

City of Temple
Application for Beautification Agreement
(City-Provided Water)

Applicant	Name			
	Street			
	City, State & Zip			
Subdivision	Name			
	Location			

If your development is not yet constructed, please indicate the date you expect to begin and complete construction of all infrastructure improvements. If you propose to construct in phases, indicate the estimated beginning and completion date for infrastructure improvements in each phase:

Attach a site-plan showing all improvements proposed by the developer within public right-of-way. The plan must show:

- Landscaping (type, size and approximate location)
- Irrigation (Upon completion, applicant must provide the City with complete “as built plans”) of all underground improvements
- All other improvements located within the beautification area to be included in the development agreement, including wood, masonry, or decorative metal fencing.
- Dimensions of the area to be irrigated and the proximity to streets.

The plan must demonstrate that the landscaping improvements will be installed in a manner so as not to create a traffic safety hazard when fully mature, if properly maintained.

Provide overall description and justification of landscaping elements:

The Developer or HOA/POA must provide estimated amount of anticipated water usage and agrees that the City may seek certain remedies if estimation of water usage is consistently exceeded.

To assist Staff in making a conflict of interest analysis, please list the name and address of the developer and all current owners of property within the subdivision, if applicable. If the applicant or any owner of the property is a corporation, partnership, joint venture, or other business entity, please disclose the name and address of each person having an interest in such entity. (A separate sheet is attached for this purpose.)

I have reviewed City Council Resolution No. 2018-9405-R attached and agree to comply with all terms contained therein. I understand I will be required to complete the improvements according to the approved plans and that the City reserves the right to deny any application or to remove incomplete improvements/complete improvements at developer’s expense.

The maximum term of this agreement is 15 years and can be renewed prior to expiration.

Applicant’s Signature: _____ for _____
 _____ (legal entity) Date: _____ Phone: _____

City of Temple
 Application for Beautification Agreement (City-Provided Water)
 Identification of Parties-in-Interest

Location					
Developer, HOA or POA					
	Full Name	Address	City	State	Zip
All owners of property within the development					

If any of the owners listed above are businesses, please provide the following information:

	Entity Name	Entity Style (Corporation, Partnership, etc.)	Shareholders/Partners/Members
1			
2			
3			
4			

Completed by: _____ Date: _____

RESOLUTION NO. 2018-9405-R

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, REPEALING RESOLUTION NO. 2005-4455-R AND AUTHORIZING THE CITY TO ENTER INTO MEMORANDA OF AGREEMENT WITH DEVELOPERS, PROPERTY OWNERS ASSOCIATIONS, AND HOMEOWNERS ASSOCIATIONS TO ENCOURAGE THE LANDSCAPING AND BEAUTIFICATION OF PUBLIC RIGHTS-OF-WAY AND OTHER CITY-OWNED PROPERTY; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, in 2005, the City Council adopted Resolution No. 2005-4455-R which established a policy to encourage developers and homeowners associations to install and maintain landscaping and other beautification elements in certain City rights-of-way and in exchange for installing the improvements, the City would agree to provide and pay for the water necessary to sustain those improvements thus the policy allowed for developers to apply to the City and enter into a “beautification agreement” of which several developers have entered into and those agreements are still in effect;

Whereas, Staff has recently received several applications for new beautification agreements and in reviewing those applications, concluded that the current policy in effect is too restrictive to address current circumstances;

Whereas, the current policy only applies to residential developments and homeowners associations as well as restricts the locations where beautification agreements are allowed and Staff desires to expand the scope of the policy to include commercial developments, and property owners associations as well as allow more locations - Staff desires to encourage those types of improvements and believes that expanding the scope of the current policy would do so;

Whereas, Staff recommends Council repeal Resolution No. 2005-4455-R and recommends Council approve authorizing memoranda of agreement (“MOA”) with developers, homeowners associations (“HOA”) and property owners associations (“POA”) under the following terms:

- interested Developer and Association must apply to the City for consideration and applications will be processed by the Planning Department;
- eligible locations will include all public rights-of-way or City-owned property located in the City limits and determined by City Staff to be suitable for landscaping and beautification, to include detention ponds, drainage areas, medians, and other public right-of-way or City-owned property;
- the term of any MOA will not be longer than 15 years, and at the end of the term, the parties may agree to extend the term;
- Developer must submit a site plan showing all proposed improvements and the site plan must demonstrate that the landscaping improvements will not create a traffic hazard when fully matured;

- Developer must agree to install the proposed improvements as shown on the site plan and provide as-built plans showing the location of all underground improvements and the materials and equipment used in the irrigation system;
- HOA/POA must agree to maintain the landscaping and associated irrigation infrastructure during the term of the MOA, and if necessary replace any portion of the materials or infrastructure that are damaged, diseased or dead;
- City will agree to provide water to the property in question and cover the cost of the water;
- HOA/POA must comply with all water restrictions instituted during the term of the MOA;
- HOA/POA and developer must provide an estimated amount of water use and the MOA will allow the City to seek certain remedies if the estimated water use is consistently exceeded;
- if the proposed improvements are not completed, as set forth in the site plan, the City can require the develop and/or HOA/POA to remove any incomplete improvements or the City may complete the improvements and bill for the cost to complete; and
- MOA will allow the City to recover liquidated damages in the event of default by the developer or HOA/POA;

Whereas, landscaping materials and associated irrigation infrastructure will be the responsibility of the HOA/POA and the City will be responsible for providing water to the property and will cover the cost of water needed to maintain the proposed improvements of each authorized MOA;

Whereas, there are currently 20 active agreements related to beautification around the City - the total cost of water related to these agreements in Fiscal Year 2018 was \$31,348; 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: Findings. All of the above premises are hereby found to be true and correct legislative and factual findings of the City Council of the City of Temple, Texas, and they are hereby approved and incorporated into the body of this Resolution as if copied in their entirety.


Part 2: The City Council repeals Resolution No. 2005-4455-R.

Part 3: The City Council authorizes the City Manager, or her designee, after approval as to form by the City Attorney, to enter into Memoranda of Agreement with developers, property owners associations, and homeowners associations, in accordance with the terms outlined in this Resolution, to encourage the landscaping and beautification of public rights-of-way and other City-owned property.

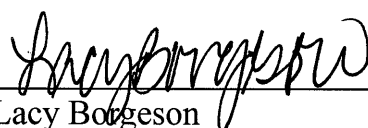
Part 4: It is hereby officially found and determined that the meeting at which this Resolution was passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act.

PASSED AND APPROVED this the 18th day of **October**, 2018.

THE CITY OF TEMPLE, TEXAS


TIMOTHY A. DAVIS, Mayor

ATTEST:


Lacy Borgeson
City Secretary



APPROVED AS TO FORM:


Kayla Landeros
City Attorney