards Act (FLSA) 7(k) partial exemption from a 27-day to a 14-day work period, effective April 27, 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 the City Manager, or his designee, to execute any documents, after approval as to form by the City Attorney, necessary to modify the work period for employees engaged in fire protection activities who fall under the Fair Labor Standards Act (FLSA) 7(k) partial exemption from a 27-day to a 14-day work period, effective April 27, 2012.

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 **5th** day of **April**, 2012.

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

04/05/12
Item #7(I)
Consent Agenda
Page 1 of 2

DEPT./DIVISION SUBMISSION & REVIEW:

Nicole Torralva, P.E., Director of Public Works
Jonathan Graham, City Attorney

ITEM DESCRIPTION: Consider adopting a resolution authorizing the negotiation and execution of all documents and instruments necessary or desirable to acquire real property interests from Jencer Investments Inc, Wilsonart International, Inc., and McLane Company, Inc. for the Northwest Loop 363 Pass-Through Project, and declaring an official intent to reimburse associated expenditures made prior to the issuance of tax-exempt obligations for this project.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: Lone Star Right of Way Services, Inc. has been working under a professional services agreement with the City to acquire real property interests necessary for the Northwest Loop 363 Pass-Through Project from the FM 2305/West Adams interchange north up to the BNSF main line. The City obtained appraisals for all of the parcels in the pending phase of the Project and offered to acquire the parcels for no less than the total just compensation recommended by the appraiser. A number of acquisitions have closed. Additional closings are anticipated as soon as documentation required for title insurance is completed. The City will pay title expenses and closing costs.

This item authorizes the negotiation and execution of all documents and instruments necessary or desirable to acquire real property interests from Jencer Investments Inc, Wilsonart International, Inc., and McLane Company, Inc. The acquisitions are identified by project parcel numbers as follows:

<u>Jencer Investments, Inc.</u>	<u>Wilsonart International, Inc.</u>	<u>McLane Company, Inc.</u>
Parcel No. 6-6AC (Pts 1 & 2)	Parcel No. 8-8AC (Pts 1, 2 & 3)	Parcel No. 12-12AC
	Parcel No. 14	Parcel No. 16-16AC
		Parcel No. 17 (Pt 1 & 2)
		Parcel No. 18
		Parcel No. 19

It may be desirable to execute Possession and Use Agreements with the property owners, giving the City possession of the properties so that construction may begin. The proposed resolution will authorize payment of 100% of the City's approved value, which is an advance of money to be paid for the City's anticipated purchase of the parcels, plus 6% of the approved value, as compensation for irrevocable grant of possession and use upon closing of each Possession and Use Agreement.

FISCAL IMPACT: On September 16, 2010, Council approved a resolution authorizing a pass through financing agreement with the Texas Department of Transportation for improvements to Northwest Loop 363. As a result, \$930,000 was designated in the Reinvestment Zone No. 1 Financing Plan for the purchase of right of way and right of way acquisition services.

After funding right of way acquisition services, acquisition of identified parcels approved by Council on February 2, 2012, and miscellaneous expenditures related to the project a balance of \$200,000 is available to purchase additional right of way from Reinvestment Zone No. 1 funding.

On the April 5, 2012 agenda, there is an item related to the issuance of the Pass-Through Agreement Revenue and Limited Tax Bonds. These bonds will be issued to fund the city's share of costs related to the Northwest Loop 363 Pass-Through project and will be appropriated to account 261-3400-531-2587, project 100681.

ATTACHMENTS:
[Resolution](#)

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING THE NEGOTIATION AND EXECUTION OF ALL DOCUMENTS AND INSTRUMENTS NECESSARY TO ACQUIRE REAL PROPERTY INTERESTS FROM JENCER INVESTMENTS, INC., WILSONART INTERNATIONAL, INC., AND MCLANE COMPANY, INC., FOR THE NORTHWEST LOOP 363 PASS-THROUGH PROJECT; DECLARING AN OFFICIAL INTENT TO REIMBURSE ASSOCIATED EXPENDITURES MADE PRIOR TO THE ISSUANCE OF TAX-EXEMPT OBLIGATIONS; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, Lone Star Right of Way Services, Inc. has been working under a professional services agreement with the City to acquire real property interests necessary for the Northwest Loop 363 Pass-Through project from the FM2305/West Adams interchange, north up to BNSF main line;

Whereas, the City obtained appraisals for all of the parcels in the pending phase of the project, has offered to acquire the parcels for no less than the total just compensation recommended by the appraiser – a number of acquisitions have already closed and additional closings are anticipated as soon as documentation required for title insurance is completed;

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

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

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

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

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

Whereas, Pass-Through Financing Bonds will be issued to fund the City's share of costs related to the Northwest Loop 363 Pass-Through project and will be appropriated to Account No. 261-3400-531-2587, Project No. 100681; 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 negotiate and execute all documents and instruments necessary or desirable to acquire real property interests from Jencer Investments, Inc., Wilsonart International, Inc., and McLane Company, Inc, for the Northwest Loop 363 Pass-Through Project, including the parcels listed as follows:

Jencer Investments, Inc.

Parcel No. 6-6AC (Pts 1 & 2)

Wilsonart International, Inc.

Parcel No. 8-8AC (Pts 1, 2 & 3)

Parcel No. 14

McLane Company, Inc.

Parcel No. 12-12AC

Parcel No. 16-16AC

Parcel No. 17 (Pts 1 & 2)

Parcel No. 18

Parcel No. 19

Part 2: The City Council authorizes the City Manager, or his designee, to execute Possession and Use Agreements with property owners for irrevocable possession and use of parcels required for the Northwest Loop Pass-Through Project.

Part 3: The findings, determinations and certifications contained in the preamble hereof are incorporated herein for all purposes.

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

Part 5: The expenditures described are capital expenditures under general Federal income tax principles or a cost of issuance.

Part 6: Except for the proceeds of the Obligations, no funds are, or are reasonably expected to be reserved, allocated on a long-term basis, or otherwise set aside by the City or by any member of the same controlled group to pay for these expenditures.

Part 7: Pass-Through Financing Bonds will be issued to fund the City's share of costs related to the Northwest Loop 363 Pass-Through project and will be appropriated to Account No. 261-3400-531-2587, Project No. 100681.

Part 8: 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 **5th** day of **April**, 2012.

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

04/05/12
Item #7(J)
Consent Agenda
Page 1 of 1

DEPT./DIVISION SUBMISSION & REVIEW:

Traci Barnard, Director of Finance

ITEM DESCRIPTION: Consider adopting a resolution authorizing budget amendments for fiscal year 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 \$138,313.

ATTACHMENTS:

[Budget Amendments](#)
[Resolution](#)

CITY OF TEMPLE
BUDGET AMENDMENTS FOR FY 2012 BUDGET
April 5, 2012

ACCOUNT #	PROJECT #	DESCRIPTION	APPROPRIATIONS	
			Debit	Credit
110-2031-521-2229		OCU Seized Funds/State (Police Department - Patrol)	\$ 4,100	
110-2032-521-2229		OCU Seized Funds/State (Police Department - Traffic)	\$ 11,865	
110-0000-313-0330		Reserved for Seized Funds		\$ 15,965
State seized funds are needed to purchase radars for the Patrol Unit and the Traffic Unit.				
110-2330-540-2516		Judgments & Damages (Solid Waste Residential)	\$ 837	
110-1500-515-6531		Contingency - Judgments & Damages		\$ 837
Settlement of a claim filed against the City seeking reimbursement for damage to a 1999 Honda Civic when a Solid Waste truck backed up into her parked car. (DOL 3.6.12 - Maria Garcia Montelongo)				
110-2800-532-6323	100777	Traffic Signals (Traffic Signal Division)	\$ 36,000	
110-3400-531-2344		Speed Humps (Street Division)	\$ 22,520	
110-0000-452-0164		Child Safety Fee Revenue		\$ 58,520
To appropriate Child Safety Fees received from Bell County to fund upgrades to the school zones on Midway at Bonham Middle School and on South 5th Street at Raye Allen Elementary School in the amount of \$36,000 and to install speed humps on Starlight Drive, Orion Drive, and Loop 205 in the amount of \$22,520. The child safety fees must be used on programs designed to enhance child safety, health or nutrition, including child abuse prevention and intervention and drug and alcohol abuse prevention. After approval of this budget adjustment, \$92,460 will remain available in Child Safety Fees for future allocation.				
110-3400-531-2516		Judgments & Damages (Street Division)	\$ 500	
110-1500-515-6531		Contingency - Judgments & Damages		\$ 500
Settlement of claim filed against the City seeking reimbursement for damage to a 2008 Chevrolet Cobalt when a City parking sign fell on it in front of 6 1/2 East Avenue A.				
110-3500-552-2516		Judgments & Damages (Parks)	\$ 4,409	
110-0000-461-0554		Insurance Claims		\$ 4,409
This budget adjustment recognizes insurance proceeds received by Progressive County Mutual Ins for reimbursement of damages to two antique light poles and a tree damaged due to an auto accident. In addition, this budget adjustment increases the expenditure account to appropriate the funds for the Parks Department to repair the light poles and replace the tree.				
110-3500-552-2516		Judgments & Damages (Parks)	\$ 1,955	
110-0000-461-0554		Insurance Claims		\$ 1,955
This budget adjustment recognizes insurance proceeds received by State Farm for reimbursement of damages to a Parks Ford Ranger pickup (asset #13130). In addition, the budget adjustment increases the expenditure account to appropriate the funds for the Parks Department to repair the vehicle.				

CITY OF TEMPLE
BUDGET AMENDMENTS FOR FY 2012 BUDGET
April 5, 2012

ACCOUNT #	PROJECT #	DESCRIPTION	APPROPRIATIONS	
			Debit	Credit
110-3500-552-2232		Park Fee Expenditures (Parks)		\$ 7,793
110-3500-552-6332	100617	Parks Dev Fee Exp > \$5,000 - Freedom		\$ 1,266
110-3500-552-6332	100618	Parks Dev Fee Exp > \$5,000 - Miller		\$ 1,884
110-3500-552-2311		Buildings & Grounds - Parks	\$ 2,066	
110-0000-461-0830		Developer Fees	\$ 8,877	
Unappropriate funds remaining after the park improvements have been completed. Park developer fees and operating funds were used for the original appropriation.				
110-4100-551-2112		Food Items/Supplies (PALS Administration)	\$ 1,286	
110-4100-551-2128		Postage	\$ 54	
110-4100-551-2511		Printing & Publications	\$ 160	
110-0000-445-1587		Donations - Parks		\$ 1,500
Expenses incurred by the Temple Parks & Leisure Services Volunteer Recognition Banquet held on February 23, 2012. Invitations, postage and catering will be offset by the support from the Temple Parks Foundations contribution of \$1,500 towards this event.				
240-4400-551-2713		Cost of Goods Sold: Misc Merchandise (Mayborn Center)	\$ 3,400	
240-4400-551-2723		Cost of Goods Sold: Beverage Goods		\$ 3,400
240-4400-551-2721		Cost of Goods Sold: Food Products	\$ 10,000	
240-0000-445-1033		Catering Revenue		\$ 10,000
The Cost of Goods Sold: Misc Merchandise account was underbudgeted due to a change in the way we purchase our paper goods and separate those purchases. The surplus in Beverage Goods is projected based on our ability to purchase these items at extremely low rates. The Cost of Goods Sold: Food Products is low due to high sales. This increase can be offset by projected revenue in excess of our original goal.				
520-5200-535-2516		Judgments & Damages (Water Distribution)	\$ 551	
520-5000-535-6532		Contingency - Judgments & Damages		\$ 551
Settlement of claim filed against the City seeking reimbursement for sewer backup into business located at 1404 S. 31st Street (Precious Memories/ Seleese Thompson-Mann).				
520-5510-535-2616		Professional (Sewer Treatment - Admin Overhead)	\$ 19,500	
520-5000-535-6532		Contingency - Judgments & Damages		\$ 19,500
Funding to cover the costs associated with required EPA streamlining of our current pre-treatment ordinance. This will include changes required as a result of the recent TCEQ audit received in September, as well as additional EPA and TCEQ regulations that are now in effect. OMI will be providing this service as allowed under their current contract.				
561-5400-535-6925	100842	Bird Creek Phase 2A (UR CIP)	\$ 10,233	
561-5200-535-6940	100681	NW Loop 363		\$ 10,233
Appropriate project savings to fund acquisition costs and change order #1 in the amount of \$5,232.40 with Lewis Contractors, Inc. for services related to the Bird Creek Phase 2A wastewater line replacement project.				

CITY OF TEMPLE
BUDGET AMENDMENTS FOR FY 2012 BUDGET
April 5, 2012

ACCOUNT #	PROJECT #	DESCRIPTION	APPROPRIATIONS	
			Debit	Credit
TOTAL AMENDMENTS			\$ 138,313	\$ 138,313
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	\$	(27,424)
		Net Balance of Judgments & Damages Contingency Account	\$	52,576
		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	\$	87,591
		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	\$	(31,131)
		Net Balance of Contingency Account	\$	18,869
		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	\$	31,184
		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

CITY OF TEMPLE
BUDGET AMENDMENTS FOR FY 2012 BUDGET
April 5, 2012

			APPROPRIATIONS	
ACCOUNT #	PROJECT #	DESCRIPTION	Debit	Credit
FED/STATE GRANT FUND				
		Beginning Contingency Balance	\$	24,387
		Carry forward from Prior Year	\$	12,105
		Added to Contingency Sweep Account	\$	22,327
		Taken From Contingency	\$	(29,131)
		Net Balance of Contingency Account	\$	29,688

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
TEMPLE, TEXAS, APPROVING BUDGET AMENDMENTS TO
THE 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 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 5th day of **April**, 2012.

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

04/05/12

Item #8

Regular Agenda

Page 1 of 1

DEPT./DIVISION SUBMISSION & REVIEW:

Nicole Torralva, P.E, Director of Public Works

Kenny Henderson, Superintendent of Street and Drainage Services

ITEM DESCRIPTION: SECOND READING: Consider adopting an ordinance establishing the prima facie speed limit on SH 36, within the City Limits.

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

ITEM SUMMARY: Temple Education Center has requested that a school zone be established on SH 36 for their school. This prompted a traffic study by TxDOT to be performed. Based on Traffic Engineering Studies by the State, TxDOT has requested that the City adopt an ordinance setting the prima facie speed limits on SH 36. The section of highway is described as followed:

Starting at M.P. 10.200, proceeding east on SH 36, the speed limit shall be 60 MPH for a distance of 2.376 miles, except in times of ingress and egress, the speed limit shall be 50 MPH for a distance of 0.406 miles, and 35 MPH for a distance of 0.105 miles, when school zone signs are flashing, ending at M.P 1.296.

The City is required by TxDOT to re-adopt this speed limit at this time with changes being posted. School zones and reduced speed limits will only occur during drop off and release times, as established and consistent with other school zones along TxDOT roadways within the City of Temple.

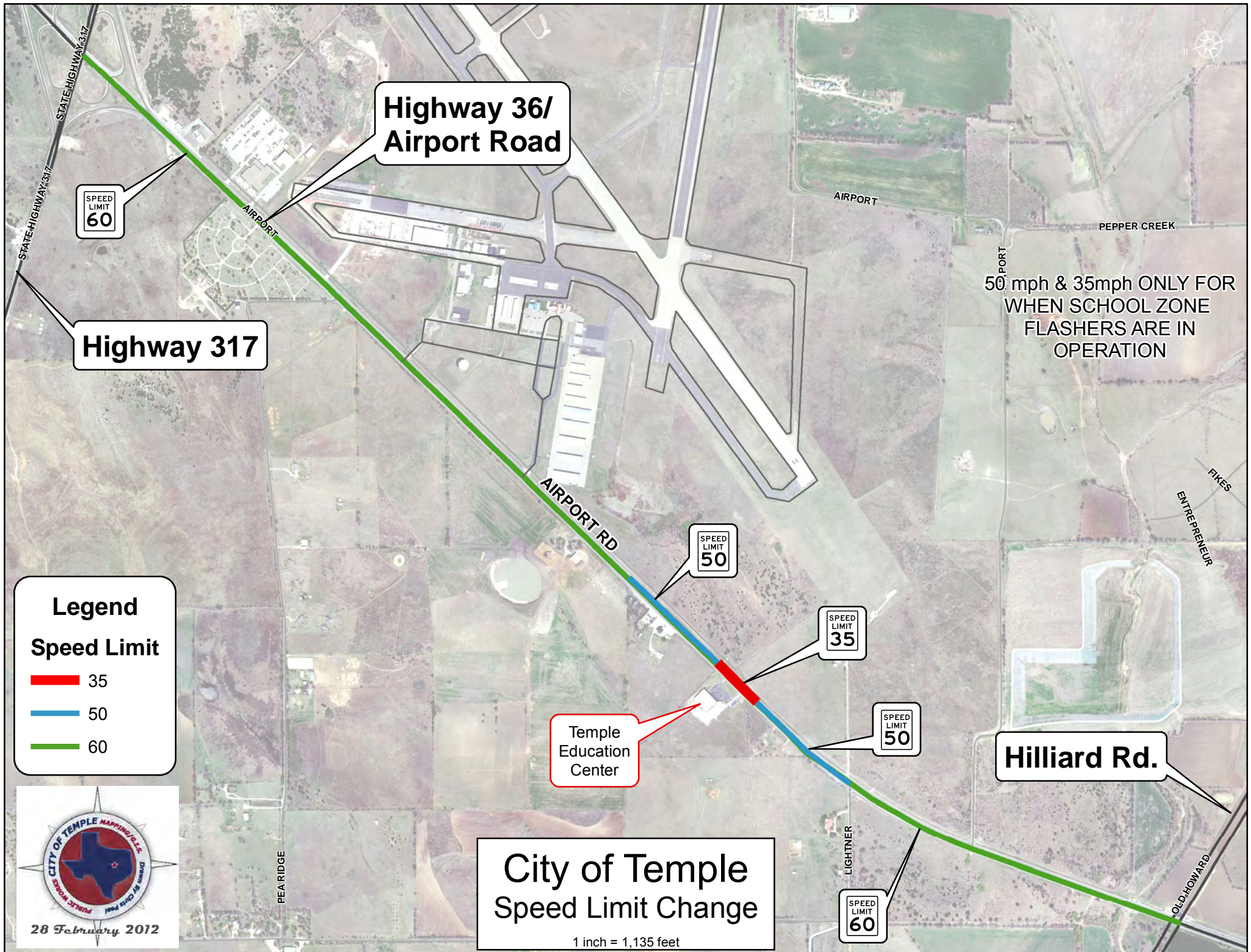
FISCAL IMPACT: The cost to install new mast arm type flashing beacons at Temple Education Center is \$23,970 which will be funded with Child Safety Fees. These fees are collected by the County on Behalf of the City and must be spent on programs to enhance child safety.

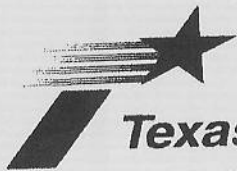
ATTACHMENTS:

[Map](#)

[TxDOT Strip Map](#)

[Ordinance](#)





Texas Department of Transportation

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

January 24, 2012

Honorable Bill Jones, III
City of Temple
North Main Street
Temple, TX 76501

Dear Mayor Jones,

Attached are two copies of the Speed Zone Strip Map for SH 36. This is an update of existing zones. The recommended zones are based on results of a traffic engineering study that was recently conducted.

Included in this transmittal is a sample ordinance that may be used, along with two (2) copies of the strip map, to establish the zones. Please return a copy of your completed ordinance to this office. The replacement and/or relocation of signs reflecting the new speed zones will be done by State maintenance forces upon receipt of the ordinance. The strip maps are to be retained in your files for enforcement purposes.

Please feel free to contact me at (254) 867-2800 if you have any questions or need additional information.

Sincerely,

Larry J. Colclasure, P.E.

Director of Transportation Operations

Attachments
LJC

ORDINANCE REGULATING THE RATE AND SPEED OF MOTOR VEHICLES

Whereas, in Temple, Texas, an engineering and traffic investigation has been made to determine the reasonable and safe prima facie maximum speed of motor vehicles on a certain section of SH 36.

Whereas, it has been determined by the engineering studies and traffic investigation that the reasonable and safe prima facie maximum speed for motor vehicles on said section of the herein above mentioned highway in Temple, Texas, should be as set out hereinafter,

NOW, THEREFORE BE IT ORDAINED BY THE CITY OF Temple, TEXAS, ACTING BY AND THROUGH ITS CITY COUNCIL:

Section 1: The section of highway described as follows:

Starting at M.P.10.200, proceeding east on SH 36, the speed limit shall be 60 MPH for a distance of 2.376 miles, except in times of ingress and egress, the speed limit shall be 50 MPH for a distance of 0.406 miles, and 35 MPH for a distance of 0.105 miles, when school zone signs are flashing, ending at M.P. 1.296.

is hereby regulated as to the speed of motor vehicles traveling within said section in any direction as evidenced by the attached plan which is hereby approved and made a part of this ordinance, and it shall be unlawful for any person to drive a vehicle at a speed in excess of any speed so declared in this ordinance when signs are in place giving notice thereof.

Section 2: Any person violating any provision of this ordinance shall upon conviction be fined in any sum not exceeding Two Hundred and no/100 Dollars.

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

Section 4: That it is hereby officially found and determined that the meeting at which this ordinance is passed is open to the public as required and that public notice of said meeting was given as required by law.

Section 5: The fact that the City of Temple at the present time has no adequate ordinance governing the speed of motor vehicles on the Section of SH 36 herein above described, and the fact that a traffic and engineering survey has been made on said section of that facility which has determined that this ordinance establishing the speed regulations herein above set forth should be passed, creates an urgency and an imperative public necessity which, for the immediate preservation of public peace, health, safety, and welfare necessitates that the rule requiring the reading of ordinances on three separate days be suspended, and such rule is suspended and this ordinance shall take effect immediately upon its passage, and it is so enacted.

PASSED AND APPROVED this the _____ day of _____, 2012

Mayor, City of Temple

(SEAL)

ATTEST:

City Secretary

ORDINANCE NO. 2012-4524

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, ESTABLISHING A REASONABLE AND SAFE PRIMA FACIE MAXIMUM SPEED LIMIT ON A CERTAIN SECTION OF SH36 WITHIN THE CITY LIMITS; PROVIDING A REPEALER; PROVIDING FOR A PENALTY FOR VIOLATIONS NOT TO EXCEED \$200 FOR EACH VIOLATION; PROVIDING AN EFFECTIVE DATE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, Temple Education Center has requested that a school zone be established on a certain section of SH36 for their school – this prompted a traffic engineering study by the Texas Department of Transportation;

Whereas, based on the traffic engineering study, the Texas Department of Transportation has determined the reasonable and safe prima facie maximum speed for motor vehicles on a certain section of SH36 is described as follows:

Starting at M.P. 10.200, proceeding east on SH 36, the speed limit shall be 60 MPH for a distance of 2.376 miles, except in times of ingress and egress, the speed limit shall be 50 MPH for a distance of 0.406 miles, and 35 MPH for a distance of 0.105 miles, when school zone signs are flashing, ending at M.P 1.296;

Whereas, the City is required by the Texas Department of Transportation to re-adopt this speed limit at this time with changes being posted; and

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

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

Part 1: The City Council finds that the reasonable and safe prima facie maximum speed limit for vehicular traffic on a certain section of SH36 is as follows:

Starting at M.P. 10.200, proceeding east on SH 36, the speed limit shall be 60 MPH for a distance of 2.376 miles, except in times of ingress and egress, the speed limit shall be 50 MPH for a distance of 0.406 miles, and 35 MPH for a distance of 0.105 miles, when school zone signs are flashing, ending at M.P 1.296;

Part 2: It shall be unlawful for any person to drive or operate a motor vehicle, bicycle, or other vehicle of any kind, whether or not motor powered, on that portion of the

roadways described above under the conditions described herein, at a speed greater than is reasonable and safe under the circumstances then existing, but any speed in excess of the reasonable and safe prima facie maximum speed limits as set forth in Part 1 hereof shall be prima facie evidence that such speed is not reasonable or safe and that it is unlawful.

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

Part 4: A person who violates a provision of this ordinance is guilty of a separate offense for each day or portion of a day which the offense is committed, continued, or permitted, and each offense is punishable by a fine not to exceed \$200.

Part 5: If any provision of this ordinance or the application of any provision to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are declared to be severable.

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

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

PASSED AND APPROVED on First Reading on the **15th** day of **March**, 2012.

PASSED AND APPROVED on Second Reading on the **6th** day of **April**, 2012.

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

04/05/12
Item #9
Regular Agenda
Page 1 of 3

DEPT./DIVISION SUBMISSION & REVIEW:

Autumn Speer, Director of Community Services

ITEM DESCRIPTION: FIRST READING – PUBLIC HEARING - Z-FY-12-29: Consider adopting an ordinance authorizing a rezoning from Single Family One District (SF1) to General Retail District (GR) on Lot 3, Block 8, Parklawn Addition, Bell County, Texas, located at 2007 North 7th Street, and on 0.25-acre of an abandoned portion of North 7th Street.

P&Z COMMISSION RECOMMENDATION: At its March 5, 2012 meeting, the Planning and Zoning Commission voted 7/0 in accordance with Staff recommendation to recommend approval of a rezoning from Single Family One District (SF1) to General Retail District (GR). Commission members Staats and Magaña were absent.

STAFF RECOMMENDATION: Conduct public hearing and adopt ordinance as presented in item description, on first reading, and schedule second reading and final adoption for April 19, 2012.

Staff recommends approval of a rezoning from Single Family One District (SF1) to General Retail District (GR) for the following reasons:

1. While the request partially complies with the Future Land Use and Character Map, the area that is being rezoned is not currently buildable;
2. The request complies with the Thoroughfare Plan Map; and
3. Public facilities are available to serve the property.

ITEM SUMMARY: Please refer to the Staff Report and draft minutes of case Z-FY-12-29, from the Planning and Zoning Commission meeting, March 5, 2012. The applicant has initiated Right-of-Way Abandonment procedures for the dead end right-of-way of North 7th Street, which is one of the properties that is part of this Rezoning request. The City Council took final action to approve the Abandonment request March 1, 2012. The applicant has also purchased what is currently a small (~2,800 sq. ft.) residential lot at 2007 North 7th Street. He proposes to consolidate these properties with the larger property to the east, into a single developable retail lot fronting on North 3rd Street.

At the Planning and Zoning meeting, several property owners adjacent to the site expressed concern with the proposed retail establishment using the abandoned portion of North 7th street for access into the site. The applicant went on record stating this was not planned and has agreed to provide a non-access clause on the accompanying plat for the property.

COMPREHENSIVE PLAN COMPLIANCE:

The proposed Planned Development amendment relates to the following goals, objectives or maps of the Comprehensive Plan:

Document	Policy, Goal, Objective or Map	Site Conditions	Compliance?
CP	Map 3.1 - Future Land Use and Character	Neighborhood Conservation (Neighborhood Conservation is to South and west; Auto Urban Retail is to north and east.)	Partially*
CP	Map 5.2 - Thoroughfare Plan	N. 7 th St. is a Local Street. – Ownership is on N. 3 rd , which is a Major Arterial	Yes
CP	Goal 4.1 - Growth and development patterns should be consistent with the City's infrastructure and public service capacities.	2" and 6" water line, 8" Water line to northwest and 6" sewer line	Yes
CP	Land Use Policy 9 – New development or redevelopment on infill parcels in developed areas should maintain compatibility with existing uses and the prevailing land use pattern in the area.	GR zoning would serve as a transition between GR to the east and SF1 to the west	Yes

CP = Comprehensive Plan

** See explanation below

Future Land Use and Character Map (CP Map 3.1)

The small, undevelopable residential lot that is part of this rezoning request is classified as Neighborhood Conservation. The requested rezoning does not comply with this classification; however, this lot is so small that applying required setbacks and parking to the property makes it unable to accommodate a single-family dwelling of any usable size.

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. 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 subject property use, as in this case, then a 10-foot setback and fence or vegetative screening is required in the Unified Development Code.

PUBLIC NOTICE:

Staff mailed notices of the Planning and Zoning Commission's public hearing to the 15 property owners within a 200-foot radius surrounding the subject property. As of Monday, March 26, 12:00 PM, three notices were returned in favor of the request and none were returned in opposition to the request. The newspaper printed notice of the Planning and Zoning Commission public hearing on February 17, 2012 in accordance with state law and local ordinance.

FISCAL IMPACT: NA

ATTACHMENTS:

Aerial, Thoroughfare Plan and Trails Plan Map
Future Land Use and Character Map
Zoning and Notice Map
Utility Map
P&Z Staff Report (Z-FY-12-29)
Public Comments
P&Z Minutes (03/05/12)
Ordinance



Z-FY-12-29

SF1 to GR Lot 3 Block 8 Parklawn Addition
and Portion of N. 7th Street

2007 N. 7th Street



ZFY 12-29
2010 Bell County Aerial

Major Arterial Street
Proposed Local Connector Trail

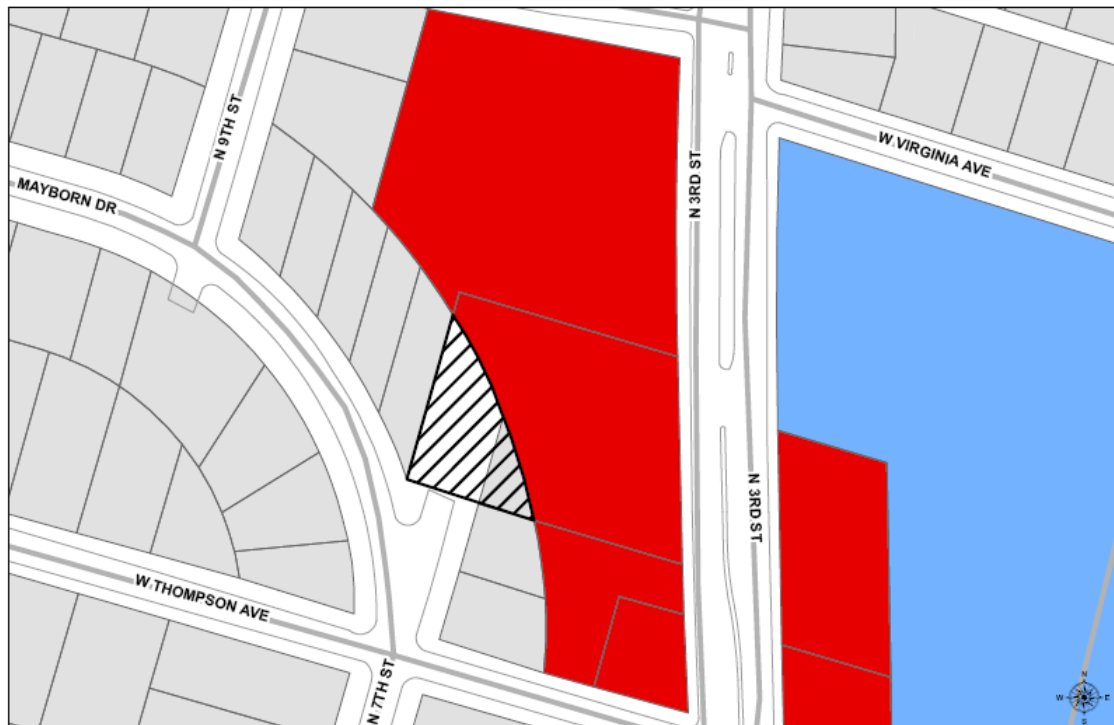
Feet 0 50 100 150
LMatlock 02.09.12



Z-FY-12-29

SF1 to GR Lot 3 Block 8 Parklawn Addition
and Abandoned Portion of N. 7th Street

2007 N. 7th Street



ZFY 1229, SF1
Agricultural/Rural
Auto-Urban Commercial
Auto-Urban Mixed Use
Auto-Urban Multi-Family
Auto-Urban Residential
Business Park
Estate Residential
Industrial
Neighborhood Conservation
Parks & Open Space
Public Institutional
Suburban Commercial
Suburban Residential
Temple Medical Education District
Urban Center

1 inch = 114 feet
LMatlock Planning 02.09.12



Z-FY-12-29

SF1 to GR Lot 3 Block 8 Parklawn Addition
and Abandoned Portion of N. 7th Street

2007 N. 7th Street



2010 Bell County Aerial

Legend:
Yellow outline: ZFY 12-29
Blue line: Domestic Water Lines
Red line: Sanitary Sewer Line
Red dot: Fire Hydrant

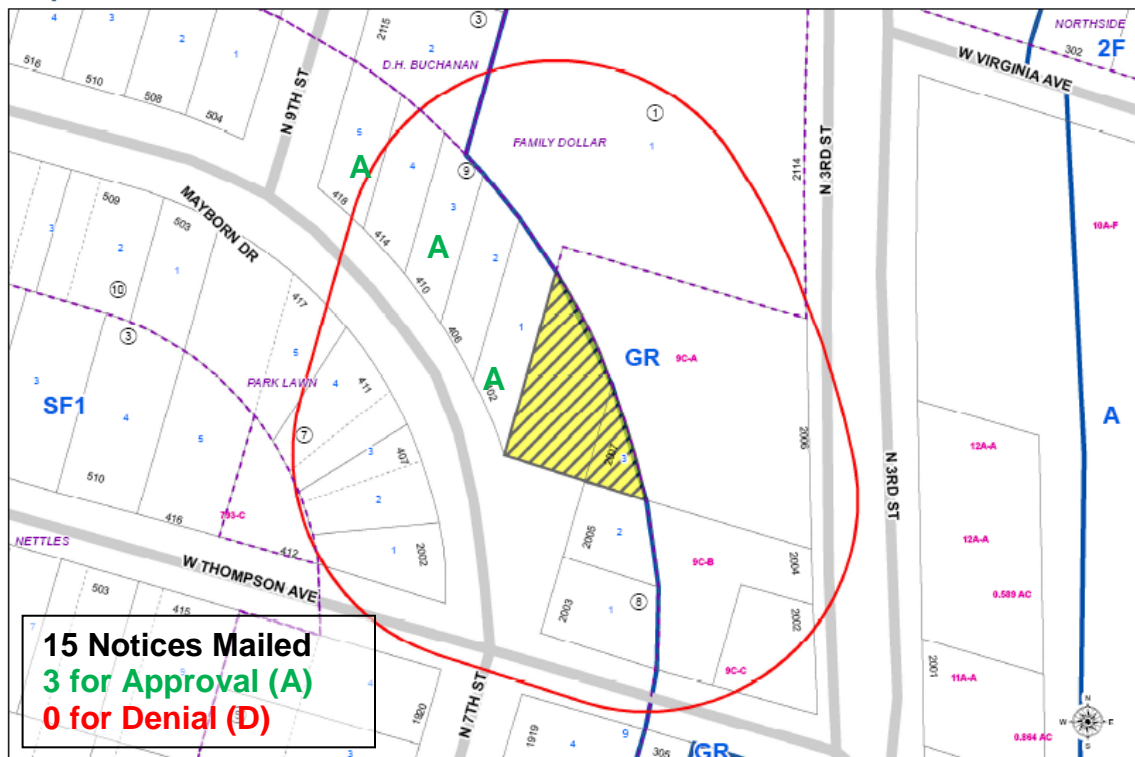
Feet 0 50 100 150
LMatlock 02.09.12



Z-FY-12-29

SF1 to GR Lot 3 Block 8 Parklawn Addition
and Abandoned Portion of N. 7th Street

2007 N. 7th Street



2010 Bell County Aerial

Legend:
Yellow outline: ZFY 12-29
Blue line: Zoning District Boundary
Purple dashed line: Subdivision Boundary
Pink text: 9876-A Outblock Number 2345 Address
Circle with 9: Block Number
Circle with 9: Lot Number

Feet 0 50 100 150
LMatlock 02.09.12



PLANNING AND ZONING COMMISSION AGENDA ITEM

03/05/12

Item 3

Regular Agenda

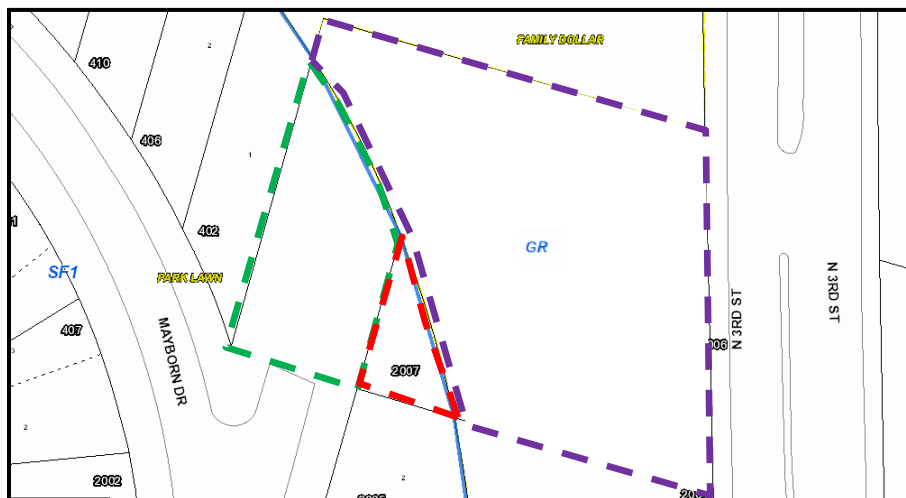
Page 1 of 5

APPLICANT: Scott Dye of Dye Enterprises, on behalf of Crispin and Martha Landeros and Dollar General, Owners

CASE MANAGER: Brian Mabry, AICP, Planning Director

ITEM DESCRIPTION: Z-FY-12-29 Hold a public hearing to discuss and recommend action on a rezoning from Single Family One District (SF1) to General Retail District (GR) on Lot 3, Block 8, Parklawn Addition, Bell County, Texas, located at 2007 N. 7th Street, and on 0.25-acre of an abandoned portion of N. 7th Street.

BACKGROUND: The Applicant has initiated Right-of-Way Abandonment procedures for the dead end right-of-way of N. 7th Street, which is one of the properties that is part of this Rezoning request and which is shown with a green dashed outline below. The City Council held a public hearing on the Right-of-Way Abandonment request and voted for approval on First Reading on February 16, 2012. It is expected that on March 1, 2012, the City Council will take final action to approve the Abandonment request. The applicant has also purchased what is currently a small (~2,800 sq. ft.) residential lot at 2007 N. 7th Street, shown in a red dashed outline below. He proposes to consolidate these properties with the larger property to the east, shown in a purple dashed outline below, into a single developable retail lot fronting on N. 3rd Street.



A rezoning from the SF1 to the GR zoning district would allow many uses that would not have been allowed before. Those uses include, but are not limited to, the following:




Lithographic or print shop
 Plumbing shop
 Hospital
 Office
 Hotel or motel
 Multiple Retail, Office and Service Uses

On-premise consumption of beer and wine -
 less than 75% revenue
 Restaurant
 Car wash
 Fuel sales
 Auto sales, leasing, rental

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	SF1	Undeveloped Residential Lot and Abandoned portion of N.7 th Street (stubbed to north at connection with Mayborn Drive)	
North	GR	Undeveloped portion of adjacent Family Dollar site	

Direction	Zoning	Current Land Use	Photo
South	SF1	Residential Neighborhood	 
East	GR	Single-family dwelling and Undeveloped Property	

Direction	Zoning	Current Land Use	Photo
West	SF1	Single-family dwelling	

COMPREHENSIVE PLAN COMPLIANCE:

The proposed Planned Development amendment relates to the following goals, objectives or maps of the Comprehensive Plan:

Document	Policy, Goal, Objective or Map	Site Conditions	Compliance?
CP	Map 3.1 - Future Land Use and Character	Neighborhood Conservation (Neighborhood Conservation is to South and west; Auto Urban Retail is to north and east.)	Partially*
CP	Map 5.2 - Thoroughfare Plan	N. 7 th St. is a Local Street. – Ownership is on N. 3 rd , which is a Major Arterial	Yes
CP	Goal 4.1 - Growth and development patterns should be consistent with the City's infrastructure and public service capacities.	2" and 6" water line, 8" Water line to northwest and 6" sewer line	Yes
CP	Land Use Policy 9 – New development or redevelopment on infill parcels in developed areas should maintain compatibility with existing uses and the prevailing land use pattern in the area.	GR zoning would serve as a transition between GR to the east and SF1 to the west	Yes

CP = Comprehensive Plan

** See explanation below

Future Land Use and Character Map (CP Map 3.1)

The small, undevelopable residential lot that is part of this rezoning request is classified as Neighborhood Conservation. The requested rezoning does not comply with this classification; however, this lot is so small that applying required setbacks and parking to the property makes it unable to accommodate a single-family dwelling of any usable size.

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. 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 subject property use, as in this case, then a 10-foot setback and fence or vegetative screening is required in the Unified Development Code.

PUBLIC NOTICE:

Staff mailed notices of the Planning and Zoning Commission's public hearing to the 15 property owners within a 200-foot radius surrounding the subject property. As of Wednesday, February 29, 2012 at 12:00 PM, no notices were returned in favor of the request and none were returned in opposition to the request. The newspaper printed notice of the Planning and Zoning Commission public hearing on February 17, 2012 in accordance with state law and local ordinance.

STAFF RECOMMENDATION:

Staff recommends approval of the requested zone change to General Retail District for the following reasons:

1. While the request partially complies with the Future Land Use and Character Map, the area that is being rezoned is not currently buildable;
2. The request complies with the Thoroughfare Plan Map; and
3. Public facilities are available to serve the property.

FISCAL IMPACT:

Not Applicable

ATTACHMENTS:

[Aerial, Thoroughfare and Sidewalk and Trails Plan Map](#)

[Future Land Use and Character Map](#)

[Utility Map](#)

[Zoning and Notice Map](#)

[Responses](#)



RESPONSE TO PROPOSED
REZONING REQUEST
CITY OF TEMPLE

Texvestments LLC
1719 West Avenue M, Suite C
Temple, Texas 76504

Zoning Application Number: Z-FY-12-29

Project Manager: Leslie Matlock

Location: 2007 North 7th Street

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:

Ross Vest
Signature

ROSS VEST
Print Name

Please mail or hand-deliver this comment form to the address shown below, no later than March 5, 2012

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

RECEIVED

FEB 28 2012

City of Temple
Planning & Development

Number of Notices Mailed: 15

Date Mailed: February 23, 2012



RESPONSE TO PROPOSED
REZONING REQUEST
CITY OF TEMPLE

Oakleigh Holdings Ltd
P.O. Box 1364
Salado, Texas 76571

Zoning Application Number: Z-FY-12-29

Project Manager: Leslie Matlock

Location: 2007 North 7th Street

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:

Good growth in neighborhood.

Signature

Print Name

*R.A. OLSEN
OAKleigh Holdings*

Please mail or hand-deliver this comment form to the address shown below, no later than March 5, 2012

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

RECEIVED

FEB 28 2012

City of Temple
Planning & Development

Number of Notices Mailed: 15

Date Mailed: February 23, 2012



RESPONSE TO PROPOSED
REZONING REQUEST
CITY OF TEMPLE

Kevin & Hope Koch
605 West Park Avenue
Temple, Texas 76501

Zoning Application Number: Z-FY-12-29

Project Manager: Leslie Matlock

Location: 2007 North 7th Street

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:

Signature

KEVIN J KOCH

Print Name

Please mail or hand-deliver this comment form to the address shown below, no later than March 5, 2012

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

RECEIVED

FEB 28 2012

City of Temple
Planning & Development

Number of Notices Mailed: 15

Date Mailed: February 23, 2012

**EXCERPTS FROM THE
PLANNING & ZONING COMMISSION MEETING
MONDAY, MARCH 5, 2012**

ACTION ITEMS

Item 3: Z-FY-12-29 - Hold a public hearing to discuss and recommend action on a rezoning from Single Family One District (SF1) to General Retail District (GR) on Lot 3, Block 8, Parklawn Addition located at 2007 North 7th Street and 0.25 acres ± out of the Maximo Moreno Survey, Abstract 14, being a portion of North 7th Street adjacent to 2007 North 7th Street. (Scott Dye for Crispin Landeros)

Ms. Autumn Speer, Director of Community Services, stated this item contained two different areas: 1) abandonment procedures for the dead end right-of-way of North 7th which was approved by City Council on March 1st; and 2) a small residential lot approximately 2,800 square feet located on North 7th. This action would consolidate the entire parcel into one GR tract.

North 7th access will not be included in this case.

Ms. Speer explains certain GR uses which include retail sales, restaurants, grocery stores, department stores, or offices and all residential uses except apartments:

- Height – Maximum 3 Stories
- No minimum lot area, width or depth.
- Front setback = 15'
- Side Yard = 10'
- *Buffer = 10-foot setback and fence or vegetative screening

Future Land Use and Character Map designates the area as Auto-Urban and the requested change would partially comply

Two denial letters and three approval letters were received on this matter.

Staff recommends approval of the request because it partially complies with the Future Land Use and Character Map, complies with the Thoroughfare Plan, and public facilities are available to serve the property.

Ms. Speer stated there was concern from residents about taking access from North 7th and based on abandonments procedure City Council took, there will be no access allowed from North 7th to this retail site.

Chair Martin opened the public hearing.

Ms. Rosemary Ramsey, corner of 7th and Thompson, Temple, Texas, was unclear about access from 7th Street and Chair Martin stated there will be no access from North 7th Street.

Ms. Julie Dow, 407 Mayborn Dr., Temple, Texas, stated her house is directly across from this property and would see this property when she exited her home. Her concern was the fencing

so she would not have to look at the property. Ms. Speer confirmed a six foot fence was required and indicated it would go around the property.

Commissioner Rhoads asked if the intent was for a Dollar Store and Ms. Speer confirmed. It was Ms. Speer's understanding the applicant would be putting up a six foot fence; however, they could choose to put a vegetative screen. The engineer may be able to answer the question.

Mr. Scott Dye, Dye Enterprises, 4047 Stahl Road, San Antonio, Texas, stated he had copies of the site plan for the Commission to review. Mr. Dye was not personally doing the on-site development but was representing the Dollar General Store with the zoning request, abandonment, and platting. The outside development plans are being done by Overland Engineering. It was his understanding there will not be any access from 7th Street because it will not work with the site plan. The building needs to sit back to provide parking and the turn off from 3rd Street is ideal.

The site plan shows a wood fence would be placed along the back and no hedges are planned. Mr. Dye explains where the fence will go on the map.

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

Commissioner Rhoads made a motion to approve Item 3, **Z-FY-12-29**, and Commissioner Sears made a second.

Motion passed: (7:0)

Vice-Chair Staats and Commissioner Magaña absent.

ORDINANCE NO. _____

(PLANNING NO. Z-FY-12-29)

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, APPROVING A REZONING FROM SINGLE FAMILY ONE DISTRICT (SF1) TO GENERAL RETAIL DISTRICT (GR) ON LOT 3, BLOCK 8, PARKLAWN ADDITION, LOCATED AT 2007 NORTH 7TH STREET, AND ON 0.25 ACRE OF AN ABANDONED PORTION OF NORTH 7TH STREET; 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 Single Family One District (SF1) to General Retail District (GR) on Lot 3, Block 8, Parklawn Addition, 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 5th day of April, 2012.

PASSED AND APPROVED on Second Reading on the **19th** day of **April**, 2012.

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

04/05/12
Item #10
Regular Agenda
Page 1 of 3

DEPT./DIVISION SUBMISSION & REVIEW:

Autumn Speer, Director of Community Services

ITEM DESCRIPTION: FIRST READING – PUBLIC HEARING - Z-FY-12-30: Consider adopting an ordinance authorizing a rezoning from General Retail District (GR), Single Family One District (SF1), and Single Family Two District (SF2) to Multiple Family Two (MF2) on a 15 ± acre tract of land out of the McKinney and Williams Survey, City of Temple, Bell County, Texas, located on the north side of SW H.K. Dodgen Loop, west of Bird Creek Crossing shopping center and east of Hopi Trail.

P&Z COMMISSION RECOMMENDATION: At its March 5, 2012 meeting, the Planning and Zoning Commission voted 7/0 in accordance with Staff recommendation to recommend approval of a rezoning from General Retail District (GR), Single Family One District (SF1), and Single Family Two District (SF2) to Multiple Family Two (MF2). Commission members Staats and Magaña were absent.

STAFF RECOMMENDATION: Conduct public hearing and adopt ordinance as presented in item description, on first reading, and schedule second reading and final adoption for April 19, 2012.

Staff recommends approval of a rezoning from General Retail District (GR), Single Family One District (SF1), and Single Family Two District (SF2) to Multiple Family Two (MF2) for the following reasons:

1. The request partially complies with the Future Land Use and Character Map;
2. The request complies with the Thoroughfare Plan; and
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-12-30, from the Planning and Zoning Commission meeting, March 5, 2012. The applicant requests a rezoning to Multiple Family Two District (MF2) to allow construction of a multiple-family development (apartments). The MF2 zoning district could allow up to 300 dwelling units on 15 acres of land.

Although the applicant informed staff of his intent to later apply for a Planned Development rezoning for adjacent properties in order to build several single-family units on a single lot, with the requested MF2 as the “base” zoning district, there is no guarantee the applicant would apply for a Planned Development.

Several neighborhood property owners voiced concerns of the dead-end at Erie Drive being used as the only access point to the proposed apartments. Those opposed to the request cited concerns of increased traffic and child safety, potential crime, property devaluation, and too many apartments already in the area.

At the Planning and Zoning meeting, several property owners outside the 200-foot notification boundary asked for explanation as to why the notification boundary was not increased to include them. They had seen the Land Use Sign posted on the property but had not received a letter. Commissioner Talley expressed an interest in expanding the notification boundary for this rezoning case.

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	Site Conditions	Compliance
CP	Map 3.1 - Future Land Use and Character	Auto-Urban Commercial and Suburban Residential	Partially*
CP	Map 5.2 - Thoroughfare Plan	See explanation below	Yes*
CP	Goal 4.1 - Growth and development patterns should be consistent with the City's infrastructure and public service capacities.	8" sewer line runs through property. 12" water line runs along SW H.K. Dodgen Loop. 27" water line along east property line.	Yes

* = See explanation 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 subject property as **Auto-Urban Commercial** for the front portion of the property bordering SW H.K. Dodgen Loop and **Suburban Residential** for the rear portion of the property adjacent to the Western Hills Subdivision. Apartments have a residential and a commercial character due to their coordinated landscaping, signs and parking. With its current Auto Urban designation, this property is open to the possibility of being rezoned to C, Commercial, rather than the proposed MF2. The list of possible uses in the C zoning district may not be appropriate for this highly visible area of the City, so the requested MF2 is a preferable option. The request partially complies with the Future Land Use and Character Map.

Thoroughfare Plan (CP Map 5.2)

The proposed development is adjacent to SW H.K. Dodgen Loop from the frontage road. The Thoroughfare Plan classifies SW H.K. Dodgen Loop as an Expressway. The retaining wall along this portion of the road prevents direct access from taking place onto the Loop frontage road. Erie Drive, a local street, dead-ends at the north boundary of the subject property. Hopi Trail to the west of the subject property, which the applicant plans to be the street from which the overall development would eventually take primary access, is classified as a collector on the Thoroughfare Plan. The proposed

rezoning could allow up to 300 units on the subject property. This number of units, according to the Public Works Department's subdivision entry standards, requires two to three entries from abutting public streets. This means that subsequent platting of the subject property and adjacent property to the northwest, as shown below, will be necessary in order to have a second required connection to Hopi Trail.

However, a potential exists that the number of dwellings could be reduced to warrant only one access point into the development. If that occurs, it is possible that the dead-in at Erie Drive could potentially be the only access point to the property.

DEVELOPMENT REGULATIONS:

The Multiple Family Two District allows more modest sized dwelling units and an increased number of units within the multifamily complex. Maximum density is 20 units per acre in buildings three to four stories. The MF-2 zoning district provides more modest sized dwelling units within the multifamily complex. This district should be designed for a higher density use of the land with the amenities and facilities, such as a major thoroughfare, parks, transit, and utilities close by and adequate for the volume of use.

The MF-2 zoning district allows most residential uses, except for manufactured homes. It also allows some residential support uses such as school and places of worship.

PUBLIC NOTICE:

Staff mailed notices of the Planning and Zoning Commission's public hearing to the seven property owners within the 200-foot radius surrounding the rezoning site. As of Friday, March 9, 2012 at 12:00 PM, one notice was returned in favor of the request and one notice was returned in opposition to the request. The newspaper printed notice of the Planning and Zoning Commission public hearing on February 23, 2012 in accordance with state law and local ordinance.

FISCAL IMPACT: NA

ATTACHMENTS:

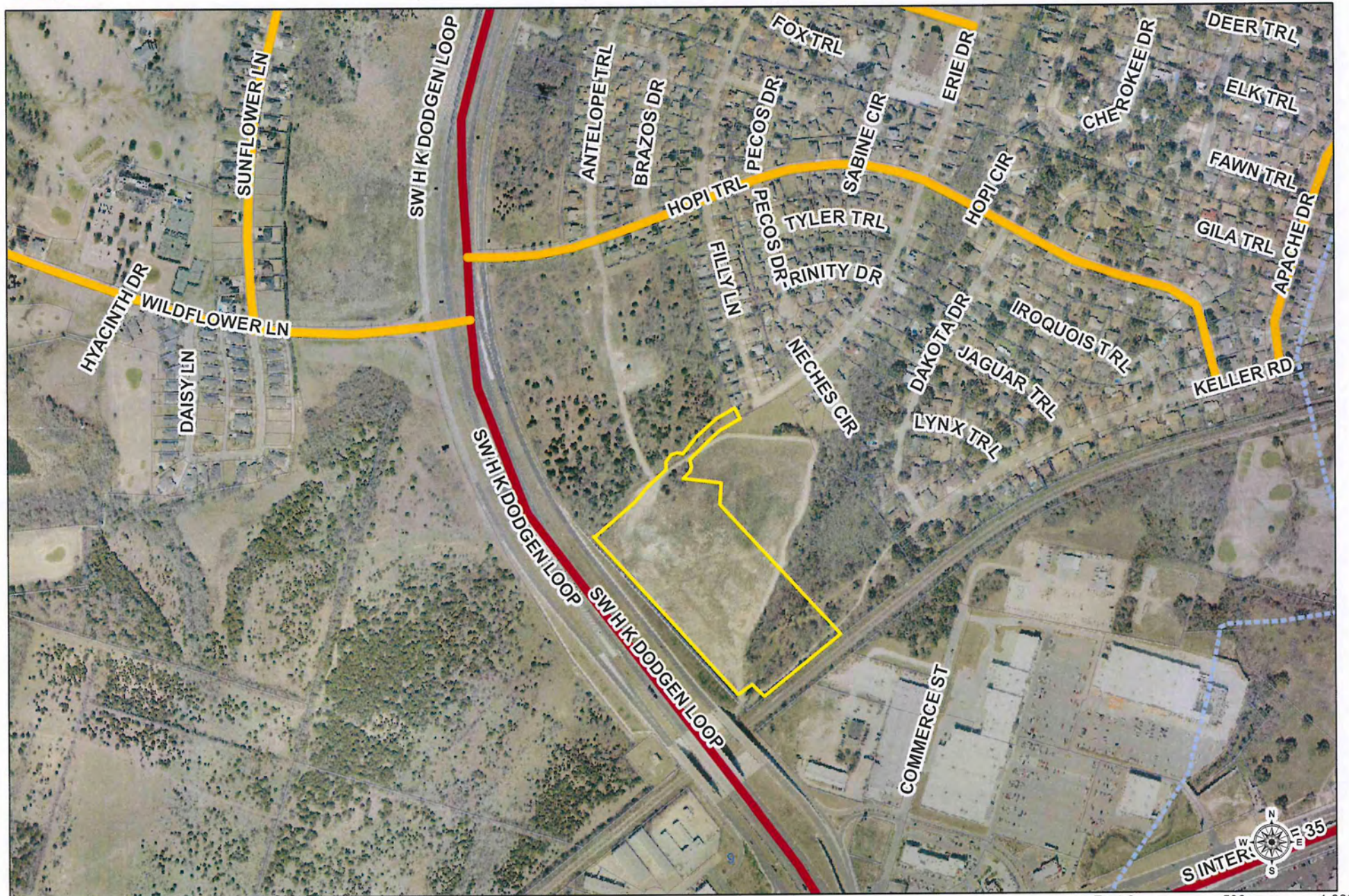
[Aerial, Thoroughfare Plan and Trails Plan Map](#)
[Future Land Use and Character Map](#)
[Zoning and Notice Map](#)
[Utility Map](#)
[P&Z Staff Report \(Z-FY-12-30\)](#)
[Comments](#)
[P&Z Minutes \(03/05/12\)](#)
[Ordinance](#)



Z-FY-12-30

GR, SF1 and SF2 to MF2
15 Acres, McKinney and Williams Survey Abstract 609

4400 Block
of Loop 363



ZFY 12-29
2010 Bell County Aerial

Expressway
 Collector Class Street

Proposed Local Connector Trail

Feet 0 500 1,000

LMatlock 02.15.12

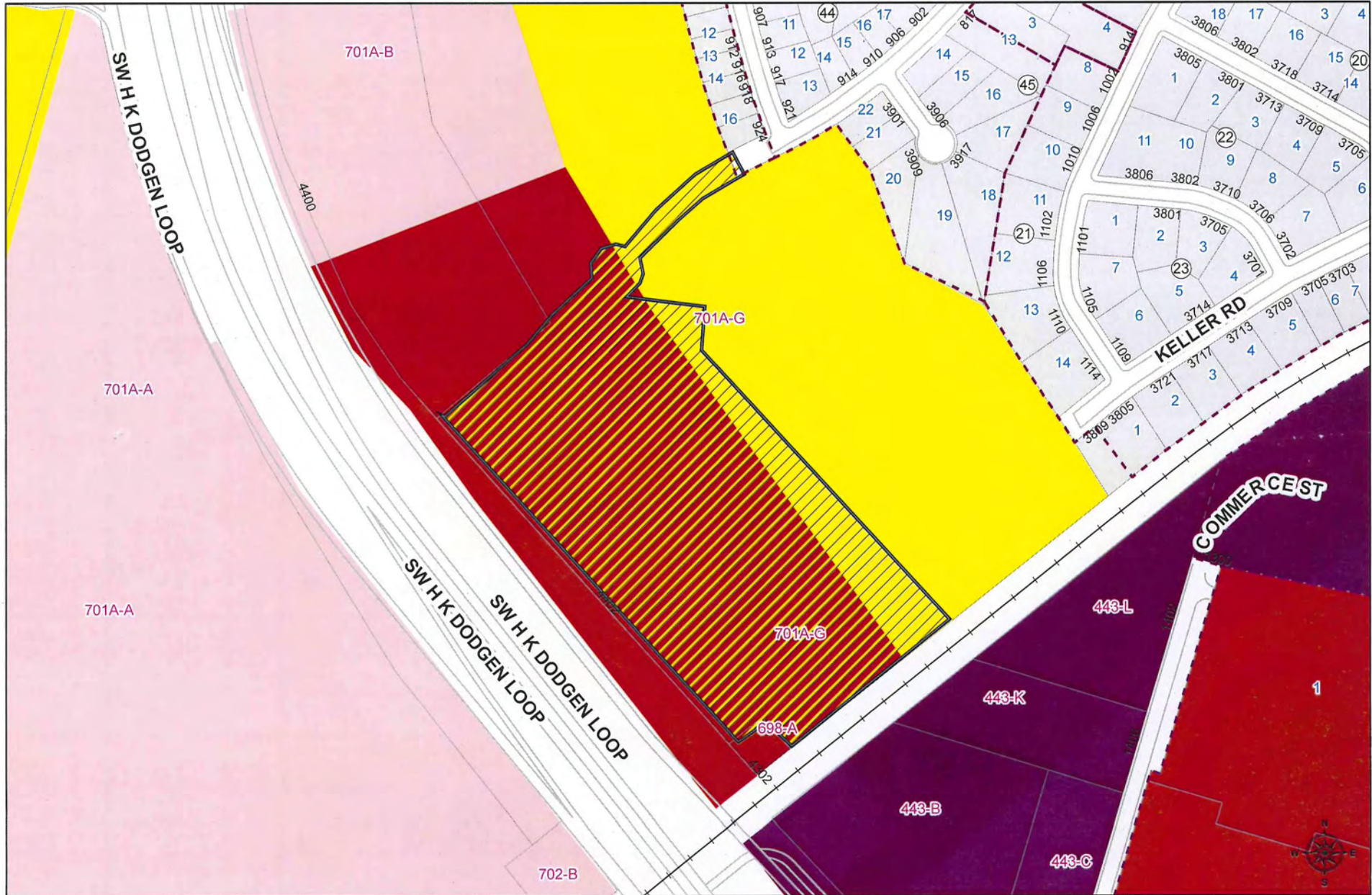


Z-FY-12-30

GR, SF1 & SF2 to MF2

4400 Block
of Loop 363

15 Acres, McKinney and Williams Survey Abstract 609



- | | | | | | |
|-----------------------|-------------------------|--------------------|---------------------------|-----------------------------------|--------------|
| ZFY 12-30 | 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 = 313 feet

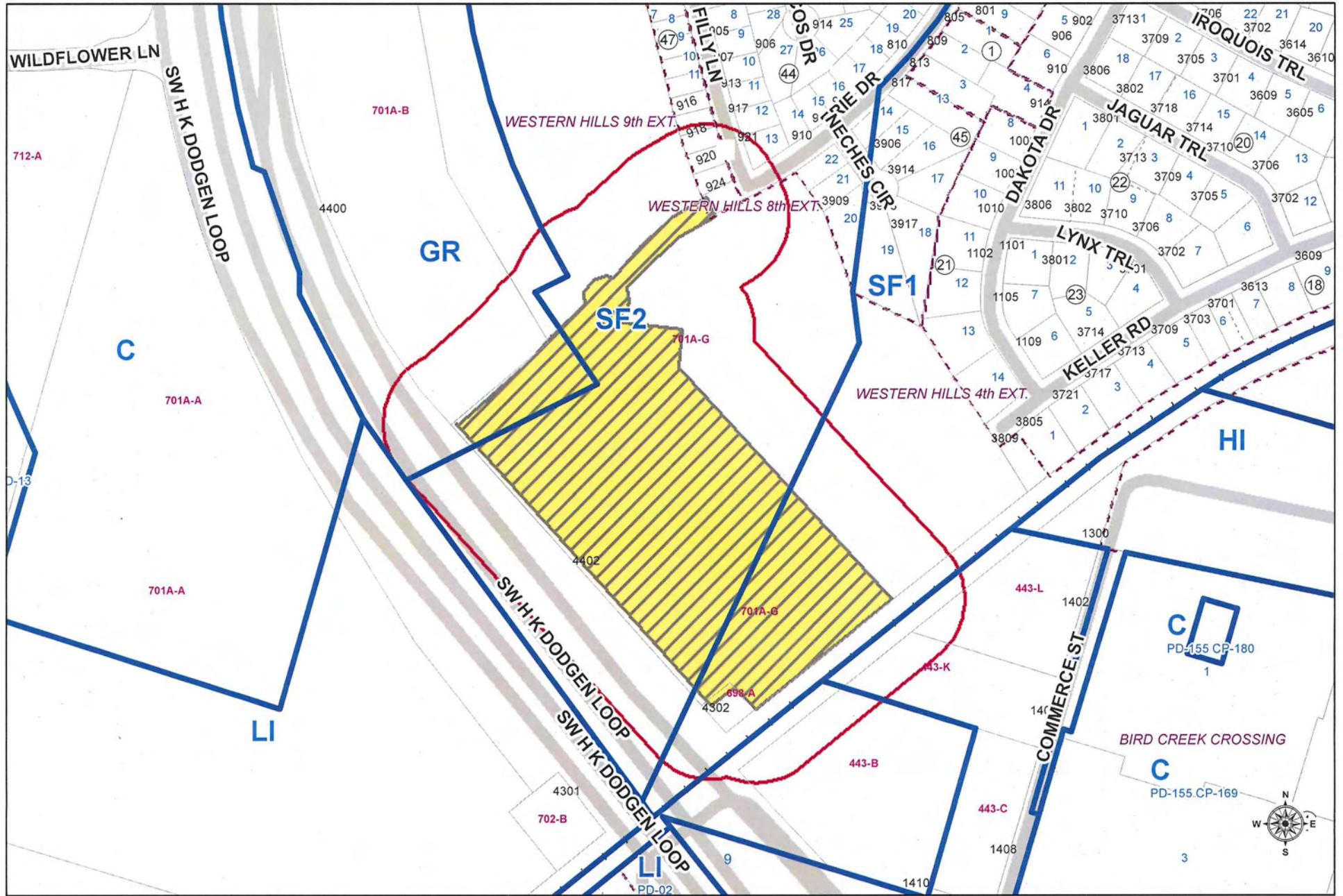
LMatlock Planning 02.17.12



Z-FY-12-30

GR, SF1 & SF2 to MF2
15 Acres, McKinney and Williams Survey Abstract 609

4400 Block
of Loop 363



ZFY 12-30

Zoning Boundaries

Subdivision Boundary

Feet 0 250 500 750 1,000

9876

Addresses

200-ft Notification Buffer

234-M Subdivision Boundary

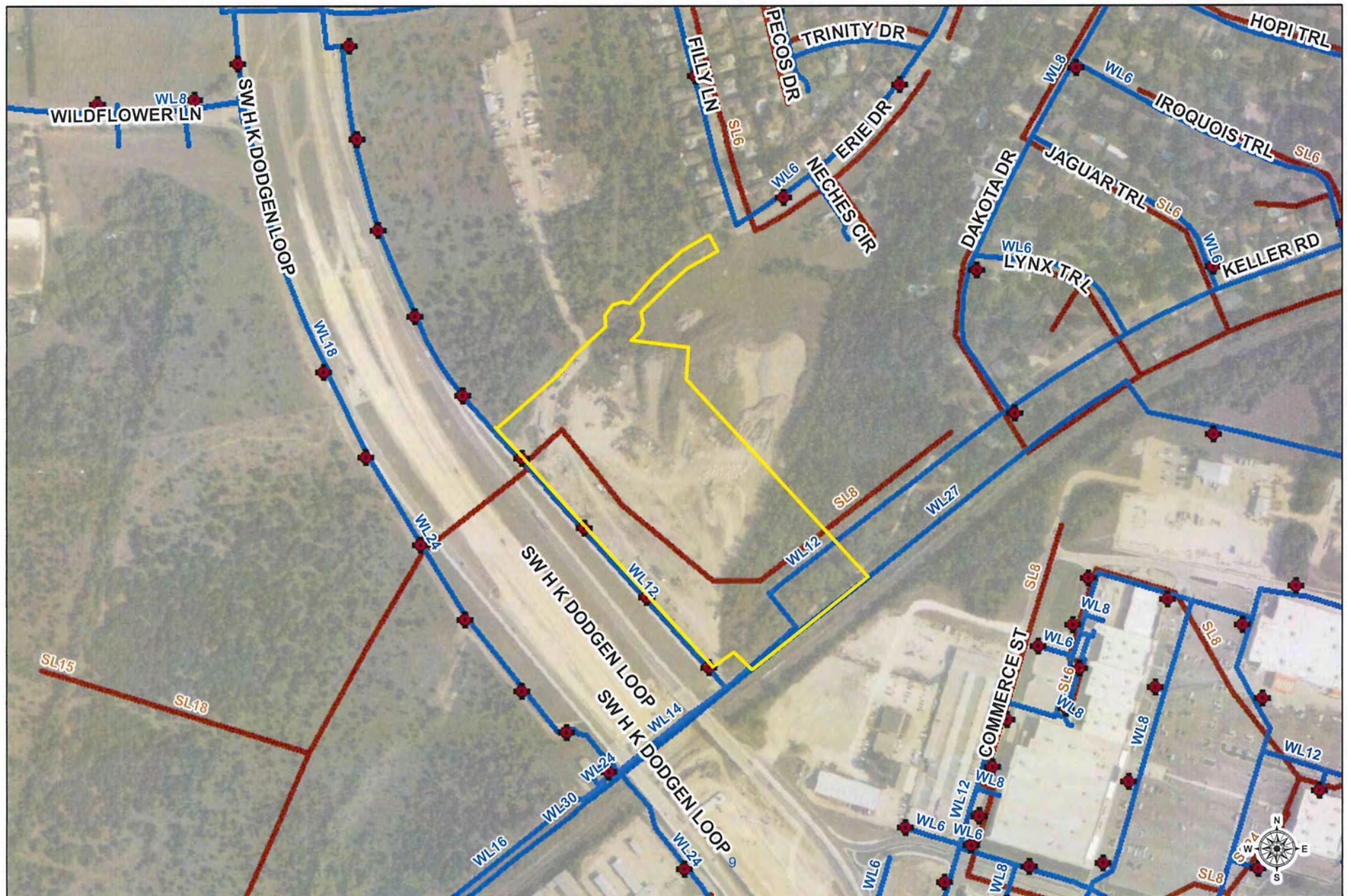
LMatlock 02.15.12



Z-FY-12-30

GR, SF1 and SF2 to MF2
15 Acres, McKinney and Williams Survey Abstract 609

4400 Block
of Loop 363



 ZFY 12-30
2010 Bell County Aerial

 Sanitary Sewer
 Domestic Water

 Fire Hydrant

Feet 0 500 1,000

LMatlock 02.15.12



PLANNING AND ZONING COMMISSION AGENDA ITEM

3/05/12
Item 4
Regular Agenda
Page 1 of 5

APPLICANT / DEVELOPMENT: Jason Willard for Immediate Real Properties, LP

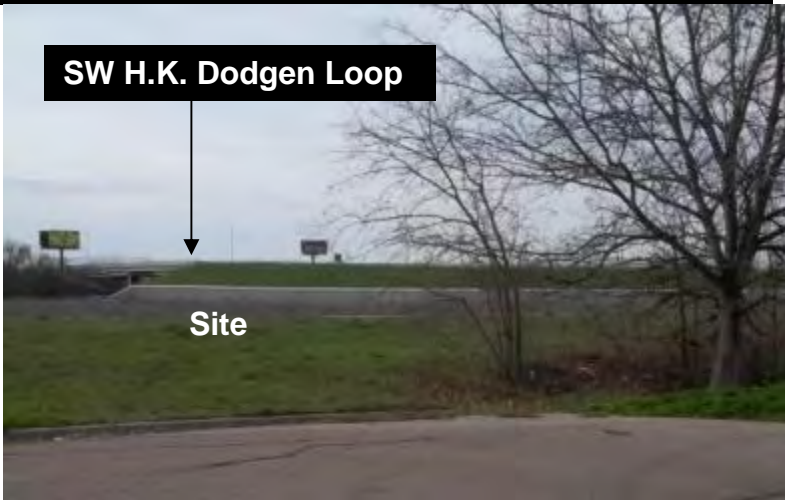
CASE MANAGER: Tammy Lyerly, Planner



ITEM DESCRIPTION: Z-FY-12-30 Hold a public hearing to discuss and recommend action on a rezoning from General Retail District (GR), Single Family One District (SF1), and Single Family Two District (SF2) to Multiple Family Two (MF2) on a 15 ± acre tract of land out of the McKinney and Williams Survey, City of Temple, Bell County, Texas, located on the north side of SW H.K. Dodgen Loop, west of Bird Creek Crossing shopping center and east of Hopi Trail.

BACKGROUND: The applicant requests a rezoning to Multiple Family Two District (MF2) to allow construction of a multiple-family development (apartments). The property spans three zoning districts, General Retail District (GR), Single Family One District (SF1), and Single Family Two District (SF2). The Unified Development Code does not allow multiple-family development within any of these zoning districts. The MF2 zoning district could allow up to 300 dwelling units on 15 acres of land. The applicant has informed staff that he intends to later apply for a Planned Development rezoning for adjacent properties in order to build several single-family units on a single lot. The subject property for which he is requesting this base rezoning will be part of such future development.

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	GR, SF1, and SF2	Undeveloped Land	 Dead-end at Erie and Filly Lane

Direction	Zoning	Current Land Use	Photo
North	SF1 and SF2	Undeveloped Land and Residential	
South	LI	SW H.K. Dodgen Loop and Undeveloped Land	
East	SF1, HI, and LI	Railroad, Industrial, and Retail Center	

Direction	Zoning	Current Land Use	Photo
West	SF2 and GR	Undeveloped Land	

COMPREHENSIVE PLAN COMPLIANCE:

The proposed Planned Development relates to the following goals, objectives or maps of the Comprehensive Plan and Sidewalk and Trails Plan:

Document	Policy, Goal, Objective or Map	Site Conditions	Compliance
CP	Map 3.1 - Future Land Use and Character	Auto-Urban Commercial and Suburban Residential	Partially*
CP	Map 5.2 - Thoroughfare Plan	See explanation below	Yes*
CP	Goal 4.1 - Growth and development patterns should be consistent with the City's infrastructure and public service capacities.	8" sewer line runs through property. 12" water line runs along SW H.K. Dodgen Loop. 27" water line along east property line.	Yes

* = See explanation below CP = Comprehensive Plan STP = Sidewalk and Trails Plan

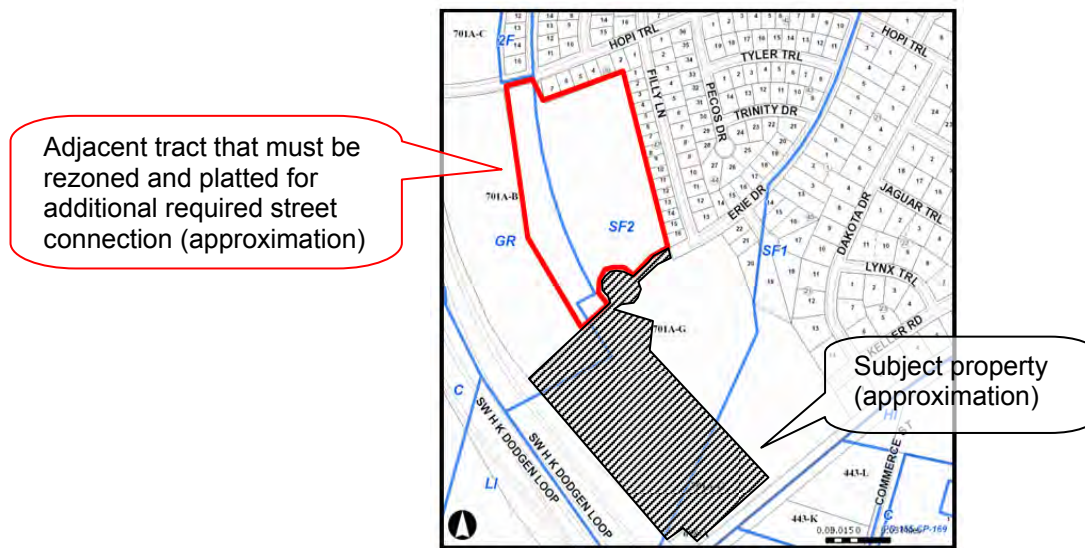
Future Land Use and Character (Cp Map 3.1)

The Future Land Use and Character Map designates the subject property as **Auto-Urban Commercial** for the front portion of the property bordering SW H.K. Dodgen Loop and **Suburban Residential** for the rear portion of the property adjacent to the Western Hills Subdivision. Apartments have a residential and a commercial character due to their coordinated landscaping, signs and parking. With its current Auto Urban designation, this property is open to the possibility of being rezoned to C, Commercial, rather than the proposed MF2. The list of possible uses in the C zoning district may not be appropriate for this highly visible area of the City, so the requested MF2 is a preferable option. The request partially complies with the Future Land Use and Character Map.

Thoroughfare Plan (CP Map 5.2)

The proposed development is adjacent to SW H.K. Dodgen Loop from the frontage road. The Thoroughfare Plan classifies SW H.K. Dodgen Loop as an Expressway. The retaining wall along this portion of the road prevents direct access from taking place onto the Loop frontage road. Erie Drive, a local street, dead-ends at the north boundary of the subject property. Hopi Trail to the west of the subject property, which the applicant plans to be the street from which the overall development would eventually take primary access, is classified as a collector on the Thoroughfare Plan. The proposed rezoning could allow up to 300 units on the subject property. This number of units, according to the Public Works Department's subdivision entry standards, requires two to three entries from abutting public streets. This means that subsequent platting of the subject property and adjacent property to

the northwest, as shown below, will be necessary in order to have a second required connection to Hopi Trail.



DEVELOPMENT STANDARDS:

The Multiple Family Two District allows more modest sized dwelling units and an increased number of units within the multifamily complex. Maximum density is 20 units per acre in buildings three to four stories. The MF-2 zoning district provides more modest sized dwelling units within the multifamily complex. This district should be designed for a higher density use of the land with the amenities and facilities, such as a major thoroughfare, parks, transit, and utilities close by and adequate for the volume of use.

The MF-2 zoning district allows most residential uses, except for manufactured homes. It also allows some residential support uses such as school and places of worship.

4.5.5 Multiple-Family Dwelling, 1-2 Stories

Type of Use	AG	UE	SF-1	SF-2	SF-3	SFA-1	SFA-2	SFA-3	TH	2F	MF-1	MF-2	MF-3	O-1	O-2	NS	GR	CA	C	LI	HI
Min. Lot Area (sq. ft.)	1	1	1	1	1	1	1	1	1	1	3,000	2,800	2,200	1	3,000	1	1	1,800	1	1	1
Min. Lot Width (ft.)	1	1	1	1	1	1	1	1	1	1	60	60	60	1	60	1	1	60	1	1	1
Min. Lot Depth (ft.)	1	1	1	1	1	1	1	1	1	1	120	120	120	1	120	1	1	120	1	1	1
Min. Front Yard Setback(ft.)	1	1	1	1	1	1	1	1	1	1	25	25	25*	1	25*	1	1	See 4.4.4F.1.d*	1	1	1
Min. Side Yard Setback(ft.)	1	1	1	1	1	1	1	1	1	1	See 5.3.3			1	See 5.3.3	1	1	See 5.3.3	1	1	1
Min. Side (Corner) Yard Setback(ft.)	1	1	1	1	1	1	1	1	1	1	15	15	15	1	15*	1	1	15	1	1	1
Min. Rear Yard Setback(ft.)	1	1	1	1	1	1	1	1	1	1	10	10	10	1	10	1	1	10	1	1	1
Max. Building Coverage (%) for Rear Half of Lot	1	1	1	1	1	1	1	1	1	1	See 5.3.3			1	See 5.3.3	1	1	See 5.3.3	1	1	1
Max. Height (stories)	1	1	1	1	1	1	1	1	1	1	2	2	2*	1	2*	1	1	2	1	1	1

ALH = Any Legal Height not prohibited by other laws -- = Use not permitted NA = Use permitted but standard does not apply * = See Sec. 4.4. Measurements and Special Case

4.5.6 Multiple-Family Dwelling, 3-4 Stories

Type of Use	AG	UE	SF-1	SF-2	SF-3	SFA-1	SFA-2	SFA-3	TH	2F	MF-1	MF-2	MF-3	O-1	O-2	NS	GR	CA	C	LI	HI
Min. Lot Area (sq. ft.)	—	—	—	—	—	—	—	—	—	—	—	2,500	2,000	—	2,000	—	—	600	—	—	—
Min. Lot Width (ft.)	—	—	—	—	—	—	—	—	—	—	—	60	60	—	60	—	—	60	—	—	—
Min. Lot Depth (ft.)	—	—	—	—	—	—	—	—	—	—	—	120	120	—	120	—	—	120	—	—	—
Min. Front Yard Setback (ft.)	—	—	—	—	—	—	—	—	—	—	—	25	25*	—	25*	—	—	See 4.4.4F.1.d	—	—	—
Min. Side Yard Setback (ft.)	—	—	—	—	—	—	—	—	—	—	—	See 5.3.3		—	See 5.3.3	—	—	See 5.3.3	—	—	—
Min. Side (Corner) Yard Setback (ft.)	—	—	—	—	—	—	—	—	—	—	—	15	15	—	15*	—	—	15	—	—	—
Min. Rear Yard Setback (ft.)	—	—	—	—	—	—	—	—	—	—	—	10	10	—	10	—	—	10	—	—	—
Max. Building Coverage (%) for Rear Half of Lot	—	—	—	—	—	—	—	—	—	—	—	See 5.3.3		—	See 5.3.3	—	—	See 5.3.3	—	—	—
Max. Height (feet)	—	—	—	—	—	—	—	—	—	—	—	9	9*	—	9*	—	—	9	—	—	—

ALH = Any Legal Height not prohibited by other laws — = Use not permitted NA = Use permitted but standard does not apply * = See Sec. 4.4, Measurements and Special Case

PUBLIC NOTICE:

Staff mailed notices of the Planning and Zoning Commission's public hearing to the seven property owners within the 200-foot radius surrounding the rezoning site. As of Wednesday, February 29, 2012 at 12:00 PM, one notice was returned in favor of the request and no notices were returned in opposition to the request. The newspaper printed notice of the Planning and Zoning Commission public hearing on February 23, 2012 in accordance with state law and local ordinance.

STAFF RECOMMENDATION:

Staff recommends approval of the requested rezoning to Multiple Family Two District (MF2) for the following reasons:

1. The request partially complies with the Future Land Use and Character Map;
2. The request complies with the Thoroughfare Plan Map; and
3. Public facilities are available to serve the property.

FISCAL IMPACT: Not Applicable

ATTACHMENTS:

[Aerial, Thoroughfare Plan Map and Trails Plan Map](#)
[Future Land Use and Character Map](#)
[Zoning and Notice Map](#)
[Utility Map](#)
[Response Letter](#)



RESPONSE TO PROPOSED
REZONING REQUEST
CITY OF TEMPLE

Materials Transportation
1408 Commerce Drive
Temple, Texas 76504

Zoning Application Number: Z-FY-12-30

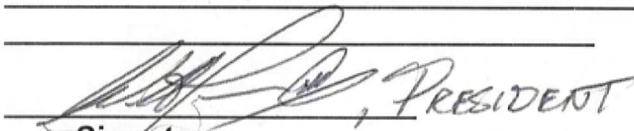
Project Manager: Tammy Lyerly

Location: On the north side of SW H K Dodgen Loop, west of Bird Creek Crossing
Shopping Center and east of Hopi Trail

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:


Signature

WILLIAM A. JONES, III
Print Name

Please mail or hand-deliver this comment form to the address shown below, no later than March 5, 2012

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

RECEIVED

FEB 28 2012

City of Temple
Planning & Development

Number of Notices Mailed: 7

Date Mailed: February 23, 2012



RESPONSE TO PROPOSED
REZONING REQUEST
CITY OF TEMPLE

Cen-Tex TWH Ltd
P.O. Box 310
Temple, Texas 76503-310

Zoning Application Number: Z-FY-12-30

Project Manager: Tammy Lyerly


Location: On the north side of SW H K Dodgen Loop, west of Bird Creek Crossing Shopping Center and east of Hopi Trail

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 will be abstaining from this item as I have a level of interest.


Signature

Derek Martin
Print Name

Please mail or hand-deliver this comment form to the address shown below, no later than March 5, 2012

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

**EXCERPTS FROM THE
PLANNING & ZONING COMMISSION MEETING
MONDAY, MARCH 5, 2012**

ACTION ITEMS

Item 4: Z-FY-12-30 - Hold a public hearing to discuss and recommend action on a rezoning from Single Family One District (SF1) and Single Family Two District (SF2) to Multiple Family Two District (MF2) on a 15 ± acre tract of land out of the McKinney and Williams Survey, City of Temple, Bell County, Texas, located on the north side of SW H K Dodgen Loop, west of Bird Creek Shopping Mall. (Jason Willard for Immediate Real Properties, LP)

Chair Martin stated he would abstain from this case and Commissioner Pilkington would take control of the Commission meeting.

Ms. Lyerly stated the property had three zoning districts, GR, Single Family One (SF1) and Single Family Two (SF2) and the applicant is requesting a rezoning to Multi-Family Two (MF2) district to developed a multi-family development.

This case would go to City Council first reading on April 5th and second reading on April 19th for second reading and final action.

Pictures of the dead end at Erie Drive and Filly Lane and elevated ramp for the Loop are shown to indicate where the subject property is located. There is no access from the Loop to the property. Hopi Trail is located to the west of the property and is designated as a collector.

Surrounding properties include the dead end area of Erie Drive and Filly Lane along with the Western Hills development to the north, the elevated portion of the Loop to the south, and Hopi Trail to the west.

The Future Land Use and Character Map designate the area as Auto-Urban Commercial (retail and/or commercial development along the Loop) and Suburban-Residential, (residential development similar to Western Hills). The request for MF2 would be more suitable for the area.

If the applicant receives MF2 zoning approval for this area, he will then come back with a Planned Development (PD) for the whole area which would have the potential for 300 dwelling units. The standards for this amount of dwelling units would require at least two points of ingress/egress. Discussion about possible access areas.

There are public facilities available to serve the property.

MF2 dimensional standards are given.

Seven notices were mailed to surrounding property owners with one letter received in favor of the request and one letter in opposition.

Staff recommends approval of the request to MF2 since the request partially complies with the Future Land Use and Character Map, complies with the Thoroughfare Plan and has public facilities available to serve the property.

Acting Chair Pilkington opened the public hearing.

Mr. Kirk Willard, 2011 Cascade Trail, McGregor, Texas, stated he represented the applicant and because of the existing zoning in place and the intent for development of the property, there was a two-step process to go through. The rezoning would be requested first and then the applicant would come back with a PD application. The PD application should take care of any concerns about ingress/egress. This would be considered one single community managed by a leasing office, consisting of both homes and apartments.

Mr. Steven Bradley, 816 Filly Lane, Temple, Texas, stated one of his concerns was the notification process of the 200 foot radius which did not include any of the residences of Western Hills Subdivision. The only notification they received was the land use sign.

Another concern was the only access being into Erie Lane which would intensify the traffic problems on Erie and Filly Lane. There are a lot of children in the area and this would increase 300 fold. Mr. Bradley did not see why the access road next to the Loop could not be utilized since there are stores all along the access road.

Mr. Bradley has lived in the area for 28 years and always been told residential would be in the rear and commercial toward the front.

Commissioner Talley asked when Mr. Bradley when he was notified and Mr. Bradley stated he was not notified but saw the land use sign and inquired. Commissioner Talley stated it was policy to notify properties within a 200 foot radius and Mr. Bradley stated the policy might need to be reviewed since, in this situation, it did not include anyone near the residential area. Ms. Lyerly stated there were some residences who received notice and in order for the development of this property, the applicant would have to plat the property and provide a connection from Hopi to Antelope Trail before any development occurred.

Mr. Bradley also stated the neighbors were concerned about the property values going down with a multi-family unit going there.

Ms. Lyerly stated there would be one more public hearing occurring at City Council on April 5th. State law requires a 200 foot radial notification of the subject property. Ms. Speer stated it was City policy to go 200 feet for notification and could not be part of a motion.

Ms. Pat Bradley, 816 Filly Lane, Temple, Texas, stated her concern was there were currently three houses for sale in the same area and those houses are not selling. Ms. Bradley stated she heard Mr. Willard say more residential homes would be built because of demand. Ms. Bradley asked why build another multi-family apartment complex when there are six different apartment complexes within walking distance of her home.

Ms. Bradley stated the value of the homes would decrease and the homes are not selling now. There will be more traffic and more problems. Ms. Bradley stated they have been told the area would be single families and if she knew this would happen she would not have bought the house.

Mr. Kirk Willard returned and stated on behalf of the applicant the primary concern seemed to be with regard to traffic on Erie and Filly Lane. The primary point of egress would be on Hopi which is the point of ingress that would have to be secured in order for the development to comply with requirements. The ingress/egress to the north of Erie is there because the road exists and the applicant had to include that for part of it. The dynamics of this site would mean the majority of the traffic will be attempting to get on the frontage road along the Loop. Ninety-eight to ninety-nine percent of the applicant's traffic would go up to Hopi because it is the shortest route. Unless the point of ingress or egress on Hopi is somehow blocked, there will not be a scenario where Erie and Filly Lane would be a desirable route.

Commissioner Rhoads asked if there were any renderings of ideas for the property and Mr. Willard stated no, but since they would be going through a PD process, all of the documentation would be included at that time.

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

Ms. Speer clarified for the Commission that this was a straight zoning case and the applicant is requesting MF2 district zoning. As the site currently stands, it shows access to Erie. The applicant could develop 100 units in that multi-family fashion and not come back for a PD. There is nothing in the zoning being approved tonight that makes them come back for the PD other than to take the full intensity of the development. The City does not go further than 200 feet due to City policy; however, the PD would capture more homes due to the boundaries.

Mr. Kirk Willard returned and stated the applicant does not own the property. If the zoning request does not go forward, it is likely the whole project would stop. This is only the first of a two step process.

Commissioner Sears made a motion to approve Item 4, **Z-FY-12-30**, as presented and Commissioner Jones made a second.

Motion passed: (6:0:1)

Chair Martin abstained; Vice-Chair Staats and Commissioner Magaña absent. Item

ORDINANCE NO. _____

(PLANNING NO. Z-FY-12-30)

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING A REZONING FROM GENERAL RETAIL DISTRICT (GR), SINGLE FAMILY ONE DISTRICT (SF1), AND SINGLE FAMILY TWO DISTRICT (SF2) TO MULTIPLE FAMILY TWO (MF2) ON AN APPROXIMATELY 15 ACRE TRACT OF LAND LOCATED ON THE NORTH SIDE OF SOUTHWEST H.K. DODGEN LOOP, WEST OF BIRD CREEK CROSSING SHOPPING CENTER AND EAST OF HOPI TRAIL; 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 General Retail District (GR), Single Family One District (SF1), and Single Family Two District (SF2) to Multiple Family Two (MF2) on an approximately 15 acre tract of land out of the McKinney and Williams Survey, City of Temple, Bell County, Texas, located on the north side of Southwest H.K. Dodgen Loop, west of Bird Creek Crossing shopping center and east of Hopi Trail, 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 **5th** day of **April**, 2012.

PASSED AND APPROVED on Second Reading on the **19th** day of **April**, 2012.

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

04/05/12
Item #11
Regular Agenda
Page 1 of 2

DEPT./DIVISION SUBMISSION & REVIEW:

Autumn Speer, Director of Community Services

ITEM DESCRIPTION: FIRST READING – PUBLIC HEARING - Z-FY-12-32: Consider adopting an ordinance authorizing a Conditional Use Permit for the sale of alcoholic beverages for on-premise consumption less than 75% of the gross revenue in a restaurant, on Lot 1, Block 1, The Market Place Section One, located at 3008 South 31st Street.

P&Z COMMISSION RECOMMENDATION: At its March 19, 2012 meeting, the Planning and Zoning Commission voted 9/0 to recommend approval of a Conditional Use Permit for the sale of alcoholic beverages for on-premise consumption less than 75% of the gross revenue in an existing Smashburger restaurant with the following conditions for a proposed outdoor seating area:

1. Finish the proposed outdoor seating area concrete in a decorative finish with stained and stamped concrete.
2. Limit outdoor seating to **22** seats, removing the middle tables to allow for greater maneuverability.
3. Adhere to all TABC rules concerning outdoor consumption of alcohol.
4. Add decorative umbrellas for 50% of the outdoor tables.
5. Relocate the existing landscape proposed to be removed for the outdoor seating area to another landscape area near the site on Market Loop and South 31st Street. Required in conjunction with the building permit required for the outdoor seating area improvements.

STAFF RECOMMENDATION: Conduct public hearing and adopt ordinance as presented in item description, on first reading, and schedule second reading and final adoption for April 19, 2012.

Staff recommends approval of the requested Conditional Use Permit to allow the sale of alcoholic beverages for on-premise consumption less than 75% of the gross revenue in the existing Smashburger restaurant, on first reading, and schedule second reading and final approval for April 19, 2012, with the following conditions for the proposed outdoor seating area:

1. Finish the proposed outdoor seating area concrete in a decorative finish with stained and stamped concrete.
2. Limit outdoor seating to **18** seats, removing the middle tables to allow for greater maneuverability.
3. Adhere to all TABC rules concerning outdoor consumption of alcohol.
4. Add decorative umbrellas for 50% of the outdoor tables.

5. Relocate the existing landscape proposed to be removed for the outdoor seating area to another landscape area near the site on Market Loop and South 31st Street. Required in conjunction with the building permit required for the outdoor seating area improvements.

ITEM SUMMARY: Please refer to the Staff Report and draft minutes of case Z-FY-12-32, from the Planning and Zoning Commission meeting, March 19, 2012. This requested Conditional Use Permit is for the existing Smashburger restaurant in the Market Place shopping center, located near its south entrance at Market Loop Drive.

This CUP request exceeds the 300-foot distance separation required from public schools, public hospitals, and places of worship. The nearest residential structure is approximately 750 feet from Smashburger.

Smashburger is opened 10:00 AM – 10:00 PM daily. Alcohol sales are proposed during all hours of operation. The applicant has initiated the license process with TABC. The license is pending the approval of this CUP request. All sales staff will undergo mandatory TABC training.

The existing Smashburger restaurant seats up to 60 interior patrons. This request also includes replacing the existing planting bed island at the restaurant's entrance with an outdoor seating area. The outdoor seating area will be subject to TABC regulations.

Although Smashburger's outdoor seating plan reflects the creation of approximately 26 seats, the applicant agreed during the Planning and Zoning Commission meeting to reduce the number of seats when questioned by the Commission members. The applicant's floor plan and site plan submittals will be exhibited to the ordinance for this CUP if it is approved by City Council.

PUBLIC NOTICE:

Staff mailed notices of the Planning and Zoning Commission's public hearing to the two property owners within the 200-foot radius surrounding the C.U.P. site. As of Tuesday, March 20, 2012 at 3:00 PM, no notices from property owners were returned in favor of the request and none were returned in opposition to the request. One courtesy notice from a business within the Market Place shopping center was received in favor of the request. The newspaper printed notice of the Planning and Zoning Commission public hearing on February 8, 2012 in accordance with state law and local ordinance.

FISCAL IMPACT: NA

ATTACHMENTS:

[Maps](#)

[P&Z Staff Report March 19, 2012](#)

[Comments](#)

[P&Z Excerpts March 19, 2012](#)

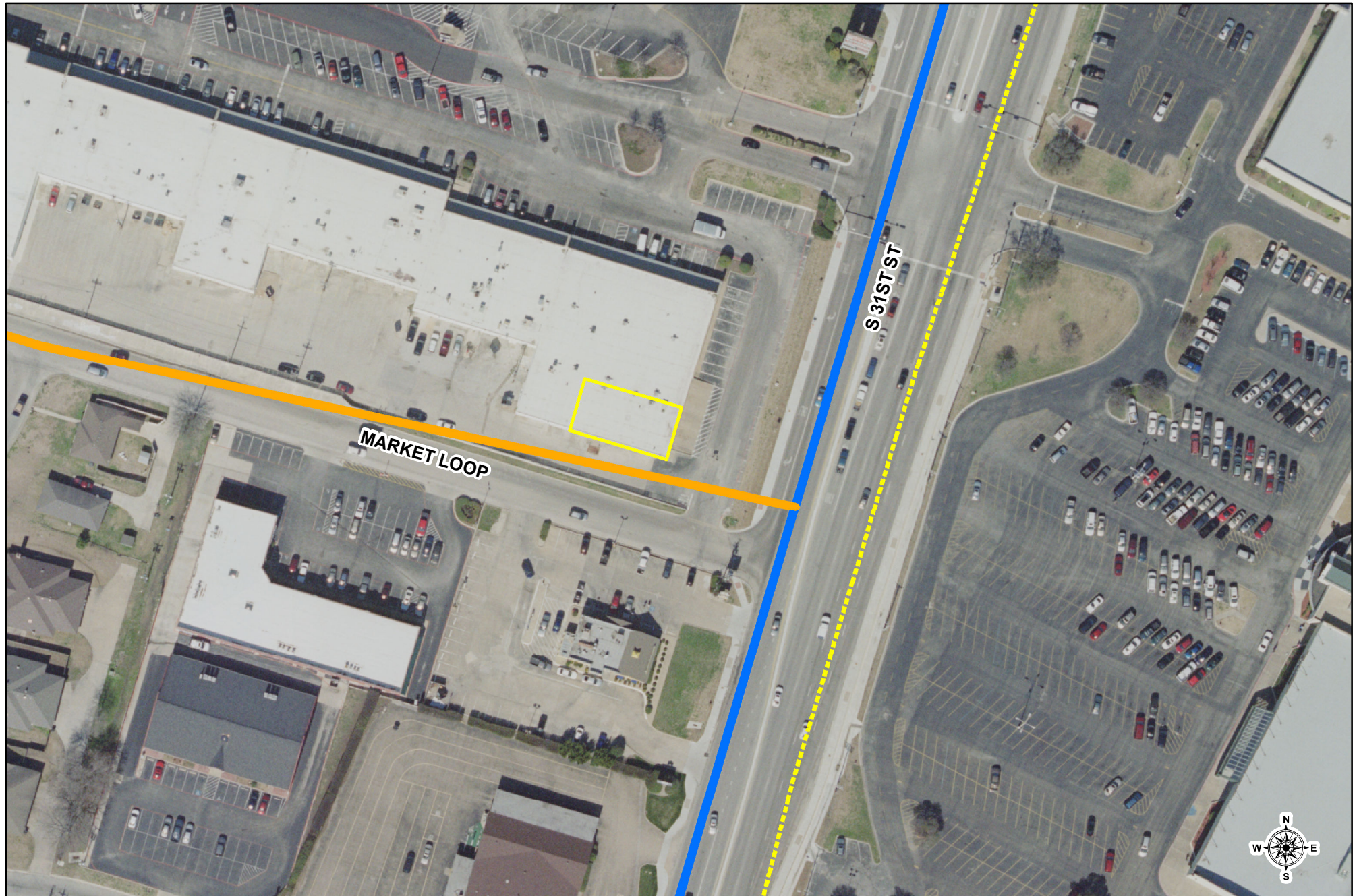
[Ordinance](#)



Z-FY-12-32

Conditional Use Permit for On-Premise Alcohol Consumption <75%

3008 S. 31st St.



 ZFY 12-28
2010 Bell County Aerial

 Major Arterial Street
 Collector Classed Street

 Proposed Community Wide Connector Trail

Feet 0 100 200 300

LMatlock 02.17.12



Z-FY-12-32

Conditional Use Permit for On-Premise Alcohol Consumption <75%

3008 S. 31st St.



- | | | | | | |
|-----------------------|-------------------------|--------------------|---------------------------|-----------------------------------|--------------|
| ZFY 1232, CUP | 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 = 156 feet

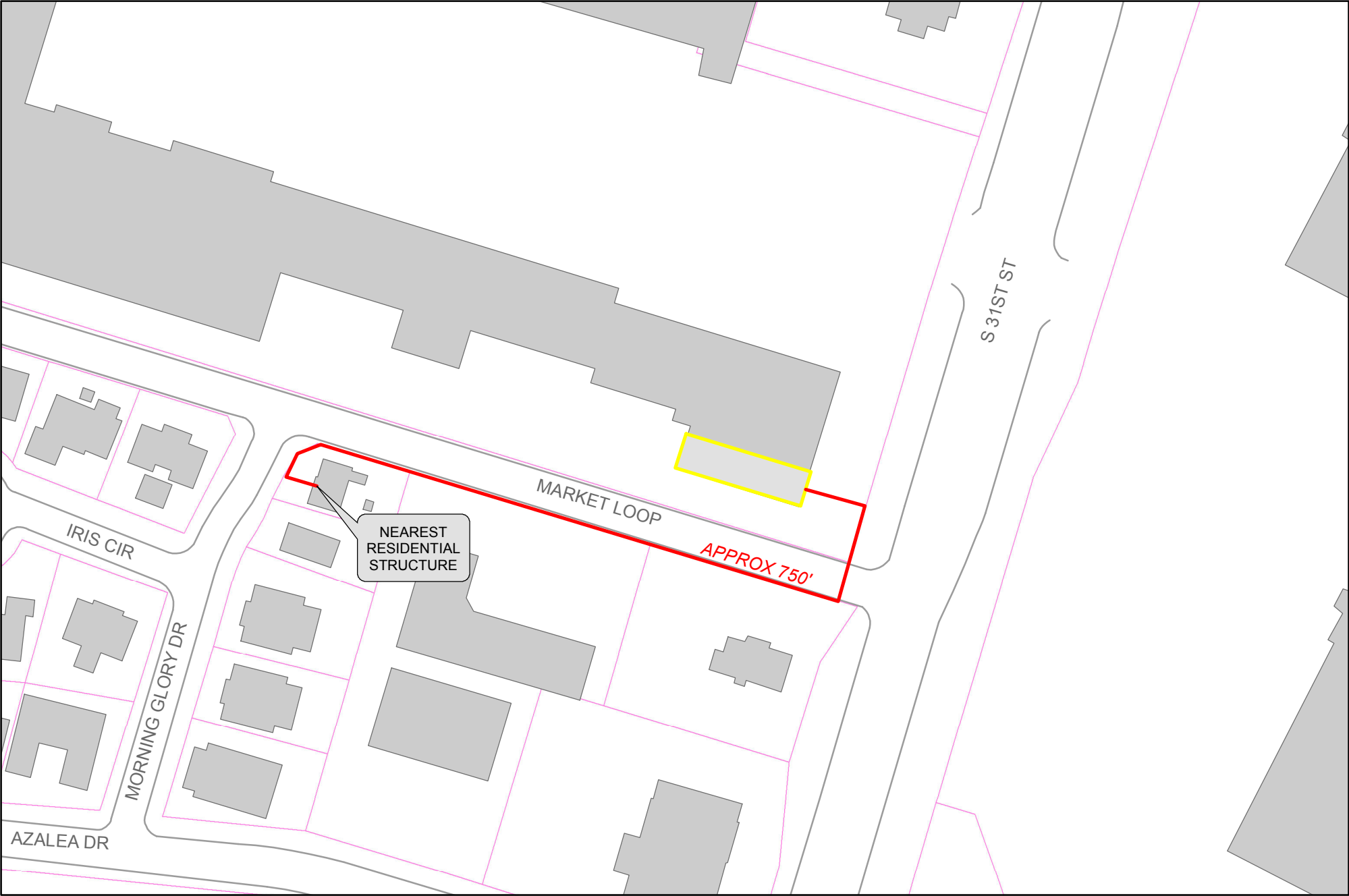
LMatlock Planning 02.17.12



Z-FY-12-32

**3008 SOUTH 31ST STREET
(MARKET LOOP SHOPPING CENTER)**

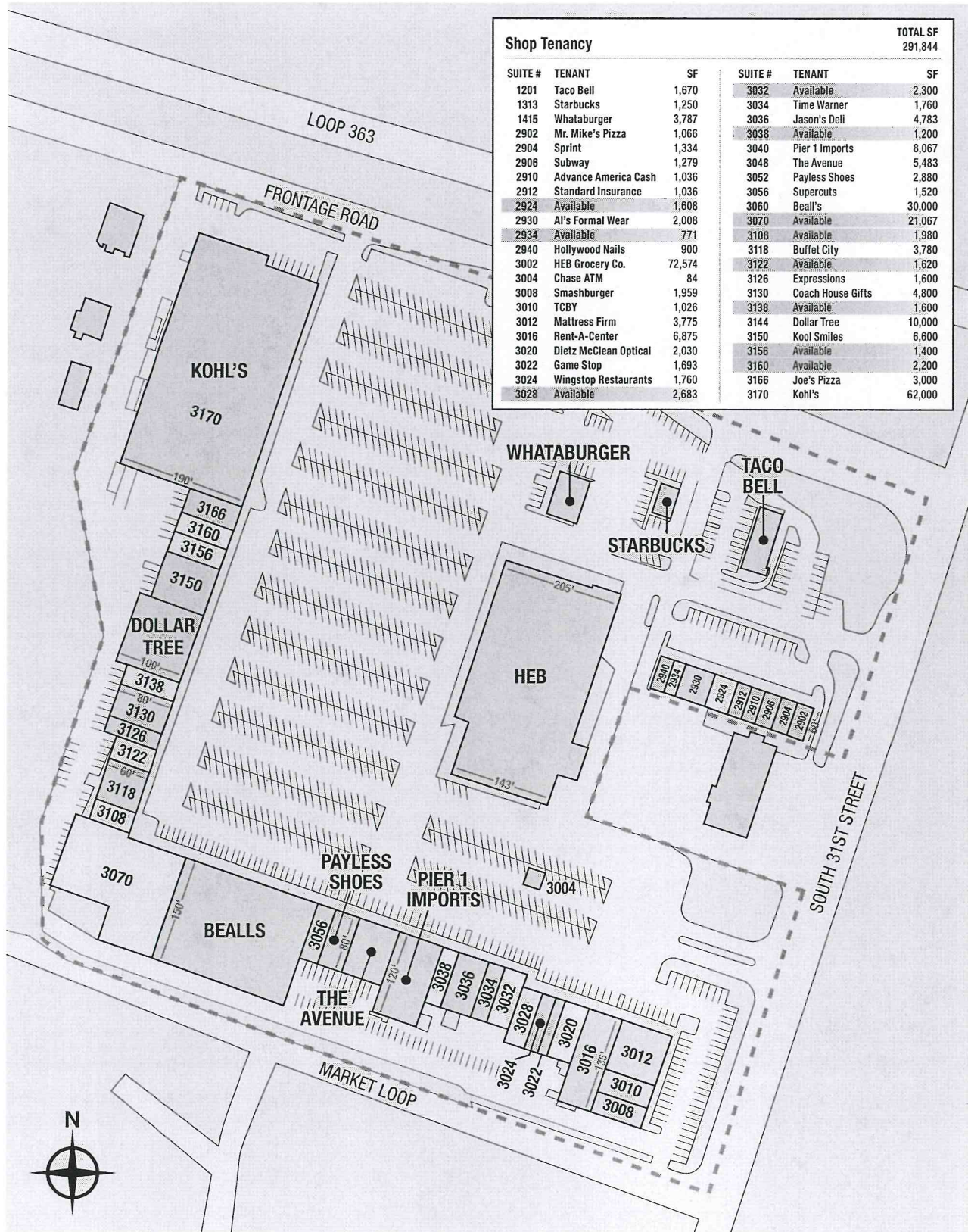
SMASHBURGER



C.U.P. FOR ALCOHOL SALES AND ON-PREMISE CONSUMPTION LESS THAN 75% IN SMASHBURGER RESTAURANT

1 inch = 125 feet

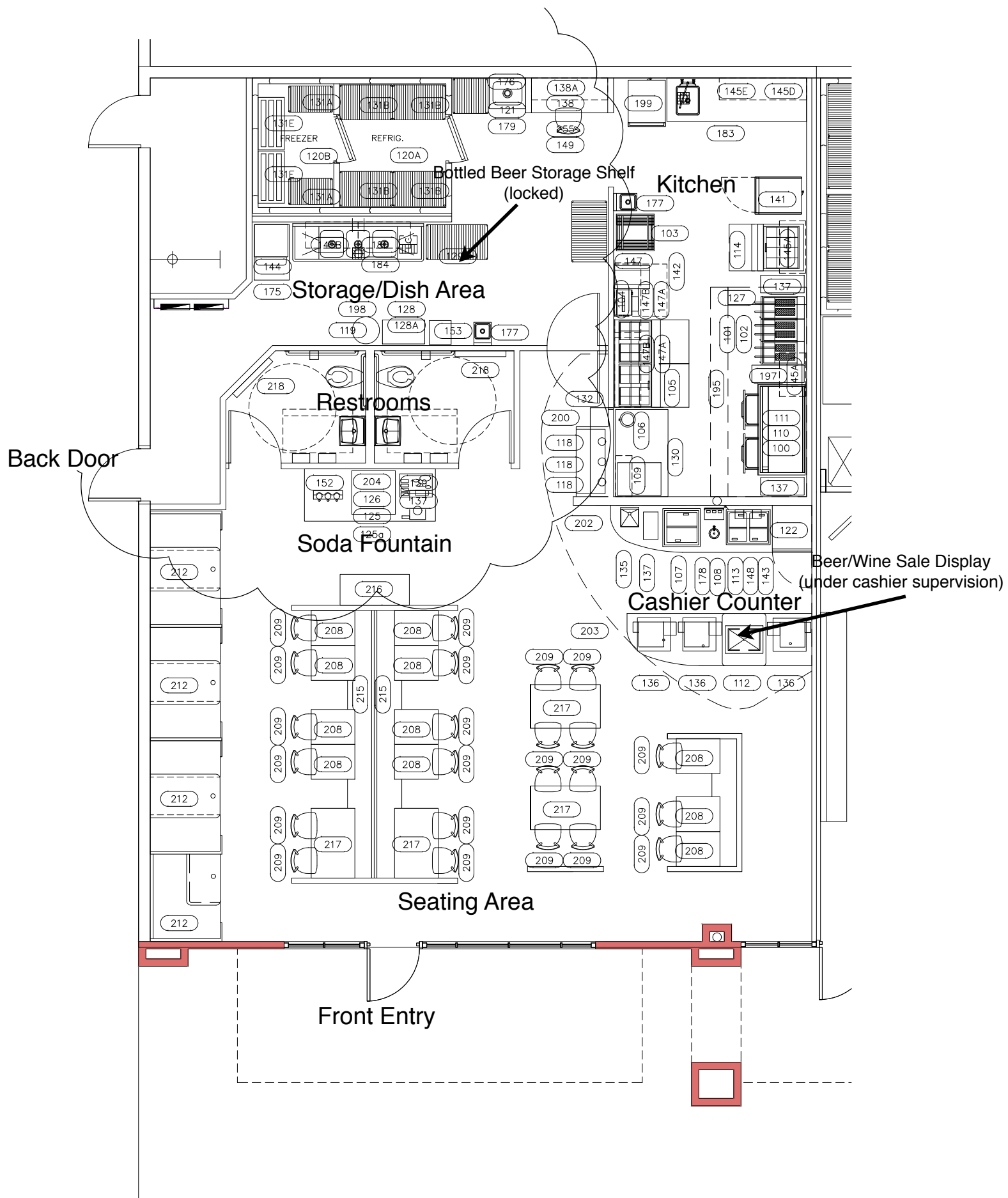
Market Place – Site Plan



Shop Tenancy

TOTAL SF
291,844

SUITE #	TENANT	SF	SUITE #	TENANT	SF
1201	Taco Bell	1,670	3032	Available	2,300
1313	Starbucks	1,250	3034	Time Warner	1,760
1415	Whataburger	3,787	3036	Jason's Deli	4,783
2902	Mr. Mike's Pizza	1,066	3038	Available	1,200
2904	Sprint	1,334	3040	Pier 1 Imports	8,067
2906	Subway	1,279	3048	The Avenue	5,483
2910	Advance America Cash	1,036	3052	Payless Shoes	2,880
2912	Standard Insurance	1,036	3056	Supercuts	1,520
2924	Available	1,608	3060	Beall's	30,000
2930	Al's Formal Wear	2,008	3070	Available	21,067
2934	Available	771	3108	Available	1,980
2940	Hollywood Nails	900	3118	Buffet City	3,780
3002	HEB Grocery Co.	72,574	3122	Available	1,620
3004	Chase ATM	84	3126	Expressions	1,600
3008	Smashburger	1,959	3130	Coach House Gifts	4,800
3010	TCBY	1,026	3138	Available	1,600
3012	Mattress Firm	3,775	3144	Dollar Tree	10,000
3016	Rent-A-Center	6,875	3150	Kool Smiles	6,600
3020	Dietz McClean Optical	2,030	3156	Available	1,400
3022	Game Stop	1,693	3160	Available	2,200
3024	Wingstop Restaurants	1,760	3166	Joe's Pizza	3,000
3028	Available	2,683	3170	Kohl's	62,000





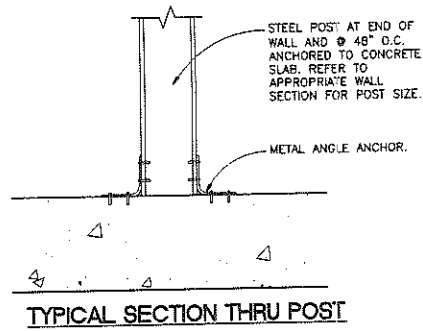
SHEET TITLE

DIMENSIONED FLOOR PLAN

SHEET NO.

PATIO

LOW WALL PLAN



07 SECTION
SCALE: 1 1/2"=1'-0"

BLOCKING.

PRE FAB COOLER PANELS

FRP PANELS
6" GALVALUME CLOSURE PLATE - PROVIDED & INSTALLED BY T.G.C.

SANITARY SEALANT - CONT. ALL JOINTS

08 COOLER WALL CLOSURE DTL
SCALE: NTS

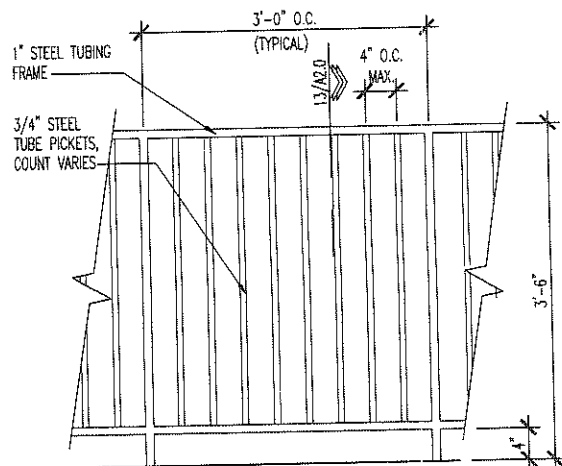
BASE AS SCHED.

1/2" RISE

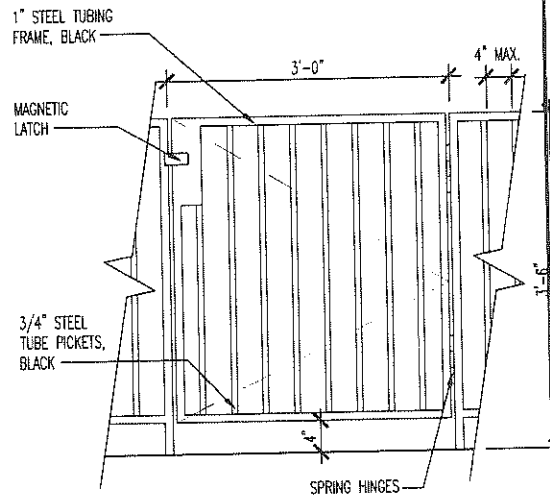
INSTALL NP-1 CAULK TO SEAL JOINT AT DUROCK AND CONCRETE FLOOR

T.G.C. SHALL SLAB UP AT PREP AREAS (ALL QUARRY TILE AREAS)

09 TILE BASE DETAIL
SCALE: NTS

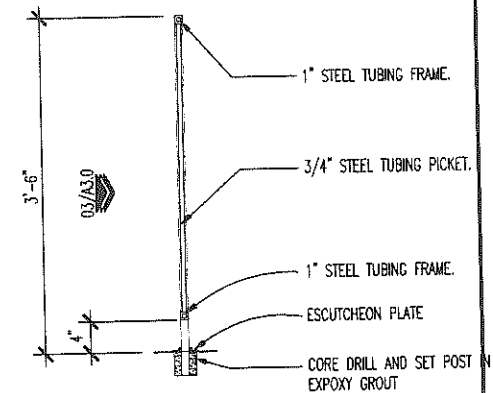


10 TYP. RAILING ELEV
SCALE: 3/4"=1'-0"



11 PATIO GATE ELEV
SCALE: 3/4"=1'-0"

NOTE:
ALL PATIO RAILING FINISHES TO BE PAINTED GLOSS BLACK.



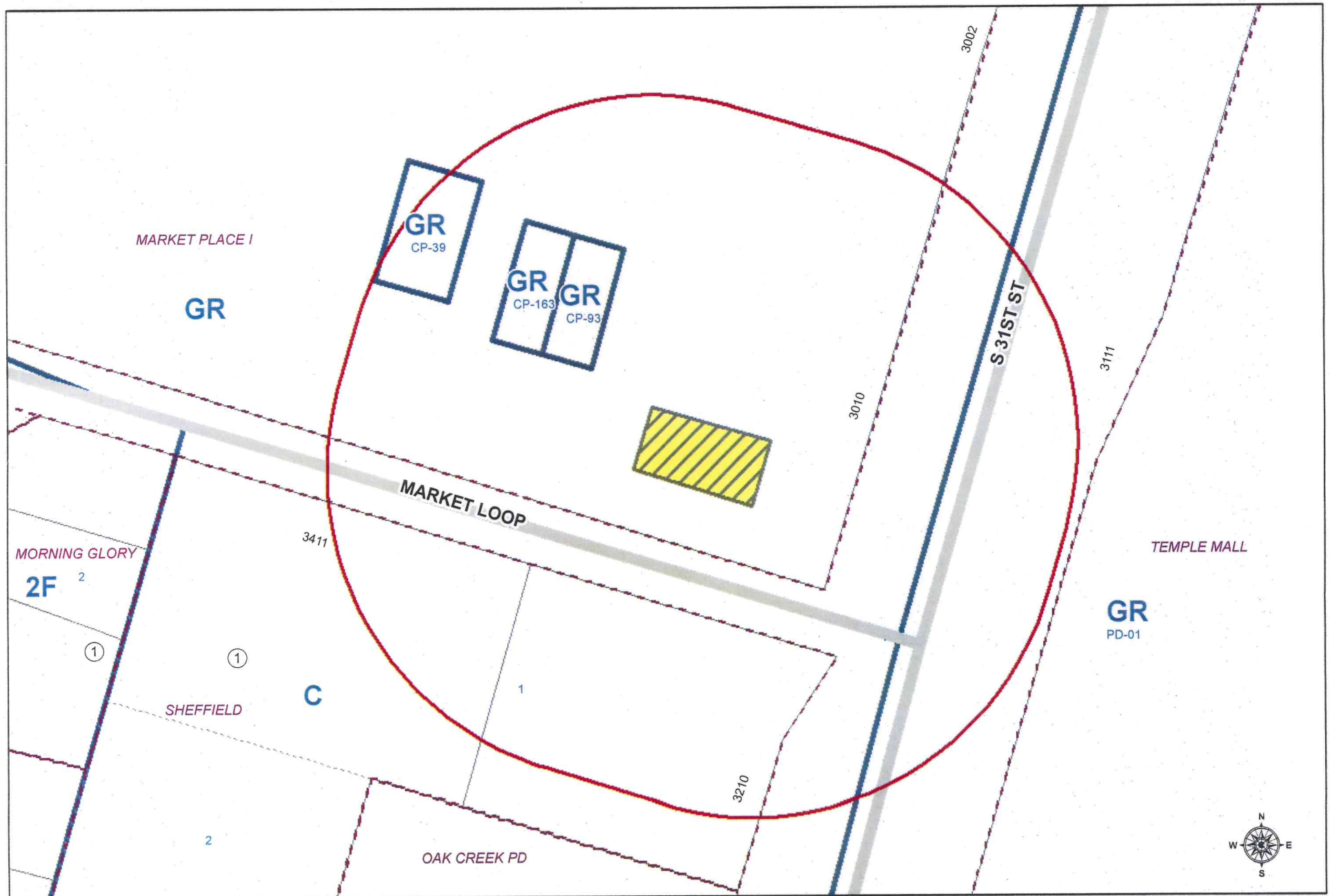
12 PATIO RAIL SECTION
SCALE: 3/4"=1'-0"



Z-FY-12-32

Conditional Use Permit for On-Premise Alcohol Consumption <75%

3008 S. 31st St.



2345 ZFY 12-32

Addresses

Zoning Boundary

Subdivision Boundary

LMatlock 02.17.12



PLANNING AND ZONING COMMISSION AGENDA ITEM

3/19/12
Item 3
Regular Agenda
Page 1 of 4

APPLICANT / DEVELOPMENT: Brad Brown for TR Austin Retail Corp

CASE MANAGER: Tammy Lyerly, Planner

ITEM DESCRIPTION: Z-FY-12-32 Hold a public hearing to discuss and recommend action on a Conditional Use Permit to allow the sale of alcoholic beverages for on-premise consumption less than 75% of the gross revenue in a restaurant, on Lot 1, Block 1, The Market Place Section One, located at 3008 South 31st Street.

BACKGROUND: The applicant requests this Conditional Use Permit (CUP) to allow the sale of alcoholic beverages for on-premise consumption less than 75% of the gross revenue in the Smashburger restaurant at 3008 South 31st Street, in the Market Place shopping center.


The applicant's initial site plan and floor plan were reviewed by DRC on February 21, 2012 and are attached to this report. The applicant has altered the initial site plan by proposing an outdoor seating area with approximately 26 seats in the location of the current planting bed island at the Smashburger entrance. The interior restaurant seats up to 60 patrons. The applicant's floor plan and site plan submittals will be exhibited to the ordinance for this CUP if it is approved by City Council.

Smashburger is opened 10:00 AM – 10:00 PM daily. Alcohol sales are proposed during all hours of operation. The applicant has initiated the license process with TABC. The license is pending the approval of this CUP request. All sales staff will undergo mandatory TABC training.

This CUP request exceeds the 300-foot distance separation required from public schools, public hospitals, and places of worship. The nearest residential structure is approximately 750 feet from Smashburger.

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	GR	Shopping Center with grocery store, restaurants, and service uses	

Direction	Zoning	Current Land Use	Photo
North	GR	Retail, Office, and Service Uses	
South	C	Restaurant, Retail, and Service Uses	 

Direction	Zoning	Current Land Use	Photo
East	PD-GR	Shopping Mall	
West	GR, C, and 2F	Shopping Center, Restaurant, Retail, Service Uses, and Residential	

COMPREHENSIVE PLAN COMPLIANCE:

The proposed Planned Development 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	Yes
CP	Map 5.2 - Thoroughfare Plan	Yes
CP	Goal 4.1 - Growth and development patterns should be consistent with the City's infrastructure and public service capacities.	Yes
CP	Land Use Policy 9 – New development or redevelopment on infill parcels in developed areas should maintain compatibility with existing uses and the prevailing land use pattern in the area.	Yes

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 subject property as Auto-Urban Commercial. The request complies with this designation.

Thoroughfare Plan (CP Map 5.2)

The Smashburger restaurant is within the Market Loop shopping center, but located at the shopping center's entrance at Market Loop. The Thoroughfare Plan classifies Market Loop as a collector. The entrance is near Market Loop's intersection with South 31st Street, a major arterial. This busy intersection is controlled by a traffic light. Since Smashburger is located within the Market Loop

shopping center, customers have an option to avoid Market Loop by accessing the site from within the shopping center.

Availability of Public Facilities (CP Goal 4.1)

A 6-inch water line is located south of the building and an 8-inch water line along the property line at South 31st Street. There is an 8-inch sewer line along the front of the building.

PUBLIC NOTICE:

Staff mailed notices of the Planning and Zoning Commission's public hearing to the two property owners within the 200-foot radius surrounding the C.U.P. site. As of Tuesday, March 13, 2012 at 3:00 PM, no notices from property owners were returned in favor of the request and none were returned in opposition to the request. One courtesy notice from a business within the Market Place shopping center was received in favor of the request. The newspaper printed notice of the Planning and Zoning Commission public hearing on February 8, 2012 in accordance with state law and local ordinance.

STAFF RECOMMENDATION:

Staff recommends approval of the requested Conditional Use Permit to allow the sale of alcoholic beverages for on-premise consumption less than 75% of the gross revenue in the existing Smashburger restaurant for the following reasons:

1. The request is compatible with the Future Land Use and Character Map;
2. The request complies with the Thoroughfare Plan Map; and
3. Public facilities are available to serve the property.

Staff also recommends the following conditions based on the proposed outdoor seating:

1. Finish the proposed outdoor seating area concrete in a decorative finished with stained and stamped concrete.
2. Limit outdoor seating to 18 seats, removing the middle tables to allow for greater maneuverability.
3. Adhere to all TABC rules concerning outdoor consumption of alcohol.
4. Add decorative umbrellas for 50% of the outdoor tables.
5. Relocate the existing landscape proposed to be removed for the outdoor seating area to another landscape area near the site on Market Loop and South 31st Street. Required in conjunction with the building permit required for the outdoor seating area improvements.

FISCAL IMPACT: Not Applicable

ATTACHMENTS:

[Aerial, Thoroughfare Plan Map and Trails Plan Map](#)
[Land Use and Character Map](#)
[CUP Distance Map](#)
[CUP Site Plan](#)
[CUP Floor Plan](#)
[CUP Outdoor Seating Plan](#)
[CUP Outdoor Seating Rail Specifications](#)
[Notice Map](#)
[Response Letter](#)



**COURTESY NOTICE
RESPONSE TO PROPOSED
CONDITIONAL USE PERMIT**

Manager
Dietz-McLean Optical
3200 South 31st Street
Temple, Texas 765026

Zoning Application Number: Z-FY-12-32

Project Manager: Tammy Lyerly

Location: 3008 South 31st Street (The Market Place)

The proposed request for a Conditional Use Permit is the area shown in hatched marking on the attached map. The Conditional Use Permit will allow the sale of alcoholic beverages for on-premise consumption in a restaurant. Because you own property within 200 feet of the requested change, your opinions are welcomed. Please use this form to indicate whether you are in favor of the possible Conditional Use Permit for the property described on the attached notice, and provide any additional comments you may have.

I recommend ☒ approval () denial of this request.

Comments:

JAD ELLIOTT
(Signature)

JAD ELLIOTT
(Print Name)

Please mail or hand-deliver this comment form to the address shown below, no later than March 19, 2012.

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

RECEIVED

MAR 12 2012

City of Temple
Planning & Development

Number of Notices Mailed: 2

Date Mailed: March 8, 2012

**EXCERPTS FROM THE
PLANNING & ZONING COMMISSION MEETING
MONDAY, MARCH 19, 2012**

ACTION ITEMS

Item 3: Z-FY-12-32: Hold a public hearing to discuss and recommend action on a Conditional Use Permit to allow the sale of alcoholic beverages for onpremise consumption less than 75% of the gross revenue in a restaurant, on Lot 1, Block 1, The Market Place Section One, located at 3008 South 31st Street. (Brad Brown for TR Austin Retail Corp.)

Ms. Tammy Lyerly, Planner, stated this case would proceed to City Council for first reading on April 5th and second reading and final action on April 19th.

This request is for a Conditional Use Permit (CUP) for alcoholic beverage sales for on-premise consumption less than 75% of gross revenue for Smashburger Restaurant. The zoning is General Retail (GR) and the applicant is proposing indoor and outdoor seating.

Surrounding properties include the shopping center and office building to the north, Long John Silver's to the south, Temple Mall to the east (across 31st Street), and the back of Market Place Shopping Center to the west.

The request complies with the Future Land Use and Character Map which designate the area as Auto-Urban Commercial.

As in all CUP requests and in accordance with state and local laws requiring at least 300 feet distance from churches, places of worship, public schools, public hospitals, etc., the restaurant exceeds the required distance and the nearest residence is approximately 750 feet away from the subject site.

The site plan is shown.

The applicant is working with TABC and has indicated all staff would be trains to TABC regulations.

The indoor seating accommodates approximately 60 seats and the applicant is proposing outdoor seating which would accommodate 26 seats. The proposed outdoor seating would replace the current planting bed island area located by their front entrance, and would be enclosed with a railing and a gate.

Staff felt too many seats were being requested for the outdoor area and asked the applicant to reduce it to 18, take out the middle tables, and add some umbrellas for shade cover (50% coverage of shading).

Staff requested if the outdoor seating request were approved, that the landscaping/vegetation bed be kept but relocated.

Two notices were mailed out to the property owners with zero notices returned in favor or opposed. One courtesy notice was received from surrounding business owners.

Staff recommends approval of this request since it is compatible with the Future Land Use and Character Map, complies with the Thoroughfare Plan, and public facilities are available to serve the property. Staff also recommends the following conditions:

- Finish the proposed outdoor seating area with concrete in a decorative finish with stained and stamped concrete;

- Limit outdoor seating to 18 seats, removing the middle tables to allow for greater maneuverability;

- Adhere to all TABC rules concerning outdoor consumption of alcohol;

- Add decorative umbrellas for 50% of the outdoor tables; and

- Relocate the existing landscape proposed to be removed for the outdoor seating area to another landscape area near the site on Market Loop and South 31st Street. Required in conjunction with the building permit required for the outdoor seating area improvements.

Vice-Chair Staats asked if the umbrellas were required by an ordinance and Ms. Lysterly stated no, but it is something Staff felt would be needed since there are no trees or shade of any type around the subject site. A CUP may have additional conditions attached in order to improve the request and/or site.

Discussion regarding the amount of seats needed for the seating area which is 27 feet by 12 feet. Staff felt more maneuverability was needed and asked for less seating space.

Commissioner Talley asked about the fencing and Ms. Lysterly stated the applicant is proposing to enclose the outdoor seating area with a metal railing with a gate.

Discussion about the elevation of the seating area (planting bed island).

Chair Martin opened the public hearing.

Mr. Brad Brown, 3320 Fidel Avenue, Waco, Texas, approached.

Vice-Chair Staats asked about the outdoor seating fence gate that accesses the parking lot approximately ten feet away and people walking off with alcohol. Mr. Brown stated the design was intended to allow the gate to be opened directly in front of the front door area where there is good visibility to keep watch.

Discussion about the direction of the gate.

Mr. Brown stated if the center tables needed to be removed to allow access, he would do so. Chair Martin asked if the applicant were opposed to removing the center tables and making the side tables have more seats. Mr. Brown stated from his experience, patio seating tends to be used by smaller groups. If the outside tables needed to be four seats that could be done; however, they would like to get as much seating as possible.

Commissioner Talley asked about the landscaping and where it would go. Mr. Brown stated there was a bump out on the entry that is just grass. Landscaping would make that area look nicer.

Commissioner Rhoads asked if there had been any traffic issues in relation to the tightness of the driving and parking area. Mr. Brown stated so far there have been no traffic incidents and seems to be flowing smoothly.

Commissioner Sears stated rather than limiting the seating to 18, he felt 20 seats would fit comfortably in a design of the applicant's choosing. Mr. Brown stated 22 seats would give them a perfect setup with a wide enough isle.

Chair Martin closed the public hearing.

Commissioner Sears made a motion to approve Item 3, **Z-FY-12-32**, with the proposed exceptions, except to allow 22 seats instead of the 18 requested, and Commissioner Jones made a second.

Motion passed: 9:0

[PLANNING NO. Z-FY-12-32]

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, APPROVING A CONDITIONAL USE PERMIT TO ALLOW THE SALE OF ALCOHOLIC BEVERAGES FOR ON-PREMISE CONSUMPTION, MORE THAN 50% AND LESS THAN 75% OF THE TOTAL GROSS REVENUE IN A RESTAURANT LOCATED AT 3008 SOUTH 31ST STREET; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND PROVIDING AN OPEN MEETINGS CLAUSE.

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

Whereas, the Planning and Zoning Commission of the City of Temple, Texas, after due consideration of the location and zoning classification of the establishment, has recommended that the City Council approve this application; and

Whereas, the City Council of the City of Temple, Texas, after public notice as required by law, has at a public hearing, carefully considered all the evidence submitted concerning the establishment at 3008 South 31st Street, and has heard the comments and evidence presented by all persons supporting or opposing this matter at said public hearing, and after examining the location and the zoning classification of the establishment finds that the proposed use of the premises substantially complies with the comprehensive plan and the area plan adopted by the City Council.

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

Part 1: The City Council approves a Conditional Use Permit to allow the sale of alcoholic beverages, more than 50% and less than 75% of the total gross revenue, for on-premise consumption in a restaurant located on Lot 1, Block 1, The Market Place Section One, located at 3008 South 31st Street, more fully described in Exhibit A, attached hereto and made a part hereof for all purposes.

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

- (a) Finish the proposed outdoor seating area concrete in a decorative finish with stained and stamped concrete.
- (b) Limit outdoor seating to 22 seats, removing the middle tables to allow for greater maneuverability.
- (c) Adhere to all TABC rules concerning outdoor consumption of alcohol.
- (d) Add decorative umbrellas for 50% of the outdoor tables.
- (e) The sale and consumption of alcoholic beverages shall occur only within the designated area, in accordance with the site plan attached as Exhibit B.
- (f) 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.
- (g) The permittee must comply with applicable licensing and permit provisions of the Alcoholic Beverage Code within six (6) months from the date of the issuance of the conditional use permit by the City Council, such limitation in time being subject to review and possible extension by the City.
- (h) 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.
- (i) The permittee must demonstrate that the granting of the permit would not be detrimental to the public welfare of the citizens of the City.
- (j) The permittee must, at all times, provide an adequate number of employees for security purposes to adequately control the establishment premises to prevent incidents of drunkenness, disorderly conduct and raucous behavior. The permittee shall consult with the Chief of Police, who shall act in an advisory capacity to determine the number of qualified employees necessary to meet his obligations hereunder.
- (k) The establishment must provide adequate parking spaces to accommodate its members and their guests. Provided, however, the number of parking spaces shall never be less than those required for similar uses in that zoning district where the establishment is located.
- (l) 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.

- (m) The City Council may deny or revoke a conditional use permit if it affirmatively determines that the issuance of the same is (a) incompatible with the surrounding uses of property, or (2) detrimental or offensive to the neighborhood or contrary to the health, safety, and general welfare of the City and its inhabitants.
- (n) 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.
- (o) All conditional use permits issued under this section will be further conditioned that the same may be canceled, suspended or revoked in accordance with the revocation clause set forth in Section 7-609.

Part 3: The declarations, determinations and findings declared, made and found in the preamble of this ordinance are hereby adopted, restated and made a part of the operative provisions hereof.

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

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

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

PASSED AND APPROVED on First Reading and Public Hearing on the 5th day of **April**, 2012.

PASSED AND APPROVED on Second Reading on the 19th day of **April**, 2012.

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

04/05/12
Item #12
Regular Agenda
Page 1 of 2

DEPT./DIVISION SUBMISSION & REVIEW:

Autumn Speer, Director of Community Services

ITEM DESCRIPTION: P-FY-12-12: Consider adopting a resolution authorizing the Final Plat of Diamond S Addition, a 10.39± acre, 2-lot non-residential subdivision, being a replat of Midway 1 Addition and part of the George Givens Survey Abstract 345, located at the southeast corner of Midway Drive and South General Bruce Drive.

P&Z COMMISSION AND STAFF RECOMMENDATION: At its March 19, 2012, meeting, the Planning and Zoning Commission voted 9/0 to recommend approval of the Final Plat of Diamond S Addition, with the developer's requested exceptions to the Unified Development Code for the following:

- Requested exception for collector street row on the east side of proposed Shallow Ford West Road from 55' to 40'.
- Requested exception for pavement width for proposed Shallow Ford West Road from 36' paving to 24' paving with 2' ribbon curb.
- Requested exception for sidewalk requirements on proposed Shallow Ford West Road.

And with the additional plat notes recommended by staff:

- a) Add a reference to the title block that this is a replat of Midway I Addition.
- b) Show the 6-ft sidewalk required along on Midway Drive.
- c) The plat will not be filed until the abandonment for Shallow Ford West Road is addressed with the State and City.
- d) Revise signature block on plat and in dedication. According to the Secretary of State "GS DIAMOND S HOLDINGS GP, LLC" is the General Partner for "GS DIAMOND S HOLDINGS GP, LP"
- e) In the third paragraph of the dedication instrument, delete the word "drainage," so easement purpose in the dedication instrument will match the easement label on the plat.

ITEM SUMMARY: Please refer to the Staff Report and minutes of case P-FY-12-12, from the Planning and Zoning Commission meeting on March 19, 2012.

The proposed subdivision will include a future street abandonment for that portion of Shallow Ford West Road that is located on this plat. The Applicant has proposed a 40' to 55' wide street and utility easement on the eastern and southern side of this addition as street access to existing Shallow Ford West Road adjacent to the southern-most property line. This easement has one 90° turn and another that is just larger than 90° around the addition for connection from Shallow Ford West to Midway. Two stop signs will be required and installed by the developer.

The Development Review Committee reviewed the Final Plat on February 21, 2012 and deemed it administratively complete on March 9, 2012. The applicant requested we move this plat forward so that they may meet financial commitments, however they understand the plat will not be recorded until all conditions have been addressed.

FISCAL IMPACT: NA

ATTACHMENTS:

[P&Z Commission Staff Report](#)
[Plat](#)
[P&Z Excerpts](#)
[Resolution](#)



PLANNING AND ZONING COMMISSION AGENDA ITEM

3/19/12

Item #2

Regular Agenda

Page 1 of 5

APPLICANT / DEVELOPMENT: All County Surveying on behalf of Garland Shelton of GS Diamond S Holdings LP, Owner

CASE MANAGER: Autumn Speer, Director of Community Services

ITEM DESCRIPTION: P-FY-12-12 Hold a public hearing to consider and take action on the Final Plat of Diamond S Addition, a 10.39± acre, 2-lot non-residential subdivision, being a replat of Midway 1 Addition and part of the George Givens Survey Abstract 345, located at the southeast corner of Midway Drive and S. General Bruce Drive. (Zoned: C, Commercial and GR, General Retail)

STAFF RECOMMENDATION: Staff recommends approval of the Final Plat of Diamond S Addition being a replat of the Midway 1 Subdivision with the following conditions:

- a) Add a reference to the title block that this is a replat of Midway I Addition.
- b) Show the 6-ft sidewalk required along on Midway Drive.
- c) The plat will not be filed until the abandonment for Shallow Ford West Road is addressed with the State and City.
- d) Revise signature block on plat and in dedication. According to the Secretary of State, "GS DIAMOND S HOLDINGS GP, LLC" is the General Partner for "GS DIAMOND S HOLDINGS, LP".
- e) In the third paragraph of the dedication instrument, delete the word "drainage," so easement purpose in the dedication instrument will match the easement label on the plat.

Exceptions Requested:

- Requested exception for collector street row on the east side of proposed Shallow Ford West Road from 55' to 40'.
- Requested exception for pavement width for proposed Shallow Ford West Road from 36' paving to 24' paving with 2' ribbon curb.
- Requested exception for sidewalk requirements on proposed Shallow Ford West Road.

City Council will make the final approval decision.

Additional Information:

- Street use license will be required for the proposed parking in the street and utility easement and possible for landscaping in Midway Drive row.

BACKGROUND: The proposed subdivision will include a future street abandonment for that portion of Shallow Ford West Road that is located on this plat. The Applicant has proposed a 40- to 55-ft wide street and utility easement on the eastern and southern side of this addition as Street Access to existing Shallow Ford West Road adjacent to the southern-most property line. This

easement has one 90° turn and another that is just larger than 90° around the addition for connection from Shallow Ford West to Midway. Two stop signs will be required and installed by the developer.

The Development Review Committee reviewed the Final Plat on February 21, 2012 and deemed it administratively complete on March 9, 2012. The applicant requested we move this plat forward so that they may meet their financial commitments, however they understand the plat will not be recorded until all conditions have been addressed.

ATTACHMENTS:

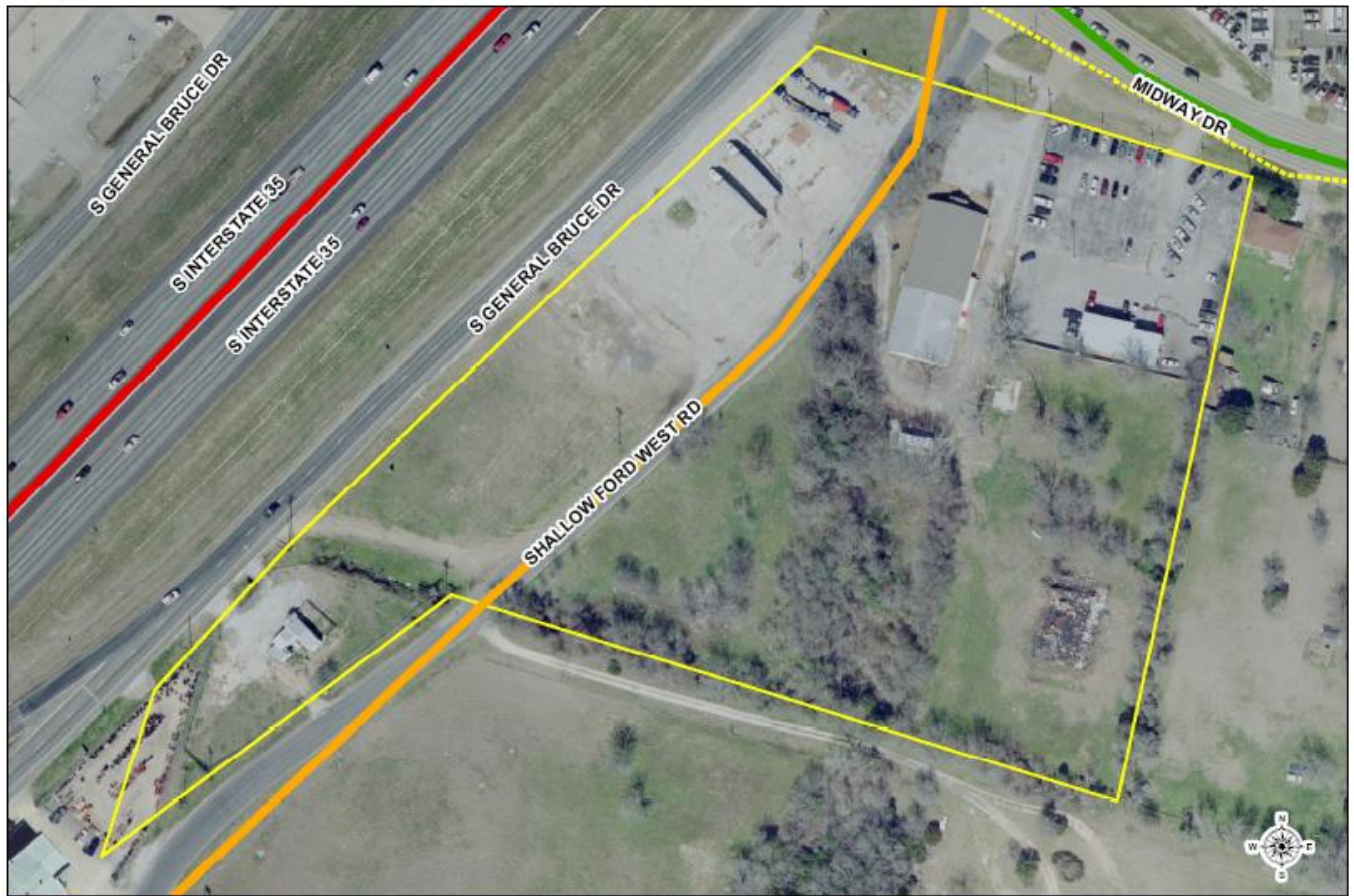
Aerial, Thoroughfare Plan and Trail Plan Map
Plat
Utility Map



P-FY-12-12

Diamond S Addition

SE of Midway Drive and
S. General Bruce Drive



PFY 12-12
2010 Bell County Aerial

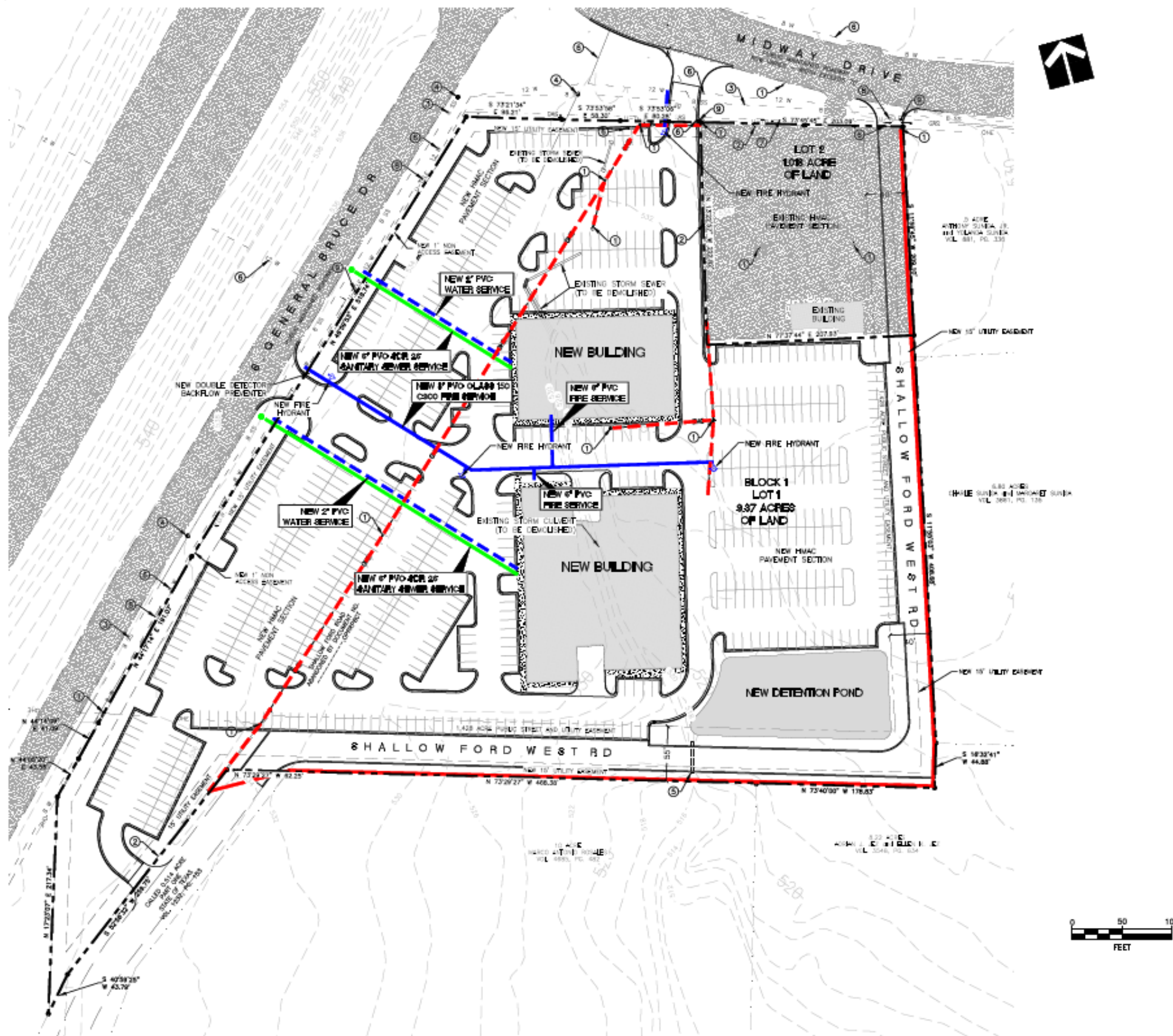
Major Arterial Street

Connector Classed Street

Proposed Community Wide Connector Trail
Expressway

Feet 0 100 200 300

LMatlock 02.24.12



LEGEND

- PROPOSED FIRE HYDRANT ASSEMBLY
- PROPOSED 8" PVC CLASS 150 C900 WATER MAIN
- PROPOSED 6" PVC FIRE SERVICE
- PROPOSED 2" PVC WATER SERVICE
- PROPOSED 4" DIA. EXCENTRIC MANHOLE
- PROPOSED 6" PVC SDR 26 SANITARY SEWER SERVICE
- EXISTING OVERHEAD ELECTRIC (TO BE RELOCATED)
- NEW ELECTRIC

KEYED NOTES

1. EXISTING POWER/LIGHT POLE
2. EXISTING OVERHEAD ELECTRIC
3. EXISTING SANITARY SEWER MAIN
4. EXISTING SANITARY SEWER MANHOLE
5. EXISTING STORM SEWER
6. EXISTING WATER MAIN/METER
7. EXISTING GAS MAIN
8. EXISTING UNDERGROUND TELEPHONE
9. EXISTING TELEPHONE PEDISTAL

GENERAL NOTES

1. STORM DRAINAGE SHALL BE DESIGNED IN ACCORDANCE WITH THE CITY OF TEMPLE'S DRAINAGE CRITERIA AND DESIGN MANUAL.
2. THIS COMMERCIAL SITE DEVELOPMENT IS NOT LOCATED WITHIN THE 100 YEAR FLOODPLAIN AS DETERMINED BY GRAPHIC DETERMINATION AND ACCORDING TO THE FLOOD INSURANCE RATE MAP #48027C0330E ISSUED SEPTEMBER 26, 2008.
3. PROPOSED GARLYN SHELTON COMMERCIAL SITE DEVELOPMENT LAYOUT AS SHOWN IN THIS DRAWING IS PRELIMINARY AND SUBJECT TO CHANGE PRIOR TO FINAL CONSTRUCTION DRAWINGS.
4. FIRE PROTECTION FOR THE FINAL SITE LAYOUT SHALL BE IN ACCORDANCE WITH THE CITY OF TEMPLE FIRE CODE AND SHALL BE APPROVED THROUGH THE BUILDING PERMIT PROCESS.
5. UTILITIES WITHIN DEVELOPMENT SHALL BE PRIVATELY MAINTAINED.

Revisions

Date:

Remarks:

DRAWING STATUS

THIS DRAWING HAS BEEN REVIEWED AND THE AUTHORITY OF THE ENGINEER IS HEREBY CERTIFIED. THE ENGINEER'S SEAL AND SIGNATURE ARE REQUIRED FOR THIS DRAWING TO BE VALID. THE ENGINEER'S SEAL AND SIGNATURE ARE REQUIRED FOR THIS DRAWING TO BE VALID. THE ENGINEER'S SEAL AND SIGNATURE ARE REQUIRED FOR THIS DRAWING TO BE VALID.

DIAMOND S SUBDIVISION
WITHIN THE CITY OF TEMPLE, BELL COUNTY, TEXAS



CLARK & FULLER
CIVIL ENGINEERING • DESIGN • PLANNING
2000 Garlyn S. Shelton Loop, Suite 105, Temple, TX 76784
(817) 291-1000 • www.clarkandfuller.com

Project No: 101164-00
Drawn By: JBF
Checked By: JBF
Date: 08/08/2008

C1.1

TOPOGRAPHY - UTILITY MAP

**EXCERPTS FROM THE
PLANNING & ZONING COMMISSION MEETING
MONDAY, MARCH 19, 2012**

ACTION ITEMS

Item 2: P-FY-12-12: Hold a public hearing to consider and take action on the Final Plat of Diamond S Addition, a 10.39± acre, 2-lot non-residential subdivision, being a replat of Midway 1 Addition and part of the George Givens Survey Abstract 345, located at the southeast corner of Midway Drive and S. General Bruce Drive. (Applicant: All County Surveying on behalf of Garland Shelton of GS Diamond S Holdings LP, Owner)

Ms. Autumn Speer, Director of Community Services, stated this was a replat and required a public hearing in accordance with Texas State law.

A future street abandonment for Shallow Ford West Road is slated and is a condition of this replat process. Currently TxDOT holds the right-of-way for this road and the applicant is going through the process of having it released from the county and then to the City so the abandonment process can be completed for the plat.

Some exceptions have been requested on this replat along with a proposed realignment for Shallow Ford West Road. The DRC deemed this plat administratively complete on March 9th.

Only a portion of Shallow Ford West Road would be abandoned and the new realignment for Shallow Ford West Road would be a temporary solution for keeping the access up to Midway. Two stop signs are proposed at both corners of the realignment and would be built to county standards, thus the exceptions requested: a collector street right-of-way on the east side to be reduced from 55 feet to 40 feet; the proposed pavement width for both sections of the road from 36 feet to 24 feet with a two foot ribbon curb on either side; and the sidewalks be waived for this portion of the road.

City Council would make final approval on April 5th for the exceptions.

Staff recommends approval along with the following conditions:

Add a reference to the title block that this is a replat of Midway I Addition;

Show the six foot sidewalk required along on Midway Drive;

Revise signature block on plat and in dedication According to the Secretary of State, "GS DIAMOND S HOLDINGS GP, LLC" is the General Partner for "GS DIAMOND S HOLDINGS, LP";

In the third paragraph of the dedication instrument, delete the word "drainage," so easement purpose in the dedication instrument will match the easement label on the plat; and

The plat will not be filed until the abandonment for Shallow Ford West Road is addressed with the State and City.

The applicant requested this item move forward due to financial obligations; however, there is an understanding with the applicant that the plat will not be recorded until all of the other conditions and abandonment issues have been cleared up.

Chair Martin opened the public hearing.

Mr. Lloyd Thomas, Aldrich-Thomas Group, 18 N. Third St., Temple, TX, stated there were many discussions regarding temporary realignment of Shallow Ford West Road and the two 90 degree corners was the best option to make it work (ring road). A bump out or a connection directly to I-35 frontage road to the south was considered at the request of the City, however, upon further discussion with Fire and Police, the response time would not work. The ring road approach also affects the applicant's landscaping, setbacks, etc., but there was no other way to reroute traffic effectively.

Chair Martin asked Mr. Thomas's opinion of narrowing the street when big trucks would use the 90 degree angle. Mr. Thomas stated they had the width of the roadway and concrete ribbon to hold the asphalt and meet the requirements needed. They are not meeting the requirements of easement or street right-of-way (more narrow requested). The site is very constricted anyway with the ring road so the applicant is asking for exceptions.

Commissioner Rhoads asked if it were possible to include a bump out to go to I-35. Mr. Thomas stated along with the response time issue, TxDOT would not allow this. The ring road is not the best solution, but it is the best the City and developer can come up with for the situation.

Discussion regarding response time and southern locations.

Commissioner Pope asked if a ribbon curb at the 90 degree would be able to handle the lateral force of heavy truck traffic and Mr. Thomas stated the City's Engineering Department has been involved and seem to be in agreement.

Commissioner Pope asked how Shallow Ford Road became TxDOT property. Mr. Thomas stated it goes back to when I-35 was being widened or even before. Shallow Ford used to connect to Kegley (around the railroad track). When 81 came in, they (TxDOT) cut through the middle of that intersection and split it up making Shallow Ford parallel the frontage road of 81 so both of them hit side-by-side at Midway. When I-35 was widened, TxDOT acquired right-of-way in pieces (little strips) from just south of there, northward, up to Midway, which strips of land created the rerouting of Shallow Ford. Everything was transferred into TxDOT and TxDOT failed to transfer the title to the county. There was supposed to be a deed from the State of Texas to Bell County of that right-of-way they created but failed to get it done.

Vice-Chair Staats asked if it would be signed as no parking and Mr. Thomas stated yes.

It was undetermined when TxDOT would release this and discussions are ongoing, however, TxDOT was willing to do so.

Chair Martin closed the public hearing.

Vice-Chair Staats made a motion to approve Item 2, **P-FY-12-12**, as stated and with the exceptions requested and Commissioner Rhoads made a second.

Ms. Speer clarified that on Staff's submittal the exception proposed was 24 foot paving with two foot ribbon curve. Vice-Chair Staats asked if it was a 28 foot driving surface and Ms. Speer and Mr. Thomas agreed. Mr. Thomas misspoke earlier when stating 31 and it should be 28.

Motion passed: (9:0)

RESOLUTION NO. _____

(PLANNING NO. P-FY-12-12)

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING THE FINAL PLAT OF DIAMOND S ADDITION, AN APPROXIMATELY 10.39 ACRE, 2-LOT, NON-RESIDENTIAL SUBDIVISION, WITH DEVELOPER'S REQUESTED EXCEPTIONS TO THE UNIFIED DEVELOPMENT CODE, LOCATED AT THE SOUTHEAST CORNER OF MIDWAY DRIVE AND SOUTH GENERAL BRUCE DRIVE; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, on March 19, 2012, the Planning and Zoning Commission approved the final plat of the Diamond S Addition, an approximately 10.39 acre, 2-lot, non- residential subdivision, located at the southeast corner of Midway Drive and South General Bruce Drive, with the developer's requested exceptions to the Unified Development Code;

Whereas, the Staff recommends approval of the final plat of Diamond S Addition with the developer's following requested exceptions to the Unified Development Code:

- Requested exception for collector street row on the east side of proposed Shallow Ford West Road from 55' to 40';
- Requested Exception for pavement width for proposed Shallow Ford Road from 36' paving to 24' paving with 2' ribbon curb; and
- Requested exception for sidewalk requirements on proposed Shallow Ford West Road.

Whereas, the City Council has considered the matter and deems it in the public interest to approve the final plat of the Diamond S Addition.

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

Part 1: The City Council approves the final plat of Diamond S Addition, an approximately 10.39 acre, 2-lot, non- residential subdivision, located at the southeast corner of Midway Drive and South General Bruce Drive, more fully shown on the Plat which is on file in the City's Planning Department, incorporated herein and referred to by reference, with the above-outlined exceptions to the Unified Development Code.

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 **5th** day of **April**, 2012.

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

04/05/12
Item #13
Regular Agenda
Page 1 of 1

DEPT./DIVISION SUBMISSION & REVIEW:

William A. Jones, III, Mayor

ITEM DESCRIPTION: Consider adopting a resolution appointing one alternate member to the Bell County Public Health District Board of Directors.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: Dr. Ray Ashcraft was appointed to the Bell County Public Health District Board of Directors in June 2009 to fill the position vacated by Dr. William Hardin. The Health District has now requested the City appoint an alternate member to serve in the absence of Dr. Ashcraft. The appointment of an alternate is provided for in the Cooperative Agreement with the Health District.

In 2010 Dr. Jim Madsen was appointed as the alternate member and is unable to fulfill this position.

FISCAL IMPACT: N/A

ATTACHMENTS: N/A



COUNCIL AGENDA ITEM MEMORANDUM

04/05/12
Item #14
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Page 1 of 1

DEPT./DIVISION SUBMISSION & REVIEW:

Lacy Borgeson, City Secretary

ITEM DESCRIPTION: Consider adopting a resolution appointing one alternate member to the Building and Standards Commission to fill an expiring term through March 2014.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: In accordance with the City Council adopted policies governing the appointment and training of citizens to City boards, appointments to the above stated boards are to be made with an effective date of March 2012.

Please see the attached board summary forms, which list current board members, purpose, membership requirements, term and meeting time/place for the boards. Also attached is a summary listing of all applications received for board appointments. Individual board application forms on file for these boards have already been provided. New application forms received will be forwarded to the Council as received.

FISCAL IMPACT: None

ATTACHMENTS: None