



**MEETING OF THE
TEMPLE CITY COUNCIL**

MUNICIPAL BUILDING

2 NORTH MAIN STREET

3rd FLOOR – CONFERENCE ROOM

THURSDAY, FEBRUARY 7, 2013

3:30 P.M.

WORKSHOP AGENDA

1. Discuss, as may be needed, Regular Meeting agenda items for the meeting posted for Thursday, February 7, 2013.
2. Receive a City Council continuing education briefing on media relations.
3. Discuss zoning requirements for Social Services facilities.
4. Discuss a settlement agreement between the City of Temple and several defendants to resolve the lawsuit filed by the City related to construction of the City's Police Department facility and styled Cause Number 245-397-C, in the 169th Judicial District Court of Bell County, Texas.

Pursuant to Chapter 551 of the Texas Government Code, § 551.071 – Consultation with Attorney, the City Council will meet in executive session with the City Attorney to discuss pending and contemplated litigation.

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. Recognizing the City of Temple for receiving the Environmental Stewardship Award from Orion Lighting for the replacement of 541 light fixtures in seven city facilities.

III. PUBLIC APPEARANCES

4. Receive comments from [Mr. Christopher Simmons](#) regarding the City's ordinance regulating Tattooing.

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. REPORTS

5. (A) Receive the City of [Temple Comprehensive Annual Financial Report](#) for fiscal year ended September 30, 2012.

VI. CONSENT AGENDA

All items listed under this section, Consent Agenda, are considered to be routine by the City Council and may be enacted by one motion. If discussion is desired by the Council, any item may be removed from the Consent Agenda at the request of any Councilmember and will be considered separately.

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

Minutes

- (A) [January 17, 2013 Special Called and Regular Meeting](#)

Contracts, Leases, & Bids

- (B) [2013-6871-R](#): Consider adopting a resolution authorizing the purchase of a Kubota L4600F Tractor From Kubota Tractor Corporation utilizing the BuyBoard in the amount of \$29,085.
- (C) [2013-6872-R](#): Consider adopting a resolution ratifying the purchase of two module racks for the Membrane Water Treatment Plant from Pall Advanced Separation Systems of Cortland, NY, in the amount of \$464,024.
- (D) [2013-6873-R](#): Consider adopting a resolution authorizing a guaranteed maximum price construction contract with Vanguard Contractors, LP of Temple for renovations to the Municipal Building in an amount of \$296,632.
- (E) [2013-6874-R](#): Consider adopting a resolution authorizing a renewal lease agreement with Mary Ann Rojas, President of Job Source, for lease of space in the E. Rhodes and Leona B. Carpenter Foundation Building (the Temple Public Library).

Misc.

- (F) [2013-6875-R](#): Consider adopting a resolution accepting a \$5,000 Health Promotion & Chronic Disease Prevention Cardiovascular Tobacco Grant from the Texas Department of State Health Services and authorizing the City Manager to sign an agreement with DSHS accepting that grant.
- (G) [2013-6876-R](#): A-FY-13-09: Consider adopting a resolution for a partial release of an existing 20 foot-wide utility easement being defined as the east 10-foot portion of the easement located along the west (rear) property boundary of Lots 20 and 21, Block 9 of Temple Park Estates, a subdivision in Bell County, Texas, according to the plat of record in Cabinet A, Slide 295-C, Plat of Records of Bell County, Texas. The property is located in Temple's western E.T.J., at 13250 Marigold Trail.
- (H) [2013-6877-R](#): Consider adopting a resolution authorizing the City to convey property located at 302 South Main Street to the abutting property owner for fair market value.

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.

(I) Consider adopting resolutions:

- (1) [2013-6878-R](#): Ordering an election for May 11, 2013, for the election of the District 1 Councilmember, the District 4 Councilmember; and
- (2) [2013-6879-R](#): Ordering a Special Election for May 11, 2013 for the Mayor at-large to fill an unexpired term through May 2014; and
- (3) [2013-6880-R](#): Authorizing joint election agreements with the Temple Health & Bioscience Economic Development District and Temple Independent School District for the May 11, 2013 election.

(Spanish translation available for this item available upon request)
(Traducción al español de este artículo está disponible bajo petición)

(J) [2013-6881-R](#): Consider adopting a resolution authorizing budget amendments for fiscal year 2012-2013.

VII. REGULAR AGENDA

ORDINANCES

7. [2013-4575](#): FIRST READING – PUBLIC HEARING - Z-FY-13-07: Consider adopting an ordinance authorizing a rezoning from Planned Development – Office Two (PD-O2) district to General Retail (GR) district on 1.010 ± acres of land situated in the Maximo Moreno Survey, Abstract No.14, Bell County, Texas being a part of land described as Lot 2, Block 1, Country Lane Addition, Phase II, recorded in Cabinet D, Slide 196-B, plat records of Bell County, Texas, located at 1497 Country View Lane.
8. [2013-4576](#): FIRST READING - PUBLIC HEARING - Z-FY-13-08: Consider adopting an ordinance authorizing a Conditional Use Permit to allow an off-premise sign relocation closer than 1,500 feet from another off-premise sign at 1612 North General Bruce Drive.

RESOLUTIONS

9. [2013-6882-R](#): Consider adopting a resolution authorizing a settlement agreement between the City of Temple and several defendants to resolve the lawsuit filed by the City related to construction of the City's Police Department facility and styled Cause Number 245-397-C, in the 169th Judicial District Court of Bell County, Texas.

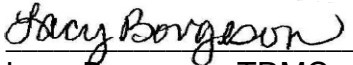
Pursuant to Chapter 551 of the Texas Government Code, § 551.071 – Consultation with Attorney, the City Council will meet in executive session with the City Attorney to discuss pending and contemplated litigation.

BOARD APPOINTMENTS

10. [2012-6595-R](#): Consider adopting a resolution appointing one alternate member to the Bell County Public Health District Board of Directors.
11. [2013-6870-R](#): Consider adopting a resolution appointing one member to fill an unexpired term as the Bell County representative, through September 1, 2013 on the Reinvestment Zone No. 1 Board of Directors.

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

I hereby certify that a true and correct copy of this Notice of Meeting was posted in a public place at 4:10 PM, on February 1, 2013.



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 _____ 2013. _____.



COUNCIL AGENDA ITEM MEMORANDUM

02/07/13
Item #3
Regular Agenda
Page 1 of 1

DEPT./DIVISION SUBMISSION & REVIEW:

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

ITEM DESCRIPTION: Recognizing the City of Temple for receiving the Environmental Stewardship Award from Orion Lighting for the replacement of 541 light fixtures in seven city facilities.

STAFF RECOMMENDATION: Receive recognition as presented in item description.

ITEM SUMMARY: The City of Temple received the Environmental Stewardship Award from Orion Lighting for the replacement of 541 light fixtures in seven (7) city facilities. The criteria for the award is the effort taken to promote and work towards energy efficiency. With the replacement of high watt light fixtures to low watt fixtures the City anticipates using significantly less energy and avoiding \$18,615 annually in operation costs.

FISCAL IMPACT: N/A

ATTACHMENTS:



COUNCIL AGENDA ITEM MEMORANDUM

02/07/13
Item #4
Regular Agenda
Page 1 of 1

DEPT./DIVISION SUBMISSION & REVIEW:

William A. Jones, III, Mayor

ITEM DESCRIPTION: Receive comments from Mr. Christopher Simmons regarding the City's ordinance regulating Tattooing.

STAFF RECOMMENDATION: Receive comments as presented in item description.

ITEM SUMMARY: Mr. Simmons filed a Request for Placement on the City Council Agenda, please see attached form.

FISCAL IMPACT: None

ATTACHMENTS:

[Request for placement on agenda](#)



CITY OF TEMPLE, TEXAS

CITY COUNCIL MEETINGS

REQUEST FOR PLACEMENT ON AGENDA

__Priority

NAME OF PRESENTER: Christopher Simmons

ADDRESS: 2710 Primrose Trl.

TELEPHONE NO. 254-541-7303

DATE REQUESTED TO APPEAR BEFORE THE COUNCIL: (Note – The City Council meets the first and third Thursdays of each month.) 2-7-13

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

The city ordinance Regarding Tattooing
needs to Be Revised to Protect the Health of the
population and the rights of the citizens.

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

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


SIGNATURE OF PRESENTER

1-24-13
DATE

For Office Use:



COUNCIL AGENDA ITEM MEMORANDUM

02/07/13
Item #5(A)
Regular Agenda
Page 1 of 2

DEPT./DIVISION SUBMISSION & REVIEW:

Traci L. Barnard, Director of Finance

ITEM DESCRIPTION: Receive the City of Temple Comprehensive Annual Financial Report for fiscal year ended September 30, 2012.

STAFF RECOMMENDATION: Receive the audit report as presented in item description.

ITEM SUMMARY: According to the City Charter of the City of Temple, an annual independent audit is required to be made of the financial records of the City by a Certified Public Accountant selected by the City Council. The City of Temple engaged the firm of Brockway, Gersbach, Franklin & Niemeier, P.C.

The City of Temple Comprehensive Annual Financial Report (CAFR) for fiscal year ending September 30, 2012, will be presented by Steve Niemeier, CPA. Mr. Niemeier is a partner with the accounting firm of Brockway, Gersbach, Franklin and Niemeier, P.C. and will be available to address the Council members' questions.

In the previous year's financial statements, the City implemented a dramatic change in governmental financial reporting. We believe this new presentation provides better information to users of the comprehensive annual financial report. The new reporting model issued by the Governmental Accounting Standards Board requires that the management provide a narrative introduction, overview, and analysis to accompany the basic financial statements in the form of Management's Discussion and Analysis (MD&A). The City's MD&A can be found immediately following the independent auditors' report.

The comprehensive annual financial report is presented in four sections: introductory, financial, statistical and compliance. The introductory section includes this transmittal letter, the City's organizational chart and a list of principal officials. The financial section includes the MD&A, Government-wide and Major Fund presentations, notes to the financial statements, Required Supplementary Information, Combining Individual Fund Statements, as well as the independent auditors' report on the financial statements and schedules. The statistical section includes selected financial and demographic information, generally presented on a multiyear basis.

FISCAL IMPACT: The fee for the FY 2012 annual audit is \$ 67,200. The audit fee is proportionally allocated to each fund.

ATTACHMENTS:

Audit - To be provided



COUNCIL AGENDA ITEM MEMORANDUM

02/07/13
Item #6(A)
Consent Agenda
Page 1 of 1

DEPT./DIVISION SUBMISSION & REVIEW:

Lacy Borgeson, City Secretary

ITEM DESCRIPTION: Approve Minutes:

(A) January 17, 2013 Special Called and Regular Meeting

STAFF RECOMMENDATION: Approve minutes as presented in item description.

ITEM SUMMARY: Copies of minutes are enclosed for Council review.

FISCAL IMPACT: N/A

ATTACHMENTS:

[January 17, 2013 Special Called and Regular Meeting](#)

TEMPLE CITY COUNCIL

JANUARY 17, 2013

The City Council of the City of Temple, Texas conducted a Special Meeting on Thursday, January 17, 2013 at 4:00 PM, at the Municipal Building, 2 North Main Street, in the 3rd Floor Conference Room.

Present:

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

1. Discuss, as may be needed, Regular Meeting agenda items for the meeting posted for Thursday, January 17, 2013.

Councilmember Cloud stated he will abstain from item 3(I) on the Consent Agenda.

Regular Agenda Item 4 - Ms. Speer reviewed the requested appeals, reduced parking, landscaping, signs, and architecture. Ms. Speer stated staff recommended approval of all appeals as submitted with the following conditions: 4' sidewalk be provided along the Gillmeister frontage (in ROW and does not affect site plan); meet the 60% evergreen requirement; minimum 10' landscape buffer be maintained between the residential property and the proposed new parking area; small wall sign be eliminated on the theatre; maximum height of the proposed blade sign be 15' above the building reducing height to 60'; and reduction of sign on the restaurant pad site. Staff also recommends all future new construction will need to be compliant with the I-35 standards; and recommends that these appeals be granted in perpetuity and not be subject to renegotiation should the standards be triggered again with future development. Ms. Speer stated the Planning and Zoning Commission heard this case at its meeting on January 7, 2013, and recommended approved with a vote of 7/0 with the following conditions: applicant provides 50% evergreen trees requirement; effectively changing 33 ornamental trees to evergreen species; the applicant provides 6' wood panel fence with steel post on property adjacent to residential structures.

2. Receive a City Council continuing education briefing on City Elections.

Mr. Graham gave a brief overview to the Council and Staff as it relates to Municipal Elections. He also provide a few dates specific for the May 2013 elections. Mr. Graham also discussed the laws impacting City Elections;

types of elections; as well as State laws that govern the process.

The City Council of the City of Temple, Texas conducted a Regular Meeting on Thursday, January 17, 2013 at 5:00 PM in the Council Chambers, Municipal Building, 2nd Floor, 2 North Main Street.

The City Council of the City of Temple, Texas conducted a Regular Meeting on Thursday, January 17, 2013 at 5:00 PM in the Council Chambers, Municipal Building, 2nd Floor, 2 North Main Street.

Present:

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

I. CALL TO ORDER

1. Invocation

Pastor Pat Dietrich with First Lutheran Church of Temple voiced the Invocation.

2. Pledge of Allegiance

Ken Cicora, Director of Parks and Leisure Services, led the Pledge of Allegiance.

II. PUBLIC COMMENTS

Mayor Jones stated no one signed up to speak.

III. CONSENT AGENDA

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

(A) December 20, 2012 Special Called and Regular Meeting

(B) January 3, 2013 Special Called and Regular Meeting

(C) 2013-6859-R: Consider adopting a resolution authorizing a yearly contract with Centrovision, Inc., of Temple in the annual amount of \$44,850 for high-speed data services to six City Facilities.

(D) 2013-6860-R: Consider adopting a resolution authorizing a construction contract with Alpha Constructors, Inc. of Temple for repair services to the existing covered pedestrian bridge located at Woodbridge Park in the amount of \$89,800.

(E) 2013-6861-R: Consider adopting a resolution authorizing:

(1) A renewal lease agreement with Linda Joyner for lease of space in the E. Rhodes and Leona B. Carpenter Foundation Building (the Temple Public Library); and

(2) A renewal lease agreement with WhiteCo Construction Services, LLC for lease of space in the E. Rhodes and Leona B. Carpenter Foundation Building (the Temple Public Library)

(F) 2013-6862-R: Consider adopting a resolution authorizing:

(1) An amendment to the lease agreement between the Department of the Army, Corps of Engineers, terminating a portion of the lease for the terminal building for AMCOM and

(2) A lease agreement with DRS Technologies, Inc., for the lease of the terminal building at the Draughon Miller Central Texas Regional Airport.

(G) 2013-4571: SECOND READING - Z-FY-13-01: Consider adopting an ordinance authorizing a permanent zoning from Agricultural District (AG) to Planned Development-Single Family One District (PD-SF-1) at 305 Ben Nevis Lane, located on Lot 4, Block 1, The Highlands Phase 1.

(H) 2013-4572: SECOND READING - Z-FY-13-02: Consider adopting an ordinance authorizing a Conditional Use Permit to allow an off-premise sign relocation closer than 1,500 feet from another off-premise sign at 3010 South General Bruce Drive.

(I) 2013-4573: SECOND READING - Z-FY-13-03: Consider adopting an ordinance authorizing a Conditional Use Permit to allow an off-premise sign relocation closer than 1,500 feet from another off-premise sign at 2502 North General Bruce Drive.

(J) 2013-4574: SECOND READING - Z-FY-13-04: Consider adopting an ordinance authorizing a zone change from Agricultural District (AG) to Single Family Three District (SF-3)

on 64.073 ± acres and Office Two District (O-2) on 9.665 ± acres, situated in the Nancy Chance Survey, Abstract No. 5, Bell County, Texas, located on the west side of Old Waco Road, adjacent to Westwood Estates and Hills of Westwood, south of Jupiter Drive.

(K) 2013-6863-R: Consider adopting a resolution authorizing the use of the Design-Build project delivery method for the acquisition of services needed to construct a compressed natural gas fueling facility.

(L) 2013-6864-R: Consider adopting a resolution authorizing the reimbursement of funds to the Community Development Block Grant program, according to program guidelines, for use on other City of Temple CDBG-assisted projects.

(M) 2013-6865-R: Consider adopting a resolution amending the City of Temple General Government Compensation Plan, to be effective January 4, 2013, and authorizing the implementation of the first phase of the 2008 Compensation Plan.

(N) 2013-6866-R: Consider adopting a resolution authorizing budget amendments for fiscal year 2012-2013.

Motion by Councilmember Judy Morales adopt resolution approving Consent Agenda with exception of Item 3(I). seconded by Mayor Pro Tem Danny Dunn.

(I) 2013-4573: SECOND READING - Z-FY-13-03: Consider adopting an ordinance authorizing a Conditional Use Permit to allow an off-premise sign relocation closer than 1,500 feet from another off-premise sign at 2502 North General Bruce Drive.

Motion by Councilmember Russell Schneider adopt resolution seconded by Mayor Pro Tem Danny Dunn.

Councilmember Cloud abstained; all others voted Aye

IV. REGULAR AGENDA

RESOLUTIONS

- 4. 2013-6867-R: Z-FY-13-09: Consider adopting a resolution authorizing an Appeal of Standards in Section 6.7 of the Unified Development Code related to the I-35 Corridor Overlay Zoning District for landscaping, building improvements, new construction and signs for Gateway**

Center at 4501 South General Bruce Drive.

Autumn Speer, Director of Planning and Development, presented this case to Council. Ms. Speer noted the applicant for this request is Will Morris on behalf of Bullish Resources, Inc. Ms. Speer stated this is a remodel of the existing Town and Country Mall located at 4501 South General Bruce Drive. This remodel will consist of a new 40,600 square foot theatre and the applicant has requested exceptions to the I-35 Standards. Ms. Speer reviewed a few of the applicable triggers and noted the cost of the improvements exceeds 100% of the total assessed value. Ms. Speer also provided visuals for Council and Staff for what was being proposed for landscaping and signs. She noted the applicant has exceeded the minimum landscape requirement of 15% by 13%. Next, Ms. Speer reviewed the requested appeals, reduced parking, landscaping, signs, and architecture. Ms. Speer stated staff recommended approval of all appeals as submitted with the following conditions: 4' sidewalk be provided along the Gillmeister frontage (in ROW and does not affect site plan); meet the 60% evergreen requirement; minimum 10' landscape buffer be maintained between the residential property and the proposed new parking area; small wall sign be eliminated on the theatre; maximum height of the proposed blade sign be 15' above the building reducing height to 60'; and reduction of sign on the restaurant pad site. Staff also recommends all future new construction will need to be compliant with the I-35 standards; and recommends that these appeals be granted in perpetuity and not be subject to renegotiation should the standards be triggered again with future development. Ms. Speer stated the Planning and Zoning Commission heard this case at its meeting on January 7, 2013, and recommended approved with a vote of 7/0 with the following conditions: applicant provides 50% evergreen trees requirement; effectively changing 33 ornamental trees to evergreen species; the applicant provides 6' wood panel fence with steel post on property adjacent to residential structures.

Mayor Pro Tem Dunn noted the proposed privacy fence would be an improvement for the adjacent residential properties.

Mayor Jones asked what the driving factor was for the 10' buffer.

Ms. Speer stated the I-35 Overlay Standards requires a 20' landscape buffer and a 6' masonry wall between residential and non-residential.

Mayor Jones noted that PZ recommendation was made without the 4' sidewalk as recommended by Staff. He asked about where the sidewalk will be located?

Ms. Speer stated it will end at the Kayani site.

Mayor Pro Tem Dunn stated he wasn't sure if the sidewalks would be used if installed at this location.

Mayor Jones stated our citizens have commented on the lack of sidewalks in the community. He asked Council if there were any comments on the blade sign being 60' verses 90'.

Councilmember Schneider stated it is part of the architectural design. The landscape on the edge was concerning and would need a retaining wall.

Mr. Larry Neal was available for questions. He noted the City Staff has worked many hours on this project. Mr. Neal stated this project is in the positive direction for Temple and will bring a quality look for the area. There was a great deal of discussion with the Planning Commission as it related to the sidewalk. Mr. Neal stated this sidewalk would not be connected to another sidewalk; therefore didn't see any reason for it to be installed at this time. He also stated the blade signs are trademark features for Cinemark Theatres.

Councilmember Cloud inquired on the buffer and the four potentially affected properties. He asked about the elevation change and if retaining walls are being considered.

Motion by Councilmember Russell Schneider adopt Resolution as recommended by Planning and Zoning Commission on January 17, 2013; that the applicant provides 50% evergreen trees requirement; and provides 6' wood panel fence with steel post on property adjacent to residential structures. seconded by Mayor Pro Tem Danny Dunn.

5. **2013-6868-R: P-FY-13-11: Consider adopting a resolution approving a Final Plat for Gateway Center, a + 29.60 acre, 4-lot, General Retail subdivision, with a developer requested exception to Section 8.1.3A(7) of the Unified Development Code related to fire hydrant placement and spacing requirements and a sidewalk waiver per Section 3.10 of the UDC for a 4-foot sidewalk along Gillmeister Lane, being out of the George Givens Survey, Abstract No. 345, Bell County, Texas, located at 4501 South General Bruce Drive.**

Autumn Speer, Director of Planning and Development, presented this case to Council. Ms. Speer the applicant for this request is All County Surveying. She noted that DRC deemed this plat administratively complete on January 3, 2013. The applicant's request is for an exception to the UDC Section 8.1.3A(7) related to fire hydrant placement and spacing requirements; as well as the 4' sidewalk requirement on Gillmeister. Staff is in support of the exceptions to the fire hydrant placement requirements. Ms. Speer stated the Planning and Zoning Commission heard this case on December 17, 2012, and voted 5/2 to recommend approval on the Final Plat for Gateway Center with the exceptions for hydrants per spacing requirements along Gillmeister and the sidewalk placement on Gillmeister.

Motion by Councilmember Russell Schneider adopt Resolution. seconded by Councilmember Judy Morales.

BOARD APPOINTMENTS

- 6. 2013-6869-R: Consider adopting a resolution appointing one member to fill a Councilmember position to the Hill Country Transit District Board.**

Mayor Jones stated Councilmember Morales has been serving on this board and will continue to do so if that is Council's desire.

Motion by Mayor Pro Tem Danny Dunn adopt Resolution. seconded by Councilmember Russell Schneider.

- 7. 2013-6870-R: Consider adopting a resolution appointing one member to fill an unexpired term through September 1, 2015 on the Reinvestment Zone No. 1 Board of Directors.**

Mayor Jones stated this item will be tabled at this time. He also noted this term is through September 1, 2013.

Motion by Councilmember Perry Cloud table. seconded by Mayor Pro Tem Danny Dunn.

Mayor Pro Tem Dunn made a few comments on the earlier announcement by Mayor Jones of his resignation. He thanked Mayor Jones for his years of dedication and service to the City of Temple.

Councilmember Schneider also thanked Mayor Jones for his

service.

William A. Jones, III, Mayor

ATTEST:

Lacy Borgeson
City Secretary



COUNCIL AGENDA ITEM MEMORANDUM

02/07/13
Item #6(B)
Consent Agenda
Page 1 of 1

DEPT./DIVISION SUBMISSION & REVIEW:

Ken Cicora, Director of Parks and Leisure Services

ITEM DESCRIPTION: Consider adopting a resolution authorizing the purchase of a Kubota L4600F Tractor From Kubota Tractor Corporation utilizing the BuyBoard in the amount of \$29,085.

STAFF RECOMMENDATION: Authorize resolution as presented in item description.

ITEM SUMMARY: This Kubota Tractor will replace an existing John Deere tractor that is 16 years old and nearing the end of its useful life. The tractor and its attachments are essential to providing a properly maintained golf course.

To ensure that maintenance schedules are not interrupted, the existing unit will be retained as a backup.

We will utilize a BuyBoard cooperative contract to purchase this tractor and associated parts. All purchases made utilizing a BuyBoard contract meet Texas governmental competitive bid requirements.

FISCAL IMPACT: Funding in the amount of \$29,085 is available in account 110-3120-551-6222, project #100966 for the purchase of tractor. These funds are available as part of the existing equipment replacement program.

ATTACHMENTS:

[Resolution](#)

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING THE PURCHASE OF A KUBOTA L4600F TRACTOR FROM KUBOTA TRACTOR CORPORATION, THROUGH THE BUYBOARD LOCAL GOVERNMENT ONLINE PURCHASING COOPERATIVE, IN THE AMOUNT OF \$29,085.00; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, the purchase of this Kubota L4600F tractor will replace an existing John Deere tractor that is 16 years old and nearing the end of its useful life – this tractor and its attachments are essential to providing a properly maintained golf course;

Whereas, Staff recommends purchasing the Kubota L4600F tractor from Kubota Tractor Corporation, using the BuyBoard local government online purchasing cooperative in the amount of \$29,085.00;

Whereas, Funding in the amount of \$29,085 is available in account 110-3120-551-6222, project 100966 for the purchase of the tractor – the funds are available as part of the existing equipment replacement program; 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 Kubota L4600F tractor from Kubota Tractor Corporation, through the BuyBoard local government online purchasing cooperative system, in the amount of \$29,085.00.

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

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

PASSED AND APPROVED this the 7th day of **February**, 2013.

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

02/07/13
Item #6(C)
Consent Agenda
Page 1 of 2

DEPT./DIVISION SUBMISSION & REVIEW:

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

ITEM DESCRIPTION: Consider adopting a resolution ratifying the purchase of two module racks for the Membrane Water Treatment Plant from Pall Advanced Separation Systems of Cortland, NY, in the amount of \$464,024.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: As part of normal membrane water treatment plant operations, water treatment personnel regularly perform required maintenance within the facility to keep all components and operations functioning year round. At the time the Membrane Plant was built, Pall Corporation's parts and equipment were originally installed, resulting in specialized equipment on site. At this time, replacement for some of these parts can only be supplied by the original vendor, Pall Corporation. While historically membrane modules have been identified as a sole source item, staff will be exploring the potential to consider purchase of equivalent membranes or alternatives in the future, as significant technological advances have occurred since the plant was built.

The current contractual arrangement with Pall Corporation allows the City of Temple to purchase replacement modules at a pre-negotiated price of \$2,900 per module (established during plant construction). Pall agreed to honor this locked in price through January 31, 2013, with purchases after January 31, 2013, being at price of \$3,600 per module. Based on this significant price increase, the City Manager authorized staff to proceed with this purchase in January, and as such, we are requesting Council's ratification of this purchase.

At this time, two full racks (78 modules each) are in need of being completely replaced, at an estimated cost of \$250,000 per rack. With the existing membrane water plant consisting of a total of 11 racks, replacement of all components will be stretched over several years. The life expectancy of a module is 8 to 10 years, with most existing plant modules now in service for 9 years. This purchase will result in replacement of just under 20% of the plant.

FISCAL IMPACT: Funding in the amount of \$500,000 has been appropriated in account 520-5121-535-6310, project 100910 for the replacement of Membrane module racks at the WTP Membrane facility.

ATTACHMENTS:
[Resolution](#)

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, RATIFYING THE PURCHASE OF TWO MODULE RACKS FOR THE MEMBRANE WATER TREATMENT PLANT FROM PALL ADVANCED SEPARATIONS SYSTEMS OF CORTLAND, NY, IN AN AMOUNT OF \$464,024; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, as part of normal membrane water treatment plant operations, water treatment personnel regularly perform required maintenance within the facility to keep all components and operations functioning year round;

Whereas, at the time the membrane plant was built, Pall Advanced Systems parts and equipment were originally installed, resulting in replacement parts only being supplied by the original vendor, Pall Advanced Separations Systems of Courtland, New York;

Whereas, the Staff recommends purchasing two module racks for the membrane water treatment plant from Pall Advanced Separations Systems of Cortland, New York, in an amount of \$464,024;

Whereas, funds are available for this purchase in Account No. 520-5121-535-6310, Project No. 100910; and

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

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

Part 1: The City Council ratifies the purchase of two module racks for the membrane water treatment plant from Pall Advanced Separations Systems of Cortland, New York, in an amount of \$464,024.

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

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

PASSED AND APPROVED this the 7th day of **February**, 2013.

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

02/07/13
Item #6(D)
Consent Agenda
Page 1 of 2

DEPT./DIVISION SUBMISSION & REVIEW:

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

ITEM DESCRIPTION: Consider adopting a resolution authorizing a guaranteed maximum price construction contract with Vanguard Contractors, LP of Temple for renovations to the Municipal Building in an amount of \$296,632.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: On October 4, 2012, Council authorized the use of the Construction Manager-at-Risk (CMAR) delivery method for the construction services needed to renovate approximately 5,500 square feet (corrected from the December 6, 2012 agenda item) of the Municipal Building (west side of the 1st floor and the northeast suite of the 2nd floor). Then on December 6, 2012, Council authorized a CMAR contract with Vanguard Contractors, LP, with the following fees: pre-construction fee of \$750, on-site management fee (general conditions) of \$9,860 per month, and a profit and overhead fee (construction phase services) of 3.25%.

On January 23, 2013, Vanguard opened proposals for the construction services, and has presented to the City a proposed Guaranteed Maximum Price (GMP) in the amount of \$296,632. The GMP includes general condition fees and a construction phase service fee of \$29,580 and \$9,166, respectively. Vanguard's line item cost sheet detailing the GMP is attached.

Staff has made arrangements to temporarily move the Permitting Department to accommodate the renovations. Staff has completed an asbestos study and has identified subsequent needed abatement procedures, as required by Texas Department of State Health Services. Asbestos monitoring and removal services total \$14,600 and \$23,836 respectively. Demolition of the 1st floor area began January 29, 2013, as approved by the City Manager, for the cost of \$20,058, included in the GMP total.

It is anticipated that the construction will be begin on February 25, 2013 following demolition and asbestos abatement, and that all renovations will be complete by May 31, 2013.

FISCAL IMPACT: The total project budget for the renovations of the municipal building is \$423,439. A budget adjustment is attached appropriating \$321,540 of project savings and appropriating interest earnings to account 361-2400-519-6807, project #100925 to partially fund the renovations. Additional project savings in the amount of \$101,899 were appropriated in a prior fiscal year. The total cost of the renovations includes design, demolition, asbestos survey and abatement, construction, furniture purchases and IT related expenses.

ATTACHMENTS:

[Budget Adjustment
Resolution](#)

FY 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	
361-2400-519-68-07	100925	Municipal Building Renovations	\$ 321,540			
361-3400-531-68-13	100089	Outer Loop			239,893	
361-0000-315-11-16		Reserve for Future Expenditures			81,647	
		DO NOT POST				
TOTAL.....			\$ 321,540		\$ 321,540	

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

Reallocate funds and appropriate interest earnings from 2006 & 2008 Certificate of Obligation bonds to fund the renovations to the Municipal Building.

DOES THIS REQUEST REQUIRE COUNCIL APPROVAL?

☒

Yes

☐

No

DATE OF COUNCIL MEETING

February 7, 2013

WITH AGENDA ITEM?

☒

Yes

☐

No

Department Head/Division Director
Date☐

Approved

☐

Disapproved

Finance
Date☐

Approved

☐

Disapproved

City Manager
Date☐

Approved

☐

Disapproved

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING A GUARANTEED MAXIMUM PRICE CONSTRUCTION CONTRACT WITH VANGUARD CONTRACTORS, LP, OF TEMPLE, TEXAS, FOR RENOVATIONS TO THE MUNICIPAL BUILDING IN AN AMOUNT OF \$296,632; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, on October 4, 2012, the City Council authorized the use of the Construction-Manager-at-Risk (CMAR) delivery method for the construction services needed to renovate approximately 5,500 square feet of the Municipal Building - on December 6, 2012, the City Council authorized a CMAR contract with Vanguard Contractors, LP;

Whereas, on January 9, 2013, Vanguard opened proposals for the construction services, and has presented to the City Council a proposed Guaranteed Maximum Price (GMP) in the amount of \$296,632, which includes general condition fees and a construction phase service fee;

Whereas, staff has completed an asbestos study and has identified subsequent needed abatement procedures, as required by Texas Department of State Health Services and it is anticipated that construction will begin on February 25, 2013, following demolition and asbestos abatement and that all renovations will be complete by May 31, 2013;

Whereas, the total project budget for the renovations of the Municipal Building is \$423,439 – a budget adjustment is required to appropriate \$321,540 of project savings and interest earnings to account 361-2400-519-6807, project 100925 to partially fund the renovations; 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 Guaranteed Maximum Price construction contract with Vanguard Contractors, LP, of Temple, after approval as to form by the City Attorney, for construction of the renovations to approximately 5,500 square feet of the Municipal Building in the amount of \$296,632.

Part 2: The City Council approves an amendment to the FY12-13 budget, substantially in the form of the copy attached as Exhibit A.

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 7th day of **February**, 2013.

THE CITY OF TEMPLE, TEXAS

WILLIAM A. JONES, III, Mayor

ATTEST:

Lacy Borgeson
City Secretary

APPROVED AS TO FORM:

Jonathan Graham
City Attorney



COUNCIL AGENDA ITEM MEMORANDUM

02/07/13
Item #6(E)
Consent Agenda
Page 1 of 1

DEPT./DIVISION SUBMISSION & REVIEW:

Jonathan Graham, City Attorney

ITEM DESCRIPTION: Consider adopting a resolution authorizing a renewal lease agreement with Mary Ann Rojas, President of Job Source, for lease of space in the E. Rhodes and Leona B. Carpenter Foundation Building (the Temple Public Library).

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: Mary Ann Rojas currently rents Suite 306B in the Temple Public Library. Ms. Rojas has requested to renew her lease which expires on January 31, 2013 for another 6 month term. The new lease term will run from February 1, 2013 to August 31, 2013. Ms. Rojas will pay \$325 per month in rent.

FISCAL IMPACT: The city will receive \$325 per month in rent during the term of the lease. The rent will be deposited in account 110-0000-461-0937.

ATTACHMENTS:

[Lease](#)
[Resolution](#)

**LEASE FOR SPACE IN
E. RHODES AND LEONA B. CARPENTER FOUNDATION BUILDING**

TERMS AND DEFINITIONS

Date: February 1, 2013

Landlord: City of Temple

Landlord's Address: City of Temple, Finance Department, 2 N Main St., Temple TX
76501

Tenant: Job Source
Mary Ann Rojas, President

Tenant's Address: 100 W Adams Ave., Suite 306B
Temple TX 76501

Premises:

Approximate Square Feet: 325

Suite: 306B

Name of Building: E. Rhodes and Leona B. Carpenter Foundation Building

Street Address: 100 W Adams Ave.

City, State, Zip: Temple TX 76501

Base Rent (monthly): \$325 per month (\$1 per square foot)

Term (months): 6 months

Commencement Date: February 1, 2013

Termination Date: August 31, 2013

Use: Administrative Office, but not to include the use described in Exhibit "D."

Amount of Liability Insurance

Death/Bodily Injury: \$500,000 per occurrence

Property: \$100,000 per occurrence

"Rent" means base rent plus any other sums of money due Landlord by Tenant.

"Landlord" means City of Temple and its agents, employees, invitees, licensees, or visitors.

"Tenant" means Tenant and its agents, employees, invitees, licensees, or visitors.

"Essential Services" means heating, ventilating, air conditioning, water, and utility connections reasonably necessary for occupancy of the premises for the use stated above.

"Common Areas" means all facilities and areas of the building that are intended and designated by Landlord from time to time for the common, general, and nonexclusive use

of all tenants of the building. Landlord shall have the exclusive control over and right to manage the common areas.

"Building Operating Hours" means 8:00 a.m. to 9:00 p.m., Monday through Thursday; 8:00 a.m. to 6:00 p.m., Friday; 8:00 a.m. to 5:00 p.m., Saturday; 1:00 p.m. to 9:00 p.m., Sunday, except holidays.

"Parking Facility" means the facility or area described in the attached parking provisions, Exhibit "C".

LEASE CLAUSES AND COVENANTS

A. Tenant agrees to--

1. Lease the premises for the entire term beginning at 12:01 a.m. on the commencement date and ending at 11:59 p.m. on the termination date.

2. Accept the premises in their present condition **"as is,"** the premises being currently suitable for Tenant's intended use, by signing Exhibit "A".

3. Obey all laws, ordinances, orders, and rules and regulations applicable to the use, condition, and occupancy of the premises, including the rules and regulations of the building, attached as Exhibits "B", "C", and "D".

4. Pay monthly, in advance, on the first day of the month, the base rent to Landlord at Landlord's address.

5. Pay, as additional rent, all other sums due under this lease.

6. Pay a late charge of 10 percent of any rent not received by Landlord by the fifth day of the month in which it is due.

7. Pay for all utility services used by Tenant and not provided by Landlord.

8. Allow Landlord to enter the premises to perform Landlord's obligations, inspect the premises, show the premises to prospective purchasers or tenants, and place signs advertising availability for rental within 30 days of expiration of this lease.

9. Repair, replace, and maintain any part of the premises that Landlord is not obligated to repair, replace, or maintain, normal wear excepted.

10. Repair any damage to the premises or the parking facility caused by Tenant.

11. Submit in writing to Landlord any request for repairs, replacement, and maintenance that are the obligations of Landlord.

12. Maintain general/commercial liability insurance for the premises and the conduct of Tenant's business, naming Landlord as an additional insured, in the amounts stated in the basic lease terms and definitions.

13. Maintain insurance on Tenant's personal property.

14. Deliver certificates of insurance to Landlord before the commencement date and thereafter when requested.

15. Indemnify, defend, and hold Landlord harmless from any loss, attorney's fees, expenses, or claims arising out of use of the premises.

16. Vacate the premises and return all keys to the premises on termination of this lease.

17. On request, execute an estoppel certificate that states the commencement and termination dates of the lease, identifies any amendments to the lease, describes any rights to extend the lease term or purchase rights, lists defaults by Landlord, and provides any other information reasonably requested.

18. Arrange with Landlord in advance for any heating, air conditioning, or electrical needs in excess of the services provided by Landlord and pay for such additional services as billed by Landlord.

B. Tenant agrees not to--

1. Use the premises for any purpose other than that stated in the basic lease terms and definitions.

2. (a) Create a nuisance, (b) interfere with any other tenant's normal business operations or Landlord's management of the building, (c) permit any waste, or (d) use the premises in any way that is extra hazardous, would increase insurance premiums, or would void insurance on the building.

3. Change Landlord's lock system.

4. Alter the premises.

5. Allow a lien to be placed on the premises.

6. Assign this lease or sublease any portion of the premises without Landlord's written consent.

C. Landlord agrees to--

1. Lease to Tenant the premises for the entire term beginning on the commencement date and ending on the termination date.

2. Obey all laws, ordinances, orders, and rules and regulations applicable to the use, condition, and occupancy of the building, and the parking facility.

3. Provide normal utility-service connections to the building.

4. Repair, replace, and maintain the (a) roof, (b) foundation, (c) parking facility and common areas, (d) structural soundness of the exterior walls, doors, corridors, and windows, and (e) other structures or equipment serving the premises. Landlord shall not be liable to Tenant, except as expressly provided in this Lease, for any damage or inconvenience, and Tenant shall not be entitled to any damages nor to any abatement or reduction of rent by reason of any maintenance, repairs, replacements, alternations or additions made by Landlord under this Lease.

5. Insure the building and any parking facility against all risks of direct physical loss in an amount equal to at least 90 percent of the full replacement cost of the same as of the date of the loss and liability; Tenant will have no claim to any proceeds of Landlord's insurance policy.

6. Provide the following services: (a) air conditioning and heating to the premises reasonable for Tenant's use (exclusive of air conditioning or heating for electronic data processing or other specialized equipment) during building operating hours and at such other times at such additional cost as Landlord and Tenant may agree on; (b) hot and cold water for lavatory and drinking purposes; (c) janitorial service and periodic window washing; (d), elevator service, if necessary, to provide access to and from the premises; (e) electric current for normal office machines and building's standard lighting reasonable for Tenant's use; and (f) lighting in common areas and fluorescent lights in building's standard light fixtures on the premises. Failure by Landlord to any extent to provide these defined services or any other services not enumerated, or any cessation thereof, shall not render Landlord liable in any respect for damages to either person or property, be construed as an eviction of Tenant, work an abatement of rent or relieve Tenant from fulfillment of any covenant in this Lease. If any of the equipment or machinery useful or necessary for provision of utility services, and for which Landlord is responsible, breaks down or for any cause ceases to function properly, Landlord shall use reasonable diligence to repair the same promptly, but Tenant shall have no claim for rebate of rent or damages on account of any interruption in service occasioned from the repairs. Landlord reserves the right from time to time to make changes in the utilities and services provided by Landlord to the Property.

7. Make the Board Room available at no charge to Tenant with 24 hours notice unless a paying customer requests it. After use of the Board Room, Tenant agrees to return it to a clean condition. Failure to do so may result in a janitorial charge.

D. Landlord agrees not to--

1. Interfere with Tenant's possession of the premises as long as Tenant is not in default.
2. Unreasonably withhold consent to a proposed assignment or sublease.

E. Landlord and Tenant agree to the following:

1. **Alterations.** Tenant shall not make or allow to be made any alterations, physical additions or improvements in or to the Leased Premises without first obtaining the written consent of Landlord, which consent may in the sole and absolute discretion of Landlord be denied. Landlord's failure to respond in writing to Tenant's request for any alterations, physical additions or improvements within fifteen (15) days of receipt thereof shall be deemed Landlord's disapproval of such request. Any alterations, physical additions or improvements to the Leased Premises made by or installed by either party hereto shall remain upon and be surrendered with

the Leased Premises and become the property of Landlord upon the expiration or earlier termination of this Lease without credit to Tenant; provided, however, Landlord, at its option, may require Tenant to remove any physical improvements or additions and/or repair any alterations in order to restore the Leased Premises to the condition existing at the time Tenant took possession, all costs of removal and/or alterations to be borne by Tenant. This clause shall not apply to moveable equipment, furniture or moveable trade fixtures owned by Tenant, which may be removed by Tenant at the end of the term of this Lease if Tenant is not then in default and if such equipment and furniture are not then subject to any other rights, liens and interests of Landlord. Tenant shall have no authority or power, express or implied, to create or cause any mechanic's or materialmen's lien, charge or encumbrance of any kind against the Leased Premises, the Property or any portion thereof. Tenant shall promptly cause any such liens that have arisen by reason or any work claimed to have been undertaken by or through Tenant to be released by payment, bonding or otherwise within ten (10) days after request by Landlord, ***and shall indemnify and defend Landlord against liability or loss arising out of any such claim (including, without limitation, legal fees and court costs).***

2. **Signs.** No signs of any type or description shall be erected, placed or painted in or about the Leased Premises except those signs submitted to Landlord in writing and approved by Landlord in writing, and which signs are in conformity with Landlord's sign criteria established for the Property. Landlord reserves the right to remove, at tenant's expense, all signs other than signs approved in writing by Landlord under this Section E.2, without notice to Tenant and without liability to Tenant for any damages sustained by Tenant as a result thereof, and Tenant shall repair any damage caused by such removal.

3. **Abatement.** Tenant's covenant to pay rent and Landlord's covenants are independent of each other. Except as otherwise provided, Tenant shall not be entitled to abate rent, for any reason.

4. **Increase in Insurance Premiums.** If an increase in any insurance premiums paid by Landlord for the Property is caused by Tenant's use of the Leased Premises in a manner other than as set forth herein, or if Tenant vacated the Leased Premises and caused an increase in such premiums, then Tenant shall pay as additional rent the amount of such increase to Landlord. Tenant agrees to pay any amount due under this Section within ten (10) days following receipt of the invoice showing the additional rent due.

5. **Release of Claims/Subrogation.** Landlord and Tenant release each other from any claim, by subrogation or otherwise, for any damage to the premises, the building, the parking facility, if any, or personal property within the building, by reason of fire or the elements, regardless of cause, including negligence of Landlord or Tenant. This release applies only to the extent that it is permitted by law, the damage is covered by insurance proceeds, and the release does not adversely affect any insurance coverage.

6. **Notice to Insurance Companies.** Landlord and Tenant will notify the issuing insurance companies of the release set forth in the preceding paragraph and will have the insurance policies endorsed, if necessary, to prevent invalidation of the insurance coverage.

7. **Casualty/Total or Partial Destruction.** (a) If the premises are damaged by casualty and can be restored within ninety days, Landlord will, at its expense, restore the premises to substantially the same condition as they existed before the casualty. If Landlord fails to

complete restoration within ninety days from the date of written notification by Tenant to Landlord of the casualty, Tenant may terminate this lease by written notice to Landlord. (b) If the premises cannot be restored within ninety days, Landlord has an option to restore or not to restore the premises. If Landlord chooses not to restore, this lease will terminate. If Landlord chooses to restore, it will notify Tenant of the estimated time to restore and give Tenant an option to terminate this lease by notifying Landlord within ten days. If Tenant does not terminate this lease, it shall continue and Landlord shall restore the premises as provided in (a) above. (c) To the extent the premises are untenable after the casualty and the damage was not caused by Tenant, the rent will be adjusted as may be fair and reasonable.

8. Condemnation/Substantial or Partial Taking. (a) If the premises cannot be used for the purposes contemplated by this lease because of condemnation or purchase in lieu of condemnation, this lease will terminate. (b) If there is condemnation or purchase in lieu of condemnation and this lease is not terminated, Landlord will, at Landlord's expense, restore the premises, and the rent payable during the unexpired portion of the term will be adjusted as may be fair and reasonable. (c) Tenant will have no claim to the condemnation award or proceeds in lieu of condemnation.

9. Uniform Commercial Code. Tenant grants Landlord a security interest in Tenant's personal property now or subsequently located on the premises. This lease is a security agreement under the Uniform Commercial Code. Landlord may file a copy of this lease as a financing statement.

10. Default by Landlord/Events. Defaults by Landlord are (a) failing to comply with any provision of this lease within thirty days after written notice or (b) failing to provide essential services to Tenant within ten days after written notice.

11. Default by Landlord/Tenant's Remedies. Tenant's remedies for Landlord's default are to (a) sue for damages, and (b) if Landlord does not provide an essential service for thirty days after default, terminate this lease.

12. Default by Tenant/Events. Defaults by Tenant are (a) failing to pay timely rent, (b) abandoning or vacating a substantial portion of the premises, or (c) failing to comply within ten days after written notice with any provision of this lease other than the defaults set forth in (a) and (b) above.

13. Default by Tenant/Landlord's Remedies. Landlord's remedies for Tenant's default are to (a) enter and take possession of the premises, after which Landlord may relet the premises on behalf of Tenant and receive the rent directly by reason of the reletting, and Tenant agrees to reimburse Landlord for any expenditures made in order to relet; (b) enter the premises and perform Tenant's obligations; or (c) terminate this lease by written notice and sue for damages. Landlord may enter and take possession of the premises by self-help, by picking or changing locks if necessary, and may lock out Tenant or any other person who may be occupying the premises, until the default is cured, without being liable for damages.

14. Default/Waiver/Mitigation. It is not a waiver of default if the nondefaulting party fails to declare immediately a default or delays in taking any action. Pursuit of any remedies set forth in this lease does not preclude pursuit of other remedies in this lease or provided by law. Landlord and Tenant have a duty to mitigate damages.

15. Security Deposit. Contemporaneously with the execution of this Lease, Tenant shall pay to Landlord the Security Deposit, if such Deposit was not previously paid by Tenant. The Security Deposit shall be held by Landlord to secure Tenant's performance of its obligations under this Lease. The Security Deposit is not an advance payment of Rent or a measure or limit of Landlord's damages upon an Event of Default. Landlord may, from time to time following an Event of Default and without prejudice to any other remedy, use all or part of the Security Deposit to perform any obligation Tenant fails to perform hereunder. Following any such application of the Security Deposit, Tenant shall pay to Landlord on demand the amount so applied in order to restore the Security Deposit to its original amount. *Subject to the requirements of, and conditions imposed by, Laws applicable to security deposits under commercial leases, Landlord shall, within the time required by applicable Law, return to Tenant the portion of the Security Deposit remaining after deducting all damages, charges and other amounts permitted by Law. Landlord and Tenant agree that such deductions shall include, without limitation, all damages and losses that Landlord has suffered or that Landlord reasonably estimates that it will suffer as a result of any breach of this Lease by Tenant. The Security Deposit may be commingled with other funds, and no interest shall be paid thereon. If Landlord transfers its interest in the Premises, Landlord may assign the Security Deposit to the transferee and, upon such transfer and the delivery to Tenant of an acknowledgment of the of the transferee's responsibility for the Security Deposit as provided by Law, Landlord thereafter shall have no further liability for the return of the Security Deposit.*

16. Personal Property Taxes. Tenant shall be liable for all taxes levied against leasehold improvements, merchandise, personal property, trade fixtures and all other taxable property located in the Leased Premises. If any such taxes for which Tenant is liable are levied against Landlord or Landlord's property and if Landlord elects to pay the same or if the assessed value of Landlord's property is increased by inclusion of personal property and trade fixtures placed by Tenant in the Leased Premises and Landlord elects to pay the taxes based on such increase, Tenant shall pay to Landlord, upon demand, that part of such taxes for which the Tenant is primarily liable pursuant to the terms of this Section. Tenant shall pay when due any and all taxes related to Tenant's use and operation of its business in the Leased Premises.

17. Holding Over. If Tenant does not vacate the Leased Premises upon the expiration or earlier termination of this Lease, Tenant shall be at sufferance for the holdover period and all of the terms and provisions of this lease shall be applicable during that period, except that Tenant shall pay Landlord as base rental for the period of such holdover an amount equal to two times the base rent which would have been payable by Tenant had the holdover period been a part of the original term of this lease (without waiver of Landlord's right to recover damages as permitted by law). Upon the expiration or earlier termination of this Lease, Tenant agrees to vacate and deliver the Leased Premises, and all keys thereto, to Landlord upon delivery to Tenant of notice from Landlord to vacate. The rental payable during the holdover period shall be payable to Landlord on demand. No holding over by Tenant, whether with or without the consent of Landlord, shall operate to extend the term of this Lease. ***Tenant shall indemnify Landlord against all claims made by any tenant or prospective tenant against Landlord resulting from delay by Landlord in delivering possession of the Leased Premises to such other tenant or prospective tenant.***

18. Attorney Fees. If either party retains an attorney to enforce this lease, the prevailing party is entitled to recover reasonable attorney's fees.

19. **Venue.** Venue is in Bell County, Texas.

20. **Entire Agreement.** This lease, together with the attached exhibits and riders, is the entire agreement of the parties, and there are no oral representations, warranties, agreements, or promises pertaining to this lease or to the expressly mentioned exhibits and riders not incorporated in writing in this lease.

21. **Amendment of Lease.** This lease may be amended only by an instrument in writing signed by Landlord and Tenant.

22. **Limitation of Warranties.** There are no implied warranties of merchantability, of fitness for a particular purpose, or of any other kind arising out of this lease, and there are no warranties that extend beyond those expressly stated in this lease.

23. **Notices.** Any notice required by this lease shall be deemed to be delivered (whether or not actually received) when deposited with the United States Postal Service, postage prepaid, certified mail, return receipt requested, and addressed to Landlord or Tenant at their addresses.

24. **Abandoned Property.** Landlord may retain, destroy, or dispose of any property left on the premises at the end of the term.

IN WITNESS WHEREOF, the said parties have hereunto set their hands and seals on this the ____ day of _____, 2013.

LESSOR:
THE CITY OF TEMPLE, TEXAS

LESSEE:
Job Source

David A. Blackburn, City Manager

Mary Ann Rojas, President

ATTEST:

APPROVED AS TO FORM:

Lacy Borgeson
City Secretary

City Attorney's Office

STATE OF TEXAS '

COUNTY OF BELL '

 This instrument was acknowledged before me on the ____ day of _____, 2013, by
David A. Blackburn, City Manager of the City of Temple, Texas.

Notary Public, State of Texas

STATE OF TEXAS '

COUNTY OF BELL '

 This instrument was acknowledged before me on the _____ day of _____,
2013, Mary Ann Rojas, President of Job Source.

Notary Public, State of Texas

EXHIBIT A
ACCEPTANCE OF PREMISES

This memorandum is executed in connection with Lease for space in the E. Rhodes and Leona B. Carpenter Foundation Building in Temple, Texas, dated the ____ day of _____, 2013, between City of Temple, as Landlord, and Mary Ann Rojas as President of Job Source, as Tenant.

Tenant acknowledges and agrees that:

1. The Leased Premises (as defined In the Lease) are tenantable and accepted by Tenant as suitable for the purpose for which they were let.
2. All construction of improvements at the Leased Premises is completed, has been inspected by Tenant, and is acceptable.
3. The Rent Commencement Date of the Lease is agreed to be the 1st day of February, 2013.
4. The expiration date of the Lease is agreed to be the 31st day of August, 2013.
5. All other terms and conditions of the Lease are ratified and acknowledged to be unchanged.

Executed and delivered this ____ day of _____, 2013.

Tenant:

Mary Ann Rojas, President of Job Source

EXHIBIT B
RULES AND REGULATIONS

1. Landlord agrees to furnish Tenant two keys without charge. Additional keys will be furnished at a nominal charge. Tenant shall not change locks or install additional locks on doors without prior written consent of Landlord. Tenant shall not make or cause to be made duplicates of keys procured from Landlord without prior written approval of Landlord. All keys to the Leased Premises shall be surrendered to Landlord upon termination of this Lease.
2. Tenant will refer all contractors, contractors' representatives and installation technicians rendering any service on or to the Leased Premises for Tenant to Landlord for Landlord's approval before performance of any contractual service. Tenant's contractors and installation technicians shall comply with Landlord's rules and regulations pertaining to construction and installation. This provision shall apply to all work performed on or about the Leased Premises, including installation of telephones, telegraph equipment, electrical devices and attachments and installations of any nature affecting floors, walls, woodwork, trim, windows, ceilings and equipment or any other physical portion of the Leased Premises or the Property.
3. Tenant shall not at any time occupy any part of the Leased Premises as sleeping or lodging quarters.
4. Tenant shall not place, install or operate on the Leased Premises or in any part of the Property any engine, stove or machinery, or conduct mechanical operations or cook thereon or therein, or place or use in or about the Leased Premises or the Property any explosives, gasoline, kerosene, oil, acids, caustics, or any flammable, explosive or hazardous material without written consent of Landlord.
5. Landlord will not be responsible for lost or stolen merchandise, trade fixtures, furniture, furnishings, personal property, equipment, money or jewelry from the Leased Premises or the Property regardless of whether such loss occurs when the area is locked against entry or not.
6. No dogs, cats, fowl, or other animals shall be brought into or kept in or about the Leased Premises or Property.
7. Employees of Landlord shall not receive or carry messages for or to any Tenant or other person or contract with or render free or paid services to any Tenant or to any of Tenant's agents, employees or invitees.
8. None of the parking, plaza, recreation or lawn areas, entries, passages, doors, elevators, hallways or stairways shall be blocked or obstructed or any rubbish, litter, trash, or material of any nature placed, emptied or thrown into these areas or such area used by Tenant's agents, employees or invitees at any time for purposes inconsistent with their designation by Landlord.
9. The water closets and other water fixtures shall not be used for any purpose other than those for which they were constructed, and any damage resulting to them from misuse or by the defacing or injury of any part of the Property shall be borne by the person who shall occasion it. No person shall waste water by interfering with the faucets or otherwise.
10. No person shall disturb occupants of the Property by the use of any radios, record players,

Rules and Regulations

tape recorders, musical instruments, the making of unseemly noises or any unreasonable use.

11. Nothing shall be thrown out of the windows of the Property or down the stairways or other passages.

12.(a) Tenant and its employees, agents and invitees shall park their vehicles only in those parking areas designated by Landlord. Tenant shall furnish Landlord with state automobile license numbers of Tenant's vehicles and its employees' vehicles within five (5) days after taking possession of the Leased Premises and shall notify Landlord of any changes within five (5) days after such change occurs. Tenant shall not leave any vehicle in a state of disrepair (including without limitation, flat tires, out of date inspection stickers or license plates) on the Leased Premises or the Property. If Tenant or its employees, agents or invitees park their vehicles in areas other than the designated parking areas or leave any vehicle in a state of disrepair, Landlord, after giving written notice to Tenant of such violation, shall have the right to remove such vehicles at Tenant's expense.

(b) Parking in a parking garage or area shall be in compliance with all parking rules and regulations established from time to time by Landlord. Landlord reserves the right to charge for use of parking areas, to establish reserved parking areas and to assign designated parking spaces therein for exclusive use by specified tenants, to establish any sticker or other identification system, to alter, reduce or modify any parking areas, and to take any other actions regarding the parking garage or parking area. Failure to observe the rules and regulations shall terminate Tenant's right to use the parking garage or area and subject the vehicle in violation of the parking rules and regulations to removal and impoundment. No termination of parking privileges or removal of impoundment of a vehicle shall create any liability on Landlord or be deemed to interfere with Tenant's right to possession of its Leased Premises. Vehicles must be parked entirely within the stall lines and all directional signs, arrows and posted speed limits must be observed. Parking is prohibited in areas not striped for parking, in aisles, where "No Parking" signs are posted, on ramps, in cross hatched areas, and in other areas as may be designated by Landlord. Parking stickers or other forms of identification supplied by Landlord shall remain the property of Landlord and not the property of Tenant and are not transferable. Every person is required to park and lock his vehicle. All responsibility for damage to vehicles or persons is assumed by the owner of the vehicle or its driver.

(c) The parking provisions set forth in Exhibit "C" shall govern any contrary provisions set forth in these Rules and Regulations, but only to the extent of the conflict.

13. Movement in or out of the Property of furniture or office supplies and equipment, or dispatch or receipt by Tenant of any merchandise or materials which required use of elevators or stairways, or movement through the Property entrances or lobby, shall be restricted to hours designated by Landlord. All such movement shall be under supervision of Landlord and carried out in the manner agreed between Tenant and Landlord by prearrangement before performance. Such prearrangement will include determination by Landlord of time, method, and routing of movement and limitations imposed by safety or other concerns which may prohibit any article, equipment or any other item from being brought into the Property. ***Tenant assumes, and shall indemnify Landlord against, all risks and claims of damage to persons and properties arising in connection with any said movement.***

14. Landlord shall not be liable for any damages from the stoppage of elevators for necessary or

Rules and Regulations

desirable repairs or improvements or delays of any sort or duration in connection with the elevator service.

15. Tenant shall not lay floor covering within the Leased Premises without written approval of Landlord. The use of cement or other similar adhesive materials not easily removed with water is expressly prohibited.

16. Tenant agrees to cooperate and assist Landlord in the prevention of canvassing, soliciting and peddling within the Property.

17. During all hours other than regular hours, Landlord reserves the right to exclude from the Property, all persons who are not known to the Property security personnel and who do not present pass to the Property signed by the Tenant. Each Tenant shall be responsible for all persons for whom Tenant supplies a pass.

18. If any governmental license or permit shall be required for the proper and lawful conduct of Tenant's business, Tenant, before occupying the Leased Premises, shall procure and maintain such license or permit and submit it for Landlord's inspection. Tenant shall at all times comply with the terms of any such license or permit.

19. Except with the prior written consent of Landlord, Tenant shall not sell, or permit the sale from the Leased Premises of, or use or permit the use of any sidewalk or mall area adjacent to the Leased Premises for the sale of newspapers, magazines, periodicals, theater tickets or any other goods or merchandise, nor shall Tenant carry on, or permit or allow any employee or other person to carry on, business in or from the Leased Premises for the service or accommodation of occupants of any other portion of the Building, nor shall the Leased Premises be used for manufacturing of any kind, or for any business or activity other than that specifically provided for in Tenant's lease.

20. Tenant shall not install any radio or television antenna, loudspeaker or other device on the exterior walls of the Building.

21. Tenant shall not use in any space, or in the common areas of the Building, any hand trucks except those equipped with rubber tires and side guards or such other material handling equipment as Landlord may approve. No other vehicles of any kind shall be brought by Tenant into Building or kept in or about the Leased Premises without prior written approval of Landlord.

22. Tenant shall store all its trash and garbage within the Leased Premises until daily removal, of same by Tenant to such location in the Building as may be designated from time to time by Landlord. No material shall be placed in the Building trash boxes or receptacles if such material is of such nature that it may not be disposed of in the ordinary and customary manner of removing and disposing of trash and garbage without being in violation of any law or ordinance governing such disposal.

23. Tenant shall not permit the use or the operation of any coin operated machines on the Leased Premises, including, without limitation, vending machines, video games, pinball machines, or pay telephones without the prior written consent of Landlord.

24. As used in the Lease, "holidays" means New Years Day, Martin Luther King Day, Good Rules and Regulations

Friday, Veterans Day, Memorial Day, Fourth of July, Labor Day, Thanksgiving and day after Thanksgiving, Christmas Eve and Christmas, together with such other holidays designated by Landlord.

25. Landlord desires to maintain in the Property the highest standard of dignity and good taste consistent with comfort and convenience for Tenants. Any action or condition not meeting this high standard should be reported directly to Landlord. Your cooperation will be mutually beneficial and sincerely appreciated. Landlord reserves the right to make such other and further reasonable rules and regulations as in its Judgment may from time to time be necessary, for the safety, care and cleanliness of the Leased Premises and for the preservation of good order therein.

EXHIBIT C
PARKING PROVISIONS

This Exhibit is attached to and forms a part of the Basic Lease dated _____, 2013, between City of Temple, as Landlord and Mary Ann Rojas, President of Job Source ("The Lease"). The terms used in this Exhibit shall have the same definitions as set forth in the Lease. The provisions of this Exhibit shall prevail over any inconsistent or conflicting provisions of the Lease.

1. Landlord hereby grants to Tenant a non-exclusive license to use the following number and types of parking spaces (the "spaces"):

<u>Type</u>	<u>Number of Spaces</u>
Reserved Spaces	<u>2</u>

The Spaces will be located in the areas designated from time to time by Landlord for tenant parking. This license is subject to the terms and conditions set forth below:

2. The Spaces shall be used only for the purpose of parking automobiles for a term commencing on the Rent Commencement Date set forth in the Lease and terminating upon the expiration or termination of the Lease for whatever reason.

3. All automobiles (including all contents thereof) shall be parked in the Spaces at the sole risk of Tenant, its employees, agents, invitees and licensees. Landlord has no duty to insure any automobiles (including the contents thereof), and Landlord is not responsible for the protection and security of such automobiles. Landlord shall have no liability whatsoever for any property damage and/or personal injury which might occur as a result of or in connection with the parking of said automobiles in any of the Spaces, ***and Tenant hereby agrees to indemnify and hold Landlord harmless from and against any and all liabilities, costs, claims, expenses, and/or causes of action which Landlord may incur in connection with or arising out of the use of the Spaces by Tenant or its employees, agents, invitees, or licensees pursuant to this Agreement.***

4. If Tenant has a license to use Reserved Spaces, Landlord will select a means of identifying individual Reserved Spaces, and Tenant will comply with procedures established by Landlord to identify the particular automobile that is authorized by Tenant to park in each individual Reserved Space. Landlord will not be liable to Tenant or any of its employees for any unauthorized automobile parking in individual Reserved Spaces. Landlord reserves the right to relocate any Reserved or Non-Reserved parking areas or Spaces from time to time, to alter, reduce or modify any parking areas, to use portions of the parking areas for free, visitor, or other parking needs of Landlord and to take any other actions regarding the parking areas.

5. This Exhibit shall not create a bailment between the parties hereto. The only relationship created between Landlord and Tenant regarding the Spaces is that of licensor and licensee, respectively.

6. In its use of the Spaces, Tenant shall follow all of the rules and regulations of the

Building applicable thereto, as the same may be amended from time to time. Upon the occurrence of any breach of such rules or any default by Tenant under the Lease, Landlord shall be entitled to terminate the license given hereby, by written notice to Tenant, in which event Tenant's right to utilize the Spaces shall thereupon automatically cease.

7. Tenant shall be responsible for ensuring that its employees and agents do not park their cars in visitor parking spaces or in parking spaces or areas, if any, reserved or designated by Landlord for the use of other tenants or for other purposes. Tenant agrees to furnish to Landlord the state automobile license numbers of automobiles of Tenant and its employees who will occupy Spaces from time to time within five (5) days from its receipt of written notice from Landlord requesting such information. Landlord shall be entitled to utilize whatever security device Landlord deems necessary (including but not limited to the issuance of parking stickers or access cards), to insure that only those tenants entitled to use Spaces in the designated parking areas are using such spaces. If Tenant, its agents or employees wrongfully park in any of the parking areas or spaces designated for the use of others, then Landlord shall be entitled and is hereby authorized to have any such automobile towed away, at Tenant's sole risk and expense, and Landlord is further authorized to impose upon Tenant an administrative fee of \$25 for each such occurrence. Tenant hereby agrees to pay all amounts falling due under this section upon demand therefor.

INITIALS: _____

Landlord: **City of Temple**

Tenant: **Mary Ann Rojas, President of Job Source**

EXHIBIT D
PROHIBITED USES

1. Retail Banking Purposes, which shall include receiving deposits or making loans to the general public.
2. Locating any signage or advertising or any type on any portion of the Building that can be viewed from the exterior of the Building or from any common area of the Building (excluding common tenant directories).

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING A LEASE RENEWAL WITH MARY ANN ROJAS, PRESIDENT OF JOB SOURCE, FOR SPACE IN THE E. RHODES AND LEONA B. CARPENTER FOUNDATION BUILDING (THE TEMPLE PUBLIC LIBRARY) AT A LEASE RATE OF \$325 PER MONTH; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, the City currently owns and leases offices in the E. Rhodes and Leona B. Carpenter Foundation Building (the Temple Public Library);

Whereas, the lease with Mary Ann Rojas, President of Job Source, for approximately 325 square feet of space expired on January 31, 2013, and the tenant has requested to renew her lease for an additional six month term at the rate of \$325 per month, as attached hereto as Exhibit A;

Whereas, staff recommends entering into a six month lease with Mary Ann Rojas, President of Job Source, expiring on August 31, 2013;

Whereas, the lease agreement allows for a 30-day termination clause should the lessee or the City desire to terminate the lease - the City has previously leased property to this tenant and finds her to be a reasonable lessee;

Whereas, The City will receive \$325 per month for the term of the lease – the rent payments will be deposited into account 110-0000-461-0937.

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 renewal, after approval as to form by the City Attorney, with Mary Ann Rojas, President of Job Source, for approximately 325 square feet of space in the E. Rhodes and Carpenter Foundation Building (the Temple Public Library) at the rate of \$325 per month, as set forth in Exhibit A attached hereto and incorporated herein.

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 7th day of **February**, 2013.

THE CITY OF TEMPLE, TEXAS

WILLIAM A. JONES, III, Mayor

ATTEST:

Lacy Borgeson
City Secretary

APPROVED AS TO FORM:

Jonathan Graham
City Attorney



COUNCIL AGENDA ITEM MEMORANDUM

02/07/13
Item #6(F)
Consent Agenda
Page 1 of 2

DEPT./DIVISION SUBMISSION & REVIEW:

Ken Cicora, Parks and Leisure Services Director

ITEM DESCRIPTION: Consider adopting a resolution accepting a \$5,000 Health Promotion & Chronic Disease Prevention Cardiovascular Tobacco Grant from the Texas Department of State Health Services and authorizing the City Manager to sign an agreement with DSHS accepting that grant.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: In August, 2012 the Recreation and Leisure Services Department applied for a \$5,000 Health Promotion & Chronic Disease Prevention Cardiovascular Tobacco Grant from the Texas Department of State Health Services to provide information to our residents and business owners on the new smoking ordinance and on the dangers of smoking and second hand smoke. We have been notified that our application has been approved.

The grant will allow the Parks and Leisure Services Department and Mayors Council on Physical Fitness to develop printed materials to help educate the community on the changes in the new smoking ordinance that Council approved on December 20, 2012. Among the changes in the ordinance are requirements that affect smoking in the parks, bowling alleys and indoor entertainment facilities and smoking in hotels. We will also use the funds to help make the community aware of those changes. We will also develop materials directed at families with young children on the dangers of smoking and second hand smoke.

Under the terms of the grant, the City has until June 23, 2013 to spend the funds.

FISCAL IMPACT: The City will receive \$5,000 in grant funds. This grant is a reimbursement grant and does not require a City match. A budget adjustment appropriating the grant revenue and expenditures is presented for Council's approval.

ATTACHMENTS:

[Budget Adjustment
Resolution](#)

FY 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	
260-4100-551-21-29		Advertising/Marketing	5,000			
260-0000-431-01-63		Federal Grants	5,000			
TOTAL.....			\$ 10,000		\$ -	

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

To appropriate grant revenue and expenditures for the Health Promotion & Chronic Disease Prevention Cardiovascular Tobacco Grant from the Texas Department of State Health Services (DSHS). The City has been awarded \$5,000 in grant funds. Grant funds will be used to develop printed materials to help educate the community on the changes in the new smoking ordinance that Council approved on December 20, 2012.

DOES THIS REQUEST REQUIRE COUNCIL APPROVAL?

☒ Yes☐ No

DATE OF COUNCIL MEETING

2/7/2013

WITH AGENDA ITEM?

☒ Yes☐ No

Department Head/Division Director

Date

☐ Approved☐ Disapproved

Finance

Date

☐ Approved☐ Disapproved

City Manager

Date

☐ Approved☐ Disapproved

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING ACCEPTANCE OF FUNDS FOR THE HEALTH PROMOTION AND CHRONIC DISEASE PREVENTION CARDIOVASCULAR TOBACCO GRANT, FROM THE TEXAS DEPARTMENT OF STATE HEALTH SERVICES (DSHS), IN THE AMOUNT OF \$5,000; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, in August, 2012, the Parks and Leisure Services Department applied for a \$5,000 Health Promotion and Chronic Disease Prevention Cardiovascular Tobacco Grant from the Texas Department of State Health Services to provide information to our residents and business owners on the new smoking ordinance and on the dangers of smoking and second hand smoke;

Whereas, in the fall of 2012, the City was notified of approval of the application – the grant will allow the Parks and Leisure Services Department and the Mayors Council on Physical Fitness to develop printed materials to help educate the community on the changes in the new smoking ordinance that was approved on December 20, 2012;

Whereas, among the changes in the ordinance are requirements that affect smoking in the parks, bowling alleys, indoor entertainment facilities and hotels – these funds will be used to help make the community aware of those recent changes;

Whereas, this grant is a reimbursement grant and does not require a City match, however, a budget adjustment needs to be approved appropriating the grant revenue and expenditures; 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 accepts grant funds in the amount of \$5,000 from the Texas Department of State Health Services for Health Promotion and Chronic Disease Prevention, which will include the development of printed materials to help educate the community on the changes in the new smoking ordinance.

Part 2: The City Council hereby directs the City Manager to execute on behalf of the City of Temple and with the appropriate authorizations of the City of Temple, all contracts and agreements with the Texas Department of State Health Services.

Part 3: The City Council approves an amendment to the FY12-13 budget, substantially in the form of the copy attached as Exhibit A.

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 7th day of **February**, 2013.

THE CITY OF TEMPLE, TEXAS

WILLIAM A. JONES, III, Mayor

ATTEST:

Lacy Borgeson
City Secretary

ATTEST:

Jonathan Graham
City Attorney



COUNCIL AGENDA ITEM MEMORANDUM

02/07/13
Item #6(G)
Consent Agenda
Page 1 of 2

DEPT./DIVISION SUBMISSION & REVIEW:

Autumn Speer, Director of Planning and Development

ITEM DESCRIPTION: A-FY-13-09: Consider adopting a resolution for a partial release of an existing 20 foot-wide utility easement being defined as the east 10-foot portion of the easement located along the west (rear) property boundary of Lots 20 and 21, Block 9 of Temple Park Estates, a subdivision in Bell County, Texas, according to the plat of record in Cabinet A, Slide 295-C, Plat of Records of Bell County, Texas. The property is located in Temple's western E.T.J., at 13250 Marigold Trail.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

Staff recommends adopting resolution releasing a portion of an existing 20-foot wide utility easement being defined as the east 10-foot portion of the easement located along the west (rear) property boundary of Lots 20 and 21 of Temple Park Estates as presented in the item description and further depicted in the referenced attachments.

ITEM SUMMARY: The applicant, Charles Parker, has submitted a request for the partial release of an existing 20-foot-wide utility easement being defined as the east 10-foot portion of the easement located along the west (rear) property boundary of Lots 20 and 21, Block 9 of Temple Park Estates in Temple's western E.T.J, to allow for the construction of a swimming pool and related outbuildings. The easement is a 20-foot wide utility easement that runs the entire length of the rear properties of Block 9. The easement was dedicated in 1965 with the approval of the Temple Park Estates subdivision for the purpose of unspecified utilities.

Private utility providers servicing the area were notified and indicated no private utilities are located within the easement.

No objections were raised by the providers and they concurred with the abandonment. The Utility Division within the Public Works/Engineering Department confirmed that the existing utility easement does not contain an active line within the boundaries of the subdivision.

FISCAL IMPACT: Staff recommends this easement be released at no cost to the underlying property owner, per Section 272.001 of the Texas Local Government Code.

ATTACHMENTS:

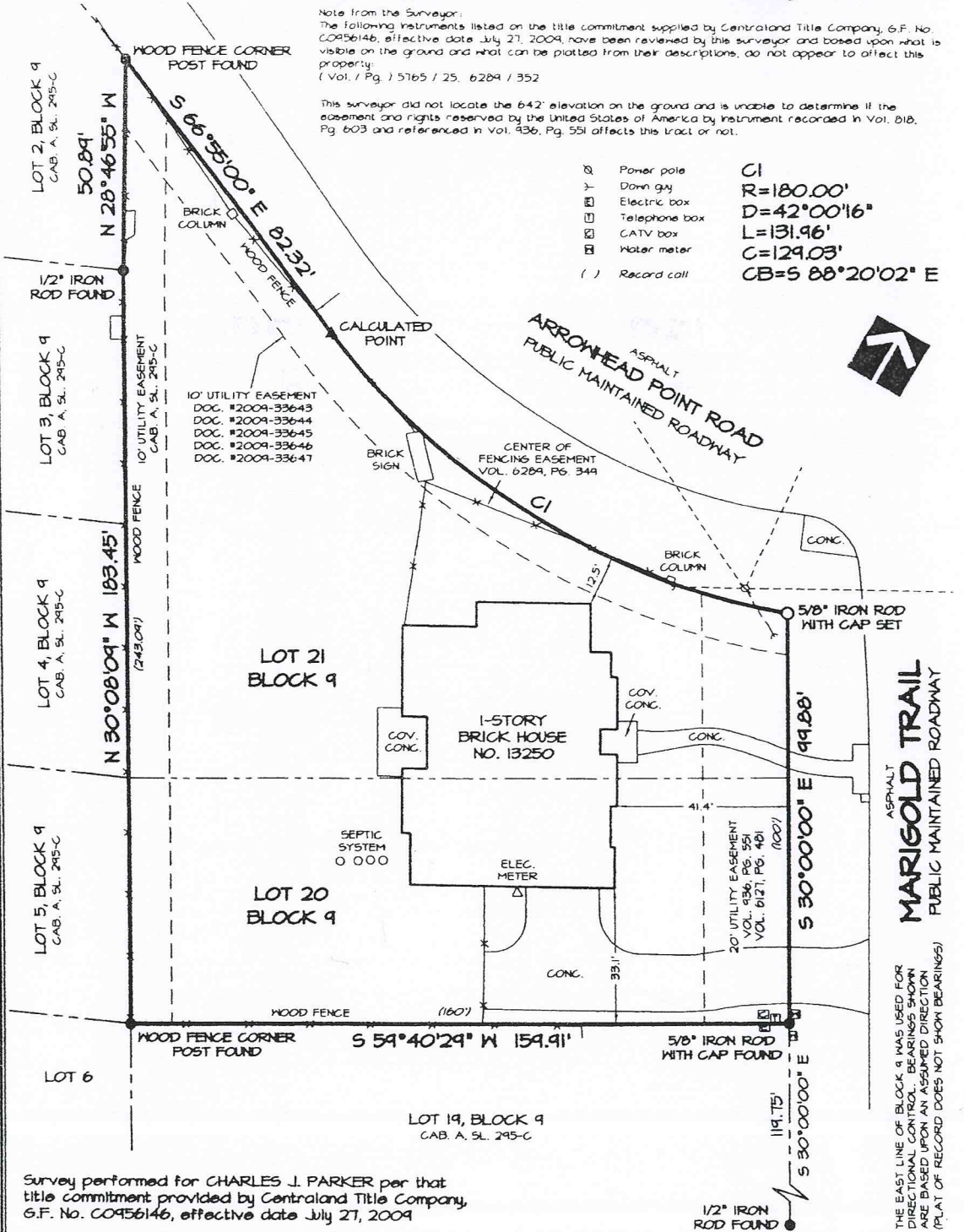
Surveyors Sketch of Lots 20 and 21
Temple Park Estates Subdivision Plat
Resolution

Surveyor's Sketch showing LOTS TWENTY (20) and TWENTY-ONE (21) BLOCK NINE (9), of TEMPLE PARK ESTATES, a subdivision in Bell County, Texas, according to the plat of record in Cabinet A, Slide 295-C, Plat Records of Bell County, Texas.

Note from the Surveyor:
The following instruments listed on the title commitment supplied by Centraland Title Company, G.F. No. C0956146, effective date July 27, 2009, have been reviewed by this surveyor and based upon what is visible on the ground and what can be plotted from their descriptions, do not appear to affect this property:
(Vol. / Pg.) 5765 / 25, 6289 / 352

This surveyor did not locate the 642' elevation on the ground and is unable to determine if the easement and rights reserved by the United States of America by instrument recorded in Vol. 818, Pg. 603 and referenced in Vol. 936, Pg. 551 affects this tract or not.

P Power pole
 D Down guy
 E Electric box
 T Telephone box
 CATV CATV box
 M Water meter
 () Record call
 CI
 R=180.00'
 D=42°00'16"
 L=131.96'
 C=129.03'
 CB=S 88°20'02" E



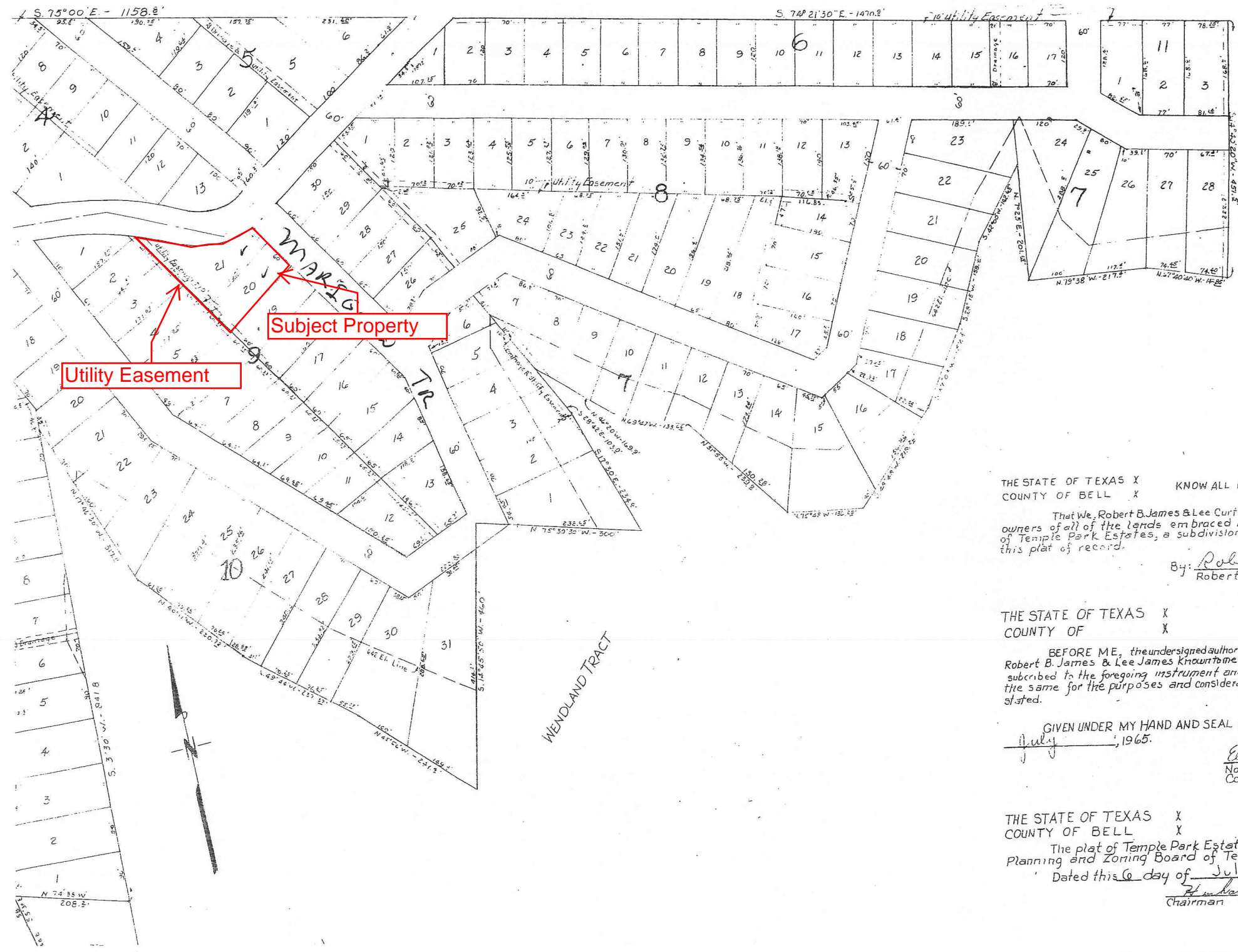
Survey performed for CHARLES J. PARKER per that title commitment provided by Centraland Title Company, G.F. No. C0956146, effective date July 27, 2009

This sketch represents a survey made on the ground. During the performance of this survey, persons working under my supervision observed conditions within and along the boundaries and to the best of my knowledge they are as shown. This document is not valid for any purpose unless signed and sealed by a Registered Professional Land Surveyor.

ALL COUNTY SURVEYING, INC.

• Surveying
 • Mapping
 • Construction Layout
 1303 South 21st Street
 Temple, Texas 76504
 254-718-2272 Killeen 254-634-4636
 Fax 254-714-7608

Survey completed 8-6-09
 Scale: 1" = 30'
 Job No. 090571
 Dwg No. 090571R
 Drawn by JMB
 Surveyor JMB #5335



THE STATE OF TEXAS X
COUNTY OF BELL X

KNOW ALL MEN BY THESE PRESENTS:

That we, Robert B. James & Lee Curtis, here by certify that we are owners of all of the lands embraced with the boundaries of the plat of Temple Park Estates, a subdivision of Bell County, Texas and in this plat of record.

By: Robert B. James & Lee Curtis
Robert B. James & Lee Curtis

THE STATE OF TEXAS X
COUNTY OF BELL X

BEFORE ME, the undersigned authority on this day personally appeared Robert B. James & Lee Curtis known to me to be the persons whose names are subscribed to the foregoing instrument and acknowledged to me that they executed the same for the purposes and consideration therein expressed in the caption stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this the 10th day of July, 1965.

Edna Rose Wilson
Notary Public in and for
County, Texas

THE STATE OF TEXAS X
COUNTY OF BELL X

The plat of Temple Park Estates is approved by the City Planning and Zoning Board of Temple, Texas.

Dated this 6 day of July, 1965.

Ed Hall W. Farley
Chairman

RESOLUTION NO. _____

(A-FY-13-09)

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, RELEASING A PORTION OF AN EXISTING 20-FOOT WIDE UTILITY EASEMENT BEING DEFINED AS THE EAST 10-FOOT PORTION OF THE EASEMENT LOCATED ALONG THE WEST (REAR) PROPERTY BOUNDARY OF LOTS 20 AND 21, BLOCK 9, TEMPLE PARK ESTATES, ALSO KNOWN AS 13250 MARIGOLD TRAIL; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, the applicant requests the City of Temple release a portion of an existing utility easement within Temple's western ETJ to allow for the construction of a swimming pool and related outbuildings – the easement is a 20-foot wide utility easement that runs the entire length of the real properties of Block 9;

Whereas, the easement was dedicated in 1965 with the approval of the Temple Park Estates subdivision for the purpose of unspecified utilities – private utility providers servicing the area were notified and indicated no private utilities are located within said easement;

Whereas, the Utility Division within the Public Works/Engineering Department confirmed the existing utility easement does not contain an active line within the boundaries of the subdivision, and the Staff recommends this easement be released at no cost to the underlying property owner; 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 of Temple, Texas, releases a portion of a 20-foot wide utility easement being defined as the east 10-foot portion of the easement located along the west (rear) property boundary of Lots 20 and 21, Block 9 of Temple Park Estates, a subdivision in Bell County, Texas according to the plat record in Cabinet A, Slide 295-C, Plat Records of Bell County, Texas a copy of which is attached as Exhibit A, and specifically known as 13250 Marigold Trail.

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 7th day of **February**, 2013.

THE CITY OF TEMPLE, TEXAS

WILLIAM A. JONES, III, Mayor

ATTEST:

APPROVED AS TO FORM:

Lacy Borgeson
City Secretary

Jonathan Graham
City Attorney

STATE OF TEXAS §
COUNTY OF BELL §

This instrument was acknowledged before me on the ____ day of _____, 2013, by
William A. Jones, III, Mayor of the City of Temple, Texas, on behalf of the City.

Notary Public, State of Texas



COUNCIL AGENDA ITEM MEMORANDUM

02/07/13
Item #6(H)
Consent Agenda
Page 1 of 1

DEPT./DIVISION SUBMISSION & REVIEW:

Jonathan Graham, City Attorney

ITEM DESCRIPTION: Consider adopting a resolution authorizing the City to convey property located at 302 South Main Street to the abutting property owner for fair market value.

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.

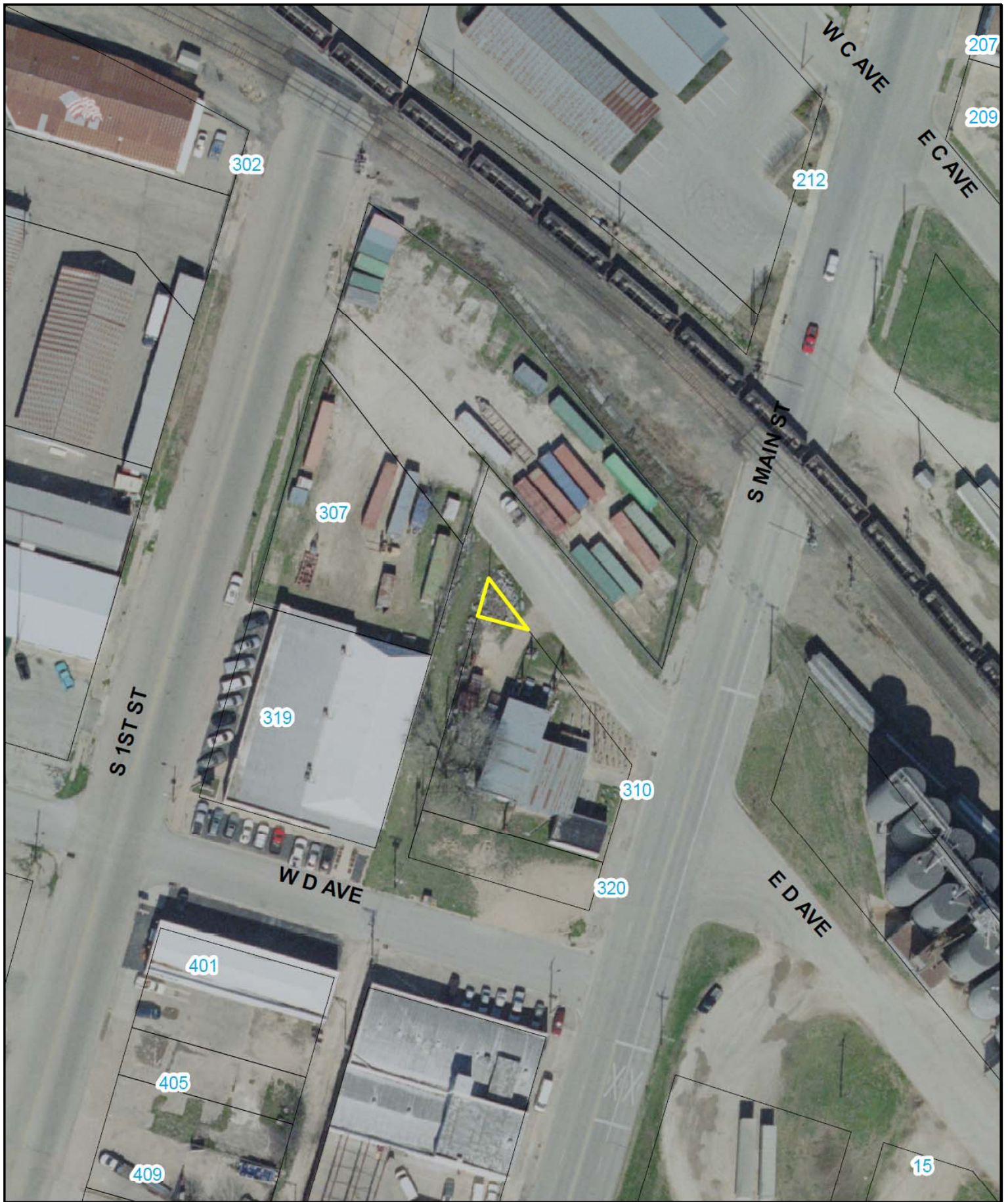
ITEM SUMMARY: As part of the continuing effort to dispose of surplus City property and return it to the property tax roll, we have contacted a number of adjacent property owners for small, isolated tracts and have received an offer to purchase the above listed property from one abutting property owners. Staff negotiated with the one (1) property owner on a fair sale price of the City owned property. Staff now seeks approval to enter into a real estate sales contract on the following property:

- (1) Sale of property located at 302 South Main Street (legal description: TEMPLE ORIGINAL, BLOCK 41A, LOT ALL) to Temple Granite Works in the amount of **\$600**. See attached “Exhibit A.”

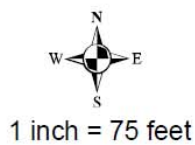
FISCAL IMPACT: The revenue generated from the sale of this property will total \$600.

ATTACHMENTS:

[Exhibit A of Conveyed Property
Resolution](#)



302 S Main St
County Property ID: 21033



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

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING THE CITY OF TEMPLE TO CONVEY PROPERTY LOCATED AT 302 SOUTH MAIN STREET TO THE ABUTTING PROPERTY OWNER FOR FAIR MARKET VALUE; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, as part of the continuing effort to dispose of surplus City property and return it to the property tax rolls, staff has negotiated with one property owner on a fair sales price of the City owned property, at the amount listed below and attached hereto as Exhibit A:

- 1) 302 South Main Street – to Temple Granite Works for \$600.00

Whereas, Staff now seeks approval to enter into a real estate sales contract with the property owner; and

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

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

Part 1: The City Council authorizes the City Manager, or his designee, to execute any documents, after approval as to form by the City Attorney, that may be necessary for the sale of the property located at 302 South Main Street to the abutting property owner for fair market value.

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 7th day of **February**, 2013.

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

02/07/13
Item #6(I)
Consent Agenda
Page 1 of 2

DEPT./DIVISION SUBMISSION & REVIEW:

Lacy Borgeson, TRMC, City Secretary

ITEM DESCRIPTION: Consider adopting resolutions:

- (1) Ordering an election for May 11, 2013, for the election of the District 1 Councilmember, the District 4 Councilmember; and
- (2) Ordering a Special Election for May 11, 2013 for the Mayor at-large to fill an unexpired term through May 2014; and
- (3) Authorizing joint election agreements with the Temple Health & Bioscience Economic Development District and Temple Independent School District for the May 11, 2013 election.

STAFF RECOMMENDATION: Adopt resolutions as presented in item description.

ITEM SUMMARY: (1) This proposed resolution calls the City's general election for Saturday, May 11, 2013 for the election of the District 1 and District 4 Councilmembers for three year terms. The resolution also sets forth the polling places, early voting procedures, and various other requirements in accordance with State law and the City Charter.

If each candidate for an office that is to appear on the ballot in a particular District is unopposed as of March 1, 2013, the deadline for write-in candidates to declare candidacy, the City Council may declare each unopposed candidate elected and cancel the May 11, 2013 general election.

(2) Mayor William A. Jones, III submitted his resignation as Mayor for the City of Temple on January 17, 2013.

In accordance with Article XI, Section 11 of the Texas Constitution and the Temple City Charter, the City Council must hold a special election within 120 days of the resignation to fill the vacancy on the Council. This proposed resolution calls the special election for **Saturday, May 11, 2013** for the election of the Mayor to fill an unexpired term through May 2014. The resolution also sets out the candidate filing period, polling places, election judges and their compensation, early voting procedures, and various other requirements in accordance with State law and the City Charter.

The candidate filing period for this special election will be **February 8th through March 11th**.

If a candidate for this office that is to appear on the ballot for Mayor-at-large is unopposed as of March 11, 2013, the last day to file for place on the ballot, the City Council may declare the unopposed candidate elected and cancel the May 11, 2013 special election.

(3) This proposed resolution authorizes joint election agreements with the Temple Health & Bioscience Economic Development District and Temple Independent School District to conduct joint elections and share expenses for the May 11, 2013 general election. The City will be responsible for all duties associated with conducting the election and the costs will be shared equally between those parties holding elections. Should any of the entities declare the May 11, 2013 election to be canceled because of unopposed candidates, then the agreement will become void.

FISCAL IMPACT: Funds in the amount of \$26,200 are allocated in the City Secretary's budget for the 2013 General Election. All other entities holding joint elections with the City will pay their pro rata share of the total cost of conducting the election.

ATTACHMENTS:

[Resolutions](#)

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, CALLING AN ELECTION TO BE HELD WITHIN THE CITY FOR THE ELECTION OF THE DISTRICT 1 COUNCILMEMBER AND THE DISTRICT 4 COUNCILMEMBER, MAKING PROVISIONS FOR THE CONDUCT OF SAID ELECTION; CONTAINING OTHER PROVISIONS INCIDENT AND RELATED TO THE PURPOSE OF THIS RESOLUTION; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, Section 41.001 of the Texas Election Code provides that regular municipal elections shall be held on the second Saturday in May; and

Whereas, the laws of the State of Texas and the City of Temple further provide that the Election Code of the State of Texas is applicable to said election, and, in order to comply with said Code, an order should be passed establishing the procedure to be followed in said election and designating the voting places for said election; and

Whereas, the City Council finds and determines that it is necessary and advisable to call and hold an election within the City of Temple for the election of Councilmembers described above,

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

Part 1: It is hereby ordered that a municipal election be held on Saturday, May 11, 2013, for the purpose of electing two (2) City Councilmembers. One City Councilmember shall be elected by the voters from District 1 and one City Councilmember shall be elected from the voters from District 4.

In each race, the candidate receiving a majority of the votes cast in such election shall be declared elected by the City Council. If none of the candidates receives a majority of the votes cast in a particular race, the City Council shall order a run-off election as provided by the City Charter, at which the two candidates receiving the highest number of votes in the May 11th election shall stand for election. The candidate receiving the greatest number of votes in the run-off election shall be declared elected by the City Council. Councilmembers shall hold office for a term of three years.

Part 2: Optical scan paper ballots shall be used for early voting, voting by mail and election day voting in each polling place, in conjunction with the ES&S Model Precinct Ballot Counter. The ES&S AutoMARK Voter Assist Terminal, which is Help America Vote Act (HAVA) compliant, will also be used for early voting and in each polling place on election day. Both systems of voting shall provide privacy for voters while casting their votes in accordance with Section 51.032 of the Texas Election Code. The vote for the election of District 1 and District 4 Councilmembers shall be recorded in such a manner as will permit the voters to cast one vote: one for a candidate from the single member district in which the voter resides.

Part 3: All independent candidates at the election to be held on May 11, 2013, for the above-mentioned Offices, shall file their applications to become candidates with the City Secretary of the City of Temple at the City Secretary's Office, Room 103, first floor of the Municipal Building, 2 North Main Street, Temple, Texas, beginning 101 days before the date of said election, being January 30, 2013, and ending on or before 71 days before the date of said election being on or before March 1, 2013, in compliance with Section 143.007 of the Texas Election Code. No person may, in such election, be a candidate for two positions. All applications shall be sworn to and comply with Section 141.031 of the Election Code. All candidates shall file with said application the loyalty affidavit and statement regarding awareness of the State nepotism statute as required by Article 141.031 of the Election Code.

Part 4: The City Secretary of this City shall, in accordance with the terms and provisions of the Election Code, post in her Office the names of all candidates who have filed their application in accordance with the terms and provisions of this order, and said names shall be posted in a conspicuous place in said Office for at least ten (10) days before said City Secretary orders the same to be printed on the ballot for said election.

Part 5: The election shall be held at the following places in the City for the election called by this resolution:

<i>City Council District No. 1</i>	Mayborn Civic and Convention Center, 3303 North 3rd Street
<i>City Council District No. 4</i>	Holy Trinity Catholic High School 6608 West Adams Ave. (FM 2305)
<i>Early Voting Location</i>	Municipal Building, 2 North Main Street (between Central and Adams)

Part 6: (a) **Early voting by personal appearance.** Any registered voter is eligible to vote early by personal appearance on weekdays, beginning on April 29, 2013, and ending on May 7, 2013, outside the City Secretary's Office, Room 103 (First Floor), Municipal Building, Temple, Texas. Early Voting will be conducted from 8:00 a.m. to 5:00 p.m. April 29, 2013 through May 3, 2013. During the time period of May 6 and May 7, 2013 Early Voting will be conducted from 7:00 a.m. to 7:00 p.m.

(b) **Early voting by mail.** A registered voter is eligible to vote early *by mail* if (1) the voter expects to be absent from the county on election day, and during the regular hours for conducting early voting at the main early voting polling place for the part of the period for early voting by personal appearance remaining after the voter's early voting ballot application is submitted to the early voting clerk, (2) the voter is under a disability that would prevent them from appearing at the polling place on election day, (3) the voter will be 65 years of age or older on election day, or (4) the registered voter is confined in jail at the time the early voting ballot application is submitted.

(1) Applications for ballot by mail shall be mailed to Lacy Borgeson, City Secretary, P.O. Box 207, Temple, Texas 76503, and must be received no later than May 3, 2013, provided that if the sole ground for voting early by mail is that the voter will be out of the county on election day, the application must be

received by April 26, 2013, unless the voter is out of the county when the application is made, in which case the application must still be received by May 3, 2013.

Part 7: Lacy Borgeson, the City Secretary, is hereby appointed Clerk for early voting, and authorized to appoint by written order one or more persons to assist her as deputy early voting clerks. The early voting clerk shall maintain a roster listing each person who votes early by personal appearance and for each person to whom an early ballot to be voted by mail is sent in accordance with Section 87.121 of the Texas Election Code. The early voting clerk shall perform all other duties required by her by the Texas Election Code.

Part 8: The Mayor shall make proclamation of the May 11, 2013 election and issue, or cause to be issued, all necessary orders, writs and notices for said election and returns of said election shall be made to this the City Council immediately after the closing of the polls. The Mayor is further authorized to give notice of a run-off election if such election is necessary. The City Secretary shall cause notice of this election, in both English and Spanish, to be published and posted in compliance with Texas Election Code Section 4.003(a)(1) and 4.003(b).

Part 9: Immediately after said election is held, the officers holding the same shall make returns on the result thereof to the Mayor of this City as required by the Election Code of this State.

Part 10: A copy of this order shall also serve as a Writ of Election which shall be delivered to the Presiding Judges for said election along with the Election Judge's Certificate of Appointment.

Part 11: The City Secretary is hereby authorized and instructed to provide and furnish all necessary election supplies to conduct said election and to comply with Federal, State, and local law and in the conduct thereof.

Part 12: If any section or part of any section, paragraph, or clause of this resolution is declared invalid or unconstitutional for any reason, such declaration shall not be held to invalidate or impair the validity, force, or effect of any other section or sections, part of section, paragraph, or clause of this resolution.

Part 13: This resolution shall take effect immediately from and after its passage, and it is accordingly so ordained.

Part 14: It is hereby officially found and determined that the meeting at which this ordinance is passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act.

PASSED AND APPROVED on the 7th day of **February, 2013**.

THE CITY OF TEMPLE, TEXAS

WILLIAM A. JONES, III, Mayor

ATTEST:

APPROVED AS TO FORM:

Lacy Borgeson
City Secretary

Jonathan Graham
City Attorney

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, CALLING A SPECIAL ELECTION ON May 11, 2013, TO FILL AN UNEXPIRED TERM THROUGH MAY, 2014; MAKING PROVISIONS FOR THE CONDUCT OF SAID ELECTION; CONTAINING OTHER PROVISIONS INCIDENT AND RELATED TO THE PURPOSE OF THIS RESOLUTION; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, Mayor William A. Jones, submitted his resignation from the Temple City Council at the regular Council Meeting on January 17, 2013; and

Whereas, Article XI, Section 11 of the Texas Constitution states that a municipality providing terms of office exceeding two years but not exceeding four years must elect all members of its governing body by majority vote and any vacancies occurring on the governing body must be filled by majority vote of the qualified voters at a special election called for such purpose within 120 days after the vacancy occurs; and

Whereas, Section 4.5 of the Temple City Charter states that vacancies on the City Council shall be filled under the same conditions as prescribed by Article XI, Section 11 of the Texas Constitution; and

Whereas, the laws of the State of Texas and the City of Temple further provide that the Election Code of the State of Texas is applicable to said election, and, in order to comply with said Code, an order should be passed establishing the procedure to be followed in said election and designating the voting places for said election; and

Whereas, the City Council finds and determines that it is necessary and advisable to call and hold a special election within the City of Temple for the election of the Mayor to fill the unexpired term,

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

Part 1: It is hereby ordered that a special municipal election be held on Saturday, May 11, 2013, for the purpose of electing the Mayor by the voters to fill the unexpired term.

In the race, the candidate receiving a majority of the votes cast in such election shall be declared elected by the City Council. If none of the candidates receive a majority of the votes cast in a particular race, the City Council shall order a run-off election as provided by the City Charter and the Texas Election Code, at which the two candidates receiving the highest number of votes in the May 11, 2013 election shall stand for election. The candidate receiving the greatest number of votes in the run-off election shall be declared elected by the City Council. The newly appointed Mayor shall hold office for the remainder of the unexpired term which runs through May, 2014.

Part 2: Optical scan paper ballots shall be used for early voting, voting by mail and election day voting at the polling place, in conjunction with the ES&S Model Precinct Ballot Counter. The ES&S AutoMARK Voter Assist Terminal, which is Help America Vote Act (HAVA) compliant, will also be used for early voting and at the polling place on election day. Both systems of voting shall provide privacy for voters while casting their votes in accordance with Section 51.032 of the Texas Election Code.

Part 3: All independent candidates at the special election to be held on May 11, 2013, for the above-mentioned Office, shall file their applications to become candidates with the City Secretary of the City of Temple at the City Secretary's Office, Room 103, first floor of the Municipal Building, 2 North Main Street, Temple, Texas, beginning February 8, 2013 after such election is ordered by the City Council on February 7, 2013, and ending on March 11, 2013, in compliance with the Texas Election Code. All applications shall be sworn to and comply with Section 141.031 of the Election Code. All candidates shall file with said application the loyalty affidavit and statement regarding awareness of the State nepotism statute as required by Article 141.031 of the Election Code.

Part 4: The City Secretary of this City shall, in accordance with the terms and provisions of the Election Code, post in her Office the names of all candidates who have filed their application in accordance with the terms and provisions of this order, and said names shall be posted in a conspicuous place in said Office for at least ten (10) days before said City Secretary orders the same to be printed on the ballot for said election.

Part 5: The election shall be held at the following places in the City:

Early Voting Ballot Board

Municipal Building,
2 North Main Street
(between Central and Adams)

Election Day Polling Places

District #1

Mayborn Civic & Convention Center
3303 North 3rd St.

District #2

Meridith-Dunbar Elementary School
1717 East Ave. J

District #3

Thornton Elementary School
2900 Pin Oak Dr.

District #4

Holy Trinity Catholic High School
6608 West Adams Ave. (FM 2305)

The Early Voting Ballot Board shall count the ballots cast during early voting for the election in accordance with the requirements of Chapter 87 of the Texas Election Code. Early voting ballots

will in every case be treated as a separate precinct and a separate set of returns will be made for early voting ballots.

Part 6: (a) **Early voting by personal appearance.** Any registered voter is eligible to vote early by personal appearance on weekdays, beginning April 29, 2013, and ending on May 7, 2013, outside the City Secretary's Office, Room 103 (First Floor), Municipal Building, Temple, Texas. Early Voting will be conducted from 8:00 a.m. to 5:00 p.m. April 29, 2013 through May 3, 2013. During the time period of May 6 and 7, 2013 Early Voting will be conducted from 7:00 a.m. to 7:00 p.m.

(b) **Early voting by mail.** A registered voter is eligible to vote early *by mail* if (1) the voter expects to be absent from the county on election day, and during the regular hours for conducting early voting at the main early voting polling place for the part of the period for early voting by personal appearance remaining after the voter's early voting ballot application is submitted to the early voting clerk, (2) the voter is under a disability that would prevent them from appearing at the polling place on election day, (3) the voter will be 65 years of age or older on election day, or (4) the registered voter is confined in jail at the time the early voting ballot application is submitted.

(1) Applications for ballot by mail shall be mailed to Lacy Borgeson, City Secretary, P.O. Box 207, Temple, Texas 76503, and must be received no earlier than May 3, 2013, provided that if the sole ground for voting early by mail is that the voter will be out of the county on election day, the application must be received by April 26, 2013 unless the voter is out of the county when the application is made, in which case the application must still be received by May 3, 2013.

Part 7: Lacy Borgeson, the City Secretary, is hereby appointed Clerk for early voting, and is authorized to appoint by written order one or more persons to assist her as deputy early voting clerks. The early voting clerk shall maintain a roster listing each person who votes early by personal appearance and for each person to whom an early ballot to be voted by mail is sent in accordance with Section 87.121 of the Texas Election Code. The early voting clerk shall perform all other duties required by him by the Texas Election Code.

Part 8: The Mayor shall make proclamation of the May 11, 2013 special election and issue, or cause to be issued, all necessary orders, writs and notices for said election and returns of said election shall be made to the City Council immediately after the closing of the polls. The Mayor is further authorized to give notice of a run-off election if such election is necessary. The City Secretary shall cause notice of this election, in both English and Spanish, to be published and posted in compliance with Texas Election Code Section 4.003(a)(1) and 4.003(b).

Part 9: Immediately after said election is held, the officers holding the same shall make returns on the result thereof to the Mayor of this City as required by the Election Code of this State.

Part 10: A copy of this order shall also serve as a Writ of Election which shall be delivered to the Presiding Judge, once appointed, for said election along with the Election Judge's Certificate of Appointment.

Part 11: The City Secretary is hereby authorized and instructed to provide and furnish all necessary election supplies to conduct said election and to comply with Federal, State, and local law and in the conduct thereof.

Part 12: If any section or part of any section, paragraph, or clause of this resolution is declared invalid or unconstitutional for any reason, such declaration shall not be held to invalidate or impair the validity, force, or effect of any other section or sections, part of section, paragraph, or clause of this resolution.

Part 13: This resolution shall take effect immediately from and after its passage, and it is accordingly so ordained.

Part 14: It is hereby officially found and determined that the meeting at which this ordinance is passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act.

PASSED AND APPROVED on the 7th day of **February, 2013**.

THE CITY OF TEMPLE, TEXAS

WILLIAM A. JONES, III, Mayor

ATTEST:

APPROVED AS TO FORM:

Lacy Borgeson
City Secretary

Jonathan Graham
City Attorney

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING THE CITY MANAGER TO EXECUTE JOINT ELECTION AGREEMENTS WITH TEMPLE HEALTH & BIOSCIENCE ECONOMIC DEVELOPMENT DISTRICT AND THE TEMPLE INDEPENDENT SCHOOL DISTRICT FOR THE MAY 11, 2013 ELECTION; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, State law authorizes two or more political subdivisions to enter into an agreement to hold elections jointly when the political subdivisions are holding elections on the same day in all or part of the same territory or when State law makes holding a joint election mandatory;

Whereas, the Temple Independent School District and the Temple Health and Bioscience Economic Development District share all or part of the voting districts of the City of Temple and desire to conduct joint elections with the City of Temple for the May 11, 2013, election;

Whereas, funds are allocated in the City Secretary's budget for the 2013 General Election – all other entities holding joint elections with the City will pay their pro rata share of the total cost of conducting the election; 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 *Joint Election Agreements*, after approval as to form by the City Attorney, authorizing a joint election between the City of Temple, the Temple Health & Bioscience Economic Development District and the Temple Independent School District for the May 11, 2013, election.

Part 2: If any entity declares the May 11, 2013 election to be canceled, in compliance with Section 2.051 through Section 2.054 of the Texas Election Code, because the candidates' names that are to appear on the ballot are unopposed and there are no propositions on the ballot, the agreement with that particular entity will become void.

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 7th day of **February**, 2013.

THE CITY OF TEMPLE, TEXAS

WILLIAM A. JONES, III, Mayor

ATTEST:

Lacy Borgeson
City Secretary

APPROVED AS TO FORM:

Jonathan Graham
City Attorney



COUNCIL AGENDA ITEM MEMORANDUM

02/07/13
Item #6(J)
Consent Agenda
Page 1 of 1

DEPT./DIVISION SUBMISSION & REVIEW:

Traci Barnard, Director of Finance

ITEM DESCRIPTION: Consider adopting a resolution authorizing budget amendments for fiscal year 2012-2013.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: This item is to recommend various budget amendments, based on the adopted FY 2012-2013 budget. The amendments will involve transfers of funds between contingency accounts, department and fund levels.

FISCAL IMPACT: The total amount of budget amendments is \$266,663.

ATTACHMENTS:

[Budget Amendments](#)
[Resolution](#)

CITY OF TEMPLE
BUDGET AMENDMENTS FOR FY 2013 BUDGET
February 7, 2013

			APPROPRIATIONS	
ACCOUNT #	PROJECT #	DESCRIPTION	Debit	Credit
110-1122-513-2616		Professional	\$ 1,975	
110-1122-513-2560		Ad Valorem Taxes	\$ 300	
110-0000-461-0423		Sale of Land		\$ 2,275
Appropriate funds to cover the cost associated with the sale of surplus city property and increase revenue based on funds received to date for surplus property.				
260-6100-571-6532		Contingency (CDBG)	\$ 63,755	
260-0000-431-0131		CDBG Federal Grant Revenue		\$ 63,755
Appropriate CDBG funds for the reimbursement to the CDBG program according to program guidelines. The funds will be available for use by the City on a CDBG-assisted project.				
260-6100-571-6532		Contingency (CDBG)	\$ 50,773	
260-6000-515-6532		Contingency (CDBG)		\$ 11,413
260-6100-571-2691		Housing Rehabilitation		\$ 480
260-6100-571-2698		Code Enforcement/Clearance	\$ 1	
260-6100-571-6315	100623	Sidewalk/Curb/Gutter - 1st Street	\$ 1	
260-6100-571-6317	100735	Streets/Alleys - Avenue H		\$ 4,086
260-6100-571-6516	100742	Park Improvements - Gym Floor		\$ 34,796
Adjust the amounts carried forward for CDBG for the projects that have been completed and the remaining funds are now available to be reallocated.				
361-2800-532-6810	100927	Traffic Signal - Research Pkwy	\$ 111,762	
361-0000-315-1116		Reserve for Future Expenditures		\$ 111,762
Appropriate interest earnings from 2006 & 2008 Certificate of Obligation bonds to partially fund the traffic signal at Airport Road & Research Parkway.				
561-5200-535-6940	100681	Utility Relocation - NW Loop 363	\$ 30,000	
561-5400-535-6925	100842	Birdcreek Phase 2A	\$ 10,371	
561-5400-535-6937	100470	Project Savings		\$ 8,995
561-5400-535-6905	100667	Rehab of Pea Ridge		\$ 9,046
561-5100-535-6931	100336	SCADA System Upgrades		\$ 1,744
561-5100-535-6904	100800	Nugent Tank Rehab		\$ 4,620
561-0000-373-0411		Unreserved Bond Interest Earnings		\$ 15,966
Appropriate interest earnings to fund under budget project.				
TOTAL AMENDMENTS			\$ 266,663	\$ 266,663
GENERAL FUND				
Beginning Contingency Balance			\$	-
Added to Contingency Sweep Account			\$	-
Carry forward from Prior Year			\$	-
Taken From Contingency			\$	-
Net Balance of Contingency Account			\$	-
Beginning Judgments & Damages Contingency			\$	80,000
Added to Contingency Judgments & Damages from Council Contingency			\$	-
Taken From Judgments & Damages			\$	-
Net Balance of Judgments & Damages Contingency Account			\$	80,000

CITY OF TEMPLE
BUDGET AMENDMENTS FOR FY 2013 BUDGET
February 7, 2013

ACCOUNT #	PROJECT #	DESCRIPTION	APPROPRIATIONS	
			Debit	Credit
		Beginning Compensation Contingency	\$	403,000
		Added to Compensation Contingency	\$	-
		Taken From Compensation Contingency	\$	(203,000)
		Net Balance of Compensation Contingency Account	\$	200,000
		Net Balance Council Contingency	\$	280,000
		Beginning Balance Budget Sweep Contingency	\$	-
		Added to Budget Sweep Contingency	\$	-
		Taken From Budget Sweep	\$	-
		Net Balance of Budget Sweep Contingency Account	\$	-
		WATER & SEWER FUND		
		Beginning Contingency Balance	\$	50,000
		Added to Contingency Sweep Account	\$	-
		Taken From Contingency	\$	(2,966)
		Net Balance of Contingency Account	\$	47,034
		Beginning Compensation Contingency	\$	142,000
		Added to Compensation Contingency	\$	-
		Taken From Compensation Contingency	\$	(53,065)
		Net Balance of Compensation Contingency Account	\$	88,935
		Net Balance Water & Sewer Fund Contingency	\$	135,969
		HOTEL/MOTEL TAX FUND		
		Beginning Contingency Balance	\$	147,759
		Added to Contingency Sweep Account	\$	-
		Carry forward from Prior Year	\$	-
		Taken From Contingency	\$	(19,761)
		Net Balance of Contingency Account	\$	127,998
		Beginning Compensation Contingency	\$	10,100
		Added to Compensation Contingency	\$	-
		Taken From Compensation Contingency	\$	(5,100)
		Net Balance of Compensation Contingency Account	\$	5,000
		Net Balance Hotel/Motel Tax Fund Contingency	\$	132,998
		DRAINAGE FUND		
		Beginning Contingency Balance	\$	69,100
		Added to Contingency Sweep Account	\$	-
		Carry forward from Prior Year	\$	-
		Taken From Contingency	\$	-
		Net Balance of Contingency Account	\$	69,100
		Beginning Compensation Contingency	\$	25,100
		Added to Compensation Contingency	\$	-
		Taken From Compensation Contingency	\$	(19,567)
		Net Balance of Compensation Contingency Account	\$	5,533
		Net Balance Hotel/Motel Tax Fund Contingency	\$	74,633
		FED/STATE GRANT FUND		
		Beginning Contingency Balance	\$	-
		Carry forward from Prior Year	\$	39,839
		Added to Contingency Sweep Account	\$	114,528
		Taken From Contingency	\$	(11,413)
		Net Balance of Contingency Account	\$	142,954

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, APPROVING BUDGET AMENDMENTS TO THE 2012-2013 CITY BUDGET; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, on the 30th day of August, 2012, the City Council approved a budget for the 2012-2013 fiscal year; and

Whereas, the City Council deems it in the public interest to make certain amendments to the 2012-2013 City Budget.

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

Part 1: The City Council approves amending the 2012-2013 City Budget by adopting the budget amendments which are more fully described in Exhibit A, attached hereto and made a part hereof for all purposes.

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

PASSED AND APPROVED this the 7th day of **February**, 2013.

THE CITY OF TEMPLE, TEXAS

WILLIAM A. JONES, III, Mayor

ATTEST:

APPROVED AS TO FORM:

Lacy Borgeson
City Secretary

Jonathan Graham
City Attorney



CITY COUNCIL ITEM MEMORANDUM

02/07/13
Item #7
Regular Agenda
Page 1 of 5

DEPT. / DIVISION SUBMISSION & REVIEW:

Autumn Speer, Director of Planning and Development

ITEM DESCRIPTION: FIRST READING – PUBLIC HEARING - Z-FY-13-07: Consider adopting an ordinance authorizing a rezoning from Planned Development – Office Two (PD-O2) district to General Retail (GR) district on 1.010 ± acres of land situated in the Maximo Moreno Survey, Abstract No.14, Bell County, Texas being a part of land described as Lot 2, Block 1, Country Lane Addition, Phase II, recorded in Cabinet D, Slide 196-B, plat records of Bell County, Texas, located at 1497 Country View Lane.

PLANNING & ZONING COMMISSION RECOMMENDATION: At its January 7, 2013 meeting, the Planning and Zoning Commission voted 7 / 0 in accordance with staff recommendation to recommend approval of the zone change from Planned Development - Office Two (PD-O2) district to General Retail (GR) district.

STAFF RECOMMENDATION: Conduct public hearing and adopt ordinance as presented in item description on first reading, and schedule a second reading and final adoption for February 21, 2013.

Based on the following discussion, staff recommends approval of this request for a zone change from “PD-O2” to “GR” for the following reasons:




1. The proposed use is contiguous to an existing “GR” zoned property,
2. The applicant is requesting the “GR” zoning to expand an existing convenience store which is zoned “GR” and,
3. The convenience store with fuel sales would only be allowed in the T5-e transect zone of Temple Medical Education District (TMED), which permits fuel sales only on 31st Street.

ITEM SUMMARY: The developer requests this rezoning to allow the expansion of an existing convenience store. According to the City of Temple Comprehensive Plan / Future Land Use Plan, the subject property is within the designated Temple Medical Education District (TMED). The district encompasses an area intended for transformation overtime. The objective for this area is to create an “urban village” feel as areas are intended to develop or redevelop into a “mixed-use” setting. The various transect zones of TMED permit a host of uses and site development standards that have been specifically selected for compatibility with the development character and future plans for that specific zone. Although retail sales are permitted in most of the transect zones of TMED, only the T5-e transect zone permits fuel sales and only on 31st Street.

Although the TMED would be the preferred zoning designation to achieve consistency between zoning and the Future Land Use Map, the proposed zone change is contiguous to an existing “GR” zoned property and is subject to limitations set forth in Section 5.3.21 of the Unified Development Code establishing setback standards for pump and canopy setbacks. The “GR” District is the standard retail zoning district and allows most commercial uses intended to serve larger service areas.

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

Direction	Zoning	Current Land Use	Photo
Subject Property	PD - O2	Vacant	
North	PD-O2	Vacant	

Direction	Zoning	Current Land Use	Photo
South Across SE H.K. Dodgen Loop	LI	Bethel Assembly of God Church	
East (Adjacent to subject property.)	GR	Convenience Store	
East (East across S. Martin Luther King Jr. Dr.)	C	Vacant	

Direction	Zoning	Current Land Use	Photo
West	PD-O2	The Grand Reserve A Senior Housing Complex	

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

CP	Map 3.1 - Future Land Use and Character (FLUP)	Temple Medical Education District. This encompasses an area to the north, west and south of the subject property. Auto-Urban commercial is identified to the east across South Martin Luther King Jr. Dr.	N
CP	Map 5.2 - Thoroughfare Plan	The subject property has frontage on Southeast H.K. Dodgen Loop, a Major Thoroughfare, to the south and Country View Ln. to the north and Country Lane Dr. – both built as Local Streets.	Y
CP	Goal 4.1 - Growth and development patterns should be consistent with the City's infrastructure and public service capacities	The subject property is served by an 8" sewer line and a 6" water line fronting the property along Southeast H.K. Dodgen Loop. Additional water and sewer lines are available in County View Lane and Country Lane Drive.	Y
STP	Temple Trails Master Plan Map & sidewalks	The Master Plan Map has identified a proposed local connector trail at S. Martin Luther King Jr. Dr. No trails were identified within or adjacent to the subject property.	Y

CP = Comprehensive Plan STP = Sidewalk and Trails Plan

DEVELOPMENT REGULATIONS: The subject property is located west of the intersection of Southeast H.K. Dodgen Loop, a Major Thoroughfare, and South Martin Luther King Jr. Dr, a Minor Arterial on the Thoroughfare Plan. Sufficient capacity exists for the proposed expansion of the use. The proposed "GR" zoning is subject to the following limitations:

5.3.21. Fuel Sales

A fuel sales establishment may be permitted in accordance with the Use Table in Section 5.1 provided that pump islands must be setback a minimum of 12 feet from the front property line. The outer edge of the canopy must be set back a minimum of 10 feet from the property line. On corner lots, both street exposures must be treated as front yards.

Additionally, any development that increases site intensity by 100% or more to include paved surface or square footage for nonresidential development would trigger landscaping requirements under the general development standards established in the Unified Development Code.

Sufficient utilities are in place to accommodate the proposed expansion of the property. The subject property is served by an 8" sewer line and a 6" water line fronting the property along Southeast H.K. Dodgen Loop. Additional water and sewer lines are provided in County View Lane and Country Lane Drive.

PUBLIC NOTICE: Seven notices of the Planning and Zoning Commission public hearing were sent out to property owners within 200-feet of the subject property as required by State law and City Ordinance. As of Wednesday January 2, 2013 at 12:00 PM, three notices were returned in support of the proposed change of zoning.

The newspaper printed notice of the Planning and Zoning Commission public hearing on December 27, 2012, in accordance with state law and local ordinance.

FISCAL IMPACT: Not Applicable

ATTACHMENTS:

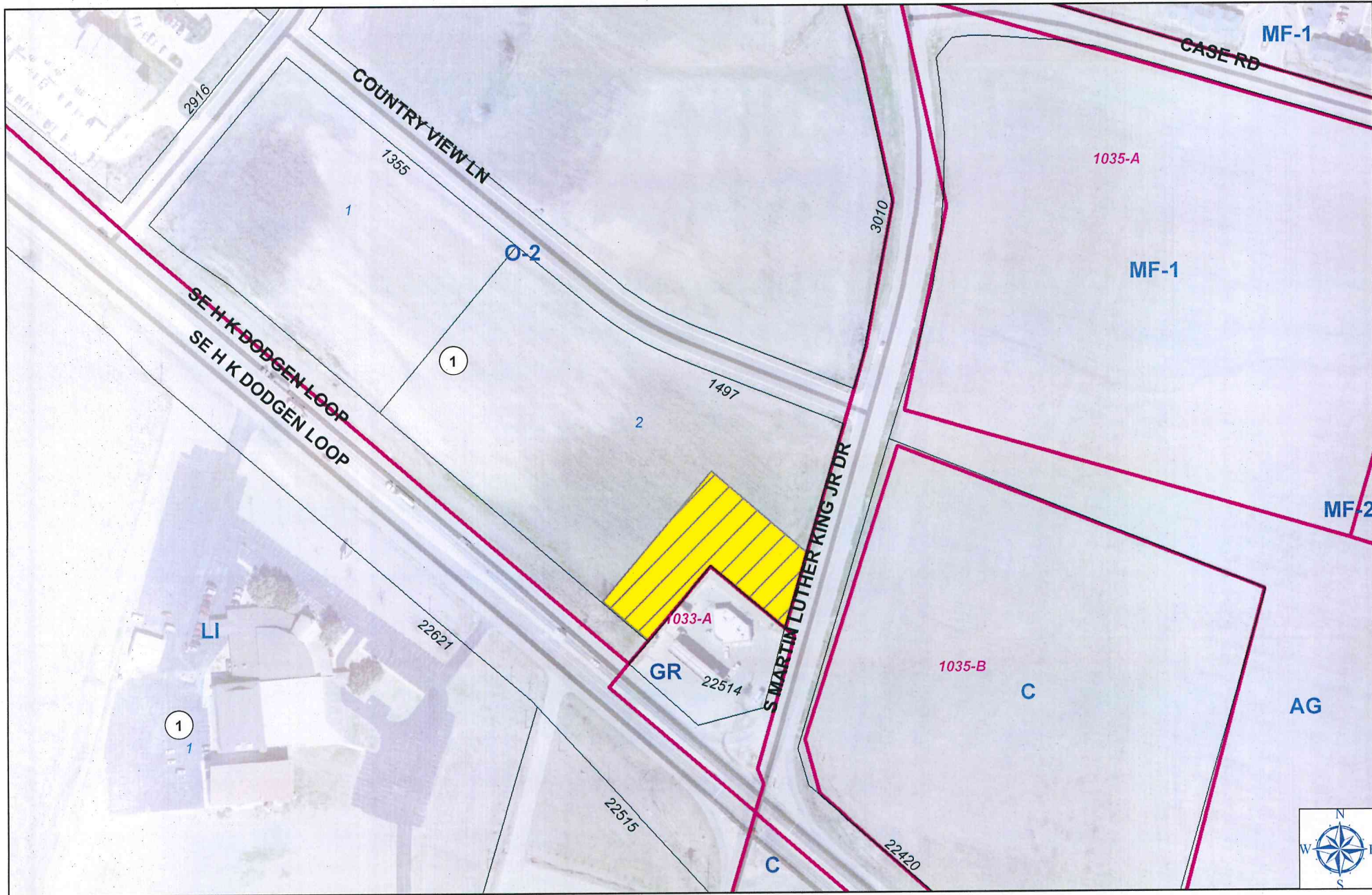
[Zoning and Location Map](#)
[Future Land Use and Character Map](#)
[Notification Map](#)
[Returned Property Owner Responses](#)
[P&Z Excerpts](#)
[Ordinance](#)



Z-FY-13-07

Zoning and Location Map Zone Change from PD-O2 to GR

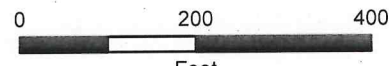
1497 Country View Lane



 Case  Zoning

Outblock Number
1234-A
Address 1234

Block Number ①
Lot Number 1



1/3/2013
City of Temple GIS

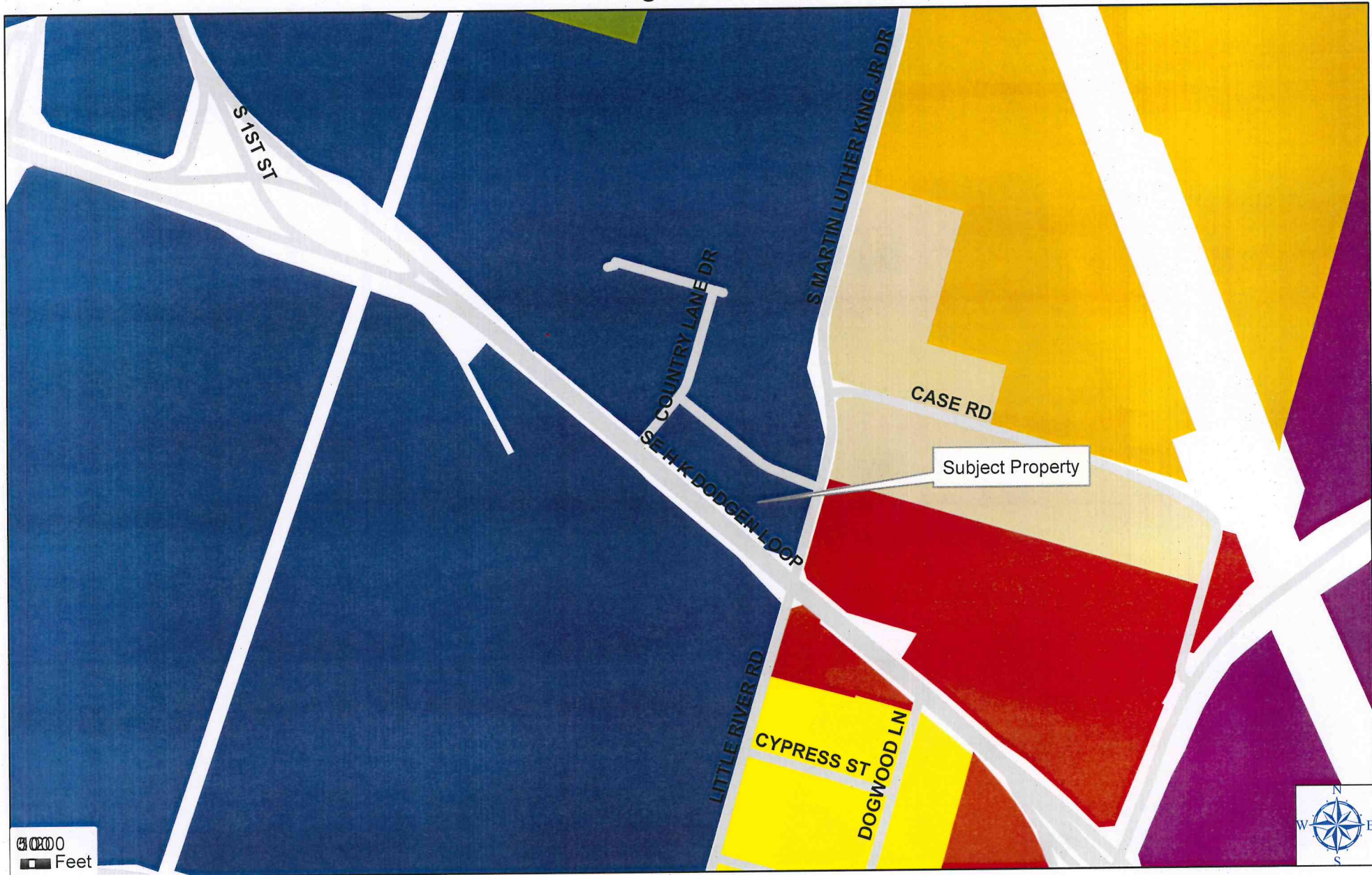
GIS products are for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. They do not represent an on-the-ground survey and represent only the approximate relative location.



Z-FY-13-07

Future Land Use Map Zone Change PD-O2 to GR

1497 Country View Lane



Future Land Use

Neighborhood Conservation	Auto-Urban Residential	Auto-Urban Commercial	Temple Medical Education District	Public Institutional
Estate Residential	Auto-Urban Multi-Family	Suburban Commercial	Industrial	Parks & Open Space
Suburban Residential	Auto-Urban Mixed Use	Urban Center	Business Park	Agricultural/Rural

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

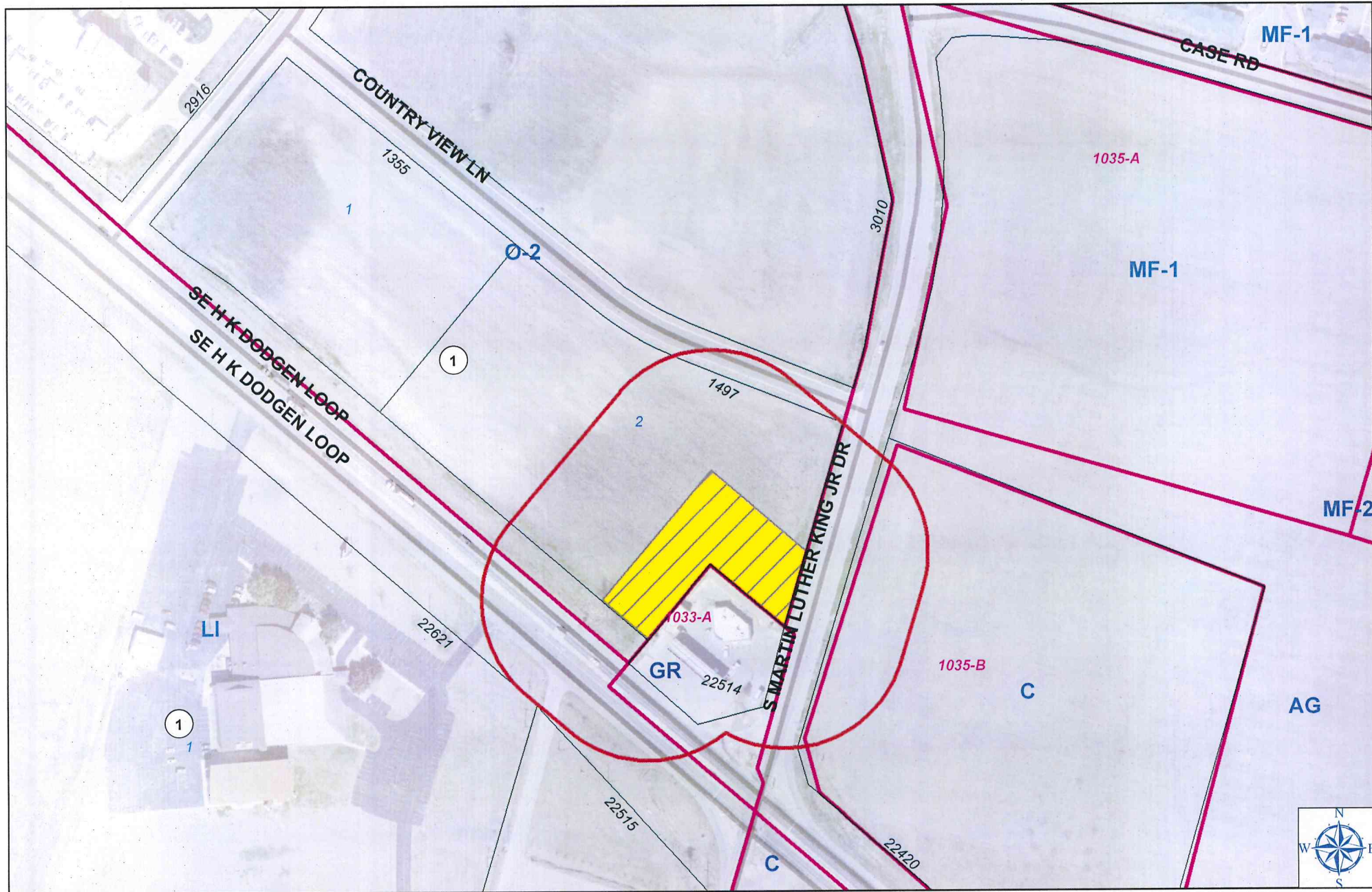
1/3/2013
City of Temple, GIS





Z-FY-13-07

Notification Map Zone Change from PD-O2 to GR

1497 Country View Lane



 Case
 Zoning
 1234-A Outblock Number
 1234 Address

 Block Number
 Lot Number

0 200 400
Foot

1/3/2013
City of Temple GIS

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



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

Fikes Wholesale Inc.
P.O. Box 127
Temple, Texas 76503-1287

Zoning Application Number: Z-FY-13-07

Project Manager: Mark Baker

Location: 1497 Country View Lane

The proposed rezoning is the area shown in hatched marking on the attached map. Because you own property within 200 feet of the requested change, your opinions are welcomed. Please use this form to indicate whether you are in favor of the possible rezoning of the property described on the attached notice, and provide any additional comments you may have.

I recommend ☒ approval ☐ denial of this request.

Comments:

Additional retail is needed in this area.

Raymond W. Smith / President
Signature

Raymond W. Smith
Print Name

Please mail or hand-deliver this comment form to the address shown below, no later than January 7, 2013

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

RECEIVED

DEC 28 2012

City of Temple
Planning & Development

Number of Notices Mailed: 7

Date Mailed: December 21, 2012



RESPONSE TO PROPOSED
REZONING REQUEST
CITY OF TEMPLE

Two Country Lane-Temple Ltd
1005 Shady River CT N
Benbrook, Texas 76126

Zoning Application Number: Z-FY-13-07

Project Manager: Mark Baker

Location: 1497 Country View Lane

The proposed rezoning is the area shown in hatched marking on the attached map. Because you own property within 200 feet of the requested change, your opinions are welcomed. Please use this form to indicate whether you are in favor of the possible rezoning of the property described on the attached notice, and provide any additional comments you may have.

I recommend ☒ approval () denial of this request.

Comments:

Kenneth H. Ditcher

Signature

12-26-12

Kenneth H. Ditcher

Print Name

Please mail or hand-deliver this comment form to the address shown below, no later than January 7, 2013

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

RECEIVED

DEC 31 2012

City of Temple
Planning & Development

Number of Notices Mailed: 7

Date Mailed: December 21, 2012



RESPONSE TO PROPOSED
REZONING REQUEST
CITY OF TEMPLE

The Grand Reserve-Temple Ltd
1005 Shady River CT N
Benbrook, Texas 76126

Zoning Application Number: Z-FY-13-07

Project Manager: Mark Baker

Location: 1497 Country View Lane

The proposed rezoning is the area shown in hatched marking on the attached map. Because you own property within 200 feet of the requested change, your opinions are welcomed. Please use this form to indicate whether you are in favor of the possible rezoning of the property described on the attached notice, and provide any additional comments you may have.

I recommend (☒) approval (☐) denial of this request.

Comments:

An expanded, nice Convenience store is needed
in the area.

Kenneth H. Mitchell

Signature

Kenneth H. Mitchell

Print Name

Please mail or hand-deliver this comment form to the address shown below, no later than January 7, 2013

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

RECEIVED

DEC 31 2012

City of Temple
Planning & Development

Number of Notices Mailed: 7

Date Mailed: December 21, 2012

**EXCERPTS FROM THE
PLANNING & ZONING COMMISSION MEETING
MONDAY, JANUARY 7, 2013**

ACTION ITEMS

Item 4: Z-FY-13-07: Hold a public hearing to consider and recommend action on a zone change from Planned Development (Office Two) District (PD-O2) to General Retail (GR) District on 1.010 ± acres of land situated in the Maximo Moreno Survey, Abstract No. 14, Bell county, Texas and being a part of land described as Lot 2, Block 1, Country Lane Addition, Phase II, recorded in Cabinet D, Slide 196-B, plat records of Bell County, Texas, located at 1497 Country View Lane.

Mr. Baker stated the subject property was located west of the northwest corner of Martin Luther King, Jr. Drive and SE HK Dodgen Loop and the applicant is Kenneth Mitchell.

The requested General Retail (GR) would add approximately over one acre to the existing GR property to the east and allow for an expansion for an existing convenience store.

Surrounding properties include Bethel Assembly of God Church to the south, an existing Shell Fuel Station and convenience store to the east (subject for the expansion), undeveloped Planned Development -Office-Two (PD-O-2) to the north, and The Grand Reserve to the west.

The Thoroughfare Plan designates HK Dodgen Loop as a major thoroughfare and MLK as a minor arterial. Sufficient capacity exists on both of the proposed roads for the expansion and use.

Sufficient utilities are in place to accommodate the property and the property is served by an eight inch sewer line and a six inch water line fronting the property along SE HK Dodgen Loop.

The Future Land Use and Character Map designate the areas within the Temple Medical Education District (TMED) and TMED permits many retail sales and retail service uses including food and beverage sales. TMED is the preferred or ideal zoning designation to achieve consistency between zoning and the Future Land Use and Character Map; however, the proposed zone change is contiguous to an existing GR zoned property. Staff is in support of the request for the reasons stated in the recommendation below.

Seven notices were mailed with three returned in favor of the request.

Staff recommends approval of this request from PD-O-2 to GR for the following reasons:

1. The proposed zone change is contiguous to an existing "GR" zoned property.
2. The request is to expand the existing "GR" zoned convenience store.
3. Limited development potential exists on the acreage being considered.

Mr. Baker stated no comments have been received from the churches in the area.

Chair Staats opened the public hearing.

There being no speakers, the public hearing was closed.

Vice-Chair Sears made a motion to approve Item 4, Z-FY-13-07, and Commissioner Jones made a second.

Motion passed: (7:0)

Commissioners Martin and Harrell absent

ORDINANCE NO. _____

(PLANNING NO. Z-FY-13-07)

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING A REZONING FROM PLANNED DEVELOPMENT – OFFICE TWO (PD-02) DISTRICT TO GENERAL RETAIL (GR) DISTRICT ON APPROXIMATELY 1.010 ACRES OF LAND SITUATED IN THE MAXIMO MORENO SURVEY, ABSTRACT NO. 14, BELL COUNTY, TEXAS, LOCATED AT 1497 COUNTRY VIEW LANE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND PROVIDING AN OPEN MEETINGS CLAUSE.

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

Part 1: The City Council approves a permanent zoning from Planned Development – Office Two (PD-02) District to General Retail (GR) District on approximately 1.010 acres of land situated in the Maximo Moreno Survey, Abstract No. 14, Bell County, Texas, being a part of land described as Lot 2, Block 1, Country Lane Addition, Phase II, recorded in Cabinet D, Slide 196-B, plat records of Bell County, Texas, located at 1497 Country View Lane, more fully described in Exhibit A, attached hereto and made a part hereof for all purposes.

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

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

Part 4: This ordinance shall take effect immediately from and after its passage in accordance with the provisions of the Charter of the City of Temple, Texas, and it is accordingly so ordained.

Part 5: It is hereby officially found and determined that the meeting at which this Ordinance is passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act.

PASSED AND APPROVED on First Reading and Public Hearing on the 7th day of **February**, 2013.

PASSED AND APPROVED on Second Reading on the 19th day of **February**, 2013.

THE CITY OF TEMPLE, TEXAS

WILLIAM A. JONES, III, Mayor

ATTEST:

APPROVED AS TO FORM:

Lacy Borgeson
City Secretary

Jonathan Graham
City Attorney



CITY COUNCIL ITEM MEMORANDUM

02/07/13
Item #8
Regular Agenda
Page 1 of 5

DEPT. /DIVISION SUBMISSION & REVIEW:

Autumn Speer, Director of Planning and Development

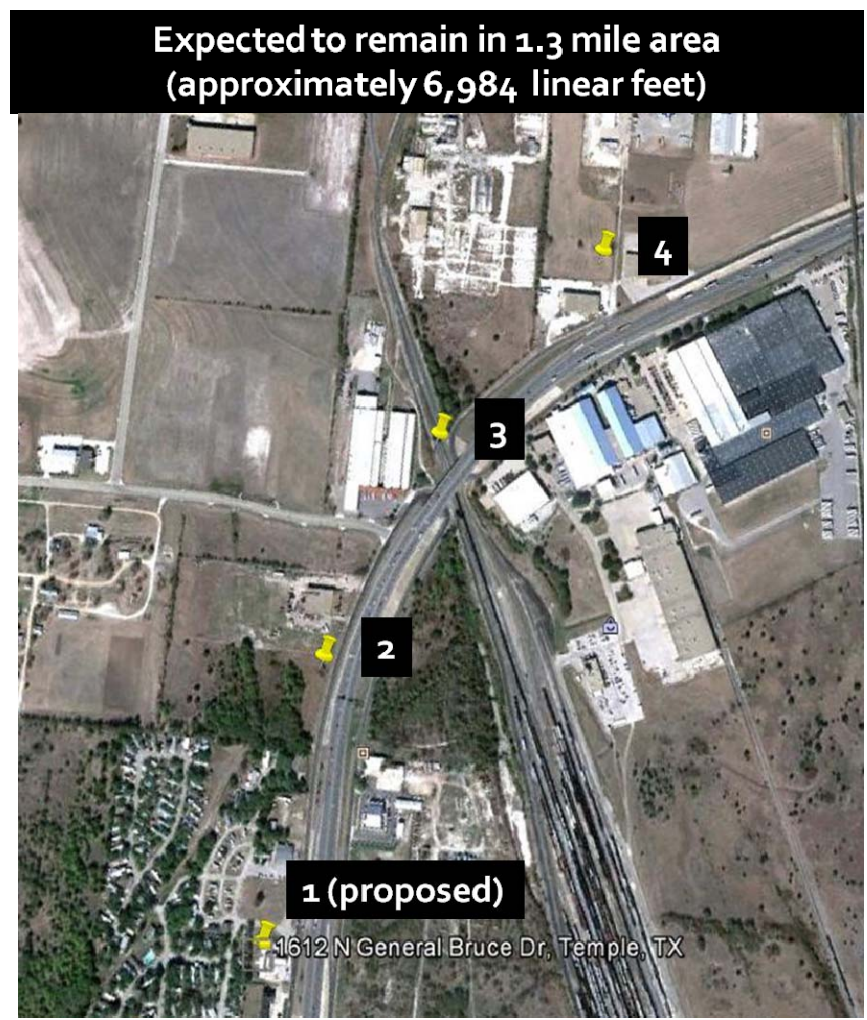
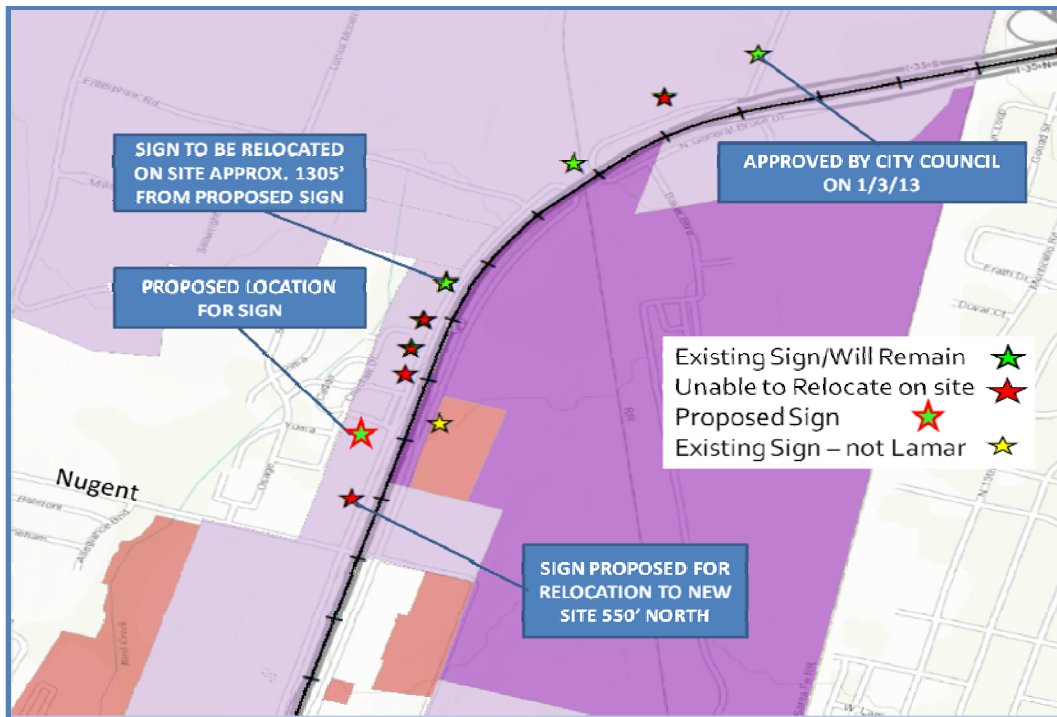
ITEM DESCRIPTION: FIRST READING - PUBLIC HEARING - Z-FY-13-08: Consider adopting an ordinance authorizing a Conditional Use Permit to allow an off-premise sign relocation closer than 1,500 feet from another off-premise sign at 1612 North General Bruce Drive.

PLANNING AND ZONING COMMISSION RECOMMENDATION: At its January 7, 2013 meeting, the Planning and Zoning Commission voted 7/0 (Commissioners Martin and Harrell absent) in accordance with staff recommendation to recommend approval of the Conditional Use Permit to allow for decreased spacing between off-premise signs.

STAFF RECOMMENDATION: Conduct public hearing and adopt ordinance as presented in item description on first reading, and schedule a second reading and final adoption for February 21, 2013.

Staff recommends approval of the requested Conditional Use Permit. Based on current City spacing requirements of 1,500', this area - approximately 1.3 miles (approx 6,984 linear feet) from West Nugent Avenue to Industrial Blvd. - should not exceed 4-5 billboards on each side if an average spacing were calculated. Currently, the west side of I-35 (of this 1.3 mile area) has eight off-premise signs. **Three** of those signs are expected to locate on site or within the immediate area maintaining a presence along I-35 at the same approximate locations. One off-premise sign has already been approved for a CUP approximately 4,300' from the proposed location but within the 1.3 mile area between Nugent and Industrial Blvd. The east side of I-35 has one off-premise sign within the focus area.

The proposed sign location would place a new sign approximately 1,305' from the closest off-premise sign to the north and approximately 3,174' from the closest off-premise sign to the south. Although the proposed sign would be within 1500' of an existing sign that is expected to remain, the overall number of signs for this 1.3 mile area is expected to decrease by four, eliminating some existing clustering in this general location and keeping within an acceptable number of signs for this area. Based on average spacing calculations and the number of signs expected to remain in this general area, additional requests to relocate signs (that do not meet spacing requirements) to this area would not likely receive a favorable recommendation from staff. Below is a summary of the number of signs expected to remain (including sign proposed) in the approximate 1.3 mile area from Nugent to Industrial Boulevard.



ITEM SUMMARY: The Unified Development Code (UDC) limits the number of off-premise signs to the number of signs in existence on March 7, 2002. The UDC provides standards for the erection of replacement signs and for sign relocations necessitated by Texas Department of Transportation (TxDOT) road improvement projects. Specifically Section 7.5.11L of the UDC states,

*If a sign located within the proposed public street right-of-way of a state highway is to be relocated to accommodate a regulated highway project and the Texas Department of Transportation issues a permit for relocation of the sign, the Director of Construction Safety **may** also issue a Sign Permit if the sign meets all current City standards, except that the relocated sign:*

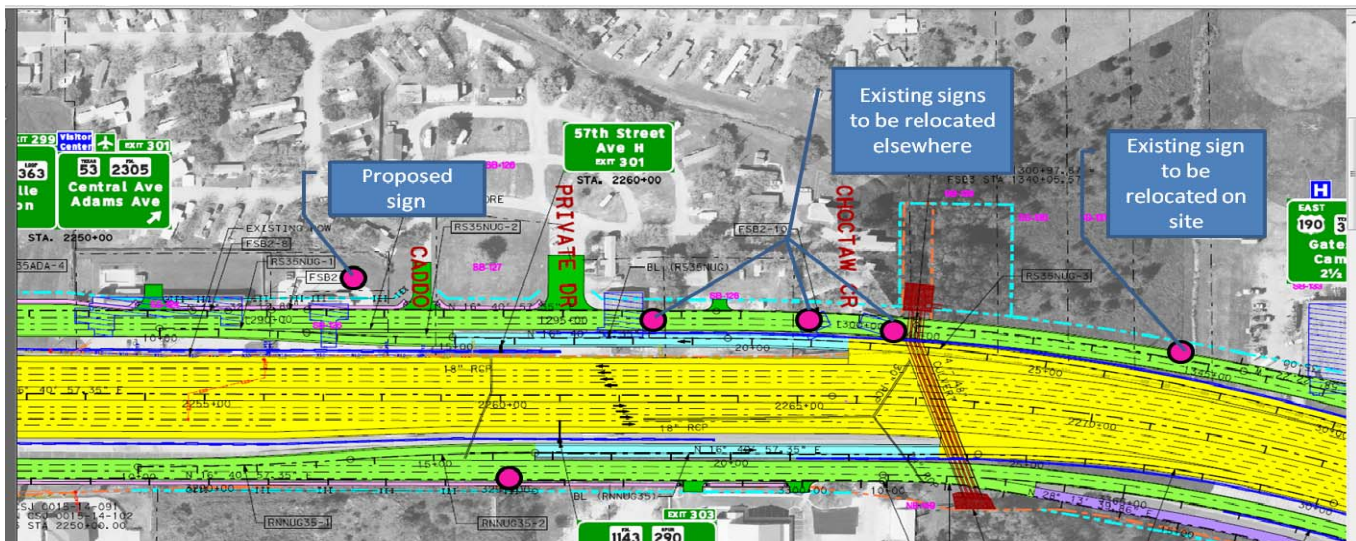
- 1. Does not require payment of a permit fee;*
- 2. May be erected a minimum of five feet from any highway right-of-way line;*
- 3. May be constructed with the same number of poles and same type of materials as the existing sign; and*
- 4. May be erected without enlarging the sign face.*

The I-35 expansion project and the subsequent TxDOT right-of-way acquisition have resulted in the displacement of numerous billboards. Lamar Advertising, the applicant, currently has a billboard located at 1602 North General Bruce Drive that will be affected by TxDOT right-of-way acquisition. The applicant is proposing relocating the sign 550' to the north to 1612 North General Bruce Drive. City staff has maintained the position that if an existing off-premise sign on I-35 must be relocated because of the I-35 expansion, City staff will approve the sign relocation on the same site. If the existing zoning is not correct the City will consider processing a zoning change to allow compliance or a Planned Development if the straight zoning is not a positive option for the City. Per Section 7.5.11 of the UDC, a sign may be relocated, with the approval of the Director of Planning and Development, if the following standards are met:

- Proposed relocation is zoned either Commercial, Light Industrial and Heavy Industrial;
- Dimensional requirements (total area per face of 672 square feet or less and no more than 42.5' tall);
- Design standards (faces, light, material etc.); and
- Spacing requirements (1,500 feet of another off-premise sign).

A Conditional Use Permit is required when any of the criteria above cannot be met. The area proposed for relocation is zoned Light Industrial. The proposed sign complies with dimensional standards and with setback and design standards governing TxDOT initiated relocations. The proposal is for the relocation of a 14' x 48' (area) metal, V-monopole sign setback 17' from the right-of-way (after expansion is complete). The height of the new sign will be no taller than 42.5'. The proposed location does not meet spacing requirements.

The proposed sign will be erected approximately 594', 799', 1053' and 1305' from existing signs to the north of the proposed location. Lamar Advertising has informed staff the signs located approximately 594', 799', and 1053' to the north of the proposed sign location will be relocated to other sites not in this general area. Lamar Advertising has indicated that the sign located approximately 1305' north of the proposed sign location will be relocated on site, maintaining a presence at the same approximate location along I-35 frontage.



Current Location
1602 North General Bruce Drive



Proposed Location
1612 N. General Bruce Drive



PUBLIC NOTICE: Three notices of the Planning and Zoning Commission public hearing were sent to surrounding property owners. As of Thursday January 24, 2013 at 12:00 PM, no notices had been returned either in favor or in opposition to the proposed Conditional Use Permit. The newspaper printed notice of the Planning and Zoning Commission public hearing on December 27, 2012, in accordance with state law and local ordinance.

FISCAL IMPACT: Not Applicable

ATTACHMENTS:

[Aerial and Notification Map](#)

[P&Z Excerpts](#)

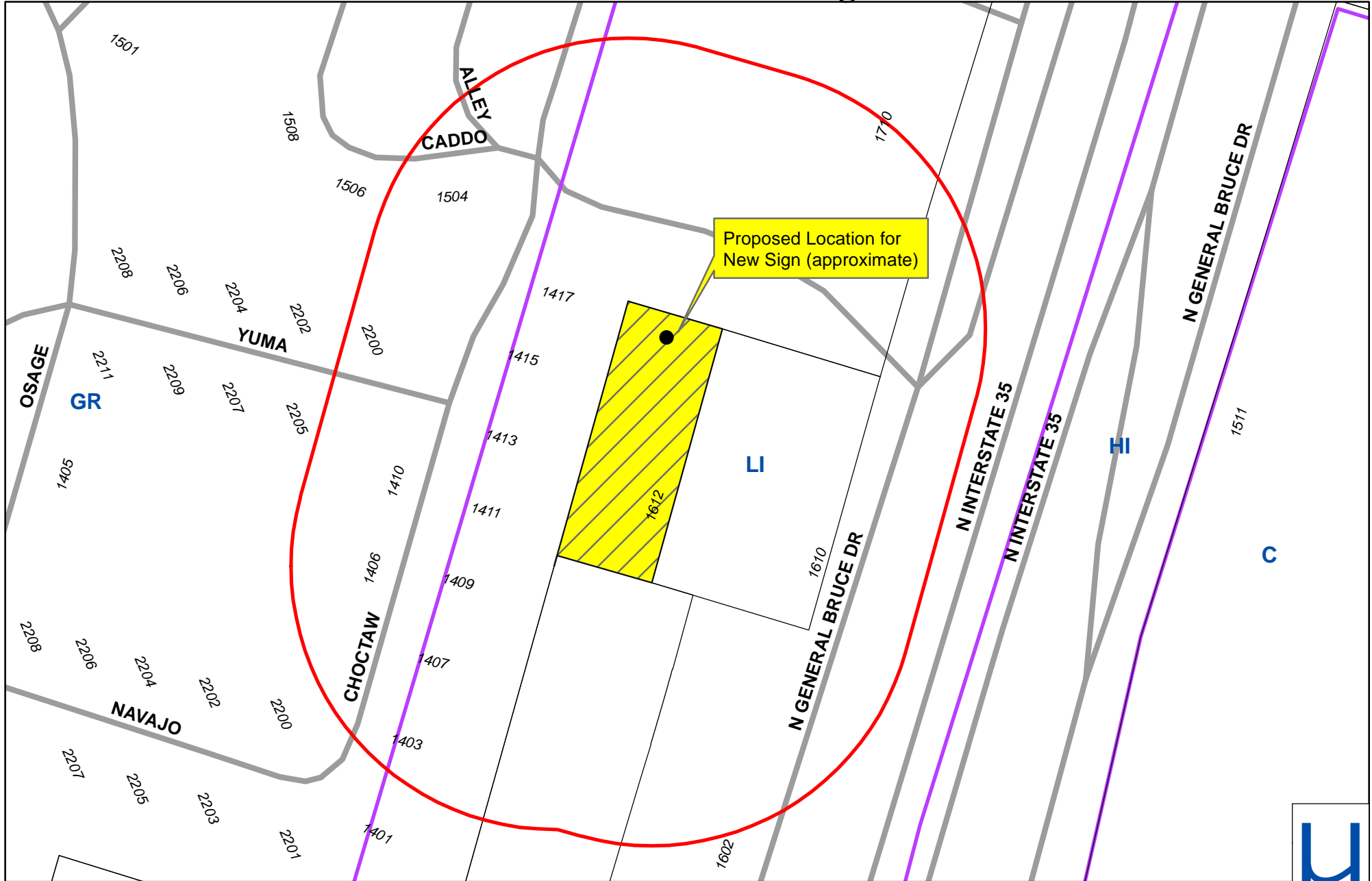
[Ordinance](#)


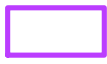

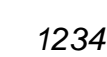


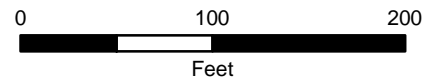
Z-FY-13-08

Conditional Use Permit Request for Off-Premise Sign

1612 North
General Bruce Dr.



-  Case
-  Zoning
-  200' Notification Buffer
-  1234 Address



City of Temple Planning Dept.
bzndt
12/19/12

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

**EXCERPTS FROM THE
PLANNING & ZONING COMMISSION MEETING
MONDAY, JANUARY 7, 2013**

ACTION ITEMS

Item 5: Z-FY-13-08: Hold a public hearing to discuss and recommend action on a Conditional Use Permit to allow an off-premise sign (billboard) on 3.43± acres, part of the A.G. Moore Survey, Abstract # 596, City of Temple, Bell County, Texas, located at 1612 North General Bruce Drive.

Ms. Beverly Zendt, Assistant Planning Director, stated this request is brought since the spacing is within 1500 feet of an existing sign. The location of the sign is 1612 North General Bruce Drive and the applicant is Lamar Advertising. This request is due to the TxDOT expansion of I-35.

Off premise signs standards are located in Section 7.5.11 A-K of the UDC which sets out dimensional standards, design standards, new sign standards, the number of signs allowed, credits, etc.

Section 7.5.11 L lays out standards for relocation resulting from TxDOT actions such as right-of-way or road acquisition and/or projects.

Section 7.5.11 A-K sets out the minimum spacing of 1500 feet on I-35, that the sign location must be in a Commercial (C), Light Industrial (LI) or Heavy Industrial (HI) district, the sign area of the face may be no larger than 14 feet by 48 feet, maximum height should be 42 feet, setback should be 20 feet from right-of-way and the number of signs is limited to those in place as of March 7, 2002.

Section 7.5.11 L provides that no permit fees are required for relocations, can be erected five feet from the right-of-way, may keep same number of poles and same materials, and may be erected without enlarging the sign face.

All signs that do not meet these requirements must apply for a Conditional Use Permit (CUP) along with the appropriate zoning designation.

The subject sign will be moved approximately 550 feet to the north near the Shell station.

Ms. Zendt stated the materials standards have been met, dimensional standards have been met, the setback standards have been per I-35 standards, and the zoning requirement is LI. The spacing requirements have not met. The proposed sign will be approximately 1300 feet from an existing sign. There are four signs within 1500 feet of the new proposed relocated sign. Three of those signs will be relocated off site out of the area. One sign will remain on site approximately 1300 feet from the proposed sign.

Staff has been working diligently on tracking what signs are existing or been removed or relocated in and/or out of the area. Ms. Zendt gives an overview of what signs are currently in the area and what signs will be removed.

Surrounding properties include the Stratford Inn to the south (where current sign is located) and the KL Comfort Park (Bird Creek Mobile Home Park) to the north.

Three notices were mailed out with zero responses received.

Staff recommends approval of this CUP request because:

- Spacing requirements permit 4-5 billboards (per side) in a 1.3 mile area between West Nugent Ave. and Industrial Blvd;

- Currently –west side has 8 (3 to remain);

- New sign will bring total to 4;

- Currently – east side has 1; and

- Existing clustering of signs in this area will be improved with TxDOT taking- new sign will not impact that reconfiguration.

Chair Staats opened the public hearing.

There being no speakers, the public hearing was closed.

Commissioner Talley made a motion to approve Item 5, Z-FY-13-08, and Commissioner Johnson made a second.

Motion passed: (7:0)

Commissioners Martin and Harrell absent

[Z-FY-13-08]

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING A CONDITIONAL USE PERMIT TO ALLOW AN OFF-PREMISE SIGN RELOCATION CLOSER THAN 1,500 FEET FROM ANOTHER OFF-PREMISE SIGN AT 1612 NORTH GENERAL BRUCE DRIVE; DECLARING FINDINGS OF FACT; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND PROVIDING AN OPEN MEETINGS CLAUSE.

WHEREAS, the Unified Development Code of the City of Temple, Texas, provides for the issuance of conditional use permits under certain conditions and authorizes the City Council to impose such developmental standards and safeguards as the conditions and locations indicate to be important to the welfare or protection of adjacent property and for the protection of adjacent property from excessive noise, vibration, dust, dirt, smoke, fumes, gas, odor, explosion, glare, offensive view or other undesirable or hazardous conditions, and for the establishment of conditions of operation, time limits, location, arrangement and construction for any use for which a permit is authorized;

WHEREAS, the Planning and Zoning Commission of the City of Temple, Texas, after due consideration of the conditions, operation and location of 1612 North General Bruce Drive, recommends that the City Council approve the application for this Conditional Use Permit to allow an off-premise sign relocation closer than 1,500 feet from another off-premise sign; and

WHEREAS, the City Council of the City of Temple, Texas, after public notice as required by law, has at a public hearing, carefully considered all the evidence submitted by the applicant concerning the proposed plans for operation of said establishment and has heard the comments and evidence presented by all persons supporting or opposing this application at said public hearing, and after examining the conditions, operation and the location of said establishment, finds that the proposed use of the premises substantially complies with the comprehensive plan and the area plan adopted by the City Council.

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

Part 1: The City Council approves a Conditional Use Permit to allow an off-premise sign relocation closer than 1,500 feet from another off-premise sign at 1612 North General Bruce Drive, more fully shown on Exhibit A, attached hereto and made a part of for all purposes.

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

- (A) The permittee must demonstrate that the granting of the permit would not be detrimental to the public welfare of the citizens of the City.
- (B) The City Council may cancel, suspend, deny or revoke this CUP, in accordance with the revocation clause set forth in Section 7-608 of the Zoning Ordinance.
- (C) The CUP runs with the property. Changes in the owner or lessee of a permitted establishment do not affect the permit.
- (D) The CUP may be canceled, suspended or revoked in accordance with the revocation clause set forth in Section 7-608 of the Zoning Ordinance.

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

Part 4: The declarations, determinations and findings declared, made and found in the preamble of this ordinance are hereby adopted, restated and made a part of the operative provisions hereof.

Part 5: It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses, and phrases of this ordinance are severable and, if any phrase, clause, sentence, paragraph or section of this ordinance should be declared invalid by the final judgment or decree of any court of competent jurisdiction, such invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this ordinance, since the same would have been enacted by the City Council without the incorporation in this ordinance of any such phrase, clause, sentence, paragraph or section.

Part 6: This ordinance shall take effect immediately from and after its passage in accordance with the provisions of the Charter of the City of Temple, Texas, and it is accordingly so ordained.

Part 7: It is hereby officially found and determined that the meeting at which this Ordinance is passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act.

PASSED AND APPROVED on First Reading and Public Hearing on the 7th day of February, 2013.

PASSED AND APPROVED on Second Reading on the **21st** day of **February**, 2013.

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

02/07/13
Item #9
Regular Agenda
Page 1 of 2

DEPT./DIVISION SUBMISSION & REVIEW:

Jonathan Graham, City Attorney

ITEM DESCRIPTION: Consider adopting a resolution authorizing a settlement agreement between the City of Temple and several defendants to resolve the lawsuit filed by the City related to construction of the City's Police Department facility and styled Cause Number 245-397-C, in the 169th Judicial District Court of Bell County, Texas.

Pursuant to Chapter 551 of the Texas Government Code, § 551.071 – Consultation with Attorney, the City Council will meet in executive session with the City Attorney to discuss pending and contemplated litigation.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: The City filed suit against defendants Baird Williams Construction, Ltd., Brinkley Sargent Architects, Inc., ME Engineers, and Allen Y. Tochiara, in 2010 over construction-related issues with the City's main police station constructed in 2005. A number of other third party defendants (various subcontractors) were brought into the lawsuit by the defendants.

The parties participated in court-order mediation this past fall, most recently on December 18, 2012. The mediator, Steve Nelson, has continue to work with the parties to reach a settlement, and this past week the parties agreed on the terms of a settlement agreement. The settlement agreement is contingent upon the City Council approving the terms of the agreement.

The City Staff recommends entering into a Settlement Agreement with Baird Williams Construction, Ltd., Brinkley Sargent Architects, Inc., ME Engineers, Allen Y. Tochiara, Accent Flooring, Inc., Advance Air Systems, Aquatech Waterproofing, Inc., Atom Drywall, Waco Systems, Inc., n/k/a Boehner-Owens, Inc., C.W. Oates Masonry, Cohesive Automation, Inc., Floyd Company, Inc. d/b/a Floyd's Glass Company, Hernandez Plumbing Company, Moisture Prevention Services, Inc., R.K. Bass Electric, Inc., Ralston Paint Contractors, Inc., Texas Air Systems n/k/a TAS Members, Inc., Texas 5th Wall Roofing Systems, Inc. Texas Controls, Inc. and Thyssenkrupp Elevator Corporation. The terms of the settlement agreement will be discussed with the City Council in executive session prior to consideration of the agreement in the regular City Council meeting.

FISCAL IMPACT: To be discussed in executive session.

ATTACHMENTS:

[Resolution](#)

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING A SETTLEMENT AGREEMENT BETWEEN THE CITY OF TEMPLE AND SEVERAL DEFENDANTS TO RESOLVE THE LAWSUIT FILED BY THE CITY RELATED TO THE CONSTRUCTION OF THE CITY'S POLICE DEPARTMENT FACILITY AND STYLED CAUSE NUMBER 245-397-C, IN THE 169TH JUDICIAL DISTRICT COURT OF BELL COUNTY, TEXAS; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, the City filed suit against defendants Baird Williams Construction, Ltd., Brinkley Sargent Architects, Inc., ME Engineers and Allen Y. Tochiara in 2010 over construction-related issues with the City's main police station constructed in 2005 – a number of other third party defendants were brought into the lawsuit by the defendants;

Whereas, the parties participated in court-ordered mediation this past fall and most recently on December 18, 2012 – the mediator has continued to work with the parties to reach a settlement, and the parties have agreed on the terms of a settlement agreement, which is contingent upon the City Council approving the terms of the agreement;

Whereas, Staff recommends entering into a Settlement Agreement with Baird Williams Construction, Ltd., Brinkley Sargent Architects, Inc., ME Engineers and Allen Y. Tochiara, Accent Flooring, Inc., Advance Air Systems, Aquatech Waterproofing, Inc., Atom Drywall, Waco Systems, Inc., n/k/a Boehner-Owens, Inc., C.W. Oates Masonry, Cohesive Automation, Inc., Floyd Company, Inc. d/b/a Floyd's Glass Company, Hernandez Plumbing Company, Moisture Prevention Services, Inc., R.K. Bass Electric, Inc., Ralston Paint Contractors, Inc., Texas Air Systems n/k/a TAS Members, Inc., Texas 5th Wall Roofing Systems, Inc. Texas Controls, Inc. and Thyssenkrupp Elevator Corporation; 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 Settlement Agreement between the City of Temple, Baird Williams Construction, Ltd., Brinkley Sargent Architects, Inc., ME Engineers and Allen Y. Tochiara, Accent Flooring, Inc., Advance Air Systems, Aquatech Waterproofing, Inc., Atom Drywall, Waco Systems, Inc., n/k/a Boehner-Owens, Inc., C.W. Oates Masonry, Cohesive Automation, Inc., Floyd Company, Inc. d/b/a Floyd's Glass Company, Hernandez Plumbing Company, Moisture Prevention Services, Inc., R.K. Bass Electric, Inc., Ralston Paint Contractors, Inc., Texas Air Systems n/k/a TAS Members, Inc., Texas 5th Wall Roofing Systems, Inc. Texas Controls, Inc. and Thyssenkrupp Elevator Corporation related to the lawsuit filed by the City in 2010 and styled Cause Number 245-397-C, in the 169th Judicial District Court of Bell County, Texas.

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

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 7th day of **February**, 2013.

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

02/07/13
Item #10
Regular Agenda
Page 1 of 1

DEPT./DIVISION SUBMISSION & REVIEW:

William A. Jones, III, Mayor

ITEM DESCRIPTION: Consider adopting a resolution appointing one alternate member to the Bell County Public Health District Board of Directors.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: Dr. Ray Ashcraft was appointed to the Bell County Public Health District Board of Directors in June 2009 to fill the position vacated by Dr. William Hardin. The Health District has now requested the City appoint an alternate member to serve in the absence of Dr. Ashcraft. The appointment of an alternate is provided for in the Cooperative Agreement with the Health District.

In 2010 Dr. Jim Madsen was appointed as the alternate member and is unable to fulfill this position.

FISCAL IMPACT: N/A

ATTACHMENTS: N/A



COUNCIL AGENDA ITEM MEMORANDUM

02/07/13
Item #11
Regular Agenda
Page 1 of 1

DEPT./DIVISION SUBMISSION & REVIEW:

William A. Jones, III, Mayor

ITEM DESCRIPTION: Consider adopting a resolution appointing one member to fill an unexpired term as the Bell County representative, through September 1, 2013 on the Reinvestment Zone No. 1 Board of Directors.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: The City Council adopted a resolution in June, 2003, establishing policies governing the appointment and training of citizens to City boards.

FISCAL IMPACT: N/A

ATTACHMENTS:
[Board Summary](#)

REINVESTMENT ZONE NUMBER ONE

TERM EXPIRATION: SEPTEMBER - 2 YEAR TERMS

APPOINTED BY: C.C., TJC, BELL COUNTY, & TISD

MEMBER	DATE APPOINTED	EXPIRATION YEAR	ADDRESS	PHONE NUMBER
John Howe john@omegabuilders.com	09/12	2014	11104 Lake Whitney Dr. Temple, TX 76502	773-9966W 541-3090 M 780-1101 H
Pat Patterson Pat.patterson@patcoconstructionllc.com	09/11	2013	2116 West Avenue H Temple, TX 76504	771-2228 W 760-6062 C
Larry Neal arcneal@hotmail.com	12/20 Unxp term	2013	4609 Willowood Lane Temple, TX 76504	778-1466 - W 773-7564 - H 913-8498 - C
Jack W. Jones, Jr. (Temple College Rep.) jackj@vvm.com	08/07 appt.by TC	2013	P O Box 3310 Temple, TX 76505	774-7167 H 771-1855 W 760-0827 M
Bob Browder, Chair bobbrowder@bcswlaw.com	10/08	2013	4101 Briar Cliff Road Temple, TX 76502	774-8333 ext 255 W 778-8956 H 760-6164 C
Wendell Williams wwilliams@cnbtemple.com	09/11	2013	104 Coleta Court Belton, TX 76512	743-6960 W 913-1806 C
Hugh Shine hughdshine@yahoo.com	09/12	2014	P.O. Box 793 Temple, TX 76503	742-1885 W 774-9685 H 760-6007 C
Kenny Paysse Kenny@paysseins.com	09/12	2014	3409 Whispering Oak Temple, Texas 76502	778-7892 H/W 493-2000 M
Steve Wright (TISD Rep.) steve@wrightbuilders.com	6/06 appt.by TISD	2013	Wright Builders 5640 Kegley Place Ln Temple, TX 76502	778-4495 W 541-5124 M
Thomas Baird thomasbaird@bcswlaw.com	06/11	2013	15 N. Main Temple, TX 76501	743-7310 W 913-2170 M
(Bell Co. Rep.)	-appt.by Bell Co.	2013		
Steve Wolfe swolfe@extracobanks.com	09/12	2014	2810 Wickersham Dr. Temple, TX 76502	774-5819 W 771-5386 H 718-8361 C 774-5848 F
John Kiella (BISD Rep.) jkiella@kiella.com	09/05	2014	P O Box 1344 Temple, TX 76503	778-0085 W 774-7231 Fax 541-3360 M
Gary Schmidt (Troy ISD Rep.) gschmidt@cnb-temple.com	02/2000	2014	Central National Bank P O Box 4107 Temple, TX 76505	743-6965 W 938-2429 H 770-3186 Fax
Edward Coufal (Elm Crk) edwardc@cpetem.com	05/05	2013	8576 FM 3117 Temple, Texas 76501	721-9696 773-9916 W

Created pursuant to Section 311.004(a)(2) of the Tax Increment Financing Act; Ordinance 1457, December 16, 1982. **Purpose:** Make recommendations to the City Council concerning the administration of the Zone. The board of directors exercise powers necessary to implement the project plan which is delegated by ordinance of the Council. **Membership:** 15 directors - 9 appointed by the Council; 1 director each of every taxing entity with levies taxes within the Zone, currently: TC, TISD, BISD, Troy ISD, Bell County and Elm Creek Water District. To be eligible for appointment to the board an individual must be a qualified voter of the municipality or be at least 18 years of age and own real property in the zone, whether or not the individual resides in the municipality. **Term:** 2 years

Revised 09/06/12