

# MEETING OF THE TEMPLE CITY COUNCIL

**MUNICIPAL BUILDING** 

**2 NORTH MAIN STREET** 

3<sup>rd</sup> Floor – CONFERENCE ROOM

**THURSDAY, JUNE 21, 2012** 

3:30 P.M.

#### **WORKSHOP AGENDA**

- 1. Discuss, as may be needed, Regular Meeting agenda items for the meeting posted for Thursday, June 21, 2012.
- 2. Discuss the Downtown Rail Safety Zone.
- 3. Discuss amendments to Ordinance 2010-4413, Temple Unified Development Code, Articles 3,5,7, and 8 of the Unified Development Code as they relate to Site Plan Requirements; Major Vehicle Repair; Access and Circulation standards; Curb and Gutter for off-street parking and landscaping; Water and Wastewater Main size requirements; and Perimeter Street Fees.
- 4. Discuss the proposed FY 2012-2013 budget and related issue, to include the various strategic and budget related policy issues.

#### 5:00 P.M.

#### MUNICIPAL BUILDING

#### 2 NORTH MAIN STREET CITY COUNCIL CHAMBERS – 2<sup>ND</sup> FLOOR TEMPLE, TX

#### **TEMPLE CITY COUNCIL**

#### **REGULAR MEETING AGENDA**

#### I. CALL TO ORDER

- 1. Invocation
- 2. Pledge of Allegiance

#### **II. PUBLIC COMMENTS**

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

#### III. 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.

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

#### Contracts, Leases, & Bids

(A) 2012-6631-R: Consider adopting a resolution ratifying a contract replacing existing chlorine headers equipment at the Water Treatment Plant from Environmental Improvements, Inc. in the amount of \$52,908.

- (B) 2012-6632-R: Consider adopting a resolution authorizing a construction contract with Associated Construction Partners, Inc. of Boerne, for construction services required to rehabilitation of the Friar's Creek Lift Station, to include replacement of pumps, motors, electrical panels, wiring, and other fixtures in the amount of \$674,000.
- (C) 2012-6633-R: Consider adopting a resolution authorizing a construction contract with Patin Construction, Inc. of Taylor, to repair two pedestrian bridges in Jackson Park in the amount of \$44,000.
- (D) 2012-6634-R: Consider adopting a resolution authorizing a construction contract with McLean Construction, Inc, of Killeen for the first project of the 2012 Wastewater Line Replacement Project in an amount not to exceed \$709,907.70, which includes the replacement of wastewater lines at Hillcrest Cemetery and along North 6<sup>th</sup> Street.
- (E) 2012-6635-R: Consider adopting a resolution authorizing an amendment to the professional services agreement with SAIC Energy, Environmental & Infrastructure, LLC in the amount of \$4,000, for the Water and Wastewater Cost of Service and Rate Design Study for a total amended contract amount of \$28,000.
- (F) 2012-6636-R: Consider adopting a resolution authorizing a purchase agreement with Toter, Inc., Statesville, NC, through the State of Texas Contract for 2,544 plastic 96-gallon refuse containers for the Solid Waste Division from in the amount of \$114,429.12.
- (G) 2012-6624-R: Consider adopting a resolution authorizing the following:
  - (1) Release McLane Company, Inc. from the lease on hangars 21 and 22 scheduled to expire December 31, 2014 due to completion and relocation to their large corporate hangar under separate land lease approved in 2011 effective July 1, 2012;
  - (2) An amendment to extend the lease on hangar 19 scheduled to expire December 31, 2014 through December 31, 2024 between McLane Company, Inc. and the City of Temple; and
  - (3) Assign lease from McLane Company, Inc. to William G. Rosier, d.b.a. Temple Real Estate Investments, Inc. effective August 1, 2012 at the Draughon-Miller Central Texas Regional Airport.

#### <u>Ordinances – Second & Final Reading</u>

- (H) 2012-4534: SECOND READING Z-FY-12-36: Consider adopting an ordinance authorizing a rezoning from Agricultural District (AG) to General Retail District (GR) on two 0.75 acre tracts of land situated in the John Simmons Survey, A-737, Bell County, Texas, located at 5412 North SH 317.
- (I) 2012-4535: SECOND READING Z-FY-12-38: Consider adopting an ordinance authorizing a rezoning from Single Family Two District (SF-2) to Single Family Three District (SF-3) on Lots 12 and 13, Block 9, Carriage House Village Phase I, located at 1917 and 1921 Carriage House Village Drive.

- (J) 2012-4536: SECOND READING Z-FY-12-39: Consider adopting an ordinance authorizing a rezoning from Single Family One District (SF-1) to Office One District (O-1) on a 0.50 ± acre tract of land out of the Maximo Moreno Survey, Abstract No. 14, Bell County, Texas, located at 3606 South 5<sup>th</sup> Street.
- (K) 2012-4537: SECOND READING Z-FY-12-40: Consider adopting an ordinance amending Ordinance No. 2011-4493, originally approved December 15, 2011, 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, to reduce the number of security lights from three to two on portions of Lots 11 and 12, Block 22, Original Town Addition, located at 11 East Central Avenue.
- (L) 2012-4538: SECOND READING Z-FY-12-42: Consider adopting an ordinance authorizing a rezoning from Agricultural District (AG) to Neighborhood Service District (NS) on 3.00 ± acres of land and from Agricultural District (AG) to Urban Estates District (UE) on 7.04 ± acres of land, both being part of the Redding Roberts Survey, Abstract No. 692, in the City of Temple, Bell County, Texas, located on the east side of South 31<sup>st</sup> Street, south of Fox Glen Lane and north of Venice Parkway.
- (M) 2012-4539: SECOND READING Z-FY-12-43: Consider adopting an ordinance authorizing a rezoning from Two Family Dwelling District (2F) to General Retail District (GR) on Lot 1, Block 15 of the Freeman Heights Addition, located at 101 South 31<sup>st</sup> Street, Temple Texas.
- (N) 2012-4540: SECOND READING: Consider adopting an ordinance authorizing amendments to the Tax Increment Financing Reinvestment Zone No. 1 Financing and Project Plans as follows:
  - (1) Appropriating \$30,000 to the Pepper Creek Trail Connection to the Scott & White Health Plan Building existing trail Project and recognizing \$30,000 in revenue from additional property taxes received in FY 2012.
  - (2) Appropriating \$385,000 to the TMED-1<sup>st</sup> Street @ Loop 363 Project and recognizing \$250,000 in revenue from a Keep Temple Beautiful Governor's Award grant and recognizing \$135,000 in revenue from additional property taxes received in FY 2012.
  - (3) Appropriating \$50,000 to the I-35 Gateway Signage Project and recognizing \$50,000 in revenue from additional property taxes received in FY 2012.
- (O) 2012-6637-R: Consider adopting a resolution authorizing a construction contract with Dixon Paving, Inc. of Belton, for the base bid and one add alternate for the construction of an extension to the concrete hike & bike trail along Pepper Creek to connect with Scott & White property in the amount of \$606,050.
- (P) 2012-6638-R: Consider adopting a resolution authorizing a contract for a professional services agreement with Kasberg, Patrick & Associates, LP to perform design services for a Gateway sign on I-35 in an amount not to exceed \$48,750.

#### Misc.

(Q) 2012-6639-R: Consider adopting a resolution authorizing budget amendments for fiscal Year 2011-2012.

#### V. REGULAR AGENDA

#### **ORDINANCES**

4. 2012-4541: FIRST READING – PUBLIC HEARING - Consider amending the Code of Ordinances by creating Article II entitled "Post Construction" to Chapter 27, "Storm Water Management" per the City of Temple's Storm Water Management Program and as required by Texas Commission on Environmental Quality.

#### **RESOLUTIONS**

5. 2012-6640-R: Consider adopting a resolution electing a Mayor Pro Tem for the City of Temple.

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

I hereby certify that a true and correct copy of this Notice of Meeting was posted in a public place at 1:30 PM, on June 15, 2012.

Lacy Borgeson, TRMC
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**

06/21/12 Item #3(A) Consent Agenda Page 1 of 2

#### **DEPT./DIVISION SUBMISSION & REVIEW:**

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

<u>ITEM DESCRIPTION:</u> Consider adopting a resolution ratifying a contract replacing existing chlorine header equipment at the Water Treatment Plant from Environmental Improvements, Inc. in the amount of \$52,908.

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

<u>ITEM SUMMARY:</u> To maintain TCEQ's regulatory requirements related to water treatment disinfection, the chlorine header at the water treatment plant requires replacement to ensure that proper disinfection techniques are in place at the plant. Chlorine is the heart of the disinfection process and is utilized throughout treatment, from incoming raw water, which establishes free chlorine in the clarifiers, down to final disinfection in the junction box prior to clear well storage, resulting in a potable water product for consumers.

Installation of existing chlorine header equipment was completed in 2002 and is in need of immediate replacement. Earlier this spring, one of the header components failed, requiring significant effort to temporarily repair. This issue, coupled with increased maintenance concerns, has necessitated the solicitation of a sole source quote and emergency purchase for this integral treatment plant component. Replacement of a chlorine header other than a Siemens unit (manufacturer and make of existing equipment) would require additional modifications to the plant, at added cost and time. Therefore, procurement of a replacement Siemens chlorine header through their authorized representative, Environmental Improvements, is the necessary course of action to address the impending issue.

Due to the urgent nature of this project, staff authorized this work as an emergency and a purchase order has been placed for procurement of the equipment. Equipment will be installed as soon as it is shipped, and is expected to be complete by September 2012.

06/21/12 Item #3(A) Consent Agenda Page 2 of 2

**FISCAL IMPACT:** This project was not budgeted as part of the FY 2012 operating budget. Due to the critical nature of the work, funding has been identified and has been reallocated within the operating budget to account # 520-5122-535-6310, project #100865.

#### **ATTACHMENTS:**

Resolution

	RESOLUTION NO.	
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A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING A CONTRACT WITH ENVIRONMENTAL IMPROVEMENTS, INC., OF BUDA, TEXAS, TO REPLACE THE EXISTING CHLORINE HEADER EQUIPMENT AT THE WATER TREATMENT PLANT; IN THE AMOUNT OF \$52,908; AND PROVIDING AN OPEN MEETINGS CLAUSE.

\_\_\_\_\_

**Whereas**, to maintain TCEQ's regulatory requirements related to water treatment disinfection, the chlorine header at the Water Treatment Plant requires replacement to ensure that proper disinfection techniques are in place;

Whereas, the installation of existing chlorine header equipment was completed in 2002 and is in need of immediate replacement as one header failed earlier this spring;

**Whereas**, replacement of a chlorine header other than a Siemens unit would require additional modifications to the plant at an added cost – therefore procurement of a replacement through the authorized representative is necessary;

Whereas, the Staff recommends accepting a sole source quote for replacement of the existing chlorine header equipment at the Water Treatment Plant from Environmental Improvements, Inc., of Buda, Texas, in the amount of \$52,908 for this project;

**Whereas**, funding is available for this project has been identified and reallocated in Account No. 520-5122-535-6310, Project No. 100865; 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:

- <u>Part 1:</u> The City Council authorizes the City Manager, or his designee, to execute a contract in the amount of \$52,908, between the City of Temple, Texas, and Environmental Improvements, Inc., of Buda, Texas, after approval as to form by the City Attorney, for replacement of the existing chlorine header equipment at the Water Treatment Plant.
- <u>Part 2:</u> 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 **21**<sup>st</sup> day of **June**, 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**

06/21/12 Item #3(B) Consent Agenda Page 1 of 2

#### **DEPT./DIVISION SUBMISSION & REVIEW:**

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

<u>ITEM DESCRIPTION:</u> Consider adopting a resolution authorizing a construction contract with Associated Construction Partners, Inc. of Boerne, for construction services required to rehabilitation of the Friar's Creek Lift Station, to include replacement of pumps, motors, electrical panels, wiring, and other fixtures in the amount of \$674,000.

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

<u>ITEM SUMMARY:</u> The Friar's Creek Lift Station is a critical element in the wastewater collection system currently serving a 6.4 square mile area in South-Central Temple. The lift station, located near the intersection of Highway 93 and South 31<sup>st</sup> Street, has performed near or at capacity since 1999. Ongoing development in the Friar's Creek Lift Station sewer basin continues to add wastewater customers to this facility and strain the installation to its performance limit. Several pumps have failed and are in need of replacement. Additionally, electrical hardware proposed to be installed with this project is intended to allow the pumps to operate at ideal capacity for varying wastewater flow loading scenarios. The City received four bids ranging from the low bid previously stated to a high bid of \$757,300. The engineer's opinion of probably cost was \$584,320. The opinion of probable cost was not revised to include several changes in scope that were identified during design phase.

Our engineering consultant contacted numerous entities on the list of references provided by Associated Construction Partners, Inc. and recommends construction contract award to this contractor.

The proposed timeline for construction completion will be 260 calendar days from the authorization of notice to proceed.

**FISCAL IMPACT:** In the FY 2012 CIP, \$325,000 was designated for the design and construction for the rehabilitation of the Friar's Creek Lift Station. In December 2011 council authorized a professional service agreement with Clark & Fuller PLLC in the amount of \$68,995.60.

06/21/12 Item #3(B) Consent Agenda Page 2 of 2

Currently, there is \$256,004 remaining to fund this project. Additional funding for the project in the amount of \$423,209 has been identified from the savings in the Wastewater Line Replacement at Hillcrest cemetery and along North 6<sup>th</sup> Street in the amount of \$299,765 and from CIP Project contingency in the amount of \$123,444.

A budget adjustment is presented for Council's approval appropriating \$679,213 to fund this construction contract, testing fees and minor miscellaneous cost related to the project.

#### **ATTACHMENTS:**

Engineer's Letter of Recommendation Bid Tabulation Project Map Budget Adjustment Resolution



215 North Main Street Temple, Texas 76501 (254) 899-0899 Fax (254) 899-0901 www.clark-fuller.com Firm Registration No: F-10384

May 18, 2012

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

Re: City of Temple, Friar's Creek Lift Station Improvements

Dear Mr. Rodriguez,

We have received and reviewed the bids received for the above referenced project. Associated Construction Partners, Inc. submitted a total Base Bid of \$674,000. Please see the enclosed Bids for detailed information.

The engineers estimate for this project was \$584,320.00. This estimate was based on previous bids received, by OMI, for this project. During the Design/Development phase of this project, multiple items were added to the scope of work which were not included within the original estimate. Since this was originally considered to be a maintenance only project, the existing lift station wiring, located between the pumps, motors, panels, and controllers was to be reused and was to remain in place. During later discussions, the decision was made to move forward with extending new electrical and control wiring within the lift station. In addition, the scope of work was increased from originally removing and replacing the 12" Flange Air Cushioned check valves and providing a minimal amount of piping and fittings to re-seat the new pumps, to a scope of removing all of the dry well piping and fittings between the pumps and the existing gate valves located at the top of the lift station. Also, the scope increased to remove the existing wet well level sensors and replace with new ultrasonic level sensors, float backups, control panel, wiring, and support hangars. Construction of these items will require additional liability by the contractor to perform an "entry into confined space". (I.e. Lift Station Wet Well) Furthermore, during original meetings the concrete pads for the new motors were to remain in place and were not to be disturbed. The scope was revised to move forward with removing these, as required, and replacing them in their entirety. All of these items increased the mobilization, insurance, labor, and materials cost for the bidding contractors. With these added items, we feel that the City of Temple will receive a more quality product and future maintenance will be reduced.

Our firm has no previous experience working with Associated Construction Partners, Inc. Therefore, we contacted numerous entities on the list of references provided by Associated Construction Partners, Inc. and, with the exception of a few subcontractor issues, everyone had positive comments. Several stated that Associated Construction Partners, Inc. responded in a timely fashion to construction problems and worked with project personal to complete the project, on time. When asked if Associated Construction Partners, Inc. were the low bidder on their next project all would recommend them.

We are recommending that you award the contract to Associated Construction Partners, Inc. We believe, through documentation and personal verbal contact with the list of provided references, that Associated Construction Partners, Inc. is qualified and is capable of providing the new utility improvements as required in this project.

Please advise us as to which contractor you select.

Sincerely,

Monty Clark, P.**F.** OPESC

### **Bid Tabulation Sheet Friar's Creek Lift Station Improvements**

Friar's	s Creek	Lift	Station in	nprovemen <sup>.</sup>	tS						
		Bid Dat	e: May 11, 2012	onstruction Partners	<b>.</b>						
Base Bid No. Item Description	Est. Quan.	. UOM	Unit Price	LTD  Total Cost	1		uction, LTD Total Cost	Bell Cor Unit Price	ntractors, Inc. Total Cost	Keystone ( Unit Price	Construction, Inc. Total Cost
1 Mobilization, Bonds, Permits, & Insurance	100%	LS	\$ 30,000.00	\$ 30,000.00	\$ 35,000	.00 \$	35,000.00	\$ 32,800.00	\$ 32,800.00	\$ 30,000.00	\$ 30,000.00
New Lift Station Improvements, as required, including but not limited to all Site Preparation, Demolition, Permitting, Disconnect and Removal of Existing Pumps, Motors, Wiring, Plumbing, etc., New Electrical Conduit System and Conductors, including, but not limited to all pull and junction boxes, conductor extensions, splices, and terminations, hangers and supports, mounting hardware, tape, etc., New Control Panel and Enclosure, including but not limited to all necessary programming, conduit system, line and low voltage conductors, terminations, circuit extensions, identification means, etc., New Combination Starter with Hand-Off-Auto (HOA) Switch, New Complete Motor Control Center, includin all bus work and splice plates, New Circuit Breakers, New Variable Frequency Drives with bypass (480Vac, 3-phase, 20 horsepower) manufacturer provided interconnecting wiring, connection to new control panel for controls, shipping, freigh installation, labor, materials, consumables, etc., Adjustment and Repair and/or Removal and Replacement of Existing Concrete Leveling Pads, New Horizontal Dry Pit Solids Handling Pumps, New Ductile Iron Piping, New Ductile Iron Fittings and Bends, New 12" Air Cushioned Swing Check Valves, New Thrust Restraint, Wall Anchors, Protective Coatings, New Hydro-Ranger 200 Ultrasonic Level Controller with Level Float Backup System, or pre-approved equal, a Testing and Startup	O- 100% t,	LS	\$ 612,000.00	\$ 612,000.00	0 \$ 685,000	.00 \$	685,000.00	\$ 697,900.00	\$ 697,900.00	\$ 681,300.00	\$ 681,300.00
New Roof Top Air Conditioning Unit & New Ventilation Exhaust Fan	100%	LS	\$ 12,000.00	\$ 12,000.0	\$ 13,000	.00 \$	13,000.00	\$ 10,700.00	\$ 10,700.00	\$ 15,800.00	\$ 15,800.00
4 New Lighting Fixtures	100%	LS	\$ 5,000.00	\$ 5,000.00	\$ 4,000	.00 \$	4,000.00	\$ 3,600.00	\$ 3,600.00	\$ 3,000.00	\$ 3,000.00
5 New Lightning Protection System	100%	LS	\$ 10,000.00	\$ 10,000.0	\$ 10,000	.00 \$	10,000.00	\$ 10,700.00	\$ 10,700.00	\$ 8,900.00	\$ 8,900.00
6 New Metal Door & Frame	100%	LS	\$ 5,000.00	\$ 5,000.0	\$ 2,000	.00 \$	2,000.00	\$ 1,600.00	\$ 1,600.00	\$ 2,100.00	\$ 2,100.00
Total Bid Friar's Creek Lift Station Improvements Base Bid				\$ 674,000.0	)	\$	749,000.00		\$ 757,300.00		\$ 741,100.00



#### **BUDGET ADJUSTMENT FORM**

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

Adjustments should be rounded to the nearest \$1.

ACCOUNT NUMBER	PROJECT #	ACCOUNT DESCRIPTION	INCREASE		DECREASE	
520-5900-535-66-11	100805	Friar's Creek Lift Station	\$ 679,213			
520-0000-372-09-45		Designated Cap Proj-Friar's Crk Lift Station	<del>+</del> 515,=15		256,004	
520-0000-372-09-45		Designated Cap Proj- Hillcrest Cemetery			299,765	
520-0000-372-09-45		Designated Cap Proj- Contingency			123,444	
		. , , , , ,				
		Do Not Post				
TOTAL\$ 679,213 \$ 679,213						
EXPLANATION OF ADJ account are available.	USTMENT	REQUEST- Include justification for increases AND	reason why fund	ls ir		
account are available. This budget adjustment alloca services required for rehabilita and other fixtures in the amou	tes funding fo	<b>REQUEST-</b> Include justification for increases AND or the construction contract with Associated Construction's Creek Lift Station to include replacement of pump 10. An additional \$5,213 is being appropriated for testing	ion Partners, Inc. os, motors, electr	for	decreased construction panels, wiring,	
account are available. This budget adjustment alloca services required for rehabilita	tes funding fo tion of the Fr nt of \$674,00	or the construction contract with Associated Constructiciar's Creek Lift Station to include replacement of pump 10. An additional \$5,213 is being appropriated for testing 15.	ion Partners, Inc. os, motors, electr	for	decreased construction panels, wiring,	
account are available. This budget adjustment alloca services required for rehabilita and other fixtures in the amou related to the project.  DOES THIS REQUEST REQUEST	tes funding fo tion of the Fr nt of \$674,00	or the construction contract with Associated Construction in the construction to include replacement of pump 10. An additional \$5,213 is being appropriated for testing appropriated for testing in the construction of the constr	ion Partners, Inc. os, motors, electr ng fees and mino	for ical r m	construction panels, wiring, scellaneous cost	
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RESOLUTION NO.
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A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING A CONSTRUCTION CONTRACT WITH ASSOCIATED CONSTRUCTION PARTNERS, INC., OF BOERNE, TEXAS, FOR CONSTRUCTION SERVICES REQUIRED TO REHABILITATE FRIAR'S CREEK LIFT STATION; IN AN AMOUNT OF \$674,000; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, the Friar's Creek Lift Station is a critical element in the wastewater collection system currently serving a 6.4 square mile area in South Central Temple;

Whereas, ongoing development in the Friar's Creek Lift Station sewer basin continues to add wastewater customers to this facility and strain the installation to its performance limit - several pumps have failed and are in need of replacement;

Whereas, the City's engineering consultant contacted numerous entities and recommends awarding this construction contract to Associated Construction Partners, Inc. in the amount of \$674,000, and the Staff recommends accepting it;

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

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

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

<u>Part 1:</u> The City Council authorizes the City Manager, or his designee, to execute a construction contract with Associated Construction Partners, Inc. of Boerne, Texas, after approval as to form by the City Attorney, for construction services required to the rehabilitate Friar's Creek Lift Station, in an amount not to exceed \$674,000.

<u>Part 2:</u> The City Council approves an amendment to the FY2011-12 budget, substantially in the form of the copy attached as Exhibit A, for this project.

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

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

06/21/12 Item #3(C) Consent Agenda Page 1 of 1

#### **DEPT./DIVISION SUBMISSION & REVIEW:**

Ken Cicora, Parks and Leisure Services Director

<u>ITEM DESCRIPTION:</u> Consider adopting a resolution authorizing a construction contract with Patin Construction, Inc. of Taylor, to repair two pedestrian bridges in Jackson Park in the amount of \$44,000.

**STAFF RECOMMENDATION:** Approve resolution as presented in item description.

<u>ITEM SUMMARY:</u> During the drought last summer the Parks and Leisure Services Department noticed cracks developing in two of the four pedestrian bridges in Jackson Park. At that point, the decision was made to close off access to these two bridges due to safety concerns. The Department hired an Engineering firm to inspect and design repairs for these two bridges. The Engineering firm determined that the cracks in the bridges were directly related to the drought conditions and the movement of the soils under the bridges and that the bridges were unsafe for use.

On June 5, 2012 the City opened bids for the repairs to these two bridges and Patin Construction of Taylor provided the only bid in the amount of \$44,000 which was in line with the estimated amount of repairs provided by the Engineering firm.

According to a dedication plaque on bridge #1 these bridges were constructed in 1941 by the National Youth Administration. These bridges are constructed of concrete and field stone and are an integral part of Jackson Park and they help give the park its character. The repairs will utilize techniques and materials so as not to change the appearance of the bridges.

**FISCAL IMPACT:** A budget adjustment is presented for Council's approval appropriating \$44,000 of General Fund Designated for Capital Projects- Unallocated to account #351-3500-552-6311, project #100848 to fund the construction contract.

#### **ATTACHMENTS:**

Bid Tab Budget Adjustment Resolution

#### Tabulation of Bids Received on June 5, 2012 at 2:30 p.m. Jackson Park Pedestrian Bridge Rehabilitation Bid# 35-03-12

	Bidders
	Patin Construction
	Taylor
Description	
Total Bridge #1	22,000.00
Total Bridge #4	22,000.00
Total Bid Price (Bridge #1 & #4)	\$44,000.00
Bid Bond (required at bid opening)	5%
Local Preference	No
Bond Affidavit	Yes
Credit Check Authorization	Yes

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

Belinda Matthe 5-Jun-12

Belinda Mattke, Director of Purchasing

Date

FΥ	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		DECRE	EASE	
351-3500-552-63-11	100848	Bridges & Culverts-Jackson Park Bridges	\$ 44,000				
351-0000-490-25-82		Transfer In	44,000				
110-9100-591-81-51		Transfer Out-Capital Projects	44,000				
110-0000-352-13-45		Designated for Cap. Proj/Unallocated			\$ 44	4,000	
		Do Not Post					
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TOTAL		<u>L</u>	\$ 132,000		\$ 44	4,000	
TOTAL			Ψ 102,000		Ψ	1,000	
<b>EXPLANATION OF ADJ</b> available.	USTMENT	REQUEST- Include justification for increases AND reas	on why funds in o	dec	reased ac	count a	re
This budget adjustment appro		from General Fund-Designated Capital Projects- Unalloca ark with Patin Construction, Inc.	ted to fund the co	nst	ruction co	intract to	D
DOES THIS REQUEST REQI DATE OF COUNCIL MEETIN		CIL APPROVAL? x June 21, 2012	Yes	No	ı		
WITH AGENDA ITEM?		х	Yes	]No			
Department Head/Division Director		Date		Dis	proved sapproved	t	
Finance		Date		Dis	proved sapproved	t	
City Manager		Date		4 '	proved sapproved	Ŀ	

RESOLUTION NO.
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A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING A CONSTRUCTION CONTRACT WITH PATIN CONSTRUCTION, LLC., OF TAYLOR, TEXAS, TO REPAIR TWO PEDESTRIAN BRIDGES IN JACKSON PARK; IN THE AMOUNT OF \$44,000; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, during the drought last summer, the Parks and Leisure Services Department noticed cracks developing in two of the four pedestrian bridges in Jackson Park – access has been closed off to these two bridges due to safety concerns;

Whereas, on June 5, 2012, the City opened bids for the repairs to these two bridges, however only one bid was received and Staff recommends accepting the bid (\$44,000) from Patin Construction, LLC., of Taylor, Texas;

Whereas, funds are available for this project in Account No. 351-3500-552-6311, Project No. 100848, but an amendment to the FY2011-12 budget needs to be approved to transfer the funds to the appropriate expenditure account; and

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

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

- <u>Part 1:</u> The City Council authorizes the City Manager, or his designee, to execute a contract with Patin Construction, LLC., of Taylor, Texas, after approval as to form by the City Attorney, to repair two pedestrian bridges in Jackson Park, in the amount of \$44,000.
- <u>Part 2:</u> The City Council approves an amendment to the FY2011-12 budget, substantially in the form of the copy attached as Exhibit A, for this project.
- <u>Part 3:</u> 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  $21^{st}$  day of **June**, 2012.

	THE CITY OF TEMPLE, TEXAS
	WILLIAM A. JONES, III, Mayor
ATTEST:	APPROVED AS TO FORM:
Lacy Borgeson	Jonathan Graham
City Secretary	City Attorney



#### **COUNCIL AGENDA ITEM MEMORANDUM**

06/21/12 Item #3(D) Consent Agenda Page 1 of 2

#### **DEPT./DIVISION SUBMISSION & REVIEW:**

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

<u>ITEM DESCRIPTION:</u> Consider adopting a resolution authorizing a construction contract with McLean Construction, Inc, of Killeen for the first project of the 2012 Wastewater Line Replacement Project in an amount not to exceed \$709,907.70, which includes the replacement of wastewater lines at Hillcrest Cemetery and along North 6<sup>th</sup> Street.

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

**ITEM SUMMARY:** For many years the Utility Services Division has experienced numerous wastewater system issues as a result of deteriorating infrastructure. Wastewater lines in the area are clay tile sanitary sewer mains are nearing the end of their useful lives. These pipes must now be replaced to improve maintenance problems and ensure continuous service to this area.

In an effort to address system needs, this project is part of two major projects identified in the recent capital improvement project list. Clark & Fuller PLLC of Temple was retained for engineering services including design, surveying and construction administration for this project. Clark & Fuller's opinion for probable cost for construction was just over \$1,000,000.

On June 5, 2012, three bids were received for the construction work. Per attached bid tabulation McLean Construction, Inc, submitted the low bid in the amount of \$709,907.60. References were checked by Clark & Fuller PLLC and the Public Works staff agrees that McLean Construction is qualified to complete this project. Construction time allotted for the project is 180 days.

**FISCAL IMPACT:** In the FY 2012 CIP \$1,200,000 was designated for design & construction of the wastewater line replacement of Hillcrest Cemetery along North 6<sup>th</sup> street. In October 2011, Council authorized a professional services agreement with Clark & Fuller, PLLC, in the amount of \$133,770.02.

A budget adjustment is presented for Council's approval appropriating \$766,464 of Water & Sewer Retained Earnings-Designated for Capital Projects to account #520-5900-535-6361, project #100807 to fund this construction contract, a change order with Clark & Fuller and appropriate project contingency to complete the project.

06/21/12 Item #3(D) Consent Agenda
Page 2 of 2

ATTACHMENTS: Bid Tabulation Engineer's Letter of Recommendation Project Map
Budget Adjustment
Resolution

## Bid Tabulation Sheet 2012 Wastewater Line Replacement - Hillcrest Cemetery

Bid Date: June 5, 2012

Base Bid			ı	McLean Con	nstru	uction, Inc.		Bell Contr	acto	ors, Inc.	В	Bruce Flaniga	an C	onst., Inc.
No. Item Description	Est. Quan.	UOM	ι	Jnit Price		Total Cost	U	Init Price	•	Total Cost	ι	Jnit Price	Т	otal Cost
1 Site R.O.W. Preparation & Clearing	40	STA	\$	690.00	\$	27,600.00	\$	340.00	\$	13,600.00	\$	5,508.00	\$	220,320.00
2 Mobilization, Bonds, Permits, & Insurance	100%	LS	\$	40,309.00	\$	40,309.00	\$	30,600.00	\$	30,600.00	\$	80,483.00	\$	80,483.00
3 Sawcut, Remove & Replace Ex. HMAC Pavement	2450	SY	\$	33.00	\$	80,850.00	\$	56.00		137,200.00		57.00	\$	139,650.00
4 Sawcut, Remove & Replace Ex.Gravel Pavement Section	2420	SY	\$	15.60	\$	37,752.00	\$	12.00	\$	29,040.00	\$	11.00	\$	26,620.00
5 Disconnect, Cap, & Abandon Existing Mains	100%	LS	\$	3,030.00	\$	3,030.00	\$	2,100.00	\$	2,100.00	\$	14,823.00	\$	14,823.00
6 Demolish & Remove Existing Aerial Sanitary Sewer Crossing	100%	LS	\$	8,073.00	\$	8,073.00	\$	2,600.00	\$	2,600.00	\$	13,486.00	\$	13,486.00
7 Saw Cut, Remove, and Replace Existing Concrete Curb & Gutter	350	LF	\$	12.20	\$	4,270.00	\$	25.00	\$	8,750.00	\$	29.00	\$	10,150.00
8 Saw Cut, Remove, and Replace Existing Reinforced Concrete Pavement Section	40	SY	\$	92.00	\$	3,680.00	\$	23.00	\$	920.00	\$	128.00	\$	5,120.00
9 Saw Cut, Remove, & Replace Existing Concrete Rip Rap Section	100%	LS	\$	5,197.00	\$	5,197.00	\$	760.00	\$	760.00	\$	11,236.00	\$	11,236.00
10 Saw Cut, Remove, & Replace Existing Pervious Concrete Flatwork	12	SY	\$	76.00	\$	912.00	\$	100.00	\$	1,200.00	\$	109.00	\$	1,308.00
11 Saw Cut, Remove, & Replace Existing Reinforced Concrete Flatwork	12	SY	\$	89.00	\$	1,068.00	\$	37.00	\$	444.00	\$	80.00	\$	960.00
12 Provide & Implement a Traffic Control Plan	100%	LS	\$	2,432.00	\$	2,432.00	\$	12,900.00	\$	12,900.00	\$	7,818.00	\$	7,818.00
13 Provide & Implement a Trench Safety Plan	100%	LS	\$	1,120.00		1,120.00		3,200.00		3,200.00	\$	10,590.00		10,590.00
14 Provide & Implement a Storm Water Pollution Prevention Plan	100%	LS	\$	3,081.00	\$	3,081.00	\$	1,800.00	\$	1,800.00	\$	6,688.00	\$	6,688.00
15 Demolish & Remove Existing Sanitary Sewer Manhole	15	EA	\$	1,571.00	\$	23,565.00	\$	890.00	\$	13,350.00	\$	2,875.00	\$	43,125.00
16 Provide 5' Dia. Precast Eccentric Conc Mh w/ Heavy Duty Lid	1	EA	\$	2,411.00	\$	2,411.00	\$	3,600.00	\$	3,600.00	\$	7,381.00	\$	7,381.00
17 Provide 4' Dia. Precast Eccentric Conc Mh, less than 10' in depth, w/ heavy duty lid	12	EA	\$	2,103.00	\$	25,236.00	\$	3,300.00	\$	39,600.00	\$	4,311.00	\$	51,732.00
18 Provide 4' Dia. Precast Eccentric Conc Mh, greater than 10' in depth, w/ heavy duty lid	6	EA	\$	2,310.00	\$	13,860.00	\$	4,700.00	\$	28,200.00	\$	7,168.00	\$	43,008.00
19 Provide 4' Dia. Precast Eccentric Conc Mh w/ heavy duty lid	2	EA	\$	2,344.00	\$	4,688.00	\$	3,300.00	\$	6,600.00	\$	5,760.00	\$	11,520.00
20 Provide Connection to Existing Sanitary Sewer Manhole	1	EA	\$	1,316.00		1,316.00	\$	1,500.00	\$	1,500.00	\$	7,086.00	\$	7,086.00
21 Provide New Internal Drop Connection	2	EA	\$	1,399.00	\$	2,798.00	\$	1,100.00	\$	2,200.00	\$	1,233.00	\$	2,466.00
22 Provide New 6" PVC Cleanout	5	EA	\$	919.00	\$	4,595.00	\$	670.00	\$	3,350.00	\$	886.00	\$	4,430.00
23 Provide Connection to Existing Sanitary Sewer Main	12	EA	\$	1,117.00	\$	13,404.00	\$	560.00	\$	6,720.00	\$	5,356.00	\$	64,272.00
24 New Aerial Sanitary Sewer Crossing	100%	LS	\$	21,849.00	\$	21,849.00	\$	9,500.00	\$	9,500.00	\$	24,502.00	\$	24,502.00
25 New 20" Steel Pipe Encasement	50	LF	\$	78.60	\$	3,930.00	\$	110.00	\$	5,500.00	\$	133.00	\$	6,650.00
26 New 15" PVC SDR 26 Sanitary Sewer Main by Open Cut	1050	LF	\$	62.60	\$	65,730.00	\$	74.30	\$	78,015.00	\$	162.00	\$	170,100.00
27 New 15" SDR 26 Class 160 Pressure Rated Sanitary Sewer Main by Open Cut	341	LF	\$	62.20	\$	21,210.20	\$	76.10	\$	25,950.10	\$	164.00	\$	55,924.00
28 New 12" HDPE DR17 Sanitary Sewer Main by Bursting	1385	LF	\$	115.00	\$	159,275.00	\$	85.00	\$	117,725.00	\$	142.00	\$	196,670.00
29 New 12" PVC SDR 26 Sanitary Sewer Main by Open Cut	307	LF	\$	51.90	\$	15,933.30	\$	57.50	\$	17,652.50	\$	122.00	\$	37,454.00
30 New 10" PVC SDR 26 Sanitary Sewer Main by Open Cut	650	LF	\$	41.20	\$	26,780.00	\$	75.50	\$	49,075.00	\$	218.00	\$	141,700.00
31 New 8" PVC SDR 26 Sanitary Sewer Main by Open Cut	22	LF	\$	42.10	\$	926.20	\$	110.00	\$	2,420.00	\$	75.00	\$	1,650.00
32 New 6" PVC SDR 26 Sanitary Sewer Main by Open Cut	107	LF	\$	32.70	\$	3,498.90	\$	110.00	\$	11,770.00	\$	73.00	\$	7,811.00
33 Provide 4" Sanitary Sewer Service & Service Connection	30	EA	\$	1,123.00	\$	33,690.00	\$	1,100.00	\$	33,000.00	\$	2,285.00	\$	68,550.00
34 New Connection to Existing Building Service	1	EA	\$	3,534.00	\$	3,534.00	\$	1,700.00	\$	1,700.00	\$	4,150.00	\$	4,150.00
35 Provide Misc. Sanitary Sewer Service Pipe	1300	LF	\$	28.10		36,530.00	\$	25.00	\$	32,500.00	\$	71.00	\$	92,300.00
36 All Testing per TCEQ & City of Temple Requirements	100%	LS	\$	5,774.00	\$	5,774.00	\$	2,000.00	\$	2,000.00	\$	18,877.00	\$	18,877.00
								<del></del>						
Total Bid 2012 Wastewater Line Replacement- Hillcrest Cemetery					\$	709,907.60			\$	737,041.60			\$ '	1,610,610.00



215 North Main Street Temple, Texas 76501 (254) 899-0899 Fax (254) 899-0901 www.clark-fuller.com Firm Registration No: F-10384

June 6, 2012

City of Temple Thomas Brown 3210 E. Ave H, Bldg A Temple, Texas 76501

Re: City of Temple-Hillcrest Cemetery Wastewater Line Replacement

Dear Mr. Brown,

We have reviewed the bids for the above referenced project. McLean Construction, Inc. submitted a Total Base Bid of \$709,907.60. Please see the enclosed Bid Tabulation Sheet and Bid Schedule Breakout for detailed information.

The engineer's original opinion of probable cost to construct was \$1,000,236.83.

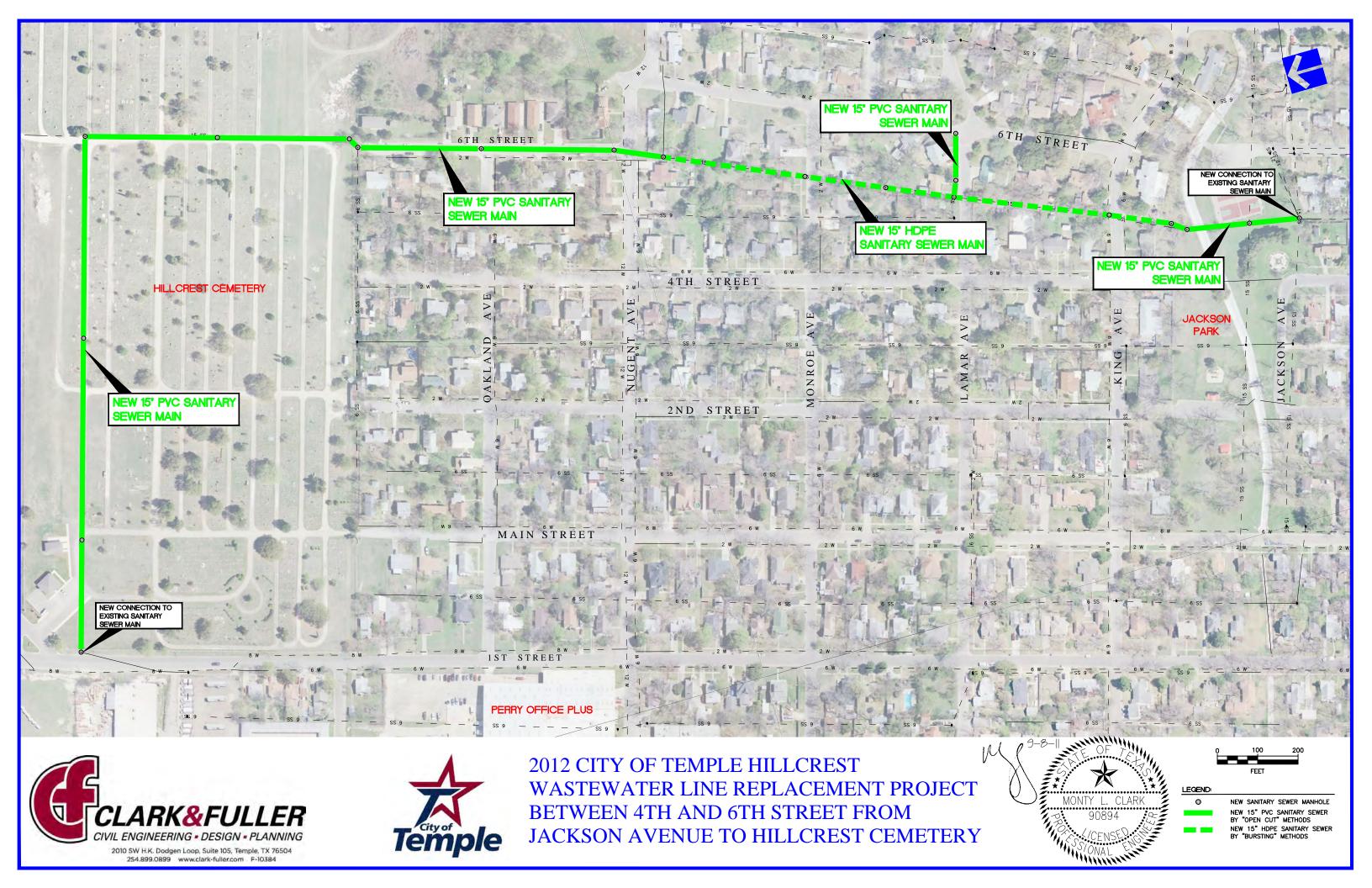
We are recommending that you award the contract to McLean Construction, Inc. We believe, through personal experience, that McLean Construction, Inc. is qualified and is capable of providing the Hillcrest Cemetery Wastewater Line Replacement as required in this project.

We believe that McLean Construction, Inc. is a proven company with many successfully completed projects and we look forward to working with them on this project.

Please advise us as to which contractor you select.

Sincerely,

Monty Clark, P.E., CPESC



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BUDGET ADJUSTMENT FORM								
Use this form to m	•	nents to your budget. All adjustments must bal stments should be rounded to the nearest \$		De	partn	nent.		
	<u>Auju</u>	strients should be rounded to the hearest \$	<u>1.</u>					
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520-5900-535-63-61	100807	SLR-Hillcrest Cemetery & N 6th Street	\$ 766,464	Н			L	
520-0000-372-09-45	100807	Designated Cap Proj-SLR Hillcrest Cemetery		$\blacksquare$		766,464	L	
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TOTAL			\$ 766,464	$\Box$	\$	766,464	T	
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		for the construction contract in the amount of \$709,907.					r	
		at Hillcrest cemetery and along North 6th Street. In addit uller PLLC, minor miscellaneous cost related to the proje						
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DOES THIS REQUEST REQ	UIRE COUN	CIL APPROVAL?	Yes	No	)			
DATE OF COUNCIL MEETIN		June 21, 2012		٦				
WITH AGENDA ITEM?			Yes	No				
WITH AGLINDA HEIVI!			169	TIMO	'			
				Ар	prove	:d		
Department Head/Divisior	n Director	Date		Dis	sappro	oved		

Date

Date

Approved Disapproved

Approved Disapproved

Finance

City Manager

RESOLUTION NO.	RESOLUTION NO.	
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A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING A CONSTRUCTION CONTRACT WITH MCLEAN CONSTRUCTION, INC., OF KILLEEN, TEXAS, FOR THE FIRST PHASE OF THE 2012 WASTEWATER LINE REPLACEMENT PROJECT; IN AN AMOUNT NOT TO EXCEED \$709,907.70; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, for many years, the Utility Services Division has experiences numerous wastewater system issues as a result of deteriorating infrastructure – wastewater lines in the area are clay tile sanitary sewer mains and nearing the end of their useful lives;

Whereas, these pipes must now be replaced to improve maintenance problems and ensure continuous service to this area - in an effort to address system needs, this project is part of two major projects identified in the recent capital improvement project list;

Whereas, on June 5, 2012, the City received three bids for this project, and Staff recommends accepting the bid (\$709,907.70) received from McLean Construction, Inc., of Killeen, Texas;

**Whereas,** funds are available for this project in Account No. 520-5900-535-6361, Project No. 100807, but an amendment to the FY2011-12 budget needs to be approved to transfer the funds to the appropriate expenditure account; and

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

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

- <u>Part 1:</u> The City Council authorizes the City Manager, or his designee, to execute a construction contract, not to exceed \$709,907.70, with McLean Construction, Inc., of Killeen, Texas, after approval as to form by the City Attorney, to for the first phase of the 2012 Wastewater Line Replacement Project.
- <u>Part 2:</u> The City Council approves an amendment to the FY2011-12 budget, substantially in the form of the copy attached as Exhibit A, for this project.
- <u>Part 3:</u> 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 **21**<sup>st</sup> day of **June**, 2012.

	THE CITY OF TEMPLE, TEXAS
	WILLIAM A. JONES, III, Mayor
ATTEST:	APPROVED AS TO FORM:
Lacy Borgeson	 Jonathan Graham
City Secretary	City Attorney



#### COUNCIL AGENDA ITEM MEMORANDUM

06/21/12 Item #3(E) Consent Agenda Page 1 of 1

#### **DEPT./DIVISION SUBMISSION & REVIEW:**

Traci L. Barnard, Director of Finance

<u>ITEM DESCRIPTION:</u> Consider adopting a resolution authorizing an amendment to the professional services agreement with SAIC Energy, Environmental & Infrastructure, LLC in the amount of \$4,000, for the Water and Wastewater Cost of Service and Rate Design Study for a total amended contract amount of \$28,000.

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

<u>ITEM SUMMARY:</u> In January 2012, the city executed a professional services agreement with SAIC Energy, Environment & Infrastructure, LLC in the amount of \$24,000 to conduct an update of the Water and Wastewater Cost of Service and Rate Design Study. A study was originally conducted for the City in 2003 with a subsequent update in 2006. Due to the original cost of the study, Council approval was not necessary at that time.

As the study has progressed, SAIC has spent additional time developing scenarios as it pertains to the Water and Wastewater Capital Improvement Plan. A contract amendment for \$4,000 has been presented by the consultant due to expanded scope has been requested by the City. As a result of the contract amendment, the total contract amount is \$28,000 and now requires Council approval.

**FISCAL IMPACT:** A budget adjustment is presented for Council's approval reallocating \$4,000 to account 520-5000-535-2616 (professional) to fund this contract amendment.

#### ATTACHMENTS:

Budget Adjustment Resolution

|--|

#### **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	INC	REASE		DEC	REASE	
520-5000-535-26-16		Professional	\$	4,000				
520-5400-535-26-16		Professional					4,000	
TOTAL			\$	4,000		\$	4,000	
account are available. This budget adjustment reallo	cates funds f	r REQUEST- Include justification for increase or the contract amendment with SAIC Energy, and wastewater cost of service and rate design	Enviror					∌d
DOES THIS REQUEST REQ DATE OF COUNCIL MEETIN		CIL APPROVAL? X June 21, 2012	Yes		No			
WITH AGENDA ITEM?		Х	Yes		No			
Department Head/Division	n Director	 Date				proved sappro		
Finance	Date	Date			Approved Disapproved			
City Manager		Date				proved sappro		

RESOLUTION NO.	
RESOLUTION NO.	

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING AN AMENDMENT TO THE PROFESSIONAL SERVICES AGREEMENT BETWEEN THE CITY OF TEMPLE, TEXAS, AND SAIC ENERGY, ENVIRONMENTAL & INFRASTRUCTURE, LLC FOR THE WATER AND WASTEWATER COST OF SERVICE AND RATE DESIGN STUDY; FOR A TOTAL AMENDED CONTRACT IN AN AMOUNT OF \$28,000; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, in January 2012, the city executed a professional services agreement with SAIC Energy, Environment & Infrastructure, LLC in the amount of \$24,000 to conduct an update of the Water and Wastewater Cost of Service and Rate Design Study;

Whereas, a study was original conducted for the city in 2003, with a subsequent update in 2006 – due to the original cost of the study, Council approval was not necessary at that time;

Whereas, as the study progressed, SAIC has spent additional time developing scenarios as it pertains to the Water and Wastewater Capital Improvement Plan and therefore a contract amendment has been presented by the consultant due to the expanded scope, and Staff recommends accepting it;

Whereas, funds are available for this project in Account No. 520-5000-535-2616, but an amendment to the FY2011-12 budget needs to be approved to transfer the funds to the appropriate expenditure account; and

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

Now, Therefore, be it Resolved by the City Council of the City of Temple, Texas, That:

Part 1: The City Council authorizes the City Manager, or his designee, to execute an amendment to the professional services agreement with SAIC Energy, Environment & Infrastructure, LLC, after approval as to form by the City Attorney, for the Water and Wastewater Cost of Service and Rate Design Study, to add additional professional services in the amount of \$4,000, for a total amended contract amount of \$28,000.

<u>Part 2:</u> The City Council approves an amendment to the FY2011-12 budget, substantially in the form of the copy attached as Exhibit A, for this project.

<u>Part 3:</u> 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 **21**<sup>st</sup> day of **June**, 2012.

	THE CITY OF TEMPLE, TEXAS
	WILLIAM A. JONES, III, Mayor
ATTEST:	APPROVED AS TO FORM:
Lacy Borgeson	Jonathan Graham
City Secretary	City Attorney



#### **COUNCIL AGENDA ITEM MEMORANDUM**

06/21/12 Item #3(F) Consent Agenda Page 1 of 1

#### **DEPT./DIVISION SUBMISSION & REVIEW:**

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

<u>ITEM DESCRIPTION:</u> Consider adopting a resolution authorizing a purchase agreement with Toter, Inc., Statesville, NC, through the State of Texas Contract for 2,544 plastic 96-gallon refuse containers for the Solid Waste Division from in the amount of \$114,429.12.

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

<u>ITEM SUMMARY:</u> Additional recycling containers are needed to expand the curbside pilot recycling program into two (2) new sectors of the City. Thus far, there have been two pilot programs. One pilot study is in south Temple and one is in east Temple. The next two pilot programs will be located in west and north portions of Temple in order to complete pilot studies in each quadrant of the city.

Current pricing on the State of Texas bid contract for shipping to Temple is \$44.98 each. Considering the economy and transportation services, we believe this to be a good cost per container.

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

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

Description	Account #	Budget	Proposed Expenditure
96 Gallon Carts	110-2330-540-2211	\$114,430	\$114,429.12

#### <u> ATTACHMENTS:</u>

Resolution

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING THE PURCHASE OF 2,544 96-GALLON PLASTIC REFUSE CONTAINERS FOR THE SOLID WASTE DIVISION FROM TOTER, INCORPORATED, OF STATESVILLE, NC, IN THE AMOUNT OF \$114,429.12; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, additional recycling containers are needed to expand the curbside pilot recycling program in two new sectors of the City;

Whereas, thus far, there are two pilot programs in both south Temple and east Temple – the next two pilot programs will be located in the west and north portions of Temple;

Whereas, the city has done business with Toter, Incorporated in the past and finds them to be a responsible vendor - Staff recommends accepting their bid in the amount of \$114,429.12;

Whereas, funds are available in Account No. 110-2330-540-2211 for this purchase; and

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

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

- <u>Part 1:</u> The City Council accepts the bid (\$114,429.12) for the purchase of 2,544 96-gallon plastic refuse containers from Toter, Incorporated, of Statesville, NC, for the Solid Waste Division.
- <u>Part 2:</u> 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.
- <u>Part 3:</u> 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 **21**<sup>st</sup> day of **June**, 2012.

	THE CITY OF TEMPLE, TEXAS
	WILLIAM A. JONES, III, Mayor
ATTEST:	APPROVED AS TO FORM:
Lacy Borgeson	Jonathan Graham
City Secretary	City Attorney



#### **COUNCIL AGENDA ITEM MEMORANDUM**

06/21/12 Item #3(G) Consent Agenda Page 1 of 1

#### **DEPT./DIVISION SUBMISSION & REVIEW:**

Sharon Rostovich, Airport Director

**ITEM DESCRIPTION:** Consider adopting a resolution authorizing the following:

- (1) Release McLane Company, Inc. from the lease on hangars 21 and 22 scheduled to expire December 31, 2014 due to completion and relocation to their large corporate hangar under separate land lease approved in 2011 effective July 1, 2012;
- (2) An amendment to extend the lease on hangar 19 scheduled to expire December 31, 2014 through December 31, 2024 between McLane Company, Inc. and the City of Temple; and
- (3) Assign lease from McLane Company, Inc. to William G. Rosier, d.b.a. Temple Real Estate Investments, Inc. effective August 1, 2012 at the Draughon-Miller Central Texas Regional Airport.

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

<u>ITEM SUMMARY:</u> During negotiation with McLane Company, Inc. for the 25 year land lease for the construction of their large corporate hangar in the newly constructed hangar development area at the Draughon-Miller Central Texas Regional Airport, McLane Company, Inc. requested the City approve a release of hangars 21 and 22 scheduled to expire December 31, 2014 effective July 1, 2012. In addition, McLane Company requested the City approve a ten year extension on the lease of hangar 19 scheduled to expire December 31, 2014 through December 31, 2024 and assign the lease on hangar 19 to William G. Rosier, d.b.a. Temple Real Estate Investments, Inc. effective August 1, 2012.

Hangar 19 is 3,600 square feet and the rent has been calculated at .10 cents per square foot, an increase of .03 cents per square foot for the additional 10 years on the lease. The rental rate will be \$360 per month and the lease term will expire on December 31, 2024. The monthly rent on hangars 21 and 22 will no longer be billed to McLane Company, Inc. effective July 1, 2012. The monthly rent on hangar 19 will no longer be billed to McLane Company, Inc. effective August 1, 2012.

**FISCAL IMPACT:** The Airport will receive \$4,320 in hangar rent per year, an increase of \$1,296 per year on hangar 19.

#### **ATTACHMENTS:**

Resolution

RESOLUTION NO.	
REDUCE TIOT TIO.	

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING A RELEASE OF LEASE WITH MCLANE COMPANY, INC. ON HANGARS 21 AND 22; AUTHORIZING AN AMENDMENT WITH MCLANE COMPANY, INC. TO EXTEND AN EXISTING LEASE ON HANGAR 19; AND ASSIGN FROM MCLANE COMPANY, INC. TO WILLIAM G. ROSIER; AND PROVIDING AN OPEN MEETINGS CLAUSE.

**Whereas,** the City currently has a lease with McLane Company, Inc., for Hangars 19, 21, 22, and 23 at the Draughon-Miller Central Texas Regional Airport;

Whereas, during negotiations with McLane Company, Inc. for the 25 year land lease, McLane Company, Inc. requested the City approve a release of lease on hangars 21 and 22, effective July 1, 2012 and which are presently scheduled to expire December 31, 2014;

Whereas, McLane Company, Inc. has further requested the City to approve a ten year extension on the lease of hangar 19 through December 31, 2024, which is presently scheduled to expire December 31, 2014, and assign the lease on hangar 19 to William G. Rosier, d/b/a Temple Real Estate Investments, Inc. effective August 1, 2012;

**Whereas**, hangar 19 is 3,600 square feet and the rent has been calculated at .10 cents per square foot – which is an increase of .03 cents per square foot for the additional ten year lease;

Whereas, the rental rate will be set at \$360 per month and the least term will expire on December 31, 2024 – the monthly rent on hangars 21 and 22 will no longer be billed to McLane Company, Inc. effective July 1, 2012 and the monthly rent on hangar 19 will no longer be billed to McLane Company, Inc. effective August 1, 2012;

**Whereas,** the airport will receive \$4,320 in hangar rent per year – an increase of \$1,296 per year on hangar 19.

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

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 release of lease of McLane Company, Inc. on hangars 21 and 22 effective July 1, 2012, execute an amendment to extend the lease on hangar 19 with McLane Company, Inc., setting the new expiration date as December 31, 2024, and assigning the lease on hangar 19 from McLane Company Inc. to William G. Rosier, d/b/a/ Temple Real Estate Investments, Inc., effective August 1, 2012.

<u>Part 2:</u> The City Council authorizes the City Manager, or his designee, to execute any additional documents, after approval as to form by the City Attorney, that may be necessary for the lease transfers.

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

PASSED AND APPROVED this the 21st day of June, 2012.

	THE CITY OF TEMPLE, TEXAS
	WILLIAM A. JONES, III, Mayor
ATTEST:	APPROVED AS TO FORM:
Lacy Borgeson	Jonathan Graham
City Secretary	City Attorney



#### COUNCIL AGENDA ITEM MEMORANDUM

06/21/12 Item #3(H) Consent Agenda Page 1 of 4

#### **DEPT./DIVISION SUBMISSION & REVIEW:**

Kim Foutz, Assistant City Manager/Acting Planning Director

<u>ITEM DESCRIPTION:</u> SECOND READING - Z-FY-12-36: Consider adopting an ordinance authorizing a rezoning from Agricultural District (AG) to General Retail District (GR) on two 0.75 acre tracts of land situated in the John Simmons Survey, A-737, Bell County, Texas located at 5412 North SH 317.

**P&Z COMMISSION RECOMMENDATION:** At its May 7, 2012 meeting, the Planning and Zoning Commission voted 8/0 in accordance with Staff recommendation to recommend approval of a rezoning from Agricultural District (AG) to General Retail District (GR). Commission member Pope was absent.

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

Staff recommends approval of Z-FY-12-36, the requested rezoning to GR District for the following reasons:

- 1. The request 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.

**ITEM SUMMARY:** Please refer to the Staff Report and draft minutes of case Z-FY-12-36, from the Planning and Zoning Commission meeting, May 7, 2012.

The applicant requests this rezoning to allow a real estate office and future retail uses associated with hunting and shooting sports on the subject properties. A rezoning from the AG to the GR zoning district would allow many uses that would not have been allowed before on the subject properties. Those uses include, but are not limited to, the following:

Residential uses
Single Family Attached
Single Family Detached
Duplex
Home for the aged

Nonresidential uses
Retail Sales and Service Uses
Office
Restaurant
Business School

Some <u>uses prohibited</u> in the General Retail District include: apartment, triplex, mini-storage warehouse, welding or machine shop, wrecking yard, and building material sales.

**SURROUNDING PROPERTY AND USES:** The following table shows the subject property, existing zoning and current land uses:

Direction	Zoning	Current Land Use	Photo
Subject Property	AG	Residential	
North	AG	Residential	
South	AG	Residential	
East	SF1	Residential	

Direction	Zoning	Current Land Use	Photo
West	AG	Residential	

<u>COMPREHENSIVE PLAN COMPLIANCE:</u> 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?
СР	Map 3.1 - Future Land Use and Character	The future land use and character map designates the entire property as Suburban Commercial. This designation is appropriate for office, retail and services uses adjacent to and abutting residential neighborhoods and other areas where the community's image and aesthetic value is to be promoted, such as at "gateways" and high-profile corridor locations.	Yes
СР	Map 5.2 - Thoroughfare Plan	The Thoroughfare Plan designates North State Highway 317 as a major arterial. Major arterials are appropriate for office and retail uses.	Yes
СР	Goal 4.1 - Growth and development patterns should be consistent with the City's infrastructure and public service capacities.	A water line runs along the property's frontage at North State Highway 317. A sewer line runs along a portion of the east side of North State Highway 317 in this area.	Yes
СР	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.	recommended Suburban Commercial designation along North State Highway 317 and is compatible with the existing mix of uses.	Yes
STP	Trails Master Plan Map	The Sidewalk and Trails Plan calls for a local connector trail along the east side North State Highway 317.	Yes

<sup>\* =</sup> See Comments Below CP = Comprehensive Plan STP = Sidewalk and Trails Plan

06/21/12 Item #3(H) Consent Agenda Page 4 of 4

<u>DEVELOPMENT REGULATIONS:</u> The General Retail District allows most retail uses including retail sales, restaurants, grocery stores, department stores, offices, and residential uses except apartments. It is intended to serve larger service areas than neighborhoods. The General Retail District should be located at the intersection of major arterials and should provide total on-site traffic maneuvering such that traffic entering and exiting the facility should have room to turn, stack and park within the confines of the retail facility.

<u>STAFF ANALYSIS:</u> The requested rezoning from AG to GR is a reasonable request with the subject properties being located along a major arterial such as North State Highway 317. It is typical to see undeveloped land and residential properties along a major arterial transition to a mix of non-residential uses. The requested General Retail zoning district agrees with the recommendation of Suburban Commercial development is this area.

If approved, this rezoning would require the existing residential property to be brought into compliance with codes associated with nonresidential development such as access/circulation/drive approach standards, parking requirements, signage, and buffer screening with a privacy fence or hedge adjacent to residential uses.

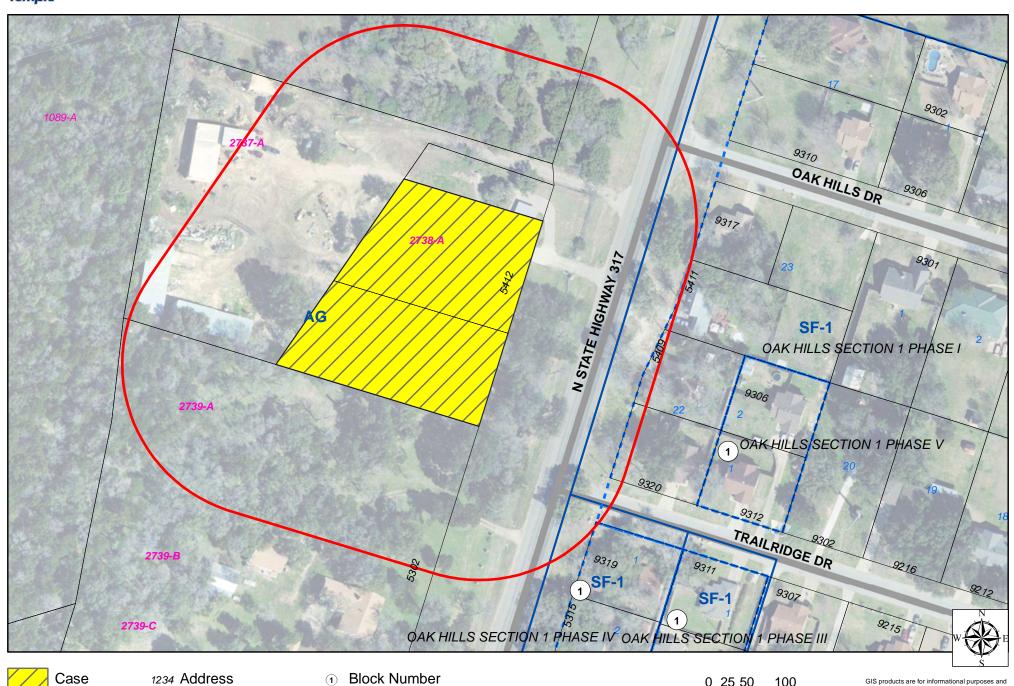
<u>PUBLIC NOTICE:</u> Eight notices of the Planning and Zoning Commission public hearing were sent out to property owners within 200 feet of the property in question, as required by State law and City Ordinance. As of Friday, May 11, 2012, at 12:00 PM, one notice was returned in favor of the request and two notices were returned in opposition to the request.

FISCAL IMPACT: N/A

#### **ATTACHMENTS:**

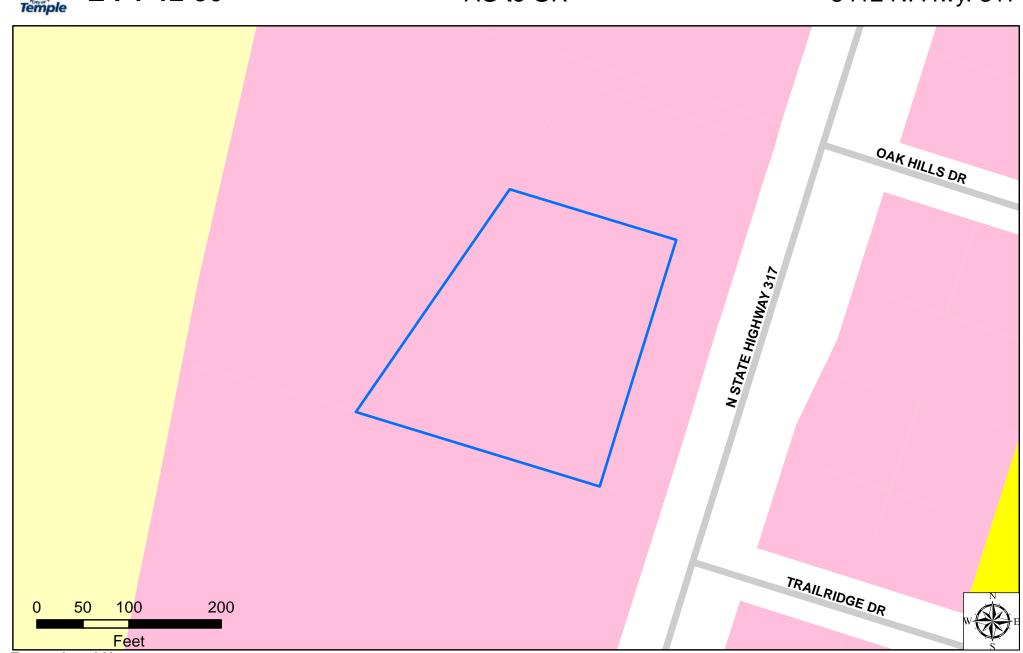
Aerial & Zoning Map Land Use and Character Map Utility and Thoroughfare Plan Map Notice Map Response Letters P&Z Minutes (05/07/12) Ordinance



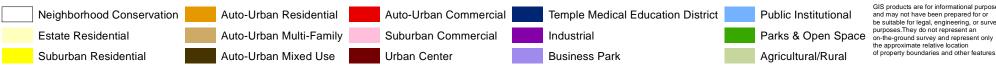


1234-A Outblock Number

GIS products are for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. They do not represent an on-the-ground survey and represent only the approximate relative location of property boundaries and other features.



#### **Future Land Use**

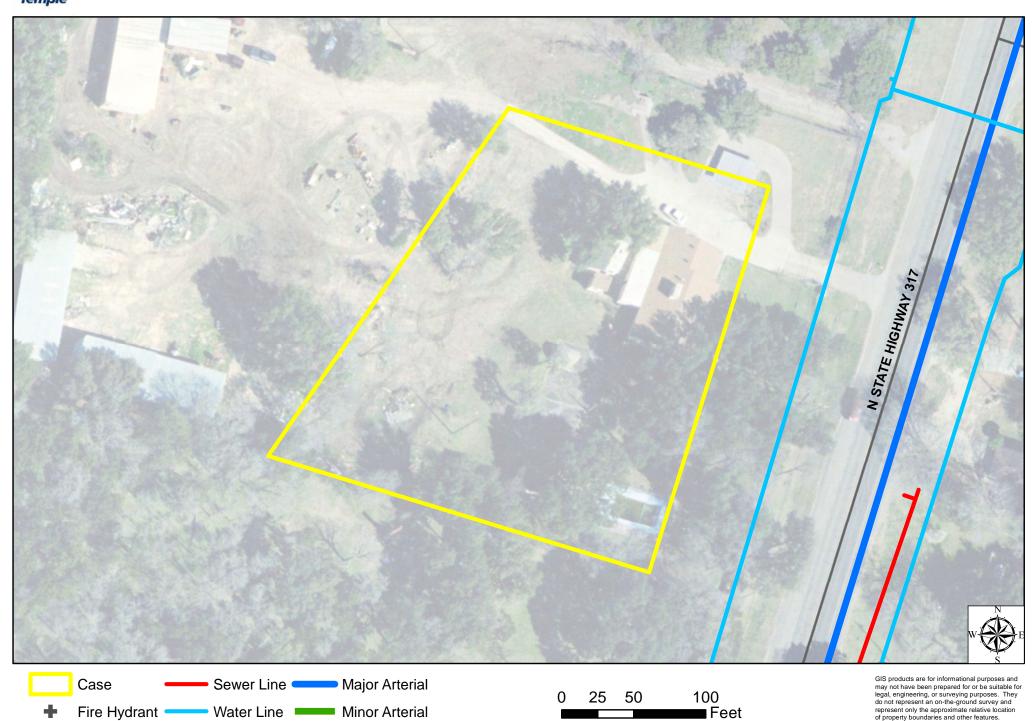


GIS products are for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying of property boundaries and other features.

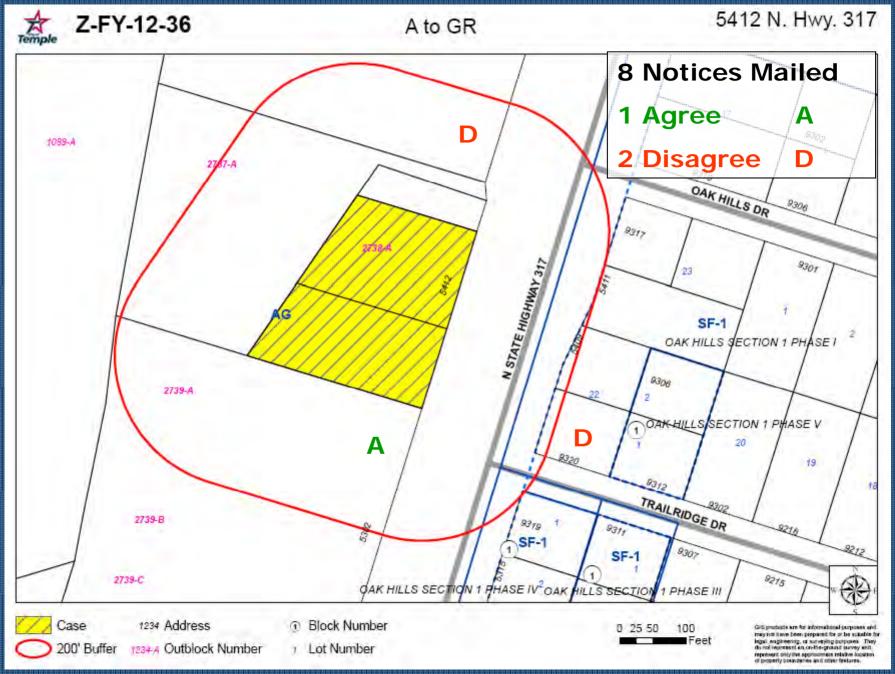
Fire Hydrant

Water Line Minor Arterial





GIS products are for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. They do not represent an on-the-ground survey and represent only the approximate relative location of property boundaries and other features.





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

Franky L. Cagle 5302 North State Highway317 Belton, Texas 76513

Zoning Application Number: Z-FY-12-36 Project Manager: Tammy Lyerly
Location: 5412 N SH 317
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 (v) approval ( ) denial of this request.
Comments:
Franky L. Cagle Signature Print Name
Please mail or hand-deliver this comment form to the address shown below, no later than May 7, 2012  City of Temple  RECEIVED

Number of Notices Mailed: 8

Date Mailed:

City of Temple

Room 201

**Planning Department** 

Temple, Texas 76501

**Municipal Building** 

April 26, 2012

MAY 0 3 2012

City of Temple Planning & Development



# RESPONSE TO PROPOSED REZONING REQUEST CITY OF TEMPLE

Patricia O'Connor 5508 North State Highway 317 Belton, Texan 76513

Zoning Application Number: Z-FY-12-36 Project Manager: Tammy Lyerly Location: 5412 N SH 317 The proposed rezoning is the area shown in hatched marking on the attached map. Because you own property within 200 feet of the requested change, your opinions are welcomed. Please use this form to indicate whether you are in favor of the possible rezoning of the property described on the attached notice, and provide any additional comments you may have. I recommend ( ) approval ( ) denial of this request. Comments: I am strongly opposed to the rezoning request referenced above. The new area is immediately adjacent to my property and the increase in noise and congested traffic that would arise with a retail store is totally opposite of why I purchased this land and house. As you know, Highway 317 is scheduled to expand to four lanes and to add retail store in addition to the expansion can only bring more unwanted noise into a neighborhood that once was quite peaceful.

Please mail or hand-deliver this comment form to the address shown below, no later than May 7, 2012

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

RECEIVED

MAY 0 4 2012

City of Temple
Planning & Development

Number of Notices Mailed: 8

Date Mailed:

April 26, 2012

Dr. Patricia O'Connor

**Print Name** 



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

Jimmy Etux Martha Beaver 9320 Trailridge Drive Temple, Texas 76502

Zoning Application Number: Z-FY-12-36 Project Manager: Tammy Lyerly

Location: 5412 N SH 317

Comments:

I recommend () approval

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.

Traffic	y naised x unpleasant, Shring	till
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that get	esperty.	
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20 July	Bears Trantha & Blance - Timmy 1. Reaver	MADTURN

(X) denial of this request.

Please mail or hand-deliver this comment form to the address shown below, no later than May 7, 2012

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

RECEIVED

REQUER

MAY 0 2 2012

City of Temple

Number of Notices Mailed: 8

Date Mailed:

April 26, 2012

#### **EXCERPTS FROM THE**

#### **PLANNING & ZONING COMMISSION MEETING**

#### **MONDAY, MAY 7, 2012**

#### **ACTION ITEMS**

Item 2: Z-FY-12-36 - Hold a public hearing to discuss and recommend action on a rezoning from Agricultural District (AG) to General Retail District (GR) on two 0.75 acre tracts of land situated in the John Simmons Survey, A-737, Bell County, Texas, located at 5412 North SH 317. (Sandy Adcock for James Ledger)

Ms. Tammy Lyerly, Planner, stated the applicant is asking for a rezoning for General Retail (GR) district to allow offices and retail uses in an existing residential property which would also need to be upgraded for nonresidential development, if approved.

The subject property is very long with the existing house on the north end and the south having a lot of trees and a swimming pool. This property fronts North State Highway 317 and is located across from Oak Hills Drive and Trail Ridge Drive.

Surrounding properties included Single Family (SF) residential to the south, east, and west, and to the north is SF residential with a lot of vegetation and trees.

Ms. Lyerly cites some of the allowed GR uses. Prohibited uses include apartments, triplexes, mini storage warehouses, welding or machine shop, wrecking yard, and building materials sales.

In order for the property to be developed as nonresidential uses there are some standards the developer would need to meet which include buffering, upgrading the parking, fencing, screening refuse area, sign regulations, and masonry. Sidewalks would be included in the future if more than 50% of renovation occurred.

The Future Land Use and Character Map designate the property as Suburban-Commercial which complies with the request.

State Highway 317 is a major arterial which is appropriate for GR uses. There is a sewer line available and water lines are located along 317 on both sides.

Eight notices were mailed out to property owners within 200 feet of the subject property. One was received in approval and two were opposed with concerns of traffic and noise along 317.

Staff recommends approval of the request from AG to GR since the request complies with the Future Land Use and Character Map, the Thoroughfare Plan, and adequate public facilities are available in the area.

Chair Martin opened the public hearing.

Mr. Jack Folsom, 3117 Riverplace, Belton, Texas stated he was in support of this request. Mr. Folsom is a broker at Reed Realty in Temple and commented when SH 317 is renovated, the subject property will become less desirable as residential property. This request would be

perfect for the property. Mr. Folsom felt more retail uses would be coming into the area in the future.

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

Commissioner Rhoads made a motion to approve Item 2, **Z-FY-12-36**, as presented and Commissioner Talley made a second.

Motion passed: (8:0) Commissioner Pope absent

# ORDINANCE NO. <u>2012-4534</u> (PLANNING NO. Z-FY-12-36)

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, APPROVING A REZONING FROM AGRICULTURAL DISTRICT (AG) TO GENERAL RETAIL DISTRICT (GR) ON TWO 0.75 ACRE TRACTS OF LAND SITUATED IN THE JOHN SIMMONS SURVEY, A-737, BELL COUNTY, TEXAS, LOCATED AT 5412 NORTH SH 317; 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:

- <u>Part 1</u>: The City Council approves a rezoning from Agricultural District (AG) to General Retail District (GR) on two 0.75 acre tracts of land situated in the John Simmons Survey, A-737, Bell County, Texas, located at 5412 North SH 317, more fully described in Exhibit A, attached hereto and made a part hereof for all purposes.
- <u>Part 2:</u> The City Council directs the Director of Planning to make the necessary changes to the City Zoning Map accordingly.
- <u>Part 3</u>: 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.
- <u>Part 4</u>: 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.
- <u>Part 5</u>: 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 7<sup>th</sup> day of **June**, 2012.

# PASSED AND APPROVED on Second Reading on the 21st day of June, 2012. THE CITY OF TEMPLE, TEXAS WILLIAM A. JONES, III, Mayor ATTEST: APPROVED AS TO FORM: Lacy Borgeson Jonathan Graham

City Attorney

City Secretary



#### **COUNCIL AGENDA ITEM MEMORANDUM**

06/21/12 Item #3(I) Consent Agenda Page 1 of 5

#### **DEPT. / DIVISION SUBMISSION & REVIEW**

Autumn Speer, Community Services Director

<u>ITEM DESCRIPTION:</u> SECOND READING - Z-FY-12-38: Consider adopting an ordinance authorizing a rezoning from Single Family Two District (SF-2) to Single Family Three District (SF-3) on Lots 12 and 13, Block 9, Carriage House Village Phase I, located at 1917 and 1921 Carriage House Village Drive.

<u>P&Z RECOMMENDATION:</u> At its May 7, 2012 meeting, the Planning and Zoning Commission voted 7/0/1 (one abstention-Pilkington) in accordance with Staff recommendation to recommend approval of a rezoning of two lots from Single Family Two District (SF-2) to Single Family Three District (SF-3). Commission member Pope was absent.

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

Staff recommends approval of a rezoning from SF-2 to SF-3 for the following reasons:

- 1. The request does comply with the Future Land Use and Character Map
- 2. The request complies with the Thoroughfare Plan.
- 3. Public facilities will be available to subject property.

<u>ITEM SUMMARY:</u> Please refer to the draft minutes of case Z-FY-12-38 from the Planning and Zoning Commission meeting on May 7, 2012. The current SF-2 District zoning requires a setback of 25'. The developer requests this rezoning to allow a 15' front yard setback in order to accommodate the existing utilities that have been installed and a bulb-out that was originally planned but not built. Although the setback will be smaller, this change will allow the new houses to align with the existing house.



<u>SURROUNDING PROPERTY AND USES:</u> The following table shows the subject property, existing zoning and current land uses:

Direction	Zoning	Current Land Use	Photo
Subject Proper- ies	SF-2	Undeveloped Land	
North	SF-2	Single-Family Residential	

			rage 3 01 3
South	SF-2	Single-Family Residential and undeveloped land	
East	SF-2	Single Family Residential	



<u>COMPREHENSIVE PLAN COMPLIANCE:</u> The proposed rezoning relates to the following goals, objectives or maps of the Comprehensive Plan and Sidewalk and Trails Plan:

Document	Policy, Goal, Objective or Map		Compliance?
СР	Map 3.1 - Future Land Use and Character (FLUP)	The future land use and character map designates the entire property as Auto Urban Residential. The requested SF-3 does comply with this designation.	Y
СР	Map 5.2 - Thoroughfare Plan	Carriage House Village Drive is a local street.	Υ
СР	Goal 4.1 - Growth and development patterns should be consistent with the City's infrastructure and public service capacities	Water and wastewater lines are located along Carriage House Village Drive directly adjacent to and south of the subject property.	Υ
STP	Temple Trails Master Plan Map	The Trails Master Plan does not call for any trails in the vicinity. Carriage House Village is a local street therefore sidewalks are not required.	Υ

<u>DEVELOPMENT REGULATIONS:</u> The SF3 zoning district permits single-family detached residences and related accessory structures and provides single-family development at urban densities in locations well served by public utilities and roadways. The district should have adequate thoroughfare access and be relatively well connected with community and neighborhood facilities such as schools, parks, and shopping areas and transit services. The current SF-2 District zoning requires a setback of 25'. The SF-3 district will allow for a 15' front yard setback.

<u>PUBLIC NOTICE:</u> 10 notices of the Planning and Zoning Commission public hearing were sent out to property owners within 200-feet of the property in question, as required by State law and City Ordinance. As of Wednesday, May 30 at 12:00 PM, no notices were returned in favor of and one notice was returned in opposition to the request.

The newspaper printed notice of the Planning and Zoning Commission public hearing on April 26, 2012 in accordance with state law and local ordinance.

FISCAL IMPACT: Not Applicable

#### **ATTACHMENTS:**

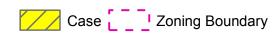
Zoning and Location Map
Land Use and Character Map
Notice Map
Thoroughfare, Sidewalk, and Trails Plan Map
Utility &Thoroughfare Plan Map
Notice Responses
P&Z Minutes
Ordinance

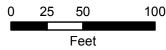


SF2 To SF3

#### 1917 + 1921 Carriage House Drive









SF2 To SF3

1917 + 1921 Carriage House Drive







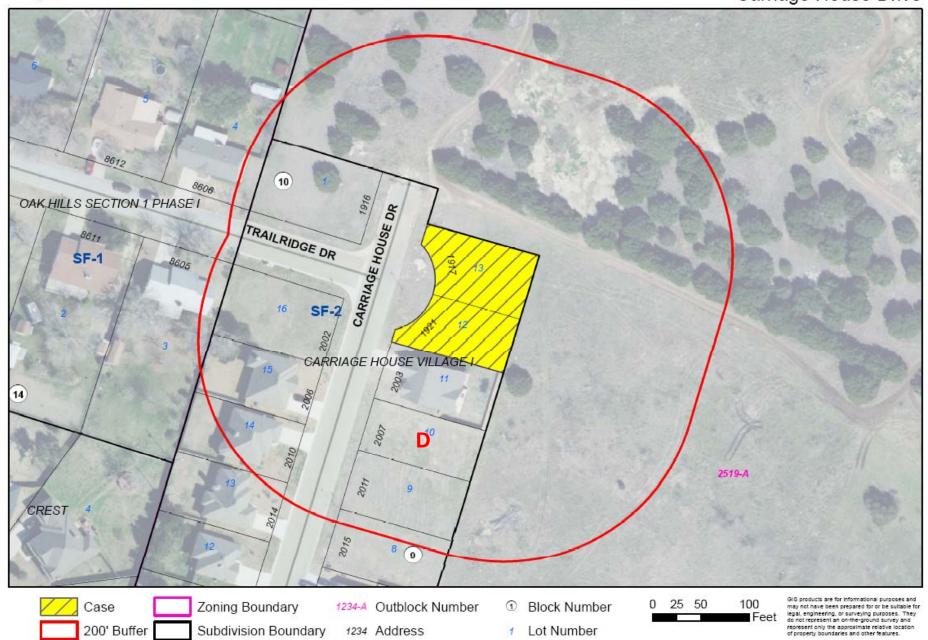
Public Institutional

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SF2 To SF3

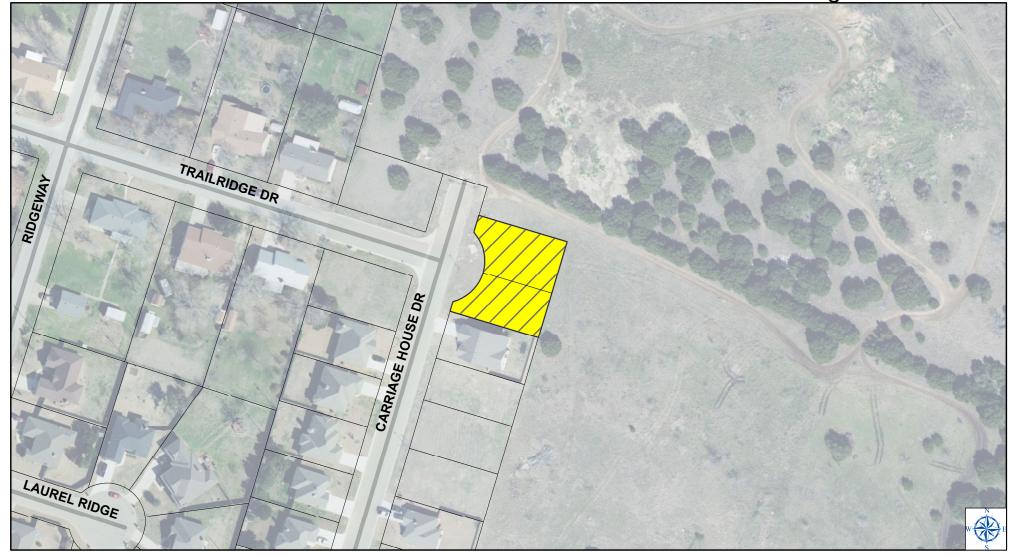
1917 + 1921 Carriage House Drive





#### SF2 To SF3

### 1917 & 1921 Carriage House Drive





Under Design/Construction Community-Wide Connector Trail
 Proposed Community-Wide Connector Trail
 Existing Local Connector Trail

Expressway

Major Arterial

Proposed Major Arterial

Thoroughfare

Proposed K-TUTS
Minor Arterial
Proposed Minor Arterial
Collector

Conceptual Collector

**Proposed Local Connector Trail** 

Fire Hydrant — Water Line — Minor Arterial

SF2 TO SF3

1917 + 1921 Carriage House Drive



25

50

100 ■ Feet



# RESPONSE TO PROPOSED REZONING REQUEST CITY OF TEMPLE

Rita Ronnebaum 8619 Surrey Drive Temple, Texas 76502

Zoning Application Number: <u>Z-FY-12-38</u> Project Manager: <u>Kim Foutz</u>

Location: 1917 and 1921 Carriage House Village Drive

I recommend ( ) approval

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.

Comments: * I don't believe anything has changed in the subdivision to
Warrant this reguest & However of could consider this
Change if the builder was required to make room for 3
behilles in front of the Rothe not just 2 as it is Currently
set up. We must maintain our Covenant restrictions to
keep this neighborhoods values up.
My apologies for being tardy - I have been out of town! Thank To
Thy appropries for Deing randy - I have been our of rown: Thank for
Vad 1

(V) denial of this request.

Please mail or hand-deliver this comment form to the address shown below, no later than May 7, 2012

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

Number of Notices Mailed: 10

Date Mailed:

April 26, 2012

KITA KUNNEDAUM

#### **EXCERPTS FROM THE**

#### **PLANNING & ZONING COMMISSION MEETING**

#### **MONDAY, MAY 7, 2012**

#### **ACTION ITEMS**

Item 3: Z-FY-12-38 - Hold a public hearing to discuss and recommend action on a rezoning from Single Family Two District (SF2) to Single Family Three District (SF3) on Lots 12 and 13, Block 9, Carriage House Village Phase I. (Applicant: Mike Pilkington)

Commissioner Pilkington stated he would have to recuse himself from Item 3 since he was the owner of the property.

Ms. Kim Foutz, Acting Planning Director, stated the applicant was Mr. Mike Pilkington and was requesting a rezoning from Single Family Two (SF2) to Single Family Three (SF3) in order to continue the current single family use zoning and to deal with setbacks. SF2 requires a 25 foot setback and the proposed SF3 zoning allows for a 15 foot setback. This reduction is requested to accommodate existing utilities located in a bulb out. The actual street does not include the bulb out.

Ms. Foutz shows an example of the two lots with the bulb out. Under SF2 the setback measurement from the bulb out would result in the homes being set too far back on the sites. SF3 would reduce the setback and keep the homes more in alignment with the existing homes. Existing zoning in the area is SF2 on all sides.

Surrounding properties include single family residential and a vacant lot to the south, and undeveloped land to the east, all zoned SF2.

The Thoroughfare Plan designates Carriage House as a local street. There are no trails included in this plan. The Future Land Use and Character Map designate this area as Auto Urban Residential and the request complies. Adequate utilities are available to serve the site.

Single Family zoning allows townhomes and patio homes. The applicant wishes to continue as single family residential in order to reduce the 25 foot setback.

Ten notices were mailed out and no notices were returned in favor or opposition.

Staff recommends approval of this request since it is in compliance with the Future Land Use and Character Map, the Thoroughfare Plan, the Master Trails Plan, and has adequate public facilities to serve the site.

Vice-Chair Staats asked if the lots would be replatted to straighten out the bulb out and Ms. Foutz stated the property line would remain as is.

Chair Martin opened the public hearing.

There being no speakers, Chair Martin closed the public hearing.

Commissioner Sears made a motion to approve Item 3, **Z-FY-12-38**, and Commissioner Jones made a second.

Motion passed: (7:0:1)

Commissioner Pilkington abstained; Commissioner Pope absent

# ORDINANCE NO. <u>2012-4535</u> [PLANNING NO. Z-FY-12-38]

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, APPROVING A ZONING CHANGE FROM SINGLE FAMILY TWO DISTRICT (SF2) TO SINGLE FAMILY THREE DISTRICT (SF3) ON LOTS 12 AND 13, BLOCK 9, CARRIAGE HOUSE VILLAGE PHASE I, LOCATED AT 1917 AND 1921 CARRIAGE HOUSE VILLAGE DRIVE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND PROVIDING AN OPEN MEETINGS CLAUSE.

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

- <u>Part 1</u>: The City Council approves a zoning change from Single Family Two District (SF2) to Single Family Three District (SF3) on lots 12 and 13, block 9, Carriage House Village Phase I, located at 1917 and 1921 Carriage House Village Drive, more fully described in Exhibit A, attached hereto and made a part hereof for all purposes.
- <u>Part 2:</u> The City Council directs the Director of Planning to make the necessary changes to the City Zoning Map accordingly.
- <u>Part 3</u>: 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.
- <u>Part 4</u>: 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.
- <u>Part 5</u>: 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  $7^{\rm th}$  day of June, 2012.

PASSED AND APPROVED on Second Reading on the **21**<sup>st</sup> day of **June**, 2012.

	<i>β</i>
	THE CITY OF TEMPLE, TEXAS
	WILLIAM A. JONES, III, Mayor
ATTEST:	APPROVED AS TO FORM:
Lacy Borgeson	Jonathan Graham
City Secretary	City Attorney



#### **COUNCIL AGENDA ITEM MEMORANDUM**

06/21/12 Item #3(J) Consent Agenda Page 1 of 5

#### **DEPT. / DIVISION SUBMISSION & REVIEW:**

Autumn Speer, Community Services Director

<u>ITEM DESCRIPTION</u>: SECOND READING - Z-FY-12-39: Consider adopting an ordinance authorizing a rezoning from Single Family One District (SF-1) to Office One District (O-1) on a  $0.50 \pm$  acre tract of land out of the Maximo Moreno Survey, Abstract No. 14, Bell County, Texas, located at 3606 South 5<sup>th</sup> Street.

**P&Z RECOMMENDATION:** At its May 7, 2012 meeting, the Planning and Zoning Commission voted 8/0 to recommend approval of a rezoning 0.50 acres from Single Family One District (SF-1) to Planned Development Office One (PD-O-1) excluding duplexes. Commission member Pope was absent.

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

Staff recommends approval of Z-FY-12-39, the requested rezoning to O-1 District for the following reasons:

- 1. The request 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.

**ITEM SUMMARY:** A rezoning from the SF-1 to the O-1 zoning district would allow many uses that would not have been allowed before. Those uses include, but are not limited to, the following:

Residential uses Nonresidential uses

Single Family Attached Pre-school Single Family Detached Office

Townhouse Labs (med, dental, science, research)

Duplex (delete if P&Z recom) Veterinary Office (no kennels)

Home for the aged (C)

Bank

Studio

More intense or atypical uses include: group home or halfway house, and home for aged.

<u>SURROUNDING PROPERTY AND USES:</u> The following table shows the subject property, existing zoning and current land uses:

Direction	Zoning	Current Land Use	Photo
Subject Property	SF-1	Single family residential	
North	SF-1	Single family residential	

		ı	Page 3
South	SF-1	Undeveloped land	
East	SF-1	Undeveloped land	
West	SF-1	Undeveloped land backing up to city trail	

<u>COMPREHENSIVE PLAN COMPLIANCE:</u> 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?
СР	Map 3.1 - Future Land Use and Character	Suburban commercial with TMED to the east across 5 <sup>th</sup> St and open space to the west	Yes
СР	Map 5.2 - Thoroughfare Plan	S. 5 <sup>th</sup> is a Major Arterial Street	Yes
СР	Goal 4.1 - Growth and development patterns should be consistent with the City's infrastructure and public service capacities.	3 and 6"" water line and 12" across the street. 8" sewer line to rear	Yes
СР	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.	to the existing residential and serves well as a transition to	Yes
STP	Trails Master Plan Map	A city-wide spine is required. An existing trail is already constructed west of the property	Yes

<sup>\* =</sup> See Comments Below CP = Comprehensive Plan STP = Sidewalk and Trails Plan

<u>DEVELOPMENT REGULATIONS:</u> The Office 1 zoning district permits low rise garden-type office development providing professional, financial, medical, and other office services to residents in nearby neighborhoods. The O-1 District should be located convenient to residential areas and should be complimentary to the character of the residential neighborhood served. This district is designed to be a transitional zone.

Buildings in the Office 1 District may be built to any legal height. Nonresidential buildings over 40 feet in height must provide additional front and side setbacks. Minimum lot sizes, setbacks, and building coverage provisions apply. Continuous buffering is required between nonresidential or multiple-family uses and residential zoning districts. Buffering must consist of either evergreen hedges a minimum of 6 feet high or a wood fences or masonry wall 6 to 8 feet high.

**STAFF ANALYSIS:** This developed property is located on a heavily traveled Major Arterial street, South 5th. The entire developable area is comprehensive planned for Suburban Commercial, primarily due to its location on a Major Arterial and near a major intersection. Surrounding properties are all zoned SF-1, however over a period of time, the surrounding properties will likely convert to commercial uses also. The O-1 zoning district serves well for this transition, particularly because the TMED District begins directly across the street.

Due to the proposed change in use, when the property is utilized for commercial purposes, the property would need to be brought into compliance with specific codes including but not limited to access/circulation/drive approach, parking, buffer fence or hedge, sidewalks/trails, and signage.

Please note that the Planning and Zoning Commission expressed concerns about allowing duplexes in this area and therefore recommended a PD-O-1 excluding duplexes in lieu of the straight O-1 zoning.

<u>PUBLIC NOTICE:</u> Staff mailed notices of the Planning and Zoning Commission's public hearing to the 4 property owners within a 200-foot radius surrounding the subject property. As of Wednesday, May 30, 2012 at 12:00 PM, one notice was returned in favor of the request and one was returned in opposition to the request. The newspaper printed notice of the Planning and Zoning Commission public hearing on April 26, 2012 in accordance with state law and local ordinance.

**FISCAL IMPACT:** Not Applicable

### **ATTACHMENTS:**

Zoning and Location Map
Land Use and Character Map
Notice Map
Thoroughfare, Sidewalk, and Trails Plan Map
Utility &Thoroughfare Plan Map
Notice Responses
P&Z Minutes
Ordinance



Zoning

Parcel

1234 Address

**Z-FY-12-39** 

SF1 TO 01

3606 S. 5th. Street



Lot Number

legal, engineering, or surveying purposes. They do not represent an on-the-ground survey and represent only the approximate relative location of property boundaries and other features.

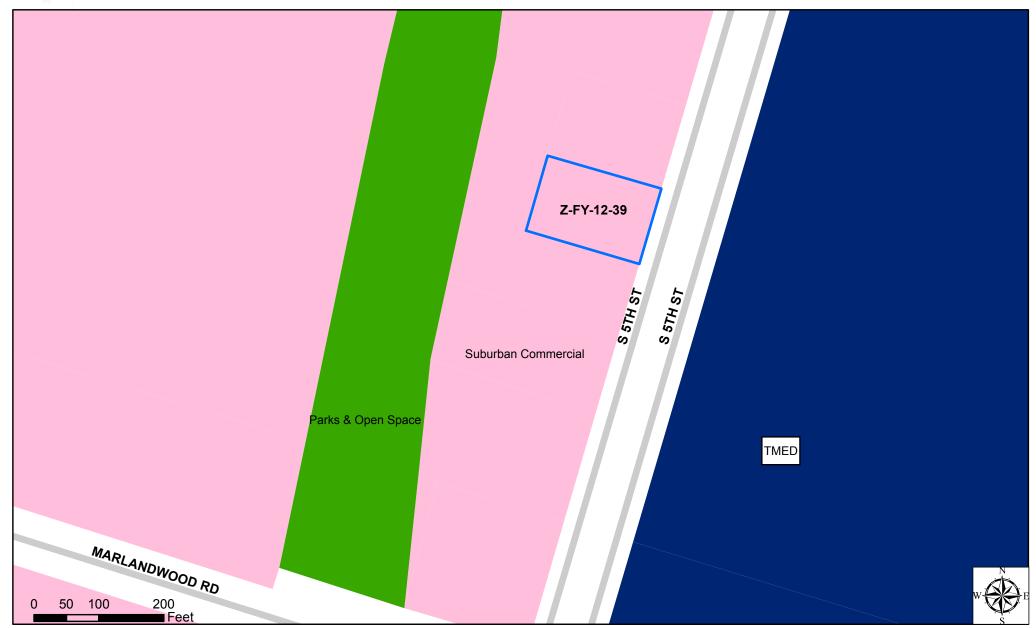
Feet



**Z-FY-12-39** 

SF1 To O1

3606 S. 5th. Street



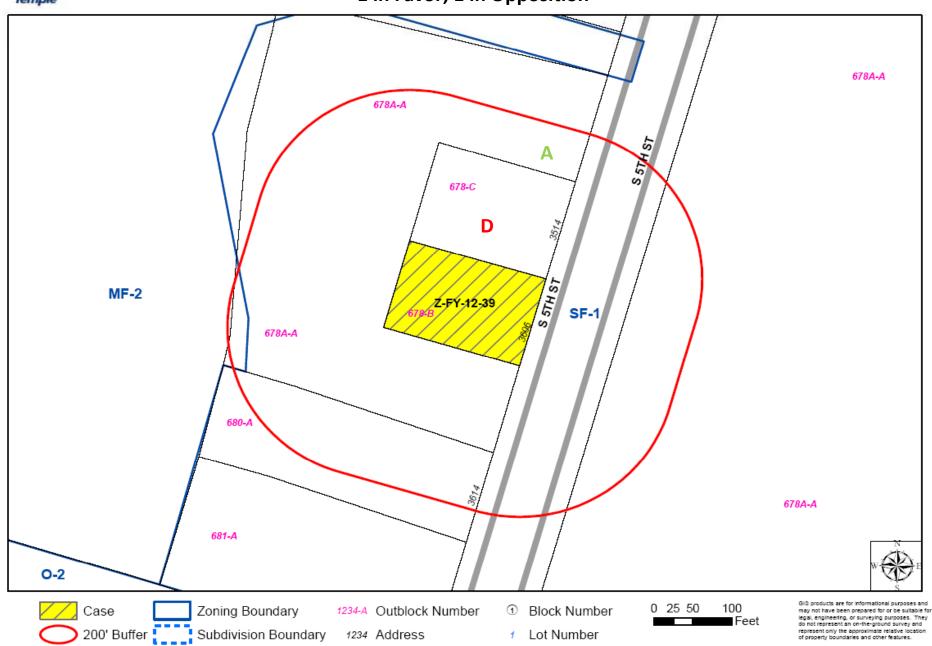
### **Future Land Use**



GIS products are for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. They do not represent an on-the-ground survey and represent only the approximate relative location of property boundaries and other features.

4 Notices
1 in Favor; 1 in Opposition

3606 S. 5th. Street





Z-FY-12-39

SF1 To O1

3606 S. 5th Street



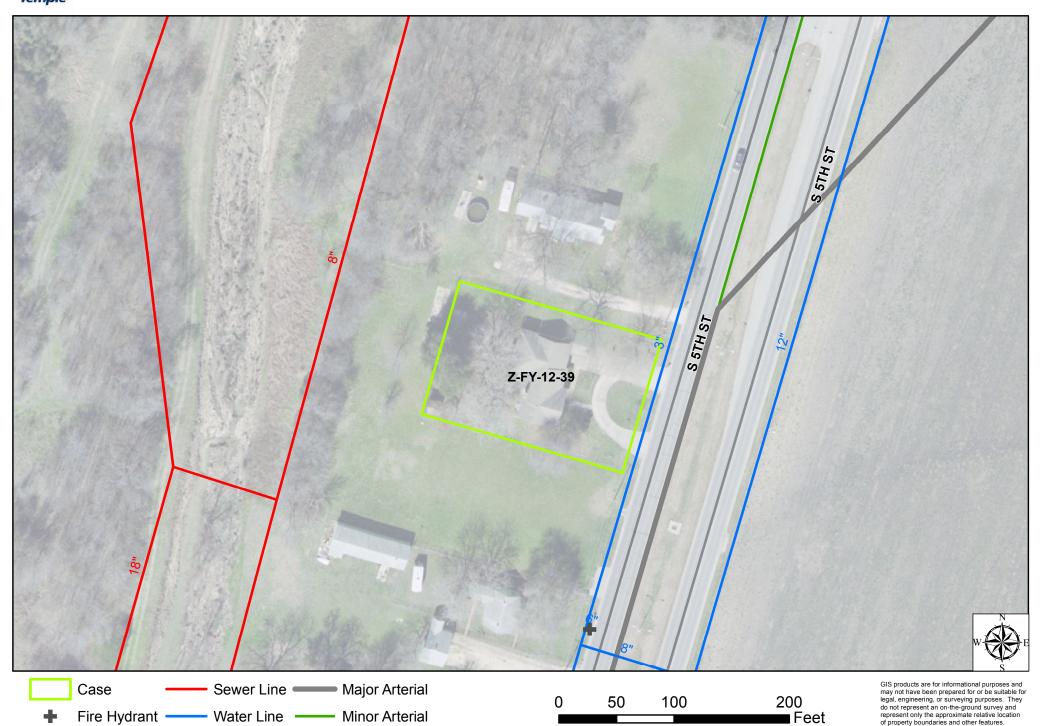


**Z-FY-12-39** 

Fire Hydrant — Water Line — Minor Arterial

SF1 To O1

3606 S. 5th. Street



GIS products are for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. They do not represent an on-the-ground survey and represent only the approximate relative location of secretary and prepared to the feature of the control of the con



### RESPONSE TO PROPOSED REZONING REQUEST CITY OF TEMPLE

Mary Nell Carter Chapman 4808 West Parker Road, Apt 203 Plano, Texas 75093

3 - Production State 1 - 1 - 1 - 1 - 1 - 1 - 1 - 1 - 1 - 1	<b>Zoning Application Number:</b>	Z-FY-12-39	Project Manager:	Kim Foutz
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Location: 3606 South 5th 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.

Comments:
The zoning change from SFI to 01 is in line with other neighborhood properties and will add value to existing and future developments along 5th Street. The property has a circular drive in and out which makes it ideal for anyone entering or leaving the facility safely which makes it ideal for anyone entering or leaving the facility safely we wish Mr. Victor Pendleton success in his new endeavor and wrong the Commissioners to consider the approval of this application.

Sandra Gilley aikins

Sandra Gilley Aikins

Martha Chapman Bernatic

Please mail or hand-deliver this comment form to the address shown below, no later than  $\underline{\text{May 7, 2012}}$ 

for MARY Well CARter Chapman

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

RECEIVED
MAY 1 0 2012

anning & Developmen

Number of Notices Mailed: 4

Date Mailed:

April 26, 2012



## RESPONSE TO PROPOSED REZONING REQUEST CITY OF TEMPLE

Robert C. Kuryla 3514 South 5<sup>th</sup> Street Temple, Texas 76502

Zoning Application Number: <u>Z-FY-</u>	12-39	Project Manag	er: Kim Foutz
Location: 3606 South 5 <sup>th</sup> Street			
The proposed rezoning is the area Because you own property within 2 welcomed. Please use this form t rezoning of the property described comments you may have.	200 feet of contracted indicate	f the requested of whether you are	change, your opinions are e in favor of the <u>possible</u>
I recommend appro	oval	denial of this re	equest.
Comments:			
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Mahal Lugha Signature		Robe	Print Name
Please mail or hand-deliver this co	omment fo	orm to the addres	
		f Temple	RECEIVED
	Room	ing Department 201	MAY 0 7 2012
		ipal Building	City of Temple
	remp	le, Texas 76501	Planning & Developmer

Number of Notices Mailed: 4

Date Mailed:

April 26, 2012

### **EXCERPTS FROM THE**

### **PLANNING & ZONING COMMISSION MEETING**

### **MONDAY, MAY 7, 2012**

### **ACTION ITEMS**

**Item 4: Z-FY-12-39 -** Hold a public hearing to discuss and recommend action on a rezoning from Single Family One District (SF1) to Office One District (O1) on 0.50 ± acres of land out of the Maximo Moreno Survey, Abstract No. 14, Bell County, Texas, located at 3606 South 5th Street. (Applicant: Victor Pendleton)

Commissioner Pilkington is reseated.

Ms. Foutz stated the applicant for this request was Mr. Victor Pendleton and he would like to open a psychology office in a residential home. The applicant understands development standards would be triggered for this project to be used as a nonresidential structure.

Surrounding properties include SF1 on all sides. Undeveloped land is located on the south and east, a single family residence is to the north, and undeveloped land that backs up to a city trail is to the west.

The property fronts 5th Street which is designated as a major arterial. A Citywide spine trail (undersized) is nearby but serves the purpose of trails dedications.

The Future Land Use and Character Map designates the area as Suburban Commercial, there is a trail noted as Parks and Open space, and across the street is a Comprehensive Planned for TMED. The request is in compliance with the Future Land Use and Character Map.

Adequate utilities are available to the site.

Some of the allowed uses for Office One (O1) include (but is not comprehensive) pre-schools, offices, various types of labs, veterinary without kennel, bank, or studio.

Development standards required for nonresidential use include buffering fencing on three sides, parking and loading, access and circulation, and possibly refuse screening. Signs would go through the regular ordinance and masonry and sidewalks would apply if future renovations took place. The applicant is aware of these standard requirements.

Four notices were mailed out and zero notices were received in favor with one notice in opposition.

Staff recommends approval of this request since it complies with the Future Land Use and Character Map, the Thoroughfare Plan, The Master Trails plan, adequate facilities are available to serve the site, the location meets the general purpose of the O1 district, and the property is located on a major arterial.

Chair Martin stated he was concerned about O1 because of a specific use and asked if a specific use could be banned for future use. Ms. Foutz stated the Commission could request a Planned Development (PD) O1 and restrict the one use.

Chair Martin asked the Commission to consider this option due to past requests for O1 use with duplexes.

Chair Martin opened the public hearing.

There being no speakers, the public hearing was closed.

Commissioner Sears asked how the motion would be stated with the restricted use and Commissioner Pilkington agreed with the restriction of duplexes.

Commissioner Sears made a motion to approve Item 4, **Z-FY-12-39**, as a Planned Development O1 with the restriction of no duplexes and Commissioner Rhoads made a second.

Motion passed: (8:0)
Commissioner Pope absent

## ORDINANCE NO. <u>2012-4536</u> (PLANNING NO. Z-FY-12-39)

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, APPROVING A REZONING FROM SINGLE FAMILY ONE DISTRICT (SF1) TO OFFICE ONE DISTRICT (O-1) ON APPROXIMATELY 0.50 ACRE TRACT OF LAND OUT OF THE MAXIMO MORENO SURVEY, ABSTRACT NO. 14, BELL COUNTY, TEXAS, LOCATED AT 3606 SOUTH 5<sup>TH</sup> STREET; PROVIDING AN EFFECTIVE DATE; AND PROVIDING AN OPEN MEETINGS CLAUSE.

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

- <u>Part 1</u>: The City Council approves a rezoning from Single Family One District (SF1) to Office One District (O-1) on approximately 0.50 acre tract of land out of the Maximo Moreno Survey, Abstract No. 14, Bell County, Texas, located at 3606 South 5<sup>th</sup> Street, and more fully described in Exhibit A, attached hereto and made a part hereof for all purposes.
- <u>Part 2:</u> The City Council directs the Director of Planning to make the necessary changes to the City Zoning Map accordingly.
- <u>Part 3</u>: 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.
- <u>Part 4</u>: 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.
- <u>Part 5</u>: 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 **7**<sup>th</sup> day of **June**, 2012.

PASSED AND APPROVED on Second R	deading on the <b>21<sup>st</sup></b> day of <b>June</b> , 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**

06/21/12 Item #3(K) Consent Agenda Page 1 of 3

### **DEPT. / DIVISION SUBMISSION & REVIEW:**

Autumn Speer, Community Services Director

ITEM DESCRIPTION: SECOND READING - Z-FY-12-40: Consider adopting an ordinance amending Ordinance No. 2011-4493, originally approved December 15, 2011, 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, to reduce the number of security lights from three to two on portions of Lots 11 and 12, Block 22, Original Town Addition, located at 11 East Central Avenue.

**P&Z RECOMMENDATION:** At its May 7, 2012 meeting, the Planning and Zoning Commission voted 8/0 in accordance with Staff recommendation to recommend approval of an amendment to the CUP request for reducing the number of security lights. Commission member Pope was absent.

**STAFF RECOMMENDATION:** Adopt ordinance as presented in item description, on second and final reading. Staff recommends approval of the requested CUP amendment, reducing the security lights from three to two to be installed on the west wall of the subject building a minimum of 30 days after approval of the amended CUP by the City Council.

<u>ITEM SUMMARY:</u> On December 15, 2011, the City Council approved 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, O-Brien's. The adopted ordinance specified that three security lights were to be installed on the west wall of the building adjacent to the alleyway, within 30 days of the CUP approval. The wall extends approximately 60 feet and the security lights were added to increase general safety for bar patrons walking to and from the City-owned parking lot. The applicant has had an electrician perform an analysis of the security lighting needs for the site and wishes to reduce the security lights from three to two.

This request conforms to the CUP general evaluation criteria: "The design, location and arrangement of all driveways and parking spaces provide for the safe and convenient movement of vehicular and pedestrian traffic without adversely affecting the general public or adjacent development."



Location and adjacency to parking lot



Western wall of pub along alley. Security lighting is to be installed on catwalk.

<u>PUBLIC NOTICE:</u> Fourteen notices of the Planning and Zoning Commission public hearing were sent to surrounding property owners. As of Wednesday, May 2nd at 12:00 PM, two notices were returned in favor of and no notices were returned in opposition to the request. The newspaper printed notice of the Planning and Zoning Commission public hearing on April 26, 2012, in accordance with state law and local ordinance. Additionally 31 courtesy notices were sent to surrounding business operators within 300-feet of the subject property.

**FISCAL IMPACT:** Not Applicable

06/21/12 Item #3(K) Consent Agenda Page 3 of 3

### **ATTACHMENTS:**

Location Map
CUP Site Plan
Notice Map
Notice Responses
P&Z Minutes
Ordinance No. Z-FY-11-52 (original case)
Ordinance

### **Aerial and CUP Location Map**



Z-FY-12-40

Portion of Lots 11 and 12, Block 22, Original Town Addition CUP for Alchohol Sales 11 E. Central Avenue



2008 Bell County Aerial

ZFY 1151, CA

LMatlock Planning 9.29.11



### Z-FY-12-40

### CUP Lighting Site Plan for O'Briens Irish Pub

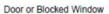


Example of Appropriate Dark Sky Wall Pack that would focus light down into alley increasing pedestiran safety.



2010 Bell County Aerial

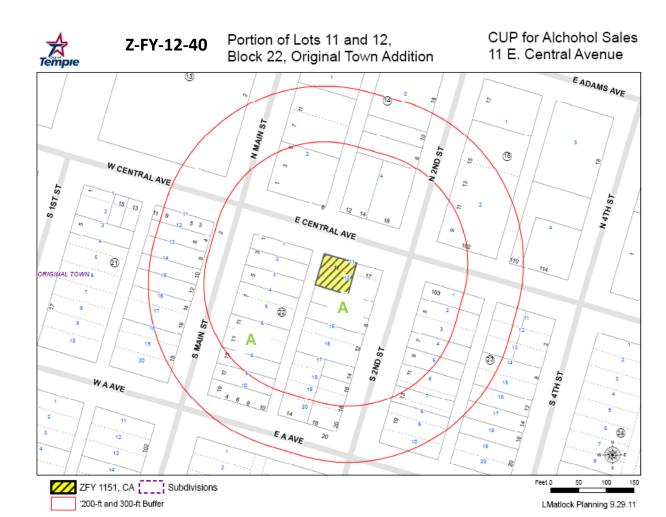
3 Commercial Wall Pack Light Locations





LMatlock Planning 11.01.11

### **Notice Area**



14 Notices Mailed
2 Agree (A)
0 Disagree (D)
0 Returned Mail (R)



### RESPONSE TO PROPOSED CONDITIONAL USE PERMIT AMENDMENT REQUEST CITY OF TEMPLE

Heartland Resources Inc. 6 South 1<sup>st</sup> Street Temple, Texas 76501

Zoning Application Number: <u>Z-FY-12-40</u> Project Manager: <u>Kim Foutz</u>
Location: 11 East Central Avenue (O'Brien's Irish Pub)
The proposed amendment to reduce the number of security lights from three to two 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 <u>possible</u> 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 Toe Shepper & Print Name
Please mail or hand-deliver this comment form to the address shown below no later

Please mail or hand-deliver this comment form to the address shown below, no later than May 7, 2012

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

APR 3 0 2012

City of Temple Planning & Development



# RESPONSE TO PROPOSED CONDITIONAL USE PERMIT AMENDMENT REQUEST CITY OF TEMPLE

Rudy Etux Karen Gonzales 13 South Main Street Temple, Texas 76501

	·
<u>/-12-40</u> Project	t Manager: <u>Kim Foutz</u>
O'Brien's Irish Pub)	
the attached map. Be opinions are welcome sible rezoning of the	curity lights from three to two is the ecause you own property within 200 ed. Please use this form to indicate property described on the attached ave.
roval ( ) denia	I of this request.
	, 45
	Laven Gonzales Print Name
omment form to the	address shown below, no later
City of Tomplo	RECEIVED
Planning Depa	
Municipal Build	
L C : .	O'Brien's Irish Pub)  ce the number of sectine attached map. Be opinions are welcome sible rezoning of the omments you may had broval  () denia

Number of Notices Mailed: 14

Date Mailed:

April 26, 2012

### OR. NANCE NO. 2011-4493

### [PLANNING NO. Z-FY-11-52]

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, ON A PORTION OF LOTS 11 AND 12, BLOCK 22, ORIGINAL TOWN ADDITION, COMMONLY KNOWN AS 11 EAST CENTRAL AVENUE; 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 11 East Central Avenue, 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

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 located on a portion of Lots 11 and 12, Block 22, Original Town Addition, commonly known as 11 East Central Avenue, more fully shown on Exhibit A, attached hereto and made a part of for all purposes.

<u>Part 2:</u> The owner/ar cant, his employees, lessees, ager or representatives, hereinafter called "permittee" small 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.
- (l) Three security lights are to be installed on the west wall of the subject building a minimum of 30 days after approval of CUP.

These conditions run with the and and will be express conditions only building permit issued for construction on the property. These conditions may be entorced 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.

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

<u>Part 4:</u> 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.

<u>Part 6:</u> 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.

<u>Part 7:</u> 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  $1^{\rm st}$  day of December, 2011.

PASSED AND APPROVED on Second Reading on the 15th day of December, 2011.

THE CITY OF TEMPLE, TEXAS

WILLIAM A JONES, III Mayor

ATTEST:

Lacy burgeson

city Secretary

APPROVED AS TO FORM:

Jonathan Grahar City Attorney

### **EXCERPTS FROM THE**

### **PLANNING & ZONING COMMISSION MEETING**

### **MONDAY, MAY 7, 2012**

#### **ACTION ITEMS**

Item 5: Z-FY-12-40 - Hold a public hearing to discuss and recommend action to an amendment to Ordinance No. 2011-4493, originally approved December 15, 2011, Conditional Use Permit, to reduce the number of security lights from three to two on portions of Lots 11 and 12, Block 22, Original Town Addition, located at 11 East Central Avenue. (Applicant: Howard Leshikar)

Ms. Foutz stated this was a limited amendment to the Conditional Use Permit (CUP) for the applicant, Mr. Howard Leshikar, for O'Brien's Irish Pub. The original CUP was approved on December 15, 2011 by City Council. At that time, one of the conditions of the CUP was to install three wall security lights on the west wall of the building between the alleyway and the public parking and was too occurred within 30 days of the approval.

Ms. Foutz shows a picture of the wall where the lights are to be installed, along with the pedestrian path that patrons would use walking through the alleyway to the public parking area.

The original CUP had three wall pack security lighting and was of a specific type. The applicant requested an electrician to perform an analysis on this lighting and the analysis supports using only two security lights which would be sufficient and is a different type of lighting which provides more illumination.

The CUP criteria continue to be the same and there are no conflicts known.

Fourteen notices were mailed out with one approval and zero denials received.

Staff recommends approval allowing for two security lights instead of three, for the type to change, and to be installed 30 days after approval of the CUP by City Council, if that occurs.

Commissioner Talley asked how Staff knew that the electrician's analysis proved only two lights were needed instead of three. Ms. Foutz stated Staff accepted the electrician's professional experience and recommendation and would defer to the applicant to answer details.

Vice-Chair Staats stated the analysis should have been done by either an electrical engineer or a lighting engineer. An electrician merely provides power to the fixture. His concern was more of security and whether the lighting would be adequate for the area.

Commissioner Magaña asked what would happen if the two lights were approved but it turned out it was still not enough lighting. Ms. Foutz stated we would be in a better position than before since there are currently no lights but once it is approved, that is the allowable scenario.

Ms. Foutz references the letter in the P&Z packet from Advanced Electrical Systems which proposes two LED flood lights be attached to the 18 foot high catwalk in the alleyway. The

lights are 23 watt each rated for 10,000 hours of light and cover 207 square feet each. These lights would be angled down to light the alley and should not interfere with visibility with drivers in the area. Ms. Foutz shows a picture of the catwalk located in the alleyway.

Chair Martin opened the public hearing.

Mr. Ryan Leshikar, owner of O'Brien's Irish Pub, located at 11 E. Central Avenue, Temple, Texas, stated the original CUP was approved with three lights, however, there was no reference in terms of actually having an electrician to look at that. The recommendation done by Staff was what they recommended with nothing stating why.

Mr. Leshikar stated the position of the original recommendation of the lights was too low on the wall. It was recommended the lights be placed high on the catwalk so it would provide adequate coverage. The area in question is only about 35 feet by 15 feet. There is already public lighting in the front of the building and in the parking lot.

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

Commissioner Talley made a motion to approve Item 5, **Z-FY-12-40**, and Commissioner Magaña made a second.

Motion passed: (8:0) Commissioner Pope absent

## ORDINANCE NO. <u>2012-4537</u> [PLANNING NO. Z-FY-12-40]

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AMENDING ORDINANCE NO. 2011-4493, ORIGINALLY APPROVED DECEMBER 15, 2011, CONDITIONAL USE PERMIT FOR THE SALE OF ALCOHOLIC BEVERAGES FOR ON-PREMISE CONSUMPTION WITH MORE THAN 75% REVENUE FROM ALCOHOL SALES IN AN EXHISTING BAR; TO REDUCE THE NUMBER OF SECURITY LIGHTS FROM THREE TO TWO ON PORTIONS OF LOTS 11 AND 12, BLOCK 22, ORIGINAL TOWN ADDITION, LOCATED AT 11 EAST CENTRAL AVENUE; DECLARING FINDINGS OF FACT; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND PROVIDING AN OPEN MEETINGS CLAUSE.

WHEREAS, on December 15, 2011, the City Council approved 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, O'Brien's;

WHEREAS, the adopted ordinance specified that three security lights were to be installed on the west wall of the building adjacent to the alleyway, within 30 days of the CUP approval – the applicant has had an electrician perform an analysis of the security lighting needs for the site and wishes to reduce the security lights from three to two;

WHEREAS, the Planning and Zoning Commission of the City of Temple, Texas, after due consideration of the conditions, operation and location at 11 East Central Avenue, recommends that the City Council approve this amendment to the CUP request for reducing the number of security lights on the west wall of the building adjacent to the alleyway; 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 an amendment to Ordinance No. 2011-4493, originally approved on December 15, 2011, to reduce the number of security lights from three to two on portions of Lots 11 and 12, Block 22, Original Town Addition, located at 11 East Central Avenue.
- <u>Part 2:</u> The owner/applicant, his employees, lessees, agents or representatives, hereinafter called "permittee" shall continue to comply with all previous developmental standards and conditions of operation previously outlined in Ordinance No. 2011-4493,

originally approved December 15, 2011. 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.

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

<u>Part 4:</u> 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.

<u>Part 5:</u> 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.

<u>Part 6:</u> 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.

<u>Part 7:</u> 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  $7^{th}$  day of **June**, 2012.

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

06/21/12 Item #4(L) Consent Agenda Page 1 of 5

### **DEPT/DIVISION SUBMISSION & REVIEW:**

Autumn Speer, Community Services Director

<u>ITEM DESCRIPTION:</u> SECOND READING - Z-FY-12-42: Consider adopting an ordinance authorizing a rezoning from Agricultural District (AG) to Neighborhood Service District (NS) on  $3.00 \pm$  acres of land and from Agricultural District (AG) to Urban Estates District (UE) on  $7.04 \pm$  acres of land, both being part of the Redding Roberts Survey, Abstract No. 692, in the City of Temple, Bell County, Texas, located on the east side of South  $31^{st}$  Street, south of Fox Glen Lane and north of Venice Parkway.

**P&Z RECOMMENDATION:** At its May 7, 2012 meeting, the Planning and Zoning Commission voted 8/0 in accordance with Staff recommendation to recommend approval of a rezoning of 3.0 acres from Agricultural District (AG) to Neighborhood Service District (NS) and 7.04 acres from Agricultural District (AG) to Urban Estates (UE). Commission member Pope was absent.

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

Staff recommends approval of a rezoning from AG to NS and UE for the following reasons:

- 1. The request does not comply with the Future Land Use and Character Map but is compatible with surrounding uses, and a future amendment to the Future Land Use and Character Map is reasonable with the property's location along South 31<sup>st</sup> Street.
- 2. The request complies with the Thoroughfare Plan.
- 3. Public facilities will be available to subject property.

**ITEM SUMMARY**: Please refer to the draft minutes of case Z-FY-12-42 from the Planning and Zoning Commission meeting on May 7, 2012.

The developer requests this rezoning to allow development of the next phase of Residences at D'Antoni's Crossing. He proposes a Neighborhood Service District (NS) adjacent to South 31<sup>st</sup> Street with site access from South 31<sup>st</sup> Street. The Urban Estates District (UE) is proposed along the east side of the proposed Neighborhood Service District (NS) with access from within the established Residences at D'Antoni's Crossing development.

Once City Council renders a decision on this rezoning request, the developer will proceed with the platting process for the subject property.

**SURROUNDING PROPERTY AND USES:** The following table shows the subject property, existing zoning and current land uses:

zoning and		Current	
Direction	Zoning	Current Land Use	Photo
Subject Property	AG	Undeveloped Land	
North	SF1	Single-Family Residential	

	1	1	Page 3 of 5
South	SF3 and UE	Single Family Residential	
East	AG and SF1	Undeveloped Land	Picture not available
West	AG	Undeveloped Land	

<u>COMPREHENSIVE PLAN COMPLIANCE:</u> The proposed rezoning relates to the following goals, objectives or maps of the Comprehensive Plan and Sidewalk and Trails Plan:

maps of the Comprehensive Plan and Sidewalk and Trails Plan:					
	Policy, Goal, Objective		Compli-		
Document CP	or Map Map 3.1 - Future Land Use and Character (FLUP)	The future land use and character map designates the entire property as Suburban Residential. Although the requested Neighborhood Service District (NS) does not comply with the Suburban Residential designation, staff supports it because the subject property fronts South 31 <sup>st</sup> Street.  The requested Urban Estates District (UE) is more appropriate within an Estate Residential designation, but is compatible since the property borders the Estate Residential designation to the north and east.	ance?		
СР	Map 5.2 - Thoroughfare Plan	The Thoroughfare Plan designates South 31 <sup>st</sup> Street as a major arterial, which is appropriate for NS development. Venice Parkway is classified as a local street, which is appropriate for Urban Estates development. The rezoning request complies with the Thoroughfare Plan.	Υ		
СР	Goal 4.1 - Growth and development patterns should be consistent with the City's infrastructure and public service capacities	Water lines are located along South 31 <sup>st</sup> Street (12" line), along Venice Parkway, and along Fox Glen Lane. A sewer line runs through the subject property, as well as Venice Parkway, Fox Glen Lane, and the west side of South 31 <sup>st</sup> Street (12" line).	Y		
STP	Temple Trails Master Plan Map	The Sidewalk and Trails Plan calls for local connector trail along the north property line and along Friar's Creek. The developer received an exception to the Trails Master Plan for these two trails from City Council with the approval of the property's preliminary plat in 2010 with Resolution 2010-6131-R. However, a local connector trail (6'-8' width) is still required along South 31st. Upon development of this tract, a 6' wide trail will be installed by the developer.	Y – if an exception is not requeste d or granted		

<sup>\* =</sup> See Comments Below CP = Comprehensive Plan STP = Sidewalk and Trails Plan

**DEVELOPMENT REGULATIONS:** The purpose of the Neighborhood Service zoning district permits limited retail services, usually for a small neighborhood area, with uses such as a convenience store, bank, barber or beauty shop, small cleaners or florist, as well as any residential use except apartments. This district should be located convenient to residential areas in locations such as a corner of a local road and a collector that serves the neighborhood. A rezoning from AG to NS would allow many uses that would not have been allowed before. Those uses include but are not limited to: child care, office, alcoholic beverage sales <75%, convenience store without fuel, florist, pharmacy, and any residential except apartments.

The purpose of the Urban Estates zoning district permits single-family detached residences and related accessory uses and accommodates large lot single-family residential developments. This district is suitable for estate development or areas in which it is desirable to permit only low-density development. Dimensional standards for UE are: 22,500 s.f. minimum lot area; 80' minimum lot width, and 30' minimum front yard setback.

**STAFF ANALYSIS**: The requested rezoning from AG to NS is a reasonable request with this portion of the property being located along a major arterial such as 31<sup>st</sup> Street and this being the lowest level retail zoning district available. Buffering will be required along the adjacent residential uses. Also, the Urban Estates lots will have access through the existing segment of D'Antoni's Crossing to the south.

The requested Urban Estates District (UE) is more appropriate within an Estate Residential designation, but is compatible since the property borders the Estate Residential designation to the north and east.

<u>PUBLIC NOTICE:</u> 30 notices of the Planning and Zoning Commission public hearing were sent out to property owners within 200-feet of the property in question, as required by State law and City Ordinance. As of Wednesday, May 30 at 12 PM, four notices were returned in favor of, five notices were returned in opposition of, and two notices were undecided to the request.

The newspaper printed notice of the Planning and Zoning Commission public hearing on April 26, 2012, in accordance with state law and local ordinance.

FISCAL IMPACT: Not Applicable

### **ATTACHMENTS:**

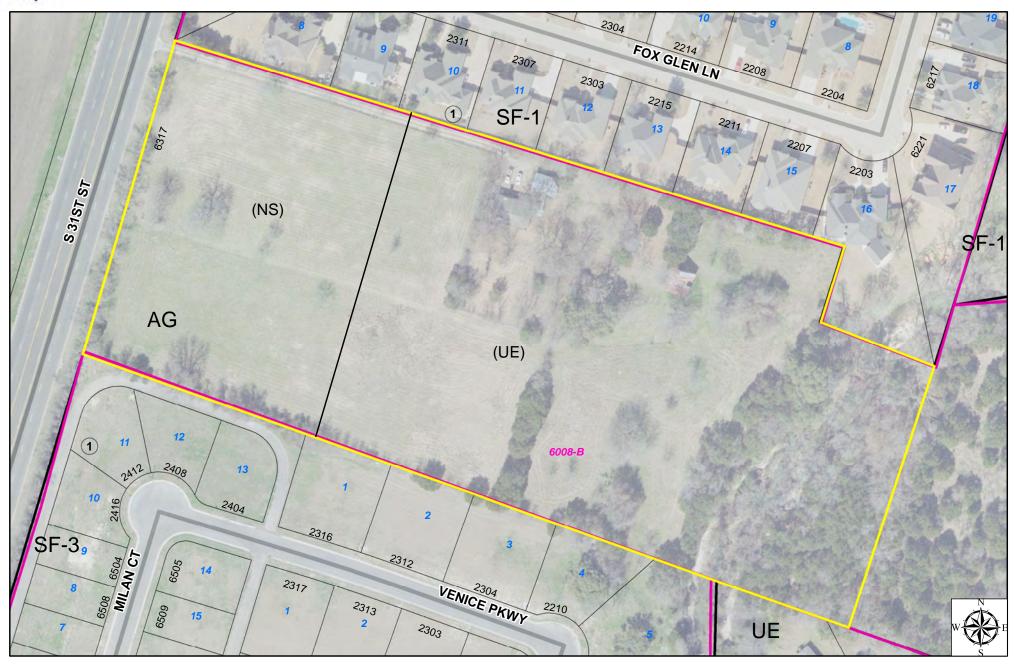
Zoning and Location Map
Future Land Use and Character Map
Notice Map
Thoroughfare, Sidewalk, and Trails Plan Map
Utility &Thoroughfare Plan Map
Notice Responses
P&Z Minutes
Ordinance



**Z-FY-12-42** 

### AG To NS & UE

6317 S. 31st. Street

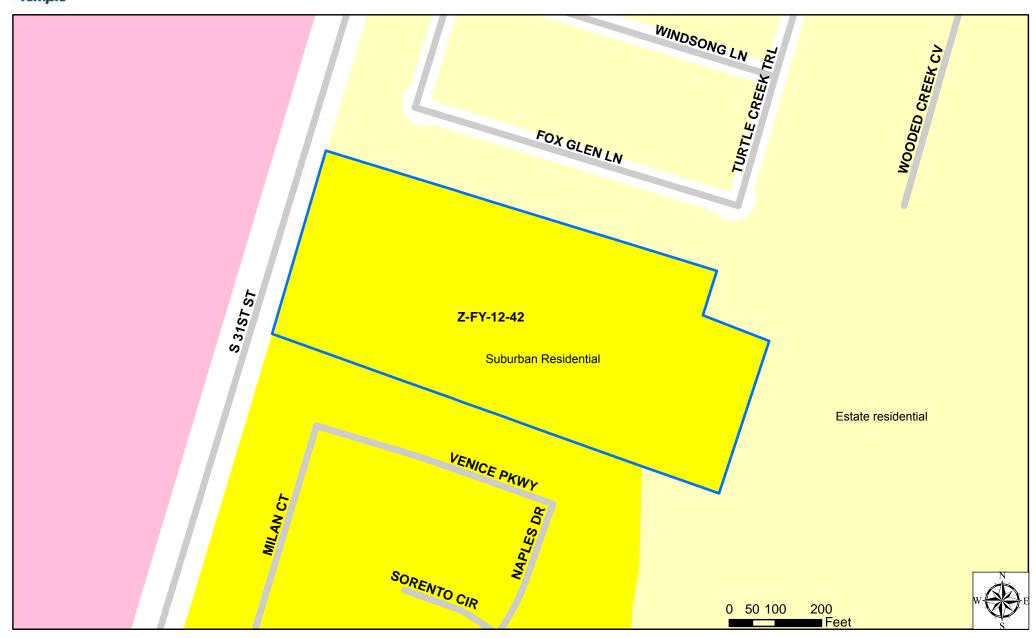




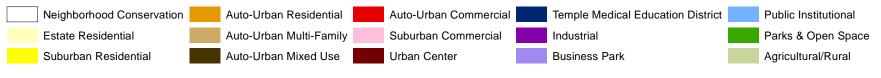
**Z-FY-12-42** 

### AG To NS & UE

6317 S. 31st.. Street



### **Future Land Use**



GIS products are for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. They do not represent an on-the-ground survey and represent only the approximate relative location of property boundaries and other features.

30 Notices 4 in Favor; 5 in Opposition; 2 UD comments

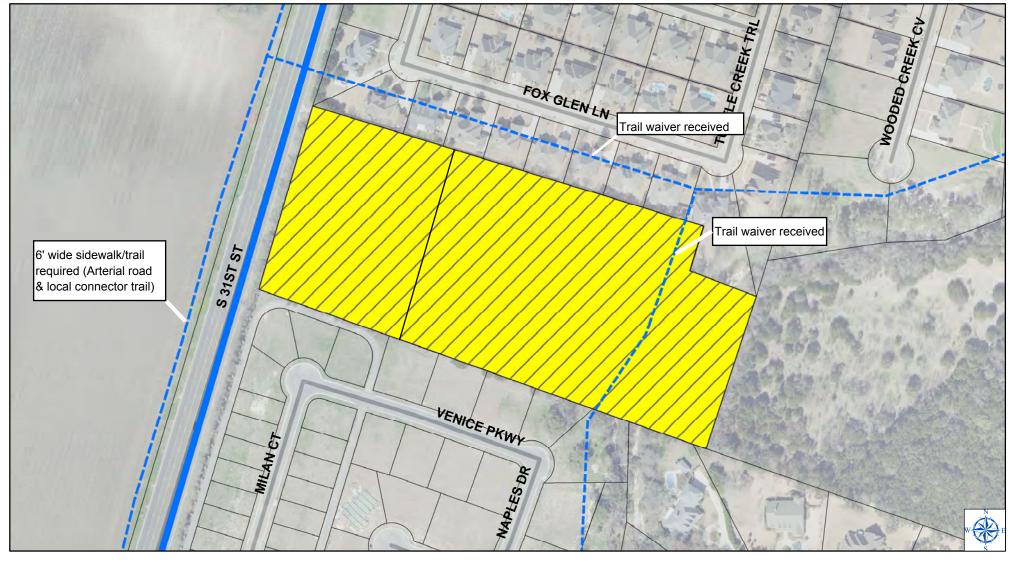




**Z-FY-12-42** 

### AG To NS & UE

6317 S. 31st. Street

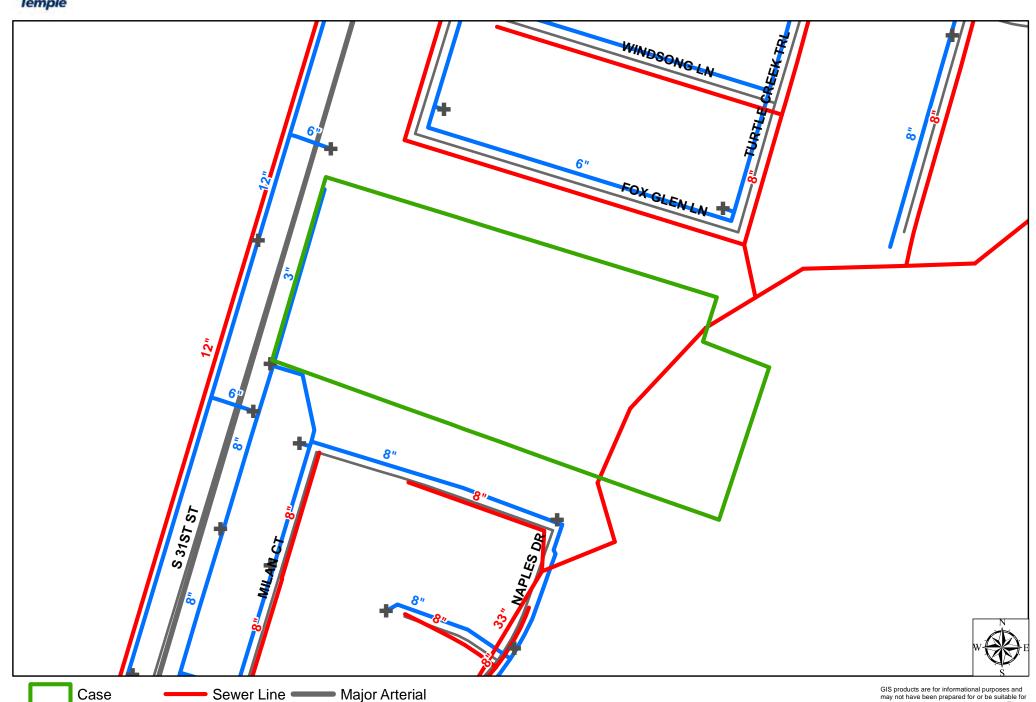






**Z-FY-12-42** 

Fire Hydrant — Water Line — Minor Arterial



0 50 100

200

GIS products are for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. They do not represent an on-the-ground survey and represent only the approximate relative location of property boundaries and other features.



Dell Martin P.O. Box 310 Temple, Texas 76502

Zoning Application Number: Z-FY-12	2-42 Project Manag	er: Kim Foutz
Location: East side of South 31st Stre	et between Fox Glen Lane	& Venice Parkway
The proposed rezoning is the area Because you own property within 20 welcomed. Please use this form to rezoning of the property described ocomments you may have.	0 feet of the requested of indicate whether you are	change, your opinions are in favor of the possible
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	Room 201	MAY 0 8 2012
÷-	Municipal Building Temple, Texas 76501	City of Temple Planning & Development

Number of Notices Mailed: 30

Date Mailed:



Project Manager: Kim Foutz

MAY 0 2 2012

City of Temple

Planning & Development

William Etux Marilyn Frank 2308 Fox Glen Lane Temple, Texas 76502

Zoning Application Number: Z-FY-12-42

Location:	East side of South 31st Stree	t between Fox Glen Lane & Ve	nice Parkway
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Room 201

**Municipal Building** 

Temple, Texas 76501

Number of Notices Mailed: 30 Date Mailed: April 26, 2012



Project Manager: Kim Foutz

Glen Etux Nell Brindley 2902 Olympia Drive Temple, Texas 76502

Zoning Application Number: Z-FY-12-42

Location:	East side of South 31st Street b	etween Fox Glen Lane & Venice Parkway
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City of Temple

Room 201

**Planning Department** 

Temple, Texas 76501

**Municipal Building** 

Number of Notices Mailed: 30

than May 7, 2012

Date Mailed:

April 26, 2012

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City of Temple Planning & Development



Ivey Family Trust 2211 Fox Glen Lane Temple, Texas 76502

Zoning Application Number: Z-FY-12-42 Project Manager: Kim Foutz

Location: East side of South 31st Street between Fox Glen Lane & Venice Parkway

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.

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recommend		appiovai

denial of this request.

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Please mail or hand-deliver this comment form to the address shown below, no later than May 7, 2012

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Planning Department
Room 201
Municipal Building
Temple, Texas 76501

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MAY 0 3 2012

City of Temple Planning & Development

Number of Notices Mailed: 30

Date Mailed:



Confidential Owner 6220 Fox Glen Lane Temple, Texas 76502

Number of Notices Mailed: 30

Zoning Application Number: Z-FY-12	2-42 Project Manag	er: Kim Foutz
Location: East side of South 31st Street	et between Fox Glen Lane	e & Venice Parkway
The proposed rezoning is the area Because you own property within 200 welcomed. Please use this form to rezoning of the property described o comments you may have.	O feet of the requested of indicate whether you are on the attached notice, a	change, your opinions are e in favor of the possible and provide any additional
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	Room 201 Municipal Building	MAY 0 7 2012
	Temple, Texas 76501	City of Temple

Date Mailed:



Jams & Melody Wann 2316 Fox Glen Lane Temple, Texas 76502

Zoning Application Number: Z-FY-12-42 Project Manager: Kim Foutz

Location: East side of South 31st Street between Fox Glen Lane & Venice Parkway

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 (V) denial of this request.

Comments:

Retail business / convience store will create significant light polytical that will disturb the neighborhood.

The UE sene is not proper by buffered from the higher density neigh borhoods

Please mail or hand-deliver this comment form to the address shown below, no later than May 7, 2012

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

RECEIVED MAY 0 7 2012

City of Temple
Planning & Developme

Number of Notices Mailed: 30

Signature

Date Mailed:



Joseph Etux Willie Mae Murray 2311 Fox Glen Lane Temple, Texas 76502

Zoning Application Number: Z-FY-12-42 Project Manager: Kim Foutz

I recommend ( ) approval

Location: East side of South 31st Street between Fox Glen Lane & Venice Parkway

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.

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

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MAY 0 7 2012

City of Temple Planning & Development

Number of Notices Mailed: 30

Date Mailed:



Dennis & Ruth Ready 2404 Venice Parkway Temple, Texas 76502

Zoning Application Number: <u>Z-FY-12-42</u>	Project Manager: Kim Foutz
Location: East side of South 31st Street betw	veen Fox Glen Lane & Venice Parkway
Because you own property within 200 feet welcomed. Please use this form to indica	in hatched marking on the attached map. of the requested change, your opinions are te whether you are in favor of the possible attached notice, and provide any additional
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City of Temple
Planning & Develop

Number of Notices Mailed: 30

than May 7, 2012

Date Mailed:

City of Temple

Room 201

**Planning Department** 

**Municipal Building** 

Temple, Texas 76501

April 26, 2012

RECEIVED

MAY 0 2 2012



Benjamin J. Cuba P.O. Box 1003 Temple, Texas 76503-1003

Zoning Application Number: Z-FY-12-42 Project Manager: Kim Foutz

I recommend (Wapproval

Location: East side of South 31st Street between Fox Glen Lane & Venice Parkway

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 <u>possible</u> rezoning of the property described on the attached notice, and provide any additional comments you may have.

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BUILDS AND DEVELO AND NEIGHBORHE	DESTRABLE HOMES
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Signature	Print Name

Please mail or hand-deliver this comment form to the address shown below, no later than May 7, 2012

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

RECEIVED

MAY 0 2 2012

City of Temple Planning & Development



Jeremy Etux Anna Mauldin 2207 Fox Glen Lane Temple, Texas 76502

Zoning Application Number: Z-FY-12-42 Project Manager: Kim Foutz

Location: East side of South 31st Street between Fox Glen Lane & Venice Parkway

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I recommend () approval

denial of this request.

### Comments:

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Signature

Print Name

Please mail or hand-deliver this comment form to the address shown below, no later than May 7, 2012

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

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City of Temple

Planning & Development

Number of Notices Mailed: 30

Date Mailed:



Jason Etux Marla Smith 6221 Turtle Creek Trail Temple, Texas 76502

Zoning Application Number: Z-FY-12-42	Project Manager: Kim Foutz
Location: East side of South 31st Street between	een Fox Glen Lane & Venice Parkway
The proposed rezoning is the area shown Because you own property within 200 feet of welcomed. Please use this form to indicate rezoning of the property described on the accomments you may have.  I recommend property	of the requested change, your opinions are whether you are in favor of the possible attached notice, and provide any additional
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Signature Signature	MARIA SMOHL Print Name
Please mail or hand-deliver this comment for	orm to the address shown below, no later

Please mail or hand-deliver this comment form to the address shown below, no later than May 7, 2012

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

MAY 0 8 2012

City of Temple Planning & Development

Number of Notices Mailed: 30

Date Mailed:

### **EXCERPTS FROM THE**

### **PLANNING & ZONING COMMISSION MEETING**

### **MONDAY, MAY 7, 2012**

### **ACTION ITEMS**

Item 6: Z-FY-12-42 - Hold a public hearing to discuss and recommend action on a rezoning from Agricultural District (AG) to Neighborhood Service District (NS) on 3.00 ± acres of land and from Agricultural District (AG) to Urban Estates District (UE) on 7.04 ± acres of land, both being part of the Redding Roberts Survey, Abstract No. 692, in the City of Temple, Bell County, Texas, located on the east side of South 31st Street, south of Fox Glen Lane and north of Venice Parkway. (Applicant: Bobby Arnold)

Ms. Foutz stated the applicant was Bobby Arnold and pertained to the next phase of the Residences at D'Antoni's Crossing directly adjacent to the initial phase to the south.

The subject property is currently zoned Agricultural (AG) with approximately three acres being requested for Neighborhood Services (NS) and the back property area for Urban Estates (UE). Surrounding properties include SF1 and SF3 and toward the back in the corner, some UE as part of the initial development.

Surrounding properties to the south include residential zoned SF3 and UE, to the east is undeveloped land zoned AG and SF1, to the north is Deerfield Estates with SF1 with single family use and across 31st Street is undeveloped land zoned AG.

The subject property runs against 31st Street which is designated as a major arterial. A local connector trail is slated to go along 31st Street and, if platted, will be required to install a six foot wide sidewalk. All other trails noted have received waivers for trails by City Council.

The Future Land Use and Character Map designate this area as Suburban Residential. Although the request is not completely compliant with the Future Land Use and Character Map, Staff feels it is appropriate since the tract across the street is entirely planned for Suburban Commercial and the subject property is located along 31st Street. Adequate utilities are available for the site.

The purpose of the NS zoning is to permit limited retail services and for serving a smaller neighborhood area. It is the most restrictive retail zoning available and provides day-to-day retail and service opportunities for an area. It allows for residential except apartment types.

The UE permits single family detached residences, focuses on larger lot and lower density development. UE contains some development standards different from AG.

Thirty notices were mailed out with three notices in favor and five in opposition. Some opposition comments concerned decrease in property values, noise for commercial aspect, and buffering between UE and higher density residential. An eight foot high fence was suggested to mitigate noise for the commercial aspect. According to Code, Staff would require a six to eight foot high buffering fence against the residential. It was also noted that the existing trees should remain.

Staff recommends approval for the rezoning since it meets the intent of the Future Land Use and Character Map, is located along 31st Street with surrounding Suburban Commercial designations, it complies with the Thoroughfare Plan, the Master Trails Plan, and adequate public facilities are available. Although NS does not comply specifically with the Suburban Residential designation, Staff believes it is appropriate since it fronts 31st Street, a major arterial.

Vice-Chair Staats suggested Mr. Arnold be specifically aware of what is and is not allowed at the subject location to head off any potential complications from a tenant putting in a use which is not allowed.

Chair Martin opened the public hearing.

Mr. Pat Murray, 2311 Fox Glen Lane, Temple, Texas, stated his property backs up to the commercial development section and feels his property would decrease in value. Mr. Murray also has security concerns. Privacy fences are already installed but are not that secure. Mr. Murray suggested Mr. Arnold continue the 31st Street fence back around to the commercial part for a sound buffer and for security reasons.

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

Commissioner Talley made a motion to approve Item 6, Z-FY-12-42, as presented and Commissioner Rhoads made a second.

Vice-Chair Staats stated he felt there were some requests on this item that were extremely reasonable: maintaining an eight foot high fence and keeping the existing trees during development. Vice-Chair Staats asked if these items could be considered in Commissioner Talley's motion and Commissioner Talley stated yes.

Commissioner Pilkington stated he would like to hear from the applicant.

Chair Martin reopened the public hearing.

Mr. Bobby Arnold, 5293 S. 31st Street, Temple, Texas, stated he was concerned about how his development impacted the neighbors. Mr. Arnold gave the example of Tuscan Square fencing and landscaping and felt it was a very good buffer for the residential area. There is no parking in the back of the buildings either.

Mr. Arnold asked for clarification on the fencing request. Ms. Foutz stated the Code made reference that fences are required to be between six to eight feet high. Commissioner Magaña asked what the height of the fences were on the existing properties along 31st Street (Deerfield Estates). Vice-Chair Staats stated it was taller than six feet.

Vice-Chair Staats stated he would like to see the trees remain, especially the hardwood trees. Mr. Arnold stated he would save what he could because it creates a buffer. In regards to the fence, that may be a problem but would do what he could. Mr. Arnold stated they would go all the way around with the fence, approximately 800 feet of fencing.

Vice-Chair Staats stated the neighbors were concerned with the NS near UE and the buffering. Mr. Arnold stated there were no plans for the NS area yet but would like to do more office buildings. Mr. Arnold was not opposed to creating a better buffer. Commissioner Pilkington

stated his concern was he did not want to have a six foot fence, a foot wide gap, and then an eight foot fence. Double fences creates a mess and causes more problems.

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

Commissioner Talley stated he would stay with his original motion and Commissioner Rhoads made a second.

Motion passed: 8:0 Commissioner Pope absent

### ORDINANCE NO. <u>2012-4538</u> (PLANNING NO. Z-FY-12-42)

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, APPROVING A REZONING FROM AGRICULTURAL DISTRICT (AG) TO NEIGHBORHOOD SERVICE DISTRICT (NS) ON APPROXIMATELY 3.00 ACRES OF LAND AND REZONING FROM AGRICULTURAL DISTRICT (AG) TO URBAN ESTATES DISTRICT (UE) ON APPROXIMATELY 7.04 ACRES OF LAND, BOTH BEING LOCATED ON THE EAST SIDE OF SOUTH 31<sup>ST</sup> STREET, SOUTH OF FOX GLEN LAND AND NORTH OF VENICE PARKWAY; PROVIDING AN EFFECTIVE DATE; AND PROVIDING AN OPEN MEETINGS CLAUSE.

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

<u>Part 1</u>: The City Council approves a rezoning from Agricultural District (AG) to Neighborhood Service District (NS) on approximately 3.00 acres of land and a rezoning from Agricultural District (AG) to Urban Estates District (UE) on approximately 7.04 acres of land, both being part of the Redding Roberts Survey, Abstract No. 692, in the City of Temple, Bell County, Texas, located on the east side of South 31<sup>st</sup> Street, south of Fox Glen Lane and north of Venice Parkway, more fully described in Exhibit 'A,' attached hereto and made a part hereof for all purposes.

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

<u>Part 3</u>: 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.

<u>Part 4</u>: 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.

place, and purpose of said meetin	g was given as required by the Open Meetings Act.
PASSED AND APPROVE <b>June</b> , 2012.	ED on First Reading and Public Hearing on the <b>7<sup>th</sup> day</b> of
PASSED AND APPROVE	D on Second Reading on the <b>21</b> <sup>st</sup> day of <b>June</b> , 2012.
	THE CITY OF TEMPLE, TEXAS
	WILLIAM A. JONES, III, Mayor
ATTEST:	APPROVED AS TO FORM:
Lacy Borgeson City Secretary	Jonathan Graham City Attorney

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,



### **COUNCIL AGENDA ITEM MEMORANDUM**

06/21/12 Item #3(M) Consent Agenda Page 1 of 5

### **DEPT. / DIVISION SUBMISSION & REVIEW:**

Autumn Speer, Community Services Director

<u>ITEM DESCRIPTION</u>: SECOND READING - Z-FY-12-43: Consider adopting an ordinance authorizing a rezoning from Two Family Dwelling District (2F) to General Retail District (GR) on Lot 1, Block 15 of the Freeman Heights Addition, located at 101 South 31<sup>st</sup> Street, Temple Texas.

<u>P&Z RECOMMENDATION:</u> At its May 7, 2012 meeting, the Planning and Zoning Commission voted 7/1 in accordance with Staff recommendation to recommend approval of a rezoning Lot 1, Block 15 of the Freeman Heights Addition from Two Family Dwelling District (2F) to General Retail District (GR). Commission member Pope was absent.

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

Staff recommends approval of Z-FY-12-43, the requested rezoning to GR for the following reasons:

- 1. The request 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.

<u>ITEM SUMMARY:</u> Please refer to the draft minutes of case Z-FY-12-43 from the Planning and Zoning Commission meeting on May 7, 2012. A rezoning from the 2F 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 On-premise consumption of beer and wine less than 75% revenue Restaurant Car wash

Auto sales, leasing, rental:

Fuel sales

<u>SURROUNDING PROPERTY AND USES:</u> The following table shows the subject property, existing zoning and current land uses:

Direction	Zoning	Current Land Use	Photo
Subject Property	2F	Single Family Residential	
North	GR	Commercial building – Properties Mart	

Direction	Zoning	Current Land Use	Photo
South	GR	Commercial retail – Advance Auto Parts	Advance Auto Parts
East	2F	Single Family Residential	
West	GR	Commercial retail – Hair Corral	

<u>COMPREHENSIVE PLAN COMPLIANCE:</u> 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?
СР	Map 3.1 - Future Land Use and Character	Auto-Urban commercial with Auto-Urban across street to north, west, and south and Neighborhood Conservation to east	Yes
СР	Map 5.2 - Thoroughfare Plan	31st Street. is a Major Arterial Street	Yes
СР	Goal 4.1 - Growth and development patterns should be consistent with the City's infrastructure and public service capacities.		Yes
СР	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.	1	Yes
STP	Temple Trails Master Plan Map	A community-wide connector trail is required for 31 <sup>st</sup> Street	Sidewalks will be installed if the ordinance is triggered

CP = Comprehensive Plan STP = Sidewalk and Trails Plan

<u>DEVELOPMENT REGULATIONS:</u> 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.

**STAFF ANALYSIS:** This property is currently developed as a single family use and is located on a heavily traveled Major Arterial Street, 31<sup>st</sup> Street. The GR zoning district is to the north, west, and south of the subject property and the 2F zoning district is to the east. The GR zoning district would be appropriate for the subject property due to its direct frontage on a Major Arterial Street and its proximity to other conforming retail uses.

Due to the proposed change in use, when the property is utilized for commercial purposes, the property would need to be brought into compliance with specific codes including but not limited to parking, buffer fence or hedge, landscaping, sidewalk/trail (if triggered), and signage.

06/21/12 Item #3(M) Consent Agenda Page 5 of 5

<u>PUBLIC NOTICE:</u> Staff mailed notices of the Planning and Zoning Commission's public hearing to the 17 property owners within a 200-foot radius surrounding the subject property. As of Wednesday, May 30, 2012 at 12:00 PM, two notices were 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 April 26, 2012 in accordance with state law and local ordinance.

**FISCAL IMPACT:** Not Applicable

### **ATTACHMENTS:**

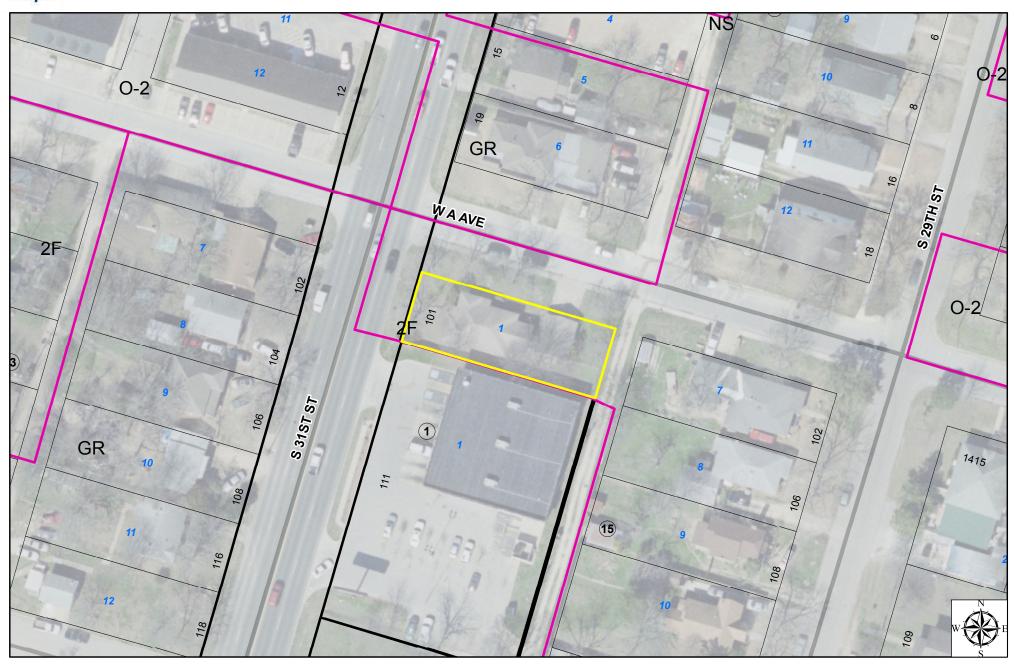
Land Use and Character Map
Zoning and Location Map
Notice Map
Thoroughfare, Sidewalk, and Trails Plan Map
Utility &Thoroughfare Plan Map
Notice Responses
P&Z Minutes
Ordinance



**Z-FY-12-43** 

2F To GR

101 S. 31st. Street



Case Zoning

Parcel

Subdivisions 1234-A Outblocks

1234 Addresses

**Blocks** 

Lots



GIS products are for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. They do not represent an on-the-ground survey and represent only the approximate relative location of property boundaries and other features.

4/30/2012

City of Temple GIS

Temple

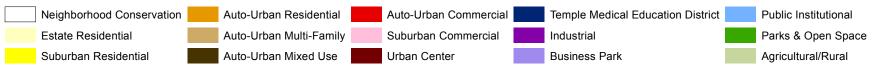
**Z-FY-12-43** 

2F To GR

101 S. 31st. Street



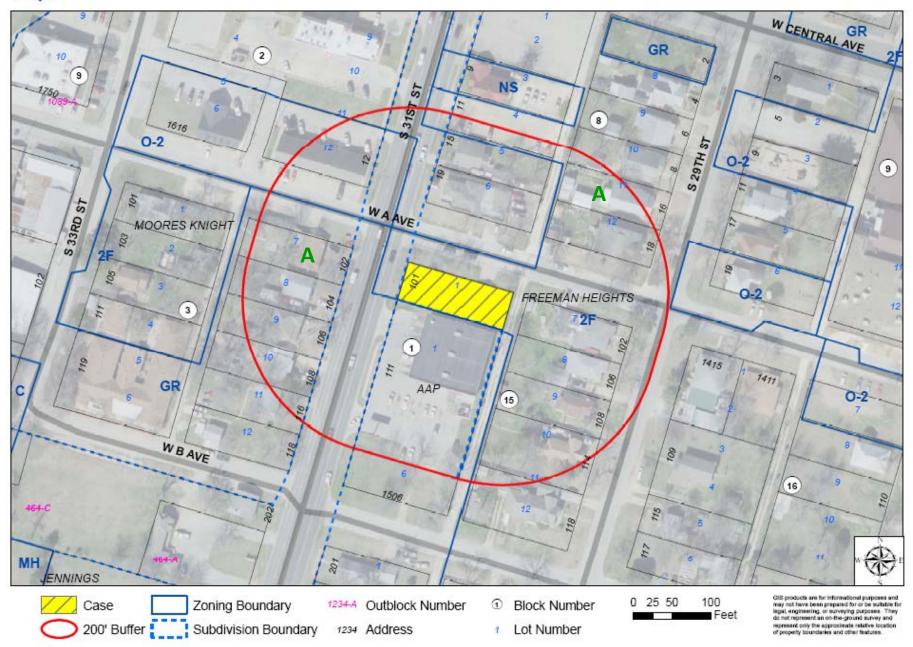




GIS products are for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. They do not represent an on-the-ground survey and represent only the approximate relative location of property boundaries and other features.

17 Notices
2 in Favor; 0 in Opposition

101 S. 31st. Street

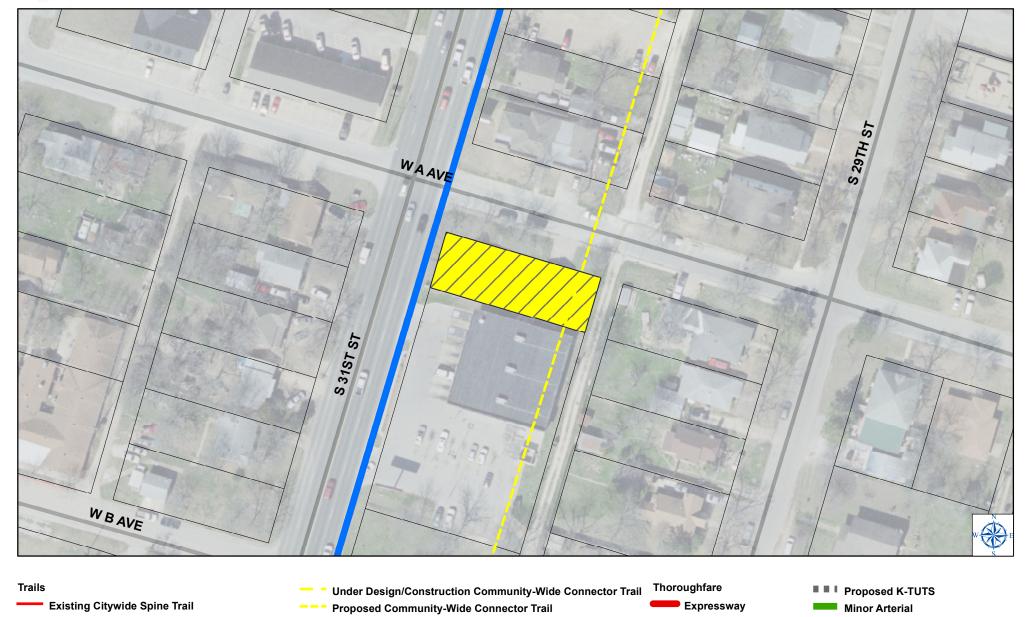


Temple

**Z-FY-12-43** 

2F To GR

101 S. 31st. Street



Under Design/Construction Citywide Spine Trail

**Existing Community-Wide Connector Trail** 

--- Proposed Citywide Spine Trail

**Existing Local Connector Trail** 

**Proposed Local Connector Trail** 

■ ■ Proposed Minor Arterial

Conceptual Collector

Collector

**Major Arterial** 

**Proposed Major Arterial** 



**Z-FY-12-43** 

Fire Hydrant — Water Line — Minor Arterial



50

25

100



Betty Jean McFerrin 16 South 29<sup>th</sup> Street Temple, Texas 76504

Zoning Application Number: <u>Z-FY-12-43</u>	Project Manager: Kim Foutz
Location: 3606 South 5 <sup>th</sup> Street	
Because you own property within 200 feet welcomed. Please use this form to indicate rezoning of the property described on the comments you may have.	n in hatched marking on the attached map. of the requested change, your opinions are attached notice, and provide any additional
I recommend (V) approval	( ) denial of this request.
Comments:	
Rand San	0
Signature Signature	Botty J. M. repkill Print Name
Please mail or hand-deliver this comment than May 7, 2012	form to the address shown below, no later
City	of Temple nning Department

Room 201

Municipal Building Temple, Texas 76501

Number of Notices Mailed: 17 Date Mailed: April 26, 2012





Project Manager: Kim Foutz

MAY 0 7 2012

City of Temple

Planning & Development

The Hair Corral 102 South 31<sup>st</sup> Street Temple, Texas 76503-310

Zoning Application Number: Z-FY-12-43

Location: 3606 South 5 <sup>th</sup> Street	
Because you own property within 200 fee welcomed. Please use this form to indic	on in hatched marking on the attached map. Let of the requested change, your opinions are cate whether you are in favor of the possible e attached notice, and provide any additional
I recommend ( ) approval	( ) denial of this request.
Comments:	
Langaral Ine	Hair Corral Inc
Signature	Hair Corral Inc Print Name Lorna Schoening
	t form to the address shown below, no later
	y of Temple RECEIVED

Room 201

**Municipal Building** 

Temple, Texas 76501

Number of Notices Mailed: 17 Date Mailed: April 26, 2012

### **EXCERPTS FROM THE**

### **PLANNING & ZONING COMMISSION MEETING**

### **MONDAY, MAY 7, 2012**

### **ACTION ITEMS**

Item 7: Z-FY-12-43 - Hold a public hearing to discuss and recommend action on a rezoning from Two Family District (2F) to General Retail District (GR) on Lot 1, Block 15, Freeman Heights Addition, located at 101 S. 31st Street. (Applicant: Rudy Garza for Diane Waters)

Ms. Foutz stated the applicant was Mr. Rudy Garza and the applicant is rezoning to locate an office on 31st Street in an existing residential structure. The applicant understands that being a nonresidential use, it may trigger standards for development.

The subject property is surrounded by GR except to the east where there is Two Family (2F) and is located along 31st Street which is designated as an arterial street.

The Future Land Use and Character Map designate this area as Auto Urban Commercial on all sides except to the rear which is Neighborhood Conservation and the request complies with the Future Land Use and Character Map. Adequate utilities are available to the property.

GR has a number of uses which also include, but are not limited to, offices, car wash, fuel sales, auto sales, and plumbing. All residential are allowed except apartments.

Development standards would apply as a nonresidential use including buffering and fencing, a buffer fence or hedge would be required to the rear due to single family use. Parking and loading along with access and circulation. Other standards may apply, if applicable, such as refuse, outdoor display and retail display. In the future, signs, masonry and sidewalks may also be triggered, if applicable.

Seventeen notices were mailed out with one notice received in favor and one in opposition.

Staff recommends approval of this request since it is in compliance with the Future Land Use and Character Map, the Thoroughfare Plan, adequate public facilities are available, GR is the prevalent zoning, and it is located on a major arterial street.

Chair Martin opened the public hearing.

Ms. Betty Jean McFerrin, 16 S. 29th Street, Temple, Texas, asked what the property was for now and Ms. Foutz replied the stated use is Office, but would be allowed to conduct any of the businesses for that category (shown on screen). Ms. McFerrin was concerned about noise and traffic.

Ms. McFerrin asked if a person opens an office, what are the chances of someone else coming in later and making it into another use. Chair Martin responded that once the zoning is in place, any future owners may still use that O1 zoning. So if a person goes in with a small office to begin with, in the future someone could come in with a different type of use allowed under O1.

Ms. McFerrin asked if it could be a fast food restaurant and Ms. Foutz stated yes.

Ms. McFerrin was also concerned about property values.

Chair Martin stated he would like to exclude the restaurant use and Vice-Chair Staats stated he would like to limit on-premises consumption of beer and wine.

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

Vice-Chair Staats made a motion to approve Item 7, Z-FY-12-43, as presented, with the exception that on-premise consumption of beer and wine not be allowed and any food facility and/or restaurant not be allowed.

Ms. Foutz stated the alcohol use is allowed by right. There are other alcohol use categories that would require a CUP that are still allowed in the GR zoning but would require coming back to the P&Z Commission.

Chair Martin reopened the public hearing.

Mr. Rudy Garza, 2510 Bluejay, Temple, Texas, stated it is strictly for office for an insurance business. Mr. Garza did not feel there was enough space to have a restaurant regardless. The parking lot is rather small as well, especially for a restaurant. The house has an awkward layout making it more conducive to an office.

Vice-Chair Staats asked Mr. Garza had he had any problems with the motion stated. Mr. Garza stated he did because it might hurt the value of the property in the future if he decided to sell it. Mr. Garza did not have any intention of doing any alcohol there for any reason right now. Mr. Garza just wants to put up a sign and start working as an office.

Commissioner Pilkington asked why the property could not go under an office zoning and Mr. Garza stated it was discussed but the majority of zoning was GR. If he did anything other than GR it would probably hurt the property for the future for any changes. Mr. Garza was the one asking for GR zoning, no one else suggested it.

Commissioner Talley asked if the P&Z Commission had the right to add an amendment and Ms. Foutz stated yes, but they would have to amend the motion to make it a PD.

Commissioner Sears stated he did not see the logic in limiting two items from the numerous choices available in GR zoning and did not agree.

Mr. Garza stated he had no need for alcohol but the future may be different. Vice-Chair Staats stated he felt the residential character should be maintained.

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

Vice-Chair Staats stated he would continue his motion as previously stated. Commissioner Jones asked for the motion to be reread.

Vice-Chair Staats stated the motion as presented, prohibiting the use of on-premise beer and wine and the use of a restaurant.

Ms. Foutz stated the motion must include the language that it be zoned PD-GR.

There being no second on Vice-Chair Staats motion, the motion failed.

Commissioner Sears made a motion to approve Item 7, **Z-FY-12-43**, as presented and Commissioner Rhoads made a second.

Motion passed: 7:1 Vice-Chair Staats voted Nay; Commissioner Pope absent

## ORDINANCE NO. <u>2012-4539</u> [PLANNING NO. Z-FY-12-43]

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, APPROVING A REZONING FROM TWO FAMILY DWELLING DISTRICT (2F) TO GENERAL RETAIL DISTRICT (GR) ON LOT 1, BLOCK 15, OF THE FREEMAN HEIGHTS ADDITION, LOCATED AT 101 SOUTH 31<sup>ST</sup> STREET; PROVIDING AN EFFECTIVE DATE; AND PROVIDING AN OPEN MEETINGS CLAUSE.

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

- <u>Part 1</u>: The City Council approves a rezoning from Two Family Dwelling District (2F) to General Retail District (GR) on Lot 1, Block 15, of the Freeman Heights Addition, located at 101 South 31<sup>st</sup> Street, more fully described in Exhibit A, attached hereto and made a part hereof for all purposes.
- <u>Part 2:</u> The City Council directs the Director of Planning to make the necessary changes to the City Zoning Map accordingly.
- <u>Part 3</u>: 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.
- <u>Part 4</u>: 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.
- <u>Part 5</u>: 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 **7**<sup>th</sup> day of **June**, 2012.

# PASSED AND APPROVED on Second Reading on the 21st day of June, 2012. THE CITY OF TEMPLE, TEXAS WILLIAM A. JONES, III, Mayor ATTEST: APPROVED AS TO FORM: Lacy Borgeson City Secretary Jonathan Graham City Attorney



### CITY COUNCIL AGENDA ITEM MEMORANDUM

06/21/12 Item #3(N) Consent Agenda Page 1 of 2

### **DEPT./DIVISION SUBMISSION & REVIEW:**

Traci L. Barnard, Director of Finance

<u>ITEM DESCRIPTION:</u> SECOND READING - Consider adopting an ordinance authorizing amendments to the Tax Increment Financing Reinvestment Zone No. 1 Financing and Project Plans as follows:

- (1) Appropriating \$30,000 to the Pepper Creek Trail Connection to the Scott & White Health Plan Building existing trail Project and recognizing \$30,000 in revenue from additional property taxes received in FY 2012.
- (2) Appropriating \$385,000 to the TMED-1<sup>st</sup> Street @ Loop 363 Project and recognizing \$250,000 in revenue from a Keep Temple Beautiful Governor's Award grant and recognizing \$135,000 in revenue from additional property taxes received in FY 2012.
- (3) Appropriating \$50,000 to the I-35 Gateway Signage Project and recognizing \$50,000 in revenue from additional property taxes received in FY 2012.

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

<u>ITEM SUMMARY:</u> The Reinvestment Zone No. 1 Board met on May 23, 2012, to recommend to Council amendments to the Financing and Project Plans to reprioritize funding within the Plans. The detail for the required amendments is shown below.

### (1) Pepper Creek Trail Connection to Scott & White, Line 204 (Project Plan):

The current Project Plan, Line 204, has \$700,000 allocated for this project. The funding for this project is currently split equally between the City and Scott & White through a Chapter 380 cost sharing agreement. The agreement's purpose is to share the cost of extending the current Pepper Creek Trail to reach an existing Scott & White hike and bike trail near the building housing the Scott & White Health Plan operations.

After funding the design of the project, \$583,383 is remaining to fund the construction and required testing services. Bids were received on May 15, 2012. The base bid was \$600,050 and an add alternate to construct trail signage was \$6,000. The total recommended construction contract award is \$606,050.

A Financing Plan amendment is presented to allocate \$30,000 to the project from additional property taxes received in FY 2012 to fund the amount needed for the construction contract and for required testing services.

## (2) TMED-1<sup>st</sup> Street @ Loop 363, Line 454 (Project Plan):

The current opinion of probable cost for this project is \$5,000,000. TxDOT has agreed to contribute \$2,500,000 to the project. The current Project Plan, Line 454, has \$2,115,000 in FY 2012 and 2013 to partially fund the 1<sup>st</sup> Street @ Loop 363 project. To fund the project to the \$2,500,000 level (City's 50% share) an additional \$385,000 is needed. Keep Temple Beautiful (KTB) received a grant from the Governor's office in the amount of \$250,000. KTB has agreed to allocate this grant to the project. \$135,000 is available in additional property taxes received in FY 2012. This will bring the amount of funding in the current Financing Plan to \$2,500,000.

A Financing Plan amendment is presented to allocate \$250,000 of the KTB Governor's Award Grant to the 1<sup>st</sup> Street @ Loop 363 project and to allocate \$135,000 of property tax revenue to the project.

#### (3) Gateway Entrance Projects, Line 501 (Project Plan):

The current Project Plan, Line 501, has no projects currently funded. As part of the I-35 expansion project, the City has the opportunity to include design of the I-35 Gateway Sign in TXDOT's plans.

A Financing Plan amendment is presented to allocate \$50,000 from additional property taxes received in FY 2012 to the fund the design of the I-35 Gateway Sign Project.

**FISCAL IMPACT:** The proposed amendments reallocate funding within the FY 2012 Financing/Project Plans on Lines 4, 10, 204, 454, and 501 as described above.

Revenue in the amount of \$215,000 will be recognized from additional property taxes received in FY 2012 to increase funding for the Pepper Creek Trail Connection to Scott & White project in the amount of \$30,000, to increase funding for the TMED-1<sup>st</sup> Street @ Loop 363 project in the amount of \$135,000, and to add funding for the I-35 Gateway Sign project design in the amount of \$50,000. Revenue in the amount of \$250,000 will be recognized from grant revenue to be received as part of the Keep Temple Beautiful Governor's Award allocated to the TMED-1<sup>st</sup> Street @ Loop 363 project.

There will be no change to the previously reported unreserved fund balance at the end of FY 2012 of \$830,812.

#### **ATTACHMENTS:**

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

DESCRIPTION		ed FY 2012 Year 30		= 9/30/13 <b>'ear 31</b>	Y/E 9/30/14 <b>Year 32</b>	Y/E 9/30/15 <b>Year 33</b>		//E 9/30/16 <b>Year 34</b>	Y/E 9/30/17 <b>Year 35</b>	Y/E 9/30/18 <b>Year 36</b>	Y/E 9/30/19 <b>Year 37</b>	Y/E 9/30/20 <b>Year 38</b>	Y/E 9/30/21 <b>Year 39</b>	Y/E 9/30/22 Year 40
"Taxable Increment"	\$	132,020,000	\$	139,995,945 \$	143,080,007 \$	145,017,763	\$	202,529,247 \$	220,811,496 \$	224,519,611 \$	228,264,807 \$	231,297,455 \$	234,360,430 \$	236,704,034
FUND BALANCE, Begin	\$	7,979,748	\$	830,812 \$	765,393 \$	1,861,709	\$	1,200,316 \$	704,753 \$	675,702 \$	723,882 \$	821,179 \$	869,733 \$	953,754
Adjustments to Debt Service Reserve		462,707	•	1,761,865	1,765,643	-	•	-	-	-	-	-	-	-
Fund Balance Available for Appropriation	\$	8,442,455	\$	2,592,677 \$	2,531,036 \$	1,861,709	\$	1,200,316 \$	704,753 \$	675,702 \$	723,882 \$	821,179 \$	869,733 \$	953,754
SOURCES OF FUNDS:	]													
Tax Revenues		4,350,611		4,337,625	4,400,312	4,449,698		6,049,648	6,531,300	6,602,434	6,674,282	6,737,970	6,802,296	6,858,393
Allowance for Uncollected Taxes Interest Income-Other		(115,655) 50,000		(116,801) 50,000	(117,961) 50,000	(119,132) 50,000		(120,314) 50,000	(121,509) 50,000	(122,715) 50,000	(123,934) 40,000	(125,165) 40,000	(126,408) 30,000	(127,663 10,000
Grant Funds		300,000		-	-	-		-	-	-	-	-	-	-
License Fee - Central Texas Railway		36,000		36,000	36,000	36,000		36,000	36,000	36,000	36,000	36,000	36,000	36,000
Other Revenues		175,000		-	-	-		-	-	-	-	-	-	-
P.I.L.O.T.		1,300,000		-	-	-		-	-	-	-	-	-	-
Total Sources of Funds	\$	6,095,956	\$	4,306,824 \$	4,368,351 \$	4,416,566	\$	6,015,334 \$	6,495,791 \$	6,565,719 \$	6,626,348 \$	6,688,805 \$	6,741,888 \$	6,776,730
TOTAL AVAILABLE FOR APPROPRIATION	\$ 1	14,538,411	\$	6,899,501 \$	6,899,387 \$	6,278,275	\$	7,215,650 \$	7,200,544 \$	7,241,421 \$	7,350,230 \$	7,509,984 \$	7,611,621 \$	7,730,484
USE OF FUNDS:	1													
DEBT SERVICE														
2003 Bond Issue {\$11.740}	_	867,035		869,055	869,855	868,930		866,530	867,440	866,753	869,240	869,640	868,070	870,070
2008 Bond Issue {\$16.010 mil}		201,960		201,960	201,960	201,960		201,960	201,960	201,960	201,960	1,786,960	1,787,292	1,784,97
2009 Bond Refunding		1,473,669		1,474,569	1,479,969	1,499,769		1,508,775	1,510,150	1,488,750	1,485,000	-	-	-
2008 Bond Issue-Taxable {\$10.365 mil}		1,241,935		1,239,641	1,240,495	1,239,233		1,240,854	1,240,096	1,241,957	1,241,173	1,237,744	1,241,670	1,242,42
Issuance Costs		-		-	-	-		-	-	-	-	-	-	-
Refunding Bonds Proceeds		-		-	-	-		-	-	-	-	-	-	-
Payment to Refunding Bond Agent		1,200		1,200	1,200	1,200		1,200	- 1,200	- 1,200	- 1,200	- 1,200	- 1,200	- 1,20
Paying Agent Services Subtotal-Debt Service		3,785,799		3,786,425	3,793,479	3,811,092		3,819,319	3,820,846	3,800,620	3,798,573	3,895,544	3,898,232	3,898,664
OPERATING EXPENDITURES														
Prof Svcs/Proj Mgmt	-	175,000		175,000	175,000	175,000		175,000	175,000	175,000	175,000	175,000	175,000	175,000
Legal/Audit		1,200		1,200	1,200	1,200		1,200	1,300	1,300	1,300	1,300	1,300	1,40
Zone Park Maintenance [mowing, utilities, botanical supplies]		150,000		150,000	150,000	150,000		150,000	150,000	150,000	150,000	150,000	150,000	150,00
Zone Park Maintenance [maintenance]		25,000		25,000	25,000	25,000		25,000	25,000	25,000	25,000	25,000	25,000	25,00
Rail Maintenance		274,575		100,000	100,000	100,000		100,000	100,000	100,000	100,000	100,000	100,000	100,000
Road/Signage Maintenance		158,826		100,000	100,000	100,000		100,000	100,000	100,000	100,000	100,000	100,000	100,00
Contractual Payments [TEDC - Marketing]		165,000		181,500	199,650	219,615		241,577	253,655	266,338	279,655	293,638	308,320	323,73
TISD-Reimbursement for expenses incurred for participation in Zone		22,873		23,102	23,333	23,567		23,802	24,040	24,281	24,523	24,769	25,016	25,267
Subtotal-Operating Expenditures		972,474		755,802	774,183	794,382		816,579	828,995	841,919	855,478	869,707	884,636	900,40
TOTAL DEBT & OPERATING EXPENDITURES	\$	4,758,273	\$	4,542,227 \$	4,567,662 \$	4,605,474	\$	4,635,898 \$	4,649,841 \$	4,642,539 \$	4,654,051 \$	4,765,251 \$	4,782,868 \$	4,799,067
Funds Available for Projects	\$	9,780,138	\$	2,357,274 \$	2,331,725 \$	1,672,801	\$	2,579,753 \$	2,550,702 \$	2,598,882 \$	2,696,179 \$	2,744,733 \$	2,828,754 \$	2,931,41
BBO IFOTO														
PROJECTS  North Zone/Rail Park	-	58,800		250,000	250,000	250,000		_	_	_	_	_	_	_
2 Airport Park		125,000		625,000	-	-		-	-	-	-	-	-	
Bio-Science Park		730,000		-	-	-		-	-	-	-	-	-	
Outer Loop [from Wendland Rd to IH-35 North]		36,105		-	-	-		-	-	-	-	-	-	-
Northwest Loop 363 Improvements (TxDOT commitment)		899,350		-	-	-		-	-	-	-	-	-	-
9 Synergy Park		88,900		-	-	-		-	-	-	-	-	-	-
2 Downtown		692,227		216,881	220,016	222,485		-	-	-	-	-	-	-
7 TMED		4,298,023		500,000	-	-		-	-	-	-	-	-	-
Major Gateway Entrances  5 Airport Corporate Hangar Development		50,000 1,970,921		-	-	-		-	-	-	-	-	-	-
Bond Contingency		1,970,921		-	-	-		-	-	-	-	-	-	-
Public Improvements		-		-	-	-		1,875,000	1,875,000	1,875,000	1,875,000	1,875,000	1,875,000	2,746,99
Subtotal-Projects		8,949,326		1,591,881	470,016	472,485		1,875,000	1,875,000	1,875,000	1,875,000	1,875,000	1,875,000	2,746,99
TOTAL USE OF FUNDS	\$	13,707,599	\$	6,134,108 \$	5,037,678 \$	5,077,959	\$	6,510,898 \$	6,524,841 \$	6,517,539 \$	6,529,051 \$	6,640,251 \$	6,657,868 \$	7,546,062
FUND BALANCE, End	\$	830,812	\$	765,393 \$	1,861,709 \$	1,200,316	\$	704,753 \$	675,702 \$	723,882 \$	821,179 \$	869,733 \$	953,754 \$	184,42
, I OND DALANGE, ENG	Ψ	000,012	Ψ	100,000 P	1,001,100 0	1,200,010	a a	107.100 0	010,102 D	120.002 J	U_1,1/3 D	UU3,133 D	∂JJ,/J+ Ø	104.42

Project Plan - 05/23/12 - to Zone Board

_					1
	SUMMARY FINANCIN	G PLAN			
		Revised FY 2012	FY 2013	FY 2014	FY 2015
1	Beginning Available Fund Balance, Oct 1	\$ 7,979,748 \$	830,812	\$ 765,393 \$	1,861,709
20	Total Sources of Funds	6,095,956	4,306,824	4,368,351	4,416,566
2	Adjustments to Debt Service Reserve	462,707	1,761,865	1,765,643	6 070 075
25	Net Available for Appropriation	14,538,411	6,899,501	6,899,387	6,278,275
50/52	General Administrative Expenditures	176,200	176,200	176,200	176,200
54 54	Zone Park Maintenance [mowing, utilities, botanical supplies] Zone Park Maintenance [maintenance]	150,000 25,000	150,000 25,000	150,000 25,000	150,000 25,000
56	Rail Maintenance	274,575	100,000	100,000	100,000
58 60	Road/Signage Maintenance Contractual Payments (TEDC - Marketing)	158,826 165,000	100,000 181,500	100,000 199,650	100,000 219,615
62	TISD - Joint Use Facilities [look at contracts and calculation]	22,873	23,102	23,333	23,567
26	Debt Service - 2003 Issue {\$11.740 mil}	868,235	870,255	871,055	870,130
27 28	Debt Service - 2008 Issue {\$16.010 mil} Debt Service - 2009 Issue {Refunding}	201,960 1,473,669	201,960 1,474,569	201,960 1,479,969	201,960 1,499,769
29	Debt Service - 2008 Taxable Issue {\$10.365 mil}	1,241,935	1,239,641	1,240,495	1,239,233
30 31	Issuance Costs Refunding Bond Proceeds	-	-	-	-
32	Payment to Refunding Bond Agent		-		-
70	Total Debt & Operating Expenditures	4,758,273	4,542,227	4,567,662	4,605,474
80	Funds Available for Projects	\$ 9,780,138 \$	2,357,274	\$ 2,331,725 \$	1,672,801
	PROJECT PLAI	N			
		Revised FY 2012	FY 2013	FY 2014	FY 2015
100	NORTH ZONE/RAIL PARK (including Enterprise Park): Railroad Spur Improvements	8,800	_	-	_
102	Elm Creek Detention Pond	-	-	-	-
103	ROW Acquisition - Public Improvements	-	-	-	-
104 105	Extension of Rail Service BN Trans-Load NE Site Phase I - [\$850K total project cost]	-	-	-	-
106 107	Wendland Road Improvements  Wendland Property Roadway Phase I - [\$1.87M total project cost]	-	-	-	-
110	Public Improvements in North Zone	50,000	250,000	250,000	250,000
150	Total North Zone/Rail Park (including Enterprise Park)	58,800	250,000	250,000	250,000
	AIRPORT PARK:				
151	Airport Park Infrastructure Construction	-	-	-	-
155 200	Pepper Creek Trail Extention Phase I - [\$750K total project cost]  Total Airport Park	125,000 125,000	625,000 625,000	-	-
200	Total All Port Park	123,000	023,000	<del>-</del>	<u> </u>
	BIO-SCIENCE PARK:				
201 202	Greenbelt Development along Pepper Creek Outer Loop Phase II (from Hwy 36 to FM 2305)	-	-	-	-
203	Bio-Science Park Phase 1	-	-	-	-
204 250	Pepper Creek Trail Connection to S&W  Total Bio-Science Park	730,000 730,000	-	-	-
250	Total Dio-Science Faix	730,000		<u>-</u>	
300					
	Outer Loop (from Wendland Rd to IH-35 North) - [\$15.5M total project cost]	36,105	•	-	-
350	Northwest Loop 363 Improvements (TxDOT commitment)	899,350	-	-	-
	SYNERGY PARK:				
351	Lorraine Drive (Southeast Industrial Park) - [\$1.5M total project cost]	88,900	-		-
400	Total Synergy Park	88,900	-	-	-
	DOWNTOWN:				
401	Downtown Improvements [look at 1999 Ordinance]	604,077	216,881	220,016	222,485
402 403	Rail Safety Zone Study Lot Identification & Signage	3,150 80,000	-	-	-
404	Santa Fe Plaza Study	5,000	-	-	-
405	Santa Fe Plaza Parking Lot - [\$1.3M total project cost]  Total Downtown	692,227	216,881	220,016	- 000 405
450	Total Downtown	692,227	210,081	220,016	222,485
	TMED:				
451 452	TMED - 1st Street @ Temple College - [\$2.9M total project cost]  Master Plan Integration 2010	466,633 1,550	-	-	-
452 453	Monumentation Identification Conceptual Design	1,617	-	-	-
454	TMED - 1st Street @ Loop 363 Design/Construction - [\$2.5M city project cost] TMED - Friars Creek Trail 5th Street to S&W Blvd [\$1.9M total project cost - DOE	2,086,120	500,000	-	-
455	Grant of \$400K]	1,430,453	-	-	-
456 457	Avenue R - S&W Blvd, Ave R - 19th Intersections  Ave II from S&W Blvd to 1st St & the 19th to 17th connector from Ave R to Loop 363	35,500 276 150	-	-	-
457 500	Ave U from S&W Blvd to 1st St & the 13th to 17th connector from Ave R to Loop 363  Total TMED	276,150 <b>4,298,023</b>	500,000		
		<u> </u>			
501	OTHER PROJECTS: Gateway Entrance Projects	50,000	-	-	-
505	Airport Corporate Hangar Development	1,970,921	-	-	-
550	Total Other Projects	2,020,921	-	•	-
600	Undesignated Funding - Bonds		-		-
	Undergraphed Funding Dublis Insurances				
610	Undesignated Funding - Public Improvements	<u> </u>	-		-
	Total Planned Project Expenditures	8,949,326	1,591,881	470,016	472,485
			1,001,001	410,010	-12,403
700	Available Fund Balance at Year End	\$ 830,812 \$	765,393	\$ 1,861,709 \$	1,200,316

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## **BUDGET ADJUSTMENT FORM**

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

Adjustments should be rounded to the nearest \$1.

ACCOUNT NUMBER	PROJECT #	ACCOUNT DESCRIPTION	INCREASE	DECREASE
795-9500-531-65-54	100695	Pepper Creek Trail Connection to S&W	\$ 30,000	
795-0000-411-01-11		Property Tax Revenue	30,000	
795-9500-531-65-51	100700	1st Street/Loop 363 Project	385,000	
795-0000-431-02-61		Grant Revenue	250,000	
795-0000-411-01-11		Property Tax Revenue	135,000	
795-9500-531-65-59	100861	I-35 Gateway Signage	50,000	
795-0000-411-01-11		50,000		
TOTAL			\$ 930,000	\$ -
EVEL ANATION OF AD	ILICTMENT	FROMEST Include institution for increases AND	was a serve serve for a day in	
account are available.	JUSTIVIENT	REQUEST- Include justification for increases AND	reason why lunds in	i decreased
Connection to S&W. Funds a Governor's award grant funds property taxes collected in FY	vailable from in the amont 2012 to fund	ded of \$30,000 to fund the construction contract and to additional property taxes collected in FY 2012. 2.) To of \$250,000 to the 1st Street/Loop 363 Project and to I the project at an amount of \$2,500,000. 3.) To appropriate available from additional property taxes collected in F	appropriate Keep Tappropriate \$135,00 oriate \$50,000 to the	Temple Beautiful 00 of additional
DOES THIS REQUEST REQUEST REQUEST REQUEST REQUESTIN		CIL APPROVAL? X 6/21/2012	Yes No	0
WITH AGENDA ITEM?		X	Yes No	0
Department Head/Division	n Director	 Date	Di	oproved sapproved
Finance		Date		sapproved
City Manager		Date		oproved sapproved

#### **ORDINANCE NO. 2012-4540**

AN ORDINANCE BY THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING AMENDMENTS TO THE TAX INCREMENT FINANCING REINVESTMENT ZONE NO. 1 FINANCING AND PROJECT PLANS TO APPROPRIATE \$30,000 TO THE PEPPER CREEK TRAIL CONNECTION TO THE SCOTT & WHITE HEALTH PLAN BUILDING; TO APPROPRIATE \$385,000 TO THE TMED-1<sup>ST</sup> STREET AT LOOP 363 PROJECT AND RECOGNIZE \$250,000 IN REVENUE FROM A KEEP TEMPLE BEAUTIFUL GOVERNOR'S AWARD GRANT; TO APPROPRIATE \$50,000 TO THE I-35 GATEWAY SIGNAGE PROJECT AND RECOGNIZE \$50,000 IN REVENUE FROM ADDITIONAL PROPERTY TAXES RECEIVED IN FY2012; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; DECLARING FINDINGS OF FACT; AND PROVIDING AN OPEN MEETINGS CLAUSE.

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

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

2005; Ordinance No. 2006-4051 on January 5, 2006; Ordinance No. 2006-4076 on the 18<sup>th</sup> day of May, 2006; Ordinance No. 2006-4118; Ordinance No. 2007-4141 on the 19<sup>th</sup> day of April, 2007; Ordinance No. 2007-4155 on July 19, 2007; Ordinance No. 2007-4172 on the 20<sup>th</sup> day of September, 2007; Ordinance No. 2007-4173 on October 25, 2007; Ordinance No. 2008-4201 on the 21<sup>st</sup> day of February, 2008; and Ordinance No. 2008-4217 the 15<sup>th</sup> day of May, 2008; Ordinance No. 2008-4242 the 21<sup>st</sup> day of August, 2009; Ordinance No. 2009-4290 on the 16<sup>th</sup> day of April, 2009; Ordinance No. 2009-4294 on the 21<sup>st</sup> day of May, 2009; Ordinance No. 2009-4316 on the 17<sup>th</sup> day of September, 2009; Ordinance No. 2009-4320 on the 15<sup>th</sup> day of October, 2009; Ordinance No. 2010-4338 on the 18<sup>th</sup> day of February, 2010; Ordinance No. 2010-4371 on the 19<sup>th</sup> day of August, 2010; Ordinance No. 2010-4405 on November 4, 2010; Ordinance No. 2011-4429 on March 17, 2011; Ordinance No. 2011-4455 on July 21, 2011; Ordinance No. 2011-4477 on October 20, 2011; and Ordinance No. 2012-4540 on June 7, 2012;

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

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

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

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

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

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

- <u>Part 1:</u> Findings. The statements contained in the preamble of this ordinance are true and correct and are adopted as findings of fact hereby.
- <u>Part 2:</u> Reinvestment Zone Financing and Project Plans. The amendments to the Tax Increment Financing Reinvestment Zone No. One Financing and Project Plans, heretofore adopted by the Board of Directors of the Zone and referred to in the preamble of this ordinance, are hereby approved and adopted, as set forth in the Amendments to Reinvestment Zone Number One, City of Temple, Texas, attached hereto as Exhibits A and B. This expenditure requires an amendment to the 2011-2012 budget, a copy of which is attached hereto, as Exhibit C.
- <u>Part 3:</u> Plans Effective. The Financing Plan and Project Plans for the Zone heretofore in effect shall remain in full force and effect according to the terms and provisions thereof, except as specifically amended hereby.
- <u>Part 4:</u> Copies to Taxing Units. The City Secretary shall provide a copy of the amendment to the Reinvestment Zone Financing and Project Plans to each taxing unit that taxes real property located in the Zone.
- Part 5: Economic Development Program. The Council hereby establishes an economic development program for the Zone in accordance with Article III, Section 52-a of the Texas Constitution, Section 311.010(h) of the Texas Tax Code and Chapter 380 of the Texas Local Government Code to develop and diversify the economy of the Zone, eliminate unemployment and underemployment in the Zone and develop or expand transportation, business and commercial activity in the Zone including a program to make grants and loans of Zone assets or from the tax increment fund of the Zone in accordance with the provisions of Article III, Section 52-a, Chapter 311 of the Texas Tax Code and Chapter 380 of the Texas Local Government Code as directed and authorized by the Council. The Council hereby further directs and authorizes the Board of Directors of the Zone to utilize tax increment reinvestment zone bond proceeds to acquire the land and pay other real property assembly costs as set forth in the additional amendment attached hereto to help develop and diversify the economy of the Zone and develop or expand business and commercial activity in the Zone in accordance with Article III, Section 52-a, Chapter 311 of the Texas Tax Code and Chapter 380 of the Texas Local Government Code.
- <u>Part 6:</u> Severability. It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses and phrases of this ordinance are severable and, if any phrase, clause, sentence, paragraph or section of this ordinance should be declared invalid by the final judgment or decree of any court of competent jurisdiction, such invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this ordinance, since the same would have been enacted by the City Council without the incorporation in this ordinance of any such invalid phrase, clause, sentence, paragraph or section.

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

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

PASSED AND APPROVED on First Reading and Public Hearing on the  $7^{th}$  day of **June**, 2012.

PASSED AND APPROVED on Second Reading on the 21st day of June, 2012.

	THE CITY OF TEMPLE, TEXAS
	WILLIAM A. JONES, III, Mayor
ATTEST:	APPROVED AS TO FORM:
Lacy Borgeson	Jonathan Graham
City Secretary	City Attorney



## **COUNCIL AGENDA ITEM MEMORANDUM**

06/21/12 Item #3(O) Consent Agenda Page 1 of 2

#### **DEPT./DIVISION SUBMISSION & REVIEW:**

Ken Cicora, Parks and Leisure Services Director

**ITEM DESCRIPTION:** Consider adopting a resolution authorizing a construction contract with Dixon Paving, Inc. of Belton, for the base bid and one add alternate for the construction of an extension to the concrete hike & bike trail along Pepper Creek to connect with Scott & White property in the amount of \$606,050.

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

<u>ITEM SUMMARY:</u> This trail will provide a connection to the existing Pepper Creek Trail to the Scott & White Health Plan in the Bio Science Park. The trail will be constructed to the same standards as the existing Pepper Creek Trail.

On May 15, 2012 the City of Temple received six bids for this trail project. Bids ranged from a low of \$606,050 to a high of \$775,775 for the base bid and one add alternate with Dixon Paving, Inc. of Belton, Texas submitting the low bid. The base bid constructs a concrete trail approximately 1,200 feet in length and 12 feet wide, misc. drainage structures and a steel bridge approximately 125 feet in length. The add alternate provides for constructing 3 stone trail markers to be placed along the trail.

The Parks and Leisure Services Department has worked with Dixon Paving on projects in the past and has found them to be a very responsive and responsible contractor.

We are also recommending the waiver of the construction permits for this project as it is a City project.

At the May 23, Reinvestment Zone #1meeting, unanimously approved this contract and to recommend its approval by City Council

<u>FISCAL IMPACT:</u> The current Reinvestment Zone #1 Project Plan, Line 204, has \$700,000 allocated for this project. The funding for this project is currently split equally between the City and Scott & White through a Chapter 380 cost sharing agreement After funding the design services contract for the project, \$583,383 is remaining to fund the construction contract and required testing services. The base bid was \$600,050 and an add alternate to construct trail signage was \$6,000. The total recommended construction contract award is \$606,050.

06/07/12 Item #3(O) Consent Agenda Page 2 of 2

After approval of the amendment in the amount of \$30,000 to the Reinvestment Zone No. 1 Financing and Project Plans, funding for this construction contract will be available in account 795-9500-531-6554, project 100695.

## **ATTACHMENTS:**

Bid Tabulation Resolution

## Tabulation of Bids Received on May 15, 2012 at 2:30 p.m. Pepper Creek Trail Connection Bid# 95-01-12

		· · · -	
		Bidders	
	Barsh Company Waco, TX	Wolff Construction LP Belton, TX	Westar Construciton Inc.
Description			
Total Base Bid	\$722,668.50	\$672,502.00	\$754,175.00
Total Add Alternate	\$10,800.00	\$20,010.00	\$21,600.00
Total Base Bid + Add Alternate	\$733,468.50	\$692,512.00	\$775,775.00
Bid Bond (required at bid opening)	5%	5%	5%
	,,		
Acknowledge Addendum	Yes	Yes	Yes
Bond Affidavit	Yes	Yes	Yes
Credit Check Authorization	Yes	Yes	Yes
		Bidders	
	Patin Construction LLC Taylor, TX	TTG Utilities LLP Gatesville, TX	Dixon Paving Inc Belton, TX
Description			
Total Base Bid	\$737,915.00	\$730,930.00	\$600,050.00
Total Add Alternate	\$6,000,00	\$12.450.00	\$6,000,00

		<b>D.000.0</b>	
	Patin Construction LLC	TTG Utilities LLP	Dixon Paving Inc
	Taylor, TX	Gatesville, TX	Belton, TX
Description			
Total Base Bid	\$737,915.00	\$730,930.00	\$600,050.00
Total Add Alternate	\$6,000.00	\$12,450.00	\$6,000.00
Total Base Bid + Add Alternate	\$743,915.00	\$743,380.00	\$606,050.00
Bid Bond (required at bid opening)	5%	5%	5%

Acknowledge Addendum	Yes	Yes	Yes
Bond Affidavit	Yes	Yes	Yes
Credit Check Authorization	Yes	Yes	Yes

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

Belinda Mattke 15-May-12 Belinda Mattke, Director of Purchasing Date

A RESOLUTION O	F THE CITY CO	UNCIL OF THE	CITY OF TEMPLE,
TEXAS, AUTHORIZ	ZING A CONTRA	CT WITH DIXO	N PAVING, INC. OF
BELTON, TEXAS, I	FOR THE CONST	TRUCTION OF A	AN EXTENSION TO

BID AND ONE ADD ALTERNATE; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, this trail will provide a connection from the existing Pepper Creek Trail to the Scott & White Health Plan in the Bio Science Park – the trail will be constructed to the same standards as the existing Pepper Creek Trail;

RESOLUTION NO.

THE CONCRETE HIKE AND BIKE TRAIL ALONG PEPPER CREEK TRAIL; IN THE AMOUNT OF \$606,050, WHICH INCLUDES THE BASE

Whereas, on May 15, 2012, the city received six bids for this trail project and Staff recommends accepting the bid (\$606,050) from Dixon Paving, Inc., of Belton, Texas, which includes the base bid and one add alternate;

**Whereas,** funds are available for this project in Account No. 795-9500-531-6554, Project No. 100695; 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:

<u>Part 1:</u> The City Council authorizes the City Manager, or his designee, to execute a construction contract between the City of Temple and Dixon Paving, Inc., of Belton, Texas, after approval as to form by the City Attorney, for the construction of an extension to the concrete hike and bike trail along Pepper Creek Trail, in the amount of \$600,050 plus the add alternate in the amount of \$6,000.00, for a total project cost of \$606,050.

<u>Part 2:</u> 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 **21**<sup>st</sup> day of **June**, 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

06/21/12 Item #3(P) Consent Agenda Page 1 of 1

#### **DEPT./DIVISION SUBMISSION & REVIEW:**

Kim Foutz, Assistant City Manager

<u>ITEM DESCRIPTION:</u> Consider adopting a resolution authorizing a contract for a professional services agreement with Kasberg, Patrick & Associates, LP to perform design services for a Gateway sign on I-35 in an amount not to exceed \$48,750.

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

<u>ITEM SUMMARY:</u> Due to I-35 construction activity, the existing city entry sign will be demolished because of its current location. This project will provide design services for a new city entry gateway sign which will be located on the west side and northern section of I-35 in Temple close to the existing gateway sign location. In accordance with TXDOT procedures, the project will be submitted for review. TXDOT will also bid and construct the improvements in conjunction with their reconstruction of IH-35 from Loop 363 to the City of Troy.

The project scope includes development of a concept (see attached), design, and specifications using TXDOT guidelines. Breakdown of costs include: civil design (\$18,500); structural design (\$4,000); and landscape architecture (\$26,250) for total design costs of \$48,750.

While this agreement provides for final design of the gateway sign, final scope and funding sources for construction are yet to be determined. Keep Temple Beautiful is actively working on this future aspect of the project.

**FISCAL IMPACT:** After approval of the amendment to the Reinvestment Zone No. 1 Financing and Project Plans in the amount of \$50,000, funding for this agreement will be available in account 795-9500-531-6559, project 100861.

#### ATTACHMENTS:

Engineer's Proposal Concept Design and 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

May 17, 2012

Ms. Kim Foutz City of Temple 2 North Main Street Temple, Texas 76501

Re:

City of Temple, Texas

Temple Reinvestment Zone #1 - IH35 Entry Sign

Dear Ms. Foutz:

At the request of the City of Temple Reinvestment Zone #1, we are submitting this proposal for the above referenced project. This project will develop a plan and design plans that will be submitted to TxDOT for inclusion in the IH35 construction plans and specifications.

The project will develop the concept, design and specifications for the IH35 Entry Sign for Temple Texas. We will coordinate with the Texas Department of Transportation for inclusion of the design and specifications with the reconstruction of IH35 from Loop 363 to Troy section. We will prepare architectural drawings, structural design, civil design, plan preparation and specifications in accordance with TxDOT guidelines. Deliverables will be to TxDOT in the form of mylar drawings in TxDOT format and specifications meeting TxDOT guidelines. The project will be completed within the timeline for inclusion in the IH35 plans.

We can complete all the tasks represented for the lump sum cost of \$48,750. We are available to discuss the scope of the project at your convenience. As always, we look forward to working with you on the project and to the enhancement that it will bring to the City of Temple.

Civil Design \$ 18,500 Structural Design \$ 4,000 Landscape Architecture \$ 26,250 Total \$ 48,750

Sincerely,

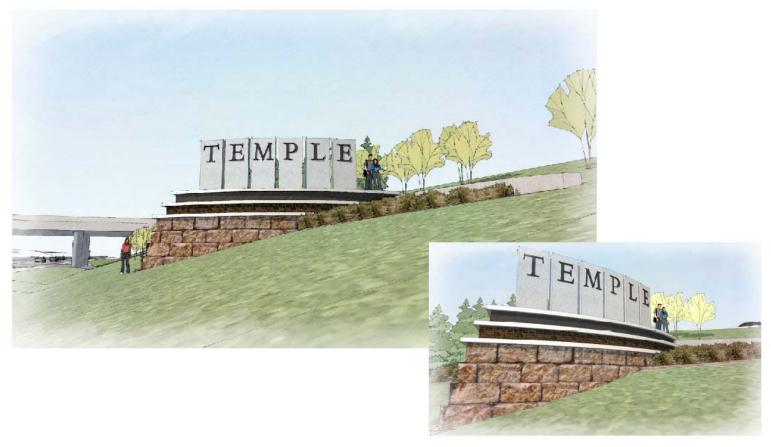
R. David Patrick, P.E., C.F.M.

K Dank

RDP/crc

## **I-35 GATEWAY SIGN CONCEPT**

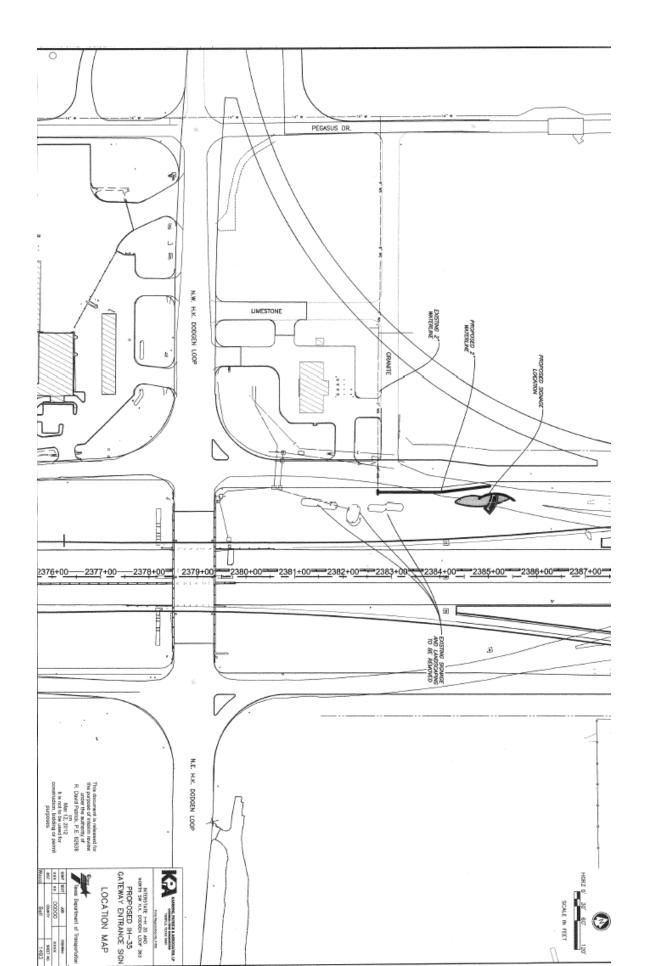




Curved Sign | 1



## **PROJECT AREA MAP**



RESOLUTION NO.	
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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 DESIGN SERVICES FOR A GATEWAY SIGN ON I-35; IN AN AMOUNT NOT TO EXCEED \$48,750; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, due to the I-35 construction activity, the existing city entry sign will be demolished because of its current location – this project will provide design services for a new city entry gateway sign which will be located on the west side an northern section of I-35 in Temple, close to the existing gateway sign location;

Whereas, the project scope includes development of a concept design, and specifications using TxDOT procedures and guidelines;

Whereas, Kasberg, Patrick & Associates, L.P., has submitted a proposal for performing these design services, attached as Exhibit A, in the amount of \$48,700, and the Staff recommends accepting it;

**Whereas**, funds are available for this project in the Reinvestment Zone No. 1 Financing and Project Plans, Account No. 795-9500-531-6559, Project No. 100861; 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:

<u>Part 1:</u> The City Council authorizes the City Manager, or his designee, to execute a professional services agreement, not to exceed \$48,750, between the City of Temple, Texas, and Kasberg, Patrick & Associates, L.P., after approval as to form by the City Attorney, for performing design services for a gateway sign on I-35.

<u>Part 2:</u> 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 **21**<sup>st</sup> day of **June**, 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**

06/21/12 Item #3(Q) 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.

<u>ITEM SUMMARY:</u> 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 \$52,515,520.

## **ATTACHMENTS:**

Budget Amendments Resolution

				APPROPI	ΖΙΔΤ	IONS
ACCOUNT #	PROJECT#	DESCRIPTION		Debit	VIA I	Credit
110-1122-513-2511		Printing/Publications (City Manager)	\$	2,500		
110-1122-513-2616		Professional	\$	5,000		
110-1122-513-2625		Advertising/Legals	\$	1,500		
110-0000-461-0423		Sale of Land		,	\$	9,000
		This budget adjustment appropriates revenues and expenses associated with the sale of surplus City lots.				
110-2031-521-6231 110-2031-521-2131	100864	OCU Seized Funds/Federal (Police) OCU Seized Funds/Federal	\$ \$	16,900 2,850		
110-0000-313-0330		Reserve for Seized Funds	Ψ	2,000	\$	19,750
		This budget adjustment appropriates Federal seized funds to purchase a dual purpose canine. \$16,900 is for the canine and handler training. \$2,850 is for the canine control and training equipment and for an outside kennel/shelter.				
110-2031-521-1119		Overtime (Police)	\$	1,299		
110-2031-521-1220		Retirement/Pension	\$	230		
110-2031-521-1221		Social Security	\$	17		
110-2031-521-1223		Worker Compensation	\$	17		
110-2031-521-1224		Unemployment Insurance	\$	38		
110-2231-521-1119		Overtime (Fire)	\$	2,288		
110-2231-521-1220		Retirement/Pension	\$	337		
110-2231-521-1221		Social Security	\$	31		
110-2231-521-1223		Worker Compensation	\$	25		
110-2231-521-1224		Unemployment Insurance	\$	67		
110-3640-560-1118		Extra Help/Seasonal	Ψ.	٠.	\$	4,349
		- Alia i iopi esacena				1,010
		This budget adjustment transfers funds from the Airport to the Police and Fire Departments to cover additional cost for overtime related to the Airshow.				
110-2350-540-2516		Judgments & Damages (Solid Waste - Frontload)	\$	2,166		
110-1500-515-6531		Contingency Judgments & Damages	Ť	_,	\$	2,166
		Deductible reimbursement to the Texas Municipal League for damage to a parked vehicle after it was allegedly struck by a garbage truck behind McDonald's and Chili's.				
110-3280-551-2540		Mayor's Fitness Council (Recreation)	\$	1,400		
110-0000-445-1587		Donations - Parks			\$	1,400
		This budget adjustment increases the Mayor's Fitness Council's expenditure account due to two sponsorships/donations made to the council. The donations account is being increased due to a \$1,200 sponsorship and a \$200 donation for the Mayor's Fitness Council.				
110-3500-552-2516		Judgments & Damages (Parks)	\$	153		
110-1500-515-6531		Contingency Judgments & Damages			\$	153
		Settlement of a claim filed against the City seeking reimbursement for alleged damages to a 2005 Dodge Dakota Crew Cab truck by a rock thrown by a lawn mower May 3, 2012 while the truck was parked at Lengefeld Lumber.				

				APPROPI	RIAT	IONS
ACCOUNT#	PROJECT#	DESCRIPTION		Debit		Credit
110-3700-524-2516 110-1500-515-6531		Judgments & Damages (Construction Safety)  Contingency Judgments & Damages	\$	1,933	\$	1,933
		Deductible reimbursement to the Texas Municipal League for expenses related to a lawsuit filed against Code Enforcement.				
110-4000-555-2510 110-0000-461-0841		Contributions/Prizes (Library) Donations/Gifts	\$	200	\$	200
		This budget adjustment appropriates revenue and expenditures related to a donation from the City Federation of Women's Clubs as specified for books to give to children participating in the Paws to Read program.				
240-4400-551-2210 240-4400-551-6221 240-4400-551-6532	100866	Furniture & Fixtures (Mayborn) Computer Software Contingency/Fund Balance	\$ \$	24,000 10,000	\$	34,000
		This budget adjustment appropriates funds to purchase additional tables and chairs due to extreme use and/or continual shortages. The budget adjustment will also appropriate funds to purchase software (Event Pro) which is designed specifically for convention centers. The software will tie all equipment to an inventory which will automatically adjust based on the internal diagramming module. The system will also tie our CRM database, which will eliminate the need for double data entry.				
260-2031-521-2113 260-0000-490-2589 260-0000-431-0163		Clothing & Uniform (Police Grant) Transfer In - General Fund Federal Grants	\$	7,500	\$ \$	3,750 3,750
110-9100-591-8160 110-0000-352-1345		Transfer Out - Grant Fund  Desc. Cap Proj - Bulletproof Vest Grant	\$	3,750	\$	3,750
		To appropriate grant funds and City matching funds to purchase bulletproovests for the Police Department. The grant funds are from the Bureau of Justice Assistance under the 2011 Bulletproof Vest Partnership Program. The total grant amount is \$7,500 with matching funds of \$3,750. On May 5 Council approved an agenda item designating \$3,750 for this grant.	, 201			
261-3400-531-2587 261-3400-531-2588 261-5700-580-7312 261-5700-580-7312 261-5700-580-7314 261-0000-490-1518 261-0000-490-1516	100681 100681	ROW Acquisition Costs (Street) Northwest Loop 363 Improvements Bond Issuance Cost Bond Issuance Cost Bond Discount Bond Premium Bond Proceeds	\$ 2 \$ \$ \$ \$	383,567 25,384,517 9,500 110,600 200,063		1,388,247 4,700,000
430-0000-315-1500 430-0000-315-1500		Reserved for Debt Service - Capitalized Int. Reserved for Debt Service	\$ \$	1,838,796 41,162		
430-0000-490-1518 430-0000-461-0112		Bond Premium Accrued Interest			\$ \$	1,838,796 41,162
261-3400-531-2588 261-0000-461-0865	100681	Northwest Loop 363 Improvements Misc. Reimbursements	\$ 2	20,000,000	\$ 2	0,000,000

4 000 UNIT #	DDO IFOT #	DECORPORA		APPROPI	RIA	
ACCOUNT#	PROJECT#	Appropriate the 2012 Pass-Through Agreement Revenue & Limited Tax Bol proceeds as authorized by Council on April 5, 2012. Proceeds were received by the City on June 14, 2012. The issue included capitalized interest that will be used to cover future interest costs in the amount of \$1,838,796.	nd	Debit		Credit
520-0000-373-0411 520-0000-372-0945	100682	Designated Cap Proj - Contingency Designated Cap Proj - IH-35 Improvements	\$	497,760	\$	497,760
		This budget adjustment reclassifies Water and Sewer Fund Designated Capital projects based on the revised FY 2012 Capital Improvement Plan.				
520-5000-535-2616 520-5000-535-6532		Contracted Services/Professional (Public Works Admin)  Contingency	\$	8,500	\$	8,500
		Funding to cover the costs associated with a Water Loss Audit required by TCEQ. Funds are available in Water & Sewer Fund's contingency account.				
561-5100-535-6906 561-5400-535-6905 561-5400-535-6925 561-5400-535-6941 561-5400-535-6904 561-5100-535-6904 561-5100-535-6904 561-5200-535-6904 561-5500-535-6904	100679 100667 100842 100851 100470 100619 100620 100800 100681 100584	WTP-Generator Phase 2 Rehab of Pea Ridge LS Bird Creek Phase 2A Leon River Interceptor Utility Replacement - 57th Street Pepper Creek Tank Taylor Tank Nugent Tank NW Loop 363-Utility Relocation TBRSS-Land & Design	\$ \$ \$ \$	9,275 10,460 9,999 3,927,120	\$ \$ \$ \$ \$ \$	3,862 1,000 5,836 35,549 1,454,434 785,676
561-0000-373-0422		This budget adjustment reallocates funding and appropriates interest earnings based on the revised FY 2012 Capital Improvement Plan.			\$	1,670,497 ————————————————————————————————————
		TOTAL AMENDMENTS	\$ :	52,515,520	\$	52,515,520
		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 Added to Contingency Judgments & Damages from Council Contingency Taken From Judgments & Damages Net Balance of Judgments & Damages Contingency Account  Beginning Compensation Contingency Added to Compensation Contingency Taken From Compensation Contingency Taken From Compensation Contingency Net Balance of Compensation Contingency Account			\$	80,000 - (35,591 44,409 863,600 - (863,600
		Net Balance Council Contingency			\$	44,409

			APPROPRIATIONS	
ACCOUNT #	PROJECT #	DESCRIPTION	Debit	Credit
		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	_	\$ (32,247
		Net Balance of Contingency Account	_	\$ 17,753
		Beginning Compensation Contingency		\$ 97,000
		Added to Compensation Contingency		\$ 97,000
		Taken From Compensation Contingency		\$ (92,916
		Net Balance of Compensation Contingency Account		\$ 4,084
		Net Balance of Compensation Contingency Account		Ψ +,00+
		Net Balance Water & Sewer Fund Contingency		\$ 21,837
		HOTEL/MOTEL TAX FUND		
		Beginning Contingency Balance		\$ 79,303
		Added to Contingency Sweep Account		\$ -
		Carry forward from Prior Year		\$ -
		Taken From Contingency		\$ (34,444
		Net Balance of Contingency Account		\$ 44,859
		Paginning Commencation Contingency		ф 44.200
		Beginning Compensation Contingency		\$ 11,300
		Added to Compensation Contingency		\$ - \$ (11,300
		Taken From Compensation Contingency Net Balance of Compensation Contingency Account		\$ (11,300 \$ -
		Not Balance of Compensation Contingency Account	-	Ψ
		Net Balance Hotel/Motel Tax Fund Contingency	_	\$ 44,859
		DRAINAGE FUND		
		Beginning Compensation Contingency		\$ 13,200
		Added to Compensation Contingency		\$ -
		Taken From Compensation Contingency		\$ (13,200
		Net Balance of Compensation Contingency Account		\$ -
		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 1<sup>st</sup> 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:

- <u>Part 1:</u> 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.
- <u>Part 2:</u> 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 **21**<sup>st</sup> day of **June**, 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**

06/21/12 Item #4 Regular Agenda Page 1 of 2

#### **DEPT./DIVISION SUBMISSION & REVIEW:**

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

<u>ITEM DESCRIPTION:</u> FIRST READING – PUBLIC HEARING - Consider amending the Code of Ordinances by creating Article II entitled "Post Construction" to Chapter 27, "Storm Water Management" per the City of Temple's Storm Water Management Program and as required by Texas Commission on Environmental Quality.

**STAFF RECOMMENDATION:** Conduct a public hearing and adopt ordinance as presented in item description, on first reading, and schedule second reading and final adoption for July 5, 2012.

ITEM SUMMARY: Staff recommends approval of language to create Article II entitled "Post Construction" to Chapter 27, "Storm Water Management" as described above. The EPA has implemented a body of regulations ("Phase II Stormwater Rules") involving storm water quality requirements that applied to cities under 100,000 population (prior regulations had just applied to cities with populations greater than 100,000). In the State of Texas, TCEQ has implemented the Phase II regulation by requiring cities with a population of less than 100,000 to adopt several new ordinances as a part of the best management practices (BMP) mandated in the City of Temple's Storm Water Management Program. These ordinances include erosion and sedimentation during construction, post construction after construction, illicit discharge to streams and illegal dumping.

The ordinance being proposed in this item is the post construction ordinance intended to improve water quality once the development of land (one or more acres inside of the city limits) is complete. The proposed ordinance language meets current state law minimum requirements.

City Code presently addresses illegal dumping and has done so for a number of years. Council adopted the erosion and sedimentation ordinance as well as the illicit discharge ordinance on July 21, 2011. Upon the adoption of the proposed post construction language, the City will have completed the adoption of all mandated storm water management ordinances.

City staff discussed proposed ordinance language with Temple Area Builders Association (TABA) review committee on November 15, 2011 and provided a presentation to the governmental affairs committee on April 21, 2011. TABA supports this ordinance.

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

06/21/12 Item #4 Regular Agenda Page 2 of 2

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

## **ATTACHMENTS:**

Proposed Chapter 27 Storm Water Management – Post Construction
Temple Area Builders Association – Governmental Affairs Committee Letter of Support
Ordinance

#### ARTICLE II. POST CONSTRUCTION STORM WATER RUNOFF CONTROL

#### **Subchapter A. General Provisions**

#### Sec. 27-1. Purpose.

The purpose of this ordinance is to establish minimum storm water management requirements and controls to protect and safeguard the general health, safety, and welfare of the public residing in watersheds within the city. This ordinance seeks to meet that purpose through the following objectives:

- 1. Minimize increases in storm water runoff from any land disturbing activity in order to reduce flooding, siltation, increases in stream temperature, and streambank erosion and maintain the integrity of stream channels;
- 2. Minimize increases in nonpoint source pollution caused by storm water runoff from land disturbing activity which would otherwise degrade local water quality;
- 3. Minimize the total annual volume of surface water runoff which flows from any specific site during and following land disturbing activity to not exceed the pre-land disturbing activity hydrologic regime to the maximum extent practicable; and
- 4. Reduce storm water runoff rates and volumes, soil erosion and nonpoint source pollution, wherever possible, through storm water management controls and to ensure that these management controls are properly maintained and pose no threat to public safety.

### Sec. 27-2. Applicability.

This ordinance shall be applicable to all subdivisions, both residential and non-residential. The ordinance also applies to land disturbing activities that are smaller than the minimum applicability criteria if such activities are part of a larger common plan of development even though multiple separate and distinct land development activities may take place at different times on different schedules. In addition, all plans must be reviewed by the city engineer to ensure that established water quality standards will be maintained during and after land disturbing activity of the site and that post construction runoff levels are consistent with any local and regional watershed plans.

To prevent the adverse impacts of storm water runoff, the city has developed a set

of performance standards that must be met at new development sites. These standards apply to any construction activity disturbing one (1) acre or more of land, except when land is situated on a CBZ. Standards found in Subchapter D apply to all land which is situated on a CBZ. The following activities may be exempt from these storm water performance criteria except for when situation on a CBZ:

- 1. Additions or modifications to existing single family structures; and
- 2. Repairs to any storm water treatment practice deemed necessary by the city.

When a development plan is submitted that qualifies as a redevelopment project as defined in section 27-4 of this ordinance, decisions on permitting and on-site storm water requirements shall be governed by special storm water sizing criteria found in Chapter 9, "Stormwater Best Management Practices," of the Drainage Criteria and Design Manual in effect at the time of redevelopment. This criteria is dependent on the amount of impervious area created by the redevelopment and its impact on water quality. Final authorization of all redevelopment projects will be determined after a review by the city.

In determining if a project is one (1) acre or larger, the city will consider whether or not the land disturbing activity is a part of a common plan. A construction activity is a part of a common plan if it is completed in separate stage, phases or in combination with other construction activities. Common plans are often, but not solely identified by plats, blueprints, contracts, zoning requests and building permits. Additionally, common plans may exist and erosion and sedimentation control may be required when there is more than one operator operating in an area which is larger than one acre, even though no single individual project is larger than one acre individually.

#### Sec. 27-3. Compatibility with other permit and ordinance requirements

This ordinance is not intended to interfere with, abrogate, or annul any other ordinance, rule or regulation, statute, or other provision of law. The requirements of this ordinance should be considered minimum requirements, and where any provision of this ordinance imposes restrictions different from those imposed by any other ordinance, rule or regulation, or other provision of law, whichever provisions are more restrictive or impose higher protective standards for human health or the environment shall be considered to take precedence.

## **Sec. 27-4. Definitions.** For the purposes of this ordinance the following shall mean:

Applicant means a property owner or agent of a property owner who has filed an storm water management plan.

Best Management Practices (BMP) are all generally accepted methods of reducing storm water pollutants and can be found in Subchapter C of this Article.

*Channel* means a natural or artificial watercourse with a definite bed and banks that conducts continuously or periodically flowing water.

*Creek* is a waterway having 64 acres or greater of contributing drainage areas.

Creek Buffer Zone (CBZ) is all property located on or adjacent to a natural, vegetated, earthen or grass lined creek, waterway, stream, or channel is hereby deemed to be within a CBZ and shall comply with the Drainage Criteria and Design Manual, Section 9 "Storm Water Best Management Practices."

*Crest of Slope* includes waterway top of banks or highest point of natural waterway banks steeper than the ratio found in the Drainage Criteria and Design Manual, Section 9 "Storm Water Best Management Practices."

*Detention* means the temporary storage of storm runoff in a storm water management practice with the goals of controlling peak discharge rates and providing gravity settling of pollutants.

Detention facility means a detention basin or alternative structure designed for the purpose of temporary storage of stream flow or surface runoff and gradual release of stored water at controlled rates.

Developer means a person who undertakes land disturbance activities.

Drainage Criteria and Design Manual (DCDM) is a manual containing all approved methods and design criteria for drainage and storm water control.

Drainage easement means a legal right granted by a landowner to a grantee allowing the use of private land for storm water management purposes.

*Impervious cover* means those surfaces that cannot effectively infiltrate rainfall (e.g., building rooftops, pavement, sidewalks, driveways, etc).

*Infiltration* means the process of percolating storm water into the subsoil.

Land disturbing activity means any activity, including but not limited to excavation, clearing, and grading, which disturbs the natural or improved vegetative ground cover so as to expose soil to the erosive forces of rain, storm water runoff or wind for residential and non-residential subdivisions and applicable city projects. Land

disturbing activity does not include any vegetative cutting and mulching. All installations and maintenance of franchise utilities such as telephone, gas, electric, etc., shall be considered land disturbing activities.

Landowner means the legal or beneficial owner of land, including those holding the right to purchase or lease the land, or any other person holding proprietary rights in the land.

Lowest point in waterway bed means the physical lowest grade elevation at a given cross section of waterway at the point of interest. (Licensed professional engineers may consider lowest point to be a projected line between grade control check points upstream and downstream of the point of interest. Grade control check points generally occur at small dams, concrete enclosed utility crossings, piped or boxed culverts or bridges with armored waterway beds.)

*Maintenance agreement* means a legally recorded document that acts as a property deed restriction, and which provides for long-term maintenance of storm water management practices.

Occupied Structures include but are not limited to, residences and places of business such as houses, apartments, businesses, schools, and churches.

Off-site facility means a storm water management measure located outside the subject property boundary.

On-site facility means a storm water management measure located within the subject property boundary.

*Private Amenities* include but are not limited to, fencing, landscaping, and irrigation systems.

*Private Amenity Structures* include but are not limited to, detached garages, sheds, swimming pools, retaining walls, decks and recreational courts or other similar structures.

Redevelopment means any construction, alteration or improvement exceeding one (1) acre in area where existing land use is high density commercial, industrial, institutional or multi-family and single family residential.

*Stop work order* means an order issued which requires that all construction activity on a site be stopped.

Storm water management means the use of structural or non-structural practices that are designed to reduce storm water runoff pollutant loads, discharge volumes, peak flow discharge rates and detrimental changes in stream temperature that affect water quality and habitat.

Storm water management facility is any facility that is built to control storm water runoff in order to comply with the Best Management Practices herein.

Storm water runoff means flow on the surface of the ground, resulting from precipitation.

Watercourse means a permanent or intermittent stream or other body of water, either natural or man-made, which gathers or carries surface water.

Waterway is any channel that directs surface runoff to a watercourse or to the public storm drain. This includes natural and manmade creeks, streams, swales and channels.

#### Subchapter B. Requirements for Storm Water Management Plan Approval

#### Sec. 27-5. Storm water management plan.

- (a) A storm water management plan is required for all land disturbing activities which disturb one (1) acre or more of land, and any time land is situated on a CBZ.
- (b) No application for a construction, building or other development permit will be approved unless it includes a storm water management plan ("SWMP") detailing how runoff and associated water quality impacts resulting from the land disturbing activity will be controlled or managed.
- (c) This plan must meet the submittal requirements outlined in the submittal checklist found in section 27-6 (b) of this chapter, be sealed by a professional engineer and must indicate whether storm water will be managed on-site or off-site. If on-site, the plan must include the specific location and type of practices in order to receive consideration for BMP credit.
- (d) The SWMP shall be developed and coordinated with the drainage plan and may be shown on the same sheet if applicable. It shall also be coordinated with the landscaping plan to prevent conflicts and assure compatible land use, if landscaping is a selected and approved BMP.
  - (e) No building, construction, or other development permit shall be issued until a

SWMP has undergone a review and been approved by the city after determining that the plan is consistent with the requirements of this ordinance.

## Sec. 27-6. Storm water management plan requirements.

- (a) A SWMP shall be required with construction and building permit applications and will include sufficient information to evaluate the environmental characteristics of the project site, the potential impacts of all proposed land disturbing activity of the site, both present and future, on the water resources, and the effectiveness and acceptability of the measures proposed for managing storm water generated at the project site. The intent of this is to determine the type of storm water management measures necessary for the proposed project, and ensure adequate planning for management of storm water runoff from future land disturbing activity.
- (b) The following information, in addition to all requirements found within DCDM, Section 9, "Storm Water Best Practices," shall be included in the SWMP:
  - 1. <u>Plan.</u> A map (or maps) and a written description of the SWMP and justification of proposed changes in natural conditions may also be required.
  - 2. <u>Engineer Analysis</u>. Sufficient engineering analysis to show that the proposed storm water management measures are capable of controlling runoff from the site in compliance with this ordinance and the specifications found within DCDM, Section 9, "Storm Water Best Practices."
  - 3. <u>Inventory</u>. A written or graphic inventory, as described in DCDM, Section 9, "Storm Water Best Practices" of the natural resources at the site and surrounding area as it exists prior to the commencement of the project and a description of the watershed and its relation to the project site.
  - 4. <u>Maintenance and Repair Plan</u>. The design and planning of all storm water management facilities shall include detailed maintenance and repair procedures to ensure their continued function. These plans will identify the parts or components of a storm water management facility that need to be maintained and the equipment and skills or training necessary. Provisions for the periodic review and evaluation of the effectiveness of the maintenance program and the need for revisions or additional maintenance procedures, which meet all specification found in DCDM, Section 9, "Storm Water Best Practices," shall be included in the plan.

- 5. <u>Maintenance easements</u>. Except for CBZs, the applicant must ensure access to all storm water BMPs at the site for the purpose of inspection and repair by securing all the maintenance easements needed on a permanent basis. These easements will be recorded with the plan and will remain in effect even with transfer of title to the property.
- 6. <u>Maintenance agreement</u>. The applicant must execute an easement and an inspection and maintenance agreement binding on all subsequent owners of land served by an on-site storm water management measure in accordance with the specifications of this ordinance.
- 7. <u>Maintenance by city</u>. At its sole discretion the city may agree to accept a development's storm water management facility as a public improvement and maintain it as such. This agreement may be reached in lieu of a maintenance agreement. This section in no way guarantees the city's acceptance of any BMP as a public improvement.

The city may also require a concept plan to consider the maximum development potential of a site under existing zoning, regardless of whether the applicant presently intends to develop the site to its maximum potential.

(c) For land disturbing activity occurring on a previously developed site, an applicant shall be required to include within the SWMP measures for controlling existing storm water runoff discharges from the site in accordance with the standards of this ordinance to the maximum extent practicable.

## Subchapter C. Basic Storm Water Management Design Criteria.

## Sec. 27-7. Potential pollutants from land disturbing activity.

Potential storm water pollutants from land disturbing activity may consist of but are not limited to the following:

- 1. Total suspended solids
- 2. Increased temperature
- 3. Oil and grease
- 4. Floatables (trash)
- 5. Nutrients (fertilizers)
- 6. Bacteria
- 7. Metals
- 8. Pesticides
- 9. Sediment (soil due to erosion)

## Sec. 27-8. Best Management Practices (BMPs).

It is the responsibility of the engineer to design BMPs that address site-specific conditions using the appropriate design criteria found in this code as well as the DCDM, Section 9, "Storm Water Best Practices.").

**Sec. 27-9. Required permanent BMP.** To preserve the existing natural resources in Temple and promote sustainable development, demonstration of compliance with the following permanent BMPs, where applicable, are required in the SWMP of all land disturbing activities.

- 1. Site Layout Each SWMP is required to show the site layout as well as the placement of the selected BMPs.
- 2. Creek Buffer Zone All property located on or adjacent to a natural, vegetated, earthen or grass lined creek, waterway, stream, or channel is hereby deemed to be within a CBZ. When a property is located within a CBZ developer, builder or owner must comply with the techniques found in the DCDM, Section 9, "Storm Water Best Practices.".

### Sec. 27-10. Additional BMP Credit Point Requirements.

In addition to the required BMPs, the following number of BMPs shall be provided based on the size of the project:

Table 1 Additional BMP Credit Point Requirements

Non-Residential				
	Number of additional BMP Credits			
	<u>required</u>			
1 acre≤ Disturbed Area <5 acres	1			
5 acres ≤ Disturbed Area <10 acres	2			
10 acres≤ Disturbed Area < 20 acres	3			
$\geq$ 20 acres	4			

Residential
Residential

	Number of additional BMP Credits required
1 acre ≤ Disturbed Area <5 acres	1
5 acres < Disturbed Area < 20 acres	2
$\geq$ 20 acres	3

#### Sec. 27-11. Factors to be considered.

The following are example of factors that should be considered when evaluating and selecting BMPs for a land disturbing activity:

- 1. Effect of the land disturbing activity on runoff volumes and rates
- 2. Potential pollutants from the land disturbing activity
- 3. Percent of site treated by each BMP
- 4. Effectiveness of the BMP on potential pollutants from the land disturbing activity
- 5. Natural resources on the site
- 6. Configuration of site, including existing waterways

#### Sec. 27-12. Additional BMPs.

The following items are acceptable permanent BMPs to be utilized when meeting Table 1 additional BMP requirements based on the size of the land disturbing activity and complying the DCDM, Section 9, "Storm Water Best Practices:"

- 1. Vegetated swales.
- 2. Vegetated filter strips.
- 3. Permeable and semi-pervious pavement.
- 4. Discharge of roof drains to pervious surface.
- 5. Extended Detention Basins for Storm Water Quality Benefits.
- 6. Retention ponds.
- 7. Detention Pond Outlet for Erosion Protection and Storm Water Quantity Benefits.
- 8. Subsurface treatment devices.
- 9. Landscaping.
- 10. Cluster design.
- 11. Preservation of existing tree canopy.
- 12. Other BMPs. Other BMPs and innovative designs will be considered when submitted to the city engineer with supporting calculations and references.

### Sec. 27-13. Maintenance agreements.

All privately owned storm water treatment practices shall have an enforceable operation and maintenance agreement to ensure the system functions as designed. This agreement shall be between the city and the Home Owners Association or the city and the individual land owner and will include any and all maintenance easements required to access and inspect the storm water treatment practices, and to perform routine maintenance as necessary to ensure proper functioning of the storm water treatment practice. In addition, a legally binding covenant specifying the parties responsible for the proper maintenance of all storm water treatment practices shall be secured prior to issuance of any permits for land disturbance activities. If the city, in its sole discretion chooses, to accept the storm water management facility as a public improvement no maintenance agreement will be necessary.

#### Subchapter D. Creek Buffer Zones.

#### Sec. 27-14. Establishment.

All property located on or adjacent to a natural, vegetated, earthen or grass lined creek, waterway, stream, or channel is hereby deemed to be within a CBZ and shall comply with the DCDM, Section 9, "Storm Water Best Practices.".

## Sec. 27-15. Design Standards.

CBZs must be designed and designated by the requirements and standards found in this chapter and the DCDM, Section 9, "Storm Water Best Practices."

#### Sec. 27-16. Designation Requirements.

- (a) Preliminary plats, final plats, plans, construction and building permit applications must clearly show the limits of CBZs based on criteria in this chapter.
  - (b) The limits must be indicated by dashed lines and labeled "Creek Buffer Zone."
- (c) CBZ designation may be combined with other lines in cases where erosion hazard zone lines coincide with flood plain limits or other public utility easements, such as drainage easements.
- (d) Properties next to natural or constructed channels with a minimum of the ratio found in the DCDM, Section 9, "Storm Water Best Practices" or flatter side slopes are not required to comply with these erosion hazard zone criteria unless, in the opinion of a

licensed professional engineer, erosion hazard zone delineation is warranted. CBZs may not apply to waterways that have been engineered to convey a 1% chance storm (100-year frequency storm) and to withstand erosive forces or that have been adequately stabilized by manmade construction materials such as concrete rip-rap and concrete retaining walls. Wood timbers ties shall not be considered to adequately stabilize waterways due to their relatively short life span of service.

## Sec. 27-17. Exception Process.

- (a) It is the expressed intent of this chapter that all sections and parts should be complied with except in those instances when the provisions of this section are not applicable. It is further the intent of this chapter that the granting of an exception shall not be a substitute for the amending of this chapter.
- (b) The city engineer may recommend to the city council an exception from these regulations be granted when, in its opinion, undue hardship will result from requiring strict compliance. In considering, recommending and granting an exception, either thecity council shall prescribe such conditions that it deems necessary or desirable in the public interest.

In making the findings required in subsection (c) below, the city council would consider the nature of the proposed use of the land involved, existing uses of land in the vicinity, and the probable effect of such exception and upon the public health, safety, convenience and welfare in the vicinity.

- (c) No exception shall be granted unless the city council finds:
  - 1. That there are special circumstances or conditions affecting the land involved such that the strict application of the provisions of this chapter would have a substantial adverse impact on the applicant's reasonable use of his land; and
  - 2. That the granting of the exception will not be detrimental to the public health, safety or welfare, or injurious to other property in the area.
- (d) Such findings of the city council, together with the specific facts upon which such findings are based, shall be incorporated into the official minutes of the meeting at which such exception is recommended and granted.
- (e) Exceptions may be granted only when in harmony with the general purpose and intent of this chapter so that the public health, safety and welfare may be secured and

substantial justice served.

(f) The city engineer as well as the Development Standards Advisory Board may recommend to council changes to amend the DCDM, Section 9, "Storm Water Best Practices."

#### Sec. 27-18. Licensed Professional Engineer's Responsibilities.

- (a) It is the developer or land owner's licensed professional engineer's responsibility to adhere to these criteria when preparing preliminary plats, plans or building permit applications.
- (b) The licensed professional engineer shall recognize these criteria as the minimum standards such that unique or site specific geological, topographical, or other factors may require detailed study during design. Adjustments from these minimum standards are allowed based on the findings from engineering analysis and engineering judgment.
- (c) It is the licensed professional engineer's responsibility for determining and providing CBZs delineation on preliminary plats, final plats, plans, construction and building permit applications based on engineering judgment and best practices.

## Subchapter E. Construction Inspection of Storm Water Facilities.

## Sec. 27-19. Inspection.

Storm water facility inspections shall comply with all requirements found within DCDM, Section 9, "Storm Water Best Practices" and the following:

- (a) The city engineer or designated agent may make inspections as hereinafter described and either shall approve that portion of the work completed or shall notify the landowner or agent wherein the work fails to comply with the SWMP as approved. To obtain inspections, the landowner applicant or developer shall notify the city engineer at least two working days before the following:
  - 1. Start of construction;
  - 2. Installation of post construction; and
  - 3. Final acceptance of public infrastructure, or prior to issuance of certificate of occupancy dependent upon respective development stage.
- (b) For all privately owned and maintained storm water maintenance facilities the

landowner or agent shall make regular inspections of all BMPs. The purpose of such inspections will be to determine the overall effectiveness of the SWMP and the need for additional control measures. All inspections shall be documented in written form and kept on file available for viewing upon request.

(c) The city engineer or its designated agent may enter the property of the applicant as deemed necessary to make regular inspections to ensure the validity of the reports filed under section (b).

#### Subchapter F. Maintenance and repair of Storm Water Facilities.

#### Sec. 27-20. Maintenance easement.

Prior to the final plat or issuance of a building or construction permit, whichever comes first, the applicant, owner, or developer of the site must execute a maintenance easement that shall be binding on all subsequent owners of land served by the storm water management facility. The easement shall provide for access to the facility at reasonable times for periodic inspection by the city, or their contractor or agent, and for regular or special assessments of property owners to ensure that the facility is maintained in proper working condition to meet design standards and any other provisions established by this ordinance. The easement shall be recorded in the land records.

#### Sec. 27-21. Maintenance covenants.

- (a) Maintenance of all storm water management facilities shall be ensured through the creation of a formal maintenance covenant that must be approved by the city and recorded into the land record prior to final plat, or building or construction permit approval, whichever comes first. As part of the covenant, a schedule shall be developed for when and how often maintenance will occur to ensure proper function of the storm water management facility. The covenant shall also include plans for periodic inspections to ensure proper performance of the facility between scheduled cleanouts.
- (b) The city, at its sole discretion, in lieu of a maintenance covenant, may accept dedication of any existing or future storm water management facility for maintenance, provided such facility meets all the requirements of this chapter and includes adequate and perpetual access and sufficient area, by easement or otherwise, for inspection and regular maintenance.

# Sec. 27-22. Minimum inspection requirements for all storm water maintenance facilities.

All storm water management facilities must undergo, at a minimum, an annual

inspection to document maintenance and repair needs and ensure compliance with the requirements of this ordinance. Repair and maintenance needs may include; removal of silt, litter and other debris from all catch basins, inlets and drainage pipes, grass cutting and vegetation removal, and necessary replacement of landscape vegetation. Any maintenance needs found must be addressed in a timely manner, as determined by the city, and the inspection and maintenance requirement may be increased as deemed necessary to ensure proper functioning of the storm water management facility.

## Sec. 27-23. Inspection programs for storm water facilities.

Inspection programs may be established on any reasonable basis, including but not limited to: routine inspections; random inspections; inspections based upon complaints or other notice of possible violations; inspection of drainage basins or areas identified as higher than typical sources of sediment or other contaminants or pollutants; inspections of businesses or industries of a type associated with higher than usual discharges of contaminants or pollutants or with discharges of a type which are more likely than the typical discharge to cause violations of state or federal water or sediment quality standards or the NPDES storm water permit; and joint inspections with other agencies inspecting under environmental or safety laws. Inspections may include, but are not limited to: reviewing maintenance and repair records; sampling discharges, surface water, groundwater, and material or water in drainage control facilities; and evaluating the condition of drainage control facilities and other storm water treatment practices.

## Sec. 27-24. Right-of-entry for inspection.

When any new drainage control facility is installed on private property, or when any new connection is made between private property and a public drainage control system, sanitary sewer or combined sewer, the property owner shall grant to the city the right to enter the property at reasonable times and in a reasonable manner for the purpose of inspection. This includes the right to enter a property when it has a reasonable basis to believe that a violation of this ordinance is occurring or has occurred, and to enter when necessary for abatement of a public nuisance or correction of a violation of this ordinance.

#### Sec. 27-25. Records of installation and maintenance activities.

Parties responsible for the operation and maintenance of a storm water management facility shall make records of the installation and of all maintenance and repairs, and shall retain the records for at least five (5) years. These records shall be made available to the city during inspection of the facility and at other reasonable times upon request.

## **Subchapter G. Enforcement and Penalties.**

#### Sec. 27-26. Failure to maintain storm water maintenance facilities.

If a responsible party fails or refuses to meet the requirements of the maintenance covenant, the city, after reasonable notice, may correct a violation of the design standards or maintenance needs by performing all necessary work to place the facility in proper working condition. In the event that the storm water management facility becomes a danger to public safety or public health, the city shall notify the party responsible for maintenance of the storm water management facility in writing. Upon receipt of that notice, the responsible person shall have 30 days to affect maintenance and repair of the facility in an approved manner. After proper notice, the city may assess the owner(s) of the facility for the cost of repair work and any penalties; and the cost of the work shall be a lien on the property.

#### Sec. 27-27. Violations.

Any land disturbing activity that is commenced or is conducted contrary to this ordinance, may be restrained by injunction or otherwise abated in a manner provided by law, including the City or its agent undertaking the necessary maintenance or apartment and assessing the cost of the work as a lien upon the property.

#### Sec. 27-28. Notice of violation.

When the city determines that an activity is not being carried out in accordance with the requirements of this ordinance, it shall issue a written notice of violation to the owner of the property. The notice of violation shall contain:

- 1. The name and address of the owner or applicant;
- 2. The address when available or a description of the building, structure or land upon which the violation is occurring;
- 3. A statement specifying the nature of the violation;
- 4. A description of the remedial measures necessary to bring the land disturbing activity into compliance with this ordinance and a time schedule for the completion of such remedial action;
- 5. A statement of the penalty or penalties that shall or may be assessed against the person to whom the notice of violation is directed; and
- 6. A statement that the determination of violation may be appealed to the municipality by filing a written notice of appeal within fifteen (15) days of service of notice of violation.

#### Sec. 27-29. Stop work orders.

In the event that any person holding an approved SWMP pursuant to this ordinance violates the terms of the permit or implements land disturbing activity in such a manner as to materially adversely affect the health, welfare, or safety of persons residing or working in the neighborhood or site so as to be materially detrimental to the public welfare or injurious to property or improvements in the neighborhood, the city may suspend or revoke the building or construction (for public infrastructure) permit.

#### **Sec. 27-30.** Appeals.

In the event the developer or builder does not agree with a decision of the city engineer, they may appeal to the director of public works. Appeals from the director's decision shall be automatically referred to the city manager for final decision, with due regard for the city engineer and public works directors recommendations. The city manager's decision shall be rendered as soon as possible and shall be final.

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

Severability. If the provisions of any article, section, subsection, paragraph, subdivision or clause of this ordinance shall be judged invalid by a court of competent jurisdiction, such order of judgment shall not affect or invalidate the remainder of any article, section, subsection, paragraph, subdivision or clause of this ordinance.



May 17th, 2012

Temple City Council 2 N. Main St Temple, TX 76501

#### **RE: City of Temple Post construction draft ordinance**

Honorable Mayor and City Council members,

On behalf of our 250+ members and their workforce of 8,000+ people strong, thank you for the opportunity to provide written comments regarding the City of Temple Post construction draft ordinance.

We have been working with the City of Temple staff over the last several years and are happy to see this ordinance come to the City Council. We clearly understand that this ordinance was mandated by the State of Texas and there is a timeframe in which you must comply. While we support the draft ordinance, we encourage the city to look at ways in which to further deal with this unfunded mandate from the state, as well as begin completing drainage projects identified as priorities around our city.

Recently, we were provided with a list of 104 projects identified in the City of Temple 2008 Drainage Capital Improvement plan. In several instances, the projects are slated to be completed in 2070 and beyond. The City Council was recently shown several fee structures which will allow public works to finally begin implementing this list of projects. There are two specific rate scenarios which we would like to see the city consider in the upcoming budget—Scenario 2, which increases the base monthly stormwater fee to \$5, and Scenario 3, which increases the monthly fee to \$6. All rates would be adjusted for larger residential and commercial customers.

Currently, the monthly stormwater rates within the City of Temple begin at \$3.00/mo for residential customers and \$7.15/mo for small commercial customers (up to a maximum of \$69.00). The Temple Public Works department has provided the council and our association with a comparative study on residential and commercial stormwater rates throughout Central Texas, and it appears many neighboring jurisdictions are significantly higher than the City of Temple. While each jurisdiction is unquestionably unique, it appears that many jurisdictions have long been planning for these new regulations, as well as implementation of their capital improvement plans in a reasonable timeframe.

As an Association, we strongly support City Council efforts to give the Public Works department the tools necessary to implement this ordinance, as well as the necessary funding mechanism to complete their identified projects in a timely manner. While reviewing the differing rate structures, it is clear that should the city complete these projects in a timely manner, it will save residents tens of millions of dollars. It is difficult to overlook the portions of the plan where project costs are adjusted based on their respective project completion year. Based on the current rate structure, city residents

are looking at an overall cost basis of approximately \$160 million to complete the drainage projects. Looking at the maximum rate scenario (option 3) of \$6/mo, the city would be looking at an overall cost basis of \$59.5 million, a difference of approximately \$100 million in savings to the taxpayer.

While we are cautious any time fees are raised due to their impact on housing affordability, we fully support city efforts to implement a responsible increase in the monthly stormwater fee. We would like to see the city council consider "Rate Scenario 2 or 3", which includes base monthly stormwater fees of \$5/\$6. We would also like to see this fee automatically adjust for inflation on a yearly basis. These increases are both responsible and necessary, and will still place the City of Temple among some of the lowest rates for cities our size.

Our council has always done an excellent job protecting the safety of our citizens, as well as making responsible financial decisions. We hope the city council will recognize the positive aspects of completing these drainage projects in a timely manner and saving the taxpayers a significant amount of money. We want to thank you for your consideration of our request.

Sincerely,

Blair Anderson

Government Affairs Director

**TABA** 

Cc: David Blackburn, Temple City Manager; Kim Foutz, Deputy City Manager, Nicole Torralva, Temple Public Works, Michael Newman Temple Public Works

#### ORDINANCE NO.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AMENDING THE CODE OF ORDINANCES OF THE CITY OF TEMPLE BY CREATING A NEW ARTICLE II, ENTITLED "POST CONSTRUCTION" TO CHAPTER 27, OF THE CITY CODE, ENTITLED, "STORM WATER MANAGEMENT," PER THE CITY OF TEMPLE'S STORM WATER MANAGEMENT PROGRAM AS REQUIRED BY THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY; PROVIDING A REPEALER; PROVIDING A SAVINGS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, staff recommends approval of language to create Article II entitled "Post Construction" to Chapter 27, "Storm Water Management" per the City of Temple's Storm Water Management Program as required by the Texas Commission on Environmental Quality;

Whereas, the EPA has implemented a body of regulations involving storm water quality requirements that apply to cities under 100,000 population and in the State of Texas, TCEQ has implemented the Phase II regulation by requiring cities with a population of less than 100,000 to adopt several new ordinances as a part of the best management practices mandated in the City of Temple's Storm water Management Program;

Whereas, these ordinances include erosion and sedimentation during construction, post construction, after construction illicit discharge to streams and illegal dumping;

Whereas, the ordinance being proposed is intended to improve water quality once the development of land (one or more acres inside the city limits) is complete – the proposed language meets current state law minimum requirements; and

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

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

<u>Part 1</u>: The Code of Ordinances of the City of Temple, Texas, is amended by creating Article II, "Post Construction: to Chapter 27, entitled, "Storm Water Management," to read as follows:

# ARTICLE II. POST CONSTRUCTION STORM WATER RUNOFF CONTROL

## **Subchapter A. General Provisions**

#### Sec. 27-1. Purpose.

The purpose of this ordinance is to establish minimum storm water management requirements and controls to protect and safeguard the general health, safety, and welfare of the public residing in watersheds within the city. This ordinance seeks to meet that purpose through the following objectives:

- 1. Minimize increases in storm water runoff from any land disturbing activity in order to reduce flooding, siltation, increases in stream temperature, and streambank erosion and maintain the integrity of stream channels;
- 2. Minimize increases in nonpoint source pollution caused by storm water runoff from land disturbing activity which would otherwise degrade local water quality;
- 3. Minimize the total annual volume of surface water runoff which flows from any specific site during and following land disturbing activity to not exceed the pre-land disturbing activity hydrologic regime to the maximum extent practicable; and
- 4. Reduce storm water runoff rates and volumes, soil erosion and nonpoint source pollution, wherever possible, through storm water management controls and to ensure that these management controls are properly maintained and pose no threat to public safety.

# Sec. 27-2. Applicability.

This ordinance shall be applicable to all subdivisions, both residential and non-residential. The ordinance also applies to land disturbing activities that are smaller than the minimum applicability criteria if such activities are part of a larger common plan of development even though multiple separate and distinct land development activities may take place at different times on different schedules. In addition, all plans must be reviewed by the city engineer to ensure that established water quality standards will be maintained during and after land disturbing activity of the site and that post construction runoff levels are consistent with any local and regional watershed plans.

To prevent the adverse impacts of storm water runoff, the city has developed a set of performance standards that must be met at new development sites. These standards

apply to any construction activity disturbing one (1) acre or more of land, except when land is situated on a CBZ. Standards found in Subchapter D apply to all land which is situated on a CBZ. The following activities may be exempt from these storm water performance criteria except for when situation on a CBZ:

- 1. Additions or modifications to existing single family structures; and
- 2. Repairs to any storm water treatment practice deemed necessary by the city.

When a development plan is submitted that qualifies as a redevelopment project as defined in section 27-4 of this ordinance, decisions on permitting and on-site storm water requirements shall be governed by special storm water sizing criteria found in Chapter 9, "Stormwater Best Management Practices ," of the Drainage Criteria and Design Manual in effect at the time of redevelopment. This criteria is dependent on the amount of impervious area created by the redevelopment and its impact on water quality. Final authorization of all redevelopment projects will be determined after a review by the city.

In determining if a project is one (1) acre or larger, the city will consider whether or not the land disturbing activity is a part of a common plan. A construction activity is a part of a common plan if it is completed in separate stage, phases or in combination with other construction activities. Common plans are often, but not solely identified by plats, blueprints, contracts, zoning requests and building permits. Additionally, common plans may exist and erosion and sedimentation control may be required when there is more than one operator operating in an area which is larger than one acre, even though no single individual project is larger than one acre individually.

## Sec. 27-3. Compatibility with other permit and ordinance requirements

This ordinance is not intended to interfere with, abrogate, or annul any other ordinance, rule or regulation, statute, or other provision of law. The requirements of this ordinance should be considered minimum requirements, and where any provision of this ordinance imposes restrictions different from those imposed by any other ordinance, rule or regulation, or other provision of law, whichever provisions are more restrictive or impose higher protective standards for human health or the environment shall be considered to take precedence.

### **Sec. 27-4. Definitions.** For the purposes of this ordinance the following shall mean:

Applicant means a property owner or agent of a property owner who has filed an storm water management plan.

Best Management Practices (BMP) are all generally accepted methods of reducing storm water pollutants and can be found in Subchapter C of this Article.

*Channel* means a natural or artificial watercourse with a definite bed and banks that conducts continuously or periodically flowing water.

*Creek* is a waterway having 64 acres or greater of contributing drainage areas.

Creek Buffer Zone (CBZ) is all property located on or adjacent to a natural, vegetated, earthen or grass lined creek, waterway, stream, or channel is hereby deemed to be within a CBZ and shall comply with the Drainage Criteria and Design Manual, Section 9 "Storm Water Best Management Practices."

*Crest of Slope* includes waterway top of banks or highest point of natural waterway banks steeper than the ratio found in the Drainage Criteria and Design Manual, Section 9 "Storm Water Best Management Practices."

*Detention* means the temporary storage of storm runoff in a storm water management practice with the goals of controlling peak discharge rates and providing gravity settling of pollutants.

Detention facility means a detention basin or alternative structure designed for the purpose of temporary storage of stream flow or surface runoff and gradual release of stored water at controlled rates.

Developer means a person who undertakes land disturbance activities.

Drainage Criteria and Design Manual (DCDM) is a manual containing all approved methods and design criteria for drainage and storm water control.

Drainage easement means a legal right granted by a landowner to a grantee allowing the use of private land for storm water management purposes.

*Impervious cover* means those surfaces that cannot effectively infiltrate rainfall (e.g., building rooftops, pavement, sidewalks, driveways, etc).

*Infiltration* means the process of percolating storm water into the subsoil.

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

Landowner means the legal or beneficial owner of land, including those holding the right to purchase or lease the land, or any other person holding proprietary rights in the land.

Lowest point in waterway bed means the physical lowest grade elevation at a given cross section of waterway at the point of interest. (Licensed professional engineers may consider lowest point to be a projected line between grade control check points upstream and downstream of the point of interest. Grade control check points generally occur at small dams, concrete enclosed utility crossings, piped or boxed culverts or bridges with armored waterway beds.)

Maintenance agreement means a legally recorded document that acts as a property deed restriction, and which provides for long-term maintenance of storm water management practices.

Occupied Structures include but are not limited to, residences and places of business such as houses, apartments, businesses, schools, and churches.

Off-site facility means a storm water management measure located outside the subject property boundary.

On-site facility means a storm water management measure located within the subject property boundary.

*Private Amenities* include but are not limited to, fencing, landscaping, and irrigation systems.

*Private Amenity Structures* include but are not limited to, detached garages, sheds, swimming pools, retaining walls, decks and recreational courts or other similar structures.

Redevelopment means any construction, alteration or improvement exceeding one (1) acre in area where existing land use is high density commercial, industrial, institutional or multi-family and single family residential.

*Stop work order* means an order issued which requires that all construction activity on a site be stopped.

Storm water management means the use of structural or non-structural practices that are designed to reduce storm water runoff pollutant loads, discharge volumes, peak flow discharge rates and detrimental changes in stream temperature that affect water quality and habitat.

Storm water management facility is any facility that is built to control storm water runoff in order to comply with the Best Management Practices herein.

Storm water runoff means flow on the surface of the ground, resulting from precipitation.

Watercourse means a permanent or intermittent stream or other body of water, either natural or man-made, which gathers or carries surface water.

Waterway is any channel that directs surface runoff to a watercourse or to the public storm drain. This includes natural and manmade creeks, streams, swales and channels.

# Subchapter B. Requirements for Storm Water Management Plan Approval

## Sec. 27-5. Storm water management plan.

- (a) A storm water management plan is required for all land disturbing activities which disturb one (1) acre or more of land, and any time land is situated on a CBZ.
- (b) No application for a construction, building or other development permit will be approved unless it includes a storm water management plan ("SWMP") detailing how runoff and associated water quality impacts resulting from the land disturbing activity will be controlled or managed.
- (c) This plan must meet the submittal requirements outlined in the submittal checklist found in section 27-6 (b) of this chapter, be sealed by a professional engineer and must indicate whether storm water will be managed on-site or off-site. If on-site, the plan must include the specific location and type of practices in order to receive consideration for BMP credit.
- (d) The SWMP shall be developed and coordinated with the drainage plan and may be shown on the same sheet if applicable. It shall also be coordinated with the landscaping plan to prevent conflicts and assure compatible land use, if landscaping is a selected and approved BMP.
- (e) No building, construction, or other development permit shall be issued until a SWMP has undergone a review and been approved by the city after determining that the plan is consistent with the requirements of this ordinance.

#### Sec. 27-6. Storm water management plan requirements.

(a) A SWMP shall be required with construction and building permit applications and will include sufficient information to evaluate the environmental characteristics of the project site, the potential impacts of all proposed land disturbing activity of the site, both present and future, on the water resources, and the effectiveness and acceptability of the measures proposed for managing storm water generated at the project site. The intent of this is to determine the type of storm water management measures necessary for the proposed project, and ensure adequate planning for management of storm water runoff

from future land disturbing activity.

- (b) The following information, in addition to all requirements found within DCDM, Section 9, "Storm Water Best Practices," shall be included in the SWMP:
  - 1. <u>Plan.</u> A map (or maps) and a written description of the SWMP and justification of proposed changes in natural conditions may also be required.
  - 2. <u>Engineer Analysis</u>. Sufficient engineering analysis to show that the proposed storm water management measures are capable of controlling runoff from the site in compliance with this ordinance and the specifications found within DCDM, Section 9, "Storm Water Best Practices."
  - 3. <u>Inventory</u>. A written or graphic inventory, as described in DCDM, Section 9, "Storm Water Best Practices" of the natural resources at the site and surrounding area as it exists prior to the commencement of the project and a description of the watershed and its relation to the project site.
  - 4. <u>Maintenance and Repair Plan</u>. The design and planning of all storm water management facilities shall include detailed maintenance and repair procedures to ensure their continued function. These plans will identify the parts or components of a storm water management facility that need to be maintained and the equipment and skills or training necessary. Provisions for the periodic review and evaluation of the effectiveness of the maintenance program and the need for revisions or additional maintenance procedures, which meet all specification found in DCDM, Section 9, "Storm Water Best Practices," shall be included in the plan.
  - 5. <u>Maintenance easements</u>. Except for CBZs, the applicant must ensure access to all storm water BMPs at the site for the purpose of inspection and repair by securing all the maintenance easements needed on a permanent basis. These easements will be recorded with the plan and will remain in effect even with transfer of title to the property.
  - 6. <u>Maintenance agreement</u>. The applicant must execute an easement and an inspection and maintenance agreement binding on all subsequent owners of land served by an on-site storm water management measure in accordance with the specifications of this ordinance.
  - 7. <u>Maintenance by city</u>. At its sole discretion the city may agree to accept a development's storm water management facility as a public improvement and maintain it as such. This agreement may be reached in lieu of a maintenance agreement. This section in no way guarantees the city's acceptance of any BMP as a public improvement.

The city may also require a concept plan to consider the maximum development potential of a site under existing zoning, regardless of whether the applicant presently intends to develop the site to its maximum potential.

(c) For land disturbing activity occurring on a previously developed site, an applicant shall be required to include within the SWMP measures for controlling existing storm water runoff discharges from the site in accordance with the standards of this ordinance to the maximum extent practicable.

## Subchapter C. Basic Storm Water Management Design Criteria.

## Sec. 27-7. Potential pollutants from land disturbing activity.

Potential storm water pollutants from land disturbing activity may consist of but are not limited to the following:

- 1. Total suspended solids
- 2. Increased temperature
- 3. Oil and grease
- 4. Floatables (trash)
- 5. Nutrients (fertilizers)
- 6. Bacteria
- 7. Metals
- 8. Pesticides
- 9. Sediment (soil due to erosion)

#### Sec. 27-8. Best Management Practices (BMPs).

It is the responsibility of the engineer to design BMPs that address site-specific conditions using the appropriate design criteria found in this code as well as the DCDM, Section 9, "Storm Water Best Practices.").

**Sec. 27-9. Required permanent BMP.** To preserve the existing natural resources in Temple and promote sustainable development, demonstration of compliance with the following permanent BMPs, where applicable, are required in the SWMP of all land disturbing activities.

- 1. Site Layout Each SWMP is required to show the site layout as well as the placement of the selected BMPs.
- 2. Creek Buffer Zone All property located on or adjacent to a natural, vegetated, earthen or grass lined creek, waterway, stream, or channel is hereby deemed to be within a CBZ. When a property is located within a CBZ developer, builder or owner must comply with the techniques found in the DCDM, Section 9, "Storm Water Best Practices.".

## Sec. 27-10. Additional BMP Credit Point Requirements.

In addition to the required BMPs, the following number of BMPs shall be provided based on the size of the project:

Table 1 Additional BMP Credit Point Requirements

Non-Residential	
	Number of additional BMP
	<u>Credits required</u>
1 acre≤ Disturbed Area <5 acres	1
5 acres ≤ Disturbed Area < 10 acres	2
10 acres \( \) Disturbed Area < 20 acres	3
$\geq$ 20 acres	4

Residential	
	Number of additional BMP
	<u>Credits required</u>
1 acre ≤ Disturbed Area <5 acres	1
5 acres < Disturbed Area < 20 acres	2
$\geq$ 20 acres	3

#### Sec. 27-11. Factors to be considered.

The following are example of factors that should be considered when evaluating and selecting BMPs for a land disturbing activity:

- 1. Effect of the land disturbing activity on runoff volumes and rates
- 2. Potential pollutants from the land disturbing activity
- 3. Percent of site treated by each BMP
- 4. Effectiveness of the BMP on potential pollutants from the land disturbing activity
- 5. Natural resources on the site
- 6. Configuration of site, including existing waterways

#### Sec. 27-12. Additional BMPs.

The following items are acceptable permanent BMPs to be utilized when meeting Table 1 additional BMP requirements based on the size of the land disturbing activity and complying the DCDM, Section 9, "Storm Water Best Practices:"

- 1. Vegetated swales.
- 2. Vegetated filter strips.
- 3. Permeable and semi-pervious pavement.

- 4. Discharge of roof drains to pervious surface.
- 5. Extended Detention Basins for Storm Water Quality Benefits.
- 6. Retention ponds.
- 7. Detention Pond Outlet for Erosion Protection and Storm Water Quantity Benefits.
- 8. Subsurface treatment devices.
- 9. Landscaping.
- 10. Cluster design.
- 11. Preservation of existing tree canopy.
- 12. Other BMPs. Other BMPs and innovative designs will be considered when submitted to the city engineer with supporting calculations and references.

## Sec. 27-13. Maintenance agreements.

All privately owned storm water treatment practices shall have an enforceable operation and maintenance agreement to ensure the system functions as designed. This agreement shall be between the city and the Home Owners Association or the city and the individual land owner and will include any and all maintenance easements required to access and inspect the storm water treatment practices, and to perform routine maintenance as necessary to ensure proper functioning of the storm water treatment practice. In addition, a legally binding covenant specifying the parties responsible for the proper maintenance of all storm water treatment practices shall be secured prior to issuance of any permits for land disturbance activities. If the city, in its sole discretion chooses, to accept the storm water management facility as a public improvement no maintenance agreement will be necessary.

### Subchapter D. Creek Buffer Zones.

#### Sec. 27-14. Establishment.

All property located on or adjacent to a natural, vegetated, earthen or grass lined creek, waterway, stream, or channel is hereby deemed to be within a CBZ and shall comply with the DCDM, Section 9, "Storm Water Best Practices.".

## Sec. 27-15. Design Standards.

CBZs must be designed and designated by the requirements and standards found in this chapter and the DCDM, Section 9, "Storm Water Best Practices."

# Sec. 27-16. Designation Requirements.

- (a) Preliminary plats, final plats, plans, construction and building permit applications must clearly show the limits of CBZs based on criteria in this chapter.
  - (b) The limits must be indicated by dashed lines and labeled "Creek Buffer Zone."

- (c) CBZ designation may be combined with other lines in cases where erosion hazard zone lines coincide with flood plain limits or other public utility easements, such as drainage easements.
- (d) Properties next to natural or constructed channels with a minimum of the ratio found in the DCDM, Section 9, "Storm Water Best Practices" or flatter side slopes are not required to comply with these erosion hazard zone criteria unless, in the opinion of a licensed professional engineer, erosion hazard zone delineation is warranted. CBZs may not apply to waterways that have been engineered to convey a 1% chance storm (100-year frequency storm) and to withstand erosive forces or that have been adequately stabilized by manmade construction materials such as concrete rip-rap and concrete retaining walls. Wood timbers ties shall not be considered to adequately stabilize waterways due to their relatively short life span of service.

#### Sec. 27-17. Exception Process.

- (a) It is the expressed intent of this chapter that all sections and parts should be complied with except in those instances when the provisions of this section are not applicable. It is further the intent of this chapter that the granting of an exception shall not be a substitute for the amending of this chapter.
- (b) The city engineer may recommend to the city council an exception from these regulations be granted when, in its opinion, undue hardship will result from requiring strict compliance. In considering, recommending and granting an exception, either the city council shall prescribe such conditions that it deems necessary or desirable in the public interest.

In making the findings required in subsection (c) below, the city council would consider the nature of the proposed use of the land involved, existing uses of land in the vicinity, and the probable effect of such exception and upon the public health, safety, convenience and welfare in the vicinity.

- (c) No exception shall be granted unless the city council finds:
  - 1. That there are special circumstances or conditions affecting the land involved such that the strict application of the provisions of this chapter would have a substantial adverse impact on the applicant's reasonable use of his land; and
  - 2. That the granting of the exception will not be detrimental to the public health, safety or welfare, or injurious to other property in the area.
- (d) Such findings of the city council, together with the specific facts upon which such findings are based, shall be incorporated into the official minutes of the meeting at which such exception is recommended and granted.

- (e) Exceptions may be granted only when in harmony with the general purpose and intent of this chapter so that the public health, safety and welfare may be secured and substantial justice served.
- (f) The city engineer as well as the Development Standards Advisory Board may recommend to council changes to amend the DCDM, Section 9, "Storm Water Best Practices."

## Sec. 27-18. Licensed Professional Engineer's Responsibilities.

- (a) It is the developer or land owner's licensed professional engineer's responsibility to adhere to these criteria when preparing preliminary plats, plans or building permit applications.
- (b) The licensed professional engineer shall recognize these criteria as the minimum standards such that unique or site specific geological, topographical, or other factors may require detailed study during design. Adjustments from these minimum standards are allowed based on the findings from engineering analysis and engineering judgment.
- (c) It is the licensed professional engineer's responsibility for determining and providing CBZs delineation on preliminary plats, final plats, plans, construction and building permit applications based on engineering judgment and best practices.

# Subchapter E. Construction Inspection of Storm Water Facilities.

# Sec. 27-19. Inspection.

Storm water facility inspections shall comply with all requirements found within DCDM, Section 9, "Storm Water Best Practices" and the following:

- (a) The city engineer or designated agent may make inspections as hereinafter described and either shall approve that portion of the work completed or shall notify the landowner or agent wherein the work fails to comply with the SWMP as approved. To obtain inspections, the landowner applicant or developer shall notify the city engineer at least two working days before the following:
  - 1. Start of construction;
  - 2. Installation of post construction; and
  - 3. Final acceptance of public infrastructure, or prior to issuance of certificate of occupancy dependent upon respective development stage.
- (b) For all privately owned and maintained storm water maintenance facilities the landowner or agent shall make regular inspections of all BMPs. The purpose of such inspections will be to determine the overall effectiveness of the SWMP and the need for additional control measures. All inspections shall be documented in

written form and kept on file available for viewing upon request.

(c) The city engineer or its designated agent may enter the property of the applicant as deemed necessary to make regular inspections to ensure the validity of the reports filed under section (b).

## Subchapter F. Maintenance and repair of Storm Water Facilities.

#### Sec. 27-20. Maintenance easement.

Prior to the final plat or issuance of a building or construction permit, whichever comes first, the applicant, owner, or developer of the site must execute a maintenance easement that shall be binding on all subsequent owners of land served by the storm water management facility. The easement shall provide for access to the facility at reasonable times for periodic inspection by the city, or their contractor or agent, and for regular or special assessments of property owners to ensure that the facility is maintained in proper working condition to meet design standards and any other provisions established by this ordinance. The easement shall be recorded in the land records.

#### Sec. 27-21. Maintenance covenants.

- (a) Maintenance of all storm water management facilities shall be ensured through the creation of a formal maintenance covenant that must be approved by the city and recorded into the land record prior to final plat, or building or construction permit approval, whichever comes first. As part of the covenant, a schedule shall be developed for when and how often maintenance will occur to ensure proper function of the storm water management facility. The covenant shall also include plans for periodic inspections to ensure proper performance of the facility between scheduled cleanouts.
- (b) The city, at its sole discretion, in lieu of a maintenance covenant, may accept dedication of any existing or future storm water management facility for maintenance, provided such facility meets all the requirements of this chapter and includes adequate and perpetual access and sufficient area, by easement or otherwise, for inspection and regular maintenance.

# Sec. 27-22. Minimum inspection requirements for all storm water maintenance facilities.

All storm water management facilities must undergo, at a minimum, an annual inspection to document maintenance and repair needs and ensure compliance with the requirements of this ordinance. Repair and maintenance needs may include; removal of silt, litter and other debris from all catch basins, inlets and drainage pipes, grass cutting and vegetation removal, and necessary replacement of landscape vegetation. Any maintenance needs found must be addressed in a timely manner, as determined by the city, and the inspection and maintenance requirement may be increased as deemed necessary to ensure proper functioning of the storm water management facility.

# Sec. 27-23. Inspection programs for storm water facilities.

Inspection programs may be established on any reasonable basis, including but not limited to: routine inspections; random inspections; inspections based upon complaints or other notice of possible violations; inspection of drainage basins or areas identified as higher than typical sources of sediment or other contaminants or pollutants; inspections of businesses or industries of a type associated with higher than usual discharges of contaminants or pollutants or with discharges of a type which are more likely than the typical discharge to cause violations of state or federal water or sediment quality standards or the NPDES storm water permit; and joint inspections with other agencies inspecting under environmental or safety laws. Inspections may include, but are not limited to: reviewing maintenance and repair records; sampling discharges, surface water, groundwater, and material or water in drainage control facilities; and evaluating the condition of drainage control facilities and other storm water treatment practices.

### Sec. 27-24. Right-of-entry for inspection.

When any new drainage control facility is installed on private property, or when any new connection is made between private property and a public drainage control system, sanitary sewer or combined sewer, the property owner shall grant to the city the right to enter the property at reasonable times and in a reasonable manner for the purpose of inspection. This includes the right to enter a property when it has a reasonable basis to believe that a violation of this ordinance is occurring or has occurred, and to enter when necessary for abatement of a public nuisance or correction of a violation of this ordinance.

#### Sec. 27-25. Records of installation and maintenance activities.

Parties responsible for the operation and maintenance of a storm water management facility shall make records of the installation and of all maintenance and repairs, and shall retain the records for at least five (5) years. These records shall be made available to the city during inspection of the facility and at other reasonable times upon request.

## **Subchapter G. Enforcement and Penalties.**

#### Sec. 27-26. Failure to maintain storm water maintenance facilities.

If a responsible party fails or refuses to meet the requirements of the maintenance covenant, the city, after reasonable notice, may correct a violation of the design standards or maintenance needs by performing all necessary work to place the facility in proper working condition. In the event that the storm water management facility becomes a danger to public safety or public health, the city shall notify the party responsible for maintenance of the storm water management facility in writing. Upon receipt of that notice, the responsible person shall have 30 days to affect maintenance and repair of the

facility in an approved manner. After proper notice, the city may assess the owner(s) of the facility for the cost of repair work and any penalties; and the cost of the work shall be a lien on the property.

#### Sec. 27-27. Violations.

Any land disturbing activity that is commenced or is conducted contrary to this ordinance, may be restrained by injunction or otherwise abated in a manner provided by law, including the City or its agent undertaking the necessary maintenance or apartment and assessing the cost of the work as a lien upon the property.

#### Sec. 27-28. Notice of violation.

When the city determines that an activity is not being carried out in accordance with the requirements of this ordinance, it shall issue a written notice of violation to the owner of the property. The notice of violation shall contain:

- 1. The name and address of the owner or applicant;
- 2. The address when available or a description of the building, structure or land upon which the violation is occurring;
- 3. A statement specifying the nature of the violation;
- 4. A description of the remedial measures necessary to bring the land disturbing activity into compliance with this ordinance and a time schedule for the completion of such remedial action;
- 5. A statement of the penalty or penalties that shall or may be assessed against the person to whom the notice of violation is directed; and
- 6. A statement that the determination of violation may be appealed to the municipality by filing a written notice of appeal within fifteen (15) days of service of notice of violation.

#### Sec. 27-29. Stop work orders.

In the event that any person holding an approved SWMP pursuant to this ordinance violates the terms of the permit or implements land disturbing activity in such a manner as to materially adversely affect the health, welfare, or safety of persons residing or working in the neighborhood or site so as to be materially detrimental to the public welfare or injurious to property or improvements in the neighborhood, the city may suspend or revoke the building or construction (for public infrastructure) permit.

# **Sec. 27-30.** Appeals.

In the event the developer or builder does not agree with a decision of the city engineer, they may appeal to the director of public works. Appeals from the director's decision shall be automatically referred to the city manager for final decision, with due regard for the city engineer and public works directors recommendations. The city manager's decision shall be rendered as soon as possible and shall be final.

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

<u>Part 3:</u> Severability. If the provisions of any article, section, subsection, paragraph, subdivision or clause of this ordinance shall be judged invalid by a court of competent jurisdiction, such order of judgment shall not affect or invalidate the remainder of any article, section, subsection, paragraph, subdivision or clause of this ordinance.

<u>Part 4</u>: All ordinances or parts of ordinances in conflict with the provisions of this ordinance are to the extent of such conflict hereby repealed.

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 and sections of this ordinance, since the same would have been enacted by the City Council without the incorporation in this ordinance of any such invalid phrase, clause, sentence, paragraph or section.

<u>Part 6</u>: 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.

<u>Part 7</u>: 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 **21**<sup>st</sup> day of **June**, 2012.

PASSED AND APPROVED on Second Reading on the 5<sup>th</sup> day of **July**, 2012.

	THE CITY OF TEMPLE, TEXAS
	WILLIAM A. JONES, III, MAYOR
ATTEST:  Lacy Borgeson  City Socretory	APPROVED AS TO FORM:
	Jonathan Graham
City Secretary	City Attorney



# **COUNCIL AGENDA ITEM MEMORANDUM**

06/21/12 Item #5 Regular Agenda Page 1 of 1

#### **DEPT./DIVISION SUBMISSION & REVIEW:**

William A. Jones, III, Mayor

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

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

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

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

FISCAL IMPACT: None

**ATTACHMENTS:** 

Resolution