



**MEETING OF THE
TEMPLE CITY COUNCIL**

MUNICIPAL BUILDING

2 NORTH MAIN STREET

3rd Floor – CONFERENCE ROOM

THURSDAY, NOVEMBER 1, 2012

3:30 P.M.

WORKSHOP AGENDA

1. Discuss, as may be needed, Regular Meeting agenda items for the meeting posted for Thursday, November 1, 2012.
2. Receive an update on the SIZ program and discuss SIZ program eligibility requirements and objectives.
3. Executive Session: Pursuant to Chapter 551, Government Code § 551.072 – Real Property – The City Council may enter into executive session to discuss the purchase, exchange, lease or value of real property relating to City projects, the public discussion of which would have a detrimental effect on negotiations with a third party.
4. Executive Session: Pursuant to Chapter 551, Government Code, §551.074 – Personnel Matter – The City Council will meet in executive session to discuss the employment, evaluation, duties and work plans of the City Manager, Director of Finance, City Attorney, City Secretary, and Municipal Court Judge. No final action will be taken.

5:00 P.M.

MUNICIPAL BUILDING

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

TEMPLE CITY COUNCIL

REGULAR MEETING AGENDA

I. CALL TO ORDER

1. Invocation
2. Pledge of Allegiance

II. PROCLAMATIONS & SPECIAL RECOGNITIONS

3. [Municipal Court Week](#) [November 5 – 9, 2012](#)

III. BOND ITEMS

4. [2012-4564](#): FIRST & FINAL READING - PUBLIC HEARING: Consider adopting an ordinance authorizing the issuance of \$4,665,000 City of Temple, Texas Combination Tax and Revenue Certificates of Obligation, Taxable Series 2012; authorizing the Levy of an ad valorem tax and the pledge of certain revenues in support of the Certificates; approving and Official Statement, a Paying Agent/Registrar Agreement, and other agreements related to the sale and issuance of the Certificates; awarding the sale of the certificates; and authorizing other matters related to the issuance of the certificates.
5. [2012-4565](#): FIRST & FINAL READING - PUBLIC HEARING: Consider adopting an ordinance authorizing the issuance of \$9,420,000 City of Temple, Texas Combination Tax and Revenue Certificates of Obligation, Series 2012; authorizing the Levy of an ad valorem tax and the pledge of certain revenues in support of the Certificates; approving and Official Statement, a Paying Agent/Registrar Agreement, and other agreements related to the sale and issuance of the Certificates; establishing procedures for selling and delivering the bonds; and authorizing other matters related to the issuance of the certificates.

IV. 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.

V. 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.

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

Contracts, Leases, & Bids

- (A) [2012-6787-R](#): Consider adopting a resolution authorizing the purchase of a trailer-mounted hydro-jet from Kinloch Equipment & Supply, Inc. of Arlington utilizing a BuyBoard contract in the amount of \$58,550.40.
- (B) [2012-6788-R](#): Consider adopting a resolution authorizing the purchase of a mini excavator, Caterpillar model 301.4C compact construction equipment from Holt CAT of Irving utilizing a BuyBoard contract, in the amount of \$28,099.
- (C) [2012-6789-R](#): Consider adopting a resolution authorizing a contract with the Department of Veterans Affairs, Veterans Industries/Compensated Work Therapy for the provision of temporary workers for the Parks and Leisure Services Department in the amount of \$ 73,478.
- (D) [2012-6790-R](#): Consider adopting a resolution approving the City's Section 125 Cafeteria Plan and authorizing a contract with Financial Benefits Services for Voluntary Supplemental Insurances; and a subcontract with National Benefits Services for Flexible Spending Account management, both for the purpose of administration of the City's Section 125 cafeteria Plan.
- (E) [2012-6791-R](#): Consider adopting a resolution authorizing a developer participation agreement with Scott & White for reimbursement of cost for constructing 10' wide sidewalks at Scott and White Clinic, 6684 FM 2305 in an amount not to exceed \$7,376.
- (F) [2012-6792-R](#): Consider adopting a resolution authorizing the following:
 - 1. An interlocal agreement with Bell County, Texas to allow for the utilization of a fiber installation and maintenance service contract between Bell County and JC Communications of Leander; and
 - 2. Execution of an annual service contract with JC Communications of Leander for fiber installation and maintenance services.
- (G) [2012-6793-R](#): Consider adopting a resolution authorizing a master intergovernmental cooperative purchasing agreement with National Intergovernmental Purchasing Alliance Company to enable the City to utilize competitive awarded solicitations through principal procurement agencies of National IPA.

- (H) [2012-6794-R](#): Consider adopting a resolution authorizing a Donation Agreement between the City of Temple and the Temple Lion's Club Parks, Inc. for the construction of additional sidewalks and the expansion of the parking lot at the Gober House.
- (I) [2012-6795-R](#): Consider adopting a resolution establishing hangar rental rates at the Draughton-Miller Central Texas Regional Airport.
- (J) [2012-6796-R](#): Consider adopting a resolution authorizing an airport lease agreement with Kachemak Bay Flying Service, Inc. of Killeen for the lease of a 7,590 square foot airport hangar for the purpose of providing rotary wing flight services and overnight aircraft storage at a rental rate to the City of \$1,000 per month.

VI. REGULAR AGENDA

ORDINANCES

- 7. [2012-4566](#): FIRST READING - PUBLIC HEARING: Consider adopting an ordinance authorizing an amendment the Tax Increment Financing Reinvestment Zone No. 1 Financing and Project Plans in FY 2013 to appropriate \$200,560 to the South 1st Street Improvements from the Temple College Apartments to Avenue O Project by reallocating funds from Public Improvements in the North Zone.

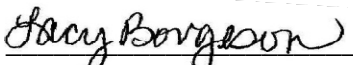
RESOLUTIONS

- 8. [2012-6797-R](#): Consider adopting a resolution authorizing the purchase of three tracts of land near the City of Temple's landfill.

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

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 12:30 PM, on October 26, 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

11/01/12
Item #3
Regular Agenda
Page 1 of 1

DEPT./DIVISION SUBMISSION & REVIEW:

William A. Jones, III, Mayor

ITEM DESCRIPTION: Presentation of Proclamation:

Municipal Court Week November 5 - 9, 2012

STAFF RECOMMENDATION: Present proclamation as presented in item description.

ITEM SUMMARY: This proclamation was requested by, and will be received by, Municipal Court Judge Kathleen Person.

FISCAL IMPACT: None

ATTACHMENTS: None



COUNCIL AGENDA ITEM MEMORANDUM

11/01/12
Item #4
Regular Agenda
Page 1 of 2

DEPT./DIVISION SUBMISSION & REVIEW:

Traci L. Barnard, Director of Finance

ITEM DESCRIPTION: FIRST & FINAL READING - PUBLIC HEARING: Consider adopting an ordinance authorizing the issuance of \$4,665,000 City of Temple, Texas Combination Tax and Revenue Certificates of Obligation, Taxable Series 2012; authorizing the Levy of an ad valorem tax and the pledge of certain revenues in support of the Certificates; approving and Official Statement, a Paying Agent/Registrar Agreement, and other agreements related to the sale and issuance of the Certificates; awarding the sale of the certificates; and authorizing other matters related to the issuance of the certificates.

STAFF RECOMMENDATION: Conduct public hearing and adopt ordinance as presented in item description, on first and final reading.

ITEM SUMMARY: This item is to award sale of \$4,665,000 to the lowest competitive bidder of this series of bonds.

The proceeds from the issue will be used to fund the following projects:

- Permitting, construction and other cost related to expansion for the City's landfill including land acquisition
- Paying the professional services including fiscal, engineering, architectural and legal fees including the costs associated with the issuance of one or more series of Certificates

***The issue size is preliminary and will be sized at the time of pricing.**

Ratings for the bonds have been applied for with Standard & Poor's. The ratings will be published prior to the pricing and sale of the bonds. The bonds will be sold through a competitive sale. Pricing will be received on the morning of November 1, 2012. The pricing will be held until the meeting on Thursday evening when Council considers the lowest responsible bidder.

The City's financial advisor, Specialized Public Finance Inc., and bond counsel, McCall, Parkhurst & Horton, L.L.P, will be present at the meeting to review details of the bids and recommended award with Council. The Council will consider the offers and award based on the recommendation.

Funds will be delivered to our depository for use on November 15, 2012.

FISCAL IMPACT: The source of repayment for these bonds will be General Fund revenues from the operation of the landfill. Funding for the repayment of financing cost associated with expansion cost was included in the FY 2013 budget as a reduction of lease revenue anticipating a contract amendment with Waste Management. Following further analysis and discussion with Waste Management, staff determined it would be more advantageous for the City to issue taxable bonds to fund the expansion. A budget amendment will be presented once the funds for the bonds are delivered. Estimated debt service for FY 2013 is \$116,450.

ATTACHMENTS:

[Ordinance](#)

ORDINANCE NO. _____

**ORDINANCE AUTHORIZING THE ISSUANCE OF CITY OF TEMPLE,
TEXAS COMBINATION TAX AND REVENUE CERTIFICATES OF
OBLIGATION, TAXABLE SERIES 2012; AUTHORIZING THE LEVY OF AN AD
VALOREM TAX AND THE PLEDGE OF CERTAIN REVENUES IN SUPPORT
OF THE CERTIFICATES; APPROVING AN OFFICIAL STATEMENT, A
PAYING AGENT/REGISTRAR AGREEMENT AND OTHER AGREEMENTS
RELATED TO THE SALE AND ISSUANCE OF THE CERTIFICATES; AWARDING
THE SALE OF THE CERTIFICATES AND AUTHORIZING OTHER MATTERS
RELATED TO THE ISSUANCE OF THE CERTIFICATES**

Adopted November 1, 2012

**ORDINANCE AUTHORIZING THE ISSUANCE OF CITY OF TEMPLE,
TEXAS COMBINATION TAX AND REVENUE CERTIFICATES OF
OBLIGATION, TAXABLE SERIES 2012; AUTHORIZING THE LEVY OF AN AD
VALOREM TAX AND THE PLEDGE OF CERTAIN REVENUES IN SUPPORT
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Ordinance No. _____

**ORDINANCE AUTHORIZING THE ISSUANCE OF CITY OF TEMPLE,
TEXAS COMBINATION TAX AND REVENUE CERTIFICATES OF
OBLIGATION, TAXABLE SERIES 2012; AUTHORIZING THE LEVY OF AN AD
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THE SALE OF THE CERTIFICATES AND AUTHORIZING OTHER MATTERS
RELATED TO THE ISSUANCE OF THE CERTIFICATES**

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

WHEREAS, the City Council of the City of Temple, Texas (the "City") deems it advisable to issue certificates of obligation in the amount of \$4,665,000 (the "Certificates") and finds that the payment in whole or in part of contractual obligations incurred or to be incurred for: (1) permitting, construction and other costs related to expansion of the City's landfill including land acquisition costs and (2) professional services including fiscal, engineering, architectural and legal fees and other such costs incurred in connection therewith including the costs of issuing the Certificates; and

WHEREAS, the Certificates hereinafter authorized and designated are to be issued and delivered for cash pursuant to Subchapter C of Chapter 271, Local Government Code, as amended, and Section 1502.052, Texas Government Code, as amended; and

WHEREAS, on September 20, 2012, the City Council passed a resolution authorizing and directing the City Secretary to give notice of intention to issue the Certificates; and

WHEREAS, the notice was published on September 26, 2012 and October 3, 2012 in the *Temple Daily Telegram*, a newspaper of general circulation in the City and a "newspaper" as defined in Section 2051.044, Government Code; and

WHEREAS, the City has not received a petition from the qualified electors of the City protesting the issuance of the Certificates; and

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

WHEREAS, it is considered to be in the best interest of the City that the interest bearing Certificates be issued.

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

Section 1. RECITALS AND PURPOSE OF THE CERTIFICATES. The recitals set forth in the preamble hereof are incorporated by reference herein and shall have the same force and effect as if set forth in this Section. The Certificates of the City of Temple, Texas (the "City") are hereby authorized to be issued and delivered in the aggregate principal amount of \$4,665,000 (the "Certificates") for the payment in whole or in part of contractual obligations incurred or to be incurred for: (1) permitting, construction and other costs related to expansion of the City's landfill including land acquisition costs and (2) professional services including fiscal, engineering, architectural and legal fees and other such costs incurred in connection therewith including the costs of issuing the Certificates.

Section 2. DESIGNATION, DATE, DENOMINATIONS, NUMBERS, AND MATURITIES OF CERTIFICATES. Each Certificate issued pursuant to this Ordinance shall be designated: "CITY OF TEMPLE, TEXAS COMBINATION TAX AND REVENUE CERTIFICATE OF OBLIGATION, TAXABLE SERIES 2012", and initially there shall be issued, sold, and delivered hereunder fully registered Certificates, without interest coupons, dated November 1, 2012, in the respective denominations and principal amounts hereinafter stated, numbered consecutively from R-1 upward (except the initial Certificate delivered to the Attorney General of the State of Texas which shall be numbered T-1), payable to the respective initial registered owners thereof (as designated in Section 12 hereof), or to the registered assignee or assignees of said Certificates or any portion or portions thereof (in each case, the "Registered Owner"), and said Certificates shall mature and be payable serially on August 1 in each of the years and in the principal amounts, respectively, as set forth in the following schedule:

<u>YEAR</u>	<u>AMOUNT</u>	<u>YEAR</u>	<u>AMOUNT</u>
2016	\$ 50,000	2025	\$315,000
2017	85,000	2026	330,000
2018	125,000	2027	340,000
2019	165,000	2028	350,000
2020	205,000	2029	365,000
2021	250,000	2030	380,000
2022	290,000	2031	395,000
2023	300,000	2032	415,000
2024	305,000		

The term "Certificates" as used in this Ordinance shall mean and include collectively the Certificates initially issued and delivered pursuant to this Ordinance and all substitute Certificates exchanged therefor, as well as all other substitute certificates and replacement Certificates issued pursuant hereto, and the term "Certificate" shall mean any of the Certificates.

Section 3. INTEREST. The Certificates scheduled to mature during the years, respectively, set forth below shall bear interest from the dates specified in the FORM OF

CERTIFICATE set forth in this Ordinance to their respective dates of maturity or redemption prior to maturity at the following rates per annum:

<u>YEAR</u>	<u>RATE</u>	<u>YEAR</u>	<u>RATE</u>
2016		2025	
2017		2026	
2018		2027	
2019		2028	
2020		2029	
2021		2030	
2022		2031	
2023		2032	
2024		2033	

Interest shall be payable in the manner provided and on the dates stated in the FORM OF CERTIFICATE set forth in this Ordinance.

Section 4. CHARACTERISTICS OF THE CERTIFICATES. (a) Registration, Transfer, Conversion and Exchange; Authentication. The City shall keep or cause to be kept at The Bank of New York Mellon Trust Company, N.A., (the "Paying Agent/Registrar") books or records for the registration of the transfer, conversion and exchange of the Certificates (the "Registration Books"), and the City hereby appoints the Paying Agent/Registrar as its registrar and transfer agent to keep such books or records and make such registrations of transfers, conversions and exchanges under such reasonable regulations as the City and Paying Agent/Registrar may prescribe; and the Paying Agent/Registrar shall make such registrations, transfers, conversions and exchanges as herein provided. The Paying Agent/Registrar shall obtain and record in the Registration Books the address of the Registered Owner of each Certificate to which payments with respect to the Certificates shall be mailed, as herein provided; but it shall be the duty of each Registered Owner to notify the Paying Agent/Registrar in writing of the address to which payments shall be mailed, and such interest payments shall not be mailed unless such notice has been given. The City shall have the right to inspect the Registration Books during regular business hours of the Paying Agent/Registrar, but otherwise the Paying Agent/Registrar shall keep the Registration Books confidential and, unless otherwise required by law, shall not permit their inspection by any other entity. The Paying Agent/Registrar shall make the Registration Books available within the State of Texas. The City shall pay the Paying Agent/Registrar's standard or customary fees and charges for making such registration, transfer, conversion, exchange and delivery of a substitute Certificate or Certificates. Registration of assignments, transfers, conversions and exchanges of Certificates shall be made in the manner provided and with the effect stated in the FORM OF CERTIFICATE set forth in this Ordinance. Each substitute Certificate shall bear a letter and/or number to distinguish it from each other Certificate.

Except as provided in Section 4(c) of this Ordinance, an authorized representative of the Paying Agent/Registrar shall, before the delivery of any such Certificate, date and manually sign said Certificate, and no such Certificate shall be deemed to be issued or outstanding unless such Certificate is so executed. The Paying Agent/Registrar promptly shall cancel all paid Certificates

and Certificates surrendered for conversion and exchange. No additional ordinances, orders, or resolutions need be passed or adopted by the governing body of the City or any other body or person so as to accomplish the foregoing conversion and exchange of any Certificate or portion thereof, and the Paying Agent/Registrar shall provide for the printing, execution, and delivery of the substitute Certificates in the manner prescribed herein, and said Certificates shall be printed or typed on paper of customary weight and strength. Pursuant to Chapter 1201, Texas Government Code, as amended, and particularly Subchapter D thereof, the duty of conversion and exchange of Certificates as aforesaid is hereby imposed upon the Paying Agent/Registrar, and, upon the execution of said Certificate, the converted and exchanged Certificate shall be valid, incontestable, and enforceable in the same manner and with the same effect as the Certificates which initially were issued and delivered pursuant to this Ordinance, approved by the Attorney General and registered by the Comptroller of Public Accounts.

(b) Payment of Certificates and Interest. The City hereby further appoints the Paying Agent/Registrar to act as the paying agent for paying the principal of and interest on the Certificates, all as provided in this Ordinance. The Paying Agent/Registrar shall keep proper records of all payments made by the City and the Paying Agent/Registrar with respect to the Certificates, and of all conversions and exchanges of Certificates, and all replacements of Certificates, as provided in this Ordinance. However, in the event of a nonpayment of interest on a scheduled payment date, and for thirty (30) days thereafter, a new record date for such interest payment (a "Special Record Date") will be established by the Paying Agent/Registrar, if and when funds for the payment of such interest have been received from the City. Notice of the past due interest shall be sent at least five (5) business days prior to the Special Record Date by United States mail, first-class postage prepaid, to the address of each Registered Owner appearing on the Registration Books at the close of business on the last business day next preceding the date of mailing of such notice.

(c) In General. The Certificates (i) shall be issued in fully registered form, without interest coupons, with the principal of and interest on such Certificates to be payable only to the Registered Owners thereof, (ii) may be redeemed prior to their scheduled maturities (notice of which shall be given to the Paying Agent/Registrar by the City at least 45 days prior to any such redemption date), (iii) may be converted and exchanged for other Certificates, (iv) may be transferred and assigned, (v) shall have the characteristics, (vi) shall be signed, sealed, executed and authenticated, (vii) the principal of and interest on the Certificates shall be payable, and (viii) shall be administered and the Paying Agent/Registrar and the City shall have certain duties and responsibilities with respect to the Certificates, all as provided, and in the manner and to the effect as required or indicated, in the FORM OF CERTIFICATE set forth in this Ordinance. The Certificates initially issued and delivered pursuant to this Ordinance are not required to be, and shall not be, authenticated by the Paying Agent/Registrar, but on each substitute Certificate issued in conversion of and exchange for any Certificate or Certificates issued under this Ordinance the Paying Agent/Registrar shall execute the PAYING AGENT/REGISTRAR'S AUTHENTICATION CERTIFICATE, in the form set forth in the FORM OF CERTIFICATE.

(d) Substitute Paying Agent/Registrar. The City covenants with the Registered Owners of the Certificates that at all times while the Certificates are outstanding the City will provide a competent and legally qualified bank, trust company, financial institution, or other

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

(e) Book-Entry-Only System. The Certificates issued in exchange for the Certificates initially issued as provided in Section 4(h) shall be issued in the form of a separate single fully registered Certificate for each of the maturities thereof registered in the name of Cede & Co. as nominee of DTC and except as provided in subsection (f) hereof, all of the Outstanding Certificates shall be registered in the name of Cede & Co., as nominee of DTC.

With respect to Certificates registered in the name of Cede & Co., as nominee of DTC, the City and the Paying Agent/Registrar shall have no responsibility or obligation to any securities brokers and dealers, banks, trust companies, clearing corporations and certain other organizations on whose behalf DTC was created to hold securities to facilitate the clearance and settlement of securities transactions among DTC participants (the "DTC Participant") or to any person on behalf of whom such a DTC Participant holds an interest in the Certificates. Without limiting the immediately preceding sentence, the City and the Paying Agent/Registrar shall have no responsibility or obligation with respect to (i) the accuracy of the records of DTC, Cede & Co. or any DTC Participant with respect to any ownership interest in the Certificates, (ii) the delivery to any DTC participant or any other person, other than a Registered Owner, as shown on the Registration Books, of any notice with respect to the Certificates, including any notice of redemption, or (iii) the payment to any DTC Participant or any person, other than a Registered Owner, as shown on the Registration Books of any amount with respect to principal of, premium, if any, or interest on the Certificates. Notwithstanding any other provision of this Ordinance to the contrary, but to the extent permitted by law, the City and the Paying Agent/Registrar shall be entitled to treat and consider the person in whose name each Certificate is registered in the Registration Books as the absolute owner of such Certificate for the purpose of payment of principal, premium, if any, and interest, with respect to such Certificate, for the purposes of registering transfers with respect to such Certificates, and for all other purposes of registering transfers with respect to such Certificates, and for all other purposes whatsoever. The Paying Agent/Registrar shall pay all principal of, premium, if any, and interest on the Certificates only to

or upon the order of the respective Registered Owners, as shown in the Registration Books as provided in the Ordinance, or their respective attorneys duly authorized in writing, and all such payments shall be valid and effective to fully satisfy and discharge the City's obligations with respect to payment of principal of, premium, if any, and interest on the Certificates to the extent of the sum or sums so paid. No person other than a Registered Owner, as shown in the Registration Books, shall receive a Certificate evidencing the obligation of the City to make payments of principal, premium, if any, and interest pursuant to the Ordinance. Upon delivery by DTC to the Paying Agent/Registrar of written notice to the effect that DTC has determined to substitute a new nominee in place of Cede & Co., and subject to the provisions in this Ordinance with respect to interest checks being mailed to the registered owner at the close of business on the Record Date the word "Cede & Co." in this Ordinance shall refer to such new nominee of DTC.

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

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

(h) Initial Certificate. The Certificates herein authorized shall be initially issued as fully registered certificates, being one certificate for each maturity in the denomination of the applicable principal amount and the initial Certificate shall be registered in the name of the initial purchaser or the designees thereof as set forth in Section 12 hereof. The initial Certificate shall be the Certificate submitted to the Office of the Attorney General of the State of Texas for approval, certified and registered by the Office of the Comptroller of Public Accounts of the State of Texas and delivered to the purchasers. Immediately after the delivery of the initial Certificate, the Paying Agent/Registrar shall cancel the initial Certificate delivered hereunder and exchange therefor Certificates in the form of a separate single fully registered Certificate for each of the maturities thereof registered in the name of Cede & Co., as nominee of DTC and except as provided in Section 4(f), all of the outstanding Certificates shall be registered in the name of Cede & Co., as nominee of DTC.

Section 5. FORM OF CERTIFICATE. The form of the Certificate, including the form of Paying Agent/Registrar's Authentication Certificate, the form of Assignment and the form of Registration Certificate of the Comptroller of Public Accounts of the State of Texas to be attached to the Certificates initially issued and delivered pursuant to this Ordinance, shall be, respectively, substantially as follows, with such appropriate variations, omissions or insertions as are permitted or required by this Ordinance.

FORM OF CERTIFICATE

NO. R-	UNITED STATES OF AMERICA STATE OF TEXAS COUNTY OF BELL CITY OF TEMPLE, TEXAS	PRINCIPAL AMOUNT \$ _____
COMBINATION TAX AND REVENUE CERTIFICATE OF OBLIGATION, TAXABLE SERIES 2012		

<u>INTEREST RATE</u>	<u>DATE OF CERTIFICATES</u> November 1, 2012	<u>MATURITY DATE</u>	<u>CUSIP NO.</u>
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REGISTERED OWNER:

PRINCIPAL AMOUNT: **DOLLARS**

ON THE MATURITY DATE specified above, the CITY OF TEMPLE, in Bell County, Texas (the "City"), being a political subdivision of the State of Texas, hereby promises to pay to the Registered Owner set forth above, or registered assigns (hereinafter called the "Registered Owner") the principal amount set forth above, and to pay interest thereon from the Date of Certificates set forth above, on February 1, 2013, and semiannually on each August 1 and February 1 thereafter to the maturity date specified above, or the date of redemption prior to maturity, at the interest rate per annum specified above; except that if this Certificate is required to be authenticated and the date of its authentication is later than the first Record Date (hereinafter defined), such principal amount shall bear interest from the interest payment date next preceding the date of authentication, unless such date of authentication is after any Record Date, as hereinafter defined, but on or before the next following interest payment date, in which case such principal amount shall bear interest from such next following interest payment date; provided, however, that if on the date of authentication hereof the interest on the Certificate or Certificates, if any, for which this Certificate is being exchanged or converted from is due but has not been paid, then this Certificate shall bear interest from the date to which such interest has been paid in full. Notwithstanding the foregoing, during any period in which ownership of the Certificates is determined only by a book entry at a securities depository for the Certificates, any payment to the securities depository, or its nominee or registered assigns, shall be made in accordance with existing arrangements between the City and the securities depository.

THE PRINCIPAL OF AND INTEREST ON this Certificate are payable in lawful money of the United States of America, without exchange or collection charges. The principal of this Certificate shall be paid to the Registered Owner hereof upon presentation and surrender of this Certificate at maturity, or upon the date fixed for its redemption prior to maturity, at The Bank of New York Mellon Trust Company, N.A., which is the "Paying Agent/Registrar" for this Certificate at their office in Dallas, Texas (the "Designated Payment/Transfer Office"). The payment of interest on this Certificate shall be made by the Paying Agent/Registrar to the Registered Owner hereof on each interest payment date by check or draft, dated as of such interest payment date, drawn by the Paying Agent/Registrar on, and payable solely from, funds of the City required by the ordinance authorizing the issuance of this Certificate (the "Ordinance") to be on deposit with the Paying Agent/Registrar for such purpose as hereinafter provided; and such check or draft shall be sent by the Paying Agent/Registrar by United States mail, first-class postage prepaid, on each such interest payment date, to the Registered Owner hereof, at its address as it appeared on the last business day of the month preceding each such date (the "Record Date") on the registration books kept by the Paying Agent/Registrar (the "Registration Books"). In addition, interest may be paid by such other method, acceptable to the Paying Agent/Registrar, requested by, and at the risk and expense of, the Registered Owner. In the event of a non-payment of interest on a scheduled payment date, and for 30 days thereafter, a new record date for such interest payment (a "Special Record Date") will be established by the Paying Agent/Registrar, if and when funds for the payment of such interest have been received from the City. Notice of the Special Record Date and of the scheduled payment date of the past due interest (which shall be 15 days after the Special Record Date) shall be sent at least five business days prior to the Special Record Date by United States mail, first-class postage prepaid, to the address of each owner of a Certificate appearing on the Registration Books at the close of business on the last business day next preceding the date of mailing of such notice. Notwithstanding the foregoing, during any period in which ownership of the Certificates is determined only by a book entry at a securities depository for the Certificates, payments made to the securities depository, or its nominee, shall be made in accordance with arrangements between the City and the securities depository.

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

ANY ACCRUED INTEREST due at maturity or upon the redemption of this Certificate prior to maturity as provided herein shall be paid to the Registered Owner upon presentation and surrender of this Certificate for redemption and payment at the Designated Payment/Transfer Office of the Paying Agent/Registrar. The City covenants with the Registered Owner of this Certificate that on or before each principal payment date or interest payment date for this Certificate it will make available to the Paying Agent/Registrar, from the "Interest and Sinking Fund" created by the Ordinance, the amounts required to provide for the payment, in immediately available funds, of all principal of and interest on the Certificates, when due.

IF THE DATE for the payment of the principal of or interest on this Certificate shall be a Saturday, Sunday, a legal holiday or a day on which banking institutions in the city where the

principal corporate trust office of the Paying Agent/Registrar is located are authorized by law or executive order to close, then the date for such payment shall be the next succeeding day which is not such a Saturday, Sunday, legal holiday or day on which banking institutions are authorized to close; and payment on such date shall have the same force and effect as if made on the original date payment was due.

THIS CERTIFICATE is one of a Series of Certificates dated November 1, 2012, authorized in accordance with the Constitution and laws of the State of Texas in the principal amount of \$4,665,000 (the "Certificates"), the payment in whole or in part of contractual obligations incurred or to be incurred for: (1) permitting, construction and other costs related to expansion of the City's landfill including land acquisition costs and (2) professional services including fiscal, engineering, architectural and legal fees and other such costs incurred in connection therewith including the costs of issuing the Certificates.

ON AUGUST 1, 2021, or on any date thereafter, the Certificates of this Series maturing on and after August 1, 2022 may be redeemed prior to their scheduled maturities, at the option of the City, with funds derived from any available and lawful source, at par plus accrued interest to the date fixed for redemption as a whole, or in part, and, if in part, the particular maturities to be redeemed shall be selected and designated by the City and if less than all of a maturity is to be redeemed, the Paying Agent/Registrar shall determine by lot the Certificates, or a portion thereof, within such maturity to be redeemed (provided that a portion of a Certificate may be redeemed only in an integral multiple of \$5,000).

THE CERTIFICATES maturing on August 1, 20__ (the "Term Certificates") are subject to mandatory sinking fund redemption by lot or other customary method prior to maturity in the following amounts, on the following dates and at a price of par plus accrued interest to the redemption date.

Certificates Maturing August 1, 20__	
Redemption Date	Principal Amount
August 1, 20__	\$ _____
August 1, 20__*	\$ _____*

*Final Maturity

THE PRINCIPAL AMOUNT of the Term Certificates required to be redeemed pursuant to the operation of the mandatory sinking fund redemption provisions shall be reduced, at the option of the City by the principal amount of any Term Certificates of the stated maturity which, at least 50 days prior to a mandatory redemption date, (1) shall have been acquired by the City, at a price not exceeding the principal amount of such Term Certificates plus accrued interest to the date of purchase thereof, and delivered to the Paying Agent/Registrar for cancellation, (2) shall have been purchased and canceled by the Paying Agent/Registrar at the request of the City with monies in the Interest and Sinking Fund at a price not exceeding the principal amount of the Term Certificates plus accrued interest to the date of purchase thereof, or (3) shall have been redeemed pursuant to the optional redemption provisions and not theretofore credited against a mandatory sinking fund redemption requirement.

NO LESS THAN 30 days prior to the date fixed for any such redemption, the City shall cause the Paying Agent/Registrar to send notice by United States mail, first-class postage prepaid to the Registered Owner of each Certificate to be redeemed at its address as it appeared on the Registration Books of the Paying Agent/Registrar at the close of business on the 45th day prior to the redemption date; provided, however, that the failure to send, mail or receive such notice, or any defect therein or in the sending or mailing thereof, shall not affect the validity or effectiveness of the proceedings for the redemption of any Certificates. By the date fixed for any such redemption due provision shall be made with the Paying Agent/Registrar for the payment of the required redemption price for the Certificates or portions thereof which are to be so redeemed. If due provision for such payment is made, all as provided above, the Certificates or portions thereof which are to be so redeemed thereby automatically shall be treated as redeemed prior to their scheduled maturities, and they shall not bear interest after the date fixed for redemption, and they shall not be regarded as being outstanding except for the right of the Registered Owner to receive the redemption price from the Paying Agent/Registrar out of the funds provided for such payment. If a portion of any Certificates shall be redeemed a substitute Certificates or Certificates having the same maturity date, bearing interest at the same rate, in any denomination or denominations in any integral multiple of \$5,000, at the written request of the Registered Owner, and in aggregate principal amount equal to the unredeemed portion thereof, will be issued to the Registered Owner upon the surrender thereof for cancellation, at the expense of the City, all as provided in the Ordinance.

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

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

ALL CERTIFICATES OF THIS SERIES are issuable solely as fully registered certificates, without interest coupons, in the denomination of any integral multiple of \$5,000. As provided in the Ordinance, this Certificate may, at the request of the Registered Owner or the assignee or assignees hereof, be assigned, transferred, converted into and exchanged for a like aggregate principal amount of fully registered certificates, without interest coupons, payable to the

appropriate Registered Owner, assignee or assignees, as the case may be, having the same denomination or denominations in any integral multiple of \$5,000 as requested in writing by the appropriate Registered Owner, assignee or assignees, as the case may be, upon surrender of this Certificate to the Paying Agent/Registrar for cancellation, all in accordance with the form and procedures set forth in the Ordinance. Among other requirements for such assignment and transfer, this Certificate must be presented and surrendered to the Paying Agent/Registrar, together with proper instruments of assignment, in form and with guarantee of signatures satisfactory to the Paying Agent/Registrar, evidencing assignment of this Certificate or any portion or portions hereof in any integral multiple of \$5,000 to the assignee or assignees in whose name or names this Certificate or any such portion or portions hereof is or are to be registered. The form of Assignment printed or endorsed on this Certificate may be executed by the Registered Owner to evidence the assignment hereof, but such method is not exclusive, and other instruments of assignment satisfactory to the Paying Agent/Registrar may be used to evidence the assignment of this Certificate or any portion or portions hereof from time to time by the Registered Owner. The Paying Agent/Registrar's reasonable standard or customary fees and charges for assigning, transferring, converting and exchanging any Certificate or portion thereof will be paid by the City. In any circumstance, any taxes or governmental charges required to be paid with respect thereto shall be paid by the one requesting such assignment, transfer, conversion or exchange, as a condition precedent to the exercise of such privilege. The Paying Agent/Registrar shall not be required to make any such transfer, conversion, or exchange (i) during the period commencing with the close of business on any Record Date and ending with the opening of business on the next following principal or interest payment date, or (ii) with respect to any Certificate or any portion thereof called for redemption prior to maturity, within 45 days prior to its redemption date; provided, however, such limitation of transfer shall not be applicable to an exchange by the Registered Owner of the unredeemed balance of the Certificate.

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

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

IT IS HEREBY certified, recited and covenanted that this Certificate has been duly and validly authorized, issued and delivered; that all acts, conditions and things required or proper to be performed, exist and be done precedent to or in the authorization, issuance and delivery of this Certificate have been performed, existed and been done in accordance with law; that annual ad valorem taxes sufficient to provide for the payment of the interest on and principal of this Certificate, as such interest comes due and such principal matures, have been levied and ordered to be levied against all taxable property in said City, and have been pledged for such payment, within the limit prescribed by law, and that this Certificate, together with other obligations of the City, is additionally secured by and payable from the surplus revenues of the City's Waterworks and Sewer System remaining after payment of all operation and maintenance expenses thereof, and all debt service, reserve and other requirements in connection with all of the City's revenue bonds or other

obligations (now or hereafter outstanding), which are payable from all or part of the Net Revenues of the City's Waterworks and Sewer System, which amount shall not exceed \$10,000 all as provided in the Ordinance.

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

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

City Secretary

Mayor

(SEAL)

FORM OF PAYING AGENT/REGISTRAR'S AUTHENTICATION CERTIFICATE

PAYING AGENT/REGISTRAR'S AUTHENTICATION CERTIFICATE

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

It is hereby certified that this Certificate has been issued under the provisions of the Ordinance described in the text of this Certificate; and that this Certificate has been issued in conversion or replacement of, or in exchange for, a certificate, certificates, or a portion of a certificate or certificates of a Series which originally was approved by the Attorney General of the State of Texas and registered by the Comptroller of Public Accounts of the State of Texas.

Dated

The Bank of New York Mellon
Trust Company, N.A.
Paying Agent/Registrar

By _____
Authorized Representative

FORM OF ASSIGNMENT

ASSIGNMENT

For value received, the undersigned hereby sells, assigns and transfers unto

Please insert Social Security or Taxpayer
Identification Number of Transferee

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

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

Dated: _____

Signature Guaranteed:

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

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

FORM OF REGISTRATION CERTIFICATE OF THE COMPTROLLER OF PUBLIC ACCOUNTS

COMPTROLLER'S REGISTRATION CERTIFICATE: REGISTER NO.

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

Witness my signature and seal this

(COMPTROLLER'S SEAL)

INSERTIONS FOR THE INITIAL CERTIFICATE

The initial Certificate shall be in the form set forth in this Section, except that:

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

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

"ON THE MATURITY DATE SPECIFIED BELOW, the City of Temple, Texas (the "City"), being a political subdivision, hereby promises to pay to the Registered Owner specified above, or registered assigns (hereinafter called the "Registered Owner"), on August 1 in each of the years, in the principal installments and bearing interest at the per annum rates set forth in the following schedule:

<u>Year</u>	<u>Amount</u>	<u>Rate</u>
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(Information from Sections 2 and 3 to be inserted)

The City promises to pay interest on the unpaid principal amount hereof (calculated on the basis of a 360-day year of twelve 30-day months) from November 1, 2012 at the respective Interest Rate per annum specified above. Interest is payable on February 1, 2013 and semiannually on each August 1 and February 1 thereafter to the date of payment of the principal installment specified above; except, that if this Certificate is required to be authenticated and the date of its authentication is later than the first Record Date (hereinafter defined), such principal amount shall bear interest from the interest payment date next preceding the date of authentication, unless such date of authentication is after any Record Date but on or before the next following interest payment date, in which case such principal amount shall bear interest from such next following interest payment date; provided, however, that if on the date of authentication hereof the interest on the Certificate or Certificates, if any, for which this Certificate is being exchanged is due but has not been paid, then this Certificate shall bear interest from the date to which such interest has been paid in full."

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

Section 6. INTEREST AND SINKING FUND. A special "Interest and Sinking Fund" is hereby created and shall be established and maintained by the City at an official depository bank of the City. The Interest and Sinking Fund shall be kept separate and apart from

all other funds and accounts of the City, and shall be used only for paying the interest on and principal of the Certificates. All ad valorem taxes levied and collected for and on account of the Certificates shall be deposited, as collected, to the credit of the Interest and Sinking Fund. During each year while any of the Certificates are outstanding and unpaid, the City Council shall compute and ascertain a rate and amount of ad valorem tax which will be sufficient, within the limit prescribed by law, to raise and produce the money required to pay the interest on the Certificates as such interest comes due, and to provide and maintain a sinking fund adequate to pay the principal of the Certificates as such principal matures (but never less than 2% of the original amount of the Certificates as a sinking fund each year); and the tax shall be based on the latest approved tax rolls of the City, with full allowances being made for tax delinquencies and the cost of tax collection. The rate and amount of ad valorem tax is hereby levied, and is hereby ordered to be levied, against all taxable property in the City, for each year while any of the Certificates are outstanding and unpaid, and the tax shall be assessed and collected each such year and deposited to the credit of the aforesaid Interest and Sinking Fund. The ad valorem taxes sufficient to provide for the payment of the interest on and principal of the Certificates, as such interest comes due and such principal matures, are hereby pledged for such payment, within the limit prescribed by law. Accrued interest on the Certificates shall be deposited in the Interest and Sinking Fund and used to pay interest on the Certificates.

Section 7. REVENUES. The Certificates together with other obligations of the City, are additionally secured by and shall be payable from and secured by the surplus revenues of the City's Waterworks and Sewer System after payment of all operation and maintenance expenses or collections thereof, and all debt service, reserve, and other requirements in connection with all of the City's revenue bonds or other obligations (now or hereafter outstanding) which are payable from all or any part of the net revenues of the City's Waterworks and Sewer System, with such amount not exceeding \$10,000, constituting "Surplus Revenues." The City shall deposit such Surplus Revenues to the credit of the Interest and Sinking Fund created pursuant to Section 6, to the extent necessary to pay the principal and interest on the Certificates. Notwithstanding the requirements of Section 6, if Surplus Revenues or other lawfully available funds are actually on deposit or budgeted for deposit in the Interest and Sinking Fund in advance of the time when ad valorem taxes are scheduled to be levied for any year, then the amount of taxes which otherwise would have been required to be levied pursuant to Section 6 may be reduced to the extent and by the amount of the Surplus Revenues or other lawfully available funds then on deposit in the Interest and Sinking Fund or budgeted for deposit therein.

The Mayor and the Director of Finance of the City are hereby ordered to do any and all things necessary to accomplish the transfer of monies to the Interest and Sinking Fund of this issue in ample time to pay such items of principal and interest.

Section 8. DEFEASANCE OF CERTIFICATES. (a) Any Certificate and the interest thereon shall be deemed to be paid, retired and no longer outstanding (a "Defeased Certificate") within the meaning of this Ordinance, except to the extent provided in subsections (c) and (e) of this Section, when payment of the principal of such Certificate, plus interest thereon to the due date or dates (whether such due date or dates be by reason of maturity, upon redemption, or otherwise) either (i) shall have been made or caused to be made in accordance with the terms thereof (including the giving of any required notice of redemption) or (ii) shall have been provided for on or before such due date by irrevocably depositing with or making available to the Paying Agent/Registrar or a commercial bank or trust company for such payment (1) lawful money of the

United States of America sufficient to make such payment, (2) Defeasance Securities, certified by an independent public accounting firm of national reputation to mature as to principal and interest in such amounts and at such times as will ensure the availability, without reinvestment, of sufficient money to provide for such payment and when proper arrangements have been made by the City with the Paying Agent/Registrar or a commercial bank or trust company for the payment of its services until all Defeased Certificates shall have become due and payable or (3) any combination of (1) and (2). At such time as a Certificate shall be deemed to be a Defeased Certificate hereunder, as aforesaid, such Certificate and the interest thereon shall no longer be secured by, payable from, or entitled to the benefits of, the ad valorem taxes herein levied as provided in this Ordinance, and such principal and interest shall be payable solely from such money or Defeasance Securities.

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

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

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

(e) Notwithstanding the provisions of subsection (a) immediately above, to the extent that, upon the defeasance of any Defeased Certificate to be paid at its maturity, the City retains the right under Texas law to later call that Defeased Certificate for redemption in accordance with the provisions of the Ordinance authorizing its issuance, the City may call such Defeased Certificate for redemption upon complying with the provisions of Texas law and upon the satisfaction of the provisions of subsection (a) immediately above with respect to such Defeased Certificate as though it was being defeased at the time of the exercise of the option to redeem the Defeased

Certificate and the effect of the redemption is taken into account in determining the sufficiency of the provisions made for the payment of the Defeased Certificate.

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

Section 9. DAMAGED, MUTILATED, LOST, STOLEN, OR DESTROYED CERTIFICATES. (a) Replacement Certificates. In the event any outstanding Certificate is damaged, mutilated, lost, stolen or destroyed, the Paying Agent/Registrar shall cause to be printed, executed and delivered, a new certificate of the same principal amount, maturity and interest rate, as the damaged, mutilated, lost, stolen or destroyed Certificate, in replacement for such Certificate in the manner hereinafter provided.

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

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

(d) Charge for Issuing Replacement Certificates. Prior to the issuance of any replacement certificate, the Paying Agent/Registrar shall charge the Registered Owner of such

Certificate with all legal, printing, and other expenses in connection therewith. Every replacement certificate issued pursuant to the provisions of this Section by virtue of the fact that any Certificate is lost, stolen or destroyed shall constitute a contractual obligation of the City whether or not the lost, stolen or destroyed Certificate shall be found at any time, or be enforceable by anyone, and shall be entitled to all the benefits of this Ordinance equally and proportionately with any and all other Certificates duly issued under this Ordinance.

(e) Authority for Issuing Replacement Certificates. In accordance with Subchapter B of Texas Government Code, Chapter 1206, this Section of this Ordinance shall constitute authority for the issuance of any such replacement Certificate without necessity of further action by the governing body of the City or any other body or person, and the duty of the replacement of such Certificates is hereby authorized and imposed upon the Paying Agent/Registrar, and the Paying Agent/Registrar shall authenticate and deliver such Certificate in the form and manner and with the effect, as provided in Section 4(a) of this Ordinance for Certificate issued in conversion and exchange for other Certificates.

Section 10. CUSTODY, APPROVAL, AND REGISTRATION OF CERTIFICATES; BOND COUNSEL'S OPINION; CUSIP NUMBERS AND CONTINGENT INSURANCE PROVISION, IF OBTAINED. The Mayor of the City is hereby authorized to have control of the Certificates initially issued and delivered hereunder and all necessary records and proceedings pertaining to the Certificates pending their delivery and their investigation, examination, and approval by the Attorney General of the State of Texas, and their registration by the Comptroller of Public Accounts of the State of Texas. Upon registration of the Certificates said Comptroller of Public Accounts (or a deputy designated in writing to act for said Comptroller) shall manually sign the Comptroller's Registration Certificate attached to such Certificates, and the seal of said Comptroller shall be impressed, or placed in facsimile, on such Certificate. The approving legal opinion of the City's Bond Counsel and the assigned CUSIP numbers may, at the option of the City, be printed on the Certificates issued and delivered under this Ordinance, but neither shall have any legal effect, and shall be solely for the convenience and information of the Registered Owners of the Certificates. In addition, if bond insurance is obtained, the Certificates may bear an appropriate legend as provided by the insurer.

Section 11. NO TAX EXEMPTION. The City does not intend to issue the Certificates in a manner such that the Certificates would constitute as obligations described in Section 103(a) of the Internal Revenue Code of 1986, as amended (the "Code") and all applicable temporary, proposed and final regulations and procedures promulgated thereunder or promulgated under the Internal Revenue Code of 1954, as amended, to the extent applicable to the Code. The City covenants that it will not file an Internal Revenue Service Form 8038-G with respect to the Certificates.

Section 12. SALE OF CERTIFICATES. The Certificates are hereby sold to the bidder whose bid produced the lowest true interest cost, pursuant to the taking of public bids therefor, on this date, and shall be delivered to _____ (the initial "Purchaser") at a price of \$_____ (representing the par amount of the Certificates of \$_____ plus a reoffering premium of \$_____). The Certificates shall initially be registered in the name of _____.

Section 13. DEFAULT AND REMEDIES. (a) Events of Default. Each of the following occurrences or events for the purpose of this Ordinance is hereby declared to be an Event of Default:

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

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

(b) Remedies for Default.

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

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

(c) Remedies Not Exclusive.

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

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

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

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

Section 14. INTEREST EARNINGS ON CERTIFICATE PROCEEDS. Interest earnings derived from the investment of proceeds from the sale of the Certificates shall be used along with other certificate proceeds for the purpose for which the Certificates are issued set forth in Section 1 hereof; provided that after completion of such purpose, if any of such interest earnings remain on hand, such interest earnings shall be deposited in the Interest and Sinking Fund.

Section 15. APPROVAL OF PAYING AGENT/REGISTRAR AGREEMENT, LETTER OF REPRESENTATIONS AND OFFICIAL STATEMENT. Attached hereto as Exhibit "A" is a substantially final form of Paying Agent/Registrar Agreement with an attached Blanket Letter of Representations. Each the Mayor, the City Manager and the Director of Finance are hereby authorized to amend, complete or modify such agreement as necessary and are further authorized to execute such agreement.

The City confirms execution of a Blanket Issuer Letter of Representations with DTC establishing the Book-Entry-Only System which will be utilized with respect to the Certificates.

The City hereby approves the form and content of the Notice of Sale and Preliminary Official Statement and Official Statement relating to the Certificates and any addenda, supplement or amendment thereto, and approves the distribution of such Official Statement in the reoffering of the Certificates by the initial Purchaser in final form, with such changes therein or additions thereto as the officer executing the same may deem advisable, such determination to be conclusively evidenced by his execution thereof. The distribution and use of the Preliminary Official Statement dated October 23, 2012, prior to the date hereof is ratified and confirmed. The City Council of the City hereby finds and determines that the Preliminary Official Statement and the Official Statement were and are "deemed final" (as that term is defined in 17 C.F.R. Section 240.15c-12) as of their respective dates.

Section 16. CONTINUING DISCLOSURE UNDERTAKING.

(a) Annual Reports. The City shall provide annually to the MSRB, in an electronic format as prescribed by the MSRB, within six months after the end of any fiscal year, financial information and operating data with respect to the City of the general type included in the final Official Statement authorized by Section 15 of this Ordinance, being the information described in the final Official Statement under the heading "Continuing Disclosure of Information - Annual Report.". Any financial statements to be so provided shall be (1) prepared in accordance with the accounting principles described in Exhibit "B" hereto, or such other accounting principles as the City may be required to employ from time to time pursuant to state law or regulation, and (2) audited, if the City commissions an audit of such statements and the audit is completed within the period during which they must be provided. If the audit of such financial statements is not complete within such period, then the City shall provide unaudited financial statements within such period, and audited financial statements for the applicable fiscal year to the MSRB, when and if the audit report on such statements become available.

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

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

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

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

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

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

(c) Limitations, Disclaimers, and Amendments. The City shall be obligated to observe and perform the covenants specified in this Section for so long as, but only for so long as, the City remains an "obligated person" with respect to the Certificates within the meaning of the Rule, except that the City in any event will give notice of any deposit made in accordance with Section 8 of this Ordinance that causes the Certificates no longer to be outstanding.

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

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

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

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

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

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

(d) Definitions. As used in this Section, the following terms have the meanings ascribed to such terms below:

"MSRB" means the Municipal Securities Rulemaking Board.

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

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

Section 17. NO RECOURSE AGAINST CITY OFFICIALS. No recourse shall be had for the payment of principal of or interest on any Certificates or for any claim based thereon or on this Ordinance against any official of the City or any person executing any Certificates.

Section 18. FURTHER ACTIONS. The officers and employees of the City are hereby authorized, empowered and directed from time to time and at any time to do and perform all such acts and things and to execute, acknowledge and deliver in the name and under the corporate seal and on behalf of the City all such instruments, whether or not herein mentioned, as may be necessary or desirable in order to carry out the terms and provisions of this Ordinance, the Certificates, the initial sale and delivery of the Certificates, the Paying Agent/Registrar Agreement, any insurance commitment letter or agreement or insurance policy and the Official

Statement. In addition, prior to the initial delivery of the Certificates, the Mayor, the City Manager or the Director of Finance of the City, the City Attorney and Bond Counsel are hereby authorized and directed to approve any technical changes or corrections to this Ordinance or to any of the instruments authorized and approved by this Ordinance necessary in order to (i) correct any ambiguity or mistake or properly or more completely document the transactions contemplated and approved by this Ordinance and as described in the Official Statement, (ii) obtain a rating from any of the national bond rating agencies or satisfy requirements of the Bond Insurer, or (iii) obtain the approval of the Certificates by the Texas Attorney General's office.

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

Section 19. INTERPRETATIONS. All terms defined herein and all pronouns used in this Ordinance shall be deemed to apply equally to singular and plural and to all genders. The titles and headings of the articles and sections of this Ordinance and the Table of Contents of this Ordinance have been inserted for convenience of reference only and are not to be considered a part hereof and shall not in any way modify or restrict any of the terms or provisions hereof. This Ordinance and all the terms and provisions hereof shall be liberally construed to effectuate the purposes set forth herein and to sustain the validity of the Certificates and the validity of the lien on and pledge of the Pledged Revenues to secure the payment of the Certificates.

Section 20. INCONSISTENT PROVISIONS. All ordinances, orders or resolutions, or parts thereof, which are in conflict or inconsistent with any provision of this Ordinance are hereby repealed to the extent of such conflict and the provisions of this Ordinance shall be and remain controlling as to the matters contained herein.

Section 21. INTERESTED PARTIES. Nothing in this Ordinance expressed or implied is intended or shall be construed to confer upon, or to give to, any person or entity, other than the City and the registered owners of the Certificates, any right, remedy or claim under or by reason of this Ordinance or any covenant, condition or stipulation hereof, and all covenants, stipulations, promises and agreements in this Ordinance contained by and on behalf of the City shall be for the sole and exclusive benefit of the City and the registered owners of the Certificates.

Section 22. INCORPORATION OF RECITALS. The City hereby finds that the statements set forth in the recitals of this Ordinance are true and correct, and the City hereby incorporates such recitals as a part of this Ordinance.

Section 23. SEVERABILITY. If any provision of this Ordinance or the application thereof to any circumstance shall be held to be invalid, the remainder of this Ordinance and the application thereof to other circumstances shall nevertheless be valid, and this governing body hereby declares that this Ordinance would have been enacted without such invalid provision.

Section 24. REPEALER. All orders, resolutions and ordinances, or parts thereof, inconsistent herewith are hereby repealed to the extent of such inconsistency.

Section 25. EFFECTIVE DATE. This Ordinance shall become effect immediately from and after its passage on first and final reading in accordance with Section 1201.028, Texas Government Code, as amended.

Section 26. PERFECTION. Chapter 1208, Government Code, applies to the issuance of the Certificates and the pledge of ad valorem taxes and surplus net revenues granted by the City under Sections 6 and 7 of this Ordinance, and such pledge is therefore valid, effective and perfected. If Texas law is amended at any time while the Certificates are outstanding and unpaid such that the pledge of ad valorem taxes and surplus net revenues granted by the City under Sections 6 and 7 of this Ordinance is to be subject to the filing requirements of Chapter 9, Business & Commerce Code, then in order to preserve to the registered owners of the Certificates the perfection of the security interest in said pledge, the City agrees to take such measures as it determines are reasonable and necessary under Texas law to comply with the applicable provisions of Chapter 9, Business & Commerce Code and enable a filing to perfect the security interest in said pledge to occur.

Section 27. PAYMENT OF ATTORNEY GENERAL FEE. The City hereby authorizes the disbursement of a fee equal to the lesser of (i) one-tenth of one percent of the principal amount of the Certificates or (ii) \$9,500, provided that such fee shall not be less than \$750, to the Attorney General of Texas Public Finance Division for payment of the examination fee charged by the State of Texas for the Attorney General's review and approval of public securities and credit agreements, as required by Section 1202.004 of the Texas Government Code. The appropriate member of the City's staff is hereby instructed to take the necessary measures to make this payment. The City is also authorized to reimburse the appropriate City funds for such payment from proceeds of the Certificates.

IN ACCORDANCE WITH SECTION 1201.028, Texas Government Code, finally passed, approved and effective on this 1st day of November, 2012.

THE CITY OF TEMPLE, TEXAS

By: Mayor
City of Temple, Texas

ATTEST:

City Secretary
City of Temple, Texas

APPROVED AS TO FORM:

City Attorney
City of Temple, Texas

EXHIBIT "A"

Paying Agent\Registrar Agreement

EXHIBIT "B"

DESCRIPTION OF ANNUAL FINANCIAL INFORMATION

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

Annual Financial Statements and Operating Data

The financial information and operating data with respect to the City to be provided in accordance with such Section are as specified (and included in the Appendix or under the headings of the Official Statement referred to) below:

1. The portions of the financial statements of the City appended to the Official Statement as Appendix B, but for the most recently concluded fiscal year.
2. Statistical and financial data set forth in Tables 1 through 10.

Accounting Principles

The accounting principles referred to in such Section are the accounting principles described in the notes to the financial statements referred to in the paragraph above.



COUNCIL AGENDA ITEM MEMORANDUM

11/01/12
Item #5
Regular Agenda
Page 1 of 2

DEPT./DIVISION SUBMISSION & REVIEW:

Traci L. Barnard, Director of Finance

ITEM DESCRIPTION: FIRST & FINAL READING - PUBLIC HEARING: Consider adopting an ordinance authorizing the issuance of \$9,420,000 City of Temple, Texas Combination Tax and Revenue Certificates of Obligation, Series 2012; authorizing the Levy of an ad valorem tax and the pledge of certain revenues in support of the Certificates; approving and Official Statement, a Paying Agent/Registrar Agreement, and other agreements related to the sale and issuance of the Certificates; establishing procedures for selling and delivering the bonds; and authorizing other matters related to the issuance of the certificates.

STAFF RECOMMENDATION: Conduct public hearing and adopt ordinance as presented in item description, on first and final reading.

ITEM SUMMARY: This item is to award sale of \$9,420,000 to the lowest competitive bidder of this series of bonds.

The proceeds from the issue will be used to fund the following projects:

- Constructing, reconstructing, improving, extending, expanding, upgrading and/or developing streets, bridges, sidewalks, intersections, traffic signalization and other traffic improvements projects and related utility and rail relocation costs, drainage improvements and purchasing necessary rights-of-way
- Paying the professional services including fiscal, engineering, architectural and legal fees including the costs associated with the issuance of one or more series of Certificates

***The issue size is preliminary and will be sized at the time of pricing.**

Ratings for the bonds have been applied for with Standard & Poor's. The ratings will be published prior to the pricing and sale of the bonds. The bonds will be sold through a competitive sale. Pricing will be received on the morning of November 1, 2012. The pricing will be held until the meeting on Thursday evening when Council considers the lowest responsible bidder.

The City's financial advisor, Specialized Public Finance Inc., and bond counsel, McCall, Parkhurst & Horton, L.L.P, will be present at the meeting to review details of the bids and recommended award with Council. The Council will consider the offers and award based on the recommendation.

Funds will be delivered to our depository for use on November 15, 2012.

FISCAL IMPACT: The proposed CO's are the first of a series of issues over the next six years to fund the TCIP that was approved with the adoption of the FY 2012/2013 Budget. The multi-year TCIP totals \$60,180,000. An interest and sinking (I&S) tax rate increase of 1.25¢ was approved on August 30, 2012 to fund the debt service associated with this issue and future scheduled issuance for the TCIP. The assumptions used to estimate the tax rate impact and capacity included an annual tax base growth of 3%.

ATTACHMENTS:
[Ordinance](#)

ORDINANCE NO. _____

**ORDINANCE AUTHORIZING THE ISSUANCE OF CITY OF TEMPLE, TEXAS
COMBINATION TAX AND REVENUE CERTIFICATES OF OBLIGATION, SERIES
2012; AUTHORIZING THE LEVY OF AN AD VALOREM TAX AND THE PLEDGE
OF CERTAIN REVENUES IN SUPPORT OF THE CERTIFICATES; APPROVING
AN OFFICIAL STATEMENT, A PAYING AGENT/REGISTRAR AGREEMENT
AND OTHER AGREEMENTS RELATED TO THE SALE AND ISSUANCE OF
THE CERTIFICATES; AWARDING THE SALE OF THE CERTIFICATES
AND AUTHORIZING OTHER MATTERS RELATED TO THE ISSUANCE OF
THE CERTIFICATES**

Adopted November 1, 2012

**ORDINANCE AUTHORIZING THE ISSUANCE OF CITY OF TEMPLE, TEXAS
COMBINATION TAX AND REVENUE CERTIFICATES OF OBLIGATION, SERIES
2012; AUTHORIZING THE LEVY OF AN AD VALOREM TAX AND THE PLEDGE
OF CERTAIN REVENUES IN SUPPORT OF THE CERTIFICATES; APPROVING
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THE CERTIFICATES**

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Ordinance No. _____

**ORDINANCE AUTHORIZING THE ISSUANCE OF CITY OF TEMPLE, TEXAS
COMBINATION TAX AND REVENUE CERTIFICATES OF OBLIGATION, SERIES
2012; AUTHORIZING THE LEVY OF AN AD VALOREM TAX AND THE PLEDGE
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AND AUTHORIZING OTHER MATTERS RELATED TO THE ISSUANCE OF
THE CERTIFICATES**

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

WHEREAS, the City Council of the City of Temple, Texas (the "City") deems it advisable to issue certificates of obligation in the amount of \$9,420,000 (the "Certificates") and finds that the payment in whole or in part of contractual obligations incurred or to be incurred for: (1) constructing, reconstructing, improving, extending, expanding, upgrading and/or developing streets, bridges, sidewalks, trails, intersections, traffic signalization and other traffic improvement projects and related utility and rail relocation costs, drainage improvements and purchasing any necessary rights-of-way and (2) professional services including fiscal, engineering, architectural and legal fees and other such costs incurred in connection therewith including the costs of issuing the Certificates; and

WHEREAS, the Certificates hereinafter authorized and designated are to be issued and delivered for cash pursuant to Subchapter C of Chapter 271, Local Government Code, as amended, and Section 1502.052, Texas Government Code, as amended; and

WHEREAS, on September 20, 2012, the City Council passed a resolution authorizing and directing the City Secretary to give notice of intention to issue the Certificates; and

WHEREAS, the notice was published on September 26, 2012 and October 3, 2012 in the *Temple Daily Telegram*, a newspaper of general circulation in the City and a "newspaper" as defined in Section 2051.044, Government Code; and

WHEREAS, the City has not received a petition from the qualified electors of the City protesting the issuance of the Certificates; and

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

WHEREAS, it is considered to be in the best interest of the City that the interest bearing Certificates be issued.

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

Section 1. RECITALS AND PURPOSE OF THE CERTIFICATES. The recitals set forth in the preamble hereof are incorporated by reference herein and shall have the same force and effect as if set forth in this Section. The Certificates of the City of Temple, Texas (the "City") are hereby authorized to be issued and delivered in the aggregate principal amount of \$9,420,000 (the "Certificates") for the payment in whole or in part of contractual obligations incurred or to be incurred for: (1) constructing, reconstructing, improving, extending, expanding, upgrading and/or developing streets, bridges, sidewalks, trails, intersections, traffic signalization and other traffic improvement projects and related utility and rail relocation costs, drainage improvements and purchasing any necessary rights-of-way and (2) professional services including fiscal, engineering, architectural and legal fees and other such costs incurred in connection therewith including the costs of issuing the Certificates.

Section 2. DESIGNATION, DATE, DENOMINATIONS, NUMBERS, AND MATURITIES OF CERTIFICATES. Each Certificate issued pursuant to this Ordinance shall be designated: "CITY OF TEMPLE, TEXAS COMBINATION TAX AND REVENUE CERTIFICATE OF OBLIGATION, SERIES 2012", and initially there shall be issued, sold, and delivered hereunder fully registered Certificates, without interest coupons, dated November 1, 2012, in the respective denominations and principal amounts hereinafter stated, numbered consecutively from R-1 upward (except the initial Certificate delivered to the Attorney General of the State of Texas which shall be numbered T-1), payable to the respective initial registered owners thereof (as designated in Section 12 hereof), or to the registered assignee or assignees of said Certificates or any portion or portions thereof (in each case, the "Registered Owner"), and said Certificates shall mature and be payable serially on August 1 in each of the years and in the principal amounts, respectively, as set forth in the following schedule:

<u>YEAR</u>	<u>AMOUNT</u>	<u>YEAR</u>	<u>AMOUNT</u>
2016	\$ 385,000	2025	\$525,000
2017	400,000	2026	545,000
2018	410,000	2027	560,000
2019	425,000	2028	580,000
2020	440,000	2029	600,000
2021	455,000	2030	625,000
2022	475,000	2031	645,000
2023	490,000	2032	665,000
2024	505,000	2033	690,000

The term "Certificates" as used in this Ordinance shall mean and include collectively the Certificates initially issued and delivered pursuant to this Ordinance and all substitute Certificates

exchanged therefor, as well as all other substitute certificates and replacement Certificates issued pursuant hereto, and the term "Certificate" shall mean any of the Certificates.

Section 3. INTEREST. The Certificates scheduled to mature during the years, respectively, set forth below shall bear interest from the dates specified in the FORM OF CERTIFICATE set forth in this Ordinance to their respective dates of maturity or redemption prior to maturity at the following rates per annum:

<u>YEAR</u>	<u>RATE</u>	<u>YEAR</u>	<u>RATE</u>
2016		2025	
2017		2026	
2018		2027	
2019		2028	
2020		2029	
2021		2030	
2022		2031	
2023		2032	
2024		2033	

Interest shall be payable in the manner provided and on the dates stated in the FORM OF CERTIFICATE set forth in this Ordinance.

Section 4. CHARACTERISTICS OF THE CERTIFICATES. (a) Registration, Transfer, Conversion and Exchange; Authentication. The City shall keep or cause to be kept at The Bank of New York Mellon Trust Company, N.A., (the "Paying Agent/Registrar") books or records for the registration of the transfer, conversion and exchange of the Certificates (the "Registration Books"), and the City hereby appoints the Paying Agent/Registrar as its registrar and transfer agent to keep such books or records and make such registrations of transfers, conversions and exchanges under such reasonable regulations as the City and Paying Agent/Registrar may prescribe; and the Paying Agent/Registrar shall make such registrations, transfers, conversions and exchanges as herein provided. The Paying Agent/Registrar shall obtain and record in the Registration Books the address of the Registered Owner of each Certificate to which payments with respect to the Certificates shall be mailed, as herein provided; but it shall be the duty of each Registered Owner to notify the Paying Agent/Registrar in writing of the address to which payments shall be mailed, and such interest payments shall not be mailed unless such notice has been given. The City shall have the right to inspect the Registration Books during regular business hours of the Paying Agent/Registrar, but otherwise the Paying Agent/Registrar shall keep the Registration Books confidential and, unless otherwise required by law, shall not permit their inspection by any other entity. The Paying Agent/Registrar shall make the Registration Books available within the State of Texas. The City shall pay the Paying Agent/Registrar's standard or customary fees and charges for making such registration, transfer, conversion, exchange and delivery of a substitute Certificate or Certificates. Registration of assignments, transfers, conversions and exchanges of Certificates shall be made in the manner provided and with the effect stated in the FORM OF CERTIFICATE set forth in this Ordinance. Each substitute Certificate shall bear a letter and/or number to distinguish it from each other Certificate.

Except as provided in Section 4(c) of this Ordinance, an authorized representative of the Paying Agent/Registrar shall, before the delivery of any such Certificate, date and manually sign said Certificate, and no such Certificate shall be deemed to be issued or outstanding unless such Certificate is so executed. The Paying Agent/Registrar promptly shall cancel all paid Certificates and Certificates surrendered for conversion and exchange. No additional ordinances, orders, or resolutions need be passed or adopted by the governing body of the City or any other body or person so as to accomplish the foregoing conversion and exchange of any Certificate or portion thereof, and the Paying Agent/Registrar shall provide for the printing, execution, and delivery of the substitute Certificates in the manner prescribed herein, and said Certificates shall be printed or typed on paper of customary weight and strength. Pursuant to Chapter 1201, Texas Government Code, as amended, and particularly Subchapter D thereof, the duty of conversion and exchange of Certificates as aforesaid is hereby imposed upon the Paying Agent/Registrar, and, upon the execution of said Certificate, the converted and exchanged Certificate shall be valid, incontestable, and enforceable in the same manner and with the same effect as the Certificates which initially were issued and delivered pursuant to this Ordinance, approved by the Attorney General and registered by the Comptroller of Public Accounts.

(b) Payment of Certificates and Interest. The City hereby further appoints the Paying Agent/Registrar to act as the paying agent for paying the principal of and interest on the Certificates, all as provided in this Ordinance. The Paying Agent/Registrar shall keep proper records of all payments made by the City and the Paying Agent/Registrar with respect to the Certificates, and of all conversions and exchanges of Certificates, and all replacements of Certificates, as provided in this Ordinance. However, in the event of a nonpayment of interest on a scheduled payment date, and for thirty (30) days thereafter, a new record date for such interest payment (a "Special Record Date") will be established by the Paying Agent/Registrar, if and when funds for the payment of such interest have been received from the City. Notice of the past due interest shall be sent at least five (5) business days prior to the Special Record Date by United States mail, first-class postage prepaid, to the address of each Registered Owner appearing on the Registration Books at the close of business on the last business day next preceding the date of mailing of such notice.

(c) In General. The Certificates (i) shall be issued in fully registered form, without interest coupons, with the principal of and interest on such Certificates to be payable only to the Registered Owners thereof, (ii) may be redeemed prior to their scheduled maturities (notice of which shall be given to the Paying Agent/Registrar by the City at least 45 days prior to any such redemption date), (iii) may be converted and exchanged for other Certificates, (iv) may be transferred and assigned, (v) shall have the characteristics, (vi) shall be signed, sealed, executed and authenticated, (vii) the principal of and interest on the Certificates shall be payable, and (viii) shall be administered and the Paying Agent/Registrar and the City shall have certain duties and responsibilities with respect to the Certificates, all as provided, and in the manner and to the effect as required or indicated, in the FORM OF CERTIFICATE set forth in this Ordinance. The Certificates initially issued and delivered pursuant to this Ordinance are not required to be, and shall not be, authenticated by the Paying Agent/Registrar, but on each substitute Certificate issued in conversion of and exchange for any Certificate or Certificates issued under this Ordinance the

Paying Agent/Registrar shall execute the PAYING AGENT/REGISTRAR'S AUTHENTICATION CERTIFICATE, in the form set forth in the FORM OF CERTIFICATE.

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

(e) Book-Entry-Only System. The Certificates issued in exchange for the Certificates initially issued as provided in Section 4(h) shall be issued in the form of a separate single fully registered Certificate for each of the maturities thereof registered in the name of Cede & Co. as nominee of DTC and except as provided in subsection (f) hereof, all of the Outstanding Certificates shall be registered in the name of Cede & Co., as nominee of DTC.

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

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

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

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

(h) Initial Certificate. The Certificates herein authorized shall be initially issued as fully registered certificates, being one certificate for each maturity in the denomination of the applicable principal amount and the initial Certificate shall be registered in the name of the initial purchaser or the designees thereof as set forth in Section 12 hereof. The initial Certificate shall be the Certificate submitted to the Office of the Attorney General of the State of Texas for approval, certified and registered by the Office of the Comptroller of Public Accounts of the State of Texas and delivered to the Underwriters. Immediately after the delivery of the initial Certificate, the Paying Agent/Registrar shall cancel the initial Certificate delivered hereunder and exchange

therefor Certificates in the form of a separate single fully registered Certificate for each of the maturities thereof registered in the name of Cede & Co., as nominee of DTC and except as provided in Section 4(f), all of the outstanding Certificates shall be registered in the name of Cede & Co., as nominee of DTC.

Section 5. FORM OF CERTIFICATE. The form of the Certificate, including the form of Paying Agent/Registrar's Authentication Certificate, the form of Assignment and the form of Registration Certificate of the Comptroller of Public Accounts of the State of Texas to be attached to the Certificates initially issued and delivered pursuant to this Ordinance, shall be, respectively, substantially as follows, with such appropriate variations, omissions or insertions as are permitted or required by this Ordinance.

FORM OF CERTIFICATE

NO. R-	UNITED STATES OF AMERICA STATE OF TEXAS COUNTY OF BELL CITY OF TEMPLE, TEXAS	PRINCIPAL AMOUNT \$ _____
COMBINATION TAX AND REVENUE CERTIFICATE OF OBLIGATION, SERIES 2012		

<u>INTEREST RATE</u>	<u>DATE OF CERTIFICATES</u> November 1, 2012	<u>MATURITY DATE</u>	<u>CUSIP NO.</u>
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REGISTERED OWNER:

PRINCIPAL AMOUNT: _____ **DOLLARS**

ON THE MATURITY DATE specified above, the CITY OF TEMPLE, in Bell County, Texas (the "City"), being a political subdivision of the State of Texas, hereby promises to pay to the Registered Owner set forth above, or registered assigns (hereinafter called the "Registered Owner") the principal amount set forth above, and to pay interest thereon from the Date of Certificates set forth above, on February 1, 2013, and semiannually on each August 1 and February 1 thereafter to the maturity date specified above, or the date of redemption prior to maturity, at the interest rate per annum specified above; except that if this Certificate is required to be authenticated and the date of its authentication is later than the first Record Date (hereinafter defined), such principal amount shall bear interest from the interest payment date next preceding the date of authentication, unless such date of authentication is after any Record Date, as hereinafter defined, but on or before the next following interest payment date, in which case such principal amount shall bear interest from such next following interest payment date; provided, however, that if on the date of authentication hereof the interest on the Certificate or Certificates, if any, for which this Certificate is being exchanged or converted from is due but has not been paid, then this Certificate shall bear interest from the date to which such interest has been paid in full. Notwithstanding the foregoing, during any period in which ownership of the Certificates is

determined only by a book entry at a securities depository for the Certificates, any payment to the securities depository, or its nominee or registered assigns, shall be made in accordance with existing arrangements between the City and the securities depository.

THE PRINCIPAL OF AND INTEREST ON this Certificate are payable in lawful money of the United States of America, without exchange or collection charges. The principal of this Certificate shall be paid to the Registered Owner hereof upon presentation and surrender of this Certificate at maturity, or upon the date fixed for its redemption prior to maturity, at The Bank of New York Mellon Trust Company, N.A., which is the "Paying Agent/Registrar" for this Certificate at their office in Dallas, Texas (the "Designated Payment/Transfer Office"). The payment of interest on this Certificate shall be made by the Paying Agent/Registrar to the Registered Owner hereof on each interest payment date by check or draft, dated as of such interest payment date, drawn by the Paying Agent/Registrar on, and payable solely from, funds of the City required by the ordinance authorizing the issuance of this Certificate (the "Ordinance") to be on deposit with the Paying Agent/Registrar for such purpose as hereinafter provided; and such check or draft shall be sent by the Paying Agent/Registrar by United States mail, first-class postage prepaid, on each such interest payment date, to the Registered Owner hereof, at its address as it appeared on the last business day of the month preceding each such date (the "Record Date") on the registration books kept by the Paying Agent/Registrar (the "Registration Books"). In addition, interest may be paid by such other method, acceptable to the Paying Agent/Registrar, requested by, and at the risk and expense of, the Registered Owner. In the event of a non-payment of interest on a scheduled payment date, and for 30 days thereafter, a new record date for such interest payment (a "Special Record Date") will be established by the Paying Agent/Registrar, if and when funds for the payment of such interest have been received from the City. Notice of the Special Record Date and of the scheduled payment date of the past due interest (which shall be 15 days after the Special Record Date) shall be sent at least five business days prior to the Special Record Date by United States mail, first-class postage prepaid, to the address of each owner of a Certificate appearing on the Registration Books at the close of business on the last business day next preceding the date of mailing of such notice. Notwithstanding the foregoing, during any period in which ownership of the Certificates is determined only by a book entry at a securities depository for the Certificates, payments made to the securities depository, or its nominee, shall be made in accordance with arrangements between the City and the securities depository.

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

ANY ACCRUED INTEREST due at maturity or upon the redemption of this Certificate prior to maturity as provided herein shall be paid to the Registered Owner upon presentation and surrender of this Certificate for redemption and payment at the Designated Payment/Transfer Office of the Paying Agent/Registrar. The City covenants with the Registered Owner of this Certificate that on or before each principal payment date or interest payment date for this Certificate it will make available to the Paying Agent/Registrar, from the "Interest and Sinking

Fund" created by the Ordinance, the amounts required to provide for the payment, in immediately available funds, of all principal of and interest on the Certificates, when due.

IF THE DATE for the payment of the principal of or interest on this Certificate shall be a Saturday, Sunday, a legal holiday or a day on which banking institutions in the city where the principal corporate trust office of the Paying Agent/Registrar is located are authorized by law or executive order to close, then the date for such payment shall be the next succeeding day which is not such a Saturday, Sunday, legal holiday or day on which banking institutions are authorized to close; and payment on such date shall have the same force and effect as if made on the original date payment was due.

THIS CERTIFICATE is one of a Series of Certificates dated November 1, 2012, authorized in accordance with the Constitution and laws of the State of Texas in the principal amount of \$9,420,000 (the "Certificates"), the payment in whole or in part of contractual obligations incurred or to be incurred for: (1) permitting, construction and other costs related to expansion of the City's landfill including land acquisition costs and (2) professional services including fiscal, engineering, architectural and legal fees and other such costs incurred in connection therewith including the costs of issuing the Certificates.

ON AUGUST 1, 2021, or on any date thereafter, the Certificates of this Series maturing on and after August 1, 2022 may be redeemed prior to their scheduled maturities, at the option of the City, with funds derived from any available and lawful source, at par plus accrued interest to the date fixed for redemption as a whole, or in part, and, if in part, the particular maturities to be redeemed shall be selected and designated by the City and if less than all of a maturity is to be redeemed, the Paying Agent/Registrar shall determine by lot the Certificates, or a portion thereof, within such maturity to be redeemed (provided that a portion of a Certificate may be redeemed only in an integral multiple of \$5,000).

THE CERTIFICATES maturing on August 1, 20__ (the "Term Certificates") are subject to mandatory sinking fund redemption by lot or other customary method prior to maturity in the following amounts, on the following dates and at a price of par plus accrued interest to the redemption date.

Certificates Maturing August 1, 20__	
Redemption Date	Principal Amount
August 1, 20__	\$_____
August 1, 20__*	\$_____*

*Final Maturity

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

been purchased and canceled by the Paying Agent/Registrar at the request of the City with monies in the Interest and Sinking Fund at a price not exceeding the principal amount of the Term Certificates plus accrued interest to the date of purchase thereof, or (3) shall have been redeemed pursuant to the optional redemption provisions and not theretofore credited against a mandatory sinking fund redemption requirement.

NO LESS THAN 30 days prior to the date fixed for any such redemption, the City shall cause the Paying Agent/Registrar to send notice by United States mail, first-class postage prepaid to the Registered Owner of each Certificate to be redeemed at its address as it appeared on the Registration Books of the Paying Agent/Registrar at the close of business on the 45th day prior to the redemption date; provided, however, that the failure to send, mail or receive such notice, or any defect therein or in the sending or mailing thereof, shall not affect the validity or effectiveness of the proceedings for the redemption of any Certificates. By the date fixed for any such redemption due provision shall be made with the Paying Agent/Registrar for the payment of the required redemption price for the Certificates or portions thereof which are to be so redeemed. If due provision for such payment is made, all as provided above, the Certificates or portions thereof which are to be so redeemed thereby automatically shall be treated as redeemed prior to their scheduled maturities, and they shall not bear interest after the date fixed for redemption, and they shall not be regarded as being outstanding except for the right of the Registered Owner to receive the redemption price from the Paying Agent/Registrar out of the funds provided for such payment. If a portion of any Certificates shall be redeemed a substitute Certificates or Certificates having the same maturity date, bearing interest at the same rate, in any denomination or denominations in any integral multiple of \$5,000, at the written request of the Registered Owner, and in aggregate principal amount equal to the unredeemed portion thereof, will be issued to the Registered Owner upon the surrender thereof for cancellation, at the expense of the City, all as provided in the Ordinance.

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

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

ALL CERTIFICATES OF THIS SERIES are issuable solely as fully registered certificates, without interest coupons, in the denomination of any integral multiple of \$5,000. As provided in the Ordinance, this Certificate may, at the request of the Registered Owner or the assignee or assignees hereof, be assigned, transferred, converted into and exchanged for a like aggregate principal amount of fully registered certificates, without interest coupons, payable to the appropriate Registered Owner, assignee or assignees, as the case may be, having the same denomination or denominations in any integral multiple of \$5,000 as requested in writing by the appropriate Registered Owner, assignee or assignees, as the case may be, upon surrender of this Certificate to the Paying Agent/Registrar for cancellation, all in accordance with the form and procedures set forth in the Ordinance. Among other requirements for such assignment and transfer, this Certificate must be presented and surrendered to the Paying Agent/Registrar, together with proper instruments of assignment, in form and with guarantee of signatures satisfactory to the Paying Agent/Registrar, evidencing assignment of this Certificate or any portion or portions hereof in any integral multiple of \$5,000 to the assignee or assignees in whose name or names this Certificate or any such portion or portions hereof is or are to be registered. The form of Assignment printed or endorsed on this Certificate may be executed by the Registered Owner to evidence the assignment hereof, but such method is not exclusive, and other instruments of assignment satisfactory to the Paying Agent/Registrar may be used to evidence the assignment of this Certificate or any portion or portions hereof from time to time by the Registered Owner. The Paying Agent/Registrar's reasonable standard or customary fees and charges for assigning, transferring, converting and exchanging any Certificate or portion thereof will be paid by the City. In any circumstance, any taxes or governmental charges required to be paid with respect thereto shall be paid by the one requesting such assignment, transfer, conversion or exchange, as a condition precedent to the exercise of such privilege. The Paying Agent/Registrar shall not be required to make any such transfer, conversion, or exchange (i) during the period commencing with the close of business on any Record Date and ending with the opening of business on the next following principal or interest payment date, or (ii) with respect to any Certificate or any portion thereof called for redemption prior to maturity, within 45 days prior to its redemption date; provided, however, such limitation of transfer shall not be applicable to an exchange by the Registered Owner of the unredeemed balance of the Certificate.

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

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

IT IS HEREBY certified, recited and covenanted that this Certificate has been duly and validly authorized, issued and delivered; that all acts, conditions and things required or proper to be performed, exist and be done precedent to or in the authorization, issuance and delivery of this Certificate have been performed, existed and been done in accordance with law; that that annual ad valorem taxes sufficient to provide for the payment of the interest on and principal of this Certificate, as such interest comes due and such principal matures, have been levied and ordered to

be levied against all taxable property in said City, and have been pledged for such payment, within the limit prescribed by law, and that this Certificate, together with other obligations of the City, is additionally secured by and payable from the surplus revenues of the City's Waterworks and Sewer System remaining after payment of all operation and maintenance expenses thereof, and all debt service, reserve and other requirements in connection with all of the City's revenue bonds or other obligations (now or hereafter outstanding), which are payable from all or part of the Net Revenues of the City's Waterworks and Sewer System, which amount shall not exceed \$10,000 all as provided in the Ordinance.

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

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

City Secretary

Mayor

(SEAL)

FORM OF PAYING AGENT/REGISTRAR'S AUTHENTICATION CERTIFICATE

PAYING AGENT/REGISTRAR'S AUTHENTICATION CERTIFICATE

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

It is hereby certified that this Certificate has been issued under the provisions of the Ordinance described in the text of this Certificate; and that this Certificate has been issued in conversion or replacement of, or in exchange for, a certificate, certificates, or a portion of a certificate or certificates of a Series which originally was approved by the Attorney General of the State of Texas and registered by the Comptroller of Public Accounts of the State of Texas.

Dated

The Bank of New York Mellon
Trust Company, N.A.
Paying Agent/Registrar

By _____
Authorized Representative

FORM OF ASSIGNMENT

ASSIGNMENT

For value received, the undersigned hereby sells, assigns and transfers unto

Please insert Social Security or Taxpayer
Identification Number of Transferee

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

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

Dated: _____

Signature Guaranteed:

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

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

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

COMPTROLLER'S REGISTRATION CERTIFICATE: REGISTER NO.

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

Witness my signature and seal this

Comptroller of Public Accounts
of the State of Texas

(COMPTROLLER'S SEAL)

INSERTIONS FOR THE INITIAL CERTIFICATE

The initial Certificate shall be in the form set forth in this Section, except that:

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

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

"ON THE MATURITY DATE SPECIFIED BELOW, the City of Temple, Texas (the "City"), being a political subdivision, hereby promises to pay to the Registered Owner specified above, or registered assigns (hereinafter called the "Registered Owner"), on August 1 in each of the years, in the principal installments and bearing interest at the per annum rates set forth in the following schedule:

<u>Year</u>	<u>Amount</u>	<u>Rate</u>
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(Information from Sections 2 and 3 to be inserted)

The City promises to pay interest on the unpaid principal amount hereof (calculated on the basis of a 360-day year of twelve 30-day months) from November 1, 2012 at the respective Interest Rate per annum specified above. Interest is payable on February 1, 2013 and semiannually on each August 1 and February 1 thereafter to the date of payment of the principal installment specified above; except, that if this Certificate is required to be authenticated and the date of its authentication is later than the first Record Date (hereinafter defined), such principal amount shall bear interest from the interest payment date next preceding the date of authentication, unless such date of authentication is after any Record Date but on or before the next following interest payment date, in which case such principal amount shall bear interest from such next following interest payment date; provided, however, that if on the date of authentication hereof the interest on the Certificate or Certificates, if any, for which this Certificate is being exchanged is due but has not been paid, then this Certificate shall bear interest from the date to which such interest has been paid in full."

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

Section 6. INTEREST AND SINKING FUND. A special "Interest and Sinking Fund" is hereby created and shall be established and maintained by the City at an official depository bank of the City. The Interest and Sinking Fund shall be kept separate and apart from all other funds and accounts of the City, and shall be used only for paying the interest on and principal of the Certificates. All ad valorem taxes levied and collected for and on account of the Certificates shall be deposited, as collected, to the credit of the Interest and Sinking Fund. During each year while any of the Certificates are outstanding and unpaid, the City Council shall compute and ascertain a rate and amount of ad valorem tax which will be sufficient, within the limit prescribed by law, to raise and produce the money required to pay the interest on the Certificates as such interest comes due, and to provide and maintain a sinking fund adequate to pay the principal of the Certificates as such principal matures (but never less than 2% of the original amount of the Certificates as a sinking fund each year); and the tax shall be based on the latest approved tax rolls of the City, with full allowances being made for tax delinquencies and the cost of tax collection. The rate and amount of ad valorem tax is hereby levied, and is hereby ordered to be levied, against all taxable property in the City, for each year while any of the Certificates are outstanding and unpaid, and the tax shall be assessed and collected each such year and deposited to the credit of the aforesaid Interest and Sinking Fund. The ad valorem taxes sufficient to provide for the payment of the interest on and principal of the Certificates, as such interest comes due and such principal matures, are hereby pledged for such payment, within the limit prescribed by law. Accrued interest on the Certificates shall be deposited in the Interest and Sinking Fund and used to pay interest on the Certificates.

Section 7. REVENUES. The Certificates together with other obligations of the City, are additionally secured by and shall be payable from and secured by the surplus revenues of the City's Waterworks and Sewer System after payment of all operation and maintenance expenses or collections thereof, and all debt service, reserve, and other requirements in connection with all of the City's revenue bonds or other obligations (now or hereafter outstanding) which are payable from all or any part of the net revenues of the City's Water Works and Sewer System, with such amount not exceeding \$10,000, constituting "Surplus Revenues." The City shall deposit such Surplus Revenues to the credit of the Interest and Sinking Fund created pursuant to Section 6, to the extent necessary to pay the principal and interest on the Certificates. Notwithstanding the requirements of Section 6, if Surplus Revenues or other lawfully available funds are actually on deposit or budgeted for deposit in the Interest and Sinking Fund in advance of the time when ad valorem taxes are scheduled to be levied for any year, then the amount of taxes which otherwise would have been required to be levied pursuant to Section 6 may be reduced to the extent and by the amount of the Surplus Revenues or other lawfully available funds then on deposit in the Interest and Sinking Fund or budgeted for deposit therein.

The Mayor and the Director of Finance of the City are hereby ordered to do any and all things necessary to accomplish the transfer of monies to the Interest and Sinking Fund of this issue in ample time to pay such items of principal and interest.

Section 8. DEFEASANCE OF CERTIFICATES. (a) Any Certificate and the interest thereon shall be deemed to be paid, retired and no longer outstanding (a "Defeased Certificate") within the meaning of this Ordinance, except to the extent provided in subsections (c)

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

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

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

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

(e) Notwithstanding the provisions of subsection (a) immediately above, to the extent that, upon the defeasance of any Defeased Certificate to be paid at its maturity, the City retains the

right under Texas law to later call that Defeased Certificate for redemption in accordance with the provisions of the Ordinance authorizing its issuance, the City may call such Defeased Certificate for redemption upon complying with the provisions of Texas law and upon the satisfaction of the provisions of subsection (a) immediately above with respect to such Defeased Certificate as though it was being defeased at the time of the exercise of the option to redeem the Defeased Certificate and the effect of the redemption is taken into account in determining the sufficiency of the provisions made for the payment of the Defeased Certificate.

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

Section 9. DAMAGED, MUTILATED, LOST, STOLEN, OR DESTROYED CERTIFICATES. (a) Replacement Certificates. In the event any outstanding Certificate is damaged, mutilated, lost, stolen or destroyed, the Paying Agent/Registrar shall cause to be printed, executed and delivered, a new certificate of the same principal amount, maturity and interest rate, as the damaged, mutilated, lost, stolen or destroyed Certificate, in replacement for such Certificate in the manner hereinafter provided.

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

(c) No Default Occurred. Notwithstanding the foregoing provisions of this Section, in the event any such Certificate shall have matured, and no default has occurred which is then continuing in the payment of the principal of, redemption premium, if any, or interest on the Certificate, the City may authorize the payment of the same (without surrender thereof except in

the case of a damaged or mutilated Certificate) instead of issuing a replacement Certificate, provided security or indemnity is furnished as above provided in this Section.

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

(e) Authority for Issuing Replacement Certificates. In accordance with Subchapter B of Texas Government Code, Chapter 1206, this Section of this Ordinance shall constitute authority for the issuance of any such replacement Certificate without necessity of further action by the governing body of the City or any other body or person, and the duty of the replacement of such Certificates is hereby authorized and imposed upon the Paying Agent/Registrar, and the Paying Agent/Registrar shall authenticate and deliver such Certificate in the form and manner and with the effect, as provided in Section 4(a) of this Ordinance for Certificate issued in conversion and exchange for other Certificates.

Section 10. CUSTODY, APPROVAL, AND REGISTRATION OF CERTIFICATES; BOND COUNSEL'S OPINION; CUSIP NUMBERS AND CONTINGENT INSURANCE PROVISION, IF OBTAINED. The Mayor of the City is hereby authorized to have control of the Certificates initially issued and delivered hereunder and all necessary records and proceedings pertaining to the Certificates pending their delivery and their investigation, examination, and approval by the Attorney General of the State of Texas, and their registration by the Comptroller of Public Accounts of the State of Texas. Upon registration of the Certificates said Comptroller of Public Accounts (or a deputy designated in writing to act for said Comptroller) shall manually sign the Comptroller's Registration Certificate attached to such Certificates, and the seal of said Comptroller shall be impressed, or placed in facsimile, on such Certificate. The approving legal opinion of the City's Bond Counsel and the assigned CUSIP numbers may, at the option of the City, be printed on the Certificates issued and delivered under this Ordinance, but neither shall have any legal effect, and shall be solely for the convenience and information of the Registered Owners of the Certificates. In addition, if bond insurance is obtained, the Certificates may bear an appropriate legend as provided by the insurer.

Section 11. COVENANTS REGARDING TAX EXEMPTION OF INTEREST ON THE CERTIFICATES. (a) Covenants. The City covenants to take any action necessary to assure, or refrain from any action which would adversely affect, the treatment of the Certificates as obligations described in section 103 of the Internal Revenue Code of 1986, as amended (the "Code"), the interest on which is not includable in the "gross income" of the holder for purposes of federal income taxation. In furtherance thereof, the City covenants as follows:

(1) to take any action to assure that no more than 10 percent of the proceeds of the Certificates or the projects financed therewith (less amounts deposited to a reserve fund, if any) are used for any "private business use," as defined in section 141(b)(6) of the Code or, if more than 10 percent of the proceeds or the projects financed therewith are so

used, such amounts, whether or not received by the City, with respect to such private business use, do not, under the terms of this Ordinance or any underlying arrangement, directly or indirectly, secure or provide for the payment of more than 10 percent of the debt service on the Certificates, in contravention of section 141(b)(2) of the Code;

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

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

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

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

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

(A) proceeds of the Certificates invested for a reasonable temporary period of 3 years or less or, in the case of a refunding bond, for a period of 30 days or less until such proceeds are needed for the purpose for which the Certificates are issued,

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

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

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

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

(9) to assure that the proceeds of the Certificates will be used solely for new money projects.

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

(c) Proceeds. The City understands that the term "proceeds" includes "disposition proceeds" as defined in the Treasury Regulations and, in the case of refunding bonds, transferred proceeds (if any) and proceeds of the refunded bonds not expended prior to the date of issuance of the Certificates. It is the understanding of the City that the covenants contained herein are intended to assure compliance with the Code and any regulations or rulings promulgated by the U.S. Department of the Treasury pursuant thereto. In the event that regulations or rulings are hereafter promulgated which modify or expand provisions of the Code, as applicable to the Certificates, the City will not be required to comply with any covenant contained herein to the extent that such failure to comply, in the opinion of nationally recognized bond counsel, will not adversely affect the exemption from federal income taxation of interest on the Certificates under section 103 of the Code. In the event that regulations or rulings are hereafter promulgated which impose additional requirements which are applicable to the Certificates, the City agrees to comply with the additional requirements to the extent necessary, in the opinion of nationally recognized bond counsel, to preserve the exemption from federal income taxation of interest on the Certificates under section 103 of the Code. In furtherance of such intention, the City hereby authorizes and directs the City Manager or Director of Finance of the City to execute any documents, certificates or reports required by the Code and to make such elections, on behalf of the City, which may be permitted by the Code as are consistent with the purpose for the issuance of the Certificates. This Ordinance is intended to satisfy the official intent requirements set forth in Section 1.150-2 of the Treasury Regulations.

(d) Allocation Of, and Limitation On, Expenditures for the Project. The City covenants to account for the expenditure of sale proceeds and investment earnings to be used for the purposes described in Section 1 of this Ordinance (the "Project") on its books and records in accordance with the requirements of the Code. The City recognizes that in order for the proceeds to be considered used for the reimbursement of costs, the proceeds must be allocated to expenditures within 18 months of the later of the date that (1) the expenditure is made, or (2) the Project is completed; but in no event later than three years after the date on which the original expenditure is paid. The foregoing notwithstanding, the City recognizes that in order for proceeds to be expended under the Code, the sale proceeds or investment earnings must be expended no more than 60 days after the earlier of (1) the fifth anniversary of the delivery of the Certificates, or (2) the date the Certificates are retired. The City agrees to obtain the advice of

nationally-recognized bond counsel if such expenditure fails to comply with the foregoing to assure that such expenditure will not adversely affect the tax-exempt status of the Certificates. For purposes of this subsection, the City shall not be obligated to comply with this covenant if it obtains an opinion of nationally-recognized bond counsel to the effect that such failure to comply will not adversely affect the excludability for federal income tax purposes from gross income of the interest.

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

Section 12. SALE OF CERTIFICATES. The Certificates are hereby sold to the bidder whose bid produced the lowest true interest cost, pursuant to the taking of public bids therefor, on this date, and shall be delivered to _____ (the initial "Purchaser") at a price of \$_____ (representing the par amount of the Certificates of \$_____ plus a reoffering premium of \$_____). The Certificates shall initially be registered in the name of _____.

Section 13. DEFAULT AND REMEDIES. (a) Events of Default. Each of the following occurrences or events for the purpose of this Ordinance is hereby declared to be an Event of Default:

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

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

(b) Remedies for Default.

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

violation of any right of the Registered Owners hereunder or any combination of such remedies.

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

(c) Remedies Not Exclusive.

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

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

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

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

Section 14. INTEREST EARNINGS ON CERTIFICATE PROCEEDS. Interest earnings derived from the investment of proceeds from the sale of the Certificates shall be used along with other certificate proceeds for the purpose for which the Certificates are issued set forth in Section 1 hereof; provided that after completion of such purpose, if any of such interest earnings remain on hand, such interest earnings shall be deposited in the Interest and Sinking Fund. It is further provided, however, that any interest earnings on certificate proceeds which are required to be rebated to the United States of America pursuant to Section 11 hereof in order to prevent the Certificates from being arbitrage certificates shall be so rebated and not considered as interest earnings for the purposes of this Section.

Section 15. APPROVAL OF PAYING AGENT/REGISTRAR AGREEMENT, LETTER OF REPRESENTATIONS AND OFFICIAL STATEMENT. Attached hereto as Exhibit "A" is a substantially final form of Paying Agent/Registrar Agreement with an attached Blanket Letter of Representations. Each the Mayor, the City Manager and the Director of Finance are hereby authorized to amend, complete or modify such agreement as necessary and are further authorized to execute such agreement.

The City confirms execution of a Blanket Issuer Letter of Representations with DTC establishing the Book-Entry-Only System which will be utilized with respect to the Certificates.

The City hereby approves the form and content of the Notice of Sale and Preliminary Official Statement and Official Statement relating to the Certificates and any addenda, supplement or amendment thereto, and approves the distribution of such Official Statement in the reoffering of the Certificates by the initial Purchaser in final form, with such changes therein or additions thereto as the officer executing the same may deem advisable, such determination to be conclusively evidenced by his execution thereof. The distribution and use of the Preliminary Official Statement dated October 23, 2012, prior to the date hereof is ratified and confirmed. The City Council of the City hereby finds and determines that the Preliminary Official Statement and the Official Statement were and are "deemed final" (as that term is defined in 17 C.F.R. Section 240.15c-12) as of their respective dates.

Section 16. CONTINUING DISCLOSURE UNDERTAKING.

(a) Annual Reports. The City shall provide annually to the MSRB, in an electronic format as prescribed by the MSRB, within six months after the end of any fiscal year, financial information and operating data with respect to the City of the general type included in the final Official Statement authorized by Section 15 of this Ordinance, being the information described in the final Official Statement under the heading "Continuing Disclosure of Information - Annual Report.". Any financial statements to be so provided shall be (1) prepared in accordance with the accounting principles described in Exhibit "B" hereto, or such other accounting principles as the City may be required to employ from time to time pursuant to state law or regulation, and (2) audited, if the City commissions an audit of such statements and the audit is completed within the period during which they must be provided. If the audit of such financial statements is not complete within such period, then the City shall provide unaudited financial statements within such period, and audited financial statements for the applicable fiscal year to the MSRB, when and if the audit report on such statements become available.

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

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

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

- A. Principal and interest payment delinquencies;
- B. Non-payment related defaults, if material within the meaning of the federal securities laws;

- C. Unscheduled draws on debt service reserves reflecting financial difficulties;
- D. Unscheduled draws on credit enhancements reflecting financial difficulties;
- E. Substitution of credit or liquidity providers, or their failure to perform;
- F. Adverse tax opinions, the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701-TEB) or other material notices or determinations with respect to the tax-exempt status of the Certificates, or other events affecting the tax-exempt status of the Certificates;
- G. Modifications to rights of holders of the Certificates, if material within the meaning of the federal securities laws;
- H. Certificate calls, if material within the meaning of the federal securities laws and tender offers;
- I. Defeasances;
- J. Release, substitution, or sale of property securing repayment of the Certificates, if material within the meaning of the federal securities laws;
- K. Rating changes;
- L. Bankruptcy, insolvency, receivership or similar event of the City;
- M. The consummation of a merger, consolidation, or acquisition involving the City or the sale of all or substantially all of the assets of the City, other than in the ordinary course of business, the entry into a definitive agreement to undertake such an action or the termination of a definitive agreement relating to any such actions, other than pursuant to its terms, if material within the meaning of the federal securities laws; and
- N. Appointment of a successor or additional trustee or the change of name of a trustee, if material within the meaning of the federal securities laws.

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

(c) Limitations, Disclaimers, and Amendments. The City shall be obligated to observe and perform the covenants specified in this Section for so long as, but only for so long as,

the City remains an "obligated person" with respect to the Certificates within the meaning of the Rule, except that the City in any event will give notice of any deposit made in accordance with Section 8 of this Ordinance that causes the Certificates no longer to be outstanding.

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

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

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

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

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

The provisions of this Section may be amended by the City from time to time to adapt to changed circumstances that arise from a change in legal requirements, a change in law, or a change in the identity, nature, status, or type of operations of the City, but only if (1) the provisions of this Section, as so amended, would have permitted an underwriter to purchase or sell Certificates in the primary offering of the Certificates in compliance with the Rule, taking into account any amendments or interpretations of the Rule since such offering as well as such changed circumstances and (2) either (a) the holders of a majority in aggregate principal amount (or any greater amount required by any other provision of this Ordinance that authorizes such an amendment) of the outstanding Certificates consents to such amendment or (b) a person that is unaffiliated with the City (such as nationally recognized bond counsel) determines that such amendment will not materially impair the interest of the holders and beneficial owners of the Certificates. If the City so amends the provisions of this Section, it shall include with any amended financial information or operating data next provided in accordance with paragraph (a) of

this Section an explanation, in narrative form, of the reason for the amendment and of the impact of any change in the type of financial information or operating data so provided. The City may also amend or repeal the provisions of this continuing disclosure agreement if the SEC amends or repeals the applicable provision of the Rule or a court of final jurisdiction enters judgment that such provisions of the Rule are invalid, but only if and to the extent that the provisions of this sentence would not prevent an underwriter from lawfully purchasing or selling Certificates in the primary offering of the Certificates.

(d) Definitions. As used in this Section, the following terms have the meanings ascribed to such terms below:

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

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

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

Section 17. NO RECOURSE AGAINST CITY OFFICIALS. No recourse shall be had for the payment of principal of or interest on any Certificates or for any claim based thereon or on this Ordinance against any official of the City or any person executing any Certificates.

Section 18. FURTHER ACTIONS. The officers and employees of the City are hereby authorized, empowered and directed from time to time and at any time to do and perform all such acts and things and to execute, acknowledge and deliver in the name and under the corporate seal and on behalf of the City all such instruments, whether or not herein mentioned, as may be necessary or desirable in order to carry out the terms and provisions of this Ordinance, the Certificates, the initial sale and delivery of the Certificates, the Paying Agent/Registrar Agreement, any insurance commitment letter or agreement or insurance policy and the Official Statement. In addition, prior to the initial delivery of the Certificates, the Mayor, the City Manager or the Director of Finance of the City, the City Attorney and Bond Counsel are hereby authorized and directed to approve any technical changes or corrections to this Ordinance or to any of the instruments authorized and approved by this Ordinance necessary in order to (i) correct any ambiguity or mistake or properly or more completely document the transactions contemplated and approved by this Ordinance and as described in the Official Statement, (ii) obtain a rating from any of the national bond rating agencies or satisfy requirements of the Bond Insurer, or (iii) obtain the approval of the Certificates by the Texas Attorney General's office.

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

Section 19. INTERPRETATIONS. All terms defined herein and all pronouns used in this Ordinance shall be deemed to apply equally to singular and plural and to all genders. The titles and headings of the articles and sections of this Ordinance and the Table of Contents of this Ordinance have been inserted for convenience of reference only and are not to be considered a part hereof and shall not in any way modify or restrict any of the terms or provisions hereof. This Ordinance and all the terms and provisions hereof shall be liberally construed to effectuate the

purposes set forth herein and to sustain the validity of the Certificates and the validity of the lien on and pledge of the Pledged Revenues to secure the payment of the Certificates.

Section 20. INCONSISTENT PROVISIONS. All ordinances, orders or resolutions, or parts thereof, which are in conflict or inconsistent with any provision of this Ordinance are hereby repealed to the extent of such conflict and the provisions of this Ordinance shall be and remain controlling as to the matters contained herein.

Section 21. INTERESTED PARTIES. Nothing in this Ordinance expressed or implied is intended or shall be construed to confer upon, or to give to, any person or entity, other than the City and the registered owners of the Certificates, any right, remedy or claim under or by reason of this Ordinance or any covenant, condition or stipulation hereof, and all covenants, stipulations, promises and agreements in this Ordinance contained by and on behalf of the City shall be for the sole and exclusive benefit of the City and the registered owners of the Certificates.

Section 22. INCORPORATION OF RECITALS. The City hereby finds that the statements set forth in the recitals of this Ordinance are true and correct, and the City hereby incorporates such recitals as a part of this Ordinance.

Section 23. SEVERABILITY. If any provision of this Ordinance or the application thereof to any circumstance shall be held to be invalid, the remainder of this Ordinance and the application thereof to other circumstances shall nevertheless be valid, and this governing body hereby declares that this Ordinance would have been enacted without such invalid provision.

Section 24. REPEALER. All orders, resolutions and ordinances, or parts thereof, inconsistent herewith are hereby repealed to the extent of such inconsistency.

Section 25. EFFECTIVE DATE. This Ordinance shall become effect immediately from and after its passage on first and final reading in accordance with Section 1201.028, Texas Government Code, as amended.

Section 26. PERFECTION. Chapter 1208, Government Code, applies to the issuance of the Certificates and the pledge of ad valorem taxes and surplus net revenues granted by the City under Sections 6 and 7 of this Ordinance, and such pledge is therefore valid, effective and perfected. If Texas law is amended at any time while the Certificates are outstanding and unpaid such that the pledge of ad valorem taxes and surplus net revenues granted by the City under Sections 6 and 7 of this Ordinance is to be subject to the filing requirements of Chapter 9, Business & Commerce Code, then in order to preserve to the registered owners of the Certificates the perfection of the security interest in said pledge, the City agrees to take such measures as it determines are reasonable and necessary under Texas law to comply with the applicable provisions of Chapter 9, Business & Commerce Code and enable a filing to perfect the security interest in said pledge to occur.

Section 27. PAYMENT OF ATTORNEY GENERAL FEE. The City hereby authorizes the disbursement of a fee equal to the lesser of (i) one-tenth of one percent of the principal amount of the Certificates or (ii) \$9,500, provided that such fee shall not be less than \$750, to the Attorney General of Texas Public Finance Division for payment of the examination fee charged by the State of Texas for the Attorney General's review and approval of public

securities and credit agreements, as required by Section 1202.004 of the Texas Government Code. The appropriate member of the City's staff is hereby instructed to take the necessary measures to make this payment. The City is also authorized to reimburse the appropriate City funds for such payment from proceeds of the Certificates.

IN ACCORDANCE WITH SECTION 1201.028, Texas Government Code, finally passed, approved and effective on this 1st day of November, 2012.

THE CITY OF TEMPLE, TEXAS

By: Mayor
City of Temple, Texas

ATTEST:

City Secretary
City of Temple, Texas

APPROVED AS TO FORM:

City Attorney
City of Temple, Texas

EXHIBIT "A"

Paying Agent\Registrar Agreement

EXHIBIT "B"

DESCRIPTION OF ANNUAL FINANCIAL INFORMATION

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

Annual Financial Statements and Operating Data

The financial information and operating data with respect to the City to be provided in accordance with such Section are as specified (and included in the Appendix or under the headings of the Official Statement referred to) below:

1. The portions of the financial statements of the City appended to the Official Statement as Appendix B, but for the most recently concluded fiscal year.
2. Statistical and financial data set forth in Tables 1 through 10.

Accounting Principles

The accounting principles referred to in such Section are the accounting principles described in the notes to the financial statements referred to in the paragraph above.



COUNCIL AGENDA ITEM MEMORANDUM

11/01/12
Item #6(A)
Consent Agenda
Page 1 of 1

DEPT./DIVISION SUBMISSION & REVIEW:

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

ITEM DESCRIPTION: Consider adopting a resolution authorizing the purchase of a trailer-mounted hydro-jet from Kinloch Equipment & Supply, Inc. of Arlington utilizing a BuyBoard contract in the amount of \$58,550.40.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: The Utility Services Division of Public Works routinely utilizes a hydro-jet to maintain operations of the wastewater collection system. The machine is used by Public Works troubleshooter crews (first responders) who provide around the clock, year round service. Some of the machine functions are to relieve sewer stoppages, root treat sewer mains and wash down areas after water leaks and sewer problems.

Currently, the Public Works Utilities Division uses a 1997 hydro-jet which has been identified by both utilities and fleet for replacement due to the number of hours and high maintenance costs. Over the past three years, troubleshooter crews have annually relieved an average of nearly 550 sewer stoppages in the mains and 900 in City service lines. The machine identified can be moved into areas with limited access such as fields, alleys, and creek beds, as needed, to relieve sewer stoppages.

Replacement of this hydro-jet was approved in the FY 2013 budget. The purchase price includes training for city personnel. All purchases through the BuyBoard meet Texas governmental competitive bid requirements.

FISCAL IMPACT: Funding in the amount of \$64,000 is available in account 520-5400-535-6222, project #100904 for the purchase of the machine.

ATTACHMENTS:

[Resolution](#)

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING THE PURCHASE OF A HYDRO-JET FROM KINLOCH EQUIPMENT OF ARLINGTON, TEXAS, THROUGH THE BUYBOARD LOCAL GOVERNMENT ONLINE PURCHASING COOPERATIVE IN THE AMOUNT OF \$58,550.40; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, The Utility Services Division of Public Works routinely utilizes a hydro-jet to maintain operations of the wastewater collection system - over the past three years, troubleshooter crews have annually relieved an average of nearly 550 sewer stoppages in the mains and 900 in City service lines;

Whereas, currently, the Public Works Utilities Division uses a 1997 hydro-jet which has been identified by both utilities and fleet for replacement due to the number of hours and high maintenance costs;

Whereas, replacement of this hydro-jet was approved in the FY 2013 budget and funding is available in Account No. 520-5400-535-6222, Project No. 100904 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:

Part 1: The City Council authorizes the purchase and installation of a hydro-jet from Kinloch Equipment of Arlington, Texas, through the BuyBoard Local Government Online Purchasing Cooperative System, in the amount of \$58,550.40.

Part 2: The City Council approves an amendment to the FY2012-13 budget, substantially in the form of the copy attached hereto, for this purchase.

Part 3: The City Council authorizes the City Manager, or his designee, to execute any documents, after approval as to form by the City Attorney, that may be necessary for this purchase.

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

PASSED AND APPROVED this the **1st** day of **November**, 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

11/01/12
Item #6(B)
Consent Agenda
Page 1 of 1

DEPT./DIVISION SUBMISSION & REVIEW:

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

ITEM DESCRIPTION: Consider adopting a resolution authorizing the purchase of a mini excavator, Caterpillar model 301.4C compact construction equipment from Holt CAT of Irving utilizing a BuyBoard contract, in the amount of \$28,099.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: The Utility Services Division of Public Works utilizes mini excavators for a variety of routine maintenance tasks. The machine, used by all six maintenance crews, is mainly used to excavate in areas with limited access such as backyards, creek beds, and easements to repair water leaks and sewer problems.

Currently, the Public Works Utilities Division has a 2003 301-mini excavator which has been identified by both utilities and fleet for replacement due to the number of hours and high maintenance costs. Capabilities of this machine, accessing backyards through standard walk through gates and avoidance of customer fence disturbance, saves the City time and expense.

Replacement of this mini excavator was approved in the FY 2013 budget. The purchase price includes training for city personnel and an extended 3-year/3000 hour powertrain extended warranty. All purchases through the BuyBoard meet Texas governmental competitive bid requirements.

FISCAL IMPACT: Funding in the amount of \$34,000 is available in account 520-5200-535-6220, project #100908 for the purchase of the mini excavator.

ATTACHMENTS:

[Resolution](#)

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING THE PURCHASE OF A MINI EXCAVATOR, CATERPILLAR MODEL 301.4C FROM HOLD CAT OF IRVING, TEXAS, THROUGH THE BUYBOARD LOCAL GOVERNMENT ONLINE PURCHASING COOPERATIVE IN THE AMOUNT OF \$28,099; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, The Utility Services Division of Public Works routinely utilizes mini excavators for a variety of routine maintenance tasks – the excavator is mainly used to excavate in areas with limited access to repair water leaks and sewer problems;

Whereas, currently, the Public Works Utilities Division uses a 2003 301-mini excavator which has been identified by both utilities and fleet for replacement due to the number of hours and high maintenance costs;

Whereas, replacement of this mini excavator and an extended 3-year/3000 hour powertrain extended warranty, was approved in the FY 2013 budget and funding is available in Account No. 520-5400-535-6220, Project No. 100908 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:

Part 1: The City Council authorizes the purchase of a mini excavator, Caterpillar model 301.4C compact construction equipment from Holt CAT, of Irving, Texas, through the BuyBoard Local Government Online Purchasing Cooperative System, in the amount of \$28,099.

Part 2: The City Council approves an amendment to the FY2012-13 budget, substantially in the form of the copy attached hereto, for this purchase.

Part 3: The City Council authorizes the City Manager, or his designee, to execute any documents, after approval as to form by the City Attorney, that may be necessary for this purchase.

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

PASSED AND APPROVED this the 1st day of **November**, 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

11/01/12
Item #6(C)
Consent Agenda
Page 1 of 1

DEPT. /DIVISION SUBMISSION & REVIEW:

Ken Cicora, Parks and Leisure Services Director

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

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

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

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

FISCAL IMPACT: Funds are budgeted in account 110-3500-552-26-23 in FY 2013 in the Parks Operating Budget for these services.

ATTACHMENTS:

[Resolution](#)

RESOLUTION NO. _____

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

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

Whereas, the program has been very successful and the Staff recommends authorizing a contract with the Department of Veterans Affairs to continue the compensated work therapy program for the Parks and Leisure Services Department in the approximate amount not to exceed \$73,478;

Whereas, funds are budgeted in Account Nos. 110-3500-552-2623 for this expenditure; and

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

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

Part 1: The City Council authorizes the City Manager, or his designee, to execute a contract for an amount not to exceed \$73,478, with the Department of Veterans Affairs, Veterans Industries/Compensated Work Therapy, after approval as to form by the City Attorney, for the provision of workers for the Parks and Leisure Services Department.

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

PASSED AND APPROVED this the 1st day of **November**, 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

11/01/12
Item #6(D)
Consent Agenda
Page 1 of 1

DEPT./DIVISION SUBMISSION & REVIEW:

Randy A. Stonerod, Director of Human Resources

ITEM DESCRIPTION: Consider adopting a resolution approving the City's Section 125 Cafeteria Plan and authorizing a contract with Financial Benefits Services for Voluntary Supplemental Insurances; and a subcontract with National Benefits Services for Flexible Spending Account management, both for the purpose of administration of the City's Section 125 cafeteria Plan.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: The City offers benefits to its employees through a Section 125 Cafeteria Plan which, pursuant to Section 125 of the Internal Revenue Code, shall not be included in the employees' gross income.

Since the administration of such benefits is subject to Internal Revenue Service (IRS) audit, staff recommends the approval of the Section 125 Cafeteria Plan for use in IRS audits; and authorizing contracts with FBS & NBS for administration of the City's 125 Plan.

On June 26, 2012, the City received thirteen proposals for providing City employees with voluntary supplemental insurances and flexible spending account program management.

The City's insurance consultant reviewed the proposals and narrowed them to one for consideration – FBS/NBS. The consultant and staff reviewed the proposal and unanimously recommend that Council authorize a one year contract with FBS/NBS for administration of benefits in accordance with the City's Section 125 Cafeteria Plan. This contract award has no direct cost to the City since this a voluntary benefit.

FISCAL IMPACT: There is no cost to the City for these services.

ATTACHMENTS:

[Proposal Tabulation](#)

[City of Temple Flexible Benefits Plan \(Section 125 Cafeteria Plan\)](#)

[City of Temple Flexible Benefits Plan Summary Plan Description \(explains City's Section 125 Cafeteria Plan to City employees\)](#)

[Resolution](#)

City of Temple



Responses to RFP # 27-01-13

Flexible Spending Account Plan Administration

	Bay Bridge	BKCW	American Fidelity	Colonial	FBS	Riata Financial	GL Group
Initial Set-Up Fee	\$500.00	\$380.00	Waived	\$300.00	Waived	Waived	None
Annual Maintenance	\$399.00	\$80.00	Waived	\$175.00	Waived	Waived	None
Monthly PEPM Fee	\$5.50	\$4.25	Waived	4.95	\$3.00	Waived	Waived
Minimum Monthly	\$100.00	\$60.00	Waived	\$75.00	\$50.00	Waived	Waived
Debit Card	Included	Included	Included	Inlcuded	Included	Included	Included
Fees Absorbed	Yes	Yes	Yes	Partial	Yes	Yes	Yes

**CITY OF TEMPLE
FLEXIBLE BENEFITS PLAN**

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**CITY OF TEMPLE
FLEXIBLE BENEFITS PLAN**

INTRODUCTION

The Employer has amended this Plan effective October 1, 2012, to recognize the contribution made to the Employer by its Employees. Its purpose is to reward them by providing benefits for those Employees who shall qualify hereunder and their Dependents and beneficiaries. The concept of this Plan is to allow Employees to choose among different types of benefits based on their own particular goals, desires and needs. This Plan is a restatement of a Plan which was originally effective on October 1, 2011. The Plan shall be known as City of Temple Flexible Benefits Plan (the "Plan").

The intention of the Employer is that the Plan qualify as a "Cafeteria Plan" within the meaning of Section 125 of the Internal Revenue Code of 1986, as amended, and that the benefits which an Employee elects to receive under the Plan be excludable from the Employee's income under Section 125(a) and other applicable sections of the Internal Revenue Code of 1986, as amended.

The Employer also intends that, for purposes of the annual report requirement (Form 5500), this document is considered a "wrap" plan and the terms of the underlying plans for which Participants are making contributions through this Plan are hereby incorporated by reference.

**ARTICLE I
DEFINITIONS**

1.1 **"Administrator"** means the Employer unless another person or entity has been designated by the Employer pursuant to Section 9.1 to administer the Plan on behalf of the Employer. If the Employer is the Administrator, the Employer may appoint any person, including, but not limited to, the Employees of the Employer, to perform the duties of the Administrator. Any person so appointed shall signify acceptance by filing written acceptance with the Employer. Upon the resignation or removal of any individual performing the duties of the Administrator, the Employer may designate a successor.

1.2 **"Affiliated Employer"** means the Employer and any corporation which is a member of a controlled group of corporations (as defined in Code Section 414(b)) which includes the Employer; any trade or business (whether or not incorporated) which is under common control (as defined in Code Section 414(c)) with the Employer; any organization (whether or not incorporated) which is a member of an affiliated service group (as defined in Code Section 414(m)) which includes the Employer; and any other entity required to be aggregated with the Employer pursuant to Treasury regulations under Code Section 414(o).

1.3 **"Benefit" or "Benefit Options"** means any of the optional benefit choices available to a Participant as outlined in Section 4.1.

1.4 **"Cafeteria Plan Benefit Dollars"** means the amount available to Participants to purchase Benefit Options as provided under Section 4.1. Each dollar contributed to this Plan shall be converted into one Cafeteria Plan Benefit Dollar.

1.5 **"Code"** means the Internal Revenue Code of 1986, as amended or replaced from time to time.

1.6 **"Compensation"** means the amounts received by the Participant from the Employer during a Plan Year.

1.7 **"Dependent"** means any individual who qualifies as a dependent under the self-funded plan for purposes of that plan or under Code Section 152 (as modified by Code Section 105(b)).

"Dependent" shall include any Child of a Participant who is covered under an Insurance Contract, as defined in the Contract, or under the Health Flexible Spending Account or as allowed by reason of the Affordable Care Act.

For purposes of the Health Flexible Spending Account, a Participant's "Child" includes his natural child, stepchild, foster child, adopted child, or a child placed with the Participant for adoption. A Participant's Child will be an eligible Dependent until reaching the limiting age of 26, without regard to student status, marital status, financial dependency or residency status with the Employee or any other person. When the child reaches the applicable limiting age, coverage will end at the end of the calendar year.

The phrase "placed for adoption" refers to a child whom the Participant intends to adopt, whether or not the adoption has become final, who has not attained the age of 18 as of the date of such placement for adoption. The term "placed" means the assumption and retention by such Employee of a legal obligation for total or partial support of the child in anticipation of adoption of the child. The child must be available for adoption and the legal process must have commenced.

1.8 **"Effective Date"** means October 1, 2011.

1.9 **"Election Period"** means the period immediately preceding the beginning of each Plan Year established by the Administrator, such period to be applied on a uniform and nondiscriminatory basis for all Employees and Participants. However, an Employee's initial Election Period shall be determined pursuant to Section 5.1.

1.10 **"Eligible Employee"** means any Employee who has satisfied the provisions of Section 2.1.

An individual shall not be an "Eligible Employee" if such individual is not reported on the payroll records of the Employer as a common law employee. In particular, it is expressly intended that individuals not treated as common law employees by the Employer on its payroll records are not "Eligible Employees" and are excluded from Plan participation even if a court or administrative agency determines that such individuals are common law employees and not independent contractors.

Employees whose employment is governed by the terms of a collective bargaining agreement between Employee representatives (within the meaning of Code Section 7701(a)(46)) and the Employer under which benefits were the subject of good faith bargaining between the parties, unless such agreement expressly provides for such coverage in this Plan, will not be eligible to participate in this Plan.

However, Employees who are "leased employees" as defined in Code Section 414(n)(2) shall not be eligible to participate in this Plan.

However, any Employee who is a "part-time" Employee shall not be eligible to participate in this Plan. A "part-time" Employee is any Employee who works, or is expected to work on a regular basis, less than 32 hours a week and is designated as a part-time Employee on the Employer's personnel records.

However, any Employee who is a nonresident alien and who receives no earned income (within the meaning of Code Section 911(d)(2)) from the Employer which constitutes income from sources within the United States (within the meaning of Code Section 861(a)(3)), shall not be eligible to participate in this Plan.

1.11 **"Employee"** means any person who is employed by the Employer. The term Employee shall include leased employees within the meaning of Code Section 414(n)(2).

1.12 **"Employer"** means City of Temple and any successor which shall maintain this Plan; and any predecessor which has maintained this Plan. In addition, where appropriate, the term Employer shall include any Participating, Affiliated or Adopting Employer.

1.13 **"Insurance Contract"** means any contract issued by an Insurer underwriting a Benefit.

1.14 **"Insurer"** means any insurance company that underwrites a Benefit under this Plan or, with respect to any self-funded benefits, the Employer.

1.15 **"Key Employee"** means an Employee described in Code Section 416(i)(1) and the Treasury regulations thereunder.

1.16 **"Participant"** means any Eligible Employee who elects to become a Participant pursuant to Section 2.3 and has not for any reason become ineligible to participate further in the Plan.

1.17 **"Plan"** means this instrument, including all amendments thereto.

1.18 **"Plan Year"** means the 12-month period beginning October 1st and ending September 30th. The Plan Year shall be the coverage period for the Benefits provided for under this Plan. In the event a Participant commences participation during a Plan Year, then the initial coverage period shall be that portion of the Plan Year commencing on such Participant's date of entry and ending on the last day of such Plan Year.

1.19 **"Premium Expenses"** or **"Premiums"** mean the Participant's cost for the self-funded Benefits described in Section 4.1.

1.20 **"Premium Expense Reimbursement Account"** means the account established for a Participant pursuant to this Plan to which part of his Cafeteria Plan Benefit Dollars may be allocated and from which Premiums of the Participant shall be paid or reimbursed. If more than one type of insured or self-funded Benefit is elected, sub-accounts shall be established for each type of insured or self-funded Benefit.

1.21 **"Salary Redirection"** means the contributions made by the Employer on behalf of Participants pursuant to Section 3.1. These contributions shall be converted to Cafeteria Plan Benefit Dollars and allocated to the funds or accounts established under the Plan pursuant to the Participants' elections made under Article V.

1.22 **"Salary Redirection Agreement"** means an agreement between the Participant and the Employer under which the Participant agrees to reduce his Compensation or to forego all or part of the increases in such Compensation and to have such amounts contributed by the Employer to the Plan on the Participant's behalf. The Salary Redirection Agreement shall apply only to Compensation that has not been actually or constructively received by the Participant as of the date of the agreement (after taking this Plan and Code Section 125 into account) and, subsequently does not become currently available to the Participant.

1.23 **"Spouse"** means "spouse" as defined in the self-funded plan for purposes of that plan or the "spouse," as defined under Federal law, of a Participant, unless legally separated by court decree.

ARTICLE II PARTICIPATION

2.1 ELIGIBILITY

Any Eligible Employee shall be eligible to participate hereunder 30 days after his initial date of employment with the Employer. However, any Eligible Employee who was a Participant in the Plan on the effective date of this amendment shall continue to be eligible to participate in the Plan.

2.2 EFFECTIVE DATE OF PARTICIPATION

An Eligible Employee shall become a Participant effective as of the first day of the month coinciding with or next following the date on which he met the eligibility requirements of Section 2.1.

2.3 APPLICATION TO PARTICIPATE

An Employee who is eligible to participate in this Plan shall, during the applicable Election Period, complete an application to participate in a manner set forth by the Administrator. The election shall be irrevocable until the end of the applicable Plan Year unless the Participant is entitled to change his Benefit elections pursuant to Section 5.4 hereof.

An Eligible Employee shall also be required to complete a Salary Redirection Agreement during the Election Period for the Plan Year during which he wishes to participate in this Plan. Any such Salary Redirection Agreement shall be effective for the first pay period beginning on or after the Employee's effective date of participation pursuant to Section 2.2.

Notwithstanding the foregoing, an Employee who is eligible to participate in this Plan and who is covered by the Employer's insured or self-funded Benefits under this Plan shall automatically become a Participant to the extent of the Premiums for such insurance unless the Employee elects, during the Election Period, not to participate in the Plan.

2.4 TERMINATION OF PARTICIPATION

A Participant shall no longer participate in this Plan upon the occurrence of any of the following events:

- (a) **Termination of employment.** The Participant's termination of employment, subject to the provisions of Section 2.6;
- (b) **Change in employment status.** The end of the Plan Year during which the Participant became a limited Participant because of a change in employment status pursuant to Section 2.5;
- (c) **Death.** The Participant's death, subject to the provisions of Section 2.7; or
- (d) **Termination of the plan.** The termination of this Plan, subject to the provisions of Section 10.2.

2.5 CHANGE OF EMPLOYMENT STATUS

If a Participant ceases to be eligible to participate because of a change in employment status or classification (other than through termination of employment), the Participant shall become a limited Participant in this Plan for the remainder of the Plan Year in which such change of employment status occurs. As a limited Participant, no further Salary Redirection may be made on behalf of the Participant, and, except as otherwise

provided herein, all further Benefit elections shall cease, subject to the limited Participant's right to continue coverage under any Insurance Contracts. However, any balances in the limited Participant's Dependent Care Flexible Spending Account may be used during such Plan Year to reimburse the limited Participant for any allowable Employment-Related Dependent Care incurred during the Plan Year. Subject to the provisions of Section 2.6, if the limited Participant later becomes an Eligible Employee, then the limited Participant may again become a full Participant in this Plan, provided he otherwise satisfies the participation requirements set forth in this Article II as if he were a new Employee and made an election in accordance with Section 5.1.

2.6 TERMINATION OF EMPLOYMENT

If a Participant's employment with the Employer is terminated for any reason other than death, his participation in the Benefit Options provided under Section 4.1 shall be governed in accordance with the following:

(a) **Insurance Benefit.** With regard to Benefits provided under Section 4.1, the Participant's participation in the Plan shall cease, subject to the Participant's right to continue coverage under any Insurance Contract or self-funded benefit for which premiums have already been paid.

(b) **Dependent Care FSA.** With regard to the Dependent Care Flexible Spending Account, the Participant's participation in the Plan shall cease and no further Salary Redirection contributions shall be made. However, such Participant may submit claims for employment related Dependent Care Expense reimbursements for claims incurred up to the date of termination and submitted within 75 days after termination, based on the level of the Participant's Dependent Care Flexible Spending Account as of the date of termination.

(c) **COBRA applicability.** With regard to the Health Flexible Spending Account, the Participant may submit claims for expenses that were incurred during the portion of the Plan Year before the end of the period for which payments to the Health Flexible Spending Account have already been made. Thereafter, the health benefits under this Plan including the Health Flexible Spending Account shall be applied and administered consistent with such further rights a Participant and his Dependents may be entitled to pursuant to Code Section 4980B and Section 11.13 of the Plan.

2.7 DEATH

If a Participant dies, his participation in the Plan shall cease. However, such Participant's spouse or Dependents may submit claims for expenses or benefits for the remainder of the Plan Year or until the Cafeteria Plan Benefit Dollars allocated to each specific benefit are exhausted. In no event may reimbursements be paid to someone who is not a spouse or Dependent. If the Plan is subject to the provisions of Code Section 4980B, then those provisions and related regulations shall apply for purposes of the Health Flexible Spending Account.

ARTICLE III CONTRIBUTIONS TO THE PLAN

3.1 SALARY REDIRECTION

Benefits under the Plan shall be financed by Salary Redirections sufficient to support Benefits that a Participant has elected hereunder and to pay the Participant's Premium Expenses. The salary administration program of the Employer shall be revised to allow each Participant to agree to reduce his pay during a Plan Year by an amount determined necessary to purchase the elected Benefit Options. The amount of such Salary Redirection shall be specified in the Salary Redirection Agreement and shall be applicable for a Plan Year. Notwithstanding the above, for new Participants, the Salary Redirection Agreement shall only be applicable from

the first day of the pay period following the Employee's entry date up to and including the last day of the Plan Year. These contributions shall be converted to Cafeteria Plan Benefit Dollars and allocated to the funds or accounts established under the Plan pursuant to the Participants' elections made under Article IV.

Any Salary Redirection shall be determined prior to the beginning of a Plan Year (subject to initial elections pursuant to Section 5.1) and prior to the end of the Election Period and shall be irrevocable for such Plan Year. However, a Participant may revoke a Benefit election or a Salary Redirection Agreement after the Plan Year has commenced and make a new election with respect to the remainder of the Plan Year, if both the revocation and the new election are on account of and consistent with a change in status and such other permitted events as determined under Article V of the Plan and consistent with the rules and regulations of the Department of the Treasury. Salary Redirection amounts shall be contributed on a pro rata basis for each pay period during the Plan Year. All individual Salary Redirection Agreements are deemed to be part of this Plan and incorporated by reference hereunder.

3.2 APPLICATION OF CONTRIBUTIONS

As soon as reasonably practical after each payroll period, the Employer shall apply the Salary Redirection to provide the Benefits elected by the affected Participants. Any contribution made or withheld for the Health Flexible Spending Account or Dependent Care Flexible Spending Account shall be credited to such fund or account. Amounts designated for the Participant's Premium Expense Reimbursement Account shall likewise be credited to such account for the purpose of paying Premium Expenses.

3.3 PERIODIC CONTRIBUTIONS

Notwithstanding the requirement provided above and in other Articles of this Plan that Salary Redirections be contributed to the Plan by the Employer on behalf of an Employee on a level and pro rata basis for each payroll period, the Employer and Administrator may implement a procedure in which Salary Redirections are contributed throughout the Plan Year on a periodic basis that is not pro rata for each payroll period. However, with regard to the Health Flexible Spending Account, the payment schedule for the required contributions may not be based on the rate or amount of reimbursements during the Plan Year.

ARTICLE IV BENEFITS

4.1 BENEFIT OPTIONS

Each Participant may elect any one or more of the following optional Benefits:

- (1) Health Flexible Spending Account
- (2) Dependent Care Flexible Spending Account

In addition, each Participant shall have a sufficient portion of his Salary Redirections applied to the following Benefits unless the Participant elects not to receive such Benefits:

- (3) Health Insurance Benefit
- (4) Dental Insurance Benefit
- (5) Cancer Insurance Benefit

(6) Vision Insurance Benefit

(7) Other Insurance Benefit

4.2 HEALTH FLEXIBLE SPENDING ACCOUNT BENEFIT

Each Participant may elect to participate in the Health Flexible Spending Account option, in which case Article VI shall apply.

4.3 DEPENDENT CARE FLEXIBLE SPENDING ACCOUNT BENEFIT

Each Participant may elect to participate in the Dependent Care Flexible Spending Account option, in which case Article VII shall apply.

4.4 HEALTH INSURANCE BENEFIT

(a) **Coverage for Participant and Dependents.** Each Participant may elect to be covered under a health Contract for the Participant, his or her Spouse, and his or her Dependents.

(b) **Employer selects contracts.** The Employer may select suitable health Contracts for use in providing this health insurance benefit, which policies will provide uniform benefits for all Participants electing this Benefit.

(c) **Contract incorporated by reference.** The rights and conditions with respect to the benefits payable from such health Contract shall be determined therefrom, and such Contract shall be incorporated herein by reference.

4.5 DENTAL INSURANCE BENEFIT

(a) **Coverage for Participant and/or Dependents.** Each Participant may elect to be covered under the Employer's dental Insurance Contract. In addition, the Participant may elect either individual or family coverage under such Insurance Contract.

(b) **Employer selects contracts.** The Employer may select suitable dental Insurance Contracts for use in providing this dental insurance benefit, which policies will provide uniform benefits for all Participants electing this Benefit.

(c) **Contract incorporated by reference.** The rights and conditions with respect to the benefits payable from such dental Insurance Contract shall be determined therefrom, and such dental Insurance Contract shall be incorporated herein by reference.

4.6 CANCER INSURANCE BENEFIT

(a) **Coverage for Participant and/or Dependents.** Each Participant may elect to be covered under the Employer's cancer Insurance Contract. In addition, the Participant may elect either individual or family coverage.

(b) **Employer selects contracts.** The Employer may select suitable cancer Insurance Contracts for use in providing this cancer insurance benefit, which policies will provide uniform benefits for all Participants electing this Benefit.

(c) **Contract incorporated by reference.** The rights and conditions with respect to the benefits payable from such cancer Insurance Contract shall be determined therefrom, and such cancer Insurance Contract shall be incorporated herein by reference.

4.7 VISION INSURANCE BENEFIT

(a) **Coverage for Participant and/or Dependents.** Each Participant may elect to be covered under the Employer's vision Insurance Contract. In addition, the Participant may elect either individual or family coverage.

(b) **Employer selects contracts.** The Employer may select suitable vision Insurance Contracts for use in providing this vision insurance benefit, which policies will provide uniform benefits for all Participants electing this Benefit.

(c) **Contract incorporated by reference.** The rights and conditions with respect to the benefits payable from such vision Insurance Contract shall be determined therefrom, and such vision Insurance Contract shall be incorporated herein by reference.

4.8 OTHER INSURANCE BENEFIT

(a) **Employer selects contracts.** The Employer may select additional health or other policies allowed under Code Section 125 or allow the purchase of additional health or other policies by and for Participants, which policies will provide uniform benefits for all Participants electing this Benefit.

(b) **Contract incorporated by reference.** The rights and conditions with respect to the benefits payable from any additional Insurance Contract shall be determined therefrom, and such Insurance Contract shall be incorporated herein by reference.

4.9 NONDISCRIMINATION REQUIREMENTS

(a) **Intent to be nondiscriminatory.** It is the intent of this Plan to provide benefits to a classification of employees which the Secretary of the Treasury finds not to be discriminatory in favor of the group in whose favor discrimination may not occur under Code Section 125.

(b) **25% concentration test.** It is the intent of this Plan not to provide qualified benefits as defined under Code Section 125 to Key Employees in amounts that exceed 25% of the aggregate of such Benefits provided for all Eligible Employees under the Plan. For purposes of the preceding sentence, qualified benefits shall not include benefits which (without regard to this paragraph) are includible in gross income.

(c) **Adjustment to avoid test failure.** If the Administrator deems it necessary to avoid discrimination or possible taxation to Key Employees or a group of employees in whose favor discrimination may not occur in violation of Code Section 125, it may, but shall not be required to, reduce contributions or non-taxable Benefits in order to assure compliance with this Section. Any act taken by the Administrator under this Section shall be carried out in a uniform and nondiscriminatory manner. If the Administrator decides to reduce contributions or non-taxable Benefits, it shall be done in the following manner. First, the non-taxable Benefits of the affected Participant (either an employee who is highly compensated or a Key Employee, whichever is applicable) who has the highest amount of non-taxable Benefits for the Plan Year shall have his non-taxable Benefits reduced until the discrimination tests set forth in this Section are satisfied or until the amount of his non-taxable Benefits equals the non-taxable Benefits of the affected Participant who has the second highest amount of non-taxable Benefits. This process shall continue until the nondiscrimination tests set forth in this Section are satisfied.

With respect to any affected Participant who has had Benefits reduced pursuant to this Section, the reduction shall be made proportionately among Health Flexible Spending Account Benefits and Dependent Care Flexible Spending Account Benefits, and once all these Benefits are expended, proportionately among self-funded Benefits. Contributions which are not utilized to provide Benefits to any Participant by virtue of any administrative act under this paragraph shall be forfeited and deposited into the benefit plan surplus.

ARTICLE V PARTICIPANT ELECTIONS

5.1 INITIAL ELECTIONS

An Employee who meets the eligibility requirements of Section 2.1 on the first day of, or during, a Plan Year may elect to participate in this Plan for all or the remainder of such Plan Year, provided he elects to do so on or before his effective date of participation pursuant to Section 2.2.

Notwithstanding the foregoing, an Employee who is eligible to participate in this Plan and who is covered by the Employer's insured or self-funded benefits under this Plan shall automatically become a Participant to the extent of the Premiums for such insurance unless the Employee elects, during the Election Period, not to participate in the Plan.

5.2 SUBSEQUENT ANNUAL ELECTIONS

During the Election Period prior to each subsequent Plan Year, each Participant shall be given the opportunity to elect, on an election of benefits form to be provided by the Administrator, which spending account Benefit options he wishes to select. Any such election shall be effective for any Benefit expenses incurred during the Plan Year which follows the end of the Election Period. With regard to subsequent annual elections, the following options shall apply:

- (a) A Participant or Employee who failed to initially elect to participate may elect different or new Benefits under the Plan during the Election Period;
- (b) A Participant may terminate his participation in the Plan by notifying the Administrator in writing during the Election Period that he does not want to participate in the Plan for the next Plan Year;
- (c) An Employee who elects not to participate for the Plan Year following the Election Period will have to wait until the next Election Period before again electing to participate in the Plan, except as provided for in Section 5.4.

5.3 FAILURE TO ELECT

With regard to Benefits available under the Plan for which no Premium Expenses apply, any Participant who fails to complete a new benefit election form pursuant to Section 5.2 by the end of the applicable Election Period shall be deemed to have elected not to participate in the Plan for the upcoming Plan Year. No further Salary Redirections shall therefore be authorized or made for the subsequent Plan Year for such Benefits.

With regard to Benefits available under the Plan for which Premium Expenses apply, any Participant who fails to complete a new benefit election form pursuant to Section 5.2 by the end of the applicable Election Period shall be deemed to have made the same Benefit elections as are then in effect for the current Plan Year. The

Participant shall also be deemed to have elected Salary Redirection in an amount necessary to purchase such Benefit options.

5.4 CHANGE IN STATUS

(a) **Change in status defined.** Any Participant may change a Benefit election after the Plan Year (to which such election relates) has commenced and make new elections with respect to the remainder of such Plan Year if, under the facts and circumstances, the changes are necessitated by and are consistent with a change in status which is acceptable under rules and regulations adopted by the Department of the Treasury, the provisions of which are incorporated by reference. Notwithstanding anything herein to the contrary, if the rules and regulations conflict, then such rules and regulations shall control.

In general, a change in election is not consistent if the change in status is the Participant's divorce, annulment or legal separation from a Spouse, the death of a Spouse or Dependent, or a Dependent ceasing to satisfy the eligibility requirements for coverage, and the Participant's election under the Plan is to cancel accident or health insurance coverage for any individual other than the one involved in such event. In addition, if the Participant, Spouse or Dependent gains or loses eligibility for coverage, then a Participant's election under the Plan to cease or decrease coverage for that individual under the Plan corresponds with that change in status only if coverage for that individual becomes applicable or is increased under the family member plan.

Regardless of the consistency requirement, if the individual, the individual's Spouse, or Dependent becomes eligible for continuation coverage under the Employer's group health plan as provided in Code Section 4980B or any similar state law, then the individual may elect to increase payments under this Plan in order to pay for the continuation coverage. However, this does not apply for COBRA eligibility due to divorce, annulment or legal separation.

Any new election shall be effective at such time as the Administrator shall prescribe, but not earlier than the first pay period beginning after the election form is completed and returned to the Administrator. For the purposes of this subsection, a change in status shall only include the following events or other events permitted by Treasury regulations:

- (1) Legal Marital Status: events that change a Participant's legal marital status, including marriage, divorce, death of a Spouse, legal separation or annulment;
- (2) Number of Dependents: Events that change a Participant's number of Dependents, including birth, adoption, placement for adoption, or death of a Dependent;
- (3) Employment Status: Any of the following events that change the employment status of the Participant, Spouse, or Dependent: termination or commencement of employment, a strike or lockout, commencement or return from an unpaid leave of absence, or a change in worksite. In addition, if the eligibility conditions of this Plan or other employee benefit plan of the Employer of the Participant, Spouse, or Dependent depend on the employment status of that individual and there is a change in that individual's employment status with the consequence that the individual becomes (or ceases to be) eligible under the plan, then that change constitutes a change in employment under this subsection;
- (4) Dependent satisfies or ceases to satisfy the eligibility requirements: An event that causes the Participant's Dependent to satisfy or cease to satisfy the requirements for coverage due to attainment of age, student status, or any similar circumstance; and

- (5) **Residency:** A change in the place of residence of the Participant, Spouse or Dependent, that would lead to a change in status (such as a loss of HMO coverage).

For the Dependent Care Flexible Spending Account, a Dependent becoming or ceasing to be a "Qualifying Dependent" as defined under Code Section 21(b) shall also qualify as a change in status.

Notwithstanding anything in this Section to the contrary, the gain of eligibility or change in eligibility of a child, as allowed under Code Sections 105(b) and 106, and IRS Notice 2010-38, shall qualify as a change in status.

(b) **Special enrollment rights.** Notwithstanding subsection (a), the Participants may change an election for accident or health coverage during a Plan Year and make a new election that corresponds with the special enrollment rights provided in Code Section 9801(f), including those authorized under the provisions of the Children's Health Insurance Program Reauthorization Act of 2009 (SCHIP); provided that such Participant meets the sixty (60) day notice requirement imposed by Code Section 9801(f) (or such longer period as may be permitted by the Plan and communicated to Participants). Such change shall take place on a prospective basis, unless otherwise required by Code Section 9801(f) to be retroactive.

(c) **Qualified Medical Support Order.** Notwithstanding subsection (a), in the event of a judgment, decree, or order (including approval of a property settlement) ("order") resulting from a divorce, legal separation, annulment, or change in legal custody which requires accident or health coverage for a Participant's child (including a foster child who is a Dependent of the Participant):

(1) The Plan may change an election to provide coverage for the child if the order requires coverage under the Participant's plan; or

(2) The Participant shall be permitted to change an election to cancel coverage for the child if the order requires the former Spouse to provide coverage for such child, under that individual's plan and such coverage is actually provided.

(d) **Medicare or Medicaid.** Notwithstanding subsection (a), a Participant may change elections to cancel accident or health coverage for the Participant or the Participant's Spouse or Dependent if the Participant or the Participant's Spouse or Dependent is enrolled in the accident or health coverage of the Employer and becomes entitled to coverage (i.e., enrolled) under Part A or Part B of the Title XVIII of the Social Security Act (Medicare) or Title XIX of the Social Security Act (Medicaid), other than coverage consisting solely of benefits under Section 1928 of the Social Security Act (the program for distribution of pediatric vaccines). If the Participant or the Participant's Spouse or Dependent who has been entitled to Medicaid or Medicare coverage loses eligibility, that individual may prospectively elect coverage under the Plan if a benefit package option under the Plan provides similar coverage.

(e) **Cost increase or decrease.** If the cost of a Benefit provided under the Plan increases or decreases during a Plan Year, then the Plan shall automatically increase or decrease, as the case may be, the Salary Redirections of all affected Participants for such Benefit. Alternatively, if the cost of a benefit package option increases significantly, the Administrator shall permit the affected Participants to either make corresponding changes in their payments or revoke their elections and, in lieu thereof, receive on a prospective basis coverage under another benefit package option with similar coverage, or drop coverage prospectively if there is no benefit package option with similar coverage.

A cost increase or decrease refers to an increase or decrease in the amount of elective contributions under the Plan, whether resulting from an action taken by the Participants or an action taken by the Employer.

(f) **Loss of coverage.** If the coverage under a Benefit is significantly curtailed or ceases during a Plan Year, affected Participants may revoke their elections of such Benefit and, in lieu thereof, elect to receive on a prospective basis coverage under another plan with similar coverage, or drop coverage prospectively if no similar coverage is offered.

(g) **Addition of a new benefit.** If, during the period of coverage, a new benefit package option or other coverage option is added, an existing benefit package option is significantly improved, or an existing benefit package option or other coverage option is eliminated, then the affected Participants may elect the newly-added option, or elect another option if an option has been eliminated prospectively and make corresponding election changes with respect to other benefit package options providing similar coverage. In addition, those Eligible Employees who are not participating in the Plan may opt to become Participants and elect the new or newly improved benefit package option.

(h) **Loss of coverage under certain other plans.** A Participant may make a prospective election change to add group health coverage for the Participant, the Participant's Spouse or Dependent if such individual loses group health coverage sponsored by a governmental or educational institution, including a state children's health insurance program under the Social Security Act, the Indian Health Service or a health program offered by an Indian tribal government, a state health benefits risk pool, or a foreign government group health plan.

(i) **Change of coverage due to change under certain other plans.** A Participant may make a prospective election change that is on account of and corresponds with a change made under the plan of a Spouse's, former Spouse's or Dependent's employer if (1) the cafeteria plan or other benefits plan of the Spouse's, former Spouse's or Dependent's employer permits its participants to make a change; or (2) the cafeteria plan permits participants to make an election for a period of coverage that is different from the period of coverage under the cafeteria plan of a Spouse's, former Spouse's or Dependent's employer.

(j) **Change in dependent care provider.** A Participant may make a prospective election change that is on account of and corresponds with a change by the Participant in the dependent care provider. The availability of dependent care services from a new childcare provider is similar to a new benefit package option becoming available. A cost change is allowable in the Dependent Care Flexible Spending Account only if the cost change is imposed by a dependent care provider who is not related to the Participant, as defined in Code Section 152(a)(1) through (8).

(k) **Health FSA cannot change due to insurance change.** A Participant shall not be permitted to change an election to the Health Flexible Spending Account as a result of a cost or coverage change under any health insurance benefits.

ARTICLE VI HEALTH FLEXIBLE SPENDING ACCOUNT

6.1 ESTABLISHMENT OF PLAN

This Health Flexible Spending Account is intended to qualify as a medical reimbursement plan under Code Section 105 and shall be interpreted in a manner consistent with such Code Section and the Treasury regulations thereunder. Participants who elect to participate in this Health Flexible Spending Account may submit claims for the reimbursement of Medical Expenses. All amounts reimbursed shall be periodically paid from amounts allocated to the Health Flexible Spending Account. Periodic payments reimbursing Participants from the Health Flexible Spending Account shall in no event occur less frequently than monthly.

6.2 DEFINITIONS

For the purposes of this Article and the Cafeteria Plan, the terms below have the following meaning:

(a) **"Health Flexible Spending Account"** means the account established for Participants pursuant to this Plan to which part of their Cafeteria Plan Benefit Dollars may be allocated and from which all allowable Medical Expenses incurred by a Participant, his or her Spouse and his or her Dependents may be reimbursed.

(b) **"Highly Compensated Participant"** means, for the purposes of this Article and determining discrimination under Code Section 105(h), a participant who is:

- (1) one of the 5 highest paid officers;
- (2) a shareholder who owns (or is considered to own applying the rules of Code Section 318) more than 10 percent in value of the stock of the Employer; or
- (3) among the highest paid 25 percent of all Employees (other than exclusions permitted by Code Section 105(h)(3)(B) for those individuals who are not Participants).

(c) **"Medical Expenses"** means any expense for medical care within the meaning of the term "medical care" as defined in Code Section 213(d) and the rulings and Treasury regulations thereunder, and not otherwise used by the Participant as a deduction in determining his tax liability under the Code. "Medical Expenses" can be incurred by the Participant, his or her Spouse and his or her Dependents. "Incurred" means, with regard to Medical Expenses, when the Participant is provided with the medical care that gives rise to the Medical Expense and not when the Participant is formally billed or charged for, or pays for, the medical care.

A Participant may not be reimbursed for the cost of any medicine or drug that is not "prescribed" within the meaning of Code Section 106(f) or is not insulin.

A Participant may not be reimbursed for the cost of other health coverage such as premiums paid under plans maintained by the employer of the Participant's Spouse or individual policies maintained by the Participant or his Spouse or Dependent.

A Participant may not be reimbursed for "qualified long-term care services" as defined in Code Section 7702B(c).

(d) The definitions of Article I are hereby incorporated by reference to the extent necessary to interpret and apply the provisions of this Health Flexible Spending Account.

6.3 FORFEITURES

The amount in the Health Flexible Spending Account as of the end of any Plan Year (and after the processing of all claims for such Plan Year pursuant to Section 6.7 hereof) shall be forfeited and credited to the benefit plan surplus. In such event, the Participant shall have no further claim to such amount for any reason, subject to Section 8.2.

6.4 LIMITATION ON ALLOCATIONS

Notwithstanding any provision contained in this Health Flexible Spending Account to the contrary, the maximum amount that may be allocated to the Health Flexible Spending Account by a Participant in or on account of any Plan Year is \$5,000. The Plan will limit the maximum salary reduction permitted under Code Section 125 as of October 1, 2013 to \$2,500.

6.5 NONDISCRIMINATION REQUIREMENTS

(a) **Intent to be nondiscriminatory.** It is the intent of this Health Flexible Spending Account not to discriminate in violation of the Code and the Treasury regulations thereunder.

(b) **Adjustment to avoid test failure.** If the Administrator deems it necessary to avoid discrimination under this Health Flexible Spending Account, it may, but shall not be required to, reject any elections or reduce contributions or Benefits in order to assure compliance with this Section. Any act taken by the Administrator under this Section shall be carried out in a uniform and nondiscriminatory manner. If the Administrator decides to reject any elections or reduce contributions or Benefits, it shall be done in the following manner. First, the Benefits designated for the Health Flexible Spending Account by the member of the group in whose favor discrimination may not occur pursuant to Code Section 105 that elected to contribute the highest amount to the fund for the Plan Year shall be reduced until the nondiscrimination tests set forth in this Section or the Code are satisfied, or until the amount designated for the fund equals the amount designated for the fund by the next member of the group in whose favor discrimination may not occur pursuant to Code Section 105 who has elected the second highest contribution to the Health Flexible Spending Account for the Plan Year. This process shall continue until the nondiscrimination tests set forth in this Section or the Code are satisfied. Contributions which are not utilized to provide Benefits to any Participant by virtue of any administrative act under this paragraph shall be forfeited and credited to the benefit plan surplus.

6.6 COORDINATION WITH CAFETERIA PLAN

All Participants under the Cafeteria Plan are eligible to receive Benefits under this Health Flexible Spending Account. The enrollment under the Cafeteria Plan shall constitute enrollment under this Health Flexible Spending Account. In addition, other matters concerning contributions, elections and the like shall be governed by the general provisions of the Cafeteria Plan.

6.7 HEALTH FLEXIBLE SPENDING ACCOUNT CLAIMS

(a) **Expenses must be incurred during Plan Year.** All Medical Expenses incurred by a Participant, his or her Spouse and his or her Dependents during the Plan Year shall be reimbursed during the Plan Year subject to Section 2.6, even though the submission of such a claim occurs after his participation hereunder ceases; but provided that the Medical Expenses were incurred during the applicable Plan Year. Medical Expenses are treated as having been incurred when the Participant is provided with the medical care that gives rise to the medical expenses, not when the Participant is formally billed or charged for, or pays for the medical care.

(b) **Reimbursement available throughout Plan Year.** The Administrator shall direct the reimbursement to each eligible Participant for all allowable Medical Expenses, up to a maximum of the amount designated by the Participant for the Health Flexible Spending Account for the Plan Year. Reimbursements shall be made available to the Participant throughout the year without regard to the level of Cafeteria Plan Benefit Dollars which have been allocated to the fund at any given point in time. Furthermore, a Participant shall be entitled to reimbursements only for amounts in excess of any

payments or other reimbursements under any health care plan covering the Participant and/or his Spouse or Dependents.

(c) **Payments.** Reimbursement payments under this Plan shall be made directly to the Participant. However, in the Administrator's discretion, payments may be made directly to the service provider. The application for payment or reimbursement shall be made to the Administrator on an acceptable form within a reasonable time of incurring the debt or paying for the service. The application shall include a written statement from an independent third party stating that the Medical Expense has been incurred and the amount of such expense. Furthermore, the Participant shall provide a written statement that the Medical Expense has not been reimbursed or is not reimbursable under any other health plan coverage and, if reimbursed from the Health Flexible Spending Account, such amount will not be claimed as a tax deduction. The Administrator shall retain a file of all such applications.

(d) **Claims for reimbursement.** Claims for the reimbursement of Medical Expenses incurred in any Plan Year shall be paid as soon after a claim has been filed as is administratively practicable; provided however, that if a Participant fails to submit a claim within 75 days after the end of the Plan Year, those Medical Expense claims shall not be considered for reimbursement by the Administrator. However, if a Participant terminates employment during the Plan Year, claims for the reimbursement of Medical Expenses must be submitted within 75 days after termination of employment.

6.8 DEBIT AND CREDIT CARDS

Participants may, subject to a procedure established by the Administrator and applied in a uniform nondiscriminatory manner, use debit and/or credit (stored value) cards ("cards") provided by the Administrator and the Plan for payment of Medical Expenses, subject to the following terms:

(a) **Card only for medical expenses.** Each Participant issued a card shall certify that such card shall only be used for Medical Expenses. The Participant shall also certify that any Medical Expense paid with the card has not already been reimbursed by any other plan covering health benefits and that the Participant will not seek reimbursement from any other plan covering health benefits.

(b) **Card issuance.** Such card shall be issued upon the Participant's Effective Date of Participation and reissued for each Plan Year the Participant remains a Participant in the Health Flexible Spending Account. Such card shall be automatically cancelled upon the Participant's death or termination of employment, or if such Participant has a change in status that results in the Participant's withdrawal from the Health Flexible Spending Account.

(c) **Maximum dollar amount available.** The dollar amount of coverage available on the card shall be the amount elected by the Participant for the Plan Year. The maximum dollar amount of coverage available shall be the maximum amount for the Plan Year as set forth in Section 6.4.

(d) **Only available for use with certain service providers.** The cards shall only be accepted by such merchants and service providers as have been approved by the Administrator following IRS guidelines.

(e) **Card use.** The cards shall only be used for Medical Expense purchases at these providers, including, but not limited to, the following:

(1) Co-payments for doctor and other medical care;

(2) Purchase of drugs prescribed by a health care provider, including, if permitted by the Administrator, over-the-counter medications as allowed under IRS regulations;

- (3) Purchase of medical items such as eyeglasses, syringes, crutches, etc.

(f) **Substantiation.** Such purchases by the cards shall be subject to substantiation by the Administrator, usually by submission of a receipt from a service provider describing the service, the date and the amount. The Administrator shall also follow the requirements set forth in Revenue Ruling 2003-43 and Notice 2006-69. All charges shall be conditional pending confirmation and substantiation.

(g) **Correction methods.** If such purchase is later determined by the Administrator to not qualify as a Medical Expense, the Administrator, in its discretion, shall use one of the following correction methods to make the Plan whole. Until the amount is repaid, the Administrator shall take further action to ensure that further violations of the terms of the card do not occur, up to and including denial of access to the card.

- (1) Repayment of the improper amount by the Participant;
- (2) Withholding the improper payment from the Participant's wages or other compensation to the extent consistent with applicable federal or state law;
- (3) Claims substitution or offset of future claims until the amount is repaid; and
- (4) if subsections (1) through (3) fail to recover the amount, consistent with the Employer's business practices, the Employer may treat the amount as any other business indebtedness.

ARTICLE VII DEPENDENT CARE FLEXIBLE SPENDING ACCOUNT

7.1 ESTABLISHMENT OF ACCOUNT

This Dependent Care Flexible Spending Account is intended to qualify as a program under Code Section 129 and shall be interpreted in a manner consistent with such Code Section. Participants who elect to participate in this program may submit claims for the reimbursement of Employment-Related Dependent Care Expenses. All amounts reimbursed shall be paid from amounts allocated to the Participant's Dependent Care Flexible Spending Account.

7.2 DEFINITIONS

For the purposes of this Article and the Cafeteria Plan the terms below shall have the following meaning:

(a) **"Dependent Care Flexible Spending Account"** means the account established for a Participant pursuant to this Article to which part of his Cafeteria Plan Benefit Dollars may be allocated and from which Employment-Related Dependent Care Expenses of the Participant may be reimbursed for the care of the Qualifying Dependents of Participants.

(b) **"Earned Income"** means earned income as defined under Code Section 32(c)(2), but excluding such amounts paid or incurred by the Employer for dependent care assistance to the Participant.

(c) **"Employment-Related Dependent Care Expenses"** means the amounts paid for expenses of a Participant for those services which if paid by the Participant would be considered employment related expenses under Code Section 21(b)(2). Generally, they shall include expenses for household services and for the care of a Qualifying Dependent, to the extent that such expenses are incurred to

enable the Participant to be gainfully employed for any period for which there are one or more Qualifying Dependents with respect to such Participant. Employment-Related Dependent Care Expenses are treated as having been incurred when the Participant's Qualifying Dependents are provided with the dependent care that gives rise to the Employment-Related Dependent Care Expenses, not when the Participant is formally billed or charged for, or pays for the dependent care. The determination of whether an amount qualifies as an Employment-Related Dependent Care Expense shall be made subject to the following rules:

- (1) If such amounts are paid for expenses incurred outside the Participant's household, they shall constitute Employment-Related Dependent Care Expenses only if incurred for a Qualifying Dependent as defined in Section 7.2(d)(1) (or deemed to be, as described in Section 7.2(d)(1) pursuant to Section 7.2(d)(3)), or for a Qualifying Dependent as defined in Section 7.2(d)(2) (or deemed to be, as described in Section 7.2(d)(2) pursuant to Section 7.2(d)(3)) who regularly spends at least 8 hours per day in the Participant's household;
 - (2) If the expense is incurred outside the Participant's home at a facility that provides care for a fee, payment, or grant for more than 6 individuals who do not regularly reside at the facility, the facility must comply with all applicable state and local laws and regulations, including licensing requirements, if any; and
 - (3) Employment-Related Dependent Care Expenses of a Participant shall not include amounts paid or incurred to a child of such Participant who is under the age of 19 or to an individual who is a Dependent of such Participant or such Participant's Spouse.
- (d) **"Qualifying Dependent"** means, for Dependent Care Flexible Spending Account purposes,
- (1) a Participant's Dependent (as defined in Code Section 152(a)(1)) who has not attained age 13;
 - (2) a Dependent or the Spouse of a Participant who is physically or mentally incapable of caring for himself or herself and has the same principal place of abode as the Participant for more than one-half of such taxable year; or
 - (3) a child that is deemed to be a Qualifying Dependent described in paragraph (1) or (2) above, whichever is appropriate, pursuant to Code Section 21(e)(5).
- (e) The definitions of Article I are hereby incorporated by reference to the extent necessary to interpret and apply the provisions of this Dependent Care Flexible Spending Account.

7.3 DEPENDENT CARE FLEXIBLE SPENDING ACCOUNTS

The Administrator shall establish a Dependent Care Flexible Spending Account for each Participant who elects to apply Cafeteria Plan Benefit Dollars to Dependent Care Flexible Spending Account benefits.

7.4 INCREASES IN DEPENDENT CARE FLEXIBLE SPENDING ACCOUNTS

A Participant's Dependent Care Flexible Spending Account shall be increased each pay period by the portion of Cafeteria Plan Benefit Dollars that he has elected to apply toward his Dependent Care Flexible Spending Account pursuant to elections made under Article V hereof.

7.5 DECREASES IN DEPENDENT CARE FLEXIBLE SPENDING ACCOUNTS

A Participant's Dependent Care Flexible Spending Account shall be reduced by the amount of any Employment-Related Dependent Care Expense reimbursements paid or incurred on behalf of a Participant pursuant to Section 7.12 hereof.

7.6 ALLOWABLE DEPENDENT CARE REIMBURSEMENT

Subject to limitations contained in Section 7.9 of this Program, and to the extent of the amount contained in the Participant's Dependent Care Flexible Spending Account, a Participant who incurs Employment-Related Dependent Care Expenses shall be entitled to receive from the Employer full reimbursement for the entire amount of such expenses incurred during the Plan Year or portion thereof during which he is a Participant.

7.7 ANNUAL STATEMENT OF BENEFITS

On or before January 31st of each calendar year, the Employer shall furnish to each Employee who was a Participant and received benefits under Section 7.6 during the prior calendar year, a statement of all such benefits paid to or on behalf of such Participant during the prior calendar year. This statement is set forth on the Participant's Form W-2.

7.8 FORFEITURES

The amount in a Participant's Dependent Care Flexible Spending Account as of the end of any Plan Year (and after the processing of all claims for such Plan Year pursuant to Section 7.12 hereof) shall be forfeited and credited to the benefit plan surplus. In such event, the Participant shall have no further claim to such amount for any reason.

7.9 LIMITATION ON PAYMENTS

(a) **Code limits.** Notwithstanding any provision contained in this Article to the contrary, amounts paid from a Participant's Dependent Care Flexible Spending Account in or on account of any taxable year of the Participant shall not exceed the lesser of the Earned Income limitation described in Code Section 129(b) or \$5,000 (\$2,500 if a separate tax return is filed by a Participant who is married as determined under the rules of paragraphs (3) and (4) of Code Section 21(e)).

7.10 NONDISCRIMINATION REQUIREMENTS

(a) **Intent to be nondiscriminatory.** It is the intent of this Dependent Care Flexible Spending Account that contributions or benefits not discriminate in favor of the group of employees in whose favor discrimination may not occur under Code Section 129(d).

(b) **25% test for shareholders.** It is the intent of this Dependent Care Flexible Spending Account that not more than 25 percent of the amounts paid by the Employer for dependent care assistance during the Plan Year will be provided for the class of individuals who are shareholders or owners (or their Spouses or Dependents), each of whom (on any day of the Plan Year) owns more than 5 percent of the stock or of the capital or profits interest in the Employer.

(c) **Adjustment to avoid test failure.** If the Administrator deems it necessary to avoid discrimination or possible taxation to a group of employees in whose favor discrimination may not occur in violation of Code Section 129 it may, but shall not be required to, reject any elections or reduce contributions or non-taxable benefits in order to assure compliance with this Section. Any act taken by the Administrator under this Section shall be carried out in a uniform and nondiscriminatory manner. If

the Administrator decides to reject any elections or reduce contributions or Benefits, it shall be done in the following manner. First, the Benefits designated for the Dependent Care Flexible Spending Account by the affected Participant that elected to contribute the highest amount to such account for the Plan Year shall be reduced until the nondiscrimination tests set forth in this Section are satisfied, or until the amount designated for the account equals the amount designated for the account of the affected Participant who has elected the second highest contribution to the Dependent Care Flexible Spending Account for the Plan Year. This process shall continue until the nondiscrimination tests set forth in this Section are satisfied. Contributions which are not utilized to provide Benefits to any Participant by virtue of any administrative act under this paragraph shall be forfeited.

7.11 COORDINATION WITH CAFETERIA PLAN

All Participants under the Cafeteria Plan are eligible to receive Benefits under this Dependent Care Flexible Spending Account. The enrollment and termination of participation under the Cafeteria Plan shall constitute enrollment and termination of participation under this Dependent Care Flexible Spending Account. In addition, other matters concerning contributions, elections and the like shall be governed by the general provisions of the Cafeteria Plan.

7.12 DEPENDENT CARE FLEXIBLE SPENDING ACCOUNT CLAIMS

The Administrator shall direct the payment of all such Dependent Care claims to the Participant upon the presentation to the Administrator of documentation of such expenses in a form satisfactory to the Administrator. However, in the Administrator's discretion, payments may be made directly to the service provider. In its discretion in administering the Plan, the Administrator may utilize forms and require documentation of costs as may be necessary to verify the claims submitted. At a minimum, the form shall include a statement from an independent third party as proof that the expense has been incurred during the Plan Year and the amount of such expense. In addition, the Administrator may require that each Participant who desires to receive reimbursement under this Program for Employment-Related Dependent Care Expenses submit a statement which may contain some or all of the following information:

- (a) The Dependent or Dependents for whom the services were performed;
- (b) The nature of the services performed for the Participant, the cost of which he wishes reimbursement;
- (c) The relationship, if any, of the person performing the services to the Participant;
- (d) If the services are being performed by a child of the Participant, the age of the child;
- (e) A statement as to where the services were performed;
- (f) If any of the services were performed outside the home, a statement as to whether the Dependent for whom such services were performed spends at least 8 hours a day in the Participant's household;
- (g) If the services were being performed in a day care center, a statement:
 - (1) that the day care center complies with all applicable laws and regulations of the state of residence,
 - (2) that the day care center provides care for more than 6 individuals (other than individuals residing at the center), and

- (3) of the amount of fee paid to the provider.
- (h) If the Participant is married, a statement containing the following:
 - (1) the Spouse's salary or wages if he or she is employed, or
 - (2) if the Participant's Spouse is not employed, that
 - (i) he or she is incapacitated, or
 - (ii) he or she is a full-time student attending an educational institution and the months during the year which he or she attended such institution.

(i) **Claims for reimbursement.** If a Participant fails to submit a claim within 75 days after the end of the Plan Year, those claims shall not be considered for reimbursement by the Administrator. However, if a Participant terminates employment during the Plan Year, claims for reimbursement must be submitted within 75 days after termination of employment.

ARTICLE VIII BENEFITS AND RIGHTS

8.1 CLAIM FOR BENEFITS

(a) **Insurance claims.** Any claim for Benefits underwritten by the self-funded plan shall be made to the Employer. If the Employer denies any claim, the Participant or beneficiary shall follow the Employer's claims review procedure.

(b) **Dependent Care Flexible Spending Account or Health Flexible Spending Account claims.** Any claim for Dependent Care Flexible Spending Account or Health Flexible Spending Account Benefits shall be made to the Administrator. For the Health Flexible Spending Account, if a Participant fails to submit a claim within 75 days after the end of the Plan Year, those claims shall not be considered for reimbursement by the Administrator. However, if a Participant terminates employment during the Plan Year, claims for the reimbursement of Medical Expenses must be submitted within 75 days after termination of employment. For the Dependent Care Flexible Spending Account, if a Participant fails to submit a claim within 75 days after the end of the Plan Year, those claims shall not be considered for reimbursement by the Administrator. However, if a Participant terminates employment during the Plan Year, claims for reimbursement must be submitted within 75 days after termination of employment. If the Administrator denies a claim, the Administrator may provide notice to the Participant or beneficiary, in writing, within 90 days after the claim is filed unless special circumstances require an extension of time for processing the claim. The notice of a denial of a claim shall be written in a manner calculated to be understood by the claimant and shall set forth:

- (1) specific references to the pertinent Plan provisions on which the denial is based;
- (2) a description of any additional material or information necessary for the claimant to perfect the claim and an explanation as to why such information is necessary; and
- (3) an explanation of the Plan's claim procedure.

(c) **Appeal.** Within 60 days after receipt of the above material, the claimant shall have a reasonable opportunity to appeal the claim denial to the Administrator for a full and fair review. The claimant or his duly authorized representative may:

- (1) request a review upon written notice to the Administrator;
- (2) review pertinent documents; and
- (3) submit issues and comments in writing.

(d) **Review of appeal.** A decision on the review by the Administrator will be made not later than 60 days after receipt of a request for review, unless special circumstances require an extension of time for processing (such as the need to hold a hearing), in which event a decision should be rendered as soon as possible, but in no event later than 120 days after such receipt. The decision of the Administrator shall be written and shall include specific reasons for the decision, written in a manner calculated to be understood by the claimant, with specific references to the pertinent Plan provisions on which the decision is based.

(e) **Forfeitures.** Any balance remaining in the Participant's Dependent Care Flexible Spending Account or Health Flexible Spending Account as of the end of the time for claims reimbursement for each Plan Year shall be forfeited and deposited in the benefit plan surplus of the Employer pursuant to Section 6.3 or Section 7.8, whichever is applicable, unless the Participant had made a claim for such Plan Year, in writing, which has been denied or is pending; in which event the amount of the claim shall be held in his account until the claim appeal procedures set forth above have been satisfied or the claim is paid. If any such claim is denied on appeal, the amount held beyond the end of the Plan Year shall be forfeited and credited to the benefit plan surplus.

8.2 APPLICATION OF BENEFIT PLAN SURPLUS

Any forfeited amounts credited to the benefit plan surplus by virtue of the failure of a Participant to incur a qualified expense or seek reimbursement in a timely manner may, but need not be, separately accounted for after the close of the Plan Year (or after such further time specified herein for the filing of claims) in which such forfeitures arose. In no event shall such amounts be carried over to reimburse a Participant for expenses incurred during a subsequent Plan Year for the same or any other Benefit available under the Plan; nor shall amounts forfeited by a particular Participant be made available to such Participant in any other form or manner, except as permitted by Treasury regulations. Amounts in the benefit plan surplus shall be used to defray any administrative costs and experience losses or used to provide additional benefits under the Plan.

ARTICLE IX ADMINISTRATION

9.1 PLAN ADMINISTRATION

The Employer shall be the Administrator, unless the Employer elects otherwise. The Employer may appoint any person, including, but not limited to, the Employees of the Employer, to perform the duties of the Administrator. Any person so appointed shall signify acceptance by filing written acceptance with the Employer. Upon the resignation or removal of any individual performing the duties of the Administrator, the Employer may designate a successor.

If the Employer elects, the Employer shall appoint one or more Administrators. Any person, including, but not limited to, the Employees of the Employer, shall be eligible to serve as an Administrator. Any person so appointed shall signify acceptance by filing written acceptance with the Employer. An Administrator may resign by delivering a written resignation to the Employer or be removed by the Employer by delivery of written notice of removal, to take effect at a date specified therein, or upon delivery to the Administrator if no date is specified. The Employer shall be empowered to appoint and remove the Administrator from time to time as it deems necessary for the proper administration of the Plan to ensure that the Plan is being operated for the exclusive benefit of the Employees entitled to participate in the Plan in accordance with the terms of the Plan and the Code.

The operation of the Plan shall be under the supervision of the Administrator. It shall be a principal duty of the Administrator to see that the Plan is carried out in accordance with its terms, and for the exclusive benefit of Employees entitled to participate in the Plan. The Administrator shall have full power and discretion to administer the Plan in all of its details and determine all questions arising in connection with the administration, interpretation, and application of the Plan. The Administrator may establish procedures, correct any defect, supply any information, or reconcile any inconsistency in such manner and to such extent as shall be deemed necessary or advisable to carry out the purpose of the Plan. The Administrator shall have all powers necessary or appropriate to accomplish the Administrator's duties under the Plan. The Administrator shall be charged with the duties of the general administration of the Plan as set forth under the Plan, including, but not limited to, in addition to all other powers provided by this Plan:

- (a) To make and enforce such procedures, rules and regulations as the Administrator deems necessary or proper for the efficient administration of the Plan;
- (b) To interpret the provisions of the Plan, the Administrator's interpretations thereof in good faith to be final and conclusive on all persons claiming benefits by operation of the Plan;
- (c) To decide all questions concerning the Plan and the eligibility of any person to participate in the Plan and to receive benefits provided by operation of the Plan;
- (d) To reject elections or to limit contributions or Benefits for certain highly compensated participants if it deems such to be desirable in order to avoid discrimination under the Plan in violation of applicable provisions of the Code;
- (e) To provide Employees with a reasonable notification of their benefits available by operation of the Plan and to assist any Participant regarding the Participant's rights, benefits or elections under the Plan;
- (f) To keep and maintain the Plan documents and all other records pertaining to and necessary for the administration of the Plan;
- (g) To review and settle all claims against the Plan, to approve reimbursement requests, and to authorize the payment of benefits if the Administrator determines such shall be paid if the Administrator decides in its discretion that the applicant is entitled to them. This authority specifically permits the Administrator to settle disputed claims for benefits and any other disputed claims made against the Plan;
- (h) To appoint such agents, counsel, accountants, consultants, and other persons or entities as may be required to assist in administering the Plan.

Any procedure, discretionary act, interpretation or construction taken by the Administrator shall be done in a nondiscriminatory manner based upon uniform principles consistently applied and shall be consistent with

the intent that the Plan shall continue to comply with the terms of Code Section 125 and the Treasury regulations thereunder.

9.2 EXAMINATION OF RECORDS

The Administrator shall make available to each Participant, Eligible Employee and any other Employee of the Employer such records as pertain to their interest under the Plan for examination at reasonable times during normal business hours.

9.3 PAYMENT OF EXPENSES

Any reasonable administrative expenses shall be paid by the Employer unless the Employer determines that administrative costs shall be borne by the Participants under the Plan or by any Trust Fund which may be established hereunder. The Administrator may impose reasonable conditions for payments, provided that such conditions shall not discriminate in favor of highly compensated employees.

9.4 INSURANCE CONTROL CLAUSE

In the event of a conflict between the terms of this Plan and the terms of an Insurance Contract of an independent third party Insurer whose product is then being used in conjunction with this Plan, the terms of the Insurance Contract shall control as to those Participants receiving coverage under such Insurance Contract. For this purpose, the Insurance Contract shall control in defining the persons eligible for insurance, the dates of their eligibility, the conditions which must be satisfied to become insured, if any, the benefits Participants are entitled to and the circumstances under which insurance terminates.

9.5 INDEMNIFICATION OF ADMINISTRATOR

The Employer agrees to indemnify and to defend to the fullest extent permitted by law any Employee serving as the Administrator or as a member of a committee designated as Administrator (including any Employee or former Employee who previously served as Administrator or as a member of such committee) against all liabilities, damages, costs and expenses (including attorney's fees and amounts paid in settlement of any claims approved by the Employer) occasioned by any act or omission to act in connection with the Plan, if such act or omission is in good faith.

ARTICLE X AMENDMENT OR TERMINATION OF PLAN

10.1 AMENDMENT

The Employer, at any time or from time to time, may amend any or all of the provisions of the Plan without the consent of any Employee or Participant. No amendment shall have the effect of modifying any benefit election of any Participant in effect at the time of such amendment, unless such amendment is made to comply with Federal, state or local laws, statutes or regulations.

10.2 TERMINATION

The Employer reserves the right to terminate this Plan, in whole or in part, at any time. In the event the Plan is terminated, no further contributions shall be made. Benefits under any Contract shall be paid in accordance with the terms of the Contract.

No further additions shall be made to the Health Flexible Spending Account or Dependent Care Flexible Spending Account, but all payments from such fund shall continue to be made according to the elections in effect until 90 days after the termination date of the Plan. Any amounts remaining in any such fund or account as of the end of such period shall be forfeited and deposited in the benefit plan surplus after the expiration of the filing period.

ARTICLE XI MISCELLANEOUS

11.1 PLAN INTERPRETATION

All provisions of this Plan shall be interpreted and applied in a uniform, nondiscriminatory manner. This Plan shall be read in its entirety and not severed except as provided in Section 11.11.

11.2 GENDER AND NUMBER

Wherever any words are used herein in the masculine, feminine or neuter gender, they shall be construed as though they were also used in another gender in all cases where they would so apply, and whenever any words are used herein in the singular or plural form, they shall be construed as though they were also used in the other form in all cases where they would so apply.

11.3 WRITTEN DOCUMENT

This Plan, in conjunction with any separate written document which may be required by law, is intended to satisfy the written Plan requirement of Code Section 125 and any Treasury regulations thereunder relating to cafeteria plans.

11.4 EXCLUSIVE BENEFIT

This Plan shall be maintained for the exclusive benefit of the Employees who participate in the Plan.

11.5 PARTICIPANT'S RIGHTS

This Plan shall not be deemed to constitute an employment contract between the Employer and any Participant or to be a consideration or an inducement for the employment of any Participant or Employee. Nothing contained in this Plan shall be deemed to give any Participant or Employee the right to be retained in the service of the Employer or to interfere with the right of the Employer to discharge any Participant or Employee at any time regardless of the effect which such discharge shall have upon him as a Participant of this Plan.

11.6 ACTION BY THE EMPLOYER

Whenever the Employer under the terms of the Plan is permitted or required to do or perform any act or matter or thing, it shall be done and performed by a person duly authorized by its legally constituted authority.

11.7 NO GUARANTEE OF TAX CONSEQUENCES

Neither the Administrator nor the Employer makes any commitment or guarantee that any amounts paid to or for the benefit of a Participant under the Plan will be excludable from the Participant's gross income for federal or state income tax purposes, or that any other federal or state tax treatment will apply to or be available to any Participant. It shall be the obligation of each Participant to determine whether each payment under the Plan is excludable from the Participant's gross income for federal and state income tax purposes, and to notify the

Employer if the Participant has reason to believe that any such payment is not so excludable. Notwithstanding the foregoing, the rights of Participants under this Plan shall be legally enforceable.

11.8 INDEMNIFICATION OF EMPLOYER BY PARTICIPANTS

If any Participant receives one or more payments or reimbursements under the Plan that are not for a permitted Benefit, such Participant shall indemnify and reimburse the Employer for any liability it may incur for failure to withhold federal or state income tax or Social Security tax from such payments or reimbursements. However, such indemnification and reimbursement shall not exceed the amount of additional federal and state income tax (plus any penalties) that the Participant would have owed if the payments or reimbursements had been made to the Participant as regular cash compensation, plus the Participant's share of any Social Security tax that would have been paid on such compensation, less any such additional income and Social Security tax actually paid by the Participant.

11.9 FUNDING

Unless otherwise required by law, contributions to the Plan need not be placed in trust or dedicated to a specific Benefit, but may instead be considered general assets of the Employer. Furthermore, and unless otherwise required by law, nothing herein shall be construed to require the Employer or the Administrator to maintain any fund or segregate any amount for the benefit of any Participant, and no Participant or other person shall have any claim against, right to, or security or other interest in, any fund, account or asset of the Employer from which any payment under the Plan may be made.

11.10 GOVERNING LAW

This Plan is governed by the Code and the Treasury regulations issued thereunder (as they might be amended from time to time). In no event shall the Employer guarantee the favorable tax treatment sought by this Plan. To the extent not preempted by Federal law, the provisions of this Plan shall be construed, enforced and administered according to the laws of the State of Texas.

11.11 SEVERABILITY

If any provision of the Plan is held invalid or unenforceable, its invalidity or unenforceability shall not affect any other provisions of the Plan, and the Plan shall be construed and enforced as if such provision had not been included herein.

11.12 CAPTIONS

The captions contained herein are inserted only as a matter of convenience and for reference, and in no way define, limit, enlarge or describe the scope or intent of the Plan, nor in any way shall affect the Plan or the construction of any provision thereof.

11.13 CONTINUATION OF COVERAGE (COBRA)

Notwithstanding anything in the Plan to the contrary, in the event any benefit under this Plan subject to the continuation coverage requirement of Code Section 4980B becomes unavailable, each Participant will be entitled to continuation coverage as prescribed in Code Section 4980B, and related regulations. This Section shall only apply if the Employer employs at least twenty (20) employees on more than 50% of its typical business days in the previous calendar year.

11.14 FAMILY AND MEDICAL LEAVE ACT (FMLA)

Notwithstanding anything in the Plan to the contrary, in the event any benefit under this Plan becomes subject to the requirements of the Family and Medical Leave Act and regulations thereunder, this Plan shall be operated in accordance with Regulation 1.125-3.

11.15 HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT (HIPAA)

Notwithstanding anything in this Plan to the contrary, this Plan shall be operated in accordance with HIPAA and regulations thereunder.

11.16 UNIFORMED SERVICES EMPLOYMENT AND REEMPLOYMENT RIGHTS ACT (USERRA)

Notwithstanding any provision of this Plan to the contrary, contributions, benefits and service credit with respect to qualified military service shall be provided in accordance with the Uniform Services Employment And Reemployment Rights Act (USERRA) and the regulations thereunder.

11.17 COMPLIANCE WITH HIPAA PRIVACY STANDARDS

(a) **Application.** If any benefits under this Cafeteria Plan are subject to the Standards for Privacy of Individually Identifiable Health Information (45 CFR Part 164, the "Privacy Standards"), then this Section shall apply.

(b) **Disclosure of PHI.** The Plan shall not disclose Protected Health Information to any member of the Employer's workforce unless each of the conditions set out in this Section are met. "Protected Health Information" shall have the same definition as set forth in the Privacy Standards but generally shall mean individually identifiable information about the past, present or future physical or mental health or condition of an individual, including information about treatment or payment for treatment.

(c) **PHI disclosed for administrative purposes.** Protected Health Information disclosed to members of the Employer's workforce shall be used or disclosed by them only for purposes of Plan administrative functions. The Plan's administrative functions shall include all Plan payment functions and health care operations. The terms "payment" and "health care operations" shall have the same definitions as set out in the Privacy Standards, but the term "payment" generally shall mean activities taken to determine or fulfill Plan responsibilities with respect to eligibility, coverage, provision of benefits, or reimbursement for health care. Genetic information will not be used or disclosed for underwriting purposes.

(d) **PHI disclosed to certain workforce members.** The Plan shall disclose Protected Health Information only to members of the Employer's workforce who are authorized to receive such Protected Health Information, and only to the extent and in the minimum amount necessary for that person to perform his or her duties with respect to the Plan. "Members of the Employer's workforce" shall refer to all employees and other persons under the control of the Employer. The Employer shall keep an updated list of those authorized to receive Protected Health Information.

(1) An authorized member of the Employer's workforce who receives Protected Health Information shall use or disclose the Protected Health Information only to the extent necessary to perform his or her duties with respect to the Plan.

(2) In the event that any member of the Employer's workforce uses or discloses Protected Health Information other than as permitted by this Section and the Privacy Standards, the

incident shall be reported to the Plan's privacy officer. The privacy officer shall take appropriate action, including:

- (i) investigation of the incident to determine whether the breach occurred inadvertently, through negligence or deliberately; whether there is a pattern of breaches; and the degree of harm caused by the breach;
 - (ii) appropriate sanctions against the persons causing the breach which, depending upon the nature of the breach, may include oral or written reprimand, additional training, or termination of employment;
 - (iii) mitigation of any harm caused by the breach, to the extent practicable; and
 - (iv) documentation of the incident and all actions taken to resolve the issue and mitigate any damages.
- (e) **Certification.** The Employer must provide certification to the Plan that it agrees to:
- (1) Not use or further disclose the information other than as permitted or required by the Plan documents or as required by law;
 - (2) Ensure that any agent or subcontractor, to whom it provides Protected Health Information received from the Plan, agrees to the same restrictions and conditions that apply to the Employer with respect to such information;
 - (3) Not use or disclose Protected Health Information for employment-related actions and decisions or in connection with any other benefit or employee benefit plan of the Employer;
 - (4) Report to the Plan any use or disclosure of the Protected Health Information of which it becomes aware that is inconsistent with the uses or disclosures permitted by this Section, or required by law;
 - (5) Make available Protected Health Information to individual Plan members in accordance with Section 164.524 of the Privacy Standards;
 - (6) Make available Protected Health Information for amendment by individual Plan members and incorporate any amendments to Protected Health Information in accordance with Section 164.526 of the Privacy Standards;
 - (7) Make available the Protected Health Information required to provide an accounting of disclosures to individual Plan members in accordance with Section 164.528 of the Privacy Standards;
 - (8) Make its internal practices, books and records relating to the use and disclosure of Protected Health Information received from the Plan available to the Department of Health and Human Services for purposes of determining compliance by the Plan with the Privacy Standards;
 - (9) If feasible, return or destroy all Protected Health Information received from the Plan that the Employer still maintains in any form, and retain no copies of such information when no longer needed for the purpose for which disclosure was made, except that, if such return or destruction is not feasible, limit further uses and disclosures to those purposes that make the return or destruction of the information infeasible; and

- (10) Ensure the adequate separation between the Plan and members of the Employer's workforce, as required by Section 164.504(f)(2)(iii) of the Privacy Standards and set out in (d) above.

11.18 COMPLIANCE WITH HIPAA ELECTRONIC SECURITY STANDARDS

Under the Security Standards for the Protection of Electronic Protected Health Information (45 CFR Part 164.300 et. seq., the "Security Standards"):

(a) **Implementation.** The Employer agrees to implement reasonable and appropriate administrative, physical and technical safeguards to protect the confidentiality, integrity and availability of Electronic Protected Health Information that the Employer creates, maintains or transmits on behalf of the Plan. "Electronic Protected Health Information" shall have the same definition as set out in the Security Standards, but generally shall mean Protected Health Information that is transmitted by or maintained in electronic media.

(b) **Agents or subcontractors shall meet security standards.** The Employer shall ensure that any agent or subcontractor to whom it provides Electronic Protected Health Information shall agree, in writing, to implement reasonable and appropriate security measures to protect the Electronic Protected Health Information.

(c) **Employer shall ensure security standards.** The Employer shall ensure that reasonable and appropriate security measures are implemented to comply with the conditions and requirements set forth in Section 11.17.

11.19 MENTAL HEALTH PARITY AND ADDICTION EQUITY ACT

Notwithstanding anything in the Plan to the contrary, the Plan will comply with the Mental Health Parity and Addiction Equity Act and ERISA Section 712.

11.20 GENETIC INFORMATION NONDISCRIMINATION ACT (GINA)

Notwithstanding anything in the Plan to the contrary, the Plan will comply with the Genetic Information Nondiscrimination Act.

11.21 WOMEN'S HEALTH AND CANCER RIGHTS ACT

Notwithstanding anything in the Plan to the contrary, the Plan will comply with the Women's Health and Cancer Rights Act of 1998.

11.22 NEWBORNS' AND MOTHERS' HEALTH PROTECTION ACT

Notwithstanding anything in the Plan to the contrary, the Plan will comply with the Newborns' and Mothers' Health Protection Act.

IN WITNESS WHEREOF, this Plan document is hereby executed this _____
day of _____.

City of Temple

By _____
EMPLOYER

**CITY OF TEMPLE
FLEXIBLE BENEFITS PLAN
SUMMARY PLAN DESCRIPTION**

Updated October 10, 2012

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XI SUMMARY

CITY OF TEMPLE FLEXIBLE BENEFITS PLAN

INTRODUCTION

We have amended the "Flexible Benefits Plan" that we previously established for you and other eligible employees. Under this Plan, you will be able to choose among certain benefits that we make available. The benefits that you may choose are outlined in this Summary Plan Description. We will also tell you about other important information concerning the amended Plan, such as the rules you must satisfy before you can join and the laws that protect your rights.

One of the most important features of our Plan is that the benefits being offered are generally ones that you are already paying for, but normally with money that has first been subject to income and Social Security taxes. Under our Plan, these same expenses will be paid for with a portion of your pay before Federal income or Social Security taxes are withheld. This means that you will pay less tax and have more money to spend and save.

Read this Summary Plan Description carefully so that you understand the provisions of our amended Plan and the benefits you will receive. This SPD describes the Plan's benefits and obligations as contained in the legal Plan document, which governs the operation of the Plan. The Plan document is written in much more technical and precise language. If the non-technical language in this SPD and the technical, legal language of the Plan document conflict, the Plan document always governs. Also, if there is a conflict between an insurance contract and either the Plan document or this Summary Plan Description, the insurance contract will control. If you wish to receive a copy of the legal Plan document, please contact the Administrator.

This SPD describes the current provisions of the Plan which are designed to comply with applicable legal requirements. The Plan is subject to federal laws, such as the Internal Revenue Code and other federal and state laws which may affect your rights. The provisions of the Plan are subject to revision due to a change in laws or due to pronouncements by the Internal Revenue Service (IRS) or other federal agencies. We may also amend or terminate this Plan. If the provisions of the Plan that are described in this SPD change, we will notify you.

We have attempted to answer most of the questions you may have regarding your benefits in the Plan. If this SPD does not answer all of your questions, please contact the Administrator (or other plan representative). The name and address of the Administrator can be found in the Article of this SPD entitled "General Information About the Plan."

I ELIGIBILITY

1. When can I become a participant in the Plan?

Before you become a Plan member (referred to in this Summary Plan Description as a "Participant"), there are certain rules which you must satisfy. First, you must meet the eligibility requirements and be an active employee. After that, the next step is to actually join the Plan on the "entry date" that we have established for all employees. The "entry date" is defined in Question 3 below. You will also be required to complete certain application forms before you can enroll in the Health Flexible Spending Account or Dependent Care Flexible Spending Account.

2. What are the eligibility requirements for our Plan?

You will be eligible to join the Plan once you have completed 30 days of employment. Of course, if you were already a participant before this amendment, you will remain a participant.

3. When is my entry date?

Once you have met the eligibility requirements, your entry date will be the first day of the month coinciding with or following the date you met the eligibility requirements.

4. Are there any employees who are not eligible?

Yes, there are certain employees who are not eligible to join the Plan. They are:

-- Employees who are leased employees.

-- Union employees.

-- Employees who are part-time. A part-time employee is someone who works, or is expected to work, less than 32 hours a week.

-- Certain non-resident aliens whose income is not considered income earned within the United States under Federal tax laws.

5. What must I do to enroll in the Plan?

Before you can join the Plan, you must complete an application to participate in the Plan. The application includes your personal choices for each of the benefits which are being offered under the Plan. You must also authorize us to set some of your earnings aside in order to pay for the benefits you have elected.

However, if you are already covered under any of the insured benefits, you will automatically participate in this Plan to the extent of your premiums unless you elect not to participate in this Plan.

II OPERATION

1. How does this Plan operate?

Before the start of each Plan Year, you will be able to elect to have some of your upcoming pay contributed to the Plan. These amounts will be used to pay for the benefits you have chosen. The portion of your pay that is paid to the Plan is not subject to Federal income or Social Security taxes. In other words, this allows you to use tax-free dollars to pay for certain kinds of benefits and expenses which you normally pay for with out-of-pocket, taxable dollars. However, if you receive a reimbursement for an expense under the Plan, you cannot claim a Federal income tax credit or deduction on your return. (See the Article entitled "General Information About Our Plan" for the definition of "Plan Year.")

III CONTRIBUTIONS

1. How much of my pay may the Employer redirect?

Each year, we will automatically contribute on your behalf enough of your compensation to pay for the coverage provided unless you elect not to receive any or all of such coverage. You may also elect to have us contribute on your behalf enough of your compensation to pay for any other benefits that you elect under the Plan. These amounts will be deducted from your pay over the course of the year.

2. What happens to contributions made to the Plan?

Before each Plan Year begins, you will select the benefits you want and how much of the contributions should go toward each benefit. It is very important that you make these choices carefully based on what you expect to spend on each covered benefit or expense during the Plan Year. Later, they will be used to pay for the expenses as they arise during the Plan Year.

3. When must I decide which accounts I want to use?

You are required by Federal law to decide before the Plan Year begins, during the election period (defined below). You must decide two things. First, which benefits you want and, second, how much should go toward each benefit.

If you are already covered by any of the insured benefits offered by this Plan, you will automatically become a Participant to the extent of the premiums for such insurance unless you elect, during the election period (defined below), not to participate in the Plan.

4. When is the election period for our Plan?

You will make your initial election on or before your entry date. (You should review Section I on Eligibility to better understand the eligibility requirements and entry date.) Then, for each following Plan Year, the election period is established by the Administrator and applied uniformly to all Participants. It will normally be a period of time prior to the beginning of each Plan Year. The Administrator will inform you each year about the election period. (See the Article entitled "General Information About Our Plan" for the definition of Plan Year.)

5. May I change my elections during the Plan Year?

Generally, you cannot change the elections you have made after the beginning of the Plan Year. However, there are certain limited situations when you can change your elections. You are permitted to change elections if you have a "change in status" and you make an election change that is consistent with the change in status. Currently, Federal law considers the following events to be a change in status:

-- Marriage, divorce, death of a spouse, legal separation or annulment;

-- Change in the number of dependents, including birth, adoption, placement for adoption, or death of a dependent;

-- Any of the following events for you, your spouse or dependent: termination or commencement of employment, a strike or lockout, commencement or return from an unpaid leave of absence, a change in worksite, or any other change in employment status that affects eligibility for benefits;

-- One of your dependents satisfies or ceases to satisfy the requirements for coverage due to change in age, student status, or any similar circumstance; and

-- A change in the place of residence of you, your spouse or dependent that would lead to a change in status, such as moving out of a coverage area for insurance.

In addition, if you are participating in the Dependent Care Flexible Spending Account, then there is a change in status if your dependent no longer meets the qualifications to be eligible for dependent care.

There are detailed rules on when a change in election is deemed to be consistent with a change in status. In addition, there are laws that give you rights to change health coverage for you, your spouse, or your dependents. If you change coverage due to rights you have under the law, then you can make a corresponding change in your elections under the Plan. If any of these conditions apply to you, you should contact the Administrator.

If the cost of a benefit provided under the Plan increases or decreases during a Plan Year, then we will automatically increase or decrease, as the case may be, your salary redirection election. If the cost increases significantly, you will be permitted to either make corresponding changes in your payments or revoke your election and obtain coverage under another benefit package option with similar coverage, or revoke your election entirely.

If the coverage under a Benefit is significantly curtailed or ceases during a Plan Year, then you may revoke your elections and elect to receive on a prospective basis coverage under another plan with similar coverage. In addition, if we add a new coverage option or eliminate an existing option, you may elect the newly-added option (or elect another option if an option has been eliminated) and make corresponding election changes to other options providing similar coverage. If you are not a Participant, you may elect to join the Plan. There are also certain situations when you may be able to change your elections on account of a change under the plan of your spouse's, former spouse's or dependent's employer.

These rules on change due to cost or coverage do not apply to the Health Flexible Spending Account, and you may not change your election to the Health Flexible Spending Account if you make a change due to cost or coverage for insurance.

You may not change your election under the Dependent Care Flexible Spending Account if the cost change is imposed by a dependent care provider who is your relative.

6. May I make new elections in future Plan Years?

Yes, you may. For each new Plan Year, you may change the elections that you previously made. You may also choose not to participate in the Plan for the upcoming Plan Year. If you do not make new elections during the election period before a new Plan Year begins, we will assume you want your elections for insured or self-funded benefits only to remain the same and you will not be considered a Participant for the non-insured benefit options under the Plan for the upcoming Plan Year.

IV BENEFITS

1. What benefits are offered under the Plan?

Under our Plan, you can choose to receive your entire compensation or use a portion to pay for the following benefits or expenses during the year.

2. Health Flexible Spending Account

The Health Flexible Spending Account enables you to pay for expenses allowed under Sections 105 and 213(d) of the Internal Revenue Code which are not covered by our medical plan and save taxes at the same time. The Health Flexible Spending Account allows you to be reimbursed by the Employer for expenses incurred by you and your dependents.

Drug costs, including insulin, may be reimbursed.

You may be reimbursed for "over the counter" drugs only if those drugs are prescribed for you. You may not, however, be reimbursed for the cost of other health care coverage maintained outside of the Plan, or for long-term care expenses. A list of covered expenses is available from the Administrator.

The most that you can contribute to your Health Flexible Spending Account each Plan Year is \$5,000. The Plan will limit the maximum salary reduction permitted under Code Section 125 as of October 1, 2013 to \$2,500. In order to be reimbursed for a health care expense, you must submit to the Administrator an itemized bill from the service provider. We may provide you with the option to elect a debit card to use to pay for medical expenses. The Administrator will provide you with further details. Amounts reimbursed from the Plan may not be claimed as a deduction on your personal income tax return. Reimbursement from the fund shall be paid at least once a month. Expenses under this Plan are treated as being "incurred" when you are provided with the care that gives rise to the expenses, not when you are formally billed or charged, or you pay for the medical care.

You may be reimbursed for expenses for any child until the end of the calendar year in which the child reaches age 26. A child is a natural child, stepchild, foster child, adopted child, or a child placed with you for adoption. If a child gains or regains eligibility due to these new rules, that qualifies as a change in status to change coverage.

Newborns' and Mothers' Health Protection Act: Group health plans generally may not, under Federal law, restrict benefits for any hospital length of stay in connection with childbirth for the mother or newborn child to less than 48 hours following a vaginal delivery, or less than 96 hours following a cesarean section. However, Federal law generally does not prohibit the mother's or newborn's attending provider, after consulting with the mother, from discharging the mother or her newborn earlier than 48 hours (or 96 hours as applicable). In any case, plans and issuers may not, under Federal law, require that a provider obtain authorization from the plan or the issuer for prescribing a length of stay not in excess of 48 hours (or 96 hours).

Women's Health and Cancer Rights Act: This plan, as required by the Women's Health and Cancer Rights Act of 1998, will reimburse up to plan limits for benefits for mastectomy-related services including reconstruction and surgery to achieve symmetry between the breasts, prostheses, and complications resulting from a mastectomy (including lymphedema). Contact your Plan Administrator for more information.

3. Dependent Care Flexible Spending Account

The Dependent Care Flexible Spending Account enables you to pay for out-of-pocket, work-related dependent day-care cost with pre-tax dollars. If you are married, you can use the account if you and your spouse both work or, in some situations, if your spouse goes to school full-time. Single employees can also use the account.

An eligible dependent is someone for whom you can claim expenses on Federal Income Tax Form 2441 "Credit for Child and Dependent Care Expenses." Children must be under age 13. Other dependents must be physically or mentally unable to care for themselves. Dependent Care arrangements which qualify include:

- (a) A Dependent (Day) Care Center, provided that if care is provided by the facility for more than six individuals, the facility complies with applicable state and local laws;
- (b) An Educational Institution for pre-school children. For older children, only expenses for non-school care are eligible; and
- (c) An "Individual" who provides care inside or outside your home: The "Individual" may not be a child of yours under age 19 or anyone you claim as a dependent for Federal tax purposes.

You should make sure that the dependent care expenses you are currently paying for qualify under our Plan.

The law places limits on the amount of money that can be paid to you in a calendar year from your Dependent Care Flexible Spending Account. Generally, your reimbursements may not exceed the lesser of: (a) \$5,000 (if you are married filing a joint return or you are head of a household) or \$2,500 (if you are married filing separate returns); (b) your taxable compensation; (c) your spouse's actual or deemed earned income (a spouse who is a full time student or incapable of caring for himself/herself has a monthly earned income of \$250 for one dependent or \$500 for two or more dependents).

Also, in order to have the reimbursements made to you from this account be excludable from your income, you must provide a statement from the service provider including the name, address, and in most cases, the taxpayer identification number of the service provider on your tax form for the year, as well as the amount of such expense as proof that the expense has been incurred. In addition, Federal tax laws permit a tax credit for certain dependent care expenses you may be paying for even if you are not a Participant in this Plan. You may save more money if you take advantage of this tax credit rather than using the Dependent Care Flexible Spending Account under our Plan. Ask your tax adviser which is better for you.

4. Premium Expense Account

A Premium Expense Account allows you to use tax-free dollars to pay for certain premium expenses under various insurance programs that we offer you. These premium expenses include:

- Health care premiums under our self-funded medical plan.
- Dental insurance premiums.
- Cancer insurance premiums.
- Vision insurance premiums.
- Other insurance coverage that we may provide.

Under our Plan, we will establish sub-accounts for you for each different type of coverage that is available. Also, certain limits on the amount of coverage may apply.

The Administrator may terminate or modify Plan benefits at any time, subject to the provisions of any contracts providing benefits described above. Also, your coverage will end when you leave employment, are no longer eligible under the terms of any coverage, or when coverage terminates.

Any benefits to be provided by insurance will be provided only after (1) you have provided the Administrator the necessary information to apply for insurance, and (2) the insurance is in effect for you.

If you cover your children up to age 26 under your insurance, you can pay for that coverage through the Plan.

V BENEFIT PAYMENTS

1. When will I receive payments from my accounts?

During the course of the Plan Year, you may submit requests for reimbursement of expenses you have incurred. Expenses are considered "incurred" when the service is performed, not necessarily when it is paid for. The Administrator will provide you with acceptable forms for submitting these requests for reimbursement. If the request qualifies as a benefit or expense that the Plan has agreed to pay, you will receive a reimbursement payment soon thereafter. Remember, these reimbursements which are made from the Plan are generally not subject to federal income tax or withholding. Nor are they subject to Social Security taxes. The provisions of the insurance contracts will control what benefits will be paid and when. You will only be reimbursed from the Dependent Care Flexible Spending Account to the extent that there are sufficient funds in the Account to cover your request.

2. What happens if I don't spend all Plan contributions during the Plan Year?

Any monies left at the end of the Plan Year will be forfeited. Obviously, qualifying expenses that you incur late in the Plan Year for which you seek reimbursement after the end of such Plan Year will be paid first before any amount is forfeited. For the Health Flexible Spending Account, you must submit claims no later than 75 days after the end of the Plan Year. For the Dependent Care Flexible Spending Account, you must submit claims no later than 75 days after the end of the Plan Year. Because it is possible that you might forfeit amounts in the Plan if you do not fully use the contributions that have been made, it is important that you decide how much to place in each account carefully and conservatively. Remember, you must decide which benefits you want to contribute to and how much to place in each account before the Plan Year begins. You want to be as certain as you can that the amount you decide to place in each account will be used up entirely.

3. Family and Medical Leave Act (FMLA)

If you take leave under the Family and Medical Leave Act, you may revoke or change your existing elections for health insurance and the Health Flexible Spending Account. If your coverage in these benefits terminates, due to your revocation of the benefit while on leave or due to your non-payment of contributions, you will be permitted to reinstate coverage for the remaining part of the Plan Year upon your return. For the Health Flexible Spending Account, you may continue your coverage or you may revoke your coverage and resume it when you return. You can resume your coverage at its original level and make payments for the time that you are on leave. For example, if you elect \$1,200 for the year and are out on leave for 3 months, then return and elect to resume your coverage at that level, your remaining payments will be increased to cover the difference - from \$100 per month to \$150 per month. Alternatively your maximum amount will be reduced proportionately for the time that you were gone. For example,

if you elect \$1,200 for the year and are out on leave for 3 months, your amount will be reduced to \$900. The expenses you incur during the time you are not in the Health Flexible Spending Account are not reimbursable.

If you continue your coverage during your unpaid leave, you may pre-pay for the coverage, you may pay for your coverage on an after-tax basis while you are on leave, or you and your Employer may arrange a schedule for you to "catch up" your payments when you return.

4. Uniformed Services Employment and Reemployment Rights Act (USERRA)

If you are going into or returning from military service, you may have special rights to health care coverage under your Health Flexible Spending Account under the Uniformed Services Employment and Reemployment Rights Act of 1994. These rights can include extended health care coverage. If you may be affected by this law, ask your Administrator for further details.

5. What happens if I terminate employment?

If you terminate employment during the Plan Year, your right to benefits will be determined in the following manner:

(a) You will remain covered by insurance, but only for the period for which premiums have been paid prior to your termination of employment.

(b) You will still be able to request reimbursement for qualifying dependent care expenses incurred prior to your date of termination from the balance remaining in your dependent care account at the time of termination of employment. However, no further salary redirection contributions will be made on your behalf after you terminate. You must submit claims within 75 days after termination.

(c) For health benefit coverage and Health Flexible Spending Account coverage on termination of employment, please see the Article entitled "Continuation Coverage Rights Under COBRA." Upon your termination of employment, your participation in the Health Flexible Spending Account will cease, and no further salary redirection contributions will be contributed on your behalf. However, you will be able to submit claims for health care expenses that were incurred before the end of the period for which payments to the Health Flexible Spending Account have already been made. Your further participation will be governed by "Continuation Coverage Rights Under COBRA."

6. Will my Social Security benefits be affected?

Your Social Security benefits may be slightly reduced because when you receive tax-free benefits under our Plan, it reduces the amount of contributions that you make to the Federal Social Security system as well as our contribution to Social Security on your behalf.

VI

HIGHLY COMPENSATED AND KEY EMPLOYEES

1. Do limitations apply to highly compensated employees?

Under the Internal Revenue Code, highly compensated employees and key employees generally are Participants who are officers, shareholders or highly paid. You will be notified by the Administrator each Plan Year whether you are a highly compensated employee or a key employee.

If you are within these categories, the amount of contributions and benefits for you may be limited so that the Plan as a whole does not unfairly favor those who are highly paid, their spouses or their dependents. Federal tax laws state that a plan will be considered to unfairly favor the key employees if they as a group receive more than 25% of all of the nontaxable benefits provided for under our Plan.

Plan experience will dictate whether contribution limitations on highly compensated employees or key employees will apply. You will be notified of these limitations if you are affected.

VII PLAN ACCOUNTING

1. Periodic Statements

Upon request, the Administrator will provide you with a statement of your account that shows your account balance. It is important to read these statements carefully so you understand the balance remaining to pay for a benefit. Remember, you want to spend all the money you have designated for a particular benefit by the end of the Plan Year.

VIII GENERAL INFORMATION ABOUT OUR PLAN

This Section contains certain general information which you may need to know about the Plan.

1. General Plan Information

City of Temple Flexible Benefits Plan is the name of the Plan.

Your Employer has assigned Plan Number 501 to your Plan.

The provisions of your amended Plan become effective on October 1, 2012. Your Plan was originally effective on October 1, 2011.

Your Plan's records are maintained on a twelve-month period of time. This is known as the Plan Year. The Plan Year begins on October 1st and ends on September 30th.

2. Employer Information

Your Employer's name, address, and identification number are:

City of Temple
2 North Main Street, Suite 209
Temple, Texas 76501
74-6002368

3. Plan Administrator Information

The name, address and business telephone number of your Plan's Administrator are:

City of Temple
2 North Main Street, Suite 209
Temple, Texas 76501
(254)298-5652

The Administrator keeps the records for the Plan and is responsible for the administration of the Plan. The Administrator will also answer any questions you may have about our Plan. You may contact the Administrator for any further information about the Plan.

4. Service of Legal Process

The name and address of the Plan's agent for service of legal process are:

City of Temple
2 North Main Street, Suite 209
Temple, Texas 76501

5. Type of Administration

The type of Administration is Employer Administration.

6. Claims Submission

Claims for expenses should be submitted to:

National Benefit Services, LLC
P.O. Box 6980
West Jordan, Utah 84084

IX ADDITIONAL PLAN INFORMATION

1. Claims Process

You should submit all reimbursement claims during the Plan Year. For the Health Flexible Spending Account, you must submit claims no later than 75 days after the end of the Plan Year. However, if you terminate employment during the Plan Year, you must submit your Health Flexible Spending Account claims within 75 days after your termination of employment. For the Dependent Care Flexible Spending Account, you must submit claims no later than 75 days after the end of the Plan Year. However, if you terminate employment during the Plan Year, you must submit your Dependent Care Flexible Spending Account claims within 75 days after your termination of employment. Any claims submitted after that time will not be considered.

Claims that are insured or self-funded will be handled in accordance with procedures contained in the insurance policies or contracts. All other general requests should be directed to the Administrator of our Plan. If a dependent care or medical expense claim under the Plan is denied in whole or in part, you or your beneficiary will receive written notification. The notification will include the reasons for the denial, with reference to the specific provisions of the Plan on which the denial was based, a description of any additional information needed

to process the claim and an explanation of the claims review procedure. Within 60 days after denial, you or your beneficiary may submit a written request for reconsideration of the denial to the Administrator.

Any such request should be accompanied by documents or records in support of your appeal. You or your beneficiary may review pertinent documents and submit issues and comments in writing. The Administrator will review the claim and provide, within 60 days, a written response to the appeal. (This period may be extended an additional 60 days under certain circumstances.) In this response, the Administrator will explain the reason for the decision, with specific reference to the provisions of the Plan on which the decision is based. The Administrator has the exclusive right to interpret the appropriate plan provisions. Decisions of the Administrator are conclusive and binding.

X

CONTINUATION COVERAGE RIGHTS UNDER COBRA

Under federal law, the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA), certain employees and their families covered under health benefits under this Plan will be entitled to the opportunity to elect a temporary extension of health coverage (called "COBRA continuation coverage") where coverage under the Plan would otherwise end. This notice is intended to inform Plan Participants and beneficiaries, in summary fashion, of their rights and obligations under the continuation coverage provisions of COBRA, as amended and reflected in final and proposed regulations published by the Department of the Treasury. This notice is intended to reflect the law and does not grant or take away any rights under the law.

The Plan Administrator or its designee is responsible for administering COBRA continuation coverage. Complete instructions on COBRA, as well as election forms and other information, will be provided by the Plan Administrator or its designee to Plan Participants who become Qualified Beneficiaries under COBRA. While the Plan itself is not a group health plan, it does provide health benefits. Whenever "Plan" is used in this section, it means any of the health benefits under this Plan including the Health Flexible Spending Account.

1. What is COBRA continuation coverage?

COBRA continuation coverage is the temporary extension of group health plan coverage that must be offered to certain Plan Participants and their eligible family members (called "Qualified Beneficiaries") at group rates. The right to COBRA continuation coverage is triggered by the occurrence of a life event that results in the loss of coverage under the terms of the Plan (the "Qualifying Event"). The coverage must be identical to the coverage that the Qualified Beneficiary had immediately before the Qualifying Event, or if the coverage has been changed, the coverage must be identical to the coverage provided to similarly situated active employees who have not experienced a Qualifying Event (in other words, similarly situated non-COBRA beneficiaries).

2. Who can become a Qualified Beneficiary?

In general, a Qualified Beneficiary can be:

(a) Any individual who, on the day before a Qualifying Event, is covered under a Plan by virtue of being on that day either a covered Employee, the Spouse of a covered Employee, or a Dependent child of a covered Employee. If, however, an individual who otherwise qualifies as a Qualified Beneficiary is denied or not offered coverage under the Plan under circumstances in which the denial or failure to offer constitutes a violation of applicable law, then the individual will be considered to have had the coverage and will be considered a Qualified Beneficiary if that individual experiences a Qualifying Event.

(b) Any child who is born to or placed for adoption with a covered Employee during a period of COBRA continuation coverage, and any individual who is covered by the Plan as an alternate recipient under a

qualified medical support order. If, however, an individual who otherwise qualifies as a Qualified Beneficiary is denied or not offered coverage under the Plan under circumstances in which the denial or failure to offer constitutes a violation of applicable law, then the individual will be considered to have had the coverage and will be considered a Qualified Beneficiary if that individual experiences a Qualifying Event.

The term "covered Employee" includes any individual who is provided coverage under the Plan due to his or her performance of services for the employer sponsoring the Plan. However, this provision does not establish eligibility of these individuals. Eligibility for Plan coverage shall be determined in accordance with Plan Eligibility provisions.

An individual is not a Qualified Beneficiary if the individual's status as a covered Employee is attributable to a period in which the individual was a nonresident alien who received from the individual's Employer no earned income that constituted income from sources within the United States. If, on account of the preceding reason, an individual is not a Qualified Beneficiary, then a Spouse or Dependent child of the individual will also not be considered a Qualified Beneficiary by virtue of the relationship to the individual. A domestic partner is not a Qualified Beneficiary.

Each Qualified Beneficiary (including a child who is born to or placed for adoption with a covered Employee during a period of COBRA continuation coverage) must be offered the opportunity to make an independent election to receive COBRA continuation coverage.

3. What is a Qualifying Event?

A Qualifying Event is any of the following if the Plan provided that the Plan participant would lose coverage (i.e., cease to be covered under the same terms and conditions as in effect immediately before the Qualifying Event) in the absence of COBRA continuation coverage:

- (a) The death of a covered Employee.
- (b) The termination (other than by reason of the Employee's gross misconduct), or reduction of hours, of a covered Employee's employment.
- (c) The divorce or legal separation of a covered Employee from the Employee's Spouse. If the Employee reduces or eliminates the Employee's Spouse's Plan coverage in anticipation of a divorce or legal separation, and a divorce or legal separation later occurs, then the divorce or legal separation may be considered a Qualifying Event even though the Spouse's coverage was reduced or eliminated before the divorce or legal separation.
- (d) A covered Employee's enrollment in any part of the Medicare program.
- (e) A Dependent child's ceasing to satisfy the Plan's requirements for a Dependent child (for example, attainment of the maximum age for dependency under the Plan).

If the Qualifying Event causes the covered Employee, or the covered Spouse or a Dependent child of the covered Employee, to cease to be covered under the Plan under the same terms and conditions as in effect immediately before the Qualifying Event, the persons losing such coverage become Qualified Beneficiaries under COBRA if all the other conditions of COBRA are also met. For example, any increase in contribution that must be paid by a covered Employee, or the Spouse, or a Dependent child of the covered Employee, for coverage under the Plan that results from the occurrence of one of the events listed above is a loss of coverage.

The taking of leave under the Family and Medical Leave Act of 1993 ("FMLA") does not constitute a Qualifying Event. A Qualifying Event will occur, however, if an Employee does not return to employment at the end of the FMLA leave and all other COBRA continuation coverage conditions are present. If a Qualifying Event occurs, it occurs on the last day of FMLA leave and the applicable maximum coverage period is measured from this date (unless coverage is lost at a later date and the Plan provides for the extension of the required periods, in which case the maximum coverage date is measured from the date when the coverage is lost.) Note that the covered Employee and family members will be entitled to COBRA continuation coverage even if they failed to pay the employee portion of premiums for coverage under the Plan during the FMLA leave.

4. What factors should be considered when determining to elect COBRA continuation coverage?

You should take into account that a failure to continue your group health coverage will affect your rights under federal law. First, you can lose the right to avoid having pre-existing condition exclusions applied by other group health plans if there is more than a 63-day gap in health coverage and election of COBRA continuation coverage may help you avoid such a gap. Second, if you do not elect COBRA continuation coverage and pay the appropriate premiums for the maximum time available to you, you will lose the right to convert to an individual health insurance policy, which does not impose such pre-existing condition exclusions. Finally, you should take into account that you have special enrollment rights under federal law (HIPAA). You have the right to request special enrollment in another group health plan for which you are otherwise eligible (such as a plan sponsored by your Spouse's employer) within 30 days after Plan coverage ends due to a Qualifying Event listed above. You will also have the same special right at the end of COBRA continuation coverage if you get COBRA continuation coverage for the maximum time available to you.

5. What is the procedure for obtaining COBRA continuation coverage?

The Plan has conditioned the availability of COBRA continuation coverage upon the timely election of such coverage. An election is timely if it is made during the election period.

6. What is the election period and how long must it last?

The election period is the time period within which the Qualified Beneficiary must elect COBRA continuation coverage under the Plan. The election period must begin no later than the date the Qualified Beneficiary would lose coverage on account of the Qualifying Event and ends 60 days after the later of the date the Qualified Beneficiary would lose coverage on account of the Qualifying Event or the date notice is provided to the Qualified Beneficiary of her or his right to elect COBRA continuation coverage. If coverage is not elected within the 60 day period, all rights to elect COBRA continuation coverage are forfeited.

Note: If a covered Employee who has been terminated or experienced a reduction of hours qualifies for a trade readjustment allowance or alternative trade adjustment assistance under a federal law called the Trade Act of 2002, and the employee and his or her covered dependents have not elected COBRA coverage within the normal election period, a second opportunity to elect COBRA coverage will be made available for themselves and certain family members, but only within a limited period of 60 days or less and only during the six months immediately after their group health plan coverage ended. Any person who qualifies or thinks that he or she and/or his or her family members may qualify for assistance under this special provision should contact the Plan Administrator or its designee for further information.

The Trade Act of 2002 also created a tax credit for certain TAA-eligible individuals and for certain retired employees who are receiving pension payments from the Pension Benefit Guaranty Corporation (PBGC) (eligible individuals). Under the new tax provisions, eligible individuals can either take a tax credit or get advance payment of a part of the premiums paid for qualified health insurance, including continuation coverage. If you have questions about these new tax provisions, you may call the Health Coverage Tax Credit Consumer Contact

Center toll-free at 1-866-628-4282. TTD/TTY callers may call toll-free at 1-866-626-4282. More information about the Trade Act is also available at www.doleta.gov/tradeact.

7. Is a covered Employee or Qualified Beneficiary responsible for informing the Plan Administrator of the occurrence of a Qualifying Event?

The Plan will offer COBRA continuation coverage to Qualified Beneficiaries only after the Plan Administrator or its designee has been timely notified that a Qualifying Event has occurred. The Employer (if the Employer is not the Plan Administrator) will notify the Plan Administrator or its designee of the Qualifying Event within 30 days following the date coverage ends when the Qualifying Event is:

- (a) the end of employment or reduction of hours of employment,
- (b) death of the employee,
- (c) commencement of a proceeding in bankruptcy with respect to the Employer, or
- (d) entitlement of the employee to any part of Medicare.

IMPORTANT:

For the other Qualifying Events (divorce or legal separation of the employee and spouse or a dependent child's losing eligibility for coverage as a dependent child), you or someone on your behalf must notify the Plan Administrator or its designee in writing within 60 days after the Qualifying Event occurs, using the procedures specified below. If these procedures are not followed or if the notice is not provided in writing to the Plan Administrator or its designee during the 60-day notice period, any spouse or dependent child who loses coverage will not be offered the option to elect continuation coverage. You must send this notice to the Plan Administrator or its designee.

NOTICE PROCEDURES:

Any notice that you provide must be ***in writing***. Oral notice, including notice by telephone, is not acceptable. You must mail, fax or hand-deliver your notice to the person, department or firm listed below, at the following address:

City of Temple
2 North Main Street, Suite 209
Temple, Texas 76501

If mailed, your notice must be postmarked no later than the last day of the required notice period. Any notice you provide must state:

- the **name of the plan or plans** under which you lost or are losing coverage,
- the **name and address of the employee** covered under the plan,
- the **name(s) and address(es) of the Qualified Beneficiary(ies)**, and
- the **Qualifying Event** and the **date** it happened.

If the Qualifying Event is a **divorce or legal separation**, your notice must include a **copy of the divorce decree or the legal separation agreement**.

Be aware that there are other notice requirements in other contexts, for example, in order to qualify for a disability extension.

Once the Plan Administrator or its designee receives *timely notice* that a Qualifying Event has occurred, COBRA continuation coverage will be offered to each of the qualified beneficiaries. Each Qualified Beneficiary will have an independent right to elect COBRA continuation coverage. Covered employees may elect COBRA continuation coverage for their spouses, and parents may elect COBRA continuation coverage on behalf of their children. For each Qualified Beneficiary who elects COBRA continuation coverage, COBRA continuation coverage will begin on the date that plan coverage would otherwise have been lost. If you or your spouse or dependent children do not elect continuation coverage within the 60-day election period described above, the right to elect continuation coverage will be lost.

8. Is a waiver before the end of the election period effective to end a Qualified Beneficiary's election rights?

If, during the election period, a Qualified Beneficiary waives COBRA continuation coverage, the waiver can be revoked at any time before the end of the election period. Revocation of the waiver is an election of COBRA continuation coverage. However, if a waiver is later revoked, coverage need not be provided retroactively (that is, from the date of the loss of coverage until the waiver is revoked). Waivers and revocations of waivers are considered made on the date they are sent to the Plan Administrator or its designee, as applicable.

9. Is COBRA coverage available if a Qualified Beneficiary has other group health plan coverage or Medicare?

Qualified Beneficiaries who are entitled to elect COBRA continuation coverage may do so even if they are covered under another group health plan or are entitled to Medicare benefits on or before the date on which COBRA is elected. However, a Qualified Beneficiary's COBRA coverage will terminate automatically if, after electing COBRA, he or she becomes entitled to Medicare or becomes covered under other group health plan coverage (but only after any applicable preexisting condition exclusions of that other plan have been exhausted or satisfied).

10. When may a Qualified Beneficiary's COBRA continuation coverage be terminated?

During the election period, a Qualified Beneficiary may waive COBRA continuation coverage. Except for an interruption of coverage in connection with a waiver, COBRA continuation coverage that has been elected for a Qualified Beneficiary must extend for at least the period beginning on the date of the Qualifying Event and ending not before the earliest of the following dates:

- (a) The last day of the applicable maximum coverage period.
- (b) The first day for which Timely Payment is not made to the Plan with respect to the Qualified Beneficiary.
- (c) The date upon which the Employer ceases to provide any group health plan (including a successor plan) to any employee.
- (d) The date, after the date of the election, that the Qualified Beneficiary first becomes covered under any other Plan that does not contain any exclusion or limitation with respect to any pre-existing condition, other than such an exclusion or limitation that does not apply to, or is satisfied by, the Qualified Beneficiary.
- (e) The date, after the date of the election, that the Qualified Beneficiary first becomes entitled to Medicare (either part A or part B, whichever occurs earlier).

(f) In the case of a Qualified Beneficiary entitled to a disability extension, the later of:

(1) (i) 29 months after the date of the Qualifying Event, or (ii) the first day of the month that is more than 30 days after the date of a final determination under Title II or XVI of the Social Security Act that the disabled Qualified Beneficiary whose disability resulted in the Qualified Beneficiary's entitlement to the disability extension is no longer disabled, whichever is earlier; or

(2) the end of the maximum coverage period that applies to the Qualified Beneficiary without regard to the disability extension.

The Plan can terminate for cause the coverage of a Qualified Beneficiary on the same basis that the Plan terminates for cause the coverage of similarly situated non-COBRA beneficiaries, for example, for the submission of a fraudulent claim.

In the case of an individual who is not a Qualified Beneficiary and who is receiving coverage under the Plan solely because of the individual's relationship to a Qualified Beneficiary, if the Plan's obligation to make COBRA continuation coverage available to the Qualified Beneficiary ceases, the Plan is not obligated to make coverage available to the individual who is not a Qualified Beneficiary.

11. What are the maximum coverage periods for COBRA continuation coverage?

The maximum coverage periods are based on the type of the Qualifying Event and the status of the Qualified Beneficiary, as shown below.

(a) In the case of a Qualifying Event that is a termination of employment or reduction of hours of employment, the maximum coverage period ends 18 months after the Qualifying Event if there is not a disability extension and 29 months after the Qualifying Event if there is a disability extension.

(b) In the case of a covered Employee's enrollment in the Medicare program before experiencing a Qualifying Event that is a termination of employment or reduction of hours of employment, the maximum coverage period for Qualified Beneficiaries ends on the later of:

(1) 36 months after the date the covered Employee becomes enrolled in the Medicare program. This extension does not apply to the covered Employee; or

(2) 18 months (or 29 months, if there is a disability extension) after the date of the covered Employee's termination of employment or reduction of hours of employment.

(c) In the case of a Qualified Beneficiary who is a child born to or placed for adoption with a covered Employee during a period of COBRA continuation coverage, the maximum coverage period is the maximum coverage period applicable to the Qualifying Event giving rise to the period of COBRA continuation coverage during which the child was born or placed for adoption.

(d) In the case of any other Qualifying Event than that described above, the maximum coverage period ends 36 months after the Qualifying Event.

12. Under what circumstances can the maximum coverage period be expanded?

If a Qualifying Event that gives rise to an 18-month or 29-month maximum coverage period is followed, within that 18- or 29-month period, by a second Qualifying Event that gives rise to a 36-months maximum coverage period, the original period is expanded to 36 months, but only for individuals who are Qualified

Beneficiaries at the time of and with respect to both Qualifying Events. In no circumstance can the COBRA maximum coverage period be expanded to more than 36 months after the date of the first Qualifying Event. The Plan Administrator must be notified of the second qualifying event within 60 days of the second qualifying event. This notice must be sent to the Plan Administrator or its designee in accordance with the procedures above.

13. How does a Qualified Beneficiary become entitled to a disability extension?

A disability extension will be granted if an individual (whether or not the covered Employee) who is a Qualified Beneficiary in connection with the Qualifying Event that is a termination or reduction of hours of a covered Employee's employment, is determined under Title II or XVI of the Social Security Act to have been disabled at any time during the first 60 days of COBRA continuation coverage. To qualify for the disability extension, the Qualified Beneficiary must also provide the Plan Administrator with notice of the disability determination on a date that is both within 60 days after the date of the determination and before the end of the original 18-month maximum coverage. This notice must be sent to the Plan Administrator or its designee in accordance with the procedures above.

14. Does the Plan require payment for COBRA continuation coverage?

For any period of COBRA continuation coverage under the Plan, Qualified Beneficiaries who elect COBRA continuation coverage may be required to pay up to 102% of the applicable premium and up to 150% of the applicable premium for any expanded period of COBRA continuation coverage covering a disabled Qualified Beneficiary due to a disability extension. Your Plan Administrator will inform you of the cost. The Plan will terminate a Qualified Beneficiary's COBRA continuation coverage as of the first day of any period for which timely payment is not made.

15. Must the Plan allow payment for COBRA continuation coverage to be made in monthly installments?

Yes. The Plan is also permitted to allow for payment at other intervals.

16. What is Timely Payment for COBRA continuation coverage?

Timely Payment means a payment made no later than 30 days after the first day of the coverage period. Payment that is made to the Plan by a later date is also considered Timely Payment if either under the terms of the Plan, covered Employees or Qualified Beneficiaries are allowed until that later date to pay for their coverage for the period or under the terms of an arrangement between the Employer and the entity that provides Plan benefits on the Employer's behalf, the Employer is allowed until that later date to pay for coverage of similarly situated non-COBRA beneficiaries for the period.

Notwithstanding the above paragraph, the Plan does not require payment for any period of COBRA continuation coverage for a Qualified Beneficiary earlier than 45 days after the date on which the election of COBRA continuation coverage is made for that Qualified Beneficiary. Payment is considered made on the date on which it is postmarked to the Plan.

If Timely Payment is made to the Plan in an amount that is not significantly less than the amount the Plan requires to be paid for a period of coverage, then the amount paid will be deemed to satisfy the Plan's requirement for the amount to be paid, unless the Plan notifies the Qualified Beneficiary of the amount of the deficiency and grants a reasonable period of time for payment of the deficiency to be made. A "reasonable period of time" is 30 days after the notice is provided. A shortfall in a Timely Payment is not significant if it is no greater than the lesser of \$50 or 10% of the required amount.

17. Must a Qualified Beneficiary be given the right to enroll in a conversion health plan at the end of the maximum coverage period for COBRA continuation coverage?

If a Qualified Beneficiary's COBRA continuation coverage under a group health plan ends as a result of the expiration of the applicable maximum coverage period, the Plan will, during the 180-day period that ends on that expiration date, provide the Qualified Beneficiary with the option of enrolling under a conversion health plan if such an option is otherwise generally available to similarly situated non-COBRA beneficiaries under the Plan. If such a conversion option is not otherwise generally available, it need not be made available to Qualified Beneficiaries.

18. How is my participation in the Health Flexible Spending Account affected?

You can elect to continue your participation in the Health Flexible Spending Account for the remainder of the Plan Year, subject to the following conditions. You may only continue to participate in the Health Flexible Spending Account if you have elected to contribute more money than you have taken out in claims. For example, if you elected to contribute an annual amount of \$500 and, at the time you terminate employment, you have contributed \$300 but only claimed \$150, you may elect to continue coverage under the Health Flexible Spending Account. If you elect to continue coverage, then you would be able to continue to receive your health reimbursements up to the \$500. However, you must continue to pay for the coverage, just as the money has been taken out of your paycheck, but on an after-tax basis. The Plan can also charge you an extra amount (as explained above for other health benefits) to provide this benefit.

IF YOU HAVE QUESTIONS

If you have questions about your COBRA continuation coverage, you should contact the Plan Administrator or its designee. For more information about your rights under ERISA, including COBRA, the Health Insurance Portability and Accountability Act (HIPAA), and other laws affecting group health plans, contact the nearest Regional or District Office of the U.S. Department of Labor's Employee Benefits Security Administration (EBSA). Addresses and phone numbers of Regional and District EBSA Offices are available through EBSA's website at www.dol.gov/ebsa.

KEEP YOUR PLAN ADMINISTRATOR INFORMED OF ADDRESS CHANGES

In order to protect your family's rights, you should keep the Plan Administrator informed of any changes in the addresses of family members. You should also keep a copy, for your records, of any notices you send to the Plan Administrator or its designee.

**XI
SUMMARY**

The money you earn is important to you and your family. You need it to pay your bills, enjoy recreational activities and save for the future. Our flexible benefits plan will help you keep more of the money you earn by lowering the amount of taxes you pay. The Plan is the result of our continuing efforts to find ways to help you get the most for your earnings.

If you have any questions, please contact the Administrator.

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, APPROVING THE CITY'S SECTION 125 CAFETERIA PLAN AND AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT WITH FINANCIAL BENEFITS SERVICES FOR VOLUNTARY SUPPLEMENTAL INSURANCES, AND A SUBCONTRACT WITH NATIONAL BENEFITS SERVICES FOR FLEXIBLE SPENDING ACCOUNT MANAGEMENT, BOTH FOR THE PURPOSE OF ADMINISTRATION OF THE CITY'S 125 CAFETERIA PLAN; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, the City provides voluntary supplemental insurances and flexible spending accounts to eligible employees in accordance with Section 125 of the Internal Revenue Code;

Whereas, on June 26, 2012, the City received thirteen proposals for providing City employees with voluntary supplemental insurances and flexible spending account management;

Whereas, the proposals were reviewed by staff and the City's benefits consultant who unanimously recommended that the City enter into a contract with Financial Benefits Services (FBS) for voluntary supplemental insurances, and enter into a contract with FBS's subcontractor, with National Benefits Services (NBS), for flexible spending account management;

Whereas, the City and FBS/NBS have negotiated a Section 125 Cafeteria Plan regarding the administration of voluntary supplemental insurances and flexible spending account management, at no cost to the City for these services, with an effective date of October 1, 2012, and staff recommends that the City approve the Section 125 Cafeteria Plan; and

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

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

Part 1: The City Council approves the Section 125 Cafeteria Plan, attached hereto as Exhibit A, for the administration of voluntary supplemental insurances and flexible spending account management, with an effective date of October 1, 2012.

Part 2: The City Council authorizes the City Manager to execute a contract with FBS for voluntary supplemental insurance, and a contract with NBS for flexible spending account management; both for the purpose of administration of the City's Section 125 Cafeteria Plan.

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

PASSED AND APPROVED this the **1st** day of **November**, 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

11/01/12
Item #6(E)
Consent Agenda
Page 1 of 2

DEPT./DIVISION SUBMISSION & REVIEW:

Autumn Speer, Director of Planning and Development

ITEM DESCRIPTION: Consider adopting a resolution authorizing a developer participation agreement with Scott & White for reimbursement of cost for constructing 10' wide sidewalks at Scott and White Clinic, 6684 FM 2305 in an amount not to exceed \$7,376.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: The City's subdivision ordinance requires the developer to install sidewalks along collector, minor arterials, and arterial streets as identified in the City's Thoroughfare Plan. The ordinance provides that the City will reimburse the developer for 100% of the cost of sidewalks where sidewalks are installed along arterial roadways for residential development. Such reimbursement is accomplished through a Participation Agreement.

Also, the City's Trails Master Plan identifies numerous trails that are located adjacent to collector, minor arterials, and arterial streets. As a way of accomplishing the Plan, an oversize participation agreement can be utilized to pay the difference between the required sidewalk width and the desired width for combined sidewalks/trails.

Below is a summary of a development that staff recommends for Participation Agreement:

Scott and White is constructing an approximately 321 foot long, 10 foot wide sidewalk /trail in accordance with plans approved by the City along West Adams Avenue at 6684 W. Adams Avenue, beginning at the far northeastern portion of the tract adjacent to West Adams Avenue and ending at the far southeastern portion of the tract adjacent to West Adams Avenue. A six foot wide sidewalk is required as part of the commercial development and the location is also the site of a Citywide Spine Trail which is 10-12' in width.

Under the City's cost sharing ordinance, Section 8.2.3 of the Unified Development Code, Developer understands that the City is paying 40% (oversize only) of the cost of the Project. The developer has submitted total cost estimates in the amount of \$18,440 for the project. The staff from the engineering office has reviewed these costs and concurs that they are reasonable. The total reimbursement to the developer under the developer oversize participation agreement would not exceed \$7,376, if approved by the City Council.

FISCAL IMPACT: A budget adjustment is presented for Council's approval appropriating \$7,376 of General Fund Designated Capital Projects-Unallocated funds to account 351-3400-531-6315, project #100944 to fund the developer participation agreement with Scott & White. The City will be responsible for maintaining the improvements once they have been accepted.

ATTACHMENTS:

[Location Map](#)

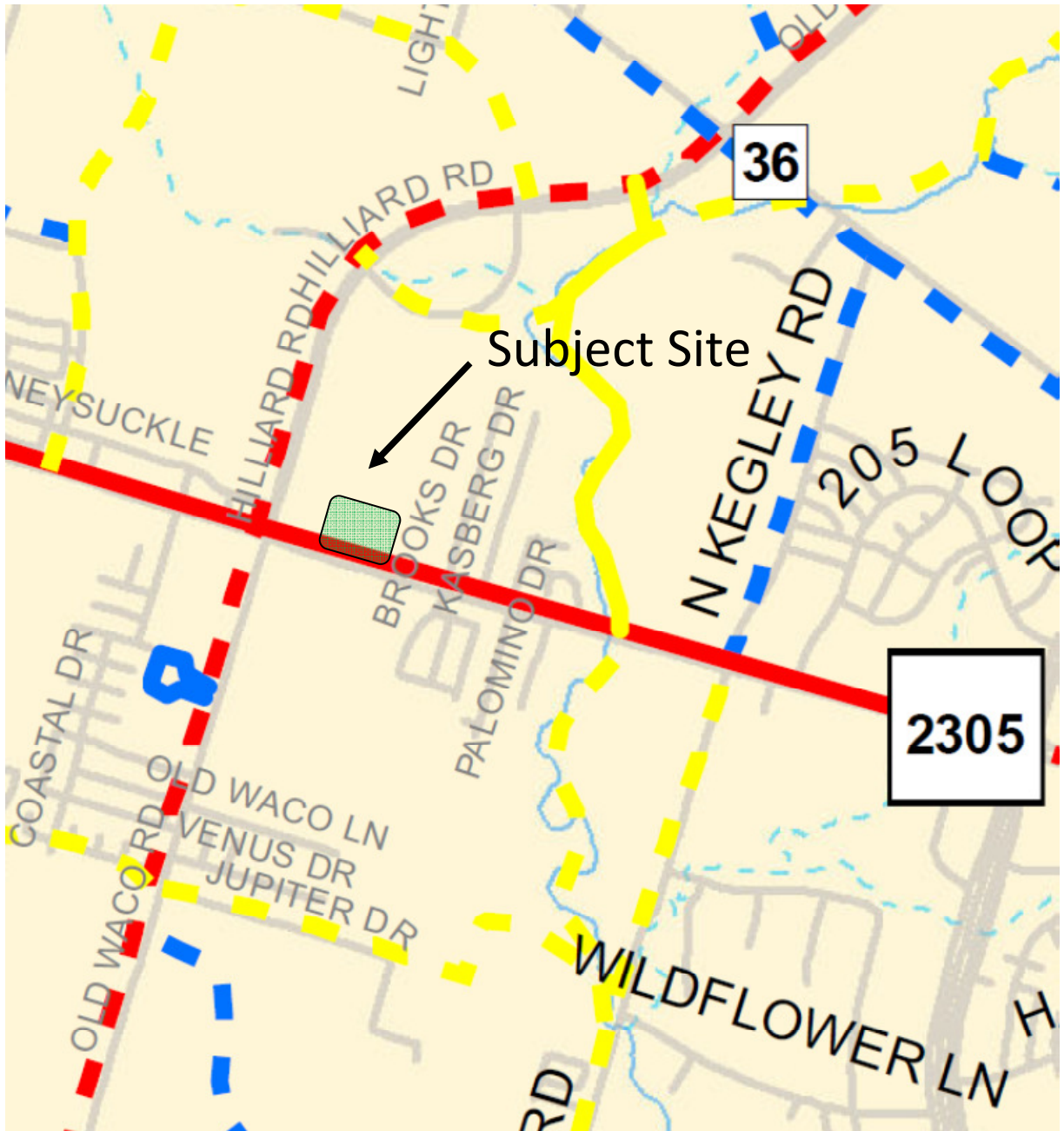
[Budget Adjustment](#)

[Resolution](#)

Location Map

Scott and White Clinic

Trails Master Plan



 Existing Citywide Spine Trail

Existing asphalt in deteriorated condition



2013

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
351-3400-531-63-15	100944	Buildings & Grounds-Sidewalk\Curb\Gutter	\$ 7,376		
351-0000-490-25-82		Transfer In	7,376		
110-9100-591-81-51		Transfer Out-Capital Projects	7,376		
110-0000-352-13-45		Designated for Cap. Proj/Unallocated			\$ 7,376
		<i>Do Not Post</i>			
TOTAL.....			\$ 22,128		\$ 7,376

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

This budget adjustment appropriates funds from General Fund-Designated Capital Projects- Unallocated to fund a developer participation agreement with Scott & White for reimbursement of cost for constructing 10' wide sidewalks at Scott & White Clinic located at 6684 FM 2305 in an amount not to exceed \$7,376.

DOES THIS REQUEST REQUIRE COUNCIL APPROVAL?

☒ Yes ☐ No

DATE OF COUNCIL MEETING

November 1, 2012

WITH AGENDA ITEM?

☒ Yes ☐ No

Department Head/Division Director

Date _____

<input type="checkbox"/>	Approved
<input type="checkbox"/>	Disapproved

Finance

Date _____

☐ Approved
☐ Disapproved

City Manager

Date _____

<input type="checkbox"/>	Approved
<input type="checkbox"/>	Disapproved

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING A DEVELOPER PARTICIPATION AGREEMENT WITH SCOTT & WHITE FOR THE SCOTT AND WHITE CLINIC AT 6684 FM 2305 TO REIMBURSE THE DEVELOPER FOR THE COST OF CONSTRUCTING SIDEWALKS, IN AN AMOUNT NOT TO EXCEED \$7,376; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, the City's subdivision ordinance requires the developer to install sidewalks along collector, minor arterial, and arterial streets as identified in the City's Thoroughfare Plan;

Whereas, the City's Trails Master Plan identifies numerous trails that are located adjacent to collector, minor arterial, and arterial streets. As a way of accomplishing the Plan, an oversize participation agreement can be utilized to pay the difference between the required sidewalk width and the desired width for combined sidewalks/trails.

Whereas, Scott and White is constructing an approximately 321 foot long, 10 foot wide sidewalk/trail in accordance with plans approved by the City along west Adams Avenue at 6684 West Adams Avenue – a 6 foot wide sidewalk is required as part of the commercial development;

Whereas, under the City's cost sharing ordinance, Section 8.2.3 of the Unified Development Code, developer understands that the City is paying 40% of the cost of the project for 10' wide sidewalks in order to meet the additional width requirements for the citywide spine trail;

Whereas, the developer has submitted total costs estimates in the amount of \$18,440 for the project and staff has reviewed these costs and believes these costs to be reasonable – the total reimbursement to the developer under this agreement would not exceed \$7,376;

Whereas, funds are available for this reimbursement in Account No. 341-3400-531-6315, but an amendment to the FY2012-13 budget needs to be approved to transfer the funds to the appropriate expenditure account; and

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

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

Part 1: The City Council authorizes the City Manager, or his designee, to execute a developer participation agreement with Scott & White for the Scott and White Clinic, after approval as to form by the City Attorney, to reimburse the developer for 40% of the cost of the sidewalks at 6684 FM 2305, in an amount not to exceed \$7,376.

Part 2: The City Council approves an amendment to the FY201213 budget, substantially in the form of the copy attached as Exhibit A, for this purpose.

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

PASSED AND APPROVED this the **1st** day of **November**, 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

11/01/12
Item #6(F1-2)
Consent Agenda
Page 1 of 1

DEPT./DIVISION SUBMISSION & REVIEW:

Belinda Mattke, Director of Purchasing
Alan DeLoera, Director of Information Technology

ITEM DESCRIPTION: Consider adopting a resolution authorizing the following:

1. An interlocal agreement with Bell County, Texas to allow for the utilization of a fiber installation and maintenance service contract between Bell County and JC Communications of Leander; and
2. Execution of an annual service contract with JC Communications of Leander for fiber installation and maintenance services.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: In September 2012, the County of Bell, Texas ("Bell County") solicited proposals for fiber installation and maintenance services for Bell County's Technology Services Department. On September 24, 2012, the County Commissioners Court awarded the contract to JC Communications of Leander, Texas, with predefined rates for services that can be provided. Bell County's contract with JC Communications is for a period of one (1) year with the option for four (4) one-year extensions.

The City's Information Technology Department is recommending that the City utilize Bell County's contract with JC Communications for some fiber relocation services that are currently needed in the area of the old Police Facility. Pricing under Bell County's contract for the old Police Facility project at hand is less than \$25,000; however, staff anticipates that they may use this contract for other needs that may come up throughout the year that will take the annual expenditure under this contract over \$25,000.

FISCAL IMPACT: Funding for projects performed under this contract will be identified as projects arise.

ATTACHMENTS:

[Resolution](#)

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING THE CITY MANAGER TO ENTER INTO AN INTERLOCAL AGREEMENT WITH BELL COUNTY, TEXAS, TO ALLOW FOR THE UTILIZATION OF A FIBER INSTALLATION AND MAINTENANCE SERVICES CONTRACT WITH JC COMMUNICATIONS OF LEANDER, TEXAS, AND AUTHORIZING AN ANNUAL SERVICES CONTRACT WITH JC COMMUNICATIONS OF LEANDER, TEXAS FOR FIBER INSTALLATION AND MAINTENANCE SERVICES; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, in September 2012, Bell County solicited proposals for fiber installation and maintenance services for Bell County's Technology Services Department - on September 24, 2012, the County Commissioners Court awarded the contract to JC Communications of Leander, Texas, with predefined rates for services that can be provided;

Whereas, the City's Information Technology Department is recommending that the City utilize Bell County's contract with JC Communications for fiber relocation services that are currently needed in the area of the old Police Facility;

Whereas, pricing under Bell County's contract for the old Police Facility project is less than \$25,000; however, staff anticipates that they may use this contract for other needs that may come up throughout the year;

Whereas, staff recommends entering into an interlocal agreement with Bell County to allow for the utilization of a fiber installation and maintenance services contract with JC Communications of Leander, Texas and authorize an annual services contract with JC Communications of Leander, Texas for fiber installation and maintenance services; 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 Manager, or his designee, is authorized to execute an Interlocal Agreement with Bell County to allow for the utilization of a fiber installation and maintenance services contract with JC Communications of Leander, Texas and authorize an annual services contract with JC Communications of Leander, Texas for fiber installation and maintenance services.

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

PASSED AND APPROVED this the **1st** day of **November**, 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

11/01/12
Item #6(G)
Consent Agenda
Page 1 of 1

DEPT./DIVISION SUBMISSION & REVIEW:

Belinda Mattke, Director of Purchasing

ITEM DESCRIPTION: Consider adopting a resolution authorizing a master intergovernmental cooperative purchasing agreement with National Intergovernmental Purchasing Alliance Company to enable the City to utilize competitive awarded solicitations through principal procurement agencies of National IPA.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: National IPA is a cooperative purchasing organization that has partnered with principal procurement agencies throughout the United States. Some of the principal procurement agencies are as follows: City of Tucson, Arizona; City of Fort Worth, Texas; City of San Diego, California; State of Florida; County of Maricopa, Arizona; City of Las Vegas, Nevada; County of McHenry, Illinois; City of Rochester Hills, Michigan; County of Allegheny, Pennsylvania; County of San Diego, California; and Public Schools of Norfolk, Virginia.

National IPA provides marketing and administrative support that in essence drives prices down on contracts due to the national sales volume that contractors/vendors can achieve through the award of a contract. In fact, State law encourages participation in cooperatives to eliminate duplication of efforts, thereby saving taxpayers' dollars.

It is staff's desire to initially utilize a National IPA contract that has been awarded to CDW-G, an information technology solutions vendor.

FISCAL IMPACT: There is no membership fee for the City to utilize purchasing agreements available through National IPA.

ATTACHMENTS:

[Resolution](#)

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING A MASTER INTERGOVERNMENTAL COOPERATIVE PURCHASING AGREEMENT WITH NATIONAL INTERGOVERNMENTAL PURCHASING ALLIANCE COMPANY ENABLING THE CITY TO UTILIZE COMPETITIVE AWARDED SOLICITATIONS THROUGH PRINCIPAL PROCUREMENT AGENCIES; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, National Intergovernmental Purchasing Agency Company is a cooperative purchasing organization that has partnered with principal procurement agencies throughout the United States;

Whereas, National IPA provides marketing and administrative support that drives prices down on contracts due to the national sales volume that contractors/vendors can achieve through the award of a contract;

Whereas, Staff recommends utilizing a master intergovernmental cooperative purchasing agreement with National Intergovernmental Purchasing Alliance; 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 authorize a master intergovernmental cooperative purchasing agreement with National Intergovernmental Purchasing Agency Company, after approval as to form by the City Attorney.

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

PASSED AND APPROVED this the **1st** day of **November**, 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

11/01/12
Item #6(H)
Consent Agenda
Page 1 of 1

DEPT./DIVISION SUBMISSION & REVIEW:

Jonathan Graham, City Attorney

ITEM DESCRIPTION: Consider adopting a resolution authorizing a Donation Agreement between the City of Temple and the Temple Lion's Club Parks, Inc. for the construction of additional sidewalks and the expansion of the parking lot at the Gober House.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

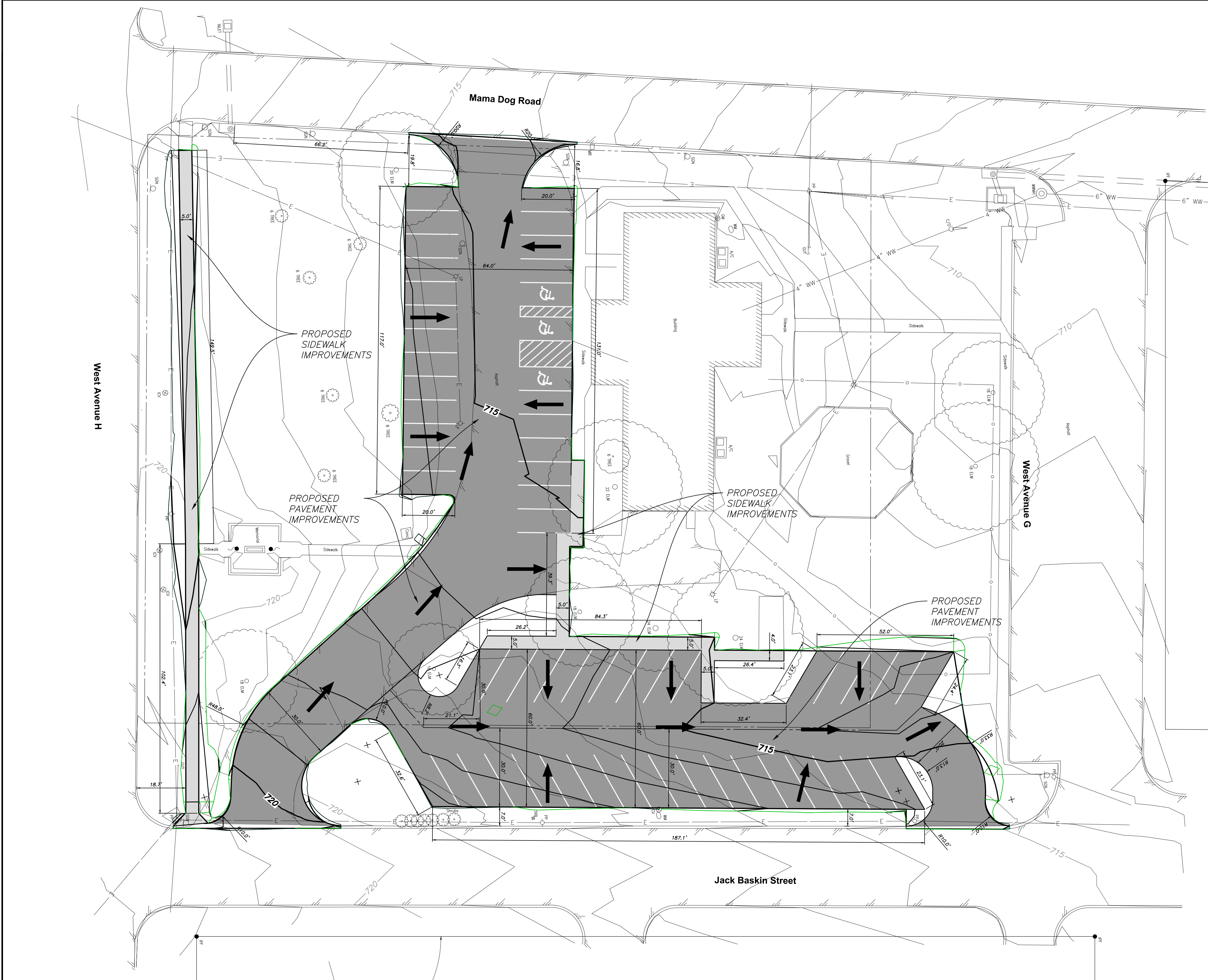
ITEM SUMMARY: The Temple Lion's Club Parks, Inc. (the "Lion's Club") has offered to pay for the construction of additional sidewalks and the expansion of the parking lot at the Gober House. The work is estimated to cost \$60,640. The Lion's Club and the City wish to enter into a "Donation Agreement" which will set forth the responsibilities of each party as it relates to this construction project. The Lion's Club agrees, among other things, that it will hire a qualified, experienced contractor to perform the work and that it will coordinate the work with the City. The City agrees that it will inspect the work after construction and maintain the improvements. The City greatly appreciates this generous donation.

FISCAL IMPACT: The City will recognize the value of the donation, currently estimated at \$60,640 and will be responsible for maintaining the improvements after construction.

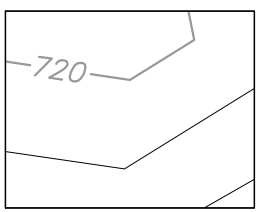
ATTACHMENTS:

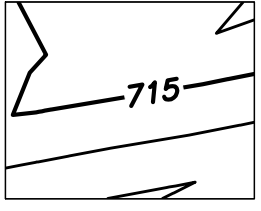
[Site Plan](#)
[Resolution](#)


P:\Temple\2012\Development\Gober House\gober parking.dwg





LEGEND

 EXISTING CONTOUR

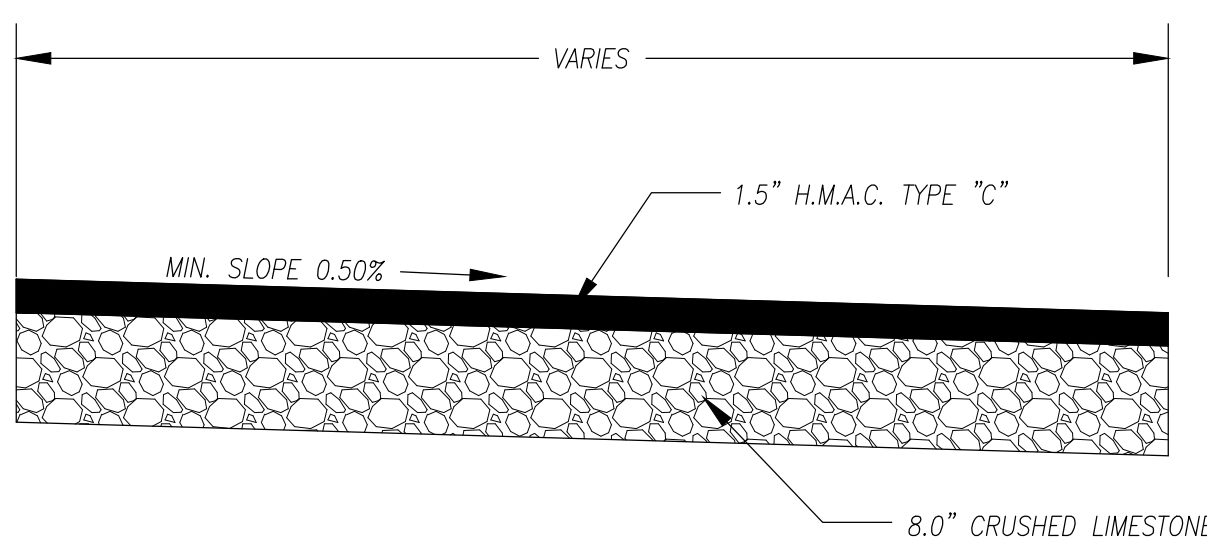
 PROPOSED CONTOUR

 FLOW ARROW





HORIZONTAL SCALE IN FEET



TYPICAL PAVEMENT SECTION
NOT TO SCALE

NO.	DATE	REVISION	BY
1	Apr 09, 2012	Plot Date: 2012-08-55am Plotted By: FTG	

PROJECT NO.	XXXX-XXX
DRAWN BY	Fabian T. Gomez
DESIGNED BY	Alvin R. Sutton III, P.E.
APPROVED BY	
DATE	

This document is released for the purpose of interim review under the authority of Alvin R. Sutton P.E. 96530 01
Apr 09, 2012
It is not to be used for construction, bidding or permit purposes.

 **KASBERG, PATRICK & ASSOCIATES, LP**
CONSULTING ENGINEERS
TEMPLE, TEXAS 76501

CITY OF TEMPLE, TEXAS
GOBER PARTY HOUSE
PARKING LOT AND SIDEWALK IMPROVEMENTS

LAYOUT

SHEET NO. **01**

OF **01**

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING A DONATION AGREEMENT BETWEEN THE CITY OF TEMPLE AND THE TEMPLE LION'S CLUB PARKS, INC., FOR THE CONSTRUCTION OF ADDITIONAL SIDEWALKS AND THE EXPANSION OF THE PARKING LOT AT THE GOBER HOUSE; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, the Temple Lion's Club Parks, Inc., has offered to pay for the construction of additional sidewalks and the expansion of the parking lot at the Gober House in an estimated amount of \$60,640;

Whereas, the Lion's Club and the City wish to enter into a "Donation Agreement" which sets forth the responsibilities of each party as it relates to this construction project;

Whereas, the Lion's Club agrees that it will hire a qualified and experienced contractor and the City agrees that it will inspect the work after construction and maintain any improvements; and

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

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

Part 1: The City Council authorizes a Donation Agreement between the City of Temple and the Temple Lion's Club Parks, Inc., after approval as to form by the City Attorney, for the construction of additional sidewalks and the expansion of the parking lot at the Gober House.

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

PASSED AND APPROVED this the **1st** day of **November**, 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

11/01/12
Item #6(I)
Consent Agenda
Page 1 of 1

DEPT./DIVISION SUBMISSION & REVIEW:

Sharon Rostovich, Airport Director

ITEM DESCRIPTION: Consider adopting a resolution establishing hangar rental rates at the Draughon-Miller Central Texas Regional Airport.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: The Airport Advisory Board unanimously recommended that the rental rates established 13 years ago by Resolution No. 99-2189-R on T-hangars be raised by \$20 per month from the current rate of \$125 to \$145 for 43 single hangars; from \$150 to \$170 for 9 older twin hangars; and from \$190 to \$210 for 20 newer twin hangars effective December 1, 2012.

Staff surveyed the following surrounding Airports: Killeen (\$199-\$221); Georgetown (\$173-\$259); McGregor (\$150-\$258); and Waco (\$110-\$132). These rates were compared to Temple's (\$125-\$190).

Staff concurs with the Airport Advisory Board's recommendation to raise rental rates on T-hangars. Temple's T-hangar rates have remained the same the past 13 years, yet the cost of doing business and maintenance expenses have increased.

FISCAL IMPACT: Annual Airport revenue will increase by \$17,280 based on 100% occupancy rate.

ATTACHMENTS:

[Resolution](#)

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, ESTABLISHING HANGAR RENTAL RATES AT THE DRAUGHON-MILLER CENTRAL TEXAS REGIONAL AIRPORT; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, the Airport Advisory Board unanimously recommended that the rental rates established 13 years ago by Resolution 99-2189-R on T-hangars be raised by \$20 per month from the current rate of \$125 to \$145 for 43 single hangars, from \$150 to \$170 for 9 older twin hangars, and from \$190 to \$210 for 20 newer twin hangars;

Whereas, Staff surveyed several surrounding airports and compared their rates to Temple's – staff concurs with the Airport Advisory Board's recommendation to raise rental rates on T-hangars, effective December 1, 2012; and

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

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

Part 1: The City Council establishes the T-hangar rental rates at the Draughon-Miller Central Texas Regional Airport, to be raised as follows: from \$125 to \$145 for 43 single hangars, from \$150 to \$170 for 9 older twin hangars, and from \$190 to \$210 for 20 newer twin hangars.

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

PASSED AND APPROVED this the **1st** day of **November**, 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

11/01/12
Item #6(J)
Consent Agenda
Page 1 of 2

DEPT./DIVISION SUBMISSION & REVIEW:

Sharon Rostovich, Airport Director

ITEM DESCRIPTION: Consider adopting a resolution authorizing an airport lease agreement with Kachemak Bay Flying Service, Inc. of Killeen for the lease of a 7,590 square foot airport hangar for the purpose of providing rotary wing flight services and overnight aircraft storage at a rental rate to the City of \$1,000 per month.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: On October 2, 2012, the City received three (3) proposals for a 7,590 square foot hangar lease along with providing transient aircraft parking services at the Draughon-Miller Central Texas Regional Airport. The three (3) companies submitting proposals were as follows: Kachemak Bay Flying Service, Inc., Killeen; Central Texas Flight Training, Harker Heights; and Medical Jets International, LLC, Temple

An evaluation committee was formed to evaluate the proposals with representation from the Airport Advisory Board, Finance, Legal, City Manager's Office and the Airport. The Committee determined KBFS best met the Airport's needs and service level requirements, in addition to proposing the highest rental rate to the City for the use of the hangar space. KBFS is a wholly owned subsidiary of System Studies and Simulation, Inc. (S³), and KBFS currently leases office and hangar space from Summit Aviation at the airport. KBFS is anticipating that they will use the hangar as a focal point for aviation training and commercial aviation operations while providing transient aircraft parking services with the following expanded services: (1) rotary and fixed wing flight training, (2) DoD aircraft maintenance training, and (3) line services, including aircraft transport services and preflight prep services.

Staff is recommending a two year lease commencing December 1, 2012, at the rental rate of \$1,000 per month with two (2) additional one year renewal options if agreeable by KBFS and the City.

FISCAL IMPACT: The Airport will receive \$12,000 annually in rental revenue. In addition to the rental revenue, the Airport will benefit from increased aircraft traffic and fuel sales plus providing a much needed service to our visiting customers with overnight aircraft storage.

ATTACHMENTS:

[Resolution](#)

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING AN AIRPORT LEASE AGREEMENT WITH KACHEMAK BAY FLYING SERVICE, INC., OF KILLEEN, TEXAS, AT THE DRAUGHON-MILLER CENTRAL TEXAS REGIONAL AIRPORT, FOR THE PURPOSE OF PROVIDING ROTARY WING FLIGHT SERVICES AND OVERNIGHT AIRCRAFT STORAGE; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, on October 2, 2012, the City received three (3) proposals for a 7,590 square foot hangar lease along with providing transient aircraft parking services at the Draughon-Miller Central Texas Regional Airport;

Whereas, an evaluation committee was formed to evaluate the proposals with and the Committee determined Kachemak Bay Flying Service, Inc. best met the Airport's needs and service level requirements;

Whereas, Kachemak Bay Flying Service, Inc. currently leases office and hangar space from Summit Aviation at the airport and it is anticipated that they will use the hangar as a focal point for aviation training and commercial aviation operations while providing transient aircraft parking services with the following expanded services: (1) rotary and fixed wing flight training, (2) DoD aircraft maintenance training, and (3) line services, including aircraft transport services and preflight prep services.

Whereas, staff is recommending a two year lease commencing December 1, 2012, at the rental rate of \$1,000 per month with two (2) additional one year renewal options if agreeable by Kachemak Bay Flying Service, Inc. and the City; and

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

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

Part 1: The City Council authorizes the City Manager, or his designee, to execute a lease with Kachemak Bay Flying Service, Inc., of Killeen, Texas, after approval as to form by the City Attorney, for the purpose of providing rotary wing flight services and overnight aircraft storage at the Draughon-Miller Central Texas Regional Airport.

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

PASSED AND APPROVED this the 1st day of **November**, 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

11/01/12
Item #7
Regular Agenda
Page 1 of 2

DEPT./DIVISION SUBMISSION & REVIEW:

Traci L. Barnard, Director of Finance

ITEM DESCRIPTION: FIRST READING - PUBLIC HEARING: Consider adopting an ordinance authorizing an amendment the Tax Increment Financing Reinvestment Zone No. 1 Financing and Project Plans in FY 2013 to appropriate \$200,560 to the South 1st Street Improvements from the Temple College Apartments to Avenue O Project by reallocating funds from Public Improvements in the North Zone.

STAFF RECOMMENDATION: Conduct public hearing and adopt ordinance as presented in item description, on first reading and schedule second reading and final adoption for November 15, 2012.

ITEM SUMMARY: The Reinvestment Zone No. 1 Board met on October 24, 2012, to recommend to Council an amendment to the Financing and Project Plans. The detail for the required amendment is shown below.

South 1st Street Improvements from the Temple College Apartments to Avenue O, Line 458 (Project Plan):

A proposal has been submitted by Kasberg, Patrick & Associates, LP for preliminary design services related to the South 1st Street Improvements from the Temple College Apartments to Avenue O in the amount of \$200,560. The current Project Plan has no funding for this project.

A Financing Plan amendment is presented to allocate \$200,560 in FY 2013 for the preliminary design related to the project by reallocating funding from Line 110, Public Improvements in North Zone.

FISCAL IMPACT: The proposed amendment reallocates funding within the FY 2013 Financing/Project Plans on Lines 110 and Line 458 as described above.

There will be no change to the previously reported unreserved fund balance at the end of FY 2013 of \$1,287,834.

ATTACHMENTS:

Financing Plan

Summary Financing Plan with Detailed Project Plan
Ordinance

FINANCING PLAN

DESCRIPTION					Y/E 9/30/16	Y/E 9/30/17	Y/E 9/30/18	Y/E 9/30/19	Y/E 9/30/20	Y/E 9/30/21	Y/E 9/30/22	
Revised FY 2012					Year 34	Year 35	Year 36	Year 37	Year 38	Year 39	Year 40	
Year 30												
Year 31												
Year 32												
Year 33												
1	"Taxable Increment"	\$ 132,020,000	\$ 156,026,934	\$ 159,277,807	\$ 161,870,437	\$ 217,546,203	\$ 234,478,622	\$ 241,197,997	\$ 243,609,977	\$ 246,046,077	\$ 248,506,538	\$ 277,685,093
1	FUND BALANCE, Begin	\$ 7,979,748	\$ 831,621	\$ 1,287,834	\$ 1,115,658	\$ 1,144,402	\$ 816,972	\$ 925,643	\$ 1,143,800	\$ 1,092,429	\$ 986,706	\$ 910,053
2	Adjustments to Debt Service Reserve	462,707	1,761,865	1,765,643	-	-	-	-	-	-	-	-
3	Fund Balance Available for Appropriation	\$ 8,442,455	\$ 2,593,486	\$ 3,053,477	\$ 1,115,658	\$ 1,144,402	\$ 816,972	\$ 925,643	\$ 1,143,800	\$ 1,092,429	\$ 986,706	\$ 910,053
SOURCES OF FUNDS:												
4	Tax Revenues	4,569,378	4,859,099	4,926,519	4,986,268	6,580,402	7,052,323	7,162,797	7,221,518	7,280,825	7,340,724	7,723,762
6	Allowance for Uncollected Taxes	(115,655)	(72,886)	(73,898)	(74,794)	(98,706)	(105,785)	(107,442)	(108,323)	(109,212)	(110,111)	(115,856)
8	Interest Income-Other	50,000	50,000	50,000	50,000	50,000	50,000	50,000	40,000	40,000	30,000	10,000
10	Grant Funds	300,000	50,000	-	-	-	-	-	-	-	-	-
12	License Fee - Central Texas Railway	36,000	36,000	36,000	36,000	36,000	36,000	36,000	36,000	36,000	36,000	36,000
14	Other Revenues	205,250	400,000	-	-	-	-	-	-	-	-	-
16	P.I.L.O.T.	1,300,000	-	-	-	-	-	-	-	-	-	-
20	Total Sources of Funds	\$ 6,344,973	\$ 5,322,213	\$ 4,938,621	\$ 4,997,474	\$ 6,567,696	\$ 7,032,538	\$ 7,141,355	\$ 7,189,195	\$ 7,247,613	\$ 7,296,613	\$ 7,653,906
25	TOTAL AVAILABLE FOR APPROPRIATION	\$ 14,787,428	\$ 7,915,699	\$ 7,992,098	\$ 6,113,132	\$ 7,712,098	\$ 7,849,510	\$ 8,066,998	\$ 8,332,996	\$ 8,340,042	\$ 8,283,319	\$ 8,563,959
USE OF FUNDS:												
DEBT SERVICE												
26	2003 Bond Issue {\$11.740}	598,590	619,200	-	-	-	-	-	-	-	-	-
27	2008 Bond Issue {\$16.010 mil}	-	-	-	-	-	-	-	-	-	-	-
28	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	-	-	-
29	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	1,242,422
30	Debt Service - 2011A Issue {Refunding}	447,100	399,900	914,900	914,450	913,550	912,200	908,350	915,950	2,497,800	2,497,550	2,494,950
31	Debt Service - 2012 Issue {Refunding}	13,779	17,700	17,700	17,700	82,700	76,400	79,600	77,650	80,050	77,250	78,750
32	Issuance Costs	186,113	-	-	-	-	-	-	-	-	-	-
33	Refunding Bonds Proceeds	(11,925,708)	-	-	-	-	-	-	-	-	-	-
34	Payment to Refunding Bond Agent	11,748,312	-	-	-	-	-	-	-	-	-	-
35	Paying Agent Services	1,200	1,200	1,200	1,200	1,200	1,200	1,200	1,200	1,200	1,200	1,200
40	Subtotal-Debt Service	3,784,990	3,752,210	3,654,264	3,672,352	3,747,079	3,740,046	3,719,857	3,720,973	3,816,794	3,817,670	3,817,322
OPERATING EXPENDITURES												
50	Prof Svcs/Proj Mgmt	205,250	175,000	175,000	175,000	175,000	175,000	175,000	175,000	175,000	175,000	175,000
52	Legal/Audit	1,200	1,200	1,200	1,200	1,200	1,300	1,300	1,300	1,300	1,300	1,400
54	Zone Park Maintenance [mowing, utilities, botanical supplies]	150,000	150,000	150,000	150,000	150,000	150,000	150,000	150,000	150,000	150,000	150,000
54	Zone Park Maintenance [maintenance]	25,000	25,000	25,000	25,000	25,000	25,000	25,000	25,000	25,000	25,000	25,000
56	Rail Maintenance	274,575	100,000	100,000	100,000	100,000	100,000	100,000	100,000	100,000	100,000	100,000
58	Road/Signage Maintenance	158,826	100,000	100,000	100,000	100,000	100,000	100,000	100,000	100,000	100,000	100,000
60	Contractual Payments [TEDC - Marketing]	165,000	181,500	199,650	219,615	241,577	253,655	266,338	279,655	293,638	308,320	323,736
62	TISD-Reimbursement for expenses incurred for participation in Zone	25,000	25,000	25,000	26,250	26,250	26,250	27,563	27,563	27,563	28,941	28,941
65	Subtotal-Operating Expenditures	1,004,851	757,700	775,850	797,065	819,027	831,205	845,201	858,517	872,500	888,560	904,076
70	TOTAL DEBT & OPERATING EXPENDITURES	\$ 4,789,841	\$ 4,509,910	\$ 4,430,114	\$ 4,469,417	\$ 4,566,106	\$ 4,571,251	\$ 4,565,058	\$ 4,579,490	\$ 4,689,294	\$ 4,706,230	\$ 4,721,398
80	Funds Available for Projects	\$ 9,997,587	\$ 3,405,789	\$ 3,561,984	\$ 1,643,715	\$ 3,145,992	\$ 3,278,259	\$ 3,501,940	\$ 3,753,505	\$ 3,650,748	\$ 3,577,089	\$ 3,842,560
PROJECTS												
150	North Zone/Rail Park	58,800	49,440	250,000	250,000	-	-	-	-	-	-	-
200	Airport Park	125,000	337,840	-	-	-	-	-	-	-	-	-
250	Bio-Science Park	842,840	687,160	-	-	-	-	-	-	-	-	-
300	Outer Loop [from Wendland Rd to IH-35 North]	36,105	-	-	-	-	-	-	-	-	-	-
350	Northwest Loop 363 Improvements (TxDOT commitment)	899,350	-	-	-	-	-	-	-	-	-	-
400	Synergy Park	88,900	-	-	-	-	-	-	-	-	-	-
450	Downtown	692,227	242,955	246,326	249,313	329,020	352,616	358,140	361,076	364,041	367,036	386,188
500	TMED	4,401,823	700,560	1,950,000	-	-	-	-	-	-	-	-
501	Major Gateway Entrances	50,000	-	-	-	-	-	-	-	-	-	-
505	Airport Corporate Hangar Development/Improvements	1,970,921	100,000	-	-	-	-	-	-	-	-	-
600	Bond Contingency	-	-	-	-	-	-	-	-	-	-	-
610	Public Improvements	-	-	-	-	2,000,000	2,000,000	2,000,000	2,300,000	2,300,000	2,300,000	3,456,372
	Subtotal-Projects	9,165,966	2,117,955	2,446,326	499,313	2,329,020	2,352,616	2,358,140	2,661,076	2,664,041	2,667,036	3,842,560
TOTAL USE OF FUNDS					\$ 13,955,807	\$ 6,627,865	\$ 6,876,440	\$ 4,968,730	\$ 6,895,126	\$ 6,923,867	\$ 6,923,197	\$ 7,240,566
700	FUND BALANCE, End	\$ 831,621	\$ 1,287,834	\$ 1,115,658	\$ 1,144,402	\$ 816,972	\$ 925,643	\$ 1,143,800	\$ 1,092,429	\$ 986,706	\$ 910,053	\$ 0

Project Plan - 10/24/12 - to Zone Board

SUMMARY FINANCING PLAN				
	Revised FY 2012	FY 2013	FY 2014	FY 2015
1Beginning Available Fund Balance, Oct 1	\$ 7,979,748	\$ 831,621	\$ 1,287,834	\$ 1,115,658
20Total Sources of Funds	6,344,973	5,322,213	4,938,621	4,997,474
2Adjustments to Debt Service Reserve	462,707	1,761,865	1,765,643	-
25Net Available for Appropriation	14,787,428	7,915,699	7,992,098	6,113,132
50/52General Administrative Expenditures	206,450	176,200	176,200	176,200
54Zone Park Maintenance [mowing, utilities, botanical supplies]	150,000	150,000	150,000	150,000
54Zone Park Maintenance [maintenance]	25,000	25,000	25,000	25,000
56Rail Maintenance	274,575	100,000	100,000	100,000
58Road/Signage Maintenance	158,826	100,000	100,000	100,000
60Contractual Payments (TEDC - Marketing)	165,000	181,500	199,650	219,615
62TISD-Reimbursement for expenses incurred for participation in Zone	25,000	25,000	25,000	26,250
26Debt Service - 2003 Issue {\$11.740 mil}	598,590	619,200	-	-
27Debt Service - 2008 Issue {\$16.010 mil}	-	-	-	-
28Debt Service - 2009 Issue {Refunding}	1,473,669	1,474,569	1,479,969	1,499,769
29Debt Service - 2008 Taxable Issue {\$10.365 mil}	1,241,935	1,239,641	1,240,495	1,239,233
30Debt Service - 2011A Issue {Refunding}	447,100	399,900	914,900	914,450
31Debt Service - 2012 Issue {Refunding}	13,779	17,700	17,700	17,700
32Issuance Costs	186,113	-	-	-
33Refunding Bond Proceeds	(11,925,708)	-	-	-
34Payment to Refunding Bond Agent	11,748,312	-	-	-
35Paying Agent Services	1,200	1,200	1,200	1,200
70Total Debt & Operating Expenditures	4,789,841	4,509,910	4,430,114	4,469,417
80Funds Available for Projects	\$ 9,997,587	\$ 3,405,789	\$ 3,561,984	\$ 1,643,715

PROJECT PLAN				
	Revised FY 2012	FY 2013	FY 2014	FY 2015
NORTH ZONE/RAIL PARK (including Enterprise Park):				
100Railroad Spur Improvements	8,800	-	-	-
102Elm Creek Detention Pond	-	-	-	-
103ROW Acquisition - Public Improvements	-	-	-	-
104Extension of Rail Service	-	-	-	-
105BN Trans-Load NE Site Phase I - [\$850K total project cost]	-	-	-	-
106Wendland Road Improvements	-	-	-	-
107Wendland Property Roadway Phase I - [\$1.87M total project cost]	-	-	-	-
110Public Improvements in North Zone	50,000	49,440	250,000	250,000
150Total North Zone/Rail Park (including Enterprise Park)	58,800	49,440	250,000	250,000
AIRPORT PARK:				
151Airport Park Infrastructure Construction	-	-	-	-
155Pepper Creek Trail Extention Phase I - [\$750K total project cost]	125,000	337,840	-	-
200Total Airport Park	125,000	337,840	-	-
BIO-SCIENCE PARK:				
201Greenbelt Development along Pepper Creek	-	-	-	-
202Outer Loop Phase II (from Hwy 36 to FM 2305)	-	-	-	-
203Bio-Science Park Phase 1	-	-	-	-
204Pepper Creek Trail Connection to S&W	730,000	-	-	-
205Bioscience Park Service Road & Utility Extensions	112,840	687,160	-	-
250Total Bio-Science Park	842,840	687,160	-	-
300Outer Loop (from Wendland Rd to IH-35 North) - [\$15.5M total project cost]	36,105	-	-	-
350Northwest Loop 363 Improvements (TxDOT commitment)	899,350	-	-	-
SYNERGY PARK:				
351Lorraine Drive (Southeast Industrial Park) - [\$1.5M total project cost]	88,900	-	-	-
400Total Synergy Park	88,900	-	-	-
DOWNTOWN:				
401Downtown Improvements [1999 Ordinance]	604,077	242,955	246,326	249,313
402Rail Safety Zone Study	3,150	-	-	-
403Lot Identification & Signage	80,000	-	-	-
404Santa Fe Plaza Study	5,000	-	-	-
405Santa Fe Plaza Parking Lot - [\$1.3M total project cost]	-	-	-	-
450Total Downtown	692,227	242,955	246,326	249,313
TMED:				
451TMED - 1st Street @ Temple College - [\$2.9M total project cost]	466,633	-	-	-
452Master Plan Integration 2010	1,550	-	-	-
453Monumentation Identification Conceptual Design	1,617	-	-	-
454TMED - 1st Street @ Loop 363 Design/Construction - [\$2.5M city project cost]	624,920	-	1,950,000	-
455TMED - Friars Creek Trail 5th Street to S&W Blvd. - [\$1.9M total project cost - DOE Grant of \$400K]	1,495,453	-	-	-
456Avenue R - S&W Blvd, Ave R - 19th Intersections	1,535,500	500,000	-	-
457Ave U from S&W Blvd to 1st St & the 13th to 17th connector from Ave R to Loop 363	276,150	-	-	-
458South 1st Street Improvements from the Temple College Apartments to Ave O	-	200,560	-	-
500Total TMED	4,401,823	700,560	1,950,000	-
OTHER PROJECTS:				
501Gateway Entrance Projects	50,000	-	-	-
505Airport Corporate Hangar Development/Improvements	1,970,921	100,000	-	-
550Total Other Projects	2,020,921	100,000	-	-
600Undesignated Funding - Bonds	-	-	-	-
610Undesignated Funding - Public Improvements	-	-	-	-
Total Planned Project Expenditures	9,165,966	2,117,955	2,446,326	499,313
700Available Fund Balance at Year End	\$ 831,621	\$ 1,287,834	\$ 1,115,658	\$ 1,144,402

ORDINANCE NO. _____

AN ORDINANCE BY THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING AMENDMENTS TO THE TAX INCREMENT FINANCING REINVESTMENT ZONE NO. 1 FINANCING AND PROJECT PLANS IN FISCAL YEAR 2013 TO APPROPRIATE \$200,560 TO THE SOUTH FIRST STREET IMPROVEMENTS (FROM THE TEMPLE COLLEGE APARTMENTS TO THE AVENUE O) PROJECT BY REALLOCATING FUNDS FROM PUBLIC IMPROVEMENTS TO THE NORTH ZONE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; DECLARING FINDINGS OF FACT; AND PROVIDING AN OPEN MEETINGS CLAUSE.

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

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

September, 2007; Ordinance No. 2007-4173 on October 25, 2007; Ordinance No. 2008-4201 on the 21st day of February, 2008; and Ordinance No. 2008-4217 the 15th day of May, 2008; Ordinance No. 2008-4242 the 21st day of August, 2009; Ordinance No. 2009-4290 on the 16th day of April, 2009; Ordinance No. 2009-4294 on the 21st day of May, 2009; Ordinance No. 2009-4316 on the 17th day of September, 2009; Ordinance No. 2009-4320 on the 15th day of October, 2009; Ordinance No. 2010-4338 on the 18th day of February, 2010; Ordinance No. 2010-4371 on the 19th day of August, 2010; Ordinance No. 2010-4405 on November 4, 2010; Ordinance No. 2011-4429 on March 17, 2011; Ordinance No. 2011-4455 on July 21, 2011; Ordinance No. 2011-4477 on October 20, 2011; Ordinance No. 2012-4540 on June 21, 2012; and Ordinance No. 2012-4546 on July 19, 2012; Ordinance No. 2012-4554 on September 20, 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:

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

Part 2: Reinvestment Zone Financing and Project Plans. The 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 2012-2013 budget, a copy of which is attached hereto, as Exhibit C.

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

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

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

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

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

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

PASSED AND APPROVED on First Reading and Public Hearing on the **1st** day of **November**, 2012.

PASSED AND APPROVED on Second Reading on the **15th** day of **November**, 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

11/01/12
Item #8
Regular Agenda
Page 1 of 1

DEPT./DIVISION SUBMISSION & REVIEW:

Jonathan Graham, City Attorney

ITEM DESCRIPTION: Consider adopting a resolution authorizing the purchase of three tracts of land near the City of Temple's landfill.

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

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: The three tracts of land at issue are located in close proximity to the City's landfill. Acquisition of the properties is necessary for future landfill expansion. The sellers have proposed purchase prices which the City Staff feels are reasonable. We will provide additional information in executive session.

FISCAL IMPACT: Funding for the acquisition will be from the sale of the Certificate of Obligation Bonds- Taxable Series 2012 that were issued for the purpose of permitting, construction and other costs related to the expansion for the City's landfill including land acquisition. Funds are available in account 365-2300-540-61-10, project #100197.

ATTACHMENTS:

[Resolution](#)

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING THE PURCHASE OF THREE TRACTS OF LAND NEAR THE CITY OF TEMPLE'S LANDFILL; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, the three tracts of land at issue, outlined by the attached map marked as Exhibit A are located in close proximity to the City's landfill, and the City is interested in acquiring the property in anticipation of future expansion of the landfill;

Whereas, the sellers have proposed purchase prices which staff feels are reasonable and Staff recommends purchasing these tracts of land; and

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

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

Part 1: The City Council authorizes the purchase of two tracts of land near the City of Temple's landfill, specifically:

- a) an approximate 10 acre tract of land;
- b) an approximate 1 acre tract of land with house; and
- c) an approximate 2.86 acre tract of land

Part 2: The City Council authorizes the City Manager, or his designee, to execute any documents, after approval by the City Attorney, that may be necessary for the purchase of these parcels, including all closing documents.

Part 3: A statement of the maximum principal amount of debt expected to be issued for the purpose of paying the costs of the Project, are listed below:

Purchase Description

Debt To Be Issued

10 acre tract of land

\$ _____

1 acre tract of land with house

\$ _____

2.88 acre tract of land

\$ _____

Part 5: 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 **1st** day of **November**, 2012.

THE CITY OF TEMPLE, TEXAS

WILLIAM A. JONES, III, Mayor

ATTEST:

APPROVED AS TO FORM:

Lacy Borgeson
City Secretary

Jonathan Graham
City Attorney